

# UNDERWOOD

FRED STORMER  
Phone: 806.379.0306  
Fax: 806.379.0316  
www.uwlaw.com  
Fred.Stormer@uwlaw.com

ADDRESS:  
500 S. Taylor Street  
Suite 1200, LB 233  
Amarillo, TX 79101-2446  
MAILING ADDRESS:  
P.O. Box 9158  
Amarillo, TX 79105-9158

October 16, 2020

Michelle Luera, Research Analyst  
Data Analysis and Transparency Division  
Texas Comptroller of Public Accounts  
P.O. Box 13528 Capitol Station  
Austin TX 78711-3528

*Via Email*

Re: App 1291-O'Donnell ISD –TREX US Red Holly, LLC

Dear Michelle:

Enclosed please find a hard copy of the fully executed Amendment No. 1 to the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes between the above-noted parties.

Please feel free to contact us if you require anything further.

Sincerely,



Fred A. Stormer

FAS/ph  
Encl.

**AMENDMENT NO. 1**  
**TO AGREEMENT FOR LIMITATION ON APPRAISED VALUE**  
**OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS**  
**TAXES BETWEEN O'DONNELL INDEPENDENT SCHOOL DISTRICT**  
**AND TREX US RED HOLLY LLC**  
*(Comptroller Application No. 1291)*

This **AMENDMENT NO. 1 TO THE AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES** (this "**Amendment No. 1**") is entered into by and between **O'DONNELL INDEPENDENT SCHOOL DISTRICT** (the "**District**"), a lawfully created independent school district of the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **TREX US RED HOLLY LLC**, a Texas limited liability company, Texas Taxpayer Identification Number *32065840905* ("**Applicant**"). The Applicant and the District may hereafter be referred together as the "**Parties**" and individually as a "**Party**." Undefined capitalized terms herein shall have the meaning given to them in the Agreement (as defined below).

**WHEREAS**, on or about February 26, 2019, pursuant to Chapter 313 of the TEXAS TAX CODE, after conducting a public hearing on the matter, the District made factual findings (the "**Findings of Fact**"), and passed, approved, and executed that certain Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes dated February 26, 2019, by and between the District and Applicant (the "**Agreement**");

**WHEREAS**, pursuant to Section 10.2 of the Agreement, the Applicant has provided notice that the Applicant seeks to amend (i) the definition of Commercial Operation, (ii) the Project boundary, and (iii) the start of the Limitation Period in the Agreement to January 1, 2023;

**WHEREAS**, the Parties notified the Texas Comptroller of Public Accounts (the "**Comptroller**") of the Amended Application and the request for this Amendment No. 1 on July 23, 2020, and the Comptroller issued its notice of completeness letter on October 7, 2020, issued its amended certification of the Amended Application on October 7, 2020, and approved the form of this Amendment No. 1 on October 7, 2020; and

**WHEREAS**, on October 13, 2020, after conducting a public hearing and providing interested persons an opportunity to be heard on the matter, the Board of Trustees determined that this Amendment No. 1 is in the best interest of the District and the State of Texas and is consistent with and authorized by Chapter 313 of the TEXAS TAX CODE, and hereby approves this Amendment No. 1 and authorizes the District's representative, whose signature appears below, to execute and deliver such Amendment No. 1 to the Applicant.

**NOW, THEREFORE**, in consideration of the foregoing recitals, the mutual benefits to be derived by the Parties and other good and valuable considerations, the receipt and adequacy of which are hereby acknowledged, and in compliance with Section 10.2 of the Agreement, the undersigned Parties intending to be legally bound, do hereby covenant and agree to amend the Agreement as follows:

1. **Amendments.** The Agreement is hereby amended as follows:
  - a. **Section 1.1 – Commercial Operation Definition.** The definition of “Commercial Operation” in Section 1.1 of the Agreement is deleted in its entirety and replaced with the following

*“Commercial Operation”* means the date on which the project has been substantially installed or constructed, received all necessary permits, is connected to the grid with an interconnection agreement and is capable of generating electricity.
  - b. **Sections 2.3.D and 2.3.E.** Sections 2.3.D and 2.3.E of the Agreement are deleted in their entirety and replaced with the following:
    - D. The Tax Limitation Period for this Agreement:
      - i. Starts on January 1, 2023, first complete Tax Year that begins after the date of the commencement of Commercial Operation; and
      - ii. Ends on December 31, 2032.
    - E. The Final Termination Date for this Agreement is December 31, 2037.
  - c. **Exhibit 3 Map.** The map attached as **EXHIBIT 3** to the Agreement is deleted in its entirety and replaced with the attached map.
  - d. **Exhibit 5. EXHIBIT 5** to the Agreement is deleted in its entirety and replaced with the attached **EXHIBIT 5**.

