



## Item No. 13 Town of Atherton

### **CITY COUNCIL STAFF REPORT – CONSENT AGENDA**

**TO: HONORABLE MAYOR AND CITY COUNCIL  
GEORGE RODERICKS, CITY MANAGER**

**THROUGH: ROBERT OVADIA, PUBLIC WORKS DIRECTOR**

**FROM: DAVID HUYNH, PW MAINTENANCE MANAGER**

**DATE: MAY 20, 2020**

**SUBJECT: AWARD OF CONTRACT FOR THE 2020 OVERLAY PROJECT,  
PROJECT NUMBER 56093**

#### **RECOMMENDATION**

Award the construction contract for 2020 Overlay Project, project number 56093 to the lowest responsive bidder, O’Grady Grading and Paving of Mountain View for \$285,975 and authorize change orders up to \$40,000; direct the City Attorney to prepare the contract; and authorize the City Manager to execute the contract on behalf of the Town.

#### **BACKGROUND**

Pavement maintenance is budgeted annually in the Town’s Capital Improvement budget. The 2020 Overlay Project is included in the FY 2019-20 Capital Improvement Program and consists and consists of milling 2” of asphalt, grinding and replacing pavement failures, performing crack sealing and repaving asphalt per Town specifications.

Striping and pavement marking installation is also included in this project. Bicycle route markers (sharrows), if any, will be replaced with paint versus thermoplastic.

#### **ANALYSIS**

Public Works staff administered a publicly noticed bid for the 2020 Overlay Project. Bids were opened on April 14, 2020. Eight (8) bids were received for the 2020 Overlay Project as follows:

<u>CONTRACTOR</u>	<u>LOCATION</u>	<u>BID</u>
Black Bear Paving & Grading, Inc.	Hayward	\$276,168.50
O’Grady Paving, Inc.	Mountain View	\$285,975.00
G. Bortolotto & Co., Inc.	San Carlos	\$292,750.00

Interstate Grading & Paving, Inc.	So. San Francisco	\$296,250.00
KDW	Vacaville	\$299,847.50
Radius Earthworks	San Jose	\$302,460.00
Alaniz Construction	Fremont	\$341,550.00
G & S Paving	Oakley	\$436,995.00

The Engineer's Estimate for the 2020 Overlay Project is \$324,616.

Black Bear Paving & Grading, Inc. (Black Bear), of Hayward California, was the lowest apparent bidder. Black Bear Paving & Grading is a state licensed Earthwork and Paving Contractor (C-12), which is an appropriate license for the majority of the work. The project includes the installation of striping and pavement markings. The contractor's C-12 license does not cover the installation of pavement striping and markings and thus would need to be subcontracted. The Public Contract Code requires listing of subcontractors as part of the bid documents at the time of the bid opening when subcontracted work exceeds 0.5% or \$10,000, whichever is greater. The Contractor's bid for the required striping and pavement marking work is \$16,980, greater than \$10,000 and is approximately 6% of their bid.

On April 14, 2020, after the bid opening, the second lowest bidder, O'Grady Paving, Inc., of Mountain View California, filed a bid protest claiming that Black Bear Paving & Grading failed to designate any subcontractors in their proposal and that their license does not qualify them to perform all of the work for the project, in particular the thermoplastic striping work. Black Bear was advised of the bid protest and the failure to list a subcontractor for the striping and pavement marking work. Black Bear advised that they were intending to self-perform the striping and marking work and that the thermoplastic work for the project is minimal and did not require the listing of a subcontractor.

As noted above, Black Bear's C-12 license does not provide for striping and pavement markings, and no subcontractor for the work was listed in the bid proposal. Their bid for thermoplastic work was \$16,980, in excess of \$10,000 and 0.5% of the bid. Therefore, their bid was deemed non-responsive. Staff is recommending award of the project to the second lowest bidder, O' Grady Paving, Inc. O' Grady Paving holds a C-12 (Earthwork and Paving) contractor's license and listed licensed subcontractors for Striping and Crack Seal.

Staff also recommends Council authorize staff to process construction change orders up to \$40,000 as during construction areas of pavement failure must be fully remediated and the actual limits of the failed areas cannot be determined until grinding of the surface has been completed.

### **COMMUNITY NOTIFICATION**

A map of the area affected of the project is currently on the Town's website. A construction schedule will be added to the Town's website and distributed via the Town's electronic news network.

### Neighborhood Notifications and Performance

Staff will widely publicize the overlay program through a multi-media approach using the Town's website and the Town's electronic news flash notification system. The contractor's responsibilities include: door-hanger notifications; signage; and the placement of barricades at 100-foot maximum intervals on each street at least forty-eight hours prior to work being performed. These barricades will include no parking signs and road closure schedules along with contact information. A list and map of the areas affected and timing of the project will be added to the Town's website and distributed via the Town's electronic news network.

