
HOST FEE ALLOCATION AGREEMENT

BY AND AMONG

**THE COUNTY OF CHISAGO, THE TOWN OF LENT,
AND INDEPENDENT SCHOOL DISTRICT 138**

This document drafted by:

HOST FEE ALLOCATION AGREEMENT

This Agreement is entered into by and among the following Parties:

THE COUNTY OF CHISAGO, a body corporate and politic (the "County"); THE TOWN OF LENT, a public corporation (the "Town"), and North Branch Area Public Schools, INDEPENDENT SCHOOL DISTRICT 138 ("ISD 138"), together herein collectively referred to as the "Parties."

RECITALS

Whereas, Sunrise River Energy, LLC (the "Developer") is interested in constructing and operating an approximately 150–780 megawatt (summer rating) electric generation facility in the Town fueled primarily with natural gas with fuel-oil backup designed to provide electrical capacity, energy, and ancillary services (the "Project"); and

Whereas, pursuant to Minn. Stat. § 272.02, subd. 92, as enacted by the 2009 Minnesota Session Laws, Chapter 88, Article 2, section 9, the Minnesota Legislature has provided a personal property tax exemption which is potentially applicable to the Project; and

Whereas, the grant of the personal property tax exemption is conditioned on a number of requirements being met before construction begins, including the Developer entering into a host fee agreement with the Parties for payment in lieu of personal property taxes ("PLPPT") for a total not to exceed \$600,000 per year for the operating life of the Project (referred to as "facility" in the legislation); and

Whereas, the host fee agreement between the Developer and the Parties ("Host Fee Agreement") requires the Developer to annually pay six hundred thousand dollars and no cents (\$600,000) as the PLPPT; and

Whereas, the PLPPT payments begin ninety (90) days after the first combustion turbine electrical generating unit is ready for use in commercial operation as determined by Developer's acceptance of Developer's engineering, procurement and construction contractor's notice of substantial completion (considered the "Commercial Operation Date" in the Host Fee Agreement); and

Whereas, the PLLPT payment is to be made to the Chisago County Treasurer and then redistributed the County, Town, and ISD 138 according to this Host Fee Allocation Agreement.

NOW, THEREFORE, the Parties to this Agreement, in consideration of the promises, covenants and agreements made by each to the others do hereby agree as follows:

1. Allocation of Payment in Lieu of Personal Property Tax Payments

- 1.1. Payment Requirements. The Developer's obligation to make PLPPT payments to the Parties is controlled by the Host Fee Agreement which is attached hereto as Exhibit A.

1.2. Allocation. Each of the annual six hundred thousand dollars and no cents (\$600,000) PLPPT payments shall be allocated between the Parties as follows:

- (1) The County shall receive two hundred and ten thousand dollars and no cents (\$210,000);
- (2) The ISD 138 shall receive two hundred and ten thousand dollars and no cents (\$210,000); and
- (3) The Town shall receive one hundred and eighty thousand dollars and no cents (\$180,000).

1.3. Payment & Timing of Redistribution. The County Treasurer shall redistribute to the Town and ISD 138 their entire allocation of the PLPPT payment within 15 days of the County's receipt of the payment. The County Treasurer shall issue the allocation payment by check or electronic transfer to the Town Treasurer and the ISD 138 Treasurer.

1.4. Other Payments Not Affected. Any other payments the Developer is required to make to any of the Parties under the Development Agreement, the Host Fee Agreement, any other agreement, imposition of special assessment or other tax or fee, or pursuant to any state, federal, or local law are not affected by this Agreement. Without limiting the foregoing, real estate taxes paid by the Developer shall be collected and distributed in the usual manner under law and are not affected by this Agreement.

2. Miscellaneous Terms

2.1. Recording the Agreement. The County shall be responsible for recording this Agreement with the County Recorder's office within 30 days of it being executed by all of the Parties, shall pay the costs associated with the recording hereof, and shall provide the Town and ISD 138 with a copy of the recorded document with recording information stamped thereon within a reasonable time after recording.

2.2. Third Parties. This Agreement does not confer any rights upon any third parties or parties who are not signatories to this Agreement.

2.3. Effect of Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors or assigns. Nothing herein shall be deemed to form a partnership, joint venture, or similar entity or activity involving any of the Parties.

2.4. Modifications. Any changes or alterations to this Agreement must be in writing and must be executed by all Parties.

2.5. Assignment. Any Party to this Agreement may assign its rights hereunder, in whole or in part, without restriction upon at least 30 days written notice to the other Parties. Any

such assignment shall not affect the rights of the other Parties under this Agreement, the Host Fee Agreement, or the Development Agreement.

- 2.6. Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the distribution or allocation of PLPPT payments made by the Developer pursuant to the Host Fee Agreement.
- 2.7. Captions. The captions of the Agreement are for convenience only, and do not affect the interpretation of, and are not to be interpreted as part of this Agreement. This Agreement shall not be construed more strictly against one party than against the other party merely by virtue of the fact that it may have been prepared primarily by counsel for one of the Parties. The Parties acknowledge that they have had the benefit of independent counsel with respect to each of the terms of this Agreement and that the terms were drafted for the mutual benefit of all Parties.
- 2.8. Term. This Agreement shall be in effect as long as the Host Fee Agreement is in effect and shall apply to all PLPPT payments made thereto.
- 2.9. Provisions Severable. The provisions of this Agreement shall be severable so that the unenforceability or invalidity of any provision or provisions of this Agreement shall not render any other provision or provisions unenforceable or invalid. If for any reason this Agreement or any provision hereof, is ruled invalid, in whole or in part, such decision shall not affect the validity of the remaining portions of the Agreement. The Parties or any party claiming by or through them, shall not contest or dispute the validity, legality or enforceability, or assert the invalidity, illegality or unenforceability, of any part of the Agreement.
- 2.10. No Waiver. The failure of the Parties to insist upon the strict and prompt performance of the terms, covenants, or agreements, and conditions contained herein, or any of the, upon any other party imposed, shall not constitute or be construed as a waiver or relinquishment of any party's right thereafter to enforce any such term, covenant agreement or condition, but the same shall continue in force and effect.

IN WITNESS WHEREOF, the County, Town and ISD 138, have caused this Agreement to be executed in their names and on their behalf, and which shall be effective as of the last dated signature below.

[THE REMAINDER OF THIS PAGE WAS INTENTIONALLY LEFT BLANK.]

INDEPENDENT SCHOOL DISTRICT 138:

By: _____
Chair/Superintendent of Independent Sch. Dist. 138

Dated: _____

Attest: _____
Clerk to the Board

Dated: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF CHISAGO)

The forgoing instrument was acknowledged before me this ___ day of _____,
2009 by _____ and _____,
the _____ and _____, respectively, of the
Independent School District 138, a Minnesota independent school district, on behalf thereof.

NOTARY PUBLIC

COUNTY OF CHISAGO:

By: _____
Richard Greene
Chair of the Board of Commissioners, Chisago County

Dated: _____

Attest: _____
DeAnna Lilienthal, Clerk to the Board

Dated: _____

Reviewed: _____
Janet Reiter, Chisago County Attorney

Dated: _____

STATE OF MINNESOTA)
) ss.
COUNTY OF CHISAGO)

The forgoing instrument was acknowledged before me this ____ day of _____,
2009 by _____ and _____,
the _____ and _____, respectively, of the
County of Chisago, a Minnesota County, on behalf thereof.

NOTARY PUBLIC

EXHIBIT A

Host Fee Agreement

(Attached hereto)