# UNDERWOOD

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June 18, 2020

Ginger Flowers
Economic Development and Analysis Division
Texas Comptroller of Public Accounts
111 E. 17th St.
Austin, TX 78774

***Via Email***

Re: App 1441 –United ISD – Corazon Energy, LLC

Dear Ginger:

Enclosed please find a hard copy of the fully executed Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes between the above-noted parties along with an abridged version of the District's Findings of Fact.

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

Sincerely,

Fred A. Stormer

FAS/ph
Encl.

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

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by and between

**UNITED INDEPENDENT SCHOOL DISTRICT**

and

**CORAZON ENERGY, LLC**

(*Texas Taxpayer ID #32051577594)*

Comptroller Application #1441

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Dated

June 16, 2020

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

*STATE OF TEXAS* §

*COUNTY OF WEBB* §

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 **UNITED 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 **CORAZON ENERGY, LLC,** Texas Taxpayer Identification Number 32051577594 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 October 16, 2019, the Superintendent of Schools of the United 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 October 16, 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 CCGB (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 December 18, 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 Webb County Appraisal District established in Webb County, Texas (the "Webb 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 February 13, 2020, 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's Board of Trustees, by resolution dated April 3, 2020, extended the statutory deadline by which the District must consider the Application until December 31, 2020, and the Comptroller was provided notice of such extension as set out under 34 TEXAS ADMIN. CODE Section 9.1054(d);

***WHEREAS***, the Board of Trustees has reviewed and carefully considered the economic impact evaluation and certificate for limitation on appraised value submitted by the Texas Comptroller's Office pursuant to Section 313.025 of the TEXAS TAX CODE;

***WHEREAS***, on June 16, 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 June 16, 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 June 16, 2020, pursuant to the provisions of 313.025(f-1) of the TEXAS TAX CODE, the Board of Trustees waived the job creation requirement set forth in Section 313.021(2)(A)(iv)(b) the TEXAS TAX CODE;

***WHEREAS*,** on May 29, 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 June 16, 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 **CORAZON ENERGY, LLC**, (Texas Taxpayer ID # 32051577594), 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 October 16, 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 Webb County Appraisal District.

*"Board of Trustees"* means the Board of Trustees of the United Independent School District.

"*Commercial Operation*" means the date on which the Project becomes commercially operational and placed into service, such that all of the following events have occurred and remain simultaneously true and accurate:

A. The Project has been constructed, tested, and is fully capable of operating for the purpose of generating electricity for sale on one or more commercial markets;

B. The Project has received written authorization from the grid operator for interconnection, integration, and synchronization of the plant with the grid; and,

C. The Project has obtained all permits, required approvals, and has met all requirements necessary for safely and reliably generating electricity and delivering electricity onto the grid.

*"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 Webb County, Texas.

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

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

*"Force Majeure"* means 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 313.027 of the TEXAS TAX CODE.

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

Agreement.

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

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

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

"*Aggregate Limit*" means for any Tax Year during the term of this Agreement, the cumulative total of the Annual Limit amount for such Tax Year and all previous Tax Years during the term of this Agreement, less all amounts paid by the Applicant to or on behalf of the District under Article VI.

"*Annual Limit*" means the maximum annual benefit which can be paid directly to the District as a Supplemental Payment under the provisions of Section 313.027(i) of the TEXAS TAX CODE. For purposes of this Agreement, and as further provided in Article VI, the amount of the Annual Limit shall be equal to the greater of $50,000 or an amount calculated for each calendar year by multiplying the District's Average Daily Attendance, as calculated pursuant to Section 48.005 of the TEXAS EDUCATION CODE based upon the District's Average Daily Attendance for the 2018-19 school year (which the Parties agree is 40,364), times $100, rounded to the nearest whole number. The Annual Limit shall first be computed for Tax Year 2020, which is the Tax Year that includes the date on which the Qualifying Time Period commences under this Agreement as provided in Section 2.3.C.i.

"*Additional Loss*" shall have the same meaning as assigned to such term in Section 4.4 of this Agreement.

"*Applicable School Finance Law*" means Chapters 48 and 49 (previously Chapters 42 and 41), and other applicable provisions of the TEXAS EDUCATION CODE, the Texas Economic Development Act (Chapter 313 of the TEXAS TAX CODE); Chapter 403, Subchapter M, of the TEXAS GOVERNMENT CODE applicable to the District; and, the Constitution and general laws of the State applicable to the school districts of the State, including specifically, the applicable rules, regulations, and interpretations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State; and judicial decisions construing or interpreting any of the above. The term also includes any amendments or successor statutes that may be adopted in the future which impact or alter the calculation of the Applicant's ad valorem tax obligation or the M&O Amount in Section 4.2 of this Agreement to the District, either with or without the limitation of property values made pursuant to this Agreement.

"*Applicant's Stipulated Supplemental Payment Amount*" means, for purposes of Article VI, for any Tax Year during the term of this Agreement, an amount equal to forty-seven and one-half percent (47.5%) of the "Net Tax Benefit," as such term is defined in this Section 1.2, for such Tax Year.

"*M&O Amount"* means the revenue protection payment required as part of this Agreement as set out in TEXAS EDUCATION CODE Section 48.256(d) and shall have the meaning assigned to such term in Section 4.2 of the Agreement.

"*Maintenance and Operations Revenue*" or "*M&O 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, or other lawful authority, and Article VII § 3 of the TEXAS CONSTITUTION, plus (ii) all State revenues to which the District is or may be entitled under the applicable provisions of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, less (iii) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 49 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable.

"*Net Tax Benefit*" means, for purposes of Article VI, 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 payments due to the District under Articles IV and V under this Agreement for such Tax Year and all previous Tax Years during the term of this Agreement.

"*New M&O Revenue*" shall have the same meaning as assigned to such term in Section 4.2.A.ii of this Agreement.

"*Original M&O Revenue*" shall have the same meaning as assigned to such term in Section 4.2.A.i of this Agreement.

"*Third Party Consultant*" shall have the same meaning as assigned to such term in Section 4.5 of this Agreement.

## 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 December 18, 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 June 16, 2020.

