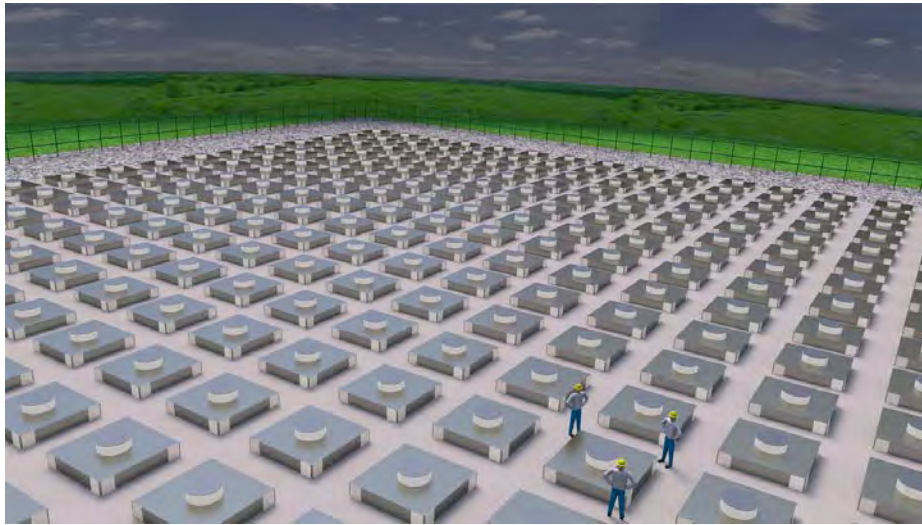


# COPY TECHNICAL & COMMERCIAL PROPOSAL

Holtec International Proposal for  
Purchase of the Site for  
Development and Operation of  
Interim Nuclear Waste Storage Facility



HOLTEC CENTER  
ONE HOLTEC DRIVE  
MARLTON, NJ USA 08053

Holtec International  
Proposal No.: 300701  
RFP ELEA #01 - (15-16)  
January 5, 2016

COMPANY PRIVATE

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Holtec Center, One Holtec Drive, Marlton, NJ 08053

Telephone (856) 797-0900

Fax (856) 797-0909

**CONFIDENTIAL AND PRIVILEGED INFORMATION**

January 5, 2016

Lea County, New Mexico  
The Finance Department, Courthouse  
100 North Main, Suite 11  
Lovington, New Mexico, 88260

**Attention:** Ms. Kathy McLaughlin  
Phone: 575-396-8521, Ext. 2356  
Email: kmclaughlin@leacounty.net

**Reference:** RFP ELEA #01 – (15-16); Due Date: January 5, 2016

**Subject:** Holtec International Proposal for Purchase of the Site for Development and Operation of Interim Nuclear Waste Storage Facility

Dear Ms. McLaughlin,

Holtec International is pleased to submit this proposal in full compliance with the referenced RFP to purchase the site and partner with the Eddy-Lea Energy Alliance, LLC (ELEA) to establish a state-of-the-art interim nuclear waste storage facility. As Mr. John Heaton, ELEA Vice-Chairperson, has publically announced on many occasions, "*safety is the number one issue for ELEA in our communities and in our counties*". To support the ELEA commitment to the community, Holtec offers its state-of-the-art HI-STORM UMAX (acronym for Underground MAXimum security) system to store used nuclear fuel and other forms of high level waste entirely below-grade to serve as a "security-friendly" storage facility, providing a clear, unobstructed view of the entire Independent Spent Fuel Storage Installation (ISFSI) from any location. Additionally the HI-STORM UMAX closure lid is a massive steel weldment filled with concrete eliminating the storage contents as a target. The inherent design of the HI-STORM UMAX ISFSI, which is currently being deployed at two nuclear plants in the U.S., provides unfettered capability to retrieve and move the canisters at any time during the facilities service life. There is no technical limit on the facility's storage capacity which will be established by the Nation's need.

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This communication contains confidential business/commercial information whose dissemination to third parties will have an adverse impact on Holtec International's business interests. Accordingly, the Company requests that the recipient prevent its release to any third party or to the general public. The recipient must not disclose or distribute this material outside his/her company without the express written permission of Holtec International.



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Lea County, New Mexico  
The Finance Department, Courthouse  
January 5, 2016  
Page 2 of 3

Licensed by the NRC under Docket Number 72-1040, HI-STORM UMAX is physically sized to store all of the used nuclear fuel produced in the United States and all canisters currently licensed in dry storage in the country making it a truly universal on-site storage facility. The HI-STORM UMAX is a completely passive dry storage system, meaning the HI-STORM UMAX proper does not require any utilities (water, compressed air, or electric power) for its operation; eliminating any elements of vulnerability to terrorism. The subterranean stored contents emit virtually zero radiation dose to the facility workers and surrounding environment. HI-STORM UMAX provides the nation a single dry storage system to store all of the nation's used fuel and high-level waste in a below-grade, monitored, retrievable, interim storage facility that provides maximum protection against terrorism and natural disasters.

Holtec proposes herein to design, license, build, and operate the storage facility, with an emphasis on selecting companies and personnel local to the Project Site. Holtec's commitments to ELEA and the community include maximizing safety, creating job opportunities, and creating a revenue stream for the local communities and the state of New Mexico that will be sustainable long into the future. To demonstrate Holtec's commitment to this Project, please find attached Holtec's presentation to the NRC on December 9, 2015, wherein Holtec in a public meeting announced its intent to submit an application to license, construct and operate a central interim storage (HI-STORE) facility for up to 4000 spent fuel and HLW canisters in Southeast New Mexico.

