

SUBRECIPIENT AGREEMENT

AGREEMENT made this 8th day of February 2008 by and between Sullivan County, New Hampshire (hereinafter the "Grantee"), and Capital Regional/Development Council (hereinafter the "Subrecipient"), of Concord, New Hampshire.

WHEREAS, on the Grantee was awarded a Community Development Block Grant (CDBG), in the amount of \$500,000 by the New Hampshire Community Development Finance Authority (hereinafter "CDFA") subject to certain terms and conditions outlined in the Grant Agreement, which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the Grant Agreement designates Capital Regional Development Council (CRDC) as the Subrecipient; and

WHEREAS, while the Grant Agreement at times refers to a New Markets Tax Credit (NMTC) investment fund as the borrower, the Community Development Finance Authority acknowledges and concurs that Wainshal Partners, LLC shall be the ultimate borrower; and

WHEREAS, the Grantee will sub-grant \$480,000 of the CDBG funds to Subrecipient; and

WHEREAS, Subrecipient will lend \$480,000 of the Grant proceeds in addition to \$170,000 from the Economic Development Loan Fund to CCML Investment Fund IV LLC (hereinafter the "Fund"), an entity to be created by Coastal Enterprises, Inc. ("CEI") pursuant to New Markets Tax Credit (NMTC) program practices as supported by Internal Revenue Service Rev. Rule 2003-20; and

WHEREAS, the Fund will pool the Subrecipient loan proceeds with other debt and equity financing and make a Qualified Equity Investment ("QEI") of \$16,800,000 in the CCM Fund for CDE VII (hereinafter "CDE"), a community development entity created by CEI and certified by the Community Development Financial Institutions Fund of the U. S. Treasury Department for this purpose; and

WHEREAS, the CDE, after deducting certain fees and expenses, will loan \$15,495,484 to Wainshal Partners, LLC (the "Business") for a term of 84 months at an annual interest rate of 3.841%; and

WHEREAS, the CDE will also make an equity investment of \$1,152,941 in the Business; and

WHEREAS, Wainshal Partners, LLC will utilize the loan proceeds to acquire and renovate the historic Wainshal Mill (hereinafter the "Property") located in Claremont, New Hampshire; and

WHEREAS, Wainshal Partners, LLC will lease the property to several tenants; and

WHEREAS, the Grant Agreement requires that the Grantee and the Subrecipient execute this Agreement.

NOW THEREFORE, in consideration of the terms and conditions hereinafter set forth, the parties agree as follows.

1. REPRESENTATION AND WARRANTIES. Subrecipient represents and warrants that:

1.1 Subrecipient is a duly organized and validly existing New Hampshire nonprofit corporation in good standing under the laws of this State. Subrecipient has the power and authority to undertake the grant activities as provided in the Grant Agreement. Subrecipient has the power and authority to own its properties and to conduct business as it is now being conducted and has the power to execute and deliver and perform its obligations under the Subrecipient Agreement, the Loan and the Lien Documents.

1.2 The Subrecipient Agreement and Lien documents are the legal, valid and binding obligations of Subrecipient, enforceable against Subrecipient in accordance with each document's respective terms.

1.3 Subrecipient has complied in all material respects with all applicable federal, state and local laws, statutes, rules and regulations pertaining to the grant activities.

1.4 No application, exhibit, schedule, report or other written information provided by Subrecipient or its agents in connection with the grant application knowingly contained when made any material misstatement of fact or knowingly omitted to state any material fact necessary to make the statements contained therein not misleading in light of the circumstances under which they were made.

2. PROJECT DESCRIPTION AND SUBGRANT ACTIVITIES.

2.1 Project Description

This project shall consist of the awarding of \$500,000 in Community Development Block Grant (CDBG) funds to Grantee, of which \$488,000 will be subgranted to the Subrecipient. Subgranted funds will be used to provide a loan of \$480,000, aggregated with \$170,000 from its Economic Development Loan Fund, for a total CRDC loan of \$650,000 in order to support the rehabilitation of the Wainshal Mill, in the downtown Monadnock Mill complex. The Claremont Development Authority and the City of Claremont has facilitated the restoration of the Monadnock Mill complex, which includes the redevelopment of four old vacant mill buildings: the Peterson Mill, the Sawtooth Mill, the Woven Label Mill, and now, the Wainshal Mill.

The Wainshal Mill, containing 62,184, square feet of building area, which is the subject of this grant, will be occupied as follows: (a) Woven Label, LLC, with its hotel and restaurant operation, will occupy 36.6% of the space; (b) Red River Computer Company, Inc. (hereinafter "RRCC") will occupy 39.9% of the space; and (c) Sugar River Mills Development will occupy 23.5%. The ownership of Wainshal Partners, LLC is in proportion to the space occupied.

The primary business benefiting from this grant is RRCC, is a reseller of hardware & software information technology products and services. RRCC works primarily with the federal government. RRCC will re-locate 52 of its Lebanon-based employees to the Wainshal Mill. In addition, RRCC expects to hire 38 new employees as a result of this expansion.

Overall construction costs are estimated to be (a) \$8 million for construction for the shell and common areas and (b) \$4.3 million for interior fit-up. Total costs for the restoration of the mill, including fees, interest and contingency, are expected to be \$16,648,425.

The financing of the rehabilitation of the Wainshal Mill will be based upon a program offered by the U.S. Treasury Department – New Markets Tax Credits (NMTC) - through a combination of loans and equity injection. Through the NMTC financing, the loan proceeds and equity injection needed to rehabilitate the Wainshal Mill, can be accomplished at a preferential interest rate. The flow of funds specific to this project, is as follows: a New Hampshire CCML Investment Fund LLC ("CCML"), an entity to be created by Coastal Enterprises, Inc. (CEI) pursuant to the New Markets Tax Credit Program (NMTC) regulations will act as a investment pool that will use loan proceeds and equity investments to make a "qualified equity investment" into a CDE (a Community Development Entity), also created by Coastal Enterprises Inc. The CDE will make loans in the approximate cumulative amount of \$15,495,484 to, and an investment of approximately \$1,152,941 in Wainshal Partners, LLC for the purpose of rehabilitating the property.

The debt portion of the financing will be a pool of loan funds consisting of: (a) developer loans totaling \$1,000,000, which is an aggregation of a loans from Woven Label, LLC, Sugar River Mills Redevelopment LLC and Red River Computer Company; (b) a bank loan of approximately \$6.2 million; and (c) a CRDC/CDBG loan, the subject of this grant request, of \$650,000. The CRDC loan will be an aggregation of the CDBG funds (\$480,000) and direct funds in the amount of \$170,000 from CRDC's Economic Development Loan Fund.

The equity portion of the financing of approximately \$8.9 million will be provided by an investor in return for approximately \$3.5 million in Historic Tax Credits and \$6.5 million in New Markets Tax Credits.

The County will retain \$12,000 for grant administrative costs, related to the management of the grant and CRDC will retain \$8,000 for costs related to loan documentation.

This project description is hereinafter referred to as the "Project".

2.2 Employment Benefits to Persons from Low and Moderate Income Households

The general purpose of the project is to principally benefit Low and Moderate Income Persons as that term is defined in the Grant Agreement: "those households whose income falls at or below the "lower income" level as shown in Appendix 8 (of the rules for the CDBG program) as determined by the U. S. Department of Housing and Urban Development (HUD) for the State of New Hampshire". Exhibit B contains HUD's "low and moderate income levels" for the CDBG Program and is updated on an annual basis.

2.2.1 The Grantee and Subrecipient agree that the primary purpose of the Project is the creation of at least thirty-eight (38) full-time equivalent jobs, of which twenty-three (23) or sixty percent (60%) shall be filled by persons from low and moderate income households.

Income limits are updated on an annual basis. Subrecipient agrees to require RRCC to maintain and provide documentation that it has complied with this requirement through the use of questionnaires provided by the Grantee or other verification.

2.2.2 Loan Agreement Subrecipient will require RRCC to enter into job commitments to ensure employment for persons from Low and Moderate Income families, in accordance with the terms of the Grant Agreement and all Exhibits or Attachments thereto.

2.2.3 Beneficiary Employment Commitment Agreement. The Grantee is required by CDFA to enter an employment commitments with RRCC, in the form of a Beneficiary Employment Commitment Agreement by RRCC, to create at least thirty-eight (38) new full-time, year-round, permanent jobs, of which twenty-three (23) or sixty (60%) will be filled by persons of Low and Moderate Income.

In the event of non-compliance with the job commitment, the Beneficiary Employment Commitment Agreement will allow the Grantee, subject to certain subordination and standby agreements that will be part of the Loan Documents that are subject to approval by CDFA, to collect CDBG funds for reimbursement directly from RRCC in the event that Subrecipient is unable to do so for reasons beyond its control.

Subrecipient shall oversee the creation of the jobs and shall make arrangements to ensure compliance with the creation of the targeted jobs, within the grant agreement, in the event that RRCC fail to create the full complement of jobs.

2.3 Grant of Funds/Matching Funds

Subrecipient shall use the Grant funds subgranted to it solely for the purposes described herein and consistent with the required terms and conditions of the Grant Agreement and Subrecipient Agreement.

2.3.1 Subrecipient shall be subgranted a total of \$488,000 of the CDBG funds, in order to make a developer loan to Wainshal Partners, LLC through the Fund and CDE for the specific purpose of supporting the redevelopment of the Wainshal Mill.

2.3.2 The Grantee shall retain \$12,000 of the grant for administrative costs associated with management of the Grant.

2.3.3 The required match for the CDBG funds will be no less than \$16,270,000, in loans to, and equity investments in, the Fund. Said loans and equity investment shall consist of the following:

2.3.3.1 Equity financing of \$8.9 million in return for (a) approximately \$3.5 million in Historic Tax Credits and (b) \$6.5 million in New Markets Tax Credits.

2.3.3.2 Debt financing consisting of:

- A developer loan from Wainshal Partners, LLC of \$1,000,000 – an aggregation of loans from Woven Label, LLC (approximately \$365,600), Sugar River Mills Development (\$165,400), and RRCC or its affiliated Limited Liability Company (\$469,000);
- A bank loan of approximately \$6.2 million;
- A loan of \$170,000, in addition to the \$480,000 CDBG loan, from the Subrecipient/CDBG loan, the subject of this grant request, of \$650,000.

3 SUBRECIPIENT REQUIREMENTS.

3.1 Loan Agreement. Subrecipient shall request grant funds to provide financing for the Project Activities to the Wainshal Partners, LLC, indirectly through the New Markets Tax Credit structure. Subrecipient shall enter into a Loan Agreement with the FUND, which shall contain at a minimum the terms and conditions as specified in Attachment III of the Grant Agreement, "Required Loan Provisions". The Loan Agreement shall provide that RRCC, its successors and assigns, shall ensure the creation of at least thirty-eight (38) new full-time equivalent permanent jobs. At least twenty-three (23) positions, or sixty percent (60%) of said jobs created, shall be from low and moderate income families at the time of hiring.

3.2 Terms of Loan. The Loan Agreement between Subrecipient and the FUND shall provide for the execution of a promissory note for \$650,000 for the purposes of supporting the redevelopment of the Wainshal Mill. The following terms shall apply:

3.2.1 The note will have a term of twenty (20) years, with an interest rate fixed at five percent (5.00%). Full repayment is required at the end of the seventh year. The interest will accrue for the seven years.

3.2.2 The interest rates cited above may change, given the New Markets Tax Structure; these changes will be subject to the approval of CDFR.

3.2.3 Subrecipient shall require the FUND and CDE to perfect collateral for the security of Subrecipient and CDFR. Collateral shall consist of the following:

3.2.3.1 A second mortgage subordinated only to a first mortgage granted to the CDE in an amount not to exceed \$6,479,118.

3.2.3.2 A second priority assignment of leases and rents.

3.2.3.3 Corporate Guaranties by the following:

- Sugar River Mills Redevelopment, LLC
- RRCC Realty LLC
- Red River Computer Company, Inc.
- Woven Label LLC or any entity created by Alexander Ray and Edward J. McLearn for the purpose of participating in Wainshal Partners, LLC.
- Any joint venture entity created by Red River Computer Company, Inc. and Sugar River Mills Redevelopment, LLC for the purpose of renting the sixth floor of the Property.

3.2.3.4 Personal guaranties from the following individuals:

- John Illick
- All individuals owning 20% or more of Red River Computer Company, Inc.
- Alexander Ray
- Edward J. McLearn

The mortgage described in Paragraph 3.2.3.1 above shall provide for a recovery of the \$480,000 in CDBG funds invested in the redevelopment of the Wainshal Mill, in the event that the employment commitments as provided herein are not achieved.

- 3.3 Use of Loan Re-payments by Subrecipient. The long-term benefit of the project for low and moderate income persons is achieved by the capitalization of the Revolving Loan Fund of the regional development corporations involved. Any principal payments from the loan shall be deposited in the Economic Development Loan Fund operated by the Subrecipient, designated for the use of Subrecipient's lending activities. Subsequent uses of the funds shall be for activities eligible under the Housing and Community Development Act of 1974, as amended, which demonstrate a financial need and primarily benefit people from low and moderate income families.

Pursuant to the terms of its Statement of Loan Policy, attached hereto as Exhibit C Subrecipient warrants that principal repayments from the subject loan will be used for the specific purpose of supporting its lending activities only in Sullivan County. Partial payments of interest, limited to 4% of the fund balance, consisting of outstanding principal and funds available to loan, may be used for administrative expenses of the Subrecipient. Any increase in the percentage of funds used for administrative purposes shall be subject to the approval of CDFA.

- 3.4 Duty to enforce. Subrecipient has a duty to enforce the terms of the Loan Agreement, including seeking reimbursement of the CDBG loan funds if RRCC fails to meet its employment commitments or is otherwise in default of the Loan and Lease Agreement.
- 3.5 Assignment of Loan and Lease and Sales Agreements to Grantee. Subrecipient agrees that, if it is unable to enforce the terms of its Loan Agreement for reasons which are beyond its control, it will assign all of its rights under the Loan Agreement to the Grantee.
- 3.6 Compliance with laws. Subrecipient shall comply with all applicable federal, state, and local laws, statutes, executive orders and rules as they relate to the application, acceptance and use of funds for this project, including but not limited to the requirements as specified in the Grant Agreement.
- 3.7 Disbursement of grant funds. Upon compliance with and subject to the provisions of this Agreement and provided there shall exist no Event of Default under this Agreement, the Grant Agreement or any loan or lease or sale agreement in connection with the Project, and no condition or event which, with the giving of notice or lapse of time would constitute such an Event of Default, the Grantee shall, upon submittal of written requests for payment accompanied by invoices and other documentation or supporting documents as required by the Grantee, make disbursements of grant funds. Disbursement of grant funds shall be in accordance with the terms of the Grant Agreement.

Disbursement of funds by the Grantee does not constitute acceptance by the Grantee or CDFA of any item as an eligible Project cost until all Project costs have been audited and determined to be allowable costs.

Where the Grant Agreement or Subrecipient 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 required to be returned, the disposition of Grant Funds to be returned shall be determined solely by CDFA.

4 SCHEDULE

- 4.1 Implementation Schedule. The Grantee, Subrecipient, and Wainshal Partners, LLC have agreed to an Implementation Schedule, which will provide for the completion of all grant activities, prior to the Grant Completion Date. A schedule of major milestones shall be provided to CDFA by the Grantee.
- 4.2 Grant Completion Date. All work shall be completed prior to the Grant Completion Date of June 30, 2010. All employment commitments shall be accomplished by that date. This date may be extended only with the permission of the Grantee, CDFA, and the Governor and Council.

5 INSURANCE AND TAXES

5.1 Subrecipient's Liability Insurance. Subrecipient shall, at its sole expense, obtain and maintain in force insurance in such amounts and covering such risks as are customary for entities engaged in the same or similar business to include, where applicable, comprehensive general liability covering any property development/construction activities and landlord insurance. At a minimum, this shall include insurance against all claims of bodily injury or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 in the aggregate..

All policies shall name the Grantee and CDFA as additional insureds. Subrecipient shall provide the Grantee with certificates of insurance satisfactory to the Grantee which evidences compliance with this Section.

5.2 Business' Insurance Requirements. Subrecipient shall ensure that RRCC obtains and maintains in force comprehensive general liability insurance against all claims of bodily injury or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 in the aggregate. This insurance shall be at Business' sole expense.

All policies shall name the Grantee, Subrecipient, and CDFA as additional insureds. Subrecipient shall provide the Grantee with certificates of insurance satisfactory to the Grantee which evidences compliance with this Section.

5.3 Hazard Insurance. Subrecipient shall require, or provide evidence that the CDE has required, that Wainshal Partners, at its sole expense, obtain and maintain in force fire and extended coverage insurance covering all property purchased or improved with Grant funds in an amount not less than 100% of the whole replacement value of the property.

Subrecipient shall require, or provide evidence that the CDE has required that RRCC and Wainshal Partners provide the Grantee with certificates of insurance satisfactory to the Grantee which evidences compliance with this Section.

5.4 Insurance Standards. The policies described in this section shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. All policies shall be on an "occurrence" basis. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than thirty (30) days after written notice thereof has been received by the Grantee and CDFA.

5.5 Taxes. Subrecipient shall require, or provide evidence that the CDE has required that Wainshal Partners pay all taxes, assessments, charges, fines and impositions attributable to the Property.

6 REPORTING REQUIREMENTS; CLOSEOUT AGREEMENT

6.1 Closeout Agreement. Subrecipient shall enter into a Closeout Agreement with the Grantee and CDFA, which shall specify the reporting and other requirements applicable to the closing out of this Project.

6.2 Initial Documentation To document the existing employees at the start of this Project, Subrecipient shall require RRCC provide certified payrolls to the Grantee documenting the number of full-time equivalent employees and positions in its U. S. operations and facilities, no earlier than December 11, 2007, which is the date of Governor and Council approval of the Agreement between the Grantee and CDFA.

In order to further document the new, permanent full-time positions to be provided, Subrecipient and Grantee shall require RRCC to provide a listing, by job title, of the total jobs to be created. This list shall indicate (a) which jobs will be available to low and moderate income persons; (b) which jobs will require special skills or education; and (c) which jobs will be part-time. Data regarding job creation will be incorporated into the Beneficiary Employment Commitment Agreement to be executed by and between the Grantee and RRCC.

6.3 Employment Reporting

6.3.3 Semi-Annual Reports. Semi Annual reports shall be submitted by the Subrecipient to the

Grantee not less than five (5) business days prior to the Grantee semi-annual submission date, that is, no later than July 10 for the period of January 1 through June 30 and no later than January 10 for the period of July 1 through December 31 of each year. The reporting period shall begin on the date of Governor and Council approval and end on the Completion Date.

6.3.4 Closeout Report. For closeout purposes, Subrecipient shall require RRCC to obtain and report, and Subrecipient shall submit to the Grantee, the information on "Protected" groups as required by the "Beneficiary Characteristics Report" as provided in the most current edition of the CDFA Implementation Guide for CDBG projects. Subrecipient shall certify the number and percentage of Low and Moderate Income Persons benefiting from this Project.

6.3.5 Semiannual and closeout documentation of employees shall include: (a) copies of current company payrolls, certified by an authorized officer of RRCC, listing the name of employees and job titles, and (b) copies of family income verifications signed by applicants, with the designation of beneficiary minority or protected class status. Report forms for job applicants and beneficiaries are provided in EXHIBIT D.

6.4 As documentation of and for purposes of monitoring Project hiring commitments, Subrecipient shall require RRCC to submit to Subrecipient, who will in turn provide to the Grantee, within the semi-annual reports, the following information:

6.4.3 The total number of applicants for the specified new positions during the reporting period and to date; the number of applicants who were persons from Low and Moderate Income families; and minority or protected class status of applicants.

6.4.4 A completed copy of the Applicant Characteristics Report for the reporting period shall be included. Documentation shall be based upon data collected at the time of application for said jobs, including family income verification and employee questionnaires.

6.4.5 As documentation of and for purposes of monitoring Project employment commitments, Subrecipient shall require RRCC to submit to Subrecipient, who will in turn provide to the Grantee, within the semi-annual report, the following:

6.4.6 Total job growth based upon the number of specified new positions filled during the reporting period and to date; the number of positions filled with persons from Low and Moderate Income families; and employee minority or protected class status. Documentation shall be for the first person hired into each of the said new positions.

6.4.7 A completed copy of the Beneficiary Characteristics Report for the reporting period shall be included. Documentation shall be based upon the certified payrolls, family income verifications and employee questionnaires of RRCC.

6.5 For closeout purposes, Subrecipient shall require RRCC to report final information on protected groups as required by the "Beneficiary Characteristics Report" and the "Applicant Characteristics Report." Subrecipient shall require RRCC to certify the number and percentage of applicants and employees for the specified new positions from Low and Moderate Income families benefiting from this project.

7 ACCOUNTING, AUDIT, AND RECORD KEEPING REQUIREMENTS

7.1 Accounting Records. Subrecipient shall keep all Project-related accounts and records which fully disclose the amount and disposition by Subrecipient of the grant funds, the total cost of the Project, and the amount and nature of any portion of the Project cost supplied by other sources, and such other financial records pertinent to the Project. Accounts and records shall be kept in accordance with an accounting system that will facilitate an effective audit in accordance with the Single Audit Act of 1984. Records to be maintained shall include Project fiscal records consisting of all books, documents, ledgers, systems and expenses incurred, including, but not limited to, purchase, requisitions, orders, invoices, vouchers, bills and receipts, inventories, and all lien documents.

7.2 Time Period. All of the records, documents, and data described above and all income verification

information shall be kept during the performance of the project and for three (3) years after its completion or until the satisfactory completion of an audit, whichever is later.

7.3 Availability of Records. Subrecipient shall make available to the Grantee, CDFA, and HUD or any of their duly authorized representatives, for the purpose of audit and examination, any books, documents, papers, and records of Subrecipient pertinent to this Agreement.

8 INDEMNIFICATION

Subrecipient shall defend, indemnify and hold harmless the Grantee, the State, and the CDFA, their officers and employees, from and against any and all losses suffered by the Grantee, the State, or CDFA, their officers or employees, and any and all claims, liabilities or penalties asserted against the Grantee, the State or CDFA, their officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of or claimed to Subrecipient out of the acts or omissions of Subrecipient. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State or the Grantee, which immunity is hereby reserved to the State and the Grantee. This covenant shall survive the termination or expiration of this Agreement.

9 MAINTENANCE OF CORPORATE EXISTENCE

Corporate Existence. Subrecipient shall both preserve and maintain the legal existence and good standing of its nonprofit corporation status and its registration in New Hampshire as required to do business.

