SARA LEON
& ASSOCIATES, LLC

June 13, 2019

Texas Comptroller of Public Accounts
ATT: Desiree Caufield
Economic Development & Local Government
Data Analysis & Transparency Division
111 East 17th Street, Room 311
Austin, Texas 78774

Re: Application #1359 Culberson County -Allamoore Independent School District – Delaware Processing, LLC – Amendment #001 Transmittal Letter

Dear Ms. Caufield:

This letter is in response to your email dated May 24, 2019. Per your request, Delaware Processing, LLC (the "Applicant") wishes to amend the Application. Enumerated below are the changes contained in Amendment #001:

1. Section 1, Question 4: Application Completion Date
2. Section 9, Question 1: Application Approval Date Updated to September 1, 2019
3. Section 14, Question 7a & Tab 13: Wages Updated
4. Tab 5: Limitation as a Determining Factor Updated
5. Tab 11: Project Boundary Updated & Schematic Provided
6. Tab 16: Culberson County Guideline & Criteria for a Tab Abatement Included
7. Tab 17: New Signature Page

If you have any questions, or would like to discuss this matter further, please contact me, or Venessa Rodriguez, at 512.637.4244.

Respectfully submitted,

Sara Hardner Leon

Enclosures

512.637.4244 | saraleonlaw.com
Austin | Houston | Corpus Christi
S|L
7500 Rialto Blvd., Bldg. 1, Ste. 250
Austin, Texas 78735

cc: *via Electronic Mail: kbaugh@ccaisd.net*
Mr. Kenneth Baugh, Superintendent, Culberson County-Allamoore ISD

via Electronic Mail: madison.strother@enlink.com
Ms. Madison Strother, Senior Property & Excise Tax Analyst, Delaware Processing, LLC

via Electronic Mail: mike@keatax.com
Mr. Mike Fry, Director--Energy Services, KE Andrews

SECTION 1: School DIstrict Information *(continued)*

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

Sara	Leon
First Name	Last Name
Principal	
Title	
Sara Leon & Associates, LLC	
Firm Name	
512-637-4244	512-637-4245
Phone Number	Fax Number
	sleon@saraleonlaw.com
Mobile Number *(optional)*	Email Address

4. On what date did the district determine this application complete? . . . . . April 8, 2019

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

SECTION 2: Applicant Information

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

Kate	Walsh	
First Name	Last Name	
Vice President of Tax	Delaware Processing, LLC	
Title	Organization	
1722 Routh Street Suite 1300, Dallas, TX 75201-2502		
Street Address		
1722 Routh Street Suite 1300		
Mailing Address		
Dallas	TX	75201-2502
City	State	ZIP
214-953-9545	214-953-9501	
Phone Number	Fax Number	
	madison.strother@enlink.com	
Mobile Number *(optional)*	Business Email Address	

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

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

Madison	Strother	
First Name	Last Name	
Senior Property & Excise Tax Analyst	Delaware Processing, LLC	
Title	Organization	
1722 Routh Street Suite 1300, Dallas, TX 75201-2502		
Street Address		
1722 Routh Street Suite 1300		
Mailing Address		
Dallas	TX	75201-2502
City	State	ZIP
214-953-9500	214-953-9501	
Phone Number	Fax Number	
	madison.strother@enlink.com	
Mobile Number *(optional)*	Business Email Address	

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

SECTION 9: Projected Timeline

1. Application approval by school board . . . . . September 1, 2019
2. Commencement of construction . . . . . October 1, 2019
3. Beginning of qualifying time period . . . . . January 1, 2020
4. First year of limitation . . . . . January 1, 2021
5. Begin hiring new employees . . . . . January 1, 2020
6. Commencement of commercial operations . . . . . July 1, 2020
7. Do you propose to construct a new building or to erect or affix a new improvement after your application review start date *(date your application is finally determined to be complete)*? . . . . . ☑ Yes ☐ No

   Note: Improvements made before that time may not be considered qualified property.
8. When do you anticipate the new buildings or improvements will be placed in service? . . . . . July 1, 2020

SECTION 10: The Property

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

   County: Culberson County, 100% .185310 *(Name, tax rate and percent of project)*

   City: N/A *(Name, tax rate and percent of project)*

   Hospital District: Culberson Co. Hosp.,100% .144163 *(Name, tax rate and percent of project)*