We look forward to working with you and your team throughout your bidding process. If you have any questions or require any further information on our offer, please feel free to contact me; my contact information is provided below.

Sincerely,

A handwritten signature in cursive script that reads "Joy R. Russell".

Joy R. Russell  
Vice President, Corporate Business Development  
Office: 856-797-0900, Ext. 3655; E-mail: J.Russell@holtec.com

---

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Lea County, New Mexico  
The Finance Department, Courthouse  
January 5, 2016  
Page 3 of 3

Attachments:

- Holtec International Proposal for Purchase of the Site for Development and Operation of Interim Nuclear Waste Storage Facility
- Holtec International – Central Interim Storage Facility for Spent Fuel and HLW (HI-STORE) – Presubmittal Meeting to the U.S. Nuclear Regulatory Commission on December 9, 2015

Document ID: 300701aa

# Holtec International Proposal for Purchase of the Site for Development and Operation of Interim Nuclear Waste Storage Facility

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- Technical Information – Safety Analysis Report (SAR)
- Site Environmental Report
- Procedures
- QA and Training Programs
- Security and Emergency Plans
- Inventory and Records Requirements
- Decommissioning Plan

Additionally, the site-specific license application will address the following:

- 40 year license
- Aging Management Plan for UMAX and all canisters
  - ✓ For each canister the aging management must be initiated once the canister reaches its initial licensed lifetime (e.g. 20 years). When that happens at the HI-STORE facility depends on the initial loading date of the canister.
  - ✓ Additional accessibility and monitoring options will be incorporated in the UMAX design
- Cask Receipt Inspection
  - ✓ Receipt inspection to ensure every canister meets the site specific requirements
    - Generate Baseline for future inspections. Full Surface inspection (inspection ring) is being considered
  - ✓ Canister history and previous inspections are considered
- Possession / Title / Ownership
  - ✓ DOE
- Tech Specs
  - ✓ Only spent fuel canisters already loaded under a general or site specific license will be stored
  - ✓ Duplication of TS information should be avoided

The Environmental Report to support the site-specific license application will address the following:

- Cover full CISF content (4000 canisters)
- Will utilize data from well-characterized area
  - ✓ WIPP, URENCO Enrichment Facility, GNEP, WCS
- Additional (new) environmental data may not be needed

Holtec will partner with a qualified local company to develop Environmental Report. Holtec is currently reviewing proposals and will select a partner in short order.

## **Appendix A**

---

Completed And Signed Forms, Including the Proposal Form

**PROPOSAL FORM**  
**EDDY-LEA ENERGY ALLIANCE, LLC**

PURCHASE OF SITE FOR DEVELOPMENT AND OPERATION  
 OF INTERIM NUCLEAR WASTE STORAGE FACILITY  
 LOVINGTON, NM  
 RFP ELEA #01 – (15-16)  
 DUE DATE: JANUARY 5, 2016 - 3:00 P.M.

COMPANY NAME:                     Holtec International                     *JRR 1/5/16*

<b>Submitted Proposals will be Graded and Awarded on the Following Award Criteria</b>		
<b>Gradable Item Description</b>	<b>Maximum Points</b>	<b>Maximum Point Award Criteria</b>
Experience in Storage of Nuclear Waste	15	Most qualified receives the maximum of 15 points -
Technical Proposal for Nuclear Waste Storage	15	Most qualified receives the maximum of 15 points -
Cash Price	15	Highest receives the maximum of 15 points
Revenue Sharing Proposal	25	Most advantageous receives the maximum of 25 points
Protection of ELEA and Members from Environmental Liability	20	Most qualified receives the maximum of 20 points -
Other contractual terms	10	Most advantageous/qualified receives the maximum of 10 points.
<b>TOTAL</b>	<b>100</b>	

**Everything listed in this section is REQUIRED to be submitted with "PROPOSAL FORM" or the proposal will be considered non-responsive and will not qualify for award.**



**PROPOSAL FORM**  
EDDY-LEA ENERGY ALLIANCE, LLC

PURCHASE OF SITE FOR DEVELOPMENT AND OPERATION  
OF INTERIM NUCLEAR WASTE STORAGE FACILITY  
LOVINGTON, NM  
RFP ELEA #01 – (15-16)  
DUE DATE: JANUARY 5, 2016 - 3:00 P.M.

**If proposal tendered does not meet specifications, all exceptions or variations are set forth on the following page.**

I have read and understand the Terms and Conditions and Specifications.  
I agree to comply with such and warrant that the proposal is as represented in this Proposal Form.

Signature Joy R. Russell Name (Typed/Printed) Joy R. Russell  
Company Holtec International Position VP, Corporate Business Development  
Address One Holtec Drive Telephone Number (856) 797-0900 FAX Number (856) 797-0909  
City, State, Zip Marlton, NJ 08053 Fed. Tax ID # / Social Security # 20-4598433  
E-mail Address j.russell@holtec.com

State of New Jersey )  
County of Burlington )ss.

