

**FINDINGS**  
of the  
***LAMESA INDEPENDENT  
SCHOOL DISTRICT  
BOARD OF TRUSTEES***

**Under Chapter 313 of the  
Texas Tax Code**

**ON THE APPLICATION FOR  
APPRAISED VALUE LIMITATION  
ON QUALIFIED PROPERTY**

**SUBMITTED BY**

***LAMESA BNB SOLAR LLC***

***Comptroller Application Number 1033***

**RESOLUTION AND FINDINGS OF FACT**  
**of the**  
**LAMESA INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES**  
**UNDER CHAPTER 313 OF THE TEXAS TAX CODE**  
**ON THE APPLICATION FOR APPRAISED VALUE LIMITATION**  
**ON QUALIFIED PROPERTY**  
**SUBMITTED BY LAMESA BNB SOLAR LLC**

STATE OF TEXAS           §  
  §  
COUNTY OF DAWSON   §

**PREAMBLE**

On the 7<sup>th</sup> day of July, 2015, a public meeting of the Board of Trustees of the Lamesa Independent School District (the “Board”) was held to solicit input from interested parties on the application by Lamesa BNB Solar LLC (“Lamesa BNB Solar” or “Applicant”) for an appraised value limitation on qualified property under Chapter 313 of the Texas Tax Code. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board considered the application by Lamesa BNB Solar for a Limitation on Appraised Value on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations from interested parties within the District. After hearing presentations from the District’s administrative staff and the consultants retained by the District to advise the Board in this matter and reviewing the Comptroller’s Economic Impact Evaluation under Texas Tax Code §313.026 and 34 T.A.C. §9.1054, the Board of Trustees of the Lamesa Independent School District makes the following Findings regarding the Application:

On or about the 21<sup>st</sup> day of October, 2014, the Board of Trustees for the Lamesa Independent School District, received an Application for Appraised Value Limitation on Qualified Property from Lamesa BNB Solar, pursuant to Chapter 313 of the Texas Tax Code (the “Application”). The general nature of Applicant’s investment in qualified property set forth in the Application is for equipment and material related to the construction of a solar power electric generation facility (the “Property”). See Application, Tab 4, attached hereto as Attachment A. The Board agreed to consider such Application, and the District’s Superintendent formally acknowledged receipt of the Application for consideration on behalf of the District, which was delivered to the Texas Comptroller of Public Accounts immediately upon a determination that the Application was complete. The Comptroller acknowledged receipt of the Application on or about October 28, 2014. Thereafter, the District, on behalf of the Applicant, submitted Amendment No. 001 (revised Schedules) on or about November 5, 2014. The Comptroller issued its notice of completeness by letter dated November 18, 2014, the Application Review Start Date. The Application and Amendment No. 001 are collectively referred to as the “Application.” A copy of the Application and Comptroller’s completeness letter of November 18, 2014 are collectively attached hereto as Attachment A.

The Texas Taxpayer Identification number for Lamesa BNB Solar LLC is 32054964914. Lamesa BNB Solar is an entity subject to Chapter 171 of the Texas Tax Code and is certified to be in good standing with the Texas Comptroller of Public Accounts as required by Texas Tax Code §313.024(a). *See* Attachments A, B and C.

The Board acknowledged receipt of the Application and necessary application fee as established by §313.025(a)(1) of the Texas Tax Code and Local District Policy.

The Application was delivered to the Texas Comptroller's Office for review pursuant to §313.025(b) of the Texas Tax Code.

A copy of the Application was delivered to the Dawson County Appraisal District for review pursuant to 34 Texas Administrative Code §9.1054.

The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code §§313.025 and 313.026. After receipt of the Application, the Texas Comptroller's Office caused an Economic Impact Evaluation to be conducted. The Comptroller, pursuant to Texas Tax Code §313.025(h), determined the project subject to the Application meets the requirements for eligibility under Texas Tax Code §313.024 for a limitation on appraised value, and after reviewing the Application based on the criteria set out in Texas Tax Code § 313.026, issued a Certificate for a Limitation on Appraised Value on February 16, 2015 that the Application be approved (the "Certification"). *See* Attachment C. The Board of Trustees has carefully considered such Evaluation and Certification. Copies of the Certification and Economic Impact Evaluation are attached to these Findings as Attachments C and D.

The Board also directed that a specific school financial analysis be conducted of the impact of the proposed value limitation on the finances of Lamesa Independent School District. A copy of a report prepared by Randy McDowell and Neal Brown is attached to these Findings as Attachment E.

The Board has confirmed that the taxable value of industrial property in the Lamesa Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403 of the Texas Government Code, falls within a rural school district, Category III of §313.054 of the Texas Tax Code. *See* Comptroller's "2013 ISD Summary Worksheet," attached hereto as Attachment G; *see also* Attachment D.

The District's Board of Trustees, by resolution dated April 16, 2015, granted Applicant's request to extend the statutory deadline by which the District must consider its Application until June 17, 2015; and, by resolution dated May 21, 2015, agreed to further extend the statutory deadline by which the District must consider its Application for a second time until August 17, 2015. The Comptroller was provided notice of each of these extensions, as set out under 34 Texas Administrative Code §9.1054(d). *See* Resolutions authorizing extension of consideration period and notices to Applicant, collectively attached hereto as Attachment K.

After receipt of the completed Application, the District entered into negotiations with Lamesa BNB Solar regarding the specific language to be included in the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes (the

“Agreement”) pursuant to Chapter 313 of the Texas Tax Code, including appropriate revenue protection provisions for the District. The parties were able to agree upon language for inclusion into a draft agreement pursuant to Texas Tax Code §313.027. Some of the terms agreed to by the parties were at variance with specific language contained in Comptroller Form 50-286. Such changes were submitted to the Texas Comptroller for review pursuant to 34 Tex. Admin. Code §9.1055(e)(1). At the specific direction of the Comptroller’s Office, the parties used the template Texas Economic Development Agreement. As required by the Comptroller’s Office, the parties changed only the provisions of the template that the Comptroller permitted. The proposed Agreement is attached to these Findings as Attachment H, and that form of the Agreement was submitted to and approved by the Comptroller as set out under 34 Texas Administrative Code §9.1015, *et seq.* See copy of June 23, 2015 Agreement Review Letter from the Comptroller, attached to these Findings as Attachment I. In November, 2014, the Texas Comptroller’s Office announced its intention to modify Comptroller Form 50-286 and to permit amendments to existing agreements including the Agreement for which these Findings are being made. To date, no new form 50-286 has been issued.

After review of the Comptroller’s Certification and Economic Impact Evaluation, and in consideration of its own analysis of Lamesa BNB Solar’s Application and all other substantive documentation related thereto, the Board, in addition to the above Findings, further finds as follows:

**Board Finding Number 1.**

***Based on the Application and the Comptroller’s Certification, the Property meets the requirements of Texas Tax Code §313.024 for eligibility for a limitation on appraised value under Texas Tax Code §313.024(5) as a renewable energy electric generation project.***

In support of Finding Number 1, the Comptroller’s Certification states:

**Determination required by 313.025(h)**

- Sec. 313.024(a) Applicant is subject to tax imposed by Chapter 171.
- Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.
- Sec. 313.024(d) Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

\* \* \*

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

See Attachment C.

**Board Finding Number 2.**

*The Project proposed by Applicant is reasonably likely to generate tax revenue sufficient to offset the District's maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25<sup>th</sup> anniversary of the beginning of the limitation period.*

In support of Finding Number 2, the Certification states:

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period.

Also in support of Finding Number 2, the Economic Impact Evaluation states:

**Attachment B - Tax Revenue over 25 Years**

This represents the Comptroller's determination that Lamesa BNB Solar LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy and direct, indirect and induced tax effects from project employment directly related to this project, using estimated taxable values provided in the application.

[see tables on next pages]

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2014	\$0	\$0	\$0	\$0
	2015	\$0	\$0	\$0	\$0
	2016	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2017	\$234,000	\$234,000	\$1,287,000	\$1,287,000
	2018	\$234,000	\$468,000	\$3,264,300	\$4,551,300
	2019	\$234,000	\$702,000	\$2,960,100	\$7,511,400
	2020	\$234,000	\$936,000	\$2,655,900	\$10,167,300
	2021	\$234,000	\$1,170,000	\$2,313,675	\$12,480,975
	2022	\$234,000	\$1,404,000	\$1,971,450	\$14,452,425
	2023	\$234,000	\$1,638,000	\$1,629,225	\$16,081,650
	2024	\$234,000	\$1,872,000	\$1,248,975	\$17,330,625
	2025	\$234,000	\$2,106,000	\$906,750	\$18,237,375
	2026	\$234,000	\$2,340,000	\$678,600	\$18,915,975
<b>Maintain Viable Presence (5 Years)</b>	2027	\$760,500	\$3,100,500	\$0	\$18,915,975
	2028	\$760,500	\$3,861,000	\$0	\$18,915,975
	2029	\$760,500	\$4,621,500	\$0	\$18,915,975
	2030	\$760,500	\$5,382,000	\$0	\$18,915,975
	2031	\$760,500	\$6,142,500	\$0	\$18,915,975
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2032	\$760,500	\$6,903,000	\$0	\$18,915,975
	2033	\$760,500	\$7,663,500	\$0	\$18,915,975
	2034	\$760,500	\$8,424,000	\$0	\$18,915,975
	2035	\$760,500	\$9,184,500	\$0	\$18,915,975
	2036	\$760,500	\$9,945,000	\$0	\$18,915,975
	2037	\$760,500	\$10,705,500	\$0	\$18,915,975
	2038	\$760,500	\$11,466,000	\$0	\$18,915,975
	2039	\$760,500	\$12,226,500	\$0	\$18,915,975
	2040	\$760,500	\$12,987,000	\$0	\$18,915,975
	2041	\$760,500	\$13,747,500	\$0	\$18,915,975
		<b>\$13,747,500</b>	is less than	<b>\$18,915,975</b>	
<b>Analysis Summary</b>					
Is the project reasonably likely to generate school M&O tax revenue in an amount sufficient to offset the school M&O levy loss as a result of the limitation agreement within a 25 year time period?					No

Source: CPA, BNB Lamesa Solar, LLC

**Employment Indirect and Induced Tax Effects**

Year	Employment			Personal Income			Revenue & Expenditure		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2016	170	1,419	1589	\$5,950,000	\$82,795,000	\$88,745,000	\$12,359,619	-\$2,738,953	\$15,098,572
2017	33	380	413	\$1,170,982	\$30,323,018	\$31,494,000	\$3,387,451	\$488,281	\$2,899,170
2018	3	26	29	\$120,982	\$9,523,018	\$9,644,000	\$526,428	\$1,365,662	-\$839,234
2019	3	(5)	-2	\$120,982	\$5,372,018	\$5,493,000	\$350,952	\$1,327,515	-\$976,563
2020	3	(26)	-23	\$120,982	\$2,931,018	\$3,052,000	\$228,882	\$1,182,556	-\$953,674
2021	3	(28)	-25	\$120,982	\$856,018	\$977,000	\$122,070	\$1,029,968	-\$907,898
2022	3	(21)	-18	\$120,982	\$611,018	\$732,000	\$152,588	\$862,122	-\$709,534
2023	3	(19)	-16	\$120,982	\$367,018	\$488,000	\$106,812	\$732,422	-\$625,610
2024	3	(19)	-16	\$120,982	\$367,018	\$488,000	\$122,070	\$640,869	-\$518,799
2025	3	(7)	-4	\$120,982	-\$242,982	-\$122,000	\$68,665	\$511,169	-\$442,504
2026	3	(7)	-4	\$120,982	\$1,018	\$122,000	\$53,406	\$419,617	-\$366,211
2027	3	(7)	-4	\$120,982	\$123,018	\$244,000	\$22,888	\$289,917	-\$267,029
2028	3	(3)	0	\$120,982	\$123,018	\$244,000	\$15,259	\$221,252	-\$205,993
2029	3	(3)	0	\$120,982	\$367,018	\$488,000	\$15,259	\$167,847	-\$152,588
2030	3	(1)	2	\$120,982	\$123,018	\$244,000	\$0	\$76,294	-\$76,294
2031	3	(3)	0	\$120,982	\$123,018	\$244,000	-\$22,888	-\$7,629	-\$15,259
2032	3	3	6	\$120,982	\$123,018	\$244,000	-\$38,147	-\$45,776	\$7,629
2033	3	1	4	\$120,982	\$611,018	\$732,000	-\$83,923	-\$144,958	\$61,035
2034	3	(5)	-2	\$120,982	-\$120,982	\$0	-\$167,847	-\$205,994	\$38,147
2035	3	(9)	-6	\$120,982	-\$364,982	-\$244,000	-\$198,364	-\$251,770	\$53,406
2036	3	(7)	-4	\$120,982	-\$608,982	-\$488,000	-\$236,511	-\$350,952	\$114,441
2037	3	(11)	-8	\$120,982	-\$1,097,982	-\$977,000	-\$274,658	-\$419,617	\$144,959
2038	3	(15)	-12	\$120,982	-\$1,585,982	-\$1,465,000	-\$305,176	-\$488,281	\$183,105
2039	3	(15)	-12	\$120,982	-\$1,585,982	-\$1,465,000	-\$366,211	-\$549,316	\$183,105
2040	3	(19)	-16	\$120,982	-\$2,806,982	-\$2,686,000	-\$442,505	-\$625,610	\$183,105
2041	3	(19)	-16	\$120,982	-\$2,317,982	-\$2,197,000	-\$442,505	-\$679,016	\$236,511
						<b>Total</b>	<b>\$14,953,614</b>	<b>\$2,807,619</b>	<b>\$12,145,995</b>
							<b>\$25,893,495</b>	is greater than	<b>\$18,915,975</b>

<b>Analysis Summary</b>	
Is the project reasonably likely to generate total tax revenue in an amount sufficient to offset the school district M&O levy loss as a result of the limitation agreement?	Yes

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

See Attachment D.

**Board Finding Number 3.**

*The new jobs creation requirement under § 313.051(b) exceeds the industry standard for the number of employees reasonably necessary for the operation of the Applicant’s facility described in the Application, and Applicant qualifies for a waiver of the new jobs requirement pursuant to § 313.025(f-1).*

In support of this Finding, Applicant submitted information as Tab 12 to its Application regarding the industry standard for the number of jobs for a project with qualified property of this size and type. Tab 12 provides that for a project of the size and type described in the Application, the project will require less than ten (10) permanent jobs. According to the Applicant, the industry standard requires approximately two (2) full time position for a 150 MW solar facility which is less than the requirements of §313.051(b). Applicant intends to construction a solar powered electric generating

facility with an operating capacity of at least 150 MW, which would require two (2) full time positions. A copy of Tab 12 submitted with the Application is attached hereto as Attachment J. Applicant reported in its Application that it would create a total of two (2) new qualifying jobs for the project to service and support a solar facility of 150 MW, which is in line with industry standards.

See Attachments A and D.

#### **Board Finding Number 4.**

*The Applicant will create two (2) new qualifying jobs, which Applicant affirms will meet all of the requirements set out in Texas Tax Code §313.021(3).*

See Attachments A, C and I.

#### **Board Finding Number 5.**

*The ability of the Applicant to locate the proposed solar energy facility in another state or another region of this state is significant because of the highly competitive marketplace for economic development. Therefore, the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construction the Project in Texas.*

See Attachment C.

In support of Finding Number 5, the Economic Impact Evaluation states:

The Comptroller is [sic] **has determined** that the limitation on appraised value is a determining factor in the Lamesa BNB Solar LLC decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- According to the company BNB has the ability to allocate or reallocate investments to another state, another region, another region of Texas, or another region of the world.
- Per the applicant, he applicant is developing projects in Connecticut, New Jersey, New Mexico, Ohio and Texas.

See Attachment D.

Lamesa BNB Solar further states, in Tab 5 of its Application, that:

BNB Lamesa Solar, LLC believes, however, that the proposed site in Dawson County is a desirable business location and can provide electricity at a price that is competitive with other regions of Texas. Electric utilities are focused on providing

low-cost energy supply to their customers, and contracting for the sale of electricity is currently highly competitive, particularly because of the large number of potential solar energy facilities that can be built in West and Central Texas given the newly constructed transmission capacity. Receiving the Appraised Value Limitation from the school district is vital to obtaining long-term financing and to maintaining the economic competitiveness of the project with other projects currently being developed in Texas by BNB and by others.

See Attachment A.

#### **Board Finding Number 6.**

*The proposed limitation on appraised value for the qualified property is \$20,000,000.*

See Attachments A and D.

#### **Board Finding Number 7.**

*The revenue gains that will be realized by the school district if the Application is approved will be significant in the long term, with special reference to revenues used for supporting school district debt.*

In support of this Finding, Randy McDowell and Neal Brown estimate in the District's Financial Impact Report, based on Lamesa BNB Solar's Application, that the project would add \$299,000,000 to the tax base at the peak investment level for the 2018 tax year. This additional value is fully taxable for debt service taxes and can be used to meet any current or future debt needs. See Table I of Attachment E. In addition, the projected revenue gains through the receipt of supplemental payments to the District from the proposed Agreement negotiated by the parties' would be \$1,440,000, if the Project is constructed as planned. See Proposed Agreement at page 14, Attachment H.

#### **Board Finding Number 8.**

*The effect of the Applicant's proposal, if approved, is not expected to increase the District's instructional facility needs. Lamesa ISD can easily accommodate the projected student growth with its existing facilities. However, possible increase in and/or changes to class size and personnel could cause the District to incur extraordinary educational expenses.*

In support of this finding, the District's Financial Impact Report states:

Lamesa BNB Solar LLC provided supplemental information with their application that projected the number of full-time employees that are expected for permanent

employment after construction of the project is completed. They projected that three full-time employees are expected[, two of which are qualifying jobs]. It is not known whether these would be new employees to the Lamesa ISD, or if current residents would occupy these positions; however, it is assumed that these employees would be new residents to the district.

Based on average statewide figures provided by a demographer, it is projected that each new household would produce .5 students. Thus, the new three positions equates to 2 new students.

This minimal projected student growth can easily be accommodated with the current facilities of Lamesa ISD.

See Attachment E. See also TEA’s Facilities Impact Review Letter at Attachment F.

**Board Finding Number 9.**

*The projected dollar amount of the taxes that would be imposed on the qualified property for each year of the Agreement if the property does not receive a limitation on appraised value, based on the further depreciations of investment provided by Applicant, is shown in Table II of Attachment E (column labeled “Taxes w/o Agreement”), and is further based on the assumption that the projected total maintenance and operations tax rate and interest and sinking fund tax rate per \$100 in valuation in each year of the Agreement will be as indicated in the Table.*

**TABLE II- Computation of Net Tax Savings:**

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	Taxes w/o Agreement	Tax Savings with Agreement	Payment of District’s Revenue Losses	Net Tax Savings
2015-2016	1.1700	0.000	0	0	0	0
2016-2017	1.1700	0.000	0	0	0	0
2017-2018	1.1700	0.000	1,521,000	1,287,000	(495,959)	791,041
2018-2019	1.1700	0.000	3,498,300	3,264,300	(1,392,779)	1,871,521
2019-2020	1.1700	0.000	3,194,100	2,960,100	0	2,960,100
2020-2021	1.1700	0.000	2,889,900	2,655,900	0	2,655,900
2021-2022	1.1700	0.000	2,547,675	2,313,675	0	2,313,675
2022-2023	1.1700	0.000	2,205,450	1,971,450	0	1,971,450
2023-2024	1.1700	0.000	1,863,225	1,629,225	0	1,629,225
2024-2025	1.1700	0.000	1,482,975	1,248,975	0	1,248,975
2025-2026	1.1700	0.000	1,140,750	906,750	0	906,750
2026-2027	1.1700	0.000	912,600	678,600	0	678,600
2027-2028	1.1600	0.000	754,000	0	0	0
2028-2029	1.1700	0.000	760,500	0	0	0
2029-2030	1.1700	0.000	760,500	0	0	0
2030-2031	1.1700	0.000	760,500	0	0	0
2031-2032	1.1700	0.000	760,500	0	0	0
Totals			25,051,975	18,915,975	(1,888,737)	17,027,238

**Board Finding Number 10.**

*The projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the Agreement, if the property does receive a limitation on appraised value with the projected depreciations of investment, is discernible from Table II of Attachment E (subtracting the amounts in the column labeled “Tax Savings with Agreement” from the column labeled “Taxes w/o Agreement”), and is based on the assumption that the projected total maintenance and operations tax rate and interest and sinking fund tax rate per \$100 in valuation in each year of the Agreement will be as indicated in the Table.*

**TABLE II- Computation of Net Tax Savings:**

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
2015-2016	1.1700	0.000	0	0	0	0
2016-2017	1.1700	0.000	0	0	0	0
2017-2018	1.1700	0.000	1,521,000	1,287,000	(495,959)	791,041
2018-2019	1.1700	0.000	3,498,300	3,264,300	(1,392,779)	1,871,521
2019-2020	1.1700	0.000	3,194,100	2,960,100	0	2,960,100
2020-2021	1.1700	0.000	2,889,900	2,655,900	0	2,655,900
2021-2022	1.1700	0.000	2,547,675	2,313,675	0	2,313,675
2022-2023	1.1700	0.000	2,205,450	1,971,450	0	1,971,450
2023-2024	1.1700	0.000	1,863,225	1,629,225	0	1,629,225
2024-2025	1.1700	0.000	1,482,975	1,248,975	0	1,248,975
2025-2026	1.1700	0.000	1,140,750	906,750	0	906,750
2026-2027	1.1700	0.000	912,600	678,600	0	678,600
2027-2028	1.1600	0.000	754,000	0	0	0
2028-2029	1.1700	0.000	760,500	0	0	0
2029-2030	1.1700	0.000	760,500	0	0	0
2030-2031	1.1700	0.000	760,500	0	0	0
2031-2032	1.1700	0.000	760,500	0	0	0
Totals			25,051,975	18,915,975	(1,888,737)	17,027,238

**Board Finding Number 11.**

*Based upon the Applicant’s certification that the Application is true and correct, the Comptroller’s Economic Impact Evaluation, the Comptroller’s Certification, and the consultants’ review of these and other documents, the Board has determined that the information provided by the Applicant in its Application, as it may have been amended, was true and correct when it was submitted (see Attachments C, D and E).*

**Board Finding Number 12.**

*The Applicant (Taxpayer Id. 32054964914) is eligible for the limitation on appraised value of qualified property as specified in the Agreement based on its “good standing” certification as a franchise-tax paying entity. See Attachments A, B and C.*

**Board Finding Number 13.**

*The Project will be located within an area that is currently designated as a reinvestment zone, pursuant to Chapter 312 of the Texas Tax Code. Should it be required, the District will cooperate with the Applicant's efforts to ensure that the area remains designated as a reinvestment zone through the Final Termination Date of the Agreement.*

**Board Finding Number 14.**

*The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, includes adequate and appropriate revenue protection provisions for the District.*

In support of this Finding and based on the information provided by Applicant in its Application, the District's Financial Impact Analysis demonstrates that the District will incur a revenue loss during tax years 2017 and 2018. However, the negative consequences of granting the value limitation are offset through the revenue protection provision of the Agreement and other revenue protection provisions agreed to by the Applicant and the District. See Table II in Attachment E, and proposed Agreement, Articles IV and V, at Attachment H.

**Board Finding Number 15.**

*Considering the purpose and effect of the law and the terms of the Agreement, it is in the best interest of the District and the State to approve Lamesa BNB Solar's Application and enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.*

**Board Finding Number 16.**

*The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, is in the form of the template Texas Economic Development Act Agreement adopted by the Comptroller. Should a new template be adopted that corrects the improper cross references, clarifies wording and grammatical errors, and corrects contractual ambiguities not acceptable to the parties, the Board finds that it would be in the District's best interest to agree to amend the Agreement.*

IT IS THEREFORE ORDERED, that all of the Findings above, including the recitals and statements set out in the Preamble herein, are adopted and approved as the Findings of the Lamesa Independent School District Board of Trustees, and the Board of Trustees has made the above factual Findings in accordance with the Texas Tax Code § 313.025(e) and Texas Administrative Code 34, Chapter 9, subchapter F; and,

IT IS FURTHER ORDERED that the Application attached hereto as Attachment A is hereby APPROVED; and,

IT IS FURTHER ORDERED that the new jobs requirement pursuant to § 313.051(b) is hereby WAIVED; and,

IT IS FURTHER ORDERED that the Agreement attached hereto as Attachment H is APPROVED and is hereby authorized to be executed and delivered by the Trustees whose signatures appear below on behalf of the Lamesa Independent School District, along with a copy of the these Findings, which shall be binding upon the parties upon receipt of an executed original of the Agreement from Applicant; and,

IT IS FURTHER ORDERED that these Findings and the Attachments referenced herein be made a part of the official minutes of this meeting, and maintained in the permanent records of the Lamesa Independent School District Board of Trustees.

Dated this 7<sup>th</sup> day of July, 2015.

Lamesa Independent School District

By   
*Signature*

Sonya Roney, Board President  
*Printed Name and Title*

Attest:

By   
*Signature*

Beverly Brewer Secretary  
*Printed Name and Title*

## LIST OF ATTACHMENTS

<i>Attachment</i>	<i>Description</i>
A	Application and Comptroller's Completeness Letter
B	Franchise Tax Certification of Account Status
C	Comptroller's Certification Letter
D	Comptroller Economic Impact Analysis
E	District's Financial Impact Analysis
F	TEA's Facilities Impact Letter
G	Comptroller's 2013 ISD Property Value Study Report
H	Proposed Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes
I	Comptroller's June 23, 2015 Agreement Review Letter
J	Job Waiver Request
K	Resolutions and Notices to Applicant re Extensions of 151 Day Deadline

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



November 18, 2014

John Ramos  
Superintendent  
Lamesa Independent School District  
P. O. Box 261  
Lamesa, Texas 79331-5442

Dear Superintendent Ramos:

On October 28, 2014, the Comptroller's office received from Lamesa Independent School District (Lamesa ISD) an application from BNB Lamesa Solar LLC for a limitation on appraised value (App #1033).

The purpose of this letter is to inform you that the Comptroller's office has reviewed the submitted application and determined that it includes the information necessary to be determined as complete on November 18, 2014.

Texas Tax Code §313.025(d) directs the Comptroller's office to issue a certificate for a limitation on the appraised value of the property, or provide the governing body of the school district with a written explanation of the comptroller's decision to not issue a certificate no later than the 90th day after receiving the completed application. The requirements to determine eligibility and to issue a certificate for a limitation do not begin until an application is complete as determined by this agency. The Comptroller's office will move forward with our economic impact evaluation and will send a letter of determination to the ISD and the applicant.

This letter does not constitute a review of the application under Section 313.025(h) to determine if the project meets the requirements of Section 313.024 for eligibility for a limitation on appraised value. Likewise, this letter does not address the determinations required under Section 313.026(c).

Should you have any questions, please contact Stephanie Jones with our office. She can be reached by email at [stephanie.jones@cpa.state.tx.us](mailto:stephanie.jones@cpa.state.tx.us) or by phone at 1-800-531-5441, ext. 3-4594, or direct in Austin at 512-463-4594.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Wood", is written over a faint, larger signature.

Robert Wood  
Director  
Economic Development & Analysis

cc: Audie Sciumbato, Underwood Law Firm, P.C.  
Jonathan Nicholas, BNB Renewable Holdings LLC  
Orlando PUig, BNB Renewable Holdings LLC

Wes Jackson, Cummings Westlake LLC

**BNB LAMESA SOLAR LLC**

**CHAPTER 313 APPLICATION  
FOR APPRAISED VALUE LIMITATION  
TO LAMESA ISD**

**October 21, 2014**

*Comptroller Copy*

**TAB 1**

Pages 1 through 11 of application.



# Application for Appraised Value Limitation on Qualified Property (Tax Code, Chapter 313, Subchapter B or C)

Economic Development  
and Analysis  
**Form 50-296-A**

**INSTRUCTIONS:** This application must be completed and filed with the school district. In order for an application to be processed, the governing body (school board) must elect to consider an application, but — by Comptroller rule — the school board may elect to consider the application only after the school district has received a completed application. Texas Tax Code, Section 313.025 requires that any completed application and any supplemental materials received by the school district must be forwarded within seven days to the Comptroller of Public Accounts.

