



The State of New Hampshire  
**Department of Environmental Services** 1:09 RCUT

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**Robert R. Scott, Commissioner**

February 11, 2021

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

**REQUESTED ACTION**

Authorize the Department of Environmental Services to approve the assumption of a Drinking Water loan from Kathleen K. Rush, Trustee of the Kathleen K. Rush Revocable Trust; and Edward M. Houck, Jr. and Kathleen K. Rush, Trustees of the Edward M. Houck Family Trust B, Hampton, NH to the Biaggio Properties, Inc., Atkinson, New Hampshire under the provisions of RSA 486:14 and N.H. Code of Administrative Rules Env-Dw 1100 et seq. effective upon Governor & Council approval.

**EXPLANATION**

Kathleen K. Rush, Trustee of the Kathleen K. Rush Revocable Trust; and Edward M. Houck, Jr. and Kathleen K. Rush, Trustees of the Edward M. Houck Family Trust B received Governor and Council approval to borrow \$220,000 from the Drinking Water State Revolving Loan Fund (DWSRF) program on March 20, 2013, Item #50 for water system improvements including upgrading existing uranium treatment system and associated facilities and controls. The project was completed and a Supplemental Loan Agreement was approved on November 15, 2019 to repay back \$219,932 with 90% (\$197,938.80) principal forgiveness.

An Asset Purchase Agreement for Biaggio Properties, Inc. to acquire Rolling Acres Mobile Home Park is currently being pursued. Biaggio Properties, Inc. wishes to assume the DWSRF loan with existing terms and conditions for the remainder of the 5-year term at 0.5325% with the final payment due May 1, 2025. The remaining balance of the loan is \$187,159.99.

We respectfully request your approval of this item.

Robert R. Scott  
Commissioner

**CLOSING AGENDA**

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

RE: ASSUMPTION BY BIAGGIO PROPERTIES, INC.  
LOAN TO KATHLEEN K. RUSH, TRUSTEE OF THE KATHLEEN K. RUSH REVOCABLE TRUST; AND  
EDWARD M. HOUCK, JR. AND KATHLEEN K. RUSH, TRUSTEES OF THE EDWARD M. HOUCK  
FAMILY TRUST B

MONT VERNON, NEW HAMPSHIRE  
Rolling Acres MHP - DWSRF #1603010

DATE: \_\_\_\_\_

- |    |                             |       |
|----|-----------------------------|-------|
| 1. | State of New Hampshire      | "SNH" |
| 2. | Biaggio Properties, Inc.    | "B"   |
| 3. | State's Counsel, David Howe | "DMH" |

No:	Item:	Responsible Party:
1	Certified Copy of Articles of Incorporation of Borrower	B
2	Certified Bylaws of Borrower	B
3	Certificate of Existence of Borrower	B
4	Certificate of Resolution of Borrower	B
5	Asset Purchase Agreement, Bill of Sale and Deed	B
6	Assumption and Amendment Agreement	SNH
7	Mortgage Assumption Agreement	SNH
8	Personal Guarantee of William and Alexa Stewart	SNH
9	Novation Agreement	SNH
10	Title Insurance Date Down Endorsement	B
11	UCC-1 Financing Statement	DMH
12	Certificate of Insurance <i>Certificate of liability and casualty insurance addressed to the State with the State as an additional insured as to liability</i>	B
13	UCC Search	SNH
14	Governor and Council approval	SNH
15	399-B Disclosure	SNH

STATE OF NEW HAMPSHIRE

DEPARTMENT OF ENVIRONMENTAL SERVICES

Assumption and Amendment Agreement

THIS ASSUMPTION AND AMENDMENT AGREEMENT dated \_\_\_\_\_, 2021 has two parties:

- (1) the State of New Hampshire (the "State"), whose address is c/o Department of Environmental Services, 29 Hazen Drive, Concord, New Hampshire 03301, and
- (2) the following corporation:

Biaggio Properties, Inc.  
PO Box 1154  
Andover, Massachusetts 01810  
(the "Borrower")

WHEREAS, the Borrower wishes to acquire the business assets of Kathleen K. Rush, Trustee of the Kathleen K. Rush Revocable Trust; and Edward M. Houck, Jr. and Kathleen K. Rush, Trustees of the Edward M. Houck Family Trust B (collectively "Rush and Houck").

