



REPORT TO MAYOR AND CITY COUNCIL

AGENDA ITEM

TO: THE HONORABLE MAYOR
AND CITY COUNCIL

DATE: April 7, 2009

SUBJECT: 2008 Road Maintenance, Project No. 07-42; Bond Blacktop
Termination for Convenience

Report in Brief

On May 6, 2008, the City Council awarded the 2008 Road Maintenance Project No. 07-42 to Bond Blacktop (Bond), Inc., Base Bid plus Additive Alternates "A" and "B", for \$1,204,541.92. Notice to proceed was issued on May 22, 2008, with a start date of June 2, 2008 and a completion date of August 19, 2008. Actual work was completed on September 5, 2008. The City Council accepted the project as complete less the remaining punch list work on October 21, 2008 (see attached staff report). Several unsuccessful attempts were made by Bond to complete the remaining punch list items, the last failed effort on January 13, 2009.

Staff recommends that the City Council terminate the construction contract with Bond Blacktop for 'Convenience', releasing \$5,000 of the remaining \$20,000 retention, and authorize staff to procure repairs by other means with the remaining \$15,000, and authorize the City Engineer to execute the settlement agreement (attached).

Background

After the City Council award on May 6th, contracts were executed and notice to proceed was issued for work to begin on June 2nd. The following is a listing of issues that occurred on the job, and have led to the request for termination:

- On May 29, Bond failed to provide a schedule for the work scheduled to begin on June 2nd and was requested to have a schedule submitted by June 2, 2008 (see attached letter dated May 29, 2008). A schedule was submitted on June 2nd, which was rejected due to incompleteness, a final schedule was accepted and approved on June 19th.
- Bond began weed spraying on June 9 & 10, and striping removal during June 16-19.
- Actual placement of seal coats began on June 30, after the City stopped work on June 25, 26 & 27 due to failure to notify properly (see attached letter dated June 24, 2008).
- On July 3rd, Bond was notified of unacceptable work (see attached letter dated July 3, 2008).

- On July 9th, the work was stopped again and the contractor was notified of several areas where he was failing to meet contract obligations (see attached letter dated July 9, 2008).
- A copy of the final punch list was delivered to Bond via email on October 17, 2009 with notice that they had 20 working days to complete the work, or by November 14th at the latest (see attached email).
- Bond failed to meet completion date of November 14th for remaining punch list items, (see attached letter dated November 21, 2008), and were given another deadline of November 25 to complete the work. Bond attempted to make repairs (cleaning of 250 manhole & valve covers that they spilled material on and/or sealed shut) on December 8th and 18th. Both times the work was rejected due to incompleteness. Bond attempted the manhole/valve punch list work again on January 11 & 12. This time a supervisor was dispatched with the crew and the work was completed satisfactorily.
- On January 13th an attempt was made by Bond to make repairs to the seal coats. The weather was not adequate for this type of work and there were a large numbers of complaints and concerns with public safety and traffic control.
- On February 13, 2009, the City Engineer notified Bond of the potential termination for default (see attached letter dated February 13, 2009). Bond was offered the options of:
 - Termination of Default - In the interest of Public Safety and welfare they will not be allowed to attempt to perform any remedial work and will forfeit any remaining retention being withheld.
 - Termination for Convenience – Bond agreeing with the reduction of \$15,000 of uncompleted/improper work and memorializing it in a settlement agreement that would also require that “Bond agrees to not bid on further work for the City”.

The deadline for response from Bond Blacktop was February 23, 2009.

Discussion

The conditions associated with the Termination for Convenience reduces the contract amount from \$20,000 to \$15,000 and gains Bond’s agreement not to bid on any further work for the City. The City retains the \$15,000 and staff believes the funds are sufficient to complete the remaining amount of work in the 2008 Road Maintenance Project. These conditions also provide Bond with a modest financial incentive of \$5,000 to accept the offer. Staff believes Bond would have legally contested a Termination of Default which would have allowed the City to keep all of the retention. However, the cost of the legal challenge would have easily exceeded \$5,000 and may have delayed the completion of the remaining work.

On February 27, 2009, Bond Blacktop, Inc., contacted the City and verbally accepted the offer of Termination for Convenience. The signed written acceptance of the proposal was received on Tuesday, March 17. If the recommended action is approved by the City Council, the City will terminate the construction contract with Bond Blacktop for ‘Convenience’, releasing \$5,000 of the

remaining \$20,000 retention, and authorize staff to procure repairs by other means with the remaining \$15,000.

Fiscal Impact

The \$20,000 noted herein is currently included in the capital budget as Measure E funding. The remaining \$15,000 of retention will be used to compensate another contractor for the repair work. There is no impact to the General Fund.

Public Contact

Posting of the City Council agenda.

Recommendation for Action

Staff recommends that the City Council terminate the construction contract with Bond Blacktop for 'Convenience', releasing \$5,000 of the remaining \$20,000 retention, and authorize staff to procure repairs by other means with the remaining \$15,000, and authorize the City Engineer to execute the attached settlement agreement.

