

TAX ABATEMENT AGREEMENT

THE STATE OF TEXAS §
 § KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF TOM GREEN §

THAT THIS TAX ABATEMENT AGREEMENT ("Agreement") is made and entered into by and between TOM GREEN COUNTY, TEXAS, ("County"), and LANGFORD WIND POWER, LLC ("Langford Wind Project"), the owner of taxable personal and real property, and the improvements to be constructed thereon, within a reinvestment zone designated under Chapter 312, Texas Tax Code ("Reinvestment Zone").

WHEREAS, Langford Wind Project has acquired options to obtain certain leases ("Lease Options") for use in the development of a wind powered electric power generating facility in Tom Green County, Texas; and

WHEREAS, Langford Wind Project has Lease Options on all or portions of those tracts of land located in Tom Green County, Texas as described in the legal description attached hereto as "Exhibit A" and indicated by the boundaries shown on the map attached hereto as "Exhibit B"; and

WHEREAS, Langford Wind Project intends to construct and operate a wind powered electric power generating facility on the Property (as defined in Section 2(i) of this Agreement); and

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements contained herein, Langford Wind Project, and Tom Green County hereby agree as follows:

1. **Authorization.** This Agreement is authorized and governed by the Property Redevelopment and Tax Abatement Act, Chapter 312, TEXAS TAX CODE, as amended and the Tom Green County Tax Abatement Guidelines and Criteria, as adopted by the Tom Green County Commissioners Court ("Abatement Policy"). The Commissioners' Court of Tom Green County has determined that the terms of this Agreement and the Property subject to this Agreement meet the applicable Guidelines and Criteria adopted by the County.

2. **Defined Terms.** As used in this Agreement, the following terms shall have the meanings set forth below.

- (a) "Tom Green Count Wind Energy Reinvestment Zone #1" shall mean that certain area qualifying for tax abatement pursuant to the Abatement Policy.
- (b) "Certified Appraised Value" shall mean the appraised value of the Property and Improvements as certified by the Tom Green County Appraisal District for each taxable year.
- (c) "Commencement Date" means January 1 of the next tax year after the date that the Improvements are substantially completed and the County Judge of Tom Green County receives the Certificate.
- (d) "Commissioners Court" shall mean the governing body of Tom Green County, Texas.
- (e) "County Authorities" shall mean the County.

- (f) "Improvements" shall mean the wind turbine generators, electric transformers, one or more electrical substations, underground and overhead electrical distribution and transmission facilities, appurtenant electric equipment, roads, communication cable, data collection facilities, maintenance yards, maintenance buildings, and anemometer towers to be installed, added, upgraded or used on the Property by or for Owner after the effective date of this Agreement.
- (g) "Owner" shall mean the owner of the rights and interests in the Property, which shall be Langford Wind Project and its successors and/or assigns, who are assigned or conveyed rights or interests in the Property, OSI and its successors and/or assigns, who are assigned or conveyed rights or interests in the Property, or the Investor Groups who acquire rights or interests in the Property, or any combination thereof.
- (h) "Project" shall mean, collectively, the Property and the Improvements, as each may be constructed, expanded, replaced, upgraded or acquired.
- (i) "Property" shall mean the tract of land described in Exhibit A and on map attached as Exhibit B and incorporated herein for all purposes, and all improvements and tangible personal property currently located thereon, which tract of land is located within the Tom Green County Wind Energy Reinvestment Zone #1 in unincorporated Tom Green County.
- (j) "Certificate" means a letter, provided by Owner to the County Judge of Tom Green County, certifying that owner has completed construction of the Project, outlining the Improvements included in the Project, and stipulating the overall turbine capacity of the Project. Upon receipt of the Certificate, the County may inspect the Property within the Reinvestment Zone in accordance with this Agreement to determine that the Improvements are in place as certified.

3. Administration of Agreement. This Agreement shall be administered by the County Judge of Tom Green County, Texas.

4. Term. This Agreement shall be effective as of the date of execution hereof and shall continue until all periods of "abatement" as identified in Section 7(a) herein have been utilized, or ten (10) years after the Commencement Date, whichever comes first, unless earlier terminated as provided elsewhere herein.

