



April 19, 2021

Always Paving Inc.
5221 Sussex Place
Newark, CA 94560

Attn: Mr. Marco Contreras
Mr. Harold Hutson

Re: Washington Park Street Rehabilitation Project, Schedule & Specifications

Dear Mr. Contreras and Mr. Hutson,

This letter is intended to serve as notice that the Town Council is holding a special meeting at 2:30 p.m. on April 20, 2021 to consider cancellation of the Washington Park Street Rehabilitation Project (MT-3021) contract with Always Paving, Inc. consistent with Section 6-4 of the Town's Standard Specifications. That Section provides:

The contract may be cancelled by the Town Council without liability for damage, when in the Town Council's opinion the CONTRACTOR is not complying in good faith, has become insolvent, or has assigned or subcontracted any part of the Work without the Town Council's consent.

Town staff intends to recommend the Town Council cancel the Contract under Section 6-4 of the Standard Specifications on two grounds: (1) Always Paving's failure to comply with the Contract in good faith; and (2) Always Paving's subcontracting of a portion of the work without the Town Council's consent. Town staff's understanding that Always Paving has not complied with the Contract in good faith is based on the facts described in the attached memorandum issued by the Town's Consultant, Pavement Engineering, Inc. In short, Always Paving has not complied with the following provisions in the Contract documents in good faith:

1. **Section A - Notice Inviting Sealed Bids:** "All contractors and their subcontractors doing work in Town are required to have a Town business license." The Town understands that Anrak, a subcontractor not included on Always Paving's subcontractor list, does not have a valid Town business license.
2. **Section B - Instruction to Bidders, Section B-1.03:** "The Contractor shall begin work within ten (10) calendar days after the date of the Notice to Proceed and shall diligently prosecute said work to completion before the expiration of ****(20)****

WORKING DAYS from the start of work." The Town received no Notices of Delay under Section 6-6.11 of the Standard Specifications.

3. **Section E - Standard Specifications, Section 7-1:** "The CONTRACTOR shall furnish and maintain in good condition all equipment and facilities as required for proper execution of the Work. Such equipment and facilities shall meet all requirements of applicable ordinances and law... The CONTRACTOR shall arrange and maintain a secure storage site for all equipment and materials. All equipment and unused materials shall be returned to this site at the end of each work day."
4. **Section G - Special Provisions, Section 700-14:** "All pavement areas removed shall be restored within five (5) working days of removal. This includes pavement removal for Keycuts." This deadline was not met and no Notice of Delay under Section 6-6.11 of the Standard Specifications was completed, sent, or received.

In addition, on April 15 you described expected delays based on your subcontractor Pacific Northwest Oil cancelled delivery scheduled from April 16. However, after further investigation, the Town found that Always Paving canceled the April 16 delivery, and that Pacific Northwest Oil had a truck available for delivery that day. Finally, please note that Section 6-6.3 defines **Excusable Delay** to exclude "[t]he financial inability of the Contractor or any subcontractor and default of any subcontractor, without limitation..." Therefore, delays caused by your subcontractors' failure to perform are not excusable.


If the Town Council decides, in its discretion, to cancel the contract, Always Paving will be paid the actual amount at the time of cancellation, less damages caused to the Town by Always Paving's acts. The Town will then issue written notice to the Surety, which will have five days to assume control and perform the work. If the Surety does not assume control within five days, then the Town may complete the work and charge the Surety and Always Paving for costs incurred.

Good faith requires both parties to not take any action to deprive the other party of the benefits of the agreement. Good faith also means that Always Paving will faithfully perform its duties. As the above facts and the memorandum issued by the Town's Consultant, Pavement Engineering, Inc. from show, the Town has not received the benefits of the agreement and Always Paving has not faithfully performed its duties. Both have cause injury to the Town and to the many residents impacted by this work. The Town has diligently sought to resolve these issues to no avail.

You are invited to attend the meeting and provide comments to the Town Council before or during the meeting. The Town Council's agenda, which includes direction for public participation, is posted at the following weblink:

<https://www.townofyountville.com/council/meeting-agendas-minutes-video-streaming>.

Sincerely,



Steve Rogers, Town of Yountville, Town Manager

Cc: Blueprint Bonding Inc.; Jocelyn Quirt

Attachment: PEI Letter, Non-Performance Issues, dated 4/19/21



April 19, 2021

Project No. 200171-02

John Ferons
Deputy Public Works Director
Town of Yountville
6550 Yount Street
Yountville, CA 94599

Subject: Non-Performance Issues - Washington Park Paving Rehabilitation Project (MT-3021)

Dear John:

With this letter, PEI is documenting to the Town the non-performance issues we have witnessed during the project. The items are listed below:

- Pavement Removal – Per Section 700-14, *"All pavement areas removed shall be restored within five (5) working days of removal. This includes pavement removal for Keycuts."* The contractor performed the Keycuts on April 9, 2021. To date, the pavement has not been replaced. This action leaves the integrity of the pavement in a compromised state where vehicular traffic and trash trucks can cause damage to the roadway resulting in additional repairs beyond those described in the contract, time is of the essence.
- Contract working days – The contractor was issued a notice to proceed stating that the first day of work would be March 29, 2021. Based on the twenty (20) working days specified in the contract, the completion date would be April 23, 2021. As of the writing of this letter, PEI estimates that there are about sixteen (16) days of work remaining to complete the project. This puts the contractor at least eleven (11) working days beyond the completion date.
- Lack of proper equipment – Always Paving started the project without having the proper paving machine fitted with an automatic ski per project specifications. They claimed that the proper paving machine would be delivered to the job site on Wednesday, April 14, 2021. As of the writing of this letter, the machine is scheduled to be delivered to the job site on Wednesday, April 21, 2021.
- Subcontractors not on list – On Friday April 9, 2021, the contractor was asked if Anrak was a subcontractor of Always Paving and was informed they were as well as the 5 super dumps they utilized that day. After discussion with the Town, it was later determined that Anrak was not listed on their subcontractor's list.