Joy R. Russell (name), being duly sworn, deposes and says that he/she  
is VP, Corp. Bus. Devel. (title) of Holtec International (company) and all fore-  
going questions and all statements herein contained are true and correct.

Subscribed and sworn to before me this 28th day of December, 20 15.

My commission expires:

4/25/2020

Maria C. Massi

Notary Public

MARIA C MASSI

MARIA C. MASSI  
NOTARY PUBLIC OF NEW JERSEY  
My Commission Expires April 25, 2020

**PROPOSAL FORM**  
EDDY-LEA ENERGY ALLIANCE, LLC

PURCHASE OF SITE FOR DEVELOPMENT AND OPERATION  
OF INTERIM NUCLEAR WASTE STORAGE FACILITY  
LOVINGTON, NM  
RFP ELEA #01 – (15-16)  
DUE DATE: JANUARY 5, 2016 - 3:00 P.M.

Please state each and every option, exception, or variation to the specifications (if any) for the products or services offered. *If proposal deviates significantly from the specifications, please provide further documentation showing that the Offeror is capable of meeting the performance requirements shown in the specifications.* **Please sign below and return with your proposal.**

1) THERE **ARE** OPTIONS, EXCEPTIONS OR VARIATIONS. \_\_\_\_\_  
Signature

2) THERE **ARE NO** OPTIONS, ETC. LISTED. This Proposal meets or exceeds all Specifications, Terms and Conditions as described in said Request for Proposals (RFP) without exceptions. Proposals not meeting all Specifications, Terms and Conditions will be rejected and all costs will be borne by the Offeror.

  
\_\_\_\_\_  
Signature 12/29/15

# PROPOSAL FORM

## Campaign Contribution Form

Pursuant to NMSA 1978 Section 13-1-191.1, any prospective contractor seeking to enter into a contract with any state agency or local public body must file this form with that state agency or local public body. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

In addition to the disclosure requirements summarized above, a prospective contractor, family member or representative of the prospective contractor may not give a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE.

The following definitions apply:

**"Applicable public official"** means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

**"Campaign Contribution"** means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that official's behalf for the purpose of electing the official to either statewide or local office. "Campaign Contribution" includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

**"Contract"** means any agreement for the procurement of items of tangible personal property, services, professional services, or construction.

**"Family member"** means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

**"Pendency of the procurement process"** means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

**"Person"** means any corporation, partnership, individual, joint venture, association or any other private legal entity.

**PROPOSAL FORM**

**Campaign Contribution Form**

**"Prospective contractor"** means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

**"Representative of a prospective contractor"** means an officer or director of a corporation, a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

**DISCLOSURE OF CONTRIBUTIONS:**

Contribution Made By: \_\_\_\_\_

Relation to Prospective Contractor: \_\_\_\_\_

Name of Applicable Public Official: \_\_\_\_\_

Date Contribution(s) Made: \_\_\_\_\_

Amount(s) of Contribution(s) \_\_\_\_\_

Nature of Contribution(s) \_\_\_\_\_

Purpose of Contribution(s) \_\_\_\_\_

(The above fields are unlimited in size)

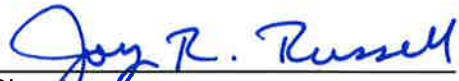
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Title (position)

**--OR--**

**NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE** to an applicable public official by me, a family member or representative.

  
\_\_\_\_\_  
Signature

January 4, 2016  
Date

VP, Corporate Business Development  
Title (Position)

*JRP*  
*2/29/15*

**Resident/Veterans Preference Certification**

\_\_\_\_\_ (NAME OF CONTRACTOR) hereby certifies the following in regard to application of the resident veterans' preference to this procurement:

**Please check one box only**

**Veteran Resident Businesses:**

- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is less than \$1M allowing me the 10% preference discount on this solicitation. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$1M but less than \$5M allowing me the 8% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.
- I declare under penalty of perjury that my business prior year revenue starting January 1 ending December 31 is more than \$5M allowing me the 7% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

**Resident Businesses:**

- I declare under penalty of perjury that my business is a New Mexico resident business allowing me the 5% preference discount on this bid or proposal. I understand that knowingly giving false or misleading information about this fact constitutes a crime.

"I agree to submit a report, or reports, to the State Purchasing Division of the General Services Department declaring under penalty of perjury that during the last calendar year starting January 1 and ending on December 31, the following to be true and accurate:

"In conjunction with this procurement and the requirements of this business' application for a Resident Veteran Business Preference/Resident Veteran Contractor Preference under Sections 13-1-21 or 13-1-22 NMSA 1978, when awarded a contract which was on the basis of having such veterans preference, I agree to report to the State's Division of the General Services Department the awarded amount involved. I will indicate in the report the awarded amount as a purchase from a public body or as a public works contract form a public body as the case may be.

"I understand that knowingly giving false or misleading information on this report constitutes a crime."

I declare under penalty of perjury that this statement is true to the best of my knowledge. I understand that giving false or misleading statements about material fact regarding this matter constitutes a crime.

**Resident Business/Veteran Business Certificate Number:** \_\_\_\_\_

\_\_\_\_\_  
(Signature of Business Representative)\*

\_\_\_\_\_  
(Date)

\* *Must be an authorized signatory for the Business.*

The representations made in checking the boxes constitutes a material representation by the business that is subject to protest and may result in denial of an award or un-award of the procurement involved if the statements are proven to be incorrect.

