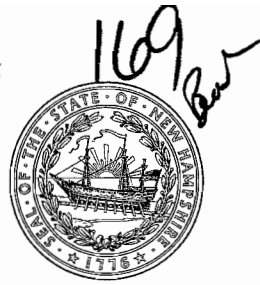




The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

Thomas S. Burack, Commissioner

6/29/13 PM 12:50 DRS



May 24, 2013

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

REQUESTED ACTION

Authorize the Department of Environmental Services to approve an Allonge to Promissory Note and Amendment of Loan Agreement with Theresa M. Dube (VC# 225847) and Eugene E. Lonergan, (VC # 225848) owners of Hillcrest Candia Apartments LLC) Nashua, NH, by reducing the original amount of \$100,000 by \$.51, for a final amount of \$99,999.49. This finalizes the loan amount used to finance the water system improvements project under the provisions of RSA 486:14 and N.H. Administrative Rules Env-Dw 1100 effective upon Governor & Council approval. 79% Federal Funds, 21% Capital (General) Funds.

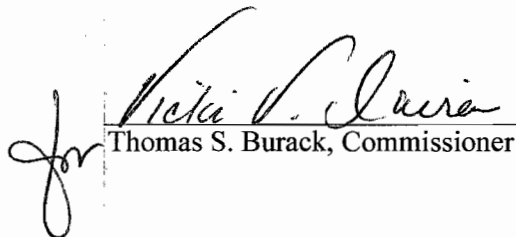
EXPLANATION

The purpose of the Allonge for Theresa M. Dube (VC# 225847) and Eugene E. Lonergan is to amend the Original Loan Agreement that was originally approved by Governor and Council on March 28, 2012 in the amount of \$100,000, as item #100. The project is complete and \$99,999.49 was disbursed. This Allonge finalizes the principal loan amount and establishes the long term principal and interest repayment schedule. The purpose of the project was to install a new tank and pumpstation for improved system reliability and access to system components.

Under the terms of the Allonge, Theresa M. Dube (VC# 225847) and Eugene E. Lonergan will pay back the principal sum of \$64,999.67 with interest, over a twenty-year period, payable in installments as provided in the agreement. This represents the total amount borrowed of \$99,999.49 less principal forgiveness at the rate of 35%, for a total repayment balance of \$64,999.67. This loan is being issued under the Drinking Water State Revolving Loan Fund program for the purpose of financing the water system improvements mentioned above. Attached are the agreement and the debt service schedule for this loan.

We respectfully request your approval.

Attachments


Thomas S. Burack, Commissioner

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council

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DEPARTMENT OF ENVIRONMENTAL SERVICES
WATER DIVISION

DRINKING WATER STATE REVOLVING FUND

Supplemental information to Governor and Council request of the loan agreement(s) under RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. for the public water system(s) listed below.

This request will affect the balance of the loan funds as follows.

	<u>DWSRF</u>
Federal Funds	\$104,221,498
Plus 20% State Match	<u>\$28,249,860</u>
Total Funds Authorized/Available	\$132,471,358
Less Loans Previously Approved	<u>\$131,964,141</u>
Funds Available for Loans	\$507,217

Amended Loan Agreement(s)	Initial Amount	Amended Amount	
Theresa Dube, Eugene Lonergan (Hillcrest)	\$100,000	(\$99,999)	\$1
Net Change to Loan(s)			<u>\$1</u>

Balance Available After G & C Approval	<u><u>\$507,218</u></u>
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**ALLONGE TO
PROMISSORY NOTE AND AMENDMENT OF LOAN AGREEMENT**

Allonge and Amendment made this 19th day of June, 2013, effective as of December 1, 2012, between Theresa M. Dube and Eugene E. Lonergan, both with principal place of business at 25 Riverside Street, Suite 101, Nashua, NH 03062 (individually and collectively, the "Maker"), and the State of New Hampshire with an address of c/o Department of Environmental Services, P.O. Box 95, 29 Hazen Drive, Concord, New Hampshire 03302-0095 (the "Payee").

RECITALS

A. The Maker owns all of the member interests in Hillcrest Candia Apartments, L.L.C. ("Hillcrest"), a New Hampshire limited liability company.

B. Pursuant to a Loan Agreement dated May 29, 2012 between the Payee and the Maker (as amended, the "Loan Agreement"), the Payee agreed to lend to the Maker up to \$100,000 to finance the water system improvements on real property of Hillcrest (the "Loan"). The Loan is evidenced by the promissory note from the Maker to the Payee dated May 29, 2012 in the principal amount of \$100,000 (as amended, the "Note");

C. The Payee has advanced \$99,999.49 to the Maker pursuant to the Loan Agreement required for the construction of the Improvements (as defined in the Loan Agreement), and the Improvements have been substantially completed; no further advances of loan funds are necessary;

D. The parties desire to clarify the respective rights and obligations of the Payee and the Maker regarding repayment by amending the Note, the Loan Agreement and the Security Instruments (as defined in the Loan Agreement)(collectively, the "Loan Documents") pursuant to the terms of this Allonge;

NOW THEREFORE, the parties agree as follows:

1. The Note. The Note is hereby amended as follows:
 - (a) to provide that the Interest Rate Change Date, as defined in the ninth, tenth eleventh and twelfth lines of the initial paragraph of the Note, is December 1, 2013, and
 - (b) by replacing "the lower of (A) the annual rate of Three and One Hundred Four Thousandths percent (3.104%) or (B) Eight percent (80%) of the established 11 General Obligations Bond Index published during the first week of the month of October before the Interest Rate Change Date" in the initial paragraph of the Note with "One and Seven Tenths percent (1.7%)".

