

Letter to Developers

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Dear Sir,

We represent the Muskegon County (Michigan) Waste Water System (the “System”). The system is a unique public entity that owns and operates an environmentally conscious waste water treatment facility on more than 11,000 acres of land in Muskegon County in Western Michigan (the “Property”). The water treatment facilities occupy some of the Property, but most of the Property is devoted to farming operations using water and by-products from the water treatment facility. A map of the entire Property is enclosed. An electronic version of the map will be sent to you upon request.

Management of the System believes that the Property may be suitable for use as a wind-power electric generating facility and that such a use is consistent with the System’s objectives.

You are invited to submit a proposal for lease of the Property for the development, construction and operation of a wind farm.

System management and board have specified a list of terms which would, in principle, be acceptable terms for a wind lease of their land. They have requested that we incorporate their terms into the enclosed Terms Sheet and identify reputable and experienced wind power developers who might be interested in negotiations to conclude leases on these terms.

The process for receiving and evaluating offers will be as follows:

1. On January 25, 2011 counterparts of this letter together with the attached Terms Sheet are being mailed to identified developers.
2. From February 1, 2011 until April 30, 2011 representatives of the System will be available to answer questions concerning the Property, the Terms Sheet, or the process. All questions must be submitted in writing or in an email message to the undersigned and will be answered in the same manner. Escorted tours of the Property may be arranged.

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3. All interested developers are asked to submit a Proposal no later than May 1, 2011.

4. Proposals shall include the following:

4.1 Identification of any material departure from the Terms Sheet required by the developer, together with any additional or substitute terms the developer proposes.

4.2 A probable time-line for development of a wind farm on the Property.

4.3 A statement of the developer's qualifications and history, describing wind farms successfully developed or constructed by the developer, including location, size, power offtake arrangements, financing arrangements and total time of development from conception until commercial operation. Please also include a brief history of developer's wind power development activities, the names of all person owning 10% or more of developer's equity securities, number of employees, and the names of industry participants with which developer has a formal or informal continuing business relationship, such as turbine developers, constructors or financial houses. To protect developer's confidential information, System or Howard & Howard Attorneys PLLC, or both will entertain executing a mutually-agreed form of confidentiality agreement. Developer is advised that System may be subject to the provisions of the Michigan Freedom of Information Act.

4.4 A statement addressing developer's financial wherewithal including expected sources of development funding, construction and permanent debt financing and equity capital.

4.5 Any other information the developer deems relevant.

5. The System has installed wind measuring instruments on the property that have been functioning since April 1, 2010. Raw data collected by those instruments will be made available upon execution of a mutually-agreed upon form of confidentiality agreement.

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6. Not later than June 15, 2011 we will invite no more than 2 developers to negotiate definitive Lease Agreements.

Special consideration will be given to proposals by developers who agree the following:

1. To incorporate locally manufactured products into the facility on a demonstration basis on terms to be negotiated;
2. To use local contractors, subcontractors and suppliers of materials and equipment on commercially competitive terms; or
3. To enter into wind leases with neighboring landowners on terms substantially the same as agreed to with the System.

A list of interested manufacturers, contractors and suppliers will be furnished on request.

Muskegon County and Muskegon County Waste Water Treatment System make no representations with respect to the accuracy or completeness of any information, including wind data collected by System, furnished the recipients of this invitation, and neither is under any obligation to conclude a transaction with any interested developer unless and to the extent such representations or obligations are made in a definitive Lease Agreement duly authorized, executed and delivered by the County or the System.

Interested developers seeking more information are invited to call the undersigned at (248) 723-0421.

Very truly yours,

Howard & Howard Attorneys PLLC

Rodger A. Kershner



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Terms Sheet

MUSKEGON COUNTY WASTER WATER SYSTEM – LESSOR LEASE OF PROPERTY FOR DEVELOPMENT AND OPERATION OF WIND FARM

- **PROPERTY:** More than 11,000 acres of contiguous property owned in fee by Muskegon County lying within Egelston and Moorland townships, Muskegon County, Michigan. Of the total acreage, about 2,800 acres are used directly in connection with waste water treatment, 5,200 acres are farmed and 3,000 acres are held for other use, are woodlands, or are otherwise unused by the System.