   Water District: N/A *(Name, tax rate and percent of project)*

   Other *(describe)*: N/A *(Name, tax rate and percent of project)*

   Other *(describe)*: N/A *(Name, tax rate and percent of project)*
5. Is the project located entirely within the ISD listed in Section 1? . . . . . ☑ Yes ☐ No

   5a. If no, attach in **Tab 6** additional information on the project scope and size to assist in the economic analysis.
6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? . . . . . ☐ Yes ☑ No

   6a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

SECTION 11: Investment

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

1. At the time of application, what is the estimated minimum qualified investment required for this school district? 30,000,000.00
2. What is the amount of appraised value limitation for which you are applying? 30,000,000.00

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

SECTION 14: Wage and Employment Information

1. What is the estimated number of permanent jobs (more than 1,600 hours a year), with the applicant or a contractor of the applicant, on the proposed qualified property during the last complete quarter before the application review start date (date your application is finally determined to be complete)? 0

2. What is the last complete calendar quarter before application review start date:

   ☐ First Quarter ☐ Second Quarter ☐ Third Quarter ☑ Fourth Quarter of 2018 (year)

3. What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the Texas Workforce Commission (TWC)? 0

   Note: For job definitions see TAC §9.1051 and Tax Code §313.021(3).

4. What is the number of new qualifying jobs you are committing to create? 10

5. What is the number of new non-qualifying jobs you are estimating you will create? 0

6. Do you intend to request that the governing body waive the minimum new qualifying job creation requirement, as provided under Tax Code §313.025(f-1)? . . . . . ☐ Yes ☑ No

   6a. If yes, attach evidence in **Tab 12** documenting that the new qualifying job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards.

7. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the TWC website. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22).

   a. Average weekly wage for all jobs (all industries) in the county is 992.25

   b. 110% of the average weekly wage for manufacturing jobs in the county is . . . . . N/A

   c. 110% of the average weekly wage for manufacturing jobs in the region is 811.27

8. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? . . . . . ☐ §313.021(5)(A) or ☑ §313.021(5)(B)

9. What is the minimum required annual wage for each qualifying job based on the qualified property? 42,186.10

10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? 42,186.10

11. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? . . . . . ☑ Yes ☐ No

12. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.021(3)(F)? . . . . . ☑ Yes ☐ No

    12a. If yes, attach in **Tab 12** supporting documentation from the TWC, pursuant to §313.021(3)(F).

13. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? . . . . . ☐ Yes ☑ No

    13a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

SECTION 15: Economic Impact

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

Tab 5

Limitation as a Determining Factor

Delaware Processing, LLC is a subsidiary of EnLink Midstream, LLC. EnLink Midstream operates a differentiated midstream platform that is built for long-term, sustainable value creation. They are dedicated to connecting energy to life through midstream services that improve their customers' business, employees' lives, local communities, and investor returns. EnLink Midstream, LLC provides integrated midstream services across natural gas, crude oil, condensate, and NGL commodities. Their purposely built, integrated asset platforms are in premier production basins and core demand centers, including Permian Basin, Oklahoma, North Texas, Ohio River Valley, and the Gulf Coast.

EnLink Midstream, LLC is always evaluating various manufacturing projects for development and where to commit substantial long-term investment based on economic rate of return on investment in the proposed projects. In regard to the Tiger Plant, EnLink Midstream, LLC is considering areas in New Mexico, specifically Eddy or Lea County for the establishment of this site.

The economic benefits provided by a Chapter 313 Value Limitation is one of the most important components in their analysis. Not only EnLink Midstream, LLC but all prudent manufactures, know tax incentives play an important role in attracting capital intensive manufacturing facilities due to the high property tax burden in Texas because of the direct impact on any proposed project's economic viability, so the decision to invest in Texas, or any other state, requires any capital investment by EnLink Midstream, LLC to be based on expected economic return on their investment.