Prepared by: Tamera Burnham
Assistant Engineer

Reviewed by: Michael Karoly
Senior Civil Engineer

Reviewed by: Andrew Morris
City Attorney

Reviewed by: Barry Munowitch, AICP
Assistant City Manager

Mark G. Deven
City Manager

Attachments: Settlement and Release Agreement
Copies of 6 Letters and 1 email (with attachment) sent to Bond Blacktop

SETTLEMENT AND RELEASE AGREEMENT

THIS SETTLEMENT AND RELEASE AGREEMENT (“Agreement”) is made effective this ____ day of March, 2009, by and between the City of Woodland and Bond Blacktop, Inc. (“Bond”). The City and Bond are collectively referred to in the Agreement as “Parties.”

RECITALS

A. City is, and at all times mentioned herein was, a municipal corporation, with a business address of 300 First Street in the City of Woodland, County of Yolo, California 95695.

B. Bond is a California corporation, which possesses California Contractors State Licensing Board license number 746432 and whose principal place of business is located at P.O. Box 616, in the City of Union City, County of Alameda, California 94587.

C. On or about May 6, 2008, the Parties entered into a contract (“Contract”) for construction of a City public work of improvement referred to as 2008 Road Maintenance Project No. 07-42 (“Project”).

D. A dispute has arisen between the Parties regarding completion of the Project (“Dispute”).

AGREEMENT AND RELEASE

In consideration of the foregoing recitals, the mutual understandings contained in this Agreement, and other good, valuable, and sufficient consideration, the Parties hereto agree as follows:

1. Termination for Convenience. City hereby exercises its right to terminate the Contract for convenience under Section D-6 of the General Conditions of the Contract. City agrees to pay Bond the total amount of Five Thousand Dollars (\$5,000.00), which shall serve as full and final compensation payable to Bond under the Contract and full and final settlement of all claims Bond has or may have arising from the Contract.

2. Voluntary No-Bid. Bond and Edward Dean Dillon, personally or through any company in which he holds a controlling interest, hereby voluntarily agree that they will not bid or participate in future City projects and if they attempt to participate in any capacity on any future City projects, any proposal including such participation shall be deemed non-responsive and rejected.

3. Representation and Warranty. The Parties and signatories hereby each represent, covenant and warrant that they are authorized (individually or by their respective principals) to enter into and execute this Agreement and that they have not previously assigned any claims released or assigned in this Agreement, in whole or in part, or taken any other steps which would adversely affect the rights which are the subject of this Agreement. In the event that any of the above representations/warranties are breached or any of the representations and/or warranties contained in this subparagraph prove false, the breaching/misrepresenting party hereby agrees to defend, indemnify and hold the other party harmless from all damages, loss, liability, costs and attorneys’ fees resulting from said breach/misrepresentation.

4. Releases. Bond and all of its individuals, successors, assigns, principals, agents, employees, representatives, attorneys, bonding companies and insurers release and forever discharge the City and all of its individuals, successors, assigns, principals, agents, employees, representatives, attorneys, bonding companies and insurers from any and all liability, demands, causes of actions, or responsibility of any kind for claims which relate to the claims and allegations that were made or could have been made in connection with the Dispute, the Project, or Bond's termination for convenience.

5. Civil Code section 1542 Waiver. Bond acknowledges it is releasing unknown claims related to the Dispute, the Project, and its termination for convenience therefrom and expressly waives any rights that it may have had under Section 1542 of the Civil Code of the State of California for such claims. Section 1542 provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

Bond hereto acknowledges that except for matters expressly represented or recited herein, the facts and law in relation to this matter and the claims released by the terms of this Agreement may turn out to be different from the facts or law as now known to Bond or its counsel. Bond therefore expressly assumes the risk of the existence of different or presently unknown facts or law and agrees that this Agreement shall be in all respects be effective and binding as to Bond despite the possibility of new or different facts or law.

6. Indemnification. Bond agrees it shall indemnify, defend, protect, and hold harmless the City and all of its individuals, successors, assigns, principals, agents, employees, representatives, attorneys, bonding companies and insurers from any and all liability, demands, causes of actions, or responsibility of any kind for claims which relate to the claims and allegations that were made or could have been made in connection with the Project, including but not limited to claims by subcontractors, laborers, and materialmen.

7. No Admission of Liability. The Parties understand and agree that this Agreement is not to be construed as an admission of liability whatsoever on the part of any of them.

8. No Assignment. The Parties, and each of them, represent and warrant that they have not assigned or transferred, or purported to assign or transfer, and shall not hereafter assign or transfer, any obligations, liabilities, demands, claims, costs, expenses, debts, controversies, damages, actions, and causes of actions released under this Agreement.

9. Consultation with Attorney. Each Party declares that prior to the execution of this Agreement, it has consulted with its attorney in order that it may intelligently exercise its own judgment in deciding whether to execute this Agreement.

