FINDINGS
of the
KRESS INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES

Under Chapter 313 of the Texas Tax Code

ON THE APPLICATION FOR APPRAISED VALUE LIMITATION ON QUALIFIED PROPERTY

SUBMITTED BY

SWISHER SOLAR ENERGY LLC

Comptroller Application Number 1478

November 12, 2020

RESOLUTION AND FINDINGS OF FACT
of the
KRESS INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES
UNDER CHAPTER 313 OF THE TEXAS TAX CODE
ON THE APPLICATION FOR APPRAISED VALUE LIMITATION
ON QUALIFIED PROPERTY
SUBMITTED BY SWISHER SOLAR ENERGY LLC

STATE OF TEXAS	§
	§
KRESS INDEPENDENT SCHOOL DISTRICT	§

PREAMBLE

On the 12th day of November, 2020, a public meeting of the Board of Trustees of the Kress Independent School District (the "Board") was held to solicit input from interested parties on the application by Swisher Solar Energy LLC ("Swisher Solar Energy" or "Applicant") for an appraised value limitation on qualified property under Chapter 313 of the Texas Tax Code. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board considered the application by Swisher Solar Energy for a Limitation on Appraised Value on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations from interested parties within the District. After hearing presentations from the District's administrative staff and the consultants retained by the District to advise the Board in this matter and reviewing the Comptroller's Economic Impact Analysis under Texas Tax Code §313.026, the Board of Trustees of the Kress Independent School District, in accordance with Texas Tax Code §313.025(e) and (f) and 34 T.A.C. §9.1054, makes the following Findings regarding the Application:

On or about the 10th day of March, 2020, the Board of Trustees for the Kress Independent School District received an Application for Appraised Value Limitation on Qualified Property from Swisher Solar Energy pursuant to Chapter 313 of the Texas Tax Code (the "Application"). The general nature of Applicant's investment in qualified property set forth in the Application is for a renewable energy electric generation project; specifically, an approximately 112 megawatt solar electric generation facility (the "Property"). *See* Application, page 4, Section 6.2.5, and Tabs 4, 7 and 8, attached hereto as Attachment A; *see also* Attachment D. The Board agreed to consider such Application, and the District's Superintendent formally acknowledged receipt of the Application for consideration on behalf of the District, which was delivered to the Texas Comptroller of Public Accounts immediately upon the District's determination that the Application was complete. The Comptroller acknowledged receipt of the Application on or about March 12, 2020. Thereafter, on or about April 15, 2020, on behalf of Applicant, the District submitted Amendment No. 1 (§12, Tabs 3, 11 and 16), and on or about May 4, 2020, the Applicant submitted Supplement No. 1 (Tabs 3 and 11), and the Comptroller determined the Application complete on May 14, 2020, the Application Review Start Date. The Application, Amendment No. 1 and Supplement No. 1 are hereafter collectively referred to as the "Application." A copy of the

Application and Comptroller's completeness letter of May 14, 2020 are collectively attached hereto as Attachment A.

The Texas Taxpayer Identification number for Swisher Solar Energy LLC is 32073450499. Swisher Solar Energy is an entity subject to Chapter 171 of the Texas Tax Code and is active and has the right to transact business in Texas, as represented by the Texas Comptroller of Public Accounts and as required by Texas Tax Code §313.024(a). *See* Attachments A, B and C.

The Board acknowledged receipt of the Application and necessary application fee, which was reasonable and did not exceed the estimated cost to the District for processing and acting on the Application, as established by §§313.025(a)(1) and 313.031(b) of the Texas Tax Code, 34 T.A.C. §9.1054(a), and Local District Policy. *See* Attachment A at Tab 2.

The Application was delivered to the Texas Comptroller's Office for review pursuant to §313.025(b) of the Texas Tax Code.

A copy of the Application was delivered to the Swisher County Appraisal District for review pursuant to 34 Texas Administrative Code §9.1054.

The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code §§313.024, 313.025 and 313.026. After receipt of the Application, the Texas Comptroller's Office caused an Economic Impact Analysis to be conducted. The Comptroller, pursuant to Texas Tax Code §313.025(h), determined the project subject to the Application meets the requirements for eligibility under Texas Tax Code §313.024 for a limitation on appraised value, and after reviewing the Application based on the criteria set out in Texas Tax Code § 313.026, issued a Certificate for a Limitation on Appraised Value on June 8, 2020 that the Application be approved (the "Certificate Decision"). *See* Attachment C. The Board of Trustees has carefully considered such Evaluation and Certificate Decision. Copies of the Certificate Decision and Economic Impact Analysis are attached to these Findings as Attachments C and D, respectively.

The Board also directed that a specific school financial analysis be conducted of the impact of the proposed value limitation on the finances of Kress Independent School District. A copy of a report prepared by McDowell School Finance Consulting, LLC and dated August 2, 2020, is attached to these Findings as Attachment E.

The Board has confirmed that the taxable value of industrial property applicable to the Swisher Solar Energy Application in the Kress Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403 of the Texas Government Code, fell within a rural school district, Category 3 of §313.054 of the Texas Tax Code at the time the Certificate Decision was issued. *See* the 2019 Final Property Value Study Report, "2019 ISD Summary Worksheet," attached hereto as Attachment G; *see also* Attachment D.

The District's Board of Trustees, by resolution dated September 15, 2020, granted Applicant's request to extend the statutory deadline by which the District must consider its Application until December 31, 2020. The Comptroller was provided notice of this extension, as set out under 34 Texas Administrative Code §9.1054(d). *See* Resolution authorizing extension of consideration period and notice to Applicant, collectively attached hereto as Attachment K.

After receipt of the completed Application, the District entered into negotiations with Swisher Solar Energy regarding the specific language to be included in the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes (the "Agreement") pursuant to Chapter 313 of the Texas Tax Code, including appropriate revenue protection provisions for the District pursuant to Section 48.256(d) of the Texas Education Code. The parties were able to agree upon language for inclusion into a draft agreement pursuant to Texas Tax Code §313.027. As required by the Comptroller's Office, the parties changed only the provisions of the template that the Comptroller permitted (Form 50-826, revised February 6, 2020). The proposed Agreement is attached to these Findings as Attachment H, and that form of the Agreement (as defined by 34. Tex. Admin. Code §9.1051 and adopted by §9.1052(a)(6)) was submitted to and approved by the Comptroller, as required by 34 Tex. Admin. Code §9.1055(e)(1). *See* copy of October 27, 2020, Agreement Review Letter from the Comptroller, attached to these Findings as Attachment I.

After review of the Comptroller's Certificate Decision and Economic Impact Analysis, and in consideration of its own analysis of Swisher Solar Energy' Application and all other related documentation attached hereto, the Board makes the following additional Findings as follows:

Board Finding Number 1.

> ***Based on the Application and the Comptroller's Certificate Decision, the Property meets the requirements of Texas Tax Code §313.024 for eligibility for a limitation on appraised value under Texas Tax Code §313.024(b)(5) as a renewable energy electric generation project.***

In support of Finding Number 1, the Comptroller's Certificate Decision states:

> **Determination required by 313.025(h)**
>
> * * *
>
> Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.
>
> * * *
>
> 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.

See Attachment C. *See also* Attachment A (Tab 1, §6.2(5) and Tab 4) and Attachment D.

Board Finding Number 2.

> ***The project proposed by Applicant is reasonably likely to generate sufficient tax revenue 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.

In support of Finding Number 2, the Certificate Decision states:

> **Certification 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.

See Attachment C.

Also in support of Finding Number 2, the Comptroller's Economic Impact Analysis states:

> **Attachment B - Tax Revenue before 25th Anniversary of Limitation Start**
>
> This [table] 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.

[*see table on next page*]

	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.

See Attachment D (at Attachment B thereof).

Board Finding Number 3.

> ***The new qualifying jobs creation requirement under § 313.051(b) exceeds the industry standard for the number of employees reasonably necessary for the operation of the Applicant's facility described in the Application, and Applicant qualifies for a waiver of the new jobs requirement pursuant to § 313.025(f-1).***

In support of this Finding, Applicant submitted, as Tab 12 to its Application, information regarding the industry standard for the number of jobs for a project with qualified property of this size and

type. The Applicant states that solar projects create a large number of full-time, temporary jobs during the construction phase, but these jobs require a small number of highly skilled technicians to operate the solar project once construction operations end and commercial operations have been established. The permanent employees of a solar energy project maintain and solar panels, mounting racks, underground electrical connections, substations and related infrastructure. Applicant further states that the industry standard for the minimum full-time job requirements to operate solar facilities such as those Invenergy owns is approximately 1 full-time job per 250MW of nameplate capacity, and it will commit to creating one (1) full-time position to fill those needs for this proposed 112 MW project. A review of other Chapter 313 agreements and findings posted on the Texas Comptroller's website indicates that an industry standard of one (1) qualified job per 250MW is consistent with other applications and projects certified by the Comptroller. Therefore, the number of jobs for which Applicant has committed is consistent with industry standards for renewable energy facilities. A copy of Tab 12 submitted with the Application is attached hereto as Attachment J.

See also Attachments A (Tab 4), and D.

Board Finding Number 4.

> ***The Applicant will create one (1) new qualifying job, which Applicant affirms will meet all of the requirements set out in Texas Tax Code §313.021(3), including: (1) at least 1,600 hours of work per year; (2) provision of group health benefit plan with at least 80% of the premium paid by Applicant; (3) pay an annual wage of $44,402 ($854[1] per week), an amount equal to at least 110% of the County average weekly wage for manufacturing jobs as defined under §313.021(5)(A); (4) are not created to replace a previous employee; and (5) are not transferred from another area of Texas to the project described the Application.***

See Attachments A, D and J.

Board Finding Number 5.

> ***The Applicant does not intend to create any non-qualifying jobs.***

In its application, Applicant indicates that it does not intend to create any non-qualifying jobs. But, for any non-qualifying job which the Applicant may create, the Applicant will be required to pay at least $733 per week, which exceeds the county average wage for all jobs in the County, in accordance with the provisions of Texas Tax Code §313.024(d). *See* Attachments A and D.

[1] The weekly wage in the Comptroller's Economic Impact Analysis is rounded up from the amount stated in the application ($853.88).

Board Finding Number 6.

> ***The ability of the Applicant to locate the proposed renewable energy facility in another state or another region of this state is significant because of the highly competitive marketplace for electricity and economic development. Therefore, the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in Texas and Kress ISD.***

See Attachment C.

In support of Finding Number 6, the Comptroller's Certificate states, "[t]he 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." The Comptroller's Economic Impact Analysis further notes:

- 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.

The Economic Impact Analysis, at Attachment C, also references the following supporting information from Tab 5 of the Application:

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."

See Attachment D (at Attachment C thereof).

Board Finding Number 7.

> ***The proposed limitation on appraised value for the qualified property is $20,000,000.***

The Comptroller's Minimum School District Limitation Values Report, effective as of January 1, 2020, provides that the District is a Subchapter C, Category 3 District under Texas Tax Code §313.054, with a minimum limitation of $20,000,000. *See* Attachments A and D.

Board Finding Number 8.

> ***The revenue gains that will be realized by the school district if the Application is approved will be significant in the long term, with special reference to revenues used for supporting school district debt.***

In support of this Finding, McDowell School Finance Consulting, LLC estimates in the District's Financial Impact Report, based on the property values recited Swisher Solar Energy' Application, that the project would add $74,480,000 to the tax base at the peak investment level for tax year 2024 (school year 2024-2025). The additional project value is fully taxable for debt service taxes and can be used to meet any current or future debt needs serviced by an interest and sinking fund tax of the District. *See* Tables I and II of Attachment E. *See also* Schedule B (Tab 14) of Attachment A, and Table 4 of Attachment D. In addition, the potential revenue gains that the District is eligible to receive as Supplemental Payments provided for in the proposed Agreement are estimated to be $800,000. *See* Attachment H at Sections 6.1 and 6.2, and Table VI of Attachment E.

Board Finding Number 9.

> ***The effect of the Applicant's proposed project is not expected to increase the District's instructional facility needs. Kress ISD can accommodate the student growth anticipated from Applicant's project with its existing facilities.***

In support of this finding, the District's Financial Impact Report states:

> Swisher Solar Energy, LLC provided supplemental information with their application that projected the number of full-time employees that are expected for permanent employment after construction of the project is completed. They projected that one employee is expected. It is not known whether these would be new employees [sic] to the Kress ISD, or if current residents would occupy these positions [sic]; however, it is assumed that these employees would be new residents to the district.
>
> Based on average statewide figures provided by a demographer, it is projected that each new household would produce .5 students. Thus, the new one position equates to 1 new student.
>
> This projected student growth can be accommodated with the current facilities of Kress ISD….

See Table VII of Attachment E. *See also* TEA's Facilities Impact Review Letter at Attachment F.

Board Finding Number 10.

The projected dollar amount of the maintenance and operations taxes that would be imposed on the qualified property for each year of the Agreement if the property does not receive a limitation on appraised value, based on the further depreciations of investment provided by Applicant, is shown in Table II of Attachment E (column labeled "Taxes w/o Agreement"), and is further based on the assumption that the projected total maintenance and operations tax rate per $100 in valuation in each year of the Agreement will be as indicated in Table II.

TABLE II- Computation of Net Tax Savings:

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
2020-2021	1.0618	0.267	0	0	0	0
2021-2022	1.0548	0.184	0	0	0	0
2022-2023	1.0415	0.185	0	0	0	0
2023-2024	1.0415	0.183	10,415	0	0	0
2024-2025	1.0415	0.110	775,742	567,433	(673,403)	(105,970)
2025-2026	1.0372	0.113	710,578	503,147	0	503,147
2026-2027	1.0328	0.117	641,077	434,518	0	434,518
2027-2028	1.0285	0.121	566,802	361,111	0	361,111
2028-2029	1.0241	0.125	487,487	282,661	0	282,661
2029-2030	1.0198	0.134	402,712	198,745	0	198,745
2030-2031	1.0156	0.140	312,059	108,949	0	108,949
2031-2032	1.0113	0.148	215,042	12,783	0	12,783
2032-2033	1.0071	0.155	161,129	0	0	0
2033-2034	1.0028	0.153	160,455	0	0	0
2034-2035	0.9986	0.154	159,783	0	0	0
2035-2036	0.9945	0.000	159,115	0	0	0
2036-2037	0.9903	0.000	158,450	0	0	0
2037-2038	0.9862	0.000	157,788	0	0	0
2038-2039	0.9821	0.000	157,130	0	0	0
Totals			**5,235,764**	**2,469,345**	**(673,403)**	**1,795,942**

See also Table 3 of Attachment D[2].

Board Finding Number 11.

The projected dollar amount of the maintenance and operations taxes that would be imposed on the qualified property, for each year of the Agreement, if the property does receive a limitation on appraised value with the projected depreciations of investment, is discernible from Table II of Attachment E (subtracting the amounts in the column labeled "Tax Savings with Agreement" from the column labeled "Taxes w/o Agreement"), and is based on the assumption that the projected total maintenance and operations tax rate per $100 in valuation in each year of the Agreement will be as indicated in Table II.

[2] The estimated M&O tax rates provided by McDowell School Finance Consulting are compressed according to HB 3 of the Texas Legislature's 86th Regular Session.

TABLE II- Computation of Net Tax Savings:

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
2020-2021	1.0618	0.267	0	0	0	0
2021-2022	1.0548	0.184	0	0	0	0
2022-2023	1.0415	0.185	0	0	0	0
2023-2024	1.0415	0.183	10,415	0	0	0
2024-2025	1.0415	0.110	775,742	567,433	(673,403)	(105,970)
2025-2026	1.0372	0.113	710,578	503,147	0	503,147
2026-2027	1.0328	0.117	641,077	434,518	0	434,518
2027-2028	1.0285	0.121	566,802	361,111	0	361,111
2028-2029	1.0241	0.125	487,487	282,661	0	282,661
2029-2030	1.0198	0.134	402,712	198,745	0	198,745
2030-2031	1.0156	0.140	312,059	108,949	0	108,949
2031-2032	1.0113	0.148	215,042	12,783	0	12,783
2032-2033	1.0071	0.155	161,129	0	0	0
2033-2034	1.0028	0.153	160,455	0	0	0
2034-2035	0.9986	0.154	159,783	0	0	0
2035-2036	0.9945	0.000	159,115	0	0	0
2036-2037	0.9903	0.000	158,450	0	0	0
2037-2038	0.9862	0.000	157,788	0	0	0
2038-2039	0.9821	0.000	157,130	0	0	0
Totals			**5,235,764**	**2,469,345**	**(673,403)**	**1,795,942**

See also Table 4 of Attachment D. *See* note 2, *supra.*

Board Finding Number 12.

> ***Based upon the Applicant's certification that the Application is true and correct, the Comptroller's Economic Impact Analysis, the Comptroller's Certificate Decision, and the consultants' review of these and other documents, the Board has determined that the information provided by the Applicant in its Application was true and correct when submitted.***

Upon acceptance of the Application, the District requested the Comptroller to undertake an economic impact evaluation and retained certain consultants to help the Board determine: (1) that Applicant's information contained in the Application as to existing facts is true and correct; (2) that Applicant's information contained in the Application with respect to projections of future events are commercially reasonable and within the ability of Applicant to execute; (3) that information related to job creation is commercially reasonable and within the ability of Applicant to execute; (4) that Applicant's representations concerning the economic incentives available are a determining factor; and, (5) the proposed project meets eligibility requirements for an Agreement under Tax Code Chapter 313.

As a part of its review process, the Board notes that the Application was submitted by Applicant under oath. A Chapter 313 application is a governmental record under Tex. Penal Code §37.01(2)(A), and all representations contained therein are statements of fact within the meaning

of Tex. Penal Code §37.01(3). Since Board action upon the adoption of these Findings and the approval of the Agreement (Attachment H) is an "official proceeding," a false statement in the Application would constitute perjury under Texas Penal Code §37.03 and a material breach of the Agreement.

The Board finds that sworn statements are routinely relied upon by fact finders in official governmental proceedings. The Board further finds that reliance upon verified statements of the Applicant, especially as to Applicant's future intentions which cannot be objectively verified, is reasonable and within the intent of Chapter 313, Texas Tax Code. *See* Attachments A, B, C and D.

Board Finding Number 13.

> ***The Applicant (Taxpayer Id. 32073450499) is eligible for the limitation on appraised value of qualified property as specified in the Agreement based on the Comptroller's acknowledgment that Applicant's right to transact business in Texas is active as a franchise-tax paying entity subject to taxes imposed by Chapter 171 of the Texas Tax Code.***

See Attachments A, B and C.

Board Finding Number 14.

> ***The project will be located within an area that is currently designated as a reinvestment zone pursuant to Chapter 312 and as permitted by Chapter 313 of the Texas Tax Code. Should it be required, the District will cooperate with the Applicant's efforts to ensure that the area remains designated as a reinvestment zone for so long as the law allows.***

See Attachment A (Tabs 11 and 16).

Board Finding Number 15.

> ***Per Applicant's certification in its Application, no construction of Qualified Property has begun on the project site, which is scheduled to begin in the fourth quarter of 2022.***

See Attachment A (§§7.2 and 9.2 of Tab 1).

Board Finding Number 16.

> ***The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, meets all the requirements set out in***

Texas Tax Code §313.027, including adequate and appropriate revenue protection provisions for the District.

In support of this Finding and based on the information provided and certified by Applicant in its Application, the District's Financial Impact Analysis demonstrates, pursuant to current school finance law (including Texas Education Code §48.256(d)), that the District is projected to receive revenue protection payments in tax year 2024 (school year 2024-25) in the estimated amount of $673,403. Therefore, any potential negative consequences of granting the value limitation are offset through the revenue protection provisions agreed to by the Applicant and the District as set out in the Agreement. *See* Table II in Attachment E, and proposed Agreement, Article IV, at Attachment H.

Board Finding Number 17.

The Board finds that there are no conflicts of interest at the time of its consideration of the Agreement.

In support of this Finding, the Board finds that it has taken appropriate action to ensure that all District Trustees and the Superintendent have disclosed any potential conflicts of interest, and that disclosures will be made if any conflict of interest is discovered or arises in the future, in compliance with the requirements of Texas Local Government Code, Chapters 171 and 176.

The Board further finds that it has taken appropriate action to ensure that all other applicable District employees and/or consultants have disclosed any potential conflicts of interest, and that disclosures will be made if any conflict of interest is discovered or arises in the future, in compliance with the requirements of Texas Local Government Code, Chapters 171 and 176.

The Board further finds that it is unaware that any conflict exists as to the Application for which these Findings are being made, as of the time of action on these Findings.

Board Finding Number 18.

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

See Attachment D.

Board Finding Number 19.

The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, is in the form of the January, 2020

template Texas Economic Development Act Agreement adopted by the Comptroller, as of February 6, 2020, and the Comptroller has verified that the Agreement complies with the provisions of Chapter 313 of the Texas Tax Code and 34 T.A.C. Chapter 9, Subchapter F.

See Attachment I.

IT IS THEREFORE ORDERED, that all of the Findings above, including the recitals and statements set out in the Preamble herein, are adopted and approved as the Findings of the Kress Independent School District Board of Trustees, and the Board of Trustees has made the above factual Findings in accordance with the Texas Tax Code § 313.025(e) and (f) and Texas Administrative Code 34, Chapter 9, subchapter F; and,

IT IS FURTHER ORDERED that the Application attached hereto as Attachment A is hereby APPROVED; and,

IT IS FURTHER ORDERED that the new jobs requirement pursuant to §313.051(b) is hereby WAIVED; and,

IT IS FURTHER ORDERED that the Agreement attached hereto as Attachment H is APPROVED contemporaneously with these Findings and is hereby authorized to be executed and delivered by the Trustees whose signatures appear below on behalf of the Kress Independent School District, along with a copy of these Findings, which shall be binding upon the parties upon receipt of an executed original of the Agreement from Applicant; and,

IT IS FURTHER ORDERED that these Findings and the Attachments referenced herein be made a part of the official minutes of this meeting, and maintained in the permanent records of the Kress Independent School District Board of Trustees.

[*signatures follow on next page*]

Dated this 12th day of November, 2020.

Kress Independent School District

By _____
Signature

Tiffany Reed Board President
Printed Name and Title

Attest:

By _____
Signature

Nicole Aguilera Board Secretary
Printed Name and Title

LIST OF ATTACHMENTS

Attachment	*Description*
A	Application and Comptroller's Completeness Letter
B	Applicant's Franchise Tax Account Status
C	Comptroller's Certificate Letter
D	Comptroller Economic Impact Analysis
E	District's Financial Impact Analysis
F	TEA's Facilities Impact Letter
G	Comptroller's 2019 Property Value Study Report, "ISD Summary Worksheet"
H	Proposed Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes
I	Comptroller's October 27, 2020 Agreement Review Letter
J	Job Waiver Request
K	Extension Notice and Resolution

DocuSign Envelope ID: 1208240C-E45D-4B62-9C49-7147B866FAE2

GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

May 14, 2020

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

Re: Application 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 March 12, 2020, the Comptroller's office received Swisher Solar Energy LLC's (applicant) application for a limitation on appraised value (Application 1478) from Kress Independent School District (school district).

The purpose of this letter is to inform you that the Comptroller's office has reviewed the submitted application and determined that it includes the information necessary to be determined as complete on May 14, 2020.

Texas Tax Code §313.025(d) directs the Comptroller's office to issue a certificate for a limitation on the appraised value of the property, or provide the governing body of the school district with a written explanation of the Comptroller's decision to not issue a certificate no later than the 90th day after receiving the completed application. The requirements to determine eligibility and to issue a certificate for a limitation do not begin until an application is complete as determined by this agency. The Comptroller's office will move forward with our economic impact evaluation and will send a letter of determination to the school district and the applicant.

This letter does not constitute a review of the application under Section 313.025(h) to determine if the project meets the requirements of Section 313.024 for eligibility for a limitation on appraised value. Likewise, this letter does not address the determinations required under Section 313.026(c).

Should you have any questions, please contact Ginger Flowers with our office. She can be reached by email at ginger.flowers@cpa.texas.gov or by phone toll-free at 1-800-531-5441, ext 5-0552 or at 512-475-0552.

Sincerely,

DocuSigned by:
Will Counihan
45D47260A6AB46C...

Will Counihan
Director
Data Analysis & Transparency Division

cc: Fred Stormer, Underwood Law Firm, P.C.
James Williams, Invenergy, LLC
Julia Kimmerly, Invenergy, LLC
Evan Horn, Ernst & Young, LLP

See Application documents
(Comptroller No. 1478)
posted on Comptroller Website:
Application (posted 4/9/20)
Amendment No. 1 (posted 4/24/20)
and Supplement No. 1 (posted 5/7/20)

Franchise Tax Account Status

As of : 10/30/2020 15:42:27

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

SWISHER SOLAR ENERGY LLC	
Texas Taxpayer Number	32073450499
Mailing Address	1999 BRYAN ST STE 900 DALLAS, TX 75201-3140
Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	02/13/2020
Texas SOS File Number	0803546765
Registered Agent Name	C T CORPORATION SYSTEM
Registered Office Street Address	1999 BRYAN ST. SUITE 900 DALLAS, TX 75201

KISD-FOF 092

See Certification Packet
(Comptroller No. 1478)
posted on Comptroller Website on 8/21/20

See Certification Packet
(Comptroller No. 1478)
posted on Comptroller Website on 8/21/20

Summary of the District's Financial Impact of Chapter 313 Agreement with Swisher Solar Energy, LLC

August 2, 2020

MCDOWELL
School Finance
CONSULTING

Summary of Kress ISD Financial Impact

of the

Limited Appraised Value Application

from

Swisher Solar Energy, LLC

Introduction

Swisher Solar Energy, LLC applied for a property value limitation from Kress Independent School District under Chapter 313 of the Tax Code. The application was submitted on March 10, 2020 and subsequently approved for consideration by the Kress ISD Board of Trustees. Swisher Solar Energy, LLC ("Swisher Solar"), is requesting the property value limitation as a "renewable energy electric generation" project as listed in Sec. 313.024.(b) of the Tax Code.

"The Economic Development Act ", Tax Code Chapter 313, was created by House Bill 1200 of the 77th Texas Legislature in 2001. Further amendments were made to Chapter 313 as a result of House Bill 1470 from the 80th Texas Legislative Session in 2007 and additionally House Bill 3390 from the 83rd Legislative Session.

The Economic Development Act was created to attract qualifying businesses to Texas by allowing school districts the option of approving a property value limitation to these qualifying entities. The purpose of the property value limitation is to reduce the maintenance and operations taxes paid by the company, to a school district during the applicable years as displayed below:

The company must file an application with the school district to qualify for consideration of a Limited Appraised Value Agreement ("LAVA" or "Agreement") to begin the following tax year or a later year if agreed upon by the District and the Company.

Years Prior to Start of Value Limitation Period:

The tax years prior to the start of the value limitation period are considered the "Prior to Start of Value Limitation Period" and the company's school district taxes will be levied at one-hundred percent of the appraised value. The applicant has requested that tax years 2021, 2022 & 2023 are the years that are Prior to the Start of Value Limitation Period.

Value Limitation Period:

During the ten years of the Value Limitation Period, the qualifying entity's taxable value will be reduced to the Minimum Limitation Amount for the applicable school district as determined by the State Comptroller's Office. Kress ISD is considered a Rural category 3 District as categorized with total taxable value of industrial property of at least $1 million but less than $90 million. Thus, Kress ISD has a Minimum Qualified Investment amount of $10 million and a Minimum Limitation Amount of $20 million. A qualifying entity's taxable value would be reduced to $20 million during this ten year period of the agreement for the purposes of computing the tax levy for the maintenance and operations (M&O) tax of Kress ISD. The entire appraised value will be used for computing the interest and sinking (I&S) tax levy. The applicant has requested that the Value Limitation Period to begin in tax year 2024 and continue through tax year 2033.

Final Five Years of the Agreement – Continue to Maintain a Viable Presence:

Tax years 2034 through 2038 will be the final five years of the agreement and the applicant agrees to maintain a viable presence with this project during this time.

Taxable Value Projections from Application

The following data shows the projected taxable values that Swisher Solar reported in the application to the District:

	Year	School Year	Tax Year	Projected Taxable Value	Actual Taxable Value with Agreement
Each Year Prior to Start of Value Limitation Period	0	2021-2022	2021	$0	$0
	0	2022-2023	2022	$0	$0
	0	2023-2024	2023	$1,000,000	$1,000,000
Value Limitation Period	1	2024-2025	2024	$74,480,000	$20,000,000
	2	2025-2026	2025	$68,512,000	$20,000,000
	3	2026-2027	2026	$62,072,000	$20,000,000
	4	2027-2028	2027	$55,112,000	$20,000,000
	5	2028-2029	2028	$47,600,000	$20,000,000
	6	2029-2030	2029	$39,488,000	$20,000,000
	7	2030-2031	2030	$30,728,000	$20,000,000
	8	2031-2032	2031	$21,264,000	$20,000,000
	9	2032-2033	2032	$16,000,000	$16,000,000
	10	2033-2034	2033	$16,000,000	$16,000,000
Continue to Maintain Viable Presence	11	2034-2035	2034	$16,000,000	$16,000,000
	12	2035-2036	2035	$16,000,000	$16,000,000
	13	2036-2037	2036	$16,000,000	$16,000,000
	14	2037-2038	2037	$16,000,000	$16,000,000
	15	2038-2039	2038	$16,000,000	$16,000,000
Additional Years for 25 Year Economic Impact Study	16	2039-2040	2039	$16,000,000	$16,000,000
	17	2040-2041	2040	$16,000,000	$16,000,000
	18	2041-2042	2041	$16,000,000	$16,000,000
	19	2042-2043	2042	$16,000,000	$16,000,000
	20	2043-2044	2043	$16,000,000	$16,000,000
	21	2044-2045	2044	$16,000,000	$16,000,000
	22	2045-2046	2045	$16,000,000	$16,000,000
	23	2046-2047	2046	$16,000,000	$16,000,000
	24	2047-2048	2047	$16,000,000	$16,000,000
	25	2048-2049	2048	$16,000,000	$16,000,000

Taxable Value Impact from LAVA

The "Additional Value from Swisher Solar" represents the values that the company estimated as their taxable values in the application that was filed with the district. During tax years 2024 through 2033, the company's taxable value will be limited to the $20,000,000 Minimum Limitation Amount of Kress ISD.

TABLE I- Calculation of Taxable Value:

Tax Year	Additional Value From Swisher Solar	Minimum Limitation Amount	Abated Value	Taxable Value
Jan. 1, 2021	0	n/a	0	0
Jan. 1, 2022	0	n/a	0	0
Jan. 1, 2023	1,000,000	n/a	0	1,000,000
Jan. 1, 2024	74,480,000	(20,000,000)	54,480,000	20,000,000
Jan. 1, 2025	68,512,000	(20,000,000)	48,512,000	20,000,000
Jan. 1, 2026	62,072,000	(20,000,000)	42,072,000	20,000,000
Jan. 1, 2027	55,112,000	(20,000,000)	35,112,000	20,000,000
Jan. 1, 2028	47,600,000	(20,000,000)	27,600,000	20,000,000
Jan. 1, 2029	39,488,000	(20,000,000)	19,488,000	20,000,000
Jan. 1, 2030	30,728,000	(20,000,000)	10,728,000	20,000,000
Jan. 1, 2031	21,264,000	(20,000,000)	1,264,000	20,000,000
Jan. 1, 2032	16,000,000	(16,000,000)	0	16,000,000
Jan. 1, 2033	16,000,000	(16,000,000)	0	16,000,000
Jan. 1, 2034	16,000,000	n/a	0	16,000,000
Jan. 1, 2035	16,000,000	n/a	0	16,000,000
Jan. 1, 2036	16,000,000	n/a	0	16,000,000
Jan. 1, 2037	16,000,000	n/a	0	16,000,000
Jan. 1, 2038	16,000,000	n/a	0	16,000,000

Swisher Solar's Tax Benefit from Agreement

The projected amount of the net tax savings for Swisher Solar is $1.795 million over the life of the Agreement. This net savings is after all tax savings and after estimated payments have been made to the district to offset their revenue losses that were a direct result of entering into this Agreement.

Kress ISD projected tax rates for maintenance & operations (M&O) and interest & sinking (I&S) are based on the following assumptions:

- The District has held a tax ratification election and the study projects that it will maintain the maximum M&O tax rate allowable that doesn't require an additional voter election for the life of this agreement.
- The district has outstanding bonds that are scheduled to payoff in 2035 and currently have a $.25 I&S tax rate. This district's annual debt payment is currently approx. $204,000 per year. The debt rates below are calculated rates using the projected taxable values with the addition of Swisher Solar estimated taxable values. The district could pursue a bond election and issue additional bonded debt during the life of this agreement.

TABLE II- Computation of Net Tax Savings:

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
2020-2021	1.0618	0.267	0	0	0	0
2021-2022	1.0548	0.184	0	0	0	0
2022-2023	1.0415	0.185	0	0	0	0
2023-2024	1.0415	0.183	10,415	0	0	0
2024-2025	1.0415	0.110	775,742	567,433	(673,403)	(105,970)
2025-2026	1.0372	0.113	710,578	503,147	0	503,147
2026-2027	1.0328	0.117	641,077	434,518	0	434,518
2027-2028	1.0285	0.121	566,802	361,111	0	361,111
2028-2029	1.0241	0.125	487,487	282,661	0	282,661
2029-2030	1.0198	0.134	402,712	198,745	0	198,745
2030-2031	1.0156	0.140	312,059	108,949	0	108,949
2031-2032	1.0113	0.148	215,042	12,783	0	12,783
2032-2033	1.0071	0.155	161,129	0	0	0
2033-2034	1.0028	0.153	160,455	0	0	0
2034-2035	0.9986	0.154	159,783	0	0	0
2035-2036	0.9945	0.000	159,115	0	0	0
2036-2037	0.9903	0.000	158,450	0	0	0
2037-2038	0.9862	0.000	157,788	0	0	0
2038-2039	0.9821	0.000	157,130	0	0	0
Totals			**5,235,764**	**2,469,345**	**(673,403)**	**1,795,942**

Financial Impact Study

This Financial Impact Study was performed to determine the financial impact of the Limited Appraised Value Agreement on Kress ISD. First, a seventeen year financial forecast was prepared to establish a baseline without the added values of the renewable energy electric generation company. Second, a seventeen year financial forecast was prepared that incorporated the additional taxable value of the company without a LAVA in effect. Third, a seventeen year financial forecast was prepared that incorporates the additional taxable value of the company with an approved LAVA. These three forecasts are detailed in the "Calculation of LAVA Impact on District's Finances" section. The following assumptions were used to compare the financial impact of the LAVA:

- The current state funding formulas (in effect for 2019-2020 fiscal year) were used for state aid and recapture calculation purposes
  - Tier I - Basic Allotment of $6,160 multiplied by the number of students in average daily attendance (ADA).
  - Level 1 of Tier II yield - $98.56 - per weighted student in average daily attendance (WADA) per penny of tax effort
  - Level 2 of Tier II yield - $49.28 – per WADA per penny of tax effort
- Use of current year property values for state funding calculations.
- Use of prior year property values for revenue protection payment calculations in accordance with Article IV of the Agreement.
- The district's tax rate for maintenance & operations (M&O) for 2018-19 of $1.17 was compressed to $1.0684 for 2019-20 and is projected to decrease based on estimated statewide property tax growth. No future tax ratification elections are projected in the calculations.
- An annual taxable value increase of .5% was used to project the district's taxable value, except as it related to the requested LAVA. The district's 2019 taxable value was used as a baseline for all projections.
- The district's enrollment is projected to decrease; therefore, the projected ADA and WADA for school year 2019-2020 was decreased by .25% per year for the life of the agreement.

Although these assumptions were used to develop a baseline scenario for comparison purposes, many of these factors will not remain constant for the years of this proposed agreement. Also, Legislative changes to the school finance formulas are almost certain during the life of this agreement.

Calculation of LAVA Impact on District's Finances

The tables displayed below (Table III, IV, V) show the different impacts on the school district's finances. These scenarios were computed to compare the District's revenue without the additional taxable value of Swisher Solar (Table III), the addition of Swisher Solar's taxable values without a Chapter 313 Agreement (Table IV), and the addition of Swisher Solar's taxable values with a Chapter 313 Agreement (Table V).

TABLE III – District Revenues *without* Swisher Solar, LLC:

Fiscal Year	Total Taxable Value	Total M&O Taxes	State Revenue Tier I	State Revenue Tier II	Total State Revenue	Recapture Payment	Total District Revenue
2020-2021	109,000,000	1,135,240	2,026,810	368,980	2,395,790	0	3,531,030
2021-2022	109,545,000	1,126,684	2,028,983	367,069	2,396,052	0	3,522,736
2022-2023	110,092,725	1,132,217	2,022,651	366,080	2,388,731	0	3,520,948
2023-2024	110,643,189	1,137,778	2,004,550	363,061	2,367,611	0	3,505,389
2024-2025	111,196,405	1,138,729	1,995,609	360,904	2,356,513	0	3,495,242
2025-2026	111,752,387	1,139,553	1,992,535	359,413	2,351,948	0	3,491,501
2026-2027	112,311,149	1,140,467	1,986,339	357,714	2,344,053	0	3,484,520
2027-2028	112,872,704	1,141,251	1,973,232	354,689	2,327,921	0	3,469,172
2028-2029	113,437,068	1,142,126	1,967,568	352,959	2,320,527	0	3,462,653
2029-2030	114,004,253	1,143,092	1,958,549	350,765	2,309,314	0	3,452,406
2030-2031	114,574,274	1,143,929	1,955,476	349,265	2,304,741	0	3,448,670
2031-2032	115,147,146	1,144,858	1,946,499	347,060	2,293,559	0	3,438,417
2032-2033	115,722,881	1,145,655	1,937,542	344,731	2,282,273	0	3,427,928
2033-2034	116,301,496	1,146,545	1,929,110	342,504	2,271,614	0	3,418,159
2034-2035	116,883,003	1,147,529	1,921,466	340,519	2,261,985	0	3,409,514
2035-2036	117,467,418	1,148,381	1,913,608	338,186	2,251,794	0	3,400,175
2036-2037	118,054,755	1,149,328	1,910,791	336,906	2,247,697	0	3,397,025
2037-2038	118,645,029	1,150,256	1,901,823	334,667	2,236,490	0	3,386,746
2038-2039	119,238,254	1,151,166	1,892,006	332,180	2,224,186	0	3,375,352

TABLE IV- District Revenues *with* Swisher Solar, LLC *without* Chapter 313 Agreement:

Fiscal Year	Total Taxable Value	Total M&O Taxes	State Revenue Tier I	State Revenue Tier II	Total State Revenue	Recapture Payment	Total District Revenue
2020-2021	109,000,000	1,135,240	2,026,810	368,980	2,395,790	0	3,531,030
2021-2022	109,545,000	1,126,684	2,028,983	367,069	2,396,052	0	3,522,736
2022-2023	110,092,725	1,132,217	2,022,651	366,080	2,388,731	0	3,520,948
2023-2024	111,643,189	1,147,881	1,995,520	361,693	2,357,213	0	3,505,094
2024-2025	185,676,405	1,726,145	1,493,181	257,285	1,750,466	0	3,476,611
2025-2026	180,264,387	1,676,415	1,533,889	264,055	1,797,944	0	3,474,359
2026-2027	174,383,149	1,622,374	1,575,323	271,351	1,846,674	0	3,469,048
2027-2028	167,984,704	1,563,580	1,614,005	277,808	1,891,813	0	3,455,393
2028-2029	161,037,068	1,499,739	1,664,660	286,306	1,950,966	0	3,450,705
2029-2030	153,492,253	1,430,411	1,716,768	295,432	2,012,200	0	3,442,611
2030-2031	145,302,274	1,355,155	1,780,245	306,434	2,086,679	0	3,441,834
2031-2032	136,411,146	1,273,456	1,843,238	317,114	2,160,352	0	3,433,808
2032-2033	131,722,881	1,230,377	1,872,229	322,306	2,194,535	0	3,424,912
2033-2034	132,301,496	1,235,693	1,859,232	320,082	2,179,314	0	3,415,007
2034-2035	132,883,003	1,241,037	1,846,977	317,987	2,164,964	0	3,406,001
2035-2036	133,467,418	1,246,407	1,834,695	315,888	2,150,583	0	3,396,990
2036-2037	134,054,755	1,251,804	1,827,172	314,609	2,141,781	0	3,393,585
2037-2038	134,645,029	1,257,228	1,813,450	312,261	2,125,711	0	3,382,939
2038-2039	135,238,254	1,262,679	1,798,950	309,456	2,108,406	0	3,371,085

TABLE V – District Revenues *with* Swisher Solar, LLC *with* Chapter 313 Agreement:

Fiscal Year	Total Taxable Value	Total M&O Taxes	State Revenue Tier I	State Revenue Tier II	Total State Revenue	Recapture Payment	Payment for District Losses	Total District Revenue
2020-2021	109,000,000	1,135,240	2,026,810	368,980	2,395,790	0	0	3,531,030
2021-2022	109,545,000	1,126,684	2,028,983	367,069	2,396,052	0	0	3,522,736
2022-2023	110,092,725	1,132,217	2,022,651	366,080	2,388,731	0	0	3,520,948
2023-2024	111,643,189	1,147,881	1,995,520	361,693	2,357,213	0	0	3,505,094
2024-2025	131,196,405	1,225,539	1,933,782	332,967	2,266,749	0	673,403	4,165,691
2025-2026	131,752,387	1,230,648	1,926,303	331,625	2,257,928	0	0	3,488,576
2026-2027	132,311,149	1,235,782	1,915,644	329,804	2,245,448	0	0	3,481,230
2027-2028	132,872,704	1,240,942	1,898,026	326,784	2,224,810	0	0	3,465,752
2028-2029	133,437,068	1,246,128	1,887,917	325,058	2,212,975	0	0	3,459,103
2029-2030	134,004,253	1,251,340	1,874,406	322,746	2,197,152	0	0	3,448,492
2030-2031	134,574,274	1,256,577	1,867,023	321,490	2,188,513	0	0	3,445,090
2031-2032	135,147,146	1,261,841	1,853,462	318,838	2,172,300	0	0	3,434,141
2032-2033	135,722,881	1,267,132	1,839,873	316,515	2,156,388	0	0	3,423,520
2033-2034	136,301,496	1,272,449	1,826,876	314,294	2,141,170	0	0	3,413,619
2034-2035	132,883,003	1,241,037	1,846,977	317,987	2,164,964	0	0	3,406,001
2035-2036	133,467,418	1,246,378	1,834,695	315,888	2,150,583	0	0	3,396,961
2036-2037	134,054,755	1,251,775	1,827,172	314,609	2,141,781	0	0	3,393,556
2037-2038	134,645,029	1,257,199	1,813,450	312,261	2,125,711	0	0	3,382,910
2038-2039	135,238,254	1,262,650	1,798,950	309,456	2,108,406	0	0	3,371,056

Current School Finance Law

A major overhaul of the school finance formulas was implemented as a result of House Bill 3 of the 86th Legislative Session and became effective for the 2019-2020 school year. The primary intent of the new legislation is to reduce maintenance & operations "M&O" tax rate and cooperatively reduce district's recapture payments; thus, increasing the State's share of school district funding. The maximum M&O tax rate prior to the Legislative Session was $1.17 and that rate was reduced to a maximum rate of $1.06835 for the 2019-2020 school year. The maximum tax rate is expected to continue to be compressed lower when statewide property values increase at a rate greater than 2.5% per year or also when a school district's property values increase by more than 2.5%. However, a school district's M&O tax rate can't be reduced to a rate lower than 90% of the maximum allowable Tier I rate for the respective year.

Prior to the 86th Legislative Session and the passage of House Bill 3, school finance law required the use of a district's prior year property values for the calculation of property wealth. House Bill 3 changed school finance law and now requires a district's current year property values for the property wealth calculation; however, it also contains language for the calculation of revenue protection payments for Chapter 313 Agreements using prior year values in Section 48.256(d) as follows:

(d) This subsection applies to a school district in which the board of trustees entered into a written agreement with a property owner under Section 313.027, Tax Code, for the implementation of a limitation on appraised value under Subchapter B or C, Chapter 313, Tax Code. For purposes of determining "DPV" under Subsection (a) for a school district to which this subsection applies, the commissioner shall exclude a portion of the market value of property not otherwise fully taxable by the district under Subchapter B or C, Chapter 313, Tax Code, before the expiration of the subchapter. The comptroller shall provide information to the agency necessary for this subsection. A revenue protection payment required as part of an agreement for a limitation on appraised value shall be based on the district's taxable value of property for the preceding tax year.

Supplemental Payments

Assuming that the District and Swisher Solar, LLC mutually agree in the LAVA that the greater of $100 per student in average daily attendance (ADA) or $50,000, the projected amount of these payments over the life of the agreement is $800,000 of the $1.795 million net tax savings amount. This amount will be computed annually according to Section VI of the Agreement.

TABLE VI - Calculation of the Supplemental Payments:

Fiscal Year	Net Tax Savings	Kress ISD Supplemental	Swisher Solar Share
2020-2021	0	0	0
2021-2022	0	50,000	(50,000)
2022-2023	0	50,000	(50,000)
2023-2024	0	50,000	(50,000)
2024-2025	(105,970)	50,000	(155,970)
2025-2026	503,147	50,000	453,147
2026-2027	434,518	50,000	384,518
2027-2028	361,111	50,000	311,111
2028-2029	282,661	50,000	232,661
2029-2030	198,745	50,000	148,745
2030-2031	108,949	50,000	58,949
2031-2032	12,783	50,000	(37,217)
2032-2033	0	50,000	(50,000)
2033-2034	0	50,000	(50,000)
2034-2035	0	50,000	(50,000)
2035-2036	0	50,000	(50,000)
2036-2037	0	50,000	(50,000)
2037-2038	0	0	0
2038-2039	0	0	0
Totals	**1,795,942**	**800,000**	**995,942**

Impact of Projected Student Growth

On District Facilities

TABLE VII – Campus Capacity and Available Growth

Campus Name	Grade Level	# of Regular Classrooms	Building Capacity	Current Enrollment	Enrollment Growth Available
Kress Elementary	EE-6	20	440	159	281
Kress High	7-12	16	352	124	228
	Total	**36**	**792**	**283**	**509**

The building capacities are based on 22 students per classroom for early education through 6th grade and 22 student per classroom in grades 7-12. Kress ISD is an early-education through 12th grade district.

Swisher Solar Energy, LLC provided supplemental information with their application that projected the number of full-time employees that are expected for permanent employment after construction of the project is completed. They projected that one employee is expected. It is not known whether these would be new employees to the Kress ISD, or if current residents would occupy these positions; however, it is assumed that these employees would be new residents to the district.

Based on average statewide figures provided by a demographer, it is projected that each new household would produce .5 students. Thus, the new one position equates to 1 new student.

This projected student growth can be accommodated with the current facilities of Kress ISD as displayed in Table VII above.

Conclusion

This Financial Impact Study displays that entering into a Limited Appraised Value Agreement with Swisher Solar Energy, LLC, would be beneficial to both Swisher Solar and Kress ISD under the current school finance system.

Swisher Solar Energy, LLC would benefit from reduced property taxes during the ten years of the Value Limitation Period. Although some of the tax savings would be used to offset district's revenue losses and supplemental payments to the District, Swisher Solar is projected to benefit from a 55% tax savings during that ten year period of this Agreement. Swisher Solar also has the option of terminating the Agreement if the amount paid to the District during a tax year following the first year of the Limitation Period is greater than the amount of taxes that would have been paid without the Agreement; therefore, there is limited risk for the company from entering into the Agreement.

Kress ISD would have no inherent risk under the current school finance system and with the provisions in the LAVA that require Swisher Solar to offset any district losses caused by the LAVA. An annual calculation will be performed each year to determine if a loss to the District has been incurred. The revenue impact to the District will be computed by comparing the District's revenues with and without the LAVA in effect.

Texas Education Agency

Commissioner Mike Morath

1701 North Congress Avenue • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • tea.texas.gov

IMPORTANT: You must provide a copy of this letter to the law firm working on the value limitation agreement. Please keep this letter with your district's records.

May 15, 2020

Tiffany Reed, President
Board of Trustees
Kress Independent School District
200 E 5th Street
Kress, Texas 79052

Dear Ms. Reed:

As required by the Tax Code, §313.025 (b-1), the Texas Education Agency (TEA) has evaluated the impact of the proposed Swisher Solar Energy, LLC project #1478 on the number and size of school facilities in Kress Independent School District (KISD). Based on an examination of KISD enrollment and the number of potential new jobs, the TEA has determined that the Swisher Solar Energy, LLC project should not have a significant impact on the number or size of school facilities in KISD.

Please feel free to contact me by phone at (512) 463-8732 or by email at amy.copeland@tea.texas.gov if you have any questions.

Sincerely,

Amy Copeland

Amy Copeland
Director of State Funding

Cc: Leah Zeigler

COMPTROLLER.TEXAS.GOV

Glenn Hegar
Texas Comptroller of Public Accounts

Taxes

Property Tax Assistance

2019 ISD Summary Worksheet

219-Swisher

219-905/Kress ISD

Category	Local Tax Roll Value	2019 WTD Mean Ratio	2019 PTAD Value Estimate	2019 Value Assigned
A. SINGLE-FAMILY RESIDENCES	8,029,220	0.7074	11,350,325	11,350,325
B. MULTIFAMILY RESIDENCES	32,720	N/A	32,720	32,720
C1. VACANT LOTS	69,630	N/A	69,630	69,630
C2. COLONIA LOTS	14,000	N/A	14,000	14,000
D1. QUALIFIED AG LAND	19,910,497	1.1062	17,999,427	17,999,427
D2. REAL PROP:FARM & RANCH	1,148,867	N/A	1,148,867	1,148,867
E. REAL PROP NON QUAL ACREAGE	13,556,346	0.7326	18,504,431	18,504,431
F1. COMMERCIAL REAL	1,125,180	N/A	1,125,180	1,125,180
F2. INDUSTRIAL REAL	1,628,970	N/A	1,628,970	1,628,970
G. OIL,GAS,MINERALS	10,720	N/A	10,720	10,720
J. UTILITIES	84,034,950	0.9832	85,470,860	85,470,860
L1. COMMERCIAL PERSONAL	1,478,670	N/A	1,478,670	1,478,670
L2. INDUSTRIAL PERSONAL	1,931,840	N/A	1,931,840	1,931,840
M. MOBILE HOMES	567,770	N/A	567,770	567,770

KISD-FOF 120

N. INTANGIBLE PERSONAL PROP	0	N/A	0	0
O. RESIDENTIAL INVENTORY	0	N/A	0	0
S. SPECIAL INVENTORY	18,750	N/A	18,750	18,750
Subtotal	133,558,130	0	141,352,160	141,352,160
Less Total Deductions	7,644,877	0	10,528,713	10,528,713
Total Taxable Value	125,913,253	0	130,823,447	130,823,447

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302(J) AND(K) require the Comptroller to certify alternative measures of school district wealth.These measures are reported for taxable values for maintenance and operation(M & O) tax purposes and for interest and sinking fund(I & S) tax purposes.For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

Value Taxable For M & O Purposes

T1	T2	T3	T4
132,497,501	130,823,447	132,497,501	130,823,447

Loss To the Additional $10,000 Homestead Exemption	50% of the loss to the Local Optional Percentage Homestead Exemption
1,674,054	0

T1 = School district taxable value for M & O purposes before the loss to the additional $10,000 homestead exemption

T2 = School district taxable value for M & O purposes after the loss to the additional $10,000 homestead exemption and the tax ceiling reduction

KISD-FOF 121

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

Value Taxable For I & S Purposes

T7	T8	T9	T10
132,497,501	130,823,447	132,497,501	130,823,447

T7 = School district taxable value for I & S purposes before the loss to the additional $10, 000 homestead exemption

T8 = School district taxable value for I & S purposes after the loss to the additional $10, 000 homestead exemption and the tax
ceiling reduction

T9 = T7 minus 50 % of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50 % of the loss to the local optional percentage homestead exemption

THE PVS FOUND YOUR TAXABLE VALUE TO BE INVALID, AND STATE VALUE WAS CERTIFIED BECAUSE YOUR LOCAL VALUE DID NOT EXCEED THE STATE VALUE AND: 1) WAS INVALID IN ONE OR MORE OF THE PREVIOUS TWO YEARS OR 2) IS LESS THAN 90% OF THE LOWER END OF THE MARGIN OF ERROR RANGE OR 3) THE APPRAISAL DISTRICT THAT APPRAISES PROPERTY FOR THE SCHOOL DISTRICT WAS NOT IN COMPLIANCE WITH THE SCORING REQUIREMENT OF THE COMPTROLLER'S MOST RECENT REVIEW OF THE APPRAISAL DISTRICT CONDUCTED UNDER SECTION 5.102, TAX CODE (MAP REVIEW)

219-905-02/Kress ISD

Category	Local Tax Roll Value	2019 WTD Mean Ratio	2019 PTAD Value Estimate	2019 Value Assigned
A. SINGLE-FAMILY RESIDENCES	8,029,220	0.7074	11,350,325	11,350,325
B. MULTIFAMILY RESIDENCES	32,720	N/A	32,720	32,720

KISD-FOF 122

C1. VACANT LOTS	69,630	N/A	69,630	69,630
C2. COLONIA LOTS	14,000	N/A	14,000	14,000
D1. QUALIFIED AG LAND	19,910,497	1.1062	17,999,427	17,999,427
D2. REAL PROP:FARM & RANCH	1,148,867	N/A	1,148,867	1,148,867
E. REAL PROP NON QUAL ACREAGE	13,556,346	0.7326	18,504,431	18,504,431
F1. COMMERCIAL REAL	1,125,180	N/A	1,125,180	1,125,180
F2. INDUSTRIAL REAL	1,628,970	N/A	1,628,970	1,628,970
G. OIL,GAS,MINERALS	10,720	N/A	10,720	10,720
J. UTILITIES	84,034,950	0.9832	85,470,860	85,470,860
L1. COMMERCIAL PERSONAL	1,478,670	N/A	1,478,670	1,478,670
L2. INDUSTRIAL PERSONAL	1,931,840	N/A	1,931,840	1,931,840
M. MOBILE HOMES	567,770	N/A	567,770	567,770
N. INTANGIBLE PERSONAL PROP	0	N/A	0	0
O. RESIDENTIAL INVENTORY	0	N/A	0	0
S. SPECIAL INVENTORY	18,750	N/A	18,750	18,750
Subtotal	133,558,130		141,352,160	141,352,160
Less Total Deductions	7,644,877		10,528,713	10,528,713
Total Taxable Value	125,913,253		130,823,447	130,823,447

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302(J) AND(K) require the Comptroller to certify alternative measures of school district wealth.These measures are reported for taxable values for maintenance and operation(M & O) tax purposes and for interest and sinking fund(I & S) tax purposes.For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

KISD-FOF 123

Value Taxable For M & O Purposes

T1	T2	T3	T4
132,497,501	130,823,447	132,497,501	130,823,447

Loss To the Additional $10,000 Homestead Exemption	50 % of the loss to the Local Optional Percentage Homestead Exemption
1,674,054	0

T1 = School district taxable value for M & O purposes before the loss to the additional $10, 000 homestead exemption

T2 = School district taxable value for M & O purposes after the loss to the additional $10, 000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50 % of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50 % of the loss to the local optional percentage homestead exemption

Value Taxable For I & S Purposes

T7	T8	T9	T10
132,497,501	130,823,447	132,497,501	130,823,447

T7 = School district taxable value for I & S purposes before the loss to the additional $10, 000 homestead exemption

T8 = School district taxable value for I & S purposes after the loss to the additional $10, 000 homestead exemption and the tax
ceiling reduction

T9 = T7 minus 50 % of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50 % of the loss to the local optional percentage homestead exemption

KISD-FOF 124

See Agreement
(Comptroller No. 1478)
posted on Comptroller Website

DocuSign Envelope ID: 52CDE37C-1572-448B-9C2B-4E03D79CD005

GLENN HEGAR TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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

October 27, 2020

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

Re: Agreement 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:

This office has been provided with the Agreement 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 (Agreement). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

Based on our review, this office concludes that the Agreement complies with the provisions of Tax Code, Chapter 313 and 34 TAC Chapter 9, Subchapter F.

Should you have any questions, please contact Ginger Flowers with our office. She can be reached by email at ginger.flowers@cpa.texas.gov or by phone at 1-800-531-5441, ext. 5-0552, or at 512-475-0552.

Sincerely,

DocuSigned by:
8FDFC70F5753487...

Will Counihan
Director
Data Analysis & Transparency Division

cc: Fred Stormer, Underwood Law Firm, P.C.
James Williams, Invenergy, LLC
Julia Kimmerly, Invenergy, LLC
Evan Horn, Ernst & Young LLP

See Tab 12 in Application
(Comptroller No. 1478)
posted on Comptroller Website on 4/9/20

Kress Independent School District
200 E. 5th Street
Kress, Texas 79052
Leah Zeigler, Superintendent

September 16, 2020

Swisher Solar Energy, LLC
c/o Evan Horn
Ernst & Young LLP
Suite 3200
401 Congress Ave.
Austin, TX 78701

Via Email: evan.horn@EY.com

Re: Request for Extension on Application of Swisher Solar Energy, LLC
For an Appraised Value Limitation Agreement
Comptroller App. No. 1478

Dear Mr. Horn:

Please be advised that at a properly called meeting of the Kress Independent School District Board of Trustees on September 15, 2020, the Board took action on the request for an extension to consider the application of Swisher Solar Energy, LLC for an Appraised Value Limitation Agreement with Kress ISD. The District approved the request and has granted the extension on the application until December 31, 2020. *See* enclosed copy of the Resolution granting the extension. The Board's action will be reflected in the Minutes of this meeting.

If you have any further questions concerning your extension, please do not hesitate to contact me or Fred Stormer at the Underwood Law Firm. Thank you for your cooperation in this matter.

Sincerely,

Leah Zeigler

Leah Zeigler, Superintendent

RESOLUTION OF THE BOARD OF TRUSTEES
OF
KRESS INDEPENDENT SCHOOL DISTRICT

The Board of Trustees of Kress Independent School District ("the District") does hereby make the following resolution regarding a pending application by Swisher Solar Energy LLC ("Swisher Solar Energy") for an appraised value limitation agreement under Texas Tax Code, Chapter 313:

WHEREAS, on or about March 10, 2020, Swisher Solar Energy submitted to the District an application under Texas Tax Code, Chapter 313 (the "Application") for an appraised value limitation agreement ("Agreement");

WHEREAS, on or about March 12, 2020, the Application was received by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), after the District deemed it complete;

WHEREAS, on or about May 14, 2020, the Texas Comptroller issued a letter deeming the Application complete, advising that it would move forward with its economic impact evaluation, and triggering the Application Review Start Date;

WHEREAS, Texas Tax Code §313.025(b) requires that the Board approve or disapprove an application before the 151st day after the date the application is deemed complete by the Texas Comptroller (the "Deadline"), unless the Texas Comptroller's economic impact evaluation has not been received or an extension is agreed to by the Board and Swisher Solar Energy;

WHEREAS, due to the current state of emergency and continued spread of COVID-19, a novel coronavirus, which has resulted in widespread business closures and limited government operation, as well as ongoing negotiations, it is likely that the Agreement will not be approved by the Comptroller in time for the Board to issue its Findings of Fact, and approve and execute such an Agreement before the Deadline; and

WHEREAS, on or about August 21, 2020, Swisher Solar Energy submitted a request to the District to extend the Deadline, a copy of which is attached here to as Exhibit "A."

NOW BE IT THEREFORE RESOLVED, that the statements contained in the preamble of this Resolution are true and correct and adopted as findings of fact and operative provisions hereof, and that it is in the District's best interest to extend the Deadline as requested;

BE IT FURTHER RESOLVED, that Board of Trustees finds that it is in the best interest of the District to grant Swisher Solar Energy's request, and extend the Deadline until December 31, 2020; and

BE IT FURTHER RESOLVED, the Superintendent, or his designee, is directed to provide notice to Swisher Solar Energy and the Comptroller's Office of the Board's decision to grant Swisher Solar Energy's request, and extend the Deadline until December 31, 2020.

Passed and approved by the Kress Independent School District Board of Trustees on this 15th day of September, 2020.

Kress Independent School District

By: President of the Board of Trustees

By: Secretary of the Board of Trustees

EXHIBIT A

Building a better working world

Ernst & Young LLP
Suite 3200
401 Congress Avenue
Austin, TX 78701

Tel: +1 512 478 9881
Fax: +1 512 473 3499
ey.com

Leah Zeigler
Superintendent
Kress ISD
200 E 5th St.
Kress, Texas 79052

21 August 2020

Application for Appraised Value Limitation on Qualified Property
Swisher Solar Energy LLC – Request for Extension - Application #1478

Dear Superintendent,

I am writing on behalf of my client Swisher Solar Energy LLC (the "Applicant") to request an extension of time for the parties to finalize the Application for a Value Limitation Agreement (the "Agreement"). Due to our continued negotiations and review of the Agreement, and recent scheduling complications created by COVID-19, we do not believe that the Applicant will be in a position to execute the Agreement within the 150-day deadline imposed by Texas Tax Code Chapter 313, Section 313.025(b). Therefore, the Applicant requests that Kress ISD extend that deadline to December 31, 2020. Please understand that the Applicant intends that the proposed Agreement be submitted to the Comptroller for its review as soon as possible. However, out of an abundance of caution, we have requested that the Board approve the extension until December 31, 2020 to avoid the necessity of another extension request should there be additional unforeseen additional delay in light of the COVID-19 outbreak.

Sincerely,

Evan Horn