

STATE OF MAINE
LINCOLN, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-22-32

| | | |
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| GFG 401K TRUST, |) | |
| |) | |
| |) | |
| Plaintiff |) | |
| |) | |
| vs. |) | DEFENDANT’S RESPONSE TO |
| |) | PLAINTIFF’S SECOND REQUESTS |
| S.R. GRIFFIN CONSTRUCTION, INC., |) | FOR ADMISSION |
| |) | |
| |) | |
| Defendant |) | |
| |) | |

1. Defendant owns and operates in connection with its business triaxle dump trucks, including without limitation, a white 2022 Volvo triaxle VHD and a black 2007 Sterling triaxle, as evidence by the attached Exhibits 6.9 and 7.0 (together, the “Dump Trucks”).

Response: Admitted.

2. The Dump Trucks are included in and part of the Heavy Equipment.

Objection: This Request asks Defendant to adopt and accept Plaintiff’s definition of “Heavy Equipment” as stated in Plaintiff’s Second Requests for Admissions, which incorporates the allegations of Plaintiff’s Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff’s Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff’s definition of “Heavy Equipment.”

Response: See objection. Without waiver, qualified. It is admitted that the above referenced Dump Trucks are both triaxle dump trucks, one being white, one being black. It is admitted that the above referenced Dump Trucks were used as part of a project involving property owned by Alan Whitman at 39 Merry Island Road. Defendant denies the remaining allegations in the above Request.

3. At the beginning of August 2022, and ending around August 26, 2022, Defendant performed work on and in connection with the Project, including without limitation, performing excavating,

earthwork, blasting support, gravel installation and compacting, tree cutting and removal, and all related activities on the Whitman property.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects to the Request as vague and ambiguous. Specifically, it is unclear what Plaintiff means by "blasting support" or "all related activities on the Whitman property."

Response: See objection. Without waiver, qualified. Defendant admits to performing excavating, earthwork, gravel installation and compacting, tree cutting and removal as part of a project involving property owned by Alan Whitman at 39 Merry Island Road.

4. Defendant used the Dump Trucks and the Heavy Equipment in performing the work it did on and in connection with the Project.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Response: See objection. Without waiver, qualified. It is admitted that Defendant used the Dump Trucks in performing the work it did on and in connection with a project on property owned by Alan Whitman located at 39 Merry Island Road in Edgecomb. Because Plaintiff's definition of "Heavy Equipment" in Plaintiff's Second Requests for Admission incorporates the allegations in the Complaint, Defendant denies the remaining allegations in this Request.

5. Defendant used the Dump Trucks and the Heavy Equipment on Merry Island Road in performing the work it did on and in connection with the Project.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Response: See objection. Without waiver, qualified. It is admitted that Defendant used the Dump Trucks on Merry Island Road in performing the work it did on and in connection with a project on property owned by Alan Whitman located at 39 Merry Island Road in Edgecomb.

6. During the time when Defendant performed work on and in connection with the Project, the Dump Trucks and/or other items of Heavy Equipment made the ruts that are in line with the black arrow and are seen on Exhibit 2.7 on the Property.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

7. During the time when Defendant performed work on and in connection with the Project, the Dump Trucks and/or other items of the Heavy Equipment made the ruts that are in line with the black arrow and are seen on Exhibit 2.7 on the Property from on or about August 3, 2022 to August 14, 2022.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

8. During the time when Defendant performed work on and in connection with the Project, to turn around and head back down Merry Island Road, the Dump Trucks and/or other items of the Heavy Equipment at least once turned off of Merry Island Road and entered onto and/or crossed over the Property.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

9. During the time when Defendant performed work on and in connection with the Project, to turn around and head back down Merry Island Road, the Dump Trucks and/or other items of the Heavy Equipment at least once turned off of Merry Island Road and traveled around the Tree on the Property, turning back onto Merry Island Road to head in the opposite direction.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

10. During the time when Defendant performed work on and in connection with the Project, the Property was clearly posted with multiple no trespassing signs, stating POSTED, PRIVATE PROPERTY, HUNTING, FISHING, TRAPPING OR TRESPASSING FOR ANY PURPOSE IS STRICTLY FORBIDDEN. VIOLATORS WILL BE PROSECUTED.

Objection: The Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Defendant further objects because the Request is vague and ambiguous—it does not identify which part of the Property the Request is seeking to discuss.

Response: See objection. Without waiver, Defendant cannot truthfully admit or deny the matter due to lack of information or knowledge, although Defendant has made reasonable inquiry and the information known or readily available to Defendant is insufficient to enable Defendant to admit or deny.

11. During the time when Defendant performed work on and in connection with the Project, the Dump Trucks and/or other items of the Heavy Equipment entered onto and/or crossed over the Property at least five (5) separate times.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates

the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

12. During the time when Defendant performed work on and in connection with the Project, the Dump Trucks and/or other items of the Heavy Equipment entered onto and/or crossed over the Property at least ten (10) separate times.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore,

Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

13. During the time when Defendant performed work on and in connection with the Project, the Dump Trucks and/or other items of the Heavy Equipment entered onto and/or crossed over the Property at least twenty (20) separate times.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written

by Plaintiff.