5. Construction of the Improvements. Langford Wind Project anticipates that construction of the Improvements will commence on or after the 2nd quarter of 2009. It is expected that the Tom Green County portion of the Project will have an operating capacity of at least 60 megawatts. Based on information provided by the Tom Green County Appraisal District, it is estimated that the Tom Green County portion of the Project will have a market value of at least \$120 million upon completion.

Road Maintenance. During construction of the Improvements, Owner shall use commercially reasonable efforts to minimize the disruption to County roads caused by the construction process and shall repair any damages caused to County roads by the construction process. After construction, Owner shall leave such county roads in a state of condition equal to or better than they were prior to commencement of construction.

7. Job Creation. Owner agrees, during the term of this Agreement, to create at least six (6) permanent full time jobs at the Langford Wind Project and make reasonable efforts to employ persons who are residents of Tom Green County, Texas in connection with the construction and operation of the Project; provided, however, that Owner shall not be required to

employ Tom Green County residents who are not (i) equally or more qualified than nonresident applicants; (ii) available for employment on terms and/or salaries comparable to those required by nonresident applicants or (iii) able to become qualified with 72 hours of training. At least 75% of said employees being paid \$3.00 an hour over the current federal minimum wage plus health benefits. In the event a Tom Green County resident could become qualified with a maximum of 72 hours of training, Owner shall provide for such training. Each of the persons employed in such jobs shall perform a substantial portion, if not all, of their work in Tom Green County, Texas.

8. Local Goods and Services.

(a) Owner agrees that it and its contractors, if any, will use reasonable commercial efforts to maximize its use of Tom Green County businesses in the construction, operation and maintenance of the Improvements and the Project; provided, however that Owner shall not be required to use goods and services provided by Tom Green County residents that are not (i) of similar quality to those provided by nonresidents or (ii) made available on terms, conditions and price comparable to those offered by nonresidents. Comparable price shall be defined as less than or equal to 105% of the nonresident price for equivalent quality, conditions and terms.

(b) Owner or its construction contractor, if any, shall designate a coordinator of local services who will act as a liaison between any individuals, businesses and contractors residing or doing business in Tom Green County who are interested in obtaining information about providing goods or services related to the construction of the Project.

9. Tax Abatement.

(a) Commencing on January 1 of the next tax year after the date that the Improvements constructed, expanded, or acquired hereunder on the Property are substantially completed, there shall be granted and allowed hereunder to Owner by the County a Property Tax Abatement for ten years (the "Abatement Period"), said Abatement being derived by exempting in each year of the 1st five (5) years of the Abatement Period Forty percent (40%); in the 6th, 7th, 8th years of the Abatement Period Twenty-five percent (25%) and the 9th and 10th years of the Abatement Period Ten percent (10%) of the value of the Property and Improvements that are subject to taxation. The Abatement granted and allowed hereunder shall extend only to all real and personal property ad valorem taxes assessable on the property and Improvements, as constructed, expanded, upgraded or acquired.

The property tax abatement granted and allowed hereunder shall extend to all real and personal property ad valorem taxes assessable on the Property and Improvements, as constructed, expanded, replaced, upgraded or acquired.

(b) It is specifically understood and agreed that the abatement granted herein is nonexclusive and does not prevent the County from dealing with any other owner or subsequent owner or owners of the Project; provided, however, the County agrees that the abatement provided in Paragraph 7(a) above shall extend to Owner, whether Langford Wind Project, its successors and assigns, for the period of the above specified tax abatements.

(c) The County shall not cause any rollback of taxes or assess additional taxes against any fee owner of the Properties due to the existence of the Project, or otherwise change the classification of the Property during the period of the tax abatements.

10. Representations.

(a) Owner represents that (i) Owner, its successors or assigns, will have a taxable interest in the Improvements to be placed on the Property; (ii) construction of the proposed Improvements will be performed by Owner, its successors or assigns, and/or Owner, contractors and/or subcontractors; (iii) Owner's, its successors' or assigns', use of the Improvements and the Property within the Tom Green Count Wind Energy Reinvestment Zone #1 will be consistent with the general purpose of encouraging development or redevelopment of the area during the term of this Agreement; and (iv) all representations made in the Application for Abatement in Tom Green County are true and correct to the best of Owner's knowledge.

(b) The County Authorities represent that (i) the Tom Green Count Wind Energy Reinvestment Zone #1 has been created in accordance with Chapter 312 of the TEXAS TAX CODE and the Abatement Policy, as both exist on the effective date of this Agreement and (ii) the Property is located in the Tom Green Count Wind Energy Reinvestment Zone #1.