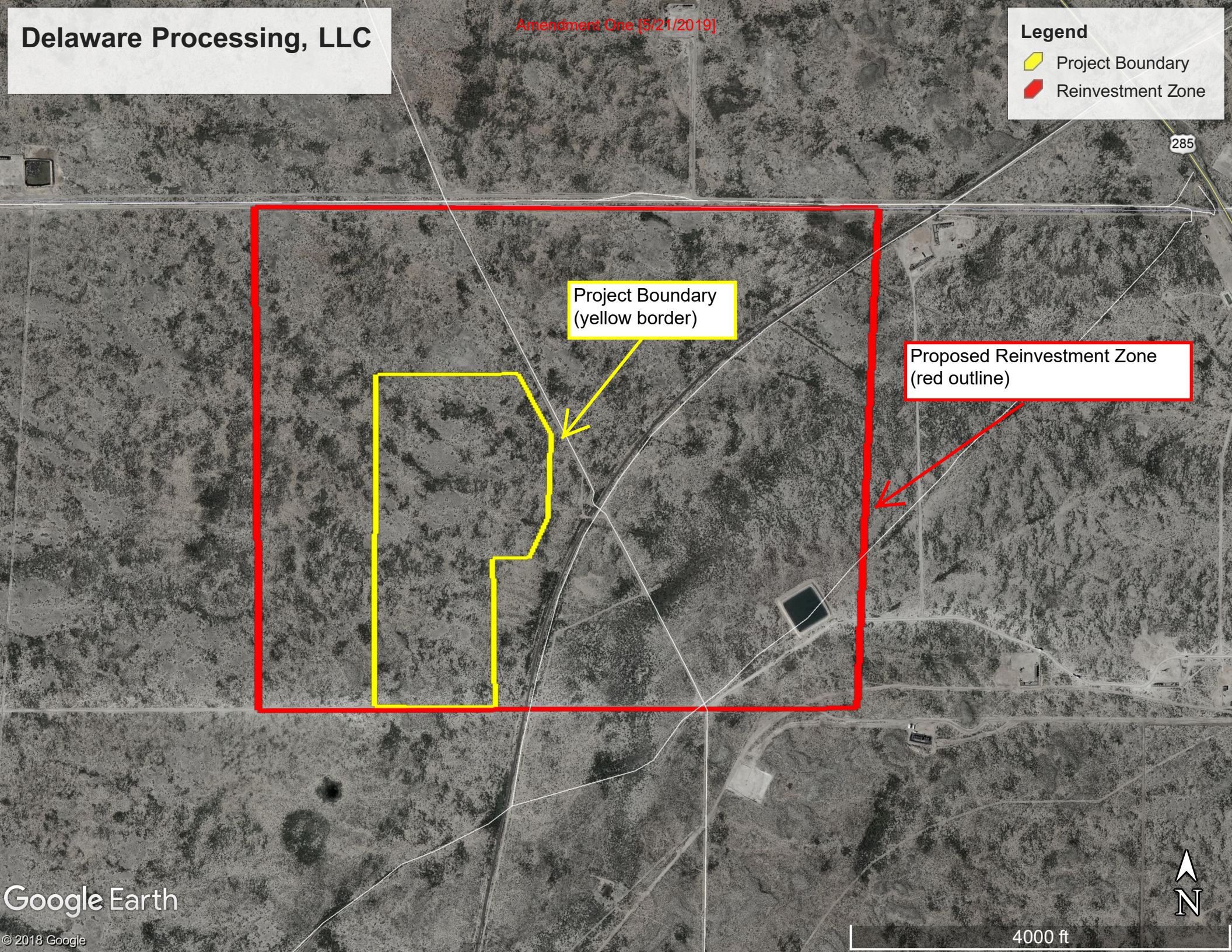
With the property tax liabilities making up a substantial ongoing cost of operation that directly impacts the rate of return on the investment for the Tiger Plant. Without the tax incentive, the economics of this project will be less competitive with other capital-intensive projects and the viability of the proposed project becomes uncertain. EnLink Midstream, LLC looks at a confidential Discounted Cash Flow model (DCF) computing the proposed project's rate of return with the Chapter 313 appraised value limitation agreement and without the value limitation agreement. The DCF model shows that the rate of return with the valuation limitation agreement exceeds the minimum rate of return they require to proceed with the proposed investment. Therefore, receiving a value limitation agreement under Chapter 313 results in significant annual operating cost savings which would incentivize EnLink Midstream, LLC to invest capital in the proposed project rather than making an alternative investment. This makes the ability to enter into a Chapter 313 appraised value limitation agreement with the school district "the determining factor" to invest in this project.

