

6  
2019  
November 6, 2019

His Excellency, Governor Christopher T. Sununu and  
The Honorable Executive Council  
State House  
Concord, New Hampshire 03301

**Execution of Standard Contract by Millyard Bank "Capital Access Program: Lender Participation Agreement"**

Dear Governor and Council:

**REQUESTED ACTION**

Holding of a public hearing and passage of a resolution entitled: A RESOLUTION UNDER RSA 162-A:18 APPROVING THE EXECUTION OF THE STANDARD CONTRACT ENTITLED "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" OF THE BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE" BY MILLYARD BANK. (For the text of the requested Resolution see Exhibit 1 attached to this letter of transmittal.)

The Business Finance Authority of the State of New Hampshire (the "Authority") respectfully requests that you hold a hearing and make the statutory findings under RSA 162-A:18, with respect to the proposed execution of the standard contract of the Authority entitled "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" between the Authority and Millyard Bank (the "Specific Bank"). The Authority recommends your favorable action and submits in support thereof the following materials with the Exhibit designations of the attached documents:

1. a proposed resolution for adoption by the Governor and Council
2. a certificate of the Executive Director of the Authority certifying that, based upon examination, the Specific Bank is a duly organized bank or trust company or credit union authorized to make loans and accept deposits in the State of New Hampshire and accordingly is qualified to participate in the Authority's Capital Access Program and to execute the standard Lender Participation Agreement
3. a copy of the resolution of the Governor and Council, dated September 2, 1992, which approves the Standard Contract and authorizes the Authority to take steps to cause the execution of such Standard Contract; and

The Governor and Council have previously approved the Standard Contract. The Authority now requests that the Governor and Council approve the execution of the Standard Contract with the Specific Bank.

***Financing for New Hampshire's Future***

2 Pillsbury Street, Suite 201, Concord, NH 03301  
Tel: (603) 415-0190 Fax: (603) 415-0194 www.nhbfa.com



His Excellency Christopher T. Sununu  
Governor of the State of New Hampshire, and  
The Honorable Executive Council  
November 6, 2019  
Page 2

In approving the Standard Contract, the Governor and Council made all findings and determinations required which related to the Standard Contract. The only required statutory finding which Governor and Council did not make at that time was that a "proposed participating state bank is qualified to participate under" the CAP Program and the Standard Contract. This request now asks the Governor and Council to make such a finding with respect to the Specific Bank. It also requests that Governor and Council restate the general findings and determinations made in its prior approving resolution with respect to the Standard Contract.

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

Respectfully submitted,

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

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

James Key-Wallace  
Executive Director

**A RESOLUTION UNDER RSA 162-A:18 APPROVING THE EXECUTION OF THE STANDARD CONTRACT ENTITLED "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" OF THE BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE BY MILLYARD BANK**

WHEREAS, the Governor and Council (the "Governor and Council") of the State of New Hampshire (the "State") have previously, upon recommendation of the Business Finance Authority of the State of New Hampshire (the "Authority"), approved the Authority's standard contract entitled "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" (the "Standard Contract") by resolution dated September 2, 1992 (the "Approving Resolution"); and

WHEREAS, at the time of such approval of the Standard Contract, the Governor and Council made, upon recommendation of the Authority, certain findings and determinations pursuant to RSA 162-A:18 with respect to the approval of the Standard Contract, which findings and determinations are stated in the Approving Resolution;

WHEREAS, in the Approving Resolution, the Governor and Council authorized the Authority to take necessary and appropriate steps to cause the execution of the Standard Contract with qualifying State banking institutions; and

WHEREAS, acting pursuant to the direction of the Authority, the Executive Director of the Authority has received interest from Millyard Bank (the "Specific Bank") to execute the Standard Contract and participate in the Authority's Capital Access Program through such execution; and

WHEREAS, the Executive Director of the Authority has examined such information as he has deemed necessary and appropriate and has determined that the Specific Bank is a duly organized bank or trust company authorized to make loans and accept deposits in the State of New Hampshire and accordingly is qualified to execute the Standard Contract and participate in the Capital Access Program;

WHEREAS, the Governor and Council have received all the documentation and information with respect to the proposed execution of the Standard Contract which they have requested;

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:**

Findings and Determinations. On the basis of the documentation and information received by the Governor and Council, and assuming (1) the execution of the Standard Contract as approved by the Governor and Council on September 2, 1992, by the Authority and an authorized officer of the Specific Bank, and (2) review and acceptance of the executed Standard Contract by an appropriate official of the Office of Attorney General upon receipt of a certificate of registration of the Specific Bank and a resolution of the board of directors of the Specific Bank authorizing execution of the Standard Contract, the Governor and Council hereby find:

- a. The proposed execution of the Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract will serve a public use and provide a public benefit.

- b. The proposed execution of the Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract is within the policy of, and the authority conferred by RSA Chapter 162-A.
- c. The proposed execution of the Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract will preserve or increase the social welfare or economic prosperity of the state and one or more of its political subdivisions, and will promote the general welfare of the state's citizens.
- d. The proposed execution of the Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract will promote the orderly development of business activities, create or preserve employment opportunities, or protect the physical environment.
- e. Appropriate measures have been taken to ensure that the Specific Bank participating under the terms of such Standard Contract makes only loans which meet the requirements of RSA 162-A:12, IV.
- f. The Standard Contract complies with RSA 162-A:12, III.
- g. Reasonable precautions have been taken to minimize the risk of loss to any reserve fund which is established under the terms of the proposed Standard Contract.
- h. The Specific Bank is qualified to execute the Standard Contract and to participate under the terms of such Standard Contract and the applicable provisions of RSA Chapter 162-A.

Approval. Subject to (1) the execution of the Standard Contract as approved by the Governor and Council on September 2, 1992, by the Authority and an authorized officer of the Specific Bank, and (2) review and acceptance of the executed Standard Contract by an appropriate official of the Office of Attorney General upon receipt of a certificate of registration of the Specific Bank and a resolution of the board of directors of the Specific Bank authorizing execution of the Standard Contract, the Governor and Council approve the proposed execution of the Standard Contract by the Authority and authorize the Authority to take such further action with respect to such proposed execution as is necessary and appropriate to carry out the proposed transaction.

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

Passed and Agreed to November 6, 2019.

---

Governor Christopher T. Sununu

---

Councilor Michael J. Cryans

---

Councilor Andru Volinsky

---

Councilor Russell E. Prescott

---

Councilor Theodore L. Gatsas

---

Councilor Debora B. Pignatelli

**CERTIFICATION OF THE EXECUTIVE DIRECTOR OF THE BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE AS TO THE QUALIFICATION OF MILLYARD BANK TO EXECUTE THE STANDARD CONTRACT ENTITLED "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" AND TO PARTICIPATE IN THE AUTHORITY'S CAPITAL ACCESS PROGRAM**

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

1. At a meeting of the Board of Directors of the BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE, duly called and held on October 21, 2019, at which a quorum was present and acting throughout, the Board, after approving the final form of the contract entitled "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" (the "Standard Contract"), adopted the following resolution:

RESOLVED, that the Executive Director is authorized, empowered and directed to execute in the name and on behalf of the Authority the Standard Contract with any banking institution which qualifies to participate in the Capital Access Program, and the Executive Director is further authorized, empowered and directed to file such executed agreements or other materials and information which is necessary and appropriate to enable the approval of each such executed agreement by the Governor and Council.

2. Acting pursuant to such delegation of authority, I have received and reviewed a request by Millyard Bank (the "Specific Bank") to execute the Standard Contract and, subject to receipt of a certificate of registration of the Specific Bank and a resolution of the board of directors of the Specific Bank authorizing execution of the Standard Contract, I will determine that the Specific Bank is a duly organized bank or trust company or credit union authorized to make loans and accept deposits in the State of New Hampshire and accordingly is qualified to execute the Standard Contract and to participate in the Authority's Capital Access Program.

IN WITNESS WHEREOF, I have set hereunto my hand and affixed the seal of the Business Finance Authority of the State of New Hampshire on this 21st day of October, 2019.

  
\_\_\_\_\_  
James Key-Wallace  
Executive Director

A RESOLUTION UNDER RSA 162-A:18  
APPROVING THE STANDARD CONTRACT ENTITLED  
"CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT"  
OF THE BUSINESS FINANCE AUTHORITY OF THE STATE OF NEW HAMPSHIRE

WHEREAS, the Governor and Council (the "Governor and Council") of the State of New Hampshire (the "State") have received from the Business Finance Authority of the State of New Hampshire (the "Authority") its written recommendation that the Governor and Council make certain findings and determinations pursuant to RSA 162-A:18 with respect to the approval of a standard contract entitled "CAPITAL ACCESS PROGRAM: LENDER PARTICIPATION AGREEMENT" (the "Standard Contract"); and

WHEREAS, the Governor and Council have received all the documentation and information with respect to the Standard Contract which they have requested;

WHEREAS, further action by the Authority with respect to execution of the Standard Contract with qualifying banking institutions is subject to the passage of this resolution and cannot be taken until after its passage;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT:

1. Findings and Determinations. On the basis of the Authority's recommendation and the documentation and information received by the Governor and Council, the Governor and Council hereby find:

(a) The proposed Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract will serve a public use and provide a public benefit.

(b) The proposed Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract is within the policy of, and the authority conferred by RSA Chapter 162-A.

(c) The proposed Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract will preserve or increase the social welfare or economic prosperity of the state and one or more of its political subdivisions, and will promote the general welfare of the state's citizens.

(d) The proposed Standard Contract and the actions of the Authority and parties executing such Standard Contract taken pursuant to the terms of such Contract will promote the orderly development of business activities, create or preserve employment opportunities, or protect the physical environment.

(e) Appropriate measures have been taken to ensure that a lender participating under the terms of such Standard Contract makes only loans which meet the requirements of RSA 162-A:12, IV.

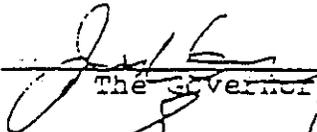
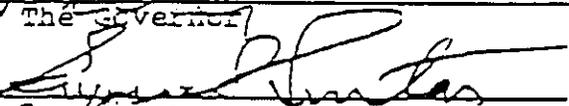
(f) The proposed Standard Contract complies with RSA 162-A:12, III.

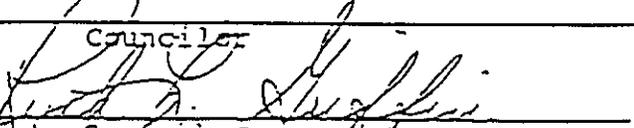
(g) Reasonable precautions have been taken to minimize the risk of loss to any reserve fund which is established under the terms of the proposed Standard Contract.

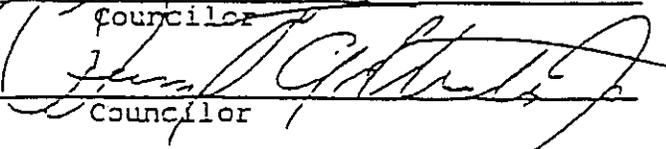
2. Approval. The Governor and Council hereby approve the proposed Standard Contract and further authorize the Authority to take such further action with respect to the Standard Contract as is necessary and appropriate to cause individual Standard Contracts to be executed between the Authority and qualifying banking institutions. Upon transmittal by the Authority of Standard Contracts which have been, or are proposed to be, executed by individual lenders which qualify for participation under the terms of the Standard Contract, the Governor and Council may refer to the findings and determinations made in this resolution as support for making necessary findings and determinations with respect to such Standard Contracts.

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

Passed and Agreed to September 2, 1992.

  
\_\_\_\_\_  
The Governor  
  
\_\_\_\_\_  
Councilor

\_\_\_\_\_  
Councilor  
  
\_\_\_\_\_  
Councilor

  
\_\_\_\_\_  
Councilor  
  
\_\_\_\_\_  
Councilor