Response: See objection. Without waiver, denied.

14. During the time when Defendant performed work on and in connection with the Project, the Dump Trucks and/or other items of the Heavy Equipment entered onto and/or crossed over the Property at least once.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

15. From and after on or about August 16, 2022, when Plaintiff placed and parked other vehicles near the Tree so that the Dump Trucks and/or other items of the Heavy Equipment could no longer enter onto and/or cross over the Property and travel around the Tree on the Property, the Dump Trucks and/or other items of the Heavy Equipment no longer entered onto and/or crossed over the Property

thereafter.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Defendant further objects because the Request asks Defendant to adopt and accept Plaintiff's definition the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Defendant objects because the Request asks Defendant to adopt and accept an assertion of Plaintiff's intent which Defendant is unable to do.

Response: See objection. Without waiver, it is admitted that vehicles were parked near the Tree. Defendant admits that the Dump Trucks did not enter onto and/or cross over the Property.

16. Rather, from on or about August 16, 2022, the Dump Trucks and/or other items of the Heavy Equipment proceeded to the end of Merry Island Road, turning around at the end of Merry Island Road to head in the opposite direction.

Objection: This Request asks Defendant to adopt and accept Plaintiff's definition of "Heavy Equipment" as stated in Plaintiff's Second Requests for Admissions, which incorporates the allegations of Plaintiff's Complaint. This is confusing and misleading. Defendant has denied allegations in Plaintiff's Complaint; therefore, Defendant objects to any Request that seeks to have Defendant adopt and accept Plaintiff's definition of "Heavy Equipment."

Response: See objection. Without waiver, it is admitted that Dump Trucks proceeded to the end of Merry Island Road, turning around at the end of Merry Island Road to head in the opposite direction.

17. On or about August 26, 0222, Defendant jammed or wedged a large tree branch or limb into the area in front of the windshield of Plaintiff's orange truck as it was placed and parked near the Tree.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Property," which includes reference to Map R-6, Lot 33, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Property" as written by Plaintiff.

Response: See objection. Without waiver, denied.

18. In connection with the Project, Defendant entered into a contract with Maine Drilling and Blasting, Inc. on or about July 17, 2022.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Response: See objection. Without waiver, it is admitted that Defendant and Maine Drilling and Blasting, Inc. entered into a contract as part of a project involving property owned by Alan Whitman at 39 Merry Island Road.

19. Maine Drilling and Blasting, Inc. was a subcontractor of Defendant in connection with the Project.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Response: See objection. Without waiver, it is admitted that Maine Drilling and Blasting, Inc. performed work as part of a project involving property owned by Alan Whitman at 39 Merry Island Road, consistent with a contract between Maine Drilling and Blasting, Inc. and Defendant.

20. Maine Drilling and Blasting, Inc. performed work in connection with the Project.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Response: See objection. Without waiver, it is admitted that Maine Drilling and Blasting, Inc. performed work as part of a project involving property owned by Alan Whitman at 39 Merry Island Road.

21. Maine Drilling and Blasting, Inc. performed its work in connection with the Project at the direction of Defendant.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff's definition of the "Project," which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff's Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff's definition of the "Project" as written by Plaintiff.

Defendant further objects to the wording of the Request as being unclear. Specifically, it is unclear what Plaintiff means by the phrase “at the direction of Defendant” and whether Plaintiff is implying that Defendant was directly involved in tasks performed by Maine Drilling and Blasting, Inc.

Response: See objection. Without waiver, it is admitted that Maine Drilling and Blasting, Inc. performed work as part of a project involving property owned by Alan Whitman at 39 Merry Island Road consistent with a contract between Maine Drilling and Blasting, Inc. and Defendant.

22. Maine Drilling and Blasting, Inc. performed its work in connection with the Project under the control of Defendant.

Objection: Defendant objects because the Request asks Defendant to adopt and accept Plaintiff’s definition of the “Project,” which includes reference to Map R-6, Lot 29, which has not been attached to Plaintiff’s Second Requests for Admission as an exhibit. Therefore, Defendant objects to adopting and accepting Plaintiff’s definition of the “Project” as written by Plaintiff.

Defendant further objects to the wording of the Request as being unclear. Specifically, it is unclear what Plaintiff means by the phrase “under the control of Defendant” and whether Plaintiff is implying that Defendant was directly involved in tasks performed by Maine Drilling and Blasting, Inc.

Response: See objection. Without waiver, it is admitted that Maine Drilling and Blasting, Inc. performed work as part of a project involving property owned by Alan Whitman at 39 Merry Island Road consistent with a contract between Maine Drilling and Blasting, Inc. and Defendant.

Dated at Brunswick, Maine this 14th day of March, 2024.

/s/ Jonathan R. Liberman

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