

RESOLUTION NO. 2008-115

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA
APPROVING CONSTRUCTION CONTRACT BETWEEN THE CITY OF MARINA
AND DILBECK CONSTRUCTION INC. OF SALINAS, CALIFORNIA, FOR
CONSTRUCTION OF NEW TEEN CENTER AT 304 HILLCREST AVENUE;
AUTHORIZING THE FINANCE DIRECTOR TO MAKE NECESSARY ACCOUNTING
AND BUDGETARY ENTRIES; AUTHORIZING THE CITY MANAGER TO
EXECUTE ALL CHANGE ORDERS AND AUTHORIZING THE CITY MANAGER TO
EXECUTE CONSTRUCTION CONTRACT ON BEHALF OF THE CITY SUBJECT TO
FINAL REVIEW AND APPROVAL BY THE CITY ATTORNEY

WHEREAS, on February 27, 2007, the City Council passed Resolution No. 2007-38, authorizing financing for the Teen Center Project from Abrams B Bond proceeds in the amount of \$920,000, and approving a total expenditure budget of \$920,000 for the project. Union Bank, the Abrams B Bond Trustee, oversees disbursement of the Abrams B Bond money and limits draw-downs to the amounts authorized by the City Council by resolution, and;

WHEREAS, at the regular meeting of April 1, 2008, the City Council adopted Resolution No. 2008-59, authorizing advertising and call for bids for the construction of a new teen center located at 304 Hillcrest Avenue, and;

WHEREAS, on May 21, 2008, six (6) sealed bids were received, opened and publicly read for the project. The bids ranged from \$1,090,322 (high) to \$786,000 (low), and;

WHEREAS, the lowest responsible bidder was Dilbeck Construction Inc. of Salinas, California, and;

WHEREAS, a fifteen percent (15%) project contingency (\$117,900) is requested making the total amount \$903,000, and;

WHEREAS, as of May 29, 2008, total costs of \$142,401.38 have been charged against the budget for this project, including FY 2006-07 costs of \$3,000.00 and FY 2007-08 costs of \$139,401.38, and;

WHEREAS, approval of this contract for \$903,000 would bring total costs-to-date, plus the cost of this contract, to \$1,045,401.38, which exceeds both the approved Teen Center Project budget and the amount authorized by Resolution No. 2007-38, to be financed by Abrams B Bond proceeds, and;

WHEREAS, since the City Council has discretion over the use of the Abrams B Bond proceeds, the City Council wishes to enter into an agreement with Dilbeck Construction for the project ("Exhibit A"), with direction to staff to prepare and submit to the City Council as soon as possible, a resolution for City Council consideration, increasing the Abrams B Bond financing for this project to an amount adequate to finance the estimated total project costs, and;

WHEREAS, adequate funding is available in FY 2007-08 Budget and will be charged to the Capital Projects Fund, Teen Center Facility Budget, Other Professional Services Account No. 62.721.65890.

NOW THEREFORE, BE IT RESOLVED that the City Council of the City of Marina does hereby:

1. Awarding construction contract to Dilbeck Construction, Inc., of Salinas, California, for the construction of new Teen Center located at 304 Hillcrest Avenue;
2. Authorize the Finance Director to make necessary accounting and budgetary entries;
3. Authorize the City Manager to execute all change orders, and;
4. Authorize the City Manager to execute contract on behalf of the City subject to final review and approval by the City Attorney.

PASSED AND ADOPTED, at a regular meeting of the City Council of the City of Marina, duly held on the 3rd day of June 2008, by the following vote:

AYES: COUNCIL MEMBERS: Amadeo, Ford, Gray, McCall, Wilmot

NOES: COUNCIL MEMBERS: None

ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

Gerald J. Wilmot, Mayor

ATTEST

Anita Sharp, Administrative Assistant II

TEEN CENTER PROJECT AGREEMENT

THIS AGREEMENT, made and entered into this _____ 2008, by and between The City of Marina, a municipal corporation of the State of California, hereinafter called "City of Marina" or "City" and Dilbeck Construction, Inc., hereinafter called "Contractor,"

WITNESSETH:

FIRST: Contractor hereby covenants and agrees to furnish and provide all labor, materials, tools, appliances, equipment, plant and transportation, and all other things required or necessary to be furnished, provided or done, and build, erect, construct and complete the work at the time and in the manner provided, and in strict accordance with the plans and specifications therefore, for **PROJECT** adopted by the Council of the City of Marina on June 3, 2008.

