

**FINDINGS**  
**of the**  
***CANYON 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**

***HAPPY WHITEFACE WIND, LLC***

***Comptroller Application Number 1040***

**RESOLUTION AND FINDINGS OF FACT**  
**of the**  
**CANYON 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 HAPPY WHITEFACE WIND, LLC**

STATE OF TEXAS           §  
  §  
COUNTY OF RANDALL   §

**PREAMBLE**

On the 16<sup>th</sup> day of April, 2015, a public meeting of the Board of Trustees of the Canyon Independent School District (the “Board”) was held to solicit input from interested parties on the application by Happy Whiteface Wind, LLC (“Happy Whiteface Wind” 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 Happy Whiteface Wind 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 Canyon Independent School District makes the following Findings regarding the Application:

On or about the 10<sup>th</sup> day of November, 2014, the Board of Trustees for the Canyon Independent School District received an Application for Appraised Value Limitation on Qualified Property from Happy Whiteface Wind, 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 wind power electric generation facility (the “Property”). See Application, Tabs 7 and 8, 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 November 15, 2014. Thereafter, the District, on behalf of Applicant, submitted Amendment No. 001 (corrected wage data and Randall County reinvestment zone resolution) on or about December 12, 2014, and the Comptroller issued its notice of completeness by letter dated December 17, 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 December 17, 2014 are collectively attached hereto as Attachment A.

The Texas Taxpayer Identification number for Happy Whiteface Wind, LLC is 32050653537. Happy Whiteface Wind 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 Potter-Randall 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 March 3, 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 district financial analysis be conducted of the impact of the proposed value limitation on the finances of Canyon Independent School District. A copy of a report prepared by Neal Brown is attached to these Findings as Attachment E.

The Board has confirmed that the taxable value of industrial property in the Canyon Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403 of the Texas Government Code, falls within Category II of §313.022 of the Texas Tax Code. See Comptroller's "2013 ISD Summary Worksheet," attached hereto as Attachment G; see also Attachment D.

After receipt of the completed Application, the District entered into negotiations with Happy Whiteface Wind 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. 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 April 14, 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.

After review of the Comptroller's Certification and Economic Impact Evaluation, and in consideration of its own analysis of Happy Whiteface Wind'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 requested a waiver to create the required number of new qualifying jobs and will 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 #1040.

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 B.

See Attachment C; see also Attachment D.

## **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 Happy Whiteface Wind, 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>	2013	\$0	\$0	\$0	\$0
	2014	\$0	\$0	\$0	\$0
	2015	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2016	\$832,000	\$832,000	\$1,352,000	\$1,352,000
	2017	\$832,000	\$1,664,000	\$1,264,640	\$2,616,640
	2018	\$832,000	\$2,496,000	\$1,177,280	\$3,793,920
	2019	\$832,000	\$3,328,000	\$1,089,920	\$4,883,840
	2020	\$832,000	\$4,160,000	\$1,002,560	\$5,886,400
	2021	\$832,000	\$4,992,000	\$915,200	\$6,801,600
	2022	\$832,000	\$5,824,000	\$827,840	\$7,629,440
	2023	\$832,000	\$6,656,000	\$740,480	\$8,369,920
	2024	\$832,000	\$7,488,000	\$653,120	\$9,023,040
	2025	\$832,000	\$8,320,000	\$565,760	\$9,588,800
<b>Maintain Viable Presence (5 Years)</b>	2026	\$1,310,400	\$9,630,400	\$0	\$9,588,800
	2027	\$1,223,040	\$10,853,440	\$0	\$9,588,800
	2028	\$1,135,680	\$11,989,120	\$0	\$9,588,800
	2029	\$1,048,320	\$13,037,440	\$0	\$9,588,800
	2030	\$960,960	\$13,998,400	\$0	\$9,588,800
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2031	\$873,600	\$14,872,000	\$0	\$9,588,800
	2032	\$786,240	\$15,658,240	\$0	\$9,588,800
	2033	\$698,880	\$16,357,120	\$0	\$9,588,800
	2034	\$611,520	\$16,968,640	\$0	\$9,588,800
	2035	\$611,520	\$17,580,160	\$0	\$9,588,800
	2036	\$611,520	\$18,191,680	\$0	\$9,588,800
	2037	\$611,520	\$18,803,200	\$0	\$9,588,800
	2038	\$611,520	\$19,414,720	\$0	\$9,588,800
	2039	\$611,520	\$20,026,240	\$0	\$9,588,800
	2040	\$611,520	\$20,637,760	\$0	\$9,588,800
		<b>\$20,637,760</b>	is greater than	<b>\$9,588,800</b>	
<b>Analysis Summary</b>					
Is the project reasonably likely to generate M&O tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					Yes
NOTE: The analysis above only takes into account this project's estimated impact on the M&O portion of the school district property tax levy directly related to this project.					

Source: CPA, Happy Whiteface Wind, LLC

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 twenty-five (25) permanent jobs. According to the Applicant, the industry standard requires approximately one (1) full time position for every 15-20 turbines, which is less than the requirements of §313.051(b). Applicant intends to install approximately 68 turbines within Canyon ISD, with a rated capacity of 2.3 MW turbines. 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 five (5) new qualifying jobs to service and support a wind farm of approximately 156.4 MW, which is in line with industry standards.

See Attachments A (Tabs 7, 8 and 12) and D.

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

*The Applicant will create five (5) new qualifying jobs, which Applicant affirms will meet all of the requirements set out in Texas Tax Code §313.021(3).*

See Attachments A and D.

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

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

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

The Comptroller is **able to determine** that the limitation on appraised value is a determining factor in the Happy Whiteface Wind, LLC's 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:

- There are newspaper articles going back to 2007 that describe this project.
- There are document that show that company representatives have been seeking agreements and determinations with the Southwest Power Pool and the Public Utility Commission of Texas for this project going back to 2009 and 2010 respectively.
- A January 2015 newspaper article indicated that Randall County has given a 10-year, 100 percent property tax abatement to this project.
- The same article, referenced above, states that the project is still roughly 20 percent short of financing this project. It also states that abatement requests have been submitted to Canyon ISD and the South Randall County Hospital District, but have not been acted upon.

- The applicant stated in the application that the project would be unable to generate sufficient net income to attract sponsor equity investment without the limitation on appraised value. Capital costs make this third-party investment mandatory to fund the project.

See Attachment D. *See also*, Attachment A, Tab 5.

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

*The proposed limitation on appraised value for the qualified property is \$80,000,000.*

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, Neal Brown estimate in the District's Financial Impact Report, based on Happy Whiteface Wind's Application, that the project would add \$210,000,000 to the tax base at the peak investment level for the 2016 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. *See also* Table 4 of Attachment D. In addition, the projected revenue gains from the proposed Agreement would be approximately \$2,000,000. *See* Attachment H at Section 6.2.A.

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

*The effect of the Applicant's proposal, if approved, is not expected to increase the District's instructional facility needs. Canyon ISD can easily accommodate the projected student growth anticipated from Applicant's project with its existing facilities. However, possible increases 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:

Happy Whiteface Wind, 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 five full-time employees are expected. It is not known whether these would be new employees to the Canyon 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 five positions equates to 3 new students.

This minimal projected student growth can easily be accommodated with the current facilities of Canyon 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 follows:*

**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
2014-2015	1.0400	0.175	0	0	0	0
2015-2016	1.0400	0.161	0	0	0	0
2016-2017	1.0400	0.147	2,184,000	1,352,000	(1,363,663)	(11,663)
2017-2018	1.0400	0.142	2,096,640	1,264,640	0	1,264,640
2018-2019	1.0400	0.137	2,009,280	1,177,280	0	1,177,280
2019-2020	1.0400	0.132	1,921,920	1,089,920	0	1,089,920
2020-2021	1.0400	0.127	1,834,560	1,002,560	0	1,002,560
2021-2022	1.0400	0.123	1,747,200	915,200	0	915,200
2022-2023	1.0400	0.119	1,659,840	827,840	0	827,840
2023-2024	1.0400	0.115	1,572,480	740,480	0	740,480
2024-2025	1.0400	0.110	1,485,120	653,120	0	653,120
2025-2026	1.0400	0.107	1,397,760	565,760	0	565,760
2026-2027	1.0400	0.103	1,310,400	0	0	0
2027-2028	1.0400	0.099	1,223,040	0	0	0
2028-2029	1.0400	0.095	1,135,680	0	0	0
2029-2030	1.0400	0.092	1,048,320	0	0	0
2030-2031	1.0400	0.089	960,960	0	0	0
Totals			23,587,200	9,588,800	(1,363,663)	8,225,137

**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 follows:*

**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
2014-2015	1.0400	0.175	0	0	0	0
2015-2016	1.0400	0.161	0	0	0	0
2016-2017	1.0400	0.147	2,184,000	1,352,000	(1,363,663)	(11,663)
2017-2018	1.0400	0.142	2,096,640	1,264,640	0	1,264,640
2018-2019	1.0400	0.137	2,009,280	1,177,280	0	1,177,280
2019-2020	1.0400	0.132	1,921,920	1,089,920	0	1,089,920
2020-2021	1.0400	0.127	1,834,560	1,002,560	0	1,002,560
2021-2022	1.0400	0.123	1,747,200	915,200	0	915,200
2022-2023	1.0400	0.119	1,659,840	827,840	0	827,840
2023-2024	1.0400	0.115	1,572,480	740,480	0	740,480
2024-2025	1.0400	0.110	1,485,120	653,120	0	653,120
2025-2026	1.0400	0.107	1,397,760	565,760	0	565,760
2026-2027	1.0400	0.103	1,310,400	0	0	0
2027-2028	1.0400	0.099	1,223,040	0	0	0
2028-2029	1.0400	0.095	1,135,680	0	0	0
2029-2030	1.0400	0.092	1,048,320	0	0	0
2030-2031	1.0400	0.089	960,960	0	0	0
Totals			23,587,200	9,588,800	(1,363,663)	8,225,137

**Board Finding Number 11.**

*The Board of Trustees hired consultants to review and verify the information in the Application from Happy Whiteface Wind. 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 Consultant's review of these and other documents, the Board has determined that the information provided by the Applicant in its Application was true and correct when it was submitted (see Attachments A, B, C, D and E).*

**Board Finding Number 12.**

*The Applicant (Taxpayer Id. 32050653537) 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 year 2016-2017. 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, Article IV, 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 Happy Whiteface Wind'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 Canyon 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 Trustee whose signature appears below on behalf of the Canyon 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 Canyon Independent School District Board of Trustees.

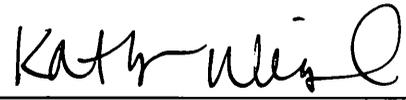
Dated this 16<sup>th</sup> day of April, 2015.

Canyon Independent School District

By   
*Signature*

LINDA HINDERS Board President CUSD  
*Printed Name and Title*

Attest:

By   
*Signature*

Katharyn Wiegand, Board Secretary, CUSD  
*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 Summary Worksheet
H	Proposed Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes
I	Comptroller's April 14, 2015 Agreement Review Letter
J	Job Waiver Request

S U S A N

C O M B S

TEXAS COMPTROLLER *of* PUBLIC ACCOUNTS

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



December 17, 2014

Michael Wartes  
Superintendent  
Canyon Independent School District  
3301 N. 23rd St.  
Canyon, Texas 79015

Dear Superintendent Wartes:

On Nov. 15, 2014, the Comptroller's office received from Canyon Independent School District (Canyon ISD) an application from Happy Whiteface Wind, LLC for a limitation on appraised value (App #1040).

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 Dec. 17, 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 John Villarreal with our office. He can be reached by email at [john.villarreal@cpa.state.tx.us](mailto:john.villarreal@cpa.state.tx.us) or by phone at 1-800-531-5441, ext. 3-5241, or direct in Austin at 512-463-5241.

Sincerely,

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

Robert Wood  
Director  
Economic Development & Analysis

cc: Fred Stormer, Underwood Law Firm, P.C.  
Jamie Lyle McAlpine, Happy Whiteface Wind, LLC  
Charles Waswo, Chermac Energy Corporation  
Melissa Miller, Miller Wind & Renewables, LLC

**Application for Chapter 313  
Appraised Value Limitation  
by Happy Whiteface Wind, LLC  
to Canyon ISD**

**submitted November 10, 2014**

## **Attachment 1**

See executed application attached.



# 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 not later than the 150th 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 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

November 10, 2014

Date Application Received by District

Michael

First Name

Superintendent

Title

Canyon I.S.D.

School District Name

3301 N. 23rd St.

Street Address

3301 N. 23rd St.

Mailing Address

Canyon

City

806-677-2627

Phone Number

Mobile Number (optional)

Wartes

Last Name

Texas

State

806-677-2659

Fax Number

wartes@canyonisd.net

Email Address

79015

ZIP

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

SECTION 1: School District Information (continued)

3. Authorized School District Consultant (If Applicable)

Form for authorized school district consultant including fields for First Name (Fred), Last Name (Stormer), Title (Attorney), Firm Name (Underwood Law Firm, PC), Phone Number (806-379-0306), Fax Number (806-379-0316), and Email Address (Fred.Stormer@uwlaw.com).

- 4. On what date did the district determine this application complete? November 14, 2014
5. Has the district determined that the electronic copy and hard copy are identical? Yes

SECTION 2: Applicant Information

1. Authorized Company Representative (Applicant)

Form for authorized company representative including fields for First Name (Jaime Lyle), Last Name (McAlpine), Title (Manager), Organization (Happy Whiteface Wind, LLC), Street Address (P.O. Box 5446), City (Edmond), State (Oklahoma), ZIP (73083), Phone Number (405-850-6685), and Business Email Address (mcalpinejl@chermacenergy.com).

- 2. Will a company official other than the authorized company representative be responsible for responding to future information requests? Yes
2a. If yes, please fill out contact information for that person.

Form for secondary company representative including fields for First Name (Charles), Last Name (Waswo), Title, Organization (Chermac Energy Corporation), Street Address (P.O. Box 5446), City (Edmond), State (Oklahoma), ZIP (73083), Phone Number (405-850-6685), and Business Email Address (cwaswo@aol.com).

- 3. Does the applicant authorize the consultant to provide and obtain information related to this application? Yes

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

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

_____	_____
First Name	Last Name
President	Miller
_____	
Title	
Miller Wind & Renewables LLC	
_____	
Firm Name	
512-739-0397	N/A
Phone Number	Fax Number
_____	_____
Business Email Address	
melissa@millerwind.com	

**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? \_\_\_\_\_ Happy Whiteface Wind, LLC

2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) \_\_\_\_\_ 32050653537

3. List the NAICS code \_\_\_\_\_ 221115

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 Corporation

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:
 

<input type="checkbox"/> Land has no existing improvements	<input checked="" 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, contracts or letters of intent 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 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. Is the applicant evaluating other locations not in Texas for the proposed project?  Yes  No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities?  Yes  No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project?  Yes  No
10. 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

**Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." 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. Commencement of construction ..... June 2015
- 3. Beginning of qualifying time period ..... 2015
- 4. First year of limitation ..... 2016
- 5. Begin hiring new employees ..... June 2015
- 6. Commencement of commercial operations ..... December 2015
- 7. 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
- 8. When do you anticipate the new buildings or improvements will be placed in service? ..... December 2015

**Note:** Improvements made before that time may not be considered qualified property.

**SECTION 10: The Property**

- 1. Identify county or counties in which the proposed project will be located Randall and Deaf Smith Counties
- 2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property Randall County
- 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: <u>Randall County, .39914, 100%,</u> <small>(Name, tax rate and percent of project)</small>	City: _____ <small>(Name, tax rate and percent of project)</small>
Hospital District: <u>So. Randall Hospital, .07921, 100%</u> <small>(Name, tax rate and percent of project)</small>	Water District: <u>High Plains Water - Randall .00802, 100%</u> <small>(Name, tax rate and percent of project)</small>
Other (describe): <u>Deaf Smith County - 7 miles of T line</u> <small>(Name, tax rate and percent of project)</small>	Other (describe): <u>Noxious Weed District, .03/acre, 100%</u> <small>(Name, tax rate and percent of project)</small>
- 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? ..... 80,000,000.00
- 2. What is the amount of appraised value limitation for which you are applying? ..... 80,000,000.00
- 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 tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, 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? ..... December 1, 2014

**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): ..... \$ 12,000.00
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? ..... 5

5. What is the number of new non-qualifying jobs you are estimating you will create? ..... 0

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 ..... 767.00

b. 110% of the average weekly wage for manufacturing jobs in the county is ..... 1,166.00

c. 110% of the average weekly wage for manufacturing jobs in the region is ..... 727.27

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? ..... 37,818.00

10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... 37,818.00

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 §313.021(3)(F)? .....  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** → Michael Wartes Superintendent  
Print Name (Authorized School District Representative) Title

**sign here** → Michael L. Wartes November 10, 2014  
Signature (Authorized School District Representative) Date

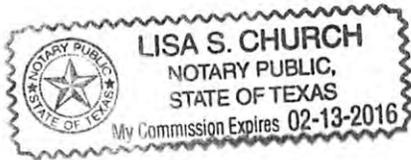
**2. Authorized Company Representative (Applicant) Signature and Notarization**

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** → Jaime Lyle McAlpine Manager  
Print Name (Authorized Company Representative (Applicant)) Title

**sign here** → Jaime Lyle McAlpine November 10, 2014  
Signature (Authorized Company Representative (Applicant)) Date



(Notary Seal)

GIVEN under my hand and seal of office this, the

10<sup>th</sup> day of November, 2014  
Lisa S. Church  
 Notary Public in and for the State of Texas  
 My Commission expires: 2-13-16

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 tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period</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>

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)*

**Attachment 2**

***Proof of Payment of Application Fee***

Wire transfer for \$75,000 application fee to Canyon Independent School District was made on 11/6/14 with confirmation #11 07 11 B70 31R 01 36 39.

**Attachment 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

## Attachment 4

### *Detailed description of the project.*

***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.***

Happy Whiteface Wind, LLC (“Happy Whiteface”) is a special purpose entity formed to facilitate the development and commercialization of a utility-scale wind energy project. Chermac Energy Corporation (“Chermac”), the exclusive developer and member of Happy Whiteface, is in the business of initiating, developing, and producing electricity from wind energy projects. Chermac currently has five projects in development in Texas and Oklahoma and is evaluating other renewable energy project opportunities across the country.

Happy Whiteface is requesting an appraised value limitation from Canyon ISD for a proposed wind energy project using wind turbines and 7 miles of transmission line located in Randall County. Additionally, there are 7 miles of transmission line located outside of Canyon ISD in Hereford ISD and in Deaf Smith County. The wind farm and its associated infrastructure will be constructed within Reinvestment Zones established by Randall and Deaf Smith Counties, Texas. A map showing the location of the wind farm is included as Attachment 11a. The Reinvestment Zone shown on Attachment 11f shows the Reinvestment Zone in Randall County, which extends beyond the project area. The reason for this is because the project is being constructed in two phases.

The wind farm will have an estimated capacity of 156.4 megawatts (“MW”). To construct the wind farm, Happy Whiteface will install 68 wind turbines all within Canyon ISD that will have a rated capacity of 2.3 MW. In addition to the wind turbines, roads will be constructed and improved as necessary, collection lines, transmission lines, and a collection substation will be installed to permit the interconnection and transmission of electricity generated by the wind turbines, and an operations and maintenance building will be erected.

Construction of the wind farm is proposed to begin in June of 2015 and is expected to take approximately six months to complete, with an estimated commercial operations date by December 31, 2015, contingent upon favorable economics for the project.

While the wind regime for Happy Whiteface is excellent, there are currently many favorable locations for wind projects that could be developed across the US. Happy Whiteface has modeled its economics with an expectation that it will have a Limitation of Appraised Value Agreement with Canyon ISD. Project investors are looking for wind projects across the US and can locate projects in a wide variety of locations should Happy Whiteface be unable to develop a competitive project in Texas that is able to generate returns sufficient to attract investment capital.

