
**FINDINGS
OF THE
DEER PARK INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES
UNDER THE
TEXAS ECONOMIC DEVELOPMENT ACT
ON THE APPLICATION SUBMITTED BY
PASADENA PERFORMANCE PRODUCTS, LP
TEXAS TAXPAYER ID # 32064009700
APPLICATION #1321**

September 16, 2019

FINDINGS OF THE DEER PARK INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT ON THE APPLICATION SUBMITTED BY PASADENA PERFORMANCE PRODUCTS, LP

STATE OF TEXAS

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COUNTY OF HARRIS

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On the 16th day of September, 2019, a public meeting of the Board of Trustees of the Deer Park Independent School District was held. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board of Trustees took up and considered the Application of Pasadena Performance Products, LP (Application #1321) for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations on the Application from interested parties within the District. After hearing presentations from the District's administrative staff, and from attorneys and consultants retained by the District to advise the Board in this matter, the Board of Trustees of the Deer Park Independent School District makes the following findings with respect to the Application of Pasadena Performance Products, LP #1321, and the economic impact of that Application:

On November 12, 2018, the Superintendent of Schools of the Deer Park Independent School District, acting as agent of the Board of Trustees, and the Texas Comptroller of Public Accounts received an Application from Pasadena Performance Products, LP #1321 for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. A copy of the Application is posted on the Texas Comptroller's website at:

<https://comptroller.texas.gov/economy/local/ch313/agreement-docs-details.php?id=1321>

The Applicant, Pasadena Performance Products, LP (Taxpayer ID 32064009700) ("Applicant"), consists of entities subject to Chapter 171, Texas Tax Code, and is certified to be in good standing with the Texas Comptroller of Public Accounts. The Board of Trustees acknowledges receipt of the Application, along with the required Application fee, as established pursuant to Texas Tax Code § 313.025(a)(1) and Local District Policy.

The Application was delivered to the Texas Comptroller's Office for review pursuant to Texas Tax Code § 313.025(d). A copy of the Application was delivered to the Harris County Appraisal District for review pursuant to 34 Texas Administrative Code § 9.1054. The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code § 313.026, and a determination that the Application was complete was issued on March 1, 2019.

After receipt of the Application, the Texas Comptroller of Public Accounts caused to be conducted an economic impact evaluation on April 24, 2019 pursuant to Texas Tax Code § 313.026, and the Board of Trustees has carefully considered such evaluation. A copy of the economic impact evaluation is attached to these findings as **Exhibit A**.

The Board of Trustees also directed that a specific financial analysis be conducted of the impact of the proposed value limitation on the finances of the Deer Park Independent School District. A copy of a report prepared by Education Service Center, Region 12 is attached to these findings as **Exhibit B**. The Texas Commissioner of Education has determined that the project will not impact school enrollment.

The Board of Trustees has confirmed that the taxable value of property in the Deer Park Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403, Government Code, is as stated in the 2018 ISD Summary Worksheet posted on the Texas Comptroller's website at:

<https://comptroller.texas.gov/data/property-tax/pvs/2018p/1011019081D.php>

After receipt of the Application, the District submitted a proposed form of Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, in the form required by the Comptroller of Public Accounts. The proposed Agreement and letter approving same are attached to these findings as **Exhibit C**.

After review of the Comptroller's recommendation, and in consideration of its own economic impact study the Board finds:

Board Finding Number 1.

The Applicant qualifies for a limitation on appraised value of Qualified Property under Texas Tax Code § 313.024 in the eligibility category of Manufacturing.

Board Finding Number 2.

The Applicant's entire proposed investment in the Deer Park Independent School District is \$575,000,000— \$575,000,000 of which is proposed to be Qualified Investment under Texas Tax Code § 313.021.

Board Finding Number 3.

The average salary level of qualifying jobs is expected to be at least \$70,000 per year. The review of the Application by the State Comptroller's Office indicates that this amount—based on Texas Workforce Commission data—complies with the requirement that qualifying jobs pay more than the minimum weekly wage required for Qualified Jobs under Texas Tax Code § 313.021.

Board Finding Number 4.

The level of the Applicant's average investment per qualifying job over the term of the Agreement is estimated to be approximately \$23,000,000 on the basis of the 25 new qualifying positions committed to by the Applicant for this project.

The project’s total investment is \$575,000,000, resulting in a relative level of investment per qualifying job of \$23,000,000.

Board Finding Number 5.

The Applicant has not requested a waiver of the job creation requirement under Texas Tax Code § 313.25(f-1), and the Board finds that the project meets state job creating requirements.

Board Finding Number 6.

Subsequent economic effects on the local and regional tax bases will be significant. In addition, the impact of the added infrastructure will be significant to the region. In support of Finding 6, the economic impact evaluation states:

Table 2 depicts this project’s estimated economic impact to Texas. It depicts the direct, indirect and induced effects to employment and personal income within the state. The Comptroller’s office calculated the economic impact based on 15 years of annual investment and employment levels.

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2019	400	553	953	\$28,000,000	\$45,021,512	\$73,021,512
2020	400	613	101,347	\$28,000,000	\$55,196,435	\$83,196,435
2021	425	719	1144	\$29,750,000	\$68,928,289	\$98,678,289
2022	25	207	232	\$1,750,000	\$27,865,393	\$29,615,393
2023	25	118	143	\$1,750,000	\$20,223,146	\$21,973,146
2024	25	62	87	\$1,750,000	\$14,670,370	\$16,420,370
2025	25	38	63	\$1,750,000	\$11,580,290	\$13,330,290
2026	25	34	59	\$1,750,000	\$10,310,070	\$12,060,070
2027	25	43	68	\$1,750,000	\$10,383,843	\$12,133,843
2028	25	57	82	\$1,750,000	\$11,326,104	\$13,076,104
2029	25	73	98	\$1,750,000	\$12,786,935	\$14,536,935
2030	25	88	113	\$1,750,000	\$14,515,529	\$16,265,529
2031	25	88	113	\$1,750,000	\$15,050,092	\$16,800,092
2032	25	95	120	\$1,750,000	\$16,162,074	\$17,912,074
2033	25	99	124	\$1,750,000	\$17,260,273	\$19,010,273
2034	25	103	128	\$1,750,000	\$18,322,186	\$20,072,186
2035	25	105	130	\$1,750,000	\$19,306,896	\$21,056,896

Table 4 examines the estimated direct impact on ad valorem taxes to the school district, City of Pasadena, Harris County, Harris County Flood Control District, Port of Houston Authority, Harris County Hospital District, Harris County Department of Education and San Jacinto College with all property tax incentives sought using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the city.

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Deer Park ISD I&S Tax Levy	Deer Park ISD M&O Tax Levy	Deer Park M&O and I&S Tax Levies	City of Pasadena Tax Levy	Harris County Tax Levy	Harris County Flood Control District Tax Levy	Port of Houston Authority Tax Levy	Harris County Hospital District Tax Levy	Harris County Department of Education Tax Levy	San Jacinto College District Tax Levy	Estimated Total Property Taxes
			Tax Rate	0.3020	1.2367		0.6154	0.4186	0.0288	0.0116	0.1711	0.0052	0.1793	
2021	\$544,719,656	\$80,000,000		\$1,645,053	\$989,360	\$2,634,413	\$2,514,342	\$2,280,088	\$156,716	\$62,915	\$931,906	\$28,271	\$976,840	\$9,585,491
2022	\$533,785,263	\$80,000,000		\$1,612,031	\$989,360	\$2,601,391	\$2,463,870	\$2,234,318	\$153,570	\$61,652	\$913,200	\$27,703	\$957,232	\$9,412,937
2023	\$523,069,558	\$80,000,000		\$1,579,670	\$989,360	\$2,569,030	\$2,414,408	\$2,189,465	\$150,487	\$60,415	\$894,867	\$27,147	\$938,015	\$9,243,834
2024	\$512,568,166	\$80,000,000		\$1,547,956	\$989,360	\$2,537,316	\$2,365,935	\$2,145,508	\$147,466	\$59,202	\$876,902	\$26,602	\$919,183	\$9,078,114
2025	\$502,276,803	\$80,000,000		\$1,516,876	\$989,360	\$2,506,236	\$2,318,432	\$2,102,430	\$144,505	\$58,013	\$859,295	\$26,068	\$900,728	\$8,915,707
2026	\$492,191,267	\$80,000,000		\$1,486,418	\$989,360	\$2,475,778	\$2,271,879	\$2,060,214	\$141,603	\$56,848	\$842,041	\$25,545	\$882,642	\$8,756,549
2027	\$482,307,442	\$80,000,000		\$1,456,568	\$989,360	\$2,445,928	\$2,226,256	\$2,018,842	\$138,760	\$55,707	\$825,132	\$25,032	\$864,917	\$8,600,574
2028	\$472,621,293	\$80,000,000		\$1,427,316	\$989,360	\$2,416,676	\$2,181,547	\$1,978,298	\$135,973	\$54,588	\$808,561	\$24,529	\$847,547	\$8,447,719
2029	\$463,128,867	\$80,000,000		\$1,398,649	\$989,360	\$2,388,009	\$2,137,731	\$1,938,565	\$133,242	\$53,491	\$792,321	\$24,036	\$830,524	\$8,297,920
2030	\$453,826,290	\$80,000,000		\$1,370,555	\$989,360	\$2,359,915	\$2,094,792	\$1,899,626	\$130,566	\$52,417	\$776,406	\$23,554	\$813,842	\$8,151,118
2031	\$444,709,764	\$444,709,764		\$1,343,023	\$5,499,726	\$6,842,749	\$2,736,948	\$1,861,466	\$127,943	\$51,364	\$760,809	\$23,080	\$797,494	\$13,201,854
2031	\$444,709,764	\$444,709,764		\$1,343,023	\$5,499,726	\$6,842,749	\$2,736,948	\$1,861,466	\$127,943	\$51,364	\$760,809	\$23,080	\$797,494	\$13,201,854
2032	\$435,775,569	\$435,775,569		\$1,316,042	\$5,389,236	\$6,705,279	\$2,681,963	\$1,824,069	\$125,373	\$50,332	\$745,525	\$22,617	\$781,472	\$12,936,63
2033	\$427,020,057	\$427,020,057		\$1,289,601	\$5,280,957	\$6,570,558	\$2,628,078	\$1,787,421	\$122,854	\$49,321	\$730,546	\$22,162	\$765,771	\$12,676,710
2034	\$418,439,656	\$418,439,656		\$1,263,688	\$5,174,843	\$6,438,531	\$2,575,270	\$1,751,505	\$120,385	\$48,330	\$715,867	\$21,717	\$750,384	\$12,421,988
2035	\$410,030,863	\$410,030,863		\$1,238,293	\$5,070,852	\$6,309,145	\$2,523,519	\$1,716,307	\$117,966	\$47,359	\$701,481	\$21,281	\$735,304	\$12,172,361
			Total	\$21,491,741	536,309,214	\$57,800,955	\$36,134,969	\$29,788,122	\$2,047,409	\$821,952	\$12,174,858	\$369,345	\$12,761,895	\$5,151,899,506
			Diff	\$0	\$51,700,177	\$51700177	\$7,663,064	\$0	\$0	\$0	\$0	\$0	\$0	\$59,363,240

¹Tax Rate per \$100 Valuation

Table 3 illustrates the estimated tax impact of the Applicant’s project on the region if all taxes are assessed.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Deer Park ISD I&S Tax Levy	Deer Park ISD M&O Tax Levy	Deer Park M&O and I&S Tax Levies	City of Pasadena Tax Levy	Harris County Tax Levy	Harris County Flood Control District Tax Levy	Port of Houston Authority Tax Levy	Harris County Hospital District Tax Levy	Harris County Department of Education Tax Levy	San Jacinto College District Tax Levy	Estimated Total Property Taxes
			Tax Rate	0.3020	1.2367		0.6154	0.4186	0.0288	0.0116	0.1711	0.0052	0.1793	
2021	\$544,719,656	\$544,719,656		\$1,645,053	\$6,736,548	\$8,381,601	\$3,352,455	\$2,280,088	\$156,716	\$62,915	\$931,906	\$28,271	\$976,840	\$16,170,793
2022	\$533,785,263	\$533,785,263		\$1,612,031	\$6,601,322	\$8,213,354	\$3,285,160	\$2,234,318	\$153,570	\$61,652	\$913,200	\$27,703	\$957,232	\$15,846,190
2023	\$523,069,558	\$523,069,558		\$1,579,670	\$6,468,801	\$8,048,471	\$3,219,211	\$2,189,465	\$150,487	\$60,415	\$894,867	\$27,147	\$938,015	\$15,528,078
2024	\$512,568,166	\$512,568,166		\$1,547,956	\$6,338,931	\$7,886,886	\$3,154,580	\$2,145,508	\$147,466	\$59,202	\$876,902	\$26,602	\$919,183	\$15,216,329
2025	\$502,276,803	\$502,276,803		\$1,516,876	\$6,211,657	\$7,728,533	\$3,091,242	\$2,102,430	\$144,505	\$58,013	\$859,295	\$26,068	\$900,728	\$14,910,815
2026	\$492,191,267	\$492,191,267		\$1,486,418	\$6,086,929	\$7,573,347	\$3,029,171	\$2,060,214	\$141,603	\$56,848	\$842,041	\$25,545	\$882,642	\$14,611,411
2027	\$482,307,442	\$482,307,442		\$1,456,568	\$5,964,696	\$7,421,265	\$2,968,342	\$2,018,842	\$138,760	\$55,707	\$825,132	\$25,032	\$864,917	\$14,317,996
2028	\$472,621,293	\$472,621,293		\$1,427,316	\$5,844,908	\$7,272,224	\$2,908,729	\$1,978,298	\$135,973	\$54,588	\$808,561	\$24,529	\$847,547	\$14,030,448
2029	\$463,128,867	\$463,128,867		\$1,398,649	\$5,727,515	\$7,126,164	\$2,850,308	\$1,938,565	\$133,242	\$53,491	\$792,321	\$24,036	\$830,524	\$13,748,652
2030	\$453,826,290	\$453,826,290		\$1,370,555	\$5,612,470	\$6,983,025	\$2,793,056	\$1,899,626	\$130,566	\$52,417	\$776,406	\$23,554	\$813,842	\$13,472,491
2031	\$444,709,764	\$444,709,764		\$1,343,023	\$5,499,726	\$6,842,749	\$2,736,948	\$1,861,466	\$127,943	\$51,364	\$760,809	\$23,080	\$797,494	\$13,201,854
2032	\$435,775,569	\$435,775,569		\$1,316,042	\$5,389,236	\$6,705,279	\$2,681,963	\$1,824,069	\$125,373	\$50,332	\$745,525	\$22,617	\$781,472	\$12,936,630
2033	\$427,020,057	\$427,020,057		\$1,289,601	\$5,280,957	\$6,570,558	\$2,628,078	\$1,787,421	\$122,854	\$49,321	\$730,546	\$22,162	\$765,771	\$12,676,710
2034	\$418,439,656	\$418,439,656		\$1,263,688	\$5,174,843	\$6,438,531	\$2,575,270	\$1,751,505	\$120,385	\$48,330	\$715,867	\$21,717	\$750,384	\$12,421,988
2035	\$410,030,863	\$410,030,863		\$1,238,293	\$5,070,852	\$6,309,145	\$2,523,519	\$1,716,307	\$117,966	\$47,359	\$701,481	\$21,281	\$735,304	\$12,172,361
			Total	\$21,491,741	\$88,009,391	\$109,501,132	\$43,798,033	\$29,788,122	\$2,047,409	\$821,952	\$12,174,858	\$369,345	\$12,761,895	\$211,262,746

