

Date:	Reference No.:	Agenda Item No.:
8/15/2012	Ordinance 2012 12	8.04

Subject: Ordinance Providing Final Approval of the Economic Development Loan Agreement with BHC, LLC

Summary of Request:

In May 2012, staff was approached by BHC, LLC (Buyers Holding Corporation) regarding a business venture that they were undertaking in Brownsburg. They were planning to create a specimen holding and storage facility in rented space from Simpson Properties operating as CryoPoint and create a partnership with an existing business in Town, BioLogics. BHC will plan to purchase and install \$700,000 worth of equipment and employ 25-35 new full time jobs averaging \$85,000 per job (\$2,125,000 to \$2,975,000 in payroll) and is asking the Town of Brownsburg for a sum of \$275,000 in the form of a loan to grant upon the completion of the previously stated employment objectives annually for a 5 year period. Staff supports this agreement for the following reasons: 1. Creates 25-35 new good paying jobs; 2. Continues Brownsburg presence in the bio tech life science field; 3. Company assists a current Brownsburg business – Biologics; and 4. Payback in taxes for salary and equipment of roughly 7 years (\$23,800 annually for EDIT and \$10,000 for equipment tax = \$34,000 annually). The EDC has approved this agreement and has recommended consideration by the Town Council.

Financial Summary:

Budget Funds Available	If Yes, Amount
<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A	

	Line Item Name	Line Item Number
Budget Fund Information:		

Recommend Bid/Contract Amount: N/A

Estimated Project Costs: (whole numbers)	Architecture/Engineering	N/A
	Construction/Procurement	N/A
	Contingency	N/A
	Miscellaneous Costs	N/A
	TOTAL ESTIMATE	N/A
	Future Expenses (if any)	N/A
	Revenue Generated (if any)	N/A

Department Head Approval:

Date:

Assistant Town Manager Approval:		
Date:		
ATM Comments:		
Supporting Documentation:		
Ordinance 2012-12, Supplement to Application including Business Plan, Financial information, etc. (CONFIDENTIAL)		
Action Requested:		
Approval of Ordinance 2012-12 Ordinance Providing Final Approval of the Economic Development Loan Agreement with BHC, LLC for 1st Reading.		
Town Manager Approval: <i>Shant A. Kibing</i>		
Date:		8/15/2012
TM Comments:		
Staff has reviewed the proposed agreement, met with the EDC who approved the agreement and recommended consideration by the Town Council and feels that the proposal benefits the Town with investment, good paying jobs and a further presence in the bio-tech industry.		

Ordinance #2012-12
Brownsburg, Indiana
September __, 2012

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF
BROWNSBURG, INDIANA PROVIDING FINAL APPROVAL OF
THE ECONOMIC DEVELOPMENT LOAN AGREEMENT WITH
BHC, LLC FOR THE PURPOSE OF FINANCING THE
ACQUISITION OF CERTAIN ECONOMIC DEVELOPMENT
FACILITIES**

WHEREAS, the Town of Brownsburg, Indiana (the "Town"), is authorized by Indiana Code 6-3.5-7 et seq. and Indiana Code 36-7-12, et seq. (collectively as supplemented and amended the "Act") to enter into agreements with developers for the financing of economic development facilities, the funds from said financing to be used for the acquisition, construction, installation and/or equipping of such facilities; and

WHEREAS, BHC, LLC (the "Borrower") desires to finance a portion of its development of a new state of the art environmentally controlled biorepository facility to be located in the Town, anticipated to employ no less than twenty-five (25) individuals and investing in excess of Six Hundred Ninety Seven Thousand Dollars (\$697,000.00) in equipment and improvements as further described in the Economic Development Loan Agreement attached hereto as Exhibit "A" (the "Agreement") (collectively the "Project"), all to be located in and serving the Town of Brownsburg; and

WHEREAS, the Borrower has requested that the Brownsburg Economic Development Commission (the "Commission") approve the issuance of certain economic development loans to Borrower in a total amount not to exceed Two Hundred Seventy Five Thousand and 00/100 Dollars (\$275,000.00) (the "Loan") to finance a portion of the acquisition, construction and installation of Eligible Improvements (as defined in the Agreement) on a matching fund basis as part of the Project on the terms generally contained in the Agreement; and

WHEREAS, the Borrower has further represented that the Project will be operated as an "economic development facility" within the meaning of the Act; and

WHEREAS, it appears that the creation and retention of opportunities for gainful employment and the creation of business opportunities to be achieved by the Project will serve a public purpose and will be of benefit to the health and welfare of the Town, and the proposed financing complies with the provisions of the Act; and

WHEREAS, it appears that the Project will not have an adverse competitive effect on any similar facility already constructed or operating in the Town; and

WHEREAS, after notice as required by law, the Commission held a public hearing on July 19, 2012 pursuant to Indiana Code 36-7-12-24 prior in time to the adoption of this Ordinance; and

WHEREAS, the Commission has recommended that the Town finally approves and enters into the transaction set forth in the Agreement and that the Town take all further action necessary to allocate funds to lend to the Borrower pursuant to the Act for the purpose of financing or providing

reimbursement to Borrower for all or any portion of the cost of Eligible Improvements; and

WHEREAS, the Commission has approved substantially final forms of the (1) Loan Agreement; (2) Note; and (3) Security Agreement (hereinafter referred to collectively as the "Financing Documents"), all of which are by this reference incorporated herein.

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BROWNSBURG, INDIANA, THAT:

1. The creation and retention of opportunities for gainful employment by residents of the Town and the creation of business opportunities in the Town to be achieved by the Project will be of benefit to the health and general welfare of the citizens of the Town and it is in the public interest that the Town take such action as it lawfully may to encourage diversification of industry and promotion of job opportunities in and near the Town.

2. Based solely upon information provided to it, the Town hereby adopts and approves the Report and Findings related to the Project attached hereto in Exhibit "B" and incorporates the same herein as if set forth in full.

3. All action taken and approvals given by the Town with regard to the Borrower are based upon the evidence submitted and representations made by the Borrower, its agents and counsel and their good-faith compliance therewith. No independent examination, appraisal or inspection of the Project was made, requested, or is contemplated by the Commission or the Town.

4. The financing of the Project on the terms of the Agreement, and the form of the Agreement presented to the Town Council and the documents referred to therein are hereby approved in every way and all such documents shall be kept on file by the Clerk-Treasurer of the Town.

5. The financing of the Project as set forth in the Agreement complies with the provisions of the Act.

6. The President of the Town Council and the Town Clerk are hereby authorized, empowered and directed to execute all documents relating to the transactions contemplated herein, including, but not limited to, the Financing Documents. Pursuant to the provisions of I.C. 36-7-12-25(c) the President and Clerk may, by their signatures thereon, approve such changes to any of the foregoing documents as are allowable by law without further authorization of this Council or the Commission.

7. If required by I.C. 6-3.5-7-15, the Town hereby amends its capital improvement plan for the use of Economic Development Income Tax Funds to include the Project as detailed in the Report and Findings of the Commission and the Agreement, and the required details of the Project are incorporated therein as if the foregoing details were set out in full herein.

8. The Town Council hereby delegates to the Commission all requisite authority to review and monitor the achievement of the Borrower of the employment and investment objectives contained in the Agreement, to take all action necessary to effect or enforce the terms of the Agreement and the rights of the Town therein, and upon the Commission's determination of substantial compliance by the Borrower, to direct the release of such funding as is provided for in the Agreement without further action of this Council, subject only to the availability of an appropriation therefore.

9. This Ordinance shall be in full force and effect immediately upon its passage.

* * * * *

PASSED AND APPROVED this ____ day of September, 2012.

Dwayne Sawyer
Town Council President

ATTEST:

Jeanette M. Brickler
Clerk-Treasurer

EXHIBIT "A"

**ECONOMIC DEVELOPMENT LOAN AGREEMENT
TOTALING \$275,000.00 BY AND BETWEEN
THE TOWN OF BROWNSBURG, INDIANA
AND BHC, LLC**

BHC, LLC Development

Brownsburg, Indiana

August __, 2012

ECONOMIC DEVELOPMENT LOAN AGREEMENT

THIS ECONOMIC DEVELOPMENT LOAN AGREEMENT (the "Agreement") is made and entered into as of the ____ day of August, 2012, by and among the Town Council (the "Council") of the Town of Brownsburg, Indiana (the "Town"), the Town of Brownsburg Economic Development Commission (the "Commission"), and BHC, LLC, an Indiana limited liability company (the "Company" or "Borrower").

