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AGREEMENT BETWEEN LAKE COUNTY, FLORIDA

AND MERRELL'S GRADE-ALL, INC.

FOR

SWALE/DITCH CLEANING AND DIGGING AND RELATED SERVICES

ITB 10-0611

TABLE OF CONTENTS

Article 1 RECITALS

Article 2 PURPOSE

Article 3 SCOPE OF PROFESSIONAL SERVICES

- 3.1 Projects Assigned
- 3.2 Quantities
- 3.3 Additional Users
- 3.4 Time of the Essence
- 3.5 General Conditions
- 3.6 Licenses, Permits and Fees
- 3.7 Contractor's Personnel and Equipment
- 3.8 Subcontractors and Suppliers
- 3.9 Contractor's Schedule

Article 4 PAYMENT

- 4.1 Lump Sum
- 4.2 Periodic Payments
- 4.3 Invoices
- 4.4 Unit Prices
- 4.5 Price Redetermination – Fuel
- 4.6 Certification of Payment to Subcontractors/Materials Suppliers
- 4.7 Federal or State Funding

Article 5 COUNTY RESPONSIBILITIES

Article 6 SPECIAL TERMS AND CONDITIONS

- 6.1 Term and Renewal
- 6.2 Termination
- 6.3 Subletting
- 6.4 Insurance
- 6.5 Indemnity
- 6.6 Independent Contractor
- 6.7 Return of Materials
- 6.8 No Claim For Damages
- 6.9 Retaining Other Contractors

6.10 Accuracy
6.11 Additional Services
6.12 Purchase of Other Items
6.13 Public Records
6.14 Copyrights
6.15 Public Entity Crimes
6.16 Right to Audit
Article 7 Miscellaneous Provisions
Article 8 Scope of Agreement
Exhibit A Scope of Services
Exhibit B Technical Requirements
Exhibit C General Terms and Conditions
Exhibit D Notice to Proceed Form
Exhibit E Contractor Pricing

AGREEMENT BETWEEN LAKE COUNTY, FLORIDA

AND MERRELL'S GRADE-ALL, INC.

FOR

SWALE/DITCH CLEANING AND DIGGING AND RELATED SERVICES

ITB 10-0611

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, hereinafter referred to as the COUNTY, by and through its Board of County Commissioners, and Merrell's Grade-All, Inc., a Florida corporation, its successors and assigns hereinafter the CONTRACTOR.

Recitals

WHEREAS, the COUNTY has publicly submitted for procurement of services for a firm to assist the COUNTY with swale/ditch cleaning and digging and related services; and

WHEREAS, the CONTRACTOR desires to perform such services subject to the terms of this Agreement; and

NOW, THEREFORE, IN CONSIDERATION of the mutual terms, understandings, conditions, promises, covenants and payment hereinafter set forth, and intending to be legally bound, the parties hereby agree as follows:

Article 1. Recitals

1.1 The foregoing recitals are true and correct and incorporated herein by reference.

Article 2. Purpose

2.1 The purpose of this Agreement is for the CONTRACTOR to assist the COUNTY with swale/ditch cleaning and digging and related services.

Article 3. Scope of Professional Services

3.1 Projects Assigned. On the terms and conditions set forth in this Agreement, COUNTY hereby engages CONTRACTOR to assist the COUNTY with swale/ditch cleaning and digging and related services. The general Scope of Services is attached hereto and incorporated herein by reference as **Exhibit A** and the Technical Requirements are attached hereto and incorporated herein by reference as **Exhibit B.** Projects will be assigned to the CONTRACTOR in accordance with the pricing given as shown on Contractor Pricing incorporated herein by reference as **Exhibit E** and the Notice to Proceed Form attached hereto and incorporated herein by reference as **Exhibit D**. CONTRACTOR agrees and acknowledges that in the event the CONTRACTOR cannot meet the COUNTY'S specifications, including but not limited to, time

for completion, cost for individual project etc., COUNTY reserves the sole right to offer the individual project to other contractors retained by the COUNTY.

3.2 Quantities. The quantities and types of services listed on the Notice to Proceed, once approved by the COUNTY, are hereby incorporated into this Agreement by reference and are deemed to be a material part of this Agreement. It is understood that the plans and specifications and construction may be modified by a Change Order as actual construction of the individual project progresses, but to be effective and binding, any and all such Change Orders must be in writing, executed by the parties, and in accordance with the COUNTY'S Purchasing Policies and Procedures.

CONTRACTOR agrees that this shall be an open quantity contract. The COUNTY shall not guarantee to the CONTRACTOR any minimum amount of work throughout the term of this Agreement. Any contract entered into can be any quantity up to the maximum allowed per the annual basis. The CONTRACTOR shall service all areas ordered by the Project Manager, and the contract shall be binding only for the actual quantities ordered.

3.3 Additional Users. It is hereby agreed and understood that any County department, agency or City facility may be added to, or removed from, this contract at the option of the COUNTY and may purchase any and all items specified herein from the CONTRACTOR at the contract price(s) established herein. Under these circumstances, a contract modification will be issued by the COUNTY identifying the requirements of the additional County department(s) or other entities.

3.4 Time of the Essence. CONTRACTOR acknowledges that time is of the essence in carrying out CONTRACTOR'S responsibilities under this Agreement. The CONTRACTOR shall have ten (10) calendar days from the date of receipt of the Notice to Proceed. If the CONTRACTOR fails to have the project completed by the specified time, the COUNTY may apply liquidated damages. Any additional cost incurred by the COUNTY because of the CONTRACTOR'S failure to complete the project as assigned will be deducted from the CONTRACTOR'S invoice.

3.5 General Conditions. CONTRACTOR shall abide by all terms and conditions contained within the General Terms and Conditions, attached hereto and incorporated herein by reference as **Exhibit C**.

3.6 Licenses, Permits and Fees.

A. CONTRACTOR shall comply, at its own expense, with all federal, state and local laws, codes, statutes, ordinances, rules, administrative orders, regulations and requirements applicable to the individual project, including Chapter 553, Part III, Florida Statutes, also known as the Trench Safety Act. CONTRACTOR shall obtain and pay for all licenses, permits and inspection fees required to complete the scope of services. Damages, penalties or fines imposed on the COUNTY or the CONTRACTOR for failure to obtain required licenses, permits or fines shall be borne by the CONTRACTOR.

B. CONTRACTOR shall retain all appropriate professional licenses and insurance throughout the term of this Agreement.

C. Due to the nature of this Agreement, the COUNTY shall, at the time of requiring services hereunder, conduct a review of required permits and fees to be obtained by the CONTRACTOR from the permitting agencies having jurisdiction over the assigned project. Permits will be determined on a project by project basis. Permit cost will be determined by the requesting COUNTY department. COUNTY shall provide specifications and/or plans for a permit project.

3.7 Contractor's Personnel and Equipment. CONTRACTOR shall provide competent, suitable, and qualified personnel to perform the work as required by the specifications. The CONTRACTOR shall be fully responsible for the performance of organization and completion of all work under this contract. The CONTRACTOR shall, at all times maintain good discipline and order at the work site. The CONTRACTOR shall maintain a dress code for its employees with a minimum of shirt, safety vest, shorts and shoes in decent condition at all times while the work is being performed. The CONTRACTOR shall furnish all labor, equipment, fuel, materials, any other items needed to perform all operations necessary to complete this work in strict accordance with these specifications, any applicable drawings, and subject to the terms and conditions of the contract.

3.8 Subcontractors and Suppliers. If subcontractors or materials suppliers are to be used by the CONTRACTOR, the CONTRACTOR shall provide a listing of such subcontractors and/or materials suppliers with the CONTRACTOR's acceptance of the Notice to Proceed. The listing shall include the name of each subcontractor/material supplier proposed, the work or the material the subcontractor/material supplier will provide, and the percentage of the overall project.

3.9 Contractor's Schedule. The CONTRACTOR shall submit a schedule to the Project Manager showing the daily locations to be worked. The CONTRACTOR shall contact the Project Manager by telephone, fax, or e-mail (preferred method) no later than 9:00 a.m. of each work day to report the locations completed the previous day and the anticipated work for the upcoming day. If the CONTRACTOR has to change the schedule or is aware of an upcoming schedule change, it shall contact the Project Manager as quickly as possible, but no later than the following day. The CONTRACTOR shall maintain coordination with the Project Manager at all times. Either party may request and be granted a conference within two (2) business days of the request.

Article 4. Payment

4.1 Lump Sum. CONTRACTOR pricing shall be as specified in **Exhibit E**, attached hereto and incorporated herein by reference. Payment for each individual work request will be based upon the LUMP SUM cost agreed upon and identified in the fully executed Notice to Proceed. Neither progress payment nor partial or entire use or occupancy of the project by the COUNTY will constitute an acceptance of work not in accordance with the contract documents.

4.2 Periodic Payments. The COUNTY shall provide periodic payments, with the appropriate retention, for tasks completed by the CONTRACTOR. In order for the COUNTY to provide payment, the CONTRACTOR shall submit a fully documented invoice that provides the basic information set forth below. The invoice shall be submitted to the COUNTY department within

thirty (30) calendar days after the service has been rendered. It shall be understood that such invoices shall not be submitted for payment until such time as the service and deliverable for the task has been completed and a COUNTY representative has reviewed and approved the service and deliverable.

4.3 Invoices. All invoices shall contain the purchase order number, invoice date, itemized work, date of service specific to each location, dump tickets for debris, person to contact and their phone number for billing questions and location of delivery or service, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative. Failure to submit invoices in the prescribed manner may delay payment, and the CONTRACTOR may be considered in default of contract and its contract may be terminated. Payments shall be tendered in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.

Address for invoicing: Attn: John Bringard, Senior Contracting Officer, Lake County Public Works, 31150 Industry Drive, Tavares, FL 32778. Invoices submitted later than that take the risk of non-payment if verification of work cannot be substantiated by the Project Manager. All invoices shall be supplemented with statements showing the proper disposal of the debris picked up each site by an approved State Permitted Facility.

4.4 Unit Prices. CONTRACTOR shall be compensated at the unit price specified on the Notice to Proceed issued for each individual work request. Unit Prices are specified in the CONTRACTOR'S bid tabulation sheet.

