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

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by and between

RIO GRANDE CITY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

and

MESTENO WINDPOWER, LLC

(Texas Taxpayer ID # 32067447071)

Comptroller Application # 1271

Dated

December 19, 2018

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

STATE OF TEXAS §

COUNTY OF STARR §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this "Agreement," is executed and delivered by and between the **RIO GRANDE CITY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the "District," a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **MESTENO WINDPOWER, LLC,** Texas Taxpayer Identification Number 32067447071 hereinafter referred to as the "Applicant." The Applicant and the District are hereinafter sometimes referred to individually as a "Party" and collectively as the "Parties."

RECITALS

WHEREAS, on June 25, 2018, the Superintendent of Schools of the Rio Grande City Consolidated Independent School District, acting as agent of the Board of Trustees of the District, received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

WHEREAS, on June 25, 2018, the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCG (Local), and agreed to consider the Application;

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

WHEREAS, the District and the Texas Comptroller's Office have determined that the Application is complete and August 24, 2018 is the Application Review Start Date as that term is defined by 34 TEXAS ADMIN. CODE Section 9.1051;

WHEREAS, pursuant to 34 TEXAS ADMIN. CODE Section 9.1054, the Application was delivered to the Starr Appraisal District established in Starr County, Texas (the "Starr County Appraisal District"), pursuant to Section 6.01 of the TEXAS TAX CODE;

WHEREAS, the Texas Comptroller's Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on October 17, 2018, issued a certificate for limitation on appraised value of the property described in the Application and provided the certificate to the District;

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

WHEREAS, on December 19, 2018, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

WHEREAS, on December 19, 2018, the Board of Trustees made factual findings pursuant to Section 313.025(f) of the TEXAS TAX CODE, including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) the Applicant is eligible for the limitation on appraised value of the Applicant's Qualified Property; (iii) the project proposed by the Applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the District's maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25th anniversary of the beginning of the limitation period; (iv) the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in this State; and (v) this Agreement is in the best interest of the District and the State of Texas;

WHEREAS, on December 19, 2018, pursuant to the provisions of 313.025(f-1) of the TEXAS TAX CODE, the Board of Trustees waived the job creation requirement set forth in Section 313.051(b) of the TEXAS TAX CODE;

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

WHEREAS, on December 19, 2018, the Board of Trustees approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Board President and Secretary, or in the event the Board President and Secretary are unavailable or have disclosed a conflict of interest, the Board of Trustees has authorized the Board Vice President to execute and deliver such Agreement to the Applicant; and

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

ARTICLE I
DEFINITIONS

Section 1.1 DEFINITIONS. Wherever used in this Agreement, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEXAS ADMIN. CODE Section 9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEXAS ADMIN. CODE Section 9.1051.

"*Act*" means the Texas Economic Development Act set forth in Chapter 313 of the TEXAS TAX CODE, as amended.

"*Agreement*" means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented as approved pursuant to Sections 10.2 and 10.3.

"*Applicant*" means Mesteno Windpower, LLC, *(Texas Taxpayer ID #32067447071)* the entity listed in the Preamble of this Agreement and that is listed as the Applicant on the Application as of the Application Approval Date. The term "Applicant" shall also include the Applicant's assigns and successors-in-interest as approved according to Sections 10.2 and 10.3 of this Agreement.

"*Applicant's Qualified Investment*" means the Qualified Investment of the Applicant during the Qualifying Time Period and as more fully described in **EXHIBIT 3** of this Agreement.

"*Applicant's Qualified Property*" means the Qualified Property of the Applicant to which the value limitation identified in the Agreement will apply and as more fully described in **EXHIBIT 4** of this Agreement.

"*Application*" means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C of the TEXAS TAX CODE) filed with the District by the Applicant on June 25, 2018. The term includes all forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining an Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant.

"*Application Approval Date*" means the date that the Application is approved by the Board of Trustees of the District and as further identified in Section 2.3.B of this Agreement.

"*Application Review Start Date*" means the later date of either the date on which the District issues its written notice that the Applicant has submitted a completed Application or the date on which the Comptroller issues its written notice that the Applicant has submitted a completed Application and as further identified in Section 2.3.A of this Agreement.

"*Appraised Value*" shall have the meaning assigned to such term in Section 1.04(8) of the TEXAS TAX CODE.

"*Appraisal District*" means the Starr Appraisal District.

"*Board of Trustees*" means the Board of Trustees of the Rio Grande City Consolidated Independent School District.

"*Commercial Operation*" means the date on which the project becomes commercially operational, has installed or constructed Qualified Property on the Land having a value that equals or exceeds $30,000,000, and is able to generate electricity and is connected to the grid with an interconnection agreement.

"*Comptroller*" means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the Comptroller.

"*Comptroller's Rules*" means the applicable rules and regulations of the Comptroller set forth in Chapter 34 TEXAS ADMIN. CODE Chapter 9, Subchapter F, together with any court or administrative decisions interpreting same.

"*County*" means Starr County, Texas.

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

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

"*Force Majeure*" means those causes generally recognized under Texas law as constituting impossible conditions. Each Party must inform the other in writing with proof of receipt within sixty (60) business days of the existence of such Force Majeure or otherwise waive this right as a defense.

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

"*Maintain Viable Presence*" means (i) the operation during the term of this Agreement of the facility or facilities for which the tax limitation is granted; and (ii) the Applicant's maintenance of jobs and wages as required by the Act and as set forth in its Application.

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

"*New Qualifying Jobs*" means the total number of jobs to be created by the Applicant after the Application Approval Date in connection with the project that is the subject of its Application that meet the criteria of Qualifying Job as defined in Section 313.021(3) of the TEXAS TAX CODE and the Comptroller's Rules.

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

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

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

"*Qualifying Time Period*" means the period defined in Section 2.3.C, during which the Applicant shall make investment on the Land where the Qualified Property is located in the amount required by the Act, the Comptroller's Rules, and this Agreement.

"*State*" means the State of Texas.

"*Supplemental Payment*" means any payments or transfers of things of value made to the District or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the Agreement and that is not authorized pursuant to Sections 313.027(f)(1) or (2) of the TEXAS TAX CODE, and specifically includes any payments required pursuant to Article VI of this Agreement.

"*Tax Limitation Amount*" means the maximum amount which may be placed as the Appraised Value on the Applicant's Qualified Property for maintenance and operations tax assessment in each Tax Year of the Tax Limitation Period of this Agreement pursuant to Section 313.054 of the TEXAS TAX CODE.

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

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

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

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

"*Applicable School Finance Law*" means Chapters 41 and 42 of the TEXAS EDUCATION CODE, the Texas Economic Development Act (Chapter 313 of the TEXAS TAX CODE), Chapter 403, Subchapter M, of the TEXAS GOVERNMENT CODE applicable to District, and the Constitution and general laws of the State applicable to the school districts of the State for each and every year of this Agreement, including specifically, the applicable rules and regulations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State, and judicial decisions construing or interpreting any of the above. The term includes any and all amendments or successor statutes that may be adopted in the future that could impact or alter the calculation of Applicant's ad valorem tax obligation to District, either with or without the limitation of property values made pursuant to this Agreement. For each year of this Agreement, the "Applicable School Finance Law" shall be interpreted to include all provisions made applicable for any calculations made for the specific year for which calculations are being made.

"*Cumulative Unadjusted Tax Benefit*" means for each Tax Year of this Agreement, the Unadjusted Tax Benefit for such Tax Year added to the Unadjusted Tax Benefit for all previous Tax Years during the term of this Agreement.