**A valid New Mexico Resident Business or New Mexico Resident Business Certificate number must be provided in order to receive preference.**

NON-COLLUSION AFFIDAVIT

STATE OF New Jersey )

COUNTY OF Burlington )

Joy R. Russell (name) being first duly sworn, deposes and says that he/she is (title) VP, Corporate Business Development of (organization) Holtec International

who submits herewith to the Eddy-Lea Energy Alliance, LLC, a proposal:

That all statements of fact in such proposal are true:

That said proposal was not made in the interest of or on behalf of any undisclosed person, partnership, company, association, or organization or corporation;

That said bidder has not, directly or indirectly by agreement, communication or conference with anyone attempted to induce action prejudicial to the interest of the Eddy-Lea Energy Alliance, LLC or of any bidder of anyone else interested in the proposed contract; and further,

That prior to the public opening and reading of proposal, said bidder:

1. Did not directly or indirectly, induce or solicit anyone else to submit a false or sham proposal
2. Did not directly or indirectly collude, conspire, connive or agree with anyone else that said bidder or anyone else would submit a false or sham proposal, or that anyone should refrain from bidding or withdraw his proposals;
3. Did not in any manner, directly or indirectly, seek by agreement, communication or conference with anyone to raise or fix the proposal price of said bidder or of anyone else, or to raise or fix any overhead, profit or cost element of their proposal price, or of that of anyone else;
4. Did not directly or indirectly, submit his proposed price or any breakdown thereof, or the contest thereof, or divulge information or data relative thereto, to any corporation, partnership, company, association organization, bid depository or to any member or agent thereof, or to any individual or group of individuals, except the Eddy-Lea Energy Alliance, LLC, or to any person or persons who have a partnership or other financial interests with said bidder in this business.

By: Joy R. Russell *Joy R. Russell*  
Title: VP, Corporate Business Development *12/29/15*

SUBSCRIBED and sworn to before me this 28 day of December, 2015.

Notary Public: Maria C. Massi  
My Commission Expires: 4/25/2020



**Related Party Disclosure Form**

1. Are you indebted to or have a receivable from any member of the Governing Board of the Eddy-Lea Energy Alliance, LLC ("ELEA") or elected official, administration officials, department heads, and key management supervisors with any of the City of Carlsbad, the City of Hobbs, the County of Eddy and the County of Lea (collectively, the "ELEA Persons")? **NO**

2. Are you, or any officer of your company related to any ELEA Person and have you had any of the following transactions since January 1, 2008, to which the City of Carlsbad, the City of Hobbs, the County of Eddy or the County of Lea (collectively, the ELEA Members") or ELEA was, is to be, a party?

	Yes	No
Sales, Purchase or leasing of property?	<u>    </u>	<u>  X  </u>
Receiving, furnishing of goods, services or facilities?	<u>    </u>	<u>  X  </u>
Commissions or royalty payments	<u>    </u>	<u>  X  </u>

3. Does any ELEA Person have any financial interest in your company whether a sole proprietorship, partnership, or corporation of any kind that currently conducts business with ELEA or any ELEA Member?

Yes      No   X  

---

---

4. At any time from January 2008 through the present, did you, your company, or any officer of your company have an interest in or signature authority over a bank account for the benefit of any ELEA Person?

Yes      No   X  

---

---

5. Are you negotiating to employ or do you currently employ any employee, officer or family member of an ELEA Person?

Yes      No   X  

---

---

**The answers to the foregoing questions are correctly stated to the best of my knowledge and belief.**

Signature of Owner or Company President:   K P Singh   Date December 29, 2015

(Print Name and Title):   Dr. Krishna P. Singh, President and CEO

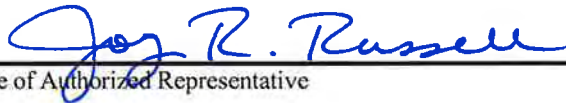
## **Certification Regarding Debarment, Suspension, and Other Responsibility Matters**

---

Offeror certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of, had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any offenses; and
4. Have not within a three-year period preceding this application/proposal had one or more public transaction (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be ground for rejection of this proposal or termination of the award. Under 18USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.



Signature of Authorized Representative

January 4, 2016

Date

Joy R. Russell, VP, Corporate Business Development

Typed Name & Title of Authorized Representative

---



**Appendix B**

---

Draft Agreement

## LAND PURCHASE OPTION AGREEMENT

This Land Purchase Option Agreement (this “Agreement”) is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ between Eddy-Lea Energy Alliance Limited Liability Company, a New Mexico limited liability company (“ELEA”), and Holtec International, a Delaware corporation (“Holtec”).

### RECITALS

A. ELEA is a New Mexico limited liability company organized under a joint powers agreement between Eddy County, Lea County, the City of Carlsbad and the City of Hobbs (collectively, the “Members”) for the purpose of promoting energy-related economic development for the benefit of the residents of the Members.

B. Holtec has developed a system for monitored retrieval storage of spent nuclear fuel (“SNF”) and high-level waste (“HLW”), which it calls the Holtec International Storage Module Underground Maximum Capacity, or “HI-STORM UMAX” system.