## **Chermac Energy Corporation**

Chermac was incorporated under the laws of the State of Oklahoma in 1982 to provide services in petroleum engineering and oil/gas lease property operations. Chermac is a Registered Petroleum Engineering firm in the State of Oklahoma since 1996. In 1999, Chermac started development of renewable energy wind projects in Oklahoma, Texas and Kansas.

## **Wind**

Chermac was the original developer of the Oklahoma Gas and Electric 120 MW Centennial Wind Farm and the 94.5 MW Edison Mission Energy Sleeping Bear Wind Farm in Harper County, Oklahoma, both completed in 2007; the Edison Mission 19 MW EME Buffalo Bear Wind Farm completed in 2008; the Edison Mission 130 MW Taloga I Wind Farm completed in July 2011 and Enel's 405 MW Buffalo Dunes Wind Park, Finney Co., KS, with its first phase of 250 MW completed in early 2014. Presently, Chermac holds wind lease and easement rights for 50,000 acres in Texas. Other scheduled projects for completion of construction in 2015 include the 170 MW Salt Fork and the 240 MW Happy Hereford projects in Texas; the 200 MW Goodwell and 365 MW Persimmon Creek (150 MW Phase I) projects in Oklahoma; with another 300 MW of additional projects in development and scheduled for construction in 2016-2017.

## **Biographies of Key Personnel**

### **Jaime Lyle McAlpine, P.E.**

Since 1982 has acted as Petroleum Engineer and President of Chermac Energy Corporation. Since 1999, has provided management, financial analyses, land acquisition, technical design and contract negotiations for wind developments. Oil and gas responsibilities include engineering and management of oil and gas properties throughout Oklahoma, New Mexico and West Texas, drilling/completion design and site engineering for wells up to 20,000', design and implementation of waterfloods, expert petroleum engineering witness testimony, engineering design, construction and maintenance of liquid and gas pipelines, product contract negotiation and engineering audit of gas sales contracts and tertiary recovery and CO2 designs. From 1979 to 1982 was Petroleum Engineer for Willis Exploration, Oklahoma City, Oklahoma. Responsibilities included engineering and management of oil and gas properties throughout Oklahoma and Texas Panhandle as well as drilling/completion design and site engineering for wells up to 12,000'.

Graduated from Oklahoma State University in 1979 with a B.S. Degree in Petroleum Engineering Technology. A registered engineer with the Oklahoma State Board of Registration for Professional Engineers and Land Surveyors since 1986 as Professional Engineer No. 14404. Member of the Society of Petroleum Engineers, National Society of Professional Engineers and the American Wind Energy Association.

### **Cheryl L. McAlpine**

Since 1982, Chief Financial Officer of Chermac Energy Corporation. Responsibilities include all internal accounts payable, accounts receivable, and project specific accounting. Other responsibilities include insurance administration and office management. Attended University of Central Oklahoma, majoring in Accounting.

**Gregory P. Gilbert, CPA**

Since 1987, has served as Chermac Energy Corporation's accountant. He is a Certified Public Accountant and Audit and Tax Partner of Steakley and Gilbert, P.C. accounting firm. His responsibilities include all outside accounting and auditing requirements for Chermac Energy Corporation. Graduated from Oklahoma State University with M.A. degree in Accounting in 1981.

**Kyle B. Hadwiger, J.D.**

Since 1999, has served as Counsel for Chermac Energy Corporation in wind development. Responsibilities include all legal aspects of wind projects including contract negotiations, title curative responsibilities and legal opinions for corporate actions. Admitted to Oklahoma Bar in 1985. Received B.S. degree from Oklahoma State University in 1982 and J.D. in 1985 from the University of Tulsa.

**Gregory D. Adams**

Since 1999 has served as Technical Advisor for wind development for Chermac Energy Corporation. Lifelong resident of Harper County with cattle and real estate business interests. His responsibilities include wind data acquisition, verification of independent data engineering provided by outside sources, wind farm design and analyses. Other responsibilities include land negotiation and outside wind project evaluation. Graduated Oklahoma State University, 1980 with a B.S. in Aeronautical Engineering Technology. Also certified WindProII operator by EMD International A/S since June 2006. Received continuing IP based training from ESRI for ArcView GIS program since 2005. WindProII advanced operator training June 2007, 2008, 2009 and 2010. Member of the Oklahoma Renewable Energy Council and the American Wind Energy Association

**Doug Coats**

Since 2007 has served as Construction Advisor for wind development for Chermac Energy Corporation. His responsibilities include site review, project construction cost estimation, wind farm civil design, and construction project cost validation. Other responsibilities include land negotiation and outside wind project construction review. From 1996 thru mid-2006 served as Senior Construction Manager for Renewable Energy Systems, Austin, TX and from mid-2006 until joining Chermac in 2007, held same position with Signal Wind Energy LLC, Chattanooga, TN and was responsible for over 1,500 MW of wind farm construction in Texas, Nebraska,

Vermont and Jamaica. Received B.S. in Construction Science from Texas A&M University in 1979.

Chermac has multiple projects in multiple states in development with scheduled construction completion in December 2015. Projects economics vary from project to project, State to State. If the LAVA (which is a vital part of the economic package provided by Texas) was not achieved for the Happy Whiteface project, then the likelihood of completion is diminished to the point Chermac resources and development teams' time would be reallocated to those projects with highest economic return outlook with all of those potentials being located in other areas besides the Canyon ISD and Randall County, Texas.

As such, the development resources necessary to advance the subject 156.4 MW Happy Whiteface Project could be redeployed to other renewable energy development projects in other power markets in the United States. Happy Whiteface, however, was formed for the express purpose of developing a wind farm that would help bring economic development to the area. Chermac identified Texas, and in particular Canyon ISD, for its strong wind resource, access to available transmission capacity and the ERCOT market, and favorable property tax incentives under the Tax Code for Chapter 312 tax abatement and Chapter 313 Appraised Value Limitation.

Chermac prefers to develop and build the proposed Happy Whiteface Project as described throughout this application. This Project is still in the early stages of development, however. As of October 2014 Happy Whiteface's physical assets are valued at less than \$12,000, for the met mast installed on the project. Most of this capital is comprised of non-qualified property, specifically one temporary meteorological tower erected on the project site. Should the appraised value limitation be granted, Happy Whiteface has created a development and investment plan that, if capitalized, Happy Whiteface will implement construction efforts in 2015. Without such a limitation the Project, competing against other Texas projects that have qualified, would likely be forced to redeploy its assets and capital to other counties and states competing for similar wind projects.

## Attachment 5

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

*Chapter 313.026(e) states “the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2).” If you answered “yes” to any of the questions in Section 8, attach supporting information in Tab 5.*

**Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project?**

Happy Whiteface Wind, LLC was formed in 2013.

In support of its creation, the participating members, Chermac Energy Corporation, executed documents necessary to form the entity, including an Operating Agreement and a Development Agreement. Chermac Energy Corporation also entered into the following representative agreements and contracts that will be assigned to Happy Whiteface Wind, LLC:

- Grants of Easement covering approximately 11,500 acres with 4 landowners.
- Environmental and archeological studies with Enercon
- Atmospheric studies for project area with Comsearch.
- Engineering and Surveying with XCEL Land Services.

**Does the applicant have current business activities at the location where the proposed project will occur?**

The business activities that the agreements and contracts listed above represent will determine with greater certainty and granularity the feasibility of completing development of an economic renewable energy project in the Canyon ISD.

These contracts and initial investments are preliminary in nature as Chermac and Happy Whiteface have determined that a value limitation agreement with Canyon ISD is an essential economic driver to allow for the return on investment necessary to finance and construct the wind energy project.

**Is the applicant evaluating other locations not in Texas for the proposed project?**

Chermac’s management team is uniquely qualified to develop and construct wind and other energy projects throughout the United States. It has been responsible for the development of approximately 614 MWs, or approximately 1%, of the U.S.’ installed wind energy capacity. Based on this experience the management team evaluates all potential projects for feasibility, financeability, and the economic returns they represent in comparison to other project opportunities across the country.

The Happy Whiteface Project is currently in such a period of assessment to determine whether the identified site in Canyon ISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable.

A 313 Limitation of Appraised Value Agreement is a key tax incentive agreement necessary to ensure the Project is on a level playing field with other wind projects with similar incentives and with alternative forms of generation that receive their own forms of economic support. Without the requested limitation. The Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associated returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the projected capital costs of approximately \$210M needed to purchase wind turbines and other infrastructure and to fund the construction and closing costs of the facility.

**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?**

The information provided in this Attachment and throughout the application has been assembled to provide the reviewer with the best possible data on which to make an assessment and determination of the critical nature of the limitation on appraised value to the feasibility of the Happy Whiteface Project.

## Attachment 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).*

***5a. If no, attach in Tab 6 additional information on the project scope and size to assist in the economic analysis.***

The project is located solely in Canyon ISD and in no other school districts.

Canyon ISD	97%*
------------	------

\*3% of the project is comprised of a 7 mile transmission line outside of Canyon ISD in Hereford ISD.

## Attachment 7

### *Description of Qualified Investment*

- 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).*

Happy Whiteface, LLC plans to construct an estimated 156.4 MW wind farm in Randall County, located entirely within Canyon ISD with the exception of 7 miles of 345kV transmission line in Deaf Smith County. The intended qualified investment located in Canyon ISD includes wind turbines, foundations, collection systems, 7 miles of 345kV transmission line and interconnection infrastructure, additional meteorological towers, roads, operations and maintenance buildings, spare parts, and control systems necessary for commercial generation of electricity. External to Canyon ISD is the remainder of the transmission line, in which there are 7 miles of 345kV line in Deaf Smith County.

For purposes of this application, the Project anticipates using 2.3 MW turbines. Although final turbine selection and location of the infrastructure may change, all equipment outlined above is expected to be located within Canyon ISD. Current plans are to install 68 turbines in one phase.

The exact placement of turbines is subject to ongoing planning, wind studies, engineering, and discussions with landowners and turbine manufacturers. The final number and location of turbines and supporting structures will be determined before construction begins. Happy Whiteface intends to connect to Windmill, an ERCOT substation via a 14 mile 345kV transmission line, of which 7 miles is located in Canyon ISD and Randall County and 7 miles is located in Deaf Smith County. All of the infrastructure will remain within the project boundary and within the Reinvestment Zones. The map in Attachment 11b shows the proposed project area with the anticipated improvement locations.

## **Attachment 8**

### ***Description of Qualified Property***

Happy Whiteface, LLC plans to construct an estimated 156.4 MW wind farm in Randall County, located entirely within Canyon ISD with the exception of 7 miles of 345kV transmission line in Deaf Smith County. The intended qualified investment located in Canyon ISD includes wind turbines, foundations, collection systems, 7 miles of 345kV transmission line and interconnection infrastructure, additional meteorological towers, roads, operations and maintenance buildings, spare parts, and control systems necessary for commercial generation of electricity. External to Canyon ISD is the remainder of the transmission line, in which there are 7 miles of 345kV line in Deaf Smith County.

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**Attachment 9**  
***Description of Land***

Not Applicable.

**Attachment 10**

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

The Project has one temporary meteorological tower located on site, Met ID 6005. The tower is a Rohn 57 meter tower with Campbell Scientific Data Logger and NRG sensors.

A map reflecting its placement is provided below and in Attachment 11d.

Please see the ~~attached map~~ below.

CONFIDENTIAL  
map submitted  
separately

~~CONFIDENTIAL – FOR SEPARATE FILING~~

## Attachment 11

### *Maps that clearly show:*

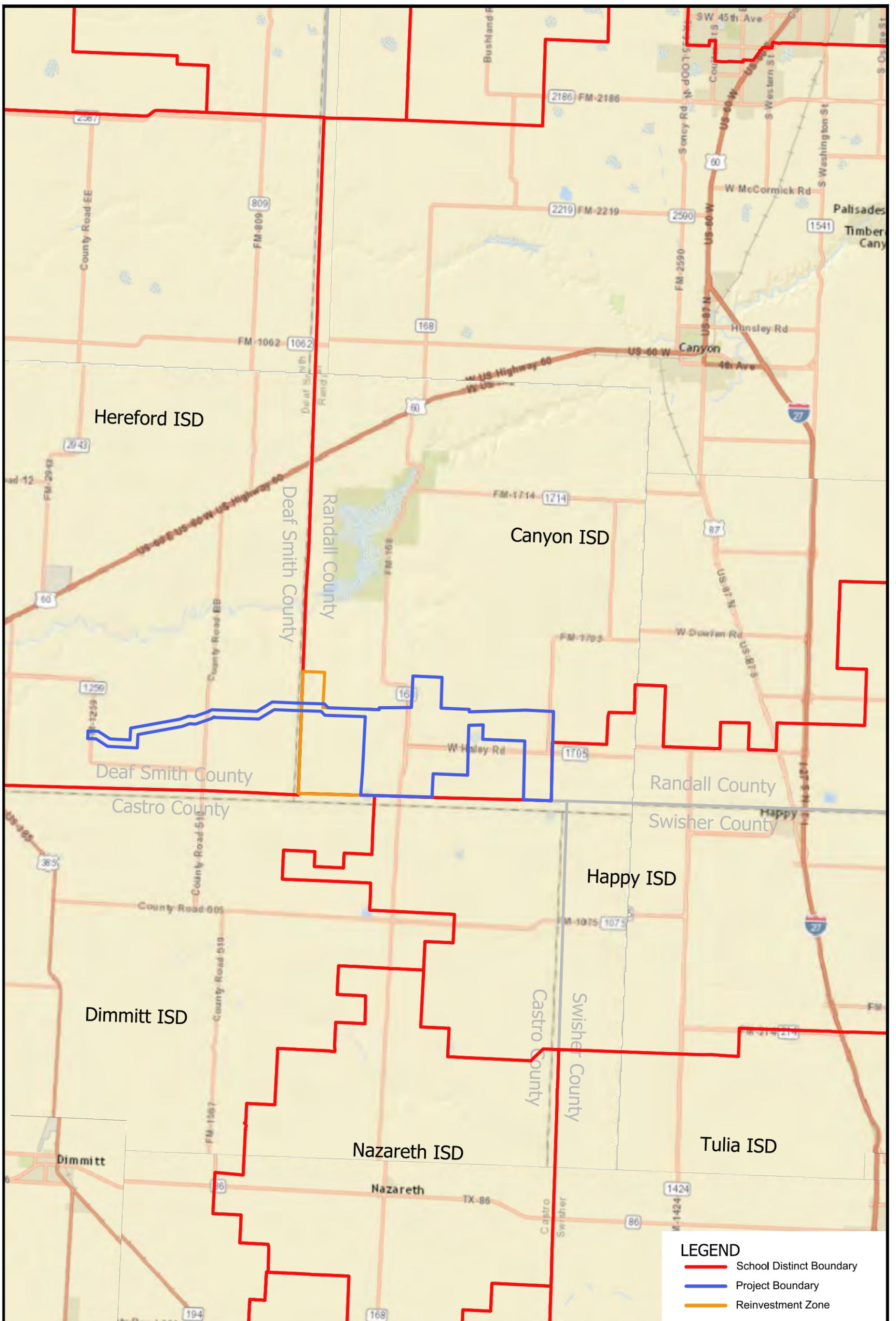
- a) Project vicinity*
- b) Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period*
- c) Qualified property including location of new buildings or new improvements*
- d) Existing property*
- e) Land location within vicinity map*
- f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size*

**Attachment 11a**

***a) Project vicinity***

Please see the attached map below.

CONFIDENTIAL – FOR SEPARATE FILING



Happy Whiteface Property Within Vicinity Map - CONFIDENTIAL

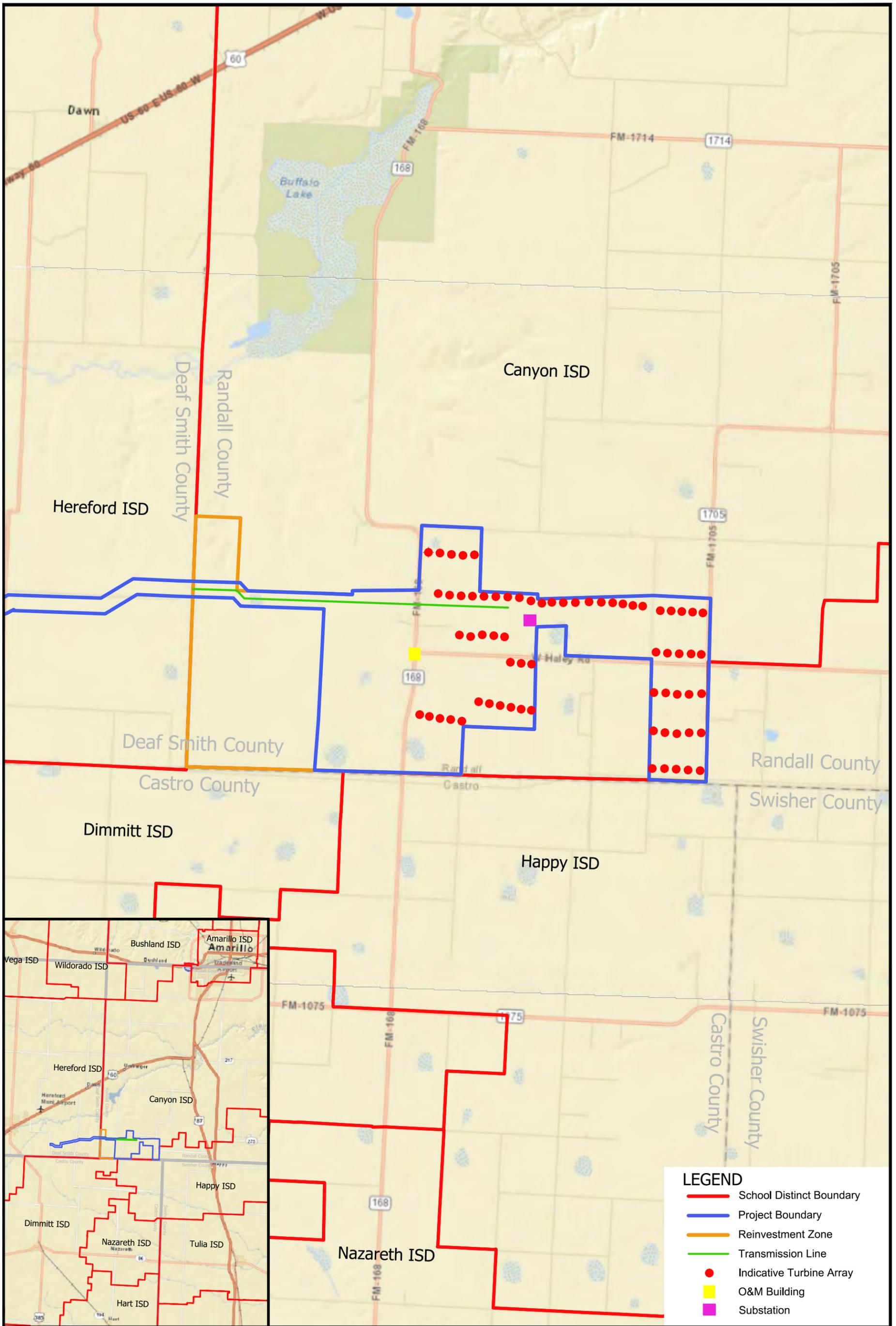


**Attachment 11b**

- b) Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period***

Please see the attached map below.

