



Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Requested Action

The Community Development Finance Authority (CDFA) requests to place this item on the Consent Calendar.

Authorize the Community Development Finance Authority (CDFA), under the Community Development Block Grant (CDBG) program, to **amend** a grant agreement with the City of Berlin, 168 Main Street, Berlin, New Hampshire, in the amount of \$12,000 by extending the completion date to December 31, 2015 from the original grant completion date of June 30, 2015, to allow for completion of the feasibility market study. **No additional funding is involved in this time extension request.** The original grant was approved by Governor and Council on March 26, 2014, agenda item #5. **100% federal funds.**

Explanation

The City of Berlin is requesting a time extension due to a delay in finding a qualified consultant to conduct the study. The consultant has been selected and the study will commence shortly.

This Agreement allocates a portion of the Community Development Block Grant (CDBG) funds provided to New Hampshire by the U. S. Department of Housing and Urban Development (HUD). CDFA is administering this program as provided by RSA 162-L. The funds for this contract are from the Community Development Block Grant Fund, which is intended to help municipalities solve development problems.

Sincerely,

Taylor Caswell
Executive Director

TC/ml
Attachments

AMENDMENT

This Agreement (hereinafter called the "Amendment") dated this 18th day of May, 2015, by and between the State of New Hampshire acting by and through the Community Development Finance Authority (CDFA), (hereinafter referred to as "Grantor") and City of Berlin, (hereinafter referred to as the "Contractor").

WHEREAS, pursuant to an initial agreement (hereinafter called the "Agreement") which was first entered into upon Governor and Council approval on March 26, 2014, agenda item #5, the Contractor agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payments by Grantor of certain sums specified therein, and;

WHEREAS, pursuant to paragraph 18 of the General Provisions of the Agreement, the contract may be amended, waived or discharged by written instrument executed by the parties hereto and approved by the Governor and Council, and;

WHEREAS, CDFA has received a written request from the Contractor to amend the Agreement;

NOW THEREFORE, in consideration of the foregoing and the covenants and conditions contained in the Agreement as set forth herein, the Contractor and CDFA hereby agree to amend the Agreement as follows:

1. Amendment of Agreement

A. To amend Section 1.7 of the General Provisions by extending the completion date from June 30, 2015 to December 31, 2015.

2. Effective Date of Amendment

This Amendment shall be effective upon its approval by the Governor and Council of the State of New Hampshire. If such approval is withheld, this document shall become null and void, with no further obligation or recourse to either party.

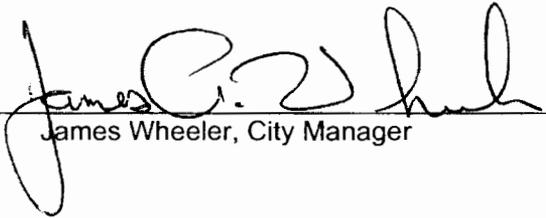
3. Continuance of Agreement

Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement and the obligations of the parties thereunder shall remain in full force and effect in accordance with the terms and conditions as set forth therein.

IN WITNESS WHEREOF, the parties have hereunto set their hands:

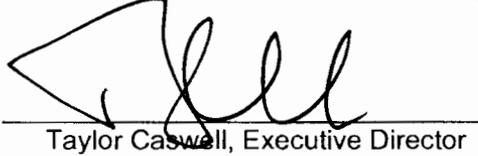
CONTRACTOR:

City of Berlin

By: 
James Wheeler, City Manager

GRANTOR:

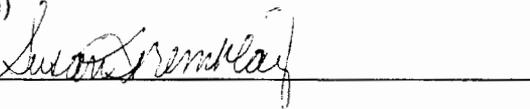
State of New Hampshire acting through the
Community Development Finance Authority

By: 
Taylor Caswell, Executive Director

NOTARY STATEMENT - FOR GRANTEE CONTRACTOR SIGNATURE ONLY:

On this the 10th day of May, 2015 there appeared before me
Susan Tremblay (Notary Name) the undersigned officer personally
appeared James Wheeler, who acknowledged himself to be City Manager of the City of Berlin and that
such officer, authorized to do so, executed the foregoing instrument for the purposes herein contained,
by signing himself in the name of the municipality.

In witness whereof I hereunto set my hand and official seal (provide seal, stamped name and expiration
date)

By: 

SUSAN TREMBLAY
Notary Public - New Hampshire
My Commission Expires February 28, 2019

APPROVAL BY NEW HAMPSHIRE ATTORNEY GENERAL AS TO FORM, SUBSTANCE AND
EXECUTION:

By: , Assistant Attorney General, on 6-1-15
Rosemary Wiant

APPROVAL BY THE NEW HAMPSHIRE GOVERNOR AND COUNCIL:

By: _____, on _____



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

<i>Participating Member:</i>	<i>Member Number:</i>	<i>Company Affording Coverage:</i>
City Of Berlin City Hall 168 Main Street Berlin, NH 03570	120	NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624

	Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply	
<input checked="" type="checkbox"/>	General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2015	7/1/2016	Each Occurrence	\$ 1,000,000
				General Aggregate	\$ 2,000,000
				Fire Damage (Any one fire)	\$
				Med Exp (Any one person)	\$
	Automobile Liability Deductible Comp and Coll: \$1,000 <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	\$
				Aggregate	\$
	Workers' Compensation & Employers' Liability			Statutory	
				Each Accident	\$
				Disease – Each Employee	\$
				Disease – Policy Limit	\$
	Property (Special Risk includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: CDFA Grant. The certificate holder is named as Additional Covered Party, but only to the extent liability is based on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered. The Participating Member will advise of cancellation no less than 15 days prior to cancellation.

CERTIFICATE HOLDER:	<input checked="" type="checkbox"/>	Additional Covered Party		Loss Payee	Primex³ – NH Public Risk Management Exchange
					By: <i>Tammy Denver</i>
NH CDFA 14 Dixon Ave, Ste 102 Concord, NH 03301					Date: 5/27/2015 tdenver@nhprimex.org
					Please direct inquires to: Primex³ Risk Management Services 603-225-2841 phone 603-228-3833 fax



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex³) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex³ is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex³ is entitled to the categories of coverage set forth below. In addition, Primex³ may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex³, including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex³ Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex³. As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: City of Berlin City Hall 168 Main Street Berlin, NH 03570	Member Number: 120	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624
--	------------------------------	--

Type of Coverage	Effective Date (mm/dd/yyyy)	Expiration Date (mm/dd/yyyy)	Limits - NH Statutory Limits May Apply, if Not	
General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			Each Occurrence	\$
			General Aggregate	\$
			Fire Damage (Any one fire)	\$
			Med Exp (Any one person)	\$
Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident)	
			Aggregate	
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	7/1/2015	7/1/2016	<input checked="" type="checkbox"/> Statutory	
			Each Accident	\$2,000,000
			Disease -- Each Employee	\$2,000,000
			Disease -- Policy Limit	\$
<input type="checkbox"/> Property (Special Risk includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)	

Description: Proof of Primex Member coverage only.

