

North Central Texas
Council of Governments

SAMPLE

TEXAS EMISSIONS REDUCTION PLAN (TERP)
NORTH TEXAS EMISSIONS REDUCTION GRANT
Project Application Form
NTERG – App

North Central Texas Council of Governments (NCTCOG)
Air Quality Policy and Program Development
P.O. Box 5888
Arlington, TX 76005-5888
(817) 608-2353
(817) 608-2354
(817) 640-3028 - fax
<http://www.nctcog.org/NTERG>

Please Note:

- 1. This application period is limited to projects that will be conducted in the Dallas-Fort Worth nonattainment area, including Hood and Hunt counties.***
- 2. Grants for projects are limited to no more than \$5,500 per ton of NOx reduced.***

This application will be considered void if the applicant changes any questions. No other versions of the TERP application will be accepted during this application period.

NTERG - App (06/27/06)

North Texas Emissions Reduction Grant Project Application Form and Submittal Instructions

Note: this page does not need to be returned to NCTCOG with the application forms.

Application Submission

This form is to be used to apply for a grant for projects under the North Central Texas Council of Governments' (NCTCOG) Texas Emission Reduction Plan (TERP) North Texas Emissions Reduction Grant (NTERG) Program.

The project eligibility criteria and types of purchases eligible under this program are explained more in the NCTCOG's *Call for Projects Guidelines*.

Potential applicants should first review the guidelines and CFP instructions before completing the application forms.

For each project:

- 1) Complete and submit one original and two copies of the *Project Application Form* (please sign pages 1, 5, 6, 7, and 8).
- 2) Multiple activities may be included under one Project Application. Complete the applicable *Supplement Activity Application Forms* for each activity to be included in the project and submit three hard copies (at least one original and two copies); and, if possible, one electronic copy in MS Word format. The forms should be typed and signed in ink. Include copies of bids or quotes or other documentation identified in the application forms.
- 3) To expedite the contracting process, sign and submit three original copies of the *Understanding and Agreement of General and Special Conditions*.

If you have questions regarding the application process, contact NCTCOG staff members Carrie Reese at (817) 608-2353 or Amanda Brimmer at (817) 608-2354. **Proposals will be accepted the day the call for projects opens and will be awarded on a modified first come, first served basis.** Proposals will be scored and selected on a weekly basis until funds are fully awarded. Applications must be received by 5:00 p.m. on Friday to be scored and selected with the current weeks group of applications. Applications received after 5:00 p.m. on Friday will be scored with the next group of applications that are received by 5:00 p.m. the following Friday, pending availability of remaining funds. Applications should be submitted early to ensure funding availability.

Completed forms should be submitted to:

Regular Mail: North Central Texas Council of Governments
Transportation Department
North Texas Emissions Reduction Grant Call for Projects
Attn: Carrie Reese
P.O. Box 5888
Arlington, TX 76005-5888

Express Mail: North Central Texas Council of Governments
Transportation Department
North Texas Emissions Reduction Grant Call for Projects
Attn: Carrie Reese

Suite 200, Centerpoint Two
Arlington, TX

The North Texas Emissions Reduction Grant Program is a reimbursement program and applications are considered in a competitive manner. Submission of an application should not be construed as entitlement to a grant.

Special Instructions

Use of Consultants

Private consultants may be available to assist an applicant to complete and submit an application. **These consultants do not represent the NCTCOG, and the NCTCOG neither encourages nor discourages the use of a consultant to assist with the application process.** The NCTCOG has no real or implied agreement with any consultant that applications submitted by a particular consultant will receive more favorable treatment than other applications. Any fees charged by a consultant are the responsibility of the applicant and may not be charged to the grant. Also, all purchase decisions must be based on sound business practices and arm's length bargaining. It is generally considered acceptable for an applicant to accept assistance from a vendor or an agent of a vendor in preparing an application, as long as any decision by the applicant to purchase the grant-funded vehicle or equipment from that vendor is made independently and meets the other reasonableness provisions in the grant contract. However, if the consultant is paid directly by the applicant to complete the application documents and to act as the applicant's agent for the grants process, purchases of grant-funded vehicles or equipment from a company in which the consultant has an interest would not normally be considered appropriate by the NCTCOG under the reasonableness requirements of the grant contract.

Do Not Alter the Forms

Applicants should not make any changes to the questions on the application forms. Applications with altered language will be considered void and will not be accepted. If you are unable to answer the question as stated, indicate as such and provide an explanation.

Do Not Overstate Annual Usage or the Percentage of that Usage in the Eligible Counties

Applicants are cautioned against overstating the historical and/or projected annual usage (mileage, hours of operation, and/or fuel use) and the percentage of that usage in the eligible counties in order to qualify for a grant. The grant contract will require the return of a share of the grant funds if the annual usage targets and the percentage of that usage in the eligible counties are not met. Semi-annual monitoring reports will be required and the NCTCOG will periodically conduct site visits to verify that the information provided is correct.

NCTCOG & TCEQ Employees

Businesses or other entities in which a NCTCOG or Texas Commission on environmental Quality (TCEQ) employee, spouse, or family member of a NCTCOG or TCEQ employee has a direct or indirect interest, financial or otherwise, may be prohibited from receiving a grant, depending upon the nature of the interest. Any questions regarding the eligibility of an entity to apply for a grant should be referred to the NCTCOG staff early in the application process.

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**
Please type all information.

Section 1. Cover Information

1. Name of the applicant: ABC Inc.	
2. Contact name and telephone number for questions about the application: Joe Smith, (555) 555-5555	
3. If the application was prepared by a consultant or someone other than the applicant, list the name and phone number of the consultant or preparer: N/A	
4. I hereby certify that, to the best of my knowledge and belief, all information provided in this application and any attachments is true and correct. I further understand that, prior to incorporating these forms and information into a grant contract, the data and information may be revised by the NCTCOG for accuracy, and that our acceptance of a grant contract will constitute agreement with those revisions.	
Printed Name of Authorized Official: John Jones <i>Must be the individual authorized by the applying organization to apply for the grant.</i>	Title: President
Signature of Authorized Official: <i>JH Jones</i>	Date: 8/14/06
Personal Information Policy. Individuals are entitled to request and review their personal information that the agency gathers on its forms. They may also have any errors in their information corrected. To review such information, contact the NCTCOG at 817/608/2353.	
Do not alter the forms. Applications with altered language will be considered void and will not be accepted.	

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**
Please type all information.

Section 2. Project Information

1. Number of *Supplemental Activity Application Forms* attached: 2

2. Number of separate activities included under this project application, by category (see question 1 of the *Supplemental Activity Application Forms*):

1	Heavy Duty On-road Vehicles: Lease or Purchase, Replacement, Repower, Retrofit or Add-on Technology: (NCTCOG Form NTERG-On-road)	_____	Stationary Equipment: Lease or Purchase, Replacement, Repower, Retrofit or Add-on Technology: (NCTCOG Form NTERG-Stationary)
1	Non-road Equipment: Lease or Purchase, Replacement, Repower, Retrofit or Add-on Technology: (NCTCOG Form NTERG-Non-road)	_____	Refueling Infrastructure: (Contact NCTCOG Staff for Form)
_____	Marine Vessels: Lease or Purchase, Replacement, Repower, Retrofit or Add-on Technology: (Contact NCTCOG Staff for Form)	_____	On-Site Electrification and Idle Reduction Infrastructure: (Contact NCTCOG Staff for Form)
_____	Locomotives: Lease or Purchase, Replacement, Repower, Retrofit or Add-on Technology: (NCTCOG Form NTERG-Locomotive)	_____	On-Vehicle Electrification and Idle Reduction Infrastructure: (Contact NCTCOG Staff for Form)

3. What will be the primary area for the project? Please check only one
 (Only projects operated within the Dallas Fort Worth area will be accepted for this grant round.)

Dallas/Fort Worth _____

*Please note that Hood and Hunt counties are included in the DFW area for this call for projects.

4 Project Grant Amount:

	Applicant's Request	Approved by NCTCOG
Total Incremental Cost of the Project (totals from the <i>Supplemental Activity Forms</i>)	\$330,000	
Grant Amount (totals from the <i>Supplemental Activity Forms</i>)	\$60,087.94	

5. Information on Emissions Reductions and Cost per ton (**completion is optional**):

Applicant's estimated total NOx reductions for the project (tons):	15.831
Applicant's estimate of the cost per ton of NOx reduced: <i>Grants are limited to no more than \$5,500 per ton of NOx reduced.</i>	\$3,795.59

All eligible vehicles and pieces of equipment included in this application will be reviewed as a single project.

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**

Section 3. Applicant Information

1. Legal name (for contracting) of entity applying: ABC Inc.				
2. Identification Number (SSN or FEI#): 55-5555555				
3. Does the applicant already have a Texas Payee Identification Number (PIN)?: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Unknown If Yes, enter the PIN, including the Comptroller-assigned mail code:				
4. Is the applicant reporting any Texas tax to the Texas Comptroller of Public Accounts other than unemployment (e.g., sales tax, franchise tax)?: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No If Yes, enter Texas Taxpayer Number: 5-55-55555555-5				
5. Mailing address for grant payments (include address, city, state, and zip): 123 Main Street, Grand Prairie, TX 75050				
6. Do you wish to assign your grant payments to a third party Assignee?: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, you must submit a completed <i>Notice of Assignment</i> and a <i>Texas Application for Payee Identification Number (AP-152)</i> . These forms will be provided for you to complete and submit if you are awarded a grant.				
<p>7. Ownership Codes - Check only one ownership type that applies to the applicant.</p> <table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> I - Individual recipient (not owning a business) <input type="checkbox"/> S - Sole Proprietorship (individual owning a business) Owner's Name Owner's SSN: <input type="checkbox"/> P - Partnership If checked, enter two partner's names and Social Security Numbers (SSN). If a partner is a corporation, use the corporation's Federal Employer's Identification (FEI) Number Name: SSN/FEI#: Name: SSN/FEI#: </td> <td style="width: 50%; vertical-align: top;"> <input type="checkbox"/> J - Joint Venture <input checked="" type="checkbox"/> L - Limited Partnership Texas File Number: 555555555 <input type="checkbox"/> T - Texas Corporation Texas Charter Number: </td> </tr> <tr> <td style="vertical-align: top;"> <input type="checkbox"/> O - Out-of-State Corporation <input type="checkbox"/> G - Governmental Entity <input type="checkbox"/> U - State Agency/University <input type="checkbox"/> R - Foreign (outside of U.S.A.) </td> <td style="vertical-align: top;"> <input type="checkbox"/> A - Professional Association Texas Charter Number: <input type="checkbox"/> C - Professional Corporation Texas Charter Number: <input type="checkbox"/> N - Other Explain: </td> </tr> </table>	<input type="checkbox"/> I - Individual recipient (not owning a business) <input type="checkbox"/> S - Sole Proprietorship (individual owning a business) Owner's Name Owner's SSN: <input type="checkbox"/> P - Partnership If checked, enter two partner's names and Social Security Numbers (SSN). If a partner is a corporation, use the corporation's Federal Employer's Identification (FEI) Number Name: SSN/FEI#: Name: SSN/FEI#:	<input type="checkbox"/> J - Joint Venture <input checked="" type="checkbox"/> L - Limited Partnership Texas File Number: 555555555 <input type="checkbox"/> T - Texas Corporation Texas Charter Number:	<input type="checkbox"/> O - Out-of-State Corporation <input type="checkbox"/> G - Governmental Entity <input type="checkbox"/> U - State Agency/University <input type="checkbox"/> R - Foreign (outside of U.S.A.)	<input type="checkbox"/> A - Professional Association Texas Charter Number: <input type="checkbox"/> C - Professional Corporation Texas Charter Number: <input type="checkbox"/> N - Other Explain:
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8. If non-governmental entity, when was your organization founded: (Attach any materials (ex: brochures, website address) that provide general information about your organization)				

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**

Section 4. Designation of Grant Officials and Access to Records Location

1. Authorized Official (person signing the application)		
Name: John Jones		Title: President
Mailing Address: PO Box 1234, Grand Prairie, TX 75050	Physical Address (for express delivery): 123 Main Street, Grand Prairie, TX 75050	
1) Telephone Number: (555)555-5555 w	Fax: (555) 555-5555	
2) Telephone Number: (555) 555-5556 c	e-mail: jjones@abcinc.com	
2. Designated Project Representative for contracting purposes (The Project Representative should be an employee of the applicant who will be able to verify the status of the project during the project life)		
Name: Joe Smith		Title: Fleet Manager
Mailing Address: PO Box 1234, Grand Prairie, TX 75050	Physical Address (for express delivery): 123 Main Street, Grand Prairie, TX 75050	
1) Telephone Number: (555) 555-5557 w	Fax: (555) 555-5555	
2) Telephone Number: (555) 555-5558 c	e-mail: jsmith@abcinc.com	
3. Financial Officer (if applicable)		
Name:		Title:
Mailing Address:	Physical Address (for express delivery):	
Telephone Number:	Fax:	e-mail:
4. Designated Location for Records Access and Review by NCTCOG or its representative		
Physical Address (location/street address, city, state, and zip): 123 Main Street, Grand Prairie, TX 75050		

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**

Section 5. General Certifications and Assurances

This section serves to assure the NCTCOG that you understand and agree to the statements. These provisions relate to the basic contract form, which will be in force between the applicant and the NCTCOG upon award of a grant. NCTCOG urges applicants to download a copy of the example grant contract from www.nctcog.org/NTERG and review it so that any questions can be discussed early in the application review process. By signing below, the applicant assures and certifies that:

1. **Legal Authority.** It possesses legal authority in the State of Texas to apply for the grant, and that the applicant's governing body has authorized the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the person identified as the authorized official to act in connection with the application and to provide such additional information as may be required.
2. **Uniform Grant Management Standards.** It will comply the Uniform Grant Management Standards (UGMS), adopted by the Texas Office of the Governor, in accordance with Chapter 783, Texas Government Code.
3. **Procurement of Goods and Services.** In procuring goods and services, it will comply with Part II. Cost Principles for State and Local Governments and Other Affected Parties and Part III. State Uniform Administrative Requirements for Grants of the UGMS. All procurement transactions will be conducted in a manner providing full and open competition. Where multiple quotes or bids are not feasible, it will prepare and keep on file a written cost/price analysis to document how it determined that the costs or prices were reasonable.
4. **Historically Underutilized Businesses (HUBs).** Qualified HUBs, as defined and designated under state law, shall have the maximum practicable opportunity to participate in the performance of the work arising out of this project.
5. **Conflict of Interest.** It will establish safeguards to prohibit employees from using their positions for the purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
6. **Nondiscrimination.** It will comply with all State and Federal statutes relating to nondiscrimination.
7. **Grant Administration.** It will maintain an appropriate grant administration system to ensure that all terms, conditions, and specifications of the grant, including these certifications and assurances, are met.
8. **Examination of Records.** It will maintain and preserve all financial, contractual, and applicable program records for a period of three years after the end of the life of all activities funded under the grant. It will give the NCTCOG and/or the State Auditor, through any authorized representative, access to examine all records, books, papers, or documents related to the grant.
9. **Debt to the State.** It is not indebted to the state or has an outstanding tax delinquency. It further understands that the Texas Comptroller is precluded by law from paying a person who is indebted to the state or has a tax delinquency. The applicant must comply with all State and Federal tax laws and fee requirements and is solely responsible for filing all State and Federal tax and fee forms.
10. **Grant Contract.** It understands that a copy of the grant contract shell is available from the NCTCOG, including a copy posted on the NCTCOG's web site. It further understands that the NCTCOG will not normally change the contract language to deal with individual requests from grant recipients.

Signature of Authorized Official: *JH Jones*

Date: 8/14/06

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**

Section 6. Program-Specific Certifications and Assurances

Review, sign and date this section to indicate your understanding of and agreement to adhere to the identified program-specific requirements.

The applicant hereby assures and certifies compliance with all state statutes, regulations, policies, guidelines, and requirements as they relate to the application, acceptance, and use of funds for this project. The applicant further understands, assures and/or certifies that:

1. To the best of its knowledge, the proposed activities are not required by any state or federal law, rule, or regulation, memorandum of agreement, or other legally binding document.
2. It understands that any marketable credits under state or federal emissions reduction credit averaging, banking, or trading programs, that may be generated by the proposed activities, are transferred to the state implementation plan or permanently retired, and may not be used by the applicant. If the project is funded, the applicant waives, for all time, its right to claim emissions reduction credits which may accrue during the activity life as a result of the use of the low-emission technology which is funded under this program, and agrees not to apply for any such credits based on reductions generated in the eligible counties. Credits that accrue after the end of the activity life are not transferred, but may not be used to calculate the cost-effectiveness of the project.
3. All public financial incentives that will be used by the applicant that directly offset the costs of the proposed activities, including tax credits or deductions, other grants, or any other public financial assistance have been properly listed where indicated on the application forms and the incentive amounts requested reflect a reduction in the eligible incremental costs based on the value of those incentives.
4. It understands that failure to achieve the NOx emission reductions projected to be achieved for this project may result in the NCTCOG requiring the return of a share of the grant funds. Achievement of the emission reductions will be based on the grant equipment being used for the annual amount of hours, miles, or fuel use that occurs in the eligible counties, as designated in the application for that activity.
5. It understands that failure to operate the grant equipment for at least 75 percent of the total annual usage in the eligible counties designated in the application may be considered non-compliance with the grant agreement and may result in the NCTCOG requiring return of a share of the grant funds.
6. It will monitor the use of grant-funded vehicles, equipment, infrastructure, or qualifying fuel, and report semi-annually to the NCTCOG over the designated activity life.
7. It will notify the NCTCOG of any termination of use, change in use, sale, transfer, or destruction of grant-funded vehicles or equipment, or change in use of qualifying fuel, during the activity life. It further agrees that, during the activity life, the NCTCOG may be entitled to the return of a pro rata share of the grant funds for any loss of emissions reductions compared with the emissions reductions projected in awarding the grant.
8. It will maintain, for the term of the activity, property loss insurance or self-insurance coverage on any vehicles, equipment, or infrastructure acquired, leased, repowered, retrofitted, or constructed using these funds, sufficient to cover the costs of reimbursing the state for its pro rata share of the activity costs.

