

2022-013634

Klamath County, Oregon

11/23/2022 08:29:01 AM

Fee: \$97.00

**RECORDING REQUESTED BY,
AND WHEN RECORDED RETURN TO:**

Swan Lake North Hydro, LLC
Copenhagen Infrastructure Partners
Attn: Brian Wright, Project Director, VP SLNH
412 West 15th St. 15th Floor
New York, NY 10011

Consideration: \$0.00

Space above for Recorder's Use Only

**FIRST AMENDMENT TO MEMORANDUM OF
HYDROELECTRIC FACILITIES AND ROAD ACCESS EASEMENT AGREEMENT**

THIS FIRST AMENDMENT TO MEMORANDUM OF HYDROELECTRIC FACILITIES AND ROAD ACCESS EASEMENT AGREEMENT (this "**Amended Memorandum**") is made and entered into as November 3, 2022 (the "**Effective Date**") by and among **Green Diamond Resource Company**, a Washington Corporation ("**Grantor**") and **Swan Lake North Hydro, LLC**, a Delaware limited liability company (the "**Grantee**").

A. Grantor and Grantee entered into that certain Hydroelectric Facilities and Road Access Easement Agreement, dated and effective August 11, 2022, as amended (the "**Easement**"), as evidenced by that certain Memorandum of Hydroelectric Facilities and Road Access Easement Agreement, dated and effective August 11, 2022 recorded among the land records of Klamath County, Oregon on August 17, 2022 as instrument number 2022-010026 (the "**Memorandum of Easement**") whereby Grantor granted an easement to Grantee over certain real property located in Klamath County, Oregon, as more particularly described in the Memorandum of Easement (the "**Property**").

WHEREAS, Grantor and Grantee desire to amend the Memorandum of Easement as provided herein.

1. All defined terms used herein shall have the meaning as set forth in the Memorandum of Easement or Easement, as applicable.

2. Section (C)(a) of the Memorandum of Easement is hereby deleted and replaced with the following:

a) Among other terms and conditions, the Agreement provides that, unless terminated sooner in accordance with the Agreement, the Easements granted to Grantee pursuant to the Agreement shall each commence on the Effective Date and shall continue in effect until the earlier to occur of the following: (i) the date of expiration of the current term of the license granted by the Federal Energy Regulatory Commission ("**FERC**") for operation of the Project (the "**Project Permit**"), as it may be extended, or (ii) if after commencing operations of the

Project, Grantee ceases to operate the Project and does not resume operations within a continuous eighteen (18) month period (for reasons other than Force Majeure or the overhaul of the Project). Among other grounds for termination, the Easements may also be terminated by the Grantee upon thirty (30) days' written notice and further may be terminated automatically upon any of the following: (i) mutual agreement of the parties to terminate the Agreement; (ii) if FERC does not, by June 30, 2020 approve the Project or issue a Project permit allowing Grantee to construct and operate the Hydroelectric Energy System on the Property, or following any such approval or certificate issuance by FERC, Grantee thereafter fails to: (A) accept such Project permit, (B) obtain all other necessary permits for construction and operation or (C) receive a final FERC authorization order and notice to proceed with construction of the Project; (iii) If after commencing operations of the Project, Grantee ceases to operate the Project and does not resume operations of the project within a continuous eighteen (18) month period (for reasons other than Force Majeure or the overhaul of the Project); (iv) upon any material breach or nonperformance of any of Grantee's obligations under the Agreement (including breach by any agent, contractor or licensee exercising any rights of Grantee); *provided*, that Grantor has first provided Grantee not less than thirty (30) days prior written notice specifying the nature of the breach or nonperformance with reasonable particularity and Grantee is given an opportunity to cure the breach or nonperformance (or to commence and diligently pursue curative measures) within such thirty (30) day period; or (v) Grantee: (A) becomes insolvent, (B) is generally unable to pay, or fails to pay, its debts as they become due, (C) files, or has filed against it, a petition for voluntary or involuntary bankruptcy or pursuant to any other insolvency laws, (D) makes or seeks to make a general assignment for the benefit of its creditors, or (E) applies for, or consents to, the appointment of a trustee, receiver or custodian for a substantial part of its property or business.

B. This Amended Memorandum is executed and recorded solely for the purpose of providing record notice to third parties of the amended terms of the Easement and Amended Memorandum. In the event of any conflict between any term or provision of the Easement and this Amended Memorandum, the applicable term or provision of the Easement shall control. Reference is made to the Easement for all remaining terms, covenants, and conditions thereof.

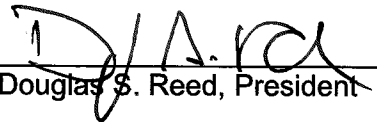
C. This Amended Memorandum may be executed in separate counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Amended Memorandum.

[Signatures and acknowledgments on following page(s)]

IN WITNESS WHEREOF, Grantor has caused its duly authorized representative to execute this Amended Memorandum on the date set forth below with the intent that this Amended Memorandum be effective as of the Effective Date set forth above.

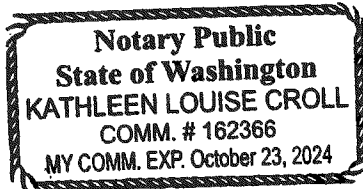
Grantor:

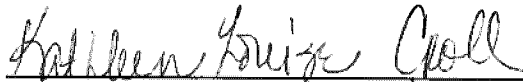
Green Diamond Resource Company,
a Washington Corporation

By:  Date: November 2, 2022
Douglas S. Reed, President

STATE OF Washington)
County of King) ss.

The foregoing instrument is acknowledged before me this 2nd day of November, 2022, by Douglas S. Reed as President of Green Diamond Resource Company.





Notary Public for the State of Washington
Commission No.: 162366
My commission expires: 10-23-2024

(Affix Notary Stamp)

IN WITNESS WHEREOF, Grantee has caused its duly authorized representative to execute this Amended Memorandum on the date set forth below with the intent that this Amended Memorandum be effective as of the Effective Date set forth above.

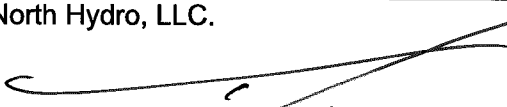
Grantee:

Swan Lake North Hydro, LLC,
a Delaware limited liability company

By:  Date: 11/3/22
Tim Evans, President

STATE OF New York)
) ss.
County of New York)

The foregoing instrument is acknowledged before me this 3 day of November, 2022 by Tim Evans as President of Swan Lake North Hydro, LLC.


Notary Public for New York State
Commission No.: 01GE6340718
My commission expires: 04/25/2024
(Affix Notary Stamp)

TARIQ K. GEORGE
NOTARY PUBLIC-STATE OF NEW YORK
No. 01GE6340718
Qualified in Kings County
My Commission Expires 04-25-2024