If the school board elects to consider the application, the school district must:

- notify the Comptroller that the school board has elected to consider the application. This notice must include:
  - the date on which the school district received the application;
  - the date the school district determined that the application was complete;
  - the date the school board decided to consider the application; and
  - a request that the Comptroller prepare an economic impact analysis of the application;
- provide a copy of the notice to the appraisal district;
- must complete the sections of the application reserved for the school district and provide information required in the Comptroller rules located at 34 Texas Administrative Code (TAC) Section 9.1054; and
- forward the original hard copy of the completed application to the Comptroller in a three-ring binder with tabs, as indicated on page 9 of this application, separating each section of the documents, in addition to an electronic copy on CD. See 34 TAC Chapter 9, Subchapter F.

The governing body may, at its discretion, allow the applicant to supplement or amend the application after the filing date, subject to the restrictions in 34 TAC Chapter 9, Subchapter F.

When the Comptroller receives the notice and required information from the school district, the Comptroller will publish all submitted application materials on its website. The Comptroller is authorized to treat some application information as confidential and withhold it from publication on the Internet. To do so, however, the information must be segregated and comply with the other requirements set out in the Comptroller rules. For more information, see guidelines on Comptroller's website.

The Comptroller will independently determine whether the application has been completed according to the Comptroller's rules (34 TAC Chapter 9, Subchapter F). If the Comptroller finds the application is not complete, the Comptroller will request additional materials from the school district. Pursuant to 9.1053(a)(1)(C), requested information shall be provided within 20 days of the date of the request. When the Comptroller determines that the application is complete, it will send the school district a notice indicating so. The Comptroller will determine the eligibility of the project, issue a certificate for a limitation on appraised value to the school board regarding the application and prepare an economic impact evaluation by the 90th day after the Comptroller receives a complete application—as determined by the Comptroller.

The school board must approve or disapprove the application before the 151st day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to issue a certificate, complete the economic impact evaluation or consider the application at any time during the application review period.

Please visit the Comptroller's website to find out more about the program at [www.texasahead.org/tax\\_programs/chapter313/](http://www.texasahead.org/tax_programs/chapter313/). There are links on this Web page to the Chapter 313 statute, rules, guidelines and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

## SECTION 1: School District Information

### 1. Authorized School District Representative

October 21, 2014

Date Application Received by District

John

First Name

Superintendent

Title

Lamesa ISD

School District Name

212 N Houston

Street Address

P.O. Box 261

Mailing Address

Lamesa

City

(806) 872-5461

Phone Number

Mobile Number (optional)

Ramos

Last Name

TX

State

(806) 872-6220

Fax Number

jramos@lamesaisd.net

Email Address

79331-5442

ZIP

2. Does the district authorize the consultant to provide and obtain information related to this application?  Yes  No

The Economic Development and Analysis Division at the Texas Comptroller of Public Accounts provides information and resources for taxpayers and local taxing entities.

For more information, visit our website:  
[www.TexasAhead.org/tax\\_programs/chapter313/](http://www.TexasAhead.org/tax_programs/chapter313/)

**SECTION 1: School District Information (continued)**

**3. Authorized School District Consultant (If Applicable)**

<u>Audie</u> First Name	<u>Sciumbato</u> Last Name
<u>Attorney</u> Title	
<u>Underwood Law Firm, P.C.</u> Firm Name	
<u>(806) 364-2626</u> Phone Number	<u>(806) 364-9368</u> Fax Number
<u></u> Mobile Number (optional)	<u>audie.sciumbato@uwlaw.com</u> Email Address

4. On what date did the district determine this application complete? ..... October 27, 2014
5. Has the district determined that the electronic copy and hard copy are identical? .....  Yes  No

**SECTION 2: Applicant Information**

**1. Authorized Company Representative (Applicant)**

<u>Jonathan</u> First Name	<u>Nicholas</u> Last Name
<u>Managing Member</u> Title	<u>BNB Renewable Holdings LLC</u> Organization
<u>371 Gordon Drive</u> Street Address	
<u>same</u> Mailing Address	
<u>Exton</u> City	<u>PA</u> State
<u>(484) 875-4115</u> Phone Number	<u>19341</u> ZIP
<u>(215) 439-7228</u> Mobile Number (optional)	<u>jnicholas@bnbrenewables.com</u> Business Email Address

2. Will a company official other than the authorized company representative be responsible for responding to future information requests? .....  Yes  No
- 2a. If yes, please fill out contact information for that person.

<u>Orlando</u> First Name	<u>Puig</u> Last Name
<u>Office Manager</u> Title	<u>BNG Renewable Energy Holdings LLC</u> Organization
<u>371 Gordon Drive</u> Street Address	
<u>same</u> Mailing Address	
<u>Exton</u> City	<u>PA</u> State
<u>(832) 746-6682</u> Phone Number	<u>19341</u> ZIP
<u></u> Mobile Number (optional)	<u>opuig@msn.com</u> Business Email Address

3. Does the applicant authorize the consultant to provide and obtain information related to this application? .....  Yes  No

**SECTION 2: Applicant Information (continued)**

**4. Authorized Company Consultant (If Applicable)**

Wes Jackson  
 First Name Last Name  
 Partner  
 Title  
 Cummings Westlake LLC  
 Firm Name  
 713-266-4456 x2 713-266-2333  
 Phone Number Fax Number  
 wjackson@cwlp.net  
 Business Email Address

**SECTION 3: Fees and Payments**

1. Has an application fee been paid to the school district?  Yes  No

The total fee shall be paid at time of the application is submitted to the school district. Any fees not accompanying the original application shall be considered supplemental payments.

1a. If yes, attach in **Tab 2** proof of application fee paid to the school district.

For the purpose of questions 2 and 3, "payments to the school district" include any and all payments or transfers of things of value made to the school district or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value.

2. Will any "payments to the school district" that you may make in order to receive a property tax value limitation agreement result in payments that are not in compliance with Tax Code §313.027(i)?  Yes  No  N/A

3. If "payments to the school district" will only be determined by a formula or methodology without a specific amount being specified, could such method result in "payments to the school district" that are not in compliance with Tax Code §313.027(i)?  Yes  No  N/A

**SECTION 4: Business Applicant Information**

1. What is the legal name of the applicant under which this application is made? BNB Lamesa Solar LLC

2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) 32054964914

3. List the NAICS code 221114

4. Is the applicant a party to any other pending or active Chapter 313 agreements?  Yes  No

4a. If yes, please list application number, name of school district and year of agreement

**SECTION 5: Applicant Business Structure**

1. Identify Business Organization of Applicant (corporation, limited liability corporation, etc) Limited Liability Company

2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)?  Yes  No

2a. If yes, attach in **Tab 3** a copy of Texas Comptroller Franchise Tax Form No. 05-165, No. 05-166, or any other documentation from the Franchise Tax Division to demonstrate the applicant's combined group membership and contact information.

3. Is the applicant current on all tax payments due to the State of Texas?  Yes  No

4. Are all applicant members of the combined group current on all tax payments due to the State of Texas?  Yes  No  N/A

5. If the answer to question 3 or 4 is no, please explain and/or disclose any history of default, delinquencies and/or any material litigation, including litigation involving the State of Texas. (If necessary, attach explanation in **Tab 3**)

**SECTION 6: Eligibility Under Tax Code Chapter 313.024**

- 1. Are you an entity subject to the tax under Tax Code, Chapter 171?  Yes  No
- 2. The property will be used for one of the following activities:
  - (1) manufacturing  Yes  No
  - (2) research and development  Yes  No
  - (3) a clean coal project, as defined by Section 5.001, Water Code  Yes  No
  - (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code  Yes  No
  - (5) renewable energy electric generation  Yes  No
  - (6) electric power generation using integrated gasification combined cycle technology  Yes  No
  - (7) nuclear electric power generation  Yes  No
  - (8) a computer center that is used as an integral part or as a necessary auxiliary part for the activity conducted by applicant in one or more activities described by Subdivisions (1) through (7)  Yes  No
  - (9) a Texas Priority Project, as defined by 313.024(e)(7) and TAC 9.1051  Yes  No
- 3. Are you requesting that any of the land be classified as qualified investment?  Yes  No
- 4. Will any of the proposed qualified investment be leased under a capitalized lease?  Yes  No
- 5. Will any of the proposed qualified investment be leased under an operating lease?  Yes  No
- 6. Are you including property that is owned by a person other than the applicant?  Yes  No
- 7. Will any property be pooled or proposed to be pooled with property owned by the applicant in determining the amount of your qualified investment?  Yes  No

**SECTION 7: Project Description**

- 1. In **Tab 4**, attach a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.
- 2. Check the project characteristics that apply to the proposed project:
  - Land has no existing improvements  Land has existing improvements (*complete Section 13*)
  - Expansion of existing operation on the land (*complete Section 13*)  Relocation within Texas

**SECTION 8: Limitation as Determining Factor**

- 1. Does the applicant currently own the land on which the proposed project will occur?  Yes  No
- 2. Has the applicant entered into any agreements or contracts for work to be performed related to the proposed project?  Yes  No
- 3. Does the applicant have current business activities at the location where the proposed project will occur?  Yes  No
- 4. Has the applicant made public statements in SEC filings or other official documents regarding its intentions regarding the proposed project location?  Yes  No
- 5. Has the applicant received any local or state permits for activities on the proposed project site?  Yes  No
- 6. Has the applicant received commitments for state or local incentives for activities at the proposed project site?  Yes  No
- 7. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?  Yes  No
- 8. Has the applicant considered or is the applicant considering other locations not in Texas for the proposed project?  Yes  No
- 9. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities?  Yes  No
- 10. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project?  Yes  No

If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.

**SECTION 9: Projected Timeline**

- 1. Application approval by school board ..... March 2015
- 2. Beginning of qualifying time period ..... January 2, 2016
- 3. First year of limitation ..... 2017
- 4. Begin hiring new employees ..... Q1-2017
- 5. Commencement of commercial operations ..... Q1-2017
- 6. Do you propose to construct a new building or to erect or affix a new improvement after your application review start date (date your application is finally determined to be complete)? .....  Yes  No  
**Note:** Improvements made before that time may not be considered qualified property.
- 7. When do you anticipate the new buildings or improvements will be placed in service? ..... Q1-2017

**SECTION 10: The Property**

- 1. Identify county or counties in which the proposed project will be located Dawson County
- 2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property Dawson CAD
- 3. Will this CAD be acting on behalf of another CAD to appraise this property? .....  Yes  No
- 4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:  
 County: Dawson County, \$0.5258, 100% City: City of Lamesa, \$0.7243, 11%  
(Name, tax rate and percent of project)  
 Hospital District: Dawson Co. Hospital, \$0.1665, 100% Water District: Mesa Underground Water Cons, \$0.016, 100%  
(Name, tax rate and percent of project)  
 Other (describe): N/A Other (describe): N/A  
(Name, tax rate and percent of project)
- 5. Is the project located entirely within the ISD listed in Section 1? .....  Yes  No  
 5a. If no, attach in **Tab 6** additional information on the project scope and size to assist in the economic analysis.
- 6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? .....  Yes  No  
 6a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

**SECTION 11: Investment**

**NOTE:** The minimum amount of qualified investment required to qualify for an appraised value limitation and the minimum amount of appraised value limitation vary depending on whether the school district is classified as Subchapter B or Subchapter C, and the taxable value of the property within the school district. For assistance in determining estimates of these minimums, access the Comptroller's website at [www.texasahead.org/tax\\_programs/chapter313/](http://www.texasahead.org/tax_programs/chapter313/).

- 1. At the time of application, what is the estimated minimum qualified investment required for this school district? ..... 20,000,000.00
- 2. What is the amount of appraised value limitation for which you are applying? ..... 20,000,000.00  
**Note:** The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.
- 3. Does the qualified investment meet the requirements of Tax Code §313.021(1)? .....  Yes  No
- 4. Attach a description of the qualified investment [See §313.021(1).] The description must include:
  - a. a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 7**);
  - b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (**Tab 7**); and
  - c. a detailed map of the qualified investment showing location of new buildings or new improvements with vicinity map (**Tab 11**).
- 5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period? .....  Yes  No

**SECTION 12: Qualified Property**

1. Attach a detailed description of the qualified property. [See §313.021(2)] (If qualified investment describes qualified property exactly, you may skip items a, b and c below.) The description must include:
  - 1a. a specific and detailed description of the qualified property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (Tab 8);
  - 1b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your qualified property (Tab 8); and
  - 1c. a map of the qualified property showing location of new buildings or new improvements with vicinity map (Tab 11).
2. Is the land upon which the new buildings or new improvements will be built part of the qualified property described by §313.021(2)(A)?  Yes  No
  - 2a. If yes, attach complete documentation including:
    - a. legal description of the land (Tab 9);
    - b. each existing appraisal parcel number of the land on which the new improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property (Tab 9);
    - c. owner (Tab 9);
    - d. the current taxable value of the land. Attach estimate if land is part of larger parcel (Tab 9); and
    - e. a detailed map showing the location of the land with vicinity map (Tab 11).
3. Is the land on which you propose new construction or new improvements currently located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303?  Yes  No
  - 3a. If yes, attach the applicable supporting documentation:
    - a. evidence that the area qualifies as a enterprise zone as defined by the Governor's Office (Tab 16);
    - b. legal description of reinvestment zone (Tab 16);
    - c. order, resolution or ordinance establishing the reinvestment zone (Tab 16);
    - d. guidelines and criteria for creating the zone (Tab 16); and
    - e. a map of the reinvestment zone or enterprise zone boundaries with vicinity map (Tab 11)
  - 3b. If no, submit detailed description of proposed reinvestment zone or enterprise zone with a map indicating the boundaries of the zone on which you propose new construction or new improvements to the Comptroller's office within 30 days of the application date. What is the anticipated date on which you will submit final proof of a reinvestment zone or enterprise zone? N/A

**SECTION 13: Information on Property Not Eligible to Become Qualified Property**

1. In Tab 10, attach a specific and detailed description of all **existing property**. This includes buildings and improvements existing as of the application review start date (the date the application is determined to be complete by the Comptroller). The description must provide sufficient detail to locate all existing property on the land that will be subject to the agreement and distinguish existing property from future proposed property.
2. In Tab 10, attach a specific and detailed description of all **proposed new property that will not become new improvements** as defined by TAC 9.1051. This includes proposed property that: functionally replaces existing or demolished/removed property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property; or is otherwise ineligible to become qualified property. The description must provide sufficient detail to distinguish existing property (question 1) and all proposed new property that cannot become qualified property from proposed qualified property that will be subject to the agreement (as described in Section 12 of this application).
3. For the property not eligible to become qualified property listed in response to questions 1 and 2 of this section, provide the following supporting information in Tab 10:
  - a. maps and/or detailed site plan;
  - b. surveys;
  - c. appraisal district values and parcel numbers;
  - d. inventory lists;
  - e. existing and proposed property lists;
  - f. model and serial numbers of existing property; or
  - g. other information of sufficient detail and description.
4. Total estimated market value of existing property (that property described in response to question 1): ..... \$ 0.00
5. In Tab 10, include an appraisal value by the CAD of all the buildings and improvements existing as of a date within 15 days of the date the application is received by the school district.
6. Total estimated market value of proposed property not eligible to become qualified property (that property described in response to question 2): ..... \$ 0.00

**Note:** Investment for the property listed in question 2 may count towards qualified investment in Column C of Schedules A-1 and A-2, if it meets the requirements of 313.021(1). Such property cannot become qualified property on Schedule B.

# Application for Appraised Value Limitation on Qualified Property

## SECTION 14: Wage and Employment Information

1. What is the estimated number of permanent jobs (more than 1,600 hours a year), with the applicant or a contractor of the applicant, on the proposed qualified property during the last complete quarter before the application review start date (date your application is finally determined to be complete)? ..... 0
2. What is the last complete calendar quarter before application review start date:  
 First Quarter     Second Quarter     Third Quarter     Fourth Quarter of 2014  
(year)
3. What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the Texas Workforce Commission (TWC)? ..... 0  
**Note:** For job definitions see TAC §9.1051 and Tax Code §313.021(3).
4. What is the number of new qualifying jobs you are committing to create? ..... 2
5. What is the number of new non-qualifying jobs you are estimating you will create? ..... 1
6. Do you intend to request that the governing body waive the minimum new qualifying job creation requirement, as provided under Tax Code §313.025(f-1)? .....  Yes     No
  - 6a. If yes, attach evidence in **Tab 12** documenting that the new qualifying job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards.
7. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the TWC website. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22).
  - a. Average weekly wage for all jobs (all industries) in the county is ..... 754.00
  - b. 110% of the average weekly wage for manufacturing jobs in the county is ..... 787.00
  - c. 110% of the average weekly wage for manufacturing jobs in the region is ..... 1,007.00
8. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? .....  §313.021(5)(A) or  §313.021(5)(B)
9. What is the minimum required annual wage for each qualifying job based on the qualified property? ..... 40,898.00
10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... 40,900.00
11. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? .....  Yes     No
12. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.024(d-2)? .....  Yes     No
  - 12a. If yes, attach in **Tab 12** supporting documentation from the TWC, pursuant to §313.021(3)(F).
13. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? .....  Yes     No
  - 13a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

## SECTION 15: Economic Impact

1. Complete and attach Schedules A1, A2, B, C, and D in **Tab 14**. Note: Excel spreadsheet versions of schedules are available for download and printing at URL listed below.
2. Attach an Economic Impact Analysis, if supplied by other than the Comptroller's Office, in **Tab 15**. (*not required*)
3. If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, attach a separate schedule showing the amount for each year affected, including an explanation, in **Tab 15**.

SECTION 16: Authorized Signatures and Applicant Certification

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in Tab 17. NOTE: If you amend your application, you will need to obtain new signatures and resubmit this page, Section 16, with the amendment request.

1. Authorized School District Representative Signature

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

print here John Ramos Superintendent
Print Name (Authorized School District Representative)
sign here [Signature] Signature (Authorized School District Representative)
Date 10/21/14

2. Authorized Company Representative (Applicant) Signature and Notarization

I am the authorized representative for the business entity for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application and schedules is true and correct to the best of my knowledge and belief.

I hereby certify and affirm that the business entity I represent is in good standing under the laws of the state in which the business entity was organized and that no delinquent taxes are owed to the State of Texas.

print here Jonathan Nicholas Managing Member
Print Name (Authorized Company Representative (Applicant))
sign here [Signature] Signature (Authorized Company Representative (Applicant))
Date October 20, 2014

GIVEN under my hand and seal of office this, the

20th day of October, 2014
[Signature]
Notary Public in and for the State of Texas

(Notary Seal)

My Commission expires: [Seal] JAY S. BALABAN NOTARY PUBLIC Commonwealth of Massachusetts My Commission Expires September 10, 2015

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

APPLICATION TAB ORDER FOR REQUESTED ATTACHMENTS

TAB	ATTACHMENT
1	Pages 1 through 11 of Application
2	Proof of Payment of Application Fee
3	Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation <i>(if applicable)</i>
4	Detailed description of the project
5	Documentation to assist in determining if limitation is a determining factor
6	Description of how project is located in more than one district, including list of percentage in each district and, if determined to be a single unified project, documentation from the Office of the Governor <i>(if applicable)</i>
7	Description of Qualified Investment
8	Description of Qualified Property
9	Description of Land
10	Description of all property not eligible to become qualified property <i>(if applicable)</i>
11	<p>Maps that clearly show:</p> <ul style="list-style-type: none"> <li>a) Project vicinity</li> <li>b) Qualified investment including location of new buildings or new improvements</li> <li>c) Qualified property including location of new buildings or new improvements</li> <li>d) Existing property</li> <li>e) Land location within vicinity map</li> <li>f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size</li> </ul> <p><b>Note:</b> Electronic maps should be high resolution files. Include map legends/markers.</p>
12	Request for Waiver of Job Creation Requirement and supporting information <i>(if applicable)</i>
13	Calculation of three possible wage requirements with TWC documentation
14	Schedules A1, A2, B, C and D completed and signed Economic Impact <i>(if applicable)</i>
15	Economic Impact Analysis, other payments made in the state or other economic information <i>(if applicable)</i>
16	<p>Description of Reinvestment or Enterprise Zone, including:</p> <ul style="list-style-type: none"> <li>a) evidence that the area qualifies as a enterprise zone as defined by the Governor's Office</li> <li>b) legal description of reinvestment zone*</li> <li>c) order, resolution or ordinance establishing the reinvestment zone*</li> <li>d) guidelines and criteria for creating the zone*</li> </ul> <p><b>* To be submitted with application or before date of final application approval by school board</b></p>
17	Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative <i>(applicant)</i>

**TAB 2**

*Proof of Payment of Application Fee*

Please find on the attached page, copy of the check for the \$75,000 application fee to Lamesa Independent School District.

Proof of payment of filing fee received by the  
Comptroller of Public Accounts per TAC Rule  
§9.1054 (b)(5)

*(Page Inserted by Office of Texas Comptroller of Public  
Accounts)*

**TAB 3**

Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation (if applicable).

Not Applicable



## Franchise Tax Account Status

As of 10/20/2014 02:50:48 PM

**This Page is Not Sufficient for Filings with the Secretary of State**

<b>BNB LAMESA SOLAR LLC</b>	
Texas Taxpayer Number	32054964914
Mailing Address	371 GORDON DR EXTON, PA 19341-1201
Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	08/18/2014
Texas SOS File Number	0802050806
Registered Agent Name	REGISTERED AGENT SOLUTIONS, INC.
Registered Office Street Address	1701 DIRECTORS BLVD., SUITE 300 AUSTIN, TX 78744

**TAB 4**

Detailed Description of the Project

*Provide a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.*

BNB Lamesa Solar LLC (Lamesa Solar) is requesting an appraised value limitation from Lamesa Independent School District (ISD) for the Lamesa Solar Project (the "Project"), a proposed solar powered electric generating facility in Dawson County. The proposed Lamesa ISD Project (this application) will be constructed within the Lamesa Solar Reinvestment Zone that was established by Dawson County on May 13, 2014. A map showing the location of the project is included in Tab 11.

The proposed Project is anticipated to have a total capacity of 150 MW located in Lamesa ISD. Solar equipment selection is ongoing at this time and has not been finalized. The exact number of PV panels and their capacity will vary depending upon the panels and inverters selected, manufacturer's availability and prices, ongoing engineering design optimization and the final megawatt generating capacity of the Project when completed. Current plans are to install 652,800 Yingli PV panels and 204 Greenpower inverters within Lamesa ISD. BNB Lamesa Solar LLC is also constructing approximately 500 feet of generation transmission tie line, all within Dawson County. The Applicant requests a value limitation for all materials and equipment installed for the Project, including but not limited to; solar modules/panels, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, foundations, roadways, buildings and offices, paving, fencing, collection system, electrical substations, generation transmission tie line and associated towers, and interconnection facilities.

Construction of the Project is anticipated to begin in the first quarter of 2016 with completion by March 31, 2017.

**TAB 5***Documentation to assist in determining if limitation is a determining factor.*

Lamesa Solar met with the Comptroller's Economic Development group regarding the status of the project to discuss and demonstrate that the approval of a Chapter 313 agreement was a determining factor in the building of the project.

BNB Renewable Energy Holdings LLC (BNB) is the parent company of BNB Lamesa Solar LLC. Founded in 2004, BNB develops renewable energy projects, both wind and solar, in the US market. Based on their success with two Texas wind farms, the 180MW Bull Creek and the 200MW Mesquite Creek projects, and the 9.8MW solar project at the Campbell's Soup plant located in Napoleon, Ohio, BNB is actively developing a select group of renewable energy projects in Connecticut, New Jersey, New Mexico, Ohio, and Texas where BNB has leased over 200,000 acres. In Texas, BNB was one of the eleven original interveners who petitioned the PUC for new transmission upgrades. Those upgrades comprise \$5.2 billion dollars of new transmission lines dedicated to carry wind and solar energy from West Texas to load centers in Dallas, San Antonio and Austin. On its Texas acreage, BNB has plans to construct one new wind farm of 250 MW and two solar projects totaling in excess of 550 MW. BNB is executing its five-year goal of developing an additional gigawatt of renewable generation in the USA. As part of this goal, BNB is also active in the development of "inside the fence" renewable energy generation projects and is working with schools, Universities, and Fortune 500 companies on various sites across the US.

Depending on the ability to generate cost-effective electricity for regional consumers, BNB has the ability to allocate or reallocate investments to another state, another region of Texas, or another region of the world. BNB Lamesa Solar, LLC believes, however, that the proposed site in Dawson County is a desirable business location and can provide electricity at a price that is competitive with other regions of Texas. Electric utilities are focused on providing low-cost energy supply to their customers, and contracting for the sale of electricity is currently highly competitive, particularly because of the large number of potential solar energy facilities that can be built in West and Central Texas given the newly constructed transmission capacity. Receiving the Appraised Value Limitation from the school district is vital to obtaining long-term financing and to maintaining the economic competitiveness of the project with other projects currently being developed in Texas by BNB and by others.

**TAB 6**

Description of how project is located in more than one district, including list of percentage in each district and, if determined to be a single unified project, documentation from the Office of the Governor (if applicable)

- |   |        |
|---|--------|
| 1) Dawson County                                | - 100% |
| 2) Lamesa Independent School District           | - 100% |
| 3) Mesa Underground Water Conservation District | - 100% |
| 4) Dawson Hospital District                     | - 100% |
| 5) City of Lamesa                               | - 11%  |

**TAB 7**

*Description of Qualified Investment*

BNB Lamesa Solar LLC plans to construct a 150 MW solar farm in Dawson County.

This application covers all qualified property within Lamesa ISD necessary for the commercial operations of the proposed solar farm described in Tab 4. Approximately 652,800 Yingli PV panels and 204 Greenpower inverters will be located in Dawson County, all of which will be located in Lamesa ISD. BNB Lamesa Solar is also constructing approximately 500 feet of generation transmission tie line that will be in Lamesa ISD as well.

This application covers all qualified investment and qualified property necessary for the commercial operations of the solar farm.

Qualified Investment and qualified property includes, but is not limited to, solar modules/panels, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, foundations, roadways, buildings and offices, paving, fencing, collection system, electrical substations, generation transmission tie line and associated towers, and interconnection facilities.

The map in TAB 11 shows the proposed project area with the preliminary solar panel locations. The exact placement of these panels is subject to ongoing planning, soil studies, and engineering and will be determined before construction begins.

