



LINDA M. HODGDON
Commissioner
(603) 271-3201

State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
OFFICE OF THE COMMISSIONER
25 Capitol Street – Room 120
Concord, New Hampshire 03301

7 *GB*

July 15, 2013

JOSEPH B. BOUCHARD
Assistant Commissioner
(603) 271-3204

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

REQUESTED ACTION

Authorize the Department of Administrative Services (the "Department"), pursuant to RSA 4:40, to enter into a twenty (20) year Driveway Use Agreement with Bindery Redevelopment, LLC to provide public vehicular access to the rear corner of the Bindery Redevelopment parcel located at 43-45 South Main Street in Concord using the abutting State-owned driveway, which also provides rear access from South Main Street to the State land and buildings located at 12 Hills Avenue in Concord. Bindery Redevelopment, LLC will not be charged for the use of the driveway but rather will assume sole responsibility for driveway repavement, maintenance, and snow removal throughout the term of the Agreement. The term of the Agreement shall begin immediately upon approval by the Governor and Executive Council.

EXPLANATION

The subject driveway is a component area of the State parcel located at 12 Hills Avenue in Concord. The Driveway Use Agreement grants Bindery Redevelopment, LLC, its tenants, and invitees the nonexclusive right to use the driveway for vehicular access to and from a small parking area to be situated in the northeasterly corner of its abutting parcel at 43-45 South Main Street for a term of twenty (20) years commencing upon the approval of the Driveway Use Agreement by the Governor and Executive Council. At its meeting on July 12, 2012, the Council on Resources and Development (CORD) voted to recommend approval of the Driveway Use Agreement in concept as submitted. On May 14, 2013 the Long Range Capital Planning and Utilization Committee approved the Driveway Use Agreement.

Under the terms of the Driveway Use Agreement, Bindery Redevelopment, LLC is not charged for the use of the driveway. Instead, Bindery Redevelopment, LLC is fully responsible for: (1) grinding and repaving the driveway upon completion of the construction project presently underway at 43-45 South Main Street; (2) maintaining and resurfacing the driveway as needed throughout the term of the Driveway Use Agreement; (3) keeping the driveway clear of any waste or debris and in good repair throughout the term of the Driveway Use Agreement; and (4) prompt snow removal and application of sand and salt as needed throughout the term of the Driveway Use Agreement. The term of the Driveway Use Agreement shall commence upon its approval by the Governor and Executive Council and end on the same date in 2033.

Respectfully submitted,

Linda M. Hodgdon
Commissioner

DRIVEWAY USE AGREEMENT
12 Hills Avenue, Concord, New Hampshire
(City of Concord Tax Map 34, Block 4, Lot 3)

This Driveway Use Agreement (this "Agreement") is made this 7th day of March 2013 by and between the **State of New Hampshire** (together with its successors in interest in the Premises and the State Lot, the "State"), by and through its Department of Administrative Services, with an address of 25 Capitol Street, Concord, New Hampshire 03301, and **Bindery Redevelopment, LLC**, a New Hampshire limited liability company (together with its successors in interest in the Project Site, the "User"), with an address of 2 Pillsbury Street, Suite 500, Concord, New Hampshire 03301.

A. The State owns a parcel of land located at 12 Hills Avenue in Concord, New Hampshire and identified by the City of Concord as Tax Map 34, Block 4, Lot 3 (the "State Lot"), part of which is a narrow strip of land extending southwestward to South Main Street (the "Driveway") used for rear vehicular access to the State Lot (the area depicted as the "Driveway Area" on Exhibit A attached hereto is hereinafter referred to as the "Premises"); and

B. The User is acquiring and redeveloping the adjacent parcels of land located at 43 and 45 South Main Street (Tax Map 34, Block 4, Lots 6 and 5, respectively) (the "Project Site"); and

C. The User desires to use the Premises initially for temporary construction access to the rear of the Project Site and later for public vehicular access to a proposed parking area to be situated on the northerly portion of the Project Site abutting the Premises; and

D. The User is willing to assume at its sole expense full responsibility to grind and repave the Driveway upon completion of construction on the Project Site, and to fully maintain in a proper and safe condition the Premises (including, without limitation, promptly removing snow from, sanding, and resurfacing the Driveway as needed) throughout the term of this Agreement and pursuant to the terms set forth herein.

In consideration of the promises and covenants set forth herein, the parties agree as follows:

1. The State hereby grants to the User, its employees, agents, managers, principals, and contractors the nonexclusive right to use the Premises for temporary pedestrian and vehicular access to and from the Project Site for construction purposes until the earlier of: (a) the completion of construction on the Project Site, or (b) August 31, 2013. The State further hereby grants to the User, its employees, agents, managers, principals, tenants, and invitees the nonexclusive right to use the Premises for public vehicular access to and from the proposed parking area to be situated on the northerly portion of the Project Site abutting the Premises for a term of twenty (20) years commencing with the effective date of this Agreement (collectively, as applicable, the "Term"). During the Term the User may use the Premises as provided herein on an unlimited basis.

2. The User shall be fully responsible for grinding and repaving at its sole expense the Driveway upon the earlier of: (a) the completion of construction on the Project Site, or (b) August 31, 2013. The User shall be fully responsible for maintaining, cleaning, and repairing the Premises at its sole expense throughout the Term. Required maintenance shall minimally include, but not be limited to, prompt removal of snow and application of sand and salt as needed to ensure adequate vehicle tire traction in snowy or icy conditions, resurfacing the Driveway as needed, and other maintenance to keep the Premises in a good, safe, proper, and suitable condition for use by all interested parties as a publicly accessible driveway. The User shall keep the Premises clean by ensuring that any waste or debris is removed and properly disposed of. The User shall immediately repair any damage to the Premises that results from the exercise of the rights granted hereunder.

