

CONTRACT #14

RFS # N/A

FA # N/A

University of Tennessee

VENDOR:

**University of Tennessee
Research Foundation (UTRF)**



January 14, 2010

Mr. Jim White
Executive Director
Fiscal Review Committee
320 Sixth Avenue, North – 8th Floor
Nashville, TN 37243-0057

Dear Mr. White:

The University of Tennessee is submitting for the committee's review a non-competitively bid contract with the University of Tennessee Research Foundation (UTRF) to assist the university in conducting activities associated with the Tennessee Solar Institute recently established by the State of Tennessee.

Under this contract, UTRF will provide administrative and programmatic support for the implementation of initiatives detailed in the U.S. Department of Energy's (DOE) State Energy Program American Recovery and Reinvestment Act (SEP-ARRA) grant awarded to the Department of Economic and Community Development (ECD). Specifically, UTRF will establish and administer a "Solar Opportunity Fund" that will support two specific activities allowable under DOE regulations and SEP-ARRA guidelines:

- 1) The Solar Innovation Grants program will offer competitively awarded grants to for-profit industry firms in Tennessee. This program is intended to encourage the continued growth in Tennessee's solar industry.
- 2) The Solar Installation Grants program will provide matching dollars for qualified applicants for the installation of small scale photovoltaic (PV) solar technology. This program will spur the implementation of solar technology across Tennessee.

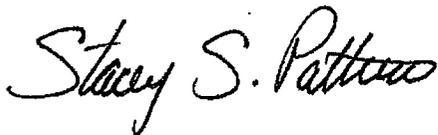
In addition to the above mentioned grants programs, UTRF will develop and manage strategic partnerships to support technical assistance and commercialization to Tennessee's solar industry, conduct workforce development sessions and hold annual seminars to promote the solar network. A database of solar related resources will be developed and maintained through a strong web presence that will promote partnerships and create awareness of Tennessee's unique resources for this industry. All of these programs will be housed at the newly

established Tennessee Solar Institute, a center of excellence at the University of Tennessee and Oak Ridge National Laboratory.

Funding for this contract is provided through a DOE SEP-ARRA award to the state Department of Economic and Community Development (ECD). ECD has been working with DOE to finalize the program's implementation regulations and has just received from DOE the information needed to move this project forward. Given that all funds must be expended by April 30, 2012 and that time is a critical factor, we regrettably acknowledge that this contract is being submitted in a untimely manner for your review but believe it is important to request the committee's understanding in this unusual situation so we can proceed with implementation as soon as possible.

If you have any questions or need additional information, please don't hesitate to contact me.

Respectfully,

A handwritten signature in black ink that reads "Stacey S. Patterson". The signature is written in a cursive, flowing style.

Stacey S. Patterson, Ph.D.
Director of Research Partnerships

Attachment

c: Jan Simek
David Millhorn
Butch Peccolo
Gary Rogers
Randy Gentry
Anthony Haynes
Mary McDonald

CONTRACT SUMMARY SHEET

021406

REF #		Contract #			
State Agency		State Agency Division			
University of Tennessee					
Contractor Name		Contractor ID # (FEIN or SSN)			
UT Research Foundation		<input type="checkbox"/> C- or	<input type="checkbox"/> V-	62-6047697	
Service Description					
Tennessee Solar Institute					
Contract BEGIN Date	Contract END Date	Subrecipient or Vendor?		CFDA #	
2/1/2010	4/30/2012	Vendor			
Mark Each TRUE Statement					
<input type="checkbox"/> Contractor is on STARS			<input type="checkbox"/> Contractor's Form W-9 is on file in Accounts		
Allotment Code	Cost Center	Object Code	Fund	Funding Grant Code	Funding Subgrant Code
332.17	N/A	N/A	N/A	N/A	N/A
FY	State	Federal	Interdepartmental	Other	TOTAL Contract Amount
2010		\$ 13,207,614.00			\$ 13,207,614.00
2011		\$ 9,904,222.00			\$ 9,904,222.00
2012		\$ 6,164,846.00			\$ 6,164,846.00
					\$ -
					\$ -
					\$ -
TOTAL	\$ -	\$ 29,276,682.00	\$ -	\$ -	\$ 29,276,682.00
COMPLETE FOR AMENDMENTS ONLY			State Agency Fiscal Contact & Telephone #		
FY	Base Contract & Prior Amendments	THIS Amendment ONLY	Dr. Stacey Patterson 865-974-3140		
			State Agency Budget Officer Approval		
			Dr. David Millhorn 865-974-4048		
			Funding Certification (certification required by FICA - §9-4-613 that there is a balance in the appropriation from which the obligated expenditure is required to be paid that is not otherwise encumbered to pay obligations previously incurred)		
TOTAL	\$ -	\$ -			
End Date					
Contractor Ownership (complete only for base contracts with contract # prefix FA or GR)					
<input type="checkbox"/> African American	<input type="checkbox"/> Person w/ Disability	<input type="checkbox"/> Hispanic	<input type="checkbox"/> Small Business	<input type="checkbox"/> NOT disadvantaged	
<input type="checkbox"/> Asian	<input type="checkbox"/> Female	<input type="checkbox"/> Native American	<input type="checkbox"/> OTHER minority/disadvantaged		
Contractor Selection Method (complete for ALL base contracts - N/A for amendments or delegated authorities)					
<input type="checkbox"/> RFP	<input type="checkbox"/> Competitive Negotiation		<input type="checkbox"/> Alternative Competitive Method		
<input checked="" type="checkbox"/> Non-Competitive Negotiation	<input type="checkbox"/> Negotiation w/ Government (eg, ID, GG, GU)		<input type="checkbox"/> Other		
Procurement Process Summary (complete for Alternative Method, Competitive Negotiation, Non-Competitive Negotiation, OR Other)					
<p>The Tennessee Solar Institute is a new state initiative that requires an aggressive start-up in order to fulfill the stated requirements in the DOE SEP-ARRA grant. Because the UT Research Foundation's mission is to support the university in its research, commercialization, and economic development functions, core functions of the Tennessee Solar Institute, the university believes the use of UTRF's services is the most viable solution to support the activities associated with the Tennessee Solar Institute.</p>					