SECOND: It is expressly understood and agreed that this contract consists of the following documents, all of which are incorporated into this agreement and made a part hereof as fully and completely as if set forth herein verbatim, to wit:

- a. Notice Inviting Sealed Bids;
- b. Instructions to bidders and General Conditions;
- c. Signed and Executed Bid and Proposal of Contractor, Accepted by City;
- d. The Aforesaid Plans and Specifications;
- e. Standard Plans and Specifications, City of Marina, State of California;
- f. These Specifications;
- h. And this Agreement

THIRD: That said Contractor agrees to receive and accept the following prices as full compensation for furnishing all materials and for doing all the work embraced and contemplated in this Agreement and as set forth in the Proposal adopted by the City of Marina, a true copy thereof hereto attached, also, for all loss or damage arising out of the nature of said work, or from the action of the elements or from any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the work until the acceptance thereof by the City of Marina and for all risk connected with the work, and for well and faithfully completing the work, and the whole thereof, in the manner and according to the said Plans and Specifications and the provisions of this Agreement, and the requirements of the Engineer under them, to wit: The prices as set forth in the Proposal of said Contractor for the work to be constructed and completed under this Agreement, which prices shall be considered as though repeated herein.

Seven Hundred and Eighty Six Thousand Dollars
(\$786,000.00)

The undersigned Contractor further agrees to so plan the work and to prosecute it with such diligence that said work, and all of it, shall be completed on or before the expiration of the time specified in the Special Provisions after execution of the contract on behalf of the City of Marina and the receipt from the City of Marina of a notice to proceed with the work.

FOURTH: The City of Marina hereby promises and agrees with said Contractor to employ, and does hereby employ, said Contractor to provide the materials and to do the work according to the terms and conditions herein contained and referred to, for the price aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions set forth in the Specifications; and the said parties, for themselves, their heirs, executors, administrators, successors and assigns, do hereby agree to the full performance of the covenants herein contained.

FIFTH: No interest in this agreement shall be transferred by the Contractor to any other party, and any such transfer shall cause the annulment of this contract, so far as the City of Marina is concerned. All rights of action, however, for any breach of this contract are reserved to City.

SIXTH: Contractor shall keep harmless and indemnify the City of Marina, its officers and employees and agents, from all loss, damage, cost or expense that arises or is set up for infringement of patent rights of anyone for use by the City of Marina, its officers, employees or agents, of articles supplied by the Contractor under this contract, of which he is not entitled to use or sell. Contractor agrees to, at his own cost and expense, defend in court the City, its officers, agents and employees, in any action which may be commenced or maintained against them or any of them, on account of any claimed infringement of patent rights, arising out of this agreement.

SEVENTH: The Contractor agrees to immediately repair and replace all defective material and workmanship discovered within one year after acceptance of final payment by Contractor and to indemnify said City of Marina against all loss and damage occasioned by any such defect, discovered within said year, even though the damage or loss may not be ascertained until after the expiration thereof. Provided, however, that if such failure of the Contractor to perform should not, by reasonable diligence, be discoverable or discovered within said one year, then the obligation of the Contractor to repair and replace said defective material or workmanship shall continue until one year after the actual discovery thereof.

EIGHTH: The Contractor agrees at all times during the progress of the work to carry with insurance carriers approved by the City of Marina full coverage workmen's compensation and public liability insurance in the form and to the extent called for in Section 7-1.12 of the Standard Specifications, State of California, 2006 Edition. Such insurance policy shall contain an endorsement that the same shall not be canceled nor the amount of coverage be reduced until at least 30 days after receipt by the City of Marina by certified or registered mail of a written notice of such cancellation or reduction in coverage.

NINTH: Contractor agrees to comply with all applicable federal, state and municipal laws and regulations, including but not limited to California Labor Code Division 2, Part 7, Chapter 1 regarding Public Works and Public Agencies.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands the year and date first above written.

