



C&T PAVING, INC.
P.O. Box 1439, Leicester, NC 28748
Phone (828) 683-6564 - Fax (828-683-6835)
Email mabell1039@bellsouth.net

Project Name: Upper Kentucky
Rd.

Customer:
Address:

Phone:
Fax No.:

Mobile Phone:

Email:

sfreeman@townofmontreat.org

Contact: Steve Freeman

Property Owner (if different from
Customer):

CONTRACT

This Contract is entered into as of this day, **July 28, 2014** by and between C&T Paving, Inc. ("Company") and **Town of Montreat** ("Customer").

Company and Customer agree to the following terms and conditions:

Real Property. Company shall provide the "Work" described in Paragraph 2 below, which Work is to be performed with respect to that Real Property described below:

Description of Work. The Work to be provided by Company is as follows:

1. Fine grade and condition existing stone and install 2" asphalt
apx. 740 SY **sum=\$16,519.23**

Price. In consideration for Company performing the Work, Customer agrees to pay Company the **Contract Amount of \$16,519.23** (*This price includes an estimate of the asphalt that will be required to complete the Work, and the*

*asphalt cost based on a NCDOT price index of \$85.00 per ton + tax. The price of the asphalt is subject to change throughout the duration of the Work based on changes in the price index, or once quantities are measure in the field. Customer will be notified of any change in asphalt price via Change Order, and **Customer is responsible for and hereby agrees to pay Company any increase in the Contract Amount resulting from changes in asphalt price or quantities required to complete the Work.**)*

Payment Terms. A deposit of \$ **N/A** is required prior to the start of the Work. Full payment of the balance of the Contract Amount and any additional charges due for asphalt or for other Change Orders is due to Company upon completion of the Work, and in no event later than 30 days after the invoice date. Time is of the essence with regards to all payments due from Customer to Company. If Company does not receive full payment of the Contract Amount within 30 days of the invoice date, Customer is in breach of this Contract. Upon breach, interest at the rate of 1 ½ % per month shall accrue on all amounts past due, from the first day the Customer is in breach until payment is made in full. Customer agrees to pay all interest assessed in accordance with this Paragraph. In the event that it becomes necessary for Company to engage an attorney to collect any amount due under this Contract, Customer agrees to also pay all costs and Company's reasonable attorney's fees in the amount of 15% of the outstanding balance owed, as that term is referred to in Section 6-21.2 of the North Carolina General Statutes.

Commencement & Completion of Work. Unless a time for performance of the Work is specified elsewhere in this Contract, Company shall undertake the Work in the course of its normal operating schedule. Company estimates that it will take approximately **(to be determined)** to complete the Work, but makes no guarantees regarding a completion date. Customer acknowledges that there are causes beyond Company's control that can alter the timeline for the Work, including, but not limited to weather, fire, flood, or other casualty; labor disputes or disagreements; accidents or other mishaps; material shortages; etc. Company shall not be liable for any delay in undertaking or completion of the work.

Customer's Obligations. Customer acknowledges and agrees to the following:

- a. Customer can and will provide Company with adequate and direct access to the Real Property and to any adjacent property needed during the scope of the Work;
- b. _____ ; and
- c. To take all other actions and perform all other acts necessary to allow Company to perform the Work.

Limitations on Scope of Work. Customer acknowledges and agrees to the following limitations in the scope of the Work:

- a. If specified in the scope of Work, Company will supply weed killer in accordance with the manufacturer's specifications. However, Company will also comply with the Environmental Protection Agency's limitations on toxic weed killers, and therefore cannot guaranty complete vegetation kill.
- b. Areas that are inaccessible to the paver will be hand laid. This will result in a difference in texture, and may result in scuffmarks on the pavement surface. However, these scuffmarks will not affect the quality or durability of the pavement.
- c. If Company is asked to overlay on to base materials or a substrate that is not installed or provided by Company, then Company cannot guaranty the success or anticipated lifespan of the overlay. Company does **not** warrant overlay work, unless Company also installed all base and/or substrate materials.

Change Orders & Modifications. Unless specifically stated elsewhere in this Contract, Company does not agree to any different or additional work, above and beyond the Work specified in Paragraph 2 above, without a written Change Order, signed by both Customer and Company. All written Change Orders must specify the agreed upon price and description of the change to be made or the additional work to be completed. All written Change Orders signed by both Customer and Company become part of this Contract.

Limited Warranty. For a period of 365 consecutive calendar days from the date of completion of the Work, Company warrants the Work as follows: If there is a labor or material defect in the Work that is caused solely by Company,

Company shall, at its own cost, correct such defective Work within a reasonable time after Company has actual knowledge thereof. If Customer becomes aware of any such defect, Customer shall deliver a written notice thereof to Company. **Except for the foregoing, there are no other express warranties or implied warranties with respect to the Contract, Company's performance of the Contract, or the Work. All other express warranties and implied warranties are hereby disclaimed and excluded, including, but not limited to, all implied warranties for or of merchantability, habitability, fitness for a particular purpose, or workmanlike construction.** As is stated in Paragraph 7 above, Company does **not** warrant overlay work, unless Company also installed all base and/or substrate materials.

Insurance. Company shall maintain worker's compensation insurance covering all of its employees, as well as general commercial liability insurance throughout the scope of the Work.

Events of Default. Each of the following events shall constitute an Event of Default by Customer:

- a. If Customer files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy law, or voluntarily takes advantage of any such law or makes an assignment for the benefit of creditors;
- b. If an involuntary proceeding under any bankruptcy law or an insolvency or receivership action shall be instituted against Customer, or if a receiver or trustee shall be appointed for all, or substantially all, of the property of Customer, and such proceeding is not dismissed or the receivership or trusteeship is not vacated within ten days after the institution or appointment; and/or
- c. If Customer fails to fully perform any of Customer's Obligations as specified in Paragraph 6 above, or to comply with any provision of this Contract, including the payment provisions.

Termination. Company shall have the right, at its sole option, of immediately termination this Contract, in the event of any of the following:

- a. If, for causes beyond Company's control, the Work has not started within ____ days of execution of this Contract;
- b. If, for causes beyond Company's control, the Work has not been completed within 12 months after the execution of this Contract; and
- d. Upon any event of default by Customer, as described in Paragraph 11 above.

If Company terminates this Contract on account of any of the foregoing, Company shall have no further liability to Customer, and Customer agrees to pay Company the actual cost of labor, materials, equipment, permits, and any and all other costs and expenses already furnished to the Real Property or incurred by Company in connection with the Work. In the event of termination in accordance with this Paragraph, Company will have no obligation to return the Real Property to its original condition.

Limitation of Damages, Indemnification and Release. Customer acknowledges and agrees to the following:

- a. Company is not responsible for, and Customer agrees to hold Company harmless from, any liability resulting from damages to utilities or other facilities or objects buried beneath, or to sidewalks, driveways, lawns, shrubs, sprinkler systems, or other improvements located within the area where Company performs the Work or in designated areas of access;
- b. Company is not responsible for any damage to or deterioration of any of the Work, whether complete or in process, that results from any cause or causes beyond Company's control, including, but not limited to, failure of sub-grade, or failure or inadequacy of any labor or materials not installed or furnished by Company; and
- c. The sole and exclusive remedy of the Customer, and the sole and exclusive obligation of Company, for matters set forth herein, whether on contract, negligence or strict liability, is the repair of the defect. Company is no event shall be liable for special or consequential damages claimed by Customer.

Entire Contract. This Contract supersedes and replaces any proposals, amended proposals, conversations, estimates or other communications with respect to the Work. This Contract may be amended only by a written document signed on behalf of Company and Customer.

Choice of Law. This Contract is governed, interpreted and enforced pursuant to the laws of the State of North Carolina. Company and Customer agree that the jurisdiction for all disputes related to this Contract shall be either Buncombe County, NC or the county where the Real Property is located.

Execution of the Contract. Customer represents and warrants that he/she/it has read and understands the Contract and has had an opportunity to consult with legal counsel concerning its effect. No rule of construction shall apply to this Contract construing its provisions more strictly against either Company or Customer.

Severability. If any provision or portion of this Contract or any amendment hereto shall contravene or be invalid under any applicable law, statute, code, ordinance or regulation, such contravention or invalidity shall not invalidate the whole thereof, and this contract shall be construed as if not containing the particular provision or portion found to be invalid.

Assignment. This Contract shall be binding upon, and shall inure to the benefit of the parties hereto and their respective successors, assigns, heirs and representatives. Customer may not assign this Contract without the written consent of Company. Company may assign or subcontract this Contract or any portion of the Work to be done. If assigned, this Contract shall be binding on the assignees and its successors, assigns, heirs and representatives.

Customer:

Company:

Name of Company or Individual:

C&T Paving, Inc.

Signed By:

By:

Print Name:

Mike Culbertson
President

Title:

Date:

Date:

