



Department of Engineering & Capital Projects

February 2, 2021

File: STM0397

Mailed via USPS Priority

Emailed to franknsonpaving@yahoo.com

Frank and Son Paving, Inc.
Attn: Alicia Vasquez
1019 Third Avenue
Chula Vista, CA 91911

Hudson Insurance Company
100 William Street
New York, New York 10038

CIP #STM0397 MAJOR PAVEMENT REHABILITATION FY 18/19

SUBJECT: NOTICE OF FAILURE TO COMPLETE AND PROVIDE CONTRACT DOCUMENTS

A Notice of Award letter, dated January 7, 2021, was sent by the City of Chula Vista (City) providing notice that Frank and Son Paving, Inc. (Contractor) was required to execute the Contract and furnish the required Bond for Material and Labor, Bond for Faithful Performance, Certificates of Insurance, Guarantee, Non-Collusion Affidavit, and Workers' Compensation Insurance Declaration to the City within ten (10) working days from the date of receipt of the Notice of Award, and not later than January 22, 2021.

A one-week extension to the due date of the above listed documents was requested by Contractor on January 21, 2021. The City granted the extension, resulting in a new due date January 29, 2021. The required Bonds for Material and Labor and Faithful Performance were not received by the City on January 29, 2021, and follow up email communication between the City and Contractor confirmed that the Contractor had failed to provide the required bonds to the City prior to the extended deadline.

Due to Frank and Son Paving, Inc.'s failure to timely complete and provide the contract documents in accordance with Section 10 of the Bid Proposal and Conditions and the Bidder's Bond To Accompany Bid Proposal, the City hereby notifies Frank and Son Paving, Inc. that it intends to schedule an agenda item for the February 16, 2021 City Council meeting at which staff will recommend: (1) rescinding the award of the project contract to Frank & Son, Inc.; (2) awarding the project contract to the next apparent lowest responsive and responsible bidder; and (3) seeking forfeiture of the security in the Bidder's Bond To Accompany Bid Proposal dated October 28, 2020 executed by Hudson Insurance Company (Surety).

Sincerely,

Nicola Kavanagh, PE
Principal Civil Engineer

Attachments:

1. Notice of Deadline Extension to Execute Contract letter, Major Pavement Rehabilitation FY 18/19 CIP # STM0397, dated January 22, 2021
2. Bid proposal guaranty dated October 28, 2020 provided by Hudson Insurance Company
3. Email Confirming Frank & Son failure to provide the required bonds, dated January 29, 2021

cc: William Valle, Jose Gomez, Greg Tscherch, Tim Jones, Jonathan Salsman, Michael McDonnell, Florence Picardal



Department of Engineering & Capital Projects

January 22, 2021

File: STM0397

Mailed via USPS Priority

Emailed to franknsonpaving@yahoo.com

Frank and Son Paving, Inc.
Attn: Alicia Vasquez
1019 Third Avenue
Chula Vista, CA 91911

CIP #STM0397 MAJOR PAVEMENT REHABILITATION FY 18/19

SUBJECT: NOTICE OF DEADLINE EXTENSION TO EXECUTE CONTRACT

A Notice of Award letter (see attached), dated January 7, 2021, was sent by the City of Chula Vista (City) providing notice that Frank and Son Paving, Inc. (Contractor) was required to execute the Contract and furnish the required Bond for Material and Labor, Bond for Faithful Performance, Certificates of Insurance, Guarantee, Non-Collusion Affidavit, and Workers' Compensation Insurance Declaration to the City within ten (10) working days from the date of receipt of the Notice of Award, and not later than January 22, 2021.

A one-week extension was requested by the Contractor on January 21, 2021 via email (see attached). The City hereby grants the requested extension. The above listed documents shall be furnished to the City no later than January 29, 2021 at 5:00 p.m. to the following **mailing address: Engineering Department, Attention Florence Picardal, 276 Fourth Avenue, Chula Vista, CA 91910**. Failure to execute the Contract and to furnish all bonds, insurance, and other documents within the time stipulated may cause the City of Chula Vista to annul the award and take action as described in the Proposal Requirements and Conditions, including but not limited to forfeiture of the bid proposal guaranty.

In order to preserve the City's ability to award the contract to the second lowest responsible and responsive bidder in case of Contractor's inability to fulfill the contract requirements, timeliness in furnishing the above referenced documents is critical. Therefore, no further extensions shall be granted.

Sincerely,

Nicola M. Kavanagh, P.E.
Principal Civil Engineer

Attachments:

1. Notice of Award letter to Frank and Son Paving, Inc. dated January 7, 2021
2. Email from Frank and Son Paving, Inc. to City of Chula Vista requesting extension dated January 21, 2021

CC: William Valle, Jose Gomez, Greg Tscherch, Tim Jones, Jonathan Salsman, Michael McDonnell, Florence Picardal



Department of Engineering & Capital Projects

January 7, 2021

File: STM0397

Mailed via USPS Priority

Frank and Son Paving, Inc.
Attn: Alicia Vasquez
1019 Third Avenue
Chula Vista, CA 91911

NOTICE OF AWARD

The bid proposal submitted by Frank and Son Paving, Inc. and dated October 28, 2020, has been awarded to Frank and Son Paving, Inc. by the City Council of the City of Chula Vista on January 4, 2021, to perform the following work to wit:

MAJOR PAVEMENT REHABILITATION FY 18/19 CIP #STM0397

Enclosed are three (3) originals each of the Contract, Bond for Material and Labor, Bond for Faithful Performance, Guarantee, Non-Collusion Affidavit, and Workers' Compensation Insurance Declaration. Please execute these documents on the appropriate lines and include corporation seals and notarizations as applicable.

Please complete the Bond for Material and Labor by filling in the blanks. Amount of this bond is to be the sum of TWO MILLION, FORTY-FOUR THOUSAND, SIX HUNDRED FORTY-FOUR DOLLARS AND SEVENTY-TWO CENTS (\$2,044,644.72). Please also complete the Bond for Faithful Performance by filling in the blanks. Amount of this bond is to be the sum of TWO MILLION, FORTY-FOUR THOUSAND, SIX HUNDRED FORTY-FOUR DOLLARS AND SEVENTY-TWO CENTS (\$2,044,644.72).

Please also furnish the required Certificates of Insurance and comply with the insurance requirements in Section 7 of the 2019 Chula Vista Standard Special Provisions, approved by the City Engineer on April 9, 2019. These provisions may be found on our website at <http://www.chulavistaca.gov/home/showdocument?id=8394>. Also, for clarification, note that all insurers must be authorized to do business in the State of California and the City's description of "Acceptability of Insurers" refers to insurers with a current A.M. Best rating of no less than A: VII with a "D" (Domiciled) or "L" (Licensed to do business). These are the only two ratings acceptable to the City. Only one (1) original Insurance Certificate is required along with two (2) copies.

Please be advised that Frank and Son Paving, Inc. is required by the Proposal Requirements and Conditions to execute the enclosed Contract and furnish the required Bond for Material and Labor, Bond for Faithful Performance, Certificates of Insurance, Guarantee, Non-Collusion Affidavit, and Workers' Compensation Insurance Declaration to this office within **ten (10) working days** from the date of receipt of this Notice of Award, which date is not later than January 22, 2021. **Mailing address: Engineering Department, 276 Fourth Avenue, Chula Vista, CA 91910.** Failure to execute the Contract and to furnish all bonds, insurance, and other documents within the time stipulated may cause the City of Chula Vista to annul the award and take action as described in the Proposal Requirements and Conditions. Frank and Son Paving, Inc.'s executed original contract will be returned after signature by City officials.

If you have any questions, please contact Construction Inspection at ConstructionInspection@chulavistaca.gov.

William S. Valle
Director of Engineering and Capital Projects/City Engineer

Enclosures

cc: Nicola Kavanagh, Principal Civil Engineer

Nicola Kavanagh

From: Frank and Son Paving, Inc. <franknsonpaving@yahoo.com>
Sent: Thursday, January 21, 2021 9:43 AM
To: CONSTRUCTIONINSPECTION@CHULAVISTA.GOV; Nicola Kavanagh
Subject: CONTRACTS CIP#STM0397

Warning:
External
Email

Hi Nicola,

We are in receipt of the Notice of award.

Are requesting an extension of one week to submit all documents back to you.

We were out with COVID and now just getting back into the office.

We have submitted the request for bonds so should have them soon.

Thanks,
Jeanette

Frank and Son Paving, Inc.

PO BOX 698; Bonita, CA 91908

1019 3rd Avenue; Chula Vista, CA 91911

Email: franknsonpaving@yahoo.com

PH: (619) 422-8322 Fax: (619) 420-9020

Mon. thru Fri. 8am to 4 pm

BIDDER'S BOND TO ACCOMPANY BID PROPOSAL

KNOW ALL PERSONS BY THESE PRESENTS, that I/We Frank and Son Paving, Inc., as Principal, and Hudson Insurance Company, as Surety, are held firmly bound unto the City of Chula Vista ("City") in the sum of ten percent of total amount bid (\$ 10%), to be paid to the said City or its attorney, its successors and assigns; for which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, successors or assigns, jointly and severally, firmly by these presents.

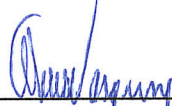
THE CONDITION OF THIS OBLIGATION IS SUCH, that if the bid of Principal on the City's request for bids on the following project, to-wit:

MAJOR PAVEMENT REHABILITATION FY 18/19 CIP #STM0397


which bid is dated October 28, 2020, is accepted by the City, and if the above bounden Principal, his/her heirs, executors, administrators, successors and assigns, shall duly enter into and execute a Contract for such construction and shall execute and deliver the bonds required by said Bid Specifications, on or before the date specified in the "Notice of Award," which date shall be no less than ten (10) days (not including Sunday), from the date the bounden Principal is notified by and from the City that said Contract is ready for execution, then this obligation shall become null and void; otherwise it shall be and remain in full force, effect, and virtue.

IN WITNESS WHEREOF, I/We hereunder set our hands and seals this 28th day of October, 2020.

Principal: Frank and Son Paving, Inc.




Surety: Hudson Insurance Company



Cyndi Beilman, Attorney-in-Fact

(Attach Notaries and Powers of Attorney for Principal and Surety)

APPROVED AS TO FORM:


CITY ATTORNEY

Bond in the value of 10% of the total bid amount is mandatory. A specific dollar amount is preferred. If amount is not known at the time the bond is issued, please insert "10% of bid amount."

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }

County of San Diego }

On 10/28/2020 before me, Marisa Bertelsen
(Here insert name and title of the officer)

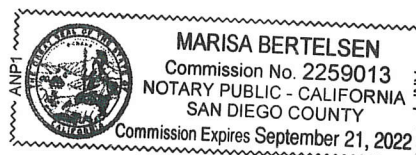
personally appeared Alicia Tovar Vazquez
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Notary Public Signature

(Notary Public Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

Bride's Bond
(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 3 Document Date 10/28/20

CAPACITY CLAIMED BY THE SIGNER

- ☒ Individual (s)
☐ Corporate Officer

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

This form complies with current California statutes regarding notary wording and, if needed, should be completed and attached to the document. Acknowledgments from other states may be completed for documents being sent to that state so long as the wording does not require the California notary to violate California notary law.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they, is/are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document with a staple.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

County of San Diego

On October 28, 2020 before me, Pam Davis, Notary Public,
Date Insert Name of Notary exactly as it appears on the official seal

personally appeared Cyndi Beilman

Name(s) of Signer(s)

Expiration of notary term has been extended by 180 days
by CA Executive Orders N-63-20 dated May 7, 2020
and N-71-20 dated June 30, 2020.

who proved to me on the basis of satisfactory evidence to
be the person(s) whose name(s) is/are subscribed to the
within instrument and acknowledged to me that he/she/they
executed the same in his/her/their authorized capacity(ies),
and that by his/her/their signature(s) on the instrument the
person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.



Place Notary Seal Above

I certify under PENALTY OF PERJURY under the laws of
the State of California that the foregoing paragraph is true
and correct.

Witness my hand and official seal.

Signature

Signature of Notary Public

OPTIONAL

*Though the information below is not required by law, it may prove valuable to persons relying on the document
and could prevent fraudulent removal and reattachment of the form to another document.*

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner ☐ Limited ☐ General
☒ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing: _____

Signer's Name: _____

- ☐ Individual
☐ Corporate Officer — Title(s): _____
☐ Partner ☐ Limited ☐ General
☐ Attorney in Fact
☐ Trustee
☐ Guardian or Conservator
☐ Other: _____

RIGHT THUMBPRINT
OF SIGNER

Top of thumb here

Signer is Representing: _____



HA-10-A85-0103

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That HUDSON INSURANCE COMPANY, a corporation of the State of Delaware, with offices at 100 William Street, New York, New York, 10038, has made, constituted and appointed, and by these presents, does make, constitute and appoint

Anne Wright, Cyndi Beilman, Dana Michaelis
of the state of California

its true and lawful Attorney(s)-in-Fact, at New York, New York, each of them alone to have full power to act without the other or others, to make, execute and deliver on its behalf, as Surety, bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking shall obligate said Company for any portion of the penal sum thereof in excess of the sum of **Ten Million Dollars (\$10,000,000.00)**.

Such bonds and undertakings when duly executed by said Attorney(s)-in-Fact, shall be binding upon said Company as fully and to the same extent as if signed by the President of said Company under its corporate seal attested by its Secretary.

In Witness Whereof, HUDSON INSURANCE COMPANY has caused these presents to be of its Senior Vice President thereunto duly authorized, on this 19th day of June, 20 19 at New York, New York.



Attest.....
Dina Daskalakis
Corporate Secretary

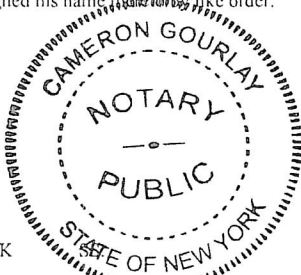
HUDSON INSURANCE COMPANY

By.....
Michael P. Cifone
Senior Vice President

STATE OF NEW YORK
COUNTY OF NEW YORK. SS.

On the 19th day of June, 20 19 before me personally came Michael P. Cifone to me known, who being by me duly sworn did depose and say that he is a Senior Vice President of **HUDSON INSURANCE COMPANY**, the corporation described herein and which executed the above instrument, that he knows the seal of said Corporation, that the seal affixed to said instrument is such corporate seal, that it was so affixed by order of the Board of Directors of said Corporation, and that he signed his name thereto by like order.

(Notarial Seal)



.....
CAMERON GOURLAY
Notary Public, State of New York
No. 01GO6372305
Qualified in New York County
Commission Expires June 4, 2022

STATE OF NEW YORK
COUNTY OF NEW YORK

CERTIFICATION

The undersigned **Dina Daskalakis** hereby certifies:

That the original resolution, of which the following is a true and correct copy, was duly adopted by unanimous written consent of the Board of Directors of Hudson Insurance Company dated July 27th, 2007, and has not since been revoked, amended or modified:

"RESOLVED, that the President, the Executive Vice Presidents, the Senior Vice Presidents and the Vice Presidents shall have the authority and discretion, to appoint such agent or agents, or attorney or attorneys-in-fact, for the purpose of carrying on this Company's surety business, and to empower such agent or agents, or attorney or attorneys-in-fact, to execute and deliver, under this Company's seal or otherwise, bonds obligations, and recognizances, whether made by this Company as surety thereon or otherwise, indemnity contracts, contracts and certificates, and any and all other contracts and undertakings made in the course of this Company's surety business, and renewals, extensions, agreements, waivers, consents or stipulations regarding undertakings so made; and

FURTHER RESOLVED, that the signature of any such Officer of the Company and the Company's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seal when so used whether heretofore or hereafter, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed."

THAT the above and foregoing is a full, true and correct copy of Power of Attorney issued by said Company, and of the whole of the original and that the said Power of Attorney is still in full force and effect and has not been revoked, and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney is now in force.

Witness the hand of the undersigned and the seal of said Corporation this 28th day of October, 20 20



By.....
Dina Daskalakis, Corporate Secretary

Jonathan Salsman

From: Florence Picardal
Sent: Friday, January 29, 2021 2:34 PM
To: Nicola Kavanagh
Cc: Jonathan Salsman
Subject: FW: Bonds for Chula Vista - Major Pavement Rehabilitation

Importance: High

Nicola: This is the latest mail from Jeanette. I replied that I was forwarding to you for a response. - fp

From: Frank and Son Paving, Inc. <franknsonpaving@yahoo.com>
Sent: Friday, January 29, 2021 2:31 PM
To: Florence Picardal <fpicardal@chulavistaca.gov>
Subject: Fw: Bonds for Chula Vista - Major Pavement Rehabilitation

Warning:
External
Email

Florence,

We just got final word from my Surety Broker. We do apologize but will not have the final bonds until Monday.

May we have them hand delivered to your office as soon as I receive them?
See below response.

Thanks,
Jeanette

Frank and Son Paving, Inc.

PO BOX 698; Bonita, CA 91908

1019 3rd Avenue; Chula Vista, CA 91911

Email: franknsonpaving@yahoo.com

PH: (619) 422-8322 Fax: (619) 420-9020

Mon. thru Fri. 8am to 4 pm

----- Forwarded Message -----

From: Cyndi Beilman <cyndi@sascbonds.com>
To: Frank and Son Paving, Inc. <franknsonpaving@sbcglobal.net>
Sent: Friday, January 29, 2021, 02:25:39 PM PST
Subject: Bonds for Chula Vista - Major Pavement Rehabilitation

As discussed there has been a delay in recording documents because the County Recorders Office is closed due to COVID-

19.. We expect to confirm that the documents recorded on Monday and then we can release the bonds for the referenced project.

Thanks,

Cyndi Beilman

Surety Associates of Southern California Insurance Services

*****CALTRANS DBE/WBE CERTIFIED #38706*****

*****FEDERAL CCR REGISTRY #961857609 CAGE #635B7*****

****CITY OF SAN DIEGO SLBE CERTIFICATION # 10WI0081*****

(619) 994-3652 cell

(619) 501-1899 Office

(619) 270-9833 fax

5360 Jackson Drive Suite 208

La Mesa, CA 91942

License #0G87195

"BUILDING SURETY RELATIONSHIPS SO YOU CAN BUILD YOUR BUSINESS"

 <https://www.linkedin.com/company/808202/admin/>

 <https://www.linkedin.com/in/cyndi-beilman-7b656516/>

This e-mail and any attachments hereto are intended only for use by the addressee(s) named herein and may contain legally privileged and confidential information. If you are not the intended recipient of this e-mail, you are hereby notified any dissemination, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you receive this e-mail in error please immediately notify me at (619) 501-1899 and permanently delete the original copy and any copy of any e-mail, and any printout thereof.