4.5 Price Redetermination – Fuel. If the below-identified price index for fuel (gas and/or diesel as applicable to the CONTRACTOR's operation) increases by ten percent (10%) or more from the price index in effect on the beginning date of any contract resulting from this solicitation, the CONTRACTOR may petition the Procurement Services Director in writing for an appropriate increase in the contract price(s). Any increase in the contract price(s) will be applied considering the relation of fuel cost to the contractor's total cost for the contracted product or service.

Any price re-determination will be solely based upon the percentage change between the base index and the current month index as documented by the: State of Florida Department of Management Services http://dms.myflorida.com/business_operations/state_purchasing/CONTRACTOR_information/state_contracts_agreements_and_price_lists/state_term_contracts/gasoline_and_fuel_oil/price_sheets_daily_price/price_sheets_current_pricing for unleaded gas, Florida PAD 1, Orlando.

The base index will be the index number for the month prior to the solicitation closing date. The current month index will be the last month's index published before the request for a price re-determination is made.

The CONTRACTOR shall provide (in writing) a cost analysis as described below for each contract price for which the CONTRACTOR is requesting adjustment. This analysis must include the percentage increase calculation between the base and current month indices; a clear and detailed representation of the fuel cost component of any contract price for which an

adjustment is requested; and a calculation showing the original contract price, the requested adjustment, and the proposed revised price. As an example: if the fuel index increases by twelve percent (12%) and the fuel cost accounts for ten percent (10%) of the cost of the product or service, then the contract price may be increased by 1.2 % *(0.12 / 0.10).* The CONTRACTOR may submit additional clarifying or justifying information for the COUNTY'S consideration. Failure to provide sufficient detail in the manner described above shall result in rejection of the CONTRACTOR'S request for pricing adjustment.

If the Procurement Services Director grants any increase in any contract price based upon this clause, the increased price(s) may be adjusted downward on a unilateral basis by the COUNTY if the fuel index(es) used to support any previous increase then decrease by ten percent (10%) or more. Any such decrease will be based on the calculations submitted by the CONTRACTOR pertaining to any previous price increase.

4.6 Certification of Payment to Subcontractors/Materials Suppliers. Prior to final payment to the CONTRACTOR on projects which **DO NOT** require a performance and payment bond, CONTRACTOR shall provide *Certification of Payment to Subcontractors/Materials Suppliers* before the invoice is processed and paid.

4.7 Federal or State Funding. IF ANY PROJECT GIVEN TO THE CONTRACTOR UNDER THIS AGREEMENT IS ONE IN WHICH FEDERAL OR STATE FUNDS SHALL BE USED, THE CONTRACTOR IS HEREBY INFORMED THAT PAYMENT SHALL BE CONTINGENT UPON RECEIPT OF SAID FEDERAL OR STATE FUNDS OR APPROVAL. ADDITIONALLY, PAYMENT SHALL BE CONTINGENT UPON THE CONTRACTOR COMPLETING ALL REQUIRED FORMS AND DOCUMENTATION AS IS NECESSARY IN ORDER TO OBTAIN SUCH FEDERAL OR STATE FUNDING OR APPROVAL.

Article 5. County Responsibilities

5.1 The Lake County Public Works Department shall participate in this Agreement as the primary COUNTY Department. However, any COUNTY Department may utilize this Agreement.

5.2 COUNTY shall pay in accordance with the Florida Prompt Payment Act.

5.3 The COUNTY retains the right to inspect all work to verify compliance with the contract and plans and specifications. Such inspection may extend to all or any part of the work and to the manufacture, preparation or fabrication of the materials to be used.

Article 6. Special Terms and Conditions

6.1 Term and Renewal. The term of this Agreement shall be twelve (12) months, beginning on the date of final execution of this Agreement. Prior to, or upon completion, of the initial term of the contract, the COUNTY shall have the option to renew this agreement for an additional four (4) one (1) year periods. The COUNTY will notify the CONTRACTOR within thirty (30) days prior to the end of the current contract term of the intent to renew. The COUNTY reserves

the unilateral right to extend a contract ninety (90) calendar days beyond the current contract period. In such event, the COUNTY will notify CONTRACTOR in writing of such extension.

6.2 Termination. This Agreement may be terminated by the COUNTY upon thirty (30) days advance written notice to the other party; but if any work or service/task hereunder is in progress but not completed as of the date of termination, then this Agreement may be extended upon written approval of the COUNTY until said work or service(s)/task(s) is completed and accepted.

A. Termination for Convenience. In the event this Agreement is terminated or cancelled upon the request and for the convenience of the COUNTY with the required thirty (30) day advance written notice, COUNTY shall reimburse CONTRACTOR for actual work satisfactorily completed.

B. Termination for Cause. Termination by the COUNTY for cause, default, or negligence on the part of CONTRACTOR shall be excluded from the foregoing provision. Termination costs, if any, shall not apply. The thirty (30) day advance notice requirement is waived in the event of termination for cause.

C. Termination Due to Unavailability of Funds in Succeeding Fiscal Years. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year, this Agreement shall be canceled and the CONTRACTOR shall be reimbursed for the reasonable value of any non-recurring costs incurred but not amortized in the price of the supplies or services/tasks delivered under this Agreement.

6.3 Subletting. This Agreement shall not be sublet except with the written consent of the COUNTY'S Procurement Services Director. No such consent shall be construed as making the COUNTY a party to the subcontract or subjecting the COUNTY to liability of any kind to any subcontractor. No subcontract shall under any circumstances relieve the CONTRACTOR of liability and obligations under this Agreement and all transactions with the COUNTY must be through the CONTRACTOR.

6.4 Insurance.

CONTRACTOR shall not commence work under the Agreement until COUNTY has received an acceptable certificate or certificates of insurance evidencing the required insurance, which is as follows:

The CONTRACTOR shall purchase and maintain, at its expense, from a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insurance policies containing the following selected types of coverage and minimum limits of liability protecting from claims which may arise out of or result from the performance or non-performance of services under this contract by the CONTRACTOR or by anyone directly or indirectly employed by it, or by anyone for whose acts it may be liable:

(i) General Liability insurance on forms no more restrictive than the latest edition of the Occurrence Form Commercial General Liability policy (CG 00 01) of the Insurance Services

Office or equivalent without restrictive endorsements, with the following minimum limits and coverage:

Each Occurrence/General Aggregate	$500,000
Products-Completed Operations	$500,000
Personal & Adv. Injury	$500,000
Fire Damage	$50,000
Medical Expense	$5,000
Contractual Liability	Included

(ii) Automobile liability insurance, including owned, non-owned, and hired autos with the following minimum limits and coverage:

Combined Single Limit	$300,000
or	
Bodily Injury (per person)	$100,000
Bodily Injury (per accident)	$300,000
Property Damage	$100,000

(iii) Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statutes, and/or any other applicable law requiring workers' compensation (Federal, maritime, etc). If not required by law to maintain workers compensation insurance, the CONTRACTOR must provide a notarized statement that if he or she is injured, he or she will not hold the COUNTY responsible for any payment or compensation.

(iv) Employers Liability with the following minimum limits and coverage:

Each Accident	$100,000
Disease-Each Employee	$100,000
Disease-Policy Limit	$500,000

(v) Professional liability and/or specialty insurance (medical malpractice, engineers, architect, consultant, environmental, pollution, errors and omissions, etc.) as applicable, with minimum limits of $500,000 and annual aggregate of $1,000,000.

(vi) Lake County, a Political Subdivision of the State of Florida, and the Board of County Commissioners, shall be named as additional insured as their interest may appear on all applicable policies.

(vii) Certificate(s) of insurance shall provide for a minimum of sixty (60) days prior written notice to the COUNTY of any change, cancellation, or nonrenewal of the required insurance.

(viii) Certificate(s) of insurance shall identify the contract number in the Description of Operations section of the Certificate.

(ix) Certificates of insurance shall evidence a waiver of subrogation in favor of the COUNTY, that coverage shall be primary and noncontributory, and that each evidenced policy includes a Cross Liability or Severability of Interests provision, with no requirement of premium payment by the County.

(x) Certificate holder shall be:

LAKE COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA, AND THE BOARD OF COUNTY COMMISSIONERS.
P.O. BOX 7800
TAVARES, FL 32778-7800

(xi) All self-insured retentions shall appear on the certificate(s) and shall be subject to approval by the COUNTY. At the option of the COUNTY, the insurer shall reduce or eliminate such self-insured retentions; or the CONTRACTOR shall be required to procure a bond guaranteeing payment of losses and related claims expenses.

(xii) The COUNTY shall be exempt from, and in no way liable for, any sums of money, which may represent a deductible or self-insured retention in any insurance policy. The payment of such deductible or self-insured retention shall be the sole responsibility of the CONTRACTOR and/or subcontractor providing such insurance.

(xiii) The CONTRACTOR shall be responsible for subcontractors and their insurance. Subcontractors are to provide certificates of insurance to the COUNTY evidencing coverage and terms in accordance with CONTRACTOR's requirements.

(xiv) Failure to obtain and maintain such insurance as set out above will be considered a breach of contract and may result in termination of the contract for default.

(xv) Neither approval by the COUNTY of any insurance supplied by the CONTRACTOR, nor a failure to disapprove that insurance, shall relieve the CONTRACTOR of full responsibility of liability, damages, and accidents as set forth herein.

6.5 Indemnity. CONTRACTOR shall indemnify and hold COUNTY and its agents, officers, commissioners or employees harmless from any damages resulting from failure of CONTRACTOR to take out and maintain the above insurance. Additionally, CONTRACTOR agrees for good and valuable consideration in the amount of ten dollars ($10.00) to indemnify, and hold the Board of County Commissioners, Lake County, Florida, and its officers, commissioners, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities resulting from the negligent act, error or omission of CONTRACTOR, its agents, employees or representative, in the performance of CONTRACTOR'S duties set forth in this Agreement.

6.6 Independent Contractor. CONTRACTOR and all its employees agree that they shall be acting as an independent contractor and shall not be considered or deemed to be an agent,

employee, joint venture, or partner of the COUNTY. CONTRACTOR shall have no authority to contract for or bind COUNTY in any manner and shall not represent itself as an agent of the COUNTY or as otherwise authorized to act for or on behalf of COUNTY. Additionally, CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONTRACTOR to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for CONTRACTOR any fee, commission, percentage, gift, or other consideration contingent upon on resulting from the award or making of this Agreement.

