

re: APN: 83-030-01
Owner: City of Lompoc

LEASE AGREEMENT

This Lease Agreement is made by and between the City of Lompoc, a California municipal corporation (“City”) and Clipper Windpower Development Company, Inc. (“Clipper”).

1. Lease of Premises. The City owns certain real property located just southeast of 700 Avalon Street in Lompoc, California, more specifically identified as Assessor’s Parcel Number 83-030-01 (“the Premises”), and City hereby leases the Premises, in accordance with the terms and conditions of this Agreement, to Clipper Windpower Development Company, Inc. (“Clipper”)
2. Term. The term of this Agreement is one (1) year; commencing on the date this Agreement is signed by both parties, unless earlier terminated as provided herein.
3. Rent. As consideration for this Lease Agreement, Clipper shall pay the City, on the date of Clipper’s execution of this agreement, the sum o Five Hundred Dollars (\$500).
4. Use of Premises. The Premises will be used solely for placement by Clipper of a meteorological survey tower, which includes, but is not limited to, a tower, guy lines, foundation, guy anchors, and appurtenances thereto, as needed to study and record weather conditions. The Parties agree that the equipment, and major appurtenances, after installation, shall not be relocated on the Premises unless the Parties so agree in writing.
5. Condition of Premises. Clipper will keep and maintain the Premises in clean and orderly condition at all times. Clipper will bear all costs to erect, maintain, and remove the tower and all appurtenances at the end of the Lease. At the expiration or termination of this Agreement, Clipper shall vacate and leave the Premises in as good condition as at the commencement of this Agreement, reasonable wear and tear excepted.
6. Utilities. Clipper acknowledges that the Premises have no access to any utilities of any kind, such as, but not limited to, telephone, power, water, or sewer.
7. Data Sharing. Clipper agrees to provide to City, at least once each every three months during the term of this Agreement, summaries of all weather data acquired at the Premises.
8. Quiet Enjoyment. Clipper recognizes that the primary use of the Premises is as an essential work area for the City. Clipper agrees not to disrupt or impede the City’s normal use of the Premises.

9. Right of Entry. Clipper may enter the Premises, during regular business hours of the City, to repair, replace, service, or maintain the meteorological tower and associated equipment. Clipper will work with the City to use any existing access roads, as they may be available, to access the site. Notwithstanding the foregoing, Clipper acknowledges that City has fully disclosed to Clipper the fact that there exists no feasible access to the hill top area of the Premises over any adjacent City property.

(Initials)

Clipper further acknowledges that access to the Premises is likely to require the use of property owned by private parties or entities other than the City of Lompoc. Clipper hereby acknowledges that Clipper is solely responsible, at its own cost and expense, for its acquisition of all rights and permissions required for access to the Premises over property not owned by the City of Lompoc. City has no obligation to assist Clipper in obtaining access to the Premises over or through non-City-owned property.

(Initials)

Clipper further specifically agrees that the provisions of paragraph 11, below, Indemnity, shall apply to Clipper's use of non-City-owned property in the performance of this Agreement.

(Initials)

10. No sublease. Clipper shall not sublease or assign its rights under this Lease, nor any portion thereof.
11. Indemnity. Clipper agrees to indemnify, defend, and hold harmless City, its officials, officers, employees, agents, and volunteers from any liability for injury, death, loss, accident, or damage to any persons or property, and from any claims, actions, proceedings, and costs in connection therewith, including reasonable attorney's fees and costs of defense, caused by the omissions, fault, negligence, or misconduct of Clipper arising from performance of this Agreement.

Except as otherwise provided by law, City agrees to indemnify, defend and hold Clipper harmless from any liability for injury, death, loss, accident, or damage to any persons or property, and from any claims, actions, proceedings, and costs in connection therewith, including reasonable attorney's fees and costs of defense, caused by omissions, fault, negligence, or misconduct of City, its officials, officers, agents, and employees in connection with the City's performance of this Agreement.

12. No Special Relationship Created. No special relationship between the City and Clipper or any other person or party is intended or created under this Agreement. Clipper and City specifically agree and acknowledge that executing and performing this Agreement has not and shall not create or cause to arise any special relationship between City, its officers, employees, agents and volunteers and each of them and Clipper or any other party.

13. Termination. Either City or Clipper may terminate this Agreement by giving thirty (30) days advance written notice to the other party, in person or by first class mail via the United States Postal Service, at the following addresses:

City of Lompoc
Attn: Utility Director
100 Civic Center Plaza
Post Office Box 8001
Lompoc, CA 93438-8001

Peter Stricker
Vice-President for Power Development
Clipper Windpower Development Co., Inc.
6305 Carpenteria Ave., Suite 300
Carpenteria, CA 93013

14. Entire Agreement. This Agreement constitutes the entire agreement between Clipper and City and supersedes all oral or written representations or agreements that may have been made by either party. This Agreement may be modified only in a written amendment signed by both parties.

15. Attorney's Fees. The party prevailing in any dispute regarding this Agreement may recover its reasonable attorney's fees (including the cost of in-house counsel), filing fees, and costs.

IN WITNESS WHEREOF, City and Clipper have executed this Agreement on date(s) below.

CITY OF LOMPOC

Clipper Windpower Development Company,
Inc.

BY: _____
Gary P. Keefe
City Administrator

BY: _____
Peter Striker
Vice-President for Power Development

DATE: _____

DATE: _____

ATTEST:

Jane C. Green
City Clerk

APPROVED AS TO FORM:

Sharon Stuart
City Attorney