LAKE COUNTY
FLORIDA

CONTRACT NO. 09-0416B

for **Sod Services**

LAKE COUNTY, FLORIDA, a political subdivision of the state of Florida, its successors and assigns through its Board of County Commissioners (hereinafter "County") does hereby accept, with noted modifications, if any, the bid of **A-1 Sod, Inc. D/B/A Cottoms A-1 Sod** (hereinafter "Contractor") to supply **Sod services** to the County pursuant to County Bid number **09-0416** (hereinafter "Bid"), addenda no. 1, bid opening dated June 24, 2009 with all County Bid provisions governing.

The County's Procurement Services Director shall be the sole judge as to the fact of the fulfillment of this Contract, and upon any breach thereof, shall, at his or her option, declare this contract terminated, and for any loss or damage by reason of such breach, whether this Contract is terminated or not, said Contractor and their surety for any required bond shall be liable.

This Contract is effective from **September 15, 2009** through **September 14, 2010** except the County reserves the right to terminate this Contract immediately for cause and/or lack of funds and with thirty (30) day written notice for the convenience of the County. This Contract provides four (4) additional one (1) year renewals at Lake County's sole option at the terms noted in the Contract.

Any and all modifications to this Contract must be in writing signed by the County's Procurement Services Director.

LAKE COUNTY, FLORIDA

By: _____
Contracting Officer

Date: 9-17-09

Distribution: Original-Bid File
Copy-Contractor
Copy-Department

Office of Procurement Services **315 W. Main, Suite 416** **P.O. Box 7800**
Tavares, Florida 32778-7800 **Ph (352) 343-9839** **Fax (352) 343-9473**

AGREEMENT BETWEEN

LAKE COUNTY, FLORIDA

AND

A-1 SOD INC. D/B/A COTTOM'S A-1 SOD

FOR SOD SERVICES

ITB # 09-0416

This is an Agreement between Lake County, Florida, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY," by and through its Board of County Commissioners, and A-1 Sod, Inc., d/b/a Cottom's A-1 Sod, a Florida corporation, its successors and assigns, hereinafter referred to as "CONTRACTOR."

Recitals

WHEREAS, the COUNTY has publicly submitted an Invitation to Bid (ITB), # 09-0416, for procurement of services from qualified firms, organizations or individuals to provide sod services in conjunction with the COUNTY'S needs; and

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

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 agree as follows:

Article 1. Recitals

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

Article 2. Purpose

2.1 The purpose of this Agreement is for CONTRACTOR to provide sod services in conjunction with the COUNTY'S needs.

Article 3. Scope of Services

3.1 On the terms and conditions set forth in this Agreement, COUNTY hereby engages CONTRACTOR to provide sod services in conjunction with the COUNTY'S needs and to furnish all labor, equipment, fuel, materials, and any other items needed to perform the work in accordance with the Statement of Work, attached hereto and incorporated herein by reference as **Exhibit A**, and any changes thereto reflected in Addendum #1, dated June 15, 2009, attached hereto and incorporated herein by reference as **Exhibit B**. The Scope of Work may be modified by change order as actual work on the 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. A copy of these policies and procedures shall be made available to the CONTRACTOR upon request.

3.2 This Agreement shall commence on the first calendar day of the month succeeding approval of the Agreement by the Board of County Commissioners, or designee, unless otherwise stipulated in the Notice of Award Letter distributed by the COUNTY'S Office of Procurement Services. The initial Agreement term shall remain in effect for twelve (12) months, and then the Agreement will remain in effect until completion of the expressed and/or implied warranty period. The Agreement prices shall prevail for the full duration of the initial Agreement term unless otherwise indicated elsewhere in this Agreement.

3.3 Prior to or upon completion of the initial term of this Agreement, the COUNTY shall have the option to renew this Agreement for four (4) additional twelve (12) month period(s). Prior to completion of each exercised Agreement term, the COUNTY may consider an adjustment to price based on changes in the Consumer Price Index (CPI). It is CONTRACTOR'S responsibility to request in writing any pricing adjustment under this provision. The CONTRACTOR'S written request for adjustment should be submitted thirty (30) calendar days prior to expiration of the then current Agreement term. The CONTRACTOR adjustment request must clearly substantiate the requested increase. The written request for adjustment should not be in excess of the relevant pricing index change. If no adjustment request is received from CONTRACTOR, the COUNTY will assume CONTRACTOR has

agreed that the optional term may be exercised without pricing adjustment. Any adjustment request received after the commencement of a new option period shall not be considered.

The COUNTY reserves the right to reject any written price adjustments submitted by CONTRACTOR and/or to not exercise any otherwise available option period based on such price adjustments. Continuation of the Agreement beyond the initial period, and any option subsequently exercised, is a COUNTY prerogative and not a right of the CONTRACTOR. This prerogative will be exercised only when such continuation is clearly in the best interest of the COUNTY.