6.7 Return of Materials. Upon the request of the COUNTY, but in any event upon termination of this Agreement, CONTRACTOR shall surrender to the COUNTY all memoranda, notes, records, drawings, manuals, computer software, and other documents or materials pertaining to the services hereunder, that were furnished to the CONTRACTOR by the COUNTY pursuant to this Agreement.

6.8 No Claim for Damages. **NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE COUNTY BY REASON OF ANY DELAYS:** No interruption, interference, inefficiency, suspension or delay in the commencement or progress of the work from any cause whatsoever, including delays caused by unfavorable weather conditions, shall relieve the CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from the COUNTY. The CONTRACTOR expressly acknowledges and agrees that the CONTRACTOR shall receive no damages for delay. The CONTRACTOR's sole remedy, if any, against the COUNTY shall be the right to seek an extension to the contract time. However, this provision shall not preclude recovery or damages by the CONTRACTOR for hindrance or delay due solely to the fraud, bad faith or active interference on the part of the COUNTY or its agents. Otherwise, the CONTRACTOR shall be entitled to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

6.9 Retaining Other Contractors. Nothing herein shall be deemed to preclude the COUNTY from retaining the services of other persons or entities undertaking the same or similar services as those undertaken by the CONTRACTOR or from independently developing or acquiring materials or programs that are similar to, or competitive with, the services provided under this Agreement.

6.10 Accuracy. The CONTRACTOR is responsible for the professional quality, technical accuracy, timely completion and coordination of all the services furnished hereunder. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in resulting from the services provided herein.

6.11 Additional Services. Services not specifically identified in this Agreement may be added to the Agreement upon execution of a written amendment.

6.12 Purchase of Other Items. While the COUNTY has listed all major items within this contract which are utilized by COUNTY departments in conjunction with their operations, there may be ancillary items that must be purchased by the COUNTY during the term of this contract. Under these circumstances, a COUNTY representative will contact the CONTRACTOR to obtain a price quote for the ancillary items. If there are multiple contractors on the contract, the COUNTY representative may also obtain price quotes from these contractors. The COUNTY reserves the right to award these ancillary items to the primary contractor, another contractor based on the lowest price quoted, or to acquire the items through a separate solicitation.

6.13 Public Records. All electronic files, audio and/or video recordings, and all papers pertaining to any activity performed by the CONTRACTOR for or on behalf of the COUNTY shall be the property of the COUNTY and will be turned over to the COUNTY upon request. In accordance with Chapter 119, Florida Statutes, each file and all papers pertaining to any activities performed for or on behalf of the COUNTY are public records available for inspection by any person even if the file or paper resides in the CONTRACTOR's office or facility. The CONTRACTOR shall maintain the files and papers for not less than three (3) complete calendar years after the project has been completed or terminated, or in accordance with any grant requirements, whichever is longer. Prior to the close out of the contract, the CONTRACTOR shall appoint a records custodian to handle any records request and provide the custodian's name and telephone number(s) to the Contracting Officer.

6.14 Copyrights. Any copyright derived from this Agreement shall belong to the author. The author and the CONTRACTOR shall expressly assign to the COUNTY nonexclusive, royalty free rights to use any and all information provided by the CONTRACTOR in any deliverable and/or report for the COUNTY'S use which may include publishing in COUNTY documents and distribution as the COUNTY deems to be in the COUNTY's best interests. If anything included in any deliverable limits the rights of the COUNTY to use the information, the deliverable shall be considered defective and not acceptable and the CONTRACTOR will not be eligible for any compensation.

6.15 Public Entity Crimes. A person or affiliate who has been placed on the convicted CONTRACTOR list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted CONTRACTOR list.

6.16 Right to Audit.

A. The County reserves the right to require CONTRACTOR to submit to an audit by any auditor of the COUNTY'S choosing. CONTRACTOR shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. CONTRACTOR shall retain all records pertaining to this Agreement and upon request make them available to the COUNTY for three (3) years following expiration of the Agreement. CONTRACTOR agrees to provide such assistance as may be necessary to

facilitate the review or audit by the COUNTY to ensure compliance with applicable accounting and financial standards.

B. All items sold to the COUNTY under this Contract are subject to post sale audit adjustment. In the event an audit indicates that the CONTRACTOR has not honored its quoted price lists and discounts, the CONTRACTOR shall be liable for any and all overage charges, and this Agreement may be terminated for cause at the COUNTY'S option.

Article 7. Miscellaneous Provisions

7.1 This Agreement is made under, and in all respects shall be interpreted, construed, and governed by and in accordance with the laws of the State of Florida. Venue for any legal action resulting from this Agreement shall lie in Lake County, Florida.

7.2 Neither party may assign any rights or obligations under this Agreement to any other party unless specific written permission from the other party is obtained.

7.3 The captions utilized in this Agreement are for the purposes of identification only and do not control or affect the meaning or construction of any of the provisions hereof.

7.4 This Agreement shall be binding upon and shall inure to the benefit of each of the parties and of their respective successors and permitted assigns.

7.5 This Agreement may not be amended, released, discharged, rescinded or abandoned, except by a written instrument duly executed by each of the parties hereto.

7.6 The failure of any party hereto at any time to enforce any of the provisions of this Agreement will in no way constitute or be construed as a waiver of such provision or of any other provision hereof, nor in any way affect the validity of, or the right thereafter to enforce, each and every provision of this Agreement.

7.7 During the term of this Agreement CONTRACTOR assures COUNTY that it is in compliance with Title VII of the 1964 Civil Rights Act, as amended, and the Florida Civil Rights Act of 1992, in that CONTRACTOR does not on the grounds of race, color, national origin, religion, sex, age, disability or marital status, discriminate in any form or manner against CONTRACTOR employees or applicants for employment. CONTRACTOR understands and agrees that this Agreement is conditioned upon the veracity of this statement of assurance.

7.8 The invalidity or unenforceability of any provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provisions were omitted.

7.9 Wherever provision is made in this Agreement for the giving, service or delivery of any notice, statement or other instrument, such notice shall be in writing and shall be deemed to have been duly given, served and delivered, if delivered by hand or mailed by United States registered or certified mail or sent by facsimile addressed as follows:

If to CONTRACTOR:

Merrill Palmer, President
450 Ketch Road
St. Cloud, FL 34771

If to COUNTY:

Road Operations Division
31150 Industry Drive
Tavares, FL 32778

cc: County Manager
Lake County Administration Bldg.
Post Office Box 7800
Tavares, Florida 32778-7800

Article 8. Scope of Agreement

8.1 This Agreement is intended by the parties hereto to be the final expression of their Agreement, and it constitutes the full and entire understanding between the parties with respect to the subject hereof, notwithstanding any representations, statements, or agreements to the contrary heretofore made. Any items not covered under this contract will need to be added via written addendum, and pricing negotiated based on final specifications.

8.2 This Agreement contains the following Exhibits, all of which are incorporated herein:

Exhibit A	Scope of Services
Exhibit B	Technical Requirements
Exhibit C	General Terms and Conditions
Exhibit D	Notice to Proceed Form
Exhibit E	Contractor Pricing

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature: COUNTY through its Board of County Commissioners, signing by and through its Chairman, authorized to execute same by Board Action on the _____ day of _____, 2010 and by CONTRACTOR through its duly authorized representative.

CONTRACTOR:

Merrell Palmer
Print Name: Merrell Palmer
Title: President
This 18 day of May, 2010.

Agreement between Lake County, Florida and Merrill's Grade-All, Inc. for Swale/Ditch Cleaning and Digging and Related Services; ITB # 10-0611.

ATTEST:

Neil Kelly, Clerk of the Board
of County Commissioners
of Lake County, Florida

LAKE COUNTY, through its
BOARD OF COUNTY COMMISIONERS

Welton G. Cadwell
Chairman

This 17th day of June, 2010.

Approved as to form and legality:

Melanie N. Marsh
Acting County Attorney

EXHIBIT A: SCOPE OF SERVICE

SWALE/DITCH CLEANING AND DIGGING AND RELATED SERVICES

The purpose of this contract is to provide LAKE COUNTY with swale and ditch cleaning/digging and related services by the CONTRACTOR. The CONTRACTOR shall provide all equipment as needed or specified within this contract to complete the services as required by the COUNTY.

The estimated quantities cited on the bid tabulation sheet are only estimates and the COUNTY may use any quantities to best suit the needs that may arise throughout the term of this Agreement.

This work shall be provided to the COUNTY on an as-needed basis. No quantities are guaranteed as part of this contract and the locations shall vary throughout the COUNTY.

As part of this contract the CONTRACTOR may be required to supply and install sod on all the disturbed areas per the specifications as outlined in this contract.

The services shall be provided based on the following options:

- Hourly to include the machine and operator, the COUNTY will supply the trucks to haul.
    - When the work is ordered by an hourly rate, the COUNTY shall supply the trucks to haul the material. It shall be the responsibility of the COUNTY to supply enough trucks to keep the CONTRACTOR actively working at all times with the exception of COUNTY assigned break and lunch times. It shall be the responsibility of the CONTRACTOR to ensure that the equipment and operator supplied will be fully functional during all assigned work times.
- Per linear foot, the CONTRACTOR shall supply the trucks to haul the overburden material.
    - When work is ordered by the unit of linear foot the depth shall be based on digging in one (1) foot increments.
- Both of the options above can be ordered with or without sod.
- All work shall be based on fourteen (14) feet wide.

When the work request is for the CONTRACTOR to haul the overburden material, this material becomes the property of the CONTRACTOR. It shall be the responsibility of the CONTRACTOR to properly dispose of the material at no additional cost to the COUNTY.

It shall be the responsibility of the CONTRACTOR to insure that all control measures are made for adequate management of erosion, sedimentation, dust, and debris during all phases of the operation.

Mobilization/demobilization shall be included with the unit grade-all services cost.

All work shall be completed before the CONTRACTOR de-mobilizes the equipment unless otherwise agreed upon by the COUNTY.

If there is a drop off of more than one (1) inch at the edge of the road that is to be left overnight the CONTRACTOR shall be responsible to install lighted barricades or lighted barrels.

