



GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

June 8, 2020

Leah Zeigler
Superintendent
Kress Independent School District
200 East 5th
Kress, Texas 79052

Re: Certificate for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Kress Independent School District and Swisher Solar Energy, LLC, Application 1478

Dear Superintendent Zeigler:

On May 14, 2020, the Comptroller issued written notice that Swisher Solar Energy, LLC (applicant) submitted a completed application (Application 1478) for a limitation on appraised value under the provisions of Tax Code Chapter 313.¹ This application was originally submitted on March 10, 2020, to the Kress Independent School District (school district) by the applicant.

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

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

Determination required by 313.025(h)

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

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

Sec. 313.024(d) Applicant has requested a waiver to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 1478.

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

Certificate decision required by 313.025(d)

Determination required by 313.026(c)(1)

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

Determination required by 313.026(c)(2)

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

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

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

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement within a year from the date of this letter.

Note that any building or improvement existing as of the application review start date of May 14, 2020, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

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

Sincerely,

DocuSigned by:

11EA6DEF0EC441E...

Lisa Craven
Deputy Comptroller

Enclosure

cc: Will Counihan

Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Swisher Solar Energy LLC (project) applying to Kress Independent School District (district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

Table 1 is a summary of investment, employment and tax impact of Swisher Solar Energy LLC.

Applicant	Swisher Solar Energy LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy - Solar
School District	Kress ISD
2018-2019 Average Daily Attendance	240
County	Swisher
Proposed Total Investment in District	\$80,000,000
Proposed Qualified Investment	\$80,000,000
Limitation Amount	\$20,000,000
Qualifying Time Period (Full Years)	2022-2023
Number of new qualifying jobs committed to by applicant	1*
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$854
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5)(A)	\$854
Minimum annual wage committed to by applicant for qualified jobs	\$44,402
Minimum weekly wage required for non-qualifying jobs	\$733
Minimum annual wage required for non-qualifying jobs	\$38,090
Investment per Qualifying Job	\$80,000,000
Estimated M&O levy without any limit (15 years)	\$5,472,431
Estimated M&O levy with Limitation (15 years)	\$2,916,459
Estimated gross M&O tax benefit (15 years)	\$2,555,972

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

Table 2 is the estimated statewide economic impact of Swisher Solar Energy LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2022	250	293	543	\$12,500,000	\$29,225,500	\$41,725,500
2023	250	307	557.445	\$12,500,000	\$34,509,600	\$47,009,600
2024	1	32	33	\$44,402	\$7,908,798	\$7,953,200
2025	1	9	10	\$44,402	\$4,691,498	\$4,735,900
2026	1	(11)	-10	\$44,402	\$2,015,398	\$2,059,800
2027	1	(20)	-19	\$44,402	\$455,798	\$500,200
2028	1	(21)	-20	\$44,402	-\$292,602	-\$248,200
2029	1	(18)	-17	\$44,402	-\$499,302	-\$454,900
2030	1	(14)	-13	\$44,402	-\$373,902	-\$329,500
2031	1	(8)	-7	\$44,402	-\$77,102	-\$32,700
2032	1	(4)	-3	\$44,402	\$290,998	\$335,400
2033	1	0	1	\$44,402	\$678,398	\$722,800
2034	1	3	4	\$44,402	\$1,034,498	\$1,078,900
2035	1	6	7	\$44,402	\$1,328,798	\$1,373,200
2036	1	7	8	\$44,402	\$1,530,098	\$1,574,500
2037	1	7	8	\$44,402	\$1,653,798	\$1,698,200
2038	1	7	8	\$44,402	\$1,692,098	\$1,736,500

Source: CPA REMI, Swisher Solar Energy LLC

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate*	Kress ISD I&S Tax Levy	Kress ISD M&O Tax Levy	M&O and I&S Tax Levies	Swisher County Tax Levy	Swisher Memorial Hospital Tax Levy	Mackenzie Water Authority Tax Levy	Estimated Total Property Taxes
				0.2500	1.0683		0.0064	0.0031	0.0012	
2023	\$1,000,000	\$1,000,000		\$2,500	\$10,683	\$13,183	\$64	\$31	\$12	\$13,289
2024	\$74,480,000	\$74,480,000		\$186,200	\$795,670	\$981,870	\$4,744	\$2,274	\$901	\$989,789
2025	\$68,512,000	\$68,512,000		\$171,280	\$731,914	\$903,194	\$4,364	\$2,091	\$829	\$910,478
2026	\$62,072,000	\$62,072,000		\$155,180	\$663,115	\$818,295	\$3,954	\$1,895	\$751	\$824,895
2027	\$55,112,000	\$55,112,000		\$137,780	\$588,761	\$726,541	\$3,511	\$1,682	\$667	\$732,401
2028	\$47,600,000	\$47,600,000		\$119,000	\$508,511	\$627,511	\$3,032	\$1,453	\$576	\$632,572
2029	\$39,488,000	\$39,488,000		\$98,720	\$421,850	\$520,570	\$2,515	\$1,205	\$478	\$524,769
2030	\$30,728,000	\$30,728,000		\$76,820	\$328,267	\$405,087	\$1,957	\$938	\$372	\$408,354
2031	\$21,264,000	\$21,264,000		\$53,160	\$227,163	\$280,323	\$1,355	\$649	\$257	\$282,584
2032	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2033	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2034	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2035	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2036	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2037	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2038	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
			Total	\$1,280,640	\$5,472,431	\$6,753,071	\$32,631	\$15,637	\$6,198	\$6,807,537

Source: CPA, Swisher Solar Energy LLC

*Tax Rate per \$100 Valuation

Table 4 examines the estimated direct impact on ad valorem taxes to the school district and Swisher County, with all property tax incentives sought being granted using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the county.

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Kress ISD I&S Tax Levy	Kress ISD M&O Tax Levy	M&O and I&S Tax Levies	Swisher County Tax Levy	Swisher Memorial Hospital Tax Levy	Mackenzie Water Authority Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.2500	1.0683		0.0064	0.0031	0.0012	
2023	\$1,000,000	\$1,000,000		\$2,500	\$10,683	\$13,183	\$64	\$31	\$12	\$13,289
2024	\$74,480,000	\$20,000,000		\$186,200	\$213,660	\$399,860	\$0	\$2,274	\$901	\$403,035
2025	\$68,512,000	\$20,000,000		\$171,280	\$213,660	\$384,940	\$0	\$2,091	\$829	\$387,860
2026	\$62,072,000	\$20,000,000		\$155,180	\$213,660	\$368,840	\$0	\$1,895	\$751	\$371,486
2027	\$55,112,000	\$20,000,000		\$137,780	\$213,660	\$351,440	\$0	\$1,682	\$667	\$353,789
2028	\$47,600,000	\$20,000,000		\$119,000	\$213,660	\$332,660	\$0	\$1,453	\$576	\$334,689
2029	\$39,488,000	\$20,000,000		\$98,720	\$213,660	\$312,380	\$0	\$1,205	\$478	\$314,063
2030	\$30,728,000	\$20,000,000		\$76,820	\$213,660	\$290,480	\$0	\$938	\$372	\$291,790
2031	\$21,264,000	\$20,000,000		\$53,160	\$213,660	\$266,820	\$0	\$649	\$257	\$267,726
2032	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$0	\$488	\$194	\$211,610
2033	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$0	\$488	\$194	\$211,610
2034	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2035	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2036	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2037	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
2038	\$16,000,000	\$16,000,000		\$40,000	\$170,928	\$210,928	\$1,019	\$488	\$194	\$212,629
			Total	\$1,280,640	\$2,916,459	\$4,197,099	\$5,160	\$15,637	\$6,198	\$4,224,094
			Diff	\$0	\$2,555,972	\$2,555,972	\$27,471	\$0	\$0	\$2,583,443

Assumes School Value Limitation and Tax Abatements with the County.

Source: CPA, Swisher Solar Energy LLC

*Tax Rate per \$100 Valuation

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

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

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

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
Limitation Pre-Years	2021	\$0	\$0	\$0	\$0
	2022	\$0	\$0	\$0	\$0
	2023	\$10,683	\$10,683	\$0	\$0
Limitation Period (10 Years)	2024	\$213,660	\$224,343	\$582,010	\$582,010
	2025	\$213,660	\$438,003	\$518,254	\$1,100,264
	2026	\$213,660	\$651,663	\$449,455	\$1,549,719
	2027	\$213,660	\$865,323	\$375,101	\$1,924,820
	2028	\$213,660	\$1,078,983	\$294,851	\$2,219,671
	2029	\$213,660	\$1,292,643	\$208,190	\$2,427,861
	2030	\$213,660	\$1,506,303	\$114,607	\$2,542,469
	2031	\$213,660	\$1,719,963	\$13,503	\$2,555,972
	2032	\$170,928	\$1,890,891	\$0	\$2,555,972
	2033	\$170,928	\$2,061,819	\$0	\$2,555,972
Maintain Viable Presence (5 Years)	2034	\$170,928	\$2,232,747	\$0	\$2,555,972
	2035	\$170,928	\$2,403,675	\$0	\$2,555,972
	2036	\$170,928	\$2,574,603	\$0	\$2,555,972
	2037	\$170,928	\$2,745,531	\$0	\$2,555,972
	2038	\$170,928	\$2,916,459	\$0	\$2,555,972
Additional Years as Required by 313.026(c)(1) (10 Years)	2039	\$170,928	\$3,087,387	\$0	\$2,555,972
	2040	\$170,928	\$3,258,315	\$0	\$2,555,972
	2041	\$170,928	\$3,429,243	\$0	\$2,555,972
	2042	\$170,928	\$3,600,171	\$0	\$2,555,972
	2043	\$170,928	\$3,771,099	\$0	\$2,555,972
	2044	\$170,928	\$3,942,027	\$0	\$2,555,972
	2045	\$170,928	\$4,112,955	\$0	\$2,555,972
	2046	\$170,928	\$4,283,883	\$0	\$2,555,972
	2047	\$170,928	\$4,454,811	\$0	\$2,555,972
	2048	\$170,928	\$4,625,739	\$0	\$2,555,972
		\$4,625,739	is greater than	\$2,555,972	
Analysis Summary					
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					Yes

Source: CPA, Swisher Solar Energy LLC

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

Attachment C – Limitation as a Determining Factor

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

Methodology

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

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

Determination

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

- Invenergy, as the parent company of Swisher Solar Energy LLC, is North America’s largest privately-held renewable energy provider, with a national portfolio of wind, solar, storage, and natural gas projects. With operations in several regions throughout the contiguous United States, Invenergy considers economic return on investment as they decide where to locate development projects.
- Per Invenergy. in Tab 5 of their Application for a Limitation on Appraised Value:
 - A. “Without tax incentives such as the Ch. 313 Value Limitation on Qualified Property, the economic return for this project is negatively impacted to the point that locating the project in Swisher County becomes unlikely. If Swisher Solar Energy LLC was not able to obtain a value limitation agreement for this project, the project would most likely be terminated and financial resources would be allocated to projects with more favorable economic returns.”
 - B. “Invenergy is also currently considering alternative sites outside the State of Texas for solar developments, including locations in the following states: Oklahoma and New Mexico.”
- Per Tab 4 of their Application, “Swisher Solar Energy LLC has applied to the Southwest Power Pool (SPP) and has the following Generation Interconnection Number, GEN-2016-039 and was assigned on May 24, 2016. This project may be referred to as Swisher or Swisher Solar Energy in media reports.

Supporting Information

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value

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

Supporting Information

Section 8 of the Application for
a Limitation on Appraised Value

SECTION 6: Eligibility Under Tax Code Chapter 313.024

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

SECTION 7: Project Description

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

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

SECTION 8: Limitation as Determining Factor

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

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

Supporting Information

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



CHECKLIST ITEM #5

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

Section 8, Question 2: Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project?

The only agreements that Swisher Solar Energy LLC has entered into for this project are (i) written option to purchase agreements with landowners that permit the installation of solar energy project facilities on the land, and (ii) consultant agreements for feasibility studies, tax matters, legal advice, etc. The written option to purchase agreements may be terminated by Swisher Solar Energy LLC if it elects not to construct the project. None of the agreements described in this paragraph obligate Swisher Solar Energy LLC to construct the project.

Section 8, Questions 7 and 10: Is the applicant evaluating other locations not in Texas for the proposed project? Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?

Invenergy, as the parent company of Swisher Solar Energy LLC, is North America's largest privately-held renewable energy provider, with a national portfolio of wind, solar, storage, and natural gas projects. With operations in several regions throughout the contiguous United States, Invenergy considers economic return on investment as they decide where to locate development projects.

Without tax incentives such as the Ch. 313 Value Limitation on Qualified Property, the economic return for this project is negatively impacted to the point that locating the project in Swisher County becomes unlikely. If Swisher Solar Energy LLC was not able to obtain a value limitation agreement for this project, the project would most likely be terminated and financial resources would be allocated to projects with more favorable economic returns. Invenergy is currently developing a 200 MW solar project in West Texas, a 300 MW solar project in West Texas, and a 385 MW solar project in West Texas.

Invenergy is also currently considering alternative sites outside the State of Texas for solar developments, including locations in the following states: Oklahoma and New Mexico.