C. The Qualifying Time Period for this Agreement:
   i. Starts on June 16, 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, 2022, the first complete Tax Year that begins after the commencement of Commercial Operation; and,
   ii. Ends on December 31, 2031, 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, 2036, which is the last year of the Tax Limitation Period as defined in Section 2.3.D.ii plus five 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. One Hundred Million Dollars ($100,000,000).

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 313.022(b) of the TEXAS TAX CODE.

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

A. have completed the Applicant's Qualified Investment in the amount of $100,000,000 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 $710 for all New Non-Qualifying Jobs created by the Applicant.

**Section 2.6. TAX LIMITATION OBLIGATIONS.** In order to receive and maintain the limitation authorized by Section 2.4, Applicant shall:

A. provide payments to District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV;

B. provide payments to the District that protect the District from the payment of extraordinary education related expenses related to the project, as more fully specified in Article V;

C. provide such Supplemental Payments as more fully specified in Article VI;

D. create and Maintain Viable Presence on or with the Qualified Property and perform additional obligations as more fully specified in Article VIII of this Agreement; and

E. no additional conditions are identified in the certificate for a limitation on appraised value by the Comptroller for this project.

## ARTICLE III
## QUALIFIED PROPERTY

**Section 3.1. LOCATION WITHIN ENTERPRISE OR REINVESTMENT ZONE.** At the time of the Application Approval Date, the Land is within an area designated either as an enterprise zone, pursuant to Chapter 2303 of the TEXAS GOVERNMENT CODE, or a reinvestment zone, pursuant to Chapter 311 or 312 of the TEXAS TAX CODE. The legal description, and information concerning

the designation, of such zone is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

**Section 3.2. LOCATION OF QUALIFIED PROPERTY AND INVESTMENT.** The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described in **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes. The Parties expressly agree that the boundaries of the Land may not be materially changed from its configuration described in **EXHIBIT 2** unless amended pursuant to the provisions of Section 10.2 of this Agreement.

**Section 3.3. DESCRIPTION OF QUALIFIED PROPERTY.** The Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 4**, which is attached hereto and incorporated herein by reference for all purposes. Property which is not specifically described in **EXHIBIT 4** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Property for purposes of this Agreement, unless by official action the Board of Trustees provides that such other property is a part of the Applicant's Qualified Property for purposes of this Agreement in compliance with Section 313.027(e) of the TEXAS TAX CODE, the Comptroller's Rules, and Section 10.2 of this Agreement.

**Section 3.4**. **CURRENT INVENTORY OF QUALIFIED PROPERTY.** In addition to the requirements of Section 10.2 of this Agreement, if there is a material change in the Qualified Property described in **EXHIBIT 4**, then within 60 days from the date Commercial Operation begins, the Applicant shall provide to the District, the Comptroller, the Appraisal District or the State Auditor's Office a specific and detailed description of the tangible personal property, buildings, and/or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Land to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such described property on the Land.

**Section 3.5. QUALIFYING USE.** The Applicant's Qualified Property described in Section 3.3 qualifies for a tax limitation agreement under Section 313.024(b)(5) of the TEXAS TAX CODE as a renewable energy electric generation facility.

## ARTICLE IV
## PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES

**Section 4.1. INTENT OF THE PARTIES**. Subject to the limitations contained in this Agreement (including Section 6.4), it is the intent of the Parties that the District shall, 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, be compensated by Applicant for any loss that District incurs in its Maintenance and Operations Revenue resulting, at least in part, because or on account of entering into this Agreement and application of the Tax Limitation set out in Section 2.4 to Applicant's Qualified Property. Payments for such loss shall be independent of, and in addition to such other payments as set forth in Articles V and VI in this Agreement. Subject to the limitations contained in this Agreement, IT IS THE INTENT OF THE PARTIES THAT THE RISK OF ANY NEGATIVE

FINANCIAL CONSEQUENCES TO DISTRICT IN MAKING THE DECISION TO ENTER INTO THIS AGREEMENT WILL BE BORNE SOLELY BY APPLICANT AND NOT BY DISTRICT. Applicant recognizes and acknowledges the calculations relating to the District's loss of Maintenance and Operations Revenue under this Agreement will be affected by changes to the timing of construction of the Project and any change to the Qualified Property. As such, Applicant acknowledges that it will bear any and all losses of Maintenance and Operations Revenue suffered by the District as a result of this Agreement, including without limitation any increase in the M&O Amount calculated under Section 4.2 to be paid to the District for losses in Maintenance and Operations Revenue resulting from any change in the timing of construction and/or any change to the Qualified Property.

The Parties expressly understand and agree that for all Tax Years to which the Tax Limitation amount set out in Section 2.4 is applied to Applicant's Qualified Property that is the subject of this Agreement, the calculation of negative financial consequences will be defined for each applicable Tax Year in accordance with the Applicable School Finance Law, as defined in Section 1.2 above, and that such definition specifically contemplates that calculations made under this Agreement may periodically change in accordance with changes in Applicable School Finance Law. The Parties further agree that 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; (ii) based upon current Applicable School Finance Law which is subject to change by statute, by administrative regulation (or interpretation thereof), or by judicial decision at any time; and (iii) may change in future years to reflect changes in Applicable School Finance Law.

**Section 4.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT.** Subject to the provisions of Section 6.4, the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Approval Date and ending on the Final Termination Date (as set out in **EXHIBIT 5**), the "M&O Amount," shall be determined in compliance with Applicable School Finance Law in effect for such year and according to the following formula:

A. The M&O Amount owed by Applicant to District (also known as the revenue protection payment as set out in TEXAS EDUCATION CODE Section 48.256(d)) means the Original M&O Revenue *minus* the New M&O Revenue; based on the following definitions:

i. "Original M&O Revenue" means the total State and local Maintenance and Operations Revenue that the District would have received for such school year, calculated in accordance with TEXAS EDUCATION CODE section 48.256(d), had this Agreement not been entered into by the Parties and the Applicant's Qualified Property had been subject to the District's ad valorem maintenance and operations tax without any limitation on value at the rate applicable for such Tax Year. For purposes of this calculation, the Third Party Consultant (as defined in Section 4.5) will base its calculations upon (1) the total Taxable Values for each applicable Tax Year as certified by the Appraisal District for all taxable accounts in the District for the District's maintenance and operations ad valorem tax purposes, save and except

for the Applicant's Qualified Property subject to this Agreement, plus (2) the total Taxable Values for such applicable Tax Year as certified by the Appraisal District for the Applicant's Qualified Property subject to this Agreement for the District's debt service (interest and sinking fund) ad valorem tax purposes (which total Taxable Values for the Applicant's Qualified Property subject to this Agreement shall be used in lieu of the total Taxable Values for such applicable Tax Year as certified by the Appraisal District for the Applicant's Qualified Property subject to this Agreement for the District's maintenance and operations ad valorem tax purposes).