A Notice to Proceed shall be issued to the CONTRACTOR. As part of this document the approximate hours or linear footage of digging and if needed the approximate square feet of sod shall be included. When possible the areas shall be marked with pink on the adjacent roadway. If the CONTRACTOR feels that there is a discrepancy with any of the units that are indicated on the work request no work shall begin until an agreement is reached between the COUNTY and the CONTRACTOR. If the CONTRACTOR begins or completes the work before an agreement is achieved, the CONTRACTOR shall only be compensated for the units that are shown on the work request.

This is an open ended contract and any estimated quantities cited estimates and the COUNTY may use any quantities to best suit the needs that may arise throughout the term of this Agreement. The CONTRACTOR is advised that any variance between estimated and actual quantities will not be considered cause for any adjustment in contract pricing or billing.

All activities shall be performed meeting the requirements of Federal, State and local environmental standards and laws. Erosion and water pollution control shall be accomplished, meeting the requirements of the 2010 or latest version of the Florida Department of Transportation (FDOT) "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION," Section 10.

Definitions: Whenever the following terms, or pronouns used in place of them, are used in these Contract Documents, they shall have the meanings given below:

Calendar Day – Every day shown on the calendar, ending and beginning at Midnight.

Change Order – A written order issued by the Project Manager in accordance with Board policy, and accepted by the CONTRACTOR directing certain changes, additions or reductions in the work or in the materials used.

Notice to Proceed - The COUNTY shall supply the CONTRACTOR with a Notice to Proceed. This form shall include items such as, but not limited to, the road name, estimated square footage, and striping requirements. No work shall begin until the Notice to Proceed is issued to the CONTRACTOR by the COUNTY.

Plans – The approved drawings, list, or reproductions thereof that show the location, character, dimension and details of the work to be done as issued by the Project Manager.

Project Manager - Agent of the COUNTY responsible for items including but not limited to establishment of cost estimate, accepting/rejecting of work product, administration of the contract on a per job basis, as well as interfacing with the CONTRACTOR.

Statement of Work – The general intent of the work to be accomplished as defined by the project plans, drawings, photographs, and specifications.

Standard Specifications – FDOT "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION," 2010 edition or FDOT "ROADWAY AND TRAFFIC DESIGN STANDARDS," 2002 (or latest edition), or FDOT "MANUAL OF UNIFORM MINIMUM STANDARDS FOR DESIGN, CONSTRUCTION AND MAINTENANCE FOR STREETS AND HIGHWAYS," 2002 (or latest edition), and all supplemental specifications thereto. Pavement Marking specifications shall use FDOT "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION," 2010 edition. Florida Department of Transportation (FDOT) "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION," Section 10, 2010 or latest version.

EXHIBIT B: TECHNICAL REQUIREMENTS

Section 1. SWALE/DITCH CLEANING AND DIGGING AND RELATED SERVICES

1.1 Description of Work

1. The CONTRACTOR shall be responsible to remove overburden and reshape the swale/ditch in the areas outlined by the COUNTY. The COUNTY shall provide the limits of the work area by marking the adjacent road with pink paint. The CONTRACTOR is responsible for all lay out of the work. The CONTRACTOR shall reshape the areas with the proper line and grade as instructed by the COUNTY and so as to provide for positive flow of the drainage water. If at any time the CONTRACTOR feels that the line and grade requested will not allow for proper flow of drainage water, they shall contact the COUNTY before proceeding with any other work.

1.2 Order of Operation

1. This section describes the chronological order of events that will take place to begin, carry out and complete a project under this contract:

   a) Notice to Proceed is issued
   b) CONTRACTOR commences with the work as outlined.
   c) CONTRACTOR submits invoice with all documentation as required by this contract.

2. When the COUNTY has determined that work is needed, the Project Manager shall prepare the Notice to Proceed Form. The COUNTY shall supply the CONTRACTOR with a copy of the Notice to Proceed. This document shall be detailed with approximate linear footage or hours for digging and any other pertinent information for the work needed.

3. The CONTRACTOR shall contact the COUNTY with schedule of when the work will be started and completed. The CONTRACTOR shall consult with the Project Manager prior to any schedule variance, including when work is interrupted due to weather, breakdowns, etc. The notification shall occur the day before any scheduled variation is to take place and must be agreed to by the Project Manager. No extensions of time shall be given for equipment failure or weather conditions.

4. The CONTRACTOR shall keep the COUNTY'S Project Manager informed as to the completion of the work so that, at the option of the Project Manager, an inspection can be conducted so that deficiencies, if any, and tentative approval of work completed can be approved.

5. The CONTRACTOR shall, upon request, meet with the COUNTY's Project Manager to review the work that has been completed.

6. The specifications to govern all work being performed are the standard specifications as defined in this agreement unless otherwise noted on the Notice to Proceed. All estimates shall include cost items to perform work as specified.

7. If the CONTRACTOR is in default for not completing the work within the specified time, the CONTRACTOR will be removed from the bidder's list, at the option of the COUNTY, and not permitted to bid work for the COUNTY until the project is complete and the Liquidated Damages sum is satisfied.

8. When work by COUNTY forces, by other contractors, or weather conditions of a temporary nature prevent the CONTRACTOR from completing the work, it shall be the responsibility of the CONTRACTOR to notify the Project Manager immediately if a claim is being made, followed by a written request stating the date, time, and reason for the claim for extension.

1.3 Submittals

1. All Material Safety Data Sheets for all chemicals including fuel shall be supplied.
2. A letter signed by the landowner stating that the CONTRACTOR has the permission to use the private property for stockpiling or for storing the equipment.

1.4 Operation Guidelines

1. The CONTRACTOR shall start the work as outlined on the "Notice to Proceed" within ten (10) calendar days. Work shall be completed before the CONTRACTOR moves to another location unless otherwise approved by the Project Manager.

1.5 Equipment

1. The CONTRACTOR shall furnish equipment of a type and quantity to perform the work satisfactory within the time specified herein. At a minimum the CONTRACTOR shall provide a rubber tire telescopic excavator. The minimum allowed bucket shall be ¾ yard in size.

1.6 Work Methods - Digging

1. Unless otherwise instructed the CONTRACTOR will construct or clean the swale/ditch to have a maximum side slope of three (3) to one (1). The bottom of the swale/ditch shall be well rounded so as to allow for the ease of mowing. Unless otherwise authorized by the COUNTY the bottom of the swale/ditch shall not be V- shaped.

2. Whether or not the CONTACTOR is responsible for hauling, all overburden shall be removed from the site. There shall be no stockpiling of materials within the right of way. The CONTRACTOR shall insure that the areas are clean and free of debris each

night. When the overburden is the responsibility of the CONTRACTOR and they are using private property for stockpiling the overburden or storing their equipment, a letter of agreement from the landowner shall be supplied to the COUNTY before such activities commence.

3. The CONTRACTOR shall rake or otherwise smooth the areas that the materials have been removed to a finish acceptable for the installation of sod.

1.7 Sod

1. When sod is requested as part of the work, it shall be of the same type as that of the adjoining turf. The sod shall be of commercial size rectangles of fourteen (14) inches by twenty four (24) inches or larger. Rolled sod shall also be allowed providing it meets the same specifications as of the rectangles with the exception of the size.

2. Sod that is falling apart or in pieces less than specified can be rejected at the discretion of the Project Manager. The sod shall have a soil mat of sufficient thickness adhering firmly to the roots to withstand all necessary handling. Roots shall be healthy and well matted. The sod shall be live (not dormant), fresh and uninjured at the time of delivery. The sod shall be free of grassy, invasive / exotic, broadleaf and sedge weeds, diseases, insects and nematodes (of injured populations).

3. These specifications are to be used in conjunction with Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction 2010 Section 981, Turf Materials, or the latest version published. In the event that there is a discrepancy between these specifications, the more stringent shall take precedent and the final determination shall be made by the Project Manager.

4. The sod shall be fresh cut and shall not be left on the pallet for more than a period of seventy-two (72) hours. A letter of certification from the vendor as to when the sod was cut shall be provided to the Project Manager upon delivery of the sod to the job site.

5. The CONTRACTOR shall install the side of greater length of the sod parallel with the road surface. All edges of the sod shall be placed so that no gaps between the edges are visible. The pieces shall be laid so that the edges are staggered from each other by at least six (6) inches. The edge of the new sod that adjoins the undisturbed areas shall not be allowed to overlap and shall be installed in such a way that there will not be an apparent edge visible. The CONTRACTOR shall be responsible to insure that the surface of the installed sod is sufficiently smooth. There shall be no overlapping of the sod allowed.

6. If it is determined that the sod has not been installed properly leaving a rough appearance which is not sufficiently smooth, the COUNTY may require the CONTRACTOR to roll the areas in question. If so the vendor shall do so using a lightweight turf roller which will provide a true and even surface without any displacement or deformation of the sod. The CONTRACTOR shall do this at no additional cost to the COUNTY.

7. The sod provided shall be warranted to be free of noxious and invasive weeds, disease, and insects. If pest plants and/or noxious weeds manifest themselves within 30 days of placement of the sod, the CONTRACTOR shall treat affected areas at no additional cost to the COUNTY. The process for treating these areas shall be approved by the Project Manager.

1.8 Watering

1. The COUNTY may request that the CONTRACTOR water the sod that they have installed. There shall be an equivalent of one (1) inch water spread over the newly laid sod for each application. The COUNTY will specify the quantity and day of applications.

2. The CONTRACTOR shall supply any water needed for watering of the installed sod. The cost for the water shall be part of the price shown on the CONTRACTOR pricing section. The COUNTY does not have a municipal water supply, therefore it is the responsibility of the CONTRACTOR to secure and pay for any water needed to complete any work as outlined in this contract.

1.9 Method of Measurement.

1. The CONTRACTOR shall be paid per the unit cost that is described in **Exhibit E**. The Notice to Proceed shall have estimated quantities noted on it. If for some reason the estimated quantities are significantly different than the actual quantity, the CONTRACTOR shall notify the COUNTY of the difference as soon as possible.

2. NO QUANTITIES ARE GUARANTEED. The CONTRACTOR shall complete the work as ordered by the Project Manager, and the contract shall be binding only for the actual quantities ordered.

