

STATE OF LOUISIANA
LOUISIANA DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
CONTRACT FOR SERVICES
LTRC PROJECT NO. _____, SIO NO. _____
NATIONAL ELECTRIC VEHICLE INFRASTRUCTURE FORMULA PROGRAM

THIS CONTRACT made and entered into this _____ day of _____, 2024, by and between the Louisiana Department of Transportation and Development, Louisiana Transportation Research Center, hereinafter referred to as "LADOTD/LTRC," and **CONSULTANT NAME AND ADDRESS**, hereinafter referred to as "Consultant."

Under Authority granted by Part XIII-A of Title 48 of Louisiana Revised Statutes, the LADOTD/LTRC has elected to engage the Consultant to perform, and the Consultant agrees to perform the services described in the Scope of Contract Services under the terms and conditions, and for the compensation as stated in this Contract.

ENTIRE AGREEMENT

This Contract together with the advertisement of the Request for Proposals (RFP) dated _____, the Consultant proposal including work hour and compensation submitted and approved by LADOTD/LTRC, the LTRC Manual of Research Procedures, Publication Guidelines, and any attachments and exhibits are specifically incorporated herein by reference and constitute the entire agreement between the parties with respect to the subject matter. However, in the event of a conflict between the terms of this Contract and the referenced documents, this Contract governs. References to LADOTD/LTRC in this Contract may refer to agents, consultants, or other third-parties authorized by LADOTD/LTRC.

See **Attachment A – Order of Precedence**.

PROJECT IDENTITY

LTRC Project No. _____ and Statistical Internal Order No. _____ has been assigned to this special services contract. All invoices and correspondence in connection with this contract shall be identified by these project numbers.

SCOPE OF CONTRACT SERVICES

The objective of this project (the "Project") is the installation, operation, and maintenance of one or more publicly accessible Direct Current Fast Charging ("DCFS") (Level 3) facilities which meet all federal requirements for charging infrastructure funded as part of the National Electric Vehicle Infrastructure ("NEVI") formula program administered by the Federal Highway Administration ("FHWA"). NEVI Standards and Requirements described in 23 C.F.R. Part 680, *et seq.* ("NEVI Final Rule") detail responsibilities of the Consultant, provide definitions for terms and acronyms used herein, and are incorporated herein by reference and attached hereto as **Attachment C – NEVI Final Rule**. The project site(s) must be located within a one-mile travel distance from the end of an interchange off-ramp to the entrance of the site property, at one of the exit numbers listed in a Corridor Group described in Attachment 2 to the Request for Proposals ("RFP") in order to build-out FHWA-designated Alternative Fuel Corridors ("AFCs").

LADOTD/LTRC will not share ownership of the charging facilities nor share in any revenue generated; however, LADOTD/LTRC retains the right to monitor and inspect all business operations that impact program income and revenue as outlined in the NEVI Final Rule.

The Consultant will be responsible for performing the services as ordered by LADOTD/LTRC in accordance with the terms of this contract under the direct administration of a LADOTD/LTRC "Project Manager" who will be identified when the work is authorized in the Notice to Proceed.

DELIVERABLES

Deliverables for this contract will include:

- 1) Project. Consultant shall install, operate, and maintain all DCFCs (Level 3) charging stations and facilities in compliance with 23 C.F.R. §680, *et seq.* and FHWA Form 1273, incorporated herein by reference and attached hereto as Attachments C and D, respectively, and all other applicable federal requirements. The work performed pursuant to this contract will be financed in whole or in part with Federal funds, and therefore all of the statutes, rules, and regulations promulgated by the Federal Government and applicable to work financed in whole or in part with Federal funds will apply to such work. The "Required Contract Provisions, Federal-Aid Construction Contracts, Form FHWA 1273," is included as Attachment D and incorporated as provisions to this Contract. Whenever, in said required contract provisions, references are made to:
 - a. "contracting officer" or "authorized representative," such references shall be construed to mean LADOTD/LTRC or its Authorized Representative;
 - b. "contractor," "prime contractor," "bidder," "Federal-aid construction contractor," "prospective first tier participant," or "First Tier Participant," such references shall be construed to mean Consultant or its authorized representative;
 - c. "contract," "prime contract," "Federal-aid construction contract," or "design-build contract," such references shall be construed to mean the Contract between the Consultant and LADOTD/LTRC;
 - d. "subcontractor," "supplier," "vendor," "prospective lower tier participant," "lower tier prospective participant," "Lower Tier participant," or "lower tier subcontractor," such references shall be construed to mean any Subcontractor or Supplier; and
 - e. "department," "agency," "department or agency with which this transaction originated," or "contracting agency," such references shall be construed to mean LADOTD/LTRC, except where a different department or agency or officer is specified.
- 2) Equipment Requirements.
 - a. Charging Site Minimum Specifications. The charging site must meet the following minimum requirements:
 - i. A charging site shall be comprised of a minimum of four DC fast charging ports that support output voltages between 250 volts DC and 920 volts DC.
 - ii. DCFCs located along and designed to serve users of designated AFCs must have a continuous power delivery rating of at least 150 kW and supply power according to an EV's power delivery request up to 150 kW, simultaneously from each charging port at a charging station.
 - iii. These corridor-serving DCFC charging stations may conduct power sharing as long as each charging port continues to meet an EV's request for power up to 150

- kW.
- iv. Consultant will provide all staffing, material, training, hardware, and software necessary to operate each NEVI-compliant DC (Level 3) fast charging site.
 - v. Charging at the site is available 24 hours a day, 365 days a year according to Uptime requirements.
 - vi. EVSE minimum specifications are further described in 23 C.F.R. §680, *et seq.*
- b. Proposed Modifications to System Specifications. This Contract includes EVSE Specifications that are compliant with the NEVI Formula program. The Consultant may only use EVSE that deviate from the Contract minimum requirements if LADOTD/LTRC approves modifications in writing.
 - c. Equipment Ownership. Upon completion of construction and installation and Notice of Acceptance by LADOTD/LTRC of fully operational EVSE (including power and data service) the Consultant shall own or lease the EVSE equipment. Consultant shall ensure there is a separate and distinct utility-grade meter for the EVSE system.
- 3) Five-Year Operations and Maintenance Obligation. Consultant shall be required to ensure the operations and maintenance of the EVSE at the site for a period of at least five years from the date identified on the Notice of Acceptance letter. Compliance with the 97 percent Uptime requirement throughout the five-year operations and maintenance period is essential.
- ~~a. Consultant shall comply with a five-year operations and maintenance contract, network subscription, and submittal of invoices from Power Company.~~
 - ~~b.a.~~ Consultant shall acquire a five-year service contract from a qualified contractor (third-party, in-house, or combination of the two), as defined by 23 CFR 680.106(j), in compliance with the NEVI Final Rule, providing 100% coverage of labor, parts and materials as well as emergency maintenance service. This contract shall include comprehensive preventative maintenance for the covered equipment, systems, repair, and replacement coverage (sometimes called a “breakdown” insurance policy) for the covered equipment.
 - ~~e.b.~~ Operation and Maintenance funds, network subscription funds, and power costs will be 80% reimbursed annually at the end of each 12 month period following Final Acceptance for each station and only after the Consultant has submitted operations and maintenance reports documenting they met operations and performance requirements. Proof of Service Level Agreement (SLA) and network subscription will be required for reimbursement. Monthly invoices from the power company are required annually for 80% reimbursement of those invoices.
 - ~~e.c.~~ If the Consultant is unable to fulfill the five (5) year obligation to operate and maintain the facilities and/or improvements, then LADOTD/LTRC reserves the right to pursue any remedies available under the law to recover funds, including but not limited to recovery from the performance bond.
- 4) Emergency Incident Reporting Requirement. LADOTD/LTRC must be notified within 24 hours after the Consultant becomes aware of any of the following critical events:
- a. One or more charging plugs are inoperable for more than 24 hours.
 - b. All publicly available DC fast charging