10. Authority to Execute Agreement. Each Party declares that it has read this Agreement and understands and knows the contents thereof, and represents and warrants that each of the Parties executing this Agreement is empowered to do so and hereby binds the respective Party.

11. Counterparts. This Agreement may be executed in counterparts, and all so executed shall constitute an agreement binding on the Parties hereto. The Parties further agree that a facsimile copy of the executed counterparts shall have the same force and effect as an original.

12. Contested Claims. The execution of this Agreement affects the settlement of claims which are contested and denied. Nothing herein shall be construed as an admission of any Party of any liability of any kind to any other Party.

13. Jurisdiction. This Agreement is intended to be construed pursuant to the laws of the State of California.

14. Entire Agreement. This Agreement constitutes the entire understanding between and among the Parties hereto. Each Party acknowledges that no Party, agent or representative of the other Party has made any promise, representation or warranty, express or implied, not expressly contained in this Agreement, that induced the other Party to sign this document. Both Parties agree that this Agreement shall not be amended or modified, except in writing signed by each Party, and shall not be construed against any Party because that Party's representative drafted the Agreement or any portion of it.

15. Additional Acts. The Parties agree to perform such further acts and to execute and deliver such further documents as may be reasonably necessary or appropriate to carry out this Agreement.

16. No Other Promise or Warranty. No promise or warranty shall be binding on any Party except as expressly contained in this Agreement.

17. Agreement Binding on Successors. It is agreed that this Agreement, together with the releases, shall be binding upon and inure to the benefit of the heirs, executors, administrators, personal representatives, successors in interest and assigns of the respective Parties hereto.

18. Attorneys' Fees. Should either Party initiate any action at law or in equity to enforce or interpret the terms of this Agreement, the prevailing Party shall be entitled to reasonable attorneys' fees and costs.

WHEREFORE, the undersigned having read the foregoing Settlement and Release Agreement, and fully understanding it agree to its terms, hereby execute this Agreement.

(signatures on following page)

Dated: _____

CITY OF WOODLAND

By: _____

Name: _____

Title: _____

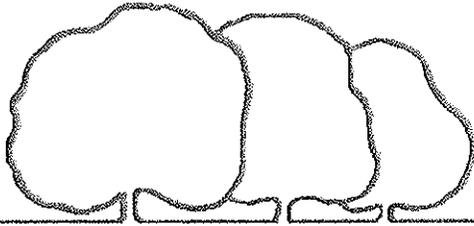
Dated: MARCH 16, 2009

BOND BLACKTOP, INC.

By: Edward Dillon

Name: EDWARD DILLON

Title: PRESIDENT



City of Woodland

Public Works Department 300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

May 29, 2008

Ed Dillon
Bond Blacktop, Inc.
P.O. Box 616
Union City, CA 94587

SUBJECT: CIP # 07-44, 2008 Road Maintenance - Submittals

Dear Mr. Dillon:

The City is still awaiting the submittal of the schedule for the above referenced project. The contracts were executed on the 21st of May and the notice to proceed was both faxed and mailed to you on the 22nd of May, with a start date of June 2, 2008.

Per our discussions at the pre-construction conference meeting on May 15th, at which we were anticipating submittal of the schedule, you had indicated that it would be available by the 19th or 20th of May. Information of street length and widths for quantities was provided to you per your request electronically on May 19th, with the expectation that the schedule would be submitted within a few days and no later than the end of the week. We attempted to contact you by phone yesterday afternoon May 28th, leaving a voicemail asking about the schedule submittal, and last minute cancellation of the Waste Management coordination meeting that morning, and requesting you to return our call to discuss these issues. We are still awaiting a return phone call on these matters. We will expect you to provide the schedule and expected starting dates no later than 10:00 am June 2, 2008.

Working days will begin on the 2nd of June.

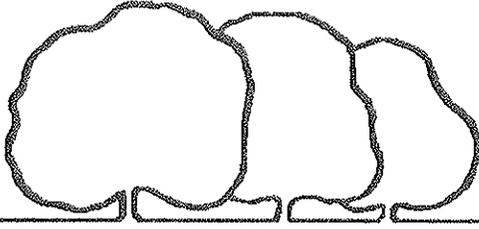
In addition I am still awaiting the resubmittal of the following item returned via e-mail May 16, 2008:
003 – Door Hanger – Revise & Resubmit

If you have any questions, please give me a call at 530-661-5968.

Sincerely,

Tamera Burnham
Project Manager

cc: Michael Karoly, Sr, Capital Proj
Dick Donnelly, City Engineer
file



City of Woodland

Public Works Department 300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

June 24, 2008

Ed Dillon
Bond Blacktop, Inc.
P.O. Box 616
Union City, CA 94587



SUBJECT: CIP # 07-42, 2008 Road Maintenance – Delay of Work

Dear Mr. Dillon:

The City is informing you you will not be able to begin the work scheduled for the 25th, 26th, and 27th of June, for the following reasons:

- Failure to properly notify the public per Section J-1 of the contract documents. Door hangers with the date of work need to be placed at least 48 hours in advance of work.
- Failure to place No Parking 48 hours in advance of work. The City is unable to enforce NO PARKING if not placed at least 48 hours in advance, and the signs must include a phone number for retrieval of towed vehicles.

