

**FINDINGS**  
**of the**  
***ECTOR COUNTY INDEPENDENT***  
***SCHOOL DISTRICT***  
***BOARD OF TRUSTEES***

**Under Chapter 313 of the**  
**Texas Tax Code**

**ON THE APPLICATION FOR**  
**APPRAISED VALUE LIMITATION**  
**ON QUALIFIED PROPERTY**

**SUBMITTED BY**

***NACERO TX 1 LLC***

***Comptroller Application Number 1568***

**June 15, 2021**

**RESOLUTION AND FINDINGS OF FACT**  
**of the**  
***ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT***  
***BOARD OF TRUSTEES***  
**UNDER CHAPTER 313 OF THE TEXAS TAX CODE**  
**ON THE APPLICATION FOR APPRAISED VALUE LIMITATION**  
**ON QUALIFIED PROPERTY**  
**SUBMITTED BY NACERO TX 1 LLC**

STATE OF TEXAS §  
COUNTY OF ECTOR §  
ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT §

**PREAMBLE**

On the 15th day of June, 2021, a public meeting of the Board of Trustees of the Ector County Independent School District (the “Board”) was held to solicit input from interested parties on the application by Nacero TX 1 LLC (“Nacero” or “Applicant”) for an appraised value limitation on qualified property under Chapter 313 of the Texas Tax Code. The meeting was duly posted in accordance with the provisions of the Texas Open Meetings Act, Chapter 551, Texas Government Code. At the meeting, the Board considered the application by Nacero for a Limitation on Appraised Value on Qualified Property, pursuant to Chapter 313 of the Texas Tax Code. The Board of Trustees solicited input into its deliberations from interested parties within the District. After hearing presentations from the District’s administrative staff and the consultants retained by the District to advise the Board in this matter and reviewing the Comptroller’s Economic Impact Analysis under Texas Tax Code §313.026, the Board of Trustees of the Ector County Independent School District, in accordance with Texas Tax Code §313.025(e) and (f) and 34 T.A.C. §9.1054, makes the following Findings regarding the Application:

On or about the 23<sup>rd</sup> day of February, 2021, the Board of Trustees for the Ector County Independent School District received an Application for Appraised Value Limitation on Qualified Property from Nacero, pursuant to Chapter 313 of the Texas Tax Code (the “Application”). The general nature of Applicant’s investment in qualified property set forth in the Application is for a new manufacturing plant, and specifically a natural gas processing and gasoline production facility that will convert natural gas to methanol, and methanol to gasoline (the “Property”). *See* Application, §6.2.5, and Tab 4, attached hereto as Attachment A; *see also* Attachment D. The Board agreed to consider such Application, and the District’s Superintendent formally acknowledged receipt of the Application for consideration on behalf of the District and signed on February 23, 2021, which was delivered to the Texas Comptroller of Public Accounts immediately upon the District’s determination that the Application was complete. The Comptroller acknowledged receipt of the Application on or about February 25, 2021. The Comptroller issued its notice of completeness and determined the Application complete as of March 25, 2021, the Application Review Start Date. Thereafter, on or about April 20, 2021, the District on behalf of the Applicant, submitted revised applications pages for Amendment No. 01 (revised §§3, 7, 10 and 13; Tabs 5, 10 and Schedule C); and on or about May 7, 2021, submitted Amendment No. 2 (Tabs 5, 7 and 8). The Application and Amendment Nos. 1 and 2 are hereafter collectively referred to as the “Application.” A copy of the Application and Comptroller’s completeness letter of March 25, 2021 are collectively attached hereto as Attachment A.

The Texas Taxpayer Identification number for Nacero TX 1 LLC is 32075161326. Nacero is an entity subject to Chapter 171 of the Texas Tax Code and is active and has the right to transact business in Texas, as represented by the Texas Comptroller of Public Accounts and as required by Texas Tax Code §313.024(a). *See* Attachments A, B and C.

The Board acknowledged receipt of the Application and necessary application fee, which was reasonable and did not exceed the estimated cost to the District for processing and acting on the Application, as established by §§313.025(a)(1) and 313.031(b) of the Texas Tax Code, 34 T.A.C. §9.1054(a), and Local District Policy. *See* Attachment A at Tab 2.

The Application was delivered to the Texas Comptroller's Office for review pursuant to §313.025(b) of the Texas Tax Code.

A copy of the Application was delivered to the Ector County Appraisal District for review pursuant to 34 Texas Administrative Code §9.1054.

The Application was reviewed by the Texas Comptroller's Office pursuant to Texas Tax Code §§313.024, 313.025 and 313.026. After receipt of the Application, the Texas Comptroller's Office caused an Economic Impact Analysis to be conducted. The Comptroller, pursuant to Texas Tax Code §313.025(h), determined the project subject to the Application meets the requirements for eligibility under Texas Tax Code §313.024 for a limitation on appraised value, and after reviewing the Application based on the criteria set out in Texas Tax Code § 313.026, issued a Certificate for a Limitation on Appraised Value on May 18, 2021 (the "Certificate Decision"). *See* Attachment C. The Board of Trustees has carefully considered such Evaluation and Certificate Decision. Copies of the Certificate Decision and Economic Impact Analysis are attached to these Findings as Attachments C and D, respectively.

The Board also directed that a specific school financial analysis be conducted of the impact of the proposed value limitation on the finances of Ector County Independent School District. A copy of the Financial Impact Study prepared by Culwell Consulting and dated May 13, 2021, is attached to these Findings as Attachment E.

The Board has confirmed that the taxable value of industrial property applicable to the Nacero Application in the Ector County Independent School District for the preceding tax year, as determined under Subchapter M, Chapter 403 of the Texas Government Code, falls within Category 1 of §313.022 of the Texas Tax Code at the time the Certificate Decision was issued. *See* the 2020 Final Property Value Study Report, "2020 ISD Summary Worksheet" attached hereto as Attachment G; *see also* Attachment D.

After receipt of the completed Application, the District entered into negotiations with Nacero regarding the specific language to be included in the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes (the "Agreement") pursuant to Chapter 313 of the Texas Tax Code, including appropriate revenue protection provisions for the District pursuant to Section 48.256(d) of the Texas Education Code. The parties were able to agree upon language for inclusion into a draft agreement pursuant to Texas Tax Code §313.027. As required by the Comptroller's Office, the parties changed only the provisions of the template that the Comptroller permitted (Form 50-826, revised October 2020). The proposed Agreement is attached

to these Findings as Attachment H, and that form of the Agreement (as defined by 34. Tex. Admin. Code §9.1051 and adopted by §9.1052(a)(6)) was submitted to and approved by the Comptroller, as required by 34 Tex. Admin. Code §9.1015(e)(1). *See* copy of June 10, 2021, Agreement Review Letter from the Comptroller, attached to these Findings as Attachment I.

After review of the Comptroller's Certificate Decision and Economic Impact Analysis, and in consideration of its own analysis of Nacero's Application and all other related documentation attached hereto, the Board makes the following additional Findings as follows:

**Board Finding Number 1.**

***Based on the Application and the Comptroller's Certificate Decision, the Property meets the requirements of Texas Tax Code §313.024 for eligibility for a limitation on appraised value under Texas Tax Code §313.024(b)(1) as a manufacturing facility.***

In support of Finding Number 1, the Comptroller's Certificate Decision states:

**Determination required by 313.025(h)**

\* \* \*

Sec. 313.024(b)      Applicant is proposing to use the property for an eligible project.

\* \* \*

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter C.

*See* Attachment C. *See also* Attachment A (Tab 1, §6.2(1) and Tabs 4, 7 and 8) and Attachment D.

**Board Finding Number 2.**

***The project proposed by Applicant is reasonably likely to generate sufficient tax revenue to offset the District's maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25<sup>th</sup> anniversary of the beginning of the limitation period.***

In support of Finding Number 2, the Certificate Decision states:

**Certification decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

*See* Attachment C.



Also in support of Finding Number 2, the Comptroller's Economic Impact Analysis states:

**Attachment B - Tax Revenue before 25<sup>th</sup> Anniversary of Limitation Start**

This [table] represents the Comptroller's determination that Nacero TX 1 LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy and direct, indirect and induced tax effects from project employment directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2021	\$137,111	\$137,111	\$0	\$0
	2022	\$2,445,092	\$2,582,203	\$0	\$0
	2023	\$12,976,879	\$15,559,082	\$0	\$0
<b>Limitation Period (10 Years)</b>	2024	\$1,054,700	\$16,613,782	\$23,732,333	\$23,732,333
	2025	\$1,054,700	\$17,668,482	\$32,190,188	\$55,922,521
	2026	\$1,054,700	\$18,723,182	\$34,823,644	\$90,746,166
	2027	\$1,054,700	\$19,777,882	\$34,352,775	\$125,098,940
	2028	\$1,054,700	\$20,832,582	\$32,612,736	\$157,711,677
	2029	\$1,054,700	\$21,887,282	\$30,959,231	\$188,670,907
	2030	\$1,054,700	\$22,941,982	\$29,387,940	\$218,058,848
	2031	\$1,054,700	\$23,996,682	\$27,894,763	\$245,953,610
	2032	\$1,054,700	\$25,051,382	\$26,475,803	\$272,429,413
	2033	\$1,054,700	\$26,106,082	\$25,127,357	\$297,556,770
<b>Maintain Viable Presence (5 Years)</b>	2034	\$24,900,610	\$51,006,692	\$0	\$297,556,770
	2035	\$23,682,818	\$74,689,510	\$0	\$297,556,770
	2036	\$22,525,509	\$97,215,019	\$0	\$297,556,770
	2037	\$21,425,666	\$118,640,685	\$0	\$297,556,770
	2038	\$20,380,423	\$139,021,108	\$0	\$297,556,770
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2039	\$19,387,059	\$158,408,166	\$0	\$297,556,770
	2040	\$18,442,986	\$176,851,153	\$0	\$297,556,770
	2041	\$17,545,749	\$194,396,902	\$0	\$297,556,770
	2042	\$16,693,013	\$211,089,915	\$0	\$297,556,770
	2043	\$15,882,560	\$226,972,475	\$0	\$297,556,770
	2044	\$15,112,282	\$242,084,757	\$0	\$297,556,770
	2045	\$14,380,178	\$256,464,935	\$0	\$297,556,770
	2046	\$13,736,477	\$270,201,412	\$0	\$297,556,770
	2047	\$13,145,729	\$283,347,141	\$0	\$297,556,770
	2048	\$12,607,928	\$295,955,069	\$0	\$297,556,770
		<b>\$295,955,069</b>	is less than	<b>\$297,556,770</b>	
<b>Analysis Summary</b>					
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					No

Source: CPA, Nacero TX 1, LLC

Year	Employment			Personal Income			Revenue & Expenditure		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2021	45	51	96	\$3,204,752	\$4,115,248	\$7,320,000	336000	-191000	\$527,000
2022	492	518	1010	\$36,024,296	\$45,885,704	\$81,910,000	3799000	-1816000	\$5,615,000
2023	2869	3,078	5947	\$212,625,570	\$284,324,430	\$496,950,000	22415000	-10330000	\$32,745,000
2024	3439	4,184	7623	\$252,351,482	\$423,798,518	\$676,150,000	30502000	-8965000	\$39,467,000
2025	2745	3,905	6650	\$194,187,140	\$438,622,860	\$632,810,000	28786000	-1717000	\$30,503,000
2026	1565	2,816	4381	\$99,591,719	\$361,708,281	\$461,300,000	21729000	6744000	\$14,985,000
2027	595	1,708	2303	\$21,727,201	\$260,742,799	\$282,470,000	14740000	12794000	\$1,946,000
2028	336	1,264	1600	\$493,086	\$212,636,914	\$213,130,000	12306000	14488000	-\$2,182,000
2029	336	1,172	1508	\$493,086	\$197,746,914	\$198,240,000	12039000	14488000	-\$2,449,000
2030	336	1,168	1504	\$493,086	\$193,846,914	\$194,340,000	12100000	14252000	-\$2,152,000
2031	336	1,227	1563	\$493,086	\$198,236,914	\$198,730,000	12299000	13901000	-\$1,602,000
2032	336	1,312	1648	\$493,086	\$208,246,914	\$208,740,000	12619000	13550000	-\$931,000
2033	336	1,422	1758	\$493,086	\$223,136,914	\$223,630,000	13077000	13184000	-\$107,000
2034	336	1,426	1762	\$493,086	\$230,706,914	\$231,200,000	12650000	13062000	-\$412,000
2035	336	1,494	1830	\$493,086	\$245,846,914	\$246,340,000	12985000	12825000	\$160,000
2036	336	1,562	1898	\$493,086	\$262,446,914	\$262,940,000	13298000	12596000	\$702,000
2037	336	1,650	1986	\$493,086	\$282,956,914	\$283,450,000	13916000	12474000	\$1,442,000
2038	336	1,738	2074	\$493,086	\$306,876,914	\$307,370,000	14481000	12390000	\$2,091,000
2039	336	1,822	2158	\$493,086	\$331,536,914	\$332,030,000	14938000	12306000	\$2,632,000
2040	336	1,902	2238	\$493,086	\$357,416,914	\$357,910,000	15488000	12276000	\$3,212,000
2041	336	1,980	2316	\$493,086	\$384,026,914	\$384,520,000	16174000	12321000	\$3,853,000
2042	336	2,053	2389	\$493,086	\$413,816,914	\$414,310,000	16846000	12436000	\$4,410,000
2043	336	2,123	2459	\$493,086	\$443,356,914	\$443,850,000	17456000	12581000	\$4,875,000
2044	336	2,195	2531	\$493,086	\$476,066,914	\$476,560,000	17990000	12741000	\$5,249,000
2045	336	2,260	2596	\$493,086	\$509,276,914	\$509,770,000	18600000	12939000	\$5,661,000
2046	336	2,322	2658	\$493,086	\$544,916,914	\$545,410,000	19379000	13184000	\$6,195,000
						Total	\$400,948,000	\$244,513,000	\$156,435,000
							\$452,390,069	is greater than	\$297,556,770
Analysis Summary									
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?									Yes

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

See Attachment D (at Attachment B thereof).

### Board Finding Number 3.

*The Applicant will create two hundred fifty-eight (258) new qualifying jobs, which Applicant affirms will meet all of the requirements set out in Texas Tax Code §313.021(3), including: (1) at least 1,600 hours of work per year; (2) provision of group health benefit plan with at least 80% of the premium paid by Applicant; (3) pay an annual wage of \$81,000 (\$1,558 per week)<sup>1</sup>, an amount equal to at least 110% of the County average weekly wage for manufacturing jobs as defined under §313.021(5)(A); (4) are not created to replace a previous employee; and (5) are not transferred from another area of Texas to the project described the Application.*

See Attachments A, D and J.

<sup>1</sup> The weekly wage as recited in the Comptroller's Economic Impact Analysis at Attachment D is higher than the figure in §14 of the Application (\$1,552.10); the weekly rate in the application is calculated on the minimum required wage, and the Comptroller's noted rate is derived from the applicant's higher committed annual wage of \$81,000.

#### **Board Finding Number 4.**

***The Applicant intends to create 78 non-qualifying jobs.***

In its application, Applicant indicates that it will create 78 non-qualifying jobs with a wage of at least \$1,188.75 per week, which exceeds the county average wage for all jobs in the County, in accordance with the provisions of Texas Tax Code §313.024(d). *See* Attachments A and D.

#### **Board Finding Number 5.**

***Applicant has viable options to locate the proposed manufacturing facility in locations other than Ector County ISD because multiple other sites within the United States are in close proximity to natural gas lines and rail infrastructure. Therefore, the tax savings realized by the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in Texas and Ector County ISD.***

*See* Attachment C.

In support of Finding Number 5, the Comptroller's Certificate states, "[t]he Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state." The Economic Impact Analysis further states:

The Comptroller **has determined** that the limitation on appraised value is a determining factor in the Nacero TX 1 LLC's decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Nacero TX 1 LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. "The Chapter 313 limitation considerably enhances the long-term financial sustainability of selecting the Penwell site. During the initial period of the project, while managing the project financing costs, it is necessary to minimize costs and provide a return to project's investors. In a highly capital intense project, such as Penwell, property taxes represent a large portion of the operating costs and alleviating these costs enables the project to move forward."
  - B. "Not receiving the Chapter 313 limitation would greatly hurt the attractiveness of the Penwell Site compared to the other competing locations. Pending the outcome of the final negotiations and due diligence, this could result in Nacero selecting an alternate location for our flagship manufacturing location."
  - C. "Under Section 8, question 2, the applicant has entered into agreements, contracts, or letters of intent where the proposed

project will occur. The two agreements that Nacero has signed regarding the proposed project are: 1) Option and Purchase Agreement and Joint Escrow Instructions dated October 19, 2020, between Odessa Industrial Development Corporation (OIDC) (Optionor) and Nacero TX 1 LLC (Optionee) for approx. 666 acres in unincorporated Ector County, Texas. 2) Option Agreement dated November 6, 2020 between Betty Moss Dean and C.A. Betty Moss Dean FLP (Optionors) and Nacero TX 1 LLC (Optionee) for approx. 1,869 acres in unincorporated Ector County, Texas.”

See Attachment D.

In further support of Finding No. 5, Nacero provided additional information in Tab 5 of the Application which states that “over the past year, Nacero and the Global Location Strategies (GLS) team have been conducting evaluations on other properties outside of Texas. With availability of abundant natural gas as a primary driver, shortlisted locations include sites in Arizona, Nevada, New Mexico, Oklahoma, Pennsylvania, West Virginia, Ohio, and Texas (Penwell).”

See Attachment A.

#### **Board Finding Number 6.**

***The proposed limitation on appraised value for the qualified property is \$100,000,000.***

The Comptroller’s Minimum School District Limitation Values Report, effective as of January 1, 2021, provides that the District is a Subchapter B, Category 1 District under Texas Tax Code §313.022, with a minimum limitation of \$100,000,000. See Attachments A and D.

#### **Board Finding Number 7.**

***The revenue gains that will be realized by the school district if the Application is approved will be significant in the long term, with special reference to revenues used for supporting school district debt.***

In support of this Finding, the analysis prepared by Culwell Consulting indicates that the Project would add an estimated \$3,401,758,252 to the tax base for debt service purposes at the peak investment level for the 2026-27 school year (tax year 2026). See Table 3, Attachment E. The Project remains fully taxable for debt services taxes. As a result, local taxpayers should see some benefit from the addition of the project to the local I&S tax roll. In addition, the estimated potential revenue gains from Supplemental Payments as provided for in the proposed Agreement are estimated to be \$52,917,800. See Table of Estimated Effects of the Ch. 313 Application, Column 12, dated May 13, 2021 (“Estimated Effects Table”), at the last page of Attachment E, and Attachment H (Article VI).

**Board Finding Number 8.**

*The effect of the Applicant's proposed project is not expected to increase the District's instructional facility needs. Ector County ISD can accommodate the student growth anticipated from Applicant's project with its existing facilities.*

See TEA's Facilities Impact Review Letter at Attachment F.

**Board Finding Number 9.**

*The projected dollar amount of the maintenance and operations taxes that would be imposed on the qualified property for each year of the Agreement if the property does receive a limitation on appraised value, based on the further estimated depreciation of value provided by Applicant, is shown in Estimated Effects Table at last page of Attachment E (column No. 8, labeled "M&O Taxes Paid After Limitation") and Table 3 of Attachment E, and the total amount of M&O taxes that would be imposed on the qualified property with the limitation on appraised valued is estimated to be \$139,021,108. Id.*

See also Attachment D.

**Board Finding Number 10.**

*The projected dollar amount of the maintenance and operations taxes that would be imposed on the qualified property for each year of the Agreement if the property does not receive a limitation on appraised value, based on the further estimated depreciation of value provided by Applicant, is shown in Estimated Effects Table at last page of Attachment E (column No. 7, labeled "M&O Taxes Paid Before Limitation") and Table 3 of Attachment E, and the total amount of M&O taxes that would be imposed on the qualified property without the limitation on appraised valued is estimated to be \$436,577,878. Id.*

See also Attachment D.

**Board Finding Number 11.**

*Based upon the Applicant's certification that the Application is true and correct, the Comptroller's Economic Impact Analysis, the Comptroller's Certificate Decision, and the consultants' review of these and other documents, the Board has determined that the information provided by the Applicant in its Application was true and correct when submitted.*

Upon acceptance of the Application, the District requested the Comptroller to undertake an economic impact evaluation and retained certain consultants to help the Board determine: (1) that Applicant's information contained in the Application as to existing facts is true and correct; (2) that Applicant's information contained in the Application with respect to projections of future events are commercially reasonable and within the ability of Applicant to execute; (3) that information related to job creation is commercially reasonable and within the ability of Applicant to execute; (4) that Applicant's representations concerning the economic incentives available are a determining factor; and, (5) the proposed project meets eligibility requirements for an Agreement under Tax Code Chapter 313.

As a part of its review process, the Board notes that the Application was submitted by Applicant under oath. A Chapter 313 application is a governmental record under Tex. Penal Code §37.01(2)(A), and all representations contained therein are statements of fact within the meaning of Tex. Penal Code §37.01(3). Since Board action upon the adoption of these Findings and the approval of the Agreement (Attachment H) is an “official proceeding,” a false statement in the Application would constitute perjury under Tex. Penal Code §37.03.

The Board finds that sworn statements are routinely relied upon by fact finders in official governmental proceedings. The Board further finds that reliance upon verified statements of the Applicant, especially as to Applicant's future intentions which cannot be objectively verified, is reasonable and within the intent of Chapter 313, Texas Tax Code. See Attachments A, B, C and D.

#### **Board Finding Number 12.**

***The Applicant (Taxpayer Id. 32075161326) is eligible for the limitation on appraised value of qualified property as specified in the Agreement based on the Comptroller's acknowledgment that Applicant's right to transact business in Texas is active as a franchise-tax paying entity subject to taxes imposed by Chapter 171 of the Texas Tax Code.***

See Attachments A, B and C.

#### **Board Finding Number 13.**

***The project will be located within an area that is currently designated as an enterprise zone. Pursuant to Texas Tax Code §312.2011, designation of an area as an enterprise zone under Chapter 2303 of the Texas Government Code constitutes designation of the area as a reinvestment zone under Chapter 312 of the Texas Tax Code. Portions of Ector County are designated as an enterprise zone based on poverty level. See Tex. Gov't Code §2303.109.***

See Attachment A (Tab 16).

#### **Board Finding Number 14.**

***Per Applicant's certification in its Application, the existing improvements located on the land for the project are existing utilities and are not owned by the Applicant. No construction of Qualified Property has occurred, and construction is scheduled to begin in November 2021.***

See Attachment A (§§7.2, 9 and 13 of Tab 1 and Tab 10).

#### **Board Finding Number 15.**

***The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, meets all the requirements set out in Texas Tax Code §313.027, including adequate and appropriate revenue protection provisions for the District.***

In support of this Finding, and based on the information provided and certified by Applicant in its Application, the District's Financial Impact Study demonstrates, pursuant to current school finance law (including Texas Education Code §48.256(d)), that the District is projected to incur a revenue protection payment in tax years 2024, 2025 and 2026 (school year 2024-25, 2025-26 and 2026-27) in the estimated total amount of \$38,602,508. See Attachment E at Table 3 and Estimated Effects Table (Column 10) at last page of Attachment E. Therefore, any potential negative consequences of granting the value limitation are offset through the revenue protection provisions agreed to by the Applicant and the District as set out in the Agreement. See proposed Agreement, Article IV, at Attachment H, and Estimated Effects Table at last page of Attachment E.

#### **Board Finding Number 16.**

***The Board finds that there are no conflicts of interest at the time of its consideration of the Agreement.***

In support of this Finding, the Board finds that it has taken appropriate action to ensure that all District Trustees and the Superintendent have disclosed any potential conflicts of interest, and that disclosures will be made if any conflict of interest is discovered or arises in the future, in compliance with the requirements of Texas Local Government Code, Chapters 171 and 176.

The Board further finds that it has taken appropriate action to ensure that all other applicable District employees and/or consultants have disclosed any potential conflicts of interest, and that disclosures will be made if any conflict of interest is discovered or arises in the future, in compliance with the requirements of Texas Local Government Code, Chapters 171 and 176.

The Board further finds that it is unaware that any conflict exists as to the Application for which these Findings are being made, as of the time of action on these Findings.

**Board Finding Number 17.**

*Considering the purpose and effect of the law and the terms of the Agreement, it is in the best interest of the District and the State to approve Nacero's Application and enter into the attached Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes.*

See Attachment D.

**Board Finding Number 18.**

*The Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, pursuant to Chapter 313 of the Texas Tax Code, attached hereto as Attachment H, is in the form of the October, 2020 template Texas Economic Development Act Agreement adopted by the Comptroller, and the Comptroller has verified that the Agreement complies with the provisions of Chapter 313 of the Texas Tax Code and 34 T.A.C. Chapter 9, Subchapter F.*

See Attachment I.

IT IS THEREFORE ORDERED, that all of the Findings above, including the recitals and statements set out in the Preamble herein, are adopted and approved as the Findings of the Ector County Independent School District Board of Trustees, and the Board of Trustees has made the above factual Findings in accordance with the Texas Tax Code § 313.025(e) and (f) and Texas Administrative Code 34, Chapter 9, subchapter F; and,

IT IS FURTHER ORDERED that the Application attached hereto as Attachment A is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Agreement attached hereto as Attachment H is APPROVED contemporaneously with these Findings and is hereby authorized to be executed and delivered by the Trustees whose signatures appear below on behalf of the Ector County Independent School District, along with a copy of these Findings, which shall be binding upon the parties upon receipt of an executed original of the Agreement from Applicant; and,

IT IS FURTHER ORDERED that these Findings and the Attachments referenced herein be made a part of the official minutes of this meeting, and maintained in the permanent records of the Ector County Independent School District Board of Trustees.

*[signatures follow on next page]*



Dated this 15th day of June, 2021.

Ector County Independent School District

By \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed Name and Title*

Attest:

By \_\_\_\_\_  
*Signature*

\_\_\_\_\_  
*Printed Name and Title*

## LIST OF ATTACHMENTS

<i>Attachment</i>	<i>Description</i>
A	Application and Comptroller's Completeness Letter
B	Applicant's Franchise Tax Account Status
C	Comptroller's Certificate Letter
D	Comptroller Economic Impact Analysis
E	District's Financial Impact Study
F	TEA's Facilities Impact Letter
G	Comptroller's 2020 Property Value Study Report, "2020 ISD Summary Worksheet"
H	Proposed Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes
I	Comptroller's June 10, 2021 Agreement Review Letter



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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P.O.Box 13528 • Austin, TX 78711-3528

March 25, 2021

Scott Muri  
Superintendent  
Ector County Independent School District  
802 N. Sam Houston  
Odessa, Texas 76761

Re: Application for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Ector County Independent School District and Nacero TX 1, LLC, Application 1568

Dear Superintendent Muri:

On February 25, 2021, the Comptroller's office received Nacero TX 1, LLC's (applicant) application for a limitation on appraised value (Application 1568) from Ector County Independent School District (school district).

The purpose of this letter is to inform you that the Comptroller's office has reviewed the submitted application and determined that it includes the information necessary to be determined as complete on March 25, 2021.

Texas Tax Code §313.025(d) directs the Comptroller's office to issue a certificate for a limitation on the appraised value of the property, or provide the governing body of the school district with a written explanation of the Comptroller's decision to not issue a certificate no later than the 90<sup>th</sup> day after receiving the completed application. The requirements to determine eligibility and to issue a certificate for a limitation do not begin until an application is complete as determined by this agency. The Comptroller's office will move forward with our economic impact evaluation and will send a letter of determination to the school district and the applicant.

This letter does not constitute a review of the application under Section 313.025(h) to determine if the project meets the requirements of Section 313.024 for eligibility for a limitation on appraised value. Likewise, this letter does not address the determinations required under Section 313.026(c).

Should you have any questions, please contact Nicholas Valles with our office. He can be reached by email at [nicholas.valles@cpa.texas.gov](mailto:nicholas.valles@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 3-3017 or at 512-463-3017.

Sincerely,

DocuSigned by:

A blue ink signature of Will Counihan, written over a blue DocuSign signature line.

8FD9C70F5753487...

Will Counihan

Director

Data Analysis & Transparency Division

cc: Fred Stormer, Underwood Law Firm, PC  
Christopher Micklas, Nacero Inc.  
Sarah White, Global Location Strategy

**APPLICATION FOR APPRAISED VALUE  
LIMITATION ON QUALIFIED PROPERTY  
(TAX CODE, CHAPTER 313,  
SUBCHAPTER B OR C)**

**Penwell, Texas**

*Submitted to:*

**Texas Comptroller of Public Accounts**

*Submitted by:*

**Nacero Inc., Houston, Texas**

February 12, 2021

Document No. TX1-100000-LE-AGM-000-0001

## **ATTACHMENTS**

## **ATTACHMENT 1**

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Tab 1 – Application for Appraised Value Limitation on Qualified  
Property, Sections 1-16

**ATTACHMENT 1**

**Tab 1 – Application for Appraised Value Limitation on Qualified Property, Sections 1 – 16**  
Penwell, Texas

***REQUIREMENT:***

Provided Sections 1 – 16 of the Application for the Appraised Limitation on Qualified Property.

***NACERO RESPONSE:***

Attached, please find the Application for the Appraised Limitation on Qualified Property with Sections 1 - 16 filled out.

## Application for Appraised Value Limitation on Qualified Property

(Tax Code, Chapter 313, Subchapter B or C)

**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 Texas 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 completed application to the Comptroller, separating each section of the documents. 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, and has determined that all assertions of confidentiality are appropriate, the Comptroller will publish all submitted non-confidential 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's rules. For more information, see guidelines on Comptroller's website.

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. Pursuant to 9.1053(a)(1)(C), requested information shall be provided within 20 days of the date of the request. 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 and issue a certificate for a limitation on appraised value to the school board regarding the application 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 not later than the 150th day after the application review start date (the date the application is finally determined to be complete by the Comptroller), unless an extension is granted. The Comptroller and school district are authorized to request additional information from the applicant that is reasonably necessary to issue a certificate, complete the 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 [comptroller.texas.gov/economy/local/ch313/](http://comptroller.texas.gov/economy/local/ch313/). There are links to the Chapter 313 statute, rules, guidelines and forms. Information about minimum limitation values for particular districts and wage standards may also be found at that site.

## SECTION 1: School District Information

## 1. Authorized School District Representative

February 23, 2021

Date Application Received by District

Scott

First Name

Muri

Last Name

Superintendent

Title

Ector County ISD

School District Name

802 N. Sam Houston

Street Address

802 N. Sam Houston

Mailing Address

Odessa

City

Texas

State

79761

ZIP

(432) 456-9879

Phone Number

n/a

Fax Number

n/a

Mobile Number (optional)

scott.muri@ectorcountysd.org

Email Address

2. Does the district authorize the consultant to provide and obtain information related to this application? .....



Yes



No



SECTION 1: School District Information *(continued)*3. Authorized School District Consultant *(If Applicable)*

Fred	Stormer
First Name	Last Name
Shareholder	
Title	
Underwood Law Firm, PC	
Firm Name	
(806) 379-0306	n/a
Phone Number	Fax Number
n/a	fred.stormer@uwlaw.com
Mobile Number <i>(optional)</i>	Email Address

4. On what date did the district determine this application complete? ..... February 25, 2021

## SECTION 2: Applicant Information

1. Authorized Company Representative *(Applicant)*

Christopher	Micklas	
First Name	Last Name	
Chief Financial Officer	Nacero Inc	
Title	Organization	
Two Briar Lake Plaza, Suite 1000		
Street Address		
2050 W. Sam Houston Parkway South		
Mailing Address		
Houston	Texas	77042
City	State	ZIP
(832) 729-4452	n/a	
Phone Number	Fax Number	
n/a	cmm@nacero.co	
Mobile Number <i>(optional)</i>	Business Email Address	

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

2a. If yes, please fill out contact information for that person.

n/a	n/a	
First Name	Last Name	
n/a	n/a	
Title	Organization	
n/a		
Street Address		
n/a		
Mailing Address		
n/a	n/a	n/a
City	State	ZIP
n/a	n/a	
Phone Number	Fax Number	
n/a	n/a	
Mobile Number <i>(optional)</i>	Business Email Address	

3. Does the applicant authorize the consultant to provide and obtain information related to this application? ..... ☒ Yes ☐ No

## Texas Comptroller of Public Accounts

Data Analysis and  
Transparency  
Form 50-296-ASECTION 2: Applicant Information (*continued*)4. Authorized Company Consultant (*If Applicable*)

Sarah	White
First Name	Last Name
Principal & Vice President of Site Selection	
Title	
Global Location Strategy	
Firm Name	
(864) 420-6291	n/a
Phone Number	Fax Number
sarahwhite@globallocationstrategies.com	
Business Email Address	

## SECTION 3: Fees and Payments

1. Has an application fee been paid to the school district? ☒ Yes ☐ No

The total fee shall be paid at the same time the application is submitted to the school district. Any fees not accompanying the original application shall be considered supplemental payments.

- 1a. If yes, include all transaction information below. Include proof of application fee paid to the school district in **Tab 2**. Any confidential banking information provided will not be publicly posted.

\$ 125,000.00	Wires
Payment Amount	Transaction Type
Nacero Inc.	Ector County ISD
Payor	Payee
02/05/2021 & 02/11/2021	
Date transaction was processed	

For the purpose of questions 2 and 3, "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.

2. 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 ☐ N/A
3. 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 ☐ N/A

## SECTION 4: Business Applicant Information

1. What is the legal name of the applicant under which this application is made? Nacero TX 1 LLC
2. Texas Taxpayer I.D. number of entity subject to Tax Code, Chapter 171 (11 digits) 32075161326
3. Parent Company Name Nacero Inc.
4. Parent Company Tax ID 83-1147162
5. NAICS code 325199
6. Is the applicant a party to any other pending or active Chapter 313 agreements? ☐ Yes ☒ No
- 6a. If yes, please list application number, name of school district and year of agreement

## SECTION 5: Applicant Business Structure

1. Business Organization of Applicant (*corporation, limited liability corporation, etc*) Limited Liability Compay
2. Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)? ☒ Yes ☐ No
- 2a. If yes, attach in **Tab 3** a copy of the most recently submitted Texas Comptroller Franchise Tax Form No. 05-165, No. 05-166, or any other documentation from the Franchise Tax Division to demonstrate the applicant's combined group membership and contact information.

## Texas Comptroller of Public Accounts

Data Analysis and  
Transparency  
Form 50-296-ASECTION 5: Applicant Business Structure *(continued)*

2b. Texas Franchise Tax Reporting Entity Taxpayer Name

Nacero Inc.

2c. Reporting Entity Taxpayer Number

32069055971

3. Is the applicant current on all tax payments due to the State of Texas? ☒ Yes ☐ No
4. Are all applicant members of the combined group current on all tax payments due to the State of Texas? ☒ Yes ☐ No ☐ N/A

## SECTION 6: Eligibility Under Tax Code Chapter 313.024

1. Are you an entity subject to the tax under Tax Code, Chapter 171? ☒ Yes ☐ No
2. The property will be used for one of the following activities:
- (1) manufacturing ☒ Yes ☐ No
  - (2) research and development ☐ Yes ☒ No
  - (3) a clean coal project, as defined by Section 5.001, Water Code ☐ Yes ☒ No
  - (4) an advanced clean energy project, as defined by Section 382.003, Health and Safety Code ☐ Yes ☒ No
  - (5) renewable energy electric generation ☐ Yes ☒ No
  - (6) electric power generation using integrated gasification combined cycle technology ☐ Yes ☒ No
  - (7) nuclear electric power generation ☐ Yes ☒ No
  - (8) a computer center that is used as an integral part or as a necessary auxiliary part for the activity conducted by applicant in one or more activities described by Subdivisions (1) through (7) ☐ Yes ☒ No
  - (9) a Texas Priority Project, as defined by 313.024(e)(7) and TAC 9.1051\* ☐ Yes ☒ No
3. Are you requesting that any of the land be classified as qualified investment? ☐ Yes ☒ No
4. Will any of the proposed qualified investment be leased under a capitalized lease? ☐ Yes ☒ No
5. Will any of the proposed qualified investment be leased under an operating lease? ☐ Yes ☒ No
6. Are you including property that is owned by a person other than the applicant? ☐ Yes ☒ No
7. Will any property be pooled or proposed to be pooled with property owned by the applicant in determining the amount of your qualified investment? ☐ Yes ☒ No

\*Note: Applicants requesting eligibility under this category should note that there are additional application and reporting data submission requirements.

## SECTION 7: Project Description

1. In **Tab 4**, attach a detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information. If the project is an amendment or a reapplication please specify and provide details regarding the original project.
2. Check the project characteristics that apply to the proposed project:
- ☐ Land has no existing improvements
  - ☒ Land has existing improvements *(complete Section 13)*
  - ☐ Expansion of existing operation on the land *(complete Section 13)*
  - ☐ Relocation within Texas

## SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur? ☐ Yes ☒ No
2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project? ☒ Yes ☐ No
3. Does the applicant have current business activities at the location where the proposed project will occur? ☐ Yes ☒ No
4. Has the applicant made public statements in SEC filings or other documents regarding its intentions regarding the proposed project location? ☐ Yes ☒ No
5. Has the applicant received any local or state permits for activities on the proposed project site? ☐ Yes ☒ No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site? ☒ Yes ☐ No
7. Is the applicant evaluating other locations not in Texas for the proposed project? ☒ Yes ☐ No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities? ☐ Yes ☒ No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project? ☐ Yes ☒ No
10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas? ☐ Yes ☒ No

**Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.**

## SECTION 9: Projected Timeline

**NOTE:** Only construction beginning after the application review start date (the date the Texas Comptroller of Public Accounts deems the application complete) can be considered qualified property and/or qualified investment.

1. Estimated school board ratification of final agreement September 2021
2. Estimated commencement of construction 11/01/2021
3. Beginning of qualifying time period (MM/DD/YYYY) 01/01/2022
4. First year of limitation (YYYY) 2024
  - 4a. For the beginning of the limitation period, notate which **one of the following** will apply according to provision of 313.027(a-1)(2):
 

☐ A. January 1 following the application date

☒ B. January 1 following the end of QTP

☐ C. January 1 following the commencement of commercial operations
5. Commencement of commercial operations 09/01/2024

## SECTION 10: The Property

1. County or counties in which the proposed project will be located Ector County
2. Central Appraisal District (CAD) that will be responsible for appraising the property Ector County Appraisal District
3. Will this CAD be acting on behalf of another CAD to appraise this property? ☐ Yes ☒ No
4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:
 

M&O (ISD): <u>Ector ISD, \$1.054700</u> <small>(Name, tax rate and percent of project)</small>	I&S (ISD): <u>Ector ISD, \$0.123220</u> <small>(Name, tax rate and percent of project)</small>
County: <u>Ector, \$0.365000</u> <small>(Name, tax rate and percent of project)</small>	City: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>
Hospital District: <u>Ector County, \$0.150000</u> <small>(Name, tax rate and percent of project)</small>	Water District: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>
Other (describe): <u>Odessa JC District \$0.188965</u> <small>(Name, tax rate and percent of project)</small>	Other (describe): <u>n/a</u> <small>(Name, tax rate and percent of project)</small>

SECTION 10: The Property *(continued)*

5. List all state and local incentives as an annual percentage. Include the estimated start and end year of the incentive:

County: 100% abate /5yrs; inc.10%/yr 5yrs  
(Incentive type, percentage, start and end year)City: n/a  
(Incentive type, percentage, start and end year)Hospital District: 100% abate/10yrs; donate \$30m  
(Incentive type, percentage, start and end year)Water District: n/a  
(Incentive type, percentage, start and end year)Other (describe): 100%/5yr; inc.10%/yr 5yr; \$3m donate  
(Incentive type, percentage, start and end year)Other (describe): ODC Land & grant \$2mm/yr for 10 years  
(Incentive type, percentage, start and end year)

6. Is the project located entirely within the ISD listed in Section 1? ☒ Yes ☐ No
- 6a. If no, attach in **Tab 6** maps of the entire project (depicting all other relevant school districts) and additional information on the project scope and size. Please note that only the qualified property within the ISD listed in Section 1 is eligible for the limitation from this application. Please verify that all information in **Tabs 7 and 8**, Section 11, 12 and 13, and map project boundaries pertain to only the property within the ISD listed in Section 1.
7. Did you receive a determination from the Texas Economic Development and Tourism Office that this proposed project and at least one other project seeking a limitation agreement constitute a single unified project (SUP), as allowed in §313.024(d-2)? ☐ Yes ☒ No
- 7a. If yes, attach in **Tab 6** supporting documentation from the Office of the Governor.

## SECTION 11: Texas Tax Code 313.021(1) Qualified 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 Subchapter B or Subchapter C, 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 [comptroller.texas.gov/economy/local/ch313/](http://comptroller.texas.gov/economy/local/ch313/).

1. At the time of application, what is the estimated minimum qualified investment required for this school district? \$ 100,000,000.00
2. What is the amount of appraised value limitation for which you are applying? \$ 100,000,000.00
- Note:** The property value limitation amount is based on property values available at the time of application and may change prior to the execution of any final agreement.
3. Does the qualified investment meet the requirements of Tax Code §313.021(1)? ☒ Yes ☐ No
4. Attach a description of the qualified investment [See §313.021(1).] The description must include:
- a specific and detailed description of the qualified investment you propose to make within the project boundary for which you are requesting an appraised value limitation as defined by Tax Code §313.021 (**Tab 7**);
  - a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your minimum qualified investment (**Tab 7**); and
  - a detailed map of the qualified investment showing location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period, with vicinity map (**Tab 11**).
5. Do you intend to make at least the minimum qualified investment required by Tax Code §313.023 (or §313.053 for Subchapter C school districts) for the relevant school district category during the qualifying time period? ☒ Yes ☐ No

## SECTION 12: Texas Tax Code 313.021(2) Qualified Property

1. Attach a detailed description of the qualified property. [See §313.021(2)] The description must include:
- 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 (**Tab 8**);
  - a description of any new buildings, proposed new improvements or personal property which you intend to include as part of your qualified property (**Tab 8**);
  - a map or site plan of the proposed qualified property showing the location of the new buildings or new improvements inside the project area boundaries within a vicinity map that includes school district, county and reinvestment zone boundaries (**Tab 11**); and
  - Will any of the proposed qualified property be used to renovate, refurbish, upgrade, maintain, modify, improve, or functionally replace existing buildings or existing improvements inside or outside the project area? ☐ Yes ☒ No
- Note:** Property used to renovate, refurbish, upgrade, maintain, modify, improve, or functionally replace existing buildings or existing improvements inside or outside the project area cannot be considered qualified property and will not be eligible for a limitation. See TAC §9.1051(16).

SECTION 12: Texas Tax Code 313.021(2) Qualified Property (*continued*)

2. Is the land upon which the new buildings or new improvements will be built part of the qualified property described by §313.021(2)(A)? ☒ Yes ☐ No
- 2a. If yes, attach complete documentation including:
- legal description of the land (**Tab 9**);
  - each existing appraisal parcel number of the land on which the new improvements will be constructed, regardless of whether or not all of the land described in the current parcel will become qualified property (**Tab 9**);
  - owner (**Tab 9**);
  - the current taxable value of the land, attach estimate if land is part of larger parcel (**Tab 9**); and
  - a detailed map showing the location of the land with vicinity map (**Tab 11**).
3. Is the land on which you propose new construction or new 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
- 3a. If yes, attach the applicable supporting documentation:
- evidence that the area qualifies as an enterprise zone as defined by the Governor's Office (**Tab 16**);
  - legal description of reinvestment zone (**Tab 16**);
  - order, resolution or ordinance establishing the reinvestment zone (**Tab 16**);
  - guidelines and criteria for creating the zone (**Tab 16**); and
  - a map of the reinvestment zone or enterprise zone boundaries with vicinity map (**Tab 11**).
- 3b. If no, submit detailed description of proposed reinvestment zone or enterprise zone with a map indicating the boundaries of the zone on which you propose new construction or new improvements to the Comptroller's office within 30 days of the application date.
- What is the anticipated date on which you will submit final proof of a reinvestment zone or enterprise zone? n/a

## SECTION 13: Information on Property Not Eligible to Become Qualified Property

1. In **Tab 10**, attach a specific and detailed description of all **existing property within the project boundary**. This includes buildings and improvements existing as of the application review start date (the date the application is determined to be complete by the Comptroller). The description must provide sufficient detail to locate all existing property on the land that will be subject to the agreement and distinguish existing property from future proposed property.
2. In **Tab 10**, attach a specific and detailed description of all **proposed new property within the project boundary that will not become new improvements** as defined by TAC 9.1051. This includes proposed property that: functionally replaces existing or demolished/removed property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property; or is otherwise ineligible to become qualified property. The description must provide sufficient detail to distinguish existing property (statement 1) and all proposed new property that cannot become qualified property from proposed qualified property that will be subject to the agreement (as described in Section 12 of this application).
3. For the property not eligible to become qualified property within the project boundary in response to statements 1 and 2 of this section, provide the following supporting information in **Tab 10**:
- maps and/or detailed site plan;
  - surveys;
  - appraisal district values and parcel numbers;
  - inventory lists;
  - existing and proposed property lists;
  - model and serial numbers of existing property; or
  - other information of sufficient detail and description.
4. Total estimated market value of existing property within the project boundary (that property described in response to statement 1): \$ not owned by applicant
5. In **Tab 10**, include an appraisal value by the CAD of all the buildings and improvements existing as of a date within 15 days of the date the application is received by the school district.
6. Total estimated market value of proposed property not eligible to become qualified property (that property described in response to statement 2): \$ 0.00

**Note:** Investment for the property listed in statement 2 may count towards qualified investment in Column C of Schedules A-1 and A-2, if it meets the requirements of 313.021(1). Such property **cannot** become qualified property on Schedule B.

## SECTION 14: Wage and Employment Information

1. What is the number of new qualifying jobs you are committing to create? ..... 258
2. What is the number of new non-qualifying jobs you are estimating you will create? (See TAC 9.1051(14)) ..... 78
3. Do you intend to request that the governing body waive the minimum new qualifying job creation requirement, as provided under Tax Code §313.025(f-1)? ..... ☐ Yes ☒ No
- 3a. If yes, attach evidence of industry standard in **Tab 12** documenting that the new qualifying job creation requirement above exceeds the number of employees necessary for the operation, according to industry standards.
4. Attach in **Tab 13** the four most recent quarters of data for each wage calculation below, including documentation from the Texas Workforce Commission 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 available at the time of the application review start date (date of a completed application). See TAC §9.1051(21) and (22). **Note:** If a more recent quarter of information becomes available before the application is deemed complete, updated wage information will be required.
- a. Non-qualified job wages  
- average weekly wage for all jobs (all industries) in the county is ..... \$ 1,187.75
- b. Qualifying job wage minimum option §313.021(5)(A)  
-110% of the average weekly wage for manufacturing jobs in the county is ..... \$ 1,552.10
- c. Qualifying job wage minimum option §313.021(5)(B)  
-110% of the average weekly wage for manufacturing jobs in the region is ..... \$ 962.48
5. Which Tax Code section are you using to estimate the qualifying job wage standard required for this project? ..... ☒ §313.021(5)(A) or ☐ §313.021(5)(B)
6. What is the minimum required annual wage for each qualifying job based on the qualified property? ..... \$ 80,709.20
7. What is the annual wage you are committing to pay for each of the new qualifying jobs you create on the qualified property? ..... \$ 81,000.00
8. Will the qualifying jobs meet all minimum requirements set out in Tax Code §313.021(3)? ..... ☒ Yes ☐ No
9. Do you intend to satisfy the minimum qualifying job requirement through a determination of cumulative economic benefits to the state as provided by §313.021(3)(F)? ..... ☐ Yes ☒ No
- 9a. If yes, attach in **Tab 13** supporting documentation from the TWC, pursuant to §313.021(3)(F).
10. Do you intend to rely on the project being part of a single unified project, as allowed in §313.024(d-2), in meeting the qualifying job requirements? ..... ☐ Yes ☒ No
- 10a. If yes, attach in **Tab 6** supporting documentation including a list of qualifying jobs in the other school district(s).

## SECTION 15: Economic Impact

1. Complete and attach Schedules A1, A2, B, and C in **Tab 14**. **Note:** Excel spreadsheet versions of schedules are available for download and printing at URL listed below.
2. Attach an Economic Impact Analysis, if supplied by an entity other than the Comptroller's office, in **Tab 15**. (not required)
3. If there are any other payments made in the state or economic information that you believe should be included in the economic analysis, attach a separate schedule showing the amount for each year affected, including an explanation, in **Tab 15**.



## APPLICATION TAB ORDER FOR REQUESTED ATTACHMENTS

## ATTACHMENT

1	Sections 1-16
2	Proof of Payment of Application Fee
3	Documentation of Combined Group membership under Texas Tax Code 171.0001(7), history of tax default, delinquencies and/or material litigation <i>(if applicable)</i>
4	Detailed description of the project
5	Documentation to assist in determining if limitation is a determining factor
6	Description of how project is located in more than one district, including list of percentage in each district and, if determined to be a single unified project, documentation from the Office of the Governor <i>(if applicable)</i>
7	Description of Qualified Investment
8	Description of Qualified Property
9	Description of Land
10	Description of all property not eligible to become qualified property <i>(if applicable)</i>
11	<p>Maps that clearly show:</p> <ul style="list-style-type: none"> <li>a) Project boundary and project vicinity, including county and school district boundaries</li> <li>b) Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period</li> <li>c) Qualified property including location of new buildings or new improvements</li> <li>d) Any existing property within the project area</li> <li>e) Any facilities owned or operated by the applicant having interconnections to the proposed project</li> <li>f) Location of project, and related nearby projects within vicinity map</li> <li>g) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size</li> </ul> <p><b>Note:</b> Maps should be high resolution files. Include map legends/markers.</p>
12	Request for Waiver of Job Creation Requirement and supporting information <i>(if applicable)</i>
13	Calculation of non-qualifying wage target and two possible qualifying job wage requirements with TWC documentation
14	Schedules A1, A2, B, and C completed and signed Economic Impact <i>(if applicable)</i>
15	Economic Impact Analysis, other payments made in the state or other economic information <i>(if applicable)</i>
16	<p>Description of Reinvestment or Enterprise Zone, including:</p> <ul style="list-style-type: none"> <li>a) evidence that the area qualifies as an enterprise zone as defined by the Governor's Office</li> <li>b) legal description of reinvestment zone</li> <li>c) order, resolution or ordinance establishing the reinvestment zone</li> <li>d) guidelines and criteria for creating the zone</li> </ul>
17	Signature and Certification page, signed and dated by Authorized School District Representative and Authorized Company Representative <i>(applicant)</i>



## **ATTACHMENT 2**

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### **Tab 2 – Proof of Payment of Application Fee**

**REQUIREMENT:**

Include proof of application fee paid to the district.

**NACERO RESPONSE:**

Proof of payment for the application fee is below:

2/5/2021	Wire activity - chase.com				
<b>CHASE</b> <i>for</i> <b>BUSINESS</b>					
Printed from Chase for Business					
Wire date	Status	Wire to	Transaction number	Transfer amount	Amount
Feb 5, 2021	In transit	Ector County ISD CFO	5277027644	\$75,000.00	\$75,000.00 USD
Wire to Ector County ISD CFO (...8594)					
Wire from ANALYSIS BUS CHKG (...5553)					
Amount \$75,000.00 USD (U.S. Dollar)					
Wire fee See analysis statement					
Total \$75,000.00 USD (U.S. Dollar)					
Wire date Feb 5, 2021					
Status In transit					
Status date Feb 5, 2021					
Reference number Not applicable					
Transaction number 5277027644					
Message to recipient Attn: Deborah Ottmers Account: General Fund					
Message to recipient bank Account: General Fund					
Memo None					
Submitted by CAMILLE WILLIAMS					
Submitted by date and timestamp 02/05/2021 03:14:51 PM ET					
Approved by JESSICA WONG					
Approved by date and timestamp 02/05/2021 03:17:01 PM ET					
Last modified by CAMILLE WILLIAMS					
Modified by date and timestamp 02/05/2021 03:17:01 PM ET					

2/11/2021

Wire activity - chase.com

# CHASE *for* BUSINESS

Printed from Chase for Business

Wire date	Status	Wire to	Transaction number	Transfer amount	Amount
Feb 11, 2021	In transit	Ector County ISD CFO	5277653874	\$50,000.00	\$50,000.00 USD

Wire to Ector County ISD CFO (...8594)

Wire from ANALYSIS BUS CHKG (...5553)

Amount \$50,000.00 USD (U.S. Dollar)

Wire fee See analysis statement

Total \$50,000.00 USD (U.S. Dollar)

Wire date Feb 11, 2021

Status In transit

Status date Feb 11, 2021

Reference number Not applicable

Transaction number 5277653874

Message to recipient Attn: Deborah Ottmers Account: General Fund 313 App

Message to recipient bank None

Memo None

Submitted by CAMILLE WILLIAMS

Submitted by date and timestamp 02/11/2021 04:11:34 PM ET

Approved by JESSICA WONG

Approved by date and timestamp 02/11/2021 04:14:54 PM ET

Last modified by CAMILLE WILLIAMS

Modified by date and timestamp 02/11/2021 04:14:54 PM ET

## **ATTACHMENT 3**

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Tab 3 - Documentation of Combined Group Membership under Texas  
Tax Code 171.0001(7), history of tax default, delinquencies and/or  
material litigation

**ATTACHMENT 3**  
**Tab 3 – Documentation of Combined Group Membership**  
Penwell, Texas

***REQUIREMENT:***

Is applicant a combined group, or comprised of members of a combined group, as defined by Tax Code §171.0001(7)?

***NACERO RESPONSE:***

Yes, Nacero is a combined group as defined by Tax Code §171.0001(7), please see the confirmation paperwork is as follows.

**ATTACHMENT 3**  
**Tab 3 – Documentation of Combined Group Membership**  
Penwell, Texas

## Franchise Tax

### 2020 Annual No Tax Due Report

Confirmation

You Have Filed Successfully

**Please do NOT send a paper form**

Since you are electronically reporting this tax, you will not receive a paper tax return in the mail for subsequent reports due. To keep you up-to-date and informed of due dates for this tax, we will send a courtesy e-mail reminder to you at the e-mail address on file for this account.

[Print this page for your records](#)

**Submission ID: 51667753**

**Date and Time of Filing:** 07/23/2020 04:36:59 PM

**Taxpayer ID:** 32069055971

**Taxpayer Name:** NACERO INC.

**Taxpayer Address:** 2050 W SAM HOUSTON PKWY S STE 1000 HOUSTON, TX 77042 - 2079

**Entered By:** Thomas Vega-Byrnes

**Email Address:** tvb@nacero.co

**Telephone Number:** (773) 230-0228

**IP Address:** 98.215.14.56

**Total Amount Due and Payable = 50.00**

This report is being submitted after the due date.  
Reports filed after the due date incur a \$50 late filing fee.

#### Additional Reports

Is this the reporting entity of a combined group?	Yes
Do any of the entities in the combined group have a temporary business loss preserved?	Yes
Will your total revenue be adjusted for the Tiered Partnership Election?	No

#### No Tax Due Report

SIC Code:	NAICS Code: 325199
Accounting Year Begin Date: 01/01/2019	Accounting Year End Date: 12/31/2019

Is this a passive entity as defined in Chapter 171 of the Texas Tax Code?	No
Is this entity's annualized total revenue below the no tax due threshold?	Yes
Does the entity have zero Texas Gross Receipts?	Yes
Is this entity a Real Estate Investment Trust (REIT) that meets the qualifications specified in section 171.0002(c)(4)?	No
Is this entity a New Veteran-Owned Business as defined in Texas Tax Code Sec. 171.0005?	No
Total Revenue:	\$0

#### Mailing Address

Street Address: 2050 W SAM HOUSTON PKWY S STE 1000  
City: HOUSTON  
State: TX  
Zip Code: 77042 - 2079  
Country: USA

#### Common Owner Information

Taxpayer Number: 32069055971  
Federal Employer's ID Number: 831147162  
Social Security Number:  
Common Owner Business Name: NACERO INC.

**ATTACHMENT 3**  
**Tab 3 – Documentation of Combined Group Membership**  
**Penwell, Texas**

<p>OR</p> <p>First Name:</p> <p>Middle Name:</p> <p>Last Name:</p> <p>Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042</p> <p>County: HARRIS</p> <p>Common Owner Start Date: 09/28/2018</p> <p>Common Owner End Date:</p> <p>Is this individual or entity still the common owner? Yes</p>
---

<b>Affiliate 1</b>
<p>Legal Name of Affiliate: NACERO INC.</p> <p>Affiliate Taxpayer Number: 32069055971</p> <p>SOS File Number or Comptroller File Number: 0803176023</p> <p>Affiliate NAICS Code: 325199</p> <p>Is this affiliate disregarded for Franchise Tax? No</p> <p>Does this affiliate have nexus? Yes</p> <p>Affiliate Reporting Begin Date: 01/01/2019</p> <p>Affiliate Reporting End Date: 12/31/2019</p> <p>Gross receipts subject to throwback in other states: 0</p> <p>Gross receipts everywhere: 94,045</p> <p>Gross receipts in Texas: 0</p> <p>Cost of goods sold or compensation: 0</p> <p>Is this affiliate a corporation, limited liability company, professional association, limited partnership or financial institution? Yes</p> <p>Will you be filing an information report for this affiliate? Yes</p>

<b>Public Information Report</b>
<p>Mailing Address: 2050 W SAM HOUSTON PKWY S STE 1000 HOUSTON, TX 77042-2079</p> <p>Principal Office: 2050 W Sam Houston Pkwy S, Ste 1000, Houston TX 77042</p> <p>Principal Place Of Business: 2050 W Sam Houston Pkwy S, Ste 1000, Houston TX 77042</p> <p>Changes from previous year?: Yes</p>

<b>Officers, Directors, Managers, Member or General Partner</b>																																																																
<table style="width: 100%;"><tr><td style="width: 30%;">Name: John J. McKenna, III</td><td style="width: 30%;">Title: President &amp; CEO</td><td style="width: 20%;">Director? Yes</td><td style="width: 20%;">Term Expiration Date:</td></tr><tr><td colspan="4">Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042</td></tr><tr><td colspan="4"> </td></tr><tr><td>Name: Thomas N. Tureen</td><td>Title: Chairman</td><td>Director? Yes</td><td>Term Expiration Date:</td></tr><tr><td colspan="4">Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042</td></tr><tr><td colspan="4"> </td></tr><tr><td>Name: Harry (Hal) Bouknight, Jr.</td><td>Title: Chief Operating Officer</td><td>Director? No</td><td>Term Expiration Date:</td></tr><tr><td colspan="4">Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042</td></tr><tr><td colspan="4"> </td></tr><tr><td>Name: Chris Micklas</td><td>Title: Chief Financial Officer</td><td>Director? No</td><td>Term Expiration Date:</td></tr><tr><td colspan="4">Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042</td></tr><tr><td colspan="4"> </td></tr><tr><td>Name: Thomas Vega-Byrnes</td><td>Title: General Counsel &amp; Secretary</td><td>Director? No</td><td>Term Expiration Date:</td></tr><tr><td colspan="4">Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042</td></tr><tr><td colspan="4"> </td></tr><tr><td>Name: Marc Heissan</td><td>Title: Director</td><td>Director? Yes</td><td>Term Expiration Date:</td></tr></table>	Name: John J. McKenna, III	Title: President & CEO	Director? Yes	Term Expiration Date:	Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042								Name: Thomas N. Tureen	Title: Chairman	Director? Yes	Term Expiration Date:	Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042								Name: Harry (Hal) Bouknight, Jr.	Title: Chief Operating Officer	Director? No	Term Expiration Date:	Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042								Name: Chris Micklas	Title: Chief Financial Officer	Director? No	Term Expiration Date:	Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042								Name: Thomas Vega-Byrnes	Title: General Counsel & Secretary	Director? No	Term Expiration Date:	Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042								Name: Marc Heissan	Title: Director	Director? Yes	Term Expiration Date:
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**ATTACHMENT 3**  
**Tab 3 – Documentation of Combined Group Membership**  
**Penwell, Texas**

Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042			
Name: Christie Franchi			
Title: Director	Director? Yes	Term Expiration Date:	
Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042			
Name: Kevin Kroeger			
Title: Director	Director? Yes	Term Expiration Date:	
Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042			
Name: David Nelson			
Title: Director	Director? Yes	Term Expiration Date:	
Mailing Address: 2050 W Sam Houston Pkwy S, Ste 1000 Houston, TX 77042			
<b>Owned Entity(s)</b>			
<b>Owned Entity(s)</b>	<b>State of Formation</b>	<b>TX SOS File #</b>	<b>Percentage of Ownership</b>
Nacero Casa Grande LLC	DE		100.0
Nacero Kingman A LLC	DE		100.0
Nacero OH 1 LLC	DE		100.0
Nacero PA 1 LLC	DE		100.0
Nacero TX 1 LLC	DE		100.0
<b>Owners</b>			
<b>Owned Entity(s)</b>	<b>State of Formation</b>	<b>TX SOS File #</b>	<b>Percentage of Ownership</b>
DRW Energy Ventures LLC	DE		31.5
ESU Invest CV	Netherlands		34.2
<b>Registered Agent and Office</b>			
Agent: CAPITOL CORPORATE SERVICES, INC.			
Office: 206 E. 9TH ST., STE. 1300 AUSTIN, TX 78701-2079			
<b>Declaration Statement</b>			
I declare that the information in this document and any attachments is true and correct to the best of my knowledge and belief, as of the submission date, and that a copy of this information has been mailed to each person named in this section who is an officer, director or manager and who is not currently employed by this, or a related, corporation or limited liability company.			

<b>Affiliate 2</b>	
Legal Name of Affiliate: Nacero Casa Grande LLC	
Affiliate Taxpayer Number: 000000000	
SOS File Number or Comptroller File Number:	
Affiliate NAICS Code: 325199	
Is this affiliate disregarded for Franchise Tax? Yes	
Does this affiliate have nexus? No	
Affiliate Reporting Begin Date: 01/01/2019	
Affiliate Reporting End Date: 12/31/2019	
Gross receipts subject to throwback in other states: 0	
Gross receipts everywhere: 0	
Gross receipts in Texas: 0	
Cost of goods sold or compensation: 0	
Is this affiliate a corporation, limited liability company, professional association, limited partnership or financial institution? Yes	
Will you be filing an information report for this affiliate? No	

<b>Payment Summary</b> <b>Amount to Pay:</b> \$50.00 <b>Convenience fee (non-refundable):</b> \$1.00 <b>Total Credit Card Payment:</b> \$51.00  <b>Payment Reference Number:</b> 456573734 <b>Trace Number:</b> 902AA0019080673 <b>Type of Credit Card:</b> MASTERCARD <b>Credit Card Number:</b> *****1104
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<b>Cardholder Name:</b> Thomas Vega Byrnes <b>Credit Card Expiration Date:</b> 10/2022
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## **ATTACHMENT 4**

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### Tab 4 - Detailed Description of the Project

**ATTACHMENT 4**  
**Tab 4 – Detailed Description of the Project**  
Penwell, Texas

**REQUIREMENT:**

Detailed description of the scope of the proposed project, including, at a minimum, the type and planned use of real and tangible personal property, the nature of the business, a timeline for property construction or installation, and any other relevant information.

**NACERO RESPONSE:**

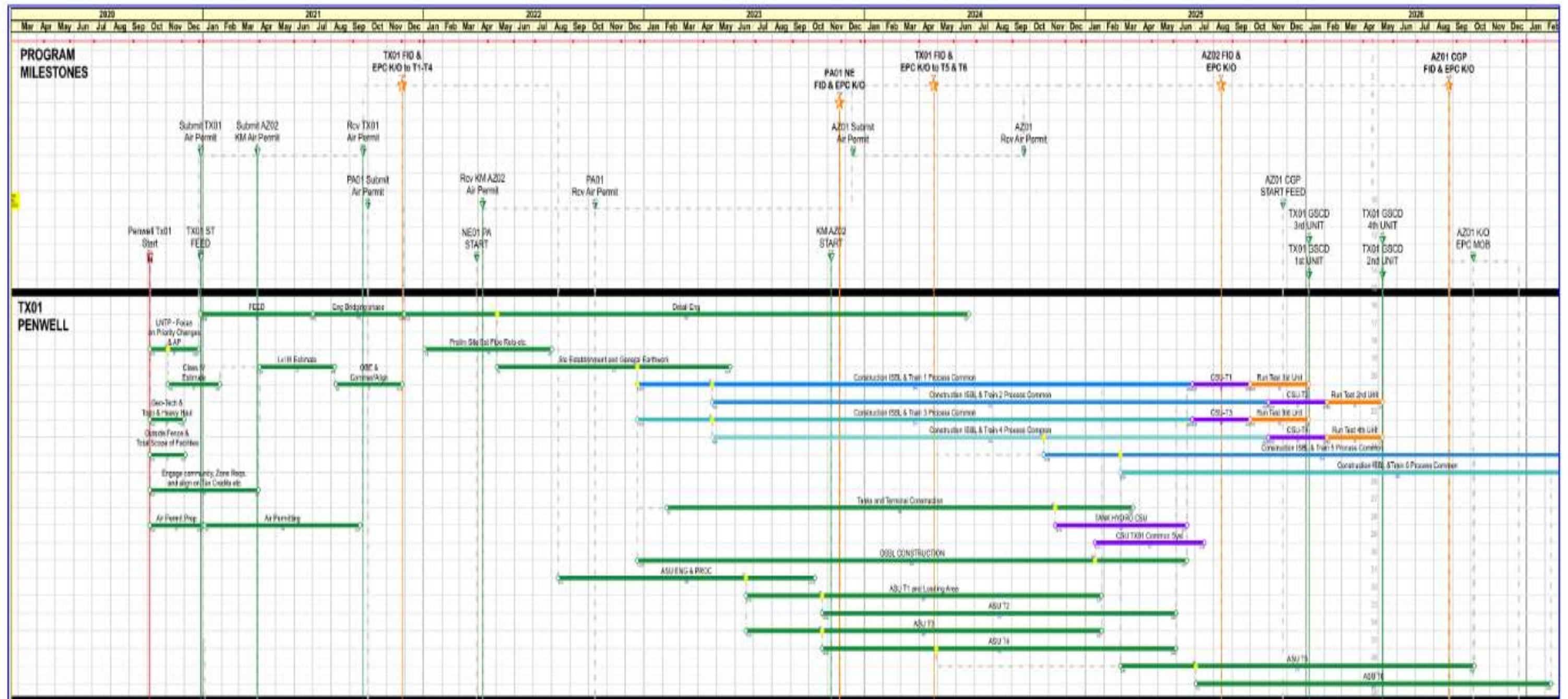
Nacero TX 1 LLC (Nacero) is developing the proposed Project to design, engineer, construct, commission and operate a new natural gas processing and gasoline production facility that will convert natural gas to methanol, and methanol to gasoline. The new industrial facility is proposed to be constructed on land in the unincorporated community of Penwell in Ector County, Texas, approximately 12 miles west of Odessa, Texas. A Union Pacific Railroad (UPRR) right-of-way is located along the southern boundary of the Project area.

The proposed Project is a unique large-scale energy project that produces zero-sulfur gasoline from natural gas using an environmentally superior process with a smaller carbon footprint compared to traditional gasoline production processes. The result is cost-competitive, retail-ready gasoline for use in today's cars and trucks with the added benefit of zero sulfur gasoline which improves the effectiveness of vehicle catalytic converters. There is a higher efficiency of removal of nitrogen oxides and volatile organics which are the precursors for ground level ozone. The proposed Project will utilize Haldor Topsoe's (HT) SynCOR Methanol™ technology to convert natural gas to methanol, and Haldor Topsoe's TIGAS™ technology to convert methanol to gasoline. Some gasoline post treatment will be necessary for specific seasonal gasoline specifications, which also uses Haldor Topsoe's hydrogen/hydro-processing technologies to create finished gasoline component. Haldor Topsoe, based in Denmark, is a world leader in process technology and catalyst production. Haldor Topsoe has licensed the same process for a facility constructed and operated in Turkmenistan as the only natural gas to gasoline process plant operating at large scale in the world today.

The Penwell site for the proposed Project is one of several sites under consideration to be the first utilization of this natural gas to gasoline process within the United States and will set a new standard for domestic gasoline production. When completed, the proposed Project will produce a nominal total of 90,000 barrels per day of finished gasoline component from a total of six trains. The first phase of the project will consist of four trains and the additional two trains will follow as the "new" gasoline achieves market success. The scope of facilities consists the six production trains of gasoline manufacturing and the utilities, infrastructure, storage, rail and truck loading and other facilities required for successful support of the long-term production of gasoline.

**ATTACHMENT 4**  
**Tab 4 – Detailed Description of the Project**  
Penwell, Texas

Below please find Figure 1, which shows the projected timeline for property development:



# ATTACHMENT 5

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Tab 5 – Documentation to Assist in Determining if Limitation is a  
Determining Factor

*Submission Date: May 7, 2021*

**Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor**  
Penwell, Texas

**REQUIREMENT:**

Per Chapter 313.026(e) states “the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2). “if you answered “yes” to any questions in Section 8, attach supporting information in Tab 5.

**NACERO RESPONSE:**

Under Section 8, question 2, the applicant has entered into agreements, contracts, or letters of intent where the proposed project will occur. The two agreements that Nacero has signed regarding the proposed project are below and are attached following this page:

- Option and Purchase Agreement and Joint Escrow Instructions dated October 19, 2020, between Odessa Industrial Development Corporation (OIDC) (Optionor) and Nacero TX 1 LLC (Optionee) for approx. 666 acres in unincorporated Ector County, Texas.
- Option Agreement dated November 6, 2020 between Betty Moss Dean and C.A. Betty Moss Dean FLP (Optionors) and Nacero TX 1 LLC (Optionee) for approx. 1,869 acres in unincorporated Ector County, Texas.

The Chapter 313 limitation considerably enhances the long-term financial sustainability of selecting the Penwell site. During the initial period of the project, while managing the project financing costs, it is necessary to minimize costs and provide a return to project’s investors. In a highly capital intense project, such as Penwell, property taxes represent a large portion of the operating costs and alleviating these costs enables the project to move forward.

Not receiving the Chapter 313 limitation would greatly hurt the attractiveness of the Penwell Site compared to the other competing locations. Pending the outcome of the final negotiations and due diligence, this could result in Nacero selecting an alternate location for our flagship manufacturing location.



Submission Date: May 7, 2021

## Limitation as a Determining Factor

Over the past year, the Nacero and GLS team evaluated properties across the Marcellus, Utica, and Permian regions as well as locations with large quantities of natural gas (nine total states) to identify properties with suitable natural gas feedstock and other site requirements.

Initial screening criteria included:

- Proximity to natural gas lines
- Rail infrastructure on site or in proximity
- Large site size and/or adjacent expansion opportunities

The process included:

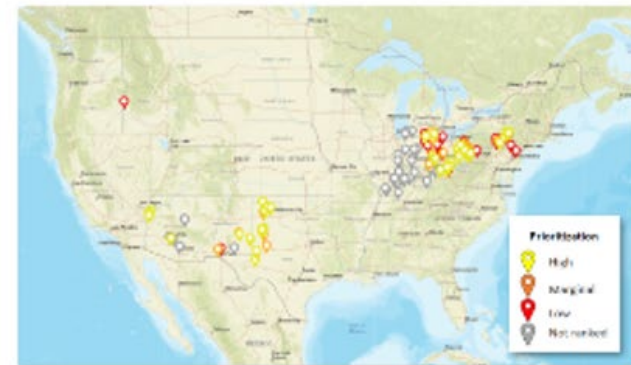
- GLS site identification
  - Site identification resulted in identification of 130 sites and full assessment of 87 sites
- Shortlist of locations for Request for Information
- Virtual site visits
- Field site visits

As a result of this analysis, Project Watson has focused on finalist locations in Texas (Penwell Site) and Arizona.

The Chapter 313 limitation considerably enhances the long-term financial sustainability of selecting the Penwell site. During the initial period of the project, while managing the project financing costs, it is necessary to minimize costs and provide a return to project's investors. In a highly capital intense project, such as Penwell, property taxes represent a large portion of the operating costs and alleviating these costs enables the project to move forward.

Not receiving the Chapter 313 limitation would greatly hurt the attractiveness of the Penwell Site compared to the other competing locations. Pending the outcome of the final negotiations and due diligence, this could result in Nacero selecting an alternate location for our flagship manufacturing location.

The Chapter 313 has been key to the company's economic evaluation of the Penwell location throughout the entire site selection process, continues to be vital, and will always be integral to a decision to locate in Penwell and any future growth.



## **OPTION AND PURCHASE AGREEMENT**

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Odessa Industrial Development Corporation (OIDC) (Optionor) and  
Nacero TX 1 LLC (Optionee) for approx. 666 acres in unincorporated  
Ector County, Texas. October 19, 2020

CF# 3710003939

Execution Version

**OPTION and PURCHASE AGREEMENT, and JOINT ESCROW INSTRUCTIONS****DATE:** October 19, 2020 ("Effective Date")**PARTIES:**

*DJBG* Odessa Industrial Development Corporation, a Texas not for profit corporation ("Optionor"), and

*HAB* Nacero TX 1 LLC, a Delaware limited liability company ("Optionee").

**RECITALS**

- A. Optionor is the owner of the real property located in Ector County, Texas, (i) located in Section 43, Block 44, T-2-5 and Section 6, Block 44, T-3-5, T&P Railway Company Survey consisting of approximately 601.10 acres as legally described in **Exhibit "A"** attached hereto and made a part hereof and (ii) legally described in Exhibits A-1, A-2, A-3, A-4 and A-5 attached hereto and made a part hereof (collectively, the "**Property**").
- B. Optionor has agreed to grant to Optionee an exclusive option to acquire from Optionor, at Optionee's election, fee simple title to all of Optionor's interest in the Property upon the terms and conditions set forth in this Option and Purchase Agreement and Joint Escrow Instructions (this "**Agreement**").

FOR AND IN CONSIDERATION OF THE MUTUAL COVENANTS HEREIN AFTER SET FORTH, AND OTHER GOOD AND VALUABLE CONSIDERATION, THE PARTIES AGREE AS FOLLOWS:

**AGREEMENT**

1. **Grant of Option.** Optionor hereby grants to Optionee the exclusive right and option to purchase the Property during the Option Term (as defined in Section 2 below) for the Purchase Price (as defined in Section 6 below) subject to the terms, covenants and conditions set forth herein (the "**Option**"). Optionor agrees that it will not sell, or offer to sell, or conduct negotiations for the sale of the Property while this Agreement is in effect.

2. **Option Term.** Optionee has until 5:00 pm Central Time on August 1, 2022 ("**Option Expiration Date**") to exercise the Option in accordance with the terms of this Agreement. As used herein, "**Option Term**" means the period commencing on the Effective Date and ending on the Option Expiration Date or the earlier termination of this Agreement. The date the Option actually closes (as represented by recordation of the Deed referenced in Section 10.2 below) is the "**Close of Escrow**."



3. **Opening of Escrow: Earnest Money.**

3.1 **Opening of Escrow.** At such time as this Agreement is fully executed, the parties shall open an escrow with Escrow Agent (defined in Section 9 below). "**Opening of Escrow**" is the date on which this Agreement, executed by Optionor and Optionee, is delivered to and accepted by Escrow Agent and the Earnest Money (defined in 3.2 below) has been received by Escrow Agent. As consideration for Optionor agreeing to the grant of the Option pursuant to the terms of this Agreement, Optionee shall deposit with Escrow Agent the following consideration in the form of immediately available funds on or before the following dates or event.

3.2 **Earnest Money.** Within five (5) business days after the Effective Date of this Agreement, Optionee shall deposit \$1,000.00 as earnest money ("**Earnest Money**") for the period commencing on the Effective Date and terminating on the Option Expiration Date.

3.3 **Interest.** Escrow Agent shall deposit the Earnest Money in a federally insured interest-bearing bank account, subject to immediate withdrawal, at a bank or savings and loan institution located in Texas. Interest earned on the Earnest Money shall be held by Escrow Agent and shall be disbursed by Escrow Agent to the applicable party entitled to the Earnest Money as and when provided in this Agreement. The Earnest Money is applicable to the Purchase Price if escrow closes.

3.4 **Disbursement: Non-Refundable Nature of Earnest Money.** The Earnest Money shall be non-refundable.

3.5 **Disposition of Earnest Money.**

(a) If the escrow closes, all Earnest Money in escrow shall be disbursed to Optionor and credited against the Purchase Price.

(b) If the Agreement is cancelled for any reason, Escrow Agent shall promptly disburse to Optionor all Earnest Money then in escrow, as consideration for Optionor's execution of and entry into this Agreement.

3.6 **Cancellation Charges.** If the escrow fails to close because of Optionor's default, Optionor shall be liable for all customary escrow cancellation charges. If the escrow fails to close because of Optionee's default, Optionee shall be liable for all customary escrow cancellation charges. If the escrow fails to close for any other reason, Optionee shall be liable for all customary escrow cancellation charges.

4. **Exercise of Option.** To exercise the Option, Optionee must timely perform the following conditions on or before the Option Expiration Date:

4.1 Provide written notice to Optionor, not less than fifteen (15) calendar days before the intended closing date, of Optionee's intent to exercise the Option (the "**Option Notice**"). The Option Notice must specify the date of the Option closing ("**Closing Date**"), which must be on or before the Option Expiration Date;

4.2 Deposit in escrow with Escrow Agent on or before the Closing Date the Purchase Price, less the Earnest Money previously paid hereunder, together with all other sums required of Optionee to fully satisfy its obligations under this Agreement, including Optionee's share of proration and closing costs, in the form of immediately available funds; and

4.3 Execute and deliver to Escrow Agent on or before the Closing Date all documents necessary and appropriate to close the transaction contemplated under this Agreement in accordance with Section 16 of this Agreement.

5. **Termination of Option.** If this Agreement and the Option terminate due to Optionee's failure to timely exercise the Option on or before the Option Expiration Date in accordance with the provisions of Section 4 above, then Optionor's sole right and remedy resulting from such termination will be to receive from Escrow Agent the Earnest Money as agreed upon compensation for the Option. The foregoing does not limit or prevent Optionor from enforcing Optionee's obligations and liabilities that survive a termination of this Agreement according to the express terms hereof.

6. **Purchase Price.** The purchase price for the Property, exclusive of prorated costs and credits, shall be \$1,000.00 (the "**Purchase Price**"). *DJBG HMB*

7. **Memorandum of Option.** ~~Memorandum of Option.~~ Concurrently with the execution of this Agreement, Optionor and Optionee shall execute and deliver to Escrow Agent a "**Memorandum of Option**" in the form of **Exhibit "B-1"** attached hereto and made a part hereof. Optionor and Optionee shall also concurrently execute and deliver to Escrow Agent a "**Termination of Option**" in the form of **Exhibit "B-2"** attached hereto and made a part hereof. The parties hereby jointly instruct Escrow Agent to record the Memorandum of Option with the Ector County Recorder upon receipt of the Earnest Money. In the event the Option is not exercised by the Option Expiration Date, or this Agreement and Option are validly terminated pursuant to the terms of this Agreement, and the Memorandum of Option has been recorded, Escrow Agent is hereby irrevocably and unconditionally instructed to promptly record the Termination of Option with the Ector County Recorder.

**8. Due Diligence Materials.**

**8.1 Property Documents.** Within five (5) business days of the Opening of Escrow, Optionor shall provide Optionee with copies of the documents identified on **Exhibit "C"** attached hereto ("**Property Documents**"). Optionee acknowledges and agrees that the Property Documents will be furnished without representations or warranties of any nature, express or implied, including without limitation, any representation or warranty as to the content, accuracy or completeness of the Property Documents. Neither Optionor nor its members, managers, owners, employees, agents or representatives shall have any liability resulting from the use of or reliance on the Property Documents. Optionee accepts all responsibility for the accuracy or completeness of the Property Documents, and accepts same "AS IS"; and Optionee hereby releases Optionor from all liability and responsibility relating to the contents of the Property Documents.

**8.2** From the Effective Date until the Close of Escrow or the date in which the Option is terminated, Optionee may, at its sole discretion and cost, cause (a) an environmental survey, environmental analysis, and such other studies, tests, reports, engineering analyses and other investigations to be performed as Optionee may determine, in its discretion, to be completed as provided in Section 12.2 below and (b) an Alta land survey (the "**Survey**").

**9. Joint Escrow Instructions.** If Optionee exercises its Option, then this Agreement shall constitute joint escrow instructions by Optionee and Optionor to the escrow agent: Chicago Title - Commercial, 609 Main St., Suite 2350, Houston, Texas 77002; Attention: Karen Highfield, Phone: (713) 238-9145; karen.highfield@fnf.com ("**Escrow Agent**").

**10. Conveyance of Property.**

**10.1 Agreement to Purchase and Sell.** In the event the Option is timely and properly exercised as required by this Agreement, Optionor hereby agrees to sell, assign and convey to Optionee, and Optionee agrees to purchase from Optionor, the Property (and any other personal property, crops, equipment or other materials remaining on the Property as set forth in this Agreement) on the Closing Date in accordance with the terms set forth in this Agreement.

**10.2 Conveyance of Title.** Optionor shall deliver title to Optionee at the Close of Escrow pursuant to a special warranty deed (the "**Deed**") in form and substance substantially similar to **Exhibit "D"** attached hereto and made a part hereof. Upon satisfaction of all conditions in this Agreement for the Close of Escrow, the parties shall instruct Escrow Agent to record the Deed in the

official records of Ector County, Texas. Except for the Unpermitted Liens, Optionee agrees that the Deed shall convey title subject to all matters of record as of the date hereof, including what an ALTA/NSPS survey would disclose, future government action, and then-current taxes and assessments.

**10.3 Automatic Reversion.** In the event Optionee fails to Commence Permanent Construction (as defined below) of the Nacero Penwell natural gas to gasoline production facility (the "Project") on the Property on or before December 31, 2023, then title to the Property shall immediately pass to and vest in the Odessa Industrial Development Corporation. As used herein, "Commence Permanent Construction" shall mean the placement of the first foundation for any permanent structure associated with the structures built into or attached to the Project. To memorialize the Commencement of Permanent Construction and prevent this automatic reversion, Optionor and Optionee shall (i) file an Affidavit of Commencement of Construction in the Official Public Records, Ector County, Texas and (ii) amend the Deed of record to remove Exhibit B thereto and all references to the right of reverter referenced therein. Upon reversion, Optionee shall further surrender to Optionor all written environmental or geotechnical studies pertaining to the Property that was acquired by Optionee or its agents while completing its due diligence on the Property, that is in Optionee's possession, and that may be disclosed to Optionor.

This provision shall be included in the Deed and shall survive closing.

## **11. Title Commitment and Title Policy.**

**11.1 Delivery of Title Commitment.** As soon as practicable after Opening of Escrow, Escrow Agent shall deliver to Optionor and Optionee a current title commitment, based on the Title Evidence provided according to 11.7 herein, for the issuance of a Form T-1 extended coverage owner's title insurance policy (with any endorsements requested by Optionee) in the amount of the Purchase Price and covering the Property, together with legible copies of all Schedule B items and all other items referred to in the title commitment ("Title Commitment").

**11.2 Initial Objections to Title Commitment and Survey.** During the Option Term, Optionee shall have the opportunity to review the Title Commitment and the Survey to determine whether title to the Property is satisfactory to Optionee. Optionor shall respond promptly to any Optionee questions or objections regarding any matter shown in the Title Commitment or the Survey, including, if requested, indicating whether Optionor will or will not cure any objection to the condition of title to the Property.



**11.3 No New Liens or Encumbrances.** During the term of this Agreement, Optionor shall not enter into or record any easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, or similar obligations encumbering the Property that will survive the Close of Escrow without Optionee's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed.

**11.4 Unpermitted Liens.** Notwithstanding anything provided herein to the contrary, on or before the Close of Escrow, and without cost to Optionee or the need for Optionee to object thereto, Optionor shall satisfy and remove from the Property all: (i) financing encumbrances and monetary liens arising from any deeds of trust, mortgages, or other agreements executed by Optionor or assumed in writing by Optionor; (ii) mechanics', materialmen's and supplier's liens arising out of work performed at the request of Optionor or on behalf of Optionor; (iii) judgment liens against Optionor; (iv) federal or state income or sales tax liens against Optionor; and (v) all other liens securing monetary obligations arising from the acts of Optionor or any affiliate (other than taxes and assessments not yet due) ((i) – (v), collectively the "**Unpermitted Liens**"). Upon the Close of Escrow, the proceeds due to Optionor shall be used to pay and satisfy any Unpermitted Liens.

**11.5 Permitted Exceptions.** As used herein, the term "**Permitted Exceptions**" shall mean (i) any matters affecting title to the Property approved or deemed approved by Optionee pursuant to this Section 11.5, (ii) any matters that are created by or arise from the act or omission of Optionee or its employees, engineers, consultants, affiliates and agents ("**Optionee's Agents**") (iii) zoning and other governmental restrictions, and (iv) any other matters that are approved or deemed approved by Optionee under or in connection with this Agreement or otherwise contemplated by the express terms of this Agreement.

**11.6 Title Policy.** At the Close of Escrow, Escrow Agent shall be irrevocably committed to furnish to Optionee Form T-1 owner's policy of title insurance ("**Title Policy**") in the amount of the Purchase Price (or such greater amount required and paid for by Optionee) insuring Optionee's fee simple title to the Property, subject only to the usual printed exceptions contained in such title insurance policies and the Permitted Exceptions, and containing such endorsements that Escrow Agent has agreed to issue (as set forth in a proforma policy) to Optionee as of the end of the Option Expiration Date. If Escrow Agent for any reason is unwilling to issue said Title Policy at Close of Escrow, then Optionee may terminate this Agreement by giving notice of such termination to Optionor and Escrow Agent, in which case (i) the Option and this Agreement shall be terminated for all purposes, (ii) Optionor and Escrow

Agent shall return the entire Earnest Money to Optionee, (iii) Escrow Agent shall return all other funds, documents and other items held in escrow to the party that deposited same in escrow, and (iv) the parties shall have no further rights or obligations under this Agreement except for those rights and obligations that are specified in this Agreement to survive the termination of this Agreement.

**11.7 Title Evidence.** Escrow Agent shall obtain Title Evidence from Permian Basin Title Services, Inc. d/b/a Basin Abstract & Title, 4526 E. University #2A, Odessa, Texas.

**12. Condition of Property: Access: Entitlements.**

**12.1 AS-IS.** EXCEPT FOR OPTIONOR'S EXPRESS REPRESENTATIONS (AS DEFINED IN SECTION 17), OPTIONEE ACKNOWLEDGES THAT OPTIONOR (INCLUDING ANYONE ACTING FOR OR ON BEHALF OF OPTIONOR, INCLUDING, WITHOUT LIMITATION, ANY BROKER OR OTHER REPRESENTATIVE OR AGENT) HAS NOT MADE, IS NOT MAKING AND SPECIFICALLY DISCLAIMS ANY WARRANTIES, REPRESENTATIONS OR PROMISES OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, WITHOUT LIMITATION, WARRANTIES OR REPRESENTATIONS AS TO: (A) MATTERS OF TITLE; (B) THE PROPERTY'S COMPLIANCE WITH ANY FEDERAL, STATE OR LOCAL LAW, ORDINANCE, RULE, REGULATION, ORDER, DIRECTIVE OR REQUIREMENT, INCLUDING, WITHOUT LIMITATION, THOSE RELATING TO ENVIRONMENTAL PROTECTION, POLLUTION, STORM DRAINAGE, AND ZONING AND LAND USE; (C) ANY MATTERS RELATING TO UTILITIES, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITIONS (INCLUDING, WITHOUT LIMITATION, THE PRESENCE OR ABSENCE OF HAZARDOUS MATERIALS AT, ON, UNDER OR ADJACENT TO THE PROPERTY), THE AVAILABILITY OF ACCESS, INGRESS OR EGRESS, VALUATION, GOVERNMENTAL APPROVALS, GOVERNMENTAL REGULATIONS OR ANY OTHER MATTER OR THING RELATING TO OR AFFECTING THE PROPERTY, INCLUDING, WITHOUT LIMITATION, THE VALUE, CONDITION, MERCHANTABILITY, MARKETABILITY, PROFITABILITY, SUITABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE OF THE PROPERTY; (D) THE CONTENT, COMPLETENESS OR ACCURACY OF ANY DELIVERIES TO OPTIONEE BY OPTIONOR, PARTIES ACTING ON BEHALF OF OPTIONOR OR THE TITLE COMPANY; (E) THE SIZE OR DIMENSIONS OF THE PROPERTY; (F) THE CONFORMITY OF THE PROPERTY WITH ANY MATERIALS DELIVERED TO OPTIONEE BY OPTIONOR OR ANY PERSON ACTING ON BEHALF OF OPTIONOR; AND (G) THE SUITABILITY OF THE PROPERTY FOR ANY AND ALL ACTIVITIES AND USES WHICH OPTIONEE MAY CONDUCT THEREON. EXCEPT

WITH RESPECT TO OPTIONOR'S EXPRESS REPRESENTATIONS, OPTIONEE HAS NOT RELIED ON AND WILL NOT RELY ON, EITHER DIRECTLY OR INDIRECTLY, ANY REPRESENTATION OR WARRANTY OF OPTIONOR OR ANY AGENT OF OPTIONOR, AND OPTIONEE REPRESENTS THAT IT IS RELYING SOLELY ON ITS OWN EXPERTISE, INSPECTIONS, INVESTIGATIONS AND JUDGMENT AND THAT OF OPTIONEE'S CONSULTANTS IN PURCHASING THE PROPERTY. SUBJECT TO THE TERMS AND CONDITIONS HEREOF, OPTIONEE ACKNOWLEDGES THAT IT WILL HAVE HAD THE OPPORTUNITY TO CONDUCT SUCH INSPECTIONS AND INVESTIGATIONS OF THE PROPERTY AS OPTIONEE DEEMS NECESSARY OR ADVISABLE, INCLUDING, WITHOUT LIMITATION, THE PHYSICAL AND ENVIRONMENTAL CONDITIONS OF THE PROPERTY, AND OPTIONEE SHALL RELY (AND IS RELYING) UPON SAME. EXCEPT WITH RESPECT TO OPTIONOR'S EXPRESS REPRESENTATIONS, UPON THE CLOSE OF ESCROW, OPTIONEE SHALL ASSUME THE RISK THAT ADVERSE MATTERS, INCLUDING, WITHOUT LIMITATION, ADVERSE PHYSICAL AND ENVIRONMENTAL CONDITIONS, MAY NOT HAVE BEEN REVEALED BY OPTIONEE'S INSPECTIONS AND INVESTIGATIONS. EXCEPT WITH RESPECT TO OPTIONOR'S EXPRESS REPRESENTATIONS, OPTIONEE ACKNOWLEDGES AND AGREES THAT UPON CLOSE OF ESCROW, OPTIONOR SHALL SELL AND CONVEY TO OPTIONEE, AND OPTIONEE SHALL ACCEPT, THE PROPERTY "AS IS, WHERE IS," WITH ALL FAULTS. OPTIONEE FURTHER ACKNOWLEDGES AND AGREES THAT THERE ARE NO ORAL AGREEMENTS, WARRANTIES OR REPRESENTATIONS, COLLATERAL TO OR AFFECTING THE PROPERTY BY OPTIONOR, ANY AGENT OR REPRESENTATIVE OF OPTIONOR OR ANY THIRD PARTY.

THE TERMS AND CONDITIONS OF THIS SECTION 12.1 SHALL SURVIVE THE CLOSE OF ESCROW AND NOT MERGE WITH THE PROVISIONS OF ANY CLOSING DOCUMENTS OR DELIVERABLES, AND ARE HEREBY DEEMED INCORPORATED INTO THE DEED. OPTIONOR IS NOT LIABLE OR BOUND IN ANY MANNER BY ANY ORAL OR WRITTEN STATEMENTS, REPRESENTATIONS OR INFORMATION PERTAINING TO THE PROPERTY FURNISHED BY ANY REAL ESTATE BROKER, AGENT, EMPLOYEE OR OTHER PERSON, UNLESS THE SAME ARE SPECIFICALLY SET FORTH OR REFERRED TO IN THIS AGREEMENT OR OTHERWISE CONSTITUTE OPTIONOR'S EXPRESS REPRESENTATIONS. OPTIONEE ACKNOWLEDGES AND AGREES THAT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH HEREIN ARE AN INTEGRAL PART OF THIS AGREEMENT AND THAT OPTIONOR WOULD NOT HAVE AGREED TO SELL THE PROPERTY TO OPTIONEE FOR THE PURCHASE PRICE WITHOUT THE DISCLAIMERS AND OTHER AGREEMENTS SET FORTH HEREIN.

## **12.2 Access to Property.**

**(a)** Until the Close of Escrow, and unless and until the Option otherwise terminates, and with the coordination of Optionor, Optionee and Optionee's Agents may, upon at least twenty-four (24) hours prior written notice to Optionor, enter upon the Property at their sole and exclusive risk, for the purpose of making appropriate non-intrusive inspections and conducting, at Optionee's sole cost and expense, appropriate non-intrusive feasibility studies with respect to the Property. OPTIONEE SHALL NOT CONDUCT, PERMIT OR ALLOW ANY INTRUSIVE TESTING TO OCCUR (I.E., DRILLING OR BORING INTO THE PROPERTY) WITHOUT FIRST OBTAINING OPTIONOR'S WRITTEN CONSENT, WHICH SHALL NOT BE UNREASONABLY WITHHELD, CONDITIONED, OR DELAYED. If Optionee conducts any test or inspections of or on the Property, then Optionee shall promptly cause the Property to be returned to substantially the same condition that existed prior to Optionee's entry. Optionee understands and agrees that in conducting such inspections it shall not cause any material damage or interference with Optionor's operations or equipment on the Property.

**(b)** Prior to entering upon the Property, Optionee shall deliver to Optionor a certificate issued by its insurance carrier evidencing that Optionee, or Optionee's Agents entering the Property, then has in full force and effect a policy of occurrence-based commercial general liability insurance (with contractual liability and property damage endorsements) in an amount of not less than Two Million Dollars (\$2,000,000.00) combined single limit coverage written by a reputable and solvent insurance carrier duly licensed by the State of Texas.

**(c)** Optionee shall indemnify, defend and hold Optionor harmless for, from, and against all claims, suits, causes of action, damages, liabilities and costs (including, without limitation, reasonable attorneys' fees and other costs and expenses) caused by Optionee's inspection of the Property including, without limitation, any personal injury, physical damage to property or mechanics' or materialmen's liens which may be asserted against Optionor or the Property as a result of any such entry, inspection, test and study conducted by Optionee or Optionee's Agents. The foregoing obligation to indemnify, defend and hold harmless does not apply to (a) any injury, liability, claim, demand, cause of action, loss or expense to the extent arising from or related to the acts or omissions of anyone other than Optionee or Optionee's Agents, or (b) any condition or defect merely discovered by Optionee or Optionee's Agents (and not caused or negligently aggravated by Optionee or any of its engineers, consultants, agents or designees), including without limitation, the unintentional release or disturbance of any hazardous materials initially



caused to be on, under or about the Property by anyone other than Optionee or Optionee's Agents, or (c) Optionee's election to terminate this Agreement. Notwithstanding any provision of this Agreement to the contrary, the indemnity and restoration obligations of Optionee shall survive the Close of Escrow and any termination of this Agreement, and shall be a continuing obligation of Optionee and its successors and assigns.

(d) Nothing contained in this Agreement shall be deemed or construed in any way as constituting the consent or request of Optionor, express or implied by inference or otherwise, to any party for the performance of any labor or the furnishing of any materials to the Property or any part thereof, nor as giving Optionee any right, power or authority to contract for or permit the rendering of any services or the furnishing of any materials that would give rise to the filing of any liens against the Property or any part thereof. Optionee agrees to promptly cause the removal of, and indemnify, defend and hold Optionor harmless with respect to, any mechanic's or similar lien filed against the Property or any part thereof by any party performing any labor or services at the Property or supplying any materials to the Property at Optionee's request.

### 12.3 Entitlements.

(a) Optionor understands and agrees that while this Agreement is in effect, Optionee may process and obtain, from and with the Approving Authorities (defined below), various zoning amendments, plats, agreements and other entitlements with respect to the Property that Optionee determines are necessary or desirable in connection with its proposed development on the Property of a natural gas to gasoline manufacturing facility or other uses as determined by Optionee (collectively, the "**Entitlements**"), *provided however*, (i) Optionee shall not, prior to the Close of Escrow, finalize any Entitlements that prohibit or otherwise negatively impact the existing agricultural use of the Property or otherwise devalue the Property; and (ii) Optionee shall obtain Optionor's prior approval of any applications or submittals prior to submission to the Approving Authority, such approval not to be unreasonably withheld, conditioned or delayed, and which approval shall be deemed given by Optionor if Optionor fails to approve or request changes to any such application or submittal within thirty (30) days after receipt thereof. If Optionor requests any changes be made to any application or submittal, Optionee shall obtain Optionor's prior approval of any revised application or submittal prior to submission as provided in the preceding sentence. Optionor shall give all reasonable cooperation to Optionee in the submission and processing of such applications for each of the Entitlements, including without limitation, executing and delivering such applications and

other documents as Optionee shall reasonably request in connection therewith; provided however, Optionor shall not be required to expend any funds or excessive time in compliance with this Section. Optionee will be responsible for and shall timely pay the costs associated with obtaining or attempting to obtain the Entitlements.

(b) **"Approving Authorities"** means Ector County, any municipality having jurisdiction over the Property, the Texas Commission on Environmental Quality, and all other governmental or quasi-governmental authorities, utility providers, and property owners associations with jurisdiction over the Property or any improvements thereon.

13. **[Reserved]**.

14. **1031 Exchange**. In the event Optionor elects to arrange, in connection with the transaction contemplated hereby, an exchange that qualifies for tax deferred treatment pursuant to Section 1031 of the Internal Revenue Code of 1986, as amended, and corresponding provisions of applicable state law, Optionee agrees to give its reasonable cooperation in Optionor's attempts to make such an exchange (but without cost or expense to Optionee) by executing and delivering the applicable exchange documents, including any exchange company consents reasonably necessary to effect the tax-deferred exchange, provided that in no event shall Optionee incur or assume in connection therewith any greater obligation or liability whatsoever than Optionee would otherwise be required to incur or assume under this Agreement, and provided further that no such transaction shall delay the Close of Escrow under this Agreement. Such tax-deferred exchange shall be effected at Optionor's sole cost, expense and liability and Optionor hereby indemnifies and holds Optionee harmless for, from and against any cost, expense, claim, liability, obligation or damage which Optionee may incur or suffer by reason of any such exchange by Optionor, unless such cost, expense, claim, liability, obligation or damage is a result of a breach or default by Optionee under this Agreement or a violation of applicable law by Optionee. Optionor's agreements and obligations under this Section 14 shall survive the Close of Escrow.

15. **Brokerage Commission**. Optionor and Optionee acknowledge that neither party has engaged a broker or finder or agreed to pay any broker or finder a commission or fee by reason of the sale and purchase of the Property. Optionor and Optionee hereby agree to indemnify, defend and hold harmless the other party for, from and against any and all claims, losses, damages, costs or expenses of any kind or character arising out of or resulting from any agreement, arrangement or understanding made or alleged to have been made with any broker or finder in connection with this Agreement or the transaction contemplated hereby. The provisions of this Section 15 shall survive the Close of Escrow.

**16. Close of Escrow.** In the event Optionee properly and timely exercises the Option, the following provisions shall apply with respect to the Close of Escrow.

**16.1 Deliveries to be made by Optionor.** On or before the Closing Date, Optionor shall deliver to Escrow Agent for filing, recordation, or delivery to Optionee, as appropriate, the following:

(a) Deed that is duly executed and appropriately acknowledged by Optionor;

(b) A nonforeign affidavit certifying that Optionor is not a "Foreign Person" as defined in the Internal Revenue Code Section 1445 and that no withholding is required pursuant to Internal Revenue Code Section 1445. If Optionor is a disregarded entity, Optionor shall cause the nonforeign affidavit to be executed by the appropriate "transferor";

(c) Optionor shall execute Escrow Agent's standard form owner's affidavit;

(d) A closing settlement statement prepared by Escrow Agent, duly executed by Optionor in form and content satisfactory to Optionor and Optionee;

(e) Such resolutions, authorizations and organizational documents relating to Optionor and its members, partners, principals or shareholders, as applicable, as may be reasonably required by Escrow Agent; and

(f) Such other instruments reasonably required by Escrow Agent or otherwise required to close the escrow and consummate the transaction contemplated hereby in accordance with the terms hereof.

**16.2 Deliveries to be made by Optionee:** On or before the Closing Date, Optionee shall deliver to Escrow Agent for filing, recordation or delivery to Optionor, the following:

(a) Immediately available funds in the amount of the Purchase Price, subject to credits provided for herein, plus such additional funds as may be required to allow Optionee to fully satisfy its obligations due under this Agreement, including Optionee's share of prorated costs and closing costs;

(b) A closing settlement statement prepared by Escrow Agent, duly executed by Optionee in form and content satisfactory to Optionor and Optionee;

(c) Such resolutions, authorizations and organizational documents relating to Optionee and its members, partners, principals or shareholders, as applicable, as may be reasonably required by Escrow Agent; and

(d) Such other instruments reasonably required by Escrow Agent or otherwise required to close the escrow and consummate the transaction contemplated hereby in accordance with the terms hereof.

**16.3 Closing Costs.** Any escrow fee payable to Escrow Agent in connection with the escrow shall be shared equally by Optionee and Optionor. Standard coverage owner's title policy shall be paid by Optionee. Optionee also shall pay the additional cost for extended coverage (if required by Optionee) and any endorsements requested by Optionee. All other fees, recording costs, charges or expenses incidental to the sale, transfer and assignment of the Property to Optionee shall, except as is otherwise expressly provided in the Agreement, be paid according to the custom of Ector County, Texas. Optionee shall deposit with Escrow Agent, on or before the Close of Escrow, sufficient amounts to cover its share of closing costs (and all other items prorated in accordance with this Agreement to the extent applicable). Optionor's share of closing costs (and all other items prorated in accordance with this Agreement to the extent applicable) shall be paid from the proceeds otherwise payable to Optionor. Optionor shall also be solely responsible for any profit or other participation owed to a third party under any separate written agreement therefor by and between Optionor and such third party. Real estate taxes and assessments (on latest information available or current actual tax bill) shall be prorated to the date of Close of Escrow. Optionor shall pay any delinquent taxes and assessments and such taxes and assessments may be paid from Optionor's proceeds at Close of Escrow.

**17. Optionor's Representations and Warranties.** Optionor represents and warrants to Optionee as of the Effective Date, and at Close of Escrow shall be deemed to represent and warrant to Optionee (with the understanding and intent that Optionee is relying and will rely on such representations and warranties) that:

**17.1 Authority.**

(a) Optionor is a Texas not for profit corporation duly formed and validly existing under the laws of Texas.

(b) Optionor has the power and authority to execute and deliver this Agreement and to perform all of its obligations under this Agreement.

(c) Optionor is duly authorized to enter into and perform this Agreement and this Agreement has been duly executed and delivered on



behalf of Optionor. The individual executing this Agreement on behalf of Optionor is duly authorized and empowered to enter into this Agreement. This Agreement constitutes the legal, valid and binding obligations of Optionor, enforceable against Optionor in accordance with its terms.

(d) The execution, delivery, and performance by Optionor of this Agreement and any other instruments and documents to be executed and delivered in connection with this Agreement by Optionor do not, and will not, result in any violation of, or conflict with, or constitute a default under, the provisions of any mortgage, deed of trust, indenture, lease, security agreement, or other instrument or agreement or any law, regulation, rule, requirement, agreement, restriction, order, writ, decree, or judgment to which Optionor or the Property is bound or subject to.

**17.2 Foreign Person.** Optionor is not a "Foreign Person" as such term is defined under the Internal Revenue Code Section 1445.

**17.3 No Condemnation Proceedings.** To Optionor's actual knowledge, there are no existing, pending, or anticipated condemnation or similar proceedings against or involving the Property.

**17.3 No Litigation.** To Optionor's knowledge, there are no actions, suits, arbitrations, governmental investigations or other legal proceedings pending against Optionor, or threatened against Optionor, which could adversely impact Optionor's ability to consummate the transactions contemplated by this Agreement. To Optionor's knowledge, Optionor has received no notice from any applicable federal, state, county or municipal department, commission, board, bureau, agency, or other governmental instrumentality regarding violations of any laws, codes, rules, regulations and/or ordinances.

**17.4 No Bankruptcy.** Optionor is not a party to any voluntary or involuntary proceedings in bankruptcy, reorganization or similar proceedings under the Federal bankruptcy laws or under any state laws relating to the protection of debtors, nor subject to any general assignment for the benefit of the creditors, and, to Optionor's knowledge, no such action has been threatened.

**17.5 Environmental.**

(a) To Optionor's knowledge, and except as disclosed to Optionee in writing, Optionor has not received written notice from any governmental body or agency of any violation, relating to the Property, of any Environmental Laws with respect to Hazardous Substances. To Optionor's knowledge, Optionor is not aware of any ongoing violations of Environmental Laws or investigations of violations of Environmental Laws with respect to the

Property. To Optionor's knowledge, Optionor is not aware of the presence of any underground storage tanks on or below the Property.

(b) Upon Close of Escrow, Optionor shall be automatically deemed to have assigned on a non-exclusive basis to Optionee all claims, counterclaims, defenses or actions, whether at common law, or pursuant to any other applicable federal or state or other laws which Optionor may have against any third parties relating to the existence of any Hazardous Substance in, at, on, under or about the Property.

(c) As used herein the term "**Environmental Laws**" means any federal, state or local law, ordinance or regulation, or any order, demand or guidance document of any governmental agency, relating to industrial hygiene, worker health and safety, environmental conditions, or any Hazardous Substance.

(d) As used herein, "**Hazardous Substance**" means any flammables, explosives, radioactive materials, hazardous wastes, hazardous and toxic substances or related materials, asbestos or any material containing asbestos, or any other substance or material, defined as a "**hazardous substance**", "**hazardous material**", "**hazardous waste**", "**toxic substance**", "**contaminant**" or "**pollutant**" by any federal, state or local environmental law, ordinance, rule or regulation including, without limitation, the Federal Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, the Federal Hazardous Materials Transportation Act, as amended, the Federal Resource Conservation and Recovery Act, as amended, and the rules and regulations adopted and promulgated pursuant to each of the foregoing.

**17.6** As used in this Agreement, the phrase "**to Optionor's knowledge**" or words of similar import, means, and shall be limited to the actual (as distinguished from implied, imputed or constructive) knowledge of Optionor's managers, officers and directors, without such persons having any obligation or duty to investigate. Optionee acknowledges that the individuals named above are named solely for the purpose of defining and narrowing the scope of Optionor's knowledge and not for the purpose of imposing any liability on or creating any duties running from such individual to Optionee.

**18. Optionee's Representations and Warranties.** Optionee represents and warrants to Optionor as of the Effective Date, and at Close of Escrow shall be deemed to represent and warrant to Optionor (with the understanding and intent that Optionor is relying and will rely on such representations and warranties) that:

**18.1 Authority.**

(a) Optionee is a limited liability company authorized to do business in the State of Texas.

(b) Optionee has the power and authority to execute and deliver this Agreement and to perform all of its obligations under this Agreement.

(c) Optionee is duly authorized to enter into and perform this Agreement and this Agreement has been duly executed and delivered on behalf of Optionee. The individual executing this Agreement on behalf of Optionee is duly authorized and empowered to enter into this Agreement. This Agreement constitutes the legal, valid and binding obligations of Optionee, enforceable against Optionee in accordance with its terms.

(d) The execution, delivery, and performance by Optionee of this Agreement and any other instruments and documents to be executed and delivered in connection with this Agreement by Optionee do not, and will not, result in any violation of, or conflict with, or constitute a default under, the provisions of any mortgage, deed of trust, indenture, lease, security agreement, or other instrument or agreement or any law, regulation, rule, requirement, agreement, restriction, order, writ, decree, or judgment to which Optionee or by which Optionee is bound or to which Optionee is subject.

**18.2 No Litigation.** There are no actions, suits, arbitrations, governmental investigations or other legal proceedings pending against Optionee, or to Optionee's knowledge (meaning the actual (as distinguished from implied, imputed or constructive) of Optionee's managers, officers and directors, without such persons having any obligation or duty to investigate and without imposing any liability on or creating any duties running from such individual to Optionor) threatened against Optionee, which could adversely impact Optionee's ability to consummate the transactions contemplated by this Agreement.

**19. Survival of Representations and Warranties: Indemnity.**

**19.1 Survival.** The representations, warranties, and covenants set forth in Sections 17 and 18 shall survive the Close of Escrow only for a period of twelve (12) months. Any claims timely made with respect to the Property shall survive until the claim is settled or litigated to a final judgment.

**19.2 Indemnity.** Each party hereby agrees to indemnify, defend and hold the other party (and its officers, members, managers, employees, and agents) harmless for, from and against any and all claims, demands, liabilities, costs, expenses, penalties, damages and losses, including, without limitation, attorneys' fees, resulting from (i) any misrepresentation or breach of any representation or warranty made by such party in Section 17 or Section 18 of this Agreement, as applicable, or in any document, certificate, or exhibit given or delivered to the other pursuant to or in connection with this Agreement; or (ii) post-Close of Escrow or post-termination breach of, or default under, a covenant or other agreement hereunder which, by the terms hereof survives the Close of Escrow or earlier termination of this Agreement. The provisions of this Section 19.2 shall survive the Close of Escrow or earlier termination of this Agreement. All damages amounts and remedies sought under this Section 19.2 shall not exceed the Cap (as defined in Section 20.1 below).

## **20. Default Provisions.**

**20.1 Default by Optionor.** In the event Optionor breaches or fails to perform any of its obligations under this Agreement that are to be performed prior to the Close of Escrow, or prior to Close of Escrow Optionee discovers that any representation or warranty of Optionor made in this Agreement was materially untrue when made, and such breach or failure is not cured by Optionor after Optionee provides Optionor with written notice and ten (10) days to cure ("**Optionor's Cure Period**"), Optionee may elect as its sole remedy under this Agreement to either (a) terminate this Agreement by delivery of notice of termination to Optionor, whereupon the Earnest Money shall be returned to Optionee as provided in Section 3.5(c) or (b) continue this Agreement pending Optionee's action for specific performance, and any action by Optionee for specific performance shall be brought, if at all, no later than the date that is ninety (90) days after the Closing Date. The provisions of this Section shall survive any termination of this Agreement.

**20.2 Default by Optionee.** IF THE SALE OF THE PROPERTY IS NOT CONSUMMATED BECAUSE OF A DEFAULT UNDER THIS AGREEMENT ON THE PART OF OPTIONEE AFTER OPTIONOR PROVIDES OPTIONEE WITH WRITTEN NOTICE AND TEN (10) DAYS TO CURE, THEN AS OPTIONOR'S SOLE AND EXCLUSIVE REMEDY, THE EARNEST MONEY PREVIOUSLY DEPOSITED WITH ESCROW AGENT BY OPTIONEE AND ALL ACCRUED INTEREST THEREON SHALL BE PAID TO AND RETAINED BY OPTIONOR AS LIQUIDATED DAMAGES PURSUANT TO SECTION 3.5(b). THE PARTIES HAVE AGREED THAT OPTIONOR'S ACTUAL DAMAGES, IN THE EVENT OF SUCH A DEFAULT BY OPTIONEE, WOULD BE EXTREMELY DIFFICULT OR IMPRACTICABLE TO DETERMINE. THEREFORE, THE PARTIES ACKNOWLEDGE THAT THE



EARNEST MONEY DEPOSITED WITH ESCROW AGENT PLUS ANY ACCRUED INTEREST THEREON HAS BEEN AGREED UPON, AFTER NEGOTIATION, AS THE PARTIES' REASONABLE ESTIMATE OF OPTIONOR'S DAMAGES AND AS OPTIONOR'S SOLE AND EXCLUSIVE REMEDY AGAINST OPTIONEE, AT LAW OR IN EQUITY, IN THE EVENT OF AN UNCURED DEFAULT UNDER THIS AGREEMENT ON THE PART OF OPTIONEE THAT RESULTS IN THE FAILURE OF OPTIONEE TO CONSUMMATE THE SALE OF THE PROPERTY, PROVIDED THAT OPTIONOR MAY ENFORCE OPTIONEE'S INDEMNITY OBLIGATIONS, IF ANY, THAT SURVIVE ANY TERMINATION OF THIS AGREEMENT.

**20.3 Post-Closing Defaults.** If Optionor or Optionee is entitled after Close of Escrow to pursue any claim against the other, then subject to the provisions of Section 19 above concerning the survival period applicable to claims based upon a breach of representation or warranty, the non-defaulting party shall be entitled to pursue such claim, as may be so limited; provided, however, that in an action for monetary damages, the non-defaulting party shall only be entitled to seek recovery of actual damages which result from the defaulting party's default or breach of this Agreement. Optionor and Optionee hereby waive and covenant not to assert any right to seek or obtain any other damages, including, without limitation, special, consequential, exemplary or punitive damages, including lost profits. The provisions of this Section 20.3 shall survive the Close of Escrow.

**21. Notices.** Any and all notices required or permitted by this Agreement shall be given in writing and either (a) personally delivered, (b) sent by registered or certified mail, return receipt requested, postage prepaid, (c) sent by a reputable overnight courier, or (d) sent by electronic mail to the email addresses listed below, provided, however, that if such communication is given via electronic mail, a copy of such communication shall concurrently be sent as specified in subsections (a), (b) or (c) above, addressed as follows:

If to Optionor:	Odessa Industrial Development Corporation Attn: Wesley R. Burnett, CEcD, MPA 700 N. Grant St., Suite 200 Odessa, TX 79761 Phone: (432) 333-7881 Email: WBurnett@odessaecodev.com
With Copy to:	The Terry Law Firm, PLLC 17 La Promesa Circle Odessa, Texas 79765 Phone: (432) 368-3638 Email: cterry@cterryllaw.com

<b>If to Optionee:</b>	Nacero TX 1 LLC Attn: Hal Bouknight, Chief Operating Officer Two BriarLake Plaza, Suite 1000 2050 W. Sam Houston Parkway S. Houston, TX 77042 Phone: (207) 415-2780 Email: tnt@nacero.co
<b>With Copy to:</b>	Nacero Inc. Attn: Tom Vega-Byrnes General Counsel Two BriarLake Plaza, Suite 1000 2050 W. Sam Houston Parkway S. Houston, TX 77042 Phone: (773) 230-0228 Email: tvb@nacero.co
<b>With Copy to:</b>	King & Spalding LLP Attn: David Runnels 1100 Louisiana, Suite 4100 Houston, TX 77002 Phone: (713) 751-3255 Email: drunnels@kslaw.com
<b>If to Escrow Agent:</b>	Chicago Title - Commercial Attn: Karen Highfield 609 Main St., Suite 2350 Houston, TX 77002 Phone: (713) 238-9145 Email: karen.highfield@fnf.com
<b>With Copy to:</b>	Permian Basin Title Services dba Basin Abstract & Title Attn: Mike Withrow 4526 E. University # 2A Odessa, Texas 79762 Phone: (432) 368-3600 Email: mwithrow@basinabstract.com

or at any other addresses designated by Optionee, Optionor or Escrow Agent in writing. Any notice or communication shall be deemed to have been given (i) as of the date of receipt, if received by electronic mail on or before 5:00 pm Central Time, (ii) as of the next day after receipt, if received by electronic mail after 5:00 pm Central Time; (iii) as of the date of delivery or refusal, if hand delivered or sent by overnight courier; (iv) as of three (3) days after the date of mailing, if mailed within the continental United States; or (v) as of seven (7)

days after mailing, if mailed outside the continental United States. Copies of all notices or communications to Optionee or Optionor shall be sent by electronic mail, hand delivered, mailed, or sent by overnight courier, in the manner set forth above, to Escrow Agent, and copies of all notices by Optionee or Optionor to Escrow Agent shall be sent by electronic mail, hand delivered, mailed or sent by overnight courier, in the manner set forth above, to the other party hereto. The provisions of this Section shall survive the Close of Escrow.

## **22. Casualty/Condemnation of Property.**

**22.1 Casualty.** The risk of loss or damage to the Property shall be borne by Optionor.

**22.2 Condemnation.** If any portion of the Property or interest therein is taken under the provisions of eminent domain law, or in any proceeding or action in lieu thereof, after the date of this Agreement and prior to the Close of Escrow, then Optionee shall have the option either to (i) elect to terminate this Agreement by giving written notice of termination to Optionor and Escrow Agent within ten (10) days after receipt of notice of such action or by the subject Closing Date, whichever occurs earlier, or (ii) close the transaction contemplated by this Agreement, in which case, the Purchase Price shall be reduced by the amount of the net acreage of the Property so taken or impacted by said condemnation, or proceeding or action in lieu thereof. If Optionee elects to terminate this Agreement pursuant to the terms of this Section 22.2, then (i) the Option and this Agreement shall be terminated for all purposes, (ii) Optionor and Escrow Agent shall return the entire Earnest Money to Optionee, (iii) Escrow Agent shall return all other funds, documents and other items held in escrow to the party that deposited same in escrow, and (iv) the parties shall have no further rights or obligations under this Agreement except for those rights and obligations that are specified in this Agreement to survive the termination of this Agreement.

## **23. General Provisions.**

**23.1 Good Funds.** Except as otherwise provided in this Agreement, all deposits and payments that are to be made by Optionee with respect to this Agreement shall be made when due in lawful money of the United States. Under no circumstances will Escrow Agent accept any deposit or payment not made in strict accordance with this Agreement.

**23.2 Time of Essence.** Time is and shall be of the essence of this Agreement and all its provisions. Any extension of the time for performance under this Agreement by either party must be in writing and signed on behalf of Optionor

and Optionee. No extension will be deemed a waiver of this Section with respect to other performance by either party.

**23.3 Waiver.** The waiver by any party of any right granted to it in this Agreement shall not be deemed a waiver of any other right granted in this Agreement, nor shall it be deemed a waiver of a subsequent right obtained because of the continuation of any matter previously waived.

**23.4 Attorneys' Fees.** If either party hereto brings an action or proceeding against the other party to enforce or interpret any of the covenants, conditions, agreements, or provisions of this Agreement, then the prevailing party in such action or proceeding shall be entitled to recover all reasonable costs and expenses of such action or proceeding, including, without limitation, attorneys' fees, charges, disbursements, the fees and costs of expert witnesses and other litigation related expenses in an amount determined by the court and not by a jury. If any party secures a judgment in any such action or proceeding, then any costs and expenses (including, without limitation, attorneys' fees and costs) incurred by the prevailing party in enforcing such judgment, or any costs and expenses (including, without limitation, attorneys' fees and costs) incurred by the prevailing party in any appeal from such judgment in connection with such appeal shall be recoverable separately from and in addition to any other amount included in such judgment. The preceding sentence is intended to be severable from the other provisions of this Agreement, and shall survive and not be merged into any such judgment. This Section shall survive any termination of this Agreement under Section 20.

**23.5 Entire Agreement.** This Agreement is intended to be and constitutes the entire agreement between the parties with respect to the Property as of the date of execution, and it may be amended only by an instrument in writing signed by Optionee and Optionor. The joinder of Escrow Agent shall not be required to amend this Agreement. Evidence of prior negotiations or understandings between the parties shall not vary or contradict the provisions of this Agreement.

**23.6 Successors and Assigns.** Subject to the terms of this Agreement, this Agreement shall run with the land and be binding upon and shall inure to the benefit of Optionee and Optionor and their respective successors and assigns.

**23.7 Further Assurances.** Promptly upon the request of the other party or of Escrow Agent, Optionor and Optionee each shall execute, acknowledge and deliver to the other party or Escrow Agent, or both, any and all further instruments and shall take all such other action as may be reasonably requested or appropriate to evidence or give effect to the provisions of this

Agreement or to satisfy Escrow Agent's requirements in connection with this Agreement; provided, however, in no event shall either party be required to incur any out of pocket expense or liability in connection with such efforts that is not expressly contemplated by this Agreement.

**23.8 Severability.** If any provision or any portion of a provision of this Agreement or of any other document to be executed in connection with this Agreement is deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the remaining portion of that provision or of any other provision of this Agreement or such other document, as each provision of this Agreement and all such other documents shall be deemed to be severable from all other provisions hereof and thereof.

**23.9 Headings.** The Section headings in this Agreement are inserted for the purpose of reference only and shall not limit, define or expand the provisions of this Agreement or any one of them.

**23.10 Governing Law; Venue.** This Agreement and any documents executed in connection with or pursuant to this Agreement shall be governed by and construed in accordance with the laws of the State of Texas only. Optionee and Optionor agree that the only proper venue for any legal proceedings arising out of this Agreement shall be Ector County, Texas.

**23.11 Not Partners.** Neither this Agreement, nor any other agreement referred to herein or entered into in connection herewith, and no activity of Optionor or Optionee in connection with this transaction shall constitute Optionor and Optionee as partners or joint venturers for any purposes whatsoever.

**23.12 Counterparts.** This Agreement may be executed by electronic means and in multiple counterparts (original, facsimile, pdf, or other electronic means), each of which shall be deemed, construed, and considered to be an original, but all of which shall constitute one and the same instrument, when signed by all of the parties and Escrow Agent is hereby authorized and instructed to rely thereon.

**23.13 Construction.** This Agreement is the result of negotiations between the parties and accordingly shall not be construed for or against either party regardless of which party drafted this Agreement.

**23.14 Business Day.** If the time for performance of any obligation under this Agreement, or the giving of any notice required or permitted hereunder, expires on a Saturday, a Sunday or a legal holiday observed by Escrow Agent, then the time for such performance, or the giving of such notice, shall be



extended to the next succeeding day that is not a Saturday, a Sunday or a legal holiday observed by Escrow Agent.

**23.15 Assignment.** Optionee may not assign or otherwise transfer any of its rights under this Agreement without the prior written consent of Optionor, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Optionee shall have the right, without Optionor's consent, to assign this Agreement and the Option and Optionee's rights under this Agreement to an entity controlled by, controlling or under common control of the members of Optionee, so long as: (a) Optionee gives Optionor at least one (1) day's advance written notice thereof (including the name, type of entity, and state of formation of such entity) and (b) Optionee and Optionee's assignee execute and deliver an assignment and assumption agreement with respect to the rights and obligations under this Agreement in form that provides that the assignee accepts the assignment of the Agreement, is bound thereby, and assumes and agrees to perform and discharge all of Optionee's liabilities, obligations and duties under this Agreement. If Optionee assigns this Agreement pursuant to the terms hereof, Optionee shall remain jointly and severally liable with such assignee for the performance of Optionee's obligations under this Agreement.

**23.16 WAIVER OF JURY TRIAL.** THE PARTIES HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN THEM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT. NO JURY SHALL BE EMPANELED FOR ANY DISPUTE INVOLVING THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY ADVISORY JURY.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

OPTIONOR:

Odessa Industrial Development Corporation

19-Oct-2020 | 12:29 PM CDT

*Dr. James B. Goates*

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James B. Goates  
President

OPTIONEE:

Nacero TX 1 LLC

19-Oct-2020 | 1:35 PM PDT

*Hal Bouknight*

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Hal Bouknight  
Chief Operating Officer

Accepted by Escrow Agent:

Escrow Agent hereby (i) declares that the Opening of Escrow has occurred as of the date set forth below Escrow Agent's signature and (ii) agrees to be bound by the provisions of the Agreement and to perform its obligations as set forth herein in accordance with the terms hereof.

Chicago Title - Commercial

By:

Its:

*Karen Highfield*  
*SR. V.P.*  
Date of Opening of Escrow: *10/19/2020*



## Exhibit "A"

2010-00004266 03/31/2010 09:52:15 PM Page 4 of 4 CPR Vol.2417 Pg.917

## EXHIBIT "A"

Legal Description  
For a 661.39 Acre Tract of Land  
in Section 43, Block 44, T2S,  
And Section 4, Block 44, T3S,  
T&P R.R. Co. Survey,  
Potter County, Texas

Boundary Being More Fully Described By Lines and Bounds As Follows:

Legal Description For a 661.39 Acre Tract of Land in Section 43, Block 44, T-2-S, And Section 4, Block 44, T-3-S, T&P R.R. Co. Survey, Potter County, Texas, boundary being more fully described by lines and bounds as follows:

BEGINNING at (Y= 12,665,198.87" and X= 1,353,446.28") ± 5.8" Iron rod with aluminum cap marked "LCA ODESSA TX" set to the east line of said Section 4 and 100 feet perpendicular to the centerline of the existing railroad track and being the westerly southwest corner of this tract;

THENCE N 13°46'57" W with the east line of said Section 4, a distance of 392.83 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set to the north line of Section 44, Block 44, T2S and at the southeast corner of said Section 4 also being the most westerly southeast corner of this tract;

THENCE S 76°06'54" W with the south line of said Section 44 and the north line of said Section 4, a distance of 28.81 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set to the southwest corner of said Section 44 and the southeast corner of said Section 43 and being an inverse 24 corner of this tract;

THENCE N 14°24'50" W with the east line of said Section 43 and the west line of said Section 44, a distance of 5293.64 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set to the northwest corner of said Section 44 and the southeast corner of said Section 43 also being the northeast corner of this tract;

THENCE S 76°05'19" W with the north line of said Section 43 and the north line of Section 42 this block, a distance of 4696.57 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set at the northeast corner of this tract, thence a 2" Iron pipe found at the corners corners of said Sections 43 and 43 and 17 and 24, Block 45, T2S, bears S 74°25'10" W, a distance of 1200.60 feet;

THENCE S 14°25'23" E, at a distance of 5782.68 feet pass the south line of said Section 43 and the north line of said Section 4, from the point a 2" Iron pipe found at the southwest corner of said Section 43 and the northwest corner of said Section 4 and the southeast corner of said Section 28 bears S 76°09'54" W, a distance of 1200.60 feet, continuing on for a total distance of 7111.58 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set 100 feet perpendicular to the centerline of said existing railroad track and being the southeast corner of this tract;

THENCE N 56°34'04" E 100 feet northwesterly and parallel to the centerline of said existing railroad track, a distance of 4337.36 feet to the Point of Beginning, containing 661.39 acres of land.

