

NORTH CAROLINA
GUILFORD COUNTY

TOWN OF OAK RIDGE
PUBLIC CONTRACT

- Public contract for construction or repair work involving the expenditure of more than \$30,000 but less than \$500,000, made after taking informal bids. N.C. Gen. Stat. §§ 143-129, 131.
- Public contract for purchase of apparatus, supplies, materials, or equipment, involving the expenditure of more than \$30,000 but less than \$90,000, made after taking informal bids. N.C. Gen. Stat. §§ 143-129, 131.
- Public contract for construction or repair work or for purchase of apparatus, supplies, materials, or equipment, involving the expenditure of less than \$30,000, made after taking informal or no bids. N.C. Gen. Stat. §§ 143-129, 131.

THIS CONTRACT is made this 9th day of June, 2021, by and between **Town of Oak Ridge**, a North Carolina municipal corporation ("the Town") and the following contractor or supplier ("the Contractor"):

Contractor Identification:	
Name:	<u>Carolina Mulching Co.</u>
Designated Contractor Representative(s):	<u>Shane Stevenson</u>
Street Address:	<u>147 Richard Buerly Rd, High Point, NC 27262</u>
Mailing Address:	<u>same as above</u>
Telephone:	<u>336-905-0104</u>
Fax Number:	<u>N/A</u>
Email Address:	<u>stevenson147@gmail.com</u>

WITNESSETH:

That for and in consideration of the covenants and agreements herein set forth the parties here to mutually promise and agree as follows:

1. **SCOPE OF CONTRACT.**

Construction or repair work: The Contractor shall furnish all supervision, labor, materials, tools, and equipment, necessary to perform and complete all tasks set forth in the attached Request for Quote or Proposal, the General Conditions Addendum, and any Notice to Bidders, Instructions to Bidders, Material specifications, Detail Specifications, enumerated addenda, and /or drawings associated and generated specifically in connection therewith and attached hereto, all of which documents are incorporated herein by reference. The construction or repair tasks described therein shall collectively comprise all "the Work" under this contract. It is agreed and acknowledged by the parties that this Contract consists of this "Public Contract" document together with any and all such additional documentation, and no original, duplicate original, or copy of this Contract shall be deemed legally valid for any purpose without all such attachments as herein incorporated.

Purchase of apparatus, supplies, materials, or equipment: the Contractor shall furnish any and all apparatus, supplies, materials, or equipment required to fill the order set forth in the attached Request for Proposal, Proposal, Request for Bid, or other informal requisition or procurement document, incorporated herein by reference, the complete supply of which items shall comprise all the Contractor's obligations under this Contract, and all of which documents are incorporated herein by reference.

2. **CONTRACT PRICE.**

No amounts shall be owed or paid under this Contract, unless set forth in this Section 2.

Construction or repair work (Total Base Contract Price):
\$ 35,000.00

Additional pricing terms, e.g. unit or contingent pricing, if any (attached schedule as necessary):

Purchase of apparatus, supplies, materials, or equipment (Total Base Contract/Order Price):
\$ _____

Additional pricing terms, i.e.g. unit or contingent pricing, if any (attached schedule as necessary):

3. **CONTRACT PERIOD:** The Contract Period is the inclusive period during which the

Contractor shall perform and complete this Contract. The Contract Period herein shall begin on the date specified in a written notice to proceed from or on behalf of the Town to the Contractor, delivered by any of the methods herein provided for notice between the Town and the Contractor. This date is to be no more than approximately _____ days after the execution of this Contract by the Town. The Work is to be diligently prosecuted to completion within _____ consecutive calendar days from the first day of the Contract Period. The Town Manager in his sole discretion may extend the time for completion of the Work.

IN WITNESS THEREOF, the parties have duly executed this Contract as of the date first above written.