1.10 Basis of Payment.

1. Payment shall be full compensation for furnishing all equipment, materials, fuel, labor, maintenance of traffic, mobilization, and all incidentals necessary to complete all work as specified. The CONTRACTOR shall be compensated at the unit price, as specified in the CONTRACTOR's bid proposal, multiplied by the actual measured acres completed and accepted by the COUNTY, less any damages assessed.

EXHIBIT C: GENERAL TERMS AND CONDITIONS

1. Intent of Contract Documents
2. Errors and Omissions
3. Emergencies
4. Compliance with Occupational Safety and Health / Hazardous Materials
5. General Inspection Requirements
6. Project Manager
7. Contract Time and Time Extensions
8. Hours of Operation
9. Changes in Work
10. Claims and Disputes
11. Lands for Work and Access Thereto
12. Maintenance of Traffic
13. Underground Utilities
14. Damage
15. Protection of Existing Structures, Utilities, Work and Vegetation
16. Equipment
17. Sanitation
18. Other Work
19. Bonds
20. Final Inspection
21. Final Acceptance
22. Measurement and Payment
23. Warranty

1. INTENT OF CONTRACT DOCUMENTS

A. It is the intent of the contract documents to describe a functionally complete project (or portion thereof) to be constructed in accordance with the contract documents which combine to define the scope of work. Any work, materials, or equipment that may reasonably be inferred from the contract documents as being required to produce the intended result shall be supplied whether or not specifically called for. When words which have a well known technical or trade meaning are used to describe work, material or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority having jurisdiction over the project, whether such reference be specified or by implication, shall mean the latest standard specification, manual, code, law or regulation in effect at the time the work is performed, except as may be otherwise specifically stated herein.

B. The contract documents and all referenced standards cited therein are essential parts of the contract requirements. A requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete project.

C. Drawings are intended to show general arrangements, design and extent of work. Specifications are separated into divisions for convenience of reference only and shall not be interpreted as establishing divisions for the work, trades, subcontracts, or extent of any part of the work. In the event of a discrepancy between or among the drawings, specifications or other contract document provisions, the CONTRACTOR shall be required to comply with the provision which is the more restrictive or stringent requirement upon the CONTRACTOR, as determined by the Project Manager. Unless otherwise specifically mentioned, all anchors, bolts, screws, fittings, fillers, hardware, accessories, trim and other parts required in connection with any portion of the work to make a complete, serviceable, finished and first quality installation shall be furnished and installed as part of the work, whether or not called for by the contract documents.

2. ERRORS AND OMISSIONS

The CONTRACTOR shall not take advantage of any apparent error or omission in the contract documents. If any error or omission appears in the contract documents, or construction stakeout, the CONTRACTOR shall immediately notify the Project Manager in writing, of such errors or omissions. In the event the CONTRACTOR knows or should have known of any error or omission and

fails to provide such notification, the CONTRACTOR shall be deemed to have waived any claim for increased time or compensation the CONTRACTOR may have had and the CONTRACTOR shall be responsible for the results and the costs of rectifying any such error or omission.

3. EMERGENCIES

A. The CONTRACTOR shall have a responsible person available at or reasonably near the work site on a twenty four (24) hour basis, seven (7) days a week, who may be contacted in emergencies and in cases where immediate action must be taken to maintain traffic or to handle any other problem that might arise. The CONTRACTOR'S responsible person for supervision for emergencies shall speak and understand English. The CONTRACTOR shall submit to the Project Manager, by certified mail, the phone numbers and names of personnel designated to be contacted in cases of emergencies along with a description of the work site. Included in this list shall be twenty four (24) hour contact phone numbers for all subcontractors, if any, performing work under this Agreement. This list shall contain the name of their supervisors responsible for work pertaining to this contract.

B. In the event of an emergency affecting the safety or protection of persons or the work or property at the project site or adjacent thereto, the CONTRACTOR, without special instruction or authorization from the Project Manager is obligated to act to prevent threatened damage, injury or loss. The CONTRACTOR shall give the Project Manager written notice as soon as possible, but no later than twenty-four (24) hours after the occurrence of the emergency, if the CONTRACTOR believes that any significant changes in the work or variations from the contract documents have been caused thereby. If the Project Manager determines that a change in the contract documents is required because of the action taken in response to an emergency, a change order may be issued to document the consequences of the changes or variations. If the CONTRACTOR fails to provide written notice within the twenty-four (24) hour limitation noted above, the CONTRACTOR shall be deemed to have waived any right it otherwise may have had to seek an adjustment to the contract amount or an extension to the contract time.

4. COMPLIANCE WITH OCCUPATIONAL SAFETY AND HEALTH / HAZARDOUS MATERIALS

A. CONTRACTOR certifies that all material, equipment, etc., to be used in an individual project meets all Occupational Safety and Health Administration (OSHA) requirements. The CONTRACTOR further certifies that if any of the material, equipment, etc., is found to be deficient in any OSHA requirement in effect on the date of delivery, all costs necessary to bring the material, equipment, etc., into compliance with the aforementioned requirements shall be borne by the CONTRACTOR.

B. Any item delivered under this contract shall be accompanied by a Material Safety Data Sheet (MSDS). The MSDS shall include the following information:

1. The chemical name and the common name of the toxic substance;
2. The hazards or other risks in the use of the toxic substance, including, the potential for fire, explosion, corrosiveness, and reactivity;
3. The known acute and chronic health effects of risks from exposure, including the medical conditions which are generally recognized as being aggravated by the exposure to the toxic substances;
4. The primary route of entry and symptoms of exposure;
5. The proper precautions, handling practices, necessary personal protective equipment and other safety precautions in the use of or exposure to the toxic substances, including appropriate emergency treatment in case of overexposure;
6. The emergency procedure for spills, fire, disposal and first aid;
7. A description in lay terms of the known specified potential health risks posed by the toxic substance intended to alert any person reading this information; and
8. The year and month, if available, that the information was compiled and the name, address and emergency telephone number of the manufacturer responsible for preparing the information.

C. Any spillage of hazardous chemicals and/or wastes caused by the CONTRACTOR must be reported immediately to the Project Manager and cleaned up in accordance with all State and Federal Regulations. The cost of cleanup of any spillage of hazardous chemicals caused by the CONTRACTOR shall be the sole responsibility of the CONTRACTOR and the COUNTY will share no responsibility for these costs. A copy of a completed compliance order with local, state, and federal agencies shall be given to the COUNTY.

D. If any hazardous chemicals or conditions are discovered during the normal work operation, it is the responsibility of the CONTRACTOR to immediately contact the Project Manager with a description and the location of the condition.

E. All standard equipment, work operations, safety equipment, personal protective equipment, and lighting required or mandated by State, Federal, OSHA, or ADA regulations must be provided by the CONTRACTOR.

F. The Project Manager or other COUNTY representatives may periodically monitor the work for safety. Should there be safety and/or health violations, the COUNTY's representative may have the duty to require the CONTRACTOR to correct the violation in an expeditious method. If there is any situation that is deemed unsafe by the Project Manager or other COUNTY representatives, the project will be shut down immediately upon notice and will not resume work until the unsafe condition has been remedied.

G. Should the work site be in a hazardous area, the COUNTY shall take reasonable actions to furnish the CONTRACTOR with information concerning hazards such as types or identification of known toxic material, machine hazards, Material Safety Data Sheets, or any other information that would assist the CONTRACTOR in the planning of a safe work site. The CONTRACTOR retains the ultimate responsibility to ensure all work is performed in a manner consistent with all applicable safety standards and directives.

H. CONTRACTOR shall be aware that while working for the COUNTY representatives from agencies such as the United States Department of Labor, Occupational Safety and Health Administration (OSHA), and the Division of Safety, State of Florida, are invitees and do not need to have warrants or permission to enter the work site.

I. At a minimum, all equipment used within the right of way shall be equipped with a slow moving vehicle sign, properly operating amber flashing or white strobe light. All safety devices installed by the manufacturer shall be in place and in proper working order. If the Project Manager determines that equipment is deficient in safety devices, the CONTRACTOR shall be notified immediately. The CONTRACTOR shall immediately repair, or remove the equipment from service until the deficiency is corrected to the satisfaction of the Project Manager.

J. The CONTRACTOR shall designate a competent person of its organization whose duty shall be the prevention of accidents at the site. This person shall be literate and able to communicate fully in the English language because of the necessity to read job instructions and signs, as well as the need for conversing with management personnel. This person shall be the CONTRACTOR'S Superintendent unless otherwise designated in writing to the Project Manager. All communications to the Superintendent shall be as binding as if given to the CONTRACTOR.

5. GENERAL INSPECTION REQUIREMENTS

A. Due to the nature of this Agreement, the COUNTY shall at the time of establishment of need require the CONTRACTOR to become fully informed as to where items are to be installed and/or the nature and extent of the work required and its relation to any other work in the area, including possible interference from other site activities. Arrangement for CONTRACTOR'S inspection of facilities or sites and/or activity schedules may be secured from the user department. Failure to visually inspect the facilities or sites may be cause for disqualification of CONTRACTOR on that individual project.

B. CONTRACTOR shall furnish the Project Manager with every reasonable facility for ascertaining whether the work performed and materials used are in accordance with the requirements and intent of the plans and specifications. If the Project

Manager so requests, the CONTRACTOR shall, at any time before final acceptance of the work, remove or uncover such portions of the finished work as may be directed. After examination, the CONTRACTOR shall restore the uncovered portions of the work to the standard required by the specifications. Should the work exposed or examined prove unacceptable in the opinion of the Project Manager, the uncovering or removal, and the replacing of the covering or making good of the parts removed, shall be at the CONTRACTOR's expense. However, should the work exposed or examined prove acceptable in the opinion of the Project Manager, the uncovering or removing and the replacing or the covering or making good of the parts removed, shall be paid for as unforeseen work.

C. If during or prior to construction operations, the Project Manager should fail to reject defective work or materials, whether from lack of discovery of such defect or for any other reason, such initial failure to reject shall in no way prevent the Project Manager's later rejection when such defect is discovered, nor obligate the COUNTY to final acceptance or payment, and the CONTRACTOR shall make no claim for losses suffered due to any necessary removals or repairs of such defects.

