

**FINDINGS**  
**of the**  
***ABERNATHY INDEPENDENT***  
***SCHOOL DISTRICT***  
***BOARD OF TRUSTEES***

**Under Chapter 313 of the**  
**Texas Tax Code**

**ON THE APPLICATION FOR**  
**APPRAISED VALUE LIMITATION**  
**ON QUALIFIED PROPERTY**

**SUBMITTED BY**

***OLD AQUEDUCT SOLAR LLC***

***Comptroller Application Number 1774***  
**October 14, 2022**

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

STATE OF TEXAS §  
COUNTY OF HALE §  
ABERNATHY INDEPENDENT SCHOOL DISTRICT §

**PREAMBLE**

On the 14<sup>th</sup> day of October, 2022, a public meeting of the Board of Trustees of the Abernathy Independent School District (the “Board”) was held to solicit input from interested parties on the application by Old Aqueduct Solar LLC for the Project (“Old Aqueduct Solar” or “Applicant”) for an appraised value limitation on qualified property under Chapter 313 of the Texas Tax Code. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board considered the application by Old Aqueduct Solar for a Limitation on Appraised Value on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations from interested parties within the District. After hearing presentations from the District’s administrative staff and the consultants retained by the District to advise the Board in this matter and reviewing the Comptroller’s Economic Impact Analysis under Texas Tax Code §313.026, the Board of Trustees of the Abernathy Independent School District, in accordance with Texas Tax Code §313.025(e) and (f) and 34 T.A.C. §9.1054, makes the following Findings regarding the Application:

On or about the 11<sup>th</sup> day of April, 2022, the Superintendent, on behalf of Abernathy Independent School District, received an Application for Appraised Value Limitation on Qualified Property from Old Aqueduct Solar pursuant to Chapter 313 of the Texas Tax Code, which was later assigned Comptroller Application No. 1774 (the “Application”). The general nature of Applicant’s investment in qualified property set forth in the Application is for a renewable energy electric generation project; specifically, an approximately 512 MWac utility scale single axis tracker photovoltaic facility designed to use solar power to generate electricity that will be located in Hale County (the “Property”). *See* Application (Attachment A, § 6.2(5) of Tab 1 and Tab 4); *see also* Attachment D. The Board agreed to consider such Application on April 11, 2022, and the Application was delivered to the Texas Comptroller of Public Accounts immediately upon the District’s determination that the Application was complete on or about April 13, 2022. Thereafter, the applicant submitted Amendment No. 1, dated May 23, 2022 (§14 of Tab 1; Tabs 4, 7, 8, 11, 12, 13, and 16. The Comptroller issued its notice of completeness and determined the Application complete as of June 1, 2022, the Application Review Start Date. The Applicant then submitted Supplement No. 1, dated July 18, 2022 (Tabs 7 and 8). The Application, Amendment No. 1, and Supplement No. 1 are hereafter collectively referred to as the “Application.” A copy of the Application and Comptroller’s completeness letter of June 1, 2022 are attached hereto as Attachment A.

The Texas Taxpayer Identification number for Old Aqueduct Solar LLC is 32076395279. Old Aqueduct Solar is an entity subject to Chapter 171 of the Texas Tax Code and is active and has the right to transact business in Texas, as represented by the Texas Comptroller of Public Accounts and as required by Texas Tax Code §313.024(a). *See* Attachments A, B and C.

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

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

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

The Application was reviewed by the Texas Comptroller’s Office pursuant to Texas Tax Code §§313.024, 313.025 and 313.026. After receipt of the Application, the Texas Comptroller’s Office caused an Economic Impact Analysis to be conducted. The Comptroller, pursuant to Texas Tax Code §313.025(h), determined the project meets the requirements for eligibility under Texas Tax Code §313.024 for a limitation on appraised value, and after reviewing the Application based on the criteria set out in Texas Tax Code § 313.026, issued a Certificate for a Limitation on Appraised Value dated August 30, 2022 (the “Certificate Decision”). *See* Attachment C. The Board of Trustees has carefully considered such Economic Impact Analysis and Certificate Decision. Copies of the Certificate Decision and Economic Impact Analysis are attached to these Findings as Attachments C and D, respectively.

The Board also directed that a specific school financial analysis be conducted of the impact of the proposed value limitation on the finances of Abernathy Independent School District. A copy of the Summary of the District’s Financial Impact prepared by McDowell School Finance Consulting, LLC and dated July 5, 2022, is attached to these Findings as Attachment E.

The Board has confirmed that the taxable value of property applicable to Old Aqueduct Solar’s Application in the Abernathy Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403 of the Texas Government Code, fell within a rural school district, Category 2 of §313.054 of the Texas Tax Code, at the time the Certificate Decision was issued. *See* the 2021 Property Value Study Report, “2021 ISD Summary Worksheet” attached hereto as Attachment G; *see also* Attachment D.

After receipt of the completed Application, the District entered into negotiations with Old Aqueduct Solar regarding the specific language to be included in the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes (the “Agreement”) pursuant to Chapter 313 of the Texas Tax Code, including appropriate revenue protection provisions for the District pursuant to Section 48.256(d) of the Texas Education Code. The parties were able to agree upon language for inclusion into a draft agreement pursuant to Texas Tax Code §313.027. As required by the Comptroller’s Office, the parties changed only the provisions of the template that the Comptroller permitted (Form 50-826, revised October,

2020). The proposed Agreement is attached to these Findings as Attachment H, and that form of the Agreement (as defined by 34 Tex. Admin. Code §9.1051 and adopted by §9.1052(a)(6)) was submitted to and approved by the Comptroller, as required by 34 Tex. Admin. Code §9.1055(e)(1). See copy of September 23, 2022, Agreement Review Letter from the Comptroller, attached to these Findings as Attachment I.

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

**Board Finding Number 1.**

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

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

**Determination required by 313.025(h)**

\* \* \*

Sec. 313.024(b) Applicant is proposing to use the property for an eligible project.

\* \* \*

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

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

**Board Finding Number 2.**

*The project proposed by Applicant is reasonably likely to generate sufficient tax revenue to offset the District’s maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25<sup>th</sup> anniversary of the beginning of the limitation period.*

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

**Certification decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school

district’s maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

See Attachment C.

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

**Attachment B - Tax Revenue before 25th Anniversary of Limitation Start**

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

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2025	\$0	\$0	\$0	\$0
	2026	\$0	\$0	\$0	\$0
	2027	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2028	\$262,925	\$262,925	\$4,133,114	\$4,133,114
	2029	\$262,925	\$525,850	\$3,559,053	\$7,692,168
	2030	\$262,925	\$788,775	\$2,998,833	\$10,691,001
	2031	\$262,925	\$1,051,700	\$2,454,671	\$13,145,672
	2032	\$262,925	\$1,314,625	\$1,930,144	\$15,075,816
	2033	\$262,925	\$1,577,550	\$1,556,401	\$16,632,217
	2034	\$262,925	\$1,840,475	\$1,152,802	\$17,785,019
	2035	\$262,925	\$2,103,400	\$716,769	\$18,501,788
	2036	\$262,925	\$2,366,325	\$616,283	\$19,118,071
	2037	\$262,925	\$2,629,250	\$616,283	\$19,734,353
<b>Maintain Viable Presence (5 Years)</b>	2038	\$879,208	\$3,508,458	\$0	\$19,734,353
	2039	\$879,208	\$4,387,666	\$0	\$19,734,353
	2040	\$879,208	\$5,266,874	\$0	\$19,734,353
	2041	\$879,208	\$6,146,082	\$0	\$19,734,353
	2042	\$879,208	\$7,025,289	\$0	\$19,734,353
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2043	\$879,208	\$7,904,497	\$0	\$19,734,353
	2044	\$879,208	\$8,783,705	\$0	\$19,734,353
	2045	\$879,208	\$9,662,913	\$0	\$19,734,353
	2046	\$879,208	\$10,542,121	\$0	\$19,734,353
	2047	\$879,208	\$11,421,329	\$0	\$19,734,353
	2048	\$879,208	\$12,300,537	\$0	\$19,734,353
	2049	\$879,208	\$13,179,745	\$0	\$19,734,353
	2050	\$879,208	\$14,058,953	\$0	\$19,734,353
	2051	\$879,208	\$14,938,161	\$0	\$19,734,353
	2052	\$879,208	\$15,817,368	\$0	\$19,734,353
		<b>\$15,817,368</b>	is less than	<b>\$19,734,353</b>	
<b>Analysis Summary</b>					
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					No

Source: CPA, Old Aqueduct Solar, LLC

Year	Employment			Personal Income			Revenue & Expenditure		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2026	250	213	463	\$12,500,000	\$23,390,000	\$35,890,000	1530000	-890000	\$2,420,000
2027	250	1,596	1846	\$12,500,000	\$141,310,000	\$153,810,000	13400000	-3200000	\$16,600,000
2028	2	84	86	\$161,928	\$21,318,072	\$21,480,000	730000	1550000	-\$820,000
2029	2	19	21	\$161,928	\$12,538,072	\$12,700,000	530000	1560000	-\$1,030,000
2030	2	(20)	-18	\$161,928	\$5,938,072	\$6,100,000	270000	1460000	-\$1,190,000
2031	2	(45)	-43	\$161,928	\$1,788,072	\$1,950,000	120000	1320000	-\$1,200,000
2032	2	(51)	-49	\$161,928	-\$1,141,928	-\$980,000	50000	1170000	-\$1,120,000
2033	2	(51)	-49	\$161,928	-\$2,601,928	-\$2,440,000	-30000	960000	-\$990,000
2034	2	(51)	-49	\$161,928	-\$3,581,928	-\$3,420,000	-90000	820000	-\$910,000
2035	2	(43)	-41	\$161,928	-\$4,071,928	-\$3,910,000	-150000	660000	-\$810,000
2036	2	(37)	-35	\$161,928	-\$4,071,928	-\$3,910,000	-200000	480000	-\$680,000
2037	2	(31)	-29	\$161,928	-\$3,581,928	-\$3,420,000	-200000	360000	-\$560,000
2038	2	(27)	-25	\$161,928	-\$3,331,928	-\$3,170,000	-210000	250000	-\$460,000
2039	2	(18)	-16	\$161,928	-\$1,871,928	-\$1,710,000	-260000	120000	-\$380,000
2040	2	(16)	-14	\$161,928	-\$2,601,928	-\$2,440,000	-290000	0	-\$290,000
2041	2	(8)	-6	\$161,928	-\$2,111,928	-\$1,950,000	-310000	-90000	-\$220,000
2042	2	(10)	-8	\$161,928	-\$1,871,928	-\$1,710,000	-320000	-120000	-\$200,000
2043	2	(12)	-10	\$161,928	-\$2,111,928	-\$1,950,000	-320000	-190000	-\$130,000
2044	2	(14)	-12	\$161,928	-\$1,621,928	-\$1,460,000	-340000	-240000	-\$100,000
2045	2	(12)	-10	\$161,928	-\$1,621,928	-\$1,460,000	-410000	-360000	-\$50,000
2046	2	(12)	-10	\$161,928	-\$1,621,928	-\$1,460,000	-320000	-360000	\$40,000
2047	2	(8)	-6	\$161,928	-\$651,928	-\$490,000	-290000	-430000	\$140,000
2048	2	(10)	-8	\$161,928	-\$651,928	-\$490,000	-320000	-490000	\$170,000
2049	2	(12)	-10	\$161,928	-\$2,111,928	-\$1,950,000	-350000	-560000	\$210,000
2050	2	(14)	-12	\$161,928	-\$1,141,928	-\$980,000	-380000	-580000	\$200,000
2051	2	(14)	-12	\$161,928	-\$2,111,928	-\$1,950,000	-430000	-640000	\$210,000
2052	2	(20)	-18	\$161,928	-\$2,601,928	-\$2,440,000	-460000	-630000	\$170,000
						<b>Total</b>	<b>\$11,410,000</b>	<b>\$2,560,000</b>	<b>\$8,850,000</b>
							<b>\$24,667,368</b>	is greater than	<b>\$19,734,353</b>
<b>Analysis Summary</b>									
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?									Yes

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

See Attachment D (at Attachment B thereof).

**Board Finding Number 3.**

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

In support of this Finding, Applicant submitted, as Tab 12 to its Application, information regarding the industry standard for the number of jobs for a project with qualified property of this size and type. Applicant reports that solar energy projects create a large number of full-time jobs during the construction phase, but these jobs are temporary by nature. Once the project is in operation, a small crew of full-time employees will maintain and operate the facility. Applicant further reports that the industry standard for full-time operations of a solar energy facility is one (1) employee for every 350 MW of solar capacity. Based on this industry standard, the Applicant expects that two (2) employees would be needed to operate a 512 MW facility, and has committed to creating two (2) full-time positions to fill those needs. A copy of Tab 12 submitted with the Application is attached hereto as Attachment J. See also Attachments A (at Tab 4), and D.

#### **Board Finding Number 4.**

*The Applicant will create two (2) new qualifying jobs, which Applicant affirms will meet all of the requirements set out in Texas Tax Code §313.021(3), including: (1) at least 1,600 hours of work per year; (2) provision of group health benefit plan with at least 80% of the premium paid by Applicant; (3) pay an annual wage of \$46,721 (\$898 per week)<sup>1</sup>, an amount equal to at least 110% of the County average weekly wage for manufacturing jobs as defined under §313.021(5)(B); (4) are not created to replace a previous employee; and (5) are not transferred from another area of Texas to the project described the Application.*

See Attachments A, D and J.

#### **Board Finding Number 5.**

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

In its Application, Applicant indicates that it does not intend to create any non-qualifying jobs. But, for any non-qualifying job which the Applicant may create, the Applicant will be required to pay at least \$816.50<sup>2</sup> per week, which exceeds the county average wage for all jobs in the County, in accordance with the provisions of Texas Tax Code §313.024(d). See Attachments A and D.

See Attachments A (at Tab 1, §14#4.c.) and D.

#### **Board Finding Number 6.**

*The Applicant states that it is actively assessing and developing other projects outside of Texas that are competing for limited investment funds. In addition to its projects in Texas, the developer is assessing or developing projects in Ohio, Indiana, Pennsylvania, and California. The Applicant further states that the appraised value limitation is critical to the ability of the project to move forward in Abernathy ISD. Therefore, the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in Texas and Abernathy ISD.*

In support of Finding Number 6, the Comptroller's Certificate states, "[t]he Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C."

---

<sup>1</sup> The Comptroller's Analysis rounds the weekly wage to the nearest dollar; the required weekly wage stated in the Application, Tab 1, §14, is \$898.47.

<sup>2</sup> The weekly wage stated in the Comptroller's Economic Impact Analysis is rounded up by \$1; the Application notes a minimum weekly wage for non-qualified jobs of \$815.50.

The Economic Impact Analysis further states:

### **Determination**

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

- Per Old Aqueduct Solar LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. “The Applicant for this Project has entered into a number of contracts related to the Project, including long term lease option agreements with area landowners, contracts with environmental consultants to assess the suitability of the site, and a request for studies leading to an interconnection agreement with the transmission provider. The Project was selected as a candidate for development based on the favorable solar data, nearby access to the electric grid, and favorable tax incentives under Texas Tax Code chapters 312 and 313. Obtaining a value limitation agreement is critical to the economic and competitive viability of this Project.”
  - B. “None of the current Project agreements firmly commit the Applicant to the development of the Project. A number of variables remain undetermined at this stage, including the approval of this application. The Applicant could still elect to devote resources to other projects that it has in development. Without the available tax incentives, the economics of the Project become far less attractive and the likelihood of selling the electricity at a competitive price will decrease.”
  - C. “The Applicant is a national solar developer with the ability to locate projects of this type and other types of projects in other states within the United States and locations around the world. The Applicant is actively assessing and developing other projects that are competing for limited investment funds. The appraised value limitation is critical to the ability of the Project to move forward as currently sited. Examples of the Applicant's other project locations that are competing with the Project for funding include: Ohio, Indiana, Pennsylvania, California.”
  - D. “The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of the project. The financial viability of the project is contingent on receiving the Chapter 313 Appraised Value Limitation, and the project cannot move forward without it.”

*See Attachment D (at Attachment C thereof).*

### **Board Finding Number 7.**

*The proposed limitation on appraised value for the qualified property is \$25,000,000.*

The Comptroller's Minimum School District Limitation Values Report, effective as of January 1, 2022, provides that the District is a Subchapter C, Category 2 District under Texas Tax Code §313.054, with a minimum limitation of \$25,000,000. *See* Attachments A and D.

### **Board Finding Number 8.**

*The revenue gains that will be realized by the District if the Application is approved and the project is built and operational, will be significant in the long term, with specific reference to revenues used for supporting District debt.*

In support of this Finding, McDowell School Finance Consulting, LLC estimates in the District's Financial Impact Report, based on the property values recited in Old Aqueduct Solar's Application, that the project would add \$417,993,677 to the tax base at the peak investment level for tax year 2028 (school year 2028-2029). The additional project value is fully taxable for debt service taxes and can be used to meet any current or future debt needs serviced by an interest and sinking fund tax of the District. *See* Tables I and II of Attachment E. *See also* Table 4 of Attachment D. In addition, the potential revenue gains from Supplemental Payments provided for in the proposed Agreement are estimated to be approximately \$1,215,744. *See* Attachment H at Section 6.1., and Table VI and last page of Attachment E.

### **Board Finding Number 9.**

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

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

Old Aqueduct Solar provided supplemental information with their application that projected the number of full-time employees that are expected for permanent employment after construction of the project is completed. They projected that two new employees [are expected]. It is not known whether these would be new employees to the Abernathy ISD, or if current resident[s] would occupy [these] position[s]; however, it is assumed that [these] employee[s] would be ... new resident[s] to the district.

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

This projected student growth can be accommodated with the current facilities of Abernathy ISD . . .

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

**Board Finding Number 10.**

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

**TABLE II- Computation of Net Tax Savings:**

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	M&O Taxes w/o Agreement	Tax Savings with Agreement	Payment of District’s Revenue Losses	Net Tax Savings
2025-2026	1.0224	0.309				
2026-2027	1.0181	0.307	0	0	0	0
2027-2028	1.0139	0.304	0	0	0	0
2028-2029	1.0096	0.164	4,220,089	3,967,687	(4,039,626)	(71,939)
2029-2030	1.0054	0.194	3,653,633	3,402,289	0	3,402,289
2030-2031	1.0012	0.205	3,105,035	2,854,743	0	2,854,743
2031-2032	0.9970	0.184	2,576,196	2,326,951	0	2,326,951
2032-2033	0.9928	0.195	2,070,268	1,822,065	0	1,822,065
2033-2034	0.9887	0.204	1,710,277	1,463,111	0	1,463,111
2034-2035	0.9845	0.000	1,325,313	1,079,179	0	1,079,179
2035-2036	0.9804	0.000	913,300	668,193	0	668,193
2036-2037	0.9763	0.000	816,206	572,122	0	572,122
2037-2038	0.9723	0.000	812,805	569,738	0	569,738
2038-2039	0.9682	0.000	809,421	0	0	0
2039-2040	0.9642	0.000	806,053	0	0	0
2040-2041	0.9602	0.000	802,701	0	0	0
2041-2042	0.9562	0.000	799,366	0	0	0
2042-2043	0.9522	0.000	796,047	0	0	0
Totals			25,216,710	18,726,080	(4,039,626)	14,686,454

**Board Finding Number 11.**

*The projected dollar amount of the maintenance and operations taxes that would be imposed on the qualified property, for each year of the Agreement, if the property does receive a limitation on appraised value based on the estimated value of the property provided by the Applicant, is discernible from Table II of Attachment E (subtracting the amounts in the column labeled “Tax Savings with Agreement” from the column labeled “M&O Taxes w/o Agreement”), and is based on the assumption that the projected total maintenance and operations tax*

*rate per \$100 in valuation in each year of the Agreement will be as indicated in Table II.*

**TABLE II- Computation of Net Tax Savings:**

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	M&O Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
2025-2026	1.0224	0.309				
2026-2027	1.0181	0.307	0	0	0	0
2027-2028	1.0139	0.304	0	0	0	0
2028-2029	1.0096	0.164	4,220,089	3,967,687	(4,039,626)	(71,939)
2029-2030	1.0054	0.194	3,653,633	3,402,289	0	3,402,289
2030-2031	1.0012	0.205	3,105,035	2,854,743	0	2,854,743
2031-2032	0.9970	0.184	2,576,196	2,326,951	0	2,326,951
2032-2033	0.9928	0.195	2,070,268	1,822,065	0	1,822,065
2033-2034	0.9887	0.204	1,710,277	1,463,111	0	1,463,111
2034-2035	0.9845	0.000	1,325,313	1,079,179	0	1,079,179
2035-2036	0.9804	0.000	913,300	668,193	0	668,193
2036-2037	0.9763	0.000	816,206	572,122	0	572,122
2037-2038	0.9723	0.000	812,805	569,738	0	569,738
2038-2039	0.9682	0.000	809,421	0	0	0
2039-2040	0.9642	0.000	806,053	0	0	0
2040-2041	0.9602	0.000	802,701	0	0	0
2041-2042	0.9562	0.000	799,366	0	0	0
2042-2043	0.9522	0.000	796,047	0	0	0
Totals			25,216,710	18,726,080	(4,039,626)	14,686,454

**Board Finding Number 12.**

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

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

As a part of its review process, the Board notes that the Application was submitted by Applicant under oath. A Chapter 313 application is a governmental record under Tex. Penal Code §37.01(2)(A), and all representations contained therein are statements of fact within the meaning of Tex. Penal Code §37.01(3). Since Board action upon the adoption of these Findings and the approval of the Agreement (Attachment H) is an "official proceeding," a false statement in the

Application would constitute perjury under Texas Penal Code §37.03 and a material breach of the Agreement.

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

**Board Finding Number 13.**

*The Applicant (Taxpayer Id. 32076395279) is eligible for the limitation on appraised value of qualified property as specified in the Agreement based on the Comptroller's acknowledgment that Applicant's right to transact business in Texas is active as a franchise tax paying entity subject to taxes imposed by Chapter 171 of the Texas Tax Code.*

See Attachments A, B and C.

**Board Finding Number 14.**

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

See Attachment A (Tabs 11 and 16).

**Board Finding Number 15.**

*Per Applicant's certified Application the Land has no existing improvements, and no construction of Qualified Property has begun for the project subject to the Application. Construction is not scheduled to begin until January 1, 2027.*

See Attachment A (§§7.2, 9, and 13.4 of Tab 1).

**Board Finding Number 16.**

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

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

In support of this Finding and based on the information provided and certified by Applicant in its Application, the District's Financial Impact Analysis demonstrates that, pursuant to current school finance law (including Texas Education Code §48.256(d)), the District is projected to receive a revenue protection payment for tax year 2028 (school year 2028-2029) in the estimated amount of \$4,039,626. Therefore, any potential negative consequences of granting the value limitation are offset through the revenue protection provisions agreed to by the Applicant and the District as set out in the Agreement. See Table II and last page in Attachment E, and proposed Agreement, Article IV, at Attachment H.

**Board Finding Number 17.**

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

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

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

**Board Finding Number 18.**

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

See Attachments D and H.

**Board Finding Number 19.**

***The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, is in the form of the template Texas Economic Development Act Agreement adopted by the Comptroller, as of October 2020, and the Comptroller has verified that the Agreement complies with the provisions of Chapter 313 of the Texas Tax Code and 34 T.A.C. Chapter 9, Subchapter F.***

See Attachment I.

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

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

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

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

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

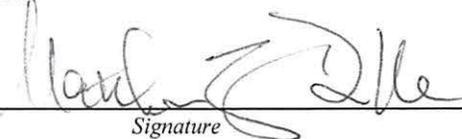
Dated this 14th day of October, 2022.

Abernathy Independent School District

By  \_\_\_\_\_  
*Signature*

Marcus Sullivan  
*Printed Name and Title*

Attest:

By  \_\_\_\_\_  
*Signature*

Matthew Z Delle, board secretary  
*Printed Name and Title*

## LIST OF ATTACHMENTS

<i>Attachment</i>	<i>Description</i>
A	Application and Comptroller's Completeness Letter
B	Applicant's Franchise Tax Account Status
C	Comptroller's Certificate Letter
D	Comptroller Economic Impact Analysis
E	District's Financial Impact Analysis
F	TEA's Facilities Impact Letter
G	Comptroller's "2021 ISD Summary Worksheet" - 2021 Property Value Study Report
H	Proposed Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes
I	Comptroller's Agreement Review Letter
J	Job Waiver Request



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

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

June 1, 2022

Aaron Waldrip  
Superintendent  
Abernathy Independent School District  
505 7th Street  
Abernathy, TX 79311

Re: Application for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Abernathy Independent School District and Old Aqueduct Solar, LLC, Application 1774

Dear Superintendent Waldrip:

On April 13, 2022, the Comptroller's office received Old Aqueduct Solar, LLC's (applicant) application for a limitation on appraised value (Application 1774) from Abernathy Independent School District (school district).

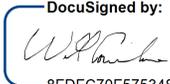
The purpose of this letter is to inform you that the Comptroller's office has reviewed the submitted application and determined that it includes the information necessary to be determined as complete on June 1, 2022.

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

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

Should you have any questions, please contact Nicholas Valles with our office. He can be reached by email at [nicholas.valles@cpa.texas.gov](mailto:nicholas.valles@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-3017 or at 512-463-3017.

Sincerely,

DocuSigned by:  
  
8E9FC70F5753487...  
Will Counihan

Director  
Data Analysis & Transparency Division

cc: Fred Stormer, Underwood Law Firm, P.C.  
Andrew Bowman, Jupiter Power Holding, LLC  
Randy Sowell, Jupiter Power Holding, LLC  
Troy Reed, Ernst & Young LLP



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #1**

**Application**

See attached.

# 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 Texas 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 completed application to the Comptroller, separating each section of the documents. 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, and has determined that all assertions of confidentiality are appropriate, the Comptroller will publish all submitted non-confidential 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's 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 and issue a certificate for a limitation on appraised value to the school board regarding the application 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 by the Comptroller), 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/](http://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**

April 11, 2022		
Date Application Received by District		
Aaron	Waldrip	
First Name	Last Name	
Superintendent		
Title		
Abernathy ISD		
School District Name		
505 7th Street		
Street Address		
505 7th Street		
Mailing Address		
Abernathy	TX	79311
City	State	ZIP
(806) 298-2563	(806) 298-2400	
Phone Number	Fax Number	
n/a	amwaldrip@abernathisd.com	
Mobile Number (optional)	Email Address	

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)**

Fred	Stormer
First Name	Last Name
Attorney	
Title	
Underwood Law Firm, P.C.	
Firm Name	
(806) 379-0306	(806) 379-0316
Phone Number	Fax Number
n/a	fred.stormer@uwlaw.com
Mobile Number (optional)	Email Address

4. On what date did the district determine this application complete? ..... April 13, 2022

**SECTION 2: Applicant Information**

**1. Authorized Company Representative (Applicant)**

Andrew	Bowman
First Name	Last Name
Chief Executive Officer	Jupiter Power Holding LLC
Title	Organization
1108 Lavaca St, Suite 110-349	
Street Address	
1108 Lavaca St, Suite 110-349	
Mailing Address	
Austin	Texas
City	State
(432) 301-0002	78701
Phone Number	ZIP
n/a	n/a
Mobile Number (optional)	Fax Number
	andy.bowman@jupiterpower.io
	Business Email Address

2. Will a company official other than the authorized company representative be responsible for responding to future information requests? .....  Yes  No

2a. If yes, please fill out contact information for that person.

Randy	Sowell
First Name	Last Name
Developer	Jupiter Power Holding LLC
Title	Organization
1108 Lavaca St., Suite 110-349	
Street Address	
1108 Lavaca St., Suite 110-349	
Mailing Address	
Austin	Texas
City	State
(432) 301-0002	78701
Phone Number	ZIP
n/a	n/a
Mobile Number (optional)	Fax Number
	randy.sowell@jupiterpower.io
	Business Email Address

3. Does the applicant authorize the consultant to provide and obtain information related to this application? .....  Yes  No

SECTION 2: Applicant Information (continued)

4. Authorized Company Consultant (If Applicable)

Troy	Reed
First Name	Last Name
Manager	
Title	
Ernst & Young LLP	
Firm Name	
(512) 542-7750	n/a
Phone Number	Fax Number
troy.t.reed@ey.com	
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 the same time the application is submitted to the school district. Any fees not accompanying the original application shall be considered supplemental payments.

1a. If yes, include all transaction information below. Include proof of application fee paid to the school district in **Tab 2**. Any confidential banking information provided will not be publicly posted.

\$80,000.00	ACH Wiring
Payment Amount	Transaction Type
Jupiter Power LLC / Tempus Power Management LLC	Abernathy ISD
Payor	Payee
4/8/2022	
Date transaction was processed	

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?	Old Aqueduct Solar LLC
2. Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits)	32076395279
3. Parent Company Name	Jupiter Power Holding LLC
4. Parent Company Tax ID	32068235004
5. NAICS code	221114
6. Is the applicant a party to any other pending or active Chapter 313 agreements?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
6a. If yes, please list application number, name of school district and year of agreement	n/a

SECTION 5: Applicant Business Structure

1. 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)?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
2a. If yes, attach in <b>Tab 3</b> a copy of the most recently submitted 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.	

**SECTION 5: Applicant Business Structure (continued)**

2b. Texas Franchise Tax Reporting Entity Taxpayer Name

Jupiter Power Holding LLC

2c. Reporting Entity Taxpayer Number

32068235004

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

**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

\*Note: Applicants requesting eligibility under this category should note that there are additional application and reporting data submission requirements.

**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. If the project is an amendment or a reapplication please specify and provide details regarding the original project.
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**

**NOTE:** Only construction beginning after the application review start date (the date the Texas Comptroller of Public Accounts deems the application complete) can be considered qualified property and/or qualified investment.

1. Estimated school board ratification of final agreement ..... 8/1/2022
  2. Estimated commencement of construction ..... 1/1/2027
  3. Beginning of qualifying time period (MM/DD/YYYY) ..... 1/2/2025
  4. First year of limitation (YYYY) ..... 2028
- 4a. For the beginning of the limitation period, notate which **one of the following** will apply according to provision of 313.027(a-1)(2):
- A. January 1 following the application date       B. January 1 following the end of QTP
- C. January 1 following the commencement of commercial operations
5. Commencement of commercial operations ..... 12/31/2027

**SECTION 10: The Property**

1. County or counties in which the proposed project will be located Hale County
2. Central Appraisal District (CAD) that will be responsible for appraising the property Hale County Appraisal District
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:
 

M&O (ISD): <u>Abernathy, 1.051700%, 100%</u> <small>(Name, tax rate and percent of project)</small>	I&S (ISD): <u>Abernathy, 0.330000%, 100%</u> <small>(Name, tax rate and percent of project)</small>
County: <u>Hale, 0.642703%, 100%</u> <small>(Name, tax rate and percent of project)</small>	City: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>
Hospital District: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>	Water District: <u>High Plains Water District, 0.005100%, 100%</u> <small>(Name, tax rate and percent of project)</small>
Other (describe): <u>Noxious Weed Control, 0.030000%, 100%</u> <small>(Name, tax rate and percent of project)</small>	Other (describe): <u>Farm to Market, 0.000297%, 100%</u> <small>(Name, tax rate and percent of project)</small>

**SECTION 10: The Property (continued)**

5. List all state and local incentives as an annual percentage. Include the estimated start and end year of the incentive:

County: _____	n/a	City: _____	n/a
<i>(Incentive type, percentage, start and end year)</i>		<i>(Incentive type, percentage, start and end year)</i>	
Hospital District: _____	n/a	Water District: _____	n/a
<i>(Incentive type, percentage, start and end year)</i>		<i>(Incentive type, percentage, start and end year)</i>	
Other (describe): _____	n/a	Other (describe): _____	n/a
<i>(Incentive type, percentage, start and end year)</i>		<i>(Incentive type, percentage, start and end year)</i>	

6. Is the project located entirely within the ISD listed in Section 1?  Yes  No
- 6a. If no, attach in **Tab 6** maps of the entire project (depicting all other relevant school districts) and additional information on the project scope and size. Please note that only the qualified property within the ISD listed in Section 1 is eligible for the limitation from this application. Please verify that all information in **Tabs 7 and 8**, Section 11, 12 and 13, and map project boundaries pertain to only the property within the ISD listed in Section 1.
7. 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
- 7a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

**SECTION 11: Texas Tax Code 313.021(1) Qualified 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/](http://comptroller.texas.gov/economy/local/ch313/).

1. At the time of application, what is the estimated minimum qualified investment required for this school district? . . . . . \$20,000,000

2. What is the amount of appraised value limitation for which you are applying? . . . . . \$25,000,000

**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 within the project boundary 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: Texas Tax Code 313.021(2) Qualified Property**

1. Attach a detailed description of the qualified property. [See §313.021(2)] The description must include:
- 1a. 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**);
  - 1b. 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**);
  - 1c. a map or site plan of the proposed qualified property showing the location of the new buildings or new improvements inside the project area boundaries within a vicinity map that includes school district, county and reinvestment zone boundaries (**Tab 11**); and
  - 1d. Will any of the proposed qualified property be used to renovate, refurbish, upgrade, maintain, modify, improve, or functionally replace existing buildings or existing improvements inside or outside the project area?  Yes  No
- Note:** Property used to renovate, refurbish, upgrade, maintain, modify, improve, or functionally replace existing buildings or existing improvements inside or outside the project area cannot be considered qualified property and will not be eligible for a limitation. See TAC §9.1051(16).

**SECTION 12: Texas Tax Code 313.021(2) Qualified Property (continued)**

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:
- a. legal description of the land (Tab 9);
  - b. 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);
  - c. owner (Tab 9);
  - d. the current taxable value of the land, attach estimate if land is part of larger parcel (Tab 9); and
  - e. 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:
- a. evidence that the area qualifies as an enterprise zone as defined by the Governor's Office (Tab 16);
  - b. legal description of reinvestment zone (Tab 16);
  - c. order, resolution or ordinance establishing the reinvestment zone (Tab 16);
  - d. guidelines and criteria for creating the zone (Tab 16); and
  - e. 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? 6/30/2022

**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 within the project boundary**. 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 within the project boundary 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 (statement 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 within the project boundary in response to statements 1 and 2 of this section, provide the following supporting information in Tab 10:
- a. maps and/or detailed site plan;
  - b. surveys;
  - c. appraisal district values and parcel numbers;
  - d. inventory lists;
  - e. existing and proposed property lists;
  - f. model and serial numbers of existing property; or
  - g. other information of sufficient detail and description.
4. Total estimated market value of existing property within the project boundary (that property described in response to statement 1): ..... \$ 0
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 statement 2): ..... \$ 0

**Note:** Investment for the property listed in statement 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 number of new qualifying jobs you are committing to create? ..... 2
2. What is the number of new non-qualifying jobs you are estimating you will create? (See TAC 9.1051(14)) ..... 0
3. 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
  - 3a. If yes, attach evidence of industry standard 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.
4. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the Texas Workforce Commission 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 available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22). **Note:** If a more recent quarter of information becomes available before the application is deemed complete, updated wage information will be required.
  - a. Non-qualified job wages  
- average weekly wage for all jobs (all industries) in the county is ..... \$815.50
  - b. Qualifying job wage minimum option §313.021(5)(A)  
-110% of the average weekly wage for manufacturing jobs in the county is ..... \$1,082.95
  - c. Qualifying job wage minimum option §313.021(5)(B)  
-110% of the average weekly wage for manufacturing jobs in the region is ..... \$898.47
5. 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)
6. What is the minimum required annual wage for each qualifying job based on the qualified property? ..... \$46,720.30
7. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... \$46,721.00
8. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? .....  Yes  No
9. 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
  - 9a. If yes, attach in **Tab 13** supporting documentation from the TWC, pursuant to §313.021(3)(F).
10. 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
  - 10a. 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, and C 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 an entity 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**.

## APPLICATION TAB ORDER FOR REQUESTED ATTACHMENTS

ATTACHMENT	
1	Sections 1-16
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"> <li>a) Project boundary and project vicinity, including county and school district boundaries</li> <li>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</li> <li>c) Qualified property including location of new buildings or new improvements</li> <li>d) Any existing property within the project area</li> <li>e) Any facilities owned or operated by the applicant having interconnections to the proposed project</li> <li>f) Location of project, and related nearby projects within vicinity map</li> <li>g) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size</li> </ul> <p><b>Note:</b> 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 non-qualifying wage target and two possible qualifying job wage requirements with TWC documentation
14	Schedules A1, A2, B, and C 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"> <li>a) evidence that the area qualifies as an enterprise zone as defined by the Governor's Office</li> <li>b) legal description of reinvestment zone</li> <li>c) order, resolution or ordinance establishing the reinvestment zone</li> <li>d) guidelines and criteria for creating the zone</li> </ul>
17	Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative <i>(applicant)</i>



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #2**

**Proof of Payment of Application Fee**

See attached.

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)*



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #3**

**Documentation from Texas Comptroller's Franchise Tax Division to demonstrate Combined Group membership**

See attached

Texas Franchise Tax Extension Affiliate List  
received by the Comptroller of Public  
Accounts



## Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #4****Detailed Description of Project**

The applicant is developing a utility scale single axis tracker photovoltaic facility designed to use solar power to generate electricity. The project will be capable of generating approximately 512 MWac and will cover a surface area approximately 4,000 acres. The exact capacity and specific technology will be determined during the design process, and so the exact location of the improvements cannot be specified at this time. In addition, 100% of the entire project is planned to be installed in Abernathy ISD and Hale County.

If granted an Appraised Value Limitation pursuant to Texas Tax Code 313, the applicant expects to issue a full notice to proceed for construction in Q1 of 2027 and expects to complete construction in Q4 2027.

The investment will include the following: solar modules/panels, metal mounting system with tracking capabilities, underground conduit, communications cables and electric system wiring, combiner boxes, a project substation including breakers, a transformer and meters, overhead transmission lines, inverter boxes on concrete pads, an operations and maintenance facility, fencing for safety and security, telephone and internet communication system, meteorological equipment to measure solar irradiation and weather conditions, and any other eligible ancillary and necessary equipment for commercial operations of the proposed project.

The applicant applied on 6/29/2021 to ERCOT and has received the following GINR number: 22INR0462. This project may have been known by Old Aqueduct Solar in past media reports, investor presentations, or any other listings with any federal or state agency.



**CHECKLIST ITEM #5**

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

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

The Applicant for this Project has entered into a number of contracts related to the Project, including long-term lease option agreements with area landowners, contracts with environmental consultants to assess the suitability of the site, and a request for studies leading to an interconnection agreement with the transmission provider. The Project was selected as a candidate for development based on the favorable solar data, nearby access to the electric grid, and favorable tax incentives under Texas Tax Code chapters 312 and 313. Obtaining a value limitation agreement is critical to the economic and competitive viability of this Project.

None of the current Project agreements firmly commit the Applicant to the development of the Project. A number of variables remain undetermined at this stage, including the approval of this application. The Applicant could still elect to devote resources to other projects that it has in development. Without the available tax incentives, the economics of the Project become far less attractive and the likelihood of selling the electricity at a competitive price will decrease.

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

The Applicant is a national solar developer with the ability to locate projects of this type and other types of projects in other states within the United States and locations around the world. The Applicant is actively assessing and developing other projects that are competing for limited investment funds. The appraised value limitation is critical to the ability of the Project to move forward as currently sited. Examples of the Applicant's other project locations that are competing with the Project for funding include:

- Ohio
- Indiana
- Pennsylvania
- California



**10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?**

The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of the project. The financial viability of the project is contingent on receiving the Chapter 313 Appraised Value Limitation, and the project cannot move forward without it.



**CHECKLIST ITEM #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).**

N/A



## Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #7****Description of Qualified Investment**

The Applicant anticipates constructing a solar photovoltaic electric generating facility with an operating capacity of approximately 512 MWac and will cover a surface area of approximately 4,000 acres. 100% of the project will be located in the reinvestment zone and project boundary within Abernathy ISD and Hale County, and will be considered qualified investment for this application. The exact capacity and specific technology components will be determined during the development and design process. The facility includes eligible ancillary and necessary equipment, including the following property:

- Solar modules/panels
- Metal mounting system with tracking capabilities
- Underground conduit, communications cables, and electric collection system wiring. The electric collection system wiring is the underground system that connects the racks of solar panels together within the boundaries of the project area.
- Combiner boxes
- A project substation including breakers, a transformer and meters
- Overhead transmission lines
- Inverter boxes on concrete pads
- Operations and maintenance facility
- Fencing for safety and security
- Telephone and internet communications system
- Meteorological equipment to measure solar irradiation and weather conditions

This application covers all qualified investment in the reinvestment zone and project boundary within Abernathy ISD necessary for commercial operations.



## Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #8****Description of Qualified Property**

The Applicant anticipates constructing a solar photovoltaic electric generating facility with an operating capacity of approximately 512 MWac and will cover a surface area of approximately 4,000 acres. 100% of the project will be located in the reinvestment zone and project boundary within Abernathy ISD and Hale County, and will be considered qualified property for this application. The exact capacity and specific technology components will be determined during the development and design process. The facility includes eligible ancillary and necessary equipment, including the following property:

- Solar modules/panels
- Metal mounting system with tracking capabilities
- Underground conduit, communications cables, and electric collection system wiring. The electric collection system wiring is the underground system that connects the racks of solar panels together within the boundaries of the project area.
- Combiner boxes
- A project substation including breakers, a transformer and meters
- Overhead transmission lines
- Inverter boxes on concrete pads
- Operations and maintenance facility
- Fencing for safety and security
- Telephone and internet communications system
- Meteorological equipment to measure solar irradiation and weather conditions

This application covers all qualified property in the reinvestment zone and project boundary within Abernathy ISD necessary for commercial operations.



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #9**

**Description of Land**

This applicant will lease approximately 4,000 acres of land with land owners in Hale County, Texas.



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #10**

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

N/A



Chapter 313 Application to Abernathy ISD

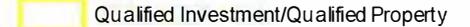
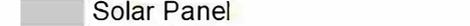
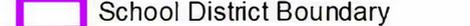
---

**CHECKLIST ITEM #11**

**Maps**

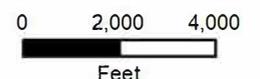
1. Project boundary and project vicinity, including county and school district boundaries – Attached
2. Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period - Attached
3. Qualified property including location of new buildings or new improvements - Attached
4. Any existing property within the project area – Attached
5. Any facilities owned or operated by the applicant having interconnections to the proposed project – Attached
6. Location of project, and related nearby projects within the vicinity map - Attached
7. Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size – Attached

Figure 2  
Old Aqueduct Solar Project  
Hale County, Texas

-  Project Road  Railroad
-  Reinvestment Zone/Project Boundary
-  Qualified Investment/Qualified Property
-  Solar Panel
-  Substation
-  School District Boundary



1:48,000



Base Map: NAIP Imagery 2018

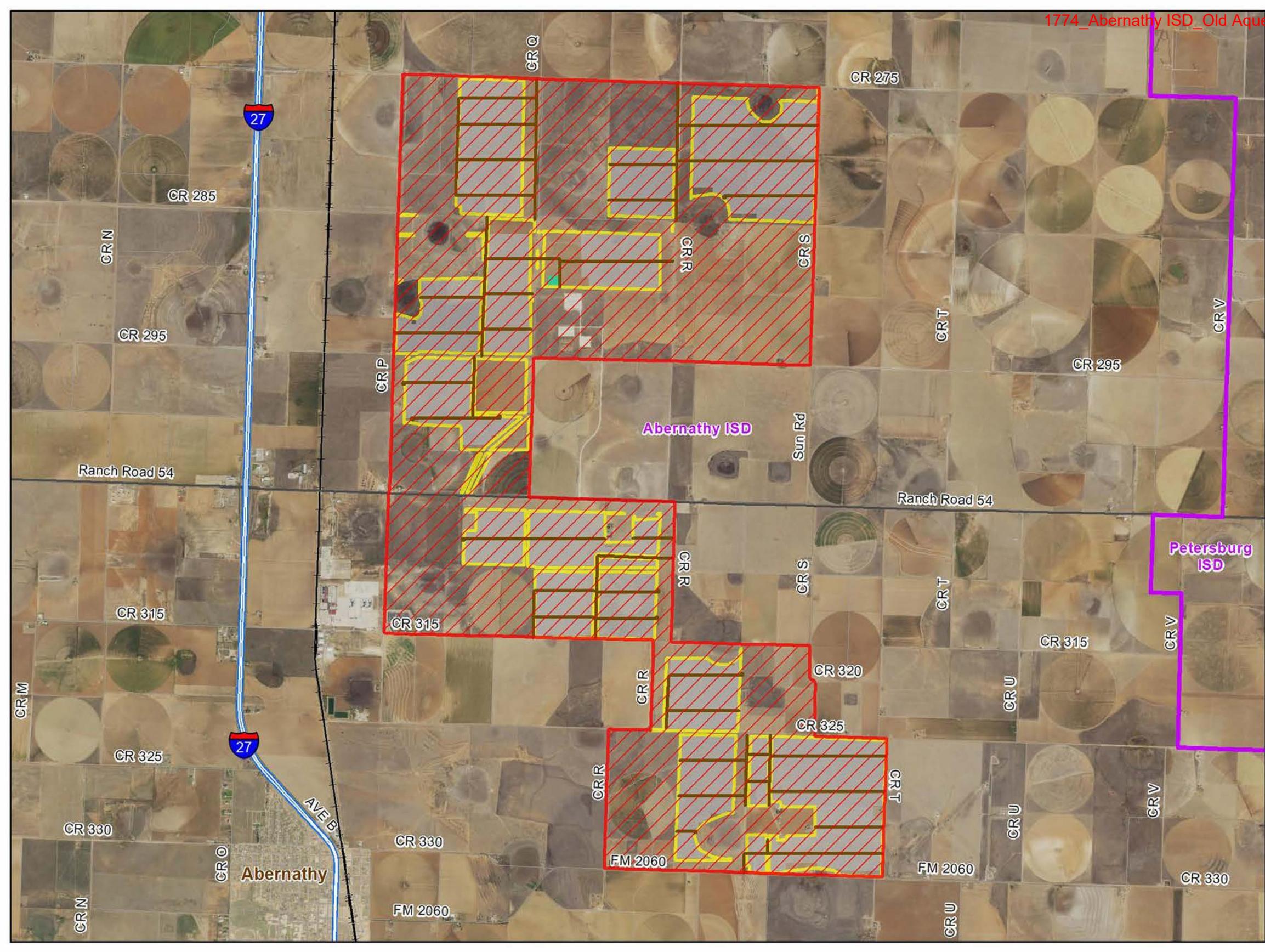
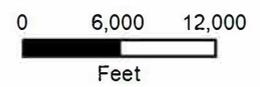


Figure 1  
Old Aqueduct Solar Project  
Hale County, Texas

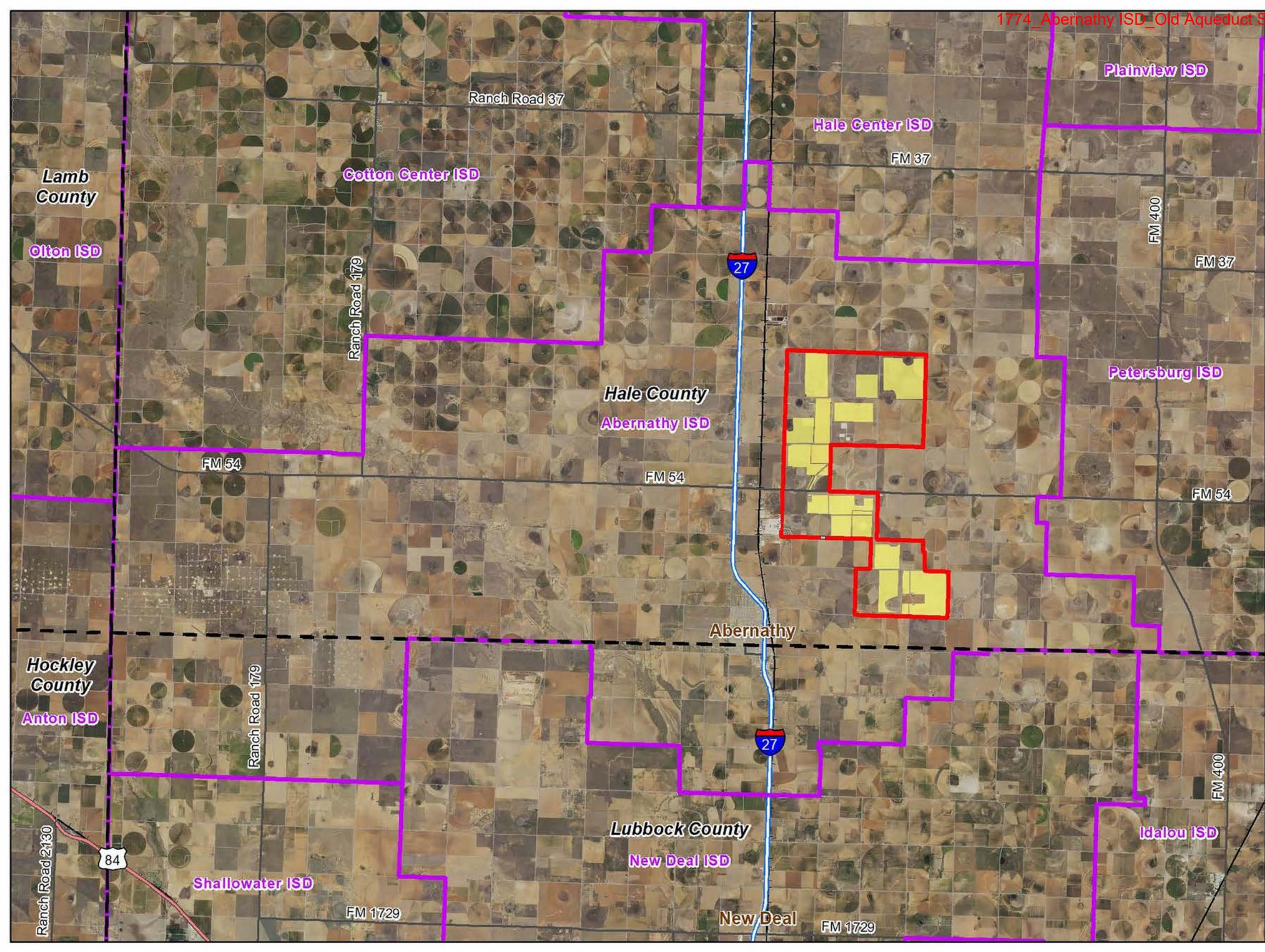
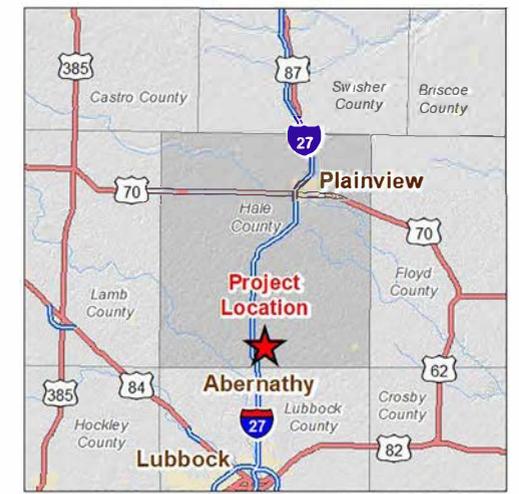
-  Reinvestment Zone/Project Boundary
-  Qualified Investment/Qualified Property
-  School District Boundary
-  County Boundary



1:144,000



Base Map: NAIP Imagery 2018





Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #12**

**Request for Waiver of Job Creation Requirement and supporting information.**

See attached.

---

ATTACHMENT TO APPLICATION FOR CHAPTER 313 APPRAISED VALUE  
LIMITATION TO ABERNATHY ISD

Randy Sowell  
Developer  
Jupiter Power LLC

1108 Lavaca St, Suite #110-349  
Austin, TX 78701

May 23, 2022

Aaron Waldrip  
Superintendent  
Abernathy Independent School District  
505 7th Street  
Abernathy, TX 79311

RE: Old Aqueduct Solar LLC's Job Requirements Waiver Request

Dear Superintendent Waldrip:

Please consider this letter to be Old Aqueduct Solar LLC's formal request to waive the minimum new job creation requirement, as provided under Texas Tax Code 313.025(f-1).

The governing body of a school district may waive the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding 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 that is described in this application. Solar energy projects create a large number of full-time jobs during the construction phase, but these jobs are temporary by nature. Once the project is in operation, a small crew of full-time employees will maintain and operate the facility. The industry standard for full-time operations of a solar energy facility is one (1) employee for every 350 MW of solar capacity. Based on this industry standard, we expect that two (2) employees would be needed to operate a 512 MW facility, and we can commit to creating two (2) full-time positions to fill those needs. The newly created positions will be qualifying jobs as described in Section 313.021(3) of the Texas Tax Code.

The applicant requests that the Abernathy ISD's Board of Trustees make such a finding and waive the job creation requirement. This waiver request is in line with the industry standards for the job requirements for a solar facility of this size, as evidenced by limitation agreement applications that have been filed by other solar developers, and by documentation related to the development and operation of solar generation facilities.

The project stands to provide significant benefits to the community with respect to increased tax base and the ongoing royalty payments it will make to local landowners.

Respectfully,

Old Aqueduct Solar LLC

By:  \_\_\_\_\_

Randy Sowell,  
Developer



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #13**

**Calculation of three possible wage requirements with TWC documentation.**

See attached.

TAB 13

Wage Requirement Calculation

**1. Average Weekly Wages for All Jobs (All Industries) in Hale County, Q1 2021 - Q4 2021**

Category	Area	Period	Avg. Weekly Wage
All Industries	Hale County	Q1 2021	\$775.00
All Industries	Hale County	Q2 2021	\$809.00
All Industries	Hale County	Q3 2021	\$811.00
All Industries	Hale County	Q4 2021	\$867.00
		AVERAGE	\$815.50

Quarterly Census of Employment and Wages (QCEW) Report

Customize the report/Help with Accessibility

Drag a column header and drop it here to group by that column

Year	Period	Area	Ownership	Industry Code	Industry	Average Weekly Wage
2020	01	Hale	Total All	10	Total, All Industries	765
2020	02	Hale	Total All	10	Total, All Industries	797
2020	03	Hale	Total All	10	Total, All Industries	779
2020	04	Hale	Total All	10	Total, All Industries	849
2021	01	Hale	Total All	10	Total, All Industries	775
2021	02	Hale	Total All	10	Total, All Industries	809
2021	03	Hale	Total All	10	Total, All Industries	811
2021	04	Hale	Total All	10	Total, All Industries	867

**2. 110% of Average Weekly Wages for Manufacturing Jobs in Hale County, Q1 2021 - Q4 2021**

Category	Area	Period	Avg. Weekly Wage
Manufacturing	Hale County	Q1 2021	\$932.00
Manufacturing	Hale County	Q2 2021	\$937.00
Manufacturing	Hale County	Q3 2021	\$962.00
Manufacturing	Hale County	Q4 2021	\$1,107.00
		AVERAGE	\$984.50
		110% OF AVERAGE	\$1,082.95

ANNUAL AVERAGE	\$56,313.40
----------------	-------------

Quarterly Census of Employment and Wages (QCEW) Report

Customize the report/Help with Accessibility

Drag a column header and drop it here to group by that column

Year	Period	Area	Ownership	Industry Code	Industry	Average Weekly Wage
2020	01	Hale	Private	1013	Manufacturing	971
2020	02	Hale	Private	1013	Manufacturing	948
2020	03	Hale	Private	1013	Manufacturing	949
2020	04	Hale	Private	1013	Manufacturing	1,014
2021	01	Hale	Private	1013	Manufacturing	932
2021	02	Hale	Private	1013	Manufacturing	937
2021	03	Hale	Private	1013	Manufacturing	962
2021	04	Hale	Private	1013	Manufacturing	1,107

TAB 13

Wage Requirement Calculation

3. COG Region Wage Calculation

Year	Region	Annual Wage	Avg. Weekly Wage
2020	South Plains Association of Governments	\$ 42,473	\$816.79
		110% OF AVERAGE	\$898.47

110% OF ANNUAL AVERAGE	\$46,720.30
------------------------	-------------

2020 Manufacturing Average Wages by Council of Government Region  
Wages for All Occupations

COG	COG Number	Wages	
		Hourly	Annual
<a href="#">Panhandle Regional Planning Commission</a>	1	\$23.32	\$48,501
<a href="#">South Plains Association of Governments</a>	2	\$20.42	\$42,473
<a href="#">NORTEX Regional Planning Commission</a>	3	\$20.64	\$42,928
<a href="#">North Central Texas Council of Governments</a>	4	\$32.34	\$67,261
<a href="#">Ark-Tex Council of Governments</a>	5	\$21.30	\$44,299
<a href="#">East Texas Council of Governments</a>	6	\$29.28	\$60,904
<a href="#">West Central Texas Council of Governments</a>	7	\$21.54	\$44,797
<a href="#">Rio Grande Council of Governments</a>	8	\$19.02	\$39,552
<a href="#">Permian Basin Regional Planning Commission</a>	9	\$22.57	\$46,945
<a href="#">Concho Valley Council of Governments</a>	10	\$27.28	\$56,739
<a href="#">Heart of Texas Council of Governments</a>	11	\$23.41	\$48,696
<a href="#">Capital Area Council of Governments</a>	12	\$29.96	\$62,326
<a href="#">Brazos Valley Council of Governments</a>	13	\$18.41	\$38,286
<a href="#">Deep East Texas Council of Governments</a>	14	\$21.07	\$43,829
<a href="#">South East Texas Regional Planning Commission</a>	15	\$27.38	\$56,957
<a href="#">Houston-Galveston Area Council</a>	16	\$29.83	\$62,050
<a href="#">Golden Crescent Regional Planning Commission</a>	17	\$22.09	\$45,945
<a href="#">Alamo Area Council of Governments</a>	18	\$27.45	\$57,101
<a href="#">South Texas Development Council</a>	19	\$19.20	\$39,945
<a href="#">Coastal Bend Council of Governments</a>	20	\$35.39	\$73,603
<a href="#">Lower Rio Grande Valley Development Council</a>	21	\$20.70	\$43,056
<a href="#">Texoma Council of Governments</a>	22	\$19.18	\$39,897
<a href="#">Central Texas Council of Governments</a>	23	\$21.34	\$44,390
<a href="#">Middle Rio Grande Development Council</a>	24	\$22.98	\$47,809
<b>Texas</b>		\$28.00	\$58,233

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

Data published: August 2021.

Data published annually, next update will likely be July 31, 2022.

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 and Wage Statistics (OEWS) data, and is not to be compared to BLS estimates.

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



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #14**

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

See attached.

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 <b>tangible personal property</b> placed in service during this year that will become Qualified Property	New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> 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	Stub	Year preceding the first complete tax year of the qualifying time period (assuming no deferrals of qualifying time period)	2025	Not eligible to become Qualified Property				[The only other investment made before filing complete application with district that may become Qualified Property is land.]	-
Investment made after filing complete application with district, but before final board approval of application				-	-	-	-	-	
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period				-	-	-	-	-	
Complete tax years of qualifying time period	QTP1	2026-2027	2026	-	-	-	-	-	
	QTP2	2027-2028	2027	417,993,677	-	-	-	417,993,677	
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>				417,993,677	-	-	-	417,993,677	
				Enter amounts from TOTAL row above in Schedule A2					
<b>Total Qualified Investment (sum of green cells)</b>				417,993,677					

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.

PROPERTY INVESTMENT AMOUNTS								
(Estimated investment in each year. Do not put cumulative totals.)								
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	Column A New investment (original cost) in tangible personal property placed in service during this year that will become Qualified Property	Column B New investment made during this year in buildings or permanent nonremovable components of buildings that will become Qualified Property	Column C Other investment made during this year that will not become Qualified Property [SEE NOTE]	Column D Other investment made during this year that will become Qualified Property [SEE NOTE]	Column E Total Investment (A+B+C+D)
Total Investment from Schedule A1*	--	TOTALS FROM SCHEDULE A1		417,993,677	-	-	-	417,993,677
Enter amounts from TOTAL row in Schedule A1 in the row below								
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>	0	2024-2025	2024	-	-	-	-	-
	Stub	2025-2026	2025	-	-	-	-	-
	QTP1	2026-2027	2026	-	-	-	-	-
	QTP2	2027-2028	2027	417,993,677	-	-	-	417,993,677
Value limitation period***	1	2028-2029	2028	-	-	-	-	-
	2	2029-2030	2029	-	-	-	-	-
	3	2030-2031	2030	-	-	-	-	-
	4	2031-2032	2031	-	-	-	-	-
	5	2032-2033	2032	-	-	-	-	-
	6	2033-2034	2033	-	-	-	-	-
	7	2034-2035	2034	-	-	-	-	-
	8	2035-2036	2035	-	-	-	-	-
	9	2036-2037	2036	-	-	-	-	-
	10	2037-2038	2037	-	-	-	-	-
Total Investment made through limitation				417,993,677	-	-	-	417,993,677
Continue to maintain viable presence	11	2038-2039	2038			-		-
	12	2039-2040	2039			-		-
	13	2040-2041	2040			-		-
	14	2041-2042	2041			-		-
	15	2042-2043	2042			-		-
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2043-2044	2043			-		-
	17	2044-2045	2044			-		-
	18	2045-2046	2045			-		-
	19	2046-2047	2046			-		-
	20	2047-2048	2047			-		-
	21	2048-2049	2048			-		-
	22	2049-2050	2049			-		-
	23	2050-2051	2050			-		-
	24	2051-2052	2051			-		-
	25	2052-2053	2052			-		-

\* 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

**4/1/2022**

Applicant Name

**Old Aqueduct Solar LLC**

**Form 50-296A**

ISD Name

**Abernathy ISD**

*Revised October 2020*

	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	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	2024-2025	2024	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	Stub	2025-2026	2025	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	QTP1	2026-2027	2026	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	QTP2	2027-2028	2027	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Value Limitation Period	1	2028-2029	2028	\$ -	\$ -	\$ 417,993,677	\$ 417,993,677	\$ 417,993,677	\$ 25,000,000
	2	2029-2030	2029	\$ -	\$ -	\$ 363,409,572	\$ 363,409,572	\$ 363,409,572	\$ 25,000,000
	3	2030-2031	2030	\$ -	\$ -	\$ 310,141,507	\$ 310,141,507	\$ 310,141,507	\$ 25,000,000
	4	2031-2032	2031	\$ -	\$ -	\$ 258,400,328	\$ 258,400,328	\$ 258,400,328	\$ 25,000,000
	5	2032-2033	2032	\$ -	\$ -	\$ 208,526,080	\$ 208,526,080	\$ 208,526,080	\$ 25,000,000
	6	2033-2034	2033	\$ -	\$ -	\$ 172,989,030	\$ 172,989,030	\$ 172,989,030	\$ 25,000,000
	7	2034-2035	2034	\$ -	\$ -	\$ 134,613,222	\$ 134,613,222	\$ 134,613,222	\$ 25,000,000
	8	2035-2036	2035	\$ -	\$ -	\$ 93,153,331	\$ 93,153,331	\$ 93,153,331	\$ 25,000,000
	9	2036-2037	2036	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 25,000,000
	10	2037-2038	2037	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 25,000,000
Continue to maintain viable presence	11	2038-2039	2038	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	12	2039-2040	2039	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	13	2040-2041	2040	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	14	2041-2042	2041	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	15	2042-2043	2042	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2043-2044	2043	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	17	2044-2045	2044	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	18	2045-2046	2045	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	19	2046-2047	2046	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	20	2047-2048	2047	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	21	2048-2049	2048	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	22	2049-2050	2049	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	23	2050-2051	2050	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	24	2051-2052	2051	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735
	25	2052-2053	2052	\$ -	\$ -	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735	\$ 83,598,735

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** 4/1/2022  
**Applicant Name** Old Aqueduct Solar LLC  
**ISD Name** Abernathy ISD

**Form 50-296A**

*Revised October 2020*

	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A Number of Construction FTE's	Column B Average annual wage rates for construction workers	Column C Number of non-qualifying jobs applicant estimates it will create (cumulative)	Column D Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Column E Annual wage of new qualifying jobs
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2026-2027	2026	250 FTE	\$ 50,000	0	0	n/a
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2027-2028	2027	250 FTE	\$ 50,000	0	0	n/a
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2028-2029	2028	0	n/a	0	2	\$ 46,721
	2	2029-2030	2029	0	n/a	0	2	\$ 46,721
	3	2030-2031	2030	0	n/a	0	2	\$ 46,721
	4	2031-2032	2031	0	n/a	0	2	\$ 46,721
	5	2032-2033	2032	0	n/a	0	2	\$ 46,721
	6	2033-2034	2033	0	n/a	0	2	\$ 46,721
	7	2034-2035	2034	0	n/a	0	2	\$ 46,721
	8	2035-2036	2035	0	n/a	0	2	\$ 46,721
	9	2036-2037	2036	0	n/a	0	2	\$ 46,721
	10	2037-2038	2037	0	n/a	0	2	\$ 46,721
Years Following Value Limitation Period	11 through 25	2038-2053	2038-2052	0	n/a	0	2	\$ 46,721

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



**CHECKLIST ITEM #15**

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

N/A



Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #16**

**Description of Reinvestment or Enterprise Zone.**

1. Evidence that the area qualifies as an enterprise zone as defined by the Governor's Office
2. Legal description of reinvestment zone
3. Order, resolution or ordinance establishing the reinvestment zone
4. Guidelines and criteria for creating the zone

See Attached

**GUIDELINES AND CRITERIA**  
**FOR GRANTING TAX ABATEMENTS**  
**IN REINVESTMENT ZONES**

–Hale County, Texas–

Adopted by the Hale County Commissioners Court on October 23, 2006  
Re-authorized December 22, 2008; February 14, 2011; April 8, 2013;  
October 13, 2014; February 12, 2018; and May 10, 2021

For additional copies, please contact the Hale County Attorney's Office  
(806) 291-5306; [jtirey@halecounty.org](mailto:jtirey@halecounty.org)

# Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones Hale County, Texas

## I. PURPOSE

Hale County, Texas, (“the County”) is committed to the promotion of quality development in all parts of the County and to the improvement of the quality of life for the County’s citizens. In order to help meet these goals, the Plainview/Hale County Industrial Foundation, dba the Plainview/Hale County Economic Development Corporation, may consider recommending tax phase-in, which includes the designation of reinvestment zones and the grant of tax abatements, to stimulate growth and development in the County. The County intends to provide such incentives in accordance to the procedures and criteria outlined herein.

**NOTHING IN THESE GUIDELINES AND CRITERIA, HOWEVER, SHALL IMPLY, SUGGEST, OR OTHERWISE BE CONSTRUED TO IMPLY OR SUGGEST, THAT THE COUNTY HAS ANY OBLIGATION TO PROVIDE ANY INCENTIVES TO ANY APPLICANT. THE COUNTY SHALL CONSIDER ALL APPLICANTS FOR TAX PHASE-IN INCENTIVES ON AN INDIVIDUAL BASIS REGARDING WHETHER THEY QUALIFY FOR AN ABATEMENT AND WHETHER, AND HOW MUCH OF, AN ABATEMENT THE COUNTY WILL GRANT.**

## II. DEFINITIONS

“Abatement” means the full or partial exemption from ad valorem taxes of eligible property in a reinvestment zone designated by the County for economic development purposes.

“Affected taxing entity” means any municipality, school district, or other political subdivision that has taxing powers, the majority of which is located in the County and which levies ad valorem taxes upon and/or provides services to property located within a proposed or existing reinvestment zone that the County has designated.

“Agreement” means a contract between a property owner and/or lessee and the County for the purpose of abatement.

“Appraisal District” means the Hale County Central Appraisal District, its employees, agents, and directors.

“Aquaculture/agriculture facility” means buildings, structures, and major earth structure improvements, including fixed machinery and equipment, the primary purpose of which is the production of food and/or fiber products in commercially marketable quantities.

“Authorized facility” means an aquaculture/agriculture facility, distribution center facility, manufacturing facility, office building, regional entertainment/tourism facility, research facility, regional

service facility, wind energy facility, or other basic industry.

“Base year value” means the assessed value of eligible property on January 1 preceding the execution of the Agreement plus the agreed upon value of eligible property improvements made after January 1 but before the filing of an application for tax abatement.

“Deferred maintenance” means improvements necessary for continued operations which do not improve productivity or alter the process technology.

“Distribution center facility” means building and structures, including fixed machinery and equipment, used primarily to receive, store, service, or distribute goods or materials owned by the facility, from which a majority of revenues generated by activity at the facility are derived from outside the County.

“Eligible property” means new, expanded, or modernized buildings and structures, fixed machinery and equipment, site improvements, office space, and related fixed improvements necessary to the operation and administration of the facility, and all other real and tangible personal property permitted by Chapter 312 of the Texas Tax Code.

“Expansion” means the addition of buildings, structure, machinery, or equipment for purposes of increasing production capacity.

“Facility” means property improvements completed or in the process of construction which together comprise an integral whole.

“Ineligible property” means any of the following types of property: land, animals, inventories, supplies, tools, furnishings and other forms of movable personal property, vehicles, vessels, aircraft, housing or residential property, hotels or motels, fauna, flora, retail facilities (unless housed in an historic structure in a designated area), deferred maintenance investments, property to be leased or rented (except as provide in part IV(F)), any improvements (including those to produce, store, or distribute natural gas or fluids) that are not integral to the operation of the facility, and property owned or used by the State of Texas or its political subdivisions, or by any organization owned, operated, or directed by a political subdivision of the State of Texas.

“Manufacturing facility” means buildings 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.

“Modernization” means the upgrading and/or replacements of existing facilities which increases their productive input or output, updates their technology, or substantially lowers the unit cost of operation at a facility. Modernization includes the construction, alteration, or installation of buildings, structures, fixed machinery or equipment, if made for a purpose other than reconditioning, refurbishing, or repairing such items.

“New facility” means improvements to previously undeveloped real property.

“New job(s)” mean(s) a newly-created employment position on a full-time and permanent basis. Two or more part-time permanent employees working an average of not less than 40 hours per week may be considered as one full-time permanent employee.

“Office building” means a newly-constructed office building.

“Other basic industry” means buildings and structures, including fixed machinery and equipment, not elsewhere described, used in the production of products or services which serve a market primarily outside the County and results in the creation of new permanent jobs and new wealth in the County.

“Regional entertainment/tourism facility” means buildings and structures, including fixed machinery and equipment, used to provide entertainment or tourism-related services, from which a majority of revenues generated by activity at the facility are derived from outside the County.

“Research facility” means buildings and structures, including fixed machinery and equipment, used primarily for research or experimentation to improve or to develop new tangible goods or material or the production processes thereof.

“Wind energy facility” means buildings and structures, including, but not limited to, electricity-generating turbines, electric transmission lines, electric power substations, electrical gathering equipment, communications systems, roads, and fixed machinery and equipment, used to generate and to provide electric energy.

### III. ELIGIBILITY

- A. In order to qualify for designation as a reinvestment zone and to receive a tax abatement, a facility must meet the following minimum guidelines:
1. be an authorized facility; and
  2. add at least \$150,000.00 to the tax roll or eligible property or add 5 or more new jobs.
- B. In evaluating a request for designation as a reinvestment zone and for a tax abatement, the County will consider the following factors:
1. *The number of jobs projected to be created by the facility, including the retention of exiting jobs.* The County will consider the type of jobs created, the average salary or wages paid for those jobs, and the total payroll and number of local citizens hired.
  2. *The fiscal impact of the facility.* The County will take into consideration the amount of eligible and ineligible property added to the tax roll; the amount of direct sales tax that is expected to be generated by the facility; the infrastructure improvements made by the County that the facility will necessitate; the infrastructure improvements made by the facility's owner; and the compatibility of the project with the County's master plan for development, if one exists.

3. *The impact of the facility on the community.* The County will consider such factors as the amount of pollution and other negative environmental impacts caused by the facility; whether the facility will help to revitalize a depressed area; the opportunities created for local vendors by the facility; alternative development possibilities at the proposed site of the facility; the impact on other taxing entities; and whether, and the extent to which, the facility will simply transfer employment from one part of the County to another.
  4. *The expected life of the facility.* A facility should have an expected useful life of a least five, and preferably fifteen, years.
- C. An area designated as a reinvestment zone by the County must lie wholly outside the taxing jurisdiction of any municipality.
  - D. The County may create a reinvestment zone if it will contribute to the retention or expansion of employment, attract major investment in the County, or promote other economic development in the County.

#### IV. ABATEMENT AUTHORIZED

- A. *Authorized Date.* An authorized facility shall be eligible for abatement if an application for such is made prior to the commencement of construction; provided, however, that such facility must meet the criteria for granting abatement in a reinvestment zone created in Hale County pursuant to these Guidelines and Criteria.
- B. *Creation of New Value.* The County will grant an abatement only for the additional value of eligible property improvements made subsequently to the filing of an application for abatement and specified in an agreement between the County and the owner of the eligible property, subject to such limitations imposed by these Guidelines and Criteria.
- C. *New and Existing Facilities.* The County may grant an abatement for new facilities and improvements added to or made to existing facilities for the purpose of modernization or expansion. If an expansion project includes facility replacement, the County will only abate taxes based on a calculation of the value of the new facility less the value of the old or prior facility.
- D. *Property covered.* The County may only grant an abatement as to eligible property; ineligible property cannot be subject to an abatement agreement.
- E. *Leased Facilities.* The County may execute an abatement agreement with the lessee of taxable real property located in a reinvestment zone to abate taxes on all or a portion of the value of eligible property, including tangible personal property as allowed by Chapter 312 of the Texas Tax Code, in an authorized facility owned by the lessee and located on the leased real property.
- F. *Value and Term of Abatement.* An abatement shall take effect on January 1 following the date

or event specified in the abatement agreement. The abatement agreement between the County and the owner of the eligible property shall govern the amount of taxes for which an abatement is granted. The Hale County Commissioners Court has sole discretion to set the amount of any abatement. The table contained in Appendix A to these Guidelines and Criteria shall determine the maximum amount of abatement available, and the Commissioners Court will not exceed the maximum percentages of abatement provided in Appendix A.

**The County may agree to extend an abatement by executing a subsequent agreement if doing so becomes necessary to comply with state law regarding the term of a reinvestment zone designation.**

- G. *Construction in Progress.* If the owner of an authorized facility cannot place the facility in service prior to any deadline set forth in an abatement agreement, the owner may inform the County of such in writing, and the County may grant a one-year extension of the applicable deadline. The owner must apply for an extension under this section before the end of the calendar year containing the applicable deadline.
- H. *Taxability.* From the execution of an agreement to the end of the abatement period, the owner of a facility subject to an abatement agreement must pay taxes as follows:
1. The value of any ineligible property shall always be fully taxable.
  2. The base year value of existing property, as determined each year by the Appraisal District shall always be fully taxable.
  3. The value of new eligible property shall be taxable in the amount set forth in the abatement agreement; provided, however, that the value of new eligible property shall be fully taxable until the abatement agreement fully takes effect as provided by its terms.
- I. *Compliance with Other Laws.* The owner of a facility on which the County grants an abatement must comply with all applicable local, state, and federal laws, rules, and regulations regarding the operation of the facility. Any abatement agreement executed by the County shall make the failure to comply with applicable laws, rules, and regulations an act of default.

## V. CREATION OF REINVESTMENT ZONE

- A. Any owner of real property located outside of any municipal boundaries in Hale County may request the creation of a reinvestment zone.
- B. An applicant shall submit a legal description of the property as well as a map showing its location in Hale County. If necessary, the owner shall also submit proof that the property does not lie within any municipal boundary. The applicant shall submit the request and information to the Hale County Attorney's Office.
- C. The County shall approve or deny the request to create a reinvestment zone within 45 days

following the receipt of the request and required information. The County Judge or his designated representative shall notify the applicant in writing of the County's decision as soon as practicable, but no longer than 7 days following the date of the decision. Failure to meet these deadlines will not affect the County's discretion to approve or to reject an application.

## VI. APPLICATION FOR TAX ABATEMENT

- A. Any present or potential owner or lessee of eligible property or an authorized facility in Hale County may request the grant of a tax abatement by filing a written request with the Hale County Attorney's Office.
- B. The application shall consist of a completed application form as set out in Appendix B, along with the following information:
  - 1. a general description of the use and the general nature and extent of the proposed modernization, expansion, or new facility;
  - 2. a descriptive list of all proposed improvements;
  - 3. a map and property description, or site plan;
  - 4. a schedule for undertaking and completing the modernization, expansion, or new facility; and
  - 5. a statement of: (a) the assessed value of any existing facility (stated for both real and personal property for the tax year immediately preceding the application; and (b) the estimated value of the proposed modernization, expansion, or new facility.
- C. The County may require any other information that it deems necessary to evaluate the financial capacity of the applicant or any other factor relevant to determine whether to create a reinvestment zone or to grant a tax abatement.
- D. The County will not grant a tax abatement if it determines that:
  - 1. the tax abatement will have a substantial adverse effect on the provision of a government service by, or the tax base of, an affected taxing entity;
  - 2. the applicant has insufficient financial capacity to complete or to sustain the proposed project;
  - 3. a planned or potential use of the property would constitute a hazard to public safety, health, or morals; or
  - 4. a planned or potential use of the property would violate any applicable statute, regulation, rule, ordinance, or order.

- E. The applicant shall deliver the application and its supporting information to the Hale County Attorney's Office.
- F. If the eligible property is not located within an existing reinvestment zone, the applicant shall also submit the information required to create a reinvestment zone, as set forth in Part V, above. If a reinvestment zone does not exist at the time of the submission of an application for a tax abatement, the deadlines set forth in Section VI(F) shall be extended by 60 days.
- G. The County shall approve or reject an application for tax abatement within 45 days following the date of receipt of the application. The County Judge or his designated representative shall notify the applicant in writing of the County's decision as soon as practicable, but no longer than 7 days following the date of the decision. Failure to meet these deadlines will not affect the County's discretion to approve or to reject an application.
- H. The County will not grant a tax abatement if the application is filed after the commencement of construction, alteration, or installation of improvements related to a proposed modernization, expansion, or new facility.
- I. An applicant may request a variance from the provision outlined in Parts VI(A)-(E) by submitting a written request to the Hale County Judge. The request for a variance must include a complete description of the circumstances surrounding the request and explaining why the County should grant a variance. The request must also set out the specific variance that the Applicant seeks. The grant of a variance rests solely in the discretion of the Hale County Commissioners Court, and the Court may only grant a variance upon at least a three-fourths majority vote.
- J. The County shall maintain as confidential any proprietary information that it might acquire from an applicant during the application process. The applicant must identify in writing all proprietary information that it provides to the County and must mark each page of such information as being proprietary and confidential. The County shall return to the applicant any information properly marked as proprietary and confidential.

## VII. PUBLIC HEARING

- A. Upon receipt of a completed application, the County shall send any notifications required by Chapter 312 of the Texas Tax Code.
- B. Before acting upon the application, the County shall, through public hearings, afford the applicant and the designated representative of any affected taxing entity to show cause why the County should or should not grant the tax abatement.
- C. The County will post, according to the same procedures that it gives notice of any other meetings subject to the Texas Open Meetings Act, notice of a public hearing regarding a proposed tax abatement. The County shall post the notice at least 7 days prior to the date of the hearing.

- D. The Hale County Commissioners court may base its decision not to grant a tax abatement in whole or in part on a showing by an affected taxing entity that the abatement would adversely affect its bonds, tax revenue, or ability to provide services.

#### VIII. AGREEMENT

- A. Upon approval of an abatement application, the Hale county Commissioners Court shall pass a resolution and authorize the execution of an agreement with the owner or lessee of the facility. The agreement shall include:
1. the estimated value of property on which the County will abate taxes and the base year value of the property;
  2. the percentage of the value of the eligible property on which the County will abate taxes each year during the term of the agreement;
  3. the commencement and termination dates of the abatement (or a method for determining those dates);
  4. the proposed use of the facility; the nature of the construction or improvements; a time schedule for undertaking the completion of the planned construction or improvements; a map of the facility property; a property description; and a list of improvements as provided in Part V(B) of these Guidelines and Criteria;
  5. provisions establishing all conditions precedent to the abatement of taxes; relating to events of default; violation of the terms or conditions of the abatement; recapture of previously abated taxes; administration of the abatement; assignment of the contract; and any other terms as required by law or determined necessary by the Hale County Commissioners Court;
  6. the amount of investment or average number of annual full time jobs created by the project.

**The requirements of Chapter 312 of the Texas Tax Code supersede these Guidelines and Criteria.**

- B. The County may negotiate the amount and terms of an abatement agreement following the approval of an abatement application. An abatement agreement executed by the County may not abate, forgive, or refund any taxes that become due and payable to the County prior to the execution of the agreement.
- C. The Hale County Commissioners Court has full discretion regarding the amount and terms of any abatement agreement, and the decisions or actions of any other taxing entity will not bind or affect the authority of the County to negotiate any particular amount or terms.

## IX. RECAPTURE

- A. In the event that a facility subject to a tax abatement agreement ceases producing products or services for any reason except fire, explosion, or other casualty, accident, or natural disaster, for a period of more than one year during the term of the abatement agreement, the agreement shall terminate and so shall the abatement of taxes for the calendar year in which the termination occurs. The owner or lessee of the facility shall pay the taxes otherwise abated for that calendar year to the County within 60 days of the date of termination.
- B. If the County determines that a party to an abatement agreement has defaulted under the terms and conditions of the agreement, the County will notify the party of the default in writing at the address stated in the agreement and will give the party 60 days from the date of notice to cure the default. The County shall terminate the agreement if the party fails to cure the default within the time allowed.
- C. A party's failure to pay any other taxes owed to the County or any other taxing entity located within Hale County will constitute an act of default under any abatement agreement entered under these Guidelines and Criteria.
- D. Any abatement agreement entered under these Guidelines and Criteria shall contain a provision for the recapture of previously abated taxes following termination of the agreement for any act of default. The recapture provision will specify repayment of those taxes within 60 days of the date of termination.

## X. ADMINISTRATION

- A. The Chief Appraiser of the Appraisal District shall annually determine the value of the real and taxable personal property contained within a reinvestment zone. Any party receiving benefits under an abatement agreement must furnish the Appraisal District with all information necessary for a determination of value. The party shall also provide all information to the Appraisal District that the abatement agreement or these Guidelines and Criteria might require.
- B. The owner or lessee of a facility subject to an abatement agreement must give the County and its officers, employees, and agents reasonable access to the facility in order to inspect for compliance with the agreement. The County shall give the party notice at least 24 hours in advance of any compliance inspection, and the County will not unreasonably interfere with the construction or operation of a facility in order to conduct a compliance inspection. The County will conduct any compliance inspection pursuant to the safety rules and regulations of the facility in question.
- C. If the County discovers any violations of an abatement agreement, it will report those to any other affected taxing entity within a reasonable period of time.
- D. The County will maintain as confidential any proprietary information that it receives from a party to a tax abatement agreement for purposes of monitoring compliance with the

agreement. The owner or lessee of the facility must clearly identify in writing all proprietary information and must mark each page of such information as being proprietary and confidential.

## XI. ASSIGNMENT

- A. A party to an abatement agreement may assign the agreement to a new owner or lessee of a facility, but the Hale County Commissioners Court must pass a resolution approving the assignment, and the new owner or lessee must meet all the requirements of the agreement and these Guidelines and Criteria.
- B. An assignee must sign a new abatement agreement with the County following the approval of the assignment.
- C. A new agreement signed under this Part may not exceed the term of the original agreement or the amount of the original abatement.
- D. A party may not assign its interest in an abatement agreement to an individual or entity that owes any delinquent taxes or other obligations to the County or any other affected taxing entity.
- E. The County will not unreasonably withhold approval of an assignment under this Part.

## XII. SUNSET PROVISION

- A. These Guidelines and Criteria are effective upon the date of the adoption and will remain in effect for 5 years, at which time the County will review all reinvestment zones and abatement agreements created under them. Following that review, the County will consider whether to renew, modify, or rescind these Guidelines and Criteria. No action taken by the County under this Part will affect any existing abatement agreements or reinvestment zones.
- B. The County may review and modify these Guidelines and Criteria at any time.

## XIII. SEVERABILITY AND LIMITATIONS

- A. In the event that a court of competent jurisdiction adjudges any part, section, clause, sentence, paragraph, or any other portion of these Guidelines and Criteria to be invalid, or if legislative action renders any portion of these Guidelines and Criteria invalid, that invalidity shall not affect, impair, or invalidate the remainder of these Guidelines and Criteria, to the extent possible.
- B. The County will not grant a tax abatement, or any benefit under a tax abatement agreement, on property owned or leased by a member of the Hale County Commissioners Court or any member of any planning board or commission of the County.

- C. Any requirements that the Legislature places upon tax abatement or reinvestment zones and that these Guidelines and Criteria omit shall be deemed incorporated into these Guidelines and Criteria and shall control in the event of a conflict between the requirement and the Guidelines and Criteria.

## APPENDIX A: SCHEDULE OF POTENTIAL TAX ABATEMENTS

<b>Category A</b> Amount of Valuation of Eligible Property as Determined by the Hale County Appraisal District		<b>Category B</b> Average Number of New Employees During the Twelve Calendar Months Prior to the Tax Assessment Date of January 1		Maximum Percentage of Taxes Abated Each Year During a 10-Year Agreement									
				<i>Note: The Hale County Commissioners Court has complete discretion to set the actual amount of abatement allowed in any agreement, and to negotiate that amount with the parties to the agreement.</i>									
From	To	From	To	1	2	3	4	5	6	7	8	9	10
\$ 150,000.00	\$ 1,000,000.00	5	25	100	75	50	25	0	0	0	0	0	0
\$ 1,000,001.00	\$ 2,500,000.00	26	45	100	100	75	50	25	0	0	0	0	0
\$ 2,500,001.00	\$ 4,000,000.00	46	60	100	100	100	75	50	25	0	0	0	0
\$ 4,000,001.00	\$ 5,000,000.00	61	75	100	100	100	100	75	50	25	0	0	0
\$ 5,000,001.00	\$10,000,000.00	76	85	100	100	100	100	100	75	50	25	0	0
\$10,000,001.00	Above	86	Above	100	100	100	100	100	100	100	100	100	100

During the first year following the completion of new construction or improvements, and for each subsequent year during the term of an abatement agreement executed pursuant to the Guidelines and Criteria, the percentage of taxes abated shall be based on : (1) the valuation of eligible property (Category A); or (2) the average number of additional employees (Category B). The determination of which category to use in determining the percentage of taxes abated shall be according to which category provides the greatest percentage of abatement.

**APPENDIX B:**

**APPLICATION FOR TAX ABATEMENT**

*—Hale County, Texas—*

***Please type or print legibly. Deliver completed Application and supporting information to Hale County Attorney's Office, 500 Broadway, Suite 340, Plainview, Texas 79072***

Date: \_\_\_\_\_

Name of Owner/Lessee of Property for which abatement is sought<sup>1</sup> ("the Applicant"):

\_\_\_\_\_

Address: \_\_\_\_\_

Phone No.: \_\_\_\_\_ Facsimile: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Please attach the following information to this Application, labeled as indicated below:<sup>2</sup>

Exhibit A: A general description of the proposed use and the general nature and extent of the modernization, expansion, or new facility planned. Include a description of any existing facility, if applicable.

Exhibit B: A descriptive list of the improvements which will be part of the facility.

Exhibit C: A map and legal property description of the facility.

Exhibit D: A schedule for undertaking and completing the modernization, expansion, or new facility.

Exhibit E: Documents showing the amount of planned investment in the modernization, expansion, or new facility, and the number of new jobs and retained jobs as a result of the modernization, expansion, or new facility.

Exhibit F: A statement regarding the reasons why a tax abatement for the modernization, expansion, or new facility will promote economic development in Hale County.

Exhibit G: Copies of any permits or licenses required for the construction or operation of the modernization, expansion, or new facility.

\_\_\_\_\_

<sup>1</sup>Please list the legal name of the person or entity for which this Application is made. If the business is run under an assumed name, please indicate that as well.

<sup>2</sup>If any information required to be submitted with this Application is proprietary information, please indicate such in writing and mark each page of that information as proprietary and confidential. You may retrieve that information following consideration of the Application. ***Proprietary information left in the possession of Hale County following action on this Application is not confidential and will not be protected from disclosure by Hale County.***

Exhibit H: A balance sheet and profit/loss statements for the past 3 years for the Applicant. (If the Applicant is new, please provide substantiated estimates of this information.)

Exhibit I: A statement of: (1) the assessed value of any existing facility, stated for real and personal property for the tax year immediately preceding the Application; and (2) the value of the proposed modernization, expansion, or new facility.

Hale County may request additional information in considering this Application. The Applicant agrees to provide any requested information as soon as possible following the request.

***The undersigned hereby certifies that he or she is authorized to make this Application and that the information contained in, and submitted with, this Application is true and correct, and the County may rely upon said information in determining whether to approve this Application and to negotiate a tax abatement agreement with the Applicant.***

\_\_\_\_\_  
Signature  
Title: \_\_\_\_\_

\_\_\_\_\_  
Date

**COUNTY USE:**

Date Received: \_\_\_\_\_

Received By: \_\_\_\_\_

**ACTION (Circle One):**

***Approved***

***Denied***

Date: \_\_\_\_\_

Signed: \_\_\_\_\_

**Hale County Commissioners Court**

ORDER NO. 21-0509

IN THE HALE COUNTY COMMISSIONERS COURT §

WHEREAS, Hale County has published a Notice of a Proposed Designation of a Reinvestment Zone in accordance with the Texas Tax Code, and Hale County has provided notice to other taxing entities in whose territory the proposed reinvestment zone lies;

AND WHEREAS, Hale County, Texas, desires to create another Reinvestment Zone in Hale County;

AND WHEREAS, the proposed Reinvestment Zone meets the eligibility criteria set forth in the Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones adopted by the Hale County Commissioners Court on October 23, 2006, and re-authorized on December 22, 2008; February 14, 2011; April 8, 2013; October 13, 2014; February 12, 2018; and May 10, 2021;

AND WHEREAS, the Court finds that: (1) the proposed Reinvestment Zone lies outside the taxing jurisdiction of any incorporated city or town; and (2) the proposed Reinvestment Zone will contribute to the retention or expansion of employment; attract major investment; and promote economic development in Hale County;

IT IS THEREFORE ORDERED that Hale County hereby designates the property located in Hale County and having the legal description attached to this Order as Exhibit A, and shown on the map attached to this Order as Exhibit B, both of which are fully incorporated herein by reference, as Hale County Reinvestment Zone Number 11 under the Texas Tax Code and the Hale County Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones.

IT IS FURTHER ORDERED that Hale County declares that all Eligible Property, as that is defined in the Hale County Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones, is hereby eligible to receive tax abatement pursuant to the rules and regulations set forth in the Hale County Guidelines and Criteria for Granting Tax Abatements in Reinvestment Zones.

This Order shall expire five years from the date below, but the Court may redesignate the Reinvestment Zone for subsequent five-year periods.

This Order was passed and approved following the public hearing on the creation of the Reinvestment Zone held by the Hale County Commissioners Court, at which a quorum of the Court was present, and notice of which was posted to all legal requirements, on the 9th day of May, 2022.

HALE COUNTY, TEXAS

By: David B. Mull  
DAVID B. MULL  
Hale County Judge

ATTEST:

LATRICE KEMP, HALE COUNTY CLERK

By: Christine Kemp

**EXHIBIT A**

**LEGAL DESCRIPTION OF HALE COUNTY  
REINVESTMENT ZONE NUMBER 11, HALE COUNTY, TEXAS**

All of the following parcels, located in Hale County, Texas;

Survey No. 68, Block A-4

Section 72, Block A-4, Abstract 1910

Section 73, Block A-4, T. T. Ry. Survey, Abstract 290

Section 9, Block D-8

Survey No. 10, Block D-8, Cert. No. 1136, E. L. & R. R. Ry. Co. Survey

Section 11, Block D-8, E. L. & R. R. Ry. Co. Survey, Cert. 1137, Abstract 399, Patent 428,  
Vol. 53, dated December 12, 1880.

Section 12, Block C-2, Abstract 1911

Section 15, Block C-2, Abstract 1441

Section 16, Block C-2

Section 5, Block P, Abstract 1863

Section 5, Block P, Abstract 1157

Section 5, Block P, Abstract 1158

Section 5, Block P, Abstract 1389

Section 6, Block P, Abstract 1841

Section 7, Block P, Abstract 1884

**EXHIBIT B**

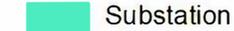
MAP SHOWING LOCATION OF HALE COUNTY REINVESTMENT ZONE NUMBER 11

[Appears on the Following Page]



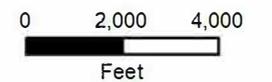
Order Designating Hale County Reinvestment Zone No. 11

Figure 2  
Old Aqueduct Solar Project  
Hale County, Texas

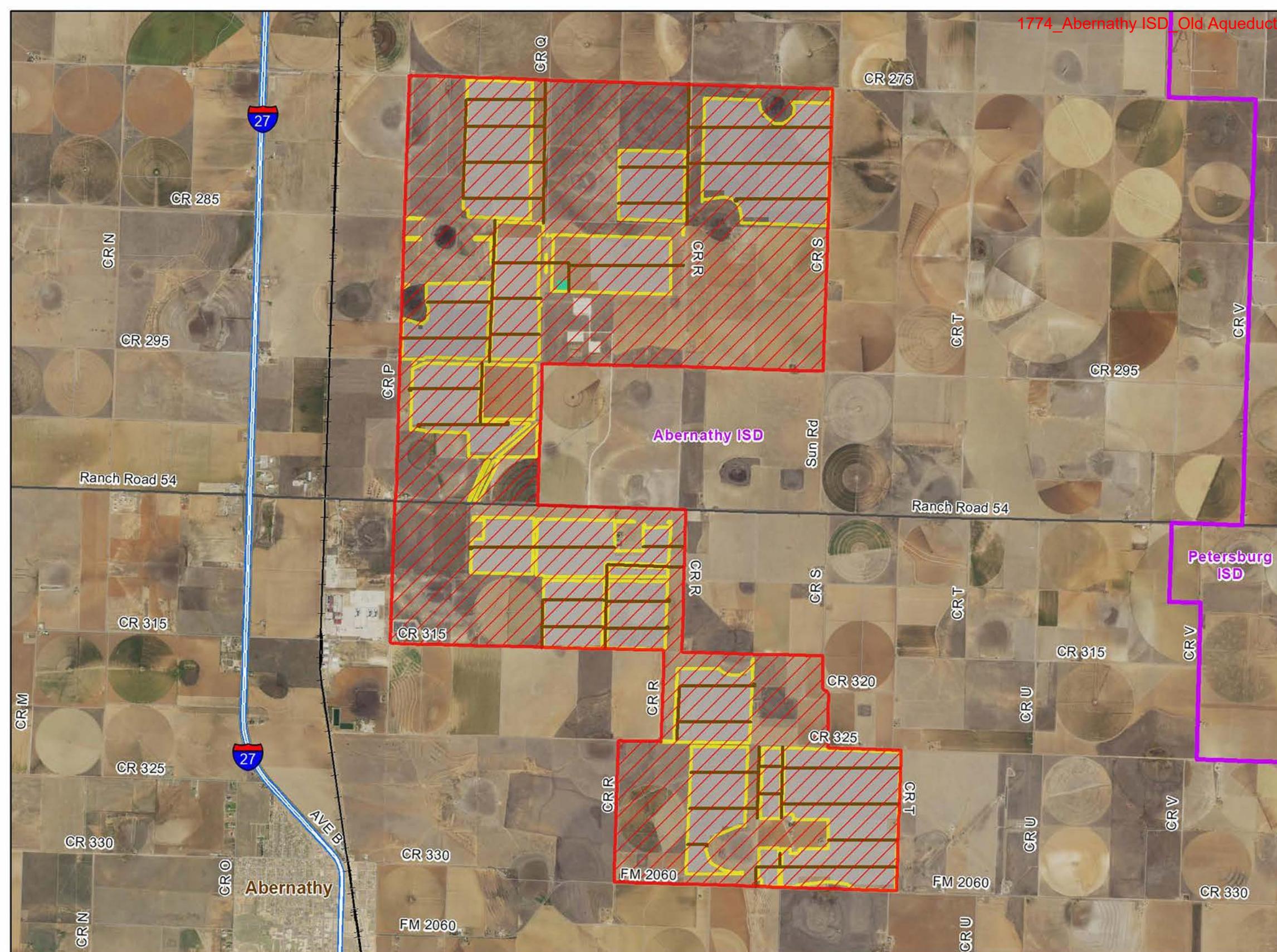
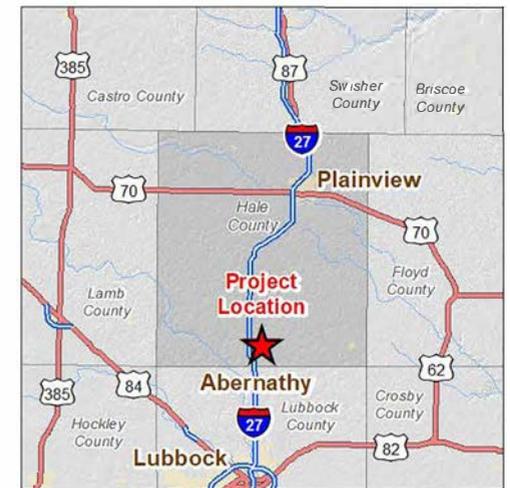
-  Project Road
-  Railroad
-  Reinvestment Zone
-  Buildable Area
-  Solar Panel
-  Substation
-  School District Boundary



1:48,000



Base Map: NAIP Imagery 2018





Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM # 17**

**Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative.**

---

ATTACHMENT TO APPLICATION FOR CHAPTER 313 APPRAISED VALUE  
LIMITATION TO ABERNATHY ISD

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** → Aaron Waldrip Superintendent  
Print Name (Authorized School District Representative) Title

**sign here** → *[Signature]* 4/11/22  
Signature (Authorized School District Representative) 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** → Andrew Bowman Chief Executive Officer  
Print Name (Authorized Company Representative (Applicant)) Title

**sign here** → *[Signature]* 4/5/2022  
Signature (Authorized Company Representative (Applicant)) Date



(Notary Seal)

GIVEN under my hand and seal of office this, the  
5<sup>th</sup> day of April, 2022  
Erika G. Brown  
 Notary Public in and for the State of Texas  
 My Commission expires: 1/14/2025

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.

Texas Comptroller of Public Accounts

Data Analysis and Transparency Form 50-296-A

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

Aaron Waldrip
Print Name (Authorized School District Representative)

Superintendent
Title

sign here

[Handwritten Signature]
Signature (Authorized School District Representative)

5/24/2022
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

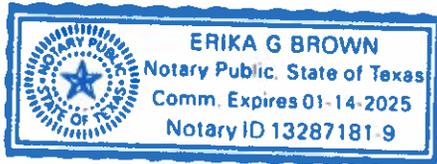
Andrew Bowman
Print Name (Authorized Company Representative (Applicant))

President
Title

sign here

[Handwritten Signature]
Signature (Authorized Company Representative (Applicant))

5/9/2022
Date



(Notary Seal)

GIVEN under my hand and seal of office this, the

9th day of May, 2022

[Handwritten Signature]
Notary Public in and for the State of Texas

My Commission expires: 1/14/2025

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.



## Franchise Tax Account Status

As of : 10/04/2022 14:49:27

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

<b>OLD AQUEDUCT SOLAR LLC</b>	
<b>Texas Taxpayer Number</b>	32076395279
<b>Mailing Address</b>	1108 LAVACA ST # 100-349 AUSTIN, TX 78701-2172
<b>Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	10/22/2020
<b>Texas SOS File Number</b>	0803807446
<b>Registered Agent Name</b>	CORPORATION SERVICE COMPANY DBA CSC - LAWYERS INCO
<b>Registered Office Street Address</b>	211 E. 7TH STREET, SUITE 620 AUSTIN, TX 78701

**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

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

August 30, 2022

Aaron Waldrip  
Superintendent  
Abernathy Independent School District  
505 7th Street  
Abernathy, TX 79311

Re: Certificate for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Abernathy Independent School District and Old Aqueduct Solar, LLC, Application 1774

Dear Superintendent Waldrip:

On June 1, 2022, the Comptroller issued written notice that Old Aqueduct Solar, LLC (applicant) submitted a completed application (Application 1774) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on April 11, 2022, to the Abernathy Independent School District (school district) by the applicant.

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

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

**Determination required by 313.025(h)**

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

---

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

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

Sec. 313.024(d-2) Not applicable to Application 1774.

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

### **Certificate decision required by 313.025(d)**

Determination required by 313.026(c)(1)

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

Determination required by 313.026(c)(2)

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

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

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

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement by **December 31, 2022**.

Note that any building or improvement existing as of the application review start date of June 1, 2022, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.

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

Sincerely,

DocuSigned by:  
  
11EA6DEF0EC441E...  
Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan

## Attachment A - Economic Impact Analysis

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

**Table 1** is a summary of investment, employment and tax impact of Old Aqueduct Solar, LLC.

Applicant	Old Aqueduct Solar, LLC
Tax Code, 313.024 Eligibility Category	Renewable Energy - Solar
School District	Abernathy ISD
2019-2020 Average Daily Attendance	760
County	Hale
Proposed Total Investment in District	\$417,993,677
Proposed Qualified Investment	\$417,993,677
Limitation Amount	\$25,000,000
Qualifying Time Period (Full Years)	2026-2027
Number of new qualifying jobs committed to by applicant	2*
Number of new non-qualifying jobs estimated by applicant	0
Average weekly wage of qualifying jobs committed to by applicant	\$898
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5) (B)	\$898
Minimum annual wage committed to by applicant for qualified jobs	\$46,721
Minimum weekly wage required for non-qualifying jobs	\$816.50
Minimum annual wage required for non-qualifying jobs	\$42,458
Investment per Qualifying Job	\$208,996,834
Estimated M&O levy without any limit (15 years)	\$26,759,643
Estimated M&O levy with Limitation (15 years)	\$7,025,289
Estimated gross M&O tax benefit (15 years)	\$19,734,354

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

**Table 2** is the estimated statewide economic impact of Old Aqueduct Solar, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2026	250	213	463	\$12,500,000	\$23,390,000	\$35,890,000
2027	250	1,596	1846	\$12,500,000	\$141,310,000	\$153,810,000
2028	2	84	86	\$161,928	\$21,318,072	\$21,480,000
2029	2	19	21	\$161,928	\$12,538,072	\$12,700,000
2030	2	(20)	-18	\$161,928	\$5,938,072	\$6,100,000
2031	2	(45)	-43	\$161,928	\$1,788,072	\$1,950,000
2032	2	(51)	-49	\$161,928	-\$1,141,928	-\$980,000
2033	2	(51)	-49	\$161,928	-\$2,601,928	-\$2,440,000
2034	2	(51)	-49	\$161,928	-\$3,581,928	-\$3,420,000
2035	2	(43)	-41	\$161,928	-\$4,071,928	-\$3,910,000
2036	2	(37)	-35	\$161,928	-\$4,071,928	-\$3,910,000
2037	2	(31)	-29	\$161,928	-\$3,581,928	-\$3,420,000
2038	2	(27)	-25	\$161,928	-\$3,331,928	-\$3,170,000
2039	2	(18)	-16	\$161,928	-\$1,871,928	-\$1,710,000
2040	2	(16)	-14	\$161,928	-\$2,601,928	-\$2,440,000
2041	2	(8)	-6	\$161,928	-\$2,111,928	-\$1,950,000
2042	2	(10)	-8	\$161,928	-\$1,871,928	-\$1,710,000

Source: CPA REMI, Old Aqueduct Solar, LLC

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate*	Abernathy ISD I&S Tax Levy	Abernathy ISD M&O Tax Levy	Abernathy ISD M&O and I&S Tax Levies	Hale County Tax Levy	High Plains Water District Tax Levy	Noxious Weed Control Tax Levy	Farm To Market Tax Levy	Estimated Total Property Taxes
				0.3300	1.0517		0.6427	0.0051	0.0300	0.0003	
2028	\$417,993,677	\$417,993,677		\$1,379,379	\$4,396,039	\$5,775,419	\$2,686,458	\$21,318	\$125,398	\$1,241	\$8,609,834
2029	\$363,409,572	\$363,409,572		\$1,199,252	\$3,821,978	\$5,021,230	\$2,335,644	\$18,534	\$109,023	\$1,079	\$7,485,510
2030	\$310,141,507	\$310,141,507		\$1,023,467	\$3,261,758	\$4,285,225	\$1,993,289	\$15,817	\$93,042	\$921	\$6,388,295
2031	\$258,400,328	\$258,400,328		\$852,721	\$2,717,596	\$3,570,317	\$1,660,747	\$13,178	\$77,520	\$767	\$5,322,530
2032	\$208,526,080	\$208,526,080		\$688,136	\$2,193,069	\$2,881,205	\$1,340,203	\$10,635	\$62,558	\$619	\$4,295,220
2033	\$172,989,030	\$172,989,030		\$570,864	\$1,819,326	\$2,390,189	\$1,111,806	\$8,822	\$51,897	\$514	\$3,563,228
2034	\$134,613,222	\$134,613,222		\$444,224	\$1,415,727	\$1,859,951	\$865,163	\$6,865	\$40,384	\$400	\$2,772,763
2035	\$93,153,331	\$93,153,331		\$307,406	\$979,694	\$1,287,100	\$598,699	\$4,751	\$27,946	\$277	\$1,918,772
2036	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2037	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2038	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2039	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2040	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2041	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2042	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
			<b>Total</b>	<b>\$8,396,579</b>	<b>\$26,759,643</b>	<b>\$35,156,222</b>	<b>\$16,353,050</b>	<b>\$129,765</b>	<b>\$763,325</b>	<b>\$7,557</b>	<b>\$52,409,920</b>

Source: CPA, Old Aqueduct Solar, LLC

\*Tax Rate per \$100 Valuation

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

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

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O	Tax Rate*	Abernathy ISD I&S Tax Levy	Abernathy ISD M&O Tax Levy	Abernathy ISD M&O and I&S Tax Levies	Hale County Tax Levy	High Plains Water District Tax Levy	Noxious Weed Control Tax Levy	Farm To Market Tax Levy	Estimated Total Property Taxes
2028	\$417,993,677	\$25,000,000	0.3300	\$1,379,379	\$262,925	\$1,642,304	\$2,686,458	\$21,318	\$125,398	\$1,241	\$4,476,719
2029	\$363,409,572	\$25,000,000		\$1,199,252	\$262,925	\$1,462,177	\$2,335,644	\$18,534	\$109,023	\$1,079	\$3,926,457
2030	\$310,141,507	\$25,000,000		\$1,023,467	\$262,925	\$1,286,392	\$1,993,289	\$15,817	\$93,042	\$921	\$3,389,462
2031	\$258,400,328	\$25,000,000		\$852,721	\$262,925	\$1,115,646	\$1,660,747	\$13,178	\$77,520	\$767	\$2,867,859
2032	\$208,526,080	\$25,000,000		\$688,136	\$262,925	\$951,061	\$1,340,203	\$10,635	\$62,558	\$619	\$2,365,076
2033	\$172,989,030	\$25,000,000		\$570,864	\$262,925	\$833,789	\$1,111,806	\$8,822	\$51,897	\$514	\$2,006,827
2034	\$134,613,222	\$25,000,000		\$444,224	\$262,925	\$707,149	\$865,163	\$6,865	\$40,384	\$400	\$1,619,961
2035	\$93,153,331	\$25,000,000		\$307,406	\$262,925	\$570,331	\$598,699	\$4,751	\$27,946	\$277	\$1,202,004
2036	\$83,598,735	\$25,000,000		\$275,876	\$262,925	\$538,801	\$537,292	\$4,264	\$25,080	\$248	\$1,105,684
2037	\$83,598,735	\$25,000,000		\$275,876	\$262,925	\$538,801	\$537,292	\$4,264	\$25,080	\$248	\$1,105,684
2038	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2039	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2040	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2041	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
2042	\$83,598,735	\$83,598,735		\$275,876	\$879,208	\$1,155,084	\$537,292	\$4,264	\$25,080	\$248	\$1,721,967
			<b>Total</b>	<b>\$8,396,579</b>	<b>\$7,025,289</b>	<b>\$15,421,869</b>	<b>\$16,353,050</b>	<b>\$129,765</b>	<b>\$763,325</b>	<b>\$7,557</b>	<b>\$32,675,566</b>
			<b>Diff</b>	<b>\$0</b>	<b>\$19,734,353</b>	<b>\$19,734,353</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$19,734,353</b>

Assumes School Value Limitation and Tax Abatements with the County.

Source: CPA, Old Aqueduct Solar, LLC

\*Tax Rate per \$100 Valuation

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

## Attachment B – Tax Revenue before 25<sup>th</sup> Anniversary of Limitation Start

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

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2025	\$0	\$0	\$0	\$0
	2026	\$0	\$0	\$0	\$0
	2027	\$0	\$0	\$0	\$0
<b>Limitation Period (10 Years)</b>	2028	\$262,925	\$262,925	\$4,133,114	\$4,133,114
	2029	\$262,925	\$525,850	\$3,559,053	\$7,692,168
	2030	\$262,925	\$788,775	\$2,998,833	\$10,691,001
	2031	\$262,925	\$1,051,700	\$2,454,671	\$13,145,672
	2032	\$262,925	\$1,314,625	\$1,930,144	\$15,075,816
	2033	\$262,925	\$1,577,550	\$1,556,401	\$16,632,217
	2034	\$262,925	\$1,840,475	\$1,152,802	\$17,785,019
	2035	\$262,925	\$2,103,400	\$716,769	\$18,501,788
	2036	\$262,925	\$2,366,325	\$616,283	\$19,118,071
	2037	\$262,925	\$2,629,250	\$616,283	\$19,734,353
<b>Maintain Viable Presence (5 Years)</b>	2038	\$879,208	\$3,508,458	\$0	\$19,734,353
	2039	\$879,208	\$4,387,666	\$0	\$19,734,353
	2040	\$879,208	\$5,266,874	\$0	\$19,734,353
	2041	\$879,208	\$6,146,082	\$0	\$19,734,353
	2042	\$879,208	\$7,025,289	\$0	\$19,734,353
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2043	\$879,208	\$7,904,497	\$0	\$19,734,353
	2044	\$879,208	\$8,783,705	\$0	\$19,734,353
	2045	\$879,208	\$9,662,913	\$0	\$19,734,353
	2046	\$879,208	\$10,542,121	\$0	\$19,734,353
	2047	\$879,208	\$11,421,329	\$0	\$19,734,353
	2048	\$879,208	\$12,300,537	\$0	\$19,734,353
	2049	\$879,208	\$13,179,745	\$0	\$19,734,353
	2050	\$879,208	\$14,058,953	\$0	\$19,734,353
	2051	\$879,208	\$14,938,161	\$0	\$19,734,353
	2052	\$879,208	\$15,817,368	\$0	\$19,734,353
		<b>\$15,817,368</b>	is less than	<b>\$19,734,353</b>	
<b>Analysis Summary</b>					
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					No

Source: CPA, Old Aqueduct Solar, LLC

Year	Employment			Personal Income			Revenue & Expenditure		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2026	250	213	463	\$12,500,000	\$23,390,000	\$35,890,000	1530000	-890000	\$2,420,000
2027	250	1,596	1846	\$12,500,000	\$141,310,000	\$153,810,000	13400000	-3200000	\$16,600,000
2028	2	84	86	\$161,928	\$21,318,072	\$21,480,000	730000	1550000	-\$820,000
2029	2	19	21	\$161,928	\$12,538,072	\$12,700,000	530000	1560000	-\$1,030,000
2030	2	(20)	-18	\$161,928	\$5,938,072	\$6,100,000	270000	1460000	-\$1,190,000
2031	2	(45)	-43	\$161,928	\$1,788,072	\$1,950,000	120000	1320000	-\$1,200,000
2032	2	(51)	-49	\$161,928	-\$1,141,928	-\$980,000	50000	1170000	-\$1,120,000
2033	2	(51)	-49	\$161,928	-\$2,601,928	-\$2,440,000	-30000	960000	-\$990,000
2034	2	(51)	-49	\$161,928	-\$3,581,928	-\$3,420,000	-90000	820000	-\$910,000
2035	2	(43)	-41	\$161,928	-\$4,071,928	-\$3,910,000	-150000	660000	-\$810,000
2036	2	(37)	-35	\$161,928	-\$4,071,928	-\$3,910,000	-200000	480000	-\$680,000
2037	2	(31)	-29	\$161,928	-\$3,581,928	-\$3,420,000	-200000	360000	-\$560,000
2038	2	(27)	-25	\$161,928	-\$3,331,928	-\$3,170,000	-210000	250000	-\$460,000
2039	2	(18)	-16	\$161,928	-\$1,871,928	-\$1,710,000	-260000	120000	-\$380,000
2040	2	(16)	-14	\$161,928	-\$2,601,928	-\$2,440,000	-290000	0	-\$290,000
2041	2	(8)	-6	\$161,928	-\$2,111,928	-\$1,950,000	-310000	-90000	-\$220,000
2042	2	(10)	-8	\$161,928	-\$1,871,928	-\$1,710,000	-320000	-120000	-\$200,000
2043	2	(12)	-10	\$161,928	-\$2,111,928	-\$1,950,000	-320000	-190000	-\$130,000
2044	2	(14)	-12	\$161,928	-\$1,621,928	-\$1,460,000	-340000	-240000	-\$100,000
2045	2	(12)	-10	\$161,928	-\$1,621,928	-\$1,460,000	-410000	-360000	-\$50,000
2046	2	(12)	-10	\$161,928	-\$1,621,928	-\$1,460,000	-320000	-360000	\$40,000
2047	2	(8)	-6	\$161,928	-\$651,928	-\$490,000	-290000	-430000	\$140,000
2048	2	(10)	-8	\$161,928	-\$651,928	-\$490,000	-320000	-490000	\$170,000
2049	2	(12)	-10	\$161,928	-\$2,111,928	-\$1,950,000	-350000	-560000	\$210,000
2050	2	(14)	-12	\$161,928	-\$1,141,928	-\$980,000	-380000	-580000	\$200,000
2051	2	(14)	-12	\$161,928	-\$2,111,928	-\$1,950,000	-430000	-640000	\$210,000
2052	2	(20)	-18	\$161,928	-\$2,601,928	-\$2,440,000	-460000	-630000	\$170,000
						<b>Total</b>	<b>\$11,410,000</b>	<b>\$2,560,000</b>	<b>\$8,850,000</b>
							<b>\$24,667,368</b>	is greater than	<b>\$19,734,353</b>
<b>Analysis Summary</b>									
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?									Yes

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

## Attachment C – Limitation as a Determining Factor

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

### Methodology

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

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

### Determination

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

- Per Old Aqueduct Solar LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. “The Applicant for this Project has entered into a number of contracts related to the Project, including longterm lease option agreements with area landowners, contracts with environmental consultants to assess the suitability of the site, and a request for studies leading to an interconnection agreement with the transmission provider. The Project was selected as a candidate for development based on the favorable solar data, nearby access to the electric grid, and favorable tax incentives under Texas Tax Code chapters 312 and 313. Obtaining a value limitation agreement is critical to the economic and competitive viability of this Project.”
  - B. “None of the current Project agreements firmly commit the Applicant to the development of the Project. A number of variables remain undetermined at this stage, including the approval of this application. The Applicant could still elect to devote resources to other projects that it has in development. Without the available tax incentives, the economics of the Project become far less attractive and the likelihood of selling the electricity at a competitive price will decrease.”
  - C. “The Applicant is a national solar developer with the ability to locate projects of this type and other types of projects in other states within the United States and locations around the world. The Applicant is actively assessing and developing other projects that are competing for limited investment funds. The appraised value limitation is critical to the ability of the Project to move forward as currently sited. Examples of the Applicant’s other project locations that are competing with the Project for funding include: Ohio, Indiana, Pennsylvania, California.”
  - D. “The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of the project. The financial viability of the project is contingent on receiving the Chapter 313 Appraised Value Limitation, and the project cannot move forward without it.”

- Per Old Aqueduct Solar LLC in Tab 4 of their Application:
  - A. “The applicant applied on 6/29/2021 to ERCOT and has received the following GINR number: 22INR0462.”
  - B. “This project may have been known by Old Aqueduct Solar in past media reports, investor presentations, or any other listings with any federal or state agency.”

**Supporting Information**

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value
- c) Additional information provided by the Applicant or located by the Comptroller

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

# **Supporting Information**

Section 8 of the Application for  
a Limitation on Appraised Value

SECTION 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

NOTE: Only construction beginning after the application review start date (the date the Texas Comptroller of Public Accounts deems the application complete) can be considered qualified property and/or qualified investment.

1. Estimated school board ratification of final agreement ..... 8/1/2022
  2. Estimated commencement of construction ..... 1/1/2027
  3. Beginning of qualifying time period (MM/DD/YYYY) ..... 1/2/2025
  4. First year of limitation (YYYY) ..... 2028
- 4a. For the beginning of the limitation period, notate which **one of the following** will apply according to provision of 313.027(a-1)(2):
- A. January 1 following the application date       B. January 1 following the end of QTP
- C. January 1 following the commencement of commercial operations
5. Commencement of commercial operations ..... 12/31/2027

SECTION 10: The Property

1. County or counties in which the proposed project will be located Hale County
2. Central Appraisal District (CAD) that will be responsible for appraising the property Hale County Appraisal District
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:
 

M&O (ISD): <u>Abernathy, 1.051700%, 100%</u> <small>(Name, tax rate and percent of project)</small>	I&S (ISD): <u>Abernathy, 0.330000%, 100%</u> <small>(Name, tax rate and percent of project)</small>
County: <u>Hale, 0.642703%, 100%</u> <small>(Name, tax rate and percent of project)</small>	City: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>
Hospital District: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>	Water District: <u>High Plains Water District, 0.005100%, 100%</u> <small>(Name, tax rate and percent of project)</small>
Other (describe): <u>Noxious Weed Control, 0.030000%, 100%</u> <small>(Name, tax rate and percent of project)</small>	Other (describe): <u>Farm to Market, 0.000297%, 100%</u> <small>(Name, tax rate and percent of project)</small>

# **Supporting Information**

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



**CHECKLIST ITEM #5**

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

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

The Applicant for this Project has entered into a number of contracts related to the Project, including long-term lease option agreements with area landowners, contracts with environmental consultants to assess the suitability of the site, and a request for studies leading to an interconnection agreement with the transmission provider. The Project was selected as a candidate for development based on the favorable solar data, nearby access to the electric grid, and favorable tax incentives under Texas Tax Code chapters 312 and 313. Obtaining a value limitation agreement is critical to the economic and competitive viability of this Project.

None of the current Project agreements firmly commit the Applicant to the development of the Project. A number of variables remain undetermined at this stage, including the approval of this application. The Applicant could still elect to devote resources to other projects that it has in development. Without the available tax incentives, the economics of the Project become far less attractive and the likelihood of selling the electricity at a competitive price will decrease.

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

The Applicant is a national solar developer with the ability to locate projects of this type and other types of projects in other states within the United States and locations around the world. The Applicant is actively assessing and developing other projects that are competing for limited investment funds. The appraised value limitation is critical to the ability of the Project to move forward as currently sited. Examples of the Applicant's other project locations that are competing with the Project for funding include:

- Ohio
- Indiana
- Pennsylvania
- California



**10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas?**

The information provided in this Attachment and throughout the Application has been assembled to provide the reviewer with the best possible information to make an assessment and determination of the critical nature of the Limitation on Appraised Value to the feasibility of the project. The financial viability of the project is contingent on receiving the Chapter 313 Appraised Value Limitation, and the project cannot move forward without it.

# **Supporting Information**

Additional information  
provided by the Applicant or  
located by the Comptroller



## Chapter 313 Application to Abernathy ISD

---

**CHECKLIST ITEM #4****Detailed Description of Project**

The applicant is developing a utility scale single axis tracker photovoltaic facility designed to use solar power to generate electricity. The project will be capable of generating approximately 512 MWac and will cover a surface area approximately 4,000 acres. The exact capacity and specific technology will be determined during the design process, and so the exact location of the improvements cannot be specified at this time. In addition, 100% of the entire project is planned to be installed in Abernathy ISD and Hale County.

If granted an Appraised Value Limitation pursuant to Texas Tax Code 313, the applicant expects to issue a full notice to proceed for construction in Q1 of 2027 and expects to complete construction in Q4 2027.

The investment will include the following: solar modules/panels, metal mounting system with tracking capabilities, underground conduit, communications cables and electric system wiring, combiner boxes, a project substation including breakers, a transformer and meters, overhead transmission lines, inverter boxes on concrete pads, an operations and maintenance facility, fencing for safety and security, telephone and internet communication system, meteorological equipment to measure solar irradiation and weather conditions, and any other eligible ancillary and necessary equipment for commercial operations of the proposed project.

The applicant applied on 6/29/2021 to ERCOT and has received the following GINR number: 22INR0462. This project may have been known by Old Aqueduct Solar in past media reports, investor presentations, or any other listings with any federal or state agency.

**Summary of the District's Financial Impact  
of Chapter 313 Agreement  
with Old Aqueduct Solar, LLC**

**July 5, 2022**



**MCDOWELL**  
School Finance  
**CONSULTING**

# Abernathy ISD Financial Impact of Chapter 313 Agreement

---

## **Summary of Abernathy ISD Financial Impact of the Limited Appraised Value Application from Old Aqueduct Solar, LLC**

### **Introduction**

Old Aqueduct Solar, LLC applied for a property value limitation from Abernathy Independent School District under Chapter 313 of the Tax Code. The application was submitted on April 11, 2022 and subsequently approved for consideration by the Abernathy ISD Board of Trustees. Old Aqueduct Solar, LLC (“Old Aqueduct Solar”), is requesting the property value limitation as a “renewable energy electric generation” project as listed in Sec. 313.024.(b) of the Tax Code.

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

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

# Abernathy ISD Financial Impact of Chapter 313 Agreement

---

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

## Years Prior to Start of Value Limitation Period:

The tax years prior to the start of the value limitation period are considered the “Prior to Start of Value Limitation Period” and the company’s school district taxes will be levied at one-hundred percent of the appraised value. The applicant has requested that tax years 2025, 2026 and 2027 are the years that are Prior to the Start of Value Limitation Period.

## Value Limitation Period:

During the ten years of the Value Limitation Period, the qualifying entity’s taxable value will be reduced to the Minimum Limitation Amount for the applicable school district as determined by the State Comptroller’s Office. Abernathy ISD is considered a Rural category 3 District as categorized with total taxable value of industrial property of at least \$90 million but less than \$200 million. Thus, Abernathy ISD has a Minimum Qualified Investment amount of \$20 million and a Minimum Limitation Amount of \$25 million. A qualifying entity’s taxable value would be reduced to \$25 million during this ten year period of the agreement for the purposes of computing the tax levy for the maintenance and operations (M&O) tax of Abernathy ISD. The entire appraised value will be used for computing the interest and sinking (I&S) tax levy. The applicant has requested that the Value Limitation Period to begin in tax year 2028 and continue through tax year 2037.

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

Tax years 2038 through 2042 will be the final five years of the agreement and the applicant agrees to maintain a viable presence with this project during this time.

# Abernathy ISD Financial Impact of Chapter 313 Agreement

---

## Taxable Value Projections from Application

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

	Year	School Year	Tax Year	Projected Taxable Value	Actual Taxable Value with Agreement
Each Year Prior to Start of Value Limitation Period	0	2025-2026	2025	\$0	\$0
	0	2026-2027	2026	\$0	\$0
	0	2027-2028	2027	\$0	\$0
Value Limitation Period	1	2028-2029	2028	\$417,993,677	\$25,000,000
	2	2029-2030	2029	\$363,409,572	\$25,000,000
	3	2030-2031	2030	\$310,141,507	\$25,000,000
	4	2031-2032	2031	\$258,400,328	\$25,000,000
	5	2032-2033	2032	\$208,526,080	\$25,000,000
	6	2033-2034	2033	\$172,989,030	\$25,000,000
	7	2034-2035	2034	\$134,613,222	\$25,000,000
	8	2035-2036	2035	\$93,153,331	\$25,000,000
	9	2036-2037	2036	\$83,598,735	\$25,000,000
Continue to Maintain Viable Presence	10	2037-2038	2037	\$83,598,735	\$25,000,000
	11	2038-2039	2038	\$83,598,735	\$83,598,735
	12	2039-2040	2039	\$83,598,735	\$83,598,735
	13	2040-2041	2040	\$83,598,735	\$83,598,735
	14	2041-2042	2041	\$83,598,735	\$83,598,735
Additional Years for 25 Year Economic Impact Study	15	2042-2043	2042	\$83,598,735	\$83,598,735
	16	2043-2044	2043	\$83,598,735	\$83,598,735
	17	2044-2045	2044	\$83,598,735	\$83,598,735
	18	2045-2046	2045	\$83,598,735	\$83,598,735
	19	2046-2047	2046	\$83,598,735	\$83,598,735
	20	2047-2048	2047	\$83,598,735	\$83,598,735
	21	2048-2049	2048	\$83,598,735	\$83,598,735
	22	2049-2050	2049	\$83,598,735	\$83,598,735
	23	2050-2051	2049	\$83,598,735	\$83,598,735
24	2051-2052	2050	\$83,598,735	\$83,598,735	
	25	2052-2053	2051	\$83,598,735	\$83,598,735

# Abernathy ISD Financial Impact of Chapter 313 Agreement

## Taxable Value Impact from LAVA

The “Additional Value from Old Aqueduct Solar” represents the values that the company estimated as their taxable values in the application that was filed with the district. During tax years 2028 through 2037, the company’s taxable value will be limited to the \$25,000,000 Minimum Limitation Amount of Abernathy ISD.

**TABLE I- Calculation of Taxable Value:**

Tax Year	Additional Value From Old Aqueduct Solar	Minimum Limitation Amount	Abated Value	Taxable Value
Jan. 1, 2025				
Jan. 1, 2026	0	n/a	0	0
Jan. 1, 2027	0	n/a	0	0
Jan. 1, 2028	417,993,677	(25,000,000)	392,993,677	25,000,000
Jan. 1, 2029	363,409,572	(25,000,000)	338,409,572	25,000,000
Jan. 1, 2030	310,141,507	(25,000,000)	285,141,507	25,000,000
Jan. 1, 2031	258,400,328	(25,000,000)	233,400,328	25,000,000
Jan. 1, 2032	208,526,080	(25,000,000)	183,526,080	25,000,000
Jan. 1, 2033	172,989,030	(25,000,000)	147,989,030	25,000,000
Jan. 1, 2034	134,613,222	(25,000,000)	109,613,222	25,000,000
Jan. 1, 2035	93,153,331	(25,000,000)	68,153,331	25,000,000
Jan. 1, 2036	83,598,735	(25,000,000)	58,598,735	25,000,000
Jan. 1, 2037	83,598,735	(25,000,000)	58,598,735	25,000,000
Jan. 1, 2038	83,598,735	n/a	0	83,598,735
Jan. 1, 2039	83,598,735	n/a	0	83,598,735
Jan. 1, 2040	83,598,735	n/a	0	83,598,735
Jan. 1, 2041	83,598,735	n/a	0	83,598,735
Jan. 1, 2042	83,598,735	n/a	0	83,598,735

# Abernathy ISD Financial Impact of Chapter 313 Agreement

## Old Aqueduct Solar's Tax Benefit from Agreement

The projected amount of the net tax savings for Old Aqueduct Solar is \$14,686,454 over the life of the Agreement. This net savings is after all tax savings and after estimated payments have been made to the district to offset their revenue losses that were a direct result of entering into this Agreement.

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

- The District has held a tax ratification election and the study projects that it will maintain the maximum M&O tax rate allowable that doesn't require an additional voter election for the life of this agreement.
- The district current does have outstanding bonds that are scheduled to payoff in 2034, and currently have a \$.33 I&S tax rate. The district could pursue a bond election and issue additional bonded debt during the life of this agreement.

**TABLE II- Computation of Net Tax Savings:**

Fiscal Year	Projected M&O Tax Rate	Projected I&S Tax Rate	M&O Taxes w/o Agreement	Tax Savings with Agreement	Payment of District's Revenue Losses	Net Tax Savings
<b>2025-2026</b>	1.0224	0.309				
<b>2026-2027</b>	1.0181	0.307	0	0	0	0
<b>2027-2028</b>	1.0139	0.304	0	0	0	0
<b>2028-2029</b>	1.0096	0.164	4,220,089	3,967,687	(4,039,626)	(71,939)
<b>2029-2030</b>	1.0054	0.194	3,653,633	3,402,289	0	3,402,289
<b>2030-2031</b>	1.0012	0.205	3,105,035	2,854,743	0	2,854,743
<b>2031-2032</b>	0.9970	0.184	2,576,196	2,326,951	0	2,326,951
<b>2032-2033</b>	0.9928	0.195	2,070,268	1,822,065	0	1,822,065
<b>2033-2034</b>	0.9887	0.204	1,710,277	1,463,111	0	1,463,111
<b>2034-2035</b>	0.9845	0.000	1,325,313	1,079,179	0	1,079,179
<b>2035-2036</b>	0.9804	0.000	913,300	668,193	0	668,193
<b>2036-2037</b>	0.9763	0.000	816,206	572,122	0	572,122
<b>2037-2038</b>	0.9723	0.000	812,805	569,738	0	569,738
<b>2038-2039</b>	0.9682	0.000	809,421	0	0	0
<b>2039-2040</b>	0.9642	0.000	806,053	0	0	0
<b>2040-2041</b>	0.9602	0.000	802,701	0	0	0
<b>2041-2042</b>	0.9562	0.000	799,366	0	0	0
<b>2042-2043</b>	0.9522	0.000	796,047	0	0	0
<b>Totals</b>			<b>25,216,710</b>	<b>18,726,080</b>	<b>(4,039,626)</b>	<b>14,686,454</b>

# Abernathy ISD Financial Impact of Chapter 313 Agreement

---

## Financial Impact Study

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

- The current state funding formulas were used for state aid and recapture calculation purposes
  - Tier I - Basic Allotment of \$6,160 multiplied by the number of students in average daily attendance (ADA).
  - Level 1 of Tier II yield - \$98.56 - per weighted student in average daily attendance (WADA) per penny of tax effort
  - Level 2 of Tier II yield - \$49.28 – per WADA per penny of tax effort
- Use of current year property values for state funding calculations.
- Use of prior year property values for revenue protection payment calculations in accordance with Article IV of the Agreement.
- The district’s tax rate for maintenance & operations (M&O) for 2021-2022 of 1.0517 is projected to decrease based on estimated local and statewide property tax growth. No future tax ratification elections are projected in the calculations.
- An annual taxable value increase of 1.0% was used to project the district’s taxable value, except as it related to the requested LAVA. The district’s 2021 taxable value was used as a baseline for all projections.
- The district’s enrollment is projected to decrease; therefore, the projected ADA and WADA for school year 21-22 was decreased by .25% per year for the life of the agreement.

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

# Abernathy ISD Financial Impact of Chapter 313 Agreement

## Calculation of LAVA Impact on District's Finances

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

**TABLE III – District Revenues *without* Old Aqueduct Solar:**

Fiscal Year	Total Taxable Value	Total M&O Taxes	State	State	Total State Revenue	Recapture Payment	Total District Revenue
			Revenue Tier I	Revenue Tier II			
2025-2026	485,298,197	4,882,455	3,385,077	653,087	4,038,164	0	8,920,619
2026-2027	490,151,179	4,910,425	3,345,241	643,302	3,988,543	0	8,898,968
2027-2028	495,052,691	4,938,952	3,304,962	633,575	3,938,537	0	8,877,489
2028-2029	500,003,218	4,967,072	3,263,271	623,420	3,886,691	0	8,853,763
2029-2030	505,003,250	4,995,757	3,218,785	612,818	3,831,603	0	8,827,360
2030-2031	510,053,283	5,024,520	3,179,821	603,084	3,782,905	0	8,807,425
2031-2032	515,153,816	5,053,362	3,138,777	592,916	3,731,693	0	8,785,055
2032-2033	520,305,354	5,082,280	3,100,599	583,191	3,683,790	0	8,766,070
2033-2034	525,508,407	5,111,788	3,057,465	572,619	3,630,084	0	8,741,872
2034-2035	530,763,491	5,140,859	3,015,114	562,030	3,577,144	0	8,718,003
2035-2036	536,071,126	5,170,528	2,975,515	551,903	3,527,418	0	8,697,946
2036-2037	541,431,838	5,200,279	2,934,274	541,526	3,475,800	0	8,676,079
2037-2038	546,846,156	5,230,645	2,888,531	530,287	3,418,818	0	8,649,463
2038-2039	552,314,618	5,260,560	2,852,492	520,590	3,373,082	0	8,633,642
2039-2040	557,837,764	5,291,098	2,809,483	509,621	3,319,104	0	8,610,202
2040-2041	563,416,141	5,321,723	2,768,432	498,939	3,267,371	0	8,589,094
2041-2042	569,050,303	5,352,434	2,725,881	488,224	3,214,105	0	8,566,539
2042-2043	574,740,806	5,383,228	2,679,449	476,556	3,156,005	0	8,539,233

# Abernathy ISD Financial Impact of Chapter 313 Agreement

**TABLE IV- District Revenues *with* Old Aqueduct Solar *without* Chpt. 313 Agreement:**

Fiscal Year	Total Taxable Value	Total M&O Taxes	State Revenue		Total State Revenue	Recapture Payment	Total District Revenue
			Tier I	Tier II			
2025-2026	485,298,197	4,882,455	3,385,077	653,087	4,038,164	0	8,920,619
2026-2027	490,151,179	4,910,425	3,345,241	643,302	3,988,543	0	8,898,968
2027-2028	495,052,691	4,938,952	3,304,962	633,575	3,938,537	0	8,877,489
2028-2029	917,996,895	8,319,151	422,203	232,645	654,848	(178,828)	8,795,171
2029-2030	868,412,822	7,870,886	788,302	268,770	1,057,072	(151,359)	8,776,599
2030-2031	820,194,789	7,434,971	1,149,213	304,517	1,453,730	(124,421)	8,764,280
2031-2032	773,554,143	7,013,316	1,496,191	339,021	1,835,212	(98,049)	8,750,479
2032-2033	728,831,434	6,609,001	1,831,112	372,187	2,203,299	(73,147)	8,739,153
2033-2034	698,497,438	6,334,766	2,048,246	393,421	2,441,667	(56,716)	8,719,717
2034-2035	665,376,714	6,035,338	2,288,019	417,474	2,705,493	(38,653)	8,702,178
2035-2036	629,224,458	5,708,504	2,554,319	443,759	2,998,078	(18,726)	8,687,856
2036-2037	625,030,573	5,670,589	2,569,983	444,891	3,014,874	(17,113)	8,668,350
2037-2038	630,444,891	5,719,537	2,504,732	437,760	2,942,492	(21,260)	8,640,769
2038-2039	635,913,353	5,768,975	2,448,766	431,809	2,880,575	(24,993)	8,624,557
2039-2040	641,436,499	5,818,907	2,385,404	424,937	2,810,341	(29,077)	8,600,171
2040-2041	647,014,877	5,869,338	2,323,569	418,269	2,741,838	(33,103)	8,578,073
2041-2042	652,649,038	5,920,274	2,262,069	411,655	2,673,724	(37,125)	8,556,873
2042-2043	658,339,541	5,971,719	2,194,565	404,295	2,598,860	(41,434)	8,529,145

**TABLE V – District Revenues *with* Old Aqueduct Solar *with* Chapter 313 Agreement:**

Fiscal Year	Total Taxable Value	Total M&O Taxes	State Revenue		Total State Revenue	Recapture Payment	Payment for District Losses	Total District Revenue
			Tier I	Tier II				
2025-2026	485,298,197	4,882,455	3,385,077	653,087	4,038,164	0	0	8,920,619
2026-2027	490,151,179	4,910,425	3,345,241	643,302	3,988,543	0	0	8,898,968
2027-2028	495,052,691	4,938,952	3,304,962	633,575	3,938,537	0	0	8,877,489
2028-2029	525,003,218	5,085,284	3,177,246	589,370	3,766,616	0	4,039,626	12,891,526
2029-2030	530,003,250	5,133,524	3,112,301	578,668	3,690,969	0	0	8,824,493
2030-2031	535,053,283	5,182,248	3,052,455	568,846	3,621,301	0	0	8,803,549
2031-2032	540,153,816	5,231,458	2,991,621	558,891	3,550,512	0	0	8,781,970
2032-2033	545,305,354	5,281,161	2,932,235	549,166	3,481,401	0	0	8,762,562
2033-2034	550,508,407	5,331,360	2,867,461	538,471	3,405,932	0	0	8,737,292
2034-2035	555,763,491	5,382,062	2,803,589	527,938	3,331,527	0	0	8,713,589
2035-2036	561,071,126	5,410,726	2,765,040	517,792	3,282,832	0	0	8,693,558
2036-2037	566,431,838	5,439,473	2,724,774	507,472	3,232,246	0	0	8,671,719
2037-2038	571,846,156	5,468,859	2,680,056	496,215	3,176,271	0	0	8,645,130
2038-2039	635,913,353	6,053,775	2,158,789	431,809	2,590,598	(25,037)	0	8,619,336
2039-2040	641,436,499	6,081,036	2,119,208	424,937	2,544,145	(29,179)	0	8,596,002
2040-2041	647,014,877	6,108,384	2,081,585	418,269	2,499,854	(33,276)	0	8,574,962
2041-2042	652,649,038	6,135,817	2,042,126	411,655	2,453,781	(37,125)	0	8,552,473
2042-2043	658,339,541	6,163,335	1,999,038	404,295	2,403,333	(41,434)	0	8,525,234

# Abernathy ISD Financial Impact of Chapter 313 Agreement

---

## Current School Finance Law

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

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

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

# Abernathy ISD Financial Impact of Chapter 313 Agreement

## Supplemental Payments

Assuming that the District and Old Aqueduct Solar, LLC mutually agree in the LAVA that the greater of \$100 per student in average daily attendance (ADA) or \$50,000, the projected amount of these payments over the life of the agreement is \$1,215,744 of the \$14,686,454 net tax savings amount. This amount will be computed annually according to Section VI of the Agreement.

**TABLE VI - Calculation of the Supplemental Payments:**

Fiscal Year	Net Tax Savings	Abernathy ISD Supplemental	Old Aqueduct Solar Share
<b>2025-2026</b>	0	75,984	(75,984)
<b>2026-2027</b>	0	75,984	(75,984)
<b>2027-2028</b>	0	75,984	(75,984)
<b>2028-2029</b>	(71,939)	75,984	(147,923)
<b>2029-2030</b>	3,402,289	75,984	3,326,305
<b>2030-2031</b>	2,854,743	75,984	2,778,759
<b>2031-2032</b>	2,326,951	75,984	2,250,967
<b>2032-2033</b>	1,822,065	75,984	1,746,081
<b>2033-2034</b>	1,463,111	75,984	1,387,127
<b>2034-2035</b>	1,079,179	75,984	1,003,195
<b>2035-2036</b>	668,193	75,984	592,209
<b>2036-2037</b>	572,122	75,984	496,138
<b>2037-2038</b>	569,738	75,984	493,754
<b>2038-2039</b>	0	75,984	(75,984)
<b>2039-2040</b>	0	75,984	(75,984)
<b>2040-2041</b>	0	75,984	(75,984)
<b>2041-2042</b>	0	0	0
<b>2042-2043</b>	0	0	0
<b>Totals</b>	<b>14,686,454</b>	<b>1,215,744</b>	<b>13,470,710</b>

# Abernathy ISD Financial Impact of Chapter 313 Agreement

## Impact of Projected Student Growth On District Facilities

**TABLE VII – Campus Capacity and Available Growth**

Campus Name	Grade Level	# of Regular Classrooms	Building Capacity	Current Enrollment	Enrollment Growth Available
Abernathy Elementary	EE-5	21	462	395	67
Abernathy Middle	6-8	16	320	175	145
Abernathy High	9-12	25	500	255	245
Total		<b>62</b>	<b>1,282</b>	<b>825</b>	<b>457</b>

The building capacities are based on 22 students per classroom for early education through 12<sup>th</sup> grade. Abernathy ISD is an early-education through 12<sup>th</sup> grade district.

Old Aqueduct Solar provided supplemental information with their application that projected the number of full-time employees that are expected for permanent employment after construction of the project is completed. They projected that two new employees. It is not known whether these would be new employees to the Abernathy ISD, or if current resident would occupy this position; however, it is assumed that this employee would be a new resident to the district.

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

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

# Abernathy ISD Financial Impact of Chapter 313 Agreement

---

## Conclusion

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

Old Aqueduct Solar would benefit from reduced property taxes during the ten years of the Value Limitation Period. Although some of the tax savings would be used to offset district's revenue losses and supplemental payments to the District, Old Aqueduct Solar is projected to benefit from an 88% tax savings during that ten year period of this Agreement. Old Aqueduct Solar also has the option of terminating the Agreement if the amount paid to the District during a tax year following the first year of the Limitation Period is greater than the amount of taxes that would have been paid without the Agreement; therefore, there is limited risk for the company from entering into the Agreement.

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



**MCDOWELL**  
School Finance  
CONSULTING

Estimated Financial Impact of Chapter 313 Agreement with Old Aqueduct Solar, LLC  
As Submitted in Chapter 313 Application

	Year of Agreement	School Year	Tax Year	Project's M&O Taxable Value w/o 313 Agreement	Project's M&O Taxable Value with 313 Agreement	Estimated M&O Tax Rate	Old Aqueduct Solar M&O Tax Savings	Abernathy ISD Estimated Revenue Protection Payments	Estimated Net Tax Benefit under 313 Agreement	Estimated Supplemental Payments \$100/ADA	Estimated Net Savings to Company under 313 Agreement
Qualifying Time Period	0	2025-2026	2025	\$0	\$0	1.0224	\$0	\$0	\$0	\$75,984	(\$75,984)
	0	2026-2027	2026	\$0	\$0	1.0181	\$0	\$0	\$0	\$75,984	(\$75,984)
	0	2027-2028	2027	\$0	\$0	1.0139	\$0	\$0	\$0	\$75,984	(\$75,984)
Value Limitation Period	1	2028-2029	2028	\$417,993,677	\$25,000,000	1.0096	\$3,967,687	\$4,039,626	(\$71,939)	\$75,984	(\$147,923)
	2	2029-2030	2029	\$363,409,572	\$25,000,000	1.0054	\$3,402,289	\$0	\$3,402,289	\$75,984	\$3,326,305
	3	2030-2031	2030	\$310,141,507	\$25,000,000	1.0012	\$2,854,743	\$0	\$2,854,743	\$75,984	\$2,778,759
	4	2031-2032	2031	\$258,400,328	\$25,000,000	0.9970	\$2,326,951	\$0	\$2,326,951	\$75,984	\$2,250,967
	5	2032-2033	2032	\$208,526,080	\$25,000,000	0.9928	\$1,822,065	\$0	\$1,822,065	\$75,984	\$1,746,081
	6	2033-2034	2033	\$172,989,030	\$25,000,000	0.9887	\$1,463,111	\$0	\$1,463,111	\$75,984	\$1,387,127
	7	2034-2035	2034	\$134,613,222	\$25,000,000	0.9845	\$1,079,179	\$0	\$1,079,179	\$75,984	\$1,003,195
	8	2035-2036	2035	\$93,153,331	\$25,000,000	0.9804	\$668,193	\$0	\$668,193	\$75,984	\$592,209
	9	2036-2037	2036	\$83,598,735	\$25,000,000	0.9763	\$572,122	\$0	\$572,122	\$75,984	\$496,138
10	2037-2038	2037	\$83,598,735	\$25,000,000	0.9723	\$569,738	\$0	\$569,738	\$75,984	\$493,754	
Maintain Viable Presence Period	11	2038-2039	2038	\$83,598,735	\$83,598,735	0.9682	\$0	\$0	\$0	\$75,984	(\$75,984)
	12	2039-2040	2039	\$83,598,735	\$83,598,735	0.9642	\$0	\$0	\$0	\$75,984	(\$75,984)
	13	2040-2041	2040	\$83,598,735	\$83,598,735	0.9602	\$0	\$0	\$0	\$75,984	(\$75,984)
	14	2041-2042	2041	\$83,598,735	\$83,598,735	0.9562	\$0	\$0	\$0	\$0	\$0
	15	2042-2043	2042	\$83,598,735	\$83,598,735	0.9522	\$0	\$0	\$0	\$0	\$0
Totals							\$18,726,080	\$4,039,626	\$14,686,454	\$1,215,744	\$13,470,710

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

June 10, 2022

Marcus Sullivan, President  
Board of Trustees  
Abernathy Independent School District  
505 7<sup>th</sup> ST  
Abernathy, TX 79311-3318

Dear President Sullivan:

As required by the Tax Code, §313.025 (b-1), the Texas Education Agency (TEA) has evaluated the impact of the proposed Old Aqueduct Solar LLC #1774 on the number and size of school facilities in Abernathy Independent School District (AISD). Based on an examination of AISD enrollment and the number of potential new jobs, the TEA has determined that the Old Aqueduct Solar LLC project should not have a significant impact on the number or size of school facilities in AISD.

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

Sincerely,

A handwritten signature in blue ink that reads 'Amy Copeland'.

Amy Copeland  
Director of State Funding

Cc: Aaron Waldrip, Superintendent



Glenn Hegar  
Texas Comptroller of Public Accounts

# Taxes

Property Tax Assistance

## 2021 ISD Summary Worksheet

### 095-Hale /Hale County

#### 095-901/Abernathy ISD

Category	Local Tax Roll Value	2021 WTD Mean Ratio	2021 PTAD Value Estimate	2021 Value Assigned
A - SINGLE-FAMILY	68,336,397	0.8945	76,396,196	68,336,397
B - MULTIFAMILY	1,481,388	N/A	1,481,388	1,481,388
C1 - VACANT LOTS	1,323,766	N/A	1,323,766	1,323,766
C2 - COLONIAL LOTS	0	N/A	0	0
D1 ACRES - QUALIFIED OPEN-SPACE LAND	16,374,962	1.9755	8,288,956	16,374,962
D2 - FARM & RANCH IMP	1,081,012	N/A	1,081,012	1,081,012
E - NON-AG LAND AND IMPROVEMENTS	16,104,673	0.8400	19,172,230	16,104,673
F1 - COMMERCIAL REAL	5,207,366	N/A	5,207,366	5,207,366
F2 - INDUSTRIAL REAL	135,917,838	N/A	135,917,838	135,917,838
G - ALL MINERALS	45,737,390	1.0151	45,057,029	45,737,390
J - ALL UTILITIES	92,170,354	0.9489	97,133,896	92,170,354

<b>L1 - COMMERCIAL PERSONAL</b>	9,643,490	N/A	9,643,490	9,643,490
<b>L2 - INDUSTRIAL PERSONAL</b>	40,147,891	N/A	40,147,891	40,147,891
<b>M1 - MOBILE HOMES</b>	71,048	N/A	71,048	71,048
<b>N - INTANGIBLE PERSONAL PROPERTY</b>	0	N/A	0	0
<b>O - RESIDENTIAL INVENTORY</b>	0	N/A	0	0
<b>S - SPECIAL INVENTORY</b>	223,564	N/A	223,564	223,564
<b>Subtotal</b>	433,821,139	0	441,145,670	433,821,139
<b>Less Total Deductions</b>	46,060,081	0	48,657,062	46,060,081
<b>Total Taxable Value</b>	387,761,058	0	392,488,608	387,761,058

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

See the ISD DEDUCTION Report for a breakdown of deduction values

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

**Value Taxable For M & O Purposes**

<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>
392,843,888	387,761,058	392,843,888	387,761,058

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50% of the loss to the Local Optional Percentage Homestead Exemption</b>
--	---

5,082,830	0
-----------	---

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

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

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

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

**Value Taxable For I & S Purposes**

T7	T8	T9	T10
392,843,888	387,761,058	392,843,888	387,761,058

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

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

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

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

THE PVS FOUND YOUR LOCAL VALUE TO BE VALID, AND LOCAL VALUE WAS CERTIFIED

**152-Lubbock /Lubbock County**

**095-901/Abernathy ISD**

Category	Local Tax Roll Value	2021 WTD Mean Ratio	2021 PTAD Value Estimate	2021 Value Assigned
----------	----------------------	---------------------	--------------------------	---------------------

<b>A - SINGLE-FAMILY</b>	33,600,446	1.0274	32,704,347	33,600,446
<b>B - MULTIFAMILY</b>	702,504	N/A	702,504	702,504
<b>C1 - VACANT LOTS</b>	916,646	N/A	916,646	916,646
<b>C2 - COLONIAL LOTS</b>	0	N/A	0	0
<b>D1 ACRES - QUALIFIED OPEN-SPACE LAND</b>	4,038,833	0.7878	5,126,893	4,038,833
<b>D2 - FARM &amp; RANCH IMP</b>	259,570	N/A	259,570	259,570
<b>E - NON-AG LAND AND IMPROVEMENTS</b>	11,298,018	0.8477	13,327,849	11,298,018
<b>F1 - COMMERCIAL REAL</b>	6,065,523	1.0298	5,890,001	6,065,523
<b>F2 - INDUSTRIAL REAL</b>	695,105	N/A	695,105	695,105
<b>G - ALL MINERALS</b>	9,338,150	1.0969	8,513,219	9,338,150
<b>J - ALL UTILITIES</b>	8,149,902	0.8627	9,446,971	8,149,902
<b>L1 - COMMERCIAL PERSONAL</b>	3,471,441	N/A	3,471,441	3,471,441
<b>L2 - INDUSTRIAL PERSONAL</b>	9,953,680	N/A	9,953,680	9,953,680
<b>M1 - MOBILE HOMES</b>	336,536	N/A	336,536	336,536
<b>N - INTANGIBLE PERSONAL PROPERTY</b>	0	N/A	0	0
<b>O - RESIDENTIAL INVENTORY</b>	0	N/A	0	0
<b>S - SPECIAL INVENTORY</b>	2,248,298	N/A	2,248,298	2,248,298

<b>Subtotal</b>	91,074,652	0	93,593,060	91,074,652
<b>Less Total Deductions</b>	12,887,884	0	12,606,880	12,887,884
<b>Total Taxable Value</b>	78,186,768	0	80,986,180	78,186,768

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

See the ISD DEDUCTION Report for a breakdown of deduction values

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

**Value Taxable For M & O Purposes**

T1	T2	T3	T4
80,049,396	78,186,768	80,049,396	78,186,768

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50% of the loss to the Local Optional Percentage Homestead Exemption</b>
1,862,628	0

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

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

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

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

### Value Taxable For I & S Purposes

T7	T8	T9	T10
80,049,396	78,186,768	80,049,396	78,186,768

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

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

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

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

THE PVS FOUND YOUR LOCAL VALUE TO BE VALID, AND LOCAL VALUE WAS CERTIFIED

### 095-901-02/Abernathy ISD

Category	Local Tax Roll Value	2021 WTD Mean Ratio	2021 PTAD Value Estimate	2021 Value Assigned
<b>A - SINGLE-FAMILY</b>	101,936,843	0.9343	109,100,543	101,936,843
<b>B - MULTIFAMILY</b>	2,183,892	N/A	2,183,892	2,183,892
<b>C1 - VACANT LOTS</b>	2,240,412	N/A	2,240,412	2,240,412
<b>C2 - COLONIAL LOTS</b>	0	N/A	0	0
<b>D1 ACRES - QUALIFIED OPEN-SPACE LAND</b>	20,413,795	1.5216	13,415,849	20,413,795
<b>D2 - FARM &amp; RANCH IMP</b>	1,340,582	N/A	1,340,582	1,340,582

<b>E - NON-AG LAND AND IMPROVEMENTS</b>	27,402,691	0.8432	32,500,079	27,402,691
<b>F1 - COMMERCIAL REAL</b>	11,272,889	1.0158	11,097,367	11,272,889
<b>F2 - INDUSTRIAL REAL</b>	136,612,943	N/A	136,612,943	136,612,943
<b>G - ALL MINERALS</b>	55,075,540	1.0281	53,570,248	55,075,540
<b>J - ALL UTILITIES</b>	100,320,256	0.9413	106,580,867	100,320,256
<b>L1 - COMMERCIAL PERSONAL</b>	13,114,931	N/A	13,114,931	13,114,931
<b>L2 - INDUSTRIAL PERSONAL</b>	50,101,571	N/A	50,101,571	50,101,571
<b>M1 - MOBILE HOMES</b>	407,584	N/A	407,584	407,584
<b>N - INTANGIBLE PERSONAL PROPERTY</b>	0	N/A	0	0
<b>O - RESIDENTIAL INVENTORY</b>	0	N/A	0	0
<b>S - SPECIAL INVENTORY</b>	2,471,862	N/A	2,471,862	2,471,862
<b>Subtotal</b>	524,895,791		534,738,730	524,895,791
<b>Less Total Deductions</b>	58,947,965		61,263,942	58,947,965
<b>Total Taxable Value</b>	465,947,826		473,474,788	465,947,826

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

See the ISD DEDUCTION Report for a breakdown of deduction values

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

### Value Taxable For M & O Purposes

T1	T2	T3	T4
472,893,284	465,947,826	472,893,284	465,947,826

Loss To the Additional \$10,000 Homestead Exemption	50 % of the loss to the Local Optional Percentage Homestead Exemption
6,945,458	0

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

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

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

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

### Value Taxable For I & S Purposes

T7	T8	T9	T10
472,893,284	465,947,826	472,893,284	465,947,826

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

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

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

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

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

---

by and between

**ABERNATHY INDEPENDENT SCHOOL DISTRICT**

and

**OLD AQUEDUCT SOLAR LLC**

*(Texas Taxpayer ID #32076395279)*

Comptroller Application #1774

---

Dated

October 14, 2022

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

*STATE OF TEXAS* §

*COUNTY OF HALE* §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between the **ABERNATHY INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the “District,” a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **OLD AQUEDUCT SOLAR LLC**, Texas Taxpayer Identification Number 32076395279 hereinafter referred to as the “Applicant.” The Applicant and the District are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, on April 11, 2022, the Superintendent of Schools of the Abernathy Independent School District, acting as agent of the Board of Trustees of the District, received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

**WHEREAS**, on April 11, 2022, the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCGB (LOCAL), and agreed to consider the Application;

**WHEREAS**, the Application was delivered to the Texas Comptroller’s Office for review pursuant to Section 313.025 of the TEXAS TAX CODE;

**WHEREAS**, the District and the Texas Comptroller’s Office have determined that the Application is complete and June 1, 2022 is the Application Review Start Date as that term is defined by 34 TEXAS ADMIN. CODE Section 9.1051;

**WHEREAS**, pursuant to 34 TEXAS ADMIN. CODE Section 9.1054, the Application was delivered to the Hale County Appraisal District established in Hale County, Texas (the “Appraisal District”), pursuant to Section 6.01 of the TEXAS TAX CODE;

**WHEREAS**, the Texas Comptroller’s Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on August 30, 2022, issued a certificate for limitation on

appraised value of the property described in the Application and provided the certificate to the District;

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

**WHEREAS**, on October 14, 2022, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

**WHEREAS**, on October 14, 2022, the Board of Trustees made factual findings pursuant to Section 313.025(f) of the TEXAS TAX CODE, including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) the Applicant is eligible for the limitation on appraised value of the Applicant's Qualified Property; (iii) the project proposed by the Applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the District's maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25th anniversary of the beginning of the limitation period; (iv) the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in this State; and (v) this Agreement is in the best interest of the District and the State of Texas;

**WHEREAS**, on October 14, 2022, pursuant to the provisions of 313.025(f-1) of the TEXAS TAX CODE, the Board of Trustees waived the job creation requirement set forth in Section 313.051(b) of the TEXAS TAX CODE;

**WHEREAS**, on September 23, 2022, the Texas Comptroller's Office approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes;

**WHEREAS**, on October 14, 2022, the Board of Trustees approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Board President and Secretary to execute and deliver such Agreement to the Applicant; and

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Parties agree as follows:

## **ARTICLE I** **DEFINITIONS**

**Section 1.1 DEFINITIONS.** Wherever used in this Agreement, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEXAS ADMIN. CODE Section 9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEXAS ADMIN. CODE Section 9.1051.

“Act” means the Texas Economic Development Act set forth in Chapter 313 of the TEXAS TAX CODE, as amended.

“Agreement” means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented as approved pursuant to Sections 10.2 and 10.3.

“Applicant” means **OLD AQUEDUCT SOLAR LLC**, (Texas Taxpayer ID #32076395279), the entity listed in the Preamble of this Agreement and that is listed as the Applicant on the Application as of the Application Approval Date. The term “Applicant” shall also include the Applicant’s assigns and successors-in-interest as approved according to Sections 10.2 and 10.3 of this Agreement.

“Applicant’s Qualified Investment” means the Qualified Investment of the Applicant during the Qualifying Time Period and as more fully described in **EXHIBIT 3** of this Agreement.

“Applicant’s Qualified Property” means the Qualified Property of the Applicant to which the value limitation identified in the Agreement will apply and as more fully described in **EXHIBIT 4** of this Agreement.

“Application” means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C of the TEXAS TAX CODE) filed with the District by the Applicant on April 11, 2022. The term includes all forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining an Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant.

“Application Approval Date” means the date that the Application is approved by the Board of Trustees of the District and as further identified in Section 2.3.B of this Agreement.

“Application Review Start Date” means the later date of either the date on which the District issues its written notice that the Applicant has submitted a completed Application or the date on which the Comptroller issues its written notice that the Applicant has submitted a completed Application and as further identified in Section 2.3.A of this Agreement.

“Appraised Value” shall have the meaning assigned to such term in Section 1.04(8) of the TEXAS TAX CODE.

“Appraisal District” means the Hale County Appraisal District.

“Board of Trustees” means the Board of Trustees of the Abernathy Independent School District.

“Commercial Operation” means, solely for purposes of this Agreement, the date on which a material portion of Qualified Property has been installed or constructed on the Land and is capable of generating electricity.

“Comptroller” means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the Comptroller.

“Comptroller’s Rules” means the applicable rules and regulations of the Comptroller set forth in Chapter 34 TEXAS ADMIN. CODE Chapter 9, Subchapter F, together with any court or administrative decisions interpreting same.

“County” means Hale County, Texas.

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

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

“Force Majeure” means acts of God, war, fires, explosions, hurricanes, floods, pandemics, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each Party must inform the other in writing with proof of receipt within 60 business days of the existence of such Force Majeure or otherwise waive this right as a defense.

“Land” means the real property described on **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes.

“Maintain Viable Presence” means (i) the operation during the term of this Agreement of the facility or facilities for which the tax limitation is granted; and (ii) the Applicant’s maintenance of jobs and wages as required by the Act and as set forth in its Application.

“Market Value” shall have the meaning assigned to such term in Section 1.04(7) of the TEXAS TAX CODE.

“New Qualifying Jobs” means the total number of jobs to be created by the Applicant after the Application Approval Date in connection with the project that is the subject of its Application that meet the criteria of Qualifying Job as defined in Section 313.021(3) of the TEXAS TAX CODE and the Comptroller’s Rules.

“New Non-Qualifying Jobs” means the number of Non-Qualifying Jobs, as defined in 34 TEXAS ADMIN. CODE Section 9.1051(14), to be created by the Applicant after the Application Approval Date in connection with the project which is the subject of its Application.

“Qualified Investment” has the meaning set forth in Section 313.021(1) of the TEXAS TAX CODE, as interpreted by the Comptroller’s Rules.

“Qualified Property” has the meaning set forth in Section 313.021(2) of the TEXAS TAX CODE and as interpreted by the Comptroller’s Rules and the Texas Attorney General, as these provisions existed on the Application Review Start Date.

“Qualifying Time Period” means the period defined in Section 2.3.C, during which the Applicant shall make investment on the Land where the Qualified Property is located in the amount required by the Act, the Comptroller’s Rules, and this Agreement.

“State” means the State of Texas.

“Supplemental Payment” means any payments or transfers of things of value made to the District or to any person or persons in any form if such payment or transfer of thing of value being provided is in recognition of, anticipation of, or consideration for the Agreement and that is not authorized pursuant to Sections 313.027(f)(1) or (2) of the TEXAS TAX CODE, and specifically includes any payments required pursuant to Article VI of this Agreement.

“Tax Limitation Amount” means the maximum amount which may be placed as the Appraised Value on the Applicant’s Qualified Property for maintenance and operations tax assessment in each Tax Year of the Tax Limitation Period of this Agreement pursuant to Section 313.054 of the TEXAS TAX CODE.

“Tax Limitation Period” means the Tax Years for which the Applicant’s Qualified Property is subject to the Tax Limitation Amount and as further identified in Section 2.3.D of this Agreement.

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

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

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

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

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

“Consultant” shall have the same meaning as assigned to such term in Section 4.5 of this Agreement.

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

“Maintenance and Operations Revenue” or “M&O Revenue” means (i) those revenues which the District receives from the levy of its annual ad valorem maintenance and operations tax pursuant to Section 45.002 of the TEXAS EDUCATION CODE, or other lawful authority, and Article VII § 3 of the TEXAS CONSTITUTION, plus (ii) all State revenues to which the District is or may be entitled under the applicable provisions of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, less (iii) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 49 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable.

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

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

“*Project*” means an anticipated solar photovoltaic electric generating facility with an operating capacity of approximately 512 MWac, described in this Agreement and constituting the Qualified Investment and Qualified Property.

## **ARTICLE II**

### **AUTHORITY, PURPOSE AND LIMITATION AMOUNTS**

**Section 2.1. AUTHORITY.** This Agreement is executed by the District as its written agreement with the Applicant pursuant to the provisions and authority granted to the District in Section 313.027 of the TEXAS TAX CODE.

**Section 2.2. PURPOSE.** In consideration of the execution and subsequent performance of the terms and obligations by the Applicant pursuant to this Agreement, identified in Sections 2.5 and 2.6 and as more fully specified in this Agreement, the value of the Applicant’s Qualified Property listed and assessed by the County Appraiser for the District’s maintenance and operation ad valorem property tax shall be the Tax Limitation Amount as set forth in Section 2.4 of this Agreement during the Tax Limitation Period.

**Section 2.3. TERM OF THE AGREEMENT.**

A. The Application Review Start Date for this Agreement is June 1, 2022, which will be used to determine the eligibility of the Applicant’s Qualified Property and all applicable wage standards.

B. The Application Approval Date for this Agreement is October 14, 2022.

C. The Qualifying Time Period for this Agreement:

- i. Starts on January 2, 2025, a date not later than January 1 of the fourth Tax Year following the Application Approval Date for deferrals, as authorized by §313.027(h) of the TEXAS TAX CODE; and
- ii. Ends on December 31, 2027, the last day of the second complete Tax Year following the Qualifying Time Period start date.

D. The Tax Limitation Period for this Agreement:

- i. Starts on January 1, 2028, the first complete Tax Year that begins after the commencement of Commercial Operations; and,
- ii. Ends on December 31, 2037.

E. The Final Termination Date for this Agreement is December 31, 2042.

F. This Agreement, and the obligations and responsibilities created by this Agreement, shall be and become effective on the Application Approval Date identified in Section 2.3.B. This Agreement, and the obligations and responsibilities created by this Agreement, terminate on the Final Termination Date identified in Section 2.3.E, unless extended by the express terms of this Agreement.

**Section 2.4. TAX LIMITATION.** So long as the Applicant makes the Qualified Investment as required by Section 2.5, during the Qualifying Time Period, and unless this Agreement has been terminated as provided herein before such Tax Year, on January 1 of each Tax Year of the Tax Limitation Period, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

- A. the Market Value of the Applicant's Qualified Property; or
- B. Twenty-Five Million Dollars (\$25,000,000).

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the Application Approval Date, as set out by Section 313.052 of the TEXAS TAX CODE.

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

- A. have completed the Applicant's Qualified Investment in the amount of \$20,000,000 during the Qualifying Time Period;
- B. have created and maintained, subject to the provisions of Section 313.0276 of the TEXAS TAX CODE, New Qualifying Jobs as required by the Act; and
- C. pay an average weekly wage of at least \$816.50 for all New Non-Qualifying Jobs created by the Applicant.

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

- A. provide payments to District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV;
- B. provide payments to the District that protect the District from the payment of extraordinary education related expenses related to the project, as more fully specified in Article V;
- C. provide such Supplemental Payments as more fully specified in Article VI;
- D. create and Maintain Viable Presence on or with the Qualified Property and perform additional obligations as more fully specified in Article VIII of this Agreement; and

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

### **ARTICLE III** **QUALIFIED PROPERTY**

**Section 3.1. LOCATION WITHIN ENTERPRISE OR REINVESTMENT ZONE.** At the time of the Application Approval Date, the Land is within an area designated either as an enterprise zone, pursuant to Chapter 2303 of the TEXAS GOVERNMENT CODE, or a reinvestment zone, pursuant to Chapter 311 or 312 of the TEXAS TAX CODE. The legal description, and information concerning the designation, of such zone is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

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

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

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

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

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

**Section 4.1. INTENT OF THE PARTIES.** Subject to the limitations contained in this Agreement, it is the intent of the Parties that the District shall, in accordance with the provisions of Section 313.027(f)(1) of the TEXAS TAX CODE and Section 48.256(d) of the TEXAS EDUCATION CODE, be compensated by Applicant for any loss that District incurs in its Maintenance and Operations Revenue resulting, at least in part, because or on account of entering into this Agreement and application of the Tax Limitation set out in Section 2.4 to Applicant's Qualified Property. Payments for such loss shall be independent of, and in addition to such other payments as set forth in Articles V and VI in this Agreement. Subject to the limitations contained in this Agreement, **IT IS THE INTENT OF THE PARTIES THAT THE RISK OF ANY NEGATIVE FINANCIAL CONSEQUENCES TO DISTRICT IN MAKING THE DECISION TO ENTER INTO THIS AGREEMENT WILL BE BORNE SOLELY BY APPLICANT AND NOT BY DISTRICT.** Applicant recognizes and acknowledges the calculations relating to the District's loss of Maintenance and Operations Revenue under this Agreement will be affected by changes to the timing of construction of the Project and any change to the Qualified Property. As such, Applicant acknowledges that it will bear any and all losses of Maintenance and Operations Revenue suffered by the District as a result of this Agreement, including without limitation any increase in the M&O Amount calculated under Section 4.2 to be paid to the District for losses in Maintenance and Operations Revenue resulting from any change in the timing of construction and/or any change to the Qualified Property.

The Parties expressly understand and agree that, for all Tax Years to which the Tax Limitation amount set out in Section 2.4 is applied to Applicant's Qualified Property that is the subject of this Agreement, the calculation of negative financial consequences will be defined for each applicable Tax Year in accordance with the Applicable School Finance Law, as defined in Section 1.2 above, and that such definition specifically contemplates that calculations made under this Agreement may periodically change in accordance with changes in Applicable School Finance Law. The Parties further agree that printouts and projections produced during the negotiations and approval of this Agreement are: (i) for illustrative purposes only, are not intended to be relied upon, and have not been relied upon by the Parties as a prediction of future consequences to either Party; (ii) based upon current Applicable School Finance Law which is subject to change by statute, by administrative regulation (or interpretation thereof), or by judicial decision at any time; and (iii) may change in future years to reflect changes in Applicable School Finance Law.

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

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

- i. “Original M&O Revenue” means the total State and local Maintenance and Operations Revenue that the District would have received for such school year, calculated in accordance with TEXAS EDUCATION CODE Section 48.256(d), had this Agreement not been entered into by the Parties and the Applicant’s Qualified Property had been subject to the District’s ad valorem maintenance and operations tax without any limitation on value at the rate applicable for such Tax Year. For purposes of this calculation, the Consultant (as defined in Section 4.5) will base its calculations upon (1) the total Taxable Values for each applicable Tax Year as certified by the Appraisal District for all taxable accounts in the District for the District’s maintenance and operations ad valorem tax purposes, save and except for the Applicant’s Qualified Property subject to this Agreement, plus (2) the total Taxable Values for such applicable Tax Year as certified by the Appraisal District for the Applicant’s Qualified Property subject to this Agreement for the District’s debt service (interest and sinking fund) ad valorem tax purposes (which total Taxable Values for the Applicant’s Qualified Property subject to this Agreement shall be used in lieu of the total Taxable Values for such applicable Tax Year as certified by the Appraisal District for the Applicant’s Qualified Property subject to this Agreement for the District’s maintenance and operations ad valorem tax purposes).
- ii. “New M&O Revenue” means the total State and local Maintenance and Operations Revenue that the District would have received for such school year, calculated in accordance with TEXAS EDUCATION CODE Section 48.256(d), with the Limitation Amount specified in Section 2.4 applied to Applicant’s Qualified Property.

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

- i. The Taxable Value of property for each school year will be determined under Applicable School Finance Law.
- ii. For purposes of this calculation, the tax collection rate on the Applicant’s Qualified Property will be presumed to be one hundred percent (100%).
- iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue as calculated under this Section 4.2 results in a negative number, the negative number will be considered to be zero.
- iv. For all calculations made for any year during the Tax Limitation Period under this Section 4.2, the New M&O Revenue will reflect the Tax Limitation Amount stated in Section 2.4 for such year.
- v. As applicable, the methodology for the calculations made under this Section 4.2 shall include the limited values as set forth in other existing limitation agreements, if any.

**Section 4.3. STATUTORY CHANGES AFFECTING M&O REVENUE.** Notwithstanding any other provision in this Agreement and in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, the District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State or another school district, pursuant to Chapter 49 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, because of the District's participation in this Agreement, Applicant shall make payments to District, up to the M&O Amount set forth in this Agreement that are necessary to offset any negative impact on the District as a result of its participation in this Agreement.

**Section 4.4. COMPENSATION FOR LOSS OF OTHER REVENUES.** To the extent not included in the amounts calculated pursuant to Section 4.2 above, Applicant shall also pay to or on behalf of the District on an annual basis all M&O Revenue losses, and other costs as they are incurred by the District that arise from entering this Agreement (the "Additional Loss"), including, without limitation: (a) any loss incurred by the District resulting from a judicial challenge to this Agreement; (b) any reasonable attorneys' fees or other costs incurred by the District due to any amendment, audit, legal defense, or enforcement of this Agreement brought by or against either Party or person or entity, irrespective of whether or not this Agreement or any interpretation thereof by the District is ultimately determined to be valid; and (c) any non-reimbursed reasonable costs or fees incurred by the District and reasonably necessary to administer or maintain this Agreement, either directly or indirectly, including the District's payments to the Appraisal District for the Appraisal District's incremental administrative costs attributable to its appraisal of the Qualified Property. Notwithstanding anything to the contrary in Section 4.8, payment for such Additional Loss shall be made by Applicant no later than 30 days following written notice that such Additional Loss is due and owing.

**Section 4.5. THIRD PARTY CALCULATIONS.** All calculations made pursuant to this Agreement shall be verified annually by one or more independent third parties ("Consultant") selected by the District. Applicant will be solely responsible for the payment of Consultant's fees up to Six Thousand Dollars (\$6,000.00) for each year before and after the Tax Limitation Period and (ii) Twelve Thousand Dollars (\$12,000.00) for each year during the Limitation Period. All calculations shall initially be based upon good-faith estimates using all available information and shall be adjusted to reflect "near final" or "actual" data for the applicable year as the data becomes available.

**Section 4.6. DATA FOR CALCULATIONS.** The initial calculations for any payments owing under this Agreement shall be based upon the valuations placed upon the Qualified Property by the Appraisal District in its annual certified appraisal roll submitted to the District pursuant to § 26.01 of the TEXAS TAX CODE in or about July of each year of this Agreement. The certified appraisal roll data shall form the basis from which any and all amounts due under this Agreement are calculated, and the data utilized by the Consultant will be adjusted as necessary to reflect any subsequent adjustments by the Appraisal District to the District's appraisal roll. Any estimates

used by the Consultant to make calculations as required by this Agreement shall be based on the best and most current information available. The Consultant shall from time to time adjust the data utilized to reflect actual amounts, subsequent adjustments by the Appraisal District to the District's certified appraisal roll, or any other relevant changes to material items such as student counts or tax collections.

**Section 4.7. DELIVERY OF CALCULATIONS.**

A. All calculations required under Articles IV, V, or VI shall be made by the Consultant on or before December 1 of each year for which this Agreement is effective. The Consultant shall forward such calculations to the Parties in sufficient detail to allow the Parties to understand the manner in which the calculations were made and shall respond within fifteen (15) days to a request by a Party for additional detail or clarification regarding the manner in which the calculations were made. The Consultant shall maintain supporting data consistent with generally accepted accounting practices. The Consultant shall preserve all documents and data related to all calculations required under this Agreement for a period of three (3) years. Employees and agents of the Parties shall have reasonable access to the Consultant's offices, personnel, books, and records pertaining to all calculations and fees.

B. In the event the District receives an invoice from its Consultant, attorney or for other costs in accordance with Section 4.4 for services rendered, the District shall forward to Applicant such invoice, which Applicant shall pay within thirty (30) days of receipt.

**Section 4.8. PAYMENT BY APPLICANT.** On or before the January 31 next following the tax levy for each year for which this Agreement is effective, the Applicant shall pay all amounts determined to be due and owing to the District, all amounts billed by the Consultant pursuant to Section 4.5, and any unpaid amount due and owing under Section 4.4. Payment for (i) all amounts due and owing not made on or before the January 31 due date or (ii) any amount invoiced by or on behalf of the District and not paid within 30 days, shall be considered delinquent. For delinquent payments, the Applicant shall be subject to penalty and interest in accordance with Chapter 33 of the TEXAS TAX CODE. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(a) of the TEXAS TAX CODE, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the TEXAS TAX CODE, or its successor statute.

**Section 4.9. CHALLENGING CALCULATION RESULTS.** The Applicant may appeal the Consultant's results, in writing, within fifteen (15) days of receipt of such results. The Consultant will issue a final determination of the calculations within fifteen (15) District business days of receiving Applicant's appeal. The Applicant may appeal the final determination of the Consultant to the District within fifteen (15) District business days of its receipt, pursuant to District Policy GF (LOCAL). Applicant shall timely make all payments as required by this Agreement. Applicant's obligation under Section 4.8 to make payments to District pursuant to the Consultant's final determination shall not abate during an appeal of Consultant's final determination under this

Section 4.9; provided, the District shall within thirty (30) days reimburse to Applicant the amount of any overpayment established by a final determination.

**Section 4.10. EFFECT OF PROPERTY VALUE APPEAL OR ADJUSTMENT.** If at the time the Consultant selected and appointed under Section 4.5 makes its calculations under this Agreement, the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Property, and such appeal remains unresolved, the Consultant shall base its calculations upon the values placed upon the Applicant's Qualified Property by the Appraisal District. In the event that the Taxable Value of the Qualified Property is changed after an appeal of its valuation, or the Taxable Value is otherwise altered for any reason, the Parties shall notify the Consultant of the final Taxable Value of the Qualified Property and the calculations required under Article IV of this Agreement shall be recalculated by the Consultant at Applicant's sole expense using the revised property values. The Consultant shall transmit the revised calculations to the Parties and any Party owing funds to the other Party shall pay such funds within thirty (30) days after receipt of the new calculations.

## **ARTICLE V**

### **PAYMENT OF EXTRAORDINARY EDUCATION RELATED EXPENSES**

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

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

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

## **ARTICLE VI**

### **SUPPLEMENTAL PAYMENTS**

**Section 6.1. SUPPLEMENTAL PAYMENTS.** Applicant shall make annual Supplemental Payments in an amount equal to, but not to exceed, the limit of the annual Supplemental Payment as set out Section 6.2 below, starting with the first complete or partial year of the Qualifying Time Period and accruing on January 1 of each year thereafter, and continuing through the third year following the end of the Tax Limitation Period.

**Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION.** Notwithstanding the foregoing:

A. the total of the Supplemental Payments made pursuant to this Article shall not exceed, for any calendar year of this Agreement, an amount equal to the greater of One Hundred Dollars (\$100.00) per student per year in average daily attendance, as defined by Section 48.005 of the TEXAS EDUCATION CODE, or Fifty Thousand Dollars (\$50,000.00) per year times the number of years beginning with the first complete or partial year of the Qualifying Time Period identified in Section 2.3.C and ending with the year for which the Supplemental Payment is being calculated minus all Supplemental Payments previously made by the Applicant.

B. Supplemental Payments may only be made during the period starting the first year of the Qualifying Time Period and ending December 31 of the third year following the end of the Tax Limitation Period.

C. the limitation in Section 6.2.A does not apply to amounts described by Section 313.027(f)(1)–(2) of the TEXAS TAX CODE as implemented in Articles IV and V of this Agreement.

D. For purposes of this Agreement, the calculation of the limit of the annual Supplemental Payment shall be the greater of \$50,000 or \$100 multiplied by the District's Average Daily Attendance as calculated pursuant to Section 48.005 of the TEXAS EDUCATION CODE, based upon the District's 2020-2021 Average Daily Attendance of 760, rounded to the whole number.

**Section 6.3. INTENTIONALLY DELETED.**

**Section 6.4. PAYMENT BY APPLICANT.** Payment of amounts due under this Article shall be made as set forth in Section 4.8 of this Agreement.

**Section 6.5. ANNUAL LIMITATION.** Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year of the Tax Limitation Period beginning with the second Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the District under Articles IV, V, and VI of this Agreement with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such Tax Year (determined by using the District's actual maintenance and operations tax rate for such Tax Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Article IV of this Agreement, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then such excess amount of payments otherwise due from the Applicant to the District under Articles IV, V, and VI shall be deferred and carried forward from year to year until paid in full.

**Section 6.6. OPTION TO TERMINATE AGREEMENT.** In the event the Applicant determines that it will not commence or complete construction of the Applicant's Qualified Investment during the

Qualifying Time Period, the Applicant shall have the option, prior to the commencement of the Tax Limitation Period, to terminate this Agreement pursuant to Section 7.1 by notifying the District in writing of its exercise of such option. Applicant shall pay any payments accrued and not yet paid as of termination under Articles IV, V, or Supplemental Payments payable under Article VI for the year of termination, within thirty (30) days after Applicant delivers its termination election. Any termination of this Agreement under this provision shall be effective immediately. This option shall expire upon commencement of the Tax Limitation Period.

## **ARTICLE VII**

### **ANNUAL LIMITATION OF PAYMENTS BY APPLICANT**

**Section 7.1. EFFECT OF OPTIONAL TERMINATION.** Upon the exercise of the option to terminate, this Agreement shall terminate and be of no further force or effect; provided, however, that:

A. the Parties respective rights and obligations under this Agreement with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged; and

B. the provisions of this Agreement regarding payments (including liquidated damages and tax payments), records and dispute resolution shall survive the termination or expiration of this Agreement.

## **ARTICLE VIII**

### **ADDITIONAL OBLIGATIONS OF APPLICANT**

**Section 8.1. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall Maintain Viable Presence in the District commencing at the start of the Tax Limitation Period through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure.

**Section 8.2. REPORTS.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall submit all reports required from time to time by the Comptroller, listed in 34 TEXAS ADMIN. CODE Section 9.1052 and as currently located on the Comptroller's website, including all data elements required by such form to the satisfaction of the Comptroller on the dates indicated on the form or the Comptroller's website and starting on the first such due date after the Application Approval Date.

**Section 8.3. COMPTROLLER'S REPORT ON CHAPTER 313 AGREEMENTS.** During the term of this Agreement, both Parties shall provide the Comptroller with all information reasonably necessary

for the Comptroller to assess performance under this Agreement for the purpose of issuing the Comptroller's report, as required by Section 313.032 of the TEXAS TAX CODE.

**Section 8.4. DATA REQUESTS.** Upon the written request of the District, the State Auditor's Office, the Appraisal District, or the Comptroller during the term of this Agreement, the Applicant, the District or any other entity on behalf of the District shall provide the requesting party with all information reasonably necessary for the requesting party to determine whether the Applicant is in compliance with its rights, obligations, or responsibilities, including, but not limited to, any employment obligations which may arise under this Agreement.

**Section 8.5. SITE VISITS AND RECORD REVIEW.** The Applicant shall allow authorized employees of the District, the Comptroller, the Appraisal District, and the State Auditor's Office to have reasonable access to the Applicant's Qualified Property and business records from the Application Review Start Date through the Final Termination Date, in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property.

A. All inspections will be made at a mutually agreeable time after the giving of not less than ninety-six (96) hours prior written notice, and will be conducted in such a manner so as not to unreasonably interfere with either the construction or operation of the Applicant's Qualified Property.

B. All inspections may be accompanied by one or more representatives of the Applicant, and shall be conducted in accordance with the Applicant's safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide the District, the Comptroller, or the Appraisal District with any technical or business information that is proprietary, a trade secret, or is subject to a confidentiality agreement with any third party.

**Section 8.6. RIGHT TO AUDIT; SUPPORTING DOCUMENTS; AUTHORITY OF STATE AUDITOR.** By executing this Agreement, implementing the authority of, and accepting the benefits provided by Chapter 313 of the TEXAS TAX CODE, the Parties agree that this Agreement and their performance pursuant to its terms are subject to review and audit by the State Auditor as if they are parties to a State contract and subject to the provisions of Section 2262.154 of the TEXAS GOVERNMENT CODE and Section 313.010(a) of the TEXAS TAX CODE. The Parties further agree to comply with the following requirements:

A. The District and the Applicant shall maintain and retain supporting documents adequate to ensure that claims for the Tax Limitation Amount are in accordance with applicable Comptroller and State of Texas requirements. The Applicant and the District shall maintain all such documents and other records relating to this Agreement and the State's property for a period of four (4) years after the latest occurring date of:

- i. date of submission of the final payment;
- ii. Final Termination Date; or

iii. date of resolution of all disputes or payment.

B. During the time period defined under Section 8.6.A, the District and the Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to this Agreement; the Applicant's Application; and the Applicant's Qualified Property, Qualified Investment, New Qualifying Jobs, and wages paid for New Non-Qualifying Jobs such as work papers, reports, books, data, files, software, records, calculations, spreadsheets and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, auditing, or evaluating by the Comptroller, State Auditor's Office, State of Texas or their authorized representatives. The Applicant and the District shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such property as requested by the Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, the Applicant's or the District's failure to comply with this Section shall constitute a Material Breach of this Agreement.

C. In addition to and without limitation on the other audit provisions of this Agreement, the acceptance of tax benefits or funds by the Applicant or the District or any other entity or person directly under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Applicant or the District or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The Parties agree that this Agreement shall for its duration be subject to all rules and procedures of the State Auditor acting under the direction of the legislative audit committee.

D. The Applicant shall include the requirements of this Section 8.6 in its subcontract with any entity whose employees or subcontractors are subject to wage requirements under the Act, the Comptroller's Rules, or this Agreement, or any entity whose employees or subcontractors are included in the Applicant's compliance with job creation or wage standard requirement of the Act, the Comptroller's Rules, or this Agreement.

**Section 8.7. FALSE STATEMENTS; BREACH OF REPRESENTATIONS.** The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application, and any supplements or amendments thereto, without which the Comptroller would not have approved this Agreement and the District would not have executed this Agreement. By signature to this Agreement, the Applicant:

A. represents and warrants that all information, facts, and representations contained in the Application are true and correct to the best of its knowledge;

B. agrees and acknowledges that the Application and all related attachments and schedules are included by reference in this Agreement as if fully set forth herein; and

C. acknowledges that if the Applicant submitted its Application with a false statement, signs this Agreement with a false statement, or submits a report with a false statement, or it is subsequently determined that the Applicant has violated any of the representations, warranties, guarantees, certifications, or affirmations included in the Application or this Agreement, the Applicant shall have materially breached this Agreement and the Agreement shall be invalid and void except for the enforcement of the provisions required by Section 9.2 of this Agreement.

## **ARTICLE IX** **MATERIAL BREACH OR EARLY TERMINATION**

**Section 9.1. EVENTS CONSTITUTING MATERIAL BREACH OF AGREEMENT.** The Applicant shall be in Material Breach of this Agreement if it commits one or more of the following acts or omissions (each a “Material Breach”):

A. The Application, any Application Supplement, or any Application Amendment on which this Agreement is approved is determined to be inaccurate as to any material representation, information, or fact or is not complete as to any material fact or representation or such application;

B. The Applicant failed to complete Qualified Investment as required by Section 2.5.A. of this Agreement during the Qualifying Time Period;

C. The Applicant failed to create and maintain the number of New Qualifying Jobs required by the Act;

D. The Applicant failed to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application;

E. The Applicant failed to pay at least the average weekly wage of all jobs in the county in which the jobs are located for all New Non-Qualifying Jobs created by the Applicant;

F. The Applicant failed to provide payments to the District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV of this Agreement;

G. The Applicant failed to provide the payments to the District that protect the District from the payment of extraordinary education-related expenses related to the project to the extent and in the amounts that the Applicant agreed to provide such payments in Article V of this Agreement;

H. The Applicant failed to provide the Supplemental Payments to the extent and in the amounts that the Applicant agreed to provide such Supplemental Payments in Article VI of this Agreement;

I. The Applicant failed to create and Maintain Viable Presence on or with the Qualified

Property as more fully specified in Article VIII of this Agreement;

J. The Applicant failed to submit the reports required to be submitted by Section 8.2 to the satisfaction of the Comptroller;

K. The Applicant failed to provide the District or the Comptroller with all information reasonably necessary for the District or the Comptroller to determine whether the Applicant is in compliance with its obligations, including, but not limited to, any employment obligations which may arise under this Agreement;

L. The Applicant failed to allow authorized employees of the District, the Comptroller, the Appraisal District, or the State Auditor's Office to have access to the Applicant's Qualified Property or business records in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property under Sections 8.5 and 8.6;

M. The Applicant failed to comply with a request by the State Auditor's office to review and audit the Applicant's compliance with this Agreement;

N. The Applicant has made any payments to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on Appraised Value made pursuant to Chapter 313 of the TEXAS TAX CODE, in excess of the amounts set forth in Articles IV, V and VI of this Agreement;

O. The Applicant failed to comply with the conditions included in the certificate for limitation issued by the Comptroller.

**Section 9.2. DETERMINATION OF BREACH AND TERMINATION OF AGREEMENT.**

A. Prior to making a determination that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that it is not in breach of its obligations under this Agreement, or that it has cured or undertaken to cure any such breach.

B. If the Board of Trustees is not satisfied with such response or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to the Applicant, conduct a hearing called and held for the purpose of determining whether such breach has occurred and, if so, whether such breach has been cured. At any such hearing, the Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to:

- i. whether or not a breach of this Agreement has occurred;
- ii. whether or not such breach is a Material Breach;
- iii. the date such breach occurred, if any;
- iv. whether or not any such breach has been cured; and,

C. In the event that the Board of Trustees determines that such a breach has occurred and has not been cured, it shall at that time determine:

- i. the amount of recapture taxes under Section 9.4.C (net of all credits under Section 9.4.C);
- ii. the amount of any penalty or interest under Section 9.4.E that are owed to the District; and
- iii. in the event of a finding of a Material Breach, whether to terminate this Agreement.

D. After making its determination regarding any alleged breach, the Board of Trustees shall cause the Applicant to be notified in writing of its determination (a “Determination of Breach and Notice of Contract Termination”) and provide a copy to the Comptroller.

### **Section 9.3. DISPUTE RESOLUTION.**

A. After receipt of notice of the Board of Trustee’s Determination of Breach and Notice of Contract Termination under Section 9.2, the Applicant shall have thirty (30) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to the District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within thirty (30) days after the Applicant initiates mediation, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then presiding in Hale County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE and such other rules as the mediator shall prescribe. With respect to such mediation, (i) the District shall bear one-half of such mediator’s fees and expenses and the Applicant shall bear one-half of such mediator’s fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys’ fees) incurred in connection with such mediation.

B. In the event that any mediation is not successful in resolving the dispute or that payment is not received within the time period described for mediation in Section 9.3.A, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in a judicial proceeding in a state district court in Hale County, assert any rights or defenses, or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any contract, agreement or undertaking made by a Party pursuant to this Agreement.

C. If payments become due under this Agreement and are not received before the expiration of the thirty (30) days provided for such payment in Section 9.3.A, and if the Applicant has not contested such payment calculations under the procedures set forth herein, including judicial proceedings, the District shall have the remedies for the collection of the amounts determined under Section 9.4 as are set forth in Chapter 33, Subchapters B and C, of the TEXAS TAX CODE for the collection of delinquent taxes. In the event that the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the payment of attorney's fees to the attorneys representing the District pursuant to Section 6.30 of the TEXAS TAX CODE and a tax lien shall attach to the Applicant's Qualified Property and the Applicant's Qualified Investment pursuant to Section 33.07 of the TEXAS TAX CODE to secure payment of such fees.

**Section 9.4. CONSEQUENCES OF EARLY TERMINATION OR OTHER BREACH BY APPLICANT.**

A. In the event that the Applicant terminates this Agreement without the consent of the District, except as provided in Section 7.1 of this Agreement, the Applicant shall pay to the District liquidated damages for such failure within thirty (30) days after receipt of the notice of breach.

B. In the event that the District determines that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the Applicant shall pay to the District liquidated damages, as calculated by Section 9.4.C, prior to, and the District may terminate the Agreement effective on the later of: (i) the expiration of the thirty (30) days provided for in Section 9.3.A, and (ii) thirty (30) days after any mediation and judicial proceedings initiated pursuant to Sections 9.3.A and 9.3.B are resolved in favor of the District.

C. The sum of liquidated damages due and payable shall be the sum total of the District ad valorem taxes for all of the Tax Years for which a tax limitation was granted pursuant to this Agreement prior to the year in which the default occurs that otherwise would have been due and payable by the Applicant to the District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 9.4.E. For purposes of this liquidated damages calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Articles IV, V, and VI. Upon payment of such liquidated damages, the Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

D. In the event that the District determines that the Applicant has committed a Material Breach identified in Section 9.1, after the notice and mediation periods provided by Sections 9.2 and 9.3, then the District may, in addition to the payment of liquidated damages required pursuant to Section 9.4.C, terminate this Agreement.

E. In determining the amount of penalty or interest, or both, due in the event of a breach of this Agreement, the District shall first determine the base amount of recaptured taxes less all credits under Section 9.4.C owed for each Tax Year during the Tax Limitation Period. The District

shall calculate penalty or interest for each Tax Year during the Tax Limitation Period in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE, as if the base amount calculated for such Tax Year less all credits under Section 9.4.C had become due and payable on February 1 of the calendar year following such Tax Year. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(a) of the TEXAS TAX CODE, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the TEXAS TAX CODE, or its successor statute.

**Section 9.5. LIMITATION OF OTHER DAMAGES.** Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, the District's damages for such a default shall under no circumstances exceed the amounts calculated under Section 9.4. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement. The Parties further agree that the limitation of damages and remedies set forth in this Section 9.5 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

**Section 9.6. STATUTORY PENALTY FOR INADEQUATE QUALIFIED INVESTMENT.** Pursuant to Section 313.0275 of the TEXAS TAX CODE, in the event that the Applicant fails to make \$20,000,000 of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

**Section 9.7. REMEDY FOR FAILURE TO CREATE AND MAINTAIN REQUIRED NEW QUALIFYING JOBS.** Pursuant to Section 313.0276 of the TEXAS TAX CODE, for any full Tax Year that commences after the project has become operational, in the event that it has been determined that the Applicant has failed to meet the job creation or retention requirements defined in Sections 9.1.C, the Applicant shall not be deemed to be in Material Breach of this Agreement until such time as the Comptroller has made a determination to rescind this Agreement under Section 313.0276 of TEXAS TAX CODE, and that determination is final.

**Section 9.8. REMEDY FOR FAILURE TO CREATE AND MAINTAIN COMMITTED NEW QUALIFYING JOBS**

A. In the event that the Applicant fails to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application, an event constituting a Material Breach

as defined in Section 9.1.D, the Applicant and the District may elect to remedy the Material Breach through a penalty payment.

B. Following the notice and mediation periods provided by Sections 9.2 and 9.3, the District may request the Applicant to make a payment to the State in an amount equal to: (i) multiplying the maintenance and operations tax rate of the school district for that Tax Year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the market value of the property identified on the Appraisal District's records for each tax year the Material Breach occurs.

C. In the event that there is no tax limitation in place for the tax year that the Material Breach occurs, the payment to the State shall be in an amount equal to: (i) multiplying the maintenance and operations tax rate of the School District for each tax year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the tax limitation amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the last Tax Year for which the Applicant received a tax limitation.

D. The penalty shall be paid no later than 30 days after the notice of breach and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE.

**ARTICLE X.**  
**MISCELLANEOUS PROVISIONS**

**Section 10.1. INFORMATION AND NOTICES.**

A. Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (*e.g.*, by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile or email transmission, with notice of receipt obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile or email transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

B. Notices to the District shall be addressed to the District's Authorized Representative as follows:

**To the District:**

Abernathy Independent School District  
Attn: Aaron Waldrip, Superintendent  
(or the successor Superintendent)  
505 7<sup>th</sup> Street  
Abernathy, TX 79311  
Phone #: (806) 298-2563  
Email: amwaldrip@abernathyisd.com

**With a copy to:**

Underwood Law Firm, P.C.  
Attn: Fred Stormer  
500 South Taylor, LB 233, Suite 1200  
Amarillo, TX 79101  
Phone #: (806) 379-0306  
Fax #: (806) 379-0316  
Email: fred.stormer@uwlaw.com

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

**To Applicant:**

Old Aqueduct Solar LLC  
Andrew Bowman, CEO  
Jupiter Power Holding LLC  
1108 Lavaca St., Suite 110-349  
Austin, TX 78701  
Phone: (432) 301-0002  
Email: andy.bowman@jupiterpower.io

Old Aqueduct Solar LLC  
Randy Sowell, Developer  
Jupiter Power Holding LLC  
1108 Lavaca St., Suite 110-349  
Austin, TX 78701  
Phone: (432) 301-0002  
Email: randy.sowell@jupiterpower.io

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

D. A copy of any notice delivered to the Applicant shall also be delivered to any lender for which the Applicant has provided the District notice of collateral assignment information pursuant to Section 10.3.C, below.

**Section 10.2. AMENDMENTS TO APPLICATION AND AGREEMENT; WAIVERS.**

A. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties and after completing the requirements of Section 10.2.B. Waiver of any term, condition, or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition, or provision, or a waiver of any other term, condition, or provision of this Agreement.

B. By official action of the District’s Board of Trustees, the Application and this Agreement may only be amended according to the following:

- i. The Applicant shall submit to the District and the Comptroller:
  - a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;
  - b. any changes to the information that was provided in the Application that was

- approved by the District and considered by the Comptroller;
- c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;
  - ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by the Comptroller by the end of the 90-day period, the request is denied; and
  - iii. If the Comptroller has not denied the request, the District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.
- C. Any amendment of the Application and this Agreement adding additional or replacement Qualified Property pursuant to this Section 10.2 of this Agreement shall:
- i. require that all property added by amendment be eligible property as defined by Section 313.024 of the TEXAS TAX CODE;
  - ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and
- D. The Application and this Agreement may not be amended to extend the value limitation time period beyond its ten-year statutory term.
- E. The Comptroller determination made under Section 313.026(c)(2) of the TEXAS TAX CODE in the original certificate for a limitation satisfies the requirement of the Comptroller to make the same determination for any amendment of the Application and this Agreement, provided that the facts upon which the original determination was made have not changed.
- F. The Applicant shall amend the Application and this Agreement to identify the changes in the information that was provided in the Application and was approved by the District and as considered by the Comptroller no earlier than 180 days and no later than 90 days prior to the start of the Qualifying Time Period as identified in Section 2.3.C.i of this Agreement.
- i. The Applicant shall comply with written requests from the District or the Comptroller to provide additional information necessary to prepare a Comptroller certificate for a limitation for the conditions prior to the start of the Qualifying Time Period; and
  - ii. If the Comptroller provides its certificate for a limitation with conditions different from the existing agreement, the District shall hold a meeting and determine whether to amend this Agreement to include the conditions required by the Comptroller or terminate this Agreement; or
  - iii. If the Comptroller withdraws its certificate for a limitation based on the revised Application, the District shall terminate this Agreement.

**Section 10.3. ASSIGNMENT.**

A. Any assignment of any rights, benefits, obligations, or interests of the Parties in this Agreement, other than a collateral assignment purely for the benefit of creditors of the project, is considered an amendment to the Agreement and such Party may only assign such rights, benefits, obligations, or interests of this Agreement after complying with the provisions of Section 10.2 regarding amendments to the Agreement. Other than a collateral assignment to a creditor, this Agreement may only be assigned to an entity that is eligible to apply for and execute an agreement for limitation on appraised value pursuant to the provisions of Chapter 313 of the TEXAS TAX CODE and the Comptroller's Rules.

B. In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

C. In the event of an assignment to a creditor, the Applicant must notify the District and the Comptroller in writing no later than 30 days after the assignment. This Agreement shall be binding on the assignee.

**Section 10.4. MERGER.** This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

**Section 10.5. GOVERNING LAW.** This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in a state district court in Hale County.

**Section 10.6. AUTHORITY TO EXECUTE AGREEMENT.** Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

**Section 10.7. SEVERABILITY.** If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal, or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision, or condition cannot be so reformed, then such term, provision, or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality, and enforceability of the remaining terms, provisions, and conditions contained herein (and any other application such term, provision, or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties hereto shall

negotiate in good faith to modify this Agreement in an acceptable manner so as to effect the original intent of the Parties as closely as possible so that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 10.7, the term “Law” shall mean any applicable statute, law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction, decree, or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

**Section 10.8. PAYMENT OF EXPENSES.** Except as otherwise expressly provided in this Agreement, or as covered by the application fee, each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement.

**Section 10.9. INTERPRETATION.**

A. When a reference is made in this Agreement to a Section, Article, or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

B. The words “include,” “includes,” and “including” when used in this Agreement shall be deemed in such case to be followed by the phrase “, but not limited to,”. Words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require.

C. The provisions of the Act and the Comptroller’s Rules are incorporated by reference as if fully set forth in this Agreement. In the event of a conflict, the conflict will be resolved by reference to the following order of precedence:

- i. The Act;
- ii. The Comptroller’s Rules as they exist at the time the Agreement is executed, except as allowed in the definition of Qualified Property in Section 1.1; and
- iii. This Agreement and its Attachments including the Application as incorporated by reference.

**Section 10.10. EXECUTION OF COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

**Section 10.11. PUBLICATION OF DOCUMENTS.** The Parties acknowledge that the District is required to publish the Application and its required schedules, or any amendment thereto; all

economic analyses of the proposed project submitted to the District; and the approved and executed copy of this Agreement or any amendment thereto, as follows:

A. Within seven (7) days of receipt of such document, the District shall submit a copy to the Comptroller for publication on the Comptroller's Internet website;

B. The District shall provide on its website a link to the location of those documents posted on the Comptroller's website;

C. This Section does not require the publication of information that is confidential under Section 313.028 of the TEXAS TAX CODE.

**Section 10.12. CONTROL; OWNERSHIP; LEGAL PROCEEDINGS.** The Applicant shall immediately notify the District and Comptroller's office in writing of any actual or anticipated change in the control or ownership of the Applicant and of any legal or administrative investigations or proceedings initiated against the Applicant related to the project regardless of the jurisdiction from which such proceedings originate.

**Section 10.13. DUTY TO DISCLOSE.** If circumstances change or additional information is obtained regarding any of the representations and warranties made by the Applicant in the Application or this Agreement, or any other disclosure requirements, subsequent to the date of this Agreement, the Applicant's duty to disclose continues throughout the term of this Agreement.

**Section 10.14. CONFLICTS OF INTEREST.**

A. The District represents that, after diligent inquiry, each local public official or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, has disclosed any conflicts of interest in obtaining or performing this Agreement and related activities, appropriately recused from any decisions relating to this Agreement when a disclosure has been made, and the performance of this Agreement will not create any appearance of impropriety. The District represents that it, the District's local public officials or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

B. The Applicant represents that, after diligent inquiry, each of its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, involved in the representation of the Applicant with the District has complied with the provisions of Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE. The Applicant represents that it and its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public

servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

C. The District and the Applicant each separately agree to notify the other Party and the Comptroller immediately upon learning of any conflicts of interest.

**Section 10.15. PROVISIONS SURVIVING EXPIRATION OR TERMINATION.** Notwithstanding the expiration or termination (by agreement, breach, or operation of time) of this Agreement, the provisions of this Agreement regarding payments (including liquidated damages and tax payments), reports, records, and dispute resolution of the Agreement shall survive the termination or expiration dates of this Agreement until the following occurs:

- A. all payments, including liquidated damage and tax payments, have been made;
- B. all reports have been submitted;
- C. all records have been maintained in accordance with Section 8.6.A; and
- D. all disputes in controversy have been resolved.

**Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.**

A. This Agreement may be duly executed and delivered in person, by mail, or by facsimile or other electronic format (including portable document format (pdf) transmitted by e-mail). The executing Party must promptly deliver a complete, executed original or counterpart of this Agreement to the other executing Parties. This Agreement shall be binding on and enforceable against the executing Party whether or not it delivers such original or counterpart.

- B. Delivery is deemed complete as follows:
- i. When delivered if delivered personally or sent by express courier service;
  - ii. Three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested;
  - iii. When transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine; or
  - iv. When the recipient, by an e-mail sent to the e-mail address for the executing Parties acknowledges having received that e-mail (an automatic "read receipt" does not constitute acknowledgment of an e-mail for delivery purposes).

*[signatures follow on next page]*

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**OLD AQUEDUCT SOLAR LLC**

**ABERNATHY INDEPENDENT SCHOOL DISTRICT**

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

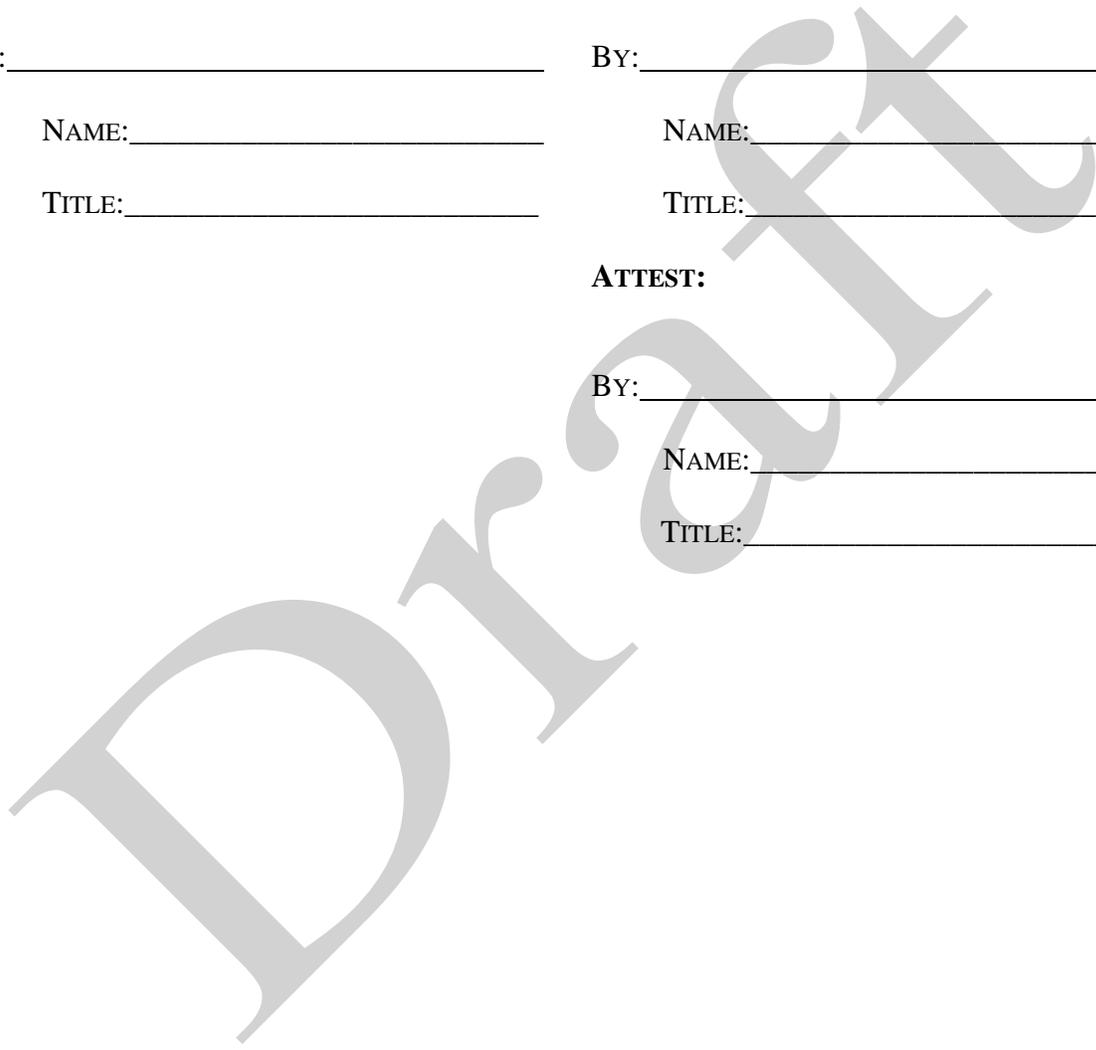
TITLE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_



## EXHIBIT 1

### DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

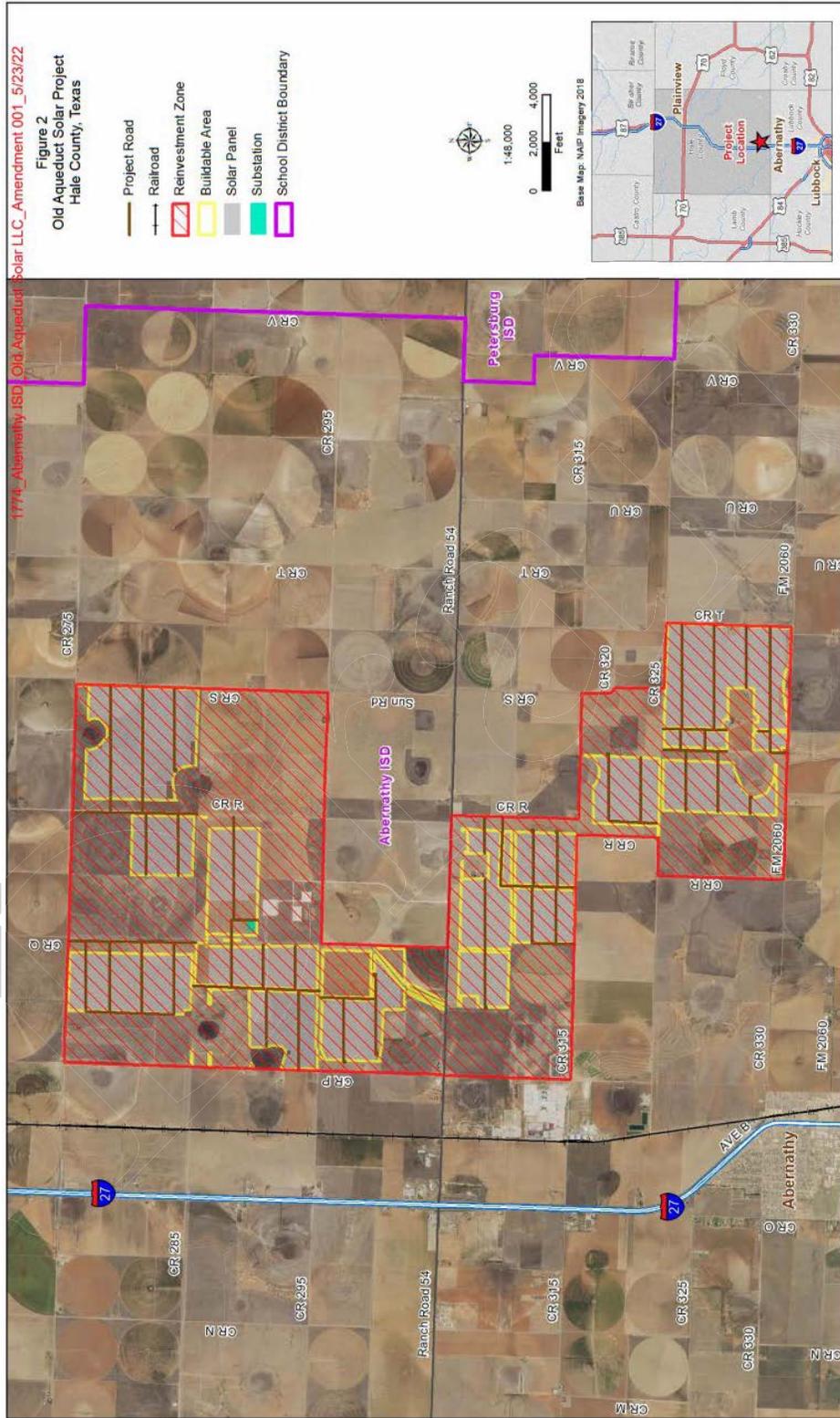
The Hale County Commissioners Court created Reinvestment Zone Number 11 by Order dated May 9, 2022, which is more particularly described and depicted as follows (the “Reinvestment Zone”):

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

All of the following parcels, located in Hale County, Texas;

Survey No. 68, Block A-4  
Section 72, Block A-4, Abstract 1910  
Section 73, Block A-4, T. T. Ry. Survey, Abstract 290  
Section 9, Block D-8  
Survey No. 10, Block D-8, Cert. No. 1136, E. L. & R. R. Ry. Co. Survey  
Section 11, Block D-8, E. L. & R.R. Ry. Co. Survey, Ce1i. 1137, Abstract 399, Patent 428, Vol. 53, dated December 12, 1880.  
Section 12, Block C-2, Abstract 1911  
Section 15, Block C-2, Abstract 1441  
Section 16, Block C-2  
Section 5, Block P, Abstract 1863  
Section 5, Block P, Abstract 1157  
Section 5, Block P, Abstract 1158  
Section 5, Block P, Abstract 1389  
Section 6, Block P, Abstract 1841  
Section 7, Block P, Abstract 1884

# Map of Reinvestment Zone



Agreement for Limitation on Appraised Value  
 Between Abernathy ISD and Old Aqueduct Solar LLC  
 (App. No. 1774), October 14, 2022  
 Exhibit 1

Texas Economic Development Act Agreement  
 Comptroller Form 50-826 (October 2020)

EXHIBIT 1

**EXHIBIT 2**

**DESCRIPTION AND LOCATION OF LAND**

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

Draft

### EXHIBIT 3

#### APPLICANT'S QUALIFIED INVESTMENT

The Applicant anticipates constructing a solar photovoltaic electric generating facility with an operating capacity of approximately 512 MWac and will cover a surface area of approximately 4,000 acres. 100% of the project will be located in the reinvestment zone and project boundary within Abernathy ISD and Hale County, and will be considered qualified investment for this Agreement. The exact capacity and specific technology components will be determined during the development and design process. The facility includes eligible ancillary and necessary equipment, including the following property:

- Solar modules/panels
- Metal mounting system with tracking capabilities
- Underground conduit, communications cables, and electric collection system wiring. The electric collection system wiring is the underground system that connects the racks of solar panels together within the boundaries of the project area.
- Combiner boxes
- A project substation including breakers, a transformer and meters
- Overhead transmission lines
- Inverter boxes on concrete pads
- Operations and maintenance facility
- Fencing for safety and security
- Telephone and internet communications system
- Meteorological equipment to measure solar irradiation and weather conditions

This Agreement covers all qualified investment in the reinvestment zone and project boundary within Abernathy ISD necessary for commercial operations.

## MAP OF QUALIFIED INVESTMENT



**Agreement for Limitation on Appraised Value**  
 Between Abernathy ISD and Old Aqueeduct Solar LLC  
 (App. No. 1774), October 14, 2022  
 Exhibit 3

*Texas Economic Development Act Agreement*  
*Comptroller Form 50-826 (October 2020)*

## EXHIBIT 4

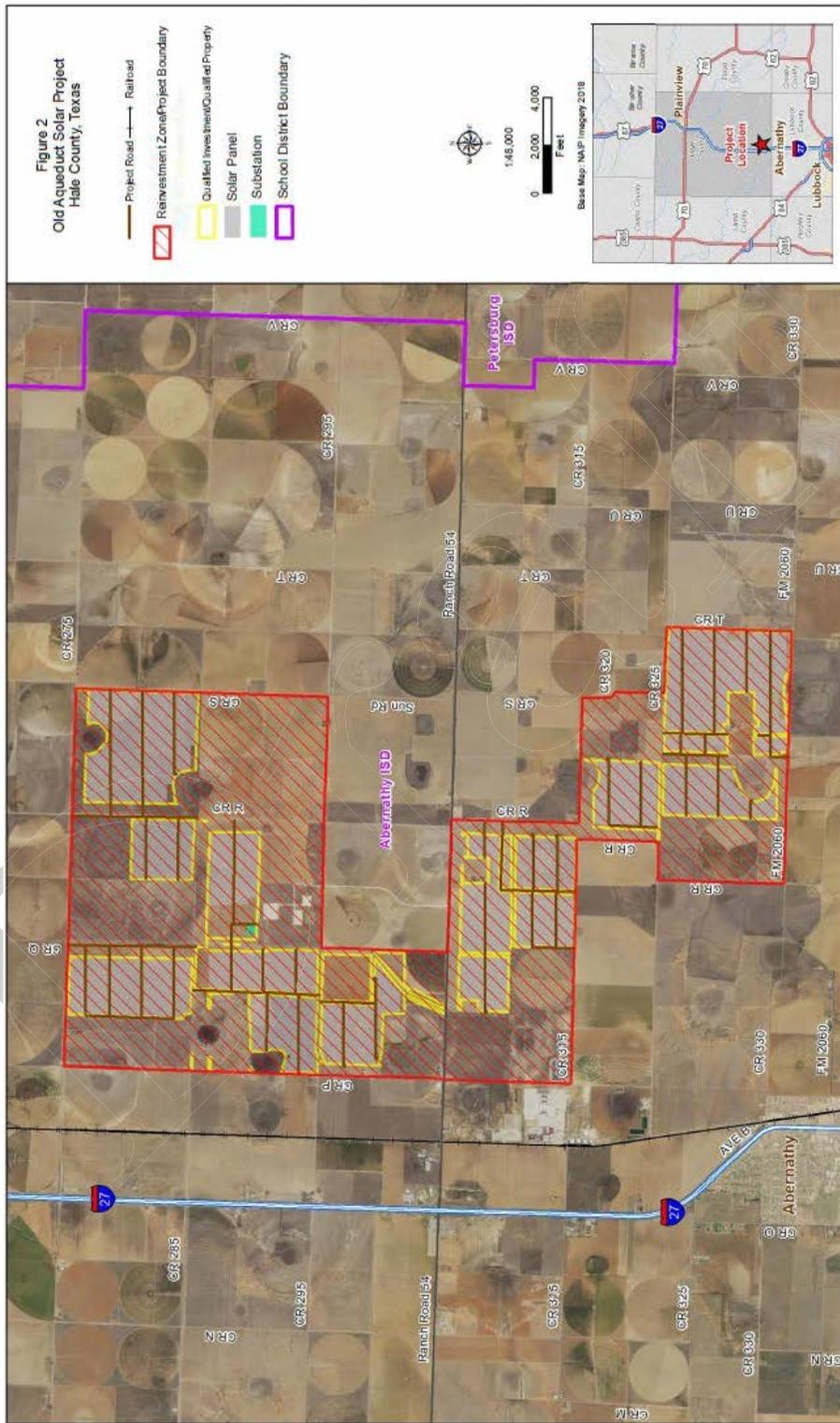
### DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

The Applicant anticipates constructing a solar photovoltaic electric generating facility with an operating capacity of approximately 512 MWac and will cover a surface area of approximately 4,000 acres. 100% of the project will be located in the reinvestment zone and project boundary within Abernathy ISD and Hale County, and will be considered qualified property for this Agreement. The exact capacity and specific technology components will be determined during the development and design process. The facility includes eligible ancillary and necessary equipment, including the following property:

- Solar modules/panels
- Metal mounting system with tracking capabilities
- Underground conduit, communications cables, and electric collection system wiring. The electric collection system wiring is the underground system that connects the racks of solar panels together within the boundaries of the project area.
- Combiner boxes
- A project substation including breakers, a transformer and meters
- Overhead transmission lines
- Inverter boxes on concrete pads
- Operations and maintenance facility
- Fencing for safety and security
- Telephone and internet communications system
- Meteorological equipment to measure solar irradiation and weather conditions

This Agreement covers all qualified property in the reinvestment zone and project boundary within Abernathy ISD necessary for commercial operations.

## MAP OF QUALIFIED PROPERTY



**Agreement for Limitation on Appraised Value**  
Between Abernathy ISD and Old Aqueduct Solar LLC  
(App. No. 1774), October 14, 2022  
Exhibit 4

*Texas Economic Development Act Agreement*  
*Comptroller Form 50-826 (October 2020)*

**EXHIBIT 4**

**EXHIBIT 5  
AGREEMENT SCHEDULE**

	<u>Year of Agreement</u>	<u>Date of Appraisal</u>	<u>School Year</u>	<u>Tax Year</u>	<u>Summary Description</u>
Limitation Pre-Years	0	January 1, 2022	2022-23	2022	QTP Pre Year
	0	January 1, 2023	2023-24	2023	QTP Pre Year
	0	January 1, 2024	2024-25	2024	QTP Pre Year
	Stub Year	January 1, 2025	2025-26	2025	QTP Stub Year, begins January 2, 2025
	QTP 1	January 1, 2026	2026-27	2026	QTP year 1
	QTP 2	January 1, 2027	2027-28	2027	QTP year 2, ends December 31, 2027
Limitation Period (10 Years)	1	January 1, 2028	2028-29	2028	\$25 million appraisal limitation
	2	January 1, 2029	2029-30	2029	\$25 million appraisal limitation
	3	January 1, 2030	2030-31	2030	\$25 million appraisal limitation
	4	January 1, 2031	2031-32	2031	\$25 million appraisal limitation
	5	January 1, 2032	2032-33	2032	\$25 million appraisal limitation
	6	January 1, 2033	2033-34	2033	\$25 million appraisal limitation
	7	January 1, 2034	2034-35	2034	\$25 million appraisal limitation
	8	January 1, 2035	2035-36	2035	\$25 million appraisal limitation
	9	January 1, 2036	2036-37	2036	\$25 million appraisal limitation
	10	January 1, 2037	2037-38	2037	\$25 million appraisal limitation
Maintain a Viable Presence (5 Years)	11	January 1, 2038	2038-39	2038	No appraisal limitation; must maintain a viable presence
	12	January 1, 2039	2039-40	2039	No appraisal limitation; must maintain a viable presence
	13	January 1, 2040	2040-41	2040	No appraisal limitation; must maintain a viable presence
	14	January 1, 2041	2041-42	2041	No appraisal limitation; must maintain a viable presence
	15	January 1, 2042	2042-43	2042	No appraisal limitation; must maintain a viable presence

**Agreement for Limitation on Appraised Value**  
Between Abernathy ISD and Old Aqueduct Solar LLC  
(App. No. 1774), October 14, 2022  
Exhibit 5

*Texas Economic Development Act Agreement  
Comptroller Form 50-826 (October 2020)*



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

---

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

September 23, 2022

Aaron Waldrip  
Superintendent  
Abernathy Independent School District  
505 7th Street  
Abernathy, TX 79311

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Abernathy Independent School District and Old Aqueduct Solar, LLC, Application 1774

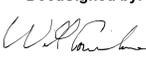
Dear Superintendent Waldrip:

This office has been provided with the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Abernathy Independent School District and Old Aqueduct Solar, LLC (Agreement). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

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

Should you have any questions, please contact Nicholas Valles with our office. He can be reached by email at [nicholas.valles@cpa.texas.gov](mailto:nicholas.valles@cpa.texas.gov) or by phone at 1-800-531-5441, ext. 3-3017, or at 512-463-3017.

Sincerely,

DocuSigned by:  
  
8FD9C70F5753487...

Will Counihan  
Director  
Data Analysis & Transparency Division

cc: Fred Stormer, Underwood Law Firm, P.C.  
Andrew Bowman, Jupiter Power Holding, LLC  
Randy Sowell, Jupiter Power Holding, LLC  
Troy Reed, Ernst & Young LLP

Randy Sowell  
Developer  
Jupiter Power LLC

1108 Lavaca St, Suite #110-349  
Austin, TX 78701

May 23, 2022

Aaron Waldrip  
Superintendent  
Abernathy Independent School District  
505 7th Street  
Abernathy, TX 79311

RE: Old Aqueduct Solar LLC's Job Requirements Waiver Request

Dear Superintendent Waldrip:

Please consider this letter to be Old Aqueduct Solar LLC's formal request to waive the minimum new job creation requirement, as provided under Texas Tax Code 313.025(f-1).

The governing body of a school district may waive the new jobs creation requirement in Section 313.021(2)(A)(iv)(b) or 313.051(b) and approve an application if the governing body makes a finding 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 that is described in this application. Solar energy projects create a large number of full-time jobs during the construction phase, but these jobs are temporary by nature. Once the project is in operation, a small crew of full-time employees will maintain and operate the facility. The industry standard for full-time operations of a solar energy facility is one (1) employee for every 350 MW of solar capacity. Based on this industry standard, we expect that two (2) employees would be needed to operate a 512 MW facility, and we can commit to creating two (2) full-time positions to fill those needs. The newly created positions will be qualifying jobs as described in Section 313.021(3) of the Texas Tax Code.

The applicant requests that the Abernathy ISD's Board of Trustees make such a finding and waive the job creation requirement. This waiver request is in line with the industry standards for the job requirements for a solar facility of this size, as evidenced by limitation agreement applications that have been filed by other solar developers, and by documentation related to the development and operation of solar generation facilities.

The project stands to provide significant benefits to the community with respect to increased tax base and the ongoing royalty payments it will make to local landowners.

Respectfully,

Old Aqueduct Solar LLC

By:  \_\_\_\_\_

Randy Sowell,  
Developer