3. Snow removal shall be conducted within one (1) hour after accumulation of snow greater than two (2) inches. Application of sand and salt shall be as needed to maintain bare pavement. All snow must be removed from the site; no storage of snow on site shall be permitted. All disposal of snow shall be done in accordance with all local, state, and federal laws, ordinances, and regulations as are applicable to private (non-governmental) parties. The User, or its contractor (as the case may be), shall perform routine maintenance and repair on all equipment required to plow and remove snow from the Premises. All labor, tools, transportation, disposal costs, materials, equipment, and permits required to perform snow plowing and removal services shall be the responsibility of the User. Prior to the first snowfall of each winter season the User, or its contractor (as the case may be), shall identify and clearly mark areas such as, but not limited to, curbing, shrubs, manholes, fencing, guardrails, electrical junction boxes, or any other areas that are susceptible to damage by a snow plow when concealed by snowfall. After the end of each winter season the User, or its contractor (as the case may be), shall remove all stakes and any other materials used to mark obstacles or hazards, repair any damaged lawn, and remove all sand deposits remaining within the Premises.

4. The exercise of the rights granted hereunder shall not interfere with the free and unobstructed use of the Driveway by the State and by the current and future owners and occupants of City of Concord Tax Map 34, Block 4, Lot 8 located at 39 South Main Street (e.g. Constantly Pizza), or their employees, agents, or invitees. Accordingly, the User acknowledges and agrees that the rights granted under this Agreement are subject to the right of access over the Premises benefitting said lot at 39 South Main Street as reserved by Deed of William H. and Robert D. Sweeney dated February 1, 1950, recorded in the Merrimack County Registry of Deeds at Book 676, Page 136.

5. The rights granted under this Agreement shall be revocable by the State at any time upon the breach of any term or condition contained herein. This Agreement shall automatically terminate upon the expiration of the Term without further action by any party. The State and the User hereby agree that any transfer of ownership of the Premises prior to the termination of this Agreement shall be made subject to the rights granted to the User hereunder, and that any transfer of ownership of the Project Site prior to the termination of this Agreement shall be made subject to the transferee's express acknowledgment and assumption of the corresponding covenants of maintenance, cleaning, repair, and snow removal made to the State hereunder. In recognition of the parties' intention that the rights and obligations created hereunder shall

survive any transfer of ownership of the Premises and/or the Project Site occurring prior to the termination of this Agreement, and that the successors-in-interest of each party shall benefit from and be bound by the corresponding rights and obligations created hereunder, the State and the User further agree that a Notice of Agreement in the form attached hereto as Exhibit B shall be recorded in the Merrimack County Registry of Deeds

6. Any notice to be provided hereunder or in connection herewith shall be sent via first class mail or hand delivery to the designated contact person for each party at the corresponding address indicated below:

State:

Michael Connor, Director (or his designee or successor)
State of New Hampshire
Department of Administrative Services
Division of Plant & Property Management
25 Capitol Street, Room 102
Concord, NH 03301

User:

Stephen M. Duprey, Manager
Bindery Redevelopment, LLC
2 Pillsbury Street, Suite 500
Concord, NH 03301

7. The User's use and maintenance of the Premises shall be: (a) without cost, expense, or liability to the State; and (b) subject to such rules, regulations, and policies as the State may prescribe from time to time.

8. The User has inspected and is familiar with the condition of the Premises. It is understood by User that the Premises are made available for use in an "as is, where is" condition without any representations by the State as to their fitness for the User's intended use hereunder. The State shall have no obligation hereunder to make any alterations, repairs, or improvements to the Premises.

9. The User hereby agrees to defend, indemnify, save, and hold harmless the State of New Hampshire, its agencies, officers, employees, and agents from and against any and all losses suffered by the State of New Hampshire, its agencies, officers, employees, or agents and any and all claims, liabilities, or penalties asserted against the State of New Hampshire, its agencies, officers, employees, or agents on account of, based on, resulting from, or arising out of (or which may be claimed to arise out of) or in connection with the acts or omissions of the User or its manager, principal, employee, agent, tenant, or contractor in connection herewith. Nothing contained in this Agreement shall be construed as a waiver of the sovereign immunity of the State of New Hampshire, which immunity is hereby expressly reserved. The foregoing covenants shall survive the termination and any other lapse of effectiveness of this Agreement.

10. Except as set forth in this Agreement, the User shall not alter or improve the Premises or make any additions or accessions thereto without the prior written consent of the State, which consent shall not be unreasonably withheld or delayed.

11. The User shall at all times promptly observe and comply at its sole expense with the provisions of all applicable federal, state, and local laws, rules, regulations, and standards, and in particular those provisions concerning the protection and enhancement of environmental quality, pollution control and abatement, safe drinking water, and solid and hazardous waste.

12. The User shall be solely responsible for damage to property or injuries to persons which may arise from or be attributable or incident to the exercise of the privileges granted under this Agreement (including damage or injuries attributable to the condition or state of repair of the Premises and its use by the User), for damage to the property of the User, and for damage to the property or injuries to the person of the User's invitees, managers, principals, employees, agents, contractors, tenants, or others who may have entered the Premises at their invitation or at the invitation of any one of them. The User agrees to assume all risk of loss of or damage to the Premises and any other property and all risk of injury or death to any person by reason of the exercise of the privileges granted herein. The User waives any and all claims against the State for any such loss, damage, personal injury, or death caused by or occurring by reason of or incident to the User's use of the Premises or as a consequence of the conduct of activities or the performance of responsibilities under this Agreement.

13. The User shall provide to the State a certificate of insurance naming the State of New Hampshire as an additional insured and evidencing: (1) comprehensive general liability coverage against all claims of bodily injury, death, or property damage in amounts not less than \$250,000 per claim and \$2,000,000 per incident, or \$1,000,000 per occurrence and \$1,000,000 umbrella coverage; and (2) workers' compensation insurance and employers' liability insurance as required by law. The User shall, at its sole expense, obtain and maintain in force such insurance throughout the Term, and shall require any contractor that will enter the Premises to obtain and maintain in force such insurance, all of which insurance shall be for the benefit of the State. The policies described in this paragraph shall be on the standard forms employed in the State of New Hampshire and shall be issued by underwriters acceptable to the State and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than ten (10) days after written notice thereof has been received by the State. The State reserves the right to require increases in the insurance coverage amounts required hereunder within thirty (30) days of providing advance written notice to the User, such increases to be consistent with State's prevailing applicable standards at the time of renewal.

14. Except as otherwise provided herein, the rights granted under this Agreement shall be nontransferable, nonassignable, and nonexclusive. In the event that the User licenses any rights granted hereunder to one or more tenants of the facility to be constructed on the Project Site, the User affirms and agrees that it shall remain primarily and directly liable to the State for the exercise by such tenants of the rights granted hereunder as provided herein.

15. This Agreement is to be construed according to the laws of the State of New Hampshire.
16. This Agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings between the parties hereto relating to the rights granted hereunder.
17. This Agreement may only be amended or renewed by an instrument in writing signed by the parties hereto, and only after approval of such amendment by the Governor and Executive Council of the State of New Hampshire.
18. Except as specifically provided in this Agreement, the parties hereto do not intend to benefit any third parties hereby, and this Agreement shall not be construed to confer any such benefit.
19. **EFFECTIVE DATE OF AGREEMENT:** This Agreement shall only become effective upon approval by the Governor and Executive Council of the State of New Hampshire.

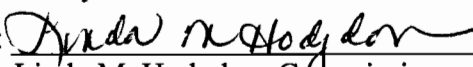
IN WITNESS WHEREOF, the parties hereto have set their hands as of the date first above written.

STATE:

STATE OF NEW HAMPSHIRE

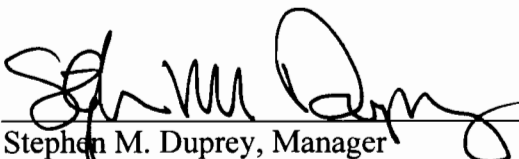
By and through its

DEPARTMENT OF ADMINSTRATIVE SERVICES

By: 
Linda M. Hodgdon, Commissioner

USER:

BINDERY REDEVELOPMENT, LLC

By: 
Stephen M. Duprey, Manager

STATE OF NEW HAMPSHIRE

COUNTY OF MERRIMACK

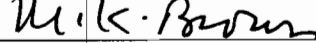
On this 6th day of February 2013, before me, the undersigned officer, personally appeared **Stephen M. Duprey**, who acknowledged himself to be the Manager of **Bindery Redevelopment, LLC**, and being so authorized, executed the foregoing instrument for the purposes therein contained.


Notary Public/~~Justice of the Peace~~

My Commission Expires:

MARY LLOYD PEACOCK, Notary Public
My Commission Expires January 1, 2018

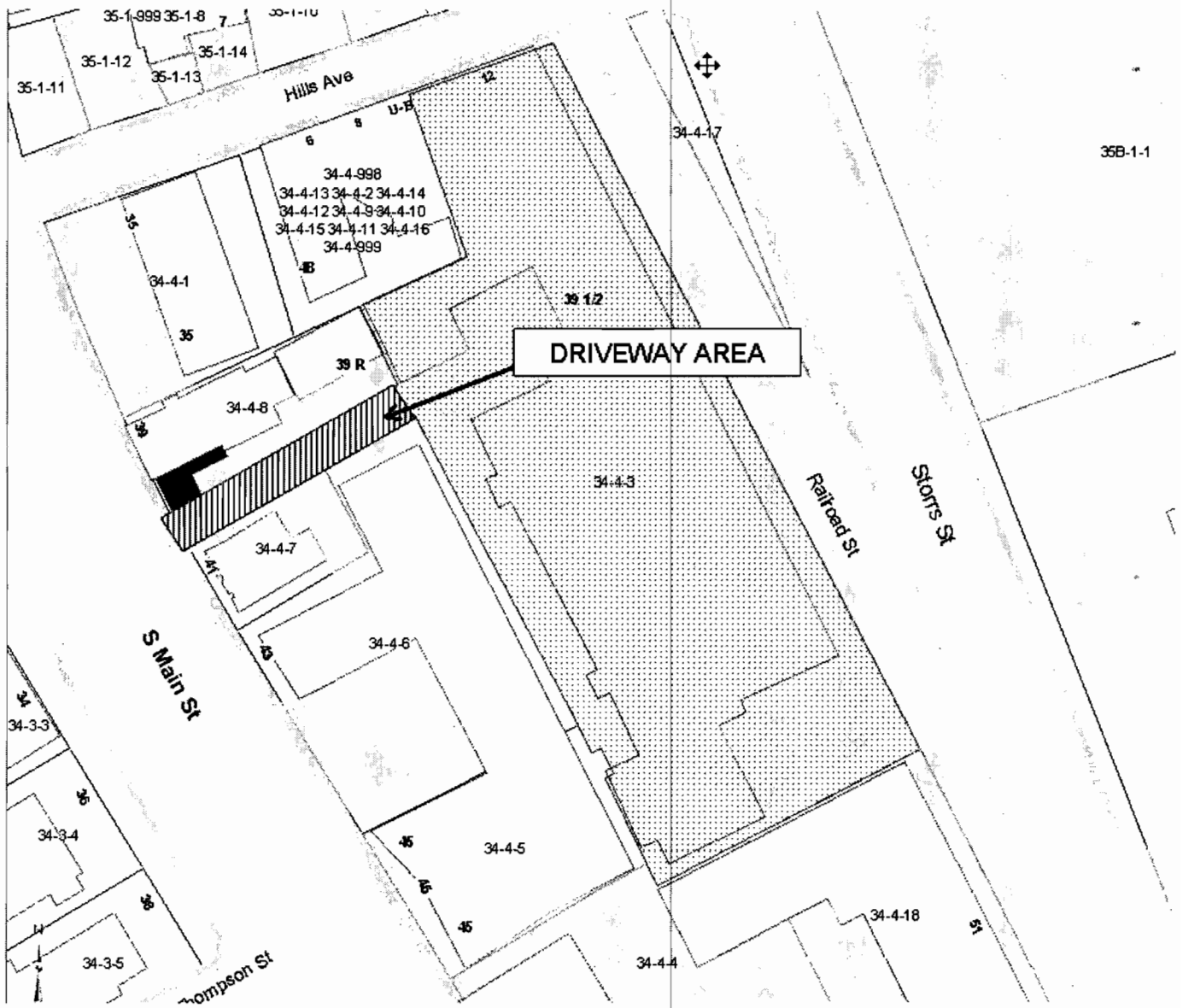
Approved by the Department of Justice as to form, substance and execution:

Date: 7/30/13 Attorney: 

Approved by the Governor and Executive Council:

Date: _____ Agenda Item Number: _____

Exhibit A



Driveway Area
South Main Street Access to 12 Hills Avenue, Concord
(Part of Concord Tax Map 34, Block 4, Lot 3)

Exhibit B

Return to:
Jared Nylund
NH Department of Administrative Services
25 Capitol Street, Room 212
Concord, NH 03301

NOTICE OF DRIVEWAY USE AGREEMENT

Parties: State of New Hampshire ("State")
NH Department of Administrative Services
Office of the Commissioner
25 Capitol Street
Concord, NH 03301

Bindery Redevelopment, LLC ("User")
2 Pillsbury Street, Suite 500
Concord, NH 03301

Date of Execution: _____, 2013

Premises: A portion of the parcel of land located at 12 Hills Avenue, Concord, New Hampshire, known as City of Concord Tax Map 34, Block 4, Lot 3, consisting of a narrow strip of land extending southwestward to South Main Street from the fence gate separating said strip from the main parcel area; said premises includes the paved driveway situated on said strip of land.

Term: Twenty (20) years commencing with the Date of Commencement below

Date of Commencement: _____, 2013 (the "Effective Date")

Rights of Extension: None

Rights of Renewal: None

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date first above written.

STATE:
STATE OF NEW HAMPSHIRE
By and through its
DEPARTMENT OF ADMINSTRATIVE SERVICES

By: _____
Linda M. Hodgdon, Commissioner

STATE OF NEW HAMPSHIRE
COUNTY OF _____

On this _____ day of _____ 2013, before me, the undersigned officer, personally appeared **Linda M. Hodgdon**, who acknowledged herself to be the Commissioner of the **New Hampshire Department of Administrative Services**, and being so authorized, executed the foregoing instrument for the purposes therein contained.

Notary Public/Justice of the Peace

My Commission Expires:

USER:
BINDERY REDEVELOPMENT, LLC

By: _____
Stephen M. Duprey, Manager

STATE OF NEW HAMPSHIRE
COUNTY OF _____

On this _____ day of _____ 2013, before me, the undersigned officer, personally appeared **Stephen M. Duprey**, who acknowledged himself to be the Manager of **Bindery Redevelopment, LLC**, and being so authorized, executed the foregoing instrument for the purposes therein contained.

Notary Public/Justice of the Peace

My Commission Expires:

State of New Hampshire

Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that Bindery Redevelopment, LLC is a New Hampshire limited liability company formed on December 28, 2010. I further certify that it is in good standing as far as this office is concerned, having filed the annual report(s) and paid the fees required by law; and that a certificate of cancellation has not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 11th day of July, A.D. 2013

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State

BINDERY REDEVELOPMENT, LLC

MANAGER'S CERTIFICATE WITH RESPECT TO INCUMBENCY AND VOTE

I, Stephen M. Duprey, hereby certify as follows:

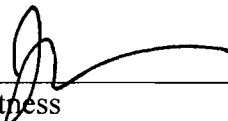
1. I am the duly-elected Manager of Bindery Redevelopment, LLC (the "Company").
2. I am the 99.99% Member of the Company; Foxfire Property Management, Inc., of which I am the sole shareholder, is the 0.01% Member of the Company.
3. The Members and Manager of the Company approved the following actions by written consent vote with an intended effective date of February 6, 2013, and such approvals remain in full force and effect:

VOTED: To authorize the Company to enter into a certain Driveway Use Agreement with the State of New Hampshire in the form attached hereto.

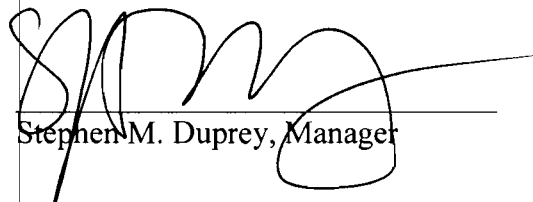
FURTHER
VOTED: To authorize Stephen M. Duprey, Manager of the Company, to execute the foregoing Driveway Use Agreement on behalf of the Company.