"*Maintenance and Operations Revenue*" means (i) those revenues which the District receives from the levy of its annual ad valorem maintenance and operations tax pursuant to Section 45.002 of the TEXAS EDUCATION CODE and Article VII § 3 of the TEXAS CONSTITUTION, plus (ii) all State revenues to which the District is or may be entitled under Chapter 42 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, plus (iii) any indemnity payments received by the District under other agreements similar to this Agreement to the extent that such payments are designed to replace the District's Maintenance and Operations Revenue lost as a result of such similar agreements, minus (iv) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 41 of the TEXAS EDUCATION CODE, in each case, as any of the items in clauses (i), (ii), and (iv) above may be amended by Applicable School Finance Law from time to time, and plus or minus, as applicable, any other revenues, payments or amounts received or required to be reimbursed by the District from State and local funding for maintenance and operations purposes under Applicable School Finance Law, such that Maintenance and Operations Revenue shall be the net amount of all such revenues, payments or other amounts which the District is entitled to receive and retain from State and local funding for maintenance and operations purposes under Applicable School Finance Law.

"*M&O Amount*" means the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year

starting in the year of the Application Review Start Date and ending on the Final Termination Date as set forth in Section 4.2 of this Agreement.

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

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

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

ARTICLE II
AUTHORITY, PURPOSE AND LIMITATION AMOUNTS

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

Section 2.2. PURPOSE. In consideration of the execution and subsequent performance of the terms and obligations by the Applicant pursuant to this Agreement, identified in Sections 2.5 and 2.6 and as more fully specified in this Agreement, the value of the Applicant's Qualified Property listed and assessed by the County Appraiser for the District's maintenance and operation ad valorem property tax shall be the Tax Limitation Amount as set forth in Section 2.4 of this Agreement during the Tax Limitation Period.

Section 2.3. TERM OF THE AGREEMENT.

A. The Application Review Start Date for this Agreement is August 24, 2018, which will be used to determine the eligibility of the Applicant's Qualified Property and all applicable wage standards.

B. The Application Approval Date for this Agreement is December 19, 2018.

C. The Qualifying Time Period for this Agreement:

i. Starts on December 19, 2018, the Application Approval Date; and

ii. Ends on December 31, 2020, the last day of the second complete Tax Year following the Qualifying Time Period start date.

D. The Tax Limitation Period for this Agreement:

i. Starts on January 1, 2020, the first complete Tax Year that begins after the date of the commencement of Commercial Operation;

ii. Ends on December 31, 2029.

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

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

Section 2.4. TAX LIMITATION. So long as the Applicant makes the Qualified Investment as required by Section 2.5, during the Qualifying Time Period, and unless this Agreement has been terminated as provided herein before such Tax Year, on January 1 of each Tax Year of the Tax Limitation Period, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

A. the Market Value of the Applicant's Qualified Property; or

B. Thirty Million Dollars ($30,000,000), based on Section 313.054 of the TEXAS TAX CODE

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

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

A. have completed the Applicant's Qualified Investment in the amount of $30,000,000 during the Qualifying Time Period;

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

C. pay an average weekly wage of at least $ 573 for all New Non-Qualifying Jobs created by the Applicant.

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

A. provide payments to District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV;

B. provide payments to the District that protect the District from the payment of extraordinary education- related expenses related to the project, as more fully specified in Article V;

C. provide such Supplemental Payments as more fully specified in Article VI;

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

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

ARTICLE III
QUALIFIED PROPERTY

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

Section 3.2. LOCATION OF QUALIFIED PROPERTY AND INVESTMENT. The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described in **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes. The Parties expressly agree that the boundaries of the Land may not be materially changed from its configuration described in **EXHIBIT 2** unless amended pursuant to the provisions of Section 10.2 of this Agreement.

Section 3.3. DESCRIPTION OF QUALIFIED PROPERTY. The Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 4**, which is attached hereto and incorporated herein by reference for all purposes. Property which is not specifically described in **EXHIBIT 4** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Property for purposes of this Agreement, unless by official action the Board of Trustees provides that such other property is a part of the Applicant's Qualified Property for purposes of this Agreement in compliance with Section 313.027(e) of the TEXAS TAX CODE, the Comptroller's Rules, and Section 10.2 of this Agreement.

Section 3.4. CURRENT INVENTORY OF QUALIFIED PROPERTY. In addition to the requirements of Section 10.2 of this Agreement, if there is a material change in the Qualified Property described in **EXHIBIT 4**, then within 60 days from the date commercial operation begins, the Applicant shall provide to the District, the Comptroller, the Appraisal District or the State Auditor's Office a specific and detailed description of the tangible personal property, buildings, and/or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Land to which

the value limitation applies including maps or surveys of sufficient detail and description to locate all such described property on the Land.

Section 3.5. QUALIFYING USE. The Applicant's Qualified Property described in Section 3.3 qualifies for a tax limitation agreement under Section 313.024(b)(5) of the TEXAS TAX CODE as property used for renewable energy electric generation.

ARTICLE IV
PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES

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

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

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

A. Notwithstanding any other provision in this Agreement, the M&O Amount owed by Applicant to District for each Tax Year starting in the year of the Application Review Start Date and ending on the Final Termination Date means the Original M&O Revenue *minus* the New M&O Revenue.

B. In making the calculations required by this Section 4.2 of this Agreement:

i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law as that law exists for each year for which the calculation is made.

ii. For purposes of this calculation, the tax collection rate on the Applicant's Qualified Property will be presumed to be one hundred percent (100%).

iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue, as calculated under this Section 4.2 of this Agreement, results in a negative number, the negative number will be considered to be zero.

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

Notwithstanding anything contained in this Agreement to the contrary, for each Tax Year of the Tax Limitation Period (beginning with Tax Year 2020), amounts due to be paid by Applicant under this Article IV for any Tax Year during the Limitation Period shall not exceed an amount equal to One Hundred Percent (100%) of Applicant's Cumulative Unadjusted Tax Benefit under this Agreement. Beginning with the first Tax Year of the Tax Limitation Period (Tax Year 2020) and for each subsequent year of this Agreement through the third Tax Year after the end of the Tax Limitation Period (2032), any amounts due and owing by Applicant to the District pursuant to Article IV of this Agreement which, by virtue of the payment limitation set forth in this Section 4.2, were not paid in prior years, shall be carried forward and added to the amounts due pursuant to Articles IV for each subsequent Tax Year until paid. Payment obligations accruing in or before the third Tax Year after the end of the Tax Limitation Period (2032) shall survive the termination of this Agreement. Accrued but unpaid amounts that remain at the expiration of the third tax year following the end of the Tax Limitation Period shall be cancelled and not owed by Applicant. In no event shall the amounts paid by the Applicant, calculated under Article IV for each Tax Year, including unpaid amounts carried forward from prior years, be in excess of (i) an amount equal to One Hundred Percent (100%) of Applicant's Cumulative Unadjusted Tax Benefit under this Agreement from the first day of the Qualifying Time Period through the current Tax Year, less (ii) all amounts paid by Applicant for all previous Tax Years under Article IV of this Agreement. The amounts described in this Section 4.2. shall be included in all calculations made pursuant to Section 4.3.

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

Section 4.4. DATA USED FOR CALCULATIONS. The calculations for payments under this Agreement shall be initially based upon the valuations placed upon the Applicant's Qualified Investment and/or the Applicant's Qualified Property by the Appraisal District in its annual certified tax roll submitted to the District for each Tax Year pursuant to Texas Tax Code § 26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party selected under Section 4.3. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. All other data utilized by the Third Party to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party shall be adjusted from time to time by the Third Party to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified tax roll or any other changes in student counts, tax collections, or other data.

