

Third-Party Administrator	Texas Natural Gas Foundation
Agreement Number	2016-10
SEP Title	High-Emission Vehicle Replacement Project

**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 the Texas Natural Gas Foundation (hereinafter "Third-Party Administrator"), a non-profit organization under U.S. Internal Revenue Code, Section 501(c)(3), (collectively, "the Parties").

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: Heather Ball
Title: Executive Director
Address: Texas Natural Gas Foundation
700 E. 11th Street
Austin, Texas 78701
Telephone: 512-484-8535
Email: Heather@txng.org

Contact Information for TCEQ:

Name: Meaghan Bailey
Telephone: 512-239-3400
Facsimile: 512-239-3434
Email: meaghan.bailey@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

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

Overnight or Courier:

Litigation Division

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 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 "High-Emission Vehicle Replacement Project".

Exhibit 2, entitled "Estimated Project Budget for High-Emission Vehicle Replacement Project".

Exhibit 3, entitled "SEP Vehicle Replacement Disposition Form".

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 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. 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 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 Administrative Expenses. TCEQ may include administrative expenses related to implementing the Project in the Estimated Project Budget attached as Exhibit 2. Administrative expenses include overhead costs, personnel salary and fringe benefits, and travel and per diem expenses associated with implementing the Project. Administrative expenses may not exceed ten percent (10%) of the total direct cost of implementing the project. If administrative expenses are included in the Estimated Project Budget in Exhibit 2, ten percent of each contribution may be applied towards administrative expenses until the maximum allowed by the Estimated Project Budget in Exhibit 2 is reached. SEP Funds used for administrative costs must be used in accordance with the Uniform Grant and Contract Management Act, Texas Government Code Chapter 783.

5.5 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.

5.6 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.

5.7 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.

5.8 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 will remain 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, as well as copies of contribution checks;

13.2.2 A list of actual expenditures of 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; and

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 provide 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 **5.1 Estimated Project Budget:**

5.1.1 Due to unknown factors, the Estimated Budget in Exhibit 2 of this Agreement does not contain a specific line item for the costs associated with leasing an eligible Replacement Vehicle. Therefore, upon TCEQ's review and approval of Third-Party Administrator's proposal to lease a Replacement Vehicle, as detailed within Exhibit 1 of this Agreement, TCEQ will provide Third-Party Administrator with a prior written approval specifying the total amount of SEP Funds that can be expended to reimburse a public entity's leasing costs.

2. The following provision is added to **5.4 Administrative Expenses:**

5.4.1 The SEP Funds authorized for administrative expenses, totaling \$310,492.00 as listed in Exhibit 2 of this Agreement, may be used to compensate an employee of the Third-Party Administrator for salary, travel, and per diem costs directly related to implementing the Project. This includes time spent by the Third-Party Administrator's employee while conducting outreach to potential public entities, providing assistance and project oversight to the public entities participating in the Project, performing onsite verification of proposed Older Diesel Vehicles and Replacement Vehicles, and preparing and submitting Quarterly Reports to the TCEQ, at a maximum of eighty (80) hours for each Replacement Vehicle at an hourly rate of \$70.00 per hour. This also includes travel costs incurred by the Third-Party Administrator's employee while traveling to a public entity's location to conduct the onsite vehicle verifications, at a maximum of four hundred (400) miles for each Replacement Vehicle at a rate of \$0.535 per mile. Furthermore, this includes a daily per diem for the Third-Party Administrator's employee on travel days, at a maximum of one travel day per Replacement Vehicle at \$25.00 a day.¹ These activities may be conducted by various employees of the Third-Party Administrator, however SEP Funds shall not be used to compensate more than one employee for conducting the same task.

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

13.2.8 Detailed invoices, contracts, receipts, work logs, paid invoices, checks, and other supporting records for work conducted by third-party contractors, including legal services.

¹ However, if Third-Party Administrator's employee conducts business for multiple Replacement Vehicles within a single travel day, the total per diem authorized for that travel day will be limited to \$25.00.

13.2.9 Detailed invoices, contracts, receipts, work logs, paid invoices, checks, mileage logs, and other supporting records for the administrative services performed and the travel and per diem costs incurred by Third-Party Administrator's employees.

13.2.10 Detailed invoices, contracts, receipts, checks, and other supporting records for all Replacement Vehicles purchased or lease agreements pursuant to this Agreement.

13.2.11 Completed SEP Vehicle Disposition Form, attached as Exhibit 3 of this Agreement, for each decommissioned Older Diesel Vehicle.

13.2.12 Dated photographs of each Older Diesel Vehicle prior to and after decommission and each purchased or leased Replacement Vehicle.

13.2.13 Total number of vehicles decommissioned and purchased or leased pursuant to this Agreement each quarter.

13.2.14 Executed contracts entered into by and between Third-Party Administrator and each public entity participating in this Project.

13.2.15 Each proposal submitted to TCEQ pursuant to this Agreement.

13.2.16 Detailed updates on each purchased or leased Replacement Vehicle to demonstrate the current owner of each Replacement Vehicle, how long it has been owned by the current owner, and its weekly usage and operation.

Exhibit 1

High-Emission Vehicle Replacement Project

Project Description

Third-Party Administrator is a non-profit organization dedicated to educating the public on the benefits of natural gas and identifying innovative opportunities to utilize natural gas that would positively impact businesses and regulatory environments. Third-Party Administrator has identified an opportunity to positively impact air quality and human health by using SEP Funds to assist public entities in replacing their high-emission, diesel fleet vehicles with low-emission, alternative-fueled vehicles.

Specifically, Third-Party Administrator shall expend SEP Funds to reimburse an eligible public entity for the total purchase price or five-year lease price of a standard base model alternative-fueled vehicle ("Replacement Vehicle") that will replace an older, diesel-fueled vehicle ("Older Diesel Vehicle") that the public entity has decommissioned and removed from its fleet. Public entities eligible to receive assistance pursuant to this Agreement include state agencies, counties, municipalities, school districts, or other political subdivisions created under the constitution or any statute of this state.

Old, diesel-fueled vehicles emit large amounts of nitrogen oxides ("NO_x") and particulate matter ("PM"), as well as other harmful pollutants such as volatile organic compounds ("VOCs") and carbon monoxide ("CO"). These pollutants contribute to serious public health problems. This Project shall reduce NO_x, PM, VOCs, and CO emissions by replacing high-emission, diesel-fueled vehicles with low-emission, alternative-fueled vehicles.

Vehicle Decommission/Replacement Requirements

A vehicle must meet specific requirements in order to be eligible to be replaced as an Older Diesel Vehicle pursuant to this Agreement. Specifically, (1) the vehicle must be powered by diesel fuel, (2) the vehicle must be a model year 2009 or older heavy-duty vehicle² (including a school bus, garbage packer, street sweeper, or dump truck) or medium-duty vehicle (including a cargo van, passenger van, or box van), (3) the vehicle must have been owned by the public entity and driven on a regular weekly route for the past two years, (4) the vehicle has not already been scheduled and budgeted to be replaced by the public entity, (5) the vehicle is the oldest, highest-emitting diesel vehicle utilized by the public entity; and (6) the

² Third-Party Administrator shall ensure that any model year 2007 – 2009 heavy-duty vehicle that is proposed as an Older Diesel Vehicle has a certified emission of at least 1.5 g/bhp-hr or higher for NO_x.

vehicle must be completely decommissioned in accordance with the SEP Vehicle Disposition Form attached as Exhibit 3 to this Agreement.

A vehicle must meet specific requirements in order to be eligible to be reimbursed with SEP Funds as a Replacement Vehicle pursuant to this Agreement. Specifically, (1) the vehicle must utilize an alternative-fuel such as compressed natural gas, liquefied natural gas, or liquefied petroleum gas, (2) the vehicle must be a standard base model year 2010 or newer heavy-duty vehicle (including a school bus, garbage paker, street sweeper, or dump truck) or medium-duty vehicle (including a cargo van, passenger van, or box van), and (3) the vehicle's engine must meet the Environmental Protection Agency's 2010 emission standards.

