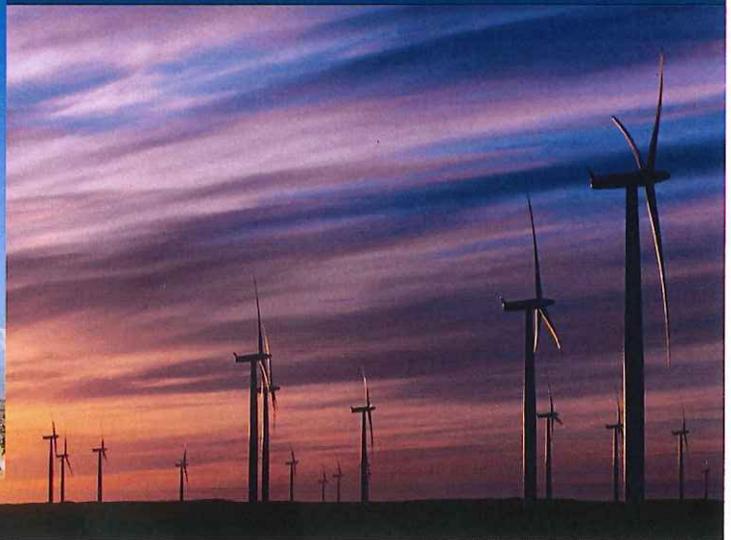


**FINDINGS OF THE GREGORY-PORTLAND
INDEPENDENT SCHOOL DISTRICT BOARD
OF TRUSTEES
UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE
APPLICATION SUBMITTED
BY
APEX MIDWAY WIND LLC (#1091)**



January 19, 2016

**FINDINGS
OF THE
GREGORY-PORTLAND INDEPENDENT
SCHOOL DISTRICT BOARD OF TRUSTEES
UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE APPLICATION SUBMITTED BY
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JANUARY 19, 2016

FINDINGS OF THE GREGORY-PORTLAND
INDEPENDENT SCHOOL DISTRICT BOARD OF
TRUSTEES UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE APPLICATION SUBMITTED BY
APEX MIDWAY WIND LLC (#1091)

STATE OF TEXAS §

COUNTY OF SAN PATRICIO §

On the 19th day of January, 2016, a public meeting of the Board of Trustees of the Gregory-Portland Independent School District (“District”) was held. 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 of Trustees took up and considered the application of Apex Midway Wind LLC (“Applicant”) for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations on the Application from interested parties within the District. The Board of Trustees has considered the economic impact analysis and the project certification issued by the Texas Comptroller of Public Accounts. After hearing presentations from the District’s administrative staff, and from consultants retained by the District to advise the Board in this matter, and after considering the relevant documentary evidence, the Board of Trustees makes the following findings with respect to application from Applicant, and the economic impact of that application:

On July 28, 2015 the Superintendent of the District, acting as agent of the Board of Trustees, and the Texas Comptroller of Public Accounts (“Comptroller”) received an Application from Applicant for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. A copy of the Application is attached as **Attachment A**.

The Applicant, (Texas Taxpayer Id. 32050705956), is an entity subject to Chapter 171, Texas Tax Code, and is certified to be an active franchise taxpayer by the Comptroller. See **Attachment B**.

The Board of Trustees acknowledged receipt of the Application, along with the requisite application fee, established pursuant to Texas Tax Code § 313.025(a)(1) and Local District Policy.

The Application was delivered to the Comptroller for review pursuant to Texas Tax Code § 313.025(d). A copy of the Application was delivered to the San Patricio County Appraisal District for review pursuant to 34 Tex. Admin. Code § 9.1054. On September 30, 2015, the Comptroller determined the Application to be complete.

The Application was reviewed by the Comptroller pursuant to Texas Tax Code §313.026, and a Comptroller Certificate was issued on December 15, 2015, in which the Comptroller has determined, inter alia, that: 1) Application is subject to the provisions of Chapter 171, Texas Tax Code; 2) the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised values; 3) the proposed project 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; and, 4) the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state. A copy of the Certificate is attached to the findings as **Attachment C**.

The Board of Trustees has previously directed that a specific financial analysis be conducted concerning the impact of the proposed value limitation on the finances of District. A copy of the report prepared by Moak, Casey & Associates, Inc. is attached to these findings as **Attachment D**.

The Board of Trustees has confirmed that the taxable value of property in the District for the preceding tax year, as determined under Subchapter M, Chapter 403, Government Code, is as stated in **Attachment E**.

The Texas Education Agency has evaluated the impact of the project on the District's facilities. TEA's determination is attached to these findings as **Attachment F**.

The Board has adopted the Texas Economic Development Agreement (Form 50-286) as promulgated by the Comptroller's Office. Form 50-286 has been altered only in accordance only the provisions of the template that the Comptroller permitted. The proposed Agreement is attached to these findings as **Attachment G**. 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. The Board will consider all authorized amendments to the Agreement on Applicant's request, in the event a new form is adopted.

After review of the Comptroller's Certificate and economic analysis, and in consideration of its own studies the Board finds:

Board Finding Number 1.

The Board finds that the property described in the Application meets the requirements of Tex. Tax Code §313.024 for eligibility for a limitation on appraised value.

In support of Finding 1, the Application indicates that:

Apex Clean Energy Holdings, LLC (Apex) is requesting an appraised value limitation from Gregory-Portland Independent School District (ISD) for the Apex Clean Energy Project (the "Project"), a proposed wind powered electric generating facility in San Patricio County.

Property which is used for renewable energy electric generation satisfies the requirements of §313.024(b)(5).

Board Finding Number 2.

The project proposed by the applicant is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue, including state tax revenue, school district maintenance and operations ad valorem tax revenue attributable to the project, and any other tax revenue attributable to the effect of the project on the economy of the state, in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement.

In support of Finding 2, the Comptroller's Economic Impact Evaluation and Certification, Attachment C, states:

This represents the Comptroller's determination that Apex Midway 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)
Limitation Pre-Years	2014	\$0	\$0	\$0	\$0
	2015	\$0	\$0	\$0	\$0
	2016	\$0	\$0	\$0	\$0
Limitation Period (10 Years)	2017	\$351,000	\$351,000	\$2,316,600	\$2,316,600
	2018	\$351,000	\$702,000	\$2,156,544	\$4,473,144
	2019	\$351,000	\$1,053,000	\$2,006,094	\$6,479,238
	2020	\$351,000	\$1,404,000	\$1,864,664	\$8,343,902
	2021	\$351,000	\$1,755,000	\$1,731,729	\$10,075,631
	2022	\$351,000	\$2,106,000	\$1,606,761	\$11,682,392
	2023	\$351,000	\$2,457,000	\$1,489,293	\$13,171,685
	2024	\$351,000	\$2,808,000	\$1,378,880	\$14,550,565
	2025	\$351,000	\$3,159,000	\$1,275,089	\$15,825,654
	2026	\$351,000	\$3,510,000	\$1,177,523	\$17,003,177
Maintain Viable Presence (5 Years)	2027	\$1,436,807	\$4,946,807	\$0	\$17,003,177
	2028	\$1,350,601	\$6,297,408	\$0	\$17,003,177
	2029	\$1,269,567	\$7,566,975	\$0	\$17,003,177
	2030	\$1,193,388	\$8,760,363	\$0	\$17,003,177
	2031	\$1,121,784	\$9,882,148	\$0	\$17,003,177
Additional Years as Required by 313.026(c)(1) (10 Years)	2032	\$1,054,474	\$10,936,622	\$0	\$17,003,177
	2033	\$991,201	\$11,927,822	\$0	\$17,003,177
	2034	\$931,730	\$12,859,552	\$0	\$17,003,177
	2035	\$875,827	\$13,735,379	\$0	\$17,003,177
	2036	\$823,282	\$14,558,661	\$0	\$17,003,177
	2037	\$773,885	\$15,332,546	\$0	\$17,003,177
	2038	\$727,448	\$16,059,993	\$0	\$17,003,177
	2039	\$683,807	\$16,743,800	\$0	\$17,003,177
	2040	\$642,775	\$17,386,574	\$0	\$17,003,177
	2041	\$604,211	\$17,990,786	\$0	\$17,003,177
		\$17,990,786	is greater than	\$17,003,177	
Analysis Summary					
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

Source: CPA, Apex Midway 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.

Board Finding Number 3.

The limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.

In support of Finding 3, Comptroller's Economic Impact Evaluation and Certification, Attachment C, states:

The Comptroller has determined that the limitation on appraised value is a determining factor in the Apex Midway 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:

- Per the applicant, it has leased the land upon which the project will be constructed.
- Per the applicant, no contracts for the sale of the power have been executed.
- Per the applicant, the applicant has made no investment to date on the project site.
- Per the applicant, no construction has commenced at the project site.
- The applicant has a number of similar projects in other states, and appears to have a clear ability to build in other locations.
- Per the applicant, Chapter 313 limitation is a necessary part of the economic analysis for investment in Texas, where the power market is very competitive and practically all of its competitors have Chapter 313 value limitation agreements.
- Per the applicant, without the Chapter 313 value limitation, siting the project in San Patricio County is significantly less attractive.

Board Finding Number 4.

The Board finds that the Application Fee received for the Application for which these Findings are being made was reasonable and only in such an amount as was necessary to cover the District's costs of processing such Application.

In support of Finding 4, the Board reviewed the Application Fee payment included in the Application at Attachment A, the contract with the District's consultants and the internal costs for processing the application, if any.

Board Finding Number 5.

Based upon the information provided in the Application and in the Comptroller's Economic Impact Evaluation and Certification, Attachment B, package, the Board finds that that the number of jobs to be created and the wages to be paid comply with the requirements of statute; and, the Board further finds that the Chapter 313 Tax Limitation Agreement (Attachment G), in accordance with Comptroller's Form 50-286, contains all required provisions and information related to the required job creation requirements, to wit: the provisions set forth in Subsections 9.1C&D of such Agreement.

In its Application, Applicant has committed to creating one (1) new qualifying job. The average salary level of qualifying jobs will be at least \$57,464 per year. The review of the application by the State Comptroller's Office indicated that this amount—based on Texas Workforce Commission data—complies with current Tex. Tax Code §313.021(3) requirement that qualifying jobs must pay 110 percent of the county average manufacturing wage. As defined in Section 313.021 of the Tax Code, "Qualifying job" means a permanent full-time job that:

- (A) requires at least 1,600 hours of work a year;
- (B) is not transferred from one area in this state to another area in this state;
- (C) is not created to replace a previous employee;
- (D) is covered by a group health benefit plan for which the business offers to pay at least 80 percent of the premiums or other charges assessed for employee-only coverage under the plan, regardless of whether an employee may voluntarily waive the coverage; and

(E) pays at least 110 percent of the county average weekly wage for manufacturing jobs in the county where the job is located.

Board Finding Number 6.

Based upon the information provided to the District with regard to the industry standard for staffing ratios of similar projects in the State of Texas, the District has determined that if the job creation requirement set forth in Texas Tax Code § 313.021(2)(A)(iv)(b) was applied, for the size and scope of the project described in the Application, the required number of jobs meets or exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility.

Board Finding Number 7.

The Applicant intends to create four (4) non-qualifying jobs.

In its Application, Applicant has indicated that it intends to create four (4) non-qualifying jobs. The average salary level of the non-qualifying jobs will be at least \$46,267 per year, which represents at least the county average wage for all jobs in the county in accordance with the provisions of Tex. Tax Code §313.024(d).

Board Finding Number 8.

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, the analysis prepared by Moak, Casey & Associates projects that the project would initially add \$228 million to the tax base for debt service purposes at the peak investment level for the 2017-18 school year, with the project value expected to depreciate over the course of the agreement. The project remains fully taxable for debt services taxes, with the District levying a \$0.18 per \$100 I&S rate.

Board Finding Number 9.

The effect of the applicant's proposal, if approved, on the number or size of needed school district instructional facilities is not expected to increase the District's facility needs, with current trends suggest little underlying enrollment growth based on the impact of the project.

The summary of financial impact prepared by Moak, Casey & Associates, Inc., indicates that there will be little to no impact on school facilities created by the new solar project. This finding is confirmed by the TEA evaluation of this project's impact on the number and size of school facilities in the District as stated in **Attachment F**.

Board Finding Number 10.

The Board finds that with the adoption of District Policy CCG (Local), implemented in conformance with both Comptroller and Texas Education Agency Rules governing Chapter 313 Agreements, it has developed a process to verify, either directly or through its consultants, the accuracy and completeness of information in annual eligibility reports and biennial progress reports regarding (1) the reported number of jobs created and (2) the reported amount invested in the property.

Board Finding Number 11.

The Board of Trustees hired consultants to review and verify the information in the Application. Based upon the consultants' review, the Board has determined that the information provided by the Applicant is true and correct.

The Board has developed a written policy CCG (Local) which requires, upon the filing of an Application under Tax Code Chapter 313, the retention of consultants in order to verify: (1) that Applicant's information contained in the Application as to existing facts is true and correct; (2) that Applicant's information contained in the Application with respect to projections of future events are commercially reasonable and within the ability of Applicant to execute; (3) that information related to job creation is commercially reasonable and within the ability of Applicant to execute; (4) that Applicant's representations concerning and economic incentives being offered, if any, and (2) the proposed project meets eligibility requirements.

As a part of its verification process the Board notes that the Chapter 313 Application for which these Findings are being made has been submitted by Applicant under oath. Chapter 313 Applications are governmental records under Tex. Penal Code § 37.01(2)(A); as a result, all statements contained therein are representations of fact within the meaning of

Tex. Penal Code § 37.01(3). Since Board action upon the adoption of these Findings and the approval of the Chapter 313 Tax Limitation Agreement (**Attachment G**) is an “official proceeding,” a false statement on a Chapter 313 application constitutes perjury under Tex. Penal Code § 37.03.

The Board finds that sworn statements are routinely used as an acceptable verification method for reliance by fact finders in each of the three separate branches of government, including trials.

The consultants have prepared signed statements that the consultants have reviewed and verified the contents of the Application and have determined that the current statements of fact contained in the Application are true and correct. (**Attachment H**) The Board finds that reliance by the Board and its consultants upon verified statements of the Applicant, especially as to Applicant’s future intentions which cannot be objectively verified is reasonable and within the intent of Chapter 313, Texas Tax Code.

Board Finding Number 12.

The Board of Trustees has determined that the Tax Limitation Amount requested by Applicant is currently Thirty Million Dollars, which is consistent with the minimum values currently set out by Tax Code, § 313.054(a).

The Board finds that the Chapter 313 Tax Limitation Agreement (**Attachment G**), in accordance with Comptroller’s Form 50-286, contains all required provisions and information related to the required investment amount, to wit: the amount set forth in Section 2.4B of said Agreement. According to the Texas Comptroller of Public Accounts’ School and Appraisal Districts’ Property Value Study 2014 Final Findings made under Subchapter M, Chapter 403, Government Code for the preceding tax year, Attachment F. The total industrial value for the District is \$305.8 million. The District is categorized as Subchapter C, which applies only to a school district that has territory in a strategic investment area, as defined under Subchapter O, Chapter 171, Tax Code or in a county: (1) that has a population of less than 50,000 and (2) in which, from 1990 to 2000, according

to the federal decennial census, the population: (A) remained the same; (B) decreased; or (C) increased, but at a rate of not more than three percent per annum. The District is classified as a "rural" district due to its placement in a strategic investment area. Given that the value of industrial property is more than \$200 million, it is a Category I district which can offer a minimum value limitation of \$30 million.

Board Finding Number 13.

The Board finds that the Chapter 313 Tax Limitation Agreement (Attachment G), in accordance with Comptroller's Form 50-286, contains all required provisions and information related to the required investment amount, to wit: the amount set forth in Section 2.4B of said Agreement.

The Board relies on the certifications of its consultants and the Comptroller's Approval of the Agreement form. (Attachment I)

Board Finding Number 14.

The Applicant (Taxpayer No. 32050705956) is eligible for the limitation on appraised value of qualified property as specified in the Agreement as an active franchise-tax paying entity.

The Applicant, (Texas Taxpayer No. 32050705956), is an entity subject to Chapter 171, Texas Tax Code, and is certified to be an active franchise tax payer by the Comptroller. See Attachment B. The Board also finds that the Chapter 313 Tax Limitation Agreement (Attachment G), in accordance with Comptroller's Form 50-286 contains all required provisions necessary for the Board to assess the eligibility of any business to which an agreement is transferred, to wit: the requirement that all assignments are amendments to the provision forth in Section 10.4 of said Agreement.

Board Finding Number 15.

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.

Board Finding Number 16.

The Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, attached

hereto as Attachment G, includes adequate and appropriate revenue protection provisions for the District.

In support of this finding, the report of Moak, Casey & Associates, Inc. shows that the District will incur a revenue loss in the first and subsequent years that the value limitation is in effect without the proposed Agreement. However, with this Agreement, the negative consequences of granting the value limitation are offset through the revenue protection provisions agreed to by the Applicant and the District. The Agreement contains adequate revenue protection measures for the duration of the Agreement.

Board Finding Number 17.

The Board finds that the methodology and processes for determining Applicant's revenue protection payments as are set forth in Article IV of the Chapter 313 Tax Limitation Agreement (Attachment G) comply with Texas Tax Code, Chapter 313.

In support of this Finding, the Board relies upon the recommendation of its consultants.
(Attachment H)

Board Finding Number 18.

The Board finds that the Chapter 313 Tax Limitation Agreement (Attachment G), in accordance with Comptroller's Form 50-286 contains all required provisions necessary for the Board to assess performance standards and to require periodic deliverables that will enable it to hold businesses accountable for achieving desired results, to wit: the reporting requirements set forth in Article VIII of said Agreement.

Board Finding Number 19.

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

Board Finding Number 20.

The Board finds that there are no conflicts of interest at the time of considering the agreement.

The Board finds that with the adoption of District Policies BBFA and BBFB, both (Legal) and (Local), that it has taken appropriate action to ensure that all District Trustees, have disclosed any potential conflicts of interest, and that such disclosures will be made if any conflict of interest arises in the future, in compliance with the requirements of Texas Local Gov't Code §171.004.

The Board finds that with the adoption of District Policies DBD, DGA, and DH BBFB, both (Legal) and (Local) that it has taken appropriate action to ensure that all District employees and/or consultants, have disclosed any potential conflicts of interest, and that such disclosures will be mad if any conflict of interest arises in the future, in compliance with the requirements of Texas Local Gov't Code §171.004.

The Board finds that that no non-disclosed conflicts of interest exist as to the Application for which these Findings are being made, as of the time of action on these Findings. In addition, Gregory-Portland ISD should ensure that disclosure occurs at the meeting at which the school board will vote on the business's application.

Board Finding Number 21.

The Board directs that a link on its Web site to the Comptroller's Office's Web site where appraisal limitation related documents are made available to the public.

Board Finding Number 22.

Considering the purpose and effect of the law and the terms of the Agreement, that it is in the best interest of the District and the State to enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

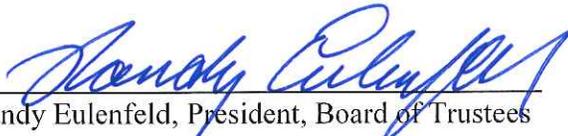
It is therefore ORDERED that the Agreement attached hereto as **Attachment G** is approved and herby authorized to be executed and delivered by and on behalf of the District. It is further ORDERED that these findings and the Attachments referred to herein

be attached to the Official Minutes of this meeting, and maintained in the permanent records of the Board of Trustees of the District.

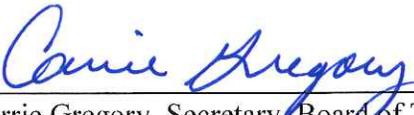
It is further ORDERED that upon the issuance by the Comptroller's Office of a new Form 50-286 that the Board, in accordance with Comptroller rules and new form 50-286, will consider an amendment to Attachment G upon the request of Applicant or District staff.

Dated the 19th day of January 2016.

GREGORY-PORTLAND INDEPENDENT SCHOOL DISTRICT

By: 
Randy Eulenfeld, President, Board of Trustees

ATTEST:

By: 
Carrie Gregory, Secretary, Board of Trustees

Attachment A

Application

CUMMINGS WESTLAKE LLC

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

July 22, 2015

Dr. Paul Clore
Superintendent
Gregory-Portland Independent School District
600 College Street
Portland, TX 78374

Re: Application for Appraised Value Limitation on Qualified Property

Dear Dr. Clore,

On behalf of our client, attached is the Application for Appraised Value Limitation on Qualified Property for Apex Midway Wind, LLC ("Apex"). Apex originally applied for and executed an appraised value limitation agreement (No. 329) with Gregory-Portland ISD in December 2013. On July 2, 2015 Apex terminated the agreement by letter to the district because Apex will not be able to make the qualified investment by the end of the qualifying time period on December 31, 2015. That letter is attached for reference.

Apex is now reapplying for the Appraised Value Limitation on Qualified Property and considering a decision to construct the project in 2016. Please note that a final investment decision to construct the project has not been made. As highlighted in Tab 5 of the attached application, the Apex Midway Wind project is competing internally for capital with other Apex projects being developed in Colorado, Oklahoma, and Indiana. The Appraised Value Limitation on Qualified Property is a very important competitive factor for Apex to consider in its decision to build the project in San Patricio County.

Apex appreciates the consideration of Gregory-Portland ISD in accepting this new application and starting the process toward a new agreement with the district.

Sincerely,



D. Dale Cummings



Court Square Building
310 4th Street NE, Suite 200
Charlottesville, VA 22902
T 434.220.7595 / F 434.220.3712
apexcleanenergy.com

July 2, 2015

Dr. Paul Clore, Superintendent
Gregory-Portland ISD
608 College Street
Portland, Texas 78374

Dear Dr. Clore:

Apex Midway Wind, LLC hereby terminates the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes approved by the Gregory-Portland ISD Board of Trustees on December 17, 2013.

Pursuant to Section 8.2(c) of the Agreement, Apex Midway Wind, LLC will fail to make the minimum qualified investment by December 31, 2015.

Apex Midway Wind, LLC intends to submit a new application to the district in the near future.

Sincerely

Apex Midway Wind, LLC
By: Apex GCL, LLC
Its: Sole Member

By: Apex Clean Energy Holdings, LLC
Its: Sole Member

A handwritten signature in blue ink, appearing to read 'Mark Goodwin', written over a horizontal line.

