

AGREEMENT FOR ANNUAL SIDEWALK MAINTENANCE AND REPAIR SERVICES

THIS AGREEMENT FOR ANNUAL SIDEWALK MAINTENANCE AND REPAIR SERVICES ("Agreement") is entered into by and between the **CITY OF OCALA**, a Florida municipal corporation ("City"), and **MARCUM ENTERPRISES, LLC**, a for profit limited liability corporation duly organized and authorized to do business in the State of Florida (EIN: 45-4248175) ("Contractor").

RECITALS:

WHEREAS, on February 26, 2020, City issued an Invitation to Bid ("ITB") for the provision of sidewalk and driveway maintenance and repair services for the City, ITB No.: PWD/200074 (the "Solicitation"); and

WHEREAS, a total of three (3) firms responded to the Solicitation and, after consideration of price and other evaluation factors set forth in the Solicitation, the bid submitted by Contractor was found to be the lowest; and

WHEREAS, Contractor was chosen as the intended awardee to provide sidewalk and driveway maintenance and repair services currently planned or requested by the City (the "Project"); and

WHEREAS, Contractor certifies that Contractor and its subcontractors are qualified and possess the required licensure and skill to perform the work required for the Project; and

NOW THEREFORE, in consideration of the foregoing recitals, the following mutual covenants and conditions, and other good and valuable consideration, City and Contractor agree as follows:

TERMS OF AGREEMENT:

1. **RECITALS.** City and Contractor hereby represent, warrant, and agree that the Recitals set forth above are true and correct and are incorporated herein by reference.
2. **CONTRACT DOCUMENTS.** The Contract Documents which comprise the entire understanding between City and Contractor shall only include: (a) this Agreement; (b) those documents listed in this section as Exhibits to this Agreement; (c) the City's Solicitation for the Project and the bid submitted by Contractor in response to same (the "Solicitation Documents"); and (d) those documents identified in the Project Specifications section of this Agreement. Each of these documents are incorporated herein by reference for all purposes.

If there is a conflict between the terms of this Agreement and the Contract Documents, then the terms of this Agreement shall control, amend, and supersede any conflicting terms contained in the remaining Contract Documents.

A. **Exhibits to Agreement:** The Exhibits to this Agreement are as follows:

- Exhibit A: Scope of Work (A-1 through A-9)
- Exhibit B: Price Proposal (B-1 through B-4)
- Exhibit C: Measurement and Payment (C-1 through C-2)
- Exhibit D: Flume Detail (D-1 through D-2)
- Exhibit E: Brick Ribbon Sidewalk Detail (E-1)

If there is a conflict between the individual Exhibits regarding the scope of work to be performed, then any identified inconsistency shall be resolved by giving precedence in the following order: (1) Exhibit A, then (2) Exhibit B, then (3) Exhibit C, then (4) Exhibit D, then (5) Exhibit E.

3. **SCOPE OF SERVICES.** Contractor shall provide all materials, labor, supervision, tools, accessories, equipment, permits, fees, testing, inspections, certifications, and all other things necessary for Contractor to perform its obligations under this Agreement as set forth in the attached **Exhibit A - Scope of Work** and the Solicitation Documents. In the event of a conflict between this Agreement and the Solicitation Documents, this Agreement and all of its Exhibits shall be given precedence to resolve any identified inconsistency. The Scope of Work under this Agreement may only be adjusted by written amendment executed by both parties.

4. **PROJECT SPECIFICATIONS.** This project will require the Contractor to have the following specifications and documents, which are incorporated by reference:

A. **City of Ocala "Standard Specifications for Construction of Streets, Stormwater, Traffic, Water and Sewer Infrastructure"** available at:

<https://www.ocalafl.org/Home/ShowDocument?id=17908>

B. **Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction (MOST RECENT)** available at:

<http://www.fdot.gov/programmanagement/Implemented/SpecBooks/>

In the event of a conflict between the individual Project Specifications regarding the scope of work to be performed, then the specification with the more restrictive provision shall take precedence over the others.

5. **COMPENSATION.** City shall pay Contractor a maximum limiting amount not to exceed **FOUR HUNDRED THOUSAND AND NO/100 DOLLARS (\$400,000)** (the "Contract Sum") over the entire two-year (2-year) contract term, not to exceed **TWO HUNDRED THOUSAND AND**

NO/100 DOLLARS (\$200,000) ANNUALLY, as full and complete compensation for the timely and satisfactory completion of the work in compliance with **Exhibit B – Price Proposal** and the Contract Documents, as follows:

- A. **Monthly Progress Payments:** The compensation amount under this section shall be paid by City, monthly, based upon a percentage of completion of the work as invoiced by Contractor and approved by City. The compensation sought under this Agreement is subject to the express terms of this Agreement and any applicable Federal and/or state laws.
- B. **Project Schedule and Progress Reports.** A progress report and updated project schedule must be submitted with each monthly pay request indicating the percent of services completed to date. This report will serve as support for payment to Contractor and the basis for payment in the event project is suspended or abandoned.
- C. **Invoice Submission.** All invoices submitted by Contractor shall include the City Contract Number, an assigned Invoice Number, and an Invoice Date. City will provide Contractor with an invoice cover sheet. Invoice cover sheets are required to be accurately completed and submitted with each invoice. Contractor shall submit the original invoice through the responsible City Project Manager at: **City of Ocala Engineering Department**, Attn: **Paul Constable**, Address: **1805 NE 30th Avenue, Bldg. 700, Ocala, Florida 34470**, E-Mail: **pconstable@ocalafl.org**.
- D. **Payment of Invoices by City.** The City Project Manager shall review and approve all invoices prior to payment. City Project Manager’s approval shall not be unreasonably withheld, conditioned, or delayed. Payments by City shall be made no later than the time periods established in section 218.735, Florida Statutes.
- E. **Retainage.** City shall withhold an amount equal to **FIVE PERCENT (5%)** of each monthly progress payment as retainage to secure Contractor’s full and faithful performance of its obligations under this Agreement (the “Retainage”). Contractor shall not be entitled to any interest received by City on Retainage. The Retainage shall be payable to Contractor, subject to the provisions of this subsection, upon satisfaction of the following conditions precedent: (1) confirmation from the City Project Manager that Contractor has satisfactorily completed all work in accordance with the provisions of the Agreement; and (2) receipt of the Consent of Surety of the recorded bond for final payment.
- F. **Withholding of Payment.** City reserves the right to withhold, in whole or in part, payment for any and all work that: (i) has not been completed by Contractor; (ii) is inadequate or defective and has not been remedied or resolved in a manner satisfactory to the City

Project Manager; or (iii) which fails to comply with any term, condition, or other requirement under this Agreement. Any payment withheld shall be released and remitted to Contractor within **THIRTY (30)** calendar days of the Contractor's remedy or resolution of the inadequacy or defect.

G. **Excess Funds.** If due to mistake or any other reason Contractor receives payment under this Agreement in excess of what is provided for by the Agreement, Contractor shall promptly notify City upon discovery of the receipt of the overpayment. Any overpayment shall be refunded to City within **THIRTY (30)** days of Contractor's receipt of the overpayment or must also include interest calculated from the date of the overpayment at the interest rate for judgments at the highest rate as allowed by law.

H. **Tax Exemption.** City is exempt from all federal excise and state sales taxes (State of Florida Consumer's Certification of Exemption 85-8012621655C-9). The City's Employer Identification Number is 59-60000392. Contractor shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor will Contractor be authorized to use City's Tax Exemption Number for securing materials listed herein.

6. **TIME FOR PERFORMANCE.** Time is of the essence with respect to the performance of all duties, obligations, and responsibilities set forth in this Agreement and the Contract Documents.

A. **Effective Date and Term.** This Agreement shall become effective and commence on **MAY 5, 2020** and continue for a term of **TWO (2)** years, through and including **MAY 5, 2022**. This Agreement may be renewed for up to **ONE (1)** additional **ONE YEAR (1-Year)** term by written consent between City and Contractor. Renewals shall be subject to a maximum negotiated increase, upon written approval of City, of no more than **THREE PERCENT (3%)** above the pricing set forth in **Exhibit B – Price Proposal**, annually.

B. **Notices to Proceed on Individual Projects.** City shall issue written Notices to Proceed for individual projects in alignment with project schedules. Contractor and City shall agree upon the time needed to complete each individual project as assigned. Contractor agrees to commence work within **SEVEN (7)** days of the date of issuance of a Notice to Proceed for each individual project. Contractor shall complete assigned projects within the time limits specified in the Notice to Proceed and substantial completion and final completion dates shall be strictly enforced by City. At no time will Contractor be allowed to lag behind. Contractor shall be expected to accurately track contract time and progress for each assigned project. Notices to Proceed for additional projects will not be issued if

Contractor has failed to properly complete and close out previous projects assigned under this Agreement.