**TAB 8**

*Description of Qualified Property*

(See Tab 7)

**TAB 9**

*Description of Land*

Not applicable

**TAB 10**

*Description of all property not eligible to become qualified property (if applicable)*

None, not applicable

**TAB 11**

Maps that clearly show:

- a) Project vicinity (See Attached)
- b) Qualified investment including location of new building or new improvements (See Attached)
- c) Qualified property including location of new building or new improvements (See Attached)
- d) Existing property (Not Applicable)
- e) Land location within vicinity map (Not Applicable)
- f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size (See Attached)

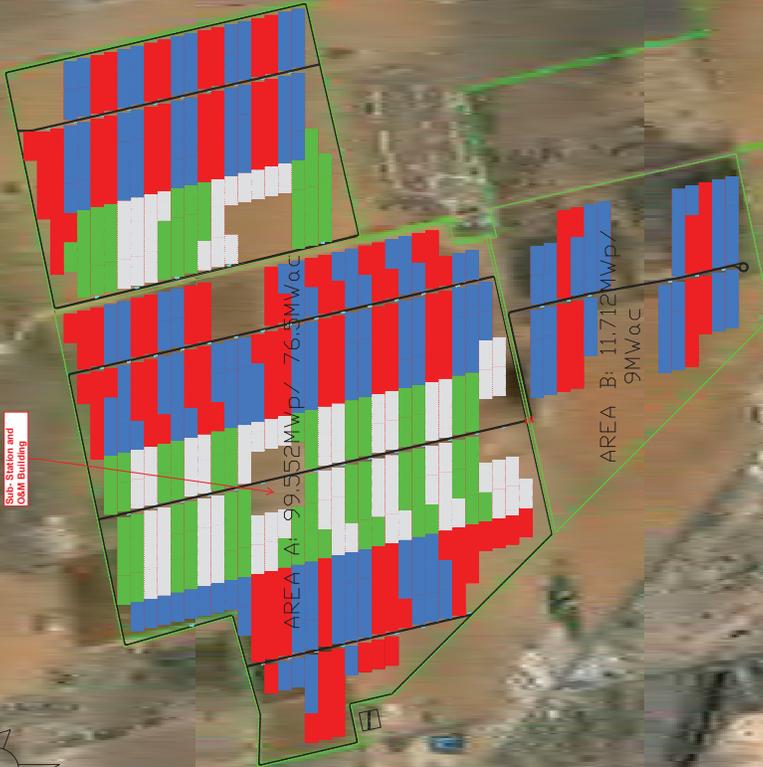


**Proposed Project Site Map**  
(Confidential and Subject to Change)



PLANT FEATURES	
DC CAPACITY	1993MW
AC CAPACITY	253 MWac
AC VOLTAGE	230kV
Typical Inverter Back capacity	1.5MWac
Tracker amount	10
Typical tracker configuration	16 rows with 2x 80 modules of
TOTAL amount of modules	652,800
Module type	Polycrystalline, 72 cells 305Wp

LEGEND	
[Symbol]	SINGLE ROW TRACKER
[Symbol]	INTERNAL ROAD
[Symbol]	PERIMETER FENCING
[Symbol]	ACCESS GATES



REVISION		PROJECT INFORMATION	
NO.	DATE	PROJECT NAME	PROJECT NO.
1	2015-04	BNG GEORGETOWN PV PLANT	995-021-001
2	2015-04	GENERAL LAYOUT	
3	2015-04	GENERAL LAYOUT	
4	2015-04	GENERAL LAYOUT	
5	2015-04	GENERAL LAYOUT	
6	2015-04	GENERAL LAYOUT	
7	2015-04	GENERAL LAYOUT	
8	2015-04	GENERAL LAYOUT	
9	2015-04	GENERAL LAYOUT	
10	2015-04	GENERAL LAYOUT	

DATE	2015-04-01
NO.	10
SCALE	AS SHOWN
SHEET	1 OF 10

PROJECT NAME: BNG GEORGETOWN PV PLANT  
PROJECT NO.: 995-021-001

DATE: 2015-04-01  
NO.: 10  
SCALE: AS SHOWN  
SHEET: 1 OF 10

PROJECT TITLE: GENERAL LAYOUT

PROJECT NO.: 995-021-001

PROJECT NAME: BNG GEORGETOWN PV PLANT

PROJECT NO.: 995-021-001

DATE: 2015-04-01

NO.: 10

SCALE: AS SHOWN

SHEET: 1 OF 10

PROJECT TITLE: GENERAL LAYOUT

PROJECT NO.: 995-021-001

PROJECT NAME: BNG GEORGETOWN PV PLANT

PROJECT NO.: 995-021-001

DATE: 2015-04-01

NO.: 10

SCALE: AS SHOWN

SHEET: 1 OF 10



**TAB 12**

*Request for Waiver of Job Creation Requirement and supporting information (if applicable)*

See Attached Letter

## CUMMINGS WESTLAKE LLC

12837 Louetta Road, Suite 201 Cypress, Texas 77429-5611 713-266-4456 Fax: 713-266-2333

October 21, 2014

Mr. John Ramos, Superintendent  
Lamesa Independent School District  
212 N. Houston  
Lamesa, TX 79331

### **Re: Chapter 313 Job Waiver Request**

Dear Mr. Ramos,

BNB Lamesa Solar LLC requests that the Lamesa Independent School District's Board of Trustees waive the job requirement provision as allowed by Section 313.025(f-1) of the tax code. This waiver would be based on the school district's board findings that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

BNB Lamesa Solar LLC requests that the Lamesa Independent School District makes such a finding and waive the job creation requirement for 10 permanent jobs. In line with industry standards for job requirements, BNB Lamesa Solar LLC has committed to create 2 total jobs for the project, both of which will be in Lamesa ISD.

Solar projects create a large number of full and part-time, but temporary jobs during the construction phase of the project, but require a relatively small number of highly skilled technicians to operate and maintain the project after commercial operation commences.

The number of jobs specified in this application is in line with the industry standards for a solar farm of this scope and size. This is evidenced by previously filed limitation agreement applications by solar developers who also requested a waiver of the job requirements. In addition, there are educational materials and other documentation that also suggest that BNB Lamesa Solar has the appropriate number of jobs for this project.

Sincerely,



J. Weston Jackson  
Partner

**TAB 13**

*Calculation of three possible wage requirements with TWC documentation*

- Dawson County average weekly wage for all jobs (all industries)
- Dawson County average weekly wage for all jobs (manufacturing)
- See attached Council of Governments Regional Wage Calculation and Documentation

**BNB LAMESA SOLAR LLC**  
**TAB 13 TO CHAPTER 313 APPLICATION - LAMESA ISD**

**CHAPTER 313 WAGE CALCULATION - ALL JOBS - ALL INDUSTRIES**

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2014	\$ 722	\$ 37,544
SECOND	2013	\$ 719	\$ 37,388
THIRD	2013	\$ 860	\$ 44,720
FOURTH	2013	\$ 713	\$ 37,076
AVERAGE		\$ 754	\$ 39,182

**CHAPTER 313 WAGE CALCULATION - MANUFACTURING JOBS**

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2014	\$ 617	\$ 32,084
SECOND	2013	\$ 1,006	\$ 52,312
THIRD	2013	\$ 586	\$ 30,472
FOURTH	2013	\$ 651	\$ 33,852
AVERAGE		\$ 715	\$ 37,180
		X 110%	110%
		\$ 787	\$ 40,898

**CHAPTER 313 WAGE CALCULATION - REGIONAL WAGE RATE**

REGION	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
Permian Basin	2013	\$ 915	\$ 47,604
		X 110%	110%
		\$ 1,007	\$ 52,364

\* SEE ATTACHED TWC DOCUMENTATION

# Quarterly Employment and Wages (QCEW)

[Back](#)

Page 1 of 1 (40 results/page)

 Year	 Period	 Area	 Ownership	 Division	 Level	 Ind Code	 Industry	 Avg Weekly Wages
2014	1st Qtr	Daw son County	Total All	00	0	10	Total, All Industries	\$722
2013	2nd Qtr	Daw son County	Total All	00	0	10	Total, All Industries	\$719
2013	3rd Qtr	Daw son County	Total All	00	0	10	Total, All Industries	\$860
2013	4th Qtr	Daw son County	Total All	00	0	10	Total, All Industries	\$713

# Quarterly Employment and Wages (QCEW)

[Back](#)

Page 1 of 1 (40 results/page)

 Year	 Period	 Area	 Ownership	 Division	 Level	 Ind Code	 Industry	 Avg Weekly Wages
2014	1st Qtr	Daw son County	Total All	31	2	31-33	Manufacturing	\$617
2013	2nd Qtr	Daw son County	Total All	31	2	31-33	Manufacturing	\$1,006
2013	3rd Qtr	Daw son County	Total All	31	2	31-33	Manufacturing	\$586
2013	4th Qtr	Daw son County	Total All	31	2	31-33	Manufacturing	\$651

**2013 Manufacturing Wages by Council of Government Region  
Wages for All Occupations**

COG	Wages	
	Hourly	Annual
<b>Texas</b>	<b>\$23.73</b>	<b>\$49,363</b>
<a href="#"><u>1. Panhandle Regional Planning Commission</u></a>	\$20.43	\$42,499
<a href="#"><u>2. South Plains Association of Governments</u></a>	\$16.53	\$34,380
<a href="#"><u>3. NORTEX Regional Planning Commission</u></a>	\$19.15	\$39,838
<a href="#"><u>4. North Central Texas Council of Governments</u></a>	\$25.00	\$51,997
<a href="#"><u>5. Ark-Tex Council of Governments</u></a>	\$17.45	\$36,298
<a href="#"><u>6. East Texas Council of Governments</u></a>	\$19.50	\$40,565
<a href="#"><u>7. West Central Texas Council of Governments</u></a>	\$18.64	\$38,779
<a href="#"><u>8. Rio Grande Council of Governments</u></a>	\$16.27	\$33,848
<a href="#"><u>9. Permian Basin Regional Planning Commission</u></a>	<b>\$22.89</b>	<b>\$47,604</b>
<a href="#"><u>10. Concho Valley Council of Governments</u></a>	\$17.20	\$35,777
<a href="#"><u>11. Heart of Texas Council of Governments</u></a>	\$19.44	\$40,444
<a href="#"><u>12. Capital Area Council of Governments</u></a>	\$27.31	\$56,805
<a href="#"><u>13. Brazos Valley Council of Governments</u></a>	\$17.20	\$35,770
<a href="#"><u>14. Deep East Texas Council of Governments</u></a>	\$16.48	\$34,287
<a href="#"><u>15. South East Texas Regional Planning Commission</u></a>	\$29.09	\$60,501
<a href="#"><u>16. Houston-Galveston Area Council</u></a>	\$26.13	\$54,350
<a href="#"><u>17. Golden Crescent Regional Planning Commission</u></a>	\$22.23	\$46,242
<a href="#"><u>18. Alamo Area Council of Governments</u></a>	\$18.91	\$39,329
<a href="#"><u>19. South Texas Development Council</u></a>	\$13.94	\$28,990
<a href="#"><u>20. Coastal Bend Council of Governments</u></a>	\$23.78	\$49,454
<a href="#"><u>21. Lower Rio Grande Valley Development Council</u></a>	\$15.82	\$32,907
<a href="#"><u>22. Texoma Council of Governments</u></a>	\$20.93	\$43,529
<a href="#"><u>23. Central Texas Council of Governments</u></a>	\$17.33	\$36,042
<a href="#"><u>24. Middle Rio Grande Development Council</u></a>	\$19.07	\$39,666

Source: Texas Occupational Employment and Wages

Data published: July 2014

Data published annually, next update will be July 31, 2015

Note: Data is not supported by the Bureau of Labor Statistics (BLS).

Wage data is produced from Texas OES data, and is not to be compared to BLS estimates.

Data intended for TAC 313 purposes only.

**TAB 14**

*Schedules A1, A2, B, C and D completed and signed Economic Impact (if applicable)*

See attached Schedules A1, A2, B, C and D

Schedule A1: Total Investment for Economic Impact (through the Qualifying Time Period)

Date: 10/21/2014  
Applicant Name: BNB Lamesa Solar LLC  
ISD Name: Lamesa Independent School District

PROPERTY INVESTMENT AMOUNTS							
(Estimated investment in each year. Do not put cumulative totals.)							
Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	Column A New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	Column B New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Column C Other new investment made during this year that will not become Qualified Property [SEE NOTE]	Column D Other new investment made during this year that may become Qualified Property [SEE NOTE]	Column E Total Investment (Sum of Columns A+B+C+D)
Investment made before filing complete application with district			Not eligible to become Qualified Property		\$0	\$0	\$0
Investment made after filing complete application with district, but before final board approval of application	--	2016	\$0	\$0	\$0	\$0	\$0
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period			\$259,000,000	\$1,000,000	\$0	\$0	\$260,000,000
Complete tax years of qualifying time period	QTP1	2017	\$65,000,000		\$0	\$0	\$65,000,000
	QTP2	2018	\$0	\$0	\$0	\$0	\$0
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>			\$324,000,000	\$1,000,000	\$0	\$0	\$325,000,000
<b>Total Qualified Investment (sum of green cells)</b>			\$325,000,000				

For All Columns: List amount invested each year, not cumulative totals.  
 Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application. Only tangible personal property that is specifically described in the application can become qualified property.  
 Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.  
 Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property, is used to maintain, refurbish, renovate, modify or upgrade existing property, or is affixed to existing property—described in SECTION 13, question #5 of the application.  
 Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.  
 Total Investment: Add together each cell in a column and enter the sum in the blue total investment row. Enter the data from this row into the first row in Schedule A2.  
 Qualified Investment: For the green qualified investment cell, enter the sum of all the green-shaded cells.

Schedule A2: Total Investment for Economic Impact (including Qualified Property and other investments)

Date: 10/21/2014  
Applicant Name: BNB Lamesa Solar, LLC  
ISD Name: Lamesa Independent School District

PROPERTY INVESTMENT AMOUNTS											
(Estimated investment in each year. Do not put cumulative totals.)											
Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	Column A		Column B		Column C		Column D		Column E
			New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Other investment made during this year that will not become Qualified Property (SEE NOTE)	Other investment made during this year that will become Qualified Property (SEE NOTE)	Total Investment (A+B+C+D)				
Total Investment from Schedule A1*			\$324,000,000	\$1,000,000	\$0	\$0	\$0	\$0	\$325,000,000		
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>											
0	2016-2017	2016	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
1	2017-2018	2017	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
2	2018-2019	2018	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
3	2019-2020	2019	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
4	2020-2021	2020	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
5	2021-2022	2021	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
6	2022-2023	2022	\$0	\$0	\$2,445,000	\$0	\$2,445,000	\$0	\$2,445,000	\$2,445,000	
7	2023-2024	2023	\$0	\$0	\$2,494,389	\$0	\$2,494,389	\$0	\$2,494,389	\$2,494,389	
8	2024-2025	2024	\$0	\$0	\$2,544,776	\$0	\$2,544,776	\$0	\$2,544,776	\$2,544,776	
9	2025-2026	2025	\$0	\$0	\$2,596,180	\$0	\$2,596,180	\$0	\$2,596,180	\$2,596,180	
10	2026-2027	2026	\$0	\$0	\$2,648,623	\$0	\$2,648,623	\$0	\$2,648,623	\$2,648,623	
Total investment made through limitation			\$0	\$0	\$12,728,968	\$0	\$12,728,968	\$0	\$12,728,968	\$12,728,968	
11	2027-2028	2027			\$2,702,125		\$2,702,125		\$2,702,125	\$2,702,125	
12	2028-2029	2028			\$2,756,708		\$2,756,708		\$2,756,708	\$2,756,708	
13	2029-2030	2029			\$2,812,394		\$2,812,394		\$2,812,394	\$2,812,394	
14	2030-2031	2030			\$2,869,204		\$2,869,204		\$2,869,204	\$2,869,204	
15	2031-2032	2031			\$2,927,162		\$2,927,162		\$2,927,162	\$2,927,162	
16	2032-2033	2032			\$2,986,291		\$2,986,291		\$2,986,291	\$2,986,291	
17	2033-2034	2033			\$3,046,614		\$3,046,614		\$3,046,614	\$3,046,614	
18	2034-2035	2034			\$3,108,155		\$3,108,155		\$3,108,155	\$3,108,155	
19	2035-2036	2035			\$3,170,940		\$3,170,940		\$3,170,940	\$3,170,940	
20	2036-2037	2036			\$3,234,993		\$3,234,993		\$3,234,993	\$3,234,993	
21	2037-2038	2037			\$3,300,340		\$3,300,340		\$3,300,340	\$3,300,340	
22	2038-2039	2038			\$3,367,007		\$3,367,007		\$3,367,007	\$3,367,007	
23	2039-2040	2039			\$3,435,020		\$3,435,020		\$3,435,020	\$3,435,020	
24	2040-2041	2040			\$3,504,408		\$3,504,408		\$3,504,408	\$3,504,408	
25	2041-2042	2041			\$3,575,197		\$3,575,197		\$3,575,197	\$3,575,197	
Additional years for 25 year economic impact as required by 313.026(c)(1)											

\* All investments made through the qualifying time period are captured and totaled on Schedule A1 [blue box] and incorporated into this schedule in the first row.  
 \*\* Only investment made during deferrals of the start of the limitation (after the end of qualifying time period but before the start of the Value Limitation Period) should be included in the "year prior to start of value limitation period" row(s). If the limitation starts at the end of the qualifying time period or the qualifying time period overlaps the limitation, no investment should be included on this line.  
 \*\*\* If your qualifying time period will overlap your value limitation period, do not also include investment made during the qualifying time period in years 1 and/or 2 of the value limitation period, depending on the overlap. Only include investments/years that were not captured on Schedule A1.  
 For All Columns: List amount invested each year, not cumulative totals. Only include investments in the remaining rows of Schedule A2 that were not captured on Schedule A1.  
 Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.  
 Column B: Only tangible personal property that is specifically described in the application can become qualified property.  
 Column C: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.  
 Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property, is used to maintain, refurbish, renovate, modify or upgrade existing property, or is affixed to existing property—described in SECTION 13, question #5 of the application.  
 Column E: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

**Schedule B: Estimated Market And Taxable Value (of Qualified Property Only)**

Date: 10/29/2014  
 Applicant Name: BNB Lamesa Solar LLC  
 ISD Name: Lamesa Independent School District

Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Estimated Market Value of Land	Qualified Property		Estimated Taxable Value			
				Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new buildings or "in or on the new improvements"	Market Value less any exemptions (such as pollution control) and before limitation	Final taxable value for I&S after all reductions	Final taxable value for M&O after all reductions	
0	2015-2016	2015	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0	2016-2017	2016	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0	2017-2018	2017	\$0	\$0	\$130,000,000	\$130,000,000	\$130,000,000	\$130,000,000	\$20,000,000
2	2018-2019	2018	\$0	\$0	\$299,000,000	\$299,000,000	\$299,000,000	\$299,000,000	\$20,000,000
3	2019-2020	2019	\$0	\$0	\$273,000,000	\$273,000,000	\$273,000,000	\$273,000,000	\$20,000,000
4	2020-2021	2020	\$0	\$0	\$247,000,000	\$247,000,000	\$247,000,000	\$247,000,000	\$20,000,000
5	2021-2022	2021	\$0	\$0	\$217,750,000	\$217,750,000	\$217,750,000	\$217,750,000	\$20,000,000
6	2022-2023	2022	\$0	\$0	\$188,500,000	\$188,500,000	\$188,500,000	\$188,500,000	\$20,000,000
7	2023-2024	2023	\$0	\$0	\$159,250,000	\$159,250,000	\$159,250,000	\$159,250,000	\$20,000,000
8	2024-2025	2024	\$0	\$0	\$126,750,000	\$126,750,000	\$126,750,000	\$126,750,000	\$20,000,000
9	2025-2026	2025	\$0	\$0	\$97,500,000	\$97,500,000	\$97,500,000	\$97,500,000	\$20,000,000
10	2026-2027	2026	\$0	\$0	\$78,000,000	\$78,000,000	\$78,000,000	\$78,000,000	\$20,000,000
11	2027-2028	2027	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
12	2028-2029	2028	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
13	2029-2030	2029	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
14	2030-2031	2030	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
15	2031-2032	2031	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
16	2032-2033	2032	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
17	2033-2034	2033	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
18	2034-2035	2034	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
19	2035-2036	2035	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
20	2036-2037	2036	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
21	2037-2038	2037	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
22	2038-2039	2038	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
23	2039-2040	2039	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
24	2040-2041	2040	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000
25	2041-2042	2041	\$0	\$0	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000	\$65,000,000

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.  
 Only include market value for eligible property on this schedule.

**Schedule C: Employment Information**

Date: 10/21/2014  
 Applicant Name: BNB Lamesa Solar LLC  
 ISD Name: Lamesa Independent School District

	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Construction		Non-Qualifying Jobs		Qualifying Jobs	
				Column A Number of Construction FTEs or man-hours (specify)	Column B Average annual wage rates for construction workers	Column C Number of non-qualifying jobs applicant estimates it will create (cumulative)	Column D Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Column E Average annual wage of new qualifying jobs	
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2016-2017	2016	170	\$35,000	0	0		\$0
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2017-2018	2017	30	\$35,000	1	2		\$40,900
	2	2018-2019	2018	0	\$0	1	2		\$40,900
	3	2019-2020	2019	0	\$0	1	2		\$40,900
	4	2020-2021	2020	0	\$0	1	2		\$40,900
	5	2021-2022	2021	0	\$0	1	2		\$40,900
	6	2022-2023	2022	0	\$0	1	2		\$40,900
	7	2023-2024	2023	0	\$0	1	2		\$40,900
	8	2024-2025	2024	0	\$0	1	2		\$40,900
	9	2025-2026	2025	0	\$0	1	2		\$40,900
	10	2026-2027	2026	0	\$0	1	2		\$40,900
Years Following Value Limitation Period	11 through 25	2027-2042	2027-2041	0	\$0	1	2		\$40,900

Notes: See TAC 9.1051 for definition of non-qualifying jobs.  
 Only include jobs on the project site in this school district.

- C1.** Are the cumulative number of qualifying jobs listed in Column D less than the number of qualifying jobs required by statute? (25 qualifying jobs in Subchapter B districts, 10 qualifying jobs in Subchapter C districts)  
 If yes, answer the following two questions:
- C1a.** Will the applicant request a job waiver, as provided under 313.025(f-1)?
- C1b.** Will the applicant avail itself of the provision in 313.021(3)(F)?

Yes  No

Yes  No

Yes  No

Schedule D: Other Incentives (Estimated)

Date: 10/29/2014  
 Applicant Name: BNB Lamesa Solar LLC  
 ISD Name: Lamesa Independent School District

State and Local Incentives for which the Applicant intends to apply (Estimated)						
Incentive Description	Taxing Entity (as applicable)	Beginning Year of Benefit	Duration of Benefit	Annual Tax Levy without Incentive	Annual Incentive	Annual Net Tax Levy
Tax Code Chapter 311	County: City: Other:					
Tax Code Chapter 312	County: Dawson City: N/A Other: Hospital Other: N/A	2017	2017-2026	25 YR AVG= \$ 587,876	100% Abatement with \$500/MW PILOT	25 YR AVG= \$ 235,756
Local Government Code Chapters 380/381	County: N/A City: N/A Other: N/A	2017	2017-2026	25 YR AVG= \$ 186,147	100% Abatement with \$152.06/MW PILOT	25 YR AVG= \$ 74,275
Freepport Exemptions						
Non-Annexation Agreements						
Enterprise Zone/Project						
Economic Development Corporation						
Texas Enterprise Fund						
Employee Recruitment						
Skills Development Fund						
Training Facility Space and Equipment						
Infrastructure Incentives						
Permitting Assistance						
Other:						
Other:						
Other:						
Other:						
<b>TOTAL</b>				<b>25 YR AVG=\$774,023</b>		<b>25 YR AVG=\$310,031</b>

Additional information on incentives for this project:

**County 312 Terms:** 100% abatement for 10 years beginning in 2017 with a PILOT payment of \$500/MW for every year the abatement is in effect  
**Hospital 312 Terms:** 100% abatement for 10 years beginning in 2017 with a PILOT payment of \$152.03/MW for every year the abatement is in effect

**TAB 15**

*Economic Impact Analysis, other payments made in the state or other economic information (if applicable)*

None

**TAB 16**

*Description of Reinvestment Zone or Enterprise Zone, including:*

- a) *Evidence that the area qualifies as a enterprise zone as defined by the Governor's office* **(Not Applicable)**
- b) *Legal description of reinvestment zone\** **(See Attached)**
- c) *Order, resolution, or ordinance established the reinvestment zone\** **(See Attached)**
- d) *Guidelines and criteria for creating the zone\** **(See Attached)**

# Exhibit B

## Legal Description of Reinvestment Zone

### Survey

T&P RR CO

35 T5N

Section	Alternate Survey Name	Abstract #	Acres
9		896	649.04
10	BAILEY, J R	876	645.71
11		882	635.06
14	WRISTEN, J	903	644.05
15		917	644.44
16	DAVIS, H	908	644.76
22	WRISTEN, J	940	646.68
23		938	637.51
26	JONES, H	962	638.17

### All of the land EAST of Highway 87 within these following sections.

Section	Alternate Survey Name	Abstract #	Acres
7		911	149.31
8	MARSHALL, J C A	885	645.61
17		930	344.90
20	DAVIS, H J	942	8.34
21		950	493.05
27		966	626.73
28	NIX, O	970	82.25
Total Acres			8,135.61

*All information based on GIS data supplied by TNRIS through the Texas General Land Office. Acreage is approximate and based upon map as supplied which may not accurately reflect recorded patented acreage for Survey.*

Designation of  
Lamesa Solar  
Reinvestment Zone

§  
§  
§

The Commissioners' Court  
Of  
Dawson County, Texas

**ORDER**

**Approving Motion for Designation  
of the Lamesa Solar Reinvestment Zone**

The Commissioners' Court of Dawson County, Texas, meeting in regular session on the 13 day of May, 2014, considered the following resolution:

BE IT ORDERED BY THE COMMISSIONERS' COURT OF DAWSON COUNTY, TEXAS AS FOLLOWS

Motion by Commissioner Ricky Minjarez seconded by Russell Cox, that the following action be taken by the court:

1. THAT the County designates the property located in Dawson County, having the boundary description in Exhibit A and shown on the map in Exhibit B, both attached to this **Order**, as a Reinvestment Zone under the Dawson County Guidelines and Criteria for Granting Tax Abatements, having determined that the designation will contribute to the retention or expansion of primary employment and will attract major investment in the zone that will benefit the zone and will contribute to the economic development of the County, and
2. THAT the County declare eligible for property tax abatement all eligible property for commercial-industrial development, now or thereafter located in that Reinvestment Zone as authorized by the Dawson County Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones and Chapter 312 of the Texas Tax Code.
3. THAT the zone shall be called the "Lamesa Solar Reinvestment Zone."

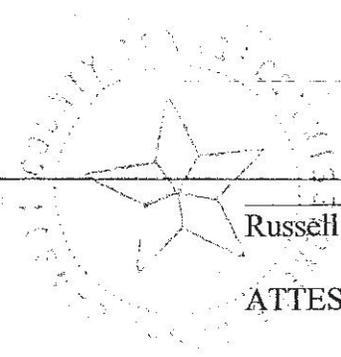
This ORDER shall become effective as of May 13, 2014 PASSED AND APPROVED at this public hearing of the Dawson County Commissioners Court, at which a quorum was present, on the 13 day of May, 2014.