Per our conversations today the work is to be rescheduled for Monday June 30, on condition that the proper notifications are done, within the allowed timeframes. Due to the Fourth of July holiday, the slurry work can proceed as scheduled on July 7th, pending the proper notifications are done.

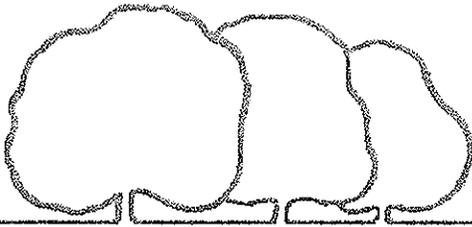
If you have any questions, please give me a call at 530-661-5968.

Sincerely,

Tamera E Burnham

Tamera Burnham
Project Manager

cc: Michael Karoly, Sr, Capital Proj
Dick Donnelly, City Engineer
file



City of Woodland

Public Works Department 300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

July 3, 2008

RE: [REDACTED]

Ed Dillon
Bond Blacktop, Inc.
P.O. Box 616
Union City, CA 94587

SUBJECT: CIP # 07-42, 2008 Road Maintenance – Delay of Work

Dear Mr. Dillon:

The following issues have occurred on the job this week and will need to be resolved prior to work continuing:

- Proper vegetation removal – the City inspectors have had to remove vegetation from the streets both prior to and after material placement. Vegetation has to be removed per Section 'F' and the surfaces properly prepared per Section 'M'.
- Traffic Control – several streets were closed with out detours being provided, and several were closed all day long and no work was done. All road closures need to have detours posted with the proper signage per the CAMUTCD as detailed in Figure 6-H, typical application 20. Per Section K-5 all streets are to remain open until 15 min prior to work being done.
- Resident Notification – all streets must be posted and notified a minimum of 48 hours prior to work being done. Failure to do so could result in delay of work and/or rescheduling. If No Parking is not posted properly, the City will be unable to assist with removal of automobiles within the work zone.
- Failure to coordinate with Waste Management (WM) – Per Section J the contractor is responsible to contact and coordinate with Waste Management for the early collection of totes and green waste piles in the streets. It is not acceptable to just move the green waste and pile it on the sidewalks, in driveways or around the corner of the street. If piles of greenwaste are encountered, it is your responsibility to collect them, relocate to your staging area and arrange with WM to collect from that area.

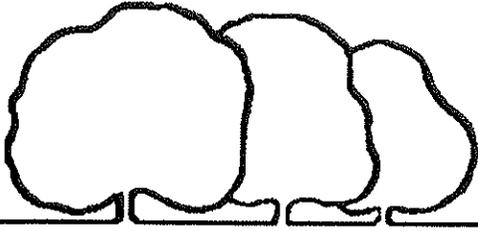
In addition the City has received several phone calls from residents, who are frustrated with the progression of the work, the rescheduling of work up to three times, and the lack of availability of Bond staff to answer or return phone calls from these residents.

If you have any questions, please give me a call at 530-661-5968.

Sincerely,

Tamera Burnham, Project Manager

cc: Michael Karoly, Sr, Capital Proj, Dick Donnelly, City Engineer, file



City of Woodland

Community Development Department 300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 fax

February 13, 2009

Ed Dillon
Bond Blacktop, Inc.
P.O. Box 616
Union City, CA 94587



SUBJECT: CIP # 07-42, 2008 Road Maintenance – Final Notice of Termination for Default

Dear Mr. Dillon:

On July 9, 2008, the City of Woodland (“City”) placed Bond Blacktop (“Bond”) on notice of its failure to comply with the contractual requirements on CIP # 07-42, 2008 Road Maintenance project (“Project”). Specifically, that letter, which is attached hereto as Attachment 1, outlines numerous failures to meet contract obligations in the areas of public safety, quality, acceptability of the finished product, and unreasonable impacts to residents. That letter placed Bond on notice for potential contract termination for issues related to public safety concerns.

Further, On November 21, 2008, the City again notified Bond of specific and ongoing breaches in its performance and continuing failures to meet contract obligations in the area of quality and acceptability of the finished product as well as Bond’s lack of progress in addressing incomplete and rejected work. That letter, attached hereto as Attachment 2, again placed Bond on notice that the City was still considering termination of Bond for default and procuring the incomplete work through other forces. That letter specifically laid out each item of Bond’s noncompliance. Exercising forbearance, the City accepted Bond’s response and plan to address deficiencies and on January 13, 2009, Bond mobilized in an attempt to address the remaining work and cure the repeated notices of default.