- C. The Time for Performance under this Agreement may only be adjusted by Change Order, in the sole and absolute discretion of City. Any request for an extension of the Time for Performance must be submitted in a writing delivered to the City Project Manager, along with all supporting data. All requests for adjustments in the Contract Time shall be determined by City.
 - D. As to any delay, inefficiency, or interference in this performance of this Agreement caused by any act or failure to act by City, the Contractor's sole remedy shall be the entitlement of an extension of time to complete the performance of the affected work in accordance with the Contract Documents. Contractor agrees to make no claim for extra or additional costs attributable to said delays, inefficiencies or interference, except as provided in this Agreement.
 - E. None of the provisions of this section shall exclude City's right of recovery for damages caused by delays or inefficiencies caused by any act or failure to act by Contractor, to include costs incurred by City for the procurement of additional professional services.
7. **LIQUIDATED DAMAGES FOR LATE COMPLETION.** The parties agree that it would be extremely difficult and impracticable under the presently known facts and anticipated circumstances to ascertain and fix the actual damages that City and its residents would incur should Contractor fail to achieve Substantial Completion and/or Final Completion and readiness for final payment by the dates specified for each individual project under the terms of this Agreement. Accordingly, the parties agree that should Contractor fail to achieve Substantial Completion by the dates specified on each City-issued Notice to Proceed, then Contractor shall pay City, as liquidated damages and not as a penalty, the daily sum given in the schedule below based on individual project cost for each calendar day of unexcused delay in achieving Substantial Completion beyond the date specified for Substantial Completion for each individual project in the City-issued Notice to Proceed:

Individual Project Cost	Liquidated Damages
\$50,000 and under	\$956
Over \$50,000 but less than \$250,000	\$964

After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining work within the time specified in the Contract Documents for Final Completion and readiness for final payment or any proper extension thereof granted by City, the amount

set forth for Liquidated Damages shall continue to be at the rate(s) specified above until final completion is attained.

- A. **No Waiver of Rights or Liabilities.** Permitting Contractor to continue and finish the work, or any part thereof, beyond the dates specified for Substantial Completion and/or Final Completion and readiness for final payment shall not operate as a waiver on the part of the City of any of its rights under this Agreement. Any liquidated damages assessed pursuant to this section shall not relieve Contractor from liability for any damages or costs of other contractors caused by a failure of Contractor to complete the work as agreed.
 - B. **Right to Withhold or Deduct Damages.** When liquidated damages are due and owing, City shall have the right to: (1) deduct the liquidated damages from any money in its hands or from any money otherwise due or to become due to Contractor; or to (2) initiate any applicable dispute resolution procedure for the recovery of liquidated damages within the times specified under this Agreement.
 - C. **Non-Cumulative.** The parties agree and understand that the amounts set forth under this section for liquidated damages are not cumulative with one another. The amount set forth as liquidated damages for Contractor's failure to achieve Substantial Completion shall be assessed upon default and continue until Substantial Completion is attained. The amount set forth as liquidated damages for Contractor's failure to achieve Final Completion and readiness for payment shall be assessed after Substantial Completion is attained and apply until Final Completion is attained.
 - D. **Additional Costs.** In addition to the liquidated damages set forth under this section, Contractor agrees to pay all costs and expenses incurred by City due to Contractor's delay in performance to include inspection fees, superintendence costs, and travel expenses.
 - E. **Injunctive Relief.** The parties acknowledge that monetary damages may not be a sufficient remedy for Contractor's failure to achieve Substantial Completion or Final Completion in accordance with the terms of this Agreement, and that City shall be entitled, in addition to all other rights or remedies in law and equity, to seek injunctive relief.
8. **FORCE MAJEURE.** Neither party shall be liable for delay, damage, or failure in the performance of any obligation under this Agreement if such delay, damage, or failure is due to causes beyond its reasonable control, including without limitation: fire, flood, strikes and labor disputes, pandemic, local or statewide states of emergency, acts of war, acts of nature, terrorism, civil unrest, acts or delays in acting of the government of the United States or the several states, judicial orders, decrees or restrictions, or any other like reason which is beyond

the control of the respective party ("Force Majeure"). The party affected by any event of force majeure shall use reasonable efforts to remedy, remove, or mitigate such event and the effects thereof with all reasonable dispatch.

The party affected by force majeure shall provide the other party with full particulars thereof including, but not limited to, the nature, details, and expected duration thereof, as soon as it becomes aware.

When force majeure circumstances arise, the parties shall negotiate in good faith any modifications of the terms of this Agreement that may be necessary or appropriate in order to arrive at an equitable solution. Contractor performance shall be extended for a number of days equal to the duration of the force majeure. Contractor shall be entitled to an extension of time only and, in no event, shall Contractor be entitled to any increased costs, additional compensation, or damages of any type resulting from such force majeure delays.

9. **INSPECTION AND ACCEPTANCE OF THE WORK.** Contractor shall report its progress to the City Project Manager as set forth herein. All services, work, and materials provided by Contractor under this Agreement shall be provided to the satisfaction and approval of the Project Manager.
 - A. The Project Manager shall decide all questions regarding the quality, acceptability, and/or fitness of materials furnished, or workmanship performed, the rate of progress of the work, the interpretation of the plans and specifications, and the acceptable fulfillment of the Agreement, in his or her sole discretion, based upon both the requirements set forth by City and the information provided by Contractor in its Proposal. The authority vested in the Project Manager pursuant to this paragraph shall be confined to the direction or specification of what is to be performed under this Agreement and shall not extend to the actual execution of the work.
 - B. Neither the Project Manager's review of Contractor's work nor recommendations made by Project Manager pursuant to this Agreement will impose on Project Manager any responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident Contractor's furnishing and performing the work.
10. **TERMINATION AND DEFAULT.** Either party, upon determination that the other party has failed or refused to perform or is otherwise in breach of any obligation or provision under this Agreement or the Contract Document, may give written notice of default to the defaulting party in the manner specified for the giving of notices herein. Termination of this Agreement

by either party for any reason shall have no effect upon the rights or duties accruing to the parties prior to termination.

A. **Termination by City for Cause.** City shall have the right to terminate this Agreement immediately, in whole or in part, upon the failure of Contractor to carry out any obligation, term, or condition of this Agreement. City's election to terminate the Agreement for default shall be communicated by providing Contractor written notice of termination in the manner specified for the giving of notices herein. Any notice of termination given to Contractor by City shall be effective immediately, unless otherwise provided therein, upon the occurrence of any one or more of the following events:

- (1) Contractor fails to timely and properly perform any of the services set forth in the specifications of the Agreement;
- (2) Contractor provides material that does not meet the specifications of the Agreement;
- (3) Contractor fails to complete the work required within the time stipulated in the Agreement; or
- (4) Contractor fails to make progress in the performance of the Agreement and/or gives City reason to believe that Contractor cannot or will not perform to the requirements of the Agreement.

B. **Contractor's Opportunity to Cure Default.** City may, in its sole discretion, provide Contractor with an opportunity to cure the violations set forth in City's notice of default to Contractor. Contractor shall commence to cure the violations immediately and shall diligently and continuously prosecute such cure to completion within a reasonable time as determined by City. If the violations are not corrected within the time determined to be reasonable by City or to the reasonable satisfaction of City, City may, without further notice, declare Contractor to be in breach of this Agreement and pursue all remedies available at law or equity, to include termination of this Agreement without further notice.

C. **City's Remedies Upon Contractor Default.** In the event that Contractor fails to cure any default under this Agreement within the time period specified in this section, City may pursue any remedies available at law or equity, including, without limitation, the following:

- (1) City shall be entitled to terminate this Agreement without further notice;
- (2) City shall be entitled to hire another contractor to complete the required work in accordance with the needs of City;
- (3) City shall be entitled to recover from Contractor all damages, costs, and attorney's fees arising from Contractor's default prior to termination; and

(4) City shall be entitled to recovery from Contractor any actual excess costs by: (i) deduction from any unpaid balances owed to Contractor; or (ii) placing a claim against the public construction bond; or (iii) any other remedy as provided by law.

D. **Termination for Convenience.** City reserves the right to terminate this Agreement in whole or in part at any time for the convenience of City without penalty or recourse. The Project Manager shall provide written notice of the termination. Upon receipt of the notice, Contractor shall immediately discontinue all work as directed in the notice, notify all subcontractors of the effective date of the termination, and minimize all further costs to City including, but not limited to, the placing of any and all orders for materials, facilities, or supplies, in connection with its performance under this Agreement. Contractor shall be entitled to receive compensation solely for: (1) the actual cost of the work completed in conformity with this Agreement; and/or (2) such other costs incurred by Contractor as permitted under this Agreement and approved by City.

11. **DELAYS AND DAMAGES.** The Contractor agrees to make no claim for extra or additional costs attributable to any delays, inefficiencies, or interference in the performance of this contract occasioned by any act or omission to act by the City except as provided in the Agreement. The Contractor also agrees that any such delay, inefficiency, or interference shall be compensated for solely by an extension of time to complete the performance of the work in accordance with the provision in the standard specification.

12. **MAINTENANCE AND GUARANTEE BOND.** Prior to final Payment, Contractor shall furnish a Maintenance and Guarantee Bond in the amount of **10% OF THE TOTAL PROJECT VALUE** for a period of **THREE (3)** years for labor and **THREE (3)** years for materials from the date of final completion. Prior to the City's receipt of Contractor's fully executed Maintenance and Guarantee Bond, Contractor will warrant all labor and materials completed pursuant to this Agreement.

13. **CONSTRUCTION SURVEY LAYOUT.** The City Engineer/City Project Manager may, as required, establish a number of benchmarks on the project which in their opinion will enable the Contractor to perform the work. If Contractor shall remove or destroy any stake, marker or benchmark on the work without first having secured the approval of the City Engineer/City Project Manager, such stake, or benchmark shall be re-established by and at Contractor's expense. It shall be the responsibility of Contractor to preserve all adjacent property corner markers which might be affected by their operations and replace same if undermined. Corner locations known by City will be made available to Contractor. All original field notes, calculations, and other documents developed by the surveyor in conjunction with this work

shall be given to City and become City property. All surveying work must be in accordance with Chapters 177 and 472 of Florida Statutes and Chapter 61G17 of the Florida Administrative Code.