Mark Goodwin, President



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/. 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

July 28, 2015

Date Application Received by District

Dr. Paul

First Name

Superintendent

Title

Gregory-Portland ISD

School District Name

600 College Street

Street Address

600 College Street

Mailing Address

Portland

City

361-777-1091

Phone Number

Clore

Last Name

TX

State

361-777-1093

Fax Number

pclore@g-pisd.org

Email Address

78374

ZIP

Mobile Number (optional)

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)

Daniel T. Casey
 First Name Last Name
 Partner
 Title
 Moak Casey & Associates LLP
 Firm Name
 512-485-7878 512-485-7888
 Phone Number Fax Number
 dcasey@moakcasey.com
 Email Address
 Mobile Number (optional)

4. On what date did the district determine this application complete? August 6, 2015
5. Has the district determined that the electronic copy and hard copy are identical? Yes No

SECTION 2: Applicant Information

1. Authorized Company Representative (Applicant)

Mark Goodwin
 First Name Last Name
 President and COO Apex Clean Energy Holdings, LLC - Manager
 Title Organization
 Court Square Building, 310 4th St. NE., Suite 200
 Street Address
 Court Square Building, 310 4th St. NE., Suite 200
 Mailing Address
 Charlottesville VA 22902
 City State ZIP
 (434) 220-7595 (434) 220-3712
 Phone Number Fax Number
 Mark.Goodwin@apexcleanenergy.com
 Business Email Address
 Mobile Number (optional)

2. Will a company official other than the authorized company representative be responsible for responding to future information requests? Yes No

2a. If yes, please fill out contact information for that person.

Dru Steubing
 First Name Last Name
 Senior Development Manager Apex Clean Energy, Inc.
 Title Organization
 124 Scenic Loop Drive
 Street Address
 124 Scenic Loop Drive
 Mailing Address
 Boerne TX 78006
 City State ZIP
 830-755-2345 (434) 220-3712
 Phone Number Fax Number
 Dru.Steubing@apexcleanenergy.com
 Business Email Address
 Mobile Number (optional)

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

SECTION 2: Applicant Information (continued)

4. Authorized Company Consultant (If Applicable)

D. Dale _____ Cummings _____
 First Name Last Name
 Founding Partner _____
 Title _____
 Cummings Westlake, LLC _____
 Firm Name _____
 713-266-4456 _____ 713-266-2333 _____
 Phone Number Fax Number
 dcummings@cwlp.net _____
 Business Email Address

SECTION 3: Fees and Payments

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

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

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

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

2. Will any "payments to the school district" that you may make in order to receive a property tax value limitation agreement result in payments that are not in compliance with Tax Code §313.027(i)? Yes No N/A
3. If "payments to the school district" will only be determined by a formula or methodology without a specific amount being specified, could such method result in "payments to the school district" that are not in compliance with Tax Code §313.027(i)? Yes No N/A

SECTION 4: Business Applicant Information

1. What is the legal name of the applicant under which this application is made? _____ Apex Midway Wind, LLC _____

2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) 32050705956 _____

3. List the NAICS code 221119 _____

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

Gregory-Portland ISD (#329) and Taft ISD (#336) - however both agreements have been terminated by Applicant

SECTION 5: Applicant Business Structure

1. Identify Business Organization of Applicant (corporation, limited liability corporation, etc) _____ LLC _____

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

SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur? Yes No
2. Has the applicant entered into any agreements, 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.

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

Application for Appraised Value Limitation on Qualified Property

SECTION 9: Projected Timeline

- | | |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------|
| 1. Application approval by school board | December 2015 |
| 2. Commencement of construction | First Quarter 2016 |
| 3. Beginning of qualifying time period | December 2015 |
| 4. First year of limitation | 2017 |
| 5. Begin hiring new employees | Second quarter 2016 |
| 6. Commencement of commercial operations | Fourth quarter 2016 |
| 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)? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| Note: Improvements made before that time may not be considered qualified property. | |
| 8. When do you anticipate the new buildings or improvements will be placed in service? | Fourth quarter 2016 |

SECTION 10: The Property

1. Identify county or counties in which the proposed project will be located San Patricio
2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property San Patricio
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>San Patricio, .51, 100%</u>
<small>(Name, tax rate and percent of project)</small> | City: <u>N/A</u>
<small>(Name, tax rate and percent of project)</small> |
| Hospital District: <u>N/A</u>
<small>(Name, tax rate and percent of project)</small> | Water District: <u>N/A</u>
<small>(Name, tax rate and percent of project)</small> |
| Other (describe): <u>Drainage, .06, 100%</u>
<small>(Name, tax rate and percent of project)</small> | Other (describe): <u>N/A</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/.

1. At the time of application, what is the estimated minimum qualified investment required for this school district? 30,000,000.00
2. What is the amount of appraised value limitation for which you are applying? 30,000,000.00
- 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?

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

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

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

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

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 2015
(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)? 2
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? 1

5. What is the number of new non-qualifying jobs you are estimating you will create? 4

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 889.75
 - b. 110% of the average weekly wage for manufacturing jobs in the county is 1,711.88
 - c. 110% of the average weekly wage for manufacturing jobs in the region is 1,046.14

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? 57,464.00

10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? 57,464.00

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**.

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"> 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 <p>Note: 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"> a) evidence that the area qualifies as a 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* <p>* To be submitted with application or before date of final application approval by school board</p>
17	Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative <i>(applicant)</i>

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 1

Pages 1 through 9 of application.

*TAB TO APPLICATION FOR APPRAISED VALUE LIMITATION ON QUALIFIED
PROPERTY BY APEX MIDWAY WIND, LLC TO GREGORY-PORTLAND ISD*

Apex Midway Wind, LLC
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Cummings Westlake, LLC

TAB 2

Proof of Payment of Application Fee

A copy of the check for the \$15,000 application fee to Gregory-Portland ISD is found on the following page.

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)*

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 3

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

Apex Midway Wind, LLC is part of a combined group. See attached Form 05-165.

Texas Franchise Tax Extension Affiliate List

■ Tcode 13298

■ Reporting entity taxpayer number

■ Report year

Reporting entity taxpayer name

32051152893

2015

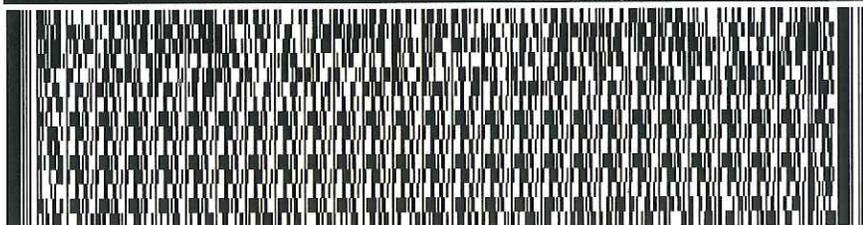
APEX CLEAN ENERGY HOLDINGS, LLC

LEGAL NAME OF AFFILIATE	AFFILIATE'S TEXAS TAXPAYER NUMBER (if none, enter FEI number)	CHECK BOX IF AFFILIATE DOES NOT HAVE NEXUS IN TEXAS
1. APEX MIDWAY WIND, LLC	32050705956	■ <input type="checkbox"/>
2. CAMERON WIND I, LLC	12632821620	■ <input type="checkbox"/>
3. SAN PATRICIO WIND I, LLC	32050705915	■ <input type="checkbox"/>
4. APEX SOUTH TEXAS WIND, LLC	32050705865	■ <input type="checkbox"/>
5. COLDWATER WIND, LLC (FKA MUSTANG WIND, LLC)	32052008615	■ <input type="checkbox"/>
6. CHAPMAN RANCH WIND I, LLC	32051872961	■ <input type="checkbox"/>
7. PERRYTON WIND, LLC	32051914011	■ <input type="checkbox"/>
8. COTTON PLAINS WIND, LLC	32053076652	■ <input type="checkbox"/>
9.		■ <input type="checkbox"/>
10.		■ <input type="checkbox"/>
11.		■ <input type="checkbox"/>
12.		■ <input type="checkbox"/>
13.		■ <input type="checkbox"/>
14.		■ <input type="checkbox"/>
15.		■ <input type="checkbox"/>
16.		■ <input type="checkbox"/>
17.		■ <input type="checkbox"/>
18.		■ <input type="checkbox"/>
19.		■ <input type="checkbox"/>
20.		■ <input type="checkbox"/>
21.		■ <input type="checkbox"/>

Note: To file an extension request for a reporting entity and its affiliates, Form 05-164 (Texas Franchise Tax Extension Request) must be submitted with this affiliate list. The filing of this list by itself does not constitute a properly filed Extension Request.

Do not file this form when requesting a second extension.

Texas Comptroller Official Use Only



VE/DE	<input type="checkbox"/>	FM	<input type="checkbox"/>
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TAB 4

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

Description of Project

Apex Clean Energy Holdings, LLC (Apex) is requesting an appraised value limitation from Gregory-Portland Independent School District (ISD) for the Apex Clean Energy Project (the "Project"), a proposed wind powered electric generating facility in San Patricio County. The proposed Gregory-Portland ISD portion of the Project (this application) will be constructed within a reinvestment zone established by San Patricio County Commissioners Court on December 16, 2013.

The proposed Project is anticipated to have a total capacity of 159 MW, with approximately 111 MW located in Gregory-Portland ISD. Turbine selection is ongoing at this time and has not been finalized. The exact number of wind turbines and size of each turbine will vary depending upon the wind turbines selected, manufacturer's availability and prices, ongoing wind studies and the final megawatt generating capacity of the Project when completed. Current plans are to install 3.0 MW Acciona turbines with an estimated 37 turbines located in Gregory-Portland ISD. Portions of the project will be located in Taft ISD and a separate Chapter 313 application is being submitted to that district for their respective portion of the project. The Applicant requests a value limitation for all materials and equipment installed for the Project, including but not limited to; wind turbines, turbine transformers (pad-mounts), towers, foundations, roadways, buildings and offices, anemometer towers, collection system, electrical substations, transmission line and associated towers, and interconnection facilities.

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

Apex Midway Wind, LLC
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Cummings Westlake, LLC

TAB 5

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

Apex Clean Energy, Inc. is a leading U.S. - based developer of commercial-scale wind and solar energy facilities in North America. With a team of some of the most experienced renewable energy professionals in the industry, it has built a strong reputation for responsible development and quality projects constructed to the highest industry standards.

Prior to the formation of Apex, the management team had collectively developed, financed, constructed and managed more than \$10 billion in operating renewable energy facilities totaling nearly 10,000 megawatts of capacity. Its people have a proven track record working with communities and landowners to develop state-of-the-art facilities that produce jobs, income to landowners, revenue for local government, and clean sources of domestic energy.

Apex was formed in 2009 by a management team with extensive renewable energy experience. In 2000, the team created Greenlight Energy, Inc. Six years later, they had developed \$750 million of facilities that are now in commercial operations, with a combined generating capacity of 450 MW. Following BP Alternative Energy's acquisition of the company in 2006, the team formed Greenlight Energy Resources to reinvest in the clean energy industry.

In December 2012, Apex completed construction of the 300 MW Canadian Hills Wind project in Oklahoma. Earlier that year, commercial operation of Apex's solar facilities in Colorado commenced. The company is now developing several thousand megawatts of wind and solar projects around the country.

Thanks to a dynamic team of over 70 talented and experienced professionals, Apex has the ability to locate and develop wind farms in numerous locations throughout the United States.

Apex has leased the land for the Midway project. However, a final investment decision has not been reached and no contracts for the sale of power have been executed.

The decision to invest in a particular country or state depends on the economics of the investment in the particular jurisdiction. In the case of the investment in the proposed project in Texas, the decision will be based on a number of commercial and financial considerations, including the ability to obtain relief regarding local property taxes. Obtaining the Chapter 313 value limitation is a necessary part of the economic analysis for investment in Texas. The power generation market is very

Apex Midway Wind, LLC
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competitive and practically all of Apex's Texas competitors have Chapter 313 value limitation agreements. Without the Chapter 313 value limitation, siting the project in San Patricio County is significantly less attractive.

The Apex Midway Wind project is in direct competition for internal capital expenditures with projects in the following locations:

- Henry and Rush Counties, Indiana
- Beckham County, Oklahoma
- Beaver County, Oklahoma
- Yuma, County, Colorado

[The remainder of this page left intentionally blank]

Apex Midway Wind, LLC
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Cummings Westlake, LLC

TAB 6

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

All of the project is located in San Patricio County and San Patricio Drainage District. The project is partially in Gregory-Portland ISD and partially in Taft ISD. Below is a table showing the estimated number of megawatts and turbines in each school district (subject to final site decisions).

School District	Gregory-Portland ISD	Taft ISD	Total
Estimated Megawatts	111	48	159
Estimated Number of Turbines	37	16	53

Approximately 70% of the project is located in Gregory-Portland ISD based upon megawatt capacity (111 out of 159 megawatts). Approximately 30% of the project is located in Taft ISD based upon megawatt capacity (48 out of 159 megawatts).

The project is also located 100% in the following tax districts and the tax rate for each district is shown below.

- 1) San Patricio County - \$.51000
- 2) San Patricio Drainage - \$.06000

TAB 7

Description of Qualified Investment

Apex Clean Energy Holdings, LLC (Apex) is requesting an appraised value limitation from Gregory-Portland Independent School District (ISD) for the Apex Clean Energy Project (the "Project"), a proposed wind powered electric generating facility in San Patricio County. The proposed Gregory-Portland ISD portion of the Project (this application) will be constructed within a reinvestment zone established by San Patricio County Commissioners Court on December 16, 2013.

The proposed Project is anticipated to have a total capacity of 159 MW, with approximately 111 MW located in Gregory-Portland ISD. Turbine selection is ongoing at this time and has not been finalized. The exact number of wind turbines and size of each turbine will vary depending upon the wind turbines selected, manufacturer's availability and prices, ongoing wind studies and the final megawatt generating capacity of the Project when completed. Current plans are to install 3.0 MW Acciona turbines with an estimated 37 turbines located in Gregory-Portland ISD. Portions of the project will be located in Taft ISD and a separate Chapter 313 application is being submitted to that district for their respective portion of the project. The Applicant requests a value limitation for all materials and equipment installed for the Project, including but not limited to; wind turbines, turbine transformers (pad-mounts), towers, foundations, roadways, buildings and offices, anemometer towers, collection system, electrical substations, transmission line and associated towers, and interconnection facilities.

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

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 8

Description of Qualified Property

Apex Clean Energy Holdings, LLC (Apex) is requesting an appraised value limitation from Gregory-Portland Independent School District (ISD) for the Apex Clean Energy Project (the "Project"), a proposed wind powered electric generating facility in San Patricio County. The proposed Gregory-Portland ISD portion of the Project (this application) will be constructed within a reinvestment zone established by San Patricio County Commissioners Court on December 16, 2013.

The proposed Project is anticipated to have a total capacity of 159 MW, with approximately 111 MW located in Gregory-Portland ISD. Turbine selection is ongoing at this time and has not been finalized. The exact number of wind turbines and size of each turbine will vary depending upon the wind turbines selected, manufacturer's availability and prices, ongoing wind studies and the final megawatt generating capacity of the Project when completed. Current plans are to install 3.0 MW Acciona turbines with an estimated 37 turbines located in Gregory-Portland ISD. Portions of the project will be located in Taft ISD and a separate Chapter 313 application is being submitted to that district for their respective portion of the project. The Applicant requests a value limitation for all materials and equipment installed for the Project, including but not limited to; wind turbines, turbine transformers (pad-mounts), towers, foundations, roadways, buildings and offices, anemometer towers, collection system, electrical substations, transmission line and associated towers, and interconnection facilities.

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

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 9

Description of Land

The legal description for the land is shown on the following page.

Apex Midway Wind, LLC
Chapter 313 Application to Taft ISD
Cummings Westlake, LLC

REINVESTMENT ZONE LEGAL DESCRIPTION

ISD	Abstract Name	Abstract Number	Map Reference Number	Exception
Gregory-Portland	Arciniega, M	A-35	40935	Save and except any portion of abstract inside the city limits of Portland, Texas as they exist as of November 18, 2013
Gregory-Portland	Crouch, J	A-87	40987	
Gregory-Portland	Head, E G	A-155	409155	
Gregory-Portland	Keating, J	A-180	409180	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Gregory-Portland	Orick, HRS J	A-209	409209	
Gregory-Portland	Sargent, G	A-231	409231	
Gregory-Portland	Sargent, G	A-232	409232	
Gregory-Portland	San Patricio CSL	A-235	409235	
Gregory-Portland	San Patricio CSL	A-238	409238	
Gregory-Portland	Sterling, I	A-239	409239	
Gregory-Portland	SA&MG RR CO	A-255	409255	
Gregory-Portland	SA&MG RR CO	A-256	409256	
Gregory-Portland	SA&MG RR CO	A-257	409257	
Gregory-Portland	SA&MG RR CO	A-258	409258	
Gregory-Portland	SA&MG RR CO	A-259	409259	
Gregory-Portland	SA&MG RR CO	A-260	409260	
Gregory-Portland	Valdez, G	A-269	409269	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November
Gregory-Portland	Wright, C	A-280	409280	
Gregory-Portland	Swisher, J M	A-393	409393	
Gregory-Portland	Swisher, J M	A-394	409394	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Taft	Arciniega, M	A-35	40935	Save and except any portion of abstract inside the city limits of Portland, Texas as they exist as of November 18, 2013
Taft	Head, E G	A-155	409155	
Taft	Sargent, G	A-232	409232	
Taft	San Patricio CSL	A-235	409235	
Taft	San Patricio CSL	A-237	409237	Save and except any portion of abstract inside the city limits of Taft, Texas as they exist as of November 18, 2013
Taft	San Patricio CSL	A-238	409238	
Taft	Sterling, I	A-239	409239	
Taft	SA&MG RR CO	A-254	409254	
Taft	SA&MG RR CO	A-255	409255	

*TAB TO APPLICATION FOR APPRAISED VALUE LIMITATION ON QUALIFIED
PROPERTY BY APEX MIDWAY WIND, LLC TO TAFT ISD*

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 10

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

Not applicable.

TAB 11

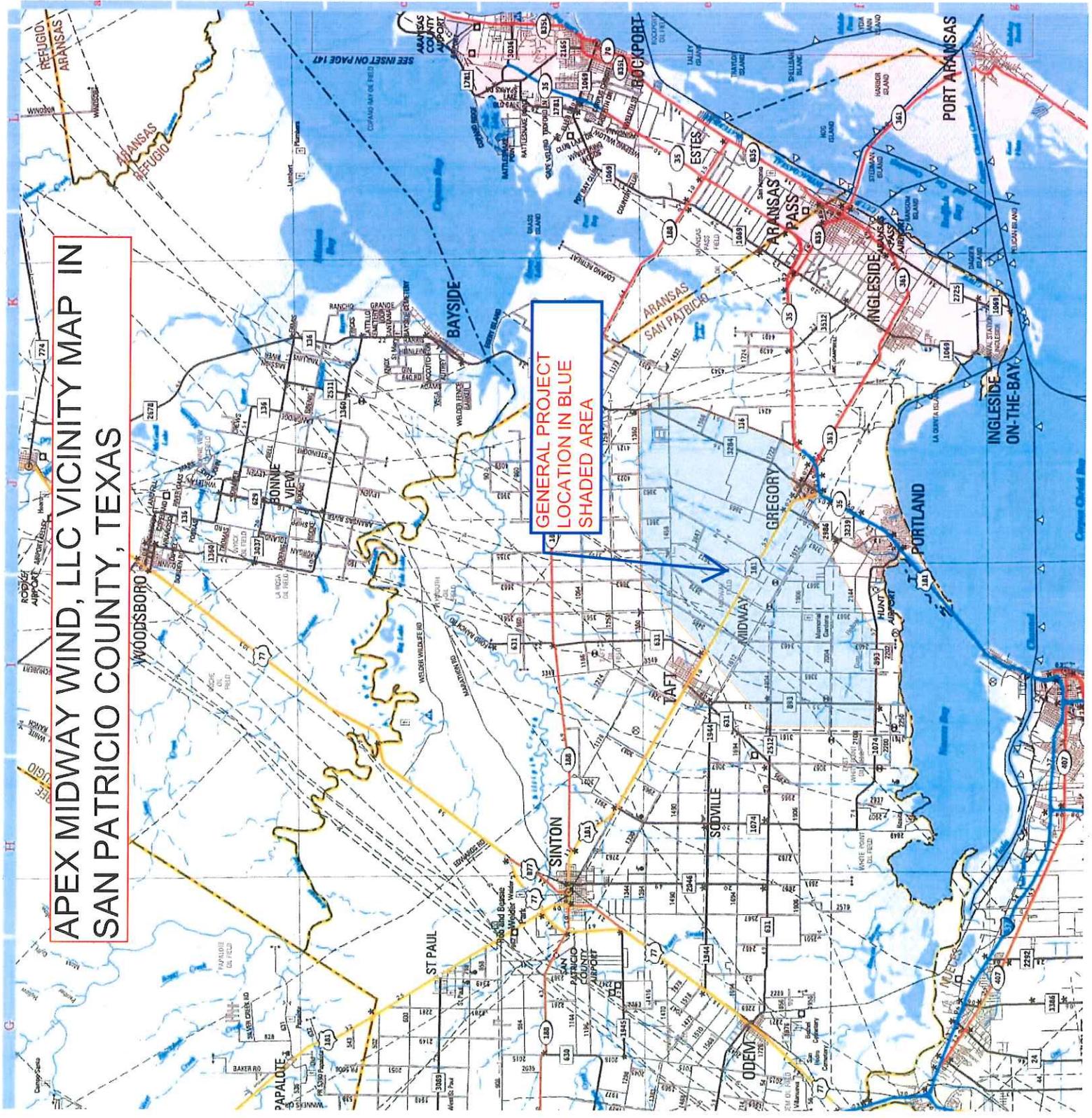
Maps that clearly show:

- a) *Project vicinity*
- b) *Qualified investment including location of new building or new improvements*
- c) *Qualified property including location of new building 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*

See attached maps.

**APEX MIDWAY WIND, LLC VICINITY MAP IN
SAN PATRICIO COUNTY, TEXAS**

**GENERAL PROJECT
LOCATION IN BLUE
SHADED AREA**



Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 12

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

Please see the job waiver request on the following page.

CUMMINGS WESTLAKE LLC

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

July 28, 2015

Dr. Paul Clore
Superintendent
Gregory-Portland Independent School District
600 College Street
Portland, TX 78374

Re: Chapter 313 Job Waiver Request

Dear Dr. Clore,

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

Apex Midway Wind, LLC requests that the Gregory-Portland Independent School District makes such a finding and waive the job creation requirement for 10 permanent jobs. In line with industry standards for job requirements, Apex Midway Wind, LLC has committed to create eight total jobs for the project, five of which will be in Gregory-Portland ISD. 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 10-12 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,



D. Dale Cummings

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 13

Calculation of three possible wage requirements with TWC documentation

- *San Patricio County average weekly wage for all jobs (all industries)*
- *San Patricio County average weekly wage for all jobs (manufacturing)*
- *Council of Governments Regional Wage Calculation and Documentation*

See attachments.