D. If during or prior to construction operations, the Project Manager rejects any portion of the work on the grounds that the work or materials are defective, the Project Manager will give the CONTRACTOR written notice of the defect. The CONTRACTOR shall then have seven (7) calendar days from the date the notice is received to correct the defective condition. If the defect has not been corrected within seven (7) calendar days, the Project Manager will send a second written notice to the CONTRACTOR giving the CONTRACTOR another seven (7) calendar days to correct the defect. If the CONTRACTOR fails to correct the deficiency within the second seven (7) calendar days after receipt of the notice, the Project Manager will notify the COUNTY so that the COUNTY may take whatever action is necessary, including correcting the deficient work utilizing another contractor or terminating the contract.

E. Should the CONTRACTOR fail or refuse to remove and renew any defective material used or work performed, or to make any necessary corrections in an acceptable manner and in accordance with the requirements of the specifications, within the time indicated in writing, the COUNTY, will have the authority to cause the unacceptable or defective materials or work to be repaired, removed and replace, as may be necessary, at the CONTRACTOR'S expense. Any expense incurred by the COUNTY, whether direct, indirect or consequential, in making the repairs, removals, or replacements, which the CONTRACTOR has failed or refused to make, shall be paid for out of any monies due or which may become due the CONTRACTOR, or may be charged against the contract bond, if any. A Change Order will be issued, incorporating the necessary revisions to the contract documents, including an appropriate decrease to the contract amount. Such direct, indirect and consequential costs shall include, but not be limited to, costs of repair and replacement of work of others destroyed or damaged by correction, removal

or replacement of work of the CONTRACTOR'S defective work and additional compensation due the COUNTY. The CONTRACTOR shall not be allowed an extension of the contract time because of any delay in performance of the work attributable to the exercise by the COUNTY of the COUNTY'S rights and remedies hereunder.

F. When the United States Government or the State of Florida is to pay a portion of the cost of construction, the work will be subject to such inspection by Federal or State representatives as deemed necessary, but such inspections will in no case make the United States Government or the State of Florida a party to this contract.

G. All work performed and all materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions, and material requirements, including tolerances, shown on the plans or indicated in the specifications. In the event the Project Manager finds the materials or the finished product in which the materials are used not within reasonably close conformity to the specifications, the Project Manager will then make a determination if the work shall be accepted and remain in place. In this event, the Project Manager will document the basis of acceptance by a Change Order which will provide for an appropriate deduction as needed in the contract price for such work or materials as the Project Manager deems necessary to conform to the determination based on the Project Manager's professional judgment.

H. Materials shall be so placed to permit easy access for proper inspection and identification of each shipment. Any material which has deteriorated, become damaged, or is otherwise unfit for use, as determined by the Project Manager, shall not be used in the work, and shall be removed from the site by the CONTRACTOR at the CONTRACTOR's expense.

6. PROJECT MANAGER

A. It is agreed to by the parties that the Project Manager will decide all questions, difficulties, or disputes, of whatever nature, which may arise relative to the interpretation of the plans, construction, prosecution and fulfillment of the scope of services and as to the character, quality, amount and value of any work done, and materials furnished, under or by reason of this Agreement.

B. The Project Manager may appoint such assistants and representatives as desired. They will be authorized to inspect all work done and all materials furnished. This right of inspection in no way means or implies COUNTY control or other supervision over the work done or the work site. This right is solely for the COUNTY'S benefit and imposes no duties or responsibilities on the COUNTY and confers no rights on any other parties. Such assistants will not be authorized to revoke, alter or waive any requirement of the contract documents.

C. Project Manager will be authorized to call to the attention of the CONTRACTOR any failure of the work or materials to conform to the contract documents, and

will have the authority to reject materials until any questions at issue can be referred to and decided by the Project Manager. The Project Manager shall have the authority to suspend the work only if the COUNTY approves such suspension, if the Project Manager is someone other than the COUNTY. The CONTRACTOR shall be immediately notified in writing by the COUNTY of any suspension of the work and such notice shall state in detail the reasons for the suspension. The presence of the Project Manager or other assistant will in no way lessen the responsibility of the CONTRACTOR.

D. Project Manager shall have the authority to order minor changes in the work not involving an adjustment to the contract amount or an extension to the contract time and not inconsistent with the intent of the contract documents. Such changes may be effected by construction directive and shall be binding on the CONTRACTOR.

E. Project Manager shall have all other duties and responsibilities as set forth in other sections of this contract.

7. CONTRACT TIME AND TIME EXTENSIONS

A. Unless otherwise provided, contract time shall mean the number of consecutive calendar days from the commencement date noted in the Notice to Proceed to the date on which all work is to be completed. The CONTRACTOR shall diligently pursue the completion of the work and coordinate the work being done on the project by its subcontractors and material suppliers, as well as coordinate the CONTRACTOR'S work with the work of other contractors so that the CONTRACTOR'S work or the work of others shall not be delayed or impaired by any act or omission of any act by the CONTRACTOR. The CONTRACTOR shall be solely responsible for all construction means, methods, techniques, sequences and procedures, as well as coordination of all portions of the work under the contract documents.

B. Should the CONTRACTOR be obstructed or delayed in the prosecution of or completion of the work as a result of unforeseeable causes beyond the control of the CONTRACTOR, and not due to the CONTRACTOR's fault or neglect, the CONTRACTOR shall notify the Project Manager by telephone as soon as possible and in writing within two (2) business days after the commencement of such delay, stating the cause or causes thereof, or be deemed to have waived any right which the CONTRACTOR may have had to request a time extension.

C. If the CONTRACTOR complies with the two (2) business days notice requirement, the Project Manager will ascertain the fact and the extent of the delay being claimed and recommend an extension to the contract time when, in the Project Manager's sole judgment, the findings of fact justify such an extension. The CONTRACTOR shall cooperate with the Project Manager's investigation of the delay by providing any schedules, correspondence or other

data that may be required to complete the findings of fact. Extensions to the contract time may be granted for only those delays which impact the CONTRACTOR's schedule. Extensions of contract time, if approved by the Project Manager, must be authorized by Change Order.

D. Weather events are specifically excluded as excused cause for delay under this CONTRACT and no additional days shall be given for rain days.

E. The COUNTY and the CONTRACTOR recognize that, since time is of the essence for this agreement, the COUNTY will suffer financial loss if the work is not completed within the time specified. The COUNTY will be entitled to assess, as Liquidated Damages, but not as a penalty, for each calendar day after the scheduled completion date the project continues. The project shall be deemed to be completed on the date the work is deemed complete to the satisfaction of the COUNTY. The CONTRACTOR hereby expressly waives and relinquishes any right which it may have to seek to characterize the Liquidated Damages as a penalty. The parties agree that the Liquidated Damages sum represents a fair and reasonable estimate of the COUNTY's actual damages at the time of contracting if the CONTRACTOR fails to complete the work in a timely manner. The Liquidated Damages shall be as follows:

Specific Project Amount	**Daily Charge Per Calendar Day**
$5,000 and under	$ 25
Over $5,000 but less than $10,000	$ 65
$10,000 or more but less than $20,000	$ 91
$20,000 or more but less than $30,000	$121
$30,000 or more but less than $40,000	$166
$40,000 or more but less than $50,000	$228
Over $50,000 but less than $250,000	$313
$250,000 or more but less than $500,000	$715
$500,000 or more but less than $2,500,000	$1,423
$2,500,000 or more but less than $5,000,000	$2,121
$5,000,000 or more but less than $10,000,000	$3,057
$10,000,000 or more but less than $15,000,000	$3,598
$15,000,000 or more but less than $20,000,000	$4,544
$20,000,000 and over	$8,537
	Plus 0.00027 percent per day for amount over $20,000,000

F. COUNTY shall retain from the compensation to be paid to CONTRACTOR the above described sum.

8. HOURS OF OPERATION

A. Unless otherwise specified in the technical specifications or on the Notice to Proceed all work performed shall be accomplished between the hours of 7:00 A.M. and 5:00 P.M., Monday through Friday, and no work shall be performed on Saturdays, Sundays, or County Holidays, unless permission to work has been requested in writing by the CONTRACTOR and approval, in writing, has been granted by the Project Manager. Request for permission to work must be received by the Project Manager no less than forty-eight (48) hours prior to the requested work day. Work on Saturdays may be permitted by verbal approval from the Project Manager. County Holidays are as follows:

New Year's Day
Martin Luther King, Jr. Day
Presidents' Day
Memorial Day
Independence Day
Labor Day
Veteran's Day
Thanksgiving Day
Day after Thanksgiving
Christmas Day

B. Special schedules may be established if necessary because of problems with noise or similar problems affecting citizens in homes or buildings adjacent to the roadways.

C. Under no circumstance will permission be given for work on New Years Day, Independence Day, Thanksgiving Day, or Christmas Day. The Project Manager may consider approval in accordance with the provisions stated above, for work on the following days: Martin Luther King, Jr. Day, Memorial Day, Labor Day, Veterans Day, or the Friday after Thanksgiving.

D. When the CONTRACTOR requests and is approved for Sunday or Holiday work, the COUNTY may assess the CONTRACTOR the sum of Two Hundred Fifty Dollars ($250.00) per man per day for each Sunday or recognized Holiday worked or planned to work. These fees will be deducted from the final invoice.

E. At the discretion of the Project Manager, the CONTRACTOR may be required to work non-traditional hours. Non-traditional hours are defined as work between the hours of 5:30 P.M. and 7:00 A.M. Such hours are considered night work and the CONTRACTOR shall be required to operate with light plants and perform Maintenance of Traffic (MOT) in a method appropriate for such operations. If required to perform such work, the CONTRACTOR shall only be permitted to assess the COUNTY the same number of Night Work charges as there are mobilization/demobilization charges for the area requiring such work. Any work

performed during non-traditional hours at the discretion of the CONTRACTOR but not at the requirement of the Project Manager shall not be eligible for payment of the Night Work Charges.

On the CONTRACTOR'S pricing sheet, attached hereto as **Exhibit E,** the CONTRACTOR shall indicate the additional cost for night work on a per mile basis. This cost shall indicate any additional costs that the CONTRACTOR may incur over the cost of the normal day time operations. The CONTRACTOR shall be eligible for reimbursement for night work if required by the Project Manager at the per mile rate shown on the bid sheet.