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex³ – NH Public Risk Management Exchange
NH CDFA 14 Dixon Ave, Ste 102 Concord, NH 03301			By: <i>Tammy Denver</i> Date: 5/27/2015 tdenver@nhprimex.org Please direct inquires to: Primex³ Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax

Section 14.1.1- Insurance requirements of the General Conditions are hereby modified as follows:

Subparagraph 14.1.1 of the General Provisions of this contract is deleted and the following subparagraph is added: "14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate."

The contract agreement amount is for \$12,000; therefore, this is sufficient insurance coverage to satisfy this contract agreement.

All other conditions of this contract shall remain in full force and effect.

MUNICIPAL RE-CERTIFICATION FOR CONTRACT AMENDMENT

I, Debra Patrick, City Clerk of Berlin, New Hampshire do hereby certify that: (1) at the Public Hearings and meeting held on October 21, 2013, the City Council voted to accept Community Development Block Grant funds and if awarded (2) enter into a contract with the Community Development Finance Authority, and further authorize the City Manager to execute any documents which may be necessary to effectuate this contract or any amendments thereto; (3) I further certify that this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and (4) the following person has been appointed to and now occupies the office indicated under item (2) above:

James Wheeler, City Manager

Name and Title of Officer Authorized to Sign

IN WITNESS WHEREOF, I have hereunto set my hand as the City Clerk of Berlin, New Hampshire this 26th day of MAY, 2015.

Debra A. Patrick, CMC

Debra Patrick, City Clerk



CDFA
Community Development Finance Authority
Strengthening New Hampshire's Communities

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

Approved by the Governor
and Council on 3/26/14
Agenda Item #5

Requested Action – Award a Grant

Authorize the Community Development Finance Authority (CDFA), under the Community Development Block Grant (CDBG) program, to award a grant to the City of Berlin, 168 Main Street, Berlin, New Hampshire, in the amount of \$12,000.00 for the purpose of conducting a feasibility study, upon Governor and Council approval, for the period effective March 26, 2014 through June 30, 2015. **100% federal funds.**

Explanation

The City of Berlin is requesting CDBG funds to fund a market study to determine whether the city and surrounding communities could support a food cooperative. The market study will suggest suitable site locations and sales potential, and will provide a clear outline of what is needed to move this project from the idea stage to steps required for the development of a food cooperative in Berlin. A Cooperative would benefit the City of Berlin by creating jobs, contributing to the revitalization of downtown Berlin, and strengthening and diversifying the region's economy by creating an opportunity for local farmers and producers to market their products year round. No match funds are required for feasibility studies.

This Agreement allocates a portion of the Community Development Block Grant (CDBG) funds provided to New Hampshire by the U. S. Department of Housing and Urban Development (HUD). CDFA is administering this program as provided by RSA 162-L. The funds for this contract are from the Community Development Block Grant Fund, which is intended to help municipalities solve development problems.

Sincerely,

Thaddeus Kuchinski
Chief Financial Officer and Interim Executive Director

TK:KEM/ml

Attachments

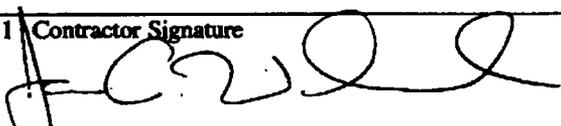
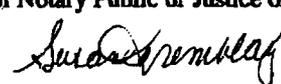
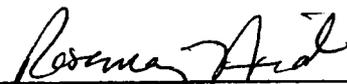
Subject: City of Berlin - Food Cooperative Feasibility Study - Grant #13-053-FSED

AGREEMENT

The State of New Hampshire and the Contractor hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATION.

1.1 State Agency Name Community Development Finance Authority		1.2 State Agency Address 14 Dixon Ave., Suite 102 Concord, New Hampshire 03301	
1.3 Contractor Name City of Berlin		1.4 Contractor Address 168 Main Street Berlin, NH 03570	
1.5 Contractor Phone Number 603-752-8550	1.6 Account Number N/A	1.7 Completion Date June 30, 2015	1.8 Price Limitation \$12,000
1.9 Contracting Officer for State Agency Janet Ackerman, Chairman, Board of Directors		1.10 State Agency Telephone Number 603-226-2170	
1.11 Contractor Signature 		1.11 Name and Title of Contractor Signatory James A. Wheeler, City Manager	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Coos</u> On <u>Feb. 19, 2014</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace		<div style="border: 1px solid black; padding: 5px; text-align: center;"> SUSAN L. TREMBLAY Notary Public-New Hampshire My Commission Expires April 01, 2014 </div>	
1.14 State Agency Signature 		1.15 Name and Title of State Agency Signatory <i>INTERIM</i> Katharine Dogle Shields, Executive Director & THADDEUS KUCHINSKI, CHIEF FINANCIAL OFFICER	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By:  On: <u>3-6-14</u>			
1.18 Approval by the Governor and Executive Council By: 		DEPUTY SECRETARY OF STATE MAR 26 2014	

2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED. The State of New Hampshire, acting through the agency identified in block 1.1 ("State") or ("CDFA"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

3. EFFECTIVE DATE/COMPLETION OF SERVICES.

3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").

3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the CDFA or State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

4. CONDITIONAL NATURE OF AGREEMENT.

Notwithstanding any provision of this Agreement to the contrary, all obligations of the CDFA or State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the CDFA or State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the CDFA or State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The CDFA or State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

5. CONTRACT PRICE/PRICE LIMITATION/PAYMENT.

5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.

5.2 The payment by the CDFA or State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The CDFA or State shall have no liability to the Contractor other than the contract price.

5.3 The CDFA or State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by

N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.

6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.

6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.

6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the CDFA, the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

7. PERSONNEL.

7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.

7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.

7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

- 8.1.1 failure to perform the Services satisfactorily or on schedule;
 - 8.1.2 failure to submit any report required hereunder; and/or
 - 8.1.3 failure to perform any other covenant, term or condition of this Agreement.
- 8.2 Upon the occurrence of any Event of Default, CDFA or the State may take any one, or more, or all, of the following actions:
- 8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;
 - 8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the CDFA or the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;
 - 8.2.3 set off against any other obligations the CDFA or State may owe to the Contractor any damages the CDFA or State suffers by reason of any Event of Default; and/or
 - 8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

- 9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.
- 9.2 All data which has been received from the CDFA or purchased with funds provided for that purpose under this Agreement, shall be the property of the CDFA, and shall be returned to the CDFA upon demand or upon termination of this Agreement for any reason.
- 9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the CDFA or the State.

10. **TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject

matter, content, and number of copies of the Termination Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

11. **CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the CDFA or the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

12. **ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the CDFA. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State and CDFA.

