

*Beck***B·F·A****NEW HAMPSHIRE  
BUSINESS FINANCE AUTHORITY**

October 17, 2012

His Excellency John H. Lynch  
 Governor of the State of New Hampshire, and  
 The Honorable Executive Council  
 State House  
 Concord, New Hampshire 03301

**Re: Business Finance Authority Loan to Grafton County Economic Development  
 Council Pursuant to RSA 162-A:7**

Dear Governor and Council:

**REQUESTED ACTION**

Holding of a public hearing and passage of a resolution entitled: A RESOLUTION UNDER RSA 162-A:18 AWARDDING AND APPROVING A LOAN UNDER RSA 162-A:7 TO GRAFTON COUNTY ECONOMIC DEVELOPMENT COUNCIL . (For the text of the requested Resolution see Exhibit One attached to this letter of transmittal.)

The Business Finance Authority of the State of New Hampshire (the "Authority") respectfully requests that you hold a public hearing and make the statutory findings under RSA 162-A:18, with respect to the proposed loan by the Authority to Grafton County Economic Development Council ( the "Borrower"), a local development organization, in the form of a loan in the principal amount of up to Seven Hundred Fifty Thousand Dollars (\$750,000). The Authority recommends your favorable action and submits in support thereof, the following materials as designated:

- 1) a summary of the transaction
- (2) a proposed resolution for adoption by the Governor and Council;
- (3) a copy of RSA 162-A:7;
- (4) a letter from the undersigned explaining the transaction;
- (5) a commitment letter extended by the Authority to the Borrower;
- (6) draft loan documents, which when executed and delivered, will evidence and govern the loan to be made by the Authority to the Borrower.

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(7) an agreement between the Authority and the Borrower, which when executed will evidence the local development organization's recommendation of the proposed loan transaction;

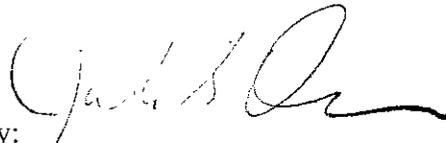
(8) a resolution adopted by the Authority on September 17, 2012, which recommends that Governor and Council approve the proposed loan;

(9) a summary of required statutory findings of the Governor and Council with reference materials to support each finding.

The Authority would be pleased to furnish any additional documentation and information which you may request.

Respectfully Submitted,

**BUSINESS FINANCE AUTHORITY  
OF THE STATE OF NEW HAMPSHIRE**

By:   
\_\_\_\_\_  
Jack Donovan  
Executive Director

See Attached Exhibits

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## LOAN SUMMARY

**BORROWER** – Grafton County Economic Development Council

**LOCATION** - PO Box 178  
Plymouth, New Hampshire 03264

**TYPE OF BUSINESS** –Economic Development

**LENDER** - Business Finance Authority of the State of New Hampshire  
2 Pillsbury Street, Suite 201  
Concord, New Hampshire 03301

**AMOUNT OF LOAN** - \$750,000

**TYPE OF LOAN** – Construction Line of Credit

**PURPOSE** --Proceeds of loan to be used to construct the Enterprise Center at Plymouth, New Hampshire.

**COLLATERAL** -- Loan to be secured by a second mortgage lien on property located at 149 Main Street, Plymouth, NH.



**A RESOLUTION UNDER RSA 162-A:18 AWARDED A LOAN UNDER RSA  
162-A:7 FROM THE BUSINESS FINANCE AUTHORITY OF THE STATE OF  
NEW HAMPSHIRE TO GRAFTON COUNTY ECONOMIC DEVELOPMENT  
COUNCIL**

WHEREAS, the Governor and Council (the "Governor and Council") of the State of New Hampshire (the "State") have received from the Business Finance Authority of the State of New Hampshire (the "Authority") its written recommendation that the Governor and Council make certain findings and determinations pursuant to RSA 162-A:18 with respect to a loan by the Authority to Grafton County Economic Development Council ( the "Borrower") in the original principal amount of up to \$750,000 to provide financing for construction financing for the Enterprise Center at Plymouth, New Hampshire (the "Loan")

WHEREAS, pursuant to the provisions of RSA Chapter 162-A, the Governor and Council is authorized to approve the recommendation of the Authority and to authorize and approve the Loan by the Authority upon the making of specific findings after public hearing;

WHEREAS, the Governor and Council will receive all the documentation and information with respect to the proposed Loan by the Authority; and

WHEREAS, further action by the Authority with respect to the proposed transaction is subject to the passage of this Resolution and cannot be taken until after its passage.

NOW, THEREFORE, it is hereby resolved that:

1. Findings and Determination. On the basis of the documentation and information received by the Governor and Council, after a public hearing, the Governor and Council find:
  - a. Special Findings.
    - (i) The Loan in consistent with local or regional development plans or policies.
  - b. General Findings.
    - (i) The Loan that the Authority has proposed will serve a public use and provide a public benefit.
    - (ii) The Loan that the Authority has proposed is within the policy of, and the authority conferred, by RSA Chapter 162-A.
    - (iii) The Loan that the Authority has proposed will preserve or increase the social welfare or economic prosperity of the State and one or more of its political subdivisions, and will promote the general welfare of the State's citizens.

- (iv) The Loan that the Authority has proposed will promote the orderly development of business activities, create or preserve employment opportunities, or protect the physical environment.

2. Approval. Governor and Council approve the Loan by the Authority as recommended by the Authority and authorize the Authority to cause the execution and delivery of the loan documents substantially in the form submitted to Governor and Council and to take such further action as the act with respect to the transaction as may be required.

3. Effective Date. This Resolution shall take effect upon its passage.

Passed and agreed to October 17, 2012.

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Governor John H. Lynch

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Councilor Raymond S. Burton

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Councilor Daniel St. Hilaire

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Councilor Christopher T. Sununu

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Councilor Raymond J. Wiecek

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Councilor David K. Wheeler

## **162-A:7 Aid to Local or Regional Development Organizations.**

I. The authority may expend or loan money upon such terms and conditions as prescribed by the authority to acquire, develop, redevelop, construct, renovate, or expand real or personal property for business use. No expenditure or loan shall be made by the authority under this section unless it is with the approval of, or in cooperation with, a local development organization.

II. Prior to the expenditure or loan of any money under this section, the authority shall enter into one or more agreements with such organization to provide for the conditions on which the expenditures or loans will be made, the terms of repayment of such expenditure or loan, the time and manner of such repayment, conditions under which the property is to be used by or leased to one or more businesses, the form and amount of security if any, to be pledged to the authority for such repayment, and such other provisions as the authority may determine are necessary or desirable. Repayment of any expenditure or loan made by the authority may be with or without interest and may take the form of cash, real or personal property, or services.

III. Any property acquired, developed, redeveloped, constructed, renovated, or expanded under this section may be leased by the authority or the local development organization, as appropriate, for business use, and under such terms and conditions as they shall deem appropriate. Any such lease may include options of the lessee to purchase the property, provided that the purchase price upon the exercise of any such option shall not be less than the amount necessary to reimburse the authority, with interest if applicable, for any unpaid balance of expenditures made by the authority for such property. Any lease shall obligate the lessee to pay all costs and expenses of upkeep, maintenance and operation of the property during the lease term.

IV. The authority shall not expend or loan any money or make a binding commitment to spend any money for a particular project under this section unless after a hearing the governor and council have made the findings specified in RSA 162-A:18.





October 17, 2012

His Excellency John H. Lynch  
Governor of the State of New Hampshire  
The Honorable Executive Council  
State House  
Concord, New Hampshire 03301

**Re: Loan from the Business Finance Authority to Grafton County Economic  
Development Council pursuant to RSA 162-A:7**

Dear Governor and Council:

The purpose of this letter is to describe and explain the proposed loan from the Business Finance Authority of the State of New Hampshire (the "Authority") to Grafton County Economic Development Council (the "Borrower") as recommended by the Authority, based upon information supplied by the Authority and the Borrower.

1. **Statutory Authority.** RSA 162-A:7 authorizes the Authority to expend or loan money to acquire, develop, redevelop, construct, renovate or expand real or personal property for business use with the approval of or in cooperation with a local development organization. The statute also provides that upon the Authority's recommendation, the Governor and Council may, after holding a public hearing and making certain findings, approve and authorize such a loan or expenditure of money by the Authority.

2. **Concept of the Aid to Local Development Organization Program.** The Authority has developed the Aid to Local Development Organization Program as a significant part of its programs intended to facilitate the growth and development of businesses within the state. In general, the program focuses on expending funds or making loans for projects identified by local development organizations as providing important opportunities for economic development within particular regions or communities of the State.

3. **Agreement with Local Development Organization.** RSA 162-A:7, II requires the Authority to enter into an agreement with a local development organization providing for the conditions upon which the expenditure or loan will be made.

4. **Description of the Transaction.** The Borrower is the Grafton County Economic Development Council. The Authority recommends that it make a loan to the Borrower in the principal amount of up to Seven Hundred Fifty Thousand Dollars (\$750,000) (the "Loan") to allow the Borrower to construct Enterprise Center to be located in, Plymouth, New Hampshire.

The Borrower will lease out the existing space to various business interests in the region.