John Ferons
April 19, 2021
Project No. 200171-02
Page 2

- Disposition of Grinding Material – On April 9, 2021, the contactor was approached by Wally Ott (PEI) and Larry Handcock (Town) on where the grindings were going to and Harold informed us, they were going to a local Winery not far from site and they would have a quick turnaround. Wally informed Harold they would need to submit a letter from owner allowing them to dump material on private property and Harold said they would get one to the Town. To date, that letter has not been provided.

This information has been provided by Mr. Wally Ott, PEI Construction Manager and Mr, Robert Carter, PEI Field Inspector. Please feel free to reach out to me with any additional questions.

Very truly yours,
PAVEMENT ENGINEERING INC.



Joseph L. Ririe, P.E.
Senior Principal Engineer

pc: C File
200171-02



**WASHINGTON PARK STREET REHABILITATION PROJECT (MT-3021)
IN THE TOWN OF YOUNTVILLE, CALIFORNIA**

6-2 PROSECUTION OF WORK. To minimize public inconvenience and possible hazard and to restore street and other work areas to their original condition and state of usefulness as soon as practicable, the CONTRACTOR shall diligently prosecute the Work to completion. If the Engineer determines that the CONTRACTOR is failing to prosecute the Work to the proper extent, the CONTRACTOR shall, upon orders from the Engineer, immediately take steps to remedy the situation. All costs of prosecuting the Work as described herein shall be included in the CONTRACTOR's Bid. Should the CONTRACTOR fail to take the necessary steps to fully accomplish said purposes, after orders of the Engineer to do so, the AGENCY may suspend the work in whole or in part, until the CONTRACTOR takes said steps at no cost to the AGENCY.

As soon as possible under the provisions of the Specifications, the CONTRACTOR shall backfill all excavations and restore to usefulness all improvements existing prior to the start of the Work.

If Work is suspended through no fault of the AGENCY, all expenses and losses incurred by the CONTRACTOR during such suspensions shall be borne by the CONTRACTOR. If the CONTRACTOR fails to properly provide for public safety, traffic, and protection of the Work during periods of suspension, the AGENCY may elect to do so, and deduct the cost thereof from monies due the CONTRACTOR. Such actions will not relieve the CONTRACTOR from liability.

The CONTRACTOR shall submit monthly progress reports to the Engineer by the tenth day of each month. The report shall include an updated construction schedule. Any deviations from the original schedule shall be explained. Progress payments will be withheld pending receipt of any outstanding reports.


6-3 SUSPENSION OF WORK.

6-3.1 General. The Work may be suspended in whole or in part when determined by the Engineer that the suspension is necessary in the interest of the AGENCY. The CONTRACTOR shall comply immediately with any written order of the Engineer. Such suspension shall be without liability to the CONTRACTOR on the part of the AGENCY except as otherwise specified in 6-6.3.

6-3.2 Archaeological and Paleontological Discoveries. If discovery is made of items of archaeological or paleontological interest, the CONTRACTOR shall immediately cease excavation in the area of discovery and shall not continue until ordered by the Engineer. When resumed, excavation operations within the area of discovery shall be as directed by the Engineer.

Discoveries which may be encountered may include, but not be limited to, dwelling sites, stone implements or other artifacts, animal bones, human bones, and fossils.

The CONTRACTOR shall be entitled to an extension of time and compensation in accordance with the provisions of 6-6.

 **6-4 DEFAULT BY CONTRACTOR.** If the CONTRACTOR fails to begin delivery of material and equipment, to commence the Work within the time specified, to maintain the rate of delivery of material, to execute the Work in the manner and at such locations as specified, or fails to maintain the Work schedule which will insure the AGENCY's interest, or, if the CONTRACTOR is not carrying out the intent of the Contract, the AGENCY may serve written

**WASHINGTON PARK STREET REHABILITATION PROJECT (MT-3021)
IN THE TOWN OF YOUNTVILLE, CALIFORNIA**


notice upon the CONTRACTOR and the Surety on its Faithful Performance Bond demanding satisfactory compliance with the Contract.

The Contract may be canceled by the Town Council without liability for damage, when in the Town Council's opinion the CONTRACTOR is not complying in good faith, has become insolvent, or has assigned or subcontracted any part of the Work without the Town Council's consent. In the event of such cancellation, the CONTRACTOR will be paid the actual amount due based on Contract Unit Prices or lump sums bid and the quantity of the Work completed at the time of cancellation, less damages caused to the AGENCY by acts of the CONTRACTOR. The CONTRACTOR, in having tendered a Bid, shall be deemed to have waived any and all claims for damages because of cancellation of Contract for any such reason. If the AGENCY declares the Contract canceled for any of the above reasons, written notice to that effect shall be served upon the Surety. The Surety shall, within 5 days, assume control and perform the Work as successor to the CONTRACTOR.

If the Surety assumes any part of the Work, it shall take the CONTRACTOR's place in all respects for that part and shall be paid by the AGENCY for all work performed by it in accordance with the Contract. If the Surety assumes the entire Contract, all money due the CONTRACTOR at the time of its default shall be payable to the Surety as the Work progresses, subject to the terms of the Contract.

If the Surety does not assume control and perform the Work within 5 days after receiving a notice of cancellation, or fails to continue to comply, the AGENCY may exclude the Surety from the premises. The AGENCY may then take possession of all material and equipment and complete the Work by AGENCY forces, by letting the unfinished Work to another CONTRACTOR, or by a combination of such methods. In any event, the cost of completing the Work shall be charged against the CONTRACTOR and its Surety and may be deducted from any money due or becoming due from the AGENCY. If the sums due under the Contract are insufficient for completion, the CONTRACTOR or Surety shall pay to the AGENCY within 5 days after the completion, all costs in excess of the sums due.