(c) Owner and the County represent that no member of the Commissioners' Court owns or leases the Property or the Improvements.

11. Administrative.

(a) Access to and Inspection of Property by County Employees. Owner shall allow the County's employees and/or designated representatives of the County access to the Improvements for the purpose of inspecting any Improvements erected to ensure that such Improvements are completed and maintained in accordance with the terms of this Agreement and to ensure that all terms and conditions of this Agreement are being met. All such inspections shall be made only after giving Owner twenty-four (24) hours advance notice and shall be conducted in such a manner as to not interfere with the construction and/or operation of the Improvements. All such inspections shall be made with one (1) or more representatives of Owner and in accordance with all applicable safety standards.

(b) The Chief Appraiser of the Tom Green County Appraisal District annually shall determine: (i) the Certified Appraised Value of the Property and the Improvements and (ii) the taxable value, pursuant to the terms of abatement under this Agreement, of the Property and Improvements. The Chief Appraiser shall record both the abated taxable value and the Certified Appraised Value in the appraisal records.

(c) The Certified Appraised Value listed in the appraisal records shall be used to compute the amount of abated taxes that are required to be recaptured and paid in the event **this** Agreement is terminated in a manner that results in recapture. During the term of this Agreement, each year, Owner shall furnish the Chief Appraiser with such information outlined in Chapter 22, TEXAS TAX CODE, as may be necessary for the administration of the abatement specified herein.

12. Default.

(a) The County Authorities may declare a default hereunder if Owner (1) fails, refuses, or neglects to comply with any of the material terms, conditions, or representations of this Agreement and fails to cure during the cure period described herein; or (2) allows ad valorem taxes owed to the County to become delinquent and fails either to cure during the cure period or to timely and properly follow the legal procedures for their protest or contest.

(b) If the County declares a default of this Agreement, this Agreement shall terminate (after notice and opportunity to cure as provided for herein), and the County in such event shall be entitled to recapture any and all property taxes which have been abated as a result of this Agreement. The County shall notify Owner of any default in writing in the manner prescribed herein. The notice shall specify the basis for the declaration of default, and Owner shall have sixty (60) days from the date of such notice to cure any default; provided, however, where fulfillment of any obligation requires more than sixty (60) days, performance shall be commenced within sixty (60) days after the receipt of notice, and such performance shall be diligently continued until the default is cured. If the default cannot be cured, or if Owner fails to cure within the period herein specified, the County will have the right to terminate this Agreement. Upon termination by the County for an Owner default, Owner shall be liable for and will pay to the County within sixty (60) days following the termination of this Agreement (1) the amount of all property taxes abated under this Agreement, (2) interest on the abated amount at the rate provided for in the Texas Tax Code for delinquent taxes; and (3) penalties on the amount abated in the year of default, at the rate provided for in the Texas Tax Code for delinquent taxes.

13. Changes in Tax Laws. The tax abatement provided in this Agreement is conditioned upon and subject to any changes in the state tax laws during the term of this Agreement.

14. Compliance with State and Local Regulations.

(a) Nothing in this Agreement shall be construed to alter or affect the obligation of Owner to comply with any ordinance, rule, or regulation of the County or laws of the State of Texas.

(b) County and Owner acknowledge that Texas Attorney General Opinion GA-0600, dated January 29, 2008, arguably may be interpreted to hold that certain provisions of Section 312 of the Texas Tax Code may not authorize a commissioners court to execute a tax abatement agreement for leasehold interests in or improvements on taxable real property, and that said opinion is currently under review and subject to challenge by interested parties. If, during the Term of this Agreement, the aforementioned provisions of Opinion GA-0600 are affirmed, upheld or otherwise remain unchanged, or tax abatement agreements under Section 312 of the Texas Tax Code are declared invalid or unenforceable under Texas law, County may terminate this Agreement and all taxes abated hereunder shall be due and payable within ninety (90) days of receipt of written notice/demand. Should Opinion GA-0600 be rescinded, reversed, overturned, withdrawn or otherwise limited or restricted in its effect, and should the provisions authorizing tax abatement agreements under Section 312 of the Texas Tax Code be affirmed, upheld or otherwise remain unchanged, this Agreement shall continue in full force and effect.

