

EXHIBIT 9 –

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC**

This Contract Zoning Agreement (hereinafter, this “Agreement”) is made as of the 3rd day of January, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition intends to purchase certain lots or parcels of land located on Payne Road and Haigis Parkway in Scarborough, Maine, consisting of (a) the premises currently owned by 262 Payne Road, LLC, et al., located at 262 and 274 Payne Road comprising Lots 8 and 11A shown on Town of Scarborough Tax Map R-40 and described in deeds to 262 Payne Road, LLC, et al., recorded in the Cumberland County Registry of Deeds in Book 3630, Page 199, Book 21070, Page 169 and Book 22791, Page 266, (b) the premises currently owned by TD Banknorth, N.A., located at 246, 248 and 250 Payne Road comprising Lots 5, 6 and 7 shown on Town of Scarborough Tax Map R-40 and described in deeds to Peoples Heritage Savings Bank, predecessor to TD Banknorth, N.A., recorded in the Cumberland County Registry of Deeds in Book 15215, Page 204 and Book 15272, Page 261, (c) the premises currently owned by 23 Spring Street, LLC located at 264 Payne Road comprising Lot 9 shown on Town of Scarborough Tax Map R-40 and described in deed to 23 Spring Street, LLC recorded in the Cumberland County Registry of Deeds in Book 18263, Page 310, and (d) the premises currently owned by GlennDonna, Inc. located on Haigis Parkway and Payne Road comprising Lot 14 shown on Town of Scarborough Tax Map R-40 and being a portion of the premises described in deed to GlennDonna, Inc. recorded in the Cumberland County Registry of Deeds in Book 7564, Page 223 (hereinafter, collectively referred to as the “Property”), the Property containing approximately seventy-four (74) acres; and

WHEREAS, New England Expedition intends to develop the Property as a single project to be known as “The Gateway at Scarborough” (hereinafter, the “Project”), with that portion of the Project located on the northwesterly side of Payne Road to be known as “The Gateway Shoppes at Scarborough” and that portion of the Project located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway to be known as “The Gateway Square at Scarborough”, with construction of the Project anticipated to proceed in phases commencing with The Gateway Shoppes at Scarborough and progressing to The Gateway Square at Scarborough; and

WHEREAS, the Property is currently located in the Haigis Parkway District, HP (hereinafter, the “HP District”) as described in Section XVIII B. of the Zoning Ordinance; and

WHEREAS, the HP District presently allows, as a permitted use, among other uses, retail sales and services with less than twenty thousand (20,000) square feet of retail floor area per unit of occupancy; and

WHEREAS, New England Expedition desires to construct multiple facilities on the Property in which will be conducted various permitted uses including, but not limited to, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road for the retail sale of specialty hunting, fishing and other outdoor recreational equipment by Cabela’s Incorporated or its subsidiaries (hereinafter, “Cabela’s”), which facility will include, in addition to retail sales space, exhibit and education areas as well as an accessory restaurant for patrons; and

EXHIBITS

WHEREAS, Cabela's requires a facility of one hundred thirty thousand (130,000) square feet of retail floor area in order to facilitate the manner in which such facility operates and displays its products and to accommodate the unique exhibit and educational components that are an integral part of such facility; and

WHEREAS, Cabela's requires certain specific signage attached to and associated with such facility that varies from signage permitted under Section XII of the Zoning Ordinance; and

WHEREAS, New England Expedition desires to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the sign regulations under Section XII of the Zoning Ordinance impose limitations on the placement of off-site signage relating to the Project; and

WHEREAS, New England Expedition has requested that, notwithstanding the requirements of Section B6 of the HP District requirements and the sign regulations set forth in Section XII of the Zoning Ordinance, in addition to the other facilities proposed to be constructed on the Property, the Town permit New England Expedition to construct a facility to be occupied by Cabela's and utilized for the uses permitted under said Section B6 of the HP District requirements containing not more than one hundred thirty thousand (130,000) square feet of retail floor area on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road, together with certain specific signage attached to and associated with such facility, and to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the size, location, configuration and topography of this site permit a level of buffering, landscaping and site design which will mitigate what might otherwise be adverse impacts of the Cabela's facility, and the other facilities proposed for the Property, provided the operation is restricted to the density, scale and intensity proposed by New England Expedition and further provided that the restrictions, provisions and conditions of this Agreement and the site plan and subdivision approval are strictly observed; and

WHEREAS, the Scarborough Planning Board, pursuant to Section II, Paragraph G Subsection 3 of the Zoning Ordinance and 30-A M.R.S.A. §4352(8), and after notice and hearing and due deliberation thereon, recommended that New England Expedition be permitted to develop the Property so as to include, in addition to the other facilities proposed for the Property, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road to be occupied by Cabela's and utilized for the uses permitted under said Section B6 containing not more than one hundred thirty thousand (130,000) square feet of retail floor area, together with certain specific signage attached to and associated with such facility, and to install certain signage, together with related improvements, lighting and landscaping, for the purpose of identifying the Project, off-site on property in the immediate vicinity of the Property; and

WHEREAS, the proposed uses of the Property, being in accordance with the requirements of the HP District, are consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (hereinafter, the "Comprehensive Plan") for the area of the Property; and

WHEREAS, the Town of Scarborough, by and through its Town Council, having determined that the said uses are pursuant to and consistent with the Comprehensive Plan and consistent with the permitted uses within the HP District, authorized the execution of this Agreement on December 20, 2006.

EXHIBITS

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The Town will amend the Zoning Map of the Town of Scarborough by adopting the map change amendment shown on Attachment 1.
2. Notwithstanding the provisions of Section B6 of the HP District requirements, New England Expedition shall be permitted to develop the Property so as to include, in addition to the other facilities proposed for the Property, a facility on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road to be occupied by Cabela's and utilized for the uses permitted under Section B6 of the HP District requirements containing not more than one hundred thirty thousand (130,000) square feet of retail floor area.
3. New England Expedition is authorized to construct the Cabela's facility to be used in accordance with the requirements of the HP District, except as amended by this Agreement, together with the other facilities proposed for the Property containing such other uses as are permitted in the HP District.
4. Notwithstanding the provisions of Section XII of the Zoning Ordinance, New England Expedition shall be permitted to include signage attached to and associated with the Cabela's facility as more particularly described and shown on Attachment 2.
5. Notwithstanding the provisions of Section XII of the Zoning Ordinance, New England Expedition shall be permitted to install certain signage, together with related improvements, lighting and landscaping, which signage is generally depicted on Attachment 3, for the purpose of identifying the Project, on the property located between that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway and said Payne Road and Haigis Parkway, or within the right of way of said Payne Road or Haigis Parkway adjacent to said property, subject, however, to the terms and provisions of any agreements entered into with the owners of said property and/or the Town of Scarborough relating to such signage including, but not limited to, the following terms and provisions:
 - a. Such signage shall be built in accordance with the Town of Scarborough's specifications and at the expense of New England Expedition;
 - b. Such signage shall be maintained by New England Expedition; and
 - c. Except as otherwise amended by this Agreement, such signage shall comply with the requirements of Section XII of the Zoning Ordinance and all other applicable local and state regulations applicable thereto.
6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance"), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall

EXHIBITS

be subject to the additional requirement that New England Expedition shall “substantially complete” the construction of that portion of the Project which includes the ten (10) buildings and related improvements to be constructed by New England Expedition, (collectively, the “NEE Buildings”), the NEE Buildings designated and shown on Attachment 4. The NEE Buildings shall be substantially complete within two (2) years from the date that New England Expedition receives Planning Board approval for the Project. For purposes hereof, “substantially complete” shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for the NEE Buildings. In the event that New England Expedition requires additional time to attain substantial completion as described herein, the Town Planner, or if the Town Planner chooses, the Scarborough Planning Board, may, for good cause shown, grant New England Expedition an additional one (1) year period for such purpose.

7. New England Expedition shall record this Agreement in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

8. The provisions of this Agreement shall be deemed restrictions on the use of the Property except as this Agreement may be amended by future written agreement of the Town of Scarborough and New England Expedition, or their successors or assigns.

9. Except as the requirements of the HP District and Section XII of the Zoning Ordinance have been amended by this Agreement, and subject to any other restrictions, provisions and conditions set forth herein regarding the development and use of the Property, all other requirements of the underlying HP District and the requirements of Section XII of the Zoning Ordinance shall apply and shall govern the use and development of the Property. Any such restrictions, provisions and conditions are an essential part of the aforesaid modification of the HP District requirements and the requirements of Section XII of the Zoning Ordinance as set forth herein, shall run with the Property, shall bind New England Expedition, its successors and assigns of the Property or any part thereof.

10. Except as expressly modified herein, the use and occupancy of the Property shall be governed by and comply with the provisions of the Zoning Ordinance and any applicable amendments thereto and nothing contained in this Agreement shall be deemed to prohibit or limit the development of the Property in any other manner so long as such development is in compliance with the applicable provisions of the Zoning Ordinance and otherwise approved pursuant to the Site Plan Ordinance, the Subdivision Ordinance and/or other applicable Scarborough Ordinances and, if applicable, State and Federal laws, ordinances and regulations.

11. Notwithstanding anything to the contrary set forth herein or in the Zoning Ordinance, in the event that Cabela’s shall, for any reason following its initial occupancy of the facility containing not more than one hundred thirty thousand (130,000) square feet of retail floor area as permitted hereunder to be located on that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road, fail to continue to operate its business therein, then:

a. New England Expedition shall, within sixty (60) days of the date that Cabela’s ceases its business operations at the facility, remove the signage unique to Cabela’s from the buildings and as otherwise permitted under this Agreement;

b. New England Expedition shall, within sixty (60) days of the date that Cabela’s ceases its business operations at the facility, report to the Scarborough Town Council on

EXHIBITS

the status of New England Expedition's efforts to secure a substitute tenant, and will continue to update the Council regarding such efforts at intervals not later than every sixty (60) days thereafter, so as to afford the Council the opportunity to comment on any such proposed substitute tenant; and

c. New England Expedition shall have the right to substitute another retailer in such facility so long as such substitute retailer is not a discount store, wholesale club, or home improvement center, the substitute retailer to be subject to such approvals as may be required from the Scarborough Planning Board under applicable Ordinances and regulations and any other State or Federal regulatory bodies having jurisdiction over the development, and provided further, that in the event New England Expedition should seek to substitute another retailer in such facility within the first five (5) years following the date Cabela's commences business operations at the facility, such substitute retailer shall be subject to the review and approval of the Scarborough Town Council, which approval shall not be unreasonably withheld, conditioned or delayed.

12. Any change to the development that results in either an increase in the size of the one hundred thirty thousand (130,000) square foot retail facility permitted hereunder or changes to the signage attached thereto or associated therewith, or any change with respect to the off-site signage permitted hereunder, shall require an amendment to this Agreement approved by the Scarborough Town Council and will also be subject to further Planning Board review, as required, except for any change to signage that results in the signage being in compliance with the requirements of Section XII of the Zoning Ordinance.

13. The Town of Scarborough shall have the power to enforce all conditions and restrictions of this Agreement, both through enforcement action pursuant to Section IV of the Zoning Ordinance and through legal action for specific performance of this Agreement. In the event that New England Expedition or its successors or assigns fail to develop the Project in accordance with this Agreement, or in the event of any other breach hereof, and such failure or breach continues for a period of thirty (30) days after written notice of such failure or breach, or in the event such failure or breach cannot reasonably be remedied or cured within such thirty (30) day period, if New England Expedition, its successors or assigns, fail to commence to cure or remedy such failure or breach within said thirty (30) day period and thereafter fails to diligently prosecute such cure or remedy to completion in a reasonable time taking into account the nature of such failure or breach and the action necessary to cure or remedy same, then this Agreement may be terminated by vote of the Scarborough Town Council. In that event, the Property may then be used only for such uses and according to such zoning requirements as are otherwise allowed by law.

14. In the event any provision of this Agreement is found to be invalid or unenforceable, such finding shall not affect the validity and enforceability of the remaining provisions of this Agreement. The failure of either party to insist upon strict performance of any of the terms or conditions of this Agreement or to exercise any of its rights under the Agreement shall not waive such rights and such party shall have the right to enforce such rights at any time and take such action as may be lawful and authorized under this Agreement, either in law or in equity. This Agreement and the performance thereof shall be governed, interpreted, construed and regulated by the laws of the State of Maine.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first set forth above.