The provisions of this subsection shall be in addition to all other rights and remedies available to the AGENCY under law.

 **6-5 TERMINATION OF THE CONTRACT.** The Town Council may terminate the Contract at its own discretion or when conditions encountered during the Work make it impossible or impracticable to proceed, or when the AGENCY is prevented from proceeding with the Contract by act of God, by law, or by official action of a public authority.

6-6 DELAYS AND EXTENSIONS OF TIME.

6-6.1 General. If delays are caused by unforeseen events beyond the control of the CONTRACTOR, such delays will entitle the CONTRACTOR to an extension of time as provided herein, but the CONTRACTOR will not be entitled to damages or additional payment due to such delays, except as provided in 6-6.3. Such unforeseen events may include: war, government regulations, labor disputes, strikes, fires, floods, adverse weather or elements necessitating cessation of work, inability to obtain materials, labor or equipment, required extra work, or other specific events as may be further described in the Specifications.

No extension of time will be granted for a delay caused by the CONTRACTOR's inability to obtain materials unless the CONTRACTOR furnishes to the Engineer documentary

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

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|-------------------------|------------------------------|-----------------------------|--------------------|
| RFI Number | 1 | RFI Date | 3/17/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville |
| | | DATE OF RFI RESPONSE | |

| | | | |
|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 3/17/2021, Subject: Washington park street rehabilitation project RFI #1: "John per our meeting this morning, will you except , profiling the entire street per plan, also edge grind 1-3/4 , in the middle of the street profile 1"inch going around the utilities 2" to 4" with 2'grinder , we will place and compact a additional 1/2 " of asphalt, you only pay for what's in the contract no additional charges , also always paving inc. Will give a 1 year additional warranty maintenance bond from the surety company. Total 2 year warranty, on entire project we, adjust water valves and all other manhole sewer manholes to new existing asphalt."

RESPONSE

PEI's Response email 3/22/2021, Subject: Washington Park Paving; Design Question/conversation: John: Eric and I reviewed the contractor's proposal and we recommend that you stay with the original design approach. We believe the original design eliminates potential constructibility issues and allows the contractor to provide a better, smoother riding product. Joe Ririe, P.E. Pavement Engineering Inc.

Town Response email 3/22/2021; Subject: Yountville Washington Park, 4 things: Item 1 excerpt "Alternative proposal to Profile the Street: We talked to PEI and for various reasons, we will stay with the original design and not take the alternative. We appreciate your efforts to value engineer the paving approach but want to keep to the design section in the plans and specs. Happy to let you know their reasons why if you like."

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|-----------------------------|--------------------|------------------------|---|
| RESPONSE PREPARED BY | Town and PEI | | |
| ATTACHMENTS? | Copy of emails RFI | NUMBER OF PAGES | 5 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Wednesday, March 17, 2021 9:16 AM
To: John Ferons
Subject: [EXTERNAL] Washington park street rehabilitation project RFI #1

John per our meeting this morning, will you except , profiling the entire street per plan, also edge grind 1-3/4 , in the middle of the street profile 1"inch going around the utilities 2" to 4" with 2'grinder , we will place and compact a additional 1/2 " of asphalt, you only pay for what's in the contract no additional charges , also always paving inc. Will give a 1 year additional warranty maintenance bond from the surety company. Total 2 year warranty, on entire project we, adjust water valves and all other manhole sewer manholes to new existing asphalt.

John Ferons

From: Joe Ririe <joer@pavementengineering.com>
Sent: Monday, March 22, 2021 9:22 AM
To: John Ferons
Cc: Eric Nejedlo; Joe Tagliaboschi
Subject: [EXTERNAL] Re: Washington Park Paving; Design Question/conversation

John:

Eric and I reviewed the contractor's proposal and we recommend that you stay with the original design approach. We believe the original design eliminates potential constructibility issues and allows the contractor to provide a better, smoother riding product.

Joe Ririe, P.E.
Pavement Engineering Inc.

(805) 781-2265 OFF
(805) 706-0966 DIRECT
(805) 781-2267 FAX
(805) 801-4625 CELL
joer@pavementengineering.com

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On Mon, Mar 22, 2021 at 8:43 AM John Ferons <jferons@yville.com> wrote:

John Ferons

From: John Ferons
Sent: Monday, March 22, 2021 3:46 PM
To: 'harold@alwayspavinginc.com'
Cc: Joe Tagliaboschi
Subject: Yountville Washington Park; 4 things;

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

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|-------------------------|------------------------------|-----------------------------|--------------------------|
| RFI Number | 2 | RFI Date | 4/5/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville & PEI |
| | | DATE OF RFI RESPONSE | 4/6/2021 |

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|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 4/4/2021, Subject: Washington park street rehabilitation project FRI NUMBER 1: "Attn: John feron, due to the field condition's, a exstreamly low volume residential low speed streets. harold hutson project manager for always paving, am requesting town of Yountville to wave a 30 foot long ski and automatics on the paving machine, for the HMA overlay, always paving will provide just as quality finished job, meeting the compaction, smooth street, safe street, always paving inc, if approved, will wave the cost of all 15 parkside slurry seal crackfill cost that the town is paying for. If the town of Yountville will not approve this FRI number 1 always paving inc will need to come back in may 15 aprox. when our paver with automatics and ski is delivered, yes we are aware that there is LDs in the spec's, we are asking to please partner with us, always paving looks forward to a very good honest working relationship for many years to come. This is the main topic at tomorrow's meeting monday march 5th. 2021"

RESPONSE

The Town and its project designer PEI will not waive the requirements for Automatic Screed Controls with ski-type devices as required by the project contract in the Special Provisions Section 700-11 Hot Mix Asphalt.