Section 4.5. DELIVERY OF CALCULATIONS. On or before November 1 of each year for which this Agreement is effective, the Third Party appointed pursuant to Section 4.3 of this Agreement shall forward to the Parties a certification containing the calculations required under Sections 4.2, Article VI, and/or Section 7.1 of this Agreement in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Third Party shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed, which fee shall be the sole responsibility of the District, subject to the provisions of Section 4.6. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party's calculations, records, and correspondence pertaining to the calculation and fee for the purpose of verification. The Third Party shall maintain supporting data consistent with generally accepted accounting practices, and the employees and agents of the Applicant shall have the right to reproduce and retain for purpose of audit, any of these documents. The Third Party shall preserve all documents pertaining to the calculation until four (4) years after the Final Termination Date of this Agreement. The Applicant shall not be liable for any of the Third Party's costs resulting from an audit of the Third Party's books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement.

Section 4.6. PAYMENT BY APPLICANT. The Applicant shall pay any amount determined by the Third Party to be due and owing to the District under this Agreement on or before the December 15 after receipt of the third party certification. By such date, the Applicant shall also pay any amount billed by the Third Party, plus any reasonable and necessary out-of-pocket third party legal expenses incurred by the District to its attorneys, auditors, or financial consultants for the preparation and filing of any financial reports, disclosures, or other reimbursement applications filed with or sent to the State of Texas, for any audits conducted by the State Auditor's Office, or for other legal expenses which are, or may be required under the terms or because of the execution of this Agreement. For no Tax Year during the term of this Agreement shall the Applicant be responsible for the payment of an aggregate amount of fees and expenses under this Section 4.6 which exceeds Fifteen Thousand Dollars ($15,000.00) For any Tax Year outside of the Tax Limitation Period, Applicant shall not be responsible for the payment of an aggregate amount of fees and expenses under this Section 4.6 which exceeds Eight Thousand Dollars ($8,000.00).

Section 4.7. RESOLUTION OF DISPUTES. Should the Applicant disagree with the certification containing the calculations, the Applicant may appeal the findings, in writing, to the Third Party within forty-five (45) days following the later of (i) receipt of the certification, or (ii) the date the Applicant is granted access to the books, records and other information in accordance with Section 4.6 for purposes of auditing or reviewing the information in connection with the certification. Within thirty (30) days of receipt of the Applicant's appeal, the Third Party will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of certification containing the calculations to the District. Any appeal by the Applicant of the final determination of the Third Party may be made, in writing, to the Board of Trustees within thirty (30) days of the final determination of certification containing the calculations, and shall be without limitation of the Applicant's other rights and remedies available hereunder, at law or in equity.

Section 4.8. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT. If at the time the Third Party selected under Section 4.3 makes its calculations under this Agreement, the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Investment, and/or the Applicant's Qualified Property and such appeal remains unresolved, the Third Party shall base its calculations upon the values placed upon the Applicant's Qualified Investment and/or the Applicant's Qualified Property by the Appraisal District. The calculations shall be readjusted, if necessary, based on the outcome of the appeal as set forth below.

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

Section 4.9. STATUTORY CHANGES AFFECTING M&O REVENUE. Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 7.1 of this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State, because of its participation in this Agreement, Applicant shall make payments to District, up to the revenue protection amount limit set forth in Section 7.1, that are necessary to offset any negative impact on District's Maintenance and Operations Revenue, as a result of its participation in this Agreement. Such calculation shall be completed using the methodology described in Section 4.2 and shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on District. The District shall use reasonable efforts to mitigate the economic effects of any such statutory change or administrative interpretation, and if the Applicant disagrees with any calculation or determination by the District of any adverse impact described in this Article IV, the Applicant shall have the right to appeal such calculation or determination in accordance with the procedures set forth in Section 4.7.

ARTICLE V
PAYMENT OF EXTRAORDINARY EDUCATION-RELATED EXPENSES

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

ARTICLE VI
SUPPLEMENTAL PAYMENTS

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

A. Amounts Exclusive of Indemnity Amounts. In addition to undertaking the responsibility for the payment of all of the amounts set forth under Articles IV and V, and as further consideration for the execution of this Agreement by the District, the Applicant shall also be responsible for Supplemental Payments to be calculated as set forth in this Article VI. The Applicant shall not be responsible to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on appraised value made pursuant to Chapter 313, Texas Tax Code, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the Applicant's obligation to make Supplemental Payments under this Article VI is separate and independent of the obligation of the Applicant to pay the amounts described in Articles IV and V; provided, however, that all payments under Articles IV, V, and VI are subject to the limitations contained in Section 7.1, and that all Supplemental Payments under this Article IV are subject to the separate limitations contained in Section 6.2 and Section 6.3.B.

B. Adherence to Statutory Limits on Supplemental Payments. It is the express intent of the Parties that any Supplemental Payments made to or on behalf of the District by the Applicant under this Article VI shall not exceed the limit imposed by the provisions of Texas Tax Code §313.027(i), as such limit is allowed to be increased by the Legislature for any future year of this Agreement.

Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION. Notwithstanding the foregoing:

A. The total of the Supplemental Payments made pursuant to this Article shall: not exceed for any calendar year of this Agreement an amount equal to the greater of One Hundred Dollars ($100.00) per student per year in average daily attendance, as defined by Section 42.005 of the TEXAS EDUCATION CODE, or Fifty Thousand Dollars ($50,000.00) per year times the number of years beginning with the

first complete or partial year of the Qualifying Time Period identified in Section 2.3.C and ending with the year for which the Supplemental Payment is being calculated minus all Supplemental Payments previously made by the Application;

B. Supplemental Payments may only be made during the period starting the first year of the Qualifying Time Period and ending December 31 of the third year following the end of the Tax Limitation Period;

C. the limitation in Section 6.2.A does not apply to amounts described by Section 313.027(f)(1)(2) of the TEXAS TAX CODE as implemented in Articles IV and V of this Agreement; and

D. For purposes of this Agreement, the calculation of the limit of the annual Supplemental Payment shall be the greater of $50,000 or $100 multiplied by the District's Average Daily Attendance as calculated pursuant to Section 42.005 of the TEXAS EDUCATION CODE, based upon the District's Average Daily Attendance for the previous school year.

Section 6.3. SUPPLEMENTAL PAYMENT AMOUNT. The Parties agree that for each Tax Year during the term of this Agreement beginning with the Tax Year 2018, which is the Tax Year that includes the date on which the Qualifying Time Period commences under this Agreement as provided in Section 2.3.C.i,, the Applicant's Supplemental Payment Amount will annually be paid based on the following schedule

Tax Year of Agreement	Date of Payment	Amount of Payment
2018	January 31, 2019	$100,000
2019	January 31, 2020	$100,000
2020	January 31, 2021	$380,000
2021	January 31, 2022	$380,000
2022	January 31, 2023	$380,000
2023	January 31, 2024	$380,000
2024	January 31, 2025	$380,000
2025	January 31, 2026	$380,000
2026	January 31, 2027	$380,000
2027	January 31, 2028	$380,000
2028	January 31, 2029	$380,000
2029	January 31, 2030	$380,000

Section 6.4. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS

A. All calculations required by this Article shall be calculated by the Third Party selected pursuant to Section 4.3, above.

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

C. All amounts owed by the Applicant to the District for a Tax Year under this Article shall be paid on the date established by Section 6.3 above for such Tax Year.