13. **INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the CDFA and the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the CDFA or the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the CDFA and the State, which immunity is hereby reserved to the CDFA and the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

14. INSURANCE.

- 14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:
- 14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and
 - 14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 100% of the whole replacement value of the property.
- 14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.
- 14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of

insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

15. WORKERS' COMPENSATION.

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The CDFA or State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

16. WAIVER OF BREACH. No failure by the CDFA or State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the CDFA or State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

17. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

18. AMENDMENT. This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

19. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and

inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual intent, and no rule of construction shall be applied against or in favor of any party.

20. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

21. HEADINGS. The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

22. SPECIAL PROVISIONS. Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

23. SEVERABILITY. In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

24. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

EXHIBIT A – SERVICES

GRANT AGREEMENT TERMS AND CONDITIONS

As used in this Exhibit, the term "Project" shall have the same meaning as the term "Services," the term "Grantee" shall have the same meaning as the term "Contractor."

1. PROJECT DESCRIPTION AND PURPOSE.

1.1 The project shall consist of the awarding of \$12,000 in Community Development Block Grant (CDBG) funds to the City of Berlin to conduct a study on the feasibility of development of a food cooperative in Berlin, New Hampshire. More specifically, the Project shall consist of the following activities:

- 1.1.1 Grantee or its assigned shall conduct a market study to determine sustainability of a food cooperative in the area.
- 1.1.2 The market study will provide suggestions for suitable site locations and sales potential.
- 1.1.3 The market study will provide a clear outline of steps necessary to move the project from the idea stage to development of a food cooperative.
- 1.1.4 Women's Rural Entrepreneurial Network (WREN) will hold a community meeting to explain the idea of the food cooperative, answer questions and gauge support from area residents.

1.2 Plans proposed in connection with the Project shall comply with all applicable state standards and local codes.

1.3 Within 30 days of executing this Agreement, the Grantee shall submit to CDFA for approval, an Implementation Schedule for completion of the Project. Grantee shall obtain the prior approval of CDFA for any changes in the Implementation Schedule.

2. GRANT ADMINISTRATION.

2.1 The Grantee shall perform all services and satisfy all grant requirements as necessary to administer the CDBG funds in accordance with the provisions of this Agreement and all Exhibits, Schedules, and other documents attached hereto and incorporated herein by reference.

2.2 Up to \$200 of the grant funds provided under this Agreement may be used by the Grantee for administration of the grant. Such services include but are not limited to: advertising.

3. FEDERAL COMPLIANCE

3.1 Grantee shall comply, and shall require any Subrecipient, contractor and subcontractor to comply, with the following federal and state laws and all applicable standards, rules, orders, or regulations issued pursuant thereto:

3.1.1 The Copeland "Anti-Kickback" Act, as amended (118 USC 874) as supplemented in Department of Labor regulations (41 CFR Chapter 60).

3.1.2 Nondiscrimination, Title VI of the Civil Rights Act of 1974 (PL 88- 352), as amended, (42 USC 2000d) the Fair Housing Act of 1968 (PL 90-284), Executive Orders 11063 and 12259, and the requirements imposed by the Regulations of the Department of Housing and Urban Development (24 CFR 107 and 24 CFR 570.496) issued pursuant to that Title.

3.1.3 Labor Standards. Davis-Bacon Act, as amended (40 USC 276a-276a-7), the Contract Work Hours and Safety Standards Act (40 USC 327-333).

3.1.4 The Flood Disaster Protection Act of 1973 (PL 93-234), as amended, regulations issued pursuant to that act, and Executive Order 11985.

3.1.5 Architectural Barriers Act (PL 90-480), 42 USC 4151, as amended, and the regulations issued or to be issued thereunder, including uniform accessibility standards (24 CFR 40) for public buildings with 15 or more residential units. RSA 275-C:10 and the New Hampshire Architectural Barrier Free Design Code (Han 100, et. seq.) also applies.

3.1.6 Rehabilitation Act of 1973, 29 USC 794, Sections 503 and 504, Executive Order 11914 and U.S. Department of Labor regulations issued pursuant thereto.

3.1.7 The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (PL 91-646), as amended, 15 CFR Part 916 including amendments thereto and regulations thereunder.

3.1.8 The National Environmental Policy Act of 1969 (PL 90-190); the National Historic Preservation Act of 1966 (80 Stat 915, 116 USC 470); and Executive Order No. 11593 of May 31, 1971, as specified in 24 CFR 58.

3.1.9 The Clean Air Act, as Amended, 42 USC 1857 et seq., the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. and the regulations of the Environmental Protection Agency with respect thereto, at 40 CFR Part 15, as amended from time to time.

3.1.10 RSA 354 and rules of the New Hampshire Human Rights Commission (HUM 100, et. seq.) on discrimination in employment, membership, accommodations, and housing.

3.1.11 The Age Discrimination Act of 1975 as amended (42 USC 6101, et. seq.) and implementing regulations.

3.1.12 The lead paint requirements (24 CFR 35) of The Lead-Based Paint Poisoning Prevention Act (42 USC 4821, et. seq.).

3.1.13 The NH State Energy Code (RSA 155-D).

3.1.14 The NH State Life Safety Code (RSA 155:1) and rules of the NH State Fire Marshall.

3.1.15 Citizen Participation Requirements. The 1987 amendments to the Housing and Community Development Act of 1974, stated in Section 508.

3.1.16 Affirmative Action Requirements. In furtherance of its covenant Grantee shall:

- (1) take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, creed, age, sex, or national origin; such action shall be taken in conjunction with any of the Grantee's acts in the capacity of an employer including, but not limited to: employment of individuals, upgrading, demotions or transfers, recruitment or recruitment advertising; layoffs or terminations; changes in rates of pay or other forms of compensation; selection for training, including apprenticeship, and participation in recreational and educational activities;
- (2) post in conspicuous places available to employees and applicants, employment notices, to be provided by CDFA, setting forth the provisions of this non-discrimination clause; the Grantee will, in all solicitations or advertisements for employees, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, age, sex or national origin;
- (3) keep all such information, records and reports as may be required by the rules, regulations or orders of the Secretary of Labor and furnish or submit the same at such times as may be

required; the Grantee shall also permit CDFR, or the Secretary of Labor or any of their designated representatives to have access to any of the Grantee's books, records and accounts for the purpose of investigation to ascertain compliance with the aforesaid rules, regulations and orders and covenants and conditions herein contained;

(4) during the term of this agreement, shall not discriminate among participants under this agreement on the basis of race, color, religion, sex, handicap or national origin. For the purpose of this agreement, distinctions on the grounds of the following: denying a participant any service or benefit or availability of a facility; providing any service or benefit to a participant which is different, or is provided in a different manner or at a different time from that provided to other participants under this agreement; subjecting a participant to segregation or separate treatment in any matter related to his receipt of any service; restricting a participant in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service or benefit; treating a participant differently from others in determining whether he satisfies any admission, enrollment quota, eligibility, membership, or other requirement or condition which individuals must meet in order to be provided any service or benefit; the assignment of times or places for the provision of services on the basis of race, color, religion, sex, or national origin of the participants to be served.

3.1.17 Section 3 of the Housing and Urban Development Act of 1968 (12 USC 1701u) as amended by the Housing and Community Development Act of 1974 (42 USC 5301). The contractor will ensure that to the greatest extent feasible, opportunities for training and employment arising in connection with this CDBG-assisted project will be extended to lower income project area residents. Further, the contractor will, to the greatest extent feasible, utilize business concerns located in or substantially owned by residents of the project area, in the award of contracts and purchase of service and supplies.

3.1.18 Drug-Free Workplace Act of 1988 (42 USC. 701). In carrying out this agreement, the contractor agrees to comply with the requirements of the Drug-Free Workplace Act of 1998 (42 U.S.C. 701) and to certify that contractor will comply with drug-free workplace requirements in accordance with the Act and with HUD rules found at 24 CFR part 24, subpart F.

3.1.19 Federal Funding Accountability and Transparency Act (FFATA). As applicable to this grant, and for all subcontracts exceeding \$25,000, Grantee shall require that the Subgrantee or Subrecipient shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Dun and Bradstreet Data Universal Numbering System (DUNS), the Central Contractor Registration (CCR) database, and the Federal Funding Accountability and Transparency Act, including Appendix A to Part 25 of the Financial Assistance Use of Universal Identifier and Central Contractor Registration, 75 Fed. Reg. 55671 (Sept. 14, 2010)(to be codified at 2 CFR part 25) and Appendix A to Part 170 of the Requirements for Federal Funding Accountability and Transparency Act Implementation, 75 Fed. Reg. 55663 (Sept. 14, 2010)(to be codified at 2 CFR part 170). For additional information on FFATA reporting and the FRSR system, please visit the www.frsr.gov website, which includes FFATA legislation, FAQs and OMB guidance on subaward and executive compensation reporting.

3.1.20 Women- and Minority-Owned Businesses (W/MBE). As applicable to this grant, Grantee and Subrecipient will use its best efforts to afford small businesses, minority business enterprises, and women's business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the terms "small business" means a business that meets the criteria set forth in section 3(a) of the Small Business Act, as amended (15 U.S.C. 632), and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish-speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

4. **STUDY REPORTS.** The Grantee shall, prior to the Completion Date of this Agreement, submit a copy of the completed feasibility study to CDFA. The report shall include an evaluation of the results of the activities described in paragraph 1 above.
5. **APPROVAL OF CONTRACTS.** Grantee shall, prior to the awarding of a marketing contract necessary for completion of the activities described in paragraph 1 above, provide CDFA with a copy of the proposed contract(s) for CDFA's review and approval. CDFA shall review said proposed contract to determine compliance with all applicable federal and state requirements. CDFA approval shall not abrogate its rights to enforce any part of this Agreement or constitute a waiver of any provision of this Agreement.
6. **OUTSTANDING OBLIGATIONS.** Outstanding obligations as of the Completion Date, as set forth in Section 1.7 of the General Provisions, shall be paid or otherwise resolved within ninety (90) days. Such obligations shall be related to goods or services provided during the grant period, except for reasonable costs associated with grant closeout, i.e., audits and final reports. Such closeout costs may be incurred up to ninety (90) days after the completion date.
7. **CONFLICT OF INTEREST.** In the procurement of supplies, equipment, construction and services, the Grantee or any subgrantee or subrecipient shall adhere to the conflict of interest provisions set forth in Administrative Rule Cdfa 311.01(b)(9). In all other cases the conflict of interest provisions set forth in 24 CFR 570.489(h) shall apply.
8. **GRANTEE FINANCIAL MANAGEMENT SYSTEM.**
 - 8.1 Except where inconsistent with federal requirements, state procedures and practices will apply to funds disbursed by CDFA, and local procedures and practices will apply to funds disbursed by units of local government.
 - 8.2 **Cash Advances:** Cash advances to Grantee shall be approved only to the extent necessary to satisfy the actual, immediate cash requirements of Grantee in carrying out the purpose of the approved program or project. The timing and amount of cash advances shall be as close as is administratively feasible to the actual disbursements by Grantee for direct program costs and the proportionate share of any allowable indirect costs. Cash advances made by Grantee to subrecipients shall conform to the same standards of timing and amount as apply to advances to Grantee including the furnishing of reports of cash disbursements and balances.
 - 8.3 **Fiscal Control:** Grantee must establish fiscal control and fund accounting procedures which assure proper disbursement of, and accounting for, grant funds and any required non-federal expenditures. This responsibility applies to funds disbursed by subrecipients and contractors as well as to funds disbursed in direct operations of Grantee. Grantee shall be required to maintain a financial management system which complies with 24 CFR 85.20 or such equivalent system as CDFA may require. Requests for payment shall be made according to CDFA's CDBG Implementation Guide.
9. **PROCUREMENT.** Grantee and any Subrecipient procurement procedures shall be in accordance with state and local procurement practices and regulations, provided that procurements made with Grant Funds adhere, as a minimum, to the standards set forth in 24 CFR 85.36. Grantee shall not use debarred, suspended or ineligible contractors or subrecipients as provided in 24 CFR 570.489 (l).
10. **REPORTS AND CLOSE OUT**
 - 10.1 Semi-Annual progress reports which identify the status of Grant Activities performed, the outlook for completion of the remaining Grant Activities prior to the Completion Date and the changes, if any which need to be made in the Project or Grant Activities, shall be submitted by the 15th of the month following the end of every other quarter.
 - 10.2 Financial reports, including a statement detailing all Grant or Project Costs (as hereinafter defined)

which have been incurred since the prior request for reimbursement, shall be submitted with each request for reimbursement and with the Closeout Report. Financial Reports shall be submitted on forms provided by CDFA.

10.3 Within thirty (30) days after the Completion Date, a Closeout Report shall be submitted which summarizes the results of the Grant Activities, showing in particular how the Grant Activities have been performed. The Closeout Report shall be in the form required or specified by CDFA.

10.4 The Audited Financial Reports shall be prepared in accordance with the regulations (24 CFR Part 44) which implement OMB Circular A-133. An audited financial report shall be submitted within thirty (30) days of the completion of said report to CDFA.

10.5 Where the Grantee is not subject to the requirements of OMB Circular A-133, one of the following options will be chosen by CDFA:

A. Within ninety (90) days after the Completion or Termination Date an audited financial report shall be submitted to CDFA. Said audit shall be conducted utilizing the guidelines set forth in "Standards for Audit of Governmental Organizations, Programs, Activities, and Functions" by the Comptroller General of the United States.

B. CDFA will conduct a financial Review-in-Lieu of Audit within ninety (90) days after the Completion Date of the Project.

10.6 Where the length of the grant period exceeds twenty-four (24) months, there shall be an interim audit performed and submitted.

