

**FIRST AMENDMENT TO THE  
TAX ABATEMENT AGREEMENT**

This First Amendment (the “**Amendment**”), dated as of February 13, 2017 (the “**Effective Date**”), is by and between Javelina Wind Energy, LLC (“**Javelina**”), Javelina Wind Energy II, LLC (“**Javelina II**” and jointly with Javelina, the “**Owners**”) and Webb County, Texas (the “**County**”). Javelina, Javelina II and the County are sometimes referred to individually in this Amendment as a “**Party**” and collectively as the “**Parties**.” Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Abatement Agreement (as defined herein).

**WHEREAS**, Javelina and the County are Parties to that certain Tax Abatement Agreement dated as of December 20, 2013 (the “**Abatement Agreement**”);

**WHEREAS**, Javelina and the County desire to modify the scope of the Abatement Agreement to include Javelina II, an affiliate of Javelina;

**WHEREAS**, Javelina II is developing an approximately 200 MW wind powered electric power generating facility in Webb County, located adjacent to the Javelina Project.

**WHEREAS**, the Parties desire to amend the Agreement as set forth herein.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual promises stated herein, the Parties agree as follows:

1. Amendments to the Agreement. The Parties agree that the Agreement shall be amended as follows:

a. Introductory Paragraph. The introductory paragraph to the Abatement Agreement shall be amended as follows to incorporate Javelina II:

THIS TAX ABATEMENT AGREEMENT (“Agreement”) is made and entered into by and between WEBB COUNTY, TEXAS, (the “County”), JAVELINA WIND ENERGY, LLC together with its affiliate, successors and permitted assigns (“Javelina”) and JAVELINA II WIND ENERGY LLC together with its affiliate, successors and permitted assigns (“Javelina II”). Each of Javelina and Javelina II are owners of tangible personal property and improvements to be constructed or installed on real property within a reinvestment zone designated under Chapter 312, Texas Tax Code.

- b. Whereas Clauses. The Whereas Clauses to the Abatement Agreement shall be amended as follows (bold and italics are used solely to identify new or revised language):

WHEREAS, Javelina and *Javelina II have easements* on all or a portion of a tract of land containing approximately 100,000 acres located in Webb and Duval Counties, Texas (the "Property"), and

WHEREAS, *the Owners (defined herein) each* intend to operate and maintain a wind powered electric power generating facility (*individually a "Project" and jointly, the "Projects"*) on the Property (as defined in Section 2(d) of this Agreement) *and the Owners* intends to construct the Projects on the Property; and

WHEREAS, *the Owners* would not construct the Improvements (as defined in Section 2(c) of this Agreement) without receipt of an ad valorem tax abatement from the County; and

WHEREAS, it is contemplated that *each* Project will ultimately have an operating capacity of approximately 250 megawatts; and

WHEREAS, *the Owners* contemplate that, from time to time during the term of this Agreement, certain financial and other interests in portions of the *Projects* will be transferred to investors in the *Projects* for financing purposes (each an "Investor Group").

- c. Section 2, Defined Terms.

- (i) Subpart (f) "Abatement Period" shall be amended as follows (bold and italics used solely to identify new or revised language):

(f) "Abatement Period" shall mean that ten year period commencing on the January 1<sup>st</sup> of the tax year in which the Owner's completed Project *or a discrete phase or expansion of such Project* is placed on the tax rolls and ending on December 31, ten years thereafter, as permitted by §312.007(b), Texas Tax Code. Placement of a discrete phase or expansion of such Project on the tax rolls will not increase the initial ten year abatement period for the Project as a whole.

- (ii) Subpart (g) "Community Contributions" shall be amended as follows (bold and italics used solely to identify new or revised language):

(g) "Community Contributions" shall mean the monetary contributions to be made by *each of Javelina and Javelina II* as outlined in Section 9 of this Agreement.

(iii) Subpart (i) "Owner" shall be amended as follows (bold and italics used solely to identify new or revised language):

(i) "***Owners***" means Javelina Wind Energy, LLC ***and Javelina II Wind Energy, LLC***, the ***entities*** that own or lease the real property for which the Abatement is being granted, and any assignee or successor in interest of Javelina Wind Energy, LLC ***or Javelina II Wind Energy II, LLC***. The ***terms*** "Javelina Wind Energy, LLC" ***and "Javelina II Wind Energy, LLC"*** means and includes the ***Owners***.

d. Section 5; Construction of the Improvements. The following shall be added to the end of Section 5:

Javelina II anticipates that it will commence construction of the Improvements on or before July 1, 2016. It is expected that the Project will have an operating capacity of approximately 200 megawatts by December 31, 2016. It is estimated that the Project will have a market value of \$340,000,000 upon completion.

e. Section 9; Community Contributions. The following subpart (c) shall be added to Section 5:

(c) During the first ten (10) years of the Abatement Period, each of Javelina and Javelina II shall contribute \$100,000 a year to the "Enlightening the Children of the Quad City" Non Profit Organization for a Project with an operating capacity of up to 250 megawatts. Each of Javelina and Javelina II will still continue to contribute \$100,000 a year to the "Enlightening the Children of the Quad City" Non Profit Organization for an additional four (4) years after the Abatement Period ends for a Project with an operating capacity of up to 250 megawatts. If the Project's operating capacity increases above 250 megawatts, then this contribution to the "Enlightening the Children of the Quad City" Non Profit Organization shall increase by \$10,000 a year for each 25 megawatt increase in operating capacity over 250 megawatts. Javelina II shall by February 13, 2017 pay to The Enlightening the Children of the Quad City Area \$400,000.00 to complete agriculture/Wind Energy building. It is understood that all community contribution under this section by Javelina I and Javelina II will be forwarded to Webb County who will in turn enter into a separate agreement ("Memorandum of Understanding) with the above named non-profit entity ("Enlightening the Children of the Quad City") for the distribution of moneys for listed Projects outlined under this subsection which are for the sole benefit of Webb Consolidated Independent School District.

f. Section 15; Notice. The notice information for Javelina shall be amended, and the notice information for Javelina II shall be added and inserted as follows:

To Javelina: Javelina Wind Energy, LLC  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Attention: Vice President, Development  
Phone: (561) 691-7237  
Fax: (561) 691-7305

To Javelina II: Javelina II Wind Energy II, LLC  
700 Universe Boulevard  
Juno Beach, FL 33408-0420  
Attention: Vice President, Development  
Phone: (561) 691-7237  
Fax: (561) 691-7305

2. Agreement of the Parties.

The Parties acknowledge and agree that the terms of the Abatement Agreement including, without limitation, each right granted to, and each undertaking, obligation commitment and representation of, Javelina provided therein shall apply to Javelina II with equal force and effect. Unless the context of the Abatement clearly requires otherwise, the term "Javelina" shall mean each of Javelina and Javelina II. For example, and not intended as a limitation, it is the Parties intent that:

(a) each of Javelina and Javelina II shall create permanent full time jobs and employ at persons in a manner consistent with Section 6, Job Creation:

(b) each of Javelina and Javelina II shall use reasonable commercial efforts to maximize the use of Webb County businesses in a manner consistent with Section 7, Local Goods and Services;

(c) the County shall grant to each of Javelina and Javelina II a property tax abatement on the terms and conditions as set forth in Section 8, Tax Abatement; and

(d) each of Javelina and Javelina II shall make community contributions in a manner consistent with the terms and conditions of Section 9, Community Contributions.

3. Other Terms and Conditions.

a. Authorization. Each Party represents to the other Party that the execution, delivery and performance of this Agreement have been duly authorized, and this Agreement has been duly executed and delivered by the signatory so authorized, and the obligations contained

herein constitute the valid and binding obligations of such Party.

b. Effect of Amendment. The Abatement Agreement remains in effect in accordance with its terms. If there is any conflict between the Abatement Agreement and this Amendment, this Amendment shall control.

c. Entire Agreement. This Amendment along with the Abatement Agreement constitutes the entire agreement between the Parties relating to the subject matter thereof and shall supersede all other prior and contemporaneous understandings or agreements, both written and oral, between the Parties relating to the subject matter thereof.

d. Governing Law. This Amendment shall be governed by Section 18. Governing Law of the Abatement Agreement. The Parties agree to comply with Section 12, Default of the Abatement Agreement with respect to any default relating to this Amendment.

e. Captions; Construction. The headings used for the sections and articles herein are for convenience and reference purposes only and shall in no way affect the meaning or interpretation of the provisions of this Amendment or the Agreement. Any term and provision of this Amendment shall be construed simply according to its fair meaning and not strictly for or against any Party. The Parties collectively have prepared this Amendment, and none of the provisions hereof shall be construed against one Party on the ground that such Party is the author of this Amendment or any part hereof.

f. Counterparts. This Amendment may be executed in counterparts, each of which is an original and all of which constitute one and the same instrument. A signature provided via facsimile or in a .pdf document sent via e-mail shall have the same effect as an original.

g. Any Amendments or Modifications. This Amendment may only be amended or modified in writing signed by both of the Parties.

[Signature Page Follows]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their authorized representatives as of the Effective Date.

**JAVELINA WIND ENERGY, LLC**

a Delaware limited liability company

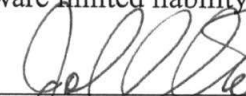
By: 

Name: John D. Donato

Title: Vice President

**JAVELINA WIND ENERGY II, LLC**

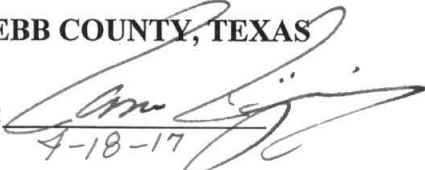
a Delaware limited liability company

By: 

Name: John D. Donato

Title: Vice President


**WEBB COUNTY, TEXAS**

By:   
4-18-17

Name: Tano E. Tijerina

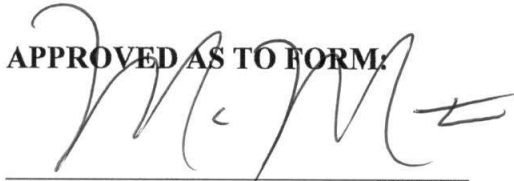
Title: Webb County Judge

ATTESTED:

  
Margie Ramirez-Ibarra  
Webb County Clerk



APPROVED AS TO FORM:



Marco A. Montemayor  
Webb County Attorney

\*By law, the county attorney's office may only advise or approve contracts or legal documents on behalf of its clients. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

Passed and approved by the Webb County Commissioners Court  
On February 13, 2017, Item No. 49.