C. In 2009, ELEA purchased a parcel of undeveloped property in Lea County (the “Property”) for \$1 million with the intent of donating the Property to a private party, pursuant to the Local Economic Development Act, Sections 5-10-1 to 5-10-13 NMSA 1978 (“LEDA”), for use as a Global Nuclear Energy Partnership (“GNEP”) facility. The Property comprises approximately 960 acres, and is more specifically described in Exhibit A hereto.

D. The GNEP program was subsequently cancelled, and ELEA has now determined that its economic development mission would be best served by selling the Property to Holtec for no less than fair market value, contingent upon Holtec achieving the Option Start Date (as defined below) or exercising the Early Option (as defined below) to purchase the Property.

E. It is Holtec’s intend to obtain a license from the Nuclear Regulatory Commission (the “NRC”) and upon successful completion of an agreement with the Department of Energy and/or one or more utility companies to store spent nuclear fuel, construct and operate the HI-STORM UMAX system on the Property (the “Project”)

F. The Members have each authorized, by ordinance, this Agreement and the disposal of the Property to Holtec as provided herein, as follows: Eddy County by Ordinance O-\_\_\_\_\_, adopted on \_\_\_\_\_; Lea County by Ordinance No. \_\_\_\_\_, adopted on \_\_\_\_\_; the City of Carlsbad by Ordinance \_\_\_\_\_, adopted on \_\_\_\_\_; and the City of Hobbs by Ordinance No. \_\_\_\_\_, adopted on \_\_\_\_\_.

## AGREEMENT

Section 1. Effective Date. This Agreement shall not be effective until, and shall be immediately effective upon, approval of this Agreement by the State Board of Finance pursuant to NMAC 1.5.23.9 and Holtec's satisfactorily completing due diligence with regard to any mineral rights owners of the Property. (the "Effective Date"). ELEA agrees to assist Holtec by providing sufficient information regarding the current mineral right owners of the Property.

Section 2. Licensing; Storage Contracts.

(a) Promptly following the Effective Date, Holtec shall commence preparation of a site-specific license application (the "NRC Application") under the provisions of the Code of Federal Regulations (CFR) Chapter 10, Part 72 for a license (the "License") to operate the Property as an interim storage facility (the "Facility"), and to obtain a favorable draft Safety Evaluation Report pursuant to 10 C.F.R. § \_\_\_\_\_ 72 \_\_\_\_\_ (the "Draft SER"). Holtec shall use best efforts to cause the NRC to expeditiously issue the Draft SER. No later than three years following the Effective Date, Holtec shall submit the NRC Application to the NRC, and shall thereafter use its best efforts to obtain issuance of the License.

(b) Holtec will use reasonable efforts to negotiate an agreement with the Department of Energy ("DOE") for the interim storage of HLW and/or SNF on the Property (the "DOE Agreement") and/or negotiate an agreement with one or more power utilities for the storage of HLW and/or SNF on the Project (the "Utility Agreement", and together with the DOE Agreement, the "Storage Agreements").

(c) The date on which Holtec has (i) obtained the License, (ii) entered into either the DOE Agreement or the Utility Agreement, and (iii) in Holtec's sole judgment, secured financing for the initial construction of the Project, shall be the "Option Start Date". Holtec shall cause the Option Start Date to occur not later than thirteen years after the Effective Date unless otherwise extended by the parties.

Section 3. Property Purchase Option. Upon the occurrence of the Option Start Date, Holtec shall have the option to purchase the Property. Holtec shall exercise the purchase option by delivering written notice thereof (the "Option Exercise Notice") to ELEA no later than 90 days after the Option Start Date.

Section 4. Property Purchase Price. Within 60 days after delivery of the Option Exercise Notice, ELEA and Holtec shall select an MAI appraiser and such appraiser shall determine the fair market value of the land portion of the Property, excluding the value of any improvements, including, but not limited to, the License, or alterations made by Holtec with the consent of ELEA (the "Land Value"). If ELEA and Holtec are unable to agree upon the appraiser, each will select its own MAI appraiser (who shall be paid by that party), and such appraisers shall each independently determine the Land Value. If the lower appraisal is at least 90% of the higher appraisal, the "Land Value" shall be the average of such two appraisals. If the lower appraisal is not at least 90% of the higher appraisal, the two appraisers shall select a third MIA appraiser, and the third appraiser shall determine the Land Value. The cost of either the agreed upon appraiser or the third appraiser shall be shared equally by the parties. The purchase

price for the Property (the “Purchase Price”) shall be the greater of (i) \$1 million or (ii) the Land Value.

Section 5. Property Purchase Closing. The closing of the purchase of the Property (the “Closing”) will occur within 90 days of the determination of the Purchase Price. The Purchase Price shall be paid at closing, in cash or a cash equivalent. ELEA shall convey the Property to Holtec by quitclaim deed.

Section 6. Early Purchase Option.

(a) Holtec shall have the option to purchase the Property at any time prior to the Option Start Date (the “Early Option”) by delivering written notice thereof (the “Early Option Notice”) to ELEA. Within 60 days after delivery of the Early Option Notice, the parties shall proceed to have the Purchase Price determined using the procedure described in Section 4, and shall transfer the Property for the Purchase Price (the “Early Purchase”) as provided in Section 5.

(b) If, following the Early Purchase, Holtec determines in its sole reasonable decision that completion of the Project is not feasible, then ELEA shall have the option of purchasing the Property, including all improvements thereon, for the Purchase Price that was paid by Holtec for the Early Purchase (the “Repurchase Price”), subject, however, to such environmental and other investigations as ELEA may reasonably require. The cost of such investigations may be deducted from the Repurchase Price.

