

O'HANLON, DEMERATH & CASTILLO

ATTORNEYS AND COUNSELORS AT LAW

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March 19, 2020

Local Government Assistance & Economic Analysis
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

RE: Application to the Calhoun County Independent School District from Tres Bahias Solar Power, LLC

To the Local Government Assistance & Economic Analysis Division:

By copy of this letter transmitting the application for review to the Comptroller's Office, the Calhoun County Independent School District is notifying Tres Bahias Solar Power, LLC of its intent to consider the application for appraised value limitation on qualified property should a positive certificate be issued by the Comptroller. Please prepare the Economic Impact Report.

The Applicant submitted the Application to the school district on March 9, 2020. The Board voted to accept the application on March 9, 2020. The application has been determined complete as of March 19, 2020. The Applicant has provided the schedules in both electronic format and paper copies. The electronic copy is identical to the hard copy that will be hand delivered.

A copy of the application will be submitted to the Calhoun County Appraisal District.

Sincerely,



Kevin O'Hanlon
School District Consultant

Cc: Calhoun County Appraisal District
Tres Bahias Solar Power, LLC

TRES BAHIAS SOLAR POWER LLC

**CHAPTER 313 APPLICATION
FOR APPRAISED VALUE LIMITATION
TO CALHOUN COUNTY ISD**

Comptroller

APPLICATION TAB ORDER FOR REQUESTED ATTACHMENTS

TAB	ATTACHMENT
1	Pages 1 through 11 of Application
2	Proof of Payment of Application Fee
3	Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation <i>(if applicable)</i>
4	Detailed description of the project
5	Documentation to assist in determining if limitation is a determining factor
6	Description of how project is located in more than one district, including list of percentage in each district and, if determined to be a single unified project, documentation from the Office of the Governor <i>(if applicable)</i>
7	Description of Qualified Investment
8	Description of Qualified Property
9	Description of Land
10	Description of all property not eligible to become qualified property <i>(if applicable)</i>
11	<p>Maps that clearly show:</p> <ul style="list-style-type: none"> a) Project vicinity b) Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period c) Qualified property including location of new buildings or new improvements d) Existing property e) Land location within vicinity map f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size <p>Note: Electronic maps should be high resolution files. Include map legends/markers.</p>
12	Request for Waiver of Job Creation Requirement and supporting information <i>(if applicable)</i>
13	Calculation of three possible wage requirements with TWC documentation
14	Schedules A1, A2, B, C and D completed and signed Economic Impact <i>(if applicable)</i>
15	Economic Impact Analysis, other payments made in the state or other economic information <i>(if applicable)</i>
16	<p>Description of Reinvestment or Enterprise Zone, including:</p> <ul style="list-style-type: none"> a) evidence that the area qualifies as a enterprise zone as defined by the Governor's Office b) legal description of reinvestment zone* c) order, resolution or ordinance establishing the reinvestment zone* d) guidelines and criteria for creating the zone* <p>* To be submitted with application or before date of final application approval by school board</p>
17	Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative <i>(applicant)</i>



TAB 1

Pages 1 through 9 of application

Application for Appraised Value Limitation on Qualified Property

(Tax Code, Chapter 313, Subchapter B or C)

INSTRUCTIONS: This application must be completed and filed with the school district. In order for an application to be processed, the governing body (school board) must elect to consider an application, but — by Comptroller rule — the school board may elect to consider the application only after the school district has received a completed application. Texas Tax Code, Section 313.025 requires that any completed application and any supplemental materials received by the school district must be forwarded within seven days to the Comptroller of Public Accounts.

If the school board elects to consider the application, the school district must:

- notify the Comptroller that the school board has elected to consider the application. This notice must include:
 - the date on which the school district received the application;
 - the date the school district determined that the application was complete;
 - the date the school board decided to consider the application; and
 - a request that the Comptroller prepare an economic impact analysis of the application;
- provide a copy of the notice to the appraisal district;
- must complete the sections of the application reserved for the school district and provide information required in the Comptroller rules located at 34 Texas Administrative Code (TAC) Section 9.1054; and
- forward the original hard copy of the completed application to the Comptroller in a three-ring binder with tabs, as indicated on page 9 of this application, separating each section of the documents, in addition to an electronic copy on CD. See 34 TAC Chapter 9, Subchapter F.

The governing body may, at its discretion, allow the applicant to supplement or amend the application after the filing date, subject to the restrictions in 34 TAC Chapter 9, Subchapter F.

When the Comptroller receives the notice and required information from the school district, the Comptroller will publish all submitted application materials on its website. The Comptroller is authorized to treat some application information as confidential and withhold it from publication on the Internet. To do so, however, the information must be segregated and comply with the other requirements set out in the Comptroller rules. For more information, see guidelines on Comptroller's website.

The Comptroller will independently determine whether the application has been completed according to the Comptroller's rules (34 TAC Chapter 9, Subchapter F). If the Comptroller finds the application is not complete, the Comptroller will request additional materials from the school district. Pursuant to 9.1053(a)(1)(C), requested information shall be provided within 20 days of the date of the request. When the Comptroller determines that the application is complete, it will send the school district a notice indicating so. The Comptroller will determine the eligibility of the project, issue a certificate for a limitation on appraised value to the school board regarding the application and prepare an economic impact evaluation by the 90th day after the Comptroller receives a complete application—as determined by the Comptroller.

The school board must approve or disapprove the application not later than the 150th day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to issue a certificate, complete the economic impact evaluation or consider the application at any time during the application review period.

Please visit the Comptroller's website to find out more about the program at comptroller.texas.gov/economy/local/ch313/. There are links to the Chapter 313 statute, rules, guidelines and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

SECTION 1: School District Information

1. Authorized School District Representative

March 9, 2020

Date Application Received by District

Larry

First Name

Nichols

Last Name

Superintendent

Title

Calhoun County Independent School District

School District Name

525 N. Commerce Street

Street Address

525 N. Commerce Street

Mailing Address

Port Lavaca

City

361-552-9728

Phone Number

TX

State

77979

ZIP

361-551-2648

Fax Number

nicholsl@calcoisd.org

Email Address

Mobile Number (optional)

2. Does the district authorize the consultant to provide and obtain information related to this application?



Yes



No

SECTION 1: School District Information *(continued)*3. Authorized School District Consultant *(If Applicable)*

Dan	Casey
First Name	Last Name
Partner	
Title	
Moak Casey & Associates LLP	
Firm Name	
512-485-7878	
Phone Number	Fax Number
512-426-6662	dcasey@moakcasey.com
Mobile Number <i>(optional)</i>	Email Address
4. On what date did the district determine this application complete?	March 19, 2020
5. Has the district determined that the electronic copy and hard copy are identical?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

SECTION 2: Applicant Information

1. Authorized Company Representative *(Applicant)*

William	Kelsey
First Name	Last Name
Partner	Swift Current Energy
Title	Organization
510 Bering Drive, Suite 212	
Street Address	
510 Bering Drive, Suite 212	
Mailing Address	
Houston	TX
City	State
857-315-5293	77057
Phone Number	ZIP
512-426-6662	
Mobile Number <i>(optional)</i>	Fax Number
	wkelsey@swiftcurrentenergy.com
	Business Email Address
2. Will a company official other than the authorized company representative be responsible for responding to future information requests?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2a. If yes, please fill out contact information for that person.	
Aurko	Dutta
First Name	Last Name
Director	Swift Current Energy
Title	Organization
510 Bering Drive, Suite 212	
Street Address	
510 Bering Drive, Suite 212	
Mailing Address	
Houston	TX
City	State
832-804-8307	77057
Phone Number	ZIP
346-719-1232	
Mobile Number <i>(optional)</i>	Fax Number
	adutta@swiftcurrentenergy.com
	Business Email Address
3. Does the applicant authorize the consultant to provide and obtain information related to this application?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

SECTION 2: Applicant Information (continued)

4. Authorized Company Consultant (If Applicable)

Sam	Gregson
First Name	Last Name
Senior Consultant	
Title	
Cummings Westlake LLC	
Firm Name	
713-266-4456	713-266-2333
Phone Number	Fax Number
sgregson@cwlp.net	
Business Email Address	

SECTION 3: Fees and Payments

1. Has an application fee been paid to the school district? ☒ Yes ☐ No
- The total fee shall be paid at time of the application is submitted to the school district. Any fees not accompanying the original application shall be considered supplemental payments.
- 1a. If yes, attach in **Tab 2** proof of application fee paid to the school district.
- For the purpose of questions 2 and 3, "payments to the school district" include any and all payments or transfers of things of value made to the school district or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value.
2. Will any "payments to the school district" that you may make in order to receive a property tax value limitation agreement result in payments that are not in compliance with Tax Code §313.027(i)? ☐ Yes ☒ No ☐ N/A
3. If "payments to the school district" will only be determined by a formula or methodology without a specific amount being specified, could such method result in "payments to the school district" that are not in compliance with Tax Code §313.027(i)? ☐ Yes ☒ No ☐ N/A

SECTION 4: Business Applicant Information

1. What is the legal name of the applicant under which this application is made? Tres Bahias Solar Power, LLC
2. List the Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) 32072736914
3. List the NAICS code 221114
4. Is the applicant a party to any other pending or active Chapter 313 agreements? ☐ Yes ☒ No
- 4a. If yes, please list application number, name of school district and year of agreement

SECTION 5: Applicant Business Structure

1. Identify Business Organization of Applicant (corporation, limited liability corporation, etc) Limited Liability Corporation
2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)? ☐ Yes ☒ No
- 2a. If yes, attach in **Tab 3** a copy of Texas Comptroller Franchise Tax Form No. 05-165, No. 05-166, or any other documentation from the Franchise Tax Division to demonstrate the applicant's combined group membership and contact information.
3. Is the applicant current on all tax payments due to the State of Texas? ☒ Yes ☐ No
4. Are all applicant members of the combined group current on all tax payments due to the State of Texas? ☐ Yes ☐ No ☒ N/A
5. If the answer to question 3 or 4 is no, please explain and/or disclose any history of default, delinquencies and/or any material litigation, including litigation involving the State of Texas. (If necessary, attach explanation in **Tab 3**)

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:

☐ Land has no existing improvements

☒ Land has existing improvements (*complete Section 13*)

☐ Expansion of existing operation on the land (*complete Section 13*)

☐ 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.

SECTION 9: Projected Timeline

1. Application approval by school board August 2020
2. Commencement of construction July 2020
3. Beginning of qualifying time period August 1, 2020
4. First year of limitation January 1, 2022
5. Begin hiring new employees June 2021
6. Commencement of commercial operations June 2021
7. Do you propose to construct a new building or to erect or affix a new improvement after your application review start date (date your application is finally determined to be complete)? ☒ Yes ☐ No
Note: Improvements made before that time may not be considered qualified property.
8. When do you anticipate the new buildings or improvements will be placed in service? June 2021

SECTION 10: The Property

1. Identify county or counties in which the proposed project will be located Calhoun County
2. Identify Central Appraisal District (CAD) that will be responsible for appraising the property Calhoun County
3. Will this CAD be acting on behalf of another CAD to appraise this property? ☐ Yes ☒ No
4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:
 County: Calhoun County; 100%; \$0.5572 City:
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
 Hospital District: Water District: Calhoun Co Groundwater Dist; 100%; \$0.0095
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
 Other (describe): Other (describe): Calhoun Port Authority; 100%; \$0.001
(Name, tax rate and percent of project) (Name, tax rate and percent of project)
5. Is the project located entirely within the ISD listed in Section 1? ☒ Yes ☐ No
 5a. If no, attach in **Tab 6** additional information on the project scope and size to assist in the economic analysis.
6. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? ☐ Yes ☒ No
 6a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

SECTION 11: Investment

NOTE: The minimum amount of qualified investment required to qualify for an appraised value limitation and the minimum amount of appraised value limitation vary depending on whether the school district is classified as Subchapter B or Subchapter C, and the taxable value of the property within the school district. For assistance in determining estimates of these minimums, access the Comptroller's website at comptroller.texas.gov/economy/local/ch313/.