Unfortunately, Bond once again failed to safely and adequately manage traffic in accordance with the contract and standards of the industry and Bond failed to accomplish repairs of an acceptable quality. City staff and construction inspection representatives observed several instances of unacceptable traffic control, specifically on East Street, on Pioneer Avenue and at the intersection of East Street and Gibson Road. Public safety and traffic control observations included the following:

- Members of Bond’s crew setting up traffic control and lane delineation on East Street were observed to be wandering in the traffic lanes and were involved in several near misses. The crew performing this work was not using the arrow board truck that was on site and available while they were placing the traffic control.

- Between 3pm and 6pm, all of the left turn pockets were closed the entire length of Pioneer Avenue, causing traffic congestion and driver confusion.
- Along East Street at Gibson Road, the closure of the southbound left turn pocket simultaneously with the number one lane created considerable traffic congestion and driver confusion during the 5:00 pm commute. Traffic was backed up several blocks and drivers were unsure which lane was closed and which was open.

Additionally, the Woodland City Manager personally witnessed the situation and documented that the traffic control was clearly insufficient and significant public safety hazards were present. According to the City Manager, drivers were veering into the number one lane of southbound East Street because of the infrequently spaced delineators and then forced to merge back into the number two lane when they came up against [left] turn pockets that were more visibly blocked off. One driver trying to turn left to east bound Gum from the number two lane because there was no visible sign stating “No Left Turn”. Portions of the delineated lanes were separated by a thin rope that was hardly visible.

Irrespective of the safety violations articulated above, the work performed by Bond during this mobilization was simply not in compliance with the plans and specifications and not acceptable to the City.

In light of the well documented history and numerous opportunities the City has afforded Bond to cure it's performance, the City must move forward with formal termination of Bond's contract on this Project. In accordance with Contract Documents, this letter notifies Bond that it failed to cure previous defaults and as a result the City intends to terminate the Contract in accordance with Section D-5 of the General Conditions. It should be noted that while the Contract requires the City to allow Bond to cure within 10-days of the notice of default, the City has actually permitted Bond to attempt to cure for over seven months and each of Bond's attempts to cure, including the most recent, have failed to comply with Contract Documents.

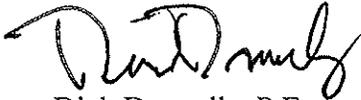
Staff's recommendation for termination will be scheduled and presented to City Council based on Bond's failure to comply with the Contract and in the best interest of public safety and welfare. When this item is scheduled, Bond will be informed and given the opportunity to respond to the action by presenting to City Council any supporting justification as to why the termination for default action should not be taken, including any renewed attempt to cure its numerous and repeated defaults. In the interest of public safety and welfare, staff will recommend to Council that Bond not be allowed another attempt to perform remedial work.

As an alternative to this action, staff will consider recommending a Termination for Convenience in accordance with Section D-6 of the General Conditions. This action will be recommended to the City Council only if Bond agrees to the deduction of \$15,000.00, for the incomplete/improper work, which the City will complete through other means. The city currently retains \$20,000.00 in remaining contract funds. This agreement would result in the final release of \$5,000.00 back to Bond and must be memorialized in the form of a settlement agreement that will also require that Bond agrees to not bid on further work for the City. We

believe this is a very reasonable offer and allows the City and Bond to wrap up this Project without further conflict or possible litigation.

Please contact Michael Karoly, Senior Civil Engineer, at (530) 661-5963 by February 23, 2009 with your response to the City's offer so the City can determine which action staff will recommend to the City Council. If you have any questions or need further clarification, I'm also available at (530) 661-5971.

Sincerely,

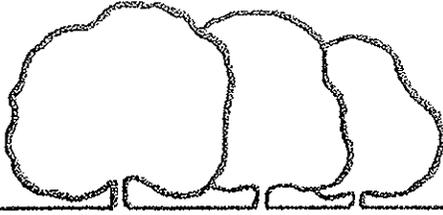


Dick Donnelly, P.E.
City Engineer

Attachments:

1. City Cure Letter July 9, 2008
2. City Cure Letter November 21, 2008

cc: Mark Deven, City Manager
Barry Munowitch, Assistant City Manager
Greg Meyer, Public Works Director
Paul Seigel, Deputy Director Community Development
Michael Karoly, Senior Civil Engineer
Tamera Burnham, Assistant Engineer
Chron and Project File



City of Woodland

Engineering Division 300 First Street Woodland, CA 95695 (530) 661-5961 fax (530) 661-5844

July 9, 2008

Ed Dillon
Bond Blacktop, Inc.
P.O. Box 616
Union City, CA 94587

SUBJECT: Failure to Meet Contract Obligations on the 2008 Road Maintenance Project # 07-42

Dear Mr. Dillon:

The subject project is experiencing significant problems which are negatively and unacceptably impacting public safety, the quality and acceptability of the finished product, and the schedules and daily lives of residents beyond reasonable expectations (as reflected in numerous public complaints). As a result, the City is instituting a Stop Work for contract actions beyond completion of the ongoing phase of chip sealing work currently in progress.