WHEREAS, Rush and Houck borrowed up to \$220,000 from the State to finance improvements to its water system pursuant to a Loan Agreement dated September 4, 2013 between the State and Rush and Houck (the "Loan Agreement") as evidenced by Rush and Houck's Promissory Note dated September 4, 2013 in the original principal amount of \$220,000, as amended by an Allonge dated November 15, 2019 (as amended, the "Note").

WHEREAS, Rush's and Houck's obligations under the Loan Agreement and the Note are secured by a Security Agreement dated September 4, 2013 between Rush and Houck and the State (the "Security Agreement"), and a Mortgage and Security Agreement dated September 4, 2013 between Rush and Houck and the State (the "Mortgage") (the Loan Agreement, the Note, the Security Agreement and the Mortgage are collectively referred to as the "Loan Documents").

WHEREAS, the Borrower desires to assume all obligations of Rush and Houck under the Loan Documents;

WHEREAS, the State is agreeable to the Borrower assuming such obligations; and

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

1. Definitions. Capitalized terms herein that are not otherwise defined herein shall have the meaning provided in the Loan Agreement.

2. Assumption. The Borrower hereby assumes each and every obligation of Rolling Acres under each of the Loan Documents.

3. Representations and Warranties of the Borrower. The Borrower represents and warrants as follows:

(a) No Litigation. No litigation or proceedings are pending or threatened against the Borrower that could affect the validity or priority of the lien of the Mortgage or other security for the Note or that could affect the Borrower's ability to perform its obligations under this Agreement or the Loan Documents;

(b) Financial Statements. The financial statements of the Borrower, which were submitted in connection with Borrower's request for this agreement, fairly present the financial condition of the Borrower as of the dates thereof. To the best of the Borrower's knowledge and belief, the Borrower has no contingent obligations, liabilities for taxes or unusual forward or long-term commitments except as set forth in the foregoing financial statements specifically mentioned. Since the date of such financial statements, there has been no material adverse change in the financial condition of the Borrower;

(c) Due Organization and Authority. The Borrower is a duly organized and validly existing New Hampshire corporation in good standing under the laws of the State of New Hampshire. All corporation action has been taken on behalf of the Borrower to authorize the execution, delivery and performance of this Agreement by the Borrower. The Borrower has the power and authority to own its properties and to carry on business as now being conducted and is qualified to do business in every jurisdiction where such qualification is necessary and has the power to execute and deliver, and perform its obligations under the Loan Documents, as amended hereby, and the Mortgage Assumption Agreement of near or even date between the Borrower and the State (the "Mortgage Assumption Agreement");

(i) No Conflict; No Required Approvals. The execution and delivery and performance by the Borrower of its obligations under this Agreement and the Mortgage Assumption Agreement will not violate any provision of law, any order of any court or other agency of government, or any indenture, agreement or other instrument to which the Borrower is a party, or by which it is bound, or be in conflict with, result in a breach of, or constitute (with due notice or lapse of time or both) a default under, or except as may be provided by this Agreement, result in the creation or imposition of any lien, charge or

encumbrance of any nature whatsoever upon any of the property or assets of the Borrower pursuant to, any such indenture, agreement or instrument. The Borrower is not required to obtain any consent, approval or authorization from, or to file any declaration or statement with, any governmental instrumentality or other agency in connection with or as a condition to the execution, delivery or performance of this Agreement or the Mortgage Assumption Agreement;

(j) Bankruptcy. Any borrowings made by the Borrower under this Agreement do not and will not render the Borrower insolvent; the Borrower is not contemplating either the filing of a petition by it under any state or federal bankruptcy or insolvency laws or the liquidating of all or a major portion of its property, and the Borrower has no knowledge of any person contemplating the filing of any such petition against it, including the properties and assets reflected in its financial statements referred to herein;

(k) No Material Misstatement. No statement of fact made by or on behalf of the Borrower in this Agreement or in any certificate or schedule furnished to the State pursuant thereto, contains any untrue statement of a material fact or omits to state any material fact necessary to make statements contained therein or herein not misleading. There is no fact presently known to the Borrower that has not been disclosed to the State that materially affects adversely, nor as far as the Borrower can foresee, will materially affect adversely the property, business, operations or conditions (financial or otherwise) of the Borrower;

(l) Taxes. The Borrower has filed all federal, state and local tax returns required to be filed and has paid or made adequate provision for the payment of all federal, state and local taxes, charges and assessments;

(m) Enforceability. This Agreement and the Mortgage Assumption Agreement, upon delivery, and the Note, the Loan Agreement and each of the Security Instruments, as amended by this Agreement and the Mortgage Assumption Agreement, will be the valid and binding obligations of the Borrower, enforceable in accordance with their respective terms, and will not violate any other agreements or instruments to which the Borrower is a party or by which the Borrower is bound.