TOWN OF OAK RIDGE


By:

Town Manager
Town of Oak Ridge

ATTESTED:

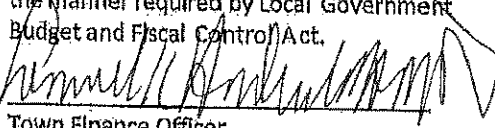
Oak Ridge Town Clerk

APPROVED AS TO FORM:



Town Attorney

This instrument has been pre-audited in
the manner required by Local Government
Budget and Fiscal Control Act.



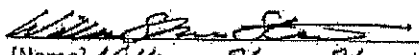
Town Finance Officer

Approved as to Insurance requirements:

Town Manager

[CONTRACTOR]

By:



[Name] William Shane Stevenson
[Title] owner

**GENERAL CONDITIONS ADDENDUM
TOWN OF OAK RIDGE CONTRACT**

GC-1. CONSULTANT. The Town may employ a Consultant to assist the Town in overseeing performance of the Contract. In such event the Town will identify to the Contractor the person or firm serving as Consultant. In the event the Town does not identify to Contractor a Consultant, all references herein to "Consultant" shall be deemed references to the Town Manager.

GC-2. ADDITIONAL WORK: The Town may require the Contractor to furnish materials and to do additional Work not provided in the Contract or in the Specifications, but which may be found necessary to the proper protection and completion of the work embraced in this Contract, at prices to be fixed in the Proposal, or on material and force account at actual cost with ten (10%) per cent added for profit and overhead, as specified under General Conditions. But no other work than that included in the Contract shall be done, and no additional material shall be furnished by the Contractor, without a written order from the Consultant ("extra Work"). In the absence of such a written order from the Consultant, the Contractor shall not be entitled to payment for such extra Work. Bills for extra Work shall be filed with Town within three (3) days after such extra Work is completed, in order that the Consultant may establish the accuracy of the extra Work bills.

GC-3. TERM OF CONTRACT: LIMITATIONS: The Contractor agrees to receive the amounts stated in the Proposal attached, in full compensation for furnishing materials and labor and executing all the Work contemplated and shall be responsible for all loss or damage arising out of the nature of the Work aforesaid or from any action of the elements or from any unforeseen obstruction or difficulties which may be encountered in the prosecution and delivery of the same, and for all risks of every nature and description connected with the Work and furnishing materials until their final completion and acceptance; also for the expense incurred by or in consequence of the suspension or of the discontinuance of said Work and in furnishing said materials according to Plans and Specifications. The Contractor hereby further agrees that the Town shall be and is hereby authorized to

deduct and retain out of the amounts which may be due or become due to the Contractor under this Contract, as liquidated damages for the non-completion of the Work or delivery of materials aforesaid within the time herein before stipulated for completion or within such further time as in accordance with the provisions of this Contract shall be fixed or allowed for such performance and completion, the sum of Five Hundred (\$500.00) dollars per day. The Contractor agrees that such amount has been fixed and determined as the actual and additional expense that the Town will suffer by reason of such delay and is not a penalty.

To prevent all dispute and litigation, it is agreed by and between the parties to this Contract that the Consultant shall in all cases determine the quantity and quality of the several kinds of work and materials which are to be paid for under this Contract, and the Consultant shall determine all questions with respect to lines, elevations, and dimensions of the Work, and with respect to the Interpretation of the Plans and Specifications.

GC-4. THE CONTRACT PAYMENTS: Partial payments will be made once a month, less ten (10%) percent retainage, provided satisfactory progress as determined by the Consultant is maintained on the project. The Consultant may withhold some or all of such monthly partial payment in the Consultant's opinion the same will amount to \$1,000 or less. Upon the completion of the Work, the Consultant shall promptly inspect Work and Material and present his Approved Final Payment to the Town, whereupon the Town shall pay or cause to be paid within thirty (30) days of such presentation the Approved Final Payment, less payments previously made, in legal tender of the United States, and the Town's payment of such Approved Final Amount shall release the Town from all claims for payment for the Work done or Materials furnished under this Contract.