WITNESSETH:

WHEREAS, the Town desires to foster economic development within the Town; and

WHEREAS, the Company has approached the Town regarding the design, construction and installation of a new state of the art environmentally controlled biorepository facility as part of Borrower's tissue biobanking project targeting third-party biomedical and pharmaceutical researchers and individual consumers as more particularly described in Exhibit A attached hereto (collectively, the "Project"); and

WHEREAS, as part of the Project, the Company desires to make a capital investment in the Project in the estimated total amount of Six Hundred Ninety Seven Thousand Four Hundred Fifty Five Dollars (\$697,455.00) to meet the employment objectives set forth in Exhibit B; and

WHEREAS, the Company intends to undertake the development of the Project at the Company's primary location in the Town at 1533 E. Northfield Drive, Suite 300, Brownsburg, Indiana, 46112 (the "Property"); and

WHEREAS, the Company has requested economic development assistance from the Town to initiate and complete the Project; and

WHEREAS, the Council and the Commission (each a "Town Body" and, collectively, the "Town Bodies") have determined that the completion of the Project is in the best interests of the citizens of the Town, and, therefore, the Town Bodies desire to grant certain economic development loan incentives on a matching fund basis in order to stimulate and induce the Company to undertake the Project, subject to further proceedings as required by law.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

ARTICLE I. RECITALS

1.01 Recitals Part of Agreement. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.01.

ARTICLE II. MUTUAL ASSISTANCE

2.01 Mutual Assistance. The parties agree, subject to further proceedings required by law, to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications (and, in the case of the Town Bodies, the adoption of such ordinances and resolutions), as may be necessary or appropriate, from time to time, to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out its terms, provisions and intent.

ARTICLE III. PROJECT DEVELOPMENT

3.01 Project Description and Development. The Project shall be developed consistent with the description set forth in Exhibit A and Exhibit B, attached hereto. The Company shall commence the Project no later than sixty (60) days following the successful procurement of all permits and other governmental approvals necessary therefore, which construction and equipping shall be completed in accordance with the timetable set forth in Exhibit A and Exhibit B, subject to permitted delays provided for in Section 3.04 hereof.

3.02 Employment and Investment Objectives. The Company represents that the Project is intended to meet the employment and capital investment objectives set forth in Exhibit B attached hereto and incorporated herein (hereafter the "Objectives"). The Company will use its best efforts to meet the Objectives and will timely file all reports required herein with the Town evidencing the same.

3.03 Property. The Company has acquired an interest in, or shall acquire an interest in, and shall locate and construct the Project on the Property located or to be located within the corporate boundaries of the Town, and shall construct and operate the Project on the Property, as more particularly described in Section 3.01 hereof.

3.04 Permitted Delays. Whenever performance is required of any party hereunder, such party shall use all due diligence and take all necessary measures in good faith to perform the same; provided, however, that if completion of performance shall be delayed at any time by reason of acts of God, war, civil commotion, riots, strikes, picketing, or other labor disputes, unavailability of labor or materials, or damage to work in progress by reason of fire or other casualty or similar causes beyond the reasonable control of a party (other than financial reasons), then the time for performance as herein specified shall be appropriately extended by the time of the delay actually caused by such circumstances. If (i) there should arise any permitted delay for which the Company or any of the Town Bodies is entitled to delay its performance under this Agreement and (ii) the Company or such Town Body anticipates that such permitted delay will cause a delay in its performance under this Agreement, then the Company or such Town Body, as the case may be, agrees to provide written notice to the other parties to this Agreement of the nature and the anticipated length of such delay.

ARTICLE IV. ECONOMIC DEVELOPMENT INCENTIVES

4.01 Economic Development Loan.

(a) Amount and Rate. The Town shall extend to the Company an Economic Development Loan in the amount of Two Hundred Seventy-Five Thousand Dollars (\$275,000.00) (the "Loan") to be repaid in equal annual installments at an interest rate of seven percent (7%) per annum for a period of six (6) years with payments commencing on July 1, 2014, or as otherwise provided in the Note executed in favor of the Town. The Loan shall be due and payable in full, including principal, all unpaid interest, fees, and other charges not later than July 1, 2018. In the event any payment on the Loan has not been received on or before the thirtieth (30th) day after which it is due and the payment is not forgiven under the terms of Section 4.01(b) below, a late charge of five percent (5%) of the payment amount so overdue shall be charged.

(b) Loan Forgiveness and Reporting Requirement. Notwithstanding the repayment provisions set forth above, each annual payment of principal and interest on the Loan shall be forgiven if the Commission determines that the Company has substantially complied with the Objectives for the immediately preceding year. Such determination shall be made in the Commission's reasonable discretion based on evidence submitted by the Borrower in a form reasonably satisfactory to the Town no later than May 15 of each year this Agreement is in effect, with the first submission being due on May 15, 2013. Unless otherwise specified by the Town, such evidence shall include the submission of the information set forth in Form CEI-PP, specific employee number and wage information and such additional supporting documentation and information evidencing compliance with the Objectives as reasonably requested by the Town. The determination by the Commission shall be made in writing provided to the Company no later than forty-five (45) days following the Company's submission. In the event of an adverse determination by the Commission, the Company shall have the right to a hearing before the Commission in the same manner as determinations of tax abatement compliance are conducted under I.C. 6-1.1-12.1-5.9. A final determination by the Commission that the Objectives have not been substantially complied with may be appealed by the Company on the same terms as provided in I.C. 6-1.1-11.1-5.9(e). The parties agree that all reporting by the Company shall be performed in cooperation with representatives of the Hendricks County Economic Development Partnership. Substantial compliance with the Objectives on an annual basis as provided herein shall be a continuing condition of the Loan and other incentives provided for in this Agreement.

(c) Use of Proceeds. Proceeds of the Loan will be used exclusively for the acquisition, construction or installation of economic development facilities including machinery and/or equipment, directly related to the Project, all in compliance with the requirements of I.C. 36-7-12 and 6-3.5-7 ("Eligible Improvements") and for no other purpose. The making of any disbursement by the Town shall not be deemed an acceptance or approval by the Town of any work done or improvements constructed, acquired or installed or materials furnished or installed in connection with the construction, acquisition or installation of either the Project or any Eligible Improvement.

(d) Request for Disbursement. Loan proceeds will be held by the Town until receipt and approval of an appropriate Request for Disbursement by Borrower. Each disbursement of Loan proceeds shall be made as acquisition, construction or installation of Eligible Improvements progresses, shall be submitted to the Town Manager of the Town and shall be processed in accordance with Borrower's signed Request for Disbursement in the form of Exhibit C attached hereto, which shall be accompanied by bills, invoices, paid receipts or other evidence reasonably satisfactory to the Town supporting each item of such Request for Disbursement, and the Company's attestation to the matters set forth in Exhibit C. In order to effect the matching fund intention of the Loan, the Town shall reimburse one-half (½) of the amount submitted for the reimbursement of Eligible Improvements, and the Borrower will be responsible for the remainder of such payment through capital funds or outside credit available to Borrower. The Town shall have a period of five (5) business days following the receipt of a Request for Disbursement meeting the above terms to approve and disburse or deny the same in its reasonable discretion and in accordance with the terms of this Agreement. Upon five (5) days prior written notice to the Company, the Town shall be given reasonable access to Borrower's premises to physically inspect any such Eligible Improvements and to make such other reasonable determinations as may be required by the Town in order to process the Request for Disbursement. In the event the Town denies a Request for Disbursement, it shall provide Borrower with a written determination specifying the reason for the denial and the documents or actions necessary for approval of the Request for Disbursement by the Town. In the event the Borrower disagrees with the determination of the Town Manager, the Borrower may appeal the denial to the Commission in writing, which appeal shall be placed on the agenda of the Commission at its next occurring regular or special meeting. The determination of the Commission shall be final. Requests for Disbursement may be submitted no more frequently than monthly.

