



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner

May 16, 2016

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

REQUESTED ACTIONS

Authorize the Department of Environmental Services to amend a loan agreement with the Pittsfield Aqueduct Company, Inc. (PAC), (VC#154050 B001), Merrimack, NH by increasing the loan amount by \$440,000 from \$165,000 to \$605,000 to finance water system improvements subject to conditions as outlined in documents substantially in the form presented, under the provisions of RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. effective upon Governor & Council approval. The original loan agreement was approved on May 6, 2015, Item #54. 100% Drinking Water State Revolving Loan Fund (DWSRF) Repayment Funds.

Funding is available in the account as follows:

	<u>FY 2016</u>
03-44-44-441018-4791-301-500833	\$440,000
Dept Environmental Services, DWSRF Loan Repayments, Loans	

EXPLANATION

The purpose of this amendment is to authorize the Pittsfield Aqueduct Company, Inc. (PAC) to modify their original loan agreement approved by Governor and Council on May 6, 2015 as Item #54. The PAC had originally requested \$165,000 from the Drinking Water State Revolving Fund Program (DWSRF) to finance a project which includes the installation of approximately 1,300 linear feet of water main that connects two dead end water mains on Fairview Road, which was Phase I. Phase II includes the installation of approximately 4,500 linear feet of water main on Catamount Road from the treatment facility to Fairview Road. The additional funds are necessary because PAC has decided to complete both Phases at the same time under a single contract, saving time and money. DES has sufficient funds at this time to meet PAC's request. This project will improve water quality and reliability.

The DWSRF is authorized by RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. There is currently a balance of \$33,284,713 in the DWSRF available for new loans. Attached is a tabulation of the DWSRF showing the effect of this loan on the funds available for loans.

We respectfully request your approval.


for Thomas S. Burack, Commissioner

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>REPAYMENT</u>
Repayment Account (Balance as of 5/6/16)	<u>\$37,053,213</u>
Less Loans Previously Approved	<u>\$3,768,500</u>
Funds Available for Loans	\$33,284,713
 Amendment Being Requested	
Pittsfield Aqueduct Company (Project#: 1911010)	(440,000)
 Net Change to Loan(s)	<u>(440,000)</u>
 Balance Available After G & C Approval	<u><u>\$32,844,713</u></u>

CLOSING AGENDA

**STATE OF NEW HAMPSHIRE
STATE DRINKING WATER REVOLVING LOAN FUND**

RE: AMENDMENT OF LOAN TO PITTSFIELD AQUEDUCT COMPANY, INC.
PITTSFIELD, NEW HAMPSHIRE
Project # 1911010

DATE: _____

- | | | |
|----|--|-------|
| 1. | State of New Hampshire | “SNH” |
| 2. | Pittsfield Aqueduct Company, Inc. | “B” |
| 3. | Borrower’s Counsel: Rath, Young and Pignatelli | “BC” |
| 4. | State’s Counsel: David Howe | “DMH” |

No.	Item:	Responsible Party:
1.	Certified Copy of Articles of Incorporation of Borrower	B
2.	Certified Copy of Articles of Pennichuck Corporation	B
3.	Certified Bylaws of Borrower	B
4.	Certified Bylaws of Pennichuck Corporation	B
5.	Certificate of Existence of Borrower	B
6.	Certificate of Existence of Pennichuck Corporation	B
7.	Certificate of Corporate Resolution of Borrower	B
8.	Certificate of Resolutions of Pennichuck Corporation (Board of Directors and City of Nashua)	B
9.	Amended Schedule of Costs (Budget) (Exhibit B)	B
10.	First Amendment to Loan Agreement and Guaranty	SNH
11.	First Allonge to Promissory Note	SNH
12.	Opinion of Borrower’s Counsel	BC
13.	Public Utilities Commission Order	B
14.	Governor and Council approval	SNH