*Tax Rate per \$100 Valuation

Board Finding Number 7.

The revenue gains that will be realized by the school district if the Application is approved will be significant in the long-term, with special reference to revenues used for supporting school district debt.

Board Finding Number 8.

The effect of the Applicant's proposal, if approved, on the number or size of needed school district instructional facilities is not expected to increase the District's facility needs, with current trends suggesting little underlying enrollment growth based on the impact of the project.

Board Finding Number 9.

The Applicant's project is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy directly related to this project, using estimated taxable values provided in the application. Attachment B of the economic impact study contains a year-by-year analysis as depicted in the following table:

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
Limitation Pre-Years	2018	\$0	\$0	\$0	\$0
	2019	\$2,314,360	\$2,314,360	\$0	\$0
	2020	\$6,800,331	\$9,114,692	\$0	\$0
Limitation Period (10 Years)	2021	\$989,360	\$10,104,052	\$5,747,188	\$5,747,188
	2022	\$989,360	\$11,093,412	\$5,611,962	\$11,359,150
	2023	\$989,360	\$12,082,772	\$5,479,441	\$16,838,592
	2024	\$989,360	\$13,072,132	\$5,349,571	\$22,188,162
	2025	\$989,360	\$14,061,492	\$5,222,297	\$27,410,459
	2026	\$989,360	\$15,050,852	\$5,097,569	\$32,508,029
	2027	\$989,360	\$16,040,212	\$4,975,336	\$37,483,365
	2028	\$989,360	\$17,029,572	\$4,855,548	\$42,338,912
	2029	\$989,360	\$18,018,932	\$4,738,155	\$47,077,067
	2030	\$989,360	\$19,008,292	\$4,623,110	\$51,700,177
Maintain Viable Presence (5 Years)	2031	\$5,499,726	\$24,508,017	\$0	\$51,700,177
	2032	\$5,389,236	\$29,897,254	\$0	\$51,700,177
	2033	\$5,280,957	\$35,178,211	\$0	\$51,700,177
	2034	\$5,174,843	\$40,353,054	\$0	\$51,700,177
	2035	\$5,070,852	\$45,423,906	\$0	\$51,700,177
Additional Years as Required by 313.026(c)(1) (10 Years)	2036	\$4,968,940	\$50,392,846	\$0	\$51,700,177
	2037	\$4,869,066	\$55,261,912	\$0	\$51,700,177
	2038	\$4,771,190	\$60,033,103	\$0	\$51,700,177
	2039	\$4,675,272	\$64,708,375	\$0	\$51,700,177
	2040	\$4,581,272	\$69,289,647	\$0	\$51,700,177
	2041	\$4,489,152	\$73,778,798	\$0	\$51,700,177
	2042	\$4,398,874	\$78,177,672	\$0	\$51,700,177
	2043	\$4,310,402	\$82,488,074	\$0	\$51,700,177
	2044	\$4,223,699	\$86,711,773	\$0	\$51,700,177
	2045	\$4,138,730	\$90,850,504	\$0	\$51,700,177

\$90,850,504 is greater than \$51,700,177

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

Board Finding Number 10.

The limitation on appraised value requested by the Applicant is a determining factor in the Applicant’s decision to invest capital and construct the project in this state.

Board Finding Number 11.

The ability of the Applicant to locate the proposed facility in another state or another region of this state is substantial, as a result of the highly competitive marketplace for economic development.

In support of Findings 10 and 11, **Attachment C** of the economic impact study states:

The Comptroller has determined that the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Pasadena Performance Products, LP in Tab 5 of their Application for a Limitation on Appraised Value:
 - A. "An appraised value limitation agreement under Chapter 313 results in significant annual operating cost savings which would incentivize the Applicant to invest capital in the proposed project rather than making an alternative investment."
 - B. "The expected property tax burden for the Applicant's proposed project is significant to the internal rate of return expected. The property tax burden has both a direct and indirect impact on the proposed project's overall economic viability, and Applicant's ultimate decision to invest in Texas."
 - C. "The ability for Applicant to enter into a Chapter 313 appraised value limitation agreement with the school district is a determining factor in deciding whether to invest in this project."
 - D. "Capital investments by the Applicant are based on anticipated return on investment. Once the investment is made, one of the largest ongoing costs to operations is property tax liabilities. The property tax liabilities directly influence the internal rate of return on investment required by Applicant to secure funding. Without the Chapter 313 tax incentive, the economics of this project become less competitive with other capital intensive projects, and the viability of the proposed project becomes increasingly uncertain."
 - E. "Tax incentives play an important role in calculating internal rate of return on investment for projects in Texas due to the high property tax burden."
 - F. "Applicant has taken Chapter 313 appraised value limitation as an important component for evaluating whether to commit a substantial amount of capital in this area of Texas."
 - G. "Applicant is evaluating other locations outside of Texas for the proposed project to which this application pertains. To date, locations evaluated include the Louisiana Gulf Coast and the Northeast United States."
- Per Pasadena Performance Products, LP, in Tab 4 of their Application, "Pasadena Performance Products, LP, a wholly-owned subsidiary of Next Wave Energy Partners."
- According to the Energy Capital Partners news release dated April 14, 2015,
 - A. "Next Wave Energy Partners, LP ("Next Wave" or "the company") today announced that Energy Capital Partners ("ECP"), a private equity firm focused on investing in North America's energy infrastructure, has made an investment in the company. ECP will provide Next Wave with up to \$500 million in equity capital to focus on the development, operation, acquisition and expansion of midstream and downstream petrochemical and fuels assets."
 - B. "The renaissance in North American hydrocarbon production has had a ripple effect on the energy industry, creating waves of opportunity further down the value chain,' said Next Wave Executive Chairman Patrick Diamond. 'The outlook for abundant and reasonably priced NGL volumes in North America provides an opportunity for U.S. companies to use these products and their derivatives in value-added ways that compete with or complement the export

market. Changing crude oil quality profiles and refinery product slates create additional complexities that ripple across the system and add to the opportunity set.”

- Pasadena Performance Products, LP has applied for a New Source Review Air Permit with the Texas Commission on Environmental Quality for the project.
- Attached are Railroad Commission of Texas Public GIS Viewer maps depicting pipelines and railroads on and near the project site.

Supporting Information

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

Board Finding Number 12.

The Board of Trustees of the Deer Park Independent School District hired consultants to review and verify the information in Application #1321. Based upon the consultants’ review, the Board has determined that the information provided by the Applicant appears to be true and correct.

Board Finding Number 13.

The Board of Trustees has determined that the Tax Limitation Amount requested by the Applicant is currently \$80,000,000 Million Dollars, which is consistent with the minimum values currently set out by Texas Tax Code § 313.054(a).

Board Finding Number 14.

The Applicant (Taxpayer ID 32064009700) is eligible for the limitation on appraised value of Qualified Property as specified in the Agreement based on its “good standing” certification as a franchise-tax paying entity.

Board Finding Number 15.

The Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Exhibit C, includes adequate and appropriate revenue protection provisions for the District.

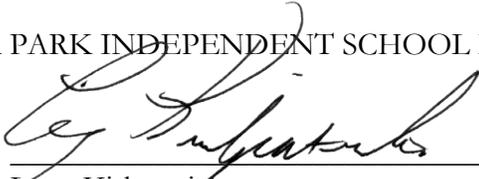
Board Finding Number 16.

Considering the purpose and effect of the law and the terms of the Agreement, it is in the best interest of the District and the State to enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.

It is therefore ORDERED that the Agreement attached hereto as **Exhibit C** is approved and hereby authorized to be executed and delivered by and on behalf of the Deer Park Independent School District. It is further ORDERED that these Findings and the Attachments referred to herein be attached to the official minutes of this meeting and maintained in the permanent records of the Board of Trustees of the Deer Park Independent School District.

Dated the 16th day of September, 2019.

DEER PARK INDEPENDENT SCHOOL DISTRICT

By: 

Lynn Kirkpatrick
President, Board of Trustees

ATTEST:

By: 

Rhonda Lowe
Secretary, Board of Trustees

Findings and Order of the Deer Park Independent School District
Board of Trustees under the Texas Economic Development Act on the Application Submitted by
Pasadena Performance Products, LP (Tax ID 32064009700) (Application #1321)

EXHIBIT A

Comptroller's Economic Impact Analysis



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

April 24, 2019

Victor White
Superintendent
Deer Park Independent School District
2800 Texas Avenue
Deer Park, Texas 77536

Re: Certificate for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Deer Park Independent School District and Pasadena Performance Products, LP, Application 1321

Dear Superintendent White:

On March 1, 2019, the Comptroller issued written notice that Pasadena Performance Products, LP (applicant) submitted a completed application (Application 1321) for a limitation on appraised value under the provisions of Tax Code Chapter 313.¹ This application was originally submitted on November 12, 2018, to the Deer Park Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter B; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

Determination required by 313.025(h)

Sec. 313.024(a) Applicant is subject to tax imposed by Chapter 171.
Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.

¹ All Statutory references are to the Texas Tax Code, unless otherwise noted.

- Sec. 313.024(d) Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.
- Sec. 313.024(d-2) Not applicable to Application 1321.

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

Certificate decision required by 313.025(d)

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement by December 31, 2019.

Note that any building or improvement existing as of the application review start date of March 1, 2019, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at will.counihan@cpa.texas.gov or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,



Lisa Craven
Deputy Comptroller

Enclosure

cc: Will Counihan

Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Pasadena Performance Products, LP (project) applying to Deer Park Independent School District (district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

Table 1 is a summary of investment, employment and tax impact of Pasadena Performance Products, LP.