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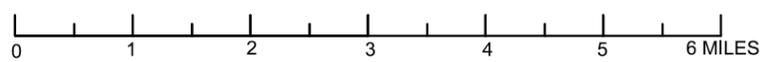


**LEGEND**

- School District Boundary
- Project Boundary
- Reinvestment Zone
- Transmission Line
- Indicative Turbine Array
- O&M Building
- Substation



Happy Whiteface Qualified Investment Map - CONFIDENTIAL



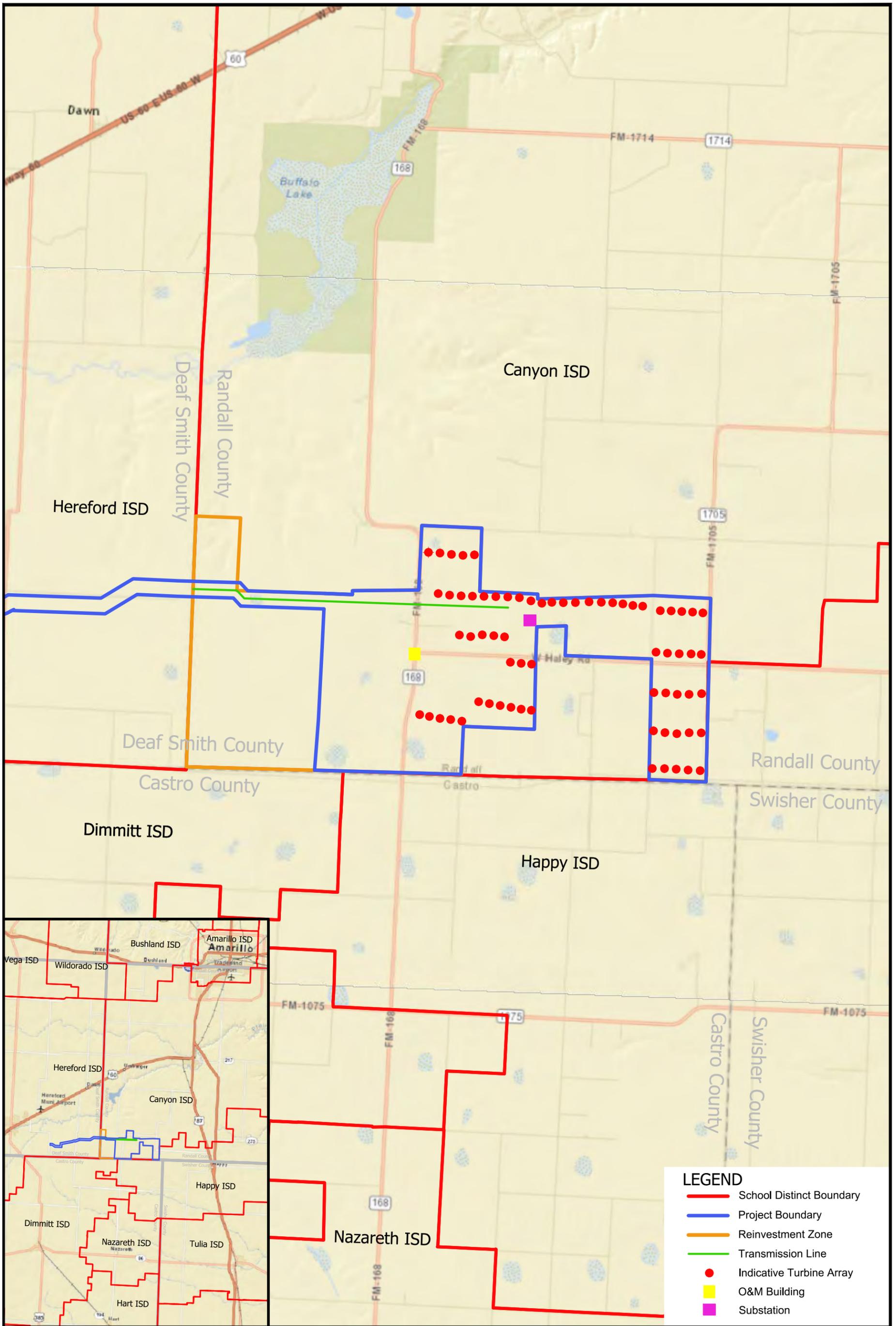
Note: Location of Qualified Investment and Qualified Property may change but will remain within ISD and project boundary

**Attachment 11c**

**c) *Qualified property including location of new buildings or new improvements***

Please see the attached map below.

CONFIDENTIAL – FOR SEPARATE FILING

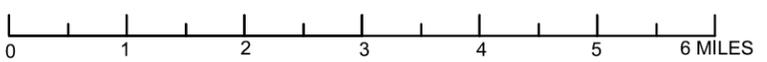


**LEGEND**

- School District Boundary
- Project Boundary
- Reinvestment Zone
- Transmission Line
- Indicative Turbine Array
- O&M Building
- Substation



Happy Whiteface Qualified Property Map - CONFIDENTIAL

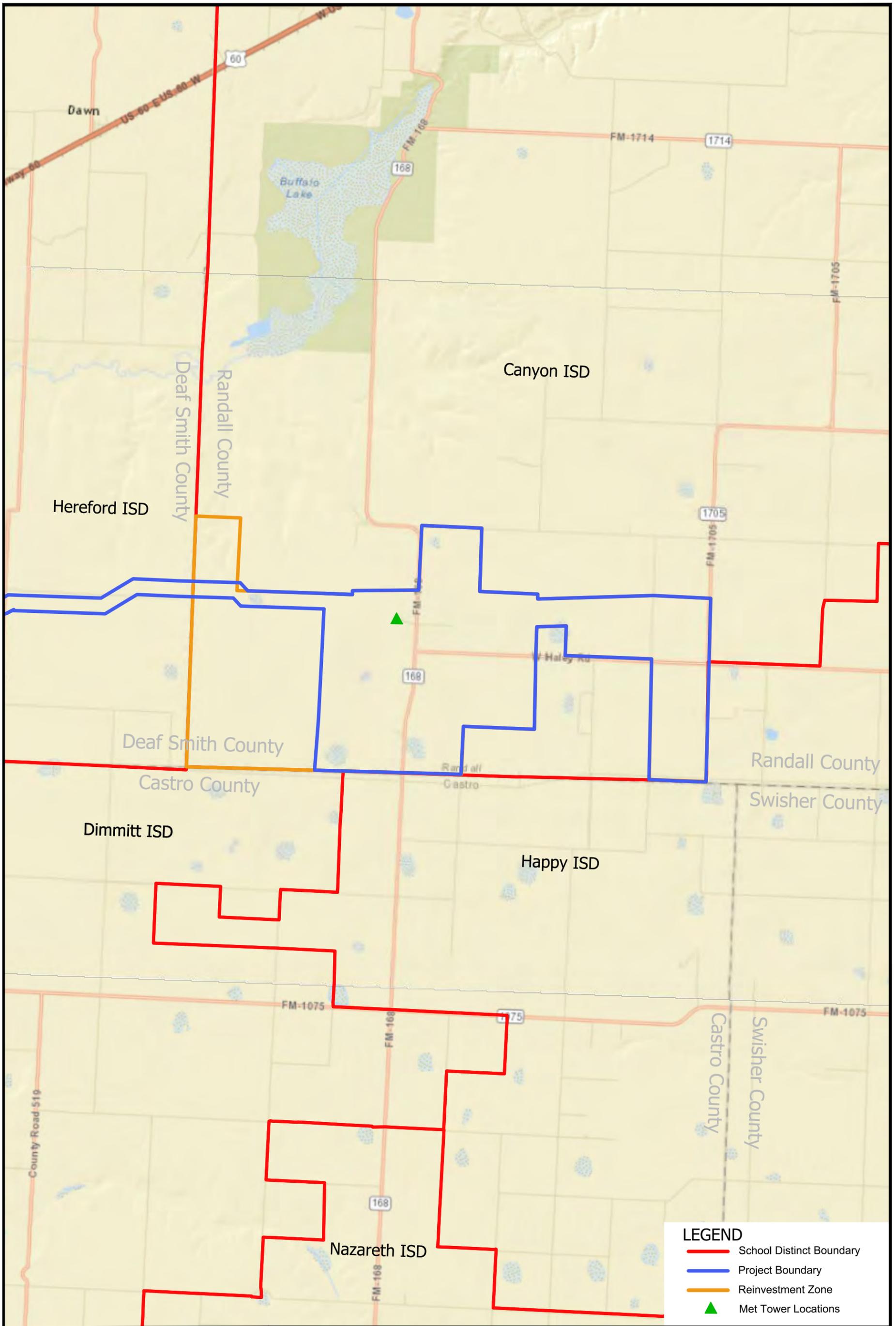


**Attachment 11d**

*d) Existing property*

Please see the attached map below.

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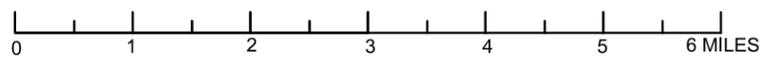


**LEGEND**

- School District Boundary
- Project Boundary
- Reinvestment Zone
- ▲ Met Tower Locations



Happy Whiteface Existing/Non-Eligible Property Map - CONFIDENTIAL

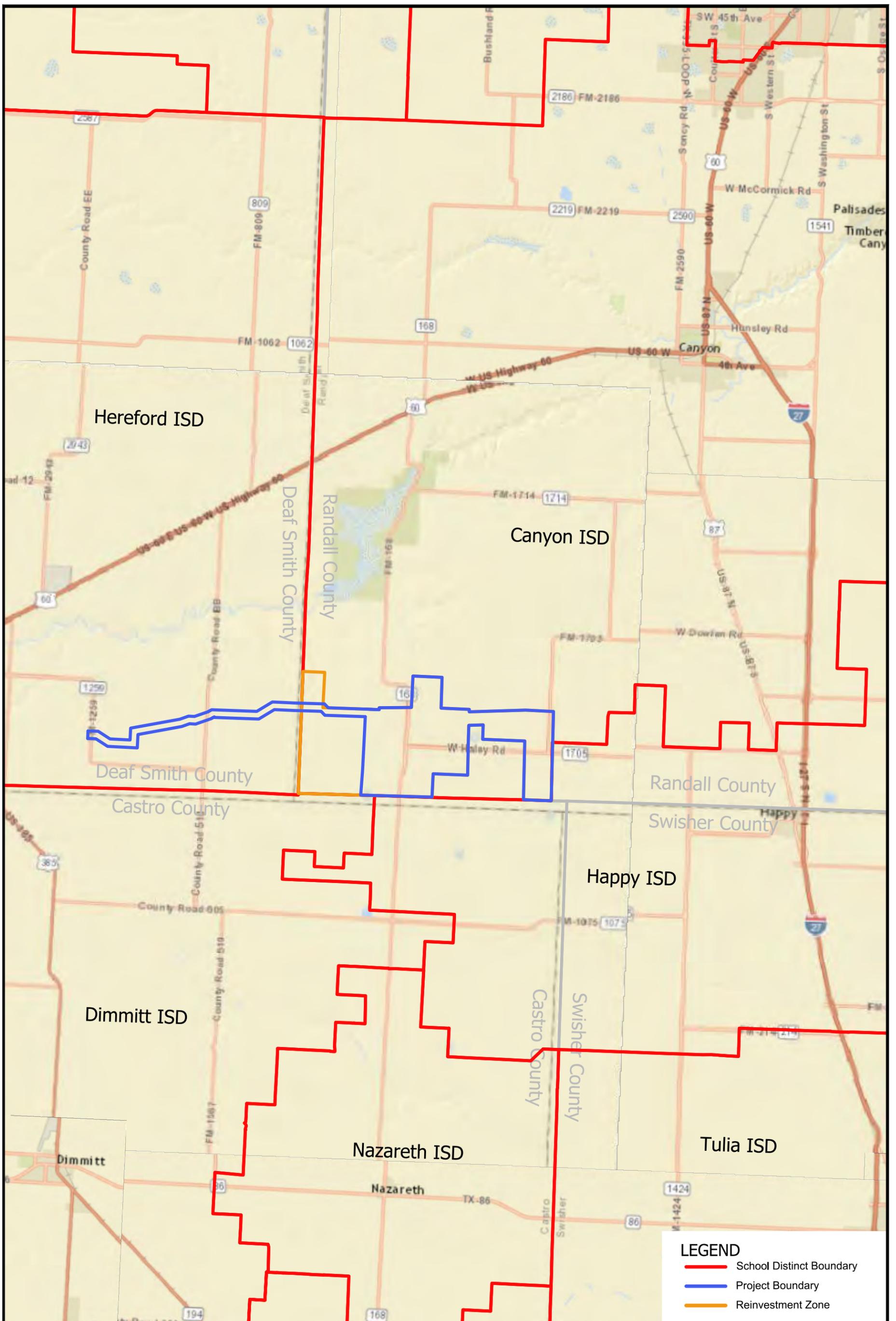


**Attachment 11e**

***e) Land location within vicinity map***

Please see the attached map below.

CONFIDENTIAL – FOR SEPARATE FILING



Happy Whiteface Property Within Vicinity Map - CONFIDENTIAL

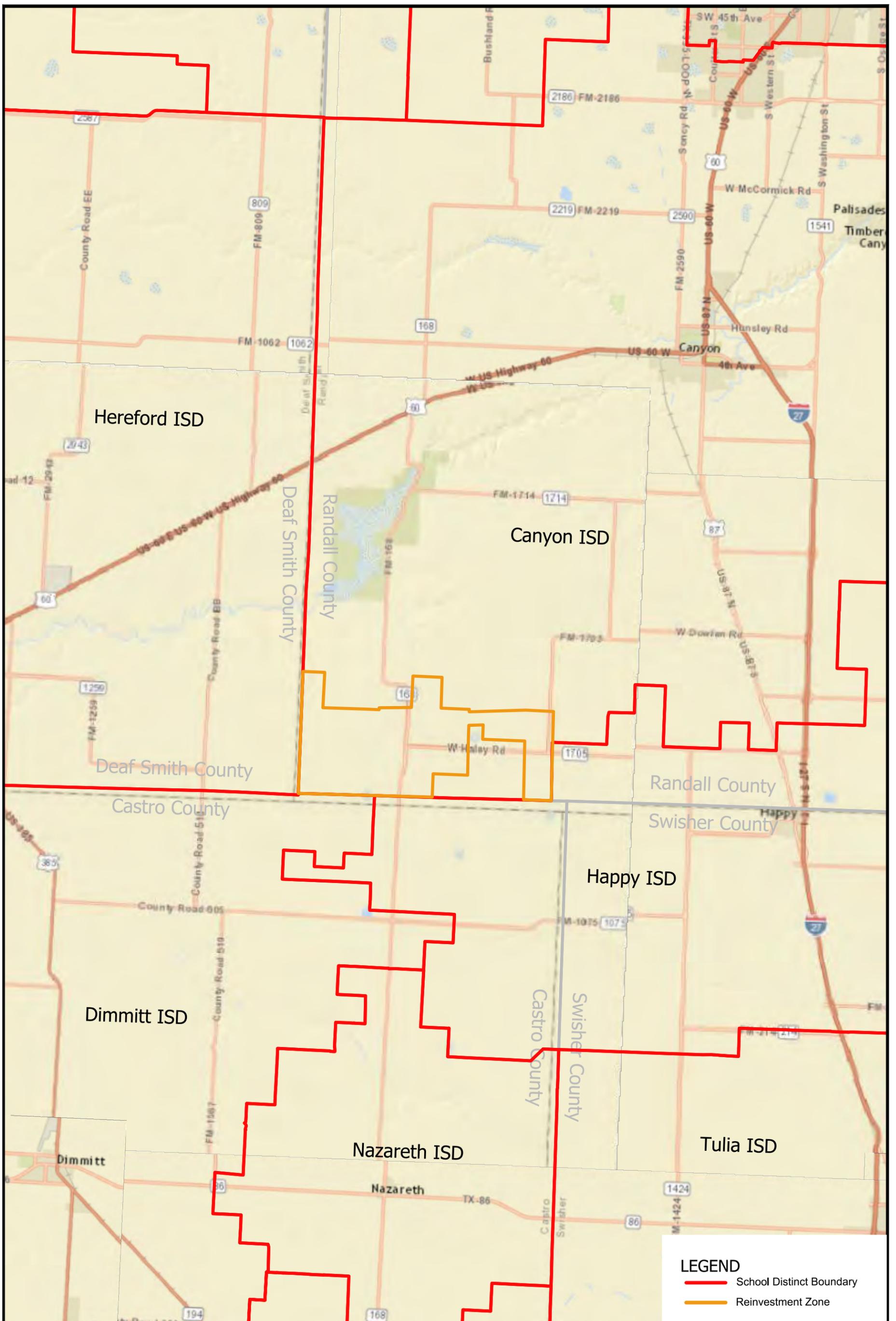


**Attachment 11f**

*f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size*

Please see the attached map below.

CONFIDENTIAL – FOR SEPARATE FILING



**LEGEND**

- School District Boundary
- Reinvestment Zone



**Happy Whiteface Reinvestment Zone Map - CONFIDENTIAL**



**Attachment 12**

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

See attached waiver request below.

**HAPPY WHITEFACE WIND, LLC**

**P.O. Box 5446  
Edmond, OK 73083  
(405) 341-3506**

November 10, 2014

Mr. Michael Wartes  
Canyon Independent School District  
3301 N. 23<sup>rd</sup> St.  
Canyon, Texas 79015

**Re: Chapter 313 Job Waiver Request for Happy Whiteface, LLC**

Dear Mr. Wartes,

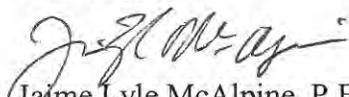
Happy Whiteface, LLC requests that the Canyon Independent School District's Board of Trustees waive the job requirement provision as allowed by Section 313.02S (f-1) of the tax code. This waiver would be based on the school district's board findings that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

Happy Whiteface, LLC requests that the Canyon Independent School District makes such a finding and waive the job creation requirement for 25 permanent jobs. In line with industry standards for job requirements, Happy Whiteface, LLC has committed to create 5 total jobs for the project, all of which will be in Canyon I.S.D.

Wind 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 industry standard for employment is typically one full-time employee for approximately every 15 - 20 turbines. This number may vary depending on the operations and maintenance requirements of the turbines selected as well as the support and technical assistance offered by the turbine manufacturer. The permanent employees of a wind project maintain and service wind turbines, underground electrical connections, substations and other infrastructure associated with the safe and reliable operation of the project. In addition to the onsite employees, there may be managers or technicians who support the project from offsite locations.

Sincerely,

  
Jaime Lyle McAlpine, P.E.  
Manager

**Attachment 13**

**a. Average weekly wage for all jobs (all industries) in the county**

Year	Quarter	Area	Ownership	Industry	Avg Weekly Wage
2014	1st	Randall	Private	All	\$823
2014	2nd	Randall	Private	All	\$727
2013	3rd	Randall	Private	All	\$701
2013	4th	Randall	Private	All	\$817
Mean Average					<b>\$767.00</b>

**Source Data: Texas Workforce Commission:**

**Quarterly Employment and Wages (QCEW)**

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Page 1 of 1 (40 results/page)

Year	Period	Area	Ownership	Division	Level	Ind Code	Industry	Avg Weekly Wages
2013	3rd Qtr	Randall County	Private	00	0	10	Total, All Industries	\$701
2013	4th Qtr	Randall County	Private	00	0	10	Total, All Industries	\$817

Page 1 of 1 (40 results/page)

Year	Period	Area	Ownership	Division	Level	Ind Code	Industry	Avg Weekly Wages
2014	1st Qtr	Randall County	Private	00	0	10	Total, All Industries	\$823
2014	2nd Qtr	Randall County	Private	00	0	10	Total, All Industries	\$727

**b. 110% of the average weekly wage for manufacturing jobs in the county**

Year	Quarter	Area	Ownership	Industry	Avg Weekly Wage
2014	1st	Randall	Private	Manufacturing	\$1175
2014	2nd	Randall	Private	Manufacturing	\$972
2013	3rd	Randall	Private	Manufacturing	\$1000
2013	4th	Randall	Private	Manufacturing	\$1093

Mean Average \$1060.00  
110%

**110% County Average Weekly Wage  
for Manufacturing Jobs \$1166.00**

Source Data: Texas Workforce Commission:

**Quarterly Employment and Wages (QCEW)**

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Year	Period	Area	Ownership	Division	Level	Ind Code	Industry	Avg Weekly Wages
2013	3rd Qtr	Randall County	Private	31	2	31-33	Manufacturing	\$1,000
2013	4th Qtr	Randall County	Private	31	2	31-33	Manufacturing	\$1,093

Page 1 of 1 (40 results/page)

Year	Period	Area	Ownership	Division	Level	Ind Code	Industry	Avg Weekly Wages
2014	1st Qtr	Randall County	Private	31	2	31-33	Manufacturing	\$1,175
2014	2nd Qtr	Randall County	Private	31	2	31-33	Manufacturing	\$972

**c. 110% of the average weekly wage for manufacturing jobs in the region**

The annual salary for the South Plains Association of Governments as published by the Texas Occupational Employment and Wages in July 2014 is \$34,380.

