

RESOLUTION NO. 2020-57

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARINA WAIVING THE COMPETITIVE BID PROCESS FOR FENCING INSTALLATION AT THE ARTS VILLAGE BUILDING, FINDING THAT THE BIDDING PROCESS PERFORMED BY THE TRANSPORTATION AGENCY FOR MONTEREY COUNTY (TAMC) JUSTIFIES WAIVING COMPETITIVE BIDDING REQUIREMENTS AND FURTHER FINDING THAT COMPETITIVE BIDDING WOULD BE UNAVAILING, WOULD NOT PRODUCE AN ADVANTAGE, AND WOULD NOT BE IN THE PUBLIC INTEREST, AND ACCORDINGLY DESIGNATING A 1 FENCE, INC. OF SAN JOSE, CA AS THE CITY'S FENCING CONTRACTOR FOR THE ARTS VILLAGE FENCING PROJECT.

WHEREAS, The Arts Village Building owned by the City of Marina west of 1st Avenue and the adjacent building owned by the Transportation Agency for Monterey County (TAMC) are unoccupied and are subject to vandalism and illegal dumping.; and

WHEREAS, California Public Contract Code §20162 requires competitive bidding after notice for public projects exceeding \$5,000; and.

WHEREAS, California law excuses cities from the conduct of formal competitive bidding and advertising of public works where the nature of the contract or project is such that competitive proposals would be unavailing or would not produce an advantage, thereby rendering any formal advertisement for competitive bidding under the Public Contract Code undesirable, impractical or impossible (Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal. App. 3d 631, 164 Cal. Rptr. 56); and.

WHEREAS, TAMC solicited bids from six licensed fencing contractors and received a low bid from A1 Fence, Inc. (A1) (doing business in California as Delaware A1 Fence, Inc.) on March 13, 2020; and

WHEREAS, TAMC included 210 feet of fencing on the City property (shown as Area E on "Exhibit A") as a separate line item in their bid solicitation so that the City would not have to obtain bids with the possible result being work performed by different contractors; and

WHEREAS, the bid from A1 included a line item in the amount of \$6,500 to construct fencing along Area E which is on City property; and

WHEREAS, If City Council makes the findings and waives the bidding requirement, staff will finalize a contract directly with A1. Contracts under \$25,000 do not require award by the City Council and can be entered into by the City Manager subject to review and approval of the form of agreement by the City Attorney.

NOW, THEREFORE, the City Council of the City of Marina hereby finds that based on the full record before it, which may include by is not limited to such things as the staff report, testimony by staff and the public and other materials and evidence submitted or provided to it:

1. TAMC's solicitation of bids from six licensed fencing contractors thereby securing market pricing information and sparking market competition to the extent practicable such that the authorization to execute a contract would not constitute any sign of favoritism, improvidence, extravagance, fraud or corruption.

2. That the delay and increased costs that would occur as a result of engaging in competitive bidding process would be unavailing, would not produce an advantage and would, therefore, not be in the public interest.

3. That the designation of A1 Fence, Inc of San Jose, CA as the City's fencing contractor for the Arts Village Fencing Project is necessary due to the time and expense required for the City to competitively bid a portion of the project.

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

1. Waive the formal process for competitive bidding for the fencing installation at the Arts Village Building; and
2. Find that the bidding process performed by the Transportation Agency for Monterey County (TAMC) justifies waiving competitive bidding requirements; and
3. Find that competitive bidding would be unavailing, would not produce an advantage, and would not be in the public interest.
4. Designate A 1 Fence, Inc. of San Jose, CA as the City's fencing contractor for the Arts Village Fencing Project.

PASSED AND ADOPTED by the City Council of the City of Marina at a regular meeting duly held on the 2nd day of June 2020 by the following vote:

AYES: COUNCIL MEMBERS: Berkley, Urrutia, O'Connell, Morton, Delgado

NOES: COUNCIL MEMBERS: None

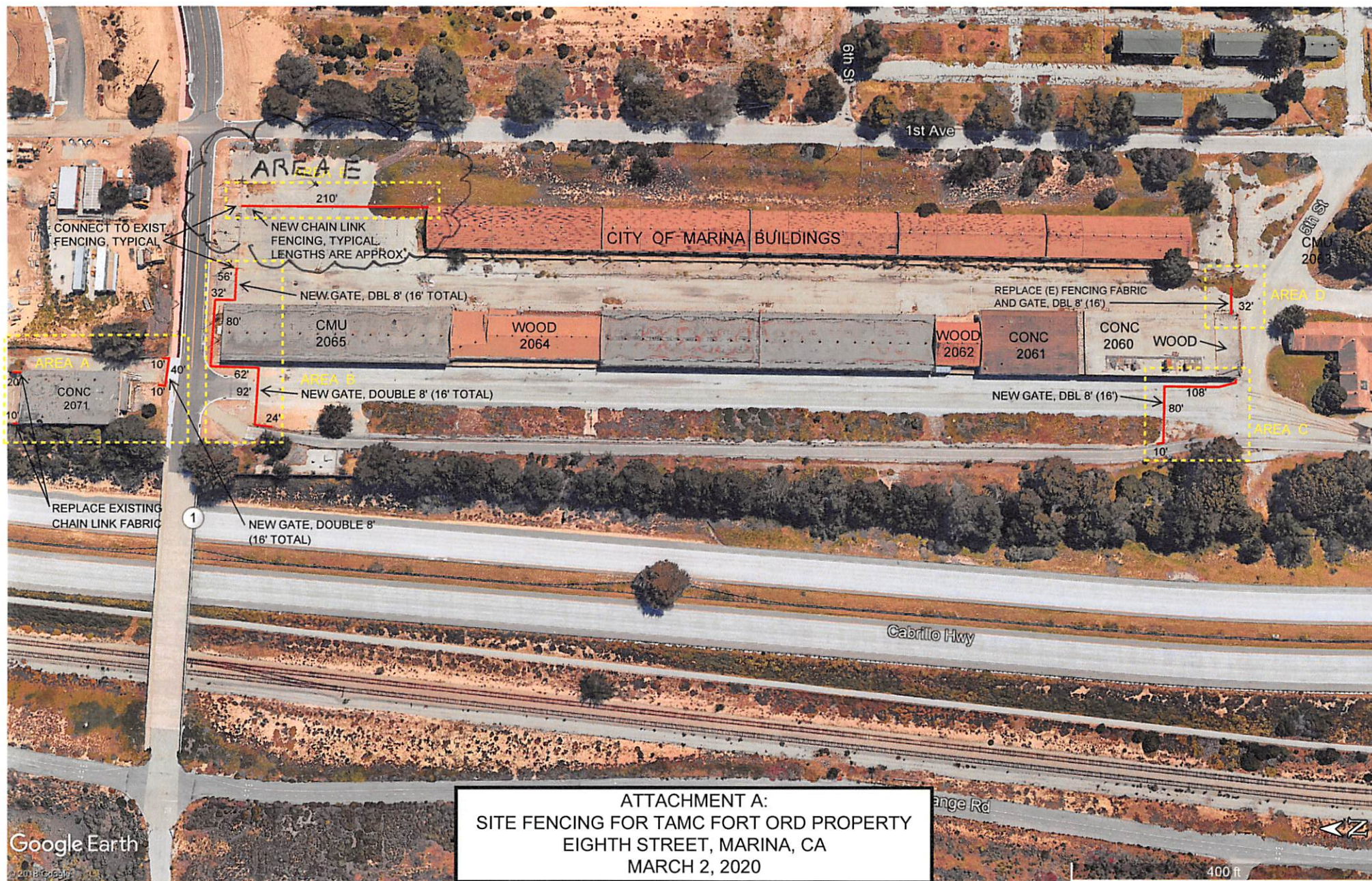
ABSENT: COUNCIL MEMBERS: None

ABSTAIN: COUNCIL MEMBERS: None

ATTEST:

Bruce C. Delgado, Mayor

Anita Sharp, Deputy City Clerk



May 28, 2020

Item No. **8f(3)**

Honorable Mayor and Members
of the Marina City Council

City Council Meeting
of June 2, 2020

**CITY COUNCIL CONSIDER ADOPTING RESOLUTION NO. 2020-,
WAIVING THE COMPETITIVE BID PROCESS FOR FENCING
INSTALLATION AT THE ARTS VILLAGE BUILDING, FINDING THAT
THE BIDDING PROCESS PERFORMED BY THE TRANSPORTATION
AGENCY FOR MONTEREY COUNTY (TAMC) JUSTIFIES WAIVING
COMPETITIVE BIDDING REQUIREMENTS AND ACCORDINGLY
FURTHER FINDING THAT COMPETITIVE BIDDING WOULD BE
UNAVAILABLE, WOULD NOT PRODUCE AN ADVANTAGE, AND
WOULD NOT BE IN THE PUBLIC INTEREST, AND ACCORDINGLY
DESIGNATING A1 FENCE, INC. OF SAN JOSE, CA AS THE CITY'S
FENCING CONTRATOR FOR THE ARTS VILLAGE FENCING
PROJECT.**

REQUEST:

It is requested that the City Council consider:

1. Adopting Resolution No. 2020-, waiving the competitive bid process for fencing installation at the Arts Village Building; and
2. Finding that the bidding process performed by the Transportation Agency for Monterey County (TAMC) justifies waiving competitive bidding requirements; and
3. Accordingly, adopt finding that further competitive bidding would be unavailable, would not produce an advantage, and would not be in the public interest in view of the process followed by TAMC; and
4. Accordingly designating A1 Fence, Inc. of San Jose, CA as the City's fencing contractor for the Arts Village Fencing Project.

BACKGROUND:

The Arts Village Building owned by the City of Marina west of 1st Avenue and the adjacent building owned by TAMC are unoccupied and are subject to vandalism and illegal dumping. TAMC contacted staff to coordinate the installation of fencing around the buildings. In an effort to streamline the installation, TAMC included 210 feet of fencing on the City property (shown as Area E on "**EXHIBIT A**" to the staff report) as a separate line item in their bid solicitation so that the City would not have to obtain bids with the possible result being work performed by different contractors.

ANALYSIS:

California Public Contract Code §20162 requires competitive bidding after notice for public projects exceeding \$5,000. California law excuses cities from the conduct of formal competitive bidding and advertising of public works where the nature of the contract or project is such that competitive proposals would be unavailable or would not produce an advantage, thereby rendering any formal advertisement for competitive bidding under the Public Contract Code undesirable, impractical or impossible (Graydon v. Pasadena Redevelopment Agency (1980) 104 Cal. App. 3d 631, 164 Cal. Rptr. 56).

TAMC solicited bids from six licensed fencing contractors and received a low bid from A1 Fence, Inc. (A1) (doing business in California as Delaware A Fence, Inc.) on March 13, 2020. The bid from A1 included a line item in the amount of \$6,500 to construct fencing along Area E which is on City property.

If City Council makes the findings and waives the bidding requirement, staff will finalize a contract directly with A1. Contracts under \$25,000 do not require award by the City Council and can be entered into by the City Manager subject to review and approval of the form of agreement by the City Attorney.

FISCAL IMPACT:

Should the City Council approve this request, funding is available in the FY 2019-20 Budget for maintenance of buildings and grounds.

CONCLUSION:

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

Respectfully submitted,

Brian McMinn, P.E., P.L.S.
Public Works Director/City Engineer
City of Marina

REVIEWED/CONCUR:

Layne Long
City Manager
City of Marina