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ATTORNEYS AT LAW

February 13, 2012

*Via Hand Delivery*

Mr. Robert Wood  
Director of Local Government Assistance  
and Economic Development  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS  
LBJ State Office Building  
111 E. 17<sup>th</sup> St.  
Austin, Texas 78774

RE: Elgin ISD / RRE Austin Solar, LLC, Limitation on Appraised Value, Ch. 313 of  
the Texas Tax Code

Dear Mr. Wood:

Enclosed please find revised Findings of the Elgin Independent School District Board of Trustees under the Texas Economic Development Act. Pursuant to my discussion with Gary Price on Friday, February 10, 2012, regarding our discovery of three word choice and one set of subsection reference issues (all non-substantive issues), he requested that we make the changes, and submit to you, noting changes to the Findings which are as follows:

1. Paragraphs 8(f) and (i) wherein "wind farm" and "wind turbines" were changed to "solar power electric generating facilities" and "panels" as appropriate; and
2. Some subsection references in Paragraph 8 that were duplicated have been corrected.

Please contact me if you have any questions or concerns regarding this matter.

Best wishes,

  
Ann Greenberg

AEG/cdg  
Enclosure

Mr. Robert Wood  
Director of Local Government Assistance  
and Economic Development  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS  
February 13, 2012  
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cc: *Via Electronic Mail: [gary.price@cpa.state.tx.us](mailto:gary.price@cpa.state.tx.us)*  
Mr. Gary Wood  
Regional Fiscal Analysis  
TEXAS COMPTROLLER OF PUBLIC ACCOUNTS  
(w/out Enclosure)

*Via CMRRR # 71969008911108054270*  
Mr. Alan Bojorquez  
BOJORQUEZ LAW FIRM, PLLC  
12325 Hymeadow Drive, Suite 2-100  
Austin, Texas 78750  
(w/Enclosure)

*Via Email: [bgraves@elginisd.net](mailto:bgraves@elginisd.net)*  
Mr. Bill Graves  
Superintendent of Schools  
ELGIN ISD  
(w/Enclosure)

*Via Email: [kalyea@elginisd.net](mailto:kalyea@elginisd.net)*  
Mr. Kreis Alyea  
Asst. Supt. For Business and Support Services  
ELGIN ISD  
(w/Enclosure)

**FINDINGS**

**of the**

**ELGIN INDEPENDENT SCHOOL DISTRICT BOARD OF TRUSTEES**

**under the**

**TEXAS ECONOMIC DEVELOPMENT ACT**

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*STATE OF TEXAS*

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*COUNTY OF BASTROP*

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On the 12<sup>th</sup> day of December, 2011, a public meeting of the Board of Trustees ("Board") of the Elgin Independent School District ("District") was held. 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 of Trustees took up and considered the Application ("Application") of RRE Austin Solar, LLC, a Texas limited liability company, ("Applicant") for a limitation on appraised value on qualified property, pursuant to Chapter 313 of the Texas Tax Code. The Board heard presentations from the District's administrative staff and from consultants retained by the District to advise the Board in this matter.

The Board of Trustees considered the presentations made at the meeting, the Comptroller's recommendation and the economic impact evaluation and makes the following findings with respect to the Application in accordance with the Texas Economic Development Act, Texas Tax Code Chapter 313, and the Administrative regulations promulgated by the Texas Comptroller of Public Accounts published at 34 Texas Administrative Code Part 1, Chapter 9, Subchapter F:

1. On December 3, 2010, the District received an application for appraised value limitation on qualified property ("Application") on the form prescribed by the Comptroller from Applicant pursuant to Chapter 313 of the Texas Tax Code. A copy of the final form of filed Application as considered and approved by the Comptroller's Office is attached hereto as Attachment A.
2. The Board of Trustees acknowledged receipt of the Application, along with the requisite application fee, as established pursuant to Texas Tax Code Section 313.025(a)(1).
3. The Board of Trustees elected to consider the Application.
4. The Application was delivered to the Texas Comptroller's Office for review pursuant to Texas Tax Code Section 313.025(b). Upon voter approval of the tax rate adopted by the Board pursuant to Texas Tax Code Section 26.08 on September 17, 2011, the Application was resubmitted to the Comptroller's Office amended to reflect the changes to the District's ad valorem tax rate, and was deemed complete on October 10, 2011.

5. The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code Sections 313.025 and 313.026. After review, the Comptroller's Office, by letter dated November 16, 2011, recommended that this Board approve the Application. A copy of the Comptroller's letter is attached to these findings as Attachment B.

6. The Texas Comptroller's Office performed an economic impact evaluation pursuant to Texas Tax Code Section 313.025(b). The Board has considered such evaluation. A copy of the economic impact evaluation is attached to these findings as Attachment C.

7. After receipt of the Application, the District entered into negotiations with Applicant over the specific language to be included in a Texas Economic Development Act Participation Agreement ("Agreement"), pursuant to Chapter 313 of the Texas Tax Code, including appropriate revenue protection provisions for the District (the Agreement is also referred to as an "Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes"). The proposed Agreement is attached to these findings as Attachment D.

8. Findings as to each of the criterion listed in Texas Tax Code Section 313.026, which specifies that the economic impact evaluation of the application must include:

a. The recommendations of the Comptroller. Texas Tax Code Section 313.026(a)(1).

The Board finds that the Comptroller recommends approval of the Application.

b. The name of the school district. Texas Tax Code Section 313.026(a)(2).

The Board finds that the name of the school district is properly identified as Elgin Independent School District.

c. The name of the Applicant. Texas Tax Code Section 313.026(a)(3).

The Board finds that the name of the Applicant is properly identified as RRE Austin Solar, LLC.

d. The general nature of the Applicant's investment. Texas Tax Code Section 313.026(a)(4).

The Board finds the application indicates that Applicant will construct a solar power electric generating facility.

e. The relationship between the Applicant's industry and the types of qualifying jobs to be created by the Applicant and the long-term economic growth plans of this State as described in the strategic plan for economic development submitted by the Texas Strategic Economic Development Planning Commission under Section 481.033, Texas Government Code, as that section existed before February 1, 1999. Texas Tax Code Section 313.026(a)(5).

The Board finds that there is a strong and positive relationship between the Applicant's industry as identified in the application, renewable energy, and the types of qualifying jobs to be created by the Applicant and the long-term economic growth plans of the State, which expects to cultivate continued economic growth in the energy sector.

f. The relative level of the Applicant's investment per qualifying job to be created by the Applicant. Texas Tax Code Section 313.026(a)(6).

The Board finds that the Application indicates: (i) the Applicant will create a total of 4 jobs for the entire solar power electric generating facility project, 3 of which are qualifying jobs as defined in Texas Tax Code Section 313.021(3); and that (ii) the anticipated total amount of investment is \$275,000,000; and that (iii) the investment per qualifying job is \$91,666,667. It is acknowledged that the investment figure may increase or decrease depending on the number of panels Applicant locates in the District and the appraised values set by the County Appraisal District.

g. The number of qualifying jobs to be created by the Applicant. Texas Tax Code Section 313.026(a)(7).

The Board finds that the Application indicates the Applicant will provide a total of 3 qualifying jobs.

h. The wages, salaries, and benefits to be offered by the Applicant to the qualifying job holders. Texas Tax Code Section 313.026(a)(8).

The Board finds that the Application indicates: (i) the qualified jobs provided by the Applicant will pay an average wage of \$866 weekly (\$45,056 annually), and (ii) the qualifying jobholders will be offered benefits such as health insurance that pays at least 80% of employees' health insurance, dental, flexible spending accounts, as well as short and long term disability insurance.

i. The ability of the Applicant to locate or relocate in another state or another region of this state. Texas Tax Code Section 313.026(a)(9).

The Board finds that the Applicant is actively involved in the development of solar power electric generating facilities throughout the United States and has the ability to easily relocate this project to an alternate location either inside or outside the State of Texas.

j. The impact the Project will have on this state and individual local units of governmental, including: (A) tax and other revenue gains, direct or indirect, that would be realized during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the Comptroller; and (B) economic effects of the Project, including the impact on jobs and income during the qualifying time period, the limitation period, and a period of time after the limitation period considered appropriate by the Comptroller. Texas Tax Code Section 313.026(a)(10).

The Board finds that the Project will result in revenue gains by the school district. The Board further finds that the economic effects on the local and regional tax base are that the tax base will increase as a result of the Project and additional employment.

k. The economic condition of the region of the state at the time the person's application is being considered. Texas Tax Code Section 313.026(a)(11).

The Board finds that the total employment in Travis County as of September, 2011 is 528,843, an increase of 1.2% since September, 2010. This represents a higher increase than the statewide average for the same period. In contrast, the unemployment rate in Travis County was 7.3% in September, 2011, up from 6.9 % in September, 2010. The 7.3% rating remains lower than the statewide average. Travis County's ranking in per capita income in 2009 was 29<sup>th</sup>, with an average per capita income of \$40,544, higher than the statewide average. The Board finds that the Applicant's renewable energy generation facility ("Project") will improve the economic condition of the County and the region.

l. The number of new facilities built or expanded in the region during the two years preceding the date of the Application that were eligible to apply for a limitation on appraised value under this subchapter B, chapter 313, Texas Tax Code. Texas Tax Code Section 313.026(a)(12).

The Board finds that no new facilities were built or expanded in the region during the two years preceding the date of the Application that have applied for a limitation on appraised value under subchapter B, chapter 313, Texas Tax Code.

m. The effect of the Applicant's proposal, if approved, on the number or size of the school district's instructional facilities, as defined by Section 46.001, Texas Education Code. Texas Tax Code Section 313.026(a)(13).

The Board finds that Applicant's project would not have a significant impact on the number or size of school facilities in Elgin ISD, as concluded by the Texas Education Agency following their review of the project.

n. The projected market value of the qualified property of the Applicant as determined by the Comptroller. Texas Tax Code Section 313.026(a)(14).

The Board finds that the projected market value of the qualified property of the Applicant as determined by the Comptroller varies over the next 15 years, and is estimated as shown in Attachment E (which is Schedule B of the Comptroller's report).

o. The proposed limitation on appraised value for the qualified property of the Applicant. Texas Tax Code Section 313.026(a)(15).

The Board finds that the proposed limitation on appraised value for the qualified property of the Applicant is \$10,000,000.00.

p. The projected dollar amount of the 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 with assumptions of the projected appreciation or depreciation of the investment and projected tax rates clearly stated. Texas Tax Code Section 313.026(a)(16).

The Board finds that the projected dollar amount of the taxes that would be imposed on the qualified property, for each year of the agreement, if the property does not receive tax incentives sought is shown on Attachment F, Table 3. Assumptions used in making relevant projections are as follows:

- The District's tax rate will remain at the same rate as for tax year 2009, except in school year(s) 2012-2013 and 2013-2014, where a special ratified tax rate of \$1.17 for maintenance and operations and \$.37 for interest and sinking was used
- A tax collection rate of 100% on current year tax levy with no projected delinquent taxes.
- A constant taxable value was used with no projected increase or decrease, except as it related to the requested LAVA. The District's 2009 taxable value was used as a baseline for all projections.
- The District's enrollment is projected to remain constant; therefore, the projected ADA and WADA for school year 2009-2010 was used for the life of the agreement.

q. The projected dollar amount of the taxes that would be imposed on the qualified property, for each tax year of the agreement, if the property receives a limitation on appraised value with assumptions of the projected appreciation or depreciation of the investment clearly stated. Texas Tax Code Section 313.026(a)(17).

The Board finds that the projected dollar amount of the taxes that would be imposed on the qualified property, for each tax year of the agreement, if the property receives tax incentives sought is shown on Attachment F, Table 2. Assumptions used in making relevant projections are as follows:

- The District's tax rate will remain at the same rate as for tax year 2009, except in school year(s) 2012-2013 and 2013-2014, where a special ratified tax rate of \$1.17 for maintenance and operations and \$.37 for interest and sinking was used.
- A tax collection rate of 100% on current year tax levy with no projected delinquent taxes.
- A constant taxable value was used with no projected increase or decrease, except as it related to the requested LAVA. The District's 2009 taxable value was used as a baseline for all projections.
- The District's enrollment is projected to remain constant; therefore, the projected ADA and WADA for school year 2009-2010 was used for the life of the agreement.

r. The projected effect on the Foundation School Program of payments to the District for each year of the agreement. Texas Tax Code Section 313.026(a)(18).

The Board finds that the projected effect on the Foundation School Program of payments to the District for each year of the agreement is shown on Attachment F.

s. The projected future tax credits if the Applicant also applies for school tax credits under Section 313.103. Texas Tax Code Section 313.026(a)(19).

The Board finds that the future tax credits is zero based on Applicant's representation that no investment will be subject to tax in years one and two of the Agreement.

t. The total amount of taxes projected to be lost or gained by the District over the life of the agreement computed by subtracting the projected taxes stated in section 8.n from the projected taxes stated in section 8.m. Texas Tax Code Section 313.026(a)(20).

The Board finds that the total amount of taxes projected to be lost or gained by the District over the life of the agreement computed by subtracting the projected taxes stated in section 8.q from the projected taxes stated in section 8.p are shown on Attachment F.

9. The Board finds that the job creation requirement of ten (10) new jobs exceeds the industry standard for the number of employees reasonably necessary for the operation of the Project described in the Application, and, that it is reasonable to waive the job creation requirement as requested by Applicant. Texas Tax Code Sections 313.051(b), 313.025(f-1).

10. The information in the Application submitted by Applicant is true and correct.

11. The Applicant is eligible for the limitation on the appraised value of the Applicant's qualified property.

12. The proposed Texas Economic Development Act Participation Agreement by and among Elgin Independent School District and Applicant ("Agreement"), attached hereto as Attachment D, includes adequate and appropriate revenue protection provisions for the District.

13. Considering the purpose and effect of the law and the terms of the Agreement, granting the Application and entering the Agreement are in the best interest of the District and the State.

14. The Applicant, RRE Austin Solar, LLC, a Texas limited liability company, (Tex. Taxpayer ID 32040958400) is an entity subject to Chapter 171, Texas Tax Code and is certified to be in good standing with the Texas Comptroller of Public Accounts.

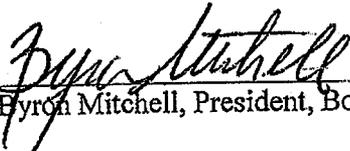
15. It is hereby found, determined and declared that sufficient written notice of the date, time, place and subject of the meeting of the Board of Trustees of the District at which these Findings were made was posted at a place convenient and readily accessible at all times to the general public for the time required by law preceding this meeting, as required by chapter 551, Texas Government Code, and that this meeting has been open to the public as required by law at all times during which these Findings were made and the subject matter thereof has been discussed, considered and formally acted upon. The Board of Trustees further ratifies, approves and confirms such written notice and posting thereof.

It is therefore ORDERED that:

1. The Application of RRE Austin Solar, LLC, a Texas limited liability company for a limitation on the appraised value for school district maintenance and operations ad valorem tax purposes of qualified property is approved.
2. The Agreement attached hereto as Attachment D is approved and is hereby authorized to be executed and delivered by and on behalf of the District.
3. These findings and the Attachments referred to herein be attached to the Official Minutes of this meeting, and maintained in the permanent records of the Board of Trustees of the District.

Dated the 12<sup>th</sup> day of December, 2011.

**ELGIN INDEPENDENT SCHOOL DISTRICT**

By:   
Byron Mitchell, President, Board of Trustees

**ATTEST:**  
By:   
Kim Christensen, Secretary, Board of Trustees