10 ADDITIONAL REPRESENTATIONS AND WARRANTIES Subrecipient represents and warrants:

- (a) Subrecipient will require that Wainshal Partners obtain all necessary approvals of the Plans and all necessary permits for the operation of its business from all governmental authorities having jurisdiction over the Project;
- (b) Construction of the project will not violate any zoning, environmental, subdivision, or land use ordinance, regulation or law; the Property conforms and complies in all material respects with all covenants, conditions, restrictions, reservations and zoning, environmental land use, and other applicable ordinances, laws, rules and regulations, federal, state, or local, affecting the Property.
- (c) No litigation, claims, suits, orders, investigations or proceedings are pending or threatened against Subrecipient or affecting the Property or the Project at law or in equity or before or by any federal, state, municipal or other governmental instrumentality; there are no arbitration proceedings pending under collective bargaining agreements or otherwise; and to the knowledge of Subrecipient, there is no basis for any of the foregoing. Any exceptions to this section shall be explained in an Exhibit, attached to this agreement.
- (d) Subrecipient has filed all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state or local taxes, charges and assessments;
- (e) The execution and delivery and performance by Subrecipient of its obligations under this Agreement and the loan documents have been duly authorized by all requisite corporate action and will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which Subrecipient is a party, or by which it is bound, or be in conflict with, result in a breach of, or constitute a default under, or except as may be provided in this Agreement, result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of Subrecipient pursuant to any such indenture, agreement or instrument. Subrecipient is not required to obtain any consent, approval or authorization from, or to file any declaration or statement with, any governmental instrumentality or other agency in connection with or as a condition to the execution, delivery or performance of this Agreement and the loan documents.
- (f) Subrecipient is not contemplating either the filing of a petition under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of its properties, and has

no knowledge of any person contemplating the filing of any such petition against it.

- (g) No statement of fact made by or on behalf of Subrecipient in any of the loan documents or in any certificate, exhibit or schedule furnished to the Grantee pursuant thereto, contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein or herein not misleading. There is no fact or circumstance presently known to Subrecipient that has not been disclosed to the Grantee that materially affects adversely, nor as far as Subrecipient can foresee, will materially affect adversely Subrecipient, operations or considerations (financial or otherwise) of Subrecipient.
- (h) Subrecipient has complied in all material respects with all applicable statutes, regulations, and rules of federal, state, and local governments in respect to the conduct of its business and operations, including without limitation all applicable environmental statutes.
- (i) No Event of Default has occurred and is continuing under this Agreement or the loan documents and no event or condition which would, upon notice of expiration of any applicable cure, constitute an Event of Default has occurred and is continuing. Subrecipient is not in default under any note or other evidence of indebtedness or other obligation for borrowed money or any mortgage, deed to trust, indenture, loan agreement or other agreement relating thereto. Any exceptions to this section shall be explained in an exhibit attached to this agreement.

Each of the foregoing representations and warranties is true and correct as of the date of this Agreement and Subrecipient shall indemnify and hold harmless the Grantee, and CDFA from and against any loss, damage, or liability attributable to the breach thereof, including any and all fees and expenses incurred in the defense or settlement of any claim arising therefrom against the Grantee or CDFA.

11 EVENTS OF DEFAULT

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

- (a) Any Event of Default under the Loan Agreement including but not limited to RRCC's failure to accomplish the required job creation and benefit to low and moderate income persons.
- (b) Subrecipient attempts to assign its rights under this Agreement or any advance made or to be made hereunder or any interest therein, or if the Property or any portion thereof is conveyed or encumbered in any way without the prior written consent of the Grantee;
- (c) Any representation or warranty made herein or in any report, certification, or other instrument furnished in connection with this Agreement or any advances of Grant funds made hereunder, by or in behalf of Subrecipient, shall prove to be false or misleading in any material respect.
- (d) Subrecipient shall default in the due observance or performance of any covenant, condition, assurance or agreement to be observed or performed by Subrecipient under this Agreement;
- (e) In the event that Subrecipient shall (i) apply for or consent to the appointment of a receiver, trustee, or liquidator of it or any of its property, (ii) admit in writing its inability to pay its debts as they mature, (iii) make a general assignment for the benefit of creditors, (iv) be adjudicated as bankrupt or insolvent or (v) file a voluntary petition in bankruptcy, or a petition or answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law;
- (f) A petition, order, judgment, or decree shall be entered, without the application, approval or consent of Subrecipient by any court of competent jurisdiction, approving a petition seeking reorganization or approving the appointment of a receiver, trustee or liquidator or Subrecipient of all or a substantial part of its assets, and such order judgment or decree shall continue unstayed and in effect for any period of thirty (30) days;
- (g) The dissolution, termination of existence, merger or consolidation of Subrecipient or a sale of