Tab 11

Maps

Delaware Processing, LLC

Amendment One [5/21/2019]



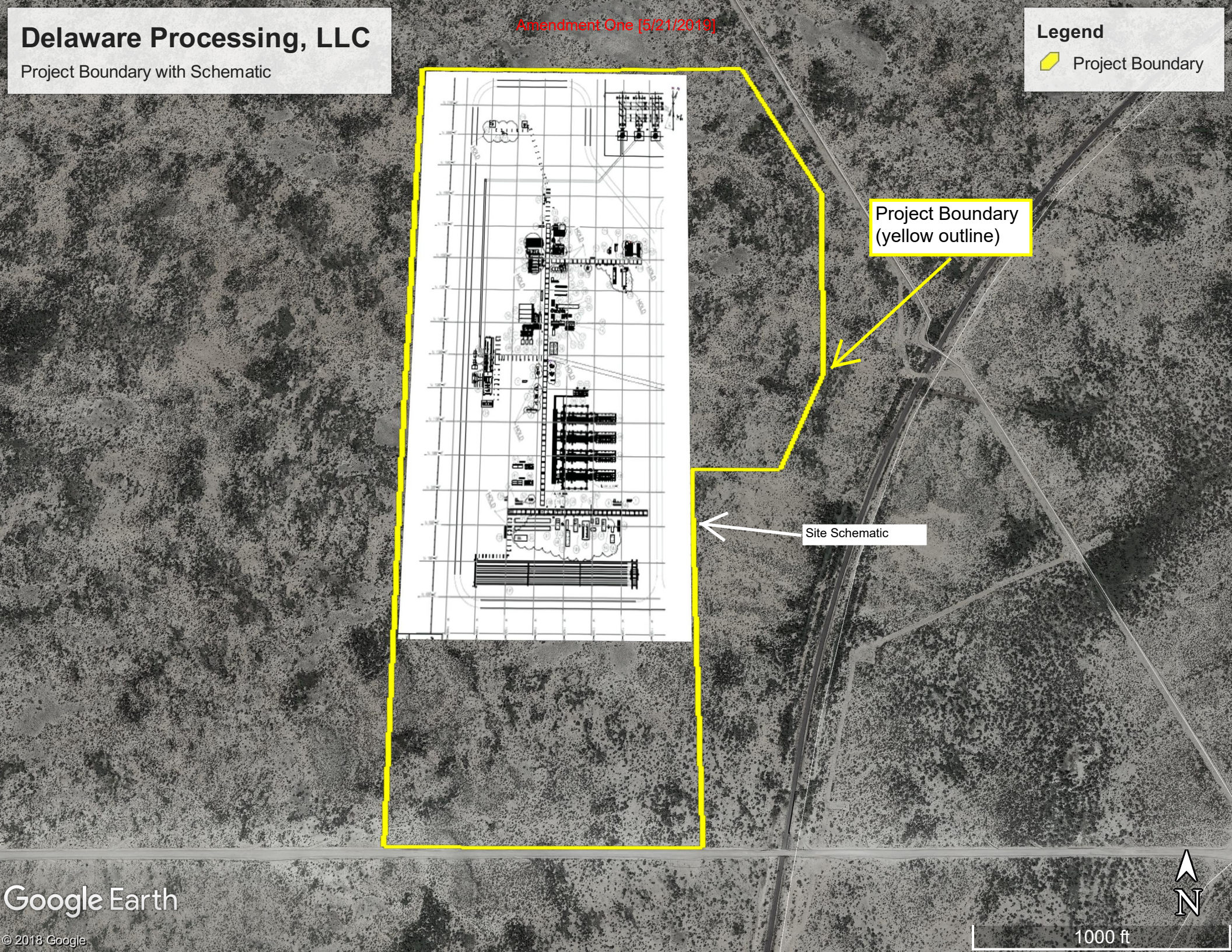
Delaware Processing, LLC

Project Boundary with Schematic

Amendment One [5/21/2019]

Legend

Project Boundary



Delaware Processing, LLC

Project Boundary

Amendment One [5/21/2019]

Legend

Project Boundary

Tab 13

Calculation of Wage Requirements

U.S. Department of Labor—Bureau of Labor Statistics

The proceeding calculations are for the following wage requirements:

Calculation A: Culberson County Average Weekly Wage

Calculation B: 110% of Culberson County Average for Manufacturing Jobs -*N/A: Data does not meet BLS or State Agency Disclosure Standards*

