

Lake View Estates Homeowners Association

Road Maintenance Agreement

This **AGREEMENT**, effective as of the first day of September 2022, by and between the Lake View Estates Homeowners Association, hereinafter called “LEHA” and Jeffrey Mrazik, Jr., hereinafter called the “CONTRACTOR”.

WITNESSETH: for the consideration hereinafter set forth, the parties hereby agree as follows:

DESCRIPTION OF SERVICES

Timeframe for services:

This contract is for a period of one year, commencing on **September 1, 2022** and ending on **August 31, 2023**. Renewal and/or extension of the contract will be at the discretion of LEHA via written amendment to this contract, as agreed to by both parties.

Road Maintenance (On-Call):

1. Road maintenance shall include all work required to maintain Shore Road and Basin Road in safe conditions for travel access and parking (the latter as allowed by the LEHA bylaws). The work shall include, but shall not be limited to:
 - a. Maintaining the gravel road surfaces to afford smooth travel surfaces, generally by filling in and/or re-grading ruts, potholes and depressions in excess of 1”;
 - b. Grading and/or reshaping the road surface to provide for proper runoff and drainage into existing ditches – conducted in such a manner so as to minimize the movement of fines and small particles into drainage channels and ditches;
 - c. Fortifying roadway edges to guard against erosion or falling off of roadway edges so as to create a hazardous condition. This work could include the placement of boulders and/or providing and installing guardrails, if needed – the latter at added cost to the contract, as agreed to by both parties;
 - d. Providing appropriate materials to accomplish the above goals and requirements;
 - e. Cutting back of brush from encroachment onto the travelled ways, including disposal of same off of LEHA property;
 - f. Removal of trees and/or branches that may fall into the travelled ways, including disposal of same off of LEHA property;
 - g. Coordinating the work with that of Central Maine Power and other utility companies
 - h. Within 20 feet of the edge of roadway - removal of sediments, brush, branches and excelsior from ditches and drainage pathways to improve drainage away from the road surface;
 - i. Monitoring and evaluating roadway conditions following significant storm events;
 - j. Preparing all roadway surfaces and drainage features for the winter seasons to facilitate snow plowing and sanding measures;
2. All **Road Maintenance** work shall be done in coordination with LEHA’s designated Road Committee Chair, using appropriate equipment and materials. The work shall be done on call (upon request) of the LEHA Road Committee Chair, the LEHA President or Vice President. Prior to commencing work, the Contractor shall provide LEHA with an estimate of the cost of the work requested. The Contractor shall **NOT** perform any services at the request of any LEHA lot owner,

without the concurrence and authorization from the above named LEHA designees. ***Work performed without such authorization will not be paid for.***

Snow Plowing and Sanding:

1. Snow Plowing and Sanding shall include all work required to maintain Shore Road and Basin Road in safe conditions for winter season travel access. The work shall include, but shall not be limited to:
 - a. Snow removal and mechanized sanding, include pushing back of snow when required, on Shore Road and Basin Road in Fayette, Maine, as soon as possible after every storm. If the storm is large enough to require more than one plowing or sanding, contractor shall provide such services.
 - b. Maintaining all roads to be passable by a standard, two-wheel drive passenger vehicle after plowing has been completed following a storm. This standard shall apply throughout the entire plowing season. The LEHA Board or its member designee (Road Committee Chair) reserves the right to determine whether or not this standard is being met.
 - c. Providing turnouts, if requested by LEHA and conditions permit, in snow banks to allow water from winter rainstorms to flow away from the road surface.
 - d. Clearing snow in front of trash containers in the Common Area (or roadside if containers have been so located) and mailbox (at the intersection of Sandy River Road and Shore Road) to keep them accessible.
 - e. Coordinating all work with Central Maine Power and/or other utility companies.

PERFORMANCE OF SERVICES



All work shall be performed by the contractor promptly and in a good workmanlike manner. The contractor is in control of the manner and methods by which the work under this agreement will be performed, with the exception that the contractor agrees to minimize the amount of road surface material being plowed into roadside ditches. The contractor also understands that LEHA will rely on him/her to work as many hours as may be necessary to fulfill the contractor's obligations under this agreement. Breach of this agreement by the contractor shall, at LEHA's option, result in immediate termination of this agreement upon written notice to the contractor.