FIRST AMENDMENT TO LOAN AGREEMENT AND GUARANTY

This First Amendment to Loan Agreement and Guaranty is made this _____ day of _____, 2016 between Pittsfield Aqueduct Company, Inc., a New Hampshire corporation with an address of 25 Manchester Street, P.O. Box 1947, Merrimack, New Hampshire 03054-1947 (sometimes hereinafter called the "Borrower"), Pennichuck Corporation with a mailing address of 25 Manchester Street, P.O. Box 1947, Merrimack, New Hampshire 03054-1947 (the "Guarantor") and the State of New Hampshire with an address of c/o Department of Environmental Services, 29 Hazen Drive, P.O. Box 95, Concord, New Hampshire 03302-0095 (hereinafter the "Lender") for themselves and their successors and assigns.

RECITALS

A. The Lender has provided a loan of up to \$165,000 (the "Loan") to the Borrower as evidenced by a Promissory Note of the Borrower dated May 15, 2015 in the original principal amount of \$165,000 (the "Note") pursuant to a Loan Agreement dated May 15, 2015 between the Borrower and the Lender (the "Loan Agreement") to finance the installation of approximately 1,300 linear feet of water main to the Borrower's water system for Pittsfield Aqueduct Company, Inc. in Pittsfield, New Hampshire;

B. The Loan is guaranteed by the Guarantor pursuant to a Guaranty dated May 15, 2015 (the "Guaranty");

C. The parties desire to increase the amount of the Loan to \$605,000 and are amending the Note pursuant to a First Allonge to Promissory Note of even date to increase its principal amount and amend other terms (the "Allonge"); and

D. The parties desire to amend the Loan Agreement and Guaranty in accordance with this agreement.

NOW THEREFORE, in consideration of the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the parties agree as follows:

1. Defined Terms. All capitalized terms used in this agreement shall have the meaning assigned to them in the Loan Agreement unless otherwise defined herein.

2. Amendment of the Loan Agreement.

(a) The last sentence of Recital Paragraph B on the first page of the Loan Agreement is hereby amended by replacing "\$165,000" with "\$605,000" and by adding "and installation of 4,500 linear feet of water main on Catamount Road from the treatment facility to Fairview Road" immediately before "(the Project)".

(b) Section 1 of the Loan Agreement is hereby amended by replacing the definition of “Note” with the following:

“Note” means the Borrower’s Promissory Note dated May 15, 2015 in the original principal amount of \$165,000 payable to the order of the State in the form attached hereto as Exhibit C, as amended by a First Allonge to Promissory Note dated _____, 2016 between the Borrower and the Lender.”

(c) Section 12 of the Loan Agreement is hereby amended by adding the following:

Forgiveness of Principal. The Borrower is eligible for principal forgiveness of the principal of the Note advanced under this Agreement pursuant to the State’s 2014 Intended Use Plan under the Drinking Water State Revolving Loan Program. The amount of debt forgiven will be determined upon completion of construction of the Improvements. In the absence of an Event of Default the forgiveness amount of each installment of principal due under the Note shall be forgiven from the amount of principal that would otherwise become due in each monthly installment payment of principal and interest pursuant to the Note. Upon an Event of Default, the remaining amount of principal that has not been previously forgiven in accordance with this section and accrued interest shall be due and payable in accordance with Section 9.1.

(d) Exhibit B to the Loan Agreement is hereby amended by replacing it with Exhibit B attached hereto.

3. Amendment of Guaranty. The first recital paragraph of the Guaranty is hereby replaced with the following:

WHEREAS, contemporaneously herewith, subject to certain terms and conditions, State has agreed to loan to Pittsfield Aqueduct Company, Inc. (“Borrower”), the principal sum of Six Hundred Five Thousand Dollars (\$605,000), which is to be repaid with interest in accordance with the terms of a promissory note dated May 15, 2015 of Borrower to State in the original principal amount of \$165,000, as amended by a First Allonge to Promissory Note dated _____, 2016 between Borrower and State increasing the principal amount of the Note to \$605,000 (as amended, the “Note”).