Additionally, the Town advises that Working Day 1 was March 29, 2021 and per the contract there are 20 working days which indicates the project should be substantially complete by April 23, 2021 after which liquidated damages may apply.

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| RESPONSE PREPARED BY | Town of Yountville; John Ferons | | |
| ATTACHMENTS? | Copy of email RFI | NUMBER OF PAGES | 2 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Sunday, April 04, 2021 10:06 AM
To: John Ferons; harold@alwayspavinginc.com; marco@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project FRI NUMBER 1

Attn: John feron, due to the field condition's, a exstreamly low volume residential low speed streets. harold hutson project manager for always paving, am requesting town of Yountville to wave a 30 foot long ski and automatics on the paving machine, for the HMA overlay, always paving will provide just as quality finished job, meeting the compaction, smooth street, safe street, always paving inc, if approved, will wave the cost of all 15 parkside slurry seal crackfill cost that the town is paying for. If the town of Yountville will not approve this FRI number 1 always paving inc will need to come back in may 15 aprox. when our paver with automatics and ski is delivered, yes we are aware that there is LDs in the spec's, we are asking to please partner with us, always paving looks forward to a very good honest working relationship for many years to come. This is the main topic at tomorrow's meeting monday march 5th. 2021

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

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|-------------------------|------------------------------|-----------------------------|--------------------------|
| RFI Number | 3 | RFI Date | 4/5/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville & PEI |
| | | DATE OF RFI RESPONSE | 4/6/2021 |

| | | | |
|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 4/4/2021, Subject: Washington park street rehabilitation project FRI number 2: "Attn: John feron, I harold hutson project manager for always paving inc, I have some great concerns of 10 locations 4" inch Dig-outs that are in the same areas of the other Dig-outs , the 10 locations are as worse as the area's you have marked out, number 1 is on Forrester lane 65x13=845 sqft, number 2 is intersection of mount ave & forrester lane 5x4=20 sqft, number 3 is on redwood Dr. 7x25=175 sqft number 4 is the water trench pavement is to high for overlay 4x38 needs a profile, with grinding machine, number 5 is on lande way 38x4=152 sqft number 6 is on lande way 4x5=20 sqft number 7 is on lande way 8x6=48 sqft number 8 is on intersection of lande way & foxglove lane. 5.5x23= 126.5 sqft number 9 is on foxglove lane 35x12=420 sqft number 10 is on lande way 72x12=864 sqft totalling 2708.5 sqft . This is also a topic at tomorrow's meeting march 5th 2021."

RESPONSE

The Town and its project designer PEI visited the project site 4/5/2021 and walked the streets to view the 10 areas that Always Paving marked out as additional areas of concern.

After review of the 10 sites in question, PEI stands by its initial recommendation and does not agree that the 10 additional areas are in such a condition that they should be added to the areas identified by PEI both on the plans and as marked in the field.

Town staff concurs, no additional digout areas will be added to the scope of work.

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|-----------------------------|---------------------------------|------------------------|---|
| RESPONSE PREPARED BY | Town of Yountville; John Ferons | | |
| ATTACHMENTS? | Copy of email RFI | NUMBER OF PAGES | 2 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Sunday, April 04, 2021 12:12 PM
To: John Ferons; marco@alwayspavinginc.com; harold@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project FRI number 2

Attn: John feron, I harold hutson project manager for always paving inc, I have some great concerns of 10 locations 4" inch Dig-outs that are in the same areas of the other Dig-outs , the 10 locations are as worse as the area's you have marked out, number 1 is on Forrester lane $65 \times 13 = 845$ sqft, number 2 is intersection of mount ave & forrester lane $5 \times 4 = 20$ sqft, number 3 is on redwood Dr. $7 \times 25 = 175$ sqft number 4 is the water trench pavement is to high for overlay 4×38 needs a profile, with grinding machine, number 5 is on lande way $38 \times 4 = 152$ sqft number 6 is on lande way $4 \times 5 = 20$ sqft number 7 is on lande way $8 \times 6 = 48$ sqft number 8 is on intersection of lande way & foxglive lane. $5.5 \times 23 = 126.5$ sqft number 9 is on foxglove lane $35 \times 12 = 420$ sqft number 10 is on lande way $72 \times 12 = 864$ sqft totalling 2708.5 sqft . This is also a topic at tomorrow's meeting march 5th 2021.

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

| | | | |
|-------------------------|------------------------------|-----------------------------|--------------------------|
| RFI Number | 4 | RFI Date | 4/6/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville & PEI |
| | | DATE OF RFI RESPONSE | 4/6/2021 |

| | | | |
|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 4/6/2021, Subject: Washington park street rehabilitation project RFI number 4: "Attn: John Feron I am requesting the start time of 9am to change starting at 8am. If possible this will help the production much more due to bodean asphalt plant being a hour away one way. "

RESPONSE

Your request to start noise-making constructing activity before 9am CANNOT be approved.

Per the contract documents and Yountville Municipal Code: No person or contractor shall operate or cause the operation of any tools or equipment, including petroleum or electrically powered equipment such that the sound therefrom creates intrusive noise across a residential or commercial real property boundary, except: (1) between the hours of 9:00 a.m. and 6:00 p.m., Monday through Friday.

The contract documents, pre-bid meeting and pre-construction meeting made it very clear that all noise generating activities under your contract cannot start until 9am. This rule cannot be waived. The location of the asphalt plant and the noise ordinance were well known when you bid this project and as such, your schedule needs to be managed to accommodate both the 9am start time and the location of your asphalt supplier.

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|-----------------------------|---------------------------------|------------------------|---|
| RESPONSE PREPARED BY | Town of Yountville; John Ferons | | |
| ATTACHMENTS? | Copy of email RFI | NUMBER OF PAGES | 2 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Tuesday, April 06, 2021 11:51 AM
To: John Ferons; marco@alwayspavinginc.com; harold@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project RFI number 4

Attn: John Feron I am requesting the start time of 9am to change starting at 8am. If possible this will help the production much more due to bodean asphalt plant being a hour away one way.