1. At the time of application, what is the estimated minimum qualified investment required for this school district? 30,000,000.00
2. What is the amount of appraised value limitation for which you are applying? 30,000,000.00
Note: The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.
3. Does the qualified investment meet the requirements of Tax Code §313.021(1)? ☒ Yes ☐ No
4. Attach a description of the qualified investment [See §313.021(1).] The description must include:
 - a. a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 7**);
 - b. a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (**Tab 7**); and
 - c. a detailed map of the qualified investment showing location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, with vicinity map (**Tab 11**).
5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period? ☒ Yes ☐ No

SECTION 12: Qualified Property

1. Attach a detailed description of the qualified property. [See §313.021(2)] (If qualified investment describes qualified property exactly, you may skip items a, b and c below.) The description must include:
- a specific and detailed description of the qualified property for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 8**);
 - a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your qualified property (**Tab 8**); and
 - a map of the qualified property showing location of new buildings or new improvements with vicinity map (**Tab 11**).
2. Is the land upon which the new buildings or new improvements will be built part of the qualified property described by §313.021(2)(A)? ☐ Yes ☒ No
- 2a. If yes, attach complete documentation including:
- legal description of the land (**Tab 9**);
 - each existing appraisal parcel number of the land on which the new improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property (**Tab 9**);
 - owner (**Tab 9**);
 - the current taxable value of the land. Attach estimate if land is part of larger parcel (**Tab 9**); and
 - a detailed map showing the location of the land with vicinity map (**Tab 11**).
3. Is the land on which you propose new construction or new improvements currently located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303? ☐ Yes ☒ No
- 3a. If yes, attach the applicable supporting documentation:
- evidence that the area qualifies as a enterprise zone as defined by the Governor's Office (**Tab 16**);
 - legal description of reinvestment zone (**Tab 16**);
 - order, resolution or ordinance establishing the reinvestment zone (**Tab 16**);
 - guidelines and criteria for creating the zone (**Tab 16**); and
 - a map of the reinvestment zone or enterprise zone boundaries with vicinity map (**Tab 11**)
- 3b. If no, submit detailed description of proposed reinvestment zone or enterprise zone with a map indicating the boundaries of the zone on which you propose new construction or new improvements to the Comptroller's office within 30 days of the application date. What is the anticipated date on which you will submit final proof of a reinvestment zone or enterprise zone? March 2020

SECTION 13: Information on Property Not Eligible to Become Qualified Property

1. In **Tab 10**, attach a specific and detailed description of all **existing property**. This includes buildings and improvements existing as of the application review start date (the date the application is determined to be complete by the Comptroller). The description must provide sufficient detail to locate all existing property on the land that will be subject to the agreement and distinguish existing property from future proposed property.
2. In **Tab 10**, attach a specific and detailed description of all **proposed new property that will not become new improvements** as defined by TAC 9.1051. This includes proposed property that: functionally replaces existing or demolished/removed property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property; or is otherwise ineligible to become qualified property. The description must provide sufficient detail to distinguish existing property (question 1) and all proposed new property that cannot become qualified property from proposed qualified property that will be subject to the agreement (as described in Section 12 of this application).
3. For the property not eligible to become qualified property listed in response to questions 1 and 2 of this section, provide the following supporting information in **Tab 10**:
- maps and/or detailed site plan;
 - surveys;
 - appraisal district values and parcel numbers;
 - inventory lists;
 - existing and proposed property lists;
 - model and serial numbers of existing property; or
 - other information of sufficient detail and description.
4. Total estimated market value of existing property (that property described in response to question 1): \$ 57,000.00
5. In **Tab 10**, include an appraisal value by the CAD of all the buildings and improvements existing as of a date within 15 days of the date the application is received by the school district.
6. Total estimated market value of proposed property not eligible to become qualified property
(that property described in response to question 2): \$ 57,000.00

Note: Investment for the property listed in question 2 may count towards qualified investment in Column C of Schedules A-1 and A-2, if it meets the requirements of 313.021(1). Such property cannot become qualified property on Schedule B.

SECTION 14: Wage and Employment Information

1. What is the estimated number of permanent jobs (more than 1,600 hours a year), with the applicant or a contractor of the applicant, on the proposed qualified property during the last complete quarter before the application review start date (date your application is finally determined to be complete)? 0
2. What is the last complete calendar quarter before application review start date:
☐ First Quarter ☐ Second Quarter ☐ Third Quarter ☒ Fourth Quarter of 2019
(year)
3. What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the Texas Workforce Commission (TWC)? 0
Note: For job definitions see TAC §9.1051 and Tax Code §313.021(3).
4. What is the number of new qualifying jobs you are committing to create? 1
5. What is the number of new non-qualifying jobs you are estimating you will create? 0
6. Do you intend to request that the governing body waive the minimum new qualifying job creation requirement, as provided under Tax Code §313.025(f-1)? ☒ Yes ☐ No
- 6a. If yes, attach evidence in **Tab 12** documenting that the new qualifying job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards.
7. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the TWC website. The final actual statutory minimum annual wage requirement for the applicant for each qualifying job — which may differ slightly from this estimate — will be based on information from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22).
- a. Average weekly wage for all jobs (all industries) in the county is 1,314.50
- b. 110% of the average weekly wage for manufacturing jobs in the county is 2,231.63
- c. 110% of the average weekly wage for manufacturing jobs in the region is 1,256.79
8. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? ☐ §313.021(5)(A) or ☒ §313.021(5)(B)
9. What is the minimum required annual wage for each qualifying job based on the qualified property? 65,353.20
10. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? 65,400.00
11. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? ☒ Yes ☐ No
12. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.021(3)(F)? ☐ Yes ☒ No
- 12a. If yes, attach in **Tab 12** supporting documentation from the TWC, pursuant to §313.021(3)(F).
13. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? ☐ Yes ☒ No
- 13a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

SECTION 15: Economic Impact

1. Complete and attach Schedules A1, A2, B, C, and D in **Tab 14**. Note: Excel spreadsheet versions of schedules are available for download and printing at URL listed below.
2. Attach an Economic Impact Analysis, if supplied by other than the Comptroller's Office, in **Tab 15**. (not required)
3. If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, attach a separate schedule showing the amount for each year affected, including an explanation, in **Tab 15**.



TAB 2

Proof of Payment of Application Fee

Please find on the attached pages, copies of 2 checks totaling \$75,000 for the application fee to Calhoun County Independent School District.

Proof of payment of filing fee received by the
Comptroller of Public Accounts per TAC Rule
§9.1054 (b)(5)

*(Page Inserted by Office of Texas Comptroller of Public
Accounts)*



TAB 3

Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation (if applicable)

See Attached



Franchise Tax Account Status

As of : 12/12/2019 14:15:55

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

TRES BAHIAS SOLAR POWER, LLC	
Texas Taxpayer Number	32072736914
Mailing Address	701 BRAZOS ST STE 360 AUSTIN, TX 78701-3200
❓ Right to Transact Business in Texas	ACTIVE
State of Formation	DE
Effective SOS Registration Date	12/06/2019
Texas SOS File Number	0803487697
Registered Agent Name	C T CORPORATION SYSTEM
Registered Office Street Address	701 BRAZOS STREET, SUITE 360 AUSTIN, TX 78701



TAB 4

Detailed Description of the Project

Provide 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.

Tres Bahias Solar Power, LLC is requesting an Appraised Value Limitation from Calhoun County Independent School District for the Tres Bahias Solar Project (the “Project”), a proposed solar powered electric generating facility in Calhoun County. The proposed Calhoun County ISD Project (this Application) would be constructed east of Point Comfort within the Tres Bahias Reinvestment Zone created by Calhoun County. A map showing the location of the project is included in Tab 11. The project is not known by any other names and has not been referred to by any other names in press releases or state and federal filings. The Project IGNR Number is 21INR0266 and was assigned on March 18, 2019. This application covers all qualified property in the reinvestment zone and project boundary within Calhoun County ISD necessary for commercial operations.

The proposed Project is anticipated to have a total capacity of 195 MW ac, all of which will be located in Calhoun County ISD. Solar equipment selection is ongoing at this time and has not been finalized. The exact number of PV panels and their capacity will depend upon the panels and inverters selected, manufacturers availability and prices, ongoing engineering design optimization and the final megawatt generating capacity of the Project when completed. Current plans are to install approximately 700,000 PV panel and 90solar inverters within Calhoun County ISD. The Applicant requests a Value Limitation for all materials and equipment installed for the Project, including collection systems, transmission lines, electrical interconnections, roads, control systems necessary for commercial generation of electricity, solar modules/panels, foundations, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, roadways, paving, fencing, electrical substations, approximately 6.5 miles of generation transmission tie line and associated towers, and interconnection facilities.

Construction of the Project is anticipated to begin in July 2020 with completion by April 2021.



TAB 5

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

Swift Current Energy (SCE) is a clean energy focused development and investment firm. Founded in 2016 by industry veterans, Swift Current Energy has over a gigawatt of utility scale wind, solar, and energy storage power projects in development across North America. Swift Current Energy is headquartered in Boston, Massachusetts with offices in Illinois, Maine, Montana, New York and Texas.

SCE is keen to develop and build the proposed Tres Bahias Solar Project as per this application, but since this Project is still in the early stages of development, further investment could be, if necessary, redeployed to other counties and states competing for similar solar projects. SCE is active in states throughout the United States, where each project individually competes for a finite pool of capital investment. State and local tax incentives contribute to the lowering of the cost of power sold to our customers and making our investment more viable and marketable. SCE has many solar sites in development throughout the country and are continually comparing investment opportunities, rate of return, and market viability of each project based upon project financial metrics. For example, SCE currently has ongoing project developments in many states, including but not limited to, Illinois, Indiana, Iowa, Maine, Minnesota and Oklahoma.

Due to the extremely competitive power market in ERCOT most if not all PPA's economic model assumptions are based on the Project securing this Chapter 313 appraised value limitation and other local tax incentives. The property tax liabilities of a project without tax incentives in Texas lowers the return to investors and financiers to an unacceptable level at today's contracted power rates under a PPA. A signed PPA in the Texas market is at a much lower rate than other states because of competitively low electricity prices. Both parties of the PPA have an escape clause if the terms of the PPA cannot be met. Without the tax incentives in Texas, a project with a PPA becomes non-financeable. Therefore, this appraised value limitation is critical to the ability of the proposed Project to move forward as currently sited.



TAB 6

Description of how project is located in more than one district, including list of percentage in each district and, if determined to be a single unified project, documentation from the Office of the Governor (if applicable)

District	Percentage	Tax Rate
1) Calhoun County	100%	\$0.5572
2) Calhoun County Groundwater Cons	100%	\$0.0095
3) Calhoun County Port Authority	100%	\$0.0010



TAB 7

Description of Qualified Investment

Tres Bahias Solar LLC proposes to construct a 195 MW ac (net capacity) Photovoltaic solar facility that would be sited on land west of the town of Port Comfort, TX and south of Weedhaven, TX in Calhoun County. This application covers all qualified property in the reinvestment zone and project boundary within Calhoun County ISD necessary for the commercial operations of the proposed solar project described in Tab 4. Approximately 700,000 PV panels, 90 solar inverters and approximately 6.5 miles of transmission generation tie-line would be located in Calhoun County, all of which would be located in Calhoun County ISD.

Qualified Investment and Qualified Property includes collection systems, transmission lines, electrical interconnections, roads, control systems necessary for commercial generation of electricity, solar modules/panels, foundations, racking and mounting structures, inverters boxes, combiner boxes, meteorological equipment, roadways, paving, fencing, electrical substations, approximately 6.5 miles of generation transmission tie line and associated towers, and interconnection facilities.

NOTE- The map in TAB 11 shows the proposed project area with the preliminary panel and inverter locations. The exact placement of these panels and inverters is subject to ongoing planning, soil studies, and engineering and will be determined before construction begins.



TAB 8

Description of Qualified Property

Tres Bahias Solar LLC proposes to construct a 195 MW ac (net capacity) Photovoltaic solar facility that would be sited on land west of the town of Port Comfort, TX and south of Weedhaven, TX in Calhoun County. This application covers all qualified property in the reinvestment zone and project boundary within Calhoun County ISD necessary for the commercial operations of the proposed solar project described in Tab 4. Approximately 700,000 PV panels, 90 solar inverters and approximately 6.5 miles of transmission generation tie line would be located in Calhoun County, all of which would be located in Calhoun County ISD.

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NOTE- The map in TAB 11 shows the proposed project area with the preliminary panel and inverter locations. The exact placement of these panels and inverters is subject to ongoing planning, soil studies, and engineering and will be determined before construction begins.



TAB 9

Description of Land

Not applicable. The land on which the new buildings and new improvements will be built, is not being claimed as part of the qualified property described by §313.021(2)(A).



TAB 10

Description of all property not eligible to become qualified property (if applicable)

Due to the extremely competitive power market in ERCOT most if not all PPA's economic model assumptions are based on the Project securing Federal as well as State and local tax incentives. The tax liabilities of a project without these tax incentives lowers the return to investors and financiers to an unacceptable level at today's contracted power rates under a PPA.

In conjunction with securing the Federal Investment Tax Credit for this project, Tres Bahias Solar Power, LLC (Tres Bahias) requested tax guidance regarding the requirements to secure the maximum Federal ITC for this proposed project and received the tax memo found as part of this Tab in the Application. Per the guidance received in the attached tax memo, in order for this project to secure the maximum Federal ITC, the Federal Tax Code required that the project be "under construction" prior to December 31, 2019. That requirement can be met by one of two standards

- by starting "physical work of a significant nature" at a factory on equipment for the project or at the project site, or
- by "incurring" at least 5% of the project cost.

Tres Bahias opted to satisfy the requirement through "physical work of a significant nature" sufficient to secure the ITC. It is important to note that the work done does not bind the project to any agreement to be fully constructed.

Per the tax memo attached, the IRS focuses on the nature of the work and not the quantity or cost of the physical work with no fixed minimum amount of work or monetary or percentage threshold required. Per the attached memo, IRS Notice 2018-59 states that installation of "racks or other structures" to which solar panels will be affixed at the site is significant.

In order to comply with Federal Tax Statutes and maximize the Federal ITC, brush was cleared from approximately one and a half acres of the proposed site and a small amount of solar racking structure was put in place. The cost of this work was approximately \$57,000 which represents .004% of the total project and does not in any way commit the company to completion of the project. In fact, if the 313 Value Limitation is not approved, the equipment installed will be removed from the property.

Equipment installed consists of racking system, posts and module mounting hardware. A photo of the area and equipment installed is included in this Tab. The investment in the racking equipment that was installed to secure the Federal ITC is not eligible to become Qualified Property and is not part of the property for which this Application is being submitted.



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Memorandum

To	Swift Current Energy		
From	Keith Martin	Date	October 30, 2019
Direct line	+1 202 974 5674		
Email	keith.martin@nortonrosefulbright.com		
Re	<u>Solar construction-start strategies</u>		

DEADLINES

Solar projects must be under construction by the end of 2019 to qualify for a 30% investment tax credit.

Projects that start construction in 2020 qualify for a 26% credit. Projects that start construction in 2021 qualify for a 22% credit. Projects that start construction after that qualify for a 10% investment credit.

There is an outside deadline to finish projects of the end of 2023 to claim a larger than 10% investment tax credit. Work must usually be completed within four years after the end of the year in which construction starts. There is no deadline to complete projects to qualify for the 10% credit.

TWO BROAD APPROACHES

There are two ways to start construction. They are

a. by starting "physical work of a significant nature" at a factory on equipment for the project or at the project site, or

b. by "incurring" at least 5% of the project cost.

Norton Rose Fulbright US LLP is a limited liability partnership registered under the laws of Texas.

Norton Rose Fulbright US LLP, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright South Africa Inc are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at nortonrosefulbright.com.

PHYSICAL WORK

1

Amount:

The IRS said it focuses on the nature of the work and not the quantity or cost. It said "there is no fixed minimum amount of work or monetary or percentage threshold required." However, the tax equity market will not finance projects based on minimal physical work. The more work that can be completed before the deadline, the better.

2

Only physical work:

Preliminary activity, such as clearing a site or removing existing equipment, and non-physical work, like design or engineering, does not count.

3

Type:

The IRS gave a list of examples in Notice 2018-59 of the types of physical work it considers significant. Installation of "racks or other structures" to which solar panels will be affixed at the site is significant. Manufacture at a factory of "components, mounting equipment, support structures such as racks and rails, inverters, transformers" and "other power conditioning equipment" qualifies.

The physical work must be on equipment that is "integral" to generating electricity.

The IRS said fences are not integral to generating electricity. Roads are integral, but only if they are needed to operate and maintain the power project. Roads that are primarily for access to the site or that are used primarily for employee or visitor vehicles are not integral. Buildings are not integral, but not all structures are considered buildings. For example, a structure that is basically a shell that will be removed when the equipment it houses is removed is considered part of the equipment. The work must be on equipment on which an investment credit can be claimed. Thus, for example, work on the electric intertie would not count.

Work at a factory on components does not count if the components are a type that the industry normally keeps in inventory.

4

Transformers:

Companies relying on the physical work test to start solar projects are most likely to have a manufacturer start work on the main step-up transformer for a project.

The mainstream tax equity market is becoming comfortable with transformers. For example, Bank of America Merrill Lynch has done several tax equity deals relying on transformers. JPMorgan told us last year that it had not yet done one, but its view of them is "evolving." Citi and Berkshire Hathaway Energy are close to closing one and may have done others.

There is a wide range of transformer fact patterns. In the strongest cases, the transformer is delivered and paid for before the construction-start deadline. Next best is where significant progress is made on manufacturing the transformer before the deadline and delivery occurs fairly soon into the new year. Many transformer manufacturers have backlogs, and the most they can do before the deadline is to have suppliers make and deliver components. Many tax counsel are unwilling to rely on physical work solely by components suppliers. A transformer usually costs \$1.2 to \$1.7 million a year. We started in such cases urging at least \$250,000 in work before the deadline. Some tax equity counsel want to see at least 20% of work completed.

5

Binding contract:

Physical work must not start until a binding contract is in place with the manufacturer or construction contractor to have the work done. Any work done by subcontractors or suppliers should wait until the manufacturer places a binding purchase order with the supplier.

A contract is not binding if it is merely an option to decide later what to purchase. The purchase price must be clear from the contract. It is better not to retain a right to terminate for convenience. Make sure any required notice to proceed is given when the contract is signed. It is best not to try to limit the damages for which you will be liable in the event you cancel the contract. If there is a limit, it should be at least 5% of the remaining contract price (on top of paying for whatever work has been done to date).

The work does not have to be paid for before the deadline, as long as there is a legal obligation to pay within a reasonable period and you are able to do so. Most contracts have standard milestone payment schedules where the work is paid for as it is completed.

Make sure to perform the contract as written. Failure to do so may call into question whether the contract was binding. Be careful not to make

a "substantial modification" of the contract later, as that, too, may call into question whether it was binding if the parties feel free to rewrite the terms.

6

Proof:

Document the work done before the deadline. Take photos. Have a third party go to the factory or project site and report what he or she saw. Have the manufacturer or contractor certify to the work done before the deadline, how many man-hours were spent over what time period and how much the work before the deadline cost the sponsor, and that it was on custom-made items rather than inventory items.

5% TEST

The tax equity market prefers projects that qualify under the 5% test.

1

Incurring costs:

Costs are not "incurred" merely by spending money, with one exception. Equipment or services must usually be delivered before the costs count. The exception is a payment at year end counts if the equipment is delivered within 3 ½ months after payment. It is not a payment to give the manufacturer a note for the purchase price.

Delivery can be at the factory. It can be outside the United States. The equipment should not have to return to the factory for further assembly as that calls into question whether it was delivered. It should be integral to generating electricity.

Services count only at the point where all the services that the developer contracted to have done have been delivered.

The 3 ½-month rule is a "method of accounting." Confirm with the accounting firm that prepares your tax returns that you are able to use it.

2

5% calculation:

Only costs that go into basis in the generating equipment count. The 5% test requires setting up a fraction. The numerator is costs incurred by the deadline that go into basis in the generating equipment, and the denominator is the final ITC eligible cost. The denominator is determined when the project is placed in service.

Most developers try to incur at least 7% of the project cost in order to provide a safety margin in case there are cost overruns. The IRS said the developer will be out of luck if the costs incurred before the construction-start deadline end up being less than 5% of the final cost, unless the project can be broken into separate phases or units that can operate independently of one another. In that case, the developer can draw a circle that is 20 times the costs incurred before the construction deadline to see how many of the phases or units can fit inside. For example, suppose a project consists of five separate units, each of which costs \$100X, cost overruns push the per-unit cost to \$120X, and the developer incurred \$25X before the deadline. Twenty times \$25X is \$500X. The final project cost is \$600X (5 x 120). Four of the five units can be treated as under construction in time as the final cost of four units was \$480X.

3

Stockpiling equipment:

Companies starting work under the 5% test are most likely to take delivery of solar panels or inverters. The equipment is put in storage. The developer should pay the storage cost, buy insurance and pay any sales, use or value-added taxes that are triggered by delivery.

4

Vendor contract:

The purchase contract for the equipment should require the vendor to pay damages if the equipment is not delivered on time to count the costs. Have both title transfer and delivery occur by whatever deadline is established.

5

Down payments:

Most vendors require a 20% down payment when the equipment order is placed. The down payment must be allocated across the entire equipment order. Thus, if a down payment is paid in May 2019 for equipment that will be delivered only partly in 2019, the part of the down payment allocated to post-2019 equipment will not count as incurred in 2019. The vendor should be asked to accept a payment guarantee or stand-by letter of credit in lieu of a down payment. (A regular letter of credit that will be the primary source of payment to the vendor does not work because it is equivalent to cash and will be treated as a "payment" for tax purposes.) Alternatively, make the 20% payment a payment for equipment that will be delivered in 2019 and pay at year end for equipment that will be delivered in early 2020 within 3 ½ months after the payment.

PROCUREMENT SUBSIDIARY

1

Master contract:

Have a procurement subsidiary that is above the project companies in the ownership chain buy stockpiled equipment as a basis for qualifying under the 5% test. We like to see a list of projects attached to the contract where the equipment is expected to be used, but while reserving the right in the contract to direct the equipment to other projects. The IRS said early on that it prefers there be a business reason for redirecting equipment to another project. An example of an acceptable business reason is a project for which equipment was originally intended has been slowed down by discovery of a protected species, inability to find a power contract or by interconnection delays and another project is moving faster.

2

Flexibility to move equipment:

Most tax counsel over time have become comfortable with buying equipment and deciding later where to use it.

The reason for using a procurement subsidiary above the project companies in the ownership chain is equipment can be contributed down to project companies, but some tax counsel are uneasy about lifting equipment out of one project company and contributing it to another. It is better to delay contributing the stockpiled equipment to a project company until later in the construction process when you are sure it will allow a project to qualify.

3

No trafficking:

The IRS does not allow trafficking in bare equipment as a means to transfer grandfather rights to tax credits. Thus, developer A cannot sell stockpiled panels to B for use in B's projects as a means for B to claim tax credits.

Developer A can contribute equipment to a joint venture with B to be used in a project that the joint venture will own. A must retain at least a 21% interest in the joint venture in exchange for contributing the equipment. We can fill in more detail about such arrangements if they become relevant.

PROJECTS BUILT IN PHASES

1

Starting construction:

Some very large projects are built in phases. Treating all the phases as a single project can be both a blessing and a curse. The start of physical work on any part is treated as the start of construction of the entire project. However, it will be harder to incur at least 5% of the total project cost.

The IRS has a list of factors for determining whether a multi-phase project is a single project.

Factors that suggest a single project are all of the phases are under a single project company, they are on contiguous sites, they share a common interconnection agreement and PPA, all the electricity passes through a common substation and intertie, they share environmental and regulatory permits, and there is a single equipment procurement contract, common EPC contract and common financing.

2

Straddling the completion deadline:

If the full project fails to make it into service by the end of 2023, then the investment tax credit is lost only on the parts of the project that fail to make it into service in time. Thus, if a project consists of five arrays and only four make it into service by December 2023, a full tax credit can be claimed on the four arrays and a 10% investment credit can be claimed on the fifth array that slipped past the deadline.

BUYING PROJECTS FROM OTHERS

If you buy development rights to a project from another developer, the project will qualify in your hands for whatever tax credit the seller would have been able to claim. Or you can use your own stockpiled equipment to treat it as under construction in time.

Check whether construction started before 2019.

It is not enough to have started construction in time. There must also be continuous work after the year construction started to claim tax credits. The IRS does not require proof of continuous work for any project that is completed within four years after the year in which construction started. Since there is an outside deadline of the end of 2023 to complete all projects on which a larger than 10% tax credit will be claimed, the four-year completion window is an issue solely for projects that started construction before 2019.

If construction started under the physical work test before 2018, you may restart under the 5% test in 2019 or later to buy until the end of 2023 to complete the project. You cannot restart under the physical work test since the project was already under construction in an earlier year under the physical work test.

K.M.

On Site Physical Work

Solar Racking:

- In 2019 RBI Solar, Inc engineered, fabricated and installed the racking system, posts and module mounting hardware for ~1.5 acres.
- RBI is storing equipment until installation in 2020.
- Total Cost of Work 2019: \$56.85k
- IE verified completion of work in 2019.

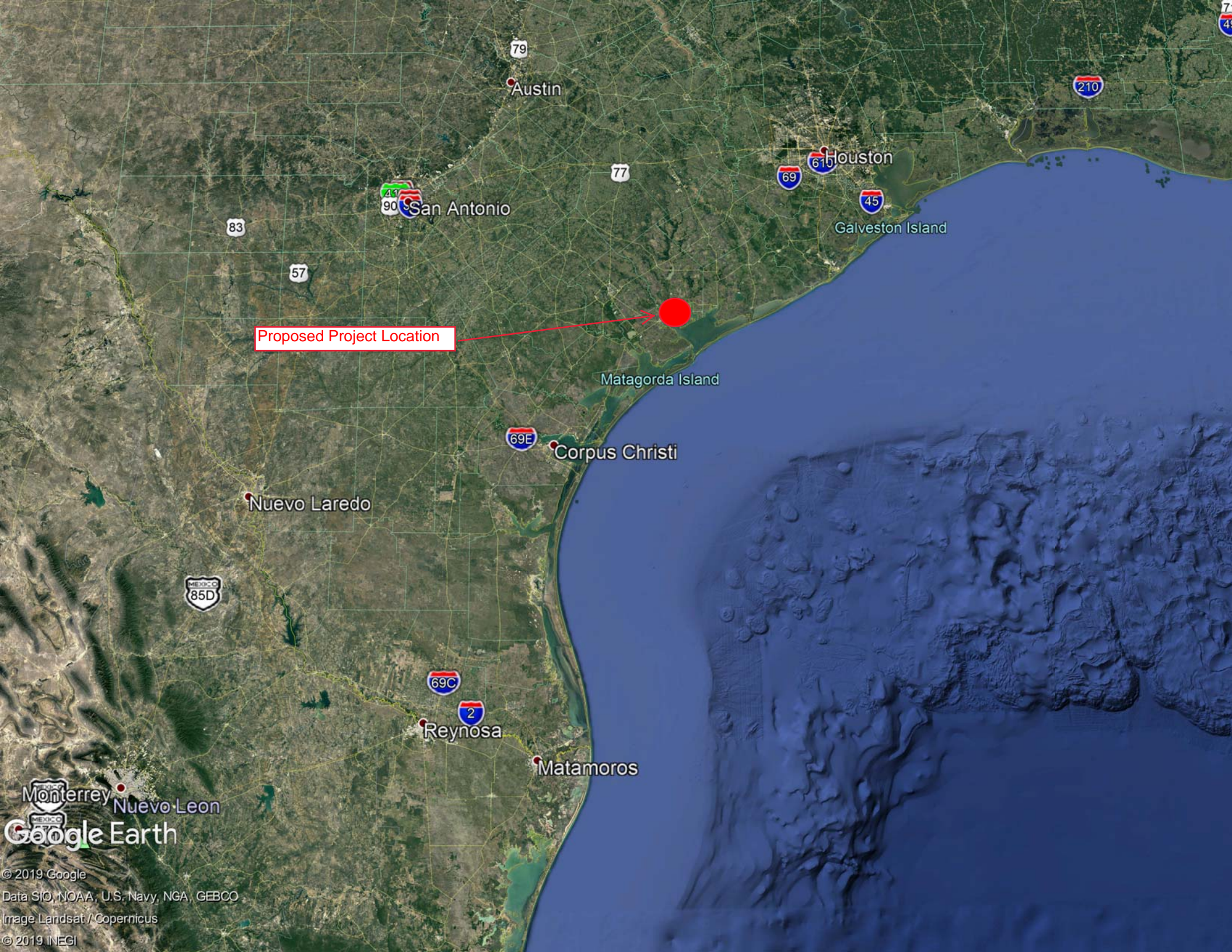




TAB 11

Maps that clearly show:

- a) Project vicinity
- b) Qualified investment including location of new building or new improvements
- c) Qualified property including location of new building or new improvements
- d) Existing property
- e) Land location within vicinity map
- f) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size



Proposed Project Location

Matagorda Island

Corpus Christi

Nuevo Laredo

Reynosa

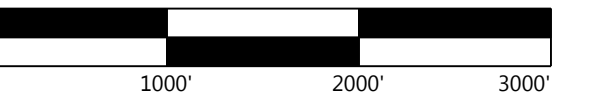
Matamoros

Monterrey
Nuevo Leon

Google Earth


SWIFT CURRENT

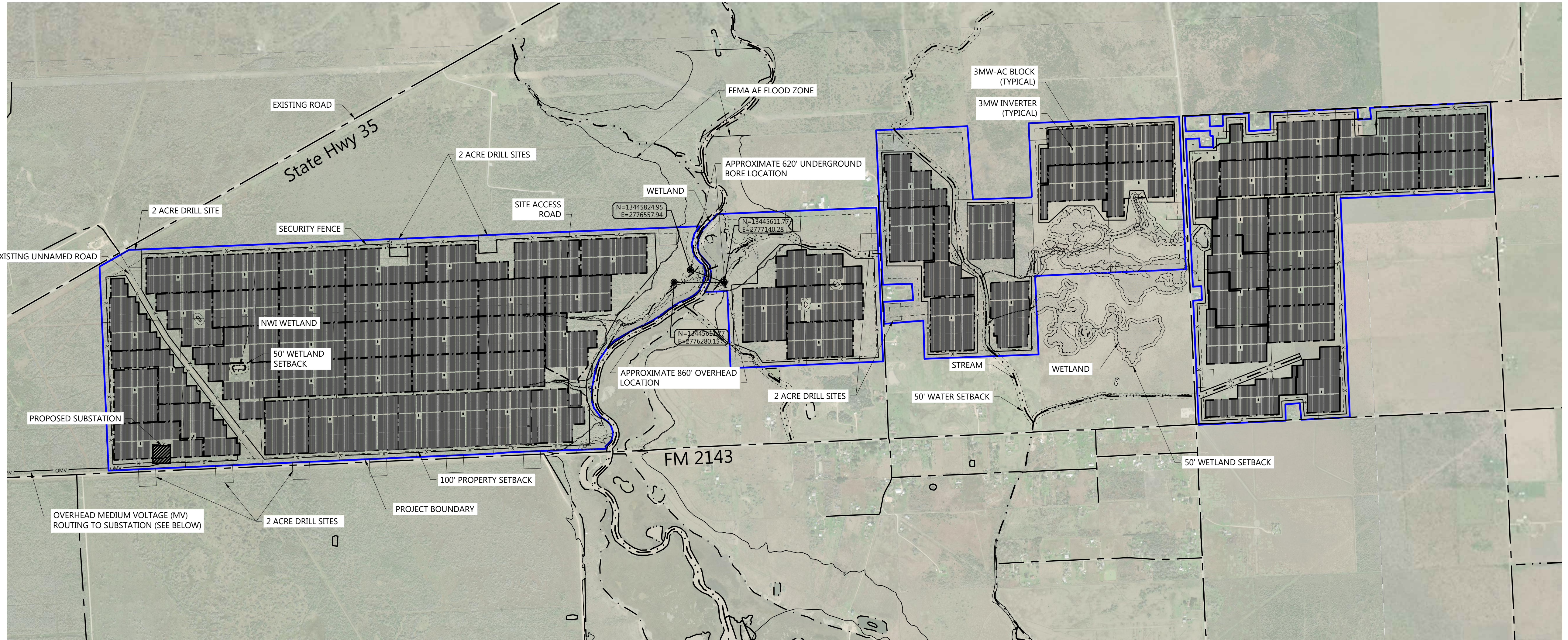
REVISIONS:		
	DATE	COMMENT
A	2019-10-11	Conceptual
B	2019-10-11	Conceptual - Land added
C	2019-10-11	Conceptual - Wetlands added and avoided



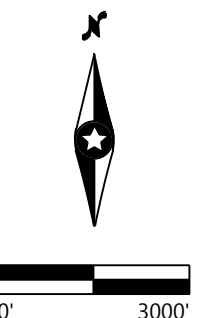
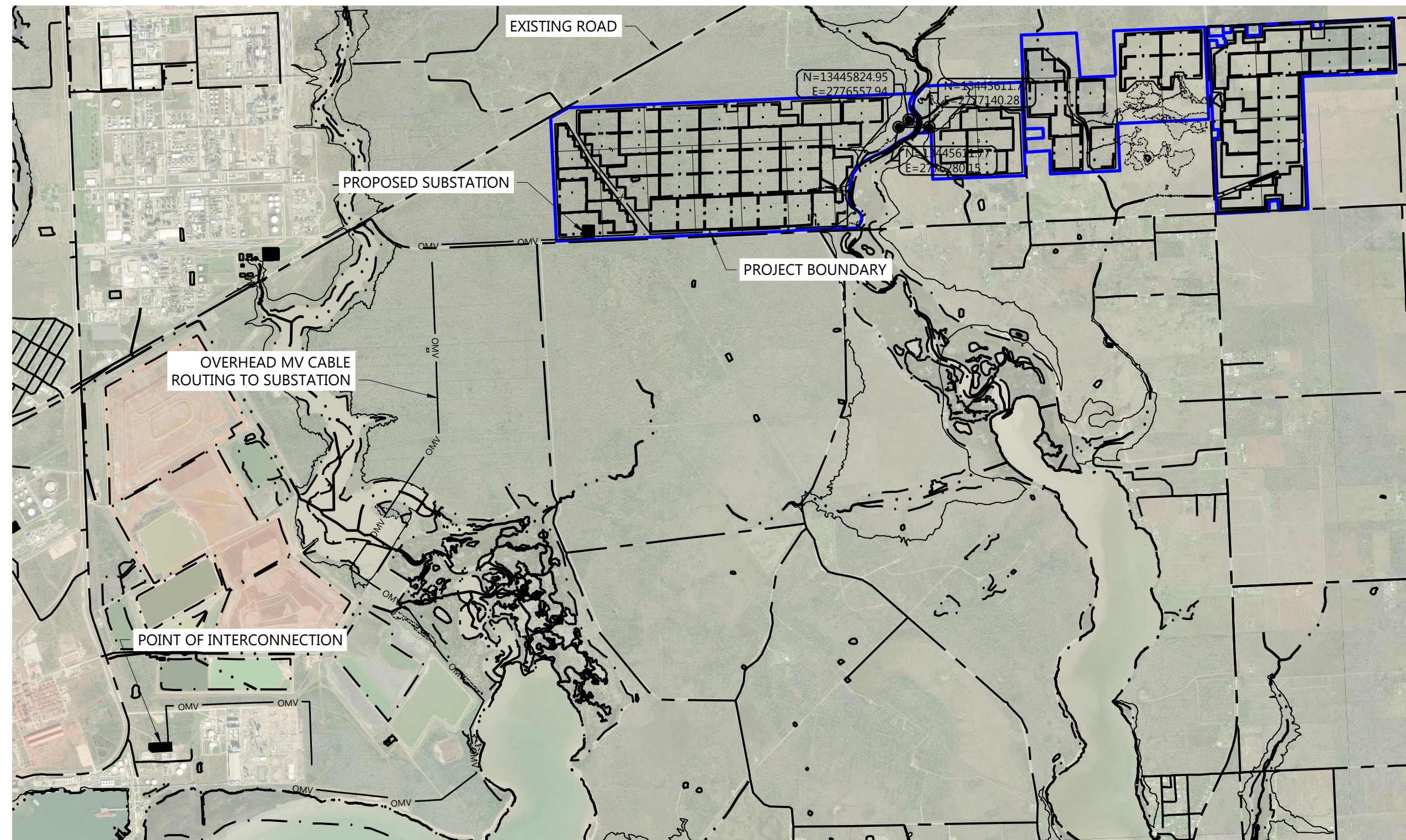
Calhoun County, Texas

NOT FOR CONSTRUCTION

SHEET: E.100



1. PV CAPACITIES
270.1MW-DC
207.0MW-AC
2. DC/AC RATIO: 1.305
3. PITCH DISTANCE: 19'
4. GCR: 35.5
5. MODULE: 400W
6. NUMBER OF MODULES: 675,276
7. INVERTERS (3MW AT POI): 69



Tres Bahias Solar Project



Reinvestment Zone is
Outlined in Red

Calhoun County and Calhoun
County ISD are Shaded in White

Google Earth

© 2019 Google
Data SIO, NOAA, U.S. Navy, NGA, GEBCO
Image Landsat / Copernicus



TAB 12

Request for Waiver of Job Creation Requirement and supporting information (if applicable)

See Attached



CUMMINGS WESTLAKE

PROPERTY TAX ADVISORS

March 9, 2020

Mr. Larry Nichols
Superintendent
Calhoun County Independent School District
525 N. Commerce Street
Port Lavaca, TX 77979

Re: Chapter 313 Jobs Waiver Request

Dear Superintendent Nichols,

Tres Bahias Solar Power, LLC requests that the Calhoun County Independent School District's Board of Trustees waive the job requirement provision as allowed by Section 313.025(f-1) of the Tax Code. This waiver would be based on the school district's board findings that the jobs creation requirement exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application.

Tres Bahias Solar Power, LLC requests that the Board of Trustees make such a finding and waive the job creation requirement for 10 permanent jobs. The industry standard for employment for solar electric generation facilities is typically one full-time employee for approximately 250MW of facility generating capacity. In line with industry standards for job requirements, Tres Bahias Solar Power, LLC has committed to create one job for the project.

Solar projects create a large number of full and part-time, but temporary jobs during the construction phase of the project but require a relatively small number of highly skilled technicians to operate and maintain the project after commercial operation commences. This number will vary depending on the operations and maintenance requirements of the solar equipment selected as well as the support and technical assistance offered by the equipment manufacturer. The permanent employees of a solar project maintain, and service photovoltaic panels, underground electrical connections, substations and other infrastructure associated with the safe and reliable operation of the project. In addition to the onsite employees, there may be managers or technicians who support the project from offsite locations.

Sincerely,

Sam Gregson
Senior Consultant
Cummings Westlake, LLC

16410 N Eldridge Pkwy | Tomball, Texas 77377

P: 713.266.4456 W: cwlp.net



TAB 13

Calculation of three possible wage requirements with TWC documentation

- Calhoun County average weekly wage for all jobs (all industries)
- Calhoun County average weekly wage for all jobs (manufacturing)
- See attached Council of Governments Regional Wage Calculation and Documentation

TRES BAHIAS SOLAR POWER, LLC
TAB 13 TO CHAPTER 313 APPLICATION

CALHOUN COUNTY
CHAPTER 313 WAGE CALCULATION - ALL JOBS - ALL INDUSTRIES

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2019	\$ 1,312	\$ 68,224
SECOND	2019	\$ 1,324	\$ 68,848
THIRD	2019	\$ 1,314	\$ 68,328
FOURTH	2018	\$ 1,308	\$ 68,016
AVERAGE		\$ 1,314.50	\$ 68,354.00

CALHOUN COUNTY
CHAPTER 313 WAGE CALCULATION - MANUFACTURING JOBS

QUARTER	YEAR	AVG WEEKLY WAGES*	ANNUALIZED
FIRST	2019	\$ 2,095	\$ 108,940
SECOND	2019	\$ 2,053	\$ 106,756
THIRD	2019	\$ 1,994	\$ 103,688
FOURTH	2018	\$ 1,973	\$ 102,596
AVERAGE		\$ 2,029	\$ 105,495
X		110%	110%
		\$ 2,231.63	\$ 116,044.50

CHAPTER 313 WAGE CALCULATION - REGIONAL WAGE RATE

YEAR	AVG WEEKLY WAGES*	ANNUALIZED
2018	\$ 1,143	\$ 59,412
X	110%	110%
	\$ 1,256.79	\$ 65,353.20

* SEE ATTACHED TWC DOCUMENTATION

Year	Period	Area	Ownership	Industry Code	Industry	Level	Average Weekly Wage
2018	04	Calhoun	Total All	10	Total, All Industries	0	1,308
2019	01	Calhoun	Total All	10	Total, All Industries	0	1,312
2019	02	Calhoun	Total All	10	Total, All Industries	0	1,324
2019	03	Calhoun	Total All	10	Total, All Industries	0	1,314

Year	Period	Area	Ownership	Industry Code	Industry	Level	Average Weekly Wage
2018	04	Calhoun	Private	31-33	Manufacturing	2	1,973
2019	01	Calhoun	Private	31-33	Manufacturing	2	2,095
2019	02	Calhoun	Private	31-33	Manufacturing	2	2,053
2019	03	Calhoun	Private	31-33	Manufacturing	2	1,994

**2018 Manufacturing Average Wages by Council of Government Region
Wages for All Occupations**

COG	COG Number	Wages	
		Hourly	Annual
Texas		\$27.04	\$56,240
Alamo Area Council of Governments	18	\$22.80	\$47,428
Ark-Tex Council of Governments	5	\$18.73	\$38,962
Brazos Valley Council of Governments	13	\$18.16	\$37,783
Capital Area Council of Governments	12	\$32.36	\$67,318
Central Texas Council of Governments	23	\$19.60	\$40,771
Coastal Bend Council of Governments	20	\$28.52	\$59,318
Concho Valley Council of Governments	10	\$21.09	\$43,874
Deep East Texas Council of Governments	14	\$18.28	\$38,021
East Texas Council of Governments	6	\$21.45	\$44,616
Golden Crescent Regional Planning Commission	17	\$28.56	\$59,412
Heart of Texas Council of Governments	11	\$22.71	\$47,245
Houston-Galveston Area Council	16	\$29.76	\$61,909
Lower Rio Grande Valley Development Council	21	\$17.21	\$35,804
Middle Rio Grande Development Council	24	\$20.48	\$42,604
NORTEX Regional Planning Commission	3	\$25.14	\$52,284
North Central Texas Council of Governments	4	\$27.93	\$58,094
Panhandle Regional Planning Commission	1	\$24.19	\$50,314
Permian Basin Regional Planning Commission	9	\$25.90	\$53,882
Rio Grande Council of Governments	8	\$18.51	\$38,493
South East Texas Regional Planning Commission	15	\$36.26	\$75,430
South Plains Association of Governments	2	\$20.04	\$41,691
South Texas Development Council	19	\$17.83	\$37,088
Texoma Council of Governments	22	\$21.73	\$45,198
West Central Texas Council of Governments	7	\$21.84	\$45,431

110% X \$59,412 = \$65,353.20

Calculated by the Texas Workforce Commission Labor Market and Career Information Department.

Data published: July 2019

Data published annually, next update will be July 31, 2020

Annual wage figure assumes a 40-hour work week.

Note: Data is not supported by the Bureau of Labor Statistics (BLS).

Wage data is produced from Texas Occupational Employment Statistics (OES) data, and is not to be compared to BLS estimates.

Data intended only for use in implementing Chapter 313, Tax Code.



TAB 14

Schedules A1, A2, B, C and D completed and signed Economic Impact (if applicable)

See attached Schedules A1, A2, B, C and D

PROPERTY INVESTMENT AMOUNTS								
(Estimated investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Other new investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other new investment made during this year that may become Qualified Property [SEE NOTE]	Total Investment (Sum of Columns A+B+C+D)
Investment made before filing complete application with district	--	Year preceding the first complete tax year of the qualifying time period (assuming no deferrals of qualifying time period)		Not eligible to become Qualified Property			[The only other investment made before filing complete application with district that may become Qualified Property is land.]	0
Investment made after filing complete application with district, but before final board approval of application				0	0	0	0	0
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period	Stub		2020	76,000,000	0	0	0	76,000,000
Complete tax years of qualifying time period	QTP1	2021-2022	2021	128,000,000	0	0	0	128,000,000
	QTP2	2022-2023	2022	0	0	0	0	0
Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]				204,000,000	0	0	0	204,000,000
				Enter amounts from TOTAL row above in Schedule A2				
Total Qualified Investment (sum of green cells)				204,000,000				

For All Columns: List amount invested each year, not cumulative totals.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.
Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

Total Investment: Add together each cell in a column and enter the sum in the blue total investment row. Enter the data from this row into the first row in Schedule A2.

Qualified Investment: For the green qualified investment cell, enter the sum of all the green-shaded cells.

Schedule A2: Total Investment for Economic Impact (including Qualified Property and other investments)

Date 12/3/2019
Applicant Name TRES BAHIAS SOLAR LLC
ISD Name CALHOUN COUNTY ISD

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PROPERTY INVESTMENT AMOUNTS								
(Estimated investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Other investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other investment made during this year that will become Qualified Property [SEE NOTE]	Total Investment (A+B+C+D)
Total Investment from Schedule A1*	--	TOTALS FROM SCHEDULE A1		Enter amounts from TOTAL row in Schedule A1 in the row below				
				204,000,000	0	0	0	204,000,000
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>	0	2020-2021	2020	0	0	0	0	0
	0	2021-2022	2021	0	0	0	0	0
Value limitation period***	1	2022-2023	2022	0	0	0	0	0
	2	2023-2024	2023	0	0	0	0	0
	3	2024-2025	2024	0	0	0	0	0
	4	2025-2026	2025	0	0	0	0	0
	5	2026-2027	2026	0	0	0	0	0
	6	2027-2028	2027	0	0	0	0	0
	7	2028-2029	2028	0	0	0	0	0
	8	2029-2030	2029	0	0	0	0	0
	9	2030-2031	2030	0	0	0	0	0
	10	2031-2032	2031	0	0	0	0	0
Total Investment made through limitation				204,000,000	0	0	0	204,000,000
Continue to maintain viable presence	11	2032-2033	2032			0		0
	12	2033-2034	2033			0		0
	13	2034-2035	2034			0		0
	14	2035-2036	2035			0		0
	15	2036-2037	2036			0		0
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2037-2038	2037			0		0
	17	2038-2039	2038			0		0
	18	2039-2040	2039			0		0
	19	2040-2041	2040			0		0
	20	2041-2042	2041			0		0
	21	2042-2043	2042	0	0			
	22	2043-2044	2043	0	0			
	23	2044-2045	2044	0	0			
	24	2045-2046	2045	0	0			
	25	2046-2047	2046	0	0			

* All investments made through the qualifying time period are captured and totaled on Schedule A1 [blue box] and incorporated into this schedule in the **first row**.

** Only investment made during deferrals of the start of the limitation (after the end of qualifying time period but before the start of the Value Limitation Period) should be included in the "year prior to start of value limitation period" row(s). If the limitation starts at the end of the qualifying time period or the qualifying time period overlaps the limitation, no investment should be included on this line.

*** If your qualifying time period will overlap your value limitation period, do not also include investment made during the qualifying time period in years 1 and/or 2 of the value limitation period, depending on the overlap. Only include investments/years that were **not** captured on Schedule A1.

For All Columns: List amount invested each year, not cumulative totals. Only include investments in the remaining rows of Schedule A2 that were not captured on Schedule A1.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.

Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

Schedule B: Estimated Market And Taxable Value (of Qualified Property Only)

Date

12/3/2019

Applicant Name

TRES BAHIAS SOLAR LLC

Form 50-296A

ISD Name

CALHOUN COUNTY ISD

Revised May 2014

				Qualified Property			Estimated Taxable Value		
				Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new buildings or "in or on the new improvements"	Market Value less any exemptions (such as pollution control) and before limitation	Final taxable value for I&S after all reductions	Final taxable value for M&O after all reductions
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2020-2021	2020	0	0	0	0	0	0
	0	2021-2022	2021		0	38,000,000	38,000,000	38,000,000	38,000,000
Value Limitation Period	1	2022-2023	2022	0	0	132,946,692	132,946,692	132,946,692	30,000,000
	2	2023-2024	2023	0	0	122,293,821	122,293,821	122,293,821	30,000,000
	3	2024-2025	2024	0	0	110,798,430	110,798,430	110,798,430	30,000,000
	4	2025-2026	2025	0	0	98,374,840	98,374,840	98,374,840	30,000,000
	5	2026-2027	2026	0	0	84,965,931	84,965,931	84,965,931	30,000,000
	6	2027-2028	2027	0	0	70,486,023	70,486,023	70,486,023	30,000,000
	7	2028-2029	2028	0	0	54,849,436	54,849,436	54,849,436	30,000,000
	8	2029-2030	2029	0	0	37,956,209	37,956,209	37,956,209	30,000,000
	9	2030-2031	2030	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	10	2031-2032	2031	0	0	28,559,977	28,559,977	28,559,977	28,559,977
Continue to maintain viable presence	11	2032-2033	2032	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	12	2033-2034	2033	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	13	2034-2035	2034	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	14	2035-2036	2035	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	15	2036-2037	2036	0	0	28,559,977	28,559,977	28,559,977	28,559,977
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2037-2038	2037	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	17	2038-2039	2038	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	18	2039-2040	2039	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	19	2040-2041	2040	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	20	2041-2042	2041	0	0	28,559,977	28,559,977	28,559,977	28,559,977
	21	2042-2043	2042	0	0	27,131,978	27,131,978	27,131,978	27,131,978
	22	2043-2044	2043	0	0	27,131,978	27,131,978	27,131,978	27,131,978
	23	2044-2045	2044	0	0	27,131,978	27,131,978	27,131,978	27,131,978
	24	2045-2046	2045	0	0	27,131,978	27,131,978	27,131,978	27,131,978
	25	2046-2047	2046	0	0	27,131,978	27,131,978	27,131,978	27,131,978

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.

Only include market value for eligible property on this schedule.

Schedule C: Employment Information

Date 12/3/2019
Applicant Name TRES BAHIAS SOLAR LLC
ISD Name CALHOUN COUNTY ISD

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				Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Number of Construction FTE's or man-hours (specify)	Average annual wage rates for construction workers	Number of non-qualifying jobs applicant estimates it will create (cumulative)	Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Average annual wage of new qualifying jobs
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2021-2022	2020	150 FTE	50,000	0	0	0
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2021-2022	2021	150 FTE	50,000	0	0	0
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2022-2023	2022	N/A	N/A	0	1	65,400
	2	2023-2024	2023	N/A	N/A	0	1	65,400
	3	2024-2025	2024	N/A	N/A	0	1	65,400
	4	2025-2026	2025	N/A	N/A	0	1	65,400
	5	2026-2027	2026	N/A	N/A	0	1	65,400
	6	2027-2028	2027	N/A	N/A	0	1	65,400
	7	2028-2029	2028	N/A	N/A	0	1	65,400
	8	2029-2030	2029	N/A	N/A	0	1	65,400
	9	2030-2031	2030	N/A	N/A	0	1	65,400
	10	2031-2032	2031	N/A	N/A	0	1	65,400
Years Following Value Limitation Period	11 through 25	2031-2046	2031-2046	N/A	N/A	0	1	65,400

Notes: See TAC 9.1051 for definition of non-qualifying jobs.
Only include jobs on the project site in this school district.

- C1.** Are the cumulative number of qualifying jobs listed in Column D less than the number of qualifying jobs required by statute? (25 ☒ Yes ☐ No
qualifying jobs in Subchapter B districts, 10 qualifying jobs in Subchapter C districts)
If yes, answer the following two questions:
- C1a.** Will the applicant request a job waiver, as provided under 313.025(f-1)? ☒ Yes ☐ No
- C1b.** Will the applicant avail itself of the provision in 313.021(3)(F)? ☐ Yes ☒ No

Schedule D: Other Incentives (Estimated)

Date 12/3/2019
Applicant Name TRES BAHIAS SOLAR LLC
ISD Name CALHOUN COUNTY ISD

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State and Local Incentives for which the Applicant intends to apply (Estimated)						
Incentive Description	Taxing Entity (as applicable)	Beginning Year of Benefit	Duration of Benefit	Annual Tax Levy without Incentive	Annual Incentive	Annual Net Tax Levy
Tax Code Chapter 311	County:	N/A	N/A	N/A	N/A	N/A
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Tax Code Chapter 312	County: Calhoun County	2022	10 Years	Annual Avg. = \$382,000	See Below	Annual Avg = \$57,300
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Local Government Code Chapters 380/381	County:	N/A	N/A	N/A	N/A	N/A
	City:	N/A	N/A	N/A	N/A	N/A
	Other:	N/A	N/A	N/A	N/A	N/A
Freeport Exemptions	N/A	N/A	N/A	N/A	N/A	N/A
Non-Annexation Agreements	N/A	N/A	N/A	N/A	N/A	N/A
Enterprise Zone/Project	N/A	N/A	N/A	N/A	N/A	N/A
Economic Development Corporation	N/A	N/A	N/A		N/A	
Texas Enterprise Fund	N/A	N/A	N/A		N/A	
Employee Recruitment	N/A	N/A	N/A		N/A	
Skills Development Fund	N/A	N/A	N/A		N/A	
Training Facility Space and Equipment	N/A	N/A	N/A		N/A	
Infrastructure Incentives	N/A	N/A	N/A		N/A	
Permitting Assistance	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
Other:	N/A	N/A	N/A		N/A	
TOTAL				\$ 382,000		\$ 57,300

Additional information on incentives for this project:

Calhoun County Terms: Tres Bahias Solar LLC has applied for and anticipates receiving a Tax abatement structured as follows: Year 1 through 10 - 70%



TAB 15

Economic Impact Analysis, other payments made in the state or other economic information (if applicable)

None



TAB 16

Description of Reinvestment Zone or Enterprise Zone, including:

- a) Evidence that the area qualifies as an enterprise zone as defined by the Governor's office
- b) Legal description of reinvestment zone*
- c) Order, resolution, or ordinance established the reinvestment zone*
- d) Guidelines and criteria for creating the zone*

- a) Not applicable
- b) See Attached
- c) See Attached
- d) See Attached

Tres Bahias Solar-Reinvestment Zone
All or portions of the following:

SURVEY	ABSTRACT	ACRES	COUNTY
PHILLIP DIMITT SURVEY	A-11	3671.2	CALHOUN
THOMAS COX SURVEY	A-10	4037.6	CALHOUN
SAMUEL HOUSTON SURVEY	A-22	3312.6	CALHOUN
PORTION OF KELLER CREEK/KELLER BAY		43.6	CALHOUN
TOTAL ACRES		11,065 ACRES	

**GUIDELINES AND CRITERIA OF THE COMMISSIONERS' COURT
OF CALHOUN COUNTY FOR GRANTING TAX ABATEMENT AS A
BUSINESS INCENTIVE IN REINVESTMENT ZONES
CREATED IN CALHOUN COUNTY**

(For the period June 25, 2019 through June 24, 2021)

PREAMBLE

WHEREAS, the Commissioners' Court of Calhoun County by resolution adopted on March, 18, 1988 declared its eligibility to grant tax abatement; and

WHEREAS, by subsequent resolutions the Commissioners' Court of Calhoun County adopted and extended Guidelines and Criteria for granting tax abatement in reinvestment zones created in Calhoun County; and

WHEREAS, as a direct result of being eligible to grant tax abatement, Calhoun County, the Calhoun County Independent School District, Calhoun County Navigation District and other taxing jurisdictions in the county have been able to compete for and obtain expansion projects of the Union Carbide Corporation Seadrift Plant, with projects exceeding one hundred million dollars, and the Formosa Plastics Corporation, Texas facilities of approximately 1.3 billion dollars; and

WHEREAS, pursuant to the **PROPERTY REDEVELOPMENT AND TAX ABATEMENT ACT, TEX. TAX CODE ANN.** Chapter 312, it is necessary to adopt Guidelines and Criteria for granting tax abatement agreements as a business incentive for the next two year period commencing June 25, 2019 through June 24, 2021, inclusive, said Guidelines and Criteria to be unchanged for the two year period, unless amended by three-quarters vote; and

NOW, THEREFORE, BE IT RESOLVED that the Commissioners' Court of Calhoun County does hereby adopt the following Guidelines and Criteria for granting tax abatement as a business incentive in reinvestment zones created within Calhoun County, Texas for the period June 25, 2019 through June 24, 2021, inclusive.

Section 1

DEFINITIONS

- (a) **“ABATEMENT”** means the exemption from ad valorem taxation of a portion or all of the eligible value of the real property or of tangible personal property located on the real property, or both, as limited by these Guidelines and Criteria and the provisions of TEX. TAX CODE ANN. §312.204.
- (b) **“AGREEMENT”** means a written contractual agreement between a property owner and/or lessee and an eligible taxing jurisdiction for the purposes of a business incentive.
- (c) **“AQUACULTURE FACILITY”** means buildings, structures and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is the hatching or incubation or nursing or maturing or processing to marketable size aquatic culture in commercially marketable quantities.
- (d) **“APPLICANT”** means the legal entity seeking tax abatement as a business incentive.
- (e) **“APPRAISED VALUE”** means the last certified property value as approved by the Calhoun County Appraisal Review Board.
- (f) **“BASE YEAR VALUE”** means the appraised value of all property owned by the Taxpayer/applicant in the reinvestment zone as most recently determined by the Calhoun County Appraisal District immediately preceding the application, plus the agreed upon value of all property improvements made in the reinvestment zone since the last appraisal, but before the execution of the agreement.
- (g) **“BUSINESS INCENTIVE”** means an item offered of value to a business that induces the business to locate in a particular jurisdiction.
- (h) **“COMMENCEMENT OF CONSTRUCTION”** means the placement or construction of any improvements that are part of the project in the reinvestment zone. The storage of building materials in the reinvestment zone that are to be used in construction of the improvements does not constitute commencement of construction. Engineering, site preparation and similar activity shall not be considered commencement of construction so long as permanent improvements that are part of the project have not been constructed and placed in the reinvestment zone.

- (i) **“COMMISSIONERS”** or **“COMMISSIONERS’ COURT”** means the Commissioners’ Court and governing body of Calhoun County, Texas.
- (j) **“COUNTY”** means Calhoun County, Texas, a political subdivision of the State of Texas.
- (k) **“DEFERRED MAINTENANCE”** means improvements necessary for continued operations which do not improve the productivity or alter the process technology.
- (l) **“DESIGNATING AUTHORITY”** means the taxing unit that has the authority to designate the reinvestment zone in which the proposed project is located.
- (m) **“DESIGNEE”** unless otherwise indicated, means any person or entity authorized by the Commissioners’ Court to act on behalf of the County.
- (n) **“ECONOMIC LIFE”** means the number of years a property improvement is expected to be in service in a facility, and will continue to have value for ad valorem tax purposes throughout such term.
- (o) **“ELIGIBLE JURISDICTION”** includes Calhoun County and any navigation district, any drainage district, and municipal utility district, any water quality improvement district, any municipality, and the Calhoun County Independent School District, that levies ad valorem taxes upon property located within the proposed or existing reinvestment zone.
- (p) **“EXPANSION”** means the addition of building, structures, fixed machinery or equipment for purposes of increasing production capacity.
- (q) **“FACILITY”** means property improvements proposed, completed, or in the process of construction which together comprise an integral whole.
- (r) **“INFRASTRUCTURE”** means a system of public works installed in a residential subdivision, whether public or private, to include, but not be limited to, roadways, utility service including water, sewer and electrical service, and bulk heading.
- (s) **“MANUFACTURING FACILITY”** means building and structures, including fixed machinery and equipment, the primary purpose of which is or will be the manufacture of tangible goods or materials or the processing of such goods or materials by physical or chemical change.
- (t) **“MATERIAL MISREPRESENTATION”** means a false statement about a material matter which induced the Commissioners’ Court to take any specific action on

an application for tax abatement as a business incentive, and without such misrepresentation, the Commissioners' Court would either not have designated a reinvestment zone, or granted tax abatement as a business incentive or would have taken some action different than it actually did.

(u) **"MODERNIZATION"** means the replacement or upgrading of existing facilities which increases the productivity input or output, updates the technology, or substantially lowers the unit cost of the operation. Modernization may result from the construction, alteration, or installation of buildings, structures, fixed machinery or equipment. It shall not be for the purpose of reconditioning, refurbishing or repairing.

(v) **"NEW FACILITY"** means a property previously undeveloped which is placed into service by means other than or in conjunction with expansion or modernization.

(w) **"OTHER BASIC INDUSTRY"** means buildings and structures including fixed machinery and equipment not elsewhere described, used, or to be used for the production or products, and result in the creation of new permanent jobs within Calhoun County and inject new wealth into Calhoun County.

(x) **"PROJECT"** is a reference to the entire proposal of work and improvements to be accomplished in the reinvestment zone as described in the application and tax abatement as a business incentive agreement.

(y) **"REGIONAL DISTRIBUTION CENTER FACILITY"** means building and structures, including machinery and equipment, used or to be used primarily to receive, store, service or distribute goods or materials owned by the facility operator.

(z) **"REGIONAL ENTERTAINMENT"** means buildings and structures, including fixed machinery and equipment, used or to be used to provide entertainment through the admission or the general public.

(aa) **"REGIONAL SERVICE FACILITY"** means buildings and structures, including fixed machinery and equipment, used or to be used to service goods.

(bb) **"REINVESTMENT ZONE-COUNTY DESIGNATED"** means any area of Calhoun County which has been designated a reinvestment zone for tax abatement as a business incentive and which is not within the taxing jurisdiction of any incorporated municipality. It is the province of the Calhoun County Commissioners' Court to designate Reinvestment Zones - County Designated on a case-by-case basis in order to

maximize the potential incentives for eligible enterprises to locate or expand within Calhoun County.

(cc) “**REINVESTMENT ZONE - MUNICIPALITY DESIGNATED**” means an area of Calhoun County which lies within the taxing jurisdiction of a municipality and has been designated a reinvestment zone by that municipality for tax abatement as a business incentive. It is the province of the City Council of any eligible municipality to designate Reinvestment Zones Municipality Designated on a case-by-case basis in order to maximize the potential incentives for eligible enterprises to locate or expand within the City.

(dd) “**RENOVATION**” is a repair or improvement of an existing facility or structure.

(ee) “**REPAIR**” means any improvement or betterment of an existing facility or structure.

(ff) “**REPLACEMENT**” means the substitution of something new or different for an existing facility or structure, or portion thereof, when the replacement facility or structure is to be used for the same general purpose as the old facility or structure that is being replaced.

(gg) “**RESEARCH FACILITY**” means buildings and structures, including fixed machinery and equipment, used or to be used primarily for research or experimentation to improve or develop or develop the production processes thereto.

(hh) “**SCHOOL DISTRICT**” or “**DISTRICT**”, unless otherwise indicated, means the Calhoun County Independent School District.

(ii) “**SUBSTANTIAL COMPLIANCE**” means that any estimate or prediction that comes within eighty-five percent of a stated amount shall be construed as compliance, but only when estimates are expressly authorized. Unless expressly authorized, strict compliance with a statement or representation shall be required.

(jj) “**TAXPAYER**” means the legal entity that seeks, or who has been approved for tax abatement as a business incentive. It also is a reference to the owner of the property constituting the reinvestment zone and the improvements and tangible personal property to be located therein.

Section 2

ELIGIBILITY CRITERIA GENERALLY

- (a) **General Eligibility** Subject to the limitations and exceptions contained in these Guidelines and Criteria, TEX. TAX CODE ANN. §312.204 shall govern to what extent real property and tangible personal property located in a reinvestment zone are eligible for tax abatement as a business incentives.
- (b) **Commencement of Construction.** If the reinvestment zone is designated by a municipality, the applicant shall not commence construction until after it and the municipality have both executed an agreement on similar terms for the same project then under consideration by the County. Any property otherwise eligible for abatement that is placed or constructed in the reinvestment zone before the agreement is executed with the municipality shall not be eligible for tax abatement as a business incentive. However, any eligible improvements made or property placed in the reinvestment zone after executing the agreement with the municipality shall be eligible for abatement with the County, even though such improvements or property are placed in the reinvestment zone prior to filing the application or executing the agreement with the County, provided that a municipality is the designating authority. If the reinvestment zone is County designated, applicant shall not commence construction until the County executes the agreement.
- (c) **Property Value Eligible for Abatement** Subject to the limitations and other eligibility requirements contained in these guidelines, the County may abate the value of tangible personal property located on the real property in the reinvestment zone in each year covered by the agreement, other than tangible personal property that was located on the real property at any time before the period covered by the agreement. The value of real property to the extent its value for each year during the agreement exceeds its value for the year in which the agreement was executed is eligible for abatement.
- (d) **New and Existing Facilities** A business incentive may be granted for both eligible new facilities and structures, as well as for expansion or modernization of existing facilities and structures.
- (e) **Eligible Property to be Described** The application for tax abatement as a business incentive or any other business incentive and any agreement must describe the project and improvements with such detail and certainty as required by the County in order to identify the property that is declared to be eligible for business incentives. Any

property, even though otherwise eligible for business incentives, that is not sufficiently described in the application, as determined by the Commissioners' Court, or their designee, shall not be eligible for business incentives under such agreement.

(f) **Exclusions.**

(1) This policy is mutually exclusive of existing Industrial District Contracts. The real property cannot be in an improvement project financed by tax increment bonds.

(2) Any business incentive agreement granted is subject to the rights of holders of outstanding bonds of the County.

(3) When any project that otherwise satisfies the eligibility criteria for tax abatement as a business incentive is for the purpose of repairing, replacing, modernizing, or upgrading an existing facility, if, prior the commencement of the project, or upon completion of the project the value of the existing facility is reduced or deleted from the tax rolls, then, in such event, the applicant shall only be eligible for tax abatement as a business incentives to the extent of the difference in the last appraised value of the property value that is being dropped or reduced from the tax rolls and the project cost.

Section 3

ELIGIBILITY CRITERIA AND TERMS FOR FACILITIES/INDUSTRY

(a) **Eligible Facilities.** A facility may become eligible for abatement if it is located in a designated Reinvestment Zone, and is a:

- (1) Manufacturing Facility; or
- (2) Research Facility; or
- (3) Aquaculture Facility; or
- (4) Regional Distribution Center Facility; or
- (5) Regional Service Facility; or
- (6) Regional Entertainment Facility; and,
- (7) Other Basic Industry.

(b) **Economic Qualifications** In addition to satisfying the other eligibility criteria, in order to be eligible for business incentives, the new facility or structure, or the expanded or modernized existing facility or structure must meet the following qualifications:

- (1) The project must cost at least Five Million Dollars (\$5,000,000.00); and
- (2) Be expected to retain or create employment for at least 10 persons of the eligible facility on a full time and permanent basis in Calhoun County; and
- (3) Not be expected to solely or primarily have the effect of transferring employment from one part of Calhoun County to another; and
- (4) Be expected to attract major investment in the reinvestment zone that would be a benefit to the property to be included in the zone; and
- (5) That development anticipated to occur in the proposed reinvestment zone would contribute to the economic development of the County.
- (6) The County reserves the right to grant abatements up to the state maximum of 100% for 10 years.

(c) **Term of Abatement.** The term of tax abatement as a business incentive granted by the County shall be six (6) years, and shall be applied commencing January 1 following the effective date of the agreement.

(d) **Effective Date.**

- (1) If the County is the designating authority, the effective date of the agreement shall be the date that the County executes the agreement.
- (2) If a municipality is the designating authority, the effective date of any agreement that the County approves shall be same date as that of the agreement entered into for the same project by the municipality.
- (3) Abatement applies to all eligible improvements placed in the reinvestment zone after the designating authority and Taxpayer execute their agreement. Taxes will be abated on eligible property for the number of years approved by the County, commencing January 1 immediately following the effective date of the agreement. Property otherwise eligible for abatement under the agreement shall be eligible for abatement only if the property is placed or constructed in the reinvestment zone after the effective date of the agreement, but on or before December 31 immediately preceding the beginning of the last full tax year that taxes are to be abated.

(e) **Percent of Tax Abatement as a Business Incentive.** The percent of tax abatement as a business incentive of eligible property value to be granted each year shall be as follows:

		Year					
Taxable							
Investment (Millions)		1	2	3	4	5	6
Up to	5.00	—	—	—	—	—	—
5.00 to	9.99	90	50	25	—	—	—
10.00 to	14.99	90	75	50	25	—	—
15.00 to	19.99	90	90	75	50	25	—
20.00 or more		90	90	85	75	50	25

(f) **Taxability.** From the execution of the agreement to the end of the agreement period taxes shall be payable as follows:

- (1) the value of ineligible property as provided in Section 2 shall be fully taxable.
- (2) the base year value of existing eligible property as determined each year shall be fully taxable; and
- (3) the unabated value of eligible property shall be taxable.

(g) **Limitations.** If, during the term of the business incentive period the taxpayer should close, cease production, or demolish any or all of a facility that was in existence on the effective date of the business incentives agreement, or take any other similar action that would have the effect of reducing or deleting the value of the facility, or portion thereof from the tax rolls that was in existence on the effective date of the business incentives agreement regardless of the reason, then the eligible value for abatement allowed in the business incentives agreement shall be reduced by the amount of existing property value owned by the taxpayer that is reduced or deleted from the tax roll. Depreciation, agreed to by the Chief Appraiser, or Appraisal Review Board, shall not be construed as a reduction or deletion of value for purposes of this limitation.

Section 4

ELIGIBILITY CRITERIA AND TERMS FOR REAL ESTATE DEVELOPMENT

(a) **Eligible Development.** A development may become eligible for abatement if it is located in a designated Reinvestment Zone, and is a:

- (1) New single family residential housing project;
- (2) Multi-family housing project; and/or,
- (3) Apartment project.

(b) **Duration of Abatement as a Business Incentive.** Any Agreement under this section shall not exceed three (3) years.

(c) **Economic Qualification.** To be eligible to receive tax abatement as a business incentive, the developer must expend a minimum of two million dollars (\$2,000,000.00) in infrastructure costs for the development.

(d) **Taxability.** From the initial application to the end of the abatement period, taxes shall be paid as follows:

(1) All ineligible property shall be fully taxable during the term of the abatement.

(2) Any property within the reinvestment zone that is sold, transferred, conveyed, occupied or otherwise no longer part of the developer's inventory shall be taxed at the appraised value determined by the Calhoun County Appraisal District beginning January 1 of the year following the sale, transfer, conveyance, or occupation.

(3) At the end of the abatement period, all property subject to the Agreement shall be subject to full taxation.

APPLICATION

(a) **Filing.** Any property owner of taxable property in Calhoun County located in a designated or proposed reinvestment zone may request tax abatement as a business incentive by filing a written application with the Commissioners' Court, or their designee. When appropriate, the application may combine a request for designation of a reinvestment zone with an application for tax abatement as a business incentive.

(b) **Contents.** The application shall include all information contemplated by these Guidelines and Criteria in order for the Commissioners' Court to evaluate the applicant's eligibility and to determine whether to grant any business incentives. The application

shall be submitted on a form provided by the County, or alternatively, if unavailable, the contents of the application shall be in order of this subsection and respond to each element of this subsection, and shall contain such other information as required by the County, or its representative. Specifically, the application shall include the following:

- (1) A list of the kind, number and location of all proposed improvements of the property, including a general written description of the general nature and extent of modernization, expansion or new improvements to be undertaken.
- (2) A statement of the current and proposed uses of the property showing that planned usage is consistent with the general purpose of encouraging development or redevelopment of the reinvestment zone during the period that the property tax exemptions are in effect.
- (3) A map showing locations of existing and proposed improvements. The map should also show general uses and conditions of the real property in the reinvestment zone.
- (4) A legal description of the property.
- (5) An estimate of the project cost and new value that will result from the modernization, expansion or new improvements to be undertaken. A statement of the base year value separately stated for land and existing improvements located in the reinvestment zone, plus any improvements or changes in value in the reinvestment zone after the last appraisal and prior to the application. In any case where the value of an existing facility will be deleted or diminished as a result of the project, the application must contain verification from the Chief Appraiser of the last appraised value of any portion or all of a facility whose value will be reduced or removed from the tax rolls.
- (6) An estimate of the number of jobs that will be created or retained by the modernization, expansion or new improvements.
- (7) Estimated date of start of construction, length of construction, estimated value of new improvements to be completed during each year of construction and estimated date of completion.
- (8) An estimate of what the property value subject to abatement will be on January 1 immediately following the end of the abatement period.

(9) In the case of applicants unknown to the Commissioners' Court, a financial statement of the individual or corporation filing the application, complete with letters of credit and other documents which the County may request in order that the Commissioners' Court can appropriately evaluate the financial capacity and other factors of the applicant.

(10) The Taxpayer shall make the following assurances in the application:

(a) That all the information contained in the application is true and correct.

(b) That the person signing the application on behalf of the Taxpayer/Applicant has unrestricted authority to execute the application and the contract documents on behalf of the Taxpayer/Applicant, and has the unrestricted authority to obligate the Taxpayer/Applicant to all the terms, covenants and conditions that will be contained in the agreement.

(c) That construction will not commence on any of the eligible improvements until an agreement has been executed with the designating authority, whether the designating authority is the County, or a municipality.

(d) That the project will not be constructed without first obtaining all necessary local, state and federal environmental and construction permits, and that the Taxpayer will abide by all conditions of the permits, laws and ordinances, rules and regulations governing the operation of the project throughout its economic life.

(e) That the Taxpayer/applicant will abide by all conditions of the agreement and the Guidelines and Criteria adopted by the Commissioners' Court applicable to the agreement.

(f) That the planned use of the property will not constitute a hazard to public health or safety throughout the economic life of the project.

(g) That the applicant will make the specific improvements to the property as described in its application.

(h) That although estimates of the cost of the project and the number of jobs retained or created as a result of the project that are within 85 % of actual cost and/or number of jobs may be construed to be substantial compliance,

the actual total cost of the project and actual number of jobs retained or created shall not be less than the minimum amounts required in the County's Guidelines required to qualify for tax abatement as a business incentive.

(11) The applicant will identify the type of legal entity making the application, such as corporation, partnership, etc. If a corporation, the statement should include the home state of incorporation, the name and address of the registered agent for service in Texas, and a commitment to notify the County within sixty days of any change of the registered agent or status of the corporation. Similar information will be required of a general or limited Partnership or other legal entity.

(12) The application shall contain the name, title and address of the Taxpayer's local and corporate representatives for the purposes of giving notice.

(13) In its application, the applicant shall include a statement that it waives all rights of confidentiality with regard to the contents of its application for tax abatement as a business incentive otherwise granted under TEX. TAX CODE ANN. §312 .003.

(14) The applicant shall agree to reimburse the County for all legal fees and any other expenses that the County incurs in establishing eligibility for granting business incentives and for reviewing, processing and acting on its application. Further, applicant shall agree to pay for the costs of an economic impact assessment, if the County requires one in connection with its application for business incentives. In the event the County determines an economic impact assessment is required, the Taxpayer shall be given notice and the opportunity to withdraw its application prior to commencement of the economic impact assessment, if applicant is unwilling to pay the total cost of the economic impact assessment. In its application, the Taxpayer shall agree to pay for all fees and expenses incurred by the County in establishing eligibility to grant business incentives and processing the application, even though the Commissioners' Court ultimately denies the application.

(15) Any other information that the Commissioners' Court or Applicant may deem appropriate to assist the Commissioners' Court in determining whether to enter into a business incentives agreement with the Applicant.

(16) If a variance from any provision in these Guidelines and Criteria is

requested, a statement describing the variance, and a detailed statement supporting the Applicant's reasons for the requested variance must be included.

(c) **Completed Application.** Upon receipt of a completed application, the Commissioners' Court shall mail written notice to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is included in the application. Such notice shall be mailed at least seven (7) days before the Commissioners' Court takes any action on the application. The notice shall include a copy of the proposed agreement, if the County is the designating authority. There shall be a \$1,000 nonrefundable fee payable the County at the time the application is submitted.

(d) **Economic impact assessment.** After receipt of an application for business incentives, the Commissioners' Court may cause to have prepared an economic impact assessment setting forth the impact of the proposed agreement. The study shall include, but not necessarily be limited to, an assessment of the economic effects of the abatement of taxes. The County shall give at least ten (10) days written notice to the Applicant of its intent to conduct an economic impact assessment, which notice shall include a description of the scope of the study. If the Applicant is unwilling to pay for the economic impact assessment, it may give notice to the County within seven (7) calendar days from the date it received notice of the proposed economic impact assessment that the Applicant is withdrawing its application. The economic impact assessment may include any other issue that the Commissioners' Court determines to be appropriate in considering the application, including, without limitation by enumeration, environmental issues, short term/long term effect on issues of adequacy of existing physical plants, need to increase number of employees in the County, and the impact on the County of any resulting increased costs as a result of the project and the County's ability to pay such costs during the abatement period.

Section 5

DESIGNATION OF REINVESTMENT ZONE

(a) **Authority to Designate Reinvestment Zones.** Reinvestment zones may be designated by either the Commissioners' Court for property located outside the jurisdiction of any municipality in the County, or by a municipality, if the property is

located within the jurisdiction of such municipality.

(b) **Application for County Designated Reinvestment Zone.** An application to the County for designation of a Reinvestment Zone may be combined with the application for business incentives. The application must include information to support the required findings in subsection (c), inclusive of this section. It must also include a map showing the boundaries of the proposed reinvestment zone and a legal description of the proposed reinvestment zone. Any information contained in the application for business incentives that answers the requirements for designation of a reinvestment zone does not need to be duplicated, if the application for designation of a reinvestment zone and business incentives are combined in one application.

(c) **Designation.** The Commissioners' Court may not designate an area as a reinvestment zone until:

(1) The Commissioners' Court has held a public hearing on the designation at which time interested persons shall be entitled to speak and present evidence for or against the designation; and

(2) The Commissioners' Court must make the following findings in order to designate an area as a reinvestment zone:

(a) The designation would contribute to the retention or expansion of primary employment; or,

(b) The designation would attract major investment in the zone that would be a benefit to the property to be included in the zone; and,

(c) The designation would contribute to the economic development of the county.

(d) **Notice of Hearing.** Notice of the hearing shall be clearly identified on the Commissioners' Court agenda. In addition, notice shall issue as follows:

(1) Notice of the hearing must be published in a newspaper of general circulation in the County not later than the 7th day before the date of the hearing; and

(2) Written notice of the hearing shall be delivered to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is included in the proposed reinvestment zone. Such notice

shall be delivered at least 7 days before the hearing. Pursuant to Tex Tax Code Ann. §312.201(e) this notice shall be presumed delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer.

(e) **Municipality Designated Reinvestment Zones.** If the reinvestment zone is designated by a municipality, to be eligible for tax abatement as a business incentive with the County, the property must be located in a reinvestment zone and the municipality must have entered into an agreement for the same project with the applicant no more than ninety days before the County enters into an agreement with the same applicant for the same project.

(f) **Date of Expiration.** The designation of a reinvestment zone shall expire five (5) years after the date of designation. However, the designation of a reinvestment zone that has expired may be renewed by the County or municipality for periods not to exceed five (5) years. The expiration of the designation of a reinvestment zone shall not affect existing agreements made under these Guidelines and Criteria.

Section 6

AGREEMENTS

(a) **Resolution of Commissioners' Court.** After approval, the Commissioners' Court shall formally pass a resolution and execute an agreement with the owner of the facility and lessee as required, which shall include those matters contained in Texas Tax Code §312.205 and any other terms and conditions in the best interests of the County.

(b) **Notice to Other Taxing Jurisdictions.** If the County is the designating authority, it shall deliver written notice to the presiding officer of the governing body of each other taxing unit in which the property that is the subject of the agreement is located that the County intends to enter into an agreement. The notice must be delivered at least 7 days before the County enters into the agreement. The notice must also include a copy of the proposed agreement. The notice shall be presumed to be delivered when placed in the mail postage paid and properly addressed to the appropriate presiding officer.

(c) **Execution/Effective Date.** After giving the notices required above, and after making

the necessary findings, the County may, in its discretion, approve and execute the agreement. The effective date of the agreement shall be the date that the County's designated representative or official executes the agreement if the County is the designating authority. If a municipality is the designating authority, the effective date of the agreement shall be the date that the City's designated representative or official executes the agreement.

Section 7

RECAPTURE

(a) **Conditions of Default. Cure and Termination.** Should the Commissioners' Court determine that the Taxpayer is in default according to the terms and conditions of its agreement, the Commissioners' Court shall notify the Taxpayer in writing at the address stated in the agreement, and if such default is not cured within sixty (60) days from the date of such notice ("Cure Period"), then the agreement may be terminated by the Commissioners' Court. Provided, that upon proof of a curative effort commencing within sixty (60) days, if construction is required, the Commissioners' Court may extend the time to complete the curative work, based upon reasonable construction requirements.

(b) **Elements of Default.** The following shall be considered elements of default, in the event that the Taxpayer:

- (1) Allows its ad valorem taxes owed to Calhoun County to become delinquent without timely and proper protest and/or contest; or
- (2) Violates any of the terms and conditions of the abatement agreement, or any prior or subsequent agreement with the County, or any other taxing jurisdiction that has granted an agreement to the Taxpayer for any project that the Commissioners' Court has also granted business incentives; or
- (3) Discontinues producing product or service at the improvements subject to abatement and described in the application, for any reason excepting fire, explosion or other casualty or accident or natural disaster for a period of one year during the abatement period after the facility is completed and begins producing product or service.

(4) Violates any written term, covenant, condition, agreement, or promise of a gift or donation made by the taxpayer to the County, although such may be extraneous to the agreement, and even though same might be otherwise legally unenforceable; or

(5) Makes any material misrepresentations, either in the application or agreement.

(c) **Termination.** If, after written notice, the Taxpayer fails to cure within the prescribed period any specified default, such failure shall be grounds for termination for cause. Termination of the agreement for cause shall be retroactive to the beginning of the agreement. Termination shall be effected by resolution of the Commissioners' Court and written notice mailed to the Taxpayer.

(d) **Non Waiver.** In the event the County fails to act on or enforce any element or breach that is identified as a default, such failure to act shall not be a waiver of the County's right to subsequently enforce the same default or any other prior or subsequent default.

(e) **Recapture.** On termination for cause, the Taxpayer shall then become liable for the payment of all taxes that would have otherwise become due but for the abatement agreement for all calendar years during which the abatement agreement was in effect. Said taxes shall be paid to the Calhoun County Consolidated Tax Office for the credit of Calhoun County within sixty (60) days from the date of receipt of notice of termination. All such taxes due shall include statutory penalty and interest from the date they would otherwise have become delinquent but for the agreement, until the date they are actually paid.

Section 8

ADMINISTRATION

(a) **Duties of Chief Appraiser.** The Chief Appraiser of the County shall, as a normal consequence of his duties, annually determine an assessment of the real and personal property comprising the reinvestment zone. Each year, on or before April 1, the Taxpayer receiving abatement shall furnish the Chief Appraiser with such information as may be

reasonably requested. Once value has been established, the Chief Appraiser shall notify the affected taxing jurisdictions, which have granted tax abatement as a business incentive in the reinvestment zone, of the amount of the appraisal.

(b) **Compliance Inspections.** All compliance inspections will be made only after giving twenty-four (24) hours notice and will only be conducted in such manner as not to unreasonably interfere with the construction and/or operation of the facility. All inspections will be made with one or more representatives of the company or individual and in accordance with its safety standards.

(c) **Annual Evaluations** Upon completion of construction, the Commissioners' Court of Calhoun County, or their designees, shall annually evaluate each facility receiving abatement to ensure compliance with the agreement.

(d) **Notice Requirements.** Any notice required to be given to Calhoun County hereunder shall be in writing, and mailed or personally delivered to the County Judge. Notices to the Taxpayer shall be in writing, and addressed to its designated representative at the address provided in its application or the agreement.

Section 9

MISCELLANEOUS

(a) **Variance.** An application for a variance from the provisions of these Guidelines and Criteria may be made in written form to the Commissioners' Court. The total duration of abatement shall in no instance exceed ten (10) consecutive tax years commencing January 1 following the effective date of the agreement, including any extension. Such request shall include a complete description of the circumstances explaining why the applicant should be granted such variance. Approval of a request for variance requires at least a three-fourths (3/4) vote of the Commissioners' Court.

(b) **Assignments.** An abatement agreement may be transferred and assigned by the holder to a new owner or lessee of the same facility, subject to obtaining written approval by resolution of the Commissioners' Court. Approval shall be conditioned upon the assignee providing whatever proof the Commissioners' Court may require to show the assignee's financial capability to carry out all the terms and conditions of the agreement.

The County reserves the right to require such additional information as it may deem appropriate to determine not only the assignee's financial capability to carry out the terms and conditions of the agreement, but also its experience and historical record to determine that it is in fact capable of operating the project subject to the abatement in such a manner that it can reasonably be expected to strictly comply with every term, covenant, condition and assurance contained in the agreement. Further, the assignee shall agree in writing by amendment to the original agreement that it shall be bound by all the terms, covenants and conditions contained in the original agreement. No assignment or transfer shall be approved if the parties to the existing agreement, the new owner or new lessee are liable to Calhoun County or any other taxing unit affected by the agreement for delinquent taxes, or otherwise in default of any of the terms, covenants or conditions contained in the agreement. Subject to the foregoing conditions, the Commissioners' Court shall not unreasonably withhold approval of any proposed assignment. Any approval of assignment of the agreement shall not release any previous Taxpayer who has been a party to the agreement from its obligations under the agreement.

(c) **Application for Exemption.** It shall be the responsibility of the Taxpayer to perfect any right of exemption as a result of any agreements entered into with the County. For each year in which abatement has been authorized by the County under the agreement, it shall be the responsibility of the Taxpayer to file its annual application with the Calhoun County Appraisal District for property exemption in accordance with the Texas Tax Code and related administrative regulations.

(d) **Effective Date.** These Guidelines and Criteria shall be effective for two (2) years, from June 25, 2019 through June 24, 2021, inclusive.

(e) **Sunset Provision.** At the end of the two year effective period of these Guidelines and Criteria, all agreements created pursuant to these provisions will be reviewed by the Calhoun County Commissioners' Court to determine whether the goals have been achieved. Based upon that review, the Guidelines and Criteria may be modified, renewed or eliminated. In the event that these Guidelines and Criteria are not modified or renewed, they shall automatically terminate effective June 24, 2021.

(f) **Effect of Modification or Termination.** The modification or termination of these Guidelines and Criteria shall have no effect upon existing agreements entered into while these Guidelines and Criteria are in effect.

(g) **Subtitles.** The use of subtitles in these Guidelines and Criteria is strictly for convenience, and shall have no legal significance whatsoever. The use of the singular shall include the plural and the use of plural shall include the singular when appropriate. The use of any reference to gender shall include any and all other genders when appropriate.

(h) **Severability.** In the event any paragraph, clause, phrase or other provision of these Guidelines and Criteria should be declared to be unconstitutional, void or otherwise unenforceable the remaining provisions shall remain in full force and effect as if the unconstitutional, void or otherwise unenforceable provisions had not been included.

Section 10

ADOPTION

Upon motion by Commissioner _____, seconded by Commissioner _____, the foregoing resolution to amend these Guidelines and Criteria of the Commissioners' Court of Calhoun County for Granting Business incentives in Reinvestment Zones Created in Calhoun County was approved by a vote of 5 for and 0 against.

PASSED, ADOPTED AND APPROVED on this ____ day of _____, 2019.

**COMMISSIONERS' COURT OF
CALHOUN COUNTY, TEXAS**

Richard Meyer, County Judge

ATTEST:

Anna Goodman, County Clerk

By: _____, Deputy



TAB 17

Signature and Certification Page; signed and dated by Authorized School District Representative and
Authorized Company Representative (applicant)

See Attached

SECTION 16: Authorized Signatures and Applicant Certification

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in **Tab 17**. **NOTE:** If you amend your application, you will need to obtain new signatures and resubmit this page, Section 16, with the amendment request.

1. Authorized School District Representative Signature

I am the authorized representative for the school district to which this application is being submitted. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code.

print
here

Larry Nichols

Print Name (Authorized School District Representative)

Superintendent

Title

sign
here


Signature (Authorized School District Representative)

3/9/2020

Date

2. Authorized Company Representative (Applicant) Signature and Notarization

I am the authorized representative for the business entity for the purpose of filing this application. I understand that this application is a government record as defined in Chapter 37 of the Texas Penal Code. The information contained in this application and schedules is true and correct to the best of my knowledge and belief.

I hereby certify and affirm that the business entity I represent is in good standing under the laws of the state in which the business entity was organized and that no delinquent taxes are owed to the State of Texas.

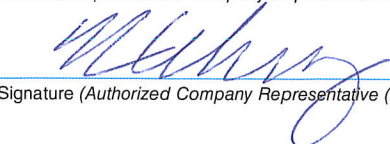
print
here

William Kelsey

Print Name (Authorized Company Representative (Applicant))

Partner

Title

sign
here


Signature (Authorized Company Representative (Applicant))

2/7/2020

Date

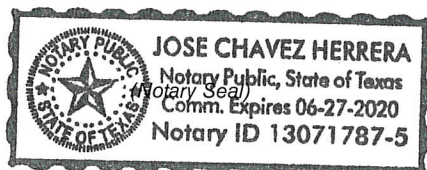
GIVEN under my hand and seal of office this, the

7th day of February, 2020

 Notary Public in and for the State of Texas

My Commission expires:

06-27-2020



If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.