

**MODIFICATION OF AGREEMENT
AND
PUBLIC ACCESS EASEMENT**

This MODIFICATION OF AGREEMENT AND PUBLIC ACCESS EASEMENT (this “Modification”) is made as of the ___ day of _____, 2013 by and among J.B. BROWN & SONS, a Maine corporation (“J.B. Brown”), BAXTER PLACE, LLC, a Maine limited liability company, as successor in interest to Baxter Place Associates (“Baxter Place”), and the CITY OF PORTLAND, a body corporate and politic, located in Cumberland County, Maine (“City”).

WITNESSETH:

A. Reference is made to an Agreement between the City, J.B. Brown and Baxter Place dated May 16, 1995 and recorded in the Cumberland County Registry of Deeds in Book 11924, Page 10 (the “Agreement”) in connection with the discontinuance of Foundry Lane as a public street;

B. That attached to the Agreement as an exhibit is a copy of the City’s Order # 197 Discontinuing Foundry Lane dated March 20, 1995 (the “Order”);

C. That the Agreement expressly stated that the discontinuance of Foundry Lane is expressly subject to the easements retained by the Order;

D. That the Order stated “[t]his discontinuance shall be subject to the retention of a public access easement”.

NOW, THEREFORE, IN CONSIDERATION OF ONE DOLLAR (\$1.00) AND OTHER VALUABLE CONSIDERATION EACH TO THE OTHER GIVEN, AND OF THE MUTUAL COVENANTS AND PROMISES HEREINAFTER SET FORTH, THE PARTIES HEREBY AGREE AS FOLLOWS:

1. That each of the undersigned parties and their respective successors and assigns, hereby agree that upon the completion of J.B. Brown’s construction on its property westerly of the former discontinued Foundry Lane and the completion of the improvements thereto, including the construction of a pedestrian sidewalk on the easterly side of the former Foundry Lane parcel, the public access described in the Agreement and in the Order shall be limited to the said sidewalk so constructed for pedestrian travel (including wheelchairs and similar mobility assistance equipment for the disabled) on, across and through the former Foundry Lane.

2. That except as modified hereby, the various agreements, easements and covenants set forth in the Agreement and in the Order remain in full force and effect.

[Signature Page Immediately Follows]

IN WITNESS WHEREOF, the parties have entered into this Modification as of the date first written above.

WITNESS:

J.B. BROWN & SONS

Name:

By: _____
Vincent P. Veroneau
Its President

WITNESS:

BAXTER PLACE, LLC

Name:

By: _____
Elizabeth K. Astor
Its Manager

WITNESS:

CITY OF PORTLAND

Name:

By: _____
Mark Rees
Its City Manager

STATE OF MAINE
COUNTY OF CUMBERLAND, ss.

_____, 2013

PERSONALLY APPEARED the above-named Vincent P. Veroneau, President of J.B. Brown & Sons, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of J.B. Brown & Sons.

Before me,

Print Name:
Notary Public/Attorney at Law

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2013

PERSONALLY APPEARED the above-named Elizabeth K. Astor, Manager of Baxter Place, LLC, and acknowledged the foregoing instrument to be her free act and deed in her said capacity and the free act and deed of Baxter Place, LLC.

Before me,

Print Name:
Notary Public/Attorney at Law

STATE OF MAINE
COUNTY OF CUMBERLAND, ss. _____, 2013

PERSONALLY APPEARED the above-named Mark Rees, in his capacity as the City Manager of the City of Portland, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of the City of Portland.

Before me,

Print Name:
Notary Public/Attorney at Law