$\$34,380/52 \text{ weeks} = \$661.15 \text{ per week. } *1.1 = \$727.27$

$\$661.15/\text{week} * 1.1 = \$727.27 \text{ per week.}$

**Attachment 14**

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

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

Applicant Name **Happy Whiteface Wind, LLC**

Form 50-296A

ISD Name **Canyon ISD**

Revised Feb 2014

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 <b>tangible personal property</b> placed in service during this year that will become Qualified Property	Column B New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Column C Other new investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Column D Other new investment made during this year that may become Qualified Property [SEE NOTE]	Column E <b>Total Investment</b> (Sum of Columns A+B+C+D)	
Investment made before filing complete application with district	Year preceding the first complete tax year of the qualifying time period (assuming no deferrals of qualifying time period)	2015-2016	2015	Not eligible to become Qualified Property				[The only other investment made before filing complete application with district that may become Qualified Property is land.]	
Investment made after filing complete application with district, but before final board approval of application									
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period				\$ 210,000,000.00	\$ -	\$ -	\$ -	\$ 210,000,000.00	
Complete tax years of qualifying time period	QTP1	2016-2017	2016	\$ -	\$ -	\$ -	\$ -	\$ -	
	QTP2	2017-2018	2017	\$ -	\$ -	\$ -	\$ -	\$ -	
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>				\$ 210,000,000.00	\$ -	\$ -	\$ -	\$ 210,000,000.00	
				<small>Enter amounts from TOTAL row above in Schedule A2</small>					
<b>Total Qualified Investment (sum of green cells)</b>				\$ 210,000,000.00					

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)**

Applicant Name **Happy Whiteface Wind, LLC**  
 ISD Name **Canyon ISD**

Form 50-296A

Revised Feb 2014

PROPERTY INVESTMENT AMOUNTS									
(Estimated Investment in each year. Do not put cumulative totals.)									
				Column A	Column B	Column C	Column D	Column E	
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in <b>tangible personal property</b> placed in service during this year that will become Qualified Property	New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Other investment made during this year that will <u>not</u> 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*	--	<b>TOTALS FROM SCHEDULE A1</b>		Enter amounts from TOTAL row in Schedule A1 in the row below					
				\$ 210,000,000.00				\$ 210,000,000.00	
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>	0	2014-2015	2014						
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>	0	2015-2016	2015	\$ 210,000,000.00				\$ 210,000,000.00	
Value limitation period***	1	2016-2017	2016						
	2	2017-2018	2017						
	3	2018-2019	2018						
	4	2019-2020	2019						
	5	2020-2021	2020						
	6	2021-2022	2021						
	7	2022-2023	2022						
	8	2023-2024	2023						
Total Investment made through limitation	9	2024-2025	2024						
	10	2025-2026	2025						
				\$ 210,000,000.00				\$ 210,000,000.00	
	Continue to maintain viable presence	11	2026-2027	2026					
		12	2027-2028	2027					
		13	2028-2029	2028					
		14	2029-2030	2029					
		15	2030-2031	2030					
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2031-2032	2031						
	17	2032-2033	2032						
	18	2033-2034	2033						
	19	2034-2035	2034						
	20	2035-2036	2035						
	21	2036-2037	2036						
	22	2037-2038	2037						
	23	2038-2039	2038						
	24	2039-2040	2039						
	25	2040-2041	2040						

\* 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. 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.

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

Applicant Name

Happy Whiteface Wind, LLC

**Form 50-296A**

ISD Name

Canyon ISD

*Revised Feb 2014*

	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Qualified Property			Estimated Taxable Value		
				Estimated Market Value of Land	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
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2014-2015	2014	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
	0	2015-2016	2015	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Value Limitation Period	1	2016-2017	2016	\$ -	\$ -	\$210,000,000.00	\$210,000,000.00	\$210,000,000.00	\$ 80,000,000.00
	2	2017-2018	2017	\$ -	\$ -	\$201,600,000.00	\$201,600,000.00	\$201,600,000.00	\$ 80,000,000.00
	3	2018-2019	2018	\$ -	\$ -	\$193,200,000.00	\$193,200,000.00	\$193,200,000.00	\$ 80,000,000.00
	4	2019-2020	2019	\$ -	\$ -	\$184,800,000.00	\$184,800,000.00	\$184,800,000.00	\$ 80,000,000.00
	5	2020-2021	2020	\$ -	\$ -	\$176,400,000.00	\$176,400,000.00	\$176,400,000.00	\$ 80,000,000.00
	6	2021-2022	2021	\$ -	\$ -	\$168,000,000.00	\$168,000,000.00	\$168,000,000.00	\$ 80,000,000.00
	7	2022-2023	2022	\$ -	\$ -	\$159,600,000.00	\$159,600,000.00	\$159,600,000.00	\$ 80,000,000.00
	8	2023-2024	2023	\$ -	\$ -	\$151,200,000.00	\$151,200,000.00	\$151,200,000.00	\$ 80,000,000.00
	9	2024-2025	2024	\$ -	\$ -	\$142,800,000.00	\$142,800,000.00	\$142,800,000.00	\$ 80,000,000.00
	10	2025-2026	2025	\$ -	\$ -	\$134,400,000.00	\$134,400,000.00	\$134,400,000.00	\$ 80,000,000.00
Continue to maintain viable presence	11	2026-2027	2026	\$ -	\$ -	\$126,000,000.00	\$126,000,000.00	\$126,000,000.00	\$126,000,000.00
	12	2027-2028	2027	\$ -	\$ -	\$117,600,000.00	\$117,600,000.00	\$117,600,000.00	\$117,600,000.00
	13	2028-2029	2030	\$ -	\$ -	\$109,200,000.00	\$109,200,000.00	\$109,200,000.00	\$109,200,000.00
	14	2029-2030	2031	\$ -	\$ -	\$100,800,000.00	\$100,800,000.00	\$100,800,000.00	\$100,800,000.00
	15	2030-2031	2030	\$ -	\$ -	\$ 92,400,000.00	\$ 92,400,000.00	\$ 92,400,000.00	\$ 92,400,000.00
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2031-2032	2031	\$ -	\$ -	\$ 84,000,000.00	\$ 84,000,000.00	\$ 84,000,000.00	\$ 84,000,000.00
	17	2032-2033	2032	\$ -	\$ -	\$ 75,600,000.00	\$ 75,600,000.00	\$ 75,600,000.00	\$ 75,600,000.00
	18	2033-2034	2033	\$ -	\$ -	\$ 67,200,000.00	\$ 67,200,000.00	\$ 67,200,000.00	\$ 67,200,000.00
	19	2034-2035	2034	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00
	20	2035-2036	2035	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00
	21	2036-2037	2036	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00
	22	2037-2038	2037	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00
	23	2038-2039	2038	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00
	24	2039-2040	2039	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00
	25	2040-2041	2040	\$ -	\$ -	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00	\$ 58,800,000.00

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**

**Applicant Name** Happy Whiteface Wind, LLC  
**ISD Name** Canyon ISD

**Form 50-296A**  
 Revised Feb 2014

	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A Number of Construction FTE's 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	2014-2015	2014	0	\$ -	N/A	0	N/A
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2015-2016	2015	175 FTE	\$ 37,818.00	N/A	0	N/A
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2016-2017	2016			N/A	5	\$ 37,818.00
	2	2017-2018	2017			N/A	5	\$ 37,818.00
	3	2018-2019	2018			N/A	5	\$ 37,818.00
	4	2019-2020	2019			N/A	5	\$ 37,818.00
	5	2020-2021	2020			N/A	5	\$ 37,818.00
	6	2021-2022	2021			N/A	5	\$ 37,818.00
	7	2022-2023	2022			N/A	5	\$ 37,818.00
	8	2023-2024	2023			N/A	5	\$ 37,818.00
	9	2024-2025	2024			N/A	5	\$ 37,818.00
	10	2025-2026	2025			N/A	5	\$ 37,818.00
Years Following Value Limitation Period	11 through 26	2026-2027	2026			N/A	5	\$ 37,818.00

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  Yes  No  
 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)?  Yes  No
- C1b.** Will the applicant avail itself of the provision in 313.021(3)(F)?  Yes  No

**Schedule D: Other Incentives (Estimated)**

**Applicant Name** Happy Whiteface Wind, LLC  
**ISD Name** Canyon ISD

**Form 50-296A**  
 Revised Feb 2014

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: Randall County	2016	2025	\$ 687,319.00	100% w/\$2000mw payment-in-lieu	\$ 312,000.00
	City:					
	Other: South Randall Hospital District	2016	2025	\$ 136,400.00	100% w/\$400mw payment-in-lieu	\$ 62,400.00
Local Government Code Chapters 380/381	County:					
	City:					
	Other:					
Freeport 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>				\$ 687,319.00		\$ 312,000.00

Additional information on incentives for this project:

**Attachment 15**

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

Pending, not attached.

## Attachment 16

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

- a) Evidence that the area qualifies as an enterprise zone as defined by the Governor's Office*
- b) Legal description of reinvestment zone*
- c) Order, resolution or ordinance establishing the reinvestment zone\**
- d) Guidelines and criteria for creating the zone*

*“\*” To be submitted before date of final application approval by school board*

**Attachment 16a**

*a) Evidence that the area qualifies as an enterprise zone as defined by the Governor's Office*

Not Applicable.

**Attachment 16b**

***b) Legal description of reinvestment zone***

PROPOSED RANDALL COUNTY REINVESTMENT ZONE

Section 281 Block M-6, SK&K Survey  
Section 282 Block M-6, SK&K Survey  
Section 283 Block M-6, SK&K Survey  
Section 284 Block M-6, SK&K Survey  
Section 279 Block M-6, SK&K Survey  
Section 278 Block M-6, SK&K Survey  
Section 277 Block M-6, SK&K Survey  
Section 242 Block M-6, SK&K Survey  
Section 243 Block M-6, SK&K Survey  
Section 244 Block M-6, SK&K Survey  
Section 239 Block M-6, SK&K Survey  
Section 238 Block M-6, SK&K Survey  
Section 237 Block M-6, SK&K Survey  
Section 201 Block M-6, SK&K Survey  
Section 202 Block M-6, SK&K Survey  
Section 203 Block M-6, SK&K Survey  
Section 204 Block M-6, SK&K Survey  
Section 199 Block M-6, SK&K Survey  
Section 198 Block M-6, SK&K Survey  
N/2 and SE/4 of Section 162 Block M-6, SK&K Survey  
Section 159 Block M-6, SK&K Survey  
Section 122 Block M-6, SK&K Survey  
Section 123 Block M-6, SK&K Survey  
Section 124 Block M-6, SK&K Survey

**Attachment 16c**

*c) Order, resolution or ordinance establishing the reinvestment zone\**

To be submitted before date of final application approval by school board

RESOLUTION NO. 2014-63

ORDER DESIGNATING REINVESTMENT ZONE

Motion by Commissioner Robinson; seconded by Commissioner Benton, that the following action be taken by the Randall County Commissioners Court:

- 1. That the County designate the following property as the "Randall County Reinvestment Zone" (Zone) under the Randall County Tax Abatement Guidelines and Criteria:

Sections 281, 282, 283, 284, 279, 278, 277, 242, 243, 244, 239, 238, 237, 201, 202, 203, 204, 199, 198, N/2 and SE/4 of 162, 159, 122, 123, and 124, all in Block M6, SK&K Survey, all in Randall County.

- 2. That the Court designates this reinvestment zone 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
- 3. That the County declare eligible for property tax abatement all eligible property now or thereafter located in the Zone as authorized by the Randall County Tax Abatement Guidelines and Criteria and Chapter 312 of the Texas Tax Code.

Passed and approved at this meeting of the Randall County Commissioners' Court, at which a quorum was present, on the 25<sup>th</sup> day of November, 2014.

Ernie Houdashell  
Ernie Houdashell, County Judge

Attest:

Renee Calhoun  
Renee Calhoun, County Clerk



**APPLICATION FOR CREATION OF REINVESTMENT ZONE AND FOR ECONOMIC DEVELOPMENT INCENTIVES**

Randall County, Texas

**Applicant:** Chermac Energy Corporation (on behalf of Happy Whiteface Wind, LLC)

**Applicant's Address:** P.O. Box 5466, Edmond, Oklahoma 73083

**General Description of New Improvements for which Abatement will be Requested:** Wind Energy Projects constructed all or in part on property within the Reinvestment Zone.

The first project ("Project One", known as the Happy Whiteface Wind Project ) will consist of sixty-eight (68) two and three-tenths (2.3) MW Wind Turbine Generators, underground collection and overhead transmission lines (approximately seven (7) miles of overhead transmission line), roads, substations, laydown areas, an operations and maintenance building, meteorological towers, and related facilities, located in Randall County.

The second project ("Project Two", known as the Happy Hereford Wind Project) will consist of approximately twenty (20) 2.3 MW Wind Turbine Generators, underground collection, roads, laydown areas, and related facilities located in Randall County, Texas.

**Property Description – Reinvestment Zone:** Sections 122, 123, 124, and 159; the N/2 and SE/4 of Section 162; and Sections 198, 199, 201, 202, 203, 204, 237, 238, 239, 242, 243, 244, 277, 278, 279, 281, 282, 283, and 284, Block M-6, SK & K Survey, Randall County, Texas.

**Property Description of Project One:** Project Tracts: Sections 122, 123, 124, and 159; the N/2 and SE/4 of Section 162; Sections 198, 199, 201, 202, 203, 204, 237, 238, and 239; and the E/2 of Sections 242, 243, and 244; all in Block M-6, SK & K Survey, Randall County, Texas; Transmission Line Tracts (175-180 feet in width crossing the following sections): Sections 279, 282, and W/2 of Section 242, and/or, if required, Sections 281, Block M6, SK & K Survey, Randall County, Texas.

**Property Description of Project Two:** Project Tracts: Sections 281, 282, 283, 284, 277, 278, 279, and the W/2 of Sections 242, 243, and 244, Block M-6, SK & K Survey, Randall County, Texas.

**PROJECT ONE:**

**Map of Improvements:** See map enclosed herewith, showing proposed location of wind turbine generators and transmission line location within Randall County. Collection lines and roads will be added. The attached map is confidential and proprietary, and remains subject to change.

**Time Schedule:** To be commenced February 2015 and completed December 2015.

**Total Estimated Taxable Value:** \$190,000,000 to \$210,000,000

**Retention or Expansion of Primary Employment:** 120 - 135 construction jobs for one year, 10 permanent jobs plus 10-20 contract labor jobs per year for production life.

**Productive Life of Proposed Improvements:** Turbines: 25 years; Transmission Line: 50 years; O&M Building: 50 years; Collection Lines: 50 years; Substation: 50 years.

**Estimated Total Annual Payroll:** Construction period - \$6,000,000; Operation period \$450,000.

**Estimate of Yearly Amount of Lease Payments, Etc., to County Landowners:** Approximately \$840,000 Year 1 of operation escalating approximately 2.5% per year (inflation) for life of the Project.

**Costs to be Incurred by County, if any, to Provide Facilities, Services or Roads:** Less than \$50,000. Some road improvements may be necessary on unpaved county roads.

**Estimate of Completed Construction Costs of Proposed Facility:** Total project costs, including financing costs, is estimated to be \$258,400,000.

**Estimate of annual operating budget of proposed facility:** \$3.4 Million/yr escalating at estimated 2.5%/yr for inflation.

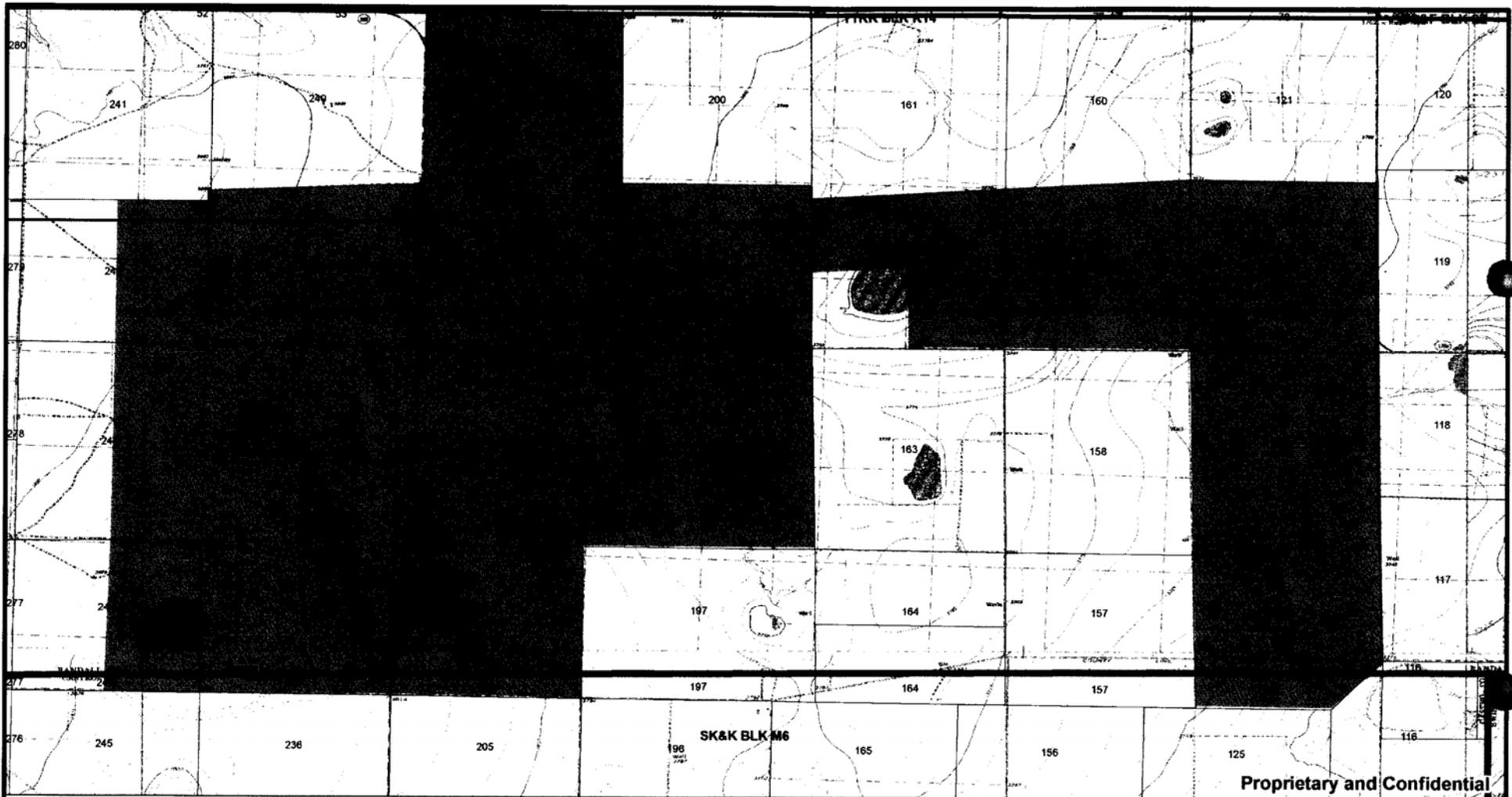
**PROJECT TWO:** To be provided by separate application.

