



1. Solicitation #: 27-MM-0003

2. Solicitation Issue Date: 7/17/2026

3. Brief Description of Requirement:

Round 2 ODOT National Electric Vehicle Infrastructure (NEVI) Competitive Procurement Program Electric Vehicle (EV) charging stations

The Oklahoma Department of Transportation (ODOT) has developed this competitive procurement program with the intent of soliciting proposals for eligible parties to design, build, operate, maintain, and report on National Electric Vehicle Infrastructure (NEVI) Formula Program funded and compliant Electric Vehicle charging stations throughout the state of Oklahoma along defined alternative fuel corridors (AFC's) in [Oklahoma's NEVI Plan](#).

Questions may be submitted until Friday, July 31st, 2026 at 2:00 PM CST with responses made available no later than Friday, August 7th, 2026.

The solicitation is let pursuant to Title 74, Section 85.12.B.3

4. Response Due Date¹: 8/25/2026

Time: 2:00 PM

CST/CDT

5. Issued By and **RETURN SEALED BID TO**²:

U.S. Postal Delivery Address:

Common Carrier Delivery
Address:

Electronic Submission Address: See OGX Registration – Attachment F

6. Solicitation Type (type "X" at one below):

- ☐ Invitation to Bid
☒ Request for Proposal
☐ Request for Quote

7. Contracting Officer:

Name: Stacy Welty

Phone: (405) 766-0493

Email: swelty@odot.org

¹ Amendments to solicitation may change the Response Due Date (read GENERAL PROVISIONS, section 3, "Solicitation Amendments").

² If "U.S. Postal Delivery" differs from "Carrier Delivery, use "Carrier Delivery" for courier or personal deliveries.

*"Certification for Competitive Bid and Contract" **MUST** be submitted along with the response to the Solicitation.*

1. RE: Solicitation # 27-MM-0003

2. Bidder General Information:

FEI / SSN: _____ Supplier ID: _____

Company Name: _____

3. Bidder Contact Information:

Address: _____

City: _____ State: _____ Zip Code: _____

Contact Name: _____

Contact Title: _____

Phone #: _____ Fax #: _____

Email: _____ Website: _____

4. Oklahoma Sales Tax Permit³:

☐ YES – Permit #: _____

☐ NO – Exempt pursuant to Oklahoma Laws or Rules – Attach an explanation of exemption

5. Registration with the Oklahoma Secretary of State:

☐ YES - Filing Number: _____

☐ NO - Prior to the contract award, the successful bidder will be required to register with the Secretary of State or must attach a signed statement that provides specific details supporting the exemption the supplier is claiming (www.sos.ok.gov or 405-521-3911).

6. Workers' Compensation Insurance Coverage:

Bidder is required to provide with the bid a certificate of insurance showing proof of compliance with the Oklahoma Workers' Compensation Act.

☐ YES – Include with the bid a certificate of insurance.

☐ NO – Exempt from the Workers' Compensation Act pursuant to 85A O.S. § 2(18)(b)(1-11) – Attach a written, signed, and dated statement on letterhead stating the reason for the exempt status.⁴

³For frequently asked questions concerning Oklahoma Sales Tax Permit, see <https://www.ok.gov/tax/Businesses/index.html>

⁴For frequently asked questions concerning workers' compensation insurance, see <https://www.ok.gov/wcc/Insurance/index.html>

7. Disabled Veteran Business Enterprise Act

☐ YES – I am a service-disabled veteran business as defined in 74 O.S. §85.44E. Include with the bid response 1) certification of service-disabled veteran status as verified by the appropriate federal agency, and 2) verification of not less than 51% ownership by one or more service-disabled veterans, and 3) verification of the control of the management and daily business operations by one or more service-disabled veterans.

☐ NO – Do not meet the criteria as a service-disabled veteran business.

Authorized Signature

Date

Printed Name

Title



**CERTIFICATION FOR COMPETITIVE
BID AND/OR CONTRACT
(NON-COLLUSION CERTIFICATION)**

Note: A certification shall be included with any competitive bid and/or contract exceeding \$25,000.00 submitted to the state for goods or services.

GENERAL INFORMATION

Agency name	Agency #
Oklahoma Department of Transportation	34500
Supplier or bidder legal name	Solicitation # or purchase order #
	27-MM-0003

Section 1 74 O.S. § 85.22

- A.** For purposes of any competitive bid or contract executed by the state for an acquisition in excess of the fair and reasonable acquisition threshold amount, I certify:
1. I am the duly authorized agent of the above-named supplier or bidder for the purpose of certifying the facts pertaining to the existence of collusion among and between bidders and suppliers and state officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in connection with the prospective acquisition.
 2. I am fully aware of the facts and circumstances surrounding the acquisition or making of the bid to which this statement relates and have been personally and directly involved in the events leading to the acquisition or submission of such bid.
 3. Neither the business entity that I represent in this certification nor anyone subject to the business entity's direction or control has been a party to:
 - a. Any collusion among bidders or suppliers in restraint of freedom of competition by agreement to bid or contract at a fixed price or to refrain from bidding or contracting.
 - b. Any collusion with any state official or employee as to quantity, quality or price in the prospective contract, or as to any other terms of such prospective contract.
 - c. Any discussions between bidders or suppliers and any state official concerning exchange of money or other thing of value for special consideration in connection with the prospective contract.
- B.** I certify, if awarded the contract, whether competitively bid or not, neither the business entity I represent nor anyone subject to the business entity's direction or control has paid, given or donated or agreed to pay, give or donate to any officer or employee of this state any money or other thing of value, either directly or indirectly, in procuring the contract to which this statement relates.

Section 2 74 O.S. § 85.42

For the purpose of a contract for services, the supplier also certifies that no person who has been involved in any manner in the development of this contract while employed by the State of Oklahoma shall be employed by the supplier to fulfill any of the services provided for under said contract.

Section 3 74 O.S. § 582

For the purpose of a contract for goods or services, the supplier also certifies it is not currently engaged in a boycott of goods or services from Israel that constitutes an integral part of business conducted or sought to be conducted with the state.

Section 4 74 O.S. § 12005

For the purpose of a contract for goods or services, the supplier also certifies it is not currently engaged in a boycott of energy companies and will not boycott energy companies during the term of the contract.

Section 5 DEBARMENT, SUSPENSION OR OTHER RESPONSIBILITY MATTERS

For the purpose of a contract for goods or services, the supplier certifies any debarment, suspension, indictments, convictions, civil judgments and terminated public contracts have been disclosed to the state purchasing director.

Section 6 74 O.S. § 85.5

For the purposes of a contract for the physical performance of services, the supplier also certifies it is in compliance with the provisions of Section 1313 of Title 25 of the Oklahoma Statutes requiring all suppliers to register and participate in the Status Verification System to verify the work eligibility status of all new employees.

Section 7 21 O.S. § 1289.31

For the purpose of a contract for goods or services, the supplier also certifies it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association; and will not discriminate against a firearm entity or firearm trade association during the term of the contract.

Section 8 74.O.S. § 85.22C

List of all known business or familial relationships that currently exist or which existed within one year prior to the date on this form between any officer or director of the supplier and any officer or employee of the state agency listed on Page 1. State the names of persons with such relationships, their position within the organization, and the nature of such relationships.

- 1.
- 2.
- 3.

If no such relationships exist, check the box below:

- ☐ There are no known business or familial relationships that currently exist or which existed within one year prior to the date on this form between any officer or director of the supplier and any officer or employee of the state agency stated above.

Section 9 74 O.S. § 85.42(B)

Pursuant to 74 O.S. § 85.42(B), the supplier certifies that no person involved in any manner in the development, approval or negotiation of the contract, including change orders, extensions, renewals or amendments, while employed by the State of Oklahoma shall be employed or given anything of value to fulfill any services provided under the contract, including change orders, extensions, renewals or amendments.

SIGNATURE

By signing below, the undersigned duly authorized agent for the above-named bidder or supplier acknowledges this certification statement is executed for the purposes of one of the following:

- ☐ The competitive bid attached herewith and contract, if awarded to said supplier.
- ☐ The contract attached herewith, which was not competitively bid and awarded by the agency pursuant to applicable Oklahoma Statutes.

I state under penalty of perjury under the laws of Oklahoma that the foregoing is true and correct.

Supplier authorized signature	Certified this date	
Name	Email	
Title	Phone	Fax

A. GENERAL PROVISIONS

A.1. Definitions

As used herein, the following terms shall have the following meaning unless the context clearly indicates otherwise:

- A.1.1. Acquisition: Items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental.
- A.1.2. Addendum: A written restatement of or modification to a Contract Document executed by the Supplier and State.
- A.1.3. Bid: An offer in the form of a bid, proposal, or quote a bidder submits in response to a solicitation.
- A.1.4. Bidder: An individual or business entity that submits a bid in response to a solicitation.
- A.1.5. Solicitation: A request or invitation by the State Purchasing Director or a state agency for a supplier to submit a priced offer to sell acquisitions to the state. A solicitation may be an invitation to bid, a request for proposal, or a request for quotation; and
- A.1.6. Supplier: An individual or business entity that sells or desires to sell acquisitions to state agencies.

A.2. Bid Submission

- A.2.1. Submitted bids shall be in strict conformity with the instructions to bidders and shall be submitted with a completed Responding Bidder Information, included with this packet, and any other forms required by the solicitation.
- A.2.2. Bids shall be submitted to the procuring agency electronically via email to the buyer listed in this solicitation. This will still remain a sealed bid and no attachments will be opened until bid closing.
- A.2.3. The required certification statement, "Certification for Competitive Bid and/or Contract (Non-Collusion Certification)", included with this packet, must be made out in the name of the bidder and must be properly executed by an authorized person, with full knowledge and acceptance of all its provisions.
- A.2.4. All bids shall be legible and completed in ink or with an electronic printer or other similar office equipment. Any corrections to bids shall be identified and initialed in ink by the bidder. Penciled bids and penciled corrections shall NOT be accepted and will be rejected as non-responsive. The bidder is required to submit an electronic copy.
- A.2.5. All bids submitted shall be subject to the Oklahoma Central Purchasing Act, Central Purchasing Rules, and other statutory regulations as applicable, these General Provisions, any Special Provisions, solicitation specifications, required certification statement, and all other terms and conditions listed or attached herein—all of which are made part of this solicitation.

A.3. Solicitation Amendments

- A.3.1. If an "Amendment of Solicitation," if included later with this packet, is issued, the bidder shall acknowledge receipt of any/all amendment(s) to solicitations by signing and returning the solicitation amendment(s). Amendment acknowledgement(s) may be submitted with the bid or may be forwarded separately. If forwarded separately, amendment acknowledgement(s) must contain the solicitation number and response due date and time on the front of the envelope. The procuring agency must receive the amendment acknowledgement(s) by the response due date and time specified for receipt of bids for the bid to be deemed responsive. Failure to acknowledge solicitation amendments may be grounds for rejection.
- A.3.2. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the solicitation. All amendments to the solicitation shall be made in writing by the procuring agency.
- A.3.3. It is the bidder's responsibility to check frequently for any possible amendments that may be issued. The procuring agency is not responsible for a bidder's failure to download any amendment documents required to complete a solicitation.

A.4. Bid Change

If the bidder needs to change a bid prior to the solicitation response due date, a new bid shall be submitted to the procuring agency with the following statement "This bid supersedes the bid previously submitted."

A.5. Certification Regarding Debarment, Suspension, and Other Responsibility Matters

By submitting a response to this solicitation:

- A.5.1. The prospective primary participant and any subcontractor certifies to the best of their knowledge and belief, that they and their principals or participants:
 - A.5.1.1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal, State, or local department or agency;
 - A.5.1.2. Have not within a three-year period preceding this proposal been convicted of or pled guilty or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) contract; or for 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;
 - A.5.1.3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph A.5.1.2. of this certification; and
 - A.5.1.4. Have not within a three-year period preceding this application/proposal had one or more public (Federal, State, or local) contracts terminated for cause or default.
- A.5.2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to its solicitation response.

A.6. Bid Opening

Sealed bids shall be opened by the See Page 1 located at _____
_____ at the time and date specified in the solicitation as the Response Due Date and Time.

A.7. Open Bid / Open Record

Pursuant to the Oklahoma Public Open Records Act, a public bid opening does not make the bid(s) immediately accessible to the public. The procurement or contracting agency shall keep the bid(s) confidential and provide prompt and reasonable access to the records only after a contract is awarded or the solicitation is cancelled. This practice protects the integrity of the competitive bid process and prevents excessive disruption to the procurement process. The interest of achieving the best value for the State of Oklahoma outweighs the interest of vendors immediately knowing the contents of competitor's bids. [51 O.S. § 24A.5(5)]

Additionally, financial or proprietary information submitted by a bidder may be designated by the Procurement Division Manager as confidential and the procurement entity may reject all requests to disclose information designated as confidential pursuant to 62 O.S. (2012) § 34.11.1(H)(2) and 74 O.S. (2011) § 85.10. Bidders claiming any portion of their bid as proprietary or confidential must specifically identify what documents or portions of documents they consider confidential and identify applicable law supporting their claim of confidentiality. The ODOT General Counsel shall make the final decision as to whether the documentation or information is confidential pursuant to 74 O.S. § 85.10. Otherwise, documents and information a bidder submits as part of or in connection with a bid are public records and subject to disclosure after contract award or the solicitation is cancelled.

A.8. Late Bids

Bids received by the procuring agency after the response due date and time shall be deemed non-responsive and shall NOT be considered for any resultant award.

A.9. Legal Contract

- A.9.1. Submitted bids are rendered as a legal offer and any bid, when accepted by the procuring agency, shall constitute a contract.
- A.9.2. The Contract resulting from this solicitation may consist of the following documents in the following order of precedence:
 - A.9.2.1. Any Addendum to the Contract;
 - A.9.2.2. Purchase order, as amended by Change Order (if applicable);
 - A.9.2.3. Solicitation, as amended (if applicable); and
 - A.9.2.4. Successful bid (including required certifications), to the extent the bid does not conflict with the requirements of the solicitation or applicable law.

A.9.3. Any contract(s) awarded pursuant to the solicitation shall be legibly written or typed.

A.10. Pricing

A.10.1. Bids shall remain firm for a minimum of sixty (60) days from the solicitation closing date.

A.10.2. Bidders guarantee unit prices to be correct.

A.10.3. In accordance with 74 O.S. §85.40, ALL travel expenses to be incurred by the supplier in the performance of the Contract shall be included in the total bid price/contract amount.

A.11. Clarification of Solicitation

A.11.1. Clarification pertaining to the contents of this solicitation shall be directed in writing to the Contracting Officer specified in the solicitation and must be prior to the closing date of the solicitation.

A.11.2. If a bidder fails to notify the State of an error, ambiguity, conflict, discrepancy, omission, or other error in the SOLICITATION, known to the bidder, or that reasonably should have been known by the bidder, the bidder shall submit a bid at its own risk; and if awarded the contract, the bidder shall not be entitled to additional compensation, relief, or time, by reason of the error or its later correction. If a bidder takes exception to any requirement or specification contained in the SOLICITATION, these exceptions must be clearly and prominently stated in their response.

A.11.3. Bidders who believe proposal requirements or specifications are unnecessarily restrictive or limit competition may submit a written request for administrative review to the contracting officer listed on the solicitation. This request must be made prior to the closing date of the solicitation.

A.12. Negotiations

A.12.1.1. In accordance with Title 74 §85.5, the State of Oklahoma reserves the right to negotiate with one, selected, all, or none of the vendors responding to this solicitation to obtain the best value for the State. Negotiations could entail discussions on products, services, pricing, contract terminology, or any other issue that may mitigate the State's risks. The State shall consider all issues negotiable and not artificially constrained by internal corporate policies. Negotiation may be with one or more vendors, for any and all items in the vendor's offer.

A.12.1.2. Firms that contend that they lack flexibility because of their corporate policy on a particular negotiation item shall face a significant disadvantage and may not be considered. If such negotiations are conducted, the following conditions shall apply:

A.12.1.3. Negotiations may be conducted in person, in writing, via online meeting, or by telephone.

A.12.1.4. Negotiations shall only be conducted with potentially acceptable offers. The State reserves the right to limit negotiations to those offers that received the highest rankings during the initial evaluation phase.

A.12.1.5. Terms, conditions, prices, methodology, or other features of the bidders offer may be subject to negotiations and subsequent revision. As part of the negotiations, the bidder may be required to submit supporting financial, pricing, and other data in order to allow a detailed evaluation of the feasibility, reasonableness, and acceptability of the offer.

A.12.1.6. The requirements of the Request for Proposal shall not be negotiable and shall remain unchanged unless the State determines that a change in such requirements is in the best interest of the State of Oklahoma.

A.13. Rejection of Bid

The State reserves the right to reject any bids that do not comply with the requirements and specifications of the solicitation. A bid may be rejected when the bidder imposes terms or conditions that would modify requirements of the solicitation or limit the bidder's liability to the State. Other possible reasons for rejection of bids are listed in OAC 260:115-7-32.

A.14. Award of Contract

A.14.1. The Procurement Division Manager may award the Contract to more than one bidder. If a bidder is selected for more than one site the Procurement Division Manager may also decide to have a single contract cover work at multiple sites. Contracts may also be awarded on an ALL OR NONE basis, whichever is deemed by the Procurement Division Manager to be in the best interest of the State of Oklahoma.

A.14.2. Contract awards will be made to the lowest and best bidder(s) unless the solicitation specifies that best value criteria is being used.

- A.14.3. In order to receive an award or payments from the State of Oklahoma, suppliers must be registered. The vendor registration process can be completed electronically through the OMES website at the following link: <https://www.ok.gov/dcs/vendors/index.php>.

A.15. Contract Modification

- A.15.1. The Contract is issued under the authority of the Procurement Division Manager who signs the Contract. The Contract may be modified only through a written Addendum, signed by the ODOT and the supplier.
- A.15.2. Any change to the Contract, including but not limited to, the addition of work or materials, the revision of payment terms, or the substitution of work or materials, directed by a person who is not specifically authorized by the procuring agency in writing, or made unilaterally by the supplier, is a breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including unauthorized written Addendums, shall be void and without effect, and the supplier shall not be entitled to any claim under this Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the resultant Contract.

A.16. Delivery, Inspection, and Acceptance

- A.16.1. Unless otherwise specified in the solicitation or awarding documents, all deliveries shall be F.O.B. Destination. The supplier(s) awarded the Contract shall prepay all packaging, handling, shipping, and delivery charges, and firm prices quoted in the bid shall include all such charges. All products and/or services to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the State at the destination. "Destination" shall mean delivered to the receiving dock or other point specified in the purchase order. The State assumes no responsibility for goods until accepted by the State at the receiving point in good condition. Title and risk of loss or damage to all items shall be the responsibility of the supplier until accepted by the receiving agency. The supplier(s) awarded the Contract shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.
- A.16.2. Supplier(s) awarded the Contract shall be required to deliver products and services as bid on or before the required date. Deviations, substitutions, or changes in products and services shall not be made unless expressly authorized in writing by the procuring agency.

A.17. Invoicing and Payment

- A.17.1. Upon submission of an accurate and proper invoice, the invoice shall be paid in arrears after products have been delivered or services provided and in accordance with applicable law. Invoices shall contain the purchase order number, a description of the products delivered, or services provided, and the dates of such delivery or provision of services. An invoice is considered proper if sent to the proper recipient and goods or services have been received.
- A.17.2. State Acquisitions are exempt from sales taxes and federal excise taxes.
- A.17.3. Pursuant to 74 O.S. §85.44(B), invoices will be paid in arrears after products have been delivered or services provided.
- A.17.4. Payment terms will be net 45. Interest on late payments made by the State of Oklahoma is governed by 62 O.S. § 34.72.
- A.17.5. Additional terms which provide discounts for earlier payment may be evaluated when making an award. Any such additional terms shall be no less than ten (10) days increasing in five (5) day increments up to thirty (30) days. The date from which the discount time is calculated shall be the date of a proper invoice.

A.18. Tax Exemption

State agency acquisitions are exempt from sales taxes and federal excise taxes. Bidders shall not include these taxes in price quotes.

A.19. Audit and Records Clause

- A.19.1. As used in this clause, "records" includes books, documents, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. In accepting any Contract with the State, the successful bidder(s) agree any pertinent State or Federal agency will have the right to examine and audit all records relevant to execution and performance of the resultant Contract.
- A.19.2. The successful supplier(s) awarded the Contract(s) is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion and/or termination of the Contract. If an audit, litigation, or other action involving such records is started before the end of the

seven (7) year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.

A.20. Non-Appropriation Clause

The terms of any Contract resulting from the solicitation and any Purchase Order issued for multiple years under the Contract are contingent upon sufficient appropriations being made by the Legislature or other appropriate government entity. Notwithstanding any language to the contrary in the solicitation, purchase order, or any other Contract document, the procuring agency may terminate its obligations under the Contract if sufficient appropriations are not made by the Legislature or other appropriate governing entity to pay amounts due for multiple year agreements. The Requesting (procuring) Agency's decisions as to whether sufficient appropriations are available shall be accepted by the supplier and shall be final and binding.

A.21. Choice of Law

Any claims, disputes, or litigation relating to the solicitation, or the execution, interpretation, performance, or enforcement of the Contract shall be governed by the laws of the State of Oklahoma.

A.22. Choice of Venue

Venue for any action, claim, dispute, or litigation relating in any way to the Contract shall be in Oklahoma County, Oklahoma.

A.23. Termination for Cause

- A.23.1. The supplier may terminate the Contract for default or other just cause with a 30-day written request and upon written approval from the procuring agency. The State may terminate the Contract for default or any other just cause upon a 30-day written notification to the supplier.
- A.23.2. The State may terminate the Contract immediately, without a 30-day written notice to the supplier, when violations are found to be an impediment to the function of an agency and detrimental to its cause, when conditions preclude the 30-day notice, or when the Procurement Division Manager determines that an administrative error occurred prior to Contract performance.
- A.23.3. If the Contract is terminated, the State shall be liable only for payment for products and/or services delivered and accepted.

A.24. Termination for Convenience

- A.24.1. The State may terminate the Contract, in whole or in part, for convenience if the Procurement Division Manager determines that termination is in the State's best interest. The Procurement Division Manager shall terminate the contract by delivering to the supplier a Notice of Termination for Convenience specifying the terms and effective date of Contract termination. The Contract termination date shall be a minimum of 60 days from the date the Notice of Termination for Convenience is issued by the Procurement Division Manager.
- A.24.2. If the Contract is terminated, the State shall be liable only for products and/or services delivered and accepted, and for costs and expenses (exclusive of profit) reasonably incurred prior to the date upon which the Notice of Termination for Convenience was received by the supplier.

A.25. Insurance

The successful supplier(s) awarded the Contract shall obtain and retain insurance, including workers' compensation, automobile insurance, medical malpractice, and general liability, as applicable, or as required by State or Federal law, prior to commencement of any work in connection with the Contract. The supplier awarded the Contract shall timely renew the policies to be carried pursuant to this section throughout the term of the Contract and shall provide the procuring agency with evidence of such insurance and renewals.

A.26. Employment Relationship

The Contract does not create an employment relationship. Individuals performing services required by this Contract are not employees of the State of Oklahoma or the procuring agency. The supplier's employees shall not be considered employees of the State of Oklahoma nor of the procuring agency for any purpose, and accordingly shall not be eligible for rights or benefits accruing to state employees.

A.27. Compliance with the Oklahoma Taxpayer and Citizen Protection Act of 2007

By submitting a bid for services, the bidder certifies that they, and any proposed subcontractors, are in compliance with 25 O.S. §1313 and participate in the Status Verification System. The Status Verification System is defined in 25 O.S.

§1312 and includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security and available at www.dhs.gov/E-Verify.

A.28. Compliance with Applicable Laws

The products and services supplied under the Contract shall comply with all applicable Federal, State, and local laws, and the supplier shall maintain all applicable licenses and permit requirements.

A.29. Special Provisions

Special Provisions set forth in SECTION B apply with the same force and effect as these General Provisions. However, conflicts or inconsistencies shall be resolved in favor of the Special Provisions.

B. SPECIAL PROVISIONS

B.1. Contract Period

- B.1.1 The period of this contract will include the following major phases: 1) the pre-construction phase; 2) the construction phase; 3) the federally required five-year operation and maintenance phase; 4) the project close-out phase; and 5) the federal and state required records retention phase. The total length of the contract will be inclusive of all five key project phases.

B.2. Deliveries

Under the Round 2 ODOT NEVI Competitive Procurement, awarded parties will perform all procurement, delivery, installation, and operations of compliant EV Charging infrastructure. ODOT will not receive any deliveries as part of this procurement.

B.3. Extension of Contract

ODOT may extend the term of this contract if mutually agreed upon by both parties in writing.

B.4. Final Completion

ODOT will issue a final notice of completion to all awarded contracts under this solicitation, documenting ODOT's acceptance and acknowledgment of completion of all required project phases.

B.5. Gratuities

- B.5.1. The right of the successful offeror to perform under this contract may be terminated by written notice if the ODOT determines that the successful offeror, or any of its agents or another representative offered or gave a gratuity (e.g., an entertainment or gift) to an officer, official or employee of the Department of Transportation.

B.6. Assignment

- B.6.1. The Contractor shall NOT sublet, sell, transfer assign, or otherwise dispose of the contract or any portion thereof, or of his right, title, or interest therein, without the written consent of ODOT.

B.7. Authority for Solicitation

- B.7.1. ODOT is issuing this solicitation in accordance with Oklahoma State Statute, Title 74, Chapter 4, Section 85.12B.3

B.8. Form of Contract

- B.8.1. A contract is to be used as the agreement between the State and the successful Vendor. The contract will contain the following Federal Clauses, Terms, and Conditions.
- B.8.1.1. The contract will include and expressly incorporate by reference the FHWA Federal Register Final Rule 88 FR 12724. Minimum Federal statutory requirements can be found in the [Final NEVI Standards and Requirements](#)¹ Part 680 – National Electric Vehicle Infrastructure Standards and Requirements.
- B.8.1.2. All statutory and regulatory requirements that are applicable to funds apportioned under chapter 1 of Title 23, United States Code and the requirements of 2 CFR part 200 apply. This includes the applicable

¹ FHWA Federal Register Final Rule 88 FR 12724 (02/28/2023)

requirements of 23, United States Code, and Title 23, Code of Federal Regulations, such as the applicable Buy America requirements at 23 U.S.C. 313 and Build America, Buy America Act (Pub. L. No 117-58, div. G sections 70901-70927).

- B.8.1.3. As provided at 23 U.S.C. 109(s)(2), projects to install EV chargers are treated as if the project is located on a Federal-aid highway. As a project located on a Federal-aid highway, 23 U.S.C. 113 applies and Davis Bacon Federal wage rate requirements included at subchapter IV of chapter 31 of Title 40, U.S.C. must be paid for any project funded with NEVI Formula Program funds.
- B.8.1.4. The Americans with Disabilities Act of 1990 (ADA), and its implementing regulations, apply to EV charging stations by prohibiting discrimination on the basis of disability by public and private entities. EV charging stations must comply with applicable accessibility standards adopted by the Department of Transportation into its ADA regulations (49 CFR part 37) in 2006 and adopted by the Department of Justice into its ADA regulations (28 CFR parts 35 and 36) in 2010.
- B.8.1.5. Title VI of the Civil Rights Act of 1964, and implementing regulations, apply to this program to ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
- B.8.1.6. All applicable requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and implementing regulations, apply to this program.
- B.8.1.7. The Uniform Relocation Assistance and Real Property Acquisition Act at 49 CFR part 24, and implementing regulations, apply to this program by establishing minimum standards for federally funded programs and projects that involve the acquisition of real property (real estate) or the displacement or relocation of persons from their homes, businesses, or farms.
- B.8.1.8. The National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's NEPA implementing regulations, and applicable agency NEPA procedures apply to this program by establishing procedural requirements to ensure that Federal agencies consider the consequences of their proposed actions on the human environment and inform the public about their decision making for major Federal actions significantly affecting the quality of the human environment.
- B.8.1.9. All applicable requirements of the Infrastructure Investment and Jobs Act ("IIJA") Pub. L. No 117-58 which includes the Build America Buy America Act (BABA), Public Law No 117-58 § § 70901-52, and Implementing regulations, apply to this program.
- B.8.1.10. US DOT Certification for Federal-Aid Contracts
- B.8.1.11. Federal Highway Administration Contract Requirements
- B.8.1.12. US DOT Certification of Eligibility
- B.8.1.13. Drug Free Workplace
- B.8.1.14. Equal Employment Opportunity

B.9. Scope of Work Definitions

- B.9.1. **Acquisition:** Items, products, materials, supplies, services, and equipment an entity acquires by purchase, lease purchase, lease with option to purchase, or rental.
- B.9.2. **Addendum:** A written restatement of or modification to a Contract Document executed by the Supplier and State.
- B.9.3. **Agent:** An entity contractually authorized to act on behalf of, or represent, ODOT.
- B.9.4. **Alternative Fuel Corridor (AFC):** A portion of the US Highway System designated as an EV charging corridor by FHWA pursuant to [23 U.S.C. 151](#).
- B.9.5. **Approve:** The term "Approve" and its variations (e.g., "Approval" or "Approved"), when capitalized in this Contract, refers to the acceptance of a process, vendor, document, condition, action, or deliverable in writing by ODOT. Approval by ODOT shall not be construed to mean ODOT's endorsement or assumption of

liability by ODOT, nor shall it relieve the Contractor of its responsibilities under the Contract.

