

K17-1398

Bond No.: 1060216

**REQUIREMENTS BID CONTRACT
BETWEEN
THE CITY OF NEW ORLEANS
AND
WALLACE C. DRENNAN, INCORPORATED**

**BID NO.: 5110-02253
SWBNO PERMANENT PAVEMENT RESTORATION SERVICES – WESTBANK**

THIS CONTRACT (the “**Contract**”) is entered into by and between the City of New Orleans, represented by Mitchell J. Landrieu (the “**City**”), and Wallace C. Drennan, Incorporated, represented by John B. Peak, Vice-President of Operations (the “**Contractor**”). The City and the Contractor may sometimes be referred to the “**Parties**”. This Contract is effective as of the date of execution by the City (the “**Effective Date**”).

RECITALS

WHEREAS, the City issued an Invitation to Bid No. 5110-02253 on August 4, 2017, supplemented by its Addenda No. 1 dated August 21, 2017, No. 2 dated August 29, 2017, No. 3 dated September 7, 2017, No. 4 dated September 8, 2017, and No. 5 dated September 15, 2017 (collectively, the “**ITB**”), seeking a contractor to provide roadway construction services for permanent pavement restoration services for Sewerage and Water Board utility services cuts on the Westbank and other various city wide locations (the “**Services**”), as provided in more detail in the ITB; and

WHEREAS, the Contractor submitted the lowest responsive and responsible bid in response to the City’s ITB, and the City desires to award the Contract to the Contractor.

NOW THEREFORE, the City grants and confirms to the Contractor the Contract to provide permanent pavement restoration services on streets within the Westbank neighborhood in accordance with the ITB, and the City and the Contractor, for good and valuable consideration, agree as follows:

I. THE CONTRACTOR’S OBLIGATIONS

The Contractor will perform all obligations of the Contract, and be subject to all terms and conditions set forth, in this Contract and in the following documents that are incorporated fully into this Contract by reference: the ITB; the Contractor’s Bid dated September 21, 2017 (the “**Contractor’s Bid**”); all documents, drawings, and specifications incorporated or referenced in the ITB and/or the Contractor’s Bid, including but not limited to, any and all terms, conditions,

documents, drawings and/or specifications contained in the City's General Specifications for Street Paving (2015 ed.).

II. THE CITY'S OBLIGATIONS

The City will pay the Contractor at the rates set forth in the Contractor's Bid for the satisfactory performance of this Contract and will perform all obligations of the City, and be subject to all terms and conditions set forth, in this Contract and any incorporated documents.

III. DURATION

A. Initial Term. The term of this Contract shall commence on the Effective Date and shall continue for a period of ONE (1) YEAR.

B. Extensions. This Contract may be extended at the option of the City, provided that funds are allocated by the Council of the City and the extension of the Contract facilitates continuity of services provided herein. This Contract may be extended by the City on an annual basis for no longer than four (4) one-year periods.

IV. THE SURETY'S OBLIGATIONS

A. Performance and Payment Bonds. The Hanover Insurance Company (the "Surety") intervenes in this Contract and binds itself as surety for:

1. The faithful performance of all work required of the Contractor by this Contract in the full sum of **TWO MILLION NINE HUNDRED SEVENTY – SEVEN THOUSAND TWO HUNDRED TWENTY – FIVE AND 00/100 DOLLARS (\$2,977,225.00)**; and
2. The full payment by the Contractor of all payments to be made by the Contractor under this Contract the full sum of **TWO MILLION NINE HUNDRED SEVENTY – SEVEN THOUSAND TWO HUNDRED TWENTY – FIVE AND 00/100 DOLLARS (\$2,977,225.00)**.

Each of these bonds is to be considered separate and distinct, and no payment made by the Surety under either bond shall in any way reduce the obligations of the Surety under the other.

B. Acknowledgement of Contract. The Surety represents and warrants that it has fully read and understands the terms of this Contract, including all incorporated documents.

C. Survival and Validity of Bonds. The Surety's bonds shall remain in full force and effect, and shall survive the termination of this Contract, but shall be become null and void if the Contractor: (1) well and faithfully performs all and singular the obligations assumed by the Contractor in this Contract; (2) promptly pays all wages of laborers, workmen, or mechanics to be

employed by the Contractor for all work done or labor performed by the Contractor or by any sub-contractors; or furnished to sub-contractors, and used in the construction, erection, alteration, performance or repairs of the work required by the Contract; (3) promptly pays for all materials or supplies furnished to the Contractor, or by any subcontractor, or to any subcontractor, for the use in machines used in the construction, erection, alteration, performance or repair of the work required by the Contract; (4) fully secures and protects the City, its legal successor and representatives, from all loss or expense of any kind, including premises, including all costs of Court and attorneys' fees, made necessary or arising from the failure, refusal or neglect of the Contractor to comply with all of the obligations assumed by it; and (5) promptly delivers all the work required by the Contract to the City, free from any and all claims, liens and expenses. The obligations of the Surety will not be affected in any way by any modifications, omissions, or additions in or to the terms of this Contract, the plans or specifications, or in the manner and mode of payment.