Bearings, distances and coordinates are related to the Texas Coordinate System, 1983 NAD, Central Zone 6, with a scale angle of -0°10'03" and a combined grid factor of 0.999989383 near the center of Section 43. A survey station is average surface.

TOGETHER WITH THAT CERTAIN EASEMENT BEING DESCRIBED AS FOLLOWS:

ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO THAT CERTAIN WATER PIPELINE EASEMENT EXECUTED BY STEUBERT RAYON, INC. CONVEYING TO TELEPHONE INDUSTRIES, INC. DATED AUGUST 5, 1981 A 15' WATER LINE EASEMENT ACROSS A PORTION OF SECTION 43, BLOCK 44, T-2-S AND SECTIONS 24, 27 AND 36, Block 45 T-3-S, T&P RAILWAY COMPANY SURVEY, POTTER COUNTY, TEXAS, RECORDED IN VOLUME 2014, PAGE 424, OFFICIAL PUBLIC RECORDS, POTTER COUNTY, TEXAS.

DJBG

HAB

WORKAMER\37113489.v2

Exhibit A

4

## Exhibit "A-1"

EXAMINER'S REPORT

GR42954717.2

BEGINNING at (Y= 10,610,538.60' and X= 1,594,231.14') a 1/2" iron rod with plastic cap marked "LCA ODESSA" set in the east line of said 601.10 acre tract as described in Document Number 2010-03014261, Official Public Records, Bexar County, Texas and in the common line of Sections 43 and 44, Block 44, T-2-S T&P RR. Co. Survey, Bexar County, Texas whence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43 and 44, of said Block 44, T-2-S bears N 14°20'50" W, a distance of 75.00 feet;

THENCE N 76°05'10" E, 75 feet south of and parallel to the north line of said Section 44, a distance of 5,240.08 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at an old corner of this tract;

THENCE N 14°16'52" W, at a distance of 75.00 feet pass the north line of said Section 44 and the south line of said Section 41, continuing on for a total distance of 167.88 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the projection of the south side of a fenced Kinder Morgan Pipeline facility and being the most northwest corner of this tract;

THENCE N 76°05'10" E, a distance of 50.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the east line of said Section 41 and being the most northeast corner of this tract;

THENCE, S 14°16'52" E at 92.91 feet pass a 5/8" iron rod with a 2" aluminum cap found at the northeast corner of said Section 44 and the southeast corner of said Section 41, continuing on for a total distance of 217.88 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the southeast corner of this tract;

THENCE, S 76°05'10" W, a distance of 5,292.02 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the east line of said 601.10 acre tract and the common line of said Sections 43 and 44 and being the southwest corner of this tract;

THENCE, N 14°20'50" W, along the east line of said 601.10 acre tract and the common line of said Sections 43 and 44, a distance of 10.00 feet to the Point of the Beginning containing 6.27 surface acres of land.

11192.3,2245501.5

## Exhibit "A-2"

BEGINNING at (Y= 10,612,978.56' and X= 1,561,960.78'); a 1/2" iron rod with plastic cap marked "LCA ODESSA" set for the southwest corner of this tract whence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43 and 44, Block 44, T-2-S, T&P RR Co. Survey, Ector County, Texas bears S 14°54'50"E, a distance of 2,806.96 feet and N 76°05'16" E, a distance of 1,431.59 feet;

THENCE N 26°26'53" W, passing the centerline of an H frame transmission line at 130 feet, continuing for a total distance of 260.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northwest corner of this tract;

DJBG  
THENCE N 63°31'07" E, 130 feet north of and parallel to the centerline of said H-Frame Transmission Line a distance of 400.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northeast corner of this tract;

HHB  
THENCE S 26°26'53" E, passing the centerline of said H-Frame Transmission line at 130 feet, continuing for a total distance of 260.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the southeast corner of this tract;

THENCE, S 63°31'07" W 130 feet south of and parallel to the centerline of said H-Frame Transmission Line, a distance of 400.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" at the Point of the Beginning containing 239 surface acres of land.

## Exhibit "A-3"

Being 1330 acres located in Section 44, Block 44, T-2-S, and Section 5, Block 44 T-3-S

BEGINNING at (Y=10,605,489.64' and X=1,595,352.37') a 5/8" iron rod with aluminum cap marked "LCA ODESSA TX" found at the common northwest corner of Section 5 and 6, Block 44, T-3-S and in the south line of Section 44, Block 44, T-2-S, T&P RR Co Survey, Ector County, Texas and also being a corner of that certain 601.10 acre tract as described in Document Number 2010-00004267 of the Official Public Records, Ector County, Texas.

THENCE, S 76°09'34" W along a south line of said 601.10 acre tract and the common line of said Section 44 and 6, a distance of 28.91 feet to a 5/8" iron rod with aluminum cap marked "LCA ODESSA TX" found at the common southwest corner of Section 44, and the southeast corner of Section 43, Block 44, T-2-S in the north line of said Section 5;

THENCE, N 14°20'50" W, along an east line of said 601.10 acre tract and the common line of said Sections 43 and 44 a distance of 303.73 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the westernmost northwest corner of this tract;

THENCE, S 82°27'48" E, a distance of 623.60 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for a point of deflection of this tract;

THENCE, N 71°07'45" E, a distance of 370.89 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for a point of deflection of this tract;

THENCE, N 60°43'05" E, a distance of 2,556.07 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the northern right of way of the Union Pacific Railroad;

THENCE, S 56°54'04" W, along the northern right of way of said Union Pacific Railroad, passing the common line of said Sections 3 and 44 at 2,593.84 feet, continuing for a total distance of 3,582.19 feet to a 5/8" iron rod with aluminum cap marked "LCA ODESSA TX" found in the northern right of way of said Union Pacific Railroad and the southeast corner of said 601.10 acre tract in the common line of said Sections 5 and 6;

THENCE, N 13°56'57" W, along the east line of said 601.10 acre tract and the common line of said Sections 5 and 6, a distance of 392.01 feet to the Point of the Beginning containing 1330 acres of land.

**Exhibit "A-4"**

DJB

30 acre tract in Sections 33, 34, 35, 40, 41 and 42, Block 44 T-2-S, T&P RR Co Survey, Ector County, Texas (Legal description to be updated upon receipt of new survey)

HAB

## Exhibit "A-5"

Being a 11.52 acre tract located in Section 42, Block 44 T-2-S, Ector County, Texas, boundary being more fully described as follows:

BEGINNING at (Y=10,516.50 S. 44' and X=1,393,248.34') a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the north line of that certain 601.10 acre tract as described in Document Number 2010-0004267 of the Official Public Records, Ector County, Texas and the common line of Section 42 and 43, Block 44 T-2-S, T&P RR Co. Survey, Ector County, Texas thence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the intersection of Sections 41, 42, 43 and 44 bears N 76°05'10" a distance of 25.59 feet

THENCE, S 76°05'10" W along the common line of Sections 42 and 43, a distance of 150.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the southwest corner of this tract;

THENCE, N 14°15'00" W, a distance of 2,074.56 to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at an interior corner of this tract;

THENCE, S 75°45'00" W, a distance of 853.02 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at a point of deflection of this tract;

THENCE, N 26°26'53" W, a distance of 265.26 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northwest corner of this tract and being in the curved southeasterly right of way line of a proposed 60 foot wide road;

THENCE, with the southeasterly right of way line of said proposed road and a curve to the right in a northerly direction, said curve having a radius length of 920.00 feet, a delta angle of 23°00'13", an arc length of 289.07 feet and a chord length of 287.13 bearing N 03°02'44" E to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northernmost northeast corner of this tract;

THENCE, S 26°26'53" E, a distance of 389.06 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at a point of deflection of this tract;

THENCE, N 79°45'00" E, a distance of 861.08 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at an exterior corner of this tract;

THENCE, S 14°15'00" E, a distance of 2,225.62 feet to the Point of the Beginning containing 11.52 surface acres of land.

Being a 1.03 acre tract located in Section 42, Block 44 T-2-S, Ector County, Texas, boundary being more fully described as follows:

BEGINNING at (Y=10,612,729.11' and X=1,392,300.85') a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in a curved northeasterly right of way line of a proposed 60 foot wide road and being southwest corner of this tract thence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43, and 44, Block 44, T-2-S, T&P RR Co. Survey, Ector County, Texas, bears S 12°54'50" E, a distance of 2,467.45 feet and N 76°05'10" E, a distance of 1,106.12 feet;

THENCE, N 26°26'53" W, a distance of 462.41 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northwest corner of this, and being 130 feet south of the center line of an H. Frame Transmission Line;

THENCE, W 63°53'07" E, 130 feet south of and parallel to the center line of said H. Frame Transmission Line, a distance of 150.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northeast corner of this tract;

THENCE, S 26°26'53" E, a distance of 215.01 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the curved northeasterly right of way line of said proposed road and being the southeast corner of this tract;

THENCE, with the northeasterly right of way line of said proposed road and a curve to the left in a southerly direction, said curve having a radius length of 710.00 feet, a delta angle of 17°41'59", an arc length of 240.94 feet and a chord length of 235.98 feet bearing S 12°54'14" W to the Point of the Beginning containing 1.03 surface acres of land.

**Exhibit "B-1"**

**MEMORANDUM OF OPTION**

When Recorded Return to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**MEMORANDUM OF OPTION**

This Memorandum of Option is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020 by and between NACERO TX 1 LLC, a Delaware limited liability company ("Optionee"), and ODESSA INDUSTRIAL DEVELOPMENT CORPORATION, a Texas not for profit corporation ("Optionor").

Optionee and Optionor have entered into that certain Option and Purchase Agreement, and Joint Escrow Instructions, dated as of [\_\_\_\_\_], 2020 (the "Purchase Agreement"), whereby Optionee has been granted an exclusive option (the "Option"), to acquire from Optionor a 100% fee interest in and to the real property legally described on Exhibit "A" attached hereto and made a part hereof (the "Option Property") pursuant to provisions of the Purchase Agreement.

Optionee and Optionor desire to give actual and constructive notice to all persons dealing with the Option Property that Optionee has a vested and binding Option to purchase the Option Property pursuant to the terms of the Purchase Agreement. This Memorandum of Option does not alter, amend, modify or change the Purchase Agreement or the Option, in any respect. It is executed by the parties solely for the purpose of being recorded in the public records of Ector County, Texas, to give notice to third parties of the existence of the Option.

The Option shall continue in full force and effect until it expires on August 1, 2022, unless sooner terminated as provided in the Purchase Agreement. A copy of the Purchase Agreement is in possession of both Optionor, whose address is 700 N. Grant # 200, Odessa, Texas 79761, and Optionee, whose address is Two Briarlake Plaza, Suite 1000, 2050 W. Sam Houston Parkway S., Houston, TX 77042. In the event of any conflict between this Memorandum of Option and the Purchase Agreement, the Purchase Agreement shall control.

[signatures appear on the following pages]



IN WITNESS WHEREOF, the parties have executed the Memorandum Option as of the date first set forth above.

OPTIONOR:

Odessa Industrial Development Corporation,  
a Texas not for profit corporation  
By: James B. Goates  
Its: President

STATE OF TEXAS            )  
                                      ) ss.  
County of Ector            )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by James B. Goates, the President of Odessa Industrial Development Corporation, on behalf of such corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

OPTIONEE:

Nacero TX 1 LLC,  
a Delaware limited liability company

\_\_\_\_\_  
Hal Bouknight  
Chief Operating Officer

STATE OF TEXAS                    )  
  )ss.

County of \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Hal Bouknight, the Chief Operating Officer of Nacero TX 1 LLC, a Delaware limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**Exhibit "B-2"**

**TERMINATION OF OPTION**

WHEN RECORDED RETURN TO:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**TERMINATION OF OPTION**

This Termination of Option is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between NACERO TX 1 LLC, a Delaware limited liability company ("Optionee"), and ODESSA INDUSTRIAL DEVELOPMENT CORPORATION, a Texas not for profit corporation ("Optionor").

Optionee and Optionor have entered into that certain Memorandum of Option dated \_\_\_\_\_, 202\_\_ and recorded \_\_\_\_\_, 202\_\_, at Instrument No. \_\_\_\_\_, Official Records of Ector County, Texas (the "Memorandum"), relating to Optionee's exclusive option to purchase from Optionor a 100% fee interest in and to that certain real property described on Exhibit "A" attached to the Memorandum (the "Option Property") pertaining to that certain Option and Purchase Agreement, and Joint Escrow Instructions, dated as of [\_\_\_\_\_], 2020 (the "Agreement"), which sets forth the terms and conditions relating to Optionee's exclusive option to purchase the Option Property from Optionor.

Optionee's exclusive option to purchase the Option Property has terminated and the parties desire to give actual and constructive written notice to all persons that Optionee has no further option under the Memorandum or the Agreement to purchase the Option Property from Optionor and that Optionor has no further obligation under the Memorandum or the Agreement to sell the Option Property to Optionee.

**NOTICE AND TERMINATION**

Optionor and Optionee hereby agree and give actual constructive notice to all persons that the Memorandum and the Agreement are terminated and released and are of no further force or effect, and that Optionee has no further rights to acquire the Option Property pursuant to the Agreement.

[signatures appear on the following page]

IN WITNESS WHEREOF, the parties have executed this Termination of Option as of the date first set forth above.

OPTIONOR:

Odessa Industrial Development Corporation,  
a Texas not for profit corporation  
By: James B. Goates  
Its: President

STATE OF TEXAS            )  
                                  ) ss.  
County of Ector            )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by James B. Goates, the President of Odessa Industrial Development Corporation, on behalf of such corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

OPTIONEE:

Nacero TX 1 LLC,  
a Delaware limited liability company

\_\_\_\_\_  
Hal Bouknight  
Chief Operating Officer

STATE OF TEXAS                    )  
  
  )ss.

County of \_\_\_\_\_ )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2020, by Hal Bouknight, the Chief Operating Officer of Nacero TX 1 LLC, a Delaware limited liability company, on behalf of the company.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

**Exhibit "C"**

**PROPERTY DOCUMENTS**

1. Any surveys or maps of the Property in Optionor's possession.
2. Any title commitments, reports or policies in Optionor's possession along with copies of the exception documents.
3. Any environmental reports or assessments in Optionor's possession.
4. Any correspondence with mineral owners or mineral lessees with respect to the Property in Optionor's possession.

**Exhibit "D"**

**NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.**

**SPECIAL WARRANTY DEED**

THE STATE OF TEXAS	§	
	§	KNOW ALL PERSONS BY THESE
	§	PRESENTS:
COUNTY OF ECTOR	§	

THAT, **ODESSA INDUSTRIAL DEVELOPMENT CORPORATION**, a Texas not for profit corporation ("Grantor"), for and in consideration of the sum of Ten and No/100ths Dollars (\$10.00) in hand paid to Grantor by **NACERO TX 1 LLC**, a Delaware limited liability company ("Grantee"), the receipt of which is hereby acknowledged by Grantor, and other good and valuable consideration paid and agreed to be paid to Grantor by Grantee in the manner set forth below, the sufficiency of which consideration is hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto said Grantee, its successors and assigns, subject to the Permitted Exceptions described below, all of that certain real property located in Ector County, Texas, more particularly described on Exhibit A attached hereto, together with all buildings and improvements located thereon, all of Grantor's right, title and interest in and to all fixtures located thereon, and all of Grantor's right, title and interest, if any, in and to all easements, tenements, hereditaments, privileges and appurtenances in any way belonging to the foregoing (collectively, the "Appurtenances"), including, without limitation, (i) any land to the midpoint of the bed of any highway, street, road or avenue, open or proposed, in front of, abutting or adjoining such land, (ii) any land lying in or under the bed of any creek, stream, bayou or river running through, abutting or adjacent to such land, (iii) any riparian, appropriative, or other water rights of Grantor (including applications for water rights) appurtenant to such land and relating to surface or subsurface waters, (iv) any oil, gas or other minerals or mineral rights relating to such land or to the surface or subsurface thereof (v) any strips, gores or pieces of property abutting, bounding or which are adjacent or contiguous to such land, and (vi) all easements, right-of-ways, rights of ingress or egress and reversionary interests benefiting such land (all such land, water rights, mineral rights, easements and other appurtenant rights being herein referred to collectively as the "Property").



This conveyance is made by Grantor and accepted by Grantee expressly subject (i) all valid and substituting easements, restrictions, reservations, covenants, conditions and mineral and royalty rights relating to the Property (ii) all matters that would be shown by a current survey at the property (iii) all prior reservations of oil, gas and other minerals, to any outstanding oil and gas leases; (the "Permitted Exceptions"), to the extent, but only to the extent, the same are valid and subsisting and affect the Property.

This Conveyance is also SUBJECT TO "as is, where is" matters and environmental matters set forth as follows:

#### **As Is, Where Is Matters**

THIS CONTRACT UPON WHICH THIS TRANSACTION IS BASED IS AN ARM'S-LENGTH AGREEMENT BETWEEN THE PARTIES. THE PURCHASE PRICE WAS BARGAINED ON THE BASIS OF AN "AS IS, WHERE IS" TRANSACTION AND REFLECTS THE AGREEMENT OF THE PARTIES THAT THERE ARE NO REPRESENTATIONS, DISCLOSURES, OR EXPRESS OR IMPLIED WARRANTIES, AND SELLER'S REPRESENTATIONS TO GRANTEE, OTHER THAN THOSE CONTAINED IN THAT CERTAIN PURCHASE AGREEMENT DATED \_\_\_\_\_.

THE PROPERTY IS CONVEYED TO GRANTEE IN AN "AS IS, WHERE IS" CONDITION, WITH ALL FAULTS. SELLER MAKES NO WARRANTY OF CONDITION, MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

GRANTEE ACKNOWLEDGES AND AGREES THAT GRANTEE IS RELYING SOLELY ON GRANTEE'S EXAMINATION OF THE PROPERTY. GRANTEE IS NOT RELYING ON ANY INFORMATION OR DISCLOSURES PROVIDED BY GRANTOR.

GRANTEE ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT, GRANTOR HAS MADE NO REPRESENTATIONS OR WARRANTIES AS TO THE AVAILABILITY, QUALITY OR QUANTITY OF ANY WATER TO SAID PROPERTY.

GRANTEE ACKNOWLEDGES THAT GRANTOR HAS MADE NO REPRESENTATIONS OR GUARANTIES OR WARRANTIES AS TO THE ACCESS AND INGRESS AND EGRESS TO AND FROM THE PROPERTY.

#### **Environmental Matters**

AFTER CLOSING, AS BETWEEN GRANTEE AND GRANTOR, THE RISK OF LIABILITY OR EXPENSE FOR ENVIRONMENTAL PROBLEMS, EVEN IF ARISING FROM EVENTS BEFORE CLOSING, WILL BE THE SOLE RESPONSIBILITY OF GRANTEE, REGARDLESS OF WHETHER THE ENVIRONMENTAL PROBLEMS WERE KNOWN OR UNKNOWN AT CLOSING. ONCE CLOSING HAS OCCURRED, GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES GRANTOR FROM LIABILITY FOR ANY LATENT

DEFECTS AND FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY, INCLUDING LIABILITY UNDER THE COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), THE RESOURCE CONSERVATION AND RECOVERY ACT (RCRA), THE TEXAS SOLID WASTE DISPOSAL ACT, OR THE TEXAS WATER CODE. ONCE CLOSING HAS OCCURRED, GRANTEE INDEMNIFIES, HOLDS HARMLESS, AND RELEASES GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS THE RESULT OF GRANTOR'S OWN NEGLIGENCE OR THE NEGLIGENCE OF GRANTOR'S REPRESENTATIVES. ONCE CLOSING HAS OCCURRED, GRANTEE INDEMNIFIES, HOLDS HARMLESS AND RELEASES GRANTOR FROM ANY LIABILITY FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY ARISING AS A RESULT OF THEORIES OF PRODUCTS LIABILITY AND STRICT LIABILITY, OR UNDER NEW LAWS OR CHANGES TO EXISTING LAWS ENACTED AFTER THE EFFECTIVE DATE THAT WOULD OTHERWISE IMPOSE ON GRANTOR IN THIS TYPE OF TRANSACTION NEW LIABILITIES FOR ENVIRONMENTAL PROBLEMS AFFECTING THE PROPERTY.

THIS CONVEYANCE IS MADE SUBJECT TO THE RIGHT OF REVERTER CONTAINED IN EXHIBIT "B" ATTACHED HERETO.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and subject to the above described Permitted Exceptions, Grantor does hereby bind itself and its successors, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof, by, through or under Grantor but not otherwise.

*Remainder of page intentionally left blank.*

EXECUTED to be effective on the \_\_\_\_ day of \_\_\_\_\_, 202\_\_.

**GRANTOR:**

Odessa Industrial Development Corporation,  
a Texas not for profit corporation

By: James B. Goates  
Its: President

STATE OF TEXAS            )  
                                      ) ss.  
County of Ector            )

This instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 202\_\_, by  
James B. Goates, the President of Odessa Industrial Development Corporation, on behalf of  
such corporation.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

Address of Grantee:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

**EXHIBIT A**  
**TO SPECIAL WARRANTY DEED**  
**Property Description**

**EXHIBIT "A"**

Legal Description  
For a 601.10 Acre Tract of Land  
In Section 43, Block 44, T2S,  
And Section 6, Block 44, T3S,  
T&P RR. Co. Survey,  
Ector County, Texas

Boundary Being More Fully Described By Metes and Bounds As Follows:

Legal Description For a 601.10 Acre Tract of Land In Section 43, Block 44, T-2-S, And Section 6, Block 44, T-3-S, T&P RR. Co. Survey, Ector County, Texas, boundary being more fully described by metes and bounds as follows:

BEGINNING at (Y= 10,605,109.17' and X= 1,595,446.38') a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set in the east line of said Section 6 and 100 feet perpendicular to the centerline of an existing railroad track and being the southerly southeast corner of this tract;

THENCE N 13°56'37" W with the east line of said Section 6, a distance of 392.03 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set in the south line of Section 44, Block 44, T2S and at the northeast corner of said Section 6 also being the most easterly southeast corner of this tract;

THENCE S 76°09'54" W with the south line of said Section 44 and the north line of said Section 6, a distance of 28.91 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set for the southwest corner of said Section 44 and the southeast corner of said Section 43 and being an interior ell corner of this tract;

THENCE N 14°20'50" W with the east line of said Section 43 and the west line of said Section 44, a distance of 5293.64 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set for the northwest corner of said Section 44 and the northeast corner of said Section 43 also being the northeast corner of this tract;

THENCE S 76°05'10" W with the north line of said Section 43 and the south line of Section 42 this Block, a distance of 4090.57 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set at the northwest corner of this tract, whence a 2" Iron pipe found at the common corners of said Sections 42 and 43 and 27 and 28, Block 45, T2S bears S 76°05'10" W, a distance of 1200.60 feet;

THENCE S 14°23'25" E, at a distance of 5288.08 feet pass the south line of said Section 43 and the north line of said Section 6, from this point a 2" Iron pipe found at the southwest corner of said Section 43 and the northwest corner of said Section 6 and the southeast corner of said Section 28 bears S 76°09'54" W, a distance of 1200.62 feet, continuing on for a total distance of 7111.18 feet to a 5/8" Iron rod with aluminum cap marked "LCA ODESSA TX" set 100 feet perpendicular to the centerline of said existing railroad track and being the southwest corner of this tract;

THENCE N 56°54'04" E 100 feet northwesterly and parallel to the centerline of said existing railroad track, a distance of 4337.36 feet to the Point of Beginning, containing 601.10 acres of land.

Bearings, distances and coordinates are relative to the Texas Coordinate System, 1983 NAD, Central Zone, with a theta angle of -01°10'03" and a combined grid factor of 0.999829385 near the center of Section 43. Acreage stated is average surface.

TOGETHER WITH THAT CERTAIN EASEMENT BEING DESCRIBED AS FOLLOWS:

ALL RIGHT, TITLE AND INTEREST OF THE GRANTOR IN AND TO THAT CERTAIN WATER PIPELINE EASEMENT EXECUTED BY SCHUBERT RANCH, INC. CONVEYING TO TELEDYNE INDUSTRIES, INC. DATED AUGUST 5, 1981. A 15' WATER LINE EASEMENT ACROSS A PORTION OF SECTION 43, BLOCK 44, T-2-S AND SECTIONS 28, 27 AND 26, Block 45 T-2-S, T&P RAILWAY COMPANY SURVEY, ECTOR COUNTY, TEXAS, RECORDED IN VOLUME 2014, PAGE 428, OFFICIAL PUBLIC RECORDS, ECTOR COUNTY, TEXAS.

**Exhibit "A-1"**

BEGINNING at (Y= 10,612,978.56" and X= 1,591,500.78"); a 1/2" iron rod with plastic cap marked "LCA ODESSA" set for the southwest corner of this tract whence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43 and 44, Block 44, T-2-S, T&P RR Co. Survey, Bexar County, Texas bears S 14°54'59"E, a distance of 2,806.06 feet and N 76°05'10" E, a distance of 1,431.59 feet;

THENCE N 26°26'53" W, passing the centerline of an H-Frame transmission line at 130 feet, continuing for a total distance of 260.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northwest corner of this tract;

THENCE N 63°33'07" E, 130 feet north of and parallel to the centerline of said H-Frame Transmission Line a distance of 400.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northeast corner of this tract;

THENCE S 26°26'53" E, passing the centerline of said H-Frame Transmission Line at 130 feet, continuing for a total distance of 260.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the southeast corner of this tract;

THENCE, S 63°33'07" W 130 feet south of and parallel to the centerline of said H-Frame Transmission Line, a distance of 400.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" at the Point of the Beginning containing 2.39 surface acres of land.

## Exhibit "A-2"

BEGINNING at (Y= 10,612,978.56" and X= 1,391,900.78") a 1/2" iron rod with plastic cap marked "LCA ODESSA" set for the southwest corner of this tract whence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43 and 44, Block 44, T-2-S, T&P RR Co. Survey, Bexar County, Texas bears S 14°54'59"E, a distance of 2,886.96 feet and N 76°05'10" E, a distance of 1,431.59 feet;

THENCE N 26°26'53" W, passing the centerline of an H-Frame transmission line at 130 feet, continuing for a total distance of 260.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northwest corner of this tract;

THENCE N 63°33'07" E, 130 feet north of and parallel to the centerline of said H-Frame Transmission Line a distance of 400.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the northeast corner of this tract;

THENCE S 26°26'53" E, passing the centerline of said H-Frame Transmission line at 130 feet, continuing for a total distance of 260.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the southeast corner of this tract;

THENCE, S 63°33'07" W 130 feet south of and parallel to the centerline of said H-Frame Transmission Line, a distance of 400.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" at the Point of the Beginning containing 2.39 surface acres of land.



## Exhibit "A-3"

Being 1330 acres located in Section 44, Block 44, T-2-S, and Section 5, Block 44 T-3-S

BEGINNING at (Y=10,605,469.54' and X=1,395,352.37') a 5/8" iron rod with aluminum cap marked "LCA ODESSA TX" found at the common northwest corner of Section 5 and 6, Block 44, T-3-S and in the south line of Section 44, Block 44, T-2-S, T&P RR Co Survey, Ector County, Texas and also being a corner of that certain 601.10 acre tract as described in Document Number 2010-00004267 of the Official Public Records, Ector County, Texas.

THENCE, S 76°09'34" W along a south line of said 601.10 acre tract and the common line of said Section 44 and 6, a distance of 2891 feet to a 5/8" iron rod with aluminum cap marked "LCA ODESSA TX" found at the common southwest corner of Section 44, and the southeast corner of Section 43, Block 44, T-2-S in the north line of said Section 6;

THENCE, N 14°20'50" W, along an east line of said 601.10 acre tract and the common line of said Sections 43 and 44 a distance of 303.73 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for the westernmost northwest corner of this tract;

THENCE, S 82°27'48" E, a distance of 623.60 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for a point of deflection of this tract;

THENCE, N 71°07'45" E, a distance of 370.89 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set for a point of deflection of this tract;

THENCE, N 60°43'05" E, a distance of 2,556.07 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the northern right of way of the Union Pacific Railroad;

THENCE, S 56°54'04" W, along the northern right of way of said Union Pacific Railroad, passing the common line of said Sections 3 and 44 at 2,393.84 feet, continuing for a total distance of 3,582.59 feet to a 5/8" iron rod with aluminum cap marked "LCA ODESSA TX" found in the northern right of way of said Union Pacific Railroad and the southeast corner of said 601.10 acre tract in the common line of said Sections 5 and 6;

THENCE, N 13°56'37" W, along the east line of said 601.10 acre tract and the common line of said Sections 5 and 6, a distance of 392.06 feet to the Point of the Beginning containing 1330 acres of land.

**Exhibit "A-4"**

30 acre tract in Sections 33, 34, 35, 40, 41 and 42, Block 44 T-2-S, T&P RR Co Survey, Bolas  
County, Texas (Legal description to be updated upon receipt of new survey)

## Exhibit "A-5"

Being a 11.32 acre tract located in Section 42, Block 44 T-2-S, Ector County, Texas, boundary being more fully described as follows:

BEGINNING at (Y=10,510,395.44" and X=1,393,948.24") a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the north line of that certain 601.10 acre tracts described in Document Number 2010-00004267 of the Official Public Records, Ector County, Texas and the common line of Section 42 and 43, Block 44 T-2-S, T&P RR. Co. Survey, Ector County, Texas whence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43 and 44 bears N 76°05'10" a distance of 55.64 feet

THENCE, S 36°05'14" W along the common line of Sections 42 and 43, a distance of 150.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the southwest corner of this tract;

THENCE, N 14°15'00" W, a distance of 2,074.54 to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at an interior off corner of this tract;

THENCE, S 75°45'00" W, a distance of 853.02 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at a point of deflection of this tract;

THENCE, N 26°26'53" W, a distance of 203.26 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the northwestern corner of this tract and being in the curved southeasterly right of way line of a proposed 60 foot wide road;

THENCE, with the southeasterly right of way line of said proposed road and a curve to the right in a northerly direction, said curve having a radius length of 920.00 feet, a deflection angle of 23°00'13", an arc length of 239.07 feet and a chord length of 257.13 bearing N 01°02'44" E to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the northwestern corner of this tract;

THENCE, S 36°26'53" E, a distance of 349.06 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at a point of deflection of this tract;

THENCE, N 75°45'00" E, a distance of 861.98 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at an exterior off corner of this tract;

THENCE, S 14°15'00" E, a distance of 2,225.42 feet to the Point of the Beginning containing 11.32 surface acres of land.

Being a 1.03 acre tract located in Section 42, Block 44 T-2-S, Ector County, Texas, boundary being more fully described as follows:

BEGINNING at (Y=10,612,729.41" and X=1,393,703.85") a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set in the curved northwesterly right of way line of a proposed 60 foot wide road and being the southwest corner of this tract whence a 5/8" iron rod with 2" aluminum cap marked "LCA ODESSA TX" found at the common corner of Sections 41, 42, 43, and 44, Block 44, T-2-S&P RR. Co. Survey, Ector County, Texas, bears S 14°54'50" E, a distance of 2,467.45 feet and N 76°05'10" E, a distance of 1,106.12 feet;

THENCE, N 26°26'53" W, a distance of 402.41 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the northwest corner of this, and being 110 feet south of the center line of an 18-Frame Transmission Line;

THENCE, W 63°33'07" E, 130 feet south of and parallel to the center line of said 18-Frame Transmission Line, a distance of 150.00 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the northeast corner of this tract;

THENCE, S 26°26'53" E, a distance of 215.01 feet to a 1/2" iron rod with plastic cap marked "LCA ODESSA TX" set at the curved northwesterly right of way line of said proposed road and being the southeast corner of this tract;

THENCE, with the northwesterly right of way line of said proposed road and a curve to the left in a southerly direction, said curve having a radius length of 710.00 feet, a deflection angle of 17°41'55", an arc length of 240.94 feet and a chord length of 239.98 feet bearing S 12°14'14" W to the Point of the Beginning containing 1.03 surface acres of land.

3

## Exhibit B

### Right of Reverter

In the event Grantee fails to Commence Permanent Construction (as defined below) of the Nacero Penwell natural gas to gasoline production facility (the "Project") on the Property on or before December 31, 2023, then title to the Property shall immediately pass to and vest in Grantor. As used herein, "Commence Permanent Construction" shall mean the placement of the first foundation for any permanent structure associated with the structures built into or attached to the Project. To memorialize the Commencement of Permanent Construction and prevent this automatic reversion, Grantee and Grantor shall (i) file an Affidavit of Commencement of Construction with the Ector County Clerk and (ii) amend the Deed of record to remove this Exhibit B and the right of reverter and the reference thereto. Upon reversion, Grantee shall further surrender to Grantor all written environmental or geotechnical studies pertaining to the Property that was acquired by Grantee or its agents while completing its due diligence on the Property, that is in Grantee's possession, and that may be disclosed to Odessa Industrial Development Corporation.

## **OPTION AND PURCHASE AGREEMENT**

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Betty Moss Dean and C.A. Betty Moss Dean FLP (Optionors) and  
Nacero TX 1 LLC (Optionee) for approx. 1,869 acres in  
unincorporated Ector County, Texas. November 6, 2020

## **OPTION AGREEMENT**

This OPTION AGREEMENT (“Option”) is made and entered into this 6th day of November, 2020, (THE “Effective Date”) by and between BETTY MOSS DEAN, individually, and C.A. and BETTY MOSS DEAN FLP, hereafter referred to collectively as OPTIONORS and NACERO TX 1 LLC, a Delaware limited liability company, hereinafter referred to as OPTIONEE.

### **RECITALS**

WHEREAS, Optionors are the owners of the surface estate to certain real property, described as Sections 41, 42 and 44, Block 44, T-2-S, T&P RR Co., Survey, Ector County, Texas, consisting of 1,869.345 acres, more or less hereinafter referred to as “The Property”, and,

WHEREAS, Optionee desires to acquire the exclusive right and option to purchase the Property without the obligation to purchase until this option is exercised, at the price and upon the specific terms and conditions set forth in the Purchase and Sale Agreement (“Purchase Agreement”) attached hereto as Exhibit “A” and incorporated herein by reference.

THEREFORE, IT IS AGREED as follows:

#### **I.**

### **GRANT OF OPTION**

1. For the sum of \$50,000.00 and other consideration (the “Option Payment”), the receipt and sufficiency of which is mutually acknowledged, Optionors grant to Optionee the exclusive right and option to purchase the above described surface estate to the Property at the price and upon the terms set forth in the Purchase Agreement attached as Exhibit “A”. The Option Payment is non-refundable except as otherwise expressly provided in Section 5.

#### **II.**

### **OPTION PERIOD**

2. This Option shall commence as of the time of execution of this Option and continue for the period ending September 30, 2023 at midnight, CST (the “Option Period”).

#### **III.**

### **INSPECTIONS**

3. During the Option Period, Optionee may, at its sole discretion and cost, cause to be performed (a) an environmental survey, environmental analysis, and such other studies, tests, reports, engineering analyses and other investigations to be performed as Optionee may determine, in its discretion, (b) an A.L.T.A. land survey (the “Survey”) and (c) a title commitment with respect

to the Property (the "Title Commitment"). Optionors shall respond promptly to any Optionee questions or objections regarding any matter shown in the Title Commitment or the Survey, including, if requested, indicating whether Optionors will or will not cure any objection to the condition of title to the Property.

#### IV.

#### EXERCISE OF OPTION

4. Optionee may exercise this Option during the term hereof at any time by execution and delivery to Optionors of the Purchase Agreement attached. Optionors shall upon such tender, forthwith execute the Purchase Agreement, deposit the earnest money thereunder and deliver a fully executed copy of the Purchase Agreement to Optionees within five (5) days of Optionors' receipt of the Purchase Agreement from Optionee.

#### V.

#### TERMINATION

5. If Optionee fails to exercise this Option in accordance with the full and complete terms and provisions required by this Agreement and the Purchase Agreement, then this Option and all rights hereunder shall automatically and immediately terminate, the Option Payment shall be retained by Optionors as liquidated damages and Optionee shall thereafter execute and deliver to Optionors such document or documents as may be necessary as requested by Optionors to verify termination. If Optionors fail to perform their obligations in accordance with the full and complete terms and provisions required by this Agreement, then Optionee shall receive the return of the Option Payment and shall be entitled to exercise the remedy of specific performance against Optionors.

#### VI.

#### ASSIGNMENT OF OPTION

6. Optionee may assign this Option and its rights hereunder on the express condition that the assignee assumes all of the Optionee's obligations and on condition that the prior written consent of Optionors to the Assignment and the assumption of all obligation by the assignee is obtained. Notwithstanding Optionors' consent to any assignment of this Option, Optionee shall not be released from, and shall remain fully liable for, Optionee's covenants and obligations under this Option.

#### VII.

#### ENTIRE AGREEMENT

7. This Option contains the entire agreement between the parties and any modification, amendment or change can be effected only by a formal amendment in writing signed by the parties to be charged therewith and fully supported by consideration paid and received.



VIII.

ATTORNEY FEES

8. In the event of any dispute, controversy or claim between the parties relating in any way to this Option or the alleged breach thereof, the prevailing party shall be entitled to reasonable attorney fees in addition to such other and further relief as the court having jurisdiction may determine.

IX.

BINDING EFFECT

9. This Option shall bind, obligate and inure to the benefit of all the respective heirs, personal representatives, successors and assigns of the parties hereto.

X.

VENUE

10. The mutually agreed venue for any judicial proceeding relating to this Option shall be Ector County, Texas where the lands involved are located and the contracts are to be performed and the law of Texas will apply to the resolution of any controversy or dispute.

XI.

NOTICES

11. Unless changed by written notice sent by registered or certified mail and duly received by written acknowledgment, any notice, tender or delivery to be given hereunder may be effected by personal delivery in writing, e-mail or by registered or certified mail to the addresses set forth below:

OPTIONORS:	OPTIONEE
Thomas L Dean As Attorney-in Fact Of Betty Moss Dean under Durable Power of Attorney dated September 4, 2013 15 Smith Rd. Suite 6002 Midland, Texas 79707	NACERO TX 1 LLC Hal Bouknight Chief Operating Officer Two BriarLake Plaza, Suite 1000 2050 W. Sam Houston Parkway South Houston, Texas 77042 E-mail: hab@nacero.co

E-mail: tom@mossdeanllc.com	
Ken Dean Manager C.A. and Betty Moss Dean FLP c/o Johnson Miller 550 W. Texas, Suite 1000 Midland, Texas 79701 E-mail: ken_dean@jmcpa.com	NACERO INC. Thomas Vega-Byrnes General Counsel & Secretary Two BriarLake Plaza, Suite 1000 2050 W. Sam Houston Parkway South Houston, Texas 77042 E-mail: tvb@nacero.co

## XII.

### MEMORANDUM

12. Concurrently with the execution of this Option, Optionors and Optionee shall execute a “Memorandum of Option” in the form of Exhibit “B” attached hereto and made a part hereof, which shall be promptly recorded by Optionee in the real property records of Ector County.

## XIII.

### NO NEW LIENS

13. During the term of this Agreement, Optionors shall not enter into or record any easements, rights-of-way, encumbrances, liens, covenants, conditions, restrictions, or similar obligations encumbering the Property without Optionee’s prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed.

## XIV.

### ENTITLEMENTS

14. Optionors understand and agree that while this Option is in effect, Optionee may process and obtain, from and with the Approving Authorities (defined below), various zoning amendments, plats, agreements and other entitlements with respect to the Property that Optionee determines are necessary or desirable in connection with its proposed development on the Property of a natural gas to gasoline manufacturing facility or other uses as determined by Optionee (collectively, the “Entitlements”), *provided however*, (i) Optionee shall not, prior to the Closing,

finalize any Entitlements that materially devalue the Property; and (ii) Optionee shall obtain Optionors' prior approval of any applications or submittals prior to submission to the Approving Authority, such approval not to be unreasonably withheld, conditioned or delayed, and which approval shall be deemed given by Optionors if Optionors fail to approve or request changes to any such application or submittal within thirty (30) days after receipt thereof. Optionors shall give all reasonable cooperation to Optionee in the submission and processing of such applications for each of the Entitlements, including without limitation, executing and delivering such applications and other documents as Optionee shall reasonably request in connection therewith; provided however, Optionors shall not be required to expend any funds or excessive time in compliance with this Section. Optionee will be responsible for and shall timely pay the costs associated with obtaining or attempting to obtain the Entitlements.

“Approving Authorities” means Ector County, any municipality having jurisdiction over the Property, the Texas Commission on Environmental Quality, and all other governmental or quasi-governmental authorities, utility providers, and property owners associations with jurisdiction over the Property or any improvements thereon.

*[remainder of page intentionally left blank]*

IN WITNESS WHEREOF, Optionors and Optionee have each executed this Agreement on the dates set forth below.

OPTIONEE:

NACERO TX 1 LLC

By: Hal Bouknight

Name: Hal Bouknight

Title: Chief Operating Officer

Date: 10-6-2020

OPTIONORS:

BETTY MOSS DEAN, INDIVIDUALLY,  
by Thomas L. Dean, her attorney-in-fact

By Thomas L. Dean  
Thomas L. Dean, Attorney-in-fact  
Under Power of Attorney dated September 4, 2013

Name: Thomas L. Dean

Date: 10-30-2020

C.A. and BETTY MOSS DEAN FLP

By: MOSS-Dean Properties, LLC

BY: Kenneth R. Dean  
Kenneth R. Dean

Title: Sole Manager

Date: 10-30-20

EXHIBIT "A"

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this "Agreement") is entered into by and between NACERO TX 1 LLC, a Delaware limited liability company (the "Purchaser") and BETTY MOSS DEAN, individually, and C.A. and BETTY MOSS DEAN FLP (collectively, the "Seller").

In consideration of the mutual covenants set forth herein, the earnest money deposit herein called for, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed by Seller, the parties agree as follows:

SECTION 1: Effective Date.

The effective date hereof is \_\_\_\_\_, 202\_ (the "Effective Date").

SECTION 2: Sale and Purchase.

Seller agrees to sell, transfer, convey, and assign to Purchaser, and Purchaser agrees to buy and accept conveyance from Seller upon the terms and conditions set forth herein the following described real property:

A. The Surface Estate only of the certain property described in Exhibit "A" and incorporated herein by reference for all purposes, together with all rights and interests appurtenant thereto, SAVE AND EXCEPT all oil, gas and other minerals.

B. Said land described in Exhibit "A" is hereinafter referred to as the "Property" and shall be transferred, conveyed and assigned to Purchaser at closing, free and clear of all liens, claims, and encumbrances, except for the mineral estate which is reserved and excepted as provided herein.

SECTION 3. Purchase Price.

Assuming the Property contains 619.426 acres in Section 44 and 1,249.919 acres in Section 41 and 42, the Purchase Price is an aggregate cash price of \$14,014,554.00, based on a per acre price of \$8,500.00 for Section 44, and a per acre price of \$7,000.00 for Sections 41 and 42. If the actual number of acres, as shown on the Survey is more or less than as stated in the preceding sentence, then the Purchase Price shall be adjusted accordingly. The Purchase Price will be paid at closing net of any earnest money or closing credits.

SECTION 4. Earnest Money.

Upon Seller's and Purchaser's execution of this Agreement, Purchaser shall promptly deliver to Basin Abstract & Title ("Title Company"), 4526 East University, Suite 2A, Odessa, Texas 79762, Attention: Mike Withrow, one executed counterpart of this Agreement together with a check or wire transfer in the amount of Two Hundred Fifty Thousand and No/100 Dollars (\$250,000.00) which the Title Company shall promptly deposit into an interest bearing account.

Seller and Purchaser shall each retain an executed counterpart of this Agreement. As used in this Agreement, the term "Earnest Money" shall mean the amount so deposited by Purchaser, together with all interest earned thereon which is in the custody of Title Company. Seller and Purchaser stipulate that deposit by Purchaser of the Earnest Money is sufficient consideration to support this Agreement; however, if Purchaser does not deposit the Earnest Money with a fully executed counterpart of this Agreement within five (5) days after receipt of Seller's executed Agreement, then this Agreement shall terminate and be of no further force or effect.

#### SECTION 5. Reserved Minerals.

As herein provided, Seller is reserving all minerals, certain water rights, which reserved interests are more specifically identified as follows:

A. Minerals Rights: "Mineral Estate" means all oil, gas and other minerals in and under and that may be produced from the Property, any royalty under any existing or future mineral lease covering any part of the Property, executive rights (including the right to sign a mineral lease covering any part of the Property); provided, however, Seller waives all right to access the surface of the Property and the Deed (as hereinafter defined) shall contain a waiver of such surface rights. The Mineral Estate does NOT include sand, gravel, limestone, building stone, caliche, surface shale, near-surface lignite, and iron.

This conveyance is made by Seller and accepted by Purchaser expressly subject to (i) all valid and subsisting easements, restrictions, reservations, covenants, conditions and mineral and royalty rights relating to the Property (ii) all matters that would be shown by a current survey at the property (the "Permitted Exceptions"), to the extent, but only to the extent, the same are valid and subsisting and affect the Property.

Seller also excepts from this conveyance and reserves to Seller and Seller's heirs, successors, and assigns forever, all oil, gas, and other minerals in and under and that may be produced from the Property. Seller waives, and agrees that Seller shall have no right to exercise, the right of ingress and egress to and from the surface of the Property relating to the undivided portion of the mineral estate owned by Seller, provided that (1) the Property is hereby conveyed subject to any such rights now outstanding in another under any valid and subsisting oil, gas, or other mineral lease on all or any part of Seller's interest, and (2) nothing herein restricts or prohibits the pooling or unitization of Seller's interest in all or any part of the mineral estate of the Property with other land or the exploration, development, and production of oil, gas, or other minerals from the subsurface of the Property by means of wells that are drilled and enter at least 500 feet below the surface of the Property, so long as such operations do not interfere with the surface or subsurface support of any improvements constructed or that may be constructed on the Property.

B. Water Rights: Seller excepts and reserves from this conveyance all surface and subsurface water rights relating to the Property, whether or not appurtenant to the Property, subject only to Grantees' right to use ground water on the Property for limited purposes of domestic and business use on the Property as described below. The subsurface water reserved by Seller includes all groundwater, being all underground water, percolating water, artesian water, and other waters from any and all reservoirs, formations, depths, and horizons beneath the surface of the earth in, under, or that may be produced from the Property. Notwithstanding the foregoing, Purchaser and

Purchaser's successors and assigns may use the groundwater on the Property for the limited purposes of domestic and business use on the Property, but shall not include the right to commercial use of the water for sale or resale. Seller waives and agrees that Seller shall have no right to exercise any right of ingress and egress to and from the surface of the Property in connection with the reserved water rights.

#### SECTION 6. Seller's Representations, Warranties, and Covenants.

Seller represents that as of the date of this Agreement and the Closing:

- A. Except for outstanding interests in oil, gas and other minerals, and easements of record, Seller has good and indefeasible title in fee simple to the Property, free and clear of all liens, security interests, exceptions, conditions or encumbrances (Except those that will be released at or before Closing and the Permitted Encumbrances, if any), and no party, except as herein set forth, has or shall have on the date of Closing any rights in, or to acquire, the Property;
- B. Except as otherwise provided in this contract, Seller is not aware of:
  - (1) any subsurface structures, pits, waste, springs, or improvements;
  - (2) any pending or threatened litigation, condemnation, or assessment affecting the Property;
  - (3) any environmental hazards or conditions that materially affect the Property;
  - (4) whether the property is or has been used for the storage or disposal of hazardous materials of toxic waste, a dump site or landfill, or any underground tanks or containers;
  - (5) whether radon, asbestos containing materials, urea-formaldehyde foam insulation, lead-based paint, toxic mold (to the extent that it adversely affects the health of ordinary occupants), or other pollutants or contaminants of any nature now exist or ever existed on the Property;
  - (6) any wetlands, as defined by federal or state law or regulation, on the Property;
  - (7) any threatened or endangered species or their habitat on the property;
  - (8) any present or past infestation of wood-destroying insects in the Property's improvements;
  - (9) any contemplated material changes to the Property or surrounding area that would materially and detrimentally affect the ordinary use of the Property;
  - (10) any condition on the Property that violates any law or ordinance.

- C. Seller is fully authorized to sell the Property without the joinder of any other person or entity;
- D. There is no tenant on the Property;
- E. No part of the Property has been destroyed or damaged by fire or other casualty;
- F. The Property is not subject to assessment or collection of additional taxes for prior years based upon a change of land usage or ownership.
- G. Notwithstanding anything herein to the contrary with respect to Environmental Laws, Hazardous Materials and Hazardous Material Contamination, Seller makes no representation of whatever nature and THE PROPERTY IS SOLD ON AN "AS IS WHERE IS" BASIS.

The foregoing representations and warranties shall survive the Closing for a period of 18 months.

#### SECTION 7. Purchaser's Representations and Warranties.

Purchaser represents and warrants to Seller as of the Effective Date and also at the Closing Date as follows:

A. Purchaser is a Delaware limited liability company and is fully organized, validly existing and in good standing under the laws of the State of Delaware and is fully qualified to carry on its business in the State of Texas.

B. Purchaser has all requisite power and authority to carry on its business as presently conducted, to enter into this Agreement, to purchase the Property on the terms described in this Agreement and to perform its other obligations under this Agreement.

C. The execution, delivery and performance of this Agreement and the transactions contemplated hereby have been duly and validly authorized by all requisite action on the part of the Purchaser.

D. This Agreement has been duly executed and delivered on behalf of Purchaser and at the closing all documents and instruments required hereunder to be executed and delivered by Purchaser shall be duly executed and delivered. This Agreement does, and such documents and instruments shall, constitute legal and valid obligations of Purchaser.

E. Purchaser has incurred no liability, contingent or otherwise, for brokers' or finders' fees relating to the transactions contemplated by this Agreement for which Seller shall have any responsibility whatsoever.

F. Prior to the Closing, Purchaser shall have inspected the property and accepts the environmental condition of same.

#### SECTION 8. Title and Survey.



Within thirty (30) days after the Effective Date, Seller at Seller's expense shall deliver, or cause to be delivered to Purchaser a commitment for Title Insurance (Title Commitment") from the Title Company, setting forth the status of the title of each tract comprising the Property and all encumbrances, easements, rights-of-way, encroachments, reservations, restrictions, and all other matters of record affecting the Property.

Within thirty (30) days after the Effective Date, Purchaser shall provide at its sole expense a survey ("Survey"), sufficient to enable the Title Company to endorse the standard printed survey exception in the Owner's Title Policy. Such Survey shall be dated, shall contain a certificate in the form required by the Title Company to make the above endorsement and shall be signed and sealed by the surveyor.

#### SECTION 9. Purchaser's Review of Title.

A. Purchaser shall have the right, within fifteen (15) days after receipt of the Title Commitment and the Survey, to object in writing to any liens and encumbrances reflected by the Title Commitment or the Survey. Reservations of oil, gas and other minerals under the provisions hereof shall be considered Permitted Encumbrances and not objectionable for the purposes of any Objection Notice. All liens and encumbrances to which Purchaser so objects and which are not "Permitted Encumbrances" are hereinafter referred to as the "Non-Permitted Encumbrances". If no Objection Notice is given during such fifteen (15) day period, then it shall be deemed that all matters reflected in the Title Commitment and the Survey are "Permitted Encumbrances". Any exceptions which are not specific to the Property such as those exceptions commonly referred to as "standard exceptions", shall not be "Permitted Encumbrances".

B. Within fifteen (15) days after the date of the Objection Notice, although not obligated to cure, Seller shall give Purchaser written notice ("Cure Notice") of its intention to cure or remove, or begin the curing of removal of all non-Permitted Encumbrances. Seller shall cure or remove the Non-Permitted Encumbrances within fifteen (15) days of Purchaser's receipt of the Cure Notice ("Cure Period"). If Seller does not remove or cure all of the Non-Permitted Encumbrances during the Cure Period, then within three (3) days following the end of the Cure Period, Purchaser shall have the right to: (i) terminate this Agreement by delivering written notice to Seller and the Title Company, whereupon the Title Company shall immediately deliver the Earnest Money, together with any interest thereon to Purchaser; (ii) if requested by Seller, grant an extension of the Cure Period for no longer than thirty (30) days; or (iii) elect to purchase the Property subject to the Non-Permitted Encumbrances, in which even the Non-Permitted Encumbrances (except for any liens or encumbrances which are to be released or removed as a requirement by the Title Company to the issuance of a title insurance policy upon the Property, or any exceptions which are not specific to the Property such as those exceptions commonly referred to as "standard exceptions") shall be deemed Permitted Encumbrances. Notwithstanding anything provided herein to the contrary, on or before the Closing, and without cost to Purchaser or the need for Purchaser to object thereto, Seller shall satisfy and remove from the Property all: (i) financing encumbrances and monetary liens arising from any deeds of trust, mortgages, or other agreements executed by Seller or assumed in writing by Seller; (ii) mechanics', materialmen's and supplier's liens arising out of work performed at the request of Seller or on behalf of Seller; (iii) judgment liens against Seller; (iv) federal or state income or sales tax liens against Seller; and (v) all other liens securing monetary obligations arising from the acts of Seller or any affiliate (other than taxes

and assessments not yet due) ((i) – (v), collectively the “Unpermitted Liens”). The proceeds due to Seller shall be used to pay and satisfy any Unpermitted Liens.

#### SECTION 10. Termination and Remedies.

In addition to the rights to terminate as set forth elsewhere in this Agreement the parties may terminate this Agreement as follows:

A. If Purchaser fails to consummate the purchase of the Property pursuant to this Agreement for any reason, other than pursuant to a right granted herein, and the Agreement is terminated, the Title Company shall immediately deliver to Seller all of the Earnest Money, Two Hundred Fifty Thousand Dollars (\$250,000.00) together with any interest thereon as liquidated damages and neither party hereto shall have any further rights or obligations under this Agreement.

B. If Seller fails to consummate the sale of the Property pursuant to this Agreement, pursuant to a right granted herein, then Purchaser shall have, as its sole remedies hereunder: (i) the right to terminate this Agreement by giving written notice to Seller and the Title Company, whereupon the Title Company shall immediately return the Earnest Money, together with any interest thereon, to Purchaser and recover from Seller all of Purchaser’s actual and documented out-of-pocket costs and expenses (including reasonable attorney’s fees) incurred by Purchaser in connection with this transaction and/or the negotiation of this Agreement (including, without limitation, any actual and documented out-of-pocket costs and expenses incurred by Purchaser in processing, pursuing or obtaining the Entitlements or for any studies, reports, tests or other investigations of the Property) in an amount not to exceed \$75,000.00 (the “Cap”), and neither party hereto shall have any further rights or obligations under this Agreement; or (ii) Purchaser may enforce this Agreement by specific performance.

#### SECTION 11. Closing.

The closing (“Closing”) of the sale of the property by Seller to Purchaser shall occur no later than on or before ten (10) days after Purchaser notifies Seller in writing of clearance of title as provided herein or Purchaser’s election to close subject to Non-Permitted Encumbrances. Closing shall occur at 10:00 a.m. local time at the offices of the Title Company. At the Closing, the following mutually concurrent conditions to closing shall occur:

A. Purchaser shall deliver or cause to be delivered to Seller the following:

(1) a cashier’s check, a check issued by the Title Company made payable to the order of Seller, or other immediately available cash funds, in the amount of the balance of the full amounts of the Purchase Price, which shall include the Earnest Money, adjusted in accordance with the closing costs;

(2) deliver evidence that the person executing this Agreement is authorized to bind Buyer; and

(3) execute and deliver any notices, statements, certificates, or other documents required by this contract or law necessary to close the sale.

B. Seller shall deliver or cause to be delivered at Closing at Seller's expense to Purchaser the following:

1. A General Warranty Deed, in the form attached hereto as Exhibit "B" and incorporated herein by this reference (the "Deed"), subject to any requirements of the Title Company for proper recording of public record or the issuance of a policy of title insurance upon the Property, fully executed and acknowledged by Seller for the proper, conveying, assuring, warranting and defending of a good and indefeasible title to the surface estate of the Property in fee simple, free and clear of all liens, restrictions, claims and encumbrances, subject only to the Permitted Encumbrances; and expressly reserving to Seller all mineral and water rights as herein defined.

2. All such other documentation or written statements(s) reasonably required by the Title Company to close the transaction and issue a policy of title insurance upon the Property, including a non-foreign affidavit.

3. (1) tax statements showing no delinquent taxes on the Property;

(2) to the extent assignable, an assignment to Buyer of any licenses and permits related to the Property;

(3) evidence that the person executing this contract is legally capable and authorized to bind Seller;

(4) any notices, statements, certificates, affidavits, releases, and other documents required by this Agreement, the Title Commitment, or law necessary for the closing of the sale and issuance of the title policy, all of which must be completed by Seller as necessary.

4. An Owner's Policy of Title Insurance, in the amount of the Purchase Price, issued by Title Company insuring that Purchaser is the owner of the surface estate of the Property subject only to the Permitted Encumbrances and the standard printed exceptions included in a standard form owner's policy of title insurance issued in the State of Texas; provided, however, to the extent possible (i) the standard exception for discrepancies, conflicts, or shortages in area shall be deleted except for "shortages in area", (ii) such policy shall be endorsed "None of Record" regarding restrictions, except for restrictions that are Permitted Encumbrances, and (iii) the standard exception for taxes shall be limited to the year in which the Closing occurs, marked "not yet due and payable".

C. All normal and customarily prorated items, including without limitation, real estate and personal property taxes, shall be prorated as of the Closing, Seller being charged and credited for all of same up to such date and Purchaser being charged and credited for all of the same on and after such date. If the actual amounts to be prorated are not known as of the Closing, the prorations shall be made on the basis of the best evidence then available, and thereafter, when actual figures are received, a cash settlement will be made between Seller and Purchaser. The costs for the Survey shall be borne by the Purchaser and the cost of the Owner's Title Policy shall be borne by Seller.

D. Upon completion of the Closing, Seller shall deliver to Purchaser possession of the Property.

E. If this sale or Purchaser's use of the Property after Closing, results in the assessment of additional taxes, penalties or interest (Assessments) for periods prior to Closing, the Assessments will be the obligation of Purchaser. If Seller's change in use of the Property prior to closing results in Assessments for periods prior to closing, the Assessments will be obligation of Seller. This Section shall survive the Closing.

#### SECTION 12. Indemnification.

Seller owns land that is surrounded by the Property ("the Ranch") and requires certain protection for Seller, their heirs, successors and assigns from any activities of Purchaser on the Property that might affect the Ranch. Purchaser hereby agrees to indemnify, release, defend and hold harmless the Seller, her heirs, successors and assigns from and against any and all losses, claims changes, damages liabilities, fines, penalties, costs, expenses, causes of action and judgments, including attorney's fees and court costs, arising from any environmental conditions arising subsequent to the Closing caused by any acts or omissions of Purchaser, its agents, officers, directors, affiliates, employees, representatives, contractors, subcontractors, licensees, lessees, or invitees, occurring on or about the Ranch, including, but not limited to any release, threatened release, generation or storage of Hazardous Materials, Hazardous Materials Contamination, or installation of devices or structures in violation of Environmental Laws or any other regulations, rules, orders or ordinances of any Federal, State or local agency department or bureau having jurisdiction over the Property or the Ranch or the Parties. Purchaser acknowledges and agrees that the Warranty Deed to be executed by Seller shall include a covenant that any sale of the Property from and after closing shall contain the same indemnity from any subsequent Grantee of the Property, and that such a covenant shall constitute a restriction on any future conveyances of the Property. In the event of a transfer other than by Deed, Purchaser agrees to exercise reasonable effort to obtain the same indemnity from any subsequent owner.

#### SECTION 13. Hazardous Materials Definitions.

A. Hazardous Materials. (i) Any substance included within the definitions of "hazardous substances," "hazardous materials," "toxic substances," "pollutants," "contaminant", "hazardous waste" or "solid waste" in any Environmental Law; (ii) petroleum, including crude oil or any fraction thereof, (iii) polychlorinated biphenyls (PCB's); (iv) asbestos and asbestos containing materials (whether friable or non-friable); (v) lead and lead based paint or other lead containing materials (whether friable or non-friable); (vi) naturally occurring radioactive materials (NORM); (vii) any substance the presence of which is prohibited on, about or under the Property; and (viii) any other substance which is defined as hazardous, toxic, infectious, explosive, corrosive or radioactive by any Environmental Laws.

B. Environmental Laws. Any one of more of the following statutes, any amendments thereto and any regulations promulgated thereunder, any similar or equivalent state laws, and any other applicable federal, state and local laws concerning pollution, protection of the environment or the use, storage, handling, treatment, management, discharge or disposal of Hazardous Materials, now existing or hereinafter enacted, including, but not limited to, the: Comprehensive

Environmental Response Compensation and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), 42 U.S.C. 9601 et seq.; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C. 6901 et seq.; Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq.; Toxic Substances Control Act, 15 U.S.C. 2601 et seq.; Clean air Act, 42 U.S.C. 7501 et seq.; and any similar state analogs. Environmental Laws do not include laws relating to industrial hygiene or worker safety. The foregoing shall also include all rules and regulations and orders of applicable governmental agencies and courts construing, interpreting or executing the requirements of such laws.

C. Hazardous Materials Contamination. The contamination of the soil, groundwater or surface water in, on, under, upon, at, beneath or emanating from the Property as a result of the release or threatened release of any Hazardous Materials in, on, under upon, at or beneath the Property.