Before continuing work, the following areas of concern must be addressed and resolved to the City's satisfaction:

- For ongoing and future work, properly established traffic controls including, but not limited to, proper signage, detours and qualified flagmen must be in place prior to start of operations (Sec K Technicals). Failure to meet minimum public safety standards will result in further work stoppages, up to and including contract termination.
- A revised, phased, achievable, street-by-street project schedule must be submitted and approved by the City for the Slurry/Micro work. The schedule must also reflect the overall impact to the project schedule. (Section D)
- The Slurry/Micro work must be planned and scheduled such that each day's work is completed no later than 3:00 pm, with no material placed beyond that time (Sec B-3 Technicals). To assure compliance, the City will review and approve the planned quantity of scheduled work (based on demonstrated project experience to date) to ensure phased work can be completed in the specified eight hour working time period (7:00 am to 3:00 pm).
- The City Inspector must either be present or grant approval to proceed prior to any material placement (Sec C-10) and all surfaces must be properly prepared, including vegetation removal (Sec M&F Technicals).
- The telephone contact number provided to residents for coordinating project impacts and issues of concern must be continuously monitored (Sec J Technicals) and reasonably responsive in proportion to the expressed concern(s) with an expected maximum response time for non-urgent issues within 24 hours of receiving a call.
- Streets already delayed due to overscheduling, equipment failure and other issues, will be limited to only one scheduled day of work for the remaining work to be performed. No rescheduling of those streets will be allowed.

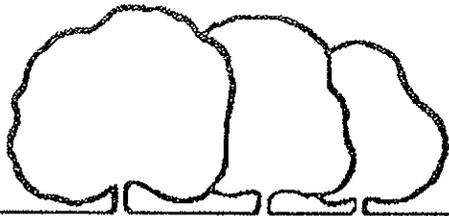
If you have any questions and for coordinating these issues, please contact the City's on-site representative, Mr. Mark Burlew at (530) 510-5414. I can be reached at (530) 661-5971.

Sincerely,

A handwritten signature in black ink that reads "Dick Donnelly". The signature is written in a cursive, somewhat stylized font.

Dick Donnelly, P.E.
City Engineer

Cc:
Mark Deven, City Manager
Barry Munowitch, Assistant City Manager
Greg Meyer, Public Works Director
Michael Karoly, Sr Civil Engineer
file



City of Woodland

Engineering 300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

November 21, 2008
Mr. Ed Dillon
Bond Blacktop, Inc.
P.O. Box 616
Union City, CA 94587

SUBJECT: CIP # 07-42, 2008 Road Maintenance – Failure to Meet Contract Obligations

Dear Mr. Dillon:

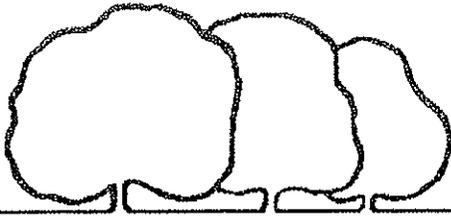
The City of Woodland is disappointed in the lack of progress toward completion of punch list work on this project. You were transmitted the final punch list on October 17, 2008. You were directed to complete the punch list work within 30 days of the receipt or by November 14th. Substantial portions of the work remain to be completed. We are prepared to hire another contractor to finish up the outstanding work on the punch list and deduct the cost from any funds earned by your company.

During the week of November 3rd Riley's Striping completed their portion of the identified items, yet other items remain to be completed. On November 10th Tami Burnham met with Mark Pierce to discuss the remaining items. During this meeting they discussed the proposed fix for the areas of excessive flushing as well as the proposed schedule to complete the remaining items. At this time Mark indicated that he would have crews available to perform the work by the end of the week (November 14) or early the following week (November 17 or 18). At this time we have not seen Bond Blacktop crews in the City.

The following items continue to require remedial work by your company:

- Completion of remaining punch list items excluding the repair of the seal and flushing areas.
- Repair of the seal and flushing – the agreed solution is to place a Type III slurry over these areas. Due to the change in the weather we will consider delaying this remedial work until Spring 2009.
- Rolling of the cul-de-sacs – was supposed to occur 14 days after the material was placed (Section N-3d of the technical specifications). This work has not been performed.

Unless we hear back from by November 25th, we will proceed with performing the above remedial work with city crews or other forces. We will tally the cost and deduct it from funds owed to Bond and withheld as a remedy for uncompleted punch list work.



City of Woodland

Engineering 300 First Street Woodland, CA 95695 (530) 661-5961 (530) 661-5844 Fax

If you have any questions, you may call me at 530-661-5963 or correspond with Tami Burnham regarding scheduling of the remedial work.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Karoly". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Michael Karoly, Sr. Civil Engineer on behalf of
Dick Donnelly, City Engineer

Attachments: 07-42 Final Punch List
10-17-08 Transmittal E-mail

cc: Dick Donnelly, City Engineer
Tamera Burnham, Project Manager
Chron File

Tami Burnham

From: Tami Burnham
Sent: Friday, October 17, 2008 4:34 PM
To: 'Mark Pierce'
Cc: 'Ed Dillon'; 'Mark Burlew'; Michael Karoly; Katie Wurzel
Subject: 07-42 Punch List

Mark,
Here is the final Punch List.
In regards to several items, I have the following comments:

FLUSHING

There are several areas that are experiencing Severe Flushing, We would like to have your proposal on the planned remediation for these areas by Next Friday October 24th or sooner. An acceptable solution would be placing additional aggregate in the areas of flushing and rolling it in. Or you may propose another solution for the City to approve.