4. Amendment of Loan Agreement. The Loan Agreement is amended as follows:

(a) The Borrower, as defined in page 1 of the Loan Agreement, shall now be deemed to mean Biaggio Properties, Inc.

(b) Section 8(i) of the Loan Agreement is amended by adding “, the Assumption and Amendment Agreement dated on or about \_\_\_\_\_ between the State and the Borrower” immediately after the term “Security Instrument”.

(c) Section 13.2 of the Loan Agreement is amended by changing the caption to “Number and Gender and References” and adding the following sentence to the end thereof:

All references to the Note shall be deemed to include the Note as amended by all amendments made from time to time and all references to the Security Instruments shall be deemed to include the Security Instruments as amended by all amendments from time to time.

(d) The first line of Section 13.6 of the Loan Agreement is amended by adding immediately after the word “Agreement” “, as amended by the Assumption and Amendment Agreement dated on or about \_\_\_\_\_ between the Borrower and the State”.

5. Amendment of Note. The Note is hereby amended as follows:

(a) The Maker as defined in the first paragraph of the Note is replaced with Biaggio Properties, Inc.

(b) All references to the Loan Agreement and Security Instruments shall include such instruments as amended from time to time.

6. Amendment of Collateral Assignment of Contracts, Plans and Permits. The Collateral Assignment is hereby as follows:

(a) “Assignor” shall mean Biaggio Properties, Inc.

(b) All references to the Loan Agreement, the Security Instruments and the Promissory Note of the Assignor in the original principal amount of \$220,000 shall include such instruments as they may be amended from time to time.

7. Amendment of Security Agreement. The Security Agreement is hereby amended as follows:

(a) The “Debtor” shall mean Biaggio Properties, Inc.

(b) All references to the Note and the Loan Agreement shall include such instruments as amended from time to time.

8. Force and Effect. In all other respects the Loan Agreement and related loan documents shall remain in full force and effect.

9. Sovereign Immunity. Nothing contained in this Agreement, the Allonge, the Amendment of Mortgage and Collateral Assignment, the Loan Agreement, the Note or the

Security Instruments shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State.

10. Additional Deliveries. Contemporaneously with the execution and delivery of this Amendment, the Borrower shall deliver to the State:

- (a) such documents as the State shall reasonably request evidence the Borrower's due organization and valid existence and authorization of this Amendment and the transactions contemplated hereby;
- (b) a certificate of insurance addressed to the State evidencing liability insurance for the Premises with the State listed as additional insured;
- (c) the executed Mortgage Assumption Agreement, in form and substance acceptable to the State;
- (d) endorsements to the State's title insurance policy insuring the Mortgage, as amended by the Mortgage Assumption Agreement including a date down endorsement, in form and substance reasonably acceptable to the State; and
- (e) an opinion of Borrower's counsel in form and substance acceptable to the State.

IN WITNESS WHEREOF, the State and the Borrower have each duly caused this First Amendment to Loan Agreement to be executed, by their respective officers, thereunto duly authorized, as of the day and year indicated above.

**THE STATE OF NEW HAMPSHIRE**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Robert R. Scott, Commissioner  
New Hampshire Department of Environmental  
Services

**BIAGGIO PROPERTIES, INC.**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
William E. Stewart  
Title:

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Alexa M. Stewart  
Title:

Return to: David M. Howe  
4 Wildemere Terrace  
Concord, NH 0301

#### MORTGAGE ASSUMPTION AGREEMENT

Mortgage Assumption Agreement made this \_\_\_\_ day of \_\_\_\_\_, 2021 by Biaggio Properties, Inc., a New Hampshire corporation with a principal place of business at PO Box 1154, Andover, Massachusetts 01810 ("Biaggio"), and the State of New Hampshire with an address c/o the Department of Environmental Services, 29 Hazen Drive, Concord, New Hampshire 03301 (the "State").