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

| | | | |
|-------------------------|------------------------------|-----------------------------|--------------------------|
| RFI Number | 5 | RFI Date | 4/6/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville & PEI |
| | | DATE OF RFI RESPONSE | 4/7/2021 |

| | | | |
|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 4/6/2021, Subject: Washington park street rehabilitation project RFI NUMBER 5: "Attn: John Feron jasmine st & landy way intersection where the blow out water line took place that intersection needs to be graded to flow conditions which is not on the plans and different from a 4"inch dig-out please advise this at your earliest convenience, we are in this area now, thank you.
"

RESPONSE

Hi John,

It is my understanding that Robert was able to address the Contractor's concerns yesterday in the field but just wanted to circle back and provide a formal response. See below response:

The design intent is to cold plane, remove, and dispose 4" of existing pavement and place 4" HMA per the "Remove & Replace 4" HMA" detail shown on the plans. New pavement surface elevations shall match existing. No grading work is required unless the Contractor's means and methods for removal/placement disturb the subgrade.

Eric Nejedlo

| | | | |
|-----------------------------|-------------------|------------------------|---|
| RESPONSE PREPARED BY | PEI: Eric Nejedlo | | |
| ATTACHMENTS? | Copy of email RFI | NUMBER OF PAGES | 2 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Tuesday, April 06, 2021 12:33 PM
To: John Ferons; marco@alwayspavinginc.com; harold@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project RFI NUMBER 5

Attn: John Feron jasmine st & landy way intersection where the blow out water line took place that intersection needs to be graded to flow conditions which is not on the plans and different from a 4"inch dig-out please advise this at your earliest convenience, we are in this area now, thank you.

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

| | | | |
|-------------------------|------------------------------|-----------------------------|--------------------------|
| RFI Number | 6 | RFI Date | 4/13/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville & PEI |
| | | DATE OF RFI RESPONSE | 4/15/2021 |

| | | | |
|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 4/13/2021:

From: harold@alwayspavinginc.com

Sent: Tuesday, April 13, 2021 12:11 PM

To: John Ferons <jferons@yville.com>

Subject: Re: FW: [EXTERNAL] Fwd: Revised 3/8"

Thank you much john RFI NUMBER 6 THE SPECS STATES ALL UTILITIES NEED A PLASTIC OVER THEM AT TIME OF ASPHALT WORK, ALL UTILITIES COVERS WILL BE CLEANED FREE FROM ANY DEBRIS OR OIL AT FINISH PROJECT ALSO WE ARE RAISING AND LOWERING THE UTILITIES COVERS MY QUESTION IS CAN YOU PLEASE WAIVE PLACING PLASTIC OVER THE UTILITIES COVERS 1 THE PLASTIC WILL PROBABLY NOT HOLD TO SURFACE ANYWAY. THANK YOU PLEASE RESPOND HAVE A WONDERFUL DAY

RESPONSE

The requirement to place plastic over the utility covers is waived with the condition that Always Paving will clean the utility covers to the **satisfaction of the Town's project representative.**

| | | | |
|-----------------------------|-------------------|------------------------|---|
| RESPONSE PREPARED BY | John Ferons | | |
| ATTACHMENTS? | Copy of email RFI | NUMBER OF PAGES | 2 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Tuesday, April 13, 2021 12:11 PM
To: John Ferons
Subject: Re: FW: [EXTERNAL] Fwd: Revised 3/8"

Thank you much john RFI NUMBER 6 THE SPECS STATES ALL UTILITIES NEED A PLASTIC OVER THEM AT TIME OF ASPHALT WORK, ALL UTILITIES COVERS WILL BE CLEANED FREE FROM ANY DEBRIS OR OIL AT FINISH PROJECT ALSO WE ARE RAISING AND LOWERING THE UTILITIES COVERS MY QUESTION IS CAN YOU PLEASE WAIVE PLACING PLASTIC OVER THE UTILITIES COVERS 1 THE PLASTIC WILL PROBABLY NOT HOLD TO SURFACE ANYWAY. THANK YOU PLEASE RESPOND HAVE A WONDERFUL DAY

On Apr 13, 2021 8:40 AM, John Ferons <jferons@yville.com> wrote:

Harold-

Attached is the HMA submittal review.

3/8" mix is approved as long as production startup testing and daily QC/QA testing show conformance with the project specifications.

1/2" mix is also approved with the same condition, production startup testing and daily QC/QA testing show conformance with the project specifications.

John Ferons

Town Of Yountville

Deputy Public Works Director

6550 Yount St

Yountville, CA 94599

707.944.8851

Washington Park Paving MT-3021

SIMPLE REQUEST FOR INFORMATION RFI

| | | | |
|-------------------------|------------------------------|-----------------------------|--------------------------|
| RFI Number | 7 | RFI Date | 4/15/2021 |
| REQUESTING PARTY | Harold Hutson; Always Paving | RESPONDING PARTY | Town of Yountville & PEI |
| | | DATE OF RFI RESPONSE | 4/15/2021 |

| | | | |
|-------------------|--------------------|----------------------|----------------------------|
| Contractor | Always Paving Inc. | CONTACT NAME | Harold Hutson |
| ADDRESS | 5221 Sussex Place | CONTACT TITLE | Project Manager |
| | Newark CA 94560 | PHONE | (510) 789-6610 |
| | | EMAIL | harold@alwayspavinginc.com |

REQUEST DESCRIPTION

Received via email from Harold 4/15/2021:

From: harold@alwayspavinginc.com

Sent: Thursday, April 15, 2021 11:53 AM

To: John Ferons <jferons@yville.com>; robertc@pavementengineering.com;
harold@alwayspavinginc.com

Subject: [EXTERNAL] Washington park street rehabilitation project RFI

Mr.feron and Robert Carter can we use a rubber tire pneumatic steel drum asphalt roller along with a double steel drum 2nd roller, for tomorrow 3/8 inch leveling course.

RESPONSE

A 10 to 12 Ton Combination Pneumatic/Steel Roller is acceptable.

FYI: The specifications require 3 rollers operated by 3 separate operators to be applied to the levelling course. Your RFI only lists two rollers.

| | | | |
|-----------------------------|-------------------|------------------------|---|
| RESPONSE PREPARED BY | PEI: John Ferons | | |
| ATTACHMENTS? | Copy of email RFI | NUMBER OF PAGES | 2 |

John Ferons

From: harold@alwayspavinginc.com
Sent: Thursday, April 15, 2021 11:53 AM
To: John Ferons; robertc@pavementengineering.com; harold@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project RFI

Mr.feron and Robert Carter can we use a rubber tire pneumatic steel drum asphalt roller along with a double steel drum 2nd roller, for tomorrow 3/8 inch leveling course.

John Ferons

From: harold@alwayspavinginc.com
Sent: Wednesday, April 07, 2021 1:40 PM
To: John Ferons
Subject: [EXTERNAL] Washington park street rehabilitation project

Hi john our schedule is remaining as is, if we change next Tuesday I will revise on this Friday, robert is aware as well, the project will be completed as scheduled thank you.

John Ferons

From: harold@alwayspavinginc.com
Sent: Tuesday, April 13, 2021 3:17 PM
To: John Ferons
Subject: [EXTERNAL] Washington park street rehabilitation project
Attachments: 20210413_151111.jpg

John we will not be paving Wednesday april 14th due to the new paving machine is coming from Ontario California we are scheduled for april 15th Thursday and friday for the leveling course, then paving the overlay on monday april 19th and 20th also is a revised schedule for your review.



General Engineering Contractors
Bay Area Concrete-Asphalt-Seal striping
1alwayspaving@gmail.com
Office: 510 894-1921

Submittal #6: Work Schedule for Washington Park Street Rehab Project.

Item #1,2, & 3, mobilization, traffic control water pollution program drains inlets, March 29, 2021.

Item #1,2,14,15,16,17,18,19,20, to start on Mount Ave March 29th to April 2nd, Lande Way, Jasmine St, Forrester Lane, Fox Grove Lane & Redwood Dr.

Item #2, & 10 Traffic Control Remove & Replace 4" HMA, Starting on Mount Ave. April 5th to April 8th.

Item # 2,8, & 9 Traffic Control keycut A, & keycut B, starting on Mount Ave, April 9th to April 13th. Lande Way, Jasmine St, Forrester Lane, Foxglove Lane & Redwood Dr.

Item #2, & 4, 3/8 HMA (Type A) Pg: 64-16 April 14th to April 15th Starting at field marked area.

Item #2,5, & 7, Traffic Control & pavement fabric, 1/2" HMA (Type A) pg: 64-16, starting on Mount Ave, April 16th to April 19th, Lande Way, Jasmine St, Forrester Lane, Foxglove Lane, & Redwood Dr.

Item #2,21,22,23,24,25,26, & 27, Starting on Mount Ave, Lande Way, Jasmine St, Forrester Lane, Fox Glove Lane, & Redwood Dr. April 20th to April 23rd.

Item #2,28,29,30,31, & 32, Traffic Control, Install Blue RPM at Fire Hydrant, 1/2", white crosswalk/limit line (thermo), Caltrans striping detail 22 (thermo & markers) paving marking "slow" legend (thermo). Pavement marking "Stop" legend (thermo) April 24th and 25th

Item #2, & 13, Traffic Control, install shoulder backing starting on Mount Ave. April 26th.

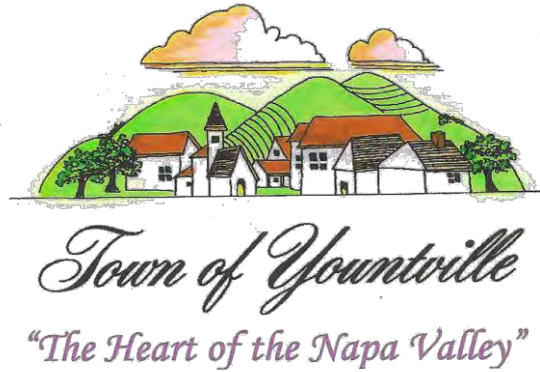
April 26th Punch List for completion of project.

All Contracts must be sign before work begins

John Ferons

From: harold@alwayspavinginc.com
Sent: Wednesday, April 14, 2021 11:05 AM
To: John Ferons; robertc@pavementengineering.com; marco@alwayspavininc.com; harold@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project

Good morning john we are waiting for our new paving machine, the word is the aoutmatics for the grade control has not arrived for the machine, the machine is in tracy California waiting for the aoutmatics, we are not paving Thursday april 15th we are anticipating and scheduled for friday april 16th my opolgie for the delay this is a brand new machine.



April 14, 2021

Always Paving Inc.
5221 Sussex Place
Newark, CA 94560

Attn: Mr. Marco Contreras
Mr. Harold Hutson

Re: Washington Park Street Rehabilitation Project, Schedule & Specifications

Dear Marco and Harold,

At the present time, Always Paving is attempting to prepare the street surface for paving using a street sweeper to remove dirt, dust, and debris in advance of placing the Levelling Course. The Project Schedule shows the Levelling Course starting today 4/14/2021. At the project site yesterday, Harold indicated that the Levelling Course would not start per schedule as Always Paving is waiting for your paving machine to arrive. After that conversation Harold submitted a revised schedule yesterday which indicated the Levelling Course would begin Thursday 4/15/2021. Now, the morning of 4/14/2021, we received an email from Harold stating that the Levelling Course will not begin until Friday 4/16/2021 for the same reason, Always Paving is waiting for your new paving machine to arrive.