Signature of Authorized Official: *JH Jones*

Date: 8/14/06

**NORTH TEXAS EMISSIONS REDUCTION GRANT
PROJECT APPLICATION FORM**

Section 7. Single Audit Certification

Review and check only 1 (one) entry. Sign and date this section.

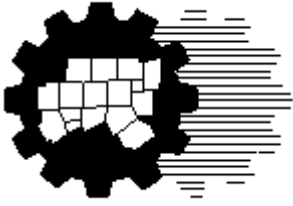
Local governments and non-profit organizations that expend \$500,000 or more per year in state funding are required to submit an annual single audit by an independent auditor in accordance with the State of Texas Single Audit Circular, incorporated into the Uniform Grant Management Standards (UGMS).

All applicants should complete the following certification (check only one):

- The applicant is not a local government or non-profit organization, and therefore is not required to submit an annual single audit. The applicant understands and agrees, however, that the NCTCOG or the State Auditor may conduct an audit of a grant recipient's grant-funded programs.
- The applicant is a local government or non-profit organization and currently expends combined state funding of less than \$500,000 per year and, therefore, is not required to submit an annual single audit. The applicant understands and agrees, however, that the NCTCOG or the State Auditor may conduct an audit of a grant recipient's grant-funded program.
- The applicant is a local government or non-profit organization and currently expends state funding of \$500,000 or more per year and, therefore, is required to submit an annual single audit by an independent auditor made in accordance with the UGMS. The applicant understands and agrees that, in addition to the single audit requirements, the NCTCOG or the State Auditor may also conduct an audit of a grant recipient's grant-funded program.

Signature of Authorized Official: *JH Jones*

Date: 8/14/06



**North Central Texas
Council of Governments**

**TEXAS EMISSIONS REDUCTION PLAN (TERP)
NORTH TEXAS EMISSIONS REDUCTION GRANT**

**Supplemental Activity Application Form
for On-Road Heavy-Duty Vehicle Activities**

NTERG - On-road

One *Supplemental Activity Application Form* should be used for each activity. This is a change from previous versions of the form, where multiple activities could be included on one form.

The completed forms should be attached to the *Project Application Form* (NTERG-App)

North Central Texas Council of Governments (NCTCOG)
Air Quality Policy and Program Development
P.O. Box 5888
Arlington, TX 76005-5888
(817) 608-2353
(817) 608-2354
(817) 640-3028 - fax

<http://www.nctcog.org/NTERG>

This application will be considered void if any questions are changed by the applicant. No other versions of the TERP application will be accepted during this application period.

NTERG - On-road (06/27/06)

(Based on TCEQ's Emissions Reduction Incentive Grants Program Form TCEQ-10430a)

**NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for On-Road Heavy-Duty Vehicle Activities**

Instructions for Completing Form NTERG - On-road

NOTE: the instruction pages do not need to be returned to NCTCOG with the application forms.

This form is to be used to provide required information regarding on-road heavy-duty vehicle activities, as part of an application for funding under the North Central Texas Council of Governments (NCTCOG) North Texas Emissions Reduction Grants program.

One form (NTERG - On-road) should be completed for each activity. This is a change from previous versions of the form, where multiple activities could be included on one form. Each purchase or lease, replacement, repower, or retrofit/add-on is considered a separate *activity*, and will be assigned a unique activity number by the NCTCOG.

Vehicle Information Form. Separate *Vehicle Information Forms* (NTERG - On-road.1, NTERG - On-road.2, NTERG - On-road.3, and NTERG - On-road.4) are included for providing information needed, according to the type of activity proposed. Complete and attach only the *Vehicle Information Form* applicable to the type of activity.

All completed *Supplemental Activity Application Forms*, with the applicable *Vehicle Information Forms* included, must be attached to one completed *Project Application Form* (NTERG-App). Follow the submission instructions included with the *Project Application Form*.

Refer to the NCTCOG's *North Texas Emissions Reduction Grant Guidelines* and to the applicable *Call for Projects* for detailed information regarding eligibility of technologies and expenses. A separate *Technical Supplement* for each project category is also available. The supplement contains instructions on calculating emission reductions and cost per ton, and includes the emission standards and factors that will be used by the NCTCOG to evaluate the application.

Gross Vehicle Weight Rating. The GVWR is the total allowable or recommended vehicle weight, including the loaded weight of the vehicle, driver, passengers, and cargo. The rated weight is usually found on a label affixed to the inside of the door or other area of the vehicle and may also be listed on the vehicle title and registration documents.

If the vehicle is normally operated in combination with a trailer, such as an 18-wheel semi-tractor and trailer rig, then use the combined GVWR of both the vehicle and the trailer. However, if a trailer is only attached occasionally, use the GVWR for the vehicle only. Check with NCTCOG staff if you are unsure as to what GVWR to use.

Eligibility Criteria for On-Road Heavy-Duty Vehicle Activities. Some (but not all) of the key eligibility criteria include:

- On-road heavy-duty vehicles with a gross vehicle weight rating (GVWR) of 8,500 lb or more are eligible for funding consideration. Vehicles that use an on-road engine (one certified by the EPA to federal on-road emission standards) should be applied for using this form, even if the vehicle is used for off-road purposes.
- For replacement grants, the proposed usage commitment cannot exceed the expected annual usage or the annual usage over the past 24 months as entered in section 6d of the NTERG - On-road.
- Not less than 75 percent of the annual usage of the vehicle for the activity life must take place in one or more of the eligible counties (see the guidelines for eligible counties).
- For any grant activity where the grant-funded vehicle or equipment will be acquired and used under a lease or a lease-purchase agreement, the period of the lease agreement must extend for at least the Activity Life or, if the lease terminates before the end of the Activity Life, the lease agreement must include a binding commitment for the grant recipient to pay any remaining costs and to take ownership of and title to the vehicle or equipment. An option to buy at the end of the lease term, without a binding commitment on the part of the grant recipient, will not be sufficient to satisfy this provision.
- Vehicles used primarily for competition or recreational purposes are not eligible for funding.
- Activities must result in a reduction in NOx emissions of at least 25 percent when compared to the baseline emissions.

Instructions for Completing Form NTERG - On-road Page 2

- The NO_x emissions of the reduced-emission technology and/or the percentage reduction in the baseline NO_x emissions must be certified or verified by the U.S. Environmental Protection Agency (EPA) or the California Air Resources Board (CARB).
- In instances where two technologies are combined on the same vehicle and/or engine, the NCTCOG may consider the combined reductions from the two technologies in meeting the 25 percent reduction requirements. This decision will be solely at the discretion of the NCTCOG, and will be based on a determination that the combination of the two technologies will result in a permanent reduction in emissions of at least 25 percent. Combining a qualifying fuel technology with a different technology will not normally be considered a permanent reduction to meet the 25 percent reduction requirement.
- A project may not exceed **\$5,500** per ton of NO_x emissions reduced in the eligible counties. Individual activities included under a single project application may exceed this amount, but the combined project must be equal to or less than **\$5,500** per ton.
- An activity is not eligible if it is required by any state or federal law, rule, regulation, memorandum of agreement, or other legally binding document.
- The incremental cost of the proposed activity must be reduced by the value of any existing financial incentive that directly reduces the cost of the proposed activity, including tax credits or deductions, other grants, or any other public financial assistance.
- The 2007 on-road heavy-duty vehicle diesel NO_x emission standard is 0.20 g/bhp-hr. Manufacturers may phase in compliance with this new standard over a three-year period. Therefore, it is not guaranteed that a 2007 model year vehicle and engine will meet the lower standard. If you propose to purchase a 2007 model year vehicle and/or engine, you must include in the appropriate block of the Vehicle Information Form the emission standard to which the new vehicle and engine will be certified. If you receive a grant, you will be required to submit a copy of the certification form for that engine family before being reimbursed by the NCTCOG. If it is not yet certain to which standard the engine family will be certified, then the 2006 standard of 2.375 g/bhp-hr (NO_x only) must be used for the emission reduction calculations.
- For replacement projects, the value received and reported to the NCTCOG must reflect the actual reasonable scrappage, trade-in, or sale value of the old vehicle or equipment. A grant recipient will be required to list on the financial reporting forms any value received in exchange for the old vehicle or equipment including, but not limited to, cash, goods, services (***including the services provided by a consultant to assist in preparing and/or submitting a grant application***), gifts, intangibles, discounts, or any other items of value. The NCTCOG will not accept an application that does not list a reasonable value for the old vehicle or equipment.

NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for On-Road Heavy-Duty Vehicle Activities
Include only one activity on each form.
NTERG - On-road, page 1

1. Activity Included in this Form

Type of Activity? (Check only one)	
<input type="checkbox"/>	New Purchase (attach completed <u>Vehicle Information Form</u> NTERG - On-road.1). This category includes cash purchases, purchases under regular financing arrangements, and lease-to-own agreements when you intend to purchase/keep the vehicle after the end of the lease or financing term.
<input type="checkbox"/>	Lease (attach completed <u>Vehicle Information Form</u> NTERG - On-road.1) Check this category if you will be leasing the vehicle and do not intend to purchase/keep the vehicle after the end of the lease term.
<input checked="" type="checkbox"/>	Replacement (attach completed <u>Vehicle Information Form</u> NTERG - On-road.2)
<input type="checkbox"/>	Repower (attach completed <u>Vehicle Information Form</u> NTERG - On-road.3)
<input type="checkbox"/>	Retrofit/Add-on Technology (attach completed <u>Vehicle Information Form</u> NTERG - On-road.4)

2. Was this activity included in previous applications to NCTCOG? Yes No
 If yes, please explain:

3. **Schedule**

a. Have the purchases already been completed (Y/N): Yes No

b. If yes, list the purchase date: _____

For replacements, the purchases may not have been completed prior to the open date of the application period. For all other types of activities, the purchases may not have been completed earlier than 12 months prior to the application deadline.

c. If no, how many months after the grant award do you expect to complete the purchases: 6 months

4. **Activity Life**

You must designate an Activity Life, which is the number of years you will commit to using the vehicle in the eligible counties, and to monitor and report to the NCTCOG on that use. For all activities the activity life must be at least 5 years.

Minimum and Maximum Activity Life On-Road Heavy-Duty Vehicle Activities

	Minimum Activity Life	Maximum Activity Life
School buses 33,000 GVWR New Purchase or Lease	5 years	20 years
Other buses 33,000 GVWR New Purchase or Lease	5 years	12 years
New Purchase or Lease (vehicle other than school bus)	5 years (1 year for lease)	10 years
Replacement	5 years	7 years
Repower	5 years	7 years
Retrofit/Add-On Technology	5 years	10 years

NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for On-Road Heavy-Duty Vehicle Activities
NTERG - On-road, page 2

4. Activity Life (continued)

	Applicant's Request	Approved by NCTCOG
Activity Life	7 years	

5. Applicant's primary business type (i.e., transit system, school, etc.): Delivery Truck

6. Vehicle Usage Information

a. Is the vehicle being used for commercial rental to other entities?: Yes No
 (If yes, please explain)

b. Identify the Primary Area (select one) the vehicle(s) will operate. If the vehicle is also expected to operate outside of the primary area, please indicate the percentage of time in each area. [Note, this application period is limited to projects operated at least 75% of the time in the DFW area.]

PRIMARY AREA	AREA	PERCENTAGE OF USE
X	Dallas-Fort Worth Area (DFW): Denton, Collin, Tarrant, Dallas, Parker, Johnson, Ellis, Rockwall, Kaufman, Hood, and Hunt Counties	95%
At least 75% of the annual usage must occur in the DFW area.		
	Beaumont-Port Arthur Area (BPA): Hardin, Orange, Jefferson Counties	
	Houston-Galveston Area (HGA): Harris Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, and Waller Counties	
	Austin Area (AUS): Williamson, Travis, Bastrop, Caldwell, and Hays Counties	
	El Paso County (ELP)	
	Corpus Christi Area (CC): San Patricio and Nueces Counties	
	San Antonio Area (SAT): Bexar, Comal, Guadalupe, Wilson Counties	
	Tyler-Longview Area (TYL): Smith, Upshur, Harrison, Gregg, and Rusk Counties	
	Victoria County (VIC)	
	Other - please identify	5% in Oklahoma

NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for On-Road Heavy-Duty Vehicle Activities
NTERG - On-road, page 3

c. Miles of operation

For most on-road activities, the emission reductions and cost effectiveness will be calculated based on the number of miles traveled by each vehicle on an annual basis. However, do not complete this subsection if fuel use will be used as the usage factor.

<p>How many total miles do you commit to travel <u>per year</u> over the Activity Life?: Be realistic in your mileage projections. The calculation of emission reductions is based on the annual mileage commitment and the percentage of use in the eligible counties (as listed in section 6.b.). If you fail to use the grant-funded vehicle for the required number of annual miles in the eligible counties, the NCTCOG may require you to refund a pro-rata share of the grant funds.</p> <p>For Replacement Activities, this amount may not exceed, <u>but may be less than</u>, the average annual miles traveled per year over the last two years.</p>	50,000
<p><u>Replacement Activities Only</u> Over the last two years, how many miles have you traveled on average <u>per year</u>. <i>The amount listed must be the same as entered in the certification in section f, page 5, Form NTERG - On-road.2.</i></p>	50,000

d. Fuel Consumption

Complete this subsection for those vehicles where the emission reductions should be calculated based on fuel use, rather than miles of operation. In general, the NCTCOG will accept fuel use as the usage factors only for refuse trucks, dump trucks, cement trucks, street sweepers and other on-road vehicles with significant power take-off (PTO) operations.

<p>How many gallons of fuel do you commit to use <u>per year</u> over the Activity Life?: <i>For alternative fuel vehicles, show measurement units used.</i></p> <p>Be realistic in your fuel use projections. The calculation of emission reductions is based on the annual fuel use commitment and the percentage of use in the eligible counties (as listed in section 6.b.). If you fail to use the grant-funded vehicle for the required annual fuel use in the eligible counties, the NCTCOG may require you to refund a pro-rata share of the grant funds.</p> <p>For Replacement Activities, this amount may not exceed, <u>but may be less than</u>, the average annual fuel use per year over the last two years.</p>	3,000
<p><u>Replacement Activities Only</u> Over the last two years, how many gallons of fuel have you used on average <u>per year</u>?:</p>	3,000

e. Usage Commitment

The emission reductions assigned to this activity will be based on the use of the grant-funded equipment in the eligible counties for the percentage of annual use listed in Section 6.b. and for the number of annual miles listed in Section 6.c. or the number of annual fuel use listed in Section 6.d. Failure to achieve the emission reductions projected for this activity in the eligible counties listed may result in the NCTCOG requiring the return of all or a pro-rata share of the grant funds.

NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for On-Road Heavy-Duty Vehicle Activities
NTERG - On-road, page 4

7. Information on Emission Reductions and Cost Per Ton (*completion is optional*)

You are not required to calculate the emission reductions and cost per ton of your project in order to apply for a grant. If you do, however, please provide that information below for the activities included in this application.

	Applicant's Estimate
Total emission reductions for this activity (tons of NOx)	1.8342
Annual emission reductions for this activity (tons of NOx)	0.2620
Cost /ton for this activity (\$/ton)	\$5,500

Vehicle Information Forms

Check, complete, and attach only the form that applies to the type of activity for which you are applying.

- NTERG - On-road.1VEHICLE INFORMATION FORM - NEW PURCHASE OR LEASE**
Use this form for activities involving the purchase or lease of new equipment.
- NTERG - On-road.2VEHICLE INFORMATION FORM - REPLACEMENT**
Use this form for activities involving the replacement of older equipment with new or newer equipment.
- NTERG - On-road.3VEHICLE INFORMATION FORM - REPOWER**
Use this form for activities involving the replacement of the current engine with a new or newer engine.
- NTERG - On-road.4VEHICLE INFORMATION FORM - RETROFIT OR ADD-ON TECHNOLOGY**
Use this form for activities involving the retrofit of the equipment engine or the add-on of technology to the equipment engine.

Note: this page does not need to be returned to NCTCOG the application forms.

**NTERG - On-road.2
VEHICLE INFORMATION FORM:
REPLACEMENT**

Include only one activity on each form.

Note: this page does not need to be returned to NCTCOG with the application forms.

NTERG - On-road.2
VEHICLE INFORMATION - REPLACEMENT
Include only one activity on each form.
Page 1

1. Vehicle Information

Efforts should be made to obtain all requested information - if unable to complete, please explain why.	Applicant's Request		Approved by NCTCOG	
	New Vehicle	Vehicle Being Replaced	New Vehicle	Vehicle Being Replaced
a. Description of vehicle (i.e., haul truck, garbage truck, street sweeper, etc.) <i>The new vehicle and vehicle being replaced should be a similar type.</i>	Delivery Truck			
b. Vehicle make	GMC	International		
c. Vehicle model/model number	TC5CO42	4700		
d. Vehicle Identification Number (VIN) (if known)	XXXXXXXX XXXXXXXX	YYYYYYYY YYYYYYYY		
e. Gross Vehicle Weight Rating (GVWR) For semi-tractor and trailer rigs, and other vehicles that are normally operated in combination with a trailer, use the combined GVWR of both the vehicle and trailer.	21000	24000		
f. Vehicle Model year	2006	1994		
g. Engine make	GMC	International		
h. Engine model	8.1L	DT-466		
i. Engine Identification Number	unknown	1824808C1		
j. Engine model year	2006	1995		
k. Engine horsepower rating	325	320		
l. Fuel type <i>If dual-fuel or multi-fuel engine, list each type of fuel.</i>	LPG	Diesel		
m. Engine test group (family code) <i>The test group is listed on the emissions label attached to the engine or may be obtained from the manufacturer.</i>	78BPTH08	SVV466D6DA SA		
n. Certified NOx emissions (g/bhp-hr)* <i>Required field. You must list a NOx emission rate for both the current engine and the replacement engine.</i>	0.44	5.0		

*Refer to the on-road NOx emission standards applicable to the year of the engine in NCTCOG's technical supplement. However, if either the current engine or the replacement engine is certified to a different NOx emission rate than the standard that applies to the year of the engine, list the correct NOx emission rate. You must check with your dealer or installer to confirm the NOx emission certification of the replacement engine.

