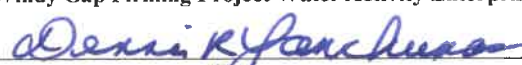

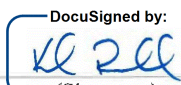


LOAN CONTRACT AMENDMENT NO. 1

State Agency Department of Natural Resources Colorado Water Conservation Board (CWCB) 1313 Sherman St, Room 718 Denver, CO 80203	Amendment No. 1 Contract Number CMS 169409 CT2021-2039
Borrower and Address Windy Gap Firing Project Water Activity Enterprise	Original Contract Number CMS 149229 CT2021-2039
Current Contract Maximum Amount \$90,000,000.00	Contract Performance Beginning Date 02/03/2021
Project Name Windy Gap Firing Project	Contract Performance End Date 02/03/2022
Reason for Modification Change contract to reflect revised language in the acceleration clause found in Section 19.A.i.b and Paragraph 7 of Appendix 3 (Promissory Note). Change of language approved by Kirk Russell, Section Chief, CWCB.	Loan Contract Terms 2.08% for 30 years Loan Contract Repayment Schedule Loan not in repayment at this time. No funds have been disbursed to Borrower at this time.
	Authority Authority to enter into this Contract exists in House Bill 17-1248, Windy Gap Firing Project-Authorization, Section 12, Page 5

THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT

Each person signing this Amendment represents and warrants that he or she is duly authorized to execute this Amendment and to bind the Party authorizing his or her signature.

Windy Gap Firing Project Water Activity Enterprise  (Signature) Name: <u>Dennis R. Yanchunas</u> Title: <u>President Mani Subbat</u> Date: <u>June 3 2021</u> ATTEST:  (Signature) Name: <u>BRADLEY D WIND</u> Title: <u>GENERAL MANAGER</u> Date: <u>JUNE 3, 2021</u>	STATE OF COLORADO Jared S. Polis, Governor Colorado Department of Natural Resources Dan Gibbs, Executive Director DocuSigned by:  (Signature) 244E... Name: Kirk Russell, P.E., Section Chief Colorado Water Conservation Board June 21, 2021 4:34 PM MDT Date: _____
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In accordance with §24-30-202 C.R.S., this Amendment is not valid until signed and dated below by the State Controller or an authorized delegate

STATE CONTROLLER

Robert Jarvis, CPA, MBA, JD

By: Ion CotsapasName: Ion CotsapasTitle: DNR Contracts DirectorAmendment Effective Date: June 22, 2021 | 12:40 PM MDT

1. PARTIES

This Amendment (the “Amendment”) to the Original Contract (the “Contract”) shown on the Signature and Cover Page for this Amendment is entered into by and between the Borrower (“Borrower” or “Authority”), and the State (“CWCBC”).

2. TERMINOLOGY

Except as specifically modified by this Amendment, all terms used in this Amendment that are defined in the Contract shall be construed and interpreted in accordance with the Contract.

3. AMENDMENT EFFECTIVE DATE AND TERM**A. Amendment Effective Date**

This Amendment shall not be valid or enforceable until the Amendment Effective Date shown on the Signature and Cover Page for this Amendment. The State shall not be bound by any provision of this Amendment before that Amendment Effective Date.

The Parties’ respective performances under this Amendment and the changes to the Contract contained herein shall commence on the Amendment Effective Date shown on the Signature and Cover Page for this Amendment.

4. PURPOSE

- A. The Borrower was approved for a CWCBC loan contract, on February 3, 2021, for the Windy Gap Firing Project. The Borrower requested a change to the contract to reflect revised language in the acceleration clause found in Paragraph 19.A.i.b of the contract and Paragraph 7 of Appendix 3 (Promissory Note). Change of language was approved by Kirk Russell, Section Chief, CWCBC.
- B. Appendix 1 (Project Summary), Appendix 2 (Sample Option Letter), Appendix 4 (Resolution) and Appendix 5 (Security Agreement) of the original contract shall remain unchanged, valid, and enforceable.

5. MODIFICATIONS

The Contract is modified as follows:

A. Change to the language in Contract Paragraph 19.A.i.b from:

Declare the entire unpaid principal amount of the Promissory Note, accrued interest, and late charges, if any, then outstanding immediately due and payable.

To:

So long as no other WGFP Financings issued as senior lien indebtedness are then outstanding, declare the entire unpaid principal amount of the Promissory Note, accrued interest, and late charges, if any, then outstanding immediately due and payable. In accordance with the Pledge of Revenues as defined in the Resolution, set forth in the Security Agreement and described in Paragraph 11 of the Loan Contract, acceleration of payments under default is only committed if there are no outstanding WGFP Financings issued as senior lien indebtedness to which this Contract is expressly subordinate and junior.

B. Change to the language in Appendix 3 (Promissory Note), Paragraph 7 from:

If any annual payment is not paid when due or any default under the Contract or the Security Agreement securing this Promissory Note occurs, the CWCBC may declare the entire outstanding principal balance of the Note, all accrued interest, and any outstanding late charges immediately due and payable, and the indebtedness shall bear interest at the rate of seven percent (7%) per annum from the date of default. The CWCBC shall give the Borrower written notice of any alleged default and an opportunity to cure within sixty (60) days of receipt of such notice before the Borrower shall be considered in default for purposes of this Promissory Note.

To:

If any annual payment is not paid when due or any default under the Contract or the Security Agreement securing this Promissory Note occurs, the CWCBC may exercise its remedies under Paragraph 19 of the Loan Contract or the Security Agreement, and the indebtedness shall bear interest at the rate of seven

percent (7%) per annum from the date of default. The CWCB shall give the Borrower written notice of any alleged default and an opportunity to cure within sixty (60) days of receipt of such notice before the Borrower shall be considered in default for purposes of this Promissory Note. In accordance with the Pledge of Revenues as defined in the Resolution, set forth in the Security Agreement and described in Paragraph 11 of the Loan Contract, acceleration of payments under default is only committed if there are no outstanding WGFP Financings issued as senior lien indebtedness to which this Contract is expressly subordinate and junior.

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**Appendix A, Amendment No. 1 to Loan Contract
CT2021-2039 Amendment to Promissory Note**

Date:	June 3, 2021
Borrower:	Windy Gap Firing Project Water Activity Enterprise
Total Loan Amount:	\$9,000,000.00
Interest Rate:	2.08% per annum
Term:	30 years or until loan is paid in full
Loan Contract No.:	CT2021-2039
Annual Loan Payment:	\$4,062,831.42
Payment Initiation Date:	<u>(to be filled in at Substantial Completion of Project)</u>
Maturity Date:	<u>(to be filled in at Substantial Completion of Project)</u>

* Payment Initiation Date and Maturity Date fields are filled in *after* the Project has been substantially completed.

1. For Value Received, the Borrower promises to pay the Colorado Water Conservation Board ("CWCB"), the Principal Amount plus Interest for the Term of Repayment, pursuant to the Contract and this Promissory Note.
2. Principal and interest shall be payable in annual equal payments as set forth in "Annual Loan Payment" above, with the first payment due and payable one year from the Payment Initiation Date (the date the CWCB determines that the Project is substantially complete), and annually thereafter. All principal, interest, and late charges, if any, then remaining unpaid shall be due and payable on or before the Maturity Date.
3. Payments shall be made to the Colorado Water Conservation Board at 1313 Sherman Street, Room 718, Denver, Colorado 80203.
4. The CWCB may impose a late charge in the amount of five percent (5%) of the annual payment if the CWCB does not receive the annual payment within sixty (60) calendar days of the due date. At the discretion of the CWCB, and if the Borrower requests in writing with sufficient justification, the late fee may be waived by the CWCB. CWCB will review the request from the Borrower, and may, in its sole discretion, choose to waive the late fee.
5. This Promissory Note may be prepaid in whole or in part at any time without premium or penalty. Any partial prepayment shall not postpone the due date of any subsequent payments or change the amount of such payments.
6. This Promissory Note is issued pursuant to the Contract between the CWCB and the Borrower. The Contract creates security interests in favor of the CWCB to secure the prompt payment of all amounts that may become due hereunder. Said security interests are evidenced by a Security Agreement of even date and amount herewith and cover the Pledged Revenues. The Contract and Security Agreement grant additional rights to the CWCB, including the right to accelerate the maturity of this Promissory Note in certain events.

7. If any annual payment is not paid when due or any default under the Contract or the Security Agreement securing this Promissory Note occurs, the CWCB may exercise its remedies under Paragraph 19 of the Loan Contract or the Security Agreement, and the indebtedness shall bear interest at the rate of seven percent (7%) per annum from the date of default. The CWCB shall give the Borrower written notice of any alleged default and an opportunity to cure within sixty (60) days of receipt of such notice before the Borrower shall be considered in default for purposes of this Promissory Note. In accordance with the Pledge of Revenues as defined in the Resolution, set forth in the Security Agreement and described in Paragraph 11 of the Loan Contract, acceleration of payments under default is only committed if there are no outstanding WGFP Financings issued as senior lien indebtedness to which this Contract is expressly subordinate and junior.

(Change to language. Changed original language in Promissory Note, Paragraph 7 to revised language above.)

8. The Borrower hereby agrees that if this Note or interest thereon is not paid when due or if suit is brought, then it shall pay all reasonable costs of collection, including reasonable attorney fees. In the event of any bankruptcy or similar proceedings, costs of collection shall include all costs and attorney fees incurred in connection with such proceedings, including the fees of counsel for attendance at meetings of creditors' committees or other committees.
9. This Promissory Note is authorized pursuant to and in accordance with the Constitution of the State of Colorado and all other laws of the State thereunto enabling. Specifically, but not by way of limitation, the Contract and this Promissory Note are authorized pursuant to and under the authority of Title 31, Article 35; Title 37, Article 45.1; and Title 11, Article 57, Part 2, C.R.S., and in full conformity therewith. Pursuant to Section 11-57-210, C.R.S., and Section 31-35-413, C.R.S., this recital shall be conclusive evidence of the validity and the regularity of the issuance of this Promissory Note and the Promissory Note shall be incontestable for any cause whatsoever after its delivery for value.

Windy Gap Farming Project Water Activity Enterprise

By: Dennis R. Yarchunas
Signature

Attest:

Name: Dennis R. Yarchunas
Title: President, Muni Subdist.

Date: June 3 2021

By: Bradley D Wind
Signature

Name: BRADLEY D WIND
Title: GENERAL MANAGER
Date: JUNE 3, 2021