**GRANT CONTRACT
BETWEEN THE STATE OF TENNESSEE,
UNIVERSITY OF TENNESSEE
AND
UNIVERSITY OF TENNESSEE RESEARCH FOUNDATION**

This contract is made and entered into by the University of Tennessee, hereinafter referred to as "UT" or "University", and the University of Tennessee Research Foundation, hereinafter referred to as "UTRF" or "Contractor".

Whereas, the State of Tennessee has contracted with the University to create the Tennessee Solar Institute at UT and Oak Ridge National Laboratory ("ORNL") to serve as a center for excellence to spur accelerated growth in Tennessee's burgeoning solar industry and serve as a crossroad for a wide range of solar-related activities in the Volunteer State and,

Whereas, UTRF is a not-for-profit public benefit corporation formed to promote, support, and carry out UT's research mission, to enhance the competitive position of UT for research and development funding, to facilitate expanded research and development activities at UT, and to facilitate the commercialization of UT research outcomes and the transfer of research-generated technology from UT to commercial and industrial enterprises in furtherance of the economic development of the State of Tennessee and,

Whereas, UTRF's functions to support the University in fulfilling research, commercialization, and economic development activities, functions which are core to the Tennessee Solar Institute's mission, the University is engaging UTRF to provide the University support services for the development, implementation and management of the Tennessee Solar Institute, as further defined in the "SCOPE OF SERVICES".

A. SCOPE OF SERVICES:

- A.1. UTRF shall provide all service and deliverables as required, described, and detailed by this Scope of Services and shall meet all service and delivery timelines specified in the Scope of Services section or elsewhere in this Contract.
- A.2. UTRF acknowledges that funding for this work is being made by the American Recovery and Reinvestment Act (ARRA) funds and will implement processes and procedures that conform to all compliance, monitoring and reporting requirements applicable to these funds. Furthermore, UTRF shall require that any subcontractors and other recipients of ARRA are aware of and agree to comply with ARRA regulations.
- A.3. UTRF shall work closely with UT and ORNL to establish strategic industry partnerships across the solar value chain that will provide technical assistance and workforce development to solar industry firms, assist in technology commercialization, help improve facilities and manufacturing processes, and undertake other efforts to help grow the solar industry in Tennessee.
- A.4. UTRF shall establish and administer a "Solar Opportunity Fund" at the Tennessee Solar Institute. The Solar Opportunity Fund will support two specific activities deemed allowable under DOE regulations and SEP-ARRA guidelines: "Solar Innovation Grants" and "Solar Installation Grants," which are described in A.5. and A.6. below.
- A.5. UTRF shall administer the "Solar Innovation Grants Program" at the Tennessee Solar Institute in accordance with the Tennessee's State Energy Program (SEP) ARRA plan and subsequent amendments approved by the United States Department of Energy (DOE) to encourage growth in

Tennessee's solar industry. UTRF shall only award funds under this program to qualifying Tennessee solar industry firms seeking technical assistance, facility or process improvements, workforce development and other support allowable under DOE regulations and SEP-ARRA guidelines.

Specific responsibilities and milestones associated with the administration of the Solar Innovation Grants Program are:

SERVICE DELIVERABLE	MILESTONE
Develop a plan for execution, organizational structure, and overview of the Innovation Grants program.	February 2010
Create a contracts management database	February 2010
Develop grant criteria, proposal communication and application review processes, program materials and application forms, and monitoring plan	February 1, 2010 – April 30, 2010
Develop contract documents for Innovation Grant awards	March 1, 2010 – April 30, 2010
Recruit grant review team	February 1, 2010 – March 1, 2010
Initiate application process	1 st Round Grants May 2010 2 nd Round Grants October 2010 3 rd Round Grants (if needed) January 2011
Review proposals for merit (based on established review criteria in the request for proposals (RFP))	1 st Round Grants June 2010 2 nd Round Grants November 2010 3 rd Round Grants (if needed) February 2011
Award grants for proposals with highest ranking scores	1 st Round Grants July 2010 2 nd Round Grants December 2010 3 rd Round Grants (if needed) March 2011
Monitor awards	May 2010 – April 30, 2012
Prepare State progress reports at a minimum to comply with ARRA reporting requirements	Monthly, Quarterly and Final

- A.6. To speed the deployment of solar energy, the Contractor shall establish and implement a "Solar Installation Grants Program" at the Tennessee Solar Institute in accordance with Tennessee's SEP-ARRA plan and subsequent amendments approved by DOE. This program will assist qualifying Tennessee entities to purchase and install small-scale solar PV systems. "Small scale" will be defined as appropriately sized units on existing rooftops and parking shade structures, or 60kW systems or smaller installed on the ground within the boundaries of an existing facility.