Section 6.5. DISTRICT'S OPTION TO DESIGNATE SUCCESSOR BENEFICIARY. At any time during this Agreement, the District's Board of Trustees may, in its sole discretion, so long as such decision does not result in additional costs to the Applicant under this Agreement, direct that the Applicant's payment obligations under Article VI of this agreement be made to its educational foundation, or to a similar entity. The alternative entity may only use such funds received under this Article to support the educational mission of the District and its students. Any designation of an alternative entity must be made by recorded vote of the District's Board of Trustees at a properly posted public Board meeting. Any such designation will become effective after public vote and the delivery of notice of said vote to the Applicant in conformance with the provisions of Section 10.1, below. Such designation may be rescinded, with respect to future payments only, by action of the District's Board of Trustees at any time.

Any designation of a successor beneficiary under this Section shall not alter the Aggregate Limit or the Net Aggregate Limit or the Supplemental Payments calculated as described in Section 6.5, above.

ARTICLE VII
ANNUAL LIMITATION OF PAYMENTS BY APPLICANT

Section 7.1. ANNUAL LIMITATION. Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year of the Tax Limitation Period beginning after the first Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the District under Articles IV, V, and VI of this Agreement with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such Tax Year (determined by using the District's actual maintenance and operations tax rate for such Tax Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Article IV of this Agreement, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then the payments otherwise due from the Applicant to the District under Articles IV, V, and VI shall be reduced until such excess is eliminated.

Section 7.2. OPTION TO TERMINATE AGREEMENT. In the event that any payment otherwise due from the Applicant to the District under Article IV, Article V, or Article VI of this Agreement with respect to a Tax Year is subject to reduction in accordance with the provisions of Section 7.1, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to terminate this Agreement by notifying the District of its election in writing not later than the July 31 of the year following the Tax Year with respect to which a reduction under Section 7.1 is applicable. Any termination of this Agreement under the foregoing provisions of this Section 7.2 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the reduction giving rise to the option occurred.

Section 7.3. EFFECT OF OPTIONAL TERMINATION. Upon the exercise of the option to terminate pursuant to Section 7.2, this Agreement shall terminate and be of no further force or effect; provided, however, that:

A. the Parties respective rights and obligations under this Agreement with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged; and

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

ARTICLE VIII
ADDITIONAL OBLIGATIONS OF APPLICANT

Section 8.1. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE. In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall Maintain Viable Presence in the District commencing at the start of the Tax Limitation Period through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure.

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

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

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

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

access to the Applicant's Qualified Property and business records from the Application Review Start Date through the Final Termination Date, in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property.

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

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

Section 8.6. RIGHT TO AUDIT; SUPPORTING DOCUMENTS; AUTHORITY OF STATE AUDITOR.
By executing this Agreement, implementing the authority of, and accepting the benefits provided by Chapter 313 of the TEXAS TAX CODE, the Parties agree that this Agreement and their performance pursuant to its terms are subject to review and audit by the State Auditor as if they are parties to a State contract and subject to the provisions of Section 2262.154 of the TEXAS GOVERNMENT CODE and Section 313.010(a) of the TEXAS TAX CODE. The Parties further agree to comply with the following requirements:

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

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

B. During the time period defined under Section 8.6.A, the District and the Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to this Agreement; the Applicant's Application; and the Applicant's Qualified Property, Qualified Investment, New Qualifying Jobs, and wages paid for New Non- Qualifying Jobs such as work papers, reports, books, data, files, software, records, calculations, spreadsheets and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, auditing, or evaluating by the Comptroller, State Auditor's Office, State of Texas or their authorized representatives. The Applicant and the District shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such property as requested by the Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, the Applicant's or the District's failure to comply with this Section shall constitute a Material Breach of this Agreement.

C. In addition to and without limitation on the other audit provisions of this Agreement, the acceptance of tax benefits or funds by the Applicant or the District or any other entity or person directly

under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Applicant or the District or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The Parties agree that this Agreement shall for its duration be subject to all rules and procedures of the State Auditor acting under the direction of the legislative audit committee.

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

Section 8.7. FALSE STATEMENTS; BREACH OF REPRESENTATIONS. The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application, and any supplements or amendments thereto, without which the Comptroller would not have approved this Agreement and the District would not have executed this Agreement. By signature to this Agreement, the Applicant:

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

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

C. acknowledges that if the Applicant submitted its Application with a false statement, signs this Agreement with a false statement, or submits a report with a false statement, or it is subsequently determined that the Applicant has violated any of the representations, warranties, guarantees, certifications, or affirmations included in the Application or this Agreement, the Applicant shall have materially breached this Agreement and the Agreement shall be invalid and void except for the enforcement of the provisions required by Section 9.2 of this Agreement.

ARTICLE IX
MATERIAL BREACH OR EARLY TERMINATION

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

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

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

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

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

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

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

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

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

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

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

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

L. The Applicant failed to allow authorized employees of the District, the Comptroller, the Appraisal District, or the State Auditor's Office to have access to the Applicant's Qualified Property or business records in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property under Sections 8.5 and 8.6;

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

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

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

Section 9.2. DETERMINATION OF BREACH AND TERMINATION OF AGREEMENT.

A. Prior to making a determination that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of

Trustees showing that it is not in breach of its obligations under this Agreement, or that it has cured or undertaken to cure any such breach.

B. If the Board of Trustees is not satisfied with such response or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to the Applicant, conduct a hearing called and held for the purpose of determining whether such breach has occurred and, if so, whether such breach has been cured. At any such hearing, the Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to:

i. whether or not a breach of this Agreement has occurred;

ii. whether or not such breach is a Material Breach;

iii. the date such breach occurred, if any;

iv. whether or not any such breach has been cured; and

C. In the event that the Board of Trustees determines that such a breach has occurred and has not been cured, it shall at that time determine:

i. the amount of recapture taxes under Section 9.4.C (net of all credits under Section 9.4.C);

ii. the amount of any penalty or interest under Section 9.4.E that are owed to the District; and

iii. in the event of a finding of a Material Breach, whether to terminate this Agreement.

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

Section 9.3. DISPUTE RESOLUTION.

A. After receipt of notice of the Board of Trustee's Determination of Breach and Notice of Contract Termination under Section 9.2, the Applicant shall have not greater than sixty (60) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to the District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within sixty (60) days after the Applicant initiates mediation, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then presiding in Starr County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE and such other rules as the mediator shall prescribe. With respect to such mediation, (i) the District shall bear one-half of such mediator's fees and expenses and the Applicant shall bear one-half of such mediator's fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys' fees) incurred in connection with such mediation.

B. In the event that any mediation is not successful in resolving the dispute or that payment is not received within the time period described for mediation in Section 9.3.A, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in a judicial proceeding in a state district court in Starr County, assert any rights or defenses,

or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any contract, agreement or undertaking made by a Party pursuant to this Agreement.

C. If payments become due under this Agreement and are not received before the expiration of the 60 days provided for such payment in Section 9.3.A, and if the Applicant has not contested such payment calculations under the procedures set forth herein, including judicial proceedings, the District shall have the remedies for the collection of the amounts determined under Section 9.4 as are set forth in Chapter 33, Subchapters B and C, of the TEXAS TAX CODE for the collection of delinquent taxes. In the event that the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of attorney's fees to the attorneys representing the District pursuant to Section 6.30 of the TEXAS TAX CODE and a tax lien shall attach to the Applicant's Qualified Property and the Applicant's Qualified Investment pursuant to Section 33.07 of the TEXAS TAX CODE to secure payment of such fees.