Also, for 2007 on-road engines the applicant must use the 2006 EPA standard of 2.375 g/bhp-hr, unless the applicant has included certification from EPA or CARB showing that the new vehicle is certified to meet the 2007 standards.

For on-road replacement or repower projects only, if a grant is awarded, the grant recipient may substitute a different replacement vehicle and/or engine for the unit listed, as long as the substitute unit meets all eligibility and other requirements, is of the same weight category, has the same or better certified NOx emission rate, and will result in the same or better NOx emission reductions as the unit listed.

However, the grant recipient may not substitute different vehicles or engines to be replaced for those listed in the application, without approval from NCTCOG.

2. Incremental Cost Calculation

	Applicant's Request	Approved by NCTCOG**
a(I). Purchase price (including taxes and fees): <i>For cash purchases, lease-to-own, and other financing arrangements, enter the cash value basis for the lease-to-own or financing agreement. (interest on any lease-to-own or financing plan may not be included).</i>	\$300,000	
a(II). Lease price <i>For leases where the vehicle will be returned at the end of the lease, enter only the lease cost (not the value of the vehicle).</i>		
b. Scrappage value or, if an alternative disposition plan is authorized by NCTCOG, trade-in value of the vehicle being replaced: <i>For replacement projects, the value received and reported to the NCTCOG must reflect the actual reasonable scrappage, trade-in, or sale value of the old vehicle or equipment. A grant recipient will be required to list on the financial reporting forms any value received in exchange for the old vehicle or equipment including, but not limited to, cash, goods, services (including the services provided by a consultant to assist in preparing and/or submitting a grant application), gifts, intangibles, discounts, or any other items of value. The NCTCOG will not accept an application that does not list a reasonable value for the old vehicle or equipment.</i>	\$30,000	
c. Repair cost: <i>If the vehicle and/or engine is not operational, enter the repair cost to bring it to operational condition:</i>	\$0	
d. Incremental cost: <i>(difference between the replacement vehicle price and (1) the scrappage or trade-in value plus (2) the cost to repair the vehicle and/or engine, if not operational) $d = a(I) \text{ OR } a(II) - (b + c)$</i>	\$270,000	

3. Cost to the Applicant

a. Incremental cost: (from block 2.d)	\$270,000	
b. List the value of any other financial assistance to be used for the purchase or lease, and <u>explain in detail</u> below: <i>The incremental cost must be reduced by the value of any other financial incentive to be used to directly offset some of the cost, including tax credits or deductions, other grants, or any other public financial assistance.</i>	\$0	
c. Cost to the applicant (3.a - 3.b)	\$270,000	

4. Grant Amount Requested

Grant amount requested for this activity:	\$10,087.94	
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5. Procurement Processes

All procurement processes must be conducted in a manner providing full and open competition. Explain the process used (or to be used) to select the dealer and the replacement vehicle. If the vehicle is available from several sources, at least three bids or quotes are preferable (please include copies of any available bids or quotes). If only one quote or bid was obtained, explain why the vehicle is only available from one source. If additional procurement steps will need to be completed after a grant is awarded, explain those additional steps.

We solicited bids from three different vendors that our company has worked with in the past. We chose to purchase the new vehicle from 123 Trucks, Co because they offer the best service plan and they can get us the vehicle we need in the shortest amount of time. Bids from all three vendors are attached.

OR

Our city uses several coops to purchase services and goods. One of which is through the BuyBoard sponsored by the Texas Local Government Purchasing Cooperative Contract. The successful bidder was Bob's Truck's because they were the offered the lowest price and they include a 10 year warranty on their vehicles.

6. Dealer Information

Dealer or leasing company name, contact person, address, and phone number:

Bob's Trucks
Bob Jackson, Manager
456 Center Drive
Dallas, TX 75254
(555) 555-5555

7. Financing or Lease Terms for Replacement Vehicle *(Because this is a reimbursement program, any financing or leasing plan will need to account for an up-front payment that is at least equal to the total grant amount requested).*

Check one:

Purchase

Cash Purchase

Regular Financing

Lease Financing (lease-to-own; equipment will be purchased and retained at the end of the lease). The lease agreement must include a binding commitment for the applicant to pay any remaining costs and to take ownership of the equipment. An option to buy at the end of the lease term, without this binding commitment, will not be considered a purchase.

Lease

Equipment will be returned at the end of the lease. The lease must extend for at least the Activity Life.

Explain financing or lease terms, including the length (months) of the lease or financing, below:

8. Disposition of the Vehicle Being Replaced

NCTCOG may inspect and otherwise verify the condition of the vehicle being replaced. If the applicant does not allow such verification, the NCTCOG is not obligated to select the application for funding.

How will the old vehicle be disposed of? (check only one):

*The applicant agrees to destroy, render permanently inoperable, or **permanently** remove from Texas the old vehicle (including the engine) within 90 days of either receiving the Notice to Proceed for your project or of purchasing the replacement vehicle, whichever occurs later. Please explain below how the old vehicle will be disposed of and by whom. **By signing the project application form, the applicant understands that they may be responsible for returning grant funds if the old vehicle is brought back into Texas.** The NCTCOG is not obligated to accept a proposed disposition arrangement, and may impose additional requirements as a condition of receiving a grant.*

- a) Vehicle (including the engine) will be scrapped (destroyed). Destruction includes drilling a hole in or otherwise destroying the engine block and cutting the frame rails or other structural components of the vehicle. Provide information regarding the scrappage activities and, if known, identify (name, address, and phone #) the company that will scrap the vehicle.

- b) Vehicle will be sold to an **end user** outside of Texas by the applicant or dealer (**check I or ii**).
Note: *End user* is defined as an owner/operator (may not be a dealer).
 - i) The end user is known, identify below (name, address, and phone #).

 - ii) If the end user is not known at this time, the applicant commits to identify the end user that has or will receive the old vehicle, before submitting a Request for Reimbursement to NCTCOG. For a vehicle sold in another state, the NCTCOG will not process a reimbursement request until the end user receiving the old vehicle has been identified.

- c) Vehicle will be sold to an end user located in another country and will not be returned to the United States. Identify below the country (or list the countries where the vehicle may be transferred) and, if the sale will be completed through a dealer, identify the dealer (name, address, and phone #). For a vehicle to be sold outside of the U.S., you will not be required to identify the end user for the old vehicle before requesting reimbursement from the NCTCOG. However, if that information is known, please provide details below.

- d) Owner will permanently transfer vehicle within the applicant's company or organization to a site outside of Texas (identify name, address, and phone #). The applicant commits to not returning the old vehicle to a site located in Texas or selling the vehicle to a dealer or end user in Texas.

Please provide the requested information for the selected disposition option:

This vehicle will be sold out of state to AAA Supplies in Tulsa, Oklahoma. Mike Martin, 1000 Hwy-10, Tulsa, OK, 74101, (444) 444-4444

NOTE: Please provide any supporting documentation regarding the proposed action (ex: letter from the dealer, invoice, etc.). As a condition of receiving a grant, the grant recipient will need to provide verification that the scrappage or alternative disposition of the old vehicle and engine did occur within the 90-day deadline.

Applicant Certification of Vehicle Ownership, Use, and Condition

The applicant assures and certifies that:

- a. The applicant has owned or leased the vehicle being replaced for at least the two years preceding the submission of the grant application.
- b. The vehicle being replaced has been registered to the applicant and used in Texas for at least the two years preceding the submission of the grant application.

Vehicle Registration No.: AA111111 Expiration Date: 03/2007

Not applicable (explain):

- c. The vehicle being replaced has a current safety inspection sticker.

Inspection Sticker No.: B11111111 Expiration Date: 04/2007

Not applicable (explain):

- d. (check one)

The vehicle being replaced is in operating condition.

- or -

The vehicle being replaced is not in operating condition, but a qualified servicing entity has determined that the vehicle can be repaired to operating condition.

Operating condition means that the engine runs normally and the vehicle is capable of performing the functions for which it is intended. A verification form (Page 6) signed by a qualified servicing entity, indicating that the vehicle is in operating condition or, if repairs are needed, can be repaired to operating condition, is attached.

- e. The vehicle being replaced has 450,000 total miles indicated on the odometer.
Is the odometer working (Y/N)?: Yes No

- f. The annual mileage of the vehicle being replaced, based on the annual average over the past 2 years, is 30,000 miles/year. If odometer is not working, provide your best estimate.

Note: Provide mileage information, even if emission reductions will be based on annual fuel use.

- g. The new vehicle is expected to be driven 30,000 miles each year.

- h. **I certify that all of the vehicles and/or equipment listed for replacement in this application(s) would have otherwise continued to be used within the eligible counties for the same or similar purposes, for at least the period of time covered by the proposed contract activity life.** Explain how the vehicle being replaced would have been used and the proposed uses of the vehicle being purchased:

Signature of Authorized Certifying Official: <i>JH Jones</i>	Date: 8/14/06
Printed Name and Title: John Jones	

**Verification of Vehicle Condition
and
Estimate of Repairs Needed**

This form is to be completed and signed by an independent service agent.

Service agent must be other than an applicant's employee (repair facility, dealer's service center, etc.).

Information on the vehicle being replaced:

Vehicle Make/Model:	GMC 8.1L
Vehicle Identification Number:	1HSSCSSN9SHxxxxxx

I, the undersigned, have inspected the vehicle noted above. In my opinion (initial only one):

- The engine is in running order and the vehicle is otherwise in a condition to perform the functions normally expected for this type of vehicle and could be expected to operate for the activity life of the project (Activity Life is listed near top of [page 2](#) of NTERG - On-road).

- The engine and/or the vehicle in general is in need of repair in order to perform the functions normally expected for this type of vehicle. The vehicle and/or engine are capable of being brought to operating condition, with the following repairs as noted below (or as noted in the attached quote for the repairs):

Cost of Repair: \$ _____
List the major repair items:

Signed*: <i>Ted Thomas</i>	Date: 8/12/06
Printed Name and Title: Ted Thomas, Operations Manager	
Name of Company: Truckmaster	
Address and phone number: 2000 General Road, Grand Priarie, TX 75061, (333) 333-3333	

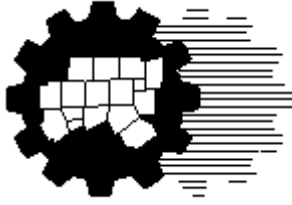
***Note - Do not complete and sign if the vehicle cannot be repaired.**

Note: this page does not need to be returned to NCTCOG with the application forms.

REPLACEMENT PROJECTS - SCRAPPAGE OR TRADE-IN VALUE

REQUIRED DOCUMENTATION (these materials must be included with the Replacement forms)

- If the replacement vehicle has not yet been purchased or leased, provide written quotes for the vehicle. If the final quote has not yet been obtained, provide any preliminary quotes or other information to verify the estimated cost of the vehicle. For lease-to-own or financing arrangements, the quotes must include the cash basis used to determine the lease or financing payments, and full details of the terms of the lease or financing agreement.
- If the replacement vehicle has already been purchased or leased, provide the purchase, lease, or financing agreement and/or invoice showing the price paid.
- The price may not include the cost of assisting the applicant to prepare and submit the application.
- Attach a completed and signed *Applicant Certification of Vehicle Ownership, Use, and Condition* form.
- Attach a completed *Verification of Vehicle Condition and Estimate of Repairs Needed* form.
- Provide the written quotes, estimates, or other information used to determine the scrappage or trade-in value of the vehicle being replaced.



**North Central Texas
Council of Governments**

**TEXAS EMISSIONS REDUCTION PLAN (TERP)
NORTH TEXAS EMISSIONS REDUCTION GRANT**

**Supplemental Activity Application Form
for Non-Road Equipment Activities**

NTERG - Non-road

One *Supplemental Activity Application Form* should be used for each activity. This is a change from previous versions of the form, where multiple activities could be included on one form.

The completed forms should be attached to the *Project Application Form* (NTERG-App)

North Central Texas Council of Governments (NCTCOG)
Air Quality Policy and Program Development
P.O. Box 5888
Arlington, TX 76005-5888
(817) 608-2353
(817) 608-2354
(817) 640-3028 - fax

<http://www.nctcog.org/NTERG>

**This application will be considered void if the applicant changes any questions.
No other versions of the TERP application will be accepted during this application
period.**

NTERG - Non-road (06/27/06)

(Based on TCEQ's Emissions Reduction Incentive Grants Program Form TCEQ-10430b)

**NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for Non-Road Equipment Activities**

Instructions for Completing Form NTERG - Non-road

Note: this page does not need to be returned to NCTCOG with the application forms.

This form is to be used to provide required information regarding non-road equipment activities, as part of an application for funding under the North Central Texas Council of Governments (NCTCOG) Texas Emissions Reduction Plan (TERP) North Texas Emissions Reduction Grant (NTERG) Program.

One form (NTERG – Non-road) should be completed for each activity. This is a change from previous versions of the form, where multiple activities could be included on one form. Each purchase or lease, replacement, repower, or retrofit/add-on is considered a separate *activity*, and will be assigned a unique activity number by the NCTCOG.

Equipment Information Form. Separate *Equipment Information Forms* (NTERG - Non-road.1, NTERG - Non-road.2, NTERG - Non-road.3, and NTERG - Non-road.4) are included for providing information needed, according to the type of activity proposed. Complete and attach only the *Equipment Information Form* applicable to the type of activity.

All completed *Supplemental Activity Application Forms*, with the applicable *Equipment Information Forms* included, must be attached to one completed *Project Application Form* (NCTCOG-App). Follow the submission instructions included with the *Project Application Form*.

Refer to the NCTCOG's *North Texas Emissions Reduction Grant Guidelines* and to the applicable *Call for Projects* for detailed information regarding eligibility of technologies and expenses. A separate *Technical Supplement* is available with instructions on calculating emission reductions and cost per ton, and includes the emission standards and factors that will be used by the NCTCOG to evaluate the application.

Eligibility Criteria for Non-Road Equipment Activities. Some (but not all) of the key eligibility criteria include:

- Non-road equipment powered by an engine 25 horsepower (hp) or greater is eligible for funding consideration. Vehicles that use an on-road engine (one certified by the EPA to federal on-road emission standards) should be applied for using the on-road vehicle application form (NCTCOG-On-road) and not this non-road form.
- Not less than 75 percent of the annual usage of the equipment projected for the activity life must be projected to take place in one or more of the eligible counties (see the guidelines for eligible counties). Failure to meet the 75% requirement may be considered a loss of emission reductions and may result on a requirement for return of a pro-rated share of the grant funds.
- For any grant activity where the grant-funded vehicle or equipment will be acquired and used under a lease or a lease-purchase agreement, the period of the lease agreement must extend for at least the Activity Life or, if the lease terminates before the end of the Activity Life, the lease agreement must include a binding commitment for the grant recipient to pay any remaining costs and to take ownership of and title to the vehicle or equipment. An option to buy at the end of the lease term, without a binding commitment on the part of the grant recipient, will not be sufficient to satisfy this provision.
- Equipment used primarily for competition or recreational purposes are not eligible for funding.
- Activities must result in a reduction in NOx emissions of at least 25 percent when compared to the baseline emissions.
- The NOx emissions of the reduced-emission technology and/or the percentage reduction in the baseline NOx emissions must be certified or verified by the U.S. Environmental Protection Agency (EPA) or the California Air Resources Board (CARB).
- In instances where two technologies are combined on the same equipment and/or engine, the NCTCOG may consider the combined reductions from the two technologies in meeting the 25 percent reduction requirements. This decision will be solely at the discretion of the NCTCOG, and will be based on a determination that the combination of the two technologies will result in a permanent reduction in emissions of at least 25 percent. Combining a qualifying fuel technology with a different technology will not normally be

considered a permanent reduction, to meet the 25 percent reduction requirement.

- A project may not exceed **\$5,500** per ton of NOx emissions reduced in the eligible counties. Individual activities included under a single project application may exceed this amount, but the combined project must be equal to or less than **\$5,500** per ton.
- No more than 80 percent of the eligible incremental costs of each replacement activity may be reimbursed under the grant.
- An activity is not eligible if it is required by any state or federal law, rule, regulation, memorandum of agreement, or other legally binding document.
- The incremental cost of the proposed activity must be reduced by the value of any existing financial incentive that directly reduces the cost of the proposed activity, including tax credits or deductions, other grants, or any other public financial assistance.
- For replacement projects, the value received and reported to the NCTCOG must reflect the actual reasonable scrappage, trade-in, or sale value of the old vehicle or equipment. A grant recipient will be required to list on the financial reporting forms any value received in exchange for the old vehicle or equipment including, but not limited to, cash, goods, services (***including the services provided by a consultant to assist in preparing and/or submitting a grant application***), gifts, intangibles, discounts, or any other items of value. The NCTCOG will not accept an application that does not list a reasonable value for the old vehicle or equipment.

NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for Non-Road Equipment Activities
NCTCOG-Non-Road (06/27/06), page 1

1. Activity Included in this Form - type and number

Type of Activity? (Check only one)	
<input type="checkbox"/>	New Purchase (attach completed <u>Non-Road Equipment Information Form NTERG-Non-Road.1</u>) This category includes cash purchases, purchases under regular financing arrangements, and lease-to-own agreements when you intend to purchase/keep the equipment after the end of the lease or financing term.
<input type="checkbox"/>	Lease (attach completed <u>Non-Road Equipment Information Form NTERG-Non-Road.1</u>) Check this category if you will be leasing the equipment and do not intend to purchase/keep the equipment after the end of the lease term.
<input type="checkbox"/>	Replacement (attach completed <u>Non-Road Equipment Information Form NTERG-Non-Road.2</u>)
<input checked="" type="checkbox"/>	Repower (attach completed <u>Non-Road Equipment Information Form NTERG-Non-Road.3</u>)
<input type="checkbox"/>	Retrofit/Add-on Technology (attach completed <u>Non-Road Equipment Information Form NTERG-Non-Road.4</u>)

2. Was this activity included in previous applications to NCTCOG? Yes No

If yes, please explain:

3. Schedule

a. Have the purchases for any of the activities already been completed (Y/N): Yes No

b. If yes, list the purchase date: July 25, 2006

For replacements, the purchases may not have been completed prior to the open date of the application period. For all other types of activities, the purchases may not have been completed earlier than 12 months prior to the application deadline.

c. If no, how many months after the grant award do you expect to complete the purchases: _____

4. Activity Life

You must designate an Activity Life, which is the number of years you will commit to using the equipment in the eligible counties, and to monitor and report to the NCTCOG on that use. For all activities the activity life must be at least 5 years.

