

**DOCUMENT ROUTING FORM**

(2) ✓ 6/19/15 (L)

**NAME OF DOCUMENT:** ANNUAL ASPHALTIC CONCRETE PAVEMENT (P12111)  
**CONTRACTOR'S NAME:** HARDRIVES OF DELRAY, INC. dba HARDRIVES, INC.

Approved Comm. Mtg. on: **6/16/2015** CAM#: **15-0696** ITEM:  PUR-6

Item:  M-  PH-  O-  CR-  R-

Routing Origin: **PUBLIC WORKS DEPARTMENT/ENGINEERING**

ATTACHED:  Copy of CAR  ACM Form  2 originals

Capital Improvements defined as having a life of at least 10 years and a cost of at least \$50,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, inc. major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

**Funding Source:**

Amount Required by Contract/Agreement: \$1,659,535 Dept./Div: PW/ENG

Index/Sub-object: Multiple - See CAM 15-0696 Project #: P11945

Please Check the proper box: CIP FUNDED  YES  NO Signature J. M. [unclear] Date: 6/8/15

1.) Approved as to Content: by [Signature] Date: 6/9/15  
(Public Works Director)

2.) Approved as to Procurement: by [Signature] Date: 6/9/15  
(Deputy Finance Director or designee)

3.) Approved as to Funds Available: by [Signature] Date: 6/9/15  
(Finance Director or designee)

4.) City Attorney's Office: Approved as to Form: # 2 Originals to City Mgr. By:

Rhonda Hasan [Signature] Paul G. Bangel \_\_\_\_\_ Robert B. Dunckel \_\_\_\_\_  
Lynn Solomon \_\_\_\_\_ D'Wayne Spence \_\_\_\_\_ Cole J. Copertino \_\_\_\_\_  
DJ Williams-Persad \_\_\_\_\_

5.) Approved as to content: Assistant City Manager:

by: \_\_\_\_\_ by: \_\_\_\_\_  
Stanley Hawthorne, Assistant City Manager Susanne Torriente, Assistant City Manager

6.) City Manager: Please sign as indicated and forward : 2 originals to City Clerk

7.) To City Clerk for attestation and City seal. 2 originals to Clerk.

**INSTRUCTIONS TO CLERK'S OFFICE**

8.) **City Clerk:** Date first page with last date signed, and forward 2 original documents with routing form to **Maureen, x5239.**

6/19

**PUBLIC WORKS DEPARTMENT**  
**CONTRACT**

**ANNUAL ASPHALTIC CONCRETE PAVEMENT**  
**DESCRIPTION**

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**Hardrives of Delray, Inc. d/b/a Hardrives, Inc.**  
**CONTRACTOR**

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**\$1,659,535**  
**AMOUNT**

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**June 16, 2015**  
**COMMISSION APPROVAL DATE**

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CITY OF FORT LAUDERDALE  
CONSTRUCTION AGREEMENT

THIS AGREEMENT made and entered into this 16th day of June, 2015, by and between the City of Fort Lauderdale, a Florida municipal corporation (City) and Hardrives of Delray, Inc. d/b/a Hardrives, Inc., a Florida corporation (Contractor), (parties);

WHEREAS, the City desires to retain a contractor for the Project as expressed in its Invitation to Bid No., 253-11571, Project Number, 12111, which was opened on May 1, 2015; and,

WHEREAS, the Contractor has expressed its willingness and capability to perform the necessary work to accomplish the Project.

NOW, THEREFORE, the City and the Contractor, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency is hereby acknowledged, agree as follows:

**ARTICLE 1 – DEFINITIONS**

Whenever used in this Agreement or in other Contract Documents, the following terms have the meanings indicated which are applicable to both the singular and plural forms:

- 1.1 Agreement – This written agreement between the City and the Contractor covering the work to be performed including other Contract Documents that are attached to or incorporated in the Agreement.
- 1.2 Application for Payment – The form accepted by the City which is to be used by the Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents
- 1.3 Approve – The word approve is defined to mean review of the material, equipment or methods for general compliance with design concepts and with the design concepts and with the information given in the Contract Documents. It does not imply a responsibility on the part of the City to verify in every detail conformance with plans and specifications.
- 1.4 Bid – The offer or Bid of the Contractor submitted on the prescribed form setting forth the total prices for the Work to be performed.
- 1.5 Bid Documents – This Agreement, advertisement for Invitation to Bids, the Instructions to Bidders, the Bid Form (with supplemental affidavits and agreements), the Contract Forms, General Conditions, the Supplementary Conditions, the Specifications, and the Plans, which documents all become an integral part of the Contract Documents.
- 1.6 Certificate of Substantial Completion - Certificate provided by the City certifying that all Work, excluding the punch list items, has been completed, inspected, and accepted by the City.

- 1.15 Effective Date of the Agreement – The effective date of the agreement shall be the date the City Commission approves the work. The contractor shall provide all required payment and performance bonds and insurances to the City within ten (10) Calendar days following the City Commission approval. Upon verification of all bonds and insurances, the City will issue a notice to proceed (NTP) to the Contractor. Contract time will commence on the date when the Notice to Proceed is issued. The Contractor shall commence the work immediately upon receipt of the Notice to Proceed. Failure of the contractor to proceed with the work will constitute nonperformance of the Contractor and would be ground for termination of the contract per ARTICLE 17 of the agreement.
- 1.16 Final Completion Date – The date the Work is completed, including completion of the final punch list, and delivered along with those items specified in the Contract Documents and is accepted by the City.
- 1.17 Hazardous Materials (HAZMAT) - Any solid, liquid, or gaseous material that is toxic, flammable, radioactive, corrosive, chemically reactive, or unstable upon prolonged storage in quantities that could pose a threat to life, property, or the environment defined in Section 101(14) of Comprehensive Environmental Response, Compensation and Liability Act of 1980 and in 40 CFR 300.6. Also defined by 49 CFR 171.8 as a substance or material designated by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce and which has been so designated.
- 1.18 Hazardous Substance - As defined by Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act; any substance designated pursuant to Section 311(b) (2) (A) of the Clean Water Act; any element, compound, mixture, solution or substance designated pursuant to Section 102 identified under or listed pursuant to Section 3001 of the Solid Waste Disposal Act {but not including any waste listed under Section 307[a] of the Clean Water Act}; any hazardous air pollutant listed under Section 112 of the Clean Air Act; and any imminently hazardous chemical substance or mixture pursuant to Section 7 of the Toxic Substances Control Act. The term does not include petroleum, including crude oil or any fraction thereof, which is not otherwise specifically listed or designated as a hazardous substance in the first sentence of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- 1.19 Hazardous Waste - Those solid wastes designated by OSHA in accordance with 40 CFR 261 due to the properties of ignitability, corrosivity, reactivity, or toxicity. Any material that is subject to the Hazardous Waste Manifest requirements of the EPA specified in 40 CFR Part 262.
- 1.20 Holidays - Those designated non-work days as established by the City Commission of the City of Fort Lauderdale.
- 1.21 Inspection – The term “inspection” and the act of inspecting as used in this Agreement is defined to mean the examination of construction to ensure that it conforms to the design concept expressed in the plans and specifications. This term shall not be construed to mean supervision, superintending and/or overseeing.