Calculation C: 110% of Rio Grande Council of Governments Regional Average for Manufacturing Jobs

Calculation A: Culberson County Average Weekly Wage for all Jobs

Year	Quarter	Average Weekly Wage
2018	Q1	$973
2018	Q2	$963
2018	Q3	$987
2018	Q4	$1046
2018	**Q Average**	**$992.25**

In order to calculate the Culberson County Average Weekly Wage for all Jobs, the following calculations were completed:

110% Quarterly Average Calculation:

Step 1: $973 +$963 +$987 +$1046 =$3969.00

Step 2: $3969/4= $992.25

Quarterly Census of Employment and Wages (QCEW) Report

Customize the report/Help with Accessibility

Drag a column header and drop it here to group by that column

Year	Period	Area	Ownership	Industry	Average Weekly Wage
2018	01	Culberson	Total All	Total, All Industries	973
2018	02	Culberson	Total All	Total, All Industries	963
2018	03	Culberson	Total All	Total, All Industries	987
2018	04	Culberson	Total All	Total, All Industries	1,046

Tab 16

Description of Reinvestment Zone

The Tiger Plant is to be located within a proposed reinvestment zone. The adoption of this measure will not be complete until Culberson County-Allamoore ISD or Culberson County creates the proposed reinvestment zone. At that time, the legal description of the zone as well as the order, resolution, or ordinance that establishes the reinvestment zone will be submitted to the Texas Comptroller.

CULBERSON COUNTY

GUIDELINES AND CRITERIA FOR TAX ABATEMENT

I. PURPOSE

Culberson County, herein referred to as "the County, is committed to the promotion of quality development in all parts of the County and to improving the quality of life for its citizens. In order to help meet these goals, the County will consider recommending tax abatement in order to stimulate growth and development. Any such incentive shall be provided in accordance with the procedures and criteria outlined in this document. <u>However, nothing in these guidelines shall imply or suggest, or be construed to imply or suggest, that the County is under any obligation to provide any incentive to any applicant. All such applications for tax abatement shall be considered on an individual basis with regard to both the qualification for abatement and the amount of any abatement.</u>

II. DEFINITIONS

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

III. GUIDELINES AND CRITERIA

Improvements eligible for abatement include the following:

Aquaculture/agricultural facility;

Distribution center facility;

Manufacturing facility;

Office building;

Regional entertainment/tourism facility;

Renewable power facility and fixtures;

Research facility;

Historic building in a designated area; or

Other basic industry.

Requests for abatement will be evaluated according to factors including, but not limited to, the following:

(1) Jobs. Projected new jobs created, including the number and type of new jobs, the number and type of new jobs retained, the average payroll, and the number of local persons hired.
(2) Fiscal impact. The amount of real and personal property value that will be added to the tax roll for both eligible and ineligible property, any County financed infrastructure improvements that

will be required by the facility, and the compatibility of the project with the County's master plan for development.

(3) Community Impact. The pollution, if any, as well as other potential negative environmental impact on the health and safety of the community resulting from the proposed project; whether the project will revitalize a depressed area; potential business opportunities for local vendors; alternative development possibilities for the proposed site; the impact on other taxing entities; and/or whether the improvement is expected to solely or primarily have the effect of transferring employment from one part of Culberson County to another.

IV. ABATEMENT AUTHORIZED

(a) Authorized Date. A facility shall be eligible for tax abatement if it has applied for such abatement prior to the commencement of construction; provided, that such facility meets the criteria for granting tax abatement in reinvestment zones created by Culberson County pursuant to these Guidelines and Criteria. Property may be exempted from taxation under these guidelines for a period not to exceed statutory limitations.

(b) Creation of New Value. Abatement may only be granted for the additional value or increase in value to eligible improvements made subsequent to the filing of an application for tax abatement and specified in the abatement agreement between the County and the property owner or lessee and lessor, subject to such limitations as the Tax Abatement Statute and these Guidelines and Criteria may require.

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

(d) Eligible Property. Abatement may be extended to the value of buildings, structures, fixed machinery and equipment, site improvements, and office space and related fixed improvements necessary to the operation and administration of the facility.