Section 7. Cooperative Promotion of Facility.

(a) At Holtec’s request, ELEA will take reasonable actions to support and promote the approval, licensing, construction and operations of the Facility, including the following:

(i) ELEA shall take all reasonable actions to persuade national, state and local governmental officials, the DOE, the NRC, the State of New Mexico, ELEA’s Members, and the local communities to support the Facility and its licensing, including, without limitation, participating in meetings with governmental officials and the public. ELEA’s support will continue so long as this Agreement is in force.

(ii) ELEA will assist Holtec in its efforts to petition and/or negotiate with the DOE (or any other potential utility customer) to store HLW and SNF at the Facility.

(iii) Holtec and ELEA will work together to expand the mission of the Facility to include interim storage of defense high-level waste.

(iv) ELEA will provide full support to Holtec in Holtec’s efforts to secure partial federal support of the Facility to reduce the financing burden on Holtec.

(b) Neither Holtec nor ELEA will sponsor or promote the development of any competing central interim storage project for SNF or HLW in the State of New Mexico or in a state bordering the State of New Mexico.

(c) With regard to the performance by ELEA of its obligations under this Section 7, ELEA shall be responsible only for the in-state travel and office expenses of ELEA board members and employees. ELEA personnel shall not be obligated to travel outside of New Mexico, and ELEA shall not be obligated to incur other expenses of any description except as provided in the preceding sentence, absent reimbursement or, at ELEA's option, payment in advance, by Holtec of such expenses.

Section 8. Revenue Sharing. Holtec shall pay ELEA the rate of local government reimbursement negotiated in good faith with the DOE or utility, which rate shall not be less than 30% of gross revenues; provided, however, that ELEA may approve, in its sole discretion, a rate less than 30%. Holtec will keep ELEA informed of all material issues relating to the negotiation of the local government reimbursement, and two of ELEA's board members shall be allowed full participation in the negotiation of the local government reimbursement. The reimbursement payments shall be made monthly, within 20 days after the end of each calendar month; provided that if Holtec does not receive a Storage Agreement payment in a given month, then the payment due to ELEA shall be paid within 20 days after Holtec receives such Storage Agreement payment. The parties anticipate that ELEA will be required to pay a percentage of each reimbursement payment to the State of New Mexico. After subtracting the portion that ELEA must pay to the State, the remainder of each payment under this Section 8 may be reduced by up to 50% (each, a "Reduction"), until the total of all such Reductions is an amount equal to the Purchase Price. (For example, if the first payment obligation is \$500,000, and the State share is 60%, then Holtec may reduce the actual payment by \$100,000 (i.e.,  $(\$500,000 - \$300,000)/2$ )). ELEA and its agents shall be provided such access to the Facility's records as is reasonably necessary to confirm the correct calculation of the revenue sharing payments. ELEA acknowledges ELEA shall be solely responsible for any and all fees paid to the State of New Mexico as a result of this Project and that Holtec shall have no obligation whatsoever to pay the State of New Mexico as a part of the revenue sharing of this Agreement.

Section 9. Termination.

(a) This Agreement shall automatically terminate if Holtec has not delivered the Option Exercise Notice no later than 90 days after the Option Start Date.

(b) Holtec may, by written notice to ELEA, terminate this Agreement at any time prior to Closing.

(c) Unless terminated as provided in Subsection 9(a) or Subsection 9(b), or terminated as the result of a breach, this Agreement shall continue so long as the Property is used for the Facility.

Section 10. Assignment. With the consent of ELEA (which consent shall not be unreasonably refused), Holtec may assign this Agreement to a third party.

Section 11. Industrial Revenue Bonds. The parties acknowledge that Holtec may request Lea County (the "County") to issue an industrial revenue bond (an "IRB") for the Facility, in which case Holtec will deed the Property to the County, and the County will immediately lease the Property back to Holtec under an IRB lease and purchase agreement. ELEA consents to such an IRB transaction; provided, however, such IRB transaction shall not effect ELEA's rights under Section 8 hereof.

Section 12. Amendments. This Agreement may be amended only by a written instrument signed by all the parties, and then only to the extent of such instrument. Any amendment affecting the terms of the transfer of the Property from ELEA to Holtec shall not be effective without the prior consent of the State Board of Finance.

Section 13. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon ELEA and Holtec, and their respective successors and assigns.

Section 14. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof; provided, however, that if enforcement of this Agreement absent such invalid or unenforceable provisions would destroy an essential purpose of this Agreement, then this Agreement shall be deemed modified to the extent necessary to make it valid or enforceable consistent with the true intent hereof.

Section 15. Recording. This Agreement and every assignment and modification hereof, or an appropriate and sufficient memorandum thereof, and each deed or instrument of conveyance contemplated hereunder, shall be recorded in the office of the County Clerk of Lea County, New Mexico.

Section 16. Execution in Counterparts. This Agreement may be executed in multiple counterparts, all of which taken together will constitute one instrument.

Section 17. Notices. All notices required under this Agreement shall be deemed to be properly sent if in writing, signed by the party or agent sending them, and (i) delivered personally, (ii) sent by registered or certified mail, or (iii) sent by a recognized overnight express courier service, addressed to ELEA or Holtec, as the case may be, at the following addresses, and such notices shall be effective on the date of receipt thereof:

If to ELEA:

Eddy-Lea Energy Alliance

\_\_\_\_\_

Attn.: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

with a copy to:

Rodey Law Firm  
201 Third St., Suite 2200  
Albuquerque, NM 87102  
Attention: Alan Hall  
Phone: (505) 768-7203

Fax: (505) 768-7395

If to Holtec:

Holtec International  
1001 N US Highway 1  
Jupiter, FL 33477  
Attn.: Pierre Oneid  
Phone: (561) 745-7772  
Fax: (856) 797-0922

with a copy to:

Holtec International  
One Holtec Drive  
Marlton, NJ 08053  
Attn.: Andrew R. Ryan, Esq.  
Phone: (856) 797-0900  
Fax: (856) 797-0922

Any party may, by notice to the other party, designate any further or different addresses to which subsequent notices, certificates or other communications are to be sent.

Section 18. Title; Headings. The title and headings of the articles, sections and subdivisions of this Agreement have been used for convenience only and will not modify or restrict any of the terms or provisions of this Agreement.

Section 19. Applicable Law. The validity, construction and effect of this Agreement will be governed by New Mexico law applicable to agreements made and to be performed in New Mexico, without regard or effect given to conflict of law principles or rules that would require the application of the laws of any other jurisdiction.

Section 20. Further Actions. At any time and from time to time, each party agrees, without further consideration, to take such actions and to execute and deliver such documents as may be reasonably necessary to effectuate the purposes of this Agreement. ELEA shall, upon the request of Holtec, execute and deliver such instruments as Holtec may reasonably request, including but not limited to amendments to this Agreement, to obtain or renew the License or any consent of any other governmental authority for the operation of the Facility, or to maintain Holtec's compliance with such government requirements or the DOE Agreement and/or the Utility Agreement; provided, however, that such instruments do not materially adversely affect ELEA's rights under this Agreement.

Section 21. Event of Default; Remedies. A failure by a party to perform any of its obligations under this Agreement for a period of 30 days after written notice, specifying such failure and requesting that it be remedied, is given to the breaching party by the non-breaching party, or, if such failure cannot reasonably be remedied within 30 days, failure by the breaching party to commence the remedy within such period and to pursue the same diligently to completion, shall constitute an "Event of Default". Upon the occurrence of an Event of Default, the non-breaching party may exercise any and all remedies available at law.

Section 22. No Pecuniary Liability of ELEA. Holtec shall bear all of the expense, direct, indirect and contingent, of the licensing, construction and operation of the Facility. Neither ELEA nor any of its Members shall have any liability for any costs or obligations pertaining to or arising out of the licensing, construction or operation of the Facility.

Section 23. Release and Indemnification.

(a) Holtec releases ELEA, ELEA's members, and all officials, officers, employees and agents of the ELEA and ELEA's members (collectively, the "Indemnitees") from, agrees that the Indemnitees will not be liable for, and agrees to indemnify and hold the Indemnitees harmless from and against any and all liabilities, claims, suits, costs and expenses that are or may be imposed upon, incurred or asserted against the Indemnitees on account of: (i) any loss or damage to property or injury to or death of or loss by any person caused by Holtec's willful misconduct or negligence in investigating the Property prior to the Closing; (ii) any loss or damage to property or injury to or death of or loss by any person that may be occasioned by any cause whatsoever pertaining to the construction, maintenance, operation, use or demolition of the Facility (iii) any storage activities at, on, in, under or about the Property; (iii) any other loss, claim, damage, penalty, liability, disbursement, litigation expense, attorneys' fees, experts' fees or court costs arising out of or in any way relating to clauses (i) and (ii); and (iv) any claim, action or proceeding brought with respect to the matters set forth in clauses (i), (ii) and (iii) above.

(b) Holtec releases the Indemnitees from, agrees that the Indemnitees shall not be liable for, and agrees to indemnify and hold the Indemnitees harmless from and against any and all claims, suits, judgments, fines, penalties, assessments, natural resource damages, response costs (such as the cost of any testing, sampling, medical or other monitoring, cleanup, or other required response action), costs necessary to bring the Property or the Facility into compliance with Environmental Laws (as defined below) and other liabilities, together with attorneys' fees and experts' fees, costs and expenses which are or may be imposed upon, incurred by, or asserted against the Indemnitees resulting from or in any way connected with the use, handling, mixing, generation, storage, manufacture, refining, release, transportation, treatment, disposal or other release or presence, at, in, on, under or from the Property, of any Hazardous Material (as defined below), SNF, other radioactive substance, oils, asbestos in any form or conditions, or any pollutant or contaminant or hazardous, dangerous or toxic chemicals, materials or substances within the meaning of the Environmental Laws, or any other applicable federal, state or local law, regulation, ordinance or requirement relating to or imposing liability or standards of conduct concerning any Hazardous Material, hazardous, toxic or dangerous waste, substance or materials, all as now in effect or hereafter amended from time to time.

(c) As used in this Section 23, (i) "Environmental Laws" means any laws, statutes, regulations, orders or rules pertaining to health or the environment that are applicable from time to time to the Property or the Facility, and the construction, installation, operation, use and decommissioning of, and storage at, the Property or the Facility, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), the Resource Conservation and Recovery Act of 1976 ("RCRA"), the National Environmental Policy Act, the Clean Air Act, the Clean Water Act, the Water Quality Act of 1987, the New Mexico Water Quality Act, the New Mexico Hazardous



Waste Act, the New Mexico Air Quality Control Act and the New Mexico Radiation Protection Act, and (ii) "Hazardous Material" means (A) "hazardous materials," "hazardous substances," and "hazardous wastes" as defined in the Environmental Laws, and (B) any other material regulated under the Environmental Laws.

(d) If a claim is made or any action is brought against one or more of the Indemnitees based upon the matters described in Subsections 23(a) or (b) above and in respect of which indemnity is sought against Holtec pursuant to Subsections 23(a) or (b) above, the Indemnatee seeking indemnity shall, within ten days of being notified of an action against it, notify Holtec, in writing, and Holtec shall promptly assume or cause the assumption of the defense thereof, including the employment of counsel chosen by Holtec and approved in writing by the Indemnatee (provided that such approval by the Indemnatee shall not be unreasonably withheld or delayed), the payment of the reasonable expenses of such counsel, and the right of the Indemnatee to participate in negotiations and to consent to settlement. If any Indemnatee is advised in a written opinion of independent counsel (i) that there may be legal defenses available to such Indemnatee that are adverse to or in conflict with those available to Holtec, or (ii) that the defense of such Indemnatee should be handled by separate counsel, Holtec shall not have the right to assume or cause the assumption of the defense of such Indemnatee, and Holtec shall be responsible for the reasonable fees and expenses of counsel retained by such Indemnatee, provided such counsel is approved in writing by Holtec (which approval shall not be unreasonably withheld or delayed), in assuming its own defense. If Holtec shall have failed to assume or cause the assumption of the defense of such action or to retain counsel reasonably satisfactory to the Indemnatee within a reasonable time after notice of the commencement of such action, the reasonable fees and expenses of counsel retained by the Indemnatee shall be paid by Holtec. Notwithstanding, and in addition to, any of the foregoing, any one or more of the Indemnitees shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be paid by such Indemnatee or Indemnitees unless the employment of such counsel has been specifically authorized in writing by Holtec. Holtec shall not be liable for any settlement of any such action effected without the written consent of Holtec, but if settled with the written consent of Holtec, or if there is a final judgment for the plaintiff in any such action with or without consent, and after all appeals have been taken and final orders or dismissals entered, Holtec agrees to indemnify and hold harmless the Indemnitees from and against any loss or liability by reason of such settlement or judgment.

(e) The indemnifications set forth in this Section 23 are intended to and will include the indemnification of all Indemnitees. The indemnification is intended to and will be enforceable by the Indemnitees to the full extent permitted by law.

(f) No release or indemnity is given under this Section 23 due to the exercise by any of ELEA's members of its police powers or in the performance of any essential governmental function; and provided further that there shall be excluded from the scope of this release and indemnity any liability, claims, costs and expenses imposed upon, incurred or asserted against an Indemnatee to the extent resulting from or arising out of the willful misconduct or negligence of the Indemnatee.

(g) If a court of competent jurisdiction determines that the provisions of Sections 56-7-1 or 56-7-2 NMSA 1978, as amended, are applicable to this Agreement or any claim arising under this Agreement, then any agreement in this Agreement to indemnify, hold harmless, insure, or defend another party will not extend to (i) liability, claims, damages, losses or expenses, including attorneys' fees, arising out of bodily injury to persons or damage to property caused by or resulting from, in whole or in part, the negligence, act or omission of the indemnitee, its officers, employees or agents. Notwithstanding anything in this Lease to the contrary, this Lease shall be subject to all other limitations of Sections 56-7-1 and 56-7-2 NMSA 1978.

Section 24. Survivals. Sections 6 through 24 of this Agreement shall survive the Closing. Sections 22 and 23 shall survive the termination of this Agreement.

(remainder of page deliberately left blank)

IN WITNESS WHEREOF, ELEA and Holtec have executed this Agreement on the date stated above.

**EDDY-LEA ENERGY ALLIANCE, LLC**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**HOLTEC INTERNATIONAL**

By \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

State of New Mexico )  
 ) ss.  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_ as \_\_\_\_\_ of Eddy-Lea Energy Alliance, LLC, a New Mexico limited liability company.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

State of \_\_\_\_\_ )  
 ) ss.  
County of \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of Holtec International, a Delaware corporation.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Exhibit A

Legal Description of the Property

- A. The surface estate only of Section 13, Township 20 South, Range 32 East, N.M.P.M.
- B. Tract I: The surface estate only of a tract of land located in the Southwest Quarter of Section 17, Township 20 South, Range 33 East, N.M.P.M. and more particularly described as beginning at the Southwest corner of said Section 17, thence S89°59'E, 1322.50 feet; thence N0°3'W, 1320 feet; thence N89°59'W, 1322.50 feet; and thence S0°3'E, 1320 feet to the point of beginning; and
- Tract II: The surface estate only of Lots 2, 3 and 4; the East Half of the West Half (E 1/2 W 1/2); and the South Half of the Southeast Quarter (S 1/2 SE 1/4), all in Section 18, Township 20 South, Range 33 East, N.M.P.M.

PROPOSED DRAFT