- B.9.6. **Authorized User(s):** A user with specific authority to perform a function(s) in the System. An Authorized User could be designated staff from the Contractor, ODOT user, or a designated third party.
- B.9.7. **Award:** The project has been selected for funding by ODOT.
- B.9.8. **Awardee:** A Proposer which is has been selected for Project Award. Awardee may also be interchangeable with Contractor after a Contract has been executed.
- B.9.9. **Award Agreement:** A legally enforceable document containing minimum terms and conditions between ODOT and the awardee.
- B.9.10. **Business Day:** A weekday, excluding ODOT Holidays, beginning at 12:00:00 a.m. and ending at 11:59:59 p.m. central time.
- B.9.11. **Charger:** A device with one or more charging ports and connectors for charging EVs, also referred to as Electric Vehicle Supply Equipment (EVSE).
- B.9.12. **Charging Network:** A collection of EV chargers located on one or more property(ies) that are connected via digital communications to manage the facilitation of payment, the facilitation of electrical charging, and any related data requests.
- B.9.13. **Charging Network Provider:** The entity that operates the digital communication network that remotely manages the chargers. Charging network providers may also serve as charging station operators and/or manufacture chargers.
- B.9.14. **Charging Station:** The area in the immediate vicinity of a group of chargers and includes the chargers, supporting equipment, parking areas adjacent to the chargers, and lanes for vehicle ingress and egress. A charging station could comprise only part of the property on which it is located.
- B.9.15. **Commissioning:** The charging station is installed according to plan, is operational according to the specifications, is open for public use, and all construction, utility service, and ancillary construction activities are complete, including but not limited to site cleanup, landscaping, paving and patching, pavement marking, sign installation, etc.
- B.9.16. **Conditional Award:** Initial award selection and announcement by ODOT. Final award conditioned on conditional awardee completing all federal and state award requirements, including but not limited to receiving environmental clearances, finalizing the contract with ODOT, and receiving final FHWA authorization.
- B.9.17. **Connector:** The device that attaches an EV to a charging port in order to transfer electricity.
- B.9.18. **Contract:** The entire and integrated agreement between the parties, which supersedes all prior negotiations, representations, or contracts, either written or oral. The Contract, as amended from time to time, forms the agreement between ODOT and the Contractor, setting forth the obligations of the parties, including but not limited to, the performance of the Work and the basis of payment.
- B.9.19. **Contractor:** In the context of the Contract, Contractor means the company, firm, partnership, corporation, association, joint venture, or other legal entity permitted by law to work in Oklahoma that enters into a written Contract with ODOT to perform the Work described in the RFP and Contract.
- B.9.20. **Competitive Procurement Program:** A free and open application process to award NEVI Formula Program Funds based on best value evaluation in compliance with all Title 23 and NEVI Formula Program requirements.
- B.9.21. **Cost Share:** A non-federal funding source the awardee is committing to the project as its share of the overall eligible project costs, also commonly referred to as match.
- B.9.22. **Critical Factor(s):** Elements of the Project which, if not performed successfully by the Contractor, will place the overall success of the Project at high risk.
- B.9.23. **Deliverable(s):** Any single item required by the terms of the Contract to be delivered by the Contractor for testing, review, approval, and acceptance by ODOT's Project Manager. See "Submittal".
- B.9.24. **Designated Representative(s):** Person or persons authorized by ODOT to represent ODOT in dealings with the Contractor.

- B.9.25. **Devices:** The hardware and/or software related to electric vehicle supply equipment (EVSE)
- B.9.26. **Direct Current Fast Charger (DCFC):** A charger that enables rapid charging by delivering direct-current (DC) electricity directly to an EV's battery.
- B.9.27. **Documentation:** The printed or electronic manuals, designs, drawings, and plans published by the Contractor that describe the implementation of the Project, Design of the System, and use and operation of the Software and Hardware, including all new revisions, versions, updates, and releases thereto.
- B.9.28. **Electric Vehicle (EV):** A motor vehicle powered by an electric motor that draws electricity from a battery and is capable of being charged from an external source. For the purposes of this RFP, this definition does not include golf carts, electric bicycles, or other micromobility devices.
- B.9.29. **Electric Vehicle Infrastructure Training Program (EVITP):** A comprehensive training program for the installation of electric vehicle supply equipment. For more information, refer to <https://evitp.org/>.
- B.9.30. **Electric Vehicle Supply Equipment (EVSE):** See definition of a Charger.
- B.9.31. **Federal Share:** The federal funding the awardee is contracted to receive for the portion of overall eligible federally reimbursable project costs.
- B.9.32. **Hardware:** An all-inclusive term to mean the equipment, hardware, peripherals, firmware, electronics, electrical components, and other materials and supplies necessary or furnished by the Contractor to provide Services pursuant to the Contract Documents.
- B.9.33. **Holiday(s):** Holidays, which are non-Business Days for ODOT, are defined as New Year's Day, Martin Luther King Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, the day after Thanksgiving the day before or after Christmas, and Christmas Day.
- B.9.34. **Match:** See cost share definition.
- B.9.35. **National Environmental Protection Act (NEPA):** The requirement that federal agencies assess the environmental effects of their proposed actions prior to making decisions, as defined by the National Environmental Policy Act of 1969.
- B.9.36. **Notice of Acceptance (NOA):** The ODOT issued a notice detailing that the awardee has completed all project requirements and ODOT has reviewed and approves the completion of the project.
- B.9.37. **Notice to Proceed (NTP):** The written authorization by ODOT designating the date and time for the Contractor to commence Work pursuant to the terms of the Contract.
- B.9.38. **Operation and Maintenance (O&M):** The period after the charging station has been commissioned and is being upkept to meet all service and program requirements throughout the duration of the award agreement.
- B.9.39. **Payment Methods:** A secure method for consumers to purchase services using a debit card, credit card, smartcard, mobile application, or another payment device by using radio frequency identification (RFID) technology and near-field communication (NFC).
- B.9.40. **Port:** The system within a charger that charges one EV. A charging port may have multiple connectors, but it can provide power to charge only one EV through one connector at a time.
- B.9.41. **Project:** The complete awarded scope of work defined in the application and award agreement, including the design, acquisition, installation, network connection, and commissioning, as well as operation and maintenance of qualified electric vehicle charging infrastructure as described in an applicant's proposal, as well as charging station data sharing.
- B.9.42. **Project Performance Period:** The active project phases as defined by the final contract between the awardee and ODOT, broadly defined as the phases at which ODOT will offer formal notices to proceed, including but not limited to: 1) pre-construction, 2) procurement and construction, and 3) operations and maintenance.
- B.9.43. **Project Site:** The location the applicant has identified in its application proposal where project work will take place and where EVSE will be installed.
- B.9.44. **Project Schedule:** The detailed schedule developed and maintained by the Contractor that lists all tasks related to the design, development, testing, installation, and deployment of the System(s) as defined in the Statement of Work.
- B.9.45. **Proposal:** A formal request to ODOT for project funding as outlined in Section E of the RFP.

- B.9.46. **Proposer:** An entity that submits an eligible proposal to ODOT in response to this RFP.
- B.9.47. **Qualifying Event:** A deliverable(s) that is required to be submitted and approved by ODOT for a particular Milestone, as outlined in the Project Milestone document
- B.9.48. **Request for Proposals (RFP):** ODOT's formally issued announcement of the availability of federal pass-through NEVI funding, to be awarded through a competitive procurement program, and administered in accordance with all federal and state laws.
- B.9.49. **Requirements:** See "Statement of Work (SOW) and Requirements".
- B.9.50. **Response:** See "Proposal".
- B.9.51. **Secure Payment Method:** A type of payment processing that ensures a user's financial and personal information is protected from fraud and unauthorized access.
- B.9.52. **Services:** All tasks/items necessary for the completion of the Project under the Contract. Includes, without limitation, all labor, materials, Equipment, Hardware, Systems, services, Software, facilities, installation, testing, maintenance, and other things necessary or proper for or incidental to carrying out and completing the terms of the Contract.
- B.9.53. **Site Host:** Owner of the property on which EVSE is to be installed.
- B.9.54. **Site Host Agreement:** A contractual agreement between the awardee and property owner (if different from the awardee) granting the awardee the right to install EVSE on the property.
- B.9.55. **Statement of Work (SOW) and Requirements:** Contract documents that detail the Work activities, Submittals and Deliverables, and performance that the Contractor must execute in performance of the Work. "Requirement" and "Requirements" are used as independent terms under this same definition.
- B.9.56. **Submittal:** See "Deliverable".
- B.9.57. **System(s):** The integrated Hardware, Software, and/or subsystems that combine together to support the scope of the Contract.
- B.9.58. **Uptime:** The amount of time a charging station is operational.
- B.9.59. **Vendor:** An individual or business entity that sells or desires to sell acquisitions to state agencies.

B.10. **Taxation Status**

- B.10.1. Please be advised that all governmental entities of the State of Oklahoma, FEI 73-6017987 are exempt from Oklahoma sales or use taxes pursuant to Title 68, O.S. 2001, section 1356(1). Therefore, direct purchases made by a state entity are exempt from sales tax whereas purchases made by a contractor in fulfilling a state contract are taxable to the contractor.
- B.10.2. Proposers that are not tax-exempt should include applicable taxes in the costs shown on Attachment X – pricing sheet

B.11. **Payments**

- B.11.1. Project payment and reimbursement structure is described in Attachment A, Section III.F.

B.12. **Performance Non-Compliance**

- B.12.1. Failure to comply with the Project requirements or the requirements of this contract will result in penalties. See Attachment A, Section III.A.5 for a description of penalties and remedies.

B.13. **Surety Bonds**

- B.13.1. All bonds are for the full value of the contract and shall be issued by a surety company authorized by the Oklahoma Insurance Department to do business in the State of Oklahoma.
- B.13.2. A bond is required for all contracts with a value exceeding Fifty Thousand Dollars (\$50,000.00) that includes coverage for (1) Performance: to ensure the completion of the work in accordance with contract documents in the time stipulated; (2) Defect – to provide for defects in renovation or materials for a period of five (5) years from the date of Notice of Acceptance of the completed work; and (3) Payment – to assure the State is protected from the actions of subcontractors, suppliers, and employees for unpaid debts of the contractor.
- B.13.3. All bonds must be on the forms prescribed and issued by the State of Oklahoma. A-series forms may be accessed at <https://oklahoma.gov/omes/services/construction-and-properties/cap-forms.html>

B.13.4. Irrevocable Letters of Credit may be used as a substitute for the bonds required in B.13.2 of these instructions. The letters of credit must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on forms obtained from the Division.

B.13.5. Each project awarded will require the submission of a Payment Bond, Performance Bond, and Statutory Defect Bond.

B.14. Indemnification

B.14.1. The Proposer shall indemnify and save harmless the Department, their respective officers, employees, and agents from all claims, suits, or actions of every kind and character made upon or brought against the Department, their respective officers, employees, and agents, for or on account of any injuries or damages received or sustained by any party or parties by or from acts of said Proposer or its servants, agents, and sub-consultants, in doing the work and rendered the services Contracted for, or by or consequence of any negligence in operations or any improper material or equipment used, or by or on account of any act or omission of said Proposer or his or its servants, agents, and sub-consultants. This hold harmless and indemnity obligation shall include attorney's fees, court costs, and all other expenses incurred in the investigation and defense of any claim or suit.

B.15. Disadvantage Business Enterprise

B.15.1. This is a federally funded procurement; however, per 23 CFR § 680.118 the Disadvantaged Business Enterprise (DBE) Program does not apply to the NEVI Formula Funds.

C. SOLICITATION SPECIFICATIONS

C.1 Purpose of the Contract

C.1.1. The Oklahoma Department of Transportation (ODOT) has developed this competitive procurement program with the intent of soliciting proposals for eligible parties to install, own, operate, maintain, and report on National Electric Vehicle Infrastructure (NEVI) Formula Program funded and compliant Electric Vehicle charging stations throughout the state of Oklahoma.

C.2 Statement of Work

C.1.1. See Attachment A – Statement of Work for a complete description of the Round 2 ODOT NEVI Competitive Procurement Program, including details on, Program Summary and Milestones; Program Details; Eligibility Information; Program Requirements; Submission Instructions; Proposal Evaluation Process; and Post Selection Process.

C.3 Site Revenue

C.3.1. For purposes of program income or revenue earned from the operation of an EV charging station, the State or other direct recipient should ensure that all revenues received from the operation of the EV charging facility are used only for:

1. Debt service with respect to the EV charging station project, including funding of reasonable reserves and debt service on refinancing;
2. A reasonable return on investment of any private person financing the EV charging station project, as determined by the State or other direct recipient;
3. Any costs necessary for the improvement and proper operation and maintenance of the EV charging station, including reconstruction, resurfacing, restoration, and rehabilitation;
4. If the EV charging station is subject to a public-private partnership agreement, payments that the party holding the right to the revenues owes to the other party under the public-private partnership agreement; and
5. Any other purpose for which Federal funds may be obligated under Title 23, United States Code

C.4 Reporting

- C.4.1.** Awardee must submit quarterly, annual, one-time, and other reports and updates as required pursuant to **23 CFR § 680.**

D. EVALUATION

D.1. Evaluation Criteria

- D.1.1. This solicitation will be evaluated with best value criteria in accordance with Title 74, Chapter 4, Section 85.2.2. Criteria will include, but not be limited to: Project Location; Project Site Readiness; Project Location Access; Project Site Host Engagement; Site Amenities; Team Qualifications; Project Future Proofing; Project Non-Federal Match Proposed; Project Federal Share Requested; and Project Cost Effectiveness. The order in which criteria is listed does not establish priority.
- D.1.2. See Attachment “A” for a detailed description of the Evaluation Process.
- D.1.3. See Attachment “B” for a detailed description of the Evaluation Criteria

E. INSTRUCTIONS TO BIDDER

E.1. Bidder Questions

Questions must be submitted in writing to: swelty@odot.org by Friday, July 31st, 2026 at 2:00 pm CST.

Questions may be asked during any virtual pre-bid meetings with ODOT and/or the Agent; see Solicitation Cover Page for the date and time.

Answers to questions submitted in writing or during any virtual pre-bid meetings will be made available to Proposers. See Solicitation Cover Page for more information.

Communication with ODOT or an Agent outside the opportunities outlined in this section may result in a Vendor not being allowed to bid on this project.

E.2. Proposal Submittal Requirements

- E.2.1. Proposers must review Attachment A, the Solicitation Statement of Work, in its entirety, which is inclusive of the program summary and milestones, program details, eligibility information, program requirements, submission instructions, proposal evaluation information, and the post-selection process.
- E.2.2. Proposers should review Attachment B, Evaluation Criteria, to inform the development of a competitive project, and to understand the competitive procurement evaluation scoring process.
- E.2.3. Proposers must utilize Attachment C, to complete an Oklahoma NEVI proposal, which includes the technical and qualification requirements. Attachment C outlines all formatting and content requirements.
- E.2.4. Proposers may review a sample award agreement in Attachment D.
- E.2.5. Proposers must limit their Proposals to according to the instructions in Attachment C. Proposals shall be submitted in a single PDF file; any attachments allowed according to Attachment C must be combined with Attachment C and the single PDF file shall adhere to the maximum file size stated in Attachment C.

F. CHECKLIST

- F.1. _____ Completed Responding Bidder Information pages (included with Attachment C)
- F.2. _____ Completed and Signed the Non-Collusion Certification page (included with Attachment C)
- F.3. _____ Completed Proposal Form (Attachment C)
- F.4. _____ Read Sample Agreement (Attachment D)
- F.5. _____ Completed and Signed Addenda and Amendment Receipts – If Necessary
- F.6. _____ Read Section B.10 regarding Taxation Status
- F.7. _____ Read Section E.1. regarding communication during Solicitation Period
- F.8. _____ Read Section B.8.1.1 and the Final NEVI Standards and Requirements
- F.9. _____ Read Attachment F – Instructions to register for OGX for bid submission

G. OTHER

Attachment A – Statement of Work

Attachment B – Evaluation Criteria

Attachment C – Round 2 Oklahoma NEVI Program Proposal Submission Form

Attachment D – Sample Award Agreement

Attachment E – Federal Requirements

Attachment F – Instructions to register for OGX

H. PRICE AND COST

Proposer must submit proposed pricing sheet contained within Attachment C (Round 2 Oklahoma NEVI Program Proposal Submission Form)

I. SITE FOR RESPONSE SUBMISSION: <https://ogx.ok.gov/IGXLogin>

Attachment A

Statement of Work

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

PART 1 – TABLE OF CONTENTS

This Statement of Work is intended to provide proposers with the necessary information needed to submit eligible and competitive proposals for the Round 2 ODOT NEVI Competitive Procurement Program.

PART 1 – TABLE OF CONTENTS	1
PART 2 – PROGRAM SUMMARY AND MILESTONES	1
PART 3 – PROGRAM DETAILS	2
PART 4 – ELIGIBILITY INFORMATION	4
PART 5 – PROGRAM REQUIREMENTS	10
PART 6 – SUBMISSION INSTRUCTIONS	12
PART 7 – PROPOSAL EVALUATION	13
PART 8 – POST SELECTION PROCESS	14

PART 2 – PROGRAM SUMMARY AND MILESTONES

A. SUMMARY

The Oklahoma Department of Transportation (ODOT) has developed this solicitation to award National Electric Vehicle Infrastructure (NEVI) Formula Program funding for compliant Electric Vehicle charging stations throughout the state of Oklahoma on Interstate Highways and designated Alternative Fuel Corridors (AFCs). Milestone dates for this Round 2 ODOT NEVI procurement are detailed in **Table 1**.

B. PROGRAM MILESTONES

Table 1. Round 2 ODOT NEVI Procurement Milestones

Round 2 Oklahoma NEVI Procurement Milestones	Date
Proposals Open for Submittal	See Solicitation Cover Page
Deadline for Written Questions (see Section E.1)	See Solicitation Cover Page
Final Proposal Submission Deadline	See Solicitation Cover Page
Proposals Evaluation Window	Anticipated Late Summer-Fall 2026
Anticipated Conditional Award	Anticipated Fall 2026

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

1. Information on required proposal submission materials and process can be found in Solicitation **Sections E-F** and the proposal submission form can be found as **Attachment C** of the solicitation.
2. NEVI Formula Funds come with specific Federal and State compliance requirements, including, but not limited to:
 - i. **Federal Statutory Compliance Requirements:** Awardees are required to comply with all federal statutes pertaining to Federal Highway Administration (FHWA) funding, including Title 23, 2 CFR 200, Buy America, Federal Wage Rate, Americans with Disabilities Act (ADA), Civil Rights Act, and the National Environmental Policy Act (NEPA). See Solicitation **Section B.8 and Attachment E**.
 - ii. **Federal NEVI Five-Year Operation, Maintenance, and Uptime Requirements:** Awardees are required to commit to a minimum of five (5) years of operation and maintenance (O&M) at 97% uptime from the respective date Electric Vehicle Supply Equipment (EVSE) sites are operational, with quarterly and annual data submissions. See Solicitation **Section B.8**.
 - iii. **ODOT NEVI Program Requirements:** Awardees must comply with ODOT requirements, see Solicitation **Sections A-C and Attachments A-E** of this solicitation.

PART 3 – PROGRAM DETAILS

A. PROGRAM BACKGROUND

The National Electric Vehicle Infrastructure (NEVI) Formula Program is a \$5 billion program established by the Infrastructure Investment and Jobs Act (IIJA) to build a national network of 500,000 electric vehicle (EV) charging stations along federally designated Alternative Fuel Corridors (AFCs) by 2030. The IIJA directs the Federal Highway Administration (FHWA) to apportion NEVI formula funding among states, inclusive of Oklahoma, on a formula basis.

Oklahoma will receive approximately \$66 million to create an Electric Vehicle Supply Equipment (EVSE) charging station network across the state under provisions of the NEVI Formula Program. With FHWA's annual approval of the Oklahoma Electric Vehicle Infrastructure Deployment (EVID) plan funds are allocated and released to the state.

The Oklahoma Department of Transportation (ODOT) will administer NEVI Program funds for the development of EVSE charging stations. These initial funds are required by law for use in the full build out of EVSE charging stations located along Oklahoma portions of the Federal Interstate Highway system and FHWA designated Alternative Fuel Corridors (AFCs).

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

B. PROGRAM STRUCTURE

The Oklahoma Department of Transportation (ODOT) has developed this solicitation to award National Electric Vehicle Infrastructure (NEVI) Formula Program funding for compliant Electric Vehicle charging stations throughout the state of Oklahoma on Interstate Highways and designated Alternative Fuel Corridors (AFCs). This competitive procurement program is designed for ODOT to select proposals for reimbursement of eligible costs from the pool of EVSE charging site developers responding to this Request for Proposals. Program funds will be awarded on a competitive basis in relation to evaluation criteria outlined in Solicitation **Section E.** and **Attachment B Evaluation Criteria.** ODOT intends to use scores based on the evaluation criteria to guide award decision making, though a high score and/or rank does not guarantee funding for a proposal.

C. AWARD INFORMATION

ODOT will distribute Program funding to successful eligible proposers for reimbursement of up to eighty percent (80%) of eligible costs of awarded EVSE charging station projects. A minimum twenty percent (20%) non-federal project match is required by the awarded eligible proposer.

No single project may receive more than \$1,200,000 in Federal share per site in this second round of Program funding. The capped, federal share, reimbursable amount applies to all capital costs, pre-construction costs, construction costs, and operations and maintenance costs defined as eligible for this Program in Part 4.C.

D. PURPOSE OF AVAILABLE FUNDING

For the second round of NEVI competitive procurement, ODOT expects to have appropriations available from previous years' NEVI Program Formula funds. ODOT plans to retain a portion of these Formula funds for the administration of the Program, including procurement, design, outreach, public engagement, program management, and reporting activities by ODOT and its agents. The remaining NEVI funds are eligible for awards under this Round 2 ODOT NEVI competitive procurement. The goal is to use these eligible funds as efficiently and cost-effectively as possible to complete the full build-out of EVSE charging stations along Oklahoma's AFCs.

E. START DATES AND PERIOD OF PERFORMANCE

ODOT will obligate Oklahoma NEVI program award funding after project selections have been made. ODOT will issue Awardees notices for each project phase. Awardees may begin their agreed project after ODOT issues a formal Notice to Proceed (NTP).

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

F. PROJECT PHASES AND NOTICES

ODOT expects each awarded project to consist of at least three main project phases: 1) Pre-construction phase including design, environmental clearances, and permitting; 2) Procurement and Construction phase including purchase of all equipment, equipment installation, testing, and inspection for compliance; and 3) Operation and Maintenance (O&M) phase for the federally required five-year O&M period, including submission of all data and reporting required under state and federal rules. ODOT will issue notices following the completion of each project phase. Upon receipt of notice from ODOT awardees may move to each new project phase.

G. AWARD SIZE AND ANTICIPATED QUANTIFY

ODOT expects to award funding to as many Projects as needed to fully build out the Oklahoma portions of the federal interstate highway system according to NEVI Formula Funding Program standards with this second round of available Program funding.

ODOT's competitive procurement program caps reimbursement of eligible installation, construction, and O&M costs at \$1,200,000 in total Federal funding share of project costs per project site. Therefore, proposers may apply for a reimbursement of eligible project costs of up to \$1,200,000 or 80% Federal funding share of the total EVSE installation site construction and O&M costs, whichever is less. Funding matches must be composed of private funds or non-federal public funds for the remaining share of eligible project costs.

PART 4 – ELIGIBILITY INFORMATION

A. ELIGIBLE PROPOSERS

Proposers shall conform to the following organizational eligibility criteria to be considered for Program funds:

1. Business registered with the Oklahoma Secretary of State, or
2. Non-profit entity registered in the State of Oklahoma (as defined in Title 26 US Code Section 501(c)), or
3. Oklahoma Government entity, such as local governments or higher education institutions.
4. Tribal Organization within Oklahoma (as defined in [Title 25 US Code Section 5304 \(I\)](#)).

B. ELIGIBLE PROJECTS

Eligible projects must only use funding directly in relation to EVSE charging infrastructure that is publicly accessible and meets all federal and state requirements as defined by this solicitation

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

(see Solicitation **Sections A-F** and **Attachments C-E**). ODOT's Round 2 NEVI Competitive Procurement will direct funding to compliant EVSE charging stations on the remaining EV Charging gap segments on Oklahoma's federally designated EV Alternative Fuel Corridors detailed in **Figure 1** and **Table 2**, as well as the [ODOT EVSE Charging Interactive Gap Map](#), illustrating the corridors and EV Charging gap segments where this competitive procurement program is seeking to fund projects. Eligible projects for proposal are broadly defined as a single location or single NEVI compliant charging site.

Proposers must submit a complete proposal package, as detailed in Solicitation **Sections E-F** and **Attachment C**, for each individual NEVI compliant project site seeking funding. There is no limit on the number of project sites a single organization can prepare and submit proposals for through this program.

Charging

- ▲ NEVI Funded, in OK
- Expected NEVI Funded, Neighboring States
- Existing NEVI Creditable, in OK
- ◆ Existing NEVI Creditable, Neighboring States

AFCs

- Interstate
- US Route
- State Route

Gap ID	A	B	C	D	E
I-35					
I-40					
I-44					
US-62					
US-69					
US-75					
US-81					
US-412					
SH-51					
SH-351					
SH-375					
	A	B	C	D	E

Gap segments are meant to facilitate summary and analysis.
Not all gap segments are guaranteed to be awarded.
Some gap segments may receive multiple awards.

0 50 100 200 Miles

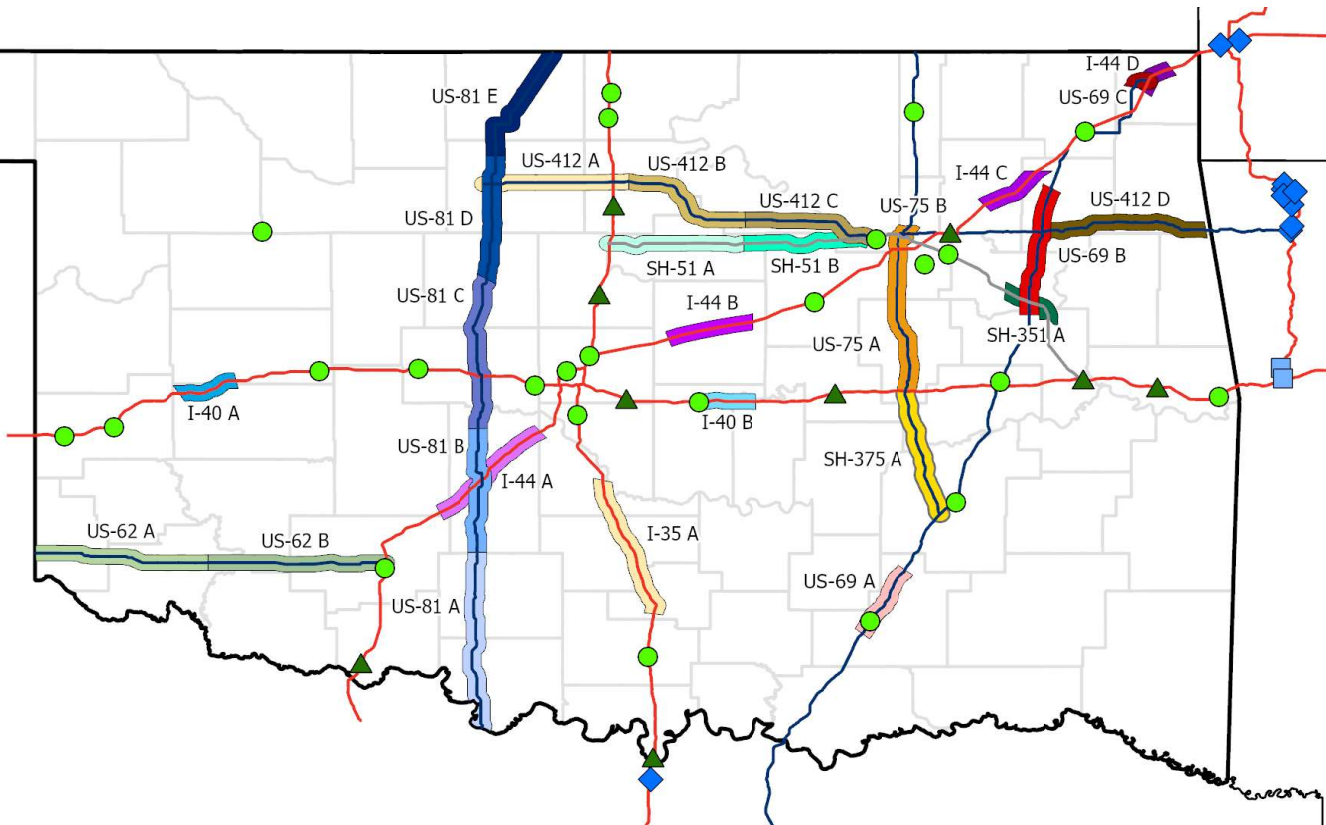


FIGURE 1. OKLAHOMA EVSE CHARGING CORRIDOR SERVICE GAPS

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

TABLE 2. LOCATIONS WITHIN EVSE CHARGING CORRIDOR SERVICE GAPS

#	Gap ID	Eligible Exits or Segments
1	I-35 A	Exits 51, 55, 60, 64, 66, 70, 72, 74, 79, 91
2	I-40 A	Exits 47, 50, 53, 57
3	I-40 B	Exits 186, 192, 200
4	I-44 A	Exits 80, 83, Chickasha Service Area
5	I-44 B	Exits 158, 166, Chandler Service Area (East-Bound Only), Stroud Service Area (West-Bound Only)
6	I-44 C	Exit 255, 269
7	I-44 D	Exit 313
8	US-62 A	From OK/Texas Boundary to approx. N 2120 Rd
9	US-62 B	From approx. N 2120 Rd to I-44
10	US-69 A	From W Boggy Depot Rd to N Chockie Mountain Rd
11	US-69 B	W Fern Mountain Rd to Old Hwy 69
12	US-69 C	Approx. E 120 Rd to I-44
13	US-75 A	From I-40 to Gilcrease Expy / SH-11
14	US-81 A	From OK/TX Boundary to E1610 Rd
15	US-81 B	From E1610 Rd to Kiowa Rd
16	US-81 C	From Kiowa Rd to Cimarron River
17	US-81 D	From Cimarron River to E0340 Rd
18	US-81 E	From E0340 Rd to OK/KS Boundary
19	US-412 A	From Oakwood Rd to Exit 2

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

#	Gap ID	Eligible Exits or Segments
20	US-412 B	Exits <i>15, 22</i> , Lone Chimney Service Area, <i>37</i>
21	US-412 C	Exits <i>48, 59</i> , Exit to Old Keystone Rd, Exit to E Leroy Rd, Exit to N Peninsula Dr/S Peninsula Dr., Exit to SH-151, Exit to S 209th W Ave, Exit to S 177th W Ave, Exit to W 11th St S
22	US-412 D	From Exit to US-69 to Beaver Springs Rd, Exits <i>6, 17, 28</i>
23	SH-51 A	From I-35 to N3520 Rd
24	SH-51 B	From N3520 Rd to Bermuda Ave
25	SH-351 A	Muskogee North Service Area, <i>26, 33</i>
26	SH-375 A	Exit to US-69, McAlester Service Plaza, Exits <i>70, 82, 92</i> , 104

Notes:

- There are a number of overlapping gaps where it's possible for a site to serve more than one AFC. Please refer to the online mapping tool for further information.
- Locations shown in *blue italics* are eligible areas along the Oklahoma Turnpike that are outside of the Turnpike right-of-way.

C. ELIGIBLE PROJECT COST AND MATCH

For ODOT's Round 2 NEVI Competitive Procurement, eligible project costs are defined as follows:

1. Costs for pre-construction work include environmental clearance documents, planning, design, and permitting.
2. Costs of minor grid updates (work necessary to connect a charging station to the electric grid distribution network) including:
 - a. Costs for minor extensions or upgrades to existing power lines.
 - b. Costs to acquire and install on-site electric service equipment (e.g., power meter, transformer, switch gear).
3. Costs to procure and install new NEVI compliant EVSE related hardware and software.
4. Costs to procure and install, repair, upgrade, or replace existing EV charging equipment to meet NEVI minimum standards and requirements, including costs to upgrade existing EV charging stations to meet ADA requirements.
5. Construction costs for EVSE installation (as defined under 23 U.S.C. 101(a)(4)), including site restoration after installation, directly related to the EV charging station.
6. Costs to install onsite signage for user wayfinding to EVSE charging station.
7. Operating and maintenance costs (up to five years after the charging station is operational) limited to costs directly related to the operation and maintenance of the NEVI funded EV charging station, not to exceed \$1,200,000 total federal cost share including all other project costs.
8. Cost for renewable energy generation and storage provided that the renewable energy generation or storage only transfers power to and from the EV charging station.
 - a. Costs for planning, permitting, acquisition, and installation of on-site distributed energy resource (DER) equipment (e.g., solar arrays, stationary batteries) that are directly related to the charging of a vehicle are eligible for reimbursement.
 - b. These costs will only be considered if they will lead to lower costs to consumers, greater EV charging station reliability, and if they do not substantially increase the timeline for completing an EV charging station project.
9. Costs for construction project management directly related to the EV charging station.

Proposers should note that any eligible costs incurred prior to requisite notices from ODOT are considered at risk. Reimbursement is at risk and dependent on, but not limited to, project receiving environmental clearances, final FHWA authorization, execution of final award agreement,

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

Awardee abiding by all contractual terms, Awardee submission of required reimbursement invoice documentation, and ODOT approval of all documentation and compliance.

D. INELIGIBLE COST AND MATCH

Any costs beyond those defined above are not deemed by ODOT as directly related to the acquisition and installation of electric vehicle charging infrastructure and will be treated as ineligible cost under this program. An exhaustive list of all ineligible costs is not possible to produce; for reference, examples of some ineligible costs are provided below:

1. Costs for purchase or rental of real estate.
2. Costs for construction or general maintenance of building and parking facilities if not directly related to charging of vehicles.
3. Costs of major grid upgrades (longer line extension or upgrades, improvements to offsite power generation, bulk power transmission, or substations).
4. Costs already reimbursed by other grant or funding programs.
5. Costs for studies or research projects.

PART 5 – PROGRAM REQUIREMENTS

A. MAINTENANCE AND OPERATION REQUIREMENTS

1. **Equipment and Ownership:** Upon the completion of construction and installation acceptance by ODOT of a fully operational EVSE(s), the Awardee is considered to be the owner of the EVSE and thereafter responsible for providing maintenance, including power and data service.
2. **Five-Year Operations and Maintenance Obligation:** The Awardee shall be required to maintain the EVSE at the Site for a period of at least five (5) years from the date of ODOT installation acceptance.
3. **Ownership Transfer After or During the Performance Period:** The Awardee shall maintain ownership of all equipment during the full contract term with ODOT. Any transfer or assignment of Awardees equipment or Award obligations will require a written request and will be contingent upon approval from ODOT.
4. **Up-Time Requirement:** Awardees are required to commit to a minimum of five (5) years of operation and maintenance (O&M) at 97% uptime from the respective date EVSE sites are operational, with quarterly and annual data submissions (see [§ 680.116 B](#)). To ensure compliance, the proposed payment schedule withholds 20% of the Awardee share of total

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

eligible cost which is paid out every six months in equal amounts over the five-year operation and maintenance period.

5. **Penalties for Non-Compliance or Non-Performance:** Project equipment must maintain an annual uptime requirement of at least 97% during the entirety of the project performance period. In the event of non-compliance or non-performance, the Awardee must notify ODOT immediately, and ODOT will work with the Awardee to establish a remedy plan. If a reasonable remedy has not been met, ODOT reserves the right, at its discretion, to withhold reimbursement payments, terminate the Awardee contract, or initiate the execution of bond payments.

B. INSPECTION REQUIREMENTS

Upon completion of the equipment installation and all site construction, ODOT will perform equipment inspections to ensure equipment is on-line, fully operational, and compliant with all federal and state program requirements.

C. PRIVACY AND CYBERSECURITY

Federal NEVI requirements include the latest Payment Card Industry Data Security Standard (PCI-DSS) information security standards. Any security measures taken shall meet or exceed published standards and software updates must be made in a timely manner to prevent a breach of cardholder data. In the event of a data security breach, the Awardee must contact ODOT within 24 hours and advise means being taken to mitigate adverse circumstances.

The Awardee shall ensure data information encryption implements the latest National Institute of Standards and Technology (NIST) guidelines. In addition, the Awardee shall ensure employees or others involved in EVSE operation and maintenance with access to equipment and user data shall be located within the United States and independent audits shall be performed at least annually by a third-party qualified security assessor.

D. ENVIRONMENTAL CLEARANCE REQUIREMENTS

After award announcement and before final award agreement is executed, the awardee must work with ODOT and FHWA to obtain environmental clearances for the site work related to EVSE installation as required by the National Environmental Protection Act (NEPA). The conditional awardee shall be responsible for all permitting responsibilities and third-party agreements for the site. If an Awardee changes project parameters requiring additional environmental clearances to be obtained, additional NEPA clearances shall be the responsibility and cost of the Awardee.

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

E. REPORTING REQUIREMENTS

The awardee must submit quarterly, annual, one time, and other reports and updates as required by the [NEVI Final Rule](#).

F. PROJECT PAYMENT AND REIMBURSEMENT STRUCTURE

During the design and construction period, ODOT will pay awarded capital costs to the Awardee for the completion and acceptance of specific milestones as outlined in the table below:

Milestone	Payment
Executed Purchase Order from EVSE manufacturer(s)	10% of capital cost award
Site Design complete	10% of capital cost award
Site Construction & Equipment Installation complete	50% of capital cost award
Commissioning completed (Notice issued)	10% of capital cost award
Capital payments (withheld) during operational period (*Paid every 6 months in equal parts during Operational Period)	20% of capital cost award
Operation & Maintenance Payments (*Paid monthly in equal parts during Operational Period)	Paid Monthly as Contracted

During the operational period, following issuance of requisite notice from ODOT, ODOT shall pay the Awardee in equal monthly increments to cover the approved and awarded annual O&M costs included in the Awardee's financial proposal.

In addition, ODOT will withhold 20% of eligible capital expenses and distribute these payments during the operational period to help ensure compliance with the EVSE specifications.

G. ASSIGNMENT

The Award Agreement shall not be assigned, transferred, or otherwise encumbered by the recipient under any circumstances without the prior written consent ODOT.

PART 6 – SUBMISSION INSTRUCTIONS

A. SUBMISSION INSTRUCTIONS

Detailed submission instructions can be found in Solicitation **Sections E-F**.

B. SUBMISSION DOCUMENTS

The Proposal Submission form for the Round 2 ODOT NEVI Competitive Procurement and further instructions can be found in **Attachment C** of the Solicitation.

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

PART 7 – PROPOSAL EVALUATION

ODOT's goal is to create a fair and consistent proposal evaluation process for this competitive procurement program in accordance with all applicable Federal and State laws.

A. EVALUATION PROCESS

ODOT will evaluate proposals in the following ways:

1. **Proposal Completeness:** Proposals will be evaluated to ensure proposal materials are complete. Incomplete proposals will not be forwarded for further evaluation.
2. **Pass / Fail Criteria:** Complete proposals will be evaluated to ensure compliance with all Federal and State minimum Program requirements. Proposals failing to meet minimum compliance requirements will not be forwarded for further evaluation.
3. **Responsiveness Criteria:** Compliant proposals will be evaluated and scored based on the program evaluation criteria found in **Attachment B**. Scored proposals will be ranked against competing proposals in each of the EV Charging gap segments on Oklahoma federally designated EV Alternative Fuel Corridors to arrive at a ranking of best value proposals for each EV Charging gap segment that must be fully built out to NEVI Formula Program requirements.

B. EVALUATION CRITERIA

Each charging site application will be evaluated to determine its ability to meet or exceed the project elements. The application will be evaluated as described in **Attachment B**.

C. DISCLOSURE

ODOT will not publicly disclose Proposal Evaluation Responsiveness or Rankings except as required by law.

D. Reservation of Rights

ODOT reserves the rights, in administering NEVI Formula Program funding, to:

1. Appoint evaluation teams to review proposals or seek the assistance of outside technical experts in proposal evaluation.
2. Obtain data from any source, and seek and receive clarifications, that have the potential to improve the evaluation of proposals.
3. Waive discrepancies, informalities, or minor irregularities in the evaluation of a proposal.
4. Make more or fewer awards than anticipated.

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

5. Award grant funds to a different proposer if the awarded proposer is unable or unwilling to perform the awarded project.

PART 8 – POST SELECTION PROCESS

A. CONDITIONAL AWARD

ODOT will provide a notice of conditional award selection to proposers. If a proposal is selected for a conditional award, it is not a commitment to issue an award. It is critical that the awardee be responsive during the conditional award process and meet all award finalization steps and deadlines. Failure to comply may result in cancelation of the conditional award and rescission of the selection. Conditional Awards are contingent on completion of the following required processes:

- 1. National Environmental Protection Act (NEPA) Environmental Review**

The conditional awardee must work with ODOT and FHWA to obtain environmental clearances for the site work related to EVSE installation as required by NEPA and as defined in Part 5.D above.

- 2. Site Host Agreement and ODOT Right to Access Site**

Within 60 days after receiving the Conditional Award, the Conditional Awardee and the property owner must execute a final Site Host Agreement (if the property owner is different than the Awardee) that provides the Awardee with a contractual right to install EVSE on the property and grants ODOT the contractual right to access the site for the full length of the Award Agreement.

- 3. Contractual Award Agreement**

After award finalization and completion of all required documents and approvals, ODOT will issue a Final Award Agreement for execution between the Department and the awardee. The Conditional Awardee must sign the Final Award Agreement and shall furnish bond(s) in the amount of the full value of the Contract and shall be authorized by the Oklahoma Insurance Department to do business in the State of Oklahoma and approved by the Division. The Awardee will be required to submit a Payment Bond, Performance Bond, and Statutory Defect Bond. Irrevocable Letters of Credit may be used as a substitute for the bonds required. The letters of credit must be issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation on forms obtained from the Division. If the Conditional

ATTACHMENT A: STATEMENT OF WORK
Round 2 ODOT NEVI Competitive Procurement

Awardee fails to return a signed agreement within 90 days, ODOT may rescind the award and use the funds to award grants to other responsive proposers.

4. FHWA Project Authorization

FHWA staff must review all final project details from both the conditional awardee and ODOT and provide final Federal project authorization.

B. NOTICE TO PROCEED FOR PROCUREMENT AND CONSTRUCTION

Following FHWA authorization and execution of the Final Award Agreement, ODOT will issue a Notice to Proceed (NTP) for the project.

Attachment B

Evaluation Criteria

ATTACHMENT B: EVALUATION CRITERIA
Round 2 ODOT NEVI Competitive Procurement

The ODOT NEVI Competitive Procurement program will be designed to have a multistep application review process, including, but not limited to:

1. Application Completeness Review (Pass / Fail)
2. Application Minimum Federal Requirements Review (Pass / Fail)
3. Application Evaluation Criteria (Scored)

The following proposed Application Evaluation Criteria will be used for the third step to score and rank applications for each EV Charging Gap segment on Oklahoma Interstates and AFCs against other applicants for that specific gap segment. Evaluation criteria for each category are outlined in the following Table:

Proposed NEVI Procurement Evaluation Criteria			
Category	Description	Scoring Values	Points
1. EV Charging Station Gap Coverage <i>(20 points possible)</i>	Location fills EV Charging gap(s) on Oklahoma Interstates and/or AFCs by maximizing equidistant spacing and minimizing the total number of chargers needed to fully build out the system under NEVI Requirements.	Station site serves more than one AFC simultaneously	5
		Sites that maximize equidistant spacing along an AFC and are located closer to an AFC exit will be awarded higher point values.	up to 15
2. Project Site Readiness <i>(20 points possible)</i>	Location has existing or readily upgraded access to sufficient electric power service. Site has a high likelihood of receiving a low-level categorical exclusion environmental clearance through NEPA.	Sites with low environmental impact and low efforts to provide the required electric power service will be awarded higher point values.	up to 20
3. Location Access <i>(15 points possible)</i>	Location is accessible to users and provides wayfinding signage for locating the EV charging stations for drivers.	Higher point values will be awarded to sites that are easy for the public to find and access.	up to 15
4. Site Host Engagement <i>(10 points possible)</i>	Project has engagement letter from property owner indicating willingness to partner on project	Signed engagement letter	5
		Proof of ownership or legally binding agreement with site host of the proposed project location.	10
5. Amenities <i>(25 points possible)</i>	Project location maximizes the number of amenities accessible on site or within safe walking proximity of the project location.	Point values will be awarded based on proximity of amenities to the site, the type of amenity, availability of the amenity, and site safety enhancements.	up to 25

ATTACHMENT B: EVALUATION CRITERIA
Round 2 ODOT NEVI Competitive Procurement

Proposed NEVI Procurement Evaluation Criteria			
Category	Description	Scoring Values	Points
6. Team Qualifications (40 points possible)	Project team is experienced, certified, and has a strong history of successful EVSE projects in recent years. Project team has a plan to maintain minimum NEVI 97% uptime standards and a business plan that demonstrates viability of the project team to provide sustainable long-term stewardship as NEVI requires.	Point values will be awarded based on experience, personnel qualifications, and plan to maintain uptime requirements and site financial viability	up to 40
7. Project Future Proofing (25 points possible)	Project incorporates design features that facilitate the needs of future EV motorists including pull-through stalls.	Point values will be awarded based on site's ability to accommodate commercial fleet vehicles and future expansion needs, such as NACS ports or permanent adapters, greater number of ports, and higher power levels.	Up to 25
8. Project Non-Federal Match (10 points possible)	Project maximizes non-federal match provided.	21% - 30% non-federal matching costs	1
		31% - 40% non-federal matching costs	3
		41% - 50% non-federal matching costs	5
		≥ 51% non-federal matching costs	10
9. Project Cost Effectiveness (10 points possible)	Project maximizes total dollar per port cost-effectiveness.	Greater than \$200,000.01 per port	1
		\$150,000.01 - \$200,000 per port	3
		\$100,000.01 - \$150,000 per port	5
		Less than \$100,000 per port	10
MAXIMUM POSSIBLE POINTS			175

Additional Definitions and Descriptions:

- EVSE Gap Coverage:** For an interactive version of these resources, please refer to the NEVI Corridor Service Gaps in the [online Oklahoma NEVI mapping tool](#). The term “spacing” related to charging sites reference driving distances rather than straight-line distances.
- Project Site Readiness:** Proposers will be required to complete a Project Site and Utility Readiness form. The form will contain information about the environmental considerations of the site and any enhancements or upgrades to the electric utilities required for the site.
- NEPA:** The National Environmental Policy Act (NEPA) requires federal agencies review the environmental impacts of actions.
- Location Access:** Wayfinding signs for this criterion are defined as clearly visible signs indicating direction / location of EV charging station.
- Site Host Engagement:** If the applicant is not the owner, the goal is to demonstrate the property owner agrees to host the EVSE chargers.
- Amenities:** Safe accessibility is defined as ADA-compliant pathways for pedestrians. Availability is defined as the hours of operation.
- Team Qualifications:** The ODOT NEVI request for proposals provides details on the required content.

ATTACHMENT B: EVALUATION CRITERIA
Round 2 ODOT NEVI Competitive Procurement

8. **Project Future Proofing:** Future expansion may include additional NEVI-compliant chargers or higher power-level charging ability. Accommodating commercial fleet vehicles may include pull-through designs that allow vehicles to park alongside charging stations like a typical fuel pump, providing for safe and clear traffic flow around the parked vehicle.
9. **Project Cost Effectiveness:** ODOT is capping the federal share portion of project costs at \$1,200,000.

Attachment C

Round 2 Oklahoma NEVI

Program Proposal

Submission Form

Revision History		
Date:	Reason for Change:	Version:

Summary of Changes			
Date:	Page:	Changes:	Version:

ROUND 2 OKLAHOMA NEVI PROPOSAL INSTRUCTIONS

The Oklahoma Department of Transportation (ODOT) is soliciting competitive grant proposals for eligible entities to install, own, operate, maintain, and report on National Electric Vehicle Infrastructure (NEVI) Formula Program-funded and compliant Electric Vehicle (EV) charging stations throughout Oklahoma. Proposers interested in applying to the NEVI Program must complete all proposal package information listed below.

A. Proposal Package Naming Convention

Proposers must submit a full proposal package for each unique project site location. Each proposal package must adhere to the following naming convention:

- Applicant Business Name_Gap ID_Site Street Address
- Example: "Company X_US-59 D_1234 Main St"

B. NEVI Interactive Map Resources

For details on the "Service Gap ID" numbers and letters, please see Attachment A of the Solicitation Package, Table 2. For an interactive version of these resources, please refer to the [ODOT EVSE Charging Interactive Gap Map on-line mapping tool](#).

This detailed map allows users to toggle on and off different layers, including refining searches by specific corridors. In addition, this map allows users and prospective applicants to zoom into each gap location listed in Attachment A Table 2 to see more detailed information.

C. Proposal Due Date

Proposals are due no later than the date shown on the Solicitation Cover Page, and must be submitted through the ODOT proposal submission mailbox at swelty@odot.org with a subject line "NEVI RFP Submission." Proposals must utilize the appropriate file naming convention outlined in Section A above and complete the items listed in Section E below and contained in this RFP Submission Package.

D. Proposal Size Limit and Submission Process

All proposal materials and attachments are limited to 10MB in total submission package file size. All proposal packages are to be submitted electronically during the open proposal period via the online submission mailbox by an eligible Proposer before the proposal due date. Proposers should adhere to the process outlined below and detailed in NEVI Program RFP. Proposers should review all program documents available on the EVOK – Oklahoma's Electric Vehicle Infrastructure Program webpage: <https://oklahoma.gov/evok.html>.

E. Proposal Package Contents

Complete Proposal Submission Package Checklist

Please note that all proposal form sections (listed below) must be submitted for each unique project site location. Proposers must submit a full, complete, and unique proposal package for each unique proposed Project site.

Completeness Components

1. Responding Bidder Information Form
2. Non-Collusion Certification
3. Preliminary Site Agreement Form Technical Components

Components

4. Project Technical Compliance Information
5. Utility Coordination Form
6. Environmental Readiness Questionnaire
7. Site Plan and Design Information
8. Proposal Budget and Financial Requirements Documentation

Narrative Components

9. Project Approach and Responsiveness to Evaluation Criteria
10. Project Team Qualifications
11. Additional Supporting Documentation

Proposer Acknowledgement:

Signing below indicates certification that if selected for funding, the Proposer will:

- 1) enter into a grant award agreement.
- 2) comply with all state and federal rules.
- 3) and submit/adhere to reporting requirements

(Signature): _____

(Date): _____

3. PRELIMINARY SITE AGREEMENT FORM

Physical Site Address ³	
Parcel Number(s)	
Legal Address ⁴	

The property owner (host) of the land where the EV charging infrastructure project is proposed supports the Proposer's proposal for NEVI Program funding. If awarded funding, the Proposer and property owner agree to include a Final Site Host Agreement as part of the execution of the NEVI Program grant agreement with ODOT.

EV Charging Infrastructure Project Proposer	
Name	
Title:	
Organization:	
Signature:	
Check box if the Proposer is the property owner of the proposed project site.	☐

Property Owner (Host ⁵) of Proposed EV Charging Infrastructure Project
Name:
Title:
Organization
Signature:

³ If the site is platted, include the street number, name, city, and zip code.

⁴ If property does not have an address, provide a latitude/longitude for the site.

⁵ Or Authorized Agent, documentation of authorization to be attached to this package when submitting.

4.PROJECT TECHNICAL COMPLIANCE INFORMATION

All proposals must meet the minimum requirements of the NEVI and NEVI programs, respectively. Proposers must specify how the following project elements meet the minimum requirements by completing the table below. Proposals that fail to meet the minimum federal NEVI program requirements will not be reviewed or competitively scored.

Proposer Name:		
Site Address:		
Service Gap:		
Proposed Project Compliance Information		
Number of DCFC Dispensers		
Number of Ports [minimum 4]		
Min kW per port [minimum 150kW; 250-950 volts]		
kW per site (total of all chargers) [minimum 600kW]		
Number of CCS Type Connectors [minimum 4]		
Number and Type of Additional Connectors (if applicable)		
Simultaneous Charging Capability [# vehicles charging at once AND continuously at >150kW each]		
Distance to site from nearest AFC exit. If >1 mi, provide reasoning in additional information section.		
Secure Payment method, no membership required [Y/N]	YES ☐	NO ☐
Site Location [Gap Name and Eligible Exit/Segment]		
Open to the Public [Y/N]	YES ☐	NO ☐
Open 24/7/365 [Y/N]	YES ☐	NO ☐
Electric Vehicle Infrastructure Training Program (EVITP) Certified Installer [Y/N]	YES ☐	NO ☐
Payment method to be utilized for the charging station will follow a clear pricing structure and does not assess hidden fees [Y/N]	YES ☐	NO ☐

Additional Federal Compliance Information		
EV Charging Station Make:		
EV Charging Station Model:		
Hardware on the Vetted Product List (VPL) [Y/N] https://www.epri.com/vpl	YES ☐	NO ☐
Build America, Buy America (BABA) Certified [Y/N]	YES ☐	NO ☐
ADA Compliant Site Design [Y/N]	YES ☐	NO ☐

Additional Information (2000 characters):

5. UTILITY COORDINATION FORM

This Utility Coordination Form provides ODOT with essential information to assess the adequacy of the available electric power supply for NEVI-compliant electric vehicle supply equipment (EVSE) at the proposed site. Additionally, it will offer non-binding cost and schedule estimates for utility make-ready and interconnection requirements associated with the proposed project. The completion of this form is the responsibility of the Proposer. Proposers must identify their proposed project's electric distribution utility, contact the designated electric utility, gather the necessary information, and complete the form with all requested information.

5.1 Instructions

5.1.1 Utility Identification

Proposers must identify the site-specific utility service provider for the proposed location. A list of public electric utility providers can be found at <https://oklahoma.gov/occ/divisions/public-utility/electric-utility.html>. If electrical service will be generated and provided on-site and only used to serve the charging stations, please provide additional information below.

On-Site Power Generation Details (500 Characters)

5.1.2 Form Completion

The completion of the Utility Coordination Form is the responsibility of the Proposer. Coordination with servicing utilities will be required to complete the form. However, Proposers are responsible for completing the form and for submitting it to ODOT with each submitted proposal to the NEVI Program.

5.2 Utility and Site Information

Utility Contact Information
Utility Service Provider
Utility Point of Contact (PoC) Name
Utility Point of Contact (PoC) Email
Utility Point of Contact (PoC) Phone

Site Location Information
Site Address
Parcel No.
Latitude / Longitude
Number of Chargers Anticipated
Anticipated Power Level of Each Charger (kW)

Site Electrical Distribution Service Requirements		
Type of Service	Yes	No
New Service (no existing service line)	☐	☐
Existing Service Line	☐	☐
Upgrade of Existing Service Line	☐	☐
If yes, describe existing utility service capacity amps and kVA load:		
Primary Service (>600 volts)		
Secondary Service ($\leq$ 600 volts)		
Proposed In-Service Date:		
Number and Size of Conductors:		
Requested Voltage/s (e.g., 3-phase 277 / 480V 4 wire):		
Service Capacity (amps):		
Load Requested (kVA):		

Engineering and Construction Cost Estimate

This section of the form is to be completed by the Proposer with information provided by the utility servicing the proposed location.

Description	Anticipated Cost & Schedule
Engineering and Construction-Cost and Schedule (1) Provide high-level cost estimate, including power transformer, terminator pole (if applicable), service lateral or conductor, and metering.	\$
(2) Include an estimate (in months) for the utility to procure materials and complete the construction of utility-side infrastructure.	(est. months to complete)
Additional Engineering and Construction- Costs and Schedule (1) Estimate additional costs for a primary line extension to the Proposers' location and upgrades required to accommodate the new load.	\$
(2) Include an estimate (in months) for the utility to complete additional work.	(est. months to complete)
Proposer's construction cost responsibilities for electric distribution service.	\$
Utility construction cost responsibilities for electric distribution service.	\$
Total Estimated Timeline:	to
Total Estimated Cost to Proposer:	\$

Additional Information (2000 characters):

Proposer Certification Statement

As an Authorized Agent of the proposal, I certify that this form was completed based on coordination with and using the information provided by the indicated utility serving the proposed project site.

Signature: _____ Date: _____

6. ENVIRONMENTAL READINESS QUESTIONNAIRE

The following questions are to determine the likelihood of NEVI projects qualifying for a NEPA Categorical Exclusion (CE). A CE is a class of actions that a federal agency has determined, after review by the Council on Environmental Quality (CEQ), do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental assessment nor an environmental impact statement is required.

General Site Information			
Proposer Name:			
Proposed Location (Address or Latitude/Longitude):			
Please indicate the general land use of the proposed site. If in an existing parking lot, indicate the type of land use the parking area serves.	☐	☐	Commercial
	☐	☐	Residential
	☐	☐	Agricultural
	☐	☐	Recreational
	☐	☐	Industrial
Will the entire project occur within an existing parking lot, paved or gravel area, or maintained (periodically mowed) lawn?		YES ☐	NO ☐
Are any project partners, including the site host, aware of any site contamination/remediation or cleanup activity associated with hazardous materials? If yes, please clarify (500 characters):		YES ☐	NO ☐
Will the construction on the proposed site negatively impact wetlands or endangered species? If yes, please clarify (500 characters):		YES ☐	NO ☐

General Site Information		
Is the proposed site located in a federally designated flood plain? If yes, please clarify with further information (500 characters):	YES ☐	NO ☐
Are any permits or other approvals required to complete this project? If so, provide the status of each permit and the anticipated timeline to obtain approval. Example permit types could include the air/land user, electrical, structural, zoning, local agency, environmental, etc. (500 characters):	YES ☐	NO ☐

Identify potential risks, issues, challenges, and needs related to the candidate site and plans for mitigating these risks (750 characters):

Proposer Certification

This certification must be completed and signed by an authorized representative or agent for the Proposer who can attest to the Environmental Readiness Questionnaire's quality, accuracy, and completeness and verify that the above questions have been answered to the best of the Proposer's knowledge.

Signature: _____ Date: _____

7.SITE PLAN AND DESIGN INFORMATION

Required proposal materials to be attached to the end of this document:

1. Cover Letter providing high-level proposal description and site-specific construction activities expected to take place if awarded (limit: one page).
2. Site Plan including a to-scale schematic plan for the implementation of EV charging station infrastructure at the project site (limit: up to four pages, no larger than 11"x17"). A site survey is not required at this time. The minimum details below must be illustrated. Failure to disclose information may be cause for withdrawal or deferral of request for funding.
 - a. Illustrate proposed EV charging station equipment locations on site, including the location of on-site electric service equipment (e.g., power meter, transformer, switchgear, etc.).
 - b. Electric Utility, including an illustration of (1) transformer location and (2) termination point, (3) show nearest 3-phase source (if known).
 - c. Note any areas within the EV charging station site providing amenities.
 - d. Note ADA-compliant design features and safe, compliant path of travel.
 - e. Within 50-feet of the proposed EV charging station equipment, detail:
 - i. Permanent buildings and structures,
 - ii. Existing parking areas,
 - iii. On-site fire hydrants,
 - iv. On-site water system,
 - v. Show any designated ADA-accessible spaces.
 - f. All points of ingress or egress to the site from adjacent streets or properties and approximate dimensions of drives.
 - g. North arrow, scale, date, legend

8. PROPOSAL BUDGET AND FINANCIAL REQUIREMENTS DOCUMENTATION

Proposer Name (entity):	
Site Address:	

Cost Category	Project Development Expense	O&M Year 1	O&M Year 2	O&M Year 3	O&M Year 4	O&M Year 5
Design						
Environmental						
Permitting						
Utility infrastructure upgrades						
Site preparation and construction						
Hardware and software						
Networking and data contract						
Maintenance services contract						
Subtotal project costs	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Project Cost Total	\$ 0					

Federal Funding Request and Non-Federal Cost Share	Dollar Amount	Percent (%)
Requested Federal Share (not to exceed 80% of total project cost)		0.000%
Recipient Share / Cost-Share (minimum 20%)		0.000%
Project Total	\$ 0	0.000%

Total Cost Per Port Proposed	Dollar Amount
Total Project Cost / Number of Proposed NEVI-Compliant Ports	

9.PROJECT APPROACH AND RESPONSIVENESS TO EVALUATION CRITERIA

Proposers should complete the Project Approach and Responsiveness Template with detailed information about how their proposed project meets the NEVI Program evaluation criteria. In the sections below, please follow these steps:

1. Respond to each section below. Where requested, please narrativize the corresponding project details. Provide descriptions of the items checked along with any additional project details relevant for consideration in evaluating the project proposal.
2. Attach relevant backup documentation, such as maps, site plans, quotes, etc., to support the information provided in this section.

EV Charging Station Gap Coverage (check all that apply)

Site serves more than one AFC

☐

Describe how the site fills EV Charging gap(s) on Oklahoma Interstates and/or AFCs by maximizing equidistant spacing and minimizing the travel distance from an AFC exit to the charging site. (2000 characters):

Project Site Readiness (check all that apply)			
Site is located on an existing developed area (paved / gravel lot, or mowed lawn)	☐	Ready availability or low effort required for sufficient electric power service	☐
Pre-planning work underway with local jurisdictions	☐	Sites has existing EV charging infrastructure (upgrade only).	☐

Outline the readiness of the Project site for the EV charging infrastructure project (2000 characters):

Location Access (check all that apply)			
Site is visible from the interstate exit or AFC crossroad intersection	☐	Site area is easy to navigate to with safe turn lanes into and out of the site	☐
Wayfinding signage is visible near the site	☐	Wayfinding signage is provided on-site	☐

Describe the Project site's accessibility and signage at and around the area. Signage on ODOT Right-of-Way is the responsibility of ODOT and shall not be included as part of a proposal. (2000 characters):

Site Host Engagement (check all that apply)			
Proof of ownership at site	☐	Legally binding agreement with site host in-place	☐
Signed site host engagement letter	☐	No site host engagement	☐

Describe the current level of site host engagement for the Project site (1000 characters):

Amenities (indicate status accordingly below)			
Amenity	Existing	Planned	N/A
24/7 public restrooms	☐	☐	☐
Food and beverage availability	☐	☐	☐
Dine-in restaurants (within 0.25 miles with a continuous paved walkway to destination)	☐	☐	☐
Convenience store (within 0.25 miles with a continuous paved walkway to destination)	☐	☐	☐
Sufficient lighting covering the EV Charging Station	☐	☐	☐
Business hours of site are 24/7	☐	☐	☐
Business hours of site are between 18/7 and 24/7	☐	☐	☐
Pull-through site design to accommodate larger vehicle charging	☐	☐	☐
Overhead canopy	☐	☐	☐
24/7 customer service/staff availability	☐	☐	☐
Micro mobility access (not an eligible expense under the program)	☐	☐	☐
Free Wi-Fi access	☐	☐	☐
Outdoor seating amenities: picnic tables/bench	☐	☐	☐
Walking paths/animal-accessible green space	☐	☐	☐
Overhead lighting at site	☐	☐	☐
Video surveillance system	☐	☐	☐
Emergency call button(s)	☐	☐	☐
On-site security personnel	☐	☐	☐
Emergency power shut-off	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐
	☐	☐	☐

Detail a plan for amenities that will be offered at the EV charging infrastructure site including, but not limited to, the amenities listed above. Include an explanation of ADA access considerations (3000 characters):

Team Qualifications (check all that apply)			
Project team has experience installing EVSE	☐	Project team has experience implementing Federal projects	☐
Project team has more than one (1) EVITP certified technician assigned to the Project	☐	Project team has a plan to maintain uptime requirements and site financial viability	☐

Describe the qualifications of the Project team and include additional relevant expertise and/or applicable certifications (2000 characters):

Project Future Proofing (check all that apply)			
NACS Ports available at EVSE	☐	Higher power level per port (>150kW)	☐
Greater number of ports (>4)	☐	Readiness for add'l / future expansion	☐

Detail a plan for future proofing at the EV charging infrastructure site including, but not limited to, considerations listed above. Include considerations and planned accommodations for pull-through stalls and/or vehicles with trailers (2000 characters):

Project Non-Federal Match (check option that applies)			
21% - 30% non-federal matching costs	☐	31% - 40% non-federal matching costs	☐
41% - 50% non-federal matching costs	☐	≥ 51% non-federal matching costs	☐

Outline the type and source of non-Federal match funding for the Project (1000 characters):

Project Per-Port Cost Effectiveness			
Less than \$100,000 per port	☐	\$101,000 - \$150,000 per port	☐
\$151,000 - \$200,000 per port	☐	Greater than \$200,000 per port	☐

Describe how the Project minimizes the requested Federal-share requested and maximizes overall project value and cost effectiveness (1000 characters):

Total Project Cost (must match information in Proposal Budget)

Total Proposed Project Cost	Dollar Amount
Total Project Cost (Federal Share + Non-Federal Share)	\$ 0

Total Cost Per Port Proposed (must match information in Proposal Budget)

Total Cost Per Port Proposed	Dollar Amount
Total Project Cost / Number of Proposed NEVI-Compliant Ports	

10. PROJECT TEAM QUALIFICATIONS

Project Team Point of Contact (POC) (required)	
Business Name (if applicable):	
Contact Name:	
Phone Number:	
Email Address:	
Mailing Address:	

Project Team Members	
If known, please complete the section below. If team members are unknown, indicate "unknown" below. Duplicate listings of project team members are acceptable.	
Site Host:	
Electrical Contractor/Installer:	
Charging Infrastructure Supplier:	
Utility:	
Local Jurisdiction:	
Operations and Maintenance Provider:	
Other (please specify):	

Work, Skills, or Project Experience (1000 characters):	
Please list any team members with previous work experience, skills, or project experience related to EV charging infrastructure. If applicable please include locations power level, and, if chargers are still in service. Please also include any design, construction, operations, and maintenance experience related to EV charging infrastructure.	

References (750 characters):

Please provide contact information for any references who could provide insight into the candidate's skills and work performance.

Please explain how your Project Team plans to address the following considerations:

Uptime Response (750 characters):

Please describe how your Project Team will monitor and ensure charging station uptime and what strategies will be implemented to respond to instances of downtime.

11. ADDITIONAL SUPPORTING DOCUMENTATION

Please include any additional supporting documentation, including items from Section 7 Site Plan Design Information, after this page of the Proposal Submission form. Note that any additional information counts toward the 10MB total file size limitation. Additional documentation may be reviewed by ODOT at their discretion.

Attachment D
Sample Award Agreement

**CONTRACT
FOR THE ODOT NEVI COMPETITIVE PROCUREMENT PROGRAM**

between

OKLAHOMA DEPARTMENT OF TRANSPORTATION

and

[_____]

Dated

[____], 20__

[This Page Intentionally Left Blank]

TABLE OF CONTENTS

Page

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1.	DEFINITIONS	2
SECTION 1.2.	INTERPRETATION	8
	(A) Gender and Plurality	8
	(B) Persons.....	8
	(C) Headings.....	8
	(D) References Hereto	8
	(E) References to Days and Time of Day	8
	(F) References to Including	8
	(G) References to Statutes.....	9
	(H) References to ODOT, Governmental Bodies, and Private Persons	9
	(I) References to Documents and Standards.....	9
	(J) References to All Reasonable Efforts	9
	(K) References to Knowledge	9
	(L) References to Promptly	9
	(M) Entire Agreement	9
	(N) Causing Performance	9
	(O) Party Bearing Cost of Performance.....	10
	(P) Assistance.....	10
	(Q) Good Industry Practice	10
	(R) Interpretation of Contract Documents	10
	(S) Applicability, Stringency, and Consistency of Project Requirements and Standards	10
	(T) Delivery of Documents in Digital Format.....	10
	(U) Severability	10
	(V) Drafting Responsibility	11
	(W) No Third-Party Rights.....	11
	(X) Acting Reasonably and in Good Faith; Discretion	11
	(Y) Counterparts and Delivery by Electronic Mail	11
	(Z) Governing Law	11
	(AA) Interpolation	11
	(BB) Accounting and Financial Terms.....	11
	(CC) Payments	11

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

SECTION 2.1.	REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR	12
	(A) Existence and Powers.....	12
	(B) Due Authorization and Binding Obligation	12
	(C) No Conflict	12
	(D) No Approvals Required	12
	(E) Licensing and Registration Requirements.....	12
	(F) No Litigation	12
	(G) Claims and Demands	12
	(H) Applicable Law Compliance	13

(I)	Intellectual Property	13
(J)	Practicability of Performance	13
(K)	Information Supplied by the Contractor	13

ARTICLE 3

TERM

SECTION 3.1.	EFFECTIVE DATE AND TERM	14
(A)	Term	14
(B)	Accrued Rights	14
SECTION 3.2.	SURVIVAL	14

ARTICLE 4

GENERAL PERFORMANCE REQUIREMENTS

SECTION 4.1.	PROJECT PHASES	15
(A)	Project Phases Generally	15
(B)	Commencement of Each Project Phase	15
(C)	Scheduled Milestone Dates	15
SECTION 4.2.	CONTRACTOR RESPONSIBILITIES GENERALLY	15
(A)	Cooperation	15
(B)	Contractor Team Members	15
SECTION 4.3.	COMPLIANCE WITH APPLICABLE LAW	16
(A)	Compliance with Applicable Law Generally	16
(B)	NEPA Clearance	16
(C)	Compliance with the NEVI Final Rule	16
(D)	Fines, Penalties and Remediation	16
SECTION 4.4.	PROJECT SITE AND REQUIRED PROPERTY RIGHTS	17
(A)	Required Property Rights	17
(B)	Contractor Responsibility for the Project Site	17
SECTION 4.5.	TITLE AND RISK OF LOSS	17
SECTION 4.6.	RIGHTS TO DELIVERABLES AND PROPRIETARY INTELLECTUAL PROPERTY	18

ARTICLE 5

PRE-CONSTRUCTION PHASE

SECTION 5.1.	COMMENCEMENT OF PRE-CONSTRUCTION PHASE	19
SECTION 5.2.	PROJECT SCHEDULE	19
SECTION 5.3.	PROJECT PLAN	19
(A)	Project Plan Generally	19
(B)	ODOT Review of Project Plan	19
SECTION 5.4.	DESIGN RESPONSIBILITY	20
(A)	Performance of the Design Work	20
(B)	Design Requirements	20
(C)	Sole Responsibility and Liability	20
SECTION 5.5.	GOVERNMENTAL APPROVALS	20
SECTION 5.6.	EVSE PROCUREMENT AND BUY AMERICA REQUIREMENTS	20
(A)	EVSE Procurement	20
(B)	Buy America Requirements	20

(C) Certification of Chargers	21
-------------------------------------	----

ARTICLE 6

CONSTRUCTION PHASE

SECTION 6.1.	COMMENCEMENT OF CONSTRUCTION PHASE	22
SECTION 6.2.	SEQUENCING OF WORK	22
SECTION 6.3.	CONSTRUCTION AND INSTALLATION WORK	22
	(A) Performance of Construction and Installation Work.....	22
	(B) Project Site.....	23
	(C) Construction Monitoring, Observations and Investigations	23
SECTION 6.4.	UTILITY WORK	23
SECTION 6.5.	COMMISSIONING AND TESTING.....	23
SECTION 6.6.	OPERATIONS COMMENCEMENT DATE	23

ARTICLE 7

O&M PHASE

SECTION 7.1.	PERFORMANCE OF O&M SERVICES	25
SECTION 7.2.	ODOT RIGHT TO OBSERVE O&M SERVICES.....	25
SECTION 7.3.	UPTIME REQUIREMENT	25
	(A) Calculation of Uptime.....	25
	(B) Records of Uptime Requirement Compliance	25
	(C) Remediation	26
SECTION 7.4.	MAINTENANCE	26
SECTION 7.5.	SAFETY AND SECURITY	26
	(A) Generally	26
	(B) Cybersecurity.....	26
SECTION 7.6.	CUSTOMER SERVICE.....	26
SECTION 7.7.	THIRD-PARTY DATA SHARING.....	26
SECTION 7.8.	PRICING AND PAYMENT METHODS.....	26
SECTION 7.9.	REVENUES	27

ARTICLE 8

PERSONNEL, LABOR, AND SUBCONTRACTORS

SECTION 8.1.	RESPONSIBILITY FOR CONTRACTOR TEAM MEMBERS	28
SECTION 8.2.	STAFFING	28
SECTION 8.3.	PROFESSIONAL SERVICES	28
SECTION 8.4.	LABOR REQUIREMENTS	29
	(A) Federally Required Contract Clauses	29
	(B) Prevailing Wages	29
	(C) State Labor Requirements	29
	(D) Labor Disputes.....	29
	(E) Notice of Labor Disputes.....	29
SECTION 8.5.	SUBCONTRACTING AND SUPPLIERS.....	29
	(A) Right to Subcontract	29
	(B) Subcontract Terms and Conditions.....	30
	(C) ODOT-Approved Suppliers.....	30
	(D) Replacement	30

(E) Subcontractor Claims.....	30
-------------------------------	----

ARTICLE 9

FEDERAL SHARE PAYMENTS

SECTION 9.1.	MAXIMUM PAYMENT AMOUNT	31
	(A) Maximum Payment Amount Generally	31
	(B) Conditions to Federal Share Payments	31
SECTION 9.2.	MILESTONE REIMBURSEMENT OF ELIGIBLE PROJECT COSTS.....	31
	(A) Milestone Payments Generally	31
	(B) Milestone Payment Schedule	31
SECTION 9.3.	MONTHLY REIMBURSEMENT OF ELIGIBLE O&M COSTS.....	32
	(A) Federal Share Payments for O&M Services.....	32
	(B) Invoices for Monthly Reimbursements of O&M Costs.....	32
SECTION 9.4.	SECURITY HOLDBACK	32
	(A) Security Holdback Generally.....	32
	(B) Payment of Security Holdback	32
	(C) ODOT Reserved Rights	33
	(D) Security Holdback Invoices	33
SECTION 9.5.	OFFSET RIGHTS	33
SECTION 9.6.	NO OTHER ODOT PAYMENT OBLIGATION	34
	(A) Generally	34
	(B) Contractor Responsibility for Taxes	34
SECTION 9.7.	NO ACCEPTANCE, WAIVER, OR RELEASE	34

ARTICLE 10

REPORTING AND RECORDKEEPING

SECTION 10.1.	PERIODIC REPORTS AND INFORMATION ACCESS.....	35
	(A) Pre-Construction and Construction Phase Reports	35
	(B) O&M Phase Reports	35
	(C) Notification of Material Issues.....	35
SECTION 10.2.	RECORDS AND AUDIT.....	35

ARTICLE 11

DISPUTE RESOLUTION

SECTION 11.1.	DISPUTE RESOLUTION PROCEDURES	37
	(A) Generally	37
	(B) Informal Negotiations	37
	(C) ODOT Contract Representative's Final Decision	37
SECTION 11.2.	NON-BINDING MEDIATION.....	37
	(A) Rights to Request and Decline Non-Binding Mediation	37
	(B) Procedure	38
	(C) Non-Binding Effect	38
	(D) Relation to Judicial Legal Proceedings.....	38
SECTION 11.3.	FORUM FOR LEGAL PROCEEDINGS	38
SECTION 11.4.	CONTINUANCE OF PERFORMANCE DURING DISPUTE	38

ARTICLE 12

BREACH, DEFAULT, REMEDIES, AND TERMINATION

SECTION 12.1.	REMEDIES FOR BREACH	39
SECTION 12.2.	EVENTS OF DEFAULT BY THE CONTRACTOR.....	39
	(A) Events of Default Not Requiring Previous Notice or Cure Opportunity for Termination.....	39
	(B) Events of Default Requiring Previous Notice and Cure Opportunity for Termination	40
	(C) Notice and Cure Opportunity	40
	(D) Other Remedies Upon Contractor Event of Default	41
SECTION 12.3.	ODOT CONVENIENCE TERMINATION RIGHTS	41
	(A) Convenience Termination Right	41
	(B) Convenience Termination Payment	41
	(C) Payment of Amounts Due as a Result of Convenience Termination	41
	(D) Convenience Termination Rights as Consideration	42
SECTION 12.4.	LIMITATION ON WAIVERS	42
SECTION 12.5.	WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES	42

ARTICLE 13

INSURANCE

SECTION 13.1.	REQUIRED INSURANCE	43
	(A) General.....	43
	(B) Minimum Required Insurance	43
	(C) Waiver of Subrogation	43
	(D) Additional Insured Requirements.....	43
	(E) Certificates of Insurance.....	44
	(F) Policies of Required Insurance	44
SECTION 13.2.	SUBCONTRACTORS	44
SECTION 13.3.	ADEQUACY OF REQUIRED INSURANCE	44
SECTION 13.4.	COMPLIANCE WITH INSURER REQUIREMENTS.....	44
SECTION 13.5.	RELATIONSHIP TO LIABILITY AND OBLIGATIONS	44

ARTICLE 14

FORCE MAJEURE EVENTS

SECTION 14.1.	FORCE MAJEURE EVENT DEFINED	45
	(B) Mitigation Given Effect	45
	(C) Applicable Law Compliance	45
	(D) Project Services Not Affected; Resumption of Performance	45
SECTION 14.2.	FORCE MAJEURE EVENT CLAIM PROCEDURES	45
	(A) Notice and Written Report	45
	(B) Updates	46
	(C) Submittal of Relief Request.....	46
	(D) Burden of Proof and Mitigation	46
	(E) ODOT Response	46
	(F) Agreement or Dispute.....	46
SECTION 14.3.	EXTENT OF FORCE MAJEURE EVENT RELIEF.....	46
	(A) Generally Available Relief	46

(v)

	(B) No Compensation Relief.....	47
SECTION 14.4.	SCHEDULE RELIEF	47

ARTICLE 15

INDEMNIFICATION

SECTION 15.1.	CONTRACTOR'S OBLIGATION TO INDEMNIFY	48
---------------	--	----

ARTICLE 16

SECURITY FOR PERFORMANCE

SECTION 16.1.	PERFORMANCE AND PAYMENT BONDS	49
(A)	Requirements.....	49
(B)	Monitoring of Sureties	49
(C)	Alternative to Performance and Payment Bonds	49
SECTION 16.2.	PERFORMANCE SECURITY FOR THE O&M PHASE	49
SECTION 16.3.	COSTS OF PROVIDING SECURITY INSTRUMENTS	50

ARTICLE 17

MISCELLANEOUS PROVISIONS

SECTION 17.1.	RELATIONSHIP OF THE PARTIES.....	51
SECTION 17.2.	CONTRACT ADMINISTRATION	51
(A)	Administrative Communications	51
(B)	Contract Administration Memoranda	51
(C)	Procedure	51
(D)	Effect	51
SECTION 17.3.	CONTRACT AMENDMENTS.....	52
(A)	Amendments Generally.....	52
(B)	Procedure	52
SECTION 17.4.	CONTRACT REPRESENTATIVES	52
(A)	Contractor Contract Representative and Senior Supervisors	52
(B)	ODOT Contract Representative	52
(C)	ODOT Approvals and Consents.....	52
SECTION 17.5.	GENERAL DUTY TO MITIGATE.....	52
(A)	Mitigation by the Contractor	52
(B)	Mitigation by ODOT.....	53
SECTION 17.6.	ASSIGNMENT	53
(A)	By the Contractor.....	53
(B)	By ODOT	53
SECTION 17.7.	COMPLIANCE WITH MATERIAL AGREEMENTS	53
SECTION 17.8.	BINDING EFFECT.....	53
SECTION 17.9.	AMENDMENT AND WAIVER.....	53
SECTION 17.10.	NOTICES.....	54
(A)	Procedure	54
(B)	ODOT Notice Address	54
(C)	Contractor Notice Address	54
SECTION 17.11.	NOTICE OF LITIGATION.....	54
SECTION 17.12.	FURTHER ASSURANCES	55

Table of Contents
(continued)

Page

WORKING DRAFT

Table of Contents
(continued)

Page

APPENDICES

1. Project Site
2. Project Schedule
3. Proposal Extracts
4. Form FHWA-1273

TRANSACTION FORMS

- A. Form of Performance Bond
- B. Form of Payment Bond

WORKING DRAFT

[This Page Intentionally Left Blank]

CONTRACT
FOR THE ODOT NEVI COMPETITIVE PROCUREMENT PROGRAM

THIS CONTRACT FOR THE ODOT NEVI COMPETITIVE PROCUREMENT PROGRAM (this “**Contract**”) is made and entered into as of [____], 20__ between the Oklahoma Department of Transportation, a department of the State of Oklahoma (“**ODOT**”), and [____], a [____] organized and existing under the laws of [____] and authorized to do business in the State of Oklahoma (the “**Contractor**”).

RECITALS

WHEREAS, the federal Infrastructure Investment and Jobs Act, Public Law 117-58 enacted November 15, 2021 (the “**IIJA**”), establishes a National Electric Vehicle (NEVI) Formula Program, which provides dedicated funding to strategically deploy electric vehicle (EV) charging infrastructure and establish an interconnected network to facilitate data collection, access and reliability;

WHEREAS, pursuant to the IIJA, ODOT and the Oklahoma Secretary of Energy and Environment, working with various state agencies, planning organizations and stakeholders, established the Oklahoma National Electric Vehicle Infrastructure Plan (the “**Oklahoma NEVI Plan**”), which was approved by the Federal Highway Administration on September 14, 2022;

WHEREAS, pursuant to the Oklahoma NEVI Plan, ODOT issued its Request for Proposals for the Round 2 ODOT National Electric Vehicle Infrastructure (NEVI) Competitive Procurement Program on ____, 20__(the “**RFP**”);

WHEREAS, the Contractor submitted a proposal in response to the RFP (the “**Proposal**”) and has been awarded this Contract to provide for the design, construction, operations and maintenance of the EV charging project described herein (the “**Project**”), together with all reporting administrative and related obligations of the Contractor specified herein, in exchange for ODOT making funding available to the Contractor through the Federal Share (as defined herein) grant payments in accordance with the terms specified herein;

WHEREAS, ODOT desires to receive, and the Contractor desires to provide, the services for the Project under the terms and conditions of this Contract; and

WHEREAS, each party has authorized the execution and delivery of this Contract.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS.

As used in this Contract, the following terms shall have the meanings set forth below:

“Affiliate” means any person directly or indirectly controlling or controlled by another person or under direct or indirect common control (i.e., control, either through ownership, management, contract, or otherwise, that is shared with another person) with such person.

“Appendix” means any of the appendices and, as applicable, any attachments thereto, that are listed as an appendix in the table of contents to this Contract.

“Applicable Law” means:

- (1) any federal, State, or local law, statute, code, or regulation, including all ODOT rules and regulations;
- (2) any formally adopted and generally applicable rule, requirement, determination, standard, policy, implementation schedule, or other order of any Governmental Body having appropriate jurisdiction; and
- (3) any Governmental Approval,

in each case having the force of law and applicable from time to time to the Project or any transaction contemplated hereby.

“Bankruptcy Code” means the United States Bankruptcy Code, 11 U.S.C. 101 *et seq.*, as amended from time to time and any successor statute thereto. “Bankruptcy Code” shall also include any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers, or the liquidation of companies and estates that are unable to pay their debts when due.

“Business Day” means a day other than a Saturday, Sunday or an official holiday recognized by ODOT.

“Charger” means a device with one or more charging ports and connectors for charging EVs, also referred to as Electric Vehicle Supply Equipment (EVSE).

“Construction Phase” means the period from the Notice to Proceed with the Construction Phase through the Operations Commencement Date.

“Contract” means this Contract for the ODOT NEVI Competitive Procurement Program between ODOT and the Contractor, including the Appendices and all other Contract Documents, as the same may be amended or modified from time to time in accordance herewith.

“Contract Administration Memorandum” has the meaning specified in subsection 17.2(B) (Contract Administration Memoranda).

“Contract Amendment” has the meaning specified in subsection 17.3(A) (Amendments Generally).

“Contract Effective Date” means the date this Contract has been fully executed by ODOT and the Contractor and all conditions precedent to effectiveness of the Contract, including NEPA compliance and approval by the FHWA, have been satisfied.

“Contract Documents” means:

- (1) this Contract, including all Appendices hereto;
- (2) any Contract Amendment; and
- (3) any Notice to Proceed.

“Contract Representative” means, in the case of the Contractor, the Contractor Contract Representative and, in the case of ODOT, the ODOT Contract Representative.

“Contractor” has the meaning provided in the Preamble hereto.

“Contractor Contract Representative” has the meaning specified in subsection 17.4(A) (Contractor Contract Representative and Senior Supervisors).

“Contractor Team Member” means:

- (1) the Contractor, each Subcontractor and each Supplier;
- (2) any other person (excluding ODOT, any other Indemnified Party, and the ODOT Representatives) performing Project Services for or on behalf of the Contractor; and
- (3) any other person (excluding ODOT, any other Indemnified Party, and the ODOT Representatives) for whom the Contractor may be legally or contractually responsible; and
- (4) any director, officer, employee, agent, representative, consultant, advisor, successor, or assign of any of the foregoing, in each case acting as such.

“Deliverable” means any document, report or other submittal required to be delivered by the Contractor to ODOT in the performance of the Project Services pursuant to this Contract, including all design documents.

“Devices” means the hardware and/or software related to electric vehicle supply equipment (EVSE) .

“Dispute Resolution Procedures” means the procedures for the resolution of disputes between the parties set forth in Article 11 (Dispute Resolution).

“Electric Vehicle Supply Equipment” or **“EVSE”** has the same meaning as specified herein for the term “Charger.”

“Eligible Project Costs” means those costs eligible for reimbursement through the Federal Share payments, as established by applicable federal law.

“EV” means an electric vehicle, as defined by the NEVI Final Rule.

“Event of Default” means those items specified in Section 12.2 (Events of Default by the Contractor).

“Fees and Costs” means reasonable fees and expenses of employees, attorneys, architects, engineers, expert witnesses, contractors, consultants, and other persons, and costs of transcripts, printing of briefs, and records on appeal, copying and other reimbursed expenses, and expenses reasonably incurred in connection with investigating, preparing for, defending, or otherwise appropriately responding to any Legal Proceeding.

“Federal Share” means the federal funding the Contractor is entitled to receive in accordance with the terms hereof for a portion of the overall Eligible Project Costs.

“FHWA” means the Federal Highway Administration, an agency of the United States Department of Transportation.

“Force Majeure Event” has the meaning provided in Section 14.1 (Force Majeure Event Defined).

“Good Industry Practice” means those methods, techniques, standards, and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good practices for the design, construction, operations and maintenance of electric vehicle charging infrastructure, as followed by similar contractors in connection with projects of similar size and scope in the United States.

“Governmental Approval” means all conditions, permits, licenses, authorizations, consents, certifications, and other approvals required by any Governmental Body in order to perform the Project Services.

“Governmental Body” means each federal, state or local governmental body, including any court and any regulatory or administrative agency, commission, body, or other authority exercising or entitled to exercise any administrative, executive, judicial, legislative, policy, regulatory, or taxing authority or power, in each case, having jurisdiction in any way over the Project or the Project Services.