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

a. Land
b. Animals
c. Inventories
d. Supplies
e. Tools
f. Furnishing, and other forms of movable personal property (except as provided below)
g. Vehicles
h. Vessels
i. Aircraft

j. Housing or residential property
k. Hotels/motels
l. Fauna
m. Flora
n. Retail facilities, except when housed in a historic structure, within the designated downtown district
o. Any improvements including those involved in the production, storage or distribution of natural gas or fluids that are not integral to the operation of the facility, and
p. Property owned or used by the State of Texas or its political subdivisions or by any organization owned, operated, or directed by a political subdivision of the State of Texas. This provision shall not be interpreted to disallow abatement where the eligible property to be abated may be located or affixed to land owned by the State or a subdivision of the State, but is wholly owned by the party seeking the abatement.

Equipment constituting personal property located in a reinvestment zone shall remain eligible for tax abatement provided the equipment is awaiting installation to become a permanent part of a fixture located or to be constructed in a reinvestment zone that is or will be eligible for property tax abatement, including any replacement parts.

(f) Owned/Leased Facilities. If leased property is granted abatement, the agreement shall be executed with the lessor and lessee. If the eligible property to be abated is located on or affixed to leased land, but is wholly owned by the party seeking the abatement, the agreement shall be executed only with the owner of the property to be abated.

(g) Value and Term of Abatement. Abatement shall be granted effective with the January 1 valuation date immediately following the date of execution of the agreement or January 1 of the year specified in the application for abatement. The value of new eligible properties shall be abated according to the approved agreement between the applicant and governing body. The governing body, in its sole discretion, shall determine the amount of any abatement.

The abatement may be extended from the date of the initial agreement by modification provided the statutory requirements for modification are met.

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

(i) Taxability. From the execution of the abatement contract to the end of the agreement period, taxes shall be payable as follows:
a. The value of ineligible property as provided in Part IV(e) shall be fully taxable.
b. The base year value of existing eligible property, meaning the value of the property for the year in which the abatement agreement is executed, shall be fully taxable.

c. The additional value of eligible property shall be taxable as provided for by the applicable abatement agreement between the owner and County.

V. APPLICATION FOR TAX ABATEMENT

(a) Any present of potential owner of taxable property in Culberson County may request the creation of a reinvestment zone and tax abatement by filing a written request with the County.

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

(1) a general description of the proposed use and general nature and extent of the modernization, expansion or new improvements to be undertaken;

(2) a descriptive list of the improvements that will be a part of the facility;

(3) a map and property description or site plan;

(4) a time schedule for undertaking and completing the planned improvements;

(5) for modernized facilities, a statement of the assessed value of the facility, separately stated for real and personal property, for the tax year immediately preceding the application, and;

(6) Financial and other information as deemed appropriate for evaluating the financial capacity and other factors of the applicant.

(c) Upon receipt of a completed application, the County receiving such application shall notify in writing the presiding officer of the legislative body of each affected jurisdiction. Before acting upon the application, the County shall through public hearings as described below afford the applicant and the designated representative of any affected jurisdiction and any member of the public the opportunity to show cause why the abatement should or should not be granted. Notice of the public hearing shall be clearly identified on an agenda of the legislative body of the County to be posted at least twenty (20) days prior to the hearing.

(d) The County shall approve or deny the application for tax abatement within sixty (60) days after receipt of the application. The presiding officer of the County shall notify the applicant of the approval or disapproval promptly thereafter.

(e) Statutory Requirements: Not later than the seventh (7th) day before the date of the hearing, notice of the hearing must be: (1) delivered in writing to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, and (2) published in a newspaper of general circulation in the County. At the hearing, the Commissioners Court evaluates the application against the criteria described in these guidelines and decides by majority vote whether to designate the property for which the abatement is sought as a reinvestment zone. If the reinvestment zone is designated, the Commissioners Court shall pass an order to that effect. An order designating an area as a reinvestment zone is valid for five years from the date of designation. Once the area is designated as a reinvestment zone, the Commissioners Court may then arrange to consider for approval of the tax abatement agreement between the application and the County, which it may do at any regularly scheduled meeting, provided notice requirements are met. At least seven days prior to entering into a tax abatement

agreement, the County must give written notice of its intent to do so to the presiding officer of each taxing unit that includes in its boundaries real property that is to be included in the proposed reinvestment zone, along with a copy of the proposed tax abatement agreement. At the regularly scheduled meeting, the Commissioners Court may finally vote by simple majority to enter into the tax abatement agreement, or to decline.