Applicant	Pasadena Performance Products, LP
Tax Code, 313.024 Eligibility Category	Manufacturing
School District	Deer Park ISD
Estimated 2017-2018 Average Daily Attendance	12,159
County	Harris County
Proposed Total Investment in District	\$575,000,000
Proposed Qualified Investment	\$575,000,000
Limitation Amount	\$80,000,000
Qualifying Time Period (Full Years)	2020-2021
Number of new qualifying jobs committed to by applicant	25
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$1,346
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$1,274
Minimum annual wage committed to by applicant for qualified jobs	\$70,000
Minimum weekly wage required for non-qualifying jobs	\$1,347
Minimum annual wage required for non-qualifying jobs	\$70,019
Investment per Qualifying Job	\$23,000,000
Estimated M&O levy without any limit (15 years)	\$88,009,391
Estimated M&O levy with Limitation (15 years)	\$36,309,214
Estimated gross M&O tax benefit (15 years)	\$51,700,177

Table 2 is the estimated statewide economic impact of Pasadena Performance Products, LP (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2019	400	553	953	\$28,000,000	\$45,021,512	\$73,021,512
2020	400	613	1013.47	\$28,000,000	\$55,196,435	\$83,196,435
2021	425	719	1144	\$29,750,000	\$68,928,289	\$98,678,289
2022	25	207	232	\$1,750,000	\$27,865,393	\$29,615,393
2023	25	118	143	\$1,750,000	\$20,223,146	\$21,973,146
2024	25	62	87	\$1,750,000	\$14,670,370	\$16,420,370
2025	25	38	63	\$1,750,000	\$11,580,290	\$13,330,290
2026	25	34	59	\$1,750,000	\$10,310,070	\$12,060,070
2027	25	43	68	\$1,750,000	\$10,383,843	\$12,133,843
2028	25	57	82	\$1,750,000	\$11,326,104	\$13,076,104
2029	25	73	98	\$1,750,000	\$12,786,935	\$14,536,935
2030	25	88	113	\$1,750,000	\$14,515,529	\$16,265,529
2031	25	88	113	\$1,750,000	\$15,050,092	\$16,800,092
2032	25	95	120	\$1,750,000	\$16,162,074	\$17,912,074
2033	25	99	124	\$1,750,000	\$17,260,273	\$19,010,273
2034	25	103	128	\$1,750,000	\$18,322,186	\$20,072,186
2035	25	105	130	\$1,750,000	\$19,306,896	\$21,056,896

Source: CPA REMI, Pasadena Performance Products, LP

Table 3 examines the estimated direct impact on ad valorem taxes to the region if all taxes are assessed.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate	Deer Park	Deer Park	Deer Park	City of	Harris County	Harris County	Port of	Harris County	Harris County	San Jacinto	Estimated Total Property Taxes	
				ISD I&S Tax Levy	Deer Park ISD M&O Tax Levy	M&O and I&S Tax Levies	Pasadena Tax Levy	Harris County Tax Levy	Flood Control District Tax Levy	Houston Authority Tax Levy	Hospital District Tax Levy	Department of Education Tax Levy	College District Tax Levy		
				0.3020	1.2367		0.6154	0.4186	0.0288	0.0116	0.1711	0.0052	0.1793		
2021	\$544,719,656	\$544,719,656		\$1,645,053	\$6,736,548	\$8,381,601	\$3,352,455	\$2,280,088	\$156,716	\$62,915	\$931,906	\$28,271	\$976,840	\$16,170,793	
2022	\$533,785,263	\$533,785,263		\$1,612,031	\$6,601,322	\$8,213,354	\$3,285,160	\$2,234,318	\$153,570	\$61,652	\$913,200	\$27,703	\$957,232	\$15,846,190	
2023	\$523,069,558	\$523,069,558		\$1,579,670	\$6,468,801	\$8,048,471	\$3,219,211	\$2,189,465	\$150,487	\$60,415	\$894,867	\$27,147	\$938,015	\$15,528,078	
2024	\$512,568,166	\$512,568,166		\$1,547,956	\$6,338,931	\$7,886,886	\$3,154,580	\$2,145,508	\$147,466	\$59,202	\$876,902	\$26,602	\$919,183	\$15,216,329	
2025	\$502,276,803	\$502,276,803		\$1,516,876	\$6,211,657	\$7,728,533	\$3,091,242	\$2,102,430	\$144,505	\$58,013	\$859,295	\$26,068	\$900,728	\$14,910,815	
2026	\$492,191,267	\$492,191,267		\$1,486,418	\$6,086,929	\$7,573,347	\$3,029,171	\$2,060,214	\$141,603	\$56,848	\$842,041	\$25,545	\$882,642	\$14,611,411	
2027	\$482,307,442	\$482,307,442		\$1,456,568	\$5,964,696	\$7,421,265	\$2,968,342	\$2,018,842	\$138,760	\$55,707	\$825,132	\$25,032	\$864,917	\$14,317,996	
2028	\$472,621,293	\$472,621,293		\$1,427,316	\$5,844,908	\$7,272,224	\$2,908,729	\$1,978,298	\$135,973	\$54,588	\$808,561	\$24,529	\$847,547	\$14,030,448	
2029	\$463,128,867	\$463,128,867		\$1,398,649	\$5,727,515	\$7,126,164	\$2,850,308	\$1,938,565	\$133,242	\$53,491	\$792,321	\$24,036	\$830,524	\$13,748,652	
2030	\$453,826,290	\$453,826,290		\$1,370,555	\$5,612,470	\$6,983,025	\$2,793,056	\$1,899,626	\$130,566	\$52,417	\$776,406	\$23,554	\$813,842	\$13,472,491	
2031	\$444,709,764	\$444,709,764		\$1,343,023	\$5,499,726	\$6,842,749	\$2,736,948	\$1,861,466	\$127,943	\$51,364	\$760,809	\$23,080	\$797,494	\$13,201,854	
2032	\$435,775,569	\$435,775,569		\$1,316,042	\$5,389,236	\$6,705,279	\$2,681,963	\$1,824,069	\$125,373	\$50,332	\$745,525	\$22,617	\$781,472	\$12,936,630	
2033	\$427,020,057	\$427,020,057		\$1,289,601	\$5,280,957	\$6,570,558	\$2,628,078	\$1,787,421	\$122,854	\$49,321	\$730,546	\$22,162	\$765,771	\$12,676,710	
2034	\$418,439,656	\$418,439,656		\$1,263,688	\$5,174,843	\$6,438,531	\$2,575,270	\$1,751,505	\$120,385	\$48,330	\$715,867	\$21,717	\$750,384	\$12,421,988	
2035	\$410,030,863	\$410,030,863		\$1,238,293	\$5,070,852	\$6,309,145	\$2,523,519	\$1,716,307	\$117,966	\$47,359	\$701,481	\$21,281	\$735,304	\$12,172,361	
				Total	\$21,491,741	\$88,009,391	\$109,501,132	\$43,798,033	\$29,788,122	\$2,047,409	\$821,952	\$12,174,858	\$369,345	\$12,761,895	\$211,262,746

Source: CPA, Pasadena Performance Products, LP

*Tax Rate per \$100 Valuation

Table 4 examines the estimated direct impact on ad valorem taxes to the school district, City of Pasadena, Harris County, Harris County Flood Control District, Port of Houston Authority, Harris County Hospital District, Harris County Department of Education and San Jacinto College with all property tax incentives sought using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the city.

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate	Deer Park ISD I&S Tax Levy	Deer Park ISD M&O Tax Levy	Deer Park M&O and I&S Tax Levies	City of Pasadena Tax Levy	Harris County Tax Levy	Harris County Flood Control District Tax Levy	Port of Houston Authority Tax Levy	Harris County Hospital District Tax Levy	Harris County Department of Education Tax Levy	San Jacinto College District Tax Levy	Estimated Total Property Taxes	
			0.3020	1.2367			0.6154	0.4186	0.0288	0.0116	0.1711	0.0052	0.1793		
2021	\$544,719,656	\$80,000,000		\$1,645,053	\$989,360	\$2,634,413	\$2,514,342	\$2,280,088	\$156,716	\$62,915	\$931,906	\$28,271	\$976,940	\$9,585,491	
2022	\$533,785,263	\$80,000,000		\$1,612,031	\$989,360	\$2,601,391	\$2,463,870	\$2,234,318	\$153,570	\$61,652	\$913,200	\$27,703	\$957,232	\$9,412,937	
2023	\$523,069,558	\$80,000,000		\$1,579,670	\$989,360	\$2,569,030	\$2,414,408	\$2,189,465	\$150,487	\$60,415	\$894,867	\$27,147	\$938,015	\$9,243,834	
2024	\$512,568,166	\$80,000,000		\$1,547,956	\$989,360	\$2,537,316	\$2,365,935	\$2,145,508	\$147,466	\$59,202	\$876,902	\$26,602	\$919,183	\$9,078,114	
2025	\$502,276,803	\$80,000,000		\$1,516,876	\$989,360	\$2,506,236	\$2,318,432	\$2,102,430	\$144,505	\$58,013	\$859,295	\$26,068	\$900,728	\$8,915,707	
2026	\$492,191,267	\$80,000,000		\$1,486,418	\$989,360	\$2,475,778	\$2,271,879	\$2,060,214	\$141,603	\$56,948	\$842,041	\$25,545	\$882,642	\$8,756,549	
2027	\$482,307,442	\$80,000,000		\$1,456,568	\$989,360	\$2,445,928	\$2,226,256	\$2,018,842	\$138,760	\$55,707	\$825,132	\$25,032	\$864,917	\$8,600,574	
2028	\$472,621,293	\$80,000,000		\$1,427,316	\$989,360	\$2,416,676	\$2,181,547	\$1,978,298	\$135,973	\$54,588	\$808,561	\$24,529	\$847,547	\$8,447,719	
2029	\$463,128,867	\$80,000,000		\$1,398,649	\$989,360	\$2,388,009	\$2,137,731	\$1,938,565	\$133,242	\$53,491	\$792,321	\$24,036	\$830,524	\$8,297,920	
2030	\$453,826,290	\$80,000,000		\$1,370,555	\$989,360	\$2,359,915	\$2,094,792	\$1,899,626	\$130,566	\$52,417	\$776,406	\$23,554	\$813,942	\$8,151,118	
2031	\$444,709,764	\$444,709,764		\$1,343,023	\$5,499,726	\$6,842,749	\$2,736,948	\$1,861,466	\$127,943	\$51,364	\$760,809	\$23,080	\$797,494	\$13,201,854	
2032	\$435,775,569	\$435,775,569		\$1,316,042	\$5,389,236	\$6,705,279	\$2,681,963	\$1,824,069	\$125,373	\$50,332	\$745,525	\$22,617	\$781,472	\$12,936,630	
2033	\$427,020,057	\$427,020,057		\$1,289,601	\$5,280,957	\$6,570,558	\$2,628,078	\$1,787,421	\$122,854	\$49,321	\$730,546	\$22,162	\$765,771	\$12,676,710	
2034	\$418,439,656	\$418,439,656		\$1,263,688	\$5,174,843	\$6,438,531	\$2,575,270	\$1,751,505	\$120,385	\$48,330	\$715,867	\$21,717	\$750,384	\$12,421,988	
2035	\$410,030,863	\$410,030,863		\$1,238,293	\$5,070,852	\$6,309,145	\$2,523,519	\$1,716,307	\$117,966	\$47,359	\$701,481	\$21,281	\$735,304	\$12,172,361	
				Total	\$21,491,741	\$36,309,214	\$57,800,955	\$36,134,969	\$29,788,122	\$2,047,409	\$821,952	\$12,174,858	\$369,345	\$12,761,895	\$151,899,506
				Diff	\$0	\$51,700,177	\$1,700,177	\$7,663,064	\$0	\$0	\$0	\$0	\$0	\$0	\$59,363,240

Assumes School Value Limitation and Tax Abatements with the City.

Source: CPA, Pasadena Performance Products, LP

*Tax Rate per \$100 Valuation

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

Attachment B – Tax Revenue before 25th Anniversary of Limitation Start

This represents the Comptroller’s determination that Pasadena Performance Products, LP (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
Limitation Pre-Years	2018	\$0	\$0	\$0	\$0
	2019	\$2,314,360	\$2,314,360	\$0	\$0
	2020	\$6,800,331	\$9,114,692	\$0	\$0
Limitation Period (10 Years)	2021	\$989,360	\$10,104,052	\$5,747,188	\$5,747,188
	2022	\$989,360	\$11,093,412	\$5,611,962	\$11,359,150
	2023	\$989,360	\$12,082,772	\$5,479,441	\$16,838,592
	2024	\$989,360	\$13,072,132	\$5,349,571	\$22,188,162
	2025	\$989,360	\$14,061,492	\$5,222,297	\$27,410,459
	2026	\$989,360	\$15,050,852	\$5,097,569	\$32,508,029
	2027	\$989,360	\$16,040,212	\$4,975,336	\$37,483,365
	2028	\$989,360	\$17,029,572	\$4,855,548	\$42,338,912
	2029	\$989,360	\$18,018,932	\$4,738,155	\$47,077,067
	2030	\$989,360	\$19,008,292	\$4,623,110	\$51,700,177
Maintain Viable Presence (5 Years)	2031	\$5,499,726	\$24,508,017	\$0	\$51,700,177
	2032	\$5,389,236	\$29,897,254	\$0	\$51,700,177
	2033	\$5,280,957	\$35,178,211	\$0	\$51,700,177
	2034	\$5,174,843	\$40,353,054	\$0	\$51,700,177
	2035	\$5,070,852	\$45,423,906	\$0	\$51,700,177
Additional Years as Required by 313.026(c)(1) (10 Years)	2036	\$4,968,940	\$50,392,846	\$0	\$51,700,177
	2037	\$4,869,066	\$55,261,912	\$0	\$51,700,177
	2038	\$4,771,190	\$60,033,103	\$0	\$51,700,177
	2039	\$4,675,272	\$64,708,375	\$0	\$51,700,177
	2040	\$4,581,272	\$69,289,647	\$0	\$51,700,177
	2041	\$4,489,152	\$73,778,798	\$0	\$51,700,177
	2042	\$4,398,874	\$78,177,672	\$0	\$51,700,177
	2043	\$4,310,402	\$82,488,074	\$0	\$51,700,177
	2044	\$4,223,699	\$86,711,773	\$0	\$51,700,177
	2045	\$4,138,730	\$90,850,504	\$0	\$51,700,177

\$90,850,504 is greater than \$51,700,177

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

NOTE: The analysis above only takes into account this project’s estimated impact on the M&O portion of the school district property tax levy directly related to this project.
Source: CPA, Pasadena Performance Products, LP

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

Attachment C – Limitation as a Determining Factor

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant’s decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

Methodology

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

Determination

The Comptroller **has determined** that the limitation on appraised value is a determining factor in the Pasadena Performance Products, LP’s decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Pasadena Performance Products, LP, in Tab 5 of their Application for a Limitation on Appraised Value:
 - A. “An appraised value limitation agreement under Chapter 313 results in significant annual operating cost savings which would incentivize the Applicant to invest capital in the proposed project rather than making an alternative investment.”
 - B. “The expected property tax burden for the Applicant’s proposed project is significant to the internal rate of return expected. The property tax burden has both a direct and indirect impact on the proposed project’s overall economic viability, and Applicant’s ultimate decision to invest in Texas.”
 - C. “The ability for Applicant to enter into a Chapter 313 appraised value limitation agreement with the school district is a determining factor in deciding whether to invest in this project.”
 - D. “Capital investments by the Applicant are based on anticipated return on investment. Once the investment is made, one of the largest ongoing costs to operations is property tax liabilities. The property tax liabilities directly influence the internal rate of return on investment required by Applicant to secure funding. Without the Chapter 313 tax incentive, the economics of this project become less competitive with other capital intensive projects, and the viability of the proposed project becomes increasingly uncertain.”
 - E. “Tax incentives play an important role in calculating internal rate of return on investment for projects in Texas due to the high property tax burden.”
 - F. “Applicant has taken Chapter 313 appraised value limitation as an important component for evaluating whether to commit a substantial amount of capital in this area of Texas.”
 - G. “Applicant is evaluating other locations outside of Texas for the proposed project to which this application pertains. To date, locations evaluated include the Louisiana Gulf Coast and the Northeast United States.”