Specific responsibilities and milestones associated with the administration of the Solar Installation Grants Program are:

SERVICE DELIVERABLE	MILESTONE
Develop a plan for execution, organizational structure and overview of the Installation Grants program.	February 2010
Create a contracts management database	February 2010
Develop grant criteria, proposal communication and application review processes, program materials and application forms, and monitoring plan	February 1, 2010 – March 30, 2010
Develop contract documents for Installation Grant awards	February 1, 2010 – March 31, 2010
Initiate application process	April 1, 2010 – March 31, 2011 or when the \$9M has been awarded

Review applications for technical merit	April 15, 2010 – March 31, 2011 or when the \$9M has been awarded
Award grants to qualified applicants	May 1, 2010 – March 31, 2011 or when the \$9M has been awarded
Provide grant assistance program to increase program awareness and participation, and provide assistance to entities participating in program	April 1, 2010 – April 30, 2012
Monitor awards and attest to completeness prior to reimbursement of costs	May 1, 2010 - April 30, 2012
Prepare State progress reports at a minimum to comply with ARRA reporting requirements	Monthly, Quarterly and Final

A.7. The Contractor shall provide technical assistance and workforce development activities to establish and build strategic industry partnerships, awareness and relationships across the solar value chain. Specific responsibilities and milestones include:

SERVICE DELIVERABLE	MILESTONE
Develop and manage strategic partnerships to support technical assistance, commercialization, and other activities	February 1, 2010 – April 30, 2012
Develop technical assistance and workforce development planning documents	February 1, 2010 – March 15, 2010
Conduct workforce development training sessions	June 1, 2010 – April 30, 2012
Hold Annual Regional Seminar	Seminars held in summers of 2010 and 2011 with planning activities occurring throughout the grant period

A.8. The Contractor shall develop and maintain a database of experts in key solar technologies and services.

SERVICE DELIVERABLE	MILESTONE
Develop a web page architecture for the Tennessee Solar Institute	February 2010
Develop a Tennessee Solar Institute Brand Image	February 2010
Develop a home page for the Tennessee Solar Institute website	February 2010
Acquire infrastructure (staff support, equipment and software)	February 1, 2010 – April 30, 2010
Develop web content and maintain an update site	February 1, 2010 – April 30, 2012
Develop a database	February 1, 2010 – April 15, 2010
Maintain database	April 15, 2010 – April 30, 2012
Maintain website and other communications strategies to make database information easily accessible	March 1, 2010 – April, 2012

A.9. UTRF shall perform other activities as directed by the University.

B. CONTRACT TERM:

This Contract shall be effective for the period commencing on February 1, 2010 and ending on April 30, 2012. UT shall have no obligation for services rendered by UTRF which are not performed within the specified period. The contract term may be extended by written agreement executed by all parties hereto and approved by the appropriate University officials in accordance with applicable State laws and regulations.

C. PAYMENT TERMS AND CONDITIONS:

C.1. Maximum Liability. In no event shall the maximum liability of UT under this Contract exceed Twenty-nine million, two hundred seventy-six thousand, six hundred and eighty-two dollars (\$29,276,682). The payment rates in Section C.3 and the Travel Compensation provided in Section C.4 shall constitute the entire compensation due UTRF for the Service and all of UTRF's obligations hereunder regardless of the difficulty, materials or equipment required. The payment rates include, but are not limited to, all applicable taxes, fees, overheads, and all other direct and indirect costs incurred or to be incurred by UTRF.

UTRF is not entitled to be paid the maximum liability for any period under the Contract or any extensions of the Contract for work not requested by the University. The maximum liability represents available funds for payment to UTRF and does not guarantee payment of any such funds to UTRF under this Contract unless the University requests work and UTRF performs said work. In which case, UTRF shall be paid in accordance with the payment rates detailed in Section C.3 and Exhibit A. The University is under no obligation to request work from UTRF in any specific dollar amounts or to request any work at all from UTRF during any period of this Contract.

C.2. Compensation Firm. The payment rates and the maximum liability of the University under this Contract are firm for the duration of the Contract and are not subject to escalation for any reason unless amended.

C.3. Payment Methodology. UTRF shall be compensated based on the payment rates herein for units of service authorized by the University in a total amount not to exceed the Contract Maximum Liability established in Section C.1.

a. Schedule 1 provides an estimated allocation of cost by Milestone and by fiscal year. The University shall in consultation with UTRF review planned expenditures on a monthly basis and may mutually agree to changes in maximum planned expenditures by category and fiscal year not to exceed the maximum liability as specified in Section C.1.

C.4. Travel Compensation. Compensation to UTRF for travel, meals, or lodging shall be subject to amounts and limitations specified in the "State Comprehensive Travel Regulations," as they are amended from time to time and shall not exceed one hundred eighty three thousand four hundred twenty-seven dollars (\$183,427.00) during the period of the Contract.

C.5. Invoice Requirements. UTRF shall invoice to the University for anticipated and completed service and for the amount stipulated in Section C.3 above.

a. UTRF agrees that each invoice submitted shall clearly and accurately (all calculations must be extended and totaled correctly) detail the following required information.

- (1) Invoice/Reference Number (assigned by the University);
- (2) Invoice Date;
- (3) Invoice Period (period to which all invoiced charges are applicable);

- (4) Contract Number (assigned by the University to this Contract);
- (5) Account Name: Department of Economic and Community Development, Energy Policy Office;
- (6) Account/Customer Number (uniquely assigned by UTRF to the above-referenced Account Name);
- (7) Contractor Name;
- (8) Contractor Federal Employer Identification Number or Social Security Number (as referenced in this Contract);
- (9) Contractor Contact (name, phone, and/or fax for the individual to contact with billing questions);
- (10) Contractor Remittance Address;
- (11) Complete Itemization of Charges, which shall detail the following:
 - i. Service Description for each service invoiced;
 - ii. Number of Units, Increments, or Milestones of each service invoiced;
 - iii. Applicable Payment Rate (as stipulated in Section C.6.) for each service invoiced;
 - iv. Amount Due by Service;
 - v. Travel Compensation requested in accordance with and attaching to the invoice appropriate documentation and receipts as required by the above-referenced "State Comprehensive Travel Regulations;" and
 - vi. Total Amount Due for the invoice period.

b. UTRF understands and agrees that an invoice to the University under this Contract shall:

- (1) include only charges for service described in Contract Section A and in accordance with payment terms and conditions set forth in Contract Section C;
- (2) not include any future work but will only be submitted for completed service; and
- (3) not include sales tax or shipping charges.

c. UTRF agrees that timeframe for payment (and any discounts) begins when the University is in receipt of each invoice meeting the minimum requirements above.

d. UTRF shall complete and sign a "Substitute W-9 Form" provided to UTRF by the University. The taxpayer identification number contained in the Substitute W-9 submitted to the University shall agree to the Federal Employer Identification Number or Social Security Number referenced in this Contract for the Contractor. The Contractor shall not invoice the University for services until the University has received this completed form.

C.6. Payment of Invoice. The payment of the invoice by the University shall not prejudice the University's right to object to or question any invoice or matter in relation thereto. Such payment by the University shall neither be construed as acceptance of any part of the work or service provided nor as an approval of any of the amounts invoiced therein.

C.7. Invoice Reductions. UTRF's invoice shall be subject to reduction for amounts included in any invoice or payment theretofore made which are determined by the University, on the basis of audits conducted in accordance with the terms of this Contract, not to constitute proper remuneration for compensable services.

C.8. Deductions. Pursuant to *Tennessee Code Annotated*, Section 9-4-604, the University as an agency of the State is not to issue warrants for payments to persons who are in default to the State until such arrearages are paid. UTRF agrees that, should such an arrearage exist during the term of this Contract, the University shall have the right to deduct from payments due and owing to UTRF any and all amounts as are necessary to satisfy the arrearage. Should a dispute

arise concerning payments due and owing to UTRF under this Contract, the University reserves the right to withhold said disputed amounts pending final resolution of the dispute.

D. STANDARD TERMS AND CONDITIONS:

- D.1. Required Approvals. The University is not bound by this Contract until it is approved by the appropriate University officials in accordance with applicable Tennessee State laws and regulations.
- D.2. Modification and Amendment. This Contract may be modified only by a written amendment executed by all parties hereto and approved by the appropriate University officials in accordance with applicable Tennessee State laws and regulations.
- D.3. Termination for Convenience. The University may terminate this Contract without cause for any reason. Said termination shall not be deemed a Breach of Contract by the University. The University shall give UTRF at least ninety (90) days written notice before the effective termination date. UTRF shall be entitled to receive compensation for satisfactory, authorized service completed as of the termination date, but in no event shall the University be liable to UTRF for compensation for any service which has not been rendered. Upon such termination, UTRF shall have no right to any actual general, special, incidental, consequential, or any other damages whatsoever of any description or amount.
- D.4. Termination for Cause. If UTRF fails to properly perform its obligations under this Contract in a timely or proper manner, or if UTRF violates any terms of this Contract, the University shall have the right to immediately terminate the Contract and withhold payments in excess of fair compensation for completed services. Any liability of UTRF to the University and third parties for any claims, losses, or costs arising out of or related to acts performed by UTRF under this agreement shall be governed by the Tennessee Claims Commission Act, *Tennessee Code Annotated*, Section 9-B-301, *et seq.*
- D.5. Subcontracting. UTRF shall not assign this Contract or enter into a subcontract for any of the services performed under this Contract without obtaining the prior written approval of the University. If such subcontracts are approved by the University, they shall contain, at a minimum, sections of this Contract below pertaining to "Nondiscrimination," and "Records" (as identified by the section headings). Notwithstanding any use of approved subcontractors, UTRF shall be the prime contractor and shall be responsible for all work performed to the extent allowed by Tennessee law.
- D.6. Nondiscrimination. UTRF hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Contract or in the employment practices of UTRF on the grounds of disability, age, race, color, religion, sex, national origin, or any other classification protected by Federal, Tennessee State constitutional, or statutory law. UTRF shall, upon request, show proof of such nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.
- D.7. Records. UTRF shall maintain documentation for all charges under this Contract. The books, records, and documents of UTRF, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of the final payment and shall be subject to audit at any reasonable time and upon reasonable notice by the University or their duly appointed representatives. The financial statements shall be prepared in accordance with generally accepted accounting principles.
- D.8. Monitoring. UTRF's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by the University or their duly appointed representatives.

- D.9. Progress Reports. UTRF shall submit brief, periodic, progress reports to the University as requested.
- D.10. Prevailing Wage Rates. All contracts for construction, erection, or demolition or to install goods or materials that involve the expenditure of any funds derived from the State require compliance with the prevailing wage laws as provided in *Tennessee Code Annotated*, Section 12-4-401 *et seq.*
- D.11. Strict Performance. Failure by any party to this Contract to insist in any one or more cases upon the strict performance of any of the terms, covenants, conditions, or provisions of this Contract shall not be construed as a waiver or relinquishment of any such term, covenant, condition, or provision. No term or condition of this Contract shall be held to be waived, modified, or deleted except by a written amendment signed by the parties hereto.
- D.12. Independent Contractor. The parties hereto, in the performance of this Contract, shall not act as employees, partners, joint venturers, or associates of one another. It is expressly acknowledged by the parties hereto that such parties are independent contracting entities and that nothing in this Contract shall be construed to create a employer/employee relationship or to allow either to exercise control or direction over the manner or method by which the other transacts its business affairs or provides its usual services. For the avoidance of doubt, the parties recognize that UTRF is staffed with UT employees who have no ownership or other equity financial interest in UTRF. UTRF may also contract with the University for services to fulfill certain contractual requirements.
- D.13. University Liability. The University shall have no liability except as specifically provided in this Contract.
- D.14. Force Majeure. The obligations of the parties to this Contract are subject to prevention by causes beyond the parties' control that could not be avoided by the exercise of due care including, but not limited to, natural disasters, riots, wars, epidemics, or any other similar cause.
- D.15. State and Federal Compliance. The Contractor shall comply with all applicable State and Federal laws and regulations in the performance of this Contract.
- D.16. Completeness. This Contract is complete and contains the entire understanding between the parties relating to the subject matter contained herein, including all the terms and conditions of the parties' agreement. This Contract supersedes any and all prior understandings, representations, negotiations, and agreements between the parties relating hereto, whether written or oral.
- D.17. Headings. Section headings of this Contract are for reference purposes only and shall not be construed as part of this Contract.

E. SPECIAL TERMS AND CONDITIONS:

- E.1. Conflicting Terms and Conditions. Should any of these special terms and conditions conflict with any other terms and conditions of this Contract, these special terms and conditions shall control.
- E.2. Communications and Contacts. All instructions, notices, consents, demands, or other communications required or contemplated by this Contract shall be in writing and shall be made by certified, first class mail, return receipt requested and postage prepaid, by overnight courier service with an asset tracking system, or by EMAIL or facsimile transmission with recipient confirmation. Any such communications, regardless of method of transmission, shall be addressed to the respective party at the appropriate mailing address, facsimile number, or EMAIL address as set forth below or to that of such other party or address, as may be hereafter specified by written notice.

The University:

Dr. David Millhorn, Executive Vice President
University of Tennessee
813 Andy Holt Tower
Knoxville, TN 37996
millhorn@tennessee.edu
Telephone # 865-974-4048
FAX # 865-974-8240

UTRF:

Dr. Randy Gentry, President
UT Research Foundation
UT Conference Center, Suite 211
600 Henley Street
Knoxville, TN 37996-4122
rgentry@utk.edu
Telephone # 865-974-1843
FAX# 865-974-2803

All instructions, notices, consents, demands, or other communications shall be considered effectively given upon receipt or recipient confirmation as may be required.

- E.3. Subject to Funds Availability. The Contract is subject to the appropriation and availability of University and/or Federal funds. In the event that the funds are not appropriated or are otherwise unavailable, the University reserves the right to terminate the Contract upon written notice to UTRF. Said termination shall not be deemed a breach of Contract by the University. Upon receipt of the written notice, UTRF shall cease all work associated with the Contract. Should such an event occur, UTRF shall be entitled to compensation for all satisfactory and authorized services completed as of the termination date.
- E.4. Voluntary Buyout Program. UTRF acknowledges and understands that, for a period of two years beginning August 16, 2008, restrictions are imposed on former state employees who received a State of Tennessee Voluntary Buyout Program (VBP) severance payment with regard to contracts with state agencies that participated in the VBP.
- a. The State will not contract with either a former state employee who received a VBP severance payment or an entity in which a former state employee who received a VBP severance payment or the spouse of such an individual holds a controlling financial interest.
 - b. The State may contract with an entity with which a former state employee who received a VBP severance payment is an employee or an independent contractor. Notwithstanding the foregoing, the Contractor understands and agrees that there may be unique business circumstances under which a return to work by a former state employee who received a VBP severance payment as an employee or an independent contractor of a State contractor would not be appropriate, and in such cases the State may refuse Contractor personnel. Inasmuch, it shall be the responsibility of the State to review Contractor personnel to identify any such issues.
 - c. With reference to either subsection a. or b. above, a contractor may submit a written request for a waiver of the VBP restrictions regarding a former state employee and a contract with a state agency that participated in the VBP. Any such request must be submitted to the State in the form of the *VBP Contracting Restriction Waiver Request* format available from the State and the Internet at: www.state.tn.us/finance/rds/ocr/waiver.html. The determination on such a request shall

be at the sole discretion of the head of the state agency that is a Party to this Contract, the Commissioner of Finance and Administration, and the Commissioner of Human Resources.

E.5. Competitive Procurements. This Contract provides for reimbursement of the cost of goods, materials, supplies, equipment, or contracted services. Such procurements shall be made on a competitive basis, where practical. UTRF shall maintain documentation for the basis of each procurement for which reimbursement is paid pursuant to this Contract. In each instance where it is determined that use of a competitive procurement method was not practical, said documentation shall include a written justification for such decision and non-competitive procurement.

E.6. State Furnished Property. UTRF shall be responsible for the correct use, maintenance, and protection of all articles of nonexpendable, tangible, personal property furnished by the State for UTRF's temporary use under this Contract. Upon termination of this Contract, all property furnished shall be returned to the State in good order and condition as when received, reasonable use and wear thereof excepted. Should the property be destroyed, lost, or stolen, UTRF shall be responsible to the State for the residual value of the property at the time of loss.

E.7. Incorporation of Additional Documents. Included in this Contract by reference are the following documents:

- a. The Contract document and its attachments

In the event of a discrepancy or ambiguity regarding UTRF's duties, responsibilities, and performance under this Contract, these documents shall govern in order of precedence detailed above.

E.8. Workpapers Subject to Review. UTRF shall make all audit, accounting, or financial analysis workpapers, notes, and other documentation available for review by the Comptroller of the Treasury or his representatives, upon request, during normal working hours either while the analysis is in progress or subsequent to the completion of this Contract.

E.9. Public Accountability. If UTRF is subject to *Tennessee Code Annotated*, Title 8, Chapter 4, Part 4 or if this Contract involves the provision of services to citizens by UTRF on behalf of the State, UTRF agrees to establish a system through which recipients of services may present grievances about the operation of the service program, and UTRF shall display in a prominent place, located near the passageway through which the public enters in order to receive services pursuant to this Contract, a sign at least twelve inches (12") in height and eighteen inches (18") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454

E.10. Lobbying. UTRF certifies, to the best of its knowledge and belief, that:

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

- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Contractor shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. UTRF shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements), and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into and is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, *U.S. Code*.

E.11. Debarment and Suspension. UTRF certifies, to the best of its knowledge and belief, that it, its current and future principals, its current and future subcontractors and their principals

- a. are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. have not within a three (3) year period preceding this Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. have not within a three (3) year period preceding this Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

UTRF shall provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, its principals or the principals of its subcontractors are excluded or disqualified.

E.12. Federal Economic Stimulus Funding. This Contract requires UTRF to provide products and/or services that are funded in whole or in part under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act). UTRF is responsible for ensuring that all applicable requirements, including but not limited to those set forth herein, of the Recovery Act are met and that UTRF provides information to the University as required.

UTRF (and any subcontractor) shall comply with the following:

- a. Federal Grant Award Documents, as applicable.
- b. Executive Office of the President, Office of Management and Budget (OMB) Guidelines as posted at www.whitehouse.gov/omb/recovery_default/, as well as OMB Circulars, including but not limited to A-102 and A-133 as posted at www.whitehouse.gov/omb/financial_offm_circulars/.

- c. Office of Tennessee Recovery Act Management Directives (posted on the Internet at www.tnrecovery.gov).
- d. The subrecipient Contractor, if covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, agrees to specifically identify Recovery Act expenditures separately for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133.
- e. The Recovery Act, including but not limited to the following sections of that Act:

- (1) Section 1604 – Disallowable Use. No funds pursuant to this Contract may be used for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.
- (2) Section 1512 – Reporting and Registration Requirements
 - i. The Contractor must report on use of Recovery Act funds provided through this Contract. Information from these reports will be made available to the public.
 - ii. The subrecipient Contractor must maintain current registrations in the Central Contractor Registration (www.ccr.gov) at all times during which they have an active Contract funded with Recovery Act funds.
- (3) Section 1553 – Recovery Act Whistleblower Protections. An employee of any non-Federal employer receiving covered funds under the Recovery Act may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing, including a disclosure made in the ordinary course of an employee's duties, to the Accountability and Transparency Board, an inspector general, the Comptroller General, a member of Congress, a State or Federal regulatory or law enforcement agency, a person with supervisory authority over the employee (or other person working for the employer who has the authority to investigate, discover or terminate misconduct), a court or grand jury, the head of a Federal agency, or their representatives, information that the employee believes is evidence of one or more of the following related to the implementation or use of covered funds:
 - i. gross mismanagement
 - ii. gross waste
 - iii. substantial and specific danger to public health or safety,
 - iv. abuse of authority, or
 - v. violation of law, rule, or regulation (including those pertaining to the competition for or negotiation of a Contract).

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

Requirement to Post Notice of Rights and Remedies: The Contractor and any subcontractor shall post notice of the rights and remedies as required under Section 1553. (Refer to Section 1553 of the American Recovery and Reinvestment Act of 2009, Pub. L. 111-5 located at www.recovery.gov, for specific requirements of this section and prescribed language for the notices.)

- (4) Section 902 – Access Of Government Accountability Office. The Contractor shall provide that the Comptroller General and his representatives are authorized:

- i. to examine any records of the Contractor or any of its subcontractors, that directly pertain to, and involve transactions relating to, this Contract or a subcontract; and
- ii. to interview any officer or employee of the Contractor or any of its subcontractors regarding such transactions.

(5) Section 1514 – Inspector General Reviews. Any inspector general of a federal department or executive agency has the authority to review, as appropriate, any concerns raised by the public about specific investments using such funds made available in the Recovery Act. In addition, the findings of such reviews, along with any audits conducted by any inspector general of funds made available in the Recovery Act, shall be posted on the inspector general's website and linked to the website established by Recovery Act Section 1526, except that portions of reports may be redacted to the extent the portions would disclose information that is protected from public disclosure under sections 552 and 552a of title 5, United States Code.

(6) Section 1515 – Access of Offices of Inspector General to Certain Records and Employers. With respect to this Contract, any representative of an appropriate inspector general appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.), is authorized:

- i. to examine any records, of the Contractor or any of its subcontractors, that pertain to and involve transactions relating or pursuant to this Contract; and
- ii. to interview any officer or employee of the Contractor or any subcontractors regarding such transactions.

(7) Section 1606 – Wage Rate Requirements. All laborers and mechanics employed by pursuant to this Contract shall be paid wages at rates not less than those prevailing on projects of a character similar in the locality as determined by the Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code. All rulings and interpretations of the Davis-Bacon Act and related acts contained in 29 CFR 1, 3, and 5 are herein incorporated by reference.

For purposes of this Contract, laborer or mechanic includes at least those workers whose duties are manual or physical in nature (including those workers who use tools or who are performing the work of a trade), as distinguished from mental or managerial. The term laborer or mechanic includes apprentices, trainees, helpers, and, in the case of contracts subject to the Contract Work Hours and Safety Standards Act, watchmen or guards.

(8) Section 1605 – Buy American Requirements for Construction Material – Buy American, Use of American Iron, Steel, and Manufactured Goods. None of the funds provided by this Contract may be used for a project for the construction, alteration, maintenance, or repair of a public building or public work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States.

- f. UTRF agrees to comply with any modifications or additional requirements that may be imposed by law and future guidance and clarifications of Recovery Act requirements.
- g. If UTRF enters into one or more subcontracts for any of the services performed under this Contract, each subcontract shall contain provisions specifically imposing on the subcontractor all requirements set forth in this Contract Section E.5., "Federal Economic Stimulus Funding."

- E.13. UTRF shall not use funds received under this contract to perform or conduct basic research activities.
- E.14. Flow Down Provisions. In addition to the requirements in Section E.13., UTRF acknowledges and agrees to adhere to the federal Flow Down Provisions, issued by the federal government and attached hereto as Attachment 1 and incorporated by reference, as a condition of funding for all service and deliverables detailed in the Scope of Services under the American Recovery and Reinvestment Act of 2009, Public Law 111-5, (Recovery Act)
- E.15. Intellectual Property. Notwithstanding any provision in this Contract to the contrary, intellectual property for any invention, including contractor material, developed through the work under the Scope of Services or generated information, whether patented or unpatented, will be the property of the entity whose employees or researchers are inventors of such invention pursuant to U.S. patent law, subject to the State obtaining a no-cost, nonexclusive, nontransferable, irrevocable, perpetual, royalty-free, worldwide license to use or have practiced such rights for or on behalf of the State for governmental purposes or for the U.S. government. All contracts between the Contractor and its subcontractors shall so provide. Previously documented inventions (whether patented or unpatented under the patent laws of the United States of America or any foreign country) are exempt from this provision.
- E.16. The State acknowledges that the Tennessee Solar Institute may continue in existence beyond the termination date of this Contract; however, any activities beyond the termination date in Section B shall be the financial responsibility of the Contractor. Additionally, the State acknowledges that the Contractor may receive funding for other activities within the Solar Institute. The Contractor agrees that any such activities will not be funded with monies provided herein and in accordance with federal guidelines, funds provided under this Contract will not be commingled with any other funds the Contractor may receive for other purposes.
- E.17. In compliance with the requirements of Chapter 878, Public Acts of 2006 of the State of Tennessee, for any contract for goods or services purchased by the University, the Contractor hereby attests that the Contractor shall not knowingly utilize the services of an illegal immigrant in the performances of this Contract Agreement and shall not knowingly utilize the services of any subcontractor who will utilize the services of an illegal immigrant in the United States in the performance of the Contract.

IN WITNESS WHEREOF,

University of Tennessee Research Foundation:

CONTRACTOR SIGNATURE

DATE

Dr. Randy Gentry, President

PRINTED NAME AND TITLE OF CONTRACTOR SIGNATORY (above)

University of Tennessee:

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SERVICE DELIVERABLE	FY 2010	FY 2011	FY 2012
INNOVATION GRANTS			
Develop a plan for execution, organizational structure, and overview of the Innovation Grants program.	\$75,000.00	\$0.00	\$0.00
Create a contracts management database	\$25,000.00	\$0.00	\$0.00
Develop grant criteria, proposal communication and application review processes, program materials and application forms, and monitoring plan	\$100,000.00	\$0.00	\$0.00
Develop contract documents for Innovation Grant awards	\$40,000.00	\$0.00	\$0.00
Recruit grant review team and initiate application process	\$35,000.00	\$140,000.00	\$100,000.00
Receive grant applications	\$7,250,000.00	\$5,000,000.00	\$2,250,000.00
Review proposals for merit (based on established review criteria in the request for proposals (RFP))	\$0.00	\$250,000.00	\$0.00
Award grants for proposals with highest ranking scores	\$100,000.00	\$100,000.00	\$100,000.00
Monitor awards	\$50,000.00	\$100,000.00	\$300,000.00
Prepare State progress reports at a minimum to comply with ARRA reporting requirements	\$40,000.00	\$50,000.00	\$55,000.00
INSTALLATION GRANTS			
Develop a plan for execution, organizational structure and overview of the Installation Grants program.	\$50,000.00	\$0.00	\$0.00
Create a contracts management database	\$25,000.00	\$0.00	\$0.00
Develop grant criteria, proposal communication and application review processes, program materials and application forms, and monitoring plan	\$100,000.00	\$0.00	\$0.00
Develop contract documents for Installation Grant awards	\$25,000.00	\$0.00	\$0.00
Initiate application process	\$20,000.00	\$60,000.00	\$0.00