APEX MIDWAY WIND, LLC
TAB 13 TO CHAPTER 313 APPLICATION

GREGORY-PORTLAND ISD - SAN PATRICIO COUNTY
CHAPTER 313 WAGE CALCULATION - ALL JOBS - ALL INDUSTRIES

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2015	\$ 934	\$ 48,568
SECOND	2014	\$ 852	\$ 44,304
THIRD	2014	\$ 852	\$ 44,304
FOURTH	2014	\$ 921	\$ 47,892
AVERAGE		\$ 889.75	\$ 46,267

GREGORY-PORTLAND ISD - SAN PATRICIO COUNTY
CHAPTER 313 WAGE CALCULATION - MANUFACTURING JOBS

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2015	\$ 1,760	\$ 91,520
SECOND	2014	\$ 1,437	\$ 74,724
THIRD	2014	\$ 1,460	\$ 75,920
FOURTH	2014	\$ 1,568	\$ 81,536
AVERAGE		\$ 1,556.25	\$ 80,925
		X 110%	110%
		\$ 1,711.88	\$ 89,018

CHAPTER 313 WAGE CALCULATION - REGIONAL WAGE RATE

REGION	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
Coastal Bend	2014	\$ 1,004	\$ 52,249
		X 110%	110%
		\$ 1,105	\$ 57,474

* SEE ATTACHED TWC DOCUMENTATION

Quarterly Employment and Wages (QCEW)

[Back](#)

Page 1 of 1 (40 results/page)

 Year	 Period	 Area	 Ownership	 Division	 Level	 Ind Code	 Industry	 Avg Weekly Wages
2015	1st Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$934
2014	2nd Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$852
2014	3rd Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$852
2014	4th Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$921

Quarterly Employment and Wages (QCEW)

[Back](#)

Page 1 of 1 (40 results/page)

 Year	 Period	 Area	 Ownership	 Division	 Level	 Ind Code	 Industry	 Avg Weekly Wages
2015	1st Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,760
2014	2nd Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,437
2014	3rd Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,460
2014	4th Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,568

**2014 Manufacturing Average Wages by Council of Government Region
Wages for All Occupations**

COG	Wages	
	Hourly	Annual
Texas	\$24.18	\$50,305
1. Panhandle Regional Planning Commission	\$21.07	\$43,821
2. South Plains Association of Governments	\$16.75	\$34,834
3. NORTEX Regional Planning Commission	\$20.23	\$42,077
4. North Central Texas Council of Governments	\$25.32	\$52,672
5. Ark-Tex Council of Governments	\$17.80	\$37,017
6. East Texas Council of Governments	\$19.87	\$41,332
7. West Central Texas Council of Governments	\$19.41	\$40,365
8. Rio Grande Council of Governments	\$17.82	\$37,063
9. Permian Basin Regional Planning Commission	\$23.65	\$49,196
10. Concho Valley Council of Governments	\$18.70	\$38,886
11. Heart of Texas Council of Governments	\$20.98	\$43,636
12. Capital Area Council of Governments	\$28.34	\$58,937
13. Brazos Valley Council of Governments	\$17.57	\$36,547
14. Deep East Texas Council of Governments	\$17.76	\$36,939
15. South East Texas Regional Planning Commission	\$29.21	\$60,754
16. Houston-Galveston Area Council	\$26.21	\$54,524
17. Golden Crescent Regional Planning Commission	\$23.31	\$48,487
18. Alamo Area Council of Governments	\$19.46	\$40,477
19. South Texas Development Council	\$13.91	\$28,923
20. Coastal Bend Council of Governments	\$25.12	\$52,240
21. Lower Rio Grande Valley Development Council	\$16.25	\$33,808
22. Texoma Council of Governments	\$20.51	\$42,668
23. Central Texas Council of Governments	\$18.02	\$37,486
24. Middle Rio Grande Development Council	\$20.02	\$41,646

Source: Texas Occupational Employment and Wages

Data published: July 2015

Data published annually, next update will be July 31, 2016

$\$52,240 \times 110\% =$
 $\$57,464.00$

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

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

Data intended for TAC 313 purposes only.

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 14

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

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

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

Date: 7/20/2015
Applicant Name: Apex Midway Wind LLC
ISD Name: Gregory-Portland ISD

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 cash in tangible personal property placed in service during this year that will become Qualified Property	Column B New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Column C Other investment made during this year that will become Qualified Property (SEE NOTE)	Column D Other investment made during this year that will become Qualified Property (SEE NOTE)	Column E Total Investment (A+B+C+D)		
-	TOTALS FROM SCHEDULE A1		240,000,000	-	-	-	240,000,000		
0	2015-2016	2015	-	-	-	-	-		
0	2016-2017	2016	-	-	-	-	-		
1	2017-2018	2017	-	-	-	-	-		
2	2018-2019	2018	-	-	-	-	-		
3	2019-2020	2019	-	-	-	-	-		
4	2020-2021	2020	-	-	-	-	-		
5	2021-2022	2021	-	-	-	-	-		
6	2022-2023	2022	-	-	-	-	-		
7	2023-2024	2023	-	-	-	-	-		
8	2024-2025	2024	-	-	-	-	-		
9	2025-2026	2025	-	-	-	-	-		
10	2026-2027	2026	-	-	-	-	-		
Total investment made through limitation			240,000,000	-	-	-	240,000,000		
11	2027-2028	2027							
12	2028-2029	2028							
13	2029-2030	2029							
14	2030-2031	2030							
15	2031-2032	2031							
16	2032-2033	2032							
17	2033-2034	2033							
18	2034-2035	2034							
19	2035-2036	2035							
20	2036-2037	2036							
21	2037-2038	2037							
22	2038-2039	2038							
23	2039-2040	2039							
24	2040-2041	2040							
25	2041-2042	2041							

* 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: Let amount invested each year, not cumulative totals. Only include investments in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.
 Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.
 Column B: Only replace personal property that is specifically described in the application can become qualified property.
 Column C: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.
 Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property, is used to maintain, refurbish, renovate, modify or upgrade existing property, or is added to existing property—described in SECTION 13, question #5 of the application.
 Column E: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

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

Date: **7/20/2015**
 Applicant Name: **Apex Midway Wind LLC**
 ISD Name: **Gregory-Portland ISD**

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
0	2016-2017	2016	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
1	2017-2018	2017	\$ -	\$ -	\$ 228,000,000	\$ 228,000,000	\$ 228,000,000	\$ 30,000,000
2	2018-2019	2018	\$ -	\$ -	\$ 214,320,000	\$ 214,320,000	\$ 214,320,000	\$ 30,000,000
3	2019-2020	2019	\$ -	\$ -	\$ 201,461,000	\$ 201,461,000	\$ 201,461,000	\$ 30,000,000
4	2020-2021	2020	\$ -	\$ -	\$ 189,373,000	\$ 189,373,000	\$ 189,373,000	\$ 30,000,000
5	2021-2022	2021	\$ -	\$ -	\$ 178,011,000	\$ 178,011,000	\$ 178,011,000	\$ 30,000,000
6	2022-2023	2022	\$ -	\$ -	\$ 167,330,000	\$ 167,330,000	\$ 167,330,000	\$ 30,000,000
7	2023-2024	2023	\$ -	\$ -	\$ 157,290,000	\$ 157,290,000	\$ 157,290,000	\$ 30,000,000
8	2024-2025	2024	\$ -	\$ -	\$ 147,853,000	\$ 147,853,000	\$ 147,853,000	\$ 30,000,000
9	2025-2026	2025	\$ -	\$ -	\$ 138,982,000	\$ 138,982,000	\$ 138,982,000	\$ 30,000,000
10	2026-2027	2026	\$ -	\$ -	\$ 130,643,000	\$ 130,643,000	\$ 130,643,000	\$ 30,000,000
11	2027-2028	2027	\$ -	\$ -	\$ 122,804,000	\$ 122,804,000	\$ 122,804,000	\$ 122,804,000
12	2028-2029	2028	\$ -	\$ -	\$ 115,436,000	\$ 115,436,000	\$ 115,436,000	\$ 115,436,000
13	2029-2030	2029	\$ -	\$ -	\$ 108,510,000	\$ 108,510,000	\$ 108,510,000	\$ 108,510,000
14	2030-2031	2030	\$ -	\$ -	\$ 101,999,000	\$ 101,999,000	\$ 101,999,000	\$ 101,999,000
15	2031-2032	2031	\$ -	\$ -	\$ 95,879,000	\$ 95,879,000	\$ 95,879,000	\$ 95,879,000
16	2032-2033	2032	\$ -	\$ -	\$ 90,126,000	\$ 90,126,000	\$ 90,126,000	\$ 90,126,000
17	2030-2034	2033	\$ -	\$ -	\$ 84,718,000	\$ 84,718,000	\$ 84,718,000	\$ 84,718,000
18	2030-2035	2034	\$ -	\$ -	\$ 79,635,000	\$ 79,635,000	\$ 79,635,000	\$ 79,635,000
19	2030-2036	2035	\$ -	\$ -	\$ 74,857,000	\$ 74,857,000	\$ 74,857,000	\$ 74,857,000
20	2030-2037	2036	\$ -	\$ -	\$ 70,366,000	\$ 70,366,000	\$ 70,366,000	\$ 70,366,000
21	2030-2038	2037	\$ -	\$ -	\$ 66,144,000	\$ 66,144,000	\$ 66,144,000	\$ 66,144,000
22	2030-2039	2038	\$ -	\$ -	\$ 62,175,000	\$ 62,175,000	\$ 62,175,000	\$ 62,175,000
23	2030-2040	2039	\$ -	\$ -	\$ 58,445,000	\$ 58,445,000	\$ 58,445,000	\$ 58,445,000
24	2030-2041	2040	\$ -	\$ -	\$ 54,938,000	\$ 54,938,000	\$ 54,938,000	\$ 54,938,000
25	2030-2042	2041	\$ -	\$ -	\$ 51,642,000	\$ 51,642,000	\$ 51,642,000	\$ 51,642,000

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

Schedule C: Employment Information

Form 50-296A
Revised May 2014

Date: 7/20/2015
Applicant Name: Apex Midway Wind LLC
ISD Name: Gregory-Portland ISD

	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	2015-2016	2015	0	\$ -	0	0	\$ -	
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	1	2016-2017	2016	82 FTE	\$ 45,000	0	0	\$ 57,464	
Value Limitation Period <i>The qualifying time period could override the value limitation period.</i>	2	2017-2018	2017	0	\$ -	4	1	\$ 57,464	
	3	2018-2019	2018	0	\$ -	4	1	\$ 57,464	
	4	2019-2020	2019	0	\$ -	4	1	\$ 57,464	
	5	2020-2021	2020	0	\$ -	4	1	\$ 57,464	
	6	2021-2022	2021	0	\$ -	4	1	\$ 57,464	
	7	2022-2023	2022	0	\$ -	4	1	\$ 57,464	
	8	2023-2024	2023	0	\$ -	4	1	\$ 57,464	
	9	2024-2025	2024	0	\$ -	4	1	\$ 57,464	
	10	2025-2026	2025	0	\$ -	4	1	\$ 57,464	
	11 through 25	2026-2027	2026	0	\$ -	4	1	\$ 57,464	
Years Following Value Limitation Period		2027-2042	2027-2041	0	\$ -	4	1	\$ 57,464	

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

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)

Date: 7/20/2015
 Applicant Name: Apex Midway Wind LLC
 ISD Name: Gregory-Portland ISD

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: Not applicable City: Not applicable Other: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Tax Code Chapter 312	County: San Patricio County City: N/A Other: San Patricio Drainage	To be determined	To be determined	To be determined	To be determined	To be determined
Local Government Code Chapters 380/381	County: Not applicable City: Not applicable Other: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Freeport Exemptions	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Non-Annexation Agreements	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Enterprise Zone/Project	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Economic Development Corporation	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Texas Enterprise Fund	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Employee Recruitment	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Skills Development Fund	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Training Facility Space and Equipment	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Infrastructure Incentives	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Permitting Assistance	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Other:	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Other:	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Other:	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Other:	To be determined	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
TOTAL						To be determined

Additional information on incentives for this project:

No other tax incentive applications have been filed with any other taxing jurisdictions at the time of application filing. Discussions with San Patricio County were held in 2013 but no Chapter 312 agreement has been discussed with the county since then.

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 15

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

None.

TAB 16

Description of Reinvestment Zone or Enterprise Zone, including:

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

See attached reinvestment zone information on the following pages. The San Patricio County Commissioners Court created the reinvestment zone on December 16, 2013. The county's guidelines and criteria in effect at the time the reinvestment zone was created is attached.

THE STATE OF TEXAS

COMMISSIONERS' COURT

COUNTY OF SAN PATRICIO

RESOLUTION APEX MIDWAY LLC
ORDER FOR DESIGNATION OF REINVESTMENT ZONE

WHEREAS, the San Patricio County Commissioners' Court has determined that the economic well being of San Patricio County is of primary concern to the Commissioners' Court, and;

WHEREAS, Chapter 312, Texas Tax Code, known as the Texas Property Redevelopment and Tax Abatement Act Provides that San Patricio County has the authority to create reinvestment zones within the County for the purpose of economic development, and;

WHEREAS, on December 16, 2013, the San Patricio County Commissioners' Court, by resolution, established certain guidelines and criteria governing tax abatement agreements and indicated the desire of San Patricio County to become eligible to participate in tax abatement agreements, and;

WHEREAS, Apex Midway Wind, LLC has requested the designation of a reinvestment zone for purposes of tax abatement of real property belonging to Apex Midway Wind, LLC, for the purposes of economic development as defined under the Texas Property Redevelopment and Tax Abatement Act, and;

WHEREAS, on the 6th day of December, 2013, proper notice was posted, stating that a public hearing would be conducted by the San Patricio County Commissioners' Court on the 16th day of December, 2013, to consider the request by Apex Midway Wind, LLC to have property herein described in Exhibit "A" designated as a reinvestment zone, and;

WHEREAS, it is the finding of the Commissioners' Court of San Patricio County that the terms of the agreement and the property subject to the agreement as presented to San Patricio County by Apex Midway Wind, LLC meet the applicable guidelines and criteria adopted by the Commissioners' Court on December 9, 2013, and;

WHEREAS, it is the finding of the Commissioners' Court of San Patricio County that the creation of a reinvestment zone for the above stated property would be a benefit to the said property and the development anticipated to occur in the proposed zone would contribute to the economic development of San Patricio County, and;

WHEREAS, it is the finding of the Commissioners' Court of San Patricio County that the designation of the reinvestment zone would contribute to the retention or

WHEREAS, it is the finding of the Commissioners' Court of San Patricio County that the designation of the reinvestment zone would contribute to the retention or expansion of primary employment within San Patricio County, and;

WHEREAS, it is the finding of the Commissioners' Court of San Patricio County that the designation of the reinvestment zone would attract major investment in the zone, and;

WHEREAS, the above stated property does not contain area in the taxing jurisdiction of an incorporated municipality;

BE IT THEREFORE ORDERED that the Commissioners' Court of San Patricio County designates as a reinvestment zone, property herein described in Exhibit "A", pursuant to the authority contained in Section 312.401 of the Texas Property Redevelopment and Tax Abatement Act.

Passed in open court this 16th day of December 2013.


Terry Simpson
Terry Simpson, County Judge
San Patricio County, Texas

Nina P. Brewster
Commissioner, Precinct 1

Scott Mardock
Commissioner, Precinct 2

Alma S. Moreno
Commissioner, Precinct 3

Commissioner, Precinct 4

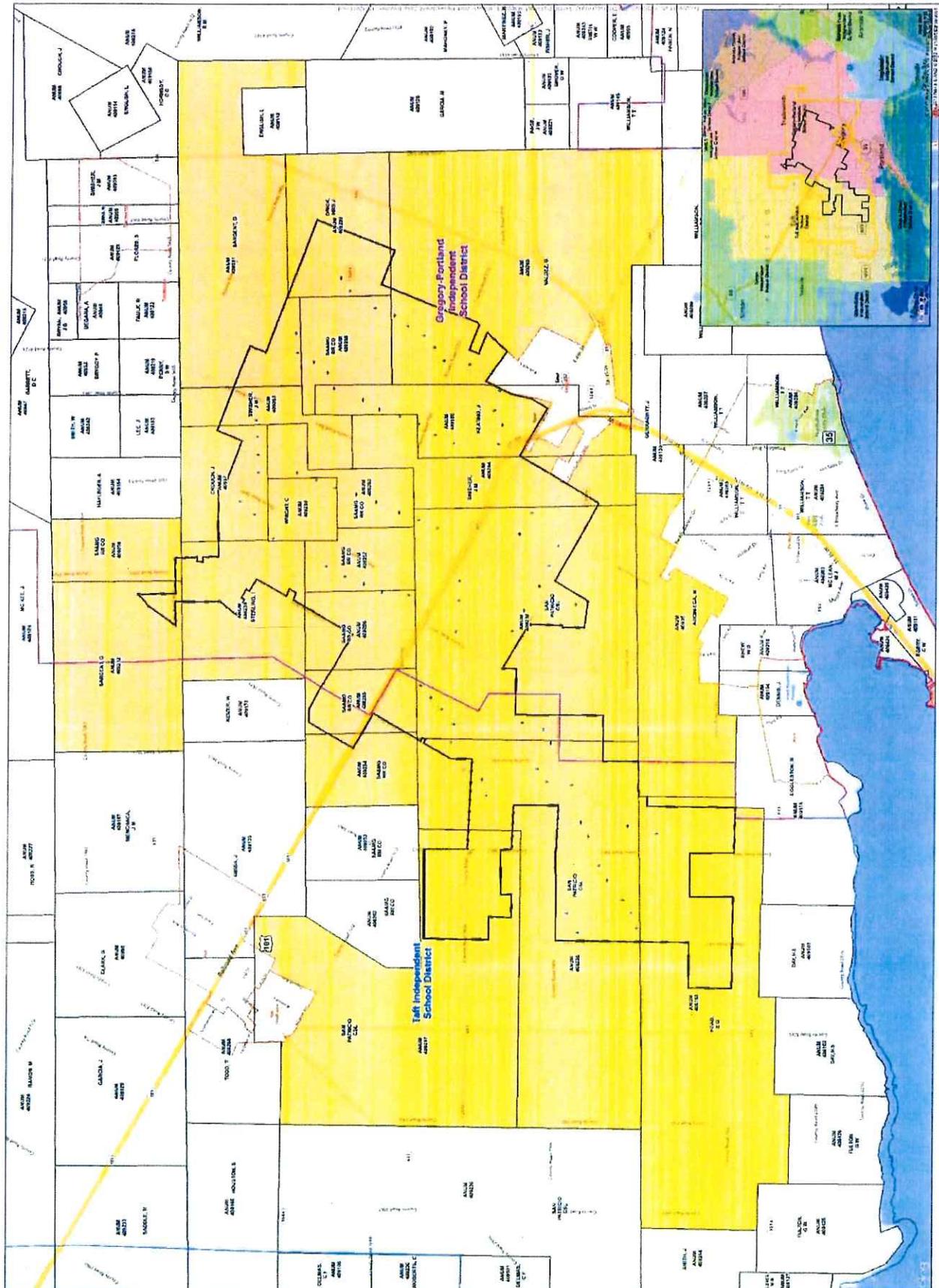
Attest:

Gracie Alaniz-Gonzales
Gracie Alaniz-Gonzales
County Clerk
San Patricio County, Texas

EXHIBIT A

Apex Midway Wind, LLC Reinvestment Zone Legal Description

Arciniega, M	A-35	40935	Save and except any portion of abstract inside the city limits of Portland, Texas as they exist as of November 18, 2013
Head, E G	A-155	409155	
Keating, J	A-180	409180	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Orick, HRS J	A-209	409209	
Sargent, G	A-231	409231	
Sargent, G	A-232	409232	
San Patricio CSL	A-235	409235	
San Patricio CSL	A-237	409237	Save and except any portion of abstract inside the city limits of Taft, Texas as they exist as of November 18, 2013
San Patricio CSL	A-238	409238	
Sterling, I	A-239	409239	
SA&MG RR CO	A-254	409254	
SA&MG RR CO	A-255	409255	
SA&MG RR CO	A-256	409256	
SA&MG RR CO	A-257	409257	
SA&MG RR CO	A-258	409258	
SA&MG RR CO	A-259	409259	
SA&MG RR CO	A-260	409260	
Valdez, G	A-269	409269	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Wright, C	A-280	409280	
Swisher, J M	A-393	409393	
Swisher, J M	A-394	409394	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Crouch, J	A-87	40987	



Midway Wind

Proposed Reinvestment Zone

-  Project Structure
-  Project Staff
-  Construction
-  Construction
-  Construction
-  Construction
-  Construction
-  Construction

Proposed Reinvestment Zone



APEX
 CONSULTING
 1000 N. W. 10th St., Suite 100
 Portland, OR 97227
 Phone: 503.251.1000
 Fax: 503.251.1001
 Email: info@apexconsulting.com
 Website: www.apexconsulting.com

THE STATE OF TEXAS

COMMISSIONERS COURT

COUNTY OF SAN PATRICIO

NOTICE OF MEETING

IN ACCORDANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE, CHAPTER 551 NOTICE IS HEREBY GIVEN THAT A SPECIAL MEETING OF THE COMMISSIONERS' COURT WILL BE HELD ON MONDAY, DECEMBER 16th, 2013 AT 2:30 P.M. IN THE SAN PATRICIO COUNTY COURTHOUSE, COMMISSIONERS COURTROOM, #230-SECOND FLOOR AT WHICH TIME THE FOLLOWING SUBJECTS WILL BE DISCUSSED, CONSIDERED, PASSED OR ADOPTED.

