



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

October 11, 2019

Kristin Brown  
Superintendent  
Lyford Consolidated Independent School District  
8240 Simon Gomez Rd  
Lyford, Texas ZIP 78569

Re: Certificate for Limitation on Appraised Value of Property for School District  
Maintenance and Operations taxes by and between Lyford Consolidated  
Independent School District and Ponte Alto Windpower, LLC, Application 1379

Dear Superintendent Brown:

On September 3, 2019, the Comptroller issued written notice that Ponte Alto Windpower, LLC (applicant) submitted a completed application (Application 1379) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on May 24, 2019, to the Lyford Consolidated 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.

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<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

- Sec. 313.024(d) Applicant has requested a waiver 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 1379.

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 by December 31, 2019.

Note that any building or improvement existing as of the application review start date of September 3, 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,



Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan

### Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Ponte Alto Windpower, LLC (project) applying to Lyford Consolidated 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 Ponte Alto Windpower, LLC.

Applicant	Ponte Alto Windpower, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy Electric Generation
School District	Lyford CISD
2017-2018 Average Daily Attendance	1,429
County	Hidalgo
Proposed Total Investment in District	\$151,360,000
Proposed Qualified Investment	\$151,360,000
Limitation Amount	\$20,000,000
Qualifying Time Period (Full Years)	2020-2021
Number of new qualifying jobs committed to by applicant	4*
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$757
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(B)	\$757
Minimum annual wage committed to by applicant for qualified jobs	\$39,384.28
Minimum weekly wage required for non-qualifying jobs	\$662
Minimum annual wage required for non-qualifying jobs	\$34,438
Investment per Qualifying Job	\$37,840,000
Estimated M&O levy without any limit (15 years)	\$16,206,630
Estimated M&O levy with Limitation (15 years)	\$6,189,962
Estimated gross M&O tax benefit (15 years)	\$10,016,668

\* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).

**Table 2** is the estimated statewide economic impact of Ponte Alto Windpower, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2020	154	173	327	\$5,564,887	\$16,316,113	\$21,881,000
2021	4	17	21.205	\$157,537	\$2,936,463	\$3,094,000
2022	4	17	21	\$157,537	\$2,583,463	\$2,741,000
2023	4	11	15	\$157,537	\$1,931,463	\$2,089,000
2024	4	8	12	\$157,537	\$1,523,463	\$1,681,000
2025	4	6	10	\$157,537	\$1,318,463	\$1,476,000
2026	4	6	10	\$157,537	\$1,234,463	\$1,392,000
2027	4	7	11	\$157,537	\$1,237,463	\$1,395,000
2028	4	8	12	\$157,537	\$1,294,463	\$1,452,000
2029	4	8	12	\$157,537	\$1,378,463	\$1,536,000
2030	4	9	13	\$157,537	\$1,474,463	\$1,632,000
2031	4	10	14	\$157,537	\$1,572,463	\$1,730,000
2032	4	9	13	\$157,537	\$1,479,463	\$1,637,000
2033	4	8	12	\$157,537	\$1,456,463	\$1,614,000
2034	4	8	12	\$157,537	\$1,456,463	\$1,614,000
2035	4	8	12	\$157,537	\$1,472,463	\$1,630,000
2036	4	7	11	\$157,537	\$1,471,463	\$1,629,000

Source: CPA REMI, Ponte Alto Windpower, LLC

**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*	Lyford CISD I&S Tax Levy	Lyford CISD M&O Tax Levy	Lyford CISD M&O and I&S Tax Levies	Hidalgo County Tax Levy	South Texas College District Tax Levy	Estimated Total Property Taxes
			<b>0.1500</b>		<b>1.0500</b>		<b>0.5800</b>	<b>0.1780</b>	
2022	\$143,792,000	\$143,792,000		\$215,688	\$1,509,816	\$1,725,504	\$833,994	\$255,950	\$2,815,447
2023	\$136,602,400	\$136,602,400		\$204,904	\$1,434,325	\$1,639,229	\$792,294	\$243,152	\$2,674,675
2024	\$129,772,280	\$129,772,280		\$194,658	\$1,362,609	\$1,557,267	\$752,679	\$230,995	\$2,540,941
2025	\$123,283,666	\$123,283,666		\$184,925	\$1,294,478	\$1,479,404	\$715,045	\$219,445	\$2,413,894
2026	\$117,119,483	\$117,119,483		\$175,679	\$1,229,755	\$1,405,434	\$679,293	\$208,473	\$2,293,199
2027	\$111,263,509	\$111,263,509		\$166,895	\$1,168,267	\$1,335,162	\$645,328	\$198,049	\$2,178,539
2028	\$105,700,333	\$105,700,333		\$158,550	\$1,109,853	\$1,268,404	\$613,062	\$188,147	\$2,069,613
2029	\$100,415,316	\$100,415,316		\$150,623	\$1,054,361	\$1,204,984	\$582,409	\$178,739	\$1,966,132
2030	\$95,394,551	\$95,394,551		\$143,092	\$1,001,643	\$1,144,735	\$553,288	\$169,802	\$1,867,825
2031	\$90,624,823	\$90,624,823		\$135,937	\$951,561	\$1,087,498	\$525,624	\$161,312	\$1,774,434
2032	\$86,093,582	\$86,093,582		\$129,140	\$903,983	\$1,033,123	\$499,343	\$153,247	\$1,685,712
2033	\$81,788,903	\$81,788,903		\$122,683	\$858,783	\$981,467	\$474,376	\$145,584	\$1,601,427
2034	\$77,699,458	\$77,699,458		\$116,549	\$815,844	\$932,393	\$450,657	\$138,305	\$1,521,355
2035	\$73,814,485	\$73,814,485		\$110,722	\$775,052	\$885,774	\$428,124	\$131,390	\$1,445,288
2036	\$70,123,761	\$70,123,761		\$105,186	\$736,299	\$841,485	\$406,718	\$124,820	\$1,373,023
			<b>Total</b>	<b>\$2,315,233</b>	<b>\$16,206,630</b>	<b>\$18,521,863</b>	<b>\$8,952,234</b>	<b>\$2,747,410</b>	<b>\$30,221,506</b>

Source: CPA, Ponte Alto Windpower, LLC

\*Tax Rate per \$100 Valuation

**Table 4** examines the estimated direct impact on ad valorem taxes to the school district and Hidalgo 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		Lyford CISD I&S Tax Levy	Lyford CISD M&O Tax Levy	Lyford CISD M&O and I&S Tax Levies	Hidalgo County Tax Levy	South Texas College District Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.1500	1.0500		0.5800	0.1780	
2022	\$143,792,000	\$20,000,000		\$215,688	\$210,000	\$425,688	\$166,799	\$255,950	\$848,436
2023	\$136,602,400	\$20,000,000		\$204,904	\$210,000	\$414,904	\$158,459	\$243,152	\$816,515
2024	\$129,772,280	\$20,000,000		\$194,658	\$210,000	\$404,658	\$150,536	\$230,995	\$786,189
2025	\$123,283,666	\$20,000,000		\$184,925	\$210,000	\$394,925	\$143,009	\$219,445	\$757,379
2026	\$117,119,483	\$20,000,000		\$175,679	\$210,000	\$385,679	\$135,859	\$208,473	\$730,011
2027	\$111,263,509	\$20,000,000		\$166,895	\$210,000	\$376,895	\$129,066	\$198,049	\$704,010
2028	\$105,700,333	\$20,000,000		\$158,550	\$210,000	\$368,550	\$122,612	\$188,147	\$679,309
2029	\$100,415,316	\$20,000,000		\$150,623	\$210,000	\$360,623	\$116,482	\$178,739	\$655,844
2030	\$95,394,551	\$20,000,000		\$143,092	\$210,000	\$353,092	\$110,658	\$169,802	\$633,552
2031	\$90,624,823	\$20,000,000		\$135,937	\$210,000	\$345,937	\$105,125	\$161,312	\$612,374
2032	\$86,093,582	\$86,093,582		\$129,140	\$903,983	\$1,033,123	\$499,343	\$153,247	\$1,685,712
2033	\$81,788,903	\$81,788,903		\$122,683	\$858,783	\$981,467	\$474,376	\$145,584	\$1,601,427
2034	\$77,699,458	\$77,699,458		\$116,549	\$815,844	\$932,393	\$450,657	\$138,305	\$1,521,355
2035	\$73,814,485	\$73,814,485		\$110,722	\$775,052	\$885,774	\$428,124	\$131,390	\$1,445,288
2036	\$70,123,761	\$70,123,761		\$105,186	\$736,299	\$841,485	\$406,718	\$124,820	\$1,373,023
			<b>Total</b>	<b>\$2,315,233</b>	<b>\$6,189,962</b>	<b>\$8,505,195</b>	<b>\$3,597,820</b>	<b>\$2,747,410</b>	<b>\$14,850,425</b>
			<b>Diff</b>	<b>\$0</b>	<b>\$10,016,668</b>	<b>\$10,016,668</b>	<b>\$5,354,413</b>	<b>\$0</b>	<b>\$15,371,081</b>

Assumes School Value Limitation and Tax Abatements with the County.

Source: CPA, Ponte Alto Windpower, LLC

\*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 Ponte Alto Windpower, LLC (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>	2019	\$0	\$0	\$0	\$0
	2020	\$0	\$0	\$0	\$0
	2021	\$1,589,280	\$1,589,280	\$0	\$0
<b>Limitation Period (10 Years)</b>	2022	\$210,000	\$1,799,280	\$1,299,816	\$1,299,816
	2023	\$210,000	\$2,009,280	\$1,224,325	\$2,524,141
	2024	\$210,000	\$2,219,280	\$1,152,609	\$3,676,750
	2025	\$210,000	\$2,429,280	\$1,084,478	\$4,761,229
	2026	\$210,000	\$2,639,280	\$1,019,755	\$5,780,983
	2027	\$210,000	\$2,849,280	\$958,267	\$6,739,250
	2028	\$210,000	\$3,059,280	\$899,853	\$7,639,104
	2029	\$210,000	\$3,269,280	\$844,361	\$8,483,464
	2030	\$210,000	\$3,479,280	\$791,643	\$9,275,107
	2031	\$210,000	\$3,689,280	\$741,561	\$10,016,668
<b>Maintain Viable Presence (5 Years)</b>	2032	\$903,983	\$4,593,263	\$0	\$10,016,668
	2033	\$858,783	\$5,452,046	\$0	\$10,016,668
	2034	\$815,844	\$6,267,890	\$0	\$10,016,668
	2035	\$775,052	\$7,042,942	\$0	\$10,016,668
	2036	\$736,299	\$7,779,242	\$0	\$10,016,668
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2037	\$699,485	\$8,478,726	\$0	\$10,016,668
	2038	\$664,510	\$9,143,237	\$0	\$10,016,668
	2039	\$631,285	\$9,774,522	\$0	\$10,016,668
	2040	\$599,721	\$10,374,242	\$0	\$10,016,668
	2041	\$569,735	\$10,943,977	\$0	\$10,016,668
	2042	\$541,248	\$11,485,224	\$0	\$10,016,668
	2043	\$514,185	\$11,999,410	\$0	\$10,016,668
	2044	\$488,476	\$12,487,886	\$0	\$10,016,668
	2045	\$464,052	\$12,951,938	\$0	\$10,016,668
	2046	\$440,850	\$13,392,788	\$0	\$10,016,668

**\$13,392,788** is greater than **\$10,016,668**

<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

NOTE: The analysis above only takes into account this project's estimated impact on the M&O portion of the school district property tax levy directly related to this project.

Source: CPA, Ponte Alto Windpower, LLC

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## **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 Ponte Alto Windpower, LLC’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 Ponte Alto Windpower, LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. “Ponte Alto Windpower, LLC was formed in 2019. In support of its creation, the participating members of Terra-Gen, executed documents necessary to form the entity including an Operating Agreement and a Development Agreement with Ponte Alto Windpower, LLC. Terra-Gen has entered into the following representative agreements and contracts for the development of a project specifically within Lyford CISD and intends to assign these assets to Ponte Alto Windpower, LLC: Grants of leases and easements covering 5,330 acres, Avian Study and contract, Bat Acoustic Study and contract, Threatened & Endangered Species Studies and contract, Enterprise Zone with Hidalgo County Commissioners Court, Interconnection Application with ERCOT, and Federal Aviation Studies.”
  - B. “Yes. Terra-Gen management team is uniquely qualified to develop and construct wind and other renewable energy projects in the United States. In North America, Terra-Gen currently operates over 2,000 MW of renewable energy projects. Based on this experience the management team evaluates all potential projects for feasibility, finance-ability, and the economic returns they represent in comparison to other project opportunities both OUTSIDE the State of Texas as WITHIN the State of Texas. Other locations being evaluated include, but are not limited to: California, Oklahoma, Louisiana, Colorado, Wyoming, and Nevada.”
  - C. “For these reasons, Terra-Gen studies and evaluates various competing sites throughout the market areas across the U.S. where wind development is attractive. Without a Value Limitation program, Terra-Gen would seek to move to alternative sites outside of the State of Texas.”
  - D. “Ponte Alto is currently in a period of assessment to determine whether the identified site within Lyford CISD and La Villa ISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable. As such, the development resources necessary to advance the Project for a planned

240 MW could be redeployed to other renewable energy development projects in other power markets in the United States.”

- E. “Therefore, a 313 Limitation of Appraised Value Agreement is a vital tax incentive necessary to ensure the Project is economically competitive with other wind projects with similar incentives. Without the requested value limitation, the Ponte Alto Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associate returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the total projected capital costs of approximately \$269M, of which \$151.36M will be invested within Lyford CISD, needed to purchase wind turbines and other infrastructure, and to fund the construction of the facility.”
- A March 19, 2019, South Texas College Board of Trustees meeting states that, “Terra-Gen Development Company, LLC, has submitted four (4) applications for tax abatements for their wind powered electric generating facilities in Hidalgo County, Starr County, and Cameron County. Approval of the tax abatement applications is needed in order for the College to participate in a tax abatement agreement with a wind power renewable energy company. The improvements for West Willacy Windpower, LLC (Monte Alto), will consist of a proposed wind power generation facility located in Hidalgo and Cameron Counties, expected to be comprised of 201 megawatts of power of which 143 megawatts of nameplate capacity will be located in Hidalgo County. Construction will begin no later than 4<sup>th</sup> quarter of 2019 and it is currently anticipated that construction will be completed by the 4<sup>th</sup> quarter of 2020. The improvements are expected to have an estimated total value of approximately \$223,388,000 of which approximately \$175,000,000 will be in Hidalgo County and approximately \$48,388,000 will be in Cameron County. The actual value of the improvements will be determined by an appraisal from the Hidalgo County and Cameron County Appraisal Districts.”
  - According to a Regular Board Meeting of the Board of Trustees of Lyford Consolidated Independent School District dated May 13, 2019, “Discussion and Possible action to accept an Application for Value Limitation Agreements from El Sauz Ranch Wind, LLC and Ponte Alto Windpower, LLC pursuant to Chapter 313 of the Texas Property Tax Code; authorize the Superintendent of Schools to review the Applications for completeness and submit the Applications to the Comptroller of Public Accounts; and authorize the Superintendent of Schools to approve any request for extension of the deadlines for Board action beyond the 150-day Board review period as may be required.”
  - Supplemental information provided by the applicant indicated the following:
    - A. “Formerly known as West Willacy Windpower, LLC”
    - B. “Yes, GINR Number: 19INR0022; Assigned: April 1, 2019.”

### **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**

## Attachment 5

### *Documentation to assist in determining if limitation is a determining factor.*

*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.*

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

Ponte Alto Windpower, LLC was formed in 2019. In support of its creation, the participating members of Terra-Gen, executed documents necessary to form the entity including an Operating Agreement and a Development Agreement with Ponte Alto Windpower, LLC.

Terra-Gen has entered into the following representative agreements and contracts for the development of a project specifically within Lyford CISD and intends to assign these assets to Ponte Alto Windpower, LLC:

- Grants of leases and easements covering 5,330 acres,
- Avian Study and contract,
- Bat Acoustic Study and contract,
- Threatened & Endangered Species Studies and contract,
- Enterprise Zone with Hidalgo County Commissioners Court,
- Interconnection Application with ERCOT, and
- Federal Aviation Studies

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

Yes. Terra-Gen management team is uniquely qualified to develop and construct wind and other renewable energy projects in the United States. In North America, Terra-Gen currently operates over 2,000 MW of renewable energy projects. Based on this experience the management team evaluates all potential projects for feasibility, finance-ability, and the economic returns they represent in comparison to other project opportunities both OUTSIDE the State of Texas as WITHIN the State of Texas. Other locations being evaluated include, but are not limited to:

California  
Oklahoma  
Louisiana  
Colorado  
Wyoming  
Nevada

For these reasons, Terra-Gen studies and evaluates various competing sites throughout the market areas across the U.S. where wind development is attractive. Without a Value Limitation program, Terra-Gen would seek to move to alternative sites outside of the State of Texas.

Ponte Alto is currently in a period of assessment to determine whether the identified site within Lyford CISD and La Villa ISD represents the best location or whether redeployment of its development resources and capital to other power markets in the United States is more advisable. As such, the development resources necessary to advance the Project for a planned 240 MW could be redeployed to other renewable energy development projects in other power markets in the United States.

Therefore, a 313 Limitation of Appraised Value Agreement is a vital tax incentive necessary to ensure the Project is economically competitive with other wind projects with similar incentives. Without the requested value limitation, the Ponte Alto Project will be unable to generate sufficient operating margins and net income to produce economically competitive energy and associate returns necessary to attract tax and sponsor equity investment. Such third-party investment is mandatory to finance the total projected capital costs of approximately \$269M, of which \$151.36M will be invested within Lyford CISD, needed to purchase wind turbines and other infrastructure, and to fund the construction of the facility.

**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?**

The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of the Project.

# **Supporting Information**

Additional information  
provided by the Applicant or  
located by the Comptroller

**South Texas College**  
**Board of Trustees**  
**Finance, Audit, and Human Resources Committee**  
**Ann Richards Administration Building Board Room**  
**Pecan Campus, McAllen, Texas**  
**Tuesday, March 19, 2019 @ 5:30 p.m.**

"At anytime during the course of this meeting, the Board of Trustees may retire to Executive Session under Texas Government Code 551.071(2) to confer with its legal counsel on any subject matter on this agenda in which the duty of the attorney to the Board of Trustees under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Chapter 551 of the Texas Government Code. Further, at anytime during the course of this meeting, the Board of Trustees may retire to Executive Session to deliberate on any subject slated for discussion at this meeting, as may be permitted under one or more of the exceptions to the Open Meetings Act set forth in Title 5, Subtitle A, Chapter 551, Subchapter D of the Texas Government Code."

I.	Approval of February 12, 2019 Finance, Audit, and Human Resources Committee Minutes.....	1-11
II.	Review and Recommend Action on Award of Proposals, Purchases, and Renewals.....	12-36
III.	Discussion and Action as Necessary on Proposed Tuition, Differential Tuition, and Fees for FY 2019 – 2020 .....	37-50
	a. Tuition and Fees	
	b. Differential Tuition	
	c. Projected Student Cost Increase Scenarios	
	d. Proposed Base Expenditures	
	e. Salary Adjustment Information	
	f. Projected Budget Summary Scenarios	
IV.	Discussion and Action as Necessary on Terra-Gen Development Company, LLC, Tax Abatement Applications .....	51-151

**Approval of February 12, 2019 Finance, Audit, and Human Resources Committee  
Minutes**

The Minutes for the Finance, Audit, and Human Resources Committee Meeting of February 12, 2019 are presented for Committee approval.

**South Texas College  
Board of Trustees  
Finance, Audit, and Human Resources Committee  
Ann Richards Administration Building Board Room  
Pecan Campus, McAllen, Texas  
Tuesday, February 12, 2019 @ 5:30 p.m.**

**Minutes**

The Finance, Audit, and Human Resources Committee Meeting was held on Tuesday, February 12, 2019 in the Ann Richards Administration Building Board Room at the Pecan Campus in McAllen, Texas. The meeting commenced at 5:47 p.m. with Mr. Roy de León presiding.

Members present: Mr. Roy de León

Other Trustees Present: Mr. Gary Gurwitz and Dr. Alejo Salinas, Jr.

Members absent: Ms. Rose Benavidez, Mr. Paul R. Rodriguez, and Mr. Rene Guajardo

Also present: Dr. Shirley A. Reed, Mrs. Mary Elizondo, Mrs. Becky Cavazos, Ms. Katarina Bugariu, Mr. Paul Varville, Mr. Lucio Gonzalez, Mr. Khalil Abdullah, Mr. Bill Starnes, and Mr. Andrew Fish

**Approval of January 15, 2019 Finance, Audit, and Human Resources  
Committee Minutes**

As the sole present committee member, Mr. Roy de León moved that the Minutes for the Finance, Audit, and Human Resources Committee Meeting of January 15, 2019 be approved as written. The motion carried.

**Discussion and Action as Necessary on Electric Power Service**

Review and action as necessary on electric power service was scheduled for the February 12, 2019 Board meeting.

Purpose – It was necessary to rescind the previous approval to contract with the Texas General Land Office (GLO) State Power Program for the purchase of electric power services and also to either enter into a newly proposed interlocal agreement with the General Land Office (Option

### **Discussion and Action as Necessary on Terra-Gen Development Company, LLC, Tax Abatement Applications**

Approval of the Terra-Gen Development Company, LLC, Tax Abatement Applications will be requested at the March 26, 2019 Board meeting.

Purpose – Terra-Gen Development Company, LLC, has submitted four (4) applications for tax abatements for their wind powered electric generating facilities in Hidalgo County, Starr County, and Cameron County. Approval of the tax abatement applications is needed in order for the College to participate in a tax abatement agreement with a wind power renewable energy company.

Justification – Property Tax Code Chapter 312 authorizes a taxing unit to enter into a tax abatement agreement in order to offer a temporary real property and/or tangible personal property tax abatement for a limited period of time as an inducement for financial investment in the development or redevelopment of certain taxable property. The property tax code requires that a taxing unit establish guidelines and criteria governing tax abatement agreements and approve a resolution to allow the College to participate in tax abatements.

Background – The Board of Trustees adopted the current guidelines and criteria, and resolution electing to participate in Tax Abatement Agreements on November 28, 2017. The College's Guidelines and Criteria for Granting Tax Abatements are effective for a two-year period from the adoption date. The current New Capital Investment minimum threshold is \$200 million.

The Board of Trustees approved the Mesteño Windpower, LLC tax abatement on October 30, 2018. The tax agreement with Mesteño Windpower, LLC included a 75% abatement of taxes with an estimated project value of \$159,800,000, an up-front scholarship payment in the amount of \$50,000, and Annual Payments in Lieu of Taxes in the amount of \$25,805 for ten (10) years.

Terra-Gen Development Company, LLC, is the exclusive developer of four (4) projects: Buenos Aires Windpower, LLC, Monte Cristo Windpower, LLC, La Joya Windpower, LLC and West Willacy Windpower, LLC (Monte Alto). Terra-Gen Development Company, LLC has submitted tax abatement applications for each of the projects.

The improvements for Buenos Aires Windpower, LLC and Monte Cristo Windpower, LLC will consist of proposed wind power generation facilities, expected to be comprised of 201 megawatts of nameplate capacity located in Hidalgo County. Each project will begin construction no later than the 2<sup>nd</sup> quarter of 2020 and it is currently anticipated that construction will be completed by the 3<sup>rd</sup> quarter of 2021. The improvements are expected to have an estimated value of approximately \$223,388,000 each, although the actual value will be determined by an appraisal from the Hidalgo County Appraisal District.

The improvements for Buenos Aires Windpower, LLC and Monte Cristo Windpower, LLC are expected to include approximately 88 wind turbines; 82 with a nameplate capacity of 2.2 megawatts and 6 with a nameplate capacity of 3.45 megawatts, although the exact number

# Agenda of Regular Board Meeting

## The Board of Trustees Lyford Consolidated Independent School District

A Regular Board Meeting of the Board of Trustees of Lyford Consolidated Independent School District will be held May 13, 2019, beginning at 6:00 PM in the Administration Annex, 8220 Simon Gomez Blvd., Lyford, Texas.

One or more members will attend the meeting via video conference call. A quorum of the board and the presiding officer shall be physically present at the meeting location. The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice. Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

### 1. CALL MEETING TO ORDER:

- A. Invocation
- B. Pledge of Allegiance
- C. Establish A Quorum
  - \_\_\_\_\_ Mrs. Alison Busse-Savage, President
  - \_\_\_\_\_ Mr. Joey Mendoza, Vice-President
  - \_\_\_\_\_ Mr. Arnold Cortez, Secretary
  - \_\_\_\_\_ Ms. Marina Quilantan-Rivera, Trustee
  - \_\_\_\_\_ Ms. Viola Z. Vela, Trustee
  - \_\_\_\_\_ Mr. Eulalio Mendez IV, Trustee
  - \_\_\_\_\_ Mrs. Vicki Perez, Trustee
  - \_\_\_\_\_ Mr. Eduardo Infante, Superintendent

### 2. APPROVAL OF THE MINUTES:

Motion \_\_\_\_\_ Second \_\_\_\_\_ Vote \_\_\_\_\_

- A. April 8, 2019 Board Minutes

### 3. PUBLIC AUDIENCE:

If you wish to address the Board of Trustees during the Public Audience portion of today's meeting, you must have officially signed in with the intent to do so. According to LCISD Policy BED (Local), only those persons (on the list) who request to speak shall be heard. The speaker shall limit remarks to five minutes. The Board shall allot no more than 30 minutes for the Public Audience portion of the meeting. Complaints and concerns for which other resolution channels are provided shall be directed through those channels. These complaints include complaints on the following subjects: employee complaints, termination of employment, student complaints, removal of

alternative education program, and expulsion. If the Board President determines that a person has not attempted to resolve a matter administratively, the person shall be directed to the appropriate policy for attempted resolution before bringing the matter to the Board. Complaints against specific employees or officers of LCISD shall be heard in Closed Meeting, as authorized by the Texas Government Code Title 5-Section 551.074 (1) and (2). If your topic concerns complaints against specific employees or officers, please note this on the sign-up sheet. You must make your points on issues in constructive and courteous fashion pursuant to Robert's Rules of Order.