3.4 Price Redetermination – Fuel

If the 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 this Agreement, the CONTRACTOR may petition the Procurement Services Director in writing for an appropriate increase in the Agreement price(s). Any increase in the Agreement 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. The base index will be the index number for the month prior to the beginning of the Agreement term. The current month index will be the last month's index published before the request for a price re-determination is made.

CONTRACTOR shall provide in writing a cost analysis as described below for each Agreement 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 Agreement price for which an adjustment is requested; and a calculation showing the original Agreement price, the requested adjustment, and the proposed revised price. 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 Agreement 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.

This clause may be used in addition to any other price redetermination clause in this Agreement.

Article 4. Payment

4.1 Payment shall be based on the rates set forth in CONTRACTOR'S Pricing Section, attached hereto and incorporated herein as **Exhibit C**, and any changes thereto reflected in **Exhibit B**. The total amount for all services required to complete the Scope of Work shall be approximately Eighty Thousand Dollars ($80,000.00). CONTRACTOR understands that the COUNTY will issue work orders for specific services based on lowest overall price for the items stated in the work order based on availability of each item from the CONTRACTOR. No minimum order quantity is guaranteed.

4.2 CONTRACTOR shall submit invoices in duplicate after each individual purchase has been completed to: Kristian Swenson, Road Operations Director, Department of Public Works, P.O. Box 7800, Tavares, FL 32778. All invoices shall contain ITB # 09-0416, the date and location of delivery or service, description of services performed, and confirmation of acceptance of the goods or services by the appropriate COUNTY representative. Failure to submit invoices in the prescribed manner will delay payment and the CONTRACTOR may be considered in default of Agreement and the Agreement may be terminated.

4.3 In addition to the general invoice requirements set forth above, the invoices shall reference, as applicable, the corresponding delivery ticket number, packing slip number, or other acceptance document that was signed by an authorized representative of the COUNTY user department at the time the items were delivered and accepted. Submittal of these periodic invoices shall not exceed thirty (30) calendar days from the delivery of the goods or services.

Under no circumstances shall the invoices be submitted to the COUNTY in advance of the delivery and acceptance of the items.

4.4 The COUNTY shall make payment on all undisputed invoices in accordance with the Florida Prompt Payment Act, Part VII, Chapter 218, Florida Statutes.

4.5 In the event subcontractors or material suppliers are to be utilized by the CONTRACTOR, the subcontractors/material suppliers shall be on the list provided by CONTRACTOR to the COUNTY prior to award of this Agreement, and the list shall include the name of the proposed subcontractor/material supplier and the percentage of the overall work involvement. Prior to final payment, the CONTRACTOR shall provide a *Certification of Payment to subcontractor/materials supplier* before the invoice is processed and paid.

4.6 CONTRACTOR shall not be entitled to payment for any other expenses, fees, or other costs it may incur at any time and in any connection with its performance hereunder.

Article 5. CONTRACTOR Responsibilities

5.1 The CONTRACTOR shall coordinate, cooperate, and work with any other contractors retained by the COUNTY. CONTRACTOR acknowledges that 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.

5.2 The COUNTY shall not allow any late deliveries attributed to product back order situations under this Agreement. Accordingly, the CONTRACTOR is required to deliver all items to the COUNTY within the time specified in this Agreement. In addition, no grace period on account of back order situations shall be honored unless written authorization is issued by the COUNTY user department and a new delivery date is mutually established. In the event that the CONTRACTOR fails to deliver the products within the time specified, the COUNTY reserves the right to cancel the order, seek the items from another vendor, and charge the

CONTRACTOR for any re-procurement costs. If the CONTRACTOR fails to honor these re-procurement costs, the COUNTY may terminate the Agreement for default.

5.3 CONTRACTOR shall remove all unusable materials and debris from the premises at the end of each workday and dispose of in an appropriate manner. Upon final completion, the CONTRACTOR shall thoroughly clean up all areas where work has been involved as mutually agreed with the COUNTY Project Manager.

5.4 Unless otherwise stated in this Agreement, the CONTRACTOR shall furnish all labor, material and equipment necessary for satisfactory Agreement performance. When not specifically identified in the technical specifications, such materials and equipment shall be of a suitable type and grade for the purpose. All material, workmanship, and equipment shall be subject to the inspection and approval of the COUNTY'S Project Manager.

5.5 All existing structures, utilities, services, roads, trees, shrubbery, and property in which the COUNTY has an interest shall be protected against damage or interrupted services at all times by the CONTRACTOR during the term of this Agreement. The CONTRACTOR shall be held responsible for repairing or replacing property to the satisfaction of the COUNTY that is damaged by reason of the CONTRACTOR'S operation on the property. In the event the CONTRACTOR fails to comply with these requirements, the COUNTY reserves the right to secure the required services and charge the costs of such services back to the CONTRACTOR.