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5. **Terms of the Loan Documents.** The terms and conditions of the Loan are to be expressed in a loan agreement between the Authority and the Borrower and certain other loan documents. The loan documents, which will be in substantially the form submitted to Governor and Council with this letter, will include the following terms and conditions:

a. **Promissory Note.** The Loan will be evidenced by a Promissory Note of the Borrower in the original principal amount of up to Seven Hundred Fifty Thousand Dollars (\$750,000). The Loan will bear variable interest rate of prime plus one half (.5%) percent interest only for a period of twelve months.

b. **Representations and Covenants of the Borrower.** The loan agreement contains such provisions as the Authority has determined necessary and desirable in order to administer the loan, including without limitation, representations and warranties and covenants of the Borrower, indemnification of the Authority for the risks concerning any potential hazardous waste, the provision of payment of the Authority's costs and expenses, and the Authority's remedies upon default of the Borrower.

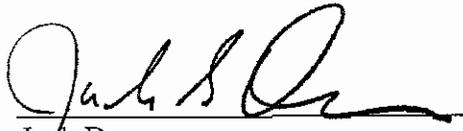
c. **Security.** The Borrower's obligations under the loan documents will be secured by a second real estate mortgage on property located at 149 Main Street, Plymouth, New Hampshire.

d. **Use of Proceeds.** Proceeds of the Loan will be used only to for the construction of the Enterprise Center at, Plymouth, New Hampshire.

**In Summary.** Based upon the foregoing, all statutory requirements are embodied and implemented in the proposed transaction and loan documents.

Very truly yours,

**BUSINESS FINANCE AUTHORITY**

By:   
Jack Donovan  
Executive Director



**NEW HAMPSHIRE  
BUSINESS FINANCE AUTHORITY**

**CONFIDENTIAL  
COMMERCIAL AND FINANCIAL  
INFORMATION**

September 18, 2012

**VIA MAIL**

Mr. Mark Scarano  
Grafton County Economic Development Council  
PO Box 178  
Plymouth, NH 03264

**RE: Loan for Enterprise Center at Plymouth**

Dear Mr. Scarano:

The Business Finance Authority of the State of New Hampshire ("the Authority") has approved in principal the application submitted by the Grafton County Economic Development Council (the "GCEDC"), (the "Applicant"). Accordingly, the Authority is prepared to proceed with the discussions to make the loan describe below (the "Loan") to the Applicant under the Authority's Local Development Organization loan program, subject to the general terms and conditions set forth in this letter. This letter is an expression of the Authority's intent to recommend that the Governor and Council approve the loan as described in this letter and upon such approval to make the loan based only upon the information that the Applicant has submitted. Any obligation to recommend Governor and Council's approval of the Loan, or to consummate the Loan, will arise only upon the satisfactory preparation, execution and delivery of documentation in form and substance satisfactory to the Authority.

In reaching its decision, the Authority has reviewed all information submitted in the application. We have acquired an understanding of the Applicant's financial situation. Of course, as we proceed, we will require further information.

**POLICY BACKGROUND**

The Authority has determined that the GCEDC is a business operating within the State and that the proposed transaction will serve to promote business development within the State. The Authority's commitment concerning the Loan reflects this fundamental determination that the proposed transaction will serve a public use and provide a public benefit.

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2 PILLSBURY STREET, SUITE 201  
CONCORD, NEW HAMPSHIRE 03301-4954  
603-415-0190 • FAX: 603-415-0194



The Authority was created to offer credit enhancements to New Hampshire businesses. The LDO loan program established under RSA Chapter 162-A:10 is intended to do so indirectly by assisting local development organizations in promoting and developing business within the State. In fact, the statute provides that the Authority may make a loan only if the local development organization agrees to the use of the proceeds of the loan for the promotion, encouragement or development of business within the State, or a region or community of the State and to the terms and conditions upon which the Authority will make the loan. This letter is intended to outline the ways in which the Authority intends to meet these requirements.

### TERMS OF LOAN PROPOSAL

I am authorized to report to you that the Authority has approved in principal the Applicant's request, subject to and limited by the following terms and conditions:

- Loan Purchase:** The Loan will be in the amount of up to \$750,000, of which proceeds will be used to provide construction financing to construct a ~~40,000~~ <sup>10,000</sup> sq. ft. office building to house the Enterprise Center of Plymouth. *AS*
- Terms of Repayment:** The loan will bear interest at the floating rate of prime plus 0.5%. Interest payments will be paid monthly. Note term is not to exceed twelve (12) months.
- Security:** The loan will be secured by a second security interest on real estate located at 149 Main Street, Plymouth, NH.
- Disbursement:** Closing and disbursement of Loan proceeds shall be subject to customary conditions, including, without limitation:
- (1) Confirmation of EDA funding in amount of \$781,250;
  - (2) Confirmation of Northern Border Regional Commission funding in the amount of \$225,000;
  - (3) Confirmation of tax credits to be raised in the amount of \$560,000;
  - (4) Subject to satisfactory environmental assessment;
  - (5) Appropriate insurance to cover collateral during construction;
  - (5) Subject to Applicant hiring a qualified Engineering Company acceptable to the BFA, to oversee construction.
- Documents:** The Loan Agreement, Promissory Note and Security Instruments to be drafted by counsel to the Authority shall contain such representations,

warranties and covenants as are acceptable to the Authority. The Applicant shall provide the Authority with such other documents, agreements, reports and certificates the Authority may reasonably require, including, without limitation, title insurance and survey in form and substance satisfactory to the Authority.

**LDO Agreement:** At or before the closing, the Applicant shall execute an agreement evidencing its approval of the Loan in accordance with RSA 162-A:7,II.

**Further Investigation and Modification of Documents:** The Authority's obligation to make the Loan shall be subject to the Authority's review and approval to its satisfaction of all loan documents relating to the loan, evidenced by the Loan and all other loan documentation, including, without limitation, UCC search information, Collateral value analysis, appraisals, environmental reports, governmental approvals, construction contracts, and financial statements of the Applicant and also subject to the truth and accuracy of the Applicant's representations in its loan application.

**Authority Legal Expenses:** As a condition to proceeding, the Applicant shall pay all reasonable legal counsel fees and expenses incurred in the evaluation, preparation and provision for the Authority's purchase of the loans, even if the transaction is not consummated.

**Legal Opinion:** Counsel to the Applicant shall provide opinions as to the due organization of the Applicant and its joint ventures and the power and due authority of the Applicant and its joint ventures to enter into the loan documents, the enforceability of the Loan documents and such other matters as the Authority may reasonably request, including compliance of the Property with applicable laws.

**Approval:** As required by RSA 162-A:10, the Loan transaction may become effective only upon approval of the Governor and Council.

If the Applicant wishes to proceed further to finalize the terms of this proposal, please sign and return this letter to us on or before 2:00 p.m. on October 2, 2010. As noted, any obligation to take action by the Authority will arise only upon satisfactory preparation, execution and delivery of documentation.

On behalf of the Authority, I look forward to working with the Applicant toward a successful financing transaction.

Sincerely,



Michael B. Donahue  
Senior Credit Officer

Agreed and Accepted.

**Grafton County Economic Development Council**

By:  Date: 9-25-12  
Name: Mark Scavano  
Title: Chief Executive Officer

**MORTGAGE AND SECURITY AGREEMENT**

GRAFTON COUNTY ECONOMIC DEVELOPMENT COUNCIL, a New Hampshire corporation with a principal place of business at PO Box 178, Plymouth, New Hampshire 03264 ( the "Mortgagor" or "Grantor"), for consideration paid, grants with mortgage covenants to BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, a public body corporate and agency of the State of New Hampshire with its principal office at 2 Pillsbury Street Suite 201, Concord, New Hampshire 03301 ("Mortgagee" or "Grantee") with MORTGAGE COVENANTS, to secure (i) the payment of up to Seven Hundred Fifty Thousand Dollars (\$750,000) with interest and other charges as provided in Mortgagor's Promissory Note of even date (the "Note"); (ii) the payment of all other sums with interest thereon advanced in accordance herewith to protect the security and priority of this Mortgage and Security Agreement (the "Mortgage"); and (iii) the performance of all of Mortgagor's agreements, obligations and covenants as contained in the Note, the Mortgage and a certain Loan Agreement of even date by and between Mortgagor and Mortgagee (the "Loan Agreement").

Certain tracts or parcels of land together with all improvements thereon and appurtenances thereto located in Plymouth, Grafton County, New Hampshire, more particularly described in Schedule A, attached hereto and made a part hereof (the "Premises"); and other improvements on said premises, now or hereafter owned by Mortgagor and now affixed or to be affixed, or now hereafter located upon said land, including all appurtenant easements;

As further security for payment of the indebtedness and performance of the obligations, covenants and agreements secured hereby, Grantor hereby transfers, sets over and assigns to Grantee:

(a) Any and all rents, security deposits, issues and profits, revenues, royalties, bonuses, rights and benefits under any and all leases or tenancies now existing or hereafter created of the Premises or any part thereof, with the right to receive and apply the same to said indebtedness, and Grantee may demand, sue for and recover such payments, but shall not be required to do so; provided, however, that so long as Grantor is not in default hereunder, the right to receive and retain such rents, issues and profits is reserved to Grantor. To carry out the foregoing, Grantor agrees (1) to execute and deliver to Grantee such conditional assignments of leases and rents applicable to the Premises as the Grantee may from time to time request, while this Mortgage and the debt secured hereby are outstanding, and further (2) not to cancel, accept a surrender of, reduce the rentals under, anticipate any rentals under, or modify any such leases or tenancies, or consent to an assignment or subletting thereof, in whole or in part, without Grantee's written consent. Nothing herein shall obligate the Grantee to perform the duties of the Grantor as landlord or lessor under any such leases or tenancies, which duties Grantor hereby covenants and agrees to well and punctually perform.

