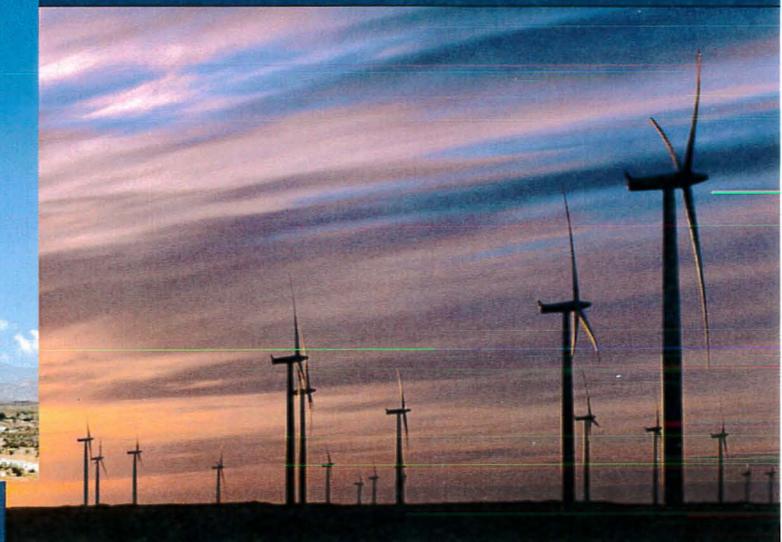


**FINDINGS OF THE TAFT  
INDEPENDENT SCHOOL DISTRICT BOARD  
OF TRUSTEES  
UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE  
APPLICATION SUBMITTED  
BY  
APEX MIDWAY WIND, LLC (#1201)**



November 14, 2017

---

**FINDINGS  
OF THE  
TAFT INDEPENDENT  
SCHOOL DISTRICT BOARD OF TRUSTEES  
UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE APPLICATION SUBMITTED BY  
APEX MIDWAY WIND, LLC (#1201)**

---

**NOVEMBER 14, 2017**

FINDINGS OF THE TAFT INDEPENDENT SCHOOL  
DISTRICT BOARD OF TRUSTEES UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE APPLICATION SUBMITTED BY  
APEX MIDWAY WIND, LLC (#1201)

*STATE OF TEXAS* §

*COUNTY OF SAN PATRICIO* §

On the 14<sup>th</sup> day of November 2017, a public meeting of the Board of Trustees of the Taft 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 June 30, 2017, 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, as amended, 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 July 31, 2017, 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 August 31, 2017 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 25<sup>th</sup> 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 to be attached to these findings as **Attachment F**.

The Board has adopted the Texas Economic Development Agreement (Form 50-826) as promulgated by the Comptroller's Office. Form 50-826 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**.

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 Midway Wind, LLC (“Apex”) is requesting an appraised value limitation from Taft Independent School District (ISD) for the Midway Wind Project (the “Project”), a proposed wind powered electric generating facility in San Patricio County.

Property used for renewable energy electric generation is eligible for a limitation under §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 (as detailed in Attachment B of the Comptroller’s Certification).**

**Board Finding Number 3.**

**Based on the information certified by the Comptroller, the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state (as detailed in Attachment C of the Comptroller’s Certification).**

**Board Finding Number 4.**

**The Board finds that the Application Fee received was reasonable and only in such an amount as was necessary to cover the District’s costs of processing the Application under consideration.**

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 Application and in the Comptroller's Economic Impact Evaluation and Certification, Attachment B, 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) contains all required provisions and information related to 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 four (4) new qualifying jobs. The average salary level of qualifying jobs will be at least \$59,408.80 per year. The review of the application by the Comptroller's 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 does not intend to create any non-qualifying jobs.**

In its Application, Applicant has indicated that it does not intend to create any to non-qualifying jobs. For all non-qualifying jobs, the Applicant should create the Applicant will be required to pay at least the county average wage of \$48,101 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 \$78.9 million to the tax base for debt service purposes at the peak investment level for the 2019-20 school year. The project remains fully taxable for debt services taxes, with the District currently levying a \$0.3655 per \$100 I&S rate. While the value of the Project is expected to depreciate over the life of the agreement and beyond, full access to the additional value is expected to provide at least a modest boost to the District's ability to meet its I&S requirements in the peak value year for the project. The project should help maintain the District's underlying I&S tax base in the future.

**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 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 (5) 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 the 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 50-826, contains all required provisions and information related to the required investment amount, to wit: the amount set forth in Section 2.5 of said Agreement. According to the Texas Comptroller of Public Accounts' School and Appraisal Districts' Property Value Study 2016 Final Findings made under Subchapter M, Chapter 403, Government Code, 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 approximately \$243 million, it is classified as 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) contains all necessary provisions and information related to establishing the required investment amount, to wit: the amount set forth in Section 2.5 of said Agreement.**

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

**Board Finding Number 14.**

**The Applicant (Taxpayer No. 32050705956) is eligible for the limitation on appraised value of qualified property 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 taxpayer by the Comptroller. See **Attachment B**. The Board also finds that the Chapter 313 Tax Limitation Agreement (**Attachment G**) contains all required provisions necessary for the Board to assess eligibility of any business to which an agreement is transferred.

**Board Finding Number 15.**

**The project will be located within an area that is 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, and such provisions comply with the specific terms of Texas Tax Code, Chapter 313.**

In support of this finding, the report of Moak, Casey & Associates, Inc. shows that the District will incur a revenue loss in the first year 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. In support of this Finding, the Board relies upon the recommendation of its consultants. (**Attachment H**)

**Board Finding Number 17.**

**The Board finds that the Chapter 313 Tax Limitation Agreement (Attachment G) 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 18.**

**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), set forth at <http://pol.tasb.org/Home/Index/1057> that it has taken appropriate action to ensure that all District Trustees and the Superintendent, 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.

In addition, at the public hearing, the Board caused the statement set forth in **Attachment J** to be read into the public record and that only Board members audibly responding that no conflict of interest existed either deliberated or voted on the Tax Limitation Agreement, these Findings or any matter relating to the Application upon which these Findings have been premised.

The Board finds that with the adoption of District Policies DBD, DGA, DH, and 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 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 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.

**Board Finding Number 19.**

**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.**

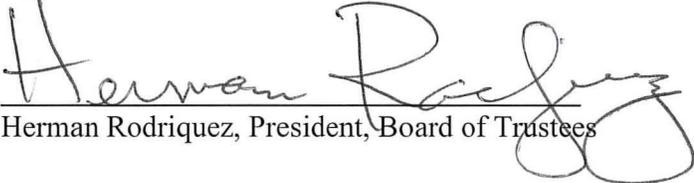
**Board Finding Number 20.**

**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.**

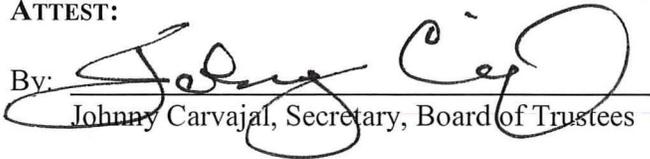
It is therefore ORDERED that the Agreement attached hereto as **Attachment G** is approved and hereby authorized to be executed and delivered by and on behalf of the District. It is further ORDERED that these findings and the Attachments referred to herein be attached to the Official Minutes of this meeting, and maintained in the permanent records of the Board of Trustees of the District.

Dated the 14<sup>th</sup> day of November 2017.

TAFT INDEPENDENT SCHOOL DISTRICT

By:   
Herman Rodriguez, President, Board of Trustees

ATTEST:

By:   
Johnny Carvajal, 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

---

June 29, 2017

Mr. Jose Rafael Lopez  
Superintendent  
Taft ISD  
400 College Street  
Taft, TX 78390

Re: **Apex Midway Wind, LLC Chapter 313 Application – Taft ISD**

Dear Mr. Lopez:

Attached is the application of Apex Midway Wind, LLC. Apex Midway Wind, LLC is withdrawing the original Chapter 313 application to Taft ISD and replacing it with this application. The changes made from the original application filed in 2015 are found in the table on the following page.

Apex Midway Wind is submitting this application to you since the board will not meet again until August 15<sup>th</sup>. Apex has experienced considerable project delays due some of the land for the project being used instead by a large multibillion dollar petrochemical complex.

Would you please contact me if you have questions or comments?

Sincerely,



D. Dale Cummings

cc: Dru Steubing, Apex Clean Energy, Inc.  
Kevin O'Hanlon, O'Hanlon, McCollum & Demerath  
Dan Casey, Moak Casey & Associates, LLP

**AMENDMENTS TO APEX MIDWAY WIND LLC APPLICATION**

<b>Page</b>	<b>Tab</b>	<b>Section</b>	<b>Question</b>	<b>Description</b>
2		2	2	Mr. Steubing's title has been updated.
4		8	6	Answer has been changed to "yes". Since the 2015 agreement, Apex has obtained a county abatement. Terms are discussed on Schedule D.
4		9	1-8	Timing dates have changed for all questions.
5		10	4	Tax rates have been updated to 2016 actual rates.
7		14	2	Dates have been changed to current dates.
7		14	3	Employee count is changed to current actual.
7		14	4	Employee count has been revised.
7		14	5	Employee count has been revised.
7		14	7	Wage rates have been updated to most current rates.
7		14	9	Wage rate has been updated to the most current rate.
7		14	10	Wage rate has been updated to the most current rate.
8		16	1-2	A new signature page is attached.
	2			Evidence of amended application fee paid is attached.
	3			Updated Form 05-165 is attached.
	4			Project capacity, allocation to Taft ISD, turbine capacity, turbine supplier, turbine count, and project timing are updated.
	5			Information about Apex is updated in paragraph 3 and competing project locations are updated in the last paragraph.
	6			Project capacity, allocation to Taft ISD, turbine count, and tax rates are updated.
	7			Project capacity, allocation to Taft ISD, turbine capacity, turbine supplier, turbine count, and project timing are updated.
	8			Project capacity, allocation to Taft ISD, turbine capacity, turbine supplier, turbine count, and project timing are updated.
	10			An informational map showing the project turbines in relation to existing turbines not part of this project is included.
	11			The second map in this tab shows the updated turbine layout for the project.
	12			A revised job waiver letter is attached.
	13			Revised wage data is shown. This data is the most current available as of the date of the application.
	14			Revised schedules are attached.

**Apex Midway Wind, LLC**  
**Chapter 313 Application to Taft 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 TAFT ISD*

# Application for Appraised Value Limitation on Qualified Property

(Tax Code, Chapter 313, Subchapter B or C)

**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 [comptroller.texas.gov/economy/local/ch313/](http://comptroller.texas.gov/economy/local/ch313/). 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

Date Application Received by District

Jose Rafael

First Name

Lopez

Last Name

Superintendent

Title

Taft ISD

School District Name

400 College Street

Street Address

400 College Street

Mailing Address

Taft

City

361-528-2636

Phone Number

TX

State

361-528-3440

Fax Number

joe.lopez@taftisd.net

Email Address

78390

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)**

<u>Dan</u> First Name	<u>Casey</u> Last Name
<u>Partner</u> Title	
<u>Moak Casey &amp; Associates, LLP</u> Firm Name	
<u>512-485-7878</u> Phone Number	<u>512-485-7888</u> Fax Number
	<u>dcasey@moakcasey.com</u> Email Address
<u>Mobile Number (optional)</u>	

4. On what date did the district determine this application complete? .....

5. Has the district determined that the electronic copy and hard copy are identical? .....  Yes  No

**SECTION 2: Applicant Information**

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

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

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

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

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

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)**

Dale Cummings  
 First Name Last Name  
 Founding Partner  
 Title  
 Cummings Westlake, LLC  
 Firm Name  
 713-266-4456 713-226-2333  
 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  
#1086, Taft ISD (2015) amended by this application amendment , #1091, Gregory-Portland ISD (2016)

**SECTION 5: Applicant Business Structure**

1. Identify Business Organization of Applicant (corporation, limited liability corporation, etc) Limited liability company
2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)?  Yes  No  
 2a. If yes, attach in **Tab 3** a copy of Texas Comptroller Franchise Tax Form No. 05-165, No. 05-166, or any other documentation from the Franchise Tax Division to demonstrate the applicant's combined group membership and contact information.
3. Is the applicant current on all tax payments due to the State of Texas?  Yes  No
4. Are all applicant members of the combined group current on all tax payments due to the State of Texas?  Yes  No  N/A
5. If the answer to question 3 or 4 is no, please explain and/or disclose any history of default, delinquencies and/or any material litigation, including litigation involving the State of Texas. (If necessary, attach explanation in **Tab 3**)

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

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

**SECTION 7: Project Description**

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

<input checked="" type="checkbox"/> Land has no existing improvements <input checked="" type="checkbox"/>	<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.**

**SECTION 9: Projected Timeline**

- 1. Application approval by school board ..... December 2017
- 2. Commencement of construction ..... 1st quarter 2018
- 3. Beginning of qualifying time period ..... December 30, 2017
- 4. First year of limitation ..... 2020
- 5. Begin hiring new employees ..... Third quarter 2018
- 6. Commencement of commercial operations ..... 1st quarter 2019
- 7. Do you propose to construct a new building or to erect or affix a new improvement after your application review start date (date your application is finally determined to be complete)? .....  Yes  No
- 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? ..... 1st quarter 2019

**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: San Patricio, \$.491924, 100% City: n/a  
(Name, tax rate and percent of project) (Name, tax rate and percent of project)  
 Hospital District: n/a Water District: n/a  
(Name, tax rate and percent of project) (Name, tax rate and percent of project)  
 Other (describe): n/a Other (describe): San Patricio Drainage, \$.057888, 100%  
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
- 5. Is the project located entirely within the ISD listed in Section 1? .....  Yes  No  
 5a. If no, attach in **Tab 6** additional information on the project scope and size to assist in the economic analysis.
- 6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? .....  Yes  No  
 6a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

**SECTION 11: Investment**

- NOTE:** The minimum amount of qualified investment required to qualify for an appraised value limitation and the minimum amount of appraised value limitation vary depending on whether the school district is classified as Subchapter B or Subchapter C, and the taxable value of the property within the school district. For assistance in determining estimates of these minimums, access the Comptroller's website at [comptroller.texas.gov/economy/local/ch313/](http://comptroller.texas.gov/economy/local/ch313/).
- 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)?
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?
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.

**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 2017  
(year)
3. What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the Texas Workforce Commission (TWC)? ..... 0  
**Note:** For job definitions see TAC §9.1051 and Tax Code §313.021(3).
4. What is the number of new qualifying jobs you are committing to create? ..... 2
5. What is the number of new non-qualifying jobs you are estimating you will create? ..... 0
6. Do you intend to request that the governing body waive the minimum new qualifying job creation requirement, as provided under Tax Code §313.025(f-1)? .....  Yes     No
  - 6a. If yes, attach evidence in **Tab 12** documenting that the new qualifying job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards.
7. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the TWC website. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22).
  - a. Average weekly wage for all jobs (all industries) in the county is ..... 925.00
  - b. 110% of the average weekly wage for manufacturing jobs in the county is ..... 1,840.85
  - c. 110% of the average weekly wage for manufacturing jobs in the region is ..... 1,142.48
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? ..... 59,408.80
10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... 59,408.80
11. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? .....  Yes     No
12. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.021(3)(F)? .....  Yes     No
  - 12a. If yes, attach in **Tab 12** supporting documentation from the TWC, pursuant to §313.021(3)(F).
13. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? .....  Yes     No
  - 13a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

**SECTION 15: Economic Impact**

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

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

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

**1. Authorized School District Representative Signature**

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

**print here** → Jose Rafael Lopez  
 Print Name (Authorized School District Representative)

Superintendent  
 Title

**sign here** → [Signature]  
 Signature (Authorized School District Representative)

6/26/17  
 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))

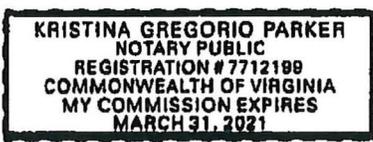
President and COO  
 Title

**sign here** → [Signature]  
 Signature (Authorized Company Representative (Applicant))

6/26/17  
 Date

GIVEN under my hand and seal of office this, the

26 day of June, 2017



Kristina Parker  
 Notary Public in and for the State of Texas Virginia

My Commission expires: 3/31/21

(Notary Seal)

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

## APPLICATION TAB ORDER FOR REQUESTED ATTACHMENTS

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

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

---

**TAB 2**

*Proof of Payment of Application Fee*

A copy of the check for the \$25,000 application fee to Taft 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 Taft 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

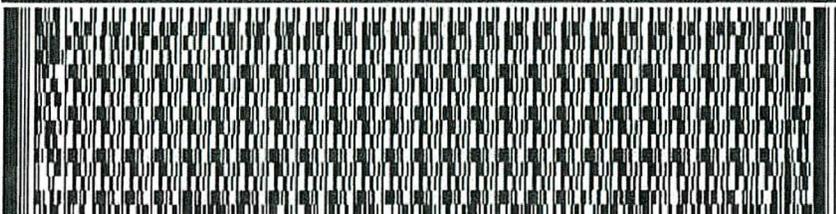
Tcode 13298

■ Reporting entity taxpayer number	■ Report year	Reporting entity taxpayer name
32051152893	2017	APEX CLEAN ENERGY HOLDINGS, LLC

LEGAL NAME OF AFFILIATE	AFFILIATE'S TEXAS TAXPAYER NUMBER (If none, enter FEI number)	BLACKEN BOX IF AFFILIATE DOES NOT HAVE NEXUS IN TEXAS
1. APEX MIDWAY WIND, LLC	■ 32050705956	■ <input type="checkbox"/>
2. APEX SOUTH TEXAS WIND, LLC	■ 32050705865	■ <input type="checkbox"/>
3. APEX WIND ASSET MGMT, LLC	■ 32061018423	■ <input type="checkbox"/>
4. APEX WIND CONSTRUCTION, LLC	■ 32061018399	■ <input type="checkbox"/>
5. COLDWATER WIND, LLC	■ 32052008615	■ <input type="checkbox"/>
6. DOLPHIN FLOYD WIND, LLC	■ 32060172791	■ <input type="checkbox"/>
7. ESPIRITU WIND, LLC	■ 32058255459	■ <input type="checkbox"/>
8. FLOYD COUNTY INTERCONNECT, LLC	■ 32061782077	■ <input type="checkbox"/>
9. OSWPS HOLDINGS, LLC	■ 32059746779	■ <input type="checkbox"/>
10. PATRIOT WIND FARM, LLC	■ 32048398880	■ <input type="checkbox"/>
11. PERRYTON INTERCONNECT, LLC	■ 32058644447	■ <input type="checkbox"/>
12. PERRYTON LAND HOLDINGS, LLC	■ 32060322271	■ <input type="checkbox"/>
13. PERRYTON PLAINS WIND, LLC	■ 32058519797	■ <input type="checkbox"/>
14. PERRYTON WIND HOLDINGS II, LLC	■ 32059761083	■ <input type="checkbox"/>
15. PERRYTON WIND HOLDINGS, LLC	■ 32059746662	■ <input type="checkbox"/>
16. PERRYTON WIND, LLC	■ 32051914011	■ <input type="checkbox"/>
17. PUMPKIN FARM WIND, LLC	■ 32059163082	■ <input type="checkbox"/>
18. SAN PATRICIO WIND I, LLC	■ 32050705915	■ <input type="checkbox"/>
19. SWINFORD WIND, LLC	■ 32060322230	■ <input type="checkbox"/>
20. OSLO WIND, LLC	■ 32053841212	■ <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"/>
-------	--------------------------	----	--------------------------



7003

**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 Midway Wind, LLC (“Apex”) is requesting an appraised value limitation from Taft Independent School District (ISD) for the Midway Wind Project (the “Project”), a proposed wind powered electric generating facility in San Patricio County. The proposed Taft 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 160.125 MW, with approximately 60.375 MW located in Taft 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 2.625 MW Gamesa turbines with an estimated 23 turbines located in Taft ISD. Portions of the project will be located in Gregory-Portland 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 substation, transmission line tie-in and associated towers, and interconnection facilities.

Construction of the Project is anticipated to begin in the first quarter of 2018 with completion by the first quarter of 2019.

