

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

SEP Agreement No. 2011-33 SEP Amendment No. 2

SUPPLEMENTAL ENVIRONMENTAL PROJECT ("SEP") AGREEMENT AMENDMENT BETWEEN THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ") AND SOUTHEAST TEXAS REGIONAL PLANNING COMMISSION ("SETRPC")

SEP AMENDMENT NO. 2

This document is SEP Amendment No. 2 ("Amendment") to SEP Agreement No. 2011-33, between TCEQ and SETRPC (collectively, "Parties"). This Amendment delineates a SEP Title change and revised Project Description for SEP Agreement No. 2011-33.

Upon signature of this Amendment by the Parties, the following provisions will be accepted and incorporated into SEP Agreement No. 2011-33:

- The SEP Title shall now be Lighthouse Program, all references to the previously approved SEP Title, West Port Arthur Home Energy Efficiency Program - Lighthouse Program, are amended in the following places:
 - SEP Agreement No 2011-33, Page 1, SEP Title;
 - SEP Amendment No. 1, Page 7, Exhibit 3 Title; and
- The Project Description, attached as Exhibit 1 of this Amendment, supersedes and replaces the previously approved Project Description (previously located on pages 5 and 6 of Exhibit 2, SEP Amendment No. 1).

This Amendment shall become effective upon signature of this document by the Parties. The effective date of this Amendment will be the date of the last signatory below.

All conditions and requirements of SEP Agreement No. 2011-33 and SEP Amendment No. 1 that are not addressed in this Amendment shall remain unchanged.

Texas Commission on Environmental Quality:

Erin E. Chancellor
(Signature)

Erin E. Chancellor
(Printed Name)

Director, Office of Legal Services
(Title)

Date: 7/1/22

THIRD-PARTY ADMINISTRATOR:

Southeast Texas Regional Planning Commission

Shanna Burke
(Signature)

Shanna Burke
(Printed Name)

Executive Director
(Title)

Date: 7/5/22

Exhibit 1
Lighthouse Program

Project Description

This Project will use SEP Funds to assist low-income homeowners within the city limits of Port Arthur and Beaumont, Texas, by (1) conducting home energy inspections and audits; (2) weatherizing and performing energy efficient improvements to homes; and (3) repairing or replacing heating/cooling systems with new, energy efficient equipment.

Third-Party Administrator receives applications from individuals seeking assistance through this Project. Third-Party Administrator's Program Manager shall conduct eligibility determinations on each applicant. Eligibility determinations include verifying that the applicant owns the home and that the applicant qualifies as low-income. Low-income households fall at or below the 80 percent median income level for households in Jefferson County.

SEP Funds will be used to hire a contractor to conduct initial inspections of eligible applicants' homes. The inspections will determine whether the home is in a condition suitable for weatherization and energy efficiency upgrades. Specifically, upgrades will not be completed at homes that need new roofs or significant foundation work. The contractor shall also determine what weatherization and energy efficiency upgrades are necessary and appropriate for the home and write a work plan. This contractor shall also conduct the final inspection of the home after the work is completed.

Third-Party Administrator shall hire a separate contractor to do the work delineated in the work plan. Third-Party Administrator shall enter a three-way contract between the contractor and the homeowner. The cost of work to be completed will be limited to the lower of \$25,000 or 75% of the home's value as assessed by Jefferson County Appraisal District. The contractor shall have 90 days to complete the work. SEP Funds will be used to pay the contractor for labor, materials, and equipment such as heating and air conditioning units, windows, and doors. Weatherization and energy efficiency upgrades may include blowing insulation into attics and walls, replacing windows, caulking, duct replacement, installing air conditioning and furnace units, obtaining Texas Windstorm Insurance Inspection Certification for the alterations made to the home, and replacing doors. Work such as replacing siding and trim may be necessary after upgrades are completed, but no purely cosmetic work will be paid for with SEP Funds. Heating and cooling units, inner doors, storm doors, and windows that are not Energy Star rated may be replaced with units that have an Energy Star rating. The contractor must properly dispose of the replaced units at an authorized disposal facility; no units may be reused for any purpose.

In addition to conducting homeowner eligibility reviews, Third-Party Administrator's Program Manager shall prepare all contracts with contractors and homeowners, coordinate between the contractors and the homeowners to answer questions, ensure that work is done timely and properly, and arrange for any necessary repairs to new equipment under the 12-month warranty period after work is completed.

Yard signs will be placed outside of homes that have been upgraded with SEP Funds. The signs will include the language specified under General Condition 18 of this Agreement.

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

SEP Agreement No. 2011-33 SEP Amendment No. 1

SUPPLEMENTAL ENVIRONMENTAL PROJECT ("SEP") AGREEMENT AMENDMENT BETWEEN THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ("TCEQ") AND SOUTHEAST TEXAS REGIONAL PLANNING COMMISSION ("SETRPC")

SEP AMENDMENT NO. 1

This document is SEP Amendment No. 1 ("Amendment") to SEP Agreement No. 2011-33, between TCEQ and SETRPC (collectively, "Parties"). This Amendment delineates the revised Special Conditions, Project Description, and Estimated Budget for SEP Agreement No. 2011-33.

