

John T. Alexander
Tina L. Annis
Biron L. Bedard ¹
Lisa L. Biklen
Ronald E. Cook ²
Frank E. Kenison
Garry R. Lane ³
Lisa M. Lee
Andrew B. Livernois
Paul H. MacDonald ⁴
Michael J. Malaguti
Thomas N. Masland
Daniel J. Mullen
John C. Ransmeier
Lawrence S. Smith
Jeffrey J. Zellers ⁵

**Ransmeier
& Spellman P.C.**
ATTORNEYS AT LAW

One Capitol Street
P.O. Box 600
Concord, New Hampshire 03302-0600

Telephone 603.228.0477
Fax 603.224.2780
Website www.ranspell.com

November 14, 2012

Joseph S. Ransmeier
1915-2010

Lawrence E. Spellman
1924-2001

Dom S. D'Ambruoso
Retired

¹ Also admitted
in Maine

² Also admitted
in Rhode Island

³ Also admitted
in Maine and
Connecticut

⁴ Also admitted
in Vermont

⁵ Also admitted
in Massachusetts

Keri J. Marshall, Esq.
Marshall Law Office
47 Depot Road
East Kingston, NH 03827-2002

Re: Chestnut Drive/Donigian Properties, LLC

Dear Keri:

As you are aware there has been a substantial dispute since February 2009 with respect to the appropriate remedy/repair with respect to certain cracks, which have developed in Chestnut Drive during the first winter following placement of a finish coat on the road. A final approval from the Planning Board is needed in order to present Chestnut Drive for acceptance as a Town road by the Board of Selectmen.

To that end on Monday November 5, 2012 I met out on Chestnut Drive with Ed from your office, Jake, John Bell, Jason Tardiff, Chad Pelissier, and Ronnie Pellissier at that time it was agreed that Donigian Properties, LLC will not be required to come and perform any additional crack sealing work at this time. The proposal below reflects the discussion and agreement reached between Donigian Properties, LLC and the Planning Board with respect to Chestnut Drive.

Donigian Properties, LLC will need to present to the Planning Board for acceptance the following:

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1. An owners title insurance policy for the roadway and its improvements in an amount satisfactory to town counsel;
2. An executed roadway and improvements warranty agreement with the Town; and
3. Warranty deeds for the roadway and paper spur (these deeds were tendered during the litigation and are being held by our office).

If these items are satisfactory to our office and the Planning Board, the Planning Board will vote to approve Chestnut Drive upon the express condition that Donigian Properties, LLC pay the Town of Allenstown \$6,000 for future road maintenance of Chestnut Drive. In particular, based upon various reports we have received to date, it appears that the hot asphalt crack filler which is being used to seal Chestnut Drive will need to be replaced periodically for the remaining expected life of Chestnut Drive. Please note this \$6,000 payment shall be in addition to any sums which are being held by the Town to secure the road warranty agreement and any obligations which Donigian Properties, LLC has to perform under the road warranty agreement.

Once the Planning Board has approved Chestnut Drive, it will recommend to the Board of Selectmen that Chestnut Drive be accepted as a town road. Mr. Donigian will still need to renew the petition he filed with the Board of Selectmen dated July 26, 2012 to accept Chestnut Drive as a town road. If for any reason the Board of Selectmen does not accept Chestnut Drive as a town road within 180 days of the Planning Board's recommendation, the \$6,000 shall be returned to Donigian Properties, LLC and our approval shall be rescinded.

This will also confirm that Jason Tardiff will request the Planning Board consider reducing the amount of the security held by the Town from \$100,000 to \$50,000. Whether or not that request to reduce the security is approved will have no bearing on the rest of this agreement.



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If this proposal is acceptable to Mr. Donigian, please have him signify his agreement by signing the letter where indicated below and returning it to my attention no later than November 9, 2012. In the event we do not receive Mr. Donigian's agreement within the specified time above, this proposal shall be deemed automatically withdrawn.

In the meantime, if you have any questions, please feel free to contact me.

Very truly yours,

Biron L. Bedard
E-mail: bbedard@ranspell.com

Donigian Properties, LLC

By:  11-14-12

Its: _____

BLB/dl
cc: Town of Allentown Planning Board
473420

INFRASTRUCTURE WARRANTY

THIS AGREEMENT made this 14th day of November, 2012, by and between the Town of Allenstown, a New Hampshire municipal corporation with a principal place of business at 16 School Street, Allenstown, NH, 03275 (hereinafter "Allenstown"), and Donigian Properties, also known as Donigian Properties, LLC, a New Hampshire limited liability company, with an address of 134 Chester Road, Fremont, NH, 03044 (hereinafter "Donigian").

Whereas, Donigian is the owner of a parcel of land known as Woodridge Estates Phase IV, more particularly described at Book 2447, Page 935 in the Merrimack County Registry of Deeds, and shown on Plan #16526.

Whereas, Donigian has constructed a road, installed drainage, landscaping, and other like improvements.

Whereas, Donigian seeks to tender the road and other improvements for acceptance by Allenstown.

Whereas, Donigian must warranty for a period of one (1) year the road and other improvements.

The aforementioned recitals are material representations and not merely superfluous language.