- Per Pasadena Performance Products, LP, in Tab 4 of their Application, "Pasadena Performance Products, LP, a wholly-owned subsidiary of Next Wave Energy Partners."
- According to the Energy Capital Partners news release dated April 14, 2015,
 - A. "Next Wave Energy Partners, LP ("Next Wave" or "the company") today announced that Energy Capital Partners ("ECP"), a private equity firm focused on investing in North America's energy infrastructure, has made an investment in the company. ECP will provide Next Wave with up to \$500 million in equity capital to focus on the development, operation, acquisition and expansion of midstream and downstream petrochemical and fuels assets."
 - B. "'The renaissance in North American hydrocarbon production has had a ripple effect on the energy industry, creating waves of opportunity further down the value chain,' said Next Wave Executive Chairman Patrick Diamond. 'The outlook for abundant and reasonably priced NGL volumes in North America provides an opportunity for U.S. companies to use these products and their derivatives in value-added ways that compete with or complement the export market. Changing crude oil quality profiles and refinery product slates create additional complexities that ripple across the system and add to the opportunity set.' "
- Pasadena Performance Products, LP has applied for a New Source Review Air Permit with the Texas Commission on Environmental Quality for the project.
- Attached are Railroad Commission of Texas Public GIS Viewer maps depicting pipelines and railroads on and near the project site.

Supporting Information

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

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

Supporting Information

Section 8 of the Application for a Limitation on Appraised Value

SECTION 6: Eligibility Under Tax Code Chapter 313.024

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

SECTION 7: Project Description

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

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

SECTION 8: Limitation as Determining Factor

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

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

Supporting Information

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

Tab #5

Limitation is a Determining Factor

1. **Does the applicant currently own the land on which the proposed project will occur?**

No. Applicant (previously defined as "Pasadena Performance Products, LP") has long-term lease on the proposed project site. The lease has a termination clause that Applicant can utilize if project does not move forward.

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

Applicant has entered into non-binding Letters of Intent ("LOI") for a portion of feedstock supply and alkylate offtake. Applicant's business model necessitates these LOI's be in place prior to investment decisions being made so there is available feedstock if the proposed project moves forward.

3. **Does the applicant have current business activities at the location where the proposed project will occur?**

No.

4. **Has the applicant made any public statements in SEC filings or other documents regarding its intentions regarding the proposed project location?**

No.

5. **Has the applicant received any local or state permits for activities on the proposed project site?**

Yes – Air Permit.

6. **Has the applicant received commitments for state or local incentives at the proposed project site?**

No.

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

Yes. Applicant is evaluating other locations outside of Texas for the proposed project to which this application pertains. To date, locations evaluated include the Louisiana Gulf Coast and the Northeast United States.

Applicant is an independent energy company focused on the development, operation, acquisition, and expansion of midstream and downstream petrochemical and fuels assets. Applicant's core capabilities include customized toll processing, manufacturing and logistics solutions for natural gas liquids, petrochemicals and gasoline blending components.

Applicant's investment decisions are in part driven by geo-tech feasibility of a location. Applicant is currently spending dollars to move dirt for the purpose of evaluating the proposed project site.

Applicant's capital investments are allocated to projects and locations based on anticipated return on investment. Once the investment is made, one of the largest ongoing costs to operations is property tax liabilities. Diligence is one of the most important factors when securing funding for a capital investment, and the internal rate of return is a key driver in Applicant's cost/benefit analysis. The Chapter 313 Value Limitation, if granted, would make the location in Texas a feasible investment.

8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with alternative investment opportunities?

No.

9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project?

N/A

10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?

No.

Key Determining Factors:

- An appraised value limitation agreement under Chapter 313 results in significant annual operating cost savings which would incentivize the Applicant to invest capital in the proposed project rather than making an alternative investment.
- The expected property tax burden for the Applicant's proposed project is significant to the internal rate of return expected. The property tax burden has both a direct and indirect impact on the proposed project's overall economic viability, and Applicant's ultimate decision to invest in Texas.

Tab 5 Continued

- The ability for Applicant to enter into a Chapter 313 appraised value limitation agreement with the school district is a determining factor in deciding whether to invest in this project.
- Capital investments by the Applicant are based on anticipated return on investment. Once the investment is made, one of the largest ongoing costs to operations is property tax liabilities. The property tax liabilities directly influence the internal rate of return on investment required by Applicant to secure funding. Without the Chapter 313 tax incentive, the economics of this project become less competitive with other capital-intensive projects, and the viability of the proposed project becomes increasingly uncertain.
- Tax incentives play an important role in calculating internal rate of return on investment for projects in Texas due to the high property tax burden.
- Applicant has taken Chapter 313 appraised value limitation as an important component for evaluating whether to commit a substantial amount of capital in this area of Texas.

Supporting Information

Additional information
provided by the Applicant or
located by the Comptroller

Tab #4

Detailed Description of the Project

Proposed Project Description

The proposed project to which this application pertains is to construct an on-purpose alkylate manufacturing facility. The facility will consist of two units, an olefins unit (“Olefins Unit”) and an alkylation unit, as well as associated process infrastructure, auxiliary equipment and logistics assets.

The Olefins Unit produces olefins via a catalyst and co-catalyst. The alkylation unit will react light olefins – including the olefins produced by the Olefins Unit – with isobutane in the presence of a sulfuric acid catalyst to form alkylate. Alkylate is a premium blendstock used in the formulation of gasoline and is sought after for its high octane and low vapor pressure characteristics.

Pasadena Performance Products, LP, a wholly-owned subsidiary of Next Wave Energy Partners, (hereinafter referred to as “Applicant”) anticipates investments for construction of approximately \$575 million. This anticipated investment amount includes engineering, equipment, and construction costs.

Preliminary Project Timeline

- Q2 2019 – final investment decision
- Q3 2019 – begin construction, pending receipt of permits
- Q2 2021 – commencement of commercial production



Next Wave Energy Partners Announces Investment of up to \$500 Million by Energy Capital Partners

Apr 14, 2015



Next Wave Energy Partners, LP ("Next Wave" or "the company") today announced that Energy Capital Partners ("ECP"), a private equity firm focused on investing in North America's energy infrastructure, has made an investment in the company. ECP will provide Next Wave with up to \$500 million in equity capital to focus on the development, operation, acquisition and expansion of midstream and downstream petrochemical and fuels assets. ECP is joined by members of Next Wave's senior management in the investment. Next Wave's core capabilities include customized toll processing, manufacturing and logistics solutions for natural gas liquids, petrochemicals and gasoline blending components. The company, which is focused on opportunities in the United States and Canada, expects to utilize ECP's funding to pursue greenfield development projects and potential acquisitions. Next Wave is led by its four founders: Patrick Diamond, executive chairman; Michael Bloesch, president and chief executive officer; Dan Fahey, vice president of engineering and technology; and Sean Diamond, vice president of operations and commercial. The Next Wave management team has nearly nine decades of collective energy industry experience with a focus on midstream, petrochemical and fuels value chains.

"We are excited to announce our partnership with ECP and look forward to working together to build a company that is well positioned to capitalize on the opportunities created by the changes in the North American energy landscape," said Patrick Diamond, executive chairman of Next Wave. "ECP's financial strength and depth of industry expertise provide Next Wave with a powerful platform."

Scott Rogan, principal at ECP said, "ECP is thrilled to partner with such an outstanding management team which brings an extensive track record of success in both the midstream and downstream sectors of the energy industry. We believe the Next Wave team possesses the experience and expertise necessary to provide its customers with attractive solutions that address the challenges and opportunities resulting from the secondary and tertiary effects of the shale-driven hydrocarbon revolution. ECP is confident in Next Wave's ability to execute its business plan and looks forward to supporting the company's future growth."

Market Perspective

"The renaissance in North American hydrocarbon production has had a ripple effect on the energy industry, creating waves of opportunity further down the value chain," said Next Wave Executive Chairman Patrick Diamond. "The outlook for abundant and reasonably priced NGL volumes in North America provides an opportunity for U.S.

<https://www.ecpartners.com/news/next-wave-energy-partners-announces-investment-of-up-to-500-million-by-energy-capital-partners>

1/2

1/7/2019

Next Wave Energy Partners Announces Investment Of Up To \$500 Million By Energy Capital Partners | Energy Capital Partners

companies to use these products and their derivatives in value-added ways that compete with or complement the export market. Changing crude oil quality profiles and refinery product slates create additional complexities that ripple across the system and add to the opportunity set."

"These developments are altering the traditional relationships between natural gas liquids, petrochemicals and fuels, driving value chains to become increasingly intertwined," said Next Wave President and CEO Michael Bloesch. "Next Wave will capitalize on these changing market dynamics to create value for our customers by optimizing their value chains and further developing markets for their products; thus, we are focused on building strong, collaborative and long-term relationships with our customers. Our team has a proven track record of project conception, development and execution, as well as the technical expertise and experience necessary to successfully design and safely and reliably operate midstream and downstream assets."



<https://www.ecpartners.com/news/next-wave-energy-partners-announces-investment-of-up-to-500-million-by-energy-capital-partners>

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12/19/2018

TCEQ - NSR, TV and CapTrade Searches
New Source Review Air Permits

Questions or Comments >>

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Go To: Title V Federal Operating Permits

12/19/2018 -----AirPermits IMS - PROJECT RECORD -----

Project#: 271986 Status: COMPLETE
Project Administrative Name: PASADENA SITE
Project Technical Name: PASADENA SITE

PROJECT ACTIONS

Permit	Action Type	Permit Type	Received Date	Permit Status	Renewal Date	Action Status	Complete Date
147756	INITIAL	PBR	07/20/2017	ISSUED		COMPLETE	09/13/2017

Assigned Staff:

PEERREVIEW: ALLISON, HOPE REVIEW ENG: BANDA, MONICO
PEERREVIEW: JOHNSON, DANA REVIEWR1_2: PIPER, STEVEN

Customer Name: PASADENA PERFORMANCE PRODUCTS, LP
Legal Name: Pasadena Performance Products, LP
CN Number: CN605397520

Permit Information:

REGULATED ENTITY NUMBER: RN109867283

Permit	Account	Permittee Name	County	Region	City	State	Location
147756		PASADENA SITE	HARRIS	REGION 12 - HOUSTON	PASADENA	TEXAS	601 N SOUTH ST

FEE:

Permit	Action Type	Reference	Fee Receipt Number	Fee Amount Paid	Fee Refund Amount	Fee Receipt Date	Fee Payment Type
147756	INITIAL	328975	582EA000264886	100.00		07/20/2017	ePAY

TRACKING ELEMENTS

TE Name	Start Date	Complete Date
APIRT RECEIVED PROJECT (DATE)	07/21/2017	
APIRT TRANSFERRED PROJECT TO TECHNICAL STAFF (DATE)	07/24/2017	
PROJECT RECEIVED BY ENGINEER (DATE)	07/26/2017	
ENGINEER INITIAL REVIEW COMPLETED (DATE)	08/02/2017	
DEFICIENCY CYCLE	08/04/2017	09/08/2017
PEER / MANAGER REVIEW PERIOD	09/08/2017	09/13/2017

PROJECT RULES:

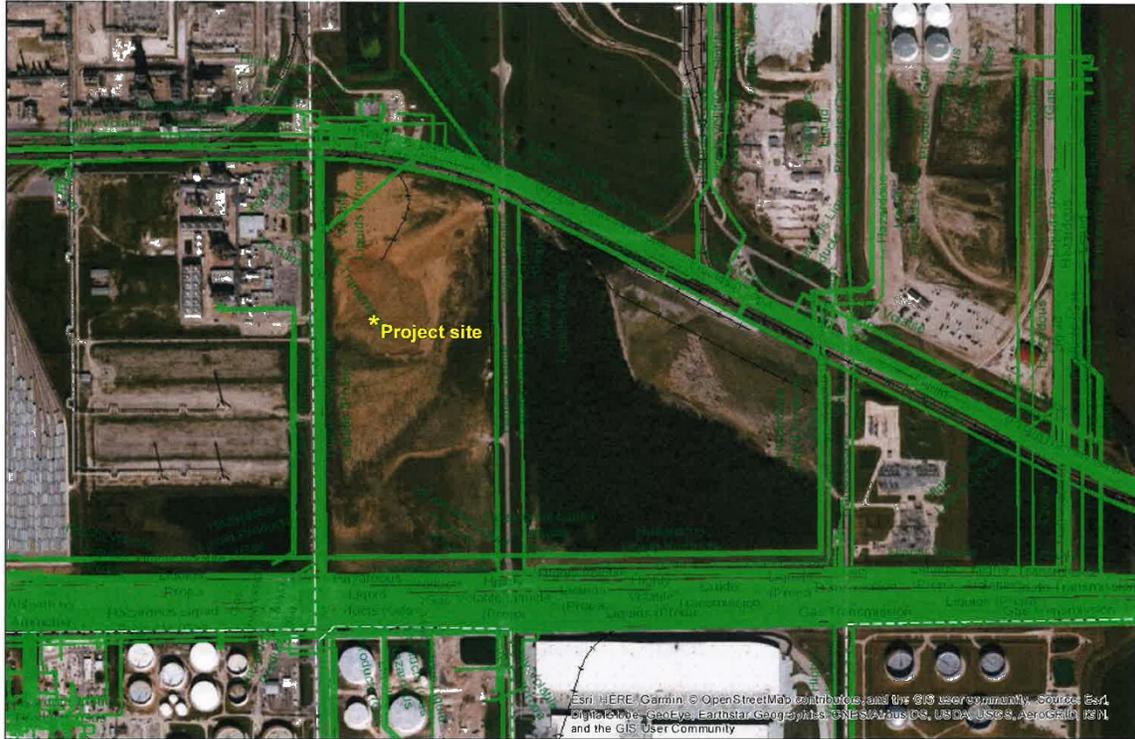
Unit Desc	Rule Desc	On Application	Approve
COOLING-WATER UNITS	106.371	Y	Y
ENGINES AND TURBINES	106.511	Y	Y
FACILITIES (EMISSION AND DISTANCE LIMITATIONS)	106.262	Y	Y
FACILITIES (EMISSION LIMITATIONS)	106.261	Y	Y
FLARES	106.492	Y	Y
ORGANIC AND INORGANIC LIQUID LOADING AND UNLOADING	106.472	Y	Y
ROUTINE MAINTENANCE STARTUP AND SHUTDOWN OF FACIL	106.263	Y	Y
STORAGE TANK AND CHANGE OF SERVICE	106.478	Y	Y