ii. "New M&O Revenue" means the total State and local Maintenance and Operations Revenue that the District would have received for such school year, calculated in accordance with TEXAS EDUCATION CODE Section 48.256(d), with the Limitation Amount specified in Section 2.4 applied to Applicant's Qualified Property.

B. In making the calculations for the M&O Amount required by this Section 4.2 of this Agreement:

i. The Taxable Value of property for each school year will be determined under 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 results in a negative number, the negative number will be considered to be zero.

iv. For all calculations made for any year during the Tax Limitation Period under this Section 4.2, the New M&O Revenue will reflect the Tax Limitation Amount stated in Section 2.4 for such year.

v. As applicable, the methodology for the calculations made under this Section 4.2 shall include the limited values as set forth in other existing limitation agreements, if any.

**Section 4.3. STATUTORY CHANGES AFFECTING M&O REVENUE.** Notwithstanding any other provision in this Agreement, but subject to the limitations contained in Section 6.4 of this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by 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 or another school district, pursuant to Chapter 49 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, because of its participation in this Agreement, Applicant shall make payments to District, up to the M&O Amount set forth in this Agreement that are necessary to offset any negative impact on the District as a result of its participation in this Agreement.

**Section 4.4. COMPENSATION FOR LOSS OF OTHER REVENUES.** To the extent not included in the amounts calculated pursuant to Section 4.2 above, Applicant shall also pay to or on behalf of the

District on an annual basis all M&O Revenue losses, and other costs as they are incurred by the District that arise from entering this Agreement (the "Additional Loss"), including without limitation to: (a) any loss incurred by the District resulting from a judicial challenge to this Agreement; (b) any reasonable attorneys' fees or other costs incurred by the District due to any amendment, audit, legal defense, enforcement or interpretation of this Agreement brought by or against either party or person or entity, irrespective of whether or not this Agreement or any interpretation thereof by the District is ultimately determined to be valid; and (c) any non-reimbursed reasonable costs or fees incurred by the District and related to this Agreement, either directly or indirectly, including without limitation costs paid to the Appraisal District based on the values of the Qualified Property used for the District's debt service (interest and sinking fund) that exceeds the Tax Limitation Amount provided in Section 2.4 herein. Notwithstanding anything to the contrary in Section 4.8, payment for such Additional Loss shall be made by Applicant no later than 30 days following written notice that such Additional Loss is due and owing, together with supporting calculations by the Third Party Consultant and copies of invoices (redacted as needed) for any such non-reimbursed costs and fees paid.

**Section 4.5. CALCULATIONS TO BE MADE BY THIRD PARTY CONSULTANT.** All calculations under this Agreement shall be made annually by an independent third party consultant (the "Third Party Consultant") selected and appointed each year by the District and approved by Applicant, which shall not be unreasonably withheld, conditioned or delayed. If the Parties cannot agree on the Third Party Consultant, then the Third Party Consultant shall be selected by a mediator selected in accordance with the procedures set forth in Section 9.3.A.

**Section 4.6. DATA FOR CALCULATIONS.** The calculations for payments under this Agreement shall be initially based upon the valuations placed upon all taxable property in the District, including the Applicant's Qualified Property by the Webb County Appraisal District in its annual certified tax roll submitted to the District 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 Consultant selected under Section 4.5. 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 Consultant to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party Consultant shall be adjusted from time-to-time by the Third Party Consultant to reflect actual amounts, subsequent adjustments by the Webb County Appraisal District to the District's certified tax roll, or any other changes in student counts, tax collections, or other applicable data.

**Section 4.7. DELIVERY OF CALCULATIONS.** On or before November 1 of each year for which this Agreement is effective, the Third Party Consultant appointed pursuant to Section 4.5 shall forward to the Parties a certification containing the calculations required under Articles IV, V and VI of this Agreement in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Third Party Consultant shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times,

to the Third Party Consultant's offices, personnel, books, records, and correspondence pertaining to the calculation and fee for the purpose of verification. The Third Party Consultant 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 Consultant shall preserve all documents pertaining to the calculation and fee for a period of four (4) years after payment. The Applicant shall not be liable for any of Third Party Consultant's costs resulting from a review or audit of the Third Party Consultant's books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement or the fee paid by the Applicant to the Third Party Consultant pursuant to Section 4.8, if such fee is timely paid.

**Section 4.8. PAYMENT BY APPLICANT.** The Applicant shall pay any amount determined by the Third Party Consultant to be due and owing to the District under this Agreement on or before the January 31 next following the tax levy for each year for which this Agreement is effective. By such date, the Applicant shall also pay any amount billed by the Third Party Consultant for all calculations under this Agreement under Section 4.7, above, plus any unpaid amount due and owing under Section 4.4, or incurred by the District to its auditors or financial consultants for the preparation and filing of any financial reports, disclosures, or tax credit or other reimbursement application filed with or sent to the State of Texas which are, or may be, required under the terms or because of the execution of this Agreement. Notwithstanding the foregoing, for no Tax Year during the term of this Agreement shall the Applicant be responsible for the payment of an aggregate amount of fees and expenses to the Third Party Consultant under this Section 4.8 and Section 4.7, above, in excess of Fifteen Thousand Dollars ($15,000.00). Payment for all amounts due and owing not made on or before the January 31 or any amount invoiced by or on behalf of the District and not paid within 30 days from the due date shall be considered delinquent. For delinquent payments, the Applicant shall be subject to penalty and interest in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE. Penalties on said amounts shall be calculated in accordance with 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 4.9. RESOLUTION OF DISPUTES.** Should the Applicant disagree with the certification containing the calculations prepared and delivered pursuant to Section 4.7, the Applicant may appeal the findings, in writing, to the Third Party Consultant within thirty (30) District business 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 4.7 for purposes of auditing or reviewing the information in connection with the certification. Within ten (10) District business days of receipt of the Applicant's appeal, the Third Party Consultant will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of the certification containing the calculations to the District's Board of Trustees. Any such appeal by the Applicant of the final determination of the Third Party Consultant may be made, in writing, to the District's Board of Trustees within fifteen (15) District business days of the Applicant's receipt of the Third Party Consultant's final determination of the certification containing the calculations in accordance with District Policy GF (LOCAL).