Minimum and Maximum Activity Life Equipment Activities

	Minimum Activity Life	Maximum Activity Life
New Purchase or Lease	5 years (1 year for lease)	10 years
Replacement	5 years	7 years
Repower	5 years	7 years
Retrofit/Add-On	5 years	10 years

NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
Supplemental Activity Application Form for Non-Road Equipment Activities
NCTCOG-Non-Road (06/27/06), page 2

4. cont. Activity Life

	Applicant's Request	Approved by NCTCOG
Activity Life	7 years	

5. Applicant's primary business type (i.e., road construction, agriculture, etc):
 Construction

6. Equipment Usage Information

a. Is the equipment being used for commercial rental to other entities?: Yes No
 (If yes, please explain):

b. Identify the Primary Area (select one) the equipment is expected to operate. If the equipment is also expected to operate outside of the primary area, please indicate the percentage of time in each area. [Note, this application period is limited to projects operated at least 75% of the time in the DFW area.]

PRIMARY AREA	AREA	PERCENTAGE OF USE
X	Dallas-Fort Worth Area (DFW): Denton, Collin, Tarrant, Dallas, Parker, Johnson, Ellis, Rockwall, Kaufman, Hood, and Hunt Counties	100%
At least 75% of the annual usage must occur in the DFW area.		
	Beaumont-Port Arthur Area (BPA): Hardin, Orange, Jefferson Counties	
	Houston-Galveston Area (HGA): Harris Montgomery, Liberty, Chambers, Galveston, Brazoria, Fort Bend, and Waller Counties	
	Austin Area (AUS): Williamson, Travis, Bastrop, Caldwell, and Hays Counties	
	El Paso County (ELP)	
	Corpus Christi Area (CC): San Patricio and Nueces Counties	
	San Antonio Area (SAT): Bexar, Comal, Guadalupe, Wilson Counties	
	Tyler-Longview Area (TYL): Smith, Upshur, Harrison, Gregg, and Rusk Counties	
	Victoria County (VIC)	
	Other - please identify	

**NORTH TEXAS EMISSIONS REDUCTION GRANT PROJECT APPLICATION
 Supplemental Activity Application Form for Non-Road Equipment Activities
 NCTCOG-Non-Road (06/27/06), page 3**

c. Hours of operation

For most activities, the emission reductions and cost per ton will be calculated based on the number of hours of operation by each equipment unit on an annual basis. List the estimated annual hours of operation for the equipment.

<p>How many total hours do you commit to operate <u>per year</u> over the Activity Life?: Be realistic in your hourly usage projections. The calculation of emission reductions is based on the annual hours commitment and percentage of use in the eligible counties (as listed in section 6.b.). If you fail to use the grant-funded equipment for the required number of annual hours in the eligible counties, the NCTCOG may require you to refund a pro-rata share of the grant funds.</p> <p>For Replacement Activities, this amount may not exceed, <u>but may be less than</u>, the average annual hours of operation per year over the last two years.</p>	2,500
<p><u>Replacement Activities Only</u> Over the last two years, how many hours have you operated the equipment on average <u>per year</u>? The amount listed must be the same as entered in the certification in section f, page 5, NTERG-Non-Road.2.</p>	

d. Usage Commitment.

The emission reductions assigned to this activity will be based on the use of the grant-funded equipment in the eligible counties for the percentage of annual use listed in Section 6.b. and for the number of annual hours listed in Section 6.c. Failure to achieve the emission reductions projected for this activity in the eligible counties listed may result in the NCTCOG requiring the return of all or a pro-rata share of the grant funds.

7. Information on Emission Reductions and Cost Per Ton (*completion is optional*)

You are not required to calculate the emission reductions and cost per ton of your project in order to apply for a grant. If you do, however, please provide that information below for the activities included in this application.

	Applicant's Estimate	Approved By TCRQ
Total emission reductions for this activity (tons of NOx)	13.9969	
Annual emission reductions for this activity (tons of NOx)	1.9996	
Cost /ton for this activity (\$/ton)	\$5,500	

Equipment Information Forms

Check, complete, and attach only the form that applies to the type of activity for which you are applying.

- NTERG-Non-Road.1 NON-ROAD EQUIPMENT INFORMATION FORM - NEW PURCHASE OR LEASE**
Use this form for activities involving the purchase or lease of new equipment.

- NTERG-Non-Road.2 NON-ROAD EQUIPMENT INFORMATION FORM - REPLACEMENT**
Use this form for activities involving the replacement of old equipment with new or newer equipment.

- NTERG-Non-Road.3 NON-ROAD EQUIPMENT INFORMATION FORM - REPOWER**
Use this form for activities involving the replacement of the current engine with new or newer engine.

- NTERG-Non-Road.4 NON-ROAD EQUIPMENT INFORMATION FORM - RETROFIT OR ADD-ON TECHNOLOGY**
Use this form for activities involving the retrofit of the equipment engine or the add-on of technology to the equipment engine.

Note: this page does not need to be returned to NCTCOG with the application forms.

**NTERG-Non-Road.3
NON-ROAD EQUIPMENT INFORMATION FORM:
REPOWER**

Including only one activity on each form.

Note: this page does not need to be returned to NCTCOG with the application forms.

NTERG-Non-Road.3

NON-ROAD EQUIPMENT INFORMATION - REPOWER

Complete and attach this form for equipment repower activities.

Page 1

1. Equipment and Engine Information

Efforts should be made to obtain all requested information - if unable to complete, please explain why.	Applicant's Request		Approved by NCTCOG	
a. Description of equipment (i.e., excavator, crane, forklift, etc.)	Excavator			
b. Equipment make	John Deere			
c. Equipment model	850D-LC			
d. Equipment identification number	XXXXXXXXXXXXXXXXXX			
e. Equipment Model year	1989			
	New Engine	Current Engine	New Engine	Current Engine
f. Engine make	Isuzu	John Deere		
g. Engine identification number (if known)				
h. Engine model	AH-6WG1XYSA-03	6466A		
i. Engine model year	2007	1989		
j. Engine horsepower rating	536	300		
k. Fuel type <i>If dual-fuel or multi-fuel engine, list each type of fuel.</i>	diesel	diesel		
l. Engine test group (family code) <i>The test group is listed on the emissions label attached to the engine or may be obtained from the dealer or manufacturer.</i>		unknown		
m. Certified NOx emissions (g/bhp-hr)* <i>Required field. You must list a NOx emission rate for both the current engine and the replacement engine.</i>	2.85	9.5		
<p>*Refer to the non-road NOx emission standards applicable to the year of the engine in the NCTCOG's technical supplement. However, if either the current engine or the replacement engine is certified to a different NOx emission rate than the standard that applies to the year of the engine, list the correct NOx emission rate. You must check with your dealer or installer to confirm the NOx emission certification of the replacement engine.</p>				

NTERG-Non-Road.3
 NON-ROAD EQUIPMENT INFORMATION - REPOWER
 Page 2

2. Incremental Cost Calculation

	Applicant's Request	Approved by NCTCOG
a. Cost to replace each engine:	\$50,000	
b. Scrappage value or, if authorized by NCTCOG, trade-in value of each engine being replaced: <i>The NCTCOG will consider allowing the old engine to be sold or traded-in, if sufficient evidence can be provided to show that the equipment will leave Texas and <u>not</u> be returned (provide details in section 7).</i>	N/A	
c. Incremental cost: <i>(difference between the replacement engine price and the scrappage or trade-in value): $c = (a - b)$</i>	\$50,000	

3. Cost to the Applicant

a. Incremental cost (from block 2c):	\$50,000	
b. List the value of any other financial assistance to be used for the purchase or lease, and <u>explain in detail</u> below: <i>The incremental cost must be reduced by the value of any other financial incentive to be used to directly offset some of the cost, including tax credits or deductions, other grants, or any other public financial assistance.</i>	N/A	
c. Cost to the Applicant (3.a - 3.b):	\$50,000	

4. Grant Amount Requested

Grant amount requested for this activity:	\$50,000	
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NTERG-Non-Road.3
NON-ROAD EQUIPMENT INFORMATION - REPOWER
Page 3

5. Detailed Cost Summary

The following list identifies the reimbursable and non-reimbursable costs to assist in completing Sections 2 and 3.

• **Reimbursable Costs:**

Costs that may be reimbursed, subject to approval by NCTCOG include:

1. Invoice cost of the new engine, including sales tax and delivery charges;
2. Invoice cost of additional equipment that must be installed with the new engine;
3. Associated supplies directly related to the installation of the engine;
4. Costs to remove and dispose of the old engine;
5. Installation costs;
6. Re-engineering costs, if the equipment must be modified for the new engine to fit; and,
7. Other costs directly related to the project, subject to approval by NCTCOG.

• **Non-Reimbursable Expenses:**

1. Expenses for in-house labor and travel will not be reimbursed.
2. Long-term operational, maintenance, or repair costs.
3. Costs of assisting the applicant to prepare and submit the application.

COST/PRICE SUMMARY			
<i>All cost estimates, quotes, and bids, as well as the final invoices, should be itemized, at least to the level of detail explained below. If the purchases and work are already completed, attach a copy of the itemized invoice or sales receipt.</i>			
	Total Estimated Project Cost	Applicant's Requested Amount (To be Covered By the Grant)	Grant Budget Approved by NCTCOG
<p>a. Equipment and Other Capital Expenditures. Equipment is defined as tangible personal property having a unit acquisition cost of \$1,000 or more (including sales tax and delivery charges) with an estimated useful life of one year or more. This category may also include the cost of installation and any modifications, attachments, accessories, or auxiliary apparatus necessary for the installation of the equipment. These other costs associated with the installation may be listed under equipment, if the charges for installation are included as part of the overall price of the equipment. Otherwise, installation costs may be included under the contractual category and listed as a separate cost item.</p> <p>1. Total Estimated Project Cost: This column details the total cost of the project.</p> <p>2. Applicant's Requested Amount: This column details the portion of the Total Estimated Project Cost requested to be covered by the grant.</p> <p>3. Approved by NCTCOG: This column will be filled out by the NCTCOG to detail the approved grant budget.</p>			
(1) Lower-emission engine , including sales tax and delivery charges.	\$40,000		
(2) Additional materials necessary for the installation of the engine, including sales tax and delivery charges (explain below):			
(3) Installation costs (including removal of old engine, if applicable), if included as part of the equipment purchase:	\$10,000		
(4) Other related items (over \$1,000 per unit cost), and materials that are a necessary part of the repower work. Itemize below:			

NTERG-Non-Road.3
NON-ROAD EQUIPMENT INFORMATION – REPOWER
Page 4

<p>b. Supplies and incidental items. Supplies include goods and materials having a unit acquisition cost (including sales tax and delivery charges) of less than \$1,000. Include in this block supplies to be purchased directly by the applicant, separate from the items included under the equipment and installation purchase agreement. Itemize below:</p>			
<p>c. Contractual. Include re-engineering work, installation costs, and other work, if contracted by for by the applicant separate from the equipment and installation purchase agreement. In house-labor and travel are not eligible for funding. Itemize below:</p>			
<p>d. Other. Explain in detail other costs that do not fit within the previous categories. The costs must be directly related to the purchase and installation of the engine. Long-term operational, maintenance, or repair costs are not eligible for funding. Itemize below:</p>			
<p>TOTAL (also enter in 2(a)).</p>	<p>\$50,000</p>		

6. Procurement Processes

All procurement processes must be conducted in a manner providing full and open competition. Explain the process used (or to be used) to select the installer and the replacement engine. If the engine is available from several sources, at least three bids or quotes are preferable. If only one quote or bid was obtained, explain why the engine is only available from one source (please include copies of any available bids or quotes). If additional procurement steps will need to be completed after a grant is awarded, explain those additional steps.

We solicited bids from three different vendors that our company has worked with in the past. We chose to purchase the new vehicle from 123 Trucks, Co because they offer the best service plan and they can get us the vehicle we need in the shortest amount of time. Bids from all three vendors are attached.

OR

Our city uses several coops to purchase services and goods. One of which is through the BuyBoard sponsored by the Texas Local Government Purchasing Cooperative Contract. The successful bidder was Bob's Truck's because they were the offered the lowest price and they include a 10 year warranty on their vehicles.

7. Installer Information - NOTE: the repower must be completed to meet the original engine manufacturer's (OEM's) standards.

Installation company name, contact person, address, and phone number:
Bob's Trucks
Bob Jackson, Manager
456 Center Drive
Dallas, TX 75254
(555) 555-5555

8. Disposition of the Engine Being Replaced

NCTCOG may inspect and otherwise verify the condition of the engine being replaced. If the applicant does not allow such verification, the NCTCOG is not obligated to select the application for funding.

How will the old engine be disposed of? (check only one):

*The applicant agrees to destroy, render permanently inoperable, or **permanently** remove from Texas the old engine within 90 days of either receiving the Notice to Proceed for your project or of purchasing the replacement engine, whichever occurs later. Please explain below how the old engine will be disposed of and by whom. **By signing the project application form, the applicant understands that they may be responsible for returning grant funds if the old engine is brought back into Texas.** The NCTCOG is not obligated to accept a proposed disposition arrangement, and may impose additional requirements as a condition of receiving a grant.*

- a) Old engine will be scrapped (destroyed). Destruction includes drilling a hole or otherwise destroying the engine block. Provide information regarding the scrappage activities and, if known, identify (name, address, and phone #) the company that will scrap the equipment. Other ancillary parts may be removed and sold or used for spares.
- b) Old engine will be sent to a remanufacture facility operated by or authorized by the original engine manufacturer to remanufacture the engines from that manufacturer. The remanufacture process will include removing all parts and using the old block to build remanufactured engines with a new serial number.

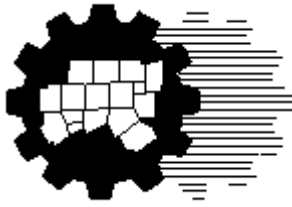
Please provide the requested information for the selected disposition option:

NOTE: Please provide any supporting documentation regarding the proposed action (ex: letter from the dealer, invoice, etc.). As a condition of receiving a grant, the grant recipient will need to provide verification that the scrappage or alternative disposition of the old engine and engine did occur within the 90-day deadline.

REQUIRED DOCUMENTATION (these materials must be included with the Repower forms)

Note: this page does not need to be returned to NCTCOG with the application forms.

- If the replacement engine has not yet been purchased, provide written quotes for the purchase. If the final quote has not yet been obtained, provide any preliminary quotes or other information to verify the estimated cost of the replacement engine.
- If the replacement engine has already been purchased, provide the invoice showing the price paid.
- Provide the written quotes, estimates, or other information used to determine the scrappage or trade-in value of the engine being replaced.



**North Central Texas
Council of Governments**

**TEXAS EMISSIONS REDUCTION PLAN (TERP)
NORTH TEXAS EMISSIONS REDUCTION GRANT**

**Understanding and Agreement of General and Special
Conditions**

To expedite the contracting process, please read and sign the following. A *Scope of Work* and *Application Summary* will be included in the contract upon awarding the grant.

Include three (3) original copies of the signed contract conditions.

North Central Texas Council of Governments (NCTCOG)
Air Quality Policy and Program Development
P.O. Box 5888
Arlington, TX 76005-5888
(817) 608-2353
(817) 608-2354
(817) 640-3028 - fax

<http://www.nctcog.org/NTERG>

GENERAL CONDITIONS
For
NORTH TEXAS EMISSIONS REDUCTION GRANT PROGRAM AGREEMENT

ARTICLE 1. DEFINITIONS

Unless defined herein, terms in the Agreement between NCTCOG and PERFORMING PARTY and Agreement Documents will have the meanings provided in the *Uniform Grant Management Standards (UGMS)*. The following terms have the meanings indicated.

1.1. *Activity Life* - the period established and designated in the Approved Application and Approved Application Summary, that is used to determine the emissions reductions and cost effectiveness of the activity. Where applicable under the provisions of the Agreement between NCTCOG and PERFORMING PARTY, references to the Activity Life for a Demonstration of New Technology Project will be considered the same as the term of the Grant Activities and the Agreement between NCTCOG and PERFORMING PARTY.

1.2. *Administrative Requirements* - means those matters common to grants in general, such as financial management, kinds and frequency of reports, and retention of records. These are distinguished from Grant Activities requirements, which concern matters that pertain to the specific Grant Activities approved by NCTCOG.

1.3. *Agreement Documents* - the Agreement Documents are composed of the NCTCOG Regional Refuse Hauler Program Replacement Grant Agreement, the General Conditions NCTCOG Regional Refuse Hauler Program Replacement Grant, the NCTCOG North Texas Emissions Reduction Grant Program Call for Projects Guideline (Revised – June 27, 2006), the Special Conditions for NCTCOG Regional Refuse Hauler Program Replacement Grant, the Approved Application, the completed Approved Application Summary, and any amendments to those documents. Together, the Agreement Documents form the contractual agreement between the parties.

1.4. *Annual Usage* - the use factor designated in the Approved Application, and Approved Application Summary based on either the hours of operation, miles traveled, or fuel consumption.

1.5. *Approved Application* - the application for emissions reduction incentive grant submitted by the PERFORMING PARTY and approved by the Regional Transportation Council and the TCEQ, including any amendments or supplemental conditions added to the application in order for it to be approved. An Approved Application may include one or more Supplemental Activity Application Forms, which pertain to the individual activities to be conducted under the grant.