The Town will require a full release of all claims for materials or labor furnished for the Work, prior to the payment of the Approved Final Payment. The

Contractor shall furnish the Town with such release in the form of a written statement sworn before a notary public providing that all payments have been made for labor and materials used in this Construction, and that any claims, suits, or proceedings of every name and description against the Town, its officers, its employees, or its agents, have been satisfied and settled. The Contractor shall furnish the Town, prior to payment of the Approved Final Payment, a written permission and release from the Contractor's Sureties that such Approved Final Payment is to be paid to the Contractor.

GC-5. SUBCONTRACTS: The Contractor shall not execute an agreement with a subcontractor or permit any subcontractor to perform any of the Work without the prior written approval of the Town Manager or his designee, which approval may be conditioned upon compliance by any such subcontractor with all the terms of this Contract relating to the performance of the Work by such subcontractor.

GC-6. PERMITS AND CODES: The Contractor shall give all notices required by, and comply with, all applicable laws, ordinances, and codes and shall, at his own expense, secure and pay the fees or charges for all permits required for the performance of the Work.

GC-7. CARE OF WORK: The Contractor shall furnish and erect, at his own expense, whatever temporary covers or other temporary structures may be necessary for the protection of the public and for the safe and proper execution of the Work. The Contractor shall exercise the highest degree of care with regard to all water and sewer lines and other public utility lines running in, over, or into the real property upon which the Work is performed so as not to interfere therewith or damage or cause damage thereto. The Contractor shall be responsible for all damages to persons or property that occur as a result of the Contractor's acts or omissions, whether intentional or negligent, in the performance of the Work and shall be responsible for the proper care and protection of the Work during the Contract Period and until completion and Final Acceptance, whether or not the same has been paid for by the Town.

GC-8. INSPECTION AND SUPERVISION: The Town,

acting through the Consultant, reserves the right to place competent inspectors on the Work or at the place of shipment, or delivery of materials, or at the factory or operating facilities of the Contractor to observe the quality of the Contractor's performance of the Work and of the materials used, and the Contractor agrees to afford such Inspectors reasonable access for carrying out their duties. It is agreed and understood that the Town, through its Consultant, inspector, or other agent, has the right to require completion of the Work according to the plans, specifications and this Contract, without unnecessary inconvenience to the public, but nothing contained in the Contract and specifications shall be construed to relieve the Contractor of its obligations, or to make the Contractor an agent of the Town. The Contractor understands and acknowledges that neither the Consultant nor any inspector has the power to vary the terms, provisions, or specifications of the Contract, and that any variation from the terms, provisions, or specifications of this Contract shall be at the Contractor's own risk of breaching the Contract. The Contractor understands and acknowledges further that the Contract is an agreement between the Town and the Contractor, that acceptance of the Contract by the Town Council is a matter of record in the official minutes of the Town Clerk, and that no person is authorized to substitute for or vary its terms, provisions, or specifications unless such proposed substitution or variation is first approved by the Town Council at a regular open meeting,

GC-9. COMPLETION BY TOWN UPON WORK ABANDONMENT OR TERMINATION FOR CAUSE:

In the event that (a) the Contractor abandons the Work, or (b) the Contractor assigns the Contract other than as herein provided, or (c) the Consultant at any time shall be of the opinion and shall so certify in writing to the Town that the Contractor is unnecessarily or unreasonably delaying performance of the Work, is willfully violating any terms or conditions of this Contract, or is not performing the Work in a manner reasonably calculated to complete the Work within the time specified, then in any such event the Town may terminate the Contract for cause and notify the Contractor to discontinue said Work or such part or parts thereof as said Town may designate; and in the event of such termination the Town may retain the services of another contractor or