FURTHER
VOTED: To ratify any actions taken by the Manager in connection with the negotiation and execution of the foregoing Driveway Use Agreement.

Executed this 11th day of July, 2013.



Witness



Stephen M. Duprey, Manager

DRIVEWAY USE AGREEMENT
12 Hills Avenue, Concord, New Hampshire
(City of Concord Tax Map 34, Block 4, Lot 3)

This Driveway Use Agreement (this "Agreement") is made this ____ day of _____ 2013 by and between the **State of New Hampshire** (together with its successors in interest in the Premises and the State Lot, the "State"), by and through its Department of Administrative Services, with an address of 25 Capitol Street, Concord, New Hampshire 03301, and **Bindery Redevelopment, LLC**, a New Hampshire limited liability company (together with its successors in interest in the Project Site, the "User"), with an address of 2 Pillsbury Street, Suite 500, Concord, New Hampshire 03301.

A. The State owns a parcel of land located at 12 Hills Avenue in Concord, New Hampshire and identified by the City of Concord as Tax Map 34, Block 4, Lot 3 (the "State Lot"), part of which is a narrow strip of land extending southwestward to South Main Street (the "Driveway") used for rear vehicular access to the State Lot (the area depicted as the "Driveway Area" on Exhibit A attached hereto is hereinafter referred to as the "Premises"); and

B. The User is acquiring and redeveloping the adjacent parcels of land located at 43 and 45 South Main Street (Tax Map 34, Block 4, Lots 6 and 5, respectively) (the "Project Site"); and

C. The User desires to use the Premises initially for temporary construction access to the rear of the Project Site and later for public vehicular access to a proposed parking area to be situated on the northerly portion of the Project Site abutting the Premises; and

D. The User is willing to assume at its sole expense full responsibility to grind and repave the Driveway upon completion of construction on the Project Site, and to fully maintain in a proper and safe condition the Premises (including, without limitation, promptly removing snow from, sanding, and resurfacing the Driveway as needed) throughout the term of this Agreement and pursuant to the terms set forth herein.

In consideration of the promises and covenants set forth herein, the parties agree as follows:

1. The State hereby grants to the User, its employees, agents, managers, principals, and contractors the nonexclusive right to use the Premises for temporary pedestrian and vehicular access to and from the Project Site for construction purposes until the earlier of: (a) the completion of construction on the Project Site, or (b) August 31, 2013. The State further hereby grants to the User, its employees, agents, managers, principals, tenants, and invitees the nonexclusive right to use the Premises for public vehicular access to and from the proposed parking area to be situated on the northerly portion of the Project Site abutting the Premises for a term of twenty (20) years commencing with the effective date of this Agreement (collectively, as applicable, the "Term"). During the Term the User may use the Premises as provided herein on an unlimited basis.

2. The User shall be fully responsible for grinding and repaving at its sole expense the Driveway upon the earlier of: (a) the completion of construction on the Project Site, or (b) August 31, 2013. The User shall be fully responsible for maintaining, cleaning, and repairing the Premises at its sole expense throughout the Term. Required maintenance shall minimally include, but not be limited to, prompt removal of snow and application of sand and salt as needed to ensure adequate vehicle tire traction in snowy or icy conditions, resurfacing the Driveway as needed, and other maintenance to keep the Premises in a good, safe, proper, and suitable condition for use by all interested parties as a publicly accessible driveway. The User shall keep the Premises clean by ensuring that any waste or debris is removed and properly disposed of. The User shall immediately repair any damage to the Premises that results from the exercise of the rights granted hereunder.

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4. The exercise of the rights granted hereunder shall not interfere with the free and unobstructed use of the Driveway by the State and by the current and future owners and occupants of City of Concord Tax Map 34, Block 4, Lot 8 located at 39 South Main Street (e.g. Constantly Pizza), or their employees, agents, or invitees. Accordingly, the User acknowledges and agrees that the rights granted under this Agreement are subject to the right of access over the Premises benefitting said lot at 39 South Main Street as reserved by Deed of William H. and Robert D. Sweeney dated February 1, 1950, recorded in the Merrimack County Registry of Deeds at Book 676, Page 136.

5. The rights granted under this Agreement shall be revocable by the State at any time upon the breach of any term or condition contained herein. This Agreement shall automatically terminate upon the expiration of the Term without further action by any party. The State and the User hereby agree that any transfer of ownership of the Premises prior to the termination of this Agreement shall be made subject to the rights granted to the User hereunder, and that any transfer of ownership of the Project Site prior to the termination of this Agreement shall be made subject to the transferee's express acknowledgment and assumption of the corresponding covenants of maintenance, cleaning, repair, and snow removal made to the State hereunder. In recognition of the parties' intention that the rights and obligations created hereunder shall

survive any transfer of ownership of the Premises and/or the Project Site occurring prior to the termination of this Agreement, and that the successors-in-interest of each party shall benefit from and be bound by the corresponding rights and obligations created hereunder, the State and the User further agree that a Notice of Agreement in the form attached hereto as Exhibit B shall be recorded in the Merrimack County Registry of Deeds

6. Any notice to be provided hereunder or in connection herewith shall be sent via first class mail or hand delivery to the designated contact person for each party at the corresponding address indicated below:

State:

Michael Connor, Director (or his designee or successor)
State of New Hampshire
Department of Administrative Services
Division of Plant & Property Management
25 Capitol Street, Room 102
Concord, NH 03301

User:

Stephen M. Duprey, Manager
Bindery Redevelopment, LLC
2 Pillsbury Street, Suite 500
Concord, NH 03301

7. The User's use and maintenance of the Premises shall be: (a) without cost, expense, or liability to the State; and (b) subject to such rules, regulations, and policies as the State may prescribe from time to time.