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SERVICE DELIVERABLE	FY 2010	FY 2011	FY 2012
Receive grant applications	\$4,000,000.00	\$3,000,000.00	\$2,000,000.00
Review applications for technical merit	\$30,000.00	\$100,000.00	\$20,000.00
Award grants to qualified applicants	\$25,000.00	\$60,000.00	\$40,000.00
Provide grant assistance program to increase program awareness and participation, and provide assistance to entities participating in program	\$100,000.00	\$130,000.00	\$150,000.00
Monitor awards and attest to completeness prior to reimbursement of costs	\$50,000.00	\$148,000.00	\$167,000.00
Prepare State progress reports at a minimum to comply with ARRA reporting requirements	\$40,000.00	\$45,000.00	\$65,000.00
OTHER			
Develop and manage strategic partnerships to support technical assistance, commercialization, and other activities	\$590,000.00	\$525,000.00	\$535,000.00
Develop technical assistance and workforce development planning documents	\$75,000.00	\$0.00	\$0.00
Conduct workforce development training sessions	\$50,000.00	\$75,000.00	\$75,000.00
Hold Annual Regional Seminar	\$0.00	\$0.00	\$200,000.00
Develop a web page architecture for the Tennessee Solar Institute	\$15,000.00	\$0.00	\$0.00
Develop a Tennessee Solar Institute Brand Image	\$10,000.00	\$0.00	\$0.00
Develop a home page for the Tennessee Solar Institute website	\$50,000.00	\$0.00	\$0.00
Acquire infrastructure (staff support, equipment and software)	\$50,000.00	\$0.00	\$0.00
Develop web content and maintain an update site	\$75,000.00	\$25,000.00	\$25,000.00
Develop a database	\$52,000.00	\$8,000.00	\$0.00
Maintain database	\$30,000.00	\$50,000.00	\$40,000.00
Maintain website and other communications strategies to make database information easily accessible	\$30,614.00	\$38,222.00	\$42,846.00
TOTAL	\$1,520,614.00	\$9,904,222.00	\$8,158,446.00

Supplemental Documentation Required for
Fiscal Review Committee

*Contact Name:	Stacey Patterson	*Contact Phone:	865-974-3140
*Original Contract Number:		*Original RFS Number:	
Edison Contract Number: <i>(if applicable)</i>	N/A	Edison RFS Number: <i>(if applicable)</i>	N/A
*Original Contract Begin Date:	February 1, 2010	*Current End Date:	April 30, 2012
Current Request Amendment Number: <i>(if applicable)</i>	N/A		
Proposed Amendment Effective Date: <i>(if applicable)</i>	N/A		
*Department Submitting:	University of Tennessee		
*Division:	University-wide Administration		
*Date Submitted:	January 14, 2010		
*Submitted Within Sixty (60) days:	No		
<i>If not, explain:</i>	Federal ARRA funded contract with defined time period for expenditure of grant award. Just received authority to proceed with award and desire to begin program implementation as soon as possible.		
*Contract Vendor Name:	UT Research Foundation		
*Current Maximum Liability:	\$ 29,276,682		
*Current Contract Allocation by Fiscal Year: <i>(as Shown on Most Current Fully Executed Contract Summary Sheet)</i>			
FY: 2010	FY: 2011	FY: 2012	FY:
\$13,207,614	\$9,904,222	\$6,164,846	\$
*Current Total Expenditures by Fiscal Year of Contract: <i>(attach backup documentation from STARS or FDAS report)</i>			
FY:	FY:	FY:	FY:
\$	\$	\$	\$
IF Contract Allocation has been greater than Contract Expenditures, please give the reasons and explain where surplus funds were spent:	N/A – new initiative		
IF surplus funds have been carried forward, please give the reasons and provide the authority for the carry forward provision:	N/A – new initiative		

Supplemental Documentation Required for
Fiscal Review Committee

IF Contract Expenditures exceeded Contract Allocation, please give the reasons and explain how funding was acquired to pay the overage:		N/A – new initiative		
*Contract Funding Source/Amount:	State:		Federal:	\$29,276,682 (DOE Grant award to ECD)
Interdepartmental:			Other:	
If "other" please define:				
Dates of All Previous Amendments or Revisions: <i>(if applicable)</i>		Brief Description of Actions in Previous Amendments or Revisions: <i>(if applicable)</i>		
N/A		N/A		
Method of Original Award: <i>(if applicable)</i>				
*What were the projected costs of the service for the entire term of the contract prior to contract award?		\$ 29,276,682		

The maximum contract liability is based on the delivery of services defined in the grant to ECD approved by the Department of Energy.

**Supplemental Documentation Required for
Fiscal Review Committee**

For all new non-competitive contracts and any contract amendment that changes Sections A or C.3. of the original or previously amended contract document, provide estimates based on information provided the Department by the vendor for determination of contract maximum liability. Add rows as necessary to provide all information requested.

If it is determined that the question is not applicable to your contract document attach detailed explanation as to why that determination was made.

Planned expenditures by fiscal year by deliverable. Add rows as necessary to indicate all estimated contract expenditures.

Deliverable description:	FY: 2010	FY: 2011	FY: 2012	FY:	FY:
See Attached	Schedule 1	Schedule 1	Schedule 1		

Proposed savings to be realized per fiscal year by entering into this contract. If amendment to an existing contract, please indicate the proposed savings to be realized by the amendment. Add rows as necessary to define all potential savings per deliverable.

Deliverable description:	FY: 2010	FY: 2011	FY: 2012	FY:	FY:
	N/A				

Comparison of cost per fiscal year of obtaining this service through the proposed contract or amendment vs. other options. List other options available (including other vendors), cost of other options, and source of information for comparison of other options (e.g. catalog, Web site). Add rows as necessary to indicate price differentials between contract deliverables.

Proposed Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:
N/A*					
Other Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:
N/A*					
Other Vendor Cost: (name of vendor)	FY:	FY:	FY:	FY:	FY:
N/A*					

Supplemental Documentation Required for Fiscal Review Committee

Explanation for Use of UT Research Foundation

The University of Tennessee established the UT Research Foundation to support the University of Tennessee in fulfilling its research, commercialization, and economic development functions, all which are core functions of the Tennessee Solar Institute. Utilizing UTRF's services enables the University in fulfilling the requirements set forth in the state of Tennessee's DOE SEP-ARRA plan in a coordinated effort to ensure successful implementation and accountability of these funds on behalf of the State of Tennessee.

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TOTAL	\$1,627,614.00	\$1,914,222.00	\$1,678,446.00