The contractor's efforts will also include, construction signage (4FTx6FT) at the ends of each street segment stating the road closure date and time and the contractor's contact information.

### POLICY FOCUS

The project will provide a pavement repairs and resurfacing that will extend the life cycle of the roadway. This project will include milling of asphalt, patching of failed pavement sections, crack sealing, and repaving asphalt. The selected streets were identified via the Town's Pavement Management Program and field verification of conditions.

### FISCAL IMPACT

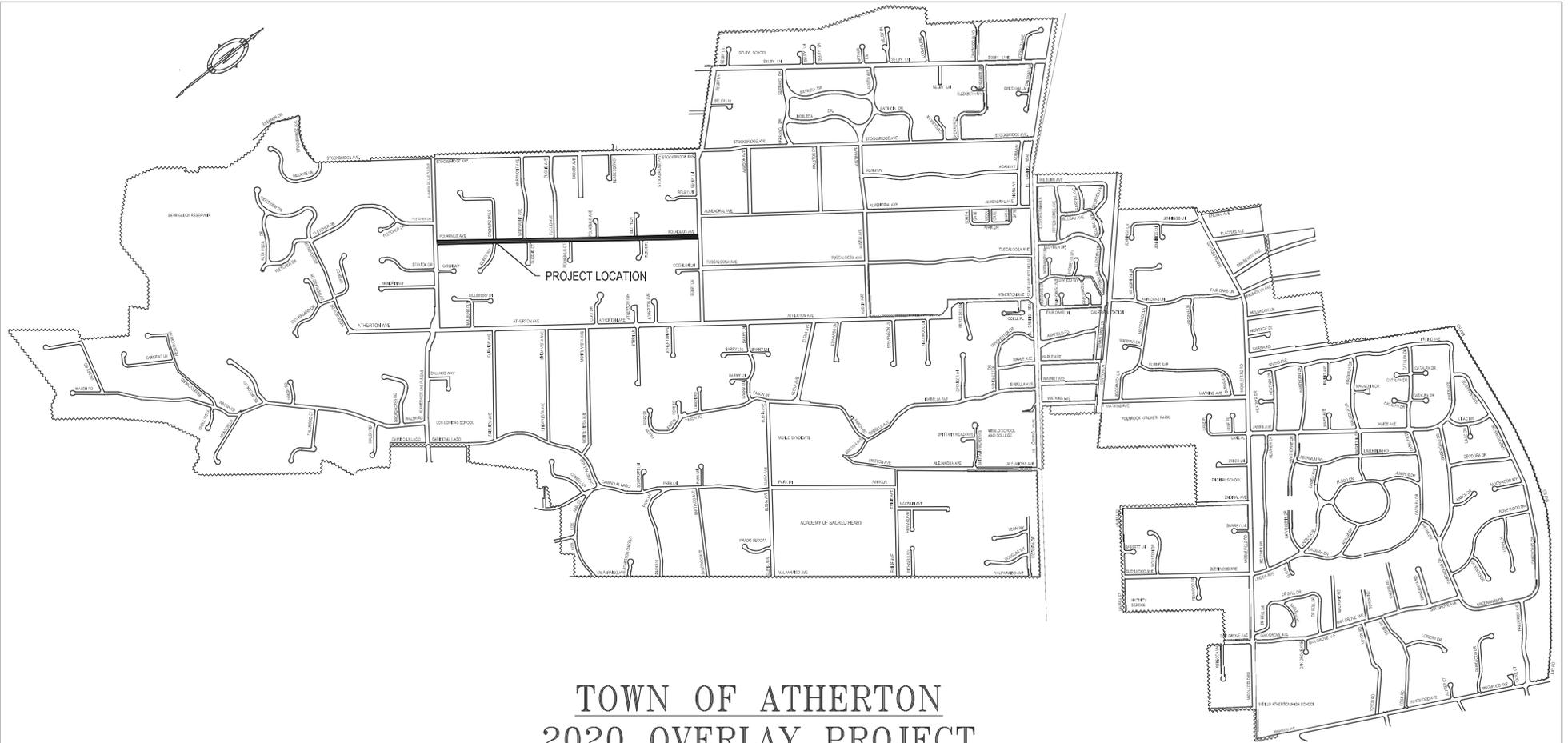
SB1, Special Parcel Tax, and Measure A Funds in the amount of \$400,000 are budgeted for this project in FY 2019-20.