(e) How Disbursed. Disbursements shall, pursuant to the reasonable agreement of the Town and the Borrower, either be: (i) paid to the Borrower in readily negotiable funds; or (ii) paid by the Town directly to the party or parties who have actually supplied labor, materials or services in connection with or incidental to the Eligible Improvements or to the party or parties to whom payment of any other eligible cost specified in the Request For Disbursement is due; provided, however, the Town shall not elect to make payment other than to Borrower unless at the time of the disbursement there exists an uncured Event of Default, and provided further, the Town shall do so only after giving Borrower at least two (2) business days' prior telephonic notice of its intention to do so. No further direction or authorization for such direct payment shall be required, it being understood that any such payment shall satisfy, pro tanto, the obligations of the Town hereunder, and shall be deemed a Loan advance evidenced by the Note and secured by the Note and the Loan Documents as fully as if made directly to the Borrower, regardless of the actual disposition thereof by the party or parties to whom such payment is made.

(f) Proof of Payment. In the event the Town, in its sole discretion, disburses Loan proceeds prior to the actual disbursement of funds by Borrower for the cost of Eligible Improvements, the Borrower shall promptly thereafter submit proof of payment of such funds for Eligible Improvements through receipts, paid invoices, cancelled checks or other evidence reasonably acceptable to the Town.

(g) Final Release. At any time after May 15, 2018, the Company may submit proof of its final completion and compliance with the Objectives and request a final determination by the Commission that the Company's obligations under this Agreement have been completed. Upon such determination by the Commission the Town shall issue a complete and plenary release to the Company, and all security then held by the Town shall be immediately released.

4.02 Security and Remedies.

(a) Loan Documents. The obligations of the Company contained herein shall be evidenced by a Promissory Note, Security Agreement and other customary loan documents (collectively the "Loan Documents") in a form and substance reasonably satisfactory to counsel for the Town. The Loan Documents shall provide for a purchase money first security interest on all equipment purchased with Loan Proceeds, and the Company shall execute all documents to perfect such security interest. The Loan Documents will contain representations and warranties of the Company regarding its organization and existence, authorization for the transaction, the binding nature of the Loan Documents, the absence of liens, the maintenance of insurance, the indemnification of the Town and other positive and negative covenants customary in similar transactions.

(b) Remedies. In the event the Company shall at any time during the term of this Agreement:

- (i) fail to substantially comply with the Objectives;
- (ii) breach any covenant or condition contained herein or in the Loan Documents;
- (iii) abandon the Facility or move all or a substantial portion of its operations out of the Town;
- (iv) default in its obligations on any Facility lease or primary credit facility; or
- (v) cause or allow to occur any other event defined as a default herein;

(an "Event of Default") all then outstanding unpaid amounts due under the Loan, with accrued interest thereon, shall become immediately due and payable to the Town. The Loan Documents shall include all powers and remedies normally accruing to secured creditors in commercial transactions, including the recovery of reasonable attorney's fees and reasonable costs upon an Event of Default.

(c) Town's Right to Perform. In the event the Borrower shall fail to make any payment or perform any action required to be performed hereunder, then and in such case the Town, upon not less than five (5) days' prior written notice to the Borrower, may, but shall not be obligated to, remedy such default for the account of the Borrower and make disbursements for that purpose. Any funds so advanced by the Town shall be repayable by the Borrower on demand and shall bear interest at the per annum rate of twelve percent (12%) from the date of the advance until repaid.

(d) Legal Action. The Town, with or without entry, personally or by attorney, may, in its discretion, proceed to protect and enforce its rights by a suit or suits in equity or at law, whether for damages or for the specific performance of any covenant or agreement contained in the Note, the Loan Documents or in aid of the execution of any power granted herein, or for any foreclosure hereunder, or for the enforcement of any other appropriate legal or equitable remedy, as the Town shall deem most effectual to protect and enforce any of its rights or duties hereunder. In such event, the Town shall have the right to recover its reasonable legal fees and expenses in any enforcement action. Any moneys thus collected by the Town under this Section shall be applied by the Town as follows: (i) first, to the payment of all costs of enforcement by the Town (including reasonable attorneys' fees and expenses of the Town); (ii) second, to the payment of all reasonable advances by the Town with interest at the rate set forth above, and all reasonable expenses and disbursements; and (iii) third, to the payment of the amounts then due and unpaid upon the Note in respect of which such money shall have been collected, ratably and without preference or priority of any kind, according to the amounts due and payable upon the Note, upon presentation of the Note and the notation thereon of such payment, if partly paid, and upon surrender thereon if fully paid.

(e) Remedies Cumulative. No remedy herein conferred upon or reserved to the Town is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

(f) Delay or Omission Not a Waiver. No delay or omission of the Town to exercise any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to be a waiver of any such Event of Default or an acquiescence therein; and every power and remedy given by this Loan Agreement to the Town may be exercised from time to time and as often as may be deemed expedient by the Town.

(g) Subordination. At Borrower's request, the Town shall execute all documents, including any intercreditor agreement, with the institution providing Borrower's primary credit facility, or any landlord or primary mortgage holder, to provide for the subordination of the Town's Subordinated Lien on the terms provided for herein.

(h) Additional Security Documents. Within fifteen (15) days after a request by the Town, Borrower shall execute, acknowledge and deliver any additional security documents, in form and substance reasonably satisfactory to the Town and Borrower, which Town may reasonably request consistent with the provisions hereof in order to preserve the Town's primary or subordinated security interest provided for herein.

4.03 Additional Covenants of the Company.

(a) Insurance. The Company shall maintain commercially customary policies of insurance on the Project and the Facility with companies reasonably acceptable to the Town and shall name the Town as an additional insured on all public liability policies related to the Project and the Facility throughout the term of this Agreement. Certificates of Insurance evidencing coverage and naming the Town as an additional insured with a provision for thirty (30) day

notice prior to termination of coverage shall be submitted to the Town prior to closing of the Loan.

(b) Taxes. The Company shall timely pay all taxes on real and personal property owned by the Company in accordance with Indiana law. Failure to timely pay any such taxes shall constitute an Event of Default hereunder. Nothing contained herein shall prevent the Company from exercising any right to appeal tax assessments in accordance with Indiana law. No property taxes are being abated as part of this Agreement.

(c) Standards. All current zoning, planned unit development ordinances, development standards and commitments to adjacent property owners which are applicable to the Facility or the Project shall be honored by the Company.

(d) Costs. As required by I.C. 36-7-12-26, all costs of maintenance, repair, taxes, assessments, insurance premiums, trustee's fees, and any other expenses relating to the Project, if any, and all other fees and expenses provided for herein, shall be the responsibility of the Borrower. The parties shall each be responsible for their own costs of entering into and closing this Agreement.

(e) Existence and Consolidation. The Company shall maintain its existence and authority to transact business in Indiana, will not dissolve or otherwise dispose of all or substantially all of its assets, and will not consolidate with or merge into another entity, or permit one or more other entities to consolidate or merge with it, unless the surviving, resulting or transferee entity assumes in writing all of the obligations of the Company herein, and such entity has a net worth, as determined under generally accepted accounting principles, that is no less than the net worth of the Company immediately prior to the consolidation.

(f) Liens. Prior to the closing of the Loan, UCC search reports regarding Borrower shall have been obtained by the Town from the Indiana Secretary of State and Recorder of Hendricks County, Indiana, disclosing no liens that might adversely affect the Town's rights under this Agreement and the Loan Documents, other than any liens accepted herein and the documents securing Borrower's obligations thereunder.

(g) Notices. Borrower shall promptly furnish to Town written notice of any litigation or government order specifically affecting Borrower or any aspect of the Project or the Eligible Improvements, and of the filing of any lien against the Eligible Improvements, the Facility or Borrower's interest therein, or against the Project.

ARTICLE V. AUTHORITY

5.01 Town Actions. Each of the Town Bodies represent and warrant by its execution below that it has taken or will take (subject to further proceedings required by law and the Company's performance of its agreements and obligations hereunder) such action(s) as may be required and necessary to enable each of the respective Town Bodies to execute this Agreement and to carry out fully and perform the terms, covenants, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof. The Town Bodies represent and warrant that each has full constitutional and lawful right, power and authority, under

currently applicable law, to execute and deliver and perform their respective obligations under this Agreement.