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

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

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

C. The sum of liquidated damages due and payable shall be the sum total of the District ad valorem taxes for all of the Tax Years for which a tax limitation was granted pursuant to this Agreement prior to the year in which the default occurs that otherwise would have been due and payable by the Applicant to the District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 9.4.E. For purposes of this liquidated damages calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Articles IV, V, and VI. Upon payment of such liquidated damages, the Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

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

E. In determining the amount of penalty or interest, or both, due in the event of a breach of this Agreement, the District shall first determine the base amount of recaptured taxes less all credits under Section 9.4.C owed for each Tax Year during the Tax Limitation Period. The District shall calculate penalty or interest for each Tax Year during the Tax Limitation Period in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE, as if the base amount calculated for such Tax Year less all credits under Section 9.4.C had become due and payable on February 1 of the calendar year following such Tax Year. Penalties on said amounts shall be calculated in accordance with the

methodology set forth in Section 33.01(a) of the TEXAS TAX CODE, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the TEXAS TAX CODE, or its successor statute.

Section 9.5. LIMITATION OF OTHER DAMAGES. Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, the District's damages for such a default shall under no circumstances exceed the amounts calculated under Section 9.4. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement. The Parties further agree that the limitation of damages and remedies set forth in this Section 9.5 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

Section 9.6. STATUTORY PENALTY FOR INADEQUATE QUALIFIED INVESTMENT. Pursuant to Section 313.0275 of the TEXAS TAX CODE, in the event that the Applicant fails to make $30,000,000 of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

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

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

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

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

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

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

ARTICLE X.
MISCELLANEOUS PROVISIONS

Section 10.1. INFORMATION AND NOTICES.

A. Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (*e.g.*, by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile or email transmission, with notice of receipt obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile or email transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

B. Notices to the District shall be addressed to the District's Authorized Representative as follows:

Roel A. Gonzalez, Interim Superintendent
Rio Grande City Consolidated Independent School District
1 South Fort Ringgold
Rio Grande City, TX 78582
Fax: (956) 487-8506
Email: rgonzalez@rgccisd.org

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

Mesteno Windpower, LLC
c/o Duke Energy Renewables
550 South Caldwell St., Suite 600
Mailcode: NAS06
Charlotte, NC 28202
ATTN: Contract Management

With a copy to:
Mesteno Windpower, LLC
c/o Duke Energy Renewables
550 South Tryon St.
Charlotte, NC 28202
ATTN: Deputy General Counsel

or at such other address or to such other facsimile transmission number and to the attention of such other person as a Party may designate by written notice to the other.

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

Section 10.2. AMENDMENTS TO APPLICATION AND AGREEMENT; WAIVERS.

A. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties and after completing the requirements of Section 10.2.B. Waiver of any term, condition, or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition, or provision, or a waiver of any other term, condition, or provision of this Agreement.

B. By official action of the District's Board of Trustees, the Application and this Agreement may only be amended according to the following:

i. The Applicant shall submit to the District and the Comptroller:

a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;

b. any changes to the information that was provided in the Application that was approved by the District and considered by the Comptroller;

c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;

ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by the Comptroller by the end of the 90-day period, the request is denied; and

iii. If the Comptroller has not denied the request, the District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.

C. Any amendment of the Application and this Agreement adding additional or replacement Qualified Property pursuant to this Section 10.2 of this Agreement shall:

i. require that all property added by amendment be eligible property as defined by Section 313.024 of the TEXAS TAX CODE;

ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and

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

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

Section10.3. ASSIGNMENT.

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

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

C. In the event of an assignment to a creditor, the Applicant must notify the District and the Comptroller in writing no later than 30 days after the assignment. This Agreement shall be binding on the assignee.

Section 10.4. MERGER. This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

Section 10.5. Governing Law. This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in a state district court in Starr County.

Section 10.6. AUTHORITY TO EXECUTE AGREEMENT. Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

Section 10.7. SEVERABILITY. If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal, or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision, or condition cannot be so reformed, then such term, provision, or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality, and enforceability of the remaining terms, provisions, and conditions contained herein

(and any other application such term, provision, or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement in an acceptable manner so as to effect the original intent of the Parties as closely as possible so that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 10.7, the term "Law" shall mean any applicable statute, law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction, decree, or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

Section 10.8. PAYMENT OF EXPENSES. Except as otherwise expressly provided in this Agreement, or as covered by the application fee, each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement.

Section 10.9. INTERPRETATION.

A. When a reference is made in this Agreement to a Section, Article, or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

B. The words "include," "includes," and "including" when used in this Agreement shall be deemed in such case to be followed by the phrase, "but not limited to". Words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require.

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

i. The Act;

ii. The Comptroller's Rules as they exist at the time the Agreement is executed, except as allowed in the definition of Qualified Property in Section 1.1; and

iii. This Agreement and its Attachments including the Application as incorporated by reference.

Section 10.10. EXECUTION OF COUNTERPARTS. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

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

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

B. The District shall provide on its website a link to the location of those documents posted on the Comptroller's website;

C. This Section does not require the publication of information that is confidential under Section 313.028 of the TEXAS TAX CODE.

Section 10.12. CONTROL; OWNERSHIP; LEGAL PROCEEDINGS. The Applicant shall immediately notify the District in writing of any actual or anticipated change in the control or ownership of the Applicant and of any legal or administrative investigations or proceedings initiated against the Applicant related to the project regardless of the jurisdiction from which such proceedings originate.

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

Section 10.14. CONFLICTS OF INTEREST.

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

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

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

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

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

Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.

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

B. Delivery is deemed complete as follows:

i. When delivered if delivered personally or sent by express courier service;

ii. Three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested;

iii. When transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine; or

iv. When the recipient, by an e-mail sent to the e-mail address for the executing Parties acknowledges having received that e-mail (an automatic "read receipt" does not constitute acknowledgment of an e-mail for delivery purposes).

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 19th day of December, 2018.

MESTENO WINDPOWER, LLC

By: Janetm. Bridges
Authorized Business Representative

RIO GRANDE CITY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

By: _____
PRESIDENT, BOARD OF TRUSTEES

ATTEST:

By: _____
SECRETARY, BOARD OF TRUSTEES

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

Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.

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IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 19th day of December, 2018.

MESTENO WINDPOWER, LLC

By: _____

Authorized Business Representative

RIO GRANDE CITY CONSOLIDATED INDEPENDENT SCHOOL DISTRICT

By: Eduardo R. _____

PRESIDENT, BOARD OF TRUSTEES

ATTEST:

By: _____

SECRETARY, BOARD OF TRUSTEES

EXHIBIT 1

DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

At the time of the Application Approval Date, the Project is within the reinvestment zone established pursuant to Chapter 312 of the Texas Tax Code by order on August 16, 2018 in Starr County. All of the Applicant's Qualified Property and Applicant's Qualified Investment that is subject to this Agreement will be located within the boundaries of the Reinvestment Zone and the boundaries of the Rio Grande City Consolidated Independent School District.

ORDER OF THE COMMISSIONERS COURT
OF STARR COUNTY, TEXAS

CREATING *MESTEÑO REINVESTMENT ZONE NUMBER ONE*, FOR COMMERCIAL/INDUSTRIAL TAX ABATEMENT IN STARR COUNTY, TEXAS, ESTABLISHING THE BOUNDARIES THEREOF, AND PROVIDING FOR AN EFFECTIVE DATE

PREAMBLE

WHEREAS, the Commissioners Court of Starr County, Texas desires to promote the development or redevelopment of a certain contiguous geographic area within its jurisdiction by the creation of a reinvestment zone as authorized by the Property Redevelopment and Tax Abatement Act, as amended (Texas Property Tax Code § 312.001, *et seq.*), and the Starr County Tax Abatement Guidelines and Criteria (the "Guidelines"); and,

WHEREAS, Section 312.401 of the Texas Tax Code permits a County Commissioners Court to designate a reinvestment zone if that designation would contribute to the retention or expansion of primary employment, or attract major investment in the reinvestment zone that would be a benefit to the property to be included in the zone and contribute to the economic development of the County; and,

WHEREAS, none of the area, Described in **EXHIBITS 1** and **2**, below, for which application for the creation of a reinvestment zone has been made, is within the taxing jurisdiction of any municipality; and,

WHEREAS, on August 13, 2018, a hearing before the Commissioners Court of Starr County, Texas was held, such date being at least seven (7) days after the date of publication of the notice of such public hearing in *The Monitor* and the delivery of written notice to the respective presiding officers of each taxing entity that it includes within its boundaries real property that is to be included in the proposed reinvestment zone; and,

WHEREAS, the Commissioners Court of Starr County, Texas at such public hearing, held in accordance with the procedural requirements of Chapter 312, of the Texas Tax Code, and Chapter 551 of the Texas Government Code, invited any interested person to appear and speak for or against the creation of the reinvestment zone and whether all or part of the territory described should be included in the proposed reinvestment zone; and,

WHEREAS, the proponents of the reinvestment zone offered evidence, both oral and documentary, in favor of all of the foregoing matters relating to the creation of the reinvestment zone and opponents, if any, of the reinvestment zone appeared to contest the creation of the reinvestment zone; and,

WHEREAS, the Starr County Commissioners Court wishes to create a reinvestment zone within the boundaries of Starr County as shown on the map attached as **EXHIBIT 1** and further described by the legal description set forth in **EXHIBIT 2** of this Order;

NOW THEREFORE, BE IT ORDERED BY THE COMMISSIONERS COURT OF STARR COUNTY, TEXAS:

SECTION 1. That the facts and recitations contained in the preamble of this Order are hereby found and declared to be true and correct.

SECTION 2. That the Commissioners Court of Starr County, Texas, after conducting such hearing and having heard such evidence and testimony, has made the following findings and determinations based on the evidence and testimony presented to it:

(a) That the public hearing on adoption of the *Mesteño Reinvestment Zone Number One* has been properly called, held and conducted and that notice of such hearing has been published as required by law and delivered to the respective presiding officers of the governing bodies of all taxing units overlapping the territory inside the proposed reinvestment zone; and

(b) That the boundaries of *Mesteño Reinvestment Zone Number One* should be the area depicted in the plat map indicating the boundaries thereof, attached hereto as **EXHIBIT 1**, and further described in the legal description of the boundaries described in **EXHIBIT 2**, both of which are incorporated herein by reference for all intents and purposes; and,

(c) That creation of *Mesteño Reinvestment Zone Number One* with boundaries as described in **EXHIBITS 1** and **2** will result in benefits to the Starr County, Texas and to land included in the zone and that the improvements sought are feasible and practical; and

(d) The *Mesteño Reinvestment Zone Number One*, as described and depicted in in **EXHIBITS 1** and **2** meets all of the criteria set forth in Texas Property Tax Code Chapter 312 for the creation of a reinvestment zone as set forth in the Property Redevelopment and Tax Abatement Act, as amended, and the Guidelines, in that it would, as a result of the designation, contribute to the retention or expansion of primary employment or attract major investment in the zone that would be a benefit to the property included in the zone and would contribute to the economic development of Starr County, Texas, and that the entire tract of land is located entirely within an unincorporated area of Starr County, Texas.

SECTION 3. That pursuant to the Property Redevelopment and Tax Abatement Act, as amended, and the Guidelines adopted by the Starr County Commissioners Court, the Starr County Commissioners Court hereby creates *Mesteño Reinvestment Zone Number One,* as a reinvestment zone for commercial-industrial tax abatement encompassing only the area within the boundaries described in **EXHIBITS 1** and **2,** and such reinvestment zone is hereby designated and shall hereafter be referred to as *Mesteño Reinvestment Zone Number One.*

SECTION 4. *Mesteño Reinvestment Zone Number One* shall take effect on August 16, 2018 and shall remain designated as a commercial-industrial reinvestment zone for a period of five (5) years from such date of designation and may be renewed for an additional five (5) year period thereafter.

SECTION 5. That if any section, paragraph, clause or provision of this Order shall for any reason beheld to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Order.

SECTION 6. That it is hereby found, determined and declared that a sufficient notice of the date, hour, place and subject, of the meeting of the Starr County Commissioners Court at which this Order was adopted was posted at a place convenient and readily accessible at all times as required by the Texas Open Government Act, Texas Government Code, Chapter 551, as amended, and that a public hearing was held prior to the designation of such reinvestment zone and that proper notice of the hearing was published in the official newspaper of general circulation within the County, and furthermore, such notice was in fact delivered to the presiding officer of any affected taxing entity as prescribed by the Property Redevelopment and Tax Abatement Act.

PASSED, APPROVED AND ADOPTED on this 16th day of August 2018.

_____ Date: 08/16/2018

Hon. Eloy Vera
County Judge

_____ Date: 08/16/2018

Hon. Jaime M. Alvarez
Commissioner Precinct 1

Hon. Raul Peña, III.
Commissioner Precinct 2

Date: 8-16-18

Hon. Eloy Garza
Commissioner Precinct 3

Date: 8-16-18

Hon. Ruben D. Saenz
Commissioner Precinct 4

Date: 8-16-18

ATTESTED:
Dennis D. Gonzalez, County Clerk

Date: 8-16-2018

[COUNTY SEAL]

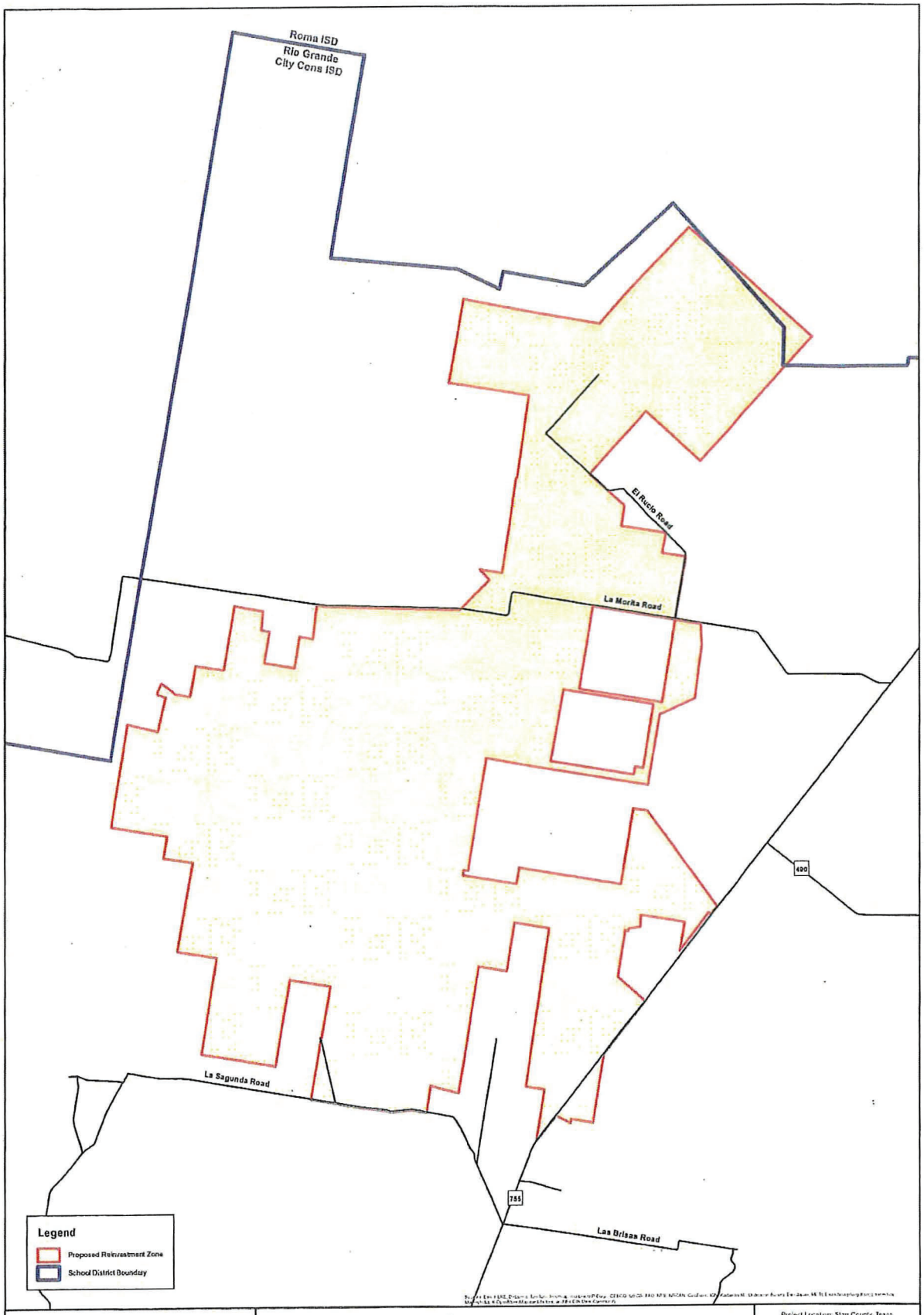


Exhibit 1 - Proposed Reinvestment Zone

In the event of a discrepancy between the boundary depicted on this map and the legal description in Exhibit 2, this map shall control.

Project Location: Starr County, Texas

N

0 0.5 1 Miles

EXHIBIT 2

Proposed Mesteño Reinvestment Zone Number One

- Section 51 Abstract 710
- Section 767 Abstract 602
- Section 93 Abstract 38
- Section 94 Abstract 806
- Section 95 Abstract 716
- Section 96 Abstract 777
- Section 966 Abstract 1125
- The western part of Section 751 Abstract 1127
- Section 750 Abstract 863, save and except approximately 44 acres in the northeast corner
- Section 90 Abstract 750
- Section 89 Abstract 44, save and except the eastern 1000'
- The southern 500' and northern 200' out of the eastern 1000' of Section 89 Abstract 44
- A 1000' x 1000' area in the Southeast corner of Section 91 Abstract 43, in addition to the southern and eastern 500', and northern 200', out of the remaining part of Section 91 Abstract 43
- All of Section 754 Abstract 751 located west of an existing AEP transmission line"
- Section 627 Abstract 856
- Abstract 154
- Abstract 40
- Section 626 Abstract 996
- Section 628 Abstract 1097
- The southern part of Section 933 Abstract 1083
- The southern part of Section 164 Abstract 1014
- Part of Section 565 (aka Section 265) Abstract 359 west of FM 755
- Section 936 Abstract 1068
- Section 936 Abstract 1162
- Part of the southern part of Section 934 Abstract 1066 west of FM 755
- Part of Section 969 Abstract 1176
- The northern part of Porcion 85 Abstract 148
- Part of Porcion 84 Abstract 184 north of La Sagunada Road
- Part of Porcion 83 Abstract 130 north of La Sagunada Road
- All of Porcion 82 Abstract 179 north of La Sagunada Road
- All of Porcion 81 Abstract 75 north of La Saginada Road
- Part of Porcion 80 Abstract 74 north of La Sagunada Road
- Part of the northern part of Porcion 79 Abstract 66
- Part of the northern part of Porcion 78 Abstract 82

STARR COUNTY COURTHOUSE

STARR COUNTY

Rio Grande City
Texas 78582

POSTED
AT 1:55 O'CLOCK P M
AUG 13 2018
DENNIS D. GONZALEZ, COUNTY CLERK STARR CO. TX
BY: Gloria De La Garza DEPUTY

ELOY VERA
COUNTY JUDGE

DENNIS GONZALEZ
COUNTY CLERK

COUNTY COMMISSIONERS

JAIME ALVAREZ
PRECINCT NO.1

RAUL PENA,III
PRECINCT NO. 2

ELOY GARZA
PRECINCT NO. 3

RUBEN D. SAENZ
PRECINCT NO.4

BOYD CARTER
COUNTY AUDITOR

RENE FUENTES
SHERIFF

VICTOR CANALES
COUNTY ATTORNEY

FERNANDO PENA
TREASURER

MA. AMEIDA SALINAS
ASSESSOR * COLLECTOR

OMAR ESCOBAR
DISTRICT ATTORNEY

ELOY R. GARCIA
DISTRICT CLERK

August 13, 2018

Notice

Notice is hereby given that a Special Commissioners' Court Meeting of the County of Starr will be held at 2:00 P.M. Thursday August 16, 2018 at the County Courthouse Annex in the Starr County Conference Room Suite #211 in Rio Grande City, Texas.

Agenda

1. **Calling the meeting to order.**
2. **Pledge of Allegiance**
3. **Discussion and possible action to adopt order creating Mesteno Reinvestment Zone Number One for Commercial/Industrial Tax Abatement in Starr County, Texas. Establishing the Boundaries Therefor, and Providing for an effective date.**
4. **Adjournment**

COUNTY COMMISSIONERS' COURT MAY CHOOSE TO MEET IN A CLOSED MEETING (EXECUTIVE SESSION) AS PERMITTED BY THE TEXAS OPEN MEETINGS ACT ON ANY ITEM OF THIS AGENDA DEEMED APPROPRIATE INCLUDING, BUT NOT LIMITED TO CONSULTATION WITH ATTORNEY, DELIBERATIONS ABOUT GIFTS AND DONATIONS AND PERSONNEL MATTERS.

BY ORDER OF THE COUNTY JUDGE:

Dennis Gonzalez

Dennis Gonzalez, County Clerk, Ex-Officio
Clerk of the Commissioners' Court

By Gloria De La Garza

EXHIBIT 2

DESCRIPTION AND LOCATION OF LAND

The Land on which the Qualified Property that is subject to this Agreement shall be located and on which the Qualified Investment that is subject to this Agreement shall be made is described by the map attached to **Exhibit 1**, which is within the boundaries of the District.

EXHIBIT 3

APPLICANT'S QUALIFIED INVESTMENT

Applicant's Qualified Investment that is subject to this Agreement shall be all tangible personal property first placed in service after August 24, 2018, owned by the Applicant, as more fully described in Tab 7 of the Application and **EXHIBIT 4** below, and located within the project area located within Rio Grande City Consolidated ISD and the reinvestment zone depicted on the map attached to **EXHIBIT 1**.

Mesteno Windpower, LLC plans to construct an approximately 201.6 MW wind farm in Starr County.

This application covers all qualified property within Rio Grande City CISD necessary for the commercial operations for the proposed wind farm described in Checklist #4. Two hundred one and six-tenths (201.6 MW) will be located in Rio Grande City CISD. Turbine placement is subject to change.

This application covers all qualified investment and qualified property necessary for the commercial operations of the win farm.

Qualified Investment and qualified property includes, but is not limited to, wind turbines, towers, foundations, new and improved roads, buildings and offices, meteorological equipment, electrical transmission cables and towers, transformers, electrical substations, and any other equipment necessary to safely operate, maintain, and transmit power to the ERCOT electrical grid.

EXHIBIT 4

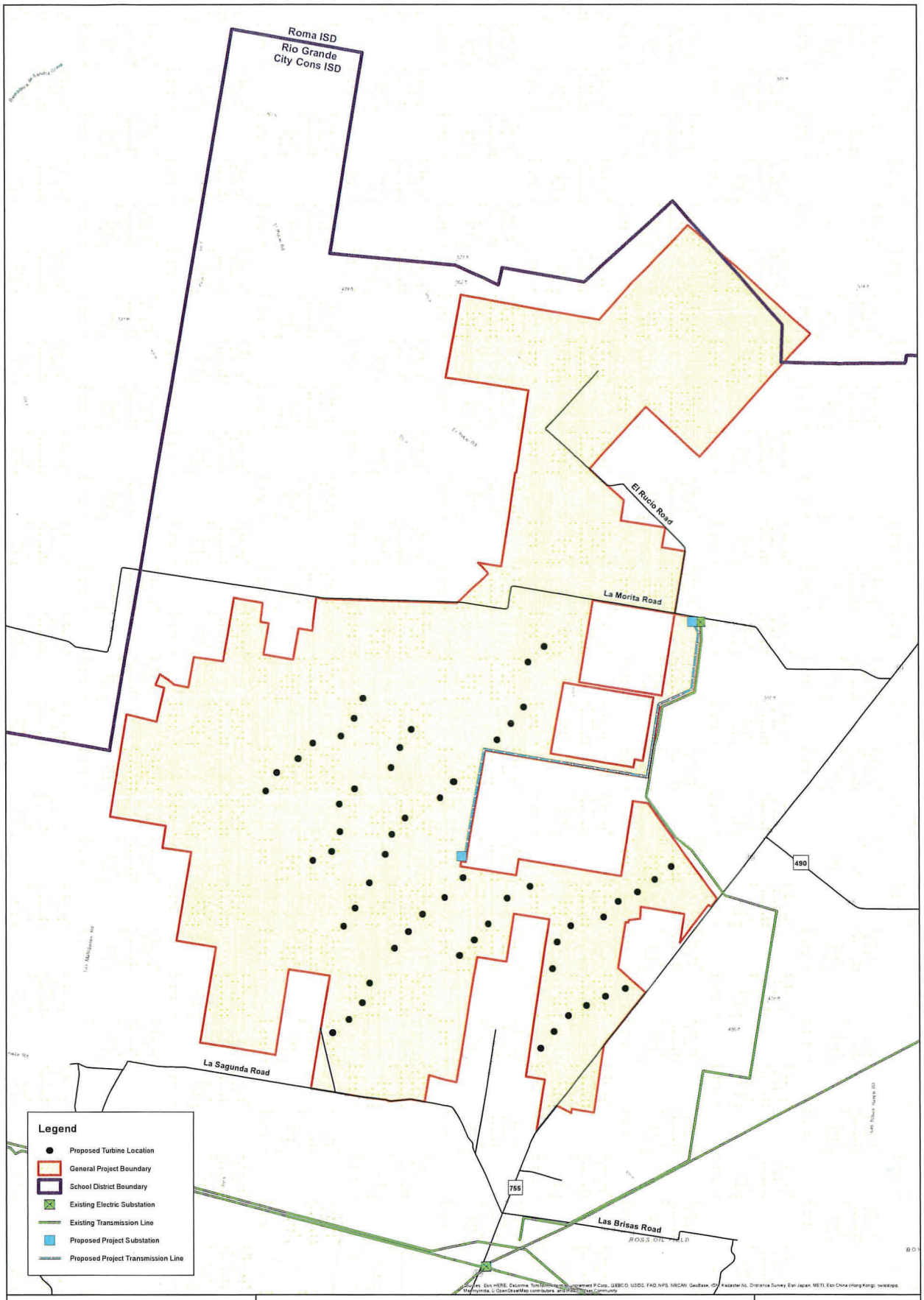
DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

This Agreement covers all qualified property within the project area located within Rio Grande City Consolidated ISD and the reinvestment zone depicted on the map attached to this **EXHIBIT 4** necessary for the commercial operations of a total of 201.6 MW wind farm in Starr County.

This application covers all qualified property within Rio Grande City CISD necessary for the commercial operations for the proposed wind farm described in Checklist #4. Two hundred one and six-tenths (201. 6 MW) will be located in Rio Grande City CISD. Turbine placement is subject to change.

This application covers all qualified investment and qualified property necessary for the commercial operations of the wind farm.

Qualified Investment and qualified property includes, but is not limited to, wind turbines, towers, foundations, new and improved roads, buildings and offices, electrical transmission cables and towers, transformers, electrical substations, and any other equipment necessary to safely operate, maintain, and transmit power to the ERCOT electrical grid.



1221 South MoPac Expressway, Suite 225
Austin, Texas 78746 | 512-222-1125
www.energyrenewalpartners.com
ERP
ENERGY RENEWAL PARTNERS, LLC

Duke Energy Renewables

Mesteño Windpower Project

Project Infrastructure

Project Location: Starr County, Texas

N

0 0.5 1 Miles

MAP 2

Prepared by: B. Richards | Date: 7/20/2018

EXHIBIT 5
AGREEMENT SCHEDULE

	Year	Date of Appraisal	School Year	Tax Year	Summary Description
Qualifying Time Period	Partial Year Beginning on the Application Approval Date (12/19/18)	January 1, 2018	2018-2019	2018	Start of Qualifying Time Period beginning with the Application Approval Date (12/19/18). No limitation on appraised value.
	1	January 1, 2019	2019-2020	2019	Qualifying Time Period. No limitation on appraised value.
	2	January 1, 2020	2020-2021	2020	Qualifying Time Period. No limitation on appraised value.
Limitation Period (10 Years)	1	January 1, 2020	2020-2021	2020	$30 million appraised value limitation.
	2	January 1, 2021	2021-2022	2021	$30 million appraised value limitation.
	3	January 1, 2022	2022-2023	2022	$30 million appraised value limitation.
	4	January 1, 2023	2023-2024	2023	$30 million appraised value limitation.
	5	January 1, 2024	2024-2025	2024	$30 million appraised value limitation.
	6	January 1, 2025	2025-2026	2025	$30 million appraised value limitation.
	7	January 1, 2026	2026-2027	2026	$30 million appraised value limitation.
	8	January 1, 2027	2027-2028	2027	$30 million appraised value limitation.
	9	January 1, 2028	2028-2029	2028	$30 million appraised value limitation.
	10	January 1, 2029	2029-2030	2029	$30 million appraised value limitation.
Maintain Viable Presence (5 Years)	11	January 1, 2030	2030-2031	2030	No limitation on appraised value. Applicant obligated to Maintain Viable Presence.
	12	January 1, 2031	2031-2032	2031	No limitation on appraised value. Applicant obligated to Maintain Viable Presence.
	13	January 1, 2032	2032-2033	2032	No limitation on appraised value. Applicant obligated to Maintain Viable Presence.
	14	January 1, 2033	2033-2034	2033	No limitation on appraised value. Applicant obligated to Maintain Viable Presence.
	15	January 1, 2034	2034-2035	2034	No limitation on appraised value. Applicant obligated to Maintain Viable Presence.