

**AGREEMENT CONCERNING MAINTENANCE OF LIGHT POLES
Spoondrift Road, Falmouth, Maine**

This Agreement is made as of this _____ day of _____, 2010 by and between Bodkin Farms Development Company, Inc., whose mailing address is _____ (“Developer”), and the Town of Falmouth, a body corporate and public located in the County of Cumberland and State of Maine (the “Town”).

WHEREAS, Developer has petitioned the Town of Falmouth to accept as a public street all of “Spoondrift Road” together with certain easements and street connectors, as further described in the Warranty Deed for Street Acceptance (collectively, the “Street”), both as shown on the plan entitled “Jeffrey Soule Record Owner Bodkin Farms Babbidge Road, Falmouth, Maine” dated March 24, 2004 revised through October 21, 2004 and recorded in the Cumberland County registry of Deeds in plan book 204 page 849; and

WHEREAS, Developer is required as a condition of Subdivision Approval dated _____ to install, maintain and operate light poles together with related fixtures and appurtenances (the “Light Poles”) within the Street as located and defined on the approved plan set of said Subdivision Plan as referenced above; and

WHEREAS, Developer has installed a number of light poles together with related fixtures and appurtenances within the Street; and

WHEREAS, Developer will continue to remain the owner of the Light Poles after the acceptance of the Street;

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

1. The Town will allow the Light Poles to remain in their current locations and will allow Developer to enter upon the Street for the purposes of maintaining, repairing and replacing the Light Poles, subject to all applicable Town ordinances, rules and permits concerning work within public streets.
2. Developer will maintain and, if needed, repair, replace or remove the Light Poles, all so that the Light Poles are operable and do not pose a safety hazard to persons using the Street. Developer will be solely responsible for all costs of maintenance and repair of the Light Poles, including costs of electric service and supply. The Town shall have no responsibility to maintain, repair or operate the Light Poles.
3. Developer agrees, for itself, its successors and assigns, to indemnify and hold harmless the Town, its officers, officials, agents and employees against any and all claims, demands, damages, actions, causes of action, suits or judgments of any kind arising out of or in any way related to the Light Poles and accruing during the term of this Agreement. Nothing in this paragraph waives any immunity available to the Town under the Maine

Tort Claims Act or other applicable law. The obligations of this paragraph shall survive termination or expiration of this Agreement.

- 4. This Agreement shall take effect upon acceptance of the Street by the Town and remain in effect for so long as any of the Light Poles remain in the Street. This Agreement shall be binding upon Developer, its successors and assigns.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first written above.

WITNESS:

BODKIN FARMS DEVELOPMENT COMPANY, INC.:

By: _____
JEFFREY W. SOULE
Its:

TOWN OF FALMOUTH

By: _____
NATHAN A. POORE
Its Town Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2010

Personally appeared before me the above-named Jeffrey W. Soule, President of Bodkin Farms Development Company, Inc., and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Bodkin Farms Development Company, Inc.

Attorney-at-Law/Notary Public

Print name

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2010

Personally appeared before me the above-named Nathan A. Poore, Town Manager of the Town of Falmouth, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said Town of Falmouth.

Attorney-at-Law/Notary Public

Print name