(b) All judgments, awards of damages and settlements hereinafter and as a result or in lieu of any taking of the Premises or any interest therein or part thereof under the power of eminent domain, or for any damage (whether caused by such taking or otherwise) to the Premises or

the improvements thereon or any part thereof, including any award for change of grade of streets. Grantee may apply all such sums or any part thereof so received on the indebtedness secured hereby in such manner as it elects, or, at its option, the entire amount or any part thereof so received may be released. Grantor hereby irrevocably authorizes and appoints Grantee its attorney-in-fact to collect and receive any such judgments, awards and settlements from the authorities or entities making the same, to appear in any proceeding therefor, to give receipts and acquittances therefore, and to apply the same to payment on account of the debt secured hereby, whether then matured or not; and the Grantor will execute and deliver to the Grantee on demand such assignments and other instruments as the Grantee may require for said purposes and will reimburse the Grantee for its cost (including reasonable counsel fees) in the collection of such judgments and settlements.

Receipt of rents, awards, and any other monies or evidences thereof, pursuant to the provisions of the foregoing paragraphs (a) and (b) and any disposition of the same by Grantee shall not constitute a waiver of the right of foreclosure by Grantee in the event of default or failure of performance by Grantor of any covenant or agreement contained herein or the Note or the Loan Agreement.

TO HAVE AND TO HOLD the aforegranted and bargained premises with all privileges and appurtenances thereof, to the said Mortgagee and its successors and assigns, to its and their use and behalf forever, and the said Mortgagor, for itself and its successors and assigns, does hereby covenant, grant and agree to and with the Mortgagee and its successors and assigns, that until the delivery hereof it is the lawful owner of the said granted premises seized and possessed thereof in its own right in fee simple, has full power and lawful authority to grant and convey the same in the manner aforesaid, that the premises are free and clear from any encumbrance whatsoever, except as otherwise recited in Schedule A, that it and its successors shall warrant and defend the same to the said Mortgagee and its successors and assigns against the lawful claims and demands of any person or persons whatsoever, except as otherwise herein recited; and that it will not cause or permit any lien to arise against the premises that is superior to the lien of this Mortgage.

The Mortgagor further covenants and agrees with the said Mortgagee, its successors and assigns, as follows:

1. To pay the Note hereby secured and interest thereon as the same shall become due and payable, and also any other indebtedness that may accrue to the Mortgagee under the terms of this Mortgage, and to perform all other agreements set forth herein and in said Note and the Loan Agreement. There is no right of setoff with respect to the Note, and Mortgagor must pay all sums due without deduction for any.

2. That the Mortgagor authorizes the holder hereof, whenever and as long as any default hereunder shall exist, to enter into and take possession of all or any part of the Premises, and to use, operate, manage and control the same and conduct the business thereof and complete any unfinished construction thereon and collect the rents and profits therefrom as the holder shall deem best. Upon every such entry, the holder may from time to time, at the expense of the Mort-

gagor, make such repairs, replacements, alterations, additions and improvements to the Premises as the holder may deem proper and may exercise all rights and power of the Mortgagor, either in its name or otherwise as the holder shall determine. All rents and profits from the Premises collected by the holder shall be applied to pay the expenses of holding and operating the Premises, or conducting the business thereof, of all maintenance thereof, of all repairs, replacements, alterations, additions and improvements thereto and to make all payments that the holder may be required or may elect to make, if any, for taxes, assessments, insurance, and other proper charges upon the Premises or any part thereof as well as charges and reasonable compensation for the services of the Mortgagee and of all persons engaged and employed in conducting the operation of the Premises. The remainder of such rents, and profits, if any, shall be applied to the payment of all sums of principal and interest then due to the Mortgagee of the debt secured hereby. If and whenever, prior to a foreclosure sale of the Premises, all arrears of required payments of interest and principal, and all sums paid or advanced by the holder under any provisions hereof, and the reasonable and proper charges, expenses and liabilities of the Mortgagee, its agents, attorneys and counsel, and all other sums then payable hereunder shall be paid or collected out of the Premises and all defaults hereunder shall have been cured, the Mortgagee may at its option surrender to the Mortgagor the possession of the Premises, and thereupon the Mortgagor and the Mortgagee shall be restored to their former position and rights hereunder with respect to the Premises, but no such surrender shall extend to or affect any subsequent default or impair any right consequent thereon. Provided, however, that in the exercise by the Mortgagee of the rights hereinabove in this paragraph contained, the Mortgagee shall not be required to waive any other rights that it may have acquired by reason of any prior default of the Mortgagor, including but not limited to the right of acceleration and foreclosure, to the end that unless the Mortgagee so elects, the holder is not required to cure past defaults with the net proceeds received from the operation of the property under an exercise of the rights granted in this paragraph, but may instead elect to apply such net proceeds to the debt, as accelerated. The provisions of this paragraph are supplementary to the rights granted by law to the holder to enter upon and take possession of the Premises or of any part hereof for breach of conditions of the Mortgage and to foreclose the same.

3. That the Mortgagor will keep the buildings, improvements and personal property now existing or hereafter erected or located on the Premises and the interests and liabilities incident to the ownership thereof insured against loss by fire and such other hazards, casualties and contingencies, and in manner, form and with the insurance companies as may be required by the Mortgagee. In no event shall the amount of coverage be less than one hundred percent (100%) of the insurable value based on replacement cost, and in default thereof the Mortgagee shall have (in addition to other rights set forth herein) the right to obtain such insurance at the cost of Mortgagor, such cost to be secured hereby. Such policy shall be endorsed with the standard New Hampshire mortgagee clause with loss payable to the Mortgagee, as its interest may appear, and shall be deposited with the Mortgagee, as its interest may appear, and the Mortgagor shall deliver to the Mortgagee a new policy as replacement for any expiring policy at least fifteen (15) days before the date of such expiration; that all such policies will contain a provision or endorsement that they may not be canceled without sixty (60) days written notice from the insurer to the Mortgagee; that all amounts recoverable under any policy are hereby assigned to the Mortgagee, and in the event of a loss, the amount collected may, at the option of the Mortgagee, be used in any

one or more of the following ways: (1) applied upon the indebtedness then matured or unmatured; (2) used to fulfill any of the covenants contained herein as the Mortgagee may determine; (3) used to replace or restore the property to a condition satisfactory to the Mortgagee; or (4) released to the Mortgagor; the Mortgagee is hereby irrevocably appointed by the Mortgagor as attorney-in-fact of the Mortgagor to assign any policy in the event of the foreclosure of this mortgage or other extinguishment of the indebtedness secured hereby. The insurance carrier providing the insurance shall be a carrier qualified to write such insurance in the State of New Hampshire and shall be chosen by the Mortgagor subject to the approval of the Mortgagee. Additionally the Borrower shall maintain or cause to be maintained public liability insurance on the Premises in an amount acceptable to Mortgagee and in excess of \$5000.00 carrier acceptable to Mortgagee.

4. That the Mortgagor will pay, before the same become delinquent or any penalty attached thereto for nonpayment, all taxes, assessments and charges of every nature that may now or hereafter be levied or assessed, upon the Premises or any part thereof, or upon the rents, issues, income or profits thereof, whether any or all of said taxes, assessments or charges be levied directly or indirectly, and will pay, before the same become delinquent or any penalty attached thereto for the nonpayment, all taxes that by reason of nonpayment create a lien prior to the lien of the Mortgage; and will thereon submit to the Mortgagee such evidence of the due and punctual payment of such taxes, etc. as the Mortgagee may require, and the Mortgagor will also pay all taxes, assessments or charges that may be levied on the Note secured hereby, or on the interest thereon, excepting the federal income tax imposed under the laws of the United States of America or any future general income tax levied by the State of New Hampshire.

5. That the Mortgagor will keep protected in good order, repair and condition (reasonable wear and tear and casualty insured against excepted) at all times the buildings and improvements (including Mortgagor's fixtures) now standing or hereafter erected or placed upon the Premises and any and all of Mortgagor's appurtenances, apparatus and articles of personal property, including, but not limited to, furniture, furnishings and equipment, now or hereafter in or attached to or used in connection with said buildings or improvements, promptly replacing any of the aforesaid that may become lost, destroyed or unsuitable for use; will always maintain in good order and condition all the facilities, easements, works, and ways set forth in the description and easements of the Mortgage, whether located upon the premises hereby mortgaged or elsewhere; and will not commit or suffer any strip or waste of the Premises, or any violation of any law, regulation, ordinance or contract affecting the Premises, and will not commit or suffer any demolition, removal or material alteration of any buildings or improvements (including fixtures) on the Premises without the written consent of the Mortgagee.