2. **Effect.** Except as modified and amended by the terms of this Amendment No. 1, all of the terms, conditions, provisions and covenants of the Agreement are ratified and shall remain in full force and effect, and the Agreement and this Amendment No. 1 shall be deemed to constitute a single instrument or document. Should there be any inconsistency between the terms of this Amendment No. 1 and the Agreement; the terms of this Amendment No. 1 shall prevail. A copy of this Amendment No. 1 shall be delivered to the Texas Comptroller to be posted to the Texas Comptroller’s internet website. A copy of this Amendment No. 1 shall be recorded with the official Minutes of the meeting at which it has been approved and a copy of this Amendment No. 1 shall also be recorded with the Findings of Fact in the official Minutes of the meeting of February 26, 2019.

3. **Binding on Successors and Assigns.** The Agreement, as amended by this Amendment No. 1, shall be binding upon and inure to the benefit of the Parties and each other person and entity having any interest therein during their ownership thereof, and their respective successors and assigns.

4. **Counterparts.** This Amendment No. 1 may be executed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

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

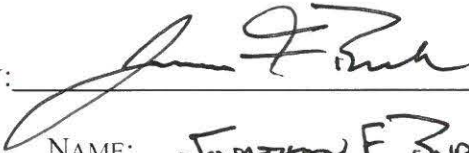
*[Signatures follow on the next page]*


IN WITNESS HEREOF, the District and Applicant have caused this Amendment No. 1 to be executed and delivered by their duly authorized representatives as of the Effective Date below.

APPROVED AND EFFECTIVE as of the 13 day of October, 2020.


**TREX US RED HOLLY LLC**

**O'DONNELL INDEPENDENT SCHOOL DISTRICT**

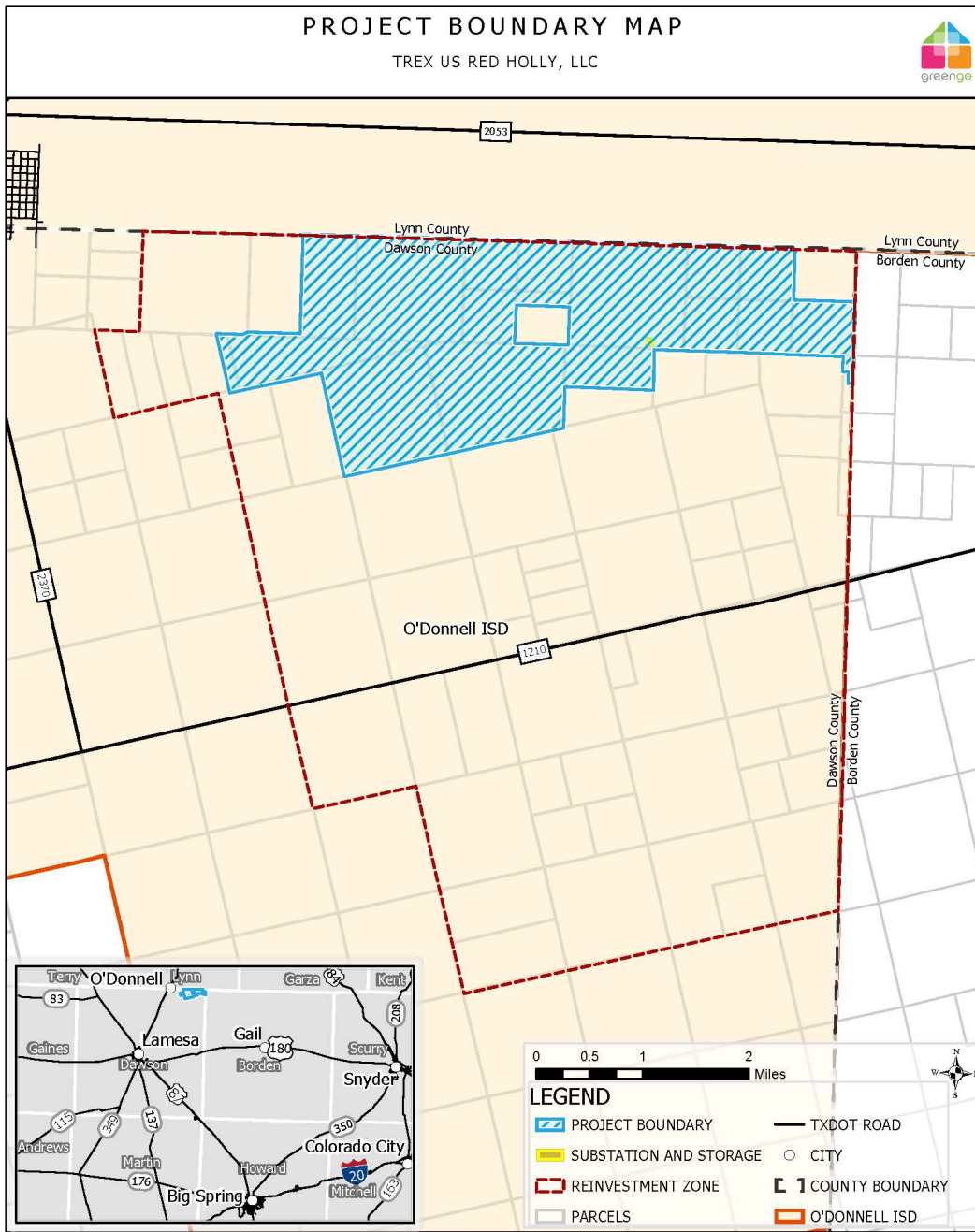
BY:   
NAME: Jonathan F Bruce  
TITLE: Authorized Agent