CITY OF MARINA

CONTRACTOR

By : _____
Anthony J. Altfeld, City Manager

By: _____

Print Name: _____

Date: _____

Address: _____

Date: _____

APPROVED AS TO FORM:

By: _____
Robert Wellington, City Attorney

By: _____
Kathy McFall, Risk Manager

Date: _____

Date: _____

ATTESTED Pursuant to Resolution No. 2008-_____

Joy P. Junsay, City Clerk

Date

May 29, 2008

Item No. **8e(2)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 3, 2008

**RECOMMENDATION TO CONSIDER ADOPTING RESOLUTION
NO. 2008-, APPROVING CONSTRUCTION CONTRACT
BETWEEN THE CITY OF MARINA AND DILBECK
CONSTRUCTION INC. OF SALINAS, CALIFORNIA, FOR
CONSTRUCTION OF NEW TEEN CENTER AT 304 HILLCREST
AVENUE, AUTHORIZING THE FINANCE DIRECTOR TO MAKE
NECESSARY ACCOUNTING AND BUDGETARY ENTRIES,
AUTHORIZING THE CITY MANAGER TO EXECUTE ALL
CHANGE ORDERS AND AUTHORIZING THE CITY MANAGER
TO EXECUTE CONSTRUCTION CONTRACT ON BEHALF OF
THE CITY SUBJECT TO FINAL REVIEW AND APPROVAL BY
THE CITY ATTORNEY**

RECOMMENDATION:

It is recommended that the City Council:

1. Consider adopting Resolution No. 2008-, awarding construction contract to Dilbeck Construction, Inc., of Salinas, California, for the construction of new Teen Center located at 304 Hillcrest Avenue;
2. Authorize the Finance Director to make necessary accounting and budgetary entries;
3. Authorize the City Manager to execute all change orders, and;
4. Authorize the City Manager to execute contract on behalf of the City subject to final review and approval by the City Attorney.

BACKGROUND:

At the regular meeting of April 1, 2008, the City Council adopted Resolution No. 2008-59, authorizing advertising and call for bids for the construction of a new teen center located at 304 Hillcrest Avenue.

On February 27, 2007, the City Council passed Resolution No. 2007-38, authorizing financing for the Teen Center Project from Abrams B Bond proceeds in the amount of \$920,000, and approving a total expenditure budget of \$920,000 for the project. Union Bank, the Abrams B Bond Trustee, oversees disbursement of the Abrams B Bond money and limits draw-downs to the amounts authorized by the City Council by resolution.

As of May 29, 2008, total costs of \$142,401.38 have been charged against the budget for this project, including FY 2006-07 costs of \$3,000.00 and FY 2007-08 costs of \$139,401.38

ANALYSIS:

On May 21, 2008, sealed bids were received, opened and publicly read for the project. The bids ranged from \$1,090,322 (high) to \$786,000 (low). The lowest responsible bidder was Dilbeck

Construction Inc. of Salinas, California.

Six (6) responsible bids were received as follows:

| | |
|---|-------------|
| • Dilbeck Construction of Salinas California | \$786,000 |
| • Avila Construction of Monterey, California | \$847,995 |
| • Kent Construction of Gilroy, California | \$858,159 |
| • Thayer Construction of Monterey, California | \$869,444 |
| • DMC Construction of Pacific Grove, California | \$956,250 |
| • Baggett Construction of Salinas, California | \$1,090,322 |

The staff estimate for the project was \$920,000.

A fifteen percent (15%) project contingency (\$117,900) is requested making the total amount \$903,000.

Approval of this contract for \$903,000 would bring total costs-to-date, plus the cost of this contract, to \$1,045,401.38, which exceeds both the approved Teen Center Project budget and the amount authorized by Resolution No. 2007-38, to be financed by Abrams B Bond proceeds. Since the City Council has discretion over the use of the Abrams B Bond proceeds, Staff recommends that the City Council consider entering into an agreement with Dilbeck Construction for the project (“**EXHIBIT A**”), with direction to staff to prepare and submit to the City Council as soon as possible, a resolution for City Council consideration, increasing the Abrams B Bond financing for this project to an amount adequate to finance the estimated total project costs.

FISCAL IMPACT:

Should the City Council approve this request, pending adoption of a resolution authorizing additional financing from the Abrams B Bond proceeds, adequate funding will be available in FY 2007-08 Budget and contract costs will be charged to the Capital Projects Fund, Teen Center Facility Budget, Other Professional Services Account No. 62.721.65890.

CONCLUSION:

This request is submitted for City Council consideration and possible action.

Respectfully submitted,

Craig Oliver, CBO
Chief Building Official
City of Marina

REVIEWED/CONCUR:

Christine di Iorio, AICP
Community Development Director
City of Marina

Anthony J. Altfeld

City Manager
City of Marina

SOURCE OF FUNDING:

Should the City Council approve this request, adequate funding is available in FY 2007-08 Budget and will be charged to the Capital Projects Fund, Teen Center Facility Budget, Other Professional Services Account No. 62.721.65890.

NOTED FOR FISCAL IMPACT:

Richard B. Standridge, CPA
Interim Finance Director
City of Marina