### PUBLIC NOTICE

Public notification was achieved by posting the agenda, with this agenda item being listed, at least 72 hours prior to the meeting in print and electronically. Information about the project is also disseminated via the Town's electronic News Flash and Atherton Online. There are approximately 1,200 subscribers to the Town's electronic News Flash publications. Subscribers include residents as well as stakeholders – to include, but be not limited to, media outlets, school districts, Menlo Park Fire District, service providers (water, power, and sewer), and regional elected officials.

### ATTACHMENTS

1. Map of Street Overlay Location
2. Bid Protest letter from O' Grady Paving, Inc.
3. Response email from Black Bear Paving & Grading, Inc.



TOWN OF ATHERTON  
 2020 OVERLAY PROJECT  
 PROJECT #56093  
 STREET OVERLAY MAP A

DWG FILE: S:\Projects\19-20 Milestone Projects\2020 Overlay Project - 56093\DWG\Sheet A - The Sheet - OVERLAY LOCATION.dwg

REGISTERED CIVIL ENGINEER DATE PLANS APPROVAL DATE TOWN OF ATHERTON DEPARTMENT OF PUBLIC WORKS 91 ASHFIELD ROAD ATHERTON, CA 94027		THIS PLAN WAS PREPARED UNDER MY DIRECTION APPROVED BY: DAVID HUYNH R.C.E. 52664 DIRECTOR OF PUBLIC WORKS		DRAWN BY D. HUYNH DESIGN BY D. HUYNH QUANTITIES BY SCALE: HORIZONTAL: NTS VERTICAL: NTS		TOWN OF ATHERTON DEPARTMENT OF PUBLIC WORKS ORIGINAL SCALE IS IN INCHES FOR REDUCED PLANS		2020 OVERLAY PROJECT OVERLAY LOCATION MAP A DEPARTMENT OF PUBLIC WORKS DATE PLOTTED: 02/26/20 SHEET 1 OF 1	
NO.	DATE	DESCRIPTION	DSH	BY					
1		PLANS FOR BID							



April 14, 2020

Town of Atherton

150 Watkins Avenue,

Atherton, CA 94027

RE: 2020 Overlay Project No. 56093

Dear Mr. Huynh,

This official protest letter is in regards to the preliminary bid results for the 2020 Overlay Project that bid on April 14<sup>th</sup> at 2PM. After attending the bid opening, we became aware that Black Bear Paving & Grading was the apparent low bidder and that they did not designate any subcontractors in their proposal. Black Bear Paving & Grading has a C-12 License, and while that would qualify them to bid the project as the Prime Contractor, it does not qualify them to perform all of the required work for this project included in the project plans and specifications. The description of a C-12 license under the California Code of Regulations reads:

**C-12 - Earthwork and Paving Contractors**

**California Code of Regulations**

**Title 16, Division 8, Article 3. Classifications**

**An earthwork and paving contractor digs, moves, and places material forming the surface of the earth, other than water, in such a manner that a cut, fill, excavation, grade, trench, backfill, or tunnel (if incidental thereto) can be executed, including the use of explosives for these purposes. This classification includes the mixing, fabricating and placing of paving and any other surfacing materials.**

Under their C-12 license, Black Bear Paving & Grading is not qualified to perform the Thermoplastic/Striping work that is included on this project. Due to



ASPHALT PAVING • GRADING

the fact that the Striping work on this project is valued at greater than one-half of one percent of the total bid amount, we believe that Black Bear Paving & Grading's bid should be considered incomplete and invalid, and O'Grady Paving should be awarded the project.

Sincerely,

Craig E. Young, Vice President  
O'Grady Paving, Inc.

**David Huynh**

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**From:** George B <bids@pavingbear.com>  
**Sent:** Wednesday, April 15, 2020 2:14 PM  
**To:** David Huynh  
**Subject:** 2020 Overlay Project: 56093

**[The e-mail below is from an external source. Please do not open attachments or click links from an unknown or suspicious origin.]**

Hello dear David,

I was informed that there was some protest because we did not list subs for thermoplastic. This scope of work always has been performed and done by our company every time We lay asphalt, or sealcoat on new parking or existing. This kind of work its done for all paving companies.

Also this was listed on the specs as part of bid process:

7. Required Contractor’s License: A California Class “A” General Engineering or a “C-12” Earthwork and Paving licenses for performing the work outlined in the Plans and Specifications is required at the time of the Bid to Bid this contract.

The scope of work for the thermoplastic plans its planned to do it in the house.  
The thermoplastic section of this project its minimal 1% that according to California contracting code, I don’t have to list a sub-contractor.

Thank you for any response David, stay healthy and have a wonderful day.

JORGE B LOPEZ  
PROJECT MANAGER  
MAIN 510 398 8922 DIRECT 510 736 6499  
[BIDS@PAVINGBEAR.COM](mailto:BIDS@PAVINGBEAR.COM)

