

AGREEMENT

THIS AGREEMENT, made this 2nd day of October, 2023 by and between the Town of Kensington, New Hampshire, hereinafter called "**OWNER**" and Bell & Flynn LLC, doing business as (an individual) or (a partnership) or (a corporation) hereinafter called "**CONTRACTOR**".

WITNESSETH: That for and in consideration of the payments and agreements herein

1. The **CONTRACTOR** shall commence and complete the **2023 Asphalt Paving Services**.
2. The **CONTRACTOR** shall furnish all the materials, supplies, tools, equipment, labor, engineering and other services necessary for implementation, application, construction and completion of the Project described herein.
3. The **CONTRACTOR** shall commence the Work required by the Contract Documents within thirty (30) calendar days after the date of the Notice to Proceed and will complete the same by November 15, 2023. The **CONTRACTOR** acknowledges that the date of beginning and the time for completion of the Work are essential conditions of the Contract Documents
4. The **CONTRACTOR** agrees to perform Work as described in the Contract Documents and comply with the terms therein for a sum not to exceed \$245,825.00.
5. The term "Contract Documents" means and includes the following:
Request for Proposal; Road Construction Spec. Sheet; Bid Summary Form; Bell & Flynn, LLC Proposal dated May 30, 2023; Agreement; General Conditions.
6. The **OWNER** shall pay to the **CONTRACTOR**, in the manner and at such times as set forth in the General Requirements, such amounts as required by the Contract Documents based on the per item bid sums.
7. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS THEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in three (3) copies, each of which shall be deemed an original on the date first above written.

(SEAL)

ATTEST:

By: Kathleen Felch

Name: Kathleen T Felch

Title: Town Administrator

OWNER:

10/21/2023

Town of Kensington, New Hampshire

By: [Signature]

Name: Joseph Pace

Title: Chairman, Board of Selectmen

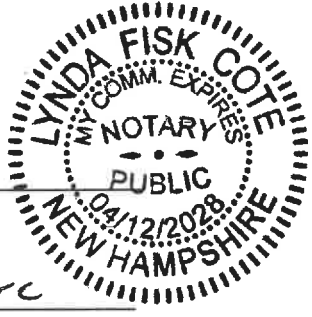
(SEAL)

ATTEST:

By: [Signature]

Name: LYNDA COTE

Address: 69 BUNKER HILL AVE.
STRATHAM, NH 03885



CONTRACTOR:

Bell + Flynn, LLC

By: [Signature]

Name: John T. Bell, President

Address: 69 Bunker Hill Ave
Stratham, N.H 03885

***Note: If the CONTRACTOR is a corporation, an affidavit giving the principal the right to, sign the Contract must accompany the executed Contract.**

GENERAL CONDITIONS

1. GENERAL
2. PAYMENTS
3. CHANGE ORDERS
4. QUALITY CONTROL
5. MAINTENANCE OF TRAFFIC
6. ACCESS
7. FINAL CLEANING
8. WARRANTY
9. NO PAYMENT FOR DELAY
10. SCHEDULE
11. INSURANCE
12. ATTORNEY'S FEES AND COSTS

1. GENERAL

The Work of this Contract comprises shimming, overlaying, shoulder dressing and milling of town roads including, but not limited to, sweeping, cutting, transporting and applying asphalt and tack coat, placing and compacting gravel on shoulders and all other work specified herein necessary to provide a complete and functional asphalt road surface in accordance with State of New Hampshire Standard Specifications for Highway and Bridge, most current edition and these contract documents.

The subject roadway may be closed to traffic during regular work hours (7:00 a.m. to 5:00 p.m.), but must be opened to two-way traffic each night and all weekend.

The Contractor shall limit his use of the project premises for work, for storage, and for access to allow normal public use after normal work hours and all weekend and State Holidays.

The Contractor shall coordinate his work with the Owner's Police, Highway, Fire Departments, Ambulance and Dispatch Center. The Contractor shall supply emergency numbers for 24-hour contact.

All work shall be constructed in accordance with these Contract Documents, and State of New Hampshire Department of Transportation Standard Specifications for Highway and Bridges, most current edition, whichever is the more stringent.

2. PAYMENTS

Once each month, the Contractor shall prepare an Application for Payment which shall identify the quantity and cost of work that has been completed for that month. No more than one payment application per month will be allowed.

The Owner shall have the right to review the Application and reject same if, in their opinion, payment is not warranted.

Payments to the contractor will be made for the actual work performed and completed for that payment period only.

The payment of any Application for Payment shall in no way relieve the Contractor of his obligation to repair or replace any defective parts of the construction, or to be responsible for any damage due to such defects during the construction period and one year thereafter.

Partial payments shall be made monthly, as the work progresses.

3. CHANGE ORDERS

The Owner may at any time, as the need arises, order changes within the scope of the Work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents or in the time required for performance of the Work, an equitable adjustment shall be authorized by Change Order.

The Owner also may, at any time, by issuing a Field Order, make changes in the details of the Work. The Contractor shall proceed with the performance of any changes in the work so ordered by the Owner unless the Contractor believes that such Field Order entitles the Contractor to a change in Contract Price or Time, or both, in which event the Contractor shall give the Owner written notice thereof within seven (7) days after the receipt of the ordered change. Thereafter the Contractor shall document the basis for the change in Contract price or Time within thirty (30) days. The Contractor shall not execute such changes, pending the receipt of an executed Change Order or further instruction from the Owner.

The Contract Price may be changed only by a Change Order. The value of any Work covered by a Change Order or of any claim for increase or decrease in the Contract Price shall be determined by one or more of the following methods, in the order of precedence listed below:

- a. Unit prices previously approved.
- b. An agreed lump sum

4. QUALITY CONTROL

It is the Owner's intent that all Work shall be in compliance with Town of Kensington Subdivision Regulations and/or State of New Hampshire, Department of Transportation Standard Specifications for Highways and Bridges, most current edition.

Where reference is made to a specification it is understood that the latest revisions thereof shall apply. In case of conflict, the more stringent specifications shall take precedence.

5. MAINTENANCE OF TRAFFIC

Uniformed Traffic Control will be supplied by the Owner as required. It shall be the Contractor's responsibility to provide and maintain safe and passable traffic accommodations for public and private travel; prevent dust nuisance; furnish, erect, maintain and remove construction signs, barricades, delineators, lights, flashers and other warning devices used to delineate the construction zone and notify the motoring public of its approach.

6. ACCESS

Notification to the Owner of any and all road closure times is mandatory. It is requested that full road closure be kept to as short a duration as possible.

Two-way traffic must be restored no later than 5:00 p.m. on each work day and may not be disrupted before 7:00 a.m. of each work day.

7. FINAL CLEANING

Upon completion of all Work items, it shall be the Contractor's final responsibility to remove all waste materials, debris and rubbish from the site, and dispose of same in a legal, environmentally safe and legitimate manner.

8. WARRANTY

The Contractor shall warrant his Work for a period of one year from the time of final completion from all defects due to faulty materials or workmanship, and the Contractor shall promptly make such corrections as may be necessary by reason of such defect. The Owner will give notice of observed defects with reasonable promptness.

9. NO PAYMENT FOR DELAY

No extra payment shall be made for delay beyond the control of the Contractor or Owner (i.e. weather, war, strike, etc.) However, additional contract time may be granted upon approval by the Owner.

10. SCHEDULE

The date of beginning and the Contract Time for the work are essential conditions of the Contract Documents and the work embraced shall be commenced on the date specified in the Notice to Proceed.

The Contractor will proceed with the Work at such rate of progress to insure Final Completion within the Contract Time. It is expressly understood and agreed, by and between the Contractor and Owner, that the Contract Time for the completion of the work described herein is a reasonable time, taking into consideration the average climatic and economic conditions and other factors prevailing in the locality of the Work.

11. INSURANCE

The Contractor shall purchase and maintain such comprehensive general liability and other insurance as is appropriate for the work being performed. The insurance shall include the specific coverage and be written for not less than the limits of liability and coverage identified or required by law, whichever is greater. All policies shall contain a provision that the coverage will not be canceled, changed or renewal refused until a thirty (30) day written notice is given to the Owner. All insurances shall remain in effect until final payment.

The limits of liability for the liability insurance required shall provide coverage for not less than the following amounts or greater where required by law:

Workman's Compensation and Employee's Liability	\$100,000 (each accident) \$500,000 (disease Policy limit) \$100,000 (disease each employee)
Owner's Contractor's Protective Liability	\$1,000,000 (combined single limit)
Excess Liability (umbrella form)	\$1,000,000 (B.I. & P.O. comb.)

Automotive Liability	\$1,000,000 (8.1.- per person)
(all owned auto's, hired	\$1,000,000 (8.1.- per person)
auto's, non-hired auto's	\$1,000,000 (P.D.)
private or otherwise)	
General Liability	\$1,000,000 (8.1. & P.D. comb.)
(comprehensive premises	(each occurrence)
operations, explosion	\$1,000,000 (8.1. & P.D. comb.)
products, contractual	(aggregate)
independent contractors,	
board form property damage,	
personal injury)	

12. ATTORNEY'S FEES AND COSTS

The contractor agrees to indemnify the Town from any and all liability, loss or damage including but not limited to, bodily injury, illness, death or property damage, which the contractor becomes legally obligated to pay, including reasonable attorney's fees, investigative and discovery costs, court costs, as a result of claims, demands, costs, or judgments against the Town arising out of this agreement, caused by or arising out of the negligence, fault, breach of warranty, produce liability or strict liability of the contractor, and/or third parties, whether such negligence, fault, breach of warranty, products liability or strict liability is sole, joint or several\

END OF SECTION