All items damaged by the CONTRACTOR or its subcontractors, such as but not limited to sidewalks, seating, curbs, pipes, drains, water mains, pavement, mail boxes, turf, etc., shall be either repaired or replaced by the CONTRACTOR, at its expense, in a manner prescribed by the COUNTY Project Manager. Any bills submitted to the COUNTY, such as but not limited to, utility companies and land owners, and that are determined to be the result of damage done by the CONTRACTOR shall be the responsibility of the CONTRACTOR. Repairs or receipts of repairs shall be completed and submitted to the COUNTY prior to submission of the CONTRACTOR'S invoice for work accomplished during the cycle.

If the CONTRACTOR does damage to a COUNTY sign or other property owned by the COUNTY, it shall be the responsibility of the CONTRACTOR to repair the item back to the

original condition. If the repair is not in accordance with COUNTY standards, the COUNTY shall repair the item and deduct the associated cost from the amount due to the CONTRACTOR.

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

5.6 CONTRACTOR shall obtain and pay for all licenses, permits and inspection fees required for this project, and shall comply with all laws, ordinances, regulations and building code requirements applicable to the work contemplated herein. Damages, penalties and/or fines imposed on the COUNTY or the CONTRACTOR for failure to obtain required licenses, permits, or inspections shall be borne by the CONTRACTOR.

Article 6. COUNTY Responsibilities

6.1 COUNTY shall promptly review the deliverables and other materials submitted by CONTRACTOR and provide direction to CONTRACTOR as needed.

6.2 COUNTY shall designate one staff member to act as COUNTY'S Project Manager and/or Spokesperson.

6.3 COUNTY shall reimburse CONTRACTOR in accordance with the provisions of Article 4 above for required services timely submitted and approved and accepted by COUNTY in accordance with the terms of this Agreement.

6.4 COUNTY retains the right to inspect all work to verify compliance with the Agreement. 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 7. Special Terms and Conditions

7.1 Termination. This Agreement may be terminated by the COUNTY upon thirty (30) days advance written notice to CONTRACTOR. Upon receipt of such notice, the CONTRACTOR

shall not incur any additional costs under this Agreement. If any work or service/Task hereunder is in progress but not completed as of the date of termination, 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 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 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 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.

7.2 Subletting of Agreement. This Agreement shall not be sublet except with the prior 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. Subcontracting without the prior written consent of the COUNTY may result in termination of this Agreement for cause.

7.3 Insurance. CONTRACTOR shall purchase and maintain at all times during the term of this Agreement, without cost or expense to the COUNTY, policies of insurance from a company or companies authorized to do business in the State of Florida, and which are acceptable to the COUNTY, insuring the CONTRACTOR against any and all claims, demands or causes of action whatsoever, for injuries received or damage to property relating to the performance of duties,

services and/or obligations of the CONTRACTOR under the terms and provisions of this Agreement. CONTRACTOR shall not commence work under the Agreement until COUNTY has received an acceptable certificate or certificates of insurance evidencing conformance with the Agreement requirements. Such policies of insurance and confirming certificates of insurance shall insure the CONTRACTOR is in accordance with the following minimum limits and coverage:

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	$1,000,000 / $2,000,000
Products-Completed Operations	$2,000,000
Personal & Advertising Injury	$1,000,000
Fire Damage	$50,000
Medical Expense	$5,000
Contractual Liability	Included

Automobile liability insurance, including owned, non-owned and hired automobiles with the following minimum limits and coverage:

Combined Single Limit	$1,000,000
Bodily Injury (per person)	$1,000,000
Bodily Injury (per accident)	$1,000,000
Property Damage	$1,000,000

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.

Workers' compensation insurance based on proper reporting of classification codes and payroll amounts in accordance with Chapter 440, Florida Statute, 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.

Employers' liability insurance with the following minimum limits and coverage:

Each Accident	$1,000,000
Disease-Each Employee	$1,000,000
Disease-Policy Limit	$1,000,000

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 liability insurance policies.

Certificates 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. It is the CONTRACTOR'S specific responsibility to ensure that any such notice is provided within the stated timeframe to the certificate holder.

Certificates of insurance shall identify ITB 09-0416 in the Description of Operations section of the Certificate.

The 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

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.

The CONTRACTOR shall be responsible for subcontractors and their insurance. Subcontractors are to provide Certificates of Insurance to the CONTRACTOR evidencing coverage and terms in accordance with the CONTRACTOR'S requirements.

All deductibles or 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 deductible or self-insured retentions, or the CONTRACTOR or subcontractor shall be required to procure a bond guaranteeing payment of losses and related claims of expenses.

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.

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

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

7.4 Indemnity. CONTRACTOR shall save and hold COUNTY and its agents, officers, commissioners or employees harmless for 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 harmless the Board of County Commissioners of Lake County, Florida, and its officers, commissioners, employees and agents free and harmless from and against any and all 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 representatives which may arise in the performance of CONTRACTOR'S duties set forth in this Agreement. The CONTRACTOR shall pay all claims and losses of any nature whatever in connection therewith, and shall defend all suits, in the name of the COUNTY, when applicable, and shall pay all costs and judgments which may issue thereon.

7.5 Independent Contractor.

A. CONTRACTOR agrees that it shall be acting as an independent contractor and shall not be considered or deemed to be an agent, employee, joint venturer, or partner of the COUNTY. As an independent contractor, the CONTRACTOR shall pay any and all applicable taxes required by law and shall comply with all Federal, State, and local statutes, including but not limited to the Fair Labor Standards Act, the Americans with Disabilities Act, the Federal Civil Rights Act, and any and all relevant employment laws. The CONTRACTOR shall be responsible for all income tax, FICA, and any other withholdings from its employees' or subcontractors' wages or salaries. Benefits for same shall be the responsibility of

CONTRACTOR including, but not limited to, health and life insurance, mandatory social security, retirement, liability/risk coverage, and workers' and unemployment compensation.

B. CONTRACTOR shall hire, compensate, supervise and terminate members of its work force. The CONTRACTOR shall direct and control the manner in which work is performed including conditions under which the individuals will be assigned duties, how individuals report, and the hours individuals will work.

C. CONTRACTOR shall not be exclusively bound to the COUNTY and may provide services to other private and public entities as long as it is not in conflict and does not provide a conflict of interest with the services to be performed for the COUNTY.

D. CONTRACTOR shall have no authority to contract for or bind COUNTY in any manner and shall not represent itself as an agent of 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 the award or making of this Agreement.

7.6 Acceptance of Goods or Services. The product(s) to be provided hereunder shall be delivered to the COUNTY and maintained, if applicable to the Agreement, in full compliance to the specifications and requirements set forth in this Agreement. If a CONTRACTOR-provided product is determined to not meet the specifications and requirements of this Agreement, either prior to acceptance or upon initial inspection, the item will be returned to the CONTRACTOR at its expense. At the COUNTY'S own option, the CONTRACTOR shall either provide a direct replacement for the item or provide a full credit for the refund item. The CONTRACTOR shall not assess any additional charge(s) for any conforming action taken by the COUNTY under this clause.

7.7 Deficiencies in Work to be Corrected by the CONTRACTOR. The CONTRACTOR shall promptly correct all apparent and latent deficiencies and/or defects in work, and/or any work that fails to conform to the Agreement regardless of project completion status. All

corrections shall be made within fifteen (15) calendar days after such rejected defects, deficiencies, and/or non-conformances are verbally reported to the CONTRACTOR by the COUNTY'S Project Manager, who may confirm all such verbal reports in writing. The CONTRACTOR shall bear all costs of correcting such rejected work. If the CONTRACTOR fails to correct the work within the period specified, the COUNTY may, at its discretion, notify the CONTRACTOR, in writing, that the CONTRACTOR is subject to contractual default provisions if the corrections are not completed to the satisfaction of the COUNTY within fifteen (15) calendar days of receipt of the notice. If the CONTRACTOR fails to correct the work within the period specified in the notice, the COUNTY shall place the CONTRACTOR in default, obtain the services of another contractor to correct the deficiencies, and charge the incumbent CONTRACTOR for these costs; either through a deduction from the final payment owed to the CONTRACTOR or through invoicing. If the CONTRACTOR fails to honor this invoice or credit memo, the COUNTY may termination the Agreement for default.

7.8 Warranty. The CONTRACTOR agrees that, unless expressly stated otherwise in this Agreement, the product and/or service furnished as a result of this Agreement shall be covered by the most favorable commercial warranty the CONTRACTOR gives to any customer for comparable quantities of products and/or services and the rights and remedies provided herein are in addition to said warranty and do not limit any right afforded to the COUNTY by any other provision of this Agreement.

7.9 Ownership of Deliverables. Upon completion of and payment for a task CONTRACTOR agrees all Tasks and/or deliverables under this Agreement, and other data generated or developed by CONTRACTOR under this Agreement or furnished by COUNTY to CONTRACTOR shall be and remain the property of COUNTY. CONTRACTOR shall perform any acts that may be deemed necessary or desirable by COUNTY to evidence more fully transfer of ownership of all Tasks and/or deliverables to COUNTY. Additionally, CONTRACTOR hereby represents and warrants that it has full right and authority to perform its obligations specified in this Agreement. CONTRACTOR and COUNTY recognize that CONTRACTOR'S work product submitted in performance of this Agreement is intended only for the project

described in this Agreement. COUNTY'S alteration of CONTRACTOR'S work product or its use by COUNTY for any other purpose shall be at COUNTY'S sole risk.

