

HAYWARD CITY COUNCIL

RESOLUTION NO. 15-____

Introduced by Council Member _____

RESOLUTION APPROVING ADDENDA NO. 1-5 FOR THE 21ST CENTURY LIBRARY AND COMMUNITY LEARNING CENTER AND HERITAGE PLAZA ARBORETUM PROJECT, PROJECT NO. 06992, REJECTING THE BID PROTEST OF ALTEN CONSTRUCTION, INC., AND AWARDING THE CONTRACT TO T.B. PENICK & SONS, INC.

WHEREAS, by resolution on May 26, 2015, the City Council approved the plans and specifications for the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum Project, Project No. 06992, and called for bids to be received on June 30, 2015; and

WHEREAS, on June 9, 2015, Addendum No. 1 was provided to make revisions to the plans and specifications; and

WHEREAS, on June 16, 2015, Addendum No. 2 was provided to make revisions to the plans and specifications, and

WHEREAS, on June 17, 2015, Addendum No. 3 was provided to make revisions to the plans and specifications, and revised the bid opening date to July 21, 2015; and

WHEREAS, on June 23, 2015, Addendum No. 4 was provided to make revisions to the plans and specifications; and

WHEREAS, on July 14, 2015, Addendum No. 5 was provided to make revisions to the plans and specifications, and

WHEREAS, on July 21, 2015, four bids were received, ranging from \$49,290,599 to \$58,601,750; T. B. Penick & Sons, Inc. of San Diego, California submitted the low bid in the amount of \$49,290,599, which is 6.0% more than the Engineer's Estimate of \$46,501,540; and

WHEREAS, the Administrative Change Order (ACO) or contingency budget of \$3,250,000 was not disclosed; and

WHEREAS, a written protest was received on July 31, 2015 from Alten Construction, Inc., stating that the low bidder, T. B. Penick & Sons, Inc., failed to list all litigation; and

WHEREAS, T. B. Penick & Sons, Inc. provided a written response to the bid protest on August 3, 2015; and

WHEREAS, staff has reviewed the protest by Alten Construction, Inc., and determined that T. B. Penick & Sons' omission of certain litigation involved other divisions of the company and determined that any bid irregularities are not material; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Hayward that any irregularities in the T.B. Penick & Sons' bid are waived as immaterial since they did not affect the bid price or provide an advantage not provided to other bidders and the bid protest of Alten Construction, Inc. received on July 31, 2015 is hereby rejected.

BE IT FURTHER RESOLVED by the City Council of the City of Hayward that T.B. Penick & Sons, Inc. is hereby awarded the contract for the 21st Century Library and Community Learning Center and Heritage Plaza Arboretum project, Project No. 06992, in an amount not to exceed \$52,550,000, in accordance with the plans and specifications adopted therefore and on file in the office of the City Clerk of the City of Hayward, , and all other bids are hereby rejected.

BE IT FURTHER RESOLVED that the City Manager is hereby authorized and directed to execute the contract with T. B. Penick & Sons, Inc., in the name of and for and on behalf of the City of Hayward, in a form to be approved by the City Attorney.

IN COUNCIL, HAYWARD, CALIFORNIA _____, 2015

ADOPTED BY THE FOLLOWING VOTE:

AYES: COUNCIL MEMBERS:
MAYOR:

NOES: COUNCIL MEMBERS:

ABSTAIN: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

ATTEST: _____
City Clerk of the City of Hayward

APPROVED AS TO FORM:

City Attorney of the City of Hayward

