

**Texas Commission on Environmental Quality
Cooperative Reimbursement Grant
for State Agencies and Local Governments**

CONTRACT SIGNATURE PAGE

Contract Name: City of Corpus Christi
Contract Number: 582-14-40055
Performing Party: City of Corpus Christi
Performing Party Identification Number: 174600057411
Maximum Authorized Reimbursement: \$442,300

Effective Date: September 1, 2013 Date of last signature
Expiration Date: August 31, 2015 Last day of Fiscal Year in which the Contract was signed

If checked, this Contract requires matching funds. Match Requirement:
 If checked, this Contract is funded with federal funds.

CFDA Number:

Federal Grant Number:

This Contract is entered under: Gov't Code ch. 771 Gov't Code ch. 791 Water Code § 5.124

The Texas Commission on Environmental Quality (TCEQ), an agency of the State of Texas, and the named Performing Party, a state agency or local government of the State of Texas, enter this Grant Agreement (Contract) to cooperatively conduct authorized governmental functions and activities under the laws of the State of Texas.

The parties agree as follows: (a) to be effective, the Contract must be signed by an authorized official of the TCEQ and the Performing Party; (b) this Contract consists of all documents specified in the list of Contract Documents following this page; and (c) as authorized by TCEQ, Performing Party will conduct Grant Activities as part of its own authorized governmental functions and TCEQ will reimburse allowable Costs subject to the Texas Uniform Grant Management Standards (UGMS) and this Contract.

**Texas Commission on
Environmental Quality (TCEQ)**

(Performing Party/Grantee)

By: _____

Authorized Signature

Steve Hagle, P.E.

Printed Name

Deputy Director

Title

Date

Procurements & Contracts Representative

LaTresa Stroud, CTPM, CTCM

Printed Name with Certification

Date

By: _____

Authorized Signature

Ronald Olsen

Printed Name

City Manager

Title

Date

CONTRACT DOCUMENTS LIST
Cooperative Reimbursement Grant
for State Agencies and Local Governments

This Contract between TCEQ and Performing Party consists of the Contract Documents listed on this page and marked by an "X." Documents on this list include all amendments. 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. All documents that are included in the list below, but are not attached to this Contract, are incorporated by reference.

- Contract Signature Page
- Contract Documents List (this page)
- Special Terms and Conditions
- Federal Section (Including Federal Conditions and Completed Forms)
- Scope of Work
- Procedures for Proposals for Grant Activities (PGAs)
- General Terms and Conditions
- Proposals for Grant Activities (PGAs) created during the Contract, includes Budget Revision Requests approved by TCEQ.
- Cost Budget Form
- Notices, Project Representatives and Records Locations
- Attachment A: TCEQ Financial Status Report (Form 269a/ TCEQ Form 20248) and Supplemental Financial Status Report forms (Supplemental Form 269a/TCEQ Form 20248-1 through 20248-4). FSR Forms may be updated by TCEQ during the Contract term;
- Attachment B: Release of Claims Form (form and completed forms provided under the Contract);
- Attachment C: Budget Revision Request Form
- Attachment D: Progress Report Template (template and completed reports provided under the Contract)
- Attachment E: Other documents that are delivered or issued, in accordance with the Contract, after the effective date of the Contract.

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 and other provisions set forth in this Grant Agreement.
2. Use of Funds. The Performing Party shall maximize use of Air Quality Planning funds for technical purposes, such as data collection and analysis, field study activities, and research. The Performing Party shall minimize use of the funds for creation of supplementary outreach materials.
3. Specific Costs
 - 3.1 The TCEQ will not reimburse the Performing Party for expenses related to the use of a cell phone or digital pager, except for a maximum of \$40.00 per month cell phone allowance for the Performing Party's named project representatives. TCEQ may reimburse the Performing Party for expenses related to the use of cell phones for the transmission of ambient monitoring data.
 - 3.2 Maximum Reimbursements for Travel. In addition to other provisions regarding travel, the following conditions apply:
 - 3.2.1. The TCEQ encourages the Performing Party to participate in the Texas Comptroller of Public Account's State Travel Management Program (STMP) found at: <http://www.window.state.tx.us/procurement/prog/stmp/>. The TCEQ also encourages the Performing Party to consult with the TCEQ with any questions on the eligibility of travel expenses.
 - 3.2.2. The Performing Party must use the method of travel that will result in the lowest overall costs, including consideration of salary and wages for time spent traveling. The Performing Party must book travel reasonably in advance of the date of the travel in order to obtain the lowest possible price.
 - 3.2.3. The TCEQ will not reimburse for travel claims that are not consistent with Textravel web located on the Texas Comptroller's website: <https://fm.x.cpa.state.tx.us/fmx/travel/textravel/index.php>.
 - 3.2.4. For in-state travel, the TCEQ will reimburse the Performing Party for the actual cost of lodging and meals at a daily rate not exceeding the current rate posted on the Texas Comptroller's website: <https://fm.x.cpa.state.tx.us/fm/travel/travelrates.php>. Additional taxes and fees are eligible for reimbursement.
 - 3.2.5. For out-of-state travel, the TCEQ will reimburse the Performing Party for the actual cost of lodging and meals at a daily rate not exceeding the current rates posted on the Texas Comptroller's website: https://fm.x.cpa.state.tx.us/fm/travel/out_of_state/index.php. Additional taxes and fees are eligible for reimbursement.
 - 3.2.6. For rental automobiles, the TCEQ will reimburse the Performing Party at the actual daily rate no greater than the applicable STMP contract rate.
 - 3.2.7. For air fare, the TCEQ will reimburse the Performing Party at actual cost up to the applicable STMP contract rate.
 - 3.2.8. Mileage for personal automobiles will be reimbursed at the rate for state employees at the mileage indicated on a mapping Web site from the Performing Party's business location to the destination location.
4. Advance Payments
 - 4.1 The TCEQ may provide funds in advance of the Performing Party incurring anticipated costs of Grant Activities. Each Proposal for Grant Activities (PGA) will indicate whether TCEQ will make an advance payment(s) and how much the advance payment(s) will be. Advance payments to Performing Party are solely to be used for reimbursement of Performing Party's allowable costs of performance under the PGA. Performing Party must submit advance payment documentation quarterly, following the requirements for reimbursement requests (invoices). If a PGA is being funded with advance funds and by reimbursement, a request for reimbursement (invoice) must be on a separate FSR form than the advance payment information and the required documentation must be attached to the applicable FSR. The documentation must show the amount the Performing Party has drawn from the advance and the balance remaining in the advance. 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.

- 4.2 TCEQ may include additional requirements or restrictions on the advance payment in the PGA.
- 4.3 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 Grant Activity and any other Contract requirement. After an advance payment under a PGA is depleted, TCEQ may choose to amend the PGA to allow additional advance payment(s) to Performing Party. If no additional advance is authorized, all additional payments will be made on a reimbursement basis, as described in the Contract Documents.
- 4.4 The Performing Party has the duty to immediately return advanced funds to TCEQ that have not been spent in accordance with this Grant Agreement by August 31, 2015.

SCOPE OF WORK

1. Introduction

This Scope of Work is a general description of Performing Party air quality planning activities that may be agreed to in Proposals for Grant Activities (PGAs) under this Grant Agreement in accordance with Rider 8, Commission on Environmental Quality, Article VI of the General Appropriations Act of the 83rd Legislature. TCEQ and the Performing Party will agree to activities by signing a PGA(s) to include the Performing Party's Work Plan for specific Grant Activities. In no event shall activities be performed without an accepted PGA signed by both the Grantee and the TCEQ and a Notice to Commence (NTC) signed by TCEQ. The PGA and NTC may be combined.

2. Description of Activities

- 2.1 The Grant Activities funded with the Rider 8 funding may include identifying, inventorying, and monitoring of pollution levels; modeling pollution levels; and the identification, quantification, and implementation of appropriate pollution reduction controls. The TCEQ shall allocate the Rider 8 funding to those activities that are most beneficial to the State Implementation Plan. The Performing Party shall expend Rider 8 funding solely on activities related to reducing ozone and its precursors, which are primarily nitrogen oxides (NO_x) and volatile organic compounds (VOCs).
- 2.2 The Grant Activities funded with Rider 8 funding may include community outreach activities designed to change behaviors to those that could reduce emissions of ozone precursors. Community outreach activities must have a quantifiable component such that the Grantee can measure the effectiveness of the program and communicate this information to the TCEQ.
- 2.3 The Performing Party must obtain written approval from the TCEQ prior to using these funds to model or prepare emissions inventories based in whole or part on existing control strategies with compliance and/or control effectiveness rates that differ from those currently used by the TCEQ. This provision applies to all emissions inventory development and photochemical modeling of base case, baseline, and future modeling scenarios.
- 2.4 In order to maintain consistency with the State Implementation Plan, the Performing Party and its sub-grantees and subcontractors shall use mobile source emissions factors and existing program assumptions approved by TCEQ when working with mobile sources emissions inventories (for any purpose) or existing mobile source control strategy programs. These assumptions include compliance and/or control effectiveness parameters.

3. Specifications and Standards for Performance

- 3.1 **Timeliness:** The Performing Party shall take all available measures to ensure that deliverables are submitted to the TCEQ on or before their due dates. Failure by the Performing Party to meet deliverable due dates may result in the use of any or all remedies described in the Grant.
- 3.2 **Completeness:** The Performing Party shall ensure that all deliverables are complete with regard to the scope and purpose of their associated tasks. Failure by the Performing Party to deliver complete deliverables may result in the use of any or all remedies described in the Grant.

4. Conference Calls and Meetings

If determined by the TCEQ to be necessary, the Performing Party will hold conference calls with the TCEQ regarding its air quality planning activities. The TCEQ is responsible for the scheduling and the hosting of each conference call. One week before the scheduled conference call the TCEQ will submit an agenda. The Performing Party shall have any technical documents, budget documents, and any other related documents for use during the call, as necessary to address the agenda submitted by the TCEQ.

5. Deliverables

The TCEQ's Grant Manager may grant an extension of a deliverable due date in a PGA without amending the PGA/NTC. The Performing Party must request an extension of a deliverable due date, via email, no later than 15 working days prior to the conclusion of the deliverable due date. The TCEQ Grant Manager will confirm acceptance or denial of the extension via email within 10 working days.

Draft deliverables may be submitted in electronic format by electronic mail, ftp, hard drive, or on CD or DVD by mail. Provided that the electronic data file sizes are not excessively large, they shall be delivered to the TCEQ either by e-mail or file transfer protocol (FTP). If the electronic file sizes are excessively large, CD-ROM, DVD-

ROM, or external hard drive media shall be used for the submission. For instances where the total size of the electronic data is large enough to require multiple CD-ROM discs, the Performing Party shall use either DVD-ROM discs or a single external hard drive. If the Performing Party chooses the latter approach, the TCEQ will return the hard drive after the large electronic data files have been obtained.

The Performing Party agrees to submit final deliverables as described above for draft deliverables and shall submit final deliverables within 10 working days of receiving comments from the TCEQ. If provided by electronic mail, the PGA number, fiscal year, task number, and the Amendment number, if applicable, shall be included in the subject line of the email.

The deliverable report or document shall clearly identify on its cover page in the top right hand corner the PGA number and the specific task or subtask number for which it was created and the Amendment number if applicable. Example follows:

FY14-15
PGA FY14-1
Task 1.1
Amendment #5

6. Quality Assurance Program and Procedures

The TCEQ Program Coordinator may waive the QAPP. A Quality Assurance Project Plan (QAPP) addresses the quality assurance process the Performing Party will undertake to ensure the adherence of data or other products to established criteria. Unless the QAPP is waived by the TCEQ, the Performing Party shall submit a QAPP prior to TCEQ signing the PGA. The QAPP shall address each task in the PGA in accordance with criteria, being neither arbitrary nor capricious, set by the TCEQ. TCEQ signature on the PGA will indicate acceptance of the QAPP. The Performing Party is responsible for the QAPP and its implementation.

7. Reporting. Quarterly performance reports shall be submitted with the Performing Party's invoices.

8. Additional Information

TCEQ representatives may attend the Performing Party's Air Quality Committee meetings or related meetings to provide technical guidance and/or to ensure compliance with the requirements of the Grant Agreement.

PROCEDURES FOR PROPOSALS FOR GRANT ACTIVITIES (PGAs)

1. Purpose

TCEQ intends to provide funds under this Grant Agreement to reimburse Performing Party for agreed Grant Activities. However, there is no guaranteed minimum level of funding for the Grant Agreement. All reimbursed Grant Activities must be agreed upon between TCEQ and Performing Party according to the procedures specified here. All Grant Activities must be within the Scope of Work described in this Grant Agreement.

2. Proposals for Grant Activities (PGAs)

At any time during the Grant Agreement, the TCEQ and Performing Party may agree to Grant Activities to be performed by the Performing Party by signing a PGA. Each PGA shall include:

The Contract Number and title of this Grant Agreement;

- The PCR Number and PGA title;
- A maximum dollar amount for reimbursement of the Grant Activities described in the PGA;
- Instructions to the Performing Party relating to the preparation of a QAPP;
- Tasks and deliverables for the Grant Activities described in the PGA;
- Start and end dates for the tasks and deliverables;
- Schedule of deliverables for the Grant Activities described in the PGA;
- Cost Budget: The PGA shall include a completed Cost Budget. The PGA shall include sufficient detail about possible travel outside of Texas to enable TCEQ to determine whether anticipated meetings or conferences are necessary and reasonable to the Grant Activities. The Performing Party shall submit a market price analysis (comparison to other contractor's prices) for activities included in the Contractual category in the Cost Budget;
- The names of the TCEQ Project Representatives and the names of any other TCEQ staff contacts for the Grant Activities described in the PGA;
- The names of the Performing Party's Project Representatives and other Performing Party contacts for the Grant Activities described in the PGA;
- Key personnel of Performing Party: the names of individuals who will be performing essential tasks, their roles in performing the Grant Activities, and whether they are employees of Performing Party, independent contractors, or employees of subcontractors;
- Signature: TCEQ and Performing Party shall have the PGA signed and dated by a person with the authority to bind TCEQ and Performing Party to the performance of the PGA; and
- Notice to Commence: The latest signature date of the parties on the PGA will be the date that the Performing Party may commence performing the Grant Activities included in the PGA, unless a different date is indicated in the PGA. Except as specifically authorized otherwise in the PGA, TCEQ will not fund Grant Activities performed by Performing Party prior to the commencement date indicated in the PGA. The PGA may include a limited notice to commence authorizing reimbursable expenditures for only a portion of the PGA.

The PGA may also include matters such as:

- additional identifying numbers for the PGA;
- format of copies;
- interim or progress report requirements;
- Performing Party availability for questions;
- anything to be provided by TCEQ, such as data, models, reports, equipment, or access;
- required models or software to be used by Performing Party;
- standards to be adhered to by Performing Party relating to data, GIS, modeling, database projects, or other matters;

- testing procedures or acceptance criteria; and
 - special requirements for the Grant Activities in the PGA.
3. QAPP
- 3.1 Performing Party shall submit a QAPP (if applicable) by the date specified in the PGA. The QAPP must meet all requirements specified in the Grant Agreement and in the PGA.
- 3.2 If the Grant Agreement is funded with federal funds, the QAPP must also meet all requirements specified in the federal grant providing the funds.

