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FINDINGS  
OF THE  
RANKIN INDEPENDENT SCHOOL DISTRICT  
BOARD OF TRUSTEES  
UNDER THE  
TEXAS ECONOMIC DEVELOPMENT ACT  
ON THE APPLICATION SUBMITTED BY  
ETC TEXAS PIPELINE, LTD  
TEXAS TAXPAYER ID #10505324664  
APPLICATION #1362

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May 13, 2020

FINDINGS OF THE RANKIN INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT ON THE APPLICATION SUBMITTED BY ETC TEXAS PIPELINE, LTD

STATE OF TEXAS                   §  
  §  
COUNTY OF UPTON               §

On the 13<sup>th</sup> day of May, 2020, a public meeting of the Board of Trustees of the Rankin 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 ETC Texas Pipeline, LTD (Application #1362) 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 Rankin Independent School District makes the following findings with respect to the Application of ETC Texas Pipeline, LTD #1362, and the economic impact of that Application:

On April 22, 2019, the Superintendent of Schools of the Rankin Independent School District, acting as agent of the Board of Trustees, and the Texas Comptroller of Public Accounts received an Application from ETC Texas Pipeline, LTD #1362 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=1362>.

The Applicant, ETC Texas Pipeline, LTD (Taxpayer ID 10505324664) (“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 Upton 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 October 14, 2019.

After receipt of the Application, the Texas Comptroller of Public Accounts caused to be conducted an economic impact evaluation on December 18, 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 Rankin Independent School District. A copy of a report prepared by Jigsaw School Finance Solutions, LLC 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 Rankin 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/2312319021D.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 Rankin Independent School District is \$105,000,000—all 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 \$59,270 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 \$10,500,000 on the basis of the ten (10) new qualifying positions committed to by the Applicant for this project. The project’s total investment is \$105,000,000, resulting in a relative level of investment per qualifying job of \$10,500,000.**

**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
2020	151	201	352	\$8,949,800	\$18,050,200	\$27,000,000
2021	10	53	63	\$592,702	\$5,407,298	\$6,000,000
2022	10	49	59	\$592,702	\$5,407,298	\$6,000,000
2023	10	40	50	\$592,702	\$4,407,298	\$5,000,000
2024	10	36	46	\$592,702	\$4,407,298	\$5,000,000
2025	10	34	44	\$592,702	\$4,407,298	\$5,000,000
2026	10	34	44	\$592,702	\$4,407,298	\$5,000,000
2027	10	34	44	\$592,702	\$4,407,298	\$5,000,000
2028	10	35	45	\$592,702	\$5,407,298	\$6,000,000
2029	10	37	47	\$592,702	\$5,407,298	\$6,000,000
2030	10	38	48	\$592,702	\$5,407,298	\$6,000,000
2031	10	38	48	\$592,702	\$5,407,298	\$6,000,000
2032	10	39	49	\$592,702	\$6,407,298	\$7,000,000
2033	10	40	50	\$592,702	\$6,407,298	\$7,000,000
2034	10	41	51	\$592,702	\$6,407,298	\$7,000,000
2035	10	41	51	\$592,702	\$7,407,298	\$8,000,000

Table 4 examines the estimated direct impact on ad valorem taxes to the school district and Upton County, with all property tax incentives sought being granted 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 county. 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	Tax Rate <sup>1</sup>	Rankin ISD I&S Tax Levy	Rankin ISD M&O Tax Levy	Rankin ISD M&O and I&S Tax Levies	Upton County Tax Levy	Rankin Hospital District Tax Levy	Rankin Fire District Tax Levy	Upton County Water District Tax Levy	Estimated Total Property Taxes
			0.1000	0.9700			0.2605	0.1505	0.0108	0.0038	
2021	\$105,000,000	\$30,000,000		\$105,900	\$291,000	\$396,000	\$136,763	\$158,024	\$11,340	\$3,990	\$706,116
2022	\$102,900,000	\$30,000,000		\$102,900	\$291,000	\$393,900	\$134,027	\$154,863	\$11,113	\$3,910	\$697,814
2023	\$100,800,000	\$30,000,000		\$100,800	\$291,000	\$391,800	\$131,292	\$151,703	\$10,886	\$3,830	\$689,512
2024	\$98,700,000	\$30,000,000		\$98,700	\$291,000	\$389,700	\$128,557	\$148,543	\$10,660	\$3,751	\$681,209
2025	\$96,600,000	\$30,000,000		\$96,600	\$291,000	\$387,600	\$251,643	\$145,382	\$10,433	\$3,671	\$798,729
2026	\$94,500,000	\$30,000,000		\$94,500	\$291,000	\$385,500	\$246,173	\$142,222	\$10,206	\$3,591	\$787,691
2027	\$92,400,000	\$30,000,000		\$92,400	\$291,000	\$383,400	\$240,702	\$139,061	\$9,979	\$3,511	\$776,653
2028	\$90,300,000	\$30,000,000		\$90,300	\$291,000	\$381,300	\$235,232	\$135,901	\$9,752	\$3,431	\$765,616
2029	\$88,200,000	\$30,000,000		\$88,200	\$291,000	\$379,200	\$229,761	\$132,740	\$9,526	\$3,352	\$754,578

Board Findings of the Rankin Independent School District

2030	\$86,100,000	\$30,000,000		\$86,100	\$291,000	\$377,100	\$224,291	\$129,580	\$9,299	\$3,272	\$743,541
2031	\$84,000,000	\$84,000,000		\$84,000	\$814,800	\$898,800	\$218,820	\$126,419	\$9,072	\$3,192	\$1,256,303
2032	\$81,900,000	\$81,900,000		\$81,900	\$794,430	\$876,330	\$213,350	\$123,259	\$8,845	\$3,112	\$1,224,896
2033	\$79,800,000	\$79,800,000		\$79,800	\$774,060	\$853,860	\$207,879	\$120,098	\$8,618	\$3,032	\$1,193,488
2034	\$77,700,000	\$77,700,000		\$77,700	\$753,690	\$831,390	\$202,409	\$116,938	\$8,392	\$2,953	\$1,162,080
2035	\$75,600,000	\$75,600,000		\$75,600	\$733,320	\$808,920	\$196,938	\$113,777	\$8,165	\$2,873	\$1,130,673
			Total	\$1,354,500	\$6,780,300	\$8,134,800	\$2,997,834	\$2,038,509	\$146,286	\$51,471	\$13,368,900
			Diff	\$0	\$6,358,350	\$6,358,350	\$530,639	\$0	\$0	\$0	\$6,888,989

Source: CPA, ETC Texas Pipeline, LTD  
 †Tax Rate per \$100 Valuation

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

Table 3— Estimated Direct Ad Valorem Taxes without Property Tax Incentives											
Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Rankin ISD I&S Tax Levy	Rankin ISD M&O Tax Levy	Rankin ISD M&O and I&S Tax Levies	Upton County Tax Levy	Rankin Hospital District Tax Levy	Rankin Fire District Tax Levy	Upton County Water District Tax Levy	Estimated Total Property Taxes
			Tax Rate <sup>†</sup>	0.1000	0.9700		0.2605	0.1505	0.0108	0.0038	
2021	\$105,000,000	\$105,000,000		\$105,000	\$1,018,500	\$1,123,500	\$273,525	\$150,024	\$11,340	\$3,990	\$1,570,379
2022	\$102,900,000	\$102,900,000		\$102,900	\$998,130	\$1,101,030	\$268,055	\$154,863	\$11,113	\$3,910	\$1,538,971
2023	\$100,800,000	\$100,800,000		\$100,800	\$977,760	\$1,078,560	\$262,584	\$151,703	\$10,886	\$3,830	\$1,507,564
2024	\$98,700,000	\$98,700,000		\$98,700	\$957,390	\$1,056,090	\$257,114	\$148,543	\$10,660	\$3,751	\$1,476,156
2025	\$96,600,000	\$96,600,000		\$96,600	\$937,020	\$1,033,620	\$251,643	\$145,382	\$10,433	\$3,671	\$1,444,749
2026	\$94,500,000	\$94,500,000		\$94,500	\$916,650	\$1,011,150	\$246,173	\$142,222	\$10,206	\$3,591	\$1,413,341
2027	\$92,400,000	\$92,400,000		\$92,400	\$896,280	\$988,680	\$240,702	\$139,061	\$9,979	\$3,511	\$1,381,933
2028	\$90,300,000	\$90,300,000		\$90,300	\$875,910	\$966,210	\$235,232	\$135,901	\$9,752	\$3,431	\$1,350,526
2029	\$88,200,000	\$88,200,000		\$88,200	\$855,540	\$943,740	\$229,761	\$132,740	\$9,526	\$3,352	\$1,319,118
2030	\$86,100,000	\$86,100,000		\$86,100	\$835,170	\$921,270	\$224,291	\$129,580	\$9,299	\$3,272	\$1,287,711
2031	\$84,000,000	\$84,000,000		\$84,000	\$814,800	\$898,800	\$218,820	\$126,419	\$9,072	\$3,192	\$1,256,303
2032	\$81,900,000	\$81,900,000		\$81,900	\$794,430	\$876,330	\$213,350	\$123,259	\$8,845	\$3,112	\$1,224,896
2033	\$79,800,000	\$79,800,000		\$79,800	\$774,060	\$853,860	\$207,879	\$120,098	\$8,618	\$3,032	\$1,193,488
2034	\$77,700,000	\$77,700,000		\$77,700	\$753,690	\$831,390	\$202,409	\$116,938	\$8,392	\$2,953	\$1,162,080
2035	\$75,600,000	\$75,600,000		\$75,600	\$733,320	\$808,920	\$196,938	\$113,777	\$8,165	\$2,873	\$1,130,673
			Total	\$1,354,500	\$13,138,650	\$14,493,150	\$3,528,473	\$2,038,509	\$146,286	\$51,471	\$20,257,888

Source: CPA, ETC Texas Pipeline, LTD  
 †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 Findings of the Rankin Independent School District

**Board Finding Number 9.**

The Applicant’s project is reasonably likely to generate, before the 25<sup>th</sup> 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	\$0	\$0	\$0	\$0
	2020	\$0	\$0	\$0	\$0
Limitation Period (10 Years)	2021	\$291,000	\$291,000	\$727,500	\$727,500
	2022	\$291,000	\$582,000	\$707,130	\$1,434,630
	2023	\$291,000	\$873,000	\$686,760	\$2,121,390
	2024	\$291,000	\$1,164,000	\$666,390	\$2,787,780
	2025	\$291,000	\$1,455,000	\$646,020	\$3,433,800
	2026	\$291,000	\$1,746,000	\$625,650	\$4,059,450
	2027	\$291,000	\$2,037,000	\$605,280	\$4,664,730
	2028	\$291,000	\$2,328,000	\$584,910	\$5,249,640
	2029	\$291,000	\$2,619,000	\$564,540	\$5,814,180
	2030	\$291,000	\$2,910,000	\$544,170	\$6,358,350
Maintain Viable Presence (5 Years)	2031	\$814,800	\$3,724,800	\$0	\$6,358,350
	2032	\$794,430	\$4,519,230	\$0	\$6,358,350
	2033	\$774,060	\$5,293,290	\$0	\$6,358,350
	2034	\$753,690	\$6,046,980	\$0	\$6,358,350
	2035	\$733,320	\$6,780,300	\$0	\$6,358,350
Additional Years as Required by § 313.026(c)(1) (10 Years)	2036	\$712,950	\$7,493,250	\$0	\$6,358,350
	2037	\$692,580	\$8,185,830	\$0	\$6,358,350
	2038	\$672,210	\$8,858,040	\$0	\$6,358,350
	2039	\$651,840	\$9,509,880	\$0	\$6,358,350
	2040	\$631,470	\$10,141,350	\$0	\$6,358,350
	2041	\$611,100	\$10,752,450	\$0	\$6,358,350
	2042	\$590,730	\$11,343,180	\$0	\$6,358,350
	2043	\$570,360	\$11,913,540	\$0	\$6,358,350
	2044	\$549,990	\$12,463,530	\$0	\$6,358,350
	2045	\$529,620	\$12,993,150	\$0	\$6,358,350

\$12,993,150 is greater than \$6,358,350

<b>Analysis Summary</b> 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?	<b>Yes</b>
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**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 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 ETC Texas Pipeline, LTD in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. "As the primary available property tax incentive in Texas, a 313 agreement is vital to the proposed Panther II Plant economics. Multiple other potential projects are presently competing for the same capital expenditures by the company, including possible plants in Louisiana and in New Mexico."
  - B. "Because the existing and new pipeline infrastructure that is now present in New Mexico, ETC has ample freedom to choose where the proposed project can be built. The economic differences outside of tax treatment are considered miniscule because of the Waha's proximity to the NM/TX border. Because of this, the proposed 313 is considered a major determining factor in whether or not the Panther II is completed in Texas."
  - C. "With the property tax liabilities making up substantial ongoing cost of operation that directly impacts the rate of return on the investment for the Panther II project. So, without the 313 Value Limitation tax incentive, the economics of this project could be less competitive with other capital-intensive projects and the viability of the proposed project becomes uncertain. ETC Texas Pipeline, LTD compares the proposed project's rate of return with Chapter 313 appraised value limitation agreement and without the value limitation agreement. To move forward, the rate of return, with the valuation limitation agreement, must exceed the minimum rate of return required to proceed with the proposed investment. Therefore, receiving a value limitation agreement under Chapter 313 results in significant annual operation cost savings which would incentivize ETC Texas Pipeline, LTD 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"
- Per Comptroller Research
  - A. In an article dated November 13, 2017 from *Natural Gas Intelligence* Marshall McCrea, COO of Energy Transfer Partners LP, stated "We're probably more well-positioned than anybody. There's not a lot of capacity out of West Texas. Really, the only way out other than west is through our pipe to Mexico, which we still believe will be some time down the road before they're fully ramping up. So, getting volume

growth out of there is going to depend on either a new project or existing capacity, of which we have. So, we're extremely optimistic over the next 12-14 months that the basis will blow out, probably blow out materially. We're well-positioned to take advantage of that. We're actually going to be feeding that with a lot of these projects that we're bringing on a ramping up with our processing plants and with our Red Bluff upstream intrastate." CFO, Thomas Long added "Including the Panther Plant, which came online December of last year, Rebel II is our third plant in the Midland Basin, We're nearing capacity in the Permian, and we'll need Rebel II as soon as possible to meet growing producer demand in the region."

- B. In the *Energy Investor Presentation November 2019*, they stated "ET is nearing capacity in both the Delaware and Midland Basins due to continued producer demand and strong growth outlook in the Permian. As a result of this demand, ET has continued to build out its Permian infrastructure. Additional 200 MMcf/d processing plant expected in service by end of 2019"
- C. The qualified property for the Panther I (Application #1080) is placed adjacent to the qualified property of Panther II (Application #1362). Commercial operations for Panther I began 2017 and Panther II is estimated to begin 2020. (See included Map)
- Provided by Applicant
  - A. "Because of the proximity of the system to the Waha Hub, the system, has a variety of market outlets for the natural gas that is gathered and processed, including several major interstate and intrastate pipelines serving California, the mid-continent region of the United States and the Texas/New Mexico natural gas markets."

### 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 Rankin Independent School District hired consultants to review and verify the information in Application #1362. 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 Thirty Million Dollars (\$30,000,000), which is consistent with the minimum values currently set out by Texas Tax Code § 313.054(a).**

Board Findings of the Rankin Independent School District

**Board Finding Number 14.**

**The Applicant (Taxpayer ID 32069893314) 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.**

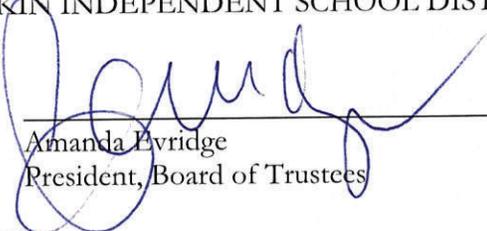
**Considering the purpose and effect of the law and the terms of the Agreement, it is in the best interest of the District and the State to enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.**

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 Rankin 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 Rankin Independent School District.

Dated the 13<sup>th</sup> day of May, 2020.

RANKIN INDEPENDENT SCHOOL DISTRICT

By: \_\_\_\_\_

  
Amanda Lyvridge  
President, Board of Trustees

ATTEST:

By: \_\_\_\_\_

  
Bryan Skehan  
Secretary, Board of Trustees

Findings and Order of the Rankin Independent School District  
Board of Trustees under the Texas Economic Development Act on the Application Submitted by  
ETC Texas Pipeline, LTD (Tax ID 10505324664) (Application #1362)

**EXHIBIT A**

**Comptroller's Economic Impact Analysis**



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

December 18, 2019

Samuel Wyatt  
Superintendent  
Rankin Independent School District  
P.O. Box 90  
Rankin, Texas 79778

Re: Certificate for Limitation on Appraised Value of Property for School District  
Maintenance and Operations taxes by and between Rankin Independent School  
District and ETC Texas Pipeline, LTD, Application 1362

Dear Superintendent Wyatt:

On October 14, 2019, the Comptroller issued written notice that ETC Texas Pipeline, LTD (applicant) submitted a completed application (Application 1362) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on April 22, 2019, to the Rankin 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 C; 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.

<sup>1</sup> 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 1362.

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 C.

**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 within a year from the date of this letter.

Note that any building or improvement existing as of the application review start date of October 14, 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](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

A handwritten signature in blue ink that reads "Lisa Craven". The signature is fluid and cursive, with the first name "Lisa" and last name "Craven" clearly legible.

Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan

**Attachment A – Economic Impact Analysis**

The following tables summarize the Comptroller’s economic impact analysis of ETC Texas Pipeline, LTD (project) applying to Rankin 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 ETC Texas Pipeline, LTD.

Applicant	ETC Texas Pipeline, LTD
Tax Code, 313.024 Eligibility Category	Manufacturing
School District	Rankin ISD
2018-2019 Average Daily Attendance	270
County	Upton
Proposed Total Investment in District	\$105,000,000
Proposed Qualified Investment	\$105,000,000
Limitation Amount	\$30,000,000
Qualifying Time Period (Full Years)	2021-2022
Number of new qualifying jobs committed to by applicant	10
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$1,140
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$1,140
Minimum annual wage committed to by applicant for qualified jobs	\$59,270
Minimum weekly wage required for non-qualifying jobs	\$1,337
Minimum annual wage required for non-qualifying jobs	\$69,525
Investment per Qualifying Job	\$10,500,000
Estimated M&O levy without any limit (15 years)	\$13,138,650
Estimated M&O levy with Limitation (15 years)	\$6,780,300
Estimated gross M&O tax benefit (15 years)	\$6,358,350

**Table 2** is the estimated statewide economic impact of ETC Texas Pipeline, LTD (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2020	151	201	352	\$8,949,800	\$18,050,200	\$27,000,000
2021	10	53	63	\$592,702	\$5,407,298	\$6,000,000
2022	10	49	59	\$592,702	\$5,407,298	\$6,000,000
2023	10	40	50	\$592,702	\$4,407,298	\$5,000,000
2024	10	36	46	\$592,702	\$4,407,298	\$5,000,000
2025	10	34	44	\$592,702	\$4,407,298	\$5,000,000
2026	10	34	44	\$592,702	\$4,407,298	\$5,000,000
2027	10	34	44	\$592,702	\$4,407,298	\$5,000,000
2028	10	35	45	\$592,702	\$5,407,298	\$6,000,000
2029	10	37	47	\$592,702	\$5,407,298	\$6,000,000
2030	10	38	48	\$592,702	\$5,407,298	\$6,000,000
2031	10	38	48	\$592,702	\$5,407,298	\$6,000,000
2032	10	39	49	\$592,702	\$6,407,298	\$7,000,000
2033	10	40	50	\$592,702	\$6,407,298	\$7,000,000
2034	10	41	51	\$592,702	\$6,407,298	\$7,000,000
2035	10	41	51	\$592,702	\$7,407,298	\$8,000,000

Source: CPA REMI, ETC Texas Pipeline, LTD

**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*	Rankin ISD I&S Tax Levy	Rankin ISD M&O Tax Levy	Rankin ISD M&O and I&S Tax Levies	Upton County Tax Levy	Rankin Hospital District Tax Levy	Rankin Fire District Tax Levy	Upton County Water District Tax Levy	Estimated Total Property Taxes
				0.1000	0.9700		0.2605	0.1505	0.0108	0.0038	
2021	\$105,000,000	\$105,000,000		\$105,000	\$1,018,500	\$1,123,500	\$273,525	\$158,024	\$11,340	\$3,990	\$1,570,379
2022	\$102,900,000	\$102,900,000		\$102,900	\$998,130	\$1,101,030	\$268,055	\$154,863	\$11,113	\$3,910	\$1,538,971
2023	\$100,800,000	\$100,800,000		\$100,800	\$977,760	\$1,078,560	\$262,584	\$151,703	\$10,886	\$3,830	\$1,507,564
2024	\$98,700,000	\$98,700,000		\$98,700	\$957,390	\$1,056,090	\$257,114	\$148,543	\$10,660	\$3,751	\$1,476,156
2025	\$96,600,000	\$96,600,000		\$96,600	\$937,020	\$1,033,620	\$251,643	\$145,382	\$10,433	\$3,671	\$1,444,749
2026	\$94,500,000	\$94,500,000		\$94,500	\$916,650	\$1,011,150	\$246,173	\$142,222	\$10,206	\$3,591	\$1,413,341
2027	\$92,400,000	\$92,400,000		\$92,400	\$896,280	\$988,680	\$240,702	\$139,061	\$9,979	\$3,511	\$1,381,933
2028	\$90,300,000	\$90,300,000		\$90,300	\$875,910	\$966,210	\$235,232	\$135,901	\$9,752	\$3,431	\$1,350,526
2029	\$88,200,000	\$88,200,000		\$88,200	\$855,540	\$943,740	\$229,761	\$132,740	\$9,526	\$3,352	\$1,319,118
2030	\$86,100,000	\$86,100,000		\$86,100	\$835,170	\$921,270	\$224,291	\$129,580	\$9,299	\$3,272	\$1,287,711
2031	\$84,000,000	\$84,000,000		\$84,000	\$814,800	\$898,800	\$218,820	\$126,419	\$9,072	\$3,192	\$1,256,303
2032	\$81,900,000	\$81,900,000		\$81,900	\$794,430	\$876,330	\$213,350	\$123,259	\$8,845	\$3,112	\$1,224,896
2033	\$79,800,000	\$79,800,000		\$79,800	\$774,060	\$853,860	\$207,879	\$120,098	\$8,618	\$3,032	\$1,193,488
2034	\$77,700,000	\$77,700,000		\$77,700	\$753,690	\$831,390	\$202,409	\$116,938	\$8,392	\$2,953	\$1,162,080
2035	\$75,600,000	\$75,600,000		\$75,600	\$733,320	\$808,920	\$196,938	\$113,777	\$8,165	\$2,873	\$1,130,673
			<b>Total</b>	<b>\$1,354,500</b>	<b>\$13,138,650</b>	<b>\$14,493,150</b>	<b>\$3,528,473</b>	<b>\$2,038,509</b>	<b>\$146,286</b>	<b>\$51,471</b>	<b>\$20,257,888</b>

Source: CPA, ETC Texas Pipeline, LTD

\*Tax Rate per \$100 Valuation

**Table 4** examines the estimated direct impact on ad valorem taxes to the school district and Upton County, with all property tax incentives sought being granted 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 county.

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*	Rankin ISD I&S Tax Levy	Rankin ISD M&O Tax Levy	Rankin ISD M&O and I&S Tax Levies	Upton County Tax Levy	Rankin Hospital District Tax Levy	Rankin Fire District Tax Levy	Upton County Water District Tax Levy	Estimated Total Property Taxes	
				0.1000	0.9700	0.2605	0.1505	0.0038				
2021	\$105,000,000	\$30,000,000		\$105,000	\$291,000	\$396,000	\$136,763	\$158,024	\$11,340	\$3,990	\$706,116	
2022	\$102,900,000	\$30,000,000		\$102,900	\$291,000	\$393,900	\$134,027	\$154,863	\$11,113	\$3,910	\$697,814	
2023	\$100,800,000	\$30,000,000		\$100,800	\$291,000	\$391,800	\$131,292	\$151,703	\$10,886	\$3,830	\$689,512	
2024	\$98,700,000	\$30,000,000		\$98,700	\$291,000	\$389,700	\$128,557	\$148,543	\$10,660	\$3,751	\$681,209	
2025	\$96,600,000	\$30,000,000		\$96,600	\$291,000	\$387,600	\$125,163	\$145,382	\$10,433	\$3,671	\$798,729	
2026	\$94,500,000	\$30,000,000		\$94,500	\$291,000	\$385,500	\$246,173	\$142,222	\$10,206	\$3,591	\$787,691	
2027	\$92,400,000	\$30,000,000		\$92,400	\$291,000	\$383,400	\$240,702	\$139,061	\$9,979	\$3,511	\$776,653	
2028	\$90,300,000	\$30,000,000		\$90,300	\$291,000	\$381,300	\$235,232	\$135,901	\$9,752	\$3,431	\$765,616	
2029	\$88,200,000	\$30,000,000		\$88,200	\$291,000	\$379,200	\$229,761	\$132,740	\$9,526	\$3,352	\$754,578	
2030	\$86,100,000	\$30,000,000		\$86,100	\$291,000	\$377,100	\$224,291	\$129,580	\$9,299	\$3,272	\$743,541	
2031	\$84,000,000	\$84,000,000		\$84,000	\$814,800	\$898,800	\$218,820	\$126,419	\$9,072	\$3,192	\$1,256,303	
2032	\$81,900,000	\$81,900,000		\$81,900	\$794,430	\$876,330	\$213,350	\$123,259	\$8,845	\$3,112	\$1,224,896	
2033	\$79,800,000	\$79,800,000		\$79,800	\$774,060	\$853,860	\$207,879	\$120,098	\$8,618	\$3,032	\$1,193,488	
2034	\$77,700,000	\$77,700,000		\$77,700	\$753,690	\$831,390	\$202,409	\$116,938	\$8,392	\$2,953	\$1,162,080	
2035	\$75,600,000	\$75,600,000		\$75,600	\$733,320	\$808,920	\$196,938	\$113,777	\$8,165	\$2,873	\$1,130,673	
				<b>Total</b>	<b>\$1,354,500</b>	<b>\$6,780,300</b>	<b>\$8,134,800</b>	<b>\$2,997,834</b>	<b>\$2,038,509</b>	<b>\$146,286</b>	<b>\$51,471</b>	<b>\$13,368,900</b>
				<b>Diff</b>	<b>\$0</b>	<b>\$6,358,350</b>	<b>\$6,358,350</b>	<b>\$530,639</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$6,888,989</b>

Assumes School Value Limitation and Tax Abatements with the County.

Source: CPA, ETC Texas Pipeline, LTD

\*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 25<sup>th</sup> Anniversary of Limitation Start**

This represents the Comptroller’s determination that ETC Texas Pipeline, LTD (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)
<b>Limitation Pre-Years</b>	2018	\$0	\$0	\$0	\$0
	2019	\$0	\$0	\$0	\$0
	2020	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2021	\$291,000	\$291,000	\$727,500	\$727,500
	2022	\$291,000	\$582,000	\$707,130	\$1,434,630
	2023	\$291,000	\$873,000	\$686,760	\$2,121,390
	2024	\$291,000	\$1,164,000	\$666,390	\$2,787,780
	2025	\$291,000	\$1,455,000	\$646,020	\$3,433,800
	2026	\$291,000	\$1,746,000	\$625,650	\$4,059,450
	2027	\$291,000	\$2,037,000	\$605,280	\$4,664,730
	2028	\$291,000	\$2,328,000	\$584,910	\$5,249,640
	2029	\$291,000	\$2,619,000	\$564,540	\$5,814,180
	2030	\$291,000	\$2,910,000	\$544,170	\$6,358,350
<b>Maintain Viable Presence (5 Years)</b>	2031	\$814,800	\$3,724,800	\$0	\$6,358,350
	2032	\$794,430	\$4,519,230	\$0	\$6,358,350
	2033	\$774,060	\$5,293,290	\$0	\$6,358,350
	2034	\$753,690	\$6,046,980	\$0	\$6,358,350
	2035	\$733,320	\$6,780,300	\$0	\$6,358,350
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2036	\$712,950	\$7,493,250	\$0	\$6,358,350
	2037	\$692,580	\$8,185,830	\$0	\$6,358,350
	2038	\$672,210	\$8,858,040	\$0	\$6,358,350
	2039	\$651,840	\$9,509,880	\$0	\$6,358,350
	2040	\$631,470	\$10,141,350	\$0	\$6,358,350
	2041	\$611,100	\$10,752,450	\$0	\$6,358,350
	2042	\$590,730	\$11,343,180	\$0	\$6,358,350
	2043	\$570,360	\$11,913,540	\$0	\$6,358,350
	2044	\$549,990	\$12,463,530	\$0	\$6,358,350
	2045	\$529,620	\$12,993,150	\$0	\$6,358,350

**\$12,993,150**

is greater than

**\$6,358,350**

<b>Analysis Summary</b>	
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

Source: CPA, ETC Texas Pipeline, LTD

**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 ETC Texas Pipeline, LTD’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 ETC Texas Pipeline, LTD in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. “As the primary available property tax incentive in Texas, a 313 agreement is vital to the proposed Panther II Plant economics. Multiple other potential projects are presently competing for the same capital expenditures by the company, including possible plants in Louisiana and in New Mexico.”
  - B. “Because the existing and new pipeline infrastructure that is now present in New Mexico, ETC has ample freedom to choose where the proposed project can be built. The economic differences outside of tax treatment are considered miniscule because of the Waha’s proximity to the NM/TX border. Because of this, the proposed 313 is considered a major determining factor in whether or not the Panther II is completed in Texas.”
  - C. “With the property tax liabilities making up substantial ongoing cost of operation that directly impacts the rate of return on the investment for the Panther II project. So, without the 313 Value Limitation tax incentive, the economics of this project could be less competitive with other capital-intensive projects and the viability of the proposed project becomes uncertain. ETC Texas Pipeline, LTD compares the proposed project’s rate of return with Chapter 313 appraised value limitation agreement and without the value limitation agreement. To move forward, the rate of return, with the valuation limitation agreement, must exceed the minimum rate of return required to proceed with the proposed investment. Therefore, receiving a value limitation agreement under Chapter 313 results in significant annual operation cost savings which would incentivize ETC Texas Pipeline, LTD 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.”
- Per Comptroller Research

- A. In an article dated November 13, 2017 from *Natural Gas Intelligence* Marshall McCrea, COO of Energy Transfer Partners LP, stated "We're probably more well-positioned than anybody. There's not a lot of capacity out of West Texas. Really, the only way out other than west is through our pipe to Mexico, which we still believe will be some time down the road before they're fully ramping up. So, getting volume growth out of there is going to depend on either a new project or existing capacity, of which we have. So, we're extremely optimistic over the next 12-14 months that the basis will blow out, probably blow out materially. We're well-positioned to take advantage of that. We're actually going to be feeding that with a lot of these projects that we're bringing on a ramping up with our processing plants and with our Red Bluff upstream intrastate." CFO, Thomas Long added "Including the Panther Plant, which came online December of last year, Rebel II is our third plant in the Midland Basin, We're nearing capacity in the Permian, and we'll need Rebel II as soon as possible to meet growing producer demand in the region."
- B. In the *Energy Investor Presentation November 2019*, they stated "ET is nearing capacity in both the Delaware and Midland Basins due to continued producer demand and strong growth outlook in the Permian. As a result of this demand, ET has continued to build out its Permian infrastructure. Additional 200 MMcf/d processing plant expected in service by end of 2019"
- C. The qualified property for the Panther I (Application #1080) is placed adjacent to the qualified property of Panther II (Application #1362). Commercial operations for Panther I began 2017 and Panther II is estimated to begin 2020. (See included Map)
- Provided by Applicant
  - A. "Because of the proximity of the system to the Waha Hub, the system, has a variety of market outlets for the natural gas that is gathered and processed, including several major interstate and intrastate pipelines serving California, the mid-continent region of the United States and the Texas/New Mexico natural gas markets."

**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 as a Determining Factor*

ETC Texas Pipeline, LTD is a leading midstream energy company whose primary activities include gathering, treating, processing, and transporting natural gas and natural gas liquids to a variety of markets and states. In the states mentioned below, Energy Transfer currently operates over 34,050 miles of pipeline, 32 gas processing plants, 19 gas treating facilities and 3 gas conditioning plants. The states where these operations are located include Arizona, New Mexico, Utah, Colorado, Kansas, Oklahoma, Texas, Arkansas and Louisiana.

As the primary available property tax incentive in Texas, a 313 agreement is vital to the proposed Panther II Plant economics. Multiple other potential projects are presently competing for the same capital expenditures by the company, including possible plants in Louisiana and in New Mexico.

- Louisiana offers a 10-year, 100% property tax abatement under that state's Industrial Tax Exemption program as well as additional state sales tax incentives.
- New Mexico offers Industrial Revenue Bonds and Job Training incentive programs.

In the Delaware/Permian Basin alone, the company owns 7,820 miles of natural gas pipeline, 7 processing facilities with aggregate capacity of 815 MMcf/d (*Waha, Cayanosa, Red Bluff, Halley, Jal, Keystone, and Tippet*) and two treating facilities with aggregate capacity of 200 MMcf/d.

The Delaware/Permian Basin assets offer wellhead-to-market services to produces not only in the Texas counties, but also in the New Mexico counties of Eddy and Lee which surround Waha Hub.

Because of the proximity of the system to the Waha Hub, the system has a variety of market outlets for the natural gas that is gathered and processed, including several major interstate and intrastate pipelines serving California, the mid-continent region of the United States and the Texas/New Mexico natural gas markets.

Because of existing and new pipeline infrastructure that is now present in New Mexico, ETC has ample freedom to choose where the proposed project can be built. The economic differences outside of tax treatment are considered miniscule because of the Waha's proximity to the NM/TX border. Because of this, the proposed 313 is considered a major determining factor in whether or not the Panther II is completed in Texas.

ETC Texas Pipeline, LTD 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. The economic benefits provided by a Chapter 313 Value Limitation is one of the most important components in their analysis.

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Not only ETC Texas Pipeline, LTD but all prudent manufacturing developers, 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 ETC Texas Pipeline, LTD 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 Panther II project. So, without the 313 Value Limitation tax incentive, the economics of this project could be less competitive with other capital-intensive projects and the viability of the proposed project becomes uncertain. ETC Texas Pipeline, LTD compares the proposed project's rate of return with the Chapter 313 appraised value limitation agreement and without the value limitation agreement. To move forward, the rate of return, with the valuation limitation agreement, must exceed the minimum rate of return required 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 ETC Texas Pipeline, LTD 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.

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## **Supporting Information**

Additional information  
provided by the Applicant or  
located by the Comptroller





## Energy Transfer Well-Positioned For Potential Waha Basis Blowout

Jeremiah Shelor  
 November 13, 2017

Basis differentials at the Waha Hub, situated at the heart of the Permian Basin, could "blow out materially" over the next year or two, and Energy Transfer Partners LP (ETP) is poised to take advantage, management said.

During a conference call last week to discuss 3Q2017 results, COO Marshall McCrea said the Dallas-based mid-streamer sees opportunities to capture value as all signs point to a continued increase in associated natural gas volumes from the Permian and potential constraints at Waha, which is located in Pecos County, TX.

"We're probably more well-positioned than anybody," McCrea said. "There's not a lot of capacity out of West Texas. Really, the only way out other than west is through our pipe to Mexico, which we still believe will be some time down the road before they're fully ramping up. So, getting volume growth out of there is going to depend on either a new project or existing capacity, of which we have.

"So, we're extremely optimistic over the next 12-14 months that the basis will blow out, probably blow out materially. We're well-positioned to take advantage of that. We're actually going to be feeding that with a lot of these projects that we're bringing on and ramping up with our processing plants and with our Red Bluff upstream intrastate."

ETP placed its 200 MMcf/d Arrowhead processing plant in Reeves County, TX, online during the third quarter to serve the Delaware sub-basin, management said, with the 200 MMcf/d Rebel II processing plant serving the Midland sub-basin

scheduled for service in 2Q2018.

"Including the Panther Plant, which came online in December of last year, Rebel II is our third plant in the Midland Basin," CFO Thomas Long said. "We're nearing capacity in the Permian, and we'll need Rebel II as soon as possible to meet growing producer demand in the region."

The proposed Red Bluff pipeline is an 80-mile, 30- to 42-inch diameter pipe that would travel through the Delaware. The pipe would carry 1.4 Bcf/d from ETP's Red Bluff and Orla plants, as well as multiple third-party plants, to Waha. That project, which has an anchor shipping commitment from Anadarko Petroleum Corp., is expected to cost \$300 million and come online in 2Q2018, management said.

"We continue to be believers, the industry does, the producers do," McCrea said. "If you look at what's happened to oil prices and everything that's going on in the Middle East, it points to nothing but significant volume growth out of the Permian Basin and a more significant need to move those volumes out."

"We certainly continue to evaluate other ways to more efficiently and inexpensively move volumes out by expanding systems that we have or using systems that we have in different manners," he said. "We'll continue to evaluate that, and we do believe we'll play a part of that growth on the expansion out of the Waha area. But in the meantime, we're pretty excited about what's going to happen as far as basis spread and how it benefits our assets over the next couple of years."

In the interstate segment of its business, ETP confirmed that the next phase of its 3.25 Bcf/d Rover Pipeline remains on track for completion by the end of the year.

"For Phase 1B, drilling operations on our remaining" horizontal directional drills (HDD) "are nearly complete," Long said. "We expect this phase will be in service and that we will be collecting demand fees on all of Phase 1 before the end of this year. In addition, construction of Phase 2 continues, and we feel confident the entire pipeline will be in service by the end of the first quarter of 2018."

Following a moratorium on HDD activities issued earlier this year, FERC recently provided ETP with several reports from third-party technical advisor J.D. Hair & Associates covering "the remaining HDDs on Rover, which should allow us to resume construction on these drills in short order. Both of these developments provide us with more certainty in meeting our projected in-service dates," Long said.

Rover, which has been flowing about 1 Bcf/d east-to-west through Ohio, is designed to deliver Marcellus and Utica shale gas to markets in the Midwest, Gulf Coast and Canada.

By segment, ETP saw third quarter interstate natural gas transportation volumes increase to 6,074,783 MMBtu/d from 5,385,679 MMBtu/d in the year-ago quarter. Management attributed the increase this quarter to Rover, as well as to increased backhaul deliveries on its Trunkline pipeline, increases on the Tiger pipeline due to higher Haynesville Shale production and increases on the Transwestern pipeline due to demand in the west and "opportunities in the Texas intrastate market."

"We continue to expect earnings in this segment to pick up once the remaining sections of Rover are in service and we are able to efficiently provide end-user customers with Marcellus and Utica gas," Long said. "In addition, we will also be receiving significant revenues from our backhaul capabilities on Panhandle and Trunkline."

Intrastate natural gas volumes also increased during the quarter to 8,942,066 MMBtu/d from 8,289,826 MMBtu/d, with higher exports to Mexico and new pipe additions partially offsetting lower production from the Barnett Shale, management said.

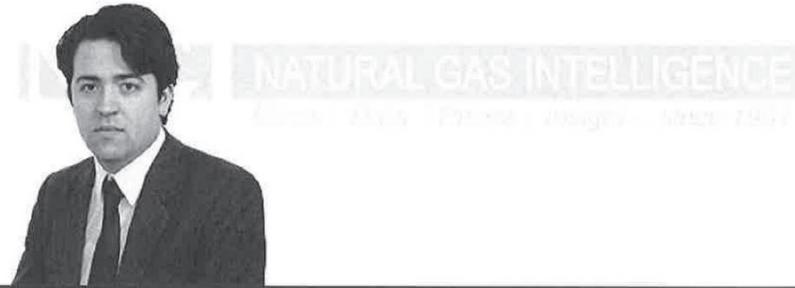
In the midstream segment, gathered volumes increased to 11,090,285 MMBtu/d from 9,675,003 MMBtu/d, while natural gas liquids (NGL) production moved higher to 449,454 b/d versus 420,877 b/d in the year-ago quarter.

NGL transportation volumes increased to 836,000 b/d versus 766,000 b/d a year ago.

ETP reported quarterly revenues of \$6.97 billion versus \$5.53 billion in 3Q2016. Revenues for general partner Energy Transfer Equity LP (ETE) totaled \$9.47 billion for the third quarter, up from \$7.71 billion in the year-ago period.

ETP reported net income for the quarter of \$761 million (33 cents/unit) versus net income of \$138 million (minus 33 cents/unit) in the year-ago period.

ETE reported quarterly net income attributable to partners of \$252 million (22 cents/unit) versus \$209 million (20 cents/unit) in the year-ago quarter.



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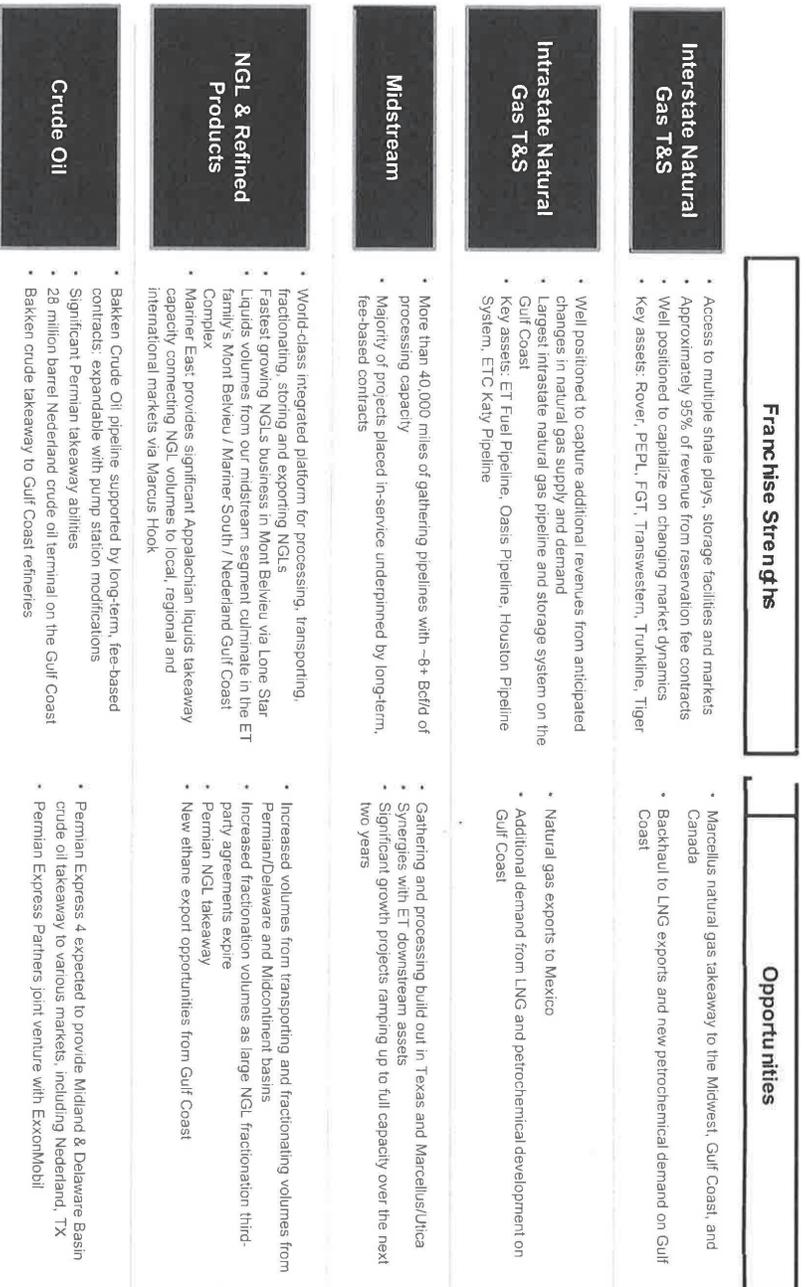
**Markets Editor | Dulles, VA**

Jeremiah Shelor joined NGI in 2015 after covering business and politics for The Exponent Telegram in Clarksburg, WV. He holds a Master of Fine Arts in Literary Nonfiction from West Virginia University and a Bachelor of Arts in English from Virginia Tech.  
[jeremiah.shelor@naturalgasintel.com](mailto:jeremiah.shelor@naturalgasintel.com)



## FULLY INTEGRATED PLATFORM SPANNING THE ENTIRE MIDSTREAM VALUE CHAIN

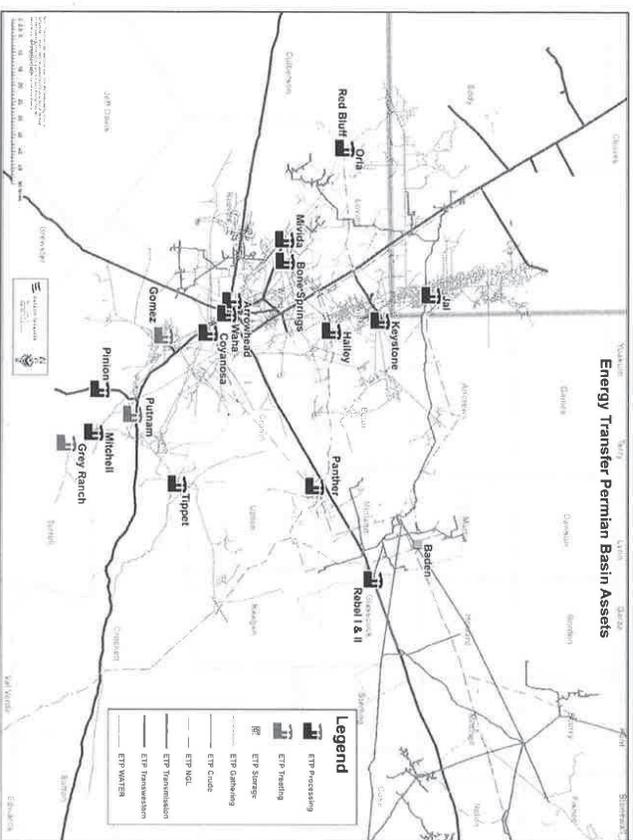
### ➤ Involvement in Major Midstream Themes Across the Best Basins and Logistics Hubs





## MIDSTREAM SEGMENT – PERMIAN BASIN INFRASTRUCTURE BUILDOUT

- ET is nearing capacity in both the Delaware and Midland Basins due to continued producer demand and strong growth outlook in the Permian
- As a result of this demand, ET has continued to build out its Permian infrastructure



- **Processing Expansions**
- 600 mmcf/d of processing capacity online in 2016 and 2017
- 200 mmcf/d Arrowhead II processing plant went into service at end of October 2018; running full today
- 200 MMcf/d Arrowhead III in the Delaware Basin went into service July 2019 and is expected to be full by year-end 2020
- Additional 200 MMcf/d processing plant expected in service by end of 2019

### Red Bluff Express Pipeline

- 1.4 Bcf/d natural gas pipeline through heart of the Delaware Basin
- Connects Orta plant, as well as 3<sup>rd</sup> party plants, to Waha/Oasis header
- Went into service May 2018
- 25-mile expansion completed early August 2019

Will have ~2.7 Bcf/d of processing capacity in the Permian Basin upon completion of current processing expansion



## MIDSTREAM SEGMENT

### Midstream Asset Map



### Midstream Highlights

- Volume growth in key regions:
  - Q3 2019 gathered volumes reach a record 14 million mmbbl/d, and NGLs produced were ~574,000 bbls/d
- Permian Capacity Additions:
  - 200 MMcfd Rebel II processing plant came online in April 2018
  - 200 MMcfd Arrowhead II processing plant came online in October 2018
  - 200 MMcfd Arrowhead III processing plant came online in July 2019
  - Additional 200 MMcfd processing plant in the Delaware Basin expected in service by end of 2019

Current Processing Capacity	
	Bcf/d
Permian	2.5
Midcontinent/Panhandle	0.9
North Texas	0.7
South Texas	1.9
North Louisiana	1.4
Southwest Southeast Texas	0.4
Eastern	0.2

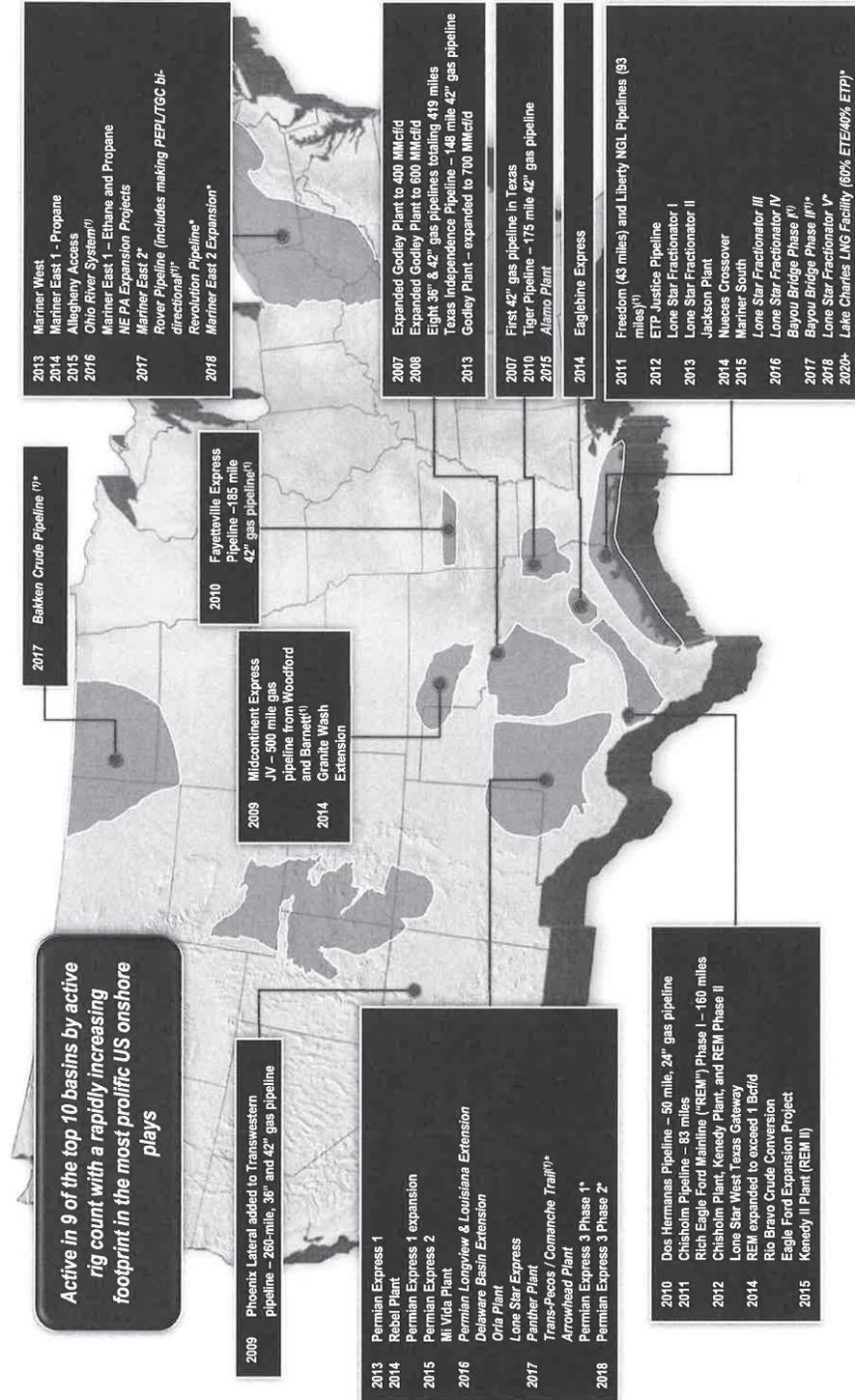
More than 40,000 miles of gathering pipelines with ~ 8+ Bcf/d of processing capacity



## ADDITIONAL HIGHLIGHTS

- Pro Forma Q1 2017
  - Adjusted EBITDA (consolidated): \$1.414 billion
  - Distributable Cash Flow attributable to the partners of ETP: \$900 million
  - Distribution per ETP common unit paid May 15, 2017: \$0.535 for Q1 2017 (\$2.14 per ETP common unit annualized)
  - Distribution coverage ratio: 1.13x
  
- In Q1 2017, ETP and SXL collectively raised more than \$5 billion in cash from the Bakken equity and debt financings, and equity and senior note issuances
  
- As of March 31, 2017, the combined partnerships had borrowing capacity of up to \$6.25 billion under respective long-term credit facilities, with the total liquidity available of approximately \$5 billion
  
- Strong distributable cash flow expected from growth projects coming online in 2017
  - Comanche Trail and Trans-Pecos pipelines went into service Q1 2017
  - Panther processing plant, which is in the Midland Basin, came online January 2017
  - Bakken Pipeline (Dakota Access and ETCO) service expected to begin June 1, 2017
  - Rover expected to be in service for Phase 1 (July 2017) and Phase II (November 2017)
  - Mariner East 2 expected to be in service by the end of Q3 2017
  - Arrowhead processing plant expected to come online Q3 2017
  - Revolution Project expected to be in service Q4 2017
  - Bayou Bridge segment from Lake Charles to St. James expected to be completed Q4 2017
  
- Growth Projects Recently Announced
  - Rebel II Processing Plant in West Texas expected to go into service in Q2 2018
  - Long-term, fee-based gathering and processing agreement with Enable to begin utilizing idle pipeline and processing capacity in North Texas
  - Frac V at Mont Belvieu, Texas expected to be in service Q3 2018
  - Permian Express 3 currently in open season

## ORGANIC GROWTH ENHANCES THE COMBINED ENTITY'S STRONG FOOTHOLD IN THE MOST PROLIFIC PRODUCING BASINS



\* Growth project under development  
(1) Joint venture.

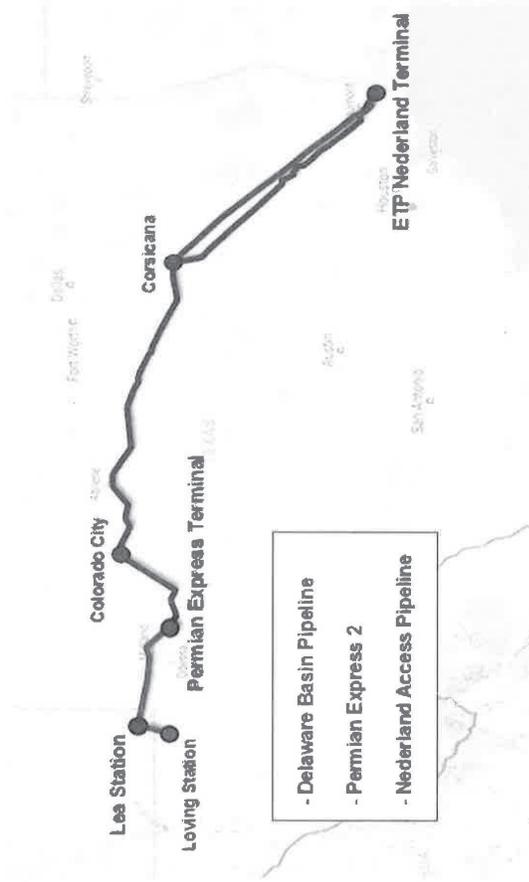


## PERMIAN EXPRESS 3 PROJECT

### Permian Express

### Project Details

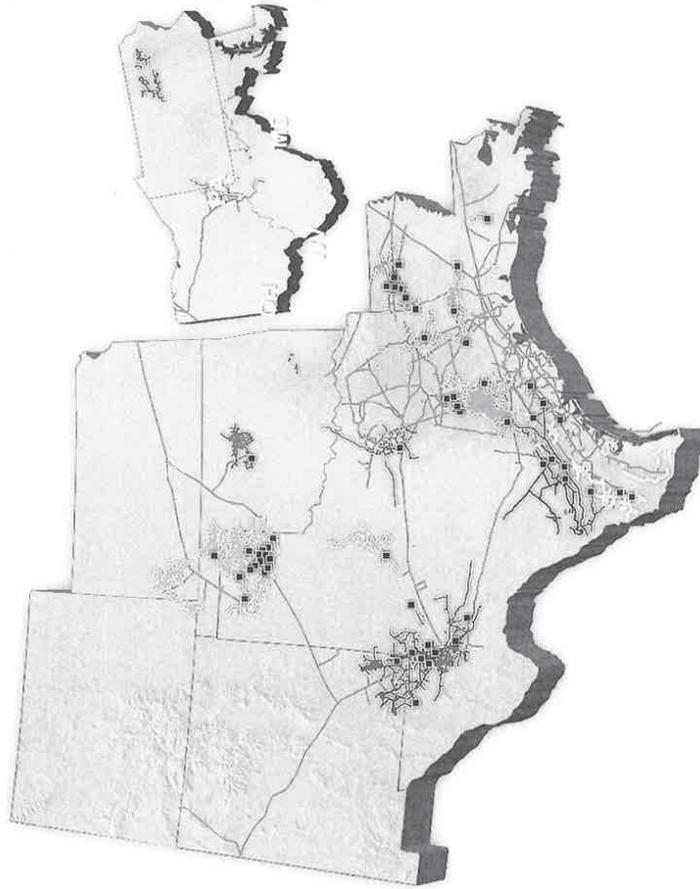
- Expected to provide Midland & Delaware Basin producers new crude oil takeaway capacity (utilizing existing pipelines) from this rapidly growing area to multiple markets, including the 26 million crude barrel ETP Nederland, Texas terminal facility.
- Initial capacity of 100,000 barrels per day with expected future total capacity of up to 300,000 barrels per day.
- Currently in Open Season
- Initial 100,000 barrels per day is expected to be in service in the 4th quarter of 2017





# MIDSTREAM ASSETS

## Midstream Asset Map



## Midstream Highlights

- Q1 2017 gathered volumes averaged ~10.2 million mmbtu/d, and NGLs produced were approx. 445,000 bbls/d, both up slightly over Q1 2016
- Utica Ohio River volumes continued to grow in the first quarter in the Northeast
- New 200 MMcf/d Panther processing plant in the Midland Basin came online in January 2017, and volumes will ramp up throughout the year
- New 200 MMcf/d Arrowhead processing plant expected to come online Q3 2017
- Due to continued strong demand in the Permian, announced new 200 MMcf/d Rebel II processing plant, which is expected online in Q2 2018

### Current Operating Statistics

Processing Capacity (Bcf/d)	Basins Served
1.7	Permian, Midland, Delaware
0.9	Granite Wash, Cleveland
0.7	Barnett, Woodford
1.9	Eagle Ford
1.0	Haynesville, Cotton Valley
0.4	Eagle Ford, Eaglebine
	- Marcellus, Utica

**More than 33,000 miles of gathering pipelines with ~ 6.7 Bcf/d of processing capacity**

Findings and Order of the Rankin Independent School District  
Board of Trustees under the Texas Economic Development Act on the Application Submitted by  
ETC Texas Pipeline, LTD (Tax ID 10505324664) (Application #1362)

**EXHIBIT B**

**Summary of Financial Impact on  
Rankin Independent School District Prepared by  
Jigsaw School Finance Solutions, LLC**

**SUMMARY OF THE FINANCIAL IMPACT OF THE PROPOSED  
ETC TEXAS PIPELINE, LTD  
(APPLICATION # 1362)  
ON THE FINANCES OF  
RANKIN INDEPENDENT SCHOOL DISTRICT  
UNDER A REQUESTED  
CHAPTER 313 APPRAISED VALUE LIMITATION**

**PREPARED BY  
JIGSAW SCHOOL FINANCE SOLUTIONS, LLC**

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## Introduction

ETC Texas Pipeline, LTD, (“Company”) has submitted an application to the Rankin Independent School District (“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 a natural gas processing plant located in its entirety in Upton County, TX. The company estimates that the total investment in this project will be approximately \$105 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 Rankin Independent School District may grant a value limitation for maintenance and operation taxes in the amount of \$30 million dollars for a period of ten years.

Beginning with the 2021-22 school year, the value of the project would be limited to \$30 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 interest and sinking (I&S) tax rate in all years of the agreement.

Revenue Protection Payment to Rankin ISD -	\$727,500
Supplemental Payments to Rankin ISD -	\$700,000
Total Revenue to Rankin ISD Resulting From Tax Code Chapter 313 Agreement -	<u>\$1,427,500</u>
Total Tax Savings to Company after all Payments -	<u>\$4,930,850</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 86<sup>th</sup> 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 since 1993 has relied on prior year values as certified by the Comptroller’s Property Tax Division (CPTD). 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. During any school year where there would have been a loss of property tax revenue from the prior year as a result of the Tax Code Chapter 313 agreement, a revenue protection payment equal to that reduction will be required.*

Texas school districts are funded by a combination of local ad valorem property taxes and state aid. Most of the funds 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.

### **Underlying Assumptions**

A forecast of the financial impact that the proposed value limitation will have on Rankin ISD'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 2021-22 through the 2035-36 school years.

The Revenue Protection Clause of the proposed agreement and Tax Code Chapter 313 Section 48.256 Subsection D calls for the school district to be held harmless against any potential 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 16 years of base data including average daily attendance, M&O and I&S tax rates, maintenance and operation (M&O) tax collections, current year (CAD) values and prior year (CPTD) values for each year of the agreement. For the purposes of this analysis, final 2018 CPTD values were used as well as 2019 CAD values from Upton CAD. Rankin ISD 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**  
**Rankin ISD, ETC Texas Pipeline LTD, #1362**

Year of Agreement	School Year	ADA	WADA	Assumed M&O Tax Rate	Assumed I&S Tax Rate	Property Value Without Project	Project Values	Property Value No Limit	Property Value With Limit	Property Value with Project per WADA	Property Value with Limitation per WADA
0	2019-20	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$0	\$4,714,513,062	\$4,714,513,062	\$8,746,777	\$8,746,777
0	2020-21	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$0	\$4,714,513,062	\$4,714,513,062	\$8,746,777	\$8,746,777
OTPI/L1	2021-22	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$105,000,000	\$4,819,513,062	\$4,744,513,062	\$8,941,683	\$8,802,436
OTPI/L2	2022-23	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$102,900,000	\$4,817,413,062	\$4,744,513,062	\$8,937,687	\$8,802,436
L3	2023-24	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$100,800,000	\$4,815,313,062	\$4,744,513,062	\$8,933,790	\$8,802,436
L4	2024-25	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$98,700,000	\$4,813,213,062	\$4,744,513,062	\$8,929,894	\$8,802,436
L5	2025-26	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$96,600,000	\$4,811,113,062	\$4,744,513,062	\$8,925,998	\$8,802,436
L6	2026-27	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$94,500,000	\$4,809,013,062	\$4,744,513,062	\$8,922,102	\$8,802,436
L7	2027-28	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$92,400,000	\$4,806,913,062	\$4,744,513,062	\$8,918,206	\$8,802,436
L8	2028-29	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$90,300,000	\$4,804,813,062	\$4,744,513,062	\$8,914,310	\$8,802,436
L9	2029-30	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$88,200,000	\$4,802,713,062	\$4,744,513,062	\$8,910,414	\$8,802,436
L10	2030-31	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$86,100,000	\$4,800,613,062	\$4,744,513,062	\$8,906,518	\$8,802,436
MVP1	2031-32	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$84,000,000	\$4,798,513,062	\$4,798,513,062	\$8,902,622	\$8,902,622
MVP2	2032-33	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$81,900,000	\$4,796,413,062	\$4,796,413,062	\$8,898,726	\$8,898,726
MVP3	2033-34	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$79,800,000	\$4,794,313,062	\$4,794,313,062	\$8,894,829	\$8,894,829
MVP4	2034-35	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$77,700,000	\$4,792,213,062	\$4,792,213,062	\$8,890,933	\$8,890,933
MVP5	2035-36	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$75,600,000	\$4,790,113,062	\$4,714,513,062	\$8,887,037	\$8,746,777
	2036-37	289	539	\$0.9700	\$0.1000	\$4,714,513,062	\$71,400,000	\$4,785,913,062	\$4,714,513,062	\$8,879,245	\$8,746,777

To isolate the impact of the value limitation on the District's finances over the term of the agreement, average daily attendance and maintenance and operation tax rates were held constant at levels that existed in the 2019-20 school year. An ADA of 289, a WADA of 539 and an M&O tax rate of \$.97 were used for each year of the of the initial forecast. Due to HB 3, however, the M&O tax rate will be compressed again in 20-21 and the following year. A tax collection rate of 100% is assumed in all the calculations used in this analysis. The Upton CAD certified value for 2019 was used as the 2019 CAD value. This value was used as the basis for subsequent current year (CAD) values in this report. The final 2018 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 future year (CPTD) values for each of the agreement years.

The proposed agreement and Tax Code Chapter 313 Section 48.256 Subsection D calls for Rankin 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 tax 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			
District:	Rankin ISD		
Applicant:	ETC Pipeline #1362		
Project #	1362		
<b>Summary of Finances 2019-20 School Year</b>			
<b>Basic Information:</b>			
Total Refined ADA (adj. for decline, if applicable)		289.20	289.20
CPTD Property Value		3,546,539,199	4,712,457,511
Total M&O Tax Collections		48,835,197	45,710,838
HB 3 WADA			539.00
		2019-20 Old Law	2019-20 HB 3
Total Cost of Tier I		3,002,398	3,381,538
LESS: Local Fund Assignment		34,624,862	43,825,855
State Share of Tier I		(31,622,464)	(40,444,317)
<b>TIER I STATE AID:</b>			
Greater of State Share of Tier I or Current Law ASF+HS NIFA; or HB3 ASF		95,808	70,115
Gross Recapture - Tier 1		0	40,514,432
Adjustments to Gross Recapture in Order to Maintain Revenue, if applicable		0	0
Adjusted Gross Recapture - Tier 1		0	40,514,432
CAD credit		0	0
Net Recapture - Tier I		0	40,514,432
Tier II State Aid for "Golden" Level		0	0
Tier II State Aid for "Copper" Level		0	0
<b>TOTAL TIER II STATE AID</b>		0	0
Gross Recapture - Copper Penny Level		0	0
CAD credit		0	0
Net Recapture - Copper Penny Level		0	0
Other Programs:		0	0
Supplemental TIF Payment		0	0
State Aid Reduction for WADA Sold		0	0
Ch 313 Tax Credits		0	0
Staff Allotment		13,521	0
TSD Charge		0	0
TSB Charge		0	0
<b>TOTAL OTHER PROGRAMS</b>		13,521	0
Less: Available School Fund (estimated)		(70,115)	(70,115)
		0	0
		0	0
<b>SUMMARY OF TOTAL STATE/LOCAL M&amp;O REVENUE:</b>			
		0	0
M&O Revenue From State (not including Fund 599)		109,329	70,115
M&O Revenue From Local Taxes Before Recapture		48,835,197	45,710,838
Recapture, if any		41,741,309	40,514,432
		0	0
STATE/LOCAL M&O REVENUE (prior to Formula Transition & Equalized Wealth Transition Grants)		7,203,217	5,266,521
Formula Transition Grant		N/A	1,936,696
Equalized Wealth Transition Grant		N/A	0
		0	0
<b>HB 3 NET TOTAL STATE/LOCAL M&amp;O REVENUE</b>		7,203,217	7,203,217

### **Financial Impact on the School District**

Utilizing the assumptions and methodology described above, total maintenance and operation tax revenue was estimated for each year of the agreement. **Table 3** indicates that there will be a tax revenue loss to the district of \$727,500 over the course of the agreement. The revenue loss by the district due to the agreement and Tax Code Chapter 313 Section 48.256 Subsection D is estimated to be mostly in the first year of the value limitation period.

### **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 \$30 million starting in school year 2021-22 and remaining limited through school year 2030-31. The potential gross and net tax savings to ETC Texas Pipeline, LTD, are shown in **Table 3**. As stated earlier, an M&O tax rate of \$.97 and a collection rate of 100% is used throughout the calculations in this report. **Table 3** shows gross tax savings due to the limitation of \$6.358 million over the length of the contract. Net tax savings are estimated to be \$5.63 million. To estimate supplemental payments to the school district of \$100 per ADA, a model of ADA was applied to the base ADA of 289, which was the ADA for Rankin ISD through the end of the first six-weeks of the 2019-20 school year. However, the minimum value for Supplemental Payments is \$50,000 per year for districts with an ADA of less than 500 students.

### **Facilities Funding Impact on the District**

Reports submitted by ETC Texas Pipeline, LTD, 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. 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 ETC Texas Pipeline, LTD, project proposed in this application will benefit the community, the district, Rankin ISD and the taxpayer, ETC Texas Pipeline, LTD. 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 and Tax Code Chapter 313 Section 48.256 Subsection D. 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.

Note, the Texas Legislature could take action that could potentially change the impact of this 313 valuation limitation agreement on the finances of Rankin 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 made by the Texas Legislature, the Texas Education Agency or the Comptroller of Public Accounts. The changes could contain modifications to the school finance formulas, property value appraisals, tax exemptions or tax code. Other factors that could impact the estimates of this agreement could also include changes to property values, district tax rates and student enrollment.

**Table 3 Estimated Financial Impact  
Rankin ISD, ETC Texas Pipeline, #1362**

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 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		\$0	\$0	0.9700	\$0	\$0	\$0	\$0	\$0	\$0	\$0
0	2020-21		\$0	\$0	0.9700	\$0	\$0	\$0	\$0	\$0	\$0	\$0
QTPAL1	2021-22	\$105,000,000	\$30,000,000	\$75,000,000	0.9700	\$1,018,600	\$291,000	\$727,600	-\$727,600	\$0	\$50,000	-\$50,000
QTPAL2	2022-23	\$102,900,000	\$30,000,000	\$72,900,000	0.9700	\$998,130	\$291,000	\$707,130	\$0	\$707,130	\$50,000	\$657,130
L3	2023-24	\$100,800,000	\$30,000,000	\$70,800,000	0.9700	\$977,780	\$291,000	\$686,780	\$0	\$686,780	\$50,000	\$636,780
L4	2024-25	\$98,700,000	\$30,000,000	\$68,700,000	0.9700	\$957,390	\$291,000	\$666,390	\$0	\$666,390	\$50,000	\$616,390
L5	2025-26	\$96,600,000	\$30,000,000	\$66,600,000	0.9700	\$937,020	\$291,000	\$646,020	\$0	\$646,020	\$50,000	\$596,020
L6	2026-27	\$94,500,000	\$30,000,000	\$64,500,000	0.9700	\$916,650	\$291,000	\$625,650	\$0	\$625,650	\$50,000	\$575,650
L7	2027-28	\$92,400,000	\$30,000,000	\$62,400,000	0.9700	\$896,280	\$291,000	\$605,280	\$0	\$605,280	\$50,000	\$555,280
L8	2028-29	\$90,300,000	\$30,000,000	\$60,300,000	0.9700	\$875,910	\$291,000	\$584,910	\$0	\$584,910	\$50,000	\$534,910
L9	2029-30	\$88,200,000	\$30,000,000	\$58,200,000	0.9700	\$855,540	\$291,000	\$564,540	\$0	\$564,540	\$50,000	\$514,540
L10	2030-31	\$86,100,000	\$30,000,000	\$56,100,000	0.9700	\$835,170	\$291,000	\$544,170	\$0	\$544,170	\$50,000	\$494,170
MVP1	2031-32	\$84,000,000	\$30,000,000	\$54,000,000	0.9700	\$814,800	\$291,000	\$523,800	\$0	\$523,800	\$50,000	\$473,800
MVP2	2032-33	\$81,900,000	\$30,000,000	\$51,900,000	0.9700	\$794,430	\$291,000	\$503,430	\$0	\$503,430	\$50,000	\$453,430
MVP3	2033-34	\$79,800,000	\$30,000,000	\$49,800,000	0.9700	\$774,060	\$291,000	\$483,060	\$0	\$483,060	\$50,000	\$433,060
MVP4	2034-35	\$77,700,000	\$30,000,000	\$47,700,000	0.9700	\$753,690	\$291,000	\$462,690	\$0	\$462,690	\$50,000	\$412,690
MVP5	2035-36	\$75,600,000	\$30,000,000	\$45,600,000	0.9700	\$733,320	\$291,000	\$442,320	\$0	\$442,320	\$50,000	\$392,320
0	2036-37	\$73,500,000	\$30,000,000	\$43,500,000	0.9700	\$712,950	\$291,000	\$421,950	\$0	\$421,950	\$50,000	\$371,950
TOTALS						\$15,851,600	\$7,493,250	\$8,358,350	-\$727,600	\$5,630,850	\$700,000	\$4,930,850

\*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 Rankin Independent School District  
Board of Trustees under the Texas Economic Development Act on the Application Submitted by  
ETC Texas Pipeline, LTD (Tax ID 10505324664) (Application #1362)

**EXHIBIT C**

**Proposed Agreement between  
Rankin Independent School District  
and ETC Texas Pipeline, LTD**

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

by and between

**RANKIN INDEPENDENT SCHOOL DISTRICT**

and

**ETC Texas Pipeline, LTD**

*(Texas Taxpayer ID #10505324664)*

Comptroller Application # 1362

Dated

May 13, 2020

*Texas Economic Development Act  
Agreement Comptroller Form 50-826  
(Jan 2020)*

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

STATE OF TEXAS §

COUNTY OF UPTON §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between the **RANKIN INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the “District,” a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **ETC TEXAS PIPELINE, LTD**, Texas Taxpayer Identification Number 10505324664 hereinafter referred to as the “Applicant.” The Applicant and the District are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, on March 28, 2019, the Superintendent of Schools of the Rankin Independent School District, acting as agent of the Board of Trustees of the District, received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

**WHEREAS**, on March 28, 2019, the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCG (Local), and agreed to consider the Application;

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

**WHEREAS**, the District and the Texas Comptroller’s Office have determined that the Application is complete and October 14, 2019 is the Application Review Start Date as that term is defined by 34 TEXAS ADMIN. CODE Section 9.1051;

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

**WHEREAS**, the Texas Comptroller’s Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on December 18, 2019, issued a certificate for limitation on appraised value of the property described in the Application and provided the certificate to the District;

**WHEREAS**, the District, acting through its Superintendent of Schools, by letter dated March 10, 2020, extended the statutory deadline by which the District must consider the Application until December 18, 2020;

**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 May 13, 2020, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

**WHEREAS**, on May 13, 2020, 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 April 7, 2020, 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 May 13, 2020, 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 ETC Texas Pipeline, LTD, (Texas Taxpayer ID #10505324664), 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 March 28, 2019. 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 Upton County Appraisal District.

“Board of Trustees” means the Board of Trustees of the Rankin 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 Upton County, Texas.

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

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

“Force Majeure” means acts of God, war, fires, explosions, hurricanes, floods, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each Party must inform the other in writing with proof of receipt within 60 business days of the existence of such Force Majeure or otherwise waive this right as a defense.

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

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

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

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

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

“Qualified Investment” has the meaning set forth in Section 313.021(1) of the TEXAS TAX CODE, as

interpreted by the Comptroller's Rules.

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

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

"State" means the State of Texas.

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

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

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

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

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

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

"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.

"Commercial Operations" shall mean the date on which the Project described in the Application for Value Limitation Agreement becomes commercially operational and capable of being placed into service, such that it has been constructed and is capable of manufacturing products from natural gas liquids."

"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 October 14, 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 May 13, 2020.
- C. The Qualifying Time Period for this Agreement:
  - i. Starts on May 13, 2020, the Application Approval Date; and
  - ii. Ends on December 31, 2022, 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, the first complete tax year that begins after the date of the commencement of Commercial Operation; 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 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. Thirty Million Dollars (\$30,000,000).

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

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

- A. have completed the Applicant's Qualified Investment in the amount of \$30,000,000 during the Qualifying Time Period;
- B. have created and maintained, subject to the provisions of Section 313.0276 of the TEXAS TAX CODE, New Qualifying Jobs as required by the Act; and
- C. pay an average weekly wage of at least \$1,337 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 such Supplemental Payments as more fully specified in Article VI;

C. 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

D. 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 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 31<sup>st</sup> 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 or partial 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. EFFECT OF OPTIONAL TERMINATION.**

Upon the exercise of the option to terminate, 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 ninety-six (96) 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 Upton 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 Upton 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 7.1 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 \$30,000,000 of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

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

Pursuant to Section 313.0276 of the TEXAS TAX CODE, for any full Tax Year that commences after the project has become operational, in the event that it has been determined that the Applicant has failed to meet the job creation or retention requirements defined in Sections 9.1.C, the Applicant shall not be deemed

to be in Material Breach of this Agreement until such time as the Comptroller has made a determination to rescind this Agreement under Section 313.0276 of TEXAS TAX CODE, and that determination is final.

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

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

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

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

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

**ARTICLE X.**

**MISCELLANEOUS PROVISIONS**

**Section 10.1. INFORMATION AND NOTICES.**

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

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

**To the District**

Name: Rankin Independent School District  
Attn: Superintendent Sammy Wyatt  
or his successor  
Address: 511 E. 12<sup>th</sup> Street  
P.O. Box 90  
City/Zip: Rankin, Texas 79778]  
Phone: (432) 693-2461  
Fax: (432) 693-2552  
Email: swyatt@rankinisd.net

**With Copy to**

Sara Leon & Associates, LLC  
Sara Hardner Leon  
2901 Via Fortuna  
Suite 475  
Austin, Texas 78746  
(512) 637-4244  
(512) 637-4245  
sleon@saraleonlaw.com

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

**To the Applicant**

Name: ETC Texas Pipeline, LTD  
Attn: Megan McKavanagh, Assistant Controller  
Address: 800 E. Sonterra Blvd., Suite 400  
City/Zip: San Antonio, Texas 78258  
Phone: (210) 572-0457  
Fax: (210) 403-6664  
Email: Megan.mckavanagh@energytransfer.com

**With Copy to**

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

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

**Section 10.2. AMENDMENTS TO APPLICATION AND AGREEMENT; WAIVERS.**

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

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

- i. The Applicant shall submit to the District and the Comptroller:
  - a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;
  - b. any changes to the information that was provided in the Application that

- was approved by the District and considered by the Comptroller;
- c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;
  - ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by the Comptroller by the end of the 90-day period, the request is denied; and
  - iii. If the Comptroller has not denied the request, the District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.

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

- i. require that all property added by amendment be eligible property as defined by Section 313.024 of the TEXAS TAX CODE;
- ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and

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

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

### **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 Upton 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 and Comptroller's office in writing of any actual or anticipated change in the control or ownership of the Applicant and of any legal or administrative investigations or proceedings initiated against the Applicant related to the project regardless of the jurisdiction from which such proceedings originate.

#### **Section 10.13. DUTY TO DISCLOSE.**

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

#### **Section 10.14. CONFLICTS OF INTEREST.**

A. The District represents that, after diligent inquiry, each local public official or local

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

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

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

#### **Section 10.15. PROVISIONS SURVIVING EXPIRATION OR TERMINATION.**

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

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

#### **Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.**

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

B. Delivery is deemed complete as follows:

- i. When delivered if delivered personally or sent by express courier service;
- ii. Three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested;
- iii. When transmitted if sent by facsimile, provided a confirmation of transmission is

produced by the sending machine; or

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

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this 13th day of May, 2020.

**ETC TEXAS PIPELINE, LTD**

By:

  
Authorized Representative

**RANKIN INDEPENDENT SCHOOL DISTRICT**

By:

  
Amanda Evridge  
President, Board of Trustees

ATTEST:

By:

  
Bryan Skoban  
Secretary, Board of Trustees

## EXHIBIT 1

### DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

The ETC Texas Pipeline Reinvestment Zone was created on December 8, 2015, by action of the Rankin Independent School District Board of Trustees and is in effect at the time of the signing of this Agreement.

As a result of the action of the Rankin ISD Board of Trustees, all of the following real property within the boundaries of the ETC Texas Pipeline Reinvestment Zone. A map of the reinvestment zone is attached as the last pages of this EXHIBIT 1 following the legal description of the zone.

UPTON COUNTY, TEXAS  
SECTION 27, BLOCK 41, TOWNSHIP 4 SOUTH  
T&P R.R. CO., A-780 & A-286

EXHIBIT "A"  
DESCRIPTION FOR A  
SURFACE SITE

Description for a Proposed Surface site, situated in a portion of Section 27 Block 41, Township 4 South T&P R.R. Co., A-286, Recorded in Volume 3, Page 514 of the Patent Records of Upton County, Texas. Said site being more particularly described as follows:

COMMENCING at a 5/8" Rebar found for the occupied Southwest Corner of said Section 27;

THENCE N 74°55'40" E along the occupied South line of said Section 27 a distance of 55.68 feet to the POINT OF BEGINNING;

THENCE N 14°39'19" W a distance of 1717.63 feet to a point;

THENCE N 43°53'04" E a distance of 45.73 feet to a point;

THENCE N 74°31'38" E a distance of 3339.94 feet to a point;

THENCE S 15°59'10" E a distance of 1764.73 feet to a point on the occupied South line of said Section 27;

THENCE S 74°55'40" W along said South line a distance of 3419.64 feet to the POINT OF BEGINNING. Said Surface Site contains 5,957,429 square feet or 136.76 Acres, more or less.

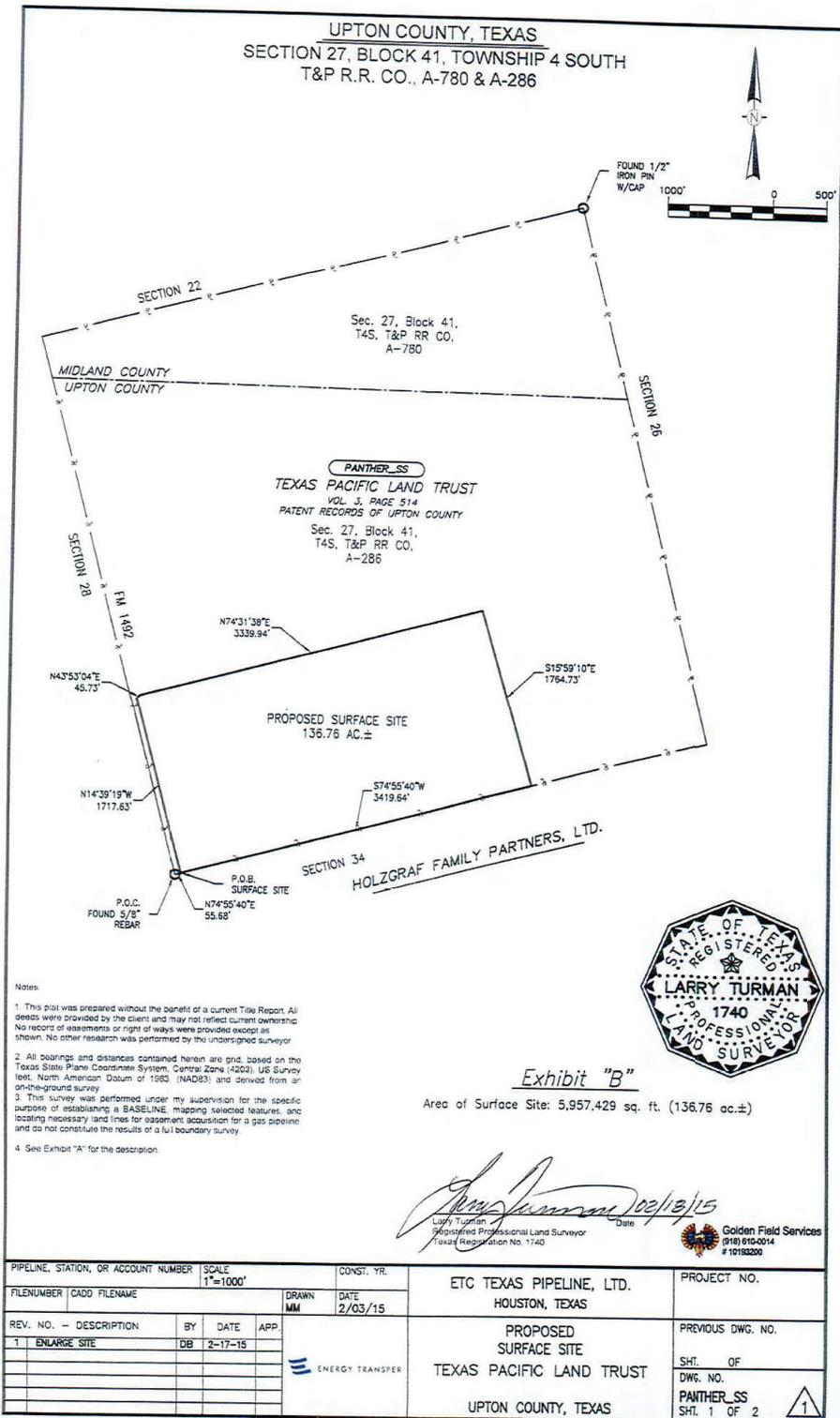


*Larry Turman* Date: 02/18/15  
 Larry Turman  
 Registered Professional Land Surveyor  
 Texas Registration No. 1740  
 Golden Field Services  
 (918) 810-0014  
 # 19195200

