

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**  
**CLEAN FLEETS NORTH TEXAS RECOVERY ACT PROJECT**  
**Program Implementation**

**AGREEMENT COVER SHEET**

TYPE OF AGREEMENT: Clean Fleets North Texas Recovery Act Project

PROJECT NUMBER: ARRA-CFNT-09

CFDA#: 81.041

NOTICE TO PROCEED DATE: Date of Notice to Proceed

AGREEMENT PERIOD: Date of Notice to Proceed through October 31, 2011

MAXIMUM REIMBURSEMENT: \$38,646

FUNDING SOURCE: Transportation Energy Efficiency Alternative Fuels and Technology Stimulus Grant Program

**NCTCOG**

North Central Texas Council of Governments  
616 Six Flags Drive, Suite 200, Centerpoint Two  
P.O. Box 5888  
Arlington, Texas 76011

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**Performing Party**

City of McKinney  
222 N. Tennessee  
McKinney, Texas 75070

## NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

### Clean Fleets North Texas Recovery Act Project

**THIS AGREEMENT** is entered by and between the North Central Texas Council of Governments (NCTCOG) and the **City of McKinney** (PERFORMING PARTY). The NCTCOG enters into this Agreement with the PERFORMING PARTY pursuant to and as authorized by the Comptroller's State Energy Program (SEP) for the administration of the State Energy Conservation Office (SECO) American Recovery and Reinvestment Act (ARRA) grant funds through the Clean Fleets North Texas Recovery Act Project.

The NCTCOG and the PERFORMING PARTY, in consideration of the mutual covenants hereinafter set forth, agree as follows:

#### ARTICLE 1. PURPOSE

**1.1 Funding Assistance.** The purpose of this Agreement is to provide funding to assist the PERFORMING PARTY in implementing the Grant Activities, as defined in Article 2.

**1.2 Scope of Service.** The PERFORMING PARTY covenants and represents to NCTCOG that the PERFORMING PARTY will implement or perform tasks as provided for in the Appendix A hereinafter referred to as the "**SCOPE**". **Tasks**, as defined in the SCOPE, refer to a set of actions the PERFORMING PARTY must accomplish. **Scope Activities**, as defined in the SCOPE, relate to the individual vehicle purchase, alternative fuel vehicle conversion, and/or refueling/recharging infrastructure projects that were identified in the PERFORMING PARTY'S Application and approved for implementation, including annual usage requirements as applicable. A unique identifier, the "**Scope Activity Number**", will be used for reporting and requesting reimbursements.

**1.3 Emissions Reductions.** The PERFORMING PARTY agrees that emissions reductions provided by each Scope Activity shall be used by NCTCOG to meet air quality requirements and goals. The PERFORMING PARTY may not utilize emissions reductions to satisfy other air quality commitments.

#### ARTICLE 2. GRANT ACTIVITIES

**2.1 Scope Activities.** The PERFORMING PARTY shall purchase vehicles, complete alternative fuel conversions, and/or install refueling/recharging infrastructure as provided for in the SCOPE. Changes to the SCOPE shall not constitute a modification but must be agreed to by both parties, in writing. Changes to the SCOPE do not require amendment to the Agreement; however the SCOPE as defined in Appendix A, must be updated. The PERFORMING PARTY may enter into an agreement with a subcontractor, vendor, or other lower-tier contractor to complete the Scope Activities. For the purposes of this Agreement any lower-tier contractor or vendor performing services under agreement with the PERFORMING PARTY shall hereinafter be referred to as "Contractor."

**2.2 Activity Life.** The PERFORMING PARTY will own, and/or lease, and operate the grant funded vehicles and/or refueling/recharging infrastructure for the duration of NCTCOG approved Activity Life as identified in the SCOPE.

**2.3 Geographic Location.** The PERFORMING PARTY agrees that annual operation of vehicles funded under this Agreement must occur within the geographic area as described in the SCOPE, and primarily within the North Texas ozone nonattainment counties which currently include Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties. The PERFORMING PARTY will install and operate refueling/recharging infrastructure within the North Texas ozone nonattainment counties of Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and/or Tarrant as identified in the SCOPE.

**2.4 National Environmental Policy Act (NEPA) Requirements.** The PERFORMING PARTY shall comply with the National Environmental Policy Act, 42 U.S.C. §§4321 *et. seq.* "NEPA" and shall not take any action that will have an adverse environmental impact (e.g., physical disturbance of a site such as breaking of ground) or limit the choice of reasonable alternatives until either a NEPA clearance or final NEPA decision is provided by the National Energy Technology Laboratory (NETL) NEPA compliance Officer. If American Recovery and Reinvestment Act (ARRA) grant funds are used for the purchase of equipment for new alternative fuel(s) refueling/recharging stations and/or purchase of equipment for retrofits of existing refueling/recharging stations, The PERFORMING PARTY shall provide additional project information and, if requested, shall prepare or provide any assistance necessary, through NCTCOG, to assist SECO in the preparation of any required Environmental Impact Statements or other environmental documentation.

**2.5 Signage.** The PERFORMING PARTY agrees to place a label or sticker on funded vehicles and/or infrastructure upon request by NCTCOG indentifying it as part of an ARRA award and/or utilizing an alternative fuel or advanced technology.

**2.6 Publications.** The PERFORMING PARTY is encouraged to publish or otherwise make publicly available the results of the work conducted under this Agreement. An acknowledgement of Federal support and a disclaimer must appear in the publication of any material, whether copyrighted or not, based on or developed under this Agreement as follows:

**2.6.1 Acknowledgment:** "This material is based upon work supported by the Department of Energy under Award Number(s) DE-EE0000116."

**2.6.2 Disclaimer:** "This report was prepared as an account of work sponsored by an agency of the United States Government. Neither the United States Government nor any agency thereof, nor any of their employees, makes any warranty, express or implied, or assumes any legal liability or responsibility for the accuracy, completeness, or usefulness of any information, apparatus, product, or process disclosed, or represents that its use would not infringe privately owned rights. Reference herein to any specific commercial product, process, or service by trade name, trademark, manufacturer, or otherwise does not necessarily constitute or imply its endorsement, recommendation, or favoring by the United States Government or any agency thereof. The views and opinions of authors expressed herein do not necessarily state or reflect those of the United States Government or any agency thereof."

### **ARTICLE 3. REIMBURSEMENT**

**3.1 Award Amount.** The NCTCOG will reimburse the PERFORMING PARTY's eligible costs of implementing Task(s) as outlined in the SCOPE under the conditions in this Agreement not to exceed the maximum Award Amount of **thirty-eight thousand, six hundred forty-six and 00/100 dollars (\$38,646)**. The maximum Award Amount is not a guarantee of payment. The actual amount of reimbursement may be less than the maximum Award Amount and will be determined under the conditions of this Agreement.

**3.2 Eligible Costs.** Eligible and allowable expenses are limited to costs determined by the NCTCOG in its sole discretion as eligible costs necessary for Tasks and Scope Activities as identified in the SCOPE and cost principles established in OMB Circular A-87, including, but not limited to: vehicle, conversion, and infrastructure purchase and installation costs.

**3.3 Funding Cap.** Reimbursement for grant activities shall be limited to the Incremental Cost as defined in Article 3.4 and Cost Share as defined in Article 3.5, not to exceed the following:

**3.3.1** Light Duty Vehicle purchase/lease, 80% of the incremental cost, not to exceed \$4,000;

**3.3.2** Medium and Heavy Duty Vehicle purchase/lease, 80% of the incremental cost, not to exceed \$8,000;

**3.3.3** All Vehicle conversions, up to 100% of the incremental cost; and

**3.3.4** Infrastructure, up to 80% of total project cost.

**3.4 Incremental Cost.** As applicable, subject to the Award Amount and Funding Cap described above, NCTCOG will reimburse the PERFORMING PARTY for the incremental cost to purchase new Original Equipment Manufacturer (OEM) vehicles or the conversion of new and/or used conventional vehicles to run on authorized alternative fuels. For new vehicle purchases, incremental cost shall be calculated as the difference between the cost of the alternative fuel or advanced technology vehicle and the cost of a comparable conventional model verified by manufacturer estimate, after all applicable manufacturer and local/state rebates, tax credits, and cash equivalent credits are applied. For vehicle conversions, the incremental cost shall be calculated as the cost of the new fuel system plus installation less applicable manufacturer and local/state rebates and cash equivalent credits.

**3.5 Cost Share.** The PERFORMING PARTY shall support the Scope Activities by providing Cost Share. The Cost Share shall be defined as unreimbursed eligible costs and must be at least 20% of the total project cost. All Cost Share must be funded from non-Federal sources unless otherwise allowed by law and approved in advance by NCTCOG. If the PERFORMING PARTY discovers inability to provide Cost Share of at least 20%, immediate written notice shall be provided to NCTCOG. The PERFORMING PARTY shall maintain records of all costs, including costs claimed as Cost Share. Such records are subject to audit. Failure to provide the required Cost Share identified in the SCOPE may result in subsequent recovery by NCTCOG of some or all the funds provided through this Agreement.

**3.6 Decontamination & Decommissioning Costs.** Notwithstanding any other provisions of this Agreement, neither NCTCOG nor SECO shall be responsible for or have any obligation to the PERFORMING PARTY for Decontamination and/or Decommissioning (D&D) of any of the PERFORMING PARTY'S facilities, or any costs which may be incurred by the PERFORMING PARTY in connection with the D&D of any of its facilities due to the performance of the work under this Agreement, whether said work was performed prior to or subsequent to the execution of this Agreement.