5.02 Company Actions. Company represents and warrants that it has taken or will take such action(s) as may be required and necessary to enable the Company to execute this Agreement and to carry out fully and perform the terms, covenants, duties and obligations on its part to be kept and performed as provided by the terms and provisions hereof. The Company represents and warrants that it has the lawful right, power and authority to execute, deliver and perform its obligations under this Agreement, and that the execution and performance thereof will not conflict with or violate any order of any governmental body with jurisdiction, or any agreement by which the Company is bound or by which its assets are obligated.

ARTICLE VI. GENERAL PROVISIONS

6.01 Indemnity; No Joint Venture or Partnership. The Company covenants and agrees at its expense to indemnify and hold the Town, the Town Bodies, and their respective officers, attorneys and agents (the "Indemnitees") harmless from and against, any and all claims, damages, demands, expenses and liabilities relating to: (i) violation by the Company of any agreement or condition in this Agreement or the Loan Documents; (ii) violation of any contract, agreement or restriction relating to the Project, the Facility or the Eligible Improvements; (iii) violation by the Company of any law, ordinance or regulation, or otherwise arising out of the ownership, occupancy, use, construction, acquisition or installation of the Project, the Facility or the Eligible Improvements; (iv) any act, failure to act, or misrepresentation by the Company or any of the Company's agents, contractors, servants, employees or licensees; and (v) the provision of any information or certification furnished by the Company in connection with the authorization, issuance, sale, construction, acquisition, installation or development of the Project, the Eligible Improvements, or the Loan, unless such claims, damages, demands, expenses or liabilities arise by reason of the negligent act or omission of the Town Bodies, or other Indemnitees. Nothing contained in this Agreement shall be construed as creating either a joint venture or partnership relationship between the Town Bodies, and the Company or any affiliate thereof.

6.02 Time of the Essence. Time is of the essence of this Agreement. The parties shall make every reasonable effort to expedite the subject matters hereof (subject to any time limitations described herein) and acknowledge that the successful performance of this Agreement requires their continued cooperation.

6.03 Breach. Before any failure of any party to this Agreement to perform its obligations under this Agreement shall be deemed to be a breach of this Agreement, the party claiming such failure shall notify, in writing, the party alleged to have failed to perform such obligation and shall demand performance. No breach of this Agreement may be found to have occurred if performance has commenced to the reasonable satisfaction of the complaining party within thirty (30) days of the receipt of such notice. If after said notice, the breaching party fails to cure the breach, the non-breaching party may seek any remedy available at law or equity.

6.04 Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, by the adoption of an ordinance or resolution of each of the Town Bodies approving said amendment, as provided by law, and by the execution of said amendment by the parties or their successors in interest.

6.05 No Other Agreement. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the parties.

6.06 Severability. If any provision, covenant, agreement or portion of this Agreement or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable. Notwithstanding the foregoing, in the event any provision of this Agreement is determined to be invalid under any applicable law and therefore deemed void hereunder (which voided provision prevents either the Town Bodies or the Company from realizing the intended benefits of this Agreement) then the Town Bodies and the Company agree to modify this Agreement in a manner that allows both the Town Bodies and the Company to realize the originally intended benefits of this Agreement to the greatest extent possible. If the Agreement cannot be so modified or amended to allow the parties to realize the originally intended benefits of this Agreement, then the party which has been prevented from realizing the intended benefits of this Agreement shall have the right to terminate this Agreement, and upon such termination, all rights and obligations under this Agreement shall be extinguished, and the parties agree to execute such releases or other evidence of the extinguishment of such obligations as may be necessary.

6.07 Indiana Law. This Agreement shall be construed in accordance with the laws of the State of Indiana.

6.08 Notices. All notices and requests required pursuant to this Agreement shall be deemed sufficiently made if delivered, as follows:

To the Company:

BHC, LLC
1533 E. Northfield Drive, Suite 300
Brownsburg, Indiana 46112
Attn: Michael A. Byers, President
Phone:
Fax:

To the Town:

Attn: Town Manager
Town of Brownsburg
61 N. Green Street
Brownsburg, IN 46112
Phone: (317) 852-1120
Fax: (317) 852-1123

With a copy to:

Barry Wormser, Esq.
Wormser Legal
1075 Broad Ripple Avenue
Suite 226
Indianapolis, IN 46220
Phone: (317) 721-6022
Fax: (888) 501-7116

With a copy to:

Brian C. Bosma, Esq.
Kroger Gardis & Regas, LLP
111 Monument Circle, Suite 900
Indianapolis, IN 46204-5125
Phone: (317) 692-9000
Fax: (317) 264-6832

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

6.09 Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

6.10 Assignment. The rights and obligations contained in this Agreement may not be assigned by the Company or any affiliate thereof without the express prior written consent of each of the Town Bodies.

6.11 No Third Party Beneficiaries. This Agreement shall be deemed to be for the benefit solely of the parties hereto and shall not be deemed to be for the benefit of any third party.

6.12 Successors and Assigns. This Agreement shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective successors and permitted assigns.

6.13 Effective Date. Notwithstanding anything herein to the contrary, this Agreement shall not be effective until all parties hereto have executed this Agreement and each of the Town Bodies have approved or ratified this Agreement at public meetings.

6.14 Further Assurances. The parties hereto will execute all instruments and take all actions reasonably necessary to consummate the transactions contemplated by this Agreement and the Loan Documents. The Company will maintain the Project and the Eligible Improvements in good repair and safe condition at all times.

6.15 Inducement and Public Purpose. The provision of financial assistance to be made available to the Company under this Agreement has induced the Company to undertake the Project. The Company reasonably anticipates that it will create the minimum number of jobs at the Project (each with benefits) and will make or cause to be made the capital and real estate investments described as Objectives in Exhibit B. The Company shall operate or cause the Project to be operated as an economic development facility as provided under the Act, until the expiration or earlier termination of this Agreement as provided herein.

6.16 Authority. Each party executing below represents that he or she has been authorized by the governing body of the entity identified to execute this Agreement and has the full authority to execute this Agreement.

IN WITNESS WHEREOF, the parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

Approved at an open meeting on the ____ day of August, 2012.

**TOWN COUNCIL OF THE TOWN OF
BROWNSBURG, INDIANA**

By: _____
Dwayne Sawyer, Town Council President

ATTEST:

Jeanette M. Brickler
Clerk-Treasurer

(Signature Page of the Brownsburg Economic Development Commission
to the Loan Agreement)

Approved at an open meeting on the ____ day of _____, 2012.

**BROWNSBURG ECONOMIC
DEVELOPMENT COMMISSION**

By: _____
Joe Dunbar, President

ATTEST:

Allan Bolante, Secretary

(Signature Page of the Borrower to the Loan Agreement)

BHC, LLC

By:

Michael A. Byers, President & CEO

ATTEST:

, Secretary-Treasurer

EXHIBIT A

Description of Project

Design, construction and installation of a new state of the art environmentally controlled biorepository facility as part of Borrower's tissue biobanking project targeting third-party biomedical and pharmaceutical researchers and individual consumers.

EXHIBIT B

Employment and Capital Investment Objectives

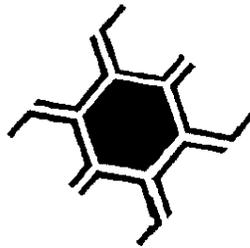
Cumulative number of full-time permanent employees employed as of March 1 of each calendar year indicated below and projected average wage or salary, exclusive of fringe benefits and bonuses:

<u>Year</u>	<u>Cumulative Employees</u>	<u>Average Salary or Wage</u>
2013	Undetermined	Undetermined
2014	5 to 7 Employees	\$85,000 per year
2015	5 to 7 Additional Employees	\$85,000 per year
2016	5 to 7 Additional Employees	\$85,000 per year
2017	5 to 7 Additional Employees	\$85,000 per year
2018	5 to 7 Additional Employees	\$85,000 per year

Capital Investment Objectives

\$ _____ in manufacturing and production equipment and construction by
 . 20 _____ as follows:

<u>Year</u>	<u>New Investment (as of March 1st)</u>	<u>Cumulative Investment</u>



BHC, LLC.

Grant to Loan

Asset/Equipment Listing
2013-2018:

Town of Brownsburg,
IN

July 17th, 2012

TABLE OF CONTENTS

I. Asset Listing (2013-2018).....3-5

ASSET / EQUIPMENT LISTINGS

BHC, LLC has compiled the following asset list of equipment needed to fully operate a biorepository facility.