contractors, in any manner and for such consideration as allowed by law, and secure any materials, equipment, and other means of construction which it may deem reasonably necessary to complete the Work, or such part or parts of it as said Town may have designated, and may use equipment and material and means of construction of every description as may be incorporated fully or partially in the Work or stockpiled on site, both to enter into to complete the Work and to procure other materials for the completion of said Work and for carrying out the terms of this Contract. The parties agree further and the Contractor specifically acknowledges that the expense of all such alternative contractor(s), labor, material, equipment, and other means of construction reasonably necessary to complete the Work shall be charged to and be recoverable from the Contractor and its sureties, and such expense so charged shall be deducted and paid for by the Town out of any monies that may be due or become due to the Contractor under this Contract. In the event such alternative contracting sum is less than the sum which would have been payable to the Contractor under this Contract, if the same had been completed by Contractor, it is agreed that Contractor shall be entitled to receive the difference; and in such case such expense shall exceed the sum which would have been payable under this Contract, if the same had been completed by the Contractor, then the Contractor shall pay the amount of such excess to said Town within 30 days after notice thereof.

GC-10. TERMINATION FOR BREACH: In the event that any of the provisions of this Contract are violated by the Contractor or any subcontractor on the Work, the Town may terminate the Contract by serving written notice upon the Contractor of its intention to terminate said Contract, and unless, within ten (10) days after the serving of such notice, such violation shall cease, the Contract shall, upon the expiration of said ten (10) days, be deemed terminated for material breach. In the event of any such termination, the Town may take over the Work and prosecute the same to completion in the same manner and according to the same provisions as set forth for termination for cause in the foregoing Section 10. This clause shall not be constructed to prevent the termination for other causes as herein provided.

GC-11. PATENTS: The Contractor shall be responsible for all fees or claims for patented invention used by him and shall defend any suit that may be brought against the Town, and shall hold said Town harmless from all costs, expenses, attorney fees, and damages, for use or infringement of any patented thing or method used in connection with the Work.

GC-13. CONTRACT READ: COPIES: BOND AND INSURANCE: It is agreed and understood that the Notice to Bidders, the Instructions to Bidders, the General Conditions, the Material Specifications and the Detail Specifications, the enumerated addenda, and drawings constitute the documents making up this Contract and are incorporated herein by reference. The Contractor hereby agrees that he has read each and every clause of this Contract, has read and reviewed said contract documents, and fully understands the meaning of the same, and that the Contractor will comply with all the terms, conditions, and requirements thereof. This Agreement is to be executed in two (2) duplicate originals, one (1) to be delivered to the Contractor and one (1) to be retained by the Town. Each duplicate original Agreement shall contain a copy of the Contractor's performance and payment bonds and certificate of insurance.

The performance and payment bonds and insurance certificate shall be addressed to:

Town of Oak Ridge
Attn: Mr. Bill Bruce, Town Manager
8315 Linville Road
Oak Ridge, NC 27310
Email: bbruce@oakridgenc.com
Fax: (336) 644-7012

GC-13. CONTRACT MEDIATION PROVISIONS:

13.1 Dispute Resolution: It is understood and agreed that N.C. Gen. Stat. § 143-128(f1) requires that disputes arising under an agreement for the erection, construction, alteration or repair of a building be subject to a dispute resolution process specified by the Owner. In compliance with this statutory provision, the Town specifies this section as the

dispute resolution process to be used on this project. It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the Town is under no obligation under any circumstance to secure or enforce the participation of any other party in the mediation of any dispute subject to this section and N.C.G.S. 143-128(f1).

13.2 Any dispute arising between or among the parties to this Contract that arises from an agreement or contract to construct the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered in accordance with the current Rules Implementing Statewide Settlement Conferences in Superior Court Civil Actions, or under such other mediation process to which the parties may agree, except as otherwise expressly set forth in this section. To the extent any provision of such Rules is inconsistent with the provisions of this section, the provisions of this section shall control. The mediation provided in this Article shall be used pursuant to this Agreement and N.C.G.S. 143-128(f1) and is in lieu of any dispute resolution process adopted by the North Carolina State Building Commission, which process shall not apply to this Project.