#### Recitals

A. Kathleen K. Rush, Trustee of the Kathleen K. Rush Revocable Trust; and Edward M. Houck, Jr. and Kathleen K. Rush, Trustees of the Edward M. Houck Family Trust B (collectively "Rush") borrowed up to \$220,000 from the State as evidenced by a Promissory Note dated September 4, 2013 (the "Note").

B. The Note is secured by mortgage of real property of Rush situated in Mont Vernon, New Hampshire pursuant to a Mortgage and Security Agreement dated September 4, 2013 between Rush and the State recorded at Hillsborough County Registry of Deeds at Book 8601, Page 1683 (the "Mortgage").

C. Rush is conveying the mortgaged property to Biaggio, and Biaggio desires to assume the Note and Mortgage pursuant to this Agreement.

NOW THEREFORE, for consideration received, the parties agree as follows:

1. Biaggio hereby assumes each and every obligation of Rush under the Note and the Mortgage.
2. The definition of Mortgagor in the Mortgage shall now be deemed to be Biaggio.

Executed on the day and year first above written.

**BIAGGIO PROPERTIES, INC.**

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

William E. Stewart

Title:

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

Alexa M. Stewart

Title:

STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

The forgoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2021 by William E. Stewart and Alexa M. Stewart, the \_\_\_\_\_ of Biaggio Properties, Inc., on behalf of said corporation.

\_\_\_\_\_  
Notary Public  
My commission expires:

**STATE OF NEW HAMPSHIRE**

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

Robert R. Scott

Commissioner, NH Department of  
Environmental Services

STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by Robert R. Scott, the Department of Environmental Services Commissioner on behalf of the State of New Hampshire:

\_\_\_\_\_  
Notary Public  
My commission expires:

**GUARANTY**

(Rolling Acres MHP – DWSRF #1603010)

THIS GUARANTY is made this \_\_\_\_\_ day of \_\_\_\_\_, 2021 by William E. Stewart and Alexa M. Stewart of PO Box 1154, Andover, Massachusetts 01810 (individually and collectively "Guarantor"), to and with 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 ("State").

WHEREAS, Kathleen K. Rush, Trustee of the Kathleen K. Rush Revocable Trust; and Edward M. Houck, Jr. and Kathleen K. Rush, Trustees of the Edward M. Houck Family Trust B (collectively "Rush") borrowed up to \$220,000 from the State as evidenced by a Promissory Note dated September 4, 2013 (the "Note").

WHEREAS, contemporaneously herewith, State has agreed to allow Biaggio Properties, Inc. a New Hampshire corporation ("Borrower"), to assume the Note and other obligations of Rush pursuant to an Assumption and Amendment Agreement of near or even date (the "Assumption Agreement") ;

WHEREAS, Guarantor is a shareholder of the Borrower;

WHEREAS, State has advised Guarantor that it will not engage in the aforesaid transactions unless, among other things, Guarantor guarantees all obligations of Borrower under the Note, including but not limited to the punctual payment of both principal and interest due and payable, as hereinafter set forth;

WHEREAS, Guarantor is willing and has agreed to guarantee the payment of the aforesaid obligations as hereinafter provided;

WHEREAS, Guarantor will benefit from the loan evidenced by the Note;

NOW THEREFORE, in order to induce State to engage in the aforesaid loan transaction and to make said loan to Borrower and in consideration of the premises stated above and for other good and valuable consideration, the receipt of which is hereby acknowledged, Guarantor agrees as follows:

1. Guarantor hereby unconditionally and irrevocably, guarantees: (i) the due and punctual payment in full (and not merely the collectability) of the principal of the Note and the interest thereon, when due and payable, according to the terms of the Note and the Assumption Agreement; (ii) the due and punctual payment in full (and not merely the collectability) of all other sums and charges which may at any time be due and payable in accordance with, or under the terms of the Note; (iii) the accuracy of the representations and warranties made by Borrower in the Assumption Agreement, and certain affidavits and certificates delivered by Borrower to State on or about the date hereof and (iv) the due and

punctual performance and observance of all of the other terms, covenants and conditions contained in the Note or the Assumption Agreement (collectively, the "Guaranteed Obligations").