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[Statewide Links: Texas.gov](#) | [Texas Homeland Security](#) | [TRAIL Statewide Archive](#) | [Texas Veterans Portal](#)

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http://www2.tceq.texas.gov/airperm/index.cfm?fuseaction=airpermits.project_report&proj_id=271986&addn_num_txt=147756

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January 7, 2019

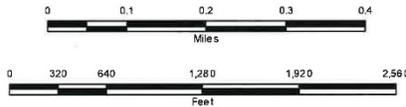
**#1321 Deer Park-Pasadena Performance Products, LP
(Alkylate manufacturing facility)**

1 inch = 752 feet

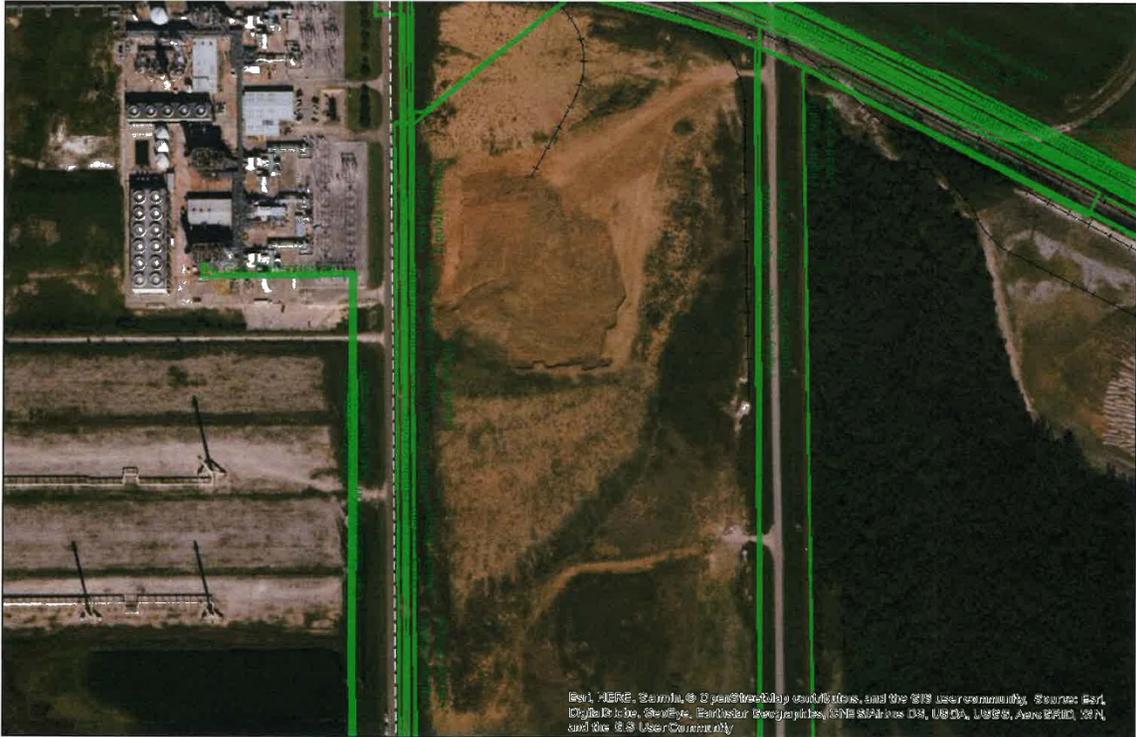
PREPARED BY:
RAILROAD COMMISSION of TEXAS

P.O. BOX 12967
AUSTIN, TX 78711-2967

Source: DDP, DPM, GIS Viewer



NOTICE/DISCLAIMER: Mapping data sets are provided for informational purposes only. These data sets are continuously being updated and refined. Users are responsible for checking the accuracy, completeness, currency, and/or suitability of these data sets themselves. This is not a survey grade product and should not be used to define or establish survey boundaries.

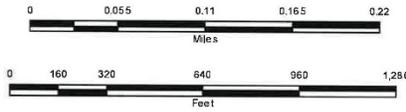


Be it HEREBY stated, that the boundary conditions, and the GIS user community, State of Texas, County of DeSoto, and the City of Deer Park, Texas, and the GIS User Community.

January 7, 2019

1 inch = 376 feet

PREPARED BY:
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 P.O. BOX 12967
 AUSTIN, TX 78711-2967



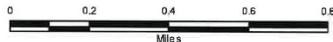
NOTICE/DISCLAIMER: Mapping data sets are provided for informational purposes only. These data sets are continuously being updated and refined. Users are responsible for checking the accuracy, completeness, currency and/or suitability of these data sets themselves. This is not a survey grade product and should not be used to define or establish survey boundaries.

Source: BPA Public GIS Viewer



January 7, 2019

1 inch = 1,505 feet



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Source: DRC Data GIS Viewer

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Findings and Order of the Deer Park Independent School District
Board of Trustees under the Texas Economic Development Act on the Application Submitted by
Pasadena Performance Products, LP (Tax ID 32064009700) (Application #1321)

EXHIBIT B

**Summary of Financial Impact on
Deer Park Prepared by
Education Service Center, Region 12**

**SUMMARY OF THE FINANCIAL IMPACT OF THE PROPOSED
PASADENA PERFORMANCE PRODUCTS, LP PROJECT
(APPLICATION #1321)
ON THE FINANCES OF
DEER PARK INDEPENDENT SCHOOL DISTRICT
UNDER A REQUESTED
CHAPTER 313 APPRAISED VALUE LIMITATION**

**PREPARED BY
EDUCATION SERVICE CENTER, REGION 12
JULY 29, 2019**

Introduction

Pasadena Performance Products, LP (“Pasadena” or “Company”) has submitted an application to the Deer Park Independent School District (“DPIISD” or “District”) requesting a property value limitation on a proposed project, located within the school district boundaries, under Chapter 313 of the Texas Tax Code. The proposed project is an on-purpose alkylate manufacturing facility located in Harris County, TX. The company estimates that the total investment in this project will be in excess of \$570 million.

Local government entities in Texas, including school districts, rely heavily on the ad valorem property tax to fund operations and building projects. Thus, the property tax burden that Texas imposes on individuals and business entities is higher compared to most other states. Seeking to encourage economic development and to attract large scale capital investment, the 77th Texas Legislature in 2001 enacted House Bill 1200 creating Tax Code Chapter 313, the Texas Economic Development Act. The act as amended by the legislature in 2007, 2009, and 2013 now grants eligibility to companies engaging in manufacturing, advanced clean energy projects, research and development, clean coal projects, renewable electric energy generation, electric power generation using integrated gasification combined cycle technology, nuclear electric power generation and a computer center used primarily in connection to one of the other categories, or a Texas Priority Project. Under the provisions of this law, the Deer Park Independent School District may grant a value limitation for maintenance and operation taxes in the amount of \$80 million dollars for a period of ten years.

The application calls for the project to be fully taxable for both maintenance and operation (M&O) and interest and sinking (I&S) during the 2019-20 and 2020-21 school years. Beginning with the 2021-22 school year, the value of the project would be limited to \$80 million for maintenance and operation (M&O) tax purposes and remain limited through the 2030-31 school year. The full value of the project will be taxable for debt service purposes using the I&S tax rate in all years of the agreement.

Revenue Protection Payment to Deer Park ISD -	\$5,274,568
Supplemental Payments to Deer Park ISD -	\$17,075,800
Total Revenue to Deer Park ISD Resulting	
From Tax Code Chapter 313 Agreement -	<u>\$22,350,368</u>
Total Tax Savings to Company after all Payments -	<u>\$25,098,246</u>

School Finance Mechanics

The Texas system of public-school funding is based on the ad valorem property tax. Schools levy a tax rate for maintenance and operation (M&O) and interest and sinking (I&S) against a current year tax roll. As a result of House Bill 3, as passed by the 86th Texas Legislature, signed into law, and effective in relevant part, on September 1, 2019, State funding is calculated using current year property value, which is a significant change from prior law which has relied on prior year values as certified by the Comptroller's Property Tax Division (CPTD), since 1993. However, for the purposes of districts with Tax Code Chapter 313 agreements and in accordance with Sec. 48.256 – LOCAL SHARE OF PROGRAM COST (TIER I), Subsection d - *A revenue protection payment required as part of an agreement for a limitation on appraised value shall be based on the district's taxable value of property for the preceding tax year.*

Texas school districts are funded by some combination of local ad valorem property taxes and state aid. Most of the money that a school district generates through the funding formulas is generated in Tier 1. Local M&O collections at the compressed tax rate generate Tier I funding. In 2019-20, a school district's Tier I revenue is the greater of the adjusted minimum target revenue amount or the state share of Tier 1 plus local M&O collections at the compressed rate. The Tier 1 formulas start with a Basic Allotment per student of \$6,160. Funding calculations use the number of students in average daily attendance, the number of students who participate in categorical/special programs, and adjustments for size, sparsity, and location determine a Total Cost of Tier 1. A Local Fund Assignment is determined by multiplying the district's compressed tax rate by the current year property value. This formula determines the local ad valorem property taxes the district must collect in order to satisfy the district's share of the Tier 1 cost. School districts that are relatively property wealthy per student fund most of the Total Cost of Tier 1 with local property taxes, while school districts that are relatively property poor per student receive most of the Total Cost of Tier 1 from state aid.

Deer Park ISD is a relatively property rich district per student and so is generating most of M&O revenue from local ad valorem property taxes. In attempting to provide some degree of funding equity among school districts, the formulas provide equalized funding levels regardless of property wealth. Under prior law, districts that exceeded certain, established wealth per student values were required to pay recapture. The state funding formulas relied on multiple wealth levels, one for Tier 1 (\$514,000 per weighted ADA), and a second level for Tier II (\$319,000 per weighted ADA). However, effective with the implementation of HB 3, recapture will now be determined using current year property wealth and excess local revenue. The system continues to rely on both golden (greater of 96th percentile of wealth up to 160% of basic allotment) and copper (equalized up to \$49.28/WADA) enrichment pennies (Tier II tax rate). Under HB 3, districts can access up to 8 golden pennies. Copper pennies will be compressed in manner that generates the

same revenue for the compressed number of pennies as were taxed under the old law. Under prior law, DPISD was considered a Chapter 41 or “recapture” district due to property wealth per weighted student. Pasadena is requesting that the value of the alkylate manufacturing facility project be limited to \$80,000,000 in years one through ten of the agreement, corresponding to the 2021-22 school year through the 2030-31 school year. The full value of the project would be subject to interest and sinking (I&S) taxes levied by Deer Park ISD in all years of the agreement.

Underlying Assumptions

A forecast of the financial impact that the proposed value limitation will have on DPISD’s future revenue is critical information that will be very useful to the district when making the decision to grant the limitation and for the district’s long range financial planning process. Analysis for this application covers the 2019-20 through the 2035-36 school years.

The Revenue Protection Clause of the proposed agreement calls for the school district to be held harmless against any potential state and local maintenance and operation revenue losses as a result of the value limitation agreement. Revenue protection calculations are to be made using whatever property tax laws and school funding formulas are in place at that time in years one through ten of the agreement. This stipulation is a statutory requirement under Section 313.027 of the Tax Code.

The approach used in this report was to predict 17 years of base data including average daily attendance, M&O and I&S tax rates, maintenance and operation (M&O) tax collections and current year (CAD) values and prior year (CPTD) values for each year of the agreement. For the purposes of this analysis, final 2017 CPTD values were used as well as 2018 CAD values from Harris County CAD. DPISD currently has other approved Chapter 313 projects. These values have been included in the base data illustrated in **Table 1**.