**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 is building one of the nation's largest, most diversified portfolios of renewable energy resources, capable of producing over 12,000 MW of clean energy. In 2015, Apex was the market leader in the United States, with 1,042 megawatts of new wind capacity installations, enough clean energy to supply the population of a city the size of Boston or San Francisco each year for the life of the facilities. With a team of over 200 professionals and the nation's largest wind energy project pipeline, Apex is a leader in the transition to a clean energy future.

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 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:

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

---

- Curry and Quay, and Guadalupe County, New Mexico
- Beckham, Caddo, Johnston, and Pontotoc County, Oklahoma
- Yuma, County, Colorado
- Graham County, Kansas
- Nuckholls County, Nebraska
- Clay and Dickinson County, Iowa
- Newton County, Indiana
- Van Wert County, Ohio
- Cottonwood County, Minnesota
- Isabella County, Michigan
- Bowman County, North Dakota

*[The remainder of this page left intentionally blank]*

**Apex Midway Wind, LLC**  
**Chapter 313 Application to Taft ISD**  
**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).

<b>School District</b>	<b>Gregory-Portland ISD</b>	<b>Taft ISD</b>	<b>Total</b>
Estimated Megawatts	99.75	60.375	160.125
Estimated Number of Turbines	38	23	61

Approximately 37.7% of the project is located in Taft ISD based upon megawatt capacity (60.375 out of 160.125 megawatts). Approximately 62.3% of the project is located in Gregory-Portland ISD based upon megawatt capacity (99.75 out of 160.125 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                    - \$.491924
- 2) San Patricio Drainage               - \$.057888

# 2016 TAX RATES

<u>Exemptions</u>	<u>Jurisdiction</u>	<u>M&amp;O Rate</u>	<u>I&amp;S Rate</u>	<u>Total Rate</u>	<u>Sales Tax</u>
Over 65 - \$5,000	City of Aransas Pass	0.347433	0.341222	0.688655	
Disabled Vet:					
Over 65 - \$10,000	City of Gregory	0.627936	0.202064	0.830000	
Over 65 - \$8,000	City of Ingleside	0.428157	0.174343	0.602500	
none	Industrial District				
none	City Ingleside on the Bay	0.178889	0	0.178889	
none	City of Lakeside	0.127877	0	0.127877	
Over 65 - \$6,000	City of Mathis	0.694445	0.31725	1.011695	
Disabled - 6,000					
Over 65 - \$8,000	City of Odem	0.647253	0.138278	0.785531	
Over 65 - \$15,000	City of Portland	0.382364	0.184304	0.566668	
Over 65 - \$5,000	City of Sinton	0.560752	0.114294	0.675046	
Over 65 - \$5,000	City of Taft	0.567069	0.261483	0.828552	
Over 65 - \$5,000	City of Taft-Deannexed	0	0.375211	0.375211	
H-25,000 O65-10,000	Aransas Pass ISD	1.031380	0.200000	1.231380	
Disabled - 10,000					
Homestead \$25,000	Gregory-Portland ISD	1.17	0.18	1.35	
Over 65 - 10,000	Optional 065 - \$5,000 2008 Tax				
Diabled - 10,000	year				
Homestead \$25,000	Ingleside ISD	1.04	0.055	1.095	
Over 65 - \$10,000					
Disability - \$10,000					
Homestead \$25,000	Odem-Edroy ISD **	1.17	0.4789	1.64890	
Ove 65 - 10,000	Optional O65- \$3,000				
Disabled - 10,000					
Homestead \$25,000	Sinton ISD **	1.17	0.339	1.5090	
Over 65 - 10,000					
Disabled - 10,000					
H-25,000; O65 - 10,000	Taft ISD	1.1694	0.36550	1.53490	
Disabled 10,000					
Homestead 1%	County	0.418000	0.028921	0.446921	
Minimum 5,000	(Tax Year - 0-65 \$55,000)				
Over 65 - 60,000	County Special	0.045003	Total for County:	0.045003	
			Total for County:	0.491924	
Homestead 1%	Drainage District	0.057888	0	0.057888	
Minimum 5,000		Total County& Drainage District		0.549812	
Over 65 - 60,000					
Disabled 10,000					
Disabled Vet:	10-29% - 5,000	30-49% - 7,500	50-69% - 10,000	70-100% - 12,000	DVET 100%

**TAB 7**

*Description of Qualified Investment*

Apex Midway Wind, LLC (“Apex”) is requesting an appraised value limitation from Taft Independent School District (ISD) for the Midway Wind Project (the “Project”), a proposed wind powered electric generating facility in San Patricio County. The proposed Taft 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 160.125 MW, with approximately 60.375 MW located in Taft 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 2.2625 MW Gamesa turbines with an estimated 23 turbines located in Taft ISD. Portions of the project will be located in Gregory-Portland 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 substation, transmission line tie-in and associated towers, and interconnection facilities.

Construction of the Project is anticipated to begin in the first quarter of 2018 with completion by the first quarter of 2019.

**TAB 8**

*Description of Qualified Property*

Apex Midway Wind, LLC (“Apex”) is requesting an appraised value limitation from Taft Independent School District (ISD) for the Midway Wind Project (the “Project”), a proposed wind powered electric generating facility in San Patricio County. The proposed Taft 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 160.125 MW, with approximately 60.375 MW located in Taft 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 2.625 MW Gamesa turbines with an estimated 23 turbines located in Taft ISD. Portions of the project will be located in Gregory-Portland 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 substation, transmission line tie-in and associated towers, and interconnection facilities.

Construction of the Project is anticipated to begin in the first quarter of 2018 with completion by the first quarter of 2019.

**Apex Midway Wind, LLC**  
Chapter 313 Application to Taft 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*

**TAB 10**

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

Not applicable. There are no existing wind farm improvements within the project boundary. A map of the project boundary is shown on the following page. All property that is the subject of this application is shown within the property boundary indicated with a bold black line. Turbine locations within the property boundary are marked with blue symbols.

Existing turbine locations that are not part of this application are shown with red circles and these existing locations are shown for informational purposes only to assist the Comptroller.

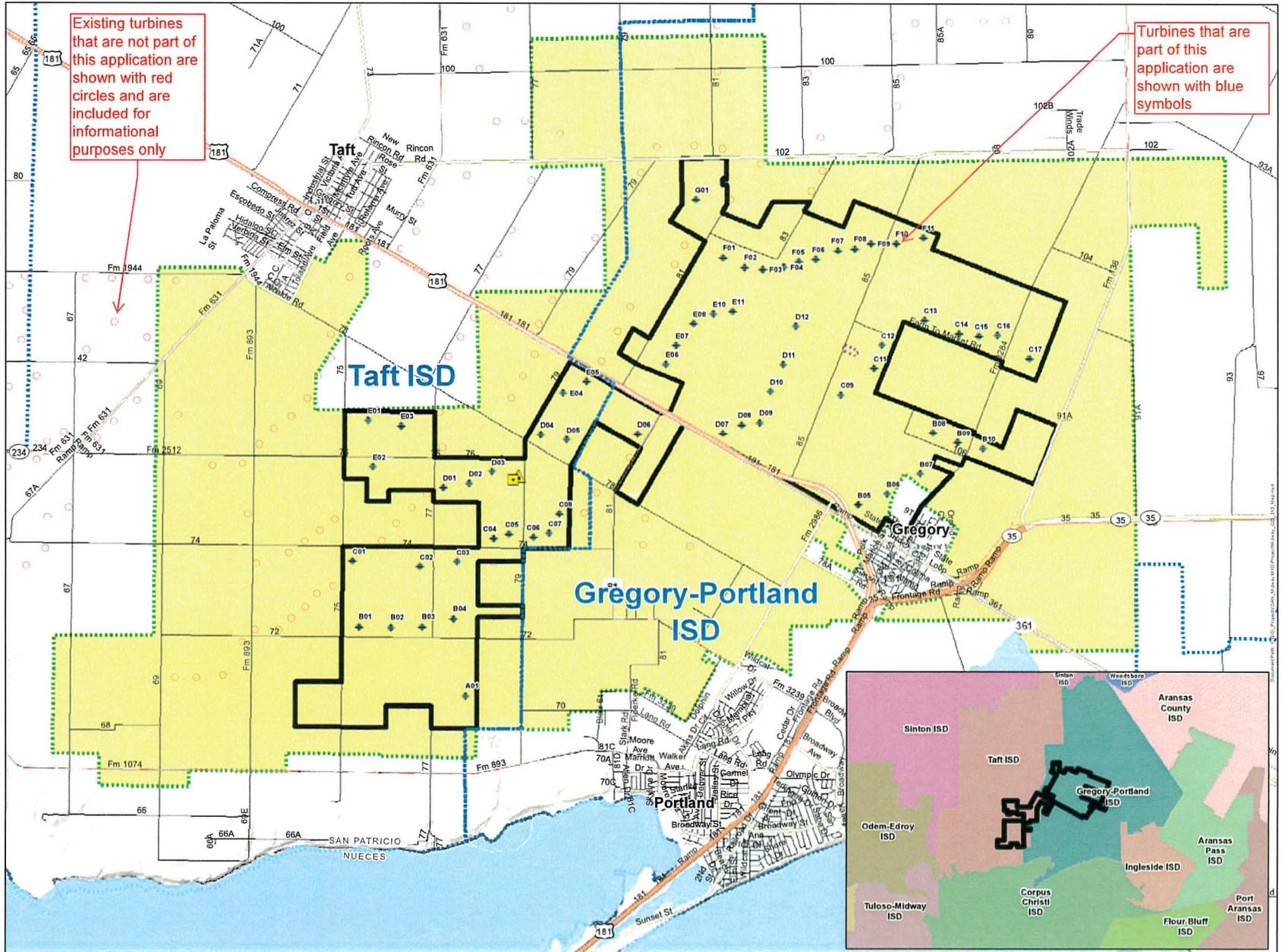


# Midway Wind

- Proposed Turbine (61)
- Existing Turbine Location
- POI
- Sub
- O&M Location
- School District Boundary
- Project Boundary
- Reinvestment Zone Boundary

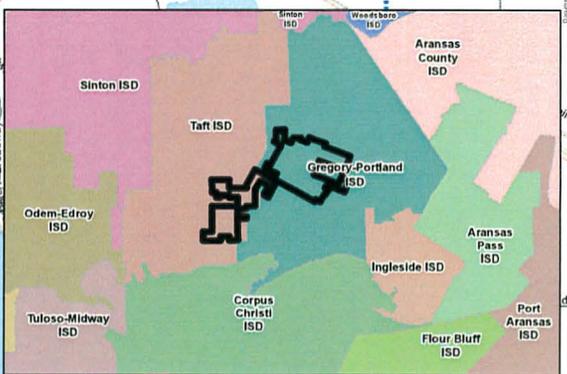
Map of reinvestment zone and project area showing existing turbines that are not part of this application. This map is included for informational purposes only to demonstrate that there is no existing wind farm property within the project boundary.

Date: 6/20/2017 Author: JF CONFIDENTIAL  
 Coordinate System: NAD 1983 StatePlane Texas South FIPS 4256 Feet  
 Projection: Lambert Conformal Conic  
 Datum: North American 1983  
 Units: Feet US



Existing turbines that are not part of this application are shown with red circles and are included for informational purposes only

Turbines that are part of this application are shown with blue symbols



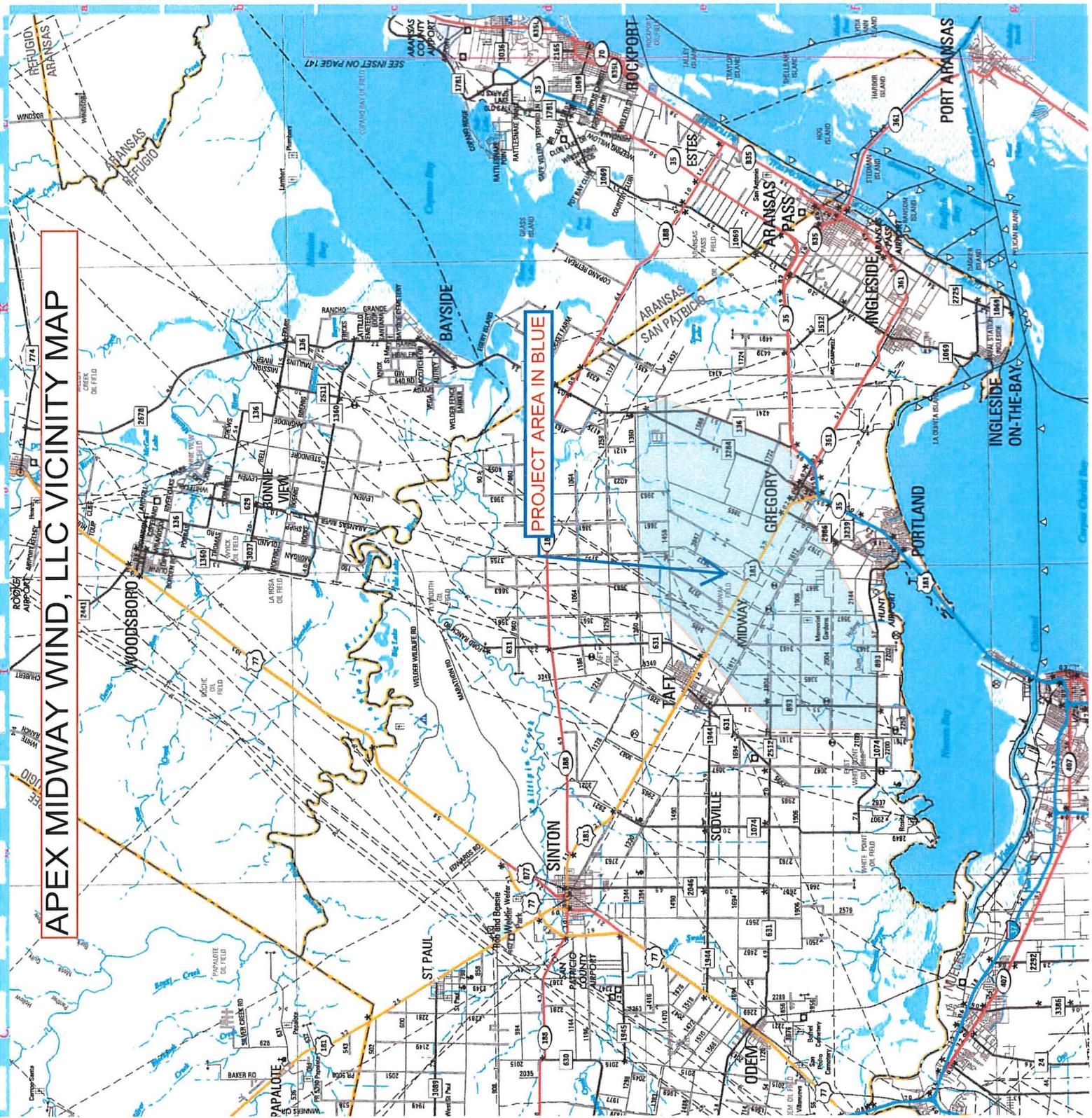
**TAB 11**

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



PROJECT AREA IN BLUE

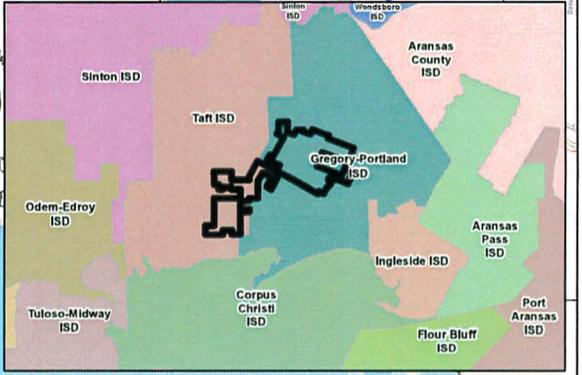
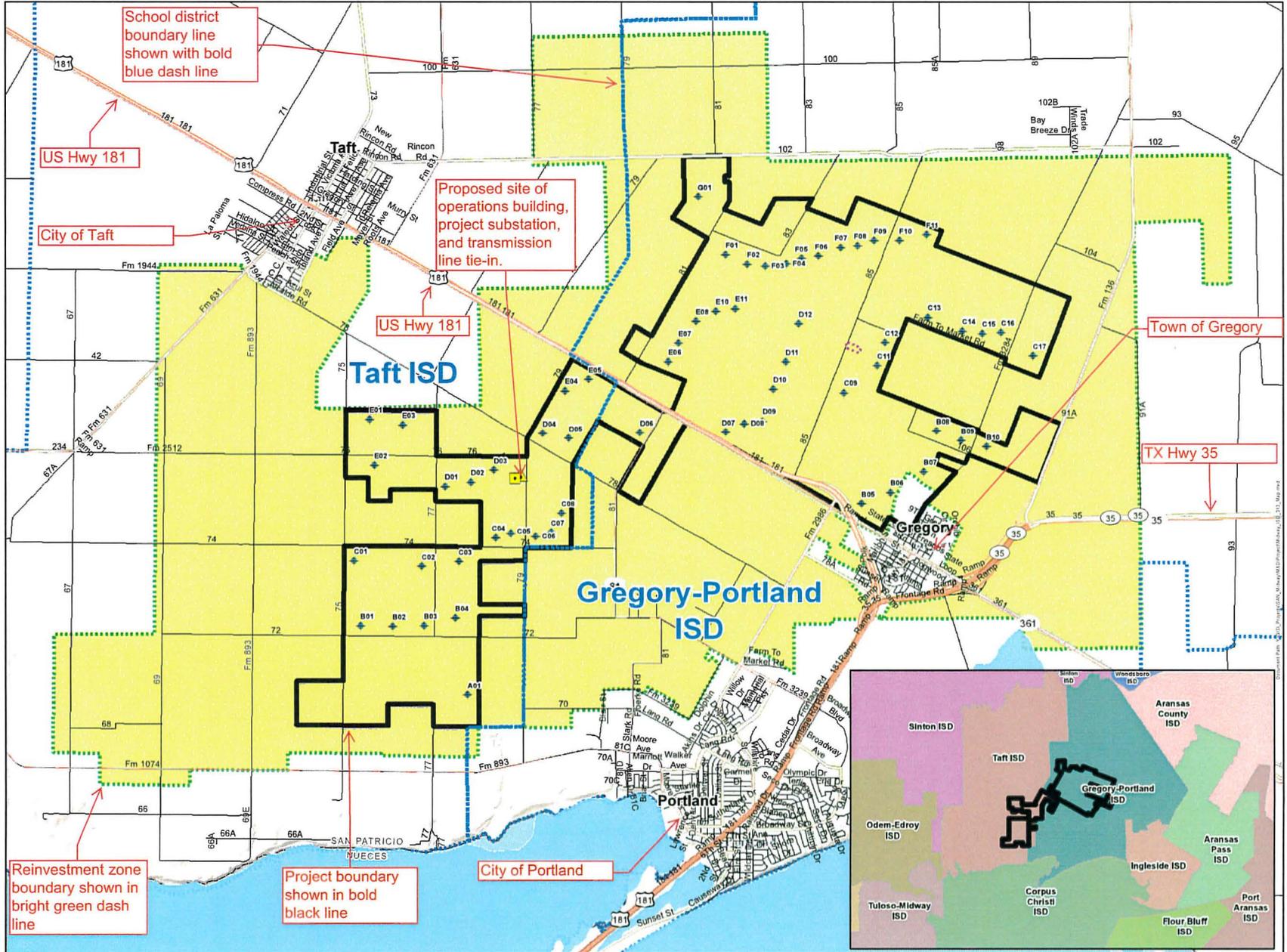


# Midway Wind

- Proposed Turbine (61)
- POI
- Sub
- O&M Location
- School District Boundary
- Project Boundary
- Reinvestment Zone Boundary

All Qualified Investment and Qualified Property will be located wholly within the reinvestment zone and project boundary.