2. Guarantor expressly agrees that State may, in its sole and absolute discretion, without notice to or further assent of Guarantor, and without in any way releasing, affecting or impairing the obligations and liabilities of Guarantor, hereunder: (i) waive compliance with, or any default under, or grant any other indulgences with respect to, the Note or the Loan Agreement; (ii) modify, amend or change any provisions of the Note (other than to increase the principal amount due under the Note); (iii) grant extensions or renewals of or with respect to the Note, and/or effect any release, compromise or settlement in connection therewith; (iv) make advances for the purpose of performing any term or covenant contained in the Note with respect to which Borrower shall be in default; (v) assign or otherwise transfer the Note, the Loan Agreement, or this Guaranty, or any interest therein; and (vi) deal in all respects with Borrower as if this Guaranty were not in effect. The obligations of Guarantor under this Guaranty shall be unconditional, irrespective of the genuineness, validity, regularity or enforceability of the Note or any security given therefor or in connection therewith or any other circumstances that might otherwise constitute a legal or equitable discharge of a surety or guarantor.

3. The liability of Guarantor under this Guaranty shall be primary, direct and immediate and not conditional or contingent upon pursuit by State of any remedies it may have against Borrower or any other party with respect to the Note, whether pursuant to the terms thereof or otherwise. No exercise or nonexercise by State of any right given to it under this Guaranty, the Note or the Loan Agreement, and no change, impairment or suspension of any right or remedy of State shall in any way affect any of Guarantor's obligations hereunder or give Guarantor any recourse against State. Without limiting the generality of the foregoing, State shall not be required to make any demand on Borrower and/or any other party, or otherwise pursue to exhaustion its remedies against Borrower or any other party, before, simultaneously with or after, enforcing its rights and remedies hereunder against Guarantor. Any one or more successive and/or concurrent actions may be brought hereon against Guarantor, either in the same action, if any, brought against Borrower and/or any other party, or in separate actions, as often as State, in its sole discretion, may deem advisable.

4. Guarantor hereby expressly waives: (i) presentment and demand for payment and protest of nonpayment; (ii) notice of acceptance of this Guaranty and of presentment, demand and protest; (iii) notice of any default hereunder or under the Note, this Guaranty and the Loan Agreement and of all indulgences; (iv) demand for observance or performance of, and enforcement of, any terms or provisions of this Guaranty, the Note, and the Loan Agreement; and (v) all other notices and demands otherwise required by law that Guarantor may lawfully waive.

5. Any claim against the Borrower or any guarantor to which Guarantor may be or become entitled (including, without limitation, claims by subrogation or otherwise by reason of any payment or performance by Guarantor in satisfaction and discharge, in whole or in part, of his obligations under this Guaranty) shall be and hereby is made subject and subordinate to the prior payment or performance in full of the Guaranteed Obligations. Nothing herein contained shall be construed to give Guarantor any right of subrogation in and to the rights of State under the Note or any instrument or agreement securing the Note until all amounts owing to State under the Note have been paid in full.

In addition to any other security given by Guarantor to State, State is hereby authorized and empowered, at its option, to appropriate and apply to the payment and extinguishment of the Guaranteed Obligations, at any time after such liability becomes payable, any and all moneys or other property of Guarantor and any proceeds thereof (including proceeds of sales provided for below) now or hereafter in the possession of State for any purpose, including safekeeping or pledge for this or any other liability of Guarantor, and including any balance on deposit or otherwise for the account of, to the credit of, or belonging to Guarantor.

6. Any notice, demand, request or other communication given hereunder or in connection herewith (hereinafter "Notices") shall be deemed sufficient if in writing and sent by certified mail, postage prepaid, return receipt requested, addressed to the party to receive such Notice at its address first above set forth or at such other address as such party may hereafter designate by Notice given in like fashion. Notices shall be deemed given when mailed.

7. Any payments made by Guarantor under the provisions of this Guaranty shall, if made to State, be made at its address first set forth above, unless some other address is hereafter designated by State.