Table 1 Base District Information
Deer Park ISD with Pasadena Performance Products, LP. Application #1321

Year of Agreement	School Year	ADA	WADA	Assumed M&O Tax Rate	Assumed I&S Tax Rate	CAD Value No Limit	CAD Value with Limitation	CPTD No Limit	CPTD With Limitation	CPTD Value with Project per WADA	CPTD Value with Limitation per WADA
0	2019-20	12,197	16,063	\$1.2367	\$0.3020	\$8,522,628,642	\$8,522,628,642	\$8,273,876,142	\$8,273,876,142	\$515,089	\$515,089
QTP1	2020-21	12,197	16,063	\$1.2367	\$0.3020	\$8,885,365,842	\$8,885,365,842	\$8,522,628,642	\$8,522,628,642	\$530,575	\$530,575
QTP2/L1	2021-22	12,197	16,063	\$1.2367	\$0.3020	\$8,880,208,298	\$8,415,488,642	\$8,885,365,842	\$8,885,365,842	\$553,157	\$553,157
L2	2022-23	12,197	16,063	\$1.2367	\$0.3020	\$8,869,273,905	\$8,415,488,642	\$8,880,208,298	\$8,415,488,642	\$552,836	\$523,905
L3	2023-24	12,197	16,063	\$1.2367	\$0.3020	\$9,220,118,956	\$8,777,049,398	\$8,869,273,905	\$8,415,488,642	\$552,156	\$523,905
L4	2024-25	12,197	16,063	\$1.2367	\$0.3020	\$9,191,955,134	\$8,759,386,968	\$9,220,118,956	\$8,777,049,398	\$573,997	\$546,414
L5	2025-26	12,197	16,063	\$1.2367	\$0.3020	\$9,164,707,838	\$8,742,431,035	\$9,191,955,134	\$8,759,386,968	\$572,244	\$545,315
L6	2026-27	12,197	16,063	\$1.2367	\$0.3020	\$9,134,275,182	\$8,722,083,915	\$9,164,707,838	\$8,742,431,035	\$570,548	\$544,259
L7	2027-28	12,197	16,063	\$1.2367	\$0.3020	\$9,105,061,593	\$8,702,754,152	\$9,134,275,182	\$8,722,083,915	\$568,653	\$542,992
L8	2028-29	12,197	16,063	\$1.2367	\$0.3020	\$9,077,012,169	\$8,684,390,876	\$9,105,061,593	\$8,702,754,152	\$566,834	\$541,789
L9	2029-30	12,197	16,063	\$1.2367	\$0.3020	\$9,406,026,539	\$9,022,897,671	\$9,077,012,169	\$8,684,390,876	\$565,088	\$540,646
L10	2030-31	12,197	16,063	\$1.2367	\$0.3020	\$9,357,909,786	\$8,984,083,496	\$9,406,026,539	\$9,022,897,671	\$585,571	\$561,719
MVP1	2031-32	12,197	16,063	\$1.2367	\$0.3020	\$9,311,813,604	\$9,311,813,604	\$9,357,909,786	\$8,984,083,496	\$582,575	\$559,303
MVP2	2032-33	12,197	16,063	\$1.2367	\$0.3020	\$9,267,645,732	\$9,267,645,732	\$9,311,813,604	\$9,311,813,604	\$579,706	\$579,706
MVP3	2033-34	12,197	16,063	\$1.2367	\$0.3020	\$9,225,318,314	\$9,225,318,314	\$9,267,645,732	\$9,267,645,732	\$576,956	\$576,956
MVP4	2034-35	12,197	16,063	\$1.2367	\$0.3020	\$9,181,597,432	\$9,181,597,432	\$9,225,318,314	\$9,225,318,314	\$574,321	\$574,321
MVP5	2035-36	12,197	16,063	\$1.2367	\$0.3020	\$9,139,805,182	\$9,139,805,182	\$9,181,597,432	\$9,181,597,432	\$571,599	\$571,599

To isolate the impact of the value limitation on the District’s finances over this 17 year agreement, average daily attendance and maintenance and operation tax rates were held constant at levels that existed in the 2018-19 school year. An ADA of 12,197, a WADA of 16,063 and an M&O tax rate of \$1.2367 were used for each year of the of the initial forecast. Due to HB 3, however, the M&O tax rate will be compressed to \$1.135 for 2019-2020. A tax collection rate of 100% is assumed in all the calculations used in this analysis. The Harris County CAD certified value for 2018 was used as the 2018 CAD value. This value was used as the basis for subsequent current year (CAD) values in this report. The final 2017 T1, T2, T3 and T4 Comptroller Property Tax Division (CPTD) values, certified to school districts in late July, 2018, were used as a basis for predicting prior year (CPTD) values for each of the agreement years.

The proposed agreement calls for Deer Park ISD to be held harmless against potential state and local revenue losses that might occur as a result of the value limitation being in effect for any given year of the agreement. In order to predict when and if these revenue losses may occur, a state and local revenue projection for the 2019-2020 school year was completed to serve as baseline data and is displayed in **Table 2**. In any year of the limitation period where total state and local funding with the full project value exceeds the total state and local funding produced when the limited value is used, a Revenue Protection Payment is indicated for that year. The results of these calculations are illustrated in **Table 3**.

Table 2 2019-2020 Summary of Finances	
Students	
Refined Average Daily Attendance (ADA)	12,150.000
Property Values	
2019 (current tax year) Locally Certified Property Value	\$8,273,876,142
2018 (prior tax year) Adjusted State Certified Property Value	\$8,273,876,142
Tax Rates and Collections	
2005 Adopted M&O Tax Rate	1.6000
2019 (current tax year) Compressed M&O Tax Rate	1.0667
Average Tax Collection Rate	99.0%
2019 (current tax year) M&O Tax Rate	1.2367
2019 (Current Tax Year) M&O Tax Collections	\$105,924,525
2019 (current tax year) I&S Tax Rate	0.3020
2019-2020 (current school year) I&S Tax Collections	\$27,344,506
2019-2020 (current school year) Total Tax Collections	\$133,269,031
2019-2020 (current school year) Total Tax Levy	\$154,319,821
Funding Components	
Adjusted Allotment	\$5,724
Revenue at Compressed Rate (RACR) per WADA	\$6,058
Cost of Education (CEI) Index	1.160
Adjusted CEI	1.160
Per Capita Rate	\$247.587
Tier I Allotments	
Total Cost of Tier I	\$88,366,141
Less Local Fund Assignment	(\$82,738,761)
State Share of Tier I	\$5,627,380
Per Capita Distribution from Available School Fund (ASF)	\$2,989,364
Foundation School Program (FSP) State Funding	
Greater of State Share of Tier I or (ASF+NIFA+HS)	\$5,627,380
Tier II	\$7,477,077
Other Programs	\$524,396
Less Total Available School Fund (\$247.587 * Prior Yr ADA)	(\$2,989,364)
Total FSP Operations Funding	\$10,639,489
State Aid by Funding Source	
199/5812 - Foundation School Fund	\$10,639,489
199/5811 - Available School Fund	\$2,989,364
Additional State Aid for Homestead Exemption (ASAHE) for Facilities	\$311,179
TOTAL FSP/ASF STATE AID	\$13,940,032

Financial Impact on the School District

Utilizing the assumptions and methodology described above, total maintenance and operation revenue was estimated for each year of the agreement. **Table 3**, which summarizes the difference between the two models, indicates that there will be a total revenue loss of \$5.28 million over the course of the agreement. The revenue loss by the district, due to the agreement, is estimated to be mostly in the first year of the value limitation period. Most of the reductions in M&O taxes under this agreement are offset by reductions in recapture costs that the district would owe under current school finance law.

Financial Impact on the Taxpayer

The terms of the proposed agreement call for the maintenance and operation (M&O) value of the project to be limited to \$80 million starting in school year 2021-22 and remaining limited through school year 2030-31. The potential gross and net tax savings to Pasadena are shown in **Table 3**. As stated earlier, an M&O tax rate of \$1.135 and a collection rate of 100% is used throughout the calculations in this report. **Table 5** shows gross tax savings due to the limitation of \$47.5 million over the length of the contract. Net tax savings are estimated to be \$42.2 million. To estimate supplemental payments to the school district of \$100 per ADA, a model of ADA was applied to the base ADA of 12,197, which was the ADA for DPISD through the end of the first six-weeks of the 2018-19 school year. ADA data for 10 years was analyzed and there has been less than 1% change over that 10 years. For that reason, supplemental payments were all based on an ADA of 12,197.

Facilities Funding Impact on the District

Reports submitted by Pasadena show the full value of the property being depreciated over time. Even so, the full value of the project will be available to the district for I&S taxes and will enhance the district's ability to service current and future debt obligations. Texas funding laws provide assistance to school districts for debt service purposes in the form of the Instructional Facilities Allotment and the Existing Debt Allotment. The formulas provide a guarantee of \$35 per ADA per penny of tax effort. DPISD has property wealth per WADA that exceeds this amount and is thus not eligible for this state assistance. While the project is expected to provide additional employment opportunities in the area, the impact on student enrollment is predicted to be minimal.

Conclusion

The Pasadena project proposed in this application will benefit the community, the district, DPISD, and the taxpayer, Pasadena. The community will receive economic development, the taxpayer will enjoy savings on property taxes and the district will be held harmless from revenue loss due to the provisions of the agreement. The district will also enjoy an increased value available for I&S tax collections dedicated to debt service that can be leveraged to provide first class facilities for faculty and students.

Remember that the Texas Legislature could take action that could potentially change the impact of this agreement on the finances of Deer Park ISD and result in estimates that differ significantly from the estimates presented in this analysis. Some of the factors that could significantly change these estimates are legislative or administrative changes by the Texas Legislature, the Texas Education Agency or the Comptroller of Public Accounts. Those changes could contain changes to the school finance formulas, property value appraisals and tax exemptions. Other factors which could change, and will impact the estimates of this agreement, include changes to property values, district tax rates and student enrollment.

**Table 3 Estimated Financial Impact HB 3
Deer Park ISD with Pasadena Performance Products, LP. Application #1321**

Year of Agreement	School Year	Project Value	Estimated Taxable Value	Value Savings	Assumed M&O Tax Rate	Taxes Before Value Limit	Taxes after Value Limit	Tax Savings @ Projected M&O Rate	Tax Benefit to Company Before Revenue Protection	School District Revenue Losses	Estimated Net Tax Benefits	School District Benefit \$100 per ADA	Company Tax Benefit
0	2019-20	\$187,140,000	\$187,140,000	\$0	1.1350	\$2,124,039	\$2,124,039	\$0	\$0	\$0	\$0	\$0	\$0
QTP1	2020-21	\$549,877,200	\$549,877,200	\$0	1.1350	\$6,241,106	\$6,241,106	\$0	\$0	\$0	\$0	\$1,219,700	-\$1,219,700
QTP2/L1	2021-22	\$544,719,656	\$80,000,000	\$464,719,656	1.1350	\$6,182,568	\$908,000	\$5,274,568	\$5,274,568	-\$5,274,568	\$0	\$1,219,700	-\$1,219,700
L2	2022-23	\$533,785,263	\$80,000,000	\$453,785,263	1.1350	\$6,058,463	\$908,000	\$5,150,463	\$5,150,463	\$0	\$5,150,463	\$1,219,700	\$3,930,763
L3	2023-24	\$523,069,558	\$80,000,000	\$443,069,558	1.1350	\$5,936,839	\$908,000	\$5,028,839	\$5,028,839	\$0	\$5,028,839	\$1,219,700	\$3,809,139
L4	2024-25	\$512,568,166	\$80,000,000	\$432,568,166	1.1350	\$5,817,649	\$908,000	\$4,909,649	\$4,909,649	\$0	\$4,909,649	\$1,219,700	\$3,689,949
L5	2025-26	\$502,276,803	\$80,000,000	\$422,276,803	1.1350	\$5,700,842	\$908,000	\$4,792,842	\$4,792,842	\$0	\$4,792,842	\$1,219,700	\$3,573,142
L6	2026-27	\$492,191,267	\$80,000,000	\$412,191,267	1.1350	\$5,586,371	\$908,000	\$4,678,371	\$4,678,371	\$0	\$4,678,371	\$1,219,700	\$3,458,671
L7	2027-28	\$482,307,442	\$80,000,000	\$402,307,442	1.1350	\$5,474,189	\$908,000	\$4,566,189	\$4,566,189	\$0	\$4,566,189	\$1,219,700	\$3,346,489
L8	2028-29	\$472,621,293	\$80,000,000	\$392,621,293	1.1350	\$5,364,252	\$908,000	\$4,456,252	\$4,456,252	\$0	\$4,456,252	\$1,219,700	\$3,236,552
L9	2029-30	\$463,128,867	\$80,000,000	\$383,128,867	1.1350	\$5,256,513	\$908,000	\$4,348,513	\$4,348,513	\$0	\$4,348,513	\$1,219,700	\$3,128,813
L10	2030-31	\$453,826,290	\$80,000,000	\$373,826,290	1.1350	\$5,150,928	\$908,000	\$4,242,928	\$4,242,928	\$0	\$4,242,928	\$1,219,700	\$3,023,228
MVP1	2031-32	\$444,709,764	\$444,709,764	\$0	1.1350	\$5,047,456	\$5,047,456	\$0	\$0	\$0	\$0	\$1,219,700	-\$1,219,700
MVP2	2032-33	\$435,775,569	\$435,775,569	\$0	1.1350	\$4,946,053	\$4,946,053	\$0	\$0	\$0	\$0	\$1,219,700	-\$1,219,700
MVP3	2033-34	\$427,020,057	\$427,020,057	\$0	1.1350	\$4,846,678	\$4,846,678	\$0	\$0	\$0	\$0	\$1,219,700	-\$1,219,700
MVP4	2034-35	\$418,439,656	\$418,439,656	\$0	1.1350	\$4,749,290	\$4,749,290	\$0	\$0	\$0	\$0	\$0	\$0
MVP5	2035-36	\$410,030,863	\$410,030,863	\$0	1.1350	\$4,653,850	\$4,653,850	\$0	\$0	\$0	\$0	\$0	\$0
TOTALS						\$89,137,086	\$41,688,472	\$47,448,614	\$47,448,614	-\$5,274,568	\$42,174,046	\$17,075,800	\$25,098,246

*Note: School District Revenue-Loss estimates are subject to change based on various factors, including legislative and Texas Education Agency administrative changes to school finance formulas, year-to-year project appraisal values, and changes in school district tax rates. Additional information on the assumptions used in preparing these estimates is provided in the narrative of this Report.

