

**FINDINGS OF THE ROBY CONSOLIDATED  
INDEPENDENT SCHOOL DISTRICT BOARD  
OF TRUSTEES  
UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE  
APPLICATION SUBMITTED  
BY  
MESQUITE STAR SPECIAL, LLC (#1222)**



April 9, 2018

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*STATE OF TEXAS* §

*COUNTY OF FISHER* §

On the 9<sup>th</sup> day of April 2018, a public meeting of the Board of Trustees of the Roby Consolidated 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 Mesquite Star Special, 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 September 11, 2017, the Superintendent of the District, acting as an agent of the Board of Trustees, and the Texas Comptroller of Public Accounts (“Comptroller”) received an Application from Applicant for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. A copy of the Application is attached as **Attachment A**.

The Applicant, (Texas Taxpayer Id. 32064548236), 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 Fisher County Appraisal District for review pursuant to 34 Tex. Admin. Code § 9.1054. On November 30, 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 February 28, 2018 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:

The Mesquite Star Special, LLC Wind Project is a proposed wind energy generation project which would be located in Fisher County, Texas. The Project is anticipated to consist of 41 wind turbines which when operational will be capable of generating 140MW.

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 A, the Board finds 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 two (2) new qualifying jobs. The average salary level of qualifying jobs will be at least \$46,466 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 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 \$38,428 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 \$93 million to the tax base for debt service purposes at the peak investment level for the 2020-21 school year.

**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 Twenty 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 2015 Final Findings made under Subchapter M, Chapter 403, Government Code for the preceding tax year, Attachment F. The total industrial value for the District is \$10.2 million. The District is categorized as Subchapter C, which applies only to a school district that has territory in a strategic investment area, as defined under Subchapter O, Chapter 171, Tax Code or in a county: (1) that has a population of less than 50,000 and (2) in which, from 1990 to 2000, according to the federal decennial census, the population: (A) remained the same; (B) decreased; or (C) increased, but at a rate of not more than three percent per annum. The District is classified as a "rural" district due to its demographic characteristics. Given that the value of industrial property is more than \$1 million but less than \$90 million, it is classified as a Category III district which can offer a minimum value limitation of \$20 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. 32064548236) is eligible for the limitation on appraised value of qualified property as an active franchise-tax paying entity.**

The Applicant, (Texas Taxpayer No. 32064548236), is an entity subject to Chapter 171, Texas Tax Code, and is certified to be an active franchise tax payer by the Comptroller. See **Attachment B**. The Board also finds that the Chapter 313 Tax Limitation Agreement (**Attachment G**) 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/474>, 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 9<sup>th</sup> day of April 2018.

ROBY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

By: Jeff Posey  
Jeff Posey, President, Board of Trustees

ATTEST:

By: Jeff Branson  
Jeff Branson, Secretary, Board of Trustees

Attachment A

Application

## 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> )

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 1**

*Pages 1 through 9 of application.*

# 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

September 11, 2017

Date Application Received by District

Heath

First Name

Superintendent

Title

Roby CISD

School District Name

141 South College Street

Street Address

P.O. Box 519

Mailing Address

Roby

City

325-766-2222

Phone Number

Mobile Number (optional)

Dickson

Last Name

TX

State

325-267-2622

Fax Number

heath.dickson@roby.esc14.net

Email Address

79543

ZIP

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

SECTION 1: School District Information (continued)

3. Authorized School District Consultant (If Applicable)

Form for Authorized School District Consultant with fields for Dan (First Name), Partner (Title), Moak Casey and Associates (Firm Name), 512-485-7878 (Phone Number), Casey (Last Name), 512-485-7888 (Fax Number), dcasey@moakcasey.com (Email Address).

- 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? [X] Yes [ ] No

SECTION 2: Applicant Information

1. Authorized Company Representative (Applicant)

Form for Authorized Company Representative with fields for Seth (First Name), President and CEO (Title), 3820 American Drive, Suite 320 (Street Address), Plano (City), 214-367-5330 (Phone Number), Riklin (Last Name), Hill Country Mesquite Generation, LLC (Organization), TX (State), 75075 (ZIP), sriklin@hwind.com (Business Email Address).

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

Contact information form for 2a with fields for First Name, Last Name, Title, Organization, Street Address, Mailing Address, City, State, ZIP, Phone Number, Fax Number, Business Email Address.

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

SECTION 2: Applicant Information (continued)

4. Authorized Company Consultant (If Applicable)

Sam Gregson
First Name Last Name
Senior Consultant
Title
Cummings Westlake LLC
Firm Name
713-266-4456 713-266-2333
Phone Number Fax Number
sgregson@cwlp.net
Business Email Address

SECTION 3: Fees and Payments

- 1. Has an application fee been paid to the school district? [X] 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 [X] 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 [X] No [ ] N/A

SECTION 4: Business Applicant Information

1. What is the legal name of the applicant under which this application is made? Mesquite Star Special, LLC
2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) 3206458236
3. List the NAICS code 221115
4. Is the applicant a party to any other pending or active Chapter 313 agreements? [ ] Yes [X] No
4a. If yes, please list application number, name of school district and year of agreement

SECTION 5: Applicant Business Structure

- 1. Identify Business Organization of Applicant (corporation, limited liability corporation, etc) Limited Liability Corporation
2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)? [ ] Yes [X] 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? [X] Yes [ ] No
4. Are all applicant members of the combined group current on all tax payments due to the State of Texas? [ ] Yes [ ] No [X] 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)

[Empty text box for explanation]

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

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

**SECTION 7: Project Description**

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

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

**SECTION 8: Limitation as Determining Factor**

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

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

**SECTION 9: Projected Timeline**

- 1. Application approval by school board ..... December 2017
- 2. Commencement of construction ..... 3Q 2018
- 3. Beginning of qualifying time period ..... 2018
- 4. First year of limitation ..... 2020
- 5. Begin hiring new employees ..... 4Q 2019
- 6. Commencement of commercial operations ..... December 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? ..... December 2019

**SECTION 10: The Property**

- 1. Identify county or counties in which the proposed project will be located Fisher
- 2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property Fisher CAD
- 3. Will this CAD be acting on behalf of another CAD to appraise this property? .....  Yes  No
- 4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:
 

County: <u>Fisher, 100%; \$.92708</u> <i>(Name, tax rate and percent of project)</i>	City: _____ <i>(Name, tax rate and percent of project)</i>
Hospital District: <u>Fisher County Hosp. Dist.; 100%; \$.28020</u> <i>(Name, tax rate and percent of project)</i>	Water District: _____ <i>(Name, tax rate and percent of project)</i>
Other (describe): _____ <i>(Name, tax rate and percent of project)</i>	Other (describe): _____ <i>(Name, tax rate and percent of project)</i>
- 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? ..... 10,000,000.00
- 2. What is the amount of appraised value limitation for which you are applying? ..... 20,000,000.00
- Note:** The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.
- 3. Does the qualified investment meet the requirements of Tax Code §313.021(1)? .....  Yes  No
- 4. Attach a description of the qualified investment [See §313.021(1).] The description must include:
  - a. a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 7**);
  - b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (**Tab 7**); and
  - c. a detailed map of the qualified investment showing location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, with vicinity map (**Tab 11**).
- 5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period? .....  Yes  No

**SECTION 12: Qualified Property**

1. Attach a detailed description of the qualified property. [See §313.021(2)] (If qualified investment describes qualified property exactly, you may skip items a, b and c below.) The description must include:
  - 1a. a specific and detailed description of the qualified property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (Tab 8);
  - 1b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your qualified property (Tab 8); and
  - 1c. a map of the qualified property showing location of new buildings or new improvements with vicinity map (Tab 11).
  
2. Is the land upon which the new buildings or new improvements will be built part of the qualified property described by §313.021(2)(A)?  Yes  No
  - 2a. If yes, attach complete documentation including:
    - a. legal description of the land (Tab 9);
    - b. each existing appraisal parcel number of the land on which the new improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property (Tab 9);
    - c. owner (Tab 9);
    - d. the current taxable value of the land. Attach estimate if land is part of larger parcel (Tab 9); and
    - e. a detailed map showing the location of the land with vicinity map (Tab 11).
  
3. Is the land on which you propose new construction or new improvements currently located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303?  Yes  No
  - 3a. If yes, attach the applicable supporting documentation:
    - a. evidence that the area qualifies as a enterprise zone as defined by the Governor's Office (Tab 16);
    - b. legal description of reinvestment zone (Tab 16);
    - c. order, resolution or ordinance establishing the reinvestment zone (Tab 16);
    - d. guidelines and criteria for creating the zone (Tab 16); and
    - e. a map of the reinvestment zone or enterprise zone boundaries with vicinity map (Tab 11)
  - 3b. If no, submit detailed description of proposed reinvestment zone or enterprise zone with a map indicating the boundaries of the zone on which you propose new construction or new improvements to the Comptroller's office within 30 days of the application date. What is the anticipated date on which you will submit final proof of a reinvestment zone or enterprise zone? September 30, 2017

**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 ..... 755.00  
 b. 110% of the average weekly wage for manufacturing jobs in the county is ..... Manufacturing Data is Unavailable  
 c. 110% of the average weekly wage for manufacturing jobs in the region is ..... 894.00
8. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? .....  §313.021(5)(A) or  §313.021(5)(B)
9. What is the minimum required annual wage for each qualifying job based on the qualified property? ..... 46,466.00
10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... 46,466.00
11. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? .....  Yes     No
12. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.021(3)(F)? .....  Yes     No  
 12a. If yes, attach in **Tab 12** supporting documentation from the TWC, pursuant to §313.021(3)(F).
13. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? .....  Yes     No  
 13a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

**SECTION 15: Economic Impact**

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

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 2**

*Proof of Payment of Application Fee*

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

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**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)*

See Attached



## Franchise Tax Account Status

As of : 08/21/2017 11:29:18

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

<b>MESQUITE STAR SPECIAL, LLC</b>	
<b>Texas Taxpayer Number</b>	32064548236
<b>Mailing Address</b>	3820 AMERICAN DR STE 310 PLANO, TX 75075-6105
<b>? Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	08/10/2017
<b>Texas SOS File Number</b>	0802789572
<b>Registered Agent Name</b>	SETH J RIKLIN
<b>Registered Office Street Address</b>	3820 AMERICAN DRIVE, SUITE 310 PLANO, TX 75075

**TAB 4**

Detailed Description of the Project

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

The Mesquite Star Special, LLC Wind Project is a proposed wind energy generation project which would be located in Fisher County, Texas. The Project is anticipated to consist of 41 wind turbines which when operational will be capable of generating 140MW. Additional Project facilities will include a Project Operations and Maintenance Facility, a main project substation, and an approximate 3.3-mile transmission line to connect the project to the existing electrical grid.

The Project is situated in southern Fisher County. The Project area is comprised primarily of rangeland, utilized for grazing and hunting and is well suited for a wind farm. The project will be located on approximately 27,000 acres of private land which will be leased under a 30-year wind lease. The project is planned to be interconnected to Lone Star Transmission's 138kV system which intersects the southwest portion of the project area.

A full suite of studies is underway to verify project viability including but not limited to environmental studies, cultural resource studies, biological studies, aviation studies, telecommunications studies and wind resource assessment studies. Following an approximate 15-month construction process, and once operational the Project is anticipated to be capable of sell electricity into the Texas wholesale power market beginning in Q4 2019, and have an expected life exceeding 25 years. The proposed project will include, but is not limited to, the following:

- Planned 140MW-AC in size;
- Project Roads;
- 41 Wind Turbines 22 of which will be located in Roby CISD;
- Underground Medium and high-voltage electric cabling;
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure weather conditions and wind speeds; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

TAB 5

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

The applicant is in final stages of a sale transaction for the development rights of the project. The transaction, which is anticipated to close in the next month, is with a leading independent power producer and national wind and solar developer with the ability to locate projects of this type in other states in the US with strong wind resources. The applicant's counterparty is actively developing and constructing other projects throughout the US. The transaction (and thus construction of this project) requires this appraised value limitation in order to move forward with constructing this project in Texas. Specifically, without the available tax incentives, the economics of the project become unappealing to investors and the likelihood of constructing the project in Texas becomes unlikely. Property taxes can be the highest operating expense for a wind generation facility as wind facilities do not have any associated fuel costs for the production of electricity, and with Texas wholesale electricity prices already below the national average in Texas, it is necessary to limit the property tax liabilities for a wind project in order to be able to offer electricity at prices that are marketable to Texas customers at competitive rates, including power sales under a bi-lateral contract. Markets such as California that have state wide available subsidies for renewable energy projects, and which have higher average contracted power rates, offer an attractive incentive for developers to build projects in those markets over Texas.

The property tax liabilities of a project without tax incentives in Texas lowers the return to investors and financiers to an unacceptable level at today's contracted power rates under a power purchase agreement. As such, the applicant is not able to finance and build its project in Texas even with a signed power purchase agreement because of the low price in the power purchase agreement. Without the tax incentive, the applicant would be forced to abandon the project and spend its development capital and prospective investment funds in other states where the rate of return is higher on a project basis.

This is true even if the entity is able to contract with an off-taker under a power purchase agreement because the low rate contracted for is not financeable without the tax incentives. More specifically, a signed power purchase agreement in the Texas market is at a much lower rate than other states because of competitively low electricity prices. Other states have high electricity prices where a developer can obtain a PPA with a much higher contracted rate, combined with state subsidies, the other states offer a much higher rate of return for the project financiers. Without the tax incentives in Texas, a project with a power purchase agreement becomes unfinanceable.

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 6**

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

- |                           |        |
|---------------------------|--------|
| 1) Fisher County          | - 100% |
| 2) Fisher County Hospital | - 100% |
| 3) Roby CISD              | - 54%  |
| 4) Roscoe ISD             | - 46%  |

**TAB 7**

*Description of Qualified Investment*

The Mesquite Star Special, LLC Wind Project is a proposed wind energy generation project which would be located in Fisher County, Texas. The Project is anticipated to consist of 41 wind turbines which when operational will be capable of generating 240MW. Additional Project facilities will include a Project Operations and Maintenance Facility, a main project substation, and an approximate 3.3-mile transmission line to connect the project to the existing electrical grid.

The Project is situated in southern Fisher County. The Project area is comprised primarily of rangeland, utilized for grazing and hunting and is well suited for a wind farm. The project will be located on approximately 27,000 acres of private land which will be leased under a 30-year wind lease. The project is planned to be interconnected to Lone Star Transmission's 138kV system which intersects the southwest portion of the project area.

A full suite of studies is underway to verify project viability including but not limited to environmental studies, cultural resource studies, biological studies, aviation studies, telecommunications studies and wind resource assessment studies. Following an approximate 17-month construction process, and once operational the Project is anticipated to be capable of sell electricity into the Texas wholesale power market beginning in December 2019, and have an expected life exceeding 25 years. The proposed project will include, but is not limited to, the following:

- Planned 140MW-AC in size;
- Project Roads;
- 41 Wind Turbines, 22 of which will be located in Roby CISD;
- Underground Medium and high-voltage electric cabling;
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure weather conditions and wind speeds; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 8**

*Description of Qualified Property*

(See Tab 7)

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 9**

*Description of Land*

PORTION	SECTION	BLOCK	ACRES
S/2 S/2	171	3	200
ALL	173	3	640
ALL	174	3	640
ALL	176	3	640
ALL	179	3	640
NW/4	180	3	160
NE/4	180	3	160
SW/4	180	3	160
SE/4	180	3	160
ALL	181	3	639
W/2 NW/4	182	3	80
E/2	182	3	320
E/2 NW/4	182	3	80
SW/4	182	3	160
W/2	209	3	295
WEST 2/3	210	3	445
ALL	211	3	591
W/2 SW/4	212	3	80
E/2 SW/4	212	3	80
E/2	212	3	321
NW/4	212	3	160
ALL	213	3	663
ALL	214	3	636
ALL	215	3	640
ALL	216	3	649
ALL	218	3	659
NE/2	219	3	295
E/2	220	3	331
ALL	249	3	640
ALL	250	3	657
ALL	251	3	635
W/2	254	3	320
ALL	265	3	320
ALL	266	3	330
ALL	267	3	319
ALL	268	3	319
ALL	269	3	320
ALL	270	3	320
ALL	271	3	312
NW/4	6	22	160
SW/4	6	22	160
SE/4	6	22	160
NE/4	6	22	160

ALL	1	23	640
E/2	2	23	320
W/2	2	23	319
ALL	3	23	633
SW/4	4	23	160
SE/4	4	23	160
NE/4	4	23	165
NW/4	4	23	165
N/2	9	23	330
NE PORTION	10	23	160
N/2 SE PORTION	10	23	98
NW PORTION	10	23	208
ALL	11	23	622
ALL	1	N	658
PORTION	1	N	138
W/2	11	Y	320
ALL	12	Y	640
ALL	13	Y	528
ALL	14	Y	640
ALL	15	Y	545
SW/4	16	Y	160
E/W	16	Y	313
NW/4	16	Y	152
ALL	47	Y	439
ALL	48	Y	516
ALL	49	Y	582
ALL	50	Y	600
ALL	51	Y	480
ALL	51	Y	156
ALL	52	Y	160
ALL	52	Y	160
PORTIONS	1		524
ALL	2		674
ALL			163

SURVEY	ABSTRACT
H & TC RR CO.	A-243
H & TC RR CO.	A-244
A. TURBEVILLE	A-1601
S. BRYON	A-1296
H & TC RR CO.	A-247
N. JOHNSTON	A-1532
J. SPARKS	A-1456
I. LAMBERT	A-1392
J. TROTTER	A-1662
H & TC RR CO.	A-248
R. RAWLINGS	A-1767
J. HENDRIX	A-1676
R. RAWLINGS	A-1767
R. RAWLINGS	A-1767
H & TC RR CO.	A-262
H. WILSON	A-1697
H & TC RR CO.	A-263
G. YOUNG	A-1788
B. KIDD	A-1742
F. MURRAY/I. BRASHEAR	A-1568/A-1727
B. RAWLINGS	A-1579
H & TC RR CO.	A-264
J. BERROTH	A-1497
H & TC RR CO.	A-265
J. CURRY	A-1317
H & TC RR CO.	A-1304
H & TC RR CO.	A-267
D. GEORGE	A-1817
H & TC RR CO.	A-176
H & TC RR CO.	A-1429
H & TC RR CO.	A-177
T. BONNER	A-1842
H & TC RR CO.	A-227
J. BIGGS	A-908
H & TC RR CO.	A-185
L. ELAM	A-1623
H & TC RR CO.	A-184
L. ELAM	A-1325
H & TC RR CO.	A-186
J. WALKER	A-1737
J. WALKER	A-1605
G. HINSHAW	A-1366
G. HINSHAW	A-1367

T. & P. RR. CO.	A-340
G. MORGAN	A-1563
G. MORGAN	A-1562
T. & P. RR. CO.	A-341
S. JOHNSON	A-1802
W. BENNETT	A-1836
W. BROWER	A-1295
J. MCGLOTHKIN	A-1653
T. & P. RR. CO.	A-395
G. WILSON	A-1840
R. MORGAN	A-1564
J. ALLEN	A-1613
T. & P. RR. CO.	A-674
J. POSEY	A-453
J. POSEY	A-451
T. & P. RR. CO.	A-344
R. MAULDIN	A-1407
T. & P. RR. CO.	A-345
T. & P. RR. CO.	A-1421
T. & P. RR. CO.	A-346
T. & P. RR. CO.	A-703
T. & P. RR. CO.	A-1634
T. & P. RR. CO.	A-1888
T. & P. RR. CO.	A-353
J. LINN	A-1393
T. & P. RR. CO.	A-354
G. PYRON	A-1720
T. & P. RR. CO.	A-355
J. TURNER	A-1602
J. ALLDREDGE	A-1846
J. MAULDIN	A-1408
COLORADO CATTLE CO.	A-474
COLORADO CATTLE CO.	A-473
R. CLAYTON	A-406

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 10**

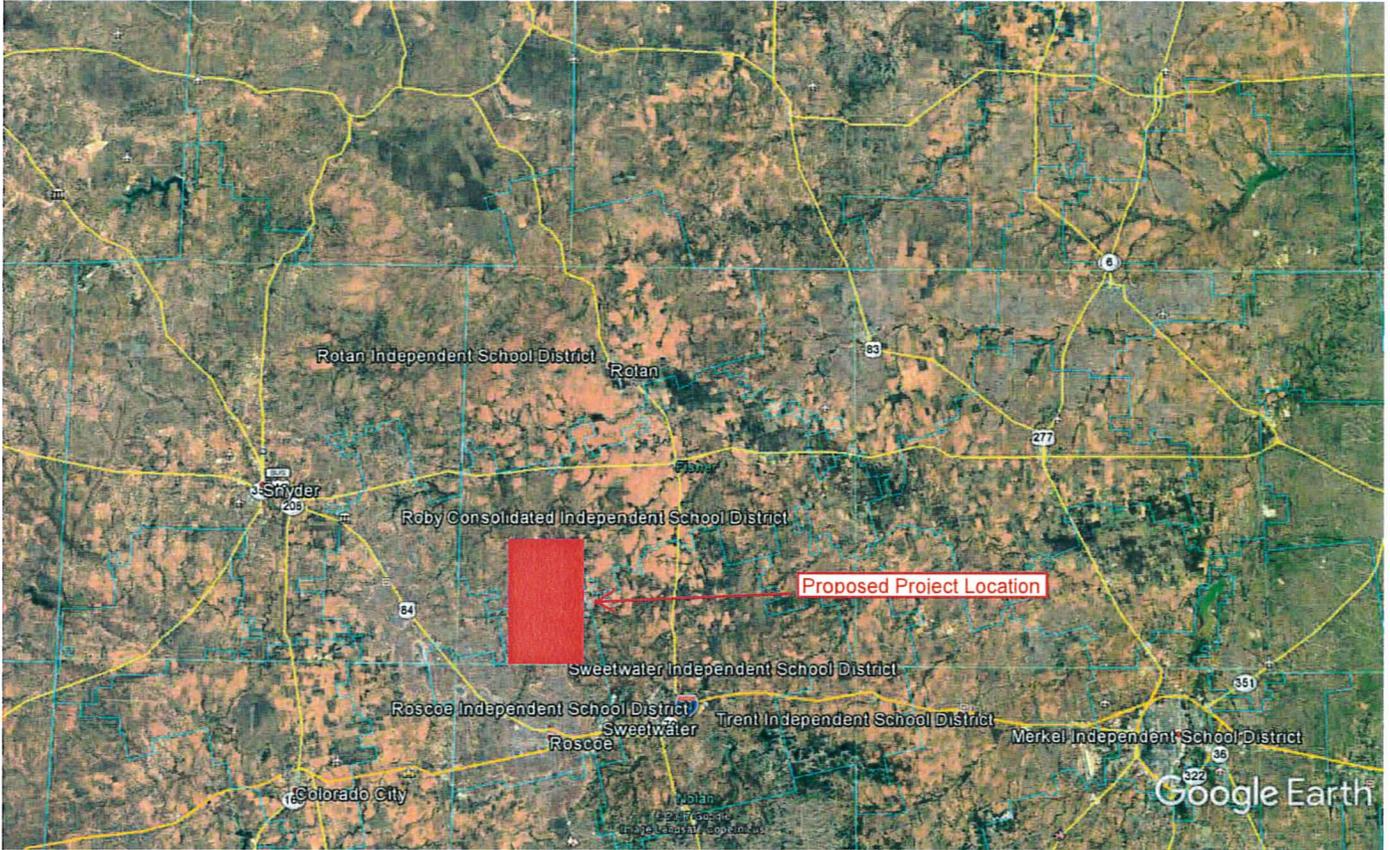
*Description of all property not eligible to become qualified property (if applicable)*

**TAB 11**

Maps that clearly show:

- a) Project vicinity
- b) Qualified investment including location of new building or new improvements
- c) Qualified property including location of new building or new improvements
- d) Existing property
- e) Land location within vicinity map
- f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size

Project Vicinity Map - Tab 11a



Google Earth



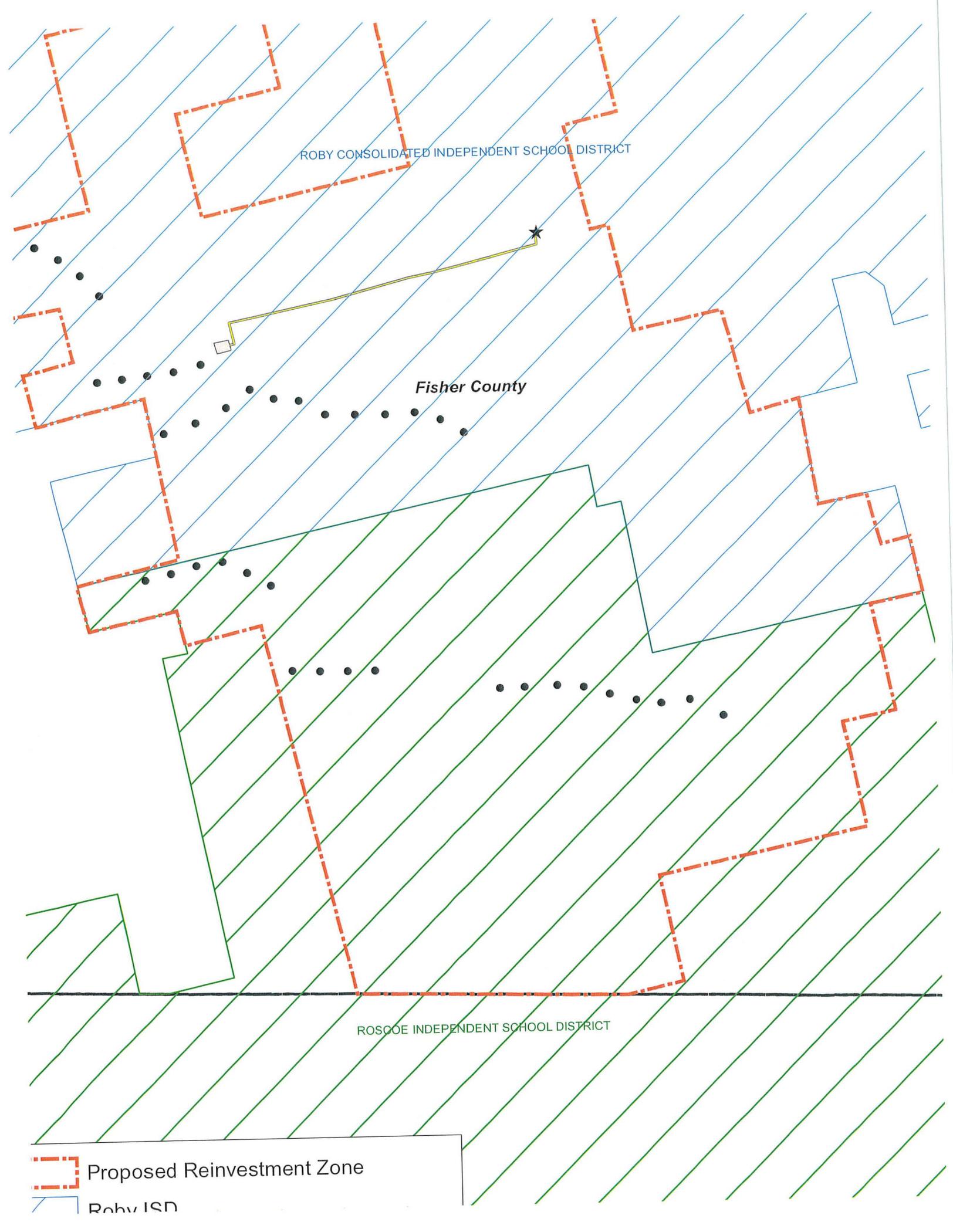
ROBY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

*Fisher County*

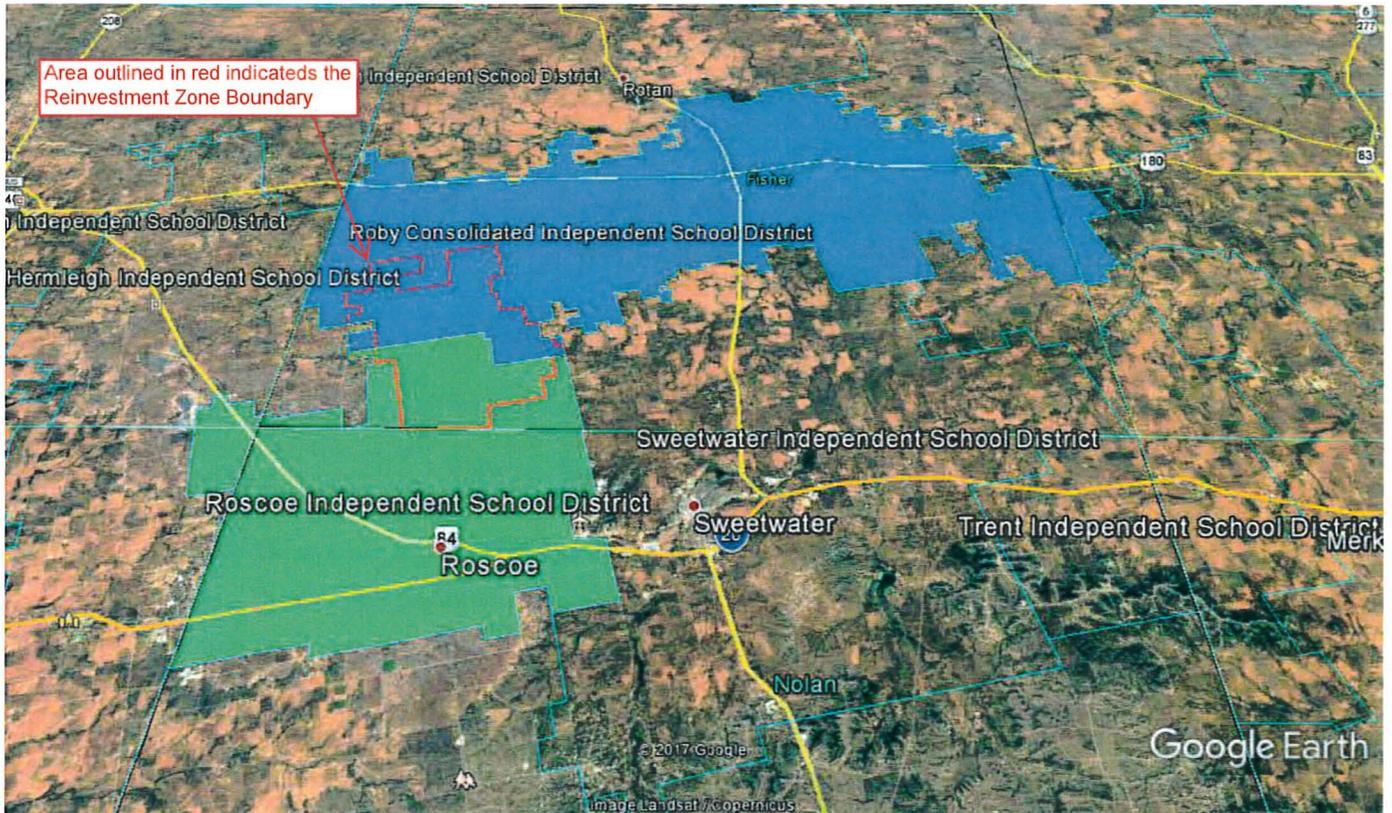
ROSCOE INDEPENDENT SCHOOL DISTRICT

Proposed Reinvestment Zone

Roby ISD



Reinvestment Zone within Vicinity Map - Tab 11f



Google Earth



**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 12**

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

See Attached

September 11, 2017

Mr. Heath Dickson  
Superintendent  
Roby Consolidated Independent School District  
141 South College Street  
Roby, TX 79543

**Re: Chapter 313 Jobs Waiver Request**

Dear Superintendent Dickson,

Mesquite Star Special, LLC requests that the Roby Consolidated 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.

Mesquite Star Special, LLC requests that the Board of Trustees make such a finding and waive the job creation requirement for 10 permanent jobs. In line with industry standards for job requirements, Mesquite Star Special, LLC has committed to create two total jobs for the project.

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 turbines. This number will 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,

Sam Gregson  
Senior Consultant  
Cummings Westlake, LLC

**TAB 13**

*Calculation of three possible wage requirements with TWC documentation*

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

**HILL COUNTRY MESQUITE GENERATION, LLC  
TAB 13 TO CHAPTER 313 APPLICATION**

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

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2017	\$ 744	\$ 38,688
SECOND	2016	\$ 738	\$ 38,376
THIRD	2016	\$ 744	\$ 38,688
FOURTH	2017	\$ 825	\$ 42,900
AVERAGE		\$ 763	\$ 39,663

**FISHER COUNTY  
CHAPTER 313 WAGE CALCULATION - MANUFACTURING JOBS**

Data Not Available			
QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2016		\$ -
SECOND	2016		\$ -
THIRD	2016		\$ -
FOURTH	2016		\$ -
AVERAGE			
		X	110%
		\$ -	\$ -

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

YEAR	AVG WEEKLY WAGES*	ANNUALIZED
2016	\$ 812	\$ 42,242
X		110%
	\$ 893.58	\$ 46,466

\* 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
2017	1st Qtr	Fisher County	Private	00	0	10	Total, all industries	\$744
2016	2nd Qtr	Fisher County	Private	00	0	10	Total, all industries	\$738
2016	3rd Qtr	Fisher County	Private	00	0	10	Total, all industries	\$744
2016	4th Qtr	Fisher County	Private	00	0	10	Total, all industries	\$825

**2016 Manufacturing Average Wages by Council of Government Region  
Wages for All Occupations**

COG	Wages	
	Hourly	Annual
<b>Texas</b>	<b>\$25.41</b>	<b>\$52,850</b>
<a href="#">1. Panhandle Regional Planning Commission</a>	\$22.52	\$46,834
<a href="#">2. South Plains Association of Governments</a>	\$18.27	\$38,009
<a href="#">3. NORTEX Regional Planning Commission</a>	\$24.14	\$50,203
<a href="#">4. North Central Texas Council of Governments</a>	\$26.06	\$54,215
<a href="#">5. Ark-Tex Council of Governments</a>	\$19.07	\$39,663
<a href="#">6. East Texas Council of Governments</a>	\$20.52	\$42,677
<a href="#">7. West Central Texas Council of Governments</a>	<b>\$20.31</b>	<b>\$42,242</b>
<a href="#">8. Rio Grande Council of Governments</a>	\$19.32	\$40,188
<a href="#">9. Permian Basin Regional Planning Commission</a>	\$26.00	\$54,079
<a href="#">10. Concho Valley Council of Governments</a>	\$18.78	\$39,066
<a href="#">11. Heart of Texas Council of Governments</a>	\$21.14	\$43,962
<a href="#">12. Capital Area Council of Governments</a>	\$30.06	\$62,522
<a href="#">13. Brazos Valley Council of Governments</a>	\$17.66	\$36,729
<a href="#">14. Deep East Texas Council of Governments</a>	\$18.06	\$37,566
<a href="#">15. South East Texas Regional Planning Commission</a>	\$33.42	\$69,508
<a href="#">16. Houston-Galveston Area Council</a>	\$27.52	\$57,246
<a href="#">17. Golden Crescent Regional Planning Commission</a>	\$26.38	\$54,879
<a href="#">18. Alamo Area Council of Governments</a>	\$21.67	\$45,072
<a href="#">19. South Texas Development Council</a>	\$15.02	\$31,235
<a href="#">20. Coastal Bend Council of Governments</a>	\$27.85	\$57,921
<a href="#">21. Lower Rio Grande Valley Development Council</a>	\$17.55	\$36,503
<a href="#">22. Texoma Council of Governments</a>	\$20.98	\$43,648
<a href="#">23. Central Texas Council of Governments</a>	\$18.65	\$38,783
<a href="#">24. Middle Rio Grande Development Council</a>	\$23.05	\$47,950

110% X \$42,242 = \$46,466

Source: Texas Occupational Employment and Wages

Data published: July 2017

Data published annually, next update will be July 31, 2018

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.

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 14**

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

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

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

Date **9/4/2018**  
 Applicant Name **MESQUITE STAR SPECIAL, LLC**  
 ISD Name **ROBY CISD**

Form 50-296A

Revised May 2014

PROPERTY INVESTMENT AMOUNTS								
(Estimated Investment in each year. Do not put cumulative totals.)								
	Year	School Year (YYYY)	Tax Year (Fill in actual tax year below) (YYYY)	Column A New investment (original cost) in <b>tangible personal property</b> placed in service during this year that will become Qualified Property	Column B New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Column C Other new investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Column D Other new investment made during this year that may become Qualified Property [SEE NOTE]	Column E <b>Total Investment</b> (Sum of Columns A+B+C+D)
Investment made before filing complete application with district				Not eligible to become Qualified Property			[The only other investment made before filing complete application with district that may become Qualified Property is land.]	0
Investment made after filing complete application with district, but before final board approval of application	--	Year preceding the first complete tax year of the qualifying time period (assuming no deferrals of qualifying time period)		0	0	0	0	0
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period				0	0	0	0	0
Complete tax years of qualifying time period	QTP1	2018-2019	2018	42,700,000	0	0	0	42,700,000
	QTP2	2019-2020	2019	51,900,000	400,000	0	0	52,300,000
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>				94,600,000	400,000	0	0	95,000,000
				Enter amounts from TOTAL row above in Schedule A2				
<b>Total Qualified Investment (sum of green cells)</b>				95,000,000				

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

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

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

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

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

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

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

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

Date **9/4/2018**  
 Applicant Name **MESQUITE STAR SPECIAL, LLC**  
 ISD Name **ROBY CISD**

Form 50-296A  
 Revised May 2014

PROPERTY INVESTMENT AMOUNTS								
(Estimated Investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in <b>tangible personal property</b> placed in service during this year that will become Qualified Property	New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Other investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other investment made during this year that will become Qualified Property [SEE NOTE]	Total Investment (A+B+C+D)
Total Investment from Schedule A1*	--	<b>TOTALS FROM SCHEDULE A1</b>		94,600,000	400,000	0	0	95,000,000
<i>Enter amounts from TOTAL row in Schedule A1 in the row below</i>								
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>	0	2018-2019	2018	0	0	0	0	0
	0	2019-2020	2019	0	0	0	0	0
Value limitation period***	1	2020-2021	2020	0	0	0	0	0
	2	2021-2022	2021	0	0	0	0	0
	3	2022-2023	2022	0	0	0	0	0
	4	2023-2024	2023	0	0	0	0	0
	5	2024-2025	2024	0	0	0	0	0
	6	2025-2026	2025	0	0	0	0	0
	7	2026-2027	2026	0	0	0	0	0
	8	2027-2028	2027	0	0	0	0	0
	9	2028-2029	2028	0	0	0	0	0
	10	2029-2030	2029	0	0	0	0	0
<b>Total Investment made through limitation</b>				94,600,000	400,000	0	0	95,000,000
Continue to maintain viable presence	11	2030-2031	2030			0		0
	12	2031-2032	2031			0		0
	13	2032-2033	2032			0		0
	14	2033-2034	2033			0		0
	15	2034-2035	2034			0		0
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2035-2036	2035			0		0
	17	2036-2037	2036			0		0
	18	2037-2038	2037			0		0
	19	2038-2039	2038			0		0
	20	2039-2040	2039			0		0
	21	2040-2041	2040			0		0
	22	2041-2042	2041			0		0
	23	2042-2043	2042			0		0
	24	2043-2044	2043			0		0
	25	2044-2045	2044			0		0

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

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

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

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

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

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

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

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

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

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

Date **9/4/2018**  
 Applicant Name **MESQUITE STAR SPECIAL, LLC**  
 ISD Name **ROBY CISD**

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

				Qualified Property			Estimated Taxable Value		
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	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	2018-2019	2018	0	0	0	0	0	0
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2019-2020	2019	0	0	0	0	0	0
Value Limitation Period	1	2020-2021	2020	0	0	93,100,000	93,100,000	93,100,000	20,000,000
	2	2021-2022	2021	0	0	86,583,000	86,583,000	86,583,000	20,000,000
	3	2022-2023	2022	0	0	80,522,000	80,522,000	80,522,000	20,000,000
	4	2023-2024	2023	0	0	74,885,000	74,885,000	74,885,000	20,000,000
	5	2024-2025	2024	0	0	69,643,000	69,643,000	69,643,000	20,000,000
	6	2025-2026	2025	0	0	64,768,000	64,768,000	64,768,000	20,000,000
	7	2026-2027	2026	0	0	60,234,000	60,234,000	60,234,000	20,000,000
	8	2027-2028	2027	0	0	56,018,000	56,018,000	56,018,000	20,000,000
	9	2028-2029	2028	0	0	52,097,000	52,097,000	52,097,000	20,000,000
	10	2029-2030	2029	0	0	48,450,000	48,450,000	48,450,000	20,000,000
Continue to maintain viable presence	11	2030-2031	2030	0	0	46,028,000	46,028,000	46,028,000	46,028,000
	12	2031-2032	2031	0	0	43,727,000	43,727,000	43,727,000	43,727,000
	13	2032-2033	2032	0	0	41,541,000	41,541,000	41,541,000	41,541,000
	14	2033-2034	2033	0	0	39,464,000	39,464,000	39,464,000	39,464,000
	15	2034-2035	2034	0	0	37,491,000	37,491,000	37,491,000	37,491,000
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2035-2036	2035	0	0	35,616,000	35,616,000	35,616,000	35,616,000
	17	2036-2037	2036	0	0	33,835,000	33,835,000	33,835,000	33,835,000
	18	2037-2038	2037	0	0	32,143,000	32,143,000	32,143,000	32,143,000
	19	2038-2039	2038	0	0	30,536,000	30,536,000	30,536,000	30,536,000
	20	2039-2040	2039	0	0	29,009,000	29,009,000	29,009,000	29,009,000
	21	2040-2041	2040	0	0	27,559,000	27,559,000	27,559,000	27,559,000
	22	2041-2042	2041	0	0	26,181,000	26,181,000	26,181,000	26,181,000
	23	2042-2043	2042	0	0	24,872,000	24,872,000	24,872,000	24,872,000
	24	2043-2044	2043	0	0	23,750,000	23,750,000	23,750,000	23,750,000
	25	2044-2045	2044	0	0	23,750,000	23,750,000	23,750,000	23,750,000

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 **9/4/2018**  
 Applicant Name **MESQUITE STAR SPECIAL, LLC**  
 ISD Name **ROBY CISD**

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	Column B	Column C	Column D	Column E
				Number of Construction FTE's or man-hours (specify)	Average annual wage rates for construction workers	Number of non-qualifying jobs applicant estimates it will create (cumulative)	Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	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	2018-2019	2018	150 FTE	40,000	0	0	0
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2020-2021	2020	N/A	N/A	0	2	46,466
	2	2021-2022	2021	N/A	N/A	0	2	46,466
	3	2022-2023	2022	N/A	N/A	0	2	46,466
	4	2023-2024	2023	N/A	N/A	0	2	46,466
	5	2024-2025	2024	N/A	N/A	0	2	46,466
	6	2025-2026	2025	N/A	N/A	0	2	46,466
	7	2026-2027	2026	N/A	N/A	0	2	46,466
	8	2027-2028	2027	N/A	N/A	0	2	46,466
	9	2028-2029	2028	N/A	N/A	0	2	46,466
	10	2029-2030	2029	N/A	N/A	0	2	46,466
Years Following Value Limitation Period	11 through 25	2030-2044	2030-2044	N/A	N/A	0	2	46,466

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

- C1.** Are the cumulative number of qualifying jobs listed in Column D less than the number of qualifying jobs required by statute? (25  Yes  No  
 qualifying jobs in Subchapter B districts, 10 qualifying jobs in Subchapter C districts)  
 If yes, answer the following two questions:
- C1a.** Will the applicant request a job waiver, as provided under 313.025(f-1)?  Yes  No
- C1b.** Will the applicant avail itself of the provision in 313.021(3)(F)?  Yes  No

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

Date **9/4/2018**  
 Applicant Name **MESQUITE STAR SPECIAL, LLC**  
 ISD Name **ROBY CISD**

**Form 50-296A**

*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:	N/A	N/A	N/A	N/A	N/A
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Tax Code Chapter 312	County: Fisher County	2020	10 Years	\$ 544,165	\$ 303,700.00	\$ 240,465
	City:	N/A	N/A	N/A	N/A	N/A
	Other: Fisher County Hosp. District	2020	10 Years	\$ 164,470	\$ 91,750	\$ 72,720
Local Government Code Chapters 380/381	County:	N/A	N/A	N/A	N/A	N/A
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Freeport Exemptions	N/A	N/A	N/A	N/A	N/A	N/A
Non-Annexation Agreements	N/A	N/A	N/A	N/A	N/A	N/A
Enterprise Zone/Project	N/A	N/A	N/A	N/A	N/A	N/A
Economic Development Corporation	N/A	N/A	N/A		N/A	
Texas Enterprise Fund	N/A	N/A	N/A		N/A	
Employee Recruitment	N/A	N/A	N/A		N/A	
Skills Development Fund	N/A	N/A	N/A		N/A	
Training Facility Space and Equipment	N/A	N/A	N/A		N/A	
Infrastructure Incentives	N/A	N/A	N/A		N/A	
Permitting Assistance	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
<b>TOTAL</b>				\$ 708,635		\$ 313,185

Additional information on incentives for this project:

**County Terms:** Mesquite Star Special, LLC expects to apply for and receive a 100% abatement of all ad valorem taxes and will make an annual PILOT payment to the County based on the schedule as follows: Years 1 through 5 - \$1,200/MW, Year 6 - \$1,500/MW, Year 7 - \$2,000/MW, Years 8 through 10 - \$2,500/MW

**Fisher County Hospital District:** Mesquite Star Special, LLC expects to apply for and receive a 100% abatement of all ad valorem taxes and will make annual PILOT payment to the District based on the schedule as follows: Years 1 through 5 - \$363/MW, year 6 - \$453/MW, year 7 - \$605/MW, years 8 through 10 - \$756/MW

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**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\**

**16 a)** Not Applicable

**16 b)** Will be submitted once Fisher County creates the Reinvestment Zone

**16 c)** Will be submitted once Fisher County creates the Reinvestment Zone

## RESOLUTION

Adopting the Guidelines and Criteria for Granting Tax Abatement in Reinvestment Zones

Designated Within the Boundaries of the County of Fisher, Texas

On this the 26th day of July, 2017, the Commissioners Court of Fisher County, Texas convened in a regular session with the following members thereof present:

KEN HOLT, County Judge;

GORDON PIPPIN, Commissioner, Precinct 1;

BILLY HENDERSON, Commissioner, Precinct 2;

PRESTON MARTIN, Commissioner, Precinct 3;

SCOTT FEAGAN, Commissioner, Precinct 4;

When the following proceedings, among others, were had, to-wit:

WHEREAS, the creation and retention of job opportunities that bring new wealth is of the highest civic priority; and

WHEREAS, new jobs and investment will benefit the area economy, provide needed opportunities, strengthen the real estate market, and generate tax revenue to support local services; and

WHEREAS, the County of Fisher must compete with other localities across the nation currently offering tax inducements to attract new businesses and industries and modernization projects; and

WHEREAS, any tax incentives offered in the County of Fisher would reduce needed tax revenue unless strictly limited in application to those new and existing businesses and industries that bring new wealth to the community; and

WHEREAS, the abatement of property taxes, when offered to attract new jobs created by additional industrial and business investments will enhance the local economy and provide a base to encourage improved diversification in the County of Fisher; and

WHEREAS, V.T.C.A., Tax Code § 312.002 requires the establishment of Guidelines and Criteria governing tax abatement agreements by the County before entering into a tax abatement agreement or designation of an area as a reinvestment zone and adoption of a resolution stating that the County elects to become eligible to participate in tax abatement; and

WHEREAS, to assure a common, coordinated effort to promote the economic development of the County of Fisher, Guidelines and Criteria should be in form and content acceptable to and in concert with the Guidelines and Criteria of governing bodies of every other taxing unit exercising ad valorem taxing authority within the County of Fisher.

Now therefore, the following Guidelines and Criteria for granting tax abatement in reinvestment zones designated within the County are hereby promulgated.

**GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS  
IN REINVESTMENT ZONES**

**FISHER COUNTY, TEXAS**

**I. Purpose**

The County of Fisher is committed to the promotion of quality development in all areas of the county, as well as improving the quality of life for its citizens. In order to help meet these goals, will consider recommending tax phase-in, which includes the designation of reinvestment zones, application for tax abatements and entering into tax abatement agreements, to stimulate growth and development. It is the intent of Fisher County that such incentives will be provided in accord with the procedures and criteria outlined in this document. However, nothing in these Guidelines and Criteria shall imply or suggest to be construed to imply or suggest that tax entities are under any obligation to provide any incentives to any applicant. All such applicants for tax phase-in incentives shall be considered on an individual basis for both the qualification for abatement and the amount of any abatement. This policy is effective as of July 26, 2017, and shall at all times be kept current with regard to the needs of Fisher County and reflective of the official views of the County Commissioners Court and shall be reviewed every two years.

**II. Definitions**

The attached Glossary is a list of words with their definitions that are found in this document, and the Glossary is incorporated herein by reference.

**III. Guidelines and Criteria**

In order to be eligible for designation as a reinvestment zone and receive tax abatement, the planned improvement as a minimum must meet the following:

(A) Be an Authorized Facility. A facility may be eligible for abatement if it is a(n):

- Aquaculture/Agriculture Facility,
- Distribution Center Facility,
- Manufacturing Facility,
- Office Building,
- Regional Entertainment/Tourism Facility,
- Research Facility,
- Regional Service Facility,
- Wind Energy Facility, or
- Other Basic Industry.

- (B) Must be reasonably expected to have an increase in positive net economic benefit to Fisher County of at least \$1,000,000.00 over the life of the abatement, computed to include (but not limited to) new sustaining payroll and/or capital improvement. The creation of (number and type) new jobs will also factor into the decision to grant an abatement.

In addition to the criteria set forth above, the Fisher County Commissioners Court reserves the right to negotiate a tax abatement agreement in order to compete favorable with other communities.

In consideration of the request for designation as a reinvestment zone and to receive tax abatement, the following factors will also be considered:

- (1) Jobs. The projected new jobs created including the number of jobs, the retention of existing jobs, the type of jobs, the average payroll, the total payroll and the number of local persons hired.
- (2) Fiscal Impact. The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, the amount of direct sales that will be generated, the infrastructure improvements by the City/County that will be required by the facility, the infrastructure improvements made by the facility, and the compatibility of the project with the City's/County's master plan for development.
- (3) Community Impact. The pollution, if any, as well as other negative environmental impacts affecting the health and safety of the community that will be created by the project:
  - The revitalization of a depressed area;
  - The business opportunities of existing local vendors;
  - The alternative development possibilities for proposed site;
  - The impact on other taxing entities; and/or
  - Whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Fisher County to another.

#### **IV. Abatement Authorized**

- (A) Authorized Date. A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction; provided, that such facility meets the criteria granting tax abatement in reinvestment zones created in Fisher County pursuant to these Guidelines and Criteria for a period not to exceed ten years.
- (B) Creation of New Value. Abatement may only be granted for the additional value of eligible property improvements made subsequent to the filing of an

application for tax abatement and specified in the abatement agreement between the County and/or City and the property owner or lessee (and lessor if required pursuant to IV(E), subject to such limitations as the Guidelines and Criteria may require.

(C) New and Existing Facilities. Abatement may be granted for new facilities and improvements to existing facilities for purposes of modernization or expansion. If the modernization project includes facility replacement, the abated value shall be the value of the new unit(s) less the value of the old unit(s).

(D) Eligibly Property. Abatement may be extended to the value of the following: new expanded or modernized building and structures, fixed machinery and equipment, site improvements plus that office space and related fixed improvements necessary to the operation and administration of the facility, and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code.

(E) Ineligible Property. The following types of property shall be fully taxable and ineligible for abatement:

Land,  
Animals,  
Inventories,  
Supplies,  
Tools,  
Furnishings and other forms of moveable property,  
Vehicles,  
Vessels,  
Aircraft,  
Housing or residential property,  
Hotels/motels,  
Fauna,  
Flora,  
Retail facilities,  
Deferred maintenance investments, property to be rented or leased except as provided in Part IV (f), any improvements including those to produce, store or distribute natural gas or fluids that are not integral to the operation of the facility, property owned or used by the State of Texas or its political subdivision of the State of Texas.

(F) Owned/Leased Facilities. If a leased facility is granted an abatement, the agreement shall be executed with the lessor and lessee.

(G) Value and Term of Abatement. Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement. The value of the new eligible properties shall be abated according to the approved agreement between applicant and the governing body. The table in the attached Exhibit "A", incorporated herein by reference, shall be the maximum abatement available, the actual amount of abatement granted is in the sole discretion of the Fisher County Commissioner's Court, shall not exceed said maximum.

The abatement may be extended through an initial agreement and a subsequent agreement as may be required to comply with state law regarding the term of the reinvestment zone.

(H) Construction in Progress. If a qualifying facility has not been placed in service as of January 1 following execution of the abatement agreement, the taxpayer may apply for a one year extension of the term of abatement. Said extension must be applied for prior to the end of the calendar year which the abatement agreement is executed.

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

- (1) The value of ineligible property as provided in Part IV(e) shall be fully taxable.
- (2) The base year value of existing eligible property as determined each year shall be fully taxable.
- (3) The additional value of new eligible property shall be taxable in the manner described in Part IV(g).

## **V. Application for Tax Abatement**

(A) Any present or potential owner or lessee of taxable property in Fisher County may request the creation of a reinvestment zone and tax abatement by filing written request either with Fisher County or applicable taxing entity.

(B) The application shall consist of a completed application form accompanied by:

- (1) A general description of the proposed use and the general nature and extent of the modernization, expansion or new improvements to be undertaken.
- (2) A descriptive list of the improvements which will be a part of the facility;
- (3) A map and property description or a site plan;
- (4) A time schedule for undertaking and completing the planned improvements;
- (5) In the case of modernizing existing facilities, 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; and,

- (6) The application form may require such financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant.
  - (7) The completed Application must be accompanied by the payment of a non-refundable application fee of one thousand and no/100 dollars (\$1,000.00) for administrative costs associated with the processing of the tax abatement request. A check in payment of the administrative fee shall be made payable to Fisher County.
- (C) Upon receipt of a completed application, the jurisdiction receiving such application shall notify in writing the presiding officer of the legislative body of each affected jurisdiction. Before acting upon the application, the jurisdiction receiving such application shall through public hearings afford the applicant and the designated representative of any affected jurisdiction the opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on an agenda of the legislative body of the jurisdiction receiving such application to be posted seven (7) days prior to the hearing.
- (D) The jurisdiction receiving the application shall approve or disapprove the application for tax abatement within forty-five (45) days after receipt of the application. The presiding officer of the legislative body of the jurisdiction receiving such application shall notify the applicant of the approval or disapproval promptly thereafter.
- (E) A request for reinvestment zone for the purpose of abatement shall not be granted if the jurisdiction receiving the application finds that the request was filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization expansion or new facility.
- (F) Variance. Request for variance from the provisions of Subsections (a) through (e) of Part V may be made in written form to the presiding officer of the jurisdiction receiving the application. Such request 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 the affected jurisdiction as provided in state statutes.

## **VI. Public Hearing**

- (A) Should any affected jurisdiction be able to show cause in the public hearing why the granting of abatement will have a substantial adverse effect on its bonds, tax revenue, service incapacity or the provision of service, that showing shall be reason for the jurisdiction receiving the application to deny the granting of ad valorem tax abatement.

(B) Neither a reinvestment zone nor an abatement agreement shall be authorized if its determined that:

- (1) There would be a substantial adverse affect on the provision of a government service or tax base of an affected jurisdiction.
- (2) The applicant has insufficient financial capacity.
- (3) Planned or potential use of the property would constitute a hazard to public safety, health or morals.
- (4) Planned or potential use of the property violates other governmental codes or laws.

## **VII. Agreement**

(A) After approval of the tax abatement application, each affected jurisdiction shall formally pass a resolution and execute an agreement with the owner and/or lessee of the facility which shall include:

- (1) Estimated value to be abated and the base year value.
- (2) Percent of value to be abated each year as provided in Part IV(G) of these Guidelines and Criteria.
- (3) The commencement date and the termination date of abatement.
- (4) The proposed use of the facility, nature of construction, time schedule for the undertaking and completing the planned improvements, map, property description and improvements list as provided in Part V of these Guidelines and Criteria.
- (5) Contractual obligations in the event of default, violation of terms or conditions, delinquent taxes recapture, administration and assignment as provided herein and other provisions that may be required for uniformity or by state law.
- (6) Amount of investment and/or average number of jobs involved for the period of abatement.
- (7) Said contract shall meet all of the requirements of the Texas Tax Code Sed. 312 et seq
- (8) Owner 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 Fisher County who are interested in obtaining information about providing goods or services related to the construction of the project. Additionally, owner or its construction contractor, if any, shall advertise in local newspapers in Fisher County for local contractors to perform work on the construction of the project.

(B) Such agreement shall be executed within thirty (30) days after the later of the date applicant has forwarded all necessary information to the jurisdiction receiving the application or the date of the approval of the application.

- (C) Each affected jurisdiction shall make its own determination of abatement which shall not bind any other affected jurisdiction.

**VIII. Recapture**

- (A) In the event that the facility is completed and begins producing product or service, but subsequently discontinues producing product or service for any reason excepting fire, explosion, or other casualty or accident or natural disaster for a period of more than one (1) year during the abatement period, then the agreement is terminated and so shall the abatement of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to each jurisdiction within the County within sixty (60) days from the date of termination.
- (B) Should the jurisdiction establishing a reinvestment zone and signing a tax abatement agreement determine that a company or individual is in default according to the terms and conditions of its agreement, the jurisdiction shall notify the company or individual in writing at the address stated in the agreement, and if such is not cured within sixty (60) days from the date of such notice (“Cure Period”), then the agreement shall be terminated. Further, it will be a default under a tax abatement granted pursuant to these Guidelines and Criteria if the owner of the eligible property subject to the abatement is delinquent in paying any disputed taxes to any taxing authority in Fisher County, Texas.
- (C) In the event that the company or individual:
  - (1) Allows its ad valorem taxes owed the County or an affected jurisdiction to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; or
  - (2) Violates any of the terms and conditions of the abatement agreement and fails to cure same during the Cure Period; the agreement shall be terminated and all taxes previously abated by virtue of the agreement will be recaptured and paid within sixty (60) days of the termination.

**IX. Administration**

- (A) The Chief Appraiser of the Fisher County Appraisal District shall annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year the company or individual receiving abatement shall furnish assessor with such information as may be necessary for abatement, including the number of new or retained employees associated with the facility. Once value has been established, the Chief Appraiser shall notify the affected jurisdictions which levy taxes on the amount of the assessment.

- (B) The agreement shall stipulate that employees and/or designated representatives of the jurisdiction establishing the reinvestment zone and entering into a tax abatement agreement will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to not unreasonably interfere with the construction and/or operation of the facility. All County inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.
- (C) Upon completion of construction the jurisdiction establishing the reinvestment zone and entering into a tax abatement agreement shall annually evaluate each facility and report possible violations of the contract and/or agreement to each affected jurisdiction.
- (D) All proprietary information acquired by any affected jurisdiction for the purposes of monitoring compliance with the terms and conditions of an abatement agreement shall be considered confidential.

**X. Assignment**

- (A) Abatement may be transferred and assigned by the holder to a new owner or lessee of the same facility upon the approval by resolution of each affected jurisdiction, subject to the financial capacity of the assignee and provided that all conditions and obligations in the abatement agreement are guaranteed by the execution of a new contractual agreement with each affected jurisdiction.
- (B) The contractual agreement with the new owner or lessee shall not exceed the termination date of the abatement agreement with the original owner and/or lessee.
- (C) No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to any affected jurisdiction for outstanding taxes or other obligations.
- (D) Approval shall not be unreasonably withheld.

**XI. Sunset Provision**

- (A) These Guidelines and Criteria are effective upon the date of the adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created pursuant hereto will be reviewed by each affected jurisdiction to determine whether the goals have been achieved. Based

on that review, the Guidelines and Criteria may be modified, renewed or eliminated provided that such actions shall not affect existing contracts.

- (B) These Guidelines and Criteria do not amend any existing agreement contracts or agreements with the owners of real property in areas deserving of specific attention as agreed by the affected jurisdiction.
- (C) Prior to the date for review, as defined above, these Guidelines and Criteria may be modified by a two-thirds (2/3) vote of the affected taxing authorities, as provided for under the laws of the State of Texas.

## **XII. Severability and Limitations**

- (A) In the event that any section, clause, sentence, paragraph or any part of these Guidelines and Criteria shall for any reason, be adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria.
- (B) Property that is in a reinvestment zone that is owned or leased by the following cannot benefit from a tax abatement:
  - (1) A member of the governing body of a municipality or by a member of a planning board or commission of the municipality; or
  - (2) A member of the commissioners court or commission of the County is excluded from property tax abatement.
- (C) If these Guidelines and Criteria have omitted any mandatory requirements of the applicable tax abatement laws of the State of Texas, then such requirements are hereby incorporated as a part of this Guideline Statement.

## GLOSSARY

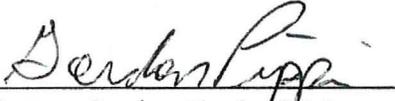
- (a) "Abatement" means the full or partial exemption from ad valorem taxes of certain real property in a reinvestment zone designated by the County or a City for economic development purposes.
- (b) "Aquaculture/Agriculture Facility" means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is of food and/or fiber products in commercially marketable quantities.
- (c) "Affected Jurisdiction" means Fisher County and any municipality, or school district, the majority of which is located in Fisher County that levies ad valorem taxes upon and/or provides services to property located within the proposed or existing reinvestment zone designated by Fisher County or any municipality.
- (d) "Agreement" means a contractual agreement between property owner and/or lessee and the affected jurisdiction for the purpose of tax abatement.
- (e) "Base Year Value" means the assessed value of eligible property on January 1 preceding the execution of the agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for tax abatement.
- (f) "Deferred Maintenance" means improvements necessary for continued operations which do not improve productivity or alter the process technology.
- (g) "Distribution Center Facility" means building and structures, including machinery and equipment, used or to be primarily to receive, store, service or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside of Fisher County.
- (h) "Expansion" means the addition of buildings, structures, machinery or equipment for purposes of increasing production capacity.
- (i) "Facility" means property improvements completed or in the process of construction which together comprise an integral whole.
- (j) "Manufacturing Facility" means buildings and structures, including machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (k) "Modernization" means the upgrading and or replacement of existing facilities which increases the productive input or output, updates the technology or substantially lowers

the unit cost of the operation. 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 or repairing.

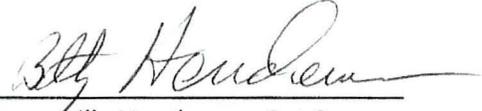
- (l) "New Facility" means improvements to real estate previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.
- (m) "New Job(s)" means a newly created employment position on a full-time permanent basis. Two or more part-time permanent employees totaling an average of not less than 40 hours per week may be considered as on full-time permanent employee.
- (n) "Office Building" means a new office building.
- (o) "Other Basic Industry" 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 serve a market primarily outside County and results in the creation of new permanent jobs and new wealth in the Count.
- (p) "Regional Entertainment/Tourism Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment and/or tourism related services, from which a majority of revenues generated by activity at the facility are derived from outside Fisher County.
- (q) "Research Facility" means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop new tangible goods or materials or to improve or develop the production processes thereto.
- (r) "Regional Service Facility" means buildings and structures, including fixed machinery and equipment, used or to be used to provide a service from which a majority of revenues generated by activity at the facility are derived from outside Fisher County.
- (s) "Wind Energy Facility" means buildings and structures, including but not limited to wind energy generating turbines, electric transmission lines, electric power substations, electrical gathering equipment, communications systems and roads, fixed machinery and equipment, used or to be used to provide electrical energy.



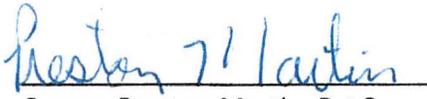
Judge Ken Holt



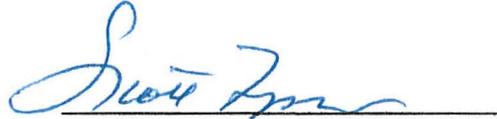
Comm. Gordon Pippin, Pct 1



Comm. Billy Henderson, Pct 2



Comm. Preston Martin, Pct 3



Comm. Scott Feagan, Pct 4

**MESQUITE STAR SPECIAL, LLC**

Chapter 313 Application to Roby CISD

Cummings Westlake, LLC

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**TAB 17**

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

See Attached

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.

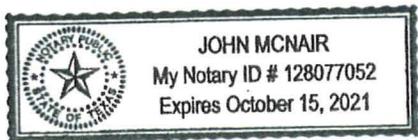
print here → Heath Dickson Superintendent  
Print Name (Authorized School District Representative) Title  
sign here → [Signature] 9-11-17  
Signature (Authorized School District Representative) Date

2. Authorized Company Representative (Applicant) Signature and Notarization

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

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

print here → Seth Riklin President & CEO  
Print Name (Authorized Company Representative (Applicant)) Title  
sign here → [Signature] September 11, 2017  
Signature (Authorized Company Representative (Applicant)) Date



(Notary Seal)

GIVEN under my hand and seal of office this, the

7<sup>th</sup> day of SEPTEMBER, 2017  
Notary Public in and for the State of Texas  
My Commission expires: OCTOBER 15, 2021

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 : 03/22/2018 10:59:42

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

<b>MESQUITE STAR SPECIAL, LLC</b>	
<b>Texas Taxpayer Number</b>	32064548236
<b>Mailing Address</b>	1999 BRYAN ST STE 900 DALLAS, TX 75201-3140
<b>ⓘ Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	08/10/2017
<b>Texas SOS File Number</b>	0802789572
<b>Registered Agent Name</b>	CT CORPORATION SYSTEM
<b>Registered Office Street Address</b>	1999 BRYAN ST. SUITE 900 DALLAS, TX 75201

## Attachment C

### State Comptroller's Certification



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

February 28, 2018

Heath Dickson  
Superintendent  
Roby Consolidated Independent School District  
141 South College Street  
PO Box 519  
Roby, TX 79543

Re: Certificate for Limitation on Appraised Value of Property for School District  
Maintenance and Operations taxes by and between Roby Consolidated Independent  
School District and Mesquite Star Special, LLC, Application 1222

Dear Superintendent Dickson:

On November 30, 2017, the Comptroller issued written notice that Mesquite Star Special, LLC (applicant) submitted a completed application (Application 1222) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on September 11, 2017 to the Roby Consolidated 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.

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<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 1222.

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, 2018.

Note that any building or improvement existing as of the application review start date of November 30, 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". The signature is stylized and written over the printed name.

Mike Reissig  
Deputy Comptroller

Enclosure

cc: Will Counihan

### Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Mesquite Star Special, LLC (project) applying to Roby Consolidated 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 Mesquite Star Special, LLC.

Applicant	Mesquite Star Special, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy - Wind
School District	Roby Consolidated ISD
2016-2017 Average Daily Attendance	269
County	Fisher
Proposed Total Investment in District	\$95,000,000
Proposed Qualified Investment	\$95,000,000
Limitation Amount	\$20,000,000
Qualifying Time Period (Full Years)	2019-2020
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	\$893.58
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$893.58
Minimum annual wage committed to by applicant for qualified jobs	\$46,466
Minimum weekly wage required for non-qualifying jobs	\$738
Minimum annual wage required for non-qualifying jobs	\$38,428
Investment per Qualifying Job	\$47,500,000
Estimated M&O levy without any limit (15 years)	\$10,277,397
Estimated M&O levy with Limitation (15 years)	\$4,587,687
Estimated gross M&O tax benefit (15 years)	\$5,689,710

\* 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 Mesquite Star Special, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2018	0	0	0	\$0	\$0	\$0
2019	150	169	319,111	\$6,000,000	\$15,119,940	\$21,119,940
2020	2	29	31	\$92,932	\$3,515,298	\$3,608,230
2021	2	16	18	\$92,932	\$2,484,708	\$2,577,640
2022	2	6	8	\$92,932	\$1,592,708	\$1,685,640
2023	2	0	2	\$92,932	\$976,958	\$1,069,890
2024	2	(2)	0	\$92,932	\$591,258	\$684,190
2025	2	(3)	-1	\$92,932	\$403,318	\$496,250
2026	2	(2)	0	\$92,932	\$347,358	\$440,290
2027	2	(1)	1	\$92,932	\$379,088	\$472,020
2028	2	1	3	\$92,932	\$460,258	\$553,190
2029	2	2	4	\$92,932	\$563,808	\$656,740
2030	2	3	5	\$92,932	\$591,298	\$684,230
2031	2	3	5	\$92,932	\$656,818	\$749,750
2032	2	4	6	\$92,932	\$721,648	\$814,580
2033	2	4	6	\$92,932	\$782,078	\$875,010

Source: CPA REMI, Mesquite Star Special, 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*	Roby Consolidated ISD I&S Tax Levy	Roby Consolidated ISD M&O Tax Levy	Roby Consolidated ISD M&O and I&S Tax Levies	Fisher County Tax Levy	Fisher County Hospital Tax Levy	Estimated Total Property Taxes
				0.0000	1.1700		0.8200	0.2800	
2019	\$21,350,000	\$21,350,000		\$0	\$249,795	\$249,795	\$175,070	\$59,780	\$484,645
2020	\$93,100,000	\$93,100,000		\$0	\$1,089,270	\$1,089,270	\$763,420	\$260,680	\$2,113,370
2021	\$86,583,000	\$86,583,000		\$0	\$1,013,021	\$1,013,021	\$709,981	\$242,432	\$1,965,434
2022	\$80,522,000	\$80,522,000		\$0	\$942,107	\$942,107	\$660,280	\$225,462	\$1,827,849
2023	\$74,885,000	\$74,885,000		\$0	\$876,155	\$876,155	\$614,057	\$209,678	\$1,699,890
2024	\$69,643,000	\$69,643,000		\$0	\$814,823	\$814,823	\$571,073	\$195,000	\$1,580,896
2025	\$64,768,000	\$64,768,000		\$0	\$757,786	\$757,786	\$531,098	\$181,350	\$1,470,234
2026	\$60,234,000	\$60,234,000		\$0	\$704,738	\$704,738	\$493,919	\$168,655	\$1,367,312
2027	\$56,018,000	\$56,018,000		\$0	\$655,411	\$655,411	\$459,348	\$156,850	\$1,271,609
2028	\$52,097,000	\$52,097,000		\$0	\$609,535	\$609,535	\$427,195	\$145,872	\$1,182,602
2029	\$48,450,000	\$48,450,000		\$0	\$566,865	\$566,865	\$397,290	\$135,660	\$1,099,815
2030	\$46,028,000	\$46,028,000		\$0	\$538,528	\$538,528	\$377,430	\$128,878	\$1,044,836
2031	\$43,727,000	\$43,727,000		\$0	\$511,606	\$511,606	\$358,561	\$122,436	\$992,603
2032	\$41,541,000	\$41,541,000		\$0	\$486,030	\$486,030	\$340,636	\$116,315	\$942,981
2033	\$39,464,000	\$39,464,000		\$0	\$461,729	\$461,729	\$323,605	\$110,499	\$895,833
			<b>Total</b>	<b>\$0</b>	<b>\$10,277,397</b>	<b>\$10,277,397</b>	<b>\$7,202,962</b>	<b>\$2,459,548</b>	<b>\$19,939,907</b>

Source: CPA, Mesquite Star Special, LLC

\*Tax Rate per \$100 Valuation

**Table 4** examines the estimated direct impact on ad valorem taxes to the school district and Fisher 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 Fisher County and Fisher County Hospital District.

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	Tax Rate*	Roby Consolidated ISD I&S Tax Levy	Roby Consolidated ISD M&O Tax Levy	Roby Consolidated ISD M&O and I&S Tax Levies	Fisher County Tax Levy	Fisher County Hospital Tax Levy	Estimated Total Property Taxes
				0.0000	1.1700		0.8200	0.2800	
2019	\$21,350,000	\$21,350,000		\$0	\$249,795	\$249,795	\$175,070	\$59,780	\$484,645
2020	\$93,100,000	\$20,000,000		\$0	\$234,000	\$234,000	\$427,515	\$145,981	\$807,496
2021	\$86,583,000	\$20,000,000		\$0	\$234,000	\$234,000	\$397,589	\$135,762	\$767,351
2022	\$80,522,000	\$20,000,000		\$0	\$234,000	\$234,000	\$369,757	\$126,258	\$730,016
2023	\$74,885,000	\$20,000,000		\$0	\$234,000	\$234,000	\$343,872	\$117,420	\$695,292
2024	\$69,643,000	\$20,000,000		\$0	\$234,000	\$234,000	\$319,801	\$109,200	\$663,001
2025	\$64,768,000	\$20,000,000		\$0	\$234,000	\$234,000	\$297,415	\$101,556	\$632,971
2026	\$60,234,000	\$20,000,000		\$0	\$234,000	\$234,000	\$276,595	\$94,447	\$605,041
2027	\$56,018,000	\$20,000,000		\$0	\$234,000	\$234,000	\$257,235	\$87,836	\$579,071
2028	\$52,097,000	\$20,000,000		\$0	\$234,000	\$234,000	\$239,229	\$81,688	\$554,918
2029	\$48,450,000	\$20,000,000		\$0	\$234,000	\$234,000	\$222,482	\$75,970	\$532,452
2030	\$46,028,000	\$46,028,000		\$0	\$538,528	\$538,528	\$377,430	\$128,878	\$1,044,836
2031	\$43,727,000	\$43,727,000		\$0	\$511,606	\$511,606	\$358,561	\$122,436	\$992,603
2032	\$41,541,000	\$41,541,000		\$0	\$486,030	\$486,030	\$340,636	\$116,315	\$942,981
2033	\$39,464,000	\$39,464,000		\$0	\$461,729	\$461,729	\$323,605	\$110,499	\$895,833
			<b>Total</b>	<b>\$0</b>	<b>\$4,587,687</b>	<b>\$4,587,687</b>	<b>\$4,726,792</b>	<b>\$1,614,026</b>	<b>\$10,928,505</b>
			<b>Diff</b>	<b>\$0</b>	<b>\$5,689,710</b>	<b>\$5,689,710</b>	<b>\$2,476,170</b>	<b>\$845,522</b>	<b>\$9,011,402</b>

Assumes School Value Limitation and Tax Abatements with the County and Fisher County Hospital District.

Source: CPA, Mesquite Star Special, 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 MESQUITE STAR SPECIAL, 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	\$249,795	\$249,795	\$0	\$0
<b>Limitation Period (10 Years)</b>	2020	\$234,000	\$483,795	\$855,270	\$855,270
	2021	\$234,000	\$717,795	\$779,021	\$1,634,291
	2022	\$234,000	\$951,795	\$708,107	\$2,342,399
	2023	\$234,000	\$1,185,795	\$642,155	\$2,984,553
	2024	\$234,000	\$1,419,795	\$580,823	\$3,565,376
	2025	\$234,000	\$1,653,795	\$523,786	\$4,089,162
	2026	\$234,000	\$1,887,795	\$470,738	\$4,559,900
	2027	\$234,000	\$2,121,795	\$421,411	\$4,981,310
	2028	\$234,000	\$2,355,795	\$375,535	\$5,356,845
	2029	\$234,000	\$2,589,795	\$332,865	\$5,689,710
<b>Maintain Viable Presence (5 Years)</b>	2030	\$538,528	\$3,128,323	\$0	\$5,689,710
	2031	\$511,606	\$3,639,929	\$0	\$5,689,710
	2032	\$486,030	\$4,125,958	\$0	\$5,689,710
	2033	\$461,729	\$4,587,687	\$0	\$5,689,710
	2034	\$438,645	\$5,026,332	\$0	\$5,689,710
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2035	\$416,707	\$5,443,039	\$0	\$5,689,710
	2036	\$395,870	\$5,838,908	\$0	\$5,689,710
	2037	\$376,073	\$6,214,982	\$0	\$5,689,710
	2038	\$357,271	\$6,572,253	\$0	\$5,689,710
	2039	\$339,405	\$6,911,658	\$0	\$5,689,710
	2040	\$322,440	\$7,234,098	\$0	\$5,689,710
	2041	\$306,318	\$7,540,416	\$0	\$5,689,710
	2042	\$291,002	\$7,831,418	\$0	\$5,689,710
	2043	\$277,875	\$8,109,293	\$0	\$5,689,710
	2044	\$277,875	\$8,387,168	\$0	\$5,689,710

**\$8,387,168**

is greater than

**\$5,689,710**

<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 levy directly related to this project.  
Source: CPA, MESQUITE STAR SPECIAL, 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 Mesquite Star Special, LLC decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Mesquite Star Special, LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. “The applicant is in the final stages of a sale transaction for the development rights of the project. The transaction, which is anticipated to close in the next month, is with a leading independent power producer and national wind and solar developer with the ability to locate projects of this type in other states in the US with strong wind resources.”
  - B. “The transaction (and this construction of this project) requires this appraised value limitation in order to move forward with constructing this project in Texas. Specifically, without the available tax incentives, the economics of the project become unappealing to investors and the likelihood of construction the project in Texas becomes unlikely.”
  - C. “Other states being evaluated for this project are Washington, New Mexico, Nebraska, Oklahoma, Pennsylvania and West Virginia.”
  - D. “Supplemental information provided by the applicant stated the following:
    - A. “The ERCOT GINR number is 19INR0080 and the project is known as Whitehorse Wind for ERCOT purposes due to another project having the same name as the applicant.

### Supporting Information

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value

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

# **Supporting Information**

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

SECTION 6: Eligibility Under Tax Code Chapter 313.024

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

SECTION 7: Project Description

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

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

SECTION 8: Limitation as Determining Factor

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

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

# **Supporting Information**

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

TAB 5

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

The applicant is in final stages of a sale transaction for the development rights of the project. The transaction, which is anticipated to close in the next month, is with a leading independent power producer and national wind and solar developer with the ability to locate projects of this type in other states in the US with strong wind resources. The applicant's counterparty is actively developing and constructing other projects throughout the US. The transaction (and thus construction of this project) requires this appraised value limitation in order to move forward with constructing this project in Texas. Specifically, without the available tax incentives, the economics of the project become unappealing to investors and the likelihood of constructing the project in Texas becomes unlikely. Property taxes can be the highest operating expense for a wind generation facility as wind facilities do not have any associated fuel costs for the production of electricity, and with Texas wholesale electricity prices already below the national average in Texas, it is necessary to limit the property tax liabilities for a wind project in order to be able to offer electricity at prices that are marketable to Texas customers at competitive rates, including power sales under a bi-lateral contract. Markets such as California that have state wide available subsidies for renewable energy projects, and which have higher average contracted power rates, offer an attractive incentive for developers to build projects in those markets over Texas. Other states being evaluated for this project are Washington, New Mexico, Nebraska, Oklahoma, Pennsylvania and West Virginia.

The property tax liabilities of a project without tax incentives in Texas lowers the return to investors and financiers to an unacceptable level at today's contracted power rates under a power purchase agreement. As such, the applicant is not able to finance and build its project in Texas even with a signed power purchase agreement because of the low price in the power purchase agreement. Without the tax incentive, the applicant would be forced to abandon the project and spend its development capital and prospective investment funds in other states where the rate of return is higher on a project basis.

This is true even if the entity is able to contract with an off-taker under a power purchase agreement because the low rate contracted for is not financeable without the tax incentives. More specifically, a signed power purchase agreement in the Texas market is at a much lower rate than other states because of competitively low electricity prices. Other states have high electricity prices where a developer can obtain a PPA with a much higher contracted rate, combined with state subsidies, the other states offer a much higher rate of return for the project financiers. Without the tax incentives in Texas, a project with a power purchase agreement becomes unfinanceable.

## Attachment D

# Summary of Financial Impact

**CHAPTER 313 PROPERTY VALUE LIMITATION  
FINANCIAL IMPACT OF THE PROPOSED MESQUITE STAR  
SPECIAL, LLC PROJECT IN THE ROBY CONSOLIDATED  
INDEPENDENT SCHOOL DISTRICT  
(PROJECT # 1222)**

**PREPARED BY**



**MARCH 22, 2018**

## Executive Summary

Mesquite Star Special, LLC (Company) has requested that the Roby Consolidated Independent School District (RCISD) 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 RCISD on September 11, 2017 the Company plans to invest \$93.1 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 Mesquite Star Special 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, RCISD may offer a minimum value limitation of \$20 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 RCISD	\$1,034,452
Total Savings to Company after Revenue Loss Payment. (This does not include any supplemental benefit payments to the district.)	\$4,655,258

## 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. At the time the application is determined complete—typically 4-6 weeks after receipt—the Comptroller will deliver a Completeness Letter to the company and the school district.

The issuance of a Completeness Letter is important because it sets the timeline for the rest of process. From the date of issuance, the Comptroller has 90 days to conduct its full review of the project and provide its certificate for a limitation on appraised value. After the certificate

is received, the district has until the 150<sup>th</sup> day from the receipt of the Completeness Letter or until December 31<sup>st</sup>, whichever is earlier, to adopt an agreement.

After the Comptroller's certificate is received, O'Hanlon, McCollom & Demerath will contact the school district to discuss the value limitation agreement and begin negotiations of the supplemental benefit payment with the Company. A final version of the agreement must be submitted to the Comptroller for review 30 days prior to final adoption by the school district's board of trustees.

Prior to final board meeting, O'Hanlon, McCollom & Demerath will provide the district with the necessary agenda language and any additional action items. The school board will review the Value Limitation Agreement and Findings of Fact that detail the project's conformance with state law.

## 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: 267  
 Local Tax Base: \$121.3 million  
 M&O Tax Rate: \$1.1700  
 I&S Tax Rate: \$0.0000  
 Wealth per WADA: \$184,925

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 Mesquite Star Special 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
QTP1	2018-19	266.90	521.53	\$1.1700	\$0.0000	\$121,298,200	\$121,298,200	\$118,422,132	\$118,422,132	\$227,067	\$227,067
QTP2	2019-20	266.90	521.53	\$1.1700	\$0.0000	\$121,298,200	\$121,298,200	\$118,422,132	\$118,422,132	\$227,067	\$227,067
VL1	2020-21	266.90	521.53	\$1.1700	\$0.0000	\$214,398,200	\$141,298,200	\$118,422,132	\$118,422,132	\$227,067	\$227,067
VL2	2021-22	266.90	521.53	\$1.1700	\$0.0000	\$207,881,200	\$141,298,200	\$211,522,132	\$138,422,132	\$405,580	\$265,415
VL3	2022-23	266.90	521.53	\$1.1700	\$0.0000	\$201,820,200	\$141,298,200	\$205,005,132	\$138,422,132	\$393,084	\$265,415
VL4	2023-24	266.90	521.53	\$1.1700	\$0.0000	\$196,183,200	\$141,298,200	\$198,944,132	\$138,422,132	\$381,462	\$265,415
VL5	2024-25	266.90	521.53	\$1.1700	\$0.0000	\$190,941,200	\$141,298,200	\$193,307,132	\$138,422,132	\$370,654	\$265,415
VL6	2025-26	266.90	521.53	\$1.1700	\$0.0000	\$186,066,200	\$141,298,200	\$188,065,132	\$138,422,132	\$360,603	\$265,415
VL7	2026-27	266.90	521.53	\$1.1700	\$0.0000	\$181,532,200	\$141,298,200	\$183,190,132	\$138,422,132	\$351,255	\$265,415
VL8	2027-28	266.90	521.53	\$1.1700	\$0.0000	\$177,316,200	\$141,298,200	\$178,656,132	\$138,422,132	\$342,562	\$265,415
VL9	2028-29	266.90	521.53	\$1.1700	\$0.0000	\$173,395,200	\$141,298,200	\$174,440,132	\$138,422,132	\$334,478	\$265,415
VL10	2029-30	266.90	521.53	\$1.1700	\$0.0000	\$169,748,200	\$141,298,200	\$170,519,132	\$138,422,132	\$326,959	\$265,415
VP1	2030-31	266.90	521.53	\$1.1700	\$0.0000	\$167,326,200	\$167,326,200	\$166,872,132	\$138,422,132	\$319,967	\$265,415
VP2	2031-32	266.90	521.53	\$1.1700	\$0.0000	\$165,025,200	\$165,025,200	\$164,450,132	\$164,450,132	\$315,322	\$315,322
VP3	2032-33	266.90	521.53	\$1.1700	\$0.0000	\$162,839,200	\$162,839,200	\$162,149,132	\$162,149,132	\$310,910	\$310,910
VP4	2033-34	266.90	521.53	\$1.1700	\$0.0000	\$160,762,200	\$160,762,200	\$159,963,132	\$159,963,132	\$306,719	\$306,719
VP5	2034-35	266.90	521.53	\$1.1700	\$0.0000	\$158,789,200	\$158,789,200	\$157,886,132	\$157,886,132	\$302,736	\$302,736

\*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 Mesquite Star Special project on RCISD

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 \$20 million to the model. The difference between the two models (Table 4) indicates there will be a total revenue loss of \$1,034,452 over the course of the Agreement, with nearly all the loss reflected in the first limitation year (2020-21). 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	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
QTP1	2018-19	\$1,172,318	\$1,597,841	\$0	\$0	\$199,294	\$311,398	\$0	\$0	\$3,767	\$3,284,617
QTP2	2019-20	\$1,172,318	\$1,597,841	\$0	\$0	\$199,294	\$311,398	\$0	\$0	\$3,767	\$3,284,617
VL1	2020-21	\$2,099,318	\$1,597,841	\$0	\$0	\$356,884	\$545,706	\$0	\$0	-\$315	\$4,599,434
VL2	2021-22	\$2,034,148	\$666,841	\$0	\$0	\$345,805	\$197,773	-\$45,115	\$0	-\$30	\$3,199,422
VL3	2022-23	\$1,973,538	\$732,011	\$0	\$0	\$335,501	\$201,882	-\$38,606	\$0	\$237	\$3,204,562
VL4	2023-24	\$1,917,168	\$792,621	\$0	\$0	\$325,919	\$205,385	-\$32,543	\$0	\$484	\$3,209,033
VL5	2024-25	\$1,864,748	\$848,991	\$0	\$0	\$317,007	\$209,004	-\$26,893	\$0	\$714	\$3,213,570
VL6	2025-26	\$1,815,998	\$901,411	\$0	\$0	\$308,720	\$212,039	-\$21,631	\$0	\$927	\$3,217,463
VL7	2026-27	\$1,770,658	\$950,161	\$0	\$0	\$301,012	\$215,234	-\$16,728	\$0	\$1,126	\$3,221,462
VL8	2027-28	\$1,728,498	\$995,501	\$0	\$0	\$293,845	\$218,239	-\$12,160	\$0	\$1,311	\$3,225,233
VL9	2028-29	\$1,689,288	\$1,037,661	\$0	\$0	\$287,179	\$220,688	-\$7,905	\$0	\$1,483	\$3,228,393
VL10	2029-30	\$1,652,818	\$1,076,871	\$0	\$0	\$280,979	\$223,350	-\$3,940	\$0	\$1,643	\$3,231,720
VP1	2030-31	\$1,623,393	\$1,113,341	\$0	\$0	\$275,977	\$226,248	-\$247	\$0	\$1,749	\$3,240,460
VP2	2031-32	\$1,600,843	\$1,137,561	\$0	\$0	\$272,144	\$229,995	\$0	\$0	\$1,850	\$3,242,392
VP3	2032-33	\$1,579,420	\$1,160,571	\$0	\$0	\$268,501	\$233,803	\$0	\$0	\$1,946	\$3,244,240
VP4	2033-34	\$1,559,066	\$1,182,431	\$0	\$0	\$265,041	\$237,823	\$0	\$0	\$2,037	\$3,246,397
VP5	2034-35	\$1,539,730	\$1,203,201	\$0	\$0	\$261,754	\$241,273	\$0	\$0	\$2,123	\$3,248,080

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

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

Year of Agreement	School Year	M&O Taxes @ Compressed Rate	State Aid	Additional State Aid-Hold Harmless	Recapture Costs	Additional Local M&O Collections	State Aid From Additional M&O Tax Collections	Recapture from the Additional Local Tax Effort	Homestead Hold Harmless	Other State Aid	Total General Fund
QTP1	2018-19	\$1,172,318	\$1,597,841	\$0	\$0	\$199,294	\$311,398	\$0	\$0	\$3,767	\$3,284,617
QTP2	2019-20	\$1,172,318	\$1,597,841	\$0	\$0	\$199,294	\$311,398	\$0	\$0	\$3,767	\$3,284,617
VL1	2020-21	\$1,368,318	\$1,597,841	\$0	\$0	\$232,614	\$363,320	\$0	\$0	\$2,890	\$3,564,982
VL2	2021-22	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL3	2022-23	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL4	2023-24	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL5	2024-25	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL6	2025-26	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL7	2026-27	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL8	2027-28	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL9	2028-29	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VL10	2029-30	\$1,368,318	\$1,397,841	\$0	\$0	\$232,614	\$277,266	\$0	\$0	\$2,890	\$3,278,928
VP1	2030-31	\$1,623,393	\$1,397,841	\$0	\$0	\$275,977	\$329,152	\$0	\$0	\$1,749	\$3,628,111
VP2	2031-32	\$1,600,843	\$1,137,561	\$0	\$0	\$272,144	\$229,995	\$0	\$0	\$1,850	\$3,242,392
VP3	2032-33	\$1,579,420	\$1,160,571	\$0	\$0	\$268,501	\$233,803	\$0	\$0	\$1,946	\$3,244,240
VP4	2033-34	\$1,559,066	\$1,182,431	\$0	\$0	\$265,041	\$237,823	\$0	\$0	\$2,037	\$3,246,397
VP5	2034-35	\$1,539,730	\$1,203,201	\$0	\$0	\$261,754	\$241,273	\$0	\$0	\$2,123	\$3,248,080

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
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	-\$731,000	\$0	\$0	\$0	-\$124,270	-\$182,386	\$0	\$0	\$3,204	-\$1,034,452
VL2	2021-22	-\$665,830	\$731,000	\$0	\$0	-\$113,191	\$79,493	\$45,115	\$0	\$2,919	\$79,506
VL3	2022-23	-\$605,220	\$665,830	\$0	\$0	-\$102,887	\$75,384	\$38,606	\$0	\$2,653	\$74,366
VL4	2023-24	-\$548,850	\$605,220	\$0	\$0	-\$93,305	\$71,881	\$32,543	\$0	\$2,406	\$69,895
VL5	2024-25	-\$496,430	\$548,850	\$0	\$0	-\$84,393	\$68,262	\$26,893	\$0	\$2,176	\$65,358
VL6	2025-26	-\$447,680	\$496,430	\$0	\$0	-\$76,106	\$65,227	\$21,631	\$0	\$1,963	\$61,465
VL7	2026-27	-\$402,340	\$447,680	\$0	\$0	-\$68,398	\$62,032	\$16,728	\$0	\$1,764	\$57,466
VL8	2027-28	-\$360,180	\$402,340	\$0	\$0	-\$61,231	\$59,027	\$12,160	\$0	\$1,579	\$53,695
VL9	2028-29	-\$320,970	\$360,180	\$0	\$0	-\$54,565	\$56,578	\$7,905	\$0	\$1,407	\$50,535
VL10	2029-30	-\$284,500	\$320,970	\$0	\$0	-\$48,365	\$53,916	\$3,940	\$0	\$1,247	\$47,208
VP1	2030-31	\$0	\$284,500	\$0	\$0	\$0	\$102,904	\$247	\$0	\$0	\$387,651
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 \$5.7 million over the life of the agreement. The RCISD revenue losses are expected to total approximately \$1,034,452 over the course of the agreement. In total, the potential net tax benefits (after hold-harmless payments are made) are estimated to total \$4,655,258 million, prior to any negotiations with Mesquite Star Special on supplemental payments.

**Table 5 - Estimated Financial Impact of the Mesquite Star Special Project Property Value Limitation Request Submitted to RCISD at \$1.1700 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	
<b>QTP1</b>	2018-19	\$0	\$0	\$0	\$1.170	\$0	\$0	\$0	\$0	\$0	
<b>QTP2</b>	2019-20	\$0	\$0	\$0	\$1.170	\$0	\$0	\$0	\$0	\$0	
VL1	2020-21	\$93,100,000	\$20,000,000	\$73,100,000	\$1.170	\$1,089,270	\$234,000	\$855,270	-\$1,034,452	-\$179,182	
VL2	2021-22	\$86,583,000	\$20,000,000	\$66,583,000	\$1.170	\$1,013,021	\$234,000	\$779,021	\$0	\$779,021	
VL3	2022-23	\$80,522,000	\$20,000,000	\$60,522,000	\$1.170	\$942,107	\$234,000	\$708,107	\$0	\$708,107	
VL4	2023-24	\$74,885,000	\$20,000,000	\$54,885,000	\$1.170	\$876,155	\$234,000	\$642,155	\$0	\$642,155	
VL5	2024-25	\$69,643,000	\$20,000,000	\$49,643,000	\$1.170	\$814,823	\$234,000	\$580,823	\$0	\$580,823	
VL6	2025-26	\$64,768,000	\$20,000,000	\$44,768,000	\$1.170	\$757,786	\$234,000	\$523,786	\$0	\$523,786	
VL7	2026-27	\$60,234,000	\$20,000,000	\$40,234,000	\$1.170	\$704,738	\$234,000	\$470,738	\$0	\$470,738	
VL8	2027-28	\$56,018,000	\$20,000,000	\$36,018,000	\$1.170	\$655,411	\$234,000	\$421,411	\$0	\$421,411	
VL9	2028-29	\$52,097,000	\$20,000,000	\$32,097,000	\$1.170	\$609,535	\$234,000	\$375,535	\$0	\$375,535	
VL10	2029-30	\$48,450,000	\$20,000,000	\$28,450,000	\$1.170	\$566,865	\$234,000	\$332,865	\$0	\$332,865	
<b>VP1</b>	2030-31	\$46,028,000	\$46,028,000	\$0	\$1.170	\$538,528	\$538,528	\$0	\$0	\$0	
<b>VP2</b>	2031-32	\$43,727,000	\$43,727,000	\$0	\$1.170	\$511,606	\$511,606	\$0	\$0	\$0	
<b>VP3</b>	2032-33	\$41,541,000	\$41,541,000	\$0	\$1.170	\$486,030	\$486,030	\$0	\$0	\$0	
<b>VP4</b>	2033-34	\$39,464,000	\$39,464,000	\$0	\$1.170	\$461,729	\$461,729	\$0	\$0	\$0	
<b>VP5</b>	2034-35	\$37,491,000	\$37,491,000	\$0	\$1.170	\$438,645	\$438,645	\$0	\$0	\$0	
							<b>\$10,466,247</b>	<b>\$4,776,537</b>	<b>\$5,689,710</b>	<b>-\$1,034,452</b>	<b>\$4,655,258</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.

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

The project remains fully taxable for debt services taxes, with RCISD not currently levying an 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 Mesquite Star Special 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.

# Attachment E

## Taxable Value of Property



## School and Appraisal Districts Property Value Study 2015 Report

### 2015 ISD Summary Worksheet

**076/Fisher**

**076-903/Roby ISD**

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
A. Single-Family Residences	8,528,320	.7922	10,765,362	8,528,320
B. Multi-Family Residences	85,000	N/A	85,000	85,000
C1. Vacant Lots	523,500	N/A	523,500	523,500
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real (Taxable)	19,883,470	1.1327	17,554,100	19,883,470
D2. Real Prop Farm & Ranch	997,820	N/A	997,820	997,820
E. Real Prop NonQual Acres	23,635,300	.8646	27,336,687	23,635,300
F1. Commercial Real	1,277,360	N/A	1,277,360	1,277,360
F2. Industrial Real	9,123,100	N/A	9,123,100	9,123,100
G. Oil, Gas, Minerals	25,468,400	1.0148	25,096,965	25,468,400
J. Utilities	26,349,970	1.0266	25,667,222	26,349,970

L1. Commercial Personal	1,427,680	N/A	1,427,680	1,427,680
L2. Industrial Personal	1,113,730	N/A	1,113,730	1,113,730
M. Other Personal	2,420,580	N/A	2,420,580	2,420,580
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	0	N/A	0	0
Subtotal	120,834,230		123,389,106	120,834,230
Less Total Deductions	16,030,390		18,896,417	16,030,390
Total Taxable Value	104,803,840		104,492,689	104,803,840 T2

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

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

**Value Taxable For M&O Purposes**

T1	T2	T3	T4
107,623,800	104,803,840	107,623,800	104,803,840

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50% of the loss to the Local Optional Percentage Homestead Exemption</b>
2,819,960	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
107,623,800	104,803,840	107,623,800	104,803,840

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

**127/Jones**

**076-903/Roby ISD**

Category	Local Tax Roll Value	2015 WTD Mean Ratio	2015 PTAD Value Estimate	2015 Value Assigned
A. Single-Family Residences	0	N/A	0	0
B. Multi-Family Residences	0	N/A	0	0
C1. Vacant Lots	0	N/A	0	0
C2. Colonia Lots	0	N/A	0	0

D1. Rural Real (Taxable)	160,450	N/A	160,450	160,450
D2. Real Prop Farm & Ranch	295,170	N/A	295,170	295,170
E. Real Prop NonQual Acres	698,840	N/A	698,840	698,840
F1. Commercial Real	0	N/A	0	0
F2. Industrial Real	0	N/A	0	0
G. Oil, Gas, Minerals	797,270	N/A	797,270	797,270
J. Utilities	744,650	N/A	744,650	744,650
L1. Commercial Personal	0	N/A	0	0
L2. Industrial Personal	0	N/A	0	0
M. Other Personal	54,410	N/A	54,410	54,410
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	0	N/A	0	0
Subtotal	2,750,790		2,750,790	2,750,790
Less Total Deductions	421,630		421,630	421,630
Total Taxable Value	2,329,160		2,329,160	2,329,160 T2

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

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302 (J) AND (K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation (M&O) tax purposes and for interest and sinking fund (I&S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

### Value Taxable For M&O Purposes

T1	T2	T3	T4
2,369,160	2,329,160	2,369,160	2,329,160

Loss To the Additional \$10,000 Homestead Exemption	50% of the loss to the Local Optional Percentage Homestead Exemption
40,000	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
2,369,160	2,329,160	2,369,160	2,329,160

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

**076-903/Roby ISD**

<b>Category</b>	<b>Local Tax Roll Value</b>	<b>2015 WTD Mean Ratio</b>	<b>2015 PTAD Value Estimate</b>	<b>2015 Value Assigned</b>
A. Single-Family Residences	8,528,320	.7922	10,765,362	8,528,320
B. Multi-Family Residences	85,000	N/A	85,000	85,000
C1. Vacant Lots	523,500	N/A	523,500	523,500
C2. Colonia Lots	0	N/A	0	0
D1. Rural Real (Taxable)	20,043,920	1.1315	17,714,550	20,043,920
D2. Real Prop Farm & Ranch	1,292,990	N/A	1,292,990	1,292,990
E. Real Prop NonQual Acres	24,334,140	.8680	28,035,527	24,334,140
F1. Commercial Real	1,277,360	N/A	1,277,360	1,277,360
F2. Industrial Real	9,123,100	N/A	9,123,100	9,123,100
G. Oil, Gas, Minerals	26,265,670	1.0143	25,894,235	26,265,670
J. Utilities	27,094,620	1.0259	26,411,872	27,094,620
L1. Commercial Personal	1,427,680	N/A	1,427,680	1,427,680
L2. Industrial Personal	1,113,730	N/A	1,113,730	1,113,730
M. Other Personal	2,474,990	N/A	2,474,990	2,474,990
N. Intangible Personal Prop	0	N/A	0	0
O. Residential Inventory	0	N/A	0	0
S. Special Inventory	0	N/A	0	0
<b>Subtotal</b>	<b>123,585,020</b>		<b>126,139,896</b>	<b>123,585,020</b>

Less Total Deductions	16,452,020		19,318,047	16,452,020
Total Taxable Value	107,133,000		106,821,849	107,133,000 T2

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

See the ISD DEDUCTION Report for a breakdown of deduction values

# 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

**ROBY CONSOLIDATED INDEPENDENT SCHOOL  
DISTRICT**

and

**MESQUITE STAR SPECIAL, LLC**

*(Texas Taxpayer ID #32064548236)*

Comptroller Application #1222

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Dated

April 9, 2018



**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 April 9, 2018, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

**WHEREAS**, on April 9, 2018, 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 and; (vi) if the job creation requirement set forth in Texas Tax Code § 313.051(b) (*i.e.*, 10 jobs) was applied, for the size and scope of the project described in the Application and in **EXHIBIT 3**, the required number of jobs would exceed the industry standard for the number of employees reasonably necessary for the operation of the facility;

**WHEREAS**, on April 9, 2018, 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 April 9, 2018, the Texas Comptroller's Office approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes; and

**WHEREAS**, on April 9, 2018, 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 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, including any statutory amendments that are applicable to Applicant.

“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 Mesquite Star Special, LLC, (Texas Taxpayer ID #32064548236), 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 September 11, 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 Fisher County Appraisal Districts.

“Board of Trustees” means the Board of Trustees of the ROBY CONSOLIDATED 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 Fisher County, Texas.

“District” or “School District” means the Roby Consolidated 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 sixty (60) 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 the 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 Act (Chapter 313 of the Texas Tax Code); the provisions of Chapter 403; Subchapter M, of the Texas Government Code applicable to the District; the Constitution and general laws of the State applicable to the independent school districts of the State; 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 or all of the above.

The term also includes any amendments or successor statutes that may be adopted in the future which impact or alter the calculation of the Applicant's ad valorem tax obligation to the District, either with or without the limitation of property values made pursuant to this Agreement.

*"Net Aggregate Limit"* means, for any Tax Year of this Agreement, the Total Supplemental Payment Limit, less all amounts previously paid by the Applicant to or on behalf of the District under Article VI, below.

*"Net Tax Benefit"* means, (i) the amount of maintenance and operations *ad valorem* taxes that the Applicant would have paid to the District for all Tax Years if this Agreement had not been entered into by the Parties, (ii) less 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 of this Agreement, plus (B) any payments due to the District under Articles IV and V under this Agreement, plus (C) any payments due 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 to be paid by the Applicant to compensate the District for loss of 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.)

*"Total Supplemental Payment Limit"* means the maximum total benefit which can be paid directly to the District as a Supplemental Payment under the provisions of Texas Tax Code §313.027(i). For purposes of this Agreement, the amount of the Total Supplemental Payment Limit shall be calculated by multiplying (i) the District's average daily attendance of 269, rounded to the nearest whole number, for the 2017-2018 academic year as reported to the Texas Education Agency by the District in its PEIMS report, as calculated pursuant to Texas Education Code §42.005, by (ii) fifteen (15), which represents the number of years comprising the period between the start of the Qualifying Time Period described by Tex. Tax Code § 313.021(4), April 9, 2018 and ending on December 31, 2032, the third tax year after the date of expiration of the tax limitation created by this Agreement, by (iii) the greater of \$100, or any larger amount allowed by Texas Tax Code §313.027(i), if such limit amount is increased for any future year of this Agreement. The Total Supplemental Payment Limit shall be computed with data from Tax Year 2018 which, by virtue of the Approval Date, is the tax year that includes the date on which the Board of Trustees approved the Application and this Agreement.

“*Unadjusted Tax Benefit*” means for each year of this Agreement the total of all gross tax savings calculated for each year of the Agreement by multiplying the Applicant’s taxable value for debt service taxes for each applicable Tax Year, minus the Tax Limitation Amount defined, multiplied by the District’s Maintenance & Operations tax rate for the applicable Tax Year.

**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 November 30, 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 April 9, 2018.

C. The Qualifying Time Period for this Agreement:

- i. Starts on April 9, 2018, the Application Approval Date; and
- ii. Ends on December 31, 2020, the last day of the second complete Tax Year following the Qualifying Time Period start date.

D. The Tax Limitation Period for this Agreement:

- i. Starts on January 1, 2020, the first complete Tax Year that begins after the date of the commencement of Commercial Operation; 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. Twenty Million Dollars (\$20,000,000.00).

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 the Applicant's Qualified Investment in the amount of Ten Million Dollars (\$10,000,000.00) during 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 of at least \$738 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 sixty (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 for renewable energy electricity generation.

**ARTICLE IV**  
**PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES**

**Section 4.1. INTENT OF THE PARTIES.** 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.** The amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue solely and directly 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”) jointly approved each year by the District and the Applicant. If the Parties cannot agree on the Third Party, then the Third Party shall be selected by the mediator provided in Section 9.3 of this Agreement.

**Section 4.4. DATA USED FOR CALCULATIONS.** The calculations under this Agreement shall be initially based upon the valuations that are placed upon all taxable property in the District, including Applicant’s Qualified Investment and/or the Applicant’s Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District pursuant to Texas Tax Code § 26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party selected under Section 4.3. 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 selected pursuant to Section 4.3 of this Agreement shall forward to the Parties a certification containing the calculations required under Section 4.2 and Article VI, or under 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. 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 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 to be due and owing to the District under this Agreement on or before the January 31 of the year following the tax levy for each year for which this Agreement is effective; provided however that the District and the Applicant may mutually agree in writing to extend the date of payment. By such date, the Applicant shall also pay any amount billed by the Third Party for all calculations under this Agreement under Section 4.5, above, plus any reasonable and necessary legal expenses 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. In no year shall the Applicant be responsible for the payment of total expenses under this Section and Section 4.5, above, in excess of Twelve Thousand Five Hundred Dollars (\$12,500.00).

**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 the certification containing the calculations to the District's Board of Trustees. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the District's Board of Trustees within thirty (30) days of the final determination of the certification containing the calculations, without limitation of Applicant's other rights and remedies available hereunder, in law or in equity.

**Section 4.8. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT.**

A. In the event that, 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 Qualified Property, and such appeal is unresolved, the Third Party shall base its calculations upon the values initially placed upon the Qualified Property by the Appraisal District.

B. In the event that the result of an appraisal appeal or for any other reason, the Taxable Value of the Applicant's Qualified Investment and/or the Applicant's Qualified Property is changed, once the determination of 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 counter-party within thirty (30) days of the receipt of the new calculations from the Third Party.

**Section 4.9. EFFECT OF STATUTORY CHANGES.** 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, 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 the 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.

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) unless that limit is allowed or required to be increased by the Legislature at a future date, in which case all references to statutory limits in this Agreement will be automatically adjusted to reflect the new, higher limits, but only if, and to the extent that such increases are authorized by law.

**SECTION 6.2. SUPPLEMENTAL PAYMENT LIMITATION.**

Notwithstanding the foregoing:

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 complete or partial year of the Qualifying Time Period (2018) and ending December 31 of the third Tax Year after the end of the Tax Limitation Period (2032).

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 Average Daily Attendance of 269 for the 2017-2018 school year, rounded to the nearest whole number.

**Section 6.3 STIPULATED SUPPLEMENTAL PAYMENT AMOUNT.** In any year during the term of this Agreement, the District shall be entitled to receive Supplemental Payments that equal the lesser of:

A. the Applicant's Stipulated Supplemental Payment Amount, defined as Forty Percent (40%) of the Applicant's Net Tax Benefit, as the term is defined in Section 6.1(C)(vi), above; or,

B. the Annual Limit, as the term is defined in Section 6.2(D), above.

**Section 6.4. ANNUAL CALCULATION OF STIPULATED SUPPLEMENTAL PAYMENT AMOUNT.** The Parties agree that for each Tax Year during the term of this Agreement beginning with the Tax Year 2018, which is the Tax Year that includes the date on which the Qualifying Time Period commences under this Agreement as provided in Section 2.3.C.i., the Applicant's Stipulated Supplemental Payment Amount, as defined in Section 1.2, will annually 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, in accordance with the following formula:

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

*Multiplied by,*

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

Year;

*Minus,*

Any amounts previously paid to the District under Articles IV and V;

*Multiplied by,*

The number 0.40;

*Minus,*

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

In the event that there are changes in the data upon which the calculations set forth herein are made, the Third Party described in Section 4.3 above shall adjust the Applicant's Stipulated Supplemental Payment Amount calculation to reflect such changes in the data.

**Section 6.5. CALCULATION OF ANNUAL SUPPLEMENTAL PAYMENTS TO THE DISTRICT AND APPLICATION OF AGGREGATE LIMIT.** For each Tax Year during the term of this Agreement beginning with the Tax Year 2018, which is the Tax Year that includes the date on which the Qualifying Time Period commences under this Agreement as provided in Section 2.3.C.i, and ending with Tax Year 2033, which is the third Tax Year following the end of the Tax Limitation Period, the District, or its successor beneficiary should one be designated under Section 6.7 below shall not be entitled to receive Supplemental Payments, computed under Sections 6.2 and 6.3 above, that exceed the Aggregate Limit.

If, for any Tax Year during the term of this Agreement the amount of the Applicant's Stipulated Supplemental Payment Amount, calculated under Sections 6.2 and 6.3 above for such Tax Year, exceeds the Aggregate Limit for such Tax Year, the difference between the Applicant's Stipulated Supplemental Payment Amount so calculated and the Aggregate Limit for such Tax Year, shall be carried forward from year-to-year into subsequent Tax Years during the term of this Agreement, and to the extent not limited by the Aggregate Limit in any subsequent Tax Year during the term of this Agreement, shall be paid to the District. If there are changes in Chapter 313 of the Texas Tax Code that increase or decrease the limit on the amount of the Supplemental Payments that may be made to or on behalf of the District by the Applicant under this Article VI, any higher or lower amount of Supplemental Payments that first became due hereunder prior to the effective date of any such statutory change will not be adjusted.

Any of the Applicant's Stipulated Supplemental Payment Amounts which cannot be paid to the District prior to the end of the third full Tax Year following the end of the Tax Limitation Period, as defined in Section 2.3(D)(ii), because such payment would exceed the Aggregate Limit, will be deemed to have been cancelled by operation of law, and the Applicant shall have no further obligation with respect thereto.

**Section 6.6. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS.** All calculations required by this Article VI, including but not limited to: (i) the calculation of the Applicant's Stipulated Supplemental Payment Amount; (ii) the determination of both the Total Supplemental Payment Limit, the effect, if any, of the Aggregate Limit upon the actual amount of Supplemental Payments eligible to be paid to the District by the Applicant; and (iii) the carry forward and accumulation of any of the Applicant's Stipulated Supplemental Payment Amounts unpaid by the Applicant due to the Aggregate Limit in previous years, shall be calculated by the Third Party selected pursuant to Section 4.4.

- (a) The calculations made by the Third Party shall be made at the same time and on the same schedule as the calculations made pursuant to Section 4.6.
- (b) The payment of all amounts due under this Article VI shall be made at the time set forth in Section 4.7.

**Section 6.7. 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 Supplemental Payments calculated as described in Section 6.3, 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 ninety (75) 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 (75) 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 Fisher 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 Fisher 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 sixty (60) 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 Ten Million Dollars (\$10,000,000.00) 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 thirty (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:

Heath Dickson  
Superintendent  
Roby Consolidated Independent School District  
141 South College Street  
Roby, TX 79543  
Phone: (325) 766-2222  
Fax: (325) 267-2622

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

Mesquite Star Special, LLC  
804 Carnegie Center  
Princeton, NK 08540  
Attn: Property Tax

With a copy to:

NRG Renew, LLC  
5790 Fleet Street, Suite 200  
Carlsbad, CA 92008  
Attn: General Counsel

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.

**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 ninety (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 ninety (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. 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. 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 Fisher 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. 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. 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 9th day of April, 2018.

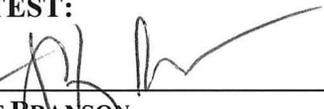
**MESQUITE STAR SPECIAL, LLC**

By:   
 Name: Craig Cornelius  
 Title: President

**ROBY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT**

By:   
**JEFF POSEY**  
 PRESIDENT, BOARD OF TRUSTEES

**ATTEST:**

By:   
**JEFF BRANSON**  
 SECRETARY, BOARD OF TRUSTEES

OR IN EVENT OF CONFLICT

By: \_\_\_\_\_  
**DARRY THOMSON**  
 VICE PRESIDENT, BOARD OF TRUSTEES

## **EXHIBIT 1**

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

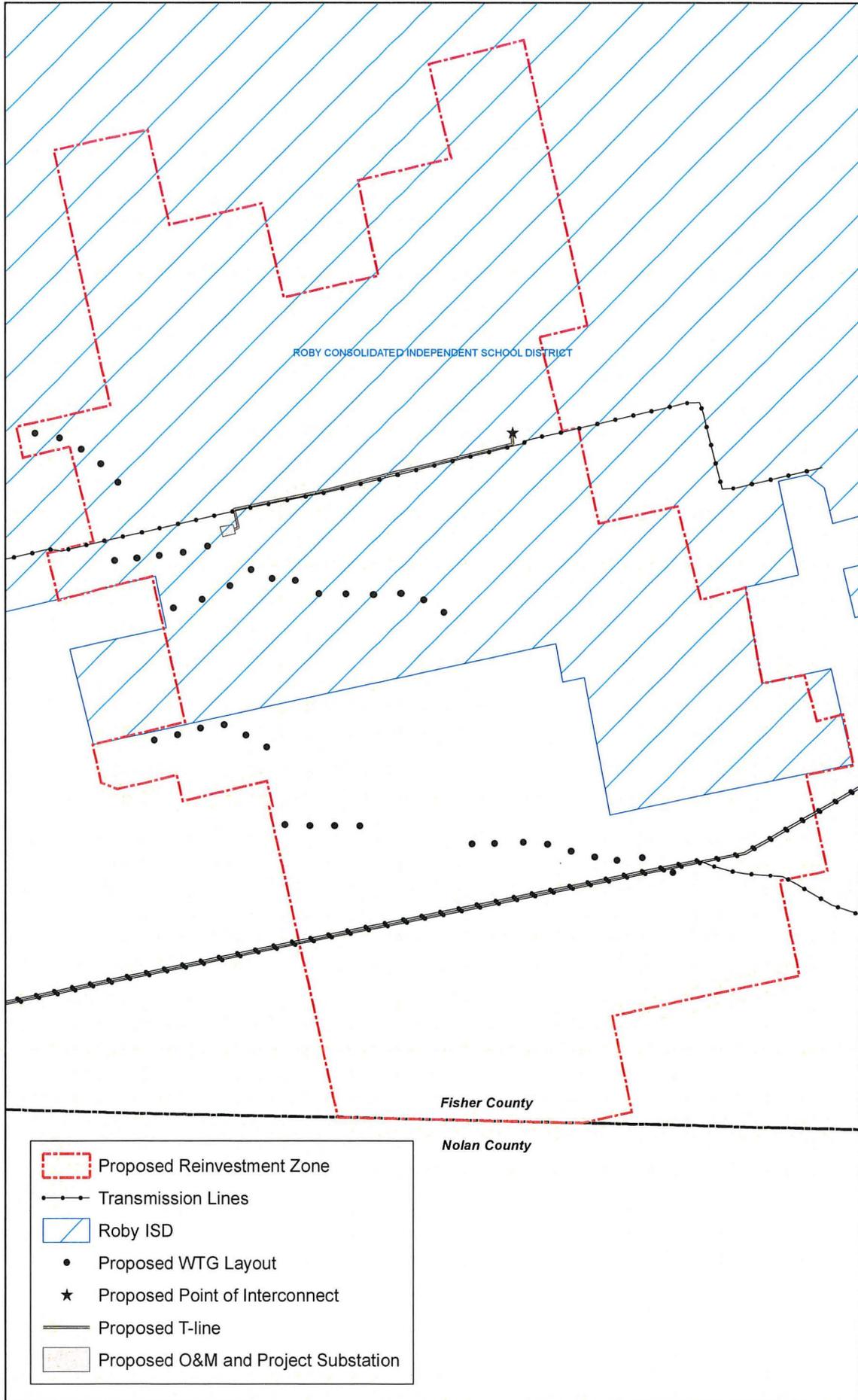
At the time of the Application Approval Date, pursuant to Chapter 312 of the Texas Tax Code, the Fisher County Commissioner's created the Fisher County Wind Project Reinvestment Zone. The legal description of the Fisher Count Wind Project Reinvestment Zone is described as the parcels of land identified on the map on the following page:

PORTION	SECTION	BLOCK	ACRES
S/2 S/2	171	3	200
ALL	173	3	640
ALL	174	3	640
ALL	176	3	640
ALL	179	3	640
NW/4	180	3	160
NE/4	180	3	160
SW/4	180	3	160
SE/4	180	3	160
ALL	181	3	639
W/2 NW/4	182	3	80
E/2	182	3	320
E/2 NW/4	182	3	80
SW/4	182	3	160
W/2	209	3	295
WEST 2/3	210	3	445
ALL	211	3	591
W/2 SW/4	212	3	80
E/2 SW/4	212	3	80
E/2	212	3	321
NW/4	212	3	160
ALL	213	3	663
ALL	214	3	636
ALL	215	3	640
ALL	216	3	649
ALL	218	3	659
NE/2	219	3	295
E/2	220	3	331
ALL	249	3	640
ALL	250	3	657
ALL	251	3	635
W/2	254	3	320
ALL	265	3	320
ALL	266	3	330
ALL	267	3	319
ALL	268	3	319
ALL	269	3	320
ALL	270	3	320
ALL	271	3	312
NW/4	6	22	160
SW/4	6	22	160
SE/4	6	22	160
NE/4	6	22	160

ALL	1	23	640
E/2	2	23	320
W/2	2	23	319
ALL	3	23	633
SW/4	4	23	160
SE/4	4	23	160
NE/4	4	23	165
NW/4	4	23	165
N/2	9	23	330
NE PORTION	10	23	160
N/2 SE PORTION	10	23	98
NW PORTION	10	23	208
ALL	11	23	622
ALL	1	N	658
PORTION	1	N	138
W/2	11	Y	320
ALL	12	Y	640
ALL	13	Y	528
ALL	14	Y	640
ALL	15	Y	545
SW/4	16	Y	160
E/W	16	Y	313
NW/4	16	Y	152
ALL	47	Y	439
ALL	48	Y	516
ALL	49	Y	582
ALL	50	Y	600
ALL	51	Y	480
ALL	51	Y	156
ALL	52	Y	160
ALL	52	Y	160
PORTIONS	1		524
ALL	2		674
ALL			163

SURVEY	ABSTRACT
H & TC RR CO.	A-243
H & TC RR CO.	A-244
A. TURBEVILLE	A-1601
S. BRYON	A-1296
H & TC RR CO.	A-247
N. JOHNSTON	A-1532
J. SPARKS	A-1456
I. LAMBERT	A-1392
J. TROTTER	A-1662
H & TC RR CO.	A-248
R. RAWLINGS	A-1767
J. HENDRIX	A-1676
R. RAWLINGS	A-1767
R. RAWLINGS	A-1767
H & TC RR CO.	A-262
H. WILSON	A-1697
H & TC RR CO.	A-263
G. YOUNG	A-1788
B. KIDD	A-1742
F. MURRAY/I. BRASHEAR	A-1568/A-1727
B. RAWLINGS	A-1579
H & TC RR CO.	A-264
J. BERROTH	A-1497
H & TC RR CO.	A-265
J. CURRY	A-1317
H & TC RR CO.	A-1304
H & TC RR CO.	A-267
D. GEORGE	A-1817
H & TC RR CO.	A-176
H & TC RR CO.	A-1429
H & TC RR CO.	A-177
T. BONNER	A-1842
H & TC RR CO.	A-227
J. BIGGS	A-908
H & TC RR CO.	A-185
L. ELAM	A-1623
H & TC RR CO.	A-184
L. ELAM	A-1325
H & TC RR CO.	A-186
J. WALKER	A-1737
J. WALKER	A-1605
G. HINSHAW	A-1366
G. HINSHAW	A-1367

T.& P. RR. CO.	A-340
G. MORGAN	A-1563
G. MORGAN	A-1562
T.& P. RR. CO.	A-341
S. JOHNSON	A-1802
W. BENNETT	A-1836
W. BROWER	A-1295
J. MCGLOTHKIN	A-1653
T.& P. RR. CO.	A-395
G. WILSON	A-1840
R. MORGAN	A-1564
J. ALLEN	A-1613
T.& P. RR. CO.	A-674
J. POSEY	A-453
J. POSEY	A-451
T.& P. RR. CO.	A-344
R. MAULDIN	A-1407
T.& P. RR. CO.	A-345
T.& P. RR. CO.	A-1421
T.& P. RR. CO.	A-346
T.& P. RR. CO.	A-703
T.& P. RR. CO.	A-1634
T.& P. RR. CO.	A-1888
T.& P. RR. CO.	A-353
J. LINN	A-1393
T.& P. RR. CO.	A-354
G. PYRON	A-1720
T.& P. RR. CO.	A-355
J. TURNER	A-1602
J. ALLDREDGE	A-1846
J. MAULDIN	A-1408
COLORADO CATTLE CO.	A-474
COLORADO CATTLE CO.	A-473
R. CLAYTON	A-406



**EXHIBIT 2**

**DESCRIPTION AND LOCATION OF LAND**

The Land on which the Qualified Property on which the Qualified Investment shall be made is located within the boundaries of the reinvestment zone and the Roby Independent School District and is described by the map attached to **EXHIBIT 1**.

## EXHIBIT 3

### APPLICANT'S QUALIFIED INVESTMENT

The Mesquite Star Special, LLC Wind Project is a proposed wind energy generation project which would be located in Fisher County, Texas within the boundaries of the reinvestment zone and the Roby Independent School District. The Project is anticipated to consist of 41 wind turbines which when operational will be capable of generating 140MW. Additional Project facilities will include a Project Operations and Maintenance Facility, a main project substation, and an approximate 3.3-mile transmission line to connect the project to the existing electrical grid.

The Project is situated in southern Fisher County. The Project area is comprised primarily of rangeland, utilized for grazing and hunting and is well suited for a wind farm. The project will be located on approximately 27,000 acres of private land which will be leased under a 30-year wind lease.

The project is planned to be interconnected to Lone Star Transmission's 138kV system which intersects the southwest portion of the project area.

A full suite of studies is underway to verify project viability including but not limited to environmental studies, cultural resource studies, biological studies, aviation studies, telecommunications studies and wind resource assessment studies. Following an approximate 17-month construction process, and once operational the Project is anticipated to be capable of sell electricity into the Texas wholesale power market beginning in December 2019, and have an expected life exceeding 25 years. The proposed project will include, but is not limited to, the following:

- Planned 140MW-AC in size;
- Project Roads;
- 41 Wind Turbines, 22 of which will be located in Roby CISD;
- Underground Medium and high-voltage electric cabling;
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure weather conditions and wind speeds; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

## EXHIBIT 4

### DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

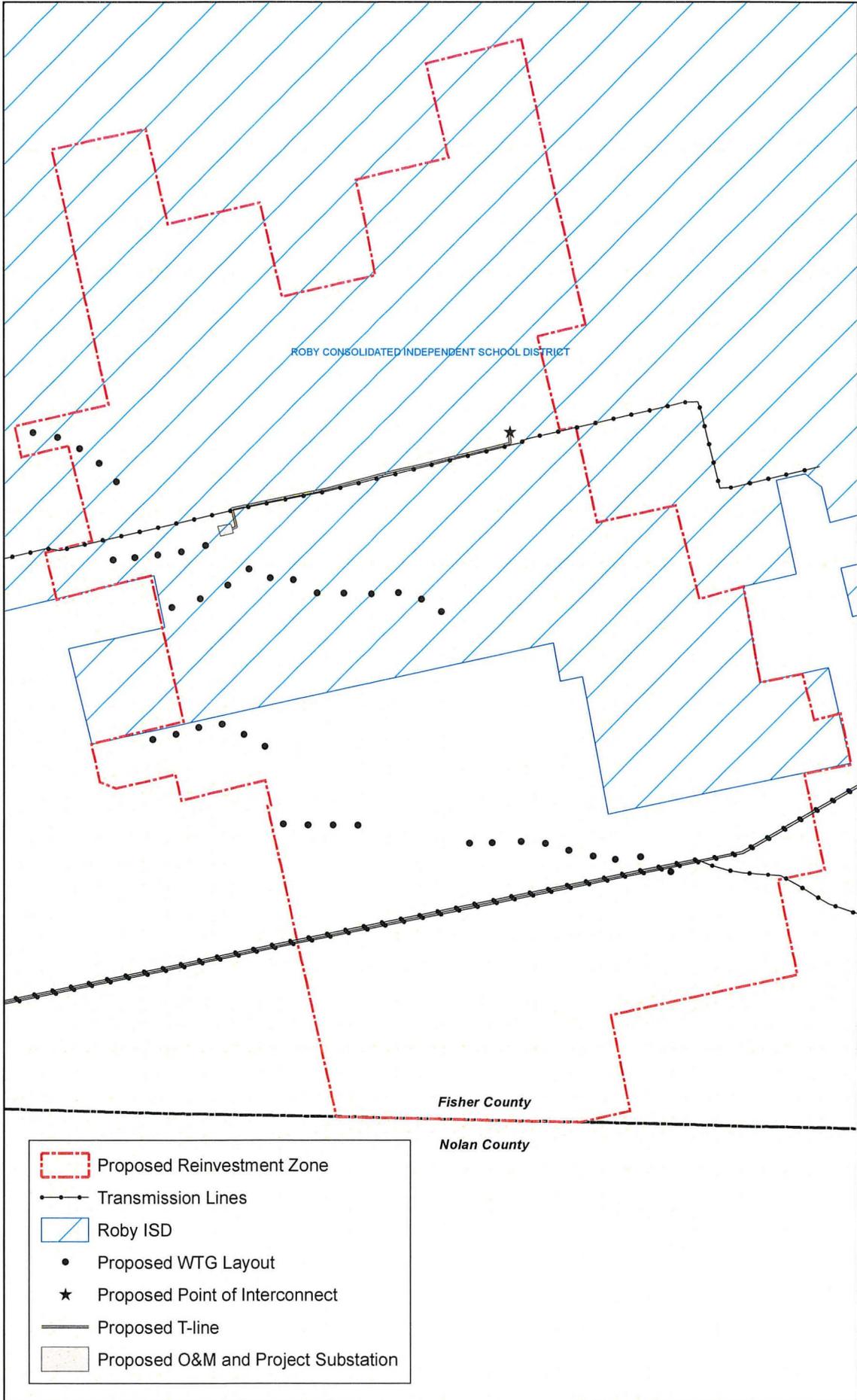
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- High-voltage transmission line connecting the project to the grid (gen tie);
- Operations and maintenance (O&M) building including telecommunications and computing equipment, among other things;
- Meteorological equipment to measure weather conditions and wind speeds; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.



## EXHIBIT 5

### AGREEMENT SCHEDULE

Tax Year of Agreement	Date of Appraised Value Determination	School Year	Tax Year	Summary Description of Provisions
Application Review Start Date	January 1, 2018	2018-19	2018	Partial year beginning on April 9, 2018. Qualifying Time Period. No limitation on value.
Year prior to start of value limitation period	January 1, 2019	2019-20	2019	Qualifying Time Period. No limitation on appraised value.
1	January 1, 2020	2020-21	2020	<b>\$ 20 million property value limitation.</b>
2	January 1, 2021	2021-22	2021	<b>\$ 20 million property value limitation.</b>
3	January 1, 2022	2022-23	2022	<b>\$ 20 million property value limitation.</b>
4	January 1, 2023	2023-24	2023	<b>\$ 20 million property value limitation.</b>
5	January 1, 2024	2024-25	2024	<b>\$ 20 million property value limitation.</b>
6	January 1, 2025	2025-26	2025	<b>\$ 20 million property value limitation.</b>
7	January 1, 2026	2026-27	2026	<b>\$ 20 million property value limitation.</b>
8	January 1, 2027	2027-28	2027	<b>\$ 20 million property value limitation.</b>
9	January 1, 2028	2028-29	2028	<b>\$ 20 million property value limitation.</b>
10	January 1, 2029	2029-30	2029	<b>\$ 20 million property value limitation.</b>
11	January 1, 2030	2030-31	2030	No tax limitation. Applicant obligated to Maintain Viable Presence if no early termination.
12	January 1, 2031	2031-32	3031	No tax limitation. Applicant obligated to Maintain Viable Presence if no early termination.
13	January 1, 2032	2032-33	2032	No tax limitation. Applicant obligated to Maintain Viable Presence if no early termination.
14	January 1, 2033	2033-34	2033	No tax limitation. Applicant obligated to Maintain Viable Presence if no early termination.
15	January 1, 2034	2034-35	2034	No tax limitation. Applicant obligated to Maintain Viable Presence if no early termination.

# Attachment H

## Consultant Verification Letter



LYNN M. MOAK, PARTNER

DANIEL T. CASEY, PARTNER

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April 9, 2018

President and Members  
Board of Trustees  
Roby Consolidated Independent School District  
141 South College Street  
P.O. Box 519  
Roby, Texas 79543

*Re: Recommendations and Findings of the firm Concerning Application of Mesquite Star Special 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 Roby Consolidated Independent School District, with respect to the pending Application of Mesquite Star Special 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 Mesquite Star Special 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)

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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**

April 9, 2018

President and Members  
Of the Board of Trustees  
Roby Consolidated Independent School District  
141 South College Street  
P.O. Box 519  
Roby, Texas 79543

*Re: Recommendations and Findings of the Firm Concerning Application of Mesquite Star Special 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 Roby Consolidated Independent School District, with respect to the pending Application of Mesquite Star Special 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 Mesquite Star Special 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 Mesquite Star Special 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

April 9, 2018

Heath Dickson  
Superintendent  
Roby Consolidated Independent School District  
141 South College Street  
PO Box 519  
Roby, Texas 79543

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Roby Consolidated Independent School District and Mesquite Star Special, LLC, Application 1222

Dear Superintendent Dickson:

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 Roby Consolidated Independent School District and Mesquite Star Special, 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 Stephanie Jones with our office. She can be reached by email at [stephanie.jones@cpa.texas.gov](mailto:stephanie.jones@cpa.texas.gov) or by phone at 1-800-531-5441, ext. 3-4594, or at 512-463-4594.

Sincerely,

A handwritten signature in black ink, appearing to read "Will Counihan", is positioned above the typed name.

Will Counihan  
Director  
Data Analysis & Transparency Division

cc: Dan Casey, Moak, Casey & Associates LLP  
Seth Riklin, Hill Country Mesquite Generation, LLC  
Sam Gregson, 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.