“Indemnified Party” has the meaning provided in Section 15.1 (Contractor’s Obligation to Indemnify).

“Intellectual Property” means all current and future legal and/or equitable rights and interests in know-how, patents (including applications), copyrights (including moral rights), trademarks (registered and unregistered), service marks, trade secrets, designs (registered and unregistered), utility models, circuit layouts, plant varieties, business and domain names, inventions, solutions embodied in technology and other intellectual activity and applications of or for any of the foregoing subsisting in or relating to the Project.

“Legal Proceeding” means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Contract, and all appeals therefrom.

“Loss-and-Expense” means any and all actual losses, liabilities, forfeitures, obligations, damages, fines, penalties, judgments, deposits, Taxes, charges, costs, or expenses, including all Fees and Costs, relating to third-party claims.

“Mediator” means any person serving as a third-party mediator of disputes hereunder pursuant to Section 11.2 (Non-Binding Mediation).

"NEPA" means the National Environmental Policy Act of 1969, as amended, and any successor statute of similar import, and regulations thereunder, in each case as in effect from time to time.

"NEVI Final Rule" means the National Electric Vehicle Infrastructure Standards and Requirements published at 23 C.F.R. Part 680, as in effect from time to time.

"Non-Binding Mediation" means the voluntary system of dispute resolution through third-party mediation established by Section 11.2 (Non-Binding Mediation).

"Notice to Proceed" means a written notice issued by ODOT authorizing the Contractor to commence performing a portion of the Project Services, as specified in the Notice to Proceed.

"O&M Phase" means the period from the Operations Commencement Date through the last day of the Term.

"ODOT" means the Oklahoma Department of Transportation, a department of the State.

"ODOT Contract Representative" has the meaning provided in subsection 17.4(B) (ODOT Contract Representative).

"ODOT Representative" has the meaning provided in subsection 4.2(A) (Cooperation).

"Oklahoma NEVI Plan" has the meaning provided in the recitals hereto.

"Operations and Maintenance Services" means everything required to be furnished and done for and relating to the operations and maintenance of the Project by the Contractor pursuant to this Contract.

"Operations Commencement Date" means the date the Contractor has satisfied all preconditions to the performance of the Operations and Maintenance Services in accordance with this Contract, as specified by ODOT in the Notice to Proceed with the O&M Phase.

"OSHA" means the Occupational Safety and Health Act of 1970, 29 U.S.C. Section 650 *et seq.*, including the applicable regulations promulgated thereunder, each as amended or superseded from time to time.

"Payment Bond" means the labor and materials payment bond provided by the Contractor as described in and maintained pursuant to this Contract and in the form set forth in Transaction Form B (Form of Payment Bond).

"Performance Bond" means the performance bond provided by the Contractor as described in and maintained pursuant to this Contract and in the form set forth in Transaction Form A (Form of Performance Bond).

"Port" means the system within a charger that charges one EV. A charging port may have multiple connectors, but it can provide power to charge only one EV through one connector at a time.

"Pre-Construction Phase" means the period from the issuance of the Notice to Proceed with the Pre-Construction Phase through the issuance of the Notice to Proceed with the Construction Phase.

“Project” has the meaning provided in the Recitals hereto, as more particularly described in Appendix 3 (Proposal Extracts).

“Project Phase” means, individually or collectively, the Pre-Construction Phase, the Construction Phase and the O&M Phase.

“Project Plan” has the meaning provided in subsection 5.3(A) (Project Plan Generally).

“Project Requirements and Standards” means the requirements, standards, terms, conditions, methods, techniques, and practices imposed or required by (1) the NEVI Final Rule, (2) all other Applicable Law, (3) to the extent incorporated in this Contract by reference or otherwise in Appendix 3 (Proposal Extracts), the Proposal, (4) the approved Project Plan, (5) Good Industry Practice, (6) applicable written equipment manufacturers’ and suppliers’ requirements and recommendations and (7) any other standard, term, condition, or requirement specifically provided in the Contract Documents to be observed by the Contractor.

“Project Schedule” has the meaning provided in Section 5.2 (Project Schedule).

“Project Services” means everything required to be furnished and done for and relating to the design, construction, operations and maintenance of the Project by the Contractor pursuant to this Contract, including (1) the employment and furnishing of all labor, materials, equipment, supplies, tools, transportation, utilities, insurance, bonding, temporary facilities, and other things and services of every kind whatsoever necessary for the full performance and completion of the Contractor’s design, engineering, procurement, obtaining and maintaining Governmental Approvals, construction, installation, interconnection, startup, testing, and related obligations with respect to the design and construction of the Project in accordance with the Contract, including all professional services; (2) the Operations and Maintenance Services; and (3) the Contractor’s administrative, accounting, recordkeeping, reporting, notification, and similar responsibilities of every kind whatsoever under this Contract.

“Project Site” means the real property on which the Project will be located, as , as more particularly described in Appendix **Error! Reference source not found.** (Project Site).

“Proposal” means the proposal made by the Contractor in response to the RFP.

“Proprietary Intellectual Property” means Intellectual Property created, used, applied or reduced to practice by the Contractor, its Affiliate or Subcontractors in connection with the Project or the performance of the Project Services that derives commercial value from its protection as a trade secret under Applicable Law or from its protection under patent law.

“Required Property Rights” has the meaning provided in subsection 4.4(A) (Required Property Rights).

“RFP” has the meaning provided in the recitals hereto.

“Required Insurance” means the insurance policies and coverage required to be provided by the Contractor and its Subcontractors under this Contract, as set forth in Article 13 (Insurance).

“Restricted Person” means any person who (or any member of a group of persons acting together, any one of which):

- (1) is disbarred, suspended, or otherwise disqualified from federal, State, or ODOT contracting for any services similar in nature to the Project Services;

(2) was or is subject to any material claim of the United States, the State or ODOT in any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the determination of whether the person falls within this definition is being made, and which (in respect of any such pending claim, if it were to be successful) would, in ODOT's view, in either case, be reasonably likely to materially affect the ability of the Contractor to perform its obligations under this Contract;

(3) in the case of an individual, he or she (or in the case of a legal entity, any of the members of the board of directors or its senior executive managers) has been sentenced to imprisonment or otherwise given a custodial sentence for any criminal offense (other than minor traffic offenses or misdemeanors) less than five years prior to the date at which the determination of whether the person falls within this definition is being made;

(4) has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by the United States for reasons other than its trade or economic policies; or

(5) has as its primary business the illegal manufacture, sale, distribution or promotion of narcotic substances or arms, or is or has been involved in terrorism.

"Required Property Rights" has the meaning provided in subsection 4.4(A) (Required Property Rights).

"Scheduled Milestone Dates" has the meaning provided in subsection 4.1(C) (Scheduled Milestone Dates).

"Security Holdback" has the meaning provided in subsection 9.4(A) (Security Holdback Generally).

"Security Instruments" means the Performance Bond, the Payment Bond, any alternative security provided pursuant to subsection 16.1(C) (Alternative to Performance and Payment Bonds) and the security provided for the O&M Phase pursuant to Section 16.2 (Performance Security for the O&M Phase).

"Semi-Annual Date" has the meaning provided in subsection 9.4(B) (Payment of Security Holdback).

"Senior Supervisor" has the meaning provided in subsection 17.4(A) (Contractor Contract Representative and Senior Supervisors).

"State" means the State of Oklahoma.

"Site Host Agreement" has the meaning provided in subsection 4.4(A) (Required Property Rights).

"Subcontract" means any contract entered into by the Contractor, or a Subcontractor of the Contractor of any tier, with one or more persons in connection with the carrying out of the Contractor's obligations under this Contract, whether for the furnishing of labor, materials, equipment, supplies, services, or otherwise, including contracts for construction, design professional services, and Supplies.

"Subcontractor" means any person, other than the Contractor, that enters into a Subcontract.

“Supplier” means a manufacturer, distributor, materialman, fabricator, distributor, vendor, or other supplier having a Subcontract to furnish Supplies.

“Supplies” means materials, equipment, or other supplies furnished in connection with the Project Services.

“Surety” means the surety company issuing the Performance Bond or the Payment Bond, as applicable.

“Tax” means any tax, fee, levy, duty, impost, charge, surcharge, assessment, or withholding (or any payment-in-lieu thereof), and any related interest, penalty, or addition to tax.

“Term” means the term of this Contract, commencing on the Contract Effective Date and continuing until the fifth (5th) anniversary of the Operations Commencement Date, subject to earlier termination in accordance with the terms hereof.

“Transaction Form” means any of the documents listed as transaction forms in the table of contents to this Contract.

“Uptime Requirement” has the meaning provided in subsection 7.3(A) (Calculation of Uptime).

SECTION 1.2. INTERPRETATION.

This Contract shall be interpreted according to the following provisions, except to the extent the context or the express provisions of this Contract otherwise require:

(A) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(B) Persons. Words importing persons include firms, individuals, legal personal representatives, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability corporations, trusts, business trusts, corporations, Governmental Bodies, and other legal entities.

(C) Headings. The table of contents and any headings preceding the text of the Articles, Sections, and subsections of this Contract shall be solely for convenience of reference and shall not affect its meaning, construction, or effect.

(D) References Hereto. The terms “hereto,” “hereby,” “hereof,” “herein,” “hereunder,” and any similar terms refer to this Contract.

(E) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated such as by reference to Business Day. Each reference to time of day is a reference to Central Standard Time or Central Daylight Time, as the case may be. Except with respect to the Scheduled Project Acceptance Date, if the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day.

(F) References to Including. The words “include,” “includes,” and “including” are to be construed as meaning “include without limitation,” “includes without limitation,” and “including without limitation,” respectively.

(G) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates, or replaces the statute or statutory provision or which has been amended, extended, consolidated, or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, codes of practice, or instruments made under the relevant statute.

(H) References to ODOT, Governmental Bodies, and Private Persons. Each reference to ODOT or a Governmental Body is deemed to include a reference to any successor to ODOT or such Governmental Body or any organization or entity which has taken over the functions or responsibilities of ODOT or such Governmental Body. Each reference to a private person that is not an individual is deemed to include a reference to its successors and permitted assigns.

(I) References to Documents and Standards. Each reference to an agreement, document, standard, principle, or other instrument includes a reference to that agreement, document, standard, principle, or instrument as amended, supplemented, substituted, novated, or assigned.

(J) References to All Reasonable Efforts. The expression “all reasonable efforts” and expressions of like import, when used in connection with an obligation of either party, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances, taking into account each party’s obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances but where the whole of the benefit of the obligation and where all the results of taking such steps and efforts accrued solely to that person’s own benefit; provided that, the foregoing will not require ODOT to:

(1) take any action which is contrary to the public interest, as reasonably determined by ODOT; or

(2) undertake action that might be available to ODOT due to its status as a Governmental Body but that would not be available to a private, commercially reasonable and prudent person.

(K) References to Knowledge. Except as otherwise provided herein, all references to “knowledge,” “knowing,” “know,” or “known” shall be interpreted as a reference to a party having actual knowledge.

(L) References to Promptly. All references to “promptly” shall be interpreted as meaning as soon as is reasonably practicable in light of then-prevailing circumstances.

(M) Entire Agreement. This Contract contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Contract. Without limiting the generality of the foregoing, this Contract shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions, including those contained in the RFP, the Proposal, and any amendments or supplements to any such documents.

(N) Causing Performance. A party shall itself perform, or shall cause to be performed, subject to any limitations specifically imposed hereby with respect to Subcontractors or otherwise, the obligations affirmatively undertaken by such party under this Contract.

(O) Party Bearing Cost of Performance. All obligations undertaken by each party hereto shall be performed at the cost of the party undertaking the obligation or responsibility, unless the other party has explicitly agreed herein to bear all or a portion of the cost.

(P) Assistance. The obligations of a party to cooperate with, to assist, or to provide assistance to the other party hereunder shall be construed as an obligation to use the party's personnel resources to the extent reasonably available in the context of performance of their normal duties, and not to incur material additional overtime or third party expense unless requested and reimbursed by the assisted party.

(Q) Good Industry Practice. Good Industry Practice shall be utilized hereunder, among other things, to implement and in no event displace or lessen the stringency of, the other Project Requirements and Standards.

(R) Interpretation of Contract Documents. The Contract Documents are intended to be complementary, and what is set forth in any one document is as binding as if set forth in each document. The parties recognize that Contract Amendments may provide for specific modification to the terms and conditions of other Contract Documents, in which case the modified terms and conditions shall govern, as expressly set forth in the Contract Amendment. All terms and conditions of such other Contract Documents that are not expressly modified or deleted by a Contract Amendment, however, shall remain in effect. Subject to the foregoing, subsection 1.2(U) (Applicability, Stringency, and Consistency of Project Requirements and Standards) shall govern matters of interpretation related to the applicability, stringency, and consistency of the Contract Documents, the requirements of which are included among the Project Requirements and Standards.

(S) Applicability, Stringency, and Consistency of Project Requirements and Standards. The Contractor shall be obligated to comply only with those Project Requirements and Standards which are applicable in any particular case. Where more than one Project Requirement and Standard applies to any particular performance obligation of the Contractor hereunder, each such applicable Project Requirement and Standard shall be complied with. In the event there are different levels of stringency among such applicable Project Requirements and Standards, the most stringent of the applicable Project Requirements and Standards shall govern. In the event of any inconsistency among the Project Requirements and Standards, ODOT's determination as to the applicable standard shall be binding.

(T) Delivery of Documents in Digital Format. In this Contract, the Contractor is obligated to deliver reports, records, designs, plans, drawings, specifications, proposals, and other documentary submittals in connection with the performance of the Project Services. The Contractor agrees that all such documents shall be submitted to ODOT both in printed form (in the number of copies reasonably requested by ODOT) and, at ODOT's request, in digital form. Digital copies shall consist of computer readable data submitted in any standard interchange format which ODOT may reasonably request to facilitate the administration and enforcement of this Contract. In the event that a conflict exists between the signed or the signed and stamped hard copy of any document and the digital copy thereof, the signed or the signed and stamped hard copy shall govern.

(U) Severability. Each provision of this Contract shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Contract is held to be invalid, unenforceable, or illegal to any extent, such provision shall be severed and such invalidity, unenforceability, or illegality shall not prejudice or affect the validity, enforceability, and legality of the remaining provisions of this Contract. If any provision of this Contract is held to be invalid, unenforceable, or illegal, the parties will promptly endeavor in good faith to negotiate new

provisions to eliminate such invalidity, unenforceability, or illegality and to restore this Contract as nearly as possible to its original intent and effect.

(V) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Contract to the effect that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(W) No Third-Party Rights. This Contract is exclusively for the benefit of ODOT and the Contractor and, except as specifically provided in Article 15 (Indemnification) with respect to the Indemnified Parties, shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action, or other rights.

(X) Acting Reasonably and in Good Faith; Discretion. Each party shall act reasonably and in good faith in the exercise of its rights hereunder, except where a party has the right to act in its discretion by the express terms hereof. When a party has discretion, it means that party has the sole, absolute and unfettered discretion, with no requirement to act reasonably or provide reasons unless specifically required under the provisions of this Contract. When a party does not have discretion it means that the party shall act reasonably.

(Y) Counterparts and Delivery by Electronic Mail. This Contract and any amendments, waivers, consents, or supplements hereto or in connection herewith may be executed in any number of counterparts and by the different parties hereto in separate counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. Electronic delivery of an executed counterpart of a signature page of this Contract or any document or instrument delivered in connection herewith in accordance with Section 17.10 (Notices) shall be effective as delivery of an original executed counterpart of this Contract or such other document or instrument, as applicable.

(Z) Governing Law. This Contract shall be governed by and construed in accordance with the applicable laws of the State.

(AA) Interpolation. If any calculation hereunder is to be made by reference to a chart or table of values, and the reference calculation falls between two stated values, the calculation shall be made on the basis of linear interpolation.

(BB) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with generally accepted accounting principles.

(CC) Payments. All payments required to be made by either party hereunder shall be made in lawful money of the United States of America.

ARTICLE 2

REPRESENTATIONS AND WARRANTIES

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE CONTRACTOR.

In addition to any other representations and warranties made by the Contractor in this Contract, the Contractor represents and warrants that:

(A) Existence and Powers. The Contractor is a [____], duly organized, validly existing, and in good standing under the laws of [____] and has the authority to do business in the State and in any other jurisdiction in which it conducts its activities, with the full legal right, power, and authority to enter into and perform its obligations under this Contract.

(B) Due Authorization and Binding Obligation. This Contract has been duly authorized, executed, and delivered by all necessary corporate action of the Contractor and constitutes a legal, valid, and binding obligation of the Contractor, enforceable against the Contractor in accordance with its terms, except to the extent that its enforceability may be limited by the Bankruptcy Code or by equitable principles of general application.

(C) No Conflict. To the best of its knowledge after due inquiry, neither the execution nor delivery by the Contractor of this Contract, nor the performance by the Contractor of its obligations in connection with the transactions contemplated hereby, nor the fulfillment by the Contractor of the terms or conditions hereof (1) conflicts with, violates, or results in a breach of any constitution, law, governmental regulation, by-laws or certificates of incorporation applicable to the Contractor or (2) conflicts with, violates, or results in a breach of any order, judgment, or decree, or any contract, agreement, or instrument to which the Contractor is a party or by which the Contractor or any of its properties or assets are bound.

(D) No Approvals Required. No approval, authorization, order, or consent of, or declaration, registration, or filing with, any Governmental Body is required for the valid execution and delivery of this Contract by the Contractor except as such have been duly obtained or made.

(E) Licensing and Registration Requirements. The Contractor possesses all licenses required under Applicable Law to perform the Project Services and is not in violation of any of the terms or conditions of such licenses. The Contractor is registered with all appropriate Governmental Bodies to the extent necessary to perform the Project Services.

(F) No Litigation. There is no action, suit, proceeding, investigation, or litigation, at law or in equity, before or by any court, arbitral tribunal, or other Governmental Body pending or, to the best of the Contractor's knowledge after due inquiry, overtly threatened or publicly announced against the Contractor, in which an unfavorable decision, ruling, or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Contract by the Contractor or the validity, legality, or enforceability of this Contract against the Contractor, or any other agreement or instrument entered into by the Contractor in connection with the transactions contemplated hereby, or on the ability of the Contractor to perform its obligations hereunder or under any such other agreement or instrument.

(G) Claims and Demands. There are no material and adverse claims or demands based in environmental, contract, or tort law pending or threatened against the

Contractor or any of its Affiliates with respect to any facilities designed or constructed by the Contractor or any of its Affiliates that would have a material and adverse effect upon the ability of the Contractor to perform the Project Services.

(H) Applicable Law Compliance. The Contractor and its Affiliates are not in material violation of any law, order, rule, or regulation with respect to their businesses and services.

(I) Intellectual Property. The Contractor owns, or has sufficient rights to use, all intellectual property necessary for the Project without any known material conflict with the rights of others.

(J) Practicability of Performance. Subject to, and in accordance with, the terms of this Contract, including the Contractor's rights to Force Majeure Event relief hereunder, the Contractor assumes the risk of the practicability and possibility of performance of the Project Services in compliance with the requirements of the Project Requirements and Standards, on the scale, within the time for completion, and in the manner required hereunder, and agrees that sufficient consideration for the assumption of such risk is included in the Federal Share compensation.

(K) Information Supplied by the Contractor. The information supplied and representations and warranties made by the Contractor in all submittals made in response to the RFP with respect to the Contractor (and to its knowledge, all information supplied in such submittals with respect to any of its Affiliates or any Subcontractor) are true, correct, and complete in all material respects.

ARTICLE 3

TERM

SECTION 3.1. EFFECTIVE DATE AND TERM.

(A) Term. This Contract shall become effective, and the Term shall commence, on the Contract Effective Date. The Term shall continue for a period of five (5) years following the Operations Commencement Date, subject to early termination in accordance with Article 11 (Breach, Default, Remedies, and Termination). The Contractor must achieve the Operations Commencement Date by no later than the second (2nd) anniversary of the Contract Effective Date. The Term may be extended by mutual agreement of the parties and the execution of a Contract Amendment.

(B) Accrued Rights. No termination of this Contract shall:

- (1) limit or otherwise affect the respective rights and obligations of the parties hereto accrued prior to the date of such termination; or
- (2) preclude either party from impleading the other party in any Legal Proceeding originated by a third-party as to any matter occurring during the Term.

SECTION 3.2. SURVIVAL.

Notwithstanding any other provision of this Contract, this Section and the following provisions hereof shall survive the expiration or any earlier termination of this Contract:

- (1) Article 2 (Representations and Warranties);
- (2) Section 4.6 (Rights to Deliverables and Proprietary Intellectual Property);
- (3) Section 10.2 (Records and Audit);
- (4) Article 11 (Dispute Resolution);
- (5) Section 12.5 (Waiver of Consequential and Punitive Damages);
- (6) Article 12 (Breach, Default, Remedies, and Termination), as applicable to the obligations of the parties following termination;
- (7) Article 13 (Insurance);
- (8) Article 15 (Indemnification), including all of the indemnities referred to therein;
- (9) all provisions of this Contract with respect to payment obligations of the Contractor or ODOT accrued prior to the date of expiration or termination;
- (10) any other provisions hereof which either expressly or by their context or inherent character should survive expiration or early termination of this Contract or the completion of the Project Services; and
- (11) any provisions hereof necessary to give effect to the provisions referenced or described in this Section.

ARTICLE 4

GENERAL PERFORMANCE REQUIREMENTS

SECTION 4.1. PROJECT PHASES.

(A) Project Phases Generally. The Project Services are divided into three main Project Phases:

(1) the Pre-Construction Phase, during which the Contractor shall finalize its plans for the performance of the Project Services, advance the design of the Project, procure Electric Vehicle Supply Equipment (EVSE) and secure all Governmental Approvals necessary to commence construction and perform all other Project Services;

(2) the Construction Phase, during which the Contractor shall complete all remaining design and professional engineering services, perform all construction and installation work, and commission, test and inspect the Project to ensure compliance with all Project Requirements and Standards on or before the Operations Commencement Date; and

(3) the O&M Phase, during which the Contractor shall perform all Operations and Maintenance Services in accordance with the Project Requirements and Standards.

(B) Commencement of Each Project Phase. The requirements for the commencement of each Project Phase are set forth in Section 5.1 (Commencement of Pre-Construction Phase), Section 6.1 (Commencement of Construction Phase) and Section 6.6 (Operations Commencement Date), and ODOT will issue a Notice to Proceed with a Project Phase upon satisfaction of such requirements. Any work performed by the Contractor with respect to any Project Phase prior to the issuance of a Notice to Proceed with such Project Phase will be at the Contractor's sole cost and risk.

(C) Scheduled Milestone Dates. The “**Scheduled Milestone Dates**” for the commencement of each Project Phase are as follows:¹

(1) Pre-Construction Phase:

(2) Construction Phase:

(3) O&M Phase:

SECTION 4.2. CONTRACTOR RESPONSIBILITIES GENERALLY.

(A) Cooperation. The Contractor shall, and shall cause its Subcontractors and all other Contractor Team Members to, fully cooperate with all representatives and consultants designated by ODOT in writing from time to time (collectively, the “**ODOT Representatives**”).

(B) Contractor Team Members. All obligations of the Contractor hereunder shall be performed by Contractor Team Members (subject to the terms of Article 7 (Management,

¹ **Note:** To be filled in based on Proposal.

Labor, and Subcontractors)) who are qualified to perform the specific services and meet all licensing and certification requirements of Applicable Law.

SECTION 4.3. COMPLIANCE WITH APPLICABLE LAW.

(A) Compliance with Applicable Law Generally. The Contractor shall, and shall cause all other Contractor Team Members to, perform the Project Services in accordance with Applicable Law, including all Governmental Approvals, and shall coordinate with, and comply with the requirements of, each Governmental Body, including with respect to all inspections and approvals required for the performance of the Project Services. The incorporation, reference, or citation of specific statutes or other parts of Applicable Law in the Contract Documents is not intended, nor shall it be construed, to limit the generality of the Contractor's and all other Contractor Team Members' obligations to comply with Applicable Law (whether or not specifically incorporated or referenced in the Contract Documents).

(B) NEPA Clearance. The Contractor shall comply with the NEPA environmental clearance obtained by ODOT prior to the Contract Effective Date, including any applicable mitigation requirements, and shall obtain any additional NEPA clearances that may be required under Applicable Law after the Contract Effective Date.

(C) Compliance with the NEVI Final Rule. Without limiting the generality of the Contractor's obligations to comply with Governmental Approvals and Applicable Law, the Contractor shall comply with the NEVI Final Rule and all federal laws, regulations and requirements mandated by the NEVI Final Rule, including the federal statutory and regulatory requirements referenced or identified in 23 C.F.R. § 680.118. The NEVI Final Rule is hereby incorporated by reference into this Contract.

(D) Fines, Penalties and Remediation. In the event that the Contractor or any other Contractor Team Member fails at any time to comply with Applicable Law in the performance of the Project Services, the Contractor shall:

- (1) promptly respond to any notice of non-compliance, warning letter, notice of violation or other enforcement action and seek amicable resolution of the issues;
- (2) immediately correct such failure and resume compliance with Applicable Law;
- (3) pay any resulting fines, assessments, levies, impositions, penalties, or other charges;
- (4) indemnify, defend, and hold harmless the Indemnified Parties in accordance with and to the extent provided in Article 15 (Indemnification) from and against all Loss-and-Expense resulting therefrom;
- (5) make all changes in performing the Project Services which are necessary to assure that the failure of compliance with Applicable Law will not recur; and
- (6) comply with any corrective action plan filed with or mandated by any Governmental Body in order to remedy a failure of the Contractor to comply with Applicable Law.

SECTION 4.4. PROJECT SITE AND REQUIRED PROPERTY RIGHTS.

(A) Required Property Rights. The Contractor shall maintain throughout the Term all such ingress, egress, access, control, occupancy, ancillary and other rights as are necessary:

(1) for the Contractor and all other Contractor Team Members to perform all Project Services on or for the Project Site, including to permit all Project Site activities required or reasonably contemplated by or for the Project;

(2) for ODOT and the ODOT Representatives to access the Project Site for purposes of observing the performance of the Project Services, inspecting the Project and exercising ODOT's rights and remedies, all in accordance with this Contract; and

(3) During the O&M Phase, for the public, including customers, to enter and use the Project Site in the manner required or reasonably contemplated by or for the Project.

Such "**Required Property Rights**" may be evidenced by deed of fee simple in the name of the Contractor or an easement, right of way, lease or license agreement. However, to the extent that the Contractor is not the fee simple owner of the Project Site, the Required Property Rights must be evidenced by a written agreement between the Contractor and the owner of the Project Site in form and substance satisfactory to ODOT (a "**Site Host Agreement**"). If applicable, the Site Host Agreement must be in effect as of the Contract Effective Date and must remain in effect throughout the Term. The Contractor shall abide by, and enforce as necessary, the terms of any Site Host Agreement to ensure uninterrupted performance under this Contract during the Term. To the extent that the Contractor is the fee simple owner of the Project Site, the Contractor hereby grants to ODOT and the ODOT Representatives a non-exclusive and royalty-free license to access and enter upon the Project Site for the purposes of monitoring the performance of the Project Services in accordance with this Contract and to access, enter upon and use the Project Site in connection with the exercise of its remedies under this Contract. The Contractor shall additionally enter into any ancillary agreement necessary to effectuate such rights, as reasonably required by ODOT.

(B) Contractor Responsibility for the Project Site. The Contractor shall bear exclusive responsibility (as between the Contractor and ODOT) for the Project Site. ODOT shall not be responsible for any conditions associated with the Project Site, including any differing site conditions, and the Contractor shall be deemed to have satisfied itself as to, and shall bear all risks associated with, the suitability of the Project Site for the Project and the performance of all Project Services.

SECTION 4.5. TITLE AND RISK OF LOSS.

ODOT shall not have any ownership interest in the EVSE or the Project. To the extent provided in the Project Plan, the Contractor may assign to its lenders and other financing parties (if any), as collateral security, its rights under the Site Host Agreement (if applicable) and may grant liens and security interests to its lenders and other financing parties (if any) in the EVSE; provided that (1) any such assignment or grant is subject and gives full effect to all rights in favor of ODOT under this Contract and the Site Host Agreement (if applicable) and (2) the Contractor shall otherwise keep and maintain the Project, including all EVSE, free and clear of all liens, claims, security interest or encumbrances. The Contractor shall bear all risk of loss concerning the structures, improvements, fixtures, machinery, equipment and materials

constituting the Project throughout the Term, regardless of the extent to which the loss was insured or the availability of insurance proceeds, subject only to the Contractor's rights to Force Majeure Event relief in accordance with Article 14 (Force Majeure Events).

SECTION 4.6. RIGHTS TO DELIVERABLES AND PROPRIETARY INTELLECTUAL PROPERTY.

ODOT shall have and is hereby granted a perpetual, nonexclusive, transferable (subject to the limitations set forth in this Section), royalty-free, irrevocable, worldwide, fully paid-up right and license to use, reproduce, modify, adapt and disclose, and to sublicense others to use, reproduce, modify, adapt and disclose all Deliverables and all Proprietary Intellectual Property necessary for the performance of the Project Services; provided that ODOT shall have the right to exercise such license rights only during the Term (without giving effect to any early termination) in connection with the exercise of its remedies pursuant to subsection 12.2(D) (Other Remedies Upon Contractor Event of Default). The Contractor shall provide ODOT with copies of such Deliverables and Proprietary Intellectual Property to the extent necessary to continue and complete the performance of the Project Services in the exercise of such rights. All Proprietary Intellectual Property shall remain exclusively the property of the Contractor or its Affiliates or Subcontractors that supply the same, notwithstanding such delivery. ODOT's right to transfer such license is limited to any Governmental Body that succeeds to ODOT's interests in all or any portion of the Project, and the right to sublicense is limited to concessionaires, contractors, subcontractors, employees, attorneys, consultants and agents that are retained by or on behalf of ODOT or any permitted transferee in connection with the exercise of remedies pursuant to subsection 12.2(D) (Other Remedies Upon Contractor Event of Default). The Contractor shall obtain the contractual commitment of each Subcontractor or Affiliate from which the Contractor obtains Proprietary Intellectual Property to provide for the same license and sublicense rights to ODOT and its permitted transferees as are provided by the Contractor under this Section so that the provisions of this Section will be applicable with respect to all Proprietary Intellectual Property. Nothing in this Section shall be construed to prohibit or limit ODOT from disclosing Deliverables or any other information in its possession pursuant to the public records requirements of Applicable Law.

ARTICLE 5

PRE-CONSTRUCTION PHASE

SECTION 5.1. COMMENCEMENT OF PRE-CONSTRUCTION PHASE.

The Pre-Construction Phase shall commence upon the date of issuance of the Notice to Proceed with the Pre-Construction Phase. Promptly upon issuance of such Notice to Proceed and without limiting any other requirement hereunder, the Contractor shall proceed to complete all Project Services necessary to satisfy the conditions to the commencement of the Construction Phase.

SECTION 5.2. PROJECT SCHEDULE.

Within ten (10) Business Days following the Contract Effective Date and as a condition precedent to the issuance of the Notice to Proceed with the Pre-Construction Phase, the Contractor shall submit to ODOT for its approval, acting reasonably, a baseline, critical path “**Project Schedule**” for the performance of all Project Services necessary to achieve the Operations Commencement Date. The Contractor shall update and maintain the Project Schedule throughout both the Pre-Construction Phase and the Construction Phase and shall submit updates to ODOT, together with a written progress report (as specified in subsection 10.1(A) (Pre-Construction Phase and Construction Phase Reports)), on a monthly basis until the Operations Commencement Date. Each such update shall compare progress of the performance of the Project Services against the scheduled completion dates in the approved baseline Project Schedule, and no update to the Project Schedule may change any Scheduled Milestone Date absent the approval of ODOT, acting reasonably. The Project Schedule shall include the time necessary for ODOT to review and comment on each Deliverable requiring ODOT approval or review and comment. Unless otherwise agreed to by ODOT in its discretion, ODOT will have a period of not less than thirty (30) days for each Project Plan submittal and for each design Deliverable requiring ODOT review and comment.

SECTION 5.3. PROJECT PLAN.

(A) Project Plan Generally. Promptly following issuance of the Notice to Proceed with the Pre-Construction Phase and by no later than the date set forth in the approved baseline Project Schedule, the Contractor shall complete and submit to ODOT for its approval, acting reasonably, the Project Plan. The “**Project Plan**” shall be prepared in accordance with all other Project Requirements and Standards and shall detail the Contractor’s plan for the performance of all aspects of the Project Services, including design development and completion, procurement and subcontracting, construction and installation, commissioning and testing, safety and security (including cybersecurity), operations and maintenance, quality assurance and quality control, communications, reporting, customer service and price setting. The Contractor may complete the Project Plan in stages, as determined by mutual agreement with ODOT and in accordance with the approved baseline Project Schedule; provided that, the Contractor may not commence nor permit the commencement of any other Project Services until the relevant component parts of the Project Plan governing the performance of such Project Services have been approved by ODOT. The Contractor shall maintain the Project Plan throughout the Term and shall update the Project Plan as required or as circumstances warrant, with each such update subject to ODOT approval, acting reasonably.

(B) ODOT Review of Project Plan. The standard of review by ODOT of the Project Plan, including each update thereto, will be compliance with all other Project Requirements and Standards. ODOT may indicate preferences in its review of the Project Plan but may only withhold approval for incompleteness or failure of compliance with the applicable

Project Requirements and Standards. No approval by ODOT of the Project Plan or any other Deliverable will serve to transfer any responsibility for the performance of the Project Services from the Contractor to ODOT.

SECTION 5.4. DESIGN RESPONSIBILITY.

(A) Performance of the Design Work. The Contractor shall develop the design of the Project in accordance with the Project Requirements and Standards, including the approved Project Plan, which shall specify all design Deliverables for review and comment by ODOT. At a minimum, design Deliverables for review and comment by ODOT shall include a basis of design report (unless satisfied by information contained in the Proposal, as determined by ODOT in its discretion), a fifty percent (50%) design package and a ninety percent (90%) design package. The Contractor shall provide written responses to each ODOT comment but shall not be required to make changes other than as necessary to achieve compliance with the Project Requirements and Standards. All other design documents, including final design documents and record drawings, shall be provided to ODOT for its informational purposes in accordance with the Project Schedule and shall be in compliance with the Project Requirements and Standards.

(B) Design Requirements. The Project design shall include the Contractor's plans and specifications for all Project Site improvements, including Chargers, Project Site layout, traffic control devices and on-site signage, as well as interoperability and connectivity of charging infrastructure (as provided in 23 C.F.R. § 680.108), accessibility, data privacy, communications and payment methods, all in accordance with the NEVI Final Rule and all other Project Requirements and Standards.

(C) Sole Responsibility and Liability. The Contractor shall have the sole and exclusive responsibility and liability for the Project design and shall be responsible for the professional quality, technical accuracy, timely completion and coordination of all design professional services. Neither ODOT nor any ODOT Representative shall have any responsibility for the design professional services performed by or on behalf of the Contractor or any responsibility for discovering deficiencies in the design documents, notwithstanding any ODOT review of or comment on the same.

SECTION 5.5. GOVERNMENTAL APPROVALS.

The Contractor shall prepare all filings, applications, and reports and take all other action necessary to obtain and maintain, and shall obtain and maintain, all Governmental Approvals necessary to commence construction and to continue and complete the Project Services in accordance with the Project Requirements and Standards. The Contractor shall be responsible for identifying, obtaining, and maintaining any Governmental Approvals required for the performance of the Project Services, regardless of whether or not any such Governmental Approval is specifically identified in this Contract. The Contractor shall bear the risk of timely obtaining all required Governmental Approvals and of the terms and conditions that may be imposed by any Governmental Body in connection with any Governmental Approval.

SECTION 5.6. EVSE PROCUREMENT AND BUY AMERICA REQUIREMENTS.

(A) EVSE Procurement. The Contractor shall procure Devices, including all EVSE, in accordance with the approved Project Plan and all other Project Requirements and Standards.

(B) Buy America Requirements. The Contractor shall, and shall cause all of its Subcontractors to, comply with the FHWA Buy America requirements in 23 U.S.C. § 313 and 23 C.F.R. § 635.410 and in the Build America, Buy America Act (Pub. L. No. 117-58, div. G §§ 70901-70927), which, together, require that only domestic steel, iron, manufactured products

and construction materials be used on the Project, unless a waiver has been granted by the FHWA. The Contractor shall be solely responsible for complying with and meeting the conditions of any limited waiver that may be in effect as of the Contract Effective Date and during the Term, and the Federal Share payments shall be conditioned on compliance by the Contractor and its Subcontractors with the Buy America requirements, including, to the extent applicable, the conditions of any such limited waiver.

(C) Certification of Chargers. As required by the NEVI Final Rule, the Contractor shall provide for certification of all Chargers by an OSHA nationally recognized testing laboratory.

ARTICLE 6

CONSTRUCTION PHASE

SECTION 6.1. COMMENCEMENT OF CONSTRUCTION PHASE.

In no event shall the Contractor commence or permit the commencement of any construction prior to the satisfaction of the following conditions:

- (1) the Contractor shall have obtained ODOT's approval of all relevant component parts of the Project Plan governing the performance of the Project Services to be performed during the Construction Phase;
- (2) the Contractor shall have certified that it has completed all pre-construction requirements set forth in the approved Project Plan and shall have provided ODOT with an updated Project Schedule, all in accordance with the Project Requirements and Standards;
- (3) the Contractor shall have complied with the design submittal requirements set forth in subsection 5.4(A) (Performance of the Design Work) to the extent necessary to commence construction, as specified in the approved Project Plan;
- (4) the Contractor shall have satisfied all requirements of Applicable Law with respect to the commencement of construction, shall have obtained all Governmental Approvals required for the commencement of construction, and shall have provided copies of such Governmental Approvals to ODOT;
- (5) the Contractor shall have provided evidence satisfactory to ODOT that the Performance Bond and Payment Bond (or any alternate security accepted pursuant to subsection 16.1(C) (Alternative to Performance and Payment Bonds)) are in place and remain in full force and effect;
- (6) the Contractor shall have provided ODOT with certificates of insurance for all Required Insurance applicable for the Construction Phase; and
- (7) ODOT shall have issued a Notice to Proceed with Construction.

SECTION 6.2. SEQUENCING OF WORK.

The Contractor may complete the construction and installation work in stages, with particular segments being designed and constructed prior to the completion of the design of the Project as a whole. However, the Contractor shall comply with all requirements of Applicable Law and shall not commence construction or installation of any particular segment prior to issuance of a Notice to Proceed with the Construction Phase following satisfaction of all preconditions specified in Section 6.1 (Commencement of Construction Phase). The approved Project Plan shall specify the level of design completion necessary for the issuance of the Notice to Proceed with the Construction Phase. To the extent any design services remain to be performed following the issuance of such Notice to Proceed, the Contractor shall complete such design services during the Construction Phase in accordance with the Project Requirements and Standards.

SECTION 6.3. CONSTRUCTION AND INSTALLATION WORK.

(A) Performance of Construction and Installation Work. Promptly following issuance of the Notice to Proceed with the Construction Phase, the Contractor shall perform,

supervise, direct, and inspect the construction and installation work competently and efficiently, devoting the attention and applying the skills and expertise necessary to perform such work in accordance with the Project Requirements and Standards. The Contractor shall be solely responsible for and will have control over the means, methods, techniques, sequences and procedures of construction, including safety precautions and programs, and the coordination of the various elements of the construction and installation work. The Contractor shall also be responsible for all quality assurance and quality control activities necessary to manage the construction and installation work, and shall undertake all aspects of such quality assurance and quality control activities in accordance with the Project Requirements and Standards.

(B) Project Site. The Contractor shall keep the Project Site neat and orderly at all times during the performance of the construction and installation work and shall perform such work efficiently, safely, and without interfering with the use of adjacent areas or causing complaints from other contractors, adjacent property owners, public officials or members of the public. The Contractor shall be solely responsible for complying with the terms of the Site Host Agreement (if applicable).

(C) Construction Monitoring, Observations and Investigations. ODOT and the ODOT Representative shall have the right at all reasonable times to monitor, inspect, observe and conduct investigations of the construction and installation work to verify compliance with the Project Requirements and Standards. Neither ODOT nor any ODOT Representative shall unreasonably interfere with the Project Services in connection with such monitoring activities, and such monitoring activities will not serve to transfer any responsibility for the Project Services from the Contractor to ODOT or any ODOT Representative.

SECTION 6.4. UTILITY WORK.

The Contractor shall be responsible for coordinating with the applicable corresponding utility provider and for all utility work necessary for the Project, including any relocation (temporary or permanent), abandonment, protection in place, reinstallation and/or modification of existing utilities necessary to perform the Project Services, including to accommodate construction and the operation, maintenance and use of the Project. The Project is subject to, and the Contractor shall comply with, 23 C.F.R Part 645, Subpart A, and all applicable FHWA policies associated with such work.

SECTION 6.5. COMMISSIONING AND TESTING.

The Contractor shall commission and test the Project promptly following substantial completion of all construction, installation and utility work and in no event later than by the date specified in the approved Project Schedule. Commissioning and testing shall be performed in accordance with the approved Project Plan and all other Project Requirements and Standards, and must demonstrate that the Project meets the Project Requirements and Standards as a condition precedent to the Operations Commencement Date. The Contractor shall coordinate with the ODOT Representatives for all aspects of commissioning and testing, including to enable the ODOT Representatives to witness each test, and shall provide ODOT with a testing report detailing the extent to which the Project meets the Project Requirements and Standards.

SECTION 6.6. OPERATIONS COMMENCEMENT DATE.

The Notice to Proceed with the O&M Phase will specify the Operations Commencement Date, and ODOT shall issue such Notice to Proceed upon completion of all Construction Phase responsibilities of the Contractor, including successful demonstration through commissioning and testing that the Project meets all Project Requirements and Standards, completion of all final cleanup and punch list work necessary to enable customers to

access and use the Project and satisfaction of all other conditions precedent to the Operations Commencement Date specified in this Section. Without limiting the foregoing, the conditions precedent to the Operations Commencement Date include:

- (1) the Contractor shall have certified completion of all Construction Phase responsibilities in accordance with this Article and shall have provided ODOT with all testing reports required by the Project Plan and with a certification from the Contractor's architect or engineer of record that the Project has been completed in accordance with the plans and specifications;
- (2) the Contractor shall have obtained ODOT's approval of all relevant component parts of the Project Plan governing the performance of the Operations and Maintenance Services;
- (3) the Contractor shall have satisfied all requirements of Applicable Law with respect to the commencement of the O&M Phase, shall have obtained all Governmental Approvals required for such commencement, and shall have provided copies of such Governmental Approvals to ODOT;
- (4) the Contractor shall have provided evidence satisfactory to ODOT that the security for performance required by Section 16.2 (Performance Security for the O&M Phase) is in place and in full force and effect;
- (5) the Contractor shall have provided ODOT with certificates of insurance for all Required Insurance applicable for the O&M Phase; and
- (6) ODOT shall have issued a Notice to Proceed with the O&M Phase.

ARTICLE 7

O&M PHASE

SECTION 7.1. PERFORMANCE OF O&M SERVICES.

Commencing on the Operations Commencement Date, the Contractor shall perform or provide for the performance of the Operations and Maintenance Services in accordance with the Project Requirements and Standards, and shall cause the Project to be available for use and physically accessible to the public twenty-four (24) hours per day, seven (7) days per week, year-round, for the remainder of the Term.

SECTION 7.2. ODOT RIGHT TO OBSERVE O&M SERVICES.

ODOT and the ODOT Representatives shall have the right to enter any and all parts of the Project Site at any time during the O&M Phase for purposes of observing the performance of the Operations and Maintenance Services and inspecting the Project. Neither ODOT nor any ODOT Representative shall unreasonably interfere with the performance of the Operations and Maintenance Services or the Project during any such observations or inspections, which shall not serve to transfer any responsibility for the Project Services from the Contractor to ODOT or any ODOT Representative.

SECTION 7.3. UPTIME REQUIREMENT.

(A) Calculation of Uptime. The Contractor shall ensure that each Port has an average annual uptime of greater than ninety-seven percent (97%) (the “**Uptime Requirement**”), where:

(1) a Port is considered “up” when its hardware and software are both online and available for use, or in use, and the Port is capable of dispensing (and, if in use, successfully dispenses) electricity in accordance with the requirements for minimum power level specified in 23 C.F.R. § 680.106(d)(1); and

(2) Port uptime is calculated on a monthly basis for the previous twelve (12) months using the equation specified in 23 C.F.R. § 680.116(b)(3).

Scheduled maintenance will be excluded from the uptime calculation per the equation referenced above only to the extent provided in the approved Project Plan, which will provide for scheduled maintenance during periods of anticipated low demand to minimize disruption to customers. Additionally, the Contractor shall ensure that downtime for each individual Port does not exceed seventy-two (72) consecutive hours, and in no event will downtime in excess of such requirement be excluded as scheduled maintenance per the uptime calculation equation.

(B) Records of Uptime Requirement Compliance. The Contractor shall maintain records of Uptime Requirement compliance, including its monthly calculations pursuant to clause 2 of subsection 7.3(A) above, which records shall be available to ODOT upon request, organized in accordance with guidance established by the Joint Office of Energy and Transportation ([Electric Vehicle Charging Analytics and Reporting Tool \(EV-ChART\) · Joint Office of Energy and Transportation \(driveelectric.gov\)](#)) and summarized in each quarterly report required pursuant to subsection 10.1(B) (O&M Phase Reports). Such records and summaries shall include identification of all excluded downtime per the equation referenced above, and the Contractor shall be responsible for providing all information necessary to verify and substantiate that any excluded downtime is permissible under 23 C.F.R. § 680.116(b)(3) and this Contract.

(C) Remediation. If the Contractor is not in compliance with the Uptime Requirement as of any quarterly reporting date (as provided in subsection 10.1(B) (O&M Phase Reports)), the Contractor shall propose a remediation plan to ODOT for its approval (acting reasonably) and shall carry out the approved remediation plan in accordance with its terms.

SECTION 7.4. MAINTENANCE.

The Contractor shall perform all maintenance, including both routine and major or capital maintenance, necessary to meet the Uptime Requirement and all other Project Requirements and Standards. The Contractor shall maintain the Project Site in a neat and orderly condition, maintain and repair all fencing (if any) and signage and provide for landscaping and grounds maintenance in accordance with the approved Project Plan.

SECTION 7.5. SAFETY AND SECURITY.

(A) Generally. The Contractor shall provide all safety and security enhancements specified for the Project Site in Appendix 3 (Proposal Extracts), shall detail its safety and security procedures in the Project Plan and shall comply with and cause all other Contractor Team Members to comply with the approved Project Plan in the performance of the Operations and Maintenance Services. The physical security and cybersecurity components of the Project Plan must be consistent with the Oklahoma NEVI Plan, include security strategies consistent with 23 C.F.R. § 680.106(h) and be updated at least annually throughout the Term.

(B) Cybersecurity. Cybersecurity measures with respect to payment information and processing must meet or exceed the latest Payment Card Industry Data Security Standard (PCI-DSS) information security standards, and the Contractor shall provide for software updates in a timely manner to prevent a breach of cardholder data. The Contractor shall additionally ensure that data information encryption measures are in accordance with National Institute of Standards and Technology (NIST) guidelines, that employees or others involved in EVSE operation and maintenance with access to equipment and user data are located within the United States and that independent audits are performed at least annually by a third-party qualified security assessor.

SECTION 7.6. CUSTOMER SERVICE.

The Contractor shall provide mechanisms for customers to report outages, malfunctions and other issues associated with the Project in accordance with the commitments set forth in Appendix 3 (Proposal Extracts) and in the approved Project Plan. All reporting mechanisms must be in compliance with the Americans with Disabilities Act of 1990, as amended and including all associated regulations, and must provide for multilingual access. The Contractor shall maintain records of customer complaints, which records will be available to ODOT upon request.

SECTION 7.7. THIRD-PARTY DATA SHARING.

The Contractor shall make all data fields specified in 23 C.F.R. § 680.116(c) available, free of charge, to third-party software developers via application programming interface.

SECTION 7.8. PRICING AND PAYMENT METHODS.

The price charged to customers of the Project for electric vehicle charging must be reasonable and consistent with the permissible use of Project revenues, as established by 23 C.F.R. § 680.106(m). The Contractor shall set pricing in accordance with the approved Project Plan and shall comply with all pricing requirements of 23 C.F.R. § 680.116(a), provide for

payment methods compliant with 23 C.F.R. § 680.106(f) and provide for the protection of customer data privacy in accordance with the requirements of 23 C.F.R. § 680.106(l).

SECTION 7.9. REVENUES.

The Contractor shall be permitted to collect and retain Project revenues, subject to the requirements of 23 C.F.R. § 680.106(m) and ODOT's Event of Default remedies. The Contractor shall implement and maintain accounting practices and procedures sufficient to enable verification of compliance with the requirements of 23 C.F.R. § 680.106(m).

ARTICLE 8

PERSONNEL, LABOR, AND SUBCONTRACTORS

SECTION 8.1. RESPONSIBILITY FOR CONTRACTOR TEAM MEMBERS.

The Contractor shall be fully responsible, in accordance with the terms and conditions of this Contract, for all Project Services performed by its personnel, including all Subcontractors and all other Contractor Team Members. The Contractor shall, as between itself and ODOT, be responsible and liable to ODOT for, and not relieved of its obligations under this Contract by, the acts, omissions, breaches, defaults, non-compliance, negligence, willful misconduct or other legal fault of any Subcontractor or other Contractor Team Member. The Contractor shall promptly remedy any damage or loss to persons or property caused in whole or in part by the Contractor or any other Contractor Team Member.

SECTION 8.2. STAFFING.

The Contractor shall provide for staffing of the performance of the Project Services with qualified personnel who meet all applicable licensing and certification requirements imposed by Applicable Law. All persons engaged by any Contractor Team Member in the performance of the Project Services must have the requisite skills for the tasks assigned. As required by 23 C.F.R. § 680.106(j):

(1) except as provided in clause 2 below, all electricians installing operating or maintaining EVSE must meet one of the following requirements:

(a) certification from the Electric Vehicle Infrastructure Training Program (EVITP); or

(b) graduation or a continuing education certificate from a registered apprenticeship program for electricians that includes Charger-specific training and is developed as a part of a national guideline standard approved by the United States Department of Labor in consultation with the United States Department of Transportation;

(c) if the Project requires more than one electrician, at least one electrician must meet the requirements of clause 1 above, and at least one electrician must be enrolled in an electrical registered apprenticeship program; and

(2) all other onsite, non-electrical workers directly involved in the installation, operation and maintenance of Chargers must have graduated from a registered apprenticeship program or have appropriate licenses, certifications and training as required by the State.

SECTION 8.3. PROFESSIONAL SERVICES.

All Contractor Team Members performing professional engineering or design services as part of the Project Services, including business entities and individuals, must be licensed, registered and/or authorized to perform such services in the State in accordance with the requirements of Applicable Law. Working and final design drawings for the Project must bear the seal and signature of a professional engineer registered in the State.

SECTION 8.4. LABOR REQUIREMENTS.

(A) Federally Required Contract Clauses. This Contract incorporates by reference Form FHWA-1273, as set forth in Appendix 4 (Form FHWA-1273), containing federally required contract clauses, and the Contractor shall comply, and cause all of its Subcontractors to comply, with all requirements set forth or referenced therein (excluding only Sections VI.1 and VI.2 thereof, given the design-build nature of this Contract). These requirements include, without limitation, federal nondiscrimination, prevailing wage (Davis-Bacon Act), subcontracting, safety, non-debarment and non-lobbying requirements.

(B) Prevailing Wages. Pursuant to Form FHWA-1273 and without limiting any other requirement thereof, the Contractor shall, and shall cause all Subcontractors to, pay federal prevailing wages determined in accordance with 23 U.S.C. § 113. Failure to pay the prevailing wage rate or to comply with such requirements, guidance, and regulations is a material breach of this Contract. The Contractor shall keep and maintain payroll and other relevant information in order to permit ODOT to monitor compliance with these requirements, and shall furnish certified copies of such payrolls and other information to ODOT or its designee upon request.

(C) State Labor Requirements. The Contractor shall additionally comply with all applicable State labor requirements and regulations, and shall register and participate, and cause its subcontractors to register and participate, in the Status Verification System (as defined in 25 O.S. § 1312).

(D) Labor Disputes. As between the Contractor and ODOT, the Contractor shall have exclusive responsibility for labor disputes among its employees and the employees of its Subcontractors. The Contractor shall have exclusive responsibility for disputes or jurisdictional issues among unions or trade organizations representing employees of the Contractor or its Subcontractors, whether pertaining to organization of the Project Services, employee hiring, or any other matters, and no labor disputes, strikes, slowdowns, stoppages, boycotts, or disruption shall constitute a Force Majeure Event or otherwise relieve the Contractor from its obligations hereunder to perform the Project Services. ODOT shall have no responsibility whatsoever for any such disputes or issues, and the Contractor shall indemnify, defend, and hold harmless ODOT and the other Indemnified Parties in accordance with and to the extent provided in Section 15.1 (Contractor's Obligation to Indemnify) from and against all Loss-and-Expense resulting from any such labor dispute.

(E) Notice of Labor Disputes. If the Contractor has knowledge of an actual or potential labor dispute that may affect any of the Project Services, the Contractor shall promptly:

- (1) give notice thereof to ODOT, including all relevant information related to the dispute of which the Contractor has knowledge; and
- (2) take all reasonable steps to ensure that such labor dispute does not affect the performance of any of the Project Services, including by applying for relief to appropriate forums or courts.

SECTION 8.5. SUBCONTRACTING AND SUPPLIERS.

(A) Right to Subcontract. The Contractor shall enter into Subcontracts with the Subcontractors identified in Appendix 3 (Proposal Extracts) to perform the Project Services specified therein. Any other subcontracting for the performance of Project Services shall be subject to the prior written approval of ODOT, acting reasonably. No Contractor Team Member

may enter into any Subcontract, whether initially or as a replacement, with any person that is a Restricted Person or that lacks the qualifications to perform the applicable Project Services. The approval or withholding thereof by ODOT of any proposed Subcontractor shall not create any liability of ODOT to the Contractor, to third parties, or otherwise, and the Contractor shall remain responsible for performing all Project Services in accordance with the Project Requirements and Standards. The Contractor shall provide ODOT with all information reasonably requested by ODOT in considering any proposed Subcontractor.

(B) Subcontract Terms and Conditions. All Subcontracts shall be in writing and shall require the applicable Subcontractor, to the extent of the Project Services to be furnished or performed under the Subcontract, to be bound by the applicable terms and conditions of this Contract, and each Subcontract shall preserve and protect the rights of ODOT with respect to the Project Services to be furnished or performed under the Subcontract, so that the subcontracting thereof will not prejudice or otherwise affect ODOT's rights under this Contract. The Contractor shall retain full responsibility to ODOT under this Contract for all matters related to the Project Services, notwithstanding the execution of, or the terms and conditions contained in, any Subcontract. The Contractor shall pay all Subcontractors promptly and in accordance with the terms of each Subcontract and the requirements of Applicable Law.

(C) ODOT-Approved Suppliers. If the Project requires more than ten (10) cubic yards of concrete, the Contractor shall use only ODOT-approved Suppliers of concrete. Similarly, if the Project requires more than thirteen (13) cubic yards of asphalt, the Contractor shall only use ODOT-approved Suppliers of asphalt.

(D) Replacement. No Contractor Team Member shall contract with any Restricted Person for the performance of Project Services, and the Contractor shall, at no additional cost to ODOT, promptly replace any Contractor Team Member with a replacement reasonably acceptable to ODOT if such Contractor Team Member becomes a Restricted Person during the course of the performance of the Project Services.

(E) Subcontractor Claims. The Contractor shall pay or cause to be paid to all Subcontractors all amounts due in accordance with their respective Subcontracts and the requirements of Applicable Law. The Contractor shall be responsible for settling and resolving with all Contractor Team Members all claims arising from the actions or inactions of the Contractor or any other Contractor Team Member. No Contractor Team Member shall have any right or claim against ODOT for labor, services, materials, or equipment furnished for the Project Services. The Contractor acknowledges that its indemnity obligations under Article 14 (Indemnification) shall extend to all claims for payment or damages by any Subcontractor, or other person who furnishes or claims to have furnished any labor, services, materials, or equipment in connection with the Project Services. The Contractor shall, at an ODOT Representative's request, furnish satisfactory evidence that all obligations of the nature described in this Section have been paid, discharged, or waived.

ARTICLE 9

FEDERAL SHARE PAYMENTS

SECTION 9.1. MAXIMUM PAYMENT AMOUNT.

(A) Maximum Payment Amount Generally. The maximum amount payable by ODOT to the Contractor for the performance of the Project Services shall be the lesser of (1) \$[_____]² and (2) eighty percent (80%) of the total Eligible Project Costs. The Contractor shall be solely responsible for all Project costs exceeding such maximum amount payable, and shall pay all costs necessary to perform the Project Services. By executing this Contract, the Contractor certifies (a) that it has on hand or will obtain when necessary the funds needed to perform its obligations under this Contract and (b) that it, and not ODOT, shall be responsible for funding and paying all costs in excess of such maximum amount payable.

(B) Conditions to Federal Share Payments. ODOT's obligation to make any Federal Share payment to the Contractor is conditioned on the Contractor's compliance with all material terms and conditions of this Contract, including the submission of properly documented invoices, the provision of required information and reports and the implementation and performance of the Project in accordance with the Project Requirements and Standards. Subject to the foregoing, ODOT shall pay the Contractor all Federal Share payments within forty-five (45) days following the submittal and approval of each completed invoice in accordance with applicable State law and the requirements of this Contract.

SECTION 9.2. MILESTONE REIMBURSEMENT OF ELIGIBLE PROJECT COSTS.

(A) Milestone Payments Generally. Subject to the maximum payment limitations specified in subsection 9.1(A), ODOT shall reimburse the Contractor for Eligible Project Costs incurred by or for the account of the Contractor during the Pre-Construction Phase and the Construction Phase in accordance with the milestone payment schedule set forth in subsection 9.2(B) below, subject to the Security Holdback. The Contractor shall document total Eligible Project Costs throughout such period and shall provide such documentation to ODOT to substantiate the amount payable with each payment invoice, together with all other information reasonably requested by ODOT to verify compliance with this Contract. Each invoice shall be in a form approved by ODOT.