13.2 For purposes of this section the following definitions shall apply: *Agreement* the unless otherwise specified means the agreement to perform the Work that is subject to the requirements of N.C. Gen. Stat. § 143-128 and does not include any agreement or contract related to the Work that is not subject to said statute. *Construct* or *construction* refers to and includes the erection, construction, alteration, or repair of the Work; *Party* or *Parties* refers to the parties executing this contract; and *Work* includes all aspects of the project subject to the requirements of N.C. Gen. Stat. § 143-128 and includes the building to be erected, constructed, altered, or repaired pursuant to this Contract.

13.3 The Town and any party contracting with the Town or with any first-tier or lower-

tier subcontractor for the performance of this Contract agree for themselves and for any such other contracting parties to participate in good faith in any mediation of a dispute subject to this Article and N.C.G.S. 143-128(f1), including without limitation the following parties (if any): architect(s), engineer(s), surveyor(s), prime contractor(s), surety(ies), subcontractor(s), and supplier(s).

13.4 In order to facilitate compliance with N.C. Gen. Stat. § 143-128(f1), the Contractor, and all other parties, shall include this section or an incorporating reference thereto in every agreement for or relating to the Work, without variation or exception. Failure to do so will constitute a breach of this Contract, and the Contractor or other party failing to so include this section or an incorporating reference thereto agrees to and shall indemnify and hold harmless the Town and any other affected party from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach.

Notwithstanding the foregoing provisions of this Section, it is expressly understood and agreed that the parties are intended to be and shall be third-party beneficiaries of the provisions of this Article and can enforce the provisions thereof.

13.5 a. The following disputes are not subject to mediation:

- i. A dispute seeking a non-monetary recovery; and
- ii. A dispute seeking a monetary recovery of \$15,000 or less

b. A dispute seeking the extension of any time limit or deadline set forth in this Contract shall be subject to mediation pursuant to this section and N.C. Gen. Stat. § 143-128, but only if the damages which would be suffered by the Party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement or contract as the measurement of damages for failure by such party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

13.6 For purposes of this section, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single party or two or more parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all parties to such disputes.

13.7 In addition to such matters as are required by the rules adopted for dispute resolution hereunder, a request for mediation shall include the amount of the monetary relief requested.

13.8 Prior to requesting mediation, a party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any other party unless supported by such investigation and good faith belief by the party requesting the mediation. Any party requesting mediation without complying with this section shall indemnify and hold harmless all other parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other parties that arise from such breach.

13.9 All expenses incurred by a party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the party. Such expenses include, without limitation, preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the Town is named as a party to the mediation, the Town shall pay at least one-third of the mediation expenses and costs divided among the parties. If more than one party to a dispute requests a mediation, the mediation expenses and costs to be divided among the parties shall be borne equally by the parties to the dispute; provided that, if the Town is named

as a party to the mediation, the Town shall pay at least one-third of the mediation expenses and costs divided among the parties.

13.10 The mediation shall be held at Oak Ridge Town Hall, unless otherwise agreed upon by all parties to the dispute.

13.11 The provisions of this section are subject to any other provision of this Contract concerning the submission, documentation, and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this section.

14. NOTICES AND MISCELLANEOUS PROVISIONS.

(a) All notices pursuant to the provisions of this Contract shall be sent to the parties in writing via confirmed delivery service or confirmed electronic mode at the following addresses:

To the Town:

Town of Oak Ridge
Attn: Mr. Bill Bruce, Town Manager
8315 Linville Road
Oak Ridge, NC 27310
Email: bbruce@oakridgenc.com
Fax: (336) 644-7012

To the Contractor:

Email: stevenson147@gmail.com
Fax: N/A

(b) This Contract contains all the agreements of the parties relating to the Work and the associated project, all previous agreements, communications, or understandings being merged herein, and shall be construed and enforced solely in the Superior Court of Guilford County, North Carolina, and under the laws of the State of North Carolina.