1. ADMINISTRATION

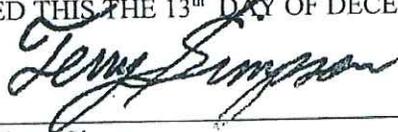
1.1 Call meeting to order

1.2 Pledge of allegiance

1.3 Consideration and action on creating a re-investment zone for Apex Midway Wind, LLC

2. ADJOURN

SIGNED THIS THE 13th DAY OF DECEMBER, 2013
POSTED THIS THE 13th DAY OF DECEMBER, 2013



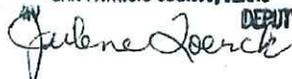
Judge Terry Simpson

PERSONS WITH DISABILITIES PLANNING TO ATTEND THIS MEETING WHO MAY NEED AUXILIARY AIDS OR SERVICES ARE ASKED TO CONTACT THE COUNTY JUDGE'S OFFICE AT 361-364-9301

FILED
AT 2:26 P M O'CLOCK

DEC 13 2013

GRACIE ALANIZ-GONZALES COUNTY CLERK
SAN PATRICIO COUNTY, TEXAS

DEPUTY


GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENT

WHEREAS, the attraction of long-term investment and the establishment of new jobs in the area would enhance the economic base of area taxing entities; and

WHEREAS, San Patricio County must compete with other counties across the nation currently offering tax inducements to attract new plant and modernization projects, and studies have shown that a favorable local tax climate and start-up tax concessions rank second on the list of priorities for new plant installations or expansions; and

WHEREAS, tax abatement is one of the principal means by which the public sector and the private sector can forge a partnership to promote real economic growth within a community; and

WHEREAS, any tax incentives offered must be strictly limited in application to those new and existing industries that bring new wealth to the community in order to avoid reducing the needed tax revenues of area taxing entities; and

WHEREAS, the Property Redevelopment and Tax Abatement Act (The "Act"), Chapter 312 of the Texas Tax Code authorizes counties, cities and school districts to provide property tax abatement for limited periods of time as an inducement for the development or redevelopment of a property; and

WHEREAS, the Act requires eligible taxing jurisdictions to establish Guidelines and Criteria as to eligibility for tax abatement agreements prior to granting any future tax abatement, said Guidelines and Criteria to be unchanged for a two-year period unless amended by a three-fourths vote; and

WHEREAS, to assure a common, coordinated effort to promote economic development, these Guidelines and Criteria have been circulated among San Patricio County and other governmental entities for consideration as a common policy for all jurisdictions which choose to participate in tax abatement agreements;

NOW, THEREFORE, BE IT RESOLVED by the County of San Patricio that these Guidelines and Criteria for granting tax abatement be adopted:

Section 1. Definitions.

(a) "Abatement" means the temporary, full or partial exemption from ad valorem taxes of certain added value to real and personal property in a zone designed for economic development purposes pursuant to the Act.

(b) "Added Value" means the increase in the assessed value of an eligible property as a result of "expansion" or "modernization" of an existing facility or construction of a "new facility." It does not mean or include "deferred maintenance."

- (c) "Agreement" means a contract between a property owner and/or lessee and an Eligible jurisdiction for the purposes of temporary tax abatement.
- (d) "Base Year Value" means the assessed value of eligible property as of the January 1 preceding the execution of an Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the execution of the Agreement.
- (e) "Basic Industrial, Manufacturing or Service Facility" means buildings and structures, including fixed machinery and equipment not elsewhere described, used or to be used for the production of products or services which derive a majority of revenue from points beyond a 50-mile radius of San Patricio County.
- (f) "Deferred Maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Economic Life" means the number of years a property improvement is expected to be in service in a Facility.
- (h) "Eligible Jurisdiction" means San Patricio County and any municipality or school district, the majority of which is located in San Patricio County, that levies ad valorem taxes upon and provides services to property located within the proposed or existing zone designated pursuant to the Act.
- (i) "Expansion" means the addition of buildings, structures, fixed machinery or equipment for the purposes of increasing capacity.
- (j) "Facility" means property improvements completed or in the process of construction which together compromise an integral whole.
- (k) "Modernization" means the replacement and upgrading of existing facilities which increase the productive input or output, updates the technology or substantially lowers the unit cost of the operation, and extends the economic life of the facilities. Modernization may result from the construction, alteration or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing, repairing or completion of deferred maintenance.
- (l) "New Facility" means a property previously undeveloped which is placed into service by means other than or in conjunction with an Expansion or Modernization.
- (m) "Owner" means the owner of a Facility subject to abatement. If the Facility is constructed on a leased property, the owner shall be the party which owns the property subject to tax abatement. The other party to the lease shall join in the execution of Agreement but shall not be obligated to assure performance of the party receiving abatement.

Section 2. Abatement Authorized.

- (a) Authorized Facilities. A Facility may be eligible for abatement if it is a Basic Industrial, Manufacturing or Service Facility. Abatement may be granted for new facilities and

improvements to existing facilities for the purpose of Modernization or Expansion.

(b) Tangible Personal Property. Equipment and/or tools used, or brought or leased for use, in the operations of the business applying for tax abatement, other than that which was located on the real property at any time before the period covered by the tax abatement agreement, and other than inventory, supplies, and/or office equipment.

(c) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subject to and listed in an abatement Agreement between the Eligible jurisdiction and the property owner and lessee (if required), subject to such limitations as said jurisdiction may require. The economic life of the improvements must exceed the term of the abatement Agreement.

(d) Eligible Property. Abatement may be extended to the value of the improvements to real property, including buildings, structures, fixed machinery and equipment, and site improvements, plus that office space and related fixed improvements necessary to the operation and administration of the Facility. Abatements may also extend to tangible personal property that is located within the zone.

(e) Period of Abatement. Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the Agreement. Abatement shall be allowed for a period of ten years.

(f) Abatement Percentage. Temporary property tax abatement shall be authorized for the development of a Facility or the addition of tangible personal property that meets either a qualification criteria of capital investment or a qualification criteria based upon a combination of the number of new jobs created plus salary.

(1) The capital investment qualification criteria is as follows:

Capital Investment	Abatement Level
\$2,000,000 to \$10,000,000	Level 1
\$10,000,001 to \$50,000,000	Level 2
\$50,000,001 to \$150,000,000	Level 3
\$150,000,001 to \$500,000,000	Level 4
Over \$500,000,000	Level 5

(2) The combination of new jobs and salary criteria is as follows:

	Salary \$35,000 to \$50,000	Salary \$50,001 to \$70,000	Salary Over \$70,000
20 to 99 New Jobs	Level 1	Level 2	Level 3
100 to 199 New Jobs	Level 2	Level 3	Level 4
200 or more New Jobs	Level 3	Level 4	Level 5

(3) Upon compliance with the above criteria, the percentage of tax abated shall be in accordance with the following schedule:

Year	Level 1	Level 2	Level 3	Level 4	Level 5
Year 1	60%	70%	80%	90%	100%
Year 2	50%	60%	70%	80%	90%
Year 3	40%	50%	60%	70%	80%
Year 4	30%	40%	50%	60%	70%
Year 5	20%	30%	40%	50%	60%
Year 6	10%	20%	30%	40%	50%
Year 7		10%	20%	30%	40%
Year 8			10%	20%	30%
Year 9				10%	20%
Year 10					10%

(4) In order to be counted as a permanent job under these Guidelines, the job must be a full-time position providing regular work schedules of at least 35 hours per week and the employer must cover over 51% of the employee's health insurance costs. Any jobs filled by H1B and H2B workers will be excluded as permanent jobs. The percentage of abatement provided each year under the Agreement shall be based upon the employment information as of January 1 of such year. As a result, the actual amount of abatement may vary from year to year based upon employment levels and property valuations.

(5) During the period of construction of the Facility, the Owner shall receive an abatement percentage based upon the criteria set forth in the Owner's application for abatement approved by the governing body of the Eligible jurisdiction. The construction period may last up to two years.

(6) For example, Company A has an abatement Agreement entered 5/1/2011 and projects to create 250 permanent jobs at a \$50,000 to \$55,000 salary average. If the actual experience of Company A involves fluctuating job and salary levels, the actual abatement under the Agreement could follow the following pattern:

<u>Year</u>	<u>New Jobs</u>	<u>Salary Level</u>	<u>Abatement Percentage</u>	<u>Abatement Level</u>
1/1/12*	0	\$ 0	90%	Level 4
1/1/13*	0	\$ 0	80%	Level 4
1/1/14	150	\$55,000	60%	Level 3
1/1/15	250	\$60,000	60%	Level 4
1/1/16	300	\$65,000	50%	Level 4
1/1/17	150	\$45,000	20%	Level 2
1/1/18	250	\$55,000	30%	Level 4
1/1/19	300	\$65,000	20%	Level 4
1/1/20	350	\$75,000	20%	Level 5
1/1/21	400	\$80,000	10%	Level 5

*Construction Underway

(g) Properties in Industrial Districts. For eligible property to be constructed in an area which is covered by an executed industrial district agreement with San Patricio County, the method of calculating payments in lieu of property taxes for such eligible property shall be as set forth in the industrial district agreement. As an alternative to an industrial district agreement, an eligible property may be covered by a tax abatement agreement, but such shall constitute an election by the Owner that the land and improvements shall not be included within the type of industrial district arrangement following the expiration of the tax abatement agreement.

(h) Economic Qualification. In order to be eligible for tax abatement, the planned improvement:

- (1) must create no later than the January 1 following the completion of construction and maintain throughout the remainder of the term of the Agreement the minimum number of 20 permanent jobs in San Patricio County;
- (2) must not adversely affect competition in the local market with established local businesses.

(i) Taxability. From the execution of the Agreement to the end of the abatement period, taxes shall be payable as follows:

- (1) The value of any property other than Eligible Property shall be fully taxable (except for personal property added in connection with a Rehabilitation Project);
- (2) The Base Year Value of existing Eligible Property as determined each year shall be fully taxable; and
- (3) The Added Value of new Eligible Property shall be taxable in the manner described in Section 2(f) above.

Section 3. Application

(a) Written Application. Any present or potential owner of taxable property may request tax abatement by filing a written application with: (i) the City Manager of the City, if such property is within the city limits, or (ii) the County Judge of San Patricio County, if such property is in the unincorporated areas of San Patricio County.

(b) Contents of Application. The application shall consist of a completed application form accompanied by: a general description of the new improvements to be undertaken; a descriptive list of the improvements for which abatement is requested; a list of the kind, number and location of all proposed improvements of the property; a map and property description; and a time schedule for undertaking and completing the proposed improvements. In the case of a Modernization or Expansion project, 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 application form may require such financial and other information as the County or other Eligible jurisdiction, as applicable, deems appropriate for evaluating the financial capacity and other relevant factors of the applicant.

(c) Written Notification to Governing Bodies. Upon receipt of a completed application, the City Manager or County Judge, as the case may be, shall forward a copy of the application to the presiding officer of the governing body of each Eligible jurisdiction having jurisdiction of the property covered by the application.

(d) Feasibility. After receipt of an application for abatement, the City or the County, as applicable, shall consider the feasibility and the impact of the proposed tax abatement. The study of feasibility shall include, but not be limited to, an estimate of the economic effect of the abatement of taxes and the benefit to the Eligible jurisdiction and the property to be covered by such abatement.

(e) No Abatement if Construction has Commenced. No tax abatement Agreement shall be approved if the application for the abatement was filed after the commencement of construction, alteration or installation of improvements related to the proposed Modernization, Expansion or New Facility.

(f) Variance. Requests for variance from the provisions of Section 2 may be made in written form, provided, however, that no variance may extend the term of abatement beyond ten years after completion of construction. Such requests shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of a request for variance requires a three-fourths (3/4) vote of the governing body of each Eligible jurisdiction providing abatement.

Section 4. **Public Hearing and Approval.**

(a) Designation of Zone. A resolution designating a zone for tax abatement under the Act may not be adopted by the City or the County until a public hearing has been held at which interested persons are entitled to speak and present evidence for or against the designation. Notice of the hearing shall be provided to each Eligible jurisdiction and to the public in the manner required by the Act.

(b) Required Findings. In order to enter into a tax abatement Agreement, the County, the City and any school district must find that the terms of the proposed Agreement meet these Guidelines and Criteria.

(c) Reservation of Rights. Nothing herein shall be construed to limit the authority of the City, the County or any other jurisdiction to examine each application for tax abatement before it on a case-by-case basis and determine in its sole and absolute discretion whether or not the proposed project should be granted temporary tax abatement and whether or not it complies with these Guidelines and Criteria, is feasible, and whether or not the proposed temporary abatement of taxes will inure to the long-term benefit of such Eligible jurisdiction.

Section 5. Agreement.

- (a) Contents of Tax Abatement Agreement. The tax abatement Agreement with the Owner of the Facility shall include:
- (1) the estimated value to be subject to abatement and the Base Year Value;
 - (2) the percentage of value to be abated each year as provided in Section 2(f);
 - (3) the commencement date and termination date of abatement;
 - (4) a provision that the term of the Agreement shall extend until five (5) years after the expiration of the period of tax abatement;
 - (5) the proposed use of the Facility, nature of construction, time schedule, map, property description and improvements list as provided in the application as required;
 - (6) the contractual obligations in the event of default, delinquent taxes, recapture, administration and assignment as provided in these Guidelines or other provisions that may be required for uniformity or by state law; and
 - (7) the amount of Added Value and required number of permanent jobs.
- (b) Time of Execution. The tax abatement Agreement shall normally be executed within 60 days after the applicant has provided all necessary information and documentation.
- (c) Attorney's Fees. In the event any attorney's fees are incurred by the Eligible jurisdiction in the preparation of a tax abatement Agreement, said fees shall be paid by the applicant upon execution of the Agreement.

Section 6. Recapture.

- (a) Failure to Commence Operations During Term of Agreement. In the event that the Facility is not completed and does not begin operation with the minimum number of 20 permanent jobs by the January 1 following the completion of construction, no abatement shall be given for that tax year, and the full amount of taxes assessed against the property shall be due and payable for that tax year. In the event that the Owner of such a Facility fails to begin operation with the minimum number of 20 permanent jobs by the next January 1, then the abatement Agreement shall terminate and all abated taxes during the period of construction shall be recaptured and paid within 60 days of such termination.
- (b) Discontinuance of Operations During Term of Agreement. In the event the Facility is completed and begins operation with the required minimum number of 20 permanent jobs but subsequently discontinues operations and the minimum number of 20 permanent jobs is not maintained during any four (4) consecutive weeks during the term of the Agreement after the

completion of construction, for any reason except on a temporary basis due to fire, explosion or other casualty or accident or natural disaster, the Agreement may be terminated by the Eligible jurisdiction providing abatement, and all taxes previously abated by virtue of the Agreement shall be recaptured and paid within 60 days of such termination.

- (c) Delinquent Taxes. In the event that the Owner allows its ad valorem taxes to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest, the Agreement shall terminate and so shall the abatement of the taxes for the tax year of the delinquency. The total taxes assessed without abatement, for that tax year shall be paid within 60 days from the date of termination.
- (d) Notice of Default. Should the Eligible jurisdiction providing abatement determine that the Owner is in default according to the terms and conditions of its Agreement, it shall notify the Owner in writing at the address stated in the Agreement that if such is not cured within 60 days from the date of such notice (the "Cure Period"), then the Agreement may be terminated. In the event the Owner fails to cure said default during the Cure Period, the Agreement may be terminated and the taxes abated by virtue of the Agreement will be recaptured and paid as provided herein.
- (e) Actual Capital Investment. Should the Eligible jurisdiction providing abatement determine that the total level of capital investment in eligible property is lower than provided in the Agreement, the difference between the tax abated and the tax which should have been abated based upon the actual capital investment as determined shall be paid to the taxing agencies within 60 days of notification to the Owner of such determination.
- (f) Reduction in Rollback Tax Rate. If during any year of the period of abatement with respect to any property any portion of the abated value which is added to the current total value of the Eligible jurisdiction but is not treated as "new property value" (as defined in Section 26.012 (17) of the Texas Tax Code) for the purpose of establishing the "effective maintenance rate" in calculating the "rollback tax rate" in accord with Section 26.04(c)(2) of the Texas Tax Code and if the Eligible jurisdiction's budget calculations indicate that a tax rate in excess of the "rollback tax rate" is required to fund the operations of the Eligible jurisdiction for the succeeding year, then the Eligible jurisdiction shall recapture from the taxpayer a tax in an amount equal to the lesser of the following:
 - (1) The amount of the taxes abated for that year by the Eligible jurisdiction with respect to such taxpayer.
 - (2) The amount obtained by subtracting the rollback tax rate computed without the abated property value being treated as new property value from the rollback tax rate computed with the abated property value being treated as new property value and multiplying the difference by the total assessed value of the Eligible jurisdiction.

If the Eligible jurisdiction has granted an abatement of taxes to more than one taxpayer, then the amount of the recapture calculated in accord with subparagraph (2) above shall be prorated on the basis of the amount of the abatement with respect to each taxpayer.

All recaptured taxes must be paid within thirty (30) days after notice thereof has been given to the affected taxpayer. Penalty and interest shall not begin to accrue upon such sum until the first day of the month following such thirty (30) day notice, at which time penalty and interest shall accrue in accord with the laws of the State of Texas.

- (g) Continuation of Tax Lien. The amount of tax abated each year under the terms of these Guidelines and the Agreement shall be secured by a first and prior tax lien which shall continue in existence from year to year throughout the entire term of the Agreement or until all taxes, whether assessed or recaptured, are paid in full.
- (h) Automatic Termination. The Agreement shall automatically terminate on and as of the date any of the following events occur: the filing of a petition in bankruptcy by Owner; or the making by the Owner of an assignment for the benefit of creditors; or if any involuntary petition in bankruptcy or petition for an arrangement pursuant to the federal bankruptcy code is filed against the Owner; or if a receiver is appointed for the business of the Owner. In the event of automatic termination for any of the above reasons, the prior notice of default provisions in subsection (d) above shall not apply.

Section 7. Administration.

- (a) Annual Assessment. The San Patricio County Appraisal District shall annually determine an assessment of the real and personal property subject to an Agreement. Each year, the Owner shall furnish the Appraisal District with such information as may be necessary for the abatement. Once value has been established, the Appraisal District shall notify the affected jurisdictions which levy taxes of the amount of the assessment and the abatement.
- (b) Access to Facility. The Agreement shall stipulate that employees and/or designated representatives of the Eligible jurisdiction will have access to the Facility during the term of the Agreement to inspect the Facility to determine if the terms and conditions of the Agreement are being met. All inspections will be made only after giving 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 Owner and in accordance with its safety standards.
- (c) Annual Evaluation. Upon completion of construction, the Eligible jurisdiction individually or in conjunction with other affected jurisdictions, shall annually evaluate each Facility receiving abatement to ensure compliance with the Agreement and report possible violations of the Agreement.
- (d) Annual Reports. The Owner shall certify to the governing body of the Eligible Jurisdiction on or before April 1 each year that the Owner is in compliance with each applicable term of the

agreement. Additionally, during the initial four years of the term of property tax abatement, the Owner shall provide to the Eligible Jurisdiction approving the abatement an annual report covering those items listed on Schedule 1 in order to document its efforts to acquire goods and services on a local basis. Such annual report shall be prepared on a calendar year basis and shall be submitted to the Eligible jurisdiction no later than ninety (90) days following the end of each such calendar year. The annual report shall be accompanied by an audit letter prepared by an independent accounting firm which has reviewed the report.

- (e) “Buy Local” Provisions. Each recipient of property tax abatement shall additionally agree to give preference and priority to local manufacturers, suppliers, contractors and labor, except where not reasonably possible to do so without added expense, substantial inconvenience, or sacrifice in operating efficiency. In any such exception cases involving purchases over \$10,000.00 a justification for such purchase shall be included in the annual report. Each such recipient shall further acknowledge that it is a legal and moral obligation of persons receiving property tax abatements to favor local manufacturers, suppliers, contractors and labor, all other factors being equal. For the purposes of this provision, the term “local” as used to describe manufacturers, suppliers, contractors and labor shall include firms, businesses, and persons who reside in or maintain an office in either San Patricio County, Aransas County or Nueces County. In the event of a breach of the buy-local provision, the percentage of abatement shall be proportionately reduced equal to the amount the disqualified contract bears to the total construction cost for the project.
- (f) Right to Modify or Cancel. Notwithstanding anything herein or in any agreement to the contrary, the governing body of the Eligible Jurisdiction may cancel or modify the agreement if the Owner fails to comply with the Agreement.

SCHEDULE 1

“Buy Local” Annual Reports

The following information shall be reported to the Governmental Unit on a calendar-year basis during the first four years of the tax abatement program:

1. Dollar amount spent for materials* (local).
2. Dollar amount spent for materials* (total).
3. Dollar amount spent for labor** (local).
4. Dollar amount spent for labor** (total).
5. Number of jobs created in the construction project (local).
6. Number of jobs created in the construction project (total).
7. Number of jobs created on a permanent basis (local).
8. Number of jobs created on a permanent basis (total).

* “Materials” is defined to include all materials used in excavation, site improvement, demolition, concrete, structural steel, fire proofing, piping, electrical, instruments, paintings and scaffolding, insulation, temporary construction facilities, supplies, equipment rental in construction, small tools and consumables. This term does not include major items of machinery and equipment not readily-available locally.

** “Labor” is defined to include all labor in connection with the excavation, site improvement, demolition, concrete construction, structural steel, fire proofing, equipment placement, piping, electrical, instruments, painting and scaffolding, insulation, construction services, craft benefits, payroll burdens, and related labor expenses. This term does not include engineering services in connection with the project design.

The term “local” as used to describe manufacturers, suppliers, contractors and labor shall include firms, businesses, and persons who reside in or maintain an office in either San Patricio County, Aransas County, or Nueces County.

APPLICATION FOR TAX ABATEMENT IN SAN PATRICIO COUNTY

INSTRUCTIONS:

Applicants and projects must meet the requirements established by the San Patricio County Guidelines and Criteria in order to receive positive consideration. Section 2 of the Guidelines sets out regulations governing eligible facilities, eligible and ineligible improvements, terms, and economic qualifications. Conformance with all applicable sections is required for eligibility.

APPLICANTS INFORMATION:

The taxing unity may consider the applicant's financial capacity in determining whether to enter into an abatement agreement. Established companies for which public information is available, or the wholly owned business of such companies, should include with the application a copy of their latest annual report to stockholders. Other applicants and new companies should attach a statement showing when the company was established, business references (name of contact and telephone number of principal bank, accountant and attorney) and may be required to submit an audited financial statement and business plan.

PROJECT INFORMATION:

Only facilities listed in Section 2(a) of the Guidelines may receive abatement without applying for a variance. Check guideline definitions in Section 1 to see if the project qualifies. If the project is a Regional Entertainment Facility or other Basic Industry, the application should include market studies, business plans, agreements or other materials demonstrating that the facility is intended to serve a market the majority of which is substantially outside of the San Patricio County region.

ECONOMIC INFORMATION

Permanent Employment Estimates. In estimating the permanent employment of the projects, include the total number of jobs retained or created at this site by your firm as well as known permanent jobs of service contractors required for operation.

Estimated appraised Value 'on Site.' The value January 1 preceding abatement should be the value established by the San Patricio County Appraisal District. If the applicant must estimate value because the taxable value is not known or is combined with other properties under a single tax account, please so state. To qualify, the abated properties must be expected to result in an addition to the tax base of at least two million dollars after the period of abatement expires. Projections of value should be a "best estimate" based on taxability in Texas. The projection of project values not abated should include personal property and ineligible project-related improvements such as office space in excess of that used for plan administration, housing, etc.