assets of Subrecipient out of the ordinary course of business without the prior written approval of the Grantee; and

- (h) Failure to remedy an ineligible expenditure of grant funds or to reimburse the Grantee for any ineligible costs which are paid from grant funds.

12 GRANTEE'S RIGHTS AND REMEDIES UPON DEFAULT.

12.1 Remedies upon Default. Upon the occurrence of any Event of Default, the Grantee may take any one, or more, or all, of the following actions:

- (a) Give Subrecipient a written notice of default specifying the Event of Default and requiring it to be remedied within thirty (30) days from the date of notice, and if the Event of Default is not timely remedied, terminate this Agreement, effective immediately upon giving notice of termination;
- (b) Give Subrecipient a written notice of default specifying the Event of Default and suspending all payment of grant funds to be made pursuant to this Agreement until such time as the Grantee determines the Event of Default has been cured;
- (c) Set off against any other obligations the Grantee may owe to Subrecipient for any damages the Grantee may suffer by reason of any Event of Default;
- (d) Treat the Agreement as breached and pursue any of its remedies at law or in equity or both.
- (e) Assume all rights under the Loan Agreement including the right to receive payments, the right to seek full reimbursement of CDBG funds loaned to Wainshal Partners, LLC, indirectly through the New Markets Tax Credit structure, the right to call on any collateral pledged for the loan to Wainshal Partners, LLC.

12.2 Judicial Enforcement. Subrecipient agrees that the Grantee and CDFA have a right to seek judicial enforcement with regard to any matter arising with respect to this Agreement, to include the assurances, covenants and other conditions which extend beyond the completion date under this Agreement.

12.3 Disposition of Funds. Where the Grant Agreement or Subrecipient 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 required to be returned, the disposition of Grant Funds to be returned shall be determined solely by CDFA.

13 MISCELLANEOUS PROVISIONS

13.1 Compliance with Laws. Subrecipient shall comply with all applicable federal, state and local laws, statutes, regulation, executive orders and rules as they relate to the application, acceptance and use of funds for this project, including but not limited to the requirements as specified in the Grant Agreement.

13.2 No Assignment. Subrecipient shall not assign or transfer any of its rights or obligations under this Agreement without the prior written consent of the Grantee and CDFA, and any attempted assignment or transfer shall be ineffective, null, void, and of no effect.

13.3 Amendments. No amendment or modification of any provision of this Agreement shall be effective unless it is in writing and executed by both parties and approved by CDFA.

13.4 Maintenance of Project. Subrecipient shall require Wainshal Partners, LLC and RRCC to maintain, keep, and preserve in good working order and condition all of its property and assets necessary or useful in the proper conduct of its business and operation of the Project. This shall include all property improvements made as a result of this Project.

13.5 Governing Law. This Agreement shall be governed by and construed in accordance with laws of New Hampshire.

CAPITAL REGIONAL DEVELOPMENT COUNCIL

BY:

Stephen A. Heavener 1-31-08
Stephen A. Heavener, Vice President

[Signature] 1-31-08
Witness

SULLIVAN COUNTY, NEW HAMPSHIRE

BY:

[Signature] 2.08.08
Duly Authorized

[Signature]
Witness