**4. PRESENTATIONS/REPORTS:**

- A. Presentation of Certificate of Election for the newly elected Lyford CISD Board of Trustees.
- B. Signing of Statement of Officer Statement by Newly Elected Trustees.
- C. Administration of the Oath of Office to the Newly Elected Trustees.
- D. Presentation of Student Recognition.
- E. Recognition of Lyford CISD Teachers of the Year.
- F. Report on Preliminary 2019 Property Values and 2019-2020 Estimated Revenues & Expenditures.
- G. Food Service Presentation by Southwest Foodservice Excellence (SFE).

**5. CONSENT AGENDA:**

**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_

- A. Approval of Business Office Reports.
- B. Approval of Tax Collection Report.
- C. Approval of Donations to the District.
- D. Approval of Service Agreement between Interquest Detection Canines and Lyford CISD in the amount not to exceed \$5,850 for the 2019-2020 school year.
- E. Approval of Overnight Trip for UTRGV Upward Bound Students attending the Upward Bound Summer Program on July 7-July 16, 2019 in Edinburg, Texas.

**6. ACTION ITEMS:**

- A. Reorganization of the Lyford CISD Board of Trustees-Selection of Board President.

**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_

- B. Reorganization of the Lyford CISD Board of Trustees-Selection of Vice-President.

**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_

- C. Reorganization of the Lyford CISD Board of Trustees-Selection of Board Secretary.

- Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- D. Approval to Enter into a Legal Services Agreement with Sara Leon & Associates.  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- E. Discussion and Possible action to retain attorneys Sara Leon & Associates, LLC and financial consultants Jigsaw School Finance Solutions, LLC to assist the District in the review and processing of the Application for Value Limitation Agreement from El Sauz Ranch Wind, LLC and Ponte Alto Windpower, LLC pursuant to Chapter 313 of the Texas Property Tax Code.  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- F. Acknowledgment of Conflict of Interest Policy BBFA (LEGAL) and (LOCAL).  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- G. Discussion and Possible action to accept an Application for Value Limitation Agreements from El Sauz Ranch Wind, LLC and Ponte Alto Windpower, LLC pursuant to Chapter 313 of the Texas Property Tax Code; authorize the Superintendent of Schools to review the Applications for completeness and submit the Applications to the Comptroller of Public Accounts; and authorize the Superintendent of Schools to approve any request for extension of the deadlines for Board action beyond the 150-day Board review period as may be required.  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- H. Approval of Revised 2019-2020 Instructional School Calendar.  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- I. Approval of Budget Amendment #7 for the 2018-2019 school year.  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_
- J. Approval of Purchases and Services over \$25,000 as presented.  
**Motion** \_\_\_\_\_ **Second** \_\_\_\_\_ **Vote** \_\_\_\_\_

**7. CLOSED SESSION:**

If during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the Board will conduct a closed meeting in accordance with the Texas Open Meetings Act. Texas Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183 (f). Before any closed meeting is convened, the presiding officer will publicly identify the sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting.

- A. Personnel Matters-(Tex. Gov't Code § 551.074).
1. Deliberate the appointment, employment, evaluation, reassignment, duties, disciplines, or dismissal of employee.
- B. Consultation with Attorney-(Tex. Gov't Code § 551.071).
1. Consultation with Legal Counsel regarding an Application for Value

COMPTROLLER QUERY RELATED TO TAX CODE CHAPTER 313.026(c)(2)  
- Lyford CISD - Ponte Alto Windpower, LLC, App. #1379

Comptroller Questions (via email on September 11, 2019):

1. *Please list any other names by which this project may have known in the past--in media reports, investor presentations, or any listings with any federal or state agency.*
2. *Has this project applied to ERCOT at this time? If so, please provide the project's GINR number and when was it assigned.*

Applicant Response (via email on September 11, 2019):

1. *Formerly known as West Willacy Windpower, LLC.*
2. *Yes, GINR Number: 19INR0022; Assigned: April 1, 2019.*