Applications for Tax Abatement in San Patricio County Fill-in Instructions

This application should be filed at least THIRTY (30) DAYS prior to the beginning of construction or the installation of equipment. This application will become a part of any later agreement or contract and known false representations thereon will be grounds for the voiding of any later agreement or contract .

ORIGINAL COPY OF THIS APPLICATION AND ATTACHMENTS SHOULD BE SUBMITTED

To: San Patricio County Judge – 400 W. Sinton Street, Room 109, Sinton, TX 78387

APPLICANT INFORMATION

Submittal Date

Company Name

Company Address

Company Phone

Contact of this Project

Number employed

Annual Sales Per Year

Annual Report Submitted? Yes _____ No _____ (See instructions)

Type of Structure: Corporation () Partnership () Proprietorship ()

PROJECT INFORMATION

Type of Facility to be abated: Manufacturing () Regional Distribution () Regional Service ()
Regional Entertainment Center () Research () Other ()
Basic Industry () Multi-family housing ()

Proposed Facility Address and Legal Description:
Attach map showing site

School District _____

Other District(s) ___ drainage

City _____

Describe product or service to be provided
This application is for new construction () expansion () Modernization ()

Project Description:

Please attach a statement fully explaining the project; describing the site and existing improvements; describing all proposed improvements; providing a list of improvements and fixed equipment for which abatement is requested. Equipment list attached.

ECONOMIC AND IMPACT INFORMATION

Permanent Employment Estimates

If any existing Facility, please present a report indicating the total number of permanent employees at the Facility on the first day of each month for the past twelve months.

Estimated Number of Plant Jobs Retained () Created () at Start

Estimated Operational Date and or opening of improvements

Construction and employment estimated

Construction Start (month/year) _____

Construction Completion (month/year) _____

Number of Construction jobs start _____ peak _____ finish _____

Number of Construction jobs per year _____

School District Impact Estimates

Number of families transferred to area _____

Number of children added to ISD _____

City Impact Estimates

Volume of treated water required from city _____

Volume of effluent to be treated by city _____

Estimated Appraised Value on Site

Land

Personal Property

Improvements

Valuations January 1

Preceding abatement \$ _____ \$ _____ \$ _____

Value, upon completion of project, of personal property and improvements not subject to abatements:

\$ _____ \$ _____ \$ _____

Estimated value of eligible improvements after abatement agreement expires: \$ _____

Variance:

Is a variance being sought under Section 3 (f) of the Guidelines?

____ Yes ____ No

If "yes" attach any supplementary information required. Letter attached asking for variance

Other Agreement Applications

Has the company made application for abatement of this project to other taxing jurisdictions within the San Patricio County?

____ Yes ____ No

To other taxing jurisdictions or counties?

____ Yes ____ No

If "yes," please provide dates of application; hearing dates; names of jurisdiction(s) and contact; and any letters of intent to abate.

COUNTY TAX ABATEMENTS

Property Redevelopment and Tax Abatement Act, Chapter 312 of the Texas Tax Code
312.001, *et seq.*

Procedure

- Adopt Guidelines and Criteria
- Pass Resolution declaring itself to be eligible to participate in abatements
- Establish Reinvestment Zone only after: (a) seven days advance notice published in local newspaper; (b) delivery of notice to presiding officer of governing bodies of taxing units within proposed reinvestment zone
- Finding by San Patricio County that: (a) improvements are feasible, practical and would benefit land within zone after expiration of agreement; and (b) reasonably likely to contribute to retention or expansion of primary employment or to attract major investment
- At least seven days prior to signing, give notice of intent to enter into agreement

The Abatement Agreement

- Contain a list of the kind, number and location of all proposed improvements;
- Provide access to and authorize inspection to ensure that the improvements are made according to the agreement;
- Limit the uses of the property consistent with encouraging development within the reinvestment zone;
- Provide for recapture of tax revenue lost if the owner fails to make the improvements;
- Contain each term agreed to by the owner;
- Require an annual certification by the owner to the governing body that owner is in compliance; and
- Provide that the governing body may cancel or modify the agreement if the owner fails to comply with the agreement.

Job Creation

Company agrees to create at least 20 permanent full time jobs at the Project and make reasonable efforts to employ persons who are residents of San Patricio County, Texas in such jobs; provided, however, that Company shall not be required to employ San Patricio County residents who are not (i) equally or more qualified than nonresident applicants; (ii) available for employment on terms and/or salaries comparable to those required by nonresident applicants or (iii) able to become qualified with 72 hours of training. In the event a San Patricio County resident could become qualified with a maximum of 72 hours of training, Company shall provide for such training. Each of the persons employed in such jobs shall perform a portion of their work in San Patricio County, Texas

Local Goods and Services

Company and its authorized vendors intend to make reasonable effort to purchase services and supplies from San Patricio County individuals and businesses during the construction of the Facility in San Patricio County, provided that such materials and supplies are of the same quality as those available from non-San Patricio County individuals or businesses and are available at comparable terms. Comparable terms shall mean a price that is less than or equal to 105% of the price of non-San Patricio County individual or businesses. Company will take reasonable steps to employ or have employed residents of San Patricio County, provided that such residents have the required skills and experience and are available at a competitive wage or salary, as applicable. In furtherance of that goal, the following provisions, or a reasonable derivation thereof, will be followed by Company.

Local Coordinator

Company or its construction contractor, if any, shall designate a coordinator of local services who will act as a liaison between any individuals, businesses and contractors residing or doing business in San Patricio County who are interested in obtaining information about providing goods or services related to the construction of the Project. Additionally, Company or its construction contractor, if any, shall advertise in local newspapers in San Patricio County for local contractors to perform work on the construction of the Project.

Protection of Roads

During construction of the Improvements, Company shall use commercially reasonable efforts to minimize the disruption to all public and San Patricio County roads caused by the construction of the Improvements and shall repair any damages caused to San Patricio County roads by the construction. The repairs shall be completed by Company in accordance with the published standards and specifications for road maintenance for other San Patricio County roads. Upon the completion of the construction, Company shall leave such public and San Patricio County roads in as close to the condition as they were prior to construction as is practicable, excepting normal wear and tear.

AG-0600

San Patricio County and Owner acknowledge that Texas Attorney General Opinion GA-0600, dated January 29, 2008, arguably may be interpreted to hold that certain provisions of Section 312 of the Texas Tax Code may not authorize a commissioners court to execute a tax abatement agreement for leasehold interests in or improvements on taxable real property, and that said opinion is currently under review and subject to challenge by interested parties. If, during the Term of this Agreement, should this Agreement, as a tax abatement agreement under Section 312 of the Texas Tax Code, or a similar tax abatement agreement wherein San Patricio County granted a tax abatement to the owner/operator of a renewable energy project using wind turbines be declared invalid or unenforceable under Texas law in a non-appealable judicial decision, then to the extent that taxes then previously abated hereunder shall be required by law to be repaid to San Patricio County, all taxes abated hereunder shall be due and payable within ninety (90) days of receipt of written notice/demand.

Maintain Viable Presence

Company agrees that it will maintain a Viable Presence within the Reinvestment Zone for a period of twenty (20) years from the date that the portion of the Facility located in San Patricio County has commenced commercial operations.

Viable Presence means (i) the operation of the Facility, as the same may from time to time be expanded, upgraded, improved, modified, and changed, remodeled, repaired, restored, reconstructed, reconfigured, and/or reengineered, over the term of this Agreement, and (ii) the retention over the term of this Agreement of not fewer than twenty (20) Qualifying Jobs to be located and performed within Company's entire project, which includes, but is not limited to, Company's Qualified Property, as set forth in the Application, with the minimum salaries required by Texas Tax Code 313.021 (3)(E). As its sole and exclusive remedy for Company's failure to Maintain a Viable Presence, San Patricio County shall be entitled to cancel this Agreement pursuant to the provisions hereof and to recapture property tax revenue abated as a result of this Agreement, subject to the provisions hereof regarding notice and Company's right to cure.

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 17

Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Apex Midway Wind, LLC Representative (applicant)

See attached.

*TAB TO APPLICATION FOR APPRAISED VALUE LIMITATION ON QUALIFIED
PROPERTY BY APEX MIDWAY WIND, LLC TO GREGORY-PORTLAND ISD*

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 ▶ Dr. Paul Clore
Print Name (Authorized School District Representative)
sign here ▶ *Paul Clore*
Signature (Authorized School District Representative)

Superintendent
Title
7-28-15
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 ▶ Mark Goodwin
Print Name (Authorized Company Representative (Applicant))
sign here ▶ *M Goodwin*
Signature (Authorized Company Representative (Applicant))

President and COO
Title
7/24/15
Date



Julie Annette Garrou
NOTARY PUBLIC
Commonwealth of Virginia
Reg. #7514055
My Commission Expires
June 30, 2016

(Notary Seal)

GIVEN under my hand and seal of office this, the

24th day of July 2015
Julie Annette Garrou
Notary Public in and for the State of Texas—Virginia

My Commission expires: June 30, 2016

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.

Attachment B

Franchise Tax Account Status



Franchise Tax Account Status

As of: 01/06/2016 12:42:44 PM

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

APEX MIDWAY WIND, LLC	
Texas Taxpayer Number	32050705956
Mailing Address	310 4TH ST NE STE 200 STE NE CHARLOTTESVLE, VA 22902-5299
Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	04/12/2013
Texas SOS File Number	0801766881
Registered Agent Name	NATIONAL CORPORATE RESEARCH, LTD.
Registered Office Street Address	206 E. 9TH STREET, SUITE 1300 AUSTIN, TX 78701

Attachment C

State Comptroller's Certification



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

December 15, 2015

Dr. Paul Clore
Superintendent
Gregory-Portland ISD
608 College St.
Portland, Texas 78374

Dear Superintendent Clore:

On Sept. 30, 2015, the Comptroller issued written notice that Apex Midway Wind, LLC (the applicant) submitted a completed application (Application #1086) for a limitation on appraised value under the provisions of Tax Code Chapter 313.¹ This application was originally submitted on July 28, 2015, to the Gregory Portland Independent School District (the school district) by the applicant.

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

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

Determination required by 313.025(h)

Sec. 313.024(a)	Applicant is subject to tax imposed by Chapter 171.
Sec. 313.024(b)	Applicant is proposing to use the property for an eligible project.
Sec. 313.024(d)	Applicant has requested a waiver for 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 #1091.

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

¹ 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 Sept. 30, 2015, 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 Korry Castillo, Director, Data Analysis & Transparency, by email at korry.castillo@cpa.texas.gov or by phone at 1-800-531-5441, ext. 3-3806, or direct in Austin at 512-463-3806.

Sincerely,



Mike Reissig
Deputy Comptroller

Enclosure

cc: Korry Castillo

Attachment A – Economic Impact Analysis

This following tables summarize the Comptroller’s economic impact analysis of Apex Midway Wind, LLC (the project) applying to Gregory Portland 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 Apex Midway Wind, LLC.

Applicant	Apex Midway Wind, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy – Wind
School District	Gregory Portland ISD
Estimated 2014-2015 Average Daily Attendance	4,294
County	San Patricio
Proposed Total Investment in District	\$240,000,000
Proposed Qualified Investment	\$240,000,000
Limitation Amount	\$30,000,000
Number of new qualifying jobs committed to by applicant*	1
Number of new non-qualifying jobs estimated by applicant	4
Average weekly wage of qualifying jobs committed to by applicant	\$1,105
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)	\$1,105
Minimum annual wage committed to by applicant for qualified jobs	\$57,464
Minimum weekly wage required for non-qualifying jobs	
Minimum annual wage required for non-qualifying jobs	
Investment per Qualifying Job	\$240,000,000
Estimated M&O levy without any limit (15 years)	\$26,885,325
Estimated M&O levy with Limitation (15 years)	\$9,882,148
Estimated gross M&O tax benefit (15 years)	\$17,003,177
<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 Apex Midway Wind, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2016	82	85	167	\$3,690,000	\$7,295,575	\$10,985,575
2017	5	19	24	\$242,532	\$2,096,596	\$2,339,128
2018	5	20	25	\$242,532	\$2,169,605	\$2,412,137
2019	5	19	24	\$242,532	\$2,150,471	\$2,393,003
2020	5	18	23	\$242,532	\$2,129,754	\$2,372,286
2021	5	17	22	\$242,532	\$2,112,611	\$2,355,143
2022	5	16	21	\$242,532	\$2,100,536	\$2,343,068
2023	5	15	20	\$242,532	\$2,071,377	\$2,313,909
2024	5	14	19	\$242,532	\$2,040,602	\$2,283,134
2025	5	14	19	\$242,532	\$2,026,183	\$2,268,715
2026	5	13	18	\$242,532	\$2,012,232	\$2,254,764
2027	5	9	14	\$242,532	\$1,631,449	\$1,873,981
2028	5	8	13	\$242,532	\$1,437,704	\$1,680,236
2029	5	7	12	\$242,532	\$1,294,280	\$1,536,812
2030	5	6	11	\$242,532	\$1,195,486	\$1,438,018
2031	5	5	10	\$242,532	\$1,136,361	\$1,378,893

Source: CPA, REMI, Apex Midway 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 ¹	Gregory-Portland ISD I&S Levy	Gregory-Portland ISD M&O Levy	Gregory-Portland ISD M&O and I&S Tax Levies	San Patricio County Tax Levy	San Patricio County Drainage District Tax Levy	Estimated Total Property Taxes
				0.18	1.17		0.51	0.06	
2017	\$228,000,000	\$228,000,000		\$410,400	\$2,667,600	\$3,078,000	\$1,162,800	\$136,800	\$4,377,600
2018	\$214,320,000	\$214,320,000		\$385,776	\$2,507,544	\$2,893,320	\$1,093,032	\$128,592	\$4,114,944
2019	\$201,461,000	\$201,461,000		\$362,630	\$2,357,094	\$2,719,724	\$1,027,451	\$120,877	\$3,868,051
2020	\$189,373,000	\$189,373,000		\$340,871	\$2,215,664	\$2,556,536	\$965,802	\$113,624	\$3,635,962
2021	\$178,011,000	\$178,011,000		\$320,420	\$2,082,729	\$2,403,149	\$907,856	\$106,807	\$3,417,811
2022	\$167,330,000	\$167,330,000		\$301,194	\$1,957,761	\$2,258,955	\$853,383	\$100,398	\$3,212,736
2023	\$157,290,000	\$157,290,000		\$283,122	\$1,840,293	\$2,123,415	\$802,179	\$94,374	\$3,019,968
2024	\$147,853,000	\$147,853,000		\$266,135	\$1,729,880	\$1,996,016	\$754,050	\$88,712	\$2,838,778
2025	\$138,982,000	\$138,982,000		\$250,168	\$1,626,089	\$1,876,257	\$708,808	\$83,389	\$2,668,454
2026	\$130,643,000	\$130,643,000		\$235,157	\$1,528,523	\$1,763,681	\$666,279	\$78,386	\$2,508,346
2027	\$122,804,000	\$122,804,000		\$221,047	\$1,436,807	\$1,657,854	\$626,300	\$73,682	\$2,357,837
2028	\$115,436,000	\$115,436,000		\$207,785	\$1,350,601	\$1,558,386	\$588,724	\$69,262	\$2,216,371
2029	\$108,510,000	\$108,510,000		\$195,318	\$1,269,567	\$1,464,885	\$553,401	\$65,106	\$2,083,392
2030	\$101,999,000	\$101,999,000		\$183,598	\$1,193,388	\$1,376,987	\$520,195	\$61,199	\$1,958,381
2031	\$95,879,000	\$95,879,000		\$172,582	\$1,121,784	\$1,294,367	\$488,983	\$57,527	\$1,840,877
			Total	\$4,136,204	\$26,885,325	\$31,021,529	\$11,719,244	\$1,378,735	\$44,119,507

Source: CPA, Apex Midway Wind, LLC

¹Tax Rate per \$100 Valuation

Table 4 examines the estimated direct impact on ad valorem taxes to the school district and San Patricio 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 and the drainage district.

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 ¹	Gregory-Portland ISD I&S Levy	Gregory-Portland ISD M&O Levy	Gregory-Portland ISD M&O and I&S Tax Levies	San Patricio County Tax Levy	San Patricio County Drainage District Tax Levy	Estimated Total Property Taxes
				0.18	1.17		0.51	0.06	
2017	\$228,000,000	\$30,000,000		\$410,400	\$351,000	\$761,400	\$0	\$0	\$761,400
2018	\$214,320,000	\$30,000,000		\$385,776	\$351,000	\$736,776	\$0	\$0	\$736,776
2019	\$201,461,000	\$30,000,000		\$362,630	\$351,000	\$713,630	\$0	\$0	\$713,630
2020	\$189,373,000	\$30,000,000		\$340,871	\$351,000	\$691,871	\$96,580	\$11,362	\$799,814
2021	\$178,011,000	\$30,000,000		\$320,420	\$351,000	\$671,420	\$90,786	\$10,681	\$772,886
2022	\$167,330,000	\$30,000,000		\$301,194	\$351,000	\$652,194	\$341,353	\$40,159	\$1,033,706
2023	\$157,290,000	\$30,000,000		\$283,122	\$351,000	\$634,122	\$320,872	\$37,750	\$992,743
2024	\$147,853,000	\$30,000,000		\$266,135	\$351,000	\$617,135	\$452,430	\$53,227	\$1,122,793
2025	\$138,982,000	\$30,000,000		\$250,168	\$351,000	\$601,168	\$425,285	\$50,034	\$1,076,486
2026	\$130,643,000	\$30,000,000		\$235,157	\$351,000	\$586,157	\$666,279	\$78,386	\$1,330,823
2027	\$122,804,000	\$122,804,000		\$221,047	\$1,436,807	\$1,657,854	\$626,300	\$73,682	\$2,357,837
2028	\$115,436,000	\$115,436,000		\$207,785	\$1,350,601	\$1,558,386	\$588,724	\$69,262	\$2,216,371
2029	\$108,510,000	\$108,510,000		\$195,318	\$1,269,567	\$1,464,885	\$553,401	\$65,106	\$2,083,392
2030	\$101,999,000	\$101,999,000		\$183,598	\$1,193,388	\$1,376,987	\$520,195	\$61,199	\$1,958,381
2031	\$95,879,000	\$95,879,000		\$172,582	\$1,121,784	\$1,294,367	\$488,983	\$57,527	\$1,840,877
			Total	\$4,136,204	\$9,882,148	\$14,018,351	\$5,171,188	\$608,375	\$19,797,914
			Dif	\$0	\$17,003,177	\$17,003,177	\$6,548,056	\$770,360	\$24,321,593

Source: CPA, Apex Midway Wind, LLC

¹Tax 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 Apex Midway 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)
Limitation Pre-Years	2014	\$0	\$0	\$0	\$0
	2015	\$0	\$0	\$0	\$0
	2016	\$0	\$0	\$0	\$0
Limitation Period (10 Years)	2017	\$351,000	\$351,000	\$2,316,600	\$2,316,600
	2018	\$351,000	\$702,000	\$2,156,544	\$4,473,144
	2019	\$351,000	\$1,053,000	\$2,006,094	\$6,479,238
	2020	\$351,000	\$1,404,000	\$1,864,664	\$8,343,902
	2021	\$351,000	\$1,755,000	\$1,731,729	\$10,075,631
	2022	\$351,000	\$2,106,000	\$1,606,761	\$11,682,392
	2023	\$351,000	\$2,457,000	\$1,489,293	\$13,171,685
	2024	\$351,000	\$2,808,000	\$1,378,880	\$14,550,565
	2025	\$351,000	\$3,159,000	\$1,275,089	\$15,825,654
	2026	\$351,000	\$3,510,000	\$1,177,523	\$17,003,177
Maintain Viable Presence (5 Years)	2027	\$1,436,807	\$4,946,807	\$0	\$17,003,177
	2028	\$1,350,601	\$6,297,408	\$0	\$17,003,177
	2029	\$1,269,567	\$7,566,975	\$0	\$17,003,177
	2030	\$1,193,388	\$8,760,363	\$0	\$17,003,177
	2031	\$1,121,784	\$9,882,148	\$0	\$17,003,177
Additional Years as Required by 313.026(c)(1) (10 Years)	2032	\$1,054,474	\$10,936,622	\$0	\$17,003,177
	2033	\$991,201	\$11,927,822	\$0	\$17,003,177
	2034	\$931,730	\$12,859,552	\$0	\$17,003,177
	2035	\$875,827	\$13,735,379	\$0	\$17,003,177
	2036	\$823,282	\$14,558,661	\$0	\$17,003,177
	2037	\$773,885	\$15,332,546	\$0	\$17,003,177
	2038	\$727,448	\$16,059,993	\$0	\$17,003,177
	2039	\$683,807	\$16,743,800	\$0	\$17,003,177
	2040	\$642,775	\$17,386,574	\$0	\$17,003,177
	2041	\$604,211	\$17,990,786	\$0	\$17,003,177

\$17,990,786

is greater than

\$17,003,177

Analysis Summary

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

Source: CPA, Apex Midway 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 has determined that the limitation on appraised value is a determining factor in the Apex Midway 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:

- Per the applicant, it has leased the land upon which the project will be constructed.
- Per the applicant, no contracts for the sale of the power have been executed.
- Per the applicant, the applicant has made no investment to date on the project site.
- Per the applicant, no construction has commenced at the project site.
- The applicant has a number of similar projects in other states, and appears to have a clear ability to build in other locations.
- Per the applicant, Chapter 313 limitation is a necessary part of the economic analysis for investment in Texas, where the power market is very competitive and practically all of its competitors have Chapter 313 value limitation agreements.
- Per the applicant, without the Chapter 313 value limitation, siting the project in San Patricio County is significantly less attractive.

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

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

Supporting Information

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

SECTION 6: Eligibility Under Tax Code Chapter 313.024

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

SECTION 7: Project Description

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

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

For more information, visit our website: www.TexasAhead.org/tax_programs/chapter313/

Supporting Information

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

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

TAB 5

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

Apex Clean Energy, Inc. is a leading U.S. - based developer of commercial-scale wind and solar energy facilities in North America. With a team of some of the most experienced renewable energy professionals in the industry, it has built a strong reputation for responsible development and quality projects constructed to the highest industry standards.

Prior to the formation of Apex, the management team had collectively developed, financed, constructed and managed more than \$10 billion in operating renewable energy facilities totaling nearly 10,000 megawatts of capacity. Its people have a proven track record working with communities and landowners to develop state-of-the-art facilities that produce jobs, income to landowners, revenue for local government, and clean sources of domestic energy.