Respectfully Submitted,

Wagstaff LLP

By:   
Charles E. Black

Attorneys for Chermac Energy Corporation



● Proposed Substation—Proposed Transmission Line

▲ Turbine

■ Easements

0 0.35 0.7 1.4 Miles

Turbine Type: 2.3MW  
 Turbine Count: 68  
 Nameplate Capacity: 156.4MW



**Chermac Energy Corporation**

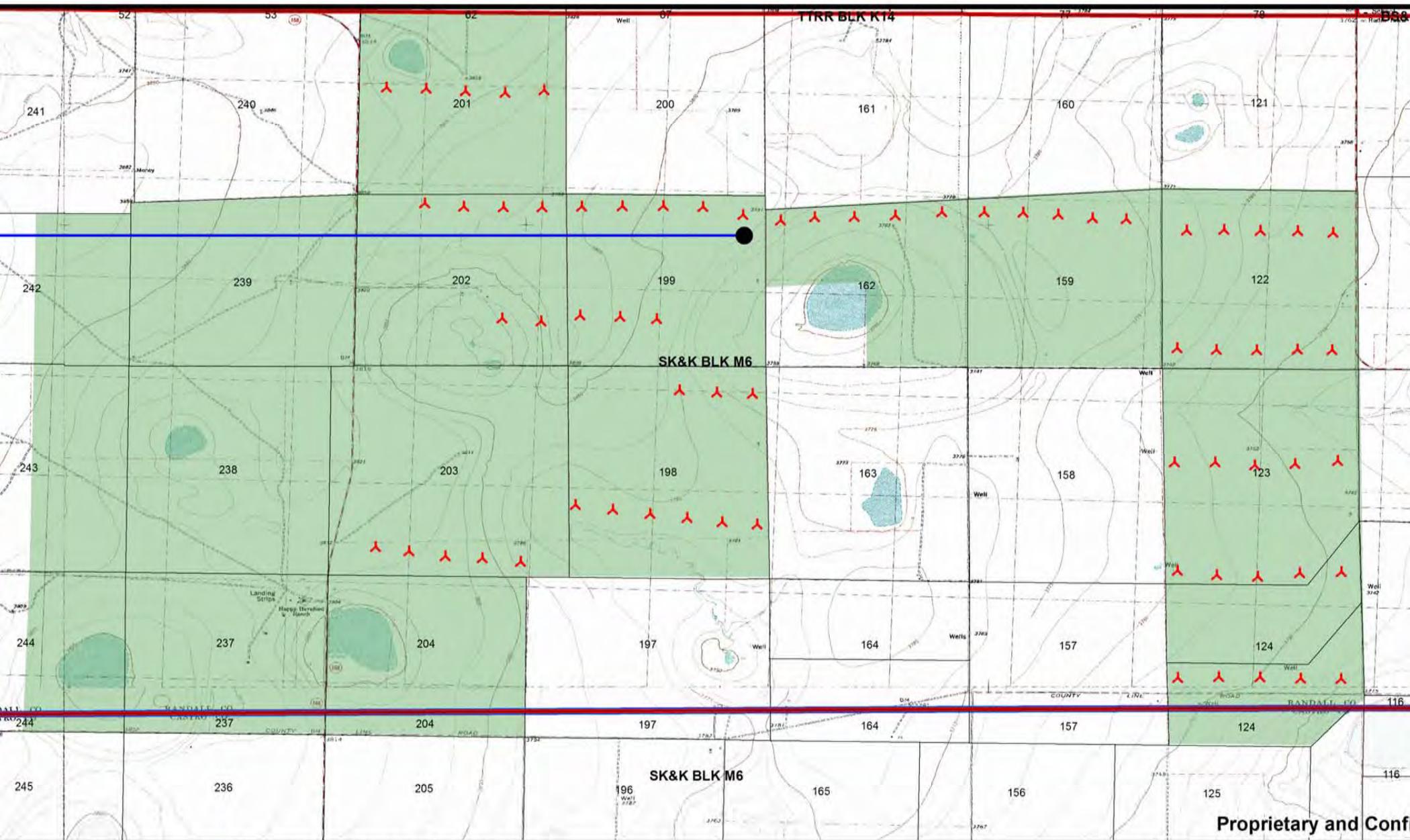
Happy Whiteface East - Castro, Randall Co. Tx  
 Layout Plat



Drawn By	MLC	Reviewed
Checked By	0/18/2014	Professional
<small>THIS DOCUMENT IS THE PROPERTY OF CHERMAC ENERGY        NO REPRODUCTION OR DISSEMINATION IS TO BE MADE        WITHOUT PERMISSION</small>		

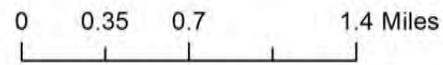
27

EXHIBIT 5



Proposed Substation — Proposed Transmission Line

Turbine  Easements



Turbine Type: 2.3MW  
 Turbine Count: 68  
 Nameplate Capacity: 156 MW

**Chermac Energy Corporation**

**Happy Whiteface East - Castro, Randall Co. Tx**  
 Layout Plat



Drawn By:	Date:
Brendan Hope	9/18/2014
THIS DRAWING IS THE PROPERTY OF ENERCON. NO REPRODUCTION IN WHOLE OR PART IS PERMITTED WITHOUT PERMISSION.	

**Attachment 16d**

*d) Guidelines and criteria for creating the zone*

## **RANDALL COUNTY**

### **STATE OF TEXAS**

#### **TAX ABATEMENT GUIDELINES AND CRITERIA**

The purpose of this document is to establish guidelines and a uniform policy of tax abatement for owners or lessees of eligible facilities willing to execute tax abatement contracts designed to provide long-term significant positive economic impact to the community by utilizing the area contractors and work force to the maximum extent feasible, and by developing, redeveloping and improving property except as otherwise provided. All contracts will be identical.

In order to be eligible for designation as a Reinvestment Zone and receive tax abatement, the planned improvements:

1. Must be an Eligible Facility.
2. Must add at least \$150,000.00 to the tax roll of eligible property except in regards to the historic downtown area where there is no minimum.
3. Must be reasonably expected to have an increase in positive net economic benefit to Randall County of at least \$250,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll and/or capital improvement; and
4. Must not be expected to solely or primarily have the effect of transferring employment from one part of Randall County to another.

In addition to the criteria set forth above, the Randall County Commissioners' Court reserves the right to negotiate a Tax Abatement Agreement in order to compete favorably with other communities.

Only that increase in the fair market value of the property directly resultant from the development, redevelopment and improvements specified in the contract will be eligible for abatement, and then only to the extent that such increase exceeds any reduction in the fair market value of the other property of the applicant located within the jurisdiction creating the Reinvestment Zone.

All abatement contracts will be no longer than allowed by law.

It is the goal of Randall County to grant tax abatements on the same terms and conditions as the other taxing units having jurisdiction of the property. However, nothing herein shall limit the discretion of the Randall County Commissioners Court to consider, adopt, modify or refine any tax abatement request.

This policy is effective as of October 14, 2014, and shall at all times be kept current with regard to the needs of Randall County and reflective of the official views of the County Commissioners' Court, and shall be reviewed every two (2) years.

The adoption of these guidelines and criteria by the Randall County Commissioners' Court does not:

1. Limit the discretion of the governing body to decide whether to enter into a specific tax abatement agreement;
2. Limit the discretion of the governing body to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for tax abatement; or
3. Create any property, contract or other legal right in any person to have the governing body consider or grant a specific application or request for tax abatement.

#### SECTION I. DEFINITIONS

A. "Abatement" means the full or partial exemption from ad valorem taxes of certain property in a reinvestment zone designated by Randall County for economic development purposes.

B. "Agreement" means a contractual agreement between a property owner and/or lessee and Randall County.

C. "Base Year Value" means the assessed value on the eligible property as of January 1 preceding the execution of the agreement.

D. "Deferred Maintenance" means improvements necessary for continued operation which do not improve productivity or alter the process technology.

E. "Eligible Facilities" means new, expanded, or modernized buildings and structures, including fixed machinery and equipment, which is reasonably likely as a result of granting the abatement to contribute to the retention or expansion of primary employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development of Randall County, but does not include facilities which are intended to be primarily to provide goods or services to residents for existing businesses located in Randall County such as, but not limited to, restaurants and retail sales establishments. Eligible facilities may include, but shall not be limited to:

Aquaculture/Agriculture Facility,  
Distribution Center Facility,  
Manufacturing Facility,

Office Building,  
Regional Entertainment/Tourism Facility,  
Research Service Facility,  
Regional Service Facility,  
Historic building in designated area,  
Wind Energy Facility, or  
Other Basic Industry.

F. “Expansion” means the addition of building structures, machinery, equipment, or payroll for purposes of increasing production capacity.

G. “Facility” means property improvement(s) completed or in the process of construction which together comprise an interregional whole.

H. “Modernization” means a complete or partial demolition of facilities and the complete or partial reconstruction or installation of a facility of similar or expanded production capacity. Modernization may result from the construction, alteration, or installation of buildings, structures, machinery, or equipment, or both.

I. “New Facility” means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

J. “Productive Life” means the number of years property improvement(s) is/are expected to be in service in a facility.

## SECTION II. ABATEMENT AUTHORIZED

A. Eligible Facilities. Upon application, Eligible Facilities shall be considered for tax abatement as hereinafter provided.

B. Creation of New Values. Abatement may only be granted for the *additional value* of eligible property improvement(s) made subsequent to and specified in an abatement agreement between Randall County and the property owner or lessee, subject to such limitations as Randall County may require.

C. New and Existing Facilities. Abatement may be granted for the additional value of eligible property improvement(s) made subsequent to and specified in an abatement agreement between Randall County and the property owner or lessee, subject to such limitations as Randall County may require.

D. Eligible Property. Abatement may be extended to the value of new, expanded, or modernized buildings, structures, fixed machinery and equipment, site improvements, and related fixed improvements necessary to the operation and administration of the facility, and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code.

E. Ineligible Property. The following types of property shall be fully taxable and ineligible for tax abatement: land; animals; inventories, supplies; tools; furnishings; and other forms of moveable personal property; vehicles; vessels; aircraft; deferred maintenance investments; housing and property to be rented or leased, except as provided in Section II(F); property owned or used by the State of Texas.

F. Owned/Leased Facilities. If a leased facility is granted abatement, the agreement shall be executed with the lessor and the lessee. If the land is leased, but the facility constructed or installed thereon is owned by the lessee, the lessee shall execute the agreement.

G. Economic Qualifications. In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement:

- (1) Must be an Eligible Facility.
- (2) Must add at least \$150,000.00 to the tax roll of eligible property except in regards to the historic downtown area where there is no minimum.
- (3) Must be reasonably expected to have an increase in positive net economic benefit to Randall County of at least \$250,000.00 over the life of the abatement, computed to include, but not be limited to, new sustaining payroll and/or capital improvement. The creation of new jobs will also factor into the decision to grant an abatement; and
- (4) Must not be expected to solely or primarily have the effect of transferring employment from one part of Randall County to another.

H. Standards for Tax Abatement. The following factors, among others, will be considered in determining whether to grant tax abatement:

- (1) Value of existing improvements, if any;
- (2) Type and value of proposed improvements;
- (3) Productive life of proposed improvements;
- (4) Number of existing jobs to be retained by proposed improvements;
- (5) Number and type of new jobs to be created by proposed improvements;
- (6) Amount of local payroll to be created;
- (7) Whether the new jobs to be created will be filled by persons residing or projected to reside within affected taxing jurisdiction;
- (8) Amount by which property tax base valuation will be increased during the

term of abatement and after abatement, which shall include a definitive commitment that such valuation shall not, in any case, be less than \$250,000.00;

(9) The costs to be incurred by Randall County to provide facilities directly resulting from the new improvements;

(10) The amount of ad valorem taxes to be paid to Randall County during the abatement period considering (a) the existing values, (b) the percentage of new value abated, (c) the abatement period, and (d) the value after expiration of the abatement period;

(11) The population growth of Randall County that occurs directly as a result of new improvements;

(12) The types and values of public improvements, if any, to be made by applicant seeking abatement;

(13) Whether the proposed improvements compete with existing businesses to the detriment of the local economy;

(14) The impact on the business opportunities of existing business;

(15) The attraction of other new businesses to the area;

(16) The overall compatibility with the zoning ordinances and comprehensive plan for the area;

(17) Whether the project obtains all necessary permits from the applicable environmental agencies.

Each eligible facility shall be reviewed on its merits utilizing the factors provided above. After such review, abatement may be denied entirely or may be granted to the extent deemed appropriate after full evaluation.

I. Denial of Abatement. Neither a reinvestment zone nor abatement agreement shall be authorized if it is determined that:

(1) There would be substantial adverse effect on the provision of government services or tax base;

(2) The applicant has insufficient financial capacity;

(3) Violation of other codes or laws; or

(4) Any other reason deemed appropriate by Randall County.

J. Taxability. From the execution of the abatement to the end of the agreement period, taxes shall be payable as follows:

(1) The value of ineligible property as provided in Section II (E) shall be fully taxable; and

(2) The base year value of existing eligible property as determined each year shall be fully taxable.

(3) The additional value of new eligible property shall be fully taxable at the end of the abatement period.

### SECTION III. APPLICATION

A. Any present or potential owner of taxable property in Randall County may request the creation of a reinvestment zone and tax abatement by filing a written application with the County Judge of Randall County.

B. The application shall consist of a general description of the new improvements to be undertaken; a descriptive list of the improvements for which an abatement is requested; a list of the kind, number and location of all proposed improvements of a property; a map and property description; and a time schedule for undertaking and completing the proposed improvements. In the case of modernization, a statement of the assessed value of the facility, separately stated for real and personal property, shall be given for the tax year immediately preceding the application. The County may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors pertaining to the applicant, to be attached to the application. The completed application must be accompanied by the payment of a non-refundable application fee for administrative costs associated with the processing of the tax abatement request. All checks in payment of the administrative fee shall be made payable to Randall County. For abatement requests for improvements with a planned value equal to or in excess of One Million Dollars (\$1,000,000.00), the fee shall be One Thousand and No/100 Dollars (\$1,000.00). For requests with a planned value of less than \$1,000,000.00, the fee shall be five hundred and no/100 Dollars (\$500.00)

C. Randall County shall give notice as provided by the Property Tax Code, including written notice to the presiding officer of the governing body of each taxing unit in which the property to be subject to the agreement is located, not later than the seven (7) days before acting upon the application.

D. If a city within Randall County designates a reinvestment zone within its corporate limits and enters into or proposes to enter into an abatement agreement with a present or potential owner of a taxable property, such present or potential owner of taxable property may request tax abatement by Randall County by following the same application process described in Section III (A) hereof. No other notice or hearing shall be required except compliance with the open meetings act, unless the Commissioners' Court deems them necessary in a particular case.

## **SECTION IV. AGREEMENT**

A. After approval, the Commissioners' Court of Randall County shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required, which shall:

- (1) Include a list of the kind, number and location of all proposed improvements to the property;
- (2) Provide access to and authorize inspection of the property by the taxing unit to insure compliance with the agreement;
- (3) Limit the use of the property consistent with the taxing unit's development goals;
- (4) Provide for recapturing property tax revenues that are lost if the owner fails to make improvements as provided by the agreement;
- (5) Include each term that was agreed upon with the property owner and require the owner to annually certify compliance with the terms of the agreement to each taxing unit; and
- (6) Allow the taxing unit to cancel or modify the agreement at any time if the property owner fails to comply with the terms of the agreement.

Such agreement shall normally be executed as soon as practicable, but in no event less than sixty (60) days after the applicant has forwarded all necessary information and documentation to the Commissioners' Court.

## **SECTION V. RECAPTURE**

A. In the event that the applicant or its assignee (1) allows its ad valorem taxes owed Randall County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or content; or (2) violates any of the terms and conditions of the abatement agreement and fails to cure during the cure period, the agreement then may be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within thirty (30) days of the termination.

B. Should Randall County determine that the applicant or its assignee is in default according to the terms and conditions of its agreement, Randall County shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within the time set forth in such notice (the "Cure Period"), then the agreement may be terminated.

## **SECTION VI. ADMINISTRATION**

A. The Chief Appraiser of the Randall County Appraisal District will annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, the company or individual receiving abatement shall furnish the appraiser with such information as may be necessary for the abatement. Once value has been established, the Chief Appraiser will notify the Commissioners' Court of Randall County of the amount of the assessment.

B. Randall County may execute a contract with any other jurisdiction(s) to inspect the facility to determine if the terms and conditions of the abatement agreement are being met. The abatement agreement shall stipulate that employees and/or designated representatives of Randall County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

C. Upon completion of construction, the designated representative of Randall County shall annually evaluate each facility receiving abatement to insure compliance with the agreement. A formal report shall be made to the Commissioners' Court.

## **SECTION VII. ASSIGNMENT**

The abatement agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility either upon the approval by resolution of the Commissioners' Court of Randall County, or in accordance with the terms of an existing tax abatement agreement. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any Randall County taxing jurisdiction for outstanding taxes or other obligations. Approval shall not be unreasonably delayed or withheld. Notice shall be given to the Commissioners' Court twenty (20) days in advance of any transfer or assignment.

## **SECTION VIII. SUNSET PROVISION**

These Guidelines and Criteria are effective upon the date of their adoption, and shall supersede and replace any and all prior guidelines and criteria for reinvestment zones in Randall County, and hereafter these Guidelines and Criteria shall apply to reinvestment zones created in Randall County. These Guidelines and Criteria shall remain in force for two (2) years, unless amended by three-quarters vote of the Commissioners' Court of Randall County, at which time all reinvestment zones and tax abatement agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on such review, the Guidelines and Criteria will be modified, renewed or eliminated; provided, however, no modification or elimination of the Guidelines and Criteria shall affect tax abatement agreements that have been previously approved until the parties thereto shall agree to amend such agreements.

Adopted October 14, 2014.

Randall County Commissioners' Court:

Ernie Houdashell  
Ernie Houdashell, County Judge

Christy Dyer  
Christy Dyer, Commissioner  
Precinct 1

Bob Robinson  
Bob Robinson, Commissioner  
Precinct 3

Mark Benton  
Mark Benton, Commissioner  
Precinct 2

Buddy DeFord  
Buddy DeFord, Commissioner  
Precinct 4

Attest:

Renee Calhoun  
Renee Calhoun, County Clerk

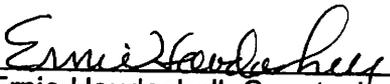


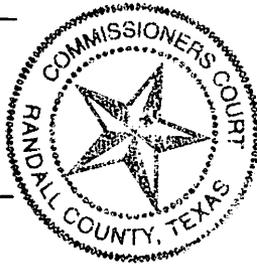
Resolution No. 2014-48

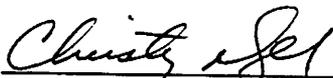
Resolution Adopting Guidelines and Criteria

Be it resolved that the Randall County Commissioners' Court hereby adopts Tax Abatement Guidelines and Criteria, attached hereto, and hereby replaces and supersedes any and all prior guidelines and criteria that were in effect prior to this resolution.

Passed and approved at meeting of the Randall County Commissioners' Court, at which a quorum was present, on the 14<sup>th</sup> day of October 2014.

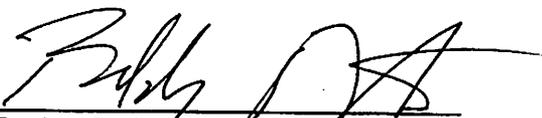
  
Ernie Houdashell, County Judge



  
Christy Dyer, Commissioner  
Precinct 1

  
Mark Benton, Commissioner  
Precinct 2

  
Bob Robinson, Commissioner  
Precinct 3

  
Buddy DeFord, Commissioner  
Precinct 4

ATTEST:

  
Renee Calhoun, County Clerk

**Attachment 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

Michael Wartes

Print Name (Authorized School District Representative)

Superintendent

Title

sign here

*Michael L. Wartes*

Signature (Authorized School District Representative)

November 10, 2014

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

Jaime Lyle McAlpine

Print Name (Authorized Company Representative (Applicant))

Manager

Title

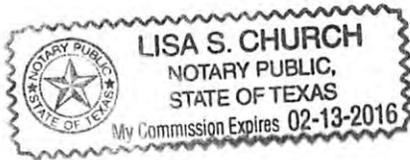
sign here

*Jaime Lyle McAlpine*

Signature (Authorized Company Representative (Applicant))

November 10, 2014

Date



(Notary Seal)

GIVEN under my hand and seal of office this, the

10<sup>th</sup> day of November, 2014

Lisa S. Church  
Notary Public in and for the State of Texas

My Commission expires: 2-13-16

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: 04/01/2015 05:10:29 PM

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

HAPPY WHITEFACE WIND, LLC	
Texas Taxpayer Number	32050653537
Mailing Address	2909 NW 156TH ST EDMOND, OK 73013-2101
Right to Transact Business in Texas	ACTIVE
State of Formation	TX
Effective SOS Registration Date	04/08/2013
Texas SOS File Number	0801763912
Registered Agent Name	CHARLES L BLACK
Registered Office Street Address	290 CEDAR ST. ABILENE, TX 79604



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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P.O.Box 13528 • Austin, TX 78711-3528

March 3, 2015

Michael Wartes  
Superintendent  
Canyon Independent School District  
3301 N. 23rd St.  
Canyon, Texas 79015

Dear Superintendent Wartes:

On December 17, 2014, the Comptroller issued written notice that Happy Whiteface Wind, LLC (the applicant) submitted a completed application (Application #1040) for a limitation on appraised value under the provisions of Tax Code Chapter 313<sup>1</sup>. This application was originally submitted on November 10, 2014, to the Canyon 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 B; 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 requested a waiver 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 #1040.