Foy O'Brien Date: 5-13, 2014, County Judge

Ricky Minjarez Date: 5-13, 2014, Commissioner Precinct 1

Tony Hernandez Date: 5-13, 2014, Commissioner Precinct 2

Nicky Goode Date: 5-13, 2014, Commissioner Precinct 3



*[Handwritten Signature]*

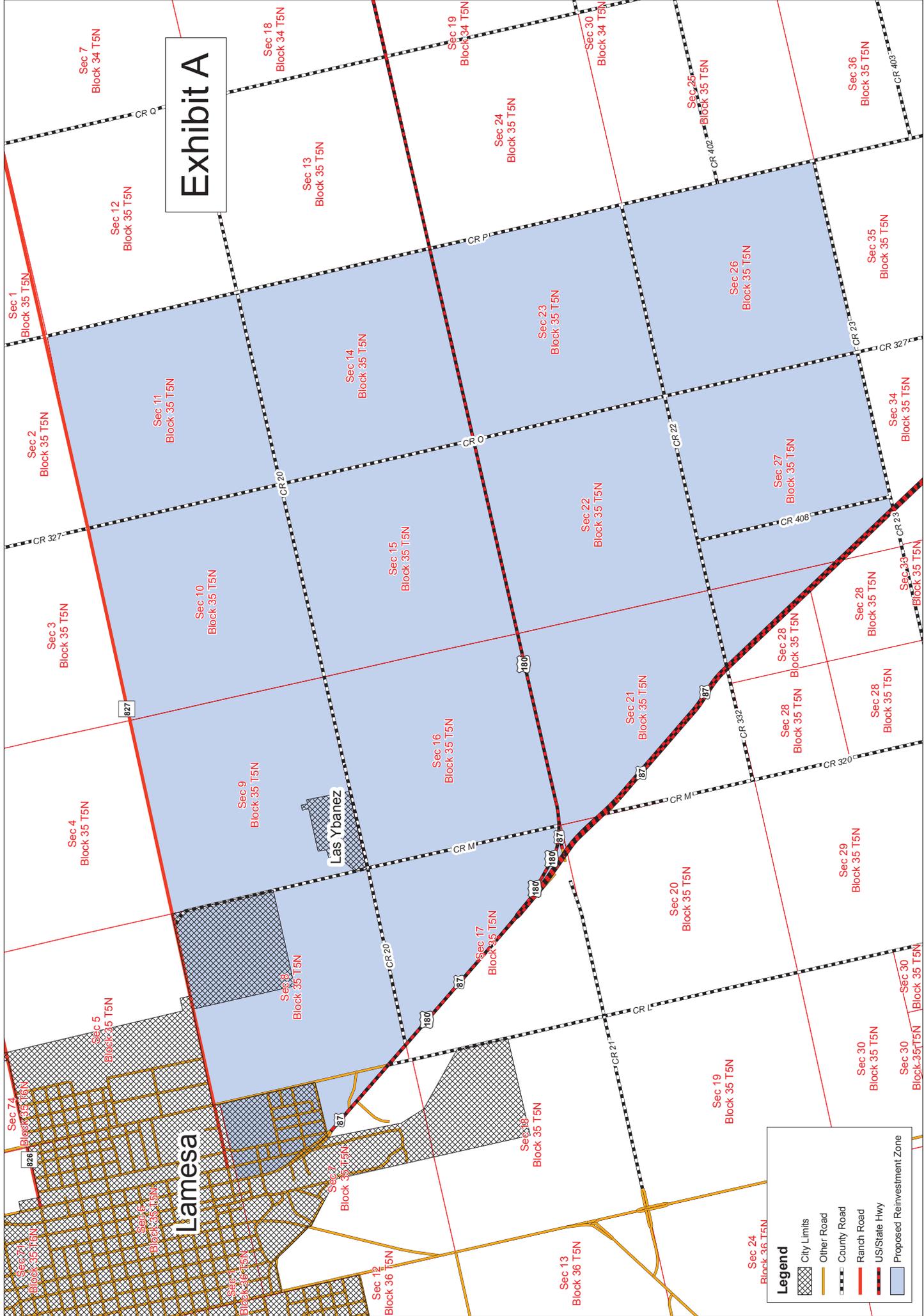
Date: 5-13, 2014, Commissioner Precinct 4

Russell Cox

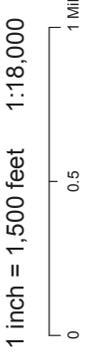
ATTESTED: *[Handwritten Signature]* Date: 5/13, 2014, County Clerk

Gloria Vera

# Exhibit A



## Lamesa Solar, LLC Dawson County Reinvestment Zone



**Legend**

- City Limits
- Other Road
- County Road
- Ranch Road
- US/State Hwy
- Proposed Reinvestment Zone

# Guidelines & Criteria For Granting Tax Abatements

## Dawson County, Texas

### Preamble

Pursuant to Chapter 312 of the Texas Tax Code, Dawson County may consider an application for tax abatement, designate a reinvestment zone, and enter into a tax abatement agreement in accordance with those Guidelines and Criteria. It is the express intent of the Dawson County Commissioners Court to promote economic development, but not at the expense of the County's natural resources or services provided to the general public. No application submitted under the following schedule deemed to have a substantially adverse effect on natural resources in the County or on County infrastructure (including roads and bridges) will be approved, unless the application can demonstrate just cause for such an exception.

### I. Abatement Application Procedure

- (a) Who may apply. Any present or potential owner of taxable real property in Dawson County may submit an application for tax abatement conforming to the requirements herein.
- (b) Eligible Property. Abatement may be granted for the following property: new expanded or modernized buildings and structures, fixed machinery and equipment; site improvements; other tangible items necessary to the operation and administration of the project or facility; and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code. Taxes on real property may be abated only to the extent the property's value for a given year exceeds its value for the year in which the agreement is executed. Tangible personal property located on the real property at any time before the period covered by the agreement is not eligible for abatement. Tangible personal property eligible for abatement shall not include inventory or supplies.

Property in a reinvestment zone that is owned or leased by a member of the County Commissioners Court is excluded from property tax abatement.

- (c) Application provisions. The application shall consist of a completed Dawson County Tax Abatement Application Form, which shall contain the following:
  - (1) information showing how the project meets the requirements of the criteria outlined in Section II below;
  - (2) a map and description of the property;
  - (3) a time schedule for completing the planned improvements;
  - (4) the estimated taxable value or range of values of the project or facility; and
  - (5) basic financial information about the applicant sufficient to enable evaluation of the application's financial capacity.

4/68

(d) Procedure for Consideration of Application. The procedure for consideration by the County of a Tax Abatement Application is as follows:

- (1) An applicant may request a Tax Abatement Application from the County Clerk.
- (2) After an applicant completes the Tax Abatement Application, the applicant must provide a copy to each member of the Dawson County Commissioners Court and the County Clerk;
- (3) The Commissioners Court shall issue a determination at any time before the expiration of forty-five (45) days from the date of receipt of the application regarding how to proceed with the application. The Commissioners Court shall choose either to deny the application, consider the application, or consider the application on an expedited basis.

- (a) *Denial of Application.* If the Commissioners Court chooses to deny the application, it shall make a finding by majority vote at a regularly scheduled meeting that, after balancing the criteria described below in Section II, it is the judgment of the Commissioners Court that the application should be denied.
- (b) *Consideration of Application.* If the County determines that the application should be further considered, the Commissioners Court must hold a public hearing to obtain public input on the application. Not later than the seventh (7<sup>th</sup>) day before the date of the hearing, notice of the hearing must be: (1) delivered in writing to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, and (2) published in a newspaper of general circulation in the County. At the hearing, the Commissioners Court evaluates the application against the criteria in Section II and decides by majority vote whether to designate the property for which the abatement is sought as a reinvestment zone. If the reinvestment zone is designated, the Commissioners Court shall pass an order to that effect. An order designating an area as a reinvestment zone is valid for five years from the date of designation. Once the area is designated as a reinvestment zone, the Commissioners Court may then arrange to consider for approval of the tax abatement agreement between the applicant and the County at its next regularly scheduled meeting. At least seven days prior to entering into a tax abatement agreement, the County must give written notice of its intent to do so to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, along with a copy of the proposed tax abatement agreement. At the regularly scheduled meeting, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement, or to decline. An approved tax abatement agreement may be executed in the same manner as other contracts made by the County. A tax abatement agreement that is declined by the County may be amended and resubmitted to the County.
- (c) *Expedited consideration of application.* If the County determines that the application should receive expedited consideration, the Commissioners Court

may combine the steps described in the preceding paragraph into a single, regularly scheduled meeting of the Commissioners Court, provided the County meets the procedural prerequisites for each step.

- 
- (e) Confidentiality. As required by Chapter 312.003 of the Texas Tax Code, information that is provided to Dawson County in connection with an application or request for tax abatement under this chapter and that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the property for which tax abatement is sought is confidential and not subject to public disclosure until the tax abatement agreement is executed.
  
  - (f) Effect of error or variance with application procedure. Except where not allowed by state law, the County may waive application procedures or grant procedural variances as they deem appropriate.

## II. Criteria for Designating a Reinvestment Zone and Evaluating Tax Abatement Agreement

- (a) Minimum requirements. To be designated a reinvestment zone, County Commissioners must find by majority vote that the designation would contribute to the retention or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property and that would contribute to the economic development of the County.
- (b) Criteria. In determining whether to designate a reinvestment zone and whether to enter into a tax abatement agreement, the Commissioners Court shall consider the following factors, among others determined appropriate by the Court:
- (1) the current value of land and existing improvements, if any;
  - (2) the type, value, and purpose of proposed improvements, if any;
  - (3) the productive life of proposed improvements, if any;
  - (4) the impact of proposed improvements and any other proposed expenditures on existing jobs;
  - (5) the number and type of new jobs, if any, to be created by proposed improvements and expenditures;
  - (6) any costs to be incurred by Dawson County, if any, to provide facilities or services directly resulting from the new improvements;
  - (7) the types and values of public improvements, if any, to be made by applicant seeking abatement;
  - (8) an estimate of the amount of ad valorem property taxes to be paid to Dawson County after expiration of the abatement agreement;
  - (9) the impact on the business opportunities of existing businesses and the attraction of new businesses to the area, if any;
  - (10) the overall compatibility with the zoning ordinances and comprehensive plan, if any, for the area; and
  - (11) whether the applicant's proposed facility or improvement or modernization is an industry which is new to Dawson County;
  - (12) the impact upon County infrastructure including roads, bridges, and the use of County Services.

### III. Format for Tax Abatement Agreement

(a) Required Provisions. If the Dawson County Commissioners Court designates a reinvestment zone, it may consider and execute a tax abatement agreement with the owner of the designated property as outlined above. Any tax abatement agreement shall include at least the following provisions:

---

- (1) the kind, number and location of all proposed improvements of the property;
- (2) provisions allowing for reasonable access to the property for initial and intermittent inspection purposes by County employees or designated representatives to ensure improvements are made in compliance with the agreement;
- (3) provisions limiting the use of the property consistent with the general purpose of encouraging development or redevelopment of the area during the period of the abatement;
- (4) provisions for recapturing property tax revenue lost as a result of the agreement if the owner of the property fails to make the improvements or repairs as provided in the agreement;
- (5) each term agreed to by the recipient of the abatement;
- (6) a requirement that the abatement recipient certify its compliance with the agreement annually to each taxing unit that is party to the agreement; and
- (7) provisions allowing the County to cancel or modify the agreement if the recipient fails to comply with the agreement.

- (b) Optional Provisions. The tax abatement agreement may also contain any or all of the following items, in addition to any others deemed appropriate by the contracting parties;
- (1) the estimated taxable value or range of values for which taxes are to be abated;
  - (2) the percent of value to be abated each year;
  - (3) the commencement and termination dates of the abatement;
  - (4) the proposed use of the property;
  - (5) a time schedule, map, and property description;
  - (6) contractual obligations in the event of default or violation of terms or conditions;
  - (7) the size of investment and number of temporary and permanent jobs involved, if any;
  - (8) provisions for dispute resolution.

- (c) Duration and portion of abatement. A tax abatement agreement granted by Dawson County shall be up to but not exceeding ten (10) years in duration and up to but not exceeding 100 percent (100%) in portion of ad valorem property taxes abated. At any time before the expiration of the agreement, the parties may agree to modify the

agreement or to delete the provisions that were not necessary to the original agreement. The same procedural prerequisites for approval of the original agreement apply to modification of the agreement.

- (d) Time Limit. Such Agreement shall be executed within 30 days after the passage of the resolution approving the agreement, unless the County and the applicant agree otherwise.
- 

#### **IV. General Provisions**

These guidelines and criteria in no way require the County to enter into any specific tax abatement agreement. The County maintains the discretion to reject any application for tax abatement as it deems appropriate.

#### **V. Sunset and Amendment of Guidelines and Criteria**

These guidelines and criteria are effective upon the date of their adoption and will remain in force for two years, unless amended by a three-fourths vote of the Dawson County Commissioners Court.

Date: 5-15-14

Dawson County Commissioners Court

**RE: Resolution declaring Dawson County eligible to participate in tax abatement**

**RESOLUTION ELECTING TO PARTICIPATE IN TAX ABATEMENT**

Be it resolved that the Dawson County Commissioners Court elects to become Eligible to participate in tax abatements as authorized by Chapter 312 of the Texas Tax Code.

Motion by Eric Miller, seconded by Russell Cox.

Passed and approved at a regular meeting of the Dawson County Commissioners Court, at which a quorum was present on the 15th day of May 2014.

ATTESTED

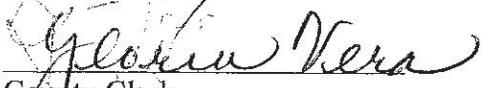
  
\_\_\_\_\_  
Honorable Foy O'Brien, County Judge

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Commissioner

  
\_\_\_\_\_  
Gloria Vera  
County Clerk

**TAB 17**

*Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative (applicant)*

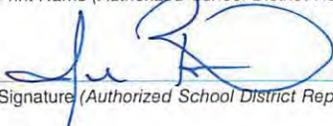
**SECTION 16: Authorized Signatures and Applicant Certification**

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in **Tab 17**. **NOTE:** If you amend your application, you will need to obtain new signatures and resubmit this page, Section 16, with the amendment request.

**1. Authorized School District Representative Signature**

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

**print here** → John Ramos Superintendent  
Print Name (Authorized School District Representative) Title

**sign here** →  10/21/14  
Signature (Authorized School District Representative) Date

**2. Authorized Company Representative (Applicant) Signature and Notarization**

I am the authorized representative for the business entity for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application and schedules is true and correct to the best of my knowledge and belief.

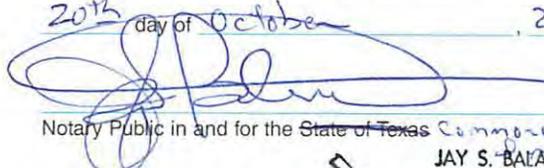
I hereby certify and affirm that the business entity I represent is in good standing under the laws of the state in which the business entity was organized and that no delinquent taxes are owed to the State of Texas.

**print here** → Jonathan Nicholas Managing Member  
Print Name (Authorized Company Representative (Applicant)) Title

**sign here** →  October 20, 2014  
Signature (Authorized Company Representative (Applicant)) Date

GIVEN under my hand and seal of office this, the

20<sup>th</sup> day of October, 2014



Notary Public in and for the State of Texas

(Notary Seal)

My Commission expires:



JAY S. BALABAN  
NOTARY PUBLIC  
Commonwealth of Massachusetts  
My Commission Expires  
September 10, 2015

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.



## Franchise Tax Account Status

As of: 06/21/2015 03:13:38 PM

This Page is Not Sufficient for Filings with the Secretary of State

BNB LAMESA SOLAR LLC	
Texas Taxpayer Number	32054964914
Mailing Address	371 GORDON DR EXTON, PA 19341-1201
Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	08/18/2014
Texas SOS File Number	0802050806
Registered Agent Name	REGISTERED AGENT SOLUTIONS, INC.
Registered Office Street Address	1701 DIRECTORS BLVD., SUITE 300 AUSTIN, TX 78744



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O. Box 13528 • Austin, TX 78711-3528

February 16, 2015

John Ramos  
Superintendent  
Lamesa Independent School District  
PO Box 261  
Lamesa, Texas 79331-5442

Dear Superintendent Ramos:

On November 18, 2014, the Comptroller issued written notice that BNB Lamesa Solar, LLC (the applicant) submitted a completed application (Application #1033) for a limitation on appraised value under the provisions of Tax Code Chapter 313<sup>1</sup>. This application was originally submitted on October 21, 2014, to the Lamesa Independent School District (the school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

- |                   |  |
|-------------------|--|
| Sec. 313.024(a)   | Applicant is subject to tax imposed by Chapter 171.  |
| Sec. 313.024(b)   | Applicant is proposing to use the property for an eligible project.  |
| Sec. 313.024(d)   | Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located. |
| Sec. 313.024(d-2) | Not applicable to Application #1033.   |

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<sup>1</sup> All statutory references are to the Texas Tax Code, unless otherwise noted.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

**Certificate decision required by 313.025(d)**

**Determination required by 313.026(c)(1)**

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period. See Attachment B.

**Determination required by 313.026(c)(2)**

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state. See Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

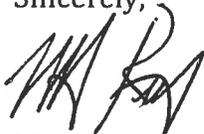
The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-286) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement within a year from the date of this letter.

Note that any building or improvement existing as of the application review start date of November 18, 2014, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Robert Wood, Associate Deputy Comptroller, by email at [robert.wood@cpa.texas.gov](mailto:robert.wood@cpa.texas.gov) or by phone at 1-800-531-5441, ext. 3-3973, or direct in Austin at 512-463-3973.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Reissig". The signature is stylized and somewhat cursive.

Mike Reissig  
Deputy Comptroller

Enclosure

cc: Robert Wood

## Attachment A – Economic Impact Analysis

This following tables summarizes the Comptroller’s economic impact analysis of BNB Lamesa Solar, LLC (the project) applying to Lamesa Independent School District (the district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

**Table 1** is a summary of investment, employment and tax impact of BNB Lamesa Solar, LLC.

Applicant	BNB Lamesa Solar, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy Electric Generation
School District	Lamesa ISD
2011-12 Enrollment in School District	2,046
County	Dawson
Proposed Total Investment in District	\$337,728,968
Proposed Qualified Investment	\$325,000,000
Limitation Amount	\$20,000,000
Number of new qualifying jobs committed to by applicant	2*
Number of new non-qualifying jobs estimated by applicant	1
Average weekly wage of qualifying jobs committed to by applicant	\$786
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(A)	\$726
Minimum annual wage committed to by applicant for qualified jobs	\$40,900
Minimum weekly wage required for non-qualifying jobs	\$840
Minimum annual wage required for non-qualifying jobs	\$43,672
Investment per Qualifying Job	\$168,864,484
Estimated M&O levy without any limit (15 years)	\$24,297,975
Estimated M&O levy with Limitation (15 years)	\$5,382,000
Estimated gross M&O tax benefit (15 years)	\$18,915,975
<i>* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).</i>	

**Table 2** is the estimated statewide economic impact of BNB Lamesa Solar, LLC (modeled).

Year	Employment			Personal Income			Revenue & Expenditure		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2016	170	1,419	1589	\$5,950,000	\$82,795,000	\$88,745,000	\$12,359,619	-\$2,738,953	\$15,098,572
2017	33	380	413	\$1,170,982	\$30,323,018	\$31,494,000	\$3,387,451	\$488,281	\$2,899,170
2018	3	26	29	\$120,982	\$9,523,018	\$9,644,000	\$526,428	\$1,365,662	-\$839,234
2019	3	(5)	-2	\$120,982	\$5,372,018	\$5,493,000	\$350,952	\$1,327,515	-\$976,563
2020	3	(26)	-23	\$120,982	\$2,931,018	\$3,052,000	\$228,882	\$1,182,556	-\$953,674
2021	3	(28)	-25	\$120,982	\$856,018	\$977,000	\$122,070	\$1,029,968	-\$907,898
2022	3	(21)	-18	\$120,982	\$611,018	\$732,000	\$152,588	\$862,122	-\$709,534
2023	3	(19)	-16	\$120,982	\$367,018	\$488,000	\$106,812	\$732,422	-\$625,610
2024	3	(19)	-16	\$120,982	\$367,018	\$488,000	\$122,070	\$640,869	-\$518,799
2025	3	(7)	-4	\$120,982	-\$242,982	-\$122,000	\$68,665	\$511,169	-\$442,504
2026	3	(7)	-4	\$120,982	\$1,018	\$122,000	\$53,406	\$419,617	-\$366,211
2027	3	(7)	-4	\$120,982	\$123,018	\$244,000	\$22,888	\$289,917	-\$267,029
2028	3	(3)	0	\$120,982	\$123,018	\$244,000	\$15,259	\$221,252	-\$205,993
2029	3	(3)	0	\$120,982	\$367,018	\$488,000	\$15,259	\$167,847	-\$152,588
2030	3	(1)	2	\$120,982	\$123,018	\$244,000	\$0	\$76,294	-\$76,294

Source: CPA, REMI, BNB Lamesa Solar, LLC

**Table 3** examines the estimated direct impact on ad valorem taxes to the region if all taxes are assessed.

Table 3 Estimated Direct Ad Valorem Taxes without property tax incentives												
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Lamesa ISD I&S Tax Levy	Lamesa ISD M&O Tax Levy	Lamesa ISD M&O and I&S Tax Levies	Dawson County Tax Levy	Dawson County Hospital Tax Levy	City of Lamesa Tax Levy	Mesa Underground Water Conservation Tax Levy	Estimated Total Property Taxes	
			0.0000	0.0000	1.1700		0.5258	0.1666	0.7243	0.0160		
2016	\$ -	\$ -		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
2017	\$ 130,000,000	\$ 130,000,000		\$0	\$1,521,000	\$1,521,000	\$683,576	\$216,529	\$941,590	\$20,800	\$3,383,496	
2018	\$ 299,000,000	\$ 299,000,000		\$0	\$3,498,300	\$3,498,300	\$1,572,226	\$498,017	\$2,165,657	\$47,840	\$7,782,040	
2019	\$ 273,000,000	\$ 273,000,000		\$0	\$3,194,100	\$3,194,100	\$1,435,510	\$454,712	\$1,977,339	\$43,680	\$7,105,341	
2020	\$ 247,000,000	\$ 247,000,000		\$0	\$2,889,900	\$2,889,900	\$1,298,795	\$411,406	\$1,789,021	\$39,520	\$6,428,642	
2021	\$ 217,750,000	\$ 217,750,000		\$0	\$2,547,675	\$2,547,675	\$1,144,990	\$362,687	\$1,577,163	\$34,840	\$5,667,355	
2022	\$ 188,500,000	\$ 188,500,000		\$0	\$2,205,450	\$2,205,450	\$991,186	\$313,967	\$1,365,306	\$30,160	\$4,906,069	
2023	\$ 159,250,000	\$ 159,250,000		\$0	\$1,863,225	\$1,863,225	\$837,381	\$265,248	\$1,153,448	\$25,480	\$4,144,782	
2024	\$ 126,750,000	\$ 126,750,000		\$0	\$1,482,975	\$1,482,975	\$666,487	\$211,116	\$918,050	\$20,280	\$3,298,908	
2025	\$ 97,500,000	\$ 97,500,000		\$0	\$1,140,750	\$1,140,750	\$512,682	\$162,397	\$706,193	\$15,600	\$2,537,622	
2026	\$ 78,000,000	\$ 78,000,000		\$0	\$912,600	\$912,600	\$410,146	\$129,918	\$564,954	\$12,480	\$2,030,097	
2027	\$ 65,000,000	\$ 65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
2028	\$ 65,000,000	\$ 65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
2029	\$ 65,000,000	\$ 65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
2030	\$ 65,000,000	\$ 65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
						<b>Total</b>	<b>\$24,297,975</b>	<b>\$10,920,133</b>	<b>\$3,459,056</b>	<b>\$15,041,900</b>	<b>\$332,280</b>	<b>\$54,051,344</b>

Source: CPA, BNB Lamesa Solar, LLC

<sup>1</sup>Tax Rate per \$100 Valuation

**Table 4** examines the estimated direct impact on ad valorem taxes to the school district and Dawson County, with all property tax incentives sought being granted using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with Dawson County and the County Hospital.

The difference noted in the last line is the difference between the totals in Table 3 and Table 4.

Table 4 Estimated Direct Ad Valorem Taxes with all property tax incentives sought												
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Lamesa ISD I&S Tax Levy	Lamesa ISD M&O Tax Levy	Lamesa ISD M&O and I&S Tax Levies	Dawson County Tax Levy	Dawson County Hospital Tax Levy	City of Lamesa Tax Levy	Mesa Underground Water Conservation Tax Levy	Estimated Total Property Taxes	
				0.0000	1.1700		0.5258	0.1666	0.7243	0.0160		
2016	\$ -	\$0		\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	
2017	\$ 130,000,000	\$20,000,000		\$0	\$234,000	\$234,000	\$683,576	\$216,529	\$941,590	\$20,800	\$2,096,496	
2018	\$ 299,000,000	\$20,000,000		\$0	\$234,000	\$234,000	\$943,335	\$298,810	\$2,165,657	\$47,840	\$3,689,643	
2019	\$ 273,000,000	\$20,000,000		\$0	\$234,000	\$234,000	\$861,306	\$272,827	\$1,977,339	\$43,680	\$3,389,152	
2020	\$ 247,000,000	\$20,000,000		\$0	\$234,000	\$234,000	\$779,277	\$246,843	\$1,789,021	\$39,520	\$3,088,661	
2021	\$ 217,750,000	\$20,000,000		\$0	\$234,000	\$234,000	\$686,994	\$217,612	\$1,577,163	\$34,840	\$2,750,609	
2022	\$ 188,500,000	\$20,000,000		\$0	\$234,000	\$234,000	\$594,711	\$188,380	\$1,365,306	\$30,160	\$2,412,557	
2023	\$ 159,250,000	\$20,000,000		\$0	\$234,000	\$234,000	\$502,429	\$159,149	\$1,153,448	\$25,480	\$2,074,505	
2024	\$ 126,750,000	\$20,000,000		\$0	\$234,000	\$234,000	\$399,892	\$126,670	\$918,050	\$20,280	\$1,698,892	
2025	\$ 97,500,000	\$20,000,000		\$0	\$234,000	\$234,000	\$307,609	\$97,438	\$706,193	\$15,600	\$1,360,840	
2026	\$ 78,000,000	\$20,000,000		\$0	\$234,000	\$234,000	\$246,088	\$77,951	\$564,954	\$12,480	\$1,135,472	
2027	\$ 65,000,000	\$65,000,000		\$0	\$760,500	\$760,500	\$205,073	\$64,959	\$470,795	\$10,400	\$1,511,727	
2028	\$ 65,000,000	\$65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
2029	\$ 65,000,000	\$65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
2030	\$ 65,000,000	\$65,000,000		\$0	\$760,500	\$760,500	\$341,788	\$108,265	\$470,795	\$10,400	\$1,691,748	
						<b>Total</b>	<b>\$5,382,000</b>	<b>\$7,235,656</b>	<b>\$2,291,963</b>	<b>\$15,041,900</b>	<b>\$332,280</b>	<b>\$30,283,799</b>
						<b>Diff</b>	<b>\$18,915,975</b>	<b>\$3,684,477</b>	<b>\$1,167,093</b>	<b>\$0</b>	<b>\$0</b>	<b>\$23,767,545</b>

Source: CPA, BNB Lamesa Solar, LLC

<sup>1</sup>Tax Rate per \$100 Valuation

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

### Attachment B – Tax Revenue over 25 Years

This represents the Comptroller’s determination that BNB Lamesa Solar, LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy and direct, indirect and induced tax effects from project employment directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2014	\$0	\$0	\$0	\$0
	2015	\$0	\$0	\$0	\$0
	2016	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2017	\$234,000	\$234,000	\$1,287,000	\$1,287,000
	2018	\$234,000	\$468,000	\$3,264,300	\$4,551,300
	2019	\$234,000	\$702,000	\$2,960,100	\$7,511,400
	2020	\$234,000	\$936,000	\$2,655,900	\$10,167,300
	2021	\$234,000	\$1,170,000	\$2,313,675	\$12,480,975
	2022	\$234,000	\$1,404,000	\$1,971,450	\$14,452,425
	2023	\$234,000	\$1,638,000	\$1,629,225	\$16,081,650
	2024	\$234,000	\$1,872,000	\$1,248,975	\$17,330,625
	2025	\$234,000	\$2,106,000	\$906,750	\$18,237,375
	2026	\$234,000	\$2,340,000	\$678,600	\$18,915,975
<b>Maintain Viable Presence (5 Years)</b>	2027	\$760,500	\$3,100,500	\$0	\$18,915,975
	2028	\$760,500	\$3,861,000	\$0	\$18,915,975
	2029	\$760,500	\$4,621,500	\$0	\$18,915,975
	2030	\$760,500	\$5,382,000	\$0	\$18,915,975
	2031	\$760,500	\$6,142,500	\$0	\$18,915,975
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2032	\$760,500	\$6,903,000	\$0	\$18,915,975
	2033	\$760,500	\$7,663,500	\$0	\$18,915,975
	2034	\$760,500	\$8,424,000	\$0	\$18,915,975
	2035	\$760,500	\$9,184,500	\$0	\$18,915,975
	2036	\$760,500	\$9,945,000	\$0	\$18,915,975
	2037	\$760,500	\$10,705,500	\$0	\$18,915,975
	2038	\$760,500	\$11,466,000	\$0	\$18,915,975
	2039	\$760,500	\$12,226,500	\$0	\$18,915,975
	2040	\$760,500	\$12,987,000	\$0	\$18,915,975
	2041	\$760,500	\$13,747,500	\$0	\$18,915,975

**\$13,747,500**

is less than

**\$18,915,975**

**Analysis Summary**

Is the project reasonably likely to generate school M&O tax revenue in an amount sufficient to offset the school M&O levy loss as a result of the limitation agreement within a 25 year time period?