7.10 Materials Shall be New and Warranted Against Defects. The CONTRACTOR hereby acknowledges and agrees that all materials, except where recycled content is specifically requested, supplied by the CONTRACTOR in conjunction with this Agreement shall be new, warranted for their merchantability, and fit for a particular purpose. In the event any of the materials supplied to the COUNTY by the CONTRACTOR are found to be defective or do not conform to specifications: (1) the materials may be returned to the CONTRACTOR at the CONTRACTOR'S expense and the Agreement cancelled or (2) the COUNTY may require the CONTRACTOR to replace the materials at the CONTRACTOR'S expense.

7.11 Risk of Loss. The CONTRACTOR assumes the risk of loss of damage to the COUNTY'S property during possession of such property by the CONTRACTOR, and until delivery to, and acceptance of, that property by the COUNTY. The CONTRACTOR shall immediately repair, replace or make good on the loss or damage without cost to the COUNTY, whether the loss or damage results from acts or omissions (negligent or not) of the CONTRACTOR or a third party.

The CONTRACTOR shall indemnify and save the COUNTY harmless from any and all claims, liability, losses, and causes of action which may arise out of the fulfillment of this Agreement. The CONTRACTOR shall pay all claims and losses of any nature whatsoever in connection herewith, and shall defend all suits, in the name of the COUNTY when applicable, and shall pay all costs and judgments which may issue thereon.

7.12 Availability of Agreement to Other COUNTY Departments. Although this Agreement is specific to a COUNTY Department, it is hereby agreed and understood that any COUNTY department or agency may avail itself of this Agreement and purchase any and all items specified herein from the CONTRACTOR at the Agreement price established herein. Under these circumstances, an Agreement modification shall be issued by the COUNTY identifying the requirements of the additional COUNTY department.

7.13 Business Hours of Operation. All work performed will take place between the hours of 7:30 A.M. and 5:00 P.M., Monday through Friday. No work shall be done on Saturdays and Sundays or COUNTY Holidays except when such work is necessary for the proper care and protection of the work already performed and when permission to do such work is secured from the COUNTY Department representative. No overtime work shall be started without approval of the COUNTY Project Manager or COUNTY authorized representative. No such overtime work shall result in additional cost to the COUNTY at any time.

7.14 Compliance with Federal Standards. All labor and services under this Agreement shall be performed in accordance with all governmental standards to include but not limited to those issued by United States Department of Labor, Occupational Safety and Health Administration (OSHA), the National Institute of Occupational Safety Hazards (NIOSH), and the National Fire Protection Association (NFPA).

7.15 Safety. All standard equipment, work operations, safety equipment, personal protective equipment and lighting required or mandated by State, Federal, OSHA, or ADA regulations shall be provided by the CONTRACTOR. A COUNTY representative may periodically monitor the work site for safety. Should there be safety or health violations, the COUNTY representative has the authority, but not the duty, to require the CONTRACTOR to correct the violation in an expeditious manner. If any situation is deemed unsafe by the COUNTY Project Manager, the work provided will be shut down immediately upon notice to the CONTRACTOR and will not resume until the unsafe condition has been remedied.

All safety devices installed by the manufacturer shall be in place and in proper working conditions at all times. If the COUNTY Project Manager determines that equipment is deficient in safety services, the CONTRACTOR shall be notified immediately. The CONTRACTOR shall immediately repair or remove equipment from service until the deficiency is corrected to the satisfaction of the COUNTY Project Manager.

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.

The CONTRACTOR shall be aware that while working for the COUNTY, representatives from agencies such as OSHA are invitees and need not have warrants or permission to enter the work site.

7.16 Accident Prevention and Barricades. Precautions shall be exercised at all times for the protection of persons and property. CONTRACTOR shall conform to all relevant OSHA, State and County regulations during the course of such effort. Any fines levied by the above-mentioned authorities for failure to comply with this requirement shall be borne solely by the CONTRACTOR. Barricades shall be provided by the CONTRACTOR when work is performed in areas traversed by persons, or when deemed necessary by the COUNTY.

The CONTRACTOR shall designate a competent English speaking person from its organization whose duty shall be prevention of accidents at the work site. This person shall be the CONTRACTOR'S superintendent unless otherwise designated in writing by the CONTRACTOR to the COUNTY. All communications to the superintendent shall be as binding as if given to the CONTRACTOR.