#### SECTION 14. Access - Road Construction Assessment - Perimeter Fencing

A. Access Road — Purchaser is currently in negotiations with The Odessa Industrial Development Corporation (“Grow Odessa”), the owner of substantially all of Section 43 which abuts the Property on the South and West, to acquire Grow Odessa’s interest in Section 43 (the “Grow Odessa Tract”). If Purchaser elects to purchase the Property and to purchase the Grow Odessa Tract, after closing on both tracts, Purchaser will design and build two (2) separate access roads connecting the Property with Highway 866. Both access roads will be dedicated to public use.

Access Road 1 will connect the Property and neighboring Sections 46, 39, 40 and 41, as depicted on a Preliminary Survey of such road attached as Exhibit “C”. It is understood that access across Section 46 is pursuant to an existing Ingress and Egress Easement dated November 2, 2018, a copy of which is attached as Exhibit “D”.

Access Road 2 is presently being located and, subject to agreement as to location between Seller, Purchaser and Grow Odessa and will provide northern access from the property to Highway 866.

It is understood and agreed that Seller will contribute the necessary easements for such access roads over its lands and will also, as a condition to Purchaser’s obligations, contribute the total sum of \$250,000.00 to the cost of construction, such contribution to be paid by Seller to Purchaser at closing as a credit against the Purchase Price assuming Purchaser has finalized its purchase of the Grow Odessa Tract, or if not, as soon thereafter as the Grow Odessa transaction closes.

Purchaser has no obligation to design or construct the access roads until after closing of the purchase of the Property and the closing of the Grow Odessa Tract. Purchaser agrees that the design and construction of both access roads will meet, or at Purchaser’s election, exceed Ector County’s minimum roadway specifications set forth in Subdivision and Manufactured Home Rental Community Regulations for Ector County, and subject to oversight by the Ector County Engineer. These specifications will also apply to any modifications or upgrades of the access roads by Purchaser.

It is agreed that Seller will have full unrestricted access across Access Road 1 and Access Road 2 from all of its adjacent lands including its lands which adjoin such access roads.

B. Fencing — Promptly after the Closing (subject to force majeure), Purchaser will erect a perimeter fence along the North boundary of Section 42 and along the North and East boundary of Section 41.

In addition, if and when construction or upgrade of Access Road 1 is started after the Closing, the road constructor will erect a similar fence on the North side of the Access Road along the South boundary of Sections 39 and 40 together with gates and cattle guards such as then exist on the Seller's ranch roads. Such fencing shall meet or exceed customary requirements for cattle fencing, subject to Seller and Purchaser's mutual agreement on the details.

This Section shall survive the Closing.

#### SECTION 15. Notices.

All notices provided or permitted under this Agreement must be in writing and may be served by (i) depositing same in the United States mail, addressed to the party to be notified, postage prepaid, and registered or certified with return receipt requested; (ii) delivering the same in person to such party; (iii) prepaid telegram or telex or (iv) e-mail. Notice given in accordance herewith shall be effective upon receipt at the address of the addressee. For purposes of notice, the addresses of the parties shall be follows:

**SELLER:**

Thomas L Dean  
As Attorney-in Fact  
Of Betty Moss Dean  
under Durable Power of Attorney  
dated September 4, 2013  
15 Smith Rd., Suite 6002  
Midland, Texas 79707  
E-mail: tom@mossdeanllc.com

Ken Dean  
Manager  
C.A. and Betty Moss Dean FLP  
c/o Johnson Miller  
550 W. Texas, Suite 1000  
Midland, Texas 79701  
E-mail: ken\_dean@jmcpc.com

**PURCHASER:**

NACERO TX 1 LLC  
Hal Bouknight  
Chief Operating Officer  
Two BriarLake Plaza, Suite 1000  
2050 W. Sam Houston Parkway South  
Houston, Texas 77042  
E-mail: hab@nacero.co

with a copy to:  
NACERO INC.  
Thomas Vega-Byrnes  
General Counsel & Secretary  
Two BriarLake Plaza, Suite 1000  
2050 W. Sam Houston Parkway South  
Houston, Texas 77042  
Email: tvb@nacero.co

Either party hereto may change its address for notice by giving ten (10) days prior written notice thereof to the other party.

#### SECTION 16. Casualty Loss and Condemnation.

A. If any part of the Property is damaged or destroyed by fire or other casualty loss in the amount greater than \$1,000,000, (A) Seller may elect to (i) restore the Property to its previous condition as soon as reasonably possible, but in any event prior to the Closing; or (ii) assign to Purchaser all insurance proceeds and (B) Purchaser may: (i) extend the time for performance of the restoration as mutually agreed upon and the Closing shall be extended as necessary; (ii) terminate this Agreement and the Earnest Money, together with any interest thereon, shall be returned to Purchaser as Purchasers' sole remedy; or (iii) accept the Property in its damaged condition and accept an assignment of insurance proceeds. The parties acknowledge and agree that the parties' negotiation of an extension of time within which to restore the Property shall not operate as a waiver of Purchaser's right to terminate this Agreement. Provisions of any laws of the state in which the Property is situated to the contrary shall not apply.

B. If condemnation proceedings are commenced against all or any portion of the Property prior to closing, Purchaser may: (i) terminate this Agreement within ten (10) days after Purchaser is advised of the condemnation proceeding and the Earnest Money, together with any interest thereon, shall be refunded to Purchaser; or (ii) appear and defend in the condemnation proceeding and any award in condemnation shall, at Purchaser's election become the property of Seller and the Purchase Price shall be reduced by the same amount or any award shall become the property of Purchaser and the Purchase Price shall not be reduced.

#### SECTION 17. Governing Law.

This Agreement shall be governed and construed in accordance with the laws of the State of Texas. This Agreement is performable in Ector County, Texas.

#### SECTION 18. Commissions.

Seller and Purchaser represent and warrant to one another that they have not employed any real estate Brokers in connection with the sale contemplated by this Agreement. Seller and Purchaser release, indemnify and hold one another harmless from and against any and all claims for commissions from any third parties employed by the other party in connection with the sale contemplated by this Agreement.

#### SECTION 19. Recordation.

Seller and Purchaser hereby acknowledge that neither this Agreement nor any memorandum or affidavit thereof shall be filed of public record.

#### SECTION 20. Entire Agreement.

This Agreement constitutes the entire agreement between Seller and Purchaser concerning the sale of the Property, and supersedes any and all prior oral or written agreements regarding the subject matter of this Agreement. No modification of this Agreement shall be binding on either party unless reduced to writing and signed by the parties to be bound.

#### SECTION 21. Assignment of Agreement.

Purchaser shall not assign this Agreement and Purchaser's rights and obligations hereunder, without the prior written consent of Seller; provided, however, notwithstanding Sellers consent, Purchaser shall not be released from, and shall remain fully liable for; Purchaser's representations, warranties, indemnities, covenants and obligations under this Agreement.

#### SECTION 22. Access to Property.

Until the Closing, and unless and until this Agreement terminates, and with the coordination of Seller, Purchaser and Purchaser's agents may, upon at least twenty-four (24) hours prior written notice to Seller, enter upon the Property at their sole and exclusive risk, for the purpose of making appropriate non-intrusive inspections and conducting, at Purchaser's sole cost and expense, appropriate feasibility studies with respect to the Property.

#### SECTION 23. Time of Essence.

Time is and shall be of the essence of this Agreement and all its provisions. Any extension of the time for performance under this Agreement by either party must be in writing and signed on behalf of both parties. No extension will be deemed a waiver of this Section with respect to other performance by either party.

#### SECTION 24. Further Assurances.

Promptly upon the request of the other party or of the Title Company, Purchaser and Seller each shall execute, acknowledge and deliver to the other party or the Title Company, or both, any and all further instruments and shall take all such other action as may be reasonably requested or appropriate to evidence or give effect to the provisions of this Agreement or to satisfy the Title Company's requirements in connection with this Agreement; provided, however, in no event shall either party be required to incur any out of pocket expense or liability in connection with such efforts that is not expressly contemplated by this Agreement.

#### SECTION 25. Severability.

If any provision or any portion of a provision of this Agreement or of any other document to be executed in connection with this Agreement is deemed to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect the remaining portion of that provision or of any other provision of this Agreement or such other document, as each provision of this Agreement and all such other documents shall be deemed to be severable from all other provisions hereof and thereof.

#### SECTION 26. Headings.

The Section headings in this Agreement are inserted for the purpose of reference only and shall not limit, define or expand the provisions of this Agreement or any one of them.

#### SECTION 27. Counterparts.



This Agreement may be executed by electronic means and in multiple counterparts (original, facsimile, pdf, or other electronic means), each of which shall be deemed, construed, and considered to be an original, but all of which shall constitute one and the same instrument, when signed by all of the parties and the Title Company is hereby authorized and instructed to rely thereon.

SECTION 28. Construction.

This Agreement is the result of negotiations between the parties and accordingly shall not be construed for or against either party regardless of which party drafted this Agreement.

SECTION 29. Business Day.

If the time for performance of any obligation under this Agreement, or the giving of any notice required or permitted hereunder, expires on a Saturday, a Sunday or a legal holiday observed by the Title Company, then the time for such performance, or the giving of such notice, shall be extended to the next succeeding day that is not a Saturday, a Sunday or a legal holiday.

SECTION 30. Waiver of Jury Trial.

THE PARTIES HEREBY VOLUNTARILY, KNOWINGLY, IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY RIGHT TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE (WHETHER BASED UPON CONTRACT, TORT OR OTHERWISE) BETWEEN THEM ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT OR ANY OTHER RELATED DOCUMENT. NO JURY SHALL BE EMPANELED FOR ANY DISPUTE INVOLVING THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY ADVISORY JURY.

*[remainder of page intentionally left blank]*

IN WITNESS WHEREOF, Purchaser and Seller have each executed this Agreement on the dates set forth below.

PURCHASER:

NACERO TX 1 LLC

By: \_\_\_\_\_

Name: Hal Bouknight

Title: Chief Operating Officer

Date: \_\_\_\_\_

SELLER:

BETTY MOSS DEAN, INDIVIDUALLY,  
by Thomas L. Dean, her attorney-in-fact

By: \_\_\_\_\_  
Thomas L. Dean, Attorney-in-fact  
Under Power of Attorney dated September 4, 2013

Name: Thomas L. Dean

Date: \_\_\_\_\_

C.A. and BETTY MOSS DEAN FLP

By: \_\_\_\_\_

Name: Kenneth R. Dean

Title: Manager

Date: \_\_\_\_\_

## EXHIBIT "A"

The surface estate only as to the following lands, subject to oil and gas leases and easements of record, and expressly reserving all oil, gas and other mineral rights and water rights as more particularly described in the Purchase Agreement.

All of Section 41, Block 44, T-2-S, T&P RR. Co. Survey, A-314, Ector County, Texas, containing 632.327 acres more or less.

All of Section 42, Block 44, T-2-S, T&P RR. Co. Survey, A-1133, Ector County, Texas, containing 617.592 acres more or less.

All of Section 44, Block 44, T-2-S, T&P RR. Co. Survey, A-1217, Ector County, Texas, containing 619.426 acres more or less.

EXHIBIT "B"

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

GENERAL WARRANTY DEED

THE STATE OF TEXAS                   §  
  §       KNOW ALL PERSONS BY THESE  
  §       PRESENTS:  
COUNTY OF ECTOR                   §

THAT, \_\_\_\_\_ ("Grantor"), for and in consideration of the sum of Ten and No/100ths Dollars (\$10.00) in hand paid to Grantor by NACERO TX 1 LLC, a Delaware limited liability company ("Grantee"), the receipt of which is hereby acknowledged by Grantor, and other good and valuable consideration paid and agreed to be paid to Grantor by Grantee in the manner set forth below, the sufficiency of which consideration is hereby acknowledged by Grantor, has GRANTED, BARGAINED, SOLD, and CONVEYED and by these presents does GRANT, BARGAIN, SELL, and CONVEY unto said Grantee, its successors and assigns, subject to the Permitted Exceptions and the reservations to Grantor described below, all of that certain real property located in Ector County, Texas, more particularly described on Exhibit A attached hereto, together with all buildings and improvements located thereon, all of Grantor's right, title and interest in and to all fixtures located thereon, and all of Grantor's right, title and interest, if any, in and to all easements, tenements, hereditaments, privileges and appurtenances in any way belonging to the foregoing (collectively, the "Appurtenances"), including, without limitation, (i) any land to the midpoint of the bed of any highway, street, road or avenue, open or proposed, in front of, abutting or adjoining such land, (ii) any land lying in or under the bed of any creek, stream, bayou or river running through, abutting or adjacent to such land, (iii) any riparian, appropriative, or other water rights of Grantor (including applications for water rights) appurtenant to such land and relating to surface or subsurface waters, (iv) any strips, gores or pieces of property abutting, bounding or which are adjacent or contiguous to such land, where the land on the opposite side of such strips, gores, or pieces of property are not owned by Grantor; and (v) all easements, right-of-ways, rights of ingress or egress and reversionary interests benefiting such land (all such land, water rights, easements and other appurtenant rights being herein referred to collectively as the "Property").

This conveyance is made by Grantor and accepted by Grantee expressly subject (i) all valid and subsisting easements, restrictions, reservations, covenants, conditions and mineral and royalty rights relating to the Property (ii) all matters that would be shown by a current survey at the property (the "Permitted Exceptions"), to the extent, but only to the extent, the same are valid and subsisting and affect the Property.

Grantor excepts and reserves from this conveyance all surface and subsurface water rights relating to the Property, whether or not appurtenant to the Property, subject only to Grantees' rights to use Groundwater on the Property for the purposes of domestic and business use on the Property.

Grantor also excepts from this conveyance and reserves to Grantor and Grantor's heirs, successors, and assigns forever, all oil, gas, and other minerals in and under and that may be produced from the Property. If the mineral estate is subject to existing production or an existing lease, this reservation includes the production, the lease, and all benefits from it. Grantor waives, and agrees that Grantor shall have no right to exercise, the right of ingress and egress to and from the surface of the Property relating to the undivided portion of the mineral estate owned by Grantor or water rights reserved by Grantor, provided that (1) the Property is hereby conveyed subject to any such rights now outstanding in another under any valid and subsisting oil, gas, or other mineral lease on all or any part of Grantor's interest, and (2) nothing herein restricts or prohibits the pooling or unitization of Grantor's interest in all or any part of the mineral estate of the Property with other land or the exploration, development, and production of oil, gas, or other minerals from the subsurface of the Property by means of wells that are drilled and enter at least 500 feet below the surface of the Property, so long as such operations do not interfere with the surface or subsurface support of any improvements constructed or that may be constructed on the Property.

TO HAVE AND TO HOLD the Property, together with all and singular the rights and appurtenances thereto in anywise belonging, unto Grantee, its successors and assigns forever; and subject to the above described Permitted Exceptions, Grantor does hereby bind itself and its successors, to WARRANT AND FOREVER DEFEND all and singular the Property unto Grantee, its successors and assigns, against every person whomsoever lawfully claiming or to claim the same or any part thereof.

*Remainder of page intentionally left blank.*

EXECUTED to be effective on the \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_.

GRANTOR:

\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

STATE OF TEXAS            )  
                                      ) SS.  
COUNTY OF ECTOR        )

This instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 202\_\_, by  
\_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, on  
behalf of such \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

Address of Grantee:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Attention: \_\_\_\_\_

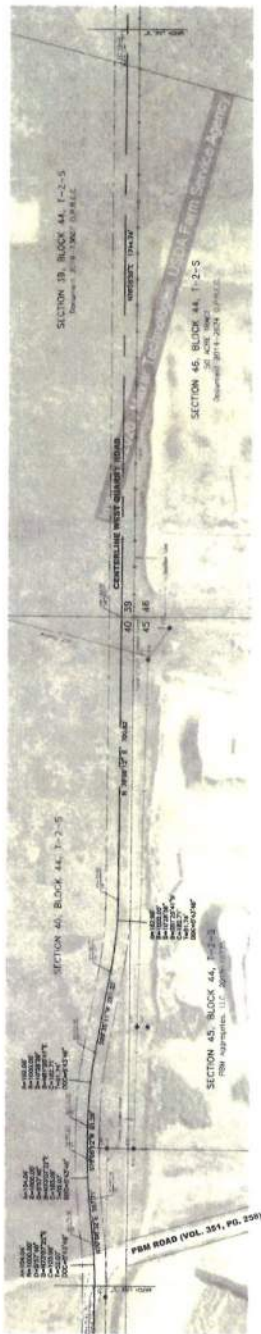
Exhibit A

TO GENERAL WARRANTY DEED

Property Description

## EXHIBIT "C"





PLAT SHOWING PROPOSED WEST QUARRY ROAD  
LOCATED IN SECTIONS 38, 39, 40, 41,  
44, 46, AND 47, BLOCK 44, T-2-S,  
T.8P. RE. CO. SURVEY, ECTOR COUNTY, TEXAS

Surveyed and Platted by: [Signature]  
[Name]  
[Firm]  
[Address]  
[City, State, Zip]  
[Phone Number]  
[Fax Number]  
[E-mail Address]



SHEET 2 OF 2



Paving and Drainage Cost Estimate  
OIDC/Moss-Dean  
West Quarry Road  
LCA Proposal No. 2020-242

Estimated Quantities					
Item	Qty	Unit	Description	Unit Price	Total Amount
1	22.5	Ac.	Clean & Grub right of way	\$1,150.00	\$25,875.00
2	61,675	S.Y.	Furnish labor and equipment for Rough Grading	\$4.50	\$277,537.50
3	61,675	S.Y.	Furnish material, equipment and labor to place 6" subgrade preparation	\$3.00	\$185,025.00
4	61,675	S.Y.	Furnish material, equipment and labor to placeflexible base (crushed caliche) 8" compacted thickness	\$12.75	\$786,356.25
5	61,675	S.Y.	Furnish material, equipment and labor for Double Penetration Surface (pre-coated rock)	\$7.50	\$462,562.50
6	1	L.S.	Furnish materials, equipment and labor to install SW3P	\$60,000.00	\$60,000.00
7	1	L.S.	Furnish all signs, barricades, and traffic control during the project	\$10,000.00	\$10,000.00
Total of All Construction Estimates					\$1,807,356.25
Contingency (15%)					\$275,000.00
Total Construction Estimate					\$2,082,356.25
Engineering and Topographic Surveying					\$96,780.00
Hydro Excavation (10 Pipelines)					\$8,850.00
TOTAL PROJECT ESTIMATE:					\$2,187,986.25

\*Not included: - Pipeline Crossings  
- Drainage Structure/Culverts  
- Right-of-way fencing

G:\CLERICAL\LCA PROJECTS\2020\Proposals\2020-242 - BETTY DEAN MOSS-OIDC-WEST QUARRY ROAD\Engineer Cost Estimate.xlsx

## EXHIBIT "D"

Doc. No. 2018-00018655  
O.P.R.E.C.T.  
15 Nov. 2018

### INGRESS AND EGRESS EASEMENT

This Easement Agreement made this the 2nd day of November, 2018, by and between KCS Capital Investments, LLC, Texas Specialty Sands, LLC and Barbara A. Yarbrough, Gary Gool, George McAlpine and John Loepky hereinafter collectively referred to as "Landowners".

WHEREAS, Landowners are the owners of a strip of land, hereinafter referred to as the "Easement Property" and more fully described on the attached Exhibit A; and

WHEREAS, Landowners are desirous to grant to each other, as well as to the Public an Ingress and Egress Easement over the Easement Property and make an agreement as to the maintenance of said easement.

Therefore, it is mutually agreed as follows:

1. Landowners have granted, sold and conveyed, and by these presents do hereby grant, sell and convey unto each other, as well as to the public, a perpetual, free, continuous and uninterrupted use of an ingress and access easement over the Easement Property and the 5' and 10' Utility Easements as described within the Easement Property. Said easements to run with the land.
2. Landowners shall not erect any improvements or other facilities upon the Easement Property which may impair the flow of traffic over and across same.
3. Landowners agree to maintain the road surface of the Easement Property and each Landowner shall be responsible for the cost of such maintenance in an amount equal to the cost of such maintenance multiplied by the percentage ownership in the Easement Property by each Landowner until such time as the Easement Property is dedicated to and accepted by Ector County as a public road. Landowners, their heirs, personal representatives, successors and assigns of Landowners do hereby agree to execute any and all documents necessary to convey their interest in the Easement Property in the event the Easement Property is dedicated to and Ector County accepts such dedication of the Easement Property as a public road.
4. This Easement Agreement shall be binding on all Landowners, including any and all present and future landowners, their heirs, personal representatives, successors and assigns.
5. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Texas.
6. In case any one or more of the provisions contained in this Easement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not effect any other provision hereof, and this Easement Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

7. This Easement Agreement contains the entire agreement between the parties relating to the rights herein granted and the obligations herein assumed. Any or all representations or modifications concerning this instrument shall be of no force and effect except for a subsequent modification in writing signed by the parties hereto.
8. Landowners covenant and agree that the servitudes, easements, rights, rights of way, privileges, agreements, covenants and restrictions and all other terms, conditions and provisions hereof shall be binding upon their respective successors and assigns and all other persons or entities having or hereafter acquiring any right, title or interest in the Easement Property, and all other persons and entities claiming by, through or under said landowners and their respective successors and assigns.

TO HAVE AND TO HOLD the above described Easement forever for the uses, benefits, purposes and burdens herein set forth, the Landowners do hereby bind themselves, their heirs, personal representatives, successors and assigns to Warranty and Forever Defend all and singular the said Easement and right-o-way against every person whomsoever lawfully claiming or to claim the same or any part thereof.

IN WITNESS WHEREOF, the parties have executed this Easement Agreement as of the date

LANDOWNER:

KCS Capital Investments, LLC

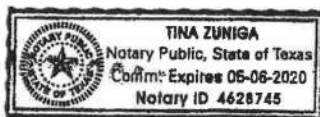
By: Jacob Percitull

Its: MANAGING MEMBER

STATE OF TEXAS

COUNTY OF Hood

This instrument was ACKNOWLEDGED before me on the 2nd day of November 2018, by Jacob Percitull Managing Member of KCS Capital Investments, LLC.



Tina Zuniga  
Notary Public, State of Texas

LANDOWNER:

Texas Specialty Sands, LLC

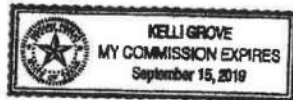
By: 

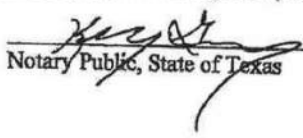
Its: 

STATE OF TEXAS

COUNTY OF Cooke

This instrument was ACKNOWLEDGED before me on the 9<sup>th</sup> day of November 2018, by Coly Orlowski, \_\_\_\_\_ of Texas Specialty Sands, LLC.



  
Notary Public, State of Texas

LANDOWNER:

Barbara A. Yarbrough  
Barbara A. Yarbrough

STATE OF TEXAS

COUNTY OF Frank's

This instrument was ACKNOWLEDGED before me on the 7th day of November  
2018, by Barbara A. Yarbrough.

[Signature]  
Notary Public, State of Texas



LANDOWNER:

Gary Gool  
Gary Gool

STATE OF TEXAS     §  
                                 §  
COUNTY OF \_\_\_\_\_ §

This instrument was ACKNOWLEDGED before me on the 9<sup>TH</sup> day of Nov  
2018, by Gary Gool.

Kim Rhodes  
Notary Public, State of Texas



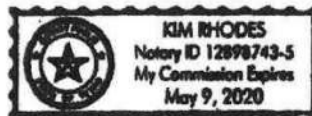
LANDOWNER:

George McAlpine  
George McAlpine

STATE OF TEXAS §  
COUNTY OF Midland §

This instrument was ACKNOWLEDGED before me on the 9<sup>th</sup> day of Nov, 2018, by George McAlpine.

Kim Rhodes  
Notary Public, State of Texas





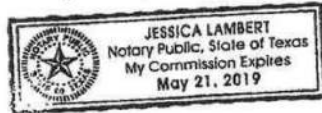
LANDOWNER:

*John Loepky*  
John Loepky

STATE OF TEXAS

COUNTY OF Gaines

This instrument was ACKNOWLEDGED before me on the 5<sup>th</sup> day of November 2018, by John Loepky.



*Jessica Lambert*  
Notary Public, State of Texas



12000 WEST HIGHWAY 30 EAST  
OWENIA, TX 79765-9639  
PHONE: 432-563-1070 FAX: 432-563-1155  
EMAIL: STARKSURVEYING@ATT.NET  
FIRM NO. 10101700

**FIELD NOTES DESCRIPTION OF A 12.55 ACRE TRACT FOR THE PURPOSE OF A ROAD EASEMENT AND UTILITY EASEMENT IN THE NORTH PART OF SECTIONS 46 & 47, BLOCK 44, T-3-S, T&P RR COMPANY SURVEY, ECTOR COUNTY, TEXAS, AS FOLLOWS:**

**BEGINNING** at a 1/4-inch iron rod found in the north line of Section 46, Block 44, T-3-S, T&P RR Company Survey, Ector County, Texas, and being the northwest corner of an 83.70 acre tract, as filed of record in Document No. 2013-12669, Trust 1, Ector County Deed Records, Ector County, Texas, for the southwest corner of a 5-foot wide utility easement, a 60-foot wide road easement and 10-foot wide utility easement; from which point a 1/4-inch iron pipe found for the southwest corner of said Section 46 bears S 70° 05' 30" W, 1741.4 feet;

**THENCE** N 70° 05' 43" E, with the north line of said Section 46, the north line of said 83.70 acre tract and the north line of said 5-foot wide utility easement, a distance of 1770.2 feet to a 1/4-inch iron rod found in the north line of said Section 46, for the southeast corner of said 83.70 acre tract and the southeast corner of a 30.15 acre tract out of a 52.91 acre tract, as filed of record in Document No. 2015-7706, Ector County Deed Records, Ector County, Texas, for a corner of this tract;

**THENCE** N 70° 05' 37" E, with the north line of said Section 46, the north line of said 50.15 acre tract and the north line of said 5-foot wide utility easement, a distance of 1704.6 feet to a 1/4-inch iron pipe found for the southeast corner of said Section 46 and being the southwest corner of Section 47, Block 44, T-3-S, T&P RR Company Survey, Ector County, Texas, for the southeast corner of said 50.15 acre tract and the southwest corner of a 26.3 acre tract, as filed of record in Volume 829, Page 690, Trust 2, Ector County Deed Records, Ector County, Texas, for a corner of this tract;

**THENCE** S 14° 10' 27" E, with the east line of said Section 46, the west line of said Section 47 and the east line of said 50.15 acre tract, a distance of 20.0 feet to a 1/4-inch iron rod set in the east line of said Section 46, the west line of said Section 47, a corner of said 50.15 acre tract and the northwest corner of a 0.63 acre tract out of said 26.3 acre tract, for a corner of this tract;

**THENCE** N 80° 10' 46" E, with the north line of proposed road easement and utility easement, a distance of 280.0 feet to a 1/4-inch iron rod set for a corner of this tract;

**THENCE** N 70° 04' 59" E, with the north line of proposed road easement and utility easement, a distance of 100.0 feet to a 1/4-inch iron rod found in the west right-of-way line of F.M. Highway No. 866, the east line of said 26.3 acre tract, an existing pipeline conduit and the southeast corner of this tract;

**THENCE** S 15° 48' 01" E, with the west right-of-way line of said F.M. Highway No. 866 and the east line of said 26.3 acre tract, at 60.0 feet pass the south right-of-way line of a road easement and the north line of a 10-foot wide utility easement, continuing in all a distance of 70.0 feet to a point in the west right-of-way line of said F.M. Highway No. 866 and the east line of said 26.3 acre tract, for the most easterly southeast corner of this tract;

**THENCE** S 77° 34' 37" W, with the north line of said 10-foot wide utility easement, a distance of 381.5 feet to a point in the west line of said Section 47, the east line of said Section 46, the west line of said 26.3 acre tract and the southeast corner of a 2.77 acre tract out of said 52.91 acre tract, for a corner of this tract;

**THENCE** N 89° 53' 06" W, with the north line of said 2.77 acre tract and the south line of said 10-foot wide utility easement, a distance of 103.2 feet to a 1/4-inch iron rod set for the southwest corner of said 2.77 acre tract and a corner of said 50.15 acre tract, for a corner of this tract;

**THENCE** S 70° 05' 43" W, with the south line of said 10-foot wide utility easement, a distance of 1684.2 feet to a point in the west line of said 50.15 acre tract and the east line of said 83.70 acre tract, for a corner of this tract;

**THENCE** continuing S 70° 05' 43" W, with the south line of said 10-foot wide utility easement, a distance of 1693.5 feet to a point for an interior corner of this tract;

**THENCE** S 14° 10' 27" E, with the east line of said 10-foot wide utility easement, a distance of 1175.3 feet to a point for a corner of this tract;

**THENCE** S 02° 38' 14" E, with the east line of said 10-foot wide utility easement, a distance of 150.0 feet to a point for a corner of this tract;

**THENCE** S 14° 10' 27" E, with the east line of said 10-foot wide utility easement, a distance of 657.3 feet to a point in the south line of said 83.70 acre tract and the north line of a 55.94 acre tract, as filed of record in Document No. 2018-9068, Ector County Deed Records, Ector County, Texas, for a corner of this tract;

**THENCE** S 70° 05' 53" W, with the north line of said 83.70 acre tract, the north line of said 55.94 acre tract and the south line of said 10-foot wide utility easement, a distance of 10.0 feet, for a corner of this tract;

**THENCE** S 14° 10' 27" E, with the east line of proposed road easement, a distance of 1732.8 feet to a point in the north right-of-way line of Interstate Highway No. 20 and the south line of said 55.94 acre tract, for the most easterly southeast corner of this tract;

**THENCE** S 57° 50' 32" W, with the north right-of-way line of said Interstate Highway No. 20 and the south line of said 55.94 acre tract, at 10.0 feet pass the southwest corner of said 55.94 acre tract, continuing in all a distance of 36.8 feet to a 1/4-inch iron rod found in the north right-of-way line of said Interstate Highway No. 20 and the continuation of the original proposed road easement, for a corner of this tract;

**THENCE** S 57° 49' 57" W, with the south right-of-way line of said Interstate Highway No. 20, a distance of 26.3 feet to a point in the north right-of-way line of said Interstate Highway No. 20, the southwest corner of said original proposed road easement and the southeast corner of a 20.71 acre tract, as filed of record in Document No. 2014-10673, Ector County Deed Records, Ector County, Texas, for the southeast corner of this tract;

**THENCE** N 14° 10' 27" W, with the west line of said original proposed road easement and the east line of said 20.71 acre tract, a distance of 1238.4 feet to a 1/4-inch iron rod found in the west line of said original proposed road easement, the east line of said 20.71 acre tract and a corner of a 95.4 acre tract, as filed of record in Document No. 2018-3273, Ector County Deed Records, Ector County, Texas, for a corner of this tract;

**THENCE** continuing N 14° 10' 27" W, with the west line of said original proposed road easement and the east line of said 95.4 acre tract, a distance of 1310.1 feet to a point for the southwest corner of said original proposed road easement and the southeast corner of said 95.4 acre tract, for a corner of this tract;

**THENCE** N 75° 49' 35" E, with the south line of said original proposed road easement, a distance of 25.0 feet to a 1/4-inch iron rod found in the southeast corner of said original proposed road easement and a corner of said 83.70 acre tract, for a corner of this tract;

**THENCE** N 14° 10' 27" W, with the west line of said 83.70 acre tract, a distance of 1250.6 feet to the place of beginning and containing 546549.87 square feet or 12.55 acres of land.

I, Jamie Robert Stark, a Registered Professional Land Surveyor, do hereby certify that the above survey was made on the ground under my supervision and correctly shows the boundary lines, dimensions and area of land, all alloys, streets, right-of-ways, easements and other matters of record which affect the property. The undersigned further certifies that there are no visible discrepancies, conflicts, shortages in area, boundary line conflicts, encroachments, overlapping of improvements, easements or right-of-ways except as shown hereon.

Dated: October 8, 2018

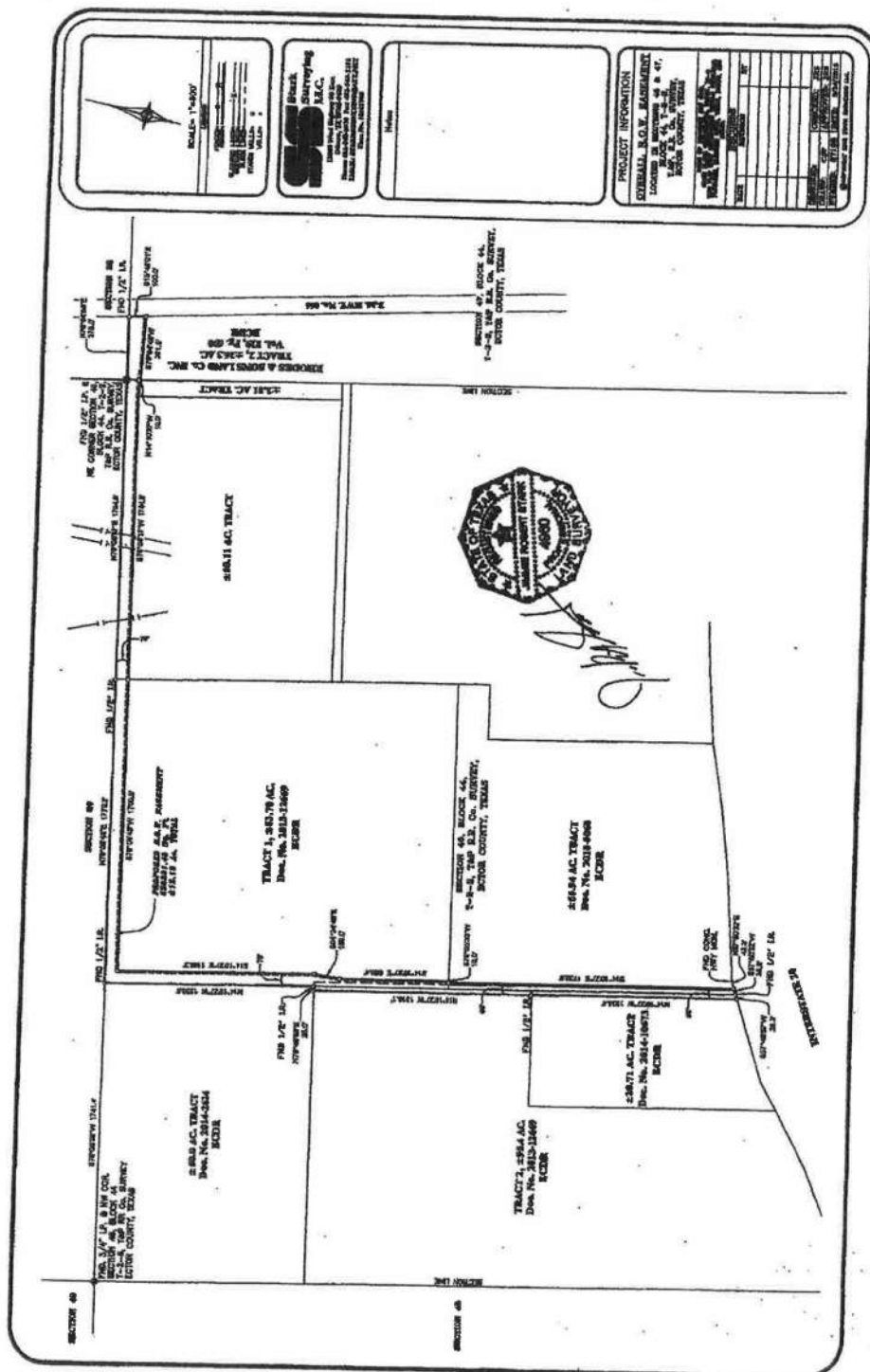
By:

STARK SURVEYING, LLC

J. R. Stark  
Jamie Robert Stark  
Registered Professional Land Surveyor



SS Job No. 87103



2018-00018655

Original Filed for Record this 15 day of  
Nov, 20 18 at 3:33 o'clock P.M.

LINDA HANEY

County Clerk, Bexar County, Texas

By Ruth H. Buehler Deputy

## ATTACHMENT 5

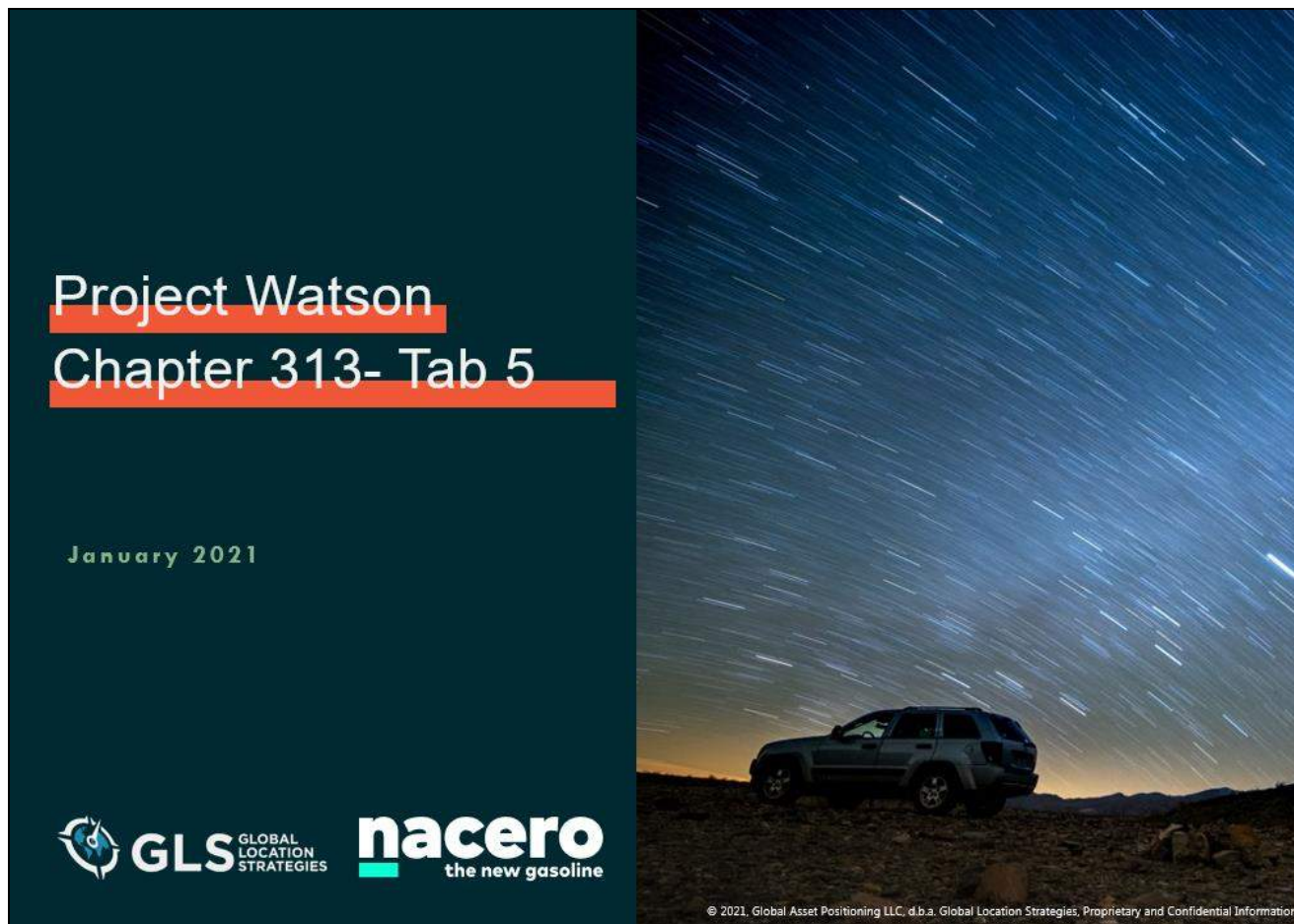
### Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor Penwell, Texas

Under Section 8, question 6, the applicant has received commitments for state or local incentives for activities at the proposed project Site.

- OI DC has given Nacero an option to buy the above land for \$1,000, subject to reversion rights if we do not meet certain deadlines in the development of the land.

Under Section 8, question 7, “Is the applicant evaluating other locations not in Texas for the proposed Project?”

- Yes, over the past year Nacero and the Global Location Strategies (GLS) team have been conducting evaluations on other properties outside of Texas. With availability of abundant natural gas as a primary driver, shortlisted locations include sites in Arizona, Nevada, New Mexico, Oklahoma, Pennsylvania, West Virginia, Ohio, and Texas (Penwell).



## Activity Summary

Over the past year, the Nacero and GLS team evaluated properties across the Marcellus, Utica, and Permian regions as well as locations with large quantities of natural gas (nine total states) to identify properties with suitable natural gas feedstock and other site requirements.

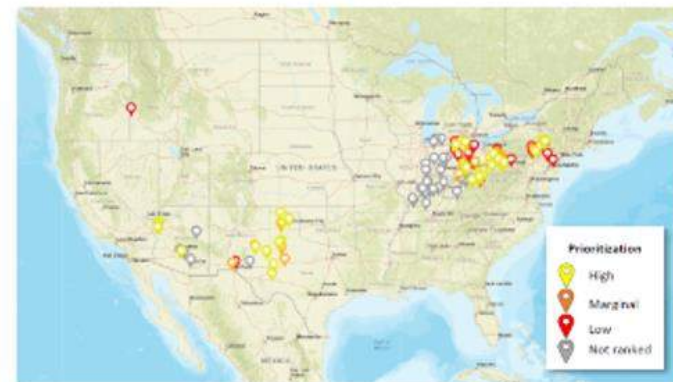
Initial screening criteria included:

- Proximity to natural gas lines
- Rail infrastructure on site or in proximity
- Large site size and/or adjacent expansion opportunities

The process included:

- GLS site identification
  - Site identification resulted in identification of 130 sites and full assessment of 87 sites
- Shortlist of locations for Request for Information
- Virtual site visits
- Field site visits

As a result of this analysis, Project Watson has focused on finalist locations in Texas (Penwell Site) and Arizona.



# ATTACHMENT 5

Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor  
Penwell, Texas

Please note that these specs have been more fine-tuned through the process, but this was the initial evaluation criteria.

Project Specs			
Below outlines the project specifications that the properties were being evaluated against.			
	2-Train	4-Train	6-Train
Capital Investment	\$3.5 billion	\$6.5 billion	\$9.5 billion
Jobs	250	380	510
Size	2-Train	4-Train	6-Train
Acreage	300+	450+	600+
Transportation	2-Train	4-Train	6-Train
Truck	Interstate access for heavy trucks (80-160 trucks per day)	Interstate access for heavy trucks (160-330 trucks per day)	Interstate access for heavy trucks (240-500 trucks per day)
Rail	Required (40-64 cars per day)  Unit trains and manifest loads	Required (80-128 cars per day)  Unit trains and manifest loads	Required (120-192 cars per day)  Unit trains and manifest loads
Utilities	2-Train	4-Train	6-Train
Electric <i>-Solar will make up some of this usage depending on the available acreage</i>	175 MW	350 MW	525 MW
Process Makeup Water	1.16 mgd	2.3 mgd	3.4 million mgd
Potable Water	Required for operation support	Required for operation support	Required for operation support
Wastewater	Sanitary only	Sanitary only	Sanitary only



ATTACHMENT 5

Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor  
Penwell, Texas



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Global Location Strategies  
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## **ATTACHMENT 6**

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Tab 6 – Description if Project Located in More than One School District

**ATTACHMENT 6**  
**Tab 6 - Description if Project Located in More than One School District**  
Penwell, Texas

***REQUIREMENT:***

If the project is not located entirely within the Independent School District (ISD) than a map/maps should be provided.

***NACERO RESPONSE:***

The project is entirely located within the Ector County ISD, so no map is provided.

## **ATTACHMENT 7**

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### **Tab 7 – Description of Qualified Investment**

***Submission Date: May 7, 2021***

**Submission Date: May 7, 2021**

**REQUIREMENT:**

Attach a description of the qualified investment, which must include:

- a. A specific and detailed description of the qualified investment you propose to make within the project boundary for which you are requesting an appraised value limitation.
- b. A description of any new buildings proposed, new improvements, or personal property which you intend to include as part of your minimum qualified investment.

**NACERO RESPONSE:**

Below, please find a description of the physical and functional aspects of the final constructed and delivered facility consistent with the level of detail defined at the project's conceptual engineering phase.

The specific and detailed description of the qualified investment which is proposed within the project boundary, along with any new buildings or proposed improvements have been split into sections describing the different parts of the facility, such as, Inside Battery Limits (ISBL), Outside Battery Limits (OSBL), Tank Storage, Truck and Rail Operations, etc.

The Penwell facility includes the following configuration:

- 6 SynCOR Methanol™ / TIGAS™ trains (3 sets of two trains)
- 6 Air Separation Units (ASU), one for each train
- 6 Flare units, one for each train
- 3 Sets of process common units (hydrocracker unit, isomerization, condensate stripping)
- 3 Utility and Offsite blocks (CO2 recovery unit, thermal oxidizer, Boiler Feed Water/steam/Auxiliary Boiler, condensate treatment, power generation, raw and wastewater treatment, cooling water)
- 1 Carbon capture sequestration Compressor Station
- 1 Hydrogen Generation Unit (HGU)
- 1 Gasoline Post Treatment Unit
- 1 common tankage area, 1 back-up instrument air and nitrogen unit, 1 firewater system, 1 gasoline blending facility, railcar loading/unloading area and truck loading areas.

This project will include Trains 1 through 6 with associated common process areas as well as associated utility & offsite blocks.

**ISBL – Natural Gas Processing and Gasoline Manufacturing**

The ISBL facilities below are licensed by Haldor Topsoe and their Design Packages are provided by HT except where noted. Natural gas feed, plus recycled liquefied petroleum gas (LPG) and C5 recycle, are converted to raw gasoline in each of the six processing trains.

Each train includes the following primary Process sections:

- Natural Gas Reforming (Unit 110, 210, 310, 410, 510, 610)
- Syngas Process Condensate (Unit 111, 211, 311, 411, 511, 611)

**Tab 7 – Description of Qualified Investment**  
Penwell, Texas

**Submission Date: May 7, 2021**

- Methanol Synthesis (Unit 120, 220, 320, 420, 520, 620)
- Gasoline Reactor (Unit 130, 230, 330, 430, 530, 630)
- Catalyst Regeneration System (Unit 131, 231, 331, 431, 531, 631)
- Gasoline Fractionation (Unit 140, 240, 340, 440, 540, 640)
- Hydrogen Recovery Unit (Units 171, 271, 371, 471, 571, 671)
- Cooling Water System (Unit 841, 842, 843) – Design not provided by HT.
- Flare System (Unit 160, 260, 360, 460, 560, 660) – Each Train will have a dedicated ground flare, Knock Out (KO) drum and KO drum pump. However, for redundancy and reliability, the Flare systems for each set of Trains (1 and 2, 3 and 4, 5 and 6) will be cross-tied and each Flare system will be designed to support two parallel trains. Each set of cross-tied flares will be connected to process commons (i.e. hydrocracker unit, isomerization unit) dedicated to their corresponding trains. Design not provided by HT.
- Hydrocracking and Isomerization (Units 711, 712, 713) – The raw gasoline product from each train is sent to a Hydro-processing unit, which includes Isomerization and mild Hydrocracking sections for octane improvement and distillation point control. These units are common for each set of two trains.

**OSBL – Balance of Plant**

OSBL Per Train Set – One System per Two Trains

The following is a description of the systems supporting each set of two trains. Ultimately, 3 sets of these blocks will be provided to support all 6 trains at the Penwell facility.

- Gasoline Synthesis Process Condensate (Unit 731, 732, 733) – HT is providing the Design Package for these units.
- Power Generation (Unit 741, 742, 743) – 2 Steam Turbine Generators (STGs) per Unit will generate power from the excess steam from ISBL.
- Fuel Gas CO2 Removal (Unit 751, 752, 753)
- Boiler Feed Water (BFW)/Condensate System (Unit 811, 812, 813)
- Auxiliary Boiler (Unit 821, 822, 823)
- Raw Water Treatment (Unit 831, 832, 833) – Scope is to be confirmed based on raw water analysis and plant water balance. Utility and fire water to be supplied from raw water.
- Wastewater Treatment (Unit 851, 852, 853) – Options being considered are a Water Treatment Plant, Disposal Wells, Evaporation Ponds or a combination of the above
- Storm Water/Drainage System (Unit 861, 862, 863) Closed Drain System – Hydrocarbon drain drum with pumps and slop oil tank with pumps to service the closed hydrocarbon drain system from ISBL. Methanol drain drum with pumps and slop methanol tank with pumps to service the closed methanol drain system from ISBL
- Plant Instrument Air and Nitrogen Distribution system (Unit 881, 882, 883)

The natural gas and gasoline production process will require high quality demineralized water. This process will generate steam and water condensate that may be reused within the proposed facility. Raw water treatment and wastewater treatment are anticipated as part of the proposed Project to meet the industrial water demand, which effectively results in an internal recycling of water. In addition

**Submission Date: May 7, 2021**

to the recycled water internal to the process, the industrial water supply will be supplemented by water piped in from the Colorado River Municipal Water District.

**OSBL Common Utilities - One Set for the Facility**

The following is a description of the common systems supporting all 6 trains.

- Hydrogen Generation Unit (Unit 930) – Will produce hydrogen to meet the entire plant hydrogen demand. The HGU will be oversized to provide 100MMTPD of Hydrogen to allow for an excess of Hydrogen Which will also be sold as full for heavy haul over the road vehicles. Storage and loading facilities for Hydrogen are planned.
- Carbon Capture Sequestration (Unit 931)
- One Gasoline Post Treatment Unit (Unit 932) – Will upgrade gasoline product to meet California gasoline specifications. Size of the unit is to be determined. HT is providing the Design Package for this Unit.
- Backup Instrument/Plant Air Compressor – Used as a backup to instrument/plant air supply from ASU. Unit will be used for startup requirements of one train.
- Fire Fighting Unit (Unit 950) – Fire water to be supplied from treated raw water, or utility water, with raw water as backup supply.
- Storm Water Retention – Twenty-four hour, 100-year storm or six hours of maximum fire water application during fire water events used for volume design.

**OSBL - Storage and Terminal Operations**

Storage facilities, tanks will be provided for the following:

- Raw Methanol Storage (Unit 910)
- LPG Storage (Unit 911)
- Gasoline Storage (Unit 912)
- Gasoline Blend Component Storage (Unit 913)
- Finished Gasoline Additives Storage (Unit 914)
- Finished Gasoline Storage (Unit 915)

Truck loading, the following products will be loaded by truck:

- Pump Ready Gasoline Product
- Nitrogen Hydrogen

Where necessary, internal roads, truck loading areas and designated parking areas will be a paved surface capable of supporting heavy truck traffic.

- Rail Loading and Unloading

The proposed facility will have inbound rail movements of gasoline blend components (ethanol, alkylate and naphtha) and outbound rail movements of LPG product and finished gasoline component.

**Submission Date: May 7, 2021**

The following products will be loaded by rail:

- LPG
- Finished Gasoline Component
- Argon

The following products will be unloaded by rail:

- Ethanol
- Alkylate
- Naphtha

#### **Air Separation Unit (ASU)**

The ASU's will be owned and operated by a third party for the benefit of Nacero. The ASU's will produce high purity oxygen for the Autothermal Reformer and is integral to our process for production of methanol. Our facility cannot operate without an ASU. The ASU's will be treated by Nacero as an owned asset and will be recorded on our balance sheet as a capital asset and accounted for with identical accounting as a capital lease. Nacero will have the right to purchase the ASU's at a predetermined reduced rate at the end of the term of the agreement. The ASU's will produce nitrogen, instrument air and plant air which are also critical and required for our plant's operation.

#### **Buildings**

Below, please find a list of the buildings that will be located on the property:

- 992-BLDG-01 Central Control Room / Operations Office Building (including 480V MCC room) - 2 stories
- 992-BLDG-04 Warehouse Maintenance/Workshop Extension
- Maintenance and workshop extension (included with 101a building)
- 992-BLDG-06 Main QC & R&D Lab
- 992-BLDG-07 Chemical Storage Building
- 992-BLDG-08 Catalyst Storage Building
- 992-BLDG-09 Hazardous Waste Handling & Storage
- 992-BLDG-10 Fire / Medic Station
- 992-BLDG-14 Rail Car Loading Control Room
- 992-BLDG-15 Truck Loading Control Room
- 992-BLDG-20 Locomotive Maintenance Building
- 891-BLDG-01 Blast Resistant Operator Building (Trains 1 & 2) - Design only one and replicated three times for trains 3 & 4, 5 & 6.

#### **Transmission Line and Switchyard**

Oncor has 138KV transmission lines that currently run through the northern side of the site. Oncor will be providing a power drop to their own new switchyard.

## **ATTACHMENT 8**

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### **Tab 8 – Description of Qualified Property**

***Submission Date: May 7, 2021***



**REQUIREMENT:**

- a. 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.
- b. A description of any new buildings proposed new improvements or personal property which you intend to include as part of your qualified property.

**NACERO RESPONSE:**

Below, please find a detailed description of the qualified property and any new buildings, proposed new improvements of the final constructed and delivered facility consistent with the level of detail defined at the project's conceptual engineering phase. The detailed description of the qualified property is included in Attachment 9.

The specific and detailed description of the qualified investment which is proposed within the project boundary, along with any new buildings or proposed improvements have been split into sections describing the different parts of the facility, such as, Inside Battery Limits (ISBL), Outside Battery Limits (OSBL), Tank Storage, Truck and Rail Operations, etc.

The Penwell facility includes the following configuration:

- 6 SynCOR Methanol™ / TIGAS™ trains (3 sets of two trains)
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- 1 Carbon capture sequestration Compressor Station
- 1 Hydrogen Generation Unit (HGU)
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Each train includes the following primary Process sections:

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- Argon

The following products will be unloaded by rail:

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- Alkylate
- Naphtha

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#### **Transmission Line and Switchyard**

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## **ATTACHMENT 9**

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Description of Land

**ATTACHMENT 9**  
**Tab 9 – Description of Land**  
Penwell, Texas

**REQUIREMENT:**

Is the land upon which the new buildings or new improvements will be built part of the qualified property described by §313.021(2)(A)?

**NACERO RESPONSE:**

The land upon which the new buildings or new improvements will be part of the qualified property described by §313.021(2)(A) is described below and the two agreements that Nacero has signed regarding the proposed project and are included in Attachment 5.

**METES & BOUNDS DESCRIPTION  
OF A 2,531.45-ACRE TRACT  
LOCATED IN SECTIONS 33, 34, 35, 40, 41, 42, 43, AND 44 BLOCK 44 T-2-S  
AND SECTION 6, BLOCK 44 T-3-S  
T&P RR CO. SURVEY  
ECTOR COUNTY, TEXAS**

**BEING THE 2,531.45-ACRE PERIMETER OF ALL OF THE LAND DESCRIBED IN DOCUMENT NO. 2019-00009316 DEFINED AS A 601.10-ACRE TRACT LOCATED IN SECTIONS 43 BLOCK 44, T-2-S AND SECTION 6, BLOCK 44 T-3-S, A 6.27-ACRE TRACT LOCATED IN SECTIONS 43 AND 44, BLOCK 44, T-2-S, A 2.39-ACRE TRACT LOCATED IN SECTION 42 BLOCK 44, T-2-S, A 13.30-ACRE TRACT LOCATED IN SECTIONS 44, BLOCK 44 T-2-S AND SECTION 6, BLOCK 44 T-3-S, A 30.00-ACRE TRACT LOCATED IN SECTIONS 42, 41, 40, 33, 34, & 35 BLOCK 44 T-S-S, AN 11.52-ACRE TRACT AND A 1.03-ACRE TRACT LOCATED IN SECTION 42, BLOCK 44, T-2-S, THE REMAINING 610.08-ACRES LOCATED IN SECTION 44, BLOCK 44, T-2-S, THE REMAINING 618.66-ACRES IN LOCATED IN SECTION 42, BLOCK 44 T-2-S, AND TH REMAINING 636.99 ACRES IN SECTION 44, BLOCK 44 T-2-S, T&P RR CO. SURVEY, ECTOR COUNTY TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS NORTH OF THE UNION PACIFIC RAILROAD AND SOUTH OF THE UNION PACIFIC RAILROAD FOLLOWS:**

**NORTH OF THE UNION PACIFIC RAILROAD:**

**BEGINNING AT (Y= 10,602,739.62' & X= 1,591,811.58') A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHWEST CORNER OF SAID 601.10-ACRE TRACT AS DESCRIBED IIN DOCUMENT NO. 2019-00009316 OF THE OFFICIAL PULIC RECORDS OF ECTOR COUNTY TEXAS, AND ON THE NORTHERN RIGHT-OF-WAY LINE OF THE 200-FOOT UNION PACIFIC RAILROAD (aka T&P RAILWAY CO.) RIGHT-OF-WAY, AND THE SOUTHERN LINE OF SAID 601.10-ACRE TRACT,**

**THENCE NORTH 14°24'29" WEST WITH THE WEST LINE OF SAID 601.10-ACRE TRACT, PASS THE COMMON NORTH LINE OF SAID SECTION 6 AND THE SOUTH LINE OF SAID SECTION 43 AT 1,823.86 FEET, A TOTAL DISTANCE OF 7,111.72 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT THE NORTHWEST CORNER OF SAID 601.10-ACRE TRACT ON THE COMMON NORTH LINE OF SAID SECTION 43 AND THE SOUTH LINE OF SECTION 42 OF SAID BLOCK 44;**

**THENCE SOUTH 76°04'54" WEST WITH THE NORTH LINE OF SAID SECTION 43 AND THE SOUTH LINE OF SAID SECTION 42, A DISTANCE OF 1,200.95 FEET, TO A 2" IRON PIPE (WITH**

**ATTACHMENT 9**  
**Tab 9 – Description of Land**  
Penwell, Texas

A 1" IRON PIPE CENTERED INSIDE) MARKED "S27 S28 B45 S42 S43 B44 T-2-S WA" (CONTROL MONUMENT) FOUND AT THE COMMON CORNER OF SAID SECTION 42 AND 43, AND SECTION 27 AND 28, BLOCK 45 T-2-S T&P RY CO SURVEY, ECTOR COUNTY TEXAS;

THENCE NORTH 14°24'45" WEST WITH THE COMMON LINE OF SAID SECTIONS 42 AND 27, A DISTANCE OF 5,286.34 FEET TO A 2" IRON PIPE MARKED "S26 S27 B45 T-2-S S31 S42 B44 T-2-S WA" (CONTROL MONUMENT) FOUND AT THE NORTHWEST CORNER OF SAID SECTION 42, THE SOUTHEAST CORNER OF SECTION 31, BLOCK 44, THE SOUTHEAST CORNER OF SECTION 26 AND THE NORTHEAST CORNER OF SECTION 27, BLOCK 45;

THENCE NORTH 76°05'03" EAST WITH THE NORTHLINE OF SAID SECTION 42 AND THE SOUTHLINE OF SAID SECTION 31, A DISTANCE OF 5,270.89 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) SET AT THE COMMON NORTHEAST CORNER OF SAID SECTION 42, THE NORTHWEST CORNER OF SECTION 41, WHENCE A 1 ½" IRON PIPE FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 31 AND THE SOUTHWEST CORNER OF SECTION 32 OF SAID BLOCK 44 BEARS NORTH 76°05'05" EAST A DISTANCE OF 8.1 FEET;

THENCE NORTH 76°05'05" EAST WITH THE NORTHLINE OF SAID SECTION 41 AND THE SOUTHLINE OF SAID SECTION 31, PASS A 1 ½" IRON PIPE FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 31 AND THE SOUTHWEST CORNER OF SECTION 32 OF SAID BLOCK 44 AT 8.1 FEET, CONTINUING WITH THE COMMON NORTHLINE OF SAID SECTION 41 AND THE SOUTHLINE OF SECTION 32, A TOTAL DISTANCE OF 5,329.24 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 42, THE SOUTHWEST CORNER OF SAID SECTION 41, THE NORTHWEST CORNER OF SECTION 44, AND THE NORTHEAST CORNER OF SECTION 43 OF SAID BLOCK 44, WHENCE A 1 ½" IRON PIPE (BENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 40 BEARS NORTH 76°06'21" EAST, A DISTANCE OF 5,306.79 FEET;

THENCE SOUTH 14°12'42" EAST WITH THE COMMON EAST LINE OF SAID SECTION 41 AND THE WEST LINE OF SAID SECTION 40, A DISTANCE OF 991.23 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET ON THE NORTH LINE OF THAT CERTAIN 30.00-ACRE TRACT AS DESCRIBED IN SAID DOCUMENT NO. 2019-00009316;

THENCE NORTH 63°33'07" EAST WITH THE NORTH LINE OF SAID 30-00-ACRE TRACT AND THROUGH SECTIONS 40, 33, AND 34 OF SAID BLOCK 44, A DISTANCE OF 10,832.82 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX (CONTROL MONUMNET) FOUND AT A CUT-BACK CORNER;

THENCE NORTH 24°40'10" EAST, PASS THE COMMON EAST LINE OF SAID SECTION 34 AND THE WEST LIN OF SECTION 35 OF SAID BLOCK 35 AT 5.97 FEET, IN ALL A TOTAL OF 31.14 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT A CUT-BACK CORNER ON THE WEST RIGHT-OF-WAY LIN OF FM 866, WHENCE A ½" IRON ROD BY A LEANING TEXAS DEPARTMENT OF TRANSPORTATION CONCRETE MONUMENT (CONTROL MONUMENT) BEARS NORTH 14°12'25" WEST, A DISTANCE OF 4,469.17 FEET;

THENCE SOUTH 14°12'47" EAST WITH THE RIGHT-OF-WAY OF SAID FM 866, A DISTANCE OF 101.39 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND ATA CUT-BACK CORNER, WHENCE A TEXAS DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MONUMENT BEARS SOUTH 14°12'25" EAST, A DISTANCE OF 1,273.02 FEET;

**ATTACHMENT 9**  
**Tab 9 – Description of Land**  
Penwell, Texas

THENCE NORTH 65°19'50" WEST WITH SAID CUT-BACK, PASS THE SAID COMMON LINE OF SECTION 35 AND 34 AT 20.41 FEET, IN ALL A TOTAL OF 25.11 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT A CUT-BACK CORNER;

THENCE SOUTH 63°33'07" WEST THROUGH SAID SECTIONS 34, 33, AND 40, A DISTANCE OF 10,832.82 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESS TEXAS SET ON THE COMMON EAST LINE OF SAID SECTION 41 AND THE WEST LINE OF SAID SECTION 40,

THENCE SOUTH 14°12'42" EAST WITH THE COMMON EAST LINE OF SAID SECTION 41 AND THE WEST LINE OF SAID SECTION 40, A DISTANCE OF 4,233.85 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 41 AND THE SOUTHWEST CORNER OF SAID SECTION 40, THE NORTHWEST CORNER OF SECTION 45, AND THE NORTHEAST CORNER OF SECTION 44 OF SAID BLOCK 44, WHENCE A 1 ½" IRON PIPE (BENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 40 BEARS NORTH 76°06'21" EAST, A DISTANCE OF 5,306.79 FEET;

THENCE SOUTH 14°20'30" EAST WITH THE EAST LINE OF SAID SECTION 44 AND THE WEST LINE OF SAID SECTION 45, A DISTANCE OF 3,859.06 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE INTERSECTION ON THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD A 200-FOOT RIGHT-OF-WAY, WHENCE A 1" G.I.P. FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 44 AND THE SOUTHWEST CORNER OF SAID SECTION 45 BEARS SOUTH 14°20'30" EAST, A DISTANCE OF 1,434.43 FEET;

THENCE SOUTH 56°54'07" WEST WITH THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD, PASS THE COMMON SOUTHLINE OF SAID SECTION 44 AND THE NORTH LINE OF SECTION 6, BLOCK 44, T-3-S AT 4,365.17 FEET, PASS A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF THAT CERTAIN 13.30-ACRE TRACT AS DESCRIBED IN SAID DOCUMENT NO. 2019-00009316 AND THE SOUTHEAST CORNER OF SAID 601.10-ACRE TRACT AT 5,558.59 FEET, CONTINUING WITH THE NORTHRN RIGHT-OF-WAY OF SAID UNION PACIFIC RAILROAD, A TOTAL DISTANCE OF 9,897.77 FEET N TO THE POINT OF THE BEGINNING CONTAINING 2,481.94 SURFACE ACRES.

SOUTH OF THE UNION PACIFIC RAILROAD:

BEING A 49.51-ACRE PORTION OF SECTION 44, BLOCK 44, T-2-S T&P RY CO. SURVEY ECTOR COUNTY, TEXAS, AND BEING THAT PORTION OF SAID SECTION 44 LYING ON THE SOUTH SIDE OF THE UNION PACIFIC RAILROAD (aka TEXAS PACIFIC RAILWAY CO.) A 200-FOOT RIGHT-OF-WAY AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT (Y= 10,606,754.79' & X= 1,600,458.59') A 1" G.I.P. (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 44, THE SOUTHEAST CORNER OF SECTION 45, BLOCK 44, WHENCE A 1' IRON PIPE FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 45 BEARS NORTH 76°09'06" EAST, A DISTANCE OF 5,296.07 FEET;

THENCE SOUTH 76°05'05" WEST WITH THE SOUTHLINE OF SAID SECTION 44 AND THE NORTHLINE OF SECTION 5, BLOCK 44 T-3-S, A DISTANCE OF 3,524.77 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE INTERSECTION ON



**ATTACHMENT 9**  
**Tab 9 – Description of Land**  
Penwell, Texas

*THE SOUTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD 200-FOOT RIGHT-OF-WAY;*

*THENCE NORTH 56°54'07" EAST WITH THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD RIGHT-OF-WAY, A DISTANCE OF 3,724.77 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE INTERSECTION ON THE SOUTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC 200-FOOT RIGHT-OF-WAY AND THE EAST LINE OF SAID SECTION 44, WHENCE A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE EAST LINE OF SAID SECTION 44 AND THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD BEARS NORTH 14°20'30" WEST, A DISTANCE OF 211.22 FEET;*

*THENCE SOUTH 14°20'30" EAST WITH THE COMMON LINE OF SAID SECTIONS 44 AND 45, A DISTANCE OF 1,223.21 FEET TO THE POINT OF THE BEGINNING CONTAINING 49.51 SURFACE ACRES.*

*BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS COORDINATE SYSTEM, 1983 NAD, CENTRAL ZONE, WITH THETA ANGLE OF -01°09'47" AND A COMBINED GRID FACTOR OF 0.999828936. ACREAGE STATED IS AVERAGE SURFACE.*

## **ATTACHMENT 10**

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Description of All Property Not Eligible to Become Qualified Property

**Tab 10 – Description of All Property Not Eligible to Become Qualified Property**  
Penwell, Texas

***REQUIREMENT:***

Attach a specific and detailed description of all existing property within the project boundary and proposed new property within the project boundary that will not become new improvements.

***NACERO RESPONSE:***

The existing utilities are not owned by the applicant.

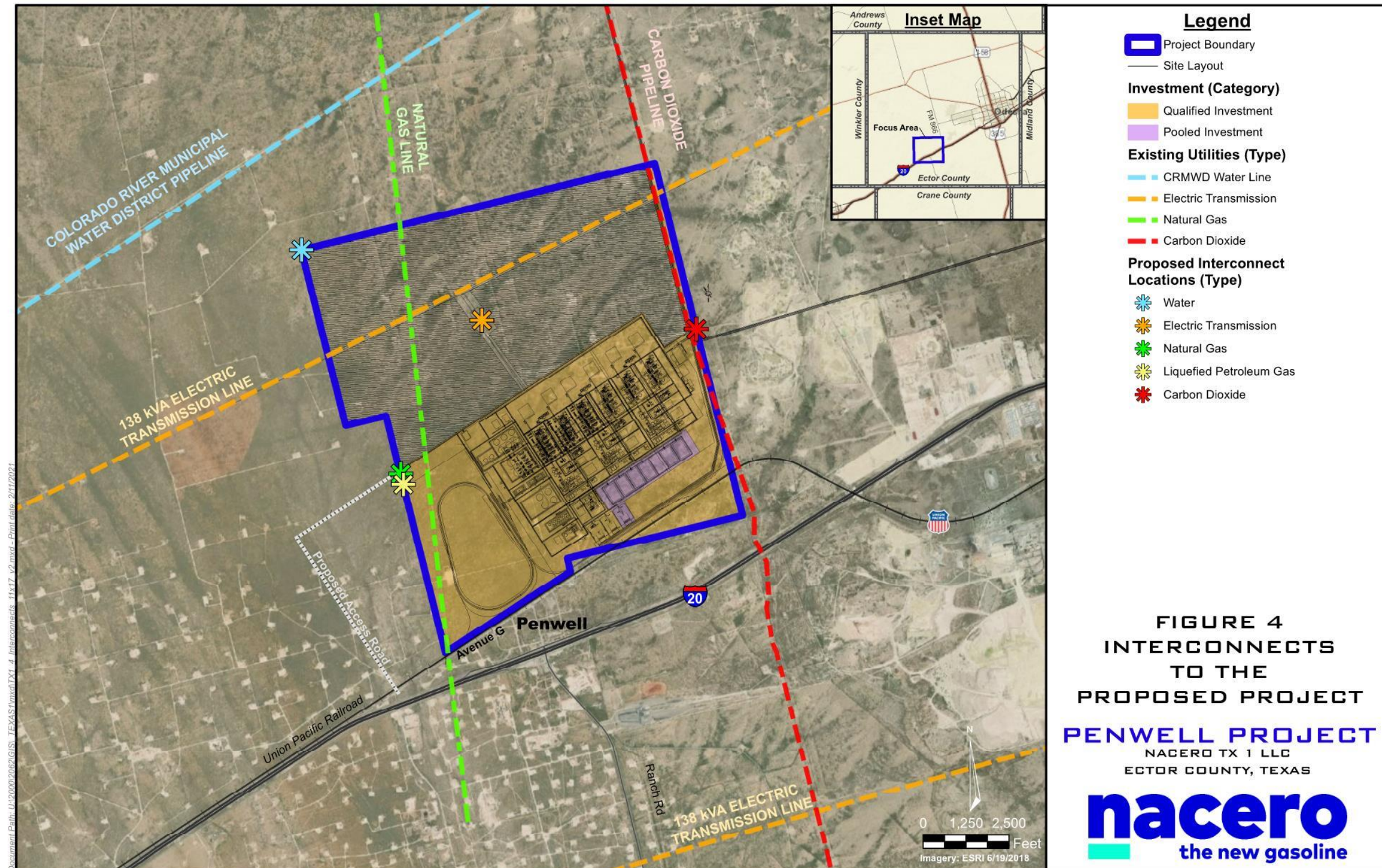
Below please find the existing on-site utilities but they are not part of the Qualified Property for the Nacero TX 1 Project.

- The power 138kvVA lines that are approximately 100ft over the property. It is owned by a power company.
- A natural gas pipeline that is underground and owned by a pipeline company.
- A CO2 pipeline that is underground and owned by a pipeline company.



ATTACHMENT 10  
Tab 10 – Description of All Property Not Eligible to Become Qualified Property  
Penwell, Texas

Submission Date: April 20, 2021  
Amendment Number 01



## **ATTACHMENT 11**

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Maps



**ATTACHMENT 11**

**Tab 11 – Maps**

Penwell, Texas

**REQUIREMENT:**

Maps that clearly show the following:

- a) Project boundary and project vicinity, including county and school district boundaries
- b) Qualified investment including location of tangible personal property to be placed in service during the qualifying time period and buildings to be constructed during the qualifying time period
- c) Qualified property including location of new buildings or new improvements
- d) Any existing property within the project area
- e) Any facilities owned or operated by the applicant having interconnections to the proposed project
- f) Location of project, and related nearby projects within vicinity map
- g) Reinvestment or Enterprise Zone within vicinity map, showing the actual or proposed boundaries and size

**NACERO RESPONSE:**

Below, please find the following figures, which satisfy the request above:

Figure 1 – Project Boundary Map

Figure 2 – Qualified Investment Plot Plan

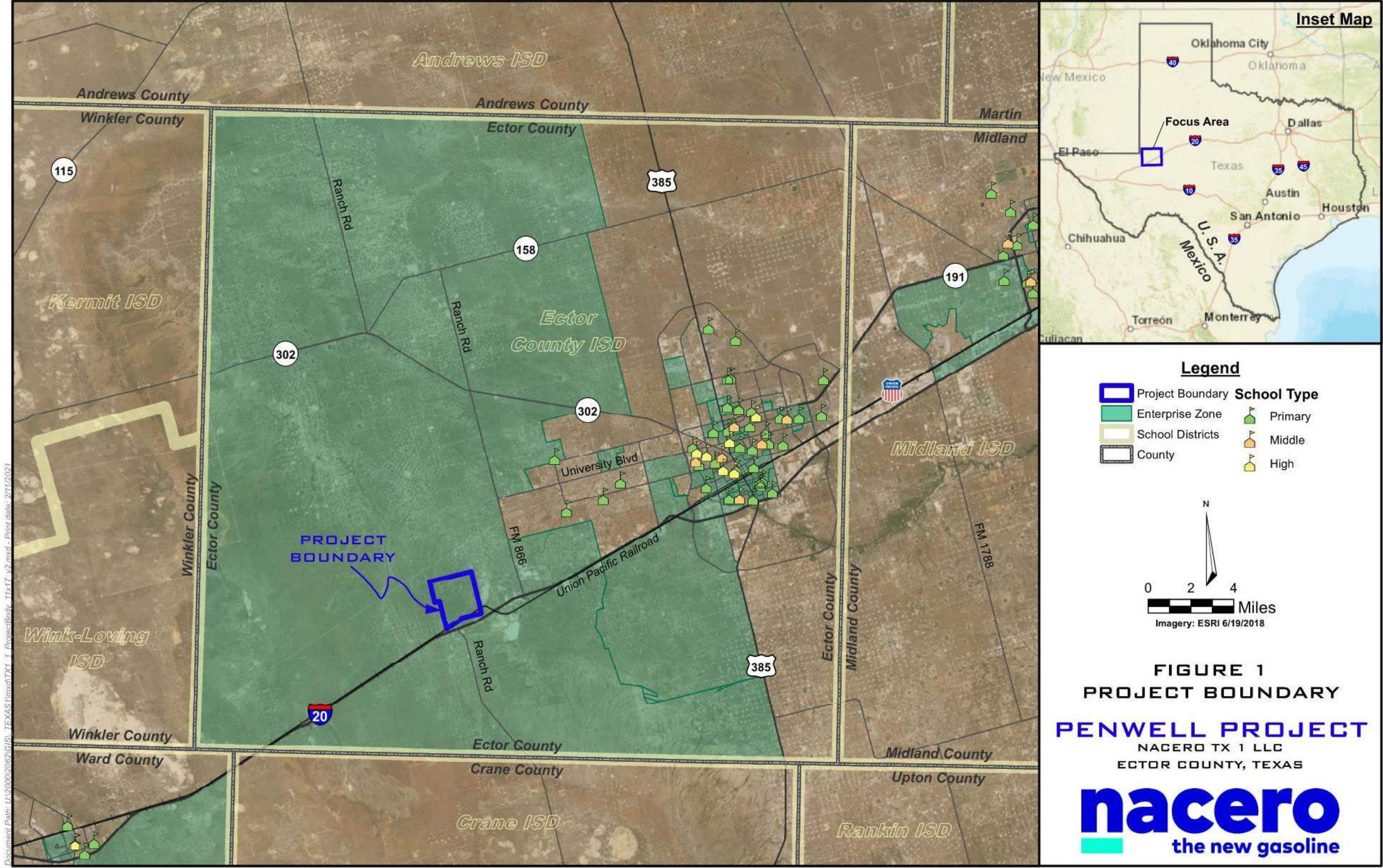
Figure 3 – Qualified Property Plan

Figure 4 – Facilities Owned and Operated by Nacero that Interconnect to the Proposed Project

Figure 5 – Site Location Map

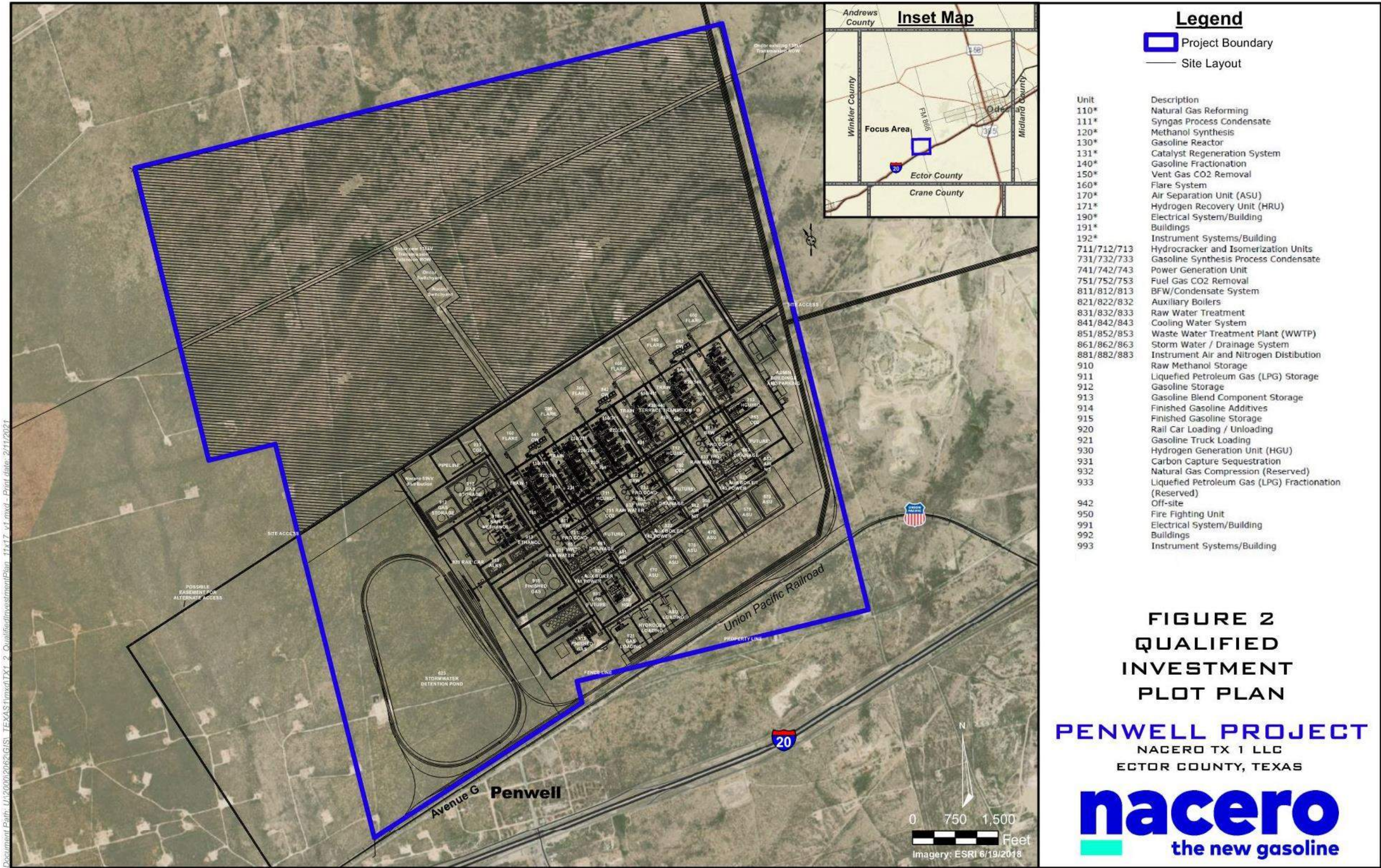
Figure 6 – Enterprise Zone Map



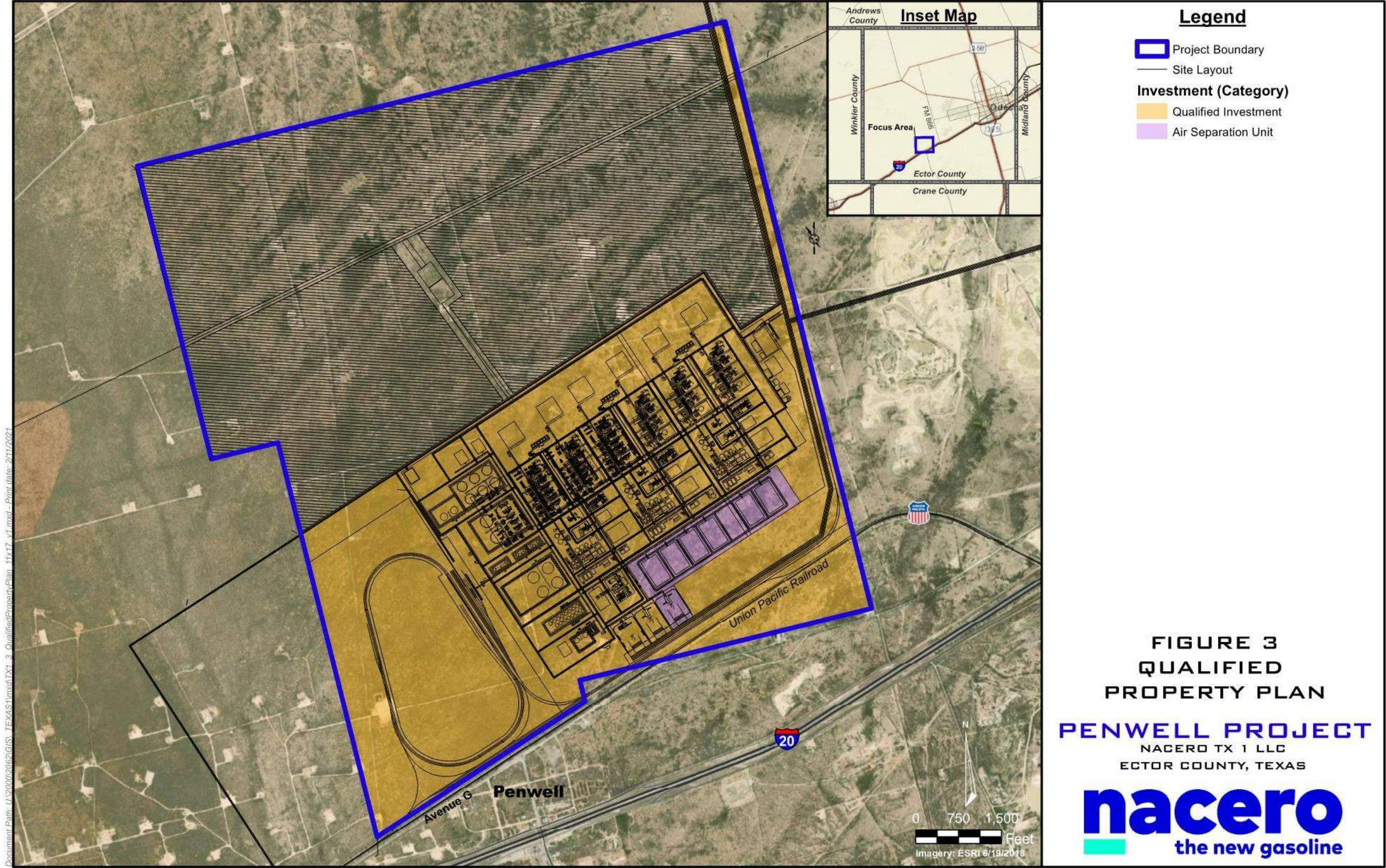


Document Path: U:\2000\2062\GIS\TEXAS\mxd\TX1\_1\_ProjectBndy\_11x17\_v2.mxd - Print date: 2/11/2021

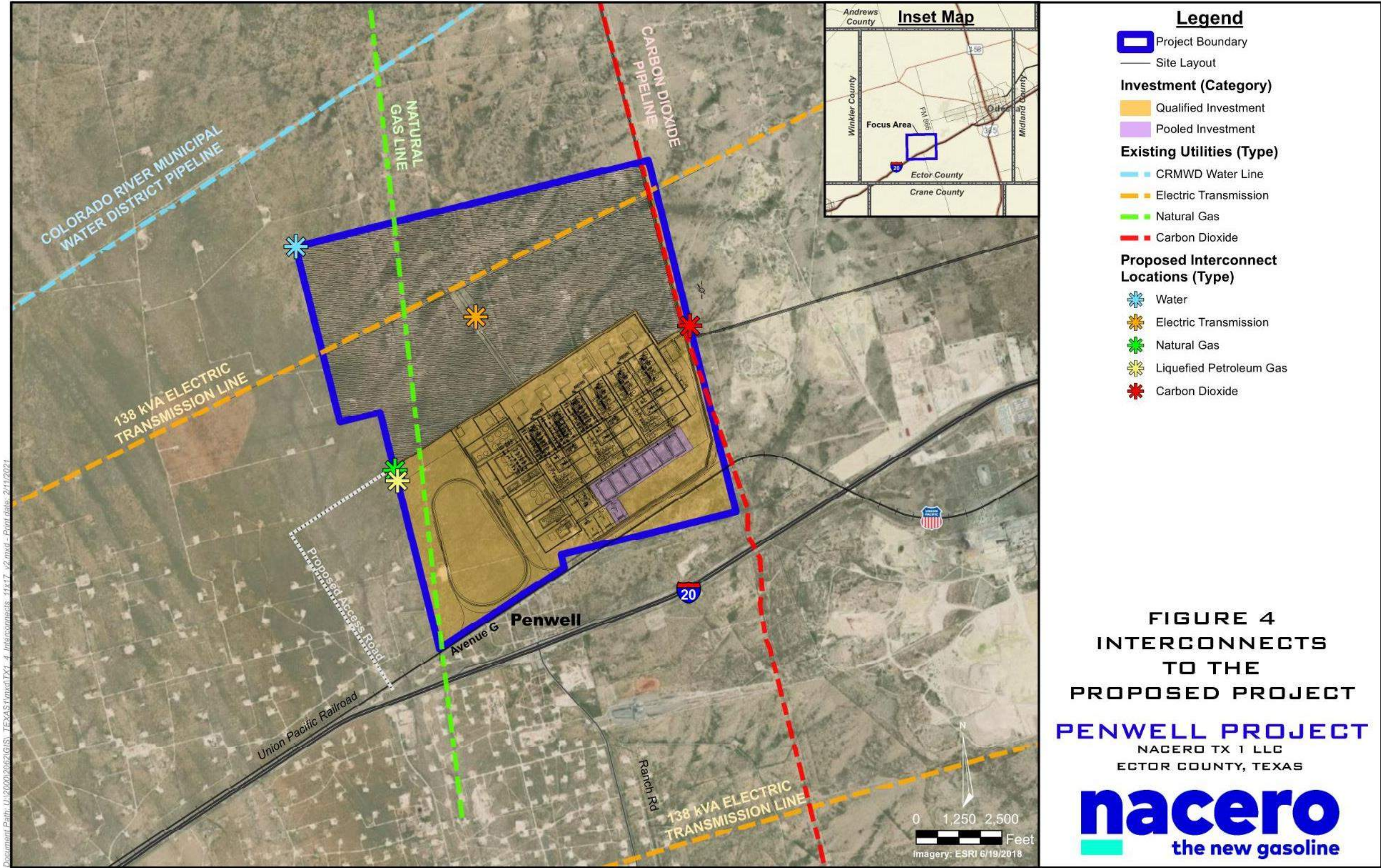




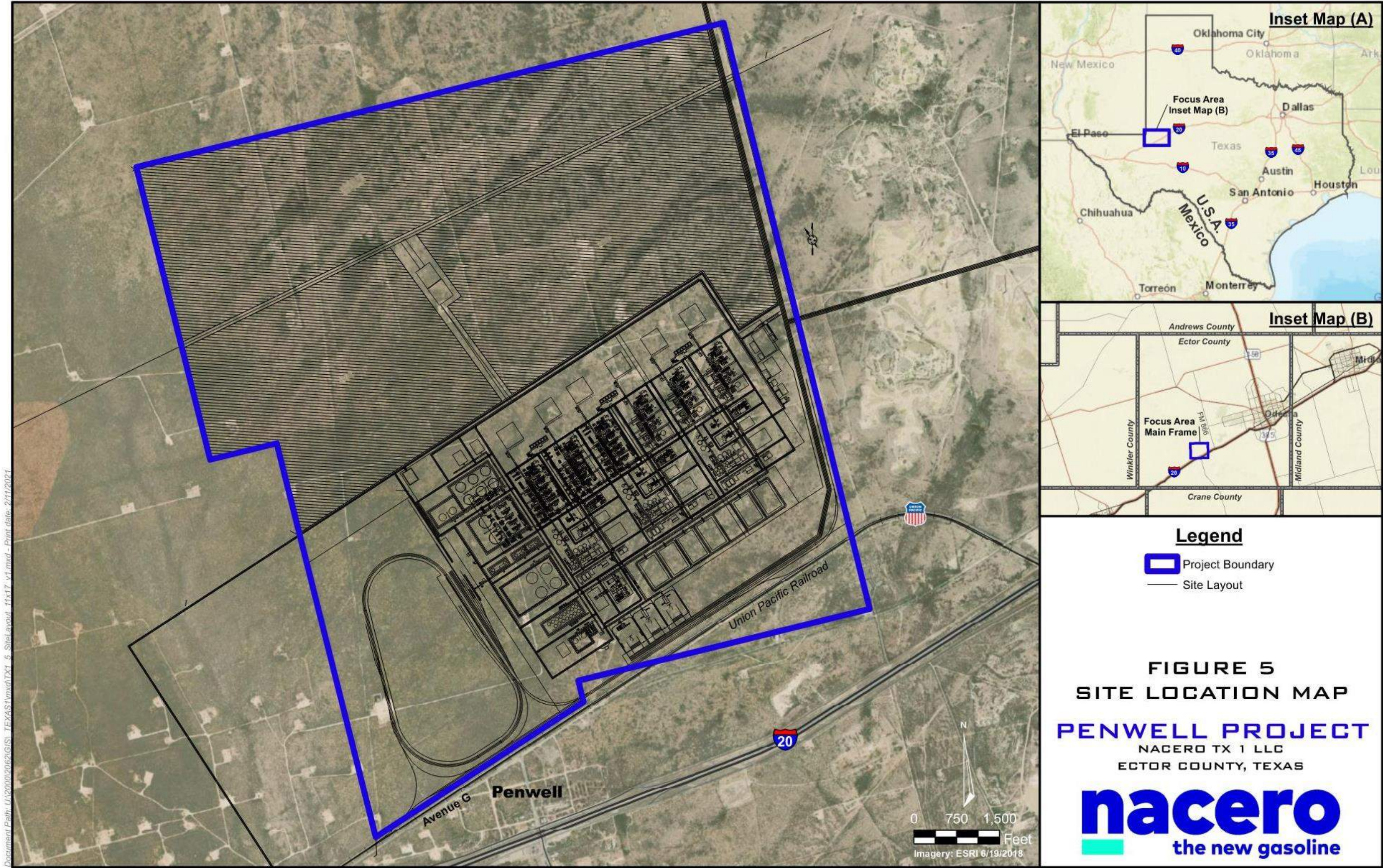




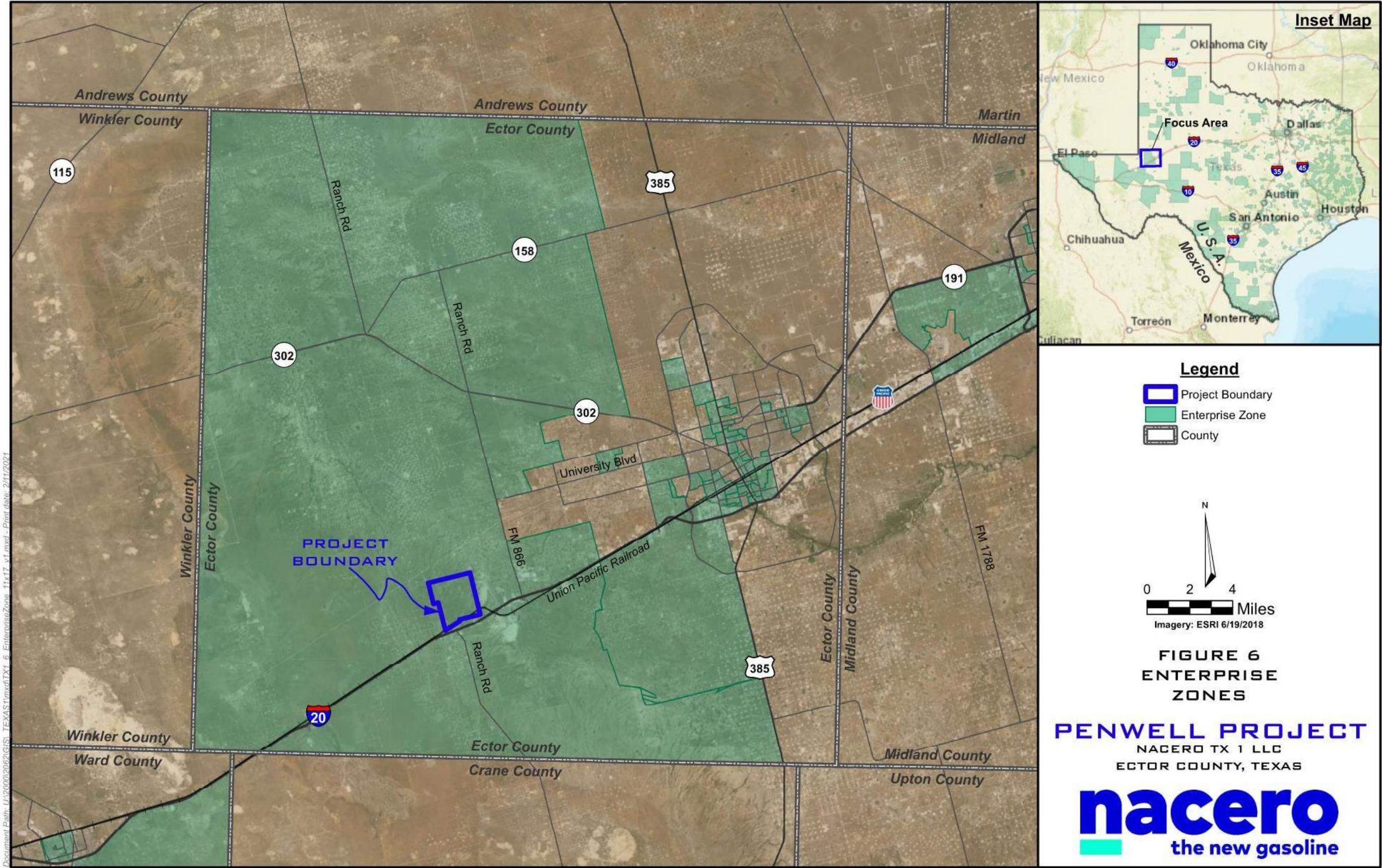














## **ATTACHMENT 12**

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Request for Waiver of Job Creation Requirement (N/A)

## **ATTACHMENT 13**

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Calculation of Non-Qualifying Wage Target and Two Possible  
Qualifying Job Requirements with TWC Documentation

**REQUIREMENT:**

Attach the four most recent quarters of data for each wage calculation below, including documentation from the Texas Workforce.

**NACERO RESPONSE:**

Below, please find the four most quarters of data for each wage calculation below:

**Non-Qualifying Wage Target**

## Tab 13 – Wages Requirements

Average weekly wage for all jobs (all industries) in the county

Year	Period	Area	Ownership	Industry Code	Industry	Average Weekly Wage
2020	03	Ector	Total All	10	Total, All Industries	1,093
2020	02	Ector	Total All	10	Total, All Industries	1,134
2020	01	Ector	Total All	10	Total, All Industries	1,249
2019	04	Ector	Total All	10	Total, All Industries	1,275
average weekly \$						1,187.75
annual \$						61,763.00

Average weekly wage for non-qualifying jobs--The average weekly wage as identified by the Texas Workforce Commission Quarterly Employment and Wages (QCEW) average weekly wages for all private industries for the most recent four quarterly periods for which data is at the time that an application is deemed complete, as it is posted at <http://www.tracer2.com/cgi/dataanalysis/AreaSelection.asp?tableName=Industry>.



## Qualifying Wage Target - QCEW

# Tab 13 – Wages Requirements

110% of the average weekly wage for manufacturing jobs in the county

Year	Period	Area	Ownership	Industry Code	Industry	Level	Average Employment	Average Weekly Wage
2020	03	Ector	Private	31-33	Manufacturing	2	3,733	1,284
2020	02	Ector	Private	31-33	Manufacturing	2	4,297	1,348
2020	01	Ector	Private	31-33	Manufacturing	2	4,940	1,466
2019	04	Ector	Private	31-33	Manufacturing	2	5,029	1,546

4 quarter weekly average wage \$ 1,411.00

110% of wage \$ 1,552.10

annual wage requirement \$ 80,709.20

## Qualifying Wage Target – COG

# Tab 13 – Wages Requirements

110% of the average weekly wage for manufacturing jobs in the region

2019 Manufacturing Average Wages by Council of Government Region  
Wages for All Occupations

COG	COG Number	Hourly	Wages Annual
<a href="#">Panhandle Regional Planning Commission</a>	1	\$22.31	\$46,399
<a href="#">South Plains Association of Governments</a>	2	\$18.97	\$39,448
<a href="#">NORTEX Regional Planning Commission</a>	3	\$20.38	\$42,395
<a href="#">North Central Texas Council of Governments</a>	4	\$32.92	\$68,476
<a href="#">Ark-Tex Council of Governments</a>	5	\$20.09	\$41,780
<a href="#">East Texas Council of Governments</a>	6	\$28.95	\$60,211
<a href="#">West Central Texas Council of Governments</a>	7	\$21.83	\$45,406
<a href="#">Rio Grande Council of Governments</a>	8	\$18.15	\$37,749
<a href="#">Permian Basin Regional Planning Commission</a>	9	\$21.87	\$45,499
<a href="#">Concho Valley Council of Governments</a>	10	\$26.74	\$55,625
<a href="#">Heart of Texas Council of Governments</a>	11	\$22.41	\$46,614
<a href="#">Capital Area Council of Governments</a>	12	\$29.37	\$61,091
<a href="#">Brazos Valley Council of Governments</a>	13	\$17.60	\$36,613
<a href="#">Deep East Texas Council of Governments</a>	14	\$21.06	\$43,796
<a href="#">South East Texas Regional Planning Commission</a>	15	\$25.52	\$53,079
<a href="#">Houston-Galveston Area Council</a>	16	\$28.85	\$60,015
<a href="#">Golden Crescent Regional Planning Commission</a>	17	\$21.43	\$44,565
<a href="#">Alamo Area Council of Governments</a>	18	\$26.64	\$55,401
<a href="#">South Texas Development Council</a>	19	\$18.70	\$38,889
<a href="#">Coastal Bend Council of Governments</a>	20	\$34.94	\$72,668
<a href="#">Lower Rio Grande Valley Development Council</a>	21	\$20.05	\$41,698
<a href="#">Texoma Council of Governments</a>	22	\$18.40	\$38,280
<a href="#">Central Texas Council of Governments</a>	23	\$21.07	\$43,821
<a href="#">Middle Rio Grande Development Council</a>	24	\$22.74	\$47,296
<b>Texas</b>		\$27.25	\$56,673

110% of \$45,499 is \$50,049 annually

110% weekly wage = \$962.48

Calculated by the Texas Workforce Commission Labor Market and Career Information Department.

Data published: August 2020.

Data published annually, next update will likely be July 31, 2021.

Annual Wage Figure assumes a 40-hour work week.

Note: Data is not supported by the Bureau of Labor Statistics (BLS).

Wage data is produced from Texas Occupational Employment Statistics (OES) data, and is not to be compared to BLS estimates.

Data intended only for use implementing Chapter 313, Texas Tax Code.

## **ATTACHMENT 14**

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Schedules A1, A2, B, and C

**ATTACHMENT 14**  
**Tab 14 – Schedules A1, A2, B, and C**  
 Penwell, Texas

Schedule A1 below:

**Schedule A1: Total Investment for Economic Impact (through the Qualifying Time Period)**

Date **10-Feb-21**  
 Applicant Name **Nacero Inc.**  
 ISD Name **Ector County Independent School District**

Form 50-296A  
 Revised October 2020

PROPERTY INVESTMENT AMOUNTS								
(Estimated Investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in <b>tangible personal property</b> placed in service during this year that will become Qualified Property	New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Other new investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other new investment made during this year that may become Qualified Property [SEE NOTE]	Total Investment (Sum of Columns A+B+C+D)
Investment made before filing complete application with district				Not eligible to become Qualified Property			[The only other investment made before filing complete application with district that may become Qualified Property is land.]	
Investment made after filing complete application with district, but before final board approval of application	2021	2021-2022	2021					
Investment made after final board approval of application and before Jan. 1 of first complete tax year of qualifying time period				1,015,444	-	-	13,000,000	14,015,444
Complete tax years of qualifying time period	QTP1	2022-2023	2022	278,272,201	7,802,021	-	-	286,074,223
	QTP2	2023-2024	2023	1,273,247,546	33,854,764	-	-	1,307,102,309
<b>Total Investment through Qualifying Time Period [ENTER this row in Schedule A2]</b>				1,552,535,191	41,656,785	-	13,000,000	1,607,191,976
Enter amounts from TOTAL row above in Schedule A2								
<b>Total Qualified Investment (sum of green cells)</b>				1,594,191,976				

For All Columns: List amount invested each year, not cumulative totals.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.

Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

Total Investment: Add together each cell in a column and enter the sum in the blue total investment row. Enter the data from this row into the first row in Schedule A2.

Qualified Investment: For the green qualified investment cell, enter the sum of all the green-shaded cells.

**ATTACHMENT 14**  
**Tab 14 – Schedules A1, A2, B, and C**  
 Penwell, Texas

Schedule A2 below:

Date **10-Feb-21**  
 Applicant Name **Nacero Inc.**

Form 50-296A

ISD Name **Ector County Independent School District**

Revised October 2020

**Schedule A2: Total Investment for Economic Impact (including Qualified Property and other investments)**

PROPERTY INVESTMENT AMOUNTS								
(Estimated investment in each year. Do not put cumulative totals.)								
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year below) YYYY	New investment (original cost) in <b>tangible personal property</b> placed in service during this year that will become Qualified Property	New investment made during this year in <b>buildings or permanent nonremovable components of buildings</b> that will become Qualified Property	Other investment made during this year that will <u>not</u> become Qualified Property [SEE NOTE]	Other investment made during this year that will become Qualified Property (SEE NOTE)	Total Investment (A+B+C+D)
Total Investment from Schedule A1*	--	TOTALS FROM SCHEDULE A1			Enter amounts from TOTAL row in Schedule A1 in the row below			
				1,552,535,191	41,656,785	-	13,000,000	1,607,191,976
Each year prior to start of value limitation period** <i>Insert as many rows as necessary</i>	0	2021-2022	2021	1,015,444	-	-	13,000,000	14,015,444
		2022-2023	2022	278,272,201	7,802,021	-	-	286,074,223
		2023-2024	2023	1,273,247,546	33,854,764	-	-	1,307,102,309
Value limitation period***	1	2024-2025	2024	1,426,412,729	36,196,046	-	-	1,462,608,776
	2	2025-2026	2025	1,015,529,944	18,410,801	2,000,000	-	1,035,940,746
	3	2026-2027	2026	475,486,388	5,126,462	3,000,000	-	483,612,850
	4	2027-2028	2027	96,958,335	1,082,408	3,000,000	-	101,040,743
	5	2028-2029	2028	-	-	3,000,000	-	3,000,000
	6	2029-2030	2029	-	-	3,000,000	-	3,000,000
	7	2030-2031	2030	-	-	3,000,000	-	3,000,000
	8	2031-2032	2031	-	-	3,000,000	-	3,000,000
	9	2032-2033	2032	-	-	3,000,000	-	3,000,000
	10	2033-2034	2033	-	-	3,000,000	-	3,000,000
Total Investment made through limitation				4,566,922,588	102,472,503	26,000,000	13,000,000	4,708,395,091
Continue to maintain viable presence	11	2034-2035	2034			3,000,000		3,000,000
	12	2035-2036	2035			3,000,000		3,000,000
	13	2036-2037	2036			3,000,000		3,000,000
	14	2037-2038	2037			3,000,000		3,000,000
	15	2038-2039	2038			3,000,000		3,000,000
Additional years for 25 year economic impact as required by 313.026(c)(1)	16	2039-2040	2039			3,000,000		3,000,000
	17	2040-2041	2040			3,000,000		3,000,000
	18	2041-2042	2041			3,000,000		3,000,000
	19	2042-2043	2042			3,000,000		3,000,000
	20	2043-2044	2043			3,000,000		3,000,000
	21	2044-2045	2044			3,000,000		3,000,000
	22	2045-2046	2045			3,000,000		3,000,000
	23	2046-2047	2046			3,000,000		3,000,000
	24	2047-2048	2047			3,000,000		3,000,000
	25	2048-2049	2048			3,000,000		3,000,000

\* All investments made through the qualifying time period are captured and totaled on Schedule A1 [blue box] and incorporated into this schedule in the **first row**.

\*\* Only investment made during deferrals of the start of the limitation (after the end of qualifying time period but before the start of the Value Limitation Period) should be included in the "year prior to start of value limitation period" row(s). If the limitation starts at the end of the qualifying time period or the qualifying time period overlaps the limitation, no investment should be included on this line.

\*\*\* If your qualifying time period will overlap your value limitation period, do not also include investment made during the qualifying time period in years 1 and/or 2 of the value limitation period, depending on the overlap. Only include investments/years that were **not** captured on Schedule A1.

For All Columns: List amount invested each year, not cumulative totals. Only include investments in the remaining rows of Schedule A2 that were not captured on Schedule A1.

Column A: This represents the total dollar amount of planned investment in tangible personal property. Only include estimates of investment for "replacement" property if the property is specifically described in the application.

Only tangible personal property that is specifically described in the application can become qualified property.

Column B: The total dollar amount of planned investment each year in buildings or nonremovable component of buildings.

Column C: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that will not become qualified property include investment meeting the definition of 313.021(1) but not creating a new improvement as defined by TAC 9.1051. This is proposed property that functionally replaces existing property; is used to maintain, refurbish, renovate, modify or upgrade existing property; or is affixed to existing property—described in SECTION 13, question #5 of the application.

Column D: Dollar value of other investment that may affect economic impact and total value. Examples of other investment that may result in qualified property are land or professional services.

**ATTACHMENT 14**  
**Tab 14 – Schedules A1, A2, B, and C**  
 Penwell, Texas

**Schedule B below:**

**Schedule B: Estimated Market And Taxable Value (of Qualified Property Only)**

**Date** 10-Feb-21

**Applicant Name** Nacero Inc.

**ISD Name** Ector County Independent School District

**Form 50-296A**

*Revised October 2020*

	Year	School Year (YYYY-YYYY)	Tax Year (Fill in actual tax year) YYYY	Qualified Property			Estimated Taxable Value		
				Estimated Market Value of Land	Estimated Total Market Value of new buildings or other new improvements	Estimated Total Market Value of tangible personal property in the new buildings or "in or on the new improvements"	Market Value less any exemptions (such as pollution control) and before limitation	Final taxable value for I&S after all reductions	Final taxable value for M&O after all reductions
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2021-2022	2021	13,000,000	-	497,631	-	13,000,000	13,000,000
		2022-2023	2022	13,000,000	5,851,516	255,197,097	212,976,718	231,828,234	231,828,234
		2023-2024	2023	13,000,000	31,242,589	1,418,395,519	1,186,143,202	1,230,385,791	1,230,385,791
Value Limitation Period	1	2024-2025	2024	13,000,000	58,389,624	2,721,282,394	2,278,760,474	2,350,150,098	100,000,000
	2	2025-2026	2025	13,000,000	72,197,725	3,647,845,802	3,066,872,844	3,152,070,569	100,000,000
	3	2026-2027	2026	13,000,000	74,705,966	3,934,651,326	3,314,052,286	3,401,758,252	100,000,000
	4	2027-2028	2027	13,000,000	74,207,899	3,883,608,582	3,269,905,456	3,357,113,355	100,000,000
	5	2028-2029	2028	13,000,000	72,723,741	3,695,565,184	3,106,410,183	3,192,133,924	100,000,000
	6	2029-2030	2029	13,000,000	71,269,266	3,516,678,475	2,951,089,674	3,035,358,940	100,000,000
	7	2030-2031	2030	13,000,000	69,843,881	3,346,500,439	2,803,535,190	2,886,379,071	100,000,000
	8	2031-2032	2031	13,000,000	68,447,003	3,184,605,070	2,663,358,431	2,744,805,434	100,000,000
	9	2032-2033	2032	13,000,000	67,078,063	3,030,587,283	2,530,190,509	2,610,268,572	100,000,000
Continue to maintain viable presence	10	2033-2034	2033	13,000,000	65,736,502	2,884,061,886	2,403,680,984	2,482,417,485	100,000,000
	11	2034-2035	2034	13,000,000	64,421,772	2,744,662,601	2,283,496,935	2,360,918,706	2,360,918,706
	12	2035-2036	2035	13,000,000	63,133,336	2,612,041,128	2,169,322,088	2,245,455,424	2,245,455,424
	13	2036-2037	2036	13,000,000	61,870,669	2,485,866,262	2,060,855,983	2,135,726,653	2,135,726,653
	14	2037-2038	2037	13,000,000	60,633,256	2,365,823,051	1,957,813,184	2,031,446,440	2,031,446,440
Additional years for 25 year economic impact as required by 313.026(c)(1)	15	2038-2039	2038	13,000,000	59,420,591	2,251,611,997	1,859,922,525	1,932,343,116	1,932,343,116
	16	2039-2040	2039	13,000,000	58,232,179	2,142,948,292	1,766,926,399	1,838,158,578	1,838,158,578
	17	2040-2041	2040	13,000,000	57,067,536	2,039,561,097	1,678,580,079	1,748,647,614	1,748,647,614
	18	2041-2042	2041	13,000,000	55,926,185	1,941,192,852	1,594,651,075	1,663,577,260	1,663,577,260
	19	2042-2043	2042	13,000,000	54,807,661	1,847,598,627	1,514,918,521	1,582,726,182	1,582,726,182
	20	2043-2044	2043	13,000,000	53,711,508	1,758,545,497	1,439,172,595	1,505,884,103	1,505,884,103
	21	2044-2045	2044	13,000,000	52,637,278	1,673,811,951	1,367,213,965	1,432,851,243	1,432,851,243
	22	2045-2046	2045	13,000,000	51,584,532	1,593,187,333	1,298,853,267	1,363,437,799	1,363,437,799
	23	2046-2047	2046	13,000,000	50,552,842	1,516,471,307	1,238,853,267	1,302,406,109	1,302,406,109
	24	2047-2048	2047	13,000,000	49,541,785	1,441,471,307	1,183,853,267	1,246,395,052	1,246,395,052
	25	2048-2049	2048	13,000,000	48,550,949	1,369,471,307	1,133,853,267	1,195,404,216	1,195,404,216

Notes: Market value in future years is good faith estimate of future taxable value for the purposes of property taxation.  
 Only include market value for eligible property on this schedule.

Schedule C below:

**Schedule C: Employment Information**

**Date** 20-Apr-21  
**Applicant Name** Nacero Inc.  
**ISD Name** Ector County Independent School District

**Form 50-296A**

*Revised October 2020*

				Construction		Non-Qualifying Jobs	Qualifying Jobs	
				Column A	Column B	Column C	Column D	Column E
	Year	School Year (YYYY-YYYY)	Tax Year (Actual tax year) YYYY	Number of Construction FTE's	Average annual wage <u>rates</u> for construction workers	Number of non-qualifying jobs applicant estimates it will create (cumulative)	Number of new qualifying jobs applicant commits to create meeting all criteria of Sec. 313.021(3) (cumulative)	Annual wage of new qualifying jobs
Each year prior to start of Value Limitation Period <i>Insert as many rows as necessary</i>	0	2021-2022	2021	44	\$ 72,800	0	1	\$ 81,000
		2022-2023	2022	485	\$ 74,256	2	5	\$ 81,000
		2023-2024	2023	2,806	\$ 75,741	4	59	\$ 81,000
Value Limitation Period <i>The qualifying time period could overlap the value limitation period.</i>	1	2024-2025	2024	3,263	\$ 77,256	22	154	\$ 81,000
	2	2025-2026	2025	2,459	\$ 78,801	78	208	\$ 81,000
	3	2026-2027	2026	1,233	\$ 80,377	78	254	\$ 81,000
	4	2027-2028	2027	259	\$ 81,985	78	258	\$ 81,000
	5	2028-2029	2028	-	\$ 83,624	78	258	\$ 81,000
	6	2029-2030	2029	-	\$ 85,297	78	258	\$ 81,000
	7	2030-2031	2030	-	\$ 87,003	78	258	\$ 81,000
	8	2031-2032	2031	-	\$ 88,743	78	258	\$ 81,000
	9	2031-2032	2032	-	\$ 90,518	78	258	\$ 81,000
	10	2031-2032	2033	-	\$ 92,328	78	258	\$ 81,000
Years Following Value Limitation Period	11 through 25	2032-2049	2032-2048	-	\$ 82,210	78	258	\$ 81,000

Notes: See TAC 9.1051 for definition of non-qualifying jobs.  
 Only include jobs on the project site in this school district.



## **ATTACHMENT 15**

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Economic Impact Analysis **(NOT REQUIRED)**

## **ATTACHMENT 16**

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Description of Reinvestment or Enterprise Zone

**ATTACHMENT 16**  
**Tab 16 – Description of Reinvestment or Enterprise Zone**  
Penwell, Texas

***REQUIREMENT:***

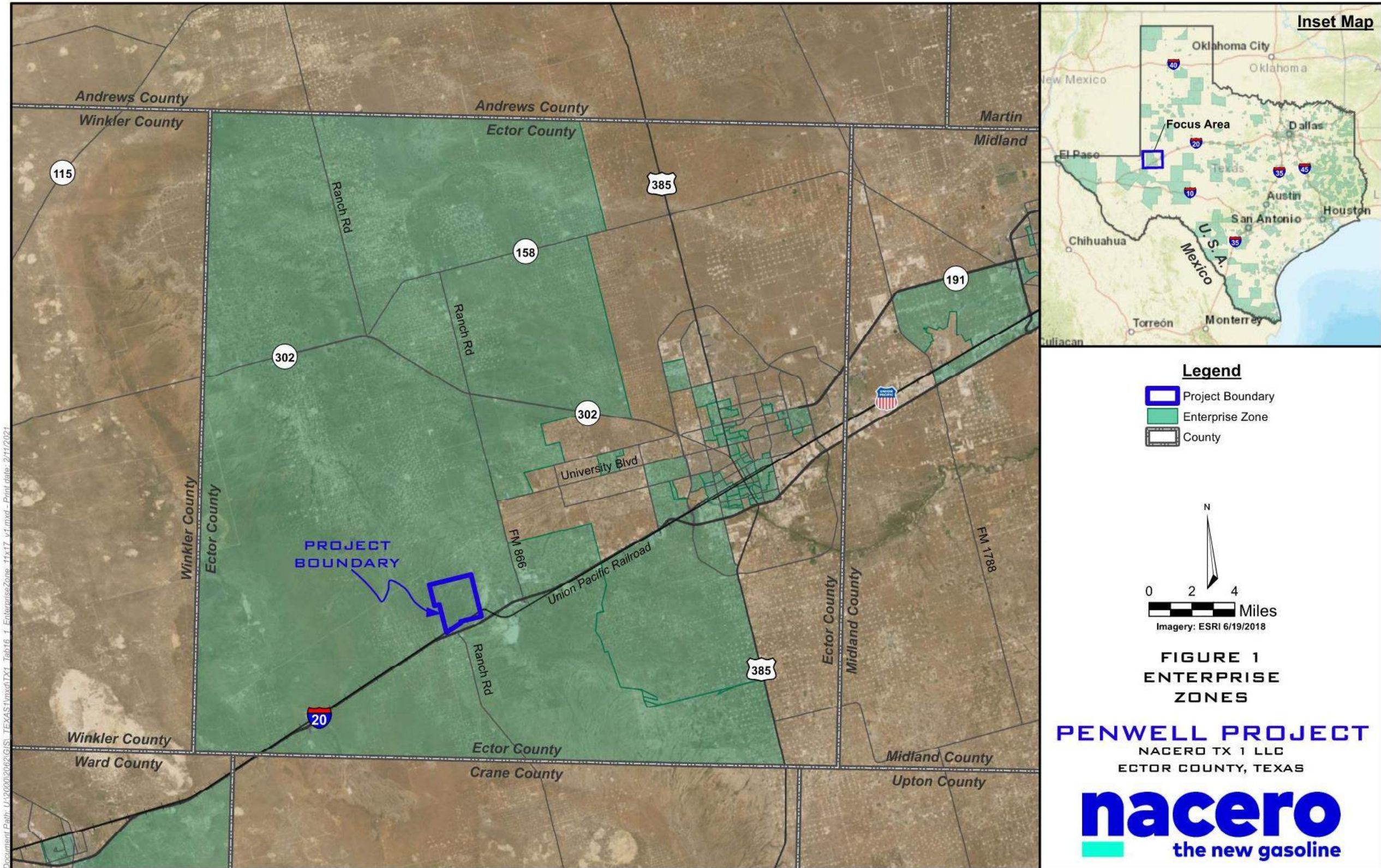
Is the land on which you propose new construction or new improvements currently located in an area designated as a reinvestment zone under Tax Code Chapter 311 or 312 or as an enterprise zone under Government Code Chapter 2303?

***NACERO RESPONSE:***

Yes, it is in an Enterprise Zone and the map is on the following page.



**ATTACHMENT 16**  
**Tab 16 – Description of Reinvestment or Enterprise Zone**  
 Penwell, Texas





## **ATTACHMENT 17**

---

Signature and Certification Page

**ATTACHMENT 17**  
**Tab 17 – Signature and Certification**  
Penwell, Texas

***REQUIREMENT:***

Attach the completed authorization page.

***NACERO RESPONSE:***

The completed authorization page is below:



## SECTION 16: Authorized Signatures and Applicant Certification

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in **Tab 17**.

**NOTE:** If you amend your application, you will need to obtain new signatures and resubmit this page, Section 16, with the amendment request.

## 1. Authorized School District Representative Signature

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.

print  
here

Scott Muri  
Print Name (Authorized School District Representative)

Superintendent  
Title

sign  
here

[Signature]  
Signature (Authorized School District Representative)

2-23-21  
Date

## 2. Authorized Company Representative (Applicant) Signature and Notarization

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 and schedules 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.

print  
here

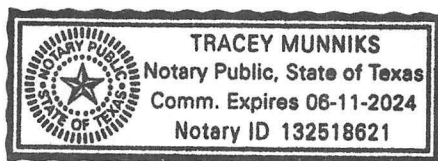
CHRISTOPHER MICKLAS  
Print Name (Authorized Company Representative (Applicant))

CFO NALERO INC.  
Title

sign  
here

[Signature]  
Signature (Authorized Company Representative (Applicant))

02/12/2021  
Date



(Notary Seal)

GIVEN under my hand and seal of office this, the

12 day of FEBRUARY, 2021

Tracey Munniks  
Notary Public in and for the State of Texas

My Commission expires: 06-11-2024

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.

## Texas Comptroller of Public Accounts

Data Analysis and  
Transparency  
Form 50-296-A

## SECTION 16: Authorized Signatures and Applicant Certification

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print  
here

Scott Muri  
Print Name (Authorized School District Representative)

Title

Superintendent

sign  
here

Signature (Authorized School District Representative)

Date

4-21-21

## 2. Authorized Company Representative (Applicant) Signature and Notarization

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 and schedules 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.

print  
here

Christopher Micklas

Chief Financial Officer, Nacero Inc.

Print Name (Authorized Company Representative (Applicant))

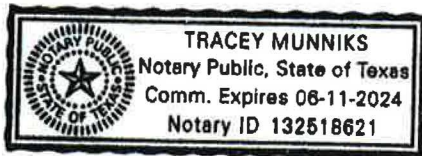
Title

sign  
here

Signature (Authorized Company Representative (Applicant))

Date

4/20/2021



(Notary Seal)

GIVEN under my hand and seal of office this, the

20 day of April, 2021

Tracey MunniKS  
Notary Public in and for the State of Texas

My Commission expires: 6/11/2024

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.



## Texas Comptroller of Public Accounts

Data Analysis and  
Transparency  
Form 50-296-A

## SECTION 16: Authorized Signatures and Applicant Certification

After the application and schedules are complete, an authorized representative from the school district and the business should review the application documents and complete this authorization page. Attach the completed authorization page in Tab 17.

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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.

print  
here

Print Name (Authorized School District Representative)

Scott Mori

Title

Superintendent

sign  
here

Signature (Authorized School District Representative)

[Signature]

Date

5-7-21

## 2. Authorized Company Representative (Applicant) Signature and Notarization

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 and schedules 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.

print  
here

Christopher Micklas

Print Name (Authorized Company Representative (Applicant))

Chief Financial Officer

Title

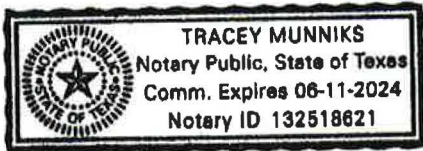
sign  
here

Signature (Authorized Company Representative (Applicant))

[Signature]

Date

05/07/2021



(Notary Seal)

GIVEN under my hand and seal of office this, the

7 day of May, 2021

TRACEY MUNNIKS

Notary Public in and for the State of Texas

My Commission expires: 6-11-2024

If you make a false statement on this application, you could be found guilty of a Class A misdemeanor or a state jail felony under Texas Penal Code Section 37.10.



## Franchise Tax Account Status

As of : 06/02/2021 16:16:43

This page is valid for most business transactions but is not sufficient for filings with the Secretary of State

NACERO TX 1 LLC	
<b>Texas Taxpayer Number</b>	32075161326
<b>Mailing Address</b>	2050 W SAM HOUSTON PKWY S STE 1000 HOUSTON, TX 77042-2079
<b>? Right to Transact Business in Texas</b>	ACTIVE
<b>State of Formation</b>	DE
<b>Effective SOS Registration Date</b>	07/22/2020
<b>Texas SOS File Number</b>	0803699094
<b>Registered Agent Name</b>	CAPITOL CORPORATE SERVICES, INC.
<b>Registered Office Street Address</b>	206 E. 9TH ST., STE. 1300 AUSTIN, TX 78701

**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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P.O. Box 13528 • Austin, TX 78711-3528

May 18, 2021

Scott Muri  
Superintendent  
Ector County Independent School District  
802 N. Sam Houston  
Odessa, Texas 76761

Re: Certificate for Limitation on Appraised Value of Property for School District  
Maintenance and Operations taxes by and between Ector County Independent  
School District and Nacero TX 1, LLC, Application 1568

Dear Superintendent Muri:

On March 25, 2021, the Comptroller issued written notice that Nacero TX 1, LLC (applicant) submitted a completed application (Application 1568) for a limitation on appraised value under the provisions of Tax Code Chapter 313.<sup>1</sup> This application was originally submitted on February 23, 2021, to the Ector County Independent School District (school district) by the applicant.

This presents the results of the Comptroller's review of the application and determinations required:

- 1) under Section 313.025(h) to determine if the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter B; and
- 2) under Section 313.025(d), to issue a certificate for a limitation on appraised value of the property and provide the certificate to the governing body of the school district or provide the governing body a written explanation of the Comptroller's decision not to issue a certificate, using the criteria set out in Section 313.026.

**Determination required by 313.025(h)**

Sec. 313.024(a)	Applicant is subject to tax imposed by Chapter 171.
Sec. 313.024(b)	Applicant is proposing to use the property for an eligible project.

---

<sup>1</sup> All Statutory references are to the Texas Tax Code, unless otherwise noted.

Sec. 313.024(d) Applicant has committed to create the required number of new qualifying jobs and pay all jobs created that are not qualifying jobs a wage that exceeds the county average weekly wage for all jobs in the county where the jobs are located.

Sec. 313.024(d-2) Not applicable to Application 1568.

Based on the information provided by the applicant, the Comptroller has determined that the property meets the requirements of Section 313.024 for eligibility for a limitation on appraised value under Chapter 313, Subchapter B.

### **Certificate decision required by 313.025(d)**

Determination required by 313.026(c)(1)

The Comptroller has determined that the project proposed by the applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the school district's maintenance and operations *ad valorem tax* revenue lost as a result of the agreement before the 25th anniversary of the beginning of the limitation period, see Attachment B.

Determination required by 313.026(c)(2)

The Comptroller has determined that the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state, see Attachment C.

Based on these determinations, the Comptroller issues a certificate for a limitation on appraised value. This certificate is contingent on the school district's receipt and acceptance of the Texas Education Agency's determination per 313.025(b-1).

The Comptroller's review of the application assumes the accuracy and completeness of the statements in the application. If the application is approved by the school district, the applicant shall perform according to the provisions of the Texas Economic Development Act Agreement (Form 50-826) executed with the school district. The school district shall comply with and enforce the stipulations, provisions, terms, and conditions of the agreement, applicable Texas Administrative Code and Chapter 313, per TAC 9.1054(i)(3).

This certificate is no longer valid if the application is modified, the information presented in the application changes, or the limitation agreement does not conform to the application. Additionally, this certificate is contingent on the school district approving and executing the agreement by December 31, 2021.

Note that any building or improvement existing as of the application review start date of March 25, 2021, or any tangible personal property placed in service prior to that date may not become "Qualified Property" as defined by 313.021(2) and the Texas Administrative Code.



Should you have any questions, please contact Will Counihan, Director, Data Analysis & Transparency, by email at [will.counihan@cpa.texas.gov](mailto:will.counihan@cpa.texas.gov) or by phone toll-free at 1-800-531-5441, ext. 6-0758, or at 512-936-0758.

Sincerely,

DocuSigned by:  
  
11EA6DEF0EC441E...

Lisa Craven  
Deputy Comptroller

Enclosure

cc: Will Counihan

## Attachment A – Economic Impact Analysis

The following tables summarize the Comptroller’s economic impact analysis of Nacero TX 1, LLC (project) applying to Ector County Independent School District (district), as required by Tax Code, 313.026 and Texas Administrative Code 9.1055(d)(2).

**Table 1** is a summary of investment, employment and tax impact of Nacero TX 1, LLC.

Applicant	Nacero TX 1, LLC
Tax Code, 313.024 Eligibility Category	Manufacturing - Chemical
School District	Ector County ISD
2019-2020 Average Daily Attendance	29,754
County	Ector County
Proposed Total Investment in District	\$4,708,395,091
Proposed Qualified Investment	\$1,594,191,976
Limitation Amount	\$100,000,000
Qualifying Time Period (Full Years)	2022-2023
Number of new qualifying jobs committed to by applicant	258
Number of new non-qualifying jobs estimated by applicant	78
Average weekly wage of qualifying jobs committed to by applicant	\$1,558
Minimum weekly wage required for each qualifying job by Tax Code, 313.021(5) (B)	\$1,558
Minimum annual wage committed to by applicant for qualified jobs	\$81,000
Minimum weekly wage required for non-qualifying jobs	\$1,188.75
Minimum annual wage required for non-qualifying jobs	\$61,815
Investment per Qualifying Job	\$18,249,593
Estimated M&O levy without any limit (15 years)	\$436,577,878
Estimated M&O levy with Limitation (15 years)	\$139,021,108
Estimated gross M&O tax benefit (15 years)	\$297,556,770

*\* Applicant is requesting district to waive requirement to create minimum number of qualifying jobs pursuant to Tax Code, 313.025 (f-1).*

**Table 2** is the estimated statewide economic impact of Nacero TX 1, LLC (modeled).

Year	Employment			Personal Income		
	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total
2021	45	51	96	\$3,284,200	\$4,015,800	\$7,300,000
2022	492	520	1012	\$36,542,790	\$45,957,210	\$82,500,000
2023	2869	3,104	5973	\$217,555,506	\$285,544,494	\$503,100,000
2024	3439	4,266	7705	\$265,920,258	\$427,679,742	\$693,600,000
2025	2745	4,030	6775	\$215,441,229	\$446,058,771	\$661,500,000
2026	1565	2,962	4527	\$124,500,411	\$370,699,589	\$495,200,000
2027	595	1,850	2445	\$46,953,685	\$270,446,315	\$317,400,000
2028	336	1,398	1734	\$25,719,570	\$222,780,430	\$248,500,000
2029	336	1,293	1629	\$25,719,570	\$207,880,430	\$233,600,000
2030	336	1,285	1621	\$25,719,570	\$203,780,430	\$229,500,000
2031	336	1,328	1664	\$25,719,570	\$206,980,430	\$232,700,000
2032	336	1,408	1744	\$25,719,570	\$216,480,430	\$242,200,000
2033	336	1,504	1840	\$25,719,570	\$231,580,430	\$257,300,000
2034	336	1,504	1840	\$25,719,570	\$238,680,430	\$264,400,000
2035	336	1,568	1904	\$25,719,570	\$252,080,430	\$277,800,000
2036	336	1,637	1973	\$25,719,570	\$269,480,430	\$295,200,000
2037	336	1,713	2049	\$25,719,570	\$288,780,430	\$314,500,000

Source: CPA REMI, Nacero TX 1, LLC

**Table 3** examines the estimated direct impact on ad valorem taxes to the region if all taxes are assessed.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Ector ISD I&S Tax Levy	Ector ISD M&O Tax Levy	Ector ISD M&O and I&S Tax Levies	Ector County Tax Levy	Ector County Hospital District Tax Levy	Odessa Junior College District Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.1232	1.0547		0.3650	0.1500	0.1890	
2021	\$13,000,000	\$13,000,000		\$16,019	\$137,111	\$153,130	\$47,450	\$19,500	\$24,565	\$244,645
2022	\$231,828,234	\$231,828,234		\$285,659	\$2,445,092	\$2,730,751	\$846,173	\$347,742	\$438,074	\$4,362,741
2023	\$1,230,385,791	\$1,230,385,791		\$1,516,081	\$12,976,879	\$14,492,960	\$4,490,908	\$1,845,579	\$2,324,999	\$23,154,446
2024	\$2,350,150,098	\$2,350,150,098		\$2,895,855	\$24,787,033	\$27,682,888	\$8,578,048	\$3,525,225	\$4,440,961	\$44,227,122
2025	\$3,152,070,569	\$3,152,070,569		\$3,883,981	\$33,244,888	\$37,128,870	\$11,505,058	\$4,728,106	\$5,956,310	\$59,318,343
2026	\$3,401,758,252	\$3,401,758,252		\$4,191,647	\$35,878,344	\$40,069,991	\$12,416,418	\$5,102,637	\$6,428,132	\$64,017,178
2027	\$3,357,113,355	\$3,357,113,355		\$4,136,635	\$35,407,475	\$39,544,110	\$12,253,464	\$5,035,670	\$6,343,769	\$63,177,013
2028	\$3,192,133,924	\$3,192,133,924		\$3,933,347	\$33,667,436	\$37,600,784	\$11,651,289	\$4,788,201	\$6,032,016	\$60,072,289
2029	\$3,035,358,940	\$3,035,358,940		\$3,740,169	\$32,013,931	\$35,754,100	\$11,079,060	\$4,553,038	\$5,735,766	\$57,121,965
2030	\$2,886,379,071	\$2,886,379,071		\$3,556,596	\$30,442,640	\$33,999,236	\$10,535,284	\$4,329,569	\$5,454,246	\$54,318,335
2031	\$2,744,805,434	\$2,744,805,434		\$3,382,149	\$28,949,463	\$32,331,612	\$10,018,540	\$4,117,208	\$5,186,722	\$51,654,082
2032	\$2,610,268,572	\$2,610,268,572		\$3,216,373	\$27,530,503	\$30,746,876	\$9,527,480	\$3,915,403	\$4,932,494	\$49,122,253
2033	\$2,482,417,485	\$2,482,417,485		\$3,058,835	\$26,182,057	\$29,240,892	\$9,060,824	\$3,723,626	\$4,690,900	\$46,716,242
2034	\$2,360,918,706	\$2,360,918,706		\$2,909,124	\$24,900,610	\$27,809,734	\$8,617,353	\$3,541,378	\$4,461,310	\$44,429,775
2035	\$2,245,455,424	\$2,245,455,424		\$2,766,850	\$23,682,818	\$26,449,669	\$8,195,912	\$3,368,183	\$4,243,125	\$42,256,889
2036	\$2,135,726,653	\$2,135,726,653		\$2,631,642	\$22,525,509	\$25,157,151	\$7,795,402	\$3,203,590	\$4,035,776	\$40,191,920
2037	\$2,031,446,440	\$2,031,446,440		\$2,503,148	\$21,425,666	\$23,928,814	\$7,414,780	\$3,047,170	\$3,838,723	\$38,229,486
2038	\$1,932,343,116	\$1,932,343,116		\$2,381,033	\$20,380,423	\$22,761,456	\$7,053,052	\$2,898,515	\$3,651,452	\$36,364,475
			Total	\$51,005,145	\$436,577,878	\$487,583,023	\$151,086,494	\$62,090,340	\$78,219,341	\$778,979,198

Source: CPA, Nacero TX 1, LLC

\*Tax Rate per \$100 Valuation

**Table 4** examines the estimated direct impact on ad valorem taxes to the school district and Ector County, with all property tax incentives sought being granted using estimated market value from the application. The project has applied for a value limitation under Chapter 313, Tax Code and tax abatement with the county, Ector County Hospital District and Odessa Junior College District.

The difference noted in the last line is the difference between the totals in Table 3 and Table 4.

Year	Estimated Taxable Value for I&S	Estimated Taxable Value for M&O		Ector ISD I&S Tax Levy	Ector ISD M&O Tax Levy	Ector ISD M&O and I&S Tax Levies	Ector County Tax Levy	Ector County Hospital District Tax Levy	Odessa Junior College District Tax Levy	Estimated Total Property Taxes
			Tax Rate*	0.1232	1.0547		0.3650	0.1500	0.1890	
2021	\$13,000,000	\$13,000,000		\$16,019	\$137,111	\$153,130	\$47,450	\$19,500	\$24,565	\$244,645
2022	\$231,828,234	\$231,828,234		\$285,659	\$2,445,092	\$2,730,751	\$0	\$0	\$0	\$2,730,751
2023	\$1,230,385,791	\$1,230,385,791		\$1,516,081	\$12,976,879	\$14,492,960	\$0	\$0	\$0	\$14,492,960
2024	\$2,350,150,098	\$100,000,000		\$2,895,855	\$1,054,700	\$3,950,555	\$0	\$0	\$0	\$3,950,555
2025	\$3,152,070,569	\$100,000,000		\$3,883,981	\$1,054,700	\$4,938,681	\$0	\$0	\$0	\$4,938,681
2026	\$3,401,758,252	\$100,000,000		\$4,191,647	\$1,054,700	\$5,246,347	\$0	\$0	\$0	\$5,246,347
2027	\$3,357,113,355	\$100,000,000		\$4,136,635	\$1,054,700	\$5,191,335	\$1,225,346	\$0	\$634,377	\$7,051,058
2028	\$3,192,133,924	\$100,000,000		\$3,933,347	\$1,054,700	\$4,988,047	\$2,330,258	\$0	\$1,206,403	\$8,524,708
2029	\$3,035,358,940	\$100,000,000		\$3,740,169	\$1,054,700	\$4,794,869	\$3,323,718	\$0	\$1,720,730	\$9,839,317
2030	\$2,886,379,071	\$100,000,000		\$3,556,596	\$1,054,700	\$4,611,296	\$4,214,113	\$0	\$2,181,698	\$11,007,108
2031	\$2,744,805,434	\$100,000,000		\$3,382,149	\$1,054,700	\$4,436,849	\$5,009,270	\$0	\$2,593,361	\$12,039,480
2032	\$2,610,268,572	\$100,000,000		\$3,216,373	\$1,054,700	\$4,271,073	\$9,527,480	\$3,915,403	\$4,932,494	\$22,646,450
2033	\$2,482,417,485	\$100,000,000		\$3,058,835	\$1,054,700	\$4,113,535	\$9,060,824	\$3,723,626	\$4,690,900	\$21,588,885
2034	\$2,360,918,706	\$2,360,918,706		\$2,909,124	\$24,900,610	\$27,809,734	\$8,617,353	\$3,541,378	\$4,461,310	\$44,429,775
2035	\$2,245,455,424	\$2,245,455,424		\$2,766,850	\$23,682,818	\$26,449,669	\$8,195,912	\$3,368,183	\$4,243,125	\$42,256,889
2036	\$2,135,726,653	\$2,135,726,653		\$2,631,642	\$22,525,509	\$25,157,151	\$7,795,402	\$3,203,590	\$4,035,776	\$40,191,920
2037	\$2,031,446,440	\$2,031,446,440		\$2,503,148	\$21,425,666	\$23,928,814	\$7,414,780	\$3,047,170	\$3,838,723	\$38,229,486
2038	\$1,932,343,116	\$1,932,343,116		\$2,381,033	\$20,380,423	\$22,761,456	\$7,053,052	\$2,898,515	\$3,651,452	\$36,364,475
			Total	\$51,005,145	\$139,021,108	\$190,026,252	\$73,814,959	\$23,717,365	\$38,214,915	\$325,773,491
			Diff	\$0	\$297,556,770	\$297,556,770	\$77,271,535	\$38,372,976	\$40,004,426	\$453,205,707
Assumes School Value Limitation and Tax Abatements with the County.										

Source: CPA, Nacero TX 1, LLC

\*Tax Rate per \$100 Valuation

**Disclaimer:** This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.

## Attachment B – Tax Revenue before 25<sup>th</sup> Anniversary of Limitation Start

This represents the Comptroller’s determination that Nacero TX 1, LLC (project) is reasonably likely to generate, before the 25th anniversary of the beginning of the limitation period, tax revenue in an amount sufficient to offset the school district maintenance and operations ad valorem tax revenue lost as a result of the agreement. This evaluation is based on an analysis of the estimated M&O portion of the school district property tax levy and direct, indirect and induced tax effects from project employment directly related to this project, using estimated taxable values provided in the application.

	Tax Year	Estimated ISD M&O Tax Levy Generated (Annual)	Estimated ISD M&O Tax Levy Generated (Cumulative)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Annual)	Estimated ISD M&O Tax Levy Loss as Result of Agreement (Cumulative)
<b>Limitation Pre-Years</b>	2021	\$137,111	\$137,111	\$0	\$0
	2022	\$2,445,092	\$2,582,203	\$0	\$0
	2023	\$12,976,879	\$15,559,082	\$0	\$0
<b>Limitation Period (10 Years)</b>	2024	\$1,054,700	\$16,613,782	\$23,732,333	\$23,732,333
	2025	\$1,054,700	\$17,668,482	\$32,190,188	\$55,922,521
	2026	\$1,054,700	\$18,723,182	\$34,823,644	\$90,746,166
	2027	\$1,054,700	\$19,777,882	\$34,352,775	\$125,098,940
	2028	\$1,054,700	\$20,832,582	\$32,612,736	\$157,711,677
	2029	\$1,054,700	\$21,887,282	\$30,959,231	\$188,670,907
	2030	\$1,054,700	\$22,941,982	\$29,387,940	\$218,058,848
	2031	\$1,054,700	\$23,996,682	\$27,894,763	\$245,953,610
	2032	\$1,054,700	\$25,051,382	\$26,475,803	\$272,429,413
	2033	\$1,054,700	\$26,106,082	\$25,127,357	\$297,556,770
	2034	\$24,900,610	\$51,006,692	\$0	\$297,556,770
<b>Maintain Viable Presence (5 Years)</b>	2035	\$23,682,818	\$74,689,510	\$0	\$297,556,770
	2036	\$22,525,509	\$97,215,019	\$0	\$297,556,770
	2037	\$21,425,666	\$118,640,685	\$0	\$297,556,770
	2038	\$20,380,423	\$139,021,108	\$0	\$297,556,770
<b>Additional Years as Required by 313.026(c)(1) (10 Years)</b>	2039	\$19,387,059	\$158,408,166	\$0	\$297,556,770
	2040	\$18,442,986	\$176,851,153	\$0	\$297,556,770
	2041	\$17,545,749	\$194,396,902	\$0	\$297,556,770
	2042	\$16,693,013	\$211,089,915	\$0	\$297,556,770
	2043	\$15,882,560	\$226,972,475	\$0	\$297,556,770
	2044	\$15,112,282	\$242,084,757	\$0	\$297,556,770
	2045	\$14,380,178	\$256,464,935	\$0	\$297,556,770
	2046	\$13,736,477	\$270,201,412	\$0	\$297,556,770
	2047	\$13,145,729	\$283,347,141	\$0	\$297,556,770
	2048	\$12,607,928	\$295,955,069	\$0	\$297,556,770
		<b>\$295,955,069</b>	is less than	<b>\$297,556,770</b>	
<b>Analysis Summary</b>					
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?					No

Source: CPA, Nacero TX 1, LLC

	Employment			Personal Income			Revenue & Expenditure		
Year	Direct	Indirect + Induced	Total	Direct	Indirect + Induced	Total	Revenue	Expenditure	Net Tax Effect
2021	45	51	96	\$3,204,752	\$4,115,248	\$7,320,000	336000	-191000	\$527,000
2022	492	518	1010	\$36,024,296	\$45,885,704	\$81,910,000	3799000	-1816000	\$5,615,000
2023	2869	3,078	5947	\$212,625,570	\$284,324,430	\$496,950,000	22415000	-10330000	\$32,745,000
2024	3439	4,184	7623	\$252,351,482	\$423,798,518	\$676,150,000	30502000	-8965000	\$39,467,000
2025	2745	3,905	6650	\$194,187,140	\$438,622,860	\$632,810,000	28786000	-1717000	\$30,503,000
2026	1565	2,816	4381	\$99,591,719	\$361,708,281	\$461,300,000	21729000	6744000	\$14,985,000
2027	595	1,708	2303	\$21,727,201	\$260,742,799	\$282,470,000	14740000	12794000	\$1,946,000
2028	336	1,264	1600	\$493,086	\$212,636,914	\$213,130,000	12306000	14488000	-\$2,182,000
2029	336	1,172	1508	\$493,086	\$197,746,914	\$198,240,000	12039000	14488000	-\$2,449,000
2030	336	1,168	1504	\$493,086	\$193,846,914	\$194,340,000	12100000	14252000	-\$2,152,000
2031	336	1,227	1563	\$493,086	\$198,236,914	\$198,730,000	12299000	13901000	-\$1,602,000
2032	336	1,312	1648	\$493,086	\$208,246,914	\$208,740,000	12619000	13550000	-\$931,000
2033	336	1,422	1758	\$493,086	\$223,136,914	\$223,630,000	13077000	13184000	-\$107,000
2034	336	1,426	1762	\$493,086	\$230,706,914	\$231,200,000	12650000	13062000	-\$412,000
2035	336	1,494	1830	\$493,086	\$245,846,914	\$246,340,000	12985000	12825000	\$160,000
2036	336	1,562	1898	\$493,086	\$262,446,914	\$262,940,000	13298000	12596000	\$702,000
2037	336	1,650	1986	\$493,086	\$282,956,914	\$283,450,000	13916000	12474000	\$1,442,000
2038	336	1,738	2074	\$493,086	\$306,876,914	\$307,370,000	14481000	12390000	\$2,091,000
2039	336	1,822	2158	\$493,086	\$331,536,914	\$332,030,000	14938000	12306000	\$2,632,000
2040	336	1,902	2238	\$493,086	\$357,416,914	\$357,910,000	15488000	12276000	\$3,212,000
2041	336	1,980	2316	\$493,086	\$384,026,914	\$384,520,000	16174000	12321000	\$3,853,000
2042	336	2,053	2389	\$493,086	\$413,816,914	\$414,310,000	16846000	12436000	\$4,410,000
2043	336	2,123	2459	\$493,086	\$443,356,914	\$443,850,000	17456000	12581000	\$4,875,000
2044	336	2,195	2531	\$493,086	\$476,066,914	\$476,560,000	17990000	12741000	\$5,249,000
2045	336	2,260	2596	\$493,086	\$509,276,914	\$509,770,000	18600000	12939000	\$5,661,000
2046	336	2,322	2658	\$493,086	\$544,916,914	\$545,410,000	19379000	13184000	\$6,195,000
						<b>Total</b>	<b>\$400,948,000</b>	<b>\$244,513,000</b>	<b>\$156,435,000</b>
							<b>\$452,390,069</b>	is greater than	<b>\$297,556,770</b>
<b>Analysis Summary</b>									
Is the project reasonably likely to generate tax revenue in an amount sufficient to offset the M&O levy loss as a result of the limitation agreement?									Yes

Disclaimer: This examination is based on information from the application submitted to the school district and forwarded to the comptroller. It is intended to meet the statutory requirement of Chapter 313 of the Tax Code and is not intended for any other purpose.



## Attachment C – Limitation as a Determining Factor

Tax Code 313.026 states that the Comptroller may not issue a certificate for a limitation on appraised value under this chapter for property described in an application unless the comptroller determines that “the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in this state.” This represents the basis for the Comptroller’s determination.

### Methodology

Texas Administrative Code 9.1055(d) states the Comptroller shall review any information available to the Comptroller including:

- the application, including the responses to the questions in Section 8 (Limitation as a Determining Factor);
- public documents or statements by the applicant concerning business operations or site location issues or in which the applicant is a subject;
- statements by officials of the applicant, public documents or statements by governmental or industry officials concerning business operations or site location issues;
- existing investment and operations at or near the site or in the state that may impact the proposed project;
- announced real estate transactions, utility records, permit requests, industry publications or other sources that may provide information helpful in making the determination; and
- market information, raw materials or other production inputs, availability, existing facility locations, committed incentives, infrastructure issues, utility issues, location of buyers, nature of market, supply chains, other known sites under consideration.

### Determination

The Comptroller **has determined** that the limitation on appraised value is a determining factor in the Nacero TX 1 LLC’s decision to invest capital and construct the project in this state. This is based on information available, including information provided by the applicant. Specifically, the comptroller notes the following:

- Per Nacero TX 1 LLC in Tab 5 of their Application for a Limitation on Appraised Value:
  - A. “The Chapter 313 limitation considerably enhances the long-term financial sustainability of selecting the Penwell site. During the initial period of the project, while managing the project financing costs, it is necessary to minimize costs and provide a return to project’s investors. In a highly capital intense project, such as Penwell, property taxes represent a large portion of the operating costs and alleviating these costs enables the project to move forward.”
  - B. “Not receiving the Chapter 313 limitation would greatly hurt the attractiveness of the Penwell Site compared to the other competing locations. Pending the outcome of the final negotiations and due diligence, this could result in Nacero selecting an alternate location for our flagship manufacturing location.”
  - C. “Under Section 8, question 2, the applicant has entered into agreements, contracts, or letters of intent where the proposed project will occur. The two agreements that Nacero has signed regarding the proposed project are: 1) Option and Purchase Agreement and Joint Escrow Instructions dated October 19, 2020, between Odessa Industrial Development Corporation (OIDC) (Optionor) and Nacero TX 1 LLC (Optionee) for approx. 666 acres in unincorporated Ector County, Texas. 2) Option Agreement dated November 6, 2020 between Betty Moss Dean and C.A. Betty Moss Dean FLP (Optionors) and Nacero TX 1 LLC (Optionee) for approx. 1,869 acres in unincorporated Ector County, Texas.”
- Nacero Inc. has a website available at <https://nacero.co/> and states the following:
  - A. “Our first facility is planned for West Texas to serve major cities across Texas and the Southwest. Our second facility is planned for the Northeast to serve markets across the Eastern Seaboard and Mid-Atlantic. Nacero plans to add more facilities and markets to its platform over time. Stay tuned for updates on our future growth plans!”

- An article from *Dallas Business Journal* dated March 23, 2021 stated the following:
  - A. “Nacero is looking to build facilities that process natural gas into gasoline, and it could position one such project in Ector County in West Texas, according to its tax incentive application for the project. The site is in Penwell, an unincorporated community near Odessa.”
- An article from *Bic Magazine* dated April 23, 2021 stated the following:
  - A. “The Odessa Development Corporation and Nacero Inc., a Houston-based company, announced plans to build a \$6.5 - \$7 billion lower carbon gasoline manufacturing facility at a site in Penwell, Texas, in two phases.”
- An article from *cbs7.com* dated April 22, 2021 stated the following:
  - A. “A multi-billion dollar gasoline manufacturing company is coming to Ector County. Nacero Inc., a company based out of Houston, announced Wednesday that it plans to build a \$6.5-7 billion lower-carbon gasoline manufacturing facility at Penwell in two phases. The first phase will see the facility produce 70,000 barrels per day of gasoline. The second phase will increase the capacity to 100,000 barrels per day.”
- An article from the *Oil & Gas Journal* dated April 23, 2021 stated the following:
  - A. “Nacero Inc., Houston, has let a contract to Haldor Topsoe AS to license process technology for a newly proposed natural gas-to-gasoline (GTG) plant to be built in Penwell, Ector County, Texas.”

#### **Supporting Information**

- a) Section 8 of the Application for a Limitation on Appraised Value
- b) Attachments provided in Tab 5 of the Application for a Limitation on Appraised Value
- c) Additional information provided by the Applicant or located by the Comptroller

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# **Supporting Information**

## **Section 8 of the Application for a Limitation on Appraised Value**

## SECTION 8: Limitation as Determining Factor

1. Does the applicant currently own the land on which the proposed project will occur? ☐ Yes ☒ No
2. Has the applicant entered into any agreements, contracts or letters of intent related to the proposed project? ☒ Yes ☐ No
3. Does the applicant have current business activities at the location where the proposed project will occur? ☐ Yes ☒ No
4. Has the applicant made public statements in SEC filings or other documents regarding its intentions regarding the proposed project location? ☐ Yes ☒ No
5. Has the applicant received any local or state permits for activities on the proposed project site? ☐ Yes ☒ No
6. Has the applicant received commitments for state or local incentives for activities at the proposed project site? ☒ Yes ☐ No
7. Is the applicant evaluating other locations not in Texas for the proposed project? ☒ Yes ☐ No
8. Has the applicant provided capital investment or return on investment information for the proposed project in comparison with other alternative investment opportunities? ☐ Yes ☒ No
9. Has the applicant provided information related to the applicant's inputs, transportation and markets for the proposed project? ☐ Yes ☒ No
10. Are you submitting information to assist in the determination as to whether the limitation on appraised value is a determining factor in the applicant's decision to invest capital and construct the project in Texas? ☐ Yes ☒ No

**Chapter 313.026(e) states "the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2)." If you answered "yes" to any of the questions in Section 8, attach supporting information in Tab 5.**

## SECTION 9: Projected Timeline

**NOTE:** Only construction beginning after the application review start date (the date the Texas Comptroller of Public Accounts deems the application complete) can be considered qualified property and/or qualified investment.

1. Estimated school board ratification of final agreement September 2021
2. Estimated commencement of construction 11/01/2021
3. Beginning of qualifying time period (MM/DD/YYYY) 01/01/2022
4. First year of limitation (YYYY) 2024
  - 4a. For the beginning of the limitation period, notate which **one of the following** will apply according to provision of 313.027(a-1)(2):
 

☐ A. January 1 following the application date

☒ B. January 1 following the end of QTP

☐ C. January 1 following the commencement of commercial operations
5. Commencement of commercial operations 09/01/2024

## SECTION 10: The Property

1. County or counties in which the proposed project will be located Ector County
2. Central Appraisal District (CAD) that will be responsible for appraising the property Ector County Appraisal District
3. Will this CAD be acting on behalf of another CAD to appraise this property? ☐ Yes ☒ No
4. List all taxing entities that have jurisdiction for the property, the portion of project within each entity and tax rates for each entity:
 

M&O (ISD): <u>Ector ISD, \$1.054700</u> <small>(Name, tax rate and percent of project)</small>	I&S (ISD): <u>Ector ISD, \$0.123220</u> <small>(Name, tax rate and percent of project)</small>
County: <u>Ector, \$0.365000</u> <small>(Name, tax rate and percent of project)</small>	City: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>
Hospital District: <u>Ector County, \$0.150000</u> <small>(Name, tax rate and percent of project)</small>	Water District: <u>n/a</u> <small>(Name, tax rate and percent of project)</small>
Other (describe): <u>Odessa JC District \$0.188965</u> <small>(Name, tax rate and percent of project)</small>	Other (describe): <u>n/a</u> <small>(Name, tax rate and percent of project)</small>

# **Supporting Information**

Attachments provided in Tab 5  
of the Application for a  
Limitation on Appraised Value

**Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor**  
Penwell, Texas

**REQUIREMENT:**

Per Chapter 313.026(e) states “the applicant may submit information to the Comptroller that would provide a basis for an affirmative determination under Subsection (c)(2). “if you answered “yes” to any questions in Section 8, attach supporting information in Tab 5.

**NACERO RESPONSE:**

Under Section 8, question 2, the applicant has entered into agreements, contracts, or letters of intent where the proposed project will occur. The two agreements that Nacero has signed regarding the proposed project are below and are attached following this page:

- Option and Purchase Agreement and Joint Escrow Instructions dated October 19, 2020, between Odessa Industrial Development Corporation (OIDC) (Optionor) and Nacero TX 1 LLC (Optionee) for approx. 666 acres in unincorporated Ector County, Texas.
- Option Agreement dated November 6, 2020 between Betty Moss Dean and C.A. Betty Moss Dean FLP (Optionors) and Nacero TX 1 LLC (Optionee) for approx. 1,869 acres in unincorporated Ector County, Texas.

The Chapter 313 limitation considerably enhances the long-term financial sustainability of selecting the Penwell site. During the initial period of the project, while managing the project financing costs, it is necessary to minimize costs and provide a return to project’s investors. In a highly capital intense project, such as Penwell, property taxes represent a large portion of the operating costs and alleviating these costs enables the project to move forward.

Not receiving the Chapter 313 limitation would greatly hurt the attractiveness of the Penwell Site compared to the other competing locations. Pending the outcome of the final negotiations and due diligence, this could result in Nacero selecting an alternate location for our flagship manufacturing location.



Submission Date: May 7, 2021

## Limitation as a Determining Factor

Over the past year, the Nacero and GLS team evaluated properties across the Marcellus, Utica, and Permian regions as well as locations with large quantities of natural gas (nine total states) to identify properties with suitable natural gas feedstock and other site requirements.

Initial screening criteria included:

- Proximity to natural gas lines
- Rail infrastructure on site or in proximity
- Large site size and/or adjacent expansion opportunities

The process included:

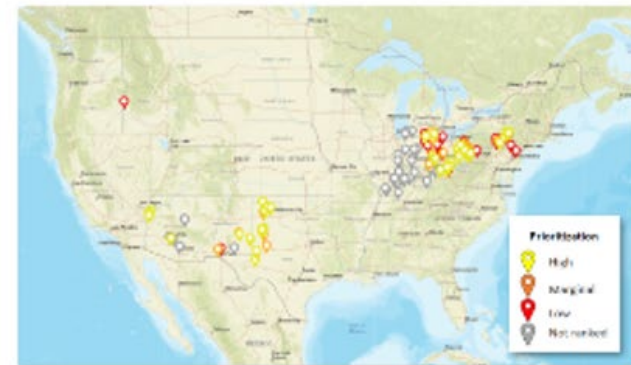
- GLS site identification
  - Site identification resulted in identification of 130 sites and full assessment of 87 sites
- Shortlist of locations for Request for Information
- Virtual site visits
- Field site visits

As a result of this analysis, Project Watson has focused on finalist locations in Texas (Penwell Site) and Arizona.

The Chapter 313 limitation considerably enhances the long-term financial sustainability of selecting the Penwell site. During the initial period of the project, while managing the project financing costs, it is necessary to minimize costs and provide a return to project's investors. In a highly capital intense project, such as Penwell, property taxes represent a large portion of the operating costs and alleviating these costs enables the project to move forward.

Not receiving the Chapter 313 limitation would greatly hurt the attractiveness of the Penwell Site compared to the other competing locations. Pending the outcome of the final negotiations and due diligence, this could result in Nacero selecting an alternate location for our flagship manufacturing location.

The Chapter 313 has been key to the company's economic evaluation of the Penwell location throughout the entire site selection process, continues to be vital, and will always be integral to a decision to locate in Penwell and any future growth.



## ATTACHMENT 5

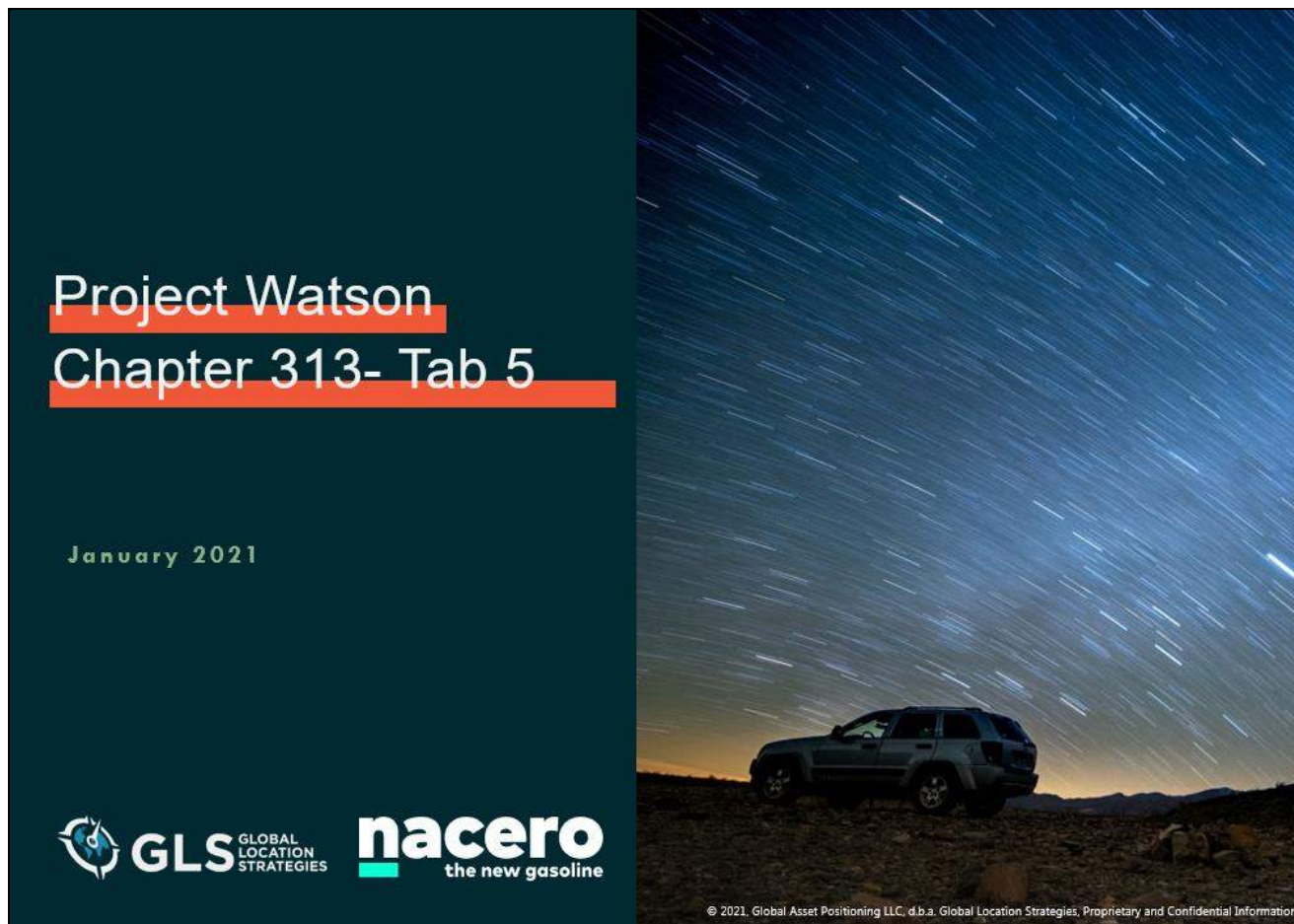
### Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor Penwell, Texas

Under Section 8, question 6, the applicant has received commitments for state or local incentives for activities at the proposed project Site.

- OIDC has given Nacero an option to buy the above land for \$1,000, subject to reversion rights if we do not meet certain deadlines in the development of the land.

Under Section 8, question 7, “Is the applicant evaluating other locations not in Texas for the proposed Project?”

- Yes, over the past year Nacero and the Global Location Strategies (GLS) team have been conducting evaluations on other properties outside of Texas. With availability of abundant natural gas as a primary driver, shortlisted locations include sites in Arizona, Nevada, New Mexico, Oklahoma, Pennsylvania, West Virginia, Ohio, and Texas (Penwell).



## Activity Summary

Over the past year, the Nacero and GLS team evaluated properties across the Marcellus, Utica, and Permian regions as well as locations with large quantities of natural gas (nine total states) to identify properties with suitable natural gas feedstock and other site requirements.

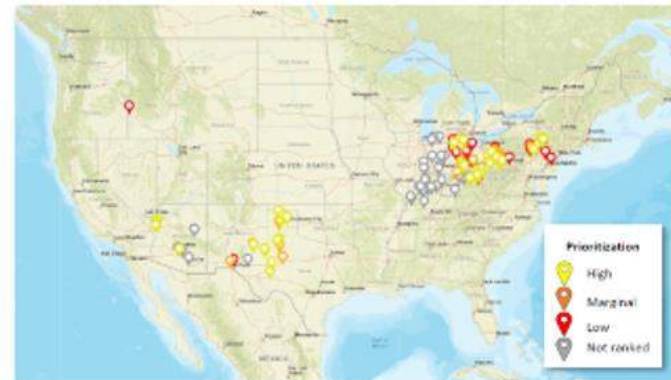
Initial screening criteria included:

- Proximity to natural gas lines
- Rail infrastructure on site or in proximity
- Large site size and/or adjacent expansion opportunities

The process included:

- GLS site identification
  - Site identification resulted in identification of 130 sites and full assessment of 87 sites
- Shortlist of locations for Request for Information
- Virtual site visits
- Field site visits

As a result of this analysis, Project Watson has focused on finalist locations in Texas (Penwell Site) and Arizona.



# ATTACHMENT 5

Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor  
Penwell, Texas

Please note that these specs have been more fine-tuned through the process, but this was the initial evaluation criteria.

Project Specs			
Below outlines the project specifications that the properties were being evaluated against.			
	2-Train	4-Train	6-Train
Capital Investment	\$3.5 billion	\$6.5 billion	\$9.5 billion
Jobs	250	380	510
Size	2-Train	4-Train	6-Train
Acreage	300+	450+	600+
Transportation	2-Train	4-Train	6-Train
Truck	Interstate access for heavy trucks (80-160 trucks per day)	Interstate access for heavy trucks (160-330 trucks per day)	Interstate access for heavy trucks (240-500 trucks per day)
Rail	Required (40-64 cars per day)  Unit trains and manifest loads	Required (80-128 cars per day)  Unit trains and manifest loads	Required (120-192 cars per day)  Unit trains and manifest loads
Utilities	2-Train	4-Train	6-Train
Electric <i>-Solar will make up some of this usage depending on the available acreage</i>	175 MW	350 MW	525 MW
Process Makeup Water	1.16 mgd	2.3 mgd	3.4 million mgd
Potable Water	Required for operation support	Required for operation support	Required for operation support
Wastewater	Sanitary only	Sanitary only	Sanitary only



**ATTACHMENT 5**

**Tab 5 – Documentation to Assist in Determining if Limitation is a Determining Factor  
Penwell, Texas**



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# **Supporting Information**

Additional information  
provided by the Applicant or  
located by the Comptroller





## Facilities

---

### Where are your facilities located and what markets do you plan to serve?



Our first facility is planned for West Texas to serve major cities across Texas and the Southwest. Our second facility is planned for the Northeast to serve markets across the Eastern Seaboard and Mid-Atlantic. Nacero plans to add more facilities and markets to its platform over time. Stay tuned for updates on our future growth plans!

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## Penwell, TX

Nacero's Penwell facility will lead America's energy transition.

**Houston company eyes \$4.7B gasoline plant in Texas, could create more than 250 jobs**

Joshua Mann

413 words

23 March 2021

Dallas Business Journal

DLBJ

English

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Houston-based **Nacero** Inc. is considering a \$4.71 billion investment in a new Texas facility.

**Nacero** is looking to build facilities that process natural gas into gasoline, and it could position one such project in Ector County in West Texas, according to its tax incentive application for the project. The site is in Penwell, an unincorporated community near Odessa.

If the Penwell project moves forward as described in the incentive application, the project would start construction in November and begin commercial operations in the final quarter of 2024. Construction would require a peak of 3,263 workers, and the project would create at least 258 new jobs when it enters service, each paying at least \$81,000 a year.

The proposed facility would convert natural gas to methanol and then the methanol into gasoline. When it's complete, it would have a capacity of 90,000 barrels per day from six production units, also called trains. The first phase of the project would consist of four trains, with the remaining two to follow if the first four find commercial success.

The tax incentive the company is seeking would come via Chapter 313 of the Texas Tax Code. Chapter 313 allows school districts to reach agreements with the companies behind certain industrial projects — including manufacturing facilities — limiting value of those projects on which the school district can levy property taxes. All Chapter 313 agreements must be approved by the Texas comptroller, who must decide that the incentives are a determining factor for the project.

[Because of the way the Texas school funding formula works](#), school districts generally don't face individual financial risk for accepting Chapter 313 deals, whether or not the project would have been built otherwise. That risk is spread out among the broader state education funding instead.

In this case, Ector Independent School District would agree to limit the taxable value of the facility to \$100 million over the 10-year life of the deal, according to the application.

A year ago, **Nacero** said it was planning a [\\$3 billion investment in a similar project](#) in Casa Grande, Arizona. However, [the Associated Press reported in November](#) that the company reworked the order it plans to build its projects, putting the Casa Grande project on the back burner.

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# Nacero plans \$7 billion gasoline plant in Texas

APRIL 23, 2021 8:18 AM

The Odessa Development Corporation and Nacero Inc., a Houston-based company, announced plans to build a \$6.5 - \$7 billion lower carbon gasoline manufacturing facility at a site in Penwell, Texas, in two phases.

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Phase one will produce 70,000 barrels per day of gasoline component (ready for blending). Phase two will increase that capacity to 100,000 barrels per day.



The gasoline produced at the facility will contain no sulfur and have half the lifecycle carbon footprint of traditional gasoline. The gasoline will be made from a combination of natural gas, captured bio-methane and mitigated flare gas.

The Odessa Development Corporation and the Economic Development Department of the Odessa Chamber of Commerce led the negotiations that resulted in Penwell being chosen for this important facility.

Nacero gasoline will be useable in today's cars and trucks without modification, will be sold locally in addition to being distributed widely, and will be cost competitive with traditional gasoline. Construction of the Penwell facility will employ a peak of 3,500 skilled workers during the four years of phase one construction. When fully operational, the plant will employ 350 full time operators and maintenance personnel in three shifts with a forecast annual salary of approximately \$85,000 per person.

All of the plant's electricity will come from renewable sources, much of which will be produced on-site from solar panels co-located with the manufacturing facilities on Nacero's 2,600 acre site. The plant will be the first in the US to make gasoline from natural gas and the first in the world to do so with carbon capture and sequestration. Sequestered CO<sub>2</sub> will be transported via an existing on-site pipeline.

Nacero plans to actively engage with the local community and local educational and training institutions. The facility will include a visitors' center with interactive educational displays.

"Ector County is the ideal location for us," said Nacero President and Chief Executive Officer Jay McKenna. "From a geographic and logistics standpoint you can't beat it. We will be a major new market and beneficial home for the natural gas that is currently flared in the Permian Basin. Our zero-sulfur gasoline will reduce 1.2k Shares

ground level ozone in cities across Texas and the Southwest, which is causing illness and limiting economic growth.”

Nacero’s Chief Operating Officer Hal Bouknight credited the overwhelming enthusiasm and support of the Odessa Development Corporation, Odessa’s business leaders and taxing entities, and its local residents as a key factor in Nacero’s decision to locate in Penwell. “I’d always heard that Odessa’s citizens have a “can-do spirit,” but I was really impressed by just how hard people were willing to work to help bring us to the area,” states Bouknight.

Odessa Development Corporation Chairman Tim Edgmon said, “This project proves once again that West Texas in general, and Odessa in particular, leads the nation in energy innovation and production.”

Odessa Chamber of Commerce Economic Development Director Wesley Burnett described Nacero as a perfect fit for Ector County. “The regional economic impact of this single facility will be in the tens of billions of dollars. I thank my staff and all those who worked with them for their hard work in bringing this incredible opportunity here,” states Burnett.

State Representative Brooks Landgraf said he is thrilled to welcome Nacero to West Texas. “This world-class, innovative company will use 100% American resources to make 100% American affordable gasoline for everyday American drivers. Nacero will diversify our economy and remind the world of Ector County’s leadership in the oil and gas industry.”

Nacero is on a mission to prove that cleaner energy doesn’t have to cost more. Nacero is planning additional facilities in Pennsylvania and Arizona.

Construction is slated to begin in Penwell before the end of this year.

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# Multi-billion dollar gasoline manufacturing facility coming to Ector County



A rendering of the facility in Penwell, Texas. (Nacero Inc.)

Published: Apr. 22, 2021 at 8:35 AM UTC



PENWELL, Texas (KOSA) - A multi-billion dollar gasoline manufacturing company is coming to Ector County.

Nacero Inc., a company based out of Houston, announced Wednesday that it plans to build a \$6.5-7 billion lower-carbon gasoline manufacturing facility at Penwell in two phases.

The first phase will see the facility produce 70,000 barrels per day of gasoline. The second phase will increase the capacity to 100,000 barrels per day.

According to a release, the gasoline produced at this facility will not contain sulfur and will have half the lifecycle carbon footprint of traditional gasoline. The gasoline will be made from a combination of natural gas, captured bio-methane and mitigated flare gas.



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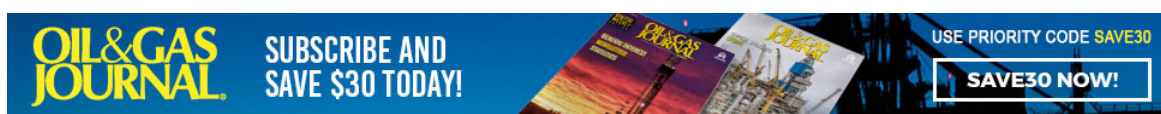
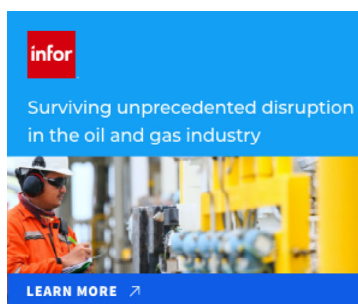
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## Nacero lets contract for proposed Texas GTG plant

Nacero Inc., Houston, has let a contract to Haldor Topsoe AS to license process technology for a newly proposed natural gas-to-gasoline (GTG) plant to be built in Penwell, Ector County, Tex.

**Author** — Robert Brelsford

Apr 23rd, 2021



Rendering of a newly proposed natural gas-to-gasoline (GTG) plant to be built in Penwell, Ector County, Tex.

*Photo from Haldor Topsoe AS.*

Nacero Inc., Houston, has let a contract to Haldor Topsoe AS to license process technology for a newly proposed natural gas-to-gasoline (GTG) plant to be built in Penwell, Ector County, Tex.

As part of the contract, Haldor Topsoe will deliver licensing of its Topsoe Improved Gasoline Synthesis (Tigas) GTG technology, basic engineering,

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design, catalysts, and proprietary hardware for a Tigas upgrading unit at the Penwell plant that, once in operation, will use a feedstock of low-cost natural gasoline, biomethane captured from farms and landfills, and mitigated flared gas from the Permian basin to produce 100,000 b/d of finished gasoline component ready for blending to US commercial grades, the service provider said on Apr. 22.

The Tigas unit at Penwell—which will incorporate six Topsoe proprietary SynCOR Methanol autothermal reforming units—also will enable the planned GTG plant to produce more than 30,000 tonnes/day of methanol for further processing into zero-sulfur, cost-competitive gasoline, leaving the operator only a byproduct of purified water that, in turn, will be recovered and used to supply 80% of the plant's makeup water, according to Topsoe.

Nacero—which selected Tigas primarily for its proven results in an identical unit of scale operating since 2019 at state-owned Turkmengaz's GTG complex at Ovadan-Depe near Ashgabad, Turkmenistan—said the technology will enable the GTG plant to cut both the production cost and lifecycle carbon footprint of everyday transportation fuel by 50% compared to traditional, petroleum-derived fuel, as well as eliminate 1 billion tonnes of carbon dioxide (CO<sub>2</sub>) emissions into the atmosphere during its first 30 years of operation (OGJ Online, Jan. 14, 2020).

The contract award follows a separate Apr. 22 release from Nacero and Odessa Development Corp. announcing the proposed \$6.5–7.5-billion Penwell GTG plant that, once in operation, will be the first in the US to produce gasoline from natural gas, as well as the first in the world to incorporate carbon capture and sequestration.

The plant's sequestered CO<sub>2</sub> will be transported via an existing on-site pipeline for use in enhanced oil recovery, Nacero said.

Alongside gasoline, the Penwell GTC plant also will produce blue hydrogen (see accompanying box) and will receive all of its electricity from renewable sources, much of which will be produced on-site from solar panels colocated with the processing and production installations on the 2,600-acre site, according to the operator.

Nacero—which will build the plant in two phases—said construction on the Penwell GTC project is slated to begin by yearend.

The operator, however, did not disclose a definitive timeframe for startup of either Phase 1's 70,000-b/d capacity or Phase 2's 30,000-b/d capacity.

Topsoe and Nacero have already entered an agreement under which Topsoe will supply its technology and catalysts for Nacero's other US GTC

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plants, which currently include proposed projects in Arizona and the Marcellus Basin of Pennsylvania (OGJ Online, Mar. 26, 2020).



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## US EIA Categories of Hydrogen

Hydrogen producers, marketers, government agencies, and other organizations often categorize or define hydrogen according to the energy sources for its production. These categories often are referred to by color.

The US Energy Information Administration (EIA) offers the following guide to hydrogen color categories:

- Hydrogen produced using renewable energy might be referred to as renewable hydrogen or green hydrogen.
- Hydrogen produced from coal may be called brown hydrogen, and hydrogen produced from natural gas or petroleum might be referred to as grey hydrogen.
- Brown or grey hydrogen production combined with carbon capture, use, storage-sequestration (CCS) might be referred to as blue hydrogen.

Source: EIA, "Hydrogen explained," Jan. 7, 2021

(<https://www.eia.gov/energyexplained/hydrogen/production-of-hydrogen.php>)



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## Chapter 313 Financial Impact Study

*A financial analysis of the potential Chapter 313 Agreement  
between Nacero TX 1 LLC and the Ector County Independent  
School District*



Prepared May 13, 2021

## Overview

On February 23, 2021, Nacero TX 1 LLC (Applicant) submitted an application for appraised value limitation on qualified property to the Ector County Independent School District (ECISD). The Applicant is seeking to develop a manufacturing project and is requesting ECISD agree to limit the maintenance and operations (M&O) taxable value of the project to \$100,000,000 for a ten-year period. As put forth in the application, the first year of the limitation period would be the 2024 tax year.

Culwell Consulting was engaged by ECISD to analyze the impact of the potential value limitation agreement upon the overall M&O revenue of ECISD. A value limitation agreement entered into by the parties provides ECISD protection against any loss in M&O revenue due to the granting of the \$100 million value limitation. This report provides the programmatic details, pertinent aspects of the Texas school finance system, and in-depth analysis needed to understand the financial impact of such an agreement upon the ECISD M&O general fund.

This analysis concludes a value limitation agreement would result in ECISD foregoing \$38,602,508 in M&O revenue over the duration of the value limitation period, with \$26,439,976 of that loss occurring in the 2024-2025 school year. After payout of these losses, the Applicant's tax savings are estimated to be \$258,954,262. This estimate of the Applicant's tax savings does not account for any supplemental payments made to ECISD. Any potential Ch. 313 agreement will not affect the Applicant's taxable value for Interest and Sinking (I&S) tax rate purposes.

## Background

In 2001, the 77th Texas Legislature passed HB 1200 enacting the Texas Economic Development Act with the intent to attract qualified economic development to Texas by limiting the M&O taxes paid by the company. Established under Ch. 313 of the Texas Tax Code, the program has become more commonly referred to as Ch. 313.

The Ch. 313 program enables school districts to limit the M&O taxable value of qualified economic development projects for a ten-year period. The State of Texas Comptroller sets the value limitation amount for each school district. At the time the application was deemed complete by the Texas Comptroller, ECISD may grant a value limitation of \$100 million.

Several types of projects are eligible to receive value limitations under Chapter 313 of the Tax Code. In Tab 4 of the Application, the Applicant provides a detailed description of the proposed project to, "design, engineer, construct, commission and operate a new natural gas processing and gasoline production facility that will convert natural gas to methanol, and methanol to gasoline." This type of project qualifies under Texas Tax Code 313.024(b)(1).



## Nacero TX 1 LLC Application

The application from Nacero TX 1 LLC was presented to and accepted by the ECISD School Board on February 23, 2021. In their application, the Applicant requested a \$100 million value limitation be applied to their manufacturing project beginning in the 2024 tax year. Within the Application, Schedule B behind Tab 14 outlines the estimated taxable value schedule of the project for a 25-year period.

Texas Tax Code 313.027(f)(3) requires an agreement holder to maintain a viable presence within the school district for five years after the value limitation expires; therefore, this analysis concludes after the last year of this viable presence period, the 2038-2039 school year. Below is a modified version of Schedule B displaying the estimate taxable values of the project beginning with each year prior to limitation period and concluding five years after the value limitation expires.

### Nacero TX 1 LLC Taxable Values, Schedule B of Application

	Year	School Year (YYYY-YYYY)	Tax Year YYYY	Final taxable value for I&S after all reductions	Final taxable value for M&O after all reductions
Qualifying Time Period	0	2021-2022	2021	\$13,000,000	\$13,000,000
	1	2022-2023	2022	\$231,828,234	\$231,828,234
	2	2023-2024	2023	\$1,230,385,791	\$1,230,385,791
Value Limitation Period	1	2024-2025	2024	\$2,350,150,098	\$100,000,000
	2	2025-2026	2025	\$3,152,070,569	\$100,000,000
	3	2026-2027	2026	\$3,401,758,252	\$100,000,000
	4	2027-2028	2027	\$3,357,113,355	\$100,000,000
	5	2028-2029	2028	\$3,192,133,924	\$100,000,000
	6	2029-2030	2029	\$3,035,358,940	\$100,000,000
	7	2030-2031	2030	\$2,886,379,071	\$100,000,000
	8	2031-2032	2031	\$2,744,805,434	\$100,000,000
	9	2032-2033	2032	\$2,610,268,572	\$100,000,000
	10	2033-2034	2033	\$2,482,417,485	\$100,000,000
Continue to maintain viable presence	11	2034-2035	2034	\$2,360,918,706	\$2,360,918,706
	12	2035-2036	2035	\$2,245,455,424	\$2,245,455,424
	13	2036-2037	2036	\$2,135,726,653	\$2,135,726,653
	14	2037-2038	2037	\$2,031,446,440	\$2,031,446,440
	15	2038-2039	2038	\$1,932,343,116	\$1,932,343,116

As a result of such limitation being granted, the project will receive two taxable values beginning in the 2024 tax year: one, a valuation of \$100 million for M&O tax purposes, and second, a full taxable valuation from the local appraisal district for ECISD's I&S tax purposes. This duality will continue for the ten-year limitation period after which, starting with the 2034-2035 school year, the project will receive a single taxable value for M&O and I&S tax purposes. Any taxable value of the project outside the ten-year limitation period is fully taxable for M&O tax purposes.

## Calculation of Revenue Loss

The Ch. 313 Agreement (Agreement) prepared by the Underwood Law Firm P.C. ensures that ECISD is protected against any loss in revenue incurred by the district's M&O general fund. During each year of the limitation period, the Agreement calls for the annual calculation of loss in M&O revenue. If and when a revenue loss occurs, the Agreement requires the Applicant hold the school district harmless and pay the school district this calculated amount.

To identify a loss in revenue, two school finance models are established and the outputs compared. One model serves as the control utilizing the full M&O taxable value of the project; the second model substitutes the limited value of \$100 million for the full taxable value. Any revenue loss is accounted for by deducting the resulting M&O revenue of the control model from that of the limited value model.

## Note on School Finance

To fund the maintenance and operation of Texas public schools, the state's school finance system relies on local tax collections and state aid. The method of determining state aid is a complex system that further breaks funding into two major components referred to as Tier I and Tier II. Tier I funding is based on the M&O taxes at the compressed rate, program allotments, and ADA and special student populations. Tier II is the enrichment tier based on the tax effort above the school district's compressed rate. State aid works to fill the gap between local revenue and the total funding the school district is entitled to through the state finance system.

In the Spring of 2019, the 86<sup>th</sup> Texas Legislature passed House Bill 3 which made significant changes to the school finance system in Texas. In passing HB 3, the Legislature sought to equalize funding across school districts, increase teacher compensation, improve learning outcomes, and reduce property taxes.

Of particular note to this analysis, HB 3 now requires the use of current-year local taxable values as opposed to prior-year taxable values when determining state aid. The 2019-20 school year, the first in which this method of calculating state aid was used, differs from the prior school finance system under which state aid was based on the prior year's Comptroller certified property values. However, in specifically addressing the Ch. 313 program, HB 3 states that calculations determining the school districts' revenue loss must continue to use the prior year local taxable values when determining the state aid allotted to the school district.

Due in part to this reliance on prior year values when determining state aid, the first year of the limitation period often results in a loss in revenue for the school district. Under the terms of the agreement, the Applicant is required to hold the district harmless from any such losses. Estimates of revenue losses are based on the current school finance system and the taxable values provided by the Applicant. **Any future changes in the school finances system or increases in the project's taxable**

value within the limitation period may result in increased revenue losses for the school district.

## Data

The project's taxable values are pulled from Schedule B, behind Tab 14 of the Application. School district level data was obtained from the Texas Education Agency 2020-2021 Summary of Finances, April 9, 2021 Update, and includes the ECISD 2020-2021 adopted M&O tax rate of \$1.0547. In developing the comparison scenarios, all variables and funding factors were held constant as of the 2020-2021 school year with the exception of the project's taxable value and the district's resulting tax collections.

**Future calculations will utilize the concurrent statewide school funding system, school district data and tax rates, as well as the appraised value of the Applicant's project as determined by the Ector County Appraisal District.**

## Results

Table 1 displays ECISD total M&O revenue after including the full taxable value of the project. Table 2 shows the total M&O revenue after substituting the \$100 million limitation value. The highlighted rows outline the ten-year value limitation period.

**Table 1 – M&O Revenue at Full Project Taxable Value**

	School Year	M&O Revenue from Local Taxes	M&O Revenue from State	Total Recapture	Total M&O General Fund
Qualifying Time Period	2021-2022	\$162,742,884	\$136,097,615	\$0	\$298,840,500
	2022-2023	\$165,187,977	\$127,426,165	\$0	\$292,614,142
	2023-2024	\$175,719,763	\$126,019,242	\$0	\$301,739,006
Value Limitation Period	2024-2025	\$187,529,918	\$115,474,196	\$0	\$303,004,114
	2025-2026	\$195,987,773	\$103,143,856	\$0	\$299,131,629
	2026-2027	\$198,621,229	\$94,093,029	\$0	\$292,714,257
	2027-2028	\$198,150,359	\$91,178,247	\$0	\$289,328,606
	2028-2029	\$196,410,321	\$91,541,715	\$0	\$287,952,036
	2029-2030	\$194,756,815	\$93,279,772	\$0	\$288,036,587
	2030-2031	\$193,185,524	\$94,952,411	\$0	\$288,137,936
	2031-2032	\$191,692,347	\$96,522,064	\$0	\$288,214,411
	2032-2033	\$190,273,387	\$98,015,247	\$0	\$288,288,634
	2033-2034	\$188,924,942	\$99,432,862	\$0	\$288,357,804
	2034-2035	\$187,643,494	\$100,801,596	\$0	\$288,445,090
Maintain Viable Presence	2035-2036	\$186,425,703	\$102,081,949	\$0	\$288,507,652
	2036-2037	\$185,268,393	\$103,298,701	\$0	\$288,567,094
	2037-2038	\$184,168,550	\$104,457,197	\$0	\$288,625,747
	2038-2039	\$183,123,307	\$105,556,206	\$0	\$288,679,514

**Table 2 – M&O Revenue at Limited Project Taxable Value**

	School Year	M&O Revenue from Local Taxes	M&O Revenue from State	Total Recapture	Total M&O General Fund
Qualifying Time Period Qualifying Time Period	2021-2022	\$162,742,884	\$136,097,615	\$0	\$298,840,500
	2022-2023	\$165,187,977	\$127,426,165	\$0	\$292,614,142
	2023-2024	\$175,719,763	\$126,019,242	\$0	\$301,739,006
Value Limitation Period	2024-2025	\$163,797,584	\$112,766,553	\$0	\$276,564,137
	2025-2026	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2026-2027	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2027-2028	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2028-2029	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2029-2030	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2030-2031	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2031-2032	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2032-2033	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2033-2034	\$163,797,584	\$126,044,092	\$0	\$289,841,677
	2034-2035	\$187,643,494	\$129,179,966	\$0	\$316,823,460
Maintain Viable Presence	2035-2036	\$186,425,703	\$102,081,949	\$0	\$288,507,652
	2036-2037	\$185,268,393	\$103,298,701	\$0	\$288,567,094
	2037-2038	\$184,168,550	\$104,457,197	\$0	\$288,625,747
	2038-2039	\$183,123,307	\$105,556,206	\$0	\$288,679,514

Table 3 displays the outcome of comparing the M&O general fund totals within these two models. The column entitled, “School District Revenue Loss,” displays instances in which the projected M&O revenue in Table 2 is less than that in Table 1. As shown below, it is estimated that ECISD will forego \$26,439,976 in M&O revenue during the 2024-2025 school year. Additional losses of \$9,289,952 and \$2,872,581 are observed in the second and third years of the value limitation period, respectively. The observed revenue losses in year two and three of the limitation period are explained by the increase in the project’s taxable value when compared to the prior year.

Currently, no revenue loss is observed beyond the third year of the limitation period once the project value begins to depreciate from the peak taxable value of \$3.4 billion observed in the 2026-2027 school year. Again, any change in the project’s taxable value schedule, school district data or tax rates, or legislative changes to the school finance system may result in additional revenue losses.

The final column, “Company Tax Savings,” displays the tax savings in each year of the limitation with the Applicant’s total savings over the ten-year period totaling \$258,954,262.

**Table 3 - Projected School District Revenue Loss & Company Tax Savings**

School Year	Project Full Taxable Value (I&S Value)	Project Limited Tax Value (M&O Value)	M&O Tax Rate	M&O Taxes Paid Before Limitation	M&O Taxes Paid After Limitation	Tax Savings Before District Calculations	School District Revenue Loss	Company Tax Savings Before Supplemental Payment
2021-2022	\$13,000,000	\$13,000,000	\$1.0547	\$137,111	\$137,111	\$0	\$0	\$0
2022-2023	\$231,828,234	\$231,828,234	\$1.0547	\$2,445,092	\$2,445,092	\$0	\$0	\$0
2023-2024	\$1,230,385,791	\$1,230,385,791	\$1.0547	\$12,976,879	\$12,976,879	\$0	\$0	\$0
2024-2025	\$2,350,150,098	\$100,000,000	\$1.0547	\$24,787,033	\$1,054,700	\$23,732,333	-\$26,439,976	-\$2,707,643
2025-2026	\$3,152,070,569	\$100,000,000	\$1.0547	\$33,244,888	\$1,054,700	\$32,190,188	-\$9,289,952	\$22,900,236
2026-2027	\$3,401,758,252	\$100,000,000	\$1.0547	\$35,878,344	\$1,054,700	\$34,823,644	-\$2,872,581	\$31,951,064
2027-2028	\$3,357,113,355	\$100,000,000	\$1.0547	\$35,407,475	\$1,054,700	\$34,352,775	\$0	\$34,352,775
2028-2029	\$3,192,133,924	\$100,000,000	\$1.0547	\$33,667,436	\$1,054,700	\$32,612,736	\$0	\$32,612,736
2029-2030	\$3,035,358,940	\$100,000,000	\$1.0547	\$32,013,931	\$1,054,700	\$30,959,231	\$0	\$30,959,231
2030-2031	\$2,886,379,071	\$100,000,000	\$1.0547	\$30,442,640	\$1,054,700	\$29,387,940	\$0	\$29,387,940
2031-2032	\$2,744,805,434	\$100,000,000	\$1.0547	\$28,949,463	\$1,054,700	\$27,894,763	\$0	\$27,894,763
2032-2033	\$2,610,268,572	\$100,000,000	\$1.0547	\$27,530,503	\$1,054,700	\$26,475,803	\$0	\$26,475,803
2033-2034	\$2,482,417,485	\$100,000,000	\$1.0547	\$26,182,057	\$1,054,700	\$25,127,357	\$0	\$25,127,357
2034-2035	\$2,360,918,706	\$2,360,918,706	\$1.0547	\$24,900,610	\$24,900,610	\$0	\$0	\$0
2035-2036	\$2,245,455,424	\$2,245,455,424	\$1.0547	\$23,682,818	\$23,682,818	\$0	\$0	\$0
2036-2037	\$2,135,726,653	\$2,135,726,653	\$1.0547	\$22,525,509	\$22,525,509	\$0	\$0	\$0
2037-2038	\$2,031,446,440	\$2,031,446,440	\$1.0547	\$21,425,666	\$21,425,666	\$0	\$0	\$0
2038-2039	\$1,932,343,116	\$1,932,343,116	\$1.0547	\$20,380,423	\$20,380,423	\$0	\$0	\$0
<b>Totals</b>				<b>\$436,577,878</b>	<b>\$139,021,108</b>	<b>\$297,556,770</b>	<b>-\$38,602,508</b>	<b>\$258,954,262</b>

## Supplemental Payment

The two parties are able to negotiate a supplemental payment, which allows for a partial sharing of the Applicant's tax savings with the school district. Under Texas Tax Code 313.027(i), these payments may not exceed \$100 per average daily attendance (ADA) and may only occur from the first year of the qualifying time period through the third year after the value limitation expires. In the case of school districts with an ADA below 500, the tax code allows for a minimum annual payment of \$50,000. The exact terms of the supplemental payment are set in the final Ch. 313 Agreement.

## Facilities Impact

The project remains fully taxable for I&S tax purposes over the course of the taxable life of the project and should have significant positive impact on ECISD's debt service. The Applicant intends to invest a total of \$4.57 billion resulting in a peak taxable value of \$3.4 billion in the 2026-2027 school year. If applied to ECISD's 2020 tax base, this taxable value would increase the district's I&S tax base by roughly 21.66%.

After this estimated taxable value is observed in the 2026-2027 school year, the project's taxable value is assumed to depreciate with an average annual reduction in value of \$131.33 million through remainder of the value limitation period. Although this represents a significant annual reduction, the project's taxable value is estimated to be \$2.36 billion in the 2034-2035 school year, the first year the project is fully taxable for M&O tax purposes. This addition of long-term value combined with the overall increase to the tax base should provide ECISD the ability to service existing debt through a reduced I&S tax rate and offer a more diverse tax base for future debt issuances.

## **Conclusion**

The total estimated ECISD revenue losses of \$38,602,508 and Applicant tax savings of \$258,954,262 are based on the assumptions used in this report. The terms of these calculations are set in the Ch. 313 Agreement and will require the use of the concurrent year's school finance system, assessed taxable value of the project, school district level taxable values and tax rates, and school district student population data. Changes to any of these factors may result in revenue losses and company tax savings in different amounts than estimated in this report.

The Ch. 313 Agreement prepared by the Underwood Law Firm P.C. ensures that ECISD is protected against any loss in revenue and defines the supplemental payment allowing the district to share in the applicant's long-term tax savings. With the Ch. 313 Agreement in place, the proposed project is financially beneficial for both the Ector County Independent School District and the applicant Nacero TX 1 LLC.



## Estimated Effects of the Ch. 313 Application from Nacero TX 1 LLC Project upon the Finances of the Ector County Independent School District

	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)
	Company Tax												
			Project Full	Project Limited	M&O	M&O Taxes	M&O Taxes	Tax Savings	School	Company Tax		Total	
	School Year	Tax Year	Taxable Value	Tax Value (M&O	Tax	Paid Before	Paid After	Before District	District	Savings Before	Supplemental	Supplemental	Company Tax
			(I&S Value)*	Value)	Rate#	Limitation	Limitation	Calculations	Revenue Loss	Payment	Payment\$		Savings
Qualifying Year 1	2021-2022	2021	\$13,000,000	\$13,000,000	\$1.0547	\$137,111	\$137,111	\$0	\$0	\$0	\$0	\$0	\$0
	2022-2023	2022	\$231,828,234	\$231,828,234	\$1.0547	\$2,445,092	\$2,445,092	\$0	\$0	\$0	\$0	\$3,060,000	-\$3,060,000
	2023-2024	2023	\$1,230,385,791	\$1,230,385,791	\$1.0547	\$12,976,879	\$12,976,879	\$0	\$0	\$0	\$0	\$3,121,200	-\$3,121,200
Value Limitation Period	2024-2025	2024	\$2,350,150,098	\$100,000,000	\$1.0547	\$24,787,033	\$1,054,700	\$23,732,333	-\$26,439,976	-\$2,707,643	\$3,183,600	\$3,183,600	-\$5,891,243
	2025-2026	2025	\$3,152,070,569	\$100,000,000	\$1.0547	\$33,244,888	\$1,054,700	\$32,190,188	-\$9,289,952	\$22,900,236	\$3,247,300	\$3,247,300	\$19,652,936
	2026-2027	2026	\$3,401,758,252	\$100,000,000	\$1.0547	\$35,878,344	\$1,054,700	\$34,823,644	-\$2,872,581	\$31,951,064	\$3,312,200	\$3,312,200	\$28,638,864
	2027-2028	2027	\$3,357,113,355	\$100,000,000	\$1.0547	\$35,407,475	\$1,054,700	\$34,352,775	\$0	\$34,352,775	\$3,378,500	\$3,378,500	\$30,974,275
	2028-2029	2028	\$3,192,133,924	\$100,000,000	\$1.0547	\$33,667,436	\$1,054,700	\$32,612,736	\$0	\$32,612,736	\$3,446,100	\$3,446,100	\$29,166,636
	2029-2030	2029	\$3,035,358,940	\$100,000,000	\$1.0547	\$32,013,931	\$1,054,700	\$30,959,231	\$0	\$30,959,231	\$3,515,000	\$3,515,000	\$27,444,231
	2030-2031	2030	\$2,886,379,071	\$100,000,000	\$1.0547	\$30,442,640	\$1,054,700	\$29,387,940	\$0	\$29,387,940	\$3,585,300	\$3,585,300	\$25,802,640
	2031-2032	2031	\$2,744,805,434	\$100,000,000	\$1.0547	\$28,949,463	\$1,054,700	\$27,894,763	\$0	\$27,894,763	\$3,657,000	\$3,657,000	\$24,237,763
	2032-2033	2032	\$2,610,268,572	\$100,000,000	\$1.0547	\$27,530,503	\$1,054,700	\$26,475,803	\$0	\$26,475,803	\$3,730,100	\$3,730,100	\$22,745,703
	2033-2034	2033	\$2,482,417,485	\$100,000,000	\$1.0547	\$26,182,057	\$1,054,700	\$25,127,357	\$0	\$25,127,357	\$3,804,700	\$3,804,700	\$21,322,657
Maintain Viable Presence	2034-2035	2034	\$2,360,918,706	\$2,360,918,706	\$1.0547	\$24,900,610	\$24,900,610	\$0	\$0	\$0	\$3,880,800	\$3,880,800	-\$3,880,800
	2035-2036	2035	\$2,245,455,424	\$2,245,455,424	\$1.0547	\$23,682,818	\$23,682,818	\$0	\$0	\$0	\$3,958,400	\$3,958,400	-\$3,958,400
	2036-2037	2036	\$2,135,726,653	\$2,135,726,653	\$1.0547	\$22,525,509	\$22,525,509	\$0	\$0	\$0	\$4,037,600	\$4,037,600	-\$4,037,600
	2037-2038	2037	\$2,031,446,440	\$2,031,446,440	\$1.0547	\$21,425,666	\$21,425,666	\$0	\$0	\$0	\$0	\$0	\$0
	2038-2039	2038	\$1,932,343,116	\$1,932,343,116	\$1.0547	\$20,380,423	\$20,380,423	\$0	\$0	\$0	\$0	\$0	\$0
Totals						\$436,577,878	\$139,021,108	\$297,556,770	-\$38,602,508	\$258,954,262	\$52,917,800	\$206,036,462	

**NOTE:** The terms of these calculations are set in the Ch. 313 Agreement; however, each year's calculation during the limitation period requires the use of the concurrent year's school finance system, assessed taxable value of the project, school district level taxable values and tax rates, school district student population data and other relevant data. These calculations are based upon the current school finance system as of the date of preparation below. Changes to any of these factors may result in revenue losses and company tax savings in different amounts than estimated in this document.

\*The project taxable values utilized here are based on those provided in the application submitted by the Applicant. Calculations made for active agreements during the value limitation period will be based upon the assessed value as determined by the county central appraisal district.

#The M&O tax rate used is based on the district's adopted 2020-2021 M&O tax rate. All future calculations will use the corresponding year's adopted M&O tax rate.

\$Under the terms of the Ch. 313 Agreement, the supplemental payments are set to begin in the 2022-2023 and continue annually until concluding in the 2036-2037 school year. Each year's payment will be based off the prior school year's average daily attendance (ADA) multiplied by \$100. This column displays projections of those payments based on an assumed annual growth in ADA of 2%.

### Summary of Estimated Financial Impact

<b>Total Estimated School District Revenue Loss</b>	<b>Total Supplemental Payments</b>	<b>Total Company Tax Savings</b>
<b>\$38,602,508</b>	<b>\$52,917,800</b>	<b>\$206,036,462</b>



Commissioner Mike Morath

1701 North Congress Avenue • Austin, Texas 78701-1494 • 512 463-9734 • 512 463-9838 FAX • [tea.texas.gov](http://tea.texas.gov)

**IMPORTANT:** Please keep this letter with your district's records. It must be accessible to the law firm working on the value limitation agreement.

March 31, 2021

Delma Abalos, President  
Board of Trustees  
Ector County Independent School District  
P O BOX 3912  
Odessa, Texas 79760-3912

Dear President Abalos:

As required by the Tax Code, §313.025 (b-1), the Texas Education Agency (TEA) has evaluated the impact of the Nacero TX 1, LLC project #1568 on the number and size of school facilities in Ector County Independent School District (ECISD). Based on the email communication with the ECISD superintendent, Scott R Muri, the TEA has determined that the Nacero TX 1, LLC project should not have a significant impact on the number or size of school facilities in ECISD.

Please feel free to contact me by phone at (512) 463-8732 or by email at [amy.copeland@tea.texas.gov](mailto:amy.copeland@tea.texas.gov) if you have any questions.

Sincerely,

Amy Copeland  
Director of State Funding

Cc: Scott R Muri, Superintendent



# Taxes

Property Tax Assistance

## 2020 ISD Summary Worksheet

### 068-Ector

### 068-901/Ector County ISD

Category	Local Tax Roll Value	2020 WTD Mean Ratio	2020 PTAD Value Estimate	2020 Value Assigned
A - SINGLE-FAMILY	7,099,373,352	0.9590	7,402,891,921	7,099,373,352
B - MULTIFAMILY	712,079,510	0.9121	780,703,333	712,079,510
C1 - VACANT LOTS	199,037,068	N/A	199,037,068	199,037,068
C2 - COLONIAL LOTS	0	N/A	0	0
D1 ACRES - QUALIFIED OPEN-SPACE LAND	3,187,791	0.5562	5,731,251	3,187,791
D2 - FARM & RANCH IMP	8,460,319	N/A	8,460,319	8,460,319
E - NON-AG LAND AND IMPROVEMENTS	81,355,719	N/A	81,355,719	81,355,719
F1 - COMMERCIAL REAL	2,526,550,223	0.8937	2,827,067,498	2,526,550,223
F2 - INDUSTRIAL REAL	658,569,269	N/A	658,569,269	658,569,269
G - ALL MINERALS	1,442,600,517	1.0089	1,429,874,633	1,442,600,517
J - ALL UTILITIES	518,864,830	0.7968	651,185,781	518,864,830

<b>L1 - COMMERCIAL PERSONAL</b>	3,262,161,645	1.0140	3,217,121,938	3,262,161,645
<b>L2 - INDUSTRIAL PERSONAL</b>	138,326,247	N/A	138,326,247	138,326,247
<b>M1 - MOBILE HOMES</b>	480,906,911	N/A	480,906,911	480,906,911
<b>N - INTANGIBLE PERSONAL PROPERTY</b>	0	N/A	0	0
<b>O - RESIDENTIAL INVENTORY</b>	5,315,854	N/A	5,315,854	5,315,854
<b>S - SPECIAL INVENTORY</b>	105,009,538	N/A	105,009,538	105,009,538
<b>Subtotal</b>	17,241,798,793	0	17,991,557,280	17,241,798,793
<b>Less Total Deductions</b>	1,811,545,221	0	1,872,432,595	1,811,545,221
<b>Total Taxable Value</b>	15,430,253,572	0	16,119,124,685	15,430,253,572

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302(J) AND(K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation(M & O) tax purposes and for interest and sinking fund(I & S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

### Value Taxable For M & O Purposes

<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>
15,691,223,115	15,430,253,572	15,199,514,638	14,938,545,095

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50% of the loss to the Local Optional Percentage Homestead Exemption</b>
260,969,543	491,708,477

T1 = School district taxable value for M & O purposes before the loss to the additional \$10,000 homestead exemption

T2 = School district taxable value for M & O purposes after the loss to the additional \$10,000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50% of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50% of the loss to the local optional percentage homestead exemption

### **Value Taxable For I & S Purposes**

<b>T7</b>	<b>T8</b>	<b>T9</b>	<b>T10</b>
15,753,224,271	15,492,254,728	15,261,515,794	15,000,546,251

T7 = School district taxable value for I & S purposes before the loss to the additional \$10, 000 homestead exemption

T8 = School district taxable value for I & S purposes after the loss to the additional \$10, 000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50 % of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50 % of the loss to the local optional percentage homestead exemption

THE PVS FOUND YOUR LOCAL VALUE TO BE VALID, AND LOCAL VALUE WAS CERTIFIED

**068-901-02/Ector County ISD**

<b>Category</b>	<b>Local Tax Roll Value</b>	<b>2020 WTD Mean Ratio</b>	<b>2020 PTAD Value Estimate</b>	<b>2020 Value Assigned</b>
<b>A - SINGLE-FAMILY</b>	7,099,373,352	0.9590	7,402,891,921	7,099,373,352
<b>B - MULTIFAMILY</b>	712,079,510	0.9121	780,703,333	712,079,510
<b>C1 - VACANT LOTS</b>	199,037,068	N/A	199,037,068	199,037,068
<b>C2 - COLONIAL LOTS</b>	0	N/A	0	0
<b>D1 ACRES - QUALIFIED OPEN-SPACE LAND</b>	3,187,791	0.5562	5,731,251	3,187,791
<b>D2 - FARM &amp; RANCH IMP</b>	8,460,319	N/A	8,460,319	8,460,319
<b>E - NON-AG LAND AND IMPROVEMENTS</b>	81,355,719	N/A	81,355,719	81,355,719
<b>F1 - COMMERCIAL REAL</b>	2,526,550,223	0.8937	2,827,067,498	2,526,550,223
<b>F2 - INDUSTRIAL REAL</b>	658,569,269	N/A	658,569,269	658,569,269
<b>G - ALL MINERALS</b>	1,442,600,517	1.0089	1,429,874,633	1,442,600,517
<b>J - ALL UTILITIES</b>	518,864,830	0.7968	651,185,781	518,864,830
<b>L1 - COMMERCIAL PERSONAL</b>	3,262,161,645	1.0140	3,217,121,938	3,262,161,645
<b>L2 - INDUSTRIAL PERSONAL</b>	138,326,247	N/A	138,326,247	138,326,247
<b>M1 - MOBILE HOMES</b>	480,906,911	N/A	480,906,911	480,906,911
<b>N - INTANGIBLE PERSONAL PROPERTY</b>	0	N/A	0	0



<b>O - RESIDENTIAL INVENTORY</b>	5,315,854	N/A	5,315,854	5,315,854
<b>S - SPECIAL INVENTORY</b>	105,009,538	N/A	105,009,538	105,009,538
<b>Subtotal</b>	17,241,798,793		17,991,557,280	17,241,798,793
<b>Less Total Deductions</b>	1,811,545,221		1,872,432,595	1,811,545,221
<b>Total Taxable Value</b>	15,430,253,572		16,119,124,685	15,430,253,572

The taxable values shown here will not match the values reported by your appraisal district

See the ISD DEDUCTION Report for a breakdown of deduction values

Government code subsections 403.302(J) AND(K) require the Comptroller to certify alternative measures of school district wealth. These measures are reported for taxable values for maintenance and operation(M & O) tax purposes and for interest and sinking fund(I & S) tax purposes. For districts that have not entered into value limitation agreements, T1 through T4 will be the same as T7 through T10.

### Value Taxable For M & O Purposes

<b>T1</b>	<b>T2</b>	<b>T3</b>	<b>T4</b>
15,691,223,115	15,430,253,572	15,199,514,638	14,938,545,095

<b>Loss To the Additional \$10,000 Homestead Exemption</b>	<b>50 % of the loss to the Local Optional Percentage Homestead Exemption</b>
260,969,543	491,708,477

T1 = School district taxable value for M & O purposes before the loss to the additional \$10, 000 homestead exemption

T2 = School district taxable value for M & O purposes after the loss to the additional \$10, 000 homestead exemption and the tax ceiling reduction

T3 = T1 minus 50 % of the loss to the local optional percentage homestead exemption

T4 = T2 minus 50 % of the loss to the local optional percentage homestead exemption

### Value Taxable For I & S Purposes

<b>T7</b>	<b>T8</b>	<b>T9</b>	<b>T10</b>
15,753,224,271	15,492,254,728	15,261,515,794	15,000,546,251

T7 = School district taxable value for I & S purposes before the loss to the additional \$10, 000 homestead exemption

T8 = School district taxable value for I & S purposes after the loss to the additional \$10, 000 homestead exemption and the tax ceiling reduction

T9 = T7 minus 50 % of the loss to the local optional percentage homestead exemption

T10 = T8 minus 50 % of the loss to the local optional percentage homestead exemption

**AGREEMENT FOR LIMITATION ON APPRAISED VALUE  
OF PROPERTY FOR SCHOOL DISTRICT  
MAINTENANCE AND OPERATIONS TAXES**

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by and between

**ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**

and

**NACERO TX 1 LLC**

*(Texas Taxpayer ID #32075161326)*

Comptroller Application #1568

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Dated

June 15, 2021

**AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR  
SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES**

*STATE OF TEXAS* §

*COUNTY OF ECTOR* §

THIS AGREEMENT FOR LIMITATION ON APPRAISED VALUE OF PROPERTY FOR SCHOOL DISTRICT MAINTENANCE AND OPERATIONS TAXES, hereinafter referred to as this “Agreement,” is executed and delivered by and between the **ECTOR COUNTY INDEPENDENT SCHOOL DISTRICT**, hereinafter referred to as the “District,” a lawfully created independent school district within the State of Texas operating under and subject to the TEXAS EDUCATION CODE, and **NACERO TX 1 LLC**, Texas Taxpayer Identification Number 32075161326 hereinafter referred to as the “Applicant.” The Applicant and the District are hereinafter sometimes referred to individually as a “Party” and collectively as the “Parties.”

**RECITALS**

**WHEREAS**, on February 23, 2021, the Superintendent of Schools of the Ector County Independent School District, acting as agent of the Board of Trustees of the District, received from the Applicant an Application for Appraised Value Limitation on Qualified Property, pursuant to Chapter 313 of the TEXAS TAX CODE;

**WHEREAS**, on February 23, 2021, the Board of Trustees has acknowledged receipt of the Application, and along with the requisite application fee as established pursuant to Section 313.025(a) of the TEXAS TAX CODE and Local District Policy CCGB (LOCAL), and agreed to consider the Application;

**WHEREAS**, the Application was delivered to the Texas Comptroller’s Office for review pursuant to Section 313.025 of the TEXAS TAX CODE;

**WHEREAS**, the District and the Texas Comptroller’s Office have determined that the Application is complete and March 25, 2021 is the Application Review Start Date as that term is defined by 34 TEXAS ADMIN. CODE Section 9.1051;

**WHEREAS**, pursuant to 34 TEXAS ADMIN. CODE Section 9.1054, the Application was delivered to the Ector County Appraisal District established in Ector County, Texas (the “Ector County Appraisal District”), pursuant to Section 6.01 of the TEXAS TAX CODE;

**WHEREAS**, the Texas Comptroller’s Office reviewed the Application pursuant to Section 313.025 of the TEXAS TAX CODE, conducted an economic impact evaluation pursuant to Section 313.026 of the TEXAS TAX CODE, and on May 18, 2021, issued a certificate for limitation on

appraised value of the property described in the Application and provided the certificate to the District;

**WHEREAS**, the Board of Trustees has reviewed and carefully considered the economic impact evaluation and certificate for limitation on appraised value submitted by the Texas Comptroller's Office pursuant to Section 313.025 of the TEXAS TAX CODE;

**WHEREAS**, on June 15, 2021, the Board of Trustees conducted a public hearing on the Application at which it solicited input into its deliberations on the Application from all interested parties within the District;

**WHEREAS**, on June 15, 2021, the Board of Trustees made factual findings pursuant to Section 313.025(f) of the TEXAS TAX CODE, including, but not limited to findings that: (i) the information in the Application is true and correct; (ii) the Applicant is eligible for the limitation on appraised value of the Applicant's Qualified Property; (iii) the project proposed by the Applicant is reasonably likely to generate tax revenue in an amount sufficient to offset the District's maintenance and operations ad valorem tax revenue lost as a result of the Agreement before the 25th anniversary of the beginning of the limitation period; (iv) the limitation on appraised value is a determining factor in the Applicant's decision to invest capital and construct the project in this State; and (v) this Agreement is in the best interest of the District and the State of Texas;

**WHEREAS**, on June 10, 2021, the Texas Comptroller's Office approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes;

**WHEREAS**, on June 15, 2021, the Board of Trustees approved the form of this Agreement for a Limitation on Appraised Value of Property for School District Maintenance and Operations Taxes, and authorized the Board President and Secretary to execute and deliver such Agreement to the Applicant; and

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and agreements herein contained, the Parties agree as follows:

## **ARTICLE I** **DEFINITIONS**

**Section 1.1 DEFINITIONS.** Wherever used in this Agreement, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning. Words or terms defined in 34 TEXAS ADMIN. CODE Section 9.1051 and not defined in this Agreement shall have the meanings provided by 34 TEXAS ADMIN. CODE Section 9.1051.

**“Act”** means the Texas Economic Development Act set forth in Chapter 313 of the TEXAS TAX CODE, as amended.

**“Agreement”** means this Agreement, as the same may be modified, amended, restated, amended and restated, or supplemented as approved pursuant to Sections 10.2 and 10.3.

**“Applicant”** means NACERO TX 1 LLC, (Texas Taxpayer ID # 32075161326), the entity listed in the Preamble of this Agreement and that is listed as the Applicant on the Application as of the Application Approval Date. The term “Applicant” shall also include the Applicant’s assigns and successors-in-interest as approved according to Sections 10.2 and 10.3 of this Agreement.

**“Applicant’s Qualified Investment”** means the Qualified Investment of the Applicant during the Qualifying Time Period and as more fully described in **EXHIBIT 3** of this Agreement.

**“Applicant’s Qualified Property”** means the Qualified Property of the Applicant to which the value limitation identified in the Agreement will apply and as more fully described in **EXHIBIT 4** of this Agreement.

**“Application”** means the Application for Appraised Value Limitation on Qualified Property (Chapter 313, Subchapter B or C of the TEXAS TAX CODE) filed with the District by the Applicant on February 23, 2021. The term includes all forms required by the Comptroller, the schedules attached thereto, and all other documentation submitted by the Applicant for the purpose of obtaining an Agreement with the District. The term also includes all amendments and supplements thereto submitted by the Applicant.

**“Application Approval Date”** means the date that the Application is approved by the Board of Trustees of the District and as further identified in Section 2.3.B of this Agreement.

**“Application Review Start Date”** means the later date of either the date on which the District issues its written notice that the Applicant has submitted a completed Application or the date on which the Comptroller issues its written notice that the Applicant has submitted a completed Application and as further identified in Section 2.3.A of this Agreement.

**“Appraised Value”** shall have the meaning assigned to such term in Section 1.04(8) of the TEXAS TAX CODE.



“Appraisal District” means the Ector County Appraisal District.

“Board of Trustees” means the Board of Trustees of the Ector County Independent School District.

“Commercial Operation” shall mean the date on which the Project described in the Application for Value Limitation Agreement becomes commercially operational and capable of being placed into service, such that it has been constructed and is capable of converting natural gas to methanol and methanol to gasoline.

“Comptroller” means the Texas Comptroller of Public Accounts, or the designated representative of the Texas Comptroller of Public Accounts acting on behalf of the Comptroller.

“Comptroller’s Rules” means the applicable rules and regulations of the Comptroller set forth in Chapter 34 TEXAS ADMIN. CODE Chapter 9, Subchapter F, together with any court or administrative decisions interpreting same.

“County” means Ector County, Texas.

“District” or “School District” means the Ector County Independent School District, being a duly authorized and operating school district in the State, having the power to levy, assess, and collect ad valorem taxes within its boundaries and to which Subchapter B of the Act applies. The term also includes any successor independent school district or other successor governmental authority having the power to levy and collect ad valorem taxes for school purposes on the Applicant’s Qualified Property or the Applicant’s Qualified Investment.

“Final Termination Date” means the last date of the final year in which the Applicant is required to Maintain Viable Presence and as further identified in Section 2.3.E of this Agreement.

“Force Majeure” means acts of God, war, fires, explosions, hurricanes, floods, pandemics, or other causes that are beyond the reasonable control of either party and that by exercise of due foresight such party could not reasonably have been expected to avoid, and which, by the exercise of all reasonable due diligence, such party is unable to overcome. Each Party must inform the other in writing with proof of receipt within 60 business days of the existence of such Force Majeure or otherwise waive this right as a defense.

“Land” means the real property described on **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes.

“Maintain Viable Presence” means (i) the operation during the term of this Agreement of the facility or facilities for which the tax limitation is granted; and (ii) the Applicant’s maintenance of jobs and wages as required by the Act and as set forth in its Application.

“Market Value” shall have the meaning assigned to such term in Section 1.04(7) of the TEXAS TAX CODE.

“New Qualifying Jobs” means the total number of jobs to be created by the Applicant after the Application Approval Date in connection with the project that is the subject of its Application that meet the criteria of Qualifying Job as defined in Section 313.021(3) of the TEXAS TAX CODE and the Comptroller’s Rules.

“New Non-Qualifying Jobs” means the number of Non-Qualifying Jobs, as defined in 34 TEXAS ADMIN. CODE Section 9.1051(14), to be created by the Applicant after the Application Approval Date in connection with the project which is the subject of its Application.

“Qualified Investment” has the meaning set forth in Section 313.021(1) of the TEXAS TAX CODE, as interpreted by the Comptroller’s Rules.

“Qualified Property” has the meaning set forth in Section 313.021(2) of the TEXAS TAX CODE and as interpreted by the Comptroller’s Rules and the Texas Attorney General, as these provisions existed on the Application Review Start Date.

“Qualifying Time Period” means the period defined in Section 2.3.C, during which the Applicant shall make investment on the Land where the Qualified Property is located in the amount required by the Act, the Comptroller’s Rules, and this Agreement.

“State” means the State of Texas.

“Supplemental Payment” means any payments or transfers of things of value made to the 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 and that is not authorized pursuant to Sections 313.027(f)(1) or (2) of the TEXAS TAX CODE, and specifically includes any payments required pursuant to Article VI of this Agreement.

“Tax Limitation Amount” means the maximum amount which may be placed as the Appraised Value on the Applicant’s Qualified Property for maintenance and operations tax assessment in each Tax Year of the Tax Limitation Period of this Agreement pursuant to Section 313.027 of the TEXAS TAX CODE.

“Tax Limitation Period” means the Tax Years for which the Applicant’s Qualified Property is subject to the Tax Limitation Amount and as further identified in Section 2.3.D of this Agreement.

“Tax Year” shall have the meaning assigned to such term in Section 1.04(13) of the TEXAS TAX CODE (*i.e.*, the calendar year).

“Taxable Value” shall have the meaning assigned to such term in Section 1.04(10) of the TEXAS TAX CODE.

**Section 1.2 NEGOTIATED DEFINITIONS.** Wherever used in Articles IV, V, and VI, the following terms shall have the following meanings, unless the context in which used clearly indicates another meaning or otherwise; provided however, if there is a conflict between a term defined in this section and a term defined in the Act, the Comptroller's Rules, or Section 1.1 of Agreement, the conflict shall be resolved by reference to Section 10.9.C.

“Additional Loss” shall have the same meaning as assigned to such term in Section 4.4 of this Agreement.

“Applicable School Finance Law” means Chapters 48 and 49 of the TEXAS EDUCATION CODE, and other applicable provisions of the TEXAS EDUCATION CODE, the Texas Economic Development Act (Chapter 313 of the TEXAS TAX CODE); Chapter 403, Subchapter M, of the TEXAS GOVERNMENT CODE applicable to the District; and, the Constitution and general laws of the State applicable to the school districts of the State, including specifically, the applicable rules, regulations and interpretations of the agencies of the State having jurisdiction over any matters relating to the public school systems and school districts of the State; and judicial decisions construing or interpreting any of the above. The term also includes any amendments or successor statutes that may be adopted in the future which impact or alter the calculation of the Applicant's ad valorem tax obligation or the M&O Amount in Section 4.2 of this Agreement to the District, either with or without the limitation of property values made pursuant to this Agreement.

“M&O Amount” means the revenue protection payment required as part of this Agreement as set out in TEXAS EDUCATION CODE Section 48.256(d) and shall have the meaning assigned to such term in Section 4.2 of the Agreement.

“Maintenance and Operations Revenue” or “M&O Revenue” means (i) those revenues which the District receives from the levy of its annual ad valorem maintenance and operations tax pursuant to Section 45.002 of the TEXAS EDUCATION CODE, or other lawful authority, and Article VII § 3 of the TEXAS CONSTITUTION, plus (ii) all State revenues to which the District is or may be entitled under the applicable provisions of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, less (iii) any amounts necessary to reimburse the State of Texas or another school district for the education of additional students pursuant to Chapter 49 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable.

“Net Tax Savings” shall have the same meaning as assigned to such term in Section 6.3 of this Agreement.

“New M&O Revenue” shall have the same meaning as assigned to such term in Section 4.2.A.ii of this Agreement.

“Original M&O Revenue” shall have the same meaning as assigned to such term in Section 4.2.A.i of this Agreement.

“Third Party Consultant” shall have the same meaning as assigned to such term in Section 4.5 of this Agreement.

## **ARTICLE II**

### **AUTHORITY, PURPOSE AND LIMITATION AMOUNTS**

**Section 2.1. AUTHORITY.** This Agreement is executed by the District as its written agreement with the Applicant pursuant to the provisions and authority granted to the District in Section 313.027 of the TEXAS TAX CODE.

**Section 2.2. PURPOSE.** In consideration of the execution and subsequent performance of the terms and obligations by the Applicant pursuant to this Agreement, identified in Sections 2.5 and 2.6 and as more fully specified in this Agreement, the value of the Applicant’s Qualified Property listed and assessed by the County Appraiser for the District’s maintenance and operation ad valorem property tax shall be the Tax Limitation Amount as set forth in Section 2.4 of this Agreement during the Tax Limitation Period.

**Section 2.3. TERM OF THE AGREEMENT.**

A. The Application Review Start Date for this Agreement is March 25, 2021, which will be used to determine the eligibility of the Applicant’s Qualified Property and all applicable wage standards.

B. The Application Approval Date for this Agreement is June 15, 2021.

C. The Qualifying Time Period for this Agreement:

- i. Starts on January 1, 2022, a date not later than January 1 of the fourth Tax Year following the Application Approval Date for deferrals, as authorized by §313.027(h) of the TEXAS TAX CODE; and
- ii. Ends on December 31, 2023, the last day of the second complete Tax Year following the Qualifying Time Period start date.

D. The Tax Limitation Period for this Agreement:

- i. Starts on January 1, 2024, the first complete Tax Year that begins after the end of Qualifying Time Period; and,
- ii. Ends on December 31, 2033.

E. The Final Termination Date for this Agreement is December 31, 2038.

F. This Agreement, and the obligations and responsibilities created by this Agreement, shall be and become effective on the Application Approval Date identified in Section 2.3.B. This

Agreement, and the obligations and responsibilities created by this Agreement, terminate on the Final Termination Date identified in Section 2.3.E, unless extended by the express terms of this Agreement.

**Section 2.4. TAX LIMITATION.** So long as the Applicant makes the Qualified Investment as required by Section 2.5, during the Qualifying Time Period, and unless this Agreement has been terminated as provided herein before such Tax Year, on January 1 of each Tax Year of the Tax Limitation Period, the Appraised Value of the Applicant's Qualified Property for the District's maintenance and operations ad valorem tax purposes shall not exceed the lesser of:

- A. the Market Value of the Applicant's Qualified Property; or
- B. One Hundred Million Dollars (\$100,000,000).

This Tax Limitation Amount is based on the limitation amount for the category that applies to the District on the Application Approval Date, as set out by Section 313.052 of the TEXAS TAX CODE.

**Section 2.5. TAX LIMITATION ELIGIBILITY.** In order to be eligible and entitled to receive the value limitation identified in Section 2.4 for the Qualified Property identified in Article III, the Applicant shall:

- A. have completed the Applicant's Qualified Investment in the amount of \$100,000,000 during the Qualifying Time Period;
- B. have created and maintained, subject to the provisions of Section 313.0276 of the TEXAS TAX CODE, New Qualifying Jobs as required by the Act; and
- C. pay an average weekly wage of at least \$1,188.75 for all New Non-Qualifying Jobs created by the Applicant.

**Section 2.6. TAX LIMITATION OBLIGATIONS.** In order to receive and maintain the limitation authorized by Section 2.4, Applicant shall:

- A. provide payments to District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV;
- B. provide payments to the District that protect the District from the payment of extraordinary education related expenses related to the project, as more fully specified in Article V;
- C. provide such Supplemental Payments as more fully specified in Article VI;
- D. create and Maintain Viable Presence on or with the Qualified Property and perform additional obligations as more fully specified in Article VIII of this Agreement; and

E. no additional conditions are identified in the certificate for a limitation on appraised value by the Comptroller for this project.

### **ARTICLE III** **QUALIFIED PROPERTY**

**Section 3.1. LOCATION WITHIN ENTERPRISE OR REINVESTMENT ZONE.** At the time of the Application Approval Date, the Land is within an area designated either as an enterprise zone, pursuant to Chapter 2303 of the TEXAS GOVERNMENT CODE, or a reinvestment zone, pursuant to Chapter 311 or 312 of the TEXAS TAX CODE. The legal description, and information concerning the designation, of such zone is attached to this Agreement as **EXHIBIT 1** and is incorporated herein by reference for all purposes.

**Section 3.2. LOCATION OF QUALIFIED PROPERTY AND INVESTMENT.** The Land on which the Qualified Property shall be located and on which the Qualified Investment shall be made is described in **EXHIBIT 2**, which is attached hereto and incorporated herein by reference for all purposes. The Parties expressly agree that the boundaries of the Land may not be materially changed from its configuration described in **EXHIBIT 2** unless amended pursuant to the provisions of Section 10.2 of this Agreement.

**Section 3.3. DESCRIPTION OF QUALIFIED PROPERTY.** The Qualified Property that is subject to the Tax Limitation Amount is described in **EXHIBIT 4**, which is attached hereto and incorporated herein by reference for all purposes. Property which is not specifically described in **EXHIBIT 4** shall not be considered by the District or the Appraisal District to be part of the Applicant's Qualified Property for purposes of this Agreement, unless by official action the Board of Trustees provides that such other property is a part of the Applicant's Qualified Property for purposes of this Agreement in compliance with Section 313.027(e) of the TEXAS TAX CODE, the Comptroller's Rules, and Section 10.2 of this Agreement.

**Section 3.4. CURRENT INVENTORY OF QUALIFIED PROPERTY.** In addition to the requirements of Section 10.2 of this Agreement, if there is a material change in the Qualified Property described in **EXHIBIT 4**, then within 60 days from the date Commercial Operation begins, the Applicant shall provide to the District, the Comptroller, the Appraisal District or the State Auditor's Office a specific and detailed description of the tangible personal property, buildings, and/or permanent, nonremovable building components (including any affixed to or incorporated into real property) on the Land to which the value limitation applies including maps or surveys of sufficient detail and description to locate all such described property on the Land.

**Section 3.5. QUALIFYING USE.** The Applicant's Qualified Property described in Section 3.3 qualifies for a tax limitation agreement under Section 313.024(b)(1) of the TEXAS TAX CODE as a manufacturing facility.



**ARTICLE IV**  
**PROTECTION AGAINST LOSS OF FUTURE DISTRICT REVENUES**

**Section 4.1. INTENT OF THE PARTIES.** Subject to the limitations contained in this Agreement (including Section 6.5), it is the intent of the Parties that the District shall, in accordance with the provisions of Section 313.027(f)(1) of the TEXAS TAX CODE and Section 48.256(d) of the TEXAS EDUCATION CODE, be compensated by Applicant for any loss that District incurs in its Maintenance and Operations Revenue resulting, at least in part, because or on account of entering into this Agreement and application of the Tax Limitation set out in Section 2.4 to Applicant's Qualified Property. Payments for such loss shall be independent of, and in addition to such other payments as set forth in Articles V and VI in this Agreement. Subject to the limitations contained in this Agreement, IT IS THE INTENT OF THE PARTIES THAT THE RISK OF ANY NEGATIVE FINANCIAL CONSEQUENCES TO DISTRICT IN MAKING THE DECISION TO ENTER INTO THIS AGREEMENT WILL BE BORNE SOLELY BY APPLICANT AND NOT BY DISTRICT. Applicant recognizes and acknowledges the calculations relating to the District's loss of Maintenance and Operations Revenue under this Agreement will be affected by changes to the timing of construction of the Project and any change to the Qualified Property. As such, Applicant acknowledges that it will bear any and all losses of Maintenance and Operations Revenue suffered by the District as a result of this Agreement, including without limitation any increase in the M&O Amount calculated under Section 4.2 to be paid to the District for losses in Maintenance and Operations Revenue resulting from any change in the timing of construction and/or any change to the Qualified Property.

The Parties expressly understand and agree that for all Tax Years to which the Tax Limitation amount set out in Section 2.4 is applied to Applicant's Qualified Property that is the subject of this Agreement, the calculation of negative financial consequences will be defined for each applicable Tax Year in accordance with the Applicable School Finance Law, as defined in Section 1.2 above, and that such definition specifically contemplates that calculations made under this Agreement may periodically change in accordance with changes in Applicable School Finance Law. The Parties further agree that printouts and projections produced during the negotiations and approval of this Agreement are: (i) for illustrative purposes only, are not intended to be relied upon, and have not been relied upon by the Parties as a prediction of future consequences to either Party; (ii) based upon current Applicable School Finance Law which is subject to change by statute, by administrative regulation (or interpretation thereof), or by judicial decision at any time; and (iii) may change in future years to reflect changes in Applicable School Finance Law.

**Section 4.2. CALCULATING THE AMOUNT OF LOSS OF REVENUES BY THE DISTRICT.** Subject to the provisions of Section 6.5, the amount to be paid by Applicant to compensate District for loss of Maintenance and Operations Revenue resulting from, or on account of, this Agreement for each year starting in the year of the Application Approval Date and ending on the Final Termination Date (as set out in EXHIBIT 5), the "M&O Amount," shall be determined in compliance with Applicable School Finance Law in effect for such year and according to the following formula:

A. The M&O Amount owed by Applicant to District (also known as the revenue protection payment as set out in TEXAS EDUCATION CODE Section 48.256(d)) means the Original M&O Revenue *minus* the New M&O Revenue; based on the following definitions:

- i. “Original M&O Revenue” means the total State and local Maintenance and Operations Revenue that the District would have received for such school year, calculated in accordance with TEXAS EDUCATION CODE Section 48.256(d), had this Agreement not been entered into by the Parties and the Applicant’s Qualified Property had been subject to the District’s ad valorem maintenance and operations tax without any limitation on value at the rate applicable for such Tax Year. For purposes of this calculation, the Third Party Consultant (as defined in Section 4.5) will base its calculations upon (1) the total Taxable Values for each applicable Tax Year as certified by the Appraisal District for all taxable accounts in the District for the District’s maintenance and operations ad valorem tax purposes, save and except for the Applicant’s Qualified Property subject to this Agreement, plus (2) the total Taxable Values for such applicable Tax Year as certified by the Appraisal District for the Applicant’s Qualified Property subject to this Agreement for the District’s debt service (interest and sinking fund) ad valorem tax purposes (which total Taxable Values for the Applicant’s Qualified Property subject to this Agreement shall be used in lieu of the total Taxable Values for such applicable Tax Year as certified by the Appraisal District for the Applicant’s Qualified Property subject to this Agreement for the District’s maintenance and operations ad valorem tax purposes).
- ii. “New M&O Revenue” means the total State and local Maintenance and Operations Revenue that the District would have received for such school year, calculated in accordance with TEXAS EDUCATION CODE Section 48.256(d), with the Limitation Amount specified in Section 2.4 applied to Applicant’s Qualified Property.

B. In making the calculations for the M&O Amount required by this Section 4.2 of this Agreement:

- i. The Taxable Value of property for each school year will be determined under Applicable School Finance Law.
- ii. For purposes of this calculation, the tax collection rate on the Applicant’s Qualified Property will be presumed to be one hundred percent (100%).
- iii. If, for any year of this Agreement, the difference between the Original M&O Revenue and the New M&O Revenue as calculated under this Section 4.2 results in a negative number, the negative number will be considered to be zero.
- iv. For all calculations made for any year during the Tax Limitation Period under this Section 4.2, the New M&O Revenue will reflect the Tax Limitation Amount stated in Section 2.4 for such year.
- v. As applicable, the methodology for the calculations made under this Section 4.2 shall include the limited values as set forth in other existing limitation agreements, if any.

**Section 4.3. STATUTORY CHANGES AFFECTING M&O REVENUE.** Notwithstanding any other provision in this Agreement, and but subject to the limitations contained in Section 6.5 of this Agreement, in the event that, by virtue of statutory changes to the Applicable School Finance Law, administrative interpretations by Comptroller, Commissioner of Education, or the Texas Education Agency, or for any other reason attributable to statutory change, the District will receive less Maintenance and Operations Revenue, or, if applicable, will be required to increase its payment of funds to the State or another school district, pursuant to Chapter 49 of the TEXAS EDUCATION CODE or any other statutory provision as well as any amendment or successor statute to these provisions, as applicable, because of the District's participation in this Agreement, Applicant shall make payments to District, up to the M&O Amount set forth in this Agreement that are necessary to offset any negative impact on the District as a result of its participation in this Agreement.

**Section 4.4. COMPENSATION FOR LOSS OF OTHER REVENUES.** To the extent not included in the amounts calculated pursuant to Section 4.2 above, Applicant shall also pay to or on behalf of the District on an annual basis all M&O Revenue losses, and other costs as they are incurred by the District that arise from entering this Agreement (the "Additional Loss"), including without limitation to: (a) any loss incurred by the District resulting from a judicial challenge to this Agreement; (b) any reasonable attorneys' fees or other costs incurred by the District due to any amendment, audit, legal defense or enforcement of this Agreement brought by or against either party or person or entity, irrespective of whether or not this Agreement or any interpretation thereof by the District is ultimately determined to be valid; and (c) any non-reimbursed reasonable costs or fees incurred by the District and reasonably necessary to administer or maintain this Agreement, either directly or indirectly, including costs paid to the Appraisal District based on the values of the Qualified Property used for the District's debt service (interest and sinking fund) that exceeds the Tax Limitation Amount provided in Section 2.4 herein. Notwithstanding anything to the contrary in Section 4.8, payment for such Additional Loss shall be made by Applicant no later than 30 days following written notice that such Additional Loss is due and owing, together with supporting calculations by the Third Party Consultant and copies of invoices (redacted as needed) for any such non-reimbursed costs and fees paid.

**Section 4.5. CALCULATIONS TO BE MADE BY THIRD PARTY CONSULTANT.** All calculations under this Agreement shall be made annually by an independent third party consultant (the "Third Party Consultant") selected and appointed each year by the District.

**Section 4.6. DATA FOR CALCULATIONS.** The calculations for payments under this Agreement shall be initially based upon the valuations placed upon all taxable property in the District, including the Applicant's Qualified Property by the Ector County Appraisal District in its annual certified tax roll submitted to the District pursuant to TEXAS TAX CODE § 26.01 on or about July 25 of each year of this Agreement. Immediately upon receipt of the valuation information by the District, the District shall submit the valuation information to the Third Party Consultant selected under Section 4.5. The certified tax roll data shall form the basis of the calculation of any and all amounts due under this Agreement. All other data utilized by the Third Party Consultant to make the calculations contemplated by this Agreement shall be based upon the best available current estimates. The data utilized by the Third Party Consultant shall be adjusted from time-to-time by

the Third Party Consultant to reflect actual amounts, subsequent adjustments by the Ector County Appraisal District to the District's certified tax roll, or any other changes in student counts, tax collections, or other applicable data.

**Section 4.7. DELIVERY OF CALCULATIONS.** On or before November 1 of each year for which this Agreement is effective, the Third Party Consultant appointed pursuant to Section 4.5 shall forward to the Parties a certification containing the calculations required under Articles IV, V and VI of this Agreement in sufficient detail to allow the Parties to understand the manner in which the calculations were made. The Third Party Consultant shall simultaneously submit his, her or its invoice for fees for services rendered to the Parties, if any fees are being claimed. Upon reasonable prior notice, the employees and agents of the Applicant shall have access, at all reasonable times, to the Third Party Consultant's offices, personnel, books, records, and correspondence pertaining to the calculation and fee for the purpose of verification. The Third Party Consultant shall maintain supporting data consistent with generally accepted accounting practices, and the employees and agents of the Applicant shall have the right to reproduce and retain for purpose of audit, any of these documents. The Third Party Consultant shall preserve all documents pertaining to the calculation and fee for a period of four (4) years after payment. The Applicant shall not be liable for any of Third Party Consultant's costs resulting from a review or audit of the Third Party Consultant's books, records, correspondence, or work papers pertaining to the calculations contemplated by this Agreement or the fee paid by the Applicant to the Third Party Consultant pursuant to Section 4.8, if such fee is timely paid.

**Section 4.8. PAYMENT BY APPLICANT.** The Applicant shall pay any amount determined by the Third Party Consultant to be due and owing to the District under this Agreement on or before the January 31 next following the tax levy for each year for which this Agreement is effective. By such date, the Applicant shall also pay any amount billed by the Third Party Consultant for all calculations under this Agreement under Section 4.7, above, plus any unpaid amount due and owing under Section 4.4, or incurred by the District to its attorneys, auditors or financial consultants for the preparation and filing of any financial reports, disclosures, or tax credit or other reimbursement application filed with or sent to the State of Texas which are, or may be, required under the terms or because of the execution of this Agreement. Notwithstanding the foregoing, for no Tax Year during the term of this Agreement shall the Applicant be responsible for the payment of an aggregate amount of fees and expenses to the Third Party Consultant under this Section 4.8 and Section 4.7, above, in excess of Fifteen Thousand Dollars (\$15,000.00). Payment for all amounts due and owing not made on or before the January 31 or any amount invoiced by or on behalf of the District and not paid within 30 days from the due date shall be considered delinquent. For delinquent payments, the Applicant shall be subject to penalty and interest in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE. Penalties on said amounts shall be calculated in accordance with Section 33.01(a) of the Texas Tax Code, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the Texas Tax Code, or its successor statute.

**Section 4.9. RESOLUTION OF DISPUTES.** Should the Applicant disagree with the certification containing the calculations prepared and delivered pursuant to Section 4.7, the Applicant may

appeal the findings, in writing, to the Third Party Consultant within fifteen (15) District business days following the later of (i) receipt of the certification, or (ii) the date the Applicant is granted access to the books, records, and other information in accordance with Section 4.7 for purposes of auditing or reviewing the information in connection with the certification. Within ten (10) District business days of receipt of the Applicant's appeal, the Third Party Consultant will issue, in writing, a final determination of the certification containing the calculations. Thereafter, the Applicant may appeal the final determination of the certification containing the calculations to the District's Board of Trustees. Any such appeal by the Applicant of the final determination of the Third Party Consultant may be made, in writing, to the District's Board of Trustees within fifteen (15) District business days of the Applicant's receipt of the Third Party Consultant's final determination of the certification containing the calculations in accordance with District Policy GF (LOCAL). Applicant shall timely make all payments as required by this Agreement. Applicant's obligation under Section 4.8 to make any payments to the District pursuant to Consultant's final determination shall not abate during any appeal of Consultant's final determination under this Section 4.9.

**Section 4.10. EFFECT OF PROPERTY VALUE APPEAL OR OTHER ADJUSTMENT.** If at the time the Third Party Consultant selected and appointed under Section 4.5 makes its calculations under this Agreement, the Applicant has appealed any matter relating to the valuations placed by the Appraisal District on the Applicant's Qualified Property, and such appeal remains unresolved, the Third Party Consultant shall base its calculations upon the values placed upon the Applicant's Qualified Property by the Appraisal District. If as a result of an appeal or for any other reason the Taxable Value of the Applicant's Qualified Property is changed, once the determination of the new Taxable Value becomes final, the Parties shall immediately notify the Third Party Consultant who shall immediately issue new calculations required by this Agreement for the applicable year or years using the new Taxable Value. Upon completion of the new calculations, the Third Party Consultant shall transmit the new calculations to the Parties. In the event the new calculations result in a change of any amount paid or payable by the Applicant under this Agreement, the Party owing funds to the other Party shall pay any amounts owed within thirty (30) days of receipt of the new calculations from the Third Party Consultant.

## **ARTICLE V**

### **PAYMENT OF EXTRAORDINARY EDUCATION RELATED EXPENSES**

**Section 5.1. EXTRAORDINARY EXPENSES.** In addition to the amounts determined pursuant to Article IV or Article VI of this Agreement, Applicant on an annual basis shall also indemnify and reimburse District for the following:

All non-reimbursed costs, certified by District's external auditor to have been incurred by District for extraordinary education-related expenses related to the project proposed by the Applicant that are not directly funded in state aid formulas, including, without limitation, expenses for the purchase or lease of portable classrooms and the hiring of additional personnel to accommodate a temporary increase in student enrollment attributable to the Project.

**Section 5.2. PAYMENTS.** Payments of amounts due under this Article shall be made as set forth in Section 4.8 above.

## **ARTICLE VI**

### **SUPPLEMENTAL PAYMENTS**

**Section 6.1. SUPPLEMENTAL PAYMENTS.** Applicant shall make Supplemental Payments in an amount equal to, but not to exceed, the limit of the annual Supplemental Payment as set out in Section 6.2 below, starting with the first complete or partial year of the Qualifying Time Period, and on January 1 for each year thereafter, and continuing through the third year following the end of the Tax Limitation Period.

**Section 6.2. SUPPLEMENTAL PAYMENT LIMITATION.** Notwithstanding the foregoing:

A. The total of the Supplemental Payments made pursuant to this Article shall not exceed, for any calendar year of this Agreement, an amount equal to the greater of One Hundred Dollars (\$100.00) per student per year in Average Daily Attendance, as defined by Section 48.005 of the TEXAS EDUCATION CODE, or Fifty Thousand Dollars (\$50,000.00) per year times the number of years beginning with the first complete or partial year of the Qualifying Time Period identified in Section 2.3.C and ending with the year for which the Supplemental Payment is being calculated minus all Supplemental Payments previously made by the Applicant.

B. Supplemental Payments may only be made during the period starting with the first year of the Qualifying Time Period and ending December 31 of the third year following the end of the Tax Limitation Period.

C. The limitation in Section 6.2.A does not apply to amounts described by Section 313.027(f)(1)–(2) of the TEXAS TAX CODE as implemented in Articles IV and V of this Agreement.

D. For purposes of this Agreement, the calculation of the limit of the annual Supplemental Payment shall be the greater of (i) \$50,000 or (ii) \$100 multiplied by the District's Average Daily Attendance as calculated pursuant to Section 48.005 of the TEXAS EDUCATION CODE, based upon the District's Average Daily Attendance for the previous school year.

**Section 6.3. SUPPLEMENTAL PAYMENT CHANGES.** In the event Chapter 313 is modified or amended to allow the District to receive Supplemental Payments in excess of the foregoing limitation, Applicant agrees to cooperate with the District to amend this Agreement to allow District to receive the maximum amount of Supplemental Payments as allowed by law; provided however, the total Supplemental Payments for any given year of this Agreement shall not exceed the greater of forty percent (40%) of Applicant's Net Tax Savings under this Agreement in such year or the amount calculated as set out in Section 6.2.A above, as determined for that school year. "Net Tax Savings" means an amount equal to (but not less than zero): (i) the sum of the amount of maintenance and operations ad valorem taxes which the Applicant would have paid to the

District for all years during the term of this Agreement if this Agreement had not been entered into by the Parties; minus (ii) an amount equal to the sum of (A) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas for all years during the term of this Agreement, plus (B) any and all payments due to the District under Articles IV and V of this Agreement. For clarification, Net Tax Savings in respect to a supplemental payment due for a particular year pursuant to Section 6.2 shall mean an amount equal to (but not less than zero): (i) the sum of the amount of maintenance and operations ad valorem taxes which the Applicant would have paid to the District for such year if this Agreement had not been entered into by the Parties; minus, (ii) an amount equal to the sum of (A) all maintenance and operations ad valorem school taxes actually due to the District or any other governmental entity, including the State of Texas for such year, plus (B) any and all payments due to the District under Articles IV and V of this Agreement for such year. This Section 6.3 shall only apply if the District shall receive an aggregate amount of Supplemental Payments greater than as described in Section 6.2 above; otherwise, Section 6.2 shall apply.

**Section 6.4. PAYMENT BY APPLICANT.** Payment of amounts due under this Article shall be made as set forth in Section 4.8 of this Agreement and is subject to the limitations contained in Section 6.5.

**Section 6.5. ANNUAL LIMITATION.** Notwithstanding anything contained in this Agreement to the contrary, and with respect to each Tax Year of the Tax Limitation Period beginning with the second Tax Year of the Tax Limitation Period, in no event shall (i) the sum of the maintenance and operations ad valorem taxes paid by the Applicant to the District for such Tax Year, plus the sum of all payments otherwise due from the Applicant to the District under Articles IV, V, and VI of this Agreement with respect to such Tax Year, exceed (ii) the amount of the maintenance and operations ad valorem taxes that the Applicant would have paid to the District for such Tax Year (determined by using the District's actual maintenance and operations tax rate for such Tax Year) if the Parties had not entered into this Agreement. The calculation and comparison of the amounts described in clauses (i) and (ii) of the preceding sentence shall be included in all calculations made pursuant to Article IV of this Agreement, and in the event the sum of the amounts described in said clause (i) exceeds the amount described in said clause (ii), then such excess amount of payments otherwise due from the Applicant to the District under Articles IV, V, and VI shall be deferred and carried forward from year to year until paid in full.

**Section 6.6. OPTION TO TERMINATE AGREEMENT.** In the event any payment otherwise due from the Applicant to the District under Article IV, Article V, or Article VI of this Agreement with respect to a Tax Year is subject to a deferral in accordance with the provisions of Section 6.5, then the Applicant shall have the option to terminate this Agreement. The Applicant may exercise such option to terminate this Agreement by notifying the District of its election in writing not later than the July 31 of the year following the Tax Year with respect to which a deferral under Section 6.5 is applicable. Any termination of this Agreement under the foregoing provisions of this Section 6.6 shall be effective immediately prior to the second Tax Year next following the Tax Year in which the deferral giving rise to the option occurred.



**ARTICLE VII**  
**ANNUAL LIMITATION OF PAYMENTS BY APPLICANT**

**Section 7.1. EFFECT OF OPTIONAL TERMINATION.** Upon the exercise of the option to terminate, pursuant to Section 6.5 regarding the annual limitation of payments and Section 6.6 regarding the option to terminate, this Agreement shall terminate and be of no further force or effect; provided, however, that:

A. the Parties respective rights and obligations under this Agreement with respect to the Tax Year or Tax Years (as the case may be) through and including the Tax Year during which such notification is delivered to the District, shall not be impaired or modified as a result of such termination and shall survive such termination unless and until satisfied and discharged; and

B. the provisions of this Agreement regarding payments (including liquidated damages and tax payments), records and dispute resolution shall survive the termination or expiration of this Agreement.

**ARTICLE VIII**  
**ADDITIONAL OBLIGATIONS OF APPLICANT**

**Section 8.1. APPLICANT'S OBLIGATION TO MAINTAIN VIABLE PRESENCE.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall Maintain Viable Presence in the District commencing at the start of the Tax Limitation Period through the Final Termination Date of this Agreement. Notwithstanding anything contained in this Agreement to the contrary, the Applicant shall not be in breach of, and shall not be subject to any liability for failure to Maintain Viable Presence to the extent such failure is caused by Force Majeure, provided the Applicant makes commercially reasonable efforts to remedy the cause of such Force Majeure.

**Section 8.2. REPORTS.** In order to receive and maintain the limitation authorized by Section 2.4 in addition to the other obligations required by this Agreement, the Applicant shall submit all reports required from time to time by the Comptroller, listed in 34 TEXAS ADMIN. CODE Section 9.1052 and as currently located on the Comptroller's website, including all data elements required by such form to the satisfaction of the Comptroller on the dates indicated on the form or the Comptroller's website and starting on the first such due date after the Application Approval Date.

**Section 8.3. COMPTROLLER'S REPORT ON CHAPTER 313 AGREEMENTS.** During the term of this Agreement, both Parties shall provide the Comptroller with all information reasonably necessary for the Comptroller to assess performance under this Agreement for the purpose of issuing the Comptroller's report, as required by Section 313.032 of the TEXAS TAX CODE.

**Section 8.4. DATA REQUESTS.** Upon the written request of the District, the State Auditor's Office, the Appraisal District, or the Comptroller during the term of this Agreement, the Applicant, the District or any other entity on behalf of the District shall provide the requesting party with all

information reasonably necessary for the requesting party to determine whether the Applicant is in compliance with its rights, obligations, or responsibilities, including, but not limited to, any employment obligations which may arise under this Agreement.

**Section 8.5. SITE VISITS AND RECORD REVIEW.** The Applicant shall allow authorized employees of the District, the Comptroller, the Appraisal District, and the State Auditor's Office to have reasonable access to the Applicant's Qualified Property and business records from the Application Review Start Date through the Final Termination Date, in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property.

A. All inspections will be made at a mutually agreeable time after the giving of not less than ninety-six (96) hours prior written notice, and will be conducted in such a manner so as not to unreasonably interfere with either the construction or operation of the Applicant's Qualified Property.

B. All inspections may be accompanied by one or more representatives of the Applicant, and shall be conducted in accordance with the Applicant's safety, security, and operational standards. Notwithstanding the foregoing, nothing contained in this Agreement shall require the Applicant to provide the District, the Comptroller, or the Appraisal District with any technical or business information that is proprietary, a trade secret, or is subject to a confidentiality agreement with any third party.

**Section 8.6. RIGHT TO AUDIT; SUPPORTING DOCUMENTS; AUTHORITY OF STATE AUDITOR.** By executing this Agreement, implementing the authority of, and accepting the benefits provided by Chapter 313 of the TEXAS TAX CODE, the Parties agree that this Agreement and their performance pursuant to its terms are subject to review and audit by the State Auditor as if they are parties to a State contract and subject to the provisions of Section 2262.154 of the TEXAS GOVERNMENT CODE and Section 313.010(a) of the TEXAS TAX CODE. The Parties further agree to comply with the following requirements:

A. The District and the Applicant shall maintain and retain supporting documents adequate to ensure that claims for the Tax Limitation Amount are in accordance with applicable Comptroller and State of Texas requirements. The Applicant and the District shall maintain all such documents and other records relating to this Agreement and the State's property for a period of four (4) years after the latest occurring date of:

- i. date of submission of the final payment;
- ii. Final Termination Date; or
- iii. date of resolution of all disputes or payment.

B. During the time period defined under Section 8.6.A, the District and the Applicant shall make available at reasonable times and upon reasonable notice, and for reasonable periods, all information related to this Agreement; the Applicant's Application; and the Applicant's Qualified Property, Qualified Investment, New Qualifying Jobs, and wages paid for New Non-Qualifying

Jobs such as work papers, reports, books, data, files, software, records, calculations, spreadsheets and other supporting documents pertaining to this Agreement, for purposes of inspecting, monitoring, auditing, or evaluating by the Comptroller, State Auditor's Office, State of Texas or their authorized representatives. The Applicant and the District shall cooperate with auditors and other authorized Comptroller and State of Texas representatives and shall provide them with prompt access to all of such property as requested by the Comptroller or the State of Texas. By example and not as an exclusion to other breaches or failures, the Applicant's or the District's failure to comply with this Section shall constitute a Material Breach of this Agreement.

C. In addition to and without limitation on the other audit provisions of this Agreement, the acceptance of tax benefits or funds by the Applicant or the District or any other entity or person directly under this Agreement acts as acceptance of the authority of the State Auditor, under the direction of the legislative audit committee, to conduct an audit or investigation in connection with those funds. Under the direction of the legislative audit committee, the Applicant or the District or other entity that is the subject of an audit or investigation by the State Auditor must provide the State Auditor with access to any information the State Auditor considers relevant to the investigation or audit. The Parties agree that this Agreement shall for its duration be subject to all rules and procedures of the State Auditor acting under the direction of the legislative audit committee.

D. The Applicant shall include the requirements of this Section 8.6 in its subcontract with any entity whose employees or subcontractors are subject to wage requirements under the Act, the Comptroller's Rules, or this Agreement, or any entity whose employees or subcontractors are included in the Applicant's compliance with job creation or wage standard requirement of the Act, the Comptroller's Rules, or this Agreement.

**Section 8.7. FALSE STATEMENTS; BREACH OF REPRESENTATIONS.** The Parties acknowledge that this Agreement has been negotiated, and is being executed, in reliance upon the information contained in the Application, and any supplements or amendments thereto, without which the Comptroller would not have approved this Agreement and the District would not have executed this Agreement. By signature to this Agreement, the Applicant:

A. represents and warrants that all information, facts, and representations contained in the Application are true and correct to the best of its knowledge;

B. agrees and acknowledges that the Application and all related attachments and schedules are included by reference in this Agreement as if fully set forth herein; and

C. acknowledges that if the Applicant submitted its Application with a false statement, signs this Agreement with a false statement, or submits a report with a false statement, or it is subsequently determined that the Applicant has violated any of the representations, warranties, guarantees, certifications, or affirmations included in the Application or this Agreement, the Applicant shall have materially breached this Agreement and the Agreement shall be invalid and void except for the enforcement of the provisions required by Section 9.2 of this Agreement.

## **ARTICLE IX**

### **MATERIAL BREACH OR EARLY TERMINATION**

**Section 9.1. EVENTS CONSTITUTING MATERIAL BREACH OF AGREEMENT.** The Applicant shall be in Material Breach of this Agreement if it commits one or more of the following acts or omissions (each a “Material Breach”):

A. The Application, any Application Supplement, or any Application Amendment on which this Agreement is approved is determined to be inaccurate as to any material representation, information, or fact or is not complete as to any material fact or representation or such application;

B. The Applicant failed to complete Qualified Investment as required by Section 2.5.A. of this Agreement during the Qualifying Time Period;

C. The Applicant failed to create and maintain the number of New Qualifying Jobs required by the Act;

D. The Applicant failed to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application;

E. The Applicant failed to pay at least the average weekly wage of all jobs in the county in which the jobs are located for all New Non-Qualifying Jobs created by the Applicant;

F. The Applicant failed to provide payments to the District sufficient to protect future District revenues through payment of revenue offsets and other mechanisms as more fully described in Article IV of this Agreement;

G. The Applicant failed to provide the payments to the District that protect the District from the payment of extraordinary education-related expenses related to the project to the extent and in the amounts that the Applicant agreed to provide such payments in Article V of this Agreement;

H. The Applicant failed to provide the Supplemental Payments to the extent and in the amounts that the Applicant agreed to provide such Supplemental Payments in Article VI of this Agreement;

I. The Applicant failed to create and Maintain Viable Presence on or with the Qualified Property as more fully specified in Article VIII of this Agreement;

J. The Applicant failed to submit the reports required to be submitted by Section 8.2 to the satisfaction of the Comptroller;

K. The Applicant failed to provide the District or the Comptroller with all information

reasonably necessary for the District or the Comptroller to determine whether the Applicant is in compliance with its obligations, including, but not limited to, any employment obligations which may arise under this Agreement;

L. The Applicant failed to allow authorized employees of the District, the Comptroller, the Appraisal District, or the State Auditor's Office to have access to the Applicant's Qualified Property or business records in order to inspect the project to determine compliance with the terms hereof or as necessary to properly appraise the Taxable Value of the Applicant's Qualified Property under Sections 8.5 and 8.6;

M. The Applicant failed to comply with a request by the State Auditor's office to review and audit the Applicant's compliance with this Agreement;

N. The Applicant has made any payments to the District or to any other person or persons in any form for the payment or transfer of money or any other thing of value in recognition of, anticipation of, or consideration for this Agreement for limitation on Appraised Value made pursuant to Chapter 313 of the TEXAS TAX CODE, in excess of the amounts set forth in Articles IV, V and VI of this Agreement;

O. The Applicant failed to comply with the conditions included in the certificate for limitation issued by the Comptroller.

## **Section 9.2. DETERMINATION OF BREACH AND TERMINATION OF AGREEMENT.**

A. Prior to making a determination that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the District shall provide the Applicant with a written notice of the facts which it believes have caused the breach of this Agreement, and if cure is possible, the cure proposed by the District. After receipt of the notice, the Applicant shall be given ninety (90) days to present any facts or arguments to the Board of Trustees showing that it is not in breach of its obligations under this Agreement, or that it has cured or undertaken to cure any such breach.

B. If the Board of Trustees is not satisfied with such response or that such breach has been cured, then the Board of Trustees shall, after reasonable notice to the Applicant, conduct a hearing called and held for the purpose of determining whether such breach has occurred and, if so, whether such breach has been cured. At any such hearing, the Applicant shall have the opportunity, together with their counsel, to be heard before the Board of Trustees. At the hearing, the Board of Trustees shall make findings as to:

- i. whether or not a breach of this Agreement has occurred;
- ii. whether or not such breach is a Material Breach;
- iii. the date such breach occurred, if any;
- iv. whether or not any such breach has been cured; and,

C. In the event that the Board of Trustees determines that such a breach has occurred and

has not been cured, it shall at that time determine:

- i. the amount of recapture taxes under Section 9.4.C (net of all credits under Section 9.4.C);
- ii. the amount of any penalty or interest under Section 9.4.E that are owed to the District; and
- iii. in the event of a finding of a Material Breach, whether to terminate this Agreement.

D. After making its determination regarding any alleged breach, the Board of Trustees shall cause the Applicant to be notified in writing of its determination (a “Determination of Breach and Notice of Contract Termination”) and provide a copy to the Comptroller.

### **Section 9.3. DISPUTE RESOLUTION.**

A. After receipt of notice of the Board of Trustee’s Determination of Breach and Notice of Contract Termination under Section 9.2, the Applicant shall have thirty (30) days in which either to tender payment or evidence of its efforts to cure, or to initiate mediation of the dispute by written notice to the District, in which case the District and the Applicant shall be required to make a good faith effort to resolve, without resort to litigation and within thirty (30) days after the Applicant initiates mediation, such dispute through mediation with a mutually agreeable mediator and at a mutually convenient time and place for the mediation. If the Parties are unable to agree on a mediator, a mediator shall be selected by the senior state district court judge then presiding in Ector County, Texas. The Parties agree to sign a document that provides the mediator and the mediation will be governed by the provisions of Chapter 154 of the TEXAS CIVIL PRACTICE AND REMEDIES CODE and such other rules as the mediator shall prescribe. With respect to such mediation, (i) the District shall bear one-half of such mediator’s fees and expenses and the Applicant shall bear one-half of such mediator’s fees and expenses, and (ii) otherwise each Party shall bear all of its costs and expenses (including attorneys’ fees) incurred in connection with such mediation.

B. In the event that any mediation is not successful in resolving the dispute or that payment is not received within the time period described for mediation in Section 9.3.A, either the District or the Applicant may seek a judicial declaration of their respective rights and duties under this Agreement or otherwise, in a judicial proceeding in a state district court in Ector County, assert any rights or defenses, or seek any remedy in law or in equity, against the other Party with respect to any claim relating to any breach, default, or nonperformance of any contract, agreement or undertaking made by a Party pursuant to this Agreement.

C. If payments become due under this Agreement and are not received before the expiration of the thirty (30) days provided for such payment in Section 9.3.A, and if the Applicant has not contested such payment calculations under the procedures set forth herein, including judicial proceedings, the District shall have the remedies for the collection of the amounts determined under Section 9.4 as are set forth in Chapter 33, Subchapters B and C, of the TEXAS TAX CODE for the collection of delinquent taxes. In the event that the District successfully prosecutes legal proceedings under this section, the Applicant shall also be responsible for the

payment of attorney's fees to the attorneys representing the District pursuant to Section 6.30 of the TEXAS TAX CODE and a tax lien shall attach to the Applicant's Qualified Property and the Applicant's Qualified Investment pursuant to Section 33.07 of the TEXAS TAX CODE to secure payment of such fees.

#### **Section 9.4. CONSEQUENCES OF EARLY TERMINATION OR OTHER BREACH BY APPLICANT.**

A. In the event that the Applicant terminates this Agreement without the consent of the District, except as provided in Section 6.6 and 7.1 of this Agreement, the Applicant shall pay to the District liquidated damages for such failure within thirty (30) days after receipt of the notice of breach.

B. In the event that the District determines that the Applicant has failed to comply in any material respect with the terms of this Agreement or to meet any material obligation under this Agreement, the Applicant shall pay to the District liquidated damages, as calculated by Section 9.4.C, prior to, and the District may terminate the Agreement effective on the later of: (i) the expiration of the thirty (30) days provided for in Section 9.3.A, and (ii) thirty (30) days after any mediation and judicial proceedings initiated pursuant to Sections 9.3.A and 9.3.B are resolved in favor of the District.

C. The sum of liquidated damages due and payable shall be the sum total of the District ad valorem taxes for all of the Tax Years for which a tax limitation was granted pursuant to this Agreement prior to the year in which the default occurs that otherwise would have been due and payable by the Applicant to the District without the benefit of this Agreement, including penalty and interest, as calculated in accordance with Section 9.4.E. For purposes of this liquidated damages calculation, the Applicant shall be entitled to a credit for all payments made to the District pursuant to Articles IV, V, and VI. Upon payment of such liquidated damages, the Applicant's obligations under this Agreement shall be deemed fully satisfied, and such payment shall constitute the District's sole remedy.

D. In the event that the District determines that the Applicant has committed a Material Breach identified in Section 9.1, after the notice and mediation periods provided by Sections 9.2 and 9.3, then the District may, in addition to the payment of liquidated damages required pursuant to Section 9.4.C, terminate this Agreement.

E. In determining the amount of penalty or interest, or both, due in the event of a breach of this Agreement, the District shall first determine the base amount of recaptured taxes less all credits under Section 9.4.C owed for each Tax Year during the Tax Limitation Period. The District shall calculate penalty or interest for each Tax Year during the Tax Limitation Period in accordance with the methodology set forth in Chapter 33 of the TEXAS TAX CODE, as if the base amount calculated for such Tax Year less all credits under Section 9.4.C had become due and payable on February 1 of the calendar year following such Tax Year. Penalties on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(a) of the TEXAS TAX



CODE, or its successor statute. Interest on said amounts shall be calculated in accordance with the methodology set forth in Section 33.01(c) of the TEXAS TAX CODE, or its successor statute.

**Section 9.5. LIMITATION OF OTHER DAMAGES.** Notwithstanding anything contained in this Agreement to the contrary, in the event of default or breach of this Agreement by the Applicant, the District's damages for such a default shall under no circumstances exceed the amounts calculated under Section 9.4. In addition, the District's sole right of equitable relief under this Agreement shall be its right to terminate this Agreement. The Parties further agree that the limitation of damages and remedies set forth in this Section 9.5 shall be the sole and exclusive remedies available to the District, whether at law or under principles of equity.

**Section 9.6. STATUTORY PENALTY FOR INADEQUATE QUALIFIED INVESTMENT.** Pursuant to Section 313.0275 of the TEXAS TAX CODE, in the event that the Applicant fails to make \$100,000,000 of Qualified Investment, in whole or in part, during the Qualifying Time Period, the Applicant is liable to the State for a penalty. The amount of the penalty is the amount determined by: (i) multiplying the maintenance and operations tax rate of the school district for that tax year that the penalty is due by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the Tax Year the penalty is due. This penalty shall be paid on or before February 1 of the year following the expiration of the Qualifying Time Period and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE. The Comptroller may grant a waiver of this penalty in the event of Force Majeure which prevents compliance with this provision.

**Section 9.7. REMEDY FOR FAILURE TO CREATE AND MAINTAIN REQUIRED NEW QUALIFYING JOBS.** Pursuant to Section 313.0276 of the TEXAS TAX CODE, for any full Tax Year that commences after the project has become operational, in the event that it has been determined that the Applicant has failed to meet the job creation or retention requirements defined in Sections 9.1.C, the Applicant shall not be deemed to be in Material Breach of this Agreement until such time as the Comptroller has made a determination to rescind this Agreement under Section 313.0276 of TEXAS TAX CODE, and that determination is final.

**Section 9.8. REMEDY FOR FAILURE TO CREATE AND MAINTAIN COMMITTED NEW QUALIFYING JOBS**

A. In the event that the Applicant fails to create and maintain the number of New Qualifying Jobs specified in Schedule C of the Application, an event constituting a Material Breach as defined in Section 9.1.D, the Applicant and the District may elect to remedy the Material Breach through a penalty payment.

B. Following the notice and mediation periods provided by Sections 9.2 and 9.3, the District may request the Applicant to make a payment to the State in an amount equal to: (i) multiplying the maintenance and operations tax rate of the school district for that Tax Year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the Tax Limitation

Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for each tax year the Material Breach occurs.

C. In the event that there is no tax limitation in place for the tax year that the Material Breach occurs, the payment to the State shall be in an amount equal to: (i) multiplying the maintenance and operations tax rate of the School District for each tax year that the Material Breach occurs by (ii) the amount obtained after subtracting (a) the Tax Limitation Amount identified in Section 2.4.B from (b) the Market Value of the property identified on the Appraisal District's records for the last Tax Year for which the Applicant received a tax limitation.

D. The penalty shall be paid no later than 30 days after the notice of breach and is subject to the delinquent penalty provisions of Section 33.01 of the TEXAS TAX CODE.

## **ARTICLE X.**

### **MISCELLANEOUS PROVISIONS**

#### **Section 10.1. INFORMATION AND NOTICES.**

A. Unless otherwise expressly provided in this Agreement, all notices required or permitted hereunder shall be in writing and deemed sufficiently given for all purposes hereof if (i) delivered in person, by courier (*e.g.*, by Federal Express) or by registered or certified United States Mail to the Party to be notified, with receipt obtained, or (ii) sent by facsimile or email transmission, with notice of receipt obtained, in each case to the appropriate address or number as set forth below. Each notice shall be deemed effective on receipt by the addressee as aforesaid; provided that, notice received by facsimile or email transmission after 5:00 p.m. at the location of the addressee of such notice shall be deemed received on the first business day following the date of such electronic receipt.

B. Notices to the District shall be addressed to the District's Authorized Representative as follows:

**To the District:**

Ector County Independent School District  
Attn: Dr. Scott Muri, Superintendent  
(or the successor Superintendent)  
802 N. Sam Houston  
Odessa, TX 79761  
Phone #: (432) 456-9879  
Fax #: (432) 456-9878  
Email: scott.muri@ectorcountysd.org

**With a copy to:**

Underwood Law Firm, P.C.  
Attn: Fred Stormer  
500 South Taylor, LB 233, Suite 1200  
Amarillo, TX 79101  
Phone #: (806) 379-0306  
Fax #: (806) 379-0316  
Email: fred.stormer@uwlaw.com

**And:**

Culwell Consulting, LLC  
Attn: Chris Grammer  
1303 Darter Lane  
Austin, Texas 78746  
Phone #: (512) 914-1328  
Email: chris@culwellconsulting.com

C. Notices to the Applicant shall be addressed to its Authorized Representative as follows:

**To Applicant:**

Chris Micklas, CFO  
Nacero TX 1 LLC  
Two Briar Lake Plaza, Suite 1000  
2050 W. Sam Houston Parkway South  
Houston, TX 77042  
Phone: (832) 729-4452  
Email: cmm@nacero.co

or at such other address or to such other facsimile transmission number and to the attention of such other person as a Party may designate by written notice to the other.

D. A copy of any notice delivered to the Applicant shall also be delivered to any lender for which the Applicant has provided the District notice of collateral assignment information pursuant to Section 10.3.C, below.

**Section 10.2. AMENDMENTS TO APPLICATION AND AGREEMENT; WAIVERS.**

A. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by all of the Parties and after completing the requirements of Section 10.2.B. Waiver of any term, condition, or provision of this Agreement by any Party shall only be effective if in writing and shall not be construed as a waiver of any subsequent breach of, or failure to comply with, the same term, condition, or provision, or a waiver of any other term, condition, or provision of this Agreement.

B. By official action of the District's Board of Trustees, the Application and this Agreement may only be amended according to the following:

- i. The Applicant shall submit to the District and the Comptroller:
  - a. a written request to amend the Application and this Agreement, which shall specify the changes the Applicant requests;
  - b. any changes to the information that was provided in the Application that was approved by the District and considered by the Comptroller;

- c. and any additional information requested by the District or the Comptroller necessary to evaluate the amendment or modification;
- ii. The Comptroller shall review the request and any additional information for compliance with the Act and the Comptroller's Rules and provide a revised Comptroller certificate for a limitation within 90 days of receiving the revised Application and, if the request to amend the Application has not been approved by the Comptroller by the end of the 90-day period, the request is denied; and
- iii. If the Comptroller has not denied the request, the District's Board of Trustees shall approve or disapprove the request before the expiration of 150 days after the request is filed.

C. Any amendment of the Application and this Agreement adding additional or replacement Qualified Property pursuant to this Section 10.2 of this Agreement shall:

- i. require that all property added by amendment be eligible property as defined by Section 313.024 of the TEXAS TAX CODE;
- ii. clearly identify the property, investment, and employment information added by amendment from the property, investment, and employment information in the original Agreement; and

D. The Application and this Agreement may not be amended to extend the value limitation time period beyond its ten-year statutory term.

E. The Comptroller determination made under Section 313.026(c)(2) of the TEXAS TAX CODE in the original certificate for a limitation satisfies the requirement of the Comptroller to make the same determination for any amendment of the Application and this Agreement, provided that the facts upon which the original determination was made have not changed.

### **Section 10.3. ASSIGNMENT.**

A. Any assignment of any rights, benefits, obligations, or interests of the Parties in this Agreement, other than a collateral assignment purely for the benefit of creditors of the project, is considered an amendment to the Agreement and such Party may only assign such rights, benefits, obligations, or interests of this Agreement after complying with the provisions of Section 10.2 regarding amendments to the Agreement. Other than a collateral assignment to a creditor, this Agreement may only be assigned to an entity that is eligible to apply for and execute an agreement for limitation on appraised value pursuant to the provisions of Chapter 313 of the TEXAS TAX CODE and the Comptroller's Rules.

B. In the event of a merger or consolidation of the District with another school district or other governmental authority, this Agreement shall be binding on the successor school district or other governmental authority.

C. In the event of an assignment to a creditor, the Applicant must notify the District and the Comptroller in writing no later than 30 days after the assignment. This Agreement shall be binding on the assignee.

**Section 10.4. MERGER.** This Agreement contains all of the terms and conditions of the understanding of the Parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence, and preliminary understandings between the Parties and others relating hereto are superseded by this Agreement.

**Section 10.5. GOVERNING LAW.** This Agreement and the transactions contemplated hereby shall be governed by and interpreted in accordance with the laws of the State of Texas without giving effect to principles thereof relating to conflicts of law or rules that would direct the application of the laws of another jurisdiction. Venue in any legal proceeding shall be in a state district court in Ector County, Texas.

**Section 10.6. AUTHORITY TO EXECUTE AGREEMENT.** Each of the Parties represents and warrants that its undersigned representative has been expressly authorized to execute this Agreement for and on behalf of such Party.

**Section 10.7. SEVERABILITY.** If any term, provision or condition of this Agreement, or any application thereof, is held invalid, illegal, or unenforceable in any respect under any Law (as hereinafter defined), this Agreement shall be reformed to the extent necessary to conform, in each case consistent with the intention of the Parties, to such Law, and to the extent such term, provision, or condition cannot be so reformed, then such term, provision, or condition (or such invalid, illegal or unenforceable application thereof) shall be deemed deleted from (or prohibited under) this Agreement, as the case may be, and the validity, legality, and enforceability of the remaining terms, provisions, and conditions contained herein (and any other application such term, provision, or condition) shall not in any way be affected or impaired thereby. Upon such determination that any term or other provision is invalid, illegal, or incapable of being enforced, the Parties hereto shall negotiate in good faith to modify this Agreement in an acceptable manner so as to effect the original intent of the Parties as closely as possible so that the transactions contemplated hereby are fulfilled to the extent possible. As used in this Section 10.7, the term "Law" shall mean any applicable statute, law (including common law), ordinance, regulation, rule, ruling, order, writ, injunction, decree, or other official act of or by any federal, state or local government, governmental department, commission, board, bureau, agency, regulatory authority, instrumentality, or judicial or administrative body having jurisdiction over the matter or matters in question.

**Section 10.8. PAYMENT OF EXPENSES.** Except as otherwise expressly provided in this Agreement, or as covered by the application fee, each of the Parties shall pay its own costs and expenses relating to this Agreement, including, but not limited to, its costs and expenses of the negotiations leading up to this Agreement, and of its performance and compliance with this Agreement.

## **Section 10.9. INTERPRETATION.**

A. When a reference is made in this Agreement to a Section, Article, or Exhibit, such reference shall be to a Section or Article of, or Exhibit to, this Agreement unless otherwise indicated. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

B. The words “include,” “includes,” and “including” when used in this Agreement shall be deemed in such case to be followed by the phrase “, but not limited to,”. Words used in this Agreement, regardless of the number or gender specifically used, shall be deemed and construed to include any other number, singular or plural, and any other gender, masculine, feminine or neuter, as the context shall require.

C. The provisions of the Act and the Comptroller’s Rules are incorporated by reference as if fully set forth in this Agreement. In the event of a conflict, the conflict will be resolved by reference to the following order of precedence:

- i. The Act;
- ii. The Comptroller’s Rules as they exist at the time the Agreement is executed, except as allowed in the definition of Qualified Property in Section 1.1; and
- iii. This Agreement and its Attachments including the Application as incorporated by reference.

**Section 10.10. EXECUTION OF COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all of which, taken together, shall constitute but one and the same instrument, which may be sufficiently evidenced by one counterpart.

**Section 10.11. PUBLICATION OF DOCUMENTS.** The Parties acknowledge that the District is required to publish the Application and its required schedules, or any amendment thereto; all economic analyses of the proposed project submitted to the District; and the approved and executed copy of this Agreement or any amendment thereto, as follows:

A. Within seven (7) days of receipt of such document, the District shall submit a copy to the Comptroller for publication on the Comptroller’s Internet website;

B. The District shall provide on its website a link to the location of those documents posted on the Comptroller’s website;

C. This Section does not require the publication of information that is confidential under Section 313.028 of the TEXAS TAX CODE.

**Section 10.12. CONTROL; OWNERSHIP; LEGAL PROCEEDINGS.** The Applicant shall immediately notify the District and the Comptroller's office in writing of any actual or anticipated change in the control or ownership of the Applicant and of any legal or administrative investigations or proceedings initiated against the Applicant related to the project regardless of the jurisdiction from which such proceedings originate.

**Section 10.13. DUTY TO DISCLOSE.** If circumstances change or additional information is obtained regarding any of the representations and warranties made by the Applicant in the Application or this Agreement, or any other disclosure requirements, subsequent to the date of this Agreement, the Applicant's duty to disclose continues throughout the term of this Agreement.

**Section 10.14. CONFLICTS OF INTEREST.**

A. The District represents that, after diligent inquiry, each local public official or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, has disclosed any conflicts of interest in obtaining or performing this Agreement and related activities, appropriately recused from any decisions relating to this Agreement when a disclosure has been made, and the performance of this Agreement will not create any appearance of impropriety. The District represents that it, the District's local public officials or local government officer, as those terms are defined in Chapters 171 and 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

B. The Applicant represents that, after diligent inquiry, each of its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, involved in the representation of the Applicant with the District has complied with the provisions of Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE. The Applicant represents that it and its agents, as defined in Chapter 176 of the TEXAS LOCAL GOVERNMENT CODE, have not given, nor intend to give, at any time hereafter, any future employment, gift, loan, gratuity, special discount, trip, favor, or service to a public servant, employee, or representative of the other Party or the State of Texas in connection with this Agreement.

C. The District and the Applicant each separately agree to notify the other Party and the Comptroller immediately upon learning of any conflicts of interest.

**Section 10.15. PROVISIONS SURVIVING EXPIRATION OR TERMINATION.** Notwithstanding the expiration or termination (by agreement, breach, or operation of time) of this Agreement, the provisions of this Agreement regarding payments (including liquidated damages and tax payments), reports, records, and dispute resolution of the Agreement shall survive the termination or expiration dates of this Agreement until the following occurs:

A. all payments, including liquidated damage and tax payments, have been made;



- B. all reports have been submitted;
- C. all records have been maintained in accordance with Section 8.6.A; and
- D. all disputes in controversy have been resolved.

**Section 10.16. FACSIMILE OR ELECTRONIC DELIVERY.**

A. This Agreement may be duly executed and delivered in person, by mail, or by facsimile or other electronic format (including portable document format (pdf) transmitted by e-mail). The executing Party must promptly deliver a complete, executed original or counterpart of this Agreement to the other executing Parties. This Agreement shall be binding on and enforceable against the executing Party whether or not it delivers such original or counterpart.

- B. Delivery is deemed complete as follows:
- i. When delivered if delivered personally or sent by express courier service;
  - ii. Three (3) business days after the date of mailing if sent by registered or certified U.S. mail, postage prepaid, with return receipt requested;
  - iii. When transmitted if sent by facsimile, provided a confirmation of transmission is produced by the sending machine; or
  - iv. When the recipient, by an e-mail sent to the e-mail address for the executing Parties acknowledges having received that e-mail (an automatic "read receipt" does not constitute acknowledgment of an e-mail for delivery purposes).

*[signatures follow on next page]*

IN WITNESS WHEREOF, this Agreement has been executed by the Parties in multiple originals on this \_\_\_\_\_ day of June, 2021.

**NACERO TX 1 LLC**

**ECTOR COUNTY INDEPENDENT SCHOOL  
DISTRICT**

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

**ATTEST:**

BY: \_\_\_\_\_

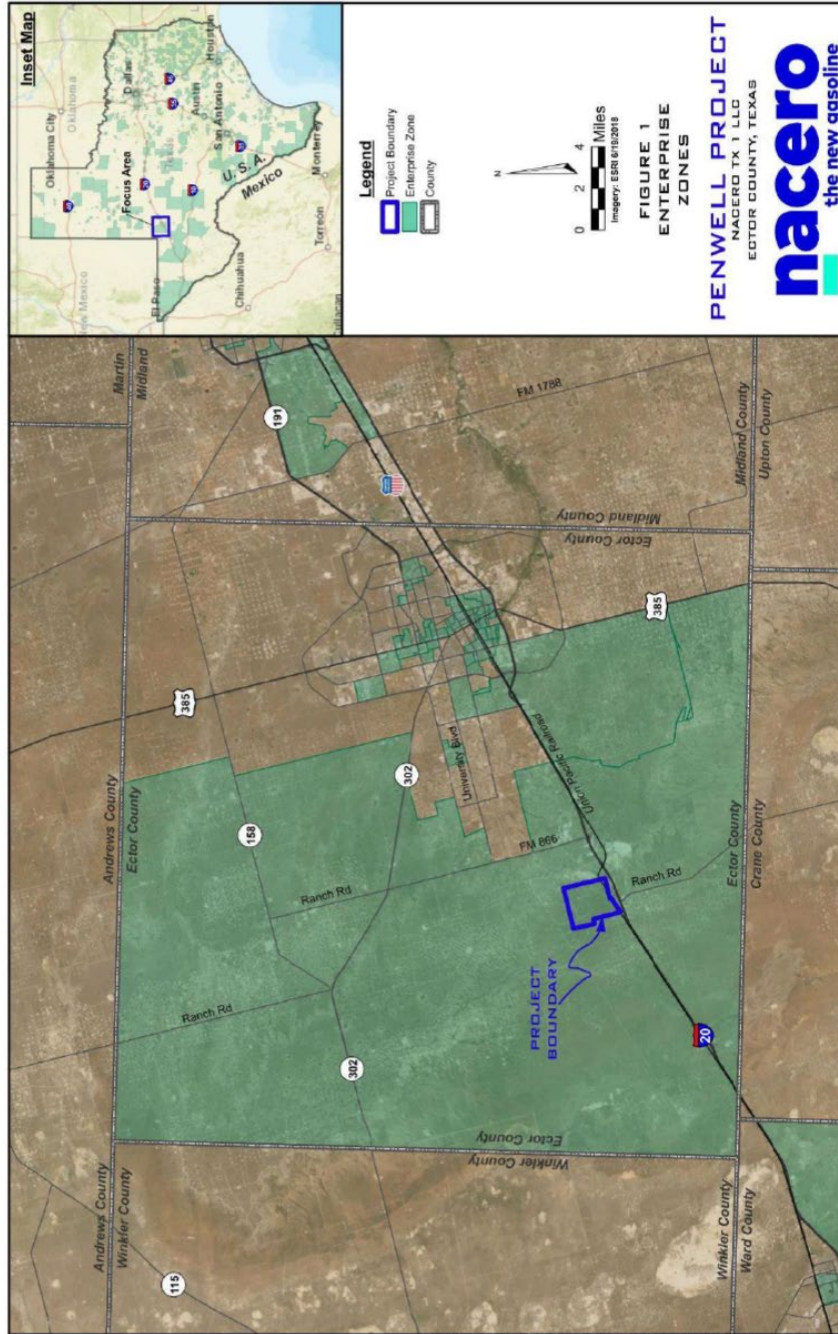
NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

## EXHIBIT 1

### DESCRIPTION AND LOCATION OF ENTERPRISE OR REINVESTMENT ZONE

Ector County is a designated enterprise zone, based on poverty level. See link to Enterprise Zone Finder on this page <https://gov.texas.gov/business/page/texas-enterprise-zone-program> and map below.



Agreement for Limitation on Appraised Value  
Between Ector ISD and Nacero TX 1 LLC  
(App. No. 1568), June 15, 2021  
Exhibit 1

Texas Economic Development Act Agreement  
Comptroller Form 50-826 (October 2020)

## EXHIBIT 2

### DESCRIPTION AND LOCATION OF LAND

The Land, for which the Applicant has legally binding purchase options is located within the boundaries of the project area, Ector County Independent School District, Ector County and the Enterprise Zone, as depicted on the attached map and described below:

**METES & BOUNDS DESCRIPTION OF A 2,531.45-ACRE TRACT LOCATED IN SECTIONS 33, 34, 35, 40, 41, 42, 43, AND 44 BLOCK 44 T-2-S AND SECTION 6, BLOCK 44 T-3-S T&P RR CO. SURVEY ECTOR COUNTY, TEXAS**

**BEING THE 2,531.45-ACRE PERIMETER OF ALL OF THE LAND DESCRIBED IN DOCUMENT NO. 2019-00009316 DEFINED AS A 601.10-ACRE TRACT LOCATED IN SECTIONS 43 BLOCK 44, T-2-S AND SECTION 6, BLOCK 44 T-3-S, A 6.27-ACRE TRACT LOCATED IN SECTIONS 43 AND 44, BLOCK 44, T-2-S, A 2.39-ACRE TRACT LOCATED IN SECTION 42 BLOCK 44, T-2-S, A 13.30-ACRE TRACT LOCATED IN SECTIONS 44, BLOCK 44 T-2-S AND SECTION 6, BLOCK 44 T-3-S, A 30.00-ACRE TRACT LOCATED IN SECTIONS 42, 41, 40, 33, 34, & 35 BLOCK 44 T-S-S, AN 11.52-ACRE TRACT AND A 1.03-ACRE TRACT LOCATED IN SECTION 42, BLOCK 44, T-2-S, THE REMAINING 610.08-ACRES LOCATED IN SECTION 44, BLOCK 44, T-2-S, THE REMAINING 618.66-ACRES IN LOCATED IN SECTION 42, BLOCK 44 T-2-S, AND TH REMAINING 636.99 ACRES IN SECTION 44, BLOCK 44 T-2-S, T&P RR CO. SURVEY, ECTOR COUNTY TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS NORTH OF THE UNION PACIFIC RAILROAD AND SOUTH OF THE UNION PACIFIC RAILROAD FOLLOWS:**

**NORTH OF THE UNION PACIFIC RAILROAD:**

BEGINNING AT (Y= 10,602,739.62' & X= 1,591,811.58') A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHWEST CORNER OF SAID 601.10-ACRE TRACT AS DESCRIBED IIN DOCUMENT NO. 2019-00009316 OF THE OFFICIAL PUBLIC RECORDS OF ECTOR COUNTY TEXAS, AND ON THE NORTHERN RIGHT-OF-WAY LINE OF THE 200-FOOT UNION PACIFIC RAILROAD (aka T&P RAILWAY CO.) RIGHT-OF-WAY, AND THE SOUTHERN LINE OF SAID 601.10-ACRE TRACT,

THENCE NORTH 14°24'29" WEST WITH THE WEST LINE OF SAID 601.10-ACRE TRACT, PASS THE COMMON NORTH LINE OF SAID SECTION 6 AND THE SOUTH LINE OF SAID SECTION 43 AT 1,823.86 FEET, A TOTAL DISTANCE OF 7,111.72 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT THE NORTHWEST CORNER OF SAID 601.10-ACRE TRACT ON THE COMMON NORTH LINE OF SAID SECTION 43 AND THE SOUTH LINE OF SECTION 42 OF SAID BLOCK 44;

THENCE SOUTH 76°04'54" WEST WITH THE NORTH LINE OF SAID SECTION 43 AND THE SOUTH LINE OF SAID SECTION 42, A DISTANCE OF 1,200.95 FEET, TO A 2" IRON PIPE (WITH A 1" IRON PIPE CENTERED INSIDE) MARKED "S27 S28 B45 S42 S43 B44 T-2-S WA" (CONTROL MONUMENT) FOUND AT THE COMMON CORNER OF SAID SECTION 42 AND 43, AND SECTION 27 AND 28, BLOCK 45 T-2-S T&P RY CO SURVEY, ECTOR COUNTY TEXAS;

THENCE NORTH 14°24'45" WEST WITH THE COMMON LINE OF SAID SECTIONS 42 AND 27, A DISTANCE OF 5,286.34 FEET TO A 2" IRON PIPE MARKED "S26 S27 B45 T-2-S S31 S42 B44 T-2-S WA" (CONTROL MONUMENT) FOUND AT THE NORTHWEST CORNER OF SAID SECTION 42, THE SOUTHEAST CORNER OF SECTION 31, BLOCK 44, THE SOUTHEAST CORNER OF SECTION 26 AND THE NORTHEAST CORNER OF SECTION 27, BLOCK 45;

THENCE NORTH 76°05'03" EAST WITH THE NORTHLINE OF SAID SECTION 42 AND THE SOUTHLINE OF SAID SECTION 31, A DISTANCE OF 5,270.89 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) SET AT THE COMMON NORTHEAST CORNER OF SAID SECTION 42, THE NORTHWEST CORNER OF SECTION 41, WHENCE A 1 ½" IRON PIPE FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 31 AND THE SOUTHWEST CORNER OF SECTION 32 OF SAID BLOCK 44 BEARS NORTH 76°05'05" EAST A DISTANCE OF 8.1 FEET;

THENCE NORTH 76°05'05" EAST WITH THE NORTHLINE OF SAID SECTION 41 AND THE SOUTHLINE OF SAID SECTION 31, PASS A 1 ½" IRON PIPE FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 31 AND THE SOUTHWEST CORNER OF SECTION 32 OF SAID BLOCK 44 AT 8.1 FEET, CONTINUING WITH THE COMMON NORTHLINE OF SAID SECTION 41 AND THE SOUTHLINE OF SECTION 32, A TOTAL DISTANCE OF 5,329.24 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 42, THE SOUTHWEST CORNER OF SAID SECTION 41, THE NORTHWEST CORNER OF SECTION 44, AND THE NORTHEAST CORNER OF SECTION 43 OF SAID BLOCK 44, WHENCE A 1 ½" IRON PIPE (BENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 40 BEARS NORTH 76°06'21" EAST, A DISTANCE OF 5,306.79 FEET;

THENCE SOUTH 14°12'42" EAST WITH THE COMMON EAST LINE OF SAID SECTION 41 AND THE WEST LINE OF SAID SECTION 40, A DISTANCE OF 991.23 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" SET ON THE NORTH LINE OF THAT CERTAIN 30.00ACE TRACT AS DESCRIBED IN SAID DOCUMENT NO. 2019-00009316;

THENCE NORTH 63°33'07" EAST WITH THE NORTH LINE OF SAID 30-00-ACRE TRACT AND THROUGH SECTIONS 40, 33, AND 34 OF SAID BLOCK 44, A DISTANCE OF 10,832.82 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT A CUT-BACK CORNER;

THENCE NORTH 24°40'10" EAST, PASS THE COMMON EAST LINE OF SAID SECTION 34 AND THE WEST LIN OF SECTION 35 OF SAID BLOCK 35 AT 5.97 FEET, IN ALL A TOTAL OF 31.14 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT A CUT-BACK CORNER ON THE WEST RIGHT-OF-WAY LIN OF FM 866, WHENCE A ½" IRON ROD BY A LEANING TEXAS DEPARTMENT OF TRANSPORTATION CONCRETE MONUMENT (CONTROL MONUMENT) BEARS NORTH 14°12'25" WEST, A DISTANCE OF 4,469.17 FEET;

THENCE SOUTH 14°12'47" EAST WITH THE RIGHT-OF-WAY OF SAID FM 866, A DISTANCE OF 101.39 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" FOUND AT A CUT-BACK CORNER, WHENCE A TEXAS DEPARTMENT OF TRANSPORTATION RIGHT-OF-WAY MONUMENT BEARS SOUTH 14°12'25" EAST, A DISTANCE OF 1,273.02 FEET;

THENCE NORTH 65°19'50" WEST WITH SAID CUT-BACK, PASS THE SAID COMMON LINE OF SECTION 35 AND 34 AT 20.41 FEET, IN ALL A TOTAL OF 25.11 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT A CUT-BACK CORNER;

THENCE SOUTH 63°33'07" WEST THROUGH SAID SECTIONS 34, 33, AND 40, A DISTANCE OF 10,832.82 FEET TO A ½" IRON ROD WITH CAP MARKED "LCA ODESS TEXAS SET ON THE COMMON EAST LINE OF SAID SECTION 41 AND THE WEST LINE OF SAID SECTION 40,

THENCE SOUTH 14°12'42" EAST WITH THE COMMON EAST LINE OF SAID SECTION 41 AND THE WEST LINE OF SAID SECTION 40, A DISTANCE OF 4,233.85 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 41 AND THE SOUTHWEST CORNER OF SAID SECTION 40, THE NORTHWEST CORNER OF SECTION 45, AND THE NORTHEAST CORNER OF SECTION 44 OF SAID BLOCK 44, WHENCE A 1 ½" IRON PIPE (BENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 40 BEARS NORTH 76°06'21" EAST, A DISTANCE OF 5,306.79 FEET;

THENCE SOUTH 14°20'30" EAST WITH THE EAST LINE OF SAID SECTION 44 AND THE WEST LINE OF SAID SECTION 45, A DISTANCE OF 3,859.06 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE INTERSECTION ON THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD A 200-FOOT RIGHT-OF-WAY, WHENCE A 1" G.I.P. FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 44 AND THE SOUTHWEST CORNER OF SAID SECTION 45 BEARS SOUTH 14°20'30" EAST, A DISTANCE OF 1,434.43 FEET;

THENCE SOUTH 56°54'07" WEST WITH THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD, PASS THE COMMON SOUTHLINE OF SAID SECTION 44 AND THE NORTH LINE OF SECTION 6, BLOCK 44, T-3-S AT 4,365.17 FEET, PASS A ½" IRON ROD WITH CAP MARKED "LCA ODESSA TX" (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF THAT CERTAIN 13.30-ACRE TRACT AS DESCRIBED IN SAID DOCUMENT NO. 2019-00009316 AND THE SOUTHEAST CORNER OF SAID 601.10-ACRE TRACT AT 5,558.59 FEET, CONTINUING WITH THE NORTHERN RIGHT-OF-WAY OF SAID UNION PACIFIC RAILROAD, A TOTAL DISTANCE OF 9,897.77 FEET N TO THE POINT OF THE BEGINNING CONTAINING 2,481.94 SURFACE ACRES.

SOUTH OF THE UNION PACIFIC RAILROAD:

BEING A 49.51-ACRE PORTION OF SECTION 44, BLOCK 44, T-2-S T&P RY CO. SURVEY ECTOR COUNTY, TEXAS, AND BEING THAT PORTION OF SAID SECTION 44 LYING ON THE SOUTH SIDE OF THE UNION PACIFIC RAILROAD (aka TEXAS PACIFIC RAILWAY CO.) A 200FOOT RIGHT-OF-WAY AND MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

BEGINNING AT (Y= 10,606,754.79' & X= 1,600,458.59') A 1" G.I.P. (CONTROL MONUMENT) FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 44, THE SOUTHEAST CORNER OF SECTION 45, BLOCK 44, WHENCE A 1' IRON PIPE FOUND AT THE SOUTHEAST CORNER OF SAID SECTION 45 BEARS NORTH 76°09'06" EAST, A DISTANCE OF 5,296.07 FEET;

THENCE SOUTH 76°05'05" WEST WITH THE SOUTHLINE OF SAID SECTION 44 AND THE NORTHLINE OF SECTION 5, BLOCK 44 T-3-S, A DISTANCE OF 3,524.77 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE INTERSECTION ON THE SOUTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD 200-FOOT RIGHT-OF-WAY;

THENCE NORTH 56°54'07" EAST WITH THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD RIGHT-OF-WAY, A DISTANCE OF 3,724.77 FEET TO A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE INTERSECTION ON THE SOUTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC 200-FOOT RIGHT-OF-WAY AND THE EAST LINE OF SAID SECTION 44, WHENCE A 5/8" IRON ROD WITH ALUMINUM CAP MARKED "LCA ODESSA TX" SET ON THE EAST LINE OF SAID SECTION 44 AND THE NORTHERN RIGHT-OF-WAY LINE OF SAID UNION PACIFIC RAILROAD BEARS NORTH 14°20'30" WEST, A DISTANCE OF 211.22 FEET;

THENCE SOUTH 14°20'30" EAST WITH THE COMMON LINE OF SAID SECTIONS 44 AND 45, A DISTANCE OF 1,223.21 FEET TO THE POINT OF THE BEGINNING CONTAINING 49.51 SURFACE ACRES.

BEARINGS, DISTANCES AND COORDINATES ARE RELATIVE TO THE TEXAS COORDINATE SYSTEM, 1983 NAD, CENTRAL ZONE, WITH THETA ANGLE OF -01°09'47" AND A COMBINED GRID FACTOR OF 0.999828936. ACREAGE STATED IS AVERAGE SURFACE.



## EXHIBIT 2



*Texas Economic Development Act Agreement  
Comptroller Form 50-826 (October 2020)*

### EXHIBIT 3

#### APPLICANT'S QUALIFIED INVESTMENT

Below, please find a description of the physical and functional aspects of the final constructed and delivered facility consistent with the level of detail defined at the project's conceptual engineering phase.

The specific and detailed description of the qualified investment which is proposed within the project boundary, along with any new buildings or proposed improvements have been split into sections describing the different parts of the facility, such as, Inside Battery Limits (ISBL), Outside Battery Limits (OSBL), Tank Storage, Truck and Rail Operations, etc.

The Penwell facility includes the following configuration:

- 6 SynCOR Methanol™ / TIGAS™ trains (3 sets of two trains)
- 6 Air Separation Units (ASU), one for each train
- 6 Flare units, one for each train
- 3 Sets of process common units (hydrocracker unit, isomerization, condensate stripping)
- 3 Utility and Offsite blocks (CO2 recovery unit, thermal oxidizer, Boiler Feed Water/steam/Auxiliary Boiler, condensate treatment, power generation, raw and wastewater treatment, cooling water)
- 1 Carbon capture sequestration Compressor Station
- 1 Hydrogen Generation Unit (HGU)
- 1 Gasoline Post Treatment Unit
- 1 common tankage area, 1 back-up instrument air and nitrogen unit, 1 firewater system, 1 gasoline blending facility, railcar loading/unloading area and truck loading areas.

This project will include Trains 1 through 6 with associated common process areas as well as associated utility & offsite blocks.

#### ISBL – Natural Gas Processing and Gasoline Manufacturing

The ISBL facilities below are licensed by Haldor Topsoe and their Design Packages are provided by HT except where noted. Natural gas feed, plus recycled liquefied petroleum gas (LPG) and C5 recycle, are converted to raw gasoline in each of the six processing trains.

Each train includes the following primary Process sections:

- Natural Gas Reforming (Unit 110, 210, 310, 410, 510, 610)
- Syngas Process Condensate (Unit 111, 211, 311, 411, 511, 611)
- Methanol Synthesis (Unit 120, 220, 320, 420, 520, 620)
- Gasoline Reactor (Unit 130, 230, 330, 430, 530, 630)
- Catalyst Regeneration System (Unit 131, 231, 331, 431, 531, 631)
- Gasoline Fractionation (Unit 140, 240, 340, 440, 540, 640)
- Hydrogen Recovery Unit (Units 171, 271, 371, 471, 571, 671)

- Cooling Water System (Unit 841, 842, 843) – Design not provided by HT.
- Flare System (Unit 160, 260, 360, 460, 560, 660) – Each Train will have a dedicated ground flare, Knock Out (KO) drum and KO drum pump. However, for redundancy and reliability, the Flare systems for each set of Trains (1 and 2, 3 and 4, 5 and 6) will be cross-tied and each Flare system will be designed to support two parallel trains. Each set of cross-tied flares will be connected to process commons (i.e. hydrocracker unit, isomerization unit) dedicated to their corresponding trains. Design not provided by HT.
- Hydrocracking and Isomerization (Units 711, 712, 713) – The raw gasoline product from each train is sent to a Hydro-processing unit, which includes Isomerization and mild Hydrocracking sections for octane improvement and distillation point control. These units are common for each set of two trains.

## **OSBL – Balance of Plant**

### **OSBL Per Train Set – One System per Two Trains**

The following is a description of the systems supporting each set of two trains. Ultimately, 3 sets of these blocks will be provided to support all 6 trains at the Penwell facility.

- Gasoline Synthesis Process Condensate (Unit 731, 732, 733) – HT is providing the Design Package for these units.
- Power Generation (Unit 741, 742, 743) – 2 Steam Turbine Generators (STGs) per Unit will generate power from the excess steam from ISBL.
- Fuel Gas CO2 Removal (Unit 751, 752, 753)
- Boiler Feed Water (BFW)/Condensate System (Unit 811, 812, 813) • Auxiliary Boiler (Unit 821, 822, 823)
- Raw Water Treatment (Unit 831, 832, 833) – Scope is to be confirmed based on raw water analysis and plant water balance. Utility and fire water to be supplied from raw water.
- Wastewater Treatment (Unit 851, 852, 853) – Options being considered are a Water Treatment Plant, Disposal Wells, Evaporation Ponds or a combination of the above
- Storm Water/Drainage System (Unit 861, 862, 863) Closed Drain System – Hydrocarbon drain drum with pumps and slop oil tank with pumps to service the closed hydrocarbon drain system from ISBL. Methanol drain drum with pumps and slop methanol tank with pumps to service the closed methanol drain system from ISBL
- Plant Instrument Air and Nitrogen Distribution system (Unit 881, 882, 883)

The natural gas and gasoline production process will require high quality demineralized water. This process will generate steam and water condensate that may be reused within the proposed facility. Raw water treatment and wastewater treatment are anticipated as part of the proposed Project to meet the industrial water demand, which effectively results in an internal recycling of water. In addition to the recycled water internal to the process, the industrial water supply will be supplemented by water piped in from the Colorado River Municipal Water District.

## OSBL Common Utilities - One Set for the Facility

The following is a description of the common systems supporting all 6 trains.

- Hydrogen Generation Unit (Unit 930) – Will produce hydrogen to meet the entire plant hydrogen demand. The HGU will be oversized to provide 100MMTPD of Hydrogen to allow for an excess of Hydrogen Which will also be sold as full for heavy haul over the road vehicles. Storage and loading facilities for Hydrogen are planned.
- Carbon Capture Sequestration (Unit 931)
- One Gasoline Post Treatment Unit (Unit 932) – Will upgrade gasoline product to meet California gasoline specifications. Size of the unit is to be determined. HT is providing the Design Package for this Unit.
- Backup Instrument/Plant Air Compressor – Used as a backup to instrument/plant air supply from ASU. Unit will be used for startup requirements of one train.
- Fire Fighting Unit (Unit 950) – Fire water to be supplied from treated raw water, or utility water, with raw water as backup supply.
- Storm Water Retention – Twenty-four hour, 100-year storm or six hours of maximum fire water application during fire water events used for volume design.

## OSBL - Storage and Terminal Operations

Storage facilities, tanks will be provided for the following:

- Raw Methanol Storage (Unit 910)
- LPG Storage (Unit 911)
- Gasoline Storage (Unit 912)
- Gasoline Blend Component Storage (Unit 913)
- Finished Gasoline Additives Storage (Unit 914)
- Finished Gasoline Storage (Unit 915)

Truck loading, the following products will be loaded by truck:

- Pump Ready Gasoline Product
- Nitrogen Hydrogen

Where necessary, internal roads, truck loading areas and designated parking areas will be a paved surface capable of supporting heavy truck traffic.

- Rail Loading and Unloading

The proposed facility will have inbound rail movements of gasoline blend components (ethanol, alkylate and naphtha) and outbound rail movements of LPG product and finished gasoline component.

The following products will be loaded by rail:

- LPG
- Finished Gasoline Component
- Argon The following products will be unloaded by rail:
- Ethanol
- Alkylate
- Naphtha

### **Air Separation Unit (ASU)**

The ASU's will be owned and operated by a third party for the benefit of Nacero. The ASU's will produce high purity oxygen for the Autothermal Reformer and is integral to our process for production of methanol. Our facility cannot operate without an ASU. The ASU's will be treated by Nacero as an owned asset and will be recorded on our balance sheet as a capital asset and accounted for with identical accounting as a capital lease. Nacero will have the right to purchase the ASU's at a predetermined reduced rate at the end of the term of the agreement. The ASU's will produce nitrogen, instrument air and plant air which are also critical and required for our plant's operation.

### **Land and Buildings**

The land for which the Applicant has legally binding purchase options is set out in EXHIBIT 2 and depicted on the attached map.

Below, please find a list of the buildings that will be located on the property:

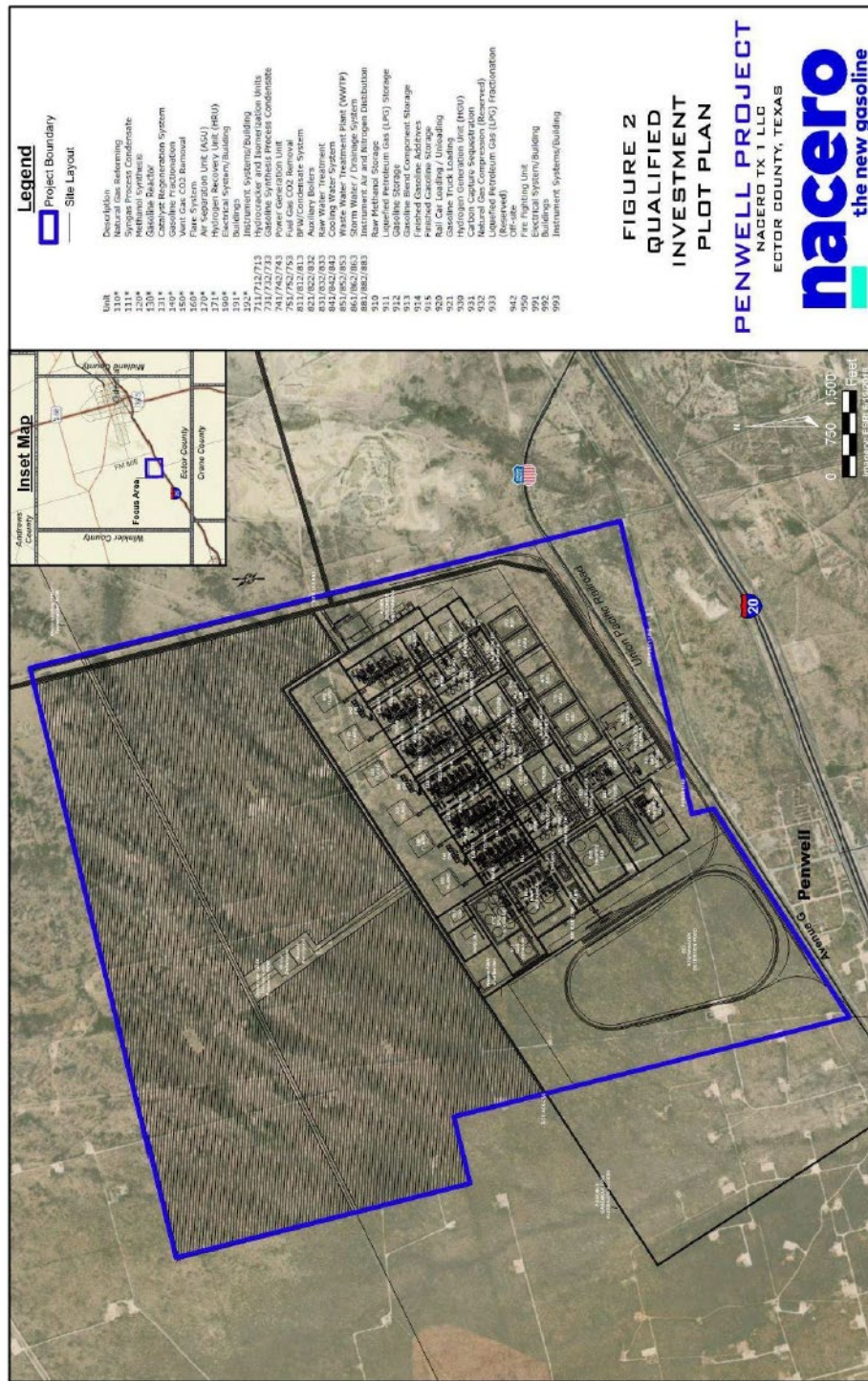
- 992-BLDG-01 Central Control Room / Operations Office Building (including 480V MCC room) - 2 stories
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### **Transmission Line and Switchyard**

Oncor has 138KV transmission lines that currently run through the northern side of the site. Oncor will be providing a power drop to their own new switchyard.



## MAP OF QUALIFIED INVESTMENT



**Agreement for Limitation on Appraised Value**  
Between Ector ISD and Nacero TX 1 LLC  
(App. No. 1568), June 15, 2021  
Exhibit 3

*Texas Economic Development Act Agreement  
Comptroller Form 50-826 (October 2020)*

## EXHIBIT 4

### DESCRIPTION AND LOCATION OF QUALIFIED PROPERTY

Below, please find a detailed description of the qualified property and any new buildings, proposed new improvements of the final constructed and delivered facility consistent with the level of detail defined at the project's conceptual engineering phase.

The specific and detailed description of the qualified investment which is proposed within the project boundary, along with any new buildings or proposed improvements have been split into sections describing the different parts of the facility, such as, Inside Battery Limits (ISBL), Outside Battery Limits (OSBL), Tank Storage, Truck and Rail Operations, etc.

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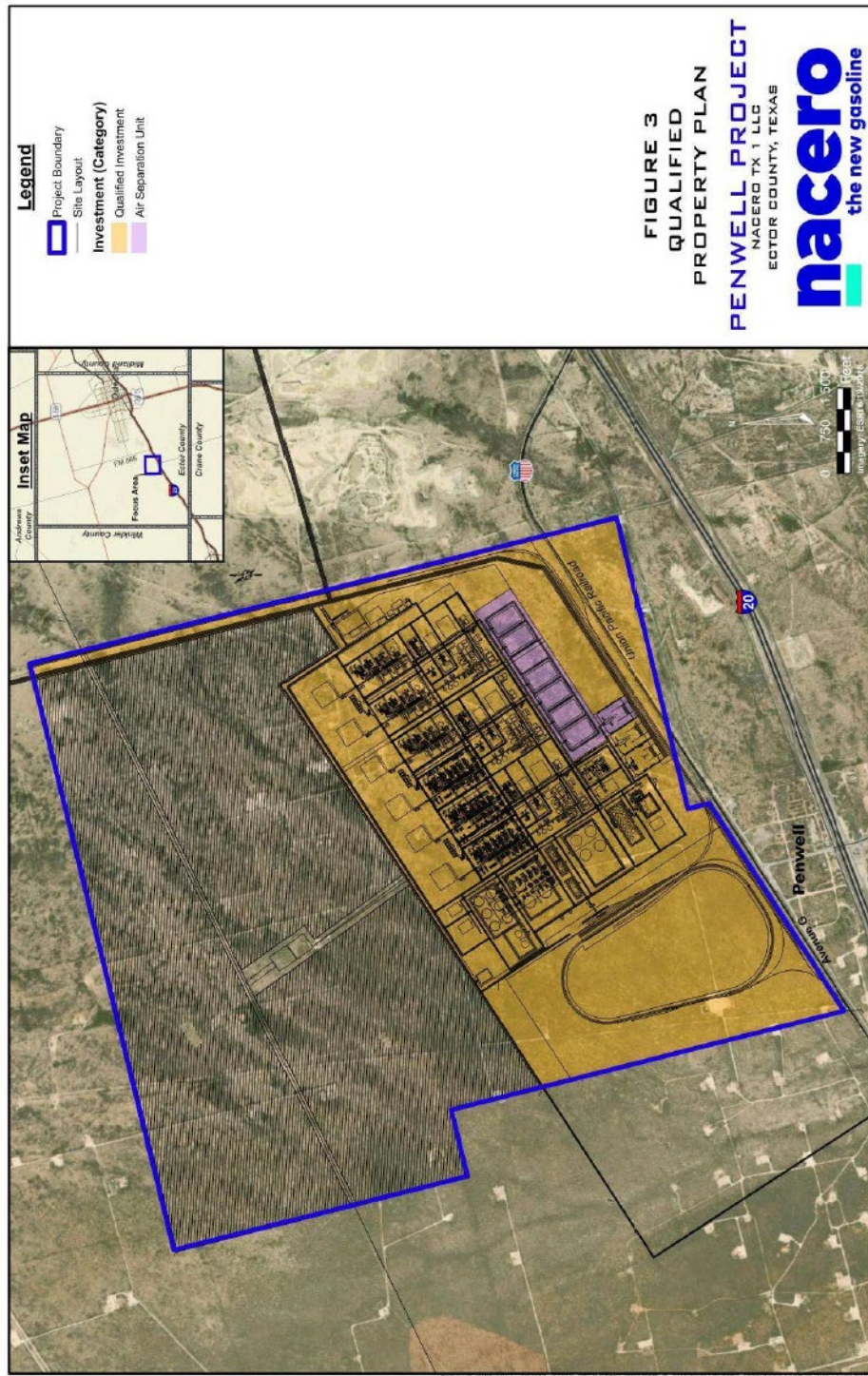
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(App. No. 1568), June 15, 2021  
Exhibit 4

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## MAP OF QUALIFIED PROPERTY



**Agreement for Limitation on Appraised Value**  
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(App. No. 1568), June 15, 2021  
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**EXHIBIT 5**  
**AGREEMENT SCHEDULE**

	<u><b>Year of Agreement</b></u>	<u><b>Date of Appraisal</b></u>	<u><b>School Year</b></u>	<u><b>Tax Year</b></u>	<u><b>Summary Description</b></u>
Limitation Pre-Years	0	January 1, 2021	2021-22	2021	QTP Pre Year
	QTP 1	January 1, 2022	2022-23	2022	QTP year 1, begins January 1, 2022
	QTP 2	January 1, 2023	2023-24	2023	QTP year 2, ends December 31, 2023
Limitation Period (10 Years)	1	January 1, 2024	2024-25	2024	\$100 million appraisal limitation
	2	January 1, 2025	2025-26	2025	\$100 million appraisal limitation
	3	January 1, 2026	2026-27	2026	\$100 million appraisal limitation
	4	January 1, 2027	2027-28	2027	\$100 million appraisal limitation
	5	January 1, 2028	2028-29	2028	\$100 million appraisal limitation
	6	January 1, 2029	2029-30	2029	\$100 million appraisal limitation
	7	January 1, 2030	2030-31	2030	\$100 million appraisal limitation
	8	January 1, 2031	2031-32	2031	\$100 million appraisal limitation
	9	January 1, 2032	2032-33	2032	\$100 million appraisal limitation
	10	January 1, 2033	2033-34	2033	\$100 million appraisal limitation
Maintain a Viable Presence (5 Years)	11	January 1, 2034	2034-35	2034	No appraisal limitation; must maintain a viable presence
	12	January 1, 2035	2035-36	2035	No appraisal limitation; must maintain a viable presence
	13	January 1, 2036	2036-37	2036	No appraisal limitation; must maintain a viable presence
	14	January 1, 2037	2037-38	2037	No appraisal limitation; must maintain a viable presence
	15	January 1, 2038	2038-39	2038	No appraisal limitation; must maintain a viable presence



**GLENN HEGAR** TEXAS COMPTROLLER OF PUBLIC ACCOUNTS

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P.O. Box 13528 • Austin, TX 78711-3528

June 10, 2021

Scott Muri  
Superintendent  
Ector County Independent School District  
802 N. Sam Houston  
Odessa, Texas 76761

Re: Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Ector County Independent School District and Nacero TX 1, LLC, Application 1568

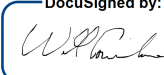
Dear Superintendent Muri:

This office has been provided with the Agreement for Limitation on Appraised Value of Property for School District Maintenance and Operations taxes by and between Ector County Independent School District and Nacero TX 1, LLC (Agreement). As requested, the Agreement has been reviewed pursuant to 34 TAC 9.1055(e)(1).

Based on our review, this office concludes that the Agreement complies with the provisions of Tax Code, Chapter 313 and 34 TAC Chapter 9, Subchapter F.

Should you have any questions, please contact Nicholas Valles with our office. He can be reached by email at [nicholas.valles@cpa.texas.gov](mailto:nicholas.valles@cpa.texas.gov) or by phone at 1-800-531-5441, ext. 3-3017, or at 512-463-3017.

Sincerely,

DocuSigned by:  
  
BFD6C70F5753487...  
Will Counihan  
Director  
Data Analysis & Transparency Division

cc: Fred Stormer, Underwood Law Firm, PC  
Christopher Micklas, Nacero Inc.  
Sarah White, Global Location Strategy