TOWN OF
SCARBOROUGH, MAINE

Resolution 23-005

LAND OPTION AGREEMENT PATH FORWARD

BE IT RESOLVED by the Council of the Town of Scarborough, Maine, in Town Council assembled that,

WHEREAS, the Crossroads Holding LLC is the owner of certain parcels of land located between Payne Road, Haigis Parkway and Route One in the Town of Scarborough that consist of approximately 274.02 acres; and,

WHEREAS, the Crossroads Holding LLC and the Town of Scarborough are parties to a Credit Enhancement Agreement dated December 12, 2018 related to the development of the Property (the "CEA"), which requires the Seller to reserve land within the Property for the Buyer's option to purchase for the development of a school or a community center; and,

WHEREAS, the School Building Committee was established by the Board of Education to study the needs of the Scarborough Public Schools facilities, conducted a year-long site selection search, evaluating 46 sites and recommended that the Town construct a unified K-3 school on a site located within the Property; and

WHEREAS, the Board of Education approved and recommended a site located within the Property to the Town of Scarborough to pursue a land Option Agreement to support the construction of a school solution; and

WHEREAS, Crossroads Holding LC and the Town of Scarborough executed Purchase Option Agreement dated September 6, 2023 to purchase 21.87 acres of land for a school, community center or municipal playground or fields at the cost of $7.21M recommended by a third party appraiser hired by the Town of Scarborough and contemplated an additional $3M in off-site roadway construction within the property; and,

WHEREAS, the Purchase Option Agreement states the Town of Scarborough shall undertake reasonable efforts by October 31st 2023 to make Zoning, CPD buffer, Tax Increment Financing and Credit Enhancement Agreement adjustments as outlined in the agreement; and

WHEREAS, the Town demonstrated reasonable efforts, completing first reading on all the items prior to October 31, 2023; and,

WHEREAS, on November 7th the K-8 Strategic School Solution requesting up to $160MM failed at referendum with 5,813 voting NO and 3,364 voting YES, which included the $10.21M of costs contemplated within the Purchase Option Agreement; and,

WHEREAS, the School Building Committee needs time to understand from the public the reasoning behind the failed referendum, determine a plan forward and propose a modified solution, which may still require the purchase of land where the proposed site may still be the best location for a school solution; and,

WHEREAS, the Town of Scarborough has an active Ad Hoc Community Center Committee that will need to undergo a site selection process to develop a design and cost estimates to come to voters with a future referendum request for a Community Center; and,

WHEREAS, the Town of Scarborough completed a Parks and Facilities Master Plan that indicates the need for additional recreational fields to meet community needs; and.

WHEREAS, the Purchase Option Agreement contemplated multiple attempts at referendum for a school solution and stated "In the event the voters of the Town do not approve the Project by referendum before December 31, 2024, Crossroads Holding LLC agrees to identify a parcel within the Property of approximately 5-10 acres to be determined by , which if acceptable in design and configuration to the Parties, is to be conveyed to the Buyer at a purchase price to be reasonably determined by the Parties through the joint appraisal process set forth in Section 1.2 of the LOI (the terms of which are incorporated herein by reference) or via such other means as the Parties may agree. Any Option Fee paid under this Agreement shall be applied to the purchase price of the Reserve Parcel;" and,

WHEREAS, as agreed to in the Purchase Option Agreement " In the event that: 1) this Agreement automatically terminates due to Buyer's failure to obtain approval of the Project by the voters of the Town at a referendum on or before December 31, 2024, or 2) this Agreement automatically terminates due to Buyer's failure to satisfy the conditions to close as set forth in Section 8 below by March 29, 2024, or 3) if the Buyer elects not to purchase the Reserve Parcel, then in any such case the Buyer agrees to release the Seller from all existing obligations under Section 8.16 of the CEA thereafter."

NOW, THEREFORE, BE IT RESOLVED, by the Scarborough Town Council, in Town Council assembled, the Town Council will execute the following plan to honor the commitments in the Option Agreement and make a decision on whether to proceed with the Purchase Option Agreement to purchase land for school, community center, municipal playgrounds or field use by January 17th, 2024:

November 2023:

- Table all actions related to the Purchase Option Agreement until January 17th, 2024 when a survey is completed
- Consult with the School and School Building Committee to deploy a survey as soon as possible to obtain public feedback to understand why the referendum failed; including the role the site and Purchase Option Agreement played; and
- Request Crossroads Holding LLC provide a non-binding sketch plan that indicates potential land use plans for the currently zoned VR4 parcel to allow the Town to more accurately estimate financial impact to be validated by a third party hired by the Town of Scarborough and to further inform CPD buffer requirements in the event the Council proceeds with the Option Agreement; and

December 2023:

- Table the CEA Action at the December 6th meeting until January 17, 2024.
- Act on Tax Increment Financing to expand the Scarborough Downtown Omnibus TIF Development Program to include parcels as outlined in the Purchase Option Agreement, plus additional parcels contiguous to the existing boundaries (Cottages at Sawyer and aspects of Enterprise Business Park) that may be in the Town's best interest based on adherence to analysis required in 103.1 Credit Enhancement Policy; and

January 2024:

- With the survey feedback, the Council will make a "Go/No-Go" decision to proceed with the Option Agreement
- The Town Council will act on the Option Fee Payments, Zoning, CPD Buffers and the CEA changes on January 17, 2024; understanding that canceling the Purchase Option Agreement will result in 8.16 in the CEA being met.

Signed and sealed this 15th day of November 2023, on behalf of the Scarborough Town Council and the Town Manager of Scarborough, Maine.

Signed by:	/s/ *Jonathan Anderson* Councilor Chair	Attested by:	/s/ *Yolande P. Justice* Town Clerk