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April 7, 2026

Via email only to:

Efrain Hinojosa, Manager
Rapid Grading Services
23842 Cabot Blvd.
Hayward, CA. 94545

Re: Pavement Management Program 2026 (Asphalt) Project
City of Brentwood CIP No. 336-31705
Response to Bid Protest

Dear Mr. Hinojosa:

On behalf of the City of Brentwood ("City") this letter responds to the bid protest dated March 27, 2026 that you submitted on behalf of Rapid Grading Services ("RGS"), the apparent second lowest bidder for the above-referenced City project ("Project"). The bid protest alleges that the bid submitted by the lowest bidder, Consolidated Engineering, Inc. ("CEI"), should be rejected as nonresponsive because RGS did not list a striping subcontractor, nor does CEI have the materials, supplies, and equipment necessary to perform the scope of work of the Project.

A. BACKGROUND

Bids for the Project were due and opened on Wednesday, March 25, 2026. Following review of the bids, the City determined that at \$1,929,999.00, CEI had submitted the lowest bid and that RGS had submitted the second lowest bid at \$2,007,937.30. The bid results, as shown in **Exhibit A** hereto, were posted on the City's website at approximately 4:59 p.m. on March 25, 2026.

On March 26, 2026, the Engineering Department received a call from RGS requesting that a copy of CEI's bid package be provided via email. City staff emailed you CEI's bid package on March 27, 2026 at 11:33 a.m. RGS subsequently submitted its bid protest via email on March 27, 2026 to the City, and included Casey Curtin, President for CEI, on the email.

The protest alleges that the Subcontractor List submitted with CEI's bid did not list a subcontractor to perform the thermoplastic striping items of the Project, which RGS alleges indicates that CEI would be self-performing the thermoplastic striping items included in the Bid Schedule, but that CEI does not have the materials, supplies, and equipment necessary to perform the thermoplastic striping items. Further, RGS stated that Section 5 of the Bidder's Questionnaire asks the Bidder to provide information on past projects performed as a General Contractor, and that the responses on the Bidder's Questionnaire submitted by CEI do not specify whether the striping was self-performed by CEI, or done by a subcontractor, on those projects, and the City should inquire as to how those projects were completed.

Casey Curtin provided a written response to the City the same day, a copy of which you were provided on March 27, 2026 at 2:29 p.m. CEI's response notes that RGS' allegations fail to identify any material defect in CEI's bid that would render it non-responsive. Further, CEI disputes RGS' interpretation of subcontractor lists and prime contractors retaining the right to self-perform work. Additionally, CEI provides that it intends to self-perform the thermoplastic striping items, so no subcontractor was required to be listed, and that CEI possesses qualified personnel, access to thermoplastic striping equipment, vendor relations, prior public work experience, as well as striping and pavement marking experience, to enable CEI to self-perform the work.

B. ANALYSIS

Section 17 of the Instructions to Bidders states, in pertinent part (emphasis added):

“The prime contractor must perform at least 50% of the Work on the Project, calculated as a percentage of the base bid price, with its own forces, except for any Work identified as “Specialty Work” in the Contract Documents. The total bid amount for any such Specialty Work, as shown on the Bid Schedule, may be deducted from the base bid price before computing the 50% self-performance requirement. The remaining Work may be performed by qualified Subcontractor(s)”

As specified in Public Contract Code section 4106, it is assumed that a contractor will self-perform the work they do not list a subcontractor for, for any portion of the work over the statutory threshold (one half of 1% of the bid price). Public Contract Code section 4106 states (in part (emphasis added)):

“If a prime contractor fails to specify a subcontractor or if a prime contractor specifies more than one subcontractor for the same portion of work to be performed under the contract in excess of one-half of the 1 percent of the prime contractor's total bid, the prime contractor agrees that he or she is fully qualified to perform that portion himself or herself, and that the prime contractor shall perform that portion himself or herself.”

CEI's Subcontractor List included subcontractors performing approximately 41.8% of the Work. Since Section 17 requires the prime contractor to perform at least 50% of the Work, there would only be about 8.2% of Work remaining that *could* be performed by subcontractors. CEI's statement that it is self-performing the thermoplastic work, taken in conjunction with no subcontractors listed in its bid for that work, shall mean the prime contractor is fully qualified to perform that work itself, and intends to perform that work itself.

Additionally, Article 1 of the General Conditions defines “Specialty Work” as “Work that **must** be performed by a specialized Subcontractor with the specified license or other special certifications, and that the Contractor is not qualified to self-perform. (emphasis added)” The Revised Bid Schedule (included in Addendum No. 1) did not indicate that any items in the Bid Schedule were “Specialty Work” required to be performed by a qualified Subcontractor, as such, the prime contractor could self-perform all of the items on the Bid Schedule, if it so chooses.

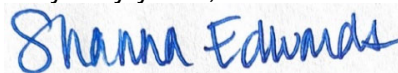
Finally, under well-established California law, a bid is responsive “if it promises to do what the bidding instructions require.” (*Bay Cities Paving & Grading, Inc. v. City of San Leandro* (2014) 223 Cal.App.4th 1181, 1187; hereafter “*Bay Cities*.”)

Based on the fact that thermoplastics were not identified as Specialty Work requiring a subcontractor with a specialized license to perform it, a subcontractor was not included on the Subcontractor List to perform the thermoplastic work, and CEI's statement in its bid protest response that it intends to self-perform the work, and has the ability to self-perform the work, the City is satisfied that the bid submitted by CEI is responsive as a matter of law.

C. CONCLUSION

The City appreciates RGS's interest in the Project and welcomes its participation in future public works bids. However, for the reasons stated above, and based upon thorough review of the bid submittals, RGS's bid protest lacks merit. RGS has not indicated whether it is represented by legal counsel in this regard, but if so, I trust that you will forward this communication to your legal counsel.

Very truly yours,



Shanna Edwards
Assistant City Attorney

Enclosure: Exhibit A: Project Bid Results (March 25, 2026)

c: (via email only)

Casey Curtin, President, Consolidated Engineering Inc.
Allen Baquilar, Director of Engineering/City Engineer, City of Brentwood
Angel Abarca, Senior Engineer, City of Brentwood
Brant Wilson, Associate Civil Engineer, City of Brentwood

Exhibit A
(attached hereto)



BID RESULTS

**Pavement Management Program 2026 (Asphalt)
CIP Project No. 336-31705
Bid Opening: Wednesday, March 25, 2026**

Plan Holder	Bid Amount
Consolidated Engineering Inc.	\$1,929,999.00
Rapid Grading Services	\$2,007,937.30
Mountain Cascade	\$2,098,530.00
Knife River Construction	\$2,164,187.00
Bay Cities Paving and Grading, Inc.	\$2,175,026.00
Ghilotti Bros., Inc.	\$2,236,636.00
Radius Earthwork Inc.	\$2,254,350.25
United Pavement Maintenance, Inc.	\$2,728,748.00

Staff will be making the recommendation at the April 28th Council Meeting that the above mentioned construction contract be awarded to **Consolidated Engineering**.

List of Subcontractors		
Subcontractor	Description	% of Work
Pavement Recycling Systems	Cole Plane	1.4%
Johnson Construction Co.	Adjust Iron	5%
Armendariz Consulting	Traffic Control	8.4%
Columbia Electric Inc.	Replace Loops	1%
Pacific Northwest	Pavement Fabric	8%
Graham Construction	Crackfill	3%
American Pavement System	Slurry Seal	15%