**3.7 Request for Reimbursement.** Template Request for Reimbursement forms will be provided by NCTCOG. All reimbursement requests prepared by the PERFORMING PARTY shall be submitted to NCTCOG, to the attention of the Agreement Administrator identified on the Agreement cover sheet according to the date outlined in the Scope of Service. Requests for Reimbursement shall include PERFORMING PARTY invoice, proof of payment and applicable receipts; shall reflect the total

eligible cost; shall detail the portion of cost to be reimbursed by NCTCOG and the portion of cost credited as Cost Share; and shall be accompanied by an Activity Information Form, which is included in Appendix B. NCTCOG may deem a Request for Reimbursement incomplete if the data and/or documentation are incomplete or improper, or if the PERFORMING PARTY fails to submit necessary reports or provide other information requested by NCTCOG under the terms of this Agreement. The NCTCOG may reject Requests for Reimbursements which fail to demonstrate that costs are eligible for reimbursement and/or which fail to conform to the requirements of this Agreement.

**3.8 Payments.** Reimbursement shall be made only upon completion of a Task or Scope Activity. A cost may not be considered incurred, and eligible for reimbursement, until the product or service has been received, accepted, and paid for by the PERFORMING PARTY. Any reimbursement under this Agreement shall be payable only after eligible costs are approved by NCTCOG. NCTCOG will approve payments as soon as practicable, but not later than 45 days after a complete Request for Reimbursement has been received. Costs incurred prior to execution of this Agreement may not be eligible for reimbursement.

**3.9 Balance of Funds.** If actual costs are lower than expected and the full Award Amount is not fully utilized, the PERFORMING PARTY may request approval from NCTCOG to use the balance of the Award Amount in a manner consistent with the SCOPE and all requirements of this Agreement, including Cost Share. If this situation arises, the PERFORMING PARTY will notify NCTCOG Staff Contact and request approval as quickly as possible to ensure timely implementation.

**3.10 Return of Funds.** The PERFORMING PARTY agrees to return funds received from NCTCOG for reimbursement of Tasks where the PERFORMING PARTY has failed to comply with the requirements set forth in this Agreement, including but not limited to failure to achieve vehicle or refueling/recharging infrastructure usage commitments and/or failure to comply with reporting requirements.

**3.11 Availability of Funds.** The NCTCOG will fund each Task with one-time funding from the Comptroller's State Energy Program (SEP): State Energy Conservation Office (SECO) Transportation Energy Efficiency Alternative Fuels and Technology Stimulus Grant Program. This Agreement and all claims, suits, or obligations arising under or related to this Agreement are subject to and limited to the receipt and availability of funds which are received from the funding agency by NCTCOG dedicated for the purpose of this Agreement. There shall be no obligation whatsoever to pay for performance of this Agreement from the monies of NCTCOG, other than grant funds received by NCTCOG from SECO for the purposes of reimbursement under this Agreement.

#### **ARTICLE 4. TIME OF PERFORMANCE**

**4.1 Commencement of Service.** The PERFORMING PARTY shall commence performance of the SCOPE upon the execution of this Agreement, subject to completion of the NEPA Requirements outlined in Article 2.4.

**4.2 Deadline for Use of Funds.** All Scope Activities shall be completed no later than **October 31, 2011**. This Agreement shall terminate upon completion of all requirements, unless otherwise terminated by an act as identified in Article 4.3. Certain rights and obligations identified in this Agreement shall survive termination of this Agreement.

**4.3 Termination.** Either party reserves the right to terminate this Agreement in whole or in part. Notice of termination must be provided in writing, shall set forth the reasons for termination, and shall provide for a minimum of 30 days to cure the defect. Termination is effective only in the event the

party fails to cure the defect within the period stated in the termination notice including any written extensions. If the Agreement is terminated, NCTCOG shall only be liable for eligible expenses completed before the effective date of termination. If Agreement is terminated, certain reporting requirements identified in this Agreement shall survive termination of this Agreement. NCTCOG will render payment upon the completion of reporting requirements. The Parties may terminate this Agreement at any time by mutual written concurrence.

## **ARTICLE 5. RIGHTS**

**5.1 Authority.** The PERFORMING PARTY shall have no authority to act for or on behalf of NCTCOG except as expressly provided for in this Agreement; no other authority, power, use, or joint enterprise is granted or implied. The PERFORMING PARTY may not incur any debts, obligations, expenses, or liabilities of any kind on behalf of NCTCOG.

**5.2 Assignment.** Without the prior written consent of NCTCOG, the PERFORMING PARTY may not transfer or assign any rights or duties under or any interest in this Agreement.

## **ARTICLE 6. REPRESENTATIONS**

**6.1 Alteration of Original Application.** The information and data provided in the original application submitted by the PERFORMING PARTY may have been altered after original submittal to NCTCOG to ensure that the information and calculations in the application are accurate. The PERFORMING PARTY hereby ratifies, adopts, and agrees to all representations in the Approved Application and deliverables it has provided to NCTCOG during the proposal process and agrees to give prompt written notice to NCTCOG if there is any material change in these certifications or deliverables.

## **ARTICLE 7. AMENDMENTS**

**7.1 Agreement.** This Agreement embodies all of the agreements of the parties relating to its subject matter, and supersedes all prior understandings and agreements regarding such subject matter.

**7.2 Severability.** In the event any one or more of the provisions contained in this Agreement shall be for any reason held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision(s) hereof, and this Agreement shall be revised so as to cure such invalid, illegal, or unenforceable provision(s) to carry out as near as possible the original intent of the Parties.

**7.3 Changed Circumstance.** If future federal, State, or local statute, ordinance, regulation, rule, or action render this Agreement, in whole or in part, illegal, invalid, unenforceable, or impractical, the parties agree to delete and/or to modify such portions of the Agreement as are necessary to render it valid, enforceable, and/or practical. Each section, paragraph, or provision of this Agreement shall be considered severable, and if, for any reason, any section, paragraph, or provision herein is determined to be invalid under current or future law, regulation, or rule, such invalidity shall not impair the operation of or otherwise affect the valid portions of this instrument.

**7.4 Modifications.** Modifications to this Agreement must be reviewed by all parties and agreed to in writing.

**7.5 Agreement Documents.** This Agreement, including appendices, and the Clean Fleets North Texas: Recovery Act Call For Projects Guidelines and the Approved Application, which are incorporated herein by reference, comprise the entire Agreement between NCTCOG and the PERFORMING PARTY.

## **ARTICLE 8. PROCUREMENT AND PROPERTY MANAGEMENT**

**8.1 Preservation of open completion and government neutrality towards contractor's labor relations on federally funded construction projects.** Unless in conflict with State or local laws, PERFORMING PARTY must ensure that bid specifications, project agreement, or other controlling documents in construction contracts awarded pursuant to this Agreement, or pursuant to a subaward to this Agreement, do not:

- 8.1.1** Require or prohibit bidders, offerors, contractors, or subcontractors to enter into or adhere to agreements with one or more labor organizations, on the same or other related construction project(s); or
- 8.1.2** Otherwise discriminate against bidders, offerors, contractors, or subcontractors for becoming or refusing to become or remain signatories or otherwise to adhere to agreements with one or more labor organizations, on the same or other related construction project(s).
- 8.1.3** The term "construction contract" as used in this provision means any contract for the construction, rehabilitation, alteration, conversion, extension, or repair of buildings, highways, or other improvements to real property.
- 8.1.4** Nothing in this provision prohibits bidders, offerors, contractors, or subcontractors from voluntarily entering into agreements with labor organizations.

**8.2 Procurement Standards.** The Parties shall adhere to the procurement standards established in Title 49 CFR §18.36. The PERFORMING PARTY shall give preference in procurement programs to the purchase of recycled products pursuant to the guidelines established in 40 CFR 247-254.

**8.3 Property.** Property and equipment acquired by the PERFORMING PARTY through this Agreement shall be subject to applicable rules set forth in 10 CFR Part 600. The regulations as set forth in 10 CFR Part 600 and the requirements of this article shall apply where such property was acquired in whole or in part with funds provided by NCTCOG under this Agreement or where such property was counted as Cost Share under this Agreement.

The PERFORMING PARTY agrees to utilize property and equipment funded through this Agreement for the purposes outlined in the SCOPE and consistent with the goals and objectives of the Clean Fleets North Texas Recovery Act Project during the Activity Life defined in the SCOPE. The NCTCOG encourages the PERFORMING PARTY to continue to utilize property and equipment acquired through this Agreement for the purposes outlined in the SCOPE and consistent with the goals and objectives of the Clean Fleets North Texas Program beyond the Activity Life. At the end of the Activity Life or upon transfer of ownership, the PERFORMING PARTY shall submit to NCTCOG a written certification of the disposition of property and equipment funded through this Agreement. The certification shall describe the continued use and condition of the property, fair market value, remaining useful life of the property, and any actual or anticipated improvements to the property that may increase the value of the property.

The NCTCOG, at its sole discretion, shall determine if the property or equipment retains any value to NCTCOG and/or SECO at the end of the Activity Life, consistent with 10CFR Part 600. If, at the end of the Activity Life, the property or equipment retains no value to NCTCOG and/or SECO, the PERFORMING PARTY shall have no further obligation to NCTCOG and SECO with respect to the property.

If, at the end of the Activity Life, the property or equipment retains value to NCTCOG and/or SECO, and the property or equipment is no longer used for the purposes outlined in the SCOPE, the PERFORMING PARTY may be required to return a portion of funding received under this Agreement to NCTCOG, consistent with 10 CFR Part 600.

The PERFORMING PARTY agrees to provide NCTCOG reasonable information concerning the use and condition of the property or equipment upon request.

## **ARTICLE 9. MISCELLANEOUS PROVISIONS**

**9.1 Property Insurance.** The PERFORMING PARTY must maintain sufficient property insurance for the repair or replacement of any Scope Activity for the Activity Life as defined in the SCOPE, unless otherwise expressly agreed upon in writing by NCTCOG.

**9.2 Insurance Claims.** Any insurance proceeds received by or on behalf of the PERFORMING PARTY under an insurance policy due to the damage or destruction of a vehicle, alternative fuel conversion, or refueling/recharging infrastructure funded under this Agreement must be utilized to repair or acquire an equivalent or better vehicle, alternative fuel conversion, or refueling/recharging infrastructure or be paid to NCTCOG.

**9.3 Indemnification.** To the extent authorized by law, the PERFORMING PARTY shall indemnify, save and hold NCTCOG/Regional Transportation Council (RTC), its officials, officers, and employees harmless from any and all actions, obligations, claims, damages, expenses, costs of any kind, debts, negligence, and liabilities arising from, or in any way related to, acts or omissions of the PERFORMING PARTY, its employees, volunteers, Contractors, or clientele, in the performance of, or failure to perform under, this Agreement.

**9.4 Force Majeure.** It is expressly understood and agreed by the parties to this Agreement that, if the performance of any provision of this Agreement is delayed by force majeure, defined as reason of war, civil commotion, act of God, governmental restriction, regulation or interference, fire, explosion, hurricane, flood, failure of transportation, court injunction, or any circumstances which are reasonably beyond the control of the party obligated or permitted under the terms of this Agreement to do or perform the same, regardless of whether any such circumstance is similar to any of those enumerated herein, the party so obligated or permitted shall be excused from doing or performing the same during such period of delay, so that the period of time applicable to such requirement shall be extended for a period of time equal to the period of time such party was delayed. Each party must inform the other in writing within reasonable time of the existence of such force majeure.

**9.5 Contractual Relationship.** It is understood and agreed that the relationship described in this Agreement between the parties is contractual in nature and is not to be construed to create a partnership of joint venture or agency relationship between the parties. Nor shall any party be liable for any debts incurred by the other party in the conduct of such other party's business or functions.

**9.6 Captions.** The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify its terms and provisions.



**9.7 Disputes and Remedies.** The PERFORMING PARTY and the NCTCOG shall negotiate in good faith toward resolving any disputes that arise under this Agreement. This Agreement does not limit any remedy or right under law available to a Party to enforce the terms herein.

**9.8 Public Comment Process.** As applicable, public meeting and public hearing notices regarding the Tasks and Scope Activities funded through this Agreement shall be provided to NCTCOG within five (5) days of publication. Meeting minutes, summaries of communication, and copies of written responses to public comments and questions shall be transmitted to NCTCOG Staff Contact person as identified on the Agreement cover sheet within thirty (30) days following the meeting.

**9.9 Historic Preservation.** Prior to the expenditure of Federal funds to alter any structure or site, the PERFORMING PARTY is required to comply with the requirements of Section 106 of the National Historic Preservation Act (NHPA), consistent with the DOE 2009 letter of delegation of authority regarding the NHPA. Section 106 applies to historic properties that are listed in or eligible for listing in the National Register of Historic Places. In order to fulfill the requirements of Section 106, the PERFORMING PARTY must contact the State Historic Preservation Officer (SHPO), and, if applicable, the Tribal Historic Preservation Officer (THPO), to coordinate the Section 106 review outlined in 36 CFR Part 800. SHPO contact information is available at the following link: <http://www.ncshpo.org/find/index.htm>. THPO contact information is available at the following link: <http://www.nathpo.org/map.html>.

Section 110(k) of the NHPA applies to DOE funded activities. PERFORMING PARTY shall avoid taking any action that results in an adverse effect to historic properties pending compliance with Section 106.

**9.10 Statement Of Federal Stewardship.** PERFORMING PARTY authorizes NCTCOG to exercise normal Federal stewardship in overseeing the project activities performed under this Agreement. Stewardship activities include, but are not limited to, conducting site visits; reviewing performance and financial reports; providing technical assistance and/or temporary intervention in unusual circumstances to correct deficiencies which develop during the project; assuring compliance with terms and conditions; and reviewing technical performance after project completion to ensure that the award objectives have been accomplished.

**9.11 Site Visits.** PERFORMING PARTY authorizes NCTCOG representatives to make site visits at reasonable times to review project accomplishments and management control systems and to provide technical assistance if required. PERFORMING PARTY must provide reasonable access to facilities, office space, resources, and assistance for the safety and convenience of government representatives in the performance of their duties. The NCTCOG shall perform site visits and evaluations in a manner that does not unduly interfere with or delay the work.

**9.12 Solid Waste Disposal Act.** Prior to the expenditure of federal funds to store, process, or disposal of hazardous materials, PERFORMING PARTY shall comply with the Solid Waste Disposal Act, Texas Health & Safety Code, Chapter 361, and Title 30, Texas Administrative Code, Chapter 335 "Industrial Solid Waste and Municipal Hazardous Waste" administered by the Texas Commission on Environmental Quality. Sanitary or hazardous waste is defined in 40 CFR Part 260 and 30 TAC Chapter 335 and includes, but is not limited to, old light bulbs, lead ballasts, piping, roofing material, discarded equipment, debris, asbestos, etc. Grantee shall obtain any required permit and retain all compliance documentation related to the project.

**9.13 Notice.** All notices regarding this Agreement shall be in writing and shall be delivered to the addresses shown below, as applicable, with a copy provided to the NCTCOG Project Manager and the PERFORMING PARTY'S Agreement Coordinator identified on the Agreement Cover Sheet.

**NCTCOG**

**Mailing Address:**

Michael Morris, P.E.,  
Transportation Director  
Transportation Department  
P.O. Box 5888  
Arlington, Texas 76005-5888

**Physical Address:**

Michael Morris, P.E.,  
Transportation Director  
Transportation Department  
616 Six Flags Drive  
Arlington, Texas 76011

**Mailing Address:**

Rick Chaffin  
Interim City Manager  
City of McKinney  
222 N. Tennessee  
McKinney, Texas 75070

**Physical Address:**

Same

**ARTICLE 10. AUDITS AND EVALUATIONS**

**10.1 Submission of Audits.** As applicable, The PERFORMING PARTY shall provide NCTCOG, for its review, a copy of any audit received as a result of policy or audits of federal and state governments relating to the expenditure of funds under this Agreement. Such audits shall include or be accompanied by any applicable audit management letter issued and applicable responses to the auditor's findings and recommendations. All audits shall be submitted to NCTCOG within thirty (30) days of receipt of each issued report.

**10.2 Single Audit Act.** As applicable, the PERFORMING PARTY shall comply with the requirements of the Single Audit Act of 1984, P.L. 98-502, ensuring that the single audit report includes the coverage stipulated in OMB Circular No. A-128 through August 31, 2000, and stipulated in OMB Circular A-133 after August 31, 2000.

**10.2.1 Recovery Act Expenditures.** As applicable, and if covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," the PERFORMING PARTY agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. This shall be accomplished by identifying expenditures for Federal awards made under the Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA-" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

**10.3 Capital Assets and Usage Records.** The PERFORMING PARTY shall authorize NCTCOG, SECO, or their designees to inspect, with or without notice, vehicles, alternative fuel conversions, and/or infrastructure, including usage records, purchased by the PERFORMING PARTY with funds provided for under this Agreement.

**10.4 Financial Records.** The PERFORMING PARTY understands that acceptance of funds under this Agreement acts as acceptance of the authority of NCTCOG, SECO, or their designees to conduct an audit or investigation in connection with those funds. The PERFORMING PARTY further agrees to

cooperate fully with NCTCOG, SECO, or their designees in the conduct of an audit or investigation, including providing all records requested. The PERFORMING PARTY will ensure that this clause concerning the authority to audit funds received indirectly by Contractors through the PERFORMING PARTY and the requirement to cooperate is included in any subcontract it awards under this Agreement. The PERFORMING PARTY will include in all subcontracts for work under this Agreement a requirement that Contractors will provide access to all relevant financial records including bank statements.

## **ARTICLE 11 – ACCESSIBILITY AND MAINTENANCE OF RECORDS**

**11.1 Maintenance.** The PERFORMING PARTY shall maintain a record keeping system for all of its activities, including program records and financial management records, which support and document all expenditures of funds made under this Agreement, in accordance with federal regulations, state rules, and the Agreement. This section shall not be interpreted to require maintenance of multiple exact duplicate copies of any record or document.

**11.2 Retention.** All records must be maintained for a minimum of five (5) years following the expiration of the Activity Life as described in the SCOPE. In the event that any litigation or claim is still pending upon the expiration of the Activity Life, these records shall be retained until resolution of the litigation or claim. NCTCOG, SECO, and their duly authorized agents shall have access to all records that are directly applicable to this Agreement for the purpose of making audit examinations.

## **ARTICLE 12 - REPORTS**

**12.1 Reporting.** The PERFORMING PARTY shall provide NCTCOG with all reports detailed in the SCOPE. In addition, upon NCTCOG's request, the PERFORMING PARTY shall provide information pertaining to the Tasks and Scope Activities as identified in the SCOPE.

**12.1.1 Monthly Project Status Report.** The PERFORMING PARTY shall submit Monthly Project Status Reports to NCTCOG for the duration of this Agreement using the template provided in Appendix C. The Monthly Project Status Report is due by the 20<sup>th</sup> day of the month. The Monthly Project Status Report may be submitted by fax, email, or traditional mail to the Agreement Administrator identified on the Agreement Cover Sheet.

**12.1.2 Quarterly Usage Reporting.** The PERFORMING PARTY shall submit a Quarterly Usage Report to NCTCOG due by the 15<sup>th</sup> day of the first month following the end of the quarter (January 15; April 15; July 15; and October 15) for the duration of the Activity Life, on-line or by fax, email, or traditional mail to the Staff Contact identified on the Agreement Cover Sheet.

**12.1.3 Certified Payroll Records.** Pursuant to the Davis-Bacon Act, if the SCOPE of this Agreement includes infrastructure activities which require construction, alteration, or repair activities exceeding \$2,000, the PERFORMING PARTY shall submit weekly certified payroll records to NCTCOG for each week that applicable work is performed. Certified Payroll Records shall be submitted by traditional mail or hand-delivered to the Agreement Administrator identified on the Agreement Cover Sheet using the template provided in Appendix D. Certified Payroll Reports must include original signatures and are due by 5:00 P.M. on Friday of the following week.

## ARTICLE 13 - ASSURANCES

**13.1 Equal Employment Opportunity.** The PERFORMING PARTY and Contractors must be in compliance with E.O. 11246, "Equal Employment Opportunity," as amended by E.O. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor." The PERFORMING PARTY and its Contractors shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, or national origin. The PERFORMING PARTY and its Contractors shall take affirmative actions to ensure that applicants are employed, and that employees are treated, during their employment, without regard to their race, religion, color, sex, or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**13.2 Nondiscrimination on the Basis of Disability.** The PERFORMING PARTY agrees that no otherwise qualified disabled person shall, solely by reason of his disability, be excluded from participation in, be denied the benefits of, or otherwise be subject to discrimination. The PERFORMING PARTY shall ensure that all fixed facility construction or alteration and all new equipment funded through this Agreement comply with applicable regulations regarding Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance, set forth in 49 CFR, Part 27 and any amendments thereto.

**13.3 Drug-Free Workplace.** The PERFORMING PARTY and Contractors must comply with drug-free workplace requirements in Subpart B of 10 CFR part 607, which implements sec. 5151-5160 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701, et seq.).

**13.4 Noncollusion.** The PERFORMING PARTY warrants that it has not employed or retained any company or person, other than a bona fide employee working for it, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. If the PERFORMING PARTY breaches or violates this warranty, NCTCOG shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

**13.5 Gratuities.** Any person doing business with or who, reasonably speaking, may do business with NCTCOG under this Agreement may not make any offer of benefits, gifts or favors to employees of SECO, NCTCOG, or representatives of NCTCOG committees or boards. Failure on the part of the PERFORMING PARTY to adhere to this policy may result in termination of this Agreement.

**13.6 Debarment/Suspension.** The PERFORMING PARTY and Contractors shall comply with the special provision "Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions," which is included as Appendix E of this Agreement. The PERFORMING PARTY shall include a statement of compliance with the Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions in applicable procurement solicitations. Certification Requirements for Recipients of Grants and Cooperative Agreements Regarding Debarments and Suspensions shall be completed by Contractors and included in Contractor contracts, as applicable. PERFORMING PARTY must notify NCTCOG if PERFORMING PARTY or Contractors become debarred or suspended during performance of this

Agreement. Debarment or suspension of the PERFORMING PARTY may result in immediate termination of this Agreement.

**13.7 Restrictions on Lobbying.** The PERFORMING PARTY and Contractors are prohibited from using monies for lobbying purposes; the PERFORMING PARTY shall comply with the special provision “Restrictions on Lobbying,” which is included as Appendix F of this Agreement. The PERFORMING PARTY shall include a statement of compliance with the Lobbying Certification and Disclosure of Lobbying Activities in applicable procurement solicitations. Lobbying Certification and Disclosure of Lobbying Activities shall be completed by Contractors and included in Contractor contracts, as applicable.

**13.8 Disadvantaged Business Enterprises (DBE).** NCTCOG encourages PERFORMING PARTY to take all necessary affirmative steps to assure that Minority-owned Business Enterprises (MBE), Women-owned Business Enterprises (WBE), Historically Underutilized Business (HUB), Small Business Enterprise (SBE), and Labor Surplus Area Firms (LSAF) are used when possible. The PERFORMING PARTY must report and provide DBE certificates for any DBE receiving funding under this Agreement using the template provided in Appendix C. NCTCOG suggests that the PERFORMING PARTY comply by taking the following affirmative steps:

**13.8.1** Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources.

**13.8.2** Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises.

**13.8.3** Requiring any PERFORMING PARTY Contractors to take the affirmative steps listed in this Article.

**13.9 Copeland “Anti-Kickback” Act (18 U.S.C. 874 and 40 U.S.C. 276c).** The PERFORMING PARTY shall comply with the Copeland “Anti-Kickback” Act (18 U.S.C. 874), as supplemented by Department of Labor regulations (29 CFR part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States”), and shall include a provision for compliance with this Act in all applicable agreements with Contractors. The Act provides that recipients of federal funding shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he is otherwise entitled. The PERFORMING PARTY shall report all suspected or reported violations to NCTCOG.

**13.10 Compliance with Regulations.** During the performance of this Agreement, the PERFORMING PARTY, for itself, its assignees, and successors agrees to obtain any required permits and comply with all applicable local, state, and federal regulations.

**13.11 Interest of Public Officials.** No member, officer, or employee of the public body or of a local public body during his tenure or for one year thereafter shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

**13.12 Construction Management and Oversight.** As applicable, the PERFORMING PARTY shall ensure appropriate management of any construction activities, including compliance with applicable local construction regulations and permitting requirements. The PERFORMING PARTY shall ensure that construction activities comply with prevailing wage requirements of the Davis-Bacon Act. Upon

request, the PERFORMING PARTY shall provide to NCTCOG, SECO, or its designee applicable documentation confirming compliance with construction regulations.

## **ARTICLE 14 - SPECIAL PROVISIONS RELATING TO WORK FUNDED UNDER AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

**14.1 Segregation of Costs.** The PERFORMING PARTY must segregate the obligations and expenditures related to funding under the Recovery Act. Financial and accounting systems should be revised as necessary to segregate, track and maintain these funds apart and separate from other revenue streams. No part of the funds from the Recovery Act shall be commingled with any other funds or used for a purpose other than that of making payments for costs allowable for Recovery Act projects.

**14.2 Prohibition on Use of Funds.** None of the funds provided under this Agreement derived from the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.

**14.3 Access to Records.** With respect to each financial assistance agreement awarded utilizing at least some of the funds appropriated or otherwise made available by the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1988 (5 U.S.C. App.) or of the Comptroller General is authorized:

**14.3.1** To examine any records of the contractor or grantee, any of its subcontractors or subgrantees, or any State or local agency administering such contract that pertain to, and involve transactions that relate to, the subcontract, grant, or subgrant; and

**14.3.2** To interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions.

**14.4 Publication.** Any documentation created by the PERFORMING PARTY and provided to NCTCOG under this Agreement which contains technical data and other data, including trade secrets and/or privileged or confidential information, which the PERFORMING PARTY does not want disclosed to the public or used by the Government for any purpose other than for performance of the Tasks outlined in this Agreement should specifically identify each page including each line or paragraph thereof containing the data to be protected and mark the cover sheet of the documentation with the following Notice as well as referring to the Notice on each page to which the Notice applies:

“Notice of Restriction on Disclosure and Use of Data: The data contained in pages ---- of this documentation have been submitted in confidence and contain trade secrets or proprietary information, and such data shall be used or disclosed only for evaluation purposes, provided that if an award is granted as a result of or in connection with the submission of this documentation, the SECO shall have the right to use or disclose the data here to the extent provided in the award. This restriction does not limit the Government's right to use or disclose data obtained without restriction from any source. “

Information about this Agreement will be published on the Internet and linked to the website [www.recovery.gov](http://www.recovery.gov), maintained by the Accountability and Transparency Board. The Board may exclude posting contractual or other information on the website on a case-by-case basis when necessary to protect national security or to protect information that is not subject to disclosure under

sections 552 and 552a of title 5, United States Code.

**14.5. Protecting State and Local Government and Contractor Whistleblowers.** The requirements of Section 1553 of the American Recovery and Reinvestment Act of 2009 are summarized below. They include, but are not limited to:

**14.5.1 Prohibition on Reprisals:** An employee of any non-Federal employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives information that the employee believes is evidence of:

- gross mismanagement of the PERFORMING PARTY Agreement relating to grant funds;
- a gross waste of grant funds;
- a substantial and specific danger to public health or safety related to the implementation or use of grant funds;
- an abuse of authority related to the implementation or use of grant funds; or
- as violation of law, rule, or regulation related to the PERFORMING PARTY Agreement (including the competition for, or negotiation of a contract or grant, awarded or issued relating to grant funds).

**14.5.2 PERFORMING PARTY Action:** Not later than 30 days after receiving an inspector general report of an alleged reprisal, the PERFORMING PARTY shall determine whether there is sufficient basis to conclude that the non-Federal employer has subjected the employee to a prohibited reprisal. The PERFORMING PARTY shall either issue an order denying relief in whole or in part or shall take one or more of the following actions:

- Order the employer to take affirmative action to abate the reprisal.
- Order the employer to reinstate the person to the position that the person held before the reprisal, together with compensation including back pay, compensatory damages, employment benefits, and other terms and conditions of employment that would apply to the person in that position if the reprisal had not been taken.
- Order the employer to pay the employee an amount equal to the aggregate amount of all costs and expenses (including attorneys' fees and expert witnesses' fees) that were reasonably incurred by the employee for or in connection with, bringing the complaint regarding the reprisal, as determined by the head of a court of competent jurisdiction.

**14.5.3 Nonenforceability of Certain Provisions Waiving Rights and Remedies or Requiring Arbitration:** Except as provided in a collective bargaining agreement, the rights and remedies provided to aggrieved employees by this section may not be waived by any agreement, policy, form, or condition of employment, including any predispute arbitration agreement. No predispute arbitration agreement shall be valid or enforceable if it requires arbitration of a dispute arising out of this section.

**14.5.4 Requirement to Post Notice of Rights and Remedies:** Any employer receiving covered funds under the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5, shall post notice of the rights and remedies as required therein. (Refer to section 1553 of the American

Recovery and Reinvestment Act of 2009, Pub. L. 111-5, www.Recovery.gov, for specific requirements of this section and prescribed language for the notices.).

**14.6 False Claims Act.** The PERFORMING PARTY shall promptly refer to NCTCOG, SECO, or their designees any credible evidence that a principal, employee, agent, contractor, sub-grantee, subcontractor or other person has submitted a false claim under the False Claims Act or has committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity or similar misconduct involving those funds.

**14.7 Information in Support of Recovery Act Reporting.** The PERFORMING PARTY may be required to submit backup documentation for expenditures of funds under the Recovery Act including such items as timecards and invoices. The PERFORMING PARTY shall provide copies of backup documentation at the request of NCTCOG, SECO, or designee.

**14.8 Availability of Funds.** Funds appropriated under the Recovery Act and obligated to this Agreement are available for reimbursement of costs until September 30, 2015.

**14.9 Required Use of American Iron, Steel and Manufactured Goods (Covered Under International Agreements).** The PERFORMING PARTY shall comply with provisions of Section 1605 of the American Recovery and Reinvestment Act of 2009 which requires all iron, steel, and manufactured goods used in performance of work under this Agreement to be produced in the United States; and which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. Additional details regarding Section 1605 of the ARRA are provided in Appendix G. The PERFORMING PARTY may request a determination of inapplicability of Section 1605 of the Recovery Act or the Buy America Act for the SCOPE of this Agreement. Any request for determination of inapplicability must be submitted to NCTCOG by the PERFORMING PARTY.

**14.10 Davis Bacon Prevailing Wage Term and Condition.** As applicable, in the event the PERFORMING PARTY'S Scope Activities involves construction, the PERFORMING PARTY agrees to ensure compliance with all regulations set forth under Section 1606 of the Recovery Act which requires the PERFORMING PARTY to ensure all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed with the assistance of loans or grants to be paid wages at rates not less than those prevailing on similar construction in the locality. Also, PERFORMING PARTY is required to post the notice entitled, "Employee's Rights Under the Davis-Bacon Act" ([Appendix I](#)) at all Davis-Bacon Act applicable worksites. This requirement is one that will be checked during monitoring visits to the site for the Transportation Energy Efficiency Alternative Fuels and Technology Stimulus grant. The National Energy Technology Laboratory (NETL) Contract Specialist's name and contact information should be placed in the area of the poster marked for the contracting officer. The NETL Contract Specialist for the State of Texas is:

Mr. Kellyn L. Cassell  
Contract Specialist  
U.S. Department of Energy  
National Energy Technology Laboratory  
P.O. Box 880, MS 107  
3610 Collins Ferry Rd.  
Morgantown, WV 26507-0880  
Phone: (304) 285-4554  
Email: [Kellyn.Cassell@netl.doe.gov](mailto:Kellyn.Cassell@netl.doe.gov)



Employees of local governments are not subject to the Davis-Bacon Act; however, all applicable Contractors are subject to Davis-Bacon Act requirements, including reporting requirements outlined in Article 12.1.3. The PERFORMING PARTY shall maintain payroll records for a period of three years for all laborers and mechanics performing work applicable to the requirements of the Davis-Bacon Act. Payroll records shall contain the name, address, and social security number of each worker, his or her classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions taken from income, and actual wages paid. Appendix H includes additional details regarding Wage Rate Requirements under Section 1606 of the Recovery Act and Davis Bacon Act and Contract work hours and Safety Standards Act and wage determination data for North Central Texas Counties.

**APPENDICES**

The following appendices are attached and made part of this Agreement.

- Appendix A** Scope of Service
- Appendix B** Activity Information Form
- Appendix C** Monthly Project Status Report
- Appendix D** Lower Tier Participant Debarment Certification
- Appendix E** Lobbying Certification and Disclosure of Lobbying Activities
- Appendix F** Required Use of American Iron, Steel, and Manufactured Goods
- Appendix G** Wage Rate Requirements under Section 1606 of the Recovery Act, Davis Bacon Act, and Contract Work Hours and Safety Standards Act; and Wage Determinations for the North Central Texas Region
- Appendix H** Certified Payroll Reporting Form (WH-347)
- Appendix I** Employee’s Rights Under the Davis-Bacon Act

IN WITNESS WHEREOF, the Parties have executed this Agreement in duplicate original at Arlington, Tarrant County, Texas, the \_\_\_\_\_ day of \_\_\_\_\_, 2011.

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**

\_\_\_\_\_  
R. Michael Eastland  
Executive Director, NCTCOG

**PERFORMING PARTY**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Contact Phone Number

Appendix A  
Scope of Service

# CLEAN FLEETS NORTH TEXAS: RECOVERY ACT

## APPENDIX A SCOPE OF SERVICE

### THE CITY OF MCKINNEY

**The City of McKinney will convert three (3) light-duty hybrid-electric vehicles to plug-in hybrid-electric vehicles (PHEVs).**

The project has been assigned the following Project Number, and each activity has been assigned an Activity Number, both of which shall be used when tracking and reporting to the North Central Texas Council of Governments (NCTCOG).

**Project Number: ARRA-CFNT-09**

The Scope of Service (Scope) contains information on the activities to be conducted and the expenses that will be reimbursed under the Agreement. All grant-funded scope activities must be in service by October 31, 2011. Grant funding is applicable to approved equipment, supply, and labor costs directly related to the incremental costs of vehicle purchases, conversion kit purchase and installation, and/or refueling/recharging infrastructure implementation. Administrative and operational costs are not eligible.

The minimum number of each activity type to be accomplished with the grant award is outlined in the "Approved Application Summary", along with a maximum award amount for each activity. **The City of McKinney** commits to provide a minimum cost share of 20 percent (20%) of the total project cost. If actual expenses are lower than expected and the full award amount is not fully utilized, **the City of McKinney** may request approval from NCTCOG to use the balance of grant funds in a manner consistent with all requirements of this Agreement and Scope, including cost share requirements. If this situation arises, **the City of McKinney** will notify the NCTCOG Staff Contact and request approval as quickly as possible to ensure timely implementation.

### **TASK 1 – Purchase and Installation of Approved Vehicles and/or Conversion Kits**

All new vehicles, engines, and conversion systems must be certified or approved by the US Environmental Protection Agency (EPA) and/or California Air Resources Board (CARB) and meet applicable Federal Motor Vehicle Safety Standards (FMVSS).

Approved Application Summary – Vehicles

Activity Number	Project Description	Minimum Number of Units	Average Annual Mileage (per vehicle)	Vehicle Type	Maximum Award Amount
1	Convert 2005 Toyota Prius, Hybrid-Electric vehicle to PHEV	1	8,580	Light-duty vehicle	\$12,882

Activity Number	Project Description	Minimum Number of Units	Average Annual Mileage (per vehicle)	Vehicle Type	Maximum Award Amount
2	Convert 2009 Toyota Prius, Hybrid-Electric vehicle to PHEV	1	18,788	Light-duty vehicle	\$12,882
3	Convert 2009 Toyota Prius, Hybrid-Electric vehicle to PHEV	1	10,483	Light-duty vehicle	\$12,882
<b>TOTAL</b>		3			<b>\$38,646</b>

### **TASK 2 – Operation**

The City of McKinney will own and operate each grant-funded vehicle and infrastructure site for a minimum of the following Activity Life:

Light-Duty Vehicles: Five-Year Activity Life  
Heavy-Duty Vehicles: Seven-Year Activity Life  
Infrastructure: Seven-Year Activity Life

The City of McKinney will ensure that the grant-funded vehicles are operated primarily within the Dallas-Fort Worth ozone nonattainment area.

The City of McKinney will display the American Recovery and Reinvestment Act (ARRA) and/or US Department of Energy (DOE) Clean Cities logo on all grant-funded vehicles and at all funded fueling infrastructure facilities in a manner clearly visible to the public for the duration of the approved Activity Life. Required signage will be supplied by NCTCOG. In addition, the City of McKinney shall apply appropriate signage to grant-funded fueling infrastructure including all required federal, state, and local fuel dispensing information including, but not limited to, fuel contents, safety precautions, etc.

### **TASK 3 – Reimbursement and Reporting**

The City of McKinney will complete all reporting and reimbursement requirements as set forth in the Agreement and Scope. Specific reporting requirements and their frequencies are detailed below.

#### **Request for Reimbursement**

With each request for Reimbursement, the City of McKinney must submit documentation proving payment and/or expenses, such as invoices, cancelled checks, or labor reports. In addition, a completed Activity Information Form(s), included as Appendix B, must be submitted, as applicable, for each activity for which reimbursement is requested. The final Request for Reimbursement is due to NCTCOG no later than October 31, 2011.

**Monthly Project Status Report**

A Monthly Project Status Report must be submitted by the 25<sup>th</sup> day of each month for the duration of this Agreement. The report shall be submitted to the Agreement Administrator as identified on the front of the Agreement, using the template provided in Appendix C.

**Semi-Annual Usage Report**

A Semi-Annual Usage Report must be submitted by January 15 and July 15 to reflect activity during the preceding six months for the duration of the approved Activity Life. Required reporting will include the following information for each activity:

- For Vehicle Activities
  - Actual Mileage for the Semi-Annual Reporting Period
  - Actual Cumulative Mileage
  - Actual Gallons Fuel Consumed for the Semi-Annual Reporting Period
  - Actual Cumulative Gallons Fuel Consumed
  - Percent of Time Operating in Dallas-Fort Worth Ozone Nonattainment Area for the Semi-Annual Reporting Period
  - Operational Issues or Changes (if any, such as significant maintenance concerns, repair needs, etc.)
- For Infrastructure Activities
  - Actual Gallons Dispensed for the Semi-Annual Reporting Period
  - Actual Cumulative Gallons Dispensed
  - Average Price of Alternative Fuel over Semi-Annual Reporting Period
  - Operational Changes (if any, such as significant maintenance/repair needs, temporary closings, etc.)

Semi-Annual usage reporting will be completed online through the NCTCOG Website ([www.nctcog.org](http://www.nctcog.org)). A username and password will be provided prior to the end of the first reporting period.

**Certified Payroll Reports**

Weekly Certified Payroll Reports must be submitted by 5 pm on the Friday of the week following the reporting period for any week in which applicable work is performed. The required weekly payroll reporting form is provided in Appendix D and shall also be completed for Contractors. Reports with original signatures must be submitted to the Agreement Administrator. Scanned or faxed copies are not acceptable.

**Schedule**

Task	Date
Certified Payroll Records	Weekly Certified Payroll Reports must be submitted by 5 pm on the Friday of the week following the reporting period for any week in which applicable work is performed.

Task	Date
Monthly Project Status Report	Due by the 20 <sup>th</sup> day of each month for the duration of the Agreement period. After the first monthly report has been submitted, the timeline for subsequent reports shall cover the 21 <sup>st</sup> day of the month through the 20 <sup>th</sup> day of the following month.
Semi-Annual Usage Reporting	Due by January 15 for activity from July 1 – December 31, and due by July 15 for activity from January 1 – June 30, for the duration of the Activity Life.
Project Completion Deadline	October 31, 2011
Final Request for Reimbursement	October 31, 2011
Written Certification of Disposition	Required at end of Activity Life or upon transfer of ownership for all grant-funded vehicles and equipment.

Appendix B  
Activity Information Form

# NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

## Activity Information Form

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PERFORMING PARTY: \_\_\_\_\_

PROJECT NUMBER: \_\_\_\_\_

**Part 1: Complete either Table 1, 2, or 3 for each activity number, depending on project type. Make additional copies of this form as necessary to submit all activities.**

**Table 1: Complete only for vehicle/equipment replacement or repower projects, or projects involving installation of a technology powered by an engine (i.e. an auxiliary power unit).**

1	2	3	4	5	6	7	8	9	10	11
Scope Activity No.	Vehicle/Equipment/Technology Year/Make/Model	VIN or Equipment Serial Number	Engine Year/Make/Model	Engine Test Group/Family Code <sup>1</sup>	Engine Serial No.	Engine Horsepower	Gross Vehicle Weight Rating <i>(on-road vehicles only)</i>	VIN/Serial Number of Host Vehicle/Equipment <sup>2</sup> <i>(if applicable)</i>	Fuel Type	Date Placed in Service

<sup>1</sup>The Engine Test Group/Family Code number may be found on the emissions label located under the hood of the vehicle or, for equipment, on the engine itself.

<sup>2</sup>This category applies to projects which involve the purchase/installation of a technology on another vehicle, such as an auxiliary power unit. In that case, the serial number of the APU goes in Column 3, and the VIN/serial number of the equipment on which the APU is installed goes in column 9.





# NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

## Activity Information Form

**Table 3: Complete only for projects involving on-site infrastructure (i.e. truck stop electrification or refueling/recharging infrastructure).**

1	2	3	4	5	6	7
Scope Activity No.	Site/Facility Name or Description	Site Location <i>(Address, City, County, ZIP)</i>	Technology/Fuel Provided <i>(if applicable, provide manufacturer name)</i>	Number Vehicle/ Equipment Connections <sup>1</sup>	Access Provided <i>(public, shared, or private access)</i>	Date Placed in Service

<sup>1</sup>For this column, please enter the number of parking spaces electrified, the number of alternative fuel dispensers/nozzles available, or other appropriate quantifiable measure for the project.

**Part 2: Attach supporting photo documentation. A checklist of required photos is outlined below, based upon Activity Type.**

Vehicle Projects (including replacement, repower, purchase, or add-on of retrofit or other technology)		Infrastructure Projects	
	Entire Vehicle		Overview of Site, Including Dispensers/Connections
	VIN		Close-Up of Dispensers/Connections
	Engine Data Plate		Identifying Signage (fuel type, price, etc.)
	Technology on vehicle after installation (if applicable, i.e. for auxiliary power units, conversion systems, etc.)		Safety Labels, If Applicable

Submitted by:

\_\_\_\_\_

Printed Name and Title

**NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS**  
**Activity Information Form**

---

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## Appendix C

### Monthly Project Status Report Form

**CLEAN FLEETS NORTH TEXAS RECOVERY ACT PROJECT**  
**Monthly Project Status Report**

1. Performing Party Name: \_\_\_\_\_
2. Reporting on Scope Activity Number(s): \_\_\_\_\_
3. Reporting Period (month): \_\_\_\_\_
4. Description of work/grant activities completed during this month. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
5. Dollar amount of work/grant activities completed during this month. \_\_\_\_\_
6. Describe any problems or difficulties encountered. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
7. Are the difficulties impacting your project deliverables or timeline? \_\_\_\_\_
8. Discussion of work/grant activities to be completed during the next reporting period.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
9. Are you a Certified Disadvantaged Business Enterprise (DBE)?  
No \_\_\_\_\_ Yes \_\_\_\_\_ (if yes, attach Certification)
10. If you answered yes to question 9, what type of business enterprise (check all that apply):  
Historically Underutilized Business (HUB) \_\_\_\_\_  
Small Business Enterprise (SBE) \_\_\_\_\_  
Labor Surplus Area Firms (LSAF) \_\_\_\_\_  
Woman-owned Business Enterprise (WBE) \_\_\_\_\_  
Minority-owned Business Enterprise (MBE) \_\_\_\_\_

11. Performing Party Contractor information:

Name & Address (City, State, Zip Code-4 digit)	Dollar Value	DUNS #	Product Code	DBE Certification (attach Certificate)
				HUB ____ SBE ____ WBE ____ MBE ____ LSAF ____
				HUB ____ SBE ____ WBE ____ MBE ____ LSAF ____
				HUB ____ SBE ____ WBE ____ MBE ____ LSAF ____
				HUB ____ SBE ____ WBE ____ MBE ____ LSAF ____
				HUB ____ SBE ____ WBE ____ MBE ____ LSAF ____

**Contact information of person completing report:**

Print Name: \_\_\_\_\_  
 Telephone: \_\_\_\_\_  
 Email Address: \_\_\_\_\_

**Certification Statement**

I certify to the best of my knowledge and belief that the data provided on this Monthly Project Status Report are correct and complete, and in compliance with all provisions of the Agreement.

**PERFORMING PARTY**

\_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Print Name  
 \_\_\_\_\_  
 Date

**Instructions**  
**CLEAN FLEETS NORTH TEXAS RECOVERY ACT PROJECT**  
**Monthly Project Status Report**

**Definitions:**

Minority Business Enterprise (MBE) is a business concern that is (1) at least 51 percent owned by one or more minority individuals, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more minority individuals; and (2) whose daily business operations are managed and directed by one or more of the minority owners.

Woman Business Enterprise (WBE) is a business concern that is, (1) at least 51 percent owned by one or more women, or, in the case of a publicly owned business, at least 51 percent of the stock is owned by one or more women and (2) whose daily business operations are managed and directed by one or more of the women owners.

Historically Underutilized Business (HUB) is a business (except tribally-owned concerns) that is (1) a small business by SBA standards (2) owned and controlled at least 51% by U.S. citizens, or a Community Development Corporation, or an agricultural cooperative or an Indian tribe (3) its principal office must be located within a "Historically Underutilized Business Zone," which includes lands considered "Indian Country" and military facilities closed by the Base Realignment and Closure Act and (4) at least 35% of its employees must reside in a HUBZone.

Small Business Enterprise (SBE) is an independent business having fewer than 500 employees.

Labor Area Surplus Firm (LASF) is a geographical area identified by the Department of Labor as an area of concentrated unemployment or underemployment or an area of labor surplus.

Equipment is any tangible, nonexpendable, personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit.

**Performing Party Information:**

1. Self-explanatory
2. Activity number can be found in the Scope of Service, Appendix A of the Agreement
3. Self-explanatory
4. Provide a brief description of the status of the project or activity by outlining work that has been completed during the reporting period, including project success and/or accomplishments.
5. Dollar amount spent during this reporting period for completed project or activity. Can include amount in which a request for reimbursement has not been submitted to NCTCOG during this reporting period.
6. Provide a brief description of any problems and/or difficulties encountered during this reporting period and action taken to resolve problems and/or difficulties.
7. Indicate with and yes or no if difficulties encountered prevents project deliverable or timeline.
8. Provide a brief description of project work or activity that will take place during the reporting period, including anticipated project success and/or accomplishments.