Date: 4/27/2017 Author: JF CONFIDENTIAL  
 Coordinate System: NAD 1983 StatePlane Texas South FIPS 4205 Feet  
 Projection: Lambert Conformal Conic  
 Datum: North American 1983  
 Units: Feet US



**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

June 29, 2017

Mr. Jose Rafael Lopez  
Superintendent  
Taft Independent School District  
400 College Street  
Taft, TX 78390

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

Dear Mr. Lopez,

Apex Midway Wind, LLC requests that the Taft 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 Taft 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 two qualifying jobs in Taft 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 15-20 turbines. This number may vary depending on the operations and maintenance requirements of the turbines selected as well as the support and technical assistance offered by the turbine manufacturer. The permanent employees of a wind project maintain and service wind turbines, underground electrical connections, substations and other infrastructure associated with the safe and reliable operation of the project. In addition to the onsite employees, there may be managers or technicians who support the project from offsite locations.

Sincerely,



D. Dale Cummings

**Apex Midway Wind, LLC**  
Chapter 313 Application to Taft 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**

**TAFT ISD - SAN PATRICIO COUNTY**  
**CHAPTER 313 WAGE CALCULATION - ALL JOBS - ALL INDUSTRIES**

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2016	\$ 882.00	\$ 45,864.00
SECOND	2016	\$ 868.00	\$ 45,136.00
THIRD	2016	\$ 975.00	\$ 50,700.00
FOURTH	2016	\$ 975.00	\$ 50,700.00
	AVERAGE	\$ 925.00	\$ 48,100.00

**TAFT ISD - SAN PATRICIO COUNTY**  
**CHAPTER 313 WAGE CALCULATION - MANUFACTURING JOBS**

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2016	\$ 1,636.00	\$ 85,072.00
SECOND	2016	\$ 1,647.00	\$ 85,644.00
THIRD	2016	\$ 1,754.00	\$ 91,208.00
FOURTH	2016	\$ 1,657.00	\$ 86,164.00
	AVERAGE	\$ 1,673.50	\$ 87,308.00
	X	110%	110%
		\$ 1,840.85	\$ 96,038.80

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

REGION	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
Coastal Bend	2015	\$ 1,038.62	\$ 54,008.00
	X	110%	110%
		\$ 1,142.48	\$ 59,408.80

\* 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
2016	1st Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$882
2016	2nd Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$868
2016	3rd Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$975
2016	4th Qtr	San Patricio County	Private	00	0	10	Total, All Industries	\$975

# 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
2016	1st Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,636
2016	2nd Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,647
2016	3rd Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,754
2016	4th Qtr	San Patricio County	Private	31	2	31-33	Manufacturing	\$1,657

**2015 Manufacturing Average Wages by Council of Government Region  
Wages for All Occupations**

COG	Wages	
	Hourly	Annual
<b>Texas</b>	<b>\$24.41</b>	<b>\$50,778</b>
<a href="#">1. Panhandle Regional Planning Commission</a>	\$20.64	\$42,941
<a href="#">2. South Plains Association of Governments</a>	\$17.50	\$36,408
<a href="#">3. NORTEX Regional Planning Commission</a>	\$23.28	\$48,413
<a href="#">4. North Central Texas Council of Governments</a>	\$25.03	\$52,068
<a href="#">5. Ark-Tex Council of Governments</a>	\$18.46	\$38,398
<a href="#">6. East Texas Council of Governments</a>	\$19.84	\$41,270
<a href="#">7. West Central Texas Council of Governments</a>	\$19.84	\$41,257
<a href="#">8. Rio Grande Council of Governments</a>	\$18.32	\$38,109
<a href="#">9. Permian Basin Regional Planning Commission</a>	\$25.18	\$52,382
<a href="#">10. Concho Valley Council of Governments</a>	\$18.80	\$39,106
<a href="#">11. Heart of Texas Council of Governments</a>	\$21.41	\$44,526
<a href="#">12. Capital Area Council of Governments</a>	\$29.98	\$62,363
<a href="#">13. Brazos Valley Council of Governments</a>	\$18.78	\$39,057
<a href="#">14. Deep East Texas Council of Governments</a>	\$17.30	\$35,993
<a href="#">15. South East Texas Regional Planning Commission</a>	\$30.41	\$63,247
<a href="#">16. Houston-Galveston Area Council</a>	\$26.44	\$54,985
<a href="#">17. Golden Crescent Regional Planning Commission</a>	\$23.73	\$49,361
<a href="#">18. Alamo Area Council of Governments</a>	\$19.96	\$41,516
<a href="#">19. South Texas Development Council</a>	\$15.87	\$33,016
<b>20. Coastal Bend Council of Governments</b>	<b>\$25.97</b>	<b>\$54,008</b>
<a href="#">21. Lower Rio Grande Valley Development Council</a>	\$16.17	\$33,634
<a href="#">22. Texoma Council of Governments</a>	\$19.04	\$39,595
<a href="#">23. Central Texas Council of Governments</a>	\$18.04	\$37,533
<a href="#">24. Middle Rio Grande Development Council</a>	\$22.24	\$46,263

Source: Texas Occupational Employment and Wages

Data published: July 2016

Data published annually, next update will be July 31, 2017

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.

$\$54,008 \times 110\% = \$59,408.80$
---------------------------------------

**Apex Midway Wind, LLC**  
Chapter 313 Application to Taft 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.

Date 6/29/2017  
 Applicant Name Apex Midway Wind  
 ISD Name Taft 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 cost) in tangible personal property placed in service during this year that will become Qualified Property	Column B New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Column C Other new investment made during this year that will not become Qualified Property [SEE NOTE]	Column D Other new investment made during this year that may become Qualified Property [SEE NOTE]	Column E Total Investment (Sum of Columns A+B+C+D)
Investment made before filing complete application with district	-	Year preceding the first complete tax year of the qualifying time period (assuming no deferrals of qualifying time period)		Not eligible to become Qualified Property			[The only other investment made before filing complete application with district that may become Qualified Property is land.]	
Investment made after filing complete application with district, but before final board approval of application				\$ -	\$ -	\$ -	\$ -	\$ -
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period	2017	2017-2018	2017	\$ -	\$ -	\$ -	\$ -	
Complete tax years of qualifying time period	QTP1	2018-2019	2018	\$ 80,433,700	\$ 1,100,000	\$ -	\$ -	\$ 81,533,700
	QTP2	2019-2020	2019	\$ -	\$ -	\$ -	\$ -	\$ -
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>				\$ 80,433,700	\$ 1,100,000	\$ -	\$ -	\$ 81,533,700
<b>Total Qualified Investment (sum of green cells)</b>				Enter amounts from TOTAL row above in Schedule A2				
				\$ 81,533,700				

For All Columns: List amount invested each year, not cumulative totals.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application. Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

Total Investment: Add together each cell in a column and enter the sum in the blue total investment row. Enter the data from this row into the first row in Schedule A2.

Qualified Investment: For the green qualified investment cell, enter the sum of all the green-shaded cells.

PROPERTY INVESTMENT AMOUNTS								
(Estimated Investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Other investment made during this year that will not become Qualified Property [SEE NOTE]	Other investment made during this year that will become Qualified Property [SEE NOTE]	Total Investment (A+B+C+D)
Total Investment from Schedule A1*				Enter amounts from TOTAL row in Schedule A1 in the row below				
				\$ 80,433,700	\$ 1,100,000	\$ -	\$ -	\$ 81,533,700
Each year prior to start of value limitation period**	0	2017-2018	2017	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of value limitation period**		2018-2019	2018	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of value limitation period**	0	2019-2020	2019	\$ -	\$ -	\$ -	\$ -	\$ -
Value limitation period***	1	2020-2021	2020	\$ -	\$ -	\$ -	\$ -	\$ -
	2	2021-2022	2021	\$ -	\$ -	\$ -	\$ -	\$ -
	3	2022-2023	2022	\$ -	\$ -	\$ -	\$ -	\$ -
	4	2023-2024	2023	\$ -	\$ -	\$ -	\$ -	\$ -
	5	2024-2025	2024	\$ -	\$ -	\$ -	\$ -	\$ -
	6	2025-2026	2025	\$ -	\$ -	\$ -	\$ -	\$ -
	7	2026-2027	2026	\$ -	\$ -	\$ -	\$ -	\$ -
	8	2027-2028	2027	\$ -	\$ -	\$ -	\$ -	\$ -
	9	2028-2029	2028	\$ -	\$ -	\$ -	\$ -	\$ -
	10	2029-2030	2029	\$ -	\$ -	\$ -	\$ -	\$ -
Total Investment made through limitation				\$ 80,433,700	\$ 1,100,000	\$ -	\$ -	\$ 81,533,700
Continue to maintain viable presence	11	2030-2031	2030	\$ -	\$ -	\$ -	\$ -	\$ -
	12	2031-2032	2031	\$ -	\$ -	\$ -	\$ -	\$ -
	13	2032-2033	2032	\$ -	\$ -	\$ -	\$ -	\$ -
	14	2033-2034	2033	\$ -	\$ -	\$ -	\$ -	\$ -
	15	2034-2035	2034	\$ -	\$ -	\$ -	\$ -	\$ -
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2035-2036	2035	\$ -	\$ -	\$ -	\$ -	\$ -
	17	2036-2037	2036	\$ -	\$ -	\$ -	\$ -	\$ -
	18	2037-2038	2037	\$ -	\$ -	\$ -	\$ -	\$ -
	19	2038-2039	2038	\$ -	\$ -	\$ -	\$ -	\$ -
	20	2039-2040	2039	\$ -	\$ -	\$ -	\$ -	\$ -
	21	2040-2041	2040	\$ -	\$ -	\$ -	\$ -	\$ -
	22	2041-2042	2041	\$ -	\$ -	\$ -	\$ -	\$ -
	23	2042-2043	2042	\$ -	\$ -	\$ -	\$ -	\$ -
	24	2043-2044	2043	\$ -	\$ -	\$ -	\$ -	\$ -
	25	2044-2045	2044	\$ -	\$ -	\$ -	\$ -	\$ -

\* All investments made through the qualifying time period are captured and totaled on Schedule A1 [blue box] and incorporated into this schedule in the first row.

\*\* Only investment made during deferrals of the start of the limitation (after the end of qualifying time period but before the start of the Value Limitation Period) should be included in the "year prior to start of value limitation period" row(s). If the limitation starts at the end of the qualifying time period or the qualifying time period overlaps the limitation, no investment should be included on this line.

\*\*\* If your qualifying time period will overlap your value limitation period, do not also include investment made during the qualifying time period in years 1 and/or 2 of the value limitation period, depending on the overlap. Only include investments/years that were not captured on Schedule A1.

For All Columns: List amount invested each year, not cumulative totals. Only include investments in the remaining rows of Schedule A2 that were not captured on Schedule A1.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.

Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

**Schedule B: Estimated Market And Taxable value (of qualified property only)**

Date

6/29/2017

Applicant Name

Apex Midway Wind, LLC

Form 50-296A

ISD Name

Taft ISD

Revised May 2014

	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Qualified Property			Estimated Taxable Value		
				Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new buildings or "in or on the new improvements"	Market Value less any exemptions (such as pollution control) and before limitation	Final taxable value for I&S after all reductions	Final taxable value for M&O after all reductions
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2017-2018	2017	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2018-2019	2018	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2019-2020	2019	\$ -	\$ 1,086,300	\$ 77,819,600	\$ 78,905,900	\$ 78,905,900	\$ 78,905,900
Value Limitation Period	1	2020-2021	2020	\$ -	\$ 1,059,100	\$ 72,761,300	\$ 73,820,400	\$ 73,820,400	\$ 30,000,000
	2	2021-2022	2021	\$ -	\$ 1,032,600	\$ 68,031,800	\$ 69,064,400	\$ 69,064,400	\$ 30,000,000
	3	2022-2023	2022	\$ -	\$ 1,006,800	\$ 63,609,700	\$ 64,616,500	\$ 64,616,500	\$ 30,000,000
	4	2023-2024	2023	\$ -	\$ 981,600	\$ 59,475,100	\$ 60,456,700	\$ 60,456,700	\$ 30,000,000
	5	2024-2025	2024	\$ -	\$ 957,100	\$ 55,609,200	\$ 56,566,300	\$ 56,566,300	\$ 30,000,000
	6	2025-2026	2025	\$ -	\$ 933,200	\$ 51,994,600	\$ 52,927,800	\$ 52,927,800	\$ 30,000,000
	7	2026-2027	2026	\$ -	\$ 909,900	\$ 48,615,000	\$ 49,524,900	\$ 49,524,900	\$ 30,000,000
	8	2027-2028	2027	\$ -	\$ 887,200	\$ 45,455,000	\$ 46,342,200	\$ 46,342,200	\$ 30,000,000
	9	2028-2029	2028	\$ -	\$ 865,000	\$ 42,500,400	\$ 43,365,400	\$ 43,365,400	\$ 30,000,000
	10	2029-2030	2029	\$ -	\$ 843,400	\$ 39,737,900	\$ 40,581,300	\$ 40,581,300	\$ 30,000,000
Continue to maintain viable presence	11	2030-2031	2030	\$ -	\$ 822,300	\$ 37,154,900	\$ 37,977,200	\$ 37,977,200	\$ 37,977,200
	12	2031-2032	2031	\$ -	\$ 801,700	\$ 34,739,800	\$ 35,541,500	\$ 35,541,500	\$ 35,541,500
	13	2032-2033	2032	\$ -	\$ 781,700	\$ 32,481,700	\$ 33,263,400	\$ 33,263,400	\$ 33,263,400
	14	2033-2034	2033	\$ -	\$ 762,200	\$ 30,370,400	\$ 31,132,600	\$ 31,132,600	\$ 31,132,600
	15	2034-2035	2034	\$ -	\$ 743,100	\$ 28,396,300	\$ 29,139,400	\$ 29,139,400	\$ 29,139,400
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2035-2036	2035	\$ -	\$ 724,500	\$ 26,550,500	\$ 27,275,000	\$ 27,275,000	\$ 27,275,000
	17	2036-2037	2036	\$ -	\$ 706,400	\$ 24,824,700	\$ 25,531,100	\$ 25,531,100	\$ 25,531,100
	18	2037-2038	2037	\$ -	\$ 688,700	\$ 23,211,100	\$ 23,899,800	\$ 23,899,800	\$ 23,899,800
	19	2038-2039	2038	\$ -	\$ 671,500	\$ 21,702,400	\$ 22,373,900	\$ 22,373,900	\$ 22,373,900
	20	2039-2040	2039	\$ -	\$ 654,700	\$ 20,291,700	\$ 20,946,400	\$ 20,946,400	\$ 20,946,400
	21	2040-2041	2040	\$ -	\$ 638,300	\$ 18,972,700	\$ 19,611,000	\$ 19,611,000	\$ 19,611,000
	22	2041-2042	2041	\$ -	\$ 622,300	\$ 17,739,500	\$ 18,361,800	\$ 18,361,800	\$ 18,361,800
	23	2042-2043	2042	\$ -	\$ 606,700	\$ 16,586,400	\$ 17,193,100	\$ 17,193,100	\$ 17,193,100
	24	2043-2044	2043	\$ -	\$ 591,500	\$ 15,508,300	\$ 16,099,800	\$ 16,099,800	\$ 16,099,800
	25	2044-2045	2044	\$ -	\$ 576,700	\$ 14,500,300	\$ 15,077,000	\$ 15,077,000	\$ 15,077,000

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.

Only include market value for eligible property on this schedule.

**Schedule C: Employment Information**

Date 6/29/2017  
 Applicant Name Apex Midway Wind, LLC  
 ISD Name Taft ISD

Form 50-296A  
 Revised May 2014

	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A Number of Construction FTE's or man-hours (specify)	Column B Average annual wage rates for construction workers	Column C Number of non-qualifying jobs applicant estimates it will create (cumulative)	Column D Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Column E Average annual wage of new qualifying jobs
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2017-2018	2017	0	\$ -	0	0	\$ -
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2018-2019	2018	75	\$ 45,000	0	1	\$ 59,408.00
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2019-2020	2019	25	\$ 45,000	0	2	\$ 59,408.80
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2020-2021	2020	0		0	2	\$ 59,408.80
	2	2021-2022	2021	0		0	2	\$ 59,408.80
	3	2022-2023	2022	0		0	2	\$ 59,408.80
	4	2023-2024	2023	0		0	2	\$ 59,408.80
	5	2024-2025	2024	0		0	2	\$ 59,408.80
	6	2025-2026	2025	0		0	2	\$ 59,408.80
	7	2026-2027	2026	0		0	2	\$ 59,408.80
	8	2027-2028	2027	0		0	2	\$ 59,408.80
	9	2028-2029	2028	0		0	2	\$ 59,408.80
	10	2029-2030	2029	0		0	2	\$ 59,408.80
Years Following Value Limitation Period	11 through 25	2030-2045	2030-2044	0		0	2	\$ 59,408.80

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

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

<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input checked="" type="checkbox"/>	Yes	<input type="checkbox"/>	No
<input type="checkbox"/>	Yes	<input checked="" type="checkbox"/>	No

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

Date

6/29/2017

Applicant Name

Apex Midway Wind, LLC

Form 50-296A

ISD Name

Taft ISD

Revised May 2014

State and Local Incentives for which the Applicant intends to apply (Estimated)						
Incentive Description	Taxing Entity (as applicable)	Beginning Year of Benefit	Duration of Benefit	Annual Tax Levy without Incentive	Annual Incentive	Annual Net Tax Levy
Tax Code Chapter 311	County: San Patricio	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	City: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	Other: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Tax Code Chapter 312	County: San Patricio (Total over 25 years)	2019	9 years	\$ 4,700,276	\$ 2,466,566	\$ 2,233,710
	City: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	Other: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Local Government Code Chapters 380/381	County: San Patricio	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
	City: Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	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	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Enterprise Zone/Project	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable	Not applicable
Economic Development Corporation	Not applicable	Not applicable	Not applicable		Not applicable	
Texas Enterprise Fund	Not applicable	Not applicable	Not applicable		Not applicable	
Employee Recruitment	Not applicable	Not applicable	Not applicable		Not applicable	
Skills Development Fund	Not applicable	Not applicable	Not applicable		Not applicable	
Training Facility Space and Equipment	Not applicable	Not applicable	Not applicable		Not applicable	
Infrastructure Incentives	Not applicable	Not applicable	Not applicable		Not applicable	
Permitting Assistance	Not applicable	Not applicable	Not applicable		Not applicable	
Other:	Not applicable	Not applicable	Not applicable		Not applicable	
Other:	Not applicable	Not applicable	Not applicable		Not applicable	
Other:	Not applicable	Not applicable	Not applicable		Not applicable	
Other:	Not applicable	Not applicable	Not applicable		Not applicable	
<b>TOTAL</b>				\$ 4,700,276	\$ 2,466,566	\$ 2,233,710

Additional information on incentives for this project:

Chapter 312 tax abatement with San Patricio County has been obtained. The abatement agreement is for nine years with the following percentages: 100% for years 1-3, 90% for years 4-5, 60% for years 6-7, and 40% for years 8-9. The tax abatement does *not* apply to the county's road and bridge fund or I&S. Those 2016 tax rates are \$.045003 per \$100 value and \$.028921 per \$100 value, respectively. The tax abatement only applies to the county's general tax rate of \$.418 per \$100 value. Tax abatement savings over a 25-year period due to the county tax abatement agreement are approximately \$2,466,566. However all but approximately \$350,000 of this tax savings is expected to be spent to improve county roads under a road use agreement with San Patricio County.

**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 6<sup>th</sup> 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 16<sup>th</sup> 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;

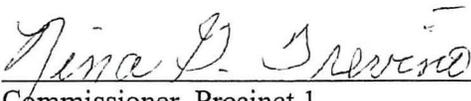
WHEREAS, it is the finding of the Commissioners' Court of San Patricio County that the designation of the reinvestment zone would attract major investment in the zone, and;

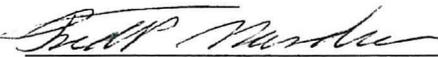
WHEREAS, the above stated property does not contain area in the taxing jurisdiction of an incorporated municipality;

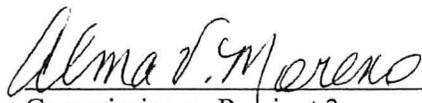
BE IT THEREFORE ORDERED that the Commissioners' Court of San Patricio County designates as a reinvestment zone, property herein described in Exhibit "A", pursuant to the authority contained in Section 312.401 of the Texas Property Redevelopment and Tax Abatement Act.

Passed in open court this 16<sup>th</sup> day of December 2013.

  
Terry Simpson, County Judge  
San Patricio County, Texas

  
Commissioner, Precinct 1

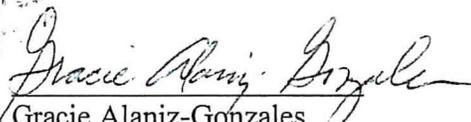
  
Commissioner, Precinct 2

  
Commissioner, Precinct 3

\_\_\_\_\_  
Commissioner, Precinct 4



Attest:

  
Gracie Alaniz-Gonzales  
County Clerk  
San Patricio County, Texas

**EXHIBIT A**

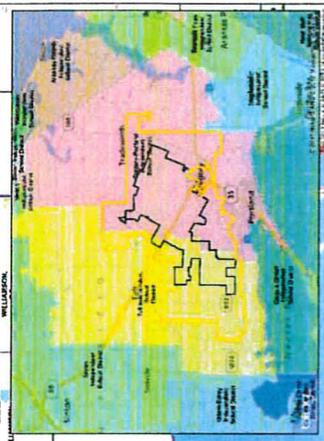
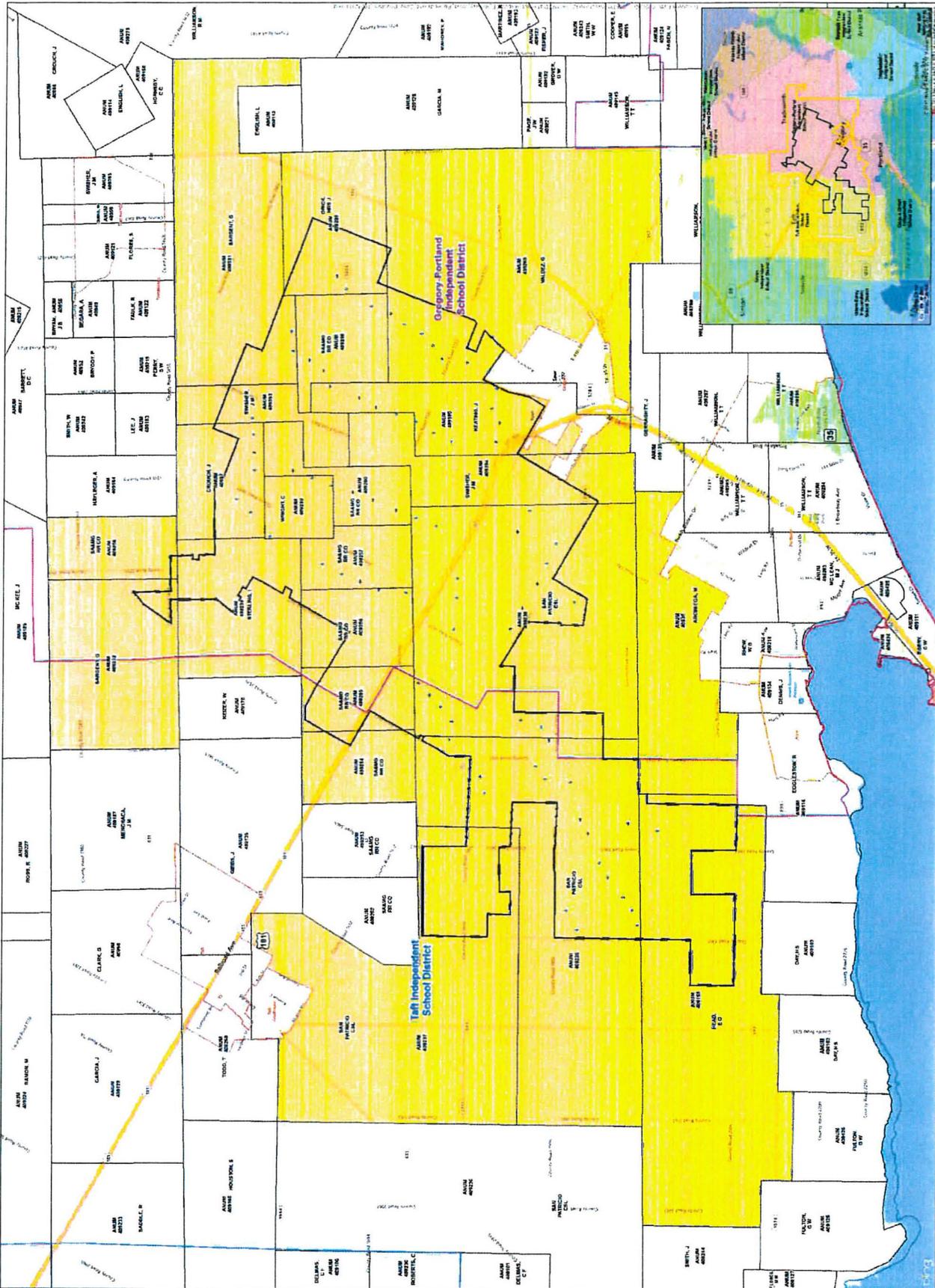
**Apex Midway Wind, LLC Reinvestment Zone Legal Description**

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

- Public Boundaries
- Proposed TIF Zone
- City Boundary
- Unified School District
- Oregon Portland Independent School District
- TIF - OLS Sub Area A-1
- Proposed Reinvestment Zone



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 16<sup>th</sup>, 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

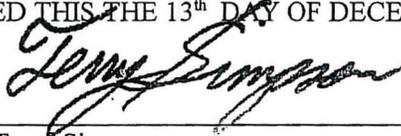
1.1 Call meeting to order

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 13<sup>th</sup> DAY OF DECEMBER, 2013  
POSTED THIS THE 13<sup>th</sup> DAY OF DECEMBER, 2013



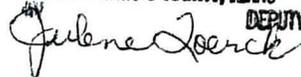
Judge Terry Simpson

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.

**TAB 17**

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

See attached.

**CUMMINGS WESTLAKE LLC**

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

June 29, 2017

Mr. Jose Rafael Lopez  
Superintendent  
Taft ISD  
400 College Street  
Taft, TX 78390

Re: **Apex Midway Wind, LLC Chapter 313 Application – Taft ISD**

Dear Mr. Lopez:

Attached is the application of Apex Midway Wind, LLC. Apex Midway Wind, LLC is withdrawing the original Chapter 313 application to Taft ISD and replacing it with this application. The changes made from the original application filed in 2015 are found in the table on the following page.

Apex Midway Wind is submitting this application to you since the board will not meet again until August 15<sup>th</sup>. Apex has experienced considerable project delays due some of the land for the project being used instead by a large multibillion dollar petrochemical complex.

Would you please contact me if you have questions or comments?

Sincerely,



D. Dale Cummings

cc: Dru Steubing, Apex Clean Energy, Inc.  
Kevin O'Hanlon, O'Hanlon, McCollum & Demerath  
Dan Casey, Moak Casey & Associates, LLP

## INDEX TO APEX MIDWAY WIND LLC APPLICATION

Page	Tab	Section	Question	Description
2		2	2	Mr. Steubing's title has been updated.
4		8	6	Answer has been changed to "yes". Since the 2015 agreement, Apex has obtained a county abatement. Terms are discussed on Schedule D.
4		9	1-8	Timing dates have changed for all questions.
5		10	4	Tax rates have been updated to 2016 actual rates.
7		14	2	Dates have been changed to current dates.
7		14	3	Employee count is changed to current actual.
7		14	4	Employee count has been revised.
7		14	5	Employee count has been revised.
7		14	7	Wage rates have been updated to most current rates.
7		14	9	Wage rate has been updated to the most current rate.
7		14	10	Wage rate has been updated to the most current rate.
8		16	1-2	A new signature page is attached.
	2			Evidence of amended application fee paid is attached.
	3			Updated Form 05-165 is attached.
	4			Project capacity, allocation to Taft ISD, turbine capacity, turbine supplier, turbine count, and project timing are updated.
	5			Information about Apex is updated in paragraph 3 and competing project locations are updated in the last paragraph.
	6			Project capacity, allocation to Taft ISD, turbine count, and tax rates are updated.
	7			Project capacity, allocation to Taft ISD, turbine capacity, turbine supplier, turbine count, and project timing are updated.
	8			Project capacity, allocation to Taft ISD, turbine capacity, turbine supplier, turbine count, and project timing are updated.
	10			An informational map showing the project turbines in relation to existing turbines not part of this project is included.
	11			The second map in this tab shows the updated turbine layout for the project.
	12			A revised job waiver letter is attached.
	13			Revised wage data is shown. This data is the most current available as of the date of the application.
	14			Revised schedules are attached.

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

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 comptroller.texas.gov/economy/local/ch313/. 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

June 30, 2017

Date Application Received by District

Jose Rafael

Lopez

First Name

Last Name

Superintendent

Title

Taft ISD

School District Name

400 College Street

Street Address

400 College Street

Mailing Address

Taft

TX

78390

City

State

ZIP

361-528-2636

361-528-3440

Phone Number

Fax Number

joe.lopez@taftisd.net

Mobile Number (optional)

Email Address

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

SECTION 1: School District Information (continued)

3. Authorized School District Consultant (if Applicable)

Dan	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
Mobile Number (optional)	Email Address

4. On what date did the district determine this application complete? ..... July 7, 2017
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		
Court Square Building, 310 4th Street, NE, Suite 200		
Street Address		
Court Square Building, 310 4th Street, 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	
Mobile Number (optional)	Business Email Address	

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

Dru	Steubing	
First Name	Last Name	
Director of Project Development	Apex Clean Energy, Inc.	
Title		
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	
Mobile Number (optional)	Business Email Address	

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

SECTION 2: Applicant Information (continued)

4. Authorized Company Consultant (If Applicable)

Form fields for Authorized Company Consultant including Dale, Cummings, Title, Firm Name, Phone Number, Fax Number, and Business Email Address.

SECTION 3: Fees and Payments

- 1. Has an application fee been paid to the school district?
2. Will any 'payments to the school district' result in non-compliance with Tax Code §313.027(i)?
3. If 'payments to the school district' determined by formula, could such method result in non-compliance with Tax Code §313.027(i)?

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? #1086, Taft ISD (2015), #1091, Gregory-Portland ISD (2016)

SECTION 5: Applicant Business Structure

- 1. Identify Business Organization of Applicant (corporation, limited liability corporation, etc) Limited liability company
2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)?
3. Is the applicant current on all tax payments due to the State of Texas?
4. Are all applicant members of the combined group current on all tax payments due to the State of Texas?
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.

Large empty rectangular box for providing explanation for questions 3 or 4.

Texas Comptroller of Public Accounts

Data Analysis and  
Transparency  
Form 50-296-A

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

Jose Rafael Lopez

Print Name (Authorized School District Representative)

Superintendent

Title

sign here

*[Handwritten Signature]*

Signature (Authorized School District Representative)

7/25/17

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))

President and CEO

Title

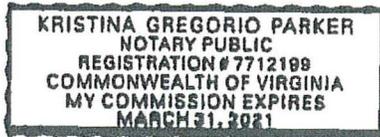
sign here

*[Handwritten Signature]*

Signature (Authorized Company Representative (Applicant))

7/24/17

Date



(Notary Seal)

GIVEN under my hand and seal of office this, the

24 day of July, 2017

Kristina Parker  
Notary Public in and for the State of Texas Virginia

My Commission expires: 3/31/21

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: 10/12/2017 10:05:33

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

APEX MIDWAY WIND, LLC	
<b>Texas Taxpayer Number</b>	32050705956
<b>Mailing Address</b>	310 4TH ST NE STE 200 STE NE CHARLOTTESVLE, VA 22902-5299
<b>Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	04/12/2013
<b>Texas SOS File Number</b>	0801766881
<b>Registered Agent Name</b>	COGENCY GLOBAL INC.
<b>Registered Office Street Address</b>	1601 ELM ST., SUITE 4360 DALLAS, TX 75201

## Attachment C

### State Comptroller's Certification



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

P.O.Box 13528 • Austin, TX 78711-3528

August 31, 2017

Jose Rafael  
Superintendent  
Taft Independent School District  
400 College Street  
Taft, Texas 78390

Re: Certificate for Limitation on Appraised Value of Property for School District  
Maintenance and Operations Taxes by and between Taft Independent School District  
and Apex Midway Wind, LLC, Application 1201

Dear Superintendent Rafael:

On July 31, 2017, the Comptroller issued written notice that Apex Midway Wind, LLC (applicant) submitted a completed application (Application 1201) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on June 30, 2017, to the Taft Independent School District (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.

---

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

Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 1201.

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

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

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

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district'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, 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 50-826) 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 by December 31, 2017.

Note that any building or improvement existing as of the application review start date of July 31, 2017, 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 Will Counihan, Director, Data Analysis & Transparency, by email at [will.counihan@cpa.texas.gov](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Reissig", written over a faint, illegible background.

Mike Reissig  
Deputy Comptroller

Enclosure

cc: Will Counihan

## Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Apex Midway Wind, LLC (project) applying to Taft Independent School District (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 Electric Generation
School District	Taft ISD
2015-2016 Average Daily Attendance	1,027
County	San Patricio
Proposed Total Investment in District	\$81,533,700
Proposed Qualified Investment	\$81,533,700
Limitation Amount	\$30,000,000
Qualifying Time Period (Full Years)	2018-2019
Number of new qualifying jobs committed to by applicant	2*
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$1,142
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$1,142
Minimum annual wage committed to by applicant for qualified jobs	\$59,408.80
Minimum weekly wage required for non-qualifying jobs	\$925
Minimum annual wage required for non-qualifying jobs	\$48,101
Investment per Qualifying Job	\$40,766,850
Estimated M&O levy without any limit (15 years)	\$9,392,924
Estimated M&O levy with Limitation (15 years)	\$6,384,456
Estimated gross M&O tax benefit (15 years)	\$3,008,467

\* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).

**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
2018	76	91	167	\$3,434,408	\$7,666,692	\$11,101,100
2019	27	44	71.459	\$1,243,816	\$4,319,184	\$5,563,000
2020	2	14	16	\$118,816	\$1,887,684	\$2,006,500
2021	2	6	8	\$118,816	\$1,247,984	\$1,366,800
2022	2	1	3	\$118,816	\$783,184	\$902,000
2023	2	(1)	1	\$118,816	\$480,884	\$599,700
2024	2	(2)	0	\$118,816	\$307,884	\$426,700
2025	2	(2)	0	\$118,816	\$245,784	\$364,600
2026	2	(1)	1	\$118,816	\$249,584	\$368,400
2027	2	0	2	\$118,816	\$294,384	\$413,200
2028	2	1	3	\$118,816	\$359,084	\$477,900
2029	2	2	4	\$118,816	\$430,084	\$548,900
2030	2	3	5	\$118,816	\$473,684	\$592,500
2031	2	3	5	\$118,816	\$526,584	\$645,400
2032	2	3	5	\$118,816	\$573,484	\$692,300
2033	2	3	5	\$118,816	\$614,884	\$733,700
2034	2	4	6	\$118,816	\$643,884	\$762,700

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*	Taft ISD I&S Tax Levy	Taft ISD M&O Tax Levy	Taft ISD M&O and I&S Tax Levies	San Patricio County Tax Levy	San Patricio Drainage Tax Levy	Estimated Total Property Taxes
				0.3655	1.1694		0.4919	0.0579	
2019	\$78,905,900	\$78,905,900		\$288,401	\$922,726	\$1,211,127	\$388,157	\$45,677	\$1,644,961
2020	\$73,820,400	\$73,820,400		\$269,814	\$863,256	\$1,133,069	\$363,140	\$42,733	\$1,538,943
2021	\$69,064,400	\$69,064,400		\$252,430	\$807,639	\$1,060,069	\$339,744	\$39,980	\$1,439,794
2022	\$64,616,500	\$64,616,500		\$236,173	\$755,625	\$991,799	\$317,864	\$37,405	\$1,347,068
2023	\$60,456,700	\$60,456,700		\$220,969	\$706,981	\$927,950	\$297,401	\$34,997	\$1,260,348
2024	\$56,566,300	\$56,566,300		\$206,750	\$661,486	\$868,236	\$278,263	\$32,745	\$1,179,244
2025	\$52,927,800	\$52,927,800		\$193,451	\$618,938	\$812,389	\$260,365	\$30,639	\$1,103,392
2026	\$49,524,900	\$49,524,900		\$181,014	\$579,144	\$760,158	\$243,625	\$28,669	\$1,032,452
2027	\$46,342,200	\$46,342,200		\$169,381	\$541,926	\$711,306	\$227,968	\$26,827	\$966,101
2028	\$43,365,400	\$43,365,400		\$158,501	\$507,115	\$665,616	\$213,325	\$25,103	\$904,044
2029	\$40,581,300	\$40,581,300		\$148,325	\$474,558	\$622,882	\$199,629	\$23,492	\$846,003
2030	\$37,977,200	\$37,977,200		\$138,807	\$444,105	\$582,912	\$186,819	\$21,984	\$791,715
2031	\$35,541,500	\$35,541,500		\$129,904	\$415,622	\$545,526	\$174,837	\$20,574	\$740,938
2032	\$33,263,400	\$33,263,400		\$121,578	\$388,982	\$510,560	\$163,631	\$19,256	\$693,446
2033	\$31,132,600	\$31,132,600		\$113,790	\$364,065	\$477,854	\$153,149	\$18,022	\$649,025
2034	\$29,139,400	\$29,139,400		\$106,505	\$340,756	\$447,261	\$143,344	\$16,868	\$607,473
			<b>Total</b>	<b>\$2,935,791</b>	<b>\$9,392,924</b>	<b>\$12,328,714</b>	<b>\$3,951,261</b>	<b>\$464,971</b>	<b>\$16,744,947</b>

Source: CPA, Apex Midway Wind, LLC

\*Tax 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.

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Taft ISD I&S Tax Levy	Taft ISD M&O Tax Levy	Taft ISD M&O and I&S Tax Levies	San Patricio County Tax Levy	San Patricio Drainage Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.3655	1.1694		0.4919	0.0579	
2019	\$78,905,900	\$78,905,900		\$288,401	\$922,726	\$1,211,127	\$0	\$45,677	\$1,256,804
2020	\$73,820,400	\$30,000,000		\$269,814	\$350,820	\$620,634	\$0	\$42,733	\$663,367
2021	\$69,064,400	\$30,000,000		\$252,430	\$350,820	\$603,250	\$0	\$39,980	\$643,230
2022	\$64,616,500	\$30,000,000		\$236,173	\$350,820	\$586,993	\$31,786	\$37,405	\$656,185
2023	\$60,456,700	\$30,000,000		\$220,969	\$350,820	\$571,789	\$29,740	\$34,997	\$636,527
2024	\$56,566,300	\$30,000,000		\$206,750	\$350,820	\$557,570	\$111,305	\$32,745	\$701,620
2025	\$52,927,800	\$30,000,000		\$193,451	\$350,820	\$544,271	\$104,146	\$30,639	\$679,056
2026	\$49,524,900	\$30,000,000		\$181,014	\$350,820	\$531,834	\$146,175	\$28,669	\$706,677
2027	\$46,342,200	\$30,000,000		\$169,381	\$350,820	\$520,201	\$136,781	\$26,827	\$683,808
2028	\$43,365,400	\$30,000,000		\$158,501	\$350,820	\$509,321	\$213,325	\$25,103	\$747,749
2029	\$40,581,300	\$30,000,000		\$148,325	\$350,820	\$499,145	\$199,629	\$23,492	\$722,266
2030	\$37,977,200	\$37,977,200		\$138,807	\$444,105	\$582,912	\$186,819	\$21,984	\$791,715
2031	\$35,541,500	\$35,541,500		\$129,904	\$415,622	\$545,526	\$174,837	\$20,574	\$740,938
2032	\$33,263,400	\$33,263,400		\$121,578	\$388,982	\$510,560	\$163,631	\$19,256	\$693,446
2033	\$31,132,600	\$31,132,600		\$113,790	\$364,065	\$477,854	\$153,149	\$18,022	\$649,025
2034	\$29,139,400	\$29,139,400		\$106,505	\$340,756	\$447,261	\$143,344	\$16,868	\$607,473
			Total	\$2,935,791	\$6,384,456	\$9,320,247	\$1,794,667	\$464,971	\$11,579,885
			Diff	\$0	\$3,008,467	\$3,008,467	\$2,156,594	\$0	\$5,165,062

Assumes School Value Limitation and Tax Abatements with the County.

Source: CPA, Apex Midway Wind, LLC

\*Tax Rate per \$100 Valuation

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

**Attachment B – Tax Revenue before 25<sup>th</sup> Anniversary of Limitation Start**

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)
<b>Limitation Pre-Years</b>	2017	\$0	\$0	\$0	\$0
	2018	\$0	\$0	\$0	\$0
	2019	\$922,726	\$922,726	\$0	\$0
<b>Limitation Period (10 Years)</b>	2020	\$350,820	\$1,273,546	\$512,436	\$512,436
	2021	\$350,820	\$1,624,366	\$456,819	\$969,255
	2022	\$350,820	\$1,975,186	\$404,805	\$1,374,060
	2023	\$350,820	\$2,326,006	\$356,161	\$1,730,221
	2024	\$350,820	\$2,676,826	\$310,666	\$2,040,887
	2025	\$350,820	\$3,027,646	\$268,118	\$2,309,005
	2026	\$350,820	\$3,378,466	\$228,324	\$2,537,329
	2027	\$350,820	\$3,729,286	\$191,106	\$2,728,435
	2028	\$350,820	\$4,080,106	\$156,295	\$2,884,730
	2029	\$350,820	\$4,430,926	\$123,738	\$3,008,467
<b>Maintain Viable Presence (5 Years)</b>	2030	\$444,105	\$4,875,031	\$0	\$3,008,467
	2031	\$415,622	\$5,290,653	\$0	\$3,008,467
	2032	\$388,982	\$5,679,635	\$0	\$3,008,467
	2033	\$364,065	\$6,043,700	\$0	\$3,008,467
	2034	\$340,756	\$6,384,456	\$0	\$3,008,467
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2035	\$318,954	\$6,703,410	\$0	\$3,008,467
	2036	\$298,561	\$7,001,971	\$0	\$3,008,467
	2037	\$279,484	\$7,281,455	\$0	\$3,008,467
	2038	\$261,640	\$7,543,095	\$0	\$3,008,467
	2039	\$244,947	\$7,788,043	\$0	\$3,008,467
	2040	\$229,331	\$8,017,374	\$0	\$3,008,467
	2041	\$214,723	\$8,232,097	\$0	\$3,008,467
	2042	\$201,056	\$8,433,153	\$0	\$3,008,467
	2043	\$188,271	\$8,621,424	\$0	\$3,008,467
	2044	\$176,310	\$8,797,734	\$0	\$3,008,467

\$8,797,734
   is greater than  \$3,008,467

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

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

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:

- This project was originally submitted to the Comptroller on August 9, 2013 and assigned application number 336.
- November 14, 2013, the Comptroller’s office issued a recommendation letter for application number 336.
- July 1, 2015, the Comptroller’s office received a termination letter request from Apex Midway Wind, LLC to Taft Independent School District stating, “Apex Midway Wind, LLC will fail to make the minimum qualified investment by December 31, 2015.”
- July 20, 2015, Taft Independent School District submitted to the Comptroller’s office from Apex Midway Wind, LLC a new application for the property described in application number 336 and assigned application number 1086.
- December 11, 2015, the Comptroller’s office issued a certificate letter for application number 1086.
- June 29, 2017, the Comptroller’s office received a withdrawal letter request from Apex Midway Wind, LLC to Taft Independent School District stating, “Apex has experienced considerable project delays due to some of the land for the project being used instead by a large multibillion dollar petrochemical complex.”

- July 7, 2017, Taft Independent School District submitted to the Comptroller's office from Apex Midway Wind, LLC a new application for the property described in application number 1086 and assigned application number 1201.
- Per Apex Midway Wind, LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. "Apex is building one of the nation's largest, most diversified portfolios of renewable energy resources, capable of producing over 12,000 MW of clean energy. In 2015, Apex was the market leader in the United States, with 1,042 megawatts of new wind capacity installations, enough clean energy to supply the population of a city the size of Boston or San Francisco each year for the life of the facilities. With a team of over 200 professionals and the nation's largest wind energy project pipeline, Apex is a leader in the transition to a clean energy future."
  - B. "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."
  - C. "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."
  - D. "Obtaining the Chapter 313 value limitation is a necessary part of the economic analysis for investment in Texas. The power generation market is very 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."
  - E. "The Apex Midway Wind project is in direct completion for internal capital expenditures with projects in the following locations: Curry and Quay, and Guadalupe County, New Mexico, Beckham, Caddo, Johnston, and Pontotoc County, Oklahoma, Yuma, County, Colorado, Graham County, Kansas, Nuckholls County, Nebraska, Clay and Dickinson County, Iowa, Newton County, Indian, Van Wert County, Ohio, Cottonwood County, Minnesota, Isabella County, Michigan, Bowman County, North Dakota."
- According to Apex Clean Energy website dated August 19, 2013, "Apex Clean Energy has acquired the Midway Farms Wind project. This project has the potential to support 165 MW of capacity in San Patricio County, Texas."
- An August 27, 2013 *North American WINDPOWER* article states that, "Virginia-based Apex Clean Energy has acquired the Midway Farms Wind project from TradeWind Energy. Midway Farms Wind is currently in development. No construction start date has been set at this time, and the company has not yet finalized a turbine supply agreement."
- According to a Special Meeting of the Commissioner's Court dated December 16, 2013, "Consideration and action on creating a re-investment zone for Apex Midway Wind, LLC."
- Supplemental information provided by the applicant stated the following:
  - A. "The ERCOT GINR number is 11INR0054 and is being amended to reflect the expected commercial operation date."

**Supporting Information**

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

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

# Supporting Information

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

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

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

**SECTION 7: Project Description**

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

<input checked="" type="checkbox"/> Land has no existing improvements <input type="checkbox"/> *	<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.

# Supporting Information

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

TAB 5

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

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 is building one of the nation's largest, most diversified portfolios of renewable energy resources, capable of producing over 12,000 MW of clean energy. In 2015, Apex was the market leader in the United States, with 1,042 megawatts of new wind capacity installations, enough clean energy to supply the population of a city the size of Boston or San Francisco each year for the life of the facilities. With a team of over 200 professionals and the nation's largest wind energy project pipeline, Apex is a leader in the transition to a clean energy future.

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 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:

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

---

- Curry and Quay, and Guadalupe County, New Mexico
- Beckham, Caddo, Johnston, and Pontotoc County, Oklahoma
- Yuma, County, Colorado
- Graham County, Kansas
- Nuckholls County, Nebraska
- Clay and Dickinson County, Iowa
- Newton County, Indiana
- Van Wert County, Ohio
- Cottonwood County, Minnesota
- Isabella County, Michigan
- Bowman County, North Dakota

*[The remainder of this page left intentionally blank]*

# Supporting Information

Additional information  
provided by the Applicant or  
located by the Comptroller

THE STATE OF TEXAS

COMMISSIONERS COURT

COUNTY OF SAN PATRICIO

NOTICE OF MEETING

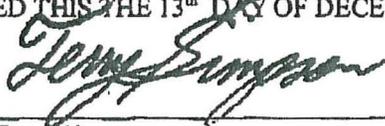
IN ACCORDANCE WITH VERNON'S TEXAS CODES ANNOTATED, GOVERNMENT CODE, CHAPTER 551 NOTICE IS HEREBY GIVEN THAT A SPECIAL MEETING OF THE COMMISSIONERS' COURT WILL BE HELD ON MONDAY, DECEMBER 16<sup>th</sup>, 2013 AT 2:30 P.M. IN THE SAN PATRICIO COUNTY COURTHOUSE, COMMISSIONERS COURTROOM, #230-SECOND FLOOR 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 13<sup>th</sup> DAY OF DECEMBER, 2013  
POSTED THIS THE 13<sup>th</sup> 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

---



2. ADJOURN

Judge Simpson made the motion seconded by Commissioner Nardini with no business before the Court the meeting adjourned. Motion Carried 4-0. Meeting was adjourned at 2:45 p.m.

\_\_\_\_\_  
TERRY SIMPSON, County Judge

*Nina G. Trevino*

\_\_\_\_\_  
NINA TREVINO, County Commissioner, Precinct 1

*Fred P. Nardini*

\_\_\_\_\_  
FRED P. NARDINI, County Commissioner, Precinct 2

\_\_\_\_\_  
ALMA V. MORENO, County Commissioner, Precinct 3

*Jim Price, Jr.*

\_\_\_\_\_  
JIM PRICE, JR., County Commissioner, Precinct 4

ATTEST:

*Gracie Alaniz-Gonzales*

\_\_\_\_\_  
GRACIE ALANIZ-GONZALES, County Clerk, Ex Officio



---

## APEX CLEAN ENERGY ACQUIRES MIDWAY FARMS WIND ENERGY PROJECT

**Charlottesville, VA – August 19, 2013** – Apex Clean Energy has acquired the Midway Farms Wind project. This project has the potential to support 165 MW of capacity in San Patricio County, Texas.

###

### **About Apex**

Apex Clean Energy is an independent renewable energy company based in Charlottesville, VA. Since its founding in 2009, Apex has completed 15 acquisitions and become one of the fastest-growing companies in the industry. In December 2012, Apex completed the development and construction of the 300 MW Canadian Hills Wind project outside Oklahoma City. The company has a diversified portfolio of wind energy facilities in development around the country and owns several operating solar PV assets in Colorado. The company's management team comprises experts from throughout the industry whose collective prior experience includes the development, financing, construction and operation of over \$10 billion in wind and solar energy facilities now operating in the United States.

### **Media Contact**

Dahvi Wilson, 434-220-6351

[Our Story](#)

[Leadership](#)

[News](#)

[Landowners](#)

[Careers](#)

[Video Archive](#)

# Apex Clean Energy Buys 165 MW Wind Project In Texas

Posted by **NAW Staff** on August 27, 2013

 No Comments

Categories : [Projects & Contracts](#)



Virginia-based [Apex Clean Energy](#) has acquired the Midway Farms Wind project from TradeWind Energy. The project, to be located in San Patricio County, Texas, has the potential to reach 165 MW of capacity.

Midway Farms Wind is currently in development. No construction start date has been set at this time, and the company has not yet finalized a turbine supply agreement.

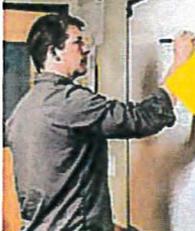
"The Midway project represents a valuable addition to our portfolio of projects on the Texas gulf coast, an area with growing demand and an excellent diurnal wind resource," Dahvi Wilson, communications manager of Apex, tells **NAW**.

Categories : [Projects & Contracts](#)

[Register here to receive our Latest Headlines email newsletter](#)

 **October 24 – 25, 2017 | New York, NY**  
**REGISTER**

**STAYING AHEAD**  
  
  
**SUZLON**  
POWERING A GREENER TOMORROW

 **We are NRGSystems**  
**SymphoniePRO, A data logger designed with purpose.**  


**BUSINESS NETWORK for OFFSHORE WIND**  
It starts with us.  
  
making offshore wind connections happen.  
visit us to learn more

## Related Posts:

  
California Materials Manufacturer Signs Up For Texas Wind

  
Apex's Rocky Forge Wind Moves Ahead In Virginia

  
Apex, IKEA Canada Secure Contract For Wintering Hills Wind

  
E.ON Brings Energy Storage To West Texas Wind Farms

## Popular Wind Power News

### GE And Invenery Working On 2 GW Wind Farm In Oklahoma Panhandle

The 800-turbine wind farm is part of the \$4.5 billion Wind Catcher Energy Connection, which includes approximately 350 miles of ...

### What's Been Proposed So Far For Massachusetts' Giant Clean

Attachment D

Summary of Financial Impact

**CHAPTER 313 PROPERTY VALUE LIMITATION  
FINANCIAL IMPACT OF THE PROPOSED APEX MIDWAY  
WIND, LLC PROJECT IN THE TAFT INDEPENDENT  
SCHOOL DISTRICT  
(PROJECT # 1201)**

**PREPARED BY**



**SEPTEMBER 21, 2017**

## Executive Summary

APEX Midway Wind, LLC (Company) has requested that the Taft Independent School District (TISD) 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 TISD on June 30, 2017 the Company plans to invest \$78.9 million to construct a manufacturing 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 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, TISD may offer a minimum value limitation of \$30 million. This value limitation, under the proposed application, will begin in 2020-21 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, incorporating the major legislative changes adopted in May. 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 TISD	\$0.6 million
Total Savings to Company after Revenue Loss Payment. (This does not include any supplemental benefit payments to the district.)	\$2.4 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 Comptroller's Office determined the application to be complete on July 31, 2017.

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. The Comptroller's Office issued the Certificate for the project on August 31, 2017.

After the Comptroller's certificate is received, O'Hanlon, Demerath & Castillo contacted the school district to discuss the value limitation agreement and conduct negotiations of the supplemental benefit payment with the Company. A final version of the agreement was submitted to the Comptroller for review prior to final consideration by the school district's board of trustees.

The school board will review the Value Limitation Agreement and Findings of Fact that detail the project's conformance with state law before final approval. The school board will be asked to consider a job waiver in its consideration of the Apex Midway Wind application.

## 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 two components: Tier I (based on ADA, special student populations and M&O taxes at the compressed tax rate) and Tier II (based on weighted ADA for each penny of tax effort above a specified level). (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.](#))

Because the general school finance formula system calculates state aid entitlements using the Comptroller's certified property value for the preceding year, 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. **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

The agreement between the school district and the applicant 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. The Basic Allotment remained at \$5,140 and the Tier II Austin yield increased to \$99.41 for 2017-18 and \$106.28 for 2018-19, which is maintained for future years.

Static school district enrollment and property values are used to isolate the effects of the value limitation under the school finance system. Any previously-approved Chapter 313 projects are also factored into the M&O tax bases used. The impact of the Chapter 313 project

value returning to the total tax roll for M&O funding purposes is beyond the scope of this revenue report.

ADA: 1,037  
 Local Tax Base: \$314.6 million  
 M&O Tax Rate: \$1.1694  
 I&S Tax Rate: \$0.3655  
 Wealth per WADA: \$175,024

Table 1 summarizes the enrollment and property value assumptions for the 15 years that are the subject of this analysis.

**Table 1 – Base District Information with Apex 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
<b>QTP0</b>	2017-18	1,036.66	1,636.93	\$1.1694	\$0.3655	\$314,623,702	\$314,623,702	\$302,606,617	\$302,606,617	\$184,862	\$184,862
<b>QTP1</b>	2018-19	1,036.66	1,660.14	\$1.1694	\$0.3655	\$314,623,702	\$314,623,702	\$302,606,617	\$302,606,617	\$182,278	\$182,278
<b>QTP2</b>	2019-20	1,036.66	1,683.34	\$1.1694	\$0.3655	\$465,171,285	\$465,171,285	\$302,606,617	\$302,606,617	\$179,765	\$179,765
VL1	2020-21	1,036.66	1,706.81	\$1.1694	\$0.3655	\$572,089,644	\$528,269,244	\$453,154,200	\$453,154,200	\$265,499	\$265,499
VL2	2021-22	1,036.66	1,730.01	\$1.1694	\$0.3655	\$560,146,154	\$521,081,754	\$560,072,559	\$516,252,159	\$323,739	\$298,410
VL3	2022-23	1,036.66	1,753.22	\$1.1694	\$0.3655	\$548,608,996	\$513,992,496	\$548,129,069	\$509,064,669	\$312,642	\$290,360
VL4	2023-24	1,036.66	1,776.68	\$1.1694	\$0.3655	\$537,615,834	\$507,159,134	\$536,591,911	\$501,975,411	\$302,020	\$282,536
VL5	2024-25	1,036.66	1,776.68	\$1.1694	\$0.3655	\$527,138,729	\$500,572,429	\$525,598,749	\$495,142,049	\$295,832	\$278,690
VL6	2025-26	1,036.66	1,776.68	\$1.1694	\$0.3655	\$517,151,274	\$494,223,474	\$515,121,644	\$488,555,344	\$289,935	\$274,982
VL7	2026-27	1,036.66	1,776.68	\$1.1694	\$0.3655	\$507,628,586	\$488,103,686	\$505,134,189	\$482,206,389	\$284,314	\$271,409
VL8	2027-28	1,036.66	1,776.68	\$1.1694	\$0.3655	\$498,546,989	\$482,204,789	\$495,611,501	\$476,086,601	\$278,954	\$267,964
VL9	2028-29	1,036.66	1,776.68	\$1.1694	\$0.3655	\$489,884,208	\$476,518,808	\$486,529,904	\$470,187,704	\$273,842	\$264,644
VL10	2029-30	1,036.66	1,776.68	\$1.1694	\$0.3655	\$481,619,357	\$471,038,057	\$477,867,123	\$464,501,723	\$268,966	\$261,444
<b>VP1</b>	2030-31	1,036.66	1,776.68	\$1.1694	\$0.3655	\$473,732,325	\$473,732,325	\$469,602,272	\$459,020,972	\$264,315	\$258,359
<b>VP2</b>	2031-32	1,036.66	1,776.68	\$1.1694	\$0.3655	\$466,204,370	\$466,204,370	\$461,715,240	\$461,715,240	\$259,875	\$259,875
<b>VP3</b>	2032-33	1,036.66	1,776.68	\$1.1694	\$0.3655	\$459,017,808	\$459,017,808	\$454,187,285	\$454,187,285	\$255,638	\$255,638
<b>VP4</b>	2033-34	1,036.66	1,776.68	\$1.1694	\$0.3655	\$452,155,703	\$452,155,703	\$447,000,723	\$447,000,723	\$251,593	\$251,593
<b>VP5</b>	2034-35	1,036.66	1,776.68	\$1.1694	\$0.3655	\$445,601,960	\$445,601,960	\$440,138,618	\$440,138,618	\$247,731	\$247,731

\*Basic Allotment: \$5,140; AISD Yield: \$106.28; Equalized Wealth: \$514,000 per WADA

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

### M&O Impact of the Apex project on TISD

A model is established to make a calculation of the “Baseline Revenue Model” (Table 2) by adding the total value of the project to the model, without assuming a value limitation is approved. A separate model is established to make a calculation of the “Value Limitation Revenue Model” (Table 3) by adding the project’s limited value of \$30 million to the model. The difference between the two models (Table 4) indicates there will be a total revenue loss of \$601,134 over the course of the Agreement, with all of the loss reflected in the first limitation year (2020-21) under current law. Nearly all reduction in M&O taxes under the limitation agreement is offset through an increase in state aid 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		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	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP0	2017-18	\$3,047,026	\$5,837,739	\$0	\$0	\$516,167	\$1,042,974	\$0	\$0	\$39,750	\$10,483,656
QTP1	2018-19	\$3,047,026	\$5,962,865	\$0	\$0	\$516,167	\$1,133,964	\$0	\$0	\$39,750	\$10,699,772
QTP2	2019-20	\$4,522,392	\$6,087,126	\$0	\$0	\$766,094	\$1,717,934	\$0	\$0	\$39,750	\$13,133,296
VL1	2020-21	\$5,578,956	\$4,707,275	\$0	\$0	\$945,075	\$1,129,812	\$0	\$0	\$39,750	\$12,400,868
VL2	2021-22	\$5,460,959	\$3,762,369	\$0	\$0	\$925,087	\$747,972	-\$7,432	\$0	\$39,750	\$10,928,705
VL3	2022-23	\$5,347,005	\$4,006,091	\$0	\$0	\$905,782	\$782,215	\$0	\$0	\$39,750	\$11,080,843
VL4	2023-24	\$5,238,440	\$4,246,189	\$0	\$0	\$887,391	\$825,243	\$0	\$0	\$39,750	\$11,237,013
VL5	2024-25	\$5,134,986	\$4,356,121	\$0	\$0	\$869,867	\$843,468	\$0	\$0	\$39,750	\$11,244,192
VL6	2025-26	\$5,036,382	\$4,460,892	\$0	\$0	\$853,163	\$862,233	\$0	\$0	\$39,750	\$11,252,420
VL7	2026-27	\$4,942,379	\$4,560,766	\$0	\$0	\$837,239	\$878,781	\$0	\$0	\$39,750	\$11,258,915
VL8	2027-28	\$4,852,742	\$4,655,993	\$0	\$0	\$822,055	\$894,633	\$0	\$0	\$39,750	\$11,265,173
VL9	2028-29	\$4,767,252	\$4,746,809	\$0	\$0	\$807,572	\$911,174	\$0	\$0	\$39,750	\$11,272,557
VL10	2029-30	\$4,685,699	\$4,833,437	\$0	\$0	\$793,758	\$925,644	\$0	\$0	\$39,750	\$11,278,288
VP1	2030-31	\$4,606,290	\$4,916,085	\$0	\$0	\$780,305	\$940,790	\$0	\$0	\$39,750	\$11,283,220
VP2	2031-32	\$4,532,516	\$4,994,956	\$0	\$0	\$767,808	\$954,005	\$0	\$0	\$39,750	\$11,289,035
VP3	2032-33	\$4,462,088	\$5,070,235	\$0	\$0	\$755,877	\$966,638	\$0	\$0	\$39,750	\$11,294,588
VP4	2033-34	\$4,394,839	\$5,142,101	\$0	\$0	\$744,485	\$980,157	\$0	\$0	\$39,750	\$11,301,332
VP5	2034-35	\$4,330,613	\$5,210,722	\$0	\$0	\$733,606	\$991,589	\$0	\$0	\$39,750	\$11,306,280

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		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	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP0	2017-18	\$3,047,026	\$5,837,739	\$0	\$0	\$516,167	\$1,042,974	\$0	\$0	\$39,750	\$10,483,656
QTP1	2018-19	\$3,047,026	\$5,962,865	\$0	\$0	\$516,167	\$1,133,964	\$0	\$0	\$39,750	\$10,699,772
QTP2	2019-20	\$4,522,392	\$6,087,126	\$0	\$0	\$766,094	\$1,717,934	\$0	\$0	\$39,750	\$13,133,296
VL1	2020-21	\$5,140,752	\$4,707,275	\$0	\$0	\$870,843	\$1,041,114	\$0	\$0	\$39,750	\$11,799,734
VL2	2021-22	\$5,070,315	\$4,200,573	\$0	\$0	\$858,911	\$818,081	\$0	\$0	\$39,750	\$10,987,630
VL3	2022-23	\$5,000,840	\$4,396,735	\$0	\$0	\$847,142	\$852,577	\$0	\$0	\$39,750	\$11,137,044
VL4	2023-24	\$4,933,873	\$4,592,354	\$0	\$0	\$835,798	\$888,504	\$0	\$0	\$39,750	\$11,290,279
VL5	2024-25	\$4,869,323	\$4,660,688	\$0	\$0	\$824,863	\$899,953	\$0	\$0	\$39,750	\$11,294,577
VL6	2025-26	\$4,807,104	\$4,726,555	\$0	\$0	\$814,323	\$910,926	\$0	\$0	\$39,750	\$11,298,658
VL7	2026-27	\$4,747,130	\$4,790,044	\$0	\$0	\$804,164	\$922,996	\$0	\$0	\$39,750	\$11,304,084
VL8	2027-28	\$4,689,320	\$4,851,242	\$0	\$0	\$794,371	\$933,296	\$0	\$0	\$39,750	\$11,307,979
VL9	2028-29	\$4,633,598	\$4,910,231	\$0	\$0	\$784,932	\$943,141	\$0	\$0	\$39,750	\$11,311,652
VL10	2029-30	\$4,579,886	\$4,967,091	\$0	\$0	\$775,833	\$954,158	\$0	\$0	\$39,750	\$11,316,718
VP1	2030-31	\$4,606,290	\$5,021,898	\$0	\$0	\$780,305	\$979,672	\$0	\$0	\$39,750	\$11,427,915
VP2	2031-32	\$4,532,516	\$4,994,956	\$0	\$0	\$767,808	\$954,005	\$0	\$0	\$39,750	\$11,289,035
VP3	2032-33	\$4,462,088	\$5,070,235	\$0	\$0	\$755,877	\$966,638	\$0	\$0	\$39,750	\$11,294,588
VP4	2033-34	\$4,394,839	\$5,142,101	\$0	\$0	\$744,485	\$980,157	\$0	\$0	\$39,750	\$11,301,332
VP5	2034-35	\$4,330,613	\$5,210,722	\$0	\$0	\$733,606	\$991,589	\$0	\$0	\$39,750	\$11,306,280

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	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP0	2017-18	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
QTP1	2018-19	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
QTP2	2019-20	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VL1	2020-21	-\$438,204	\$0	\$0	\$0	-\$74,232	-\$88,698	\$0	\$0	\$0	-\$601,134
VL2	2021-22	-\$390,644	\$438,204	\$0	\$0	-\$66,176	\$70,109	\$7,432	\$0	\$0	\$58,925
VL3	2022-23	-\$346,165	\$390,644	\$0	\$0	-\$58,640	\$70,362	\$0	\$0	\$0	\$56,201
VL4	2023-24	-\$304,567	\$346,165	\$0	\$0	-\$51,593	\$63,261	\$0	\$0	\$0	\$53,266
VL5	2024-25	-\$265,663	\$304,567	\$0	\$0	-\$45,004	\$56,485	\$0	\$0	\$0	\$50,385
VL6	2025-26	-\$229,278	\$265,663	\$0	\$0	-\$38,840	\$48,693	\$0	\$0	\$0	\$46,238
VL7	2026-27	-\$195,249	\$229,278	\$0	\$0	-\$33,075	\$44,215	\$0	\$0	\$0	\$45,169
VL8	2027-28	-\$163,422	\$195,249	\$0	\$0	-\$27,684	\$38,663	\$0	\$0	\$0	\$42,806
VL9	2028-29	-\$133,654	\$163,422	\$0	\$0	-\$22,640	\$31,967	\$0	\$0	\$0	\$39,095
VL10	2029-30	-\$105,813	\$133,654	\$0	\$0	-\$17,925	\$28,514	\$0	\$0	\$0	\$38,430
VP1	2030-31	\$0	\$105,813	\$0	\$0	\$0	\$38,882	\$0	\$0	\$0	\$144,695
VP2	2031-32	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP3	2032-33	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP4	2033-34	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
VP5	2034-35	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

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

***M&O Impact on the Taxpayer***

Under the assumptions used here, the potential tax savings from the value limitation total \$3.0 million over the life of the agreement. The TISD revenue losses are expected to total approximately \$601,134 in the initial limitation year under the agreement. The total potential net tax benefits (after hold-harmless payments are made) are estimated to be \$2.4 million, prior to any negotiations with Apex on supplemental payments.

***I&S Funding Impact on School District***

The project remains fully taxable for debt services taxes, with TISD currently levying a \$0.3655 per \$100 I&S rate. The project is not expected to affect school district enrollment and is expected to depreciate over the life of the agreement and beyond. Local taxpayers should benefit from the addition of the Apex project to the local I&S tax roll. 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 Project Property Value Limitation Request Submitted to TISD at \$1.1694 per \$100 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	2017-18	\$0	\$0	\$0	\$1.169	\$0	\$0	\$0	\$0	\$0
QTP1	2018-19	\$0	\$0	\$0	\$1.169	\$0	\$0	\$0	\$0	\$0
QTP2	2019-20	\$78,905,900	\$78,905,900	\$0	\$1.169	\$922,726	\$922,726	\$0	\$0	\$0
VL1	2020-21	\$73,820,400	\$30,000,000	\$43,820,400	\$1.169	\$863,256	\$350,820	\$512,436	-\$601,134	-\$88,698
VL2	2021-22	\$69,064,400	\$30,000,000	\$39,064,400	\$1.169	\$807,639	\$350,820	\$456,819	\$0	\$456,819
VL3	2022-23	\$64,616,500	\$30,000,000	\$34,616,500	\$1.169	\$755,625	\$350,820	\$404,805	\$0	\$404,805
VL4	2023-24	\$60,456,700	\$30,000,000	\$30,456,700	\$1.169	\$706,981	\$350,820	\$356,161	\$0	\$356,161
VL5	2024-25	\$56,566,300	\$30,000,000	\$26,566,300	\$1.169	\$661,486	\$350,820	\$310,666	\$0	\$310,666
VL6	2025-26	\$52,927,800	\$30,000,000	\$22,927,800	\$1.169	\$618,938	\$350,820	\$268,118	\$0	\$268,118
VL7	2026-27	\$49,524,900	\$30,000,000	\$19,524,900	\$1.169	\$579,144	\$350,820	\$228,324	\$0	\$228,324
VL8	2027-28	\$46,342,200	\$30,000,000	\$16,342,200	\$1.169	\$541,926	\$350,820	\$191,106	\$0	\$191,106
VL9	2028-29	\$43,365,400	\$30,000,000	\$13,365,400	\$1.169	\$507,115	\$350,820	\$156,295	\$0	\$156,295
VL10	2029-30	\$40,581,300	\$30,000,000	\$10,581,300	\$1.169	\$474,558	\$350,820	\$123,738	\$0	\$123,738
VP1	2030-31	\$37,977,200	\$37,977,200	\$0	\$1.169	\$444,105	\$444,105	\$0	\$0	\$0
VP2	2031-32	\$35,541,500	\$35,541,500	\$0	\$1.169	\$415,622	\$415,622	\$0	\$0	\$0
VP3	2032-33	\$33,263,400	\$33,263,400	\$0	\$1.169	\$388,982	\$388,982	\$0	\$0	\$0
VP4	2033-34	\$31,132,600	\$31,132,600	\$0	\$1.169	\$364,065	\$364,065	\$0	\$0	\$0
VP5	2034-35	\$29,139,400	\$29,139,400	\$0	\$1.169	\$340,756	\$340,756	\$0	\$0	\$0
						<b>\$9,392,924</b>	<b>\$6,384,456</b>	<b>\$3,008,467</b>	<b>-\$601,134</b>	<b>\$2,407,333</b>

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


**Taxes**

Property Tax Assistance

**2016 ISD Summary Worksheet****205/San Patricio****205-907/Taft ISD**

Category	Local Tax Roll Value	2016 WTD Mean Ratio	2016 PTAD Value Estimate	2016 Value Assigned
A. Single-Family Residences	117,327,080	N/A	117,327,080	117,327,080
B. Multi-Family Residences	3,590,842	N/A	3,590,842	3,590,842
C1. Vacant Lots	5,513,452	N/A	5,513,452	5,513,452
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real(Taxable)	22,729,217	N/A	22,729,217	22,729,217
D2. Real Prop Farm & Ranch	0	N/A	0	0
E. Real Prop NonQual Acres	37,551,394	N/A	37,551,394	37,551,394
F1. Commercial Real	17,865,730	N/A	17,865,730	17,865,730
F2. Industrial Real	231,164,321	N/A	231,164,321	231,164,321
G. Oil, Gas, Minerals	11,833,960	N/A	11,833,960	11,833,960
J. Utilities	75,077,414	N/A	75,077,414	75,077,414
L1. Commercial Personal	19,989,125	N/A	19,989,125	19,989,125

L2. Industrial Personal	11,610,963	N/A	11,610,963	11,610,963
M. Other Personal	783,776	N/A	783,776	783,776
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	512,662	N/A	512,662	512,662
<b>Subtotal</b>	<b>555,549,936</b>		<b>555,549,936</b>	<b>555,549,936</b>
<b>Less Total Deductions</b>	<b>252,943,319</b>		<b>252,943,319</b>	<b>252,943,319</b>
<b>Total Taxable Value</b>	<b>302,606,617</b>		<b>302,606,617</b>	<b>302,606,617 T2</b>

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 T4 will be the same as T7 through T10.

**Value Taxable For M&O Purposes**

T1	T2	T3	T4
311,603,323	302,606,617	311,603,323	302,606,617

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50% of the loss to the Local Optional Percentage Homestead Exemption</b>
8,996,706	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

**Value Taxable For I&S Purposes**

T7	T8	T9	T10
510,660,263	501,663,557	510,660,263	501,663,557

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

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

# 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

**TAFT INDEPENDENT SCHOOL DISTRICT**

and

**APEX MIDWAY WIND, LLC**

*(Texas Taxpayer ID # 32050705956)*

---

TEXAS COMPTROLLER APPLICATION NUMBER 1201

Dated

November 14, 2017

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

*STATE OF TEXAS* §

*COUNTY OF SAN PATRICIO* §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between the **TAFT INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as “District,” a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **APEX MIDWAY WIND, LLC**, Texas Taxpayer Identification Number 32050705956 hereinafter referred to as the “Applicant.” Applicant and the District are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

*WHEREAS*, on June 30, 2017, the Superintendent of Schools of the Taft Independent School District, acting as agent of the Board of Trustees of District, received from Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

*WHEREAS*, on June 30, 2017 the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCG (Local), and agreed to consider the application;

*WHEREAS*, the Application was delivered to the Texas Comptroller’s Office for review pursuant to Section 313.025 of the TEXAS TAX CODE;

*WHEREAS*, the District and the Texas Comptroller’s Office have determined that the application is complete and July 31, 2017 is the Application Review Start Date as that term is defined by 34 TEXAS ADMIN. CODE Section 9.1051;

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

*WHEREAS*, the Texas Comptroller’s Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on August 31, 2017 issued a certificate for limitation on appraised value of the property described in the Application and provided the certificate to the District;

**WHEREAS**, the Board of Trustees has reviewed and carefully considered the economic impact evaluation and certificate for limitation on appraised value submitted by the Texas Comptroller's Office pursuant to Section 313.025 of the TEXAS TAX CODE;

**WHEREAS**, on November 14, 2017, 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 November 14, 2017, 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) the Applicant is eligible for the Limitation on Appraised Value of the Applicant's Qualified Property; (iii) the project proposed by the Applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the 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 the Applicant's decision to invest capital and construct the project in this state; and (v) this Agreement is in the best interest of the District and the State of Texas;

**WHEREAS**, on November 14, 2017, 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 October 27, 2017, 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;

**WHEREAS**, on November 14, 2017, 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 or in the event the Board President and Secretary are unavailable or have disclosed a conflict of interest, the Board of Trustees has authorized the Board Vice President 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 in this Agreement, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEXAS ADMIN. CODE Section 9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEXAS ADMIN. CODE Section 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 Sections 10.2 and 10.3.

“Applicant” means Apex Midway Wind, LLC, (Texas Taxpayer ID # 32050705956), the entity listed in the Preamble of this Agreement and that is listed as the Applicant on the Application as of the Application Approval Date. The term “Applicant” shall also include the Applicant’s assigns and successors-in-interest as approved according to Sections 10.2 and 10.3 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 EXHIBIT 3 of this Agreement.

“Applicant’s Qualified Property” means the Qualified Property of the Applicant to which the value limitation identified in the Agreement will apply and as more fully described in EXHIBIT 4 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 the District by the Applicant on June 30, 2017. The term includes all forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining an Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant.

“Application Approval Date” means the date that the Application is approved by the Board of Trustees of the 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 the District issues its written notice that the Applicant has submitted a completed application or the date on which the Comptroller issues its written notice that the 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 Taft Independent School District

“Commercial Operation” means the date the Project is able to generate electricity and connected to the grid with an interconnection agreement.

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

“Comptroller’s Rules” means the applicable rules and regulations of the Comptroller set forth in Chapter 34 Texas ADMIN. 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 Taft 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 the Applicant’s Qualified Property or the Applicant’s Qualified Investment.

“Final Termination Date” means the last date of the final year in which the 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 thirty 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 operation during the term of this Agreement of the facility or facilities for which the tax limitation is granted; and (ii) the Applicant’s maintenance of jobs and wages as required by the Act and as set forth in its Application.

“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 by Applicant after the Application Approval Date in connection with the Project that is the subject of its Application that meet the criteria of Qualifying Job as defined in Section 313.021(3) of the TEXAS TAX CODE and the Comptroller’s Rules.

“New Non-Qualifying Jobs” means the number of Non-Qualifying Jobs, as defined in 34 TEXAS ADMIN. CODE Section 9.1051(14), to be created by the Applicant after the Application Approval Date in connection with the project which is the subject of its Application.

“Qualified Investment” has the meaning set forth in Section 313.021(1) of the TEXAS TAX CODE, as interpreted by the Comptroller’s Rules.

"Qualified Property" has the meaning set forth in Section 313.021(2) of the Texas Tax Code and as interpreted by the Comptroller's Rules and the Texas Attorney General, as these provisions existed on the Application Review Start Date.

"Qualifying Time Period" means the period defined in Section 2.3.C, during which the Applicant shall make investment on the land where the qualified property is located in the amount required by the Act, the Comptroller's rules, and this Agreement.

"State" means the State of Texas.

"Supplemental Payment" means any payments or transfers of things of value made to the 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 and that is not authorized pursuant to Sections 313.027(f)(1) or (2) of the TEXAS TAX CODE, and specifically includes any payments required pursuant to Article VI of this Agreement.

"Tax Limitation Amount" means the maximum amount which may be placed as the Appraised Value on the Applicant's Qualified Property for maintenance and operations tax assessment in 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.

**Section 1.2 NEGOTIATED DEFINITIONS.** Wherever used in Articles IV, V, and VI, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning or otherwise; provided however, if there is a conflict between a term defined in this section and a term defined in the Act, the Comptroller's Rules, or Section 1.1 of Agreement, the conflict shall be resolved by reference to Section 10.9.C.

"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 for each and every year of this Agreement, 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 includes any and all 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. For each year of this Agreement, the “Applicable School Finance Law” shall be interpreted to include all provisions made applicable for any calculations made for the specific year for which calculations are being made.

“M&O Amount” means the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Review Start Date and ending on the Final Termination Date as set forth in Section 4.2 of this Agreement.

“New M&O Revenue” means the total State and local Maintenance and Operations Revenue that District actually received for such school Year.

“Net Tax Benefit” means, for any subject Tax Year during the term of this Agreement, an amount equal to (but not less than zero): (i) the amount of maintenance and operations ad valorem taxes which the Applicant would have paid to the District for all Tax Years during the term of this Agreement if this Agreement had not been entered into by the Parties, for all Tax Years up to and including the subject Tax Year; *minus*, (ii) an amount equal to the sum of (A) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas, for all Tax Years during the term of this Agreement for all Tax Years up to and including the subject Tax Year, plus (B) any and all payments due to the District under Articles IV and V, of this Agreement for all Tax Years up to and including the subject Tax Year, plus (C) any and all payments owed to the District under Article VI of this Agreement for all Tax Years prior to the subject Tax Year.

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

“Original M&O Revenue” means the total State and local Maintenance and Operations Revenue that District would have received for the Tax Year, under the Applicable School Finance Law had this Agreement not been entered into by the Parties and the Applicant’s Qualified Property been subject to the ad valorem maintenance & operations tax at the rate applicable for such Tax Year. For purposes of this calculation, the Third Party will base its calculations upon actual local taxable values for each applicable year as certified by the County Appraisal District for all other taxable accounts in the District, save and except for the Qualified Property subject to this Agreement, *plus* the total appraised value of the Qualified Property subject to this Agreement. In this calculation, the total appraised value of the Qualified Property subject to this Agreement will be used for the Qualified Property in lieu of the property’s M&O taxable value. (For clarification, the taxable value used by the District in calculating the taxes payable for Interest and Sinking Fund taxation purposes on Applicant’s Qualified Property will be used for the Qualified Property in lieu of the property’s M&O taxable value.)

## **ARTICLE II**

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

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

**Section 2.2. PURPOSE.** In consideration of the execution and subsequent performance of the terms and obligations by the Applicant pursuant to this Agreement, identified in Sections 2.5 and 2.6 and as more fully specified in this Agreement, the value of the Applicant's Qualified Property listed and assessed by the County Appraiser for the District's maintenance and operation 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 July 31, 2017, which will be used to determine the eligibility of the Applicant's Qualified Property and all applicable wage standards.

B. The Application Approval Date for this Agreement is October \_\_, 2017.

C. The Qualifying Time Period for this agreement:

- i.* Starts on October \_\_, 2017, the Application Approval Date; and
- ii.* Ends on December 31, 2019, the last day of the second complete Tax Year following the Qualifying Time Period start date.

D. The Tax Limitation Period for this Agreement:

- a.* Starts on January 1, 2020, the first complete Tax Year that begins after the end of the Qualifying Time Period; and
- ii.* Ends on December 31, 2029.

E. The Final Termination Date for this Agreement is December 31, 2034.

F. This Agreement, and the obligations and responsibilities created by this Agreement, shall be and become effective on the Application Approval Date identified in Section 2.3.B. This Agreement, and the obligations and responsibilities created by this Agreement, terminate on the Final Termination Date identified in Section 2.3.E, unless extended by the express terms of this Agreement.

**Section 2.4. TAX LIMITATION.** So long as the Applicant makes the Qualified Investment as required by Section 2.5, 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 Application Approval Date, as set out by Section 313.052 of the TEXAS TAX CODE.

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

A. have completed Qualified Investment in the amount of \$30,000,000.00 by the end of the Qualifying Time Period;

B. have created and maintained, subject to the provisions of Section 313.0276 of the TEXAS TAX CODE, New Qualifying Jobs as required by the Act; and

C. pay an average weekly wage at least \$925 for all New Non-Qualifying Jobs created by the Applicant..

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

A. provide payments to District sufficient to protect 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 the 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;

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

E. No additional conditions are identified in the certificate for a limitation on appraised value by the Comptroller for this project.

## ARTICLE III

### QUALIFIED PROPERTY

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

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 in 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 4, which is attached hereto and incorporated herein by reference for all purposes. Property which is not specifically described in EXHIBIT 4 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. In addition to the requirements of Section 10.2 of this Agreement, if there is a material change in the Qualified Property described in EXHIBIT 4, then within 60 days from the date commercial operation begins, the Applicant shall provide to the District, the Comptroller, the Appraisal District or the State Auditor's Office a specific and detailed description of the tangible personal property, buildings, and/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. The Applicant's Qualified Property described in Section 3.3 qualifies for a tax limitation agreement under Section 313.024(b)(5) of the TEXAS TAX CODE as property used for renewable energy electric generation.

## ARTICLE IV

### PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES

**Section 4.1. INTENT OF THE PARTIES.** Subject only to the limitations contained in Section 7.1 of this Agreement, it is the intent of the Parties that the District shall, in accordance with the provisions of Section 313.027(f)(1) of the TEXAS TAX CODE, be compensated by Applicant for any loss that District incurs in its Maintenance and Operations Revenue in each year of this Agreement for which this Agreement was a sole and direct cause, all as calculated in Section 4.2 below. Such payments shall be independent of, and in addition to such other payments as set forth in Article V and Article VI in this Agreement.

The Parties hereto expressly understand and agree that, for all years to which this Agreement may apply, the calculation of losses that District incurs in its Maintenance and Operations Revenue will be defined for each applicable Tax Year in accordance with the Applicable School Finance Law, as defined in Section 1.2 above, and that such definition specifically contemplates that calculations made under this Agreement may periodically change in accordance with changes made from time to time in the Applicable School Finance Law. The Parties further agree that the printouts and projections produced during the negotiations and approval of this Agreement are: i) for illustrative purposes only, are not intended to be relied upon, and have not been relied upon by the Parties as a prediction of future consequences to either Party to the Agreement; ii) are based upon current School Finance Law, which is subject to change by statute, by administrative regulation, or by judicial decision at any time; and, iii) may change in future years to reflect changes in the Applicable School Finance Law.

**Section 4.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT.** Subject only to the provisions of Section 7.1 of this Agreement, the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Review Start Date and ending on the Final Termination Date, the "M&O Amount" shall be determined in compliance with the Applicable School Finance Law in effect for such year and according to the following formula:

- A. Notwithstanding any other provision in this Agreement, the M&O Amount owed by Applicant to District means the Original M&O Revenue *minus* the New M&O Revenue.
- B. In making the calculations required by this Section 4.2 of this Agreement:
  - i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law as that law exists for each year for which the calculation is made.
  - ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property will be presumed to be one hundred percent (100%).
  - iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue, as calculated under this Section 4.2 of this

Agreement, results in a negative number, the negative number will be considered to be zero.

iv. For all calculations made for years during the Tax Limitation Period under Section 4.2 of this Agreement, Subsection *ii* of this subsection will reflect the Tax Limitation Amount for such year.

**Section 4.3. CALCULATIONS TO BE MADE BY THIRD PARTY.** All calculations under this Agreement shall be made annually by an independent third party (the "Third Party") approved each year by the District. The District agrees that for all Tax Years the Third Party selected by the District shall be either RM School Finance Consulting or Moak Casey & Associates. If the District desires to select a Third Party other than RM School Finance Consulting or Moak Casey & Associates, such selection must receive the Applicant's consent, which consent shall not be unreasonably withheld, delayed, or conditioned. To the extent not inconsistent with a statutory change to Applicable School Finance Law, all calculations made by the Third Party under this Agreement shall be made using a methodology which isolates only the revenue impact caused by this Agreement. Applicant shall not be responsible to reimburse District for other revenue losses created by other agreements or any other factors.

**Section 4.4. DATA USED FOR CALCULATIONS.** The calculations for payments under this Agreement shall be initially based upon the valuations placed upon the 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 for each Tax Year 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 4.3. 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 4.5. DELIVERY OF CALCULATIONS.** On or before November 1 of each year for which this Agreement is effective, the Third Party appointed pursuant to Section 4.3 of this Agreement shall forward to the Parties a certification containing the calculations required under Sections 4.2, Article VI, and/or Section 7.1 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, which fee shall be the sole responsibility of the District, subject to the provisions of Section 4.6. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party's calculations, 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 until the Final Termination Date of this Agreement. The Applicant shall not be liable for any of the

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.

**Section 4.6. PAYMENT BY APPLICANT.** The Applicant shall pay any amount determined by the Third Party to be due and owing to the District under this Agreement on or before the January 31 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, plus any reasonable and necessary out-of-pocket third party legal expenses incurred by the District to its attorneys, auditors, or financial consultants for the preparation and filing of any financial reports, disclosures, or other reimbursement applications filed with or sent to the State of Texas, for any audits conducted by the State Auditor's Office, or for other legal expenses which are, or may be required under the terms or because of the execution of this Agreement. For no Tax Year during the term of this Agreement shall the Applicant be responsible for the payment of an aggregate amount of fees and expenses under this Section 4.6 which exceeds Fifteen Thousand Dollars (\$15,000.00).

**Section 4.7. RESOLUTION OF DISPUTES.** Should the Applicant disagree with the certification containing the calculations, the Applicant may appeal the findings, in writing, to the Third Party within thirty (30) days following the later of (i) receipt of the certification, or (ii) the date the Applicant is granted access to the books, records and other information in accordance with Section 4.6 for purposes of auditing or reviewing the information in connection with the certification. Within thirty (30) days of receipt of the Applicant's appeal, the Third Party will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of certification containing the calculations to the District. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the Board of Trustees within thirty (30) days of the final determination of certification containing the calculations, and shall be without limitation of the Applicant's other rights and remedies available hereunder, at law or in equity.

**Section 4.8. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT.** If at the time the Third Party selected under Section 4.3 makes its calculations under this Agreement, the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Property, and/or the Applicant's Qualified Property and such appeal remains unresolved, the Third Party shall base its calculations upon the values placed upon the Applicant's Qualified Property and/or the Applicant's Qualified Property by the Appraisal District.

If as a result of an 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 the new Taxable Value becomes final, the Parties shall immediately notify the Third Party who shall immediately issue new calculations for the applicable year or years using the new Taxable Value. In the event the new calculations result in a change in any amount paid or payable by the Applicant under this Agreement, the Party from whom the adjustment is payable shall remit such amounts to the other Party within thirty (30) days of the receipt of the new calculations from the Third Party.

**Section 4.9. STATUTORY CHANGES AFFECTING M&O REVENUE.** Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 7.1 of this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative

interpretations by Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State, because of its participation in this Agreement, Applicant shall make payments to District within thirty (30) days of receipt of written notice, up to the revenue protection amount limit set forth in Section 7.1, that are necessary to offset any negative impact on District's Maintenance and Operations Revenue, as a result of its participation in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on District.

## ARTICLE V

### PAYMENT OF EXTRAORDINARY EDUCATION-RELATED EXPENSES

**Section 5.1. EXTRAORDINARY EXPENSES.** In addition to the amounts determined pursuant to Section 4.2 of this Agreement above, Applicant on an annual basis shall also indemnify and reimburse District for the following: all non-reimbursed costs, certified by District's external auditor to have been incurred by District for extraordinary education-related expenses related to the project that are not directly funded in state aid formulas, including expenses for the purchase of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the project.

## ARTICLE VI

### SUPPLEMENTAL PAYMENTS

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

A. Amounts Exclusive of Indemnity Amounts. In addition to undertaking the responsibility for the payment of all of the amounts set forth under Articles IV and V, and as further consideration for the execution of this Agreement by the District, the Applicant shall also be responsible for Supplemental Payments to be calculated as 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, Texas Tax Code, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the Applicant's obligation to make Supplemental Payments under this Article VI is separate and independent of the obligation of the Applicant to pay the amounts described in Articles IV and V; provided, however, that all payments under Articles IV, V, and VI are subject to the limitations contained in Section 7.1, and that all Supplemental Payments under this Article IV are subject to the separate limitations contained in Section 6.2 and Section 6.3.B.

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 VI shall not exceed the limit imposed by the provisions of Texas Tax Code §313.027(i), as such limit is allowed to be increased by the Legislature for any future year of this Agreement.

**Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION.** Notwithstanding the foregoing:

Agreement for Limitation on Appraised Value  
Between Taft ISD and Apex Midway Wind, LLC  
November 14, 2017

- A. The total of the Supplemental Payments made pursuant to this Article shall: not exceed for 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 times the number of years beginning with the first complete or partial year of the Qualifying Time Period identified in Section 2.3.C and ending with the year for which the Supplemental Payment is being calculated minus all Supplemental Payments previously made by the Application;
- B. Supplemental Payments may 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.
- C. The limitation in Section 6.2.A 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.
- D. For purposes of this Agreement, the calculation of the limit of the annual Supplemental Payment shall be the greater of \$50,000 or \$100 multiplied by the District's Average Daily Attendance as calculated pursuant to Section 42.005 of the TEXAS EDUCATION CODE, based upon the District's 2016-2017 Average Daily Attendance of 1,027, rounded to the nearest whole number.

**Section 6.3. SUPPLEMENTAL PAYMENT CALCULATION - SUBJECT TO NET TAX BENEFIT LIMITATION.**

- A. For each year of the of years of the Agreement beginning with the Application Approval Date and continuing through year 3 of the Maintain Viable Presence period (Tax Year 2017) through thirteen (Tax Year 2032), the District shall be entitled to receive as payments in lieu of taxation an amount equal to forty percent (40%) of the Net Tax Benefit received by the Applicant as a result of this Agreement.
- B. The Net Tax Benefit shall be calculated by the Third Party selected pursuant to Section 4.3
- C. The net tax benefit calculations shall be made at the same time and on the same schedule as the calculations made pursuant to Section 4.5.
- D. The payment of all amounts due under this Article shall be made shall be paid on the same date established by Section 4.6 for such Tax Year.
- E. The amount owed by Applicant after taking into account the limitations in Section 7.1 is known as the "Stipulated Supplemental Payment."

**Section 6.4. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS.** The Parties agree that the Stipulated Supplemental Payment will initially be calculated based upon 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. For each of the Tax Years, the Stipulated Supplemental Payments shall be calculated using the following formula:

The 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, or school taxes due to any other governmental entity, including the State of Texas, 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, or school taxes due to any other governmental entity, including the State of Texas, for such Tax Year);

*Multiplied by,*

The District's maintenance and operations tax rate for such Tax Year, or the school tax rate of any other governmental entity, including the State of Texas, for such Tax Year;

*Minus,*

Any amounts previously paid to the District under Article IV:

*Multiplied by,*

The number 0.40;

*Minus,*

Any amounts previously paid to the District under Article IV with respect to such Tax Year.

**Section 6.5. 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 Aggregate Limit or the Net Aggregate Limit or the Supplemental Payments calculated as described in Section 6.5, 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 beginning after the first Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the 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 the Applicant would have paid to the District for such Tax Year (determined by using the 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 Article IV 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 the Applicant to the 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 the Applicant determines that it will not commence or complete construction of the Applicant's Qualified Investment, the Applicant shall have the option, prior to the beginning of the Tax Limitation Period, to terminate this Agreement by notifying the District in writing of its exercise of such option. Additionally, in the event that any payment otherwise due from the Applicant to the District under Article IV, Article V, 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, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to terminate this Agreement by notifying the District of its election in writing not later than the July 31 of the year 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 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; and

B. the provisions of this Agreement regarding payments (including liquidated damages and tax payments), records and dispute resolution shall survive the termination or expiration of this Agreement.

## **ARTICLE VIII**

### **ADDITIONAL OBLIGATIONS OF APPLICANT**

**Section 8.1. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall Maintain Viable Presence in the 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, the 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 the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure.

**Section 8.2. REPORTS.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall submit all reports required from time to time by the Comptroller, listed in 34 TEXAS ADMIN. CODE Section 9.1052 and as currently located on the Comptroller's website, including all data elements required by such form to the satisfaction of the Comptroller on the dates indicated on the form or the Comptroller's website and starting on the first such due date after the Application Approval Date.

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

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

**Section 8.5. SITE VISITS AND RECORD REVIEW.** The Applicant shall allow authorized employees of the District, the Comptroller, the Appraisal District, and the State Auditor's Office to have reasonable access to the Applicant's Qualified Property and business records 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 the 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 the Applicant's Qualified Property.

B. All inspections may be accompanied by one or more representatives of the Applicant, and shall be conducted in accordance with the Applicant's safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide the District, the 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; AUTHORITY OF STATE AUDITOR.** By executing this Agreement, implementing the authority of, and accepting the benefits provided by Chapter 313 of the TEXAS TAX CODE, the Parties agree that this Agreement and their performance pursuant to its terms are subject to review and audit by the State Auditor as if they are parties to a State contract and subject to the provisions of Section 2262.154 of the TEXAS GOVERNMENT CODE and Section 313.010(a) of the TEXAS TAX CODE. The Parties further agree to comply with the following requirements:

A. The District and the 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. The Applicant and the 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 latest occurring date of:

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

B. During the time period defined under Section 8.6.A, the District and the Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to this Agreement; the Applicant's Application; and the Applicant's Qualified Property, Qualified Investment, New Qualifying Jobs, and wages paid for New 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 the Comptroller, State Auditor's Office, State of Texas or their authorized representatives. The Applicant and the 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 the Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, the Applicant's or the District's failure to comply with this Section shall constitute a Material Breach of this Agreement.

C. In addition to and without limitation on the other audit provisions of this Agreement, the acceptance of tax benefits or funds by the Applicant or the District or any other entity or person directly 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, the Applicant or the 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. The Parties agree that this Agreement shall for its duration be subject to all rules and procedures of the State Auditor acting under the direction of the legislative audit committee.

D. The Applicant shall include the requirements of this Section 8.6 in its subcontract with any entity whose employees or subcontractors are subject to wage requirements under the Act, the Comptroller's Rules, or this Agreement, or any entity whose employees or subcontractors are included in the Applicant's compliance with job creation or wage standard requirement of the Act, the Comptroller's Rules, or this Agreement.

**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 the Comptroller would not have approved this Agreement and the District would not have executed this Agreement. By signature to this Agreement, the Applicant:

A. represents and warrants that all information, facts, and representations contained in the Application are true and correct to the best of its knowledge;

B. agrees and acknowledges that the Application and all related attachments and schedules are included by reference in this Agreement as if fully set forth herein; and

C. acknowledges that if the 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 the Applicant has violated any of the representations, warranties, guarantees, certifications, or affirmations included in the Application or this Agreement, the Applicant shall have materially breached this Agreement and the Agreement shall be invalid and void except for the enforcement of the provisions required by Section 9.2 of this Agreement.

## **ARTICLE IX**

### **MATERIAL BREACH OR EARLY TERMINATION**

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

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

B. The Applicant failed to complete Qualified Investment as required by Section 2.5.A. of this Agreement during the Qualifying Time Period;

C. The Applicant failed to create and maintain the number of New Qualifying Jobs required by the Act;

D. The Applicant failed to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application;

E. The Applicant failed to pay at least the average weekly wage of all jobs in the county in which the jobs are located for all New Non-Qualifying Jobs created by the Applicant;

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

G. The Applicant failed to provide the payments to the District that protect the District from the payment of extraordinary education-related expenses related to the project to the extent and in the amounts that the Applicant agreed to provide such payments in Article V of this

Agreement;

H. The Applicant failed to provide the Supplemental Payments to the extent and in the amounts that the Applicant agreed to provide such Supplemental Payments in Article VI of this Agreement;

I. The Applicant failed to create and Maintain Viable Presence on or with the Qualified Property as more fully specified in Article VIII of this Agreement;

J. The Applicant failed to submit the reports required to be submitted by Section 8.2 to the satisfaction of the Comptroller;

K. The Applicant failed to provide the District or the Comptroller with all information reasonably necessary for the District or the Comptroller 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;

L. The Applicant failed to allow authorized employees of the District, the Comptroller, the Appraisal District, or the State Auditor's Office to have access to the Applicant's Qualified Property 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 the Applicant's Qualified Property under Sections 8.5 and 8.6;

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

N. The 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;

O. The Applicant failed to comply with the conditions included in the certificate for limitation issued by the Comptroller.

**Section 9.2. DETERMINATION OF BREACH AND TERMINATION OF AGREEMENT.**

A. Prior to making a determination that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that it is not in breach of its obligations under this Agreement, or that it has cured or undertaken to cure any such breach.

B. If the Board of Trustees is not satisfied with such response or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to the 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, the 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:

- i. whether or not a breach of this Agreement has occurred;
- ii. whether or not such breach is a Material Breach;
- iii. the date such breach occurred, if any;
- iv. whether or not any such breach has been cured; and

C. In the event that the Board of Trustees determines that such a breach has occurred

and has not been cured, it shall at that time determine:

- i. the amount of recapture taxes under Section 9.4.C (net of all credits under Section 9.4.C);
- ii. the amount of any penalty or interest under Section 9.4.E that are owed to the District; and
- iii. in the event of a finding of a Material Breach, whether to terminate this Agreement.

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

### **Section 9.3. DISPUTE RESOLUTION.**

A. After receipt of notice of the Board of Trustee's Determination of Breach and Notice of Contract Termination under Section 9.2, the Applicant shall have not greater than sixty (60) 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 the 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 sixty (60) days after the Applicant initiates mediation, 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 presiding 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) the District shall bear one-half of such mediator's fees and expenses and the 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 within the time period described for mediation in Section 9.3.A, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in a judicial proceeding in a state district court in San Patricio County, 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 contract, agreement or undertaking made by a Party pursuant to this Agreement.

C. If payments become due under this Agreement and are not received before the expiration of the 30 days provided for such payment in Section 9.3.A, and if the Applicant has not contested such payment calculations under the procedures set forth herein, including judicial proceedings, the District shall have the remedies for the collection of the amounts determined under Section 9.4 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 the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of attorney's fees to the attorneys representing the District pursuant to Section 6.30 of the TEXAS TAX CODE and a tax lien shall attach to the Applicant's Qualified Property and the Applicant's Qualified Investment pursuant to Section 33.07 of the TEXAS TAX CODE to secure payment of such fees.

**Section 9.4. Consequences of Early Termination or Other Breach by Applicant.**

A. In the event that the Applicant terminates this Agreement without the consent of the District, except as provided in Section 7.2 of this Agreement, the Applicant shall pay to the District liquidated damages for such failure within thirty (30) days after receipt of the notice of breach.

B. In the event that the District determines that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the Applicant shall pay to the District liquidated damages, as calculated by Section 9.4.C, prior to, and the District may terminate the Agreement effective on the later of: (i) the expiration of the 60 days provided for in Section 9.3.A, and (ii) thirty (30) days after any mediation and judicial proceedings initiated pursuant to Sections 9.3.A and 9.3.B are resolved in favor of the District.

C. The sum of liquidated damages due and payable shall be the sum total of the 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 the Applicant to the District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 9.4.E. For purposes of this liquidated damages calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Articles IV, V, and VI. Upon payment of such liquidated damages, the Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

D. In the event that the District determines that the Applicant has committed a Material Breach identified in Section 9.1, after the notice and mediation periods provided by Sections 9.2 and 9.3, then the District may, in addition to the payment of liquidated damages required pursuant to Section 9.4.C, terminate this Agreement.

E. In determining the amount of penalty or interest, or both, due in the event of a breach of this Agreement, the District shall first determine the base amount of recaptured taxes less all credits under Section 9.4.C owed for each Tax Year during the Tax Limitation Period. The 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 9.4.C 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 9.5. LIMITATION OF OTHER DAMAGES.** Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, the District's damages for such a default shall under no circumstances exceed the amounts calculated under Section 9.4. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement. The Parties further agree that the limitation of damages and remedies set forth in this Section 9.5 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

**Section 9.6. STATUTORY PENALTY FOR INADEQUATE QUALIFIED INVESTMENT.** Pursuant to

Section 313.0275 of the TEXAS TAX CODE, in the event that the Applicant fails to make \$30,000,000 of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

**Section 9.7. REMEDY FOR FAILURE TO CREATE AND MAINTAIN REQUIRED NEW QUALIFYING JOBS.** Pursuant to Section 313.0276 of the TEXAS TAX CODE, for any full Tax Year that commences after the project has become operational, in the event that it has been determined that the Applicant has failed to meet the job creation or retention requirements defined in Sections 9.1.C, the Applicant shall not be deemed to be in Material Breach of this Agreement until such time as the Comptroller has made a determination to rescind this Agreement under Section 313.0276 of TEXAS TAX CODE, and that determination is final.

**Section 9.8. REMEDY FOR FAILURE TO CREATE AND MAINTAIN COMMITTED NEW QUALIFYING JOBS**

A. In the event that the Applicant fails to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application, an event constituting a Material Breach as defined in Section 9.1.D, the Applicant and the District may elect to remedy the Material Breach through a penalty payment.

B. Following the notice and mediation periods provided by Sections 9.2 and 9.3, the District may request the Applicant to make a payment to the State in an amount equal to: (i) multiplying the maintenance and operations tax rate of the school district for that Tax Year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the market value of the property identified on the Appraisal District's records for each tax year the Material Breach occurs.

C. In the event that there is no tax limitation in place for the tax year that the Material Breach occurs, the payment to the State shall be in an amount equal to: (i) multiplying the maintenance and operations tax rate of the School District for each tax year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the tax limitation amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the last Tax Year for which the Applicant received a tax limitation.

D. The penalty shall be paid no later than 30 days after the notice of breach and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE.

**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 or email transmission, with notice 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 or email 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 the District shall be addressed to the District's Authorized Representative as follows:

Jose Rafael Lopez, Superintendent  
Taft Independent School District  
400 College Street  
Taft, TX 78390  
Phone: (361)528-2636  
Email: joe.lopez@Taftisd.net

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 4<sup>th</sup> St. NE Suite 200  
Charlottesville, VA 22902  
Fax: (434) 220-7595  
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 a Party may designate by written notice to the other.

D. A copy of any notice delivered to the Applicant shall also be delivered to any lender for which the Applicant has provided the District notice of collateral assignment information pursuant to Section 10.3.C, below.

**Section 10.2. AMENDMENTS TO APPLICATION AND 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 Section 10.2.B. 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, the Application and this Agreement may only be amended according to the following:

- i. The Applicant shall submit to the District and the Comptroller:
  - a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;
  - b. any changes to the information that was provided in the Application that was approved by the District and considered by the Comptroller;
  - c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;
- ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules 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 the Comptroller by the end of the 90-day period, the request is denied; and
- iii. If the Comptroller has not denied the request, the 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 Application and this 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

D. The Application and this Agreement may not be amended to extend the value limitation time period beyond its ten-year statutory term.

E. The Comptroller determination made under Section 313.026(c)(2) of the TEXAS TAX CODE in the original certificate for a limitation satisfies the requirement of the Comptroller to make the same determination for any amendment of the Application and this Agreement, provided that the facts upon which the original determination was made have not changed.

### **Section 10.3. ASSIGNMENT.**

A. Any assignment of any rights, benefits, obligations, or interests of the Parties in this Agreement, other than a collateral assignment purely for the benefit of creditors of the project, is considered an amendment to the Agreement and such Party may only assign such rights, benefits, obligations, or interests of this Agreement after complying with the provisions of Section 10.2 regarding amendments to the Agreement. Other than a collateral assignment to a creditor, this Agreement may only be assigned to an entity that is eligible to apply for and execute an agreement for limitation on appraised value pursuant to the provisions of Chapter 313 of the TEXAS TAX CODE and the Comptroller's Rules.

B. In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

C. In the event of an assignment to a creditor, the Applicant must notify the District

and the Comptroller in writing no later than 30 days after the assignment. This Agreement shall be binding on the assignee.

**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. 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 a state district court in San Patricio County.

**Section 10.6. 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 10.7. 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 so that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 10.7, 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 10.8. 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 10.9. INTERPRETATION.**

A. 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.

B. 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.

C. The provisions of the Act and the Comptroller’s Rules are incorporated by reference as if fully set forth in this Agreement. In the event of a conflict, the conflict will be resolved by reference to the following order of precedence:

- i. The Act;
- ii. The Comptroller’s Rules as they exist at the time the Agreement is executed, except as allowed in the definition of Qualified Property in Section 1.1; and
- iii. This Agreement and its Attachments including the Application as incorporated by reference.

**Section 10.10. 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 10.11. PUBLICATION OF DOCUMENTS.** The Parties acknowledge that the District is required to publish the Application and its required schedules, or any amendment thereto; all economic analyses of the proposed project submitted to the District; and the approved and executed copy of this Agreement or any amendment thereto, as follows:

A. Within seven (7) days of receipt of such document, the District shall submit a copy to the Comptroller for publication on the Comptroller’s Internet website;

B. The District shall provide on its website a link to the location of those documents posted on the 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 10.12. CONTROL; OWNERSHIP; LEGAL PROCEEDINGS.** The Applicant shall immediately notify the District in writing of any actual or anticipated change in the control or ownership of the Applicant and of any legal or administrative investigations or proceedings initiated against the Applicant related to the project regardless of the jurisdiction from which such proceedings originate.

**Section 10.13. DUTY TO DISCLOSE.** If circumstances change or additional information is obtained regarding any of the representations and warranties made by the Applicant in the Application or this Agreement, or any other disclosure requirements, subsequent to the date of this Agreement, the Applicant’s duty to disclose continues throughout the term of this Agreement.

**Section 10.14. CONFLICTS OF INTEREST.**

A. The District represents that, after diligent inquiry, each local public official or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, has disclosed any conflicts of interest in obtaining or performing this Agreement and related activities, appropriately recused from any decisions relating to this Agreement when a disclosure has been made, and the performance of this Agreement will not create any appearance of impropriety. The District represents that it, the District's local public officials or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

B. The Applicant represents that, after diligent inquiry, each of its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, involved in the representation of the Applicant with the District has complied with the provisions of Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE. The Applicant represents that it and its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

C. The District and the Applicant each separately agree to notify the other Party and the Comptroller immediately upon learning of any conflicts of interest.

**Section 10.15. PROVISIONS SURVIVING EXPIRATION OR TERMINATION.** Notwithstanding the expiration or termination (by agreement, breach, or operation of time) of this Agreement, the provisions of this Agreement regarding payments (including liquidated damages and tax payments), reports, records, and dispute resolution of the Agreement shall survive the termination or expiration dates of this Agreement until the following occurs:

- A. all payments, including liquidated damage and tax payments, have been made;
- B. all reports have been submitted;
- C. all records have been maintained in accordance with Section 8.6.A; and
- D. all disputes in controversy have been resolved.

**Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.**

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

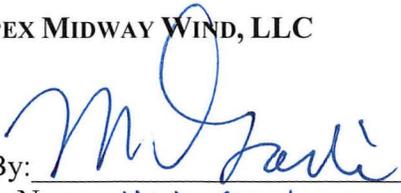
B. Delivery is deemed complete as follows:

- i. When delivered if delivered personally or sent by express courier service;
- ii. Three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested;
- iii. When transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine; or
- iv. When the recipient, by an e-mail sent to the e-mail address for the

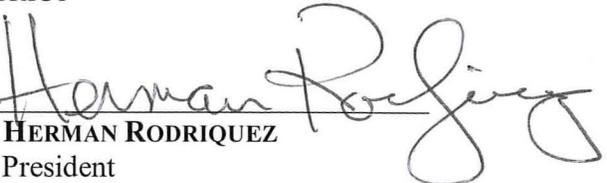
executing Parties acknowledges having received that e-mail (an automatic “read receipt” does not constitute acknowledgment of an e-mail for delivery purposes).

*IN WITNESS WHEREOF*, this Agreement has been executed by the Parties in multiple originals on this 14th day of November, 2017.

**APEX MIDWAY WIND, LLC**

By:   
Name: Mark Goodwin  
Title: President & CEO

**TAFT INDEPENDENT SCHOOL DISTRICT**

By:   
HERMAN RODRIQUEZ  
President  
Board of Trustees

**Attest:**

By:   
JOHNNY CARVAJAL  
Secretary  
Board of Trustees

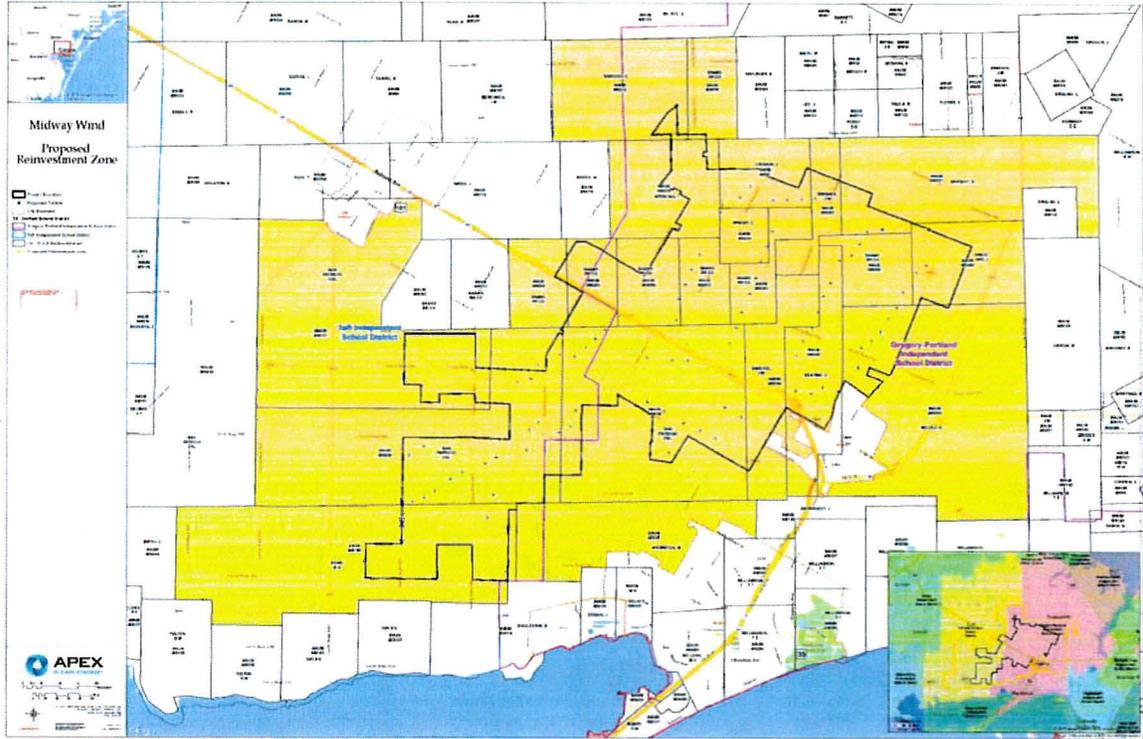
**EXHIBIT 1**

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

**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&MGRRCO	A-254	409254	
SA&MGRRCO	A-255	409255	
SA&MGRRCO	A-256	409256	
SA&MGRRCO	A-257	409257	
SA&MGRRCO	A-258	409258	
SA&MGRRCO	A-259	409259	
SA&MGRRCO	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	

Agreement for Limitation on Appraised Value  
 Between Taft Independent School District and Apex Midway Wind, LLC  
 TEXAS COMPTROLLER APPLICATION NUMBER 1201  
 November 14, 2017



**Agreement for Limitation on Appraised Value**  
 Between Taft Independent School District and Apex Midway Wind, LLC  
 TEXAS COMPTROLLER APPLICATION NUMBER 1201  
 November 14, 2017

**EXHIBIT 1**

**EXHIBIT 2**

**DESCRIPTION AND LOCATION OF LAND**

The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described by the map attached to **Exhibit 1**.

**Agreement for Limitation on Appraised Value**  
Between Taft Independent School District and Apex Midway Wind, LLC  
TEXAS COMPTROLLER APPLICATION NUMBER 1201  
November 14, 2017

**EXHIBIT 2**

**EXHIBIT**

**3**

**APPLICANT'S QUALIFIED INVESTMENT**

Apex Midway Wind, LLC ("Apex") is requesting an appraised value limitation from Taft Independent School District (ISD) for the Midway Wind Project (the "Project"), a proposed wind powered electric generating facility in San Patricio County. The proposed Taft 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 160.125 MW, with approximately 60.375 MW located in Taft 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 2.2625 MW Gamesa turbines with an estimated 23 turbines located in Taft ISD. Portions of the project will be located in Gregory-Portland 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 substation, transmission line tie-in and associated towers, and interconnection facilities.

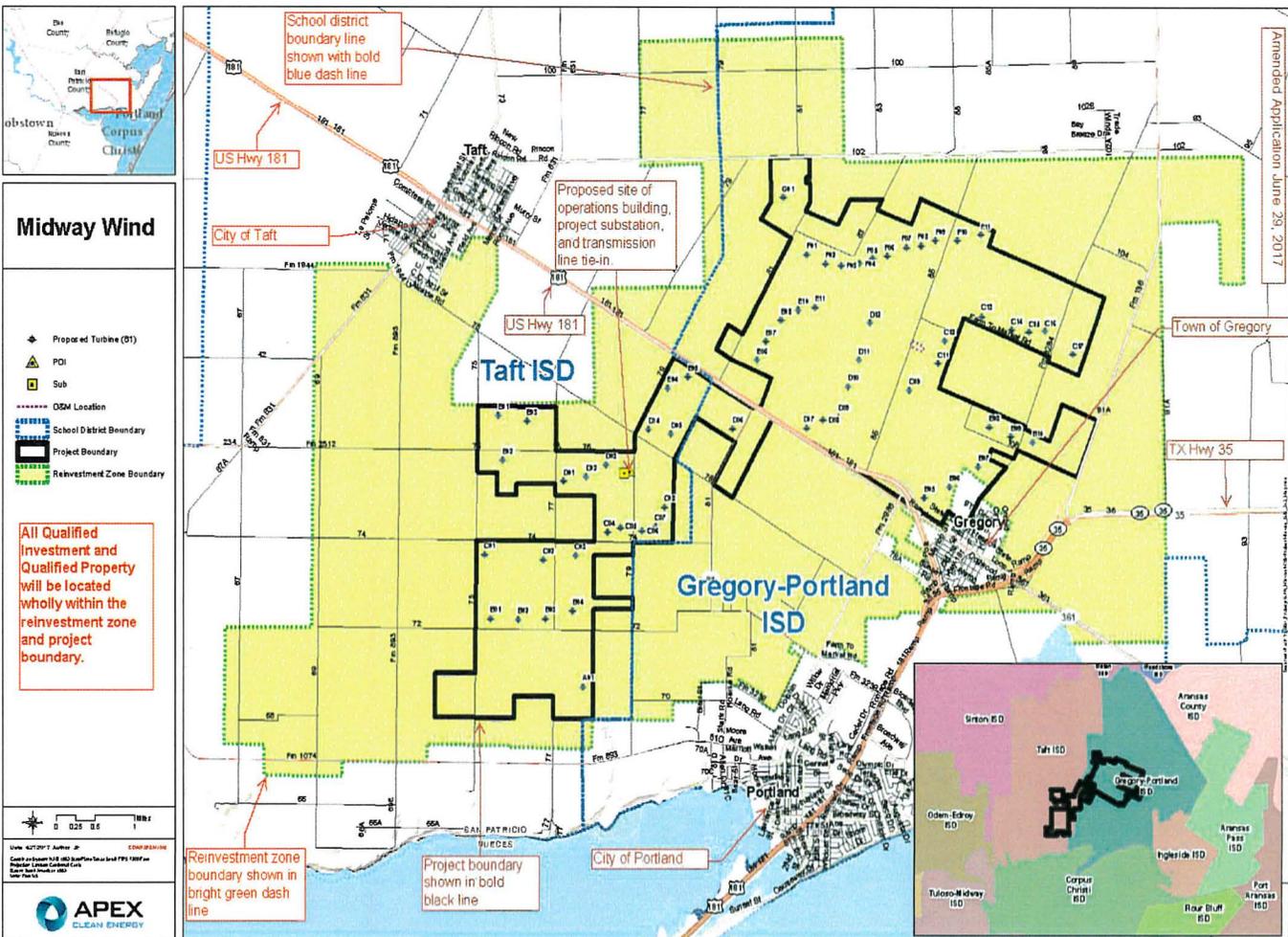
Construction of the Project is anticipated to begin in the first quarter of 2018 with completion by the first quarter of 2019.

**EXHIBIT 4**  
**DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY**

Apex Midway Wind, LLC ("Apex") is requesting an appraised value limitation from Taft Independent School District (ISD) for the Midway Wind Project (the "Project"), a proposed wind powered electric generating facility in San Patricio County. The proposed Taft 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 160.125 MW, with approximately 60.375 MW located in Taft 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 2.625 MW Gamesa turbines with an estimated 23 turbines located in Taft ISD. Portions of the project will be located in Gregory-Portland 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 substation, transmission line tie-in and associated towers, and interconnection facilities.

Construction of the Project is anticipated to begin in the first quarter of 2018 with completion by the first quarter of 2019.



Agreement for Limitation on Appraised Value  
 Between Taft Independent School District and Apex Midway Wind, LLC  
 TEXAS COMPTROLLER APPLICATION NUMBER 1201  
 November 14, 2017

Attachment H

Consultant Verification Letter



LYNN M. MOAK, PARTNER

DANIEL T. CASEY, PARTNER

November 14, 2017

President and Members  
Board of Trustees  
Taft Independent School District  
400 College St.  
Taft, Texas 78390

*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 Taft 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 a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

Sincerely,

Daniel T. Casey

[www.moakcasey.com](http://www.moakcasey.com)

Phone 512-485-7878

400 W. 15<sup>th</sup> Street★Suite 1410★Austin, TX 78701-1648

Fax 512-485-7888

# O'HANLON, DEMERATH & CASTILLO

ATTORNEYS & COUNSELORS AT LAW

808 WEST AVE

AUSTIN, TEXAS 78701

TELEPHONE: (512) 494-9949

FACSIMILE: (512) 494-9919

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

**JUSTIN DEMERATH**

**BENJAMIN CASTILLO**

October 16, 2017

President and Members  
Of the Board of Trustees  
Taft Independent School District  
400 College St.  
Taft, Texas 78390

*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 Taft 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

October 27, 2017

Jose Rafael  
Superintendent  
Taft Independent School District  
400 College Street  
Taft, Texas 78390

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes by and between Taft Independent School District and Apex Midway Wind, LLC, Application 1201

Dear Superintendent Rafael:

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 Taft Independent School District and Apex Midway Wind, LLC (Agreement). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

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

Should you have any questions, please contact Deisy Perez with our office. She can be reached by email at [deisy.perez@cpa.texas.gov](mailto:deisy.perez@cpa.texas.gov) or by phone at 1-800-531-5441, ext. 5-2410, or at 512-475-2410.

Sincerely,

A handwritten signature in black ink, appearing to read "Will Counihan".

Will Counihan  
Director  
Data Analysis & Transparency Division

cc: Dan Casey, Moak, Casey & Associates LLP  
Mark Goodwin, Apex Clean Energy Holdings, LLC  
Dru Steubing, Director of Project Development  
Dale Cummings, Cummings Westlake, 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.