

LAND

ASSIGNMENT OF OPTION FROM STATE TO EXCELSIOR AND CONSENT TO ASSIGNMENT BY CLIFFS

This Assignment of Option and Consent to Assignment Agreement ("Assignment Agreement") is made and entered among the State of Minnesota, a sovereign entity, acting by and through its administrative agency known as the Office of the Commissioner of the Iron Range Resources and Rehabilitation Agency (the "State"); Cliffs Erie, LLC, a Delaware limited liability company ("Cliffs"); and Excelsior Energy Inc., a Minnesota corporation ("Excelsior").

D RECITALS

1. *WHEREAS*, the State wishes to promote the development of an electric generation facility within the Tax Relief Area defined in Minnesota Statutes Section 273.134; and
2. *WHEREAS*, Excelsior is working to develop and operate an electric power generation plant with the capacity of approximately 2,000 megawatts near Hoyt Lakes, Minnesota (the "Project") and expects to incur substantial expenses associated with characterizing and permitting the Property (as defined below) and engineering the Project on the Property; and
3. *WHEREAS*, the State and Cliffs entered into an option agreement for certain real property (the "Property") near Hoyt Lakes, Minnesota, as set forth in the Option Agreement Between Cliffs Erie, LLC and IRRR (the "Option Agreement"), which is attached as Exhibit A and made a part hereof; and
4. *WHEREAS*, the parties agree to the transfer of the rights and obligations under the Option Agreement from the State to Excelsior.

Therefore, the parties agree as follows:

- 1 The recitals are incorporated into this Assignment Agreement.
- 2 The State hereby assigns its rights under the Option Agreement to Excelsior for a period of twenty-four (24) months from the date that this Assignment Agreement is fully executed.
- 3 The State's assignment of its rights under the Option Agreement to Excelsior will automatically be extended for three (3) one-year periods as long as the State does not provide Excelsior and Cliffs written notice of termination at least 60 days prior to the commencement of a one-year automatic extension period.

Excelsior Energy Term Sheet

Land

- Option on our option for \$1.00
- 4 years
- will expire if project tanks or at a time when IRRRB or Excelsior deem no satisfactory progress is being made
- all data acquired by Excelsior regarding the land and project will be co-owned by IRRRB and not used elsewhere or sold without IRRRB concurrence
- if options are exercised – IRRRB will receive equity in the amount of appraised value

Funding

- \$500,000 upfront for cost as defined in their budget(Exhibit A)
- first \$500,000 will be disbursed as work is performed
- additional \$500,000 once Excelsior raises \$1,700,000
- additional \$500,000 once Excelsior raises \$3,200,000
- IRRRB \$ will be in the form of preferred stock with a 20% annual return – first payment due 1/1/2006 through 1/1/2016 – interest will accrue from start of construction
- IRRRB equity will transfer if company or project is sold
- Excelsior can prepay but we will reserve the right to convert to common stock at \$1.00 per share or at the lowest cost in last 5 years – there must be some nondilution statement here also
- Second and third fundings by IRRRB will be spent proportionally to the \$1.7 and \$2.3 million and returned proportionally in the event the project is abandoned

Exclusivity

- IRRRB will not work with other companies directly competing with this project during development and construction of the project if their project is more than 100 megawatts

APPROVED:

1. CLIFFS ERIE, LLC.

BY:
TITLE:
DATE:

3. STATE: STATE OF MINNESOTA
ACTING BY AND THROUGH ITS
OFFICE OF THE COMMISSIONER OF
IRON RANGE RESOURCES AND
REHABILITATION

BY:
TITLE: DEPUTY COMMISSIONER
DATE:

2. EXCELSIOR ENERGY INC.

BY:
TITLE:
DATE:

BY:
TITLE:
DATE:

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To: Mike LARSON
IRRRB

From: Tom Micheletti
Excelsior Energy
952-250-2252 (cell)
Mike: 952-473-2012 (Fax)

This Assignment Agreement looks OK to us - we made a small clarifying change which should be OK. Let's get this going as Cliff's needs to sign as well.

We are still working to work out the changes in the funding agreement - we have been so busy with meetings that it has been hard to find time to get at it. It should be finished by Monday at the latest.

Let's talk - I need your thoughts about yesterday's meeting.

4 pages total

Jm

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2. *WHEREAS*, Excelsior is working to develop and operate an electric power generation plant with the capacity of approximately 2,000 megawatts near Hoyt Lakes, Minnesota (the "Project"); and
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4. *WHEREAS*, the parties agree to the transfer of the rights and obligations under the Option Agreement from the State to Excelsior.

Therefore, the parties agree as follows:

- 1 The recitals are incorporated into this Assignment Agreement.
- 2 The State hereby assigns its rights under the Option Agreement to Excelsior for a period of eighteen (18) months from the date that this Assignment Agreement is fully executed.
- 3 The State's assignment of its rights under the Option Agreement to Excelsior will automatically be extended for three (3) one-year periods as long as the State does not provide Excelsior and Cliffs written notice of termination at least 60 days prior to the commencement of a one-year automatic extension period.