6. If the Mortgagor shall neglect or refuse to keep in good repair the property conveyed by this Mortgage, to replace the same as herein agreed, to maintain and pay the premiums for insurance that may be required under Paragraph 3, or to pay and discharge all taxes, assessments and charges of every nature and to whomever assessed, as provided for in Paragraph 4, the Mortgagee may, at its election, cause such repairs or replacements to be made, obtain such insurance or pay said taxes, assessments and charges, and any amounts paid as a result thereof, together with interest thereon at the highest rate of interest specified in the Note secured hereby from

the date of payment, shall be immediately due and payable by the Mortgagor to the Mortgagee, and until paid shall be added and become part of the principal debt secured hereby, and the same may be collected as a part of said principal debt in any suit herein or upon the Note; or the Mortgagee, by the payment of any tax, assessment or charge, may if it sees fit if allowed by law, be thereby subrogated to the rights of the state, county, village and all political or governmental subdivisions. No such advances shall be deemed to relieve the Mortgagor of any default hereunder or impair any right or remedy consequent thereon, and the exercise of the rights to make advances granted in this paragraph shall be optional with the Mortgagee and not obligatory, and the Mortgagee shall not in any case be liable to the Mortgagor for a failure to exercise any such right. Mortgagee shall have no responsibility with respect to the legality, validity and priority of any such claim, lien, encumbrance, tax, assessment and premium, and of the amount necessary to be paid in satisfaction thereof.

7. Grantor within seven (7) days upon request in person or within ten (10) days upon request by mail, shall furnish a duly acknowledged written statement setting forth the amount of the debt secured by the Mortgage, and stating either that no offsets or defenses exist against the mortgage debt, or, if such defenses are alleged to exist, the nature thereof.

8. That if any action or proceeding be commenced, to which action or proceeding the Mortgagee is made a party by reason of the execution of the Mortgage or the Notes that it secures, or in which it becomes necessary to defend or uphold the lien of the Mortgage, all sums paid by the Mortgagee for the expense of any litigation to prosecute or defend the rights and lien created hereby including attorneys' fees, shall be paid by the Mortgagor, together with interest thereon from date of payment at the highest rate specified in the Note secured hereby, and any such sum, and the interest thereon, shall be immediately due and payable and be secured hereby, having the benefit of the lien hereby created, as a part thereof and of its priority.

9. Without affecting the liability of Grantor or any other person (except any person expressly released in writing) for payment of any indebtedness secured hereby or for performance of any obligation contained herein, and without affecting the rights of Grantee with respect to any security not expressly released in writing, Grantee may at any time and from time to time, either before or after the maturity of said Note and without notice or consent:

a. Release any person liable for payment of all or any part of the indebtedness or for performance of any obligation.

b. Make any agreement extending the time or otherwise altering the terms of payment of all or any part of the indebtedness, or modifying or waiving any obligation, or subordinating, modifying or otherwise dealing with the lien or charge hereof.

c. Exercise or refrain from exercising or waive any right Grantee may have.

d. Accept additional security of any kind.

e. Release or otherwise deal with any property, real or personal, securing the indebtedness, including all or any part of the property mortgaged hereby.

10. If at any time the then-existing use or occupancy of the mortgaged premises shall, pursuant to any zoning or other law, ordinance or regulation, be permitted only so long as such use or occupancy shall continue, that Grantor shall not cause or permit such use or occupancy to be discontinued without the prior written consent of the Grantee.

11. Grantee must examine and approve (which approval will not be unreasonably withheld) in writing prior to execution, delivery and commencement thereof, all leases, tenancies and occupancies of the Premises entered into by Grantor other than in the ordinary course of business.

12. That receipt and disposition of rents, income of the Premises, insurance proceeds, eminent domain awards, or any other sums under the provisions of the Mortgage, the Note, or the Loan Agreement by Mortgagee shall not be a waiver or release of any rights of the Mortgagee, including but not limited to, the right of foreclosure or acceleration of the Note, whether such receipt or disposition shall be before or after exercise of any such rights.

13. This Mortgage is not assignable or assumable. If all or any part of the Premises is sold or conveyed or if there are transfers of any interests in Mortgagor, without Mortgagee's consent, then Mortgagee may, at its option, require immediate payment in full of all sums secured by this Mortgage. Mortgagee shall partially release lots in accordance with the Note.

14. The Mortgagor shall not, without the prior written consent of the Mortgagee, grant any other security interest in the Premises.

In the event of default, the Mortgagee for itself, its successor and assigns, shall have the right (given to it under the law of New Hampshire) to pursue various remedies simultaneously, including the right to take possession of the Premises, receive the rents, income and profits, to sue on the Note, and/or at the same time to conduct foreclosure proceedings until full satisfaction of the obligations and all sums due hereunder is obtained.

The Mortgagor shall have the right to contest by appropriate legal proceedings, but without cost or expense to the Mortgagee, the validity of any laws, ordinances, order, rules and regulations affecting the Premises if compliance therewith may legally be held in abeyance without the sufferance of any charge, lien or liability against the Premises, and the Mortgagor may postpone compliance therewith until the final determination of any such proceedings, provided they shall be prosecuted with due diligence and dispatch, and if any lien or charge is incurred, the Mortgagor may, nevertheless, make the contest and delay compliance, provided the Mortgagee is furnished with security, reasonably satisfactory to it, against any loss or injury by reason of such noncompliance or delay.

AND IT IS HEREBY AGREED that if default is made in the payment of any installment due under said Note, or if defaults be made in the performance of any of the covenants, condi-

tions or payments hereunder or under the Loan Agreement , or if by order of a court of competent jurisdiction a receiver or liquidator or trustee of the Mortgagor for the time being of the Premises shall be appointed and shall not have been discharged within forty-five (45) days, or if by decree of such court such Mortgagor shall be adjudicated bankrupt or insolvent and such decrees shall continue to be undischarged and unstayed for forty-five (45) days after the entry thereof, or if a petition to reorganize such Mortgagor pursuant to the Federal Bankruptcy Code or any other similar statute applicable to such Mortgagor and shall not be dismissed within forty-five (45) days after such filing, or such Mortgagor shall file a petition in voluntary bankruptcy under any provisions of any bankruptcy law, or shall consent to the filing of any bankruptcy or reorganization petition under such law, or if (without limitation of the general of the foregoing) such Mortgagor shall file a petition for an arrangement or to reorganize such Mortgagor pursuant to the Federal Bankruptcy Code or any other similar statute applicable to such Mortgagor, as now or hereafter in effect, or if such Mortgagor shall institute any proceeding for its dissolution or liquidation, or shall make an assignment for the benefit of creditors, or shall admit in writing inability to pay its debts generally as they become due, or shall consent to the appointment of a receiver or trustee or liquidator of such Mortgagor, then the full principal sum or unpaid balance of the debt secured hereby together with interest and all advances, if any, shall immediately become due and payable at the option of the Mortgagee or its successors or assigns and the said Mortgagee or its legal representatives or assigns may advertise the Premises for sale and sell the same all in accordance with the applicable provisions of the Revised Statutes Annotated, as amended, and the deed thereof of the Mortgagee, or its assigns or legal representatives, in pursuance of such sale, shall convey to the purchaser an indefeasible title to the Premises, discharged of all rights of redemption by the Mortgagor, its successors or assigns, or any person claiming from, by or under it; and such purchaser shall in no way be answerable for the application of the purchase price; and the Mortgagee or its legal representatives shall apply the proceeds in payment of such fees, costs, charges and expenses, including attorneys' reasonable fees and in payment of this mortgage indebtedness, paying the balance, if any, to the Mortgagor or its legal representatives.

The Mortgage is given upon the STATUTORY CONDITIONS as well as the foregoing conditions for the breach of any of which or upon any default whatsoever thereunder, and in addition to any other right or remedy hereinabove or otherwise appearing, the Mortgagee shall have and may exercise STATUTORY POWER OF SALE, reference being made hereby to the Laws of the State of New Hampshire.

PROVIDED, NEVERTHELESS, that if the said Mortgagor, its successors or assigns, pay to the said Mortgagee, or its successors or assigns, the principal balance with interest and comply with and perform all terms and obligations as set forth in the Note, the Mortgage, and Loan Agreement during such time as said principal sum or any part thereof shall remain unpaid and shall pay said interest in installments and the whole sum in any event on or before the date(s) the Note matures, or earlier, all as provided in the Note, and until such payment shall pay all taxes, insurance premiums and escrow deposits, and assessments on the granted premises, nor default in any of the Mortgagor's covenants or obligations, nor commit any breach of any covenant herein contained, then the Mortgage shall be void; otherwise it shall remain in full force and effect.

Any demand, notice or request by either party to the other shall be sufficiently given if delivered to the party intended to receive the same, or if mailed by registered or certified mail addressed to such party at the address of such party stated above, or at such other address as may be stated in a notice delivered or mailed as herein provided.

The covenants and agreements herein contained shall bind, and the benefits and advantages thereof shall inure to, the respective heirs, executors, administrators, successors and assigns of the Mortgagor and Mortgagee. Wherever used the singular number shall include the plural, the plural the singular, the use of any gender shall be applicable to all genders.