V. ADDITIONAL PROVISIONS

A. Convicted Felon Statement. The Contractor complies with City Code § 2-8(c) and no principal, member, or officer of the Contractor has, within the preceding 5 years, been convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of public funds, bribery, or falsification or destruction of public records.

B. Non – Solicitation Statement. The Contractor has not employed or retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Contract. The Contractor has not paid or agreed to pay any person, other than a bona fide employee working for it, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from this Contract.

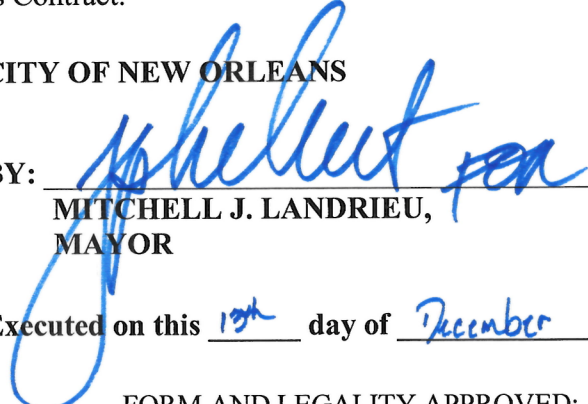
C. Non - Waiver. The failure of either party to insist upon strict compliance with any provision of this Contract, to enforce any right or to seek any remedy upon discovery of any default or breach of the other party at such time as the initial discovery of the existence of such noncompliance, right, default or breach shall not affect or constitute a waiver of either party's right to insist upon such compliance, exercise such right or seek such remedy with respect to that default or breach or any prior contemporaneous or subsequent default or breach.

D. Entire Agreement. This Contract, including all incorporated documents, constitutes the final and complete agreement and understanding between the parties. All prior and contemporaneous agreements and understandings, whether oral or written, are superseded by this Contract and are without effect to vary or alter any terms or conditions of this Contract.

(Signatures on the following page)

IN WITNESS WHEREOF, the City, the Contractor, and the Surety, through their duly authorized representatives, execute this Contract.

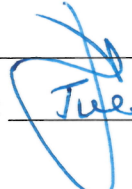
CITY OF NEW ORLEANS

BY: 

MITCHELL J. LANDRIEU,
MAYOR

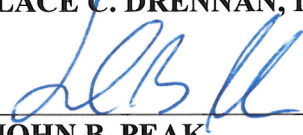
Executed on this 19th day of December, 2017.

FORM AND LEGALITY APPROVED:
Law Department

By: 

Printed Name: Treen A. King

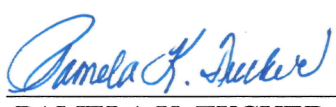
WALLACE C. DRENNAN, INCORPORATED

BY: 

JOHN B. PEAK,
VICE-PRESIDENT OF OPERATIONS

CORPORATE TAX I.D. 72-0521173

THE HANOVER INSURANCE COMPANY

BY: 

PAMELA K. TUCKER,
ATTORNEY-IN-FACT

[ORIGINAL BOND AND POWER OF ATTORNEY MUST BE ATTACHED TO CONTRACT]

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

POWERS OF ATTORNEY
CERTIFIED COPY

KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint

Stephen L. Cory, Pamela K. Tucker, Jill K. Tucker and/or Melanie Stern

of Metairie, LA and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows:

Any such obligations in the United States, not to exceed Forty Million and No/100 (\$40,000,000) in any single instance

and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:

"RESOLVED, That the President or any Vice President, in conjunction with any Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by two Vice Presidents, this 4th day of November 2011.



THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Robert Thomas, Vice President

Mary Fitzgerald, Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this 4th day of November 2011 before me came the above named Vice Presidents of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



BARBARA A. GARLICK
Notary Public
Commonwealth of Massachusetts
My Commission Expires Sept. 21, 2018

Barbara A. Garlick

Barbara A. Garlick, Notary Public
My Commission Expires September 21, 2018

I, the undersigned Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America.

"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or any Vice President in conjunction with any Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this

day of

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THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Glenn Margosian, Vice President