

# O'HANLON, DEMERATH & CASTILLO

ATTORNEYS AND COUNSELORS AT LAW

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

June 22, 2018

Local Government Assistance & Economic Analysis  
Texas Comptroller of Public Accounts  
P.O. Box 13528  
Austin, Texas 78711-3528

RE: Application to the Edinburg Consolidated Independent School District from Buenos Aires Windpower, LLC

To the Local Government Assistance & Economic Analysis Division:

By copy of this letter transmitting the application for review to the Comptroller's Office, the Edinburg Consolidated Independent School District is notifying Buenos Aires Windpower, LLC of its intent to consider the application for appraised value limitation on qualified property should a positive certificate be issued by the Comptroller. The Applicant submitted the Application to the school district on June 12, 2018. The Board voted to accept the application on June 12, 2018. The application has been determined complete as of June 22, 2018. The Applicant has provided the schedules in both electronic format and paper copies. The electronic copy is identical to the hard copy that will be hand delivered.

The Applicant has requested that a portion of Tab 11, specifically the detailed layout of the planned wind farm, be kept confidential until such time the Board votes to approve the application. In accordance with 34 TAC 9.1053, the information that is the subject of this request is segregated from the materials submitted contemporaneously with this application, that is, the proprietary commercial information regarding the competitive siting decisions for the possible project and proprietary information regarding the proposed layout of the project. The confidential materials are being submitted separately to protect against unintended disclosure. The maps depicting the planned location of the project display proprietary commercial information regarding the specific location of the possible project and the nature of the business that will be conducted at the site. The materials are protected by the trade secret exception set forth in Texas Government Code §552.110.

A copy of the application will be submitted to the Hidalgo County Appraisal District.

Sincerely,



Kevin O'Hanlon  
School District Consultant

Cc: Hidalgo County Appraisal District  
Buenos Aires Windpower, LLC

Application for Appraised Value Limitation  
On Qualified Property

Submitted to:

Edinburg Consolidated Independent School District



By:

Terra-Gen, LLC



Buenos Aires Windpower, LLC

June 12, 2018

**Application for Chapter 313  
Appraised Value Limitation by  
Buenos Aires Windpower, LLC  
to Edinburg CISD**

**June 12, 2018**

**Attachment 1**

Please see executed application attached.

# Application for Appraised Value Limitation on Qualified Property

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

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

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

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

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

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

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

The school board must approve or disapprove the application not later than the 150th day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to issue a certificate, complete the economic impact evaluation or consider the application at any time during the application review period.

Please visit the Comptroller's website to find out more about the program at [comptroller.texas.gov/economy/local/ch313/](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

June 12, 2018

Date Application Received by District

Rene

First Name

Gutierrez

Last Name

Superintendent

Title

Edinburg Consolidated Independent School District

School District Name

411 North 8th Ave

Street Address

Mailing Address

Edinburg

City

(956)289-2300

Phone Number

Texas

State

78541

ZIP

Fax Number

rene.gutierrez@ecisd.us

Email Address

Mobile Number (optional)

2. Does the district authorize the consultant to provide and obtain information related to this application? .....

Yes

No

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

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

Kevin	O'Hanlon
First Name	Last Name
Attorney	
Title	
O'Hanlon, Demerath & Castillo	
Firm Name	
(512)494-9949	(512)494-9919
Phone Number	Fax Number
	kohanlon@808west.com
Mobile Number (optional)	Email Address

4. On what date did the district determine this application complete? ..... June 22, 2018

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

**SECTION 2: Applicant Information**

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

Milton	Howard	
First Name	Last Name	
Vice President of Renewable Development	Terra-Gen, LLC	
Title	Organization	
11455 El Camino Real, Suite 160		
Street Address		
Mailing Address		
San Diego	California	92130
City	State	ZIP
(858)764-3754	(858)767-3750	
Phone Number	Fax Number	
	MHoward@terra-gen.com	
Mobile Number (optional)	Business Email Address	

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

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

Damon	Huplosky	
First Name	Last Name	
Managing Director	Terra-Gen, LLC	
Title	Organization	
437 Madison Ave		
Street Address		
Mailing Address		
New York	New York	10022-7001
City	State	ZIP
(646)829-3915		
Phone Number	Fax Number	
	DHuplosky@terra-gen.com	
Mobile Number (optional)	Business Email Address	

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

SECTION 2: Applicant Information (continued)

4. Authorized Company Consultant (If Applicable)

First Name \_\_\_\_\_ Last Name \_\_\_\_\_

Title \_\_\_\_\_

Firm Name \_\_\_\_\_

Phone Number \_\_\_\_\_ Fax Number \_\_\_\_\_

Business Email Address \_\_\_\_\_

SECTION 3: Fees and Payments

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

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

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

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

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

SECTION 4: Business Applicant Information

1. What is the legal name of the applicant under which this application is made? Buenos Aires Windpower, LLC
2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) 32064331047
3. List the NAICS code 221115
4. Is the applicant a party to any other pending or active Chapter 313 agreements?  Yes  No
- 4a. If yes, please list application number, name of school district and year of agreement

SECTION 5: Applicant Business Structure

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

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

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

**SECTION 7: Project Description**

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

<input 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 ..... QTR 3 2018
- 2. Commencement of construction ..... QTR 2 2019
- 3. Beginning of qualifying time period ..... Dec 2018
- 4. First year of limitation ..... 2021
- 5. Begin hiring new employees ..... June 2020
- 6. Commencement of commercial operations ..... QTR 4 2020
- 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? ..... QTR 3 2020

**SECTION 10: The Property**

- 1. Identify county or counties in which the proposed project will be located ..... Hidalgo County
- 2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property ..... Hidalgo County Appraisal District
- 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: Hidalgo County, 0.5800, 100% City: N/A  
(Name, tax rate and percent of project) (Name, tax rate and percent of project)  
 Hospital District: EMS District #03, 0.02850, 100% Water District: N/A  
(Name, tax rate and percent of project) (Name, tax rate and percent of project)  
 Other (describe): South Texas College, 0.1850, 100% Other (describe): South Texas ISD, 0.04920, 100%  
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
- 5. Is the project located entirely within the ISD listed in Section 1? .....  Yes  No  
 5a. If no, attach in **Tab 6** additional information on the project scope and size to assist in the economic analysis.
- 6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? .....  Yes  No  
 6a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

**SECTION 11: Investment**

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

- 1. At the time of application, what is the estimated minimum qualified investment required for this school district? ..... 30,000,000.00
- 2. What is the amount of appraised value limitation for which you are applying? ..... 30,000,000.00  
**Note:** The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.
- 3. Does the qualified investment meet the requirements of Tax Code §313.021(1)? .....  Yes  No
- 4. Attach a description of the qualified investment [See §313.021(1).] The description must include:
  - a. a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 7**);
  - b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (**Tab 7**); and
  - c. a detailed map of the qualified investment showing location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, with vicinity map (**Tab 11**).
- 5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period? .....  Yes  No

**SECTION 12: Qualified Property**

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

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

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

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

**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 2018  
(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? ..... 6
  
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 ..... 646.75
  - b. 110% of the average weekly wage for manufacturing jobs in the county is ..... 872.85
  - c. 110% of the average weekly wage for manufacturing jobs in the region is ..... 772.20
  
8. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? .....  §313.021(5)(A) or  §313.021(5)(B)
  
9. What is the minimum required annual wage for each qualifying job based on the qualified property? ..... 40,154.40
  
10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... 40,154.40
  
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**.

**Attachment 2**

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

Please find on the attached page, a copy of the wire for the \$75,000 application fee to Edinburg CISD.

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

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

**Attachment 3**

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

Not Applicable.

## Attachment 4

### *Detailed description of the project.*

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

Buenos Aires Windpower, LLC, (“Buenos Aires”) is a special purpose entity formed to facilitate the development and commercialization of a utility-scale wind energy project. Terra-Gen Development Company, LLC, (“Terra-Gen”) the exclusive developer of Buenos Aires, is in the business of initiating, developing, producing and owning and operating electricity from renewable energy projects including wind, solar, and geothermal.

Terra-Gen, currently has many projects in development across the United States and is evaluating other renewable energy project opportunities across the country.

Buenos Aires Windpower, LLC was recently created for the purpose of interconnecting the Buenos Aires into the ERCOT market and there are no existing 312 or 313 agreements in place for this project. Buenos Aires is requesting an appraised value limitation from Edinburg CISD for a proposed wind energy project using wind turbines and transmission located in Hidalgo County. The wind farm and its associated infrastructure will be constructed within the jurisdiction of Edinburg CISD and Hidalgo County, Texas. A map showing the location of the wind farm is included as Attachment 11a.

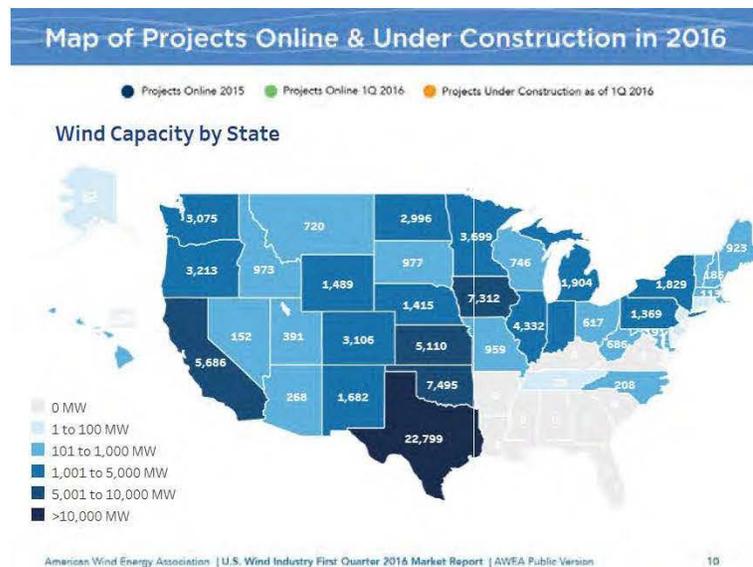
The wind farm will have an estimated capacity of 201 megawatts (“MW”). To construct the wind farm, Buenos Aires expects 88 wind turbines comprised of 82 wind turbines with a nameplate capacity of 2.2 MW and 6 wind turbines with a nameplate capacity of 3.45MW, all within Edinburg CISD boundaries. In addition to the wind turbine generating units, there will be the supporting electrical collection system and roads to be constructed and improved as necessary, as well as a collection substation to permit the interconnection and transmission of electricity generated by the wind turbines, and an operations and maintenance building constructed within the Project’s boundary.

Construction of the wind farm is proposed to begin in June of 2019 and is expected to take approximately 14 months to complete, with an estimated commercial operations date no later than November 2020, contingent upon favorable economics for the project.

While the wind regime for Buenos Aires is very good, there are many favorable locations for wind projects that could be developed across the United States. Buenos Aires has modeled its economics with an expectation that having a Limitation of Appraised Value Agreement with Edinburg CISD is a key and invaluable portion of the project.

In today’s competitive energy market, project investors and power purchasers require wind energy projects to have secured tax incentives, so that they can compete with wind projects across the U.S. and can locate projects in a wide variety of locations should Buenos Aires be unable to develop a competitive project in Texas that is able to generate returns sufficient to attract investment capital.

Wind farms are operating and under development in many states throughout the country. According to the American Wind Energy Association (“AWEA”) there are now over 54,000 turbines with a combined capacity of 89,379 MW operating in 41 states within the United States, Guam and Puerto Rico. During 2017, the U.S. wind industry grew 9% adding 7,017 MW of new wind power capacity. During the first quarter of 2018, the U.S. wind industry installed an additional 406 MW of wind power capacity.



A graphic provided by AWEA demonstrates the national geographic diversity of capacity throughout the United States for 2017.

Clearly locations for the development of wind projects are abundant and the Applicant can locate a project in a wide variety of locations across the United States, should it be unable to develop a competitive project in Texas that is able to generate returns sufficient enough to attract investment capital.

Terra-Gen, the developer of Buenos Aires Windpower, LLC, is a national developer of wind projects, and has operations across the US and states within the contiguous United States. As construction is one of the most significant costs in creating wind farm, the physical improvements of the Buenos Aires Project, once completed, cannot be feasibly moved to another location. The wind turbines and supporting infrastructure are long-lived assets engineered and designed specifically for this project location. The cost of installing the improvements on the site is substantial and the cost to remove, redesign, and relocate the improvements to a different location would be prohibitive.

Buenos Aires was formed for the express purpose of developing a community sponsored wind farm that would help bring significant economic development to an area that is historically economically distressed. Terra-Gen identified Texas, and in particular Hidalgo County, for its strong wind resource, access to available transmission capacity and the ERCOT market, and favorable property tax incentives under the Tax Code for Chapter 312 abatement and Chapter 313 Appraised Value Limitation.

Terra-Gen prefers to develop and build the proposed Buenos Aires Project as described throughout this Application but should it not be granted the limitation, then it is likely that Buenos Aires would not be economically viable compared to other projects in development across the U.S.

The Buenos Aires Project is still in the early stages of development, however, as of March 31, 2018, Buenos Aires physical assets are valued at less than \$40,000. The entirety of this capital is comprised of non-qualified property, more specifically described as one (1) temporary 87 meter meteorological tower and one (1) temporary 105 meter meteorological tower erected on the Project site made of galvanized steel tubular tilt up pole. Each meteorological tower pole is supported by four guy wires and contains wind test equipment made up of anemometers, a barometric pressure unit, & an SD card recorder.

The Project has also invested additional capital in an Interconnection Study with ERCOT, avian studies, environmental studies, and in leasing land for the project.

Should the Appraised Value Limitation be granted, Buenos Aires has created a development and investment plan that is capitalized to implement the project. Without such a limitation the Project, competing against other Texas projects that have qualified, would likely be forced to redeploy its assets and capital to other states competing for similar wind projects.

## Attachment 5

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

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

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

Buenos Aires Windpower, LLC was formed in 2017. In support of its creation, the participating members of Terra-Gen, executed documents necessary to form the entity including an Operating Agreement and a Development Agreement with Buenos Aires Windpower, LLC.

Terra-Gen has entered into the following representative agreements and contracts for the development of a project within Edinburg CISD and intends to assign these assets to Buenos Aires Windpower, LLC:

- Grants of leases and easements covering approximately 18,000 acres with 5 landowners.
- Avian Study and contract
- Bat Acoustic Study and contract
- Threatened & Endangered Species Studies and contract
- Enterprise Zone with Hidalgo County Commissioners Court
- Interconnection Application with ERCOT

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

Yes. Terra-Gen management team is uniquely qualified to develop and construct wind and other renewable energy projects in the United States. In North America, Terra-Gen currently operates over 2,000 MW of renewable energy projects. Based on this experience the management team evaluates all potential projects for feasibility, finance-ability, and the economic returns they represent in comparison to other project opportunities both OUTSIDE the State of Texas as WITHIN the State of Texas. Other locations being evaluated include, but are not limited to:

California  
Oklahoma  
Louisiana  
Colorado  
Wyoming  
Nevada

For these reasons, Terra-Gen studies and evaluates various competing sites throughout the market areas across the U.S. where wind development is attractive. Without a Value Limitation program, Terra-Gen would seek to move to alternative sites outside of the State of Texas.

Buenos Aires is currently in a period of assessment to determine whether the identified site within Edinburg CISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable. As such, the development resources necessary to advance the Project for a planned 201 MW could be redeployed to other renewable energy development projects in other power markets in the United States.

Therefore, a 313 Limitation of Appraised Value Agreement is a vital tax incentive necessary to ensure the Project is economically competitive with other wind projects with similar incentives. Without the requested value limitation, the Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associate returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the projected capital costs of approximately \$228.388M needed to purchase wind turbines and other infrastructure, and to fund the construction of the facility.

**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?**

The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of the Project.

## Attachment 6

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

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

All of the planned Qualified Property for the Project is solely located within the boundaries of Edinburg CISD and in no other school district.

## Attachment 7

### *Description of Qualified Investment*

- a. A specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code 313.021(7) (Tab 7).***

The Applicant is requesting an appraised value limitation on all of the property constructed or placed upon the real property within Edinburg CISD, which is located in Hidalgo County, Texas.

The property for which the Applicant is requesting an appraised value limitation shall include, but is NOT limited to, the following: up to 88 wind turbines, with a combined make up of 82- 2.2 MW wind turbines and 6- 3.45 MW wind turbines and a combined total generating capacity of approximately 201 MW; up to 88 steel reinforced concrete foundations supporting the weight of each turbine tower; up to 88 electric power transformers; underground conductor cables used to transport electricity from each turbine tower to an electrical substation; and a new electrical substation interconnected to the AEP Lon C. Hill to North Edinburg, 345kV transmission line located in central Hidalgo County.

Additionally, the map provided does not represent the final location of the improvements; however, all of the improvements that make up the amount of Qualified Investment will be made within the Project Investment Area as shown on Map Exhibit on Attachment 11a.

None of the above mentioned property is covered under an existing County Appraisal District account number.

- 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).***

The Applicant intends to construct a Maintenance and Operations building to house supplies, and other miscellaneous related equipment. This includes, but is not limited to junction boxes, transformer equipment, and turbine electronic controls. The Applicant will also be constructing an electrical substation facility for integration and transmission of power into the electrical grid.

## Attachment 8

### *Description of Qualified Property*

Buenos Aires Windpower, LLC plans to construct an estimated 201 MW wind farm in Hidalgo County, located entirely within Edinburg CISD. Additional improvements of Qualified Property include:

- 88 Wind Turbines 82 wind turbines with a nameplate capacity of 2.2 MW and 6 wind turbines with a nameplate capacity of 3.45MW;
- 88 Wind Turbine Foundations;
- Several thousand feet of Transmission Collection System cable & Junction Boxes;
- Overhead Transmission and Interconnection infrastructure;
- Additional meteorological towers;
- All weather Road work sloped for drainage;
- Operations and maintenance building for storage of spare parts, and control systems necessary for commercial generation of electricity;
- Electric substation including power transformers, associated circuit breakers, switches, reactive power compensation equipment and control building & fencing of perimeter.

For purposes of this application, the Project anticipates using 82 wind turbines with a nameplate capacity of 2.2 MW and 6 wind turbines with a nameplate capacity of 3.45 MW. Although final turbine selection and location of the infrastructure may change, all equipment outlined above is expected to be located within Edinburg CISD boundaries. Current plans are to install turbines in one phase.

The exact placement of turbines is subject to ongoing planning, wind resource evaluation, engineering, land leasing, and turbine selection. The final number and location of turbines and supporting structures will be determined before construction begins. However, any changes in the number and location of turbines will not have a significant impact on the total investment. Buenos Aires intends to connect to AEP Lon C. Hill to North Edinburg, 345kV transmission line internal to the Project, located within Edinburg CISD boundaries. All of the infrastructure will remain within the project boundary and within the Enterprise Zone. The map in Attachment 11b shows the proposed project area with the anticipated improvement locations.

**Attachment 9**

***Description of Land***

Not Applicable.

## Attachment 10

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

At present the Project has 2 temporary meteorological towers located on site that will not become part of the wind project when complete. A map reflecting their placement is provided below and in Attachment 11d.

The meteorological towers are valued at less than \$40,000. The entirety of this capital is compromised of non-qualified property, more specifically described as one (1) temporary NRG XSD 87 meter meteorological towers and one (1) NRG XHD 105 meter meteorological tower erected on the Project site that are mono-pole type structures no more than 4 inches in diameter & made of galvanized steel. Each meteorological tower pole is supported by four guide wires and contains wind test equipment made up of anemometers, barometric pressure unit, & an SD card recorder. The meteorological testing towers are being utilized to gather wind speed data, weather station data such as barometric pressure and air density. The following table below provides specific meteorological tower information:

Site ID	Height	Project Name	Business Unit	Region	State Name	County	Met Status	Commissioning Date	Latitude	Longitude
	87	<b>Buenos Aires</b>	Development	USA_Own	Texas	Hidalgo	Active		26.41334	-97.59193
	105	<b>Buenos Aires</b>	Development	USA_Own	Texas	Hidalgo	Active		26.38031	-97.57702

When the project enters into construction, it is expected the two (2) temporary structures will be replaced with more permanent structures made of 4-leg steel poles, cement casings, & cross section steel lattice supports.

The testing towers are temporary and, at this time, have not yet been identified by the Hidalgo County Appraisal District for tax purposes.

Please see the attached map on Attachment 11d which provides location information relevant to the meteorological towers within the project vicinity.

**Attachment 11**

***Maps that clearly show:***

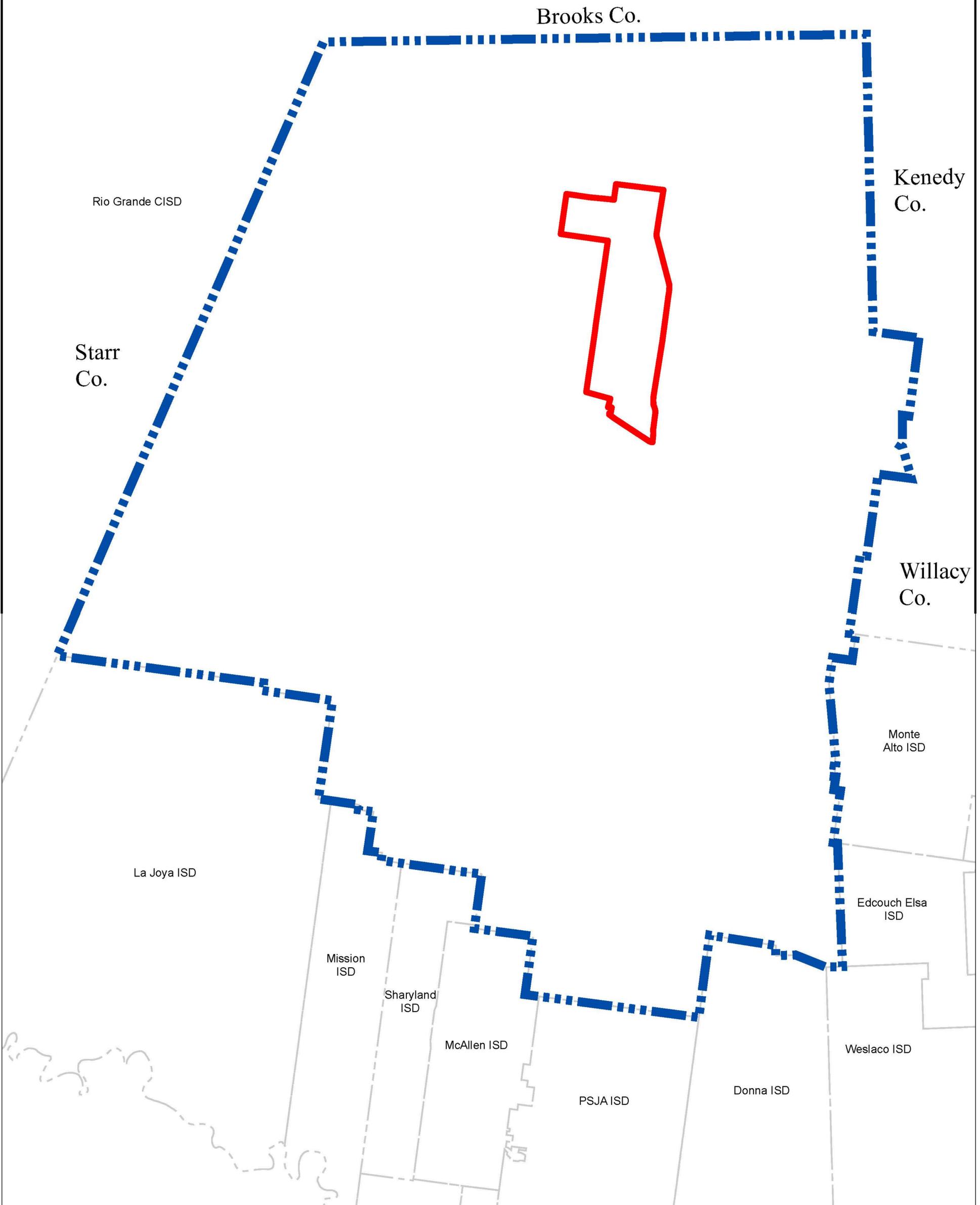
- a. Project vicinity***
- b. Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period***
- c. Qualified property including location of new buildings or new improvements***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

**Attachment 11a**

***a. Project vicinity***

Please see attached map below.

# Buenos Aires Project Vicinity Map



Project Location: Hidalgo County, Texas



**Attachment 11b**

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

CONFIDENTIAL- FOR SEPARATE FILING



www.terra-gen.com

June 12, 2018

**Re: Confidentiality of Maps Submitted with Buenos Aires Windpower, LLC Chapter 313 Appraised Value limitation Application with Edinburg CISD**

To Whom It May Concern:

As an attachment to the Buenos Aires Windpower, LLC Chapter 313 Appraised Value Limitation Application submitted to Edinburg CISD on June 12, 2018 ("Application"), we designated certain maps, the Qualified Investment and Qualified Property maps (Attachments 11b & 11c), attached thereto ("Maps") as "Confidential". We submit this letter to comply with the requirements by which both Edinburg CISD and the Comptroller's office can withhold confidential or proprietary information from public release while the Application is pending. This letter is submitted to identify the documents for which confidentiality is sought and provide the specific reasons, stating why the material is believed to be confidential.

The Maps reflect the proposed specific site plan and the location of tangible personal property to be located on real property covered by the Application- all of which continue to be refined. In addition and at this time, disclosure of the Maps could be potentially valuable to our competitors and any disclosure could negatively impact the project. The Maps include commercially valuable geological or geophysical information regarding the exploration or development of natural resources and is protected from disclosure under section 552.113 of the Texas Government Code.

As required, the Maps were submitted as segregated in the application from other information in the application and specifically notated as "Confidential".

It is our intention to complete negotiations relating to both the location of the property and the tangible personal property during the time the Application is pending and understand that the Maps can only remain confidential and withheld from public release unless and until the governing body of the school district acts on the application.

To the extent you have any questions regarding this letter, please contact me for further clarification.

Sincerely,

Milton Howard  
Vice President of Renewable Development  
Terra-Gen Development Company, LLC

**Attachment 11c**

- c. Qualified property including location of new buildings or new improvements***

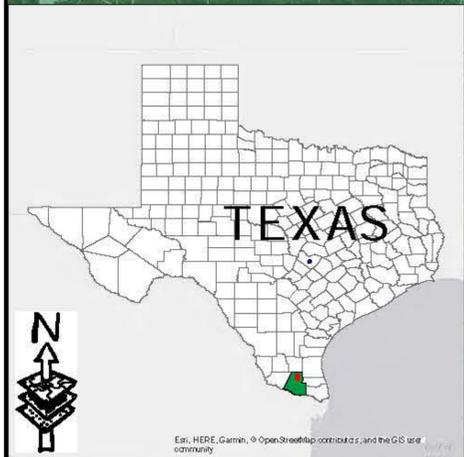
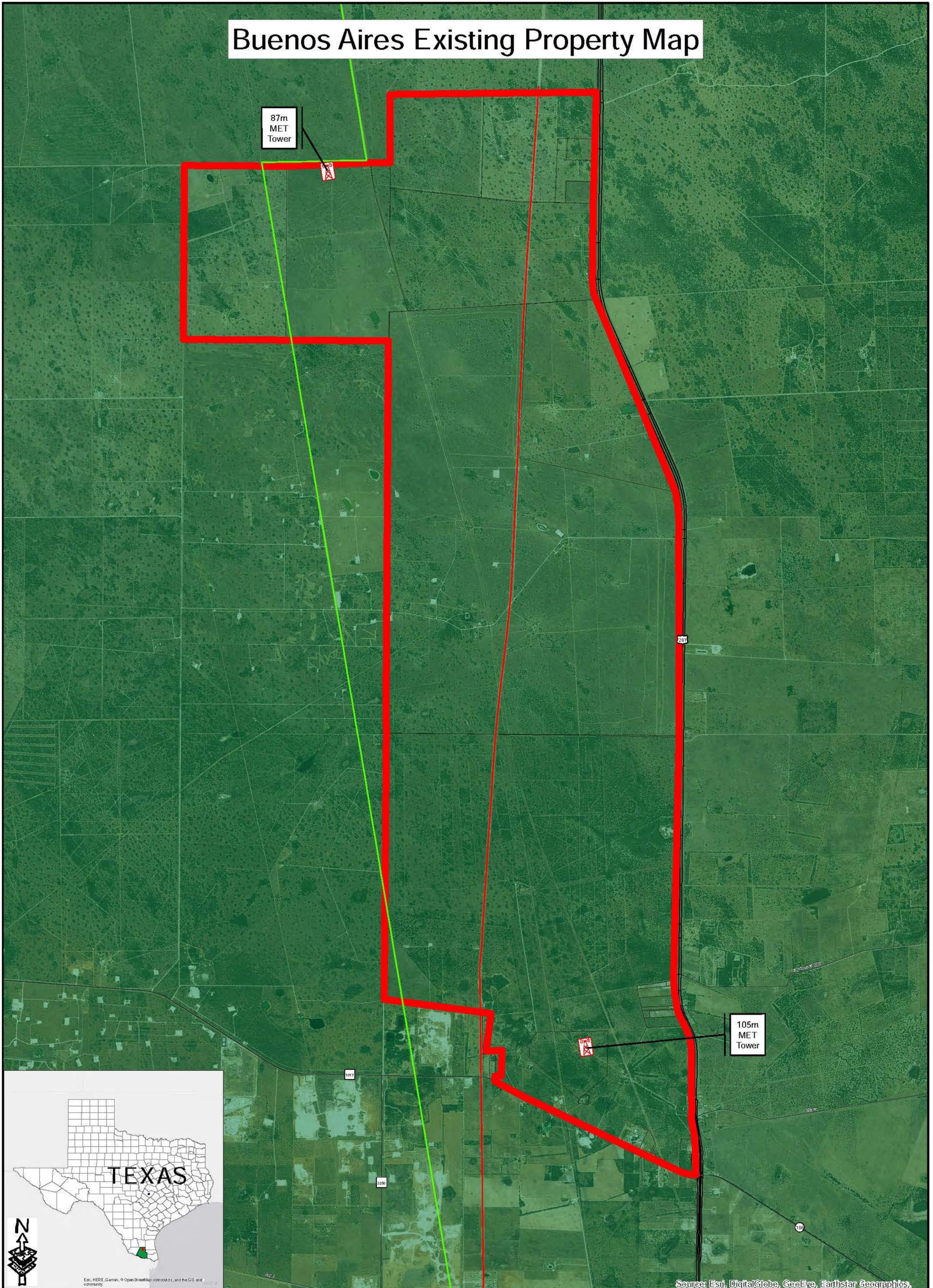
CONFIDENTIAL- FOR SEPARATE FILING

**Attachment 11d**

***d. Existing property***

Please see attached map below.

# Buenos Aires Existing Property Map



Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics,



- Legend
- MET TOWER
  - 138 KV AEP TLIN(Existing)
  - 345 KV AEP TLIN(Existing)
  - PARCEL
  - BUENOS AIRES BNDRY
  - HIDALGO CO.

Terra-Gen,LLC  
**Buenos Aires Project**  
 Phase 1 - 200 MW

Project Location: Hidalgo County, Texas

Draft-Subject to change

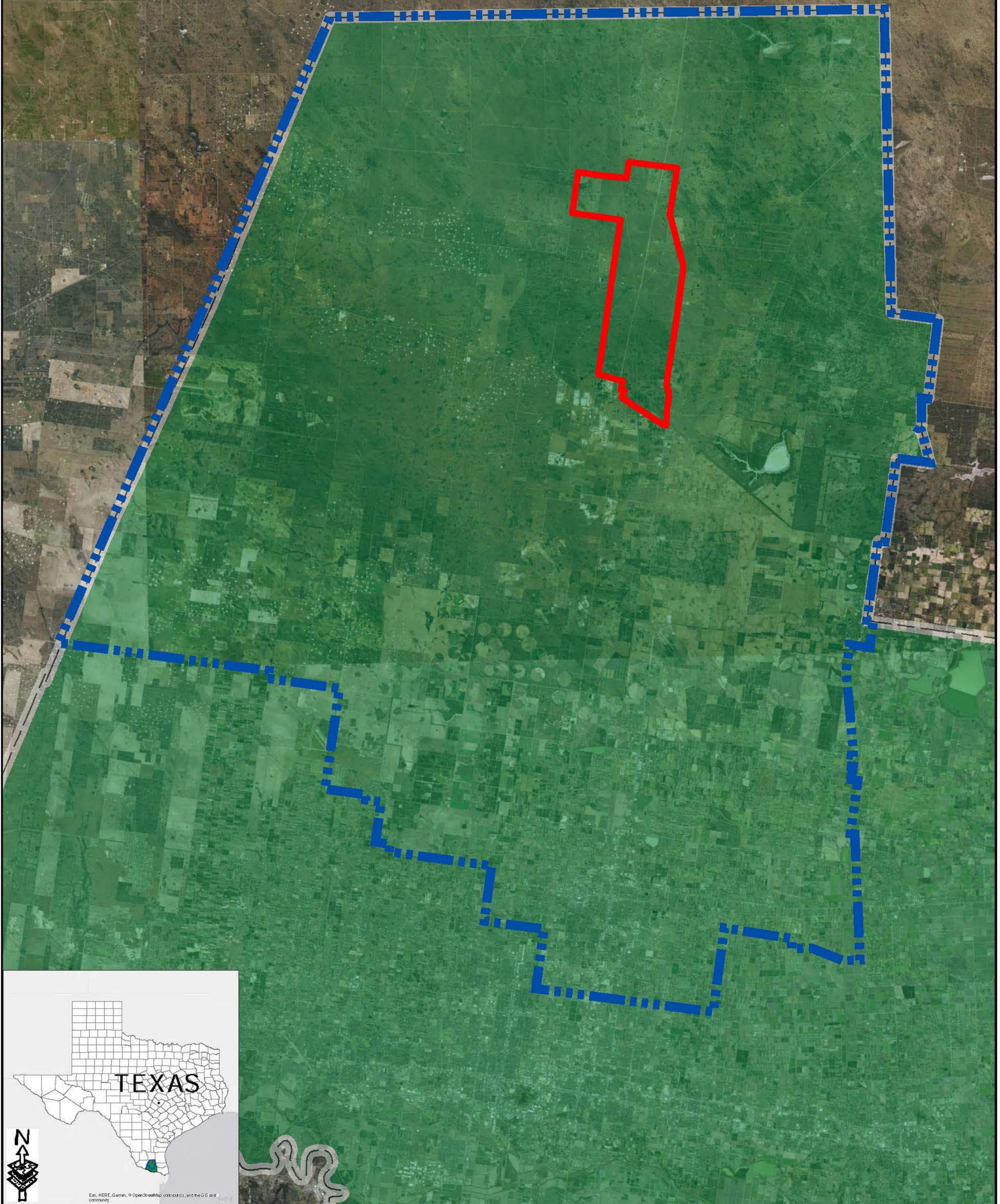
Prepared by: MBJ Date: 2/16/2018

**Attachment 11e**

***e. Land location within vicinity map***

Please see attached map below.

# Buenos Aires Project Vicinity Map



## Legend

-  BUENOS AIRES BNDRY
-  EDINBURG ISD
-  HIDALGO CO.

Terra-Gen, LLC  
**Buenos Aires Project**  
Phase 1 - 200 MW

Project Location: Hidalgo County, Texas



0 1.5 3 Miles

Draft-Subject to change

Prepared by: MBJ

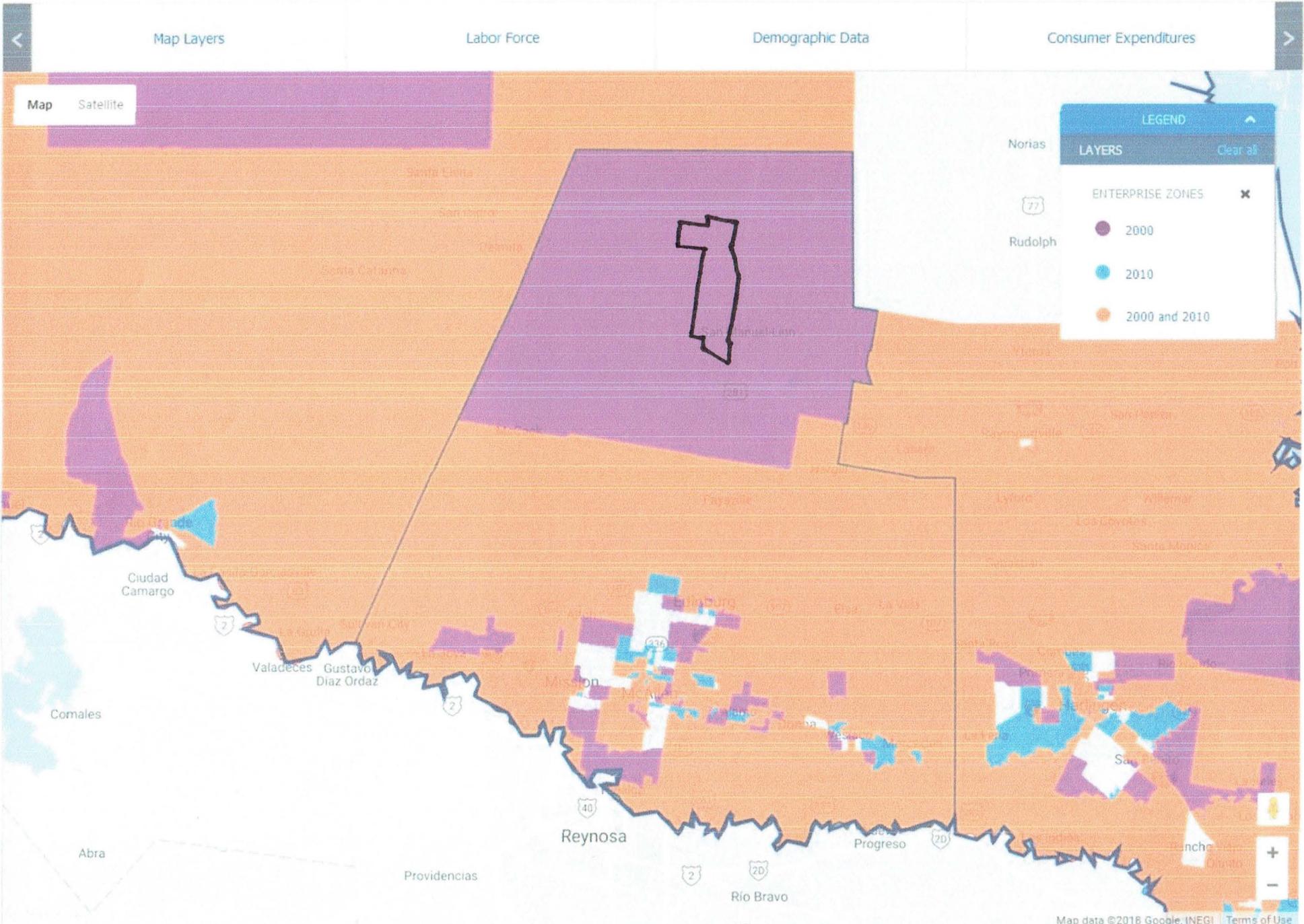
Date: 5/3/2018

**Attachment 11f**

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

Please see attached map below.

# Buenos Aires Enterprise/Investment Zone Map



Source: Texas EDC | Texas Enterprise Zones on GIS  
<http://texas.zoomprospector.com/?LYR=TEXASEZONEUNION>

**Attachment 12**

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

Please see attached waiver request below.



[www.terra-gen.com](http://www.terra-gen.com)

May 18, 2018

Dr. Rene Gutiérrez, Superintendent  
Edinburg Consolidated Independent School District  
410 N. 8<sup>th</sup> St.  
Edinburg, TX 78539

**Re: Ch-313 Application for Appraised Value Limitation – Job Waiver Request**

Dear Dr. Gutiérrez,

This letter is to advise you that Buenos Aires Windpower, LLC is submitting its Chapter 313 Application for Appraised Value Limitation on Qualified Property with a request for a waiver of the jobs creation requirement.

House Bill 1470 altered the jobs requirement by adding Section 313-025 (f-l) to permit a school district's board of trustees to make a finding that the job requirement could be waived if the job 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. Buenos Aires Windpower, LLC, requests that Edinburg CISD's Board of Trustees make such a finding and waive the job creation requirement for the permanent jobs. Based on the industry standard, the size and scope of this project will require approximately six (6) permanent jobs.

As background information on the creation of the full-time jobs by wind energy projects, these types of projects create a large number of full-time, temporary jobs during the construction phase, but require a small number of highly skilled technicians to operate a wind project once construction operations cease and commercial operations begin. 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. The industry standard for permanent employment is one full-time employee for every fifteen to twenty (15-20) turbines, although this number varies depending on the turbines selected as well as the support and technical assistance offered by the turbine manufacturer. In addition to the onsite employees described, there may be asset managers or technicians who supervise, monitor, and support the wind project operations from offsite locations.

Sincerely,

Milton Howard  
Vice President of Renewable Development  
Terra-Gen Development Company, LLC

**Attachment 13**

**Calculation of Wage Requirements – Hidalgo County**

**Supporting data for Section 14(7)(a)**

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

Year	Period	Area	Ownership	Division	Level	Ind. Code	Industry	Avg. Weekly Wages
2017	1 <sup>st</sup> Qtr	Hidalgo County	Total All	0	0	10	Total, All Industries	\$641.00
2017	2 <sup>nd</sup> Qtr	Hidalgo County	Total All	0	0	10	Total, All Industries	\$632.00
2017	3 <sup>rd</sup> Qtr	Hidalgo County	Total All	0	0	10	Total, All Industries	\$649.00
2017	4 <sup>th</sup> Qtr	Hidalgo County	Total All	0	0	10	Total, All Industries	\$665.00
<b>Average weekly wage for previous four quarters</b>								<b>\$646.75</b>

*Source: Quarterly Employment and Wages (QCEW) data for Hidalgo County,  
<http://www.tracer2.com/cqi/dataanalysis/AreaSelection.asp?tableName=Industry>*

**Supporting Data for Section 14(7)(b)**

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

Year	Period	Area	Ownership	Division	Level	Ind. Code	Industry	Avg. Weekly Wages
2017	1 <sup>st</sup> Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$813.00
2017	2 <sup>nd</sup> Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$774.00
2017	3 <sup>rd</sup> Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$787.00
2017	4 <sup>th</sup> Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$800.00
<b>Average weekly wage for previous four quarters</b>								<b>\$793.50</b>
<b>110% of Average Weekly Wages</b>								<b>\$872.85</b>

*Source: Quarterly Employment and Wages (QCEW) data for Hidalgo County,  
<http://www.tracer2.com/cqi/dataanalysis/AreaSelection.asp?tableName=Industry>*

**Supporting Data for Section 14(7)(c)**

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

<b>Average Hourly Wages</b>	\$17.55
<b>Average Annual Wages</b>	\$36,503.00
<b>Average Weekly Wages @40hrs/week</b>	\$702.00
<b>110% of Average Weekly Wages</b>	<b>\$772.20</b>

*Source: 2016 Manufacturing Average Wages by Council of Government Region Wages for All Occupations. Project location region: 21. Lower Rio Grande Valley Development Council.  
<http://www.tracer2.com/admin/uploadedPublications/COGWages.pdf>*

## 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	Hidalgo County	Total All	00	0	10	Total, all industries	\$641
2017	2nd Qtr	Hidalgo County	Total All	00	0	10	Total, all industries	\$632
2017	3rd Qtr	Hidalgo County	Total All	00	0	10	Total, all industries	\$649
2017	4th Qtr	Hidalgo County	Total All	00	0	10	Total, all industries	\$665

## 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	Hidalgo County	Private	31	2	31-33	Manufacturing	\$813
2017	2nd Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$774
2017	3rd Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$786
2017	4th Qtr	Hidalgo County	Private	31	2	31-33	Manufacturing	\$800

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

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.

**Attachment 14**

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

Please see attached schedules below.

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

Date 5/22/2018  
 Applicant Name Buenos Aires Windpower, LLC  
 ISD Name Edinburg 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 new investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other new investment made during this year that may become Qualified Property [SEE NOTE]	<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.]
Investment made after filing complete application with district, but before final board approval of application	--	2018-2019	2018					
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period				0.00	0.00	0.00	0.00	0.00
Complete tax years of qualifying time period	QTP1	2019-2020	2019	0.00	0.00	0.00	0.00	0.00
	QTP2	2020-2021	2020	\$ 228,000,000.00	\$ 388,000.00	0.00	0.00	\$ 228,388,000.00
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>				\$ 228,000,000.00	\$ 388,000.00	0.00	0.00	\$ 228,388,000.00
				<b>Enter amounts from TOTAL row above in Schedule A2</b>				
<b>Total Qualified Investment (sum of green cells)</b>				\$ 228,388,000.00				

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

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

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

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

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

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

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

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

PROPERTY INVESTMENT AMOUNTS								
(Estimated Investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in <b>tangible personal property</b> placed in service during this year that will become Qualified Property	New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Other investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other investment made during this year that will become Qualified Property [SEE NOTE]	Total Investment (A+B+C+D)
Total Investment from Schedule A1*	--	<b>TOTALS FROM SCHEDULE A1</b>		Enter amounts from TOTAL row in Schedule A1 in the row below				
				\$ 228,000,000.00	\$ -	\$ -	\$ -	\$ 228,000,000.00
Each year prior to start of value limitation period** <i>insert as many rows as necessary</i>	0	2018-2019	2018					
	1	2019-2020	2019					
	2	2020-2021	2020	\$ 228,000,000.00	\$ 388,000.00			\$ 228,388,000.00
Value limitation period***	1	2021-2022	2021					
	2	2022-2023	2022					
	3	2023-2024	2023					
	4	2024-2025	2024					
	5	2025-2026	2025					
	6	2026-2027	2026					
	7	2027-2028	2027					
	8	2028-2029	2028					
	9	2029-2030	2029					
	10	2030-2031	2030					
<b>Total Investment made through limitation</b>				\$ 228,000,000.00	\$ 388,000.00	\$ -	\$ -	\$ 228,388,000.00
Continue to maintain viable presence	11	2031-2032	2031					
	12	2032-2033	2032					
	13	2033-2034	2033					
	14	2034-2035	2034					
	15	2035-2036	2035					
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2036-2037	2036					
	17	2037-2038	2037					
	18	2038-2039	2038					
	19	2039-2040	2039					
	20	2040-2041	2040					
	21	2041-2042	2041					
	22	2042-2043	2042					
	23	2043-2044	2043					
	24	2044-2045	2044					
	25	2045-2046	2045					

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

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

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

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

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

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

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

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

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

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

Date 5/22/2018  
 Applicant Name Buenos Aires Windpower, LLC  
 ISD Name Edinburg 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
Pre-Year	0	2018-2019	2018						
Qualified Investment Period	1	2019-2020	2019	N/A	\$ -	\$ -	\$ -	\$ -	\$ -
	2	2020-2021	2020	N/A	\$ 388,000.00	\$ 228,000,000.00	\$ 228,388,000.00	\$ 228,388,000.00	\$ -
Value Limitation Period	1	2021-2022	2021	N/A	\$ 368,600.00	\$ 216,600,000.00	\$ 216,968,600.00	\$ 216,968,600.00	\$ 30,000,000.00
	2	2022-2023	2022	N/A	\$ 350,170.00	\$ 205,770,000.00	\$ 206,120,170.00	\$ 206,120,170.00	\$ 30,000,000.00
	3	2023-2024	2023	N/A	\$ 332,661.50	\$ 195,481,500.00	\$ 195,814,161.50	\$ 195,814,161.50	\$ 30,000,000.00
	4	2024-2025	2024	N/A	\$ 316,028.43	\$ 185,707,425.00	\$ 186,023,453.43	\$ 186,023,453.43	\$ 30,000,000.00
	5	2025-2026	2025	N/A	\$ 300,227.00	\$ 176,422,053.75	\$ 176,722,280.75	\$ 176,722,280.75	\$ 30,000,000.00
	6	2026-2027	2026	N/A	\$ 285,215.65	\$ 167,600,951.06	\$ 167,886,166.72	\$ 167,886,166.72	\$ 30,000,000.00
	7	2027-2028	2027	N/A	\$ 270,954.87	\$ 159,220,903.51	\$ 159,491,858.38	\$ 159,491,858.38	\$ 30,000,000.00
	8	2028-2029	2028	N/A	\$ 257,407.13	\$ 151,259,858.33	\$ 151,517,265.46	\$ 151,517,265.46	\$ 30,000,000.00
	9	2029-2030	2029	N/A	\$ 244,536.77	\$ 143,696,865.42	\$ 143,941,402.19	\$ 143,941,402.19	\$ 30,000,000.00
	10	2030-2031	2030	N/A	\$ 232,309.93	\$ 136,512,022.15	\$ 136,744,332.08	\$ 136,744,332.08	\$ 30,000,000.00
Continue to maintain viable presence	11	2031-2032	2031	N/A	\$ 220,694.44	\$ 129,686,421.04	\$ 129,907,115.47	\$ 129,907,115.47	\$ 129,907,115.47
	12	2032-2033	2032	N/A	\$ 209,659.71	\$ 123,202,099.99	\$ 123,411,759.70	\$ 123,411,759.70	\$ 123,411,759.70
	13	2033-2034	2033	N/A	\$ 199,176.73	\$ 117,041,994.99	\$ 117,241,171.72	\$ 117,241,171.72	\$ 117,241,171.72
	14	2034-2035	2034	N/A	\$ 189,217.89	\$ 111,189,895.24	\$ 111,379,113.13	\$ 111,379,113.13	\$ 111,379,113.13
	15	2035-2036	2035	N/A	\$ 179,757.00	\$ 105,630,400.48	\$ 105,810,157.47	\$ 105,810,157.47	\$ 105,810,157.47
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2036-2037	2036	N/A	\$ 170,769.15	\$ 100,348,880.45	\$ 100,519,649.60	\$ 100,519,649.60	\$ 100,519,649.60
	17	2037-2038	2037	N/A	\$ 162,230.69	\$ 95,331,436.43	\$ 95,493,667.12	\$ 95,493,667.12	\$ 95,493,667.12
	18	2038-2039	2038	N/A	\$ 154,119.16	\$ 90,564,864.61	\$ 90,718,983.76	\$ 90,718,983.76	\$ 90,718,983.76
	19	2039-2040	2039	N/A	\$ 146,413.20	\$ 86,036,621.38	\$ 86,183,034.58	\$ 86,183,034.58	\$ 86,183,034.58
	20	2040-2041	2040	N/A	\$ 139,092.54	\$ 81,734,790.31	\$ 81,873,882.85	\$ 81,873,882.85	\$ 81,873,882.85
	21	2041-2042	2041	N/A	\$ 132,137.91	\$ 77,648,050.79	\$ 77,780,188.70	\$ 77,780,188.70	\$ 77,780,188.70
	22	2042-2043	2042	N/A	\$ 125,531.02	\$ 73,765,648.25	\$ 73,891,179.27	\$ 73,891,179.27	\$ 73,891,179.27
	23	2043-2044	2043	N/A	\$ 119,254.46	\$ 70,077,365.84	\$ 70,196,620.31	\$ 70,196,620.31	\$ 70,196,620.31
	24	2044-2045	2044	N/A	\$ 113,291.74	\$ 66,573,497.55	\$ 66,686,789.29	\$ 66,686,789.29	\$ 66,686,789.29
	25	2045-2046	2045	N/A	\$ 107,627.15	\$ 63,244,822.67	\$ 63,352,449.83	\$ 63,352,449.83	\$ 63,352,449.83

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** 5/22/2018  
**Applicant Name** Buenos Aires Windpower, LLC  
**ISD Name** Edinburg CISD

**Form 50-296A**

*Revised May 2014*

				Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	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
Pre-Year	0	2018-2019	2018					
Qualified Investment Period	1	2019-2020	2019					
	2	2020-2021	2020	150 FTEs	\$ 36,049.00	0	6	\$ 40,154.40
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2021-2022	2021			0	6	\$ 40,154.40
	2	2022-2023	2022			0	6	\$ 40,154.40
	3	2023-2024	2023			0	6	\$ 40,154.40
	4	2024-2025	2024			0	6	\$ 40,154.40
	5	2025-2026	2025			0	6	\$ 40,154.40
	6	2026-2027	2026			0	6	\$ 40,154.40
	7	2027-2028	2027			0	6	\$ 40,154.40
	8	2028-2029	2028			0	6	\$ 40,154.40
	9	2029-2030	2029			0	6	\$ 40,154.40
	10	2030-2031	2030			0	6	\$ 40,154.40
Years Following Value Limitation Period	11 through 25	2031-2045	2031-2044			0	6	\$ 40,154.40

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** 5/22/2018  
**Applicant Name** Buenos Aires Windpower, LLC  
**ISD Name** Edinburg 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:					
	City:					
	Other:					
Tax Code Chapter 312	County: Hidalgo County	2020	10 Years	\$ 1,167,519.46	80%	\$ 233,503.89
	City:	N/A	N/A	N/A	N/A	N/A
	Other: EMS District #3	2020	10 Years	\$ 65,090.58	80%	\$ 13,018.12
	Other: South Texas College	2020	10 Years	\$ 422,517.80	80%	\$ 84,503.56
	Other: South Texas ISD	2020	10 Years	\$ 112,366.90	80%	\$ 22,473.38
Local Government Code Chapters 380/381	County:					
	City:					
	Other:					
Freeport Exemptions						
Non-Annexation Agreements						
Enterprise Zone/Project						
Economic Development Corporation						
Texas Enterprise Fund						
Employee Recruitment						
Skills Development Fund						
Training Facility Space and Equipment						
Infrastructure Incentives						
Permitting Assistance						
Other:						
Other:						
Other:						
Other:						
<b>TOTAL</b>				\$ 1,767,494.74	85%	\$ 353,498.95

Additional information on incentives for this project:

**Attachment 15**

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

Not Applicable.

**Attachment 16**

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

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

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

**Attachment 16a**

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

Hidalgo County is a designated enterprise zone county as defined under the Texas Governor's "[Governor's Economic Development Finance department online](#)" link provided by Texas Comptroller website under "[The Texas Enterprise Zone Program](#)." The Governor's website "Texas Enterprise Zone Program" - "[Economic Zone Program Rules, 10 TAC 176](#)" according to section (b), subsection (11); which defines a distressed county as: "a county that has a poverty rate above 15.4 percent based on the most recent decennial census; in which at least 25.4 percent of the adult population does not hold a high school diploma or high school equivalency certificate based on the most recent decennial census; and that has an unemployment rate that has remained above 4.9 percent during the preceding five years, based on Texas Workforce Commission data."

Source: <https://businessintexas.com/services/tax-incentives?view=texas%20enterprise%20zone%20program>

Hidalgo County meets the guidelines as "Distressed County" under Texas Government Code Chapter 2303.003 (1-c). Where a "Distressed County" means a County:

(A) The Poverty rate in Hidalgo County is currently 31.2%

All Topics	Hidalgo County, Texas	UNITED STATES
Median household income (in 2016 dollars), 2012-2016	\$36,094	\$55,322
<b>Income &amp; Poverty</b>		
Median household income (in 2016 dollars), 2012-2016	\$36,094	\$55,322
Per capita income in past 12 months (in 2016 dollars), 2012-2016	\$15,240	\$29,829
Persons in poverty, percent	31.2%	12.7%

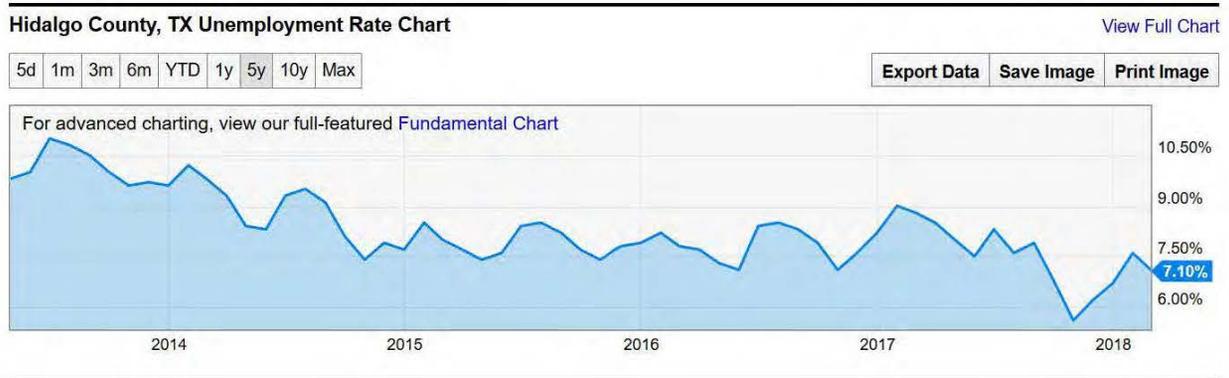
Source: <https://www.census.gov/quickfacts/fact/table/hidalgocountytexas,US/INC110216>

(B) The adult population that does not hold a high school diploma or high school equivalency certificate in Hidalgo County; persons of age 25 years+ were: 36.7% during 2012-2016.

All Topics	Hidalgo County, Texas	UNITED STATES
Median household income (in 2016 dollars), 2012-2016	\$36,094	\$55,322
<b>Education</b>		
High school graduate or higher, percent of persons age 25 years+, 2012-2016	63.3%	87.0%
Bachelor's degree or higher, percent of persons age 25 years+, 2012-2016	17.4%	30.3%

Source: <https://www.census.gov/quickfacts/fact/table/hidalgocountytexas,US/INC110216>

(C) The unemployment rate in Hidalgo County during the preceding 5 years has been from 2013 at 9.8% to 2017 at 7.10%.



Source: [https://ycharts.com/indicators/hidalgo\\_county\\_tx\\_unemployment\\_rate](https://ycharts.com/indicators/hidalgo_county_tx_unemployment_rate)



Enter Address

Share Report

Map Layers

Labor Force

Demographic Data

Consumer Expenditures

Map

Satellite

LEGEND

LAYERS

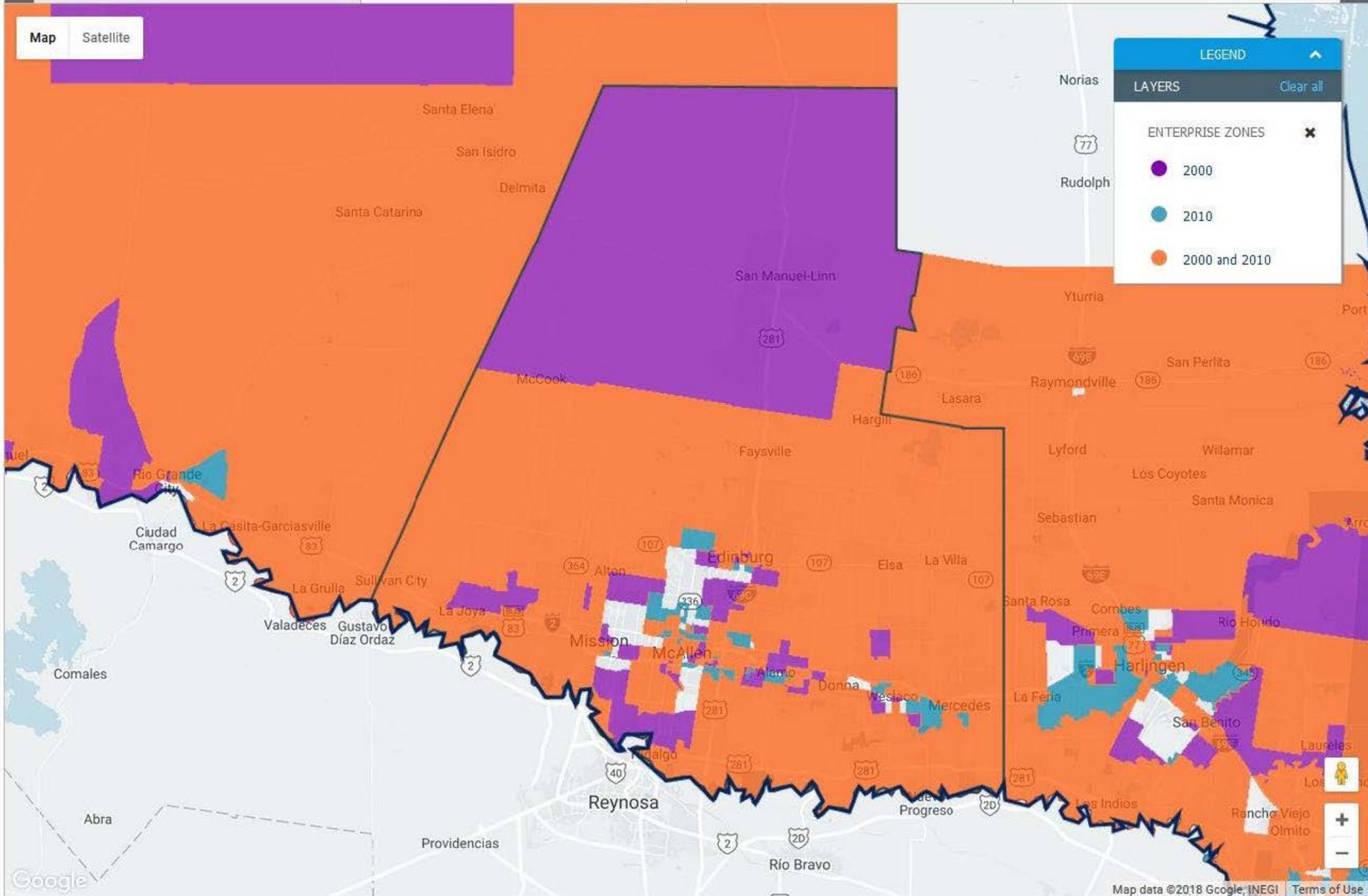
Clear all

ENTERPRISE ZONES

2000

2010

2000 and 2010



**Attachment 16b**

***b. Legal description of investment zone***

Please see attached.

Tract I:

All of Tract No. Nine (9), containing 5,027 acres of land, more or less, of the San Salvador del Tule Grant in Hidalgo County, Texas, recorded in Volume 331, page 359 of the Deed Records of Hidalgo County, Texas.

Tract II:

56.95 acres, more or less, of Grantor's former Falfurrias to Edinburg branch line of railroad property, the north line of said 56.95 acres being the north line of the Santa Anita Grant.

Tract III:

901.24 acres, more or less, designated as Share "B", Tract I, in that certain Partition Deed dated February 1, 1957, by and between Celia T. Guerra and David Guerra, et al, which Partition Deed is of record in Vol. 966, pp. 313-21 of the Deed Records of Hidalgo County, Texas, and according to map or plat of record in Vol. 13, P. 21, Map Records of Hidalgo County, Texas, to which Partition Deed and Map reference is here made for all purposes said Share "B", Tract I.

Tract IV:

40.08 acres, more or less, designated as Share "A," Tract 2, recorded in Vol. 966, Pp. 313-21, Deed Records of Hidalgo County, Texas

Tract V:

466.29 acres out of Share "C", Tract 1, a partition of Share "A", Parcel 2 and the San Rafael Garcia Tract out of 1800 acres of land in the Northeast corner of the Santa Anita Grant and tracts numbered 1, 8, 10, 11, 12, 13, 14, 15, 61 and 62, as set out in partition of the San Salvador Del Tule Grant in cause No. 422 District Court of Hidalgo County, Texas, Hidalgo County, Texas.

---

DEL TULE PART-1,2&3 SHR B-EXC 1AC R/S OF DEL TULE & SANTA ANITA 2176AC

5,072.5 acres comprised of all of Tracts 84, 86, 87 and 1.7 acres of Tract 88 lying North of FM 1017 and, the East 35.2 acres of Tract 85, all being part of the San Salvador Del Tule Grant, as per map recorded in Volume 10, Page 58, Hidalgo County Map Records and described in Volume 987, Page 468 Hidalgo County Deed Records.

**Attachment 16c**

***Order, resolution or ordinance establishing the reinvestment zone***

Not Applicable.

**Attachment 16d**

***Guidelines and criteria for creating the zone***

Please see attached.

# **GUIDELINES AND CRITERIA FOR GRANTING TAX ABATEMENTS IN HIDALGO COUNTY, TEXAS**

**Effective December 22, 2014  
As Amended January 5, 2016**

## **I. General Purpose and Objectives**

The County is committed to the promotion of high quality development in all parts of the County and to an ongoing improvement in the quality of life for its citizens. Certain types of investment result in the creation of new jobs, new income and provide for positive economic growth which is beneficial to the County as a whole. The County will, on a case-by-case basis, give consideration to providing tax abatement as a stimulation for economic development in the County. It is the policy of the County that said consideration will be provided in accordance with the guidelines and criteria outlined in this document. The County is not obligated to grant tax abatement to any applicant and nothing herein will imply or suggest that the County is under any obligation to provide tax abatement to any applicant or with respect to any project. All applicants will be considered on a case-by-case basis, and the decision to approve or deny tax abatement to any particular applicant will be at the discretion of the Commissioners Court of the County. As provided in section 312.002(d) of the Texas Tax Code, adoption of these guidelines and criteria does not (1) limit the discretion of the Commissioners Court to decide whether to enter into a specific tax abatement agreement, (2) limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether the Commissioners Court should consider a particular application for tax abatement or (3) create any property, contract or other legal right in any person to have the County consider or grant a specific application or request for tax abatement. Tax abatement agreements are made with the owners or lessees of real property to exempt from taxation a portion of the value of the real property or of tangible personal property, or both. The duration of an agreement may be for a period of time determined appropriate by the Commissioners Court of the County, based on the productive life of the improvements and consistent with the provisions of these Guidelines and Criteria, but, in accordance with state law, in no case will the term of the tax abatement extend for more than ten (10) years. Special terms and conditions may be set in the agreement governing each specific tax abatement.

## **II. Definitions**

A. "Abatement" means the full or partial exemption from ad valorem taxes of eligible properties in a reinvestment zone designated as such for economic development purposes.

B. "Agreement" means a contractual agreement for the purpose of Abatement during a Tax Abatement Period between (i) an Owner and/or a Lessee of eligible property and (ii) a taxing authority.

C. "Applicant" means the Owner and/or Lessee who submits an Application to the County in accordance with these Guidelines and Criteria.

D. "Application" means the written application and all related materials submitted to the County by the Applicant to request an Abatement hereunder.

E. "Base Year Value" means the taxable value of the Applicant's real and Personal Property of a type eligible for Abatement (which excludes inventory and supplies) located in a designated reinvestment zone on January 1 of the year of the execution of the Agreement.

F. "Capital Cost" means the amount expended by the Owner or Lessee, as the case may be, on or after the date of the applicable Agreement on eligible Improvements to Real Property or acquisition of eligible Personal Property needed to commence a Project or operations. Capital Cost expressly excludes amounts expended by the County or other governmental entities and any amounts expended with respect to ineligible property.

G. "Commissioners Court" means the elected governing body of the County.

H. "County" means the County of Hidalgo, a political subdivision of the State of Texas.

I. "Economic Life" means the number of years a property qualifies for depreciation under the Internal Revenue Service Code (Section 168) Modified Accelerated Cost Recovery System, which may be extended in the discretion of the County, upon evidence presented by the Applicant as to the expected Productive Life of the property.

J. "Eligible Education Facility" means new, expanded or modernized buildings and structures, including fixed machinery and equipment, which, when constructed or completed, will be leased to a public school district, community college district, or state-supported institution of higher education, for the entire term of the proposed Abatement, and which will contribute to the economic development of the County.

K. "Eligible Facility" means a new, expanded or modernized building, structure or related buildings and structures, including fixed machinery and equipment, which is reasonably likely as a result of granting Abatement to contribute to the retention or expansion of Primary Employment or to attract major investment in the reinvestment zone that would be a benefit to the property and that would contribute to the economic development of the County, but does not include a Facility, other than a utility, which is intended primarily to provide goods or services to residents or existing businesses located in the County such as, but not limited to, a restaurant or a retail sales establishment.

L. "Existing Project" means any Project for which there is an Agreement in existence between the County and an Owner and/or a Lessee with respect to which the Tax Abatement Period has not expired

M. "Expansion" means the addition of buildings, structures, fixed machinery, and/or equipment for the purpose of increasing production capacity or revenues.

N. "Extraordinary Impact" means a Project where the Capital Cost is at least equal to \$25,000,000.00 or which creates at least 500 Jobs.

O. "Facility" means property Improvements, including eligible Personal Property, completed or in the process of construction which together comprise an integral whole.

P. "Guidelines and Criteria" mean these guidelines and criteria for granting Abatement in the County.

Q. "Improvement" means a building, structure, fixture, or fence erected on or affixed to land, or a transportable structure designed to be occupied for residential or business purposes, whether or not it is affixed to land, if the owner of the structure owns or leases the land on which it is located, unless the structure is unoccupied and held for sale or normally is located at a particular place only temporarily.

R. "Initial Period" has the meaning set forth in Section III(G)(1)b below.

S. "Job" means a permanent, full-time employment position, hired directly or contracted through another entity, that has provided or will result in employment of at least 1,820 hours in the position in a year. Any position providing less than the specified number of hours a year, regardless of the employer's designation of such position, does not qualify as a "Job" for purposes of these Guidelines and Criteria.

T. "Lessee" means the tenant who is occupying and operating or will occupy and operate an Eligible Facility under a legally binding lease agreement with a Lessor. A lessee of Real Property on which the Eligible Facility exists or is constructed may also own the Facility.

U. "Lessor" means the owner of an Eligible Facility or of the Real Property on which an Eligible Facility is located that has a binding lease with a Lessee who will occupy and operate the Facility.

V. "Modernization" means the replacement and upgrading of existing Facilities which increase the productive input or output, updates the technology, or substantially lowers the unit costs of operation, and extends the economic life of the Facility. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery, or equipment. It will not be for the purpose of renovation, reconditioning, refurbishing, repairing, or completion of deferred maintenance, except in reinvestment zones established based on conditions of economic impairment.

W. "New Facility" means a Facility on Real Property previously undeveloped, which is placed into service by means other than Expansion or Modernization.

X. "Newly Created Value" means the difference between the Taxable Property Value in the base year and the Taxable Property Value at the time the value is being newly calculated.

Y. "Owner" means the owner of Real Property on which an Eligible Facility is or will be located, who may also be the Lessor. Where the context requires, "Owner" means the owner of the Eligible Facility, who is the lessee of Real Property on which the Eligible Facility is or will be located; provided that a specific definition or other provision to the contrary in an Agreement controls over this sentence.

Z. "Personal Property" means property that is not Real Property, and consists of intangible and tangible personal property. Intangible Personal Property means a claim, interest (other than an interest in tangible property), right, or other thing that has value but cannot be seen, felt, weighed, measured, or otherwise perceived by the senses, although its existence may be evidenced by a document. It includes a stock, bond, note or account receivable, certificate of deposit, share account, share certificate account, share deposit account, insurance policy, annuity, pension, cause of action, contract, and goodwill. Tangible Personal Property means Personal Property that can be seen, weighed, measured, felt, or otherwise perceived by the senses, but does not include a document or other perceptible object that constitutes evidence of a valuable interest, claim, or right and has negligible or no intrinsic value.

AA. "Primary Employment" means retention or creation of new Jobs for residents of the County as a result of new, expanded or modernized building Projects.

BB. "Prior Application" has the meaning set forth in Section IV(A)(12)(a)(i) below.

CC. "Productive Life" means the number of years a property Improvements is expected to be in service in a Facility.

DD. "Project" means the proposed planned undertaking consisting of New Facilities and/or Modernization of Existing Facilities for which Abatement is requested.

EE. "Real Property" means land, Improvements, a mine or quarry, minerals in place, standing timber; or an estate, other than a mortgage or deed of trust creating a lien on property or an interest securing payment or performance of an obligation, in a property enumerated above.

FF. "Reinvestment Zone" is (i) an area designated as such for the purpose of Abatement as authorized by the Property Redevelopment and Tax Abatement Act, Sections 312.401 or 312.201 of the Texas Tax Code or (ii) an area designated as an enterprise zone under

Chapter 2303 of the Texas Government Code as authorized by the Property Redevelopment and Tax Abatement Act, Section 312.4011 of the Texas Tax Code.

GG. "Supplemental Project" means any Project that is an expansion of an Existing Project onto additional Property. Supplemental Projects must qualify as a Project without taking into account the related Existing Project, but may have different terms as set forth in Section III.G.(1) below.

HH. "Tax Abatement Period" means the period not exceeding ten years commencing on the January 1<sup>st</sup> occurring after execution of the Agreement or such later January 1<sup>st</sup> in accordance with these Guidelines and Criteria as is specified in the Agreement.

II. "Taxable Property Value" means the value of the Property being valued as determined by deducting from the assessed value of such Property, as recorded by the Hidalgo County Appraisal District, the amount of any applicable exemption as defined by the Texas Property Tax Code.

### **III. Abatement Authorized**

A. Eligible Facilities. Abatement may be granted for New Facilities and for Expansion or Modernization of Existing Facilities. The Economic Life of a Facility and/or eligible property must exceed the duration of the Abatement.

B. Eligible Property. Abatement may be applied to both Real and Personal Property used at an Eligible Facility for business purposes, excluding all ineligible property.

C. Ineligible Property. The following types of property will be fully taxable and ineligible for Abatement: (i) land, (ii) inventory, supplies, tools, furnishings and other forms of moveable Personal Property, (iii) housing, (iv) deferred maintenance, and (v) property to be rented or leased except as provided in subsection E. of this Section III. No reference to property (real or personal) herein shall be deemed to incorporate any ineligible property into any calculation of investment or Abatement.

D. New Value. Abatement may only be granted for the Newly Created Value of eligible property Improvements made subsequent to and specified in an agreement between the County and the Owner and/or Lessee, subject to such limitations as the County may impose.

E. Leased Facilities. If a leased Facility is granted Abatement, the agreement will be executed by the Lessee and, if required by the County, by the Lessor. If the County requires both Lessee and Lessor to be parties to the agreement, the agreement will not be in effect unless both Lessee and Lessor execute the agreement.

F. Eligibility Criteria. In order to be considered for Abatement, eligible Facilities must be located in a reinvestment zone and result in a minimum added value of \$1,500,001 in real and business Personal Property or the creation of at least 26 full-time Jobs.

G. Criteria and Value of Abatement. Abatement may be granted for eligible Facilities on all or a portion of the Newly Created Value of eligible property according to the following:

- (1) An Owner and/or Lessee, as the case may be, of Real Property where an Eligible Facility is located prior to the inception of the Project subject to an agreement or on which an Eligible Facility will be constructed as part of the Project, must agree to expend a designated sum of money as the Capital Cost of the Project and/or provide a certain number of Jobs in order to qualify for an Abatement and must expend at least the sum agreed to as the Capital Cost of the Project and provide at least the agreed number of Jobs in accordance with the agreement in order to receive such Abatement.
  - (a) General. Except with respect to Extraordinary Impact Projects in which subsection III.G.(1)(b) below applies and Supplemental Projects, the percent of value to be abated will be determined by the greater percentage for which the Project qualifies as set forth below based on the Capital Cost expended by the Owner and/or Lessee, as the case may be, in the Project or the number of Jobs created:

Percent of Increase in Property Value to be Abated	Capital Cost of the Project	Number of Jobs Created
0%	Less than \$1,500,001	0 – 25
25%	\$1,500,001 up to and including \$5,000,000	26 – 50
50%	Over \$5,000,000 up to and including \$10,000,000	51 – 100
80%	Over \$10,000,000	101 or more

- (b) Extraordinary Impact Projects. The Owner and/or Lessee may, in lieu of the schedule set forth in subsection (a) above, opt for the following provisions if the Capital Cost is at least equal to \$25,000,000.00 or the Project creates at least 500 Jobs:

**Percent of Increase in  
Property Value to be Abated**

**During Year of  
Tax Abatement Period**

100%  
90%  
80%  
70%  
60%  
50%  
40%

Initial Period  
First Year after Initial Period  
Second Year after Initial Period  
Third Year after Initial Period  
Fourth Year after Initial Period  
Fifth Year after Initial Period  
Sixth and subsequent Years after  
Initial Period

The "Initial Period" is the first one to four years of the Tax Abatement Period, determined as follows: the Initial Period commences on the January 1 following execution of the Agreement (or such later January 1 as may be agreed to in the Agreement, provided such January 1 is not more than 3 years after execution of the Agreement) and ends on the earlier of the fourth December 31 occurring after such January 1 and the December 31 occurring after substantial completion of construction of Improvements. Regardless of the length of the Initial Period, the Tax Abatement Period shall not exceed ten years. The Owner or Lessee (or both if both are parties to the Agreement) must make such election in the Agreement. In the event the parties have opted for this provision but it is later determined that the actual Capital Cost or Jobs do not qualify for this provision, the provisions of subsection (a) above will apply in lieu of the provisions of this subsection (b) and any taxes abated prior to the determination that this provision was inapplicable in excess of the amount that would have been abated pursuant to subsection (a) above shall be immediately recaptured and paid by Owner and/or Lessee.

- (c) Supplemental Projects. With respect to Supplemental Projects, the percent of value to be abated will be determined by the County and shall not exceed the greater percentage for which the Supplemental Project qualifies as set forth below based on the Capital Cost expended by the Owner and/or Lessee, as the case may be, in the Supplemental Project or the number of Jobs created:

Maximum Percent of Increase in Property Value to be Abated	Capital Cost of the Project*	Number of Jobs Created*
0%	Less than \$1,500,001	0 – 25
25%	\$1,500,001 up to and including \$5,000,000	26 – 50
50%	Over \$5,000,000 up to and including \$10,000,000	51 – 100
80%	Over \$10,000,000	101 or more

\*In the event of any irreconcilable dispute between the parties as to the allocation of Jobs and Capital Cost between an Existing Project and the related Supplemental Project, the County will make the final determination as to such allocation.

- (2) Only the Newly Created Value will be eligible for Abatement. The applicable percentage set forth in subsection (G)(1) of this Section III (based on whether the Capital Cost of the Project or Job creation results in a higher percentage and whether, if applicable, the Extraordinary Impact provision was opted for in the Agreement) is applicable only to the Newly Created Value of Real Property at the Eligible Facility and of Personal Property owned by the Owner or the Lessee at the Eligible Facility as determined by the Hidalgo County Appraisal District and these Guidelines and Criteria.
- (3) The length of the Tax Abatement Period shall not exceed ten (10) years. The Tax Abatement Period shall start on a January 1 not later than the later of (i) the third January 1 occurring after the successful completion of the development, redevelopment or Improvements of the Project as specified in the Agreement or (ii) the fourth January 1 occurring after execution of the Agreement. The Abatement of the Real and Personal Property during the Tax Abatement Period shall only be received to the extent its Taxable Property Value for that year exceeds its Taxable Property Value for the year in which the Agreement is executed, such that only Newly Created Value will be abated.
- (4) As an additional incentive to create and sustain Jobs, any Abatement based upon Job creation will be subject to increases or decreases in subsequent tax years based on the level of Jobs added or lost. For example, a Project that initially creates thirty (30) Jobs is eligible for a 25% Abatement. In the second year of the Tax Abatement Period, if twenty-one (21) additional Jobs are added, the Abatement will then increase to 50% (although such increased Abatement shall not apply retroactively), and so on as Jobs are created during the Tax Abatement Period. Conversely, if Jobs are reduced, the percent of Abatement will also be reduced.

- (5) With respect to any Abatement based upon Capital Cost, the percent of value to be abated may qualify for increases in subsequent tax years based upon additional capital Improvements. For example, a Project that initially has a Capital Cost of \$2,500,000.00, is eligible for 25% Abatement. In the second year of the Tax Abatement Period, if additional qualifying capital Improvements are made in the total amount of \$3,000,000, the Abatement may then increase to 50% upon Commissioners' Court approval (although such increased Abatement shall not apply retroactively).
- (6) Improvements, Expansions or Modernizations must not be expected to solely or primarily have the effect of transferring employment from one part of the County to another part of the County.
- (7) The Project must be expected to prevent the loss of payroll or retain, increase or create payroll on a permanent basis in the County

H. Standards of Tax Abatement. The following factors, among others, will be considered in determining whether to grant Abatement and, if so, the percentage of value to be abated and duration of Abatement.

- (1) value of land and existing Improvements, if any;
- (2) type and value of proposed Improvements;
- (3) Productive Life of proposed Improvements;
- (4) number of existing Jobs to be retained by proposed Improvements;
- (5) number and type of new Jobs to be created by proposed Improvements;
- (6) whether the new Jobs to be created will be filled by persons residing within the County;
- (7) amount property tax base valuation will be increased during term of Abatement, which will include a definitive commitment that (i) such increase in valuation will not in any case be less than \$1,500,001, or (ii) no less than 26 Jobs will be created;
- (8) the costs to be incurred by the County to provide facilities or services directly resulting from the new Improvements;
- (9) the amount of ad valorem taxes to be paid to the County during the Tax Abatement Period considering (a) the existing values, (b) the percentage of new value abated, (c) the Tax Abatement Period, and (d) the value after expiration of the Tax Abatement Period;

- (10) the types and values of public improvements, if any, to be made by the Applicant seeking Abatement;
- (11) whether the proposed Improvements compete with existing businesses to the detriment of the local economy;
- (12) the impact on the business opportunities of existing businesses;
- (13) the attraction of new businesses to the area;
- (14) whether the Project is environmentally compatible with no adverse impact on quality of life, including whether the Project or portions thereof will meet U.S. Green Building Council Leadership in Energy and Environmental Design Program (LEED) Standards/Certification; and
- (15) whether the Real Property is in an improvement project financed by tax increment bonds.

Each Eligible Facility will be reviewed on its merits utilizing the factors provided above. After such review, Abatement may be entirely denied or may be granted to the extent deemed appropriate after full evaluation.

I. In addition to other Abatements authorized hereunder, Abatement may be granted for an Eligible Education Facility as provided in this subsection I. The provisions of subsections III. G.(1), G.(2) (excluding the first sentence), G.(4), G.(5), and H.(7), of these Guidelines and Criteria will not apply to Abatements for Eligible Education Facilities. The term of the Abatement for an Eligible Education Facility will be established by the Commissioners Court at the time the Abatement is granted, but in no event will exceed the maximum term permitted under the Texas Tax Code.

#### **IV. Procedural Guidelines**

A. Preliminary Application Steps: Any person, organization, corporation or other entity meeting the Abatement guidelines may request Abatement by contacting the County Judge's Office Economic Development Division and filing a written Application with the County in conformance with the following procedural guidelines. Consideration will be given to written requests from Applicants for the confidentiality of proprietary information, consistent with state law, including without limitation Section 312.003 of the Texas Tax Code and Section 552 of the Texas Government Code.

- (1) An Application form approved by the County and in the form attached to these Guidelines and Criteria must be completed and submitted to the appropriate office or any other office or official designated by the

County, with all of the information and documents specified therein and herein, prior to commencement of construction, alterations, or installation of Improvements related to a proposed Modernization, Expansion or new Facility by the Applicant. Commencement of construction is considered to have taken place when any one of the following has occurred:

- (a) If more than ninety days has passed since an Abatement Agreement with the municipality has been executed (if applicable);
- (b) If a building permit has been issued for construction not associated with mitigating an environmental hazard;
- (c) If the Project's site has been cleared and prepared for development;
- (d) If construction (including renovations or tenant finish-out) has begun;
- (e) If site specific infrastructure has begun to be installed; or
- (f) If equipment, inventory, or employees have been relocated to the new site.

**A complete Application, with all of the information and documentation specified therein and herein, must be submitted to the appropriate office or any other office or official designated by the County no later than October 1, in order to have an Agreement considered and executed in the same year that the Application is submitted to the County.**

- (2) The Application will require such financial and other information as may be deemed appropriate for evaluating the financial capacity of the Applicant. This may include an economic feasibility study including a detailed list of estimated Improvements costs, a description of the methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred, and historical financial statements and statements of revenues, expenses, net income and cash flow for the first five years of the Project, which have been audited, reviewed or compiled by a certified public accountant.
- (3) Applicant will prepare a descriptive list of the eligible Improvements for which Abatement is requested. This will include the class life of the Improvements based on the Internal Revenue Service Code (Section 168) Modified Accelerated Cost Recovery System and, if applicable,

any documentation supporting a longer Economic Life of such Improvements.

- (4) Applicant will prepare a plat or map showing the precise location of the property, location of proposed Improvements, all roadways within five hundred feet (500') of the site, and all existing land uses and zoning within five hundred feet (500') of the site. The correct legal description of the Real Property must be provided.
- (5) Applicant will address all criteria outlined in Section III.H. of these Guidelines and Criteria in letter format. In the case of a Modernization or Eligible Facility, Applicant will also include a statement of the Facility's current property value, stated separately for Real and Personal Property.
- (6) Applicant will prepare a time schedule for undertaking and completing the planned Improvements.
- (7) Applicant will provide a tax certificate verifying that no taxes are past due on Applicant's (and, if Applicant is not the Owner of the Real Property or Facility, the Owner's) property located within the proposed reinvestment zone; provided, however, that with respect to Extraordinary Impact Projects where Applicant is not the Owner of the Real Property on which the Facility is or will be located, Commissioners Court may opt to limit the Real Property for which such certificates are required if deemed appropriate under the circumstances.
- (8) Applicant will provide a copy of the underlying lease if Applicant is a Lessee of the Facility.
- (9) Applicant will provide a copy of the contract between the Applicant and any employment agency acting as the employer of the employees of eligible Jobs pursuant to such contract.
- (10) Applicant will provide copies of the immediately preceding quarterly reports filled with the Texas Workforce Commission, documenting the current number of permanent full time employees.
- (11) Applicant will provide a current copy of any Enterprise Zone Map identifying the property location.
- (12) Applicant shall pay to the County a non-refundable application fee of \$1,000 at the time of submission of the Application unless
  - (a) the Applicant meets all of the following criteria:
    - (i) during the twelve months immediately preceding the submission of the Application, the Applicant submitted an

Application for an Abatement to the County (the "Prior Application");

- (ii) during such twelve month period, the Applicant paid the \$1,000 fee to the County with respect to the Prior Application;
  - (iii) neither the Applicant nor any other party has received or will receive any Abatement with respect to such Prior Application; and
  - (iv) the Commissioners Court deems such new Application to be substantially similar to the Prior Application; or
- (b) the total Abatement that the Applicant is requesting is less than and capped at (i) \$1,000 per year and/or (ii) \$10,000 in the aggregate over the life of the Abatement.

Applicant understands and, by submitting an Application agrees, that such fee is to partially offset the County's expenses in reviewing the Applicant's Application and shall not be refunded in the event the Application is withdrawn by Applicant or denied by the County. Applicant will submit along with the Application a copy of the receipt issued from the Hidalgo County Treasurer evidencing payment of the application fee.

B. Application Review Steps: Upon receipt of a completed Application, the County will distribute copies of the Application to the appropriate County departments for internal review and comments. The County may request additional information as needed to determine Applicant's eligibility for Abatement according to Sections III A., B. and F and to review the factors set forth in Section III.H.

#### C. Timing Provisions.

- (1) Notwithstanding any provision to the contrary in Sections IV or V of these Guidelines and Criteria, to the extent allowable under applicable law, the Commissioners Court in its discretion may:
  - (i) allow additional time for compliance with the requirements in Sections IV and V of these Guidelines and Criteria with respect to any Applications received after October 1 of the calendar year and may consider, approve and enter into an Agreement during the calendar year in which the Application was received after October 1 if the Commissioners Court in its discretion determines the County had adequate time to review and consider the Application and the Agreement, and

- (ii) consider and approve an Abatement and enter into an Agreement prior to receipt of all required information, provided that if such Abatement is granted the Agreement requires the Owner and/or Lessee, as the case may be, to comply with any such provisions within thirty days of the date of the Agreement and allows the County to terminate the Agreement in the event any conditions in the Agreement are not timely met.
- (2) Provided commencement of construction as defined in Section IV.A.(1) above has not occurred prior to submission of the complete Application as set forth herein, the commencement of construction by (x) the taking of actions specified in Section IV.A.(1)(a-c) above by the Owner and/or Lessee or (y) the taking of any of the actions specified in Section IV.A.(1)(a-e) above by the Owner and/or Lessee after approval by the Commissioners Court of an Agreement but prior to execution of the Agreement shall not be a bar to the County subsequently executing the Agreement based on these Guidelines and Criteria and the terms approved by the Commissioners Court with the Owner and/or Lessee, as applicable; provided that (i) with respect to any such activity undertaken prior to Commissioners Court granting of an Abatement that the Abatement may not be granted at the discretion of the Commissioners Court and (ii) that the Applicant, Owner and/or Lessee, as the case may be, commence activity related to the Project at their own risk, and with respect to (y) above, in the event, prior to execution of the Agreement, any discrepancy or dispute over the terms of the Agreement arise that the Commissioners Court retains its discretion to not enter into such Agreement. For purposes of this subsection (2), a complete Application is an Application that, in the opinion of the County, meets all of the requirements of the Guidelines and Criteria excluding only any additional materials requested by the County but not expressly specified in the Guidelines and Criteria.

## **V. Consideration of Application and Adoption of Agreement**

A. When the County considers an Abatement request, it will consider the feasibility and impact of the proposed Abatement by making an estimate of the economic effect of the Abatement of taxes and the benefit to the property to be covered by the Abatement and to the taxing authorities involved.

B. In accordance with Section 312.401(b) of the Texas Tax Code, the Commissioners Court may not designate an area as a reinvestment zone until it holds a public hearing on the designation and finds that the designation would contribute to the retention or expansion of Primary Employment or would attract major investment in the reinvestment zone that would be a benefit to the property to be included in the reinvestment zone and would contribute to the economic development of the County. At the hearing, interested

persons are entitled to speak and present evidence for or against the designation. Not later than the seventh day before the date of the hearing, the Commissioners Court will give notice of the hearing in accordance with Sections 312.401(b) and 312.201(d) of the Texas Tax Code. Pursuant to Section 312.4011, designation of an area as an enterprise zone under Chapter 2303, Texas Government Code, constitutes designation of the area as a reinvestment zone without further action by the County.

C. (1) The Commissioners Court may consider adoption of an Order approving the execution of an Agreement between the County and the Applicant governing the provision of the Abatement within the reinvestment zone only after the Applicant has forwarded all necessary information and documentation to the County. The County will notify the Applicant of approval or disapproval in writing as soon as such action has occurred. The County will not approve an Agreement if it finds that the request for the Abatement was filed after the commencement of construction, alterations, or installation of Improvements related to a proposed Modernization, Expansion or New Facility by the Applicant except as provided in subsection V.C.(2) below. Any Improvements performed by a taxing entity in anticipation of a Project will not be subject to this subsection C(1).

(2) The decision to provide any Abatement will be considered on a case by case basis, in accordance with these Guidelines and Criteria, and at the discretion of the Commissioners Court who, with respect to Applicants concerning Projects of Extraordinary Impact may waive Subsection IV(A)(1)(b) if reasonable proof is shown of why the waiver is needed and of the benefit to the County of granting the Abatement.

D. Not later than the seventh day before the date on which the County enters into an Agreement, the County will deliver, as provided by Section 312.2041 of the Tax Code, to the presiding officer of the governing body of each other taxing unit in which the property to be subject to the Agreement is located a written notice that the County intends to enter into the Agreement. The notice will include a copy of the proposed Agreement.

E. The governing bodies of the appropriate taxing authorities may consider ratification of and participation in the Agreement between the County and the Applicant.

F. After approval, the County will formally pass an Order and execute an Agreement with the Owner and/or Lessee of the Facility as required. Such Agreement prior to execution will be reviewed by legal counsel for the County and the Owner and/or Lessee, as applicable. Such Agreement shall be subject to the rights of holders of outstanding bonds of the County and shall be entered into by the County on the condition that the Owner and/or the Lessee, as applicable, makes specific Improvements or repairs to the property. Except as otherwise specified in these Guidelines and Criteria, the Abatement in each Agreement shall take effect on January 1 of the next tax year after the date the Improvements or repairs are substantially completed. Each Agreement must include the terms required under Section 312.205 or the Texas Tax Code and will address various issues, including, but not limited to, the following:

- (1) General description of the Project;
- (2) The percent of value to be abated each year;
- (3) Estimated value of the Abatement including the Base Year Value;
- (4) Duration of the Abatement, including the commencement date and the termination date;
- (5) Legal description of the Real Property;
- (6) Kind, number, location and timetable of planned Improvements;
- (7) Specific terms and conditions to be met by Applicant;
- (8) The proposed use of the Facility and nature of construction;
- (9) A plat or map showing the precise location of the Real Property, including the location within the enterprise zone and Improvements and proposed Improvements on the Real Property;
- (10) Contractual obligations in the event of default, violation of terms conditions, delinquent taxes, recapture, administration and assignment; and
- (11) Size of investment and average number of new Jobs created.

## **VI. Denial of Abatement**

A. All eligible Applications for Abatement will be considered on a case-by-case basis and except for the instances set forth in Section VI.B. herein, the decision to approve or deny Abatement will be made at the discretion of the Commissioners Court in accordance with these Guidelines and Criteria.

B. The Commissioners Court shall not authorize either a reinvestment zone or an Agreement if it is determined that:

- (1) there would be an adverse impact on the provision of government service or tax base;
- (2) the Applicant has insufficient financial capacity to complete the Project;
- (3) planned or potential use of the property would constitute a hazard to public safety, health or morals;

- (4) violation of other codes or laws exist;
- (5) the property is in an improvement project financed by tax increment bonds; or
- (6) there exists any other reason that is deemed appropriate by the Commissioners Court.

C. Nothing herein will imply or suggest that the County is under any obligations or duty to provide Abatement to any eligible Applicant, or that any Applicant has an entitlement to Abatement except as may be determined on a case-by-case basis by the Commissioners Court.

### **VII. Taxability**

From the execution of the Agreement to the end of the Tax Abatement Period, taxes will be payable as follows:

- (a) The value of ineligible property will be fully taxable;
- (b) The Base Year Value of existing eligible property as determined each year will be fully taxable;
- (c) The additional value of eligible property will be taxable in the manner and for the period provided for in the Agreement; and
- (d) The additional value of eligible property will be fully taxable at the end of the Tax Abatement Period.

### **VIII. Recapture**

A. The County will be entitled to terminate the Agreement and shall recapture all or part of the taxes abated, upon the occurrence of one or more of the following events:

- (1) If the Owner or Lessee fails to commence operation of the Facility and the provision of the applicable product or service within the time provided in the Agreement.
- (2) If, at any time after commencement of operation of the Facility, the Owner or Lessee voluntarily ceases to produce a product or service at the Facility or to otherwise operate the Facility for a continuous period of one (1) year or, with respect to Extraordinary Impact Projects in which the Agreement so provides, eighteen (18) months;

- (2) If the Owner or Lessee allows its ad valorem taxes owed to the County to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest;
- (3) If the Owner or Lessee relocates the Job creating activity outside the reinvestment zone;
- (4) Upon the Owner's or Lessee's breach of the Agreement;
- (5) As the County and the Owner and/or Lessee may otherwise agree in the Agreement; or
- (6) In the case of an Abatement for an eligible educational Facility, the educational institution named in the Agreement terminates the lease on the property or otherwise ceases to use and occupy the property for educational purposes, and the property Owner fails to secure a new tenant that qualifies the Facility for continued Abatement under these Guidelines and Criteria within one hundred twenty (120) days of the expiration or other cessation of the use of the property for educational purposes.

B. Should the County determine that a party is in default according to the terms and conditions of the Agreement, the County will notify the party in writing at the address stated in the Agreement, and if such default is not cured within the applicable Cure Period (as defined below), then the Agreement may be terminated by the County pursuant to an Order adopted by the Commissioners Court as set forth in C below. The Cure Period is thirty (30) days from the date of the notice, or if so provided in the Agreement with respect to any Extraordinary Impact Project sixty (60) days and, if further provided in the Agreement, ninety (90) days with respect to a default caused by a force majeure event as such event is defined in the Agreement.

C. The County by an Order adopted by the Commissioners Court will have the right to terminate the Agreement and shall recapture all or a part of the abated taxes based on the following schedule and formula:

**RECAPTURE SCHEDULE**

<i>YEAR OF TAX ABATEMENT PERIOD IN WHICH RECAPTURE EVENT OCCURS</i>	<i>COUNTY WILL RECAPTURE FOLLOWING PERCENTAGE OF TOTAL TAXES PREVIOUSLY ABATED:</i>
1-5	100%
6	85%
7	75%
8	65%
9	55%
10	45%

**FORMULA:** The Recapture Formula Will Be:

$$\text{Total Taxes Abated} \quad \times \quad \text{Applicable Percentage} \quad = \quad \text{Amount to be} \\ \text{from above schedule} \quad \quad \quad \text{Recaptured}$$

D. A Lessee or Owner who is a party to an Agreement that has been terminated or pursuant to which abated taxes have been ordered to be recaptured may appeal the Commissioners Court decision recapturing or terminating the Agreement. In order to make an appeal, the party to the Agreement must submit, within thirty (30) days of the Order by Commissioners Court recapturing or terminating the Agreement, a written notice to the County and to any other party to the Agreement specifying the grounds on which the party will be appealing the decision and requesting that the matter of the appeal be placed on the Commissioners Court agenda for the next Commissioners Court meeting occurring not less than three days following receipt by the County of the written request. The party appealing the decision may appear at the Commissioners Court meeting to discuss the appeal.

### **IX. Administration**

A. Access to Facility. Each Agreement will stipulate that employees and/or designated representatives of the County will have access to the Facility during the term of the Agreement to inspect the Facility to determine if the terms and conditions of the Agreement are being met. The County may execute a contract with any other jurisdiction(s) to conduct such inspections of the Facility. All inspections will be conducted in a manner as to not unreasonably interfere with the construction and/or operation of the Facility; provided, however that the County may conduct "spot" inspections requiring no advance notification (unless appropriate personnel are usually not onsite at the Facility to allow safe access to the Facility and due to safety concerns escorts are needed for County personnel, in which event the Agreement shall provide for notice and for the Owner and/or Lessee to provide escorts on a timely basis). All inspections will be made with one or more representatives of the Owner, Lessor or Lessee, and in accordance with such party's safety standards.

B. Reports, Audits and Inspections: Owners and Lessees of Facilities for which Abatement is granted will annually certify to taxing authorities that they are in compliance with the terms of the Agreement. In addition, such Owners and Lessees will provide reports and records reasonably necessary to support each year of the Agreement. Such reports and records will include information supporting Job creation and retention requirements, information on property purchases, and status reports on the Project's progress. Reports supporting Job creation and retention shall include Texas Workforce Commission Reports (all Social Security numbers must be redacted prior to submitting such reports to the County) submitted to the State Comptroller on a quarterly basis and a breakdown of all Jobs with total annual hours per Job. Upon completion of a Project, Owners and/or Lessees, as applicable, will provide taxing authorities with a final report

(i) describing all property for which Abatement is granted, (ii) providing documentation of the final Capital Cost and (iii) certifying the number of Jobs created. This final report will be accompanied by the opinion of an independent certified public accountant as to its accuracy and completeness. Taxing authorities will periodically evaluate each Facility receiving Abatement to ensure compliance with the Agreement and report possible violations of the Agreement. Taxing authorities will have the right to audit the books and records related to the eligible property and supporting the eligible property reports.

C. Transfer or Assignment. An Agreement for Abatement may be transferred or assigned by the original Applicant to a new Owner/Lessor or Lessee of the same Facility only upon the approval of the Commissioners Court, which will not grant such approval without (i) sufficient proof of the financial capacity of the transferee or assignee and (ii) all conditions and obligations in the Agreement being guaranteed by the execution of a new Agreement with the County. No assignment or transfer will be approved if any party to the existing Agreement or any proposed new party is (i) liable to any jurisdiction in the County for outstanding taxes or other obligations or (ii) delinquent in the payment of ad valorem taxes to any taxing unit located in the County. Approval of a transfer or assignment will not be unreasonably withheld. In addition, the Agreement for Abatement for an Extraordinary Impact Project may allow for collateral assignment in connection with the financing of the Project without obtaining such approval; provided the assignee is not delinquent on any taxes to the County and the Owner, Lessor or Lessee, as applicable, provides written notice to the County within thirty (30) days.

## **X. Tax Abatement by Other Taxing Units**

A. Other Taxing Entities. Section 312.206(a) of the Tax Code allows the County, when a municipality has entered into an Agreement with an Owner and/or a Lessee, to enter into an Agreement with the same Owner and/or Lessee under different terms and conditions than those contained in the municipality's Agreement with the Owner and/or Lessee. When an Application for Abatement is originated with a taxing entity other than the County, the taxing entity desiring the County to provide Abatement to the same Applicant will cause the Applicant to file an Application requesting Abatement with the County and such Application will include the information requested by the County for Abatements originating with the County and shall also include a copy of the Agreement between the Applicant and the municipality or other taxing entity and such other documentation as may be requested by the County. Such Abatements will be considered in accordance with the provisions of these Guidelines and Criteria.

B. No obligation. The acceptance of an Application for Abatement will not be deemed as an obligation whatsoever of the County to grant any Abatement of taxes. Nothing in these Guidelines and Criteria or in any prior Abatement action by the County will obligate the County to provide Abatement to party.

C. Taxing Unit With Tax Rate Set by Commissioners Court. Pursuant to Section 312.004 of the Tax Code, in the event the Commissioners Court enters into an Agreement for the County, it may also enter into an Agreement applicable to the same property on behalf of

a taxing unit other than the County if by statute the ad valorem tax rate of the other taxing unit is approved by the Commissioners Court or the Commissioners Court is expressly required by statute to levy the ad valorem taxes of the other taxing unit. The Agreement entered into on behalf of the other taxing unit is not required to contain the same terms as the Agreement entered into on behalf of the County.

#### **XI. Sunset Provision**

These Guidelines and Criteria are effective upon the date of their adoption and will remain in force for two years unless amended by three-quarters vote of the Commissioners Court, at which time all reinvestment zones and Agreements created pursuant to these provisions will be reviewed to determine whether the goals have been achieved. Based on that review, the Commissioners Court may modify or renew these Guidelines and Criteria or enact new Guidelines and Criteria. The County reserves the right to allow these Guidelines and Criteria to lapse and to not thereafter adopt new Guidelines and Criteria.

#### **XII. Severability**

If any provision, section, subsection, sentence, clause, or phrase of these Guidelines and Criteria, or the amendments duly adopted hereto, or the application of the same to any person, entity, or set of circumstances, is for any reason held to be unconstitutional, void, voidable, invalid, or contrary to any existing or prospectively enacted law or statute, the validity and enforceability of the remaining part of these Guidelines and Criteria and amendments thereto will not be affected thereby.

**EXHIBIT**

**FORM OF TAX ABATEMENT APPLICATION**



# HIDALGO COUNTY APPLICATION FOR ECONOMIC INCENTIVE

## I. APPLICANT INFORMATION

Applicant Name: \_\_\_\_\_ Date of Application: \_\_\_\_\_  
Company/Project Name: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
\_\_\_\_\_ Mobile Phone: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Type of Entity:      Corporation      Partnership      Proprietorship  
                           Limited Liability Company      Other (Specify) \_\_\_\_\_  
State of Organization: \_\_\_\_\_

### Applicant's Representative for contact regarding abatement request:

Name and Title: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
\_\_\_\_\_ Mobile Phone: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_

### Property Owner Information (if applicant is not the owner of the property):

Property Owner: \_\_\_\_\_  
Mailing Address: \_\_\_\_\_ Office Phone: \_\_\_\_\_  
\_\_\_\_\_ Mobile Phone: \_\_\_\_\_  
E-Mail Address: \_\_\_\_\_ Fax Number: \_\_\_\_\_  
Type of Entity:      Corporation      Partnership      Proprietorship  
                           Limited Liability Company      Other (Specify) \_\_\_\_\_  
State of Organization: \_\_\_\_\_

Is there a lessee agreement between the owner and the applicant?      Yes      No  
If yes, what is the agreement termination date? \_\_\_\_\_

## II. TYPE OF INCENTIVE

\_\_\_ Tax Abatement                             \_\_\_ 381 Agreement

## III. PROPERTY AND PROJECT DESCRIPTION

Property Account Number(s): \_\_\_\_\_  
Address and legal description of property to be considered for Tax Abatement

\_\_\_\_\_  
\_\_\_\_\_  
Project Description: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**III. PROPERTY AND PROJECT DESCRIPTION (CON'T)**

Description of activities, products, or services produced and/or provided at project location:

Specify whether any portion of the property is within an established reinvestment zone or enterprise zone.

State the location of the reinvestment or enterprise zone.

Current Assessed Value:

Real Property \$ \_\_\_\_\_ Personal Property \$ \_\_\_\_\_

Estimated start date of construction/site improvements:

Projected date of occupancy/commencement of operations at project site:

Location of applicant's existing facilities:

Requested level of Tax Abatement: \_\_\_\_\_ % of eligible property for \_\_\_\_\_ years.

Explain why tax abatement is necessary for the success of this project. Include business pro-formas or other information to substantiate your request.

Is any tax currently being abated with respect to any portion of the property? [ ] Yes [ ] No

If yes, state the date the tax abatement was received.

Has tax abatement been granted by any other taxing entity? [ ] Yes [ ] No

If yes, what taxing entity is granting the tax abatement?

Will a tax abatement be requested for the project from any other taxing entities? [ ] Yes [ ] No

If yes, list the entities:

**IV. PROJECTED VALUE OF PROPOSED IMPROVEMENTS**

Estimated Value of Proposed Real Property Improvements \$ \_\_\_\_\_

Estimated Value of Proposed Personal Property Improvements \$ \_\_\_\_\_

Detail any direct benefits to Hidalgo County as a result of this project (i.e., inventory tax, etc.)

**V. PROJECTED NUMBER OF FULL-TIME JOBS CREATED**

**Current Company/Project Location Employment**

Current Number of Employees: Full-Time \_\_\_\_\_ Part-Time \_\_\_\_\_

Number of employees transferring from other company locations:

**New Employment of Hidalgo County Residents**

Are the employees direct hire or are they contracted by a third party employment agency?

[ ] Direct Hire [ ] Third Party Employment Agency [ ] Both

Projected number of new full-time jobs created as a result of the proposed improvements.

Provide types of jobs created and average salary levels.

**VI. ADDITIONAL INFORMATION (to be attached)**

Attach additional criteria for abatement as required by the Hidalgo County Guidelines and Criteria Section IV.

- \_\_\_\_\_ 1 Letter addressing section III (H) of the Hidalgo County Guidelines and Criteria.
- \_\_\_\_\_ 2 Descriptive list of the improvements for which abatement is requested. List will include the class life of the improvements based on the Internal Revenue Service Code (Section 168) Modified Accelerated Cost Recovery System.
- \_\_\_\_\_ 3 Description of methods of financing all estimated costs and the time when related costs or monetary obligations are to be incurred.
- \_\_\_\_\_ 4 A five year history of financial statements and statements of revenue, expenses, net income and cash flow for the last five years of the project which has been audited, reviewed, or compiled by a Certified Public Accountant.
- \_\_\_\_\_ 5 Plat/Map of Project Location with details as required by Section IV. (4).
- \_\_\_\_\_ 6 Project time schedule for undertaking and completing the planned improvements.
- \_\_\_\_\_ 7 Tax certificate verifying that no taxes are past due on property.
- \_\_\_\_\_ 8 Correct legal description of the real property.
- \_\_\_\_\_ 9 A copy of the underlying lease if applicant is a lessee of the facility.
- \_\_\_\_\_ 10 Include a current copy of the Reinvestment Zone Map and identify the property location within the map.
- \_\_\_\_\_ 11 Schedule showing the start date of annual payroll of new permanent positions, if applicable.
- \_\_\_\_\_ 12 Provide copies of the immediately preceding quarterly reports filed with the Texas Workforce Commission, documenting the current number of permanent full-time employees.
- \_\_\_\_\_ 13 Include a good standing certificate from the State of Texas, or the state where your company is organized.
- \_\_\_\_\_ 14 Include any existing tax abatement agreements with respect to any property in Hidalgo County,
- \_\_\_\_\_ 15 Include a check made payable to "Hidalgo County Treasurer" in the amount of \$1,000.

*Applicant understands and, by submitting an application agrees, that such fee is to partially offset the County's expenses in reviewing the Applicant's application and shall not be refunded in the event the application is withdrawn by Applicant or denied by the County.*

***In order to expedite the application process, all information listed above must be attached herein.***

I certify the information contained in this application (including all attachments) to be true and correct to the best of my knowledge. I further certify that I have read the "Guidelines and Criteria for granting tax abatements in Hidalgo County, Texas" and agree to comply with the guidelines and criteria stated therein. I further understand Hidalgo County may request additional information as deemed necessary to determine eligibility.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

**Attachment 17**

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

Please 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** ➔ Rene Gurierrez Superintendent  
Print Name (Authorized School District Representative)  
**sign here** ➔ *Rene Gurierrez* \_\_\_\_\_  
Signature (Authorized School District Representative)  
 Title \_\_\_\_\_  
 Date 6/13/18

**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** ➔ Milton Howard Vice President of Renewable Development  
Print Name (Authorized Company Representative (Applicant))  
**sign here** ➔ *Milton Howard* \_\_\_\_\_  
Signature (Authorized Company Representative (Applicant))  
 Title \_\_\_\_\_  
 Date 5/30/18



(Notary Seal)

GIVEN under my hand and seal of office this, the

30<sup>th</sup> day of May, 2018

Alexandria Alexis Hausman  
 Notary Public in and for the State of Texas

My Commission expires: 03.09.2021

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.