

**AGREEMENT AND RELEASE
BEACHWALK AT PINE POINT SUBDIVISION**

This Agreement is made as of this 20th day of November 2007 by and between the Town of Scarborough (the "Town") and the Beachwalk at Pine Point Homeowners Association (the "Association").

WHEREAS, the Association is a homeowners association established for the management and maintenance of the common areas within the Beachwalk at Pine Point Subdivision, including, but not limited to, the private subdivision road; and

WHEREAS, the Town of Scarborough, through its Planning Board, approved the plan for the Beachwalk at Pine Point Subdivision under the Town of Scarborough Subdivision Ordinance and state statute; and

WHEREAS, the developer of the Beachwalk at Pine Point Subdivision (First Step Land Development, Inc.) has defaulted on the performance guaranty required under the Town of Scarborough Subdivision Ordinance by depositing insufficient funds with the Town; and

WHEREAS, the Town has previously released to the Association those funds which the Town did receive from the developer for use by the Association to commence construction of the infrastructure improvements within the subdivision, including the installation of utilities and rough grading of the subdivision road; and

WHEREAS, the Town and the Association wish to cooperate in order to allow the development of the subdivision to go forward for the benefit of the members of the Association;

NOW, THEREFORE, in consideration of the mutual promises and covenants set forth herein, the parties agree as follows:

1. Within 10 days of execution of this Agreement, the Town will pay FOUR THOUSAND DOLLARS (\$4,000.00) to the Association, representing a reduction of the engineering inspection fees for the subdivision, to be used by the Association to continue construction of the improvements within the subdivision.

2. No later than June 1, 2008, the Town will, at its expense, apply or cause to be applied the first pavement coat to the subdivision road in accordance with the approved plans for the subdivision. In addition, no later than June 1, 2008, the Town, through its Public Works Department, will repair, regrade and repave Depot Street and the adjacent sidewalk (but not including curbing) in accordance with the approved plans for the subdivision.

3. Upon execution of this Agreement, the Town will issue building permits to those owners of lots within the subdivision who apply for and qualify for permits under the applicable Town ordinances, notwithstanding the partial failure of the performance guaranty provided by the developer.

4. The Association acknowledges that, upon payment from the Town of the \$4,000.00 described in paragraph 1 above, the Town will have exhausted all the funds provided by the developer as the performance guaranty for the subdivision, and the Association agrees that, as between the Town and the Association, the Association shall be fully responsible for completing the required improvements within the Beachwalk at Pine Point Subdivision (with the exception of the paving described in paragraph 2 above). The Town agrees that it will make a good faith effort to recover the balance of the performance guaranty from the developer and that any recovery from the developer will be made available to the Association for the completion of the required improvements in the Beachwalk at Pine Point Subdivision, and the Town further agrees that it will cooperate, by providing information, records and (as appropriate) testimony,

with the Association, lot owners within the subdivision and state or federal agencies as any of them may pursue claims against the developer (including First Step Land Development, Inc. and Paul Hollis).

5. In consideration of the undertakings by the Town under this Agreement, the Association hereby RELEASES the Town, its officers, officials, agents and employees from any and all responsibility to maintain any further performance guaranty for the Beachwalk at Pine Point Subdivision or to install, construct or maintain any improvements within the Beachwalk at Pine Point Subdivision (with the exception of the paving described in paragraph 2 above). The Association also agrees to indemnify and hold harmless the Town, its officers, officials, agents and employees from any and all claims, rights, actions or causes of action which any lot owner within the Beachwalk at Pine Point Subdivision might assert against the Town.

Dated: November 16, 2007

Yolanda Pereira

Beachwalk at Pine Point Homeowners Association

By: John D. Wiggin
John D. Wiggin, President

STATE OF MAINE
CUMBERLAND, ss.

November 16, 2007

Personally appeared the above named John D. Wiggin in his capacity as President of the Beachwalk at Pine Point Homeowners Association located in Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Beachwalk at Pine Point Homeowners Association.

Carrie Noyes
Notary Public
My Commission Expires:

CARRIE NOYES
Notary Public, Maine
My Commission Expires March 7, 2014

Upland Justice

Town of Scarborough, Maine

By: Ronald W. Owens
Ronald W. Owens, Town Manager

STATE OF MAINE
CUMBERLAND, ss.

November 16, 2007

Personally appeared the above named Ronald W. Owens in his capacity as Town Manager for the Town of Scarborough, Maine and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the Town of Scarborough.

Carrie Noyes

Notary Public

My Commission Expires:

CARRIE NOYES
Notary Public, Maine
My Commission Expires March 7 2014