Apex was formed in 2009 by a management team with extensive renewable energy experience. In 2000, the team created Greenlight Energy, Inc. Six years later, they had developed \$750 million of facilities that are now in commercial operations, with a combined generating capacity of 450 MW. Following BP Alternative Energy's acquisition of the company in 2006, the team formed Greenlight Energy Resources to reinvest in the clean energy industry.

In December 2012, Apex completed construction of the 300 MW Canadian Hills Wind project in Oklahoma. Earlier that year, commercial operation of Apex's solar facilities in Colorado commenced. The company is now developing several thousand megawatts of wind and solar projects around the country.

Thanks to a dynamic team of over 70 talented and experienced professionals, Apex has the ability to locate and develop wind farms in numerous locations throughout the United States.

Apex has leased the land for the Midway project. However, a final investment decision has not been reached and no contracts for the sale of power have been executed.

The decision to invest in a particular country or state depends on the economics of the investment in the particular jurisdiction. In the case of the investment in the proposed project in Texas, the decision will be based on a number of commercial and financial considerations, including the ability to obtain relief regarding local property taxes. Obtaining the Chapter 313 value limitation is a necessary part of the economic analysis for investment in Texas. The power generation market is very

Apex Midway Wind, LLC
Chapter 313 Application to Gregory-Portland ISD
Cummings Westlake, LLC

competitive and practically all of Apex's Texas competitors have Chapter 313 value limitation agreements. Without the Chapter 313 value limitation, siting the project in San Patricio County is significantly less attractive.

The Apex Midway Wind project is in direct completion for internal capital expenditures with projects in the following locations:

- Henry and Rush Counties, Indiana
- Beckham County, Oklahoma
- Beaver County, Oklahoma
- Yuma, County, Colorado

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Attachment D

Summary of Financial Impact

**CHAPTER 313 PROPERTY VALUE LIMITATION
FINANCIAL IMPACT OF THE PROPOSED APEX CLEAN
ENERGY HOLDINGS, LLC PROJECT IN THE GREGORY-
PORTLAND INDEPENDENT SCHOOL DISTRICT
(PROJECT # 1091)**

PREPARED BY



NOVEMBER 1, 2015

Executive Summary

APEX Clean Energy Holdings, LLC (Company) has requested that the Gregory-Portland Independent School District (G-PISD) consider granting a property value limitation under Chapter 313 of the Tax Code, also known as the Texas Economic Development Act. In an application submitted to G-PISD on July 28, 2015 the Company plans to invest \$228 million to construct a renewable electric generation facility. Moak, Casey & Associates (MCA) has been retained to prepare an analysis of this value limitation and help the district navigate the overall application and agreement process.

The Apex Midway Wind project is consistent with the state's goal to "encourage large scale capital investments in this state." When enacted as House Bill 1200 in 2001, Chapter 313 of the Tax Code granted eligibility to companies engaged in manufacturing, research and development, and renewable electric energy production to apply to school districts for property value limitations. Subsequent legislative changes expanded eligibility to clean coal projects, nuclear power generation and data centers, among others.

Under the provisions of Chapter 313, G-PISD may offer a minimum value limitation of \$30 million. This value limitation, under the proposed application, will begin in the 2017-18 school year and remain at that level of taxable value for Maintenance and Operations (M&O) tax purposes for ten years. The entire project value will remain taxable for I&S or debt service purposes for the term of the agreement.

MCA's initial school finance analysis is detailed in this report. The overall conclusions are as follows, but please read all of the subsequent details in the report below for more information.

Total Revenue Loss Payment owed to G-PISD	\$3.1 Million
Total Savings to Company after Revenue Loss Payment. (This does not include any supplemental benefit payments to the district.)	\$13.2 Million

Application Process

After the school district has submitted an application to the Comptroller's Office (Comptroller), the Comptroller begins reviewing the application for completeness. The purpose of this review is to ensure all necessary information and attachments are included in the application before moving forward with the formal review process. The Completeness Letter for this project was issued on September 30, 2015.

The issuance of a Completeness Letter is important because it sets the timeline for the rest of process. From the date of issuance, the Comptroller has 90 days to conduct its full review of the project and provide its certificate for a limitation on appraised value. After the certificate is received, the district has until the 150th day from the receipt of the Completeness Letter or until December 31st, whichever is earlier, to adopt an agreement.

Each value limitation agreement is unique and to ensure the proper revenue-loss protection and maximum supplemental benefits are in place, an understanding of the school district's finances and a thorough knowledge of the Ch. 313 statute are required. MCA and O'Hanlon, McCollom & Demerath will ensure the best interests of G-PISD are secured through the value limitation agreement and negotiations of the supplemental benefit payment with the Company. A final version of the agreement must be submitted to the Comptroller for review prior to final adoption by the school district's board of trustees.

At the final board meeting, the school board will review the Value Limitation Agreement and Findings of Fact that detail the project's conformance with state law. In some instances, the school board may also be required to adopt a job waiver or create a reinvestment zone during this meeting. Prior to this meeting, O'Hanlon, McCollom & Demerath will provide the district with the necessary agenda language and any additional action items.

How the 313 Agreement Interacts with Texas School Finance

M&O funding for Texas schools relies on two methods of finance: local school district property taxes and state aid. State aid consists of three components: Tier I, Tier II and additional state aid for tax reduction.

Tier I provides state funding based on ADA and special student populations, as well as transportation. The local funds for Tier I are M&O taxes raised at the compressed tax rate—\$1.00 per \$100 of taxable value for most school districts (less any recapture payments owed to the state from high property-wealth school districts).

Tier II guarantees a specific amount of funding per student in weighted average daily attendance for each penny of a school district's tax effort above a specified level. There are two levels of Tier II funding—funding under the six so-called golden pennies and the eleven so-called copper pennies. Voter approval is required in most cases to access the last two golden pennies and the eleven copper pennies. For more detailed information on the school finance funding system, please review the Texas Education Agency's [School Finance 101: Funding of Texas Public Schools](#).

Additional State Aid for Tax Reduction (ASATR) guarantees a school district a set amount of state and local M&O funds per student in weighted average daily attendance to compensate for the mandatory reduction in, or compression of, the local M&O tax rate that was adopted in 2005 or 2006. ASATR funding is expected to be eliminated by the 2017-18 school year under current law and is not a factor in the estimates presented below.

For a school district that approves a Chapter 313 value limitation, the first year is often problematic financially. The implementation of the value limitation often results in an M&O revenue loss to the school district in the first year of the limitation that would not be reimbursed by the state, but require some type of compensation from the Company under the revenue protection provisions of the agreement. This is because the general school finance formula system calculates state aid entitlements using the property value for the preceding year as certified by the Comptroller.

In most instances smaller revenue losses would be anticipated in years 2-10 of the limitation when the state M&O property values are aligned at the minimum value established by the Board on both the local tax roll and the corresponding state property value study. **If the full value of the project increases significantly during the value limitation period, the revenue losses may be greater than originally estimated.**

A taxpayer receiving a value limitation pays M&O taxes on the reduced value for the project in years 1-10 and receives a tax bill for I&S taxes based on the full project value throughout the qualifying and value limitation period (and thereafter).

Future legislative action on school funding could potentially affect the impact of the value limitation on the school district's finances and result in revenue-loss estimates that differ from the estimates presented in this report.

Underlying School District Data Assumptions

A key element in any analysis of the school finance implications of a Chapter 313 agreement is the provision for revenue protection in the agreement between the school district and the applicant. The agreement calls for a calculation of the revenue impact of the value limitation in years 1-10 of the agreement, under whatever school finance and property tax laws are in effect in each of those years. This meets the statutory requirement under Section 313.027(f)(1) of the Tax Code to provide school district revenue-protection language in the agreement. This approach also reduces guess work as to future changes in school finance and property tax laws.

For the purposes of this analysis, student enrollment counts are held constant at 4,344 students in average daily attendance (ADA) in analyzing the effects of the project on the finances of G-PISD. The District's local tax base reached \$1.58 billion for the 2015 tax year (the most recent year available) and is maintained at that level for the forecast period in order to isolate the effects of the property value limitation. An M&O tax rate of \$1.12 per \$100 is used throughout this analysis.

+G-PISD has estimated 2015-16 state property wealth per weighted ADA or WADA of approximately \$246,090. As a result, G-PISD is not currently considered a Chapter 41 or recapture district under the school finance system, although recapture could be a factor in future years of the forecast period. Table 1 summarizes the enrollment and property value assumptions for the 15 years that are the subject of this analysis. Previously-approved Chapter 313 projects are factored into the underlying tax bases of both models presented below.

The M&O tax rate for 2015 is maintained at \$1.12 per \$100. Although the impact of the Chapter 313 project value returning to the total tax roll for M&O funding purposes could result in a lower M&O tax rate at the conclusion of the limitation period, an analysis of this issue is beyond the scope of this revenue report. The general approach used here to analyze the future revenue stream of the school district under a value limitation is to maintain static enrollment and property values in order to isolate the effects of the value limitation under the school finance system.

Table 1 – Base District Information with Apex Midway Wind, LLC Project Value and Limitation Values

Year of Agreement	School Year	ADA	WADA	M&O Tax Rate	I&S Tax Rate	CAD Value with Project	CAD Value with Limitation	CPTD with Project	CPTD With Limitation	CPTD Value with Project per WADA	CPTD Value with Limitation per WADA
QTP0	2016-17	4,344.00	5,506.86	\$1.1200	\$0.1800	\$1,370,423,010	\$1,370,423,010	\$1,460,460,903	\$1,460,460,903	\$265,208	\$265,208
QTP1/VL1	2017-18	4,344.00	5,506.86	\$1.1200	\$0.1800	\$1,598,423,010	\$1,400,423,010	\$1,253,096,393	\$1,253,096,393	\$227,552	\$227,552
QTP2/VL2	2018-19	4,344.00	5,506.86	\$1.1200	\$0.1800	\$1,584,743,010	\$1,400,423,010	\$1,481,096,393	\$1,283,096,393	\$268,955	\$233,000
VL3	2019-20	4,344.00	5,506.86	\$1.1200	\$0.1800	\$2,122,761,623	\$1,951,300,623	\$1,467,416,393	\$1,283,096,393	\$266,471	\$233,000
VL4	2020-21	4,344.00	5,506.86	\$1.1200	\$0.1800	\$3,519,296,887	\$3,359,923,887	\$2,005,435,006	\$1,833,974,006	\$364,170	\$333,035
VL5	2021-22	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,841,364,809	\$2,693,353,809	\$3,401,970,270	\$3,242,597,270	\$617,749	\$588,809
VL6	2022-23	4,344.00	5,507.04	\$1.1200	\$0.1800	\$3,051,021,773	\$2,913,691,773	\$2,724,038,193	\$2,576,027,193	\$494,646	\$467,770
VL7	2023-24	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,197,887,640	\$2,070,597,640	\$2,933,695,157	\$2,796,365,157	\$532,717	\$507,780
VL8	2024-25	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,575,053,776	\$2,457,200,776	\$2,080,561,024	\$1,953,271,024	\$377,800	\$354,686
VL9	2025-26	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,519,825,700	\$2,410,843,700	\$2,457,727,159	\$2,339,874,159	\$446,288	\$424,888
VL10	2026-27	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,467,352,386	\$2,366,709,386	\$2,402,499,083	\$2,293,517,083	\$436,259	\$416,470
VP1	2027-28	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,417,455,759	\$2,417,455,759	\$2,350,025,769	\$2,249,382,769	\$426,731	\$408,456
VP2	2028-29	4,344.00	5,507.04	\$1.1200	\$0.1800	\$2,369,998,714	\$2,369,998,714	\$2,300,129,143	\$2,300,129,143	\$417,670	\$417,670
VP3	2029-30	4,344.00	5,507.04	\$1.1200	\$0.1800	\$5,139,719,550	\$5,139,719,550	\$2,252,672,098	\$2,252,672,098	\$409,053	\$409,053
VP4	2030-31	4,344.00	5,507.04	\$1.1200	\$0.1800	\$6,536,742,426	\$6,536,742,426	\$5,022,392,933	\$5,022,392,933	\$911,995	\$911,995
VP5	2031-32	4,344.00	5,507.04	\$1.1200	\$0.1800	\$7,865,832,512	\$7,865,832,512	\$6,419,415,809	\$6,419,415,809	\$1,165,674	\$1,165,674

QTP=	Qualifying Time Period
VL=	Value Limitation
VP=	Viable Presence

M&O Impact of the Apex Midway Wind project on G-PISD

School finance models were prepared for G-PISD under these assumptions through the 2031-32 school year. Under the proposed agreement, a model is established to make a calculation of the “Baseline Revenue Model” by adding the total value of the project to the model, but without assuming that a value limitation is approved. This is detailed in Table 2.

Additionally, a separate model is established to make a calculation of the “Value Limitation Revenue Model” by adding the project’s limited value of \$30 million to the model. These results are shown in Table 3.

Table 4 displays the results of the comparison between the Baseline Revenue Model and the Value Limitation Revenue Model (Tables 2 and 3). The difference between the two models indicates there will be a total revenue loss of \$3.1 million over the course of the Agreement. Nearly all of the reduction in M&O taxes under the limitation agreement is offset through state aid increases under current law.

Table 2- "Baseline Revenue Model"--Project Value Added with No Value Limitation*

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Other State Aid	Total General Fund
QTP0	2016-17	\$13,551,538	\$15,131,041	\$0	\$0	\$1,626,184	\$1,731,148	\$0	\$110,500	\$32,150,411
QTP1/VL1	2017-18	\$15,825,538	\$17,204,686	\$0	\$0	\$1,899,064	\$2,670,218	\$0	\$110,500	\$37,710,006
QTP2/VL2	2018-19	\$15,688,738	\$14,924,686	\$0	\$0	\$1,882,648	\$1,950,432	\$0	\$110,500	\$34,557,004
VL3	2019-20	\$20,958,748	\$15,061,486	\$0	\$0	\$2,515,050	\$2,651,622	\$0	\$110,500	\$41,297,406
VL4	2020-21	\$34,642,376	\$9,681,300	\$0	\$0	\$4,157,086	\$2,345,537	-\$242,213	\$110,500	\$50,694,585
VL5	2021-22	\$27,996,370	\$1,479,259	\$0	-\$4,466,807	\$3,359,564	\$428,615	-\$770,448	\$110,500	\$28,137,053
VL6	2022-23	\$30,048,872	\$2,496,249	\$0	\$0	\$3,605,864	\$1,023,169	-\$606,470	\$110,500	\$36,678,184
VL7	2023-24	\$21,686,149	\$1,479,259	\$0	-\$723,843	\$2,602,338	\$593,146	-\$494,746	\$110,500	\$25,252,802
VL8	2024-25	\$25,380,490	\$8,931,021	\$0	\$0	\$3,045,658	\$1,602,384	-\$223,245	\$110,500	\$38,846,808
VL9	2025-26	\$24,837,481	\$5,159,359	\$0	\$0	\$2,980,498	\$1,098,001	-\$402,203	\$110,500	\$33,783,636
VL10	2026-27	\$24,321,574	\$5,711,640	\$0	\$0	\$2,918,588	\$1,133,337	-\$371,034	\$110,500	\$33,824,605
VP1	2027-28	\$23,812,459	\$6,236,373	\$0	\$0	\$2,857,496	\$1,167,107	-\$341,071	\$110,500	\$33,842,864
VP2	2028-29	\$23,347,380	\$6,735,340	\$0	\$0	\$2,801,686	\$1,199,414	-\$312,795	\$110,500	\$33,881,525
VP3	2029-30	\$50,490,644	\$7,209,910	\$0	\$0	\$6,058,878	\$2,712,782	-\$630,066	\$110,500	\$65,952,648
VP4	2030-31	\$64,181,468	\$1,479,259	\$0	-\$27,458,095	\$7,701,776	\$0	-\$2,376,712	\$110,500	\$43,638,195
VP5	2031-32	\$77,206,551	\$1,479,259	\$0	-\$42,611,874	\$9,264,786	\$0	-\$3,194,564	\$110,500	\$42,254,658

*Basic Allotment: \$5,140; AISD Yield: \$77.53; Equalized Wealth: \$514,000 per WADA

QTP= Qualifying Time Period
 VL= Value Limitation
 VP= Viable Presence

Table 3- "Value Limitation Revenue Model"--Project Value Added with Value Limit*

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Other State Aid	Total General Fund
QTP0	2016-17	\$13,551,538	\$15,131,041	\$0	\$0	\$1,626,184	\$1,731,148	\$0	\$110,500	\$32,150,411
QTP1/VL1	2017-18	\$13,845,538	\$17,204,686	\$0	\$0	\$1,661,464	\$2,335,560	\$0	\$110,500	\$35,157,748
QTP2/VL2	2018-19	\$13,845,538	\$16,904,686	\$0	\$0	\$1,661,464	\$2,240,377	\$0	\$110,500	\$34,762,565
VL3	2019-20	\$19,244,138	\$16,904,686	\$0	\$0	\$2,309,296	\$3,116,443	\$0	\$110,500	\$41,685,063
VL4	2020-21	\$33,048,646	\$11,395,910	\$0	\$0	\$3,965,838	\$2,632,768	-\$76,557	\$110,500	\$51,077,105
VL5	2021-22	\$26,516,260	\$1,479,259	\$0	-\$3,200,487	\$3,181,952	\$504,264	-\$691,296	\$110,500	\$27,900,453
VL6	2022-23	\$28,675,572	\$3,976,359	\$0	\$0	\$3,441,068	\$1,131,314	-\$518,092	\$110,500	\$36,816,721
VL7	2023-24	\$20,413,249	\$1,772,979	\$0	\$0	\$2,449,590	\$645,281	-\$431,435	\$110,500	\$24,960,164
VL8	2024-25	\$24,201,960	\$10,203,921	\$0	\$0	\$2,904,236	\$1,721,041	-\$136,852	\$110,500	\$39,004,806
VL9	2025-26	\$23,747,661	\$6,337,889	\$0	\$0	\$2,849,720	\$1,175,210	-\$335,746	\$110,500	\$33,885,234
VL10	2026-27	\$23,315,144	\$6,801,460	\$0	\$0	\$2,797,818	\$1,205,417	-\$309,433	\$110,500	\$33,920,906
VP1	2027-28	\$23,812,459	\$7,242,803	\$0	\$0	\$2,857,496	\$1,282,845	-\$295,602	\$110,500	\$35,010,501
VP2	2028-29	\$23,347,380	\$6,735,340	\$0	\$0	\$2,801,686	\$1,199,414	-\$312,795	\$110,500	\$33,881,525
VP3	2029-30	\$50,490,644	\$7,209,910	\$0	\$0	\$6,058,878	\$2,712,782	-\$630,066	\$110,500	\$65,952,648
VP4	2030-31	\$64,181,468	\$1,479,259	\$0	-\$27,458,095	\$7,701,776	\$0	-\$2,376,712	\$110,500	\$43,638,195
VP5	2031-32	\$77,206,551	\$1,479,259	\$0	-\$42,611,874	\$9,264,786	\$0	-\$3,194,564	\$110,500	\$42,254,658

*Basic Allotment: \$5,140; AISD Yield: \$77.53; Equalized Wealth: \$514,000 per WADA

QTP= Qualifying Time Period
 VL= Value Limitation
 VP= Viable Presence

Table 4 – Value Limit less Project Value with No Limit*

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Other State Aid	Total General Fund
QTP0	2016-17	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
QTP1/VL1	2017-18	-\$1,980,000	\$0	\$0	\$0	-\$237,600	-\$334,658	\$0	\$0	-\$2,552,258
QTP2/VL2	2018-19	-\$1,843,200	\$1,980,000	\$0	\$0	-\$221,184	\$289,945	\$0	\$0	\$205,561
VL3	2019-20	-\$1,714,610	\$1,843,200	\$0	\$0	-\$205,754	\$464,821	\$0	\$0	\$387,657
VL4	2020-21	-\$1,593,730	\$1,714,610	\$0	\$0	-\$191,248	\$287,231	\$165,657	\$0	\$382,520
VL5	2021-22	-\$1,480,110	\$0	\$0	\$1,266,320	-\$177,612	\$75,649	\$79,153	\$0	-\$236,600
VL6	2022-23	-\$1,373,300	\$1,480,110	\$0	\$0	-\$164,796	\$108,145	\$88,378	\$0	\$138,537
VL7	2023-24	-\$1,272,900	\$293,720	\$0	\$723,843	-\$152,748	\$52,135	\$63,311	\$0	-\$292,638
VL8	2024-25	-\$1,178,530	\$1,272,900	\$0	\$0	-\$141,422	\$118,657	\$86,393	\$0	\$157,998
VL9	2025-26	-\$1,089,820	\$1,178,530	\$0	\$0	-\$130,778	\$77,209	\$66,457	\$0	\$101,598
VL10	2026-27	-\$1,006,430	\$1,089,820	\$0	\$0	-\$120,770	\$72,080	\$61,601	\$0	\$96,301
VP1	2027-28	\$0	\$1,006,430	\$0	\$0	\$0	\$115,738	\$45,469	\$0	\$1,167,637
VP2	2028-29	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP3	2029-30	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP4	2030-31	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP5	2031-32	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

*Basic Allotment: \$5,140; AISD Yield: \$77.53; Equalized Wealth: \$514,000 per WADA

QTP=	Qualifying Time Period
VL=	Value Limitation
VP=	Viable Presence

M&O Impact on the Taxpayer

Table 5 summarizes the impact of the property value limitation in terms of the potential tax savings to the taxpayer under the property value limitation agreement. The focus of this table is on the M&O tax rate only. A \$1.12 per \$100 M&O tax rate is assumed in 2015-16 (the most recent year available) and thereafter, as noted previously.

Under the assumptions used here, the potential tax savings from the value limitation total \$16.3 million over the life of the agreement. The G-PISD revenue losses are expected to total approximately \$3.1 million over the course of the agreement. In total, the potential net tax benefits (after hold-harmless payments are made) are estimated to total \$13.2 million. This amount is prior to any determination made on supplemental payments to G-PISD.

I&S Funding Impact on School District

The project remains fully taxable for debt services taxes, with G-PISD currently levying a \$0.18 per \$100 I&S rate. While the value of the Apex Midway Wind project is expected to depreciate over the life of the agreement and beyond, local taxpayers should benefit from the addition of the Apex Midway Wind project to the local I&S tax roll.

The Apex Midway Wind project is not expected to affect G-PISD in terms of enrollment. Continued expansion of the project and related development could result in additional employment in the area and an increase in the school-age population, but this project is unlikely to have much impact on a stand-alone basis.