PIPELINE, STATION, OR ACCOUNT NUMBER		SCALE	CONST. YR.		ETC TEXAS PIPELINE, LTD. HOUSTON, TEXAS	PROJECT NO.
		N/A				
FILENUMBER	CADD FILENAME	DRAWN	DATE	PROPOSED SURFACE SITE TEXAS PACIFIC LAND TRUST UPTON COUNTY, TEXAS		
		BAB	1/14/2015			
REV. NO.	DESCRIPTION	BY	DATE	APP.	PREVIOUS DWG. NO.	
1	ENLARGE SITE	DB	2-17-15		SHT. OF DWG. NO. PANTHER_SS SHT. 2 OF 2	
ENERGY TRANSFER				1		

**Agreement for Limitation on Appraised Value**  
 Between Rankin ISD and ETC Texas Pipeline, LTD  
 May 13, 2020  
**Exhibit 1**  
 4849-5103-5067, v. 2

*Texas Economic Development Act Agreement*  
 Comptroller Form 50-826 (Jan 2020)

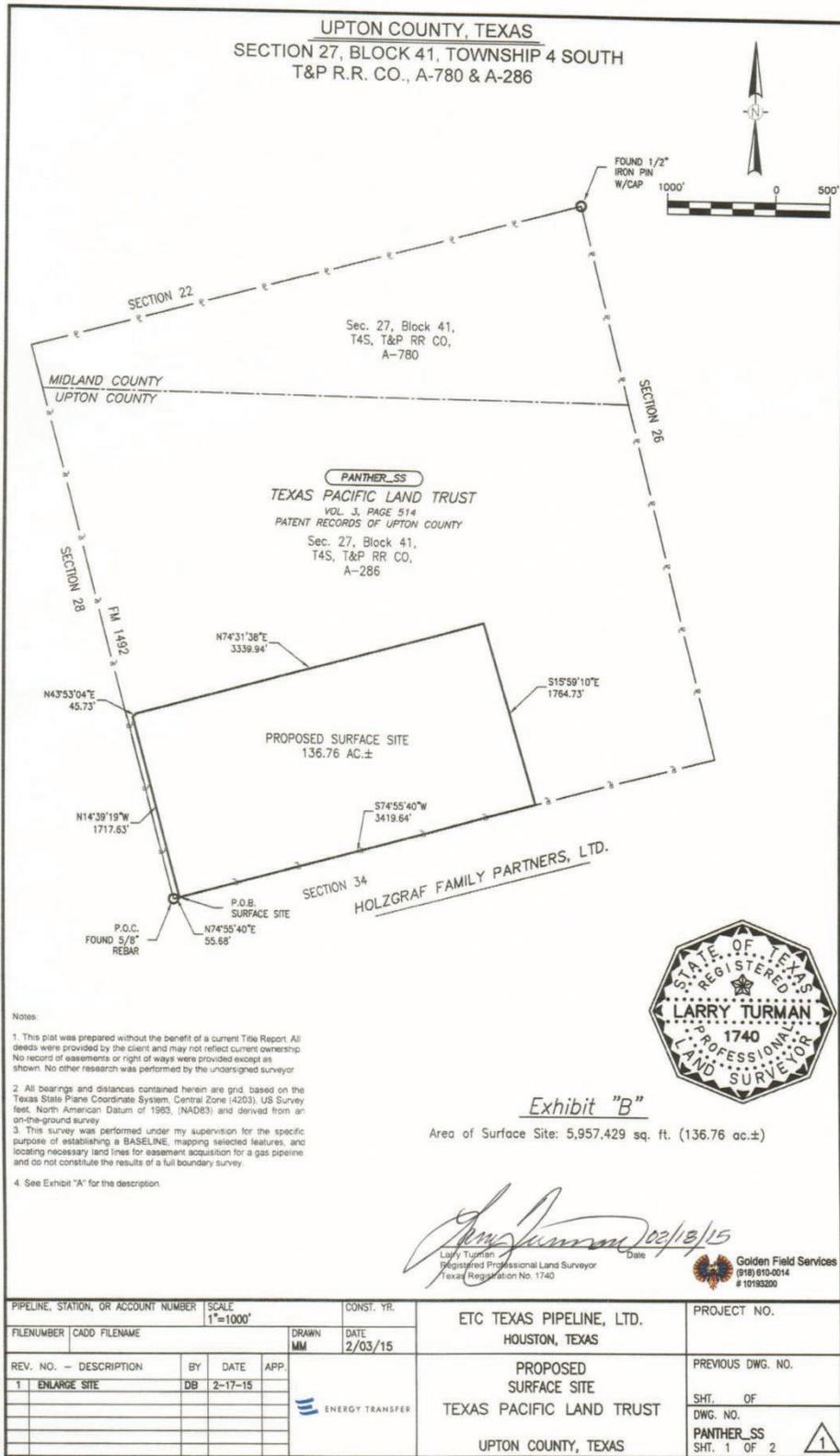


**Agreement for Limitation on Appraised Value**  
 Between Rankin ISD and ETC Texas Pipeline, LTD  
 May 13, 2020  
**Exhibit 1**  
 4849-5103-5067, v. 2

*Texas Economic Development Act Agreement*  
 Comptroller Form 50-826 (Jan 2020)

**EXHIBIT 2**

**DESCRIPTION AND LOCATION OF LAND**



Agreement for easement on proposed line  
Between Rankin ISD and ETC Texas Pipeline, LTD  
May 13, 2020  
**Exhibit 2**  
4849-5103-5067, v. 2

Comptroller Form 50-826 (Jan 2020)

UPTON COUNTY, TEXAS  
SECTION 27, BLOCK 41, TOWNSHIP 4 SOUTH  
T&P R.R. CO., A-780 & A-286

**EXHIBIT "A"**  
**DESCRIPTION FOR A**  
**SURFACE SITE**

Description for a Proposed Surface site, situated in a portion of Section 27 Block 41, Township 4 South T&P R.R. Co., A-286, Recorded in Volume 3, Page 514 of the Patent Records of Upton County, Texas. Said site being more particularly described as follows:

COMMENCING at a 5/8" Rebar found for the occupied Southwest Corner of said Section 27;

THENCE N 74°55'40" E along the occupied South line of said Section 27 a distance of 55.68 feet to the POINT OF BEGINNING;

THENCE N 14°39'19" W a distance of 1717.63 feet to a point;

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THENCE N 74°31'38" E a distance of 3339.94 feet to a point;

THENCE S 15°59'10" E a distance of 1764.73 feet to a point on the occupied South line of said Section 27;

THENCE S 74°55'40" W along said South line a distance of 3419.64 feet to the POINT OF BEGINNING. Said Surface Site contains 5,957,429 square feet or 136.76 Acres, more or less.



*Larry Turman* 02/14/15  
Larry Turman  
Registered Professional Land Surveyor  
Texas Registration No. 1740  
Date  
Golden Field Services  
(918) 610-0014  
# 10193200

PIPELINE, STATION, OR ACCOUNT NUMBER		SCALE	CONST. YR.		ETC TEXAS PIPELINE, LTD. HOUSTON, TEXAS	PROJECT NO.
		N/A				
FILENUMBER	CADD FILENAME	DRAWN	DATE	PROPOSED SURFACE SITE TEXAS PACIFIC LAND TRUST UPTON COUNTY, TEXAS		PREVIOUS DWG. NO.
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REV. NO.	DESCRIPTION	BY	DATE	APP.	ENERGY TRANSFER	SHT. OF
1	ENLARGE SITE	DB	2-17-15			DWG. NO. PANTHER_SS
						SHT. 2 OF 2

**Agreement for Limitation on Appraised Value**  
Between Rankin ISD and ETC Texas Pipeline, LTD  
May 13, 2020  
**Exhibit 2**  
4849-5103-5067, v. 2

*Texas Economic Development Act Agreement*  
*Comptroller Form 50-826 (Jan 2020)*

## EXHIBIT 3

### APPLICANT'S QUALIFIED INVESTMENT

The facility itself is expected to have a total capacity of 200 mmscf/day (million standard cubic feet). Construction is anticipated to commence in August 2019. During January 2020, the hiring of new employees as well as the purchase of equipment and machinery will also begin. Construction is projected to be complete by March 2020, when the plant will also be fully operational.

ETC Texas Pipeline, LTD requests that this application includes but is not limited to the following components of this project:

- Maintenance & Operations Buildings
- Inlet Separator
- Boiler
- Natural Gas/Air/H2O Piping
- Dehydration Units
- Slug Catcher
- Vessels
- Liners & Containment
- SCADA (monitoring software) plus Controls
- Foundations
- Amine Unit
- Heat Exchangers
- Control Valves
- Knock Out Drums
- Compressors
- Heat Exchanger
- Flare Stack, Scrubber, Leak Detection

#### **Summary of Production Process**

The initial stages of production will begin with raw natural gas produced at the well-head from various sources throughout the Permian Basin. This raw natural gas is then transported through gathering systems where it is either further process into natural gas or natural gas liquids. Upon processing, the products are delivered to the market through newly constructed pipelines. Throughout this process there are a variety of components used including the following:

- Inlet Slug Catcher
- Inlet Separation and Filtration
- Amine Treating for CO2 Removal
- TEG Dehydration for H2O Removal
- Thermal Oxidizers
- Molecular Sieve Dehydration • Utilities
- GSP Cryogenic Gas Plants
- Residue Recompression Units
- Heat Medium Systems
- Flare System
- Water Systems (supply, drain, waste)

## EXHIBIT 4

### DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

The facility itself is expected to have a total capacity of 200 mmscf/day (million standard cubic feet). Construction is anticipated to commence in August 2019. During January 2020, the hiring of new employees as well as the purchase of equipment and machinery will also begin. Construction is projected to be complete by March 2020, when the plant will also be fully operational.

ETC Texas Pipeline, LTD requests that this application includes but is not limited to the following components of this project:

- Maintenance & Operations Buildings • Foundations
- Inlet Separator • Amine Unit
- Boilers • Heat Exchangers
- Natural Gas/Air/H2O Piping • Control Valves
- Dehydration Units • Knock Out Drums
- Slug Catcher • Compressors
- Vessels • Heat Exchanger
- Liners & Containment • Flare Stack, Scrubber, Leak Detection
- SCADA (monitoring software) plus Controls

#### **Summary of Production Process**

The initial stages of production will begin with raw natural gas produced at the well-head from various sources throughout the Permian Basin. This raw natural gas is then transported through gathering systems where it is either further process into natural gas or natural gas liquids. Upon processing, the products are delivered to the market through newly constructed pipelines. Throughout this process there are a variety of components used including the following:

- Inlet Slug Catcher • GSP Cryogenic Gas Plants
- Inlet Separation and Filtration • Residue Recompression Units
- Amine Treating for CO2 Removal • Heat Medium Systems
- TEG Dehydration for H2O Removal • Flare System
- Thermal Oxidizers • Water Systems (supply, drain, waste)
- Molecular Sieve Dehydration • Utilities