8. All rights and remedies afforded to State by reason of this Guaranty, the Note and the Loan Agreement, are separate and cumulative and the exercise of one shall not in any way limit or prejudice the exercise of any other such rights or remedies. No delay or omission by State in exercising any such right or remedy shall operate as a waiver thereof. No waiver of any rights and remedies hereunder, and no modification or amendment hereof, shall be deemed made by State unless in writing and duly executed. Any such written waiver shall apply only to the particular instance specified therein and shall not impair the further exercise of such right or remedy or of any other right or remedy of State, and no single or partial exercise of any right or remedy hereunder shall preclude further exercise of any other right or remedy.

9. The obligations of Guarantor to make payment in accordance with the terms of this Guaranty shall not be impaired, modified, changed, released, or limited in any manner whatsoever by any impairment, modification, change, release or limitation of the liability of Borrower or its estate in bankruptcy or reorganization resulting from the operation of any present or future provision of federal bankruptcy laws or other statute or from the decision of any court.

10. Guarantor hereby covenants and agrees that, if requested by State, Guarantor will, at Guarantor's expense, annually deliver to State within ninety (90) days of the end of each fiscal year audited financial statements of the Guarantor for such fiscal year in form and content satisfactory to State.

11. Guarantor agrees that if this Guaranty shall be enforced by suit or otherwise, or if State shall exercise or endeavor to exercise any of its remedies under the Note, the Guarantor will reimburse State, upon demand, for all expenses incurred in connection therewith, including, without limitation, reasonable attorneys' fees.

12. This Guaranty has been made in the State of New Hampshire, and the provisions hereof shall be governed by and construed in accordance with the laws of the State of New Hampshire (excluding the laws applicable to conflicts or choice of laws).

13. The terms, covenants, agreements and conditions contained herein shall extend to, include, and inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns of Guarantor, as the case may be, and the successors and assigns of State. Notwithstanding the preceding sentence, Guarantor shall not be permitted to assign its rights and obligations hereunder without the prior written consent of State.

14. Whenever the context so requires, reference herein to the neuter gender shall include the masculine and /or feminine gender, and the singular number shall include the plural.

15. If more than one person executes this Guaranty or if the Guarantor consists of more than one person or entity, all such persons and entities shall have joint and several liability hereunder.

16. Guarantor hereby consents to the jurisdiction of all state and local courts of the State of New Hampshire and the United States District Court of the District of New Hampshire in connection with any suit to enforce any rights of the State under this Guaranty.

17. All references herein to the Loan Agreement, the Note and this Guaranty shall be deemed to include such instruments as they may be amended from time to time.

18. If any provision or condition of this Guaranty is prohibited or rendered invalid or unenforceable, such prohibition, invalidity or unenforceability shall not affect the validity or enforceability of any other provisions and conditions of this Guaranty.

19. Nothing contained in this Guaranty, the Assumption Agreement or, the Note.

shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State.

IN WITNESS WHEREOF, Guarantor has executed this Guaranty as of the day and year first above written.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
William E. Stewart

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Alexa M. Stewart

Return to: David M. Howe  
4 Wildemere Terrace  
Concord, NH 0301

**NOVATION AGREEMENT**

This Novation Agreement is made this \_\_\_\_ day of \_\_\_\_\_, 2021, by and between the **STATE OF NEW HAMPSHIRE** c/o N.H Dept. of Environmental Services, 29 Hazen Drive, Concord, New Hampshire 03302 (the "Lender"), and **KATHLEEN K. RUSH, TRUSTEE OF THE KATHLEEN K. RUSH REVOCABLE TRUST; AND EDWARD M. HOUCK, JR. AND KATHLEEN K. RUSH, TRUSTEES OF THE EDWARD M. HOUCK FAMILY TRUST B**, 314 Lafayette Road, Hampton, New Hampshire 03842 ("Rush"),

**WITNESSETH:**

**WHEREAS**, Rush borrowed up to \$220,000 from the Lender, as evidenced by a Promissory Note dated September 4, 2013 (the "Note"); and

**WHEREAS**, the Note was secured by a mortgage of the real property held by Rush situated in Mont Vernon, New Hampshire pursuant to a Security Agreement dated September 4, 2013, between Rush and Lender, recorded at Hillsborough County Registry of Deeds at Book 8601, Page 1683 (the "Mortgage");