Findings and Order of the Deer Park Independent School District
Board of Trustees under the Texas Economic Development Act on the Application Submitted by
Pasadena Performance Products, LP (Tax ID 32064009700) (Application #1321)

EXHIBIT C

**Proposed Agreement between
Deer Park Independent School District
and Pasadena Performance Products, LP**

Texas Economic Development Act Agreement

Comptroller Form 50-826 (Jan 2016)

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

by and between

DEER PARK INDEPENDENT SCHOOL DISTRICT

and

PASADENA PERFORMANCE PRODUCTS, LP

(Texas Taxpayer ID #32064009700)

Comptroller Application #1321

Dated

September 16, 2019

Texas Economic Development Act Agreement

Comptroller Form 50-826 (Jan 2016)

Trustees, extended the statutory deadline by which the District must consider the Application until December 31, 2019, and the Comptroller was provided notice of such extension as set out under 34 TEXAS ADMIN. CODE Section 9.1054(d);

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 July 15 and September 16, 2019, the Board of Trustees conducted public hearings on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

WHEREAS, on September 16, 2019, 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 September 4, 2019, 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 September 16, 2019, 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 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 Pasadena Performance Products, LP (Texas Taxpayer ID #32064009700), 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 November 12, 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 Harris County Appraisal District.

“Board of Trustees” means the Board of Trustees of the Deer Park Independent School District.

“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 Harris County, Texas.

“District” or “School District” means the Deer Park 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 B 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 60 (sixty) 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 313.027 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:

“Aggregate Limit” means, for any Tax Year during the Limitation Period of this Agreement, an amount equal to the Net Tax Benefit to the Applicant.

“Applicable School Finance Law” means the State constitution and laws, agency regulations and/or judicial rulings then controlling the public school finance system for Texas public schools and school districts generally and the District specifically, in accordance with all provisions thereof applicable to any terms of this Agreement at the time any computation, calculation or obligation of either Party under this Agreement is required to be performed or for the period to which such computation, calculation or obligation relates, as applicable. The term includes any amendments or successor statutes that may be adopted in the future which affect the calculation of the District’s Maintenance and Operations Revenue or the Applicant’s ad valorem tax obligation to the District, in each case, either with or without the limitation on appraised value of property pursuant to this Agreement.

“Cumulative Payments” means for each year of this Agreement the total of all payments, calculated under Articles IV, V and VI of this Agreement for the current Tax Year which are paid by or owed by Applicant to the District, plus payments paid by Applicant to compensate District for loss of revenue under this Agreement.

“Lost M&O Revenue” means the reduction in Maintenance and Operations *ad valorem* Tax Revenue to the District caused by, resulting from, or on account of the execution of this Agreement for each year starting in the year of the Application Approval Date and ending on the Final Termination Date of this Agreement.

“Maintenance and Operations Tax 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, minus (iii) 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 (iii) above may be amended by Applicable School Finance Law from time to time. 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.

“New M&O Revenue” means the total State and local Maintenance and Operations Tax Revenue that the District actually received for such school year attributable to the Qualified Property that is the subject of this Agreement.

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

“Original M&O Revenue” means the total State and local Maintenance and Operations Tax Revenue that the District would have received for the school 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 and operations tax at the then-current tax rate. For purposes of this calculation, the Third Party will base its calculations upon the District’s taxable value of property for the preceding tax year as certified by the Appraisal District for all taxable accounts in the District, *less* the Qualified Property subject to this Agreement, *plus* the total appraised value of the Qualified Property subject to this Agreement which is or would be used for the calculation of the District’s tax levy for debt service (interest and sinking fund) ad valorem tax purposes.

“Third Party” shall have the meaning set forth in Section 4.3

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 March 1, 2019, 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 September 16, 2019.
- C. The Qualifying Time Period for this Agreement:
 - a. Starts on September 16, 2019, the Application Approval Date;
 - b. Ends on December 31, 2021, 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, 2021; and
 - ii. Ends on December 31, 2030, which is the year the Tax Limitation Period starts as identified in Section 2.3.D.i plus 9 years.
- E. The Final Termination Date for this Agreement is December 31, 2035; which is the last year of the Tax Limitation Period as defined in Section 2.3.D.ii plus 5 years.
- 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. Eighty Million Dollars (\$80,000,000.00)

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the Application Approval Date, as set out by Section 313.022(b) 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 Eighty Million Dollars (\$80,000,000.00) during the Qualifying Time Period;
- B. have created and maintained, subject to the provisions of Section 313.0276 of the TEXAS TAX CODE New Qualifying Jobs as required by the Act; and
- C. pay an average weekly wage of at least \$1,347.00 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)(1) of the TEXAS TAX CODE as a manufacturing facility.

ARTICLE IV
PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES

Section 4.1. INTENT OF PARTIES.

It is the intent of the Parties in accordance with the provisions of Section 313.027(f)(1) of the TEXAS TAX CODE and Section 48.256 (d) of the TEXAS EDUCATION CODE that the District shall be compensated by the Applicant as provided in this Article IV for any Lost M&O Revenue as a result of, or on account of, entering into this Agreement, after taking into account any payments to be made under this Agreement. Such payments shall be independent of, and in addition to such other payments as set forth in Article V and Article VI of this Agreement. **It is the intent of the Parties that the risk of any and all Lost M&O Revenue as a result of, or on account of, entering into this Agreement, will be borne by the Applicant and not by the District.**

Subject to the limitations contained in this Agreement, the calculation of any Lost M&O Revenue required to be paid by the Applicant under this Article IV shall be made for the first time in the first complete Tax Year following the Application Approval Date and every year thereafter during the term of this Agreement.

Within 60 days from the date Commercial Operations begin, the Applicant shall provide to the District, the Comptroller, and the Appraisal District a verified written report, giving a specific and detailed description of the land, tangible personal property, buildings, or permanent, nonremovable building components (including any affixed to or incorporated into real property) to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such Qualified Property within the boundaries of the land which is subject to the Agreement, if such final description is different than the description provided in the Application or any supplemental application information, or if no substantial changes have been made, a verification of the fact that no substantial changes have been made.

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 Applicable 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 LOST M&O REVENUE.

Subject to the limitations contained in this Agreement, the amount to be paid by the Applicant to compensate the District for loss of M&O Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Approval Date and ending on Final Termination Date (the “Lost M&O Revenue”) shall be determined in compliance with the Applicable School Finance Law in effect for such year and according to the following formula:

Subject to the limitations contained in this Agreement, the Lost M&O Revenue owed by the Applicant to District means the Original M&O Revenue *minus* the New M&O Revenue.

In making the calculations required by this Section 4.2:

- i. The Taxable Value of property for each school year will be determined under the Applicable School Finance Law.
- 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 this Section 4.2 of this Agreement, Subsection ii of this subsection will reflect the Tax Limitation Amount for such year.
- v. All calculations made under this Section 4.2 shall be made by a methodology which isolates only the full Maintenance and Operation Revenue impact caused by this Agreement. The Applicant shall not be responsible to reimburse the District for other revenue losses created by other agreements, or on account of or otherwise arising out of any other factors not contained in this Agreement.

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”) selected and appointed each year by the District, subject to approval by Applicant in writing, which approval shall not unreasonably be withheld.

Section 4.4. DATA USED FOR CALCULATIONS.

The calculations for payments under this Agreement shall be initially based upon the valuations that are placed upon all taxable property in the District, including 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 and appointed 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. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT.

If the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Property, and such appeal remains unresolved at the time the Third Party selected under Section 4.3 makes its calculations under this Agreement, the Third Party shall base its calculations upon the values placed upon 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 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 amount to the other Party within thirty (30) days of the receipt of the new calculations from the Third Party.

Section 4.6. 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 this Article IV, Article V, 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, but subject to the provisions of Section 4.8, below. 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 4.7. STATUTORY CHANGES AFFECTING MAINTENANCE & OPERATION REVENUE.

Notwithstanding any other provision in this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by the Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, the 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, the Applicant shall make payments to the District that are necessary to fully reimburse and hold the District harmless from any actual negative impact on the District's Maintenance and Operation Revenue as a result of its participation in this Agreement. Such calculation shall take into account any adjustments to the amount calculated for the current fiscal year that should be made in order to reflect the actual impact on the District. Such payment shall be made no later than thirty (30) days following notice from the District of such determination and calculation. 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 4.9.

Section 4.8. PAYMENT BY APPLICANT.

Subject to Section 4.9 below, the Applicant shall pay any amount determined by the Third Party to be due and owing to the District under this Agreement on or before the January 31 of the year next following the tax levy for each year for which this Agreement is effective. Subject to the limitation set forth in this Section 4.8 below, by such date, the Applicant shall also pay any amount billed by the Third Party for all calculations under this Agreement under Section 4.4, above, plus any reasonable and necessary legal expenses paid 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 of, or because of, the execution of this Agreement. The Applicant shall only be responsible for the payment of an aggregate amount of fees and expenses under this Section 4.8 not to exceed Fifteen Thousand Dollars (\$15,000.00).

Section 4.9. RESOLUTION OF DISPUTES.

Should the Applicant disagree with the Third Party calculations made pursuant to this Article IV of this Agreement, the Applicant may appeal the findings, in writing, to the Third Party within thirty (30) days following the later of (i) receipt of the certification, or (ii) the date the Applicant is granted access to the books, records, and other information in accordance with Section 4.4 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 calculations. Thereafter, the Applicant may appeal the final determination of the certification containing the calculations to the District's Board of Trustees within thirty (30) days after receipt of the final determination of the calculations. Any appeal by the Applicant of the final determination of calculations shall in no way limit Applicant's other rights and remedies available hereunder, at law or in equity.

Section 4.10. PAYMENT LIMITATION; AGGREGATE LIMIT

In the event that the Revenue Protection Amount for any Tax Year during the Limitation Period of this Agreement shall exceed the Applicant's Net Tax Benefit for that Tax Year, the Revenue Protection Amount owed for that year shall be limited to the Applicant's Net Tax Benefit for that Tax Year. Amounts otherwise due and owing by the Applicant to the District which, by virtue of this payment limitation, are not paid in that Tax Year shall be carried forward from year to year into subsequent Tax Years until paid in full.

ARTICLE V
PAYMENT OF EXTRAORDINARY EDUCATION-RELATED EXPENSES

Section 5.1. PAYMENT OF EXTRAORDINARY EDUCATION-RELATED EXPENSES.

In addition to the amounts determined pursuant to Articles IV and VI of this Agreement, Applicant on an annual basis shall also indemnify and reimburse District for all non-reimbursed costs, certified by the District's external auditor to have been incurred by the District for extraordinary education-related expenses directly and solely 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 caused directly by such project. Applicant shall have the right to contest the findings of the District's external auditor pursuant to Section 4.9 above.

ARTICLE VI
SUPPLEMENTAL PAYMENTS

Section 6.1. INTENT OF PARTIES WITH RESPECT TO SUPPLEMENTAL PAYMENTS

In interpreting the provisions of this Article VI, the Parties agree that, 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 the Supplemental Payments 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 of the TEXAS TAX CODE, unless it is explicitly set forth in this Agreement. It is the express intent of the Parties that the obligation for Supplemental Payments under this Article VI are separate and independent of the obligation of the Applicant to pay the amounts described in Articles IV and V, and that all payments under Article VI are subject to the separate limitations contained in Section 6.2 and Section 6.3. Each Supplemental Payment shall be due and payable on January 31st of the year following that in which such Supplemental Payment accrued.

Section 6.2. SUPPLEMENTAL PAYMENT. 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.
- 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.

Failure to pay such Supplemental Payments shall constitute Material Breach of this Agreement, as set forth more fully herein at Article IX.

Section 6.3. CALCULATION OF ANNUAL SUPPLEMENTAL PAYMENTS TO THE DISTRICT.

For each Tax Year beginning with the period starting the first full year of the Qualifying Time Period (2020) and ending December 31 of the third year following the end of the Tax Limitation Period (2033), Supplemental payments shall be owed. During the Qualifying Time Period and for the three years following the end of the Tax Limitation Period, the supplemental payment amount shall not be subject to the Aggregate Limit.

If, for any Tax Year during the Limitation Period of this Agreement the Cumulative Payment Amount, calculated under Sections IV, V and VI of this Agreement, exceeds the Aggregate Limit for such Tax Year, the difference between the Applicant's Supplemental Payment Amount so calculated and the Aggregate Limit for such Tax Year, shall be carried forward from year-to-year until paid to the District. The Aggregate Limit shall not apply nor limit Supplemental Payment amounts due to the District during the Qualified Time Period or in the three years following the end of the Tax Limitation Period.

Section 6.4. PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS.

All calculations required by this Article VI, including but not limited to: (i) the calculation of the Applicant's Cumulative Payment Amount; (ii) the determination of both the Annual Limit and the Aggregate Limit; (iii) the effect, if any, of the Aggregate Limit upon the actual amount of Cumulative Payments eligible to be paid to the District by the Applicant; and (iv) the carry forward and accumulation of any of the Applicant's Stipulated Supplemental Payment Amounts unpaid by the Applicant due to the Aggregate Limit in previous years, shall be calculated by the Third Party selected pursuant to Section 4.3.