2013

Quantity	Description	Price (Each)	Total Price
2	Biologics Modular Biorepository Containers	\$ 189,000.00	\$ 378,000.00
10	MVE/Chart 815P-190 AF-GB	\$ 14,421.00	\$ 144,210.00
10	Battery Back-up	\$ 477.00	\$ 4,770.00
3	MVE/Chart 1536P-190AF-GB	\$ 19,215.00	\$ 57,645.00
3	Battery Back-up	\$ 477.00	\$ 4,770.00
2	MPR721 Laboratory Refrigerator	\$ 7,395.00	\$ 14,790.00
5	MDFU76VC -86 Ultralow Freezer	\$ 18,654.00	\$ 93,270.00
Grand Total...			\$ 697,455.00

2014

Quantity	Description	Price (Each)	Total Price
7	MVE/Chart 1536P-190AF-GB	\$ 19,215.00	\$134,505.00
7	Battery Back-up	\$ 477.00	\$ 3,339.00
10	MDFU76VC -86 Ultralow Freezer	\$ 18,654.00	\$ 186,540.00
10	Battery Back-up	\$ 477.00	\$ 4,770.00
1	Temperature Monitoring Hardware	---	\$20,846.00
Grand Total...			\$ 350,000.00

2015

Quantity	Description	Price (Each)	Total Price
9	MVE/Chart 1536P-190AF-GB	\$ 19,215.00	\$172,935.00
9	Battery Back-up	\$ 477.00	\$ 4,293.00
12	MDFU76VC -86 Ultralow Freezer	\$ 18,654.00	\$ 223,848.00
12	Battery Back-up	\$ 477.00	\$ 5,724.00
1	Temperature Monitoring Hardware	---	\$18,200.00
Grand Total...			\$ 425,000.00

2016

Quantity	Description	Price (Each)	Total Price
11	MVE/Chart 1536P-190AF-GB	\$ 19,215.00	\$211,365.00
11	Battery Back-up	\$ 477.00	\$ 5,247.00
15	MDFU76VC -86 Ultralow Freezer	\$ 18,654.00	\$ 279,810.00
15	Battery Back-up	\$ 477.00	\$ 7,155.00
1	Temperature Monitoring Hardware	---	\$11,423.00
Grand Total...			\$ 425,000.00

2017

Quantity	Description	Price (Each)	Total Price
14	MVE/Chart 1536P-190AF-GB	\$ 19,215.00	\$269,010.00
14	Battery Back-up	\$ 477.00	\$ 6,678.00
17	MDFU76VC -86 Ultralow Freezer	\$ 18,654.00	\$ 317,118.00
17	Battery Back-up	\$ 477.00	\$ 8,109.00
1	Temperature Monitoring Hardware	---	\$24,085.00
Grand Total...			\$ 625,000.00

2018

Quantity	Description	Price (Each)	Total Price
17	MVE/Chart 1536P-190AF-GB	\$ 19,215.00	\$326,655.00
17	Battery Back-up	\$ 477.00	\$ 8,109.00
20	MDFU76VC -86 Ultralow Freezer	\$ 18,654.00	\$ 373,080.00
20	Battery Back-up	\$ 477.00	\$ 9,540.00
1	Temperature Monitoring Hardware	---	\$32,616.00
Grand Total...			\$ 750,000.00

EXHIBIT C

BORROWER'S REQUEST FOR DISBURSEMENT

The undersigned, BHC, LLC (hereinafter referred to as "Borrower"), hereby requests from the Town of Brownsburg (hereinafter referred to as the "Town") under that certain Economic Development Agreement by and between Borrower and the Town of Brownsburg dated August __, 2012 (the "Agreement"), a disbursement in the amount of \$ _____ from the Loan proceeds for construction, acquisition or installation of Eligible Improvements or the reimbursement for the costs thereof as provided for under the Agreement.

As an inducement to the Town to make the disbursement hereby requested, Borrower represents and warrants to the Town that: (a) the aggregate principal amount heretofore disbursed by the Town for the Eligible Improvements and currently remaining unpaid, taking this request into account, is the sum of \$ _____; (b) all proceeds of the distribution requested hereby will be used for construction, acquisition or installation of the Eligible Improvements pursuant to the terms of the Agreement; (c) all proceeds distributed from Loan Proceeds have been and will be used only for Eligible Improvements for the Project; (d) all representations and warranties contained in the Agreement are true as of the date hereof; (e) there has been full compliance with the covenants set forth in the Agreement; (f) there exists no Event of Default under the Agreement or any Loan Document; and (g) there exists no condition which, but for the giving of notice or passage of time or both, would constitute an Event of Default under the Agreement or the Loan Documents.

The distribution hereby requested shall be made by deposit to the institutional banking account of Borrower as reasonably designated by Borrower from time to time to the Town, or as otherwise allowed by the Agreement. Capitalized terms shall have the meaning ascribed to them in the Agreement.

Executed this _____ day of _____, 20__.

BHC, LLC, an Indiana limited liability
company

By: _____

EXHIBIT "B"

**A RESOLUTION OF THE TOWN OF BROWNSBURG ECONOMIC
DEVELOPMENT COMMISSION PROVIDING FINAL APPROVAL OF
THE ISSUANCE OF AN ECONOMIC DEVELOPMENT LOAN FOR
THE PURPOSE OF FINANCING CERTAIN ECONOMIC
DEVELOPMENT FACILITIES TO BE OPERATED BY BHC, LLC**

WHEREAS, the Town of Brownsburg, Indiana (the "Town"), is authorized by Indiana Code 6-3.5-7 et seq. and Indiana Code 36-7-12, et seq. (collectively as supplemented and amended the "Act") to issue loans to developers for the financing of economic development facilities, the funds from said financing to be used for the acquisition, construction, installation and/or equipping of such facilities; and

WHEREAS, BHC, LLC (the "Borrower") desires to finance a portion of its development of a new state of the art environmentally controlled biorepository facility to be located in the Town, anticipated to employ no less than twenty-five (25) individuals and investing in excess of Six Hundred Ninety Seven Thousand Dollars (\$697,000.00) in equipment and improvements as further described in the Economic Development Loan Agreement attached hereto as Exhibit "A" (the "Agreement") (collectively the "Project"), all to be located in and serving the Town of Brownsburg; and

WHEREAS, the Borrower has requested that the Brownsburg Economic Development Commission (the "Commission") approve the issuance of certain economic development loans to Borrower in a total amount not to exceed Two Hundred Seventy Five Thousand and 00/100 Dollars (\$275,000.00) (the "Loan") to finance a portion of the acquisition, construction and installation of Eligible Improvements (as defined in the Agreement) on a matching fund basis as part of the Project on the terms generally contained in the Agreement; and

WHEREAS, the Borrower has further represented that the Project will be operated as an "economic development facility" within the meaning of the Act; and

WHEREAS, the creation and retention of opportunities for gainful employment and the creation of business opportunities to be achieved by the Project will serve a public purpose and will be of benefit to the health and general welfare of the Town, and the proposed financing complies with the provisions of the Act; and

WHEREAS, after notice as required by law, the Commission held a public hearing on July 19, 2012 pursuant to Indiana Code 36-7-12-24 prior in time to the adoption of this Resolution; and

WHEREAS, based on the testimony received at the public hearing on this matter, it appears that the Project will not have a significant adverse competitive effect on any similar facility already constructed or operating in the Town; and

WHEREAS, the Commission now recommends that the Town finally approves and enters into the transactions evidenced by the Agreement and that the Town takes all further action necessary to allocate funds to lend to the Borrower pursuant to the Act for the purpose of financing or providing reimbursement to Borrower for all or any portion of the cost of Eligible Improvements; and

WHEREAS, there has been submitted to this Commission for its approval substantially final forms of the (1) Loan Agreement; (2) Note; and (3) Security Agreement (hereinafter referred to collectively as the "Financing Documents"); and (4) a form of Ordinance authorizing the issuance of the Loan by the Town Council, all of which are by this reference incorporated herein.

NOW THEREFORE, BE IT RESOLVED by the Commission, as follows:

1. The creation and retention of opportunities for gainful employment by residents of the Town and the creation of business opportunities in the Town to be achieved by the Project will be of benefit to the health and general welfare of the citizens of the Town and it is in the public interest that this Commission take such action as it lawfully may to encourage diversification of industry and promotion of job opportunities in and near the Town.