BY:   
NAME: Amanda Stidham  
TITLE: Board President

**ATTEST:**

BY:   
NAME: Billy Edwards  
TITLE: V-P BOARD

# MAP OF QUALIFIED INVESTMENT



**Agreement for Limitation on Appraised Value**  
Between O'Donnell ISD and TREX US Red Holly LLC  
(App No. 1291), October 13, 2020  
Exhibit 3

*Texas Economic Development Act Agreement  
Comptroller Form 50-826 (Jan 2016)*

**EXHIBIT 5**

**AGREEMENT SCHEDULE**

|                                      | <u>Year of Agreement</u> | <u>Date of Appraisal</u> | <u>School Year</u> | <u>Tax Year</u> | <u>Summary Description</u>                               |
|--------------------------------------|--------------------------|--------------------------|--------------------|-----------------|----------------------------------------------------------|
| Limitation Pre-years                 | Stub Year                | January 1, 2019          | 2019-20            | 2019            | QTP begins February 26, 2019                             |
|                                      | QTP 1                    | January 1, 2020          | 2020-21            | 2020            | QTP year 1                                               |
|                                      | QTP 2                    | January 1, 2021          | 2021-22            | 2021            | QTP year 2, ends December 31, 2021                       |
|                                      | Pre-Year                 | January 1, 2022          | 2022-23            | 2022            | Fully Taxable                                            |
| Limitation Period (10 Years)         | 1                        | January 1, 2023          | 2023-24            | 2023            | \$30 million appraisal limitation                        |
|                                      | 2                        | January 1, 2024          | 2024-25            | 2024            | \$30 million appraisal limitation                        |
|                                      | 3                        | January 1, 2025          | 2025-26            | 2025            | \$30 million appraisal limitation                        |
|                                      | 4                        | January 1, 2026          | 2026-27            | 2026            | \$30 million appraisal limitation                        |
|                                      | 5                        | January 1, 2027          | 2027-28            | 2027            | \$30 million appraisal limitation                        |
|                                      | 6                        | January 1, 2028          | 2028-29            | 2028            | \$30 million appraisal limitation                        |
|                                      | 7                        | January 1, 2029          | 2029-30            | 2029            | \$30 million appraisal limitation                        |
|                                      | 8                        | January 1, 2030          | 2030-31            | 2030            | \$30 million appraisal limitation                        |
|                                      | 9                        | January 1, 2031          | 2031-32            | 2031            | \$30 million appraisal limitation                        |
|                                      | 10                       | January 1, 2032          | 2032-33            | 2032            | \$30 million appraisal limitation                        |
| Maintain a Viable Presence (5 Years) | 11                       | January 1, 2033          | 2033-34            | 2033            | No appraisal limitation; must maintain a viable presence |
|                                      | 12                       | January 1, 2034          | 2034-35            | 2034            | No appraisal limitation; must maintain a viable presence |
|                                      | 13                       | January 1, 2035          | 2035-36            | 2035            | No appraisal limitation; must maintain a viable presence |
|                                      | 14                       | January 1, 2036          | 2036-37            | 2036            | No appraisal limitation; must maintain a viable presence |
|                                      | 15                       | January 1, 2037          | 2037-38            | 2037            | No appraisal limitation; must maintain a viable presence |

**Agreement for Limitation on Appraised Value**  
 Between O'Donnell ISD and TREX US Red Holly LLC  
 (App No. 1291), October 13, 2020  
 Exhibit 5

*Texas Economic Development Act Agreement  
 Comptroller Form 50-826 (Jan 2016)*