The Town of Yountville has the following concerns:

1. To date the street surface has not been cleaned adequately to begin placement of the Levelling Course. A site inspection by Town Staff the morning of 4/14/2021 indicates the surface does not meet the specifications. Further work needs to be performed to remove loose paving particles, dirt, and other extraneous material before placement of the Levelling Course.
2. The project site was cold planed on 4/9/2021. The specifications clearly state all pavement areas removed shall be restored within five (5) working days of removal. If the Levelling Course is not applied on 4/16/2021, you will be in violation of the project specifications.

April 14, 2021

Page 2

3. The Town advises that Working Day 1 was March 29, 2021 and per the contract there are 20 working days which means the project should be substantially complete by April 23, 2021 after which liquidated damages may apply.

Further, based on our observations, the Town and its engineering/inspection team are concerned that Always Paving Inc. lacks the planning, personnel, and equipment necessary to complete the project in a timely manner.

If, upon review of this letter you would like to meet and review in more detail or if you have any questions, please contact me at 707-944-8851 or jferons@yville.com.

Sincerely,
Town of Yountville

A handwritten signature in black ink, appearing to read "John Ferons", with a long horizontal flourish extending to the right.

John Ferons
Deputy Public Works Director

John Ferons

From: harold@alwayspavinginc.com
Sent: Wednesday, April 14, 2021 5:49 PM
To: John Ferons
Subject: [EXTERNAL] RE: Washington Park Paving Project; Performance Issues; Schedule and Specifications;

Mr feron I did respond to your email earlier stating ok, I have been in a meeting with my attorney for the last 3 hours discussing your letter and verbal communications we have had since the project was awarded to today's date april 14th 2021 thank you for putting everything in writing please inform PEI to communicate in writing for the remaining project. One of my attorneys last questions were can you please give me the city attorney's name and phone number. I will be on site tomorrow morning april 15th for the entire day, if, I need to leave for any reason, my Forman will be present. At the Washington park street rehabilitation project.

On Apr 14, 2021 4:11 PM, John Ferons <jferons@yville.com> wrote:

Hi Harold-

I sent this earlier today. Please confirm receipt.

John F

Marco and Harold-

Please find attached correspondence from the Town stating issues with multiple items including: street surface cleaning prior to paving, the levelling course schedule and overall project schedule.

John Ferons

Town Of Yountville

Deputy Public Works Director

6550 Yount St

Yountville, CA 94599

707.944.8851

Town of Yountville – Town Offices Open by Appointment Only, Staff Still At Work

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John Ferons

From: harold@alwayspavinginc.com
Sent: Thursday, April 15, 2021 9:40 AM
To: John Ferons
Subject: [EXTERNAL] Re: Washington Park Paving; Email Documentation; 4-15-2021; Street Cleaning & Point of Contact

Thank you much. I recieved this email on april 15 2021 at 9:40 am

On Apr 15, 2021 9:15 AM, John Ferons <jferons@yville.com> wrote:

Hi Harold-

Email to summarize the conversation we just had in the field.

Street Cleaning: The streets east of Jasmine are the areas that are too dusty and in need of cleaning. Where we met next to the park on Forrester was an example of a clean area that did not have the dust of concern. You said you are going to apply water from the water trailer, use blowers to get the debris into pile, then run the sweeper over the washed, blown areas. You also let us know that the residents and/or their landscapers are blowing their debris into the street. I asked if you observe that, please provide an address and perhaps a picture and the Town will help in getting them to stop.

Point of Contact: I advised that the single point of contact is Robert from PEI, as our inspector he is speaking on behalf of the Town. When Robert not here because there is no inspectable work occurring, I will be the point of contact. If Robert and I are on the site together, I will speak through Robert.

Notices: You indicated you are going to put out No-Parking barricades with updated dates on them and also distribute updated door hangers. Thank you as we were getting inquiries from residents so they could plan accordingly.

Levelling Course: As of this morning, the plan is to apply the levelling course tomorrow.

Please let me know if you have questions or would like to discuss further,

Thanks,

John Ferons

Town Of Yountville

Deputy Public Works Director

6550 Yount St

Yountville, CA 94599

707.944.8851

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John Ferons

From: harold@alwayspavinginc.com
Sent: Thursday, April 15, 2021 2:06 PM
To: John Ferons
Subject: RE: [EXTERNAL] Washington park street rehabilitation project

Response to question are we still on for tomorrow 3/8" asphalt leveling course, I will not have a definite answer until 4:30 pm today.

On Apr 15, 2021 1:30 PM, John Ferons <jferons@yville.com> wrote:

From: John Ferons

Sent: Thursday, April 15, 2021 12:59 PM

To: 'harold@alwayspavinginc.com' <harold@alwayspavinginc.com>; robertc@pavementengineering.com; marco@alwayspavinginc.com

Subject: RE: [EXTERNAL] Washington park street rehabilitation project

From: harold@alwayspavinginc.com

Sent: Thursday, April 15, 2021 12:48 PM

To: John Ferons <jferons@yville.com>; robertc@pavementengineering.com; marco@alwayspavinginc.com; harold@alwayspavinginc.com

Subject: [EXTERNAL] Washington park street rehabilitation project

Mr.feron we complete with the street cleaning for the next phase including 3/8 inch asphalt leveling course may you please come by at your earliest convenience and inspect the streets in question for the above listed project. Thank you.
Harold Hutson project manager for always paving inc.