**Section 4.10. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT**. If at the time the Third Party Consultant selected and appointed under Section 4.5 makes its calculations under this Agreement, 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, the Third Party Consultant shall base its calculations upon the values placed upon the Applicant's Qualified Property by the Appraisal District. If as a result of an appeal or for any other reason the Taxable Value of the Applicant's Qualified Property is changed, once the determination of the new Taxable Value becomes final, the Parties shall immediately notify the Third Party Consultant who shall immediately issue new calculations required by this Agreement for the applicable year or years using the new Taxable Value. Upon completion of the new calculations, the Third Party Consultant shall transmit the new calculations to the Parties. In the event the new calculations result in a change of any amount paid or payable by the Applicant under this Agreement, the Party owing funds to the other Party shall pay any amounts owed within thirty (30) days of receipt of the new calculations from the Third Party Consultant.

## ARTICLE V
## PAYMENT OF EXTRAORDINARY EDUCATION RELATED EXPENSES

**Section 5.1. EXTRAORDINARY EXPENSES.** In addition to the amounts determined pursuant to Article IV or Article VI of this Agreement, Applicant on an annual basis shall also indemnify and reimburse District for the following:

> All non-reimbursed costs, certified by District's external auditor to have been incurred by District for extraordinary education-related expenses related to the project proposed by the Applicant that are not directly funded in state aid formulas, including without limitation expenses for the purchase or lease of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the Project.

**Section 5.2. PAYMENTS**. Payments of amounts due under this Article shall be made as set forth in Section 4.8 above.

## ARTICLE VI
## SUPPLEMENTAL PAYMENTS

**Section 6.1. SUPPLEMENTAL PAYMENTS.** In addition to any payments the District is entitled to receive under Articles IV and V, and as additional consideration for this Agreement, the Applicant shall also make Supplemental Payments to the District as provided under this Article VI. Applicant shall make annual Supplemental Payments in an amount equal to, but not to exceed, the limit of the annual Supplemental Payment as set out below, starting with the first complete or partial year

of the Qualifying Time Period, and continuing through the third year following the end of the Tax Limitation Period.

**Section 6.1.1 STIPULATED SUPPLEMENTAL PAYMENT AMOUNT—SUBJECT TO AGGREGATE LIMIT**. For any Tax Year during the term of this Agreement, the District shall not be entitled to receive Supplemental Payments that exceed the lesser of:

A. the "Applicant's Stipulated Supplemental Payment Amount," as such term is defined in Section 1.2. for such Tax Year; or,

B. the "Aggregate Limit," as such term is defined in Section 1.2, for such Tax Year.

**Section 6.1.2 ANNUAL CALCULATION OF APPLICANT'S STIPULATED SUPPLEMENTAL PAYMENT AMOUNT.** The Parties agree that for each Tax Year of this Agreement, beginning with the Tax Year 2020, which is the Tax Year that includes the date on which the Qualifying Time Period commences under this Agreement as provided in Section 2.3.C.i, the Applicant's Stipulated Supplemental Payment Amount, described in Section 6.1.1, will annually be calculated based upon the then most current estimate of tax savings to the Applicant, which will be made, based upon assumptions of student counts, tax collections, and other applicable data, in accordance with the following formula:

Taxable Value of the Applicant's Qualified Property for such Tax Year had this Agreement not been entered into by the Parties (i.e., the Taxable Value of the Applicant's Qualified Property-used for the District's interest and sinking fund tax purposes for such Tax Year, or school taxes due to any other governmental entity, including the State of Texas, for such Tax Year);

*Minus*

The Taxable Value of the Applicant's Qualified Property for such Tax Year after giving effect to this Agreement (i.e., the Taxable Value of the Applicant's Qualified Property used for the District's maintenance and operations tax purposes for such Tax Year, or school taxes due to any other governmental entity, including the State of Texas, for such Tax Year);

*Multiplied by*

The District's maintenance and operations tax rate for such Tax Year, or the applicable school tax rate of any other governmental entity, including the State of Texas, for such Tax Year;

*Minus*

Any amounts previously paid to the District under Section 4.2 with respect to such Tax Year:

*Multiplied by*

The number 0.475;

*Minus*

Any amounts previously paid to the District under this Article VI with respect to such Tax Year.

In the event that there are changes in the data upon which the calculations set forth herein are made, the Third Party described in Section 4.5, above shall adjust the Applicant's Stipulated Supplemental Payment Amount calculation to reflect such changes in the data.

**Section 6.1.3 CALCULATION OF ANNUAL SUPPLEMENTAL PAYMENTS TO THE DISTRICT AND APPLICATION OF AGGREGATE LIMIT**. For each Tax Year of this Agreement beginning with the Tax Year 2020, which is the Tax Year that includes the date on which the Qualifying Time Period commences under this Agreement as provided in Section 2.3.C.i, and ending with the Tax Year 2034, which is the third Tax Year following the end of the Tax Limitation Period, the District shall not be entitled to receive Supplemental Payments, computed under Sections 6.1 and 6.2, that exceed the Aggregate Limit.