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 B.

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

**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).

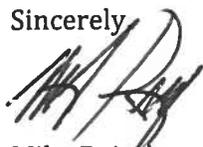
The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-286) executed 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 Dec. 17, 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



Mike Reissig  
Deputy Comptroller

Enclosure

cc: Robert Wood

### Attachment A – Economic Impact Analysis

This following tables summarizes the Comptroller’s economic impact analysis of Happy Whiteface Wind, LLC (the project) applying to Canyon 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 Happy Whiteface Wind, LLC.

<b>Summary Information for Canyon ISD, Happy Whiteface Wind, LLC, 2016</b>	
Applicant	Happy Whiteface Wind, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy – Wind
School District	Canyon ISD
2013-14 Enrollment in School District	9,420
County	Randall
Proposed Total Investment in District	\$210,000,000.00
Proposed Qualified Investment	\$210,000,000.00
Limitation Amount	\$80,000,000.00
Number of new qualifying jobs committed to by applicant*	5
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$727
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)	\$727
Minimum annual wage committed to by applicant for qualified jobs	\$37,818
Minimum weekly wage required for non-qualifying jobs	\$760
Minimum annual wage required for non-qualifying jobs	\$39,507
Investment per Qualifying Job	\$42,000,000
Estimated M&O levy without any limit (15 years)	\$23,587,200
Estimated M&O levy with Limitation (15 years)	\$13,998,400
Estimated gross M&O tax benefit (15 years)	\$9,588,800
<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 Happy Whiteface Wind, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2015	175	203	378	\$6,618,150	\$15,381,850	\$22,000,000
2016	5	18	23	\$189,090	\$2,810,910	\$3,000,000
2017	5	(1)	4	\$189,090	\$1,810,910	\$2,000,000
2018	5	(7)	-2	\$189,090	\$810,910	\$1,000,000
2019	5	(21)	-16	\$189,090	-\$189,090	\$0
2020	5	(19)	-14	\$189,090	-\$189,090	\$0
2021	5	(25)	-20	\$189,090	-\$189,090	\$0
2022	5	(23)	-18	\$189,090	-\$1,189,090	-\$1,000,000
2023	5	(17)	-12	\$189,090	-\$1,189,090	-\$1,000,000
2024	5	(23)	-18	\$189,090	-\$1,189,090	-\$1,000,000
2025	5	(25)	-20	\$189,090	-\$2,189,090	-\$2,000,000
2026	5	(23)	-18	\$189,090	-\$2,189,090	-\$2,000,000
2027	5	(26)	-21	\$189,090	-\$2,189,090	-\$2,000,000
2028	5	(19)	-14	\$189,090	-\$2,189,090	-\$2,000,000
2029	5	(17)	-12	\$189,090	-\$2,189,090	-\$2,000,000
2030	5	(23)	-18	\$189,090	-\$2,189,090	-\$2,000,000

Source: CPA, REMI, Happy Whiteface Wind, LLC

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate <sup>1</sup>	Canyon ISD I&S Tax Levy	Canyon ISD M&O Tax Levy	Canyon ISD M&O and I&S Tax Levies	Randall County Tax Levy	So. Randall Hospital Dist. Tax Levy	High Plains Water District Tax Levy	Noxious Weed District Tax Levy	Estimated Total Property Taxes
2016	\$210,000,000	\$210,000,000		\$394,800	\$2,184,000	\$2,578,800	\$824,061	\$0	\$17,010	\$0	\$3,419,871
2017	\$201,600,000	\$201,600,000		\$379,008	\$2,096,640	\$2,475,648	\$791,099	\$0	\$16,330	\$0	\$3,283,076
2018	\$193,200,000	\$193,200,000		\$363,216	\$2,009,280	\$2,372,496	\$758,136	\$0	\$15,649	\$0	\$3,146,281
2019	\$184,800,000	\$184,800,000		\$347,424	\$1,921,920	\$2,269,344	\$725,174	\$0	\$14,969	\$0	\$3,009,486
2020	\$176,400,000	\$176,400,000		\$331,632	\$1,834,560	\$2,166,192	\$692,211	\$0	\$14,288	\$0	\$2,872,692
2021	\$168,000,000	\$168,000,000		\$315,840	\$1,747,200	\$2,063,040	\$659,249	\$0	\$13,608	\$0	\$2,735,897
2022	\$159,600,000	\$159,600,000		\$300,048	\$1,659,840	\$1,959,888	\$626,286	\$0	\$12,928	\$0	\$2,599,102
2023	\$151,200,000	\$151,200,000		\$284,256	\$1,572,480	\$1,856,736	\$593,324	\$0	\$12,247	\$0	\$2,462,307
2024	\$142,800,000	\$142,800,000		\$268,464	\$1,485,120	\$1,753,584	\$560,361	\$0	\$11,567	\$0	\$2,325,512
2025	\$134,400,000	\$134,400,000		\$252,672	\$1,397,760	\$1,650,432	\$527,399	\$0	\$10,886	\$0	\$2,188,717
2026	\$126,000,000	\$126,000,000		\$236,880	\$1,310,400	\$1,547,280	\$494,437	\$0	\$10,206	\$0	\$2,051,923
2027	\$117,600,000	\$117,600,000		\$221,088	\$1,223,040	\$1,444,128	\$461,474	\$0	\$9,526	\$0	\$1,915,128
2028	\$109,200,000	\$109,200,000		\$205,296	\$1,135,680	\$1,340,976	\$428,512	\$0	\$8,845	\$0	\$1,778,333
2029	\$100,800,000	\$100,800,000		\$189,504	\$1,048,320	\$1,237,824	\$395,549	\$0	\$8,165	\$0	\$1,641,538
2030	\$92,400,000	\$92,400,000		\$173,712	\$960,960	\$1,134,672	\$362,587	\$0	\$7,484	\$0	\$1,504,743
					<b>Total</b>	<b>\$27,851,040</b>	<b>\$8,899,859</b>	<b>\$0</b>	<b>\$183,708</b>		<b>\$36,934,607</b>

Source: CPA, Happy Whiteface Wind, 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 Randall 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 the county.

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>	Canyon ISD I&S Tax Levy	Canyon ISD M&O Tax Levy	Canyon ISD M&O and I&S Tax Levies	Randall County Tax Levy	So. Randall Hospital Dist. Tax Levy	Middle Randall Groundwater District Tax Levy	Noxious Weed District Tax Levy	Estimated Total Property Taxes
			0.1880	0.1880	1.0400		0.3924	0.0000	0.0081	0.0000	
2016	\$210,000,000	\$80,000,000		\$394,800	\$832,000	\$1,226,800	\$0	\$0	\$17,010	\$0	\$1,243,810
2017	\$201,600,000	\$80,000,000		\$379,008	\$832,000	\$1,211,008	\$0	\$0	\$16,330	\$0	\$1,227,338
2018	\$193,200,000	\$80,000,000		\$363,216	\$832,000	\$1,195,216	\$0	\$0	\$15,649	\$0	\$1,210,865
2019	\$184,800,000	\$80,000,000		\$347,424	\$832,000	\$1,179,424	\$0	\$0	\$14,969	\$0	\$1,194,393
2020	\$176,400,000	\$80,000,000		\$331,632	\$832,000	\$1,163,632	\$0	\$0	\$14,288	\$0	\$1,177,920
2021	\$168,000,000	\$80,000,000		\$315,840	\$832,000	\$1,147,840	\$0	\$0	\$13,608	\$0	\$1,161,448
2022	\$159,600,000	\$80,000,000		\$300,048	\$832,000	\$1,132,048	\$0	\$0	\$12,928	\$0	\$1,144,976
2023	\$151,200,000	\$80,000,000		\$284,256	\$832,000	\$1,116,256	\$0	\$0	\$12,247	\$0	\$1,128,503
2024	\$142,800,000	\$80,000,000		\$268,464	\$832,000	\$1,100,464	\$0	\$0	\$11,567	\$0	\$1,112,031
2025	\$134,400,000	\$80,000,000		\$252,672	\$832,000	\$1,084,672	\$0	\$0	\$10,886	\$0	\$1,095,558
2026	\$126,000,000	\$126,000,000		\$236,880	\$1,310,400	\$1,547,280	\$494,437	\$0	\$10,206	\$0	\$2,051,923
2027	\$117,600,000	\$117,600,000		\$221,088	\$1,223,040	\$1,444,128	\$461,474	\$0	\$9,526	\$0	\$1,915,128
2028	\$109,200,000	\$109,200,000		\$205,296	\$1,135,680	\$1,340,976	\$428,512	\$0	\$8,845	\$0	\$1,778,333
2029	\$100,800,000	\$100,800,000		\$189,504	\$1,048,320	\$1,237,824	\$395,549	\$0	\$8,165	\$0	\$1,641,538
2030	\$92,400,000	\$92,400,000		\$173,712	\$960,960	\$1,134,672	\$362,587	\$0	\$7,484	\$0	\$1,504,743
						<b>Total</b>	<b>\$18,262,240</b>	<b>\$2,142,559</b>	<b>\$0</b>	<b>\$183,708</b>	<b>\$20,588,507</b>
						<b>Diff</b>	<b>\$9,588,800</b>	<b>\$6,757,300</b>	<b>\$0</b>	<b>\$0</b>	<b>\$16,346,100</b>

Assumes School Value Limitation and Tax Abatements with the County.

Source: CPA, Happy Whiteface Wind, 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 Happy Whiteface Wind, 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 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>	2013	\$0	\$0	\$0	\$0
	2014	\$0	\$0	\$0	\$0
	2015	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2016	\$832,000	\$832,000	\$1,352,000	\$1,352,000
	2017	\$832,000	\$1,664,000	\$1,264,640	\$2,616,640
	2018	\$832,000	\$2,496,000	\$1,177,280	\$3,793,920
	2019	\$832,000	\$3,328,000	\$1,089,920	\$4,883,840
	2020	\$832,000	\$4,160,000	\$1,002,560	\$5,886,400
	2021	\$832,000	\$4,992,000	\$915,200	\$6,801,600
	2022	\$832,000	\$5,824,000	\$827,840	\$7,629,440
	2023	\$832,000	\$6,656,000	\$740,480	\$8,369,920
	2024	\$832,000	\$7,488,000	\$653,120	\$9,023,040
	2025	\$832,000	\$8,320,000	\$565,760	\$9,588,800
<b>Maintain Viable Presence (5 Years)</b>	2026	\$1,310,400	\$9,630,400	\$0	\$9,588,800
	2027	\$1,223,040	\$10,853,440	\$0	\$9,588,800
	2028	\$1,135,680	\$11,989,120	\$0	\$9,588,800
	2029	\$1,048,320	\$13,037,440	\$0	\$9,588,800
	2030	\$960,960	\$13,998,400	\$0	\$9,588,800
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2031	\$873,600	\$14,872,000	\$0	\$9,588,800
	2032	\$786,240	\$15,658,240	\$0	\$9,588,800
	2033	\$698,880	\$16,357,120	\$0	\$9,588,800
	2034	\$611,520	\$16,968,640	\$0	\$9,588,800
	2035	\$611,520	\$17,580,160	\$0	\$9,588,800
	2036	\$611,520	\$18,191,680	\$0	\$9,588,800
	2037	\$611,520	\$18,803,200	\$0	\$9,588,800
	2038	\$611,520	\$19,414,720	\$0	\$9,588,800
	2039	\$611,520	\$20,026,240	\$0	\$9,588,800
	2040	\$611,520	\$20,637,760	\$0	\$9,588,800

**\$20,637,760**
                         
 is greater than
                         
**\$9,588,800**

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

NOTE: The analysis above only takes into account this project's estimated impact on the M&O portion of the school district property tax levy directly related to this project.

Source: CPA, Happy Whiteface Wind, LLC

**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 **able to determine** that the limitation on appraised value is a determining factor in the Happy Whiteface Wind, LLC’s 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:

- There are newspaper articles going back to 2007 that describe this project.
- There are document that show that company representatives have been seeking agreements and determinations with the Southwest Power Pool and the Public Utility Commission of Texas for this project going back to 2009 and 2010 respectively.
- A January 2015 newspaper article indicated that Randall County has given a 10-year, 100 percent property tax abatement to this project.
- The same article, referenced above, states that the project is still roughly 20 percent short of financing this project. It also states that abatement requests have been submitted to Canyon ISD and the South Randall County Hospital District, but have not been acted upon.
- The applicant stated in the application that the project would be unable to generate sufficient net income to attract sponsor equity investment without the limitation on appraised value. Capital costs make this third-party investment mandatory to fund the project.

### **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 type="checkbox"/> Land has no existing improvements	<input checked="" 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, contracts or letters of intent 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 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. Is the applicant evaluating other locations not in Texas for the proposed project?  Yes  No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities?  Yes  No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project?  Yes  No
10. 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

**Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." 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**

## Attachment 5

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

*Chapter 313.026(e) states “the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2).” If you answered “yes” to any of the questions in Section 8, attach supporting information in Tab 5.*

**Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project?**

Happy Whiteface Wind, LLC was formed in 2013.

In support of its creation, the participating members, Chermac Energy Corporation, executed documents necessary to form the entity, including an Operating Agreement and a Development Agreement. Chermac Energy Corporation also entered into the following representative agreements and contracts that will be assigned to Happy Whiteface Wind, LLC:

- Grants of Easement covering approximately 11,500 acres with 4 landowners.
- Environmental and archeological studies with Enercon
- Atmospheric studies for project area with Comsearch.
- Engineering and Surveying with XCEL Land Services.

**Does the applicant have current business activities at the location where the proposed project will occur?**

The business activities that the agreements and contracts listed above represent will determine with greater certainty and granularity the feasibility of completing development of an economic renewable energy project in the Canyon ISD.

These contracts and initial investments are preliminary in nature as Chermac and Happy Whiteface have determined that a value limitation agreement with Canyon ISD is an essential economic driver to allow for the return on investment necessary to finance and construct the wind energy project.

**Is the applicant evaluating other locations not in Texas for the proposed project?**

Chermac's management team is uniquely qualified to develop and construct wind and other energy projects throughout the United States. It has been responsible for the development of approximately 614 MWs, or approximately 1%, of the U.S.' installed wind energy capacity. Based on this experience the management team evaluates all potential projects for feasibility, financeability, and the economic returns they represent in comparison to other project opportunities across the country.

The Happy Whiteface Project is currently in such a period of assessment to determine whether the identified site in Canyon ISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable.

A 313 Limitation of Appraised Value Agreement is a key tax incentive agreement necessary to ensure the Project is on a level playing field with other wind projects with similar incentives and with alternative forms of generation that receive their own forms of economic support. Without the requested limitation, the Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associated returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the projected capital costs of approximately \$210M needed to purchase wind turbines and other infrastructure and to fund the construction and closing costs of the facility.

**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?**

The information provided in this Attachment and throughout the application has been assembled to provide the reviewer with the best possible data on which to make an assessment and determination of the critical nature of the limitation on appraised value to the feasibility of the Happy Whiteface Project.

# **Supporting Information**

Additional information  
provided by the Applicant or  
located by the Comptroller



## Companies outline details of wind power projects

Posted: Sunday, March 25, 2007  
Kevin Welch  
kevin.welch@amarillo.com

A blizzard of paper blew into Austin on Wednesday and Thursday as wind power companies filed details on their plans in the Panhandle.

The filings came right on the Public Utilities Commission deadline for companies to produce reports of their financial commitment to wind projects they have proposed, said Terry Hadley, spokesman for the PUC.

Including the whopper report by Airtricity for a \$1.75 billion project in Gray and Carson counties, 11 companies put forth their commitments.

From the eight companies that include details of land deals, at least 477,000 acres, or 745 square miles, are leased for the right to use them for wind farms or are the subject of negotiations.

Two, RES America Developments and Shell WindEnergy, blacked out all the figures in their reports that tell how many acres they have leased and how much money they have spent or will spend.

PPM Energy skirts the acreage issue, but includes some other details.

The Airtricity deals would produce 2,235 megawatts of power, about double what's generated at Xcel Energy's Harrington Unit. It has a total of about 70,000 acres leased.

"They are allowed to unless someone objects," Hadley said.

### Mesa Power

A newly formed entity that took over wind power activities from Mesa Water, Mesa Power reported it plans to lease more acres than any others who reported their intentions. Mesa is negotiating with landowners for 200,000 acres. The land is in Roberts, Gray and Hemphill counties.

"These landowners are the same landowners from whom an affiliate of Mesa Power has obtained water rights," said Michael Boswell, an officer of Mesa Power, in his written testimony.

According to the report, Mesa has already spent more than \$200,000 pursuing wind projects.

"More importantly, Mesa Power has the full financial backing of its parent," Boswell said.

Mesa is part of BP Capital Management, an energy investment company led by Boone Pickens. According to Bloomberg.com, Pickens earned \$1.5 billion in 2005.

Mesa is negotiating with three wind development companies to move the project along.

### Cielo Salt Fork

The company, a subsidiary of Cielo Wind which most recently put together the Wildorado Wind Farm, reports having lease and other types of agreements for 17,000 acres in Carson, Gray and Donley counties for three proposed projects. The total output of the projects could be 640 megawatts.

"To date, (BP), has expended millions of dollars so far on this project," according to its filing. The proposed projects stretch across the southeast quadrant of the Panhandle, an area east of a line from Borger to Hereford to south of Childress.

#### RES America Developments

This company is constructing a 60 megawatt project over 8,000 acres in Floyd County but intends to create others of undisclosed size and cost in Floyd and Briscoe counties.

#### Shell WindEnergy

Briscoe County is also the site of Shell's proposed project. The company is a wholly owned subsidiary of the oil company of the same name. Shell already owns part of and operates the wind farm at White Deer. The company reports it has 55 lease agreements but does not disclose the price, location or amount of acres.

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# Wind farm to get 10-year tax break in Randall County

Posted: January 19, 2015 - 10:11pm

By **Kevin Welch**

kevin.welch@amarillo.com

A week after punting on some kind of tax relief for a proposed wind farm, Randall County commissioners agreed Monday to let Chermac Energy pay about half of what it would in property taxes over 10 years.

They voted unanimously to give the wind farm a 100 percent tax abatement in exchange for Chermac paying \$3.4 million in place of taxes over those 10 years. The county has to send notification of the agreement to other taxing entities that cover the wind farm property for their information and then hold a final vote, said Assistant Criminal District Attorney Richard Gore, who advises the commissioners.

Chermac will pay \$2,000 per year for each megawatt of the Happy Whiteface wind farm's rated capacity of 156 megawatts.

The capacity is more than the actual production will be because it represents full production all day, every day. Production will likely be closer to 40 percent to 50 percent of the total capacity, according to industry estimates for the Texas Panhandle.

Chermac President Jamie McAlpine previously said he's about \$50 million short of financing the deal that could cost up to \$210 million, making the tax abatement important.

"It's not only financial, but public support that goes a long way when talking to equity people (about lending money)," he said Monday.