COMPENSATION

Compensation under this contract shall be made in the following manner:

For On Call Road Maintenance:

For services performed as described above, LEHA will compensate the Contractor in accordance with the following rate table:

- Operators with Equipment -  per hour
- Others, when not operating Equipment - 

These hourly rates shall be full compensation for providing all labor and equipment to safely and thoroughly expedite the work. *The time frame for compensation shall commence when the Contractor begins work on LEHA roadways and shall end when the Contractor completes the work. Only time on-site shall be included.* Contractor shall submit monthly invoices to the LEHA Treasurer, itemizing dates, names, hours expended, equipment and materials used.

Materials needed for the work (such as sand, gravel and/or crushed stone) shall be paid for in addition to the hourly fee and at invoiced cost. Copies of invoices shall be furnished to LEHA, with the monthly invoices.

For Snow Plowing and Sanding:

For **Snow Plowing**, LEHA will pay the contractor a **TOTAL FEE** of [REDACTED] **Dollars** for the satisfactory performance of the above-described services for the winter months, beginning on or about October 15th and ending on or about April 15th. Equal payments will be made on or about the 1st day of each month, beginning on November 1st for a total of **6 months/payments**. All payments shall be made within ten days of the due date. Except as described below, the payments shall be full compensation for performing all work (labor, equipment and materials) needed to accomplish the goals, objectives and requirements of snow plowing under this contract. The **TOTAL FEE** includes sanding of curves and sloped roadway sections after each plowable event during the stated period of services.

Additional sanding shall be done upon request of the LEHA Road Committee Chair, the LEHA President or Vice President. The Contractor will **NOT** perform any services at the request of a LEHA lot owner, without the concurrence and authorization from the above named LEHA designees. ***Work performed without such authorization will not be paid for.***

Additional Sanding includes providing all labor, equipment and materials (sand) and shall be compensated as follows:

- **Sanding entire roadway:** - [REDACTED] per event
- **Sanding curves and sloped sections of roadway only:** [REDACTED] per event

For additional sanding events, Contractor shall submit monthly invoices to the LEHA Treasurer, itemizing dates and types of sanding services provided.

Upon termination of this agreement, payments under this paragraph shall cease, provided that the contractor shall be entitled to payments for periods, or pro-rated payments for partial periods, that occurred prior to the date of termination and for which the contractor has not yet been paid and during which the contractor performed the work required under this Agreement. Payment for satisfactory work during the period prior to termination shall be the sole remedy of the contractor under this agreement for termination of this agreement prior to the expiration of its stated timeframe of engagement. This agreement may be renewed upon mutual consent between LEHA and the contractor.

Additional Work

LEHA may request additional services for the Contractor to perform, such as furnishing and installing guardrails and/or removal of large trees resulting from insect damage or storm events that could not be foreseen and for which the cost may create an undue hardship to the Contractor, within the established base monthly fee. Compensation for additional and/or unforeseeable work needed to accomplish roadway maintenance as described herein shall be negotiated between the Contractor and LEHA. Payments for such separate work shall be made within 2 weeks of the satisfactory completion of the work.

SUPPORT SERVICES

LEHA will not provide support services, including but not limited to office space and/or secretarial services for the benefit of contractor.

RELATIONSHIP OF PARTIES

The parties understand and agree that contractor is an independent contractor with respect to LEHA, and not an employee of LEHA. LEHA will not provide fringe benefits, including but not limited to, health insurance benefits, paid vacation, or any other benefits. The contractor shall be solely and entirely responsible for any Workmen’s Compensation Insurance, withholding taxes, and any other employer obligations of the contractor which may arise during the contractor’s performance of the work.

Both parties understand that the Contractor is not exclusive to LEHA. Should situations occur such that the Contractor is delayed (by more than 48 hours) in performing the services needed under this contract, LEHA will have the right to engage another contractor, without penalty.

INJURIES

The contractor acknowledges his/her obligation to obtain appropriate insurance at a minimum of \$1,000,000 of total liability coverage for the benefit of the contractor (and the contractor's employees or sub-contractors, if any) and which acknowledges LEHA as an additional named insured – for the full timeframe of this agreement. The contractor waives any rights to recovery from LEHA for any injuries that contractor (or any employee or sub-contractor) may sustain while performing services under this agreement or that are a result of the negligence of contractor or his/her employees or sub-contractors. The contractor will provide proof of insurance coverage to LEHA prior to the first plowing of within the stated timeframe for commencement. Upon request, the contractor shall also provide the actual insurance policy to LEHA.

INDEMNIFICATION

The contractor agrees to indemnify, defend, and hold LEHA harmless from all claims, losses, expenses, fees (including attorney's fees), costs, and judgments that may be asserted against LEHA arising from the alleged acts or omissions of the contractor, the contractor's employees, or, if any, the contractor's agents or sub-contractors.

ASSIGNMENT

The contractor's obligations under this agreement may not be assigned or transferred to any other person, firm, or corporation without the written consent of LEHA. If the contractor decides to subcontract out any of the work to be performed under this Agreement, any such subcontractor must be approved in advance by LEHA, in LEHA's sole discretion, and must provide LEHA with satisfactory proof of insurance.

NOTICES

All notices required or permitted under this agreement shall be in writing and shall be deemed in person or deposited in the United States mail, postage prepaid, addressed as follows:

Lake View Estates Homeowners Association:

Megan Roberts, President
188 Shore Road
Fayette, ME 04349
207-778-2964
megski55@yahoo.com

Authorized LEHA Representatives:

Thomas D. Jenkins, Vice President
16 Hawthorne Street
Wakefield, MA 01880
617-697-8597
tdenbyjenkins@outlook.com

Commercial Registered Agent:

John P. McVeigh
PretiFlaherty
One City Center
P.O. Box 9546

Contractor:

Jeffrey Mrazik, Jr., dba Quiet Harbor Builders
375 Quiet Harbor Road
Readfield, ME 04355
(207) 491-7552
Jwmjr01@yahoo.com

Portland, ME 04112-9546

Joseph Longtin, LEHA Road Committee Chair
330 Shore Road
Fayette, ME 04349-3239
207-293-9313
jllongtin@gmail.com

Such names and contact information may be changed from time to time by either party by

providing written notice to the other in a manner set forth above.

ENTIRE AGREEMENT

This document contains the entire agreement of the parties and there are no promises or conditions in any other agreement, whether oral or written. This agreement supersedes and takes precedence over any prior written or oral agreements between the parties.

AMENDMENTS

This agreement may be modified or amended only if made in writing and signed by both parties.

SEVERABILITY

If any provision of this agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER OF CONTRACTUAL RIGHT

The failure of either party to enforce any provision of this agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this agreement.

BINDING ARBITRATION

Both parties agree to settle any dispute that may result from this document by submitting the dispute to an independent arbitrator and abiding by the judgment of said arbitrator. The parties may agree on an arbitrator, who shall be an attorney practicing in Maine. If the parties cannot agree on an arbitrator, each party shall forthwith each name their own arbitrator, who may or may not be an attorney. The sole function of those two arbitrators shall be to meet forthwith to choose a third arbitrator, who shall be an attorney practicing in Maine. The third arbitrator shall become the sole arbiter of the dispute. The arbitrator shall have the discretion to provide rules for the parties for the conduct of the arbitration, and shall have the discretion to award both monetary and injunctive relief, provided, however, that the arbitrator may not reinstate this agreement, even if the arbitrator finds that a termination of this agreement by LEHA was mistaken or wrongful. The arbitrator's decision shall be final and may be enforced by a court of competent jurisdiction. In the event the above procedures for choice of an arbitrator do not result in the choice of an arbitrator within 2 weeks of a demand for arbitration by either party, either party may apply to a court of competent jurisdiction for the appointment of an arbitrator to resolve the dispute. The arbitration is to be conducted with an eye towards a speedy and inexpensive resolution of the dispute. The arbitrator shall have the discretion, but not the obligation, to award the prevailing party its attorney's fees and costs.

APPLICABLE LAW

This agreement shall be governed by the laws of the State of Maine without regard to any rules of conflicts of law.

INTERPRETATION

This agreement is to be interpreted neutrally, without regard to any rules of interpretation of contracts concerning the drafter of the language in this agreement.

CONTRACT EXECUTION

AGREED to this _____ day of _____, 2022

By: _____,

_____, LEHA President

and: _____,

_____, LEHA Treasurer

By: _____,

Contractor:

By: _____,