In the event of any conflict between the terms, covenants, conditions and restrictions contained in this Mortgage, the Note and the Loan Agreement, the term, covenant and condition or restriction that imposes the greater burden or obligation upon the Mortgagor shall control. The determination as to which term, covenant, condition or restriction is the more burdensome or imposes the greater obligation shall be made by the Mortgagee in its sole discretion.

In any case where any one or more of the provisions of this Mortgage are held to be invalid, illegal or enforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions hereof.

For the purpose of this Mortgage, the addresses of the parties are:

Mortgagor (Debtor)	Grafton County Economic Development Council PO Box 178 Plymouth, New Hampshire 03264
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Mortgagee (Secured Party)	Business Finance Authority of the State of New Hampshire 2 Pillsbury Street, Suite 201 Concord, NH 03301
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This is not homestead property.

Mortgagor, for the consideration aforesaid, hereby waives all rights of exemption in the Premises as the same are now or hereafter provided by virtue of the Bankruptcy provisions of the United States Code, including, without limitation, 11 U.S.C. 522.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2012.

GRAFTON COUNTY ECONOMIC  
DEVELOPMENT COUNCIL

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

Name:

Title:

STATE OF NEW HAMPSHIRE  
COUNTY OF GRAFTON

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2012, by \_\_\_\_\_, \_\_\_\_\_ of Grafton County Economic Development Council, a New Hampshire corporation, on behalf of said corporation.

\_\_\_\_\_  
Justice of the Peace/Notary Public

My commission expires: \_\_\_\_\_

SCHEDULE A

aidprog\ccdmgt.sec

**LOAN AGREEMENT**

THIS AGREEMENT made this \_\_\_\_ day of \_\_\_\_\_, 2012 by and between **BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE**, a public body corporate and agency of the State of New Hampshire with its principal office at 2 Pillsbury Street, Suite 201, Concord, New Hampshire 03301 (the "Lender"), and **GRAFTON COUNTY ECONOMIC DEVELOPMENT COUNCIL**, a New Hampshire economic development agency with a principal place of business at PO Box 178, Plymouth, New Hampshire ( the "Borrower").

**RECITALS**

A. The Borrower desires to obtain a loan from the Lender to complete the construction of the Enterprise Center in Plymouth, New Hampshire. (the "Premises").

B. The Borrower is executing and delivering to the Lender its Promissory Note of even date herewith in the principal amount of \$750,000 (as it may be amended from time to time, the "Note").

C. The Note is intended to be secured by a second mortgage lien on property located at 149 Main Street, Plymouth, New Hampshire and certain other instruments, all of which are of even date herewith (collectively such documents are referred to as the "Security Instruments").

D. The Lender is willing to lend, and the Borrower desires to borrow, the sums of money to be evidenced by the Note upon the terms and covenants and subject to the conditions hereinafter set forth.

NOW THEREFORE, for valuable consideration, it is agreed by and between the parties hereto as follows:

**1. Lender's Agreement to Advance Proceeds.** Provided the terms, covenants and agreements hereof shall be observed and performed, the Lender agrees to loan to the Borrower, and the Borrower agrees to borrow from the Lender, an amount equal to the total principal amount of the Note (such advances made being hereinafter referred to as the "Loan Proceeds").

**2. Representations of Borrower.** The Borrower represents and warrants as follows:

(a) The Recitals set forth at the beginning of this Agreement are true and correct;

(b) No litigation or proceedings or, to the best of its knowledge, governmental investigations are pending or threatened against the Borrower or affecting the Premises that could affect the validity or priority of the Security Instruments or that could affect the Borrower's ability to perform its obligations under this Agreement;

(c) The balance sheets and financial statements of Borrower, which were submitted in connection with Borrower's request for the loan contemplated herein and in connection with the Lender's loan commitment, were prepared in accordance with generally accepted principles of accounting applied on a basis consistent with that of preceding periods and are complete and correct and fairly present the financial condition of the Borrower as of said dates. To the best of the Borrower's knowledge and belief, the Borrower does not have any contingent obligations, liabilities for taxes or unusual forward or long-term commitments except as in the foregoing financial statements specifically mentioned. Since the date of such financial statements, there has been no material adverse change in the financial condition of the Borrower;

(d) The Borrower is a duly organized and validly existing New Hampshire economic development agency in good standing under the laws of the State of New Hampshire. The Borrower has the power and authority to own its properties and to carry on business as now being conducted and is qualified to do business in New Hampshire, the sole state in which it conducts business and has the power to execute and deliver, and perform its obligations under this Agreement, the Security Instruments and the Note;

(e) The execution and delivery and performance by the Borrower of its obligations under this Agreement, the Note and each of the Security Instruments will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which the Borrower is a party, or by which it is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Agreement, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the Borrower pursuant to, any such indenture, agreement or instrument. The Borrower is not required to obtain any consent, approval or authorization from, or to file any declaration or statement with, any governmental instrumentality or other agency in connection with or as a condition to the execution, delivery or performance of this Agreement, the Note or the Security Instruments and, in addition, no litigation or proceedings are pending or threatened against Borrower or the Premises;

(f) Any borrowings made by the Borrower under this Agreement do not and will not render the Borrower insolvent; the Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of its property, and the Borrower has no knowledge of any person contemplating the filing of any such petition against it, including the properties and assets reflected in its financial statements referred to herein;

(g) No statement of fact made by or on behalf of the Borrower in this Agreement or in any certificate or schedule furnished to the Lender pursuant thereto, contains any untrue statement of a material fact or, to the best of its knowledge, omits to state any material fact necessary to make statements contained therein or herein not misleading. There is no fact presently known to the Borrower that has not been disclosed to the Lender that materially affects adversely, nor as far as the Borrower can foresee, will materially affect adversely the property, business, operations or considerations (financial or otherwise) of the Borrower;

(h) The Borrower has filed all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments;

(i) This Agreement, the Assignment of Note and each of the Security Instruments, upon delivery, will be the valid and binding obligations of the Borrower, enforceable in accordance with their respective terms;

(j) To the best of its knowledge, the Borrower has not used the Premises for the generation, treatment, storage or transportation of hazardous waste, as that term is defined under applicable federal and state law, nor, to the best of its knowledge, have other parties so used the Premises. No funds have been expended from the State of New Hampshire's hazardous waste cleanup fund established under NHRSA 147-B with respect to any property located in New Hampshire in which the Borrower has an interest, including the Premises, which would entitle the State to a so-called superlien pursuant to NHRSA 147-B:10, III;

(k) There are no underground fuel storage tanks located on the Premises that would require inspection or replacement pursuant to RSA 146-C or New Hampshire Water Supply and Pollution Control Commission Regulation WS-411 et. seq.;

(l) The Premises are not located in a Flood Hazard Zone, so-called; and

(m) The loan evidenced by the Note is consistent with local and regional development plans and policies.

Each of the foregoing representations and warranties shall survive the making of the loan hereunder, and the Borrower shall indemnify and hold harmless the Lender from and against any loss, damage or liability attributable to the breach thereof, including all fees and expenses incurred in the defense or settlement of any claim arising therefrom against the Lender.

**3. Conditions Precedent.** The Lender's obligation to advance any of the Loan Proceeds shall be subject to the satisfaction of the following conditions precedent:

(a) The Borrower shall have good and marketable title to the Premises in fee simple and full possession thereof, free and clear of all liens and encumbrances except such encumbrances as are set forth in the Mortgage (hereinafter referred to as the "Permitted Encumbrances");

(b) The Borrower shall have executed and delivered to the Lender the Note and each of the Security Instruments, each of which shall be in form and substance satisfactory to the Lender;

(c) The Lender shall have received such additional instruments, certificates, opinions, surveys and other documents as the Lender may reasonably request; and

(d) No Event of Default (as defined herein) nor any event which with the giving of notice or passage of time, or both, would constitute an Event of Default shall have occurred.