**WHEREAS**, Rush has this day conveyed its interest in the mortgaged property to Biaggio Properties, Inc., PO Box 715, Atkinson, New Hampshire 03811 ("Biaggio"), said deed being dated of even or near date and to be recorded with the \_\_\_\_\_ County Registry of Deeds, and Biaggio has assumed the Note and Mortgage;

Return to: David M. Howe  
4 Wildemere Terrace  
Concord, NH 0301

**WHEREAS**, Lender has agreed to accept Biaggio as the new, sole obligor of the Note and Biaggio has agreed to assume and pay the same; and

**WHEREAS**, Lender has further agreed to release Rush from all liability under the Note and Mortgage;

**NOW THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. The Lender, pursuant to the Assumption and Amendment Agreement and Mortgage Assumption Agreement, executed by the Lender and Biaggio of even or near date, hereby accepts Biaggio as the sole obligor of the Note and as the mortgagor under the Mortgage.
2. The Lender hereby releases Rush from all liability under the Note and the Mortgage which secures the Note that is incurred from and after the date hereof.

In all other respects, the terms, conditions and provisions of the Note, except as amended hereby, shall continue in full force and effect.

This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute the Agreement in full.

This Agreement is signed this 12 day of February, 2021.

STATE OF NEW HAMPSHIRE

By:   
Robert R. Scott  
Commissioner, NH Department of  
Environmental Services, Lender

\_\_\_\_\_  
Witness

THE STATE OF NEW HAMPSHIRE  
COUNTY OF MERRIMACK

On this the \_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned officer, personally appeared Robert R. Scott, the Commissioner of the Department of Environmental Services on behalf of the State of New Hampshire, known to me (or satisfactorily proven) to be the person

Return to: David M. Howe  
4 Wildemere Terrace  
Concord, NH 0301

whose name is subscribed to the within instrument and acknowledged that he executed the same for the purpose therein contained.

\_\_\_\_\_  
Justice of the Peace/Notary Public  
Type/Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

KATHLEEN K. RUSH, TRUSTEE OF THE  
KATHLEEN K. RUSH REVOCABLE TRUST; AND  
EDWARD M. HOUCK, JR. AND KATHLEEN K.  
RUSH, TRUSTEES OF THE EDWARD M.  
HOUCK FAMILY TRUST B

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Kathleen K. Rush,  
Trustee of the Kathleen K. Rush Revocable Trust

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Kathleen K. Rush,  
Trustee of the Edward M. Houck Family Trust B

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Edward M. Houck, Jr.,  
Trustee of the Edward M. Houck Family Trust

Return to: David M. Howe  
4 Wildemere Terrace  
Concord, NH 0301

THE STATE OF NEW HAMPSHIRE  
COUNTY OF \_\_\_\_\_

On this the \_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned officer, personally appeared Kathleen K. Rush, on behalf of Kathleen K. Rush, trustee of the Kathleen K. Rush Revocable Trust; and Edward M. Houck, Jr. and Kathleen K. Rush, trustees of the Edward M. Houck Family Trust B, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument and acknowledged that he executed the same for the purpose therein contained.

\_\_\_\_\_  
Justice of the Peace/Notary Public  
Type/Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_

DISCLOSURE OF FINANCE CHARGES  
STATE DRINKING WATER REVOLVING LOAN FUND

Pursuant to New Hampshire RSA Chapter 399-B:2

TO: BIAGGIO PROPERTIES, INC. (the "Borrower")

DATE: \_\_\_\_\_

Amount of Loan: \$187,159.99

Payable: 51 monthly installments of interest and principal as further provided in the Promissory Note of even date of the Borrower (the "Note")

Finance Charges: 1% until the Interest Rate Change Date (as defined in the Note) then lower of (A) 0.5325% or (B) twenty five (25%) of the established market rate as determined in Env-Dw 1106.03 and 1106.04.

Late fee: 5% of each payment will be assessed if not paid within 7 days of its due date.

Above interest is based on the number of days elapsed over a 360 day year.

Recording and filing fees:	\$
Title search fee:	\$
Title endorsement	\$
Environmental Site Assessment:	\$ 0
Appraisal:	\$ 0

Acknowledged:

**BIAGGIO PROPERTIES, INC.**  
Borrower

By: \_\_\_\_\_  
William E. Stewart  
Title:

By: \_\_\_\_\_  
Alexa M. Stewart  
Title: