Biennial School District Cost Data Request - 2010 (Chapter 313 Tax Code)

The superintendent of each school district having a maintenance and operations value limitation agreement under Tax Code Chapter 313 is requested by the Comptroller to complete this form every other year *for each limitation agreement*. Information from this request will be used in reports to the legislature required by Tax Code 313.008 and Government Code 403.014. (See also TAC Title 34.) For more information, please see the Chapter 313 Web page at *http://www.window.state.tx.us/taxinfo/proptax/hb1200/index.html* or email chapter313@cpa.state.tx.us. **[Districts must complete and return this form to the Comptroller's office by August 15th, 2010.]** The Comptroller' s office appreciates your work in implementing provisions of HB 3676 (2009) and bringing increased transparency and accountability to this significant economic development tool.

School district:	LYFORD CISD
Project name:	EC&R Development, LLC
Original applicant(s)–*and* current agreement-holder(s) if different:	EC&R Development, LLC
County:	WILLACY COUNTY
1st complete year of the qualifying time period:	2010 (2010-11 School Year)
Date of agreement:	December 14, 2009
Limitation amount:	$10,000,000

	Year (of the agreement)	School Year (YYYY-YYYY)	Tax Year (YYYY)	Market value of qualified property before any exemptions	Market value less any exemptions & before limitation	Taxable value of qualified property for purposes of M&O	M & O Tax Rate	I &S Tax Rate	Revenue Protection Payments	Extraordinary Educational Expenses	Supplemental Payments (Payments in Lieu of Taxes - PILT)
Pre-Year 1	Pre-Year 1	2009-10	2009				$1.0400	$0.1600		N/A	N/A
First complete tax years of qualifying time period	1	2010-11	2010	$0	$0	$0	$1.1700	$0.1600	$0	$0	$0
	2	2011-12	2011	$0	$0	$0	$1.1700	$0.1600	$0	$0	$0
Value Limitation Period	3	2012-13	2012	$28,700,000	$14,830,000	$10,000,000	$1.1700	$0.1600	$87,764	$0	$0
	4	2013-14	2013	$27,550,000	$14,240,000	$10,000,000	$1.1700	$0.1600	$2,860	$0	$18,699
	5	2014-15	2014	$26,450,000	$13,670,000	$10,000,000	$1.1700	$0.1600	$1,591	$0	$16,539
	6	2015-16	2015	$25,390,000	$13,120,000	$10,000,000	$1.1700	$0.1600	$376	$0	$14,451
	7	2016-17	2016	$24,370,000	$12,590,000	$10,000,000	$1.1700	$0.1600	$0	$0	$12,121
	8	2017-18	2017	$23,400,000	$12,090,000	$10,000,000	$1.1700	$0.1600	$0	$0	$9,781
	9	2018-19	2018	$22,460,000	$11,610,000	$10,000,000	$1.1700	$0.1600	$0	$0	$7,535
	10	2019-20	2019	$21,560,000	$11,140,000	$10,000,000	$1.1700	$0.1600	$0	$0	$5,335
Tax Credit Settle-Up Period	11	2020-21	2020	$20,696,064	$10,689,027	$10,689,027	$1.1700	$0.1600	$0	$0	$0
	12	2021-22	2021	$19,866,747	$10,256,310	$10,256,310	$1.1700	$0.1600	$0	$0	$0
	13	2022-23	2022	$19,070,662	$9,841,110	$9,841,110	$1.1700	$0.0600	$0	$0	$0

NOTE: Use actual data for prior years. Estimates are required for current and future years. For prior year property values of qualified property, use CAD reported values. For current and future years, use best information available or property value estimates provided by agreement-holder(s) on Biennial Progress Report Form 50-773.

Are you aware of any payments or transfer of things of value not included in the table above, made by the applicant or affiliate of the applicant, to the school district any person or persons, organization or local governmental entity provided in recognition of, anticipation of, or consideration for the agreement for limitation on appraised value? Yes (No) (Circle one) If "Yes," please describe and attach additional information as needed.

Attached please find a foundation subscription agreement between the EC&R and Willacy County made contemporaneously as the value limitation agreement with the District.

Upon completion of this form, please send a signed copy to: Chapter 313 Office, Local Government Assistance and Economic Analysis, LBJ State Office Building, Room 1118, 1117 East 17th St., Austin, TX, 78711-1440 ***AND*** send an electronic copy (MS Excel format) to chapter313@cpa.state.tx.us .

Mr. Eduardo Infante
Superintendent Name

Eduardo Infante
Superintendent Signature

8·13·10
Date

Dan Casey, Partner OR Bob Popinski, Associate Moak, Casey & Associates 512-485-7878 bpopinski@moakcasey.com
Name, title, phone, and email of person authorized by superindendent to be contacted by Comptroller's office about information on this form.

FOUNDATION SUBSCRIPTION AGREEMENT

THE STATE OF TEXAS *)(*

COUNTY OF WILLACY *)(*

WHEREAS, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC, by and through its subsidiaries, is in the process of developing a wind energy project (the "Project") within Willacy County, Texas currently projected to be approximately 150 megawatts in nameplate capacity; and,

WHEREAS, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC has sought an economic development agreement from the Willacy County Commissioner's Court; and,

WHEREAS, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC is committed to the process of promoting continuing economic development opportunities in the communities in which it operates; and,

WHEREAS, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC recognizes that the provision of higher education opportunities, especially to students in rural areas, is an essential element of economic development; and

WHEREAS, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC has committed to the creation of the *E.ON Climate & Renewables North America Higher Education Fund.*

NOW THEREFORE, in the event that the Project is constructed, and in support of continuing economic development in Willacy County, Texas, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC agrees as follows:

ARTICLE ONE

E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC, in the event that the proposed renewable energy Project is either constructed or is under construction by January 1, 2012, and is subsequently commercially producing electricity in Willacy County, Texas, agrees to endow the *E.ON Climate & Renewables North America Higher Education Fund* (hereinafter called "the Fund"), and, within the Fund, a scholarship endowment in the name of Willacy County students (hereinafter called the Willacy County Scholarship) not later than on the following dates, and in the amounts described below.

It is the intent of the and E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC that the Fund is a scholarship fund to be utilized exclusively for the provision of funding to be used solely to support the pursuit of both post-secondary and, where applicable, pre-graduation higher

education opportunities by eligible current and recently graduated students of eligible independent school districts in counties in which E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC is commercially operating renewable energy generating facilities. Accordingly, the net earnings from the fund as well as principal may be distributable to such students as directed by the Fund's Board of Directors, as limited by the qualified charitable purposes defined in Article Two of this agreement.

Beginning on or before January 31, 2013, and continuing thereafter, on January 31 of each of the seven succeeding years (that is, until January 31, 2020), E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC will fund the Willacy County Scholarship by making a payment to the Fund in the name of the eligible students of Willacy County, Texas eligible independent school districts, in an amount of not less than Four Hundred Forty-Two Dollars ($442.00) per megawatt of installed name plate generating capacity in Willacy County, Texas per year. At the sole discretion of E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC, the payments scheduled above may be accelerated.

From time to time, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC or other donors may make gifts of cash or other property acceptable to the Fund to or for the use of the Fund by naming or otherwise identifying the Fund. Such gifts will be held and administered as part of the Fund in accordance with this Agreement.

ARTICLE TWO

Section 1. ADMINISTRATION OF DONOR FUNDS

E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC hereby agrees that the funds contributed to the Fund will be administered by the Fund subject to Fund Organizational Documents to be created by E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC which qualify the Fund as an IRS Code § 501(c)(3) charitable corporation. The proceeds shall be held and administered by the Fund, acting by and through its Board of Directors, and its authorized officers, and agents. From time to time, and in its sole discretion, E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC may consult with representatives of the independent school districts to establish criteria for the evaluation of scholarship applications, provided that the final determination of such criteria shall rest solely with E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC The proceeds from this Agreement may be kept separate from other Fund assets, or alternatively, may be commingled with other Fund assets. The proceeds from this Agreement may be invested and reinvested from time to time in any securities, obligations or other property of any kind that the Fund may deem advisable, including, but not limited to, interest bearing accounts, certificates of deposit, common trust funds, bonds, and equities fund administered and chosen by the Fund. The Investment Policy of the Fund as it may exist from time to time shall guide the Fund and its investment managers in order to maximize total return while providing professional management and preservation of capital for the benefit of the Fund.

Section 2. CONTRIBUTIONS BY THIRD PARTIES

From time to time E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC or other donors may make gifts of cash or other property acceptable to the Fund to or for the use of the

Fund by naming or otherwise identifying the Fund. Such gifts will be held and administered as part of the Fund in accordance with this Agreement and the Fund Organizational Documents.

Section 3. USE OF FUNDS

The Fund's Board of Directors may withdraw or direct qualified charitable and educational grant distributions of proceeds from this Agreement annually, in an amount of five percent of a rolling twelve quarter average of the value of the proceeds from this Agreement as of the previous December 31st. Any distributions in excess of the said five percent annually must be approved by written certification of the Fund's Board of Directors. Said certification shall document that at a meeting of the Fund's Board of Directors, at which meeting a quorum was present, the Fund's Board of Directors adopted such a resolution.

Section 4. FINANCIAL REPORTS AND ANNUAL AUDIT

The Fund will be responsible for the accounting and disbursements from the proceeds from this Agreement. The Fund shall not less than annually provide investment, scholarship disbursement and, expense reports, and an audited financial statement of the Fund to the Willacy County Commissioner's Court and to the Superintendent of each eligible independent school district within Willacy County, Texas.

Section 5. USE OF RESTRICTED FUNDS

As set forth in tax regulations of the Internal Revenue Service, Section 1.170A-9(e)(11)(V)(B), (C), and (D), the Board of Directors of the Fund shall have the power, after notifying Willacy County Commissioner's Court and to the Superintendent of each eligible school district within Willacy County, Texas. and giving them an opportunity to object, to modify any restriction or condition on the distribution of funds for any specified charitable purposes or to specified organizations if in the judgment of the board such restriction or condition becomes, in effect, unnecessary, incapable of fulfillment or inconsistent with the charitable needs of the community or area served.

Section 6. Exclusive Use

The Fund and all net earnings in addition thereto will be held exclusively for the benefit of the designated beneficiaries of this Fund. The assets of the Fund shall be held and administered by the Fund acting by and through its Board of Directors, and its authorized officers, and agents.

ARTICLE THREE

Section 1. Standing to Enforce Agreement

This agreement shall be performable and enforceable in Willacy County, Texas and E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC agrees that the Commissioners Court in Willacy County, Texas shall have standing to enforce this agreement on behalf of the eligible independent school district students of Willacy County, Texas.

Section 2. **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 3. **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 Willacy County, Texas.

Section 4. **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 5. **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.

Executed this 14th day of December, 2009

E.ON CLIMATE & RENEWABLES NORTH AMERICA, LLC

By: _____

Name: Patrick Woodson

Title: Sr. Vice President

Approved by Legal