



# Application for Tax Credit on Qualified Property (Tax Code, Chapter 313, Subchapter D)

**Form 50-300**  
(Revised May 2010)

2008

First complete year of qualifying time period

**FORSAN ISD**

School district name

Phone (Area code and number)

411 WEST G W STREET, FORSAN, TX

Address

DEC-10

Application filing date

This application is for credit for school district maintenance and operations taxes paid on the portion of value in excess of the value limit under Tax Code Chapter 313 Subchapter B or C, during the two complete tax years of the qualifying time period. File this completed application with the school district no earlier than the date the property taxes are paid for the last year of the qualifying time period. The school board must determine eligibility of this applicant.

## STEP 1: APPLICANT NAME AND ADDRESS

Only entities that received an appraised value limitation under Tax Code Chapter 313 Subchapter B or C are eligible for this tax credit.

**ELBOW CREEK WIND PROJECT LLC**

Applicant's name

211 CARNEGIE CENTER

PRINCETON

08540

Mailing address

City, State

ZIP Code - 4

32025177489

2832330000010

Texas Taxpayer I.D. Number (11 digits)

Appraisal district account number

STEPHEN CINOSKI

SENIOR TAX MANAGER

Name of person preparing this application

Title

609.524.4699

Phone (area code and number)

## STEP 2: PROVIDE ATTACHMENTS AND SUPPLEMENTS

Attach the following items to this application:

1. A copy of report from the local county appraisal district (CAD) reflecting both the market value before any exemptions, and taxable value of the qualified property for each complete tax year of the qualifying time period.
2. A copy of receipts for M&O and I&S taxes paid on qualified property during the first two years of the qualifying time period.
3. Schedule A—updated for all years from amounts in application schedule.
4. Schedule B—updated for all years from amounts in application schedule.
5. Schedule C—Tax Credit.

Note: Excel spreadsheet versions of Schedules are available for downloading and printing at URL listed below.

## STEP 3: SHOW TAX CREDIT AMOUNT

1. Taxable Value of Property for the purpose of School M&O tax
2. Limitation Value of Property under Agreement
3. School District Maintenance and Operations Tax Rate
4. Total Maintenance and Operations Taxes Paid
5. M&O Tax Obligation under Limited Value ((Line 2 Amount/100) x Line 3)
6. Tax Credit for which you are applying (Line 4 - Line 5)
7. Total Tax Credit (Sum of Line 6 Year 1 and Year 2 amounts)

	Year 1	Year 2
1. Taxable Value of Property for the purpose of School M&O tax	\$0 (2008)	\$161,220,420 (2009)
2. Limitation Value of Property under Agreement		\$10,000,000
3. School District Maintenance and Operations Tax Rate		1.04%
4. Total Maintenance and Operations Taxes Paid		\$1,676,692
5. M&O Tax Obligation under Limited Value ((Line 2 Amount/100) x Line 3)		\$104,000
6. Tax Credit for which you are applying (Line 4 - Line 5)	\$0	\$1,572,692
7. Total Tax Credit (Sum of Line 6 Year 1 and Year 2 amounts)		\$1,572,692

## STEP 4: SIGN AND DATE APPLICATION

By signing this application, you certify that this information is true and correct and that you are in full compliance with the terms of the attached agreement to the best of your knowledge and belief.

**print here** ▶ DAN KEANE  
Name of authorized company officer

**sign here** ▶ *Dan Keane*  
Signature of authorized company officer

VP - TAX

Title

Date

11/21/10

On behalf of **ELBOW CREEK WIND PROJECT LLC**

Name of corporation/company

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.



Schedule A: Investment

**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: Tangible Personal Property The amount of new investment (original cost) placed in service during this year	Column B: Building or Permanent Nonremovable Component of Building (annual amount only)	Column C: Sum of A and B Qualifying Investment (during the qualifying time period)	Column D: Other investment that is not qualified investment but investment affecting economic impact and total value	Column E: Total Investment (A+B+D)
The year preceding the first complete tax year of the qualifying time period (assuming no deferrals)	Investment made before filing complete application with district (neither qualified property nor eligible to become qualified investment)					X		
	Investment made after filing complete application with district, but before final board approval of application (eligible to become qualified property)							
	Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period (qualified investment and eligible to become qualified property)							
Tax Credit Period (with 50% cap on credit)	Complete tax years of qualifying time period	1		SEE ATTACHED		X		
		2						
	3							
	4							
	5							
	6							
	7							
	8							
	9							
	10							
Credit Settle-Up Period	Continue to Maintain Viable Presence	11						
		12						
		13						
Post-Settle-Up Period		14						
Post-Settle-Up Period		15						

Qualifying Time Period usually begins with the final board approval of the application and extends generally for the following two complete tax years.

**Column A:** This represents the total dollar amount of planned investment in tangible personal property the applicant considers qualified investment, as defined in Tax Code §313.021(1)(A)-(D). For the purposes of investment, please list amount invested each year, not cumulative totals. [For the years outside the qualifying time period, this number should simply represent the planned investment in tangible personal property]. Include estimates of investment for "replacement" property-property that is part of original agreement but scheduled for probable replacement during limitation period.

**Column B:** The total dollar amount of planned investment each year in buildings or nonremovable component of buildings that the applicant considers qualified investment under Tax Code §313.021(1)(E). For the years outside the qualifying time period, this number should simply represent the planned investment in new buildings or nonremovable components of buildings.

**Column D:** Dollar value of other investment that may not be qualified investment but that may affect economic impact and total value – for planning, construction and operation of the facility. The most significant example for many projects would be land. Other examples may be items such as professional services, etc. Note: Land can be listed as part of investment during the "pre-year 1" time period. It cannot be part of qualifying investment.

Notes: For advanced clean energy projects, nuclear projects, projects with deferred qualifying time periods, and projects with lengthy application review periods, insert additional rows as needed.

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

*Ann Kelane*  
SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

11/21/10  
DATE

### Schedule B: Estimated Market and Taxable Value

Applicant Name \_\_\_\_\_

ISD Name \_\_\_\_\_

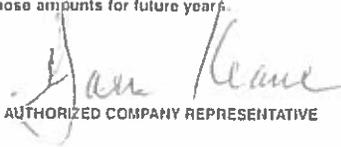
		Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Qualified Property			Reductions From Market Value	Estimated Taxable Value	
					Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improve- ments	Estimated Total Market Value of tangible personal property in the new building or "in or on the new improvement"	Exempted Value	Final taxable value for IRS - after all reductions	Final taxable value for IRS - after all reductions
		pre-year 1								
Complete tax years of qualifying time period		1								
		2								
		3								
Tax Credit Period (with 50% cap on credit)	Value Limitation Period	4								
		5								
		6								
		7								
		8								
		9								
		10								
		11								
Credit Settle-Up period	Continue to Maintain Viable Presence	12								
		13								
Post-Settle-Up Period		14								
Post-Settle-Up Period		15								

SEE ATTACHED

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

This schedule must be submitted with the original application and any application for tax credit. When using this schedule for any purpose other than the original application, replace original estimates with actual appraisal district data for past years and update estimates for current and future years. If original estimates have not changed, enter those amounts for future years.

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE



DATE

11/21/10



### Schedule C - Tax Credit: Employment Information

Applicant Name

ISD Name

			New Jobs		Qualifying Jobs	
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Column A: Number of new jobs created (cumulative)	Column B: Number of qualifying jobs applicant created meeting all criteria of Sec. 313.021(3) (cumulative)	Column C: Lowest wage of any qualifying job
	pre- year 1					
Complete tax years of qualifying time period	1			SEE ATTACHED		
	2					

Notes: For job definitions see TAC §9.1051(14) and Tax Code §313.021(3).

SIGNATURE OF AUTHORIZED COMPANY REPRESENTATIVE

11/21/10

DATE

Schedule A: Investment

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: Tangible Personal Property The amount of new investment (original cost) placed in service during this year	Column B: Building or Permanent Nonremovable Component of Building (annual amount only)	Column C: Sum of A and B qualifying Investment (during the qualifying time period)	Column D: Other investment that is not qualified but investment affecting economic impact and total value	Column E: Total Investment (A+B+D)
The year preceding the first complete tax year of the qualifying time period (assuming no deferrals)	Investment made before filing complete application with district (neither qualified property nor eligible to become qualified investment)					X		
	Investment made after filing complete application with district, but before final board approval of application (eligible to become qualified property)							
	Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period (qualified investment and eligible to become qualified property)		2007		\$ 52,569,815		\$ 52,569,815	\$ 52,569,815
Complete tax years of qualifying time period	1		2008		\$ 217,231,034	\$ 217,231,034		\$ 217,231,034
	2		2009		\$ 963,058	\$ 963,058		\$ 963,058
Tax Credit Period (with 50% cap on credit)	Value Limitation Period	3	2010			X		
		4	2011					
		5	2012					
		6	2013					
		7	2014					
		8	2015					
		9	2016					
		10	2017					
Credit Settle-Up Period	Continue to Maintain Viable Presence	11	2018					
		12	2019					
		13	2020					
Post-Settle-Up Period			2021					
Post-Settle-Up Period			2022					

Schedule B: Estimated Market and Taxable Value

ELBOW CREEK WIND PROJECT LLC  
Applicant Name

FORSAN ISD  
ISD Name

		Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	Qualified Property		Reductions From Market Value	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 building or "in or on the new improvement"	Exempted Value	Final taxable value for I&S - after all reductions
		pre year 1							
	Complete tax years of qualifying time period	1		2008					
		2		2009	\$ 161,220,420			\$ 161,220,420	\$ 161,220,420
Tax Credit Period (with 50% cap on credit)	Value Limitation Period	3		2010	\$ 137,028,340			\$ 137,028,340	\$ 10,000,000
		4		2011	\$ 130,176,923			\$ 130,176,923	\$ 10,000,000
		5		2012	\$ 123,668,077			\$ 123,668,077	\$ 10,000,000
		6		2013	\$ 117,484,673			\$ 117,484,673	\$ 10,000,000
		7		2014	\$ 111,610,439			\$ 111,610,439	\$ 10,000,000
		8		2015	\$ 106,029,917			\$ 106,029,917	\$ 10,000,000
		9		2016	\$ 100,728,422			\$ 100,728,422	\$ 10,000,000
		10		2017	\$ 95,692,000			\$ 95,692,000	\$ 10,000,000
Credit Settle-Up Period	Continue to Maintain Viable Presence	11		2018	\$ 90,907,400			\$ 90,907,400	\$ 90,907,400
		12		2019	\$ 86,362,030			\$ 86,362,030	\$ 86,362,030
		13		2020	\$ 82,043,929			\$ 82,043,929	\$ 82,043,929
Post Settle-Up Period		14		2021	\$ 77,941,732			\$ 77,941,732	\$ 77,941,732
Post Settle-Up Period		15		2022	\$ 74,044,646			\$ 74,044,646	\$ 74,044,646

Schedule C: Tax Credit: Employment Information

ELBOW CREEK WIND PROJECT LLC  
Applicant Name

FORSAN ISD  
ISD Name

	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New Jobs	Qualifying Jobs	
				Column A: Number of new jobs created (cumulative)	Column B: Number of qualifying jobs applicant created meeting all criteria of Sec. 313.021(3) (cumulative)	Column C: Lowest wage of any qualifying job
	pre year 1					
Complete tax years of qualifying time period	1		2008	11	11	
	2		2009	11	11	

**TAX STATEMENT**

Prepared By:  
 Kathy A Sayles, TAC  
 Howard County  
 315 South Main  
 PO Box 1111  
 Big Spring, TX 79721-1111  
 (432) 264-2232

PADOMA WIND POWER LLC (NRG)  
 - ELBOW CREEK WIND FARM  
 % K E ANDREWS & CO  
 1900 DALROCK RD  
 ROWLETT TX 75088-5526

10/01/2009  
 Tax Year 2009  
 Owner No. 107842  
 Status: Current  
 Agent Copy

*Elbow Creek*

Legal Description
WIND FARM - NON ABATED FORSAN HWY 87 S TO BRIAN RD EAST

*205301  
 1/81*

Assessment Ratio is 100%  
 Exemptions:

Agent Code: KEA

Value Type	Value
Land-HS	
Land-Other/Minr	
Ag-Mkt	
Ag-Prod	
Imp/Pers-HS	
Imp/Pers-Other	161,220,420
HS-Cap	
Appraised	161,220,420
Assessed	161,220,420

Jurisdiction	Assessed	Exemption Amount	Taxable	Rate/100	Unpaid Tax
FORSAN ISD	161,220,420		161,220,420	1.099300	1,772,296.08
Total Unpaid Tax					1,772,296.08
FORSAN ISD 2009 M&O / I&S Rates: 1.040000 / .059300					

*PAID 11/09*

Account: 283233000010 (65202/107842)

Statement No: 30389

See schedule below for Payment Amount

0 \* \*

Account: 28323300

Remit To: Kathy A Howard  
 315 Sout PO Box Big Spri  
 See Rev Previou

*M&O* { 161,220,420 \*  
 1.04 \*  
 0.01 =  
 1,676,692.368 \*  
*I&S* { 161,220,420 \*  
 0.0593 \*  
 0.01 =  
 95,603.70906 \*  
*TOTAL* { P. 1,676,692.368 +  
 % 95,603.70906 +  
 I: 1,772,296.07706 \*  
 RI

nd Return With Payment

Statement No: 30389 10/01/2009 Tax Year 2009

Owner No. 107842

Total Unpaid Tax and Payment Amounts are only for the tax year indicated above.

**PAY FROM SCHEDULE BELOW**

If Paid in	Penalty/Alt Fee	Pay This Amount
See	Owner	Summary

# Tax Receipt

Transaction Description	Legal Description	Miscellaneous
Account: 283233000010 (65702/107842)	WIND FARM - NON ABATED	Receipt No. 28066
Drawer: CSH2-1305 (CNT2)	FORSAN	ORIGINAL
Tender Type: CHEK	HWY B7 S TO BRIAN RD EAST	Tax Year: 2009
Tender Memo:		Serl. No. 30389
Paid By:		Owner No. 187842
Tender Ref: 20185		Status: Current
Total Amount Tendered 17901-12-10		
Exemption:		
Mortgage Company:		

### Tax Summary

Jurisdiction Name	Taxable Acres	Rate/100	Tax Levy	Prior Paid	Unpaid Tax
FORSAN ISD	161,220.420	1.099300	1,772,296.08		1,772,296.08
<b>Total</b>			<b>1,772,296.08</b>		<b>1,772,296.08</b>

### Tax Collected and Allocated

Jurisdiction Name	Due Before Payment		This Payment			
	Penalty/Disc.	Int'l. Fees	Total Due	Amount Collected	Base Tax Applied	Base Tax Len.
FORSAN ISD			1,772,296.08	1,772,296.00	1,772,296.03	.00
<b>Total</b>			<b>1,772,296.08</b>	<b>1,772,296.08</b>	<b>1,772,296.08</b>	<b>.00</b>

Payment Summary	
Base Tax Paid	1,772,296.08
Penalty Paid	
Interest Paid	
Attorney Fees Paid	
Discount Allowed	
Escrow Applied	
Payment Collected	1,772,296.08
Change Issued	
Escrow Accrued	
Payment Type	FULL
Effective Date	1-21-2010
Actual Date	1-21-2010

Period	Pay This Amount
Jan 2010	.00
Feb 2010	.00
Mar 2010	.00
Apr 2010	.00
May 2010	.00
Jun 2010	.00
Jul 2010	.00
Aug 2010	.00
Sep 2010	.00
Oct 2010	.00
Nov 2010	.00
Dec 2010	.00

CARRIER

Prepared By:

PAUCMA WIND POWER LLC (NRG)  
 - ELBOW CREEK WIND FARM  
 % K E ANDREWS & CO  
 1906 DALROCK RD  
 ROWLETT TX 75088-5525

Kathy A. Styles, TAC  
 Howard County  
 315 South Main  
 PO Box 1111  
 Big Spring, TX 79721-1111  
 (432) 264-2230

# RESOLUTION

## DETERMINING ELIGIBILITY FOR TAX CREDIT PURSUANT TO TEXAS TAX CODE § 313.104

STATE OF TEXAS §

COUNTY OF HOWARD §

*WHEREAS*, on August 28, 2007, the Superintendent of Schools of the Forsan Independent School District, acting as agent of the Board of Trustees of the District (the "Board of Trustees"), received from Elbow Creek Wind Project, LLC an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code; and,

*WHEREAS*, on November 8, 2007, the Superintendent of Schools of the Forsan Independent School District, acting as agent of the Board of Trustees, received from the Elbow Creek Wind Project, LLC an Amended Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code (which, together with the Original Application filed on August 28, 2007, will be hereinafter collectively referred to as the "Application"); and,

*WHEREAS*, the Application was delivered to the Texas Comptroller's Office for review pursuant to Texas Tax Code § 313.025(d); and,

*WHEREAS*, the Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code § 313.025(d); and,

*WHEREAS*, the Board of Trustees acknowledged receipt of the Application, along with the requisite application fee as established pursuant Texas Tax Code § 313.025(a)(1) and the District's Local District Policy CCG (Local); and,

*WHEREAS*, the Board of Trustees caused to be conducted an economic impact evaluation pursuant to Chapter 313 of the Texas Tax Code; and,

*WHEREAS*, the Board of Trustees reviewed the economic impact evaluation pursuant to Texas Tax Code § 313.026 and has carefully considered such evaluation; and,

*WHEREAS*, the Application was reviewed by the Howard County Appraisal District established in Howard County, Texas (the "Howard County Appraisal District"), pursuant to Texas Property Tax Code § 6.01; and,

FORSAN INDEPENDENT SCHOOL DISTRICT  
Resolution Granting Tax Credit to Elbow Creek Wind Project, LLC  
12 September 20, 2011  
Page 1 of 4

*WHEREAS*, on December 17, 2007, 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; and,

*WHEREAS*, on December 17, 2007, the Board of Trustees made factual findings pursuant to Texas Tax Code § 313.025(f), including, but not limited to findings that: (i) the information in the Application is true and correct; (ii.) this Agreement is in the best interest of the District and the State of Texas; (iii.) the Applicant is eligible for the Limitation on Appraised Value of the Applicant's Qualified Property; (iv.) each criterion listed in Texas Tax Code § 313.025(e) has been met; and, (v.) if the job creation requirement set forth in Texas Tax Code § 313.051(b) (i.e. 10 jobs) was applied, for the size and scope of the project described in the Application, the required number of jobs would exceed the industry standard for the number of employees reasonably necessary for the operation of the facility; and

*WHEREAS*, on December 17, 2007, the Board of Trustees of the Forsan Independent School District approved an Agreement for Limitation on Appraised Value of Property for Maintenance and Operations Taxes with Elbow Creek Wind Project, LLC; and,

*WHEREAS*, after examining the tax rolls of the Howard County Appraisal District; the most recent Annual Eligibility Report (Comptroller's Form #50-772); and the most recent Biennial Progress Report (Comptroller's Form #50-773) filed by Elbow Creek Wind Project, LLC, the Board has determined that during the Qualifying Time Period, running from January 1, 2008 through December 31, 2009, Elbow Creek Wind Project, LLC made a Qualifying Investment as defined by Texas Tax Code § 313.021 in the amount of at least Ten Million Dollars for the purposes of manufacturing in accordance with the provisions of Texas Tax Code § 313.024(b)(1); and,

*WHEREAS*, after examining the December 17, 2007 Agreement; the most recent Annual Eligibility Report (Comptroller's Form #50-772); and the most recent Biennial Progress Report (Comptroller's Form #50-773) filed by the Elbow Creek Wind Project, LLC, the Board has determined that Elbow Creek Wind Project, LLC is, in all other respects, in compliance with the terms of the aforesaid Agreement; and,

*WHEREAS*, after examining Comptroller's State Franchise Tax records, the Board has determined that, at the time of the adoption of this Resolution, Elbow Creek Wind Project, LLC, is in good standing with respect to its franchise tax obligations; and,

*WHEREAS*, the total amount of maintenance and operations ad valorem taxes that were imposed on the portion of the appraised value of the Qualified Property that exceeded the amount of the limitation agreed to by the governing body of the school district under Texas Tax Code Section 313.027(a)(2) in the applicable Qualifying Time Period that the Elbow Creek Wind Project, LLC has paid to the District has been ONE MILLION FIVE HUNDRED SEVENTY-TWO THOUSAND SIX HUNDRED NINETY-TWO DOLLARS AND THIRTY-SEVEN CENTS (\$1,572,692.37); and,

FORSAN INDEPENDENT SCHOOL DISTRICT  
Resolution Granting Tax Credit to Elbow Creek Wind Project, LLC  
17 September, 2011  
Page 2 of 4

*WHEREAS*, as of the date of the approval of this Resolution, the Elbow Creek Wind Project, LLC has not relocated its business outside of the District; and,

*WHEREAS*, the Elbow Creek Wind Project, LLC has filed an application for a tax credit in accordance with the provisions of Texas Tax Code § 313.103; and,

*WHEREAS*, the application for tax credit filed by the Elbow Creek Wind Project, LLC was: (1) made on the form prescribed for that purpose by the Texas Comptroller of Public Accounts; (2) was verified by the Elbow Creek Wind Project, LLC; (3) was accompanied by tax receipts from the collector of taxes for the District showing full payment of District all ad valorem taxes on the Qualified Property for the applicable Qualifying Time Period.

*NOW, THEREFORE, BE IT RESOLVED* by the Board of Trustees of the Forsan Independent School District as follows:

1. The application made by Elbow Creek Wind Project, LLC, for a tax credit pursuant to Texas Tax Code § 313.103 in the total amount of ONE MILLION FIVE HUNDRED SEVENTY-TWO THOUSAND SIX HUNDRED NINETY-TWO DOLLARS AND THIRTY-SEVEN CENTS (\$1,572,692.37) is approved by the adoption of this Resolution.
2. Beginning with the Tax Year 2011, which is the tax year next following the tax year in which the Tax Credit Application is approved, and in each of the subsequent six (6) tax years (ending in Tax Year 2017), the District's collector of taxes is directed to credit against the *ad valorem* school taxes imposed on the Qualified Property by the District the lesser amount of either: 1.) TWO HUNDRED TWENTY FOUR THOUSAND SIX HUNDRED SEVENTY DOLLARS AND THIRTY-FOUR CENTS (\$224,670.34) (An amount equal to one-seventh of the total amount of tax credit to which Elbow Creek Wind Project, LLC is entitled under Section 313.102); or, 2.) Fifty Percent (50%) of the total amount of *ad valorem* school taxes imposed on the Qualified Property by the school district in that tax year.
3. In addition to the foregoing, in the Tax Years 2017 through 2019, (The first three tax years after the Elbow Creek Wind Project, LLC's eligibility for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, expires), the District's collector of taxes is directed to credit against the *ad valorem* school taxes imposed on the Qualified Property by the District in lesser of either: 1.) any remainder of the ONE MILLION FIVE HUNDRED SEVENTY-TWO THOUSAND SIX HUNDRED NINETY-TWO DOLLARS AND THIRTY-SEVEN CENTS (\$1,572,692.37) tax credit balance which was not paid under paragraph 2, above; or, 2.) the total amount of *ad valorem* school taxes imposed on the Qualified Property by the school district in that tax year.

4. Prior to making any tax credit payments under Sections (2) or (3), above, the District's Superintendent is directed to determine whether the Elbow Creek Wind Project, LLC has relocated outside the District, and has otherwise met its obligations under the Agreement; under State law; and under applicable regulations promulgated either by the Texas Comptroller's Office, or by the Texas Commissioner of Education. In the event that the Elbow Creek Wind Project, LLC has not met its obligation or has relocated outside the District, no tax credit will be paid for such tax year in which the owner relocates the business outside the school district or the tax years thereafter.
  
5. If the Texas Comptroller of Public Accounts or the District's tax collector, after providing notice and the opportunity for a response, determine that the Elbow Creek Wind Project, LLC was either not eligible for the credit or received more credit than it was entitled, then the District shall impose an additional tax on the Qualified Property that is equal to the amount of tax credit that was erroneously taken, plus interest at an annual rate of 7.0% calculated from the date on which the credit was issued. A tax lien attaches to the Qualified Property in favor of the school district to secure payment by the person of the additional tax and interest that are imposed and any penalties incurred. A taxpayer which is delinquent in the payment of an additional tax may not submit a subsequent application or receive a tax credit under this subsection in a subsequent year.

APPROVED, ADOPTED, AND ORDERED on the 12 day of September, 2011.

FORSAN INDEPENDENT SCHOOL DISTRICT

By: Tom Bill Kuykendall  
 TOM KUYKENDALL, President  
 Board of Trustees

ATTEST:

By: Tim Ballard  
 TIM BALLARD, Secretary  
 Board of Trustees