Table 5 - Estimated Financial Impact of the Apex Midway Wind Project Property Value Limitation Request Submitted to G-PISD at \$1.12 M&O Tax Rate

Year of Agreement	School Year	Project Value	Estimated Taxable Value	Value Savings	Assumed M&O Tax Rate	Taxes Before Value Limit	Taxes after Value Limit	Tax Savings @ Projected M&O Rate	School District Revenue Losses	Estimated Net Tax Benefits	
QTP0	2016-17	\$0	\$0	\$0	\$1.120	\$0	\$0	\$0	\$0	\$0	
QTP1/VL1	2017-18	\$228,000,000	\$30,000,000	\$198,000,000	\$1.120	\$2,553,600	\$336,000	\$2,217,600	-\$2,217,600	\$0	
QTP2/VL2	2018-19	\$214,320,000	\$30,000,000	\$184,320,000	\$1.120	\$2,400,384	\$336,000	\$2,064,384	-\$334,658	\$1,729,726	
VL3	2019-20	\$201,461,000	\$30,000,000	\$171,461,000	\$1.120	\$2,256,363	\$336,000	\$1,920,363	\$0	\$1,920,363	
VL4	2020-21	\$189,373,000	\$30,000,000	\$159,373,000	\$1.120	\$2,120,978	\$336,000	\$1,784,978	\$0	\$1,784,978	
VL5	2021-22	\$178,011,000	\$30,000,000	\$148,011,000	\$1.120	\$1,993,723	\$336,000	\$1,657,723	-\$236,600	\$1,421,123	
VL6	2022-23	\$167,330,000	\$30,000,000	\$137,330,000	\$1.120	\$1,874,096	\$336,000	\$1,538,096	\$0	\$1,538,096	
VL7	2023-24	\$157,290,000	\$30,000,000	\$127,290,000	\$1.120	\$1,761,648	\$336,000	\$1,425,648	-\$292,638	\$1,133,010	
VL8	2024-25	\$147,853,000	\$30,000,000	\$117,853,000	\$1.120	\$1,655,954	\$336,000	\$1,319,954	\$0	\$1,319,954	
VL9	2025-26	\$138,982,000	\$30,000,000	\$108,982,000	\$1.120	\$1,556,598	\$336,000	\$1,220,598	\$0	\$1,220,598	
VL10	2026-27	\$130,643,000	\$30,000,000	\$100,643,000	\$1.120	\$1,463,202	\$336,000	\$1,127,202	\$0	\$1,127,202	
VP1	2027-28	\$122,804,000	\$122,804,000	\$0	\$1.120	\$1,375,405	\$1,375,405	\$0	\$0	\$0	
VP2	2028-29	\$115,436,000	\$115,436,000	\$0	\$1.120	\$1,292,883	\$1,292,883	\$0	\$0	\$0	
VP3	2029-30	\$108,510,000	\$108,510,000	\$0	\$1.120	\$1,215,312	\$1,215,312	\$0	\$0	\$0	
VP4	2030-31	\$101,999,000	\$101,999,000	\$0	\$1.120	\$1,142,389	\$1,142,389	\$0	\$0	\$0	
VP5	2031-32	\$95,879,000	\$95,879,000	\$0	\$1.120	\$1,073,845	\$1,073,845	\$0	\$0	\$0	
							\$25,736,379	\$9,459,834	\$16,276,546	-\$3,081,496	\$13,195,049

QTP=	Qualifying Time Period
VL=	Value Limitation
VP=	Viable Presence

Note: School district revenue-loss estimates are subject to change based on numerous factors, including:

- Legislative and Texas Education Agency administrative changes to the underlying school finance formulas used in these calculations.
- Legislative changes addressing property value appraisals and exemptions.
- Year-to-year appraisals of project values and district taxable values.
- Changes in school district tax rates and student enrollment.

Attachment E

Taxable Value of Property



Glenn Hegar

Texas Comptroller of Public Accounts

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

2014 ISD Summary Worksheet

205/San Patricio

205-902/Gregory-Portland CISD

Category	Local Tax Roll Value	2014 WTD Mean Ratio	2014 PTAD Value Estimate	2014 Value Assigned
A. Single-Family Residences	867,862,014	N/A	867,862,014	867,862,014
B. Multi-Family Residences	49,671,219	N/A	49,671,219	49,671,219
C1. Vacant Lots	24,385,112	N/A	24,385,112	24,385,112
C2. Colonia Lots	3,792	N/A	3,792	3,792
D1. Rural Real(Taxable)	15,950,540	N/A	15,950,540	15,950,540
D2. Real Prop Farm & Ranch	1,509,312	N/A	1,509,312	1,509,312
E. Real Prop NonQual Acres	47,674,818	N/A	47,674,818	47,674,818
F1. Commercial Real	116,982,901	N/A	116,982,901	116,982,901
F2. Industrial Real	274,660,641	N/A	274,660,641	274,660,641
G. Oil, Gas, Minerals	60,630,020	N/A	60,630,020	60,630,020
J. Utilities	41,959,470	N/A	41,959,470	41,959,470
L1. Commercial Personal	43,616,152	N/A	43,616,152	43,616,152
L2. Industrial Personal	31,105,430	N/A	31,105,430	31,105,430
M. Other Personal	1,344,576	N/A	1,344,576	1,344,576
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	906,088	N/A	906,088	906,088
S. Special Inventory	2,643,694	N/A	2,643,694	2,643,694
Subtotal	1,580,905,779		1,580,905,779	1,580,905,779
Less Total Deductions	225,725,331		225,725,331	225,725,331
Total Taxable Value	1,355,180,448		1,355,180,448	1,355,180,448 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
1,395,171,433	1,355,180,448	1,395,171,433	1,355,180,448	1,355,180,448	1,355,180,448
	Loss To the Additional \$10,000 Homestead Exemption			50% of the loss to the Local Optional Percentage Homestead Exemption	
39,990,985		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
1,468,016,703	1,428,025,718	1,468,016,703	1,428,025,718	1,428,025,718	1,428,025,718

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

In 2015, the Texas Legislature passed House Bill 855, which requires state agencies to publish a list of the three most commonly used Web browsers on their websites. The Texas Comptroller's most commonly used Web browsers are Microsoft Internet Explorer, Google Chrome and Apple Safari.

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Attachment F

TEA's Facilities Value

Attachment G

Participation Agreement

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

by and between

GREGORY-PORTLAND INDEPENDENT SCHOOL DISTRICT

and

APEX MIDWAY WIND, LLC

(Texas Taxpayer ID # 32050705956)

TEXAS COMPTROLLER APPLICATION NUMBER 1091

Dated

January 19, 2016

WHEREAS, on January 19, 2016, 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 January 19, 2016, 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 January 19, 2016, pursuant to the provisions of 313.025(f-1) of the TEXAS TAX CODE, the Board of Trustees waived the job creation requirement set forth in Section 313.051(b) of the TEXAS TAX CODE;

WHEREAS, on December 15, 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 January 19, 2016, the Board of Trustees approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Board President and Secretary to execute and deliver such Agreement to the Applicant; and

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

ARTICLE I **DEFINITIONS**

Section 1.1. DEFINITIONS.

Wherever used herein, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEX. ADMIN. CODE §9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEX. 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 Apex Midway Wind, LLC, (Texas Taxpayer ID # 32050705956), the company listed in the Preamble of this Agreement and that listed as the Applicant on the Application as of the Application Approval Date. The term “Applicant” shall also include Applicant’s assigns and successors-in-interest as approved according to Section 10.2 of this Agreement.

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

“Application” means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C, of the Texas Tax Code) filed with District by Applicant on July 28, 2015. 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 San Patricio Appraisal District.

“Board of Trustees” means the Board of Trustees of the Gregory-Portland 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 San Patricio County, Texas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“State” means the State of Texas.

“Substantive Document” means a document or other information or data in electronic media determined by the Comptroller to substantially involve or include information or data significant to an application, the evaluation or consideration of an application, or the agreement or implementation of an agreement for limitation of appraised value pursuant to Chapter 313 of the Texas Tax Code. The term includes, but is not limited to, any application requesting a limitation on appraised value and any amendments or supplements, any economic impact evaluation made in connection with an application, any agreement between applicant and the school district and any subsequent amendments or assignments, and any school district written finding or report filed with the comptroller as required under this subchapter.

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

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

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

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

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

“Texas Education Agency Rules” means the applicable rules and regulations adopted by the Texas Commissioner of Education in relation to the administration of Chapter 313 of the TEXAS TAX CODE, which are set forth at 19 TEX. 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 September 30, 2015, which will determine Applicant’s Qualified Property and applicable wage standard.

B. The Application Approval Date for this Agreement is January 19, 2016, which will determine the qualifying time period.

C. The Qualifying Time Period for this agreement:

1. Starts on January 19, 2016, Application Approval Date; and

2. Ends on December 31, 2018; being the second complete tax year after the effective date of this agreement

D. The Tax Limitation Period for this Agreement:

1. Starts on January 1, 2017
2. Ends on December 31, 2026.

E. The Final Termination Date for this Agreement is December 31, 2031.

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

Section 2.4. TAX LIMITATION.

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

- A. The Market Value of the Applicant's Qualified Property; or,
- B. Thirty Million Dollars (\$30,000,000.00)

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

Section 2.5. QUALIFIED INVESTMENT FOR TAX LIMITATION ELIGIBILITY.

In order to be eligible and entitled to receive the value limitation identified in 2.4 for the Qualified Property identified in Article III, Applicant shall:

- A. have completed Qualified Investment in the amount of Thirty Million Dollars (\$30,000,000.00) 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 2.4, Applicant shall:

- A. provide payments to District sufficient to protect 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.

In conformance with the provisions of Texas Tax Code § 313.027(f)(1), it is the intent of the Parties that the District shall be compensated over the course of this Agreement by the Applicant for any monetary loss that the District incurs in its Maintenance and Operations Revenue incurred as a sole and direct result of, or on account of, entering into this Agreement, after taking into account any payments to be made under this Agreement, in all cases subject to the limitations contained in this Agreement. It is the intent of the Parties that the risk of any negative financial consequence to the District in making the decision to enter into this Agreement will be borne by the Applicant and not by the District, and paid by the Applicant to the District in addition to any and all payments due under Article V or Article VI.

A. The calculation of the amount of any Revenue Protection Amount required to be paid by Applicant under this Article IV shall be made for the first time for the first complete tax year following the start of Commercial Operations.

B. For purposes of this Article IV, and of Section 2.3(d)(1) above, the term "Commercial Operations" means the date on which Project described in **EXHIBIT 3** below becomes commercially operational and placed into service, as determined by Applicant using reasonable industry standards.

C. Within 60 days from the date Commercial Operations begin, the Applicant shall provide to the District, the Comptroller, and the Appraisal District a verified written report, giving a specific and detailed description of the land, tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property)

to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such qualified property within the boundaries of the land which is subject to the agreement, if such final description is different than the description provided in the application or any supplemental application information, or if no substantial changes have been made, a verification of the fact that no substantial changes have been made.

Section 4.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT.

The amount to be paid by the Applicant to compensate the District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year during the term of this Agreement (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:

The M&O Amount owed by the Applicant to District means the Original M&O Revenue *minus* the New M&O Revenue;

Where:

- i. "Original M&O Revenue" means the total State and local Maintenance & Operations Revenue that the 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 and/or Qualified Investment been subject to the ad valorem maintenance & operations tax at the tax rate actually adopted by the District for the applicable year.
- ii. "New M&O Revenue" means the total State and local Maintenance & Operations Revenue that the District actually received for such school year, after all adjustments have been made to Maintenance and Operations Revenue because of any portion of this agreement.

In making the calculations required by this Section 4.2:

- i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law.
- ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property and/or the Applicant's Qualified Investment 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 results in a negative number, the negative number will be considered to be zero.
- iv. All calculations made for years 2015 through 2026 of this Agreement under Section 4.2, Subsection *ii* of this Agreement will reflect the Tax Limitation Amount for such year.

- v. All calculations made under this Section 4.2 shall be made by a methodology which isolates the full M&O Revenue impact caused by this Agreement. The Applicant shall not be responsible to reimburse the District for other revenue losses created by other agreements, or on account of or otherwise arising out of any other factors not contained in this Agreement.

Section 4.3. CUMULATIVE PAYMENT LIMITATION.

In no event shall the Cumulative Payments made by Applicant to the District exceed an amount equal to One Hundred Percent (100%) of Applicant's Cumulative Unadjusted Tax Benefit under this Agreement from the Commencement Date through Tax Year 2029. For each year of this Agreement, amounts due and owing by Applicant to the District which, by virtue of the application of payment limitation set forth in this Section are not payable to the District for a given year, shall be carried forward to future years, but shall be subject, in each subsequent year to the limit set forth in this Section.

Section 4.4. CALCULATIONS TO BE MADE BY THIRD PARTY.

All calculations under this Agreement shall be made annually by an independent third party (the "Third Party") selected each year by the District and approved in writing by the Applicant.

Section 4.5. DATA USED FOR CALCULATIONS.

The calculations under this Agreement shall be initially based upon the valuations that are placed upon all taxable property in the District, including Applicant's Qualified Investment and/or the Applicant's Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District pursuant to Texas Tax Code §26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party selected under Section 4.4. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. All other data utilized by the Third Party to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party shall be adjusted from time to time by the Third Party to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified tax roll or any other changes in student counts, tax collections, or other data.

Section 4.6. DELIVERY OF CALCULATIONS.

On or before November 1 of each year for which this Agreement is effective, the Third Party appointed pursuant to Section 4.4 of this Agreement shall forward to the Parties the calculations required under Section 4.2 of this Agreement in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Third Party shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party's offices, personnel, books, records, and correspondence pertaining to the calculation and fee for the purpose of verification. The Third

Party shall maintain supporting data consistent with generally accepted accounting practices, and the employees and agents of the Applicant shall have the right to reproduce and retain for purpose of audit, any of these documents. The Third Party shall preserve all documents pertaining to the calculation and fee for a period of four (4) years after the Final Termination date of this Agreement. The Applicant shall not be liable for any of Third Party's costs resulting from an audit of the Third Party's books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement or the fee paid by the Applicant to the Third Party pursuant to Section 4.6, if such fee is timely paid.

Section 4.7. PAYMENT BY APPLICANT.

The Applicant shall pay any amount determined to be due and owing to the District under this Agreement on or before the January 31 of the year next following the tax levy for each year for which this Agreement is effective. By such date, the Applicant shall also pay any amount billed by the Third Party for all calculations under this Agreement under Section 4.6, above, plus any reasonable and necessary legal expenses paid by the District to its attorneys, auditors, or financial consultants for the preparation and filing of any financial reports, reports required by any state agency, disclosures, other reimbursement applications filed with or sent to the State of Texas which are, or may be required under the terms or because of the execution of this Agreement provided however that the District and the Applicant may agree in writing to extend the date of payment. Upon request of the Applicant the District shall provide supporting documentation to substantiate such reasonable and necessary expenses. In no year shall the Applicant be responsible for the payment of any total expenses under this Section and Section 4.6, above, in excess of Fifteen Thousand Dollars (\$15,000.00).

Section 4.8. RESOLUTION OF DISPUTES.

Should the Applicant disagree with the Third Party calculations made pursuant to Section 4.6 of this Agreement, the Applicant may appeal the findings, in writing, to the Third Party within thirty (30) days of receipt of the calculation. Within thirty (30) days of receipt of the Applicant's appeal, the Third Party will issue, in writing, a final determination of the calculations. Thereafter, the Applicant may appeal the final determination of the certification containing the calculations to the District's Board of Trustees. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the District's Board of Trustees within thirty (30) days of the final determination of the calculations.

Section 4.9. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT.

In the event that, at the time the Third Party selected under Section 4.4 makes its calculations under this Agreement, the Applicant has appealed the taxable values placed by the Appraisal District on the Qualified Property, and the appeal of the appraised values are unresolved, the Third Party shall base its calculations upon the values initially placed upon the Qualified Property by the Appraisal District.

In the event that the result of an appraisal appeal or for any other reason, the Taxable Value of the Applicant's Qualified Investment and/or the Applicant's Qualified Property is changed, once

the determination of a new value becomes final, the Parties shall immediately notify the Third Party who shall immediately issue new calculations for the applicable year or years. In the event the new calculations result in the change of any amount payable by the Applicant under this Agreement, the party from whom the adjustment is payable shall remit such amounts to the counter-party within thirty (30) days of the receipt of the new calculations from the Third Party.

Section 4.10. EFFECT OF STATUTORY CHANGES.

Notwithstanding any other provision in this Agreement, but subject only to the limitations contained in Section 7.1, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by the Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, the District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State because of its participation in this Agreement, the Applicant shall make payments to the District, that are necessary to offset any negative impact on the 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 the District.

Section 4.11. OPTION TO CANCEL AGREEMENT.

In addition to the foregoing, in the event the Applicant determines that it will not commence or complete construction of the Applicant's Qualified Investment and so long as the Appraised Value Limitation described in Section 2.4 has not been applied to Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes for such tax year, the Applicant shall have the option, during the Qualifying Time Period, to terminate this Agreement by notifying the District in writing of its exercise of such option. Any termination of this Agreement under the immediately preceding sentence shall be effective immediately prior to the beginning of the Tax Year immediately following the Tax Year during which such notification is delivered to the District. Upon any termination this Agreement under this Section 4.12, this Agreement shall terminate and be of no further force or effect; provided, however, that 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 the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged.

ARTICLE V

PAYMENT OF EXTRAORDINARY EDUCATION RELATED EXPENSES

Section 5.1. EXTRAORDINARY EXPENSES.

In addition to the amounts determined pursuant to Articles IV and 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 directly and solely related to the Project

that are not directly funded in state aid formulas, including expenses for the rental of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment caused directly by the Project; and

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

ARTICLE VI **SUPPLEMENTAL PAYMENTS**

Section 6.1. INTENT OF PARTIES WITH RESPECT TO SUPPLEMENTAL PAYMENTS.

In interpreting the provisions of Article IV and VI, the Parties agree as follows:

A. Amounts Exclusive of Indemnity Amounts. In addition to undertaking the responsibility for the payment of all of the amounts set forth under Article IV and Article V, and as further consideration for the execution of this Agreement by the District, the Applicant shall also be responsible for the Supplemental Payments set forth in this Article VI. The Applicant shall not be responsible 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, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the obligation for Supplemental Payments under Article VI of this agreement are separate and independent of the obligation of the Applicant to pay the amounts described in Article IV and Article V; provided, however, that all payments under Articles IV, V and VI are subject to such limitations as are contained in Section 7.1, and that all payments under Article VI are subject to the separate limitations contained in Section 6.4.

B. Adherence to Statutory Limits on Supplemental Payments. It is the express intent of the Parties that any Supplemental Payments made to or on behalf of the District by the Applicant, under this Article V, shall not exceed the limit imposed by the provisions of Texas Tax Code 313.027(i) unless that limit is increased by the Legislature at a future date, in which case all references to statutory limits in this Agreement will be automatically adjusted to reflect the new, higher limits, but only if, and to the extent that such increases are authorized by law.

C. As used in Article IV and this Article VI, the following terms shall be defined as follows:

- i. "Cumulative Payments" means for each year of this Agreement the total of all payments, calculated under each of Article IV, Article V and Article VI of this Agreement for the current Tax Year which are paid by or owed by Applicant to the District, plus payments paid by Applicant for all previous Tax Years under Article IV, Article V and Article VI of this Agreement.

- ii. "*Cumulative Unadjusted Tax Benefit*" means for each Tax Year of this Agreement, the Unadjusted Tax Benefit for the applicable Tax Year added to the Unadjusted Tax Benefit from all previous Tax Years of this Agreement.
- iii. "*Net Tax Benefit*" means (a) the amount of maintenance and operations ad valorem taxes that the Applicant would have paid to the District for all Tax Years if this Agreement had not been entered into by the Parties, (b) adding to the amount determined under clause, and (c) subtracting from the sum of the amounts determined under clauses (a) and (b) the sum of (d) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas, for all Tax Years of this Agreement, plus (e) any payments due to the District under Article IV under this Agreement as well as the Annual Limit.
- iv. "*Unadjusted Tax Benefit*" means for each year of this Agreement the total of all gross tax savings calculated for each year of the Agreement by multiplying the Applicant's taxable value for debt service taxes for each applicable Tax Year, minus the Tax Limitation Amount defined in Section 2.4 above, as Thirty Million Dollars (\$30,000,000.00), multiplied by the District's Maintenance & Operations tax rate for the applicable Tax Year.

Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION.

A. Notwithstanding the foregoing, the total annual Supplement Payment made pursuant to this article shall:

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

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

C. For purposes of this Agreement, the amount of the Annual Limit shall be \$438,900 based upon the District's 2015-2016 Average Daily Attendance of 4,389, rounded to the whole number.

Section 6.3. STIPULATED SUPPLEMENTAL PAYMENT AMOUNT - SUBJECT TO SUPPLEMENTAL PAYMENT LIMITATION.

A. During the period starting the first full Tax Year of the Qualifying Time Period and ending December 31 of the third year following the end of the Tax Limitation Period, District shall, subject to the limitations set forth in Subsection 6.3(B) and Section 7.1, below, be entitled to receive supplemental payments equal to the Annual Limit, as defined in Section 6.2(C), above.

B. Beginning with the first year of the Tax Limitation Period, as defined in Section 2.3(D)(1), above, and continuing thereafter until December 31 of the third year following the end of the Tax Limitation Period, the supplemental payment owed by Applicant set forth in Subsection 6.3.(A) shall be further limited by the Stipulated Supplemental Payment Limit calculated under Section 6.4 below.

C. The amount owed by Applicant after taking into account the limitations in this Subsection 6.3(B) and Section 7.1 is known as the "Stipulated Supplemental Payment."

Section 6.4. ANNUAL CALCULATION OF STIPULATED SUPPLEMENTAL PAYMENT LIMIT.

The Parties agree that for each Tax Year of this Agreement, beginning with the first year of the Tax Limitation Period, the supplemental payment owed by Applicant shall not exceed the "Stipulated Supplemental Payment Limit," as defined below. The Stipulated Supplemental Payment Limit will be calculated annually using the then most current estimate of tax savings to the Applicant, which will be made, based upon assumptions of student counts, tax collections, and other applicable data, in accordance with the following formula:

Taxable Value of the Applicant's Qualified Property for such Tax Year had this Agreement not been entered into by the Parties (i.e., the Taxable Value of the Applicant's Qualified Property used for the District's interest and sinking fund tax purposes for such Tax Year.

Minus,

The Taxable Value of the Applicant's Qualified Property for such Tax Year after giving effect to this Agreement (i.e., the Taxable Value of the Applicant's Qualified Property used for the District's maintenance and operations tax purposes for such Tax Year.

Multiplied by,

The District's maintenance and operations tax rate for such Tax Year.