2. Based solely upon information provided to it, the Commission hereby adopts and approves the Report and Findings related to the Project attached hereto as Exhibit "B" and incorporates the same herein as if set forth in full. The Secretary of the Commission is hereby directed to submit, or to have submitted on the Commission's behalf, the Resolution, the Agreement and the Report and Findings to the Chairperson of the Town's Advisory Plan Commission pursuant to Indiana Code 36-7-12-23(b).

3. All action taken and approvals given by the Commission with regard to the Borrower are based upon the evidence submitted and representations made by the Borrower, its agents and counsel and their good-faith compliance therewith. No independent examination, appraisal or inspection of the Project was made, requested, or is contemplated by the Commission or the Town.

4. The financing of the Project through the issuance of the Loan to the Borrower, and the forms of the Financing Documents presented to this Commission are hereby approved in every way and all such documents shall be kept on file by the Clerk-Treasurer of the Town.

5. The financing of the Loan and the Project as contemplated hereby complies with the provisions of I.C. 36-7-12 et seq.

6. The Commission hereby recommends that the President of the Town Council and the Town Clerk be authorized, empowered and directed to execute all documents relating to the transactions contemplated herein, including, but not limited to, the Financing Documents. The Commission further authorizes, empowers and directs the President and Vice President of the Commission to execute all documents which may require authorization from the Commission. Pursuant to the provisions of I.C. 36-7-12-25(c), the President, Clerk and officers of the Commission may, by their signatures thereon, approve such changes to any of the foregoing documents as are allowable by law without further authorization of this Commission or the Town Council.

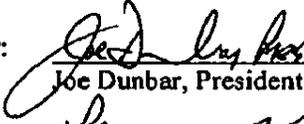
7. The Secretary of the Commission is directed to cause this Resolution and two copies of the Financing Documents in the form presented to this Commission to be transmitted to the office of the Clerk-Treasurer for presentation to the Town Council of the Town with the recommendation that the Town Council approve such documents in their final forms pursuant to the proposed form of Ordinance hereby recommended.

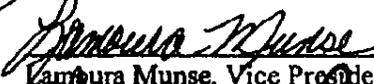
8. This Resolution shall be effective immediately upon its passage.

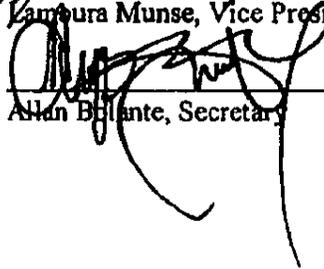
* * * * *

ADOPTED THIS 19th day of July, 2012.

BROWNSBURG, INDIANA ECONOMIC
DEVELOPMENT COMMISSION

By:  _____
Joe Dunbar, President

 _____
Tamara Munse, Vice President

 _____
Allan Bellante, Secretary

**REPORT AND FINDINGS OF FACT OF THE TOWN OF BROWNSBURG
ECONOMIC DEVELOPMENT COMMISSION CONCERNING THE
PROPOSED FINANCING OF ECONOMIC DEVELOPMENT FACILITIES TO BE
OPERATED BY BHC, LLC**

The Town of Brownsburg Economic Development Commission (the "Commission") proposes to recommend to the Town Council of the Town of Brownsburg, Indiana (the "Town"), that it make available Economic Development Income Tax (EDIT) funds in the form of an economic development loan pursuant to I.C. 6-3.5-7 *et seq.* and I.C. 36-7-12 *et seq.* in the total principal amount of Two Hundred Seventy Five Thousand Dollars (\$275,000.00) (the "Loan") to BHC, LLC (the "Applicant"), for the financing of certain economic development facilities in the Town as set forth in the Resolution of the Commission of even date herewith.

In connection therewith, the Commission hereby reports and finds as follows:

A. The proposed economic development facility consists of a new state of the art environmentally controlled biorepository facility to be initially located at 1533 E. Northfield Drive, Suite 300, Brownsburg, Indiana, 46112, eventually employing between twenty-five (25) and thirty-five (35) or more individuals and investing in excess of Six Hundred Seventy Five Thousand Dollars (\$675,000.00) in equipment and improvement costs as further described in the Economic Development Loan Agreement attached hereto as Exhibit "A" (the "Agreement") (collectively the "Project"), all to be located in and directly serving and benefitting the Town of Brownsburg. The Project is part of Borrower's tissue biobanking project targeting third-party biomedical and pharmaceutical researchers and individual consumers.

B. The Commission estimates that, other than those Eligible Improvements to be acquired, installed or constructed with the proceeds of the Loan, no additional public works or services, including public ways, schools, water, sewer, street lights and fire protection, will be made necessary or desirable by the Project because any such works or services already exist or will be provided by the Applicant or other parties.

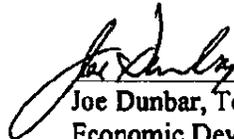
C. The Commission estimates that the total costs of the acquisition, construction and installation of the Eligible Improvements, and other related expenses to be financed by the Loan, including capitalized interest, fees and financing costs for the Eligible Improvements and the Loan will be an amount not less than \$697,455. In addition to the proceeds of the Loan, the Applicant will invest a total of approximately \$422,455 in the acquisition, construction, installation and improvement of the Project.

D. The Applicant has committed to create and/or retain an estimated 25 to 35 jobs over the next six (6) years with an average annual salary without benefits or bonuses of \$85,000 and an annual payroll of approximately \$2,125,000 to \$2,975,000.

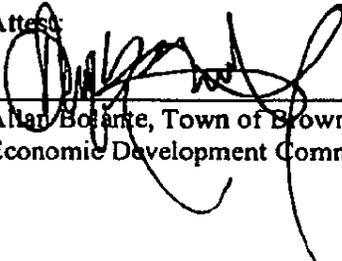
E. Based on the evidence received at the public hearing held by the Commission on the date hereof, there are no facilities similar to the Project that are already constructed or operating in or near the Town, and consequently, the Project will not have a significant adverse competitive effect on similar facilities already constructed or operating in the Town.

F. The proposed financing of the Eligible Improvements for the Project complies with the purposes and provisions of Indiana Code 36-7-11.9, -12 and -14, et seq., and Indiana Code 6-3.5-7 et seq. as supplemented and amended.

Adopted this 19th day of July, 2012.



Joe Dunbar, Town of Brownsburg
Economic Development Commission

Attest:


Allan Borante, Town of Brownsburg
Economic Development Commission

PRINCIPAL AMOUNT: \$275,000.00

ANNUAL INTEREST RATE: 7%

PROMISSORY NOTE

(BHC, LLC Project)

FOR VALUE RECEIVED, the undersigned, BHC, LLC (“Borrower”), a corporation organized and existing in good standing under the laws of the State of Indiana (the “Borrower”), hereby promises to pay to the order of the Town of Brownsburg, Indiana (“Town”), in immediately available funds, the principal sum of \$275,000, or so much thereof as is advanced to Borrower by the Town, and interest thereon at the rate of seven percent (7%) per annum, during the term of the Economic Development Loan Agreement (the “Loan Agreement”) dated as of August ____, 2012 between the Borrower and the Town of Brownsburg, or twelve percent (12%) per annum during the occurrence and continuance of any Event of Default (as defined in the Loan Agreement). Such amount shall be payable in five (5) equal installments of principal and interest commencing on July 1, 2014, and on each July 1 thereafter, as set forth in Exhibit “A” hereto, with the final payment of all outstanding principal and interest due on July 1, 2018; provided, however, that one or more such annual installment payments may be forgiven in the manner described in Section 4.01(b) of the Loan Agreement. Borrower shall be entitled to prepay this Note without premium or penalty and upon such payment in full, Borrower shall be fully released from its obligations under this Note and the Loan Agreement.

This Note is issued pursuant to the Loan Agreement, and is entitled to the benefits, and is subject to the conditions thereof. Unless forgiven pursuant to Section 4.01(b) of the Loan Agreement, the obligations of Borrower to make the payments required hereunder shall be absolute and unconditional without any defense or right of set-off, counterclaim or recoupment by reason of any default by Town under the Loan Agreement or under any other agreement between Borrower and Town or out of any indebtedness or liability at any time owing to the Borrower by the Town or for any other reason.