9. CHANGES IN WORK

A. The COUNTY may at any time, by issuance of a Change Order executed in accordance with the COUNTY's Purchasing Policies and Procedures, make changes within the general scope of this Agreement. If additional work or other changes are required an offer will be requested from the CONTRACTOR. Upon negotiation of the offer, execution and receipt of the Change Order, the CONTRACTOR shall commence performance of the work as specified.

B. The CONTRACTOR shall not commence any additional work or other changes covered by the Scope of Services for the individual project without an executed Change Order. If the CONTRACTOR performs additional work beyond the specific requirements of this Agreement without an executed Change Order, it shall be at the CONTRACTOR'S own risk. The COUNTY assumes no responsibility for any additional costs for work not specifically authorized by an executed Change Order.

10. CLAIMS AND DISPUTES

A. Claims by the CONTRACTOR shall be made in writing to the Project Manager within two (2) business days after the commencement of the event giving rise to such claim or else the CONTRACTOR shall be deemed to have waived the claim. Written supporting data shall be submitted to the Project Manager within ten (10) calendar days after the occurrence of the event, unless the COUNTY grants additional time in writing, or else the CONTRACTOR shall be deemed to have waived the claim. All claims shall be priced in accordance with the provisions of the section in this document entitled "Changes in Work".

B. The CONTRACTOR shall proceed diligently with its performance as directed by the COUNTY, regardless of any pending claim, action, suit, or administrative proceeding, unless otherwise agreed to by the COUNTY in writing. The COUNTY shall continue to make payments on the undisputed portion of the contract in accordance with the contract documents during the pendency of any claim.

i. Claims by the CONTRACTOR shall be resolved in the following manner:

Upon receiving the claim and supporting data, the Project Manager will review the claim, or if the Project Manager is not a COUNTY employee, will forward the claim to the COUNTY. The COUNTY will within fifteen (15) business days respond to the claim in writing stating that the claim is either approved or denied. If denied, the COUNTY will specify the grounds for denial. The CONTRACTOR shall then have fifteen (15) calendar days in which to provide additional supporting documentation, or to notify the COUNTY that the original claim stands as is.

If the claim is not resolved, the COUNTY may, at its option, choose to submit the matter to mediation. A mediator shall be mutually selected by the parties and each party shall pay one-half (1/2) the expense of mediation. If the COUNTY declines to mediate the dispute, the CONTRACTOR may bring an action in the County or Circuit Court sitting in Lake County, Florida.

ii. Claims by the COUNTY against the CONTRACTOR shall be made in writing to the Project Manager as soon as the event leading to the claim is discovered by the COUNTY. Written supporting data shall be submitted to the Project Manager. All claims shall be priced in accordance with the provisions of the section in this document entitled "Changes in Work". The party to whom the Project Manager's determination is not in favor of may appeal the determination as set forth in subsection (2) above.

iii. Arbitration shall not be considered as a means of dispute resolution.

11. LANDS FOR WORK AND ACCESS THERETO

A. COUNTY shall furnish and define the limits of land for access to the construction site and for the site proper. All information shown in the contract documents constitutes the extent of land provided by the COUNTY. No storage or equipment shall take place on private property unless the CONTRACTOR has a letter from the landowner stating that the CONTRACTOR has permission to do so. A copy of the letter shall be provided to the COUNTY. The CONTRACTOR shall supply the Project Manager any such letter before the equipment is placed there. Any and all other lands required by the CONTRACTOR shall be procured by the CONTRACTOR at the CONTRACTOR's expense.

B. As the work progresses, the CONTRACTOR shall keep the site reasonably clear of rubbish, trash, waste and other disposable materials on a daily basis. If the CONTRACTOR allows the site to become littered and unsightly, any payments otherwise due may be withheld until the CONTRACTOR cleans up the site to the satisfaction of the COUNTY. If the CONTRACTOR fails to clean up the site, the COUNTY may choose to clean up the site at the CONTRACTOR'S expense.

C. The CONTRACTOR shall, absent written permission from a private property owner, confine all construction equipment, the storage of materials and equipment and the operations of workers to the project site and land and areas identified in and permitted by

the contract documents, and shall not unreasonably encumber the projects determined by the Project Manager or the COUNTY, with construction equipment or materials. The CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or any land or areas contiguous thereto, resulting from the performance of the work. At the completion of the work, the CONTRACTOR shall remove all debris, rubbish and waste materials from and about the project site, as well as all tools, appliances, construction equipment and machinery and surface materials and shall leave the project site clean and ready for occupancy by the COUNTY.

12. MAINTENANCE OF TRAFFIC (MOT)

A. Maintenance of traffic shall be the responsibility of the CONTRACTOR, be part of the CONTRACTOR's bid price, and shall conform to F.D.O.T.'s most current editions of "Roadway and Traffic Design Standards" for Design, Construction, and Maintained Systems and the Federal Highway Administration (F.H.W.A.) "Manual on Uniform Traffic Control Devices (M.U.T.C.D.) for Streets and Highways." These documents can be ordered from F.D.O.T, Maps and Publications Department, 605 Suwannee Street, Tallahassee, Florida, 32399-0450, or by going to the F.D.O.T. website at: www.dot.state.fl.us/mapsandpublications

B. All costs associated with MOT must be included in the CONTRACTOR's bid price. No separate line items for MOT will be included in the cost estimate. If the CONTRACTOR does not comply with the F.H.W.A and M.U.T.C.D. (i.e. signs, qualified flaggers and/or barricades), the COUNTY reserves the right to direct the CONTRACTOR to cease operation until deficiencies are corrected. In addition, no road closures shall be allowed except in the case of emergencies.

   i. All lane closures shall have the prior approval of the Project Manager.

   ii. The foregoing requirements are to be considered as minimum and the CONTRACTOR'S compliance shall in no way relieve the CONTRACTOR of final responsibility for providing adequate traffic control devices for the protection of the public and CONTRACTOR'S employees throughout the work area.

   iii. The use of public roads and streets by the CONTRACTOR shall provide a minimal inconvenience to the public and traffic. Furthermore, if the CONTRACTOR is utilizing the road by driving the equipment, the operator shall allow no more than three (3) vehicles to be backed up behind them at any time before pulling to the side to let traffic pass.

13. UNDERGROUND UTILITIES

Any required ground digging or subsurface work shall be done in accordance with Chapter 556, Florida Statutes. It shall be the responsibility of the CONTRACTOR to have all underground utilities located before any work shall begin. This can be done by contacting Sunshine State One Call. They may be reached by calling 1-800-432-4770.

The repairs of any damaged underground utilities as a result of the work being performed by the CONTRACTOR shall be the responsibility of the CONTRACTOR. The proper utility company shall be contacted immediately if damage has occurred to expedite the repairs. The County shall also be notified by telephone at the earliest opportunity and shall be followed up with a written explanation of the incident within two (2) days.

14. DAMAGE

A. All items damaged as a result of CONTRACTOR or subcontractor operations, such as but not limited to, sidewalks, seating, curbs, pipes, drains, water mains, pavement, mail boxes, turf, COUNTY sign or other property owned by the COUNTY, etc., shall be either repaired or replaced by the CONTRACTOR, at their expense, in a manner prescribed by and at the sole satisfaction of the Project Manager. Any claims submitted to the COUNTY such as, but not limited to, from utility companies or landowners, which are determined to be the result of damage done by the CONTRACTOR, shall be the responsibility of the CONTRACTOR. COUNTY reserves the right to pay any such claims and deduct such amount from the CONTRACTOR'S invoice. Repairs, or receipt of repairs, will be completed and submitted to the COUNTY prior to submission of the CONTRACTOR'S invoice for work accomplished. If the repair is not in accordance with COUNTY standards, the COUNTY shall repair the items and deduct the associated cost from the amount due the CONTRACTOR.

B. Complaints shall be addressed within forty eight (48) hours and a written report submitted to the Project Manager outlining actions taken to correct the complaint. The CONTRACTOR shall notify the COUNTY immediately of any complaints given directly to the CONTRACTOR.

C. If in the course of completing work as part of this contract there is an accident that involves the public, the CONTRACTOR shall as soon as possible inform the Project Manager of the incident by telephone. The CONTRACTOR shall follow up in writing within two (2) days of the incident. If Law Enforcement was involved and has written a report, the CONTRACTOR shall forward a copy of the report to the Project Manager.

D. The CONTRACTOR shall be responsible for re-grading and re-sodding of any areas that are disturbed by the CONTRACTOR during the course of the work being completed.

15. PROTECTION OF EXISTING STRUCTURES, UTILITIES, WORK AND VEGETATION

A. Location of existing structures and utilities provided in the contract documents are approximate only. Any damage to existing structures or work of any kind, or the interruption of a utility service resulting from failure to comply with the requirements of the contract documents, shall be repaired or restored promptly by, and at the expense of the CONTRACTOR.

B. The CONTRACTOR shall preserve and protect all existing vegetation such as trees, shrubs and grass on or adjacent to the site which do not unreasonably interfere with the construction as may be determined by the Project Manager. The CONTRACTOR shall be responsible for all unauthorized cutting or damaging of trees and shrubs, including damage due to careless operation of equipment, stockpiling of materials or tracking of grass areas by equipment.

C. Care will be taken by the CONTRACTOR in falling trees authorized for removal to avoid unnecessary damage to vegetation that is to remain in place. Any limbs or branches of trees broken during such operations shall be trimmed without cutting into the trunk and left with a clean cut and a small stub. The CONTRACTOR will be liable for, or may be required to replace or restore at his own expense, all vegetation that may be destroyed or damaged due to the CONTRACTOR'S failure to protect and preserve same as required herein.

D. The CONTRACTOR shall fully protect the work from loss or damage and shall bear the cost of any such loss or damage until final payment has been made. If the CONTRACTOR or any one for whom the CONTRACTOR is legally liable is responsible for any loss or damage to the work, or other work or materials of the COUNTY or COUNTY'S separate contractors, the CONTRACTOR shall be charged with the same, and any monies necessary to replace such loss or damage shall be deducted from any amounts due the CONTRACTOR.