4. Changes to PGAs

4.1 General Process

4.1.1. Amendment Schedule for PGAs. It is the responsibility of the Grantee to request PGA amendments to change deliverables, extend deliverable dates, or make other adjustments. TCEQ may issue a proposed PGA amendment at any time during the term of a PGA. Performing Party requests for amendments to PGAs shall be submitted to the TCEQ no more than quarterly. Performing Party may submit a request for amendment to a PGA quarterly starting on the last day of the first quarter, except that for the last quarter, a request for amendment must be submitted by June 30, 2015. Quarters are defined below. Performing Party's request to amend a PGA must describe all proposed changes to the PGA in detail.

Quarters
September – November, 2013
December 1 – February 28, 2014
March 1 – May 30, 2014
June 1 – August 29, 2014
September 1 – November 28, 2014
December 1 – February 27, 2015
March 1 – May 29, 2015
June 1 – June 30, 2015 (limited period due to biennial closeout)

4.1.2. Within fourteen (14) calendar days of receipt of a proposed PGA amendment from the other party, the receiving party shall submit its changes to the PGA amendment or the signed PGA amendment to the other party's Representatives. TCEQ may specify a different deadline than the fourteen (14) day deadline when it provides the PGA amendment to the Performing Party. The receiving party must respond within seven (7) calendar days after receiving changes. The parties will work to reach an agreement on the amendment and if no agreement can be reached, TCEQ, at its option, may cancel the PGA in writing without further notice.

4.1.3. Any PGA amendment shall be signed by both parties and shall include a revised complete or limited notice to commence with the Grant Activities in the amended PGA. Except as specifically authorized otherwise in the amended PGA, TCEQ will not fund Grant Activities affected by the amendment if they are performed by Performing Party prior to the effective date of the revised notice to commence.

4.2 Required Changes to PGAs due to National Ambient Air Quality Standards Designation. If one or more counties within the Performing Party's program area are designated by the U.S. Environmental Protection Agency as being in violation of one or more National Ambient Air Quality Standards with an effective date occurring during the term of this Agreement:

- 4.2.1. the TCEQ may require the Performing Party to revise language for the PGA;
- 4.2.2. the TCEQ may specify which photochemical or meteorological modeling or emissions inventory development tasks are allowable under this Agreement;
- 4.2.3. the TCEQ may specify delivery dates for photochemical or meteorological modeling or emissions inventory development tasks; and
- 4.2.4. the Performing Party will mark and treat all photochemical or meteorological modeling or emissions inventory development work product as "DRAFT/DELIBERATIVE" until the

TCEQ agrees that those work products are of sufficient quality to be final versions. Work products marked "DRAFT/DELIBERATIVE" shall be released to third parties only with the prior permission of the TCEQ Program Coordinator, or under the terms of the Texas Public Information Act, Government Code, Chapter 552. Documents marked "Draft/Deliberative" may be shared with agents, employees, and subcontractors of the Performing Party; those assisting the Performing Party or its subcontractors; and those assisting the Performing Party in collecting the information.

5. Cancellation of PGA

Either party may cancel a PGA with ten (10) days written notice. Cancellations may be for cause, for convenience, or for force majeure. No cancellation shall prejudice any other right or remedy of TCEQ in the event of breach. Upon cancellation, Performing Party may request reimbursement for: conforming Grant Activities, and timely, reasonable expenses directly attributable to cancellation. TCEQ may set off Contract damages, if any, prior to making payment. Performing Party shall not be paid for: activities not performed, loss of anticipated profits or revenue, consequential damages, or other economic loss arising out of or resulting from the cancellation.

6. TCEQ Reliance on Budget and Due Dates Included in PGA

6.1 Reliance on Budget

Performing Party acknowledges that TCEQ budgets for and encumbers funds only up to the not-to-exceed dollar amount contained in each PGA, and therefore, materially relies on the Performing Party adhering to the budget included in the PGA. Partially completed Grant Activities may be of little or no benefit to TCEQ. Therefore, in the event Performing Party is unable to complete Grant Activities within the cost amounts included in the PGA, Performing Party agrees to use its best efforts to complete such Grant Activities using alternative funding.

6.2 Reliance on Due Dates

Performing Party acknowledges that TCEQ may depend on the completion of funded Grant Activities in order to prepare work product of its own which may be subject to statutory or other deadlines. In addition, funding for Grant Activities may be limited to Grant Activities performed within a certain time period. Therefore, milestones and deliverable due dates specified within a PGA are of the essence of the agreement. Without prejudice to any other right or remedy TCEQ may have in the event of delay, Performing Party agrees that it will immediately inform TCEQ if and as soon as it appears that a deliverable due date or PGA completion date may be exceeded.

7. Key Personnel

- 7.1 Performing Party's Project Representatives and any individuals named as key personnel in the PGA are key to the performance of Grant Activities. Whenever circumstances permit, Performing Party shall give at least 14 days' notice prior to making any substitutions in key personnel; if unable to give 14 days' notice, Performing Party shall give as much notice as possible. Performing Party shall submit information describing changes in key personnel, including the names of substitute individuals, their roles in performing the Grant Activities, and whether they are employees of Performing Party, independent contractors, or employees of subcontractors.
- 7.2 Performing Party shall not make any substitutions in key personnel prior to TCEQ's written approval of the substitute key personnel, unless failure to proceed with the substitution immediately will jeopardize the successful performance of the Grant Activities.
- 7.3 Substitutes shall meet any minimum qualifications specified in the PGA for the Grant Activities they will be performing, and where reasonably possible shall have qualifications comparable to or better than the qualifications of the individuals they are replacing.
- 7.4 In performing Grant Activities under a PGA, Performing Party shall not use or shall cease using the services of any person (including organizations) against whom the TCEQ has a reasonable objection. TCEQ must present all such objections in writing.

**GENERAL TERMS AND CONDITIONS
for Cooperative Reimbursement Grant
for State Agencies and Local Governments**

1. Contract Period

- 1.1 **Contract Period.** The Contract begins on the Effective Date and ends on the Expiration Date as provided on the Contract Signature Page. 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 **Amendments.** This Contract is not subject to competitive selection requirements and may be amended and renewed by mutual agreement. Except as specifically allowed by the Contract, all changes to the Contract require a written amendment agreed to by both parties.
- 1.3 **Extensions.** TCEQ may by unilateral written amendment extend the Expiration Date for a period of up to 90 days. Unless otherwise indicated in the applicable Contract amendment, an extension does not extend any other deadlines or due dates other than the expiration of the Contract Period.

2. Funds

- 2.1 **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. Performing Party will ensure that this article is included in any subcontract it awards.
- 2.2 **Maximum Authorized Reimbursement.** The total amount of funds provided by TCEQ for the Contract will not exceed the amount of the Maximum Authorized Reimbursement as shown on the Contract Signature Page.
- 2.3 **Fiscal Year Restrictions.** In order to be reimbursed under this Contract, costs must be incurred during the Contract Period and within the time limits applicable to the funds from which the Contract is being paid. TCEQ is under no obligation to offer deadline extensions which extend to the maximum availability of the Contract funding source.
- 2.4 **Grants.** If this Contract was entered under the TCEQ's authority to award grants, TCEQ is providing financial assistance to the recipient to undertake its own project.
- 2.5 **No Debt against the State.** This Contract is contingent on the continuing appropriation of funds. This Contract shall not be construed to create debt against the State of Texas.

3. Allowable Costs

- 3.1 **Conforming Activities.** TCEQ will reimburse the Performing Party for necessary and reasonable Allowable Costs that are incurred and paid by the Performing Party in performance of the Scope of Work as authorized in the PGA Cost Budget.
- 3.2 **UGMS.** Allowable Costs are restricted to costs that comply with the Texas Uniform Grants Management Standards (UGMS) and applicable state and federal rules and law. The text of UGMS is available online at the Governor's website. The parties agree that all the requirements of the UGMS apply to this Contract, including the criteria for Allowable Costs. Additional federal requirements apply if this Contract is funded, in whole or in part, with federal funds.
- 3.3 **Duplication of Effort Prohibited.** In addition to the funds provided to the Performing Party under this Grant Agreement, the TCEQ and other entities may provide funds to the Performing Party under separate Grant Agreements. Performing Party must monitor all activities to ensure that the grant funds complement one another and do not result in double payments for the same activity.

4. Reimbursement

- 4.1 **Reimbursement Requests.** Performing Party shall invoice TCEQ to request reimbursement for its Allowable Costs for performing the Scope of Work. Performing Party's invoice shall confirm to all reimbursement requirements specified by TCEQ.
- 4.2 **Submittal of Reimbursement Requests**

- 4.2.1. The Performing Party shall not submit reimbursement requests (FSRs and invoices) any sooner than fifteen (15) days following the submission to the TCEQ of a deliverable in order to allow TCEQ staff a reasonable period to review the deliverable prior to receiving the reimbursement request.
- 4.2.2. The Performing Party shall require by contract its subcontractors to invoice it every other month and the costs relating to subcontractors shall be invoiced to TCEQ in Performing Party's quarterly invoice.
- 4.2.3. The Performing Party must submit invoices within fifteen (15) days of the end of each State of Texas fiscal quarter, except that the final invoice shall be submitted as specified below. Invoices shall be sent to: Invoice_AQD@tceq.texas.gov. Invoices shall be in PDF format and in U. S. dollars and cents. Each Proposal for Grant Activities must be invoiced separately. In order for TCEQ to determine eligibility of costs, the Performing Party must submit the following to the TCEQ as part of its complete and legible invoice:
 - 4.2.3.1 Reimbursement requests using Financial Status Report Form 269a and Supplemental Financial Status Report Forms 269a in paper copies and in an electronic database format, provided by TCEQ, that detail all costs of conducting the Grant Activities incurred during the invoicing period. 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. For FSRs requesting reimbursement of costs (as opposed to documenting use of advance payment), fill in the spaces regarding Advanced Funds with N/A. TCEQ will perform desk reviews of the FSRs after they are filed. TCEQ may pay an invoice prior to performing the desk review. If TCEQ determines that the FSR contained unallowable costs or insufficient documentation, the Performing Party will refund the applicable amounts to TCEQ;
 - 4.2.3.2 Percentage of budget spent to date, and percentage of budget projected to be spent during the Agreement;
 - 4.2.3.3 Progress report on the attached template. The TCEQ reserves the right to alter the reporting frequency of the progress reports as necessary to track the Performing Party's progress toward accomplishing the tasks of the PGA(s). The progress report shall document, in technical detail and by task, the accomplishments, expenditures, and milestones achieved during the reporting period. The Performing Party shall include an estimate of the percent completion for each task or project. The report shall also document what problems were identified, if any, and the resolution.
- 4.2.4. Within sixty (60) days of the end of this Agreement, the Performing Party must submit its final invoice that is complete and legible and includes all of the information set forth above for quarterly invoices and the information listed below. Submission shall be in electronic format, on DVD-ROM or CD-ROM. Directory structure for the contents of the CD shall be by Task and Title: e.g., Task 1. Conceptual Model, Task 2. Ambient Monitoring, Task 3. Emissions Inventories. The following also must be submitted with the final invoice:
 - 4.2.4.1 Copies of all reports, including financial, performance, and other reports, required by this Agreement;
 - 4.2.4.2 Final Reconciliation of Budget and Expenditures;
 - 4.2.4.3 PGA Summary Report summarizing the Performing Party's accomplishments with respect to the approved PGAs and containing an outline of PGA tasks and projects that identifies the title of all deliverables completed in the course of the Grant Agreement. The Performing Party must request the Final PGA Summary Report template from the TCEQ Grant Manager;
 - 4.2.4.4 A current single audit report for Regional Planning Commissions, including Councils of Government or Comprehensive Annual Financial Report for municipalities; and
 - 4.2.4.5 A detailed explanation of how advance payments were utilized.

- 4.2.5. Within ninety (90) days of receipt of the final invoice and information set forth above, the TCEQ will make adjustments to the allowable and eligible costs based on the terms of the Grant Agreement Documents. The TCEQ will make prompt reimbursement to the Performing Party for allowable reimbursable costs. Closeout of the Grant Agreement does not affect:
- 4.2.5.1 The TCEQ's right to disallow costs and recover funds on the basis of a later audit or other review;
 - 4.2.5.2 The Performing Party's obligation to return any funds due as a result of later refunds, corrections, or other transactions;
 - 4.2.5.3 Records retention;
 - 4.2.5.4 Property management requirements;
 - 4.2.5.5 Audit requirements; and
 - 4.2.5.6 Any other continuing obligations under the Grant Agreement.
- 4.2.6. At any time during the Grant Agreement, upon request of the TCEQ, the Performing Party will provide any additional documentation necessary to support the allowability and eligibility of the costs. The TCEQ may reject requests for reimbursement pending receipt of the requested documentation.
- 4.2.7. The Performing Party must immediately refund to the TCEQ any funds that are in excess of allowable costs. In no case may Performing Party take longer than thirty (30) days to refund TCEQ. Any funds paid to a Performing Party in excess of the amount to which the Performing Party is finally determined to be entitled under the terms of the award constitute a debt to the TCEQ.
- 4.3 **Conditional Payments.** Reimbursements are conditioned on the Scope of Work 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 Scope of Work. This does not limit or waive any other TCEQ remedy.
- 4.4 **No Interest for Delayed Payment.** Because the Performing Party is not a vendor of goods and services within the meaning of Texas Government Code Chapter 2251, no interest is applicable in the case of late payments.
- 4.5 **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 using the applicable, attached form.
5. **Financial Records, Access and Audits**
- 5.1 **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 audit of funds accepted under this Contract is included in any subcontract it awards.
- 5.2 **Financial Records.** Performing Party shall establish and maintain financial records including records of costs of the Scope of Work 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. Financial records regarding this Contract shall be retained for a period of three (3) years after date of submission of the final reimbursement request.
- 5.3 **Indirect Rate Approval Letter.** Within thirty (30) days of the start of the Grant Agreement, the Performing Party shall submit to the TCEQ a copy of the letter from the Performing Party's Federal cognizant agency or state coordinating agency approving the Performing Party's current indirect cost rate. The Performing Party shall provide any new letter within thirty (30) days of the plan being approved by its cognizant agency or state coordinating agency.

- 5.4 **Central Service Costs.** The Performing Party certifies that it will maintain compliance with all UGMS and other requirements regarding central service costs, including having a Cost Allocation Plan, if required, and adjusting the plan. All central service cost allocation plans and related documentation must be maintained for possible audit.

6. Performing Party's Responsibilities

- 6.1 **Performing Party's Responsibility for the Scope of Work.** Performing Party undertakes performance of the Scope of Work as its own project and does not act in any capacity on behalf of the TCEQ nor as a TCEQ agent or employee. Performing Party agrees that the Scope of Work is furnished and performed at Performing Party's sole risk as to the means, methods, design, processes, procedures and performance.
- 6.2 **Superintendence of the Work.** Performing Party is responsible for supervising all activities. This responsibility includes control of associated hazards to assure the safety of the performance of the Grant Activities, and for the protection of all persons, property, premises and facilities which may be affected by the Grant Activities. No action by TCEQ will transfer this responsibility to TCEQ.
- 6.3 **Independent Contractor.** The parties agree that the Performing Party is an 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.
- 6.4 **Performing Party's Responsibilities for Subcontractors.** All acts and omissions of subcontractors, suppliers and other persons and organizations performing or furnishing any of the Scope of Work under a direct or indirect contract with Performing Party shall be considered to be the acts and omissions of Performing Party.
- 6.5 **Flow down of Contract Provisions.** The Performing Party shall include in its subcontracts, employment contracts, and employment policies any provision included in this Agreement, or shall include a similar provision, to the extent necessary in order for the Performing Party to fulfill its obligations under this Agreement, regardless of whether or not the provision expressly requires that it be included in such contracts or policies. The Performing Party shall require its subcontractors to do the same.
7. **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 the Performing Party's subcontractors, suppliers or other persons or organizations with a contractual relationship with the Performing Party.

8. Time

- 8.1 **Time is of the Essence.** Performing Party's timely performance is a material term of this Contract.
- 8.2 **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 for cause, or enforce any of its other rights (termination for convenience may be effected even in case of Force Majeure or act of TCEQ).
9. **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 Scope of Work, nor have access to information regarding any portion of the Scope of Work, without TCEQ's written consent in the form of a unilateral amendment. 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.

10. Data and Quality

- 10.1 **Quality and Acceptance.** All work performed under this Contract must be complete and satisfactory in the reasonable judgment of the TCEQ. All materials and equipment shall be handled in accordance with instructions of the applicable supplier, except as otherwise provided in the Contract.
- 10.2 **Quality Assurance.** All work performed under this Contract that involves environmental data operations will be performed in accordance with a TCEQ-approved Quality Assurance Project Plan

(QAPP). An environmental data operation is defined as any work performed to obtain, use, or report information pertaining to environmental processes and conditions. Environmental data operations may include but are not limited to sampling and analysis, compilation or use of data from existing sources, development or use of models of environmental processes, and the collection, calculation, or use of geospatial data. No work covered by this requirement will be implemented prior to the Performing Party's receipt of the QAPP signed by TCEQ and, if necessary, the EPA. Without prejudice to any other remedies available to TCEQ, TCEQ may refuse reimbursement for any environmental data operation performed prior to approval of a QAPP by TCEQ and, if necessary, the EPA. Also, without prejudice to any other remedies available to TCEQ, the Performing Party's failure to meet the terms of the QAPP may result in TCEQ's suspension of associated activities and non-reimbursement of expenses related to the associated activities.

- 10.3 **Laboratory Accreditation.** Any laboratory data or analyses provided under this Contract must be prepared by a laboratory that is accredited by TCEQ according to 30 Texas Administrative Code Chapter 25, subchapters A and B, unless TCEQ agrees in writing to allow one of the regulatory exceptions specified in 30 Texas Administrative Code Section 25.6.

11. Intellectual Property

- 11.1 **Work for Hire.** The Performing Party agrees the work product created under this Contract is a work for hire and therefore, TCEQ is the owner of the work product and all intellectual property in the work product. Performing Party will enter into written agreements with its employees and subcontractors that confirm TCEQ's ownership.
- 11.2 **Third Party Intellectual Property.** Unless specifically modified in an amendment or waived in a unilateral amendment by TCEQ, Performing Party must obtain all intellectual property licenses expressly required in the Scope of Work, or incident to the use or possession of any work product under the Grant Agreement. Performing Party shall obtain and furnish to TCEQ: documentation on the use of such intellectual property, and a nonexclusive, perpetual, irrevocable, fully paid-up enterprise-wide and worldwide license to reproduce, publish, otherwise use, modify, create derivative works, distribute, publicly perform and display such intellectual property and associated user documentation, and to authorize others to do the same for TCEQ non-commercial purposes. Readily commercially available software that is necessary to use the work products may be exempted from this requirement with prior written approval from TCEQ. Contractor shall take all necessary steps to pass-through to TCEQ all warranties, representations and other service commitments applicable to third party intellectual property incorporated into the work products.
- 11.3 **Grant of License.** Performing Party grants to TCEQ a nonexclusive, perpetual, irrevocable, fully paid-up enterprise-wide and worldwide license to reproduce, publish, modify, otherwise use, create derivative works, distribute, publicly perform and display for any non-commercial TCEQ purpose any preexisting intellectual property belonging to the Performing Party that is incorporated into any work products under this Grant Agreement or is incident to the use or possession of any work product that is not work for hire, and associated user documentation.
- 11.4 In the event of a third party's Demand or threat of Demand for infringement of intellectual property incorporated by Performing Party into the work product, Contractor shall make best efforts to obtain permission for TCEQ to continue use of the allegedly infringing information, article or material; if Performing Party is unable to secure such permission, Performing Party shall provide a non-infringing substitute or work-around that is substantially similar in feature and functionality to the allegedly infringing information, article or material.

12. Insurance and Indemnification

- 12.1 **Insurance.** Unless prohibited by law, the Performing Party shall require its contractors 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.
- 12.2 **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, AND EMPLOYEES, 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 SUBCONTRACTORS, SUPPLIERS AND AGENTS, INCLUDING THOSE ARISING FROM 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 TCEQ SHALL BE SUBJECT TO THE AUTHORITY OF THE OFFICE OF THE ATTORNEY GENERAL OF TEXAS TO REPRESENT TCEQ. THIS COVENANT SURVIVES THE TERMINATION OF THE CONTRACT.

13. Termination

- 13.1 **Termination for Cause.** TCEQ may, upon providing 10 days' written notice and the opportunity to cure to the Performing Party, 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 work, or existence of a conflict of interest. Termination for cause does not prejudice TCEQ's other remedies authorized by this Contract or by law.
- 13.2 **Termination for Convenience.** TCEQ may, upon providing 10 days' written notice to the Performing Party, 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 work 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.
- 13.3 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 TCEQ.

14. Disputes, Claims and Remedies

- 14.1 **Payment as a Release.** Neither payment by TCEQ nor any other act or omission other than an explicit written release, in the form of a unilateral amendment, constitutes a release of Performing Party from liability under this Contract.
- 14.2 **Remedies**
- 14.2.1. **Schedule of Remedies available to the TCEQ.** In accordance with Texas Government Code Chapter 2261 the following Schedule of Remedies applies to this Contract. In the event of Performing Party's nonconformance, TCEQ may do one or more of the following:
- 14.2.1.1 Issue notice of nonconforming performance;
 - 14.2.1.2 Reject nonconforming performance and request corrections without charge to the TCEQ;
 - 14.2.1.3 Reject a reimbursement request or suspend further payments, or both, pending accepted revision of the nonconformity;
 - 14.2.1.4 Suspend all or part of the Contract Activities or payments, or both, pending accepted revision of the nonconformity;
 - 14.2.1.5 Demand restitution and recover previous payments where performance is subsequently determined nonconforming;
 - 14.2.1.6 Terminate the Contract without further obligation for pending or further payment by the TCEQ and receive restitution of previous payments.
- 14.2.2. The remedies available to TCEQ in this Grant Agreement, are in addition to, and not a limitation of, any rights and remedies available to TCEQ, including otherwise imposed or available, by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents.
- 14.3 **Opportunity to Cure.** The Performing Party will have a reasonable opportunity to cure its nonconforming performance, if possible under the circumstances.
- 14.4 **Cumulative Remedies.** Remedies are cumulative; the exercise of any remedy under this Contract or applicable law does not preclude or limit the exercise of any other remedy available under this Contract or applicable law.

15. Sovereign Immunity

The parties agree that this Contract does not waive any sovereign immunity to which either party is entitled by law.

- 16. 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, survive for four (4) years beyond the termination or completion of the Contract, or until four (4) years after the end of a related proceeding, whichever is longer. A related proceeding includes any litigation, legal proceeding, permit application, or State Office of Administrative Hearings proceeding, which is brought in relation to the Contract or which in TCEQ's opinion is related to the subject matter of the Contract. Either party shall notify the other of any related proceeding if notice of the proceeding has not been provided directly to that other party.

17. Contract interpretation**17.1 Definitions.**

- 17.1.1. 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 (PGAs).
- 17.1.2. The term Grant Agreement is used interchangeably with Agreement, Contract, Grant, or grant.
- 17.1.3. Grant Activities – the entire completed activities or the various separately identifiable parts thereof required to be furnished under the Contract Documents. Grant Activities include administrative activities. Grant Activities may also be referred to as Contract Activities and work.

- 17.2 **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.

- 17.3 **Delivery of Notice.** Notices are deemed to be delivered three (3) working days after postmarked if sent by U.S. Postal Service certified or registered mail, return receipt requested. Notices delivered by other means are deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, facsimile transmission, email, or other commercially accepted means.

- 17.4 **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.

- 17.5 **State, Federal Law.** This Contract is governed by, and interpreted under the laws of the State of Texas, as well as applicable federal law.

- 17.6 In addition to the other 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:

- 17.6.1. The Uniform Grant and Contract Management Act, Section 783.001 et seq., Texas Government Code; The Uniform Grant Management Standards for State Agencies, 34 Texas Administrative Code, Section 20.421 et seq. (UGMS) (allowable costs standards and requirements for grantees);
- 17.6.2. Chapter 391, Local Government Code and related rules (pertaining to costs for entities defined as Regional Planning Commissions), if a sub-grantee or recipient of funds is an entity defined as a Regional Planning Commission, including a Council of Governments. (Under this Grant Agreement, other entities may also agree to abide by the cost requirements for Regional Planning Commissions.);
- 17.6.3. Texas Government Code Section 556.0055 (pertaining to lobbying);
- 17.6.4. TCEQ Allowable Expenditure Guidelines (pertaining to allowable costs for cost reimbursement contracts and grants);
- 17.6.5. 30 TAC Chapter 11 (pertaining to TCEQ contracts) and 30 TAC Chapter 14 (pertaining to grants); and
- 17.6.6. Other applicable Federal and State statutes and rules.

- 17.7 If the Performing Party is a "unit of local government" as defined in the Appropriations Act of the 83rd Texas Legislature, Article IX, Sec. 4.04 Limitation on Grants to Units of Local Government, the Performing Party must certify in the Release of Claims that it has complied with all requirements in Sec. 4.04.
- 17.8 **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.
- 17.9 **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.
- 17.10 **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, Texas.
- 17.11 **Public Information.** All data and other information developed under this Agreement shall be furnished to the TCEQ and shall be public data and information except to the extent that it is exempted from public access by the Texas Public Information Act, Texas Government Code Chapter 552. Upon termination of this Agreement, all copies of data and information shall be furnished, at no charge to the TCEQ, upon request, to include databases prepared using funds provided under this Grant Agreement.
- 17.12 **Publication.**
- 17.12.1. At least seven (7) days prior to the publication or advertisement of information related to this Contract, the Performing Party agrees to provide a copy of the publication or advertisement to TCEQ for review and comment. Performing Party may make changes in its draft based on TCEQ comments, as it sees fit in its sole discretion. Performing Party agrees not to use the TCEQ logo or the TCEQ graphic as an advertisement or endorsement without written permission signed by the appropriate TCEQ authority.
- 17.12.1.1 The Performing Party has permission to use the TCEQ logo in conjunction with outreach efforts described in this Grant Agreement. The Performing Party must follow the TCEQ's logo style guidelines when using the logo, which can be found on the Web at http://www.tceq.texas.gov/assets/public/comm_exec/logo_style_guide.pdf. Electronic files of the TCEQ logo should be obtained from the TCEQ's Agency Communications Division by e-mailing ac@tceq.texas.gov. E-mails should be addressed from the Performing Party's Project Representative and copy the TCEQ Project Representatives, reference use under the Rider 8 grant program, and specify the file formats needed (examples: jpg, tiff).
- 17.12.2. The Performing Party and the Performing Party's agent, subcontractor, or other representative shall acknowledge the financial support of the TCEQ and the State of Texas whenever activities funded, in whole or part, by this Grant Agreement are publicized or reported in news media, or publications, or at public events and meetings. All project signage, reports and other documents completed as a part of this Grant Agreement, other than documents prepared exclusively for internal use within the TCEQ, shall display the following notation on the sign, or front cover or title page:

*PREPARED UNDER A GRANT FROM THE
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY*

*The preparation of this report was financed through grants from the State of Texas through the Texas Commission on Environmental Quality.
The content, findings, opinions and conclusions are the work of the author(s) and do not necessarily represent findings, opinions or conclusions of the TCEQ.*

- 17.13 **Waiver.** With the exception of an express, written waiver in the form of a unilateral amendment signed 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.
- 17.14 **Compliance with Laws.** 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.
- 17.15 **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.
- 17.16 **Accessibility.** All electronic content and documents created as deliverables under this Contract must meet the accessibility standards prescribed in 1 Texas Administrative Code sections 206.50 and 213 for state agency web pages, web content, software, and hardware, unless TCEQ agrees that exceptions or exemptions apply.
- 17.17 No provision of any standard, specification, guidance manual, code or instruction shall be effective to change the responsibilities of TCEQ or the Performing Party, or any of their subcontractors, consultants, agents, or employees from those in the Grant Agreement, nor shall it be effective to assign to TCEQ, any duty or authority to supervise the furnishing or performance of the Grant Activities or other Agreement provisions.
- 17.18 Whenever in the Contract Documents the terms "as ordered," "as directed," "as required," "as allowed," "as approved" or terms of like effect or import are used, or the adjectives "reasonable", "suitable," "acceptable," "proper" or "satisfactory" or adjectives of like effect or import are used to describe a requirement, direction, review or judgment of TCEQ as to the Grant Activities, it is intended that such requirement, direction, review or judgment will be solely to evaluate, in general, the completed Grant Activities for compliance with the requirements of and information in the Grant Agreement Documents. The use of any such term or adjective shall not be effective to assign to TCEQ any duty or authority to supervise or direct the furnishing or performance of the Grant Activities or other Agreement provisions.

Cost Budget

Cooperative Reimbursement Grant for State Agencies and Local Governments

1. **Budget.** Authorized budgeted expenditures for activities performed are as follows:

Budget Category	Cost for Activities to be Performed
Salary / Wages	\$
Fringe Benefits	\$
Travel	\$
Supplies	\$
Equipment	\$
Contractual	\$
Construction	\$
Other	\$
Indirect Costs	\$
Total	\$

2. **Indirect Cost Reimbursable Rate.** The reimbursable rate for this Contract is _____% of (check one):

- salary and fringe benefits
- modified total direct costs
- other direct costs base

If other direct cost base, identify:

This rate is less than or equal to (check one):

- approved predetermined rate
- experienced-based predetermined rate
- default rate

3. **Other.** If Budget Category "Other" is greater than \$25,000 or more than 10% of budget total, identify the main constituents:
4. **Travel.** In order to be reimbursable, 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. Travel by volunteers will not be reimbursed. The Performing Party shall submit out-of-state travel requests to the TCEQ Grant Manager no later than 30 days prior to travel. Travel by the Performing Party shall not occur without TCEQ authorization. Additional requirements applicable to travel are included elsewhere in this Contract.
5. **Budget Categories.** The Budget Categories above have the definitions, requirements and limitations stated in UGMS. Construction costs are not reimbursable without prior, specific written authorization from TCEQ.

6. Budget Control.

- 6.1 Performing Party may transfer amounts between the approved direct cost budget categories so long as the cumulative transfers to or from a line item do not exceed 10% of half of the Total Budget amount. Total costs to be reimbursed must be at or less than the budget total specified. All invoices must be submitted in a format that clearly shows how this requirement is being met. Performing Party must timely submit a Budget Revision Request (BRR) Form reflecting the revised budget. The Performing Party's written request shall include the reason for the request, a redline/strikeout version of the currently approved budget, a narrative of each fund transfer among the budget categories, and a description of how the budget transfers will change each task. Upon approval by the TCEQ Grant Manager, the BRR will automatically be incorporated into this Contract as though it is a document revised under General Terms and Conditions Section 1.2.
 - 6.2 Cumulative transfers greater than or equal to 10% of the Total Budget. TCEQ must **pre-approve** all budget revisions that result in the cumulative transfer of funds equal to or greater than 10% of the Total Budget of this PGA during the Contract period. The Performing Party must supply the completed BRR and information listed in the previous paragraph with its request for amendment of the PGA. A PGA amendment is required **before** Performing Party incurs these costs.
 - 6.3 Performing Party may not transfer amounts to budget categories containing zero dollars without TCEQ pre-approval.
 - 6.4 The 10% limit does not reset until an amendment is signed by the parties to reflect changes to the budget.
7. **Supporting Records.** Performing Party shall submit records and documentation to TCEQ as appropriate for the review and approval of reimbursing costs. See the FSR for an explanation of what documentation must be provided with the FSR regarding costs. TCEQ may reject invoices without appropriate supporting documentation. TCEQ has the right to request additional documentation. Although this Contract only requires that certain documentation be provided with the FSR, the Performing Party shall maintain records subject to the terms of this Contract, including the Uniform Grant Management Standards.
8. **Indirect Costs.** Performing Party's indirect costs will be reimbursed at the reimbursable rate shown above (if no reimbursable rate is shown above, indirect costs are not reimbursable under this Contract). The reimbursable rate must be less than or equal to the rate authorized under UGMS. To the extent that the reimbursable rate is lower than Performing Party's actual indirect costs, Performing Party is contributing its unreimbursed indirect costs to the successful performance of this Contract, and waives any right it may have to reimbursement of those costs.
9. **Indirect Rates Authorized under UGMS. The following rates are authorized under UGMS:**
- 9.1 **Approved Predetermined Rate.** An approved predetermined rate shall be expressed as a percentage of the direct cost base specified in the signed indirect rate negotiation agreement.
 - 9.2 **Experience-Based Predetermined Rate.** An experience-based predetermined rate is an indirect cost rate agreed to between TCEQ and Performing Party, where there is no approved predetermined rate and there is sufficient cost experience and other pertinent facts to enable the parties to reach an informed judgment (a) 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 (b) that the amount allowable under that rate would not exceed actual indirect costs. An experience-based predetermined rate shall be expressed as a percentage of either (a) salary and wages, or (b) modified total direct costs. Modified total direct costs are total direct costs less "extraordinary or distorting expenditures," usually capital expenditures, subawards, contracts, assistance payments (e.g., to beneficiaries), and provider payments. The direct cost base selected should result in the fair distribution of indirect costs among all state and federal grants and contracts affected, as well as other Performing Party activities that share in the indirect costs.
 - 9.3 **Default Rate.** A default rate is an indirect rate of ten percent (10%) of direct salary and wages, to be used where (a) there is no approved or experienced-based predetermined rate, and (b) the Performing Party represents that its actual indirect costs equal or exceed ten percent (10%) of salary and wages.
 - 9.4 **Adjustment of Indirect Rates.** A reimbursable rate is intended to be final. Performing Party acknowledges that TCEQ's budget is limited and funds may not be available to reimburse any increase in indirect costs. Performing Party waives any right it may have to upward adjustment of its indirect rate, and agrees to contribute any such increase to the successful performance of this

Contract. TCEQ waives any right it may have to a downward adjustment of Performing Party's indirect rate, unless the reimbursable rate is greater than the Performing Party's actual indirect costs. If the latter case, if reasonably feasible, a compensating adjustment shall be carried forward to this Contract or a future contract. If not feasible, where permitted by law TCEQ and Performing Party may identify additional services to be performed by Performing Party as a compensating adjustment, or Performing Party shall reimburse TCEQ the excess indirect costs paid.

Notices, Project Representatives and Records Location

Contract No. 582-14-40055

- 1. Representatives.** The individual(s) named below are the representatives of TCEQ and Performing Party. They are authorized to give and receive communications and directions on behalf of the TCEQ and the Performing Party as indicated below. All communications including official Contract notices must be addressed to the appropriate representatives.
- 2. Changes in Representatives.** Either party may change its representative by unilateral amendment.
- 3. TCEQ Representatives**

All communications must be addressed to the TCEQ's Project Representatives, unless otherwise specified in the Grant Agreement. The TCEQ Project Representatives are identified below:

TCEQ GRANT MANAGER (for Contractual Matters)

Leigh Ann Brunson

Grant Manager
Texas Commission on Environmental Quality
P.O. Box 13087
MC-164
Austin, Texas 78711-3087
Telephone No. (512) 239-1903
Facsimile No. (512) 239-1500
E-Mail: leigh_ann.brunson@tceq.texas.gov

TCEQ PROGRAM COORDINATOR (for Technical Matters)

Clint Harper

Program Coordinator
Texas Commission on Environmental Quality
P.O. Box 13087
MC-164
Austin, Texas 78711-3087
Telephone No. (512) 239-1674
Facsimile No. (512) 239-1500
E-Mail: clint.harper@tceq.texas.gov

- 4. Performing Party Representatives.**

For Contractual Matters

Sharon Bailey Lewis

Program Manager

Title

City of Corpus Christi

P. O. Box 9277

Corpus Christi, Texas 78469-9277

Telephone No. (361) 826-4066

Facsimile No. (361) 826-4681

E-mail: SharonL@cctexas.com

For Technical Matters

Sharon Bailey Lewis

Program Manager

Title

City of Corpus Christi

P. O. Box 9277

Corpus Christi, Texas 78469-9277

Telephone No. (361) 826-4066

Facsimile No. (361) 826-4681

E-mail: SharonL@cctexas.com

- 5. Invoice Submittal.** Invoices must be submitted to: Invoice_AQD@tceq.texas.gov
- 6. 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:

1201 Leopard Street
(Street Address)

Corpus Christi, Texas 78401
(City / State ZIP)

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
 RIDER 8 AIR QUALITY PLANNING GRANT PROGRAM
 FINANCIAL STATUS REPORT -- FORM 269a

1. STATE AGENCY ORGANIZATION TO WHICH REPORT IS SUBMITTED:		Submit with invoice to Invoice_AQD@tceq.texas.gov			
2. GRANT/CONTRACT TITLE: RIDER 8 LOCAL AIR QUALITY PLANNING GRANT					
3. PAYEE IDENTIFICATION NUMBER:		4. RECIPIENT ORGANIZATION (NAME AND COMPLETE ADDRESS)			
5.a. TCEQ CONTRACT NUMBER:					
5.b. TCEQ PCR NUMBER:					
6. FINAL REPORT	YES				NO
7. ACCOUNTING BASIS	CASH				ACCRUAL
8. TOTAL 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		\$0.00		\$0.00	
B. FRINGE BENEFITS				\$0.00	
C. TRAVEL		\$0.00		\$0.00	
D. SUPPLIES		\$0.00		\$0.00	
E. EQUIPMENT		\$0.00		\$0.00	
F. CONTRACTUAL		\$0.00		\$0.00	
G. CONSTRUCTION		\$0.00		\$0.00	
H. OTHER		\$0.00		\$0.00	
I. TOTAL DIRECT COSTS (sum A-H)		\$0.00		\$0.00	
J. INDIRECT COSTS (___% of [Fill in Base, e.g. Personnel/Salary])				\$0.00	
K. TOTAL (sum I and J)		\$0.00		\$0.00	
*List (itemize) on the appropriate supplemental form, all component expenses comprising the total cost for each of these categories. Please attach receipts, as required, in accordance with the conditions of your Contract.					
11. ADVANCED FUNDS		12. INTEREST EARNED			
A. ADV. FUNDS THIS PROJECT:		A. INTEREST EARNED THIS PERIOD:			
B. ADV. FUNDS SPENT THIS PERIOD:		B. INTEREST PREVIOUSLY EARNED:			
C. ADV. FUNDS SPENT PREVIOUSLY:		C. CUMULATIVE INTEREST EARNED:	\$0.00		
D. ADV. FUNDS REMAINING:	\$0.00				
13. 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 OFFICIAL _____					
TYPED NAME AND TITLE:					
TELEPHONE:		DATE SUBMITTED: _____			

ITEMIZATION OF EQUIPMENT AND CONTRACTUAL COSTS (Form 20248-1)

EQUIPMENT PURCHASES (DURING THIS REPORT PERIOD)

NUMBER PURCHASED	ITEM DESCRIPTION (SHOULD MATCH DESCRIPTION PROVIDED FOR APPROVAL)	UNIT COST	TOTAL COST	TASK
TOTAL EQUIPMENT EXPENDITURES (MUST AGREE WITH LINE 10E ON FORM 20248)			\$0.00	

CONTRACTUAL EXPENSES (DURING THIS REPORT PERIOD)

SUBCONTRACTOR (NAME)	FOR (SERVICES PERFORMED)	COST	TASK
TOTAL CONTRACTUAL EXPENSES (MUST AGREE WITH LINE 10F ON FORM 20248)		\$0.00	

ITEMIZATION OF SUPPLY AND OTHER COSTS (Form 20248-3)

SUPPLIES PURCHASED (DURING THIS PERIOD)

NUMBER PURCHASED	ITEM DESCRIPTION	UNIT COST	TOTAL COST	TASK
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
TOTAL SUPPLY EXPENDITURES (MUST AGREE WITH LINE 10D ON FORM 20248)			\$0.00	

OTHER EXPENDITURES (DURING THIS REPORT PERIOD)

NUMBER PURCHASED	ITEM DESCRIPTION	UNIT COST	TOTAL COST	TASK
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
			\$0.00	
TOTAL OTHER EXPENDITURES (MUST AGREE WITH LINE 10H ON FORM 20248)			\$0.00	

ITEMIZATION OF PERSONNEL/SALARY AND TRAVEL COSTS (Form 20248-4)

PERSONNEL/SALARY EXPENDITURES (DURING THIS REPORT PERIOD)

EMPLOYEE NAME	TITLE/POSITION	SALARY	TASK
TOTAL PERSONNEL/SALARY EXPENDITURES (MUST AGREE WITH LINE 10A ON FORM 20248)		\$0.00	

TRAVEL EXPENDITURES (DURING THIS REPORT PERIOD)

EMPLOYEE NAME AND TITLE/POSITION	REASON	COST	TASK
TOTAL TRAVEL EXPENDITURES (MUST AGREE WITH LINE 10C ON FORM 20248)		\$0.00	

*SUBSTANTIATING DOCUMENTATION (time sheets, travel receipts, etc.) IS NOT REQUIRED TO BE ATTACHED TO THIS FORM; however each traveler's costs must be itemized to show costs for meals, lodging and transportation (itemization may be attached).

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. 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 PGA, that such expenditures support or satisfy.
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 PGA, that such expenditures support or satisfy.
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 PGA, that such expenditures support or satisfy.
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 PGA, that such expenditures support or satisfy.
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.
7. Documentation. In addition, the PERFORMING PARTY shall retain, for each reimbursable cost listed on any of the FSR forms, legible documentation that (1) serves to further identify the specific cost, (2) clearly identifies the vendor or subcontractor who provided the materials or services, and (3) that confirms the reimbursable amount listed on the form.

For "Equipment" purchases, the documentation shall be either a purchase order marked "received/paid" or a vendor-submitted invoice similarly marked. For "Contractual" purchases, 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.

For "Construction" costs, the 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.

For "Supply" or "Other" costs, 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 other records or documents that provide the same type of information.

For "Personnel/Salary", 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, PERFORMING PARTY must retain 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).

For "Fringe Benefits", the PERFORMING PARTY must also retain documentation.

Attachment B: Release of Claims Forms

Texas Commission on Environmental Quality

Release of Claims

_____ hereby releases the Texas Commission on Environmental Quality (TCEQ) and its officers, agents, and employees from any and all future claims arising under or by virtue of TCEQ Contract Number 582-14-_____. The amount being released is _____.

Further certifies that all subcontractors, suppliers, employees and any party which has performed or provided service for this Grant have been paid in full and satisfied.

All activities required to be completed under the referenced Grant have been completed.

Prompt payment, therefore, of the attached invoice, including any and all funds which may have been "retained" by TCEQ in accordance with said Grant, is requested.

Executed on this _____ day of _____, 20__.

By: _____
(signature)

(name, typed or printed)

(title)

Contract #	582-14-
Beginning Balance	
Expenses Reimbursed by TCEQ	
Remaining Balance Being Released	

Texas Commission on Environmental Quality

**Release of Claims for Units of Local Government,
as defined in the Appropriations Act of the 83rd Texas Legislature, Article IX, Sec. 4.04
Limitation on Grants to Units of Local Government**

_____ hereby releases the Texas Commission on Environmental Quality (TCEQ) and its officers, agents, and employees from any and all future claims arising under or by virtue of TCEQ Contract Number 582-14-_____. The amount being released is _____.

Further certifies that all subcontractors, suppliers, employees and any party which has performed or provided service for this Grant have been paid in full and satisfied.

All activities required to be completed under the referenced Grant have been completed.

Prompt payment, therefore, of the attached invoice, including any and all funds which may have been "retained" by TCEQ in accordance with said Grant, is requested.

Further certifies that it has complied with all requirements in Article IX, Sec. 4.04 Limitation on Grants to Units of Local Government in the Appropriations Act of the 83rd Texas Legislature.

Executed on this _____ day of _____, 20__.

By: _____
(signature)

(name, typed or printed)

(title)

Contract #	582-14-
Beginning Balance	
Expenses Reimbursed by TCEQ	
Remaining Balance Being Released	

Attachment C: Budget Revision Request Form
RIDER 8
BUDGET REVISION REQUEST FORM

Purpose: For TCEQ review and approval of recipient organization proposed budget changes to ensure project deliverables are met and fiscal accountability.

Instructions: Complete all information, except 10., i., and k, which the spreadsheet will total.

1. RECIPIENT ORGANIZATION (NAME & COMPLETE ADDRESS INCLUDING ZIP CODE):			
2. GRANT/CONTRACT TITLE:		3. PAYEE IDENTIFICATION NUMBER:	
4. TCEQ CONTRACT NUMBER: 582-		5. TOTAL PROJECT/GRANT PERIOD:	
6. PROPOSAL FOR GRANT ACTIVITIES NUMBER:			
7. BUDGET CATEGORIES:	8. Approved Budget	9. Change Requested (+ or -)	10. New or Revised Budget
a. Personnel/Salary			\$0.00
b. Fringe Benefits			\$0.00
c. Travel			\$0.00
d. Supplies			\$0.00
e. Equipment			\$0.00
f. Contractual			\$0.00
g. Construction			\$0.00
h. Other			\$0.00
i. Total Direct Costs (sum a - h)	\$0.00	\$0.00	\$0.00
j. Indirect Costs (___% of [Fill in Base, e.g. Personnel/Salary])			\$0.00
k. Total (sum i & j)	\$0.00	\$0.00	\$0.00
Justification (Attach additional sheets, if necessary):			

Signature of Authorized Representative	Date	Signature of TCEQ Representative	Date
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Type or Printed Name and Title	Type or Printed Name and Title
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Attachment D: Progress Report Template

Quarterly Progress Report for the Texas Commission on Environmental Quality

Date:

Rider 8 Area:

PGA Number:

Reporting Period:

List of Tasks Completed:

Status table (add rows as necessary to cover all PGA tasks):

Task Number	Deliverable	Due Date	Total Amount Allocated for Task	Remaining Allocation for Task	Cost of Task this Quarter	Percent of Task Completed

Sections below must be completed for every task and subtask (i.e. Task 1.1, Task 2.1, Task 2.2, etc.). If there was no activity, then please state "None" in the Milestones, and "No activity for this period" and the reason under the Detailed Summary section.

Task 1.1:

Milestones:

Detailed Summary:

Technical and Logistical Problems and Solutions:

Task 2.1:

Milestones:

Detailed Summary:

Technical and Logistical Problems and Solutions: