

**NYS Route 9 and 236 Water Main Replacement
Town of Halfmoon
Saratoga County, New York**

AGREEMENT

THIS AGREEMENT is dated as of the **4th day of October in the year 2024** by and between the Town of Halfmoon (hereinafter called OWNER) and Bellamy Construction Company, Inc. (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Provide all labor, materials, tools, equipment, and other means necessary and incidental to completion of work shown on Plans and contained in the specifications, including, but not limited to, the following:

- Furnish all labor, materials, machinery, tools, equipment, and other means of construction necessary for, and incidental to, the horizontal directional drill installation of approximately 1,200 linear feet of 8-inch diameter high density polyethylene water main on NYS Route 9 and NYS Route 236. The work shall include, but not be limited to, the installation of the new water main and associated fittings, connections to the existing water system, and the hydrostatic testing and disinfection of the water main, and the disconnection and decommissioning of the existing water main and services.
- Asphalt removal to facilitate installation of the proposed water main and appurtenances.
- Site restoration including topsoil, seeding, asphalt pavement, and driveway repairs.
- Work zone traffic control.

ARTICLE 2 – ENGINEER

The Project has been designed by MJ Engineering, Architecture, Landscape Architecture, and Land Surveying P.C. who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIMES

3.1 The Work will be substantially completed on or before **December 27, 2024** and completed and ready for final payment in accordance with paragraph 14.13 of the General Conditions on or before **May 30, 2025**.

3.2 *Liquidated Damages.* OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring of

such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER eight hundred dollars (\$800.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by the OWNER, CONTRACTOR shall pay OWNER eight hundred dollars (\$800.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to paragraphs 4.1 below:

- 4.1 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the quantity of that item as indicated on the Bid Summary Form.

Total Bid of All Unit Prices:

Three Hundred Seventy-Four Thousand Two Hundred Ten Dollars and Forty Cents (use words)	\$374,210.40 (use figures)
---	-------------------------------

As provided in paragraph 11.9 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in paragraph 9.10 of the General Conditions. Unit prices have been computed in paragraph 11.9 of the General Conditions.

ARTICLE 5 - PAYMENT PROCEDURES

CONTRACTOR shall submit Application for Payment in accordance with Article 14 of the General Conditions, Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

5.1 *Progress Payments; Retainage.* OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment as recommended by ENGINEER, on or about the 15th day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below. All such payments will be measured by the schedule of values established in paragraph 2.9 of the General Conditions (in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial completion payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions.

95% of Work completed (with the balance being retainage).

95% (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to OWNER as provided in paragraph 14.2 of the General Conditions).

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 95% of the Contract Price (with the balance being retainage), less such amounts as ENGINEER shall determine, or OWNER may withhold, in accordance with paragraph 14.7 of the General Conditions. If Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of Work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed.

5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 14.13.

ARTICLE 6 – INTEREST

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the maximum rate allowed by law at the place of the Project

ARTICLE 7 - CONTRACTOR'S REPRESENTATIONS

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

7.1 CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in paragraph 8) and the other related data identified in the Bidding Documents including "technical data."

7.2 CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3 CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

7.4 CONTRACTOR has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in paragraph 4.2.1 of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.2 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.2 of the General Conditions. CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that OWNER and ENGINEER do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR and safety precautions, and programs incident thereto. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are

necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5 CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the site that relates to the Work as indicated in the Contract Documents.

7.6 CONTRACTOR has correlated the information known to CONTRACTOR, information and observation obtained from visits to the site, reports, and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

7.7 CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 8 - CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work consist of the following:

- 8.1 This Agreement.
- 8.2 Performance, Payment, and other Bonds.
- 8.3 Notice to Proceed.
- 8.4 General Conditions.
- 8.5 Supplementary Conditions.
- 8.6 Specifications.
- 8.7 Drawings with each sheet bearing the following general title: Town of Halfmoon, NYS Route 9 and 236 Water Main Replacement.
- 8.8 CONTRACTOR's Bid.
- 8.9 Documentation submitted by CONTRACTOR prior to Notice of Award.
- 8.10 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraphs 3.5 and 3.6 of the General Conditions. The documents listed in paragraph 8.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above). There are not Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.5 and 3.6 of the General Conditions.

ARTICLE 9 - MISCELLANEOUS

9.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

9.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be

assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3 OWNER and CONTRACTOR each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.4 Any provisions or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

9.5 OTHER PROVISIONS

IN WITNESS WHEREOF, OWNER, and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER. All portions of the Contract Documents have been signed, initialed or identified by OWNER, and CONTRACTOR, or identified by ENGINEER on their behalf.

This Agreement will be effective on October 4, 2024 (which is the Effective Date of the Agreement).

OWNER _____ CONTRACTOR Bellamy Construction Company, Inc.

By: _____ By: *M. Bellamy*

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____ Attest _____

Address for giving notices: _____
6684 Amsterdam Road

_____ Scotia, NY 12302

(If OWNER is a public body, attached evidence of authority to sign and resolution or other documents authorizing execution of Agreement).

License No. _____

Agent for services of process: _____

(If CONTRACTOR is a corporation, attach evidence of authority to sign).

NYS Route 9 and 236 Water Main Replacement

Bid Item No.	Description	Item Quantity	Units	Unit Price	Total Value of Item (\$)
<i>BID ITEMS FROM CONTRACT 2 - Buiton Road, Lower Newtown Road, and Hayner Road Water Main Extensions</i>					
1A	Mobilization, Demobilization, and General Conditions	0.30	LS	\$85,000.00	\$25,500.00
2A	Work Zone Traffic Control	1.30	LS	\$55,000.00	\$71,500.00
3A	Stormwater and Erosion Control	2.20	LS	\$15,000.00	\$33,000.00
4A	Asphalt Pavement Removal	1,000,000	CY	\$0.01	\$10,000.00
6B	8" DR11 HDPE	1,230	LF	\$68.00	\$83,640.00
7A	Unclassified Excavation	1,000,000	CY	\$0.01	\$10,000.00
9A	Pipe Zone bedding and Backfill	1,000,000	CY	\$0.01	\$10,000.00
9B	Select Trench Backfill, Imported (beneath paved area)	1,000,000	CY	\$0.01	\$10,000.00
10D	8" DR11 HDPE 45 Deg. Bend	6	EA	\$750.00	\$4,500.00
12A	Concrete Thrust Collar	1	EA	\$3,500.00	\$3,500.00
14B	8" Gate Valve (installation only)	2	EA	\$450.00	\$900.00
15A	1" Water Service (same side)	4	EA	\$2,400.00	\$9,600.00
15B	1" Water Service (opposite side)	2	EA	\$4,500.00	\$9,000.00
16A	Subbase Course	1,000,000	CY	\$0.01	\$10,000.00
17A	Asphalt Replacement	1,000,000	TON	\$0.01	\$10,000.00
20A	Topsoil and Seeding	902,040	SY	\$0.01	\$9,020.40
21A	Water Main Activation	1	LS	\$20,250.00	\$20,250.00
22A	Utility Locating-ASCE Quality Level A	8	EA	\$100.00	\$800.00
23A	Record Documentation	1	LS	\$4,000.00	\$4,000.00
24	Contingency Allowance	0.52	LS	\$75,000.00	\$39,000.00
TOTAL					\$374,210.40

DRAFT