8. The User has inspected and is familiar with the condition of the Premises. It is understood by User that the Premises are made available for use in an "as is, where is" condition without any representations by the State as to their fitness for the User's intended use hereunder. The State shall have no obligation hereunder to make any alterations, repairs, or improvements to the Premises.

9. The User hereby agrees to defend, indemnify, save, and hold harmless the State of New Hampshire, its agencies, officers, employees, and agents from and against any and all losses suffered by the State of New Hampshire, its agencies, officers, employees, or agents and any and all claims, liabilities, or penalties asserted against the State of New Hampshire, its agencies, officers, employees, or agents on account of, based on, resulting from, or arising out of (or which may be claimed to arise out of) or in connection with the acts or omissions of the User or its manager, principal, employee, agent, tenant, or contractor in connection herewith. Nothing contained in this Agreement shall be construed as a waiver of the sovereign immunity of the State of New Hampshire, which immunity is hereby expressly reserved. The foregoing covenants shall survive the termination and any other lapse of effectiveness of this Agreement.

10. Except as set forth in this Agreement, the User shall not alter or improve the Premises or make any additions or accessions thereto without the prior written consent of the State, which consent shall not be unreasonably withheld or delayed.

11. The User shall at all times promptly observe and comply at its sole expense with the provisions of all applicable federal, state, and local laws, rules, regulations, and standards, and in particular those provisions concerning the protection and enhancement of environmental quality, pollution control and abatement, safe drinking water, and solid and hazardous waste.

12. The User shall be solely responsible for damage to property or injuries to persons which may arise from or be attributable or incident to the exercise of the privileges granted under this Agreement (including damage or injuries attributable to the condition or state of repair of the Premises and its use by the User), for damage to the property of the User, and for damage to the property or injuries to the person of the User's invitees, managers, principals, employees, agents, contractors, tenants, or others who may have entered the Premises at their invitation or at the invitation of any one of them. The User agrees to assume all risk of loss of or damage to the Premises and any other property and all risk of injury or death to any person by reason of the exercise of the privileges granted herein. The User waives any and all claims against the State for any such loss, damage, personal injury, or death caused by or occurring by reason of or incident to the User's use of the Premises or as a consequence of the conduct of activities or the performance of responsibilities under this Agreement.

13. The User shall provide to the State a certificate of insurance naming the State of New Hampshire as an additional insured and evidencing: (1) comprehensive general liability coverage against all claims of bodily injury, death, or property damage in amounts not less than \$250,000 per claim and \$2,000,000 per incident, or \$1,000,000 per occurrence and \$1,000,000 umbrella coverage; and (2) workers' compensation insurance and employers' liability insurance as required by law. The User shall, at its sole expense, obtain and maintain in force such insurance throughout the Term, and shall require any contractor that will enter the Premises to obtain and maintain in force such insurance, all of which insurance shall be for the benefit of the State. The policies described in this paragraph shall be on the standard forms employed in the State of New Hampshire and shall be issued by underwriters acceptable to the State and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modifications of the policy earlier than ten (10) days after written notice thereof has been received by the State. The State reserves the right to require increases in the insurance coverage amounts required hereunder within thirty (30) days of providing advance written notice to the User, such increases to be consistent with State's prevailing applicable standards at the time of renewal.

14. Except as otherwise provided herein, the rights granted under this Agreement shall be nontransferable, nonassignable, and nonexclusive. In the event that the User licenses any rights granted hereunder to one or more tenants of the facility to be constructed on the Project Site, the User affirms and agrees that it shall remain primarily and directly liable to the State for the exercise by such tenants of the rights granted hereunder as provided herein.

15. This Agreement is to be construed according to the laws of the State of New Hampshire.

16. This Agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings between the parties hereto relating to the rights granted hereunder.

17. This Agreement may only be amended or renewed by an instrument in writing signed by the parties hereto, and only after approval of such amendment by the Governor and Executive Council of the State of New Hampshire.

18. Except as specifically provided in this Agreement, the parties hereto do not intend to benefit any third parties hereby, and this Agreement shall not be construed to confer any such benefit.

19. **EFFECTIVE DATE OF AGREEMENT:** This Agreement shall only become effective upon approval by the Governor and Executive Council of the State of New Hampshire.

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date first above written.

STATE:

STATE OF NEW HAMPSHIRE

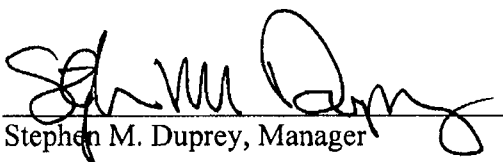
By and through its

DEPARTMENT OF ADMINSTRATIVE SERVICES

By: _____
Linda M. Hodgdon, Commissioner

USER:

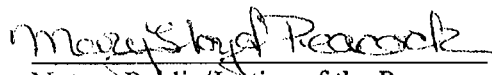
BINDERY REDEVELOPMENT, LLC

By: 
Stephen M. Duprey, Manager

STATE OF NEW HAMPSHIRE

COUNTY OF MERRIMACK

On this 01 day of February 2013, before me, the undersigned officer, personally appeared **Stephen M. Duprey**, who acknowledged himself to be the Manager of **Bindery Redevelopment, LLC**, and being so authorized, executed the foregoing instrument for the purposes therein contained.