11. RECORDS AND ACCOUNTS: ACCESS

11.1 During the performance of the Project Activities and for a period of three (3) years after the Completion Date or the date of the final audit approval by CDFA, whichever is later, the Grantee shall keep, and shall require any Subrecipient to keep, the following records and accounts:

11.1.1 Records of Direct Work: Detailed records of all direct work performed by its personnel under this Agreement.

11.1.2 Fiscal Records: Books, records, documents and other statistical data evidencing, and permitting a determination to be made by CDFA of all Project Costs and other expenses incurred by the Grantee and all income received or collected by the Grantee, during the performance of the Project Activities. The said records shall be maintained in accordance with accounting procedures and practices acceptable to CDFA, and which sufficiently and properly reflect all such costs and expenses, and shall include, without limitation, all ledgers, books, audits, records and original evidence of costs such as purchase requisitions and orders, invoices, vouchers, bills, requisitions for materials, inventories, valuations of in-kind contributions, labor time cards, payrolls and other records requested or required by CDFA.

11.1.3 Contractor and Subcontractor Records: The Grantee shall, and where applicable, Subrecipient shall, establish, maintain and preserve, and require each of its contractors and subcontractors to establish, maintain and preserve property management, project performance, financial management and reporting documents and systems, and such other books, records, and other data pertinent to the project as the CDFA may require. Such records shall be retained for a period of three (3) years following completion of the project and receipt of final payment by the Grantee, or until an audit is completed and all questions arising therefrom are resolved, whichever is later.

12. TERMINATION; REMEDIES

12.1 Inability to Perform; Termination by Grantee. As a result of causes beyond its control, and notwithstanding the exercise of good faith and diligence in the performance of its obligations hereunder, if it shall become necessary for Grantee to terminate this Agreement, Grantee shall give CDFA fifteen (15) days advance written notice of such termination, in which event the Agreement shall terminate at the expiration of said fifteen (15) days.

12.2 Termination Without Default. In the event of termination without default and upon receipt, acceptance and approval by CDFA of the Termination Report, as referenced in the General Provisions, Grantee shall receive payment for all Project Costs incurred in the performance of Grant Activities completed up to and including the date of termination and for which payment had not previously been made including, but not limited to, all reasonable expenses incurred in the preparation of the Termination Report; provided, however, that in the event that any payments have been made hereunder in excess of Project Costs incurred up to and including the date of termination of the Agreement, CDFA shall offset any payments to be made hereunder against such payments, and if applicable, Grantee shall refund to CDFA the amount of any excess funds it retains after such offset.

12.3 Termination for Default. In the event of termination for default or other violation of Program requirements, CDFA shall, upon receipt, acceptance and approval of the Termination Report submitted by Grantee, pay Grantee for Project Costs incurred up to and including the date of termination (subject to off-set against funds paid to Grantee hereunder and to the refund of any excess funds); provided, however, that in such event the amount of such payment shall be determined solely by CDFA; and provided, further, that in no event shall the making of any such payments relieve Grantee of any liability for damages sustained or incurred by CDFA as a result of Grantee's breach of its obligations hereunder, or relieve Grantee of responsibility to seek return of Grant Funds from any Subrecipient or Beneficiary where applicable.

12.4 Limitation on Grantee Liability for Subgranted Funds. Notwithstanding anything in this Agreement to the contrary and absent the presence of fraud or negligence on the part of Grantee in enforcing its rights and obligations under the terms of any Subrecipient agreement, the sole obligation of Grantee with respect to the return of Grant Funds, in the event of default on a grant condition or other termination of the Project or event requiring return of Grant Funds, shall be to make a good faith effort to return to the State of New Hampshire all grant funds paid to Subrecipient through Grantee. Grantee shall make good faith efforts to enforce the legal obligations entered into with the Subrecipient as provided herein, to call upon the collateral held by itself or others, and exercise due diligence in its efforts in bringing about the satisfaction of the grant obligations and, having done so, it shall not be required to look to any other funds or its tax base to recoup grant funds not recovered from the Subrecipient.

12.5 Assignment to CDFA and Payment of Expenses and Costs. Grantee hereby agrees that, in the event it fails to enforce the provisions of any Subrecipient Agreement or fails to cure an Event of Default resulting in termination of this Agreement or the Project, Grantee shall, upon demand by CDFA, assign and convey to CDFA all or any of its rights, title and interest, or delegate to CDFA all or any of its obligations under the Subrecipient Agreement and any Mortgage, Promissory Note, Security Agreement or other agreement as applicable. Such delegation or assignment shall be effective only in the event of a default by Subrecipient or Beneficiary in its or their obligations under the Subrecipient Agreement or other agreement. In the event that CDFA assumes any of the obligations of Grantee as provided herein, Grantee shall pay all costs and expenses incurred by CDFA in the enforcement of the Subrecipient Agreement, collection upon any loan, mortgage or other security, or in curing any Event of Default.

12.6 Where the Grant Agreement is terminated or the Project is otherwise terminated due to a default, inability to perform or reason other than project completion and Grant funds are to be returned by Grantee, the disposition of Grant Funds to be returned shall be determined solely by CDFA.

13. ADDITIONAL GRANT REQUIREMENTS.

13.1 Grantee shall prepare and adopt a written Code of Ethics governing the performance of its employees engaged in the procurement of supplies, equipment, construction and services consistent with the requirements of 24 CFR 85.36(b)(3). The Code of Ethics shall be prepared in the form shown in the CDBG Implementation Guide, and shall be formally adopted prior to requesting Grant funds. The Grantee shall also comply with the conflict of interest policy consistent with the requirements of 24 CFR 570.489(h) and approved by CDFA.

13.2 Grantee shall prepare and adopt a financial management plan, approved by CDFA, which describes Grantee's system for receiving and expending the grant funds including the internal controls, which shall ensure compliance with the General Provisions of this Grant Agreement. The plan shall be formally adopted prior to requesting Grant funds.

13.3 CDFA shall have the right to terminate all or part of its obligations under this Agreement in the event that any official, employee, architect, engineer, attorney or inspector of, or for Grantee, or any government official or representative becomes directly or indirectly interested financially in the acquisition of any materials or equipment, or in any construction of the Project, or in the furnishing of any service to, or in connection with the Project, or any benefit arising therefrom.

13.4 **Publicity and Signage.**

13.4.1 **Public Relations.** The Grantee shall grant CDFA the right to use the Grantee's name, likeness, and logo in any public relations or publicity efforts. This shall include, but not be limited to, press releases, media interviews, website, publications, brochures, etc. CDFA's publicity efforts may also include details about Grantee's project, contract, or other publically available information.

13.4.2 **Reciprocal Publicity.** The Grantee also shall acknowledge CDFA appropriately in all organizational and public forums as to the support, financial and otherwise, that has been provided to the project. This recognition shall include, but not be limited to, print/electronic media, publications, interviews, brochures, website, etc.

13.4.3 **Project Signage.** For construction/renovation projects – CDFA logo must be included in signage at the job worksite. CDFA logo may not be any smaller than 50% of the size of the largest logo displayed. This requirement can be waived if no other partner/entity requires worksite signage and creating signage solely for CDFA poses a hardship. Alternative – if none of these are applicable/feasible, an alternative display of the CDFA logo or public recognition agreeable to CDFA.