- (a) The calculations made by the Third Party shall be made at the same time and on the same schedule as the calculations made pursuant to Section 4.6.
- (b) The payment of all amounts due under this Article VI shall be made at the time set forth in Section 4.8.
- (c) Any appeal by the Applicant of the calculations made by the Third Party under this Article VI shall be done in the same manner as set forth in Section 4.9, above.

Section 6.5. DISTRICT'S OPTION TO DESIGNATE SUCCESSOR BENEFICIARY.

At any time during this Agreement, the Board of Trustees may, in its sole discretion, direct that any of the Applicant's payments under this Article VI be made to the District's educational foundation or to a similar entity. Such foundation or entity may only use such funds received under this Article VI to support the educational mission of the District and its students. Any designation of such foundation or entity must be made by recorded vote of the Board of Trustees at a properly posted public meeting of the Board of Trustees.

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 ninety (90) 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 ninety (90) 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 Harris 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 Harris 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 ninety (90) 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 ninety (90) 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 Eighty Million Dollars (\$80,000,000.00) of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

Section 9.7. REMEDY FOR FAILURE TO CREATE AND MAINTAIN REQUIRED NEW QUALIFYING JOBS.

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

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

- A. In the event that the Applicant fails to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application, an event constituting a Material Breach as defined in Section 9.1.D, the Applicant and the District may elect to remedy the Material Breach through a penalty payment.
- B. Following the notice and mediation periods provided by Sections 9.2 and 9.3, the District may request the Applicant to make a payment to the State in an amount equal to: (i) multiplying the maintenance and operations tax rate of the school district for that Tax Year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the market value of the property identified on the Appraisal District's records for each tax year the Material Breach occurs.
- C. In the event that there is no tax limitation in place for the tax year that the Material Breach occurs, the payment to the State shall be in an amount equal to: (i) multiplying the maintenance and operations tax rate of the School District for each tax year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the tax limitation amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the last Tax Year for which the Applicant received a tax limitation.
- D. The penalty shall be paid no later than 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:

To the District

With Copy to

Name:	Deer Park Independent School District	Sara Leon & Associates, LLC
Attn:	Superintendent Victor White or his successor	Sara Hardner Leon
Address:	2800 Texas Avenue	
City/Zip:	Deer Park, TX 77536	
Phone:	(832) 668-7000	Phone: (512) 637-4244
Fax:	(281) 930-4638	Fax: (512) 637-4245
Email:	white@dpisd.org	sleon@saraleonlaw.com

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

To the Applicant

Name: Nextwave Energy Partners, LP

Attn: Patrick Diamond
Executive Chairman

Address: 1000 Louisiana, Suite 5200

City/Zip: Houston, TX 77002

Phone: (713) 936-5701

Email: Patrick.diamond@nextwaveenergy.com

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

Section 10.2. AMENDMENTS TO APPLICATION AND AGREEMENT; WAIVERS.

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

B. By official action of the District's Board of Trustees, the Application and this Agreement may

only be amended according to the following:

- i. The Applicant shall submit to the District and the Comptroller:
 - a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;
 - b. any changes to the information that was provided in the Application that was approved by the District and considered by the Comptroller;
 - c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;
 - ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by the Comptroller by the end of the 90-day period, the request is denied; and
 - iii. If the Comptroller has not denied the request, the District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.
- C. Any amendment of the Application and this Agreement adding additional or replacement Qualified Property pursuant to this Section 10.2 of this Agreement shall:
- i. require that all property added by amendment be eligible property as defined by Section 313.024 of the TEXAS TAX CODE;
 - ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and
- D. The Application and this Agreement may not be amended to extend the value limitation time period beyond its ten-year statutory term.
- E. The Comptroller determination made under Section 313.026(c)(2) of the TEXAS TAX CODE in the original certificate for a limitation satisfies the requirement of the Comptroller to make the same determination for any amendment of the Application and this Agreement, provided that the facts upon which the original determination was made have not changed.

Section 10.3. ASSIGNMENT.

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

- B. In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.
- C. In the event of an assignment to a creditor, the Applicant must notify the District and the Comptroller in writing no later than 30 days after the assignment. This Agreement shall be binding on the assignee.

Section 10.4. MERGER.

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

Section 10.5. GOVERNING LAW.

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

[Signature Page to Follow]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 16th day of September, 2019.

PASADENA PERFORMANCE PRODUCTS, LP

DEER PARK INDEPENDENT SCHOOL DISTRICT

By: *A. Patrick Diamond*
Patrick Diamond
Executive Chairman,
Pasadena Performance Products, LP

By: *Lynn Kirkpatrick*
Lynn Kirkpatrick
President, Board of Trustees

ATTEST:

By: *Rhonda Lowe*
Rhonda Lowe
Secretary, Board of Trustees

EXHIBIT 1
DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

TRACT 1:

A tract of land containing 52.9567 acres (2306792 square feet) located partially within the Thomas Earl Survey, Abstract 18, and partially within the James Seymour Survey, Abstract 698, both in Harris County Texas. Said tract being more particularly described by metes and bounds as follows:

BEING a 52.9567 acre (2306792 square feet) tract of land situated in the James Seymour Survey, Abstract No. 698, and the Thomas Earl Survey, Abstract No. 18, Harris County, Texas, and being a part of and out of that certain called 108.965 acre tract as described in conveyance to Lone Star Cement Co. and recorded in Volume 3167, Page 49, of the Harris County Deed Records, said 52.9567 acre parcel being more fully described by metes and bounds as follows:

COMMENCING at the Point Of Intersection of the North line of a 178' wide tract conveyed to H.L. & P. Co. in Volume 2243, Page 326, of the Harris County Deed Records and the East line of Phillips Co. Private Road (variable width);

THENCE North 87°33'52" East along and with the North line of said H.L. & P. Co. 178' wide tract, a distance of 26.30 feet to the POINT OF BEGINNING of the tract herein described, and being in the West line of said Lone Star Cement Co. tract;

THENCE North 02°35'53" West along and with the West line of said Lone Star Cement Co. tract, a distance of 2417.79 feet to a 5/8" iron rod set for the Northwest corner of the tract herein described and being in the South line of Port Terminal Railroad;

THENCE, along a curve to the right having a radius of 2814.31 feet, an arc length of 568.52 feet to the East line of said James Seymour Survey, same being the West line of Thomas Earle Survey, and continuing for a total distance of 1006.38 feet to a 5/8" iron rod set for the Northeast corner of the tract herein described, and being in the West line of North South Street (100' R.O.W.);

THENCE South 02°57'38" East along and with the West line of said North South Street, a distance of 2207.00 feet to a 5/8" iron rod set for the Southeast corner of the tract herein described, and being in the North line of said H.L. & P. Co. 178' wide tract;

THENCE South 87°33'52" West along and with the North line of said H.L. & P. Co. 178' wide tract, a distance of 991.93 feet to the POINT OF BEGINNING.

TRACT 2:

Non-exclusive easement estate created by that certain Use of Road Agreement executed by and between Phillips Chemical Company and Beck Cattle & Land Company, as set forth in instrument dated January 15, 1952, filed for record in Volume 3159, Page 360 of the Deed Records of Harris County, Texas.

Qualified Investment / Qualified Property Map
Continued

Qualified Investment / Qualified Property Map



EXHIBIT 2

DESCRIPTION AND LOCATION OF LAND

EXHIBIT A

LEGAL DESCRIPTION OF THE PREMISES

TRACT 1:

A tract of land containing 52.9567 acres (2306792 square feet) located partially within the Thomas Earl Survey, Abstract 18, and partially within the James Seymour Survey, Abstract 698, both in Harris County Texas. Said tract being more particularly described by metes and bounds as follows:

BEING a 52.9567 acre (2306792 square feet) tract of land situated in the James Seymour Survey, Abstract No. 698, and the Thomas Earl Survey, Abstract No. 18, Harris County, Texas, and being a part of and out of that certain called 108.965 acre tract as described in conveyance to Lone Star Cement Co. and recorded in Volume 3167, Page 49, of the Harris County Deed Records, said 52.9567 acre parcel being more fully described by metes and bounds as follows:

COMMENCING at the Point Of Intersection of the North line of a 178' wide tract conveyed to H.L. & P. Co. in Volume 2243, Page 326, of the Harris County Deed Records and the East line of Phillips Co. Private Road (variable width);

THENCE North 87°33'52" East along and with the North line of said H.L. & P. Co. 178' wide tract, a distance of 26.30 feet to the POINT OF BEGINNING of the tract herein described, and being in the West line of said Lone Star Cement Co. tract;

THENCE North 02°35'53" West along and with the West line of said Lone Star Cement Co. tract, a distance of 2417.79 feet to a 5/8" iron rod set for the Northwest corner of the tract herein described and being in the South line of Port Terminal Railroad;

THENCE, along a curve to the right having a radius of 2814.31 feet, an arc length of 568.52 feet to the East line of said James Seymour Survey, same being the West line of Thomas Earle Survey, and continuing for a total distance of 1006.38 feet to a 5/8" iron rod set for the Northeast corner of the tract herein described, and being in the West line of North South Street (100' R.O.W.);

THENCE South 02°57'38" East along and with the West line of said North South Street, a distance of 2207.00 feet to a 5/8" iron rod set for the Southeast corner of the tract herein described, and being in the North line of said H.L. & P. Co. 178' wide tract;

THENCE South 87°33'52" West along and with the North line of said H.L. & P. Co. 178' wide tract, a distance of 991.93 feet to the POINT OF BEGINNING.

TRACT 2:

Non-exclusive easement estate created by that certain Use of Road Agreement executed by and between Phillips Chemical Company and Beck Cattle & Land Company, as set forth in instrument dated January 15, 1952, filed for record in Volume 3159, Page 360 of the Deed Records of Harris County, Texas.

EXHIBIT 3

APPLICANT'S QUALIFIED INVESTMENT

Proposed Project Description

The proposed project to which this application pertains is to construct an on-purpose alkylate manufacturing facility. The facility will consist of two units, an olefins unit ("Olefins Unit") and an alkylation unit, as well as associated process infrastructure, auxiliary equipment and logistics assets.

The Olefins Unit produces olefins via a catalyst and co-catalyst. The alkylation unit will react light olefins – including the olefins produced by the Olefins Unit – with isobutane in the presence of a sulfuric acid catalyst to form alkylate. Alkylate is a premium blendstock used in the formulation of gasoline and is sought after for its high octane and low vapor pressure characteristics.

Feedstocks are sourced from a pipeline network connected to market hubs along the Gulf Coast. Final products produced are alkylates, which will be transported by pipeline and sold into the gasoline blending market for domestic and foreign consumption.

Applicant anticipates investments for construction of approximately \$575 million. This anticipated investment amount includes engineering, equipment, and construction costs.

Significant Components of the Facility Include:

- Distillation towers
- Reactors
- Heat Exchangers, pumps and vessels
- Compressor and refrigeration units
- Acid and Caustic Storage & Neutralization Equipment
- Cooling Tower
- Electrical Substation
- Waste Water Tank
- Firewater Tank and Distribution System
- Metering Stations
- Feedstock and Product Storage
- Pipeline Transfer Pumps
- Truck Loading, Unloading & Truck Scale
 - catalysts to be used in the manufacturing process are brought in via truck, weighed and unloaded; smaller volume products of the manufacturing process are sold and loaded onto trucks for delivery to the customer
- Flare & Thermal Oxidizer
- Buildings

- Control Room
- Lab (used for testing the composition and quality of feedstock, mid-process product testing and quality assurance as well as finished product testing)
- Maintenance facility (base for plant maintenance workers and related tasks, tools, maintenance equipment, etc.)

EXHIBIT 4

DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

The proposed project to which this application pertains is to construct an on-purpose alkylate manufacturing facility. The facility will consist of two units, an olefins unit (“Olefins Unit”) and an alkylation unit, as well as associated process infrastructure, auxiliary equipment and logistics assets.

The Olefins Unit produces olefins via a catalyst and co-catalyst. The alkylation unit will react light olefins – including the olefins produced by the Olefins Unit – with isobutane in the presence of a sulfuric acid catalyst to form alkylate. Alkylate is a premium blendstock used in the formulation of gasoline and is sought after for its high octane and low vapor pressure characteristics.

Feedstocks are sourced from a pipeline network connected to market hubs along the Gulf Coast. Final products produced are alkylates, which will be transported by pipeline and sold into the gasoline blending market for domestic and foreign consumption.

Applicant anticipates investments for construction of approximately \$575 million. This anticipated investment amount includes engineering, equipment, and construction costs.

Significant Components of the Facility Include:

- Distillation towers
- Reactors
- Heat Exchangers, pumps and vessels
- Compressor and refrigeration units
- Acid and Caustic Storage & Neutralization Equipment
- Cooling Tower
- Electrical Substation
- Waste Water Tank
- Firewater Tank and Distribution System
- Metering Stations
- Feedstock and Product Storage
- Pipeline Transfer Pumps
- Truck Loading, Unloading & Truck Scale
 - catalysts to be used in the manufacturing process are brought in via truck, weighed and unloaded; smaller volume products of the manufacturing process are sold and loaded onto trucks for delivery to the customer
- Flare & Thermal Oxidizer
- Buildings
 - Control Room

- Lab (used for testing the composition and quality of feedstock, mid-process product testing and quality assurance as well as finished product testing)
- Maintenance facility (base for plant maintenance workers and related tasks, tools, maintenance equipment, etc.)

Qualified Investment / Qualified Property Map
Continued