Notary Public/~~Justice of the Peace~~

My Commission Expires:

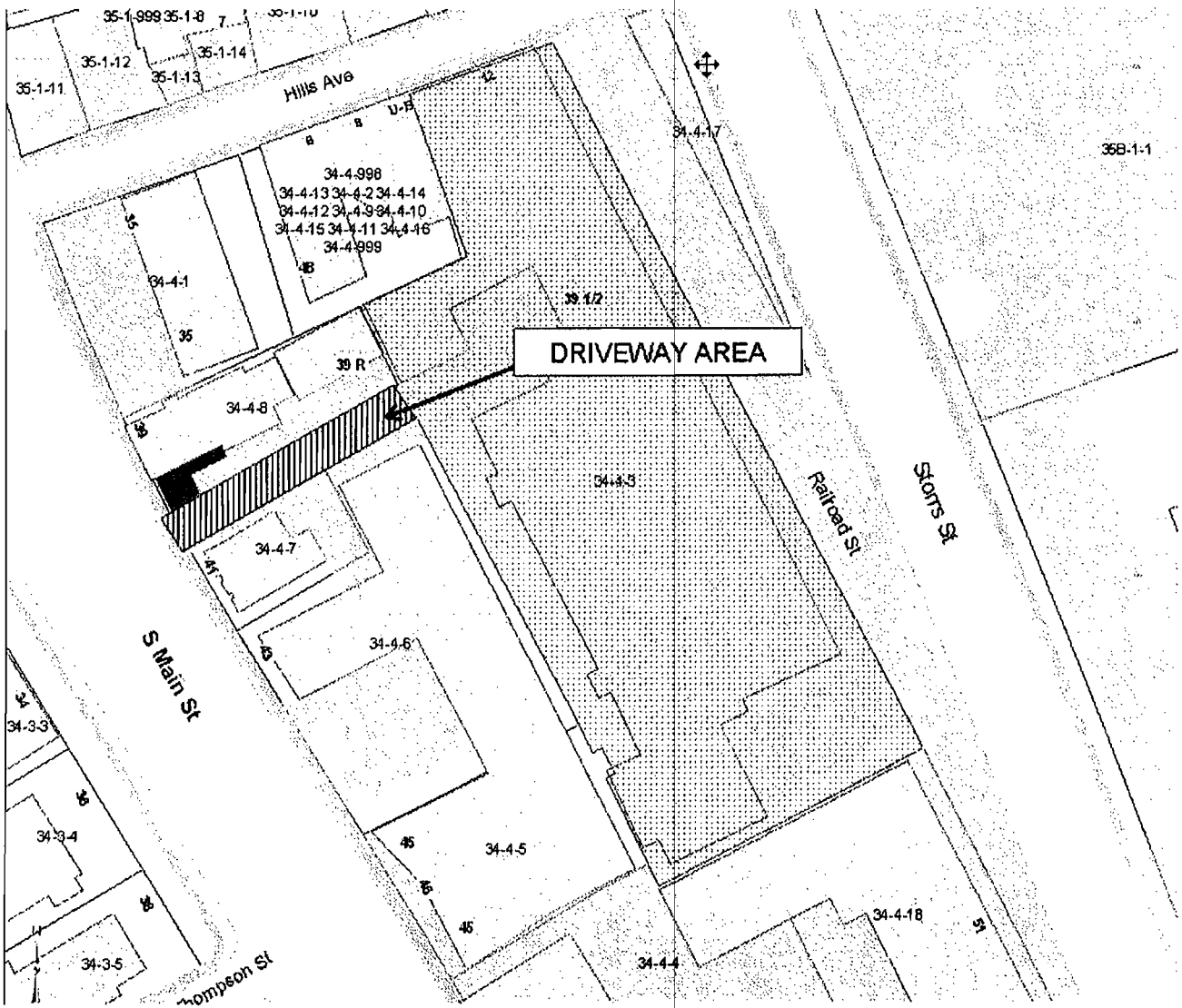
MARY LLOYD PEACOCK, Notary Public
My Commission Expires January 13, 2015

Approved by the Department of Justice as to form, substance and execution:

Date: _____ Attorney: _____

Approved by the Governor and Executive Council:

Date: _____ Agenda Item Number: _____

Exhibit A

Driveway Area
South Main Street Access to 12 Hills Avenue, Concord
(Part of Concord Tax Map 34, Block 4, Lot 3)

Exhibit B

Return to:
Jared Nylund
NH Department of Administrative Services
25 Capitol Street, Room 212
Concord, NH 03301

NOTICE OF DRIVEWAY USE AGREEMENT

Parties: State of New Hampshire ("State")
NH Department of Administrative Services
Office of the Commissioner
25 Capitol Street
Concord, NH 03301

Bindery Redevelopment, LLC ("User")
2 Pillsbury Street, Suite 500
Concord, NH 03301

Date of Execution: _____, 2013

Premises: A portion of the parcel of land located at 12 Hills Avenue, Concord, New Hampshire, known as City of Concord Tax Map 34, Block 4, Lot 3, consisting of a narrow strip of land extending southwestward to South Main Street from the fence gate separating said strip from the main parcel area; said premises includes the paved driveway situated on said strip of land.

Term: Twenty (20) years commencing with the Date of Commencement below

Date of Commencement: _____, 2013 (the "Effective Date")

Rights of Extension: None

Rights of Renewal: None

IN WITNESS WHEREOF, the parties hereto have set their hands as of the date first above written.

STATE:

STATE OF NEW HAMPSHIRE

By and through its

DEPARTMENT OF ADMINISTRATIVE SERVICES

By: _____
Linda M. Hodgdon, Commissioner

STATE OF NEW HAMPSHIRE

COUNTY OF _____

On this _____ day of _____ 2013, before me, the undersigned officer, personally appeared **Linda M. Hodgdon**, who acknowledged herself to be the Commissioner of the **New Hampshire Department of Administrative Services**, and being so authorized, executed the foregoing instrument for the purposes therein contained.

Notary Public/Justice of the Peace

My Commission Expires:

USER:

BINDERY REDEVELOPMENT, LLC

By: _____
Stephen M. Duprey, Manager

STATE OF NEW HAMPSHIRE

COUNTY OF _____

On this _____ day of _____ 2013, before me, the undersigned officer, personally appeared **Stephen M. Duprey**, who acknowledged himself to be the Manager of **Bindery Redevelopment, LLC**, and being so authorized, executed the foregoing instrument for the purposes therein contained.

Notary Public/Justice of the Peace

My Commission Expires:



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
7/11/2013

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Infinger Insurance 234 White Mountain Highway P.O. Box 2010 Conway NH 03818	CONTACT NAME: Tonya Fox, ACSR PHONE (A/C, No. Ext): (603) 447-5123 FAX (A/C, No): (603) 447-5126 E-MAIL ADDRESS: tonya@infingerinsurance.com
INSURED Bindery Redevelopment, LLC c/o John Chorlian PO Box 1438 Concord NH 03302	INSURER(S) AFFORDING COVERAGE INSURER A: Peerless Insurance Company NAIC #: 24198 INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:

COVERAGES

CERTIFICATE NUMBER: CL1332170632

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR	X	GL1039498	3/20/2013	3/20/2014	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000					
	MED EXP (Any one person) \$ 5,000					
	PERSONAL & ADV INJURY \$ 1,000,000					
	GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC					GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ALL OWNED AUTOS ☒ HIRED AUTOS ☒ SCHEDULED AUTOS NON-OWNED AUTOS		BA1039499	3/20/2013	3/20/2014	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	BODILY INJURY (Per person) \$					
	BODILY INJURY (Per accident) \$					
	PROPERTY DAMAGE (Per accident) \$					
A	UMBRELLA LIAB ☒ EXCESS LIAB ☐ DED ☒ RETENTION \$ 10,000		CU8895797	3/20/2013	3/20/2014	EACH OCCURRENCE \$ 5,000,000
	CLAIMS-MADE					AGGREGATE \$ 5,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A				WC STATUTORY LIMITS OTHER
	E L EACH ACCIDENT \$					
	E L DISEASE - EA EMPLOYEE \$					
	E L DISEASE - POLICY LIMIT \$					

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)
4 Story Office Building - 43-45 South Main Street, Concord, NH 03301

CG2018 Additional Insured - Mortgagee id Included
CG2026 Additional Insured - Designated Entity is Included
Certificate holder is named as Additional Insured

CERTIFICATE HOLDER

CANCELLATION

State of New Hampshire Fixed & Mobile Assets 25 Capital Street, Room 212 Concord, NH 03301	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE Nate Infinger/TMF <i>Nate Infinger</i>

ACORD 25 (2010/05)
INS025 (201005) 01

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New Hampshire Council on Resources and Development

NH Office of Energy and Planning
107 Pleasant Street, Johnson Hall
Concord, NH 03301
Phone: 603-271-2155
Fax: 603-271-2615



TDD Access: Relay NH
1-800-735-2964

MEMORANDUM

TO: Commissioner Linda M. Hodgdon
Department of Administrative Services

FROM: Susan Slack, Assistant Planner *Susan Slack*
Office of Energy and Planning

DATE: August 7, 2012

SUBJECT: Surplus Land Review, SLR 12-014-Concord

Effective August 6, 2012, the Council on Resources and Development (CORD) took action on the following issue brought by the Department of Administrative Services:

Request to grant a 20-year driveway license to Bindery Redevelopment, LLC to use the South Main Street access driveway portion of the State-owned parcel at 12 Hills Avenue in Concord.

CORD members voted to **RECOMMEND APPROVAL** of SLR 12-014 as submitted, subject to no adverse comments being received during the remainder of the comment period ending August 5, 2012. No adverse comments were received.

cc: Michael P. Connor, Director, Division of Plant & Property Management
Jared Nylund, Real Property Asset Manager
Joanne Cassulo, Interim Director, NH Office of Energy and Planning
Representative John Graham, Chair, Long Range Capital Planning and Utilization Committee

MEMBER AGENCIES: Office of Energy and Planning • Resources and Economic Development • Environmental Services
Agriculture, Markets, and Food • Fish and Game • Safety • Education • Health and Human Services • Transportation
Cultural Resources • Administrative Services • New Hampshire Housing Finance Authority



LRCP 13-015

JEFFRY A. PATTISON
Legislative Budget Assistant
(603) 271-3161

MICHAEL W. KANE, MPA
Deputy Legislative Budget Assistant
(603) 271-3161

State of New Hampshire
OFFICE OF LEGISLATIVE BUDGET ASSISTANT
State House, Room 102
Concord, New Hampshire 03301

RICHARD J. MAHONEY, CPA
Director, Audit Division
(603) 271-2785

May 15, 2013

Linda M. Hodgdon, Commissioner
Department of Administrative Services
25 Capitol Street, Room 120
Concord, New Hampshire 03301

Dear Commissioner Hodgdon,

The Long Range Capital Planning and Utilization Committee, pursuant to the provisions of RSA 4:40, on May 14, 2013, approved the request of the Department of Administrative Services, of a twenty (20) year Driveway Use Agreement with Bindery Redevelopment, LLC to utilize for public vehicular access to the rear corner of its parcel at 43-45 South Main Street in Concord the abutting State-owned driveway, which provides rear access from South Main Street to the State land and buildings at 12 Hills Avenue in Concord, at no cost, subject to the conditions as specified in the request dated March 6, 2013.

Sincerely,

Jeffrey A. Pattison
Legislative Budget Assistant

JAP/pe
Attachment

Cc: Michael Connor, Deputy Commissioner