If, for any Tax Year during the term of this Agreement, the amount of the Applicant's Stipulated Supplemental Payment Amount, calculated under Sections 6.1 and 6.2 for such Tax Year exceeds the Aggregate Limit for such Tax Year, the difference between the Applicant's Stipulated Supplemental Payment Amount so calculated and the Aggregate Limit for such Tax Year shall be carried forward from year-to-year into subsequent Tax Years during the term of this Agreement, and to the extent not limited by the Aggregate Limit in any subsequent Tax Year during the term of this Agreement, shall be paid to the District. If there are changes in Chapter 313 of the Texas Tax Code that increase or decrease the limit on the amount of the Supplemental Payments that may be made to or on behalf of the District by the Applicant under this Article VI, any higher or lower amount of Supplemental Payments that first became due hereunder prior to the effective date of any such statutory change will not be adjusted.

**Section 6.1.4 PROCEDURES FOR SUPPLEMENTAL PAYMENT CALCULATIONS.**

A. All calculations required by this Article VI, including but not limited to: (i) the calculation of the Applicant's Stipulated Supplemental 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 Supplemental 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 and appointed pursuant to Section 4.5.

B. 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 4.7.

C. The payment of all amounts due under this Article VI shall be made at the time set forth in Section 4.8.

**Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION.** 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 48.005 of the TEXAS EDUCATION CODE, or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, 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 Applicant.

B. Supplemental Payments may only be made during the period starting with 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 (i) $50,000 or (ii) $100 multiplied by the District's Average Daily Attendance as calculated pursuant to Section 48.005 of the TEXAS EDUCATION CODE, based upon the District's 2018-19 Average Daily Attendance of 40,364, rounded to the whole number.

**Section 6.3. PAYMENT BY APPLICANT.** Payment of amounts due under this Article shall be made as set forth in Section 4.8 of this Agreement and is subject to the limitations contained in Section 6.4.

**Section 6.4 ANNUAL LIMITATION.** Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year of the Tax Limitation Period beginning after the first Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the District under Articles IV, V, and VI of this Agreement with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such Tax Year (determined by using the District's actual maintenance and operations tax rate for such Tax Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Article IV of this Agreement, and in the event the sum of the amounts described in

said clause (i) exceeds the amount described in said clause (ii), then the payments otherwise due from the Applicant to the District under Articles IV, V, and VI shall be carried forward from year to year until paid in full.

**Section 6.5. OPTION TO TERMINATE AGREEMENT.** In the event that any payment otherwise due from the Applicant to the District under Article IV, Article V, or Article VI of this Agreement with respect to a Tax Year is subject to reduction in accordance with the provisions of Section 6.4, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to terminate this Agreement by notifying the District of its election in writing not later than the July 31 of the year following the Tax Year with respect to which a reduction under Section 6.4 is applicable. Any termination of this Agreement under the foregoing provisions of this Section 6.5 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the reduction giving rise to the option occurred.

## ARTICLE VII
## ANNUAL LIMITATION OF PAYMENTS BY APPLICANT

See Sections 6.4 and 6.5 regarding the annual limitation of payments and option to terminate.

**Section 7.1. EFFECT OF OPTIONAL TERMINATION.** Upon the exercise of the option to terminate pursuant to Section 6.5, 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 thirty (30) 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 thirty (30) 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 thirty (30) 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 Webb 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 Webb 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 thirty (30) 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 6.5 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 thirty (30) 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 $100,000,000 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 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:**
United Independent School District
Attn: Robert Santos, Superintendent
(or the successor Superintendent)
201 Lindenwood
Laredo, TX 78045
Phone #: (956) 473-6219
Fax #: (956) 728-8691
Email: rsantos@uisd.net

**With a copy to:**
Underwood Law Firm, P.C.
Attn: Fred Stormer
P.O. Box 9158
Amarillo, TX 79105-9158
Phone #: (806) 379-0306
Fax #: (806) 379-0316
Email: fred.stormer@uwlaw.com

**And:**
Fortunato Paredes
J. Cruz & Associates, LLC
216 W. Village Blvd., Suite 202
Laredo, TX 78041
(956) 717-1300 Telephone
(956) 717-0539 Facsimile
Email: fparedes@jca-law.com

**And:**
Dan Casey
Moak, Casey & Associates
400 West 15th Street
Austin, Texas 78701
(512) 485-7878 Telephone
(512) 485-7888 Facsimile
Email: dcasey@moakcasey.com

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

**To Applicant:**
Corazon Energy, LLC
c/o Bill Gulley, CFO
17901 Von Karmen Ave., Suite 1050
Irvine, CA 92614
Phone: (949) 398-3915
Fax #: (949) 398-3914
Email: Bill.Gulley@baywa-re.com

**With a copy to:**
Corazon Energy, LLC
c/o Jam Attari, CEO
17901 Von Karmen Ave., Suite 1050
Irvine, CA 92614
Phone: (949) 398-3915
Fax #: (949) 398-3914
Email: Jam.Attari@baywa-re.com

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

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 Webb County, Texas.

**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 the 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).

[*signatures follow on next page*]

*IN WITNESS WHEREOF*, this Agreement has been executed by the Parties in multiple originals on this 16th day of June, 2020.

**CORAZON ENERGY, LLC**

BY: _____

NAME: William Gulley

TITLE: Officer of the Sole Member

**UNITED INDEPENDENT SCHOOL DISTRICT**

BY: _____

NAME: Ramiro Veliz, III

TITLE: Board President

**ATTEST:**

BY: _____

NAME: Ricardo Rodriguez

TITLE: Board Secretary

## EXHIBIT 1

### DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

United Independent School District created the Corazon Solar Reinvestment Zone, by Resolution dated November 20, 2019, which is more particularly described and depicted as follows:

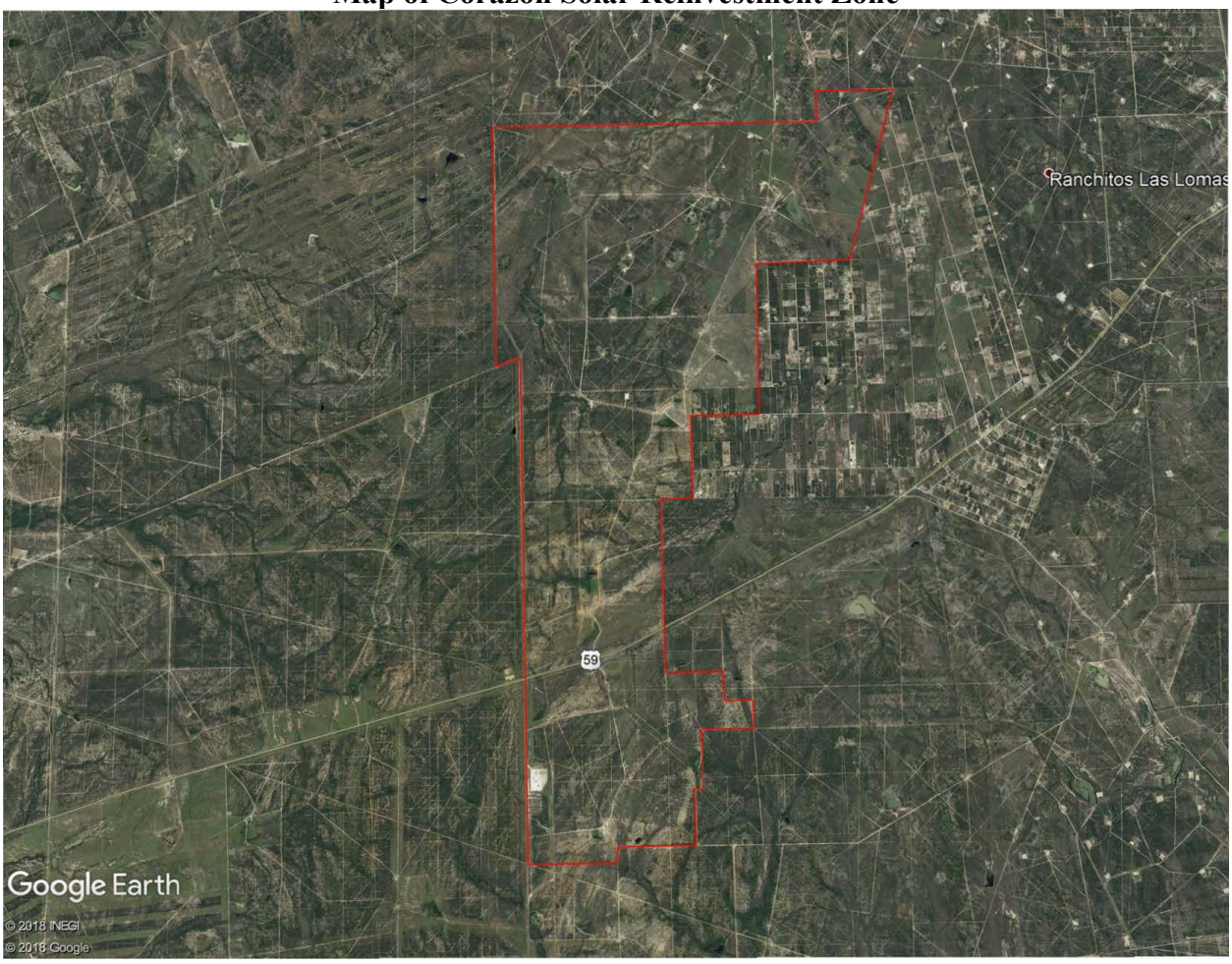
Tracts being situated in the United Independent School District and Webb County, Texas, and being more fully described as follows:

| PARCEL ID | OWNER NAME | LEGAL DESCRIPTION | ACREAGE |
|---|---|---|---|
| 206431 | Papomemito Partners LTD | ABST 0268-P 24 T RODRIGUEZ | 117.000 |
| 206828 | Papomemito Partners LTD | ABST 282-P 26 A SANCHEZ 16 ACRES | 16.000 |
| 206249 | Papomemito Partners LTD | ABST 283-P 23 L SANCHEZ 11 ACRES | 11.000 |
| 206633 | Papomemito Partners LTD | ABST 0050 P 25 J F GARCIA 114 ACRES | 114.000 |
| 200988 | Papomemito Partners LTD | ABST 1335-2005 G C & S F 320 ACRES | 320.000 |
| 201444 | Papomemito Partners LTD | ABST 1545-1728 MRS E J LEWIS 1099.1 ACRES | 1,099.100 |
| 201589 | Papomemito Partners LTD | ABST 1619-115 J POITEVENT 319 ACRES | 319.000 |
| 201894 | Papomemito Partners LTD | ABST 1762 SUR 2255 J M SWISHER223.22 ACS | 223.220 |
| 203189 | Papomemito Partners LTD | ABST 2304-532 E A HICKS 651.28 ACRES | 651.280 |
| 203286 | Papomemito Partners LTD | ABST 2366-1738 GC & SF NORTH PART 496.43 ACRES | 496.430 |
| 203289 | Papomemito Partners LTD | ABST 2367-1740 G C & S F 640 ACRES | 640.000 |
| 203290 | Papomemito Partners LTD | ABST 2368-2029 R MATHEWS E PT 726.5 ACRES | 726.500 |
| 203501 | Papomemito Partners LTD | ABST 2476-2120 G C & S F 884.9ACRES | 884.900 |
| 204132 | Papomemito Partners LTD | ABST 2833-2010 B W DAY 1244.646 ACRES | 1,244.646 |
| 204133 | Papomemito Partners LTD | ABST 2834-2011 B W DAY 1267.824 ACRES | 1,267.824 |
| 204709 | Papomemito Partners LTD | ABSRT 3125-2119 GC & SF 69.3 ACRES | 69.300 |
| 204724 | Papomemito Partners LTD | ABST 3133 1118 G LANG 200 ACRES | 200.000 |
| 204828 | Papomemito Partners LTD | ABST 3196-2006 GC & SF 320 ACRES | 320.000 |
| 555681 | Papomemito Partners LTD | ABST 3242 SUR 2365 J B FINLEY 22.1 ACRES | 22.100 |
| 205091 | Papomemito Partners LTD | ABST 3257-2382 M B VOLPE 52.7 ACRES | 52.700 |
| 205212 | Papomemito Partners LTD | ABST 3340 NONE M BENAVIDES VOLPE 36.44 ACRES | 36.440 |



EXHIBIT 1

## Map of Corazon Solar Reinvestment Zone



## EXHIBIT 2

### DESCRIPTION AND LOCATION OF LAND

All Qualified Property owned by the Applicant is located within the boundaries of the project area, United Independent School District, Webb County and the Corazon Solar Reinvestment Zone, as depicted on the maps attached to **EXHIBITS 1, 3** and **4.**



**EXHIBIT 2**

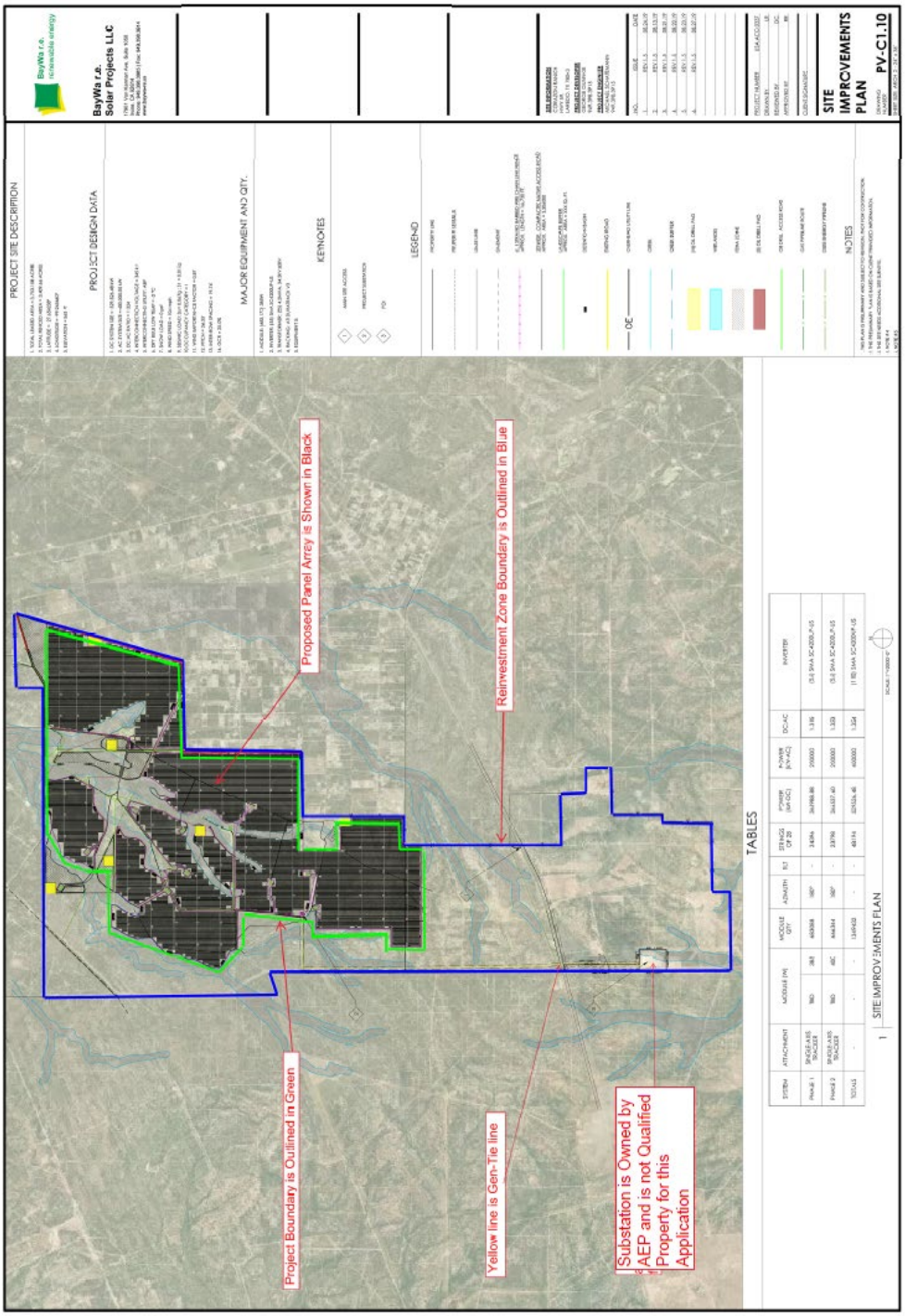
## EXHIBIT 3

### APPLICANT'S QUALIFIED INVESTMENT

The proposed Project is anticipated to have a total capacity of 400 MW all of which will be located in United ISD. Solar equipment selection is ongoing at this time and has not been finalized. The exact number of PV panels and their capacity will depend upon the panels and inverters selected, manufacturers availability and prices, ongoing engineering design optimization and the final megawatt generating capacity of the Project when completed. Current plans are to install approximately 1,155,835 PV panels and 98 x 2.5MW inverters within United ISD. The Applicant requests a Value Limitation for all materials and equipment installed for the Project, including underground collection systems, transmission lines, electrical interconnections, roads, control systems necessary for commercial generation of electricity, solar modules/panels, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, roadways, maintenance and operations buildings, paving, fencing, electrical substations, generation transmission tie line and associated towers, and interconnection facilities. This application covers all qualified property in the reinvestment zone and project boundary within United ISD necessary for commercial operations.

Construction of the Project is anticipated to begin in June of 2020 with completion by May 2021.

## MAP OF QUALIFIED INVESTMENT



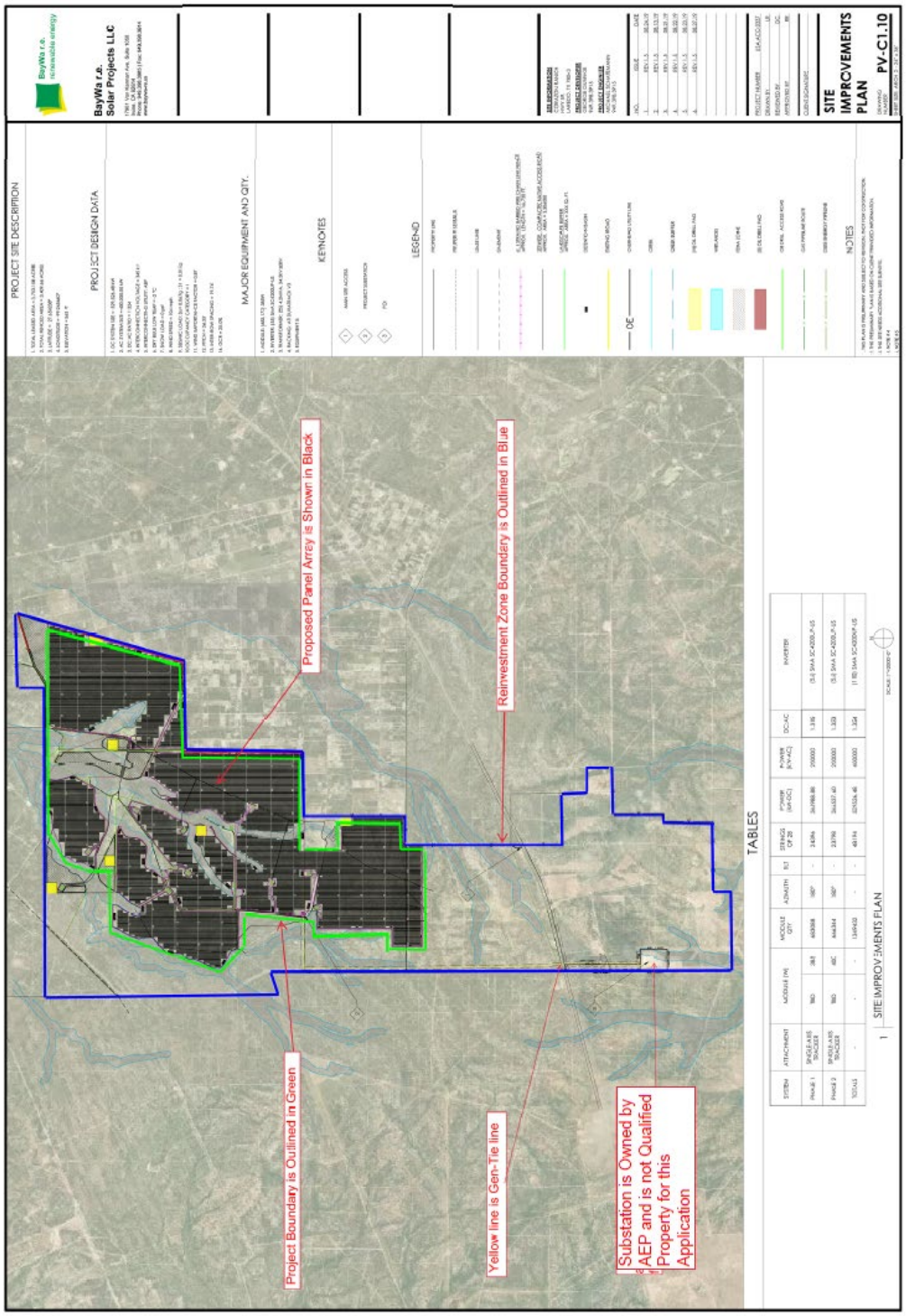
## EXHIBIT 4

### DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

The proposed Project is anticipated to have a total capacity of 400 MW all of which will be located in United ISD. Solar equipment selection is ongoing at this time and has not been finalized. The exact number of PV panels and their capacity will depend upon the panels and inverters selected, manufacturers availability and prices, ongoing engineering design optimization and the final megawatt generating capacity of the Project when completed. Current plans are to install approximately 1,155,835 PV panels and 98 x 2.5MW inverters within United ISD. The Applicant requests a Value Limitation for all materials and equipment installed for the Project, including underground collection systems, transmission lines, electrical interconnections, roads, control systems necessary for commercial generation of electricity, solar modules/panels, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, roadways, maintenance and operations buildings, paving, fencing, electrical substations, generation transmission tie line and associated towers, and interconnection facilities. This application covers all qualified property in the reinvestment zone and project boundary within United ISD necessary for commercial operations.

Construction of the Project is anticipated to begin in June of 2020 with completion by May 2021.

## MAP OF QUALIFIED PROPERTY



## EXHIBIT 5
## AGREEMENT SCHEDULE

| | Year of Agreement | Date of Appraisal | School Year | Tax Year | Summary Description |
|---|---|---|---|---|---|
| Limitation Pre-Years | 0 | January 1, 2020 | 2020-21 | 2020 | QTP Stub Year,<br>QTP begins June 16, 2020 |
| | QTP 1 | January 1, 2021 | 2021-22 | 2021 | QTP year 1 |
| Limitation Period (10 Years) | LP 1/<br>QTP 2 | January 1, 2022 | 2022-23 | 2022 | $100 million appraisal limitation<br>QTP year 2, ends December 31, 2022 |
| | 2 | January 1, 2023 | 2023-24 | 2023 | $100 million appraisal limitation |
| | 3 | January 1, 2024 | 2024-25 | 2024 | $100 million appraisal limitation |
| | 4 | January 1, 2025 | 2025-26 | 2025 | $100 million appraisal limitation |
| | 5 | January 1, 2026 | 2026-27 | 2026 | $100 million appraisal limitation |
| | 6 | January 1, 2027 | 2027-28 | 2027 | $100 million appraisal limitation |
| | 7 | January 1, 2028 | 2028-29 | 2028 | $100 million appraisal limitation |
| | 8 | January 1, 2029 | 2029-30 | 2029 | $100 million appraisal limitation |
| | 9 | January 1, 2030 | 2030-31 | 2030 | $100 million appraisal limitation |
| | 10 | January 1, 2031 | 2031-32 | 2031 | $100 million appraisal limitation |
| Maintain a Viable Presence (5 Years) | 11 | January 1, 2032 | 2032-33 | 2032 | No appraisal limitation; must maintain a viable presence |
| | 12 | January 1, 2033 | 2033-34 | 2033 | No appraisal limitation; must maintain a viable presence |
| | 13 | January 1, 2034 | 2034-35 | 2034 | No appraisal limitation; must maintain a viable presence |
| | 14 | January 1, 2035 | 2035-36 | 2035 | No appraisal limitation; must maintain a viable presence |
| | 15 | January 1, 2036 | 2036-37 | 2036 | No appraisal limitation; must maintain a viable presence |