

Ector County Independent School District Odessa, Texas

Memorandum

TO: Board of Trustees

FROM: Tom Crowe, Interim Superintendent of Schools

SUBJECT: **CONSIDER AND APPROVE AGREEMENT UNDER THE TEXAS ECONOMIC DEVELOPMENT ACT ON THE APPLICATION FOR A LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES SUBMITTED BY SUMMIT TEXAS CLEAN ENERGY LLC**

DATE: September 17, 2013

Summitt Texas Clean Energy, LLC ("Summit") has submitted an application for appraised value limitation on qualified property under Tax Code, Chapter 313. The project that is the subject of this application is the same project that has been presented to the Board for approval in 2011.

Under Summit's existing Chapter 313 agreement, the "qualifying time period" commenced on December 13, 2011 (the date the Chapter 313 agreement was entered into) and will end on December 31, 2013.

The company has determined that the construction schedule for the Texas Clean Energy Project has been delayed from that contemplated at the time Summit applied for and entered into its Chapter 313 agreement, and it is now projected that construction will commence later this year with very little time left in the "qualifying time period." In that regard, no construction activities have been conducted at the project site since the Chapter 313 agreement was entered into on December 13, 2011, or before.

In lieu of amending the existing Chapter 313 agreement to defer the qualifying time period, Summit has filed a new application for a Section 313 agreement that provides for a different qualifying time period. Under the new application, the qualifying time period would be 2014 and 2015.

Before approving or disapproving an application under Chapter 313 of the Texas Tax Code, the Board must make a written finding as to each criterion listed in Texas Tax Code §313.026, which determines the economic impact of the project on the District. The consultants have prepared Findings of Fact for the Board's consideration. The Findings

are based upon the application submitted by the company, the economic impact analysis prepared by the Comptroller, the Comptroller's recommendation and the school finance impact report prepared by Moak Casey & Associates.

On July 26, 2013, the Comptroller of Public Accounts recommended that the Application for Appraised Value Limitation on Qualified Property from Summit be approved by the District. Under §313.027, the Board may enter into a written agreement for the implementation of the limitation on appraised value under this subchapter on the owner's qualified property. Under Board Policy CCG (Local), such Agreement must provide for protection from and/or compensation for any financial risks undertaken by the District in accepting the Application. The Agreement for an Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code, drafted by the consultants, includes adequate and appropriate revenue protection provisions for the District.

It is recommended that the Board of Trustees accept the Application of Summit Texas Clean Energy, LLC, Inc. for an Appraised Value Limitation on Qualified Property, and authorize the Superintendent to review the Application for completeness and submit to the Comptroller.

Respectfully submitted,

Tom Crowe
Interim Superintendent of Schools

David Harwell,
Chief Financial Officer