14. **PERFORMANCE EVALUATION.** At the end of the contract, City may evaluate Contractor's performance. Any such evaluation will become public record.
15. **NOTICE REGARDING FAILURE TO FULFILL AGREEMENT.** Any contractor who enters into an Agreement with the City of Ocala and fails to complete the contract term, for any reason, shall be subject to future bidding suspension for a period of **ONE (1)** year and bid debarment for a period of up to **THREE (3)** years for serious contract failures.
16. **CONTRACTOR REPRESENTATIONS.** Contractor expressly represents that:
 - A. Contractor has read and is fully familiar with all the terms and conditions of this Agreement, the Contract Documents, and other related data and acknowledges that they are sufficient in scope and detail to indicate and convey understanding of all terms and conditions of the work to be performed by Contractor under this Agreement.
 - B. Contractor has disclosed, in writing, all known conflicts, errors, inconsistencies, discrepancies, or omissions discovered by Contractor in the Contract Documents, and that the City's written resolution of same is acceptable to Contractor.
 - C. Contractor has had an opportunity to visit, has visited, or has had an opportunity to examine and ask questions regarding the sites upon which the work is to be performed and is satisfied with the site conditions that may affect cost, progress, and performance of the work, as observable or determinable by Contractor's own investigation.
 - D. Contractor is satisfied with the site conditions that may affect cost, progress, and performance of the work, as observable or determinable by Contractor's own investigation.
 - E. Contractor is familiar with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement whatsoever.
 - F. **Public Entity Crimes.** Neither Contractor, its parent corporations, subsidiaries, members, shareholders, partners, officers, directors or executives, nor any of its affiliates, contractors, suppliers, subcontractors, or consultants under this Agreement have been placed on the convicted vendor list following a conviction of a public entity crime. Contractor understands that a "public entity crime" as defined in section 287.133(1)(g), Florida Statutes, is "a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political

subdivision of any other state or with the United States..." Contractor further understands that any person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime: (1) may not submit a bid, proposal, or reply on a contract: (a) to provide any goods or services to a public entity; (b) for the construction or repair of a public building or public work; or (c) for leases of real property to a public entity; (2) may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and (3) may not transact business with any public entity in excess of the threshold amount provided in section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

17. **CONTRACTOR RESPONSIBILITIES.** Except as otherwise specifically provided for in this Agreement, the following provisions are the responsibility of the Contractor:

- A. Contractor shall competently and efficiently supervise, inspect, and direct all work to be performed under this Agreement, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the work in accordance with the Contract Documents.
- B. Contractor shall be solely responsible for the means, methods, techniques, sequences, or procedures of construction and safety precautions or programs incident thereto.
- C. Contractor shall be responsible to see that the finished work complies accurately with the contract and the intent thereof.
- D. Contractor shall comply with all local, state, and Federal laws, regulations, and ordinances which may affect cost, progress, or its performance under this Agreement, to include obtaining all permits, licenses, and other authorizations necessary for the prosecution of the work and be responsible for all costs associated with same.
- E. Contractor shall operate and cause all construction equipment and materials supplied for or intended to be utilized in the Project to be operated and stored in only those areas prescribed by City. This includes the operations of workmen.
- F. Contractor shall be fully responsible for receipt, inspection, acceptance, handling, and storage of all construction equipment and materials supplied for or intended to be utilized in the Project, whether furnished by Contractor or City. Contractor shall be responsible for providing adequate safeguards to prevent loss, theft, damage, or commingling with other materials or projects.

G. Contractor shall continue its performance under this Agreement during the pendency of any dispute or disagreement arising out of or relating to this Agreement, except as Contractor and City may otherwise agree in writing.

18. **NO EXCLUSIVITY.** It is expressly understood and agreed by the parties that this is not an exclusive agreement. Nothing in this Agreement shall be construed as creating any exclusive arrangement with Contractor or as prohibit City from either acquiring similar, equal, or like goods and/or services or from executing additional contracts with other entities or sources.

19. **RIGHT OF ACCESS AND OTHER WORK PERFORMED BY THIRD-PARTIES.** City may perform additional work related to the Project itself, or have additional work performed by utility service companies, or let other direct contracts therefore which shall contain General Conditions similar to these. Contractor shall afford the utility service companies and the other contractors who are parties to such direct contracts (or City, if City is performing the additional work with City's employees) reasonable opportunity for the introduction and storage of materials and equipment and the execution of work and shall properly connect and coordinate his work with theirs.

A. If any part of Contractor's work depends for proper execution or results upon the work of any such other contractor or utility service company (or City), Contractor shall inspect and promptly report to City in writing any latent or apparent defects or deficiencies in such work that render it unsuitable for such proper execution and results. Contractor's failure to so report shall constitute an acceptance of the other work as fit and proper for integration with Contractor's work except for latent or non-apparent defects and deficiencies in the other work.

B. Contractor shall do all cutting, fitting, and patching of work that may be required to make the parts come together properly and integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering their work, and will only cut or alter their work with the written consent of City.

20. **STORAGE OF MATERIALS/EQUIPMENT.** Contractor shall be fully responsible for receipt, inspection, acceptance, handling, and storage of equipment and materials (whether furnished by Contractor or City) to be utilized in the performance of or incorporated into the work.

21. **RESPONSIBILITIES OF CITY.** City or its representative shall issue all communications to Contractor. City has the authority to request changes in the work in accordance with the terms of this Agreement and with the terms in **Exhibit A – Scope of Work**. City has the authority to stop work or to suspend any work.

22. **COMMERCIAL AUTO LIABILITY INSURANCE.** Contractor shall procure and maintain, for the life of this Agreement, commercial auto liability insurance covering all automobiles owned, non-owned, hired, and scheduled by Contractor with a combined limit of not less than One Million Dollars (\$1,000,000) for bodily injury and property damage for each accident. Contractor shall name City as an additional insured under the insurance policy.
23. **COMMERCIAL GENERAL LIABILITY INSURANCE.** Contractor shall procure and maintain, for the life of this Agreement, commercial general liability insurance with minimum coverage limits not less than:
- A. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for bodily injury, property damage, and personal and advertising injury; and
 - B. One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate limit for products and completed operations.
 - C. Coverage for contractual liability is also required.
 - D. City, a political subdivision of the State of Florida, and its officials, employees, and volunteers shall be covered as an additional insured with a CG 20 26 04 13 Additional Insured – Designated Person or Organization Endorsement or similar endorsement providing equal or broader Additional Insured Coverage regarding liability arising out of activities performed by or on behalf of Contractor. The coverage shall contain no special limitation on the scope of protection afforded to City, its officials, employees, or volunteers.
24. **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY.** Contractor shall procure and maintain, for the life of this Agreement, Workers' Compensation insurance and employer's liability insurance in amounts required by applicable statutes. Contractor shall ensure any and all subcontractors have coverage as required by applicable statutes. City requires policies under this section to be endorsed to waive the insurer's right to subrogate against City and its officials, employees, volunteers by including a Waiver of Our Right to Recover from Others Endorsement (WC 00 03 13). Exceptions and exemptions may be allowed by City's HR/Risk Director, so long as they are in accordance with Florida Statute.
25. **MISCELLANEOUS INSURANCE PROVISIONS.**
- A. Insurance Requirements. These insurance requirements shall not relieve or limit the liability of Contractor. City does not in any way represent that these types or amounts of insurance are sufficient or adequate to protect Contractor's interests or liabilities but are

merely minimums. No insurance is provided by the City under this contract to cover Contractor. **No work shall be commenced under this contract until the required Certificate(s) of Insurance have been provided.** Work shall not continue after expiration (or cancellation) of the Certificates of Insurance and shall not resume until new Certificate(s) of Insurance have been provided. Insurance written on a "Claims Made" form is not acceptable without consultation with City of Ocala Risk Management.

- B. Deductibles. Contractor is responsible for the amount of any deductible or self-insured retention. Contractor's deductibles/self-insured retentions shall be disclosed to the City and may be disapproved by City.
- C. Certificates of Insurance. Contractor shall provide a Certificate of insurance, issued by an agency authorized to do business in the State of Florida and with an A.M. Best rating* of at least an A, showing the "City of Ocala" as an Additional Insured. Shown on the certificate at the certificate holder should be: **City of Ocala, Contracting Department, Third Floor, 110 SE Watula Avenue, Ocala, FL 34471.** Renewal certificates must also be forwarded to the Contracting Department prior to the policy expiration. **TEN (10)** days written notice must be provided to the City in the event of cancellation.

*Non-rated insurers must be pre-approved by the City Risk Manager.

- D. Failure to Maintain Coverage. In the event Contractor fails to disclose each applicable deductible/self-insured retention or obtain or maintain in full force and effect any insurance coverage required to be obtained by Contractor under this Agreement, Contractor shall be considered to be in default of this Agreement.
- E. Severability of Interests. Contractor shall arrange for its liability insurance to include General Liability, Business Automobile Liability, and Excess/Umbrella Insurance, or to be endorsed to include a severability of interests/cross liability provision so that the "City of Ocala" (where named as an additional insured) will be treated as if a separate policy were in existence, but without increasing the policy limits.

26. **SAFETY/ENVIRONMENTAL.** Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall make an effort to detect hazardous conditions and shall take prompt action where necessary to avoid accident, injury or property damage. EPA, DEP, OSHA and all other applicable safety laws and ordinances shall be followed as well as American National Standards Institute Safety Standards. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:

- A. All employees on the work and other persons that may be affected thereby;

- B. All work, materials and equipment to be incorporated therein, whether in storage on or off the site; and
- C. 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.