(f) Expedited consideration of application. If the County determines that the application should received expedited consideration, the Commissioners Court may combine the steps described in the preceding paragraph into a single, regularly scheduled meeting of Commissioners Court, provided the County meets the procedural prerequisites for each step.

(g) A request for a reinvestment zone for the purpose of abatement shall not be granted if the County finds that the request for the abatement was filed after commencement of construction, alteration, or installation of improvements related to the proposed modernization, expansion, or new facility.

(h) Variance. Requests for variance from the provisions of Subsections (a) through (e) of Part IV may be made in written form to the County Commissioners Court. Such request shall include a complete description of the circumstances explaining why the applicant should be granted a variance. Approval of the request for variance requires a three-fourths (3/4) vote of the County Commissioners Court.

VI. PUBLIC HEARING

(a) If, after a public hearing, the County Commissioners Court weighs the relevant factors listed in these guidelines and determines that granting the abatement is not in the best interests of the County, the Court shall deny the abatement.

(b) Neither a reinvestment zone nor an abatement agreement shall be authorized if it is determined that:
   a. There would be substantial and unreasonable adverse affect on the provision of government services or the overall tax base of the County.
   b. The applicant has insufficient financial capacity.
   c. Planned or potential use of the property would constitute a hazard to public safety, health, or morals.
   d. Planned or potential use of the property violates any other governmental codes or any applicable law.

VII. AGREEMENT

(a) After approval of the tax abatement application, the County shall formally pass a resolution and execute an agreement with the owner of the facility and the lessee involved, if any, which shall include:
   a. Estimated value to be abated and the base year value.
   b. Percent of value to be abated each year.
   c. The commencement date and the termination date of abatement.

d. The proposed use of the facility, nature of construction, time schedule for undertaking and completing the planned improvements, map, property description, and improvements list.
e. Contractual obligations in the event of default, including a provision for cancellation and recapture of delinquent taxes, provisions for the administration and assignment as provided herein, and any other provision that may be required for uniformity or by state law.
f. Performance criteria for continuation of the abatement.
g. Amount of investment and average number of jobs involved for the period of abatement.
h. A provision that the contract shall meet all of the requirements of Texas Tax Code Sec. 312, et seq.

(b) Such agreement shall be executed within sixty (60) days after approval of the agreement.

(c) The County shall make its own determination of abatement which shall not bind any other affected taxing entity.

VIII. RECAPTURE

(a) In the event that a facility is completed and begins producing product or service, but subsequently discontinues production of product or service for any reason other than fire, explosion, or other casualty or accident or natural disaster for a period of one (1) year during the abatement period, then the agreement shall terminate and so shall the abatement of taxes for the calendar year during which the agreement is terminated. The taxes otherwise abated for that calendar year shall be paid to the County within sixty (60) days from the date of termination.

(b) Should the County determine that the owner is in default of the agreement, the County shall notify the owner of such defect in writing at the address stated in the agreement, and if such defect is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement shall be terminated. Where cure of the proposed defect requires action undertaken over a period of time, the contract will not be considered to be in default if the performing party has undertaken efforts to cure the defect and is diligently pursuing those efforts.

(c) In the event that the company of individual:
a. Allows its ad valorem taxes owed the County to become delinquent, and to remain delinquent for a period of thirty (30) days following notice of delinquency without instituting proper legal procedures for their protest and/or contest; or
b. Violates in any way any of the terms and conditions of the abatement agreement and fails to cure same during the Cure Period;

the agreement shall be terminated and all taxes previously abated by virtue of the agreement shall be recaptured and paid within sixty (60) days of termination. A failure to abide by estimated timelines for construction will not be considered to be

a material breach of this agreement, provided the owner makes a reasonable effort to meet the estimated timeline.

IX. ADMINISTRATION

(a) The Chief Appraiser of the Culberson County Appraisal District shall annually determine the assessment of real and personal property comprising the reinvestment zone. Each year the company or individual receiving the abatement shall furnish the designee of the County with such information as may be necessary to determine continued eligibility for abatement. Once the value has been established, the Chief Appraiser shall notify the County of the amount of assessment. Additionally, the County designee shall notify the County of the number of new or retained employees associated with the facility or generated by the abatement agreement. Once the value has been established, the Chief Appraiser shall notify the affected taxing jurisdictions of the amount of the assessment.