Use of SEP Funds

Prior to any expenditure of SEP Funds, Third-Party Administrator must submit a proposal to TCEQ and receive a subsequent written approval authorizing a reimbursement for the purchase price or five-year lease price for each Replacement Vehicle. The proposal must include a signed contract between the Third-Party Administrator and the public entity demonstrating and certifying the following:

1. The proposed public entity meets the eligibility requirements to receive assistance pursuant to this Agreement;
2. The vehicle that the public entity has decommissioned meets the eligibility requirements of an Older Diesel Vehicle pursuant to this Agreement. If the proposed Older Diesel Vehicle is a model year 2007-2009 heavy-duty vehicle, Third-Party Administrator must submit documentation demonstrating that the vehicle has a certified emission of at least 1.5 g/bhp-hr or higher for NOx.
3. The Older Diesel Vehicle was successfully decommissioned pursuant to the requirements of this Agreement. Third-Party Administrator must include a completed SEP Vehicle Disposition Form with each proposal.
4. The total scrap value amount the public entity received for the decommissioned Older Diesel Vehicle;
5. The proposed vehicle that was purchased or leased meets the eligibility requirements of a Replacement Vehicle pursuant to this Agreement;
6. The total purchase price or five-year lease price of the proposed Replacement Vehicle;
7. The public entity intends to own or lease the Replacement Vehicle and use it regularly on a weekly route for the next five years;

- a. If the public entity leased the proposed Replacement Vehicle, the proposal must include:
 - i. Justification as to why it was more beneficial to lease rather than purchase the Replacement Vehicle; and
 - ii. The executed lease agreement.
8. The public entity owns or has access to an existing alternative-fueling station necessary to fuel the proposed Replacement Vehicle;
9. The public entity used the scrap value received from the decommissioned Older Diesel Vehicle toward the purchase or lease price of the proposed Replacement Vehicle; and
10. The amount of SEP Funds Third-Party Administrator is seeking to expend to reimburse the public entity for the proposed Replacement Vehicle.³

If the proposal is approved, TCEQ shall provide Third-Party Administrator with written approval specifying the total amount of SEP Funds that can be expended to reimburse the public entity for the total purchase price or five-year lease price of the proposed Replacement Vehicle.

Project Scope

The work described in this Agreement is estimated to take five (5) years. Therefore, the scope of this Project is for five (5) years. The estimated budget in Exhibit 2 for this Project encompasses the estimated five (5) year project scope. Pursuant to General Condition Section 9, this Agreement renews annually for its five (5) year project scope unless terminated by either Party in accordance with this Agreement.

Environmental Benefit

This Project will directly benefit air quality by reducing harmful exhaust emissions that contribute to the formation of ozone and may cause or exacerbate a number of respiratory diseases, including asthma. For example, replacing a model year 2002 heavy-duty diesel dump truck with a model year 2010 or newer dump truck powered by natural gas or propane may reduce passengers' exposure to NO_x by 95% and PM by 99.9%. Moreover, replacing a model year 1989 diesel school bus with a model year 2010 or newer school bus powered by natural gas or propane may reduce passengers' exposure to NO_x by 98%, VOCs by 83%; and PM by 99%.

³ Third-Party Administrator's reimbursement for any and all Replacement Vehicles shall be limited to the total purchase price or five-year lease price of the proposed Replacement Vehicle minus the scrap value amount received by the public entity for the decommissioned Older Diesel Vehicle.

Eligible Areas and Counties

Statewide, Third-Party Administrator shall prioritize to use SEP Funds pursuant to this Agreement in the TCEQ Air Control Regions from which the corresponding administrative penalty originated.

Minimum Contribution Amount

\$100

Exhibit 2

Estimated Project Budget for High-Emission Vehicle Replacement Project

No.	Allowable SEP Expense Items	Quantity	Price Per Item	Item Total
1	Natural Gas School Bus (Class A)	10	Up to \$162,000	\$1,620,000
2	Natural Gas School Bus (Class C)	5	Up to \$81,500	\$407,500
3	Natural Gas School Bus (Class D)	5	Up to \$148,000	\$740,000
4	Propane School Bus (Class A)	5	Up to \$76,000	\$380,000
5	Propane School Bus (Class C)	5	Up to \$110,000	\$550,000
6	Propane School Bus (Class D)	5	Up to \$148,000	\$740,000
7	Natural Gas Heavy-Duty Vehicle (i.e. garbage packer, street sweeper, or dump truck)	5	Up to \$270,000	\$1,350,000
8	Natural Gas Medium-Duty Vehicle (i.e. cargo van, passenger wagon, or box van)	5	Up to \$70,000	\$350,000
9	Propane Heavy-Duty Vehicle (i.e. garbage packer, street sweeper, or dump truck)	5	Up to \$270,000	\$1,350,000
10	Propane Medium-Duty Vehicle (i.e. cargo van, passenger wagon, or box van)	5	\$70,000	\$350,000
11	Third-Party contracted legal services	1 hour/vehicle	\$550/hour	\$30,250
	Total Direct Project Cost			\$7,867,750
12	Salary costs for Third-Party Administrator's Employee as described in Special Condition 2	80 hours/vehicle	\$70/hour	\$308,000

13	Travel costs for Third-Party Administrator's employee as described in Special Condition 2	Up to 400 miles/vehicle	\$.0535/mile	\$1,117
14	Per Diem costs for Third-Party Administrator's employee as described in Special Condition 2	1 day/vehicle	\$25/day	\$1,375
	Total Cost			\$8,178,242

SEP Vehicle Replacement Disposition Form

REPLACEMENT: Disposition of Vehicle or Equipment (complete only for Replacement Activity)			
SEP Third-Party Administrator:		SEP Agreement No.:	
SEP Project Name:		Phone No.:	
Replacement Contract Name:		Contract No.:	

Old Vehicle or Equipment Information

Please provide information on the vehicle or equipment being replaced. Refer to the Vehicle's Operation's Manual or contact the dealer for information.

Vehicle Identification #:					
Vehicle/Equipment Make:		Model:		Year:	
Registration Document #:				(Document number located on vehicle registration form)	
Engine Serial #:				(This information can be found on the engine's emission label on the engine block and must be provided. If information is unavailable, you must provide an explanation.)	
Engine Make:		Model:		Year:	

READ AND CHECK DISPOSITION STATEMENT BELOW

Read the following carefully!

Vehicle/Equipment (Including the engine) was destroyed. Destruction means **making a hole 3 inches or larger in the engine block and cutting both frame rails in half (or other pre-approved destruction) making it inoperable.** The hole in the engine block **must not be on a removable plate, and must be in the vicinity of the engine serial number.** All photos must be in color and not blurry. When using salvage or recycling companies, attach a written document that proves receipt of the old equipment, engine, or vehicle. Follow the list below that applies best to your vehicle or equipment. It is your responsibility that the salvage or recycling companies adhere to these procedures.

CHECKLIST FOR DISPOSITION ITEMS FOR ON-ROAD VEHICLES:

- ☐ A photo of the whole vehicle in operating condition before destruction (both sides of the vehicle).
- ☐ A photo of the engine block from the vehicle in operating condition before destruction (both sides of the engine).
- ☐ A photo of both frames before destruction.
- ☐ A photo of the whole vehicle after destruction (both sides of the vehicle).
- ☐ A photo of the engine block after destruction with a 3-inch hole or larger that cannot be repaired. **The entire engine must be visible in the photo.**
- ☐ A photo of both frames after destruction with both sides of the frame cut completely in half.
- ☐ A copy of the Non-repairable Vehicle Title from the Texas Department of Motor Vehicles, Form VTR-441.
- ☐ A document from the salvage or recycling company if you sell the equipment for scrappage and that company does the destruction.

CHECKLIST FOR DISPOSITION ITEMS FOR OFF-ROAD EQUIPMENT:

- ☐ A photo of the whole piece of equipment before destruction (both sides of the equipment).
- ☐ A photo of the engine block in operating condition before destruction (both sides of the engine).
- ☐ A photo before structural damage (both sides of the equipment).
- ☐ A photo of the whole piece of equipment after destruction (both sides of the equipment).
- ☐ A photo of the engine block after destruction with a 3-inch or larger hole that cannot be repaired. **The entire engine must be visible in the photo.**
- ☐ A photo of both sides of the equipment after structural damage that cannot be repaired.
- ☐ A document from the salvage or recycling company if you sell the equipment for scrappage and that company does the destruction.

Third-Party Administrator's Certification: I, the undersigned, certify that, to the best of my knowledge, all submitted information is true. I understand that the TCEQ may require reimbursement of SEP funds if the disposition requirement is not met. I understand that failure to comply with these SEP requirements may result in my organization reimbursing all SEP Funds, as well as termination of this SEP Agreement between my organization and TCEQ.

Third-Party Administrator's Authorized Signature	Date

Print Third-Party Administrator's Authorized Name and Title

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Signatures for Third-Party Administrator

Heather Ball

Heather Ball
Executive Director
Texas Natural Gas Foundation

4-25-18

Date

Signature for the TCEQ

Margi Ligarde
Margaret Ligarde
Deputy Director, Office of Legal Services
Texas Commission on Environmental Quality

Apr. 20, 2018
Date