(B) Milestone Payment Schedule. Subject to subsection 9.2(A), payments attributable to the Pre-Construction Phase and the Construction Phase shall not exceed \$[_____]³ and shall be made in accordance with the following:

- (1) ten percent (10%) of such amount upon execution of a purchase order with the EVSE Suppliers for the Project;
- (2) ten percent (10%) of such amount upon completion of Project design;

² **Note:** This will be the total amount of the award, including both capital cost and any O&M costs awarded (if applicable). If O&M costs are not awarded, these provisions should be modified to anticipate only capital cost payments.

³ **Note:** This will be the total amount of the capital cost awarded.

(3) fifty percent (50%) of such amount upon completion of construction and installation of the Project;

(4) ten percent (10%) of such amount upon the achievement of the Operations Commencement Date; and

(5) the remaining twenty percent (20%) of such amount shall be payable as part of the Security Holdback pursuant to Section 9.4 (Security Holdback).

SECTION 9.3. MONTHLY REIMBURSEMENT OF ELIGIBLE O&M COSTS.

(A) Federal Share Payments for O&M Services. ODOT⁴ shall pay the Contractor Federal Share payments for the Operations and Maintenance Services on a monthly basis following the Operations Commencement Date and for the remainder of the Term, with each monthly payment equal to one twelfth (1/12th) of the total annual amount (calculated as the total amount awarded for Operations and Maintenance Services, less twenty percent (20%) to account for the Security Holdback, divided by five (5)) and subject to the maximum payment limitations specified in subsection 9.1(A). If the Operations Commencement Date occurs on any day other than the first (1st) of the month, the monthly payment amount for the first and last months of the Term shall be prorated to account for such partial months.

(B) Invoices for Monthly Reimbursements of O&M Costs. The Contractor shall submit an invoice for each monthly payment for the Operations and Maintenance Services, which will correspond to the Operations and Maintenance Services performed during the prior month. Each of the monthly invoices for the months of March, June, September and December must be accompanied by the quarterly report required by clause (1) of subsection 10.1(B) (O&M Phase Reports), and each monthly invoice for the month of December must additionally be accompanied by the annual report required by clause (2) of subsection 10.1(B) (O&M Phase Reports). The final invoice must be accompanied by the report required by clause (4) of subsection 10.1(B) (O&M Phase Reports). Each invoice shall be in a form approved by ODOT and shall be accompanied by such additional information as may be reasonably requested by ODOT to verify compliance with this Contract.

SECTION 9.4. SECURITY HOLDBACK.

(A) Security Holdback Generally. As security for the performance of the Operations and Maintenance Services, including compliance with the Uptime Requirement, twenty percent (20%) of the total Federal Share payments payable by ODOT, including twenty percent (20%) of all milestone payments in respect of the Pre-Construction Phase and the Construction Phase [and twenty percent (20%) of the total amount of Federal Share payments payable for the Operations and Maintenance Services]⁵ (collectively, the “**Security Holdback**”), will be withheld by ODOT and paid to the Contractor, without interest, on a semi-annual basis following the Operations Commencement Date and for the remainder of the Term, subject to the terms specified in this Section 9.4.

(B) Payment of Security Holdback. ODOT shall pay to the Contractor ten percent (10%) of the total amount of the Security Holdback as of each June 30 and December 31 occurring after the Operations Commencement Date and prior to the end of the Term (each a

⁴ **Note:** Provision applicable only if O&M costs have been awarded and should be removed and replaced with “Reserved” if there are no O&M payments awarded for the Contract.

⁵ **Note:** Modify as applicable.

“Semi-Annual Date”) and, if other than a Semi-Annual Date, as of the last day of the Term, subject to the following:

(1) the Contractor has met the Uptime Requirement as of the applicable Semi-Annual Date and has provided all information required by this Contract, including all information required in order for ODOT to verify compliance;

(2) for each Semi-Annual Date occurring prior to the first (1st) anniversary of the Operations Commencement Date, pro rata adjustments may be made to account for the period of less than twelve (12) months in calculating the annual average Uptime Requirement;

(3) if the period between the Operations Commencement Date and the first Semi-Annual Date is less than three (3) months, the amount otherwise payable on such Semi-Annual Date will not be payable but will carry forward and be added to the amount payable on the subsequent Semi-Annual Date;

(4) any Security Holdback amount not paid to the Contractor due to failure of compliance with clause 1 above as of the first Semi-Annual Date as of which a payment of the Security Holdback is otherwise payable will be paid in connection with the second such Semi-Annual Date if the Contractor is in compliance with clause 1 above as of such second Semi-Annual Date; and

(5) the final Security Holdback payment will be made following the end of the Term based on the information provided pursuant to clause 4 of subsection 10.1(B) (O&M Phase Reports) and demonstrated compliance with the Uptime Requirement as of the last day of the Term.

(C) ODOT Reserved Rights. ODOT reserves the right, in its discretion, to make partial payment of any Security Holdback payment amount based on the extent of compliance with the Uptime Requirement as of the applicable Semi-Annual Date (or as of the last day of the Term), as well as the right to make any payment withheld as of a Semi-Annual Date in connection with the immediately succeeding Semi-Annual Date if the Contractor has implemented the approved remediation plan and achieved compliance with the Uptime Requirement as of such immediately succeeding Semi-Annual Date. However, except as provided in clause 4 of subsection (B) of this Section with respect to the second Semi-Annual Date as of which a payment of the Security Holdback is payable, the Contractor shall not have any entitlement to payment of any amount against the Security Holdback if the Contractor is not in compliance with the Uptime Requirement as of the applicable Semi-Annual Date or, for the final Security Holdback payment, as of the last day of the Term.

(D) Security Holdback Invoices. The Contractor shall submit an invoice for payment against the Security Holdback each July and January following the Operations Commencement Date (which will cover the period ending June 30 or December 31, as applicable) and within thirty (30) days following the last day of the Term. Such invoices may be combined with the applicable invoice for the monthly payments pursuant to Section 9.3, if applicable, and must include all information specified for the applicable invoice in such Section.

SECTION 9.5. OFFSET RIGHTS.

ODOT shall not be required to make any Federal Share payment following the occurrence and during the continuance of any Event of Default by the Contractor. Additionally, ODOT may offset any Federal Share payment by the amount of any payments due and owing by

the Contractor to ODOT pursuant to this Contract, including with respect to any indemnification payments.

SECTION 9.6. NO OTHER ODOT PAYMENT OBLIGATION.

(A) Generally. ODOT has no payment obligation to the Contractor under this Contract other than the obligation to make the Federal Share payments in accordance with this Article 9. All costs in excess of the Federal Share payments, including cost overruns and unforeseen costs, are the responsibility of the Contractor.

(B) Contractor Responsibility for Taxes. The Contractor is responsible for the payment of all taxes assessed in connection with the Project, including any property taxes in respect of the Project Site and any sales and use taxes in connection with the performance of the Project Services. As the Project will not be owned by ODOT, ODOT's exemption from sales and use taxes is not applicable for purchases made by or for the account of the Contractor for the Project.

SECTION 9.7. NO ACCEPTANCE, WAIVER, OR RELEASE.

Unless other provisions of this Contract specifically provide to the contrary, none of the following, without limitation, shall be construed as (i) ODOT's acceptance of any construction and installation work which is defective, incomplete, or otherwise not in compliance with this Contract, (ii) ODOT's release of the Contractor from any obligation under this Contract, (iii) ODOT's extension of the Contractor's time for performance, (iv) an estoppel against ODOT, or (v) ODOT's acceptance of any claim by the Contractor:

- (1) ODOT's payment to the Contractor or any other person with respect to performance of the Project Services;
- (2) the review, consent, approval, or acceptance, as applicable, of any submissions, permit applications, punch lists, other documents, certifications, or construction and installation work of the Contractor or any other Contractor Team Member by ODOT, any ODOT Representative or any other person;
- (3) the review of (or failure to prohibit) any construction applications, means, methods, techniques, sequences, or procedures for the construction and installation work by ODOT, ODOT's contract representative, or any other person;
- (4) the entry at any time on the Project Site (including any area in which the construction and installation work is being performed) by ODOT, any ODOT Representative or any other person;
- (5) any observation, inspection, or testing of (or failure to observe, inspect, or test) any construction and installation work (whether finished or in progress) by ODOT, any ODOT Representative or any other person;
- (6) the failure of ODOT, ODOT's contract representative or any other person to respond in writing to any notice or other communication of the Contractor; or
- (7) any other exercise of rights or failure to exercise rights by ODOT hereunder.

ARTICLE 10

REPORTING AND RECORDKEEPING

SECTION 10.1. PERIODIC REPORTS AND INFORMATION ACCESS.

(A) Pre-Construction and Construction Phase Reports. Prior to the Operations Commencement Date, the Contractor shall provide ODOT with a written monthly report of its progress toward achieving the Operations Commencement Date, with each such monthly report including an update to the Project Schedule, the status of all Governmental Approvals, notification of any material issues affecting progress, a look-ahead of key activities upcoming in the subsequent sixty (60) days and such other information as ODOT may reasonably request.

(B) O&M Phase Reports. On and after the Operations Commencement Date, the Contractor shall provide ODOT with access to its electronic information system providing real-time data on Project performance and will provide ODOT with the following written reports:

(1) commencing with the end of the first calendar quarter occurring after the Operations Commencement Date and continuing for each calendar quarter occurring during the Term, a quarterly report containing all information required by 23 C.F.R. § 680.112(a), including all information required to demonstrate compliance with the Uptime Requirement, as specified in Section 7.3 (Uptime Requirement);

(2) commencing with the end of the first calendar year occurring after the Operations Commencement Date and continuing for each calendar year occurring during the Term, an annual report containing all information required by 23 C.F.R. § 680.112(b);

(3) at least fifteen (15) days prior to the first March 1 occurring after the Operations Commencement Date, a report containing all information required by 23 C.F.R. § 680.112(c); and

(4) at the end of the Term, a report containing all information required by clauses (1) and (2) above from the date of the last applicable report through the end of the Term

The Contractor shall prepare each such O&M Phase report in accordance with the guidance established by the Joint Office of Energy and Transportation ([Electric Vehicle Charging Analytics and Reporting Tool \(EV-ChART\) · Joint Office of Energy and Transportation \(driveelectric.gov\)](https://driveelectric.gov)) and, upon approval by ODOT (unless otherwise directed by ODOT), shall submit such reports in accordance with such guidance. Such reports shall be provided for the informational purposes of ODOT and to enable ODOT to meet its reporting obligations to the FHWA under the NEVI Final Rule. The Contractor shall cooperate with ODOT and provide such additional information as ODOT may reasonably request in order for ODOT to administer this Contract and meet its reporting obligations to the FHWA.

(C) Notification of Material Issues. In addition to periodic reporting, the Contractor shall promptly notify ODOT of any material issues affecting the Project and the performance of the Project Services, including any data security breach, Force Majeure Event or breach of this Contract by the Contractor, and shall include in such notice the measures the Contractor is taking to remedy or mitigate the particular circumstance.

SECTION 10.2. RECORDS AND AUDIT. The Contractor shall prepare and maintain proper, accurate, current, and complete books and records regarding the Project Services, including all documents, books, records, papers and other information pertaining to

the Project and all transactions associated therewith, at all times during the Term and for a period of seven (7) years following the Term. ODOT, any other State agency and any federal agency have the right to examine and audit such books and records at any time during such period for purposes of determining compliance with this Contract and the requirements of Applicable Law. In the event the Contractor fails to prepare or maintain any financial books, records, or accounts as required under this Section, the Contractor shall not be entitled to any requested payments or adjustments to the extent such failure prevented verification as required by this Contract. The Contractor shall require all Subcontractors (at any tier) to comply with the record retention and audit provisions of this Contract and shall include such provisions in each Subcontract.

ARTICLE 11

DISPUTE RESOLUTION

SECTION 11.1. DISPUTE RESOLUTION PROCEDURES.

(A) Generally. Each party shall follow the Dispute Resolution Procedures to attempt to resolve and settle disputes between themselves concerning the rights, obligations, and liabilities of the parties. The Dispute Resolution Procedures are intended to encourage a negotiated resolution of disputes in a prompt and efficient manner without resort to litigation, which should be a last resort.

(B) Informal Negotiations. Representatives of ODOT and the Contractor with day-to-day involvement in the administration of this Contract and the performance of the Project Services shall initially and promptly enter into negotiations to attempt to address and resolve any disputes that may arise concerning this Contract. In connection with such negotiations, the party asserting the dispute shall provide the other with a written description of the nature of the dispute, along with reasonable supporting documentation. The parties shall consider involving senior representatives and other upper management personnel of each party in the informal negotiation process, as well as other representatives of the parties not actively involved in the day-to-day activities associated with the dispute who might be able to take a broader look at the dispute in the context of the overall objectives of the Project and this Contract. At ODOT's request, the Contractor shall involve senior representatives of any of its Subcontractors in such negotiations. Upon the expenditure of reasonable efforts towards resolution of a dispute through such informal negotiations without reaching agreement, a party may declare that the informal negotiations have been exhausted and such party may request Non-Binding Mediation or request a final decision pursuant to subsection (C) of this Section.

(C) ODOT Contract Representative's Final Decision. If a dispute has not been resolved through direct, informal negotiations as provided in subsection (B) of this Section, then, upon the written request of the Contractor, an appropriate ODOT representative (other than any personnel assigned to the administration of this Contract) shall review the dispute and issue his or her determination of the dispute. Such decision shall be issued in writing within forty-five (45) days following the date of the request for review. If the Contractor disagrees with the decision, or if a decision is not issued within such forty-five (45)-day period, then the Contractor shall have the right to initiate Legal Proceedings concerning the dispute in accordance with this Article. If the Contractor fails to initiate Legal Proceedings concerning the dispute within sixty (60) days (or such longer period as ODOT may, in its discretion, agree in writing) following the earlier to occur of the issuance of the decision or the expiration of the forty-five (45)-day period specified above without issuance of a decision, then the Contractor shall be deemed to have accepted the decision and waived its rights to any further relief or to initiate Legal Proceedings in accordance with this Contract for the matters in dispute between the parties. In the case of the expiration of the forty-five (45)-day period without issuance of a decision, the decision shall be considered a rejection of any requested relief by the Contractor. A final decision pursuant to this subsection or the failure to issue such a decision in accordance with this subsection shall be a condition precedent to the Contractor's right to initiate Legal Proceedings in accordance with this Contract.

SECTION 11.2. NON-BINDING MEDIATION.

(A) Rights to Request and Decline Non-Binding Mediation. Subject to the requirements of subsection 11.1(B) (Informal Negotiations), either party may request Non-Binding Mediation of any dispute arising under this Contract, whether technical or otherwise. Non-Binding Mediation is voluntary and will not be a condition precedent to initiating the

institution of Legal Proceedings by either party. The non-requesting party may decline the request in its sole discretion. If there is concurrence that any particular matter shall be mediated, the provisions of this Section shall apply. The costs of the mediator shall be divided equally between ODOT and the Contractor.

(B) Procedure. The Mediator shall be a professional engineer, attorney, or other professional mutually acceptable to the parties who has no current or on-going relationship to either party. The Mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the parties reach agreement with respect to the disputed matter or one party determines in its discretion that its interests are not being served by the mediation.

(C) Non-Binding Effect. Mediation is intended to assist the parties in resolving disputes over the correct interpretation of this Contract. No Mediator shall be empowered to render a binding decision.

(D) Relation to Judicial Legal Proceedings. Without limiting subsection 11.1(C) (ODOT Contract Representative's Final Decision), nothing in this Section shall operate to limit, interfere with, or delay the right of either party under this Article to commence judicial Legal Proceedings upon a breach of this Contract by the other party, whether in lieu of, concurrently with, or at the conclusion of any Non-Binding Mediation.

SECTION 11.3. FORUM FOR LEGAL PROCEEDINGS.

It is the express intention of the parties that all Legal Proceedings related to this Contract or to the Project or to any rights or any relationship between the parties arising therefrom shall be solely and exclusively initiated and maintained in a court of competent jurisdiction located in Oklahoma County, Oklahoma. The Contractor and ODOT each irrevocably consents to the jurisdiction of such courts in any such Legal Proceeding and waives any objection it may have to the laying of the jurisdiction of any such Legal Proceeding.

SECTION 11.4. CONTINUANCE OF PERFORMANCE DURING DISPUTE.

Unless otherwise directed in writing by ODOT, at all times during the course of any Dispute Resolution Procedure or Legal Proceeding, the Contractor shall continue with the performance of all Project Services in a diligent manner and in accordance with the applicable provisions of this Contract. ODOT shall continue to satisfy its uncontested payment obligations to the Contractor during the pendency of any such dispute, subject to the terms and conditions of this Contract. Records of the Project Services performed during such time shall be kept in accordance with the applicable provisions of this Contract.

ARTICLE 12

BREACH, DEFAULT, REMEDIES, AND TERMINATION

SECTION 12.1. REMEDIES FOR BREACH.

The parties agree that, except as otherwise provided in this Article, in the event that either party breaches this Contract, the other party may exercise any legal rights it may have under this Contract, under the Security Instruments, and under Applicable Law, subject to the Dispute Resolution Procedures. Neither party shall have the right to terminate this Contract except as expressly provided in this Article.

SECTION 12.2. EVENTS OF DEFAULT BY THE CONTRACTOR.

(A) Events of Default Not Requiring Previous Notice or Cure Opportunity for Termination. Each of the following shall constitute an Event of Default by the Contractor upon which ODOT, by notice to the Contractor, may terminate this Contract without any requirement of having given notice previously or of providing any further cure opportunity:

(1) Abandonment. The Contractor abandons the Project by either: (a) demonstrating through statements, acts, or omissions an intent not to perform, or continue to perform, all or a material part of the Project Services, unless such intent is otherwise expressly permitted or excused by the terms of this Contract; or (b) failing to perform a material part of the Project Services for a continuous period of thirty (30) days where such failure is not consistent with the Project Schedule and is not expressly permitted or excused by the terms of this Contract;

(2) Assignment or Transfer Without Consent. The assignment or transfer by the Contractor of this Contract or any right or interest herein without ODOT's prior written consent;

(3) Suspension, Debarment or Other Exclusion. After the exhaustion of all rights of appeal, there becomes effective for the Contractor, any Affiliate serving as a guarantor of the Contractor or any material Subcontractor whose work is not completed any suspension, debarment or other exclusion from bidding, proposing or contracting with any federal or State department or agency;

(4) Failure to Meet Uptime Requirement: The Contractor fails to meet the Uptime Requirement as of any quarterly reporting date (as provided in subsection 10.1(B) (O&M Phase Reports)) and either:

(i) fails to provide or carry out an approved remediation plan; or

(ii) fails to regain compliance with the Uptime Requirement for the three (3)-month period ending on the immediately succeeding quarterly reporting date.

(5) Insolvency. The insolvency of the Contractor or any Affiliate serving as a guarantor to the Contractor, as determined under the Bankruptcy Code;

(6) Voluntary Bankruptcy. The filing by the Contractor or any Affiliate serving as a guarantor to the Contractor of a petition of voluntary bankruptcy under the Bankruptcy Code; the consenting of the Contractor any Affiliate serving as a guarantor to the Contractor to the filing of any bankruptcy or reorganization petition against the

Contractor or such Affiliate under the Bankruptcy Code; or the filing by the Contractor or any Affiliate serving as a guarantor to the Contractor of a petition to reorganize the Contractor pursuant to the Bankruptcy Code; or

(7) Involuntary Bankruptcy. The issuance of an order of a court of competent jurisdiction appointing a receiver, liquidator, custodian, or trustee of the Contractor or any Affiliate serving as a guarantor to the Contractor or of a major part of the property of the Contractor or such Affiliate, or the filing against the Contractor or any Affiliate serving as a guarantor to the Contractor of a petition to reorganize the Contractor or such Affiliate pursuant to the Bankruptcy Code, which order shall not have been discharged or which filing shall not have been dismissed within ninety (90) days after such issuance or filing.

(B) Events of Default Requiring Previous Notice and Cure Opportunity for Termination. It shall be an Event of Default of the Contractor upon which ODOT may terminate this Contract, by notice to the Contractor and subject to the Contractor's cure rights set forth in subsection (C) (Notice and Cure Opportunity) of this Section, if:

(1) any representation or warranty of the Contractor hereunder or in any certificate, schedule, instrument, or other document delivered by the Contractor pursuant to this Contract, in each case, shall have been false or materially misleading when made or delivered;

(2) a material impairment of the Required Property Rights occurs;

(3) the Contractor fails to perform or comply with any other material obligation under this Contract (unless such failure is excused by a Force Majeure Event in accordance with and to the extent provided in Article 14 (Force Majeure Events)), including any failure to achieve a Scheduled Milestone Date and any breach of the requirements of a Governmental Approval or Applicable Law.

(C) Notice and Cure Opportunity. The Contractor acknowledges that ODOT has an immediate termination right upon the occurrence of any of the defaults listed in subsection (A) (Events of Default Not Requiring Previous Notice or Cure Opportunity for Termination) of this Section and that the Contractor has no further right of notice or cure in such circumstances of default. Conversely, no default listed in subsection (B) (Events of Default Requiring Previous Notice and Cure Opportunity for Termination) of this Section shall constitute an Event of Default by the Contractor giving ODOT the right to terminate this Contract for cause under this Section unless:

(1) ODOT has given prior written notice to the Contractor stating that a specified default has occurred which gives ODOT a right to terminate this Contract for cause under this Section, and describing the default in reasonable detail; and

(2) the Contractor has not initiated within a reasonable time (in any event not more than fifteen (15) days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence.

If the Contractor shall have initiated and continued with due diligence to carry out to completion all actions required under item (2), above, the default shall not constitute an Event of Default by the Contractor during such period of time (in any event not more than sixty (60) days from the initial default notice) as the Contractor shall continue with due diligence to carry out to completion all such actions.

(D) Other Remedies Upon Contractor Event of Default. The right of termination provided under this Section upon an Event of Default by the Contractor is not exclusive. If this Contract is terminated by ODOT for an Event of Default by the Contractor, ODOT shall have the right to:

- (1) pursue a cause of action for and collect actual damages arising from the Contractor Event of Default;
- (2) seek specific performance, injunction or other equitable remedies;
- (3) exercise all other remedies which are available to it under this Contract, under the Security Instruments and under Applicable Law;
- (4) without terminating this Contract, step in and take such actions as ODOT determines necessary to cause compliance with this Contract, including by utilizing other contractors to perform all or a portion of the Project Services, with the Contractor responsible for the additional costs incurred by ODOT in taking such actions; and
- (5) following any termination of the Contract:
 - (a) require the Contractor to repay all Federal Share payments made by ODOT to the Contractor; and/or
 - (b) assume possession and control of the Project, including the right to collect and retain all Project revenues and the right to provide for the performance of the Project Services through separate contractors, for the remainder of the otherwise applicable Term.

The Contractor shall not be entitled to any compensation for services provided subsequent to receiving any notice of termination for an Event of Default under this Section. No remedy conferred herein to ODOT is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to any other remedy given hereunder to ODOT or now or hereafter existing at law or in equity or by statute.

SECTION 12.3. ODOT CONVENIENCE TERMINATION RIGHTS.

(A) Convenience Termination Right. Notwithstanding any other provision of this Contract, ODOT shall have the right at any time prior to the end of the Term, exercisable in its discretion for any reason upon thirty (30) days' written notice to the Contractor, to terminate this Contract.

(B) Convenience Termination Payment. In the event of a convenience termination pursuant to this Section, the Contractor shall be entitled to payment of all Federal Share payments earned by the Contractor through the date of termination, and neither party will have any further liability to the other as a result of the termination.

(C) Payment of Amounts Due as a Result of Convenience Termination. The Contractor shall submit a termination for convenience claim, in the form and with the certification prescribed by ODOT, promptly following the termination date specified by ODOT in its notice but in any event not later than sixty (60) days following such date. In the event of a failure of the Contractor to submit a termination for convenience claim within the time allowed pursuant to this Section, ODOT may determine, on the basis of information available to ODOT, the amount, if any, due to the Contractor by reason of the convenience termination and shall thereupon notify the Contractor the amount so determined, if any. Any amount payable by ODOT

to the Contractor shall be due within sixty (60) days following resolution of the Contractor's termination for convenience claim in accordance with this Section. In the event of a dispute between the parties as to the amount of any payment required to be made pursuant to this Section, either party may elect to initiate Dispute Resolution Procedures.

(D) Convenience Termination Rights as Consideration. The right of ODOT to terminate this Contract for its convenience and in its discretion in accordance with this Section constitutes an essential part of the overall consideration for this Contract, and, except with respect to the determination as to the amount due the Contractor pursuant to this Section, the Contractor hereby waives any right it may have under Applicable Law to assert that ODOT owes the Contractor a duty of good faith dealing in the exercise of such right. The only compensation payable by ODOT upon the exercise of its convenience termination option shall be Federal Share payments earned by the Contractor through the date of termination pursuant to Article 9 (Federal Share Payments).

SECTION 12.4. LIMITATION ON WAIVERS.

Except to the extent expressly provided otherwise in this Contract, no failure to exercise, and no delay in exercising, any right or remedy under this Contract will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Contract will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision. No action of ODOT or the Contractor pursuant to this Contract (including any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Contract. Except to the extent expressly provided otherwise in this Contract, no single or partial exercise of (or failure to exercise) any right, power or remedy of ODOT or the Contractor under this Contract shall preclude any other or further exercise thereof or the exercise of any other right, power, or remedy.

SECTION 12.5. WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES.

In no event shall either party hereto be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Contract, or the material inaccuracy of any representation made in the Contract, whether such claims are based upon contract, tort, negligence, warranty, or other legal theory; provided, however, that the waiver of the foregoing damages under this Section is intended to apply only to disputes and claims as between ODOT and the Contractor and will not limit either party's liability for losses or damages arising out of fraud, corruption, or criminal activity on the part of the relevant party. Nothing in this Section shall limit the Contractor's liability for:

- (1) amounts payable by the Contractor under its indemnification obligations under this Contract in respect of third-party claims; or
- (2) claims, losses or damages, to the extent the same is required to have been covered by the Required Insurance or is covered by the proceeds of insurance actually carried by or insuring the Contractor with respect to the Project.

In addition, such waiver will not limit the right of ODOT to withhold and retain any Security Holdback payment or any Federal Share payment under the circumstances specified in this Contract.

ARTICLE 13

INSURANCE

SECTION 13.1. REQUIRED INSURANCE.

(A) General. At all times during the Term, the Contractor shall obtain, maintain, and comply with the terms and conditions of insurance coverage for the activities and risks associated with the Project and with limits sufficient to protect itself and ODOT, and shall pay all premiums with respect thereto as the same become due and payable.

(B) Minimum Required Insurance. Each policy of Required Insurance shall be issued by a company or companies with a rating of not less than A-VII in the last available Best's Rating Guide (unless otherwise approved by ODOT) and authorized to conduct and transact insurance business in the State. At a minimum, the Contractor shall provide for the following insurance coverages:

(1) commercial general liability insurance covering property damage, premises operations, fire damage, products and completed operations, blanket contractual liability, bodily injury, personal injury and advertising liability, with minimum limits as follows:

(a) \$1,000,000 each occurrence;

(b) \$2,000,000 general aggregate; and

(c) \$1,000,000 products and completed operations aggregate;

(2) property and casualty insurance covering full replacement value in the event of loss or damage to the EVSE;

(3) workers' compensation insurance as required by State law and customary employer's liability insurance; and

(4) automobile insurance with a minimum limit of not less than \$1,000,000 combined single limit for bodily injury and property damage, providing coverage for any and all leased, owned, hired or non-owned vehicles used in any of the Contractor's activities pursuant to this Contract.

(C) Waiver of Subrogation. All policies of Required Insurance must include a waiver of subrogation in favor of ODOT and the State, shall provide that the insurers shall have no recourse against ODOT for payment of any premium or assessment and shall contain a severability of interest provision in regard to mutual coverage liability policies.

(D) Additional Insured Requirements. Except as otherwise required by Applicable Law, ODOT and the State must be protected as additional insureds on forms approved by ODOT, with respect to all Required Insurance (except for any professional liability insurance and workers' compensation insurance) held by the Contractor and its Subcontractors. Additional insured coverage for ODOT and the State shall apply for defense of claims and damages for injury to persons, including bodily injury, death or any form of personal or advertising injury, or property damage arising out of or resulting from the performance of the work or product, whether caused or alleged to be caused in whole or in part by any negligent act or omission of any Contractor Team Member, or anyone for whose acts any of them may be liable. The additional

insured endorsements must be attached to the certificate of insurance in order to effectuate the additional insured status required hereunder.

(E) Certificates of Insurance. The Contractor shall deliver to ODOT a copy of certificates and policy endorsements (i.e., additional insured, waiver of subrogation) provided by its insurance broker or agent for all Required Insurance (including Subcontractors' Required Insurance) on or prior to the Contract Effective Date, which shall be certified by the Contractor as complete, true and correct. All such certificates and policy endorsements shall be subject to the approval of ODOT.

(F) Policies of Required Insurance. Upon the issue of a policy of Required Insurance and annually thereafter, the Contractor shall deliver to ODOT a copy of certificates for all Required Insurance thirty (30) days prior to the issuance date or renewal date, and policy endorsements provided by its insurance broker or agent for all Required Insurance no later than thirty (30) days after the issuance date or renewal date. Upon request by ODOT, the Contractor shall also deliver to ODOT a copy of policy endorsements and certificates maintained by its Subcontractors. Upon request by ODOT, the Contractor shall also deliver to ODOT a copy of the policies, or in lieu thereof, a copy of the declarations pages, main coverage forms and endorsements applicable to this Contract; provided that the Contractor, acting reasonably, may redact proprietary information from such copies. Upon request by ODOT, the Contractor shall deliver proof of payment of premiums for insurance required to be effected pursuant to this Contract. No review or approval of any insurance certificate or insurance policy by ODOT shall derogate from or diminish ODOT's rights under this Contract.

SECTION 13.2. SUBCONTRACTORS.

The Contractor shall ensure that all Subcontractors and other Contractor Team Members secure and maintain all insurance coverage required by this Contract and by Applicable Law in connection with their presence and the performance of their duties at or concerning the Project.

SECTION 13.3. ADEQUACY OF REQUIRED INSURANCE.

ODOT makes no representation that the scope of coverage and limits of liability specified for any Required Insurance or any approved variances therefrom are adequate to protect the Contractor against its undertakings under this Contract to ODOT, or its liabilities to any third party. It is the responsibility of the Contractor and each Subcontractor, supplier and professional services firm to determine if any additional coverages are required to adequately protect their interests. No such limits of liability or approved variances shall preclude ODOT from taking any actions as are available to it under this Contract or Applicable Law.

SECTION 13.4. COMPLIANCE WITH INSURER REQUIREMENTS.

The Contractor shall comply promptly with the requirements of all insurers providing the Required Insurance. The Contractor shall not knowingly do or permit anything to be done that results in the cancellation or the reduction of coverage under any policy of Required Insurance.

SECTION 13.5. RELATIONSHIP TO LIABILITY AND OBLIGATIONS.

All insurance required by this Contract shall be available for the benefit of ODOT, the other Indemnified Parties and the Contractor with respect to covered claims. The compliance or failure of compliance by any Contractor Team Member with the requirements hereunder in respect of the Required Insurance shall not be construed to relieve the Contractor of any liability

or obligation under this Contract.

ARTICLE 14

FORCE MAJEURE EVENTS

SECTION 14.1. FORCE MAJEURE EVENT DEFINED.

Neither party shall be liable for failure to perform under this Contract to the extent such failure to perform arises out of causes beyond the control of and without the fault or negligence by the nonperforming party. Such causes (each, a “**Force Majeure Event**”) may include but are not limited to acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes and unusually severe weather. However, with respect to the Contractor, none of the following events shall qualify as Force Majeure Events:

- (1) the failure of performance by any other Contractor Team Member, unless such failure is the result of an event which would qualify as a Force Majeure Event if it affected the Contractor directly;
- (2) general economic conditions, such as changes in interest rates, inflation rates, wage rates, insurance premiums, commodity prices, labor availability, currency values or market demand; and
- (3) any act, event or circumstance that would not have occurred but for the Contractor’s failure to comply with its obligations under this Contract

Force Majeure Event relief hereunder shall be limited to that relief which properly reflects the interference with performance or the time lost (as applicable), in each case, as a direct result of the occurrence of the Force Majeure Event and only to the minimum extent reasonably forced on the applicable party by the Force Majeure Event.

(B) Mitigation Given Effect. Any relief to which the Contractor is entitled under this Article on account of Force Majeure Events shall be adjusted to account for the effect of the mitigation measures which were or should have been taken by the Contractor in compliance with its duty to mitigate under Section 17.5 (General Duty to Mitigate).

(C) Applicable Law Compliance. Nothing in this Article shall be interpreted as relieving the Contractor of its obligation, following any and all Force Majeure Events, to comply with Applicable Law in the performance of the Project Services.

(D) Project Services Not Affected; Resumption of Performance. The occurrence of a Force Majeure Event shall not excuse the Contractor from performing any obligation hereunder not directly affected by the occurrence of the Force Majeure Event. Upon the occurrence of a Force Majeure Event, the Contractor shall promptly use all reasonable efforts to eliminate the cause thereof and resume performance of the affected Project Services.

SECTION 14.2. FORE MAJEURE EVENT CLAIM PROCEDURES.

(A) Notice and Written Report. In order to assert an entitlement based on the occurrence of a Force Majeure Event, the Contractor shall give notice of the occurrence of the Force Majeure Event to the ODOT Contract Representative as soon as practicable, and in any event within ten (10) days of the date the Contractor has knowledge that the Force Majeure Event has caused or is likely to cause an entitlement under this Contract. The Contractor’s notice shall include a written report:

- (1) describing the Force Majeure Event and the cause thereof, to the extent known;

(2) stating the date on which the Force Majeure Event began and its estimated duration, to the extent known;

(3) summarizing the consequences of the Force Majeure Event and the expected impact on the performance of the Project Services; and

(4) indicating the nature and scope of the Contractor's potential entitlement to relief.

(B) Updates. The Contractor shall provide the ODOT Contract Representative with periodic updates, together with further details and supporting documentation, as it receives or develops additional information pertaining to the Force Majeure Event and the matters described in subsection (A) (Notice and Written Report) of this Section. The Contractor shall notify the ODOT Contract Representative as soon as the Force Majeure Event has ceased and of the time when performance of its affected obligations can be resumed.

(C) Submittal of Relief Request. The Contractor shall submit to the ODOT Contract Representative a further notice making its request for specific relief, the basis therefor, and the event giving rise to the requested relief, promptly after becoming aware of such occurrence, but not more than thirty (30) days after ODOT's receipt of the notice required under subsection (A) (Notice and Written Report) of this Section.

(D) Burden of Proof and Mitigation. The Contractor shall bear the burden of proof in establishing the occurrence of a Force Majeure Event and the entitlement to relief based thereon, and shall demonstrate that the Contractor complied with its mitigation obligations under Section 17.5 (General Duty to Mitigate).

(E) ODOT Response. ODOT may, but shall have no obligation to, respond to the Contractor's initial notice concerning the occurrence of a Force Majeure Event under subsection (A) (Notice and Written Report) of this Section. Within 30 days after receipt of a relief request by the Contractor pursuant to subsection (C) (Submittal of Relief Request) of this Section (or such longer period as may be agreed upon between the parties, acting reasonably), ODOT shall issue a written determination as to the extent, if any, to which it concurs with the Contractor's request, and the reasons therefor.

(F) Agreement or Dispute. The agreement of the parties as to the specific relief to be given the Contractor on account of a Force Majeure Event shall be evidenced by a Contract Administration Memorandum or a Contract Amendment to the extent necessary to implement the specific relief in accordance with this Contract. Either party may refer any dispute concerning the matters addressed by this Article for resolution pursuant to the Dispute Resolution Procedures.

SECTION 14.3. EXTENT OF FORCE MAJEURE EVENT RELIEF.

(A) Generally Available Relief. If and to the extent that a Force Majeure Event materially and directly interferes with or delays the performance of the Project Services in accordance herewith, the Contractor shall, subject to Section 14.4 (Schedule Relief) and all other provisions of this Article, be entitled to:

(1) relief from its performance obligations, such that the Contractor will not be considered in default hereunder to the extent such performance is directly interfered with by the occurrence of the Force Majeure Event;

(2) schedule relief, including, as applicable, an adjustment to the Scheduled Milestone Dates; or

(3) any combination of the foregoing.

(B) No Compensation Relief. No Force Majeure Event will result in any additional payment responsibility of ODOT to the Contractor or any other Contractor Team Member.

SECTION 14.4. SCHEDULE RELIEF.

Any schedule adjustment prior to the Operations Commencement Date, including any adjustment to the Scheduled Milestone Dates, will require the Contractor to demonstrate:

(1) that a Force Majeure Event has occurred and the impact of the Force Majeure Event on one or more critical path activities in the Project Schedule, as updated and maintained by the Contractor in accordance with the Project Requirements and Standards;

(2) the delay was not reasonably foreseeable as of the Contract Effective Date by the Contractor and would not have been reasonably foreseen as of the Contract Effective Date by a similarly situated contractor working on a similar project acting in accordance with Good Industry Practice;

(3) the Contractor, in view of all circumstances, exercised reasonable efforts to avoid the delay; and

(4) the delay was not caused by the Contractor or any other Contractor Team Member.

ARTICLE 15
INDEMNIFICATION

SECTION 15.1. CONTRACTOR'S OBLIGATION TO INDEMNIFY.

The Contractor shall indemnify, defend, and hold harmless ODOT, the State and their respective elected officials, appointed officers, employees, representatives, agents, and consultants (each an "**Indemnified Party**"), from and against any and all demands, suits, actions, claims, injuries, liabilities, losses, damages, costs, fees and expenses (including attorney fees, legal expenses and the costs of enforcing any right to indemnification under this Contract) made against or suffered or incurred by any Indemnified Party resulting from or arising out of the Project or the performance of the Project Services. Claims to which this indemnification applies include, without limitation:

- (1) claims of any contractor, subcontractor, materialman, laborer and any other person, firm, corporation or other entity providing work, services, materials, equipment or supplies in connection with the Project or the performance of the Project Services;
- (2) claims of any Project Site owner, occupant or invitee and of any customer or user of the Project;
- (3) claims of personal injury, death, or property damage suffered or incurred by any person or entity arising from any Contractor Team Member's performance (act or omission) of the Project Services, including claims of the Contractor's employees, agents or subcontractors;
- (4) claims related to any data security breach associated with the Project; and
- (5) claims arising or resulting from the Contractor's breach of this Contract or failure of compliance by any Contractor Team Member with any Governmental Approval or Applicable Law.

The Contractor's indemnity obligations under this Section shall not be limited by the Required Insurance or any coverage exclusions or other provisions in any policy of insurance maintained by the Contractor which is intended to respond to such events. This Article may be relied upon by the Indemnified Parties and may be enforced directly by any of them against the Contractor in the same manner and for the same purpose as if pursuant to a contractual indemnity directly between them and the Contractor. The provisions of this Article shall survive termination of this Contract.

ARTICLE 16

SECURITY FOR PERFORMANCE

SECTION 16.1. PERFORMANCE AND PAYMENT BONDS.

(A) Requirements. As a condition precedent to the issuance of the Notice to Proceed with the Construction Phase, the Contractor shall provide the Performance Bond and the Payment Bond, each in the amount of one hundred percent (100%) of the capital cost of the Project, as financial security for the faithful performance and payment of the Contractor's obligation to achieve the Operations Commencement Date. The Performance Bond shall be in the form attached hereto as Transaction Form A (Form of Performance Bond), and the Payment Bond shall be in the form attached hereto as Transaction Form B (Form of Payment Bond). The Performance Bond and the Payment Bond shall be issued by a surety company authorized by the Oklahoma Insurance Department to do business in the State. The Payment Bond shall remain in effect until at least one (1) year after the date when final payment becomes due. The Performance Bond shall secure the performance of the construction and installation work and shall remain in effect throughout the Construction Phase. Each of the Performance Bond and the Payment Bond must be signed by an agent and must be accompanied by a certified copy of such agent's authority to act.

(B) Monitoring of Sureties. If any Surety is declared bankrupt or becomes insolvent or its right to do business is terminated in the State or it otherwise ceases to meet the requirements of subsection (A) (Requirements) of this Section, the Contractor shall notify ODOT within five days of the date the Contractor knew, or should have known, of the bankruptcy, insolvency, termination, or cessation, and shall promptly (in no event longer than within twenty (20) days of the bankruptcy, insolvency, termination, or cessation) substitute another Payment Bond, Performance Bond, and Surety, as applicable, in compliance with the requirements of subsection (A) (Requirements) of this Section.

(C) Alternative to Performance and Payment Bonds. The Contractor may provide irrevocable letter(s) of credit as an alternative to the Performance Bond and Payment Bond; provided that such irrevocable letter(s) of credit provide the same financial security as the Performance Bond and Payment Bond, are issued by a financial institution insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation and are in form and substance acceptable to ODOT.

SECTION 16.2. PERFORMANCE SECURITY FOR THE O&M PHASE.

As a condition precedent to the Notice to Proceed with the O&M Phase, the Contractor shall provide security for the performance of the Operations and Maintenance Services in one of the following forms:

- (1) an operations performance bond with a penal sum equal to the total amount of Federal Share payments paid or payable by ODOT under this Contract and in form and substance acceptable to ODOT;
- (2) an irrevocable letter of credit providing the same financial security as an operations performance bond and subject to the same terms as specified in Section 16.1(C) (Alternative to Performance and Payment Bonds) with respect to irrevocable letter(s) of credit as an alternative to the Performance Bond and Payment Bonds; or

(3) a parent or affiliate company guaranty in form and substance acceptable to ODOT.

The Contractor shall maintain such security for performance throughout the O&M Phase.

SECTION 16.3. COSTS OF PROVIDING SECURITY INSTRUMENTS.

The cost and expense of obtaining and maintaining the Security Instruments required under this Article as security for the performance of the Contractor's obligations hereunder shall be for the account of the Contractor.

ARTICLE 17

MISCELLANEOUS PROVISIONS

SECTION 17.1. RELATIONSHIP OF THE PARTIES.

The Contractor is an independent contractor of ODOT and the relationship between the parties shall be limited to performance of this Contract in accordance with its terms. Nothing in this Contract shall be deemed to constitute either party a partner, agent, or legal representative of the other party. No liability or benefits, such as workers compensation, pension rights or liabilities, or other provisions or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to any party's agent or employee as a result of this Contract or the performance hereof. Nothing contained in this Contract shall be deemed to create any contractual relationship between ODOT and any Contractor Team Member other than the Contractor.

SECTION 17.2. CONTRACT ADMINISTRATION.

(A) Administrative Communications. The parties recognize that a variety of contract administrative matters will routinely arise throughout the performance of this Contract. These matters will by their nature involve requests, notices, questions, assertions, responses, objections, reports, claims, and other communications made personally, in meetings, by phone, by mail, and by electronic and computer communications. The purpose of this Section is to set forth a process by which the resolution of the matters at issue in such communications, once resolution is reached, can be formally reflected in the common records of the parties so as to permit the orderly and effective administration of this Contract.

(B) Contract Administration Memoranda. The principal formal tool for the administration of routine matters arising under this Contract between the parties that do not require a Contract Amendment shall be a **"Contract Administration Memorandum."** A Contract Administration Memorandum may be prepared, once all preliminary communications have been concluded, to evidence the resolution reached by ODOT and the Contractor as to matters of interpretation and application arising during the course of the performance of their obligations hereunder. Such matters may include, for example: (1) issues as to the meaning, interpretation, or application of this Contract in particular circumstances or conditions; (2) calculations required to be made; (3) notices, waivers, releases, satisfactions, confirmations, further assurances, consents, and approvals given hereunder; and (4) other similar routine contract administration matters.

(C) Procedure. Either party may request the execution of a Contract Administration Memorandum. When resolution of the matter is reached, a Contract Administration Memorandum shall be prepared by or at the direction of ODOT reflecting the resolution. Contract Administration Memoranda shall be serially numbered, dated, signed by the Contract Representative of each party, and, at the request of ODOT, co-signed by a Senior Supervisor for the Contractor. ODOT and the Contractor each shall maintain a parallel, identical file of all Contract Administration Memoranda, separate and distinct from any Contract Amendments and all other documents relating to the administration and performance of this Contract.

(D) Effect. Executed Contract Administration Memoranda shall serve to guide the ongoing interpretation and application of the terms and conditions of this Contract. Any material change, alteration, revision, or modification of this Contract, however, shall be effectuated only through a formal Contract Amendment in accordance with Section 17.3 (Contract Amendments).

SECTION 17.3. CONTRACT AMENDMENTS.

(A) Amendments Generally. Notwithstanding the provisions of Section 17.2 (Contract Administration), no material change, alteration, revision, or modification of the terms and conditions of this Contract shall be made except through a written amendment to this Contract, duly authorized, approved, or ratified by ODOT in accordance with the laws governing ODOT and duly authorized by the Contractor (a “**Contract Amendment**”).

(B) Procedure. Contract Amendments shall be serially numbered, dated and signed by a Senior Supervisor for the Contractor and by an ODOT Contract Representative with authority to bind ODOT to the Contract Amendment, as determined in accordance with subsection 17.4(B) (ODOT Contract Representative). ODOT and the Contractor each shall maintain a parallel, identical file of all Contract Amendments, separate and distinct from any Contract Administration Memoranda and all other documents relating to the administration and performance of this Contract.

SECTION 17.4. CONTRACT REPRESENTATIVES.

(A) Contractor Contract Representative and Senior Supervisors. The Contractor shall appoint and inform ODOT in writing from time to time of the identity of (1) the individual with the responsibility and power from time to time to administer this Contract and to bind the Contractor with respect to all notices and administrative matters associated with this Contract, including any Contract Administration Memorandum (the “**Contractor Contract Representative**”), and (2) the corporate officials of the Contractor with senior supervisory responsibility for the performance of this Contract and the authority to bind the Contractor with respect to any Contract Amendment (the “**Senior Supervisors**”). The Contractor shall promptly notify ODOT in writing of the appointment of any successor Senior Supervisors.

(B) ODOT Contract Representative. ODOT shall appoint an individual or individuals to act as the “**ODOT Contract Representative**” for this Contract. Such appointment shall be in writing and include a specific description of the extent of the Contract Representative’s power to administer this Contract. The Contractor shall be entitled to a copy of any such written appointment. The Contractor understands and agrees that any such delegation may provide only limited authority with respect to the implementation of this Contract, which may or may not include the authority to bind ODOT with respect to any Contract Amendment. Within such limitations, the Contractor shall be entitled to rely on the written directions of any ODOT Contract Representative for purposes of administering this Contract.

(C) ODOT Approvals and Consents. When this Contract requires any approval or consent by ODOT to a Contractor submission, request, or report, the approval or consent shall, within the limits of the authority described in subsection (B) (ODOT Contract Representative) of this Section, be given by the ODOT Contract Representative in writing and such writing shall be conclusive evidence of such approval or consent, subject only to compliance by ODOT with the Applicable Law that generally governs its affairs.

SECTION 17.5. GENERAL DUTY TO MITIGATE.

(A) Mitigation by the Contractor. In all cases where the Contractor is entitled to receive any relief from ODOT or exercise any rights, including the right to receive any extensions of time, whether on account of Force Majeure Events or otherwise, the Contractor shall use all reasonable efforts to mitigate the length of the extension of time or the extent of the performance relief, as applicable. Upon request from ODOT, the Contractor shall promptly submit a detailed description, supported by all such documentation as ODOT may reasonably require, of the measures and steps taken by the Contractor to mitigate and meet its obligations under this Section.

(B) Mitigation by ODOT. In all cases where ODOT is entitled to receive from the Contractor any compensation, costs, or damages, but not in any other cases, ODOT shall use all reasonable efforts to mitigate such amount required to be paid by the Contractor to ODOT under this Contract; provided that such obligation shall not require ODOT to:

(1) take any action which is contrary to the public interest, as determined by ODOT in its discretion; or

(2) undertake any mitigation measures that might be available due to its status as a Governmental Body, but which measure would not normally be available to a private commercial party.

ODOT shall have no obligation to mitigate, implied or otherwise, except as set forth in this Section.

SECTION 17.6. ASSIGNMENT.

(A) By the Contractor. The Contractor shall not assign, transfer, convey, lease, encumber, or otherwise dispose of this Contract, its right to execute the same, or its right, title, or interest in all or any part of this Contract or any monies due hereunder whatsoever prior to their payment to the Contractor, whether legally or equitably, by power of attorney, or otherwise, without the prior written consent of ODOT, which may be given or withheld by ODOT in its discretion. Any such approval given in one instance shall not relieve the Contractor of its obligation to obtain the prior written consent of ODOT to any further assignment. Any such assignment of this Contract that is approved by ODOT shall require the assignee of the Contractor to assume the performance of and observe all obligations, representations, and warranties of the Contractor under this Contract, which shall remain in full force and effect. The approval of any assignment, transfer, or conveyance shall not operate to release the Contractor in any way from any of its obligations under this Contract unless such approval specifically provides otherwise.

(B) By ODOT. Except as provided in this subsection, ODOT may not assign its rights or obligations under this Contract without the prior written consent of the Contractor, which may be given or withheld by the Contractor in its discretion. ODOT may assign this Contract without the prior written consent of the Contractor if such assignment is to another Governmental Body that assumes and is legally and financially capable of discharging all obligations of ODOT under this Contract.

SECTION 17.7. COMPLIANCE WITH MATERIAL AGREEMENTS.

The Contractor shall comply with its obligations under agreements of the Contractor, which are material to the performance of its obligations under this Contract. ODOT shall comply with its obligations under agreements of ODOT, which are material to the performance of its obligations hereunder.

SECTION 17.8. BINDING EFFECT.

This Contract shall inure to the benefit of and shall be binding upon ODOT and the Contractor and any assignee acquiring an interest hereunder consistent with Section 17.6 (Assignment).

SECTION 17.9. AMENDMENT AND WAIVER.

This Contract may not be amended except by a written agreement signed by the parties in accordance with Section 17.3 (Contract Amendments). Any of the terms, covenants,

and conditions of this Contract may be waived at any time by the party entitled to the benefit of such term, covenant, or condition if such waiver is in writing and executed by the party against whom such waiver is asserted.

SECTION 17.10. NOTICES.

(A) Procedure. All notices, consents, approvals, or written communications given pursuant to the terms of this Contract shall be: (1) in writing and delivered in person; (2) transmitted by certified or registered United States mail, return receipt requested, postage prepaid or by overnight courier utilizing the services of a nationally-recognized overnight courier service with signed verification of delivery; or (3) given by email transmission, if receipt of such email transmission is acknowledged by the recipient. Notices shall be deemed given only when actually received at the address first given below with respect to each party. Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent.

(B) ODOT Notice Address. Notices required to be given to ODOT shall be addressed as follows:

[SUPPLY]

With a copy to:

[SUPPLY]

(C) Contractor Notice Address. Notices required to be given to the Contractor shall be addressed as follows:

[SUPPLY]

With a copy to:

[SUPPLY]

SECTION 17.11. NOTICE OF LITIGATION.

In the event the Contractor or ODOT receives notice of or undertakes the defense or the prosecution of any Legal Proceedings, claims, or investigations in connection with the Project, the party receiving such notice or undertaking such defense or prosecution shall give the other party timely notice of such proceedings and shall inform the other party in advance of all hearings regarding such proceedings. For purposes of this Section only, "timely notice" shall be deemed given if the receiving party has a reasonable opportunity to provide objections or comments or to proffer to assume the defense or prosecution of the matter in question, given the deadlines for response established by the relevant rules of procedure.

SECTION 17.12. FURTHER ASSURANCES.

ODOT and the Contractor each agree to execute and deliver such further instruments and to perform any acts that may be necessary or reasonably requested in order to give full effect to this Contract. ODOT and the Contractor, in order to carry out this Contract, each shall use all commercially reasonable efforts to provide such information, execute such further instruments and documents, and take such actions as may be reasonably requested by the other and not inconsistent with the provisions of this Contract and not involving the assumption of obligations or liabilities different from, in excess of or in addition to those expressly provided for herein.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their duly authorized representatives as of the day and year first above written.

OKLAHOMA DEPARTMENT OF
TRANSPORTATION

[_____].

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

ATTEST:

ATTEST:

Title: _____

Title: _____

Date: _____

Date: _____

Attachment E

Federal Requirements

ATTACHMENT E: FEDERAL REQUIREMENTS
Round 2 ODOT NEVI Competitive procurement

1. A contract is to be used as the agreement between the State and the successful Vendor. Contract will contain the following Federal Clauses, Terms, and Conditions.
 - a. The contract will include and expressly incorporate by reference the FHWA Federal Register Final Rule 88 FR 12724. Minimum Federal statutory requirements can be found in the [Final NEVI Standards and Requirements](#)¹ Part 680 – National Electric Vehicle Infrastructure Standards and Requirements.
 - b. All statutory and regulatory requirements that are applicable to funds apportioned under chapter 1 of Title 23, United States Code, and the requirements of 2 CFR part 200 apply. This includes the applicable requirements of 23, United States Code, and Title 23, Code of Federal Regulations, such as the applicable Buy America requirements at 23 U.S.C. 313 and Build America, Buy America Act (Pub. L. No 117-58, div. G sections 70901-70927).
 - c. As provided at 23 U.S.C. 109(s)(2), projects to install EV chargers are treated as if the project is located on a Federal-aid highway. As a project located on a Federal-aid highway, 23 U.S.C. 113 applies and Davis Bacon Federal wage rate requirements included at subchapter IV of chapter 31 of Title 40, U.S.C. must be paid for any project funded with NEVI Formula Program funds.
 - d. The Americans with Disabilities Act of 1990 (ADA), and its implementing regulations, apply to EV charging stations by prohibiting discrimination on the basis of disability by public and private entities. EV charging stations must comply with applicable accessibility standards adopted by the Department of Transportation into its ADA regulations (49 CFR part 37) in 2006 and adopted by the Department of Justice into its ADA regulations (28 CFR parts 35 and 36) in 2010.
 - e. Title VI of the Civil Rights Act of 1964, and implementing regulations, apply to this program to ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - f. All applicable requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and implementing regulations, apply to this program.
 - g. The Uniform Relocation Assistance and Real Property Acquisition Act at 49 CFR part 24, and implementing regulations, apply to this program by establishing minimum standards for federally funded programs and projects that involve the acquisition of

¹ FHWA Federal Register Final Rule 88 FR 12724 (02/28/2023)

ATTACHMENT E: FEDERAL REQUIREMENTS
Round 2 ODOT NEVI Competitive procurement

real property (real estate) or the displacement or relocation of persons from their homes, businesses, or farms.

- h. The National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's NEPA implementing regulations, and applicable agency NEPA procedures apply to this program by establishing procedural requirements to ensure that Federal agencies consider the consequences of their proposed actions on the human environment and inform the public about their decision making for major Federal actions significantly affecting the quality of the human environment.
- i. All applicable requirements of the Infrastructure Investment and Jobs Act ("IIJA") Pub. L. No 117-58 which includes the Build America Buy America Act (BABA), Public Law No 117-58 § § 70901-52, and Implementing regulations, apply to this program.
- j. US DOT Certification for Federal-Aid Contracts
- k. Federal Highway Administration Contract Requirements
- l. US DOT Certification of Eligibility
- m. Drug Free Workplace
- n. Equal Employment Opportunity

ATTACHMENT F: INSTRUCTIONS TO REGISTER FOR OGX

Oklahoma Department of Transportation

OGX Account Registration Quick Guide

Purpose: This quick guide provides step-by-step instructions for creating a new user account in the Oklahoma Grants Exchange (OGX) system. Once your account has been approved, you will be able to access grant applications and other OGX functions.

Before You Begin

Before registering, have the following information available:

- Full legal name
- Organization name
- Organization mailing address
- Email address
- Telephone number
- FEIN (if applicable)
- UEI/SAM Number (if known)

System Requirements

For the best experience, use one of the following web browsers:

- Google Chrome
- Microsoft Edge
- Mozilla Firefox
- Safari

Ensure cookies are enabled in your browser before registering.

Step 1 – Access the OGX Portal

Open your internet browser and navigate to:

<https://ogx.ok.gov/IGXLogin>

On the login page, select:

ATTACHMENT F: INSTRUCTIONS TO REGISTER FOR OGX

New User? Register Here

This will open the New User Registration form.

Step 2 – Complete the Registration Form

Complete all required fields on the registration form.

Required information includes:

- ☐ Full Name
- ☐ Organization Name
- ☐ Mailing Address
- ☐ Email Address
- ☐ Telephone Number
- ☐ FEIN (if applicable)
- ☐ UEI/SAM Number (if known)

Important

When selecting a **Domain**, choose:

Oklahoma Department of Transportation

After all required information has been entered, click **REGISTER** to submit your request.

Step 3 – Registration Review

After you submit your registration:

1. Your request will be reviewed by the Oklahoma Department of Transportation.
2. The registration approval process is completed manually to verify organization information.
3. Once approved, you will receive an email confirming your account has been activated.

Please allow adequate time for the approval process before attempting to log in.

Step 4 – Grant Look-up

After registration is approved:

1. Locate “My Opportunities” on the Dashboard
 2. Click “Oklahoma EVI Proposal”
-

Password Assistance

Forgot Your Password?

1. Select **Forgot Username/Password** on the login screen.
2. Enter your account information.
3. A temporary password will be emailed to you.
4. Log in using the temporary password and create a new password when prompted.

Forgot Your Username?

1. Select **Forgot Username/Password**.
 2. Enter the email address associated with your account.
 3. Your username will be sent to your email address.
-

Helpful Tips

- Usernames and passwords are **case-sensitive**.
 - After multiple unsuccessful login attempts, your account may become locked for security purposes.
 - If your web browser saves passwords, remember to update the stored password after changing it in OGX.
-

Need Assistance?

ATTACHMENT F: INSTRUCTIONS TO REGISTER FOR OGX

For questions regarding OGX registration or technical support, contact:

Oklahoma Department of Transportation

Grants Management Team

Email:

Document Information

Document Title: OGX Account Registration Quick Guide

Prepared By: Oklahoma Department of Transportation (ODOT)

Version: 1.0

Effective Date: _____

Last Revised: _____