(b) The agreement shall stipulate that employees and/or designated representatives of the County will have access to the reinvestment zone during the term of the abatement to inspect the facility to determine if the terms and conditions of the agreement are being met. All inspections will be made only after the giving of twenty-four (24) hours prior notice and will only be conducted in such manner as to prevent unreasonable interference with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the owner in accordance with its safety standards.

(c) Upon completion of construction the County shall annually evaluate each facility and report possible violations of the contract and/or agreement to the County.

(d) All proprietary information acquired by the County for purposes of monitoring compliance with the terms and conditions of an abatement agreement shall be considered confidential.

X. ASSIGNMENT

(a) Abatement may be transferred and assigned by the owner to a new owner of the same property upon approval by resolution of the County Commissioners Court subject to the financial capacity of the assignee and provided that the agreement is modified to substitute assignee as a party to the agreement.

(b) Any such modification shall not exceed the termination date of the abatement agreement with the original owner.

(c) No assignment or transfer shall be approved if either the parties to the existing agreement or the proposed assignee is liable to the County for outstanding taxes or other obligations.

(d) Approval shall not be unreasonably withheld. Upon a finding that the proposed assignee is capable of performing the obligations under the agreement, financially and otherwise, approval of the assignment will not be withheld.

XI. SUNSET PROVISION

(a) These guidelines are effective upon the date of their adoption and will remain in force for two (2) years, at which time all reinvestment zones and tax abatement contracts created pursuant to its agreements will be reviewed by the County to determine whether the goals of these guidelines and the Tax Abatement Statute have been achieved. Based on that review, these guidelines may be modified, renewed, or eliminated. Such actions shall not affect existing contracts.

(b) Prior to the date for review, as defined above, these Guidelines may be modified by two-thirds (2/3) vote of the County Commissioners Court, as provided by the laws of the State of Texas.

XII. SEVERABILITY AND LIMITATIONS

(a) In the event that any section, clause, sentence, paragraph, or any part of these guidelines is, for any reason, adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair, or invalidate the remainder of these guidelines.

(b) Property that is in a reinvestment zone that is owned of leased by a member of the Commissioners Court is excluded from property tax abatement.

(c) If this Guideline Statement has omitted any mandatory requirement of the applicable tax abatement laws of the State of Texas, then such requirement is hereby incorporated as part of these guidelines.

XIII. These Guidelines and Criteria do not affect the County's right to enter into abatement agreements located in the City of Van Horn pursuant to the existing agreement between the County and City, regardless of whether such abatement agreements meet the criteria announced by these Guidelines.

Passed and approved at a regular meeting of the Culberson County Commissioners' Court, at which a quorum was present on the 21st day of May, 2018.

Carlos G. Urias, County Judge

Tab 17

Signatures and Certification

SECTION 16: Authorized Signatures and Applicant Certification

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in **Tab 17**. **NOTE:** If you amend your application, you will need to obtain new signatures and resubmit this page, Section 16, with the amendment request.

1. Authorized School District Representative Signature

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

print here ▶ _____ _____
Print Name *(Authorized School District Representative)* Title

sign here ▶ _____ _____
Signature *(Authorized School District Representative)* Date

2. Authorized Company Representative (Applicant) Signature and Notarization

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

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

print here ▶ Kate Walsh — VP of Tax
Print Name *(Authorized Company Representative (Applicant))* Title

sign here ▶ [signature] — 5/21/19
Signature *(Authorized Company Representative (Applicant))* Date

KAMELAH EDWARDS
Notary Public, State of Texas
Comm. Expires 02-08-2022
Notary ID 13144156-3

(Notary Seal)

GIVEN under my hand and seal of office this, the 21st day of May, 2019

Kamelah

Notary Public in and for the State of Texas

My Commission expires: 2/8/22

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

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print here Ken Baush
Print Name *(Authorized School District Representative)*

Superintendent
Title

sign here Ken Baush
Signature *(Authorized School District Representative)*

5-29-19
Date

2. Authorized Company Representative (Applicant) Signature and Notarization

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print here Kate Walsh
Print Name *(Authorized Company Representative (Applicant))*

VP of Tax
Title

sign here
Signature *(Authorized Company Representative (Applicant))*

5/21/19
Date

KAMELAH EDWARDS
Notary Public, State of Texas
Comm. Expires 02-08-2022
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