Upon the occurrence and continuance of an Event of Default and in the manner set forth in the Loan Agreement, (i) the entire principal amount of this Note and the interest accrued thereon may be declared to be due and payable and (ii) the Borrower shall be obligated to pay such additional amounts as are provided for in the Loan Agreement.

The Borrower hereby unconditionally waives diligence, presentment, protest and notice of dishonor of the payment of any amount at any time payable to the Town under or in connection with this Note. With respect to the collection of any indebtedness evidenced hereby all amounts payable hereunder are payable with reasonable attorneys fees and costs of collection and without relief from valuation and appraisal laws.

In any case where the date of payment hereunder shall be a Saturday, Sunday or a legal holiday or a day on which banking institutions in Indianapolis, Indiana are authorized by law to close, then such payment shall be made on the next succeeding business day with the same force and effect as if made on the date of payment hereunder.

PRINCIPAL AMOUNT: \$275,000.00

ANNUAL INTEREST RATE: 7%

All capitalized terms not defined in this Note which are defined in the Loan Agreement shall have the meanings assigned to them in the Loan Agreement.

IN WITNESS WHEREOF, the Borrower has caused this Note to be duly executed and attested by its duly authorized officers or representatives.

Issue Date: August __, 2012.

BHC, LLC

By: _____
Michael Byers, as President of BHC, LLC

Attest:

_____, Secretary and Treasurer

EXHIBIT "A"

Amortization Schedule

Payment Date **Payment** **Principal Paid** **Interest Paid** **Remaining Balance**

Totals

SECURITY AGREEMENT
(BHC, LLC Project)

BHC, LLC, an Indiana limited liability company (the "Company"), hereby grants and pledges to the **TOWN OF BROWNSBURG**, Indiana, a municipal corporation duly organized and validly existing under the laws of the State of Indiana (the "Town") a security interest in the Collateral (as defined hereinafter), whether now owned or hereafter acquired, and in the proceeds thereof, to secure the payment and performance of all of the Obligations (as defined below). Such security interest is granted on the terms stated in this Security Agreement.

1. **Definitions.** As used in this Security Agreement, the following terms have the meanings indicated when used with the initial letter capitalized:

(a) "Account Debtor" means a party who is obligated to the Company with respect to any Account Receivable, or General Intangible.

(b) "Accounts Receivable" or "Account" is used as defined in the Uniform Commercial Code.

(c) "Chattel Paper" is used as defined in the Uniform Commercial Code.

(d) "Collateral" means (i) all tangible personal property and equipment, and proceeds thereof, of any kind, purchased with Loan proceeds (including any such Goods, Documents, Fixtures, Instruments, Equipment, Farm Products, Software and Inventory); (ii) any and all moneys and securities from time to time on deposit in all funds and accounts created under the Loan Agreement including any Loan proceeds, (iii) all other property of any kind conveyed, transferred, mortgaged, pledged, assigned or hypothecated at any time in favor of the Town, (iv) and all proceeds of the foregoing. Accounts, Chattel Paper, Deposit Accounts, General Intangibles, and Software shall only constitute "Collateral" to the extent such assets are proceeds of assets described in subsections (i), (ii) or (iii).

(e) "Collateral Account" is used as defined in Paragraph 10(a).

(f) "Default" means an "Event of Default" as defined in the Loan Agreement.

(g) "Deposit Accounts" means all demand, time, savings, passbook, and similar accounts of the Company maintained with any bank.

(h) "Equipment" means all of the furniture, fixtures, machinery, equipment, and other Goods of the Company, other than Inventory, farm products, or consumer goods, together with all tools, accessories, parts and accessions now in, attached to or hereafter placed in or added to such property, and any replacements of any such property.

(i) "Farm Products" is used as defined in the Uniform Commercial Code.

(j) "Fixtures" is used as defined in the Uniform Commercial Code.

(k) "General Intangibles" is used as defined in the Uniform Commercial Code.

(l) "Goods" is used as defined in the Uniform Commercial Code.

(m) "Intercreditor Agreement" means each intercreditor agreement entered into from time to time by the Company, the Town and the holder of the Secured Credit Agreement.

(n) "Inventory" means all Goods which are held for sale or lease to customers or which are furnished, have been furnished or are to be furnished under contracts of service, or which are raw materials, work in process or materials used or consumed in the Company's business.

(o) "Loan Agreement" means the Economic Development Loan Agreement by and between the Company and the Town, as it may be amended from time to time.

(p) "Obligations" means (i) all loans, advances and other extensions of credit made by the Town to the Company; and (ii) any and all other indebtedness, obligations and liabilities which may be owed by the Company to the Town and arising out of, or incurred in connection with, the Loan Agreement or any of the other Loan Documents (as defined in the Loan Agreement), whether (A) now in existence or incurred by the Company from time to time hereafter, (B) secured by pledge, lien upon or security interest in any of the Company's assets or property or the assets or property of any other person, firm, entity or corporation, (C) such indebtedness is absolute or contingent, joint or several, matured or unmatured, direct or indirect, or (D) the Company is liable to the Town for such indebtedness as principal, surety, endorser, guarantor or otherwise.

(q) "Software" is used as defined in the Uniform Commercial Code.

(r) "Secured Credit Agreement" means an agreement providing Borrower credit to be secured by a primary interest in the Collateral identified in subsection (d)(iv) above, as placed on file with the Town from time to time, and all documents securing the Company's obligations thereunder.

(t) "Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the State of Indiana, or in the state where the relevant collateral is located.

All capitalized terms not otherwise defined herein have the meanings ascribed to them in the Loan Agreement.

2. **Financing Statements.** The Company authorizes the Town at the expense of the Town to file a financing statement or statements in those public offices deemed necessary by the Town to perfect the security interest granted to it herein, without the necessity of obtaining a signature from the Company. The Town agrees to provide the Company with copies of all such statements prior to their filing. The Company shall execute and deliver any document that the Town may reasonably request to perfect or to further evidence or perfect the security interest created by this Security Agreement including, without limitation, any certificate or certificates of title to the Collateral with the security interest of the Town noted thereon or executed applications for such certificates of title.

3. **Location, Inspection and Protection of Collateral.** Unless the Company gives the Town not less than ten (10) days prior written notice of additional locations at which Collateral shall be kept, all Collateral is kept and shall be kept at the following address:

1533 E. Northfield Drive, Suite 300
Brownsburg, Indiana, 46112
or such other location within the corporate
jurisdiction of the Town designated as the
Company's principal office.

Unless the Company gives the Town written notice of the location of additional offices where records of the Company relative to the Collateral are kept, all such records of the Company shall be kept at the same address as the Collateral, which, the Company represents, is also the address of its principal office. The Company shall not change the location of its principal office or state of organization or its legal name under which it is organized as of the date hereof unless the Company gives the Town not less than thirty (30) days' prior written notice of such event. The Company shall, at all reasonable times with prior notice and in a manner which shall not unreasonably interfere with the Company's business operations, allow the officers, attorneys and accountants of the Town to examine, inspect, photocopy and make abstracts from the Company's books and records and to verify Equipment and Inventory, the latter both as to quantity and quality. The Company shall also take any additional action which the Town may reasonably require to further protect the Town's interest in the Collateral.

4. **Fixtures.** None of the Collateral is attached to real estate (other than real estate in which a valid mortgage has been given to the Town to secure the Obligations), so as to constitute

a fixture. If any Collateral is hereafter so attached to any real estate not subject to a valid mortgage in favor of the Town and securing the Obligations, notice of the common address, legal description, and name of the owner of record of such real estate shall be furnished to the Town at least ten (10) days prior to such attachment. If any Collateral is hereafter attached to real estate prior to the perfection of the security interest created by this Security Agreement in such Collateral, the Company shall, on demand, furnish the Town with a disclaimer of interest in the Collateral executed by each person having an interest in such real estate.

5. **The Company's Title.** The Company has full and clear title to all of the Collateral presently owned and shall have such title to all Collateral hereafter acquired except for the security interest granted by this Security Agreement, the senior liens granted to the provider of the Senior Credit Agreement, and any other lien or security interest permitted under the terms of the Loan Agreement, and the Company shall keep the Collateral free at all times from any lien or encumbrance except those permitted by the Loan Agreement. Other than any financing statements relating to a Secured Credit Agreement, the Company has no knowledge of any financing statements covering all or any portion of the Collateral on file at any public office except as may be required or permitted by this Security Agreement and the Loan Agreement.

6. **The Company's Duty to Maintain the Collateral.** The Company shall keep all tangible Collateral in good order and repair, ordinary wear and tear excepted, and shall not waste or destroy any of the Collateral. The Company shall not use the Collateral in violation of any statute or ordinance or contrary to the provisions of any policy of insurance thereon. The Company shall keep all Collateral within the corporate jurisdictions of the Town, except for Inventory sold or leased to third parties as provided in Section 9 below.

7. **Insurance.** In addition to maintaining such insurance on the Collateral as is required by the Loan Agreement, the Company shall, upon the reasonable request of the Town, keep the Collateral insured against such additional risks, in such amounts and under such policies as the Town may reasonably require and with such companies as shall be reasonably acceptable to the Town. All policies providing insurance on the Collateral shall provide that any loss thereunder shall be payable to the Town under a standard form of secured lender's loss payable endorsement. The Company authorizes the Town to endorse on the Company's behalf and to negotiate drafts reflecting proceeds of insurance on the Collateral, provided that the Town shall remit to the Company such surplus, if any, as remains after the proceeds have been applied at the Town's option, (a) to the satisfaction of all of the Obligations or to the establishment of a cash collateral account for the Obligations, or (b) to the replacement or repair of the Collateral; provided, however, that so long as no Default exists, and provided further that the Company can demonstrate to the Town's reasonable satisfaction that any proposed replacement or repair of Collateral is economically and physically feasible, such proceeds shall be applied, at the Company's option and to the extent necessary, as provided in the foregoing clause (b). Certificates evidencing the existence of all of the insurance required under the Loan Agreement or this Security Agreement shall be furnished to the Town by the Company and the original policies providing such insurance shall be delivered to the Town at its request.

8. **Advances to Protect Collateral.** Upon failure of the Company to procure any required insurance or to remove any prohibited encumbrance upon the Collateral or if any policy providing any required insurance is canceled, the Town may, after no less than five (5) days' prior written notice to the Company, procure such insurance or remove any encumbrance on the Collateral and any amounts expended by the Town for such purposes shall be immediately due and payable by the Company to the Town and shall be added to and become a part of the Obligations secured hereby and shall bear interest at the rate of twelve percent (12%) per annum.

9. **Dealing with Collateral Prior to Default.** Prior to Default:

(a) the Company may, in the ordinary course of business, at its own expense, sell, lease or furnish under contracts of service, any of the Inventory normally held by the Company for such purposes, provided that a sale in the ordinary course of business shall not include a transfer in total or partial satisfaction of a debt, and the Company may use and consume, in the ordinary course of its business, any raw materials, work in process or materials normally held by it for such purposes;

(b) the Company shall, at its own expense, endeavor to collect, when due, all amounts due with respect to any Accounts or General Intangibles, and shall take such action with respect to collection as the Company may deem advisable, in its sole discretion, in accordance with sound business practice, and

(c) the Company may grant, in the ordinary course of business, to any Account Debtor, any rebate, refund or adjustment to which such Account Debtor may be entitled, and may accept, in connection therewith, the return of the goods, the sale or lease of which shall have given rise to the obligation of the Account Debtor.

10. **Dealing with Collateral After Default.** Upon the occurrence and continuation of a Default and upon the request of the Town:

(a) upon receipt of any checks, drafts, cash or other remittances in payment of Inventory sold or in payment of Accounts Receivable of the Company, shall deposit the same in a special collateral account (the "Collateral Account") established at a bank selected by the Town; such proceeds shall be deposited in the form received except for the endorsement of the Company when required, which endorsement the bank at which the Collateral Account is established is authorized to make on the Company's behalf, and shall be held by such bank on behalf of the Town as security for all Obligations;

(b) the Company shall deliver to the Town or its designee all other instruments and Chattel Paper which constitute proceeds from the sale of Collateral, whether then held or thereafter acquired; and

(c) the Company shall keep segregated any such checks, drafts, cash, other instruments, Chattel Paper or other remittances from any of the Company's other funds or property and shall hold such items in trust for the benefit of the Town until delivery to the Town or deposit in the Collateral Account and the Town may apply all or any portion of the funds on deposit in the Collateral Account against any Obligations in the order of application provided for in the Loan Agreement or, absent such provision, at the discretion of the Town.

Upon the occurrence and continuation of a Default, the Town may notify any Account Debtor to make payment directly to the Town of any amounts due or to become due under any Account Receivable, General Intangible instrument or Chattel Paper and the Town may enforce the collection of any Account Receivable, General Intangible, instrument or Chattel Paper in its name or in the name of the Company, by suit or otherwise, and may surrender, release or exchange all or any part thereof or compromise or extend or renew for any period, whether or not longer than the original period, any indebtedness thereunder or evidenced thereby, and any Account Debtor will be fully protected in relying upon the representation of the Town that it has authority under the terms of this Security Agreement to deal with any Account Receivable, General Intangible, instrument or Chattel Paper and need not look beyond this Security Agreement and such representation of the Town to establish the Town's authority in that regard.

11. **Substitution and Sale of Equipment.** The Company may from time to time so long as no Default has occurred and is continuing, substitute items of Equipment so long as any new Equipment becomes subject to the security interest created by this Security Agreement and is subject to no prior liens or security interest other than those permitted by the Loan Agreement. So long as no Default has occurred and is continuing, the Company may, in the ordinary course of its business, sell or otherwise dispose of any items of Equipment for which substitutes have been obtained or which are no longer useful to the Company in its operations, provided that at least ten (10) days prior written notice of any proposed disposition of any material amount of Equipment in a single or a planned series of transactions is given to the Town. Upon the request of the Company, the Town will deliver an appropriate release of its security interest in any item of Equipment disposed of by the Company pursuant to the provisions of this paragraph.

12. **Remedies Upon Default.** Upon the occurrence and continuation of any Default the Town shall have with respect to the Collateral, in addition to all rights and remedies specified in the Loan Agreement, this Security Agreement or any other agreement between the Company and the Town, the remedies of a secured party under the Uniform Commercial Code, regardless of whether the Code in such form has been enacted in the jurisdiction in which any such right or remedy is asserted. Any notice required by law, including but not limited to notice of the intended disposition of all or any portion of the Collateral, shall be deemed reasonably and properly given if given at least ten (10) days prior to such disposition in the manner prescribed for the giving of notices in the Loan Agreement. Any proceeds of the disposition of any of the Collateral shall be applied first to the payment of the expenses of the retaking, holding, repairing, preparing for sale and sale of the Collateral, including reasonable attorneys' fees and legal

expenses in connection therewith and any balance of such proceeds shall be applied by the Town to the Obligations in such order as the Town shall determine.

13. **Relation to Loan Agreement.** This Security Agreement is given pursuant to the terms of the Loan Agreement and shall be deemed a part thereof and subject to the terms and conditions of the Loan Agreement.

14. **Authority.** In order to induce the Town to accept this Security Agreement and to make the Loan Agreement available to the Company, the Company represents and warrants to the Town that: (i) the Company is validly organized and existing under the laws of the State of Indiana; (ii) the execution and delivery of this Security Agreement are within the Company's powers, has been duly authorized by all necessary action and do not contravene or conflict with any provision of law or of the Articles, Bylaws or Operating Agreement of the Company or of any agreement binding upon the Company or its properties; (iii) the principal office of the Company is located at the address indicated above; (iv) this Security Agreement is the legal, valid and binding obligation of the Company, enforceable against the Company in accordance with its terms; and (v) the exact legal name of the Company is as it appears on the signature line hereof.

15. **Notices.** Any notice required or otherwise given concerning this Security Agreement by either party to the other shall be given as notices are required to be given under the terms of the Loan Agreement.

Dated as of August ____, 2012.

BHC, LLC

By: _____,
_____, President

Attest:

_____, Secretary and Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF _____)

Before me the undersigned, a Notary Public in and for said County and State, personally appeared _____, the President and _____, Secretary and Treasurer of BHC, LLC, an Indiana limited liability company. who as such authorized officers acknowledged the execution of the foregoing Security Agreement on behalf of said limited liability company this ___ day of _____, 2012.

Notary Public

Printed Name

My Commission Expires: _____

County of Residence: _____