For valuable consideration, including the covenants and promises contained herein, Donigian and Allenstown agree as follows:

1. Pursuant to Article VII, Section 7.03(d) of the Allenstown Planning Board Subdivision Regulations, Donigian must warrant the road, drainage, landscaping, and other improvements (hereinafter "Improvements") shown on the plans for Woodridge

Estates Phase IV, a portion of which is shown on Plan #16526 in the Merrimack County Registry of Deeds. Donigian shall warrant the Improvements against any and all defects, damage, and/or failure in the design, construction, installation, workmanship, or application of the Improvements, whether or not caused by Donigian, its agents, employees, or subcontractors, any manufacturer, distributor, supplier, or any other third party responsible, in whole or in part, for any such defect, damage, or failure. Any defect, damage, or failure occurring to any of the Improvements shall be presumed to be covered by the warranty, and the responsibility of Donigian, unless conclusively demonstrated otherwise. Regardless of whether Allenstown has imposed a collateral security requirement, Donigian's warranty obligations shall be unlimited.

2. The term of the warranty shall be for a period of one (1) year from the date the Allenstown Board of Selectmen affirmatively vote to accept the road.

3. Any defect, damage, or failure which occurs to the Improvements during the term of the warranty shall be reported, in writing, to Donigian. Donigian shall have thirty (30) days from the date of notice of the defect, damage, or failure, to repair, replace, or otherwise correct the defect, damage, or failure. To the extent that Donigian can reasonably establish that it will take a period of greater than thirty (30) days to complete the repair, replacement, or correction, the Road Agent for Allenstown may grant an extension of time of up to an additional sixty (60) days to perform such work provided that the delay does not pose a threat to public health, safety, or the environment. Any request for any extension of time shall be in writing and must be made prior to the expiration of the period for making the repair, replacement, or correction. The decision to grant or deny any request for an extension shall be made in writing.

4. In the event that Donigian fails to undertake the repair, replacement, or correction within thirty (30) days as specified above, or any period of time which he has received an extension, Allenstown shall have the right, but not the obligation, to undertake the repair, replacement, or correction, and to expend funds from the collateral securing this warranty to pay all costs and expenses associated therewith. Prior to undertaking any repair, replacement, or correction which is the responsibility of Donigian, it shall notify Donigian, in writing, of its intent to undertake the repair, replacement, or correction at least seven (7) days prior to commencing the repair, replacement, or correction, and their intention to expend some or all of the collateral to pay for the repair, replacement, or correction. To the extent that Donigian's failure to repair, replace, or correct an item which is covered by the warranty poses a threat to public health, safety, or the environment, as Allenstown determines in its sole discretion, Allenstown shall only be required to provide Donigian such notice, if any, which it deems reasonable in its sole discretion. The failure to provide notice, or timely notice pursuant to this section, shall not preclude Allenstown from performing the repair, replacement, or correction, or from obtaining payment for said repair, replacement, or correction from the collateral posted by Donigian.

5. Within thirty (30) days after the expiration of the term of this warranty, Allenstown shall cause the Improvements to be inspected at Donigian's expense. If that inspection reveals any repair, replacement, or correction which should be performed pursuant to the terms of this warranty, Allenstown shall notify Donigian, in writing, of those outstanding warranty items. Donigian shall have thirty (30) days from the date of the written notice to repair, replace, or correct those outstanding items. The failure of

Donigian to repair, replace, or correct those outstanding items within the thirty (30) days shall permit but not obligate Allenstown to undertake the repair, replacement, or correction on its own, without further notice to Donigian, and to expend the collateral securing this warranty for any costs or expenses which Allenstown incurs. Donigian may petition the Allenstown Board of Selectmen, in writing prior to the expiration of the thirty (30) day repair, replacement, or correction period, for an extension not to exceed sixty (60) days to complete the outstanding warranty items.

6. Within thirty (30) days of satisfactory completion of the warranty work pursuant to the final inspection, the remaining balance of Donigian's collateral to secure the warranty shall be released. Any deductions from the collateral by Allenstown shall be itemized and sent to Donigian, in writing, with the balance of the collateral.

7. In the event that Allenstown must bring an action to enforce this warranty or otherwise defend a claim pursuant to this warranty, Donigian shall be liable for all costs incurred by Allenstown, including but not limited to, reasonable attorneys' fees and expenses. These costs may be paid from the collateral securing the warranty.

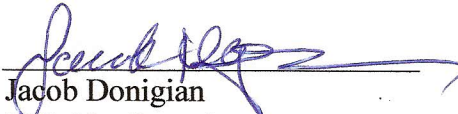
8. This warranty shall not be amended, changed, or modified, except in writing, signed by both Allenstown and Donigian. This warranty contains the entire agreement between the parties. There are no covenants or representations, prior to or contemporaneous herewith, which are not contained herein.

9. The parties agree that any dispute under this warranty shall be governed by New Hampshire law, and brought in the Merrimack County Superior Court.

THE TOWN OF ALLENSTOWN

By: _____
Duly Authorized

**DONIGIAN PROPERTIES A/K/A
DONIGIAN PROPERTIES, LLC**

By: 
Jacob Donigian
Individually and
in his capacity as a member of
the LLC

389403