- (c) Section 1 of the Note is hereby amended by striking the section in its entirety and replacing it with the following:

“1. Payments.

- (a) Commencing June 1, 2013, interest only shall be paid in six (6) consecutive monthly installments on the first day of each month and (the first such payment shall include all previously accrued interest), and
- (b) Commencing December 1, 2013, the interest and principal of this Note shall be paid in One Hundred Twenty (120) consecutive monthly payments in the amounts provided in the column entitled “Total Payment” in the amortization schedule attached hereto as Schedule A upon the dates set forth therein opposite each payment (for each due date in Schedule A the amounts shown in the column captioned “Total Payment” is the sum of the amount in the column captioned “Principal Payment” plus the amount in the column captioned “Interest Payment,” and
- (c) The loan evidenced by the Note qualifies for Thirty Five (35%) debt forgiveness under regulations of the State of New Hampshire, Department of Environmental Services. Schedule A provides for a portion of the principal amount of the Note to be forgiven at the time each monthly payment is paid. Each amount scheduled to be forgiven shall nevertheless remain part of the principal amount of the Note that shall be repaid unless and until the monthly payment of principal and interest is timely paid in accordance with Schedule A. If the remaining balance of the Note is prepaid or required to be prepaid for any reason, including without limitation upon acceleration after a default as provided in Section 6 of the Note, the full remaining amount of principal, without regard to amounts scheduled to be forgiven in connection with monthly payments not yet paid, whether otherwise due or not, together with accrued interest and other charges, shall be due and payable, and

- (d) On November 1, 2022, all remaining unpaid principal together with accrued interest and any other unpaid charges shall be due and payable, and
- (e) All payments shall be applied first to accrued interest and then principal."

2. Termination of Cash Collateral Account. The Payee agrees to terminate the Account Collateral Agreement dated May __, 2012 between the Payee and the Maker and the Deposit Account Control Agreement dated __, 2012 among the Maker, the Payee and The Nashua Bank and authorize the release of all funds in the account that is the subject of such agreements to the Borrower if the following conditions are satisfied:

- (a) Hillcrest refinances its existing mortgage loan with a new lender that permits a junior mortgage securing the Loan;
- (b) Hillcrest executes and delivers to the Payee a Guarantee substantially in the form of Schedule B attached hereto guarantying the obligations of the Maker under the Loan Documents (the "Guaranty");
- (c) Hillcrest executes and delivers to the Payee a mortgagee deed substantially in the form of Schedule C (the "Mortgage") mortgaging the Premises (as defined in the Loan Agreement), free and clear of all encumbrances other than the first mortgage of the new lender and such encumbrances accepted by the Payee (the "Permitted Encumbrances");
- (d) Hillcrest executes and delivers to the Payee a Collateral Assignment of Leases and Rents substantially in the form of Schedule D attached hereto with respect to the Premises
- (e) The Payee shall receive evidence of Hillcrest's valid existence and authorization of the execution, delivery and performance of the documents contemplated by this section, which shall be reasonably acceptable to the Payee;
- (f) The Payee shall receive evidence of insurance of Hillcrest, acceptable to the Payee;
- (g) The Payee shall receive a title insurance policy, paid for by the Maker, of the Mortgage, containing no exceptions other than standard exceptions other than mechanics liens and the Permitted Encumbrances; and
- (h) No Event of Default (as defined in the Loan Agreement) has occurred and remained uncured.

3. Other Amendments. Each of the Loan Documents other than the Note is hereby amended to change all references to the Note therein to include the Note as hereby amended and by any future amendments of the Note.

4. Full Force and Effect. All terms of the Note and the Loan Documents that are not amended hereby shall remain in full force and effect.

5. Expenses of the Payee. The Maker agrees to pay all reasonable fees and expences of counsel to the Payee and recording and filing fees in connection herewith and in connection with the transaction contemplated by section 2 hereof.

(Signature page follows)

Executed as of the day and year first above written.

**THERESA M. DUBE &
EUGENE E. LONERGAN**

Donna L. Griffin
Witness

By: *Theresa M. Dube*
Theresa M. Dube
Duly Authorized

Donna L. Griffin
Witness

By: *Eugene E. Lonergan*
Eugene E. Lonergan
Duly Authorized

THE STATE OF NEW HAMPSHIRE

Dawn Rowe
Witness

By: *Vicki D. Quira*
for Thomas S. Burack, Commissioner
Department of Environmental Services