E. The CONTRACTOR shall not disturb any benchmark established by the COUNTY with respect to the project. If the CONTRACTOR, or its subcontractors, agents or any one for whom the CONTRACTOR is legally liable, disturbs COUNTY benchmarks, the CONTRACTOR shall immediately notify the Project Manager. The COUNTY shall have the benchmarks re-established and the CONTRACTOR shall be liable for all costs incurred by the COUNTY associated therewith. Such costs shall be deducted from any amounts due the CONTRACTOR.

F. During the period of construction and the warranty period the CONTRACTOR shall be responsible for processing any and all claims for property damage and or bodily injury caused by the failure of the Crack Sealing including but not limited to, motor vehicles or pedestrians. The CONTRACTOR shall be responsible for the payment of all property damage and bodily injury claims and agrees to save and hold harmless the COUNTY from all such claims. Claims not handled by the CONTRACTOR or their representative in the proper manner, will be settled by the COUNTY. The COUNTY shall recover all costs from the CONTRACTOR.

16. EQUIPMENT

A. CONTRACTOR shall furnish equipment of a type and quantity to perform the work satisfactorily within the time specified herein. The County reserves the right to inspect all equipment before it is placed in or while it is in service. If in the opinion of the Project Manager, the CONTRACTOR has insufficient equipment on the job to satisfactorily complete the work within the required time, the CONTRACTOR shall

provide additional equipment as directed by the Project Manager. All equipment may be inspected and approved by the Project Manager before it is placed in service. If at any time, the Project Manager determines that any equipment is deficient in any way, the CONTRACTOR shall remove the equipment from service immediately, and the equipment shall remain out of service until the deficiency is corrected to the satisfaction of the Project Manager. Inspection and approval of the CONTRACTOR'S equipment by the Project Manager shall not relieve the CONTRACTOR of responsibility or liability for injury to persons or damage to property caused by the operation of the CONTRACTOR'S equipment, nor shall it relieve the CONTRACTOR of the responsibility to meet the established time for the completion of the service.

B. Any equipment left within the right of way shall be outside the clear zone. No equipment shall be parked overnight in the median.

C. All service and supply operations shall be conducted outside the clear zone. No supply vehicles shall enter the median for any purpose. No service vehicles shall enter the median except when necessary to repair or remove inoperable equipment.

17. SANITATION

A. The CONTRACTOR shall provide and maintain adequate sanitary conveniences for the use of persons employed for this project. These conveniences shall be maintained at all times without nuisance, and their use shall be strictly enforced. The location of these conveniences shall be subject to the Project Manager's approval. All such facilities shall be installed and maintained in accordance with applicable federal, state and local laws.

18. OTHER WORK

A. The CONTRACTOR will cooperate with COUNTY personnel or anyone who may be engaged in authorized work prior to final completion of the project.

B. The CONTRACTOR shall cooperate with the owners of any underground or overhead utility lines in their removal and rearrangement operations in order that these operations may progress in a reasonable manner and that service rendered by these parties will not be interrupted.

C. The COUNTY may perform other work related to the project site or, in the general vicinity of the site by the COUNTY'S own forces, have other work performed by utility owners or other direct contracts. If other work is not identified in the contract documents and if the CONTRACTOR believes that such performance will involve additional expense to the CONTRACTOR or require additional time, the CONTRACTOR shall send written notice of that fact to the COUNTY and the Project Manager within two (2) business days of being notified of the other work. If the CONTRACTOR fails to send the above required notice, the CONTRACTOR will be deemed to have waived any rights it otherwise may have had to seek an extension to the contract time or adjustment to the contract amount. The CONTRACTOR shall afford each utility owner and other

contractors (or the COUNTY, if the COUNTY is performing the additional work with the COUNTY'S employees) proper and safe access to the site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such work and shall properly connect and coordinate its work with theirs. The 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 the Project Manager and the others whose work will be affected.

D. If any part of the CONTRACTOR'S work depends, for proper execution or results, upon the work of any other contractor other than a subcontractor or utility owner, the CONTRACTOR shall inspect and promptly report to the Project Manager, in writing within two (2) business days, any delays, defect or other problems in such other work that renders it impossible for the CONTRACTOR to obtain proper execution or results. The CONTRACTOR'S failure to report will constitute an acceptance of the other work as fit and property for integration with the CONTRACTOR's work.

19. BONDS

Bonds are not required as part of this bid.

20. FINAL INSPECTION

A. Maintenance of Work. The CONTRACTOR shall maintain all work in as-new condition until the final inspection is completed and the work accepted by the Project Manager.

B. Upon written notice from the CONTRACTOR that the service has been completed (or upon receipt of an invoice), the Project Manager will make a final inspection within five (5) business days of receipt of notification. The Project Manager will notify the CONTRACTOR if necessary of any deficiencies, if any, with the project. The CONTRACTOR shall correct all deficiencies before final acceptance and payment is made. If the deficiencies have not been completed within the contracted time as stated on the Notice To Proceed, the Project Manager may send out a notification notifying CONTRACTOR of assessment of Liquidated Damages that can be applied for any day over the allowed time as stated on the Notice to Proceed.

C. Once the deficiencies have been corrected, the CONTRACTOR shall notify the Project Manager when the deficiencies have been completed and corrected. If the deficiencies are not corrected when inspected, the CONTRACTOR shall be notified again in writing about any deficiencies. Once the repairs have been corrected by the CONTRACTOR, the Project Manager shall make another inspection. There shall be an eighty dollar ($80.00) inspection fee assessed to the CONTRACTOR for this inspection and any re-inspection that may be required after that. The fee is assessed to offset the additional costs associated with COUNTY labor and vehicle usage required for unnecessary inspections. The fee(s) shall be deducted from the final invoice for that release order

21. FINAL ACCEPTANCE

A. The contract will be considered complete when all work has been completed and has been accepted by the COUNTY and the Project Manager. The CONTRACTOR will then be released from further obligation except as set forth in the warranty and/or bonds in this Contract.

B. The COUNTY reserves the right, should an error be discovered in the partial or final estimates, or should proof of defective work or materials used by or on the part of the CONTRACTOR be discovered after the final payment has been made, to claim and recover from the CONTRACTOR or its surety, or both, by process of law, such sums as may be sufficient to correct the error or make good the defects in the work and materials, including any fees or costs associated with the additional services of the Project Manager.

22. MEASUREMENT AND PAYMENT

A. All work completed under the terms of this contract shall be measured according to United States Standard Measures.

B. All measurements shall be taken horizontally or vertically, unless specifically provided otherwise.

C. In the measurement of items to be paid for on the basis of area of finished work, when the pay quantity is designated to be determined by calculation, the lengths and/or widths to be used in the calculations shall be the center line to center line shown on the plans, or the final dimensions measured of the completed work within the lines shown on the plans or designated by the Project Manager. The method, or combination of methods, shall be those which reflect with reasonable accuracy the actual area of finished work as determined and authorized by the Project Manager.

D. No payment shall be made for either construction over a greater area than authorized, or for material moved from outside of the boundary shown on the plans, except when such work is performed upon instructions of the Project Manager, with the COUNTY'S approval.

E. No payment shall be made on materials that are stored either on-site or off-site unless approved in advance by the COUNTY. Invoices shall only request payment for those materials that have been incorporated into the work. Determination as to whether the materials have been stored or incorporated into the work shall be solely the COUNTY'S decision.

F. The CONTRACTOR shall accept compensation provided under the terms of this contract as full payment for furnishing all materials and for performing all work contemplated and embraced under this contract. Such compensation shall also be for any and all loss or damage arising out of the nature of the work or from the action of the elements, or from

any unforeseen difficulties or obstructions encountered during the contract period until final acceptance by the COUNTY.

G. Failure to complete any item to plan or authorized dimensions within the specification tolerances shall result in reconstruction by the CONTRACTOR to acceptable tolerances at no additional cost to the COUNTY, acceptance at no pay, or acceptance at reduced final pay as determined by the Project Manager.

23. **WARRANTY**

A. Warranty under this contract shall be for the sod and is as follows:

a. Sod shall be green and not dormant, roots shall be healthy and well matted allowing for signs of establishment within two (2) weeks.
b. Warranted to be free of noxious and invasive weeds, disease, and insects. If pest plants and/or noxious weeds manifest themselves within 30 days of placement of the sod.

EXHIBIT D: NOTICE TO PROCEED FORM

LAKE COUNTY
FLORIDA

To:_____ **From: Public Works Road Ops**

Fax: _____ **Phone: 352-253-4980**

Phone: _____ **Pages: 1**

E-Mail: _____ **Date:**_____

Re: 10-0611 SWALE/DITCH CLEANING AND DIGGING AND RELATED SERVICES

WORK REQUEST

This is a Work Order per the site visit conducted with Merrill's Grade-all and the Maintenance Area Supervisor.

Grade-All work per hour (County supplies trucks) ☐
Grade-All work per hour (County supplies trucks) with sod ☐
Swale Work per foot dig only (Contractor supplies trucks) ☐
Swale work per foot with sod (Contractor supplies trucks) ☐

Location:_____

Section: _____ **Town:** _____ **Range:** _____ **Segment No:**____

Digging total length linear feet: _____ **Digging Depth:** _____

Estimated Hours: _____ **Sod Estimate Sq Ft:** ____

Start Date: _____

Notes:_____

Mark start and stop area with paint on road.

_____ _____
County Representative **Date**

EXHIBIT E: CONTRACTOR PRICING

EXHIBIT E: CONTRACTOR PRICING

DESCRIPTION — UNIT PRICE PER LINEAR FOOT

GRADE-ALL SERVICES*

Hourly, COUNTY will haul the material — $ 98.00 Per Hour

Per linear foot removal, CONTRACTOR to haul the material (Based on 14 feet wide and one (1) foot deep increments) — $ 1.35 Per Foot

* Mobilization and demobilization shall be included with unit grade-all services cost.

SOD INSTALLED

Description	Unit	Unit	Unit
TYPE OF SOD	0-5,000 SQ. FT. /Task Order	5,001-10,000 SQ. FT. /Task Order	OVER 10,000 SQ. FT. /Task Order
Bahia	22¢ per sq. ft	19¢ per sq. ft	17¢ per sq. ft
St. Augustine	28¢ per sq. ft	26¢ per sq. ft	24¢ per sq. ft
Watering of sod	3.5¢ per sq. ft	three cents 3.00¢ per sq. ft	2.5¢ per sq. ft