**4. Covenants of the Borrower.** Until payment in full of all sums required to be paid by the Borrower under the Note and pursuant to the provisions of this Agreement or any Security Instrument, the Borrower shall:

(a) Permit the Lender and its representatives to enter upon the Premises and inspect the Premises at all reasonable times and examine any books and records relating to the Premises;

(b) Maintain liability and fire and casualty insurance on the Premises and any material or equipment stored on the Premises, and workman's compensation insurance with such companies, in such amounts and covering such risks as required by the Mortgage or in the absence of such a requirement in the Mortgage as shall be reasonably satisfactory to the Lender and furnish such insurance policies to the Lender (premiums prepaid or, after default by the Borrower in so doing, the Lender may procure at the expense of the Borrower), insuring the interests of the Borrower and the Lender, as their respective interests may appear and, upon request, certificates evidencing such insurance coverage shall be promptly delivered to the Lender;

(c) Pay on demand such fees and expenses that Borrower is required to pay under the Lender's loan commitment;

(d) Pay on demand such other reasonable fees and expenses (including attorney's fees) that Lender incurs in the making and administration of this loan;

(e) Cooperate fully with the Lender with respect to any proceedings before any court, board or governmental agency that may in any way affect the rights of the Lender hereunder or any rights obtained by the Lender under any of the Security Instruments and, in connection therewith, permit the Lender, at its election, to participate in any such proceedings;

(f) Do or cause to be done all things necessary to preserve, renew and keep in full force and effect its existence, rights, licenses, permits and franchises and comply with all laws and regulations applicable to it;

(g) Pay and discharge or cause to be paid and discharged all taxes, assessments and governmental charges or levies imposed upon it or upon its respective income and profits or upon any of its property, real, personal or mixed, or upon any part thereof, before the same shall become in default; provided that the Borrower shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment, charge, levy or claim so long as the validity thereof shall be contested in good faith by appropriate proceedings and it shall have set aside on its books adequate reserves with respect to any such tax, assessment, charge, levy or claim, so contested; and provided, further, that payment with respect to any such tax, assessment, charge,

levy or claim shall be made before any of its property shall be seized or sold in satisfaction thereof;

(h) Give prompt written notice to the Lender of any proceedings instituted against it by or in any federal or state court or before any commission or other regulatory body, whether federal, state or local, which, if adversely determined, would have an adverse effect upon its business, operations, properties, assets, or condition, financial or otherwise;

(i) Furnish to Lender such information regarding its operation, assets, business affairs and financial condition, as the Lender may reasonably request and in particular within ninety (90) days of the close of each fiscal year during the term of the Loan, the Borrower shall deliver to the Lender annual financial statements prepared in accordance with generally accepted accounting principles and certified by the Borrower as being correct in all material respects and otherwise in form and content reasonably acceptable to the Lender, and as soon as practicable upon filing with the Internal Revenue Service each year, the Borrower's complete federal income tax return with the schedules thereto; and

**5. Events of Default.** The occurrence of any of the following events shall constitute an Event of Default under this Agreement:

(a) The Borrower attempts to assign its rights under this Agreement or any advance made or to be made hereunder or any interest therein, or if the Premises are conveyed or encumbered in any way without the written consent of the Lender, which shall not be unreasonably withheld;

(b) The Premises are materially damaged or destroyed by fire or other casualty or cause and the insurance proceeds therefrom (subject to the terms of the Mortgage) are inadequate to rebuild or restore the Premises to their condition immediately prior to such casualty;

(c) Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement or any advances made hereunder, by or in behalf of the Borrower, shall prove to be false or misleading in any material respect;

(d) Any mechanics', laborers', materialmen's or similar statutory liens, or any notice thereof, shall be filed against the Premises and shall not be discharged within thirty (30) days of such filing or such greater period of time as shall be permitted by the terms of the Mortgage;

(e) The Borrower shall default in the due observance or performance of any covenant, condition or agreement to be observed or performed by the Borrower under this Agreement not otherwise specifically referred to in this Paragraph 5;

(f) Any default or event of default as defined in the Note or any Security Instrument or a default under any guaranty guaranteeing the Borrower's obligations hereunder, or any

event which, with the giving of notice or passage of time, or both, would become an event of default under such instruments shall occur;

(g) The Borrower shall (i) apply for or consent to the appointment of a receiver, trustee or liquidator of the Borrower or any of its property, (ii) admit in writing its inability to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated as bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law;

(h) A petition, order, judgment or decree shall be entered, without the application, approval or consent of the Borrower by any court of competent jurisdiction, approving a petition seeking reorganization or approving the appointment of a receiver, trustee or liquidator of the Borrower of all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) days;

(i) The dissolution, termination of existence, merger or consolidation of the Borrower or a sale of assets of the Borrower out of the ordinary course of business without the prior written consent of the Lender;

(j) Default by the Borrower in the payment or performance of any other obligations of the Borrower owed to the Lender, whether created prior to, concurrent with, or subsequent to the obligations arising out of this Agreement, provided such default continues after any applicable notice and expiration of any applicable grace period;

(k) Default by the Borrower in any other obligation for borrowed money in excess of Twenty-Five Thousand Dollars (\$25,000.00);

(l) Final judgment for the payment of money of more than Twenty-Five Thousand Dollars (\$25,000.00) in excess of any insurance proceeds shall be rendered against the Borrower and shall remain undischarged for a period of thirty (30) days during which execution shall not be effectively stayed.

## **6. Lender's Rights and Remedies Upon Default.**

6.1 Upon the occurrence of any Event of Default, all obligations on the part of the Lender to make advances under this agreement shall, if the Lender so elects, cease, and, at the option of the Lender (but subject to the terms and conditions set forth in the Note and any applicable Security Instrument), the Note shall become immediately due and payable, and the Lender shall thereupon be authorized and empowered to exercise any rights of foreclosure or as otherwise provided for the realization of any security for the Note covered by any of the Security Instruments; but the Lender may make any advances or portions of advances, after the occurrence of any such Event of Default, without thereby waiving its right to demand payment of the Borrower's indebtedness

evidenced by the Note and secured by the Security Instruments and without becoming liable to make any other or further advances as hereinabove contemplated by this Agreement.

6.2 In addition to the remedies hereinabove provided by subparagraph 6.1, upon the occurrence of any Event of Default, the Lender shall be authorized and empowered, at its election, to enter upon the Premises and to appoint watchmen to protect the Premises, all at the risk, reasonable cost and expense of the Borrower.

6.3 Upon the occurrence of any Event of Default, the rights, powers, privileges and other remedies available to the Lender under this Agreement or at law or in equity shall be cumulative and may be exercised by the Lender at any time and from time to time and shall not constitute a waiver of any of the Lender's right or remedies hereunder or thereunder, whether or not the indebtedness evidenced and secured by the Note and the Security Instruments shall be due and payable, and whether or not the Lender shall have instituted any foreclosure proceedings or other action for the enforcement of its rights under the Note or any of the Security Instruments.

6.4 Any deposits or other sums at any time credited by or due from the Lender to the Borrower and any securities or other property of the Borrower at any time in possession of the Lender may at all times be held or treated as collateral security for the payment of the loan and any and all liabilities of the Borrower or any Guarantor to the Lender. Upon an Event of Default the Lender may apply or set-off such deposits or other sums or property against such liabilities.

6.5 For the purpose of carrying out the provisions and exercising the rights, powers and privileges granted by this Agreement, the Borrower hereby irrevocably constitutes and appoints the Lender its true and lawful attorney-in-fact, with full power of substitution, to execute, acknowledge and deliver any instruments and do and perform any acts that are referred to herein in the name and behalf of the Borrower. The power vested in said attorney-in-fact is, and shall be deemed to be, coupled with an interest and cannot be revoked.

## **7. Hazardous Materials Indemnification.**

### 7.1 Definitions.

(a) The term "Hazardous Materials" shall mean and include asbestos, polychlorinated biphenyls ("PCB's"), other carcinogens, oil and other petroleum products, and any other hazardous or toxic materials, wastes and substances which are defined, determined or identified as such under RSA Chapters 146-A, 146-C, 147-A and 147-B, CERCLA, or any other applicable federal, state or local laws, rules, codes or regulations or any judicial or administrative interpretation thereof; and

(b) The term "Legal Requirements" shall mean all federal, state or local laws, rules, codes or regulations, or any judicial or administrative interpretation thereof, including, without limitation, all orders, decrees, judgments and rulings imposed through any public or private enforcement proceedings, relating to Hazardous Materials or the existence, use, discharge, release, containment, transportation or disposal thereof.

7.2 Indemnification. At all times, both before and after any conveyance or foreclosure of the Premises, the Borrower shall at its sole cost and expense indemnify, exonerate, protect and save the Lender harmless against and from any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgment, suits, proceedings, costs, disbursements or expenses of any kind or nature whatsoever, including without implied limitation, attorneys' and experts' fees and disbursements, which may at any time be imposed upon, incurred by or asserted or awarded against the Lender and arising from or out of:

A. Any Hazardous Materials on, in, under or affecting all or any portion of the Premises or any areas surrounding the same before the Borrower is divested of title to the Property by conveyance or foreclosure or divested of possession of the Premises following an Event of Default;

B. The violation by the Borrower of any Legal Requirements with respect to the Premises; or

C. The enforcement of this paragraph 7 of the Agreement or the assertion by the Borrower of any defense to the obligations of an indemnitor hereunder, whether any of such matters arise before or after foreclosure of the Mortgage or other taking of title to or possession of all or any portion of the Premises by the Lender, and specifically including therein, without limitation, the following to the extent they are a result of the matters described in clauses A or B above:

(i) costs of removal of any and all Hazardous Materials from all or any portion of the Premises or any areas surrounding the same;

(ii) additional costs required to take necessary precautions to protect against the release of Hazardous materials on, in, under, or affecting, the Premises or into the air, any body of water or wetland, any other public domain, or any surrounding areas;

(iii) costs incurred to avoid the imposition of, or to discharge, any lien on the Premises arising from any failure to comply with Legal Requirements;

(iv) costs incurred to comply with all Legal Requirements relating to the Premises or any other collateral for the Loan, including without implied limitation, fines, penalties or other charges imposed by any lawful authority; and

(v) costs and expenses incurred in ascertaining the existence or extent of any asserted violation of any Legal Requirements relating to the Premises and any remedial action taken on account thereof including, without implied limitation, the costs, fees and expenses of engineers, geologists, chemists, other scientists, attorneys, surveyors and other professionals, and testing and analyses performed in connection therewith. The foregoing shall not apply to precautionary testing which is not in response to a specific identified potential release at the Premises.

