

**DRAFT April 26, 2012**

**DEED OF EASEMENT**

KNOW ALL PERSONS BY THESE PRESENTS that MARTIN'S FOODS OF SOUTH BURLINGTON, INC., a Vermont corporation with a principal place of business in Scarborough, Cumberland County, State of Maine ("Grantor"), for good and valuable consideration, does hereby GIVE, GRANT, SELL, CONVEY AND CONFIRM unto the TOWN OF HINESBURG, VERMONT, in the County of Chittenden, State of Vermont ("Grantee"), and its successors and assigns, a nonexclusive permanent easement in common with Grantor and its successors and assigns, on, over and across the following property:

Being an easement including approximately 0.9 +/- acre over a portion of the lands and premises conveyed to Hannaford Bros. Co. by the Warranty Deed of \_\_\_\_\_ dated \_\_\_\_\_, recorded in Book \_\_ at Page \_\_ of the Hinesburg Land Records, and being more particularly described as \_\_\_\_\_.

The easement is further described as being for the public purpose of providing a public park facility in the area shown on the Site Plan attached hereto as Exhibit A (the "Easement Area"), all on the terms and conditions further described herein.

Reference is hereby made to the aforesaid deeds, plan and instruments, and to the records thereof and references contained therein, in further aid of this description.

The conveyance described herein, and the use of the Easement Area as a public facility by Grantee, is subject to the following terms and conditions:

1) Grantee's use of the Easement Area is for a public park. Should Grantee discontinue or abandon this use, or should Grantee fail to substantially complete the landscaping and other related improvements necessary for the public's use and enjoyment of the Easement Area as a park within five (5) years after the opening of Grantor's store, then this conveyance shall automatically terminate without any requirement for further action by either of the parties hereto. Grantee shall be responsible for the design and installation of any landscaping, equipment, or

other improvements to be installed in the park. The design and layout of the park shall require Grantor's prior written approval, which approval shall not be unreasonably withheld, conditioned or delayed.

2) Grantee shall be responsible for regulating park use to prevent offensive uses or uses that constitute a nuisance or otherwise interfere with the health, safety or welfare of Grantor's employees, invitees, customers, vendors or the public. Grantor reserves the right to terminate this conveyance if the park is determined by Grantor in its reasonable discretion to present an unreasonable risk to the health, safety or general welfare of Grantor, its employees, invitees, customers or vendors, or to the public, or in the event of damage to Grantor's property. Prior to termination, Grantor agrees to work cooperatively with Grantee to reduce or eliminate such risk or to repair such damage.

3) Grantee shall be responsible for the installation, repair, replacement and maintenance of any and all landscaping, equipment and improvements within the Easement Area.

4) Grantee agrees to maintain liability insurance for its operation of the park, naming Grantor as an additionally insured party, and shall provide evidence of such coverage in commercially reasonable amounts acceptable to Grantor annually.

5) Grantee shall defend, indemnify and hold Grantor harmless against any and all claims, damages, suits or causes of action for injury, loss or damage, including death or injury to persons or property, from any act, negligence or omission of Grantee or arising from or related in any way to the park. Grantee shall, if Grantor so determines and requires, at Grantee's own cost and expense, defend any and all suits or actions which may be brought against Grantor or in which Grantor may be implicated in such acts or omissions.

6) Grantee shall be responsible for maintaining the park in a clean and orderly condition, in compliance with all applicable laws and regulations. Grantee shall promptly repair any damage to the landscaping or improvements within the park.

7) Grantor, for itself and its successors and assigns, reserves the right to enjoy, make use of and improve the Easement Area, including but not limited to the right to install underground utilities and other surface and subsurface improvements, provided, however, Grantor and its successors and assigns shall place no structures, landscaping or other improvements upon said land which shall prevent or unreasonably interfere with Grantee's access, use and enjoyment of the park.

8) Grantor, for itself and its successors and assigns, reserves the right to convey rights over the Easement Area in common with Grantee provided such rights do not unreasonably interfere with Grantee's access, use and enjoyment of the park.

TO HAVE TO HOLD the aforesaid easement, with all the privileges and appurtenances thereof, to Grantee and its successors and assigns.

IN WITNESS WHEREOF, Grantor has executed this Deed this \_\_ day of \_\_\_\_\_, 2012.

**MARTIN'S FOODS OF SOUTH BURLINGTON, INC.**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By:  
Its:

STATE OF \_\_\_\_\_  
\_\_\_\_\_ COUNTY, SS.

At \_\_\_\_\_, in said County and State on this \_\_ day of \_\_\_\_\_, 2012, \_\_\_\_\_ personally appeared and he/she acknowledged the foregoing

instrument, by him/her sealed and subscribed, to be his/her free act and deed and the free act and deed of Martin's Foods of South Burlington, Inc.

Before me, \_\_\_\_\_

Notary Public

My Commission expires: \_\_\_\_\_

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