One challenge facing the Happy Whiteface wind farm is it's 14 miles from the transmission lines built specifically to take electricity to large metropolitan areas downstate. McAlpine said that adds about \$1 million per mile to construction costs, something not all projects face.

Randall County resident Beverly Dampf expressed concerns about foregoing tax money to boost growth in the county and the consequences of a decision to do so.

"How much growth do we want, and how quickly do we want it?" he said. "You don't want to stand three rows back to look into Palo Duro Canyon."

County Judge Ernie Houdashell said a challenge for Randall County is its lack of industry.

"About 72 percent of our tax base is houses," he said. "The homeowner is bearing the brunt of everything."

The wind farm is proposed for roughly 11,000 acres in southwest Randall County.

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**Summary of the District's Financial Impact  
of Chapter 313 Agreement  
with Happy Whiteface Wind, LLC**

**February 14, 2015**

**Prepared by**

**Neal Brown**

**School Finance Consultant**

**Summary of Canyon ISD Financial Impact  
of the  
Limited Appraised Value Application  
from  
Happy Whiteface Wind, LLC**

**Introduction**

Happy Whiteface Wind, LLC applied for a property value limitation from Canyon Independent School District under Chapter 313 of the Tax Code. The application was submitted on November 10, 2014 and subsequently approved for consideration by the Canyon ISD Board of Trustees. Happy Whiteface Wind, LLC (“Happy Whiteface”), 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:

# Canyon 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 2014 and 2015 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. Canyon ISD is considered a Non-Rural category 2 District as categorized with total taxable value of at least \$1 billion, but less than \$10 billion. Thus, Canyon ISD has a minimum qualified investment amount of \$80 million. A qualifying entity’s taxable value would be reduced to \$80 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 Canyon 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 2016 and continue through tax year 2025.

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

Tax years 2026 through 2030 will be the final five years of the agreement and the applicant agrees to maintain a viable presence with this project during this time.

# Canyon 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 Happy Whiteface Wind, LLC 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	2014-2015	2014	\$0	\$0
	0	2015-2016	2015	\$0	\$0
Value Limitation Period	1	2016-2017	2016	\$210,000,000	\$80,000,000
	2	2017-2018	2017	\$201,600,000	\$80,000,000
	3	2018-2019	2018	\$193,200,000	\$80,000,000
	4	2019-2020	2019	\$184,800,000	\$80,000,000
	5	2020-2021	2020	\$176,400,000	\$80,000,000
	6	2021-2022	2021	\$168,000,000	\$80,000,000
	7	2022-2023	2022	\$159,600,000	\$80,000,000
	8	2023-2024	2023	\$151,200,000	\$80,000,000
	9	2024-2025	2024	\$142,800,000	\$80,000,000
	10	2025-2026	2025	\$134,400,000	\$80,000,000
Continue to Maintain Viable Presence	11	2026-2027	2026	\$126,000,000	\$126,000,000
	12	2027-2028	2027	\$117,600,000	\$117,600,000
	13	2028-2029	2028	\$109,200,000	\$109,200,000
	14	2029-2030	2029	\$100,800,000	\$100,800,000
	15	2030-2031	2030	\$92,400,000	\$92,400,000
Additional Years for 25 Year Economic Impact Study	16	2031-2032	2031	\$84,000,000	\$84,000,000
	17	2032-2033	2032	\$75,600,000	\$75,600,000
	18	2033-2034	2033	\$67,200,000	\$67,200,000
	19	2034-2035	2034	\$58,800,000	\$58,800,000
	20	2035-2036	2035	\$58,800,000	\$58,800,000
	21	2036-2037	2036	\$58,800,000	\$58,800,000
	22	2037-2038	2037	\$58,800,000	\$58,800,000
	23	2038-2039	2038	\$58,800,000	\$58,800,000
	24	2039-2040	2039	\$58,800,000	\$58,800,000
25	2040-2041	2040	\$58,800,000	\$58,800,000	

# Canyon ISD Financial Impact of Chapter 313 Agreement

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## Taxable Value Impact from LAVA

The “Additional Value from Happy Whiteface” 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 \$80,000,000 minimum qualified investment of Canyon ISD.

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

Tax Year	Additional Value From Happy Whiteface	Minimum Qualified Investment	Abated Value	Taxable Value
Jan. 1, 2014	0	n/a	0	0
Jan. 1, 2015	0	n/a	0	0
Jan. 1, 2016	210,000,000	(80,000,000)	130,000,000	80,000,000
Jan. 1, 2017	201,600,000	(80,000,000)	121,600,000	80,000,000
Jan. 1, 2018	193,200,000	(80,000,000)	113,200,000	80,000,000
Jan. 1, 2019	184,800,000	(80,000,000)	104,800,000	80,000,000
Jan. 1, 2020	176,400,000	(80,000,000)	96,400,000	80,000,000
Jan. 1, 2021	168,000,000	(80,000,000)	88,000,000	80,000,000
Jan. 1, 2022	159,600,000	(80,000,000)	79,600,000	80,000,000
Jan. 1, 2023	151,200,000	(80,000,000)	71,200,000	80,000,000
Jan. 1, 2024	142,800,000	(80,000,000)	62,800,000	80,000,000
Jan. 1, 2025	134,400,000	(80,000,000)	54,400,000	80,000,000
Jan. 1, 2026	126,000,000	n/a	0	126,000,000
Jan. 1, 2027	117,600,000	n/a	0	117,600,000
Jan. 1, 2028	109,200,000	n/a	0	109,200,000
Jan. 1, 2029	100,800,000	n/a	0	100,800,000
Jan. 1, 2030	92,400,000	n/a	0	92,400,000

# Canyon ISD Financial Impact of Chapter 313 Agreement

## Happy Whiteface's Tax Benefit from Agreement

The projected amount of the net tax savings for Happy Whiteface's is \$8.225 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.

Canyon 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 \$1.04. The Study projects that the District will maintain an M&O tax rate of 1.04 for the life of the agreement.
- The district currently has outstanding bonded indebtedness that pays off in 2032 and has a I&S tax rate of \$.175 in 2014-2015. The district could pursue a bond election and issue additional 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>2014-2015</b>	1.0400	0.175	0	0	0	0
<b>2015-2016</b>	1.0400	0.161	0	0	0	0
<b>2016-2017</b>	1.0400	0.147	2,184,000	1,352,000	(1,363,663)	(11,663)
<b>2017-2018</b>	1.0400	0.142	2,096,640	1,264,640	0	1,264,640
<b>2018-2019</b>	1.0400	0.137	2,009,280	1,177,280	0	1,177,280
<b>2019-2020</b>	1.0400	0.132	1,921,920	1,089,920	0	1,089,920
<b>2020-2021</b>	1.0400	0.127	1,834,560	1,002,560	0	1,002,560
<b>2021-2022</b>	1.0400	0.123	1,747,200	915,200	0	915,200
<b>2022-2023</b>	1.0400	0.119	1,659,840	827,840	0	827,840
<b>2023-2024</b>	1.0400	0.115	1,572,480	740,480	0	740,480
<b>2024-2025</b>	1.0400	0.110	1,485,120	653,120	0	653,120
<b>2025-2026</b>	1.0400	0.107	1,397,760	565,760	0	565,760
<b>2026-2027</b>	1.0400	0.103	1,310,400	0	0	0
<b>2027-2028</b>	1.0400	0.099	1,223,040	0	0	0
<b>2028-2029</b>	1.0400	0.095	1,135,680	0	0	0
<b>2029-2030</b>	1.0400	0.092	1,048,320	0	0	0
<b>2030-2031</b>	1.0400	0.089	960,960	0	0	0
<b>Totals</b>			<b>23,587,200</b>	<b>9,588,800</b>	<b>(1,363,663)</b>	<b>8,225,137</b>

# Canyon 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 Canyon 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 4% 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 2% 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.

# Canyon 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 Happy Whiteface (Table III), the addition of Happy Whiteface taxable values without a Chapter 313 Agreement (Table IV), and the addition of Happy Whiteface taxable values with a Chapter 313 Agreement (Table V).

**TABLE III – District Revenues *without* Happy Whiteface Wind, LLC:**

Fiscal Year	Total Taxable Value	M&O Taxes		Recapture Amount	Hold	M&O	Total District Revenue
		Compressed Rate	State Revenue		Harmless Revenue	Taxes > Comp Rate	
<b>2014-2015</b>	3,852,248,940	38,457,001	19,748,678	0	58,205,679	2,901,212	61,106,891
<b>2015-2016</b>	4,006,338,898	39,995,281	18,620,088	0	58,615,370	2,899,612	61,514,981
<b>2016-2017</b>	4,166,592,454	41,595,092	18,194,261	0	59,789,354	2,957,049	62,746,403
<b>2017-2018</b>	4,333,256,152	43,258,896	17,711,714	0	60,970,610	3,015,647	63,986,257
<b>2018-2019</b>	4,506,586,398	44,989,252	17,184,372	0	62,173,624	3,075,426	65,249,050
<b>2019-2020</b>	4,686,849,854	46,788,822	16,614,810	0	63,403,633	3,136,412	66,540,044
<b>2020-2021</b>	4,874,323,848	48,660,375	15,970,837	0	64,631,212	3,198,627	67,829,839
<b>2021-2022</b>	5,069,296,802	50,606,790	15,318,324	0	65,925,114	3,262,096	69,187,210
<b>2022-2023</b>	5,272,068,674	52,631,062	14,614,553	0	67,245,614	3,326,845	70,572,459
<b>2023-2024</b>	5,482,951,421	54,736,304	13,842,536	0	68,578,840	3,392,898	71,971,738
<b>2024-2025</b>	5,702,269,478	56,925,756	13,013,545	0	69,939,302	3,460,281	73,399,582
<b>2025-2026</b>	5,930,360,257	59,202,786	12,129,410	0	71,332,196	3,529,021	74,861,217
<b>2026-2027</b>	6,167,574,667	61,570,898	11,146,997	0	72,717,895	3,599,145	76,317,040
<b>2027-2028</b>	6,414,277,654	64,033,734	10,146,826	0	74,180,559	3,670,680	77,851,239
<b>2028-2029</b>	6,670,848,760	66,595,083	9,080,253	0	75,675,336	3,743,654	79,418,990
<b>2029-2030</b>	6,937,682,710	69,258,886	7,924,352	0	77,183,238	3,818,097	81,001,335
<b>2030-2031</b>	7,215,190,018	72,029,242	6,689,544	0	78,718,786	3,894,036	82,612,822

# Canyon ISD Financial Impact of Chapter 313 Agreement

**TABLE IV- District Revenues with Happy Whiteface 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 for District Losses	
		Rate	Revenue			Rate	Losses	
2014-2015	3,852,248,940	38,457,001	19,748,678	0	58,205,679	2,901,212	0	61,106,891
2015-2016	4,006,338,898	39,995,281	18,620,088	0	58,615,370	2,899,612	0	61,514,981
2016-2017	4,376,592,454	43,691,522	18,152,333	0	61,843,856	3,105,389	1,363,663	64,949,244
2017-2018	4,534,856,152	45,271,469	15,575,032	0	60,846,501	3,003,914	0	63,850,415
2018-2019	4,699,786,398	46,917,968	15,133,246	0	62,051,213	3,064,144	0	65,115,357
2019-2020	4,871,649,854	48,633,680	14,649,197	0	63,282,878	3,125,568	0	66,408,446
2020-2021	5,050,723,848	50,421,376	14,090,758	0	64,512,134	3,188,210	0	67,700,345
2021-2022	5,237,296,802	52,283,934	13,523,780	0	65,807,714	3,252,095	0	69,059,809
2022-2023	5,431,668,674	54,224,348	12,905,543	0	67,129,891	3,317,248	0	70,447,139
2023-2024	5,634,151,421	56,245,734	12,219,060	0	68,464,794	3,383,694	0	71,848,488
2024-2025	5,845,069,478	58,351,329	11,475,604	0	69,826,933	3,451,460	0	73,278,392
2025-2026	6,064,760,257	60,544,502	10,677,004	0	71,221,505	3,520,571	0	74,742,076
2026-2027	6,293,574,667	62,828,756	9,780,125	0	72,608,881	3,591,056	0	76,199,937
2027-2028	6,531,877,654	65,207,735	8,865,488	0	74,073,222	3,662,941	0	77,736,164
2028-2029	6,780,048,760	67,685,227	7,884,449	0	75,569,676	3,736,256	0	79,305,932
2029-2030	7,038,482,710	70,265,173	6,814,082	0	77,079,255	3,811,029	0	80,890,284
2030-2031	7,307,590,018	72,951,671	5,664,809	0	78,616,480	3,887,289	0	82,503,769

**TABLE V – District Revenues with Happy Whiteface 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 Losses	
		Rate	Revenue			Rate	Losses	
2014-2015	3,852,248,940	38,457,001	19,748,678	0	58,205,679	2,901,212	0	61,106,891
2015-2016	4,006,338,898	39,995,281	18,620,088	0	58,615,370	2,899,612	0	61,514,981
2016-2017	4,246,592,454	42,393,732	18,178,289	0	60,572,022	3,013,560	1,363,663	64,949,244
2017-2018	4,413,256,152	44,057,536	16,897,102	0	60,954,638	3,013,215	0	63,967,854
2018-2019	4,586,586,398	45,787,892	16,369,780	0	62,157,672	3,073,050	0	65,230,722
2019-2020	4,766,849,854	47,587,462	15,800,197	0	63,387,660	3,134,088	0	66,521,748
2020-2021	4,954,323,848	49,459,015	15,156,225	0	64,615,240	3,196,355	0	67,811,595
2021-2022	5,149,296,802	51,405,430	14,503,711	0	65,909,141	3,259,875	0	69,169,016
2022-2023	5,352,068,674	53,429,702	13,799,940	0	67,229,641	3,324,672	0	70,554,314
2023-2024	5,562,951,421	55,534,944	13,027,923	0	68,562,867	3,390,773	0	71,953,640
2024-2025	5,782,269,478	57,724,396	12,198,932	0	69,923,329	3,458,203	0	73,381,531
2025-2026	6,010,360,257	60,001,426	11,314,797	0	71,316,223	3,526,988	0	74,843,211
2026-2027	6,293,574,667	62,828,756	10,323,200	0	73,151,956	3,623,559	0	76,775,515
2027-2028	6,531,877,654	65,207,735	8,865,488	0	74,073,222	3,662,941	0	77,736,164
2028-2029	6,780,048,760	67,685,227	7,884,449	0	75,569,676	3,736,256	0	79,305,932
2029-2030	7,038,482,710	70,265,173	6,814,082	0	77,079,255	3,811,029	0	80,890,284
2030-2031	7,307,590,018	72,951,671	5,664,809	0	78,616,480	3,887,289	0	82,503,769

# Canyon 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.

# Canyon ISD Financial Impact of Chapter 313 Agreement

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## Payments in Lieu of Taxes

Assuming that the District and Happy Whiteface Wind, LLC mutually agree in the LAVA that the lesser of \$100 per student in average daily attendance (ADA) or 40% of net tax savings, will be paid to Canyon ISD by Happy Whiteface, the projected amount of these payments over the life of the agreement is \$3,294,720 of the \$8.225 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	Canyon ISD \$100/ADA	Happy Whiteface Share
2014-2015	0	0	0
2015-2016	0	0	0
2016-2017	(11,663)	0	(11,663)
2017-2018	1,264,640	505,856	758,784
2018-2019	1,177,280	470,912	706,368
2019-2020	1,089,920	435,968	653,952
2020-2021	1,002,560	401,024	601,536
2021-2022	915,200	366,080	549,120
2022-2023	827,840	331,136	496,704
2023-2024	740,480	296,192	444,288
2024-2025	653,120	261,248	391,872
2025-2026	565,760	226,304	339,456
2026-2027	0	0	0
2027-2028	0	0	0
2028-2029	0	0	0
2029-2030	0	0	0
2030-2031	0	0	0
<b>Totals</b>	<b>8,225,137</b>	<b>3,294,720</b>	<b>4,930,417</b>

# Canyon ISD Financial Impact of Chapter 313 Agreement

## Impact of Projected Student Growth

### On District Facilities

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

Campus Name	Grade Level	# of Regular Classrooms	Building Capacity	Current Enrollment	Enrollment Growth Available
Crestview Elementary	K-4	26	572	518	54
Arden Rd Elementary	K-4	26	572	430	142
Gene Howe Elementary	K-4	22	484	365	119
Lakeview Elementary	EE-4	24	528	466	62
Sundown Elementary	EE-4	17	374	340	34
Reeves Hinger Elementary	EE-4	37	814	692	122
Hillside Elementary	K-4	30	660	362	298
City View Elementary	K-4	28	616	537	79
Canyon Int	5-6	25	675	591	84
Greenways Int	5-6	36	972	902	70
Canyon Jr High	7-8	30	780	563	217
Westover Jr High	7-8	36	936	867	69
Canyon High	9-12	46	1,288	1,098	190
Randall High	9-12	65	1,820	1,542	278
Midway High	9-12	6	150	34	116
<b>Total</b>		<b>454</b>	<b>11,241</b>	<b>9,307</b>	<b>1,934</b>

The building capacities are based on 22 students per classroom for elementary, 27 per classroom for intermediate, 26 per classroom for junior high, and 25 students per classroom for high school. Canyon ISD is an early education through 12<sup>th</sup> grade district.

## Canyon ISD Financial Impact of Chapter 313 Agreement

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Happy Whiteface Wind, 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 five full-time employees are expected. It is not known whether these would be new employees to the Canyon 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 five positions equates to 3 new students.

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

# Canyon 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 Happy Whiteface Wind, LLC, would be beneficial to both Happy Whiteface and Canyon ISD under the current school finance system.

Happy Whiteface Wind, 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, Happy Whiteface is projected to benefit from a 53% tax savings during that ten year period of this Agreement. Happy Whiteface Wind 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.

Canyon ISD would also have no inherent risk under the current school finance system and with the provisions in the LAVA that require Happy Whiteface Wind 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.



## TEXAS EDUCATION AGENCY

1701 North Congress Ave. • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • [www.tea.state.tx.us](http://www.tea.state.tx.us)

Michael L. Williams  
Commissioner

January 7, 2015

Linda Hinders, President  
Board of Trustees  
Canyon Independent School District  
PO Box 899  
Canyon, TX 79015

Dear Ms. Hinders:

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

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,

A handwritten signature in black ink, appearing to read "Al McKenzie", with a long horizontal flourish extending to the right.

Al McKenzie, Manager  
Foundation School Program Support

AM/rk

# Glenn Hegar

Texas Comptroller of Public Accounts

Welcome to your official online window on state government services from the Texas Comptroller of Public Accounts.