(c) Company agrees to indemnify and hold County harmless from liability, claims, demands and suits, including reasonable and necessary attorney's fees incurred by County arising out of litigation filed against County by any third party contesting the validity or legality of the abatement granted herein. Company may discharge its indemnity obligation hereunder by terminating this Agreement and paying to County all taxes abated under this Agreement, together with interest and penalties on the abated amount at the rate and amounts provided for in the Texas Tax Code for delinquent taxes.

15. Assignment of Agreement. This Agreement may not be assigned by Owner without the approval of the County by resolution or order of the County Judge, which consent shall not be unreasonably withheld, delayed or conditioned; provided that no consent shall be required for any assignment or transfer of this Agreement: (i) by Owner to an affiliate of Owner;

(ii) by Owner to an entity which acquires all or any portion of Owner's interest in the Improvements or the Property; (iii) by Owner to an Investor Group (i.e., an entity which provides financing for the project) as collateral security for obligations under financing documents entered into with such Investor Group; or, (iv) by the Investor Group to a third party after the Investor Group has exercised its foreclosure rights with respect to the Project; provided, however, that Owner shall give written notice of any such assignment to the County. Any assignment other than an assignment as collateral security, including without limitation an assignment to another entity or Investor Group(s), shall require that all conditions and obligations in this Agreement applying to the interest acquired by the assignee shall be assumed by the assignee, and upon such assumption, Owner (Langford Wind Project, or any entity or Investor Group other than such assignee) shall have no further rights, duties or obligations under the Agreement to the extent such rights, duties or obligations apply to the interest acquired by the assignee. No assignment shall be approved if (a) the County has declared a default hereunder that has not been cured, or (b) assignee is declared delinquent in the payment of ad valorem taxes owed to the County or any other taxing jurisdiction in Tom Green County.

16. Financing Assistance. In the event that Owner assigns this Agreement to an Investor Group as collateral security for obligations under financing documents, the County shall furnish such consents to assignment and opinions of counsel as may be reasonably requested by Owner or such Investor Group and all reasonable costs incurred by the County (including legal costs) shall be borne by Owner.

17. Notice. All notices shall be in writing. If mailed, any notice or communication shall be deemed to be received three (3) days after the date of deposit in the United States mail, first-class, postage prepaid. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

To Langford Wind Project:

Langford Wind Project, LLC
7777 Fay Avenue, Suite200
La Jolla, California 92037-4327
Attn: David Little, Vice-President & Regional Project Development Mgr.
Telephone: 619-869-0348
E-Mail: dlittle@padoma.com

To County:

Michael D. Brown, County Judge
Tom Green County, Texas
122 W. Harris
San Angelo, TX 76903
Telephone: 325-653-3318
E-Mail: mike.brown@co.tom-green.tx.us

Either party may designate a different address by giving the other parties at least ten (10) days written notice in the manner prescribed above.

18. Entire Agreement. This Agreement and Exhibits A and B attached hereto contain the entire and integrated tax abatement agreement between the parties and supersedes all other negotiations and agreements between the parties relating to the grant of tax abatement for the Project, whether written or oral. In the event that there is a conflict between any of the Exhibits to this Agreement or the Abatement Policy and this Agreement, the provisions of this Agreement shall control over the provisions in the Exhibit or the Abatement Policy.

19. Severability. If any term or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent be declared or held to be invalid or unenforceable by any court, governmental authority or agency having jurisdiction over the subject matter of this Agreement, the remaining terms of this Agreement and the application of such term or provision to any other person or circumstance shall not be affected by such declaration or holding and shall be valid and enforceable as allowed by law.

20. Governing Law and Venue. The terms and provisions of this Agreement shall be interpreted in accordance with the laws of the State of Texas and venue of any dispute hereunder shall be in Tom Green County, Texas.

21. Headings. The section headings contained in this Agreement are for purposes of reference and convenience only and shall not limit or otherwise affect in any way the meaning of this Agreement.

22. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one original.

IN TESTIMONY OF WHICH, THIS AGREEMENT has been executed by the parties as of the 12 day of JULY, 2009.

LANGFORD WIND POWER, LLC

By: _____

Name: _____

Title: _____

TOM GREEN COUNTY, TEXAS

By:  _____

Judge Mike Brown