9. Based on the definition above, select yes or no if your entity is or is not certified as a DBE enterprise.
10. Select all DBE type that applies to your entity and attach a copy of the Certificate.
11. If your entity received goods/services this reporting quarter, provide Contractor(s) information in the table:

Column 1: Contractor name and address. Include four digit extension to zip code

Column 2: Dollar amount of product or service provided by Contractor

Column 3: If the value of product or service provided by Contractor is over \$5,000, provide Contractor's DUNS number

Column 4: Using the following product code numbers; identify the type of product or service acquired through the procurement:

0 = Operation and Maintenance

1 = Construction

**Light Duty Vehicles**

2 = Neighborhood Electric Vehicles

3 = Gasoline Powered Hybrid Vehicles

4 = Diesel Vehicles

5 = Gasoline Powered Plug-In Hybrid

6 = Other Alternative Fueled Vehicles

**Medium and Heavy Duty Vehicles**

7 = Electric Vehicles

8 = Hybrid Vehicles Powered by Alternative Fuels

9 = Other Alternative Fueled Vehicles

10 Other Gasoline/Diesel Powered Advanced Technology Vehicles

Column 5: If applicable, based on the definition above, select DBE Certification type for Contractor. Select all DBE types that apply, and attach a copy of the Certificate.



## Appendix D

### Lower Tier Participant Debarment Certification

**LOWER TIER PARTICIPANT DEBARMENT CERTIFICATION  
(Negotiated Contracts)**

\_\_\_\_\_, being duly  
(Name of certifying official)  
sworn or under penalty of perjury under the laws of the United States, certifies that neither  
\_\_\_\_\_, nor its principals  
(Name of lower tier participant)  
are presently:

- debarred, suspended, proposed for debarment,
- declared ineligible,
- or voluntarily excluded from participation in this transaction  
by any federal department or agency

Where the above identified lower tier participant is unable to certify to any of the above statements in this certification, such prospective participant shall indicate below to whom the exception applies, the initiating agency, and dates of action.

Exceptions will not necessarily result in denial of award but will be considered in determining contractor responsibility. Providing false information may result in criminal prosecution or administrative sanctions.

**EXCEPTIONS:**

\_\_\_\_\_  
Signature of Certifying Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date of Certification

Form 1734  
Rev.10-91  
TPFS

## Appendix E

### Lobbying Certification and Disclosure of Lobbying Activities

**LOBBYING CERTIFICATION  
FOR CONTRACTS, GRANTS, LOANS, AND COOPERATIVE AGREEMENTS**

The undersigned certifies to the best of his or her knowledge and belief, that:

(1) No federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension continuation, renewal amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Agency

\_\_\_\_\_  
Date

TxDOT  
1-91  
TPFS



## INSTRUCTIONS FOR COMPLETION OF SF-LLL DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime recipient, at the initiation or receipt of a covered action, or a material change to a previous filing. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an employee of the NCTCOG, a Member of the Regional Transportation Council (RTC), an officer or employee of the Regional Transportation Council (RTC), or an employee of a Member of the Regional Transportation Council (RTC) in connection with a covered action. Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report.

1. Identify the type of covered action for which lobbying activity is and/or has been secured to influence the outcome of a covered action.
2. Identify the status of the covered action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered action.
4. Enter the full name address city, state and zip code of the reporting entity. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, state and zip code of the prime recipient.
6. Enter the name of the agency making the award or loan commitment.
7. Enter the program name or description for the covered action (item 1.)
8. Enter the most appropriate identifying number available for action identified in item 1 (e.g., Request for Proposal (RFP) number; invitation for Bid (B) number, grant announcement number; the contract grant, or loan award number; the application/proposal control number assigned by the agency.) Include prefixes, e.g. "RFP-DE-90-001."
9. For a covered action where there has been an award or loan commitment by the agency, enter the amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered action.  
(b) Enter the full names of the individuals(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate boxes(s). Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contract with officials. Identify the employee of the NCTCOG, the Member of the Regional Transportation Council (RTC), an officer or employee of the Regional Transportation Council (RTC), or the employee of a Member of the Regional Transportation Council (RTC) in connection with a covered.
15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name, title, and the telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

**DISCLOSURE OF LOBBYING ACTIVITIES  
CONTINUATION SHEET**

Reporting Entity: \_\_\_\_\_ Page \_\_\_\_\_ of \_\_\_\_\_

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## Appendix F

### Required Use of American Iron, Steel, and Manufactured Goods



**REQUIRED USE OF AMERICAN IRON, STEEL, AND MANUFACTURED GOODS (COVERED UNDER INTERNATIONAL AGREEMENTS)--SECTION 1605 OF THE AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009**

(a) Definitions. As used in this award term and condition--

Designated country –

(1) A World Trade Organization Government Procurement Agreement country (Aruba, Austria, Belgium, Bulgaria, Canada, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hong Kong, Hungary, Iceland, Ireland, Israel, Italy, Japan, Korea (Republic of), Latvia, Liechtenstein, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Singapore, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, and United Kingdom);

(2) A Free Trade Agreement (FTA) country (Australia, Bahrain, Canada, Chile, Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, Israel, Mexico, Morocco, Nicaragua, Oman, Peru, or Singapore); or

(3) A United States-European Communities Exchange of Letters (May 15, 1995) country: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, and United Kingdom.

Designated country iron, steel, and/or manufactured goods –

(1) Is wholly the growth, product, or manufacture of a designated country; or

(2) In the case of a manufactured good that consist in whole or in part of materials from another country, has been substantially transformed in a designated country into a new and different manufactured good distinct from the materials from which it was transformed.

Domestic iron, steel, and/or manufactured good –

(1) Is wholly the growth, product, or manufacture of the United States; or

(2) In the case of a manufactured good that consists in whole or in part of materials from another country, has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed.

There is no requirement with regard to the origin of components or subcomponents in manufactured goods or products, as long as the manufacture of the goods occurs in the United States.

Foreign iron, steel, and/or manufactured good means iron, steel and/or manufactured good that is not domestic or designated country iron, steel, and/or manufactured good.

Manufactured good means a good brought to the construction site for incorporation into the building or work that has been--

(1) Processed into a specific form and shape; or

(2) Combined with other raw material to create a material that has different properties than the properties of the individual raw materials.

Public building and public work means a public building of, and a public work of, a governmental entity (the United States; the District of Columbia; commonwealths, territories, and minor outlying islands of the United States; State and local governments; and multi-State, regional, or interstate entities which have governmental functions). These buildings and works may include, without limitation, bridges, dams, plants, highways, parkways, streets, subways, tunnels, sewers, mains, power lines, pumping stations, heavy generators, railways, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, and canals, and the construction, alteration, maintenance, or repair of such buildings and works.

Steel means an alloy that includes at least 50 percent iron, between .02 and 2 percent carbon, and may include other elements.

(b) Iron, steel, and manufactured goods.

(1) The award term and condition described in this section implements--

(i) Section 1605(a) of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111--5) (Recovery Act), by requiring that all iron, steel, and manufactured goods used in the project are produced in the United States; and

(ii) Section 1605(d), which requires application of the Buy American requirement in a manner consistent with U.S. obligations under international agreements. The restrictions of section 1605 of the Recovery Act do not apply to designated country iron, steel, and/or manufactured goods. The Buy American requirement in section 1605 shall not be applied where the iron, steel or manufactured goods used in the project are from a Party to an international agreement that obligates the recipient to treat the goods and services of that Party the same as domestic goods and services. This obligation shall only apply to projects with an estimated value of \$7,443,000 or more.

(2) The recipient shall use only domestic or designated country iron, steel, and manufactured goods in performing the work funded in whole or part with this award, except as provided in paragraphs (b)(3) and (b)(4) of this section.

(3) The requirement in paragraph (b)(2) of this section does not apply to the iron, steel, and manufactured goods listed by the Federal Government as follows:

NONE

(4) The award official may add other iron, steel, and manufactured goods to the list in paragraph (b)(3) of this section if the Federal Government determines that--

(i) The cost of domestic iron, steel, and/or manufactured goods would be unreasonable. The cost of domestic iron, steel, and/or manufactured goods used in the project is unreasonable when the cumulative cost of such material will increase

the overall cost of the project by more than 25 percent;

(ii) The iron, steel, and/or manufactured good is not produced, or manufactured in the United States in sufficient and reasonably available commercial quantities of a satisfactory quality; or

(iii) The application of the restriction of section 1605 of the Recovery Act would be inconsistent with the public interest.

(c) Request for determination of inapplicability of section 1605 of the Recovery Act or the Buy American Act.

1) (i) Any recipient request to use foreign iron, steel, and/or manufactured goods in accordance with paragraph (b)(4) of this section shall include adequate information for Federal Government evaluation of the request, including--

(A) A description of the foreign and domestic iron, steel, and/or manufactured goods;

(B) Unit of measure;

(C) Quantity;

(D) Cost;

(E) Time of delivery or availability;

(F) Location of the project;

(G) Name and address of the proposed supplier; and

(H) A detailed justification of the reason for use of foreign iron, steel, and/or manufactured goods cited in accordance with paragraph (b)(4) of this section.

(ii) A request based on unreasonable cost shall include a reasonable survey of the market and a completed cost comparison table in the format in paragraph (d) of this section.

(iii) The cost of iron, steel, or manufactured goods shall include all delivery costs to the construction site and any applicable duty.

(iv) Any recipient request for a determination submitted after Recovery Act funds have been obligated for a project for construction, alteration, maintenance, or repair shall explain why the recipient could not reasonably foresee the need for such determination and could not have requested the determination before the funds were obligated. If the recipient does not submit a satisfactory explanation, the award official need not make a determination.