4. Representations. The Borrower represents and warrants that the representation and warranties set forth in Section 2 of the Loan Agreement are true and correct as of the date hereof.

5. Ratification. The Borrower and the Guarantor ratify and confirm all of the terms, conditions, covenants and provisions of the Loan Agreement and the Guaranty, as amended hereby, and the Note, as amended by the Allonge, which shall remain in full force and effect.

EXECUTED on the day and year first above written.

BORROWER:

PITTSFIELD AQUEDUCT COMPANY, INC.

Witness

By: _____
Larry D. Goodhue
Chief Executive Officer
Duly Authorized

PENNICHUCK CORPORATION
GUARANTOR:

Witness

By: _____
Larry D. Goodhue
Chief Executive Officer

LENDER:

THE STATE OF NEW HAMPSHIRE

Witness

By: _____
Thomas Burack
Commissioner
Department of Environmental Services
Duly Authorized

FIRST ALLONGE TO PROMISSORY NOTE

Allonge made this _____ day of _____, 2016 between Pittsfield Aqueduct Company, Inc., a New Hampshire corporation with an address of 25 Manchester Street, P.O. Box 1947, Merrimack, New Hampshire 03054-1947 (the "Maker"), and the State of New Hampshire with an address of c/o Department of Environmental Services, 29 Hazen Drive, P.O. Box 95, Concord, New Hampshire 03302-0095 (the "Payee") for themselves and their successors and assigns.

RECITALS

A. Pursuant to a Loan Agreement dated May 15, 2015 between the Maker and the Payee (the "Loan Agreement"), the Payee agreed to provide a loan to the Maker of up to \$165,000, which is evidenced by the Promissory Note dated May 15, 2015 of the Maker in the principal amount of up to \$165,000 (the "Note");

B. The parties have amended the Loan Agreement and Guaranty (as defined in the Loan Agreement) pursuant to a First Amendment to Loan Agreement and Guaranty of even date among the Maker, the Payee and Pennichuck Corporation (the "Amendment Agreement"); and

C. The parties desire to increase the amount of such loan evidenced by the Note to up to \$605,000 and to modify the terms of repayment of the Note pursuant to the terms of this Allonge.

NOW THEREFORE, the parties agree as follows:

1. The Note is hereby amended as follows:

(a) The face amount of the Note as expressed in the top left corner of the first page of the Note is hereby increased from \$165,000 to \$605,000.

(b) The amount of "One Hundred Sixty Five Thousand Dollars (\$165,000)" in the fifth and sixth lines of the first paragraph of the Note is hereby replaced with "Six Hundred Five Thousand Dollars (\$605,000)".

(c) The first paragraph of the Note is hereby amended by replacing "December 1, 2015" in Clause (ii) with "July 1, 2017".

(d) Paragraph 1(b) of the Note is hereby amended by replacing "\$165,000" in the eleventh and twelfth lines with "\$605,000" and by adding "Notwithstanding the foregoing, the repayment of principal and interest pursuant to this Note is subject to Section 12 of the Loan Agreement." at the end of the paragraph.

principal and interest pursuant to this Note is subject to Section 12 of the Loan Agreement.” at the end of the paragraph.

2. The Note, as amended hereby, and the Loan Agreement and the Guaranty, as amended by the Amendment Agreement are hereby ratified and confirmed and shall remain in full force and effect.

Executed as of the day and year first above written.

PITTSFIELD AQUEDUCT COMPANY, INC.

Witness

By: _____
Larry D. Goodhue
Chief Executive Officer
Duly Authorized

THE STATE OF NEW HAMPSHIRE

Witness

By: _____
Thomas S. Burack
Commissioner
Department of Environmental Services
Duly Authorized

The undersigned, who has guaranteed the Promissory Note amended by the foregoing Allonge, hereby consents to the foregoing Allonge this _____ day of _____, 2016.

PENNICHUCK CORPORATION

Witness

By: _____
Larry D. Goodhue
Chief Executive Officer