

Exhibit 1

FLARE MINIMIZATION AND AIR QUALITY MODELING

The “Flare Minimization and Air Quality Modeling” project is divided into two distinct tasks:

- Task 1–A:** Flare Minimization–Emission Reduction through Dynamic Simulation
- Task 1–B:** Air Quality Modeling

Because the purpose of Task 1–B is to quantify the environmental benefit of Task 1–A, Performing Party shall perform Task 1–A prior to performing Task 1–B. Performing Party shall ensure that Task 1–A is sufficiently funded and staffed to ensure completion prior to spending SEP funds on any aspect of Task 1–B, including, but not limited to, personnel salaries and/or equipment.

Performing Party shall comply with the obligations and/or duties arising in Exhibit 1 as a condition precedent to expenditure of SEP funds.

Task 1–A: Flare Minimization–Emission Reduction through Dynamic Simulation

Project Description for Task 1–A:

Flaring during turnaround operations (startups and shutdowns) at industrial facilities is a substantial source of both volatile organic compounds (“VOCs”) and highly reactive volatile organic compounds (“HRVOCs”), and flaring results in considerable loss of energy and resources. Task 1–A utilizes optimization and plant-wide dynamic simulation to cause reductions in flaring during turnaround operations at industrial facilities, and the reductions are primarily caused by reducing the duration of turnarounds and through recycling or reuse of materials that would otherwise be flared. Performing Party shall perform Task 1–A in accordance with this Agreement and Performing Party’s “Application to Receive [SEP] Funding” dated July 23, 2009 (Attachment 1, hereinafter the “Application”). In the event that this Agreement conflicts with the Application, the Agreement controls.

Initial Funding

Performing Party shall not commence Task 1–A until sufficient SEP funds are available² to ensure completion of the task. Performing Party currently estimates the minimum cost of performance to be \$63,150.00.³ Performing Party shall not spend any SEP funds on Task 1–A until it has accumulated \$63,150.00 in SEP funds earmarked for Task 1–A. After reaching this threshold, Performing Party may continue to collect SEP funds up to the maximum amount budgeted in the Application. Performing Party may elect to fully fund Task 1–A before earmarking SEP funds for Task 1–B; however, once Task 1–A is fully funded, Performing Party may not apply for, receive or expend any SEP funds for any activities covered under Task 1–A until such time that Task 1–B is sufficiently funded (at the minimum cost of performance level) and commenced.

² Funds are “available” when the funds are deposited in the separate account maintained within Lamar University and may be withdrawn from the account. A commitment to fund the SEP project, even through a Commission-approved Agreed Order, may not be utilized to demonstrate sufficient funding.

³ See “TARC Response to Request for Additional Information Regarding TARC’s Application to Receive SEP Funding” (Attachment 2), at 9. Task 1–A is proposed to be performed at two facilities over one year. The minimum cost of performance represents the cost to perform Task 1–A at one facility over a six-month period.

Request for Approval

Prior to spending any SEP funds on Task 1–A or Task 1–B, Performing Party must submit a “Request for Approval to Commence Flare Minimization and Air Quality Modeling SEP” (“Request for Approval”) to TCEQ. This request must be fully approved, in writing, by TCEQ prior to Performing Party’s expenditure of any SEP funds on Task 1–A, including, but not limited to, personnel and equipment expenses. The Request for Approval shall consist of, but is not limited to, three major components: (1) a demonstration of sufficient initial funding, as described above; (2) the selection of a specific facility (the “Selected Facility”) as a subject for Task 1–A and Task 1–B; and (3) a draft of the contract between Performing Party and the owner and/or operator of the Selected Facility to perform Task 1–A at the Selected Facility.

TCEQ shall not approve the Selected Facility if the facility has any direct connection to the entity funding Task 1–A through the SEP program.⁴ Performing Party shall not knowingly select any facility having a direct connection to the entity funding Task 1–A through the SEP program. As part of the Request for Approval, Performing Party shall submit a notarized affidavit, signed by a representative of Performing Party and by an authorized representative of the owner and/or operator of the selected facility, attesting that the selected facility is not directly connected to the entity funding Task 1–A through the SEP program. In the event that funds are contributed to this task through the SEP program after TCEQ approves the selected facility, Performing Party shall submit additional affidavits, signed by a representative of Performing Party and by an authorized representative of the owner and/or operator of the selected facility, attesting that the selected facility is not directly connected to the entity contributing this additional funding to Task 1–A through the SEP program.

Performing Party shall prepare a contract (the “Contract”) between Performing Party and the owner and/or operator of the Selected Facility⁵ and submit the Contract to TCEQ as part of the Request for Approval. The Contract shall fully determine the rights and obligations of all signatories with respect to the implementation of Task 1–A and Task 1–B, and the Contract shall incorporate any ongoing obligations of Performing Party under this Agreement. TCEQ may request revisions to the Contract and may withhold approval of the Request for Approval until the all parties to the Contract agree to the requested revisions. Performing Party shall not enter into any contract with the owner and/or operator of the selected facility if the contract is modified subsequent to TCEQ’s approval of the Request for Approval. Performing Party shall not enter into any contract with the owner and/or operator of the selected facility unless the contract includes the following language⁶:

The purpose of this [Contract] is to cause reductions in actual emissions from [the Selected Facility] and reduce overall emissions in the [Beaumont area airshed]. [Owner and/or operator of the Selected Facility] shall not utilize any reductions in actual emissions achieved through implementation of [Task 1–A] in contemporaneous

⁴ A “direct connection” includes, but is not limited to, an owner, operator, lessor, or lessee of the Selected Facility; a parent company or subsidiary of the owner, operator, lessor or lessee of the Selected Facility; a major shareholder of an owner, operator, lessor, or lessee of the Selected Facility; and any other person or entity having a substantial financial interest in the operations of the Selected Facility. For example, if Company X, a subsidiary of Company Y, operates a facility owned by Company Z, that facility shall not be approved by TCEQ if the SEP is funded by Company X, Company Y or Company Z.

⁵ The signatories to the Contract must be Performing Party and an authorized representative of the owner and/or operator of the selected facility. A person is an “authorized representative” only if the person may legally bind the facility owner and/or operator AND the holder of any affected air permit, if the owner/operator and permit holder are different entities. An “affected air permit” refers to any air permit that covers emissions from the Selected Facility.

⁶ Performing Party may substitute appropriate language from the Contract for the portions in brackets.

period netting at the site or to offset any other emissions covered under the permit(s) held by [owner and/or operator of the Selected Facility], nor shall [owner and/or operator of the Selected Facility] sell or otherwise transfer these reductions in actual emissions to any other entity. Within six months of the completion of [Task 1–A] or [Task 1–B], whichever is later, [Owner and/or operator of the Selected Facility] shall alter any permit(s) authorizing the emission sources corresponding to these reduced emissions in a manner so as to cause this paragraph to be enforceable against [owner and/or operator of the Selected Facility]. [Owner and/or operator of the Selected Facility] shall notify, in writing, the appropriate TCEQ Regional Office when any such alteration is proposed, and notification shall include a clear, concise and conspicuous explanation of the reason for the permit alteration that references [this Agreement Concerning Supplemental Environmental Project Funds].

Additional Reporting

Following the conclusion of Task 1–A, Performing Party shall submit a report to TCEQ estimating the quantity of reductions in emissions from the Selected Facility as a result of Task 1–A. Performing Party shall not enter into any contract with the owner and/or operator of the selected facility unless the contract includes a provision requiring the owner and/or operator of the Selected Facility to submit a report to TCEQ estimating the quantity of reductions in emissions from the Selected Facility as a result of Task 1–A. Performing Party may submit its report individually or in conjunction with the owner and/or operator of the Selected Facility. Performing Party shall not enter into any contract with the owner and/or operator of the Selected Facility unless the contract includes the following language:

For the purposes of this [contract], the quantity of “reductions in actual emissions” achieved through completion of [Task 1–A] shall be determined in conjunction with [Performing Party], and, if [owner and/or operator of the Selected Facility] and [Performing Party] cannot agree upon a specific quantity, [Performing Party] and [owner and/or operator of the Selected Facility] shall submit the dispute and supporting documents to the Air Permits Division of TCEQ for a final decision on the quantity of reductions in actual emissions.

Limitations on Expenditure of SEP Funds

Performing Party shall utilize SEP funds in accordance with the budget submitted in the Application and in “TARC Response to Request for Additional Information Regarding TARC’s Application to Receive SEP Funding” (Attachment 2, hereinafter “TARC’s Response”). Performing Party shall not utilize SEP funds for any equipment, software or other expense not specifically listed in the Application and/or TARC’s Response without prior approval, in writing, by TCEQ. Performing Party shall not utilize any SEP funds to make physical improvements or modifications to the selected facility.⁷

⁷ “Physical improvements or modifications” includes, but is not limited to, physical changes to the plant design such as adding or modifying units or pipes, installing storage units or devices at the plant, or any other capital or labor cost associated with physical changes to the plant. The owner and/or operator of the Selected Facility shall cover 100% of expenses associated with physical changes made to the plant, process units or piping.

Task 1-B: Air Quality Modeling

Project Description for Task 1-B:

Task 1-B is to perform air quality simulations to quantify air quality improvements resulting from the completion of Task 1-A. Performing Party shall perform Task 1-B in accordance with the Application. In the event that the Agreement conflicts with the Application, the Agreement controls.

Initial Funding

Performing Party shall not commence Task 1-B until sufficient SEP funds are available⁸ to ensure completion of the task. Performing Party currently estimates the minimum cost of performance to be \$45,000.00.⁹ Performing Party shall not spend any SEP funds until it has accumulated \$45,000.00 in SEP funds earmarked for Task 1-B. After reaching this threshold, Performing Party may continue to collect SEP funds up to the maximum amount budgeted in the Application. Performing Party may elect to fully fund Task 1-A before designating SEP funds to be utilized for Task 1-B.

Request for Approval

Prior to spending any SEP funds on Task 1-B, Performing Party must submit a "Supplemental Request for Approval to Commence Air Quality Modeling SEP Task 2-B" ("Supplemental Request for Approval of Task 1-B") to TCEQ. This request must be fully approved, in writing, by TCEQ prior to Performing Party's expenditure of any SEP funds on Task 1-B, including, but not limited to, personnel and equipment expenses. The Supplemental Request for Approval of Task 1-B shall consist of (1) an analysis of the sources of funding for Task 1-B; and (2) a detailed description of the modeling work to be performed that is narrowly tailored to quantify the air quality improvements resulting from Task 1-A.

The Supplemental Request for Approval of Task 1-B shall include an analysis of sources of funding for Task 1-B. This analysis shall consist of (a) a detailed list of the sources of funding for Task 1-A, including the contribution amounts and date of contribution for each source; (b) a detailed list of the sources of funding for Task 1-B, including contribution amounts and date of contribution for each source. TCEQ shall not approve the Supplemental Request for Approval of Task 1-B if the source(s) of funding for Task 1-B has any direct connection¹⁰ to a Selected Facility from Task 1-A *unless* Performing Party can clearly demonstrate that (a) the funds were received only after Task 1-A was sufficiently funded, as exhibited by the demonstration of sufficient initial funding component of the Request for Approval; and (2) the funds are segregated in a manner such that funds received from a source having a "direct connection" to a Selected Facility could not have been utilized for any portion of Task 1-A. The purpose of this paragraph is to allow sources of funding with a "direct connection" to fund Task 1-B only, which is allowable because the benefit of Task 1-B is general in nature.

⁸ Funds are "available" when the funds are deposited in the separate account maintained within Lamar University and may be withdrawn from the account. A commitment to fund the SEP project, even through a Commission-approved Agreed Order, may not be utilized to demonstrate sufficient funding.

⁹ See "TARC Response to Request for Additional Information Regarding TARC's Application to Receive SEP Funding" (Attachment 2), at 9. Task 1-B is proposed to be performed at two facilities over one year. The minimum cost of performance represents the cost to perform Task 1-B at one facility over a six-month period.

¹⁰ A "direct connection" includes, but is not limited to, an owner, operator, lessor, or lessee of the Selected Facility; a parent company or subsidiary of the owner, operator, lessor or lessee of the Selected Facility; a major shareholder of an owner, operator, lessor, or lessee of the Selected Facility; and any other person or entity having a substantial financial interest in the operations of the Selected Facility. For example, if Company X, a subsidiary of Company Y, operates a facility owned by Company Z, that facility shall not be approved by TCEQ if the SEP is funded by Company X, Company Y or Company Z.

Limitations on Expenditure of SEP Funds

Performing Party shall utilize SEP funds in accordance with the budget submitted in the Application and in "TARC Response to Request for Additional Information Regarding TARC's Application to Receive SEP Funding" (Attachment 2, hereinafter "TARC's Response"). Performing Party shall not utilize SEP funds for any equipment, software or other expense not specifically listed in the Application and/or TARC's Response without prior approval, in writing, by TCEQ.

Environmental Benefit of Task 1-A and Task 1-B:

Task 1-A directly benefits the environment by reducing emissions into the airshed, thereby improving air quality for the community. Task 1-A indirectly benefits the environment by conserving energy and resources through reuse and recycling. Task 1-B provides information regarding the actual emission reductions from Task 1-A and resulting improvement of air quality, thereby demonstrating Task 1-A as a viable emission reduction strategy. Task 1-B also provides scientific insights regarding how emissions and meteorological conditions affect the air quality in the airshed.

Eligible Counties: Jefferson

Minimum Contribution: \$10,000.00