

The University of Texas at Austin
THIRD PARTY AGREEMENT

Supplemental Environmental Project

I. Project Title: Corpus Christi Air Monitoring and Surveillance Camera Installation and Operation Project (“Project”).

Background: This project was developed as a response to a court ordered condition of probation in U.S. v. Koch Petroleum Group, L.P. (S.D. Tex) CR-C-325. Koch Petroleum Group was ordered by the Federal Court of the Southern District of Texas to pay penalty dollars to fund and to develop in coordination with the TCEQ and EPA, air and water quality remediation projects in and around Corpus Christi. Tasks related to this air remediation project are also being funded through the State of Texas SEP program pursuant to this Agreement. The following paragraph describes tasks related to this air remediation project which will be funded through this Agreement as supplemental environmental projects. Subsection B describes the basic project funded with COCP funds and approved by the federal court as the air remediation project and the sections following Subsection B describe other requirements of this Agreement or the federal court. The federal court ordered penalty dollars are referred to as “COCP funds”. The state ordered penalty dollars or contributions are referred to as “SEP monies”.

- A. Related tasks to be funded, after TCEQ approval, under this SEP Agreement:
1. Extension of Project monitoring – The existing monitoring network could be operated for a longer period of time (approximately \$680,000 per additional year of operation)
 2. Addition of monitoring sites to the network – Additional monitoring sites could be added to the 7-site monitoring network (cost dependent on monitoring equipment deployed – minimum cost for installation and operation of site for 7 year period approximately \$500,000). The TCEQ will assist the University, upon request, to obtain necessary and appropriate lease agreements, but is not responsible for associated costs of obtaining the lease and/or license agreement and is not responsible for any costs associated with the lease or license after it is obtained, including utility costs.
 3. Development of air quality modeling capability for network – The current network will provide the Corpus Christi community with near real time data on air pollutant concentrations at the monitoring sites. Addition of air quality modeling capability at the web site would allow the community to interpolate concentrations between monitors and track the trajectories of plumes (approximately \$300,000).

4. Addition of monitoring equipment to monitoring sites – Additional measurement capabilities could be added to the existing sampling sites (cost dependent on equipment to be deployed)
- B. Basic Project Description: The University will install, maintain and operate an air monitoring and surveillance camera network in Nueces County, along the Corpus Christi ship channel to record the concentrations of specific air pollutants along the industrial area. The University will install at least seven air monitoring stations and two surveillance cameras along the ship channel. The air monitoring stations will record concentrations of hydrogen sulfide (total reduced sulfur), sulfur dioxide and volatile organic compounds, including benzene, and meteorological data. Data obtained from the monitors will be made available to the public via the TCEQ website (Internet) as soon as possible after it becomes available electronically, depending on the type of monitor. Additionally, access to view the images captured by the surveillance cameras will be made available to the public via the internet. The University will not identify emission sources, investigate and remediate air quality concerns and/or initiate enforcement actions. These functions are outside the scope of this Project.

1. Monitoring Equipment

Monitoring equipment will include (1) automatic gas chromatographs, which provide semi-continuous monitoring of volatile organic compounds; (2) event-triggered monitors, which measure volatile organic compounds during emission release events; and (3) instruments to provide continuous measurements of sulfur dioxide and hydrogen sulfide. The surveillance cameras will be high-resolution digital cameras with zoom, pan/tilt and web-based remote control access capabilities.

Subject to the TCEQ obtaining the necessary and appropriate lease and/ or license agreements, including payment by TCEQ of all associated costs of obtaining the lease and/or license agreements, the monitors and cameras will be located initially at the following sites:

- a. An Auto GC, event-triggered monitor and meteorology station will be located at Oak Park Recreation Center.
- b. Instruments to measure sulfur dioxide and hydrogen sulfide, an event-triggered monitor and a meteorology station will be located at the grain elevator at the Port of Corpus Christi.
- c. Instruments to measure sulfur dioxide and hydrogen sulfide, an event-triggered monitor, and a meteorology station will be located at the J.I. Hailey site at the Port of Corpus Christi.

- d. Instruments to measure sulfur dioxide and hydrogen sulfide, and an event-triggered monitor will be located at a current TCEQ monitoring site at Donna Park.
- e. Instruments to measure sulfur dioxide and hydrogen sulfide, an event-triggered monitor, and a meteorology station will be located near the Port of Corpus Christi building on the west end of the Corpus Christi Inner Harbor.
- f. Instruments to measure sulfur dioxide and hydrogen sulfide, an event-triggered monitor, and a meteorology station will be located off of Up River Road on property on which Flint Hills Resources, LP has a pipeline easement.
- g. An Auto GC, instruments to measure sulfur dioxide and hydrogen sulfide, an event-triggered monitor, and a meteorology station, located at Solar Estates Park at the end of Sunshine Road.

A camera will be installed at two of the three following locations Donna Park, Up River Road or the Sunshine Road sites. Exact locations of the equipment at the above-referenced monitoring sites, as well as the specific equipment to be used at each site, will have the approval of the University and TCEQ. As monitoring equipment is installed on a rolling basis, the types of equipment may change to reflect technological advances. Because this Project is the result of the above cited federal case, TCEQ in coordination with the EPA shall approve any proposed changes in the type of equipment to be used.

Within three (3) months of the effective date of this Project Proposal the University shall form a volunteer Advisory Board comprised of an EPA representative, experts in instrumentation and local air quality issues, community representatives, and other key stakeholders to review Project plans and to consult on Project implementation, including the selection of the exact monitoring locations, types of equipment, and implementation schedules. Although, appointment of the Advisory Board members is subject to the approval of TCEQ, the Advisory Board is not created under the authority provided by the Texas Water Code 5.107 or Texas Government Code, Chapter 2110. The Advisory Board shall meet at least semi-annually and as frequently as quarterly, at the discretion of the Advisory Board during the term of this Project. No employee, officer, or director of Flint Hills Resources, LP. Or other refinery, shall be a member of the Advisory Board.

The monitors and cameras will not be moved or disabled without approval from the TCEQ and the EPA. The TCEQ in coordination with the EPA will provide the specifications for the monitoring instrumentation and video cameras to the University. Additionally, the list of VOCs to be monitored will be agreed upon by the University and the TCEQ in coordination with the EPA prior to the contract bid preparation. For the duration of this Project TCEQ will negotiate leases and/or obtain licenses as necessary to use the above-referenced sites for the monitoring network. TCEQ will assume any costs associated with obtaining said licenses and/or leases for only the above listed sites and

will assign such agreements to the University at no cost to the Project. The University will be responsible for the utilities costs associated with said licenses and/or leases. TCEQ will not assume any such utilities costs. For any additional sites that require the negotiation of leases and/or the obtaining of licenses, the TCEQ would assist UT, upon request, to obtain necessary and appropriate lease agreements and/or licenses, but is not responsible for associated costs of obtaining the lease and/or license agreement and is not responsible for any costs associated with the lease or license after it is obtained, including utility costs.

The University will provide a mechanism whereby TCEQ will be able to contact equipment operators during normal working hours to address data quality or communication issues. All monitoring conducted pursuant to this Project will be covered by a quality assurance project planned and prepared by the University in consultation with its contractor, written in accordance with EPA QA-R5 document format and approved by the TCEQ prior to the commencement of sampling activities. The quality assurance project plan will contain statements on data quality and completeness necessary to meet Project needs. It will include statements that staff responsible for auto-GC set-up, operation, and trouble-shooting have experience performing those tasks using the equipment specified and that site operators responsible for total non-methane hydrocarbons, sulfur dioxide, and hydrogen sulfide and meteorological equipment have experience operating and calibrating ambient air continuous emission monitors. Such quality assurance project plan shall be provided to the Federal Court of the Southern District of Texas, with copies to TCEQ and EPA, in quarterly reports as described below.

2. Public Access to Data

Data from these monitoring sites will be made available to the public via the Internet as soon as possible after it becomes available electronically, dependant on the type of monitor. The data displayed on the Internet will be reviewed periodically for quality assurance by the University and will be subject to change pending final validation by the University. All continuous monitors and Auto GCs at these sites will be connected to the TCEQ's real-time data system. Specifically, the data will be transmitted to the TCEQ's Corpus Christi regional office hub computer and then transmitted to the TCEQ's central office in Austin for near real-time display on the TCEQ's web site. The University, through its contractor, will work with the TCEQ's Monitoring Operations Division staff to obtain the necessary hardware, firmware, software, and licenses for uploading continuous monitoring data and Auto GC data to the TCEQ's MeteoStar system and for validating the data behind the TCEQ's firewall.

Data from the event-triggered monitors will be available to the public on the TCEQ's web site or the University's web site within 30 days. Canister samples from the event-triggered monitors will be capable of being triggered automatically when a pre-set level of total non-methane hydrocarbons is exceeded. Canister analysis data will be provided to the TCEQ in a format mutually agreed upon by the University and the Advisory Board, EPA, and the TCEQ.

Images from the surveillance cameras will be made available to the public on the University's website. The University will operate the cameras and archive data from the cameras. The University will make the data from the cameras available to the TCEQ. Upon completion of this Project, the University will maintain ownership of the monitoring and camera surveillance instrumentation, and any web servers installed at the University.

II. Environmental Benefits

This Project will provide significant and discernible environmental benefits to the Corpus Christi area by providing measurements of concentrations of certain air pollutants and an evaluation of those air pollutants being emitted. The information obtained from this network will provide the community with more knowledge of the types and quantities of pollutants emitted from the industries along the Corpus Christi ship channel. The raw data generated through the Project may be used to aid the University's research, teaching, and service missions through the implementation of additional projects. The University shall be solely responsible for, and shall not use any SEP monies to pay for, any such additional Project cost increases resulting from any such research, teaching, or service activities. In addition, data obtained from the monitoring sites, and made available to the public, may be used by the TCEQ and the EPA to initiate enforcement actions.

Because an air quality concern in the Corpus Christi area is health impacts from emissions in and around highly industrialized areas, this Project is focused on providing air quality data that may be used by the TCEQ and the EPA to investigate and remediate this air quality concern. Data from the Project may be used by the TCEQ and the EPA to detect and track air emissions in near real-time to determine air pollution source locations for enforcement actions, permitting and regulatory decisions, and potential future health effects studies. The data also can be used by the TCEQ and the EPA to help determine if additional air quality problems that have not yet been detected exist in the Corpus Christi area.

III Project Period

By directive of the Federal Court of the Southern District of Texas, this Project will continue for at least 7 years, or up to 10 years depending on the availability of COCP funds and interest earned on the COCP funds until at least \$6.749 million in COCP funds has been expended on the Project. Once the University receives bids for this Project from vendors and has completed their detailed engineering and budgetary review, if it is clear that the federal funds and interest projected to be earned on those funds will not be sufficient to install, maintain and operate this network for seven years, the University will notify the TCEQ and the EPA, and the TCEQ so that the network will be operational for at least seven years. COCP funds and interest earned thereon will be spent on monitoring and camera surveillance instrumentation, installation, maintenance and operation of instrumentation, laboratory analysis, data validation, and web server costs.

Upon completion of the term of the Project, the University will maintain ownership of the monitoring and camera surveillance instrumentation and any web servers installed at The University. If the Project is terminated early, the monitoring and camera surveillance instrumentation paid for with the COCP funds shall be given to the registry of the U.S. District Court in Corpus Christi, Texas.

IV. Project Costs including minimum acceptable contribution of SEP monies to fund related tasks.

Costs: \$6,760,000.00 to \$10,000,000.00

Minimum contribution: \$10,000.00

V. Records and Reporting

A. University shall maintain records of the SEP program and shall submit reports regarding the SEP program quarterly after receiving SEP monies. The reports shall contain the following information:

1. The total amount of contributions received under the SEP program during the quarter, itemized by respondent's name and contribution amount;
2. A description of the Project to which SEP monies were allocated and progress made to date;
3. A detailed list (in University's standard format and documentation) of actual expenditures paid by SEP monies for the quarter;
4. The balance of the SEP Account, including interest earned to date;
5. Projected expenditures of SEP monies remaining in the account; and,
6. Any additional information University believes will demonstrate compliance with this SEP Agreement.

The quarterly reports are due within sixty (60) days of the end of each quarter.

The University agrees to provide additional information concerning the Project as is required under the terms of this SEP Agreement. All SEP reports and information shall be submitted to the following address:

Litigation Division
Attention: SEP Coordinator, MC 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

B. Absent circumstances beyond the control of the University, the network described in this agreement shall be installed and fully operational within eighteen months of receipt of the COCP funds.

VI. Process for funding tasks under this SEP Agreement.

For those tasks selected by TCEQ for funding under this Agreement TCEQ shall issue a written notice to the University identifying the SEP task selected for funding and the amount of funding available for that task. Within thirty (30) days of receipt of such notice, or a time mutually agreed to by the parties, the University will respond with a written statement of work detailing the effort to be completed, an estimated time line for completion of the task and budget detailing the expenses for the task.

For those tasks selected by TCEQ for funding under this Agreement TCEQ shall issue a written notice to the University identifying the SEP task selected for funding and the amount of funding available for that task. Within thirty (30) days of receipt of such notice, or a time mutually agreed to by the parties, the University will respond with a written statement of work detailing the effort to be completed, an estimated timeline for completion of the task and budget detailing the expenses for the task.

Within fifteen (15) days of receipt of the University's written response, or a time mutually agreed to by the parties, TCEQ will either approve the University's plan for completion of the task to be funded or disapprove it and request modifications. When agreement between the parties has been reached about the statement of work, time line and budget for the task to be funded, TCEQ will issue a written notice to the University telling them to proceed in accordance with Articles 1 and 2 of this Agreement.