

# UNDERWOOD

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June 12, 2020

Stephanie Jones, Analyst  
Economic Development and Analysis Division  
Texas Comptroller of Public Accounts  
111 E. 17th St.  
Austin, TX 78774

*Via Email*

Re: 1004-Floydada ISD-South Plains Wind Energy, LLC - Amendment No. 3

Dear Ms. Jones,

Attached is a copy of the fully executed Amendment No. 3 to the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes between the above-noted parties.

Please feel free to contact us if you require anything further.

Sincerely,



Fred A. Stormer

Encl.

**AMENDMENT NO. 3**  
**TO AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR**  
**SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES BETWEEN**  
**FLOYDADA INDEPENDENT SCHOOL DISTRICT AND SOUTH PLAINS WIND**  
**ENERGY, LLC**  
*(Comptroller Application No. 1004)*

This **AMENDMENT NO. 3 TO THE AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES** (“**this Amendment**”) is entered into by and between **FLOYDADA INDEPENDENT SCHOOL DISTRICT** (the “**District**”), a lawfully created independent school district of the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **SOUTH PLAINS WIND ENERGY, LLC**, a Delaware limited liability company, Texas Taxpayer Identification Number 32046988948 and **SOUTH PLAINS WIND ENERGY II, LLC**, a Delaware limited liability company, Texas Taxpayer Identification Number 32052772632 (collectively the “**Applicant**”). The Applicant and the District may hereafter be referred together as the “**Parties**” and individually as a “**Party.**” Undefined capitalized terms herein shall have the meaning given to them in the Agreement (as defined below).

**WHEREAS**, on or about December 8, 2014, pursuant to Chapter 313 of the TEXAS TAX CODE, after conducting a public hearing on the matter, the District made factual findings (the “**Findings of Fact**”), and passed, approved, and executed that certain Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes dated December 8, 2014, as amended by Amendment No. 1 dated August 25, 2015, as modified by the Assignment and Assumption Agreement dated on or about October 6, 2015, and as amended by Amendment No. 2 dated January 11, 2018 (the “**Agreement**”);

**WHEREAS**, pursuant to Section 10.2 of the Agreement, the Applicant has provided notice that the Applicant seeks to amend and replace Section 3.1 of the Agreement to provide that as of the Application Approval Date, the Land is within an area designated as a reinvestment zone;

**WHEREAS**, the Parties notified the Texas Comptroller of Public Accounts (the “**Comptroller**”) of this Amendment and received the Comptroller’s approval of the form of this Amendment on May 8, 2020; and

**WHEREAS**, on June 11, 2020, after conducting a public hearing and providing interested persons an opportunity to be heard on the matter, the Board of Trustees determined that this Amendment is in the best interest of the District and the State of Texas and is consistent with and authorized by Chapter 313 of the TEXAS TAX CODE, and hereby approves this Amendment and authorizes the District’s representative, whose signature appears below, to execute and deliver this Amendment to the Applicant.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the mutual benefits to be derived by the Parties and other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged, and in compliance with Section 10.2 of the Agreement, the undersigned Parties intending to be legally bound, do hereby covenant and agree to amend the Agreement as follows:

1. **Amendment.** Section 3.1 of the Agreement is hereby deleted in its entirety and replaced with the following:

**Section 3.1. LOCATION WITHIN ENTERPRISE OR REINVESTMENT ZONE.** At the time of the Application Approval Date, the Land is within an area designated either as an enterprise zone, pursuant to Chapter 2303 of the TEXAS GOVERNMENT CODE, or a reinvestment zone, pursuant to Chapter 311 or 312 of the TEXAS TAX CODE. The legal description, and information concerning the designation, of such zone is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

2. **Effect.** Except as modified and amended by the terms of this Amendment, all of the terms, conditions, provisions and covenants of the Agreement are ratified and shall remain in full force and effect, and the Agreement and this Amendment shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Amendment and the Agreement; the terms of this Amendment shall prevail. A copy of this Amendment shall be delivered to the Texas Comptroller to be posted to the Texas Comptroller's internet website. A copy of this Amendment shall be recorded with the official Minutes of the meeting at which it has been approved and a copy of this Amendment No. 3 shall also be recorded with the Findings of Fact in the official Minutes of the meeting of December 8, 2014.

3. **Binding on Successors and Assigns.** The Agreement, as amended by this Amendment, shall be binding upon and inure to the benefit of the Parties and each other person and entity having any interest therein during their ownership thereof, and their respective successors and assigns.

4. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

5. **Electronic Delivery.** This Amendment may be duly executed and delivered in person, by mail, or by facsimile or other electronic format (including portable document format (pdf) transmitted by email). The executing Party must promptly deliver a complete, executed original or counterpart of this Amendment to the other executing Parties. This Amendment shall be binding on and enforceable against the executing Party whether or not it delivers such original or counterpart.

IN WITNESS HEREOF, the District and Applicant have caused this Amendment to be executed and delivered by their duly authorized representatives as of the Effective Date.

*[Signatures follow on the next page]*

APPROVED AND EFFECTIVE as of the 11<sup>th</sup> day of June, 2020.

**SOUTH PLAINS WIND ENERGY, LLC.**  
Texas Taxpayer ID No. 32046988948

**FLOYDADA INDEPENDENT SCHOOL DISTRICT**

BY: Whitney Maracich  
NAME: Whitney Maracich  
TITLE: Tax Director

BY: Lyle Miller  
NAME: Lyle Miller  
TITLE: Board President

**SOUTH PLAINS WIND ENERGY II, LLC.**  
Texas Taxpayer ID No. 32052772632

ATTEST:

BY: Bruce Kerr  
NAME: Bruce Kerr  
TITLE: Authorized Signatory

BY: Vay Brotherton  
NAME: Vay Brotherton  
TITLE: Board Secretary