Upon signature of this Amendment by the Parties, the following provisions will be accepted and incorporated into SEP Agreement No. 2011-33:

- The Special Conditions, attached as Exhibit 1 of this Amendment, supersede and replace the previously approved Special Conditions (located on page 12 of SEP Agreement No. 2011-33);
- The Project Description, attached as Exhibit 2 of this Amendment, supersedes and replaces the previously approved Project Description (previously labeled as Exhibit 1 and located on pages 13 and 14 of SEP Agreement No. 2011-33); and
- The Estimated Budget for West Port Arthur Home Energy Efficiency Program - Lighthouse Program, attached as Exhibit 3 of this Amendment, supersedes and replaces the previously approved Estimated Budget (previously labeled as Exhibit 2 and located on page 15 of SEP Agreement No. 2011-33).

This Amendment shall become effective upon signature of this document by the Parties. The effective date of this Amendment will be the date of the last signatory below.

All conditions and requirements of SEP Agreement No. 2011-33 that are not addressed in this Amendment shall remain unchanged.

Texas Commission on Environmental Quality:

(Signature)

Erin E. Chancellor
(Printed Name)

Director, Office of Legal Services
(Title)

Date: 07-28-2021

THIRD-PARTY ADMINISTRATOR:
Southeast Texas Regional Planning Commission

(Signature)

Shanna Burke
(Printed Name)

Executive Director
(Title)

Date: 08/03/2021

Exhibit 1

Special Conditions

1. The following provision is added to **General Condition 5.1 Estimated Project Budget**:

5.1.1 The full amount of any SEP Funds received under SEP Agreement No. 2008-010 that remained in the Third-Party Administrator's SEP Account at the time of the execution of SEP Agreement No. 2011-33 was taken into account when SEP contributions were allocated towards SEP Agreement No. 2011-33. Additionally, such SEP Funds are subject to all terms and conditions in this Amendment and will be subject to Audit as provided in General Condition 14.1 of SEP Agreement No. 2011-33.

2. Replace **General Condition 5.2** with the following:

5.2 Maintenance of SEP Funds. Upon receipt of its first Project contribution from a respondent in a TCEQ enforcement action, Third-Party Administrator shall open and maintain a separate SEP Funds Account. The SEP Funds Account must be a fee-free account used exclusively for SEP Funds at a financial institution that is insured by the Federal Deposit Insurance Corporation ("FDIC") and provides regular accounting statements that are acceptable to the TCEQ. All earned interest on SEP Funds must be accounted for and becomes part of the SEP Funds under this Agreement.

3. Replace **General Condition 5.3** with the following:

5.3 Use of SEP Funds. Third-Party Administrator shall expend SEP Funds only for Allowable SEP Expenses that are authorized by the Estimated Project Budget in Exhibit 3 of this Amendment. Third-Party Administrator shall ensure that the expenditure of SEP Funds results in the performance of adequate and timely Project work and that purchases are made in accordance with this Agreement. Third-Party Administrator may expend SEP Funds for work being performed by or for Third-Party Administrator.

4. The following provision is added to **General Condition 5.3 Use of SEP Funds**:

5.3.1 The SEP Funds authorized for administrative expenses, totaling \$516,300.00 as listed in Exhibit 3 of this Amendment, may be used to compensate Third-Party Administrator's personnel for salary, expenses, and travel directly related to implementing the SEP. In order for SEP Funds to be used towards administrative expenses, they must be identified and included in the Estimated Project Budget in Exhibit 3 of this Amendment. The total amount of SEP Funds spent on administrative expenses may not exceed 10% of the direct cost of the Project.

5. Replace **General Condition 6** with the following:

6. Other Contributions. Nothing in this Agreement is to be construed to prevent Third-Party Administrator from accepting funds from charitable contributors or other sources to the extent permitted by law. If Third-Party Administrator receives funding for any of the items listed in Exhibit 3 of this Amendment from sources other than SEP Funds, Third-Party Administrator must report the source and amount of those funds to the TCEQ and include a list of the

items that were purchased with those funds within the next applicable Quarterly Report.

6. Replace **General Condition 9** with the following:

9. Term of Agreement. This Agreement begins on the Effective Date and ends on the completion of the project as laid out in Exhibit 2 of this Amendment unless terminated by either Party in accordance with General Condition 10 of this Agreement.

7. The following provisions are added to **General Condition 13.2.7**:

13.2.7.1 Detailed invoices, receipts, and work plans for all work conducted by contractors, including the inspecting contractor's walk-through inspection, energy audit, and final inspection. Also, copies of paid checks for all costs associated with labor, equipment, and materials/supplies by contractors performing repairs.

13.2.7.2 Before and after pictures of Project work, dated and clearly labeled with location, to include yard signs.

13.2.7.3 Copies of all contracts between Third-Party Administrator, contractors, and homeowners.

13.2.7.4 Copies of all applications received, with corresponding eligibility determinations, explanations of eligible or ineligible status, and documentation of the low-income eligibility of the households where Project work is performed.

13.2.7.5 Detailed time sheets, pay stubs, general ledgers, statements regarding annual salaries, benefit allocations, mileage logs, and work logs for all work conducted by Program Manager. The Program Manager shall certify that time sheets and work logs accurately reflect time spent implementing the SEP and did not exceed 30 hours per week.

13.2.7.6 Detailed invoices, contracts, receipts, paid checks, and other supporting records for the administrative costs associated with implementing the SEP.

13.2.7.7 A detailed summary of all Project work completed per quarter to include total number of houses applied, approved or denied, and completed.

13.2.7.8 Copies of all checks and corresponding bank statements from Third Party Administrator's operating accounts, clearly labeled, to show payment of all SEP expenses.

Exhibit 2

West Port Arthur Home Energy Efficiency Program - Lighthouse Program

Project Description

This Project will use SEP Funds to assist low-income homeowners within the city limits of Port Arthur, Texas, by (1) conducting home energy inspections and audits; (2) weatherizing and performing energy efficient improvements to homes; and (3) repairing or replacing heating/cooling systems with new, energy efficient equipment.

Third-Party Administrator receives applications from individuals seeking assistance through this Project. Third-Party Administrator's Program Manager shall conduct eligibility determinations on each applicant. Eligibility determinations include verifying that the applicant owns the home and that the applicant qualifies as low-income. Low-income households fall at or below the 80 percent median income level for households in Jefferson County.

SEP Funds will be used to hire a contractor to conduct initial inspections of eligible applicants' homes. The inspections will determine whether the home is in a condition suitable for weatherization and energy efficiency upgrades. Specifically, upgrades will not be completed at homes that need new roofs or significant foundation work. The contractor shall also determine what weatherization and energy efficiency upgrades are necessary and appropriate for the home and write a work plan. This contractor shall also conduct the final inspection of the home after the work is completed.

Third-Party Administrator shall hire a separate contractor to do the work delineated in the work plan. Third-Party Administrator shall enter a three-way contract between the contractor and the homeowner. The cost of work to be completed will be limited to the lower of \$25,000 or 75% of the home's value as assessed by Jefferson County Appraisal District. The contractor shall have 90 days to complete the work. SEP Funds will be used to pay the contractor for labor, materials, and equipment such as heating and air conditioning units, windows, and doors. Weatherization and energy efficiency upgrades may include blowing insulation into attics and walls, replacing windows, caulking, duct replacement, installing air conditioning and furnace units, obtaining Texas Windstorm Insurance Inspection Certification for the alterations made to the home, and replacing doors. Work such as replacing siding and trim may be necessary after upgrades are completed, but no purely cosmetic work will be paid for with SEP Funds. Heating and cooling units, inner doors, storm doors, and windows that are not Energy Star rated may be replaced with units that have an Energy Star rating. The contractor must properly dispose of the replaced units at an authorized disposal facility; no units may be reused for any purpose.

In addition to conducting homeowner eligibility reviews, Third-Party Administrator's Program Manager shall prepare all contracts with contractors and homeowners, coordinate between the contractors and the homeowners to answer questions, ensure that work is done timely and properly, and arrange for any necessary repairs to new equipment under the 12-month warranty period after work is completed.

Yard signs will be placed outside of homes that have been upgraded with SEP Funds. The signs will include the language specified under General Condition 18 of this Agreement.

Eligible Sites

Eligible homes will be limited to those where the homeowner qualifies as low-income as defined by TEX. GOV'T CODE § 2306.004(15).

Project Scope

The scope of this SEP is to perform energy efficiency improvements to 200 homes. As detailed in Exhibit 3 of this Amendment, the maximum project budget is \$5,679,300.00. At the time of the effective date of this Amendment, 80 homes have already received energy efficiency improvements with a total reported SEP budget expenditure of \$1,271,132.92. Therefore, Third-Party Administrator may perform energy efficiency improvements on the 120 homes remaining under this Amendment. The remaining total project budget under this Amendment, including administrative costs, is \$4,408,167.08.

Environmental Benefit

Implementation of this Project will benefit air by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and the nitrogen oxides associated with the combustion of fuel and the generation of electricity. Past energy audits have shown a 12-30% reduction in energy usage after completion of the weatherization and energy upgrades.

Eligible Counties for Contributions

Angelina, Hardin, Houston, Jasper, Jefferson, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, Trinity, and Tyler Counties

Minimum Contribution Amount

\$500

Exhibit 3

Estimated Total Budget for West Port Arthur Home Energy Efficiency Program – Lighthouse Program

No.	Expense Item	Quantity	Price Per Item	Project Lifetime Total
1	Weatherization and energy efficiency repairs by contractor; purchase of materials and equipment by contractor; contractor labor; cost of disposal of old materials and equipment by contractor; 12-month warranty on work completed by contractor	200 homes	Not to exceed \$25,000/home	\$5,000,000.00
2	Walk-through inspections, energy audit, work plan write-ups, and final inspections by contractor	200 homes	Not to exceed \$800/home	\$160,000.00
3	Yard Signs	200 homes	Not to exceed \$15/sign	\$3,000.00
	Direct Costs			\$5,163,000.00
4	Program Manager Salary (to include benefits from May 2013 to May 31, 2021)	Not to exceed 30 Hours Per Week and 1,560 Hours Per Year	Not to exceed \$25/Hr. and \$40,000/Year	\$185,000.00
5	Program Manager Salary (effective June 1, 2021)	Not to exceed 30 Hours Per Week and 1,560 Hours Per Year	Not to exceed \$32/Hr. and \$50,000/Year	\$216,300.00
6	Benefits Allocation for Program Manager Salary (fringe benefits, vacation, sick leave, taxes... etc.)	Yearly	Not to exceed \$25,000/Year	\$100,000.00
7	Overhead Costs (office supplies, shipping and postage, mobile phone voice/data plan, software licenses, and rent allocations)	Yearly	Not to exceed 3,000/Year	\$12,000.00
8	Travel reimbursements for home visits by Program Manager	5,358 miles	0.56/mile	\$3,000.00
	Administrative Costs			\$516,300.00
	Total Project Cost			\$5,679,300.00

Third-Party Administrator	Southeast Texas Regional Planning Commission
Agreement Number	2011-33
SEP Title	West Port Arthur Home Energy Efficiency Program – Lighthouse Program

Texas Commission on Environmental Quality Third-Party Supplemental Environmental Project Agreement

This Agreement Concerning Supplemental Environmental Project Funds (hereinafter "Agreement") is entered into by and between the Texas Commission on Environmental Quality (hereinafter "TCEQ"), an agency of the State of Texas, and Southeast Texas Regional Planning Commission (hereinafter "Third-Party Administrator"), a tax exempt governmental entity that was created by the State of Texas as a voluntary association of local governments (collectively, "the Parties"). This Agreement supersedes Supplemental Environmental Project No. 2008-010 ("SEP No. 2008-010").

General Conditions

1. Contact Information

Each Party hereby designates the following person as its representative for implementing this Agreement and for receipt of notice or other information pursuant to the Agreement:

Contact Information for Third-Party Administrator:

Name: Pamela Lewis
Title: Program Manager
Address: 2210 Eastex Freeway
Beaumont, Texas 77703
Telephone: 409-924-7506
Facsimile: 409-899-0827
Email: plewis@setrpc.org

Contact Information for TCEQ:

Name: Stephanie Frazee
Telephone: 512-239-3400
Facsimile: 512-239-3434
Email: stephanie.frazee@tceq.texas.gov

Mailing Address:

Litigation Division
Attn: SEP Attorney
Mail Code 175
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

Overnight or Courier:

Litigation Division
Attn: SEP Attorney
Mail Code 175
Texas Commission on Environmental Quality
12100 Park 35 Circle, Bldg. A
Austin, Texas 78753

2. Definitions & Clarifications

2.1 "Effective Date" refers to the date this Agreement begins and is the date of the last signatory below.

2.2 "Includes" and "including" are terms of enlargement and not of limitation or exclusive enumeration, and the use of the terms does not create a presumption that components not expressed are excluded.

2.3 "Party" or "Parties" refers to one or all of the signatories to this Agreement, respectively.

2.4 "SEP" refers to Supplemental Environmental Project.

2.5 "SEP Funds" means funds that, with the TCEQ approval, are contributed to Third-Party Administrator by respondents in enforcement actions brought by the TCEQ to offset the administrative penalty due to the State of Texas General Revenue Fund. The term includes interest earned on the original contribution.

2.6 "Project" refers to the project that is approved by the TCEQ as a SEP and described in the exhibits in this Agreement.

2.7 Computation of Times. When any period of time is referred to in the Agreement by days, it will be computed to exclude the first and include the last day of such period. A calendar day of twenty-four hours measured from midnight to the next midnight constitutes a day. A period referred to as a "month" is the period ending on the same numerical day in the subsequent calendar month as the day on which the period began, e.g., from the 9th to the 9th, provided that if the numerical day for calculation of a period of months is greater than the number of actual days in the concluding month, the period will end on the last day of that month. A period referred to as a "week" is a period of seven days. A period referred to as a "year" is a period of 365 days. If the last day of any period described above falls on a Saturday or Sunday or on a state or federal holiday and action is required of the Third-Party Administrator on that day, such day will be omitted from the computation and the required day for action will move forward to the next day that is not a Saturday or Sunday or on a state or federal holiday.

2.8 "Allowable SEP Expenses" are the reasonable, necessary, actual direct costs listed in Exhibit 2 of this Agreement.

3. Exhibits

The following exhibits are attached to this Agreement and incorporated herein by reference:

Exhibit 1, entitled “**West Port Arthur Home Energy Efficiency Program – Lighthouse Program**”.

Exhibit 2, entitled “**Estimated Project Budget for West Port Arthur Home Energy Efficiency Program – Lighthouse Program**”.

4. Approvable SEP

The Parties agree that the Project meets the definition of a SEP pursuant to Texas Water Code § 7.067 and the TCEQ guidance on SEPs.

5. SEP Funds

5.1 Estimated Project Budget. TCEQ has approved the Estimated Project Budget attached as Exhibit 2. SEP expenditures for each line item must be Allowable SEP Expenses and must not exceed ten percent (10%) over the budgeted amount for that line item, unless Third-Party Administrator receives written approval from TCEQ prior to the expenditure pursuant to Section 11 of this Agreement. If Third-Party Administrator does not receive TCEQ approval for the increased cost expenditure, SEP Funds must not be used for that increased cost expenditure. The Parties acknowledge that there may be other Project costs that are not in Exhibit 2 that may be paid for with non-SEP funds.

5.2 Maintenance of SEP Funds. Upon receipt of its first Project contribution from a respondent in a TCEQ enforcement action, Third-Party Administrator shall open and maintain a separate SEP Funds Account. The SEP Funds Account must be a fee-free account used exclusively for SEP Funds at a financial institution that is insured by the Federal Deposit Insurance Corporation (“FDIC”) and provides regular accounting statements that are acceptable to the TCEQ. All earned interest on SEP Funds must be accounted for and it becomes part of the SEP Funds under this Agreement. Allowable SEP Expenses must be paid directly to the recipient from the SEP Funds Account. SEP Funds must not be commingled with any non-SEP Funds. Use of SEP Funds to reimburse payments made from accounts other than the SEP Funds Account is considered commingling.

5.3 Use of SEP Funds. Third-Party Administrator shall expend SEP Funds only for Allowable SEP Expenses that are authorized by the Estimated Project Budget in Exhibit 2 of this Agreement. Third-Party Administrator shall ensure that the expenditure of SEP Funds results in the performance of adequate and timely work and that purchases are made in accordance with this Agreement. Third-Party Administrator shall not use SEP Funds for administrative expenses associated with the implementation of the Project. Third-Party Administrator may expend SEP Funds for work being performed by or for Third-Party Administrator. However, Third-Party Administrator shall not act as a Third-Party Administrator granting SEP Funds for the benefit of other parties, except under a legally enforceable written contract on a cost

reimbursement basis. Third-Party Administrator shall provide copies of such contracts to the TCEQ.

5.4 Accounting. Third-Party Administrator shall specifically account, at least on a quarterly basis, for the receipt and expenditure of SEP Funds, including all interest earned on such funds, on the approved TCEQ reporting form as set forth in General Condition 13.2. Failure to provide required reports will constitute grounds for termination of this Agreement; however, an extension of time may be granted at the sole discretion of the TCEQ.

5.5 Timely Expenditure. Third-Party Administrator shall expend SEP Funds within one year of receiving the contribution. In the TCEQ's sole discretion, this time period may be extended upon request from Third-Party Administrator. Any request for extension must be on the approved TCEQ form, include reasonable justification for the extension, and be received thirty (30) days prior to the end of the required performance period.

5.6 No Guarantee of Funding. Funding under this Agreement is limited to voluntary SEP contributions through the TCEQ enforcement process. Third-Party Administrator understands that there is no guarantee that it will receive any SEP Funds under this Agreement.

5.7 Refund of SEP Funds. If at any time the TCEQ determines that SEP Funds were spent in a manner that is not in accordance with this Agreement, Third-Party Administrator shall, on request from the TCEQ, return all such SEP Funds to the TCEQ and account for all SEP Funds within thirty (30) days of demand by TCEQ. Return of SEP Funds will be accompanied by a detailed written accounting connecting the funds to specific docket numbers in a manner acceptable to the TCEQ. The refunded SEP Funds must be in the form of a check or money order made out to "Texas Commission on Environmental Quality" and sent to the TCEQ address in Section 10 of this Agreement.

If at any time the TCEQ determines that Third-Party Administrator failed to spend SEP Funds in a timely manner as required by this Agreement, Third-Party Administrator shall, on request from the TCEQ, return all such SEP Funds to the TCEQ and account for all SEP Funds within thirty (30) days of demand by TCEQ. Return of SEP Funds will be accompanied by a detailed written accounting connecting the funds to specific docket numbers in a manner acceptable to the TCEQ. The refunded SEP Funds must be in the form of a check or money order made out to "Texas Commission on Environmental Quality" and sent to the TCEQ address in Section 10 of this Agreement. In lieu of the return of unexpended SEP Funds and with the approval of TCEQ, Third-Party Administrator shall transfer the SEP Funds to another TCEQ SEP as directed by TCEQ.

These obligations survive termination of the Agreement.

6. Other Contributions

Nothing in this Agreement is to be construed to prevent Third-Party Administrator from accepting funds from charitable contributors or other sources to the extent permitted by law. If Third-Party Administrator receives funding from sources other than SEP Funds ("non-SEP funds") for any of the items listed in Exhibit 2 of this Agreement for which Third-Party Administrator also receives SEP Funds, Third-Party Administrator shall report the source and amount of the non-SEP funds and provide a list of items and expenses for which the non-SEP funds were used in the Quarterly Reports required under General Condition 13.2.

7. TCEQ Enforcement Actions

This Agreement does not create any rights on behalf of Third-Party Administrator or contributing respondents in TCEQ enforcement actions. Third-Party Administrator shall have no role in the TCEQ enforcement process other than to receive approved, voluntary SEP contributions from respondents and perform the Project according to the terms of this Agreement.

8. Compliance

Third-Party Administrator shall perform the Project in accordance with this Agreement as well as applicable state and federal laws, rules, and regulations. In so doing, Third-Party Administrator shall obtain all necessary permits and licenses.

9. Term of Agreement

The Agreement begins on the Effective Date and automatically renews in one year increments unless terminated by either Party in accordance with this Agreement.

10. Termination

Upon thirty (30) days prior written notice to the other Party, either Party may terminate this Agreement with or without cause. Within thirty (30) days of the effective date of the termination, Third-Party Administrator shall make a written accounting to the TCEQ of all SEP Funds received, expended, and remaining under this Agreement. This accounting must associate SEP Funds to specific docket numbers and must utilize the TCEQ SEP Third-Party Administrator Final Quarterly Report as set forth in General Condition 13.3. With this written accounting, Third-Party Administrator shall also return all remaining SEP Funds to the TCEQ that have not been expended. The return of remaining SEP Funds must be in the form of a check or money order made out to "Texas Commission on Environmental Quality" and sent to the TCEQ address listed below. These obligations survive termination of the Agreement.

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175

P.O. Box 13087
Austin, Texas 78711-3087

11. Amendments

With the exception of contact information or a Section 5.1 TCEQ-approved increase in an Allowable SEP Expense, line item changes to this Agreement may only be made by a written amendment, signed and agreed to by all Parties. Changes to Section 1, Contact Information, may be made by written notice from one Party to the other Party. Increases of more than 10% in an Allowable SEP Expense line item must be approved in writing by the TCEQ Litigation Division Director. In the sole discretion of TCEQ, extensive change requests may require a new Agreement.

12. Notices and Other Information

12.1 Effective Delivery. All notices and other information will be deemed to be delivered on the date they are received if they are: 1) hand-delivered, as evidenced by a signed acknowledgement of receipt; 2) delivered by a nationally recognized courier service, as evidenced by the confirmation of delivery rendered by the courier service; 3) or mailed through the U.S. Postal Service by certified or registered mail, return receipt requested, as evidenced by the acknowledgement of receipt returned to the sender by the postal authorities. Electronic transfer by facsimile or email is not effective for notice unless acknowledged by the other Party.

12.2 Bankruptcy and/or Business Closing. In the event that Third-Party Administrator closes its business and/or files a petition for bankruptcy protection, Third-Party Administrator shall provide written notice to the TCEQ within twenty-four (24) hours of such closure and/or filing. Notice must be sent to the designated TCEQ contact under this Agreement as well as the TCEQ Bankruptcy Program. Notice to the TCEQ Bankruptcy Program must include contact information and be sent to: TCEQ Bankruptcy Program, P.O. Box 13087, Mail Code 205, Austin, Texas 78711.

12.3 Notice of Change. Third-Party Administrator agrees that all information it provided to the TCEQ was correct at the time of submission and remains correct throughout the term of this Agreement, and that in entering into this Agreement, the TCEQ has materially relied on all information provided by Third-Party Administrator, regardless of whether such information is incorporated into this Agreement. Third-Party Administrator agrees to give five (5) days written notice to the TCEQ if there is any material change in the information.

13. Records and Reporting

13.1 Records. Third-Party Administrator shall maintain organized and legible financial records, books, documents, and other evidence reasonably pertinent to its performance under this Agreement for a minimum of three

(3) years from the date that a Final Quarterly Report is submitted. Third-Party Administrator shall maintain all financial records in accordance with generally accepted accounting principles. This obligation survives termination of the Agreement.

13.2 Quarterly Reports. Third-Party Administrator shall submit quarterly reports, within the timelines contained therein, to the TCEQ on the approved TCEQ SEP Third-Party Administrator Quarterly Report form ("QR" or "Quarterly Report"). The QRs must contain the following information:

13.2.1 A list of the amount of SEP Funds received during the previous quarter with each respondent name, corresponding contribution docket number, dollar amount received, and date received, and copies of contribution checks;

13.2.2 A list of actual expenditures on the Project paid for with SEP Funds and any necessary accompanying explanation and documentation including invoices and general ledgers;

13.2.3 SEP Fund Account financial institution statements for each month of the previous quarter;

13.2.4 The total balance of the SEP Funds with interest separately noted;

13.2.5 A description of the Project to which SEP Funds were allocated and progress made to date;

13.2.6 Copies of all receipts for all SEP Fund expenditures, copies of all checks for SEP Fund expenditures, and documentation and explanations to support all electronic funds transfers from the SEP Account.

13.2.7 Any additional information listed in the Special Conditions of this Agreement, requested by the TCEQ or the Quarterly Report Form, or that Third-Party Administrator believes would demonstrate compliance with this Agreement.

13.3 Final Reports. Third-Party Administrator shall submit a final Quarterly Report to the TCEQ on the approved TCEQ SEP Third-Party Administrator QR form ("Final QR" or "Final Quarterly Report"), within the timelines contained therein, for the quarter during which the Project concluded. This obligation survives termination of the Agreement. In addition to the information required in General Condition 13.2, the Final QR must contain the following information:

13.3.1 A list of remaining SEP Funds assigned by contribution docket number that were not used for the Project (such funds must be

returned to TCEQ within thirty (30) days) after the due date of the Final QR;

13.3.2 Any additional information Third-Party Administrator believes would demonstrate compliance with this Agreement; and

13.3.3 Any additional information requested by the TCEQ.

13.4 Additional Reporting. Third-Party Administrator agrees to provide additional information requested by the TCEQ under this Agreement within thirty (30) days of receipt of the request.

14. Access

14.1 Inspection and Audit. Third-Party Administrator shall permit TCEQ as well as authorized state and federal agencies to have unrestricted access to all records, data, and facilities as necessary to review, inspect, and audit all activities and services associated with SEP Funds under this Agreement. Third-Party Administrator shall provide appropriate accommodations for such access and inspection.

14.2 Access to Project. Third-Party Administrator agrees to allow access by the TCEQ and its representatives to the site of any work performed in whole or in part utilizing SEP Funds and it shall require its contractors to provide the same access.

14.3 These obligations survive termination of this Agreement.

15. Insurance

Unless prohibited by law, Third-Party Administrator shall require its contractors and suppliers to obtain and maintain adequate insurance coverages sufficient to protect the Third-Party Administrator from all claims and liability for injury to persons and for damage to property arising under the Agreement. If Third-Party Administrator is performing work under this Agreement using its own employees and resources, then (unless Third-Party Administrator is a governmental entity or this requirement is waived by TCEQ) Third-Party Administrator shall obtain and maintain insurance coverages sufficient to protect the Third-Party Administrator from all claims and liability for injury to persons and for damage to property arising out of Third-Party Administrator's performance of the work under this Agreement.

16. Assumption of Risk

The Project is performed at Third-Party Administrator's sole risk as to the means, methods, design, processes, procedures, and conduct of the Project.

17. Independent Entity

Third-Party Administrator is an independent entity and performs the Project as part of its own authorized functions. Third-Party Administrator agrees that it undertakes performance in accordance with this Agreement as its own work and does not act in any capacity on behalf of the TCEQ or as a TCEQ-hired contractor or vendor of goods or services.

18. Acknowledgement of Financial Support

Third-Party Administrator shall acknowledge the financial support of the TCEQ SEP program in any publication involving the use of SEP Funds or whenever work funded in whole or in part by this Agreement is publicized or reported in news media. All publications, news releases and project signs must contain the following notation (or its equivalent if approved by the TCEQ):

Performed with penalty monies from a
Texas Commission on Environmental Quality enforcement action.

19. Publicity

Third-Party Administrator shall not publicize the name of contributors of SEP Funds without consent of the contributor and notice to the TCEQ.

20. Public Information

The Texas Public Information Act (Texas Government Code, Chapter 552) applies to all information delivered to the TCEQ in the course of performance under this Agreement. The TCEQ assumes no obligation to make legal arguments in support of any claims pertaining to confidentiality, patents, trade secrets, or copyright.

21. Severability

If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the remainder of the Agreement will be construed to conform to the intent of the Parties.

22. Conflict of Interest

Third-Party Administrator shall notify the TCEQ in writing of any actual, apparent, or potential conflict of interest regarding Third-Party Administrator or any related entity or individual performing or having involvement with any portion of the Project. At the TCEQ's request, Third-Party Administrator shall ensure that any entity with an organizational conflict of interest or an individual with a personal conflict of interest will not take part in any way in the performance of the Project. Third-Party Administrator agrees that the TCEQ has sole discretion to determine whether a conflict exists.

23. Governing Law

This Agreement will be governed by, construed, and interpreted under the laws of the State of Texas as well as any applicable federal law.

24. Venue

Third-Party Administrator agrees that the Agreement is being performed in Travis County, Texas, because this Agreement has been solicited and is being administered in Travis County, Texas. Third-Party Administrator agrees that any permissible cause of action involving this Agreement arises solely in Travis County. This provision does not waive the TCEQ's sovereign immunity.

25. Sovereign Immunity

The Parties agree that this Agreement does not waive the State of Texas' sovereign immunity or official immunity to which TCEQ's officers, employees, or agents are entitled relating to suit, liability, and the payment of damages.

26. Assignment

No delegation, transfer, or assignment of duties, obligations, or rights under or interests in the Agreement will be binding on the TCEQ without its express written consent. Any such delegation, transfer, or assignment made without the written consent of TCEQ is void. No delegation, transfer, or assignment will release or discharge Third-Party Administrator from any duty or responsibility under this Agreement.

27. Survival of Obligations

All representations, warranties, and guarantees made in, required by, or given in accordance with this Agreement, as well as all continuing obligations indicated in the Agreement, will survive beyond the termination or completion of the Agreement.

28. Indemnification

To the fullest extent permitted by law, Third-Party Administrator shall indemnify and hold harmless TCEQ and its representatives from and against all losses, liabilities, damages, and other claims of any type arising from the performance of the Project by Third-Party Administrator or its contractors, subcontractors, suppliers and agents, including those arising from workmanship, materials, or from a breach of applicable laws, regulations, safety standards, or directives regardless of whether such acts or omissions are negligently or recklessly performed. This covenant survives the termination of the Agreement.

29. Full Integration

This Agreement, including all exhibits, merges any prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties.

No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind exist between the Parties regarding the Project.

30. Counterparts

This Agreement may be signed in any number of counterparts, and as signed, constitutes one Agreement binding on the Parties hereto, even though the Parties do not sign the same counterpart.

31. Authorized Signatories

The Parties agree that the signatories to this Agreement are authorized to enter into this Agreement on behalf of the entities indicated below each respective signature. Furthermore, the Parties agree that each is bound by the terms and conditions of this Agreement after it is signed by each Party.

32. Conflicting Conditions

There are Special Conditions and an Exhibit 1 to this Agreement that may be more restrictive than the General Conditions to this Agreement. If there is a conflict between the Special and the General Conditions, the Special Conditions and Exhibit 1 control.

Special Conditions

1. The following provision is added to **General Condition 5.1. Estimated Project Budget:**

5.1.1 The full amount of any SEP Funds received under SEP Agreement No. 2008-010 that remain in Third-Party Administrator's SEP Account at the time of the execution of this Agreement will be taken into account when and if any SEP contributions are allocated under this Agreement. Additionally, such SEP Funds are subject to all terms and conditions in this Agreement and will be subject to Audit as provided in General Condition 14.1. Third-Party Administrator shall report the SEP Funds in its first Quarterly Report under this Agreement.

2. The following provisions are added to **General Condition 13.2 Quarterly Reports:**

13.2.8 Detailed invoices and receipts for all purchases of equipment and materials/supplies.

13.2.9 Before and after pictures of Project work, dated and clearly labeled with location.

13.2.10 Detailed invoices, receipts, and work plants for all work conducted by contractors, including the inspecting contractor's write up and copies of contracts with all contractors and homeowners.

13.2.11 Documentation of the low-income eligibility of the households where Project work is performed and documentation of the Energy Star rating of new heating and air conditioning units installed in eligible homes.

13.2.12 Fuel receipts and mileage logs for all Project travel.

13.2.13 Time sheets, pay stubs, general ledgers, statements regarding annual salaries, and/or work logs for each of Third-Party Administrator's employees doing work listed in Exhibit 2.

Exhibit 1

West Port Arthur Home Energy Efficiency Program – Lighthouse Program

Project Description

This Project will use SEP Funds to assist low-income homeowners within the city limits of Port Arthur, Texas, by (1) conducting home energy inspections and audits; (2) weatherizing and performing energy efficient improvements to homes; and (3) repairing or replacing heating/cooling systems with new, energy efficient equipment.

Third-Party Administrator receives applications from individuals seeking assistance through this Project. Third-Party Administrator's Program Manager shall conduct eligibility determinations on each applicant. Eligibility determinations include verifying that the applicant owns the home and that the applicant qualifies as low-income. Low-income households fall at or below the 80 percent median income level for households in Jefferson County.

SEP Funds will be used to hire a contractor to conduct initial inspections of eligible applicants' homes. The inspections will determine whether the home is in a condition suitable for weatherization and energy efficiency upgrades. Specifically, upgrades will not be completed at homes that need new roofs or significant foundation work. The contractor shall also determine what weatherization and energy efficiency upgrades are necessary and appropriate for the home and write a work plan. This contractor shall also conduct the final inspection of the home after the work is completed.

Third-Party Administrator shall hire a separate contractor via the competitive bid system to do the work delineated in the work plan. Third-Party Administrator shall enter a three-way contract between the contractor and the homeowner. The cost of work to be completed will be limited to the lower of \$20,000 or 50% of the home's value as assessed by Jefferson County Appraisal District. The contractor shall have 90 days to complete the work. SEP Funds will be used to pay the contractor for labor, materials, and equipment such as heating and air conditioning units, windows, and doors. Weatherization and energy efficiency upgrades may include blowing insulation into attics and walls, replacing windows, caulking, installing air conditioning and furnace units, obtaining Texas Windstorm Insurance Inspection Certification for the alterations made to the home, and replacing doors. Work such as replacing siding and trim may be necessary after upgrades are completed, but no purely cosmetic work will be paid for with SEP Funds. Heating and cooling units, inner doors, storm doors, and windows that are not Energy Star rated may be replaced with units that have an Energy Star rating. The contractor must dispose of the replaced units; no units may be reused for any purpose.

In addition to conducting homeowner eligibility reviews, Third-Party Administrator's Program Manager shall prepare all contracts with contractors and homeowners, coordinate between the contractors and the homeowners to answer questions,

ensure that work is done timely and properly, and arrange for any necessary repairs to new equipment under the 12 month warranty period after work is completed.

Yard signs will be placed outside of homes that have been upgraded with SEP Funds. The signs will include the language specified under General Condition 18 of this Agreement.

Eligible Sites

Eligible homes will be limited to those where the homeowner qualifies as low-income as defined by TEX. GOV'T CODE § 2306.004(15).

Project Scope

The scope of this SEP is one year. The estimated budget in Exhibit 2 for this SEP is for one year. Pursuant to General Condition 9, this Agreement renews annually unless terminated by either Party in accordance with this Agreement.

Environmental Benefit

Implementation of this Project will benefit air by reducing residential fuel and electricity usage for heating and cooling. These reductions, in turn, will reduce emissions of particulate matter, volatile organic compounds, and the nitrogen oxides associated with the combustion of fuel and the generation of electricity. Past energy audits have shown a 12-30% reduction in energy usages after completion of the weatherization and energy upgrades.

Eligible Counties for Contributions

Angelina, Hardin, Houston, Jasper, Jefferson, Nacogdoches, Newton, Orange, Polk, Sabine, San Augustine, Trinity, and Tyler Counties

Minimum Contribution Amount

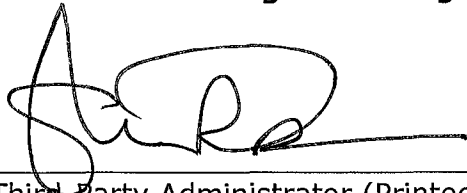
\$500

Exhibit 2

**Estimated Budget for West Port Arthur Home Energy Efficiency Program –
Lighthouse Program**

No.	Expense Item	Quantity	Price Per Item	Item Total
1	Weatherization and energy efficiency repairs by contractor; purchase of materials and equipment by contractor; contractor labor; cost of disposal of old materials and equipment by contractor; 12 month warranty on work completed by contractor	25 homes	\$20,000/home	\$500,000
2	Walk through inspection, energy audit, work plan write ups, and final inspection by contractor	25 homes	\$540/home	\$13,500
3	Yard signs	25	\$10/sign	\$250
4	Eligibility determinations, contract preparation, and home visits by Program Manager	1,200 hours	\$25/hour	\$30,000
5	Fuel for travel to home visits by Program Manager	5,040 miles	\$0.56/mile	\$2,822
	Total			\$546,572

Signature Page for Third-Party Administrator

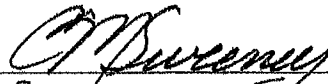


Third Party Administrator (Printed Name)
Shaun P. Davis, Executive Director
Southeast Texas Regional Planning Commission

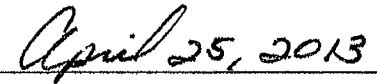
5-13-13

Date

Signature Page for the TCEQ



Caroline Sweeney
Deputy Director, Office of Legal Services
Texas Commission on Environmental Quality



Date