1.6. *Baseline Cost* - a specific amount designated in the Approved Application and Approved Application Summary to reflect the costs that would otherwise be incurred by the PERFORMING PARTY in the normal course of business, as determined according to the provisions of the *Guidelines for the Emissions Reduction Incentive Grants (RG-388)* and NCTCOG North Texas Emissions Reduction Grant Program Call for Projects Guideline (Revised – June 27, 2006)

1.7. *Contract Amount* - the maximum amount of funds which may be reimbursed by NCTCOG to the PERFORMING PARTY for completion of the Grant Activities in accordance with the Agreement Documents.

1.8. *Contract Period* - the number of days or dates stated in the Agreement to complete the Grant Activities so that final payment is appropriate.

1.9. *Effective Date of the Agreement* - the date indicated in the Agreement on which the Agreement becomes effective; but if no such date is indicated it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

1.10. *Eligible Counties*: Collin, Dallas, Denton, Ellis, Johnson, Kaufman, Parker, Rockwall, and Tarrant.

1.11. *Final Completion* - the Grant Activities are completed in the judgment of NCTCOG.

1.12. *Grant Activity/Activities* - each separate lease, purchase, replacement, repower, retrofit, add-on, purchases of qualifying fuel, purchase and installation of infrastructure, process and technology development and utilization, and related goods and services described in the Approved Application and Approved Application Summary, including each separate Supplemental Activity Application Form that may be attached to the application.

1.13. *Grant Equipment* - the equipment, real property, vehicles, qualifying fuel, infrastructure, processes and technology and the related goods and services in a Grant Activity for which the cost of purchase, lease, or utilization is reimbursed by NCTCOG under the Agreement. The term includes replacements for the Grant Equipment which is lost, stolen, or irreparably damaged.

1.14. *Incremental Costs* - the cost of an approved activity less a baseline cost that would otherwise be incurred by the PERFORMING PARTY in the normal course of business, as determined according to the provisions of the NCTCOG TERP Regional Refuse Hauler Program Call for Projects Guideline (Revised – June 27, 2006).

1.15. *Intellectual Property* - (1) any and all inventions, discoveries, improvements, or creations for which copyright, trade secret, patent or other proprietary rights may be acquired, (2) any photographs, graphic designs, plans, drawings, specifications, computer programs, computer files, documentation, technical reports, operating manuals, or other materials, and (3) any other work fixed in any tangible medium of expression which can be perceived, reproduced, or otherwise communicated for which copyright, trade secret, patent or other proprietary rights may be acquired.

1.16. *Intellectual Property Rights* - patent, trademarks, trade secret rights, confidential information rights or any other proprietary rights to which a person may be entitled or may actually possess. Intellectual Property Rights include all rights of ownership and original authorship throughout the world.

1.17. *Intracoastal Waterway* - The intracoastal waterway of Texas, as designated by official maps and charts published by the State of Texas.

1.18. *Minor Change* - a written document which provides for minor changes in the work in accordance with these General Conditions, but which does not involve a change in the Contract Amount or the Contract Period.

1.19. *NO_x* - Oxides of nitrogen (NO_x) are a class of pollutants formed when fuel is burned at a very high temperature (above 1200 °F), such as in automobiles and power plants. For air pollution purposes, it is composed primarily of nitric oxide (NO), nitrogen dioxide (NO₂) and other oxides of nitrogen, and it plays a major role in the formation of ground-level ozone in the atmosphere through a complex series of reactions with volatile organic compounds (VOCs).

1.20. *NCTCOG* – means the North Central Texas Council of Governments

1.21. *Notice to Proceed* – A written notice given by NCTCOG to the PERFORMING PARTY that authorizes PERFORMING PARTY to incur eligible charges in accordance with the Agreement Documents.

1.22. *Optimum Performance* - The level of performance at which Grant Equipment functions in order to achieve the anticipated emissions reductions.

1.23. *Project Life* - the period established by NCTCOG, based on the longest-running Activity Life of the Grant Activities under the Agreement between NCTCOG and PERFORMING PARTY, and used to determine the combined emissions reductions and cost-effectiveness for all of the activities funded under the Agreement between NCTCOG and PERFORMING PARTY. However, for Demonstration of New Technology Projects, the Project Life is the Contract Period.

1.24. *Project Representative* - the Project Representative of NCTCOG and the PERFORMING PARTY, as designated in writing elsewhere in the Agreement.

1.25. *Repower* - replacement of an existing diesel engine with a different engine, according to the criteria of the NCTCOG TERP Regional Refuse Hauler Program Call for Projects Guideline (Revised – June 27, 2006).

1.26. *State* - means the State of Texas.

1.27. *Termination* - means a permanent end and cessation of the Agreement either because the Contract Period has expired or because all requirements of the Agreement between NCTCOG and PERFORMING PARTY are completed within the sole discretion of NCTCOG or finally because the Agreement is ended by action of NCTCOG for cause or for convenience. The *Date of Termination* is the date of expiration of the Contract Period, or the date of completion all requirements of the Agreement between NCTCOG and PERFORMING PARTY, or the effective date of action by NCTCOG ending the Agreement for cause or for convenience.

1.28. *TCEQ* - the Texas Commission on Environmental Quality.

1.29. *Written Amendment* - a document signed by the PERFORMING PARTY and NCTCOG which authorizes an addition, deletion or revision in the work, or an adjustment in the Contract Amount or the Contract Period, issued on or after the Effective Date of the Agreement.

ARTICLE 2. GOVERNING STANDARDS

The Agreement between NCTCOG and PERFORMING PARTY is subject to: (1) Chapter 386, Texas Health and Safety Code, (2) the Uniform Grant and Contract Management Act, Texas Government Code, Section 783.001 et seq., and the Uniform Grant and Contract Management Standards for State Agencies, 1 Texas Administrative Code, Section 5.141 et seq., (3) NCTCOG North Texas Emissions Reduction Grant Program Call for Projects Guideline (Revised – June 27, 2006), and (4) Appropriations Act of the 78th Texas Legislature pertaining to appropriation of funds to TCEQ for grants, etc. and grants by state agencies; (5) Chapter 2261 Texas Government Code (pertaining to cost reimbursement contracts); (6) Chapter 391 Local Government Code and implementation rules and of the Governors office of Budget and Planning (pertaining to costs for entities defined as Councils of Government, etc); (7) (Texas Government Code Section 556.0055 (pertaining to lobbying); (8) TCEQ *Allowable Expenditure Guidelines* (pertaining to allowable costs for cost reimbursement contracts and grants); (9) Rules and guidelines of the office of the Governor of Texas (implementing Local Government Code Chapter 391); (10) TCEQ rules and policies (pertaining to TCEQ contracts and grants); and other applicable Federal and State rules and statutes.

ARTICLE 3. ELIGIBILITY FOR COST REIMBURSEMENT

3.1. NCTCOG will reimburse the PERFORMING PARTY for those costs which are eligible for reimbursement in accordance with all requirements. Costs are considered eligible for reimbursement when NCTCOG determines that the costs are reasonable, necessary, actual, and allowable costs of implementing the Grant Activities in the Application Summary and approved by TCEQ. Costs must be included in the Approved Application to be eligible for reimbursement. Determinations of eligibility for reimbursement are made by NCTCOG, subject to approval by TCEQ as the funding agency.

Procurement

3.2. Application of Uniform Grants Management Standards (UGMS), Part III. State Uniform Administrative Requirements for Grants, Subpart C, Post-Award Requirements ____36 Procurement, will apply as applicable.

Reasonable Costs

3.3. To be reimbursable, a cost must be reasonable. Reasonableness of costs depends upon a variety of considerations and circumstances, including:

3.3.1. Whether it is the type of cost generally recognized as ordinary and necessary for the conduct of the contractor's business or the contract performance;

3.3.2. Generally accepted sound business practices, arm's length bargaining, and Federal and State laws and regulations;

3.3.3. The contractor's responsibilities to NCTCOG, other customers, the owners of the business, employees, and the public at large; and

3.3.4. Any significant deviations from the contractor's established practices.

3.4. As evidence that costs are reasonable, the PERFORMING PARTY may submit, if requested, three separate written bids or quotes from uninterested parties. Any noncompetitive procurement of goods or services, where authorized by the UGMS, must be supported by a cost or price analysis.

Necessary Costs

3.5. Necessary costs include costs which are directly attributable to the implementation of the Grant Activities and must be included in the Approved Application and Approved Application Summary.

3.6. Unless expressly authorized by NCTCOG, necessary costs do not include:

3.6.1. The cost of money;

3.6.2. The interest charges on a purchase money loan, or on a deferred payment purchase agreement; or

3.6.3. The cost of converting from a lease to a purchase at the end of the lease period.

Actual Costs

3.7. The criteria for actual costs include:

3.7.1. The direct incremental costs of implementing the Grant Activities; or

3.7.2. The true price charged by a vendor/contractor to the PERFORMING PARTY for implementing the Grant Activities.

3.8. Unless expressly authorized by NCTCOG, actual costs do not include:

3.8.1. Amounts deducted from the true price of the purchase or lease acquisition of Grant Equipment whether as discounts, rebates, refunds or otherwise;

3.8.2. Amounts which the PERFORMING PARTY owes or agrees to pay the vendor or contractor for any purpose other than the implementation of Grant Activities;

3.8.3. Amounts in the charges which the vendor/contractor intends to return to PERFORMING PARTY in the form of cash, goods, services, gifts, intangibles, discounts or any other items of value;

3.8.4. Baseline Costs as defined in the Agreement Documents and the NCTCOG TERP Regional Refuse Hauler Program Call for Projects Guideline (Revised – June 27, 2006), and identified in the Approved Application and Approved Application Summary; or

3.8.5. Amounts which are reimbursed by other public sources or for which tax credits or other public financial incentives are received by the PERFORMING PARTY.

3.9. The PERFORMING PARTY'S documentation of expenses is required under Article 7 of these General Conditions.

Allowable Costs

3.10. In order to be allowable, costs must be included in the Approved Application and Approved Application Summary, and must satisfy the requirements of: the Agreement between NCTCOG and PERFORMING PARTY, the UGMS, the TCEQ *Allowable Expenditure Guidelines*, state agency rules, and all applicable state and federal laws.

3.11. If travel costs are authorized in the Approved Application, reimbursement of travel costs may not exceed the amounts explained in this section.

3.11.1. Reimbursement for lodging and meals within the State of Texas is to be based on actual expenses but may not exceed the reimbursements allowed for state employees under the State of Texas Travel Allowance Guide.

3.11.2. Reimbursement for lodging and meals when traveling outside of the State of Texas is to be based on actual expenses but may not exceed the maximum established in the federal General Services Administration travel regulations.

3.11.3. Mileage reimbursement rates are also established in the State of Texas Travel Allowance Guide.

3.12. If indirect costs are authorized in the Approved Application, the PERFORMING PARTY shall comply with the UGMS requirements pertaining to Indirect Cost Rates.

Preapproval of Costs

3.13. If the specific details of costs to be incurred under the “Equipment,” “Contractual,” “Construction,” or “Other” costs categories are not already explained in the Approved Application and Approved Application Summary, including any Supplemental Activity Application Forms, then prior to incurring those costs, the PERFORMING PARTY must submit revised forms to show those details and receive authorization from NCTCOG for those expenses.

3.14. Prior to executing a subcontract to be funded under the Agreement between NCTCOG and PERFORMING PARTY, and if requested by NCTCOG, the PERFORMING PARTY must submit the subcontract scope of work to NCTCOG for review and must receive approval from NCTCOG before proceeding with the contract.

Additional Evidence

3.15. NCTCOG and/or TCEQ may at any time before or after reimbursement, as necessary in its sole discretion, request additional evidence concerning costs. PERFORMING PARTY will provide additional evidence concerning costs if requested by NCTCOG or TCEQ.

Additional Criteria for Reimbursement

3.16. The NCTCOG and/or TCEQ may at any time, in its sole discretion, in the best interests of the state establish additional criteria and requirements for reimbursement of costs. Any additional criteria and requirements for reimbursement of costs established by the NCTCOG and/or TCEQ will apply to PERFORMING PARTY as applicable.

Costs in Application Summary are Maximum Amounts, Not a Guarantee

3.17. Amounts of costs stated in the Application Summary are maximum amounts of reimbursement. By stating the amounts, NCTCOG does not 1) guarantee payment of those amounts or 2) waive the requirements for reimbursement which must subsequently and continually be satisfied by the PERFORMING PARTY. The amount of costs for which reimbursement may be requested is the lesser of 1) the costs stated in the Approved Application or 2) the actual eligible costs. Any reimbursable costs are subject to approval by NCTCOG and TCEQ.

No Entitlement to Funds

3.18. The PERFORMING PARTY has a continuing obligation to satisfy the requirements for reimbursement. Neither a request for reimbursement nor NCTCOG payment of reimbursement nor any other action will establish an entitlement in the PERFORMING PARTY to payment from NCTCOG and/or the TCEQ.

3.19. By paying a request for reimbursement, NCTCOG does not waive any requirements for the reimbursement of costs. NCTCOG may at any time before or after reimbursement, in its sole discretion, request additional evidence concerning costs or if requested to do so by TCEQ. NCTCOG and/or TCEQ may audit the records of the PERFORMING PARTY and may also audit the PERFORMING PARTY'S performance as to the Grant Activities, and the administrative requirements.

Offsets for debts owed to the State

3.20. The TCEQ may offset against reimbursement payments, any amounts owed by the PERFORMING PARTY or its principals to the TCEQ or the State of Texas, whether owed under this program or otherwise. If TCEQ offsets a reimbursement payment under this section, NCTCOG shall not be obligated to pay to the PERFORMING PARTY the amount of the offset.

3.21. The PERFORMING PARTY shall notify NCTCOG, in its Request for Reimbursement, of any financial incentive received by the PERFORMING PARTY which was not included in the Approved Application, if that incentive will offset the cost of the proposed project, including tax credits or deductions, other grants, or any other public financial assistance. NCTCOG, in reimbursing the PERFORMING PARTY, may reduce the amount of authorized incremental costs eligible for reimbursement, by the value of any additional financial incentive received by the PERFORMING PARTY, without an Amendment to the Agreement between NCTCOG and PERFORMING PARTY.

Child Support

3.22. Under Section 231.006 of the Texas Family Code, a child support obligor who is more than 30 days delinquent in paying child support and a business entity which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive state-funded grant or loan. By executing this Grant Agreement, the PERFORMING PARTY certifies that the individual or business entity named in the Agreement between NCTCOG and PERFORMING PARTY is not ineligible to receive the specified grant and acknowledges that the Agreement between NCTCOG and PERFORMING PARTY may be terminated and payment withheld if this certification is not accurate.

Consulting (Application Assistance) Fees

3.23. Any fees charged by a consultant for preparation of a grant application are the sole responsibility of the PERFORMING PARTY and are not an allowable cost under the Agreement between NCTCOG and PERFORMING PARTY. All purchase decisions must be based on sound business practices and arm's length bargaining. It is generally considered acceptable for an applicant to accept assistance from a vendor or an agent of a vendor in preparing an application, as long as any decision by the applicant to purchase the grant-funded vehicle(s) or equipment from that vendor is made independently and meets the other reasonableness provisions in the grant Agreement. However, if the consultant is paid directly by the applicant to complete the

application documents and to act as the PERFORMING PARTY's agent for the grant process, purchases of grant-funded vehicles or equipment from an entity in which the consultant has an interest will not normally be considered appropriate by NCTCOG or TCEQ under the reasonableness requirements of the grant contract.

ARTICLE 4. PERFORMING PARTY'S RESPONSIBILITIES TO NCTCOG – GRANT ACTIVITIES

4.1. All Grant Activities for which reimbursement is requested must be completed as set forth in the Approved Application and Approved Application Summary, including any supplemental conditions attached thereto.

Annual Usage for Activity Life

4.2. With the exception of Demonstration of New Technology Projects, and as a condition of receiving reimbursement grant funds, the PERFORMING PARTY agrees to fully implement the Grant Activities and utilize the Grant Equipment during the entire Activity Life according to the standards set forth in the Agreement between NCTCOG and PERFORMING PARTY and as required under the Guidelines.

Professional Quality

4.3. The PERFORMING PARTY shall be responsible for the professional quality, technical accuracy, timely completion and the coordination of all Grant Activities under the Agreement between NCTCOG and PERFORMING PARTY.

Supervision and Superintendence:

4.4. The PERFORMING PARTY is responsible for the supervision, inspection and direction of the Grant Activities in a competent and efficient manner, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Grant Activities in accordance with the Agreement Documents. The PERFORMING PARTY shall be solely responsible for the means, methods, techniques, sequences and procedures of the Grant Activities. The PERFORMING PARTY shall be responsible to see that the completed implementation of the Grant Activities complies accurately with the Agreement Documents.

Materials & Equipment

4.5. Unless otherwise specified in the Agreement Documents, the PERFORMING PARTY will assume full responsibility for all materials, equipment, labor, transportation, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities and all other facilities and incidentals necessary for the implementation and completion of the Grant Activities.

4.6. Unless otherwise expressly agreed by NCTCOG, all Grant Equipment will be of good quality and as provided in the Agreement Documents. All materials and equipment shall be applied, installed, connected, erected, used, cleaned and conditioned, and maintained in accordance with instructions of the applicable manufacturer and supplier, except as otherwise provided in the Agreement Documents.

4.7. The PERFORMING PARTY agrees to maintain the Grant Equipment as necessary to keep the Grant Equipment in good condition and functioning at optimum performance during the Activity Life.

4.8. Unless otherwise expressly agreed by NCTCOG, the PERFORMING PARTY must obtain and maintain a policy of insurance for the Activity Life which is sufficient to provide for replacement of Grant Equipment which is lost, stolen, or irreparably damaged. Governmental entities may use an established self-insurance program to satisfy this requirement. For Demonstration of New Technology Projects, this insurance must be maintained for the Contract Period. If requested by NCTCOG, the PERFORMING PARTY shall provide proof of insurance coverage. NCTCOG may approve alternative forms of insurance to comply with this requirement, including evidence of self-insurance. NCTCOG may also waive this requirement, at its discretion, for certain types of entities. Previously submitted certificates of insurance coverage may be amended to reflect newly extended coverage. A failure to comply with this requirement is considered a material breach of the Agreement. By stating at any place in the Agreement between NCTCOG and PERFORMING PARTY that any particular non-compliance is a material breach, NCTCOG does not limit the acts or omissions which may constitute a material breach.

4.9. Upon the occurrence of a repairable malfunction of or damage to Grant Equipment which affects emissions reductions during the Activity Life, the PERFORMING PARTY will cause the Grant Equipment to be repaired and restored to the level of optimum performance.

4.10. Upon the occurrence of loss, theft, or irreparable damage of Grant Equipment during the Activity Life, the PERFORMING PARTY will cause the lost, stolen, or damaged Grant Equipment to be replaced with similar equipment which achieves the same optimum performance or better. The PERFORMING PARTY will cause the replacement Grant Equipment to be in operation no later than 60 consecutive days from the occurrence of loss, theft or damage, unless NCTCOG expressly agrees to a longer period. Replacement Grant Equipment is subject to all the requirements that are applicable to Grant Equipment contained in the Agreement between NCTCOG and PERFORMING PARTY.

ARTICLE 5. PERFORMING PARTY'S RESPONSIBILITIES – ADMINISTRATIVE REQUIREMENTS

Maintenance of Records and Access

5.1 State Auditor's Office. The PERFORMING PARTY understands that acceptance of funds under the Agreement between NCTCOG and PERFORMING PARTY acts as acceptance of the authority of NCTCOG, TCEQ, and/or the State Auditor's Office, or any successor agency, to conduct an audit on investigation in connection with those funds. The PERFORMING PARTY further agrees to cooperate fully with the State Auditor's Office or its successor in the conduct of the 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 subcontractors through the PERFORMING PARTY and the requirement to cooperate is included in any subcontract it awards under the Agreement between NCTCOG and PERFORMING PARTY. The PERFORMING PARTY will include in all subcontracts for work under the Agreement between NCTCOG and PERFORMING PARTY a requirement that subcontractors will provide access to all relevant financial records including bank statements.

5.2. The PERFORMING PARTY shall maintain books, records, documents, and other evidence reasonably pertinent to performance of the Grant Activities and requirements of the Agreement, including

the Agreement or amendments thereto. All financial records will be maintained in accordance with generally accepted accounting principles, the UGMS, and the Agreement between NCTCOG and PERFORMING PARTY. The PERFORMING PARTY shall also maintain the financial information and data used in the preparation or support of any request for reimbursement (direct and indirect), price or profit analysis for the Agreement between NCTCOG and PERFORMING PARTY, and a copy of any cost information or analysis submitted to NCTCOG. The PERFORMING PARTY shall allow access to all the material including bank statements and records by NCTCOG, TCEQ, and/or the State Auditor's Office, and any of their authorized representatives for the purpose of review, inspection, audit, excerpts, transcriptions, and/or copying during normal business hours. The PERFORMING PARTY shall provide appropriate facilities and equipment for such access and inspection.

5.3. The PERFORMING PARTY agrees to the disclosure of all information and reports resulting from access to records under the Agreement between NCTCOG and PERFORMING PARTY.

5.4. Records under this Article shall be maintained by the PERFORMING PARTY during performance of Grant Activity under the Agreement between NCTCOG and PERFORMING PARTY, for the Project Life as set forth in the Agreement between NCTCOG and PERFORMING PARTY, and for three (3) years after the ending date of the Project Life. If any litigation, claim, negotiation, audit, cost recovery, or other action (including actions concerning costs of items to which an audit exception has been taken) involving such records has been started before the expiration of the three year period, such records must be retained until completion of the action or resolution of all issues which arise from it, or until the end of the regular three year period, whichever is later.

5.5. Subject to the obligations and conditions set forth in the Agreement between NCTCOG and PERFORMING PARTY, title to real property and equipment (together hereafter referred to in this Article as "property") acquired under the Agreement between NCTCOG and PERFORMING PARTY by the PERFORMING PARTY will vest upon acquisition in the PERFORMING PARTY.

5.6. The PERFORMING PARTY may develop and use its own property management system, which must conform to all applicable federal, state, and local laws, rules, and regulations. If an adequate system for accounting for property owned by the PERFORMING PARTY is not in place or is not used properly, the Property Accounting System Manual issued by the State Comptroller of Public Accounts will be used as a guide for establishing such a system. The property management system used by the PERFORMING PARTY must meet the requirements set forth in this section.

5.6.1. Property records of Grant Equipment must be maintained that include a description of the property, a serial number or other identification number, the source of property, usage and mileage (separated by location of usage and mileage), who holds title, the acquisition date, and the cost of the property, percentage of the property cost paid by NCTCOG, the location, use and condition of the property, and any ultimate disposition data including the date of disposal and sale price of the property.

5.6.2. The PERFORMING PARTY will conduct a physical inventory of all Grant Equipment no less frequently than once every two years during the Activity Life and the results of such inventories reconciled with the appropriate property records. Property control procedures utilized by the PERFORMING PARTY must include adequate safeguards to prevent loss, damage, or theft of the Grant Equipment.

Accounting Systems

5.7. The PERFORMING PARTY shall have an accounting system which accounts for costs in accordance with generally accepted accounting standards or principles and complies in all material respects with applicable State law, regulations, and policies relating to accounting standards or principles. The PERFORMING PARTY must account for costs in a manner consistent with such standards or principles. This system shall provide for the identification, accumulation, and segregation of allowable and unallowable project costs among projects.

PERFORMING PARTY'S Representative

5.8. The PERFORMING PARTY will identify in writing a Project Representative as the person authorized to receive and respond to inquiries and requests from NCTCOG, to manage the Grant Activities being performed, and to act on behalf of the PERFORMING PARTY.

5.9. The PERFORMING PARTY agrees to make arrangements necessary to ensure that its authorized Project Representative, or someone to whom that person has delegated his or her authority, is available at all times for consultation with NCTCOG. Written notice of any such delegation will be provided to NCTCOG.

Personnel

5.10. PERFORMING PARTY shall provide competent, suitably qualified personnel, whether employees or contractors to implement the Grant Activities as required by the Agreement Documents. PERFORMING PARTY must at all times maintain good discipline and order on the location of Grant Activities.

Intellectual Property Requirements

5.11. *{This Section is not applicable to this project. The Section number is retained for numbering continuity}.*

Permits

5.12. Unless otherwise provided in the Agreement Documents, the PERFORMING PARTY shall obtain and pay for all transportation, construction, and operating permits and licenses required for the performance of the Agreement between NCTCOG and PERFORMING PARTY. Failure to comply with a permit issued by the TCEQ or other state agency may result in a determination, within the sole discretion of the TCEQ that the best interests of the state are served by withholding reimbursement or by the application of other remedies under the Agreement between NCTCOG and PERFORMING PARTY.

Laws and Regulations

5.13. The PERFORMING PARTY shall give all notices and comply in all material respects with all Laws and Regulations applicable to furnishing and performance of the Grant Activities. Except where otherwise expressly required by applicable Laws and Regulations, NCTCOG shall not be responsible for monitoring PERFORMING PARTY's compliance with any Laws or Regulations.

Data and Publicity

5.14. All data and other information developed under the Agreement between NCTCOG and PERFORMING PARTY shall be furnished, upon request, to the NCTCOG and/or TCEQ and shall be public data and information except to the extent that it is exempted from public access by the Texas Public Information Act, Texas Government Code, Chapter 552. Upon termination of the Agreement between NCTCOG and PERFORMING PARTY, if requested by NCTCOG and/or TCEQ, all copies of data and information developed under the Agreement between NCTCOG and PERFORMING PARTY shall be furnished, at no charge to the NCTCOG or TCEQ, to include databases for which the costs of preparation are reimbursed under the Agreement between NCTCOG and PERFORMING PARTY, and become the property of the requesting agency.

5.15. The PERFORMING PARTY agrees to notify NCTCOG prior to releasing any information to the news media regarding the Grant Activities. NCTCOG agrees to notify PERFORMING PARTY in the event NCTCOG issues any press releases to the media regarding this project.

Safety and Protection

5.16. Where applicable, the PERFORMING PARTY shall be responsible for requiring employees, contractors, and subcontractors to maintain and supervise all necessary safety precautions and programs in connection with the Grant Activities. The PERFORMING PARTY shall take all necessary safety precautions.

5.17. In performing the Grant Activities hereunder, the PERFORMING PARTY undertakes performance for its own benefit and not as agent for NCTCOG.

Lobbying Activities

5.18. As set forth in these Agreement Documents, and in accordance with the UGMS and State law, the PERFORMING PARTY shall not use funds provided under the Agreement between NCTCOG and PERFORMING PARTY to support lobbying or political activity either directly or indirectly.

5.19. The PERFORMING PARTY will acknowledge the financial support of TCEQ whenever a Grant Activity reimbursed, in whole or part, is publicized or reported in news media or publications.

ARTICLE 6. NCTCOG RESPONSIBILITIES

6.1. NCTCOG will designate a Project Representative authorized to give direction to the PERFORMING PARTY and act on behalf of the NCTCOG.

6.2. NCTCOG will not supervise, direct or have control or authority over, nor be responsible for, PERFORMING PARTY's means, methods, techniques, sequences or procedures relating to the implementation project or the Safety precautions and programs incident thereto, or for any failure of PERFORMING PARTY to comply with Laws and Regulations applicable to the furnishing or performance of the work. Neither NCTCOG nor TCEQ will be responsible for PERFORMING PARTY's failure to perform or furnish the work in accordance with the Agreement.

6.3. Unless authorized in writing by NCTCOG in accordance with the Agreement between NCTCOG and PERFORMING PARTY, no waiver of any obligation of the PERFORMING PARTY shall bind NCTCOG. Any such authorized waiver shall not constitute a continuing waiver of the obligation.

ARTICLE 7. REQUEST FOR REIMBURSEMENT

7.1. In order to receive reimbursement for eligible expenses, the PERFORMING PARTY shall submit no more frequently than monthly, a completed NCTCOG Request for Reimbursement form, to be made available to the PERFORMING PARTY by NCTCOG. Each request shall be accompanied by a properly completed Financial Status Report for each activity for which reimbursement is requested. The request and forms shall be mailed or delivered to:

North Central Texas Council of Governments
Transportation Department
C/O: Deborah Bell-Flowers, Grants Coordinator
P.O. Box 5888
Arlington, Texas 76005-5888

7.2. The Financial Status Reports submitted with a Request for Reimbursement shall be completed on forms provided by NCTCOG. The report, including all required supplemental forms, shall list, for each activity, the total expenses obligated under a lease or financing agreement, the total activity expenses incurred to date, the baseline cost, and the incremental costs incurred to date. The report shall also list and explain any additional financial incentive received by the PERFORMING PARTY that directly offsets the activity costs reported by the PERFORMING PARTY, including tax credits or deductions, other grants, or any other public financial assistance.

7.3. Except as provided for under Section 7.4 below, to be eligible for reimbursement under the Agreement between NCTCOG and PERFORMING PARTY, a cost must have been incurred and paid by the PERFORMING PARTY prior to claiming reimbursement from NCTCOG. A cost may not be considered incurred until the Grant Equipment and/or goods and services included under the cost have been received and accepted by the PERFORMING PARTY.

7.4. Subject to approval by NCTCOG, the PERFORMING PARTY may assign the payments due from NCTCOG directly to the supplier, subcontractor, financing or leasing company, or other entity from which the goods or services were procured, leased, or financed by the PERFORMING PARTY. A properly completed Texas Application for Payee Identification Number and Notice of Assignment must be completed and submitted with, or prior to submission of, the Request for Reimbursement form. Under this option, the Grant Equipment and/or goods and services included under a cost must have been received and accepted by the PERFORMING PARTY, and the PERFORMING PARTY must have an

obligation to pay the expense. Sufficient supporting documentation must be submitted, as outlined in the form instructions, to document that the goods or services were received and that the payment amount is owed to the entity designated to receive the payment from NCTCOG.

7.5. For activities where a baseline cost applies, and unless approved in writing by NCTCOG, the costs incurred or otherwise obligated under financing agreement must exceed the value of the baseline costs before NCTCOG will reimburse eligible incremental costs. In addition, if financial incentives are received by the PERFORMING PARTY that directly offset the activity costs being reported, including tax credits or deductions, other grants, or any other public financial assistance, reimbursement of eligible incremental costs will be made only after the costs incurred or obligated under financing agreement exceed both the value of any baseline costs that apply and the value of the financial assistance received.

7.6. A final Request for Reimbursement form, indicating in the appropriate box that it is the final request, shall be submitted to NCTCOG by no later than forty-five (45) days after the termination date of the Agreement between NCTCOG and PERFORMING PARTY or the date specified in the NCTCOG TERP Grant Agreement, whichever is earlier.

7.7. All Request for Reimbursement forms and accompanying Financial Status Report forms shall contain sufficient identification of and information concerning the costs incurred or obligated under a lease or financing agreement and paid so as to enable NCTCOG to ascertain the eligibility of a particular cost and to enable subsequent audit thereof. Supporting documentation materials, as directed by NCTCOG in the instructions accompanying the forms, shall be attached to the report forms to clearly show that the cost was incurred and, except where the payment is assigned to another entity, paid.

7.8. If the requests for reimbursement do not satisfactorily demonstrate the accomplishment of the required tasks, or that costs are allowable, eligible, actual, and incurred costs, the NCTCOG Project Representative and Contract Manager may reject the request, until such time as the deficiencies have been corrected. Satisfactory accomplishment of a task is within the judgment of NCTCOG; however such judgment must be reasonable.

7.9. NCTCOG is not obligated to make payment until the request for reimbursement is approved by NCTCOG and TCEQ. Further, NCTCOG reserves the right to suspend or withhold all or part of a payment or all payments as authorized by the Agreement Documents.

ARTICLE 8. PROJECT STATUS AND COMPLETION REPORT

8.1. During the Contract Period, the PERFORMING PARTY shall submit a properly completed Project Status and Completion Report, on forms provided by NCTCOG, with each Request for Reimbursement. The PERFORMING PARTY shall also submit a completed Project Status and Completion report, on forms provided by NCTCOG, when requested by the NCTCOG and/or TCEQ to provide information on the status of completion of the grant activities.

8.2. A final Project Status and Completion Report, using forms provided NCTCOG and indicating in the appropriate box that it is the final report, shall be submitted to NCTCOG after all Grant Activities are completed, and by no later than forty-five (45) days following the termination date of the Agreement between NCTCOG and PERFORMING PARTY.

ARTICLE 9. TERMINATION

9.1. Unless termination occurs by action taken by NCTCOG under this Article, the Agreement between NCTCOG and PERFORMING PARTY will terminate upon expiration of the contract period or upon full performance of all requirements contained herein.

9.2. The Agreement between NCTCOG and PERFORMING PARTY may be terminated in whole or in part by NCTCOG for cause by the PERFORMING PARTY, which may include without limitation a material failure to comply with the requirements of the Agreement Documents. Unless advance notice of intent to terminate will place TERP funds at increased risk, NCTCOG will provide a minimum of ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate and a reasonable opportunity for the PERFORMING PARTY to correct such non-compliance prior to termination.

9.3. The Agreement between NCTCOG and PERFORMING PARTY may be terminated in whole or part by NCTCOG if any delay or failure of performance of the Grant Activities by either PERFORMING PARTY or NCTCOG is caused by a *force majeure* event, as determined by NCTCOG in its sole discretion.

9.4. The Agreement between NCTCOG and PERFORMING PARTY may be terminated in whole or in part by NCTCOG for its convenience. Circumstances in which this may occur include without limitation the termination of the NCTCOG/TCEQ agreement regarding the administration of certain TERP funds; the Texas Legislature's withdrawal of the appropriation for this project or the depletion of the Texas Emissions Reduction Plan Fund, which results in the unavailability of funds to complete this project. To the extent feasible, in the sole discretion of NCTCOG, NCTCOG will provide a minimum of ten (10) days written notice (delivered by certified mail, return receipt requested) of intent to terminate.

9.5. If after termination for the PERFORMING PARTY'S material failure to comply with the requirements of the Agreement Documents, it is determined that the PERFORMING PARTY had not so failed, the termination shall be deemed to have been effected for the convenience of NCTCOG.

9.6. In accordance with The Agreement between NCTCOG and PERFORMING PARTY, the PERFORMING PARTY does not have an expectation or entitlement of continued receipt of financial assistance under the Agreement. Therefore, PERFORMING PARTY waives any claim for damages arising from or resulting from NCTCOG termination of the Agreement for any reason.

9.7. If, during the Agreement Period, the PERFORMING PARTY chooses to not complete the Grant Activities and withdraw from the obligations under the Agreement, the PERFORMING PARTY may terminate the Agreement by providing ten (10) days' written notice to NCTCOG and returning any reimbursements already received.

ARTICLE 10. LONG-TERM MONITORING AND REPORTING

10.1. As a condition of receiving grant funds, the PERFORMING PARTY agrees to monitor the use of Grant Equipment, including the use of Qualifying Fuel, for the Activity Life. However, this requirement

does not apply to a Demonstration of New Technology Project, where the obligation to report ends with the termination of the Agreement.

10.2. As a condition of receiving grant funds, the PERFORMING PARTY agrees to submit properly completed Monitoring Reports to NCTCOG, on forms provided by NCTCOG, for the Project Life. The Monitoring Reports shall have attached properly completed individual reports on the use of Grant Equipment, including Qualifying Fuel, for each activity, for the life of that activity (Activity Life). The PERFORMING PARTY will submit the required reports on the date specified by NCTCOG in the reporting instructions.

ARTICLE 11. INDEMNIFICATION

To the extent permitted by law, the PERFORMING PARTY agrees to indemnify and hold harmless NCTCOG, the State of Texas and the TCEQ, including its employees and officers, against and from any and all liability, loss, or damage arising out of actions of the PERFORMING PARTY in the performance of the Agreement.