MANHOLE COVERS/VALVES/MONUMENTS (Utility Covers)

There are several Utility Covers that were covered by the fabric subcontractor and not opened up prior to the Chip application. These will need to be exposed and the open edges of the Utility Covers will have to be crack sealed.

There are numerous Utility Covers that had the protective covers removed before the seal coat was set and have seal coat material on them, and are sealed shut. These will need to be completely cleaned and re-opened.

GUTTER PANS/ VALLEY GUTTERS

There are numerous locations where seal material ran into the gutters and will need to be cleaned.

REPAIRS

All repairs to the seals will be marked in the field prior to repair being made.

In Addition per Section N-2(d) of the Technical Specifications all cul-de-sacs were to be rolled, this work still needs to be completed.

You will have 20 working days to complete the identified items starting Monday October 20th to be completed by Friday November 14th. This should be more than adequate time to complete the identified repairs and corrections. Failure to complete the Punch List work by the referenced date will result in the City performing the work and back charging the contract. Please contact me at least 48 hours prior to commencing work. An inspector will be required to remain with your crews to verify all corrections have been satisfactorily completed.

Please contact me if you have any questions.

Tami Burnham
Project Manager
530-661-5968

CITY OF WOODLAND 07-42 Road Maintenance Project
Roads
Punch List

#	LOCATION	DEFICIENCY	Complete	Notes
1	Jimeno-gibson to casa linda	G-5 box is covered by seal, 1 manhole 3 water valves and 2 D.I.'s have seal coat on them.		
2	Maedell-cleveland to end	straight edge paper left in valley gutter, All manholes and water valves have seal on them, misc. seal repairs, missing blue reflector.		
3	Mckinely-gibson to end	blue reflector missing @ clanton.		
5	Elm-maedell to cross	oil flushing @ joints, blue reflector missing @ clanton.		
6	Cleveland-cross to lincoln	#729 oil in gutter, blue reflector placement not to spec @ both clanton and marshall		
7	Pendegast-cleveland to elm	blue reflector on wrong side of centerline @ #214		
8	Pendegast-elm to third	oil flushing @ both college and @ second, missing blue reflector @ dingle alley, blue reflector @ college is set wrong.		
9	Walnut-lincoln to cross	floppys need to be removed, buttons not placed per plan, repair seal		
10	Cross-west to elm	oil flushing in east bound lane and @ west street intersection, low valve box @ cleveland, 4 manholes & 9 water valves & 1 D.I. have seal on them.		
11	Cross-second to third	remove floppys, blue reflector is missing @ second, flushing @ third intersection.		
12	Cross-cleveland to elm	flushing		
13	Park Ave-west to mckinely	blue reflector @ west st. not to spec. blue reflector set wrong, 2 manholes covered over		
14	Cleveland-lincoln to cross	oil flushing @ oak ave. & park ave.		
15	Oak-west to elm	oil flushing between cleveland & mckinely, oil flushing @ west		
16	Laurel-college to second	2 blue reflectors not to spec., 1 manhole & 3 water valves have seal on them.		
17	Second-lincoln to marshall	blue reflectors not to spec @ bartlett, pendegast & cross, misc seal repairs, 2 manholes & 2 water valves have seal on them.		
18	Second-hays to granada	seal repairs		
20	Granada-college to third	blue reflector not to spec @ third, 4 manholes, 4 water valves & 2 D.I.'s have seal on them, seal in gutter and on D.I.		
22	Cleveland-lincoln to cross	flushing @ oak, flushing @ park, D.I. @ park has seal on it, 3 manholes & 5 water valves have seal on them		
23	Pendegast-elm to third	flushing @ college, flushing @ 2nd, blue reflector missing @ dingle Alley, blue reflector set wrong @ college 5 manholes & 3 water valves & 1 D.I. have seal on them, seal in gutter @ cleveland..		
24	Freemont-granada to buena tierra	blue reflector set wrong		

CITY OF WOODLAND 07-42 Road Maintenance Project
Roads
Punch List

#	LOCATION	DEFICIENCY	Complete	Notes
25	Hays-third to first	blue reflector set wrong, 6 manholes, 2 water valves & 1 D.I. have seal on them		
26	Hays-west to elm	blue reflector set wrong, 4 manholes, 5 water valves & 4 D.I.s have seal on them.		
27	Hays @ Second	flushing & seal in gutter		
28	Hays @ McKinley	seal on valley gutter		
29	Hays @ Elm	cutback patch		
30	First-cross to bartlett	rough seal surface, blue reflectors @ pendegast and craig are set wrong		
31	First- bartlett to craig	1 manhole & 3 water valves have seal on them		
32	Buena Tierra-third to homewood	blue reflector is missing		
33	Buena Tierra @ Coloma	1 water valve is covered with chip and seal		
34	Fourth-marshall to oak	seal delamination @ gum, 8 manholes & 9 water valves and 2 D. i.s have seal on them, seal in gutter @ bartlett.		
35	Fourth @ gum	seal is delaminating, wrinkled fabric		
36	Sixth-gibson to cottage	flushing, rough surface and 2 manholes covered with seal, wrinkled fabric exceeds 1"		
37	Sixth-cross to oak	flushing, rough surface, 2 manholes, 1 water valve and 1 D. i. have seal on them, wrinkled fabric exceeds 1".		
38	Sixth-cross to pendegast	2 manholes & 2 water valves have seal on them, 2 manholes and 4 water valves are Covered.		
40	Oak-sixth to east	flushing,		
41	Oak- @ Walnut	seal repairs		
42	Oak-west to east	6 manholes, 15 water valves & 1 D.I. have seal on them.		
43	Stetson-gum to school	flushing @ school and @ #936, seal in gutters, 4 manholes & 1 water valve have seal on them.		
44	Irene-kate to matmor	blue reflector is set wrong, seal in gutters.		
46	Spring Court	remove floppys, 1 water valve Covered		
47	Springdale-willow springs to crystal springs	remove floppys, 4 water valves/monuments have seal on them, #708 & # 1431 have seal in gutter.		
48	Spring Creek-crystal springs to matmor	remove floppys, seal in gutter		
49	Tatoya	remove floppys, flushing @ #621, 1 manhole & 1 water valve have seal on them.		
50	Crystal Court	remove floppys		
51	Crystal Springs-matmor to cleanwater	remove floppys flushing @ matmor, blue reflector set wrong @ spring ct & edwards, 12 manholes & 30 water valves have seal on them.		
52	Brookside-willow to cleanwater	blue reflector is set wrong.		
53	Leo Way-matmor to gum	Blue reflector is set wrong.		

CITY OF WOODLAND 07-42 Road Maintenance Project
Roads
Punch List

#	LOCATION	DEFICIENCY	Complete	Notes
	Thomas-gum to main	flushing @ park, flushing form colfax to main, 8 manholes & 6 water valves have seal on them, repair seal where floppys have been pulled up..		
54	Molly-thomas to beffy	flushing		
55	Lopes Court	flushing, 1 manhole & 1 water valve have seal on them, seal in gutter.		
56	Dodds Drive-colette to matmor	rough seal surface, spilled thermo @ matmor & parkview, 5 manholes & 6 water valves have seal on them.		
57	Dodds Court	remove floppys		
58	Colette-denise to matmor	flushing, rough seal surface, 10 manholes & 11 water valves have seal on them, 2 manholes Covered, seal in gutter @ denise, thomas and @ #1331, fabric is wrinkled at multiple locations.		
59	Parkview-dodds to dodds	spilled thermo, 1 manhole & 1 water valve have seal on them.		
60	Geoffrey-e.oak to colfax	flushing @ valley gutters, flushing @ oak & e.oak, 2 manholes & 1 water valve have seal on them.		
61	E. Oak-matmor to east	flushing, seal delamination @ Johnston, rough seal surface, 12 manholes & 3 water valves have seal on them.		
62	Johnston-main to e.oak	flushing		
63	Depot	flushing, 2 manholes & 2 D.I.s have seal on them.		
64	EAST STREET			
65	N.B. lanes @ main street	repair bumps and voids in seal, flushing		
66	S.B. Lanes @ alicia	repair seal (wheel tracks)		
67	Cross St intersection	rough seal surface		
68	Gum Ave intersection	rough seal surface		
69	140' south of gum (S.B. lane)	repair seal (wheel tracks)		
70	Gibson Rd intersection	repair bumps and voids in seal, flushing		
71	SB Lanes @ Gum	Flushing		
72	NB Lanes @ Gum	Flushing		
73	PIONEER DRIVE	remove all floppys, remove seal from all manholes & water valves/monuments		
74	20' south of e.gum (S.B. lanes)	repair bumps and voids in seal		
75	E.Gum intersection	rough seal surface		
76	70' North of e.gum (N.B. lane)	seal around water valve pcc.		
77	Merrit circle	repair seal around pcc		
78	Springlake ct. (S.B. turn lane)	repair seal		
79	Springlake ct. (N.B. lane)	Flushing		
80	CR-102	remove all floppys, remove seal from all manholes & water valves/monuments		

CITY OF WOODLAND 07-42 Road Maintenance Project
 Roads
 Punch List

#	LOCATION	DEFICIENCY	Complete	Notes
79	SB and NB between Maxwell and Gibson	Excessive Flushing		
80	All Lanes at Gibson Road Intersection	Excessive Flushing		
81	NB @ CR25	Excessive Flushing		
82	NB @ Farmers Central	Excessive Flushing		