## ARTICLE 2 – SCOPE OF WORK

- 2.1 The Contractor shall complete all work as specified or indicated in the Contract Documents. The Project for which the Work under the Contract Documents may be the whole or only part is generally described as follows:

### ANNUAL ASPHALTIC CONCRETE PAVEMENT ITB 253-11571 PROJECT 12111

- 2.2 All Work for the Project shall be constructed in accordance with the Drawings and Specifications. The Work generally involves:

### PROJECT DESCRIPTION

This project is located City-wide, in the City of Fort Lauderdale. This is a multi-year annual contract for an unspecified total volume of work. “The work expected to be accomplished under this contract in the first year includes, but is not limited to, installation of an estimated 150,000 square yards of Type S-3 asphaltic concrete, 5,000 square yards of FDOT Superpave 9.5 asphaltic concrete, thermoplastic pavement marking, milling and leveling of existing asphalt pavement, ADA concrete ramps, and other items quantified in the proposal pages of this contract..”

- 2.3 All required insurance, bonds and contract shall be executed within ten (10) days of the notice of award.
- 2.4 Within ten (10) days of the execution of this Agreement, the Contractor shall submit a Construction Schedule, Schedule of Values and a listing of those subcontractors that will be utilized by the Contractor. The general sequence of the work shall be submitted by the Contractor for review and approval by the City before any work commences. The City reserves the right to issue construction directives necessary to facilitate the Work or to minimize any conflict with operations.

## ARTICLE 3 – PROJECT MANAGER

- 3.1 The Project Manager is hereby designated by the City as Barbara R. Howell, whose address is 100 N. Andrews Avenue, 4<sup>th</sup> Floor, Fort Lauderdale, FL 33301. The Project Manager will assume all duties and responsibilities and will have the rights and authorities assigned to the Project Manager in the Contract Documents in connection with completion of the Work in accordance with this Agreement.

## ARTICLE 4 – CONTRACT DOCUMENTS

The Contract Documents which comprise the entire Agreement between the City and Contractor are attached to this Agreement, are made a part hereof and consist of the following:

- 4.1 This Agreement.
- 4.2 The Contract Documents may only be altered, amended, or repealed in accordance with the specific provisions of the terms of this Agreement.

- g. Invitation to Bid No., 253-11571, and the specifications prepared by the City.
- h. Contractor's response to the City's Invitation to Bid No., 253-11571, dated April, 30, 2015.
- i. Schedule of Values.
- j. Schedule of Completion.

If during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall so report to the Project Manager, in writing, at once and before proceeding with the Work affected shall obtain a written interpretation or clarification from the City.

It is the intent of the specifications and plans to describe a complete Project to be constructed in accordance with the Contract Documents. Any Work that may reasonably be inferred from the specifications or plans as being required to produce the intended result shall be supplied whether or not it is specifically called for. When words which have a well-known technical or trade meaning are used to describe Work, materials, or equipment, such works shall be interpreted in accordance with such meaning. Reference to standard specifications, manuals or codes of any technical society, organization or associations, or to the code of any governmental authority whether such reference be specific or implied, shall mean the latest standard specification, manual or code in effect as of the Effective Date of this Agreement, except as may be otherwise specifically stated. However, no provision of any referenced standard specification, manual or code (whether or not specifically incorporated by reference in the Contract Documents) shall change the duties and responsibilities of the City, the Contractor, or any of their agents or employees from those set forth in the Contract Documents.

#### **ARTICLE 5 – CONTRACT TIME**

- 5.1 The Contractor recognizes that **TIME IS OF THE ESSENCE**. The Work shall commence within 14 calendar days of the date of the Notice to Proceed, for each task order issued.
- 5.2 The Work shall be Substantially Completed within the Number of calendar days after the date when the task order time commences to run as provided in the Notice to Proceed for each task order issued.
- 5.3 The Work shall be finally completed on the Final Completion Date and ready for final payment in accordance with this Agreement within the Number of calendar days after the date when the final task order commences to run as provided in the Notice to Proceed, for all task orders.
- 5.4 The initial contract term shall commence upon date of the contract execution and shall expire one (1) year from that date. The City reserves the right to extend the contract for three (3) additional one (1) year terms, providing all terms conditions and specifications remain the same, both parties agree to the extension, and such extension is approved by the City.

- 7.5.1 Defective work not remedied.
- 7.5.2 Claims filed or reasonable evidence indicating probable filing of claims by other parties against Contractor or City because of Contractor's performance.
- 7.5.3 Failure of Contractor to make payments properly to Subcontractors or for material or labor.
- 7.5.4 Damage to another contractor not remedied.
- 7.5.5 Liquidated damages and costs incurred by Consultant for extended construction administration, if applicable.
- 7.5.6 Failure of Contractor to provide any and all documents required by the Contract Documents.

When the above grounds are removed or resolved satisfactory to the Project Manager, payment shall be made in whole or in part.

- 7.6 The City shall make payment to the Contractor in accordance with the Florida Prompt Payment Act, Section 218.70, Florida Statutes.
- 7.7 The City shall make payment to the Contractor through utilization of the City's P-Card Program.

#### **ARTICLE 8 – CONTRACTOR'S REPRESENTATIONS**

In order to induce the City to enter into this Agreement, Contractor makes the following representations upon which the City has relied:

- 8.1 Contractor is qualified in the field of public construction and in particular to perform the Work and services set forth in this Agreement.
- 8.2 Contractor has visited the Work Site, has conducted extensive tests, examinations and investigations and represents and warrants a thorough familiarization with the nature and extent of the Contract Documents, the Work, locality, soil conditions, moisture conditions and all year-round local weather and climate conditions (past and present), and, in reliance on such tests, examination and investigations conducted by Contractor and the Contractor's experts, has determined that no conditions exist that would in any manner affect the Proposed Price and that the project can be completed for the Proposed Price submitted within the Contract Time as defined in this Agreement.

Furthermore, Contractor warrants and confirms that he is totally familiar with, understands and obligates Contractor to comply with all federal, state and local laws, ordinances, rules, regulations and all market conditions that affect or may affect the cost and price of materials and labor needed to fulfill all provisions of this Agreement or that in any manner may affect cost, progress or performance of the Work.

- 8.3 The Contractor has satisfied itself as to the nature and location of the Work under the Contract Documents, the general and local conditions of the Project, particularly those bearing upon availability of transportation, disposal, handling and storage of materials, availability of labor, water, electric power, and roads, the conformation and conditions at the ground based on City provided reports, the type of equipment and facilities needed preliminary to and during the prosecution of the Work and all other matters

supervisory staff may result in notice to stop work or terminate the Contract in accordance with Article 17.

**8.9 Materials:**

8.9.1 The Contractor shall furnish all materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water and sanitary facilities and all other facilities and incidentals necessary for the execution, testing, initial operation and completion of Work.