Minus,

Any amounts previously paid to the District under Article IV for such Tax Year;

Multiplied by,

The number 0.4;

Minus,

Any amounts previously paid to the District under Sections 6.2 and 6.3, above, with respect to such Tax Year.

In the event that there are changes in the data upon which the calculations set forth herein are made, the Third Party selected pursuant to Section 4.4, above, shall adjust the Stipulated Supplemental Payment Limit and the Stipulated Supplemental Payment amount (if necessary) calculations to reflect any changes in the data.

Section 6.5. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS.

A. All calculations required by this Article shall be calculated by the Third Party selected pursuant to Section 4.4, above.

B. The calculations made by the Third Party shall be made at the same time and on the same schedule as the calculations made pursuant to Section 4.6, above.

C. The initial payment under this Article shall be made by January 31, 2017. Each subsequent payment of all amounts due under this Article shall be made by January 31 of the tax year for which the payment is due.

Section 6.6. DISTRICT'S OPTION TO DESIGNATE SUCCESSOR BENEFICIARY.

At any time during this Agreement, the District's Board of Trustees may, in its sole discretion, so long as such decision does not result in additional costs to the Applicant under this Agreement, direct that the Applicant's payment obligations under Article VI of this agreement be made to its educational foundation, or to a similar entity. The alternative entity may only use such funds received under this Article to support the educational mission of the District and its students. Any designation of an alternative entity must be made by recorded vote of the District's Board of Trustees at a properly posted public Board meeting. Any such designation will become effective after public vote and the delivery of notice of said vote to the Applicant in conformance with the provisions of Section 10.1, below. Such designation may be rescinded, with respect to future payments only, by action of the District's Board of Trustees at any time.

Any designation of a successor beneficiary under this Section shall not alter the Cumulative Payments, Unadjusted Tax Benefit, Cumulative Unadjusted Tax Benefit, or the Stipulated Supplemental Payments calculated as described in this Article VI above.

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 2.4 in addition to the other obligations required by this Agreement, Applicant shall Maintain Viable Presence in District commencing at the start of the Tax Limitation Period through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure. The Final Termination Date will only be extended for the mutually agreed length of the Force Majeure.

Section 8.2. REPORTS.

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

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

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

C. The Job Creation Compliance Report, Form 50-825, located at the Comptroller website http://www.texasahead.org/tax_programs/chapter313/forms.php.

Section 8.3. COMPTROLLER'S ANNUAL REPORT ON CHAPTER 313 AGREEMENTS.

During the term of this Agreement, both Parties shall provide Comptroller with all information reasonably necessary for Comptroller to assess performance under this Agreement for the purpose of issuing Comptroller's report, as required by Section 313.032 of the TEXAS TAX CODE.

Section 8.4. DATA REQUESTS.

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

Section 8.5. SITE VISITS AND RECORD REVIEW.

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

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

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

Section 8.6. RIGHT TO AUDIT; SUPPORTING DOCUMENTS; INDEPENDENT AUDITS.

This Agreement is subject to review and audit by the State Auditor pursuant to Section 2262.003 of the TEXAS GOVERNMENT CODE and Section 331.010(a) of the TEXAS TAX CODE, and the following requirements:

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

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

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

of such property as requested by Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, Applicant's failure to comply with this Section shall constitute a material breach of this Agreement.

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

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

Section 8.7. FALSE STATEMENTS; BREACH OF REPRESENTATIONS.

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

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

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

ARTICLE IX
MATERIAL BREACH OR EARLY TERMINATION

Section 9.1. EVENTS CONSTITUTING MATERIAL BREACH OF AGREEMENT.

Applicant shall be in Material Breach of this Agreement if it commits one or more of the following acts or omissions:

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

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

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

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

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

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

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

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

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

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

K. Applicant failed to allow authorized employees of District, Comptroller, the Appraisal District, and/or the State Auditor's Office to have access to Applicant's Qualified Property and/or business records in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of Applicant's Qualified Property;

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

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

N. Applicant fails either to:

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

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

A. 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 9.3.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 9.4. 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 9.5. 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 San Patricio 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 7.8 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, 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 9.6. 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 9.7. 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:

Dr. Paul Clore
Gregory-Portland Independent School District
608 College Street
Portland, TX 78374
Fax: (361)777-1093
Email: pclore@g-pisd.org

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

Mark Goodwin
President and COO
Apex Clean Energy Holdings, LLC - Manager
Court Square Building
310 4th St. NE Suite 200
Charlottesville, VA 22902
Fax: (434)220-3712
Email: Mark.Goodwin@apexcleanenergy.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 10.3. 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 10.4. 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 10.5. 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 10.6. 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.

Section 10.7. 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 10.8. 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 10.9. 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 10.10. 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 10.11. 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 10.12. 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 10.13. 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 10.14. 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 19th day of January, 2016.

APEX MIDWAY WIND, LLC

By: 

Name:

Title:

**GREGORY-PORTLAND INDEPENDENT
SCHOOL DISTRICT**

By: 

RANDY EULENFELD

President

Board of Trustees

Attest:

By: 

CARRIE GREGORY

Secretary

Board of Trustees

EXHIBIT 1

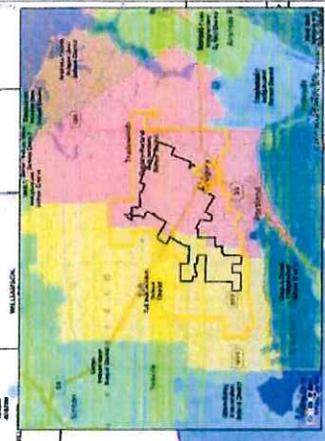
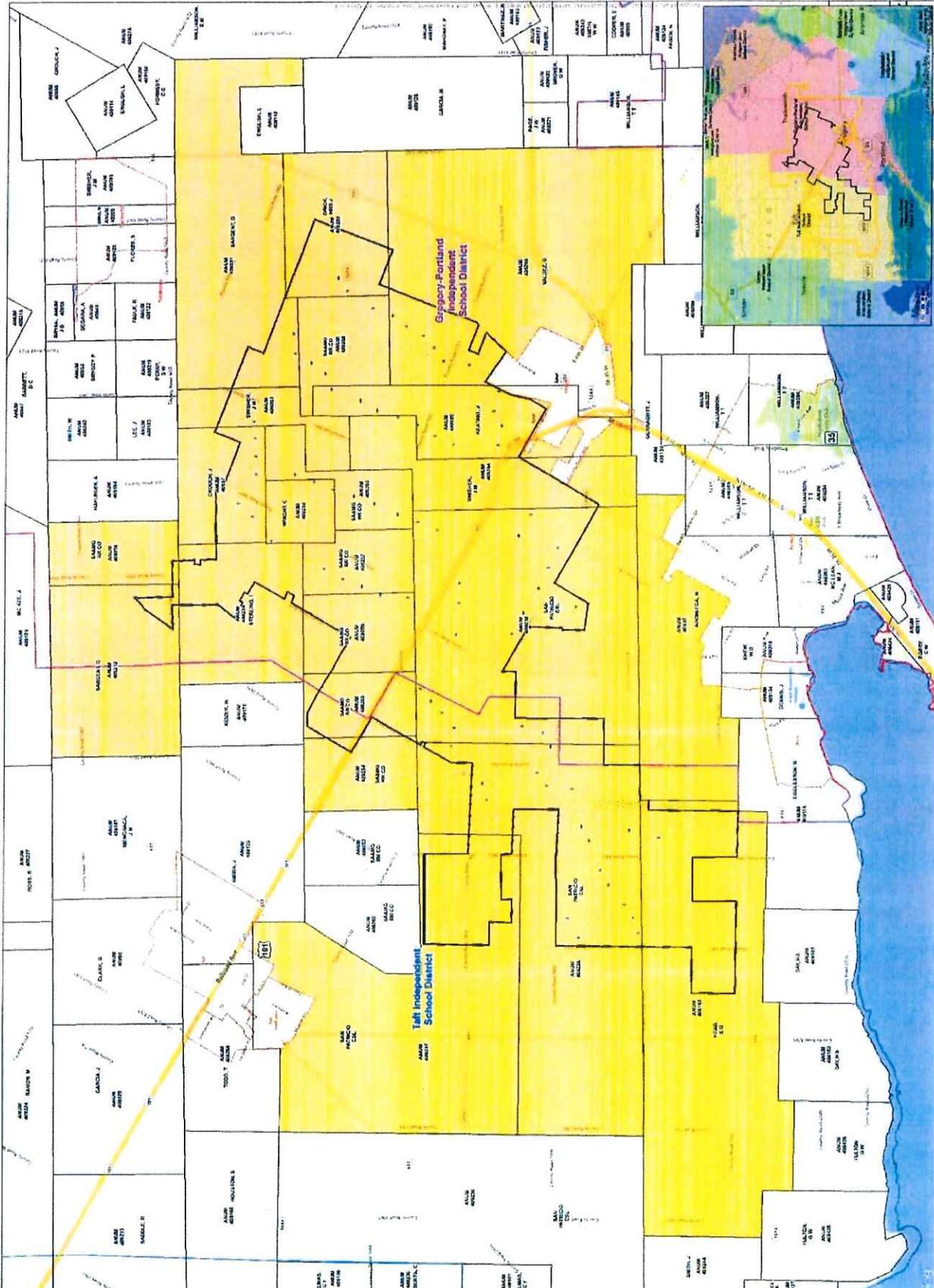
DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

The Apex Midway Wind, LLC Reinvestment Zone was created on December 16, 2013 by action of the San Patricio County Commissioners Court. As a result of the action of the Commissioners Court, all of the following real and tangible personal property is within the boundaries of the *Apex Midway Wind, LLC Reinvestment Zone*. A map of the reinvestment zone is attached as the last page of this **EXHIBIT 1** following the legal description of the zone.

EXHIBIT A

Apex Midway Wind, LLC Reinvestment Zone Legal Description

Arciniega, M	A-35	40935	Save and except any portion of abstract inside the city limits of Portland, Texas as they exist as of November 18, 2013
Head, E G	A-155	409155	
Keating, J	A-180	409180	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Orick, HRS J	A-209	409209	
Sargent, G	A-231	409231	
Sargent, G	A-232	409232	
San Patricio CSL	A-235	409235	
San Patricio CSL	A-237	409237	Save and except any portion of abstract inside the city limits of Taft, Texas as they exist as of November 18, 2013
San Patricio CSL	A-238	409238	
Sterling, I	A-239	409239	
SA&MG RR CO	A-254	409254	
SA&MG RR CO	A-255	409255	
SA&MG RR CO	A-256	409256	
SA&MG RR CO	A-257	409257	
SA&MG RR CO	A-258	409258	
SA&MG RR CO	A-259	409259	
SA&MG RR CO	A-260	409260	
Valdez, G	A-269	409269	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Wright, C	A-280	409280	
Swisher, J M	A-393	409393	
Swisher, J M	A-394	409394	Save and except any portion of abstract inside the city limits of Gregory, Texas as they exist as of November 18, 2013
Crouch, J	A-87	40987	



**Midway Wind
Proposed
Reinvestment Zone**

- Project Boundary
- City Boundary
- Interstate
- Major Road
- 1:1 Scale US Boundary
- Proposed Reinvestment Zone

EXHIBIT 2

DESCRIPTION AND LOCATION OF THE APPLICANT'S QUALIFIED INVESTMENT

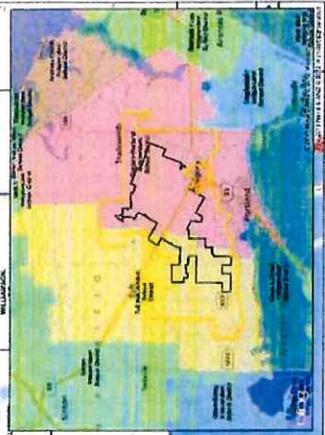
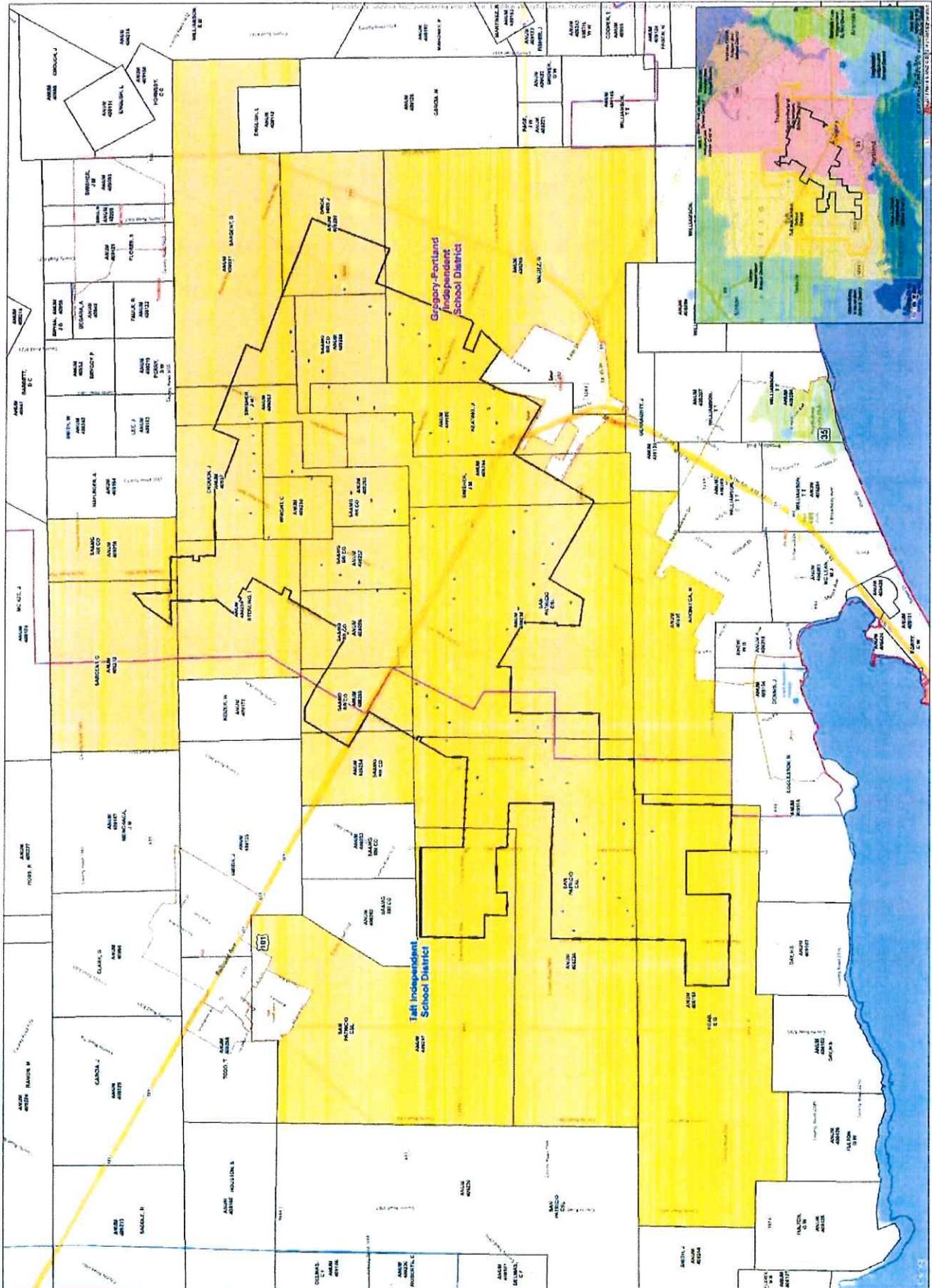
All Qualified Property owned or leased by the Applicant and located within the boundaries of both the Gregory-Portland Independent School District and the Apex Midway Wind, LLC Reinvestment Zone first placed in service after September 30, 2015 will be included in and subject to this Agreement. Specifically, all Qualified Investment of the Applicant located in the sections of land identified in **EXHIBIT 1** and within the boundaries indicated on the map attached as the last page of **EXHIBIT 3**.

EXHIBIT 3

DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

This Agreement covers all qualified property within Gregory-Portland ISD necessary for the commercial operations of the wind farm with an operating capacity of approximately 159 MW AC described in Tab 4 of the Application. Furthermore, all Qualified Property will be located within the boundaries indicated on the map attached on the last page of this **EXHIBIT 3**.

The proposed Project is anticipated to have a total capacity of 159 MW, with approximately 111 MW located in Gregory-Portland ISD. Turbine selection is ongoing at this time and has not been finalized. The exact number of wind turbines and size of each turbine will vary depending upon the wind turbines selected, manufacturer's availability and prices, ongoing wind studies and the final megawatt generating capacity of the Project when completed. Current plans are to install 3.0 MW Acciona turbines with an estimated 37 turbines located in Gregory-Portland ISD. Portions of the project will be located in Taft ISD and a separate Chapter 313 application is being submitted to that district for their respective portion of the project. The Applicant requests a value limitation for all materials and equipment installed for the Project, including but not limited to; wind turbines, turbine transformers (pad-mounts), towers, foundations, roadways, buildings and offices, anemometer towers, collection system, electrical substations, transmission line and associated towers, and interconnection facilities.



Midway Wind Proposed Reinvestment Zone

- Project Boundaries
- City Boundary
- T-1 Limited Speed Zone
- Midway Wind Reinvestment Zone
- Unimproved Property
- Improved Property
- Water



APEX
Engineering & Construction

10000 La Jolla Village Drive, Suite 100
San Diego, CA 92121
Tel: 619-594-1000
Fax: 619-594-1001
www.apexeng.com

Attachment H

Consultant Verification Letter



LYNN M. MOAK, PARTNER

DANIEL T. CASEY, PARTNER

January 19, 2016

President and Members
Board of Trustees
Gregory-Portland Independent School District
600 College Street
Portland, Texas 78374

Re: Recommendations and Findings of the firm Concerning Application of Apex Midway Wind, LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes

Dear President and Members of the Board of Trustees:

Please accept this letter as formal notification of the completion of due diligence research on behalf of the Gregory-Portland Independent School District, with respect to the pending Application of Apex Midway Wind, LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes. Since our engagement on behalf of the District, we have been actively engaged in reviewing the pending Application and verifying its contents. Based upon our review, we have drawn the following conclusions:

1. All statements of current fact contained in the Application are true and correct.
2. The project proposed in the Application meets all applicable eligibility criteria of Chapter 313 of the Texas Tax Code.
3. The Applicant has the current means and ability to complete the proposed project.
4. All applicable school finance implications arising from the contemplated Agreement have been explored.
5. The proposed Agreement contains adequate revenue protection provisions to protect the interests of the District over the course of the Agreement.

As a result of the foregoing it is our recommendation that the Board of Trustees approve the Application of Apex Midway Wind, LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

Sincerely,

A handwritten signature in blue ink that reads "Daniel T. Casey".

Daniel T. Casey

www.moakcasey.com

Phone 512-485-7878

400 W. 15th Street ★ Suite 1410 ★ Austin, TX 78701-1648

Fax 512-485-7888

O'HANLON, McCOLLOM & DEMERATH

ATTORNEYS AND COUNSELORS AT LAW

808 WEST AVENUE
AUSTIN, TEXAS 78701
TELEPHONE: (512) 494-9949
FACSIMILE: (512) 494-9919

KEVIN O'HANLON
CERTIFIED, CIVIL APPELLATE
CERTIFIED, CIVIL TRIAL

LESLIE McCOLLOM
CERTIFIED, CIVIL APPELLATE
CERTIFIED, LABOR AND EMPLOYMENT
TEXAS BOARD OF LEGAL SPECIALIZATION

JUSTIN DEMERATH

January 19, 2016

President and Members
Of the Board of Trustees
Gregory-Portland Independent School District
600 College Street
Portland, Texas 78374

Re: Recommendations and Findings of the Firm Concerning Application of Apex Midway Wind, LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes

Dear President and Members of the Board of Trustees:

Please accept this letter as formal notification of the completion of due diligence research on behalf of the Gregory-Portland Independent School District, with respect to the pending Application of Apex Midway Wind, LLC for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes. Since our engagement on behalf of the District, we have been actively engaged in reviewing the pending Application and verifying its contents. We have also negotiated an Agreement between the District and Apex Midway Wind, LLC. Based upon our review we have drawn the following conclusions:

1. All statements of current fact contained in the Application are true and correct.
2. The project proposed in the Application meets all applicable eligibility criteria of Chapter 313 of the Texas Tax Code.
3. The Applicant has the current means and ability to complete the proposed project.

4. All applicable school finance implications arising from the contemplated Agreement have been explored.
5. The proposed Agreement contains adequate legal provisions so as to protect the interests of the District.

As a result of the foregoing conclusions it is our recommendation that the Board of Trustees approve the Application of Apex Midway Wind, LLC for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin O'Hanlon", written in a cursive style.

Kevin O'Hanlon
For the Firm

Attachment I

Agreement Review Letter



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

December 15, 2015

Dr. Paul Clore
Superintendent
Gregory-Portland ISD
608 College St.
Portland, Texas 78374

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes by and between Gregory-Portland Independent School District and Apex Midway Wind, LLC

Dear Superintendent Clore:

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 Gregory-Portland Independent School District and Apex Midway 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 Jenny Hicks with our office. She can be reached by email at jenny.hicks@cpa.texas.gov or by phone at 1-800-531-5441, ext. 3-4794, or direct in Austin at 512-463-4794.

Sincerely,

A handwritten signature in black ink, reading "Korry Castillo", is written over the word "Sincerely,".

Korry Castillo
Director
Data Analysis & Transparency Division

cc: Daniel T. Casey, Moak, Casey & Associates LLP
Mark Goodwin, Apex Clean Energy Holdings, LLC

Attachment J

Conflict Of Interest Disclosure

Conflicts of Interest Disclosure Procedure

In its recent audits of Chapter 313 Agreements, The Texas State Auditor's Office has required documentation of inquiries concerning Board Member conflicts of interest at critical junctions in the Chapter 313 approval process. A local public official or a person related to a local public official in the first degree by either affinity or consanguinity has a substantial interest in a business entity or in real property, the local public official, before a vote or decision on any matter involving the business entity or the real property, is required to file an affidavit with an official Board record keeper stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or
2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.
3. A person has a substantial interest in a business entity if:
The person owns at least:
 - a. Ten percent of the voting stock or shares of the business entity, or
 - b. Either ten percent or \$15,000 of the fair market value of the business entity; or
 - c. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.
4. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The Board may contract with a business entity in which a Trustee has a substantial interest if the Trustee follows the disclosure and abstention procedure set out above.

Does any Board Member have a conflict of interest as defined above?

If so, has the required Affidavit, set forth at District Policy BBFA (Exhibit) been filed?

Please have the answers to the foregoing 2 questions and a copy of this Procedure included in the minutes of this meeting.