

K14-758

Bond No. 1029066

**CONTRACT
BETWEEN
THE CITY OF NEW ORLEANS
AND
WALLACE C. DRENNAN, INC.**

**CITY PROJECT NO.: DPW-2005-A02
BID PROPOSAL NO.: 500C-01658**

CHEROKEE STREET (HAMPSON STREET TO FRERET STREET)

Sept **THIS AGREEMENT** (the "Contract"), made and entered into this 26 day of Sept, 2014, by and between the **CITY OF NEW ORLEANS**, herein represented by **MITCHELL J. LANDRIEU, MAYOR** (hereinafter referred to as the "City"), **WALLACE C. DRENNAN, INC.**, herein represented by **WALLACE C. DRENNAN, III, PRESIDENT** (hereinafter referred to as the "Contractor"),

WHEREAS, the Contractor submitted a bid dated July 17, 2014 (the "Contractor's Bid"), in response to the City's Invitation to Bid for the Cherokee Street Improvements, DPW 2005-A02, Bid Proposal No.: 500C-01658, dated June 17, 2014, Addendum No. 1 dated July 14, 2014, and Addendum No. 2 dated July 14, 2014, (the "Invitation to Bid"), seeking a contractor to provide roadway improvements as provided in the Invitation to Bid (the "Project"); and

WHEREAS, the City tabulated responsive bids and, on July 30, 2014, identified the Contractor to receive the contract to perform the Project.

NOW THEREFORE, the City grants and confirms to the Contractor the Contract to perform the Project in strict accordance with the Invitation to Bid and the Contractor's Bid, and the City and the Contractor, for good and valuable consideration, agree as follows:

1. Obligations of the Contractor.

The Contractor will perform all obligations of the Contractor, 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: the Invitation to Bid; the Contractor's Bid; and all documents, drawings, and specifications incorporated or referenced in the Invitation to Bid and the Contractor's Bid, including without limitation the Special Specifications and Contract Documents, the City's General Specifications for Street Paving (1999 ed. (rev. 10/1/2001), the Contract Terms and Conditions, and the DBE Contract Provisions.

2. Obligations of the City

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.

3. Obligations of the Surety.

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 One Million One Hundred Ninety-Seven Thousand One Hundred Sixty-Five and 00/100 Dollars (\$1,197,165.00) and (2) the full payment by the Contractor of all payments to be made by the Contractor under this Contract in the full sum of One Million One Hundred Ninety-Seven Thousand One Hundred Sixty-Five and 00/100 Dollars (1,197,165.00). 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.

The Surety represents and warrants that it has fully read and understands the terms of the Contract between the City and the Contractor, including all incorporated documents.

The Surety's bonds shall remain in full force and effect, and shall survive the termination of this Contract, but shall become null and void if the Contractor: (a) well and faithfully performs all and each of the obligations assumed by the Contractor in this Contract; (b) 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; (c) 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; (d) fully secures and protects the City, its legal successor(s) and representatives, from all loss or expense of any kind, including premises, including all court costs 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 (e) 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 or additions to or omissions in the terms of this Contract, the plans or specifications, or in the manner and mode of payment.

4. Ownership Interest Disclosure. The Contractor will provide a sworn affidavit listing all natural or artificial persons with an ownership interest in the Contractor and stating that no other person holds an ownership interest in the Contractor via a counter letter. For the purposes hereof, an "ownership interest" shall not be deemed to include ownership of stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that holds an interest in a publicly traded corporation. If the Contractor fails to submit the required affidavits, the City may, after thirty (30) days' written notice to the Contractor take such action as may be necessary to cause the suspension of any further payments until such the required affidavits are submitted.

5. Subcontractor Reporting. The Contractor will provide a list of all natural or artificial persons retained by the Contractor at the time of the Contract's execution and who are expected to perform work as subcontractors in connection with the Contractor's performance of this Contract. For any subcontractor proposed to be retained by the Contractor, the Contractor must provide notice to the City within thirty (30) days of retaining that subcontractor. If the Contractor fails to submit the required lists and notices, the City may, after thirty (30) days' written notice to the Contractor, take

any action it deems necessary, including, without limitation, causing the suspension of any payments, until the required lists and notices are submitted.

6. Employee Verification. The Contractor swears that (i) it is in compliance with La. R.S. 38:2212.10, and is registered and participates in a status verification system to verify that all employees in the State of Louisiana are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of this Contract, to utilize a status verification system to verify the legal status of all new employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. The Contractor acknowledges and agrees that any violation of the provisions of this paragraph may subject this Contract to cancellation, and may further result in the Contractor being ineligible for any public contract for a period of three years from the date the violation is discovered. The Contractor further acknowledges and agrees that it shall be liable for any additional costs incurred by the City occasioned by the cancellation of this Contract or the loss of any license or permit to do business in the State of Louisiana resulting from a violation of La. R.S. 38:2212.10. The Contractor agrees to provide to the City a sworn affidavit attesting to the above provisions if requested by the City to do so; failure to provide such affidavit upon request shall give the City the option to cancel this Contract.

7. DBE Program Compliance. The Contractor will use its best efforts to fully and completely carry out the applicable requirements of the City's Disadvantaged Business Enterprise ("DBE") Program in the award and administration of this Agreement, including without limitation all reporting requirements and specific DBE participation goals. The Contractor's failure to carry out these requirements, as determined in good faith by the DBE Compliance Officer, shall be deemed a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as set forth in the City's Policy Memorandum for the DBE Program.

The Contractor agrees to provide written reports to the City's Director of Supplier Diversity on all expenditures made to achieve compliance with the DBE participation goals for this Agreement. The report shall, at a minimum, include the following:

- a. The name and business address of each DBE involved in the Contract;
- b. A description of the work performed and/or the product or service supplied by each DBE;
- c. The date and amount of each expenditure made to a DBE; and
- d. Such other information as may assist the DBE Compliance Officer in determining the Contractor's compliance with the DBE Program and the status of any DBE performing any portion of the contract.

The Contractor will grant DBE Compliance Officer reasonable access to its books and records for purposes of verifying compliance with the DBE Program.

If the City terminates this Agreement in connection with any misrepresentation of the Contractor's DBE status, the Contractor may be disqualified from contracting with or participating in any contracts with the City.

8. **Convicted Felon Statement.** The Contractor swears that it complies with City Code § 2-8(c). No Contractor principal, member, or officer has, within the preceding five 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.

9. **Non-Solicitation Statement.** The Contractor swears that it 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.

10. **Audit and Other Oversight.** The Contractor will abide by all provisions of City Code § 2-1120, including but not limited to City Code § 2-1120(12), which requires the Contractor to provide the Office of Inspector General with documents and information as requested. Failure to comply with such requests shall constitute a material breach of the Contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish Civil District Court for purposes of challenging a subpoena.

[SIGNATURES FOLLOW ON NEXT PAGE]

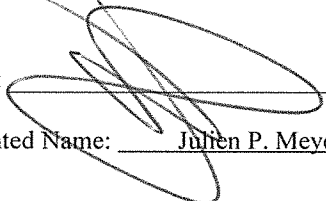
IN WITNESS WHEREOF the parties hereto have made and executed this Contract effective the day and year first written above:

CITY OF NEW ORLEANS

BY: 

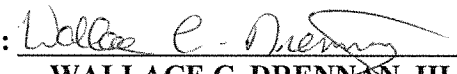
**MITCHELL J. LANDRIEU
MAYOR**

FORM AND LEGALITY APPROVED:
LAW DEPARTMENT

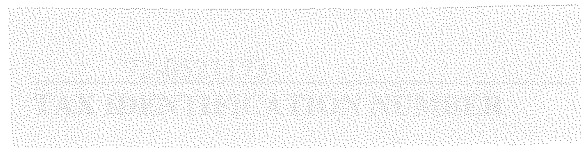
BY: 

Printed Name: Julien P. Meyer

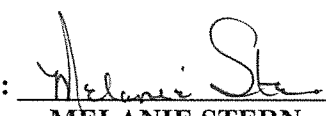
WALLACE C. DRENNAN, INC.

BY: 

**WALLACE C. DRENNAN, III,
PRESIDENT**



THE HANOVER INSURANCE COMPANY

BY: 

**MELANIE STERN,
ATTORNEY-IN-FACT**