John Ferons

From: harold@alwayspavinginc.com
Sent: Thursday, April 15, 2021 6:54 PM
To: John Ferons
Subject: Re: [EXTERNAL] Washington park street rehabilitation project

I recieved your email. Will respond in writing tomorrow. Friday april 16th I may need my attorney to talk to town of Yountville. After what took place at the site this evening. Harold Hutson project manager contractor always paving inc.

On Apr 15, 2021 4:26 PM, John Ferons <jferons@yville.com> wrote:

Hi Harold,

At 2:54 pm today Larry and I met you on site and let you know the streets are minimally acceptable. It was at that time you let us know that your oil subcontractor cancelled on you for Friday.

We called Pacific Northwest Oil as you suggested and talked to Steve who stated it was you who cancelled the oil service for Friday and that they could get a truck out here Friday if needed. Based on that we expect you to pave tomorrow per your previously indicated revised schedule.

When we returned to the site with Joe Tagliaboschi to inquire about the oil schedule, you requested the conversation in writing. Hence this email. During that conversation Joe asked if you have a paver and is it on site? You said yes you have a paver and it is in Napa. When asked where in Napa you said put it in writing.

Also, in the conversation on site, we let you know the expectation is that you will follow the schedule as you are at the 5 day limit for open pavement. If you are unable or unwilling to do so, then we will need to investigate pulling your bonds if allowed in the contract. You requested that this also be put in writing.

This email is the documentation and is asking the following questions:

What is your paving schedule since the oil company indicated a boot truck can be available Friday?

Where is the paving machine located in Napa so it can be verified that is locally available?

John Ferons

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On Apr 15, 2021, at 3:06 PM, harold@alwayspavinginc.com wrote:

Mr. John Feron always paving inc has had a new street sweeper out here for 5 days working until 7pm at nite trying to get dust off the streets, using water from street sweeper, water tank, spraying the streets man power blowing the asphalt with blowers, there is dust this is agriculture area. It is 2:49 pm now Pacific northwest oil needed a confirmation for tomorrow by 2pm Pacific northwest oil has scheduled us on Monday april 19th pending your decision to move forward.

John Ferons

From: harold@alwayspavinginc.com
Sent: Friday, April 16, 2021 9:09 AM
To: John Ferons
Subject: RE: [EXTERNAL] Washington park street rehabilitation project

Mr feron we will not be paving today as I advised friday april 16th 2021 I will let you know our schedule as soon as I find out by noon today.

On Apr 16, 2021 7:51 AM, John Ferons <jferons@yville.com> wrote:

From: harold@alwayspavinginc.com
Sent: Thursday, April 15, 2021 6:54 PM
To: John Ferons <jferons@yville.com>
Subject: Re: [EXTERNAL] Washington park street rehabilitation project

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John Ferons

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John Ferons

From: harold@alwayspavinginc.com
Sent: Friday, April 16, 2021 4:06 PM
To: John Ferons
Subject: [EXTERNAL] Washington park street rehabilitation project

Hi john the paver is being picked up monday morning they are still working on it, Brand new , machine, in tracy California, they are plumbing the automatics "wiring" our driver probably will not be back to Washington park until noon monday, loading it, then transporting to Yountville Washington park, I have wrote a 5 page letter stating everything I talked about to you, on the phone, earlier regarding joe , and wanting to please work with you, i let my attorney read my letter mickeal cardoza trial lawyer from walnut creek that I was emailing toyou, mickeal cardoza advised me thats fine you and john spoke verbally trying to move forward, mickeal cardoza advised me do not email john feron that 5 page letter, however he was perfectly fine with the verbal conversation that I stated to for 35 minutes. Always paving will put out new schedule advising all residents of that paving operations will began tuesday morning that the new paver is being delivered monday morning "mid morning " I will do everything I mentioned to you verbally today regarding all issues, I have no desire to tell any person what took place yesterday at Washington park. Have a wonderful weekend

John Ferons

From: harold@alwayspavinginc.com
Sent: Sunday, April 18, 2021 11:21 AM
To: John Ferons; robertc@pavementengineering.com; marco@alwayspavinginc.com; harold@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project
Attachments: 20210418_111251.jpg

Mr.feron our schedule is been delivered to all residents in Washington park neighbor hood. The actual paving will start Wednesday april 21st should you have and questions or concerns communicate threw email. Harold Hutson project manager and contractor for always paving inc.



General Engineering Contractors
Bay Area Concrete-Asphalt-Seal striping
1alwayspaving@gmail.com
5221 Sussex Pl Newark CA
Office: 510 894-1921
Cell: 650 444-7282
Marco Contreras PM

Town of Yountville Residents

Regarding: Washington Park Street Rehabilitation Project (MT.3021)

Project start date: March 1st, 2021 to April 23rd, 2021.

Always Paving Inc, will be paving Wednesday April 21st 2021, Wednesday April 22nd 2021 & April 23rd 2021

If you have any questions, all contacts are below.

Contact Personal Town of Yountville Public works

Director: John Ferons (707) 944-8851
Owner Always Paving Inc Marco Contreras: (650) 444-7282
Project Manager Harold Hutson: (510) 789-6610

John Ferons

From: harold@alwayspavinginc.com
Sent: Sunday, April 18, 2021 3:36 PM
To: John Ferons; harold@alwayspavinginc.com; marco@alwayspavinginc.com
Subject: [EXTERNAL] Washington park street rehabilitation project

John I fixed the typo on the door knockers before I handed them out to ALL RESIDENTS, again what took place last Thursday is nobody's business, as far as resident's or town's people I'm not out to play games and drama, or try to affect a person's livelihood I remain a man of my word of our verbal conversation please let's have a smooth working relationship and get this project behind us so I can come back next year and do more work for the town of Yountville, be strong and respectful kind and courteous let's not let this past take us hard worker's down ok.

👍😊💪 equipment, meaning the rollers will be here monday or Tuesday marco received a call right after I sent you a email on Friday stating the paver will be available for delivery on Tuesday.