8.9.2 All material and equipment shall be of good quality and new, except as otherwise provided in the Contract Documents. Suppliers shall be selected and paid by the Contractor; the City reserves the right to approve all suppliers and materials.

8.10 **Work Hours:** Except in connection with the safety or protection of persons, or the Work, or property at the site or adjacent thereto, and except as otherwise indicated in the Supplementary Conditions, all work at the site shall be performed during regular working hours between 7 a.m. and 6:00 p.m., Monday through Friday. The Contractor will not permit overtime work or the performance of work on Saturday, Sunday or any legal holiday (designated by the City of Fort Lauderdale) without the Project Manager's written consent at least seventy two (72) hours in advance of starting such work. If the Project Manager permits overtime work, the Contractor shall pay for the additional charges to the City with respect to such overtime work. Such additional charges shall be a subsidiary obligation of the Contractor and no extra payment shall be made to the Contractor for overtime work. The cost to the Contractor to reimburse the City for overtime inspection is established at direct-labor and overtime costs for each person or inspector required. Incidental overtime costs for engineering, testing and other related services will also be charged to the Contractor at the actual rate accrued.

8.11 **Patent Fee and Royalties:** The Contractor shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work, or any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. The Contractor hereby expressly binds himself or itself to indemnify and save harmless the City from all such claims and fees and from any and all suits and action of every name and description that may be brought against City on account of any such claims, fees, royalties, or costs for any such invention or patent, and from any and all suits or actions that may be brought against said City for the infringement of any and all patents or patent rights claimed by any person, firm corporation or other entity.

8.12 **Permits:** The Contractor shall obtain and pay for all permits and licenses. There shall be no allowance for Contractor markup, overhead or profit for permits and licenses. The Contractor shall pay all government charges which are applicable at the time of opening of proposals. It shall be the responsibility of the Contractor to secure and pay for all necessary licenses and permits of a temporary nature necessary for the prosecution of Work.

8.13 **Law and Regulations:** The Contractor shall give all notices and comply with all laws, ordinances, rules and regulations applicable to the Work. If the Contractor observes that the specifications or plans are at variance therewith, the Contractor shall give the



8.16 Project Coordination: The Contractor shall provide for the complete coordination of the construction effort. This shall include, but not necessarily be limited to, coordination of the following:

8.10.1 Flow of material and equipment from suppliers.

8.10.2 The interrelated work with affected utility companies.

8.10.3 The interrelated work with the City where tie-ins to existing facilities are required.

8.10.4 The effort of independent testing agencies.

8.10.5 Notice to affected property owners as may be directed by the Project Manager.

8.17 Project Record Documents and Final As-Builts (Record Drawings): Contractor shall be responsible for maintaining up-to-date redline as-built drawings, on site, at all times during construction. All as-built information shall be surveyed and verified by a professional land surveyor registered in the State of Florida. Contractor shall provide the City with a minimum of three (3) sets of signed and sealed record drawings (Final As-Builts) and a CD of the electronic drawings files created in AutoCad 2014 or later. All costs associated with survey work required for construction layout and as-built preparation shall be the responsibility of the Contractor.

8.18 Safety and Protection:

8.18.1 The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. The Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

8.18.1.1 All employees working on the project and other persons who may be affected thereby.

8.18.1.2 All the Work and all materials or equipment to be incorporated therein, whether in storage on or off the site.

8.18.1.3 Other property at the site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

8.18.2 The Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public body having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss; and shall erect and maintain all necessary safeguards for such safety and protection. The Contractor shall notify owners of adjacent property and utilities when execution of the Work may affect them at least seventy-two (72) hours in advance (unless otherwise required). All damage, injury or loss to any property caused, directly or indirectly, in whole or in part by the Contractor, any subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, shall be remedied by the Contractor. The Contractor's duties and responsibilities for safety and protection of the Work shall continue until such time as all the Work is completed and accepted by the City.

or its employees, agents or subcontractors, in connection with the use, handling, storage, release, threatened release, discharge, treatment, mitigation, natural resource restoration, removal, transport, decontamination, cleanup, disposal and/or presence or any Hazardous Substance including asbestos located, transported, or present on, undue, from, to, or about the Premises. This indemnity is intended to be operable under 42 U.S.C. sections 9607, as amended, and any successor section.

The scope of the indemnity obligations includes, but is not limited to: (a) all consequential damages; (b) the cost of any required or necessary repair, cleanup, or detoxification of the applicable real estate and the preparation and implementation of any closure, remedial or other required plan, including without limitation; (i) the costs of removal or remedial action incurred by the United States government or the State of Florida or response costs incurred by any other person, or damages from injury to destruction of, or loss of, natural resources, including the cost of assessing such injury, destruction, or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, as amended; (ii) the clean-up costs, fines, damages, or penalties incurred pursuant to any applicable provisions of Florida law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs, or penalties which arise from the provisions of any other statute, law, regulation, code ordinance, or legal requirement state or federal; and (c) liability for personal injury or property damage arising under any statutory or common law tort theory, including damages assessed for the maintenance of a public private nuisance, response costs, or for the carrying on of an abnormally dangerous activity.

**8.22 No Extended Damages:** For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any other reason or allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the City, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This provision will have application and effect when construction delays are anticipated and agreed upon by both the City and the Contractor.

**8.23 No Liens:** If any Subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements or claim against any monies due or to become due from the City to Contractor or from Contractor to a Subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any Change Order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within twenty (20) days of the filing or from receipt of written notice from the City.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before

its assertion that a Force Majeure delay has commenced within 96 hours after such an occurrence. The CONTRACTOR shall use its reasonable efforts to minimize such delays. The CONTRACTOR shall promptly provide an estimate of the anticipated additional time required to complete the Project.

- 8.26 Participation by Disadvantaged Business Enterprises In Department of Transportation Financial Assisted Contracts: The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*).

Additionally, the contractor assures that they, the sub recipient or the subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate. (This additional language must be included in each subcontract the prime contractor signs with a subcontractor.)

## **ARTICLE 9 – CITY’S RESPONSIBILITIES**

- 9.1 The City shall furnish the data required of the City under the Contract Documents promptly and shall make payments to the Contractor promptly after they are due as provided in Article 7.
- 9.2 The City’s duties in respect of providing lands and easements and providing engineering surveys to establish reference points are set forth in the Contract Documents.
- 9.3 Technical Clarifications and Interpretations:
- 9.3.1 The City shall issue, with reasonable promptness, such written clarifications or interpretations of the Contract Documents as it may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents. Should the Contractor fail to request interpretation of questionable items in the Contract Documents, the City shall not entertain any excuse for failure to execute the Work in a satisfactory manner.
- 9.3.2 The City shall interpret and decide matters concerning performance under the requirements of the Contract Documents, and shall make decisions on all claims, disputes or other matters in question. Written notice of each claim,

Paragraph 10.1, the Contractor shall within five (5) days thereafter substitute another Bond and Surety, both of which shall be acceptable to the City.