## 2013 ISD Summary Worksheet

188/Potter

191-901/Canyon ISD

Category	Local Tax Roll Value	2013 WTD Mean Ratio	2013 PTAD Value Estimate	2013 Value Assigned
A. Single-Family Residences	2,697,739,724	.9630	2,801,391,198	2,697,739,724
B. Multi-Family Residences	99,342,495	N/A	99,342,495	99,342,495
C1. Vacant Lots	98,969,282	N/A	98,969,282	98,969,282
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real(Taxable)	40,486,008	.9462	42,788,859	40,486,008
D2. Real Prop Farm & Ranch	3,028,386	N/A	3,028,386	3,028,386
E. Real Prop NonQual Acres	23,760,640	N/A	23,760,640	23,760,640
F1. Commercial Real	328,126,578	.9419	348,366,682	328,126,578
F2. Industrial Real	20,435,072	N/A	20,435,072	20,435,072
G. Oil, Gas, Minerals	0	N/A	0	0
J. Utilities	108,175,020	N/A	108,175,020	108,175,020
L1. Commercial Personal	212,069,757	.9918	213,823,106	212,069,757
L2. Industrial Personal	179,903,939	N/A	179,903,939	179,903,939
M. Other Personal	26,565,708	N/A	26,565,708	26,565,708
N. Intangible Pers/Uncert	0	N/A	0	0
O. Residential Inventory	37,065,932	N/A	37,065,932	37,065,932
S. Special Inventory	25,129,765	N/A	25,129,765	25,129,765
Subtotal	3,900,798,306		4,028,746,084	3,900,798,306
Less Total Deductions	411,265,957		435,074,476	411,265,957
Total Taxable Value	3,489,532,349		3,593,671,608	3,489,532,349 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
3,612,640,025	3,489,532,349	3,612,640,025	3,489,532,349	3,530,696,681	3,530,696,681
	Loss To the Additional \$10,000 Homestead Exemption			50% of the loss to the Local Optional Percentage Homestead Exemption	
123,107,676		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
3,612,640,025	3,489,532,349	3,612,640,025	3,489,532,349	3,530,696,681	3,530,696,681

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

**CANYON INDEPENDENT SCHOOL DISTRICT**

and

**HAPPY WHITEFACE WIND, LLC**  
*(Texas Taxpayer ID # 32050653537)*

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TEXAS COMPTROLLER'S APPLICATION NO. 1040

Dated

April 16, 2015

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

*STATE OF TEXAS* §

*COUNTY OF RANDALL* §

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 **CANYON 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 **HAPPY WHITEFACE WIND, LLC**, a Texas limited liability company, Texas Taxpayer Identification Number 32050653537 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 November 10, 2014, the Superintendent of Schools of the Canyon 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 December 17, 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 Potter-Randall Appraisal District established in Randall County, Texas (the “PRAD” or “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 March 3, 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 April 16, 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 April 16, 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 April 16, 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 313.021(b) of the TEXAS TAX CODE;

**WHEREAS**, on April 14, 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 April 16, 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 Trustee whose signature appears below 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 Happy Whiteface Wind, LLC (*Texas Taxpayer ID #32050653537*), the company listed in the Preamble of this Agreement and 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 B or C, of the Texas Tax Code) filed with District by Applicant on November 10, 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 Potter-Randall Appraisal District.

“Board of Trustees” means the Board of Trustees of the Canyon 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 Randall County, Texas.

“District” or “School District” means the Canyon 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 B 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 is located 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 313.027 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 December 17, 2014, which will determine Applicant's Qualified Property and applicable wage standard.
- B. The Application Approval Date for this Agreement is April 16, 2015, which will determine the qualifying time period.
- C. The Qualifying Time Period for this agreement:
  - 1. Starts on April 16, 2015, Application Approval Date; and
  - 2. Ends on December 31, 2017.
- D. The Tax Limitation Period for this Agreement:
  - 1. Starts on January 1, 2016; and,
  - 2. Ends on December 31, 2025.
- E. The Final Termination Date for this Agreement is December 31, 2030.
- 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. Eighty Million Dollars (\$80,000,000).

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 313.022(b) 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 \$80,000,000 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 VII 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 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. 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, 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, that the 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 selected by the District. Applicant will be solely responsible for the payment of Consultant's fees up to Six Thousand Five Hundred Dollars, (\$6,500.00) 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.** 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.*).

**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 GK (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 above, or Article VI of this Agreement, 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 purchase 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 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 supplemental payments, as set forth in this Article VI. 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:

- i. not exceed in any calendar year of this Agreement an amount equal to the lesser 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 Two Hundred Thousand Dollars (\$200,000.00) per year; and
- ii. only be made for the period starting January 1, 2017, the second year of the Tax Limitation Period, and ending December 31, 2026, the first tax year after the Tax Limitation Period under this Agreement expires, as set out in **EXHIBIT 4**.

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 Nine Hundred Thirty Thousand Seven Hundred Dollars (\$930,700.00) based upon the District's 2014-15 Average Daily Attendance of 9,307, rounded to the whole number.

**Section 6.3. SUPPLEMENTAL PAYMENT CHANGES.** In the event this Agreement is amended to include additional Qualified Property than what is described in **EXHIBIT 3**, the parties further agree to amend Section 6.2 of the Agreement to provide for a proportionate increase in the supplemental payments called for under Section 6.2.A, subject only to the limitation in Section 6.2.C.

**Section 6.4. PAYMENT BY APPLICANT.** Payment of amounts due under this Article shall be made as set forth in Section 4.8 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 effect 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 a 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 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 Sections 4.2, 5.1 and 6.2.C 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 Randall 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 Randall 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:**

Canyon Independent School District  
Attn: Mike Wartes, Superintendent  
(or the successor Superintendent)  
3301 N. 23<sup>rd</sup> St.  
Canyon, TX 79015  
Phone #: (806) 677-2600  
Fax #: (806) 677-2659  
Email: wartes@canyonisd.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:**

Happy Whiteface Wind, LLC  
c/o of Chermac Energy Corporation  
attn: Jaime McAlpine  
PO Box 5446  
Edmond, OK 73083  
Phone #: (405) 850-6685  
Email: mcalpinejl@chermacenergy.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 administrative 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.

*IN WITNESS WHEREOF*, this Agreement has been executed by the Parties in multiple originals on this 16th day of April, 2015.

**HAPPY WHITEFACE WIND, LLC**

**CANYON INDEPENDENT SCHOOL DISTRICT**

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

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

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

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

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

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

**AND:**

**ATTEST:**

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

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

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

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

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

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

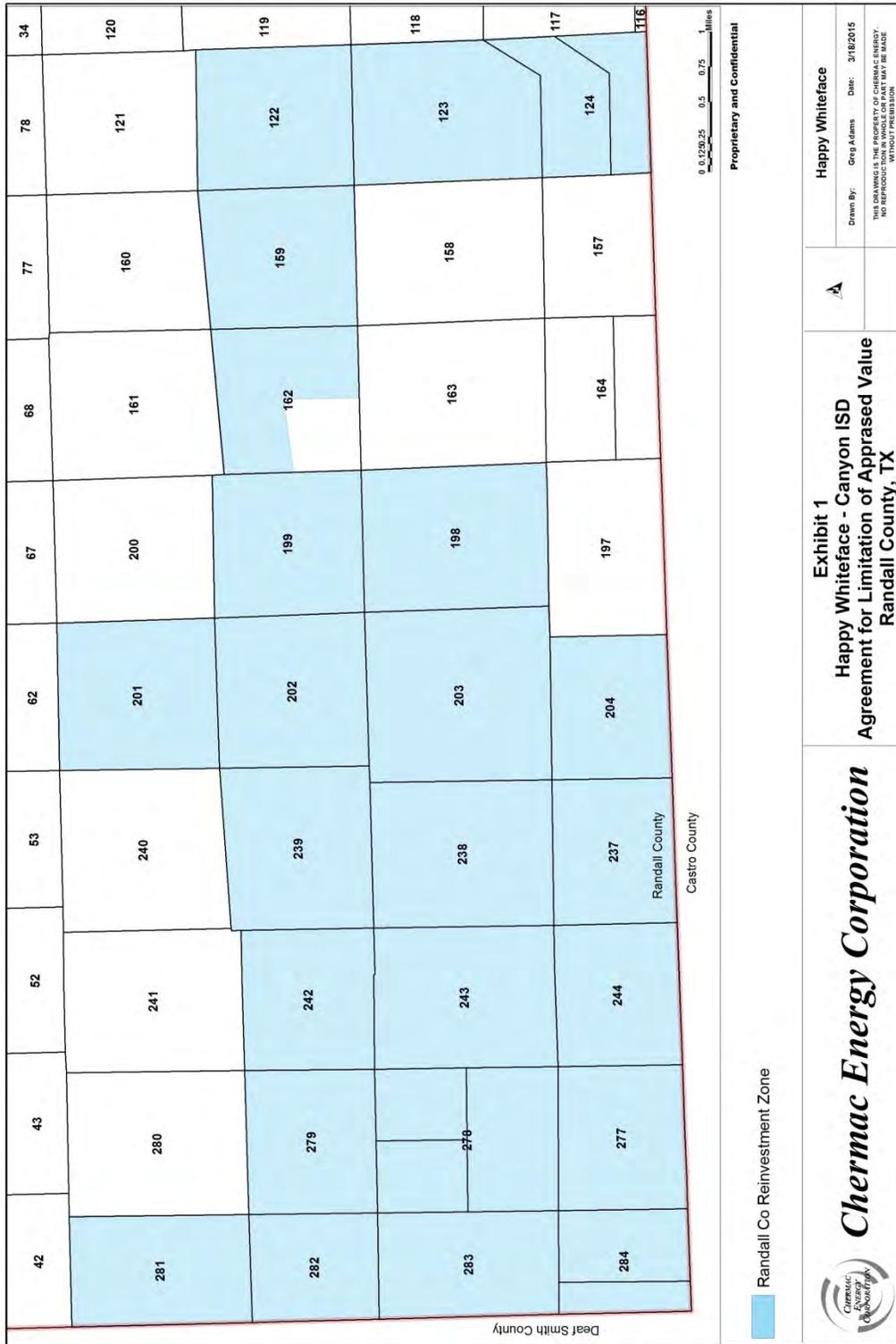
## **EXHIBIT 1**

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

The Randall County Commissioners Court passed a Resolution and Order Designating Randall County Reinvestment Zone on November 25, 2014, which is more particularly described below.

Sections 281, 282, 283, 284, 279, 278, 277, 242, 243, 244, 239, 238, 237, 201, 202, 203, 204, 199, 198, N/2 and SE/4 of 162, 159, 122, 123, and 124, all in Block M6, SK&K Survey, all in Randall County.

# MAP OF RANDALL COUNTY REINVESTMENT ZONE



**Agreement for Limitation on Appraised Value**  
 Between Canyon ISD and Happy Whiteface Wind, LLC  
 (App No. 1040), April 16, 2015

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

## EXHIBIT 1



**Chermac Energy Corporation**

**Exhibit 1**  
 Happy Whiteface - Canyon ISD  
 Agreement for Limitation of Appraised Value  
 Randall County, TX

**Happy Whiteface**

Drawn By: Greg Adams    Date: 3/18/2015

THIS DOCUMENT IS THE PROPERTY OF HAPPY WHITEFACE WIND, LLC. NO REPRODUCTION IN WHOLE OR IN PART MAY BE MADE WITHOUT PERMISSION.

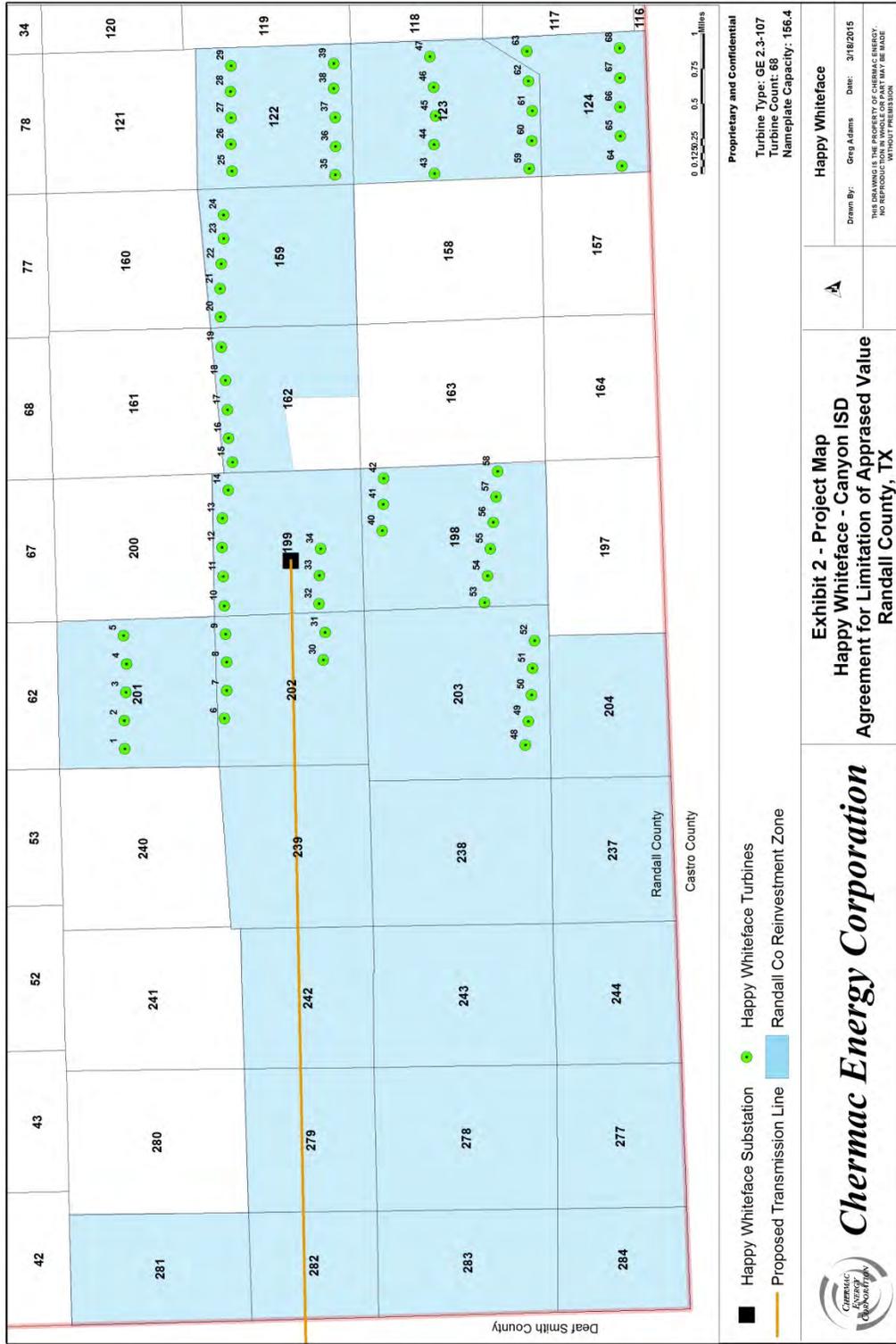
## EXHIBIT 2

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

All Qualified Property owned by the Applicant is located within the boundaries of Canyon Independent School District and Randall County Reinvestment Zone, which is more particularly described in **EXHIBIT 1**, and more particularly described as follows and depicted on the map below:

Project Tracts: Sections 122, 123, 124, and 159; the N/2 and SE/4 of Section 162; Sections 198, 199, 201, 202, 203, 204, 237, 238, and 239; and the E/2 of Sections 242, 243, and 244; all in Block M-6, SK & K Survey, Randall County, Texas; Transmission Line Tracts: (175-180 feet in width crossing the following sections): Sections 279, 282, and W/2 of Section 242, and/or, if required, Sections 281, Block M6, SK & K Survey, Randall County, Texas.

# PROJECT MAP



**Agreement for Limitation on Appraised Value**  
 Between Canyon ISD and Happy Whiteface Wind, LLC  
 (App No. 1040), April 16, 2015

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

11EAFDBG0D2SIAv7

### **EXHIBIT 3**

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

Happy Whiteface, LLC plans to construct an estimated 156.4 MW wind farm in Randall County, located entirely within Canyon ISD with the exception of 7 miles of 345kV transmission line in Deaf Smith County. The intended qualified investment located in Canyon ISD includes wind turbines, foundations, collection systems, 7 miles of 345kV transmission line and interconnection infrastructure, additional meteorological towers, roads, operations and maintenance buildings, spare parts, and control systems necessary for commercial generation of electricity. External to Canyon ISD is the remainder of the transmission line, in which there are 7 miles of 345kV line in Deaf Smith County.

For purposes of this application, the Project anticipates using 2.3 MW turbines. Although final turbine selection and location of the infrastructure may change, all equipment outlined above is expected to be located within Canyon ISD. Current plans are to install 68 turbines in one phase.

The exact placement of turbines is subject to ongoing planning, wind studies, engineering, and discussions with landowners and turbine manufacturers. The final number and location of turbines and supporting structures will be determined before construction begins. Happy Whiteface intends to connect to Windmill, an ERCOT substation via a 14 mile 345kV transmission line, of which 7 miles is located in Canyon ISD and Randall County and 7 miles is located in Deaf Smith County. All of the infrastructure will remain within the project boundary and within the Reinvestment Zone.

**EXHIBIT 4**

	<u>Year of Agreement</u>	<u>Date of Appraisal</u>	<u>School Year</u>	<u>Tax Year</u>	<u>Summary Description</u>
Limitation Pre-Years	Stub Year	January 1, 2014	2014-15	2014	Limitation Pre-Year
	0	January 1, 2015	2015-16	2015	Limitation Pre-Year
Limitation Period (10 Years)	1	January 1, 2016	2016-17	2016	\$80 million appraisal limitation
	2	January 1, 2017	2017-18	2017	\$80 million appraisal limitation
	3	January 1, 2018	2018-19	2018	\$80 million appraisal limitation
	4	January 1, 2019	2019-20	2019	\$80 million appraisal limitation
	5	January 1, 2020	2020-21	2020	\$80 million appraisal limitation
	6	January 1, 2021	2021-22	2021	\$80 million appraisal limitation
	7	January 1, 2022	2022-23	2022	\$80 million appraisal limitation
	8	January 1, 2023	2023-24	2023	\$80 million appraisal limitation
	9	January 1, 2024	2024-25	2024	\$80 million appraisal limitation
	10	January 1, 2025	2025-26	2025	\$80 million appraisal limitation
Maintain a Viable Presence Period (5 Years)	1	January 1, 2026	2026-27	2026	\$80 million appraisal limitation
	2	January 1, 2027	2027-28	2027	No appraisal limitation; must maintain a viable presence
	3	January 1, 2028	2028-29	2028	No appraisal limitation; must maintain a viable presence
	4	January 1, 2029	2029-30	2029	No appraisal limitation; must maintain a viable presence
	5	January 1, 2030	2030-31	2030	No appraisal limitation; must maintain a viable presence

**Agreement for Limitation on Appraised Value**  
 Between Canyon ISD and Happy Whiteface Wind, LLC  
 (App No. 1040), April 16, 2015

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



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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P.O.Box 13528 • Austin, TX 78711-3528

April 14, 2015

Michael Wartes  
Superintendent  
Canyon Independent School District  
3301 N. 23rd St.  
Canyon, Texas 79015

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes by and between Canyon Independent School District and Happy Whiteface Wind, LLC

Dear Superintendent Wartes:

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 Canyon Independent School District and Happy Whiteface Wind, 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 Korry Castillo, Manager of Economic Development and Analysis, at (512) 463-3806.

Sincerely,

A handwritten signature in black ink that reads "R. B. Wood".

Robert B. Wood  
Associate Deputy Comptroller

cc: Fred Stormer, Underwood Law Firm, PC  
Jamie Lyle McAlpine, Happy Whiteface Wind, LLC  
Charles Waswo, Chermac Energy Corporation  
Melissa Miller, Miller Wind & Renewables, LLC

**HAPPY WHITEFACE WIND, LLC**

**P.O. Box 5446  
Edmond, OK 73083  
(405) 341-3506**

November 10, 2014

Mr. Michael Wartes  
Canyon Independent School District  
3301 N. 23<sup>rd</sup> St.  
Canyon, Texas 79015

**Re: Chapter 313 Job Waiver Request for Happy Whiteface, LLC**

Dear Mr. Wartes,

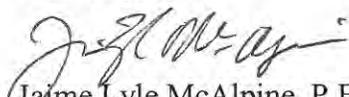
Happy Whiteface, LLC requests that the Canyon Independent School District's Board of Trustees waive the job requirement provision as allowed by Section 313.02S (f-1) of the tax code. This waiver would be based on the school district's board findings that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

Happy Whiteface, LLC requests that the Canyon Independent School District makes such a finding and waive the job creation requirement for 25 permanent jobs. In line with industry standards for job requirements, Happy Whiteface, LLC has committed to create 5 total jobs for the project, all of which will be in Canyon I.S.D.

Wind 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 industry standard for employment is typically one full-time employee for approximately every 15 - 20 turbines. This number may vary depending on the operations and maintenance requirements of the turbines selected as well as the support and technical assistance offered by the turbine manufacturer. The permanent employees of a wind project maintain and service wind turbines, underground electrical connections, substations and other infrastructure associated with the safe and reliable operation of the project. In addition to the onsite employees, there may be managers or technicians who support the project from offsite locations.

Sincerely,

  
Jaime Lyle McAlpine, P.E.  
Manager