No

### Employment Indirect and Induced Tax Effects

Year	Employment			Personal Income			Revenue & Expenditure		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2016	170	1,419	1589	\$5,950,000	\$82,795,000	\$88,745,000	\$12,359,619	-\$2,738,953	\$15,098,572
2017	33	380	413	\$1,170,982	\$30,323,018	\$31,494,000	\$3,387,451	\$488,281	\$2,899,170
2018	3	26	29	\$120,982	\$9,523,018	\$9,644,000	\$526,428	\$1,365,662	-\$839,234
2019	3	(5)	-2	\$120,982	\$5,372,018	\$5,493,000	\$350,952	\$1,327,515	-\$976,563
2020	3	(26)	-23	\$120,982	\$2,931,018	\$3,052,000	\$228,882	\$1,182,556	-\$953,674
2021	3	(28)	-25	\$120,982	\$856,018	\$977,000	\$122,070	\$1,029,968	-\$907,898
2022	3	(21)	-18	\$120,982	\$611,018	\$732,000	\$152,588	\$862,122	-\$709,534
2023	3	(19)	-16	\$120,982	\$367,018	\$488,000	\$106,812	\$732,422	-\$625,610
2024	3	(19)	-16	\$120,982	\$367,018	\$488,000	\$122,070	\$640,869	-\$518,799
2025	3	(7)	-4	\$120,982	-\$242,982	-\$122,000	\$68,665	\$511,169	-\$442,504
2026	3	(7)	-4	\$120,982	\$1,018	\$122,000	\$53,406	\$419,617	-\$366,211
2027	3	(7)	-4	\$120,982	\$123,018	\$244,000	\$22,888	\$289,917	-\$267,029
2028	3	(3)	0	\$120,982	\$123,018	\$244,000	\$15,259	\$221,252	-\$205,993
2029	3	(3)	0	\$120,982	\$367,018	\$488,000	\$15,259	\$167,847	-\$152,588
2030	3	(1)	2	\$120,982	\$123,018	\$244,000	\$0	\$76,294	-\$76,294
2031	3	(3)	0	\$120,982	\$123,018	\$244,000	-\$22,888	-\$7,629	-\$15,259
2032	3	3	6	\$120,982	\$123,018	\$244,000	-\$38,147	-\$45,776	\$7,629
2033	3	1	4	\$120,982	\$611,018	\$732,000	-\$83,923	-\$144,958	\$61,035
2034	3	(5)	-2	\$120,982	-\$120,982	\$0	-\$167,847	-\$205,994	\$38,147
2035	3	(9)	-6	\$120,982	-\$364,982	-\$244,000	-\$198,364	-\$251,770	\$53,406
2036	3	(7)	-4	\$120,982	-\$608,982	-\$488,000	-\$236,511	-\$350,952	\$114,441
2037	3	(11)	-8	\$120,982	-\$1,097,982	-\$977,000	-\$274,658	-\$419,617	\$144,959
2038	3	(15)	-12	\$120,982	-\$1,585,982	-\$1,465,000	-\$305,176	-\$488,281	\$183,105
2039	3	(15)	-12	\$120,982	-\$1,585,982	-\$1,465,000	-\$366,211	-\$549,316	\$183,105
2040	3	(19)	-16	\$120,982	-\$2,806,982	-\$2,686,000	-\$442,505	-\$625,610	\$183,105
2041	3	(19)	-16	\$120,982	-\$2,317,982	-\$2,197,000	-\$442,505	-\$679,016	\$236,511
						<b>Total</b>	<b>\$14,953,614</b>	<b>\$2,807,619</b>	<b>\$12,145,995</b>
							<b>\$25,893,495</b>	is greater than	<b>\$18,915,975</b>

Analysis Summary	
Is the project reasonably likely to generate total tax revenue in an amount sufficient to offset the school district M&O levy loss as a result of the limitation agreement?	Yes

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

## Attachment C – Limitation as a Determining Factor

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

### Methodology

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

### Determination

The Comptroller is **has determined** that the limitation on appraised value is a determining factor in the BNB Lamesa Solar, LLC decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- According to the company BNB has the ability to allocate or reallocate investments to another state, another region, another region of Texas, or another region of the world.
- Per the application, the applicant is developing projects in Connecticut, New Jersey, New Mexico, Ohio and Texas.

### Supporting Information

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value
- c) Additional information provided by the Applicant or located by the Comptroller

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

# **Supporting Information**

**Section 8 of the Application for  
a Limitation on Appraised Value**

**SECTION 6: Eligibility Under Tax Code Chapter 313.024**

1. Are you an entity subject to the tax under Tax Code, Chapter 171?  Yes  No
2. The property will be used for one of the following activities:
  - (1) manufacturing  Yes  No
  - (2) research and development  Yes  No
  - (3) a clean coal project, as defined by Section 5.001, Water Code  Yes  No
  - (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code  Yes  No
  - (5) renewable energy electric generation  Yes  No
  - (6) electric power generation using integrated gasification combined cycle technology  Yes  No
  - (7) nuclear electric power generation  Yes  No
  - (8) a computer center that is used as an integral part or as a necessary auxiliary part for the activity conducted by applicant in one or more activities described by Subdivisions (1) through (7)  Yes  No
  - (9) a Texas Priority Project, as defined by 313.024(e)(7) and TAC 9.1051  Yes  No
3. Are you requesting that any of the land be classified as qualified investment?  Yes  No
4. Will any of the proposed qualified investment be leased under a capitalized lease?  Yes  No
5. Will any of the proposed qualified investment be leased under an operating lease?  Yes  No
6. Are you including property that is owned by a person other than the applicant?  Yes  No
7. Will any property be pooled or proposed to be pooled with property owned by the applicant in determining the amount of your qualified investment?  Yes  No

**SECTION 7: Project Description**

1. In **Tab 4**, attach a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.
2. Check the project characteristics that apply to the proposed project:
 

<input checked="" type="checkbox"/> Land has no existing improvements	<input type="checkbox"/> Land has existing improvements ( <i>complete Section 13</i> )
<input type="checkbox"/> Expansion of existing operation on the land ( <i>complete Section 13</i> )	<input type="checkbox"/> Relocation within Texas

**SECTION 8: Limitation as Determining Factor**

1. Does the applicant currently own the land on which the proposed project will occur?  Yes  No
2. Has the applicant entered into any agreements or contracts for work to be performed related to the proposed project?  Yes  No
3. Does the applicant have current business activities at the location where the proposed project will occur?  Yes  No
4. Has the applicant made public statements in SEC filings or other official documents regarding its intentions regarding the proposed project location?  Yes  No
5. Has the applicant received any local or state permits for activities on the proposed project site?  Yes  No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site?  Yes  No
7. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?  Yes  No
8. Has the applicant considered or is the applicant considering other locations not in Texas for the proposed project?  Yes  No
9. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities?  Yes  No
10. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project?  Yes  No

If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.

# **Supporting Information**

Attachments provided in Tab 5  
of the Application for a  
Limitation on Appraised Value

**TAB 5**

*Documentation to assist in determining if limitation is a determining factor.*

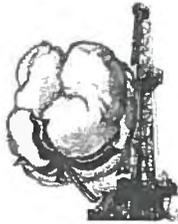
Lamesa Solar met with the Comptroller's Economic Development group regarding the status of the project to discuss and demonstrate that the approval of a Chapter 313 agreement was a determining factor in the building of the project.

BNB Renewable Energy Holdings LLC (BNB) is the parent company of BNB Lamesa Solar LLC. Founded in 2004, BNB develops renewable energy projects, both wind and solar, in the US market. Based on their success with two Texas wind farms, the 180MW Bull Creek and the 200MW Mesquite Creek projects, and the 9.8MW solar project at the Campbell's Soup plant located in Napoleon, Ohio, BNB is actively developing a select group of renewable energy projects in Connecticut, New Jersey, New Mexico, Ohio, and Texas where BNB has leased over 200,000 acres. In Texas, BNB was one of the eleven original interveners who petitioned the PUC for new transmission upgrades. Those upgrades comprise \$5.2 billion dollars of new transmission lines dedicated to carry wind and solar energy from West Texas to load centers in Dallas, San Antonio and Austin. On its Texas acreage, BNB has plans to construct one new wind farm of 250 MW and two solar projects totaling in excess of 550 MW. BNB is executing its five-year goal of developing an additional gigawatt of renewable generation in the USA. As part of this goal, BNB is also active in the development of "inside the fence" renewable energy generation projects and is working with schools, Universities, and Fortune 500 companies on various sites across the US.

Depending on the ability to generate cost-effective electricity for regional consumers, BNB has the ability to allocate or reallocate investments to another state, another region of Texas, or another region of the world. BNB Lamesa Solar, LLC believes, however, that the proposed site in Dawson County is a desirable business location and can provide electricity at a price that is competitive with other regions of Texas. Electric utilities are focused on providing low-cost energy supply to their customers, and contracting for the sale of electricity is currently highly competitive, particularly because of the large number of potential solar energy facilities that can be built in West and Central Texas given the newly constructed transmission capacity. Receiving the Appraised Value Limitation from the school district is vital to obtaining long-term financing and to maintaining the economic competitiveness of the project with other projects currently being developed in Texas by BNB and by others.

# **Supporting Information**

**Additional information  
provided by the Applicant or  
located by the Comptroller**



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## Hospital board OKs tax abatement for solar farm

Russel Skiles, Lamesa Press-Reporter

Saturday, January 31, 2015 6:00 AM

If a solar energy project eventually becomes a reality just outside of Lamesa, it will receive a 10-year break on paying taxes to the Dawson County Hospital District.

Hospital board members this past Wednesday voted to grant a property tax abatement to BNB Lamesa Solar, LLC. BNB is seeking to establish a solar powered electric generation energy facility on several square miles of property in the area of Los Ybanez, just southeast of Lamesa.

According to the tax abatement agreement, BNB would pay property taxes on the land and any existing improvements but would not, for a 10-year period, pay taxes on any new equipment or improvements on the property.

In lieu of taxes, if the project is developed the company would make annual payments to the district based on the megawatt (MW) AC capacity of the facility.

That payment would be \$36.50 per MW in the first year and increase each year to reach \$316.28 per MW in the 10th and final year of the agreement.

With BNB planning a 150 MW facility consisting of over 650,000 solar panels, that would mean annual payments to the hospital district of about \$5,475 the first year and almost \$47,500 the 10th year.

(See complete story in e-Edition online and printed edition of Lamesa Press-Reporter on newsstands now.)

Events

**February, 2015**

S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28

This Week's Events

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**806.872.3838**  
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 Lamesa, TX  
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**Summary of the District's Financial Impact  
of Chapter 313 Agreement  
with BNB Lamesa Solar, LLC**

**January 21, 2015**

Prepared by

**Randy McDowell, RTSBA**

**&**

**Neal Brown**

**School Finance Consultants**

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## **Summary of Lamesa ISD Financial Impact of the Limited Appraised Value Application from BNB Lamesa Solar, LLC**

### **Introduction**

BNB Lamesa Solar, LLC applied for a property value limitation from Lamesa Independent School District under Chapter 313 of the Tax Code. The application was submitted on October 21, 2014 and subsequently approved for consideration by the Lamesa ISD Board of Trustees. BNB Lamesa Solar, LLC (“BNB Lamesa Solar”), is requesting the property value limitation as a “renewable energy electric generation” project as listed in Sec. 313.024.(b) of the Tax Code.

“The Economic Development Act”, Tax Code Chapter 313, was created by House Bill 1200 of the 77<sup>th</sup> Texas Legislature in 2001. Further amendments were made to Chapter 313 as a result of House Bill 1470 from the 80<sup>th</sup> Texas Legislative Session in 2007 and additionally House Bill 3390 from the 83<sup>rd</sup> Legislative Session.

The Economic Development Act was created to attract qualifying businesses to Texas by allowing school districts the option of approving a property value limitation to these qualifying entities. The purpose of the property value limitation is to reduce the maintenance and operations taxes paid by the company, to a school district during the applicable years as displayed below:

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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The company must file an application with the school district to qualify for consideration of a Limited Appraised Value Agreement (“LAVA” or “Agreement”) to begin the following tax year or a later year if agreed upon by the District and the Company.

## Years Prior to Start of Value Limitation Period:

The first two years of the agreement are considered the “Prior to Start of Value Limitation Period” and the company’s school district taxes will be levied at one-hundred percent of the appraised value. The applicant has requested that tax years 2015 and 2016 be considered the years that are Prior to the Start of Value Limitation Period.

## Value Limitation Period:

During the ten years of the Value Limitation Period, the qualifying entity’s taxable value will be reduced to the minimum qualified investment for the applicable school district as determined by the State Comptroller’s Office. Lamesa ISD is considered a Rural category 3 District as categorized with total taxable value of industrial property of at least \$1 million, but less than \$90 million. Thus, Lamesa ISD has a minimum qualified investment amount of \$20 million. A qualifying entity’s taxable value would be reduced to \$20 million during this ten year period of the agreement for the purposes of computing the tax levy for the maintenance and operations (M&O) tax of Lamesa ISD. The entire appraised value will be used for computing the interest and sinking (I&S) tax levy. The applicant has requested that the Value Limitation Period to begin in tax year 2017 and continue through tax year 2026.

## Final Five Years of the Agreement – Continue to Maintain a Viable Presence:

Tax years 2027 through 2031 will be the final five years of the agreement and the applicant agrees to maintain a viable presence with this project during this time.

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## Taxable Value Projections from Application

The following data shows the projected taxable values that BNB Lamesa Solar reported in the application to the District:

	Year	School Year	Tax Year	Projected Taxable Value	Actual Taxable Value with Agreement
Each Year Prior to Start of Value Limitation Period	0	2015-2016	2015	\$0	\$0
	0	2016-2017	2016	\$0	\$0
Value Limitation Period	1	2017-2018	2017	\$130,000,000	\$20,000,000
	2	2018-2019	2018	\$299,000,000	\$20,000,000
	3	2019-2020	2019	\$273,000,000	\$20,000,000
	4	2020-2021	2020	\$247,000,000	\$20,000,000
	5	2021-2022	2021	\$217,750,000	\$20,000,000
	6	2022-2023	2022	\$188,500,000	\$20,000,000
	7	2023-2024	2023	\$159,250,000	\$20,000,000
	8	2024-2025	2024	\$126,750,000	\$20,000,000
	9	2025-2026	2025	\$97,500,000	\$20,000,000
	10	2026-2027	2026	\$78,000,000	\$20,000,000
Continue to Maintain Viable Presence	11	2027-2028	2027	\$65,000,000	\$65,000,000
	12	2028-2029	2028	\$65,000,000	\$65,000,000
	13	2029-2030	2029	\$65,000,000	\$65,000,000
	14	2030-2031	2030	\$65,000,000	\$65,000,000
	15	2031-2032	2031	\$65,000,000	\$65,000,000
Additional Years for 25 Year Economic Impact Study	16	2032-2033	2032	\$65,000,000	\$65,000,000
	17	2033-2034	2033	\$65,000,000	\$65,000,000
	18	2034-2035	2034	\$65,000,000	\$65,000,000
	19	2035-2036	2035	\$65,000,000	\$65,000,000
	20	2036-2037	2036	\$65,000,000	\$65,000,000
	21	2037-2038	2037	\$65,000,000	\$65,000,000
	22	2038-2039	2038	\$65,000,000	\$65,000,000
	23	2039-2040	2039	\$65,000,000	\$65,000,000
	24	2040-2041	2040	\$65,000,000	\$65,000,000
25	2041-2042	2041	\$65,000,000	\$65,000,000	

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## Taxable Value Impact from LAVA

The “Additional Value from BNB Lamesa Solar” represents the values that the company estimated as their taxable values in the application that was filed with the district. During tax years 2017 through 2026, the company’s taxable value will be limited to the \$20,000,000 minimum qualified investment of Lamesa ISD.

**TABLE I- Calculation of Taxable Value:**

Tax Year	Additional Value From BNB Lamesa Solar	Minimum Qualified Investment	Abated Value	Taxable Value
Jan. 1, 2015	0	n/a	0	0
Jan. 1, 2016	0	n/a	0	0
Jan. 1, 2017	130,000,000	(20,000,000)	110,000,000	20,000,000
Jan. 1, 2018	299,000,000	(20,000,000)	279,000,000	20,000,000
Jan. 1, 2019	273,000,000	(20,000,000)	253,000,000	20,000,000
Jan. 1, 2020	247,000,000	(20,000,000)	227,000,000	20,000,000
Jan. 1, 2021	217,750,000	(20,000,000)	197,750,000	20,000,000
Jan. 1, 2022	188,500,000	(20,000,000)	168,500,000	20,000,000
Jan. 1, 2023	159,250,000	(20,000,000)	139,250,000	20,000,000
Jan. 1, 2024	126,750,000	(20,000,000)	106,750,000	20,000,000
Jan. 1, 2025	97,500,000	(20,000,000)	77,500,000	20,000,000
Jan. 1, 2026	78,000,000	(20,000,000)	58,000,000	20,000,000
Jan. 1, 2027	65,000,000	n/a	0	65,000,000
Jan. 1, 2028	65,000,000	n/a	0	65,000,000
Jan. 1, 2029	65,000,000	n/a	0	65,000,000
Jan. 1, 2030	65,000,000	n/a	0	65,000,000
Jan. 1, 2031	65,000,000	n/a	0	65,000,000

# Lamesa ISD Financial Impact of Chapter 313 Agreement

## BNB Lamesa Solar's Tax Benefit from Agreement

The projected amount of the net tax savings for BNB Lamesa Solar's is \$17.027 million over the life of the Agreement. This net savings is after all tax savings and after estimated payments have been made to the district to offset their revenue losses that were a direct result of entering into this Agreement.

Lamesa ISD projected tax rates for maintenance & operations (M&O) and interest & sinking (I&S) are based on the following assumptions:

- The District currently has M&O rate of \$1.17. The Study projects that the District will maintain an M&O tax rate of 1.17 for the life of the agreement. Current rollback tax rate calculations would require the district to reduce the M&O rate in tax year 2027 based on the projected values and current school finance law.
- The district currently has no outstanding bonded indebtedness; however, the district could pursue a bond election and issue bonded debt during the life of this agreement.

**TABLE II- Computation of Net Tax Savings:**

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
<b>2015-2016</b>	1.1700	0.000	0	0	0	0
<b>2016-2017</b>	1.1700	0.000	0	0	0	0
<b>2017-2018</b>	1.1700	0.000	1,521,000	1,287,000	(495,959)	791,041
<b>2018-2019</b>	1.1700	0.000	3,498,300	3,264,300	(1,392,779)	1,871,521
<b>2019-2020</b>	1.1700	0.000	3,194,100	2,960,100	0	2,960,100
<b>2020-2021</b>	1.1700	0.000	2,889,900	2,655,900	0	2,655,900
<b>2021-2022</b>	1.1700	0.000	2,547,675	2,313,675	0	2,313,675
<b>2022-2023</b>	1.1700	0.000	2,205,450	1,971,450	0	1,971,450
<b>2023-2024</b>	1.1700	0.000	1,863,225	1,629,225	0	1,629,225
<b>2024-2025</b>	1.1700	0.000	1,482,975	1,248,975	0	1,248,975
<b>2025-2026</b>	1.1700	0.000	1,140,750	906,750	0	906,750
<b>2026-2027</b>	1.1700	0.000	912,600	678,600	0	678,600
<b>2027-2028</b>	1.1600	0.000	754,000	0	0	0
<b>2028-2029</b>	1.1700	0.000	760,500	0	0	0
<b>2029-2030</b>	1.1700	0.000	760,500	0	0	0
<b>2030-2031</b>	1.1700	0.000	760,500	0	0	0
<b>2031-2032</b>	1.1700	0.000	760,500	0	0	0
<b>Totals</b>			<b>25,051,975</b>	<b>18,915,975</b>	<b>(1,888,737)</b>	<b>17,027,238</b>

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## Financial Impact Study

This Financial Impact Study was performed to determine the financial impact of the Limited Appraised Value Agreement on Lamesa ISD. First, a seventeen year financial forecast was prepared to establish a baseline without the added values of the renewable energy electric generation company. Second, a seventeen year financial forecast was prepared that incorporated the additional taxable value of the company without a LAVA in effect. Third, a seventeen year financial forecast was prepared that incorporates the additional taxable value of the company with an approved LAVA. These three forecasts are detailed in the “Calculation of LAVA Impact on District’s Finances” section. The following assumptions were used to compare the financial impact of the LAVA:

- The current state funding formulas (in effect for 2014-2015 fiscal year) were used for state aid and recapture calculation purposes
  - Level 2 of Tier II yield - \$61.86 per weighted student in average daily attendance (WADA) per penny of tax effort
- The district’s tax rate for maintenance & operations (M&O) will remain at the same rate as for tax year 2014.
- A tax collection rate of 100% on current year tax levy with no projected delinquent taxes
- An annual taxable value increase of 2% was used to project the district’s taxable value, except as it related to the requested LAVA. The district’s 2014 taxable value was used as a baseline for all projections
- The district’s enrollment is projected to increase slightly; therefore, the projected ADA and WADA for school year 2014-2015 was increased by 1% per year for the life of the agreement.

Although these assumptions were used to develop a baseline scenario for comparison purposes, many of these factors will not remain constant for the years of this proposed agreement. Also, Legislative changes to the school finance formulas are likely during the near future and almost certain during the life of this agreement.

# Lamesa ISD Financial Impact of Chapter 313 Agreement

## Calculation of LAVA Impact on District's Finances

The tables displayed below (Table III, IV, V) show the different impacts on the school district's finances. These scenarios were computed to compare the District's revenue without the additional taxable value of BNB Lamesa Solar (Table III), the addition of BNB Lamesa Solar's taxable values without a Chapter 313 Agreement (Table IV), and the addition of BNB Lamesa Solar's taxable values with a Chapter 313 Agreement (Table V).

**TABLE III – District Revenues *without* BNB Lamesa Solar, LLC:**

Fiscal Year	Total Taxable Value	M&O Taxes		Recapture Amount	Hold Harmless Revenue	M&O Taxes > Comp Rate	Total District Revenue
		Compressed Rate	State Revenue				
2015-2016	508,978,501	5,089,785	9,907,206	0	14,996,991	2,075,512	17,072,503
2016-2017	519,158,071	5,191,581	9,948,255	0	15,139,836	2,095,588	17,235,425
2017-2018	529,541,232	5,295,412	9,991,498	0	15,286,910	2,115,872	17,402,782
2018-2019	540,132,057	5,401,321	10,021,043	0	15,422,364	2,136,365	17,558,729
2019-2020	550,934,698	5,509,347	10,053,461	0	15,562,807	2,157,070	17,719,877
2020-2021	561,953,392	5,619,534	10,094,095	0	15,713,629	2,177,988	17,891,617
2021-2022	573,192,460	5,731,925	10,118,310	0	15,850,235	2,199,122	18,049,357
2022-2023	584,656,309	5,846,563	10,165,376	0	16,011,939	2,220,473	18,232,412
2023-2024	596,349,435	5,963,494	10,219,956	0	16,183,450	2,242,044	18,425,494
2024-2025	608,276,424	6,082,764	10,260,892	0	16,343,656	2,263,837	18,607,494
2025-2026	620,441,952	6,204,420	10,299,487	0	16,503,907	2,285,854	18,789,761
2026-2027	632,850,791	6,328,508	10,340,962	0	16,669,470	2,308,098	18,977,568
2027-2028	645,507,807	6,455,078	10,361,799	0	16,816,878	2,330,570	19,147,447
2028-2029	658,417,963	6,584,180	10,405,214	0	16,989,393	2,353,272	19,342,665
2029-2030	671,586,322	6,715,863	10,450,590	0	17,166,453	2,376,208	19,542,661
2030-2031	685,018,049	6,850,180	10,487,300	0	17,337,481	2,399,378	19,736,859
2031-2032	698,718,410	6,987,184	10,521,374	0	17,508,558	2,422,787	19,931,345

# Lamesa ISD Financial Impact of Chapter 313 Agreement

**TABLE IV- District Revenues with BNB Lamesa Solar without Chapter 313 Agreement:**

Fiscal Year	Total Taxable Value	M&O Taxes		Recapture Amount	Hold Harmless Revenue	M&O Taxes >		Total District Revenue
		Compressed	State Revenue			Comp	Payment	
		Rate	Revenue			Rate	Losses	
2015-2016	508,978,501	5,089,785	9,907,206	0	14,996,991	2,075,512	0	17,072,503
2016-2017	519,158,071	5,191,581	9,948,255	0	15,139,836	2,095,588	0	17,235,425
2017-2018	659,541,232	6,595,412	9,998,620	0	16,594,032	1,583,353	495,959	18,177,385
2018-2019	839,132,057	8,391,321	8,726,482	0	17,117,803	1,830,993	1,392,779	18,948,796
2019-2020	823,934,698	8,239,347	7,063,461	0	15,302,807	2,065,964	0	17,368,771
2020-2021	808,953,392	8,089,534	7,364,095	0	15,453,629	2,086,867	0	17,540,496
2021-2022	790,942,460	7,909,425	7,648,310	0	15,557,735	2,099,473	0	17,657,208
2022-2023	773,156,309	7,731,563	7,987,876	0	15,719,439	2,120,506	0	17,839,945
2023-2024	755,599,435	7,555,994	8,334,956	0	15,890,950	2,141,771	0	18,032,721
2024-2025	735,026,424	7,350,264	8,668,392	0	16,018,656	2,153,860	0	18,172,516
2025-2026	717,941,952	7,179,420	9,031,987	0	16,211,407	2,184,905	0	18,396,312
2026-2027	710,850,791	7,108,508	9,365,962	0	16,474,470	2,237,215	0	18,711,685
2027-2028	710,507,807	7,105,078	9,581,799	0	16,686,878	2,281,040	0	18,967,917
2028-2029	723,417,963	7,234,180	9,755,214	0	16,989,393	2,346,346	0	19,335,739
2029-2030	736,586,322	7,365,863	9,800,590	0	17,166,453	2,369,391	0	19,535,844
2030-2031	750,018,049	7,500,180	9,837,300	0	17,337,481	2,392,669	0	19,730,150
2031-2032	763,718,410	7,637,184	9,871,374	0	17,508,558	2,416,182	0	19,924,740

**TABLE V – District Revenues with BNB Lamesa Solar with Chapter 313 Agreement:**

Fiscal Year	Total Taxable Value	M&O Taxes		Recapture Amount	Hold Harmless Revenue	M&O Taxes >		Total District Revenue
		Comp	State Revenue			Comp	Payment for District	
		Rate	Revenue			Rate	Losses	
2015-2016	508,978,501	5,089,785	9,907,206	0	14,996,991	2,075,512	0	17,072,503
2016-2017	519,158,071	5,191,581	9,948,255	0	15,139,836	2,095,588	0	17,235,425
2017-2018	549,541,232	5,495,412	9,991,498	0	15,486,910	2,194,516	495,959	18,177,385
2018-2019	560,132,057	5,601,321	9,821,043	0	15,422,364	2,133,653	1,392,779	18,948,796
2019-2020	570,934,698	5,709,347	9,853,461	0	15,562,807	2,154,406	0	17,717,214
2020-2021	581,953,392	5,819,534	9,894,095	0	15,713,629	2,175,371	0	17,889,000
2021-2022	593,192,460	5,931,925	9,918,310	0	15,850,235	2,196,551	0	18,046,786
2022-2023	604,656,309	6,046,563	9,965,376	0	16,011,939	2,217,948	0	18,229,887
2023-2024	616,349,435	6,163,494	10,019,956	0	16,183,450	2,239,563	0	18,423,013
2024-2025	628,276,424	6,282,764	10,060,892	0	16,343,656	2,261,399	0	18,605,055
2025-2026	640,441,952	6,404,420	10,099,487	0	16,503,907	2,283,458	0	18,787,365
2026-2027	652,850,791	6,528,508	10,140,962	0	16,669,470	2,305,743	0	18,975,213
2027-2028	710,507,807	7,105,078	10,162,536	0	17,267,615	2,374,117	0	19,641,732
2028-2029	723,417,963	7,234,180	9,755,214	0	16,989,393	2,346,346	0	19,335,739
2029-2030	736,586,322	7,365,863	9,800,590	0	17,166,453	2,369,391	0	19,535,844
2030-2031	750,018,049	7,500,180	9,837,300	0	17,337,481	2,392,669	0	19,730,150
2031-2032	763,718,410	7,637,184	9,871,374	0	17,508,558	2,416,182	0	19,924,740

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## Current School Finance Law

A major overhaul of the school finance formulas was implemented as a result of House Bill 1 of the 79<sup>th</sup> Legislative Session and became effective for the 2006-2007 school year. Those formula changes had an effect on the district's financial impact from granting a property value limitation. Due to the district's "Hold Harmless" provision that was enacted in the funding formulas, some districts had the majority of the district's revenue losses (during the first year that the "limited appraised value" was used as the actual taxable value) offset with additional state funding. The funding that was available to offset those revenue losses was called Additional State Aid for Tax Reduction (ASATR) and those funds were phased out as a result of legislation in the 82<sup>nd</sup> Legislative Session in 2011. This legislation eliminated the ASATR funding for fiscal year 2017-2018 and thereafter and can have a significant financial impact for LAVA agreements that have a year three in 2017-2018 or later. The loss of ASATR funding can again cause a district to experience a significant loss of funds in year three of the agreement and consequently cause the company to have revenue protection payments during that year that are similar to those experienced prior to 2006-2007.

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## Payments in Lieu of Taxes

Assuming that the District and BNB Lamesa Solar, LLC mutually agree in the LAVA that the greater of \$100 per student in average daily attendance (ADA) or \$50,000, will be paid to Lamesa ISD by BNB Lamesa Solar, the projected amount of these payments over the life of the agreement is \$2,894,045 of the \$17.027 million net tax savings amount. This amount will be computed annually according to Section IV of the Agreement.

**TABLE VI - Calculation of the Payment in Lieu of Taxes:**

Fiscal Year	Net Tax Savings	Lamesa ISD \$100/ADA	BNB Lamesa Solar Share
<b>2015-2016</b>	0	0	0
<b>2016-2017</b>	0	193,615	(193,615)
<b>2017-2018</b>	791,041	195,551	595,490
<b>2018-2019</b>	1,871,521	197,507	1,674,014
<b>2019-2020</b>	2,960,100	199,482	2,760,618
<b>2020-2021</b>	2,655,900	201,477	2,454,423
<b>2021-2022</b>	2,313,675	203,491	2,110,184
<b>2022-2023</b>	1,971,450	205,526	1,765,924
<b>2023-2024</b>	1,629,225	207,581	1,421,644
<b>2024-2025</b>	1,248,975	209,657	1,039,318
<b>2025-2026</b>	906,750	211,754	694,996
<b>2026-2027</b>	678,600	213,871	464,729
<b>2027-2028</b>	0	216,010	(216,010)
<b>2028-2029</b>	0	218,170	(218,170)
<b>2029-2030</b>	0	220,352	(220,352)
<b>2030-2031</b>	0	0	0
<b>2031-2032</b>	0	0	0
<b>Totals</b>	<b>17,027,238</b>	<b>2,894,045</b>	<b>14,133,193</b>

# Lamesa ISD Financial Impact of Chapter 313 Agreement

## Impact of Projected Student Growth

### On District Facilities

**TABLE VII – Campus Capacity and Available Growth**

<b>Campus Name</b>	<b>Grade Level</b>	<b># of Regular Classrooms</b>	<b>Building Capacity</b>	<b>Current Enrollment</b>	<b>Enrollment Growth Available</b>
<b>South Elementary</b>	EE-2	42	840	649	191
<b>North Elementary</b>	3-5	37	740	444	296
<b>Lamesa Middle Sch.</b>	6-8	38	684	438	246
<b>Lamesa High School</b>	9-12	50	900	494	406
<b>Total</b>		<b>167</b>	<b>3,164</b>	<b>2,025</b>	<b>1,139</b>

The building capacities are based on 20 students per classroom for elementary and 18 students per classroom for secondary. Lamesa ISD is a early education through 12<sup>th</sup> grade district.

BNB Lamesa Solar, LLC provided supplemental information with their application that projected the number of full-time employees that are expected for permanent employment after construction of the project is completed. They projected that three full-time employees are expected. It is not known whether these would be new employees to the Lamesa ISD, or if current residents would occupy these positions; however, it is assumed that these employees would be new residents to the district.

Based on average statewide figures provided by a demographer, it is projected that each new household would produce .5 students. Thus, the new three positions equates to 2 new students.

This minimal projected student growth can easily be accommodated with the current facilities of Lamesa ISD as displayed in Table VII above.

# Lamesa ISD Financial Impact of Chapter 313 Agreement

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## Conclusion

This Financial Impact Study displays that entering into a Limited Appraised Value Agreement with BNB Lamesa Solar, LLC, would be beneficial to both BNB Lamesa Solar and Lamesa ISD under the current school finance system.

BNB Lamesa Solar, LLC would benefit from reduced property taxes during the ten years of the Value Limitation Period. Although some of the tax savings would be used to offset district's revenue losses and payments in lieu of taxes to the District, BNB Lamesa Solar is projected to benefit from an 89% tax savings during that ten year period of this Agreement. BNB Lamesa Solar also has the option of terminating the Agreement if the amount paid to the District during a tax year is greater than the amount of taxes that would have been paid without the agreement; therefore, there is no inherent risk for the company from entering into the Agreement.

Lamesa ISD would also have no inherent risk under the current school finance system and with the provisions in the LAVA that require BNB Lamesa Solar to offset any district losses caused by the LAVA. An annual calculation will be performed each year to determine if a loss to the District has been incurred. The revenue impact to the District will be computed by comparing the District's revenues with and without the LAVA in effect.

November 21, 2014

Sonya Raney, President  
Board of Trustees  
Lamesa Independent School District  
PO Box 261  
Lamesa, TX 79331-0261

Dear Ms. Raney:

As required by the Tax Code, §313.025 (b-1), the Texas Education Agency (TEA) has evaluated the impact of the proposed BNB Lamesa Solar, LLC project on the number and size of school facilities in Lamesa Independent School District (LISD). Based on an examination of LISD enrollment and the number of potential new jobs, the TEA has determined that the BNB Lamesa Solar, LLC project should not have a significant impact on the number or size of school facilities in LISD.

Please feel free to contact me by phone at (512) 463-9186 or by email at [al.mckenzie@tea.state.tx.us](mailto:al.mckenzie@tea.state.tx.us) if you have any questions.

Sincerely,



Al McKenzie, Manager  
Foundation School Program Support

AM/rk  
Cc: John Ramos



## 2013 ISD Summary Worksheet

058/Dawson

058-906/Lamesa ISD

Category	Local Tax Roll Value	2013 WTD Mean Ratio	2013 PTAD Value Estimate	2013 Value Assigned
A. Single-Family Residences	169,580,190	.9884	171,570,407	169,580,190
B. Multi-Family Residences	2,096,710	N/A	2,096,710	2,096,710
C1. Vacant Lots	2,383,580	N/A	2,383,580	2,383,580
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real(Taxable)	57,791,440	1.2395	46,626,171	57,791,440
D2. Real Prop Farm & Ranch	2,121,790	N/A	2,121,790	2,121,790
E. Real Prop NonQual Acres	25,366,700	.9992	25,387,010	25,366,700
F1. Commercial Real	59,556,300	.9831	60,580,104	59,556,300
F2. Industrial Real	369,810	N/A	369,810	369,810
G. Oil, Gas, Minerals	154,552,780	1.0256	150,694,988	154,552,780
J. Utilities	23,565,240	N/A	23,565,240	23,565,240
L1. Commercial Personal	35,953,090	.9997	35,963,879	35,953,090
L2. Industrial Personal	29,903,040	N/A	29,903,040	29,903,040
M. Other Personal	1,702,270	N/A	1,702,270	1,702,270
N. Intangible Pers/Uncert	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	14,336,660	N/A	14,336,660	14,336,660
Subtotal	579,279,600		567,301,659	579,279,600
Less Total Deductions	66,984,856		67,616,155	66,984,856
Total Taxable Value	512,294,744		499,685,504	512,294,744 T2

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T6 will be the same as T7 through T12.

### Value Taxable For M&O Purposes

T1	T2	T3	T4	T5	T6
534,130,354	512,294,744	534,130,354	512,294,744	515,106,026	515,106,026
	Loss To the Additional \$10,000 Homestead Exemption			50% of the loss to the Local Optional Percentage Homestead Exemption	
21,835,610		0			

T1 = School district taxable value for M&O purposes before the loss to the additional \$10,000 homestead exemption

T2 = School district taxable value for M&O purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

T5 = T2 before the loss to the tax ceiling reduction

T6 = T5 minus 50% of the loss to the local optional percentage homestead exemption

### Value Taxable For I&S Purposes

T7	T8	T9	T10	T11	T12
534,130,354	512,294,744	534,130,354	512,294,744	515,106,026	515,106,026

T7 = School district taxable value for I&S purposes before the loss to the additional \$10,000 homestead exemption

T8 = School district taxable value for I&S purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50% of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50% of the loss to the local optional percentage homestead exemption

T11 = T8 before the loss to the tax ceiling reduction

T12 = T11 minus 50% of the loss to the local optional percentage homestead exemption

The PVS found your local value to be valid, and local value was certified

**AGREEMENT FOR LIMITATION ON APPRAISED  
VALUE OF PROPERTY FOR SCHOOL DISTRICT  
MAINTENANCE AND OPERATIONS TAXES**

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by and between

**LAMESA INDEPENDENT SCHOOL DISTRICT**

and

**BNB LAMESA SOLAR LLC**  
*(Texas Taxpayer ID # 32054964914)*

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TEXAS COMPTROLLER'S APPLICATION No. 1033

Dated

July 7, 2015

**AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR  
SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES**

*STATE OF TEXAS* §

*COUNTY OF DAWSON* §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between **LAMESA INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as “District,” a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **BNB LAMESA SOLAR LLC**, a Texas limited liability company, Texas Taxpayer Identification Number 32054964914 hereinafter referred to as “Applicant.” Applicant and District are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, on October 21, 2014, the Superintendent of Schools of the Lamesa Independent School District, acting as agent of the Board of Trustees of District, received from Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

**WHEREAS**, the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCG (Local), and agreed to consider the application;

**WHEREAS**, the Application was delivered to the Texas Comptroller’s Office for review pursuant to Section 313.025(a-1) of the TEXAS TAX CODE; and,

**WHEREAS**, the District and Texas Comptroller’s Office have determined that the application is complete and November 18, 2014 is the Application Review Start Date as that terms is defined by 34 TEXAS ADMIN. CODE 9.1051;

**WHEREAS**, pursuant to 34 TEXAS ADMIN. CODE §9.1054, the Application was delivered for review to the Dawson County Appraisal District established in Dawson County, Texas (the “Dawson County Appraisal District”), pursuant to Section 6.01 of the TEXAS TAX CODE;

**WHEREAS**, the Texas Comptroller’s Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on February 16, 2015, issued a certificate for

limitation on appraised value of the property described in the Application and provided the certificate to the District;

**WHEREAS**, the Board of Trustees has reviewed and carefully considered the economic impact evaluation and certificate for limitation on appraised value submitted by the Texas Comptroller's Office pursuant to Section 313.026 of the TEXAS TAX CODE;

**WHEREAS**, on July 7, 2015, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

**WHEREAS**, on July 7, 2015, the Board of Trustees made factual findings pursuant to Section 313.025(f) of the TEXAS TAX CODE, including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) Applicant is eligible for the Limitation on Appraised Value of Applicant's Qualified Property; (iii) the project proposed by Applicant is reasonably likely to generate tax revenue in an amount sufficient to offset District's maintenance and operations ad valorem tax revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period; (iv) the limitation on appraised value is a determining factor in Applicant's decision to invest capital and construct the project in this state; and (v) this Agreement is in the best interest of District and the State of Texas;

**WHEREAS**, on July 7, 2015, pursuant to the provisions of 313.025(f-1) of the TEXAS TAX CODE, and the Board of Trustees waived the job creation requirement set forth in Section 313.051(b) of the TEXAS TAX CODE;

**WHEREAS**, on June 23, 2015, the Texas Comptroller's Office approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes; and

**WHEREAS**, on July 7, 2015, the Board of Trustees approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Board President and Secretary to execute and deliver such Agreement to the Applicant; and

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Parties agree as follows:

## **ARTICLE I** **DEFINITIONS**

**Section 1.1 DEFINITIONS.** Wherever used herein, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEXAS ADMIN. CODE §9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEXAS ADMIN. CODE §9.1051.

“Act” means the Texas Economic Development Act set forth in Chapter 313 of the TEXAS TAX CODE, as amended.

“Agreement” means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented as approved pursuant to Section 10.2.

“Applicable School Finance Law” means Chapters 41 and 42 of the TEXAS EDUCATION CODE, the Texas Economic Development Act (Chapter 313 of the TEXAS TAX CODE), Chapter 403, Subchapter M, of the TEXAS GOVERNMENT CODE applicable to District, and the Constitution and general laws of the State applicable to the school districts of the State, including specifically, the applicable rules and regulations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State, and judicial decisions construing or interpreting any of the above. The term also includes any amendments or successor statutes that may be adopted in the future that could impact or alter the calculation of Applicant’s ad valorem tax obligation to District, either with or without the limitation of property values made pursuant to this Agreement.

“Applicant” means BNB Lamesa Solar LLC (*Texas Tax Payer ID #32054964914*), the company listed in the Preamble of this Agreement and that listed as the Applicant on the Application as of the Application Approval Date. The term “Applicant” shall also include Applicant’s assigns and successors-in-interest as approved according to Section 10.2 of this Agreement.

“Applicant’s Qualified Investment” means the Qualified Investment of the Applicant during the Qualifying Time Period and as more fully described in Section 3.3 of this Agreement.

“Application” means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter C, of the Texas Tax Code) filed with District by Applicant on October 21, 2014. The term includes all forms required by Comptroller, the schedules attached thereto, and all other documentation submitted by Applicant for the purpose of obtaining an Agreement with District. The term also includes all amendments and supplements thereto submitted by Applicant.

“Application Approval Date” means the date that the Application is approved by the Board of Trustees of District and as further identified in Section 2.3.B of this Agreement.

“Application Review Start Date” means the later date of either the date on which District issues its written notice that Applicant has submitted a completed application or the date on which Comptroller issues its written notice that Applicant has submitted a completed application and as further identified in Section 2.3.A of this Agreement.

“Appraised Value” shall have the meaning assigned to such term in Section 1.04(8) of the Texas Tax Code.

“Appraisal District” means the Dawson County Appraisal District.

“Board of Trustees” means the Board of Trustees of the Lamesa Independent School District.

“Comptroller” means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of Comptroller.

“Comptroller’s Rules” means the applicable rules and regulations of Comptroller set forth in Chapter 34 Texas Administrative Code, Chapter 9, Subchapter F, together with any court or administrative decisions interpreting same.

“County” means Dawson County, Texas.

“District” or “School District” means the Lamesa Independent School District, being a duly authorized and operating school district in the State, having the power to levy, assess, and collect ad valorem taxes within its boundaries and to which Subchapter C of the Act applies. The term also includes any successor independent school district or other successor governmental authority having the power to levy and collect ad valorem taxes for school purposes on Applicant’s Qualified Property or the Applicant’s Qualified Investment.

“Final Termination Date” means the last date of the final year in which Applicant is required to Maintain Viable Presence and as further identified in Section 2.3.E of this Agreement.

“Force Majeure” means those causes generally recognized under Texas law as constituting impossible conditions. Each party must inform the other in writing with proof of receipt within three business days of the existence of such force majeure or otherwise waive this right as a defense.

“Land” means the real property described on **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes.

“Maintain Viable Presence” means (i) the development, construction and operation during the term of this Agreement of the facility or facilities for which the tax limitation is granted, as the same may from time to time be expanded, upgraded, improved, modified, changed, remodeled, repaired, restored, reconstructed, reconfigured, and/or reengineered; (ii) the retention during the term of this Agreement of the number of New Qualifying Jobs set forth in its Application by Applicant; and, (iii) continue the average weekly wage paid by Applicant for all Non-Qualifying Jobs created by Applicant that exceeds the county average weekly wage for all jobs in the county where the administrative office of District is maintained.

“M&O Amount” shall have the meaning assigned to such term in Section 4.2 of the Agreement.

“Maintenance and Operations Revenue” or “M&O Revenue” means (i) those revenues which District receives from the levy of its annual ad valorem maintenance and operations tax pursuant to Section 45.002 of the TEXAS EDUCATION CODE and Article VII § 3 of the TEXAS CONSTITUTION, plus (ii) all State revenues to which the District is or may be entitled under Chapter 42 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, plus (iii) any indemnity payments received by the District under other agreements similar to this Agreement to the extent that such payments are designed to replace District M&O Revenue lost as a result of such similar agreements, less (iv) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 41 of the TEXAS EDUCATION CODE.

“Market Value” shall have the meaning assigned to such term in Section 1.04(7) of the TEXAS TAX CODE.

“New Qualifying Jobs” means the total number of jobs to be created and maintained by Applicant after the Application Approval Date in connection with the project which is the subject of its Application that meet the criteria of Qualifying Job as defined in Section 313.021(4) of the TEXAS TAX CODE.

“Qualified Investment” has the meaning set forth in Chapter 313 of the TEXAS TAX CODE, as interpreted by Comptroller’s Rules, as these provisions existed on the Application Review Start Date.

“Non-Qualifying Jobs” means the number of New Non-Qualifying Jobs, as defined in 34 TAC §9.0151, to be created and maintained by the Applicant after the Application Approval Date in connection with the project which is the subject of its Application.

“Qualified Property” has the meaning set forth in Chapter 313 of the Texas Tax Code and as interpreted by Comptroller’s Rules and the Texas Attorney General, as these provisions existed on the date of the Application is approved by District,

“Qualifying Time Period” means the period that begins on the date of approval of this Agreement by District’s Board of Trustees and ends on December 31st of the second Tax Year that begins after such date of approval as is defined in Section 313.021(4)(A) of the Texas Tax Code and during which Applicant shall make investment on the land where the qualified property in the amount required by the Act, the Comptroller’s rules, and this Agreement and as further identified in Section 2.3.C of this Agreement.

“Revenue Protection Amount” means the amount calculated pursuant to Section 4.2 of this Agreement.

“State” means the State of Texas.

“Substantive Document” means a document or other information or data in electronic media determined by the Comptroller to substantially involve or include information or data

significant to an application, the evaluation or consideration of an application, or the agreement or implementation of an agreement for limitation of appraised value pursuant to Chapter 313 of the Texas Tax Code. The term includes, but is not limited to, any application requesting a limitation on appraised value and any amendments or supplements, any economic impact evaluation made in connection with an application, any agreement between applicant and the school district and any subsequent amendments or assignments, and any school district written finding or report filed with the comptroller as required under this subchapter.

“Supplemental Payment” has the meaning as set forth in Article VI of this Agreement.

“Tax Limitation Amount” means the maximum amount which may be placed as the Appraised Value on Applicant’s Qualified Property for each tax year of the Tax Limitation Period of this Agreement pursuant to Section 313.054 of the TEXAS TAX CODE.

“Tax Limitation Period” means the Tax Years for which the Applicant’s Qualified Property is subject to the Tax Limitation Amount and as further identified in Section 2.3.D of this Agreement.

“Tax Year” shall have the meaning assigned to such term in Section 1.04(13) of the TEXAS TAX CODE (*i.e.*, the calendar year).

“Taxable Value” shall have the meaning assigned to such term in Section 1.04(10) of the TEXAS TAX CODE.

“Texas Education Agency Rules” means the applicable rules and regulations adopted by the Texas Commissioner of Education in relation to the administration of Chapter 313 of the TEXAS TAX CODE, which are set forth at 19 TEXAS ADMIN. CODE, Part 2, together with any court or administrative decisions interpreting same.

## ARTICLE II

### **AUTHORITY, PURPOSE AND LIMITATION AMOUNTS**

**Section 2.1. AUTHORITY.** This Agreement is executed by District as its written agreement with Applicant pursuant to the provisions and authority granted to District in Section 313.027 of the TEXAS TAX CODE.

**Section 2.2. PURPOSE.** In consideration of the execution of and subsequent performance of the terms and obligations by Applicant pursuant to this Agreement, identified in Section 2.5 and 2.6 and as more fully specified in this Agreement, the value of Applicant’s Qualified Property listed and assessed by the County Appraiser for District’s operation and maintenance ad valorem property tax shall be the Tax Limitation Amount as set forth in Section 2.4 of this Agreement during the Tax Limitation Period.

**Section 2.3. TERM OF THE AGREEMENT.**

- A. The Application Review Start Date for this Agreement is November 18, 2014, which will determine Applicant's Qualified Property and applicable wage standard.
- B. The Application Approval Date for this Agreement is July 7, 2015, which will determine the qualifying time period.
- C. The Qualifying Time Period for this agreement:
  - 1. Starts on July 7, 2015, Application Approval Date; and
  - 2. Ends on December 31, 2017.
- D. The Tax Limitation Period for this Agreement:
  - 1. Starts on January 1, 2017; and,
  - 2. Ends on December 31, 2026.
- E. The Final Termination Date for this Agreement is December 31, 2031.

F. This Agreement, and the obligations and responsibilities created by this Agreement, shall be and become effective on the Application Approval Date identified in Subsection B. This Agreement, and the obligation and responsibilities created by this Agreement, terminate on the Final Termination Date identified in Subsection E, unless extended by the express terms of this Agreement.

**Section 2.4. TAX LIMITATION.** So long as Applicant makes the Qualified Investment as defined by Section 2.5 below, during the Qualifying Time Period, and unless this Agreement has been terminated as provided herein before such Tax Year, on January 1 of each Tax Year of the Tax Limitation Period, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

- A. the Market Value of the Applicant's Qualified Property; or
- B. Twenty Million Dollars (\$20,000,000).

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the effective date of this Agreement, as set out by Section 313.052 of the TEXAS TAX CODE.

**Section 2.5. QUALIFIED INVESTMENT FOR TAX LIMITATION ELIGIBILITY.** In order to be eligible and entitled to receive the value limitation identified in 2.4 for the Qualified Property identified in Article III, Applicant shall:

- A. have completed Qualified Investment in the amount of \$10,000,000 by the end of the Qualifying Time Period;

B. have created the number of Qualifying Jobs specified in, and in the time period specified on, Schedule C of the Application; and

C. be paying the average weekly wage of all jobs in the county in which District's administrative office is located for all non-qualifying jobs created by Applicant.

**Section 2.6. TAX LIMITATION OBLIGATIONS.** In order to receive and maintain the limitation authorized by Section 2.4, Applicant shall:

A. provide payments to District sufficient to protect the future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV;

B. provide payments to the District that protect District from the payment of extraordinary education related expenses related to the project, as more fully specified in Article V;

C. provide such supplemental payments as more fully specified in Article VI; and

D. create and Maintain Viable Presence on and/or with the qualified property and perform additional obligations as more fully specified in Article VIII of this Agreement.

### **ARTICLE III** **QUALIFIED PROPERTY**

**Section 3.1. LOCATION WITHIN ENTERPRISE OR REINVESTMENT ZONE.** At the time of making the Qualified Investment and during the period starting with the Application Approval Date and ending on the Final Termination Date, the Land is and shall be 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 of such zone is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

**Section 3.2. LOCATION OF QUALIFIED PROPERTY AND INVESTMENT.** The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described on **EXHIBIT 2** which is attached hereto and incorporated herein by reference for all purposes. The Parties expressly agree that the boundaries of the Land may not be materially changed from its configuration described in **EXHIBIT 2** unless amended pursuant to the provisions of Section 10.2 of this Agreement.

**Section 3.3. DESCRIPTION OF QUALIFIED PROPERTY.** The Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 3**, which is attached hereto and incorporated herein by reference for all purposes. Property which is not specifically described in **EXHIBIT 3** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Property for purposes of this Agreement, unless by official action the Board of Trustees provides that such other property is a part of the Applicant's Qualified

Property for purposes of this Agreement in compliance with Section 313.027(e) of the TEXAS TAX CODE, the Comptroller's rules, and Section 10.2 of this Agreement,.

**Section 3.4. CURRENT INVENTORY OF QUALIFIED PROPERTY.** If at any time after the Application Approval Date there is a material change in the Qualified Property located on the land described in **EXHIBIT 2**; or, upon a reasonable request of District, Comptroller, the Appraisal District, or the State Auditor's Office, Applicant shall provide to District, Comptroller, the Appraisal District or the State Auditor's Office a specific and detailed description of the tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Land to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such described property on the Land.

**Section 3.5. QUALIFYING USE.** Applicant's Qualified Property described above in Section 3.3 qualifies for a tax limitation agreement under Section 313.024(b)(5) of the Texas Tax Code as a renewable energy electric generation facility.

#### **ARTICLE IV**

#### **PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES**

**Section 4.1. INTENT OF THE PARTIES.** Subject to the limitations contained in this Agreement (including Section 7.1), it is the intent of the Parties that the District shall, in accordance with the provisions of Section 313.027(f)(1) of the TEXAS TAX CODE, be compensated by Applicant for any loss that District incurs in its Maintenance and Operations Revenue as a result of, or on account of, entering into this Agreement, after taking into account any payments to be made under this Agreement. Such payments shall be independent of, and in addition to such other payments as set forth in Articles V and VI in this Agreement. Subject to the limitations contained in this Agreement (including Section 7.1), IT IS THE INTENT OF THE PARTIES THAT THE RISK OF ANY NEGATIVE FINANCIAL CONSEQUENCE TO DISTRICT IN MAKING THE DECISION TO ENTER INTO THIS AGREEMENT WILL BE BORNE SOLELY BY APPLICANT AND NOT BY DISTRICT. Applicant recognizes and acknowledges the calculations relating to the District's loss of Maintenance and Operations Revenue under this Agreement will be affected by changes to the timing of construction of the Project and any change to the Qualified Investment/Qualified Property. As such, Applicant acknowledges that it will bear any and all losses of Maintenance and Operations Revenue suffered by the District as a result of the Agreement, including without limitation any increase in the M&O Amount calculated under Section 4.2 to be paid to the District for losses in Maintenance and Operations Revenue resulting from any change in the timing of construction and/or any change to the Qualified Investment/Qualified Property.

**Section 4.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT.** Subject to the provisions of Section 7.1, the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Review Start Date and ending on the Final Termination Date (as set out in **EXHIBIT 4**), the "M&O Amount" shall be determined in

compliance with the Applicable School Finance Law in effect for such year and according to the following formula:

A. The M&O Amount owed by Applicant to District means the Original M&O Revenue *minus* the New M&O Revenue; based on the following definitions:

- i. "Original M&O Revenue" means the total State and local Maintenance and Operations Revenue that District would have received for the school year under the Applicable School Finance Law had this Agreement not been entered into by the Parties and the Qualified Property had been subject to the full ad valorem maintenance & operations tax without any limitation on value.
- ii. "New M&O Revenue" means the total State and local Maintenance and Operations Revenue that District actually received for such school year.

B. In making the calculations for the M&O Amount required by this Section 4.2 of this Agreement:

- i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law.
- ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property will be presumed to be one hundred percent (100%).
- iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue as calculated under this Section 4.2 of this Agreement results in a negative number for the M&O Amount, the negative number will be considered to be zero.
- iv. All calculations made for the New M&O Revenue during the Tax Limitation Period under Section 4.2.A.ii of this Agreement will reflect the Tax Limitation Amount for such year.
- v. All calculations for the M&O Amount made under this Section 4.2 of this Agreement shall be made by a methodology which isolates only the revenue impact caused by this Agreement. Applicant shall not be responsible to reimburse District for other revenue losses created by other agreements or any other factors.

**Section 4.3. STATUTORY CHANGES AFFECTING M&O REVENUE.** Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 7.1 of this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State or another school district, pursuant to Chapter 41 of the Texas Education Code, because of its participation in this Agreement, Applicant shall make payments to District, up to the Revenue Protection Amount limit set forth in Section 7.1 that are necessary to offset any negative impact on District as a result of its participation in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on District.

**Section 4.4. COMPENSATION FOR LOSS OF OTHER REVENUES.** To the extent not

included in the amounts calculated pursuant to Section 4.2 above, Applicant shall also pay to the District on an annual basis all non-reimbursed costs arising from entering this Agreement, including but not limited to: (a) any loss incurred by the District resulting from successful judicial challenge to this Agreement; (b) any reasonable attorneys' fees or other costs incurred by the District due to any legal defense, enforcement or interpretation of this Agreement, irrespective of whether or not this Agreement is ultimately determined to be valid; and (c) any non-reimbursed costs incurred by the District and related to this Agreement, either directly or indirectly, including costs paid to the Appraisal District caused by increased appraised values arising solely from the Qualified Property that is subject to the limitation provided in Section 2.4 herein.

**Section 4.5. THIRD PARTY CALCULATIONS.** All calculations made pursuant to this Agreement shall be verified annually by one or more independent third parties ("Consultant") selected by the District. Applicant will be solely responsible for the payment of Consultant's fees up to Seven Thousand Dollars, (\$7,000.00) for the first year of this Agreement. This amount may be increased each year of this Agreement by not more than five percent (5%) from the prior year. All calculations shall initially be based upon good-faith estimates using all available information and shall be adjusted to reflect "near final" or "actual" data for the applicable year as the data becomes available.

**Section 4.6. DATA FOR CALCULATIONS.** The initial calculations for any payments owing under this Agreement shall be based upon the valuations placed upon the Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District pursuant to § 26.01 of the Texas Tax Code in or about July of each year of this Agreement. The certified tax roll data shall form the basis from which any and all amounts due under this Agreement are calculated, and the data utilized by the Consultant will be adjusted as necessary to reflect any subsequent adjustments by the Appraisal District to the District's tax roll. Any estimates used by the Consultant to make calculations as required by this Agreement shall be based on the best and most current information available. The Consultant shall from time-to-time adjust the data utilized to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified tax roll, or any other relevant changes to material items such as student counts or tax collections.

**Section 4.7. DELIVERY OF CALCULATIONS.**

A. All calculations required under Articles IV, V, or VI shall be made by the Consultant on or before December 1 of each year for which this Agreement is effective. The Consultant shall forward such calculations to the Parties in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Consultant shall maintain supporting data consistent with generally accepted accounting practices. The Consultant shall preserve all documents and data related to all calculations required under this Agreement for a period of three (3) years. Employees and agents of the Parties shall have reasonable access to the Consultant's offices, personnel, books, and records pertaining to all calculations and fees.

B. In the event the District receives the Consultant's invoice for services rendered, the

District shall forward to Applicant such invoice, which Applicant shall pay within thirty (30) days of receipt.

**Section 4.8. PAYMENT BY APPLICANT.**

A. On or before the January 31 next following the tax levy for each year for which this Agreement is effective, and subject to the limitations contained in Section 7.1, the Applicant shall pay all amounts determined to be due and owing to the District, all amounts billed by the Consultant pursuant to Section 4.5, and any reasonable and necessary expenses paid by the District to its attorneys, auditors, or financial consultants for work resulting from the District's participation in this Agreement. The District, upon request of Applicant, shall provide supporting documentation to substantiate such reasonable and necessary expenses to the extent such supporting documentation is not excepted from disclosure as attorney-client privilege or otherwise excepted from disclosure under the Texas Public Information Act (Texas Government Code § 552.001, *et seq.*).

B. Based upon the amount of Qualified Property and the construction schedule of Applicant's Project as set forth in the Application, the Parties anticipate that Applicant will have a significant M&O Amount for the first year of the Tax Limitation Period (as established in Section 2.3.D) (hereinafter referred to as the "Year 1 M&O Amount"). Therefore, should the Year 1 M&O Amount as calculated in Section 4.2 above, exceed \$200,000, Applicant and the District agree that Applicant will pay the District ten (10%) percent of the actual Year 1 M&O Amount (the "Partial Payment") on or before the following January 31. The Partial Payments for the remaining balance of the Year 1 M&O Amount owed the District shall continue from year to year thereafter on or before January 31 next following the year the Partial Payment is due until the entire balance is paid in full.

C. Notwithstanding anything to the contrary in Section 4.8.B, in no event shall the District receive less than the same amount of M&O Revenue that the District would have received if the project had not been constructed and this Agreement was not in effect (the "Floor Revenue"). Therefore, in addition to all other amounts that are owed to the District under this Agreement, including the Partial Payment as set out in Section 4.8.B, Applicant shall pay to District such portion of the Year 1 M&O Amount owed the District necessary to increase the District from the New M&O Revenue up to Floor Revenue (the "Floor Revenue Payment"). Applicant shall pay to the District the Floor Revenue Payment on or before January 31 next following the year that the M&O Amount was calculated, the same as all other payments under this Agreement that become due.

**Section 4.9. CHALLENGING CALCULATION RESULTS.** The Applicant may appeal the Consultant's results, in writing, within fifteen (15) days of receipt of such results. The Consultant will issue a final determination of the calculations within 15 days of receiving Applicant's appeal. The Applicant may appeal the final determination of the Consultant to the District within 15 days of its receipt, pursuant to District Policy GF (LOCAL).

**Section 4.10. EFFECT OF PROPERTY VALUE APPEAL OR ADJUSTMENT.** In the event

that the Taxable Value of the Qualified Property is changed after an appeal of its valuation, or the Taxable Value is otherwise altered for any reason, the calculations required under Article IV of this Agreement shall be recalculated by the Consultant at Applicant's sole expense using the revised property values. The Consultant shall transmit the revised calculations to the Parties and any Party owing funds to the other Party shall pay such funds within thirty (30) days after receipt of the new calculations.

**Section 4.11. EFFECT STATUTORY OR OTHER LEGAL CHANGES.** If the District will receive less M&O Revenue, or, if applicable, will be required to increase its payment of funds to the State or another school district due to the District's participation in this Agreement because of changes to applicable School Finance Law or administrative or legal interpretations by the office of the Comptroller, the Commissioner of Education, the Texas Education Agency, the Courts of the State of Texas, or any other authority having proper jurisdiction over the District or Texas school finance, then the Applicant shall make payments to the District within thirty (30) days of receipt of written notice, up to the limitation set forth in Section 7.1 below. The Parties understand and agree that the foregoing payments to the District are necessary to (a) offset any negative impact on the District as a result of its participation in this Agreement; and (b) secure for the District an amount of M&O Revenue not less than that which the District would have received had the District not entered into this Agreement.

## **ARTICLE V**

### **PAYMENT OF EXTRAORDINARY EDUCATION RELATED EXPENSES**

**Section 5.1. EXTRAORDINARY EXPENSES.** In addition to the amounts determined pursuant to Article IV or Article VI of this Agreement above, Applicant on an annual basis shall also indemnify and reimburse District for the following:

A. all non-reimbursed costs, certified by District's external auditor to have been incurred by District for extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the lease of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project; and

B. any other loss of District revenues or funds which are, or may be attributable to the payment by Applicant to or on behalf any other third party beneficiary.

**Section 5.2. PAYMENTS.** Payments of amounts due under this Article shall be made as set forth in Section 4.8.A above.

## **ARTICLE VI**

### **SUPPLEMENTAL PAYMENTS**

**SECTION 6.1. SEPARATE AND INDEPENDENT AMOUNTS.** In addition to payment of the amounts set forth under Articles IV and V of this Agreement, and as consideration for the execution of this Agreement by the District, Applicant shall be responsible to the District for

annual supplemental payments, as set forth below:

<b>Tax Year</b>	<b>Annual Supplemental Payment</b>
2017	\$ 0
2018	\$ 0
2019	\$ 35,000
2020	\$ 50,000
2021	\$ 50,000
2022	\$ 75,000
2023	\$ 90,000
2024	\$ 175,000
2025	\$ 193,000
2026	\$ 193,000
2027	\$ 193,000
2028	\$ 193,000
2029	\$ 193,000
<b>Total Payments</b>	<b>\$1,440,000.00</b>

Any and all obligations for any supplemental payments shall be separate and independent of Applicant's obligations under Articles IV and V of this Agreement.

**Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION.**

A. Notwithstanding the foregoing, the total annual supplemental payment made pursuant to this article shall be as follows:

- i. not exceed in any calendar year of this Agreement an amount equal to the greater of One Hundred Dollars (\$100.00) per student per year in average daily attendance, as defined by Section 42.005 of the TEXAS EDUCATION CODE, or Fifty Thousand Dollars (\$50,000.00) per year; and
- ii. only be made during the period starting the first year of the Qualifying Time Period and ending December 31 of the third year following the end of the Tax Limitation Period.

B. This limitation does not apply to amounts described by Section 313.027(f)(1)-(2) of the TEXAS TAX CODE as implemented in Articles IV and V of this Agreement.

C. For purposes of this Agreement, the amount of the Annual Limit shall be One Hundred Ninety-Three Thousand Six Hundred Dollars and 00/100 (\$193,600.00) based upon the District's 2014-15 Average Daily Attendance of 1,936, rounded to the whole number.

**Section 6.3. ALTERNATE SUPPLEMENTAL PAYMENT LIMITATION.** Notwithstanding

anything in this Article VI, if during any year of the Tax Limitation Period (as set forth on **EXHIBIT 4**), the amount of the supplemental payments owed by Applicant as recited in Section 6.1 above exceeds forty percent (40%) of Applicant's Net Tax Savings for the same year, then: (i) the payment owed by Applicant under this Article VI shall be equal to forty percent (40%) of Applicant's Net Tax Savings for such year, and (ii) the portion of the payment recited under Section 6.1 above that exceeds forty percent (40%) of Applicant's Net Tax Savings for such year shall not be owed by Applicant under this Agreement. For clarification, Net Tax Savings in respect of a particular year pursuant to Section 6.1 shall mean an amount equal to (but not less than zero): (i) the sum of the amount of maintenance and operations ad valorem taxes which the Applicant would have paid to the District for such year if this Agreement had not been entered into by the Parties; minus, (ii) an amount equal to the sum of (A) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas for such year, plus (B) any and all payments due to the District under Article IV of this Agreement for such year.

**Section 6.4. PAYMENT BY APPLICANT.** Payment of amounts due under this Article shall be made as set forth in Section 4.8.A of this Agreement and is subject to the limitations contained in Section 7.1.

## **ARTICLE VII**

### **ANNUAL LIMITATION OF PAYMENTS BY APPLICANT**

**Section 7.1. ANNUAL LIMITATION.** Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by Applicant to District for such Tax Year, plus the sum of all payments otherwise due from Applicant to District under Articles IV, V, and VI of this Agreement with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that Applicant would have paid to District for such Tax Year (determined by using District's actual maintenance and operations tax rate for such Tax Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Section 4.2 of this Agreement, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then the payments otherwise due from Applicant to District under Articles IV, V, and VI shall be reduced until such excess is eliminated.

**Section 7.2. OPTION TO TERMINATE AGREEMENT.** In the event that any payment otherwise due from Applicant to District under Article IV, Article V, and/or Article VI of this Agreement with respect to a Tax Year is subject to reduction in accordance with the provisions of Section 7.1 above, then the Applicant shall have the option to terminate this Agreement. Applicant may exercise such option to terminate this Agreement by notifying District of its election in writing not later than the July 31 of the year next following the Tax Year with respect to which a reduction under Section 7.1 is applicable. Any termination of this Agreement under the foregoing provisions of this Section 7.2 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the reduction giving rise to the option occurred.

**Section 7.3. EFFECT OF OPTIONAL TERMINATION.** Upon the exercise of the option to terminate pursuant to Section 7.2, this Agreement shall terminate and be of no further force or effect; provided, however, that:

A. the Parties respective rights and obligations under this Agreement with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged; and

B. the provisions of this Agreement regarding payments, records and dispute resolution shall survive the termination or expiration dates of this Agreement.

## **ARTICLE VIII** **ADDITIONAL OBLIGATIONS OF APPLICANT**

**Section 8.1. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, Applicant shall Maintain Viable Presence in District commencing at the start of the Tax Limitation Period through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure. The Final Termination Date will only be extended for the mutually agreed length of the Force Majeure.

**Section 8.2. REPORTS.** In order to receive and maintain the limitation authorized by 2.4 in addition to the other obligations required by this Agreement, Applicant shall submit the following reports completed by Applicant to the satisfaction of Comptroller on the dates indicated on the form and starting on the first such due date after the Application Approval Date:

A. The Annual Eligibility Report, Form 50-772 located at Comptroller website <http://www.window.state.tx.us/taxinfo/taxforms/50-772.pdf>;

B. The Biennial Progress Report, Form 50-773, located at Comptroller website <http://www.window.state.tx.us/taxinfo/taxforms/50-773.pdf>; and

C. The Job Creation Compliance Report, Form 50-825, located at the Comptroller website [http://www.texasahead.org/tax\\_programs/chapter313/forms.php](http://www.texasahead.org/tax_programs/chapter313/forms.php).

**Section 8.3. COMPTROLLER'S ANNUAL REPORT ON CHAPTER 313 AGREEMENTS.** During the term of this Agreement, both Parties shall provide Comptroller with all information reasonably necessary for Comptroller to assess performance under this Agreement for the purpose of issuing Comptroller's report, as required by Section 313.032 of the TEXAS TAX CODE.

**Section 8.4. DATA REQUESTS.** During the term of this Agreement, and upon the written request of District, the State Auditor's Office, or Comptroller, the Applicant shall provide the requesting party with all information reasonably necessary for the requesting party to determine whether the Applicant is in compliance with its obligations, including, but not limited to, any employment obligations which may arise under this Agreement.

**Section 8.5. SITE VISITS AND RECORD REVIEW.** Applicant shall allow authorized employees of District, the Comptroller, the Appraisal District, and/or the State Auditor's Office to have access to Applicant's Qualified Property and/or business records, in accordance with Section 22.07 of the TEXAS TAX CODE, from the Application Review Start Date through the Final Termination Date, in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of Applicant's Qualified Property.

A. All inspections will be made at a mutually agreeable time after the giving of not less than forty-eight (48) hours prior written notice, and will be conducted in such a manner so as not to unreasonably interfere with either the construction or operation of Applicant's Qualified Property.

B. All inspections may be accompanied by one or more representatives of Applicant, and shall be conducted in accordance with Applicant's safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide District, Comptroller, or the Appraisal District with any technical or business information that is proprietary, a trade secret or is subject to a confidentiality agreement with any third party.

**Section 8.6. RIGHT TO AUDIT; SUPPORTING DOCUMENTS; INDEPENDENT AUDITS.** This Agreement is subject to review and audit by the State Auditor pursuant to Section 2262.003 of the TEXAS GOVERNMENT CODE and Section 331.010(a) of the TEXAS TAX CODE, and the following requirements:

A. District and Applicant shall maintain and retain supporting documents adequate to ensure that claims for the Tax Limitation Amount are in accordance with applicable Comptroller and State of Texas requirements. Applicant and District shall maintain all such documents and other records relating to this Agreement and the State's property for a period of four (4) years after the later of:

- i. date of submission of the final payment;
- ii. Final Termination Date; or
- iii. date of resolution of all disputes or payment.

B. District and Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to the Applicant's Qualified Property, Qualified Investment, Qualifying Jobs, and wages paid for Non-Qualifying Jobs such as work papers, reports, books, data, files, software, records, calculations, spreadsheets and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, auditing, or evaluating by Comptroller, State Auditor's Office, State of Texas or their authorized

representatives. Applicant and District shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such property as requested by Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, Applicant's failure to comply with this Section shall constitute a material breach of this Agreement.

C. Comptroller may require, at Applicant's or District's sole cost and expense, as applicable, independent audits by a qualified certified public accounting firm of Applicant's, District's or the Comptroller's books, records, or property. The independent auditor shall provide Comptroller with a copy of such audit at the same time it is provided to Applicant and/or District.

D. In addition to and without limitation on the other audit provisions of this Agreement, pursuant to Section 2262.003 of the TEXAS GOVERNMENT CODE, the state auditor may conduct an audit or investigation of Applicant or District or any other entity or person receiving funds from the state directly under this Agreement or indirectly through a subcontract under this Agreement. The acceptance of funds by Applicant or District or any other entity or person directly under this Agreement or indirectly through a subcontract under this Agreement acts as acceptance of the authority of the state auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, Applicant or District or other entity that is the subject of an audit or investigation by the state auditor must provide the state auditor with access to any information the state auditor considers relevant to the investigation or audit. This Agreement may be amended unilaterally by Comptroller to comply with any rules and procedures of the state auditor in the implementation and enforcement of Section 2262.003 of the TEXAS GOVERNMENT CODE.

**Section 8.7. FALSE STATEMENTS; BREACH OF REPRESENTATIONS.** The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application, and any supplements or amendments thereto, without which Comptroller would not have approved this Agreement and District would not executed this Agreement. By signature to this Agreement, Applicant:

A. represents and warrants that all information, facts, and representations contained in the Application are true and correct; and

B. acknowledges that if Applicant submitted its Application with a false statement, signs this Agreement with a false statement, or submits a report with a false statement, or it is subsequently determined that Applicant has violated any of the representations, warranties, guarantees, certifications or affirmations included in the Application or this Agreement, Applicant shall have materially breached this Agreement and the Agreement shall be invalid and void except for the enforcement of the provisions required by 34 Tex. Admin. Code § 9.1053(f)(2)(L).

**ARTICLE IX**  
**MATERIAL BREACH OR EARLY TERMINATION**

**Section 9.1. EVENTS CONSTITUTING MATERIAL BREACH OF AGREEMENT.** Applicant shall be in Material Breach of this Agreement if it commits one or more of the following acts or omissions:

A. The Application, any Application Supplement, or any Application Amendment on which this Agreement is approved is determined to be inaccurate as to an material representation, information, or fact or is not complete as to any material fact or representation or such application;

B. Applicant failed to have complete Qualified Investment as required by Section 2.5 of this Agreement;

C. Applicant failed to create the number of Qualifying Jobs specified in Schedule C of the Application;

D. Applicant failed to pay the average weekly wage of all jobs in the county in which District's administrative office is located for all Non-Qualifying Jobs created by Applicant;

E. Applicant failed to provide payments to District sufficient to protect the future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV of this Agreement;

F. Applicant failed to provide payments to the District that protect District from the payment of extraordinary education related expenses related to the project, as more fully specified in Article V of this Agreement;

G. Applicant failed to provide such supplemental payments as more fully specified in Article VI of this Agreement;

H. Applicant failed to create and Maintain Viable Presence on and/or with the qualified property as more fully specified in Article VIII of this Agreement;

I. Applicant failed to submit the reports required to be submitted by Section 8.2 to the satisfaction of Comptroller on the dates indicated on the form;

J. Applicant failed to provide the District or Comptroller with all information reasonably necessary for District or Comptroller to determine whether Applicant is in compliance with its obligations, including, but not limited to, any employment obligations which may arise under this Agreement;

K. Applicant failed to allow authorized employees of District, Comptroller, the Appraisal District, and/or the State Auditor's Office to have access to Applicant's Qualified

Property and/or business records in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of Applicant's Qualified Property;

L. Applicant failed to comply with a request by the State Auditor's office to review and audit the Applicant's compliance with the Agreement;

M. Applicant has made any payments to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313 of the TEXAS TAX CODE, in excess of the amounts set forth in Articles IV, V and VI, of this Agreement; or

N. Applicant fails either to:

- i. Implement a plan to remedy non-compliance as required by Comptroller pursuant to 34 TAC Section 9.1059; or
- ii. Pay a penalty assessed by Comptroller pursuant to 34 TAC Section 9.1059.

**Section 9.2. CONSEQUENCES OF EARLY TERMINATION OR OTHER BREACH BY APPLICANT.**

A. In the event that Applicant terminates this Agreement without the consent of District, except as provided in Section 7.2 of this Agreement, or in the event that Applicant fails to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, after the notice and cure period provided by Section 9.3, then District shall be entitled to the recapture of all ad valorem tax revenue lost as a result of this Agreement together with the payment of penalty and interest, as calculated in accordance with Section 9.2.C on that recaptured ad valorem tax revenue. For purposes of this recapture calculation, Applicant shall be entitled to a credit for all payments made to District pursuant to Article IV, V, and VI of this Agreement.

B. Notwithstanding Section 9.2.A, in the event that District determines that Applicant has failed to Maintain Viable Presence and provides written notice of termination of the Agreement, then Applicant shall pay to District liquidated damages for such failure within thirty (30) days after receipt of such termination notice. The sum of liquidated damages due and payable shall be the sum total of District ad valorem taxes for all of the Tax Years for which a Tax Limitation was granted pursuant to this Agreement prior to the year in which the default occurs that otherwise would have been due and payable by Applicant to District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 9.2.C. For purposes of this liquidated damages calculation, Applicant shall be entitled to a credit for all payments made to District pursuant to Article IV, V, and VI. Upon payment of such liquidated damages, Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

C. In determining the amount of penalty or interest, or both, due in the event of a breach

of this Agreement, District shall first determine the base amount of recaptured taxes less all credits under Section 9.2.A owed for each Tax Year during the Tax Limitation Period. District shall calculate penalty or interest for each Tax Year during the Tax Limitation Period in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE, as if the base amount calculated for such Tax Year less all credits under Section 9.2.A had become due and payable on February 1 of the calendar year following such Tax Year. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(a) of the TEXAS TAX CODE, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the TEXAS TAX CODE, or its successor statute.

**Section 9.3. LIMITED STATUTORY CURE OF MATERIAL BREACH.** In accordance with the provisions of Section 313.0275 of the Texas Tax Code, for any full tax year which commences after the project has become operational, Applicant may cure the Material Breaches of this Agreement, defined in Sections 9.1.C. or 9.1.D, above, without the termination of the remaining term of this Agreement. In order to cure its non-compliance with Sections 9.1.C. or 9.1.D for the particular Tax Year of non-compliance only, Applicant may make the liquidated damages payment required by Section 313.0275(b) of the Texas Tax Code, in accordance with the provisions of Section 313.0275(c) of the Texas Tax Code.

**Section 9.3. DETERMINATION OF MATERIAL BREACH AND TERMINATION OF AGREEMENT.**

A. Prior to making a determination that the Applicant has committed a material breach of this Agreement, such as making a misrepresentation in the Application, failing to Maintain Viable Presence in District as required by Section 8.1 of this Agreement, failing to make any payment required under this Agreement when due, or has otherwise committed a material breach of this Agreement, District shall provide Applicant with a written notice of the facts which it believes have caused the material breach of this Agreement, and if cure is possible, the cure proposed by District. After receipt of the notice, Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that it is not in material breach of its obligations under the Agreement, or that it has cured or undertaken to cure any such material breach.

B. If the Board of Trustees is not satisfied with such response and/or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to Applicant, conduct a hearing called and held for the purpose of determining whether such breach has occurred and, if so, whether such breach has been cured. At any such hearing, Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to whether or not a material breach of this Agreement has occurred, the date such breach occurred, if any, and whether or not any such breach has been cured. In the event that the Board of Trustees determines that such a breach has occurred and has not been cured, it shall also terminate the Agreement and determine the amount of recaptured taxes under Section 9.2.A and B (net of all credits under Section 9.2.A and B), and the amount of any penalty and/or interest under Section 9.2.C that are owed to District.

C. After making its determination regarding any alleged breach, the Board of Trustees shall cause Applicant to be notified in writing of its determination (a "Determination of Breach and Notice of Contract Termination.").

#### **Section 9.4. DISPUTE RESOLUTION.**

A. After receipt of notice of the Board of Trustee's Determination of Breach and Notice of Contract Termination under the second Section 9.3, Applicant shall have ninety (90) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within ninety (90) days after the Applicant's receipt of notice of the Board of Trustee's determination of breach under the second Section 9.3, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then residing in Dawson County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the Texas Civil Practice and Remedies Code and such other rules as the mediator shall prescribe. With respect to such mediation, (i) District shall bear one-half of such mediator's fees and expenses and Applicant shall bear one-half of such mediator's fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys' fees) incurred in connection with such mediation.

B. In the event that any mediation is not successful in resolving the dispute or that payment is not received before the expiration of such ninety (90) days, District shall have the remedies for the collection of the amounts determined under Section 9.2 and as are set forth in Chapter 33, Subchapters B and C, of the Texas Tax Code for the collection of delinquent taxes. In the event that District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of attorney's fees and a tax lien on Applicant's Qualified Property and Applicant's Qualified Investment pursuant to Section 33.07 of the Texas Tax Code to the attorneys representing District pursuant to Section 6.30 of the Texas Tax Code.

C. In any event where a dispute between District and Applicant under this Agreement cannot be resolved by the Parties, after completing the procedures required above in this Section, either District or Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in any judicial proceeding in Dawson County, Texas, assert any rights or defenses, or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any covenant, agreement or undertaking made by a Party pursuant to this Agreement.

**Section 9.5. LIMITATION OF OTHER DAMAGES.** Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, District's damages for such a default shall under no circumstances exceed the greater

of either any amounts calculated under Sections 9.2 above, or the monetary sum of the difference between the payments and credits due and owing to Applicant at the time of such default and District taxes that would have been lawfully payable to District had this Agreement not been executed. In addition, District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement. The Parties further agree that the limitation of damages and remedies set forth in this Section 9.5 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

**Section 9.6. BINDING ON SUCCESSORS.** In the event of a merger or consolidation of District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

**ARTICLE X.**  
**MISCELLANEOUS PROVISIONS**

**Section 10.1. INFORMATION AND NOTICES.**

A. Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (e.g., by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile transmission, with “answer back” or other “advice of receipt” obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

B. Notices to District shall be addressed to District’s Authorized Representative as follows:

**To the District:**

Lamesa Independent School District  
Attn: Dr. Ron Miller, Interim Superintendent  
(or the successor Superintendent)  
212 N. Houston  
Lamesa, TX 79331  
Phone #: (806) 872-5461  
Fax #: (806) 872-6220  
Email: rmiller@lamesaisd.net

**With a copy to:**

Underwood Law Firm, P.C.  
Attn: Fred Stormer  
P.O. Box 9158  
Amarillo, TX 79105-9158  
Phone #: (806) 379-1306  
Fax #: (806) 379-0316  
Email: fred.stormer@uwlaw.com

C. Notices to Applicant shall be addressed to its Authorized Representative as follows:

**To Applicant:**

Lamesa BNB Solar LLC  
c/o Orlando Puig, Project Manager  
BNB Renewable Energy Holdings, LLC  
One East Uwchlan Ave.  
Suite 403  
Exton, PA 19341  
Phone #: (832) 746-6682  
Email: opuig@msn.com

or at such other address or to such other facsimile transmission number and to the attention of such other person as Applicant may designate by written notice to District.

**Section 10.2. AMENDMENTS TO AGREEMENT; WAIVERS.**

A. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties and after completing the requirements of subsection B hereof. Waiver of any term, condition or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition or provision, or a waiver of any other term, condition or provision of this Agreement.

B. By official action of the District's Board of Trustees, this Agreement may only be amended according to the following:

- i. Applicant shall submit to District and Comptroller:
  - a. a written request to amend the Application and this Agreement which shall specify the changes Applicant requests;
  - b. any changes to the information that was provided in the Application that was approved by District and considered by Comptroller;
  - c. and any additional information requested by District or Comptroller necessary to evaluate the amendment or modification; and
- ii. Comptroller shall review the request and any additional information and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by Comptroller by the end of the 90 day period, the request is denied;
- iii. If Comptroller has not denied the request, District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.

C. Any amendment of the Agreement adding additional or replacement Qualified Property pursuant to this Section 10.2 of this Agreement shall:

- i. require that all property added by amendment be eligible property as defined by Section 313.024 of the Texas Tax Code;
- ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the

- original Agreement; and
- iii. define minimum eligibility requirements for the recipient of limited value.

D. This Agreement may not be amended to extend the value limitation time period beyond its ten year statutory term.

**Section 10.4. ASSIGNMENT.** Any assignment of the interests of Applicant in this Agreement is considered an amendment to the Agreement and Applicant may only assign this Agreement, or a portion of this Agreement, after complying with the provisions of Section 10.2 regarding amendments to the Agreement.

**Section 10.5. MERGER.** This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

**Section 10.6. MAINTENANCE OF COUNTY APPRAISAL DISTRICT RECORDS.** When appraising the Applicant's Qualified Property and the Applicant's Qualified Investment subject to a limitation on Appraised Value under this Agreement, the Chief Appraiser of the Appraisal District shall determine the Market Value thereof and include both such Market Value and the appropriate value thereof under this Agreement in its appraisal records.

**Section 10.7. GOVERNING LAW.** This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in the County where the District's central administration office is located.

**Section 10.8. AUTHORITY TO EXECUTE AGREEMENT.** Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

**Section 10.9. SEVERABILITY.** If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision or condition cannot be so reformed, then such term, provision or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality and enforceability of the remaining terms, provisions and conditions contained herein (and any other application such term, provision or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement in an acceptable manner so as to effect the original intent of the Parties as closely as possible to the end that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 10.9,

the term “Law” shall mean any applicable statute, law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction, decree or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

**Section 10.10. PAYMENT OF EXPENSES.** Except as otherwise expressly provided in this Agreement, or as covered by the application fee, each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement.

**Section 10.11. INTERPRETATION.** When a reference is made in this Agreement to a Section, Article or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. The words “include,” “includes” and “including” when used in this Agreement shall be deemed in such case to be followed by the phrase “, but not limited to,”. Words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require. This Agreement is the joint product of the Parties and each provision of this Agreement has been subject to the mutual consultation, negotiation and agreement of each Party and shall not be construed for or against any Party.

**Section 10.12. EXECUTION OF COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

**Section 10.13. PUBLICATION OF DOCUMENTS.** The Parties acknowledge that District is required to publish Application and its required schedules, or any amendment thereto; all economic analyses of the proposed project submitted to District; and the approved and executed copy of this Agreement or any amendment thereto, as follows:

- A. Within seven (7) days of such document, the school district shall submit a copy to Comptroller for Publication on Comptroller's Internet website;
- B. District shall provide on its website a link to the location of those documents posted on Comptroller's website;
- C. This Section does not require the publication of information that is confidential under Section 313.028 of the Texas Tax Code.

**Section 10.14. CONTROL; OWNERSHIP; LEGAL PROCEEDINGS.** Applicant shall immediately notify District in writing of any actual or anticipated change in the control or

ownership of Applicant and of any legal or administrative investigations or proceedings initiated against Applicant regardless of the jurisdiction from which such proceedings originate.

**Section 10.15. DUTY TO DISCLOSE.** If circumstances change or additional information is obtained regarding any of the representations and warranties made by Applicant in the Application or this Agreement, or any other disclosure requirements, subsequent to the date of this Agreement, Applicant's duty to disclose continues throughout the term of this Contract.

*[the remainder of this page is intentionally left blank]*

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 7th day of July, 2015.

**BNB LAMESA SOLAR LLC**

**LAMESA INDEPENDENT SCHOOL DISTRICT**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

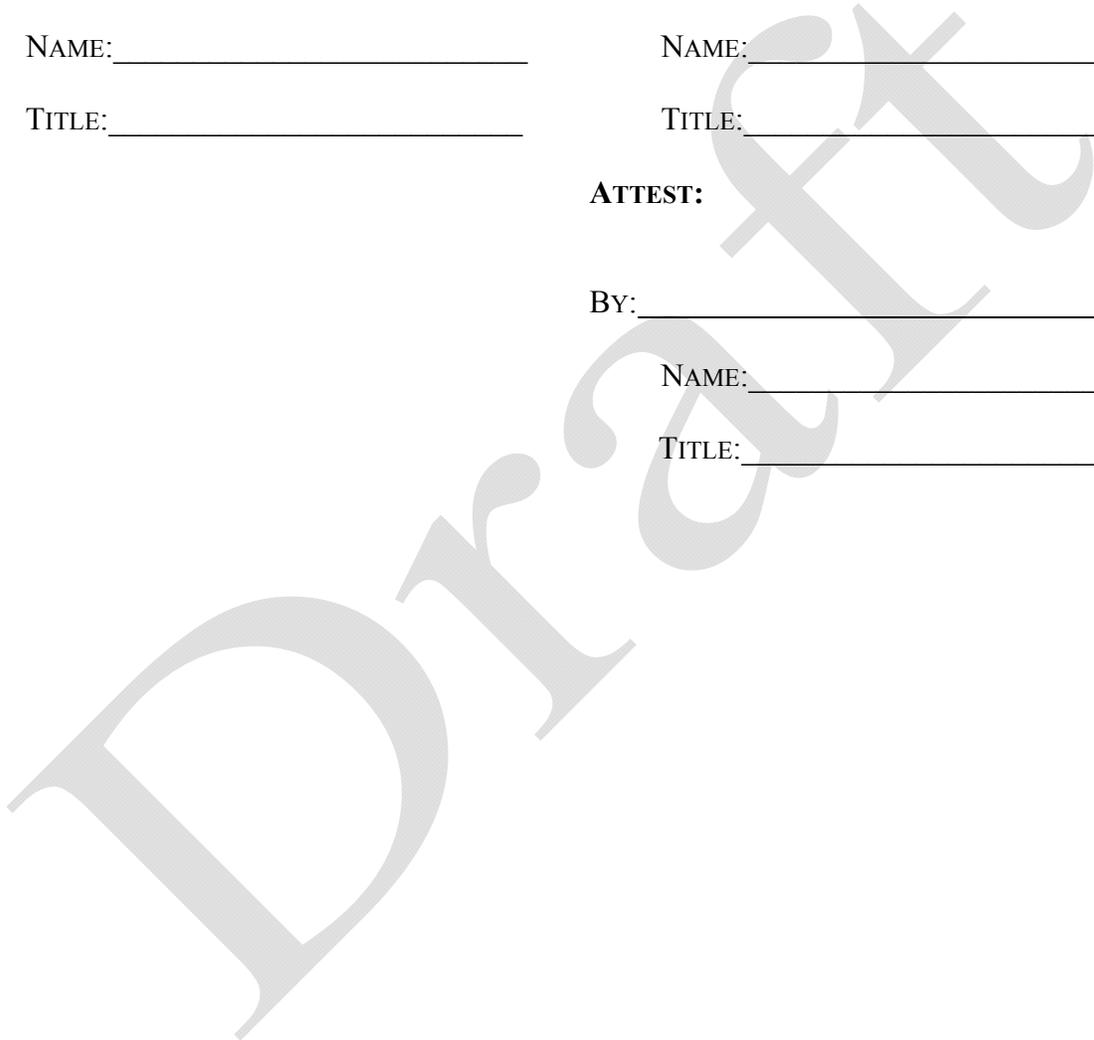
TITLE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_



**EXHIBIT 1**

**DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE**

The Dawson County Commissioners Court created Lamesa Solar Reinvestment Zone on May 13, 2014 which is more particularly described below.

**Survey  
T&P RR CO  
35 T5N**

<b>Section</b>	<b>Alternate Survey Name</b>	<b>Abstract #</b>	<b>Acres</b>
9		896	649.04
10	BAILEY, J R	876	645.71
11		882	635.06
14	WRISTEN, J	903	644.05
15		917	644.44
16	DAVIS, H	908	644.76
22	WRISTEN, J	940	646.68
23		938	637.51
26	JONES, H	962	638.17

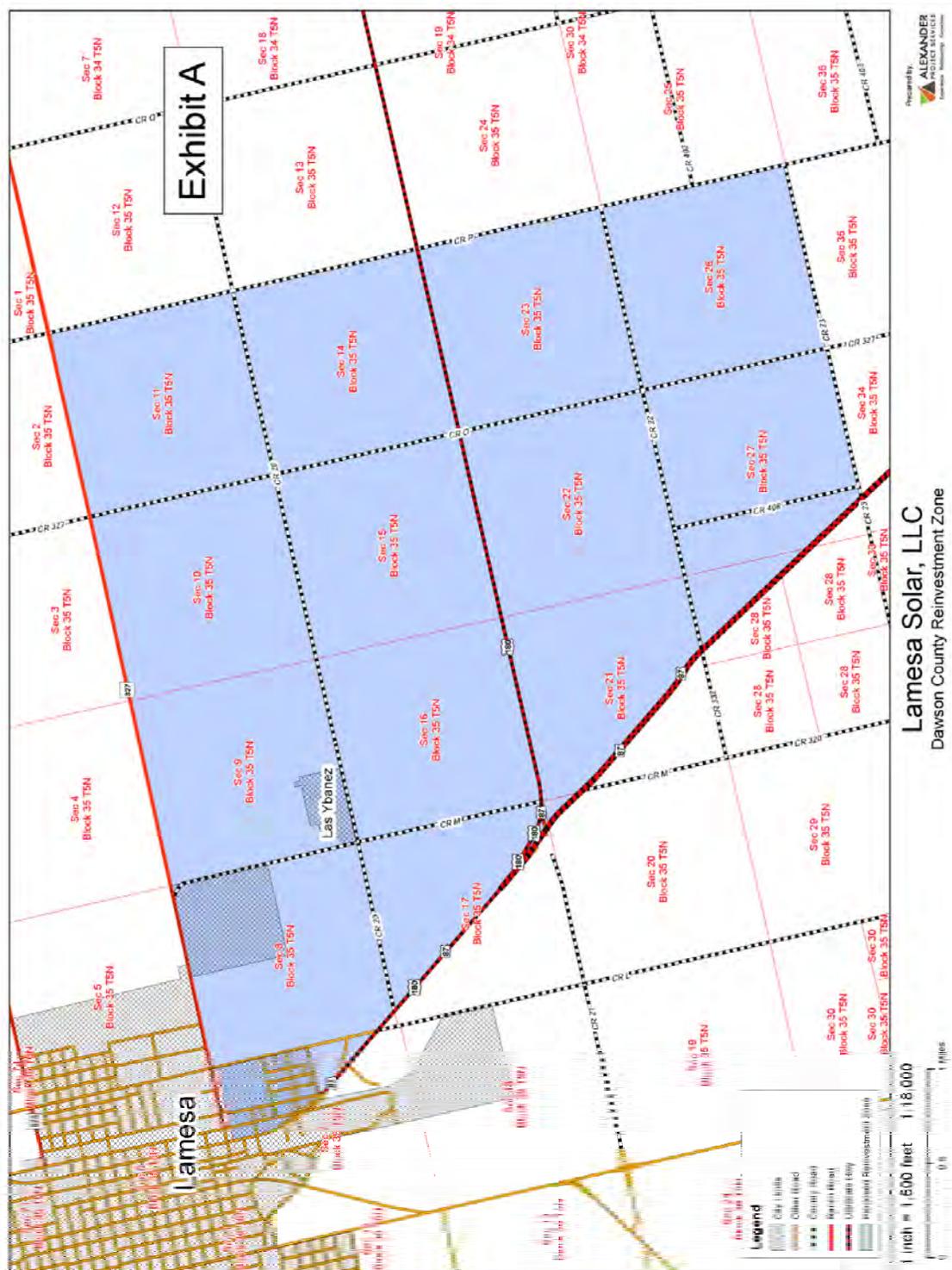
**All of the land EAST of Highway 87 within these following sections.**

<b>Section</b>	<b>Alternate Survey Name</b>	<b>Abstract #</b>	<b>Acres</b>
7		911	149.31
8	MARSHALL, J C A	885	645.61
17		930	344.90
20	DAVIS, H J	942	8.34
21		950	493.05
27		966	626.73
28	NIX, O	970	82.25

Total Acres 8,135.61

*All information based on GIS data supplied by TNRIS through the Texas General Land Office. Acreage is approximate and based upon map as supplied which may not accurately reflect recorded patented acreage for Survey.*

# Map of Lamesa Solar Reinvestment Zone No. 1



Agreement for Limitation on Appraised Value  
 Between Lamesa ISD and BNB Lamesa Solar LLC  
 (App No. 1033), July 7, 2015

Texas Economic Development Act Agreement  
 Comptroller Form 50-286 (January 2014)

## **EXHIBIT 2**

### **DESCRIPTION AND LOCATION OF THE APPLICANT'S QUALIFIED INVESTMENT**

All Qualified Property owned by the Applicant is located within the boundaries of both the Lamesa Independent School District and the Lamesa Solar Reinvestment Zone. The legal description of the Land within the Lamesa Reinvestment Zone can be found in **EXHIBIT 1**.

### **EXHIBIT 3**

#### **DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY**

BNB Lamesa Solar LLC plans to construct a 150 MW (AC) to 200 MW (AC) solar farm in Dawson County.

This application covers all qualified property within Lamesa ISD necessary for the commercial operations of the proposed solar farm described in Tab 4 of the Application. The solar panels and inverters will be located in Dawson County, all of which will be located in Lamesa ISD. BNB Lamesa Solar is also constructing approximately 500 feet of generation transmission tie line that will be in Lamesa ISD as well.

Qualified Investment and qualified property includes, but is not limited to, solar modules/panels, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, foundations, roadways, buildings and offices, paving, fencing, collection system, electrical substations, generation transmission tie line and associated towers, and interconnection facilities.

The map below shows the proposed project area with the preliminary solar panel locations. The exact placement of these panels is subject to ongoing planning, soil studies, and engineering and will be determined before construction begins.



**EXHIBIT 4**

	<b><u>Year of Agreement</u></b>	<b><u>Date of Appraisal</u></b>	<b><u>School Year</u></b>	<b><u>Tax Year</u></b>	<b><u>Summary Description</u></b>
Limitation Pre-Years	Stub Year	January 1, 2015	2015-16	2015	Limitation Pre-Year
	1	January 1, 2016	2016-17	2016	Limitation Pre-Year
Limitation Period (10 Years)	2	January 1, 2017	2017-18	2017	\$20 million appraisal limitation
	3	January 1, 2018	2018-19	2018	\$20 million appraisal limitation
	4	January 1, 2019	2019-20	2019	\$20 million appraisal limitation
	5	January 1, 2020	2020-21	2020	\$20 million appraisal limitation
	6	January 1, 2021	2021-22	2021	\$20 million appraisal limitation
	7	January 1, 2022	2022-23	2022	\$20 million appraisal limitation
	8	January 1, 2023	2023-24	2023	\$20 million appraisal limitation
	9	January 1, 2024	2024-25	2024	\$20 million appraisal limitation
	10	January 1, 2025	2025-26	2025	\$20 million appraisal limitation
	11	January 1, 2026	2026-27	2026	\$20 million appraisal limitation
Maintain a Viable Presence (5 Years)	12	January 1, 2027	2027-28	2027	No appraisal limitation; must maintain a viable presence
	13	January 1, 2028	2028-29	2028	No appraisal limitation; must maintain a viable presence
	14	January 1, 2029	2029-30	2029	No appraisal limitation; must maintain a viable presence
	15	January 1, 2030	2030-31	2030	No appraisal limitation; must maintain a viable presence
	16	January 1, 2031	2031-32	2031	No appraisal limitation; must maintain a viable presence

**Agreement for Limitation on Appraised Value**  
 Between Lamesa ISD and BNB Lamesa Solar LLC  
 (App No. 1033), July 7, 2015

*Texas Economic Development Act Agreement*  
*Comptroller Form 50-286 (January 2014)*

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

P.O. Box 13528 • AUSTIN, TX 78711-3528



June 23, 2015

John Ramos  
Superintendent  
Lamesa Independent School District  
PO Box 261  
Lamesa, Texas 79331-5442

Re: Agreement for Limitation on Appraised Value of Property for School District  
Maintenance and Operations Taxes by and between Lamesa Independent School District  
and BNB Lamesa Solar, LLC

Dear Superintendent Ramos:

This office has been provided with the "Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes" by and between Lamesa Independent School District and BNB Lamesa Solar, LLC (the "Agreement"). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

Based on our review, this office concludes that it complies with the provisions of Tax Code, Chapter 313 and 34 TAC Chapter 9, Subchapter F.

If you need additional information or have questions, please contact me at (512) 463-3806.

Sincerely,

Korry Castillo  
Director  
Data Analysis & Transparency

cc: Audie Sciumbato, Underwood Law Firm, P.C  
Jonathan Nicholas, BNB Renewable Holdings LLC  
Orlando Puig, BNB Renewable Holdings LLC

## CUMMINGS WESTLAKE LLC

12837 Louetta Road, Suite 201 Cypress, Texas 77429-5611 713-266-4456 Fax: 713-266-2333

October 21, 2014

Mr. John Ramos, Superintendent  
Lamesa Independent School District  
212 N. Houston  
Lamesa, TX 79331

### **Re: Chapter 313 Job Waiver Request**

Dear Mr. Ramos,

BNB Lamesa Solar LLC requests that the Lamesa Independent School District's Board of Trustees waive the job requirement provision as allowed by Section 313.025(f-1) of the tax code. This waiver would be based on the school district's board findings that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

BNB Lamesa Solar LLC requests that the Lamesa Independent School District makes such a finding and waive the job creation requirement for 10 permanent jobs. In line with industry standards for job requirements, BNB Lamesa Solar LLC has committed to create 2 total jobs for the project, both of which will be in Lamesa ISD.

Solar projects create a large number of full and part-time, but temporary jobs during the construction phase of the project, but require a relatively small number of highly skilled technicians to operate and maintain the project after commercial operation commences.

The number of jobs specified in this application is in line with the industry standards for a solar farm of this scope and size. This is evidenced by previously filed limitation agreement applications by solar developers who also requested a waiver of the job requirements. In addition, there are educational materials and other documentation that also suggest that BNB Lamesa Solar has the appropriate number of jobs for this project.

Sincerely,



J. Weston Jackson  
Partner

**RESOLUTION OF THE BOARD OF TRUSTEES  
OF  
LAMESA INDEPENDENT SCHOOL DISTRICT**

The Board of Trustees of Lamesa Independent School District (“the District”) does hereby make the following resolution regarding a pending application by BNB Lamesa Solar, LLC (“BNB Lamesa Solar”) for a limitation on appraised value agreement under Texas Tax Code, Chapter 313:

WHEREAS, on or about October 21, 2014, BNB Lamesa Solar submitted to the District an application under Texas Code, Chapter 313 (the “Application”) for a limitation on appraised value agreement (“Agreement”), which was deemed complete by the District on April 22, 2014; and

WHEREAS, on or about October 27, 2014, the Application was submitted to the Texas Comptroller; and,

WHEREAS, on or about November 18, 2014, the Texas Comptroller issued a letter deeming the Application complete, advising that it would move forward with its economic impact evaluation, and triggering the effective filing date of the Application; and

WHEREAS, Texas Tax Code § 313.025(b) requires the Board approve or disapprove an application before the 151st day after the date the application is deemed complete by the Comptroller (the “Deadline”), unless the Comptroller’s economic impact evaluation has not been received or an extension is agreed to by the Board and the applicant; and,

WHEREAS, due to ongoing negotiations with BNB Lamesa Solar, it is likely the Agreement will not be approved by the Comptroller in time for the Board to issue its Findings of Fact, and approve and execute such an Agreement before the Deadline; and,

WHEREAS, on March 17, 2015, BNB Lamesa Solar submitted a request to the District to extend the Deadline, a copy of which is attached here to as Exhibit “A.”

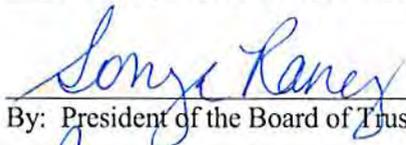
NOW BE IT THEREFORE RESOLVED, that the statements contained in the preamble of this Resolution are true and correct and adopted as findings of fact and operative provisions hereof, and that it is in the District’s best interest to extend the Deadline as requested, and

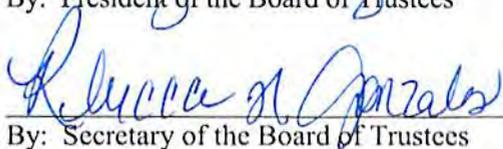
BE IT FURTHER RESOLVED, that Board of Trustees finds that it is in the best interest of the District to grant BNB Lamesa Solar’s request, and extend the Deadline for an additional sixty (60) days in order to complete negotiations and allow the Comptroller sufficient time to review and approve the Agreement of the parties; and,

BE IT FURTHER RESOLVED, the superintendent is directed to provide notice to BNB Lamesa Solar of the Board's decision to grant its request, and extend the deadline until June 17, 2015.

Passed and approved by the Lamesa Independent School District Board of Trustees on this 16<sup>th</sup> day of April, 2015.

Lamesa Independent School District

  
By: President of the Board of Trustees

  
By: Secretary of the Board of Trustees

**EXHIBIT A**

**CUMMINGS WESTLAKE LLC**

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12837 Louetta Road, Suite 201 Cypress, Texas 77429-5611 713-266-4456 Fax: 713-266-2333

March 17, 2015

John Ramos, Superintendent  
Lamesa ISD  
PO Box 261  
Lamesa, TX, 79331-5442

**[via email: jramos@lamesaisd.net](mailto:jramos@lamesaisd.net)**

Re: Request for Extension to consider 313 Application

Dear Mr. Ramos,

Due to ongoing negotiations regarding the terms of the Limitation on Appraised Value Agreement (the "LAVA"), we do not believe that the LAVA with BNB Lamesa Solar LLC will be approved by the Comptroller in time for the parties to execute the LAVA within the 151 day deadline imposed by Texas Tax Code Chapter 313, Section 313.025(b). Accordingly, we ask that Lamesa ISD extend that deadline by no less than 60 days.

Thank you for your consideration.

Regards,



J. Weston Jackson, Consultant for  
BNB Lamesa Solar LLC



**Lamesa Independent School District**  
*Every Student Every Day*

---

April 17, 2015

Wes Jackson  
Cummings Westlake, LLC  
12837 Louetta Road, Suite 201  
Cypress, TX 77429

*Via email: [wjackson@cwlp.net](mailto:wjackson@cwlp.net)*

Re: Request for Extension on Application of BNB Lamesa Solar, LLC  
For a Limited Assessed Valuation Agreement

Dear Mr. Jackson:

Please be advised that at a properly called meeting of the Lamesa Independent School District Board of Trustees on April 16, 2015, the Board took action on the request for an extension to consider the application of BNB Lamesa Solar, LLC for a Limited Assessed Valuation Agreement with Lamesa ISD. The District approved the request, and has granted the extension on the application up to an additional 60 day period (*i.e.*, Wednesday, June 17, 2015). See enclosed copy of the Resolution granting the extension. The Board's action will be reflected in the Minutes of this meeting.

If you have any further questions concerning your extension, please do not hesitate to contact me or Fred Stormer at the Underwood Law Firm. Thank you for your cooperation in this matter.

Sincerely,

John Ramos, Superintendent

**RESOLUTION OF THE BOARD OF TRUSTEES  
OF  
LAMESA INDEPENDENT SCHOOL DISTRICT**

The Board of Trustees of Lamesa Independent School District (“the District”) does hereby make the following resolution regarding a pending application by BNB Lamesa Solar, LLC (“BNB Lamesa Solar”) for a limitation on appraised value agreement under Texas Tax Code, Chapter 313:

WHEREAS, on or about October 21, 2014, BNB Lamesa Solar submitted to the District an application under Texas Code, Chapter 313 (the “Application”) for a limitation on appraised value agreement (“Agreement”), which was deemed complete by the District on April 22, 2014; and

WHEREAS, on or about October 27, 2014, the Application was submitted to the Texas Comptroller; and,

WHEREAS, on or about November 18, 2014, the Texas Comptroller issued a letter deeming the Application complete, advising that it would move forward with its economic impact evaluation, and triggering the effective filing date of the Application; and

WHEREAS, Texas Tax Code § 313.025(b) requires the Board approve or disapprove an application before the 151st day after the date the application is deemed complete by the Comptroller (the “Deadline”), unless the Comptroller’s economic impact evaluation has not been received or an extension is agreed to by the Board and the applicant; and,

WHEREAS, by Resolution dated April 16, 2015, the District granted Applicant’s first request for an extension of the Deadline, and provided notice to Applicant on April 17, 2015 that the deadline was extended to June 17, 2015 Deadline; and,

WHEREAS, due to continued and ongoing negotiations with BNB Lamesa Solar, it is likely the Agreement will not be approved by the Comptroller in time for the Board to issue its Findings of Fact, and approve and execute such an Agreement before the extended Deadline of June 17, 2015; and,

WHEREAS, on May 14, 2015, BNB Lamesa Solar submitted as second request to the District to extend the Deadline, a copy of which is attached here to as Exhibit “A.”

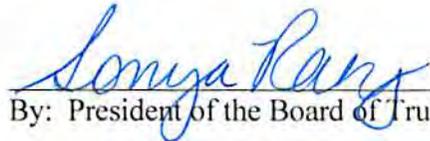
NOW BE IT THEREFORE RESOLVED, that the statements contained in the preamble of this Resolution are true and correct and adopted as findings of fact and operative provisions hereof, and that it is in the District’s best interest to grant BNB Lamesa Solar’s second request and extend the Deadline for a second time, and

BE IT FURTHER RESOLVED, that Board of Trustees finds that it is in the best interest of the District to grant BNB Lamesa Solar's request, and extend the Deadline for an additional sixty-one (61) days in order to complete negotiations and allow the Comptroller sufficient time to review and approve the proposed Agreement of the parties; and,

BE IT FURTHER RESOLVED, the Superintendent is directed to provide notice to BNB Lamesa Solar of the Board's decision to grant its second request, and extend the Deadline until August 17, 2015.

Passed and approved by the Lamesa Independent School District Board of Trustees on this 21st day of May, 2015.

Lamesa Independent School District

  
By: President of the Board of Trustees

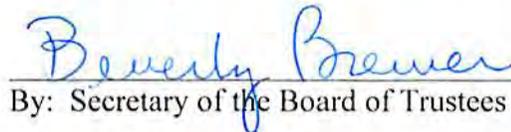
  
By: Secretary of the Board of Trustees

EXHIBIT A

CUMMINGS WESTLAKE LLC

12837 Louetta Road, Suite 201 Cypress, Texas 77429-5611 713-266-4456 Fax: 713-266-2333

May 14, 2015

John Ramos, Superintendent  
Lamesa ISD  
PO Box 261  
Lamesa, TX, 79331-5442

via email: [jramos@lamesaisd.net](mailto:jramos@lamesaisd.net)

Re: Request for an Additional Extension to consider 313 Application

Dear Mr. Ramos,

Due to ongoing negotiations regarding the terms of the Limitation on Appraised Value Agreement (the "LAVA"), we do not believe that the LAVA with BNB Lamesa Solar LLC will be approved by the Comptroller in time for the parties to execute the LAVA within the sixty (60) day extension granted on April 16<sup>th</sup>, 2015. Currently, with the above extension, the deadline imposed by Texas Tax Code Chapter 313, Section 313.025(b) is June 17<sup>th</sup>, 2015. Accordingly, we ask that Lamesa ISD extend that deadline by no less than 60 days.

Thank you for your consideration.

Regards,



J. Weston Jackson, Consultant for  
BNB Lamesa Solar LLC



Lamesa Independent School District  
*Every Student Every Day*

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May 22, 2015

Wes Jackson  
Cummings Westlake, LLC  
12837 Louetta Road, Suite 201  
Cypress, TX 77429

*Via email: [wjackson@cwlp.net](mailto:wjackson@cwlp.net)*

Re: Request for Extension on Application of BNB Lamesa Solar, LLC  
For a Limited Assessed Valuation Agreement

Dear Mr. Jackson:

Please be advised that at a properly called meeting of the Lamesa Independent School District Board of Trustees on May 21, 2015, the Board took action on the second request for an extension to consider the application of BNB Lamesa Solar, LLC for a Limited Assessed Valuation Agreement with Lamesa ISD. The District approved the second request, and has granted the extension on the application up to an additional 61 day period (*i.e.*, Monday, August 17, 2015). *See* enclosed copy of the Resolution granting the second extension. The Board's action will be reflected in the Minutes of this meeting.

If you have any further questions concerning your extension, please do not hesitate to contact me or Fred Stormer at the Underwood Law Firm. Thank you for your cooperation in this matter.

Sincerely,

John Ramos, Superintendent