### 10.3 Insurance

10.3.1 Contractor shall provide and shall require all of its sub-contractors to provide, pay for, and maintain in force at all times during the term of the Agreement, such insurance, including Property Insurance (Builder's Risk), Commercial General Liability Insurance, Business Automobile Liability Insurance, Workers' Compensation Insurance, Employer's Liability Insurance, and Umbrella/Excess Liability, as stated below, as well as Professional Liability insurance in the amount of \$1,000,000 for any Architectural and or Engineering requirements associated with the fulfillment of the contract, if required. Such policy or policies shall be issued by companies authorized to do business in the State of Florida and having agents upon whom service of process may be made in the State of Florida. **A Sample Insurance Certificate shall be included with the proposal to demonstrate the firm's ability to comply with insurance requirements. Provide a previous certificate or other evidence listing the insurance companies' names for all required coverage, and the dollar amounts of the coverage.**

- A. The City is required to be named as additional insured on the Commercial General Liability insurance policy. **BINDERS ARE UNACCEPTABLE.** The insurance coverage required shall include those classifications, as listed in standard liability insurance manuals, which most nearly reflect the operations of the Contractor. Any exclusions or provisions in the insurance maintained by the Contractor that precludes coverage for the work contemplated in this Agreement shall be deemed unacceptable, and shall be considered a breach of contract.
- B. The Contractor shall provide the City an original Certificate of Insurance for policies required by Article 10. All certificates shall state that the City shall be given ten (10) days' notice prior to expiration or cancellation of the policy. The insurance provided shall be endorsed or amended to comply with this notice requirement. In the event that the insurer is unable to accommodate, it shall be the responsibility of the Contractor to provide the proper notice. Such notification will be in writing by registered mail, return receipt requested and addressed to the Finance Department. Such policies shall: (1) name the insurance company or companies affording coverage acceptable to the City, (2) state the effective and expiration dates of the policies, (3) include special endorsements where necessary. Such policies provided under Article 10 shall not be affected by any other policy of insurance, which the City may carry in its own name.
- C. Contractor shall as a condition precedent of this Agreement, furnish to the City of Fort Lauderdale, c/o Project Manager, 100 N. Andrews Avenue, Fort Lauderdale, FL 33301, Certificate(s) of Insurance upon execution of this Agreement, which indicate that insurance coverage has been obtained which meets the requirements as outlined below:

10.3.7 All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The Contractor's insurance must be provided by an A.M. Best's "A-" rated or better insurance company authorized to issue insurance policies in the State of Florida, subject to approval by the City's Risk Manager. Any exclusions or provisions in the insurance maintained by the Contractor that precludes coverage for work contemplated in this project shall be deemed unacceptable, and shall be considered breach of contract.

NOTE: CITY PROJECT NUMBER MUST APPEAR ON EACH CERTIFICATE.

**A Sample Insurance Certificate shall be included with the proposal to demonstrate the firm's ability to comply with insurance requirements.**

**Provide a previous certificate or other evidence listing the insurance companies' names for all required coverage, and the dollar amounts of the coverage.**

Compliance with the foregoing requirements shall not relieve the Contractor of their liability and obligation under this section or under any other section of this Agreement.

The Contractor shall be responsible for assuring that the insurance certificates required in conjunction with this Section remain in force for the duration of the Project. If insurance certificates are scheduled to expire during the contractual period, the Contractor shall be responsible for submitting new or renewed insurance certificates to the City at a minimum of thirty (30) calendar days in advance of such expiration. In the event that expired certificates are not replaced with new or renewed certificates that cover the contractual period, the City shall:

- A. Suspend the Agreement until such time as the new or renewed certificates are received by the City.
- B. The City may, at its sole discretion, terminate the Agreement for cause and seek damages from the Contractor in conjunction with the violation of the terms and conditions of the Agreement.

#### **ARTICLE 11- WARRANTY AND GUARANTEE, TESTS AND INSPECTIONS, CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK**

11.1 **Warranty:** The Contractor warrants and guarantees to the City that all Work will be in accordance with the Contract Documents and will not be defective. Prompt notice of all defects shall be given to the Contractor. All defective work, whether or not in place, may be rejected, corrected or accepted as provided in this Article.

11.1.1 **Warranty of Title:** The Contractor warrants to the City that it possesses good, clear and marketable title to all equipment and materials provided and that there

uncover, expose or otherwise make available for observation, inspection or testing as the Project Manager may require, that portion of the Work in question, furnishing all necessary labor, material and equipment. If it is found that such Work is defective, the Contractor shall bear all the expenses of such uncovering, exposure, observation, inspection and testing and of satisfactory reconstruction, including compensation for additional professional services, and an appropriate deductive Change Order shall be issued. If, however, such work is not found to be defective, the Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to such uncovering, exposure, observation, inspection testing and reconstruction if he makes a claim therefore as provided in Articles 14 and 15.

- 11.4 **City May Stop the Work:** If the Work is defective, or the Contractor fails to supply sufficient skilled supervisory personnel or workmen or suitable materials or equipment or the work area is deemed unsafe, the City may order the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of the City to stop the Work shall not give rise to any duty on the part of the City to exercise this right for the benefit of the Contractor or any other party.

The City will not award any increase in Contract Price or Contract Time if the Work is stopped due to the circumstances described herein.

- 11.5 **Correction or Removal of Defective Work Before Final Payment:** If required by the Project Manager, the Contractor shall promptly, without cost to the City and as Specified by the Project Manager, either correct any defective Work, whether or not fabricated, installed or completed, or if the Work has been rejected by the City remove it from the site and replace it with non-defective Work.

- 11.6 **One Year Correction Period After Final Payment:** If within one (1) year after the date of final acceptance of each task order, or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any work is found to be defective, the Contractor shall promptly, without cost to the City and in accordance with the City's written instructions, either correct such defective Work, or, if it has been rejected by the City, remove it from the site and replace it with non-defective Work.

If The Contractor does not promptly comply with the terms of such instructions or in an emergency where delay would cause serious risk of loss or damage, the City may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs for such removal and replacement, including compensation for additional professional services, shall be paid by the Contractor.

- 11.7 **Acceptance of Defective Work, Deductions:** If, instead of requiring correction or removal and replacement of defective Work, the City, at the city's sole option, prefers to accept it, the City may do so. In such a case, if acceptance occurs prior to the Project Manager's recommendation of final payments, a Change Order shall be issued incorporating the necessary revisions in the Contracts Documents, including appropriate reduction in the Contract Price; or if the acceptance occurs after such recommendation, an appropriate amount shall be paid by the Contractor to the City.

contractors or employees; (j) the breach or alleged breach by Contractor of any term of the Agreement, including the breach or alleged breach of any warranty or guarantee.

