Lake View Estates Homeowners Association
Plowing and Sanding Agreement

This **AGREEMENT**, by and between the Lake View Estates Homeowners Association, hereinafter called "LEHA" and **Bruen Construction**, hereinafter called the CONTRACTOR.

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

DESCRIPTION OF SERVICES

1. Timeframe for services. This contract will commence on or about October 1, 2023 and will continue through the winter season until the potential of snowstorms has passed – generally until April 30, 2024.

2. Snow removal and mechanized sanding, as needed, including any 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.

3. The contractor agrees to maintain 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 reserves the right to determine whether or not this standard is being met.

4. The contractor also agrees to help provide turnouts, if requested by LEHA and conditions permit, in snow banks to allow water from winter rainstorms to flow away from the road surface.

5. The contractor will clear 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.

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.

PAYMENT/COMPENSATION

LEHA will pay the contractor a **total fee** of **$9,000.00** for the satisfactory performance of the above-described services and through the duration of stated timeframe. The fee shall include compensation for all plowing and sanding and inspection of roadway conditions. The contractor shall include the cost of sanding an **average of six (6) times per month,** over the term of the contract.

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Payments will be made in **seven equal installments** on before the last day of the month. 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.

EXPENSES

The only payments by LEHA to be made to the contractor shall be the payments specified above. The contractor shall pay all "out of pocket" expenses necessary for performance of this agreement, and shall not be entitled to reimbursement from LEHA for such expenses.

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.

INSURANCE AND 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.

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.

NOTICES

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

Lake View Estates Homeowners Association:
Thomas D. Jenkins, President
16 Hawthorne Street
Wakefield, MA 01880

Commercial Registered Agent:
John P. McVeigh
PretiFlaherty
One City Center
P.O. Box 9546
Portland, ME 04112-9546

Please note: John McVeigh is now retired, but PretiFlaherty still represents LEHA as Registered Agent. (T. Jenkins 5-20-2024)

Contractor:

Name: Bruen Construction

Contact: Dennis Bruen

Address: P.O. Box 601, Readfield, ME 04355

Tel: (207) 685-9603; (207) 462-6166 (cell)

Email: cocobruen@aol.com

Such addresses 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.

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.

Agreed to this 7th day of October, 2023

By: ________________________________,

Thomas D. Jenkins, LEHA President

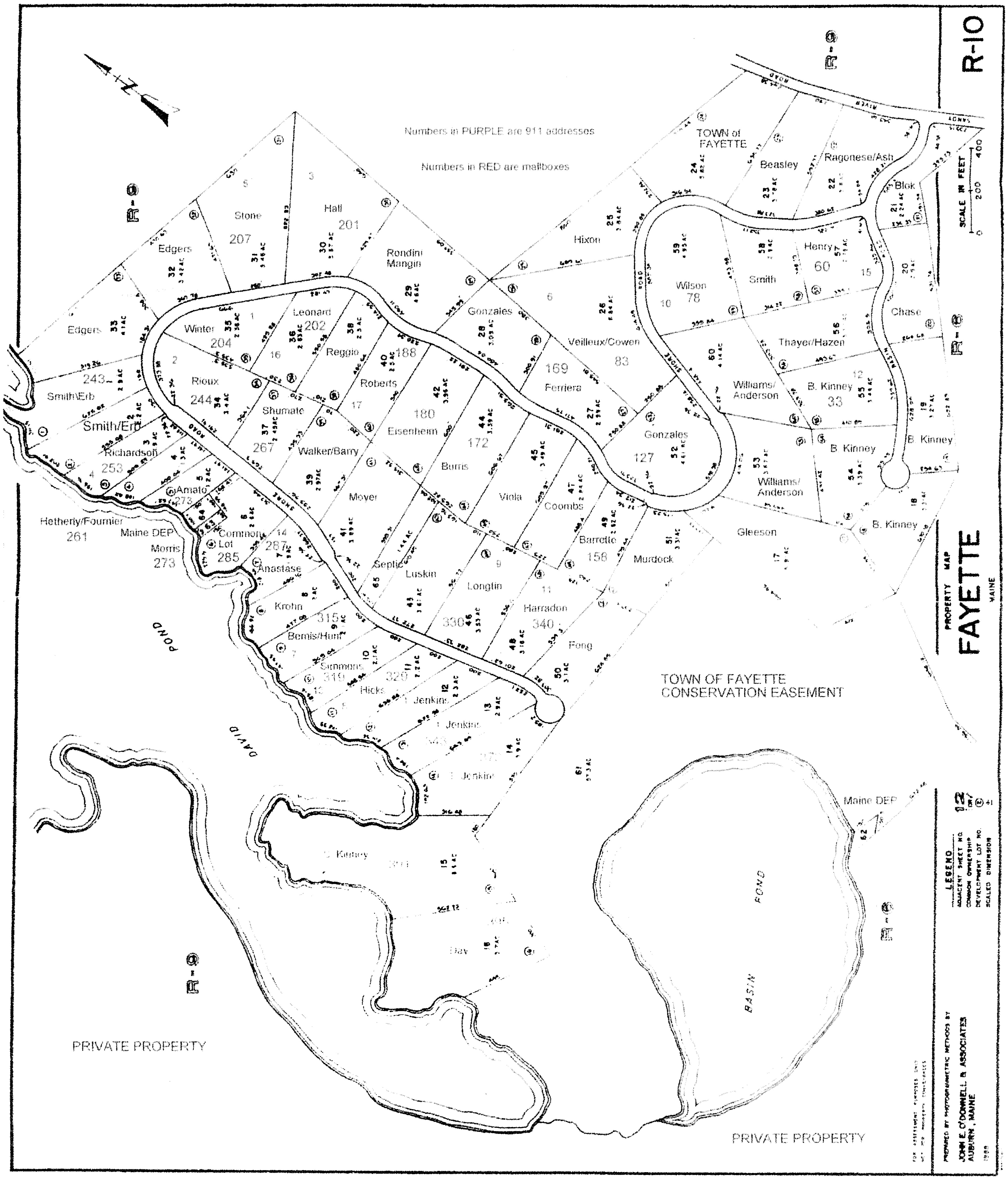
and: ________________________________,

Deidre Richardson, LEHA Treasurer

By: ________________________________.

Plowing/Sanding Contractor

Attachment: Map of LEHA Roadways


R-10
Numbers in PURPLE are 911 addresses
Numbers in RED are mailboxes
TOWN of FAYETTE
Beasley
Ragonese/Ash
Blok
Hixon
Wilson 78
Smith
Henry 60
Chase
Stone 207
Hall 201
Rondini Mangin
Edgers
Winter 204
Leonard 202
Reggio 188
Gonzales
Veilleux/Cowen 83
Ferriera 169
Thayer/Hazen
Williams/Anderson
B. Kinney 33
Rioux 244
Smith\Erb 243
Smith/Erb
Shumate 267
Roberts
Eisenheim 180
Richardson 253
Amato 273
Walker/Barry
Burris 172
Gonzales 127
Viola
Coombs
Moyer
Hetherly/Fournier 261
Maine DEP
Morris 273
Common Lot 285
287
Anastase
Septic
Luskin
Longtin 330
Harradon 340
Barrette 158
Murdock
Gleeson
B. Kinney
Krohn 315
Bemis/Hunt
Simmons 319
Hicks 329
Fong
Jenkins
TOWN OF FAYETTE CONSERVATION EASEMENT
DAVID POND
Kenney
Day
BASIN POND
Maine DEP
R-9
PRIVATE PROPERTY
PRIVATE PROPERTY
SCALE IN FEET
0 200 400
PROPERTY MAP
FAYETTE
MAINE
LEGEND
ADJACENT SHEET NO.
COMMON OWNERSHIP
DEVELOPMENT LOT NO.
SCALED DIMENSION
PREPARED BY PHOTOGRAMMETRIC METHODS BY
JOHN E. O'DONNELL & ASSOCIATES
AUBURN, MAINE