EXHIBIT B

PROJECT COSTS; METHOD AND TERMS OF PAYMENT

1. PROJECT COSTS; PAYMENT SCHEDULE; REVIEW BY CDFA.

1.1 Project Costs: As used in this Agreement, the term "Project Costs" shall mean all reimbursable costs incurred in performance of the Grant activities. "Administrative Project Costs" shall mean all expenses directly or indirectly incurred by Grantee in the performance of the Project Activities, as determined by CDFA to be eligible and allowable for payment in accordance with allowable administrative project cost standards set forth in OMB Circular A-87 as revised from time to time, and with the rules, regulations and guidelines established by CDFA. Administrative project costs include but are not limited to: preparation of environmental review, record keeping, reporting, audits and oversight of Project construction and compliance with all federal, state and local laws, rules and regulations and this contract. In no event shall Administrative Project Costs exceed fifteen (15) percent of the total Grant funds allowed. With respect to a non-profit subrecipient, such subrecipient shall meet the requirements of OMB Circular A-122.

1.2 Delivery Costs: As used in this Agreement, the term "Delivery Costs" shall mean all reimbursable costs incurred by a Subrecipient in connection with a regional revolving loan fund that are directly related to the preparation and execution of loan documents and to the monitoring and administration of the loan provisions, and which are allowable by the New Hampshire Community Development Block Grant program rules.

1.3 Payment of Project Costs: Subject to the terms and conditions of this agreement, CDFA agrees to pay Grantee all Project Costs, provided, however, that in no event shall the total of all payments made by CDFA pursuant to this Agreement exceed the Grant Amount as set out in Paragraph 1.8 of the General Provisions, and provided further that all Project Costs shall have been incurred prior to the Completion Date, except for reasonable approved Project Costs incurred within 90 days after the Completion Date and in connection with closeout requirements as provided in Cdfa Administrative Rule Pln 311.01(c)(4).

1.4 Review by CDFA; Disallowance of Costs: At any time during the performance of the Project Activities, and upon receipt of the Progress Reports, Closeout Report or Audited Financial Report, CDFA may review all Project Costs incurred by Grantee or any Subrecipient and all payments made to date. Upon such review, CDFA shall disallow any items of expense which are not determined to be allowable or are determined to be in excess of actual expenditures, and shall, by written notice specifying the disallowed expenditures, inform Grantee of any such disallowance. If CDFA disallows costs for which payment has not yet been made, it shall refuse to pay such costs. If payment has been made with respect to costs which are subsequently disallowed, CDFA may deduct the amount of disallowed costs from any future payments under this Agreement or require that Grantee refund to CDFA the amount of the disallowed costs.

2. METHOD AND TERMS OF REIMBURSEMENT FOR PROJECT COSTS.

2.1 CDFA shall not disburse any funds for the purposes of this Project until such time as all agreements specified in Exhibit A and any other agreements or documents specified pursuant to this Agreement are fully executed and received, and where applicable, are reviewed and approved in writing by CDFA. Agreements and documents may include:

2.1.1 An Implementation Schedule;

2.1.2 Documentation of other all required matching funds, if applicable from Exhibit A;

2.1.3 A fully executed agreement between the Grantee and the qualified consultant(s) pursuant to the requirements as outlined in Exhibit A.

2.2 Timing of Payments. Upon thirty (30) days of the receipt, review, and approval by CDFA of financial reports and requests for reimbursement from Grantee specifying all Project Costs incurred, CDFA agrees to reimburse Grantee for Project Costs, except that reimbursement may be withheld until CDFA determines that a particular project activity or portion of the project activity hereunder has been satisfactorily completed.

2.3 Disbursement of funds by CDFA does not constitute acceptance of any item as an eligible Project Cost until all Project Costs have been audited and determined to be allowable costs.

3. REQUIRED DOCUMENTATION FOR DISBURSEMENT OF GRANT FUNDS.

3.1 Reimbursement requests for all Project Costs, including Administrative Project Costs, Delivery Costs and Subrecipient costs, shall be accompanied by proper supporting documentation in the amount of each requested disbursement along with a payment request form as supplied by CDFA, which shall be completed and signed by Grantee. Documentation may include invoices and receipts for supplies, equipment, services, contractual services and, where applicable, a report of salaries paid or to be paid.

4. LIMITATIONS ON USE OF FUNDS.

4.1 Grant funds are to be used in a manner consistent with the State of New Hampshire Community Development Block Grant Program as approved by the U.S. Department of Housing and Urban Development.

4.2 Grant funds are to be used only in accordance with procedures, requirements and principles specified in 24 CFR 85.

4.3 Grant funds may not, without advance written approval by CDFA, be obligated prior to the Effective Date or subsequent to the Completion Date of the grant period. Obligations outstanding as of the Completion Date shall be liquidated within ninety (90) days. Such obligations must be related to goods or services provided during the grant period, except that reasonable costs associated solely with grant closeout, (e.g., audits, final reports) may be incurred within ninety (90) days after the Completion Date. The funding assistance authorized hereunder shall not be obligated or utilized for any activities requiring a release of funds under the Environmental Review Procedure for the Community Development Block Grant Program at 24 CFR Part 58, until such release is issued in writing by CDFA.

4.4 Changes In Funding Project Activities: Grantee may submit a written request for the authority to transfer up to ten (10) percent of the full value of the grant from one approved activity to another listed in Exhibit A herein or from an approved activity within the approved project area to an approved activity located outside the project area and the Director of CDFA may approve the requested transfer.

4.5 Transfers over ten percent of the full value of the grant from one approved activity to other approved activities or outside the target area, or the addition of one or more new activities requires an amendment to this grant agreement. Grantee shall hold a public hearing in accordance with RSA 4: C: 14 II(b) submitting a request for an amendment involving twenty-five (25) percent or more of the full value of the grant.

4.6 Up to \$11,800 of Grant Funds may be applied by the Grantee for the use as described herein.

4.7 Up to \$200 of Grant Funds may be applied by the Grantee for costs related to the administration of the grant.

5 PERFORMANCE OF SERVICES BY GRANTEE PRIOR TO EFFECTIVE DATE; PAYMENT BY CDFA. Any Grant Activities performed by Grantee with non-CDBG funds prior to the Effective Date shall be performed at the sole risk of Grantee, and in the event that this Agreement shall not become effective, CDFA shall be under no obligation to pay Grantee for any costs incurred in connection with any Grant Activities, or to otherwise pay for any Activities performed during such period.

EXHIBIT C

Section 14.1.1- Insurance requirements of the General Conditions are hereby modified as follows:

Subparagraph 14.1.1 of the General Provisions of this contract is deleted and the following subparagraph is added: "14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 each occurrence and \$2,000,000 general aggregate."