- 12.2.2 Contractor agrees to indemnify, defend, save and hold harmless the City, its officers, agents and employees, from all damages, liabilities, losses, claims, fines and fees, and from any and all suits and actions of every name and description that may be brought against City, its officers, agents and employees, on account of any claims, fees, royalties, or costs for any invention or patent and/or for the infringement of any and all copyrights or patent rights claimed by any person, firm, or corporation.
- 12.2.3 Contractor shall pay all claims, losses, liens, settlements or judgments of any nature in connection with the foregoing indemnifications including, but not limited to, reasonable attorney's fees and costs for trials and appeals.
- 12.2.4 If any Subcontractor, supplier, laborer, or materialmen of Contractor or any other person directly or indirectly acting for or through Contractor files or attempts to file a mechanic's or construction lien against the real property on which the work is performed or any part or against any personal property or improvements thereon or make a claim against any monies due or to become due from the City to Contractor or from Contractor to a Subcontractor, for or on account of any work, labor, services, material, equipment, or other items furnished in connection with the Work or any change order, Contractor agrees to satisfy, remove, or discharge such lien or claim at its own expense by bond, payment, or otherwise within five (5) days of the filing or from receipt of written notice from the City.

Additionally, until such time as such lien or claim is satisfied, removed or discharged by Contractor, all monies due to Contractor, or that become due to Contractor before the lien or claim is satisfied, removed or otherwise discharged, shall be held by City as security for the satisfaction, removal and discharge of such lien and any expense that may be incurred while obtaining the discharge. If Contractor shall fail to do so, City shall have the right, in addition to all other rights and remedies provided by this Agreement or by law, to satisfy, remove, or discharge such lien or claim by whatever means City chooses at the entire and sole cost and expense of Contractor which costs and expenses shall, without limitation, include attorney's fees, litigation costs, fees and expenses and all court costs and assessments, and which shall be deducted from any amount owing to Contractor. In the event the amount due Contractor is less than the amount required to satisfy Contractor's obligation under this, or any other article, paragraph or section of this Agreement, the Contractor shall be liable for the deficiency due the City.

- 12.2.5 The Contractor and the City agree that Section 725.06(2), Florida Statutes controls the extent and limits of the indemnification and hold harmless provisions of this Agreement, if any, and that the parties waive any defects in the wording of this Article that runs afoul of said statutory section.

facilities at the site and hand tools not owned by the workers, which are consumed in the performance of the Work.

- 14.1.3.2 Rentals of all construction equipment and machinery and the parts whether rented from the Contractor or others in accordance with rental agreements approved by the City, and the costs of transporting, loading, unloading, installation, dismantling and removal. The rental of any such equipment, machinery or parts shall cease when the use is no longer necessary for the Work.
- 14.1.3.3 Sales, consumer, use or similar taxes related to the Work and for which the Contractor is liable, imposed by laws and regulations.
- 14.1.3.4 Royalty payments and fees for permits and licenses.
- 14.1.3.5 The cost of utilities, fuel and sanitary facilities at the Work site.
- 14.1.3.6 Minor expenses such as telegrams, long distance telephone calls, telephone service at the site, expressage and similar petty cash items in connection with the Work.
- 14.1.3.7 Cost of premiums for additional bonds and insurance required because of changes in the Work.

14.2 The Contract Price may only be increased by a Change Order when Work is modified in accordance with Article 13 and approved by the CITY in writing. Any claim for an increase in the Contract Price resulting from a Change Order shall be based on written notice delivered to the Project Manager within ten (10) days of the occurrence of the Change Order giving rise to the claim. Notice of the amount of the claim with supporting data shall be included in the Change Order and delivered within twenty (20) days of such occurrence unless Project Manager allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in the Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

14.3 Not Included in the Cost of the Work: The term "cost of the Work" shall not include any of the following:

14.3.1 Payroll costs and other compensation of the Contractor's officers executives, principals (of partnership and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditor, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by the Contractor whether at the site or in the Contractor's principal or branch office for general administration of the work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 14.1.1, all of which are to be considered administrative costs covered by the Contractor's fee.



14.5.2 Whenever a change involves the Contractor and one (1) or more subcontractors and the change is an increase in the agreed compensation, the overhead and profit percentage for the Contractor and each subcontractor shall be itemized separately.

14.6 Time for the City to Approve Extra Work: Any Extra Work in an amount up to and not exceeding a cumulative amount of \$25,000 for a specific project can be approved by the City Manager and shall require a written Change Order proposal to be submitted to the Public Works Director for submittal and approval by the City Manager. Extra Work exceeding the cumulative amount of \$25,000 for a specific project must be approved by the City Commission and a written Change Order proposal must be submitted to the Public Works Director for submittal and approval by the City Manager and City Commission. No financial or time claim for delay to the project resulting from the Change Order approval process outlined above under Section 14.6 will be allowed.

### ARTICLE 15 – CHANGE OF THE CONTRACT TIME

15.1 The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to the Project Manager within five (5) days of the occurrence of the event giving rise to the claim. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.

15.2 The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the Contractor if a claim is made there for as provided in Paragraph 15.1. Such delays shall include but not be limited to, acts or neglect by the City, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God.

15.3 All time limits stated in the Contract Documents are of the essence. The provisions of this Article 15 shall not exclude recovery for damages for delay by the Contractor.

15.4 Delays caused by or resulting from entities, contractors or subcontractors who are not affiliated with the CONTRACTOR (non-affiliated Contractors) shall not give rise to a claim by the CONTRACTOR for damages for increases in material and/or labor costs. Such entities, contractors and subcontractors include, but are not limited to, the City's contractors and subcontractors, Florida Power and Light Company, AT&T and Florida East Coast Railway, LLC.

15.5 Rights of Various Interests: Whenever work being done by City's forces or by other contractors is contiguous to or within the limits of work covered by this Contract, the respective rights of the various interests involved shall be established by the Project Manager to secure the completion of the various portions of the work in general harmony.

### ARTICLE 16 – LIQUIDATED DAMAGES

16.1 Upon failure of the Contractor to complete the Work within the time specified for completion of each task order, the Contractor shall pay to the City the sum of **Five Hundred Dollars (\$500.00)** for each and every calendar day that the completion of the Work is delayed beyond the time specified in this Agreement for completion, as

17.2 City's Right to Terminate Contract: The City may terminate this Agreement upon fifteen (15) calendar days' written notice upon the occurrence of any one or more of the following events:

17.2.1 If the Contractor commences a voluntary case or a petition is filed against the Contractor, under any chapter of the Bankruptcy Code, or if the Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency.

17.2.2 If the Contractor makes a general assignment for the benefit of creditors.

17.2.3 If a trustee, receiver, custodian or agent of the Contractor is appointed under applicable law or under Contract, whose appointment or authority to take charge of property of the Contractor is for the purpose of enforcing a lien against such property or for the purpose of general administration of such property for the benefit of the Contractor's creditors.

17.2.4 If Contractor fails to begin the Work within fifteen (15) calendar days after the Project Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to ensure the prompt completion of the Work, or shall perform the Work unsuitably, or cause it to be rejected as defective and unsuitable, or shall discontinue the prosecution of the Work pursuant to the accepted schedule or if Contractor shall fail to perform any material term set forth in the Contract Documents, or from any other cause whatsoever shall not carry on the Work in an acceptable manner, Project Manager may give notice in writing to Contractor and its Surety of such delay , neglect or default, specifying the same.

17.2.5 If the Contractor repeatedly fails to make prompt payments to subcontractors or for labor, material or equipment.

17.2.6 If the Contractor repeatedly disregards proper safety procedures.

17.2.7 If the Contractor disregards any local, state or federal laws or regulations.

17.2.8 If the Contractor otherwise violates any provisions of this Agreement.

17.3 If Contractor, within a period of ten (10) calendar days after such notice, shall not proceed in accordance therewith, the City may exclude the Contractor from the Work site and take the prosecution of the Work out of the hands of the Contractor, and take possession of the Work and all of the Contractor's tools, appliances, construction equipment and machinery at the site and use them without liability to the City for trespass or conversion, incorporate in the Work all materials and equipment stored at the site or for which the City has paid the Contractor but which are stored elsewhere, and finish the Work as the City may deem expedient. In this instance, the Contractor shall not be entitled to receive any further compensation until the Work is finished.

17.3.1 If after notice of termination of Contractor's right to proceed, it is determined for any reason that Contractor was not in default, the rights and obligations of City and Contractor shall be the same as if the notice of termination had been

remaining payments or claim shall not be extended or amortized over a longer period than the time remaining under the Note.

17.4.2 Should this Agreement be entered into and fully executed by the parties, and the funds have not been forwarded to Contractor, the following shall occur:

17.4.2.1 In the event the Contractor files a voluntary petition pursuant to 11 U.S.C. 301 or 302, or an order for relief is entered under 11 U.S.C. 303., the Contractor acknowledges that the commencement of a bankruptcy proceeding constitutes an event of default under the terms of this Agreement. Further, the Contractor acknowledges that this Agreement constitutes an executory contract within the meaning of 11 U.S.C. 365. The Contractor acknowledges that this Agreement is not capable of being assumed pursuant to 11 U.S.C. 365(c)(2), unless the City expressly consents in writing to the assumption. In the event the City consents to the assumption, the Contractor agrees to file a motion to assume this Agreement within ten (10) days after receipt of written consent from the City, regardless of whether the bankruptcy proceeding is pending under Chapter 7, 11, or 13 of Title 11 of the United States Code. The Contractor further acknowledges that this Agreement is not capable of being assigned pursuant to 11 U.S.C. 365(b)(1).

17.5 Termination for Convenience: This Contract may be terminated for convenience in writing by City upon thirty (30) days written notice to Contractor (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, Contractor shall be paid for all work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by Contractor relating to commitments which had become firm prior to the termination. Payment shall include reasonable profit for work/services satisfactorily performed. No payment shall be made for profit for work/services which have not been performed.

17.6 Where the Contractor's service have been so terminated by the City, the termination shall not affect any rights of the City against the Contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the Contractor by the City will not release the Contractor from liability.

17.7 The Contractor has no right, authority or ability to terminate the Work except for the wrongful withholding of any payments due the Contractor from the City.

## ARTICLE 18 – DISPUTE RESOLUTION

18.1 Resolution of Disputes: Questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Agreement as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents which cannot be resolved by mutual agreement of Contract Administrator and Contractor shall be submitted to the Consultant for resolution. When either party has determined that a disputed question, claim, difficulty

To the City:

City Manager  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301

with copy to the:

Project Manager and City Attorney  
City of Fort Lauderdale  
100 North Andrews Avenue  
Fort Lauderdale, Florida 33301

To the Contractor:

**Hardrives of Delray, Inc. d/b/a Hardrives. Inc.**  
**2101 S. Congress Avenue**  
**Delray Beach, FL 33445**

## **ARTICLE 20 – LIMITATION OF LIABILITY**

- 20.1 The City desires to enter into this Agreement only if in so doing the City can place a limit on the City's liability for any cause of action arising out of this Agreement, so that the City's liability for any breach never exceeds the sum of \$1,000. For other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Contractor expresses its willingness to enter into this Agreement with the knowledge that the Contractor's recovery from the City to any action or claim arising from the Agreement is limited to a maximum amount of \$1,000, which amount shall be reduced by the amount actually paid by the City to the Contractor pursuant to this Agreement, for any action or claim arising out of this Agreement. Nothing contained in this paragraph or elsewhere in this Agreement is in any way intended either to be a waiver of the limitation placed upon the City's liability as set forth in Section 768.28, Florida Statutes, or to extend the City's liability beyond the limits established in said Section 768.28; and no claim or award against the City shall include attorney's fees, investigative costs, expert fees, suit costs or pre-judgment interest.
- 20.2 **No Extended Damages:** For other and additional good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Contractor covenants and agrees that in the event of any delay of construction or for any reason, allegation or claim, and notwithstanding the reason of the delay, reason, claim or allegation or who caused them or the construction delay or whether they were caused by the City, that there will be no entitlement to Contractor to or for any direct or indirect financial damages or losses for extended corporate overhead impact, extended project overhead impacts, project support services, mobilization or demobilization or by whatever other label or legal concept or theory and types of names or labels or basis such claims may have, or any business damages or losses of whatever type or nature, and Contractor hereby waives any right to make any such claim or claims. This

**Hardrives, Inc.**

Bid Contact **Edward Williams**  
**ed@hardrivespaving.com**  
**Ph 561-278-0456**

Address **2101 S. Congress Ave.**  
**Delray Beach, FL 33445**

Item #	Line Item	Notes	Unit Price	Qty/Unit	Attch.	Docs
253-11571-01-01	BASE BID: Mobilization - (Used for task orders less than 3000 SY)	Supplier Product Code:	First Offer - \$1,500.00	4 / project	\$6,000.00	Y
253-11571-01-02	BASE BID: Paving - Quantities greater than 3000 SY	Supplier Product Code:	First Offer - \$5.35	163000 / square yard	\$872,050.00	Y
253-11571-01-03	BASE BID: Paving - Quantities less than 3000 SY	Supplier Product Code:	First Offer - \$6.30	5000 / square yard	\$31,500.00	Y
253-11571-01-04	BASE BID: Paving - S-3	Supplier Product Code: Supplier Notes: TONS	First Offer - \$105.00	600 / ton	\$63,000.00	Y
253-11571-01-05	BASE BID: Paving - SP 9.5	Supplier Product Code:	First Offer - \$5.50	5000 / square yard	\$27,500.00	Y
253-11571-01-06	BASE BID: Tack Coat	Supplier Product Code:	First Offer - \$6.75	9000 / gallon	\$60,750.00	Y
253-11571-01-07	BASE BID: Prime Coat	Supplier Product Code:	First Offer - \$6.75	200 / gallon	\$1,350.00	Y
253-11571-01-08	BASE BID: Milling - 1 inch	Supplier Product Code:	First Offer - \$1.15	165000 / square yard	\$189,750.00	Y
253-11571-01-09	BASE BID: Milling - 2 inch	Supplier Product Code:	First Offer - \$4.70	1500 / square yard	\$7,050.00	Y
253-11571-01-10	BASE BID: Double yellow thermoplastic	Supplier Product Code:	First Offer - \$2.00	8000 / linear foot	\$16,000.00	Y
253-11571-01-11	BASE BID: Single yellow thermoplastic	Supplier Product Code:	First Offer - \$1.10	2500 / linear foot	\$2,750.00	Y
253-11571-01-12	BASE BID: Single white thermoplastic	Supplier Product Code:	First Offer - \$1.10	600 / linear foot	\$660.00	Y
253-11571-01-13	BASE BID: Single yellow	Supplier Product	First Offer - \$1.35	500 / linear foot	\$675.00	Y

Drop Curbs		Product Code:				
253-11571-01-29	BASE BID: Curbs Type A	Supplier Product Code:	First Offer - \$36.00	200 / linear foot	\$7,200.00	Y
253-11571-01-30	BASE BID: Valley Gutter	Supplier Product Code:	First Offer - \$38.00	200 / linear foot	\$7,600.00	Y
253-11571-01-31	BASE BID: Curbs Type F	Supplier Product Code:	First Offer - \$38.00	200 / linear foot	\$7,600.00	Y
253-11571-01-32	BASE BID: Green cycle lane coating	Supplier Product Code:	First Offer - \$21.00	500 / square yard	\$10,500.00	Y
253-11571-01-33	BASE BID: Limerock Base	Supplier Product Code:	First Offer - \$22.00	2100 / square yard	\$46,200.00	Y
253-11571-01-34	BASE BID: Clearing and grubbing	Supplier Product Code:	First Offer - \$0.75	5000 / square foot	\$3,750.00	Y Y

<b>Bid Allowance</b>			<b>\$10,000.00</b>			
					<b>Net Total \$1,649,535.00</b>	
					<b>Supplier Total \$1,659,535.00</b>	

- 22.5 The remedies expressly provided in this Agreement to the City shall not be deemed to be exclusive but shall be cumulative and in addition to all other remedies in favor of the City now or later existing at law or in equity.
- 22.6 Should any part, term or provisions of this Agreement be decided by the courts to be invalid, illegal or in conflict with any state or federal law, the validity of the remaining portion or provision shall not be affected.
- 22.7 Public Entity Crimes: In accordance with the Public Crimes Act, Section 287.133, Florida Statutes, a person or affiliate who is a contractor, consultant or other provider, who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to the City, may not submit a bid on a contract with the City for the construction or repair of a public building or public work, may not submit bids on leases of real property to the City, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with the City, and may not transact any business with the City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of thirty-six (36) months from the date of being placed on the convicted vendor list. Violation of this section by Contractor shall result in cancellation of the City purchase and may result in Contractor debarment.

**THIS SPACE INTENTIONALLY LEFT BLANK**

Annual Asphaltic Concrete Pavement  
Hardrives of Delray, Inc. d/b/a Hardrives, Inc.  
Project 12111

CITY

IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

CITY OF FORT LAUDERDALE, a municipal  
corporation of the State of Florida

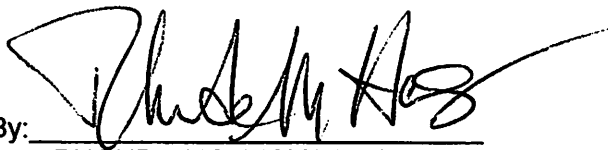
By:   
LEE R. FELDMAN, City Manager

(CORPORATE SEAL)

ATTEST:

By:   
JONDA K. JOSEPH, City Clerk

Approved as to Legal Form:

By:   
RHONDA MONTOYA HASAN  
Assistant City Attorney



**CONTRACTOR**

WITNESSES:

HARDRIVES OF DELRAY, INC. d/b/a HARDRIVES, INC., a Florida corporation.

Debra M. Chatman

By W. Allen Poston

Debra M. Chatman  
Print Name

W. ALLEN POSTON      VICE PRESIDENT  
PRINT NAME                      Title

Cindy Lund

ATTEST:

Cindy Lund  
Print Name

BY: Craig K. Elmore

Craig K. Elmore                      \_\_\_\_\_  
PRINT NAME                      Secretary

(CORPORATE SEAL)

STATE OF FLORIDA:  
COUNTY OF BROWARD:

The foregoing instrument was acknowledged before me this 29 day of May, 2015, by W. ALLEN POSTON, VICE PRESIDENT of HARDRIVES OF DELRAY, INC. d/b/a HARDRIVES, INC., a Florida corporation, on behalf of the corporation.

SEAL



Kristyn Van Pelt  
Notary Public, State of Florida

Kristyn Van Pelt  
Name of Notary Typed, Printed or Stamped

Personally Known or  Produced Identification:

Type of Identification Produced: \_\_\_\_\_

**This is the *front page* of the performance/payment bond issued in compliance with  
Florida Statute Chapter 255.05**

Surety Name: Fidelity and Deposit Company of Maryland  
1400 American Lane  
Schaumburg, IL 60196  
847-605-6000

Bond Number: 09147226

Contractor Name: Hardrives of Delray, Inc. dba Hardrives, Inc.  
2101 S. Congress Avenue  
Delray Beach, FL 33445  
561-278-0456

Owner Name: City of Fort Lauderdale  
100 N. Andrews Avenue  
Fort Lauderdale, Florida 33301  
954-828-5772

Project Number: 12111

Project Description: Annual Asphaltic Concrete Pavement

Project Address: City of Fort Lauderdale, City-wide

Legal Description of Property: Annual Asphaltic Concrete Pavement

**This is the *front page* of the bond. All other pages are subsequent regardless of the  
pre-printed numbers.**

(5)

**SURETY BOND**  
**IN COMPLIANCE WITH AND INCORPORATING THE PROVISIONS OF SECTION 255.05, FLORIDA STATUTES**

THIS IS A SURETY BOND given by Hardrives of Delray, Inc. d/b/a Hardrives, Inc. the "Contractor" as principal, referred to in this Bond as "Contractor" and Fidelity and Deposit Company of Maryland \*\*\*\*\* as "Surety," and they represent by this instrument that they are bound to the CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida ("City"), in the sum of \$1,659,535 One Million, Six Hundred and Fifty-Nine Thousand, Five Hundred and Thirty-Five Dollars

for the payment of which, to be made to the City of Fort Lauderdale, Florida, they jointly and severally, bind themselves and each of their heirs, executors, administrators, successors and assigns.

**Owner Name:** CITY OF FORT LAUDERDALE  
a municipal corporation of the State of Florida

**Owner Address and Telephone:** City Hall, Public Works Department  
100 N. Andrews Avenue  
Fort Lauderdale, Florida 33301  
(954) 828-5772

**Bond No.:** 09147226

**Contractor Name, Address, Telephone:** Hardrives of Delray, Inc. d/b/a Hardrives, Inc.  
2101 S. Congress Avenue  
Delray Beach, FL 33445  
(561) 278-0456

**Surety Company, Address, Telephone** Fidelity and Deposit Company of Maryland  
1400 American Lane  
Schaumburg, IL 60196  
847-605-6000

**City Project No.:** 12111

**Name of Project:** Annual Asphaltic Concrete Pavement

**Project Location:** City of Fort Lauderdale

**Legal Description and Street Address** City-wide

**Description of Work** The work expected to be accomplished under this contract in the first year includes, but is not limited to, installation of an estimated 150,000 square yards of Type S-3 asphaltic concrete, 5,000 square yards of FDOT Superpave 9.5 asphaltic concrete, thermoplastic pavement marking, milling and leveling of existing asphalt pavement, ADA concrete ramps, and other items quantified in the proposal pages of this contract.

"Contractor" is bound by an instrument in writing dated the 16th day of June, 2015, by which Contractor has contracted with the City of Fort Lauderdale, Florida, to furnish labor, tools, and materials for the Project referenced and described above, together with all work incidental thereto, as fully set out in the plans, specifications and details on file in the Office of the City Engineer of the City.

Notice required by Section 255.05(6), Florida Statutes: "This bond is given to comply with Section 255.05 Florida Statutes, and any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes."

The condition of the above obligation is such that if the above bound "Contractor," or its successor or assigns shall in good faith and in good, sufficient, substantial and workmanlike manner, perform the work and comply with the conditions of the contract, including payment of penalties, in strict accordance with the terms and provisions stipulated in it and shall indemnify and hold harmless the City against and for payments of any and all damages that may happen to persons or property by reason of excavations, embankments, obstructions and all other work in streets, alleys or places in connection with the work, or arising out of any act, neglect or omission of the "Contractor" or its agents, servants, or employees with relation to the work, and shall indemnify and hold harmless the City against and from all suits and acts of every nature and description arising out of any claims by patentees of any process connected with the work agreed to be performed under the contract, or of any materials used upon the work, and pay all costs accruing if the contract is cancelled and a new contract for finishing the work is let, and all other expenses lawfully chargeable to the "Contractor," then this agreement shall be null and void; otherwise it is to remain in full force and effect, but it is expressly provided, understood and agreed that if the "Contractor" or its subcontractors fail to duly and promptly pay for any labor, material, or other supplies used by "Contractor" or any of its subcontractors in the performance of the work to be done, or the Contractor defaults in its Contract with the City, the "Surety" will promptly pay to all claimants, as defined in Section 255.05(1), Florida Statutes, the same in an amount not exceeding the sum specified in this bond, together with interest at the rate of fifteen percent (15%) per annum, and the Surety hereby stipulates and agrees that no change, extension, reduction, alteration or addition to the terms of the contract or the plans, details and specifications shall in any way affect the obligations of this bond.

Whenever Contractor shall be, and is declared by the City to be in default under the contract, the City may proceed to cancel the contract and award a new contract for finishing the work or order the Surety to promptly remedy the default by obtaining a bid or bids for completing the contract in accordance with the original contract terms and conditions. Upon the determination by the City of the lowest responsible bidder, the Surety shall complete all work and pay the full cost of completion, less previous payments.

This Bond is effective for one (1) year after completion and acceptance of the work, with liability equal to twenty-five percent (25%) of the contract price, and is so conditioned that the "Contractor" will, at its own expense, correct any defective or faulty work or material which appears within one (1) year after completion of the work and final payment, upon notification by the City.

IN WITNESS WHEREOF, the above "Contractor" has signed this Agreement, and the "Surety" has caused this Agreement to be signed in its name by its Attorney-in-Fact, and its corporate seal affixed, this 16th day of June, 2015.

Signed, sealed and delivered in the presence of:

*Kristyn Van Pelt*  
(Witness) Signature

Kristyn Van Pelt  
(Witness) Print Name

*Vivian Santiago*  
(Witness) Signature

Vivian Santiago  
(Witness) Print Name

CONTRACTOR: Hardrives of Delray, Inc. dba Hardrives, Inc.

*W. Allen Poston* (SEAL)

W. ALLEN POSTON  
VICE PRESIDENT  
Print Name and Title (SEAL)

SURETY: Fidelity and Deposit Company of Maryland

Brown & Brown of Florida, Inc. (SEAL)  
Local Agent

*Gerald J. Arch* (SEAL)  
Print Name and Title  
Gerald J. Arch, Attorney-In-Fact

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND  
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Maryland, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Maryland (herein collectively called the "Companies"), by THOMAS O. MCCLELLAN, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Gerald J. ARCH, James F. MURPHY, Michael A. HOLMES and Marcus Lee STEVENS, all of Ft. Lauderdale, Florida, EACH its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND, this 5th day of July, A.D. 2013.

ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY  
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY  
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



*Gregory E. Murray*

By: \_\_\_\_\_

*Assistant Secretary  
Gregory E. Murray*

*Thomas O. McClellan*

*Vice President  
Thomas O. McClellan*

State of Maryland  
City of Baltimore

On this 5th day of July, A.D. 2013, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, THOMAS O. MCCLELLAN, Vice President, and GREGORY E. MURRAY, Assistant Secretary, of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

*Constance A. Dunn*



Constance A. Dunn, Notary Public  
My Commission Expires: July 14, 2015

**EXTRACT FROM BY-LAWS OF THE COMPANIES**

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

**CERTIFICATE**

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 16th day of June, 2015.



I hereby certify this document to be a true, correct and complete copy of the record filed in my office. Dated this 2 day

of June, 2015  
County Administrator  
By [Signature]  
Deputy Clerk

[Signature]  
James M. Carroll, Vice President  
Seal of Fidelity and Deposit Company of Maryland  
No. 45368



## CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

6/5/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Willis of Florida, Inc. c/o 26 Century Blvd P.O. Box 305191 Nashville, TN 37230-5191	CONTACT NAME: Willis Certificate Center
	PHONE (A/C, No, Ext): (877) 945-7378 FAX (A/C, No): (888) 467-2378
	E-MAIL ADDRESS: certificates@willis.com
	INSURER(S) AFFORDING COVERAGE NAIC #
	INSURER A: Liberty Mutual Fire Insurance Company 23035
	INSURER B: Employers Insurance Company of Wausau 21458
	INSURER C: Liberty Insurance Corporation 42404
	INSURER D: Bridgefield Employers Insurance Company 10701
	INSURER E:
	INSURER F:

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	X	X	TB2Z91452847024	10/01/2014	10/01/2015	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	X	X	ASCZ91452847014	10/01/2014	10/01/2015	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 0			TH7Z91452847034	10/01/2014	10/01/2015	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	083043093	10/01/2014	10/01/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

THIS VOIDS & REPLACES PREVIOUSLY ISSUED CERTIFICATE DATED: 6/2/2015

RE: Bid No., 253-11571, Project No., 12111

City of Fort Lauderdale is included as an Additional Insured as respects to General Liability and Auto Liability.

General Liability policy shall be Primary and Non-contributory with any other insurance in force for or which may be purchased by Additional Insured.

Waiver of Subrogation applies in favor of City of Fort Lauderdale with respects to General Liability and Auto Liability.

<b>CERTIFICATE HOLDER</b>  City of Fort Lauderdale Attn: Public Works Department 100 N Andrews Avenue Fort Lauderdale, FL 33301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE 

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