7.17 Maintenance of Traffic (MOT). Maintenance of traffic shall be the responsibility of the CONTRACTOR, be included in the price of services, and shall conform to Florida Department of Transportation's (FDOT) most current edition of "Roadway and Traffic Design Standards" for Design, Construction, and Maintained Systems and the Federal Highway Administration's (FHWA) "Manual on Uniform Traffic Control Devises (MUTCD) for Streets and Highways." All costs associated with MOT must be included with the Unit Price. If the CONTRACTOR does not comply with FHWA and MUTCD, (i.e., signs, qualified flaggers and/or barricades) the COUNTY reserves the right to cease operation until deficiencies are corrected. In addition, no road closures shall be allowed except in the case of emergencies. All lane closures shall have prior approval of the COUNTY. The use of the public roads and streets by the CONTRACTOR shall provide minimal inconvenience to the public and traffic in the area.

If an area is adjacent to the roadway and cannot be completed by the end of the workday or if the area is located in a drop of one inch (1") or more, the CONTRACTOR shall be responsible for installing lighted barricades or barrels along the side of the road.

The foregoing requirements are to be considered as a 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 employees throughout the work area.

7.18 Coordination of Projects. All projects shall be coordinated with the COUNTY Project Manager who will perform inspections for the COUNTY and verify that the work has been completed in accordance with specifications, as scheduled, and handle any problems that may arise.

All COUNTY orders shall be submitted by faxing a form to the CONTRACTOR. The CONTRACTOR shall only supply the amount that is on the form. If at any time the CONTRACTOR feels the quantity ordered is going to be insufficient, it shall contact the COUNTY Project Manger to specify the shortage. A verbal approval can be given by the COUNTY Project Manager followed by the proper paperwork. If the CONTRACTOR installs more than what has been approved, the COUNTY shall not pay for the additional amount.

When the COUNTY places an order, the COUNTY shall provide contact information of the person in charge of the project. This person is to be contacted no more than two (2) days from receipt of the order. A meeting shall be set up at the site to identify the areas that the sod is to be installed and a date for the installation to begin. If the CONTRACTOR does not attend the site meeting and/or installs sod in an area that was not intended to have sod, the COUNTY shall not pay for that portion of the job.

Article 8. General Conditions

8.1 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.

8.2 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.

8.3 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.

8.4 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.

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

8.6 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.

8.7 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.

8.8 CONTRACTOR shall at all times comply with all laws, ordinances, regulations and building code requirements applicable to the work contemplated herein.

8.9 The employee(s) of CONTRACTOR shall be considered at all times its employee(s) and not an employee(s) or agent(s) of COUNTY.

8.10 The invalidity or unenforceability of any particular 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.

8.11 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:

Wendy Cottom, Vice President
2201 North Citrus Boulevard
Leesburg, FL 34748

If to COUNTY:

County Manager
Lake County Administration Building
Post Office Box 7800
Tavares, FL 32778-7800

cc: Kristian Swenson
Road Operations Director
Post Office Box 7800
Tavares, FL 32778-7800

Each party hereto may change its mailing address by giving to the other party hereto, by hand delivery, United States registered or certified mail notice of election to change such address.

Article 9. Scope of Agreement

9.1 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.

9.2 This Agreement contains the following Exhibits:

Exhibit A	Statement of Work
Exhibit B	Addendum #1, dated June 15, 2009
Exhibit C	Pricing Section

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 15th day of September, 2009 and by CONTRACTOR through duly authorized representative.

CONTRACTOR

A-1 SOD, INC.
D/B/A COTTOM'S A-1 SOD

Wendy D. Cottom

Name: Wendy D. Cottom

Title: Vice President

COUNTY

ATTEST:

LAKE COUNTY, through its
BOARD OF COUNTY COMMISSIONERS

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

Welton G. Cadwell
Chairman

This 15th day of Sept, 2009.

Approved as to form and legality:

Sanford A. Minkoff
County Attorney

CONTRACT OVERVIEW

Successful Contractor(s) shall furnish all labor, equipment, fuel, materials, and 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.

The Contractor shall provide competent and suitable personnel to perform the work as required by the specifications. The Contractor shall be fully responsible for the performance of his organization and completion of all work under this Contract. The Contractor shall maintain a dress code for their employee's with a minimum of shirt, shorts, and shoes, in decent condition, at all times while work is being performed.

The Contractor shall provide a list of qualified English speaking foremen and/or supervisors who shall perform the work within five (5) working days after award. This list shall also contain a twenty-four (24) hour emergency telephone numbers.

The Contractor shall inform the Project Manager daily as to the locations to be worked and the areas completed the previous day. The County utilizes a standard reporting form that shall be provided to the successful bidder upon contract award. The Contractor shall maintain coordination with the Project Manager at all times. Either party may request or be granted a conference upon request within two (2) working days of the request.

The use of public roads and streets by the Contractor shall provide a minimal inconvenience to the public and traffic.

SCOPE OF SERVICES

These specifications are to be used in conjunction with Florida Department of Transportation (FDOT) Standard Specifications for Road and Bridge Construction 2007 Section 981-1 through 981-2.3 grassing and sod, or the latest version published, Attachment "2". In the event that there is a discrepancy between the specifications, the more stringent shall take precedent and the final determination shall be made by the Project Manager.
Reference: Internet website
http://www.dot.state.fl.us/specificationsoffice/DEVELOPMENTAL/Dev981%2012-13-04.pdf

1. **Sod Quality:** The sod shall be in commercial size rectangles of 14 inches by 24 inches, or larger rectangles and shall be healthy and well matted. 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).

2. **Sod Freshness:** 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, and what type shall be provided to the Project Manager upon delivery of the sod to the job site.

3. **Types of Service:** All sod, rolled or pallets, shall be per specifications stated in Attachment "A", **Florida Department of Transportation. Sod may be purchased in four ways, with possible variations of each method, depending upon the department's needs.**

   (a) Sod picked up by the County Departments from vendor's location within 20 miles of Lake County.
   (b) Contractor shall furnish sod, delivered and off-loaded to any location within Lake County.
   (c) Contractor shall furnish sod, delivered and off-loaded to any location within Lake County as well as install sod.
   (d) Contractor shall furnish sod, delivered and off-loaded to any location within Lake County as well as install and roll sod.

4. **Installation:** If installation is required, the side of greater length of the sod shall be installed 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 inches (6"). The County shall prepare the areas where the sod should be installed. If these areas have been disturbed after the site visit has been completed, the Contractor shall be responsible to insure that the surface is sufficiently smooth to install the sod. There shall be no overlapping of the sod allowed.

5. **Rolling:** If required as noted on the Work Request the vendor may be required to roll the sod. If so the vendor shall roll using a lightweight turf roller to provide a true and even surface without any displacement of the sod or deformation.

6. **Staples:** When required the vendor shall be required to install sod staples to secure the sod on steep slopes. There shall be two (2) staples installed per piece of sod. The staples shall be made to the following specifications.
   i. twelve (12) gauge
   ii. eight (8) inch long by one (1) inch wide
   iii. made of non galvanized metal

7. **Watering:** The County may request that the Contractor water the sod that they have installed. There shall be an equivalent of one (1) inch of water spread over the newly laid sod for each application. The County will specify the quantity and days of application.

8. **Warranty:** Product and /or service shall be warranted. The product 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 vendor shall treat affected areas. The process for treating these areas shall be approved by the Project Manager. If the sod does not meet any of the above specifications the vendor

shall be responsible to replace it at no expense to the County. When it has been the responsibility of the vendor to install the sod the warranty shall be enforced until the sod is sufficiently established as previously described within these specifications.

LAKE COUNTY
FLORIDA

OFFICE OF PROCUREMENT SERVICES
315 WEST MAIN STREET, SUITE 416
PO BOX 7800
TAVARES FL 32778-7800

PHONE: (352) 343-9839
FAX: 352) 343-9473

www.lakegovernment.com

ADDENDUM NO. 1

Date: June 15, 2009

BID No. 09-0416

Sod Services

This addendum is being issued to make the following changes, corrections, clarifications and additions to the bidding document. The information in this addendum modifies and changes the original bidding documents and takes precedence over the original documents. **Respondents shall acknowledge receipt of this addendum by completing this form and returning it with the response. Failure to acknowledge this addendum may preclude consideration of the bid proposal award.**

Change/add the following:
Page 2, Section 1.3: Method of Award
Replace: Bidders ~~must~~ provide pricing for all items... with Bidders **should** provide...

Page 15, Section 2 – Statement of Work, Scope of Services, 1. Sod Quality
Replace: rectangles of ~~44~~ inches... with rectangle of **16** inches...

Page 23, 24, and 25, Section 4, Pricing Section
Replace: Bermuda ~~409~~ with Bermuda **419 Certified**

Page 25, Section 4, Pricing Section
Replace: Roll Sod with **Rolling Sod**

Page 26, Section 4, Pricing Section
Replace: Water Sod with **Water Sod per Application**

EXHIBIT B

Clarification:
The County will provide M.O.T. services for sod delivery.

Firm Name: A-1 Sod Inc. dba Cottom's A-1 Sod Date: 6-15-09
Signature: Wendy D. Cottom Title: Vice President
Typed/Printed Name: Wendy D. Cottom

ITB # 09-0416
ITB Title: Sod Services
Contractor: Cottoms A-1 Sod

SOD DELIVERED AND INSTALLED						
Description	0 – 2,000 sq-ft	2,001 – 4,000 sq-ft	4,001 – 6,000 sq-ft	6,001 – 10,000 sq-ft	Over 10,001 sq-ft	Extended Evaluated Price (Average of all 5)
Bahia Argentina	$0.300 Per SF	$0.200 Per SF	$0.180 Per SF	$0.180 Per SF	$0.170 Per SF	$0.206
St. Augustine Floratam	$0.400 Per SF	$0.350 Per SF	$0.290 Per SF	$0.290 Per SF	$0.290 Per SF	$0.324
Bermuda 419	$0.460 Per SF	$0.430 Per SF	$0.430 Per SF	$0.430 Per SF	$0.430 Per SF	$0.436
St. Augustine Bitter Blue	$0.420 Per SF	$0.370 Per SF	$0.310 Per SF	$0.310 Per SF	$0.310 Per SF	$0.344
St. Augustine Seville	$0.430 Per SF	$0.380 Per SF	$0.320 Per SF	$0.320 Per SF	$0.320 Per SF	$0.354
St. Augustine Raleigh	Per SF	Per SF	Per SF	Per SF	Per SF	N/A
St. Augustine Palmetto	$0.440 Per SF	$0.390 Per SF	$0.330 Per SF	$0.330 Per SF	$0.330 Per SF	$0.364
					Sod Delivered and Installed Total Average	$2.028

MISCELLANEOUS BID ITEMS						
Description	0 – 2,000 sq-ft	2,001 – 4,000 sq-ft	4,001 – 6,000 sq-ft	6,001 – 10,000 sq-ft	Over 10,001 sq-ft	Extended Evaluated Price (Average of all 5)
Staples Installed	$0.040 Per SF	$0.040 Per SF	$0.040 Per SF	$0.040 Per SF	$0.040 Per SF	$0.040
Roll Sod	Per SF	Per SF	Per SF	Per SF	Per SF	FREE
Water Sod	Per SF	Per SF	Per SF	Per SF	Per SF	N/A
Staples Purchased	Per SF	Per SF	Per SF	Per SF	Per SF	$0.000
					Miscellaneous Bid Items Total Average	$0.040

Sum of All Pricing Section	$4.324

ITB # 09-0416
ITB Title: Sod Services
Contractor: Cottoms A-1 Sod

SOD PICKED UP (within 20 miles of Lake County)						
Description	0 – 2,000 sq-ft	2,001 – 4,000 sq-ft	4,001 – 6,000 sq-ft	6,001 – 10,000 sq-ft	Over 10,001 sq-ft	Extended Evaluated Price (Average of all 5)
Bahia Argentina	$0.170 Per SF	$0.170 Per SF	$0.170 Per SF	$0.170 Per SF	$0.170 Per SF	$0.170
St. Augustine Floratam	$0.270 Per SF	$0.270 Per SF	$0.270 Per SF	$0.270 Per SF	$0.270 Per SF	$0.270 -$0.270
Bermuda 419	$0.350 Per SF	$0.350 Per SF	$0.350 Per SF	$0.350 Per SF	$0.350 Per SF	$0.350 -$0.350
St. Augustine Bitter Blue	$0.290 Per SF	$0.290 Per SF	$0.290 Per SF	$0.290 Per SF	$0.290 Per SF	$0.290 -$0.290
St. Augustine Seville	$0.300 Per SF	$0.300 Per SF	$0.300 Per SF	$0.300 Per SF	$0.300 Per SF	$0.300 -$0.300
St. Augustine Raleigh	Per SF	Per SF	Per SF	Per SF	Per SF	N/A
St. Augustine Palmetto	$0.310 Per SF	$0.310 Per SF	$0.310 Per SF	$0.310 Per SF	$0.310 Per SF	$0.310 -$0.310
					Sod Picked up Total Average	$0.170

SOD DELIVERED						
Description	0 – 2,000 sq-ft	2,001 – 4,000 sq-ft	4,001 – 6,000 sq-ft	6,001 – 10,000 sq-ft	Over 10,001 sq-ft	Extended Evaluated Price (Average of all 5)
Bahia Argentina	$0.260 Per SF	$0.230 Per SF	$0.230 Per SF	$0.230 Per SF	$0.230 Per SF	$0.236
St. Augustine Floratam	$0.360 Per SF	$0.330 Per SF	$0.330 Per SF	$0.330 Per SF	$0.330 Per SF	$0.336
Bermuda 419	$0.440 Per SF	$0.410 Per SF	$0.410 Per SF	$0.410 Per SF	$0.410 Per SF	$0.416
St. Augustine Bitter Blue	$0.380 Per SF	$0.350 Per SF	$0.350 Per SF	$0.350 Per SF	$0.350 Per SF	$0.356
St. Augustine Seville	$0.390 Per SF	$0.360 Per SF	$0.360 Per SF	$0.360 Per SF	$0.360 Per SF	$0.366
St. Augustine Raleigh	Per SF	Per SF	Per SF	Per SF	Per SF	N/A
St. Augustine Palmetto	$0.400 Per SF	$0.370 Per SF	$0.370 Per SF	$0.370 Per SF	$0.370 Per SF	$0.376
					Sod Delivered Total Average	$2.086

EXHIBIT C