The contract agreement amount is for \$12,000; therefore, this is sufficient insurance coverage to satisfy this contract agreement.

All other conditions of this contract shall remain in full force and effect.

Primex³ Contractual Indemnification Form

Member Name: City of Berlin

Title of Contract: CDFR Grant

Member Contact: Sue Tremblay

Date: February 19, 2014

Dear Sue,

Scope of Review

We have reviewed the agreement/contract you have forwarded to us. Please keep in mind that our review is limited in scope to the insurance, subrogation and indemnification sections because those sections potentially impact the rights of the risk pool. Before executing the contract, Primex³ strongly recommends that you have the City's legal counsel review and evaluate the entire contract, as well as our comments.

Waivers of Subrogation and Insurance Related Clauses

In regards to the insurance and subrogation provisions in the attached contract, it is important to understand that the Primex³ coverage documents do not allow risk pool members to compromise the risk pool's right to recover its claims payments from responsible third parties through subrogation. Primex³ will typically object to proposed waivers or impairments of subrogation rights. In addition, it is important for you to make sure parties doing business with public entities are adequately insured. Primex³ will typically offer suggestions regarding insurance requirements.

Recommendations:

The insurance requirement in 14.1.1 is beyond what Primex can offer. We cannot provide the requested \$2M per occurrence limit, we can only provide \$1M per occurrence. We have no mechanism to give a 15 day notice of cancellation, although we have added to your Certificate of Coverage that you as the Participating Member will do so.

Indemnification Clauses

With respect to proposed contract clauses requiring your indemnification of other entities and individuals, Primex³ will not provide you any coverage for that contractual obligation unless Primex³ has approved the indemnification clause, either in its original form or as modified by Primex³, in a signed Contractual Indemnification Form. Aspects of a contractual indemnification clause which are not explicitly approved in this manner are excluded from coverage by Primex³.

Recommendations:

With regards to In Paragraph 13, we can provide limited coverage to the City for the indemnification requirement. Specifically, indemnification coverage would be limited to claims arising solely from the City's negligence, the dollar amount is capped, and the scope of the coverage is limited to types of claims covered by Primex liability coverage and is subject to the disclaimer below.

We hope this helps, but please don't hesitate to call us if you have any questions.

Thank you,

Amy Poole

* Primex³ has reviewed the insurance, indemnification and subrogation provisions, if any, in this agreement in order to protect the interests of the risk pool. Your legal counsel should carefully review and approve all provisions of this agreement prior to your execution of it. To the extent Primex³ approves or conditionally approves any indemnification obligations, such indemnification will be provided solely for claims arising out of the acts of the public entity risk pool member covered under the applicable Primex³ Coverage Document, and indemnification is subject to the terms, limits, conditions and exclusions contained in the applicable Primex³ Coverage Document, Sections A Personal Injury Liability and B Property Damage Liability only. Sections C Public Officials Errors and Omissions, D Unfair Employment Practices, E Employee Benefit Liability, F Educator's Legal Liability Claims Made Coverage are not included in the scope of coverage. Any indemnification obligation that exceeds the foregoing parameters shall be your responsibility and Primex³ shall have no liability.



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex²) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex² is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex² is entitled to the categories of coverage set forth below. In addition, Primex² may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex², including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex² Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only. Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex². As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: City Of Berlin City Hall 168 Main Street Berlin, NH 03570	Member Number: 120	Company Affording Coverage: NH Public Risk Management Exchange - Primex ³ Bow Brook Place 46 Donovan Street Concord, NH 03301-2624
--	------------------------------	--

Type of Coverage	Effective Date	Expiration Date	Limits
<input checked="" type="checkbox"/> General Liability (Occurrence Form) Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence	7/1/2013	7/1/2014	Each Occurrence \$ 1,000,000 General Aggregate \$ 2,000,000 Fire Damage (Any one fire) \$ Med Exp (Any one person) \$
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: \$1,000 <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident) \$ Aggregate \$
<input type="checkbox"/> Workers' Compensation & Employers' Liability			<input type="checkbox"/> Statutory Each Accident \$ Disease - Each Employee \$ Disease - Policy Limit \$
<input type="checkbox"/> Property (Special Risk Includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)

Description: CDFA Grant. The certificate holder is named as Additional Covered Party, but only to the extent liability is based on the negligence or wrongful acts of the member, its employees, agents, officials or volunteers. This coverage does not extend to others. Any liability resulting from the negligence or wrongful acts of the Additional Covered Party, or their employees, agents, contractors, members, officers, directors or affiliates is not covered. The Participating Member will advise of cancellation no less than 15 days prior to cancellation.

CERTIFICATE HOLDER:	<input checked="" type="checkbox"/>	Additional Covered Party	<input type="checkbox"/>	Loss Payee	Primex ³ - NH Public Risk Management Exchange
					By: <i>Tammy Downer</i>
CDFA 14 Dixon Ave, Ste 102 Concord, NH 03301					Date: 2/19/2014 tdowner@nhprimex.org
					Please direct inquires to: Primex³ Risk Management Services 603-228-2841 phone 603-228-3833 fax



CERTIFICATE OF COVERAGE

The New Hampshire Public Risk Management Exchange (Primex²) is organized under the New Hampshire Revised Statutes Annotated, Chapter 5-B, Pooled Risk Management Programs. In accordance with those statutes, its Trust Agreement and bylaws, Primex² is authorized to provide pooled risk management programs established for the benefit of political subdivisions in the State of New Hampshire.

Each member of Primex² is entitled to the categories of coverage set forth below. In addition, Primex² may extend the same coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, amendments, rules, policies and procedures that are applicable to the members of Primex², including but not limited to the final and binding resolution of all claims and coverage disputes before the Primex² Board of Trustees. The Additional Covered Party's per occurrence limit shall be deemed included in the Member's per occurrence limit, and therefore shall reduce the Member's limit of liability as set forth by the Coverage Documents and Declarations. The limit shown may have been reduced by claims paid on behalf of the member. General Liability coverage is limited to Coverage A (Personal Injury Liability) and Coverage B (Property Damage Liability) only, Coverage's C (Public Officials Errors and Omissions), D (Unfair Employment Practices), E (Employee Benefit Liability) and F (Educator's Legal Liability Claims-Made Coverage) are excluded from this provision of coverage.

The below named entity is a member in good standing of the New Hampshire Public Risk Management Exchange. The coverage provided may, however, be revised at any time by the actions of Primex². As of the date this certificate is issued, the information set out below accurately reflects the categories of coverage established for the current coverage year.

This Certificate is issued as a matter of information only and confers no rights upon the certificate holder. This certificate does not amend, extend, or alter the coverage afforded by the coverage categories listed below.