EXHIBITS

WITNESS:

TOWN OF SCARBOROUGH

/s/ Joseph F. Ziepniewski

By: /s/ Ronald W. Owens

its Town Manager (duly authorized by vote of the Scarborough Town Council on December 20, 2006)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

January 3, 2007

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

Before me,

/s/ Cheryl G. Profenno

Notary Public/Attorney at Law

WITNESS:

THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC

/s/ Richard A. Shinay

By: /s/ Barry E. Feldman

Its Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

January 4, 2007

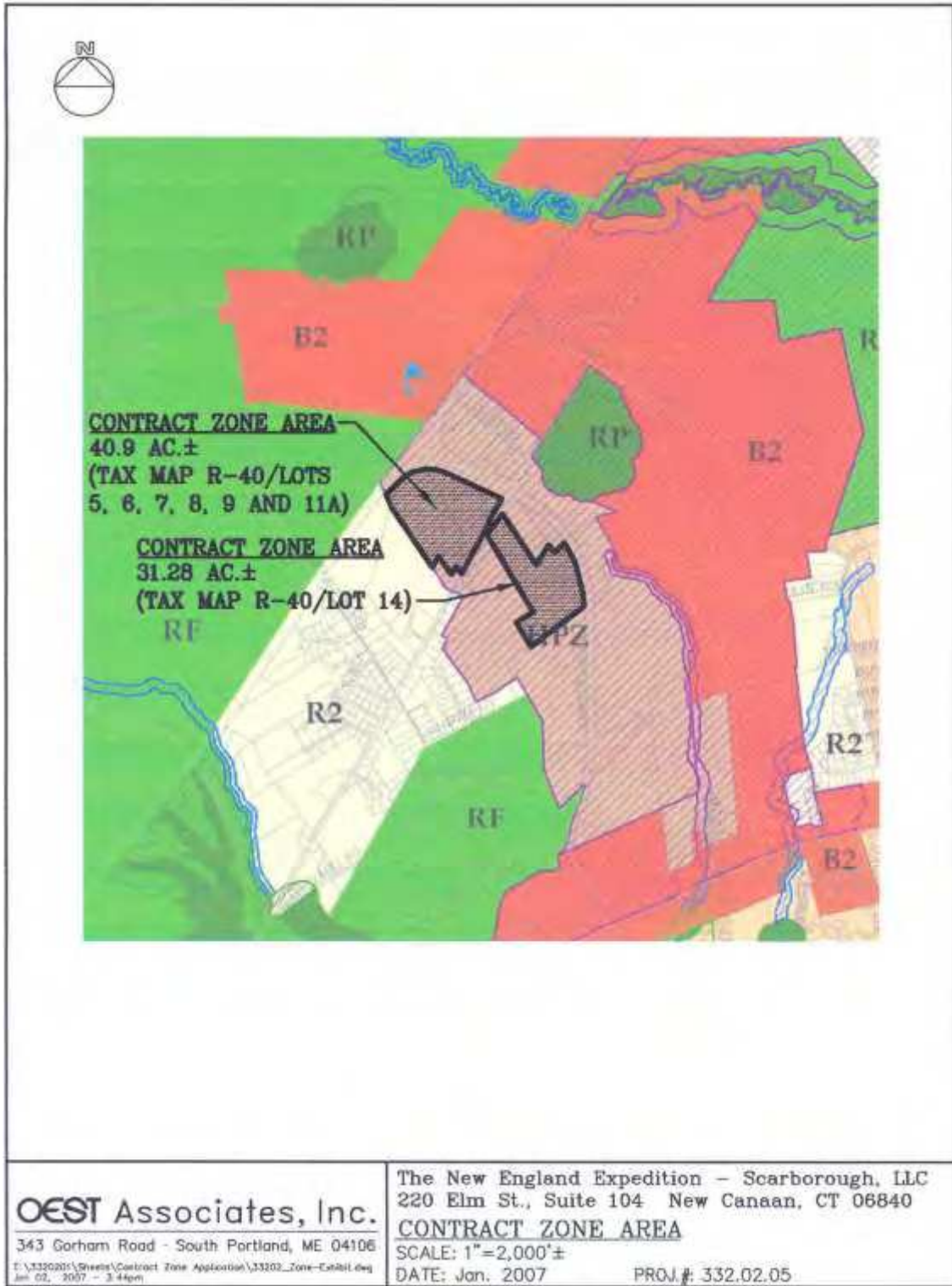
Personally appeared the above named Barry E. Feldman, Member of The New England Expedition – Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

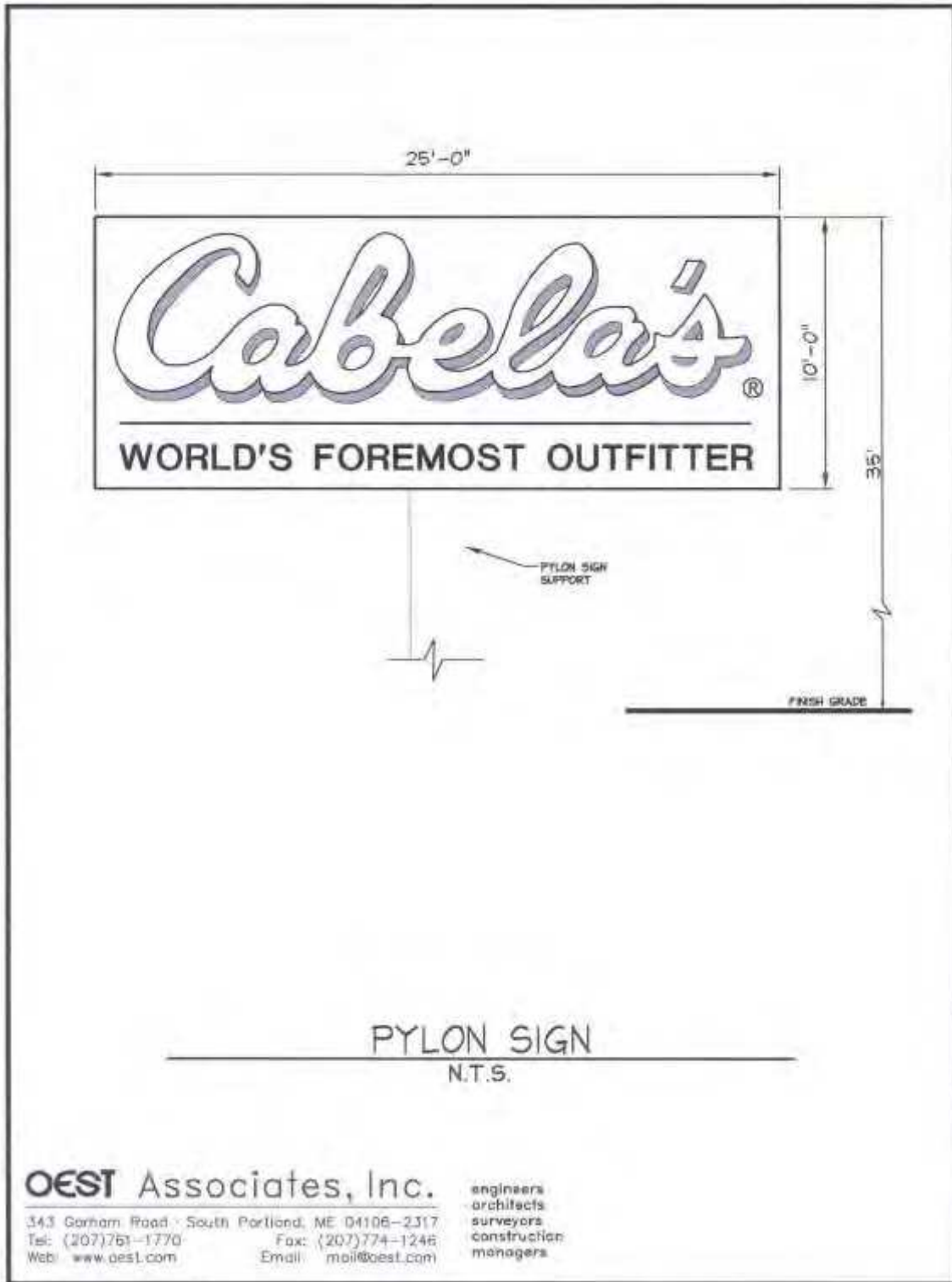
/s/ Richard A. Shinay

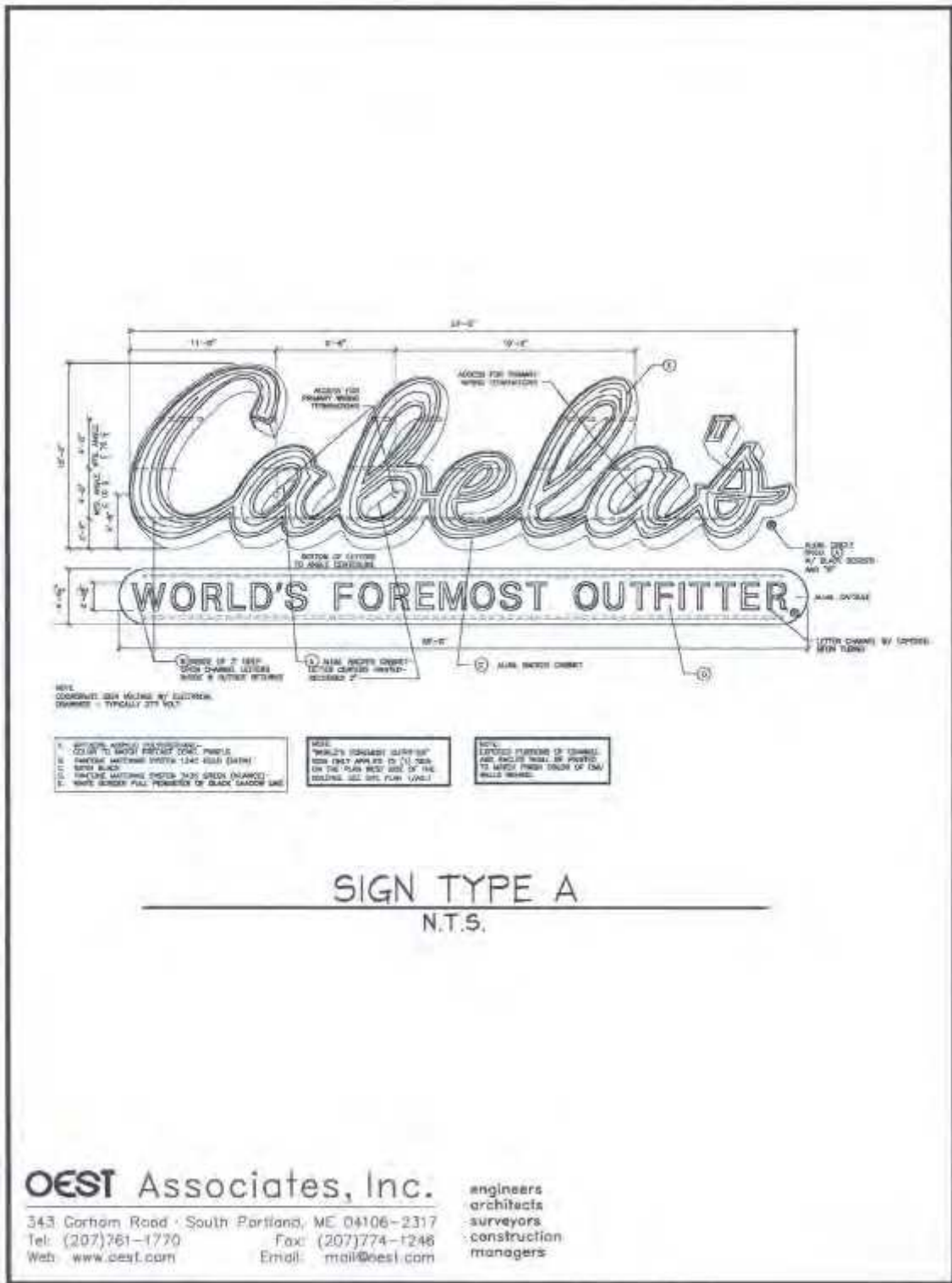
Notary Public/Attorney at Law

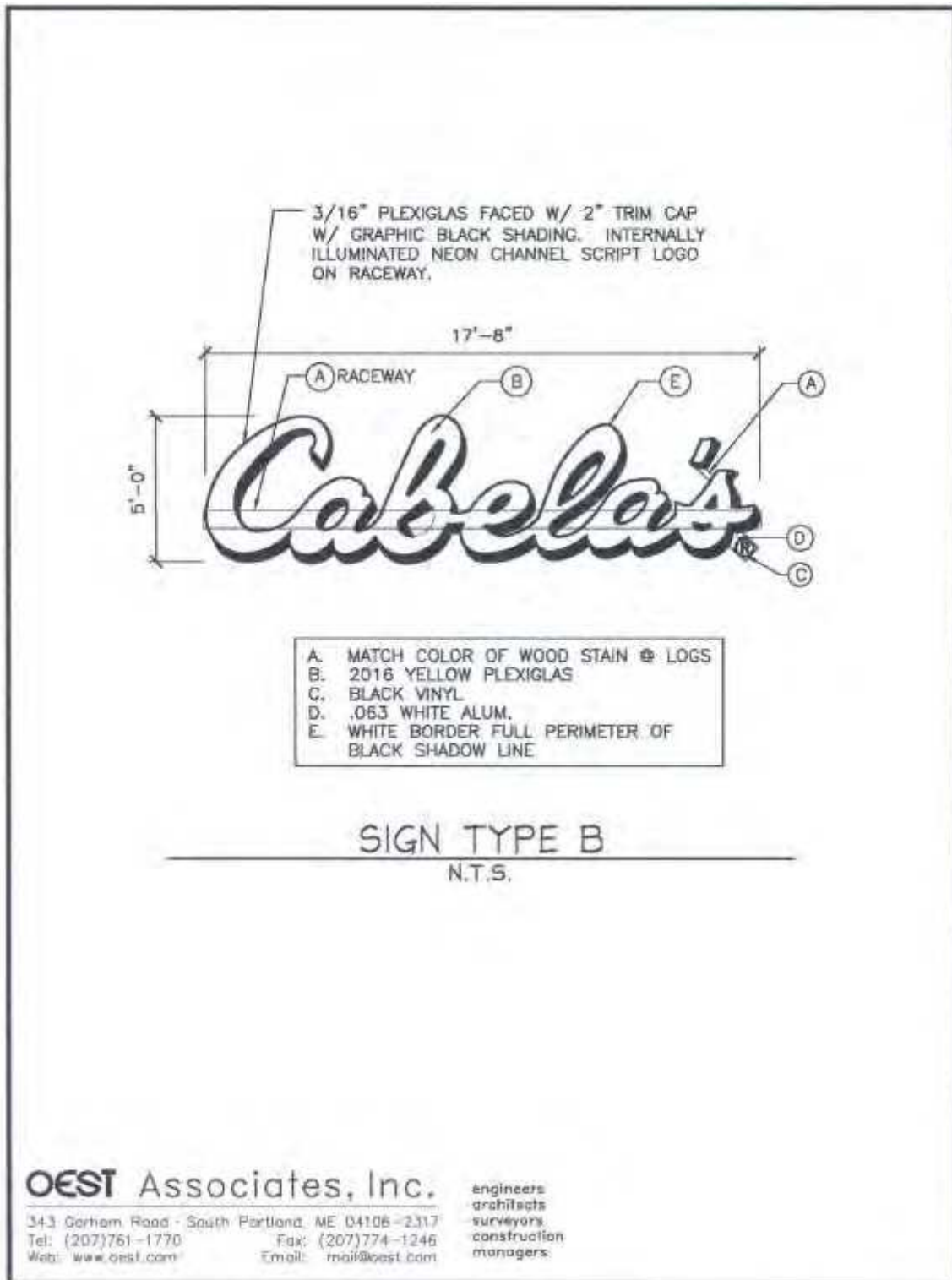
Attachment 1
Map Change Amendment consisting of one (1) page.