All, injury, or loss to any property caused, directly or indirectly, in whole or in part, by 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 Contractor. Contractor's duties and responsibilities for the safety and protection of the work shall continue until such time as the work is completed and accepted by City.

27. **TRAFFIC CONTROL AND BARRICADES.** The Contractor shall mitigate impact on local traffic conditions to all extents possible. The Contractor is responsible for establishing and maintaining appropriate traffic control and barricades. The Contractor shall provide sufficient signing, flagging and barricading to ensure the safety of vehicular and pedestrian traffic at all locations where work is being done under this Agreement.

- A. In addition to the requirements set forth in bid, the Contractor shall maintain at all times a good and sufficient fence, railing or barrier around all exposed portions of said work in such a manner as to warn vehicular and pedestrian traffic of hazardous conditions.
- B. Should Contractor fail to properly barricade his work or stored material sites in the manner outlined above, the City may have the necessary barricading done, and all cost incurred for said barricading shall be charged to the Contractor.

28. **WORK SITE AND CLEANUP.** Daily, during the progress of the work, Contractor shall keep the premises free from accumulations of waste materials, rubbish, and all other debris resulting from the work. At the completion of the work, Contractor shall remove all waste materials, rubbish, and debris from and about the premises, as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by City. Contractor shall provide an inventory listing of all surplus materials in an area designated by City. Contractor shall restore to their original condition those portions of the site not designated or alteration by the Contract.

29. **NON-DISCRIMINATORY EMPLOYMENT PRACTICES.** During the performance of the contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, ancestry, national origin, sex, pregnancy, age, disability, sexual orientation, gender identity, marital or domestic partner status, familial status, or veteran status and shall take affirmative action to ensure that an employee or

applicant is afforded equal employment opportunities without discrimination. Such action shall be taken with reference to, but not limited to: recruitment, employment, termination, rates of pay or other forms of compensation and selection for training or retraining, including apprenticeship and on-the-job training.

30. **SUBCONTRACTORS.** Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by City or its representatives to any subcontractor of Contractor or any other persons or organizations having a direct contract with Contractor, nor shall it create any obligation on the part of City or its representatives to pay or seek payment of any monies to any subcontractor of Contractor or any other persons or organizations having a direct contract with Contractor, except as may otherwise be required by law. City shall not be responsible for the acts or omissions of any Contractor, subcontractor, or of any of their agents or employees, nor shall it create any obligation on the part of City or its representatives to pay or to seek the payment of any monies to any subcontractor or other person or organization, except as may otherwise be required by law.

31. **EMERGENCIES.** In an emergency affecting the welfare and safety of life or property, Contractor, without special instruction or authorization from the City Project Manager, is hereby permitted, authorized and directed to act at its own discretion to prevent threatened loss or injury. Except in the case of an emergency requiring immediate remedial work, any work performed after regular working hours, on Saturdays, Sundays or legal holidays, shall be performed without additional expense to the City unless such work has been specifically requested and approved by the City Project Manager. Contractor shall be required to provide to the City Project Manager with the names, addresses and telephone numbers of those representatives who can be contacted at any time in case of emergency. Contractor's emergency representatives must be fully authorized and equipped to correct unsafe or excessively inconvenient conditions on short notice by City or public inspectors.

32. **INDEPENDENT CONTRACTOR STATUS.** Contractor acknowledges and agrees that under this Agreement, Contractor and any agent or employee of Contractor shall be deemed at all times to be an independent contractor and shall be wholly responsible for the manner in which it performs the services and work required under this Agreement. Neither Contractor nor its agents or employees shall represent or hold themselves out to be employees of City at any time. Neither Contractor nor its agents or employees shall have employee status with City. Nothing in this Agreement shall constitute or be construed to create any intent on the part of either party to create an agency relationship, partnership, employer-employee relationship, joint venture relationship, or any other relationship which would allow City to exercise control

or discretion over the manner or methods employed by Contractor in its performance of its obligations under this Agreement.

33. **ACCESS TO FACILITIES.** City shall provide Contractor with access to all City facilities as is reasonably necessary for Contractor to perform its obligations under this Agreement.
34. **ASSIGNMENT.** Neither party may assign its rights or obligations under this Agreement to any third party without the prior express approval of the other party, which shall not be unreasonably withheld.
35. **RIGHT OF CITY TO TAKE OVER CONTRACT.** Should the work to be performed by Contractor under this Agreement be abandoned, or should Contractor become insolvent, or if Contractor shall assign or sublet the work to be performed hereunder without the written consent of City, the City Project Manager shall have the power and right to hire and acquire additional men and equipment, supply additional material, and perform such work as deemed necessary for the completion of this Agreement. Under these circumstances, all expenses and costs actually incurred by City to accomplish such completion shall be credited to City along with amounts attributable to any other elements of damage and certified by the Project Manager. The City Project Manager's certification as to the amount of such liability shall be final and conclusive.
36. **PUBLIC RECORDS.** The Contractor shall comply with all applicable provisions of the Florida Public Records Act, Chapter 119, Florida Statutes. Specifically, the Contractor shall:
 - A. Keep and maintain public records required by the public agency to perform the service.
 - B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the public agency.
 - D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Contractor or keep and maintain public records required by the public agency to perform the service. If the Contractor transfers all public records to the public agency upon completion of the contract, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records

disclosure requirements. If the Contractor keeps and maintains public records upon completion of the contract, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: CITY OF OCALA, OFFICE OF THE CITY CLERK; 352-629-8266; E-mail: clerk@ocalafl.org; City Hall, 110 SE Watula Avenue, Ocala, FL 34471.

37. **AUDIT.** Contractor shall comply and cooperate immediately with any inspections, reviews, investigations, or audits relating to this Agreement as deemed necessary by the Florida Office of the Inspector General, the City's Internal or External auditors or by any other Florida official with proper authority.
38. **PUBLICITY.** Contractor shall not use City's name, logo, seal or other likeness in any press release, marketing materials, or other public announcement without City's prior written approval.
39. **E-VERIFY.** In accordance with Executive Order 11-116, Contractor shall utilize the U.S. Agency of Homeland Security's E-Verify system, <https://e-verify.uscis.gov/emp>, to verify the employment eligibility of all employees hired during the term of this Agreement. Contractor shall also require all subcontractors performing work under this Agreement to utilize the E-Verify system for any employees they may hire during the term of this Agreement.
40. **CONFLICT OF INTEREST.** Contractor is required to have disclosed, with the submission of their bid, the name of any officer, director, or agent who may be employed by the City. Contractor shall further disclose the name of any City employee who owns, directly or indirectly, any interest in Contractor's business or any affiliated business entity. Any additional conflicts of interest that may occur during the contract term must be disclosed to the City of Ocala Procurement Department.
41. **WAIVER.** The failure or delay of any party at any time to require performance by another party of any provision of this Agreement, even if known, shall not affect the right of such

party to require performance of that provision or to exercise any right, power or remedy hereunder. Any waiver by any party of any breach of any provision of this Agreement should not be construed as a waiver of any continuing or succeeding breach of such provision, a waiver of the provision itself, or a waiver of any right, power or remedy under this Agreement. No notice to or demand on any party in any circumstance shall, of itself, entitle such party to any other or further notice or demand in similar or other circumstances.

42. **SEVERABILITY OF ILLEGAL PROVISIONS.** Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under the applicable law. Should any portion of this Agreement be declared invalid for any reason, such declaration shall have no effect upon the remaining portions of this Agreement.
43. **INDEMNITY.** Contractor shall indemnify and hold harmless City and its elected officials, employees and volunteers against and from all damages, claims, losses, costs, and expenses, including reasonable attorneys' fees, which City or its elected officials, employees or volunteers may sustain, or which may be asserted against City or its elected officials, employees or volunteers, arising out of the activities contemplated by this Agreement including, without limitation, harm or personal injury to third persons during the term of this Agreement to the extent attributable to the actions of Contractor, its agents, and employees.
44. **NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing herein is intended to waive sovereign immunity by the City to which sovereign immunity may be applicable, or of any rights or limits of liability existing under Florida Statute § 768.28. This term shall survive the termination of all performance or obligations under this Agreement and shall be fully binding until any proceeding brought under this Agreement is barred by any applicable statute of limitations.
45. **NOTICES.** All notices, certifications or communications required by this Agreement shall be given in writing and shall be deemed delivered when personally served, or when received if by facsimile transmission with a confirming copy mailed by registered or certified mail, postage prepaid, return receipt requested. Notices can be concurrently delivered by e-mail. All notices shall be addressed to the respective parties as follows:

If to Contractor:

Marcum Enterprises, LLC
Attention: Doug Marcum
2501 Northwest 35th Street
Ocala, Florida 34475
Phone: 352-867-7332

E-mail: dmarcum@marcumenterprise.com

If to City of Ocala:

Tiffany Kimball, Contracting Officer
110 SE Watula Avenue, 3rd Floor
Ocala, Florida 34471
Phone: 352-629-8366
Fax: 352-690-2025
E-mail: tkimball@ocalafl.org

Copy to:

Patrick G. Gilligan, Esquire
Gilligan, Gooding, Franjola & Batsel, P.A.
1531 SE 36th Avenue
Ocala, Florida 34471
Phone: 352-867-7707
Fax: 352-867-0237
E-mail: pgilligan@ocalalaw.com

46. **ATTORNEYS' FEES.** If any civil action, arbitration or other legal proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees, sales and use taxes, court costs and all expenses reasonably incurred even if not taxable as court costs (including, without limitation, all such fees, taxes, costs and expenses incident to arbitration, appellate, bankruptcy and post-judgment proceedings), incurred in that civil action, arbitration or legal proceeding, in addition to any other relief to which such party or parties may be entitled. Attorneys' fees shall include, without limitation, paralegal fees, investigative fees, administrative costs, sales and use taxes and all other charges reasonably billed by the attorney to the prevailing party.

47. **JURY WAIVER.** IN ANY CIVIL ACTION, COUNTERCLAIM, OR PROCEEDING, WHETHER AT LAW OR IN EQUITY, WHICH ARISES OUT OF, CONCERNS, OR RELATES TO THIS AGREEMENT, ANY AND ALL TRANSACTIONS CONTEMPLATED HEREUNDER, THE PERFORMANCE HEREOF, OR THE RELATIONSHIP CREATED HEREBY, WHETHER SOUNDING IN CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE, TRIAL SHALL BE TO A COURT OF COMPETENT JURISDICTION AND NOT TO A JURY. EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY. NEITHER

PARTY HAS MADE OR RELIED UPON ANY ORAL REPRESENTATIONS TO OR BY ANY OTHER PARTY REGARDING THE ENFORCEABILITY OF THIS PROVISION. EACH PARTY HAS READ AND UNDERSTANDS THE EFFECT OF THIS JURY WAIVER PROVISION.

48. **GOVERNING LAW.** This Agreement is and shall be deemed to be a contract entered and made pursuant to the laws of the State of Florida and shall in all respects be governed, construed, applied and enforced in accordance with the laws of the State of Florida.
49. **JURISDICTION AND VENUE.** The parties acknowledge that a majority of the negotiations, anticipated performance and execution of this Agreement occurred or shall occur in Marion County, Florida. Any civil action or legal proceeding arising out of or relating to this Agreement shall be brought only in the courts of record of the State of Florida in Marion County or the United States District Court, Middle District of Florida, Ocala Division. Each party consents to the exclusive jurisdiction of such court in any such civil action or legal proceeding and waives any objection to the laying of venue of any such civil action or legal proceeding in such court and/or the right to bring an action or proceeding in any other court. Service of any court paper may be effected on such party by mail, as provided in this Agreement, or in such other manner as may be provided under applicable laws, rules of procedures or local rules.
50. **REFERENCE TO PARTIES.** Each reference herein to the parties shall be deemed to include their successors, assigns, heirs, administrators, and legal representatives, all whom shall be bound by the provisions hereof.
51. **MUTUALITY OF NEGOTIATION.** Contractor and City acknowledge that this Agreement is a result of negotiations between Contractor and City, and the Agreement shall not be construed in favor of, or against, either party because of that party having been more involved in the drafting of the Agreement.
52. **SECTION HEADINGS.** The section headings herein are included for convenience only and shall not be deemed to be a part of this Agreement.
53. **RIGHTS OF THIRD PARTIES.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or because of this Agreement on any persons other than the parties hereto and their respective legal representatives, successors and permitted assigns. Nothing in this Agreement is intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor shall any

provision give any third persons any right of subrogation or action over or against any party to this Agreement.

54. **AMENDMENT.** No amendment to this Agreement shall be effective except those agreed to in writing and signed by both parties to this Agreement.
55. **COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument.
56. **ELECTRONIC SIGNATURE(S).** Contractor, if and by offering an electronic signature in any form whatsoever, will accept and agree to be bound by said electronic signature to all terms and conditions of this Agreement. Further, a duplicate or copy of the Agreement that contains a duplicated or non-original signature will be treated the same as an original, signed copy of this original Agreement for all purposes.
57. **ENTIRE AGREEMENT.** This Agreement, including exhibits, (if any) constitutes the entire Agreement between the parties hereto with respect to the subject matter hereof. There are no other representations, warranties, promises, agreements or understandings, oral, written or implied, among the Parties, except to the extent reference is made thereto in this Agreement. No course of prior dealings between the parties and no usage of trade shall be relevant or admissible to supplement, explain, or vary any of the terms of this Agreement. No representations, understandings, or agreements have been made or relied upon in the making of this Agreement other than those specifically set forth herein.
58. **LEGAL AUTHORITY.** Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

[REMAINDER OF PAGE INTENTIONALLY BLANK. SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties have executed this Agreement on the ____ day of
05 / 07 / 2020 _____, 2020

ATTEST:

CITY OF OCALA

Angel B. Jacobs

Jay A Musleh

Angel B. Jacobs
City Clerk

Jay A. Musleh
City Council President

Approved as to form and legality:

MARCUM ENTERPRISES, LLC

/s/ Robert W. Batsel, Jr.

Doug Marcum

Robert W. Batsel, Jr.
Assistant City Attorney

By: Doug Marcum
(Printed Name)
Title: Managing Member
(Vice President or higher)

Contractor shall provide all materials, labor, supervision, tools, accessories, equipment, permits, fees, testing, inspections, certifications, and all other things necessary for Contractor to complete sidewalk and driveway maintenance and repair projects currently planned or requested by the City.

City Project Manager and Contact Information for Contractor

All work shall be coordinated through the City Project Manager, Paul Constable, Telephone: 352-427-9338, E-Mail: PConstable@Ocalafl.org.

Contractor Project Management

Contractor shall identify a project manager for the project and provide emergency and non-emergency telephone numbers to the City upon award of Contract. The phone numbers for Contractor's project manager must be answered during normal working hours, or voicemail must be available to leave a message.

While performing work under the Agreement, Contractor shall provide supervision of all work crews at all times. Each work crew shall have a designated person on the work site that has the authority to respond to inquiries about work details or priorities.

General Requirements

The work generally consists of preparing the site to accept concrete, placing and finishing concrete, and returning the site to its original or better condition once work is completed. The typical concrete sidewalk is four inches (4") thick and five feet (5') wide. Concrete driveways vary but are typically six inches (6") thick and reinforced with fiber.

Work shall also include restoration and sod of disturbed areas. Work may also include installation of new curb, traffic separators, ramps, and gutter removal & replacement. Rehabilitation of existing infrastructure will be on an "as requested" basis by the City.

From time to time, property owner irrigation piping and sprinkler heads will be encountered during excavation and grading operations. This piping is to be cut and capped at right-of-way line or repaired and placed back in service prior to leaving the site. Neither the City, nor

the City Engineer shall be held responsible for variations found to exist between the drawings and actual field conditions that develop through the period of construction.

Standard general site work requirements are found in the FDOT Standard Specifications for Road and Bridge Construction, latest edition.

Proper maintenance of traffic is required at all times while sidewalks and/or driveways are under construction. Maintenance of traffic must be performed per FDOT Design Standards, Index 600, latest edition.

City Responsibilities

The City will be responsible for the following work:

1. Flagging of right of way points.
2. Tree removal and fence relocation.
3. Replacement of asphalt (unless there is damage as a result of Contractor negligence, in which case the Contractor will be responsible).

Plan Sets

1. Construction plans for the Public Works Annual Sidewalk Repair & Maintenance Program will be distributed to the Contractor for review as projects are defined and prioritized for construction.
2. Upon receipt and review of plans, Contractor will provide a detailed quote for review by the City Project Manager.
3. Work shall not commence prior to receiving approval from the City Project Manager, and the number of days to complete work is agreed upon by both parties in writing.

Working Hours

1. The City's normal working hours are Monday through Friday from 7:00 a.m. to 5:30 p.m.
2. No work will be permitted on City-observed holidays.

3. Weekend work will only be permitted if inspectors are available. Inspectors are not obligated to work weekends.
4. If additional hours outside of normal working hours are necessary, Contractor must give 48 hours advance notice to the Project Manager. The City reserves the right to decline any such request.
5. Night work may be permitted if it would result in less impact to the public or reduced safety issues at no extra cost to City.
6. Contractor must submit a project schedule to the City Project Manager for approval.
7. **Weather Days:** Contractor shall submit a written request to the City Project Manager (email is the preferred method) for additional days for which work is suspended or delayed by weather. Weather days shall be reconciled with each monthly pay application for the time period which the application is submitted and shall be final. Contractor performance and execution of work will be considered in the determination for granting additional days.

Site Housekeeping and Cleanup

Contractor shall keep the premises free at all times from accumulation of waste materials and rubbish caused by operations and employees. Such responsibilities shall include but not limited to:

1. Periodic cleanup to prevent hazards, avoid interference with operations at the site, and to leave the site in a reasonable neat condition.
2. Work site will be completely cleaned after each day of work.
3. At completion of each individual project, Contractor shall remove from the site all tools, equipment, surplus materials, debris, temporary facilities, scaffolding, and equipment. All areas of work shall be swept thoroughly and all marks, stains, rust, dirt, paint drippings, and the like shall be removed from all new and existing work, to the satisfaction of the Owner.
4. Contractor shall dispose of debris in a legal manner.

Safety

1. Contractor shall be fully responsible for meeting all OSHA, local, state and national codes concerning safety provisions for their employees, sub-contractors, all building and site occupants, staff, public, etc.
2. Contractor shall be responsible for all damage to buildings, curbing, pavement, landscaping or irrigation systems caused by the delivery or removal of materials.
3. In no event shall the City be responsible for any damages to any of the Contractor's equipment or clothing lost, damaged, destroyed or stolen.
4. Prior to completion, storage and adequate protection of all material and equipment will be the Contractor's responsibility.

Project Requirements, Specifications and Standards

1. All work, materials, and construction equipment must comply with the latest editions of the following:
 - City of Ocala Standard Specifications for Construction of Streets, Stormwater, Traffic, Water and Sewer Infrastructure ("City Specifications") available at:
<https://www.ocalafl.org/Home/ShowDocument?id=17908>
 - Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction ("FDOT Specifications") available at:
<http://www.fdot.gov/programmanagement/Implemented/SpecBooks/>
2. Concrete shall be a minimum of 3,000 psi. All concrete work shall be in compliance with ADA requirements and the latest edition of FDOT specifications.
3. Contractor must maintain up to date copies of shop drawings, plans, bid documents, City Specifications, FDOT Specifications, and bid documents at job sites at all times.
4. Contractor must submit a detailed proposal for each individual project assigned for review by the City Project Manager.

5. Contractor shall be required to submit a City of Ocala Right-of-Way ("ROW") permit and Maintenance of Traffic ("MOT") Plan no less than one (1) week prior to project start dates for standard projects. For projects requiring lane or road closures, the ROW permit and MOT plan must be submitted no less than ten (10) working days prior to project start date.
6. Contractor must have at least one (1) person that is Intermediate MOT certified on site at all times during construction.
7. Backfilling and compaction procedures shall be performed in accordance with the FDOT Specifications, City Specifications, or as otherwise directed in writing by the City of Ocala.
8. All open cuts in the pavement (asphalt and concrete) shall be saw cut and made square.
9. The use of water to prevent the blowing of dust and debris during cutting operations and or cleaning operations is mandatory.
10. For all projects expected to take more than thirty (30) days of construction time, Contractor must submit a project schedule prior to the project start date. Contractor must update project schedules when they are no longer accurate.
11. All workers within the right-of-way shall wear ANSI/ISEA Class 2 apparel. (Safety Vest or equivalent)
12. Upon final completion of each individual project, signed and sealed right-of-way maps (when applicable) and as-builts must be submitted and approved by the City.

Compacting Base

Compaction to density of not less than 95% of maximum density (Standard Proctor MSHTO T-99) for 4" concrete sidewalks, 98% for 6" driveways.

Cleaning During Construction

1. The use of water to prevent the blowing of dust and debris during cutting operations and or cleaning operations is mandatory.
2. Contractor shall be required to sweep all roadways affected by the construction and where adjacent to work, daily.

3. Contractor shall be required to provide approved containers for collection and disposal of waste materials, debris, and rubbish.
4. Contractor shall be required to dispose of waste materials, debris, and rubbish off-site at least once weekly.
5. During the progress of the work, Contractor shall be required to keep areas adjacent to the work clean of all rubbish and surplus materials, remove unneeded construction equipment, and repair all damage so as to limit the inconvenience of the public and property owners.
6. Contractor shall ensure that the site of the work has a neat, orderly, and workmanlike appearance at all times.
7. Contractor shall be required to keep ditches, channels, drains, catch basins and other areas within the construction limits, whether on public or private property, in a clean and neat condition. Should, as a result of Contractor operations, construction material or debris wash, flow, fall, or become otherwise discarded into ditches, gutters, drains, catch basins, or elsewhere within the construction limits, such material or debris shall be entirely removed and satisfactorily disposed of on a daily basis during progress of the work.
8. Contractor shall be responsible for the acceptable restoration of all public and private property that has been disturbed by Contractor during execution of the Contract. This shall include picking up and removal of all excess fills, sub-grade, limerock, asphalt, and surface material which might be displaced off the roadway during construction. Contractor shall provide a site for dumping of excess material.
9. The use of private property as a construction storage or dumpsite is expressly prohibited without written authorization from the property owner. Contractor shall be responsible for providing the City Project Manager with a copy of the written authorization form prior to use of private property.

Maintenance of Traffic

1. Contractor shall be responsible for maintenance of traffic per FDOT Design Standards, Index 100 (latest edition), within the limits of the project, for the duration of the construction period, including any temporary suspensions of the work. FDOT Design

Standards are the minimum standards for the use in the development of all Traffic Control Plans (TCPs).

2. Contractor shall construct and maintain detours.
3. Contractor shall provide facilities for access to residences, businesses, etc., along the project.
4. Contractor shall furnish, install and maintain traffic control and safety devices during construction.
5. Contractor shall provide any other special requirements for the safe and expeditious movement of traffic specified in the Plans.
6. Contractor shall not obstruct or create a hazard to any traffic during the performance of the work.
7. Contractor shall be responsible for repairing any damage to existing pavement open to traffic.
8. Maintenance of traffic shall include all facilities, devices and operations as required for safety and convenience of the public within the work zone.
9. Contractor shall not be required to maintain traffic over those portions of the project where no work is to be accomplished or where construction operations will not affect existing roads.

Mobilization

1. Mobilization shall include the obtaining of required permits and the moving of the Contractor's operations and equipment required for construction.
2. Contractor shall provide on-site sanitary facilities as required by Governing agencies.
3. Contractor will not be permitted to use City-owned sanitary facilities during construction.
4. Contractor shall be responsible for the posting of OSHA required notices and establishing of safety programs and procedures.

Mobilization & Maintenance of Traffic Costs

Contractor's line item for concrete, as set forth in Exhibit B – Price Proposal, includes costs for mobilization of the Contractor's equipment, labor, material storage, and maintenance of traffic as required by the City and by FDOT Manual on traffic Control and Safe Practices for Street & Highway Construction and Standard Index 100 latest edition, and all other appurtenant work necessary for the Contractor to begin and perform work until completion.

Testing Requirements

1. Contractor shall be responsible for arranging, obtaining, and paying for all required inspections and testing.
2. Any required inspections and testing shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities approved by the City Engineer.
3. All results of any required inspections and testing shall be submitted to City Project Manager/City Engineer.
4. For all requirements related to inspections and testing, refer to Article 14 of the City of Ocala Standard Specifications for Construction of Streets, Stormwater, Traffic, Water and Sewer Infrastructure.

Construction Work Areas

Components of the project, including temporary work and storage areas, will be located on-site per project. **Utilizing private property without written permission is prohibited.** Staging areas will be sited inside the right-of-way or within City property.

Erosion Sediment and Flood Control

Contractor shall be responsible for providing, maintaining, and operating temporary facilities to control erosion and sediment, and to protect work and existing facilities from flooding during construction. Contractor shall be required to maintain drainage ways and construct temporary drainage facilities to allow runoff to flow properly.

Root Removal

Contractor's line item for removal of concrete and removal of curb shall also include removal and disposal of roots that are encountered during these activities. Roots shall be removed to a distance that will allow for forms to be placed and not be interfered with.

Grassing

1. Contractor shall sod disturbed areas affected by their work as directed by the City Project Manager with a grass type that matches existing sod. In areas where there is not an established grass type, Argentine Bahia shall be used.
2. It is the intent of this specification that the Contractor shall produce a satisfactory strand of grass, free of weeds and foreign growth.
3. Contractor is responsible for sod for a minimum of sixty (60) days after installation. If sod does not flourish the Contractor will remove and replace sod at no additional cost to the City of Ocala.

Warning Mats

Detectable warning mats on walking surfaces shall be brick color and have a bead of silicone put around the outside edge of the entire mat after it has been installed per FDOT guidelines.

Exhibit B - Price Proposal			
Annual Sidewalk Repair & Maintenance			
Marcum Enterprises, LLC			
ITEM NO	DESCRIPTION	UNIT	PRICE
G-06	SILT FENCE AND SEDIMENT CONTROL	LF	\$ 1.00
G-11-1	REGULAR EXCAVATION	CY	\$ 9.00
G-11-2	NEW SIDEWALK EXCAVATION	SY	\$ 11.00
G-12	IMPORTED BACKFILL MATERIAL	CY	\$ 18.00
G-21	REMOVAL OF CONCRETE	SY	\$ 8.00
G-22	REMOVE CONCRETE CURB & GUTTER	LF	\$ 3.00
G-25	ASPHALT PAVEMENT REMOVAL	SY	\$ 10.00
G-45	MANHOLE ADJUSTMENTS ON STORMWATER COVER	EA	\$ 500.00
G-49-1	12" CONCRETE MITERED END	EA	\$ 500.00
G-49-2	15" CONCRETE MITERED END	EA	\$ 750.00
G-49-3	18" CONCRETE MITERED END	EA	\$ 900.00
G-49 -4	24" CONCRETE MITERED END	EA	\$ 1,200.00
G-49 -5	30" CONCRETE MITERED END	EA	\$ 1,250.00
G-49-6	36" CONCRETE MITERED END	EA	\$ 3,000.00
G-49-7	42" CONCRETE MITERED END	EA	\$ 4,250.00
G-49-8	48" CONCRETE MITERED END	EA	\$ 4,400.00
G-50-1	CONCRETE FLUME	SY	\$ 55.00
G-50-2	CONCRETE FLUME "D" CURB	LF	\$ 27.00
G-52	CONSTRUCTION SURVEY	HR	\$ 150.00
G-53	AS-BUILT DRAWINGS	HR	\$ 150.00
G-56-A	CONCRETE CURB , TYPE A	LF	\$ 21.00
G-56-B	CONCRETE CURB, TYPE B	LF	\$ 18.50
G-56-D	CONCRETE CURB, TYPE D	LF	\$ 17.00
G-56-E	CONCRETE CURB TYPE E	LF	\$ 19.00
G-56-F	CONCRETE CURB TYPE F	LF	\$ 20.00
G-56-RA	CONCRETE CURB, TYPE RA	LF	\$ 22.00
G-56-DR	CONCRETE VALLEY/DROP CURB & GUTTER	LF	\$ 22.00
G-56-BC	CONCRETE CURB BACK OF SIDEWALK	LF	\$ 16.00
G-58-1	4 INCH CONCRETE (3000 PSI)	SY	\$ 41.50
G-58-2	4 INCH CONCRETE (4000 PSI /WITH FIBER)	SY	\$ 47.00
G-58-3	4 INCH CONCRETE (3000 PSI / PUMP MIX)	SY	\$ 44.00
G-58-4	6 INCH CONCRETE WITH FIBER REINFORCED (3000 PSI)	SY	\$ 54.00
G-58-5	6 INCH CONCRETE WITH FIBER REINFORCED (4000 PSI / WITH FIBER)	SY	\$ 60.75
G-58-6	6 INCH CONCRETE WITH FIBER REINFORCED (3000 PSI / WITH FIBER - PUMP MIX)	SY	\$ 62.00

Exhibit B - Price Proposal			
Annual Sidewalk Repair & Maintenance			
Marcum Enterprises, LLC			
ITEM NO	DESCRIPTION	UNIT	PRICE
G-58-7	8 INCH CONCRETE WITH FIBER AND/OR REBAR (ENGINEERS DESIGN DICTATES, 4000 PSI)	SY	\$ 76.50
G-58-8	4 INCH CONCRETE - 3' X 5' PATTERN W/ SALT ROCK FINISH	SY	\$ 51.75
G-58-9	6 INCH CONCRETE - 3' X 5' PATTERN W/ SALT ROCK FINISH	SY	\$ 55.80
G-58-10	CONCRETE EDGE BEAM	LF	\$ 12.00
G-60-1	BRICK PAVER BANDS (FURNISH AND INSTALL)	LF	\$ 11.50
G-60-2	ARCHITECTURAL PAVERS (TRAFFIC RATED, FURNISH AND INSTALL)	SY	\$ 90.00
G-61-A	CONCRETE CURB RAMP (CR - A) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,100.00
G-61-B	CONCRETE CURB RAMP (CR - B) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,250.00
G-61-C	CONCRETE CURB RAMP (CR - C) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,250.00
G-61-D	CONCRETE CURB RAMP (CR - D) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,400.00
G-61-E	CONCRETE CURB RAMP (CR - E) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,425.00
G-61-F	CONCRETE CURB RAMP (CR - F) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,550.00
G-61-G	CONCRETE CURB RAMP (CR - G) WITH DETECTABLE WARNING SURFACE	EA	\$ 1,550.00
G-61-L	CONCRETE CURB RAMP (CR - L) WITH DETECTABLE WARNING SURFACE	EA	\$ 2,000.00
G-62	DETECTABLE WARNING MATS ON EXISTING WALKING SURFACES	SY	\$ 225.00
G-63-1	ROOF DRAIN ASSEMBLY (CONDUIT)	EA	\$ 500.00
G-63-2	ROOF DRAIN ASSEMBLY (POLYLOK TRENCH DRAIN)	EA	\$ 500.00
G-68-1	REMOVE AND REPLACE END WALLS, 12"	LS	\$ 2,500.00
G-68-2	REMOVE AND REPLACE END WALLS, 15"	LS	\$ 2,500.00
G-68-3	REMOVE AND REPLACE END WALLS, 18"	LS	\$ 3,000.00
G-68-4	REMOVE AND REPLACE END WALLS, 24"	LS	\$ 3,850.00
G-68-5	REMOVE AND REPLACE END WALLS, 30 "	LS	\$ 4,500.00
G-68-6	REMOVE AND REPLACE END WALLS, 36"	LS	\$ 6,500.00
G-68-7	REMOVE AND REPLACE END WALLS, 42"	LS	\$ 9,850.00
G-68-8	REMOVE AND REPLACE END WALLS, 48"	LS	\$ 12,500.00

Exhibit B - Price Proposal			
Annual Sidewalk Repair & Maintenance			
Marcum Enterprises, LLC			
ITEM NO	DESCRIPTION	UNIT	PRICE
G-80-1	SOD - ST. AUGUSTINE	SY	\$ 9.00
G-80-2	SOD - BAHIA	SY	\$ 6.50
G-90	MISCELLANEOUS SIGN REMOVE & REINSTALL	EA	\$ 150.00
G-99-1	TRAFFIC SEPARATOR CONCRETE-TYPE I, 4' WIDE	LF	\$ 35.00
G-99-2	TRAFFIC SEPARATOR CONCRETE-TYPE I, 6' WIDE	LF	\$ 48.00
G-99-3	TRAFFIC SEPARATOR CONCRETE- TYPE I, 8.5' WIDE	LF	\$ 55.00
G-99-4	TRAFFIC SEPARATOR - CONCRETE, TYPE II, 4' WIDE	LF	\$ 35.00
G-99-5	TRAFFIC SEPARATOR - CONCRETE, TYPE II, 6' WIDE	LF	\$ 52.00
G-99-6	TRAFFIC SEPARATOR CONCRETE- TYPE II, 8.5' WIDE	LF	\$ 77.00
G-99-7	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 4' WIDE	LF	\$ 38.50
G-99-8	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 6' WIDE	LF	\$ 56.00
G-99-9	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 8.5' WIDE	LF	\$ 95.00
G-99-10	TRAFFIC SEPARATOR CONCRETE, TYPE V, 4' WIDE	LF	\$ 56.50
G-99-11	TRAFFIC SEPARATOR CONCRETE- TYPE V, 6' WIDE	LF	\$ 83.00
G-100	CONCRETE PUMP - W/250 FEET OF HOSE PER LOCATION	EA	\$ 500.00
G-101	DECORATIVE STAMP INSTALLED IN CONCRETE FINISH (CITY PROVIDES STAMP)	EA	\$ 100.00
E-1	1" SCHD 40 PVC CONDUIT (FURNISH & INSTALL)	LF	\$ 7.50
E-2	2" SCHD 40 PVC CONDUIT (FURNISH & INSTALL)	LF	\$ 7.50
E-3	3" SCHD 40 PVC CONDUIT (FURNISH & INSTALL)	LF	\$ 14.00
E-4	4" SCHD 40 PVC CONDUIT (FURNISH & INSTALL)	LF	\$ 15.00
E-5	INSTALL VAULTS (FURNISHED BY CITY)	EA	\$ 550.00

Exhibit B - Price Proposal			
Annual Sidewalk Repair & Maintenance			
Marcum Enterprises, LLC			
ITEM NO	DESCRIPTION	UNIT	PRICE
W-20-1	ADJUST VALVE BOX TO GRADE	EA	\$ 150.00
W-20-2	ADJUST METER BOX TO GRADE	EA	\$ 150.00

Exhibit C - Measurement and Payment

G-99-1	TRAFFIC SEPARATOR CONCRETE-TYPE I, 4' WIDE	LF
G-99-2	TRAFFIC SEPARATOR CONCRETE-TYPE I, 6' WIDE	LF
G-99-3	TRAFFIC SEPARATOR CONCRETE- TYPE I, 8.5' WIDE	LF
G-99-4	TRAFFIC SEPARATOR - CONCRETE, TYPE II, 4' WIDE	LF
G-99-5	TRAFFIC SEPARATOR - CONCRETE, TYPE II, 6' WIDE	LF
G-99-6	TRAFFIC SEPARATOR CONCRETE- TYPE II, 8.5' WIDE	LF
G-99-7	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 4' WIDE	LF
G-99-8	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 6' WIDE	LF
G-99-9	TRAFFIC SEPARATOR CONCRETE- TYPE IV, 8.5' WIDE	LF
G-99-10	TRAFFIC SEPARATOR CONCRETE, TYPE V, 4' WIDE	LF
G-99-11	TRAFFIC SEPARATOR CONCRETE- TYPE V, 6' WIDE	LF

Payment for this item shall be made at the unit price set forth in the Bid Schedule and shall constitute full compensation for Work specified in the Contract Documents. Payment shall include, but is not limited to, all material cost, forming, contraction joint forming, expansion joint construction, steel reinforcement, finishing and backfilling and compaction, and all incidentals and appurtenances required to complete the installation of the traffic separator as shown and specified in plans and in accordance with Standard Plans 520-020.

G-100	Concrete Pump - W/250 feet of hose	LS
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Payment for this item shall be made at the unit price set forth in the Bid Schedule and shall constitute full compensation for Work specified in the Contract Documents. Payment shall include, but is not limited to, all costs for set up, 250 feet of hose, tear down, cleaning, man power, and all incidentals and appurtenances required to complete the use of a concrete pump as shown and specified.

G-101	Decorative Stamp installed in concrete finish (City provides stamp)	EA
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Payment for this item shall be made at the unit price set forth in the Bid Schedule and shall constitute full compensation for all cost associated with installing a decorative stamp at each location as specified in the Contract Documents. (Each location may have up to two (2) stamps in a five feet by five feet (5' x 5') area.

E-1	1" SCHED 40 PVC Conduit (Furnish & Install)	LF
E-2	2" SCHED 40 PVC Conduit (Furnish & Install)	LF
E-3	3" SCHED 40 PVC Conduit (Furnish & Install)	LF
E-4	4" SCHED 40 PVC Conduit (Furnish & Install)	LF

Payment for conduit items includes full compensation for equipment, labor and material necessary to execute the work as required by the plans and applicable City Standards. Payment includes trench excavation, installation of conduit, installation of necessary sweeps and 4' stub ups, pull strings, placement of warning tape, backfilling and compacting of trench and other work necessary for complete installation.

Exhibit C - Measurement and Payment

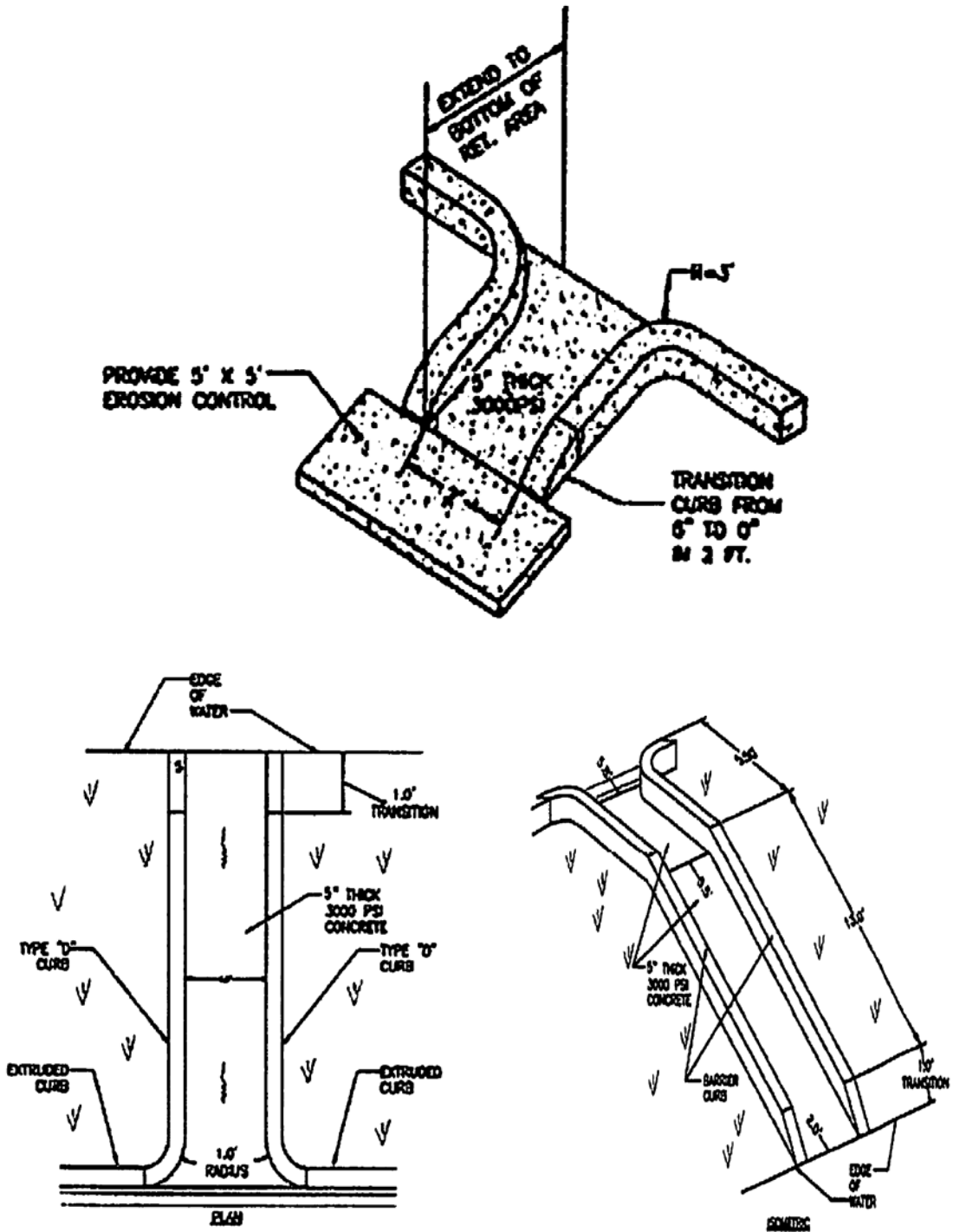
E-5 Install vaults (furnished by City)

EA

Payment for this item shall be made at the unit price set forth in the Bid Schedule and shall constitute full compensation for Work specified in the Contract Documents. Payment shall include, but is not limited to, all material costs, excavation, backfill, dewatering, compaction, shoring and bracing, installation of all adjustments to achieve final grade, and all and appurtenances required to complete the installation as shown and specified in the contract documents and applicable City Standards.

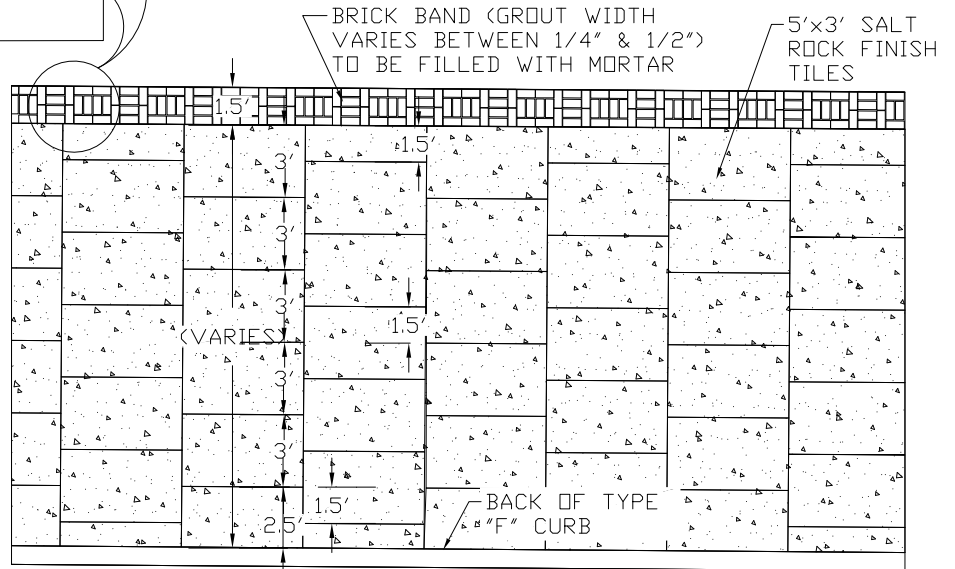
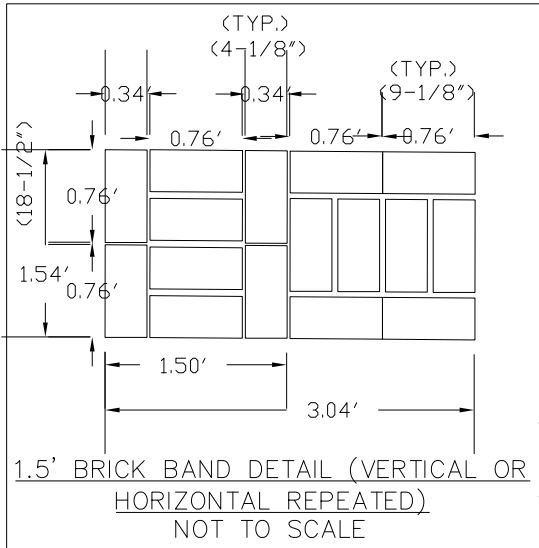
***All other line items measurements and payments descriptions can be found in the City of Ocala Standard Specifications for Construction of Streets, Stormwater, Traffic, Water and Sewer Infrastructure.**

Exhibit D - Flume Detail

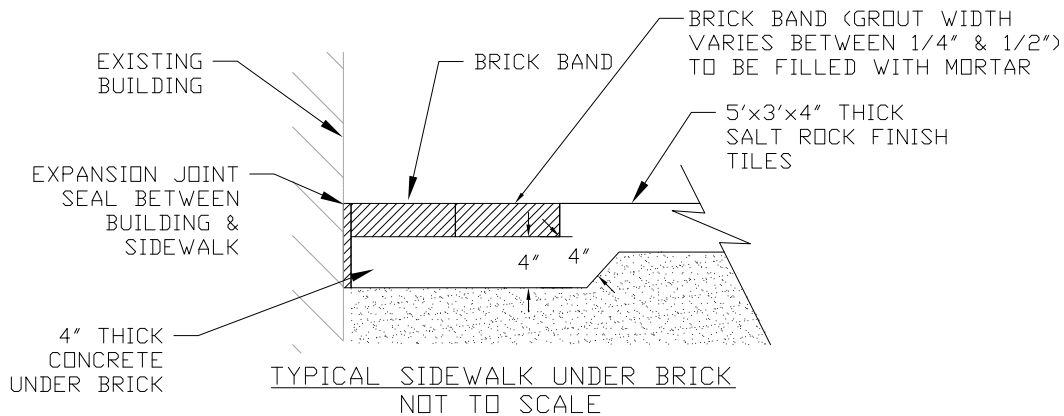


Concrete Flume

Exhibit E - Brick Ribbon Sidewalk Detail



TYPICAL DECORATIVE SIDEWALK DETAIL
NOT TO SCALE



TYPICAL SIDEWALK UNDER BRICK
NOT TO SCALE



CITY OF OCALA
STANDARD

BRICK RIBBON
SIDEWALK DETAIL

T-#

Version of
DEC. 18, 2019

TITLE	FOR REVIEW AND SIGNATURE - Construction Services Agreement - ...
FILE NAME	ORIGINAL - Constr...Maintenance (.pdf)
DOCUMENT ID	be7e7df4dc6b73cd32e7b95b1ceaa7323e6073b0
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IP: 98.180.89.187



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DOCUMENT ID	106db064721d96be9bdbe3d3e87fc305b4f1be8c
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