ARTICLE 12. ACHIEVING EMISSION REDUCTIONS

12.1. The provisions of Section 386.055, Texas Health and Safety Code, apply to the emission reductions generated over the Activity Life of each activity funded under the Agreement. The PERFORMING PARTY agrees that the TERP funded portion of emission reductions generated by each activity over the Activity Life are transferred to the TCEQ for the state implementation plan and those reductions are permanently retired. NCTCOG may elect to use any remaining emission reductions for SIP purposes or to meet other air quality requirements, with the exception that no emission reductions may be used for emission trading purposes.

12.2. The PERFORMING PARTY agrees that if, during the Activity Life, the annual and total NOx emission reductions achieved within the Eligible Counties by the Grant Activities do not meet the amounts calculated in the Application Summary of the Agreement, NCTCOG will be entitled to a return of a pro rata share of the reimbursement funds, based on the failure to achieve expected emissions reductions. Unless an alternative method is approved by NCTCOG, the determination of whether the NOx emission reduction requirements have been met will be based on the total annual usage and the percentage of annual usage of the Grant Equipment (including qualifying fuel) within the Eligible Counties. The decision on whether a return of funds is necessary will be at the discretion of NCTCOG.

12.3. The PERFORMING PARTY agrees that failure to adequately monitor the annual usage of Grant Equipment and/or failure to submit properly completed Monitoring Reports during the Project Life may be considered evidence that the expected emissions reductions have not been achieved. In such instances, and after being provided written notice and a reasonable opportunity to provide the required monitoring information, the PERFORMING PARTY agrees that NCTCOG will be entitled to a return of a pro rata share of the reimbursement grant funds, based on the failure to achieve expected emissions reductions within the Eligible Counties. The decision on whether a return of funds is necessary will be at the discretion of the NCTCOG.

12.4. The PERFORMING PARTY agrees that failure to properly destroy or dispose of a vehicle, piece

of equipment, or engine replaced under the Agreement, in accordance with the destruction requirements or the provisions of an alternative disposition plan approved by NCTCOG may be considered evidence that the expected emissions reductions have not been achieved. In such instances, and after being provided written notice and a reasonable opportunity to provide the required monitoring information, the PERFORMING PARTY agrees that NCTCOG will be entitled to a return of a pro rata share of the reimbursement grant funds, based on the failure to achieve expected emissions reductions within the Eligible Counties. The decision on whether a return of funds is necessary will be at the discretion of the NCTCOG.

12.5. The PERFORMING PARTY agrees that during the Activity Life, prior to selling, trading, or transferring ownership of Grant Equipment (excluding qualifying fuel) or related property, or transferring operation of Grant Equipment outside of an Eligible County, the PERFORMING PARTY will notify the NCTCOG in writing of its intentions.

12.6. The PERFORMING PARTY agrees that if, during the Activity Life, Grant Equipment (excluding qualifying fuel) is sold, traded, transferred to another owner, or transferred to another operational location outside of the eligible counties, NCTCOG will be entitled to a return of a pro rata share of the reimbursement funds provided to the PERFORMING PARTY. The decision on whether a return of funds is necessary will be at the discretion of NCTCOG. The decision by NCTCOG on whether to require return of a share of the reimbursement funds may include consideration of whether the Grant Equipment will continue to be used within the eligible counties. In lieu of a return of a share of the grant funds, one alternative that may be authorized by the NCTCOG would be for the PERFORMING PARTY to obtain a binding agreement from a new owner of the Grant Equipment to continue to use the equipment subject to the terms of the Agreement related to use within the eligible counties for the percentage of use and total annual usage originally agreed to by the PERFORMING PARTY and to monitor and report on the annual usage.

12.7. In accordance with the requirements of UGMS, during the term of the Agreement, the PERFORMING PARTY will not dispose of the equipment acquired with grant funds under the Agreement without written consent from NCTCOG.

ARTICLE 13. DISPOSITION OF EQUIPMENT OR REAL PROPERTY - DEMONSTRATION PROJECTS

{This Article is not applicable to this project. The Article number is retained for numbering continuity.}

ARTICLE 14. USE OF REPLACED VEHICLES, EQUIPMENT, AND/OR ENGINES - REPLACEMENT AND REPOWER PROJECTS

14.1. For all Replacement projects, where a vehicle or equipment and the engine are replaced with a different vehicle or equipment, the PERFORMING PARTY agrees to the conditions set forth in this Section.

14.1.1. Unless an alternative disposition plan is approved by NCTCOG in accordance with the provisions of Subsection 14.1.2. below, the PERFORMING PARTY agrees to destroy or have destroyed the vehicle or equipment being replaced, including the engine, within ninety (90) days of the purchase and delivery of the replacement vehicle or equipment. If the replacement vehicle or equipment were purchased prior to the award of the grant under this Agreement, the ninety (90) day period begins upon the issuance of the Notice to Proceed by the NCTCOG. Destruction of the vehicle or equipment shall include the drilling of a hole in the engine blocks **and** cutting the frame rails or major structural components of the vehicle or equipment, or complete destruction of the vehicle or equipment and engine.

14.1.2. As an alternative to destroying the vehicle or equipment being replaced, the PERFORMING PARTY may request authorization by NCTCOG to use an alternative disposition plan. A request for authorization of alternative disposition of a vehicle or equipment may be submitted with the application or separately, in a format provided by NCTCOG. If an alternative disposition plan is approved by NCTCOG, either in the Special Conditions of this Agreement or otherwise in writing by the NCTCOG, the PERFORMING PARTY agrees to implement the approved plan in lieu of destroying the vehicle or equipment, including the engine, being replaced within ninety (90) days of the purchase or delivery of the replacement vehicle or equipment. If the replacement vehicle or equipment were purchased prior to the award of the grant under this Agreement, the ninety (90) day period begins upon the issuance of the Notice to Proceed by NCTCOG.

14.2. For all Repower projects, where an engine is replaced with an engine, the PERFORMING PARTY agrees to the conditions set forth in this Section.

14.2.1. Unless an alternative disposition plan is approved by NCTCOG in accordance with the provisions of Subsection 14.2.2. below, the PERFORMING PARTY agrees to destroy or have destroyed the engine being replaced, within ninety (90) days of the purchase and installation of the replacement engine. If the replacement engine was installed prior to the award of the grant under this Agreement, the ninety (90) day deadline begins upon the issuance of the Notice to Proceed by the NCTCOG. Destruction of the engine shall include the drilling of a hole in the engine block or complete destruction of the engine.

14.2.2. As an alternative to destroying the engine being replaced, the PERFORMING PARTY may request authorization by NCTCOG to use an alternative disposition plan. A request for authorization of alternative disposition of the engine being replaced may be submitted with the application or separately, in a format provided by NCTCOG. If an alternative disposition plan is approved by the NCTCOG, either in the Special Conditions of this Agreement or otherwise in writing by NCTCOG, the PERFORMING PARTY agrees to implement the approved plan in lieu of destroying the engine being replaced. within ninety (90) days of the purchase and installation of the replacement engine. If the replacement engine was purchased and installed prior to the award of the grant under this Agreement, the ninety (90) day period begins upon the issuance of the Notice to Proceed by NCTCOG.

14.3. The PERFORMING PARTY understands and agrees that failure to either destroy a vehicle or equipment and/or engine being replaced under a Replacement or Repower project, or alternatively, failure to implement an approved alternative disposition plan, shall constitute noncompliance with the conditions of this Agreement and NCTCOG shall be entitled to a return of grant funds paid in conjunction with the Replacement or Repower activity.

ARTICLE 15. RELEASE OF CLAIMS

The final Request for Reimbursement and Financial Status Report shall include a signed and executed Release of Claims, releasing all claims for payment of any funds due and payable by NCTCOG, upon NCTCOG payment of the final Request for Reimbursement.

ARTICLE 16. AMENDING AND SUPPLEMENTING AGREEMENT DOCUMENTS

The Agreement Documents may be amended to provide for additions, deletions, and revisions in the Grant Activities or to modify the General Conditions thereof in one or more of the following ways: a formal Written Amendment or a Minor Change.

ARTICLE 17. REMEDIES AVAILABLE TO NCTCOG

17.1. The following Schedule of Remedies applies to this contract in the event of the substandard performance of Grant Activities or other material failure to conform to the requirements of the contract or applicable law:

17.1.1. Reject substandard performance and request corrections without charge to NCTCOG;

17.1.2. Issue notice of substandard performance or other non-conforming act or omission;

17.1.3. Request and receive return of any over payments or inappropriate payments;

17.1.4. Reject reimbursement request and suspend payment pending accepted revision of substandard performance or non-conformity;

17.1.5. Suspend all or part of the Work and/or payments pending accepted revision of substandard performance or non-conformity;

17.1.6. Reject reimbursement request and withhold all or partial payments. Funds may be retained by NCTCOG for recovery of administrative costs or returned to funding source as authorized by agreements with the funding source and by state or federal law; and/or

17.1.7. Terminate the contract, demand and receive: return of all equipment purchased with contract funds, return of all unexpended funds, and repayment of improperly expended funds.

Cumulative Remedies

17.2. NCTCOG may avail itself of any remedy or sanction provided in this contract or in law to recover any losses rising from or caused by the PERFORMING PARTY's substandard performance or any material non-conformity with the contract or the law. The remedies and sanctions available to either party in this contract shall not limit the remedies available to the parties under law.

ARTICLE 18. STANDARDS FOR PERFORMING PARTY'S PERFORMANCE

18.1. The PERFORMING PARTY agrees that the standards set forth below are appropriate standards for the PERFORMING PARTY's performance during the Agreement.

18.1.1. **Quality and Accuracy.** Standard: PERFORMING PARTY'S Grant Activities conform to the requirements of the Agreement between NCTCOG and PERFORMING PARTY.

18.1.2. **Timeliness.** Standard: PERFORMING PARTY'S Grant Activities are completed on schedule.

18.1.3. **Reports and Administrative and Financial Operations.** Standard: PERFORMING PARTY's administrative and financial operations comply with all obligations in law and in the Agreement between NCTCOG and PERFORMING PARTY including, but not limited to, record-keeping, reimbursement requests, audits, allowable costs, payments to subcontractors, and restricted expenditures.

18.1.4. **Communication.** Standard: PERFORMING PARTY's accessibility, responsiveness, and cooperativeness with respect to any contract-related concerns communicated to NCTCOG; and including the PERFORMING PARTY's demonstrated relationship with subcontractors.

18.1.5. **Other.** Standard: Other factors unique to the type of project, as determined by NCTCOG.

18.2. NCTCOG will monitor the PERFORMING PARTY's performance and evaluate the level of compliance with the standards utilizing the performance measures set forth below.

18.2.1. **Exceeds Expectations.** PERFORMING PARTY fully complied with all the standards on a consistent basis.

18.2.2. **Satisfactory Performance.** PERFORMING PARTY's performance complied with all of the standards, with only typical errors, delays, or other problems that needed to be corrected.

18.2.3. **Marginal Performance.** PERFORMING PARTY's performance was acceptable, although a significant number of deficiencies had to be corrected before the contract requirements could be considered met.

18.2.4. **Unsatisfactory Performance.** PERFORMING PARTY's performance was not acceptable, even after attempts to correct deficiencies.

Contractor Evaluation

18.3. NCTCOG may prepare a written evaluation of the performance of the PERFORMING PARTY upon completion of the terms of the Agreement, or more frequently, as deemed necessary NCTCOG. A copy of the evaluation, if any, will be provided to the PERFORMING PARTY and a copy retained in NCTCOG contract files. The content of the evaluation shall be wholly within the discretion of NCTCOG. The PERFORMING PARTY may provide a written statement which explains or disagrees with the evaluation, which will be incorporated into the evaluation. The PERFORMING PARTY waives any claim for damages against NCTCOG for the evaluation.

ARTICLE 19. MISCELLANEOUS

Computation of Times

19.1. When any period of time is referred to in the Agreement Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday, Sunday, or on a federal holiday, such day will be omitted from the computation.

19.2. A calendar day of twenty-four (24) hours measured from midnight to the next midnight will constitute a day.

Notice of Claim

19.3. Should NCTCOG or the PERFORMING PARTY suffer injury or damage to person or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim will be made in writing to the other party within a reasonable time of the first observance of such injury or damage. The provisions of this paragraph shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitations or repose or sovereign immunity.

Survival of Obligations

19.4. All representations, indemnifications, warranties and guarantees made in, required by or given in accordance with the Agreement Documents, as well as all continuing obligations indicated in the Agreement Documents, will survive final payment, completion and acceptance of the Grant Activities and termination or completion of the Agreement.

19.5. Notwithstanding any provisions relating to assignment in the Uniform Commercial Code, no delegation by a party hereto of any duties or obligations nor assignment by a party hereto of any rights under or interests in the Agreement Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, monies that may become due and monies that are due may not be assigned without such consent (except to an extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Agreement Documents. The Agreement between NCTCOG and PERFORMING PARTY is not transferable or otherwise assignable by the PERFORMING PARTY without the written consent of NCTCOG and any attempted transfer without such consent is void.

19.6. Subject to the provisions of Article 12, General Conditions, NCTCOG and the PERFORMING PARTY each binds itself, its successors, assigns and agents to the other party hereto, successors, assigns and representatives in respect to all covenants, agreements and obligations contained in the Agreement Documents.

19.7. The parties hereby agree that the Agreement between NCTCOG and PERFORMING PARTY does not waive the NCTCOG sovereign immunity relating to suit, liability, and the payment of damages. No NCTCOG personnel or agents are authorized to waive sovereign immunity by accepting, on behalf of NCTCOG, goods or services which are not required under the Agreement Documents or any conforming amendment.

19.8. The PERFORMING PARTY acknowledges and agrees that because the Agreement between NCTCOG and PERFORMING PARTY has been executed, and will be administered in Tarrant County, Texas, the PERFORMING PARTY acknowledges and agrees that any permissible cause of action involving the Agreement will arise solely in Tarrant County. If a legal action related to this claim is permissible and there are two (2) or more counties of proper venue under the rules of mandatory, general, or permissive venue, and one such county is Tarrant County, the PERFORMING PARTY hereby agrees to venue in Tarrant County. This provision does not waive the NCTCOG sovereign immunity.

19.9. Any provision of the Agreement Documents held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon NCTCOG and PERFORMING PARTY, who agree that Agreement Documents are reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

19.10 If the PERFORMING PARTY files for bankruptcy, the PERFORMING PARTY shall immediately notify NCTCOG in writing according to the Notice provisions AND send notification by certified mail directly to NCTCOG. The PERFORMING PARTY'S notice to the NCTCOG must include the appropriate application number(s).

— **End of General Conditions** —

SPECIAL CONDITIONS

SPECIAL CONDITIONS
for
NORTH TEXAS EMISSIONS REDUCTION GRANT PROGRAM AGREEMENT

ARTICLE 1. SPECIAL CONDITIONS

The Performing Party agrees to these Special Conditions.

ARTICLE 2. PURCHASE/PAYMENT DOCUMENTS

2.1. In accordance with the terms of the Contract, for any purchase, lease, lease-purchase, and deferred payment purchase, the PERFORMING PARTY must submit any supporting documentation required or requested by NCTCOG. In order to be reimbursed for each payment, the PERFORMING PARTY is specifically required to submit the following supporting documents:

- 2.1.1. Canceled checks or wire transfers;
- 2.1.2. Written purchase and lease agreements;
- 2.1.3. Bills of Sale or Receipts for Delivery;
- 2.1.4. For deferred payment purchases and lease agreements, statements of account status showing the account in good standing and the equipment is in possession of the PERFORMING PARTY;
- 2.1.5. Uniform Commercial Code (UCC) Financing Statement (Form UCC1) filing, if applicable. (The UCC allows a creditor to notify other creditors about a debtor's assets used as collateral for a secured transaction by filing a public notice (financing statement) with a particular filing office.); and
- 2.1.6. Other documentation requested by NCTCOG in order to support the assertions in the request for reimbursement.

2.2. NCTCOG may waive the requirement for submission of any supporting documents that are not applicable to the PERFORMING PARTY.

ARTICLE 3. GRANT EQUIPMENT

3.1. The Grant Equipment, including equipment, vehicles, engines, retrofit systems, infrastructure, and other items to be reimbursed under the Agreement between NCTCOG and PERFORMING PARTY are listed in the Approved Application. The PERFORMING PARTY may not substitute different Grant Equipment from the units listed, including either the existing units to be replaced or those proposed for purchase or lease, without the approval of NCTCOG. This provision includes conformance with the model year and NOx emission rate of the engine as listed in the Approved Application. The PERFORMING PARTY understands that, in some circumstances, engines of the same make, model, and model year may be certified to different NOx emission rates, and that NCTCOG approval of the application does not constitute final verification that an engine meets the required certified NOx emission rate.

3.2. NCTCOG may accept and approve an application for funding that does not include all of the information asked for in the application forms, including identifying information for equipment, vehicles, or engines. NCTCOG may withhold issuance of a Notice to Proceed, pending the PERFORMING PARTY providing additional information needed to make the Approved Application complete. Additional identifying information provided by the PERFORMING PARTY and accepted by NCTCOG will apply to the PERFORMING PARTY's compliance with the provisions of Section 3.1. of this Article.

ARTICLE 4. NEW PURCHASE OR LEASE CATEGORY

The engine installed on Grant Equipment purchased or leased under the New Purchase or Lease category must be certified to a NOx emission level that is at least 25 percent below the federal emission standard for that category of engine, at the time that the Grant Equipment is purchased or leased and delivered to the PERFORMING PARTY. The PERFORMING PARTY understands that the federal emission standards change on specific dates, and that delivery of the Grant Equipment after the date of the change may result in the engine not meeting this requirement and being ineligible for reimbursement from NCTCOG.

ARTICLE 5. TRADE-IN OF EQUIPMENT OR ENGINES

Unless approved in writing by NCTCOG prior to the PERFORMING PARTY requesting reimbursement, the trade-in of equipment, vehicles, or engines to satisfy part of the PERFORMING PARTY's financial obligation for the purchase of the new equipment may not be considered a payment under the General Conditions, Article 7.3 for purposes of receiving reimbursement of qualifying expenses.

ARTICLE 6. ACTIVITY LIFE

The PERFORMING PARTY agrees to keep and use the Grant Equipment purchased or leased under the Agreement for the Activity Life as set forth in the Approved Application, regardless of the financing or leasing arrangements used for the purchase or lease of the Grant Equipment, and subject to the more specific provisions contained in Article 12.

ARTICLE 7. USE OF VEHICLES, EQUIPMENT, AND ENGINES BEING REPLACED

7.1. Unless otherwise accepted by NCTCOG in accordance with Section 7.2. of this Article, the PERFORMING PARTY agrees to dispose of the vehicles, equipment, and engines being replaced under the Agreement between NCTCOG and PERFORMING PARTY in accordance with the disposition option marked and the arrangements explained by the PERFORMING PARTY for each activity in the Approved Application or by complete destruction in accordance with Section 7.4 of this Article. Any vehicles, equipment, and/or engines not disposed of in accordance with an alternative disposition option marked by the PERFORMING PARTY in the Approved Application, or otherwise accepted by NCTCOG, must either be destroyed or otherwise rendered permanently inoperable by drilling a hole through the engine block and cutting the frame rails or other structural components of the vehicle or equipment.

7.2. NCTCOG may, but is not obligated to, accept an alternative disposition arrangement not originally marked by the PERFORMING PARTY in the Approved Application. The decision by NCTCOG on accepting an alternative disposition arrangement will include, but will not be limited to, consideration of whether the disposition approach used is consistent with one of the options originally available to the PERFORMING PARTY as listed in the Approved Application.

7.3. If the PERFORMING PARTY has indicated that the vehicles, equipment, or engine will be sold or transferred to another location in the United States, outside of Texas, but has not yet identified the final end user, the PERFORMING PARTY must notify NCTCOG in writing of the name, address, contact person, and phone number of the end user that will take ownership of the vehicle or equipment to be replaced prior to or within 30 days after the transfer of ownership. NCTCOG may withhold reimbursement payments for that activity, pending notification of the end user information. Unless otherwise directed by NCTCOG, the PERFORMING PARTY does not need to identify an end user for vehicles, equipment, or engines to be permanently removed from the United States.

7.4. The removal of vehicles, equipment, or engines replaced under the Agreement between NCTCOG and PERFORMING PARTY out of the state of Texas must be permanent. Engines completely disassembled at a remanufacture facility authorized by an engine manufacturer and used for parts in the remanufacture facility, and where the engine block serial number is removed, will be considered permanently removed from the state, even if an engine that is remanufactured using those parts is returned to the state. The obligation of the PERFORMING PARTY for ensuring that vehicles, equipment, or engines removed from the state of Texas under the Agreement between NCTCOG and PERFORMING PARTY are not returned to the state will be in accordance with either Subsection 7.4.1. or 7.4.2. of this Section.

7.4.1. If the PERFORMING PARTY does not retain ownership or other control of the vehicles, equipment, or engines removed from the state of Texas under the Agreement between NCTCOG and PERFORMING PARTY, then the PERFORMING PARTY's obligation for ensuring that the vehicles, equipment, or engines remain out of the state of Texas extends through either the completion of the approved disposition arrangements and reporting to NCTCOG, the termination date of the Agreement between NCTCOG and PERFORMING PARTY, or the issuance of the final reimbursements by NCTCOG for expenses incurred by the PERFORMING PARTY under the Agreement between NCTCOG and PERFORMING PARTY, whichever occurs later.

7.4.2. Any vehicles, equipment, or engines replaced under the Agreement between NCTCOG and PERFORMING PARTY and transferred out of the state of Texas in accordance with this Article, and remaining under the ownership or other direct control of the PERFORMING PARTY, may not be returned to the state of Texas. The PERFORMING PARTY may not sell or transfer control to a user in the state of Texas or to a user that the PERFORMING PARTY otherwise has reason to believe would return the vehicles, equipment, or engines to the state of Texas. If the sale or transfer occurs during the Activity Life, the PERFORMING PARTY must notify NCTCOG of the sale or transfer, and shall provide the TCEQ with information on the name and location of the entity receiving the vehicle, equipment, or engine.

7.5. If the vehicles, equipment and/or engines were replaced prior to the PERFORMING PARTY's receipt of a Notice to Proceed issued by NCTCOG, then those vehicles, equipment, and/or engines, shall be destroyed or transferred outside of the state of Texas in accordance with the approved disposition option within 90 days of the PERFORMING PARTY's receipt of the Notice to Proceed. Otherwise, the vehicles, equipment, and/or engines, shall be destroyed or transferred out of the state of Texas in

accordance with the approved disposition option within 90 days of purchasing the replacement vehicles or equipment. NCTCOG may grant an extension to this deadline without a change to the Agreement between NCTCOG and PERFORMING PARTY.

7.6. The PERFORMING PARTY shall submit on forms to be made available by NCTCOG information to verify the final disposition of the vehicles, equipment, and engines replaced under the Agreement between NCTCOG and PERFORMING PARTY. The final disposition information forms shall be submitted with the request for reimbursement or within 30 days after completion of the disposition, whichever occurs later. Final disposition must be accomplished within 90 days of purchase of the replacement vehicles or equipment or within 90 days of receiving the signed NCTCOG Notice to Proceed, if the purchase has already occurred. Unless otherwise agreed to by NCTCOG, the PERFORMING PARTY must submit photographs of the vehicles, equipment and/or engines being destroyed, both before and after the vehicles, equipment and/or engines are destroyed or rendered inoperable.

7.7. Failure of the PERFORMING PARTY to comply with the provisions of Sections 7.1, 7.2, 7.3, 7.4, 7.5, or 7.6 of this Article will constitute a material failure to conform to the requirements of the Agreement between NCTCOG and PERFORMING PARTY. The remedies available under Article 17 may be invoked by NCTCOG for noncompliance with the provisions of this Article.

ARTICLE 8. CREDIT FOR REPLACED VEHICLES OR EQUIPMENT

In determining the expenses eligible for reimbursement under the Agreement between NCTCOG and PERFORMING PARTY, the cost of replacement or repower activities shall be reduced by the value of any credit or other financial compensation received by the PERFORMING PARTY for the sale or trade-in of the vehicles, equipment, or engines being replaced, including the parts from those vehicles, equipment, or engines.

ARTICLE 9. PURCHASE AGREEMENTS AND SUBCONTRACTS

If requested by NCTCOG, the PERFORMING PARTY must provide NCTCOG with copies of purchase agreements or subcontracts for cost items to be reimbursed under the Agreement between NCTCOG and PERFORMING PARTY, prior to the PERFORMING PARTY entering into a final purchase agreement and/or subcontract.

ARTICLE 10. INFRASTRUCTURE COSTS

10.1 NCTCOG will reimburse the PERFORMING PARTY for no more than fifty (50) percent of the eligible costs for the purchase and installation of the infrastructure to be installed under the Agreement between NCTCOG and PERFORMING PARTY. Costs to be reimbursed must be approved by NCTCOG and listed in the Approved Application, and may not include expenses for in-house labor, in-house travel, or land purchases. Costs eligible for reimbursement, if approved by NCTCOG and included in the Approved Application, may include:

- 10.1.1. Invoice cost of the infrastructure equipment, including sales tax and delivery charges;
- 10.1.2. Associated supplies directly related to the installation of the infrastructure;
- 10.1.3. Installation costs;
- 10.1.4. Design and engineering work directly necessary for the installation of the infrastructure;

- 10.1.5. Re-engineering and construction costs, if the existing site must be modified to allow for installation of the infrastructure; and
- 10.1.6. Other costs directly related to the project, subject to approval of NCTCOG.

10.2 With each request for reimbursement of grant expenses, the PERFORMING PARTY shall list the eligible costs incurred. If the request for reimbursement is approved, NCTCOG will then reimburse the PERFORMING PARTY fifty (50) percent of those incurred costs.

ARTICLE 11. EMISSION REDUCTIONS

11.1. In accordance with the General Conditions, the PERFORMING PARTY shall track and report on the actual hours of use of the idle reduction technology at each of the sites funded under the Agreement.

11.2. Compliance with the emission reductions requirements of ARTICLE 12 will be based upon the reduction of truck annual idling hours listed below for each Activity: See Approved Application Summary.

ARTICLE 12. INSURANCE

12.1. The PERFORMING PARTY shall obtain and maintain in full force and at its expense during the contract term, insurance as listed below from insurers licensed under the laws of the state of Texas.

12.1.1. Worker's Compensation and Employer's Liability Insurance. Coverage in the following minimum amounts for all personnel furnishing work: bodily injury- by accident, \$500,000.00 per accident; by disease, \$500,000.00 per employee; and a per policy aggregate of \$1,000,000.00. Elective exemptions or coverage through an employee leasing arrangement will not satisfy this requirement

12.1.2. Insurance coverage naming NCTCOG, the State of Texas, acting through the Texas Commission on Environmental Quality, as additional insured and loss payees on its policies described below:

12.1.2.1. Comprehensive General Liability in the amount of \$500,000.00 per occurrence for bodily injury and \$500,000.00 per occurrence for property damage, *or* \$1,000,000.00 per occurrence if the policy is issued for bodily injury and property damage combined, *and*, a per policy aggregate of \$2,000,000.00.

12.1.2.2. If insurance policies are not written for amounts specified above, the PERFORMING PARTY shall carry Umbrella Excess Liability Insurance for any differences in amounts specified. If Umbrella Excess Liability insurance is provided, it shall follow the form of the primary coverage.

12.2. All policies of insurance shall include the following required provisions: 1) the North Central Texas Council of Governments (NCTCOG) will be notified, in writing, of the cancellation or modification of a policy at least thirty (30) days prior to the effective date of the cancellation or modification; 2) where available, NCTCOG and TCEQ and their officers and employees are named as additional insured to the Commercial General Liability Insurance; 3) waiver of subrogation against NCTCOG and TCEQ, their officers and employees, for bodily injury (including death), property damage or any other loss arising from this contract; the waiver shall be on a form approved by NCTCOG and

TCEQ and, 4) the PERFORMING PARTY's insurance is primary insurance with respect to NCTCOG and TCEQ, their officers and employees.

12.3. Insurance shall be effective and evidence of acceptable insurance furnished to NCTCOG prior to the PERFORMING PARTY commencing any Grant Activities under the Agreement between NCTCOG and PERFORMING PARTY.

— **End of Special Conditions** —

IN WITNESS WHEREOF, NCTCOG and PERFORMING PARTY have signed three (3) originals of this Agreement.

Signed on this the _____ day of _____, 2006.

NORTH CENTRAL TEXAS COUNCIL OF GOVERNMENTS

R. Michael Eastland
Executive Director, NCTCOG

(PERFORMING PARTY)

JH Jones

John Jones
President
ABC Inc.

-----END OF APPLICATION-----

The Following Worksheets do not need to be included with application.

They are here to help demonstrate how the requested award amount and estimated emission reductions are derived.

(These worksheets can be found at www.nctcog.org/NTERG under the “Emission Reduction Calculators” tab.)

Worksheet OR-1 Annual Miles of Operation

Please fill in the following information. This information will help you with your calculations.

Activity Information

Type of Activity	
<input type="checkbox"/> New Purchase/Lease <input type="checkbox"/> Repower <input type="checkbox"/> Replacement <input type="checkbox"/> Retrofit/Add-on	
What is the activity life, in years? (See table 1.3)	7
How many miles will the vehicle travel annually?	30,000
What is the percent time the vehicle will travel in the eligible counties?	95%
What is the requested grant amount for the activity?	\$10,087.94

Baseline Engine Information

Model Year	1994
Fuel Type	Diesel
Gross Vehicle Weight Rating (GVWR)	24000
Baseline Emission Standard (g/bhp-hr)	5
Conversion Factor (bhp-hr/mi)	1.95

Reduced Emission Engine Information

Model Year	2006
Fuel Type	LPG
Gross Vehicle Weight Rating (GVWR)	21000
Reduced Emission Standard (g/bhp-hr)	0.44
Conversion Factor (bhp-hr/mi)	1.94
If the activity is a retrofit/add-on, is there a verified percentage NOx emission reduction?	0.00%

Step 1. Does this project meet the 25% NOx baseline emission rate reduction requirements?

Baseline Engine Emissions (g/bhp-hr)	5
- Reduced Engine Emissions (g/bhp-hr)	0.4400
= Difference (g/bhp-hr)	4.5600
÷ Baseline Engine Emissions (g/bhp-hr)	5
x	100
= Emission Rate Reduction	91%

Step 2. Calculate the NOx emission reductions

Part A. Calculate the TxLED Correction Factor (all areas except for El Paso County)

On Road TxLED Correction Factor 1 - (0.057)	0.943
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Part B. Determine the NOx Emission Factor

Determine Baseline NOx Emission Factor (g/mile)	
baseline engine NOx emission standard (g/bhp-hr)	5
x TxLED correction factor (diesel engines only)	0.943
= corrected NOx emission factor (g/bhp-hr)	4.7150
x conversion factor (bhp-hr/mi)	1.95
= baseline Nox emission factor (g/mile)	9.1943
Determine Reduced NOx Emission Factor (g/mile)	
Option A. Reduced-emission engine certified to a specific emissions standard (g/bhp-hr)	
reduced engine NOx emissions standard (g/bhp-hr)	0.44
x TxLED correction factor (diesel engines only)	1
= corrected NOx emission factor (g/bhp-hr)	0.4400
x conversion factor (bhp-hr/mi)	1.94
= reduced NOx emission factor (g/mile)	0.8536
Option B. Reduced-emission technology certified/verified to achieve a percentage reduction from the baseline	
Baseline NOx emission factor (g/mile)	9.1943
x certified/verified percentage reduction from baseline	0.00%
= reduced NOx emission factor (g/mile)	9.1943

Part C. Calculate the NOx Emission Reduction Using Annual Mileage

baseline NOx emission factor (g/mile)	9.1943
- reduced NOx emission factor (g/mile)	0.8536
= grams per mile reduced (g/mile)	8.3407
x annual miles of operation	30,000
x percent within affected counties (%)	95%
= grams per year reduced (g/yr)	237,709
	+ 907,200 grams per ton
= estimated annual NOx emission reduction (tons/yr)	0.2620
x activity life (years)	7
= estimated activity life Nox emission reduction (tons)	1.8342

Step 3. What is the Activity cost per ton?

requested grant amount activity (\$)	\$10,087.94
÷ NOx emissions reductions (tons):	1.8342
= cost per ton (\$/ton)	5,500.00

Worksheet NR-1 Annual Hours of Operation

Please fill in the following information. This information will help you with your calculations.

Activity Information

Type of Activity	
<input type="checkbox"/> New Purchase/Lease <input type="checkbox"/> Repower <input type="checkbox"/> Replacement <input type="checkbox"/> Retrofit/Add-on	
What is the activity life, in years?	7
What are/how many hours of annual operation for this piece of equipment?	2,500
What is the percent time the vehicle will travel in the eligible counties?	100%
What is the requested grant amount for the activity?	\$76,983.12

Baseline Engine Information

Model Year	1989
Fuel Type	Diesel
Equipment Type	Excavator
Horsepower	300
Emissions Standard (g/bhp-hr)	9.5
Load Factor	0.59

Reduced Emission Engine Information

Model Year	2007
Fuel Type	Diesel
Equipment Type	Excavator
Horsepower	536
Emissions Standard (g/bhp-hr)	2.85
Load Factor	0.59
If the activity is a retrofit/add-on, is there a verified percentage NOx emission reduction?	0.00%

Step 1. Does this project meet the 25% NOx baseline emission rate reduction requirements?

Baseline Engine Emissions (g/bhp-hr)	9.5
- Reduced Engine Emissions (g/bhp-hr)	2.8500
= Difference (g/bhp-hr)	6.6500
+ Baseline Engine Emissions (g/bhp-hr)	9.5

	x	100
= Emission Rate Reduction		70%

Step 2. Calculate the NOx emission reductions

Part A. Calculate the TxLED Correction Factor (all areas except for El Paso County)

On Road TxLED Correction Factor 1 - (0.07)	0.93
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Part B. Determine the NOx Emission Factor

Determine Baseline NOx Emission Factor (g/mile)	
baseline engine NOx emission standard (g/bhp-hr)	9.5
x TxLED correction factor (diesel engines only)	0.93
= corrected NOx emission factor (g/bhp-hr)	8.8350
x Load Factor	0.5900
x horse power	300
= baseline Nox emission factor (g/hr)	1563.7950
Determine Reduced NOx Emission Factor (g/mile)	
Option A. Reduced-emission engine certified to a specific emissions standard (g/bhp-hr)	
reduced engine NOx emissions standard (g/bhp-hr)	2.85
x TxLED correction factor (diesel engines only)	0.93
= corrected NOx emission factor (g/bhp-hr)	2.6505
x Load Factor	0.5900
x horse power	536
= reduced NOx emission factor (g/hr)	838.1941
Option B. Reduced-emission technology certified/verified to achieve a percentage reduction from the baseline	
Baseline NOx emission factor (g/hr)	1563.7950
x certified/verified percentage reduction from baseline	0.00%
= reduced NOx emission factor (g/hr)	1563.7950

Part C. Calculate the NOx Emission Reduction Using Annual Mileage

baseline NOx emission factor (g/hr)	1563.7950
- reduced NOx emission factor (g/hr)	838.1941
= grams per hour reduced (g/hr)	725.6009
x annual hours of operation	2,500
x percent within affected counties (%)	100%
= grams per year reduced (g/yr)	1,814,002
	+ 907,200 grams per ton

= estimated annual NOx emission reduction (tons/yr)	1.9996
x activity life (years)	7
= estimated activity life Nox emission reduction (tons)	13.9969

Step 3. What is the Activity cost per ton?

requested grant amount activity (\$)	\$76,983.12
÷ NOx emissions reductions (tons):	13.9969
= cost per ton (\$/ton)	5,500.00