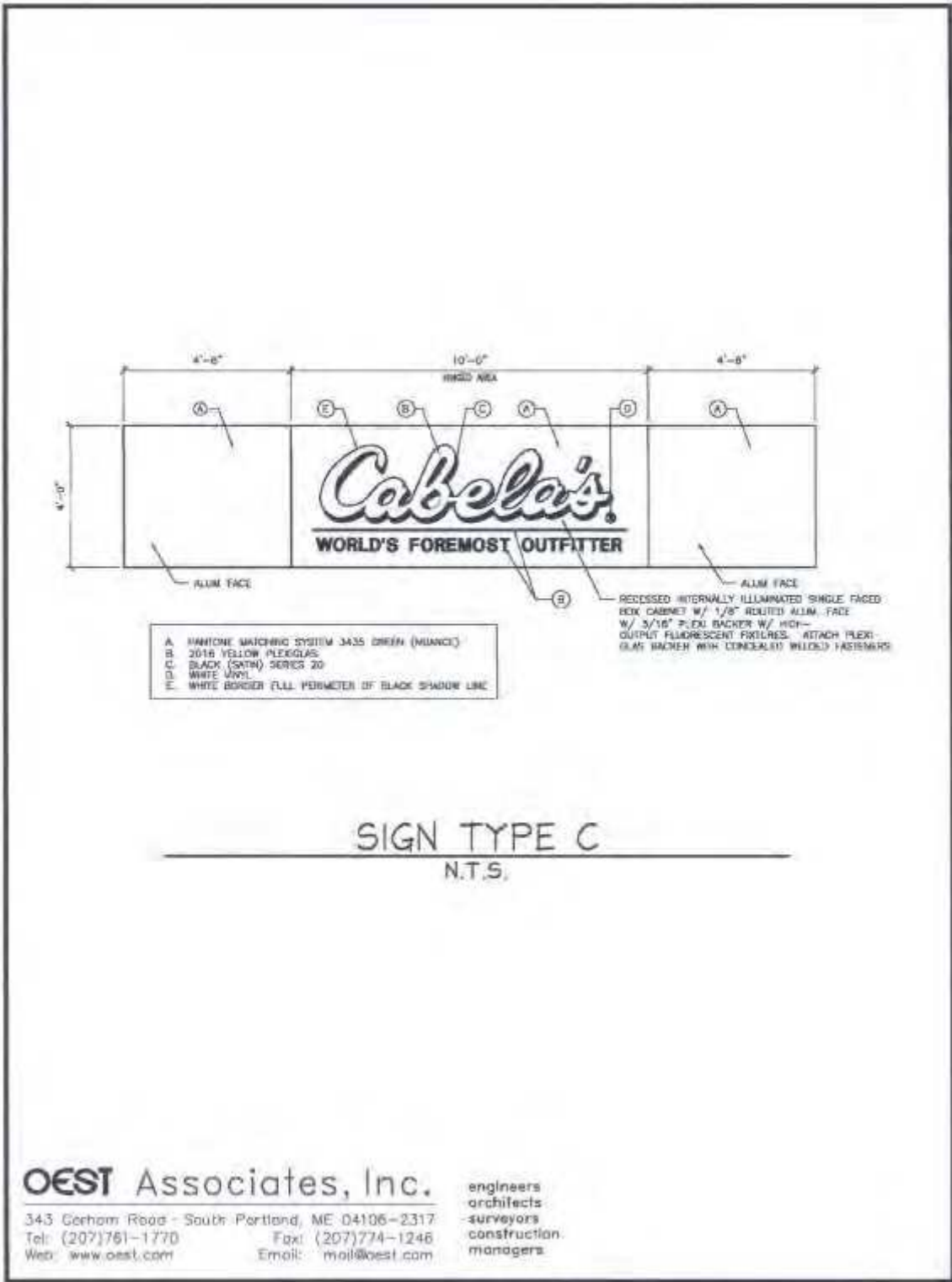


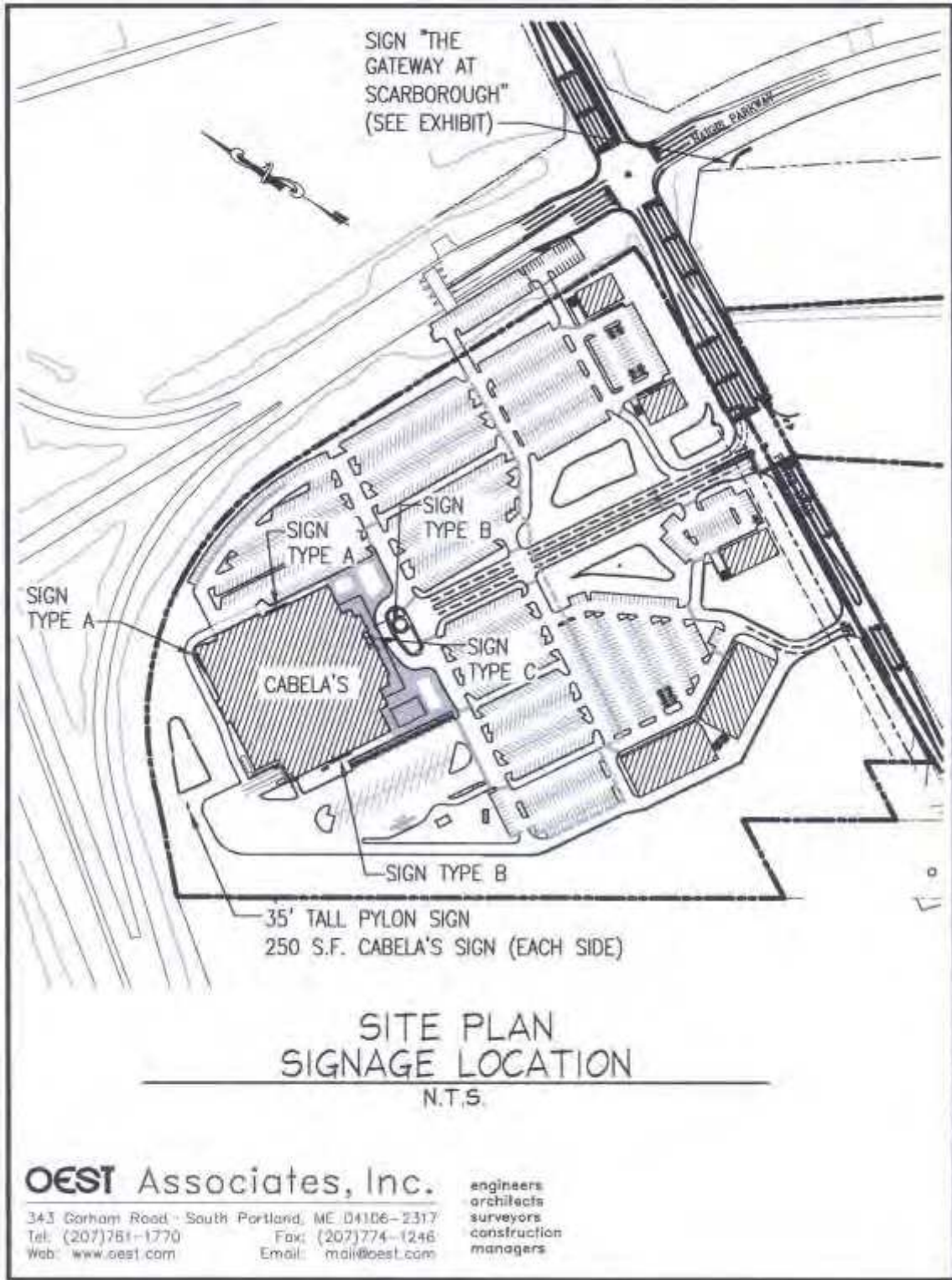
Attachment 2
Cabela's signage depiction consisting of five (5) pages.







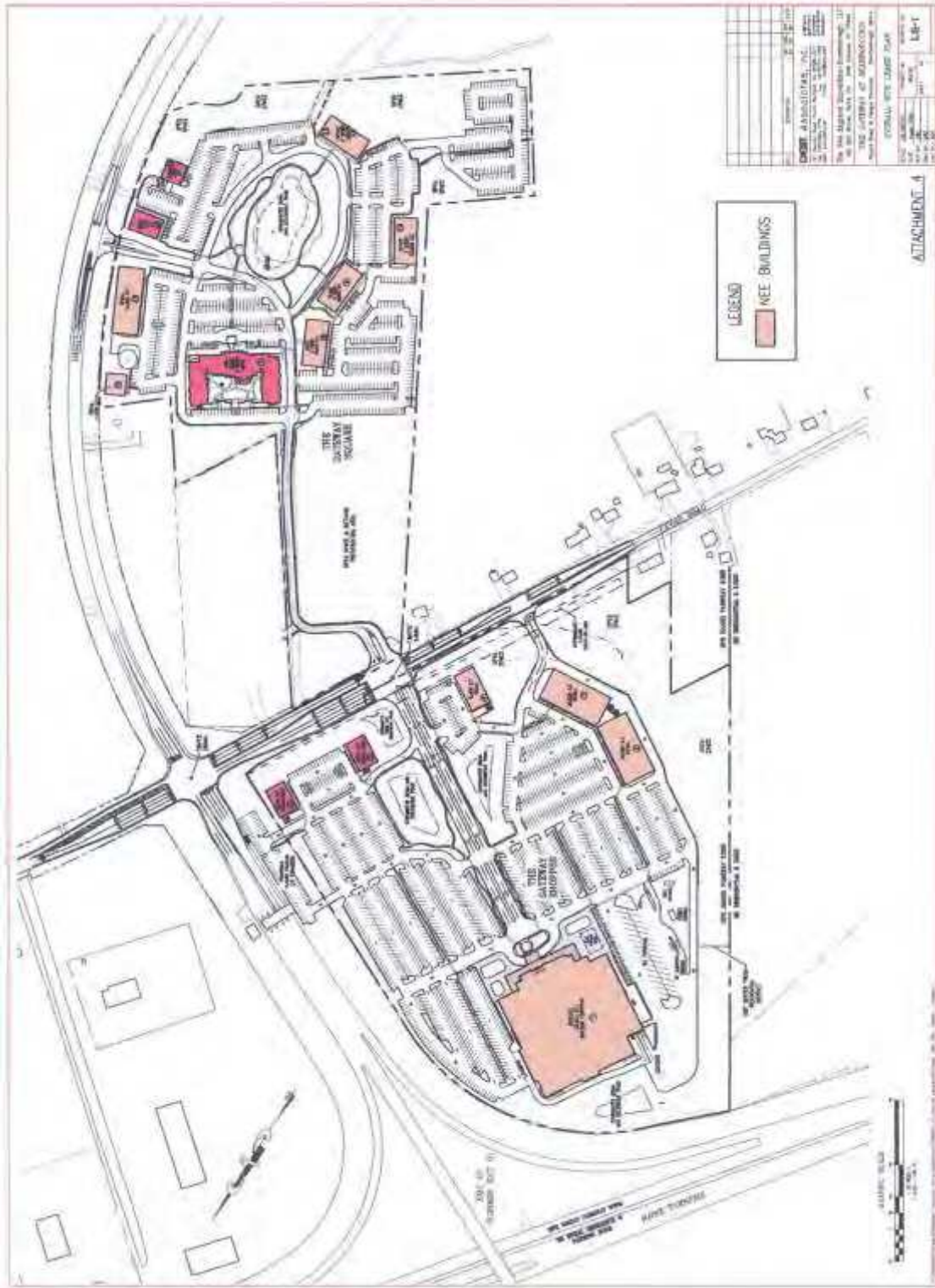




Attachment 3
Project off-site signage depiction consisting of one (1) page.



Attachment 4
Plan of NEE Buildings consisting of one (1) page.



FIRST AMENDMENT TO EXHIBIT 9

**AMENDMENTS TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC**

This First Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, this “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, among other modifications of the provisions of the Zoning Ordinance, the Agreement allows for certain specific signage relating to the Cabela’s building described in the Agreement that varies from signage permitted under Section XII of the Zoning Ordinance; and

WHEREAS, Cabela’s has proposed modifications to the number of signs, size and location thereof on its building as currently allowed under the Agreement; and

WHEREAS, the signage requirements of other tenants proposed for the buildings to be constructed within the District vary from the signage otherwise permitted under Section XII of the Zoning Ordinance; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement (a) modifying the number of signs, size and location thereof relating to the Cabela’s building as currently allowed under the Agreement, and (b) permitting certain signage relating to tenants for the proposed buildings to be constructed within the District that varies from the signage otherwise permitted under Section XII of the Zoning Ordinance.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, New England Expedition shall be permitted to include signage attached to and associated with the Cabela’s building as more particularly described and shown on Attachment 2 to the Agreement, as modified as described and shown on Attachment 1 to this Amendment.
2. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, New England Expedition shall be permitted to install certain signage hereinafter described, together with related improvements, lighting and landscaping, relating to the tenants to be located in the buildings to be constructed within the Project as hereinafter provided:
 - a. With respect to buildings containing multiple tenants, two (2) wall signs per tenant, each of said signs not to exceed one hundred (100) square feet, one to be located

EXHIBITS

on the front wall of the building and one to be located on the rear wall of the building, except that in the case of end units within a building, the second wall sign may be located on the end wall of the building rather than on the rear wall of the building; and

b. With respect to single-tenant buildings, two (2) wall signs, each sign not to exceed one hundred (100) square feet, one to be located on the front wall of the building and one to be located on a second wall of the tenant’s choosing, except that in the case of single-tenant buildings to be located in that portion of the Project known as “The Gateway Shoppes at Scarborough”, said buildings may have up to four (4) wall signs not to exceed one hundred (100) square feet each, with no more than one (1) such wall sign per wall; and

c. With respect to both multiple tenant and single-tenant buildings, the total gross area of all wall signs shall not exceed 10% of the wall area on which they are located.

3. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH

By: /s/ Ronald W. Owens

its Town Manager (duly authorized by vote of the Scarborough Town Council on September 5, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

September 18, 2007

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

Before me,

/s/ Yolanda P. Justice

Notary Public

WITNESS:

THE NEW ENGLAND EXPEDITION-SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its Manager

/s/ Richard A. Shinay

/s/ Barry E. Feldman

Its Managing Member

EXHIBITS

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

September 12, 2007, 2007

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

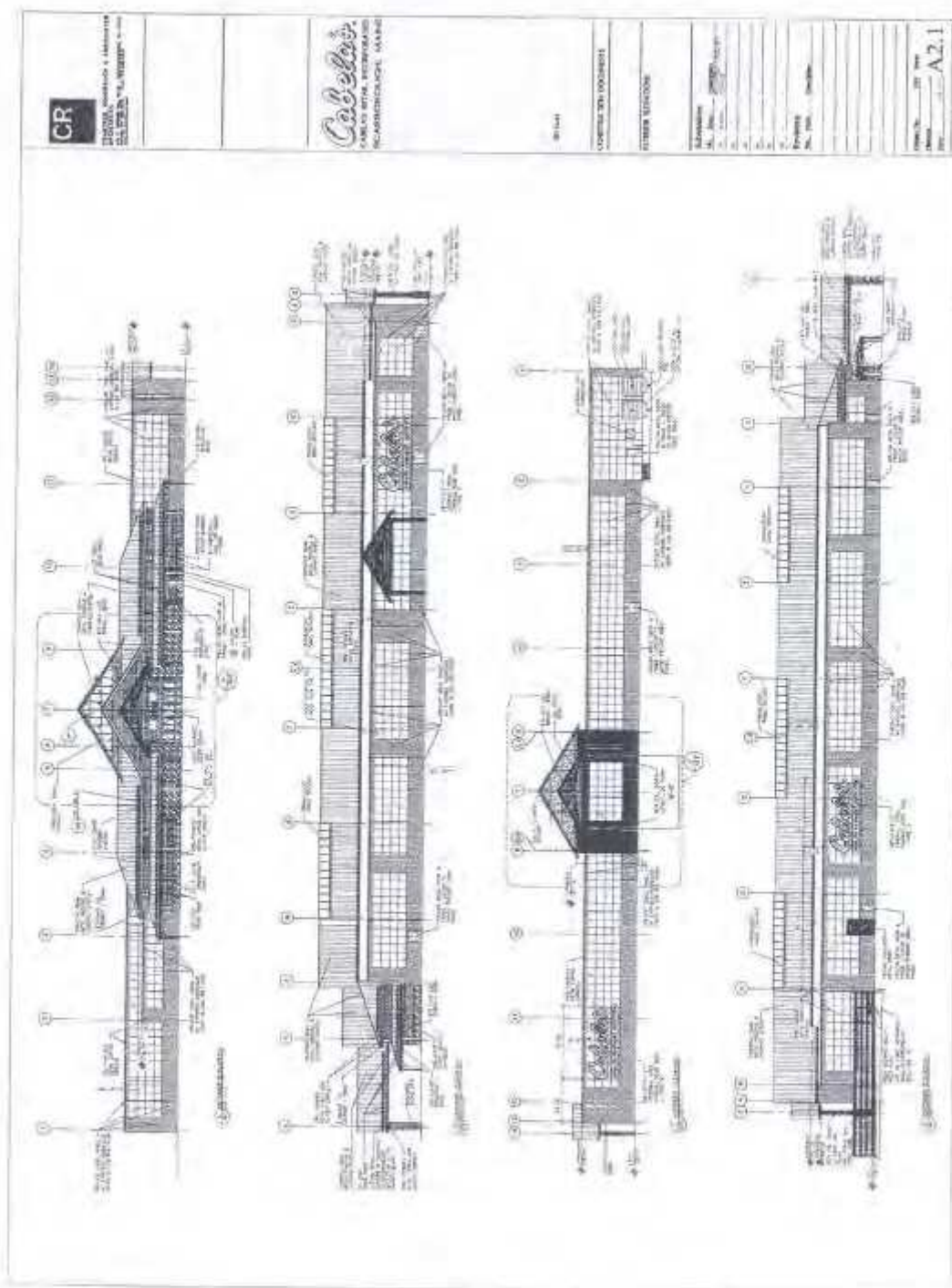
/s/ Richard A. Shinay

Notary Public

EXHIBITS

Attachment 1

Modification of Cabela's signage depiction consisting of one (1) page.



**SECOND AMENDMENT TO EXHIBIT 9
AMENDMENTS TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH LLC**

This Second Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2007 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, this “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201; and

WHEREAS, the Haigis Parkway District, HP, the underlying District within which the land subject to the Agreement is located, allows for the use of property located therein for “Educational Institutions” only pursuant to a contract zoning agreement; and

WHEREAS, New England Expedition desires to construct one of more buildings to be located in that portion of the Project known as “The Gateway Square at Scarborough” in which will be located an educational institution and being hereinafter referred to as the “Facility”; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement so as to allow for an “Educational Institution” use within the Facility; and

WHEREAS, New England Expedition agrees that use of the Facility by an educational institution will not qualify the Facility for exemption from property taxes under 36 M.R.S.A. § 652 as long as the Facility is owned by a for-profit entity.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. “Educational Institution” use shall be a permitted use in that portion of Contract Zoning District Number 9 which the Facility is located.
2. New England Expedition agrees for itself and for any future owner of the Facility that use of the Facility by an educational institution will not qualify the Facility for exemption from property taxes under 36 M.R.S.A. § 652 as long as the Facility is owned by a for-profit entity, and further, that should the Facility ever qualify for a tax exempt status under 36 M.R.S.A. § 652, as it may be amended from time to time or as otherwise may become law by virtue of its use as an Educational Institution and the nature of the ownership entity, then New England Expedition or the then owner will pay to the Town annually, at the same time property taxes are due, an amount equivalent to one hundred percent (100%) of the property taxes that would be imposed

EXHIBITS

on the facility if it did not qualify for exempt status. Such payments shall be subject to the same interest charges and penalties for late payment or non-payment as are applicable under Maine law for non-payment of property taxes and New England Expedition or any future owner of the Facility shall have the same rights to dispute valuation and seek abatements as if such payments were assessed as property taxes.

3. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, remains consistent with the Comprehensive Plan.

4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

5. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Ronald W. Owens, its Town Manager

(duly authorized by vote of the Scarborough Town Council on November 7, 2007)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2007

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

Before me,

Notary Public/Attorney at Law

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____

Barry E. Feldman

Its Managing Member

STATE OF MAINE

EXHIBITS

COUNTY OF CUMBERLAND, ss.

_____, 2007

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public/Attorney at Law

Print name

THIRD AMENDMENT TO EXHIBIT 9

**THIRD AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

This Third Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 30th day of April, 2008 by and between the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, Cabela’s proposes to modify the pylon sign permitted under the Agreement relating to the Cabela’s building described in the Agreement; and

WHEREAS, New England Expedition proposes that banners be allowed to be affixed to light poles within the District; and

WHEREAS, New England Expedition has requested that the Town approve this Amendment to the Agreement (a) permitting a modification of the Cabela’s pylon sign, and (d) permitting banners to be affixed to light poles within the District.

NOW THEREFORE, in consideration of the mutual promises made by each party to the other, the parties covenant and agree as follows:

1. The first page of Attachment 2 to the Agreement depicting the Cabela’s pylon sign is hereby deleted and the modified version of the Cabela’s pylon sign depicted on Attachment 1 to this Amendment is substituted in its place.
2. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, banners depicting seasonal or decorative scenes or images, and general or seasonal messages and greetings may be affixed to light poles within the District. Banners announcing the opening of specific businesses within the District and/or promoting sales of products by specific

EXHIBITS

retailers within the District may be affixed to those types of light poles within the District as depicted on Attachment 2 to this Amendment provided, however, that such types of banners may remain in place for not more than one hundred and eighty (180) cumulative days per calendar year. Banners shall not be allowed to deteriorate in appearance so as to become unsightly.

3. New England Expedition, its lessees, and future owners of all or any portion of the property within the District acquire no property interests in the use of banners as allowed by this Amendment and use of banners will not confer lawful non-conforming use status in the event that the provisions of this Amendment are amended or repealed by the Scarborough Town Council pursuant to this Section 3. Within forty-five (45) days following the first (1st) anniversary of the date of adoption of this Amendment by the Scarborough Town Council, the Town Council shall review the experience with banners and may amend or repeal Section 2 above if it should be determined by the Town Council that (a) the banners have been allowed to deteriorate in appearance so as to become unsightly, or (b) the banners pose a distraction to motorists so as to cause unsafe traffic conditions.

4. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

5. The Agreement, as amended by this Amendment and as previously amended by the First Amendment and the Second Amendment, remains consistent with the Comprehensive Plan.

6. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

7. New England Expedition shall record this Amendment in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:
/s/ Laurel R. Nadeau

TOWN OF SCARBOROUGH
By: /s/ Ronald W. Owens
Its Town Manager (duly authorized by vote of the Scarborough Town Council on April 30, 2008)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

May 2, 2008

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

Before me,
/s/ Yolande P. Justice
Notary Public/Attorney at Law
Yolande P. Justice
Notary Public

WITNESS:

THE NEW ENGLAND EXPEDITION-

EXHIBITS

SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____

Barry E. Feldman

Its Managing Member

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

May ____, 2008

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public/Attorney at Law

Print name

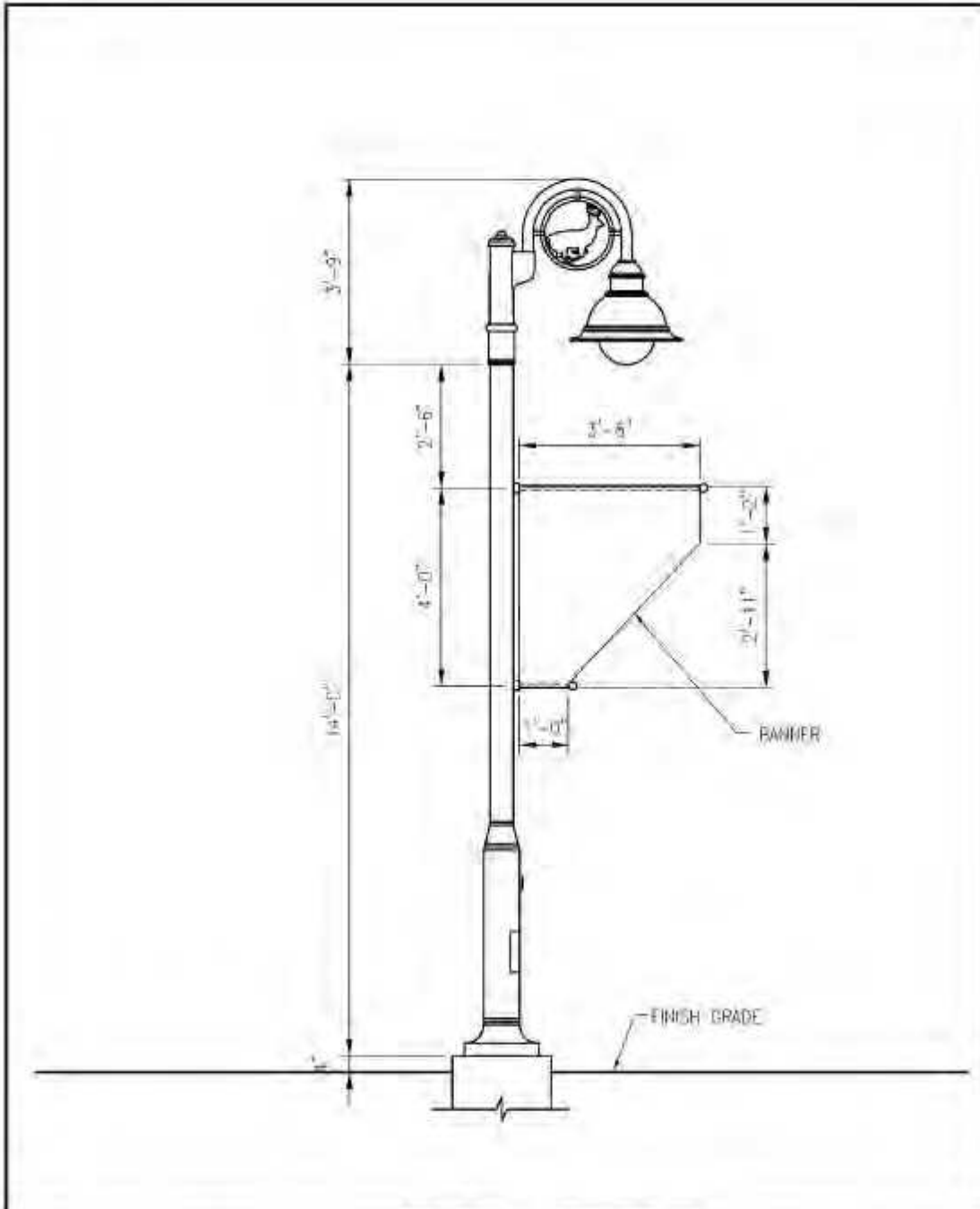
Attachment 1

Modification of Cabela's pylon sign consisting of one (1) page.

 <p>KASSIS SUPERIOR SIGNS www.KassisSigns.com</p>	<p>499 Old Thompson Rd. Syracuse, New York 13211 315-463-7446 Fax: 315-463-7449</p>	<p>DATE: 1/25/08 REV: 2/14/08 CTK REV REV REV</p>	<p>FILE NAME: Cabela's Pylon Scarborough PL# 9304 CLIENT: Cabela's LOCATION: Scarborough DESIGNER: JWK SALES REP: Jamie Bracy</p>	<p>Customer authorizes Kassis Superior Signs to initiate work on this layout & assumes responsibility for any costs incurred should any changes be made after approval has been given. Please send back signed & dated, noting any changes other than making for correct colors, logos & text.</p> <p>Approved by Customer: _____ Date: _____</p>
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Attachment 2

Types of light poles on which temporary banners may be affixed consisting of two (2) pages.



OEST Associates, Inc.

343 Gorham Road · South Portland, ME 04106
Tel: 855.222.1112 Fax: 207.885.2211
Web: www.oest.com Email: sales@oest.com

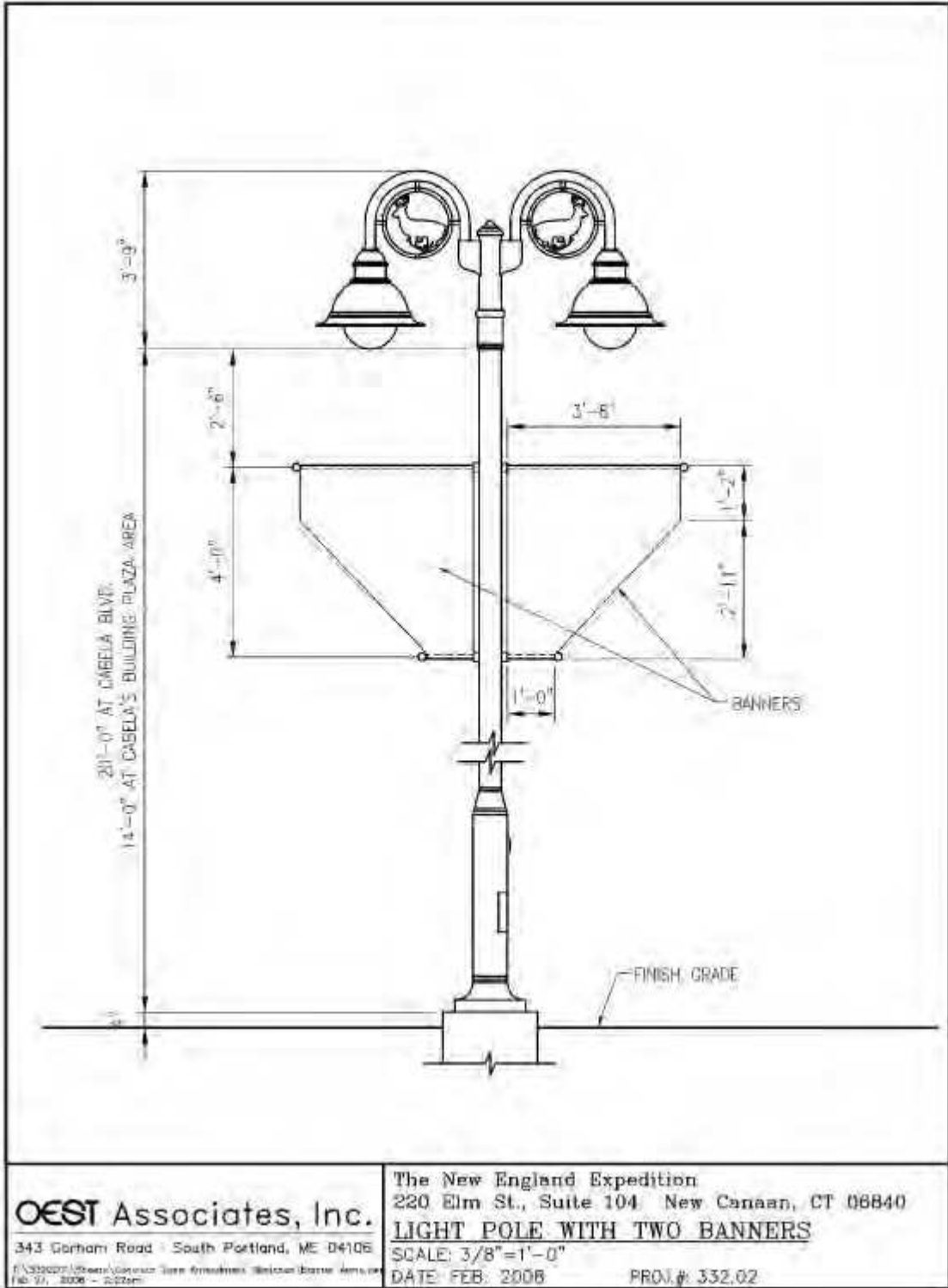
The New England Expedition
220 Elm St., Suite 104 New Canaan, CT 06840

LIGHT POLE WITH SINGLE BANNER

SCALE: 3/8"=1'-0"

DATE: FEB. 2008

PROJ. # 332.02



EXHIBITS

FOURTH AMENDMENT TO EXHIBIT 9

**TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

This Fourth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 3rd day of March, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and,

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and,

WHEREAS, Section 6 of the Agreement provided that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as “The Gateway Square at Scarborough” be “substantially complete,” as that term is defined in said Section 6 of the Agreement, within two (2) years from the date that New England Expedition received Planning Board approval for the Project; and,

WHEREAS, the Town Planner extended said “substantial completion” deadline to March 12, 2010, pursuant to authority granted the Town Planner under said Section 6 of the Agreement; and,

WHEREAS that portion of the Property known as The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and,

EXHIBITS

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to Section 6 of the Agreement (a) further extending said “substantial completion” deadline for an additional three (3) years to March 12, 2013, and (b) amending the definition of “substantially complete” as set forth therein.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby amended in its entirety to read as follows:
 6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the “Site Plan Ordinance”) and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the “Subdivision Ordinance”), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be “substantially complete” no later than March 12, 2013. For purposes hereof, “substantially complete” shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, the installation of utilities, storm drains and sanitary sewer lines and the completion and approval of the foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leaseable area.
2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment and the Third Amendment, remains consistent with the Comprehensive Plan.
3. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on March 3, 2010)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

March ____, 2010

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

EXHIBITS

Notary Public/Attorney at Law

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

March ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

March ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

Notary Public

Print name

FIFTH AMENDMENT TO EXHIBIT 9

**TO CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND
THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

**FIFTH AMENDMENT
TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC
THE GATEWAY AT SCARBOROUGH**

This Fifth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the 21st day of July, 2010 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition

EXHIBITS

and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the “Fourth Amendment”); and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to the Agreement regarding (a) signage and banners, and (b) certain uses within the District.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, in addition to the wall signs permitted under Section 2 of the First Amendment, one (1) additional doorway sign not exceeding fifteen (15) square feet, which sign may be two-sided and, in the case of a two-sided sign, not exceeding fifteen (15) square feet for each face with the width of such two-sided sign between such faces not to exceed one (1) foot, indicating the location of any entrance to a restaurant at which “pick-up,” “take-out” or “to-go” orders can be picked up, may be affixed to the exterior of the building either parallel or perpendicular to the building wall, either attached directly to the building wall or attached to one or more supports attached to the building wall, and located over any such entrance, which sign may not extend more than three (3) feet from the building wall.

2. Section 2 and Section 3 of the Third Amendment are hereby deleted in their entirety.

3. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, banners depicting seasonal or decorative scenes or images, and general or seasonal messages and greetings, may be affixed to those light poles within the District designated “Seasonal Banner Light Pole (Typ.)” on Attachment 1 to this Amendment. Banners promoting sales of products by specific retailers within the District may be affixed to those types of light poles within the District depicted on Attachment 2 to the Third Amendment. Banners shall not be allowed to deteriorate in appearance so as to become unsightly.

4. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the existing Cabela’s pylon sign depicted on Attachment 1 to the Third Amendment and located where shown on Attachment 1 to this Amendment may be modified so as to include one (1) additional sign for advertising purposes for one or more businesses that may be located within that portion of the District comprising The Gateway Shoppes subject to the following conditions:

- a. Said pylon sign shall not be increased in height; and
- b. Said additional sign shall not be greater in size than seventy-five percent (75%) of the size of the existing Cabela’s sign as shown on said Attachment 1 to the Third Amendment.

This Section 4 shall not be deemed to eliminate the need to comply with applicable State law regarding signage located adjacent to the Maine Turnpike.

5. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the following additional signage shall be permitted:

- a. One (1) business directory sign not exceeding one hundred fifty (150) square feet, which sign may be two-sided and, in the case of a two-sided sign, not exceeding one hundred fifty (150) square feet for each face, advertising the businesses located within that portion of the District comprising The Gateway Shoppes, may be located within the area designated “Shoppes Business Directory Sign Area” on Attachment 2 to this Amendment;

EXHIBITS

- b. Two (2) signs not exceeding thirty-two (32) square feet each, which signs may be two-sided and, in the case of a two-sided sign, not exceeding thirty-two (32) square feet for each face, designating the secondary entrance to The Gateway Shoppes on Payne Road for employees, trucks, buses, recreational vehicles, service vehicles, and delivery vehicles for deliveries to one or more named tenants, one of which may be located within the area designated “Shoppes Secondary Entrance Sign One Area” and one of which may be located within the area designated “Shoppes Secondary Entrance Sign Two Area” on Attachment 2 to this Amendment;
- c. Two (2) business directory signs not exceeding one hundred fifty (150) square feet, which signs may be two-sided and, in the case of a two-sided signs, not exceeding one hundred fifty (150) square feet for each face, advertising the businesses located within that portion of the District comprising The Gateway Square, one of which may be located within the area designated “Square Business Directory Sign One Area” and one of which may be located within the area designated “Square Business Directory Sign Two Area” on Attachment 3 to this Amendment; and
- d. Signs indicating the name of the project and/or the names of not more than three (3) of the businesses located therein may be affixed to the faces of the existing rock walls located on either side of the main entrances on Payne Road and Haigis Parkway to that portion of the District comprising The Gateway Square as shown and designated “Existing Stone Walls” on Attachment 3 to this Amendment.

The signage referred to in this Section 5 shall otherwise comply with all requirements of Section XII of the Zoning Ordinance, as it may be amended from time to time.

6. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.

7. The following additional uses and related signage shall be permitted within that portion of the District comprising The Gateway Shoppes:

- a. Restaurants that include drive-up or drive-thru service windows to be located within the areas designated “Restaurants with Drive-Ups and Drive-Thrus” on Attachment 4 to this Amendment, the design of which shall be architecturally compatible with the existing buildings, provided that this provision shall not be deemed to prohibit the number of restaurants within the District that do not include drive-up or drive-thru service windows;
- b. Craft shows and art shows, including the sale of items displayed therein, that may be conducted within any building or outdoors and that need not be related to, or accessory to, any existing building or use, which craft shows and art shows conducted outdoors shall be conducted within the areas designated “Special Events” on Attachment 5 to this Amendment, together with temporary signs meeting the requirement of Section XII of the Zoning Ordinance advertising such events and directing persons thereto that may be located within the areas designated “Temporary Sign Areas” on Attachment 5 to this Amendment the day or days of the event; and
- c. Outdoors sales and tent sales that need not be related to, or accessory to, any existing building or use, which outdoor sales and tent sales shall be conducted within the areas designated “Special Events” on Attachment 5 to this Amendment, together with temporary signs meeting the requirements of Section XII of the Zoning Ordinance

EXHIBITS

advertising such events and directing persons thereto that may be located within the areas designated "Temporary Sign Areas" on Attachment 5 to this Amendment the day or days of the event.

- d. Not more than an aggregate total of six (6) craft shows, art shows, outdoor sales and tent sales, which shall not exceed three (3) consecutive days each, excluding time for setup, dismantling and cleanup which may occur on the day immediately before the commencement of the event and on the day immediately after the conclusion of the event unless additional time is required due to inclement weather or other circumstances beyond the reasonable control of the business or organization conducting the event, may be conducted within a calendar year.

8. Craft shows, art shows, outdoor sales and tent sales described in Section 7 above that are not being conducted by on-site businesses shall be subject to the review and approval by the Code Enforcement Officer and the Chief of the Scarborough Fire Department in accordance with the following procedure:

- a. No later than twenty-one (21) days prior to the date of commencement of the event, the Code Enforcement Officer and the Chief of the Scarborough Fire Department shall be provided with written notification of the event, which notification shall contain the following information:
 - i. The type of event;
 - ii. The name, address and telephone number of the business or organization conducting the event, together with the name of an individual associated with such business or organization who can be contacted regarding the event;
 - iii. A sketch plan showing in which Special Events areas the event will be conducted and the approximate layout of the event facilities within those areas; and
 - iv. The date or dates during which the event will be conducted.
- b. If the proposed event is anticipated to be repeated on multiple dates such as, by way of example, an art show that occurs on multiple Sundays each week during the months of June through October, only a single notification in accordance with Subsection 8. a. above need be provided to the Code Enforcement Officer and the Chief of the Scarborough Fire Department prior to the date of the first of such multiple repetitive events.
- c. Any temporary structures such as tents shall require a permit be obtained not less than seven (7) days prior to the date or dates of the event from the Chief of the Scarborough Fire Department.
- d. The event shall comply with all National Fire Protection Association and Town fire safety standards and requirements as applicable.
- e. In the event that the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department should reasonably determine that the event fails to comply with the terms and conditions set forth herein, the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department shall provide written notice to the notifying party indicating in what manner the event fails to so comply. In the event the Code Enforcement Officer and/or the Chief of the Scarborough Fire Department should fail to provide such notice to the notifying party within fourteen (14) days following the Code

EXHIBITS

Enforcement Officer's and the Chief of the Scarborough Fire Department's receipt of the notification required in Subsection 8. a. above, the event shall be deemed approved.

f. No other Town permits or approvals shall be required for such events.

9. The terms and conditions of this Amendment including, but not limited to, the review and approval process described in Section 8 above for craft shows, art shows, outdoor sales and tent sales that are not being conducted by on-site businesses, shall not be applicable to craft shows, art shows, outdoor sales and tent sales that are that are otherwise allowed to be conducted by on-site businesses in accordance with the Zoning Ordinance and other applicable Town regulations and procedures.

10. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment and the Fourth Amendment, remains consistent with the Comprehensive Plan.

11. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

12. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on July 21, 2010)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

July ____, 2010

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

Print name

EXHIBITS

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

July ____, 2010

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
Its Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

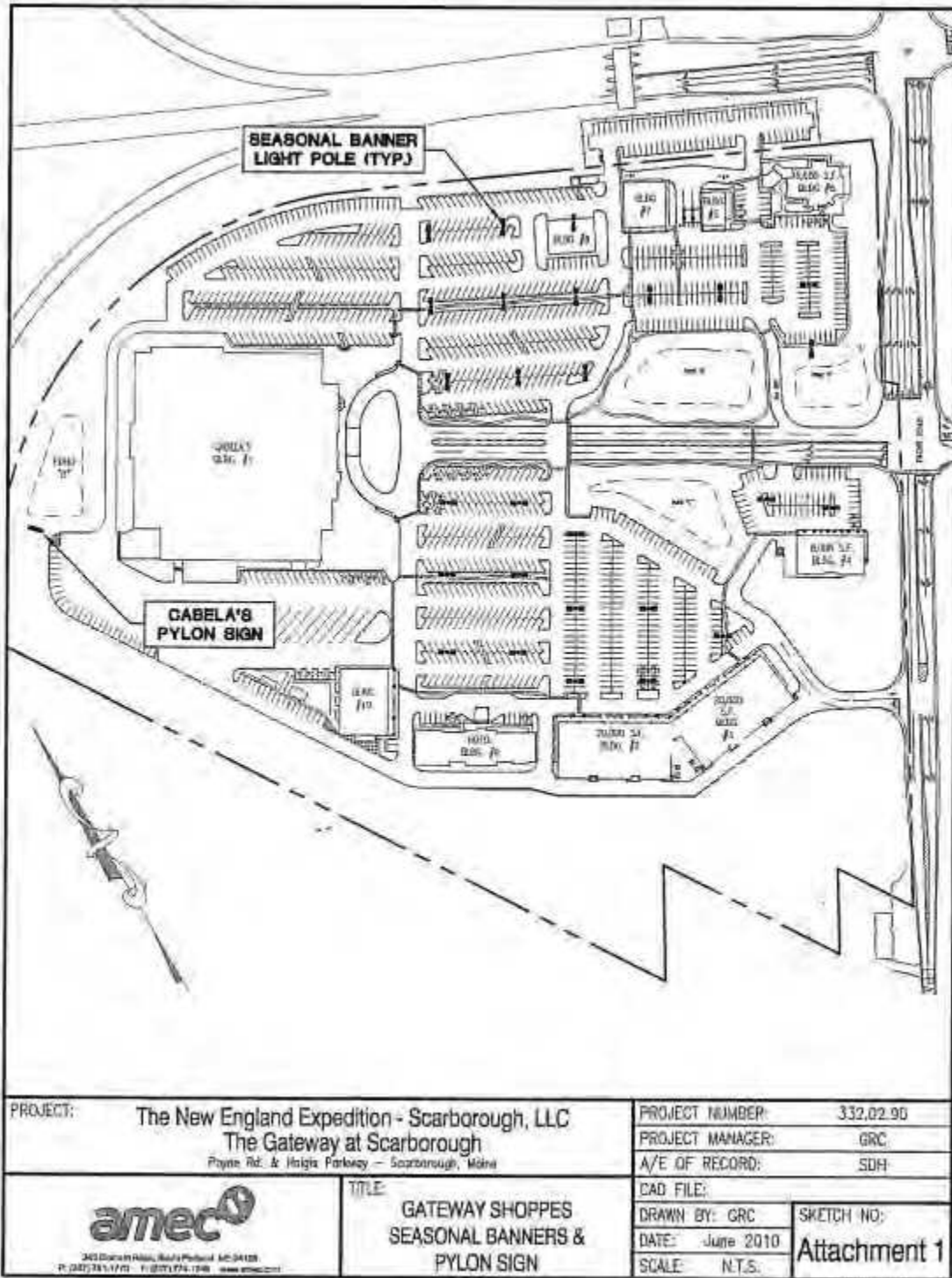
July ____, 2010

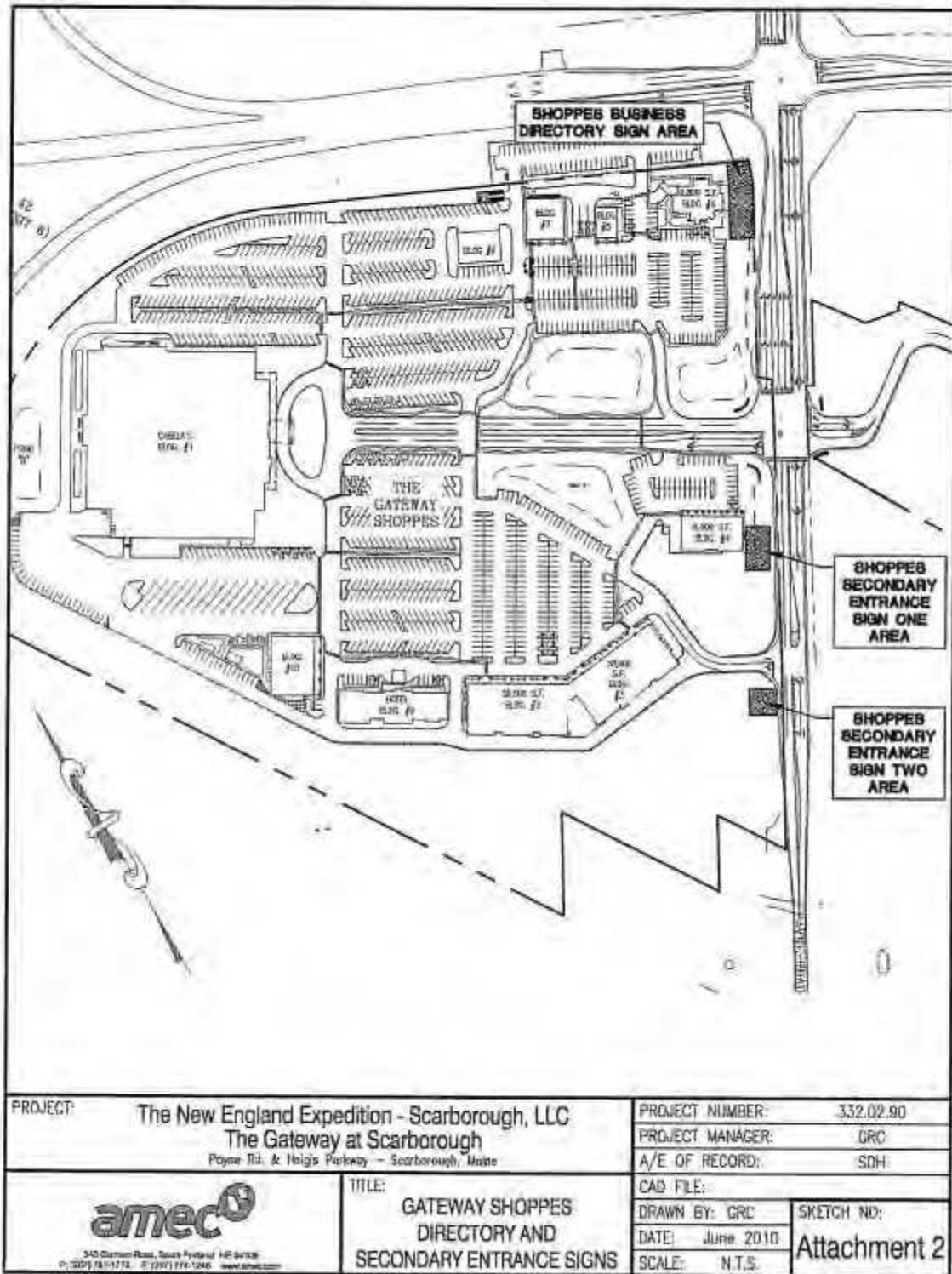
Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