Participating Member: City of Berlin City Hall 168 Main Street Berlin, NH 03570	Member Number: 120	Company Affording Coverage: NH Public Risk Management Exchange - Primex ² Bow Brook Place 46 Donovan Street Concord, NH 03301-2624	
Type of Coverage	Effective Date	Expiration Date	Limit, Sub-Limit, Deductible, Co-insurance, Co-pay, or Self-Retention
<input type="checkbox"/> General Liability (Occurrence Form) <input type="checkbox"/> Professional Liability (describe) <input type="checkbox"/> Claims Made <input type="checkbox"/> Occurrence			Each Occurrence \$ General Aggregate \$ Fire Damage (Any one fire) \$ Med Exp (Any one person) \$
<input type="checkbox"/> Automobile Liability Deductible Comp and Coll: <input type="checkbox"/> Any auto			Combined Single Limit (Each Accident) Aggregate
<input checked="" type="checkbox"/> Workers' Compensation & Employers' Liability	7/1/2013	7/1/2014	<input checked="" type="checkbox"/> Statutory Each Accident \$2,000,000 Disease - Each Employee \$2,000,000 Disease - Policy Limit \$
<input type="checkbox"/> Property (Special Risk includes Fire and Theft)			Blanket Limit, Replacement Cost (unless otherwise stated)
Description: Proof of Primex Member coverage only.			

CERTIFICATE HOLDER:	Additional Covered Party	Loss Payee	Primex² - NH Public Risk Management Exchange
CDFA 14 Dixon Ave, Ste 102 Concord, NH 03301			By: <i>Tanya Dwyer</i> Date: 2/19/2014 tdwyer@nhprimex.org Please direct inquires to: Primex² Claims/Coverage Services 603-225-2841 phone 603-228-3833 fax

CERTIFICATE

I, Debra Patrick, City Clerk of Berlin, New Hampshire do hereby certify that: (1) at the public hearings and meeting on October 21, 2013, the City Council voted to accept Community Development Block Grant funds and enter into a contract with the Community Development Finance Authority. (2) the City Council further authorized the City Manager to execute any documents which may be necessary to effectuate this contract and/or any amendments thereto; (3) this authorization has not been revoked, annulled or amended in any manner whatsoever, and remains in full force and effect as of the date hereof; and (4) the following person has been appointed to and now occupies the office indicated under item (2) above:

James A. Wheeler, City Manager

Name and Title of Officer Authorized to Sign

IN WITNESS WHEREOF, I have hereunto set my hand as the City Clerk of Berlin, New Hampshire this 19th day of FEBRUARY, 2014.

Debra A. Patrick, City Clerk
Debra Patrick, City Clerk

CERTIFICATION OF GRANTEE'S ATTORNEY

I, CHRISTOPHER L. BOLDT acting as Attorney for the City of Berlin, New Hampshire do hereby certify:

That in my opinion the Grantee is empowered to enter into the foregoing Grant Agreement under the laws of the State of New Hampshire. Further, I have examined the foregoing Grant Agreement and the actions taken by said Grantee and have determined that Grantee's official representative has been duly authorized to execute this Grant Agreement and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and applicable federal laws. In addition, for grants involving projects to be carried out on property not owned by Grantee, there are no legal impediments that will prevent full performance by the Grantee. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of Grantee in accordance with the terms thereof.

Dated at MERIDEN, NH this 24th day of FEBRUARY 2014.



Signature of Grantee's Attorney

**A RESOLUTION
2013-23**



**City of Berlin
NEW HAMPSHIRE**

In the Year of Our Lord Two Thousand Thirteen

A RESOLUTION authorizing application to the Community Development Block Grant Feasibility Study Program for \$12,000 on behalf of Women's Rural Entrepreneurial Network (WREN) for funds to see if there is a market for a Food Cooperative in Berlin, NH

Resolved by the City Council of the City of Berlin as Follows:

Whereas, the City Council adopts the updated Housing and Community Development Plan; and

Whereas, the City Council adopts the Residential Anti-displacement and Relocation Assistance Plan; and

Whereas, Community Development Block Grant Feasibility Study funds are available to hire engineers and architects to determine the viability of the project; and

Whereas, Berlin and Coos County are considered to be part of a food desert without enough access to fresh and local offerings; and

Whereas, a food cooperative would provide a place for local farmers, bakers, and food producers to bring their products year round; and

Whereas, upon approval, the City Manager is authorized to receive said grant and the grant proceeds are hereby appropriated for the purpose of the grant; and

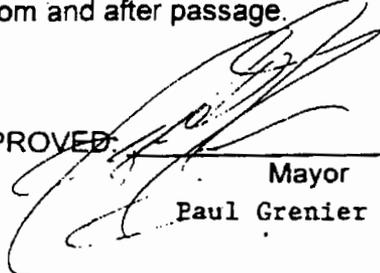
Whereas, all grant proceeds shall be deposited with the City Treasurer and that any additional use of these funds beyond the scope of work as listed in the application shall require prior approval of the City Council.

Now Therefore Be It Resolved by the City Council of the City of Berlin as Follows:

That, the City Manager is authorized to apply to the Community Development Block Grant Feasibility Study Program for \$12,000 on behalf of Women's Rural Entrepreneurial Network (WREN) for funds to study whether there is a market for a Food Cooperative in Berlin, NH and upon approval of said application, the City Manager is authorized to execute any documents which may be necessary to effectuate the CDBG contract.

This Resolution shall be in full force and effect from and after passage.

PASSED: October 21, 2013
Date

APPROVED: 
Mayor
Paul Grenier

ATTEST: Debra A. Patrick, CMC
City Clerk

A True Copy, Attest Debra A. Patrick, CMC
City Clerk
October 22, 2013
Date

City of Berlin - \$12,000 – Economic Development - Food Coop Market Study

The City of Berlin is requesting CDBG funds to fund a market study to determine whether the city and surrounding communities could support a food cooperative.

Shaw’s Supermarket, which was located in Gorham, closed a few years ago, and there are now only two choices for grocery items: Walmart and a small IGA. To help address the food shortage, a local nonprofit, the Women’s Rural Entrepreneurial Network (WREN) operates a summer Farmers Market in downtown. The successful summer market led community leaders and WREN to develop the idea of a food cooperative.

A viable food cooperative could create between 15-30 full time and full time equivalent jobs. The City of Berlin is 54% low- and moderate-income residents according to HUD data, has a high unemployment rate, and is located more than 35 miles from other active economic centers.

The next step is to commission a market study to determine whether a food cooperative could be sustained in the area. A Cooperative would benefit the City of Berlin by creating jobs, contributing to the revitalization of downtown Berlin, and strengthening and diversifying the region’s economy by creating an opportunity for local farmers and producers to market their products year round. As part of the planning phase and while the market study is being completed, WREN will hold a community meeting to explain the idea of the food cooperative, answer questions and gauge support from the area residents.

The market study will determine if the project is feasible, and will suggest suitable site locations and sales potential. The document will provide a clear outline of what is needed to move this project from the idea stage to steps required for the development of a food cooperative in Berlin.

Proposed Budget

	CDBG	Total
Feasibility Study	\$11,800	\$11,800
Grant Administration – Advertising	\$200	\$200
Total	\$12,000	\$12,000