- 4 Cliffs consents to the assignment of the State's rights under the Option Agreement to Excelsior as set forth herein.
- 5 ~~That~~ Excelsior agrees that it will indemnify and hold the State harmless from any and all liabilities, lawsuits, or damages arising out of this Assignment Agreement, including attorneys' fees and costs.
- 6 Excelsior will only exercise the rights under the Option Agreement in order to develop the Project. In the event that Excelsior has purchased all or part of the Property and the Project is abandoned prior to the closing of construction financing, Excelsior will offer the State the right to purchase the Property for the same price it paid under the Option Agreement. This covenant shall survive the expiration of this Assignment Agreement.
- 7 That Cliffs waives its opportunity to participate in the development of the Project as provided in paragraph 12D of the Option Agreement.
- 8 That Cliffs agrees that the Project will not constitute material interference of its use of other properties as set forth in paragraph 12A of the Option Agreement.
- 9 The Assignment Agreement may not be orally amended, changed or modified, and any such amendment, change or modification must be in writing and executed by all of the parties hereto.
- 10 That this Assignment Agreement shall be effective upon the date of the last signature required below.

if the state finally prevails...

*(due
 from
 a
 breach
 by the
 State
 of the
 terms
 set out
 in the
 gross
 negligence
 or
 willful
 misconduct
 of the
 State)*

APPROVED:

1. CLIFFS ERJE, LLC.

BY:
TITLE:
DATE:

BY:
TITLE:

2. EXCELSIOR ENERGY INC.

BY:
TITLE:
DATE:

BY:
TITLE:
DATE:

ASSIGNMENT OF OPTION.doc

**3. STATE: STATE OF MINNESOTA
ACTING BY AND THROUGH ITS
OFFICE OF THE COMMISSIONER OF
IRON RANGE RESOURCES AND
REHABILITATION**

BY:
TITLE: DEPUTY COMMISSIONER
DATE:

From: Gunnar Johnson
To: Dave Hart; Doug Gregor; Mike Larson
Date: 1/9/02 11:32AM
Subject: Excelsior Real Estate

Yesterday I was, for the first time, given a copy of the IRRRB's option on approximately 3000 acres of LTV property near Hoyt Lakes. This is the property that will be the subject of the Excelsior Energy option. I have had an option to briefly review the existing option and have the following preliminary comments.

- 1) Have you mapped out where this land is? It appears to be the tailings basin and some assorted mine pits for the former LTV mine. The DM & IR-RR appears to run through the property. Otherwise, the road and rail access is very limited. The property is not all connected as one big parcel.
- 2) The IRRRB option is revocable by Cliffs. As provided in Para. 2C, the IRRRB should identify to Cliffs that Excelsior is a potential purchaser of the property. This notice protects the IRRRB to some extent.
- 3) We cannot develop the property in a way that materially interferes with Cliffs use of its remaining property. There will be a restrictive covenant in the deed, which runs with the land, that prohibits any development or improvement that materially interferes with the remaining property. (See Para. 12A) I don't know if the use proposed by Excelsior would materially interfere.
- 4) Cliffs has to be given a copy of the development plan for the property before the property is transferred to the IRRRB. (See Para. 12B).
- 5) Cliffs will have the right to participate in any development of this property. (See Para. 12D). This isn't really defined, but Cliffs right to participate continues even after the property has been purchased by the IRRRB.
- 6) The IRRRB would buy the property "AS IS". We would buy the property with the understanding that it has various potential environmental defects. (See Para. 13A).
- 7) We cannot effectively assign our rights to Excelsior under the option without Cliffs' written consent. (Para. 16).
- 8) We don't have the right to access the site and do any due diligence until we have given notice that we intend to exercise our option. (See Para. 5A). So we cannot give Excelsior the right to study or walk on the property without Cliffs' consent or until we have exercised the option. Even then, we only have a very limited amount of time to inspect the property.

Please contact me if you have any questions about the existing option.

The information contained in this e-mail is intended only for the use of the individual or entity named above, and constitutes an ATTORNEY-CLIENT COMMUNICATION which is privileged and exempt from disclosure under applicable law. If the reader of this e-mail is not the intended recipient, you are requested to refrain from reading this email or examining any attachments to the email. Please notify the person sending the message of the mistaken delivery immediately.

From: Gunnar Johnson
To: Dave Hart
Date: 1/11/02 8:09AM
Subject: Re: Excelsior

Thanks for the comments. Let's discuss what you guys want after your 9 AM meeting.

>>> Dave Hart 01/10/02 11:10AM >>>
I have a few comments on your assignment to Excelsior:

#5. When Excelsior exercises the option, they pay \$ for the land. They will not quit claim it to us. I suggest some language like---In the event that the Project is abandoned, Excelsior shall offer the property for sale to the State for the price paid under the option. Excelsior will also release to the State all interest it has in the Option.

#6. Why don't we want Cliffs to participate in the development of the project?

Also, we should not allow negotiations between Excelsior and Cliffs if we are not a party to those negotiations.

18 mo term w/ auto renewal of 12 mo
(3 periods)

From: Gunnar Johnson
To: Dave Hart
Date: 2/5/02 8:25AM
Subject: Re: option-final?

Dave,

I reviewed the most recent draft of the Assignment of Option. The only change I would suggest is in paragraph 7. How about the following language: "If Excelsior abandons the Project prior to exercising the option, this Agreement will terminate and all rights under the Option Agreement will revert back to the State."

Otherwise, it is fine.

Gunnar B. Johnson, Assistant Attorney General
Office of the Attorney General
P.O. Box 441, 1006 Hwy. #53 South
Eveleth, MN 55734-0441
Phone: (218)744-7400, ext. 273
gunnar.johnson@irrrb.org

>>> Dave Hart 02/04/02 03:08PM >>>
I made the changes we discussed.

CC: Mike Larson

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RECITALS

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2. *WHEREAS*, Excelsior is working to develop and operate an electric power generation plant with the capacity of approximately 2,000 megawatts near Hoyt Lakes, Minnesota (the "Project"); and
3. *WHEREAS*, the State and Cliffs entered into an option agreement for certain real property (the "Property") near Hoyt Lakes, Minnesota, as set forth in the Option Agreement Between Cliffs Erie, LLC and IRRR (the "Option Agreement"), which is attached as Exhibit A and made a part hereof; and
4. *WHEREAS*, the parties agree to the transfer of the rights and obligations under the Option Agreement from the State to Excelsior.

Therefore, the parties agree as follows:

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- 2 The State hereby assigns its rights under the Option Agreement to Excelsior for a period of eighteen (18) months from the date that this Assignment Agreement is fully executed.
- 3 Cliffs consents to the assignment of the State's rights under the Option Agreement to Excelsior as set forth herein.
- 4 That Excelsior agrees that it will indemnify and hold the State harmless from any and all liabilities, lawsuits, or damages arising out of this Assignment Agreement, including attorneys' fees and costs.
- 5 Excelsior will only exercise the rights under the Option Agreement in order to develop

DRAFT AGREEMENT 1 A

When they exercise option, they buy the land

we don't want it!

the Project. In the event that the Project is abandon prior to construction financing, Excelsior will quit claim deed the Property to the State. This covenant shall survive the expiration of this Assignment Agreement.

?

7 That Cliffs waives its right to participate in the development of the Project as provided in paragraph 12D of the Option Agreement.

offer the property to the State at the same price paid to CCI

?

8 That Cliffs agrees that the Project will not constitute material interference of its use of other properties as set forth in paragraph 12A of the Option Agreement.

And Excelsior will release to state All interests in this Assignment

9 That this Assignment Agreement shall be effective upon the date of the last signature required below.

10

APPROVED:

1. CLIFFS ERIE, LLC.

K:\AGEV\CODEV\ExcelsiorEnergy\ASSIGNMENT OF OPTION.doc

BY:
TITLE:
DATE:

no negotiations between CCI + Excelsior w/o agreement by JARRA

BY:
TITLE:

2. EXCELSIOR ENERGY INC.

BY:
TITLE:
DATE:

BY:
TITLE:
DATE:

3. STATE: STATE OF MINNESOTA ACTING
BY AND THROUGH ITS OFFICE OF THE
COMMISSIONER OF IRON RANGE
RESOURCES AND REHABILITATION

BY:

TITLE: DEPUTY COMMISSIONER

DATE:

DRAFT AGREEMENT 1 A

COUNSELING RECORD (1062)

A. Location Code	B. SBDC Code @	C. Client No. IR000285	D. Date of Contact 1/14/2002	E. Type of Action Follow-up or Ongoing [3]	
F. Name of Company EXCELSIOR ENERGY, INC			G. Name of Inquirer (Last, First, Middle Initial) MICHELETTI, TOM		
H. Address of Company/Inquirer 519 FERNDAL ROAD N			I. City/Town WAYZATA		J. State MN
K. Zip Code 55391		L. Telephone Number (952) 250-2252			
BUSINESS INFORMATION			BUSINESS OWNERSHIP		
M. Type of Business Manufacturer or Producer [4]			P. Sex Male/Female [3]		
N. SIC/NAICS Codes			Q. Ethnic Background White [5]		
O. SBA Client None []			R. Military Status Non-veteran [4]		
S. Area of Counseling Provided Unknown [?]					
T. Contact Hours 0		U. Preparation Hours 0		V. Travel Hours 0	
				W. Counselor Number DH0001	
X. Name of Counselor Hart, Dave			Y. Resource Business Development [10]		
Z. Problems/Comments/Recommendations I have been working with Mike and Gunnar to develop the documents for our investment. A draft of the preferred stock agreement was sent out a week ago. A draft of the option on the land was sent out to Excelsior on 1/11/01. Julie Jorgensen is preparing changes she wants us to consider. The option we hold from Cliffs allows Cliffs to veto a project if they determine it is not compatible with their plans. We requested that Cliffs sign our assignment to Excelsior indicating that Cliffs approves of the project.					