- **TERM:** Option Period – 4 years with two 1-year extensions
 - Primary Term – 25 years
 - Renewal Term – 25 years

- **RENTS AND PAYMENTS:** Signing Payment – \$XX.00 per acre

- Option Period Rent – Years 1-4, \$XX per acre; years 5 and 6, \$XX per acre



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Terms Sheet

Primary Term and Renewal Term Annual Rents

- - **Percentage Rent.** Equal to Y.Y% of Gross Proceeds in years 1-10; Y.Y% of Gross Proceeds in years 11 through termination. Gross Proceeds means the revenue received by the wind farm owner attributable to: (1) the generating capacity installed on the Property; (2) the energy generated by that capacity; and (3) the sale of renewable energy credits and other sales of the wind farm's environmental attributes. Gross Proceeds do not include:

(1) state or federal tax deductions, credits or payments, including, but not limited to production tax credits or investment tax credits; (2) accelerated depreciation deductions; (3) section 1603 grants; or (4) proceeds of sale or refinancing of the project.

- **Minimum Rent.** \$XXX per MW of installed capacity per year escalated at 3% per year.

- **PERMITTED USE:** Assessment of the Property's wind and construction suitability in the Option Period. Construction and operation of towers and turbines, buried and overhead wires, roads, a substation and other reasonable and necessary facilities for operation of a wind farm, at locations reasonably approved by Lessor during the Primary and any Renewal term.

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Terms Sheet

- **LEASE END:** All facilities installed by Lessee except buried wires are to be removed, including tower foundations, to a depth of 4 feet. Land is to be restored to same contour, condition and productivity as at the beginning of the Lease. The estimated removal cost will be escrowed, bonded or guaranteed in installments beginning in year 12.

- **INTERFERENCE WITH WIND:** Lessor may maintain or replace any existing structure and may erect new structures provided that the height of any new structure does not exceed 5% of the distance of the structure from the nearest installed wind turbine.

- **INTERFERENCE WITH LESSOR'S USE:**
Lessee will not:
 1. interfere with Lessor's waste water treatment operations;
 2. unreasonably disrupt Lessor's farming operations;
 3. destroy wildlife or disturb wildlife habitat;
 4. disrupt Lessor's electronic navigation or communications
 5. close or obstruct roads on the property without scheduling Lessor's advance permission, which will not be unreasonably withheld.

Terms Sheet

- **LESSEE'S COVENANTS:**

1. **Underground power lines will be buried 4 feet.**
2. **Damage to roads, fences drain tiles and waste water treatment facilities, and compaction of the soil in farming areas will be promptly repaired or remedied by Lessor or Lessor's contractor at Lessee's expense.**
3. **Soil removed from farmed areas will be stockpiled with top soil separated.**
4. **Lessee will comply with all local, state and federal laws, including all environmental laws and laws for the protection of wildlife.**
5. **Lessee will indemnify Lessor against claims and expenses arising out of any breach of the lease and out of injury to persons or property from or related to Lessee's use of the property caused by Lessee or any person entering the Property under Lessee's authority.**

- **MISCELLANEOUS:**

- **Lessor may to enter into oil and gas or mineral leases provided that the oil and gas or mineral leases contain the provision that the mineral lessee will not interfere with the operations of the wind lessee.**
- **Any disputes arising under the Lease will be settled by arbitration. Michigan law will govern the agreement.**
- **Lessee will reimburse the cost of the Lessor's fees and expenses including legal fees in connection with negotiation and documentation of the leases.**
- **Lessor will not offer Lessee any indemnities.**
- **The Lease will include all other reasonable and customary terms found in wind leases in Michigan.**
- **Lessor shall have the right to approve the sufficiency of Lessee's proposed efforts to mitigate adverse effects on wildlife.**

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