**8. Expenses.** The Borrower shall pay the Lender on demand any commitment or service fees specified in the Lender's loan commitment and all expenses incurred or paid by the Lender

that relate to this loan transaction, the Note and any Security Instrument, including (without limitation) the examination of title to the Premises, the cost of appraisal, charges for examining public records in connection with advances from the Loan proceeds, inspections, drawing of papers, recording and filing fees, revenue stamps, if any, and the fees and disbursements of counsel, all of such fees or expenses to be paid from the disbursement from the Loan Proceeds hereunder and to constitute additional indebtedness of the Borrower secured by the Security Instruments.

**9. Assignments.** The Lender may assign, negotiate or pledge all or any portion of its rights under this Agreement or any of its rights or security with respect to the Note and the Security Instruments, and, in case of such assignment, the Borrower shall accord full recognition thereto. The Borrower hereby consents to the Lender's delivery of any and all financial or other information concerning the Borrower or the Guarantors to any assignee or participating lender. The Borrower shall not assign or attempt to assign directly or indirectly, any of its rights under this Agreement or under any instrument referred to herein without the prior written consent of the Lender, which shall not be unreasonably withheld.

#### **10. General Provisions.**

10.1 The captions in this instrument are for convenience and reference only and do not define, limit or describe the scope of the provisions hereof.

10.2 Whenever the context so requires, reference herein to the neuter gender shall include the masculine and/or feminine gender, and the singular number shall include the plural.

10.3 The terms, covenants, agreements and conditions contained herein shall extend to, include, and enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of the Borrower, as the case may be, and the successors and assigns of the Lender.

10.4 Any notice, demand, request or other communication given hereunder or in connection herewith shall be in writing and sent by certified mail, postage prepaid, return receipt requested, addressed to the party to receive the same at its address set forth above or at such other address as such party may hereafter designate by notice given in like fashion. Any such notice, demand, request or other communication shall be deemed given when mailed as aforesaid.

10.5 This Agreement has been made in the State of New Hampshire, and the provisions thereof shall be governed by and construed in accordance with the law of the State of New Hampshire (excluding the laws applicable to conflicts or choice of laws).

10.6 This Agreement, together with all schedules and exhibits hereto and the Note and the Security Instruments, contains the full, final and exclusive statement of the agreement of the parties with respect to the subject matter hereof and supersedes all prior understandings, representations or agreements, whether written or oral, with respect to such subject matter.

10.7 No amendment, modification, termination or waiver of any provision of this Agreement or the Note shall be effective unless it is in a writing executed by the Lender and in the case of an amendment, modification or termination by the Borrower.

10.8 If any term of this Agreement or the application thereof to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Agreement or the application of such term to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term of the Agreement shall be valid and enforceable to the fullest extent permitted by law.

10.9 If the Borrower consists of more than one person or entity, such persons or entities shall have joint and several liability hereunder.

IN WITNESS WHEREOF, the Lender and the Borrower have each duly caused this Agreement to be executed, by their respective officers, thereunto duly authorized, as of the day and year indicated above.

In the presence of:

BUSINESS FINANCE AUTHORITY OF  
THE STATE OF NEW HAMPSHIRE

By: \_\_\_\_\_  
Name:  
Title:

GRAFTON COUNTY ECONOMIC  
DEVELOPMENT COUNCIL

By: \_\_\_\_\_  
Name:  
Title:

**PROMISSORY NOTE**

\$750,000

Plymouth, New Hampshire  
\_\_\_\_\_, 2012

FOR VALUE RECEIVED, GRAFTON COUNTY ECONOMIC DEVELOPMENT COUNCIL, a New Hampshire corporation with a principal place of business at PO Box 178, Plymouth, New Hampshire 03264, ( the "Maker"), promise to pay to Business Finance Authority of the State of New Hampshire, a public body corporate and agency of the State of New Hampshire with a principal place of business at 2 Pillsbury Street, Suite 201, Concord, New Hampshire 03301, or its order (the "Payee"), the sum of Seven Hundred Fifty Thousand Dollars (\$750,000), ( or such lesser amount as may be advanced to the Maker by the Payee pursuant to a Loan Agreement of even date between the Maker and the Payee) in lawful money of the United States, together with interest thereon at a variable rate of interest of prime plus one-half (.5%) percent (the "Interest Rate").

**1. Payments.** The interest on this Note shall be payable in monthly payments due on the \_\_\_\_\_ of each month beginning \_\_\_\_\_, 2012 and maturing on the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**2. Prepayment.** The Maker shall have the right to prepay any or all sums due under this Note without penalty. Prepayments shall be applied first to accrued interest and then to principal. Partial prepayments of principal shall be applied against the outstanding principal balance; provided, however, that the Maker shall continue to make principal payments in the amounts specified above and on the dates specified above, with interest on the outstanding principal balance recomputed accordingly, until the Maker's obligations under this Note are satisfied in full. The unpaid principal balance of this Note shall at any time equal the total amounts advanced by the Payee less the total amounts of prepayments of principal made hereon by or for the account of the Maker. It is contemplated that by reason of prepayments hereon, there may be times when no indebtedness is owing hereunder; but notwithstanding such occurrences this Note shall remain in full force and effect as to the loans or advances made pursuant to and under the terms of this Note subsequent to each occurrence.

**3. Mortgage.** This Note is secured by a Mortgage and Security Agreement of the Maker of near or even date herewith that provides a mortgage of real property of the Maker located in Plymouth, New Hampshire (the "Mortgage").

**4. Due Date. Late Payment.** All payments of principal and interest shall be due on or before the due date specified above; provided, however, that the Maker shall not be deemed in default hereunder if payment is received by the Payee on or before 5:00 p.m. of the tenth day fol-

lowing the due date. The Maker agrees to pay a late charge of five percent (5%) of the amount of any payment due under this Note that is not paid within ten (10) days of its due date.

**5. Applicable Interest.** The Maker expressly agrees that the interest rate specified in this Note shall be the applicable interest rate due (i) on amounts outstanding during the term hereof and (ii) with respect to any amount outstanding on and after the maturity date hereof.

**6. Default; Acceleration.** The Maker shall be in default of this Note, and all principal and accrued interest thereon shall immediately become due and payable, without notice or demand, upon the occurrence of any of the following events: a) failure to make payment of any principal or interest installment due hereunder (or within such grace period as may be provided herein), b) the failure of the Maker to observe or perform any of the other obligations to the Payee under this Note, if within thirty (30) days of written notice of the same from the Payee, the Maker has not cured the same, or, in the alternative, where in the normal course such cure would require more than thirty (30) days, has not taken all steps necessary or possible to commence such cure and does not pursue such cure swiftly to its completion, c) a default under the Loan Agreement or the Mortgage or d) a default in any other obligation of the Maker to the Payee, whether now existing or hereinafter incurred.

In the event the Maker of this Note shall file a petition under any section of the Bankruptcy Code, shall make an assignment for the benefit of creditors, shall have a receiver appointed over its affairs who shall not be discharged within thirty (30) days from the date of appointment, or shall have filed against it a petition under a section of the Bankruptcy Code, or any debtor-creditor act, which petition shall not be dismissed within thirty (30) days of the date of filing of the same, then the balance of principal and interest remaining unpaid on this Note shall become due and payable forthwith without demand or notice.

**7. Costs of Collection.** If this Note is not paid in full when it becomes due, or if any payment required hereunder shall not be paid when due, or within such grace period as may be expressly provided herein, the Maker agrees to pay all costs and expenses of collection, including reasonable attorneys' fees, regardless of whether legal proceedings have been formally commenced.

**8. Waiver of Presentment.** The Maker hereby waives presentment, demand for payment, notice of dishonor, and all other notices or demands in connection with the delivery, acceptance, performance, default, or endorsement of this Note.

**9. Non-Forfeiture of Rights.** It is agreed and understood that the waiver by the Payee of any particular default in the terms of this Note shall not constitute waiver of any further default and that acceptance of any payment after it is due shall not be deemed a waiver of the right to require prompt payment when due on all other sums and that acceptance of any payment after default shall not cure said default or operate as a waiver of any rights of the Payee hereunder unless otherwise agreed in writing.

**10. Payments, Notices.** All payments due under this Note, and any notice required to be made hereunder shall be directed to the Payee or to the Maker, as the case may be, at the addresses above specified, or such other address as the Payee and the Maker may hereafter direct, in writing.

**11. Binding on Successors, Etc.** The obligation of this Note shall be binding upon the heirs, successors and assigns of the Maker herein and shall inure to the benefit of the successors or assigns of the Payee herein or any holder hereof.

**12. Gender.** Whenever the content so requires reference herein to the neuter gender shall include the feminine gender or the masculine or vice versa, and the singular shall include the plural and vice versa.

EXECUTED as of the day and year first above written.

GRAFTON COUNTY ECONOMIC  
DEVELOPMENT COUNCIL.

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Name:  
Title:



September 27, 2012

Business Finance Authority of  
the State of New Hampshire  
14 Dixon Avenue, Suite 101  
Concord, NH 03301

**RE: Loan to Grafton County Economic Development Council**

Ladies and Gentlemen:

This letter shall evidence our agreement concerning a proposed loan of the Business Finance Authority of the State of New Hampshire (the "Authority") to Grafton County Economic Development Council (the "Borrower"), a local development organization, in the principal amount of up to Seven Hundred Fifty Thousand Dollars (\$750,000) (the "Loan"). The Authority has issued to the Borrower its commitment to recommend that Governor and Council of the State of New Hampshire approve the Loan.

Grafton County Economic Development Council has determined that the Loan would promote orderly development of business in the Grafton County region and is consistent with local and regional development plans and policies. In accordance with RSA 162-A:7, II we agree upon the terms and conditions of the Loan as described in the commitment letter attached hereto as Exhibit A. We understand that no loan will be consummated without approval of Governor and Council of the State of New Hampshire.

Business Finance Authority  
of the State of New Hampshire  
February 1, 1995  
Page

**Grafton County Economic Development Council**

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

Business Finance Authority of the State of New Hampshire hereby agrees to recommend that Governor and Council approve the Loan as described above.

**Business Finance Authority of  
the State of New Hampshire**

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

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**A RESOLUTION REQUESTING AUTHORIZATION FOR A LOAN BY  
THE BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE  
TO GRAFTON COUNTY ECONOMIC DEVELOPMENT COUNCIL A LOCAL  
DEVELOPMENT ORGANIZATION, PURSUANT TO THE AUTHORITY'S AID TO  
LOCAL DEVELOPMENT ORGANIZATION PROGRAM**

I, the undersigned, HEREBY CERTIFY that the following are true and correct.

WHEREAS, **THE BUSINESS FINANCE AUTHORITY OF NEW HAMPSHIRE** (the "AUTHORITY") has been requested by **GRAFTON COUNTY ECONOMIC DEVELOPMENT COUNCIL**, local development organization organized and existing under the laws of the State of New Hampshire (collectively, the "LDO"), to make a loan to a local development organization, organized and existing under the laws of the State of New Hampshire, in the principal amount of up to Seven Hundred Fifty Thousand and no/100 dollars (\$750,000.00) (the "Loan") to finance construction of the Enterprise center at Plymouth, New Hampshire.

WHEREAS, the Credit Committee of the Board of Directors of the Authority has recommended that the Authority make the Loan in accordance with the terms and conditions presented to the Board pursuant to a Loan Agreement to be executed by the Lender and the Authority;

WHEREAS, the Authority took official action with respect to the Loans by passing a resolution on September 17, 2012;

WHEREAS, the Authority has been furnished with (a) information and materials about the Borrower and the Loan, (b) the proposed terms and conditions of the Loan, (c) certain financial information concerning the LDO; and (d) other information, materials and assurances deemed relevant by the Authority;

IT IS HEREBY RESOLVED THAT:

1. Factual Findings. On the basis of the information, materials and assurances received by the Authority and considered by it, the Authority finds:

(a) The Loan would be evidenced by a twelve month line of credit note to the LDO. The note to be secured by a second real estate mortgage on property located 149 Main Street, Plymouth, New Hampshire.

(b) The Lender would be the Business Finance Authority of the State of New Hampshire.

(c) The Authority is authorized and empowered under RSA 162-A:7 to make loans recommended by local development organizations to finance the acquisitions of real or personal property.

(d) The Loan will enable the LDO to further assist in the business development of the Grafton County area.

2. Special Findings.

(a) The Loan to be made by the Authority is consistent with local or regional development plans or policies.

3. General Findings.

(a) Making the Loan as proposed will serve a public use and provide a public benefit.

(b) Making the Loan as proposed is within the policy of, and the authority conferred by, RSA Chapter 162-A.

(c) Making the Loan as proposed will preserve or increase the social welfare or economic prosperity of the state and one or more of its political subdivisions, and will promote the general welfare of the state's citizens.

(d) Making the Loan as proposed will promote the orderly development of business activities, create or preserve employment opportunities, or protect the physical environment.

4. Determination and Recommendation. The Authority finds that making the Loan as proposed will serve a public use and provide a public benefit and determines that making the Loan as proposed will be within the policy of, and the authority conferred by the Act. The Authority recommends to His Excellency, the Governor, and The Honorable Council that they make findings and a determination similar to those set forth above, and for that purpose the Executive Director, Chairman, or Vice Chairman is authorized, empowered and directed to transmit to the Governor and Council copies of this resolution, the materials received by the Authority with respect to the Loan and any other documentation and information the Governor and Council may request.

5. Authorization of Agreement. The Authority hereby authorizes the execution and delivery of a letter of intent of the Authority by the Executive Director or the Senior Credit Officer of the Authority to the Lender, which letter of intent may propose the Loan by the Authority subject to the parameters, terms and conditions as presented to the Board by the Credit Committee. Subject to paragraph 6 below the Executive Director, Chairman or Vice Chairman is authorized, empowered and directed to execute and deliver a loan agreement on behalf of the Authority pursuant to the requirements of the Act which shall contain parameters, terms and conditions sub-

stantially consistent with those presented to the Board by the Credit Committee and the terms and conditions established by the Board, but subject to such changes and completion consistent with this resolution as the Executive Director, Chairman or Vice Chairman may approve, his signature being conclusive identification of the loan purchase agreement, and completed and authorized by this resolution.

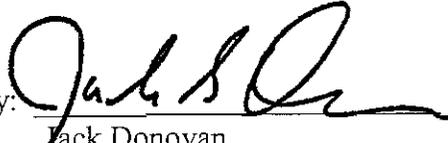
6. Actions Not to be Taken Until After Approval by Governor and Council. Except for the execution and delivery of the Authority's letter of intent by the Executive Director or the Senior Credit Officer of the Authority to the Lender, the actions authorized by paragraph 5 above shall not be taken until such time as Governor and Council have made the findings and determination required by the Act, it being the intent of the Authority that the various actions on its behalf which are authorized above are subject to the action of Governor and Council as required by the Act.

7. Other Actions by Officers. The Chairman, Vice Chairman, Executive Director, and Senior Credit Officer of the Authority are each authorized, empowered and directed to take all other actions and execute, deliver or receive such instruments and certificates as each of them may determine are necessary on behalf of the Authority in connection with the transactions authorized by the preceding paragraphs of this resolution, but subject in all events to paragraph 6 hereof.

8. Effective Date. This resolution shall take effect upon its passage.

IN WITNESS WHEREOF, I have set hereunto my hand and affixed the seal of the Business Finance Authority of the State of New Hampshire on this 17th day of September, 2012.

BUSINESS FINANCE AUTHORITY  
THE STATE OF NEW HAMPSHIRE

By:   
Jack Donovan  
Executive Director



## SUMMARY OF REQUIRED STATUTORY FINDINGS OF THE GOVERNOR AND COUNCIL UNDER RSA 162-A:18

The materials appearing in quotations below are extracts from RSA 162-A:18. The complete text of RSA 162-A:18 is attached to this summary.

### General Findings

**1. "The proposed action will serve a public use and provide a public benefit."**

The proposed loan agreement by and between the Authority and the Borrower (the "Loan Agreement") and the "Note" and the "Security Instruments", as defined in the Loan Agreement contain commercially prudent financial safeguards and workable provisions designed to lessen the potential of the Authority's loss in the event of default by the Borrower. (Tab 5) The Authority has determined that the proposed loan would enable Grafton County Economic Development Council and North Country Council, Inc. (collectively, the "Borrower"), to further assist business development opportunity for the Grafton County region. (Tab 6) The materials and information furnished and the findings described below support, and enable the making of, this general finding.

**2. "The proposed action is within the policy of, and the authority conferred by, this chapter."**

The Loan Agreement and the Agreement with the Borrower implement and incorporate all statutory requirements. (Tab 5 and 6) The Authority, which is the agency responsible for administration of RSA 162-A, has determined that the proposed Loan by the Authority is within the policy of, and the authority conferred by RSA Chapter 162-A. (Tab 7) The materials and information furnished and the findings described below support, and enable the making of, this general finding.

**3. "The proposed action will preserve or increase the social welfare of economic prosperity of the state and one or more of its political subdivisions, and will promote the general welfare of the state's citizens."**

The proceeds of the loan would be used by the Borrower to complete the construction of the Dartmouth Regional Technology Center in Centerra Park, Lebanon, New Hampshire, which will facilitate significant employment opportunities to residents of the state (Tabs 3, 4, 5 and 6).

**4. "The proposed action will promote the orderly development of business activities, create or preserve employment opportunities, or protect the physical environment."**

The Borrower's construction of a technology center would offer significant employment opportunities to residents of the state and provides substantial business and social activities for the region (Tabs 3 and 4). The Authority has determined that the proposed loan would promote the orderly development of business activities, create or preserve employment opportunities, or protect the physical environment (Tab 6).

**Special Findings**

**5. "The loan is consistent with local or regional development plans or policies."**

The Borrower, which consists of two local development organizations, has determined that the loan would provide business development in the Grafton County region. The Authority has determined that the loan is consistent with local or regional development plans or policies (Tab 6).