(2) If the Federal Government determines after funds have been obligated for a project for construction, alteration, maintenance, or repair that an exception to section 1605 of the

Recovery Act applies, the award official will amend the award to allow use of the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is nonavailability or public interest, the amended award shall reflect adjustment of the award amount, redistribution of budgeted funds, and/or other appropriate actions taken to cover costs associated with acquiring or using the foreign iron, steel, and/or relevant manufactured goods. When the basis for the exception is the unreasonable cost of the domestic iron, steel, or manufactured goods, the award official shall adjust the award amount or redistribute budgeted funds, as appropriate, by at least the differential established in 2 CFR 176.110(a).

(3) Unless the Federal Government determines that an exception to section 1605 of the Recovery Act applies, use of foreign iron, steel, and/or manufactured goods other than designated country iron, steel, and/or manufactured goods is noncompliant with the applicable Act.

(d) Data. To permit evaluation of requests under paragraph (b) of this section based on unreasonable cost, the applicant shall include the following information and any applicable supporting data based on the survey of suppliers:

Foreign and Domestic Items Cost Comparison

Description	Unit of measure	Quantity	Cost(dollars)*
Item 1:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____
Item 2:			
Foreign steel, iron, or manufactured good	_____	_____	_____
Domestic steel, iron, or manufactured good	_____	_____	_____

[List name, address, telephone number, email address, and contact for suppliers surveyed. Attach copy of response; if oral, attach summary.]

[Include other applicable supporting information.]

[\*Include all delivery costs to the construction site.]

## Appendix G

Wage Rate Requirements under Section 1606 of the Recovery Act  
Davis Bacon Act and Contract Work Hours and Safety Standards Act and  
Wage Determinations for North Central Texas

## **WAGE RATE REQUIREMENTS UNDER SECTION 1606 OF THE RECOVERY ACT**

(a) Section 1606 of the Recovery Act requires that all laborers and mechanics employed by contractors and subcontractors on projects funded directly by or assisted in whole or in part by and through the Federal Government pursuant to the Recovery Act shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code.

Pursuant to Reorganization Plan No. 14 and the Copeland Act, 40 U.S.C. 3145, the Department of Labor has issued regulations at 29 CFR parts 1, 3, and 5 to implement the Davis-Bacon and related Acts. Regulations in 29 CFR 5.5 instruct agencies concerning application of the standard Davis-Bacon contract clauses set forth in that section. Federal agencies providing grants, cooperative agreements, and loans under the Recovery Act shall ensure that the standard Davis-Bacon contract clauses found in 29 CFR 5.5(a) are incorporated in any resultant covered contracts that are in excess of \$2,000 for construction, alteration or repair (including painting and decorating).

(b) For additional guidance on the wage rate requirements of section 1606, contact your awarding agency. Recipients of grants, cooperative agreements and loans should direct their initial inquiries concerning the application of Davis-Bacon requirements to a particular federally assisted project to the Federal agency funding the project. The Secretary of Labor retains final coverage authority under Reorganization Plan Number 14.

## **DAVIS BACON ACT AND CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

**Definitions:** For purposes of this article, Davis Bacon Act and Contract Work Hours and Safety Standards Act, the following definitions are applicable:

(1) "Award" means any grant, cooperative agreement or technology investment agreement made with Recovery Act funds by the Department of Energy (DOE) to a Recipient. Such Award must require compliance with the labor standards clauses and wage rate requirements of the Davis-Bacon Act (DBA) for work performed by all laborers and mechanics employed by Recipients (other than a unit of State or local government whose own employees perform the construction) Subrecipients, Contractors and subcontractors.

(2) "Contractor" means an entity that enters into a Contract. For purposes of these clauses, Contractor shall include (as applicable) prime contractors, Recipients, Subrecipients, and Recipients' or Subrecipients' contractors, subcontractors, and lower-tier subcontractors. "Contractor" does not mean a unit of State or local government where construction is performed by its own employees."

(3) "Contract" means a contract executed by a Recipient, Subrecipient, prime contractor or any tier subcontractor for construction, alteration, or repair. It may also mean (as applicable) (i) financial assistance instruments such as grants, cooperative agreements, technology investment agreements, and loans; and, (ii) Sub awards, contracts and subcontracts issued under financial assistance agreements. "Contract" does not mean a financial assistance instrument with a unit of State or local government where construction is performed by its own employees.

(4) "Contracting Officer" means the DOE official authorized to execute an Award on behalf of DOE and who is responsible for the business management and non-program aspects of the financial assistance process.

(5) "Recipient" means any entity other than an individual that receives an Award of Federal funds in the form of a grant, cooperative agreement or technology investment agreement directly from the Federal Government and is financially accountable for the use of any DOE funds or property, and is legally responsible for carrying out the terms and conditions of the program and Award.

(6) "Subaward" means an award of financial assistance in the form of money, or property in lieu of money, made under an award by a Recipient to an eligible Subrecipient or by a Subrecipient to a lower-tier subrecipient. The term includes financial assistance when provided by any legal agreement, even if the agreement is called a contract, but does not include the Recipient's procurement of goods and services to carry out the program nor does it include any form of assistance which is excluded from the definition of "Award" above.

(7) "Subrecipient" means a non-Federal entity that expends Federal funds received from a Recipient to carry out a Federal program, but does not include an individual that is a beneficiary of such a program.

#### **(a) Davis Bacon Act**

(1) Minimum wages.

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3) ), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (a)(1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in § 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (a)(1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii) (A) The Contracting Officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the Contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(C) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) of this section, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the Contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, *Provided*, That the Secretary of Labor has found, upon the written request of the



Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(2) Withholding. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the Contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the Contract, the Department of Energy, Recipient, or Subrecipient, may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records.

(i) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii) (A) The Contractor shall submit weekly for each week in which any Contract work is performed a copy of all payrolls to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit the payrolls to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each

employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the Department of Energy if the agency is a party to the Contract, but if the agency is not such a party, the Contractor will submit them to the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner, as the case may be, for transmission to the Department of Energy, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the sponsoring government agency (or the Recipient or Subrecipient (as applicable), applicant, sponsor, or owner).

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the Contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the Contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the Contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under section 1001 of [title 18 and section 3729](#) of title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized

representatives of the Department of Energy or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to [29 CFR 5.12](#).

(4) Apprentices and trainees--

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in [29 CFR 5.16](#), trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every

trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of [Executive Order 11246](#), as amended and 29 CFR part 30.

(5) Compliance with Copeland Act requirements. The Contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this Contract.

(6) Contracts and Subcontracts. The Recipient, Subrecipient, the Recipient's and Subrecipient's contractors and subcontractor shall insert in any Contracts the clauses contained herein in (a)(1) through (10) and such other clauses as the Department of Energy may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of the paragraphs in this clause.

(7) Contract termination: debarment. A breach of the Contract clauses in 29 CFR 5.5 may be grounds for termination of the Contract, and for debarment as a contractor and a subcontractor as provided in [29 CFR 5.12](#).

(8) Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this Contract.

(9) Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this Contract shall not be subject to the general disputes clause of this Contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Recipient, Subrecipient, the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility.

(i) By entering into this Contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or [29 CFR 5.12\(a\)\(1\)](#).

(ii) No part of this Contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or [29 CFR 5.12\(a\)\(1\)](#).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, [18 U.S.C. 1001](#).

**(b) Contract Work Hours and Safety Standards Act.** As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

(1) Overtime requirements. No Contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (b)(1) of this section the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (b)(1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (b)(1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The Department of Energy or the Recipient or Subrecipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same prime Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b)(2) of this section.

(4) Contracts and Subcontracts. The Recipient, Subrecipient, and Recipient's and Subrecipient's contractor or subcontractor shall insert in any Contracts, the clauses set forth in paragraph (b)(1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Recipient shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (b)(1) through (4) of this section.

(5) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Energy and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

An electronic copy of the payroll reporting form WH-347 can be downloaded from the Department of Labor website, [www.dol.gov](http://www.dol.gov) or direct link, <http://www.dol.gov/whd/forms/wh347.pdf>.

Appendix H  
Payroll Reporting Form (WH-347)







## Appendix I

### Employee's Rights Under the Davis-Bacon Act

# EMPLOYEE RIGHTS UNDER THE DAVIS-BACON ACT

## FOR LABORERS AND MECHANICS EMPLOYED ON FEDERAL OR FEDERALLY ASSISTED CONSTRUCTION PROJECTS

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

### PREVAILING WAGES

You must be paid not less than the wage rate listed in the Davis-Bacon Wage Decision posted with this Notice for the work you perform.

### OVERTIME

You must be paid not less than one and one-half times your basic rate of pay for all hours worked over 40 in a work week. There are few exceptions.

### ENFORCEMENT

Contract payments can be withheld to ensure workers receive wages and overtime pay due, and liquidated damages may apply if overtime pay requirements are not met. Davis-Bacon contract clauses allow contract termination and debarment of contractors from future federal contracts for up to three years. A contractor who falsifies certified payroll records or induces wage kickbacks may be subject to civil or criminal prosecution, fines and/or imprisonment.

### APPRENTICES

Apprentice rates apply only to apprentices properly registered under approved Federal or State apprenticeship programs.

### PROPER PAY

If you do not receive proper pay, or require further information on the applicable wages, contact the Contracting Officer listed below:

Mr. Kellyn L. Cassell  
Contract Specialist  
US Department of Energy  
National Energy Technology Laboratory  
PO Box 880, MS 107  
3610 Collins Ferry Road  
Morgantown WV 26507-0880  
Phone: (304) 285-4554  
Email: Kellyn.Cassell@netl.doe.gov

or contact the U.S. Department of Labor's Wage and Hour Division.



For additional information:

**1-866-4-USWAGE**  
(1-866-487-9243) TTY: 1-877-889-5627



**WWW.WAGEHOUR.DOL.GOV**