

WALSH, ANDERSON,  
GALLEGOS, GREEN  
and TREVIÑO, P.C.

ATTORNEYS AT LAW

November 19, 2013

Ms. Michelle Luera  
Regional Fiscal Analysis  
Local Government Assistance and  
Economic Development Division  
Texas Comptroller of Public Accounts  
111 E. 17<sup>th</sup> Street  
Austin, Texas 78774

**VIA FEDERAL EXPRESS**

Re: Marfa Independent School District (“District”) / Tax Limitation Agreement:  
Alpine 1 Solar LLC (“Applicant”)

Dear Ms. Luera:

Pursuant to Tax Code §313.025(b) and 34 TAC Rules §9.1053(a)(2) and 9.1054(c),  
attached are the following:

1. One (1) copy of the Application for Appraised Value Limitation on Qualified Property (“Application”) submitted to the Marfa Independent School District by Alpine 1 Solar LLC without confidential documents.
2. Confidential documents containing Attachments 4, 17, 18, 19 and 20.
3. One (1) electronically digitized copy of the Application.
4. Proof of Payment, Marfa Independent School District letter dated November 18, 2013 confirming wire transfer in the amount of \$75,000.00 (Attachment 2 to Application).

The Application was received on November 12, 2013. The Board of Trustees of the District elected to consider the application on November 18, 2013. The District determined the Application was complete on November 18, 2013.

The District requests that the Comptroller provide an economic impact evaluation.

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One International Centre  
100 N.E. Loop 410, #900  
San Antonio, Texas 78216

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Ms. Michelle Luera  
November 19, 2013  
Page 2

By copy of this letter we are notifying the Applicant that the District has submitted the Application to the Comptroller and to the Presidio County Appraisal District.

Please call if you have any questions.

Very truly yours,



GEORGE E. GRIMES, JR.

GEG/paw  
Enclosures

cc: Presidio County Appraisal District  
*(Certified Mail No. 7012 2210 0000 6483 8574; Return Receipt Requested; w/enclosures)*

John Lichtenburger, Project Developer, First Solar Inc.  
*(Certified Mail No. 7012 2210 0000 6483 8581; Return Receipt Requested; w/o enclosures)*

Andrew Peters, Superintendent of Schools  
*(Via U.S. Postal Service; w/o enclosures)*



# Application for Appraised Value Limitation on Qualified Property (Tax Code, Chapter 313, Subchapter B or C)

**Form 50-296**  
(Revised July 2013)

**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 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 original completed application to the Comptroller in a three-ring binder with tabs separating each section of the documents, in addition to an electronic copy on CD. 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, the Comptroller will publish all submitted 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 rules as explained in the Confidentiality Notice below.

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. 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, make a recommendation to the school board regarding the application and prepare an economic impact evaluation 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 before the 151st day after the application review start date (the date the application is finally determined to be complete), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to complete the recommendation, 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 [www.texasahead.org/tax\\_programs/chapter313/](http://www.texasahead.org/tax_programs/chapter313/). There are links on this Web page to the Chapter 313 statute, rules and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

## SCHOOL DISTRICT INFORMATION – CERTIFICATION OF APPLICATION

<b>Authorized School District Representative</b>		Date Application Received by District November 12, 2013	
First Name Andrew	Last Name Peters		
Title Superintendent			
School District Name Marfa Independent School District			
Street Address 400 W. Lincoln			
Mailing Address P.O. Box T			
City Marfa	State TX	ZIP 79843	
Phone Number 432-729-5500	Fax Number 432-729-4310		
Mobile Number (optional)	Email Address apeters@marfaisd.com		

I authorize the consultant to provide and obtain information related to this application.  Yes  No

Will consultant be primary contact?  Yes  No

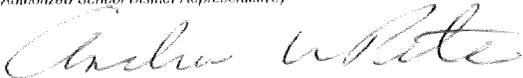


**SCHOOL DISTRICT INFORMATION – CERTIFICATION OF APPLICATION (CONTINUED)**

**Authorized School District Consultant (If Applicable)**

First Name George E., Jr	Last Name Grimes
Title Attorney / Shareholder	
Firm Name Walsh, Anderson, Gallegos, Green and Trevino, P.C.	
Street Address 100 N.E. Loop 410, Suite 900	
Mailing Address 100 N.E. Loop 410, Suite 900	
City San Antonio	State Texas
	ZIP 78216
Phone Number (210) 979-6633	Fax Number (210) 979-7024
Mobile Number (Optional)	Email Address ggrimes@wabsa.com

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.

Signature (Authorized School District Representative)  Date 11-18-2013

Has the district determined this application complete?  Yes  No

If yes, date determined complete. \_\_\_\_\_

Have you completed the school finance documents required by TAC 9.1054(c)(3)?  Yes  No

**SCHOOL DISTRICT CHECKLIST AND REQUESTED ATTACHMENTS**

	Checklist	Page X of 16	Check Completed
1	Date application received by the ISD	1 of 16	✓
2	Certification page signed and dated by authorized school district representative	2 of 16	✓
3	Date application deemed complete by ISD	2 of 16	✓
4	Certification pages signed and dated by applicant or authorized business representative of applicant	4 of 16	✓
5	Completed company checklist	12 of 16	✓
6	School finance documents described in TAC 9.1054(c)(3) (Due within 20 days of district providing notice of completed application)	2 of 16	

**APPLICANT INFORMATION – CERTIFICATION OF APPLICATION**

**Authorized Business Representative (Applicant)**

First Name Kathryn		Last Name Arbeit	
Title Director, Project Development			
Organization First Solar, Inc.			
Street Address 135 Main Street, 6th Floor			
Mailing Address 135 Main Street, 6th Floor			
City San Francisco		State California	ZIP 94105
Phone Number 415-935-2487		Fax Number 415-894-6207	
Mobile Number (optional)		Business Email Address karbeit@firstsolar.com	

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

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

First Name NA		Last Name	
Title			
Organization			
Street Address			
Mailing Address			
City		State	ZIP
Phone Number		Fax Number	
Mobile Number (optional)		Email Address	

I authorize the consultant to provide and obtain information related to this application.  Yes  No

Will consultant be primary contact?  Yes  No

APPLICANT INFORMATION - CERTIFICATION OF APPLICATION (CONTINUED)

Authorized Company Consultant (If Applicable)

First Name

John

Last Name

Lichtenberger

Title

Project Developer, Contractor for First Solar, Inc.

Firm Name

First Solar, Inc.

Street Address

Mailing Address

P.O. Box 27173

City

Austin

State

Texas

ZIP

78755

Phone Number

(512) 924-8119

Fax Number

Business Email Address

john.lichtenberger@firstsolar.com

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 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.

Signature (Authorized Business Representative (Applicant))

*Handwritten signature*

Date

November 14, 2013

GIVEN under my hand and seal of office this \_\_\_\_\_ day of \_\_\_\_\_

*(see attached notional certificate)*

Notary Public, State of \_\_\_\_\_

(Notary Seal)

My commission expires \_\_\_\_\_

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 § 37.10.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

CIVIL CODE § 1189

State of California

County of San Francisco

On Nov 14, 2013 before me, Ruth G. Bolender, Notary Public

personally appeared Kathryn Arbeit

Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.



I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: Ruth G. Bolender, Signature of Notary Public

Place Notary Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document: Application for Approved Value Limitation on Qualified Applicant

Document Date: November 14, 2013

Number of Pages: 14

Signer(s) Other Than Named Above:

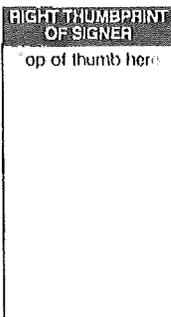
Capacity(ies) Claimed by Signer(s)

Signer's Name: Kathryn Arbeit

- Corporate Officer - Title(s):
Individual
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator

Other: Business Representative

Signer Is Representing: First Solar Inc

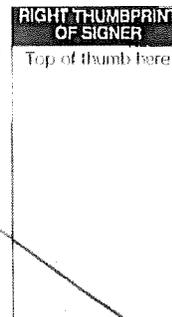


Signer's Name:

Corporate Officer - Title(s):

- Individual
Partner - Limited General
Attorney in Fact
Trustee
Guardian or Conservator
Other:

Signer Is Representing:



**FEES AND PAYMENTS**

Enclosed is proof of application fee paid to the school district.

For the purpose of this question, "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.

Please answer only either A OR B:

A. 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

B. 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

**BUSINESS APPLICANT INFORMATION**

Legal Name Under Which Application is Made Alpine 1 Solar, LLC	
Texas Taxpayer I.D. Number of Entity Subject to Tax Code, Chapter 171 (11 digits) 32045103648	
NAICS Code 221114 (2012 version), 221119 (1997 version)	
Is the applicant a party to any other Chapter 313 agreements? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
If yes, please list name of school district and year of agreement. NA	

**APPLICANT BUSINESS STRUCTURE**

Registered to do business in Texas with the Texas Secretary of State?  Yes  No

Identify Business Organization of Applicant (corporation, limited liability corporation, etc.) Limited Liability Company
---

1. Is the applicant a combined group, or comprised of members of a combined group, as defined by Texas Tax Code Chapter 171.0001(7)?  Yes  No  
If so, please attach documentation of the combined group membership and contact information.

2. Is the applicant current on all tax payments due to the State of Texas?  Yes  No

3. Are all applicant members of the combined group current on all tax payments due to the State of Texas?  NA  Yes  No  
If the answer to either question is no, please explain and/or disclose any history of default, delinquencies and/or any material litigation, including litigation involving the State of Texas. (Use attachment if necessary.)

THIS PAGE IS CONFIDENTIAL

**ECONOMIC INCENTIVES**

Identify state programs the project will apply for:

State Source	Amount
NA	NA
Total	NA

Will other incentives be offered by local units of government?  Yes  No

Please use the following box for additional details regarding incentives. (Use attachments if necessary.)

Alpine 1 Solar, LLC applied for and received unanimous approval for a Chapter 312 property tax abatement from Presidio County Commissioners Court on October 8, 2013. Alpine 1 Solar, LLC will also apply for a property tax abatement with the Big Bend Hospital District.

**THE PROPERTY**

Identify county or counties in which the proposed project will be located Presidio County, TX

Central Appraisal District (CAD) that will be responsible for appraising the property Presidio County Appraisal District

Will this CAD be acting on behalf of another CAD to appraise this property?  Yes  No

List all taxing entities that have jurisdiction for the property and the portion of project within each entity

County: <u>Presidio (100%)</u> <small>(Name and percent of project)</small>	City: <u>NA</u> <small>(Name and percent of project)</small>
Hospital District: <u>Big Bend (100%)</u> <small>(Name and percent of project)</small>	Water District: <u>NA</u> <small>(Name and percent of project)</small>
Other (describe): <u>NA</u> <small>(Name and percent of project)</small>	Other (describe): <u>NA</u> <small>(Name and percent of project)</small>

Is the project located entirely within this ISD?  Yes  No

If not, please provide additional information on the project scope and size to assist in the economic analysis.

**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 rural, 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 [www.texasahead.org/tax\\_programs/chapter313/](http://www.texasahead.org/tax_programs/chapter313/).

At the time of application, what is the estimated minimum qualified investment required for this school district? ..... \$10,000,000.00

What is the amount of appraised value limitation for which you are applying? ..... \$10,000,000.00

What is your total estimated *qualified* investment? ..... \$85,000,000.00

**NOTE:** See 313.021(1) for full definition. Generally, Qualified Investment is the sum of the investment in tangible personal property and buildings and new improvements made between beginning of the qualifying time period (date of application final approval by the school district) and the end of the second complete tax year.

What is the anticipated date of application approval? ..... March 2014

What is the anticipated date of the beginning of the qualifying time period? ..... January 2015

What is the total estimated investment for this project for the period from the time of application submission to the end of the limitation period? ..... \$85,000,000.00

Describe the qualified investment. [See 313.021(1).]

Attach the following items to this application:

- (1) a specific and detailed description of the qualified investment you propose to make on the property for which you are requesting an appraised value limitation as defined by Tax Code §313.021,
- (2) a description of any new buildings, proposed improvements or personal property which you intend to include as part of your minimum qualified investment and
- (3) a map of the qualified investment showing location of new buildings or new improvements with vicinity map.

Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or 313.053 for rural school districts) for the relevant school district category during the qualifying time period? .....  Yes  No

Except for new equipment described in Tax Code §151.318(q) or (q-1), is the proposed tangible personal property to be placed in service for the first time:

- (1) in or on the new building or other new improvement for which you are applying? .....  Yes  No
- (2) if not in or on the new building or other new improvement for which you are applying for an appraised value limitation, is the personal property necessary and ancillary to the business conducted in the new building or other new improvement? .....  Yes  No
- (3) on the same parcel of land as the building for which you are applying for an appraised value limitation? .....  Yes  No

("First placed in service" means the first use of the property by the taxpayer.)

Will the investment in real or personal property you propose be counted toward the minimum qualified investment required by Tax Code §313.023, (or 313.053 for rural school districts) be first placed in service in this state during the applicable qualifying time period? ..  Yes  No

Does the investment in tangible personal property meet the requirements of Tax Code §313.021(1)? .....  Yes  No

If the proposed investment includes a building or a permanent, non-removable component of a building, does it house tangible personal property?  Yes  No

**QUALIFIED PROPERTY**

Describe the qualified property. [See 313.021(2)] (If qualified investment describes qualified property exactly you may skip items (1), (2) and (3) below.)

Attach the following items to this application:

- (1) 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,
- (2) a description of any new buildings, proposed improvements or personal property which you intend to include as part of your qualified property and
- (3) a map of the qualified property showing location of new buildings or new improvements – with vicinity map.

**Land**

Is the land on which you propose new construction or 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

If you answered "no" to the question above, what is the anticipated date on which you will submit proof of a reinvestment zone with boundaries encompassing the land on which you propose new construction or improvements? ....

Will the applicant own the land by the date of agreement execution? .....  Yes  No

Will the project be on leased land? .....  Yes  No

**QUALIFIED PROPERTY (CONTINUED)**

If the land upon which the new building or new improvement is to be built is part of the qualified property described by §313.021(2)(A), please attach complete documentation, including:

1. Legal description of the land
2. Each existing appraisal parcel number of the land on which the improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property
3. Owner
4. The current taxable value of the land. Attach estimate if land is part of larger parcel.
5. A detailed map (with a vicinity map) showing the location of the land

Attach a map of the reinvestment zone boundaries, certified to be accurate by either the governmental entity creating the zone, the local appraisal district, or a licensed surveyor. (With vicinity map)

Attach the order, resolution or ordinance establishing the zone, and the guidelines and criteria for creating the zone, if applicable.

**Miscellaneous**

Is the proposed project a building or new improvement to an existing facility?  Yes  No

Attach a description of any existing improvements and include existing appraisal district account numbers.

List current market value of existing property at site as of most recent tax year. \$0.00 2012  
(Market Value) (Tax Year)

Is any of the existing property subject to a value limitation agreement under Tax Code 313?  Yes  No

Will all of the property for which you are requesting an appraised value limitation be free of a tax abatement agreement entered into by a school district for the duration of the limitation?  Yes  No

**WAGE AND EMPLOYMENT INFORMATION**

What is the estimated number of permanent jobs (more than 1,600 hours a year), with the applicant or a contractor of the applicant, on the proposed qualified property during the last complete quarter before the application review start date (date your application is finally determined to be complete)? 0

The last complete calendar quarter before application review start date is the:  
 First Quarter  Second Quarter  Third Quarter  Fourth Quarter 2013  
(year)

What were the number of permanent jobs (more than 1,600 hours a year) this applicant had in Texas during the most recent quarter reported to the TWC? 0

**Note:** For job definitions see TAC §9.1051(14) and Tax Code 313.021(3). If the applicant intends to apply a definition for "new job" other than TAC §9.1051(14)(C), then please provide the definition of "new job" as used in this application.

Total number of new jobs that will have been created when fully operational 1

Do you plan to create at least 25 new jobs (at least 10 new jobs for rural school districts) on the land and in connection with the new building or other improvement?  Yes  No

Do you intend to request that the governing body waive the minimum new job creation requirement, as provided under Tax Code §313.025(f-1)?  Yes  No

If you answered "yes" to the question above, attach evidence documenting that the new job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards. **Note: Even if a minimum new job waiver is provided, 80% of all new jobs must be qualifying jobs pursuant to Texas Tax Code, §313.024(d).**

What is the maximum number of qualifying jobs meeting all criteria of §313.021(3) you are committing to create? 1

If this project creates more than 1,000 new jobs, the minimum required wage for this project is 110% of the average county weekly wage for all jobs as described by 313.021(3)(E)(ii).

If this project creates less than 1,000 new jobs, does this district have territory in a county that meets the demographic characteristics of 313.051(2)? (see table of information showing this district characteristic at [www.texasahead.org/tax\\_programs/chapter313/](http://www.texasahead.org/tax_programs/chapter313/))

If yes, the applicant must meet wage standard described in 313.051(b) (110% of the regional average weekly wage for manufacturing)

If no, the applicant shall designate one of the wage standards set out in §§313.021(5)(A) or 313.021(5)(B).

**WAGE AND EMPLOYMENT INFORMATION (CONTINUED)**

For the following three wage calculations please include on an attachment the four most recent quarters of data for each wage calculation. Show the average and the 110% calculation. Include documentation from TWC 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 from the four quarterly periods for which data were available at the time of the application review start date (date of a completed application). See TAC §9.1051(7).

110% of the county average weekly wage for all jobs (all industries) in the county is .....	\$802.00
110% of the county average weekly wage for manufacturing jobs in the county is .....	No Info Available
110% of the county average weekly wage for manufacturing jobs in the region is .....	\$711.48

Please identify which Tax Code section you are using to estimate the wage standard required for this project:

- §313.021(5)(A) or  §313.021(5)(B) or  §313.021(3)(E)(ii), or  §313.051(b)?

What is the estimated minimum required annual wage for each qualifying job based on the qualified property? .....

\$36,994.10

What is the estimated minimum required annual wage you are committing to pay for each of the qualifying jobs you create on the qualified property? .....

\$36,994.10

- Will 80% of all new jobs created by the owner be qualifying jobs as defined by 313.021(3)? .....  Yes  No
- Will each qualifying job require at least 1,600 of work a year? .....  Yes  No
- Will any of the qualifying jobs be jobs transferred from one area of the state to another? .....  Yes  No
- Will any of the qualifying jobs be retained jobs? .....  Yes  No
- Will any of the qualifying jobs be created to replace a previous employee? .....  Yes  No
- Will any required qualifying jobs be filled by employees of contractors? .....  Yes  No

If yes, what percent? NA

Does the applicant or contractor of the applicant offer to pay at least 80% of the employee's health insurance premium for each qualifying job? .....  Yes  No

Describe each type of benefits to be offered to qualifying jobholders. *(Use attachments as necessary.)*

The standard First Solar employee benefits would be offered to the qualifying jobholder. See attachment.

**ECONOMIC IMPACT**

- Is an Economic Impact Analysis attached (If supplied by other than the Comptroller's office)? .....  Yes  No
- Is Schedule A completed and signed for all years and attached? .....  Yes  No
- Is Schedule B completed and signed for all years and attached? .....  Yes  No
- Is Schedule C (Application) completed and signed for all years and attached? .....  Yes  No
- Is Schedule D completed and signed for all years and attached? .....  Yes  No

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

If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, please attach a separate schedule showing the amount for each year affected, including an explanation.

**CONFIDENTIALITY NOTICE**

**Property Tax Limitation Agreement Applications**  
**Texas Government Code Chapter 313**  
**Confidential Information Submitted to the Comptroller**

Generally, an application for property tax value limitation, the information provided therein, and documents submitted in support thereof, are considered public information subject to release under the Texas Public Information Act.

There is an exception, outlined below, by which information will be withheld from disclosure.

The Comptroller's office will withhold information from public release if:

- 1) it describes the specific processes or business activities to be conducted or the specific tangible personal property to be located on real property covered by the application;
- 2) the information has been segregated in the application from other information in the application; and
- 3) the party requesting confidentiality provides the Comptroller's office a list of the documents for which confidentiality is sought and for each document lists the specific reasons, including any relevant legal authority, stating why the material is believed to be confidential.

All applications and parts of applications which are not segregated and marked as confidential as outlined above will be considered public information and will be posted on the internet.

Such information properly identified as confidential will be withheld from public release unless and until the governing body of the school district acts on the application, or we are directed to do so by a ruling from the Attorney General.

Other information in the custody of a school district or the comptroller submitted in connection with the application, including information related to the economic impact of a project or the essential elements of eligibility under Texas Tax Code, Chapter 313, such as

the nature and amount of the projected investment, employment, wages, and benefits, will not be considered confidential business information and will be posted on the internet.

All documents submitted to the Comptroller, as well as all information in the application once the school district acts thereon, are subject to public release unless specific parts of the application or documents submitted with the application are identified as confidential. Any person seeking to limit disclosure of such submitted records is advised to consult with their legal counsel regarding disclosure issues and also to take the appropriate precautions to safeguard copyrighted material, trade secrets, or any other proprietary information. The Comptroller assumes no obligation or responsibility relating to the disclosure or nondisclosure of information submitted by respondents. A person seeking to limit disclosure of information must submit in writing specific detailed reasons, including any relevant legal authority, stating why that person believes the material to be confidential.

The following outlines how the Comptroller's office will handle requests for information submitted under the Texas Public Information Act for application portions and submitted records appropriately identified as confidential.

- This office shall forward the request for records and a copy of the documents at issue to the Texas Attorney General's office for an opinion on whether such information may be withheld from disclosure under the Texas Public Information Act.
- The Comptroller will notify the person who submitted the application/documents when the information is forwarded to the Attorney General's office.
- Please be aware that this Office is obligated to comply with an Attorney General's decision, including release of information ruled public even if it was marked confidential.

COMPANY CHECKLIST AND REQUESTED ATTACHMENTS			
	Checklist	Page X of 16	Check Completed
1	Certification pages signed and dated by Authorized Business Representative (applicant)	4 of 16	✓
2	Proof of Payment of Application Fee (Attachment)	5 of 16	✓
3	For applicant members, documentation of Combined Group membership under Texas Tax Code 171.0001(7) (if Applicable) (Attachment)	5 of 16	
4	Detailed description of the project	6 of 16	✓
5	If project is located in more than one district, name other districts and list percentage in each district (Attachment)	7 of 16	
6	Description of Qualified Investment (Attachment)	8 of 16	✓
7	Map of qualified investment showing location of new buildings or new improvements with vicinity map.	8 of 16	✓
8	Description of Qualified Property (Attachment)	8 of 16	✓
9	Map of qualified property showing location of new buildings or new improvements with vicinity map	8 of 16	✓
10	Description of Land (Attachment)	9 of 16	✓
11	A detailed map showing location of the land with vicinity map.	9 of 16	✓
12	A description of all existing (if any) improvements (Attachment)	9 of 16	✓
13	Request for Waiver of Job Creation Requirement (if applicable) (Attachment)	9 of 16	✓
14	Calculation of three possible wage requirements with TWC documentation. (Attachment)	10 of 16	✓
15	Description of Benefits	10 of 16	✓
16	Economic Impact (if applicable)	10 of 16	
17	Schedule A completed and signed	13 of 16	✓
18	Schedule B completed and signed	14 of 16	✓
19	Schedule C (Application) completed and signed	15 of 16	✓
20	Schedule D completed and signed	16 of 16	✓
21	Map of Reinvestment Zone (Attachment) (Showing the actual or proposed boundaries and size, Certified to be accurate by either the government entity creating the zone, the local appraisal district, or a licensed surveyor, with vicinity map)*	9 of 16	✓
22	Order, Resolution, or Ordinance Establishing the Zone (Attachment)*	9 of 16	✓
23	Legal Description of Reinvestment Zone (Attachment)*	9 of 16	✓
24	Guidelines and Criteria for Reinvestment Zone(Attachment)*	9 of 16	✓

\* To be submitted with application or before date of final application approval by school board.

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)*

ATTACHMENT 3

NOT APPLICABLE

ATTACHMENT 4  
Detailed Description of Project

Alpine 1 Solar, LLC (“Alpine Solar”) proposes to develop a utility-scale, grid-connected solar photovoltaic energy (PV) plant within the Marfa School District. The project will be located approximately 12 miles east of Marfa along the south side of Highway 90. The first phase of the solar project is planned to be in operation in mid 2015. The second phase is scheduled for completion by the end of 2016.

The project will be constructed on approximately 600 acres, which is part of a larger, long-term lease agreement with a local landowner. The project will be located entirely within Reinvestment Zone No. 2, in Presidio County and within the Marfa Independent School District. The proposed project will include, but is not limited to, the following:

- Planned for up to 60 MW-AC in size;
- Approximately 680,000 First Solar PV modules;
- Approximately 40 DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Fixed-tilt or single-axis tracking systems (mounting structures);
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, and building, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Meteorological equipment to measure solar irradiance and other weather conditions;
- Operations and maintenance (O&M) building; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

Alpine 1 Solar, LLC is a wholly owned subsidiary of First Solar, Inc. (“First Solar”). First Solar is a global solar developer with project opportunities all across the United States. The ability to enter into a limited appraisal valuation agreement with the Marfa Independent School District is a motivating factor for constructing the project in Presidio County, Texas, as opposed to building and investing in another state or region.

Please see below for a layout of the project. Also included in the diagram is a vicinity map.

ATTACHMENT 4  
Detailed Description of Project

**About First Solar**

First Solar is the leading global provider of comprehensive photovoltaic (PV) solar energy solutions. With vertically integrated capabilities improving every aspect of the solar value chain, First Solar delivers power plant solutions that maximize value and mitigate risk for customers worldwide.

**Leadership Achieving Cost and Scale**

First Solar was formed in 1999 and has become the world's leading thin film module manufacturer. First Solar is the:

- 1st solar company to produce 1 gigawatt (GW) in a single year
- 1st solar company to break the \$1/watt manufacturing cost barrier
- 1st solar company to implement a global PV module recycling program
- World-record-holder for CdTe thin film solar module (14.4%) and cell (18.7%) efficiency

**Leadership across the Entire Value Chain**

First Solar has gained industry-leading capabilities across the entire solar value chain to become the world's leading provider of PV energy solutions. First Solar has:

- Developed the largest solar project pipeline in the world (currently nearly 3GW contracted worldwide)
- Sold PV power plants to top power producers and energy investors in the industry
- Facilitated the financing for nearly ~2GW (AC) (representing approximately ~\$9 billion) of First Solar power plants
- Designed and constructed over 1.5GW of PV power plants, including the world's largest and most advanced operational PV plant: Agua Caliente in Arizona, USA
- Developed the most advanced grid integration and plant control capability in the solar industry
- Made significant improvements throughout the balance of system to optimize the entire PV power plant and reduce lifecycle costs
- Developed the industry's most advanced O&M program and world-class Operations Center
- Achieved system availabilities of over 99% for fleet of utility-scale PV plants under operation (over 650MW growing to 2.2 GW)

ATTACHMENT 4  
Detailed Description of Project

**Leadership Integrating into the Global Energy Mix**

First Solar's mission is to create enduring value by enabling a world powered by clean, affordable solar electricity. By providing an economically attractive alternative to fossil fuel electricity generation today, First Solar is integrating solar power into the global energy mix.

First Solar delivers advanced PV energy solutions to contemporary problems such as fuel cost volatility and energy supply reliability. First Solar energy solutions include utility-scale generation, industrial power, and fuel replacement solutions. With our proprietary technologies, industry expertise, and proven track record of success, First Solar PV power plants integrate and operate more like traditional generation plants and are the smartest source for reliable and dependable solar energy.

ATTACHMENT 5

NOT APPLICABLE

ATTACHMENT 6  
Description of Qualified Investment

The Qualified Investment is described below:

- Planned up to 60 MW-AC in size;
- Approximately 680,000 First Solar PV modules;
- Approximately 40 DC-to-AC inverters;
- Medium and high-voltage electric cabling;
- Fixed-tilt or single-axis tracking systems (mounting structures);
- Project substation which will include a high-voltage transformer, switchgear, transmission equipment, telecommunications and SCADA equipment, and building, among other things;
- High-voltage transmission line connecting the project to the grid (gen tie);
- Meteorological equipment to measure solar irradiance and other weather conditions;
- Operations and maintenance (O&M) building; and
- Associated equipment to safely operate, maintain and deliver electricity to the grid.

Please see below for a layout of the project. Also included in the diagram is a vicinity map.

ATTACHMENT 7  
Map of Qualified Investment, Location of New Improvements

Please see below for a map of the Qualified Investment showing the location of the New Improvements. The New Improvements will be located entirely within the Reinvestment Zone and primarily within the fenced area depicted by the light blue broken line that is immediately adjacent to and outside of the access road depicted by the green line. Other New Improvements such as the high-voltage gen tie transmission line, telecommunication lines and other utilities will be located outside of the fenced area. Also included in the diagram is a vicinity map. All improvements will be inside the boundaries of the reinvestment zone.

ATTACHMENT 8

*See* ATTACHMENT NO.s 6 & 7

ATTACHMENT 9

*See* ATTACHMENT NO.s 6 & 7

ATTACHMENT 10

*See* ATTACHMENT NO.s 6 & 7

ATTACHMENT 11

*See* ATTACHMENT NO.s 6 & 7

ATTACHMENT 12

*See* ATTACHMENT NO.s 6 & 7

ATTACHMENT 13  
Request for Waiver of Job Creation Requirement



November 5, 2013

Mr. Andrew Peters  
Superintendent  
Marfa Independent School District  
400 W. Lincoln  
Marfa, Texas 79843

Re: Chapter 313 Job Waiver Request for Alpine Solar 1 Project

Dear Mr. Peters:

This letter is to request a waiver of the requirement to create 10 full-time, permanent jobs as part of the Appraised Value Limitation application for Alpine Solar 1, LLC ("Alpine Solar 1")'s solar energy project east of Marfa. Alpine Solar 1 is a wholly owned subsidiary of First Solar, Inc. ("First Solar"). Section 313.025 (f-1) allows a school district to waive the new jobs creation requirement if it finds that the requirement "exceeds the industry standard for the number of employees reasonably necessary for the operation of the facility of the property owner that is described in the application."

With more than 7 gigawatts (GW) installed worldwide, First Solar is the world leader in photovoltaic (PV) solar energy solutions. First Solar's fully integrated solar power systems business includes project development, engineering, procurement and construction (EPC) services, operating and maintenance (O&M) services, and project finance expertise. First Solar has completed construction on 1 GW of projects and has a contracted project pipeline under development or construction of 3 GW. In addition, First Solar has developed the industry's most advanced O&M group, currently operating 19 utility-scale PV plants with 1.8 GWh of total energy generated from plants under operation to date. First Solar's Network Operations Center ("NOC"), located in Mesa AZ, oversees and monitors these plants as well as other assets on a 24x7 hourly basis utilizing the latest technology.

First Solar requests that the Marfa Independent School District waive the new job creation requirement for 10 full-time, permanent jobs. Taking into account industry standards, the size and scope of the Alpine Solar 1 Project and First Solar's extensive experience operating solar plants, First Solar expects to permanently employ one maintenance technician for this facility.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Kathryn Arbeit".

Kathryn Arbeit  
Director, Project Development

135 Main Street, 6<sup>th</sup> Floor  
San Francisco, California 94105

Phone: +1 (415) 935-2500  
Fax: +1 (415) 935-2501

[www.firstsolar.com](http://www.firstsolar.com)

ATTACHMENT 14  
Calculation for Wage Requirements with TWC Documentation

**Weekly Wage Calculations**

Presidio County All Industries

	Raw Data	110%
Q3 2012	\$696	\$766
Q4 2012	\$771	\$848
Q1 2013	\$705	\$776
Q2 2013	\$743	\$817
Average	\$729	\$802

Presidio County Manufacturing

	Raw Data	110%
Q3 2012	NA	NA
Q4 2012	NA	NA
Q1 2013	NA	NA
Q2 2013	NA	NA
Average	NA	NA

\* Manufacturing data is not available for Presidio County

Source: <http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Industry>

ATTACHMENT 14  
Calculation for Regional Wage Requirements with Documentation

<b>2012 Manufacturing Wages by Council of Government Region Wages for All Occupations</b>		
COG	Wages	
	Hourly	Annual
<b>Texas</b>	<b>\$23.56</b>	<b>\$48,996</b>
<u>1. Panhandle Regional Planning Commission</u>	\$20.12	\$41,850
<u>2. South Plains Association of Governments</u>	\$16.18	\$33,662
<u>3. NORTEX Regional Planning Commission</u>	\$17.83	\$37,076
<u>4. North Central Texas Council of Governments</u>	\$24.68	\$51,333
<u>5. Ark-Tex Council of Governments</u>	\$16.84	\$35,032
<u>6. East Texas Council of Governments</u>	\$19.61	\$40,797
<u>7. West Central Texas Council of Governments</u>	\$18.24	\$37,941
<b><u>8. Rio Grande Council of Governments</u></b>	<b>\$16.17</b>	<b>\$33,631</b>
<u>9. Permian Basin Regional Planning Commission</u>	\$21.93	\$45,624
<u>10. Concho Valley Council of Governments</u>	\$16.33	\$33,956
<u>11. Heart of Texas Council of Governments</u>	\$19.07	\$39,670
<u>12. Capital Area Council of Governments</u>	\$26.03	\$54,146
<u>13. Brazos Valley Council of Governments</u>	\$16.55	\$34,424
<u>14. Deep East Texas Council of Governments</u>	\$16.20	\$33,698
<u>15. South East Texas Regional Planning Commission</u>	\$29.38	\$61,118
<u>16. Houston-Galveston Area Council</u>	\$26.59	\$55,317
<u>17. Golden Crescent Regional Planning Commission</u>	\$21.03	\$43,742
<u>18. Alamo Area Council of Governments</u>	\$18.40	\$38,280
<u>19. South Texas Development Council</u>	\$13.54	\$28,170
<u>20. Coastal Bend Council of Governments</u>	\$22.97	\$47,786
<u>21. Lower Rio Grande Valley Development Council</u>	\$16.33	\$33,961
<u>22. Texoma Council of Governments</u>	\$22.57	\$46,949
<u>23. Central Texas Council of Governments</u>	\$17.16	\$35,689
<u>24. Middle Rio Grande Development Council</u>	\$18.93	\$39,380

Source: Texas Occupational Employment and Wages  
Data published: July 2013  
Data published annually, next update will be July 31, 2014

Note: Data is not supported by the Bureau of Labor Statistics (BLS).  
Wage data is produced from Texas OES data, and is not to be compared to BLS estimates.  
Data intended for TAC 313 purposes only.

Regional Manufacturing Wage Calculation

COG Region	Hourly (raw data)	Weekly (Calculated)	Annual (raw data)
Rio Grande	\$16.17	\$646.80	\$33,631.00
110%	\$17.79	\$711.48	\$36,994.10

ATTACHMENT 15  
Description of Benefits

Qualified jobholders will be offered First Solar's standard employee benefits package. First Solar currently offers the following benefits to its full-time employees:

- Medical and Prescription,
- Dental,
- Basic Life Insurance,
- Accidental Death & Dismemberment (AD&D),
- Supplemental Life Insurance and AD&D,
- Dependent Life Insurance and AD&D,
- Short-term Disability,
- Long-term Disability,
- Employee Assistance Program (EAP),
- Flexible Spending Accounts (FSA),
- 401(k) Retirement Plan,
- Stock Purchase Plan,
- Tuition Reimbursement, and
- Paid Holidays and Paid Time Off

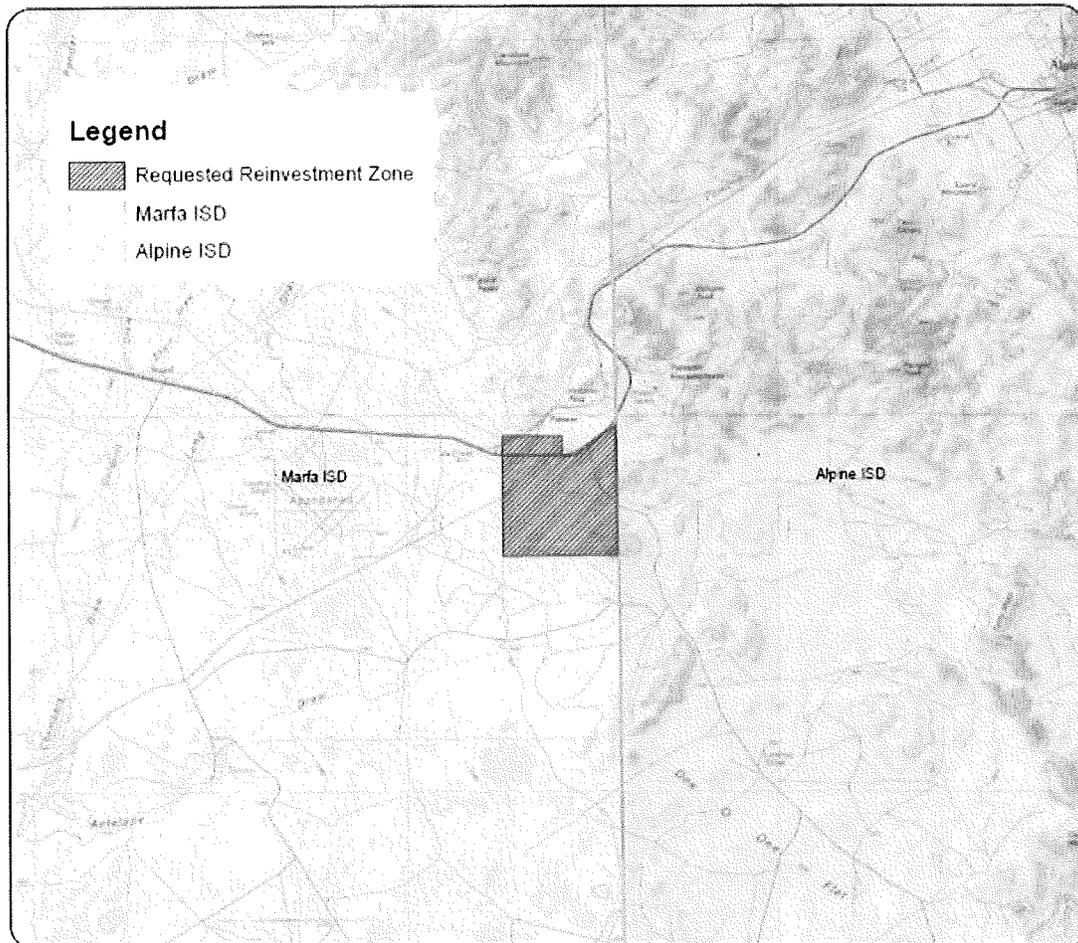
ATTACHMENT 16  
Economic Impact

No Economic Impact study will be submitted by Applicant.

Attachments 17-20  
These Pages are Confidential

ATTACHMENT 21  
Map of Reinvestment Zone

The Presidio County Reinvestment Zone No. 2 consists of the tracts listed below. The tracts include all of sections 519, 520, 522 and part of section 521. The Presidio County Reinvestment Zone No. 2 is located mostly along the south side of Highway 90, approximately 12 miles east of Marfa.



Sources: Texas Education Agency, Element Power, ESRI Basemap

**LEGAL DESCRIPTION**

Section 519, Block 8, G.H. &S.A. Ry Co. Survey, Presidio County, Texas - 640 Acres  
Section 520, Block 8, G.H. &S.A. Ry Co. Survey, Presidio County, Texas - 640 Acres  
Section 522, Block 8, G.H. &S.A. Ry Co. Survey, Presidio County, Texas - 640 Acres  
Section 521, Block 8, G.H. &S.A. Ry Co. Survey, Presidio County, Texas, save and except the portion of that property that lies north of U.S. Highway 90 - approximately 420 Acres

ATTACHMENT 22  
Resolution Establishing Reinvestment Zone

7291964

p.2

**PAUL HUNT**  
Presidio County Judge  
**JIM WHITE III**  
Commissioner, Precinct 1  
**ELOY ARANDA**  
Commissioner, Precinct 2  
**LORENZO HERNANDEZ**  
Commissioner, Precinct 3  
**FRANK "BUDDY" KNIGHT**  
Commissioner, Precinct 4



**PRESIDIO COUNTY  
COMMISSIONERS COURT**

300 N. Highland  
P.O. Box 606  
Marfa, TX 79843  
432 729-4452 tel.  
432 729-4453 fax  
presidiocounty@att.net

**RESOLUTION**

**Of Findings Regarding Application for Designation of a Reinvestment Zone**

WHEREAS, Presidio County has adopted an Economic Development Program Policy with tax abatement provisions consistent with the Texas Tax Code; and

WHEREAS, under the terms of the County Economic Development Program Policy the County has proceeded with an application for designation of a Reinvestment Zone for the proposed location of the Element Power/Alpine Solar, LLC power plant project, and the possible approval of a tax abatement agreement for the project; and

WHEREAS, the County has conducted a public hearing with proper notice of the application for designation of the Reinvestment Zone in compliance with Texas Tax Code;

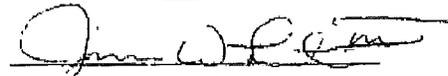
NOW THEREFORE, after due consideration of the application and public input the Presidio County Commissioners Court finds that the project and its proposed location is suitable for designation of a Reinvestment Zone under the terms of the County's Economic Development Policy for the following:

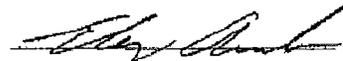
The value of the property at the proposed location will be substantially improved by the proposed Element Power/Alpine Solar, LLC power plant project resulting in substantial immediate and long-term financial benefit to Presidio County and significant benefit to other taxing entities within Presidio County;

The proposed project will create new, permanent full-time equivalent jobs which will be filled by individuals which meet the criteria described by the Economic Development Program Policy;

The proposed project will significantly improve the local utilities infrastructure as targeted by the Economic Development Program Policy.

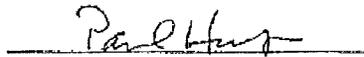
ADOPTED THE 12<sup>th</sup> DAY OF March, 2013

  
Jim White III, Commissioner Precinct 1

  
Eloy Aranda, Commissioner Precinct 2

  
Jim White III, Commissioner Precinct 3

  
Eloy Aranda, Commissioner Precinct 4

  
Paul Hunt, County Judge

ATTACHMENT 22  
Resolution Establishing Reinvestment Zone

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IN THE COMMISSIONERS COURT OF  
PRESIDIO COUNTY, TEXAS

ORDER ADOPTING PRESIDIO COUNTY REINVESTMENT ZONE No. 2

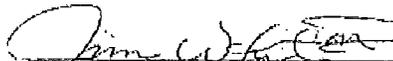
BE IT REMEMBERED, that on the 12-th day of March, 2013, came on to be considered the issue of an application for designation of a Reinvestment Zone for the proposed location of the Elcment Power/Alpine Solar, LLC power plant project, and the possible approval of a tax abatement agreement for the project. This Court has, in due time, given deliberate consideration to the legal issues and of governmental duties imposed by state law, including adoption of an Economic Development Program Policy dated March 27, 2012, now in force, specifying criteria by which any Reinvestment Zone would be considered. Furthermore, after required notice and hearings this court has approved a Resolution finding that the project and its proposed location is suitable for designation of a Reinvestment Zone under the terms of the County's Economic Development Policy and state law.

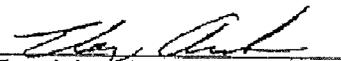
After meeting in open session the Commissioners Court has determined to designate the Reinvestment Zone as described in attachment to this Order, Exhibit 1: Description of Designated Reinvestment Zone No. 2 for the Proposed Element Power/Alpine Solar, LLC Power Plant Project. This order has been taken up and considered by the Court after public notice as required by law.

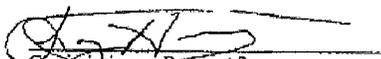
IT IS THEREFORE ORDERED ADJUDGED AND DECREED that the Reinvestment Zone depicted in Exhibit 1 attached to this Order is hereby APPROVED and ADOPTED by the Commissioners Court of Presidio County, Texas, and that the Presidio County Judge is directed to negotiate a tax abatement agreement for the proposed Element Power/Alpine Solar, LLC power plant project for future consideration by this Court.

Signed this 12<sup>th</sup> day of March, 2013.

  
County Judge, Presidio County

  
Commissioner, Precinct 1

  
Commissioner, Precinct 2

  
Commissioner, Precinct 3

  
Commissioner, Precinct 4

ATTEST:

\_\_\_\_\_  
County Clerk, Ex Officio Clerk of the  
Presidio County Commissioners Court

ATTACHMENT 23  
Legal Description of Reinvestment Zone

7291964

p.4

**Exhibit 1: Description of Designated Reinvestment Zone No. 2  
For the Proposed Element Power/Alpine Solar, LLC Power Plant Project**

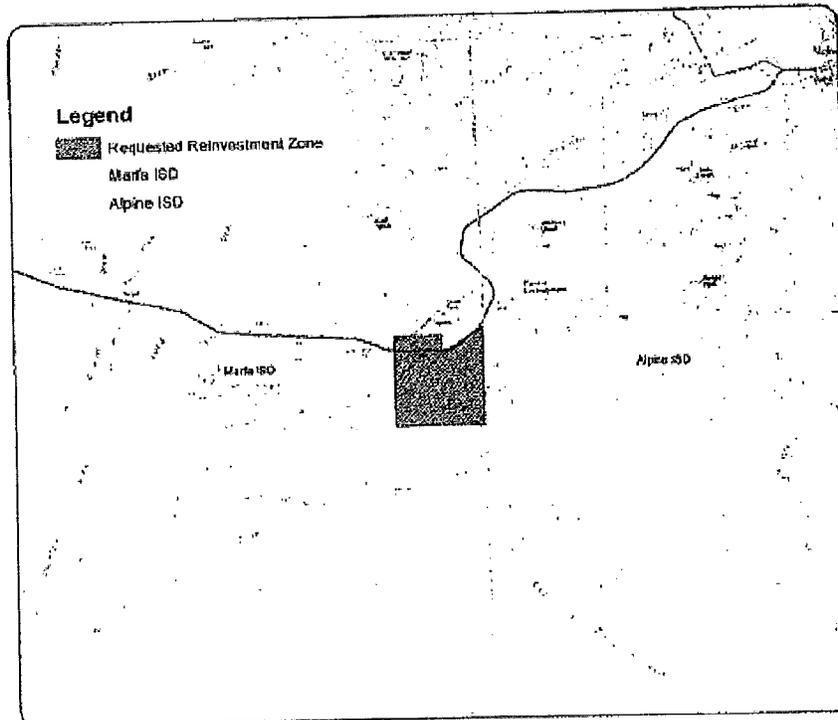
**LEGAL DESCRIPTION:**

Section 519, Block 8, G.H. & S.A. Ry Co. Survey, Presidio County, Texas - 640 Acres

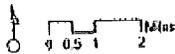
Section 520, Block 8, G.H. & S.A. Ry Co. Survey, Presidio County, Texas - 640 Acres

Section 522, Block 8, G.H. & S.A. Ry Co. Survey, Presidio County, Texas - 640 Acres

Section 521, Block 8, G.H. & S.A. Ry Co. Survey, Presidio County, Texas, save and except the portion of that property that lies north of U.S. Highway 90 - approximately 420 Acres



Source: Texas Education Agency, Element Power, BSR Baseline



# PRESIDIO COUNTY

# ECONOMIC DEVELOPMENT PROGRAM POLICY

## 1. Authorization

- (a) **General Authorization.** The Presidio County Commissioners Court ("Commissioners Court") is authorized to develop and administer a program to stimulate business and commercial activity in Presidio County pursuant to Local Government Code, Chapter 381 specifically, Sections 381.004(b) and 381.004(g), and other applicable statutes.
- (b) **Tax Abatement Resolution.** Presidio County has adopted a Resolution stating that Presidio County elects to become eligible to participate in tax abatements under TEXAS TAX CODE. Tax Abatement Agreements which are entered into under LOCAL TEXAS GOVERNMENT CODE, Section 381.004(g) ("381 Tax Abatement Agreement") shall be subject to the requirement of that statute (which includes limited provision of TEXAS TAX CODE, Chapter 312) and tax abatement agreements which are entered into under TEXAS TAX CODE, Chapter 312 ("312 Tax Abatement Agreement") shall be subject to the requirements of that statute.

## 2. Purpose and Method.

- (a) **General Purpose.** The purpose of this policy is to establish the guidelines and criteria under which Presidio County can develop and administer a program to stimulate and encourage business activity in Presidio County in order to create more job opportunities, build the sales and property tax base and promote a partnership relationship with the private sector businesses that will bring capital intensive projects to Presidio County.
- (b) **Method.** The purpose of this Policy is also to establish guidelines and criteria for economic development utilizing both a rebate and abatement approach to tax incentives. This Policy establishes guidelines and criteria under which the County may enter into tax rebate and tax abatement agreements as a part of the Presidio County's Economic Development Program established under this Policy in order to further the economic development of Presidio County.
- (c) **Waiver and/or Modification of Requirements.** The Commissioners Court retains the right to waive or modify any of the requirements of this Policy, with the exception of Section 4(a)(xii), which cannot be waived, by approving terms in an agreement entered into under this Policy that differ from the Policy when the County determines that the waiver and/or modification is:
- necessary in order to serve the public interest,
  - will allow an agreement which will continue to meet the intent of this Policy, and
  - will not violate any applicable statutory requirements.

The above subsection 2(c) notwithstanding, No waiver or modification of a requirement to a 312 Tax Abatement Agreement can be made by the Commissioners Court if such waiver or modification is not allowed by TEXAS TAX Code, Chapter 312 in relation to that Agreement.

- (d) **Limitation.** The adoption of these guidelines and criteria for a 312 Tax Abatement Agreement does not:

- (i) limit the discretion of the Commissioners Court to decide whether to enter into a specific tax abatement agreement;
- (ii) limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether or not the Commissioners Court should consider a particular application or request for tax abatement; or
- (iii) create any property contract or other legal right in any person to have the Commissioners Court consider or grant a specific application or request for tax abatement.

**3. Definitions.** Under the Presidio County Economic Development Program Policy ("Policy"), these words have the following meaning:

- (a) **"Abatement"** means the full or partial release from payment of ad valorem taxes on certain real and tangible personal property under this Policy.
- (b) **"Abatement/Payment Term"** means that time period beginning on the Completion Date and ending on the Termination Date of the Agreement. If the Commissioners Court approves completion of a Project in phases, then the Abatement/Payment Term will begin with the Completion Date of the first phase.
- (c) **"Abatement/Payment Year Value"** means the value assessed by Presidio County for the purpose of the payment of Presidio County Ad Valorem Taxes on the Property for any tax year included in the Abatement Payment Term of the Agreement.
- (d) **"Ad Valorem Taxes"** means those property taxes assessed by the by Presidio County on eligible property within Presidio County.
- (e) **"Agreement"** means a contract entered into under this Policy between the County and Company.
- (f) **"Agreement Funds"** means all money paid to or abated for a Company pursuant to the terms of the Agreement entered into under this Policy; also, the amount by which Ad Valorem taxes which would have been paid by Company is abated or rebated pursuant to the terms of the Agreement.
- (g) **"Agreement Term"** means that time period commencing on the date the Agreement is signed by all parties (also "Effective Date") and continuing until the Termination Date (as defined herein and/or in the Agreement).
- (h) **"Company"** means the authorized individual or business entering into an Agreement with County under this Policy.
- (i) **"Completion Date"** means the date the County approves completion of the Project. If the County approves completion of the Project in phases, there may be a different Completion Date for each approved phase; however, the Abatement/Payment Term will begin running as of the Completion Date of the first phase.
- (j) **"Economically Disadvantaged Individual"** means an individual who;
  - (i) for at least three months before employment with a qualified business was unemployed; or
  - (ii) receives public assistance benefits, such as welfare payments, food stamp payments and local approved medical assistance, based on need and intended to alleviate poverty; or
  - (iii) is economically disadvantaged as defined by the Job Training Partnership Act, Sec. 4(8) [129 USC, Sec.1503(8)]; or

- (iv) is an individual with a disability, as defined by 29 USC, Sec. 706(8); or
  - (v) is an inmate as defined by TEXAS GOVERNMENT CODE, Section 498.001; or
  - (vi) is entering the workplace after being confined in a facility operated by the institutional division of the Texas Department of Criminal Justice or under contract with the Texas Department of Criminal Justice, or such facility operated by Presidio County; or
  - (vii) has been released by the Texas Youth Commission and is on parole, if state law provides for such a person to be on parole; or
  - (viii) meets the current low income or moderate income limits developed under the U. S. Housing Act of 1937, Sec. 8 (42 USC sec. 1437f, et seq.).
- (k) **"Effective Date"** means the date that all parties to all Agreement entered into pursuant to this Policy have fully executed the Agreement.
- (l) **"Effective Year Value"** means the value assessed by Presidio County for the purpose of the payment of Presidio County Ad Valorem taxes on the Property for the tax year including the Effective Date of the Agreement.
- (m) **"OMB"** means the Presidio County Office of Management and Budget.
- (n) **"Project"** means the proposed development as specifically described by the Company in the application/request for incentives and the Agreement.
- (o) **"Property"** means the land (real property) on which the Project will be developed.
- (p) **"PCAD"** means the Presidio County Appraisal District
- (q) **"Termination Date"** means the end of the time period specified under the Agreement

4. **Guidelines and Criteria** The Commissioners Court will use the following criteria as specified herein as a baseline for evaluation of applications and other requests for economic incentives which may be provided under this Policy:

- (a) **Required Elements.** The following elements are considered to be of vital importance in implementing the County policy related to economic development and, as such, should be included in any Agreement entered into under this Policy, with terms in the Agreement stating that compliance with these requirements is mandatory. However, upon findings by the Court in compliance with Section 2(c) of this Policy as amended above, the Court may waive and/or modify requirements as listed in this Section 4(a) as deemed necessary, except for the requirement under Section 4(a)(xii), which cannot be waived. With that limitation, the following requirements are recommended for every agreement entered into pursuant to this Policy.

It is understood that any provision of the Policy that is based on statutory requirement, then provision may be waived or modified only to the extent allowed by applicable law.

- (i) **Commissioners Court Finding.** An agreement cannot be entered into unless the Commissioners Court finds that the terms of the agreement and the Property subject to the agreement meet the applicable guidelines and criteria set forth in this Policy; and that the development of the Project will result in substantial immediate and long-term financial benefit to Presidio County and significant financial benefit to other taxing entities within Presidio County.

- (ii) **Maximum Incentive Amount.** In no event will the percentage of the tax abatement or rebate exceed 80%.
- (iii) **Ownership.** The Company must Own or plan to own the Property in order to enter into an Agreement under this Policy. Incentives will not be granted relative to leased property. Property that is owned or leased by a person who is a member of the Commissioners Court is excluded from abatement/rebate under this Policy, and Company will warrant that none of the Property subject to the agreement is owned or leased by a member of the Commissioners Court.
- (iv) **Improvements.** Incentives provided under this Policy shall be granted for new facilities and structures and for the expansion or modernization of existing facilities and structures. New development at an existing site may be considered for benefits under this Policy. In order for expansion or modernization to qualify for incentives, such expansion or modernization must be accomplished to such an extent that substantial value is added to the ad valorem tax base, and cannot be cosmetic only in nature.
- (v) **Description of Improvement Terms.** The agreement must list the kind, number and location of all proposed improvements of the Property.
- (vi) **Access.** The agreement must provide for access and authority for County's employees and representatives to enter the Property and inspect to ensure that the improvements or repairs are made according to the terms of the Agreement, and that the Company is in compliance with all other terms and conditions of the Agreement. Representatives of Company shall be permitted to attend the inspections. The inspections shall be preceded by twenty-four (24) hours notice, shall be conducted so as not to interfere with the business operations of the Company, and shall comply with the Company's reasonable safety standards. County may make ongoing inspections/monitoring visits under these same conditions throughout the Agreement Term to ensure ongoing compliance.
- (vii) **Usage.** The agreement must limit the uses of the Property consistent with the general purpose of encouraging development or redevelopment of the Property during the Agreement Term.
- (viii) **Recapture.** The agreement must provide for recapture of property tax revenue lost as a result of the Agreement if: the Company fails to make the improvements or repairs as provided by the Agreement; the agreement is terminated with recapture pursuant to Section 4(i); and under other applicable provisions of this Policy.
- (ix) **Terms.** The agreement must contain each term of the Agreement.
- (x) **Annual Certification.** The Agreement must require the Company to certify annually to the Commissioners Court that the Company is in compliance with the applicable terms of the Agreement.
- (xi) **Failure to Comply.** The agreement must provide that the Commissioners Court may cancel or modify the agreement if the Company fails to comply with the Agreement.
- (xii) **Legal Compliance.** The agreement must include provisions requiring that all applicable County and City codes and ordinances must be met and inspection take place in a timely manner; that the Company will make all hiring decisions in compliance with the Civil Rights Act of 1964 and the Americans With Disabilities Act of 1990; and that the Company will not discriminate against any employee or applicant for employment on the basis of race, religion, color, national origin, age or handicapping condition.

(xiii) Environment. The agreement must require that all Projects shall be completed and maintained in a manner which preserves and respects the natural environment by maintaining green space, set forth in a plan approved by the governmental entity having jurisdiction, as evidenced by written documentation from that entity. Company shall not violate any federal, state or local legislation and/or regulations which prohibit or regulate deleterious effects on the environment within the Project. The Property may NOT be located over an environmentally sensitive aquifer or contributing zone.

(xiv) Notice- 312 Tax Abatement Agreement. The Commissioners Court shall deliver to the presiding officer of the governing body (or designated officer or employee) of each other taxing unit in which the property subject to the 312 Tax Abatement Agreement is located a written notice that the County intends to enter into the agreement not later than the seventh (7th) day before the date on which the County will enter into the agreement. Such notice must include a Copy of the proposed agreement.

The above requirements Section 4(a) (i)- (xiii) will NOT be subject to waiver or change in a 312 Tax Abatement Agreement where those provisions are required by law.

(b) **Requirements With Discretionary Elements.** While the following elements will be required in each agreement under this Policy, the Commissioners Court may, at its sole discretion, limit or waive the extent to which each is applied.

(i) Minimum Capital Investment. Subject to the discretionary ability of the Commissioners Court as set forth in this Policy the Company's new capital investment (value of property subject to Presidio County Ad Valorem taxation) will be subject to no absolute minimum. The purchase price of Property will not be included in this total capital investment amount. There MUST be substantial capital investment made by any company in order to participate in the Economic Development Program established under this Policy; however, the minimum amount may be waived to an extent determined by the Court under certain circumstances as approved by the Court and determined on a case by case basis.

(ii) Employment. Increased Incentive Levels. Consideration for maximum abatement/rebate amounts may be given to Projects which will create new, permanent full-time equivalent jobs which will be filled by individuals which meet the criteria to be deemed an Economically Disadvantaged Individual or which meet criteria for certain salary and/or educational/training requirements ("Career Development Employees") as defined in this Policy and under the terms of the Agreement. Terms of the Agreement will define the specific requirements related to these employment requirements in a manner which will encourage the hiring of individuals at a level which will bring persons out of poverty and into a career path with potential for upward mobility leading to self-sufficiency.

(iii) Current Developments. Consideration of proposals for incentives under this Policy shall be granted only for Projects where no specific development-related action, as determined by the Commissioners Court, has taken place prior to such consideration. The intent of the Policy is to attract new investment and development to Presidio County, not grant benefits to development already underway. The existence of an approved Master Plan will NOT be considered to be "specific development-related action" so as to exclude an applicant under this Policy.

(c) **Additional Criteria for Consideration** in Granting Approval and Determining Maximum Incentive Amounts.

The application or other submission for consideration under this Policy must include evidence of the Company's ability to comply with all applicable terms of this Policy. In reviewing the Company's application/request for economic development incentives under this Policy, the Commissioners Court will give weight (both as to approval and amount of incentive) to proposals which include elements for additional community development, including the following:

- (i) Minority Participation/HUB Participation. Company shall use good faith efforts (and shall encourage its agents and contractors to use good faith efforts) to take reasonable steps to ensure HUBs ("Historically Underutilized Businesses," as defined under the applicable County policy) the maximum opportunity to be subcontractors for the Project.
- (ii) Housing - availability of affordable housing, as defined by County,
- (iii) Public Transportation - availability, access and accompanying amenities, As applicable, Company shall coordinate and cooperate with relevant transportation entities to maximize availability within the Project of public transportation opportunities and amenities, such as sidewalks,
- (iv) Open space for gathering, public seating, etc,
- (v) Environmental attractiveness
- (vi) Commitment to clean air initiatives
- (vii) Number of acres involved in the development
- (viii) Amount of square footage to be included in the completed development
- (ix) Other public benefits to be derived from the development of the Project
- (x) Use of innovative design practices, including esthetic consideration, landscaping, architecture, etc.
- (xi) Best Practice Design. Plans to complete the project utilizing best practices in urban design as established by professionals in that area in the community, and shall include adequate parking,
- (xii) Location. The proposed development will take place within a geographic location of Presidio County that has been determined to be a historically economically disadvantaged area, as determined by the Commissioners Court, and that the development will result in business development, job creation and retention, community improvement, cultural and educational advancement, and enhancement of quality of life.
- (xiii) Additional Community Improvement. Company will be considered for the maximum incentive amount authorized under this Policy based upon Company's proposal and compliance with the base agreement requirements for amount of investment, improvements, employment, etc., and requirements for performance in other areas as agreed to, including the following:
  - provision of a high level of benefits to all employees, including: medical, dental, employee assistance, life insurance, short and long-term disability, dependent care, tuition reimbursement, stock participation, sabbatical leave, vacation, sick leave, flexible spending, 401K savings plans, etc.

- creation of a significant number of jobs which require educational level, and provide salary that would effectively encourage the hiring of low-income workers into jobs which will create or lead to sufficiency.
- provision of services to encourage/ensure upward mobility of low-income workers once hired.
- provision of effective training and educational opportunities for employees and potential employees,
- willingness to recruit and hire locally and to promote the local company workforce from within,
- commitment to work with local workforce development entities, commitment to work with local educational institutions (K-12, community colleges, universities, etc.) to assist in development of curriculum which will enhance training for real jobs existing within the industry, commitment to reimburse employees for educational and training costs related to upward mobility,
- commitment to community participation in the forms of: volunteer work, including school mentoring; contributions to local educational institutions, particularly to fund purchase of equipment related to job training and contribution of such equipment; provision of speakers, written materials and other assistance related to job training, etc.
- creation of summer jobs for interns and local education professionals, provision of services to low income and at risk youth.
- provision of other services or contributions to the community related to economic development as agreed to by the parties such as infrastructure for transportation, utilities, and health and emergency services.

**(d) Waiver of Requirements and Limitations**

(i) **Waiver.** The Commissioners Court retains the option of considering proposed project for receipt of incentives under this Policy which do not meet certain requirements of this Policy as deemed necessary by the Commissioners Court, so long as the Commissioners Court finds that the Project as proposed will encourage, develop and stimulate economic development, producing additional tax revenue, job opportunities, affordable housing and/or small business opportunities for Presidio County and so long as the proposal meets those requirements set forth in Section 4(a).

(ii) **Limitations.** The adoption of this Policy does not:

- limit the discretion of the Commissioners Court to decide whether to enter into a specific agreement;
- limit the discretion of the Commissioners Court to delegate to its employees the authority to determine whether or not the governing body should consider a particular application or request for an agreement under this Policy; or
- create any property, Contract or other legal right in any person to have the Commissioners Court consider or grant a specific application or request for an agreement under this Policy.
- prevent the continued negotiation and completion of agreements approved by the Commissioners Court in principal under the previous' Economic Development Policy.

(e) **Commissioners Court Determination.** This Policy sets forth the minimum guidelines and criteria to be considered in any application/request for receipt of benefits under this Policy. However, nothing in this Policy confers all right to receive benefits under this Policy, nor does this Policy in any way limit the authority of the Commissioners Court to grant or refuse to grant any application/request submitted under this Policy. Each application/request will be considered on a case-by case basis, and the decision by the Commissioners Court will be final.

(f) **Incentive Amount.**

- (i) **Rebate.** The Commissioners Court may grant Company a payment equal to up to 80% (as described herein) of the difference between the Ad Valorem taxes paid by the Company on the Effective Year Value and the Ad Valorem Taxes assessed and/or paid on the Abatement/ Payment Year Value reflecting the improvements made by the Company pursuant to the agreement and this Policy. The percentage amount will be determined based upon the amount of public economic benefit determined by the Commissioners Court to be derived from the Project as presented by the Company in its application/request and other criteria as set forth under this Policy. The formula for the County's annual payment shall be:

$$\begin{aligned} & (\text{Abatement/Payment Year A.V. Taxes} - \text{Effective Year A.V. Taxes}) \times \% \text{ of Incentive} \\ & = \text{County Annual Payment/Abatement} \end{aligned}$$

- (ii) **Abatement.** The Commissioners Court may grant Company exemption from taxation on a portion of the value of the real property or of tangible personal real property located on the real property, or both, on the condition that the Company make specific improvements or repairs to the Property and meet other requirements pursuant to this Policy and the agreement terms.
- (iii) **Rebate Abatement - Base.** The rebate/abatement of real property shall be based upon the extent that the value for the year of rebate/abatement exceeds the value of the year in which the agreement is executed. The rebate/abatement of tangible personal property located on the real property in each year is limited to tangible personal property OTHER THAN that tangible personal real property that was located on the real property at any time before the agreement term, and other than inventory or supplies.
- (iv) A Company MUST acknowledge and agree in the agreement that, should that the payment rebate/abatement method of the agreement be found to be invalid by a court of competent jurisdiction: (1) the agreement will be terminated; (2) all amounts paid/rebated/abated to Company will be paid back to County pursuant to this Policy and the agreement; and (3) County will be released from any all liability of any kind related to the agreement
- (g) **Term.** The Agreement Term shall be as set forth in the specific agreement entered into under this Policy. The Payment Term under an agreement for rebate shall not exceed a period of twenty (20) years; The Abatement Term under an agreement for tax abatement (both 381 and 312) shall not exceed a period of ten (10) years. The Abatement portion of the agreement for tax abatement may take effect on January 1 of the net tax year after the date the improvements or repairs are substantially completed.
- (h) **Compliance with Law.** The development of any Project under this Policy must be done in a manner which meets all applicable Federal, State, County and City laws, codes, ordinances, rules and regulations and permit requirements.
- (i) **Completion/Termination.**
- (i) **Completion.** An Agreement under this Policy will be considered completed and will terminate at the end of the term specified in the Agreement or which any cause for termination has occurred pursuant to this Policy and/or the terms of the Agreement.
- (ii) **Early Termination.** In the event of termination of any Agreement entered into under this Policy prior to the completion of all terms of any Agreement, pursuant to this Policy and/or the Agreement, County shall notify Company of termination and all future obligations of County under the Agreement shall cease. Upon notice of termination, Company shall refund to County any and all Agreement Funds paid to Company or exempted from payment by Company up to the time of termination

pursuant to the terms of the Agreement.

- (iii) **Default/Cure.** If Company is determined by County to be in default, County shall notify Company in writing and if such default is not cured within thirty (30) days of notice, then the agreement may be terminated. County and Company may agree in writing to extend the time period for cure. In the event that the cure is not completed in a manner that is satisfactory to County and the agreement is terminated by County, County shall have the right to recapture all of the money paid to Company under a rebate agreement or exempted from payment by Company under an abatement agreement.
- (iv) **Recapture.** In the event that the Company either (1) allows its ad valorem taxes owed to the City, County, and/or any school district or other local taxing entity to become delinquent and fails to timely and properly follow the legal procedures for their protest and/or contest; Or (2) is in default according to the terms and conditions of the agreement and *fails* to cure within the time period allowed; or, (3) if the payment rebate abatement portion of the agreement is ruled invalid by a court of competent jurisdiction, the agreement then may be terminated and all taxes previously abated or rebated by virtue of the agreement will become due and payable no later than sixty (60) days after termination, County shall give Company written notice of recapture under this provision and refund shall be paid no later than thirty (30) days after such notice is given or sixty (60) days after termination, whichever comes last, County shall have all remedies for the collection of the recaptured tax revenue as provided generally in the Tax Code for collection of delinquent property taxes. County, at its sole discretion, has the option to provide a payback schedule.

(j) **Taxation.** Throughout the Agreement Term, the Company shall be subject to all applicable taxation.

(k) **Reports.** Company shall provide such report(s) as determined necessary by County to document and ensure compliance with the terms of the Agreement. Such reports shall be submitted to the Presidio County Office of Management and Budget in the format provided by County, County will have the right to monitor and audit findings in all reports as necessary to confirm compliance with the terms of this Policy and the Agreement. Company will certify the authenticity and accuracy of each report submitted under the Agreement.

(l) **Reinvestment Zone - Abatement Agreements.**

- (i) **381 Tax Abatement Agreements.** Under Section 381.004(g), TEXAS LOCAL GOVERNMENT CODE, The Commissioners Court is authorized to develop and administer an economic development program utilizing tax abatement agreements with certain terms which are to be governed, to the extent practicable, by Sections 312.204, 312.205 and 312.211 of the TEXAS TAX CODE; also, in administering tax abatement the Commissioners Court is authorized to act as if it were a governing body of a municipality. Pursuant to that provision, the Commissioners Court will, when practicable and allowed by law, designate a Reinvestment Zone pursuant to Section 312.201, TEXAS TAX CODE, or will utilize a Reinvestment Zone created by another authorized taxing entity. Where designation of a Reinvestment Zone is determined not to be practicable, the Commissioners Court will review and evaluate the Property being proposed for development utilizing the criteria set forth for establishing a Reinvestment Zone under Chapter 312, TAX CODE, to determine that the Property does substantially meet the guidelines and criteria for establishing said Reinvestment Zone.
- (ii) **312 Tax Abatement Agreements.** A Reinvestment Zone must be designated in order to enter into a 312 Tax Abatement Agreement. The Commissioners Court may designate as a reinvestment zone an area of the county that does not include area in the taxing jurisdiction of a municipality. If an area does not include area in the taxing jurisdiction of a municipality, the Commissioners Court may

proceed to designate a Reinvestment Zone pursuant to TEXAS TAX CODE, Section 312.401, and other applicable provisions, If

- the Commissioners Court provides notice of a public hearing which is published in a newspaper having general circulation in the County; and which is delivered in writing to the presiding officer of the governing body of each taxing unit that includes in its boundaries real property that is to be included in the proposed investment zone;
- the Commissioners Court holds a public hearing where interested persons are allowed to speak and present evidence for or against the designation;
- the Commissioners Court finds that the designation would contribute to the retention Or expansion of primary employment or would attract major investment in the zone that would be a benefit to the property and would contribute to the economic development of the County.

The designation of the reinvestment zone expires five years after the date of the designation and may be renewed for periods not to exceed five years; expiration will not affect existing agreements,

(m) **312 Tax Abatement Agreement**

312 Tax Abatement Agreements will be subject to all applicable provisions of TAX CODE. Chapter 311. It is understood that there may be additional requirements for 312 Tax Abatement Agreements which do not apply to 381 Tax Abatement Agreements.

**5. Application/Request for Incentives.**

- (a) **Applicant.** Any present or potential owner of taxable real property in Presidio County may make application/request for incentives under this Policy by filing an application with OMB or through other means as acceptable to the County.
- (b) **Application.** Company should provide completed application to County, in a form acceptable to County, at the earliest possible date, either initially, or prior to negotiation of the agreement. That application shall consist of a written request which includes:
- (i) A statement of the expected total capital investment to be made.
  - (ii) A statement setting forth proposals relevant to the applicable requirements of this Policy.
  - (iii) A general description of the new improvements to be undertaken, with a description list of the improvements and property for which incentives are requested.
  - (iv) A legal description of the Property to be included, total acreage involved and a map showing the Property and intended improvements.
  - (v) A time schedule for undertaking and completing the proposed improvements. This schedule shall include the expected date of commencement of construction and the expected date of completion of construction. Completion of any Project in phases will only be allowed when specifically authorized by the Commissioners Court. If the Commissioners Court approves the completion of the Project in phases, the above dates will be specified as to each phase. The Agreement will contain limitations on the time periods in which the Company must commence and complete the Project.

(vi) Description of other benefits to Presidio County as a result of the proposed development.

(c) **Additional Information.** Presidio County may request additional information as a part of the application process as deemed necessary, in order to fully evaluate the application/request and may waive certain requirements where deemed unnecessary to properly evaluate the request.

(d) **Confidentiality of Proprietary Information.** Information that is provided in the application or request for a 312 Tax Abatement Agreement that describes the specific processes or business activities to be conducted or the equipment or other property to be located on the Property is confidential and not subject to public disclosure until the 312 Tax Abatement Agreement is executed. That information in the custody of the County after the agreement is executed is not confidential under TEXAS TAX CODE Section 312.003.

#### **6. Process.**

(a) **Review of Application/Request for Incentives.** The application/request for incentives will be reviewed by County, and may be placed On the Commissioners Court agenda for public discussion of the application/request and related matters.

(b) **Agreement Approval.** An agreement proposed under this Policy will be placed on the agenda of the Commissioners Court and may be approved by an affirmative vote of the majority of the members at a regularly scheduled meeting of the Commissioners Court.

**7. Agreement Terms and Provisions.** Any Agreement entered into under this Policy shall include statements indicating the requirement of full compliance with the provisions of this Policy, and such other terms and conditions as deemed necessary by the Commissioners Court and agreed to by the Company.

**8. Termination.** Subject to Section 4(i), agreements entered into under this Policy are subject to termination as follows:

(a) **Event(s) of Termination.** All Agreement under this Policy may terminate or be terminated for the following reasons;

(i) Company and County successfully complete all terms and conditions of the Agreement.

(ii) Company fails to comply with required terms of the Agreement.

(iii) The payment/rebate/abatement method of the agreement is found invalid by a court of competent jurisdiction.

(b) **Refund/Recapture** If the Agreement is terminated under the terms of this Policy and/or the Agreement, Company shall redeem to County all Agreement Funds that have been paid to Company or abated from payment by Company pursuant to the terms of this Policy and/or the Agreement.

#### **9. Administration.**

(a) **County Assessment of Property** shall be determined by the County annually.

(b) **Information.** Company shall provide County through OMB with all information required for County to determine and ensure compliance with every term of the Agreement.

## **10. General Provisions**

- (a) **Assignment.** Agreement may be assigned to a new Company only with prior written approval of County, Company may assign to a subsidiary corporation or other affiliate entity without approval of County, so long as Company shall remain responsible and obligated to County for the performance of its obligations under the Agreement. Written notice of such assignment shall be provided to County prior to the assignment. No assignment shall be approved if the assignor or the assignee is indebted to County for *Air* Valorem taxes or other obligations.
- (b) **Agreement Amendment.** Amendment of any Agreement under this Policy can only be made by written instruments signed by all parties, and only so long as the terms and provisions of the amendment reflect provisions which could have been included in the original Agreement under this Policy. Requests for amendments shall be submitted to OMB. A 312 Tax Abatement Agreement shall not be amended to extend beyond ten (10) years from the date of the original agreement.

## **11. Sunset Provision.**

- (a) **Duration.** This Policy is effective upon the date of approval by the Commissioners Court and will remain in force for two years. At the end of two years, the Court may modify, renew or eliminate this Policy. If the Commissioners Court does not take action to renew or modify this Policy, the Policy will be terminated at the end of the two year period. Action taken (or not taken, resulting in the Policy's termination) under this provision will not impact any agreements or obligations already in effect under this Policy. Such agreements and/or obligations will continue in full force and effect until completed or terminated.
- (b) **Policy Change.** During the two year period of effect of this Policy under 11(a), this Policy may be amended or repealed only by a four-fifths vote of the Commissioners Court.