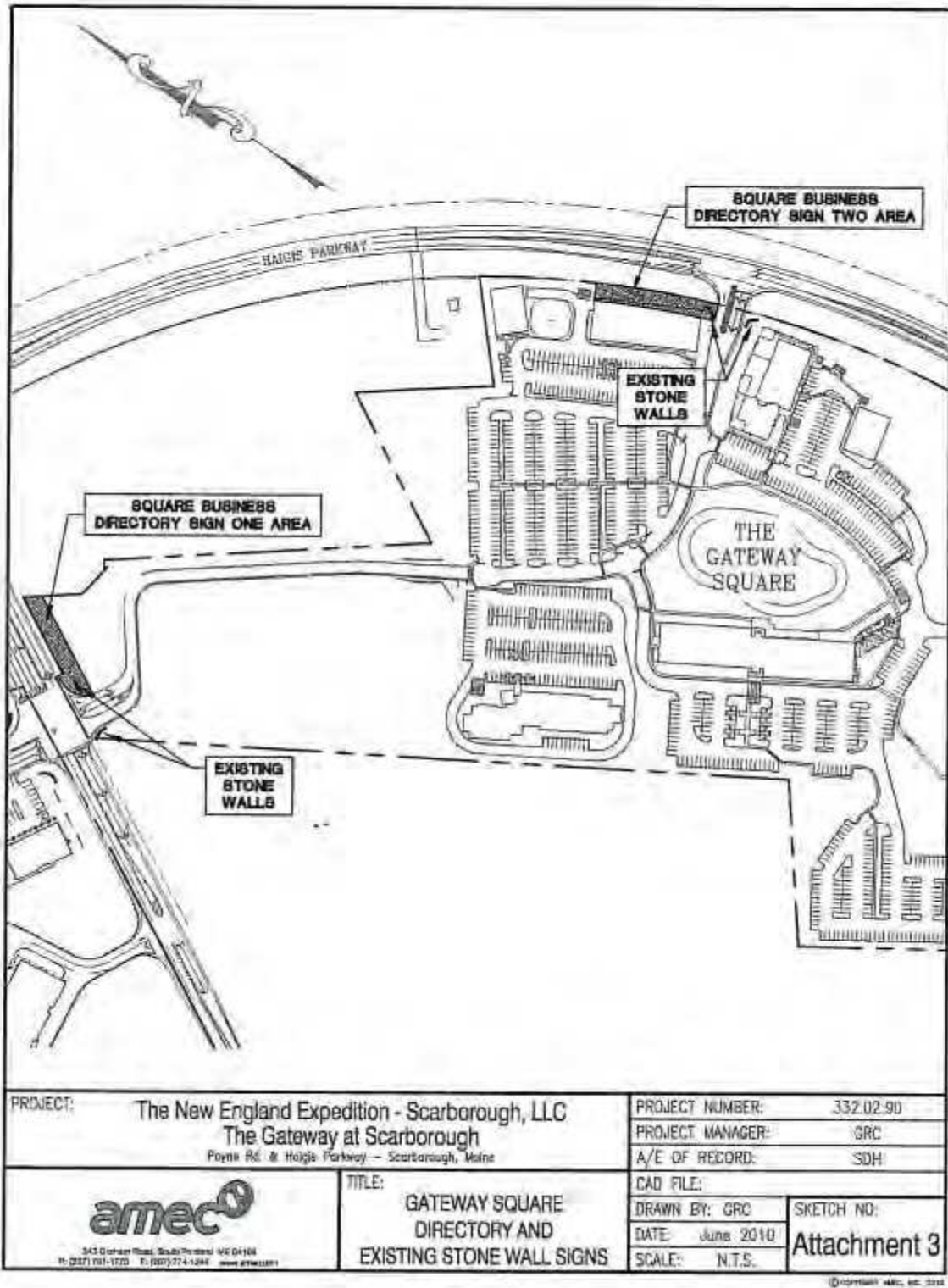
Before me,

Notary Public

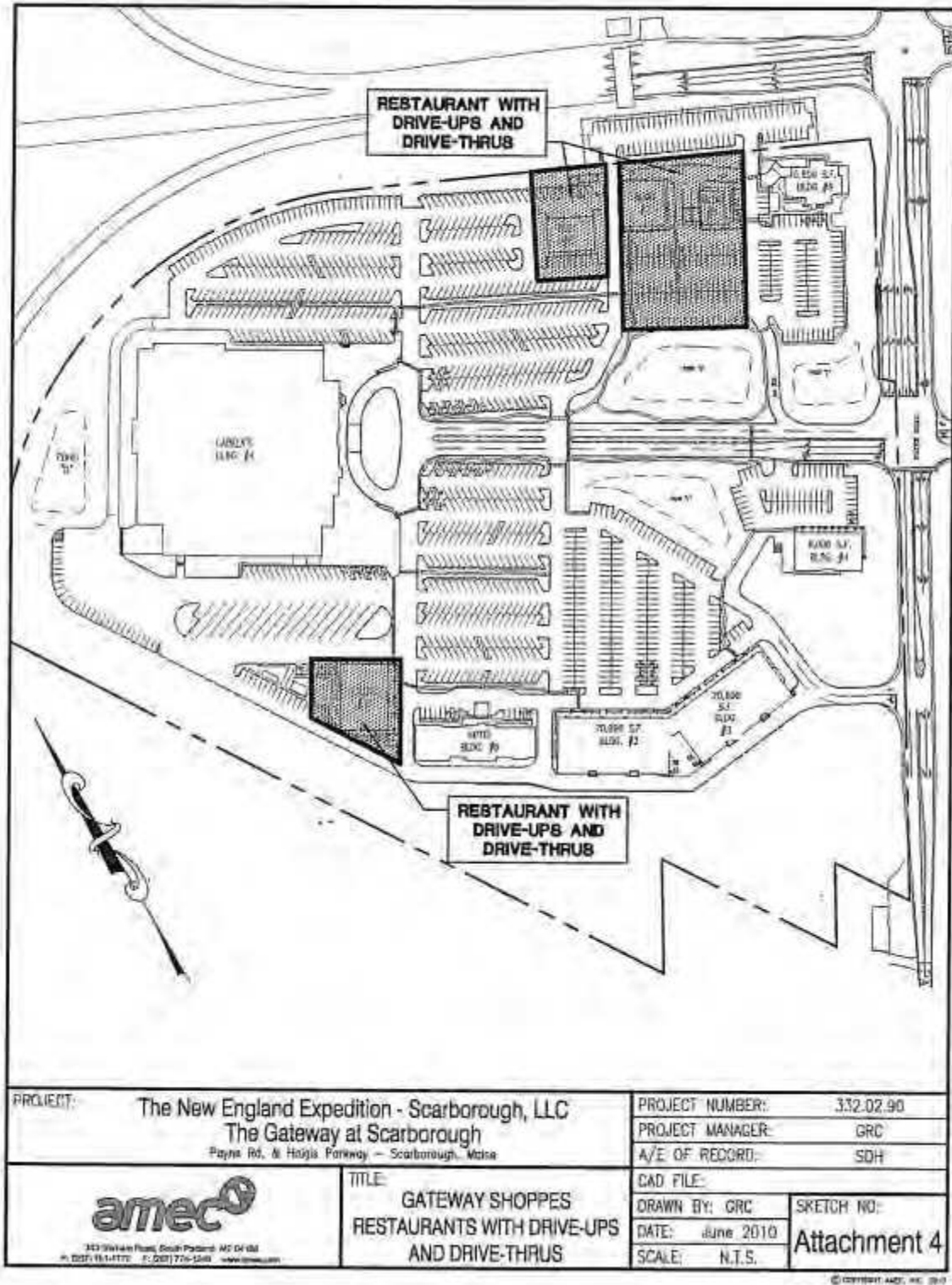
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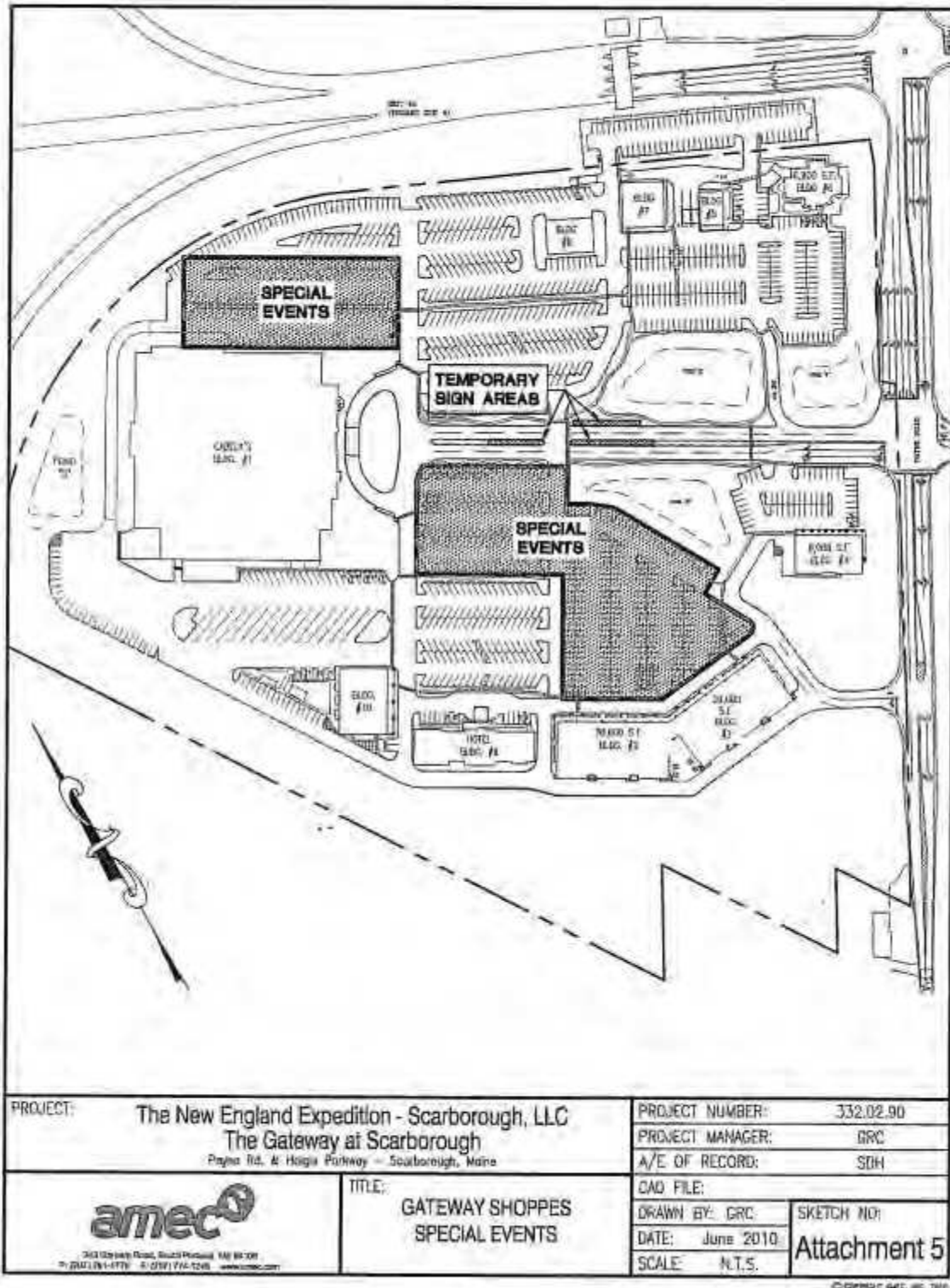






EXHIBITS





SIXTH AMENDMENT TO EXHIBIT 9

**TO
CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND EXPEDITION –
SCARBOROUGH, LLC**

THE GATEWAY AT SCARBOROUGH

This Sixth Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is made as of the ____ day of _____, 2011 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH II, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the “First Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the “Second Amendment”); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the “Third Amendment”); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the “Fourth Amendment”); and

EXHIBITS

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 21st day of July, 2010, and recorded in said Registry of Deeds in Book 27960, Page 322 (the "Fifth Amendment"); and

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Amendment to the Agreement regarding the height of the business directory signs permitted within the District.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding Section XII of the Zoning Ordinance, as it may be amended from time to time, the business directory signs permitted within the District under Section 5.a. and Section 5.c. of the Fifth Amendment may be up to sixteen (16) feet in height as measured from the base of such signs at ground level.
2. Nothing set forth in the Agreement as amended by this Amendment shall be deemed to limit or prohibit signage within the District that is otherwise allowed under Section XII of the Zoning Ordinance, as it may be amended from time to time.
3. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment and the Fifth Amendment, remains consistent with the Comprehensive Plan.
4. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
5. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____
Thomas J. Hall, its Town Manager (duly authorized by vote of the Scarborough Town Council on _____, 2011)

STATE OF MAINE

COUNTY OF CUMBERLAND, ss.

_____, 2011

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Notary Public/Attorney at Law

EXHIBITS

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
It's Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

_____, 2011

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition - Scarborough, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition - Scarborough, LLC.

Before me,

Notary Public

Print name

WITNESS:

THE NEW ENGLAND EXPEDITION-
SCARBOROUGH II, LLC

By FELDCO SCARBOROUGH, LLC, its
Manager

By: _____
Barry E. Feldman
It's Managing Member

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

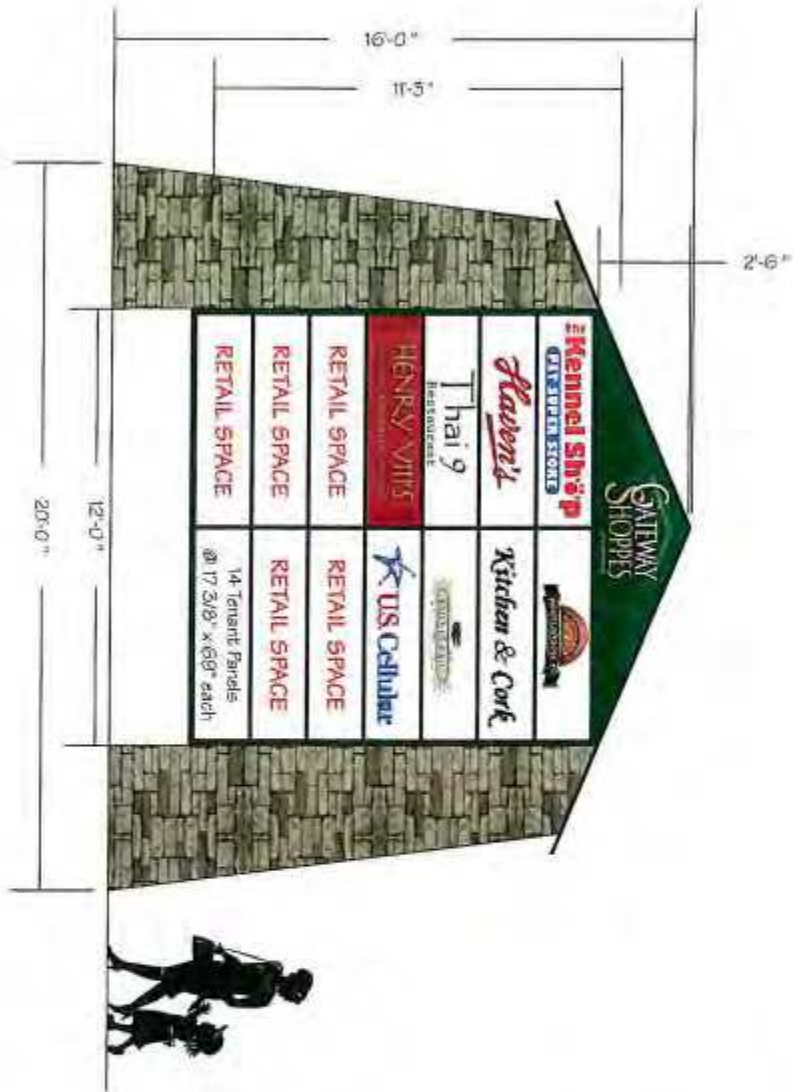
_____, 2011

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of The New England Expedition – Scarborough II, LLC, and acknowledged the foregoing instrument to be his free act deed in his said capacity, the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition – Scarborough II, LLC.

Before me,

Notary Public

Print name



SIGN Concepts VERBAL COMMUNICATION EXPERTS	
Date: 4/23/09	Scale: 1/2" = 1'
Drawing #: 4	Sales Rep: DF
Rev #: 14	Rev Date: 11/17/10
Approved by:	
The Gateway Shoppes	
*Internally illuminated tenant-pylon sign	
*Internally illuminated sign cabinet w/ 3/16" white Loxan faces	
*Custom fabricated "your" cultured stone pylons to match existing Cabell's colors	

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SEVENTH AMENDMENT TO EXHIBIT 9

**CONTRACT ZONING AGREEMENT
BETWEEN THE TOWN OF SCARBOROUGH AND THE NEW ENGLAND
EXPEDITION – SCARBOROUGH, LLC**

THE GATEWAY AT SCARBOROUGH

This Seventh Amendment to Contract Zoning Agreement (hereinafter, this “Amendment”) is mad as of the 6 day of March, 2013 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the “Town”), THE NEW ENGLAND - SCARBOROUGH, LLC, a Maine Limited liability company with an office at 220 Elm Street, Suite 104, New Canaan, Connecticut 06840 (hereinafter, “New England Expedition”), and THE NEW ENGLAND EXPEDITION – SCARBOROUGH, LLC, a Maine limited liability company with an office at 220 Elm Street, Suite 104, new Canaan, Connecticut 06840 (hereinafter, “new England Expedition II”), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the “Zoning Ordinance”).

WHEREAS, New England Expedition entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the “Agreement”) creating Contract Zoning District Number 9 (hereinafter, the “District”) as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and,

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and new England Expedition dates as of the 5th day of September 2007, and recorded in said Registry of Deeds in Book 25482. Page 201 (the “First Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060. Page 162 (the “Third Amendment”); and,

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by New England Expedition to New England Expedition II by Quitclaim Deed with Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, page 85 (the “Fourth Amendment”); and,

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 19th day of January, 2011, and recorded in said Registry of Deeds in Book 28464, page 260 (the “Sixth Amendment”); and,

WHEREAS, Section 6 of the Agreement, as amended pursuant to said Fourth Amendment to Contract Zoning Agreement, provides that certain improvements within that portion of the Property located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway known as “The Gateway Square at Scarborough” be substantially complete,” as that term is defined in said Section 6 of the Agreement as amended, no later than March 12, 2013; and,

EXHIBITS

WHEREAS, the New England Expedition and the New England Expedition II have requested that the Town approve this Seventh Amendment to Contract Zoning Agreement further amending the definition of “substantially complete” as set forth in Section 6 of the Agreement, as previously amended, to eliminate the requirement that by March 12, 2013, foundations for one or more buildings containing in the aggregate not less than one hundred thousand (100,000.00) square feet of gross leasable area be completed and approved within The Gateway Square at Scarborough.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Section 6 of the Agreement is hereby further amended in its entirety to read as follows:
 6. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the “Site Plan Ordinance”) and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the “Subdivision Ordinance”), with construction anticipated to proceed in phases commencing with that portion of the Property comprising The Gateway Shoppes at Scarborough located on the northwesterly side of Payne Road and then progressing to that portion of the Property comprising The Gateway Square at Scarborough located on the southeasterly side of Payne Road and the southwesterly side of Haigis Parkway. The phasing of the construction as outlined above shall be subject to the additional requirement that construction of that portion of the Project comprising The Gateway Square at Scarborough shall be “substantially complete” no later than March 12, 2013. For purposes hereof, “substantially complete” shall mean the completion of the clearing and rough grading of the Project building sites and related improvement areas and the internal road system, and the installation of utilities, storm drains and sanitary sewer lines.
2. The Agreement, as amended by this Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment and the Sixth Amendment, remains consistent with the Comprehensive Plan.
3. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.
4. This Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

By: _____

Thomas J. Hall, its Town Manager
(duly authorized by vote of the
Scarborough Town Council on
_____, 2013)

EXHIBITS

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2013

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me.

Notary Public/Attorney at Law

Print Name

WITNESS:

THE NEW ENGLAND EXPENDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC its
Manager

By: _____
Barry E. Feldman
Its Managing Member

_____, 2013

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

_____, 2013

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of New England Expedition-Scarborough, LLC and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition-Scarborough, LLC.

Before me.

Notary Public/Attorney at Law

Print Name

EXHIBITS

WITNESS:

THE NEW ENGLAND EXPENDITION-
SCARBOROUGH, LLC

By FELDCO SCARBOROUGH, LLC its
Manager

By: _____
Barry E. Feldman
Its Managing Member

_____, 2013

STATE OF CONNECTICUT
COUNTY OF FAIRFIELD, ss.

_____, 2013

Personally appeared the above named Barry E. Feldman, in his capacity as the Managing Member of Feldco Scarborough, LLC, the Manager of New England Expedition-Scarborough, LLC and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Feldco Scarborough, LLC in its said capacity, and the free act and deed of said The New England Expedition-Scarborough, LLC.

Before me.

Notary Public/Attorney at Law

Print Name

EIGHTH AMENDMENT TO EXHIBIT 9

EIGHTH AMENDMENT TO CONTRACT ZONING AGREEMENT
AMONG THE TOWN OF SCARBOROUGH, EXIT 42 HAIGIS PARKWAY LLC, AND
DEVINE CAPITAL, LLC
THE GATEWAY AT SCARBOROUGH

This Eighth Amendment to Contract Zoning Agreement (hereinafter, this "Eighth Amendment") is made as of the 29th day of March, 2017 by and among the TOWN OF SCARBOROUGH, a body corporate and politic, located in the County of Cumberland and State of Maine (hereinafter, the "Town"), EXIT 42 HAIGIS PARKWAY LLC, a Maine limited liability company, with an office at 11 Bartlett Road, Gorham, Maine 04038 (hereinafter, "Exit 42 HP"), and DEVINE CAPITAL, LLC, a Massachusetts limited liability company with a mailing address of 2 Monument Square, Seventh Floor, Portland, Maine 04101 (hereinafter, "Devine Capital"), pursuant to the Contract Zoning provisions of Section II, Subsection I of the Zoning Ordinance of the Town of Scarborough (hereinafter, the "Zoning Ordinance").

WHEREAS, The New England Expedition – Scarborough, LLC, a Maine limited liability company with an office at 222 Newbury Street, 4th Floor, Boston Massachusetts 02116 (hereinafter, "New England Expedition"), entered into a Contract Zoning Agreement with the Town dated as of the 3rd day of January, 2007 (hereinafter, the "Agreement") creating Contract Zoning District Number 9 (hereinafter, the "District") as described in Section XXIII of the Zoning Ordinance, said Agreement having been recorded in the Cumberland County Registry of Deeds in Book 24730, Page 25; and

WHEREAS, the Agreement was amended pursuant to the terms and provisions of a First Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 5th day of September, 2007, and recorded in said Registry of Deeds in Book 25482, Page 201 (the "First Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Second Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 7th day of November, 2007, and recorded in said Registry of Deeds in Book 25610, Page 171 (the "Second Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Third Amendment to Contract Zoning Agreement between the Town and New England Expedition dated as of the 30th day of April, 2008, and recorded in said Registry of Deeds in Book 26060, Page 162 (the "Third Amendment"); and

WHEREAS, that portion of the Property comprising "The Gateway Square at Scarborough" was conveyed by New England Expedition to The New England Expedition – Scarborough II, LLC (hereinafter, "New England Expedition II") by Quitclaim Deed With Covenant dated September 18, 2009, and recorded in said Registry of Deeds in Book 27269, Page 212; and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fourth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 3rd day of March, 2010, and recorded in said Registry of Deeds in Book 27642, Page 85 (the "Fourth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Fifth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 21st day of July, 2010, and recorded in said Registry of Deeds in Book 27960, Page 322 (the "Fifth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Sixth Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 19th day of January, 2011, and recorded in said Registry of Deeds in Book 28464, Page 260 (the "Sixth Amendment"); and

WHEREAS, the Agreement was further amended pursuant to the terms and provisions of a Seventh Amendment to Contract Zoning Agreement by and among the Town, New England Expedition and New England Expedition II dated as of the 6th day of March, 2013, and recorded in said Registry of Deeds in Book 30462, Page 162 (the "Seventh Amendment"); and

WHEREAS, that portion of the Property comprising The Gateway Square at Scarborough was conveyed by Deed In Lieu of Foreclosure With Covenant from New England Expedition – Scarborough, LLC to GlennDonna, Inc. and to R.J. Grondin & Sons dated as of the 26th day of September, 2014, and recorded in said Registry of Deeds in Book 31987, Page 197; and was subsequently conveyed to Exit 42 HP by Quitclaim Deed With Covenant from GlennDonna, Inc. and R.J. Grondin & Sons dated November 13, 2014, and recorded in said Registry of Deeds in Book 31987, Page 206; and

WHEREAS, Devine Capital intends to purchase of The Gateway Square at Scarborough from Exit 42 HP;

WHEREAS, the Haigis Parkway District, HP (hereinafter, the "HP District"), the underlying Zoning District in which The Gateway Square at Scarborough is located, as described in Section XVIII.B of the Zoning District, presently allows, as a permitted use, multi-family residential dwellings/units provided such dwellings/units are developed as part of a mixed-use building or mixed-use planned development;

WHEREAS, the HP District limits multi-family dwellings to a maximum building footprint of 12,500 square feet, a maximum of 5 dwelling units per acre of net lot area, and limits the floor area of all residential uses within a planned development to a maximum of 40% of the total floor area of all the building floor area within a planned development;

WHEREAS, the Town's Growth Management Ordinance, Chapter 413, requires the issuance of growth permits in order to obtain building permits to construct dwelling units and requires that growth permits be issued either from the annual allocation of growth permits or from a reserve pool of growth permits;

WHEREAS, Devine Capital desires to develop The Gateway Square at Scarborough as a multi-family residential development project;

WHEREAS, Devine Capital proposes to construct up to twelve (12) multi-family residential buildings, with up to twenty-four (24) dwelling units per building, consisting of up to 30,000 square feet of floor area for residential purposes, containing studio, 1, 2 and 3 bedroom units, with a maximum building footprint of 12,500 square feet per building the ("Project");

WHEREAS, the residential unit development mix of the Project will foster the commercial and mixed-use activities and amenities desired within the underlying HP District, consistent with the 2006 Update of the Comprehensive Plan of the Town of Scarborough adopted by the Scarborough Town Council on July 19, 2006 (the "Comprehensive Plan");

WHEREAS, the 2006 Update of the Comprehensive Plan of the Town of Scarborough includes an objective that ten percent of new housing units in the community be affordable to low and moderate income households, and Section VII.C, Residential Density and Affordable Housing Provisions, of the Zoning Ordinance enables developments in certain districts to contain additional density by providing an affordable housing in-lieu fee and Devine Capital proposes to provide an in-lieu payment to the Town of Scarborough's Affordable Housing Initiative Fund, and the Town Council will work with the Scarborough Housing Alliance to develop a plan by October 1st, 2017 to establish priorities and utilize the Affordable Housing Fund to enable the Town to make progress in meeting this affordable housing objective;

WHEREAS, the Devine Capital project includes a variety of active and passive recreational amenities, including a clubhouse with a fitness center and pool and outdoor active and passive recreation space, that will serve the health and recreational needs of the development's residents;

WHEREAS, the Devine Capital project will comply with Chapters 410, 415, 415A, and 415B consisting of the Town's Development and Traffic-Related Impact Fees and will pay these fees to compensate for the project's proportionate impact and demand on Town's school facilities, intersections, and roadway corridors.

WHEREAS, Exit 42 HP and Devine Capital have requested that the Town approve this Eighth Amendment to the Agreement to permit the multi-family residential development project within The Gateway Square at Scarborough as described herein, including the allocation of necessary growth permits from the reserve pool to permit the issuance of building permits for the Project.

NOW THEREFORE, in consideration of the mutual promises made by the parties to each other, the parties covenant and agree as follows:

1. Notwithstanding the provisions of Section XVIII.B HP District, in the Zoning Ordinance, as may be amended from time to time, Devine Capital, its successor and assigns, are hereby permitted to develop within The Gateway Square at Scarborough up to twelve (12) multi-family residential buildings, with up to twenty-four (24) dwelling units per building, resulting in a maximum number of residential units of two hundred eighty-eight (288) and consisting of up to

30,000 square feet of floor area for residential purposes per building, containing studio, 1, 2 and 3 bedroom units, with a maximum building footprint of 12,500 square feet per building, without regard to the requirement that any such dwelling units be part of a mixed-use building or part of a mixed-use planned development and without regard to any conflicting lot area, dimensional, and density requirements otherwise applicable within the HP District.

2. The Property shall be developed and used only in accordance with the site plan and subdivision plan as finally approved by the Scarborough Planning Board, and as said approved site plan and subdivision plan may be amended from time to time pursuant to the provisions of the Site Plan Review Ordinance of the Town of Scarborough (hereinafter, the "Site Plan Ordinance") and the Subdivision Ordinance of the Town of Scarborough (hereinafter, the "Subdivision Ordinance").

3. Pursuant to Section 7(G)(5)(a) of the Town's Growth Management Ordinance, Chapter 413, the Town hereby authorizes the use of growth permits from the reserve pool for the Project and authorizes the Planning Board to so allocate from the reserve pool the appropriate number of growth permits to allow Devine Capital, its successor and assigns, to obtain the requisite building permits for the Project.

4. Devine Capital, its successor and assigns, shall pay a total of \$700,000 into the Town of Scarborough's Affordable Housing Initiative Fund for the two hundred eighty-eight (288) dwelling unit project. This affordable housing in-lieu fee requirement shall be paid to the Town proportionally by building at the time of building permit issuance with \$2,430.56 due per dwelling unit.

5. Given the active and passive recreational amenities provided within the development project, including the clubhouse with a fitness center and pool and outdoor active and passive recreation space, the Town determines that adequate recreational facilities have been provided for on-site and that a recreation contribution is not required.

6. The Agreement, as amended by this Eighth Amendment and as previously amended by the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, the Sixth Amendment, and the Seventh Amendment, remains consistent with the Comprehensive Plan and consistent and compatible with the existing and permitted uses within the existing zoning district classification.

7. Except as specifically amended herein, all terms and conditions of the Agreement shall remain in full force and effect.

8. The Town acknowledges and agrees that (a) any breach of the restrictions, provisions and conditions of the Agreement relating to The Gateway Square at Scarborough shall not be deemed a breach of the Agreement as it relates to The Gateway Shoppes at Scarborough, and (b) any breach of the restrictions, provisions and conditions of the Agreement relating to The Gateway Shoppes at Scarborough shall not be deemed a breach of the Agreement as it relates to The Gateway Square at Scarborough.

EXHIBITS

Doc#: 14701 Bk:33913 Pg: 217

9. This Eighth Amendment shall be recorded in the Cumberland County Registry of Deeds within thirty (30) days after its approval by the Scarborough Town Council.

[Signature Page Follows]

14701 Bk:33913 Pg: 217

IN WITNESS WHEREOF, the parties hereto have executed this Amendment as of the date first set forth above.

WITNESS:

TOWN OF SCARBOROUGH

Collette Matheson

By: *Thomas J. Hall*
Thomas J. Hall, its Town Manager*
(* Duly authorized by vote of the
Scarborough Town Council on March 15
 , 2017)

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

March 22, 2017

Personally appeared the above named Thomas J. Hall, Town Manager of the Town of Scarborough, and acknowledged the foregoing instrument to be his free act deed in his said capacity and the free act and deed of said Town of Scarborough.

Before me,

Yolande Justice

Notary Public/Attorney at Law
Print Name: _____

SEAL

YOLANDE P. JUSTICE
Notary Public, Maine
My Commission Expires October 31, 2022

EXHIBITS



EXHIBITS

