

CONTRACT NUMBER 582-12-20281

**CONTRACT AMENDMENT TO THE INTERGOVERNMENTAL COOPERATIVE
REIMBURSEMENT AGREEMENT BETWEEN THE TEXAS COMMISSION ON
ENVIRONMENTAL QUALITY (TCEQ) AND FORT BEND COUNTY**

AMENDMENT NUMBER 1

Pursuant to Article 1 (CONTRACT PERIOD) and Article 9 (AMENDMENTS) in the General Terms and Conditions of the Agreement, TCEQ and Fort Bend County (GRANTEE) agree to amend Contract Number 582-12-20281 to extend the Expiration Date of the Agreement from 08/31/2013 to 08/31/2015 and to add \$345,220.00 in funding for Fiscal Years 2014 and 2015, bringing the total Maximum TCEQ Obligation to \$695,320.00.

Fiscal Year	Contract Amount
FY12	\$177,494.00
FY13	\$172,606.00
FY14	\$172,610.00
FY15	\$172,610.00
Total Maximum TCEQ Obligation	\$695,320.00

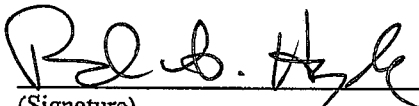
In accordance with Section 1.2 of the General Terms and Conditions (Renewal and Extension Period), the Contract Signature Page is amended to reflect an Expiration Date of August 31, 2015.

Grantee shall use its best efforts to expend funds carried over by this amendment before utilizing the new funding provided for continuation of the Program.

All other conditions and requirements of Contract Number 582-12-20281 remain unchanged and shall apply to all provisions specified herein.

TCEQ:

Texas Commission on Environmental Quality


(Signature)

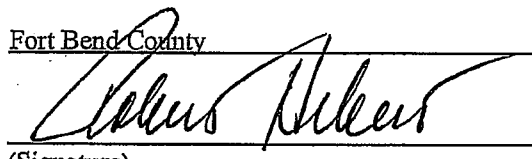
Richard A. Hyde, P.E.
(Printed Name)

Deputy Executive Director
(Title)

Date: 8/21/13

Grantee:

Fort Bend County


(Signature)

The Honorable Robert E. Hebert
(Printed Name)

Fort Bend County Judge
(Title)

Date: 7-23-13

Bryan W. Shaw, Ph.D., *Chairman*
Buddy Garcia, *Commissioner*
Carlos Rubinstein, *Commissioner*
Mark R. Vickery, P.G., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

January 27, 2012

Ms. Anne Werlean
Fort Bend County Court House
301 Jackson Street
Richmond Tx, 77469

Re: Executed Original Contract for LIRAP FY12 Galveston
Contract Number 582-12-20281

Dear Ms. Werlean:

Enclosed is an original executed contract for grant agreement 582-12-20281 with the Texas Commission on Environmental Quality. It is recommended that you keep this copy of the contract in a central file along with any future documents and other records pertaining to this project.

If you have any questions or need additional information, please do not hesitate to contact me at phone number (512) 239-2042 or via email at kmckee@tceq.state.tx.us.

Sincerely,

A handwritten signature in cursive script that reads "Kelly McKee".

Kelly McKee
Contract Specialist II
Air Quality Division

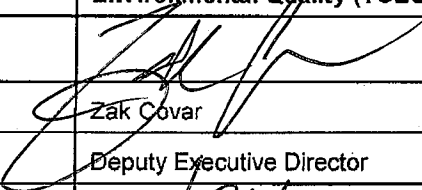
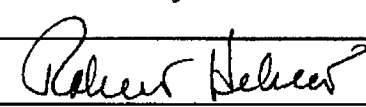
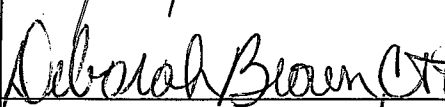
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Enclosures

COUNTY JUDGE
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Texas Commission on Environmental Quality

Intergovernmental Cooperative Reimbursement Contract
with
Federal, State and Local Governments and Agencies
CONTRACT SIGNATURE PAGE

Contract Number		582-12-20281
Performing Party		Fort Bend County
Contract Name		Low Income Vehicle Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program
Vendor Identification No.	17460019692	
Maximum Statewide TCEQ Obligation: \$5,584,625.00	Effective Date: Date of last signature	Expiration Date: August 31, 2013
The Texas Commission on Environmental Quality (TCEQ), an agency of the State of Texas, and the named Performing Party, a governmental body, agency, or political subdivision of the United States, the State of Texas, or another State, enter this agreement (Contract) to cooperatively conduct authorized governmental functions and activities under the laws of the State of Texas, including, without limitation, the Interagency Cooperation Act, the Interlocal Cooperation Act, and Texas Water Code §§ 5.124 and 5.229. The Parties agree: to be effective, the Contract must be signed by an authorized official of the TCEQ and the Performing Party; as authorized by TCEQ, Performing Party will conduct Contract Activities as part of its own authorized governmental functions and TCEQ will reimburse Allowable Costs subject to the Texas Uniform Grant Management Standards and this Contract; the Performing Party is not a vendor of goods and services under Texas Government Code Chapter 2251, therefore, no interest is applicable; and the Contract may be terminated by TCEQ for its own convenience with 10 days written notice.		
Parties to the Contract:	Texas Commission on Environmental Quality (TCEQ)	Fort Bend County
By (Authorized Signature):		
Printed Name:	Zak Covar	By: The Honorable Robert E. Hebert
Title:	Deputy Executive Director	Fort Bend County Judge
Date of Signature:	1/26/12	12-13-2011
Procurement and Contracts Representative (Authorized Signature):		
Printed Name:	Deborah Brown	
Date:	1/26/12	

**Intergovernmental Cooperative Reimbursement Contract
CONTRACT DOCUMENTS**

The entire Contract between TCEQ and Performing Party is composed of the Contract Documents listed on this page and marked by an "X." A listed document includes all amendments. The terms "Contract" and "Grant Agreement" include all the Contract Documents. In the event of a conflict of terms, the Contract Documents as amended control in the descending order of the list, subject to provisions in the Special Terms and Conditions, if any. All contract provisions, however, are subject to control by the latest amendment and most specific provision and by the applicable state and federal laws, rules, and regulations.

☒	Contract Signature Page
☒	Special Terms and Conditions
☐	Federal Section (Including Federal Conditions and Completed Forms)
☒	Documents Created During the Contract: Work Orders/Proposal for Grant Activities. For umbrella contracts/grants, the following order takes precedence, with the most important first; all of which are subject to control by the latest amendment:
☐	☐ Work Order / Proposal for Grant Activities
☒	☐ Notice to Proceed / Notice to Commence
☐	☐ TCEQ Approved Work Plan/Grant Activity Description
☒	Contract Activities (Scope of Work)
☒	TCEQ - Approved Activity Plan / Performing Party Proposal
☐	Work Order Section
☒	General Terms and Conditions
☒	Contract Budget / Schedule of Fixed Cost for Reimbursement
☒	Project Representatives and Records Location
☒	Attachment A: Financial Status Report 20248 (Revised 08/2011)
☐	Attachment B:
☐	Attachment C:
☐	Attachment D:

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
Inter-Governmental Cooperative Reimbursement Contract
with
Federal, State and Local Governments and Agencies

CONTRACT ACTIVITIES

I. INTRODUCTION

The purpose of this Contract is to provide financial assistance to enable the Performing Party to conduct the Grant Activity efficiently with a minimum of expense, risk, and potential liability to the Performing Party.

II. DESCRIPTION OF ACTIVITIES

The Performing Party agrees to perform, in accordance with this Contract and other Contract Documents, the activity generally described as: Low Income Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program (LIRAP), also known as the AirCheckTexas Drive a Clean Machine Program. The LIRAP Activities to be conducted by the Performing Party within its boundaries are described in Chapter 382, Texas Health and Safety Code and the Rules of the TCEQ at 30 Texas Administrative Code (TAC) Chapter 114 Subchapters A and C (specifically, Sections 30 TAC sections 114.7, 114.60, 114.62, 114.64, 114.66, 114.68, 114.70, and 114.72). The LIRAP Activities may be further described in other Contract Documents.

The LIRAP Activities specifically include:

Payments necessary for repairs to bring vehicles into emissions compliance.

Payments for replacement vehicles when existing vehicles are retired.

Administration of the Performing Party's LIRAP program.

Unless otherwise provided in this Contract or authorized in writing by the TCEQ, the Performing Party must submit a written Activity Plan for the conduct of the Work of this Contract. The Performing Party must obtain the TCEQ's written approval in a Notice to Proceed, in order for the costs to be eligible for reimbursement. The Activity Plan may be amended by written agreement of the Parties without amending this Contract.

III. SCOPE OF WORK

1. Applicability for LIRAP

- (a) The provisions of these requirements provide the minimum requirements for the Performing Party's implementation of LIRAP and apply to counties that implement a vehicle emissions inspection program and have elected to implement LIRAP under this contract.
- (b) To be eligible for assistance under this division, vehicles must be subject to 30 TAC Section 114.50(a)
- (c) LIRAP does not apply to a vehicle that is a:
 - (1) fleet vehicle;
 - (2) commercial vehicle;
 - (3) vehicle owned or leased by a governmental entity;
 - (4) vehicle registered as a classic motor vehicle as defined by Transportation Code, Section 502.274;

- (5) vehicle registered as an exhibition vehicle, including antique or military vehicles, as defined by Transportation Code, Section 502.275; or
- (6) vehicle not regularly used for transportation during the normal course of daily activities.
- (d) The Performing Party must ensure that owners of vehicles under subsection (c) of this section do not receive monetary or compensatory assistance under LIRAP.

2. LIRAP Funding

- (a) The TCEQ shall provide funding for LIRAP with available funds from Inspection and Maintenance Fees or other designated and available funds.
- (b) The Performing Party's program shall be administered in accordance with Texas Government Code, Chapter 783. Programmatic costs may include call-center management, application oversight, invoice analysis, education, outreach, and advertising.
- (c) The Performing Party shall receive, to the extent practicable, appropriated funding in reasonable proportion to the amount of fees collected in the Performing Party's territorial jurisdiction from emissions testing fees designated by TCEQ.
- (d) The Performing Party may not use more than ten percent (10%) of the money provided for LIRAP for administration of the program.
- (e) For subgrants or subcontracts performed by a Regional Planning Commission or Council of Governments, Performing Party shall limit the indirect rate charged by the COG to 15%.

3. LIRAP Requirements

- (a) The Performing Party agrees that it has, through its county commissioner's court, requested to implement LIRAP and the purpose of this grant contract is to implement that request.
 - (1) This grant contract provides conditions, requirements, and projected funding allowances for the implementation of LIRAP.
 - (2) The Performing Party may contract with an entity approved by the TCEQ for services necessary to implement LIRAP. The Performing Party or its designated entity (also referred to herein as subcontractor) shall demonstrate to the TCEQ that, at a minimum, the Performing Party or its designated entity has provided for appropriate measures for determining applicant eligibility and repair effectiveness and ensuring against fraud.
 - (3) The Performing Party shall remain obligated as the contractual party to this Contract even if the Performing Party contracts with another entity to administer LIRAP within the boundaries of the Performing Party's program area.
 - (4) If the Performing Party contracts with another entity to administer LIRAP within the boundaries of the Performing Party's program area, Performing Party shall ensure that the requirements of this Agreement flow down to that entity, and that the Agreement with that entity contains provisions ensuring that the Performing Party can account for the amount of funding expended in the Performing Party's program area and require prior approval before any funding is transferred to another area and documentation of such transfer.

- (b) **Repair and retrofit assistance.** The Performing Party's LIRAP must provide for monetary or other compensatory assistance to eligible vehicle owners for repairs directly related to bringing certain vehicles that have failed a required emissions test into compliance with emissions requirements or for installing retrofit equipment on vehicles that have failed a required emissions test, if practically and economically feasible, in lieu of or in combination with repairs performed to bring a vehicle into compliance with emissions requirements. Vehicles under LIRAP must be repaired or retrofitted at a recognized emissions repair facility. To determine eligibility, the Performing Party or its designated subcontractor shall make applications available for LIRAP participants. The application, at a minimum, must require the vehicle owner to demonstrate that:
- (1) the vehicle has failed a vehicle emissions test within 30 days of application submittal;
 - (2) the vehicle can be driven under its own power to the emissions inspection station or vehicle retirement facility;
 - (3) the vehicle is currently registered in and has been registered in the applicable program area for the 12 of the 15 months immediately preceding the application for assistance;
 - (4) the vehicle has passed the safety portion of the Texas Department of Public Safety (DPS) motor vehicle safety and emissions inspection as recorded in the Vehicle Inspection Report (VIR), or provide assurance that actions will be taken to bring the vehicle into compliance with safety requirements;
 - (5) the vehicle owner's net family income is at or below three hundred percent (300%) of the federal poverty level; and
 - (6) any other requirements of the Performing Party or the TCEQ are met.
- (c) **Accelerated vehicle retirement.** LIRAP must provide monetary or other compensatory assistance to eligible vehicle owners to be used toward the purchase of a replacement vehicle.
- (1) To determine eligibility, the Performing Party or its subcontractor shall make applications available for LIRAP participants. The application, at a minimum, must require the vehicle owner to demonstrate that:
 - (A) the vehicle meets the requirements under (b) (1) - (3) and (5) of Section 3 of the Scope of Work;
 - (B) the vehicle has passed a DPS motor vehicle safety or safety and emissions inspection within 15 months prior to application submittal; and
 - (C) any other requirements of the Performing Party or the TCEQ are met.
 - (2) Eligible vehicle owners of pre-1996 model year vehicles that pass the required United States Environmental Protection Agency (EPA) Start-Up Acceleration Simulation Mode (ASM) standards emissions test, but would have failed the EPA Final ASM standards emissions test, or some other criteria determined by the commission, may be eligible for accelerated vehicle retirement and replacement compensation under this section.

- (3) Notwithstanding the vehicle requirement provided under (b) (1) of Section 3 of the Scope of Work, an eligible vehicle owner of a vehicle that is gasoline powered and is at least 10 years old as determined from the current calendar year (i.e., 2007 minus 10 years equals 1997) and meets the requirements under (b) (2), (3), and (5) of Section 3 of the Scope of Work, may be eligible for accelerated vehicle retirement and compensation.
- (4) Replacement vehicles must:
 - (A) be in a class or category of vehicles that has been certified to meet federal Tier 2, Bin 5 or cleaner Bin certification under 40 Code of Federal Regulations §86.1811-04, as published in the February 10, 2000, *Federal Register* (65 FedReg 6698);
 - (B) have a gross vehicle weight rating of less than 10,000 pounds;
 - (C) have an odometer reading of not more than 70,000 miles;
 - (D) for vehicles compensated under Section 3(d)(1)(B)(i) and (ii) of the Scope of Work, be a vehicle the total cost of which does not exceed \$35,000;
 - (E) for vehicles compensated under Section 3(d)(1)(B)(iii) and (iv) of the Scope of Work, be a vehicle the total cost of which does not exceed \$45,000; and
 - (F) have a current DPS motor vehicle safety and emissions inspection.
- (d) **Compensation.** The Performing Party shall determine eligibility and approve or deny the application promptly. If the requirements of (b) or (c) of Section 3 of the Scope of Work are met and based on available funding, the Performing Party shall authorize monetary or other compensations to the authorized repair facility or participating automobile dealership for repair/replacement on behalf of the eligible vehicle owner.
 - (1) Compensations must be:
 - (A) no more than \$600 and no less than \$30 per vehicle to be used for emissions-related repairs or retrofits performed at recognized emissions repair facilities, including diagnostics tests performed on the vehicle; or
 - (B) based on vehicle type and model year of a replacement vehicle for the accelerated retirement of a vehicle meeting the requirements under this subsection. Only one retirement compensation can be used toward one replacement vehicle annually per applicant. The maximum amount toward a replacement vehicle must not exceed:
 - (i) \$3,000 for a replacement car of the current model year or previous three model years, except as provided by clause (iii) and (iv) of this subparagraph;
 - (ii) \$3,000 for a replacement truck of the current model year or the previous two model years, except as provided by clause (iii) and (iv) of this subparagraph;
 - (iii) \$3,500 for a replacement hybrid vehicle, electric vehicle, or natural gas vehicle of the current model year or the previous three model years;

- (iv) \$3,500 for vehicle of the current model year or previous three model years that has been certified to meet federal Tier 2, Bin 3 or a cleaner Bin certification under 40 C.F.R. Section 86.1811-04, as published in the February 10, 2000, Federal Register.
- (2) Vehicle owners shall be responsible for paying the first \$30 of emissions-related repairs or retrofit costs that may include diagnostics tests performed on the vehicle.
- (3) For accelerated vehicle retirement, provided that the compensation levels listed in (d)(1)(B) of Section 3 of the Scope of Work are met and minimum eligibility requirements under (c) of Section 3 of the Scope of Work are met, the Performing Party may set a specific level of compensation or implement a level of compensation schedule that allows flexibility. The following criteria may be used for determining the amount of financial assistance:
 - (A) model year of the vehicle;
 - (B) miles registered on the vehicle's odometer;
 - (C) fair market value of the vehicle;
 - (D) estimated cost of emissions-related repairs necessary to bring the vehicle into compliance with emissions standards;
 - (E) amount of money the vehicle owner has already spent to bring the vehicle into compliance, excluding the cost of the vehicle emissions inspection; and
 - (F) vehicle owner's income.
- (e) **Reimbursement for repairs and retrofits.** The Performing Party shall reimburse the appropriate recognized emissions repair facility for approved repairs and retrofits within 30 calendar days of receiving an invoice that meets the requirements of the Performing Party or its subcontractor. Repaired or retrofitted vehicles must pass a DPS safety and emissions inspection before the recognized emissions repair facility is reimbursed. In the event that the vehicle does not pass the emissions retest after diagnosed repairs are performed, the Performing Party has the discretion, on a case-by-case basis, to make payment for diagnosed emissions repair work performed.
- (f) **Reimbursements for replacements.** The Performing Party shall ensure that funds are transferred to a participating automobile dealership no later than ten business days after the Performing Party receives proof of the sale, proof of transfer to a dismantler, and any administrative documents that meet the requirements of the Performing Party or its subcontractor or other reasonable time in accordance with the Opinion GA 0624 of the Attorney General of Texas relating to LIRAP in Williamson County, Texas. A list of all administrative documents must be included in the agreements that are entered into by the Performing Party or its subcontractor and the participating automobile dealerships; however, the performing party or its subcontractor may request additional documentation as needed.
 - (1) The Performing Party shall provide an electronic means for distributing replacement funds to a participating automobile dealership once all program criteria have been met. The replacement funds may be used as a down payment toward the purchase of a replacement vehicle. Participating

automobile dealers shall be located in the State of Texas. Participation in LIRAP by an automobile dealer is voluntary.

- (2) The Performing Party shall develop a document for confirming a person's eligibility for purchasing a replacement vehicle and for tracking such purchase.
 - (A) The document must include at a minimum, the full name of applicant, the vehicle identification number of the retired vehicle, expiration date of the document, the program administrator's contact information, and the amount of money available to the participating vehicle owner.
 - (B) The document must be presented to a participating dealer by the person seeking to purchase a replacement vehicle before entering into negotiations for a replacement vehicle.
 - (C) A participating dealer who relies on the document issued by the Performing Party has no duty to confirm the eligibility of the person purchasing a replacement vehicle in the manner provided by Section 3 of the Scope of Work.

4. Disposition of Retired Vehicle.

- (a) Vehicles retired under LIRAP may not be resold or reused in their entirety in this or another state. Any dismantling of vehicles or salvaging of steel under this section must be performed at a facility located in the State of Texas.
- (b) The vehicle must be:
 - (1) destroyed;
 - (2) recycled;
 - (3) dismantled and its parts sold as used parts or used in LIRAP;
 - (4) placed in a storage facility and subsequently destroyed, recycled, or dismantled within 12 months of the vehicle retirement date and its parts sold or used in LIRAP; or
 - (5) repaired, brought into compliance, and used as a replacement vehicle under this division. Not more than ten percent (10%) of all vehicles eligible for retirement may be used as replacement vehicles.
- (c) Notwithstanding subsection (b) of this section, the dismantler of a vehicle shall destroy the emissions control equipment and engine, certify those parts have been destroyed and not resold into the market place. The dismantler shall remove any mercury switches and shall comply with state and federal laws applicable to the management of those mercury switches.
- (d) The dismantler shall provide certification that the vehicle has been destroyed to the Performing Party or its subcontractor.
- (e) The dismantler shall provide the residual scrap metal of a retired vehicle under this section to a recycling facility at no cost, except for the cost of transportation of the residual scrap metal to the recycling facility.

5. Emission Reduction Credits.

- (a) Emission Reduction Credits Available Under LIRAP. The Performing Party may allow private, commercial, and business entities to provide monetary assistance towards LIRAP. To the extent allowed under state and federal law, private, commercial, and business entities may purchase eligible vehicles under Title 30 TAC 114.64(c) of the Rules of the TCEQ (relating to LIRAP Requirements) for accelerated retirement as

approved by the Performing Party, and may have up to 100% of the emission reductions certified as emission credits. This emission reduction credit may be transferred or used by the holder in accordance with Title 30 TAC Chapter 101, Subchapter H, Division 1 or 4 of the Rules of the TCEQ (relating to Emission Credit Banking and Trading; and Discrete Emission Credit Banking and Trading).

- (b) Emission Reduction Credits Available for Vehicles Not Covered Under LIRAP. To the extent allowed under state and federal law, a fleet vehicle, a government owned or leased vehicle, or a commercial vehicle may be retired and may have up to 100% of the emission reductions certified as emission credits.
- (c) Other Requirements. Emission reduction credits under subsection (a) or (b) of this section must meet the requirements of Chapter 101, Subchapter H, Division 1 or 4 of Title 30 TAC.

6. Records, Audits, and Enforcement.

- (a) The Performing Party shall submit quarterly audit reports to ensure that the funds provided to implement LIRAP have been used in accordance with requirements of this division. The quarterly reports (September - November, December - February, March - May, June - August) must be transmitted to the TCEQ in a format to be determined by mutual agreement between the state and the Performing Party no later than 30 days after the end of the quarter.
- (b) At a minimum, the quarterly reports must include the following:
 - (1) name of the Performing Party's department or subcontractor implementing the program and their mailing address;
 - (2) name of the official representative of the Performing Party's department or subcontractor;
 - (3) amount of funds received during the reporting period;
 - (4) amount distributed for repair assistance, retrofitting, accelerated retirement, and administrative costs;
 - (5) information regarding the recognized emissions repair facilities and vehicle retirement facilities participating in the LIRAP, including the number of approved assistance transactions, the amount of each transaction, and the total amounts paid to each facility;
 - (6) pending amount of funds that must be paid out;
 - (7) information for each vehicle participating in program, including:
 - (A) vehicle identification number (VIN);
 - (B) vehicle license plate number;
 - (C) name and business address of the Texas Department of Public Safety recognized emissions repair facility or vehicle retirement facility; and
 - (D) date of vehicle repair, retrofit, or retirement; and
 - (8) information for each replacement vehicle including:
 - (A) vehicle identification number (VIN);
 - (B) make of vehicle;

- (C) model year;
- (D) odometer reading;
- (E) name and business address of seller; and
- (9) any other information requested by the TCEQ.
- (c) Records on LIRAP must be maintained for a minimum period of three years by the Performing Party. The Performing Party will require subcontractors, participating recognized emissions repair facilities, and participating vehicle retirement facilities through written contracts to maintain records of LIRAP for a minimum period of three years. Such records must be available upon request by TCEQ for auditing purposes.
- (d) The Performing Party shall allow the TCEQ to conduct audits and inspections. The Performing Party shall require its subcontractors, participating recognized emissions repair facilities, and a participating vehicle retirement facilities, through written contracts to allow the TCEQ to conduct audits and inspections.

SPECIAL TERMS AND CONDITIONS

1. These Special Terms and Conditions add to, or in the case of conflicts, supersede and take precedence over the General Terms and Conditions set forth in this Contract.
2. Regional/Statewide Funding. The Maximum TCEQ Obligation listed on the Signature Page represents the amount of funds available on a regional or statewide basis. The individual allocation will be communicated to the Performing Party in writing. This amount will be included in the Activity Plan and may be amended by written agreement of the Parties without amending this contract.
3. Amount of Grant. In accordance with TCEQ Rider 31 of House Bill 1 of the 82nd Legislature, the amount of funds to be provided to all eligible counties for the LIRAP program must not exceed the amount of \$5,584,625.00 in each fiscal year 2012 and 2013, and amounts to be determined by the 83rd Texas Legislature (regular session) in fiscal years 2014 and 2015, contingent on receipt of designated fee revenues sufficient for this purpose. Therefore, no payment will be made by the TCEQ pursuant to this Contract which causes the funds limitation to be exceeded.

Period of Funds Availability. TCEQ may encumber grant monies collected in a fiscal year and disburse that grant money to the Performing Party (on an as needed basis as determined by TCEQ) within a period of two (2) fiscal years after that encumbrance. After this time, any balance unpaid to the Performing Party shall be lost due to the TCEQ appropriation authority. Grant money appropriated for TCEQ in a fiscal year may be spent by the Performing Party in that fiscal year and for two (2) fiscal years after the year of appropriation.

4. Advance Payment. The TCEQ may provide the funds in advance of the Performing Party's incurring anticipated costs of LIRAP Activities.
 - 4.1. By paying advance payments the TCEQ does not waive any requirements for the reimbursement of costs. The TCEQ may at any time before or after any advance payment request additional evidence concerning costs. The TCEQ may audit the records of the PERFORMING PARTY and may also audit the PERFORMING PARTY'S performance as to any Contract Activity and any other Contract requirement.
 - 4.2. Advance Payments are conditioned on the approval of the FSR. If the FSR does not demonstrate PERFORMING PARTY has complied with the Contract requirements, the TCEQ may withhold approval or reject the FSR.
5. Administrative Costs. TCEQ may provide in advance of incurring costs, the amount allocated for costs of administration in the Performing Party's total annual budget in the LIRAP Activity Plan approved by TCEQ. The amount provided for administrative costs must not exceed ten percent (10%) of that total annual budget.
6. Cost Reimbursement. In accordance with the Appropriations Act, TCEQ will provide funding by reimbursing the Performing Party's costs of conducting the LIRAP Activities which are eligible for reimbursement. The TCEQ is responsible to the Texas Legislature and other state agencies to determine whether costs are eligible for reimbursement. Therefore, TCEQ will review the costs of the LIRAP Activities to determine eligibility for reimbursement under the terms of the Contract Documents.
7. Eligible Costs. An eligible cost is a cost of conducting the LIRAP Activities as eligible for reimbursement under the Contract Documents. A payment of funding by the TCEQ, whether in advance of incurring costs or otherwise, does not constitute a TCEQ determination that a cost is eligible for reimbursement.
8. Source of Funds—State. State funds provided for this Contract are appropriated to TCEQ for this purpose under the Appropriations Act (House Bill 1) of the 82nd Texas Legislature at Article VI, TCEQ rider 31.

9. Period of Eligible Costs. In order to be eligible for a reimbursement, costs must occur on or after the Effective Date and on or before any Termination Date. Costs for a LIRAP Activity completed as required are presumed to have occurred during the term of this Contract.
10. TCEQ will pay to the Performing Party funds equal to all eligible Costs incurred by the Performing Party and expended in accordance with the budget approved by the TCEQ, provided that such amounts do not exceed the amount of all designated fees collected between September 1, 2011 and the termination of this Contract within the Performing Party's jurisdiction or, if some eligible counties in a region do not participate, then the amount collected within the region.
11. The TCEQ will authorize reimbursement of the costs of the Performing Party when the Performing Party is in compliance with the requirements of the Contract Documents, the costs are eligible, and appropriated funds are available. Without limitation, none of the following in itself constitutes an entitlement to funds or a guarantee of payment:
 - 11.1. An estimate or determination of the amount of designated fees available for reimbursement.
 - 11.2. Approval of a LIRAP Activity Plan including the budget.
 - 11.3. A payment; regardless of whether paid in advance of incurring a cost or afterwards.
12. In order for costs to be eligible for reimbursement:
 - 12.1. The Performing Party must demonstrate that it has conducted the Grant Activities and other requirements in accordance with the Contract Documents and that the costs are eligible for reimbursement; and
 - 12.2. Costs must be determined to be the reasonable, necessary, actual, and allowable costs of conducting an approved Grant Activity in accordance with the requirements of the Contract Documents.
13. In order for TCEQ to determine eligibility of costs, the Performing Party must submit to the TCEQ the following on a quarterly basis within 30 days after the end of the term of the quarter represented in the report:
 - 13.1. A Financial Status Report on a form in paper copies and in an electronic database format provided by TCEQ detailing all costs of conducting the Grant Activity incurred during the previous reporting period.
 - 13.2. Supporting documentation for costs attached to the Financial Status Report.
14. The Performing Party must comply with the current TCEQ Financial Status Report processing procedures in effect at the time of submittal. The TCEQ may change or add requirements for processing.
15. The final request for reimbursement shall include a financial status report and a signed release of claims. The release of claims shall be subject to payment of the final request.
16. In addition to the requirements specified in the Contract Documents, the standards for costs to be eligible for reimbursement include those contained in the following, to the extent applicable:
 - 16.1. The Uniform Grant and Contract Management Act, Section 783.001 et seq. Texas Government Code; The Uniform Grant Management Standards for State Agencies, 1 Texas Administrative Code, Section 5.141 et seq. (UGMS) (allowable costs standards and requirements for grantees);
 - 16.2. Appropriations Act of the 82nd Texas Legislature Article IX, (Grant-Making Provisions);
 - 16.3. Chapter 2261, Texas Government Code (pertaining to cost reimbursement contracts);

- 16.4. Chapter 391 Local Government Code if a sub-grantee or recipient of funds is an entity defined as a Regional Planning Council or Council of Governments, (pertaining to costs for entities defined as Regional Planning Councils);
 - 16.5. Texas Government Code Section 556.0055 (pertaining to lobbying);
 - 16.6. TCEQ Allowable Expenditure Guidelines (pertaining to allowable costs for cost reimbursement contracts and grants);
 - 16.7. 30 TAC Chapter 11 (pertaining to TCEQ contracts) and 30 TAC Chapter 14 (pertaining to grants);
 - 16.8. Other applicable Federal and State rules and statutes;
 - 16.9. Chapter 382, Texas Health and Safety Code and implementation rules of the TCEQ at 30 Texas Administrative Code Chapter 114 Subchapters A and C (pertaining to the Low Income Repair Assistance, Retrofit, and Accelerated Vehicle Retirement Program);
 - 16.10. Appropriations Act of the 82nd Texas Legislature at Article VI, TCEQ Rider 31 (appropriation for LIRAP program);
17. The Performing Party agrees that TCEQ may offset any payments for costs ineligible for reimbursement against any other payment to the Performing Party contemplated by the Contract Documents.
 18. Program Income. Funds generated through the use of grant funding, including interest, rebates, fees, and credits, shall be treated as additional grant funds in accordance with UGMS, Article III, Subpart C _____.25(g)(2), and shall be expended in accordance with the requirements of this Contract.
 19. No intent to create intellectual property. TCEQ anticipates that performance of the Contract Activities will not require the creation of intellectual property. Accordingly, Section 14.2 of the General Terms and Conditions of this Contract will not be applicable. If the Performing Party at any time determines that the Contract Activities will require creation of intellectual property, including new works incorporating preexisting intellectual property, the Performing Party immediately notifies the TCEQ and will not undertake such activity unless TCEQ provides written authority to proceed.
 20. This provision replaces Section 6.3 of the General Terms and Conditions in its entirety:
 - 6.3 Travel, Other Costs. Costs for travel outside of regularly scheduled Contract activities, including travel outside of the Performing Party or their subcontractor's territorial jurisdiction, must be specifically authorized in advance of the travel. Travel costs, including per diem, will be reimbursed only in the amount of actual costs, up to the maximum allowed by law for employees of the State of Texas at the time the cost is incurred.

GENERAL TERMS AND CONDITIONS

1. CONTRACT PERIOD.

- 1.1 **Contract Period.** The Contract begins on the Effective Date and ends on the Expiration Date as provided on the Signature Page of this Contract (Contract Period). If no Effective Date is provided, the Effective Date of the Contract is the date of last signature. If no Expiration Date is provided, the Expiration Date is August 31 of the same Fiscal Year in which the Contract is signed.
- 1.2 **Renewal and Extension Period.** The Contract may be extended by notice of TCEQ beyond expiration of a Contract Period for up to 90 days (Extension Period) during which the parties may agree on a written amendment to extend the Contract for a longer period. Renewals and extensions do not extend any other deadlines or due dates other than the expiration of the Contract Period.
- 1.2.1 This Contract is not subject to competitive procurement or grant regulations, and may be amended for Renewal as needed.

2. DEFINITIONS.

- 2.1 "Include." The word "include" and all forms such as "including" mean "including but not limited to" in the contract and in documents issued in accordance with the contract, such as Work Orders (or Proposals for Grant Activities).

3. AUTHORIZATION.

The Performing Party must obtain a written Notice to Proceed from the TCEQ Contract Manager to start activities. Any performance of the activities prior to the Notice to Proceed is not reimbursable. At its option, TCEQ may issue a limited Notice to Proceed to authorize reimbursement for a portion of the activities.

4. FUNDS.

- 4.1 **Availability of Funds.** This Contract and all claims, suits or obligations arising under or related to this Contract are subject to the receipt and availability of funds appropriated by the Texas Legislature for the purposes of this Contract or the respective claim, suit or obligation, as applicable.
- 4.1.1 Performing Party will ensure that Article 4.1 is included in any subcontract it awards.
- 4.2 **Amount Limits on Funds.** The maximum reimbursement is shown on the Contract Signature Page.
- 4.3 **Grants.** If this Contract was entered under the TCEQ authority to award grants, TCEQ is providing financial assistance to the recipient to undertake its own project.

5. ALLOWABLE COSTS.

- 5.1 **Conforming Activities.** TCEQ will reimburse the Performing Party for Allowable Costs incurred and paid by the Performing Party in performance of conforming Contract Activities. Allowable Costs are those costs for conforming Contract Activities that are reasonable, necessary, actual, and authorized by this Contract and a Notice to Proceed. Contract Activities must be authorized in writing to be eligible for reimbursement.
- 5.2 **UGMS.** Allowable Costs are restricted to costs that comply with the Texas Uniform Grant Management Standards (UGMS) and additional state and federal rules and law. The text of UGMS is available online at the Governor's Website. (The link as of April 22, 2010, is <http://www.governor.state.tx.us/files/state-grants/UGMS062004.doc>.) The parties agree that all the requirements of the UGMS apply to this Contract, including the criteria for Allowable Costs. TCEQ Allowable Expenditures Guidelines provide

additional information as to the construction of UGMS. Additional federal requirements apply when federal funds are included in the reimbursement.

6. REIMBURSEMENT.

- 6.1 **Reimbursement Request Deadline.** Performing Party shall submit all requests for payment to TCEQ prior to July 15 of the second fiscal year following the fiscal year, for which the appropriation is made.
- 6.2 **Reimbursement Requests.** Performing Party shall invoice TCEQ to request reimbursement for its Allowable Costs for performing the Contract Activities. Performing Party's invoice shall conform to TCEQ's reimbursement requirements.
- 6.3 **Travel, Other Costs.** Travel costs must be specifically authorized in advance of the travel. Travel costs, including per diem, will be reimbursed only in the amount of actual costs, up to the maximum allowed by law for employees of the State of Texas at the time the cost is incurred.
- 6.4 **Supporting Records.** Performing Party shall submit records and documentation to TCEQ as appropriate for the review and approval of reimbursing costs. At a minimum, Performing Party shall submit supporting records with its invoices; TCEQ may reject invoices without appropriate supporting documentation. TCEQ has the right to request additional documentation. Performing Party shall maintain records subject to the terms of this Contract.
- 6.5 **Conditional Payments.** Reimbursements are conditioned on the Contract Activities being performed in compliance with the Contract. Performing Party shall return payment to TCEQ for either overpayment or activities undertaken that are not compliant with the Contract Activities. This does not limit or waive any other TCEQ remedy.

7. FINANCIAL RECORDS, ACCESS, AND AUDITS.

- 7.1 **Audit of Funds.** The Performing Party understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Performing Party further agrees to fully cooperate with the State Auditor's Office or its successor in the conduct of the audit or investigation, including providing all records requested. Performing Party shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through Contractor and the requirement to cooperate is included in any subcontract it awards.
- 7.2 **Financial Records.** Performing Party shall establish and maintain financial records including records of costs of the Contract Activities in accordance with generally accepted accounting practices. Upon request Performing Party shall submit records in support of reimbursement requests. Performing Party shall allow access during business hours to its financial records by TCEQ and other state agencies for the purpose of inspection and audit. Records shall be maintained for a minimum of three years beyond the expiration or earlier termination of this Contract, and three years after the end of any litigation or claims process, including appeals.

8. INDIRECT COST RATE.

- 8.1 **Authority for Indirect Cost Rates.** The Performing Party shall comply with OMB Circular A-87 and the Uniform Grant Management Standards (UGMS) relating to Indirect Cost Rates. In the event an audit changes the indirect cost rate, Performing Party agrees to waive additional indirect costs, or in the alternative, contribute the difference between the contract indirect rate and audited indirect rate.
- 8.2 **Indirect Cost Rate of Contract Activities.** The cost of services provided to TCEQ by another agency may include allowable direct costs of the service plus a pro rata share of indirect costs, if authorized by the

budget. A standard indirect cost allowance equal to ten percent (10%) of the direct salary and wage cost of the activity may be used in lieu of determining the actual indirect costs of the activity.

9. AMENDMENTS.

Changes to the Contract are only effective by a written amendment, signed and agreed to by the Parties.

10. CONTRACT INTERPRETATION.

- 10.1 **Interpretation of Time.** All days are calendar days, unless stated otherwise. Days are counted to exclude the first and include the last day of a period. If the last day of the period is a Saturday or Sunday, or a state or federal holiday, it is omitted from the computation.
- 10.2 **State, Federal Law.** This Contract is governed by, and interpreted under the laws of the State of Texas, as well as applicable federal law.
- 10.3 **Severability.** If any provision of this Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void or unenforceable, it shall be deemed severable (to the extent of such illegality, invalidity or unenforceability) and the remaining part of the provision and the rest of the provisions of this Contract shall continue in full force and effect. If possible, the severed provision shall be deemed to have been replaced by a valid provision having as near an effect to that intended by the severed provision as will be legal and enforceable.

11. PERFORMING PARTY'S RESPONSIBILITIES.

- 11.1 **Performing Party's Responsibility for the Contract Activities.** Performing Party undertakes performance of the Contract Activities as its own project and does not act in any capacity on behalf of the TCEQ nor as a TCEQ agent, employee or vendor of goods or services. Performing Party agrees that the Contract Activities are furnished and performed at Performing Party's sole risk as to the means, methods, design, processes, procedures and performance of the Contract Activities.
- 11.2 **Independent Contractor.** Nothing in this Contract shall create an employee-employer relationship between Performing Party and TCEQ. Nothing in this Contract shall create a joint venture between TCEQ and the Performing Party. The parties agree that the Performing Party is an independent contractor.
- 11.3 **Performing Party's Responsibility for Subcontractors.** All acts and omissions of Subcontractors, Suppliers and other persons and organizations performing or furnishing any of the Contract Activities under a direct or indirect contract with Performing Party shall be considered to be the acts and omissions of Performing Party.
- 11.4 **No Third-Party Beneficiary.** TCEQ does not assume any duty to exercise any of its rights and powers under the Contract for the benefit of third parties. Nothing in this Contract shall create a contractual relationship between TCEQ and any of Performing Party's subcontractors, suppliers or other persons or organizations with a contractual relationship with the Performing Party.

12. PERFORMING PARTY PERFORMANCE EVALUATION.

Performance evaluations are a part of the TCEQ review of Performing Party and may be a factor in the selection of future contracts. TCEQ may provide this information to state agencies and, upon request, to others. Performing Party consents to the disclosure of any information or opinion contained in the evaluations.

13. CONFLICT OF INTEREST.

The Performing Party shall timely notify TCEQ in writing of any actual, apparent, or potential conflict of interest regarding the Performing Party or any related entity or individual. No entity or individual with any actual, apparent, or potential conflict of interest shall take part in the performance of any portion of the Contract Activities, nor have access to information regarding any portion of the Contract Activities. Performing Party agrees that TCEQ has sole discretion to determine whether a conflict exists, and that a conflict of interest is grounds for termination for cause.

14. INTELLECTUAL PROPERTY.

- 14.1 **Third Party Intellectual Property.** Unless specifically waived, Performing Party must obtain all Intellectual Property licenses expressly required in the Scope of Work, or incident to the use or possession of the intellectual property. Performing Party shall obtain and furnish to TCEQ: documentation on the use of such Intellectual Property, and a perpetual, irrevocable, enterprise-wide license to reproduce, publish, otherwise use, or modify such Intellectual Property and associated user documentation, and to authorize others to reproduce, publish, otherwise use, or modify such Intellectual Property for TCEQ non-commercial purposes, and other purposes of the State of Texas.
- 14.2 **Grant of License.** Performing Party grants to TCEQ a nonexclusive, perpetual, irrevocable, enterprise-wide license to reproduce, publish, modify or otherwise use for any non-commercial TCEQ purpose any preexisting intellectual property belonging to the Performing Party that is incorporated into the Contract Activities, intellectual property created under this Contract, and associated user documentation.

15. TIME DELAYS.

- 15.1 **Time is of the Essence.** Performing Party's timely performance is a material term of this Contract.
- 15.2 **Delays.** Where Performing Party's performance is delayed, except by *Force Majeure* or act of the TCEQ, TCEQ may withhold or suspend reimbursement, terminate the Contract, or enforce any of its other rights.

16. TERMINATION.

- 16.1 **Termination for Cause.** TCEQ may, upon 10 days written notice and the opportunity to cure, terminate this Contract for cause if Performing Party materially fails to comply with the Contract including any one or more of the following acts or omissions: nonconforming Contract Activities, existence of a conflict of interest, failure to provide evidence of required insurance coverage and failure to comply with HUB requirements in law or this Contract. Termination for cause does not prejudice TCEQ's other remedies authorized by this Contract or by law.
- 16.2 **Termination for Convenience.** TCEQ may, upon 10 days written notice, terminate this Contract for convenience. Termination shall not prejudice any other right or remedy of TCEQ or the Performing Party. Performing Party may request reimbursement for: conforming Contract Activities and timely, reasonable costs directly attributable to termination. Performing Party shall not be paid for: work not performed, loss of anticipated profits or revenue, consequential damages or other economic loss arising out of or resulting from the termination.
- 16.3 If, after termination for cause by TCEQ, it is determined that the Performing Party had not materially failed to comply with the Contract, the termination shall be deemed to have been for the convenience of the TCEQ.

17. INSURANCE AND INDEMNIFICATION.

- 17.1 **Insurance.** Unless prohibited by law, the Performing Party shall require its contractors and suppliers to obtain and maintain during the Contract Period adequate insurance coverage sufficient to protect the Performing Party and the TCEQ from all claims and liability for injury to persons and for damage to property arising from the Contract. Unless specifically waived by the TCEQ, sufficient coverage shall include Workers Compensation and Employer's Liability Insurance, Commercial Automobile Liability Insurance, and Commercial General Liability Insurance.
- 17.2 **Indemnification.** TO THE EXTENT AUTHORIZED BY LAW, THE PERFORMING PARTY SHALL REQUIRE ALL CONTRACTORS PERFORMING CONTRACT ACTIVITIES ON BEHALF OF PERFORMING PARTY TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE TCEQ AND PERFORMING PARTY AND THEIR OFFICERS, EMPLOYEES AND REPRESENTATIVES FROM AND AGAINST ALL LOSSES, LIABILITIES, DAMAGES, AND OTHER CLAIMS OF ANY TYPE ARISING FROM THE PERFORMANCE OF CONTRACT ACTIVITIES BY THE CONTRACTOR OR ITS CONTRACTORS, SUPPLIERS AND AGENTS, INCLUDING THOSE ARISING FROM A DEFECT IN DESIGN, WORKMANSHIP, MATERIALS, OR FROM INFRINGEMENT OF ANY PATENT, TRADEMARK OR COPYRIGHT; OR FROM A BREACH OF APPLICABLE LAWS, REGULATIONS, SAFETY STANDARDS OR DIRECTIVES. THE DEFENSE OF THE TCEQ SHALL BE SUBJECT TO THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS TO REPRESENT THE TCEQ. THIS COVENANT SURVIVES THE TERMINATION OF THE CONTRACT.

18. DISPUTES, CLAIMS, REMEDIES.

- 18.1 **Payment not a Release.** Neither payment by TCEQ nor any other act or omission other than an explicit written release constitutes a release of Performing Party from liability under this Contract.
- 18.2 **Schedule of Remedies available to the TCEQ.** In accordance with Chapter 2261, Texas Government Code, the following Schedule of Remedies applies to this contract. In the event of Performing Party's nonconformance, TCEQ may:
- 18.2.1 Issue notice of nonconforming performance;
 - 18.2.2 Reject nonconforming performance and request corrections without charge to the TCEQ;
 - 18.2.3 Reject a reimbursement request or suspend further payments, or both, pending accepted revision of the nonconformity;
 - 18.2.4 Suspend all or part of the Contract Activities or payments, or both, pending accepted revision of the nonconformity;
 - 18.2.5 Demand restitution and recover previous payments where performance is subsequently determined nonconforming;
 - 18.2.6 Terminate the contract without further obligation for pending or further payment by the TCEQ and receive restitution of previous payments.
- 18.3 **Opportunity to Cure.** The Performing Party will have a reasonable opportunity to cure its nonconforming performance, if possible under the circumstances.
- 18.4 **Cumulative Remedies.** Rights and remedies in this Contract are in addition to, and are not in any way a limitation of, any rights and remedies available under state and federal rules, regulations, and laws and at common law.

19. SOVEREIGN IMMUNITY.

The parties agree that this Contract does not waive sovereign immunity relating to suit, liability, or payment of damages.

20. MISCELLANEOUS.

- 20.1 **Assignment.** No delegation of the obligations, rights, or interests in the Contract, and no assignment of payments by Performing Party will be binding on TCEQ without its written consent, except as restricted by law. No assignment will release or discharge the Performing Party from any duty or responsibility under the Contract.
- 20.2 **Venue.** Performing Party agrees that the Contract is being performed in Travis County, Texas, because this Contract has been performed or administered, or both, in Travis County, Texas. The Performing Party agrees that any cause of action involving this Contract arises solely in Travis County.
- 20.3 **Publication.** Performing Party agrees to notify TCEQ five days prior to the publication or advertisement of information related this Contract. Performing Party agrees not to use the TCEQ logo or a TCEQ graphic as an advertisement or endorsement without written permission signed by the appropriate TCEQ authority.
- 20.4 **Waiver.** With the exception of an express, written document signed with authority by TCEQ, no act or omission will constitute a waiver or release of Performing Party's obligation to perform conforming Contract Activities. No waiver on one occasion, whether expressed or implied, shall be construed as a waiver on any other occasion.
- 20.5 TCEQ relies on Performing Party to perform all Contract Activities in conformity with all applicable laws, regulations, and rules and obtain all necessary permits and licenses.
- 20.6 **Survival of Obligations.** Except where a different period is specified in this Contract or applicable law, all representations, indemnifications, and warranties made in, required by or given in accordance with the Contract, as well as all continuing obligations indicated in the Contract will survive for four years beyond the termination or completion of the Contract; or after the end of a proceeding which was brought under the contract or if TCEQ has notified Performing Party of an on-going proceeding. A proceeding includes any litigation, legal proceeding, permit application, State Office of Administrative Hearings proceeding, or similar activity listed in a TCEQ notice to the Performing Party.
- 20.7 **Headings.** The headings of the sections contained in this Contract are for convenience only and do not control or affect the meaning or construction of any provision of this Contract.
- 20.8 **Release of Claims.** As a condition to final payment or settlement, or both, the Performing Party shall execute and deliver to the TCEQ a release of all claims against the TCEQ for payment under this Contract.
- 20.9 **Counterparts.** This Contract may be signed in any number of copies. Each copy when signed is deemed an original and each copy constitutes one and the same Contract.
- 20.10 **Accessibility.** All electronic content and documents created as deliverables under this Contract must meet the accessibility standards prescribed in 1 TAC 206.50 and 213 for state agency web pages, web content, software, and hardware, unless TCEQ agrees that exceptions or exemptions apply.

CONTRACT BUDGET FOR ACTUAL COST REIMBURSEMENT

ARTICLE 22.1 BUDGET.

1. Authorized budgeted expenditures for Work Performed are as follows:

Per TCEQ disregard
Article 22 -
Individual Contract
amount sent after
receipt of this
agreement per
Item #2 of Special
Terms/Conditions.

Budget Item	Cost for Work to be Performed
Personnel/Salary	\$ 0
Fringe Benefits	\$ 0
Travel	\$ 0
Supplies	\$ 0
Equipment	\$ 0
Contractual	\$ 0
Construction	\$ 0
Other	\$ 0
Indirect Costs	\$ 0
TOTAL	

ARTICLE 22.2 NEGOTIATED PREDETERMINED INDIRECT COST RATE.

TCEQ and the Performing Party may negotiate a predetermined indirect cost rate for the term of the contract where the cost experience and other pertinent facts available are deemed sufficient to enable the contracting parties to reach an informed judgment (1) as to the probable level of indirect costs in the Performing Party's programs during the term of the contract, covered by the negotiated rate, and (2) the amount allowable under that predetermined rate would not exceed the actual indirect costs.

The audited indirect rate of the Performing Party for this contract is ____% of [Personnel/Salary or total direct costs]. If the Contract does not have an audited indirect rate, Performing Party shall conduct an indirect rate audit for a one-year period within two years of contract signature. When Performing Party has a federal cognizant agency or a state coordinating agency, the Performing Party must submit the indirect rate approved by the federal cognizant agency or state coordinating agency within the past 24 months as the provisional indirect rate. If the audited rate is determined to be in excess of the rate paid by TCEQ, because it may not be feasible for TCEQ to provide additional funding after the audited rate is finalized, the parties agree that that amount will be considered to be a contribution to the project by the performing party.

ARTICLE 22.3 BUDGET CONTROL AND TRANSFERS.

Cumulative transfers among the budgeted direct cost categories must not exceed ten percent (10%) of the current Total Budgeted amount.

ARTICLE 22.4 SUBMITTAL OF PAYMENT REQUESTS.

Unless otherwise stipulated in the Contract, payment requests must be submitted at monthly intervals.

Note: Invoices shall be submitted no later than the last working day in August for each year that is to be invoiced, unless a later time is otherwise approved in writing by TCEQ.

SCHEDULE OF FIXED COSTS FOR REIMBURSEMENT

ARTICLE 22.1 COSTS.

Payment for required Contract Activities performed under this Contract will be based on the following fixed cost(s):

Item	Est. Quantity	Unit Costs	Total
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
	TOTAL BUDGET	\$	\$

ARTICLE 22.2 ESTIMATES.

The parties agree that this budget is the nearest practicable estimate of the actual cost.

ARTICLE 22.3 SUBMITTAL OF PAYMENT REQUESTS.

Payment requests must be submitted at the interval specified below (whichever is checked; if none is checked, payment requests must be submitted monthly; if more than one is checked, invoices must be submitted when both requirements are met):

- ☐ monthly
- ☐ upon completion of deliverables specified (see _____).
- ☐ upon completion of all Contract Activities
- ☐ other (specify)

PROJECT REPRESENTATIVES/ RECORDS LOCATION

Performing Party: Fort Bend County

Contract No.: 582-12-20281

ARTICLE 21.1 TCEQ PROJECT REPRESENTATIVE

The individual named below is the TCEQ Project Representative, who is authorized to give and receive communications and directions on behalf of the TCEQ. All communications including all payment requests must be addressed to the TCEQ Project Representative or his or her designee.

Rick Smathers
(Name)

Telephone No.: (512) 239-1406

Project Manager 206
(Title) (Mail Code)

Facsimile No.: (512) 239-5687

Texas Commission on Environmental Quality
13100 Park 35 Circle, MC-164
Austin, Texas 78753

For Contractual Matters (TCEQ):

Kelly McKee-Brednich
(Name)

Telephone No.: (512) 239-2042

Contract Specialist III
(Title)

Facsimile No.: (512) 239-1500

12100 Park 35 Circle
Air Quality Division, MC-164
(Mailing Address)

Austin Texas 78753
(City) (State) (Zip Code)

ARTICLE 21.2 PERFORMING PARTY PROJECT REPRESENTATIVE

The individual named below is the Performing Party Project Representative, who is authorized to give and receive communications and directions on behalf of the Performing Party. All communications to the Performing Party will be addressed to the Performing Party Project Representative or his or her designee.

For Technical Matters (County):

Robert Hebert
(Name)

Telephone No.: (281) 341-8608

County Judge
(Title)

Facsimile No.: (281) 341-8609

301 Jackson St.
(Mailing Address)

Richmond Texas 77469
(City) (State) (Zip Code)

For Technical Matters (Subcontractor, if applicable):

Sandra Holiday - HGAC
(Name)

Telephone No.: (713) 499-6671

Air Check Texas Project Coord
(Title)

Facsimile No.: (832) 681-2530

PO Box 22777
(Mailing Address)

Houston Texas 77227-2777
(City) (State) (Zip Code)

For Contractual Matters (County):

Robert Hebert
(Name)

Telephone No.: (281) 341-8608

County Judge
(Title)

Facsimile No.: (281) 341-8609

301 Jackson St.
(Mailing Address)

Richmond Texas 77469
(City) (State) (Zip Code)

ARTICLE 21.3 SUBMITTAL OF PAYMENT REQUESTS

Payment requests must be submitted to (whichever is checked):

- ☐ the TCEQ Project Representative.
- ☐ the TCEQ Disbursements Section.

(if neither box is checked, payment requests must be submitted to the TCEQ Project Representative).

ARTICLE 21.4 DESIGNATED LOCATION FOR RECORDS ACCESS AND REVIEW

The Performing Party designates the physical location indicated below for record access and review pursuant to any applicable provision of this contract. The Performing Party may designate the physical location for record access and review to be with a subcontractor.

Record Location (County or Subcontractor):

Sandra Holiday - HGAC Telephone No.: (713) 499-6671
(Name)

Air Check Texas Project Coord Facsimile No.: (832) 681-2530
(Title)

PO BOX 22777
(Physical Address)

Houston Texas 77227-2777
(City) (State) (Zip Code)

ATTACHMENT A

Attachment A

**Texas Commission on Environmental Quality
FINANCIAL STATUS REPORT Form 269a**

(TCEQ Form 20248 for Interagency and Interlocal Grants by the Air Quality Division)

1. STATE AGENCY ORGANIZATION UNIT TO WHICH REPORT IS SUBMITTED:				
2. GRANT/CONTRACT TITLE:				
3. PAYEE IDENTIFICATION NUMBER:		4. RECIPIENT ORGANIZATION (NAME AND COMPLETE ADDRESS, INCLUDING ZIP CODE):		
5.a. TCEQ CONTRACT NUMBER:				
5.b. TCEQ PCR NUMBER, if applicable:				
5.c. RTI NUMBER (for educational institutions only):				
6. FINAL REPORT: YES NO				
7. ACCOUNTING BASIS: CASH ACCRUAL				
8. TOTAL PROJECT/GRANT PERIOD:		9. PERIOD COVERED BY THIS REPORT:		
FROM TO		FROM TO		
10. BUDGET CATEGORIES:	Approved Budget	Project Cost This Report	Cumulative Project Cost	Balance **
a. Personnel/Salary		*		
b. Fringe Benefits		*		
c. Travel		*		
d. Supplies		*		
e. Equipment		*		
f. Contractual		*		
g. Construction		*		
h. Other		*		
i. Total Direct Costs (Sum a - h)				
j. Indirect Costs				
k. Total (Sum of i & j)				
*List (Itemize) on the appropriate supplemental forms all component expenses comprising the total for each of these categories. Please attach receipts, as required, in accordance with Attachment B of your contract. **Negative balances in any of the budget categories should be explained in a brief accompanying narrative.				
11. CERTIFICATION I certify to the best of my knowledge and belief that this report is correct and complete and that all outlays and unliquidated obligations are for the purposes set forth in the award documents. Signature of Authorized Certifying Official Typed or Printed Name and Title Telephone (Area code, number and ext.) Date Submitted				

ITEMIZATION OF EQUIPMENT AND CONTRACTUAL COSTS

EQUIPMENT PURCHASES (during this report period)*

NUMBER PURCHASED	ITEM DESCRIPTION (Should match description provided for approval)	UNIT COST	TOTAL COST	TASKS
TOTAL EQUIPMENT EXPENDITURES (must agree with line 10e on Form 20248)			\$	

CONTRACTUAL EXPENDITURES (during this report period)*

SUBCONTRACTOR (NAME)	FOR	COST (THIS PERIOD)	TASKS
TOTAL CONTRACTUAL EXPENDITURES (must agree with line 10f on Form 20248)		\$	

* LEGIBLE PURCHASE ORDER AND/OR INVOICES MUST BE ATTACHED TO THIS FORM FOR EACH LISTED ITEM OR EXPENDITURE.

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ITEMIZATION OF CONSTRUCTION COSTS

CONSTRUCTION COSTS (during this report period)*[illegible]

*LEGIBLE DOCUMENTATION MUST BE ATTACHED FOR ALL LISTED EXPENDITURES.

ITEMIZATION OF SUPPLY AND OTHER COSTS

SUPPLIES PURCHASED (during this report period)*

NUMBER PURCHASED	ITEM DESCRIPTION (Should match description provided for approval)	UNIT COST	TOTAL COST	TASKS
TOTAL SUPPLY EXPENDITURES (must agree with line 10d on Form 20248)			\$	

OTHER EXPENDITURES (during this report period)*

NUMBER PURCHASED	DESCRIPTION	UNIT COST	TOTAL COST	TASKS
TOTAL OTHER EXPENDITURES (must agree with line 10h on Form 20248)			\$	

*LEGIBLE RECEIPTS OR OTHER SUBSTANTIATING DOCUMENTATION MUST BE ATTACHED FOR EXPENDITURES THAT EQUAL OR EXCEED \$500.

ITEMIZATION OF PERSONNEL/SALARY AND TRAVEL COSTS

PERSONNEL/SALARY EXPENDITURES (during this report period)

EMPLOYEE NAME	TITLE/POSITION	SALARY (THIS PERIOD)	TASKS
TOTAL PERSONNEL/SALARY EXPENDITURES (must agree with line 10a on Form 20248)		\$	

TRAVEL EXPENDITURES (during this report period)*

DESCRIPTION	REASON	COST (THIS PERIOD)	TASKS
TOTAL TRAVEL EXPENDITURES (must agree with line 10c on Form 20248)		\$	

* SUBSTANTIATING DOCUMENTATION MUST BE ATTACHED TO THIS FORM.

Financial Status Report Preparation Instructions

1. The PERFORMING PARTY, in order to obtain reimbursement for those expenditures authorized under this Contract, shall submit a completed, legible TCEQ Financial Status Report (TCEQ Form 20248) and any required TCEQ Supplemental 20248 forms. Unless directed otherwise in the Contract, the PERFORMING PARTY shall submit such payment request documents by not later than twenty-one (21) days after the close of each state fiscal year quarter and the reporting periods shall also correspond to the State of Texas fiscal year quarters (September-November; December-February, March-May; June-August). Each Financial Status Report shall indicate, for each budget sub-category, the PERFORMING PARTY'S project expenditures for the period in question, the cumulative expenditures with respect to each budget sub-category, and the balance remaining in each budget sub-category following reimbursement of the amount being requested. A quarterly Financial Status Report is required even if no expenses were incurred during the report period.
2. All requests for reimbursement of expenditures that fall within either the "Equipment" or "Contractual" categories of the Contracts Cost Budget shall be itemized by the PERFORMING PARTY on Supplemental Form 20248-1 and identified with respect to the major tasks or objectives, set forth in the Scope of Work or PGA, if applicable, that such expenditures support or satisfy. In addition, the PERFORMING PARTY shall attach, for each reimbursable cost listed on Supplemental Form 20248-1, legible documentation that (1) serves to further identify the specific piece of equipment received or the services provided, (2) clearly identifies the vendor or subcontractor who provided the equipment or services, and (3) that confirms the reimbursable amount listed on the form. In the case of equipment purchases, the attached documentation shall be either a purchase order marked "received/paid" or a vendor-submitted invoice similarly marked. In the case of subcontractor provided services, the documentation shall consist of a dated invoice that shows the amount billed to the PERFORMING PARTY and any "past due" amount from previous invoices.
3. All requests under this Contract for the reimbursement of expenditures that fall within the "Construction" category of the Contracts Cost Budget shall be itemized by the PERFORMING PARTY on Supplemental Form 20248-2 and identified with respect to the major tasks or objectives, set forth in the Scope of Work or PGA, if applicable, that such expenditures support or satisfy. In addition, the PERFORMING PARTY shall attach, for each reimbursable cost listed on Supplemental Form 20248-2, legible documentation that (1) serves to further identify the specific cost, (2) clearly identifies the vendor or subcontractor who provided the construction related materials or services, and (3) that confirms the reimbursable amount listed on the form. The attached documentation shall be either a purchase order marked "received/paid" or an invoice similarly marked. In the case of subcontractor provided construction services, the documentation shall consist of a dated invoice that shows the amount billed to the PERFORMING PARTY and any "past due" amount from previous invoices.
4. All requests for the reimbursement of expenditures that fall within either the "Supply" or "Other" categories of the Contracts Cost Budget shall be itemized by the PERFORMING PARTY on Supplemental Form 20248-3 and identified with respect to the major tasks or objectives; set forth in the Scope of Work or PGA, if applicable, that such expenditures support or satisfy. In addition, for any single-listed item or service costing \$500 or more, the PERFORMING PARTY shall attach, for each reimbursable cost listed on Supplemental Form 20248-3, legible documentation that (1) serves to further identify the specific items or services and costs, (2) clearly identifies the vendor or subcontractor who provided the items or services, and (3) that confirms the reimbursable amount listed on the form. Although issued purchase orders and/or invoices marked "received/paid" represent the preferred types of documentation for purposes of this section, the PERFORMING PARTY may substitute/attach other records or documents that provide the same type of information. The PERFORMING PARTY shall not intentionally break up single orders of identical or similar items, materials or supplies simply for the purpose of avoiding the above requirement to provide confirming documentation when submitting reimbursement requests to the TCEQ.
5. All requests for reimbursement of expenditures that fall within either the "Personnel/Salary" or "Travel" categories of the Contracts Cost Budget shall be itemized by the PERFORMING PARTY on Supplemental Form 20248-4 and identified with respect to the major tasks or objectives, set forth in the Scope of Work or PGA, if applicable, that such expenditures support or satisfy. Although no supporting documentation is required to be attached to Supplemental Form 20248-4 with respect to reported "Personnel/Salary" expenditures in order to receive reimbursement, the PERFORMING PARTY is expected to maintain signed time sheets that can serve to verify the total, overall hours of staff time being directly billed to this Contract.
With respect to employee travel, all costs listed on Form 20248-4 must be supported by attached documentation that identifies the name of the travelers, and that substantiates the reported reimbursable costs. Documentation, for the purpose of substantiating travel-related costs, includes the following: (1) legible copies of the PERFORMING PARTY-approved travel vouchers, signed by the employees who traveled, and (2) for any travel-related expenses under this contract borne directly by the PERFORMING PARTY (and thus for which reimbursement by the PERFORMING PARTY to the traveler was not required) separate receipts showing, at a minimum, the traveler's name, the travel location, and the travel date(s).
6. When a single expenditure supports or satisfies more than one task or objective, the PERFORMING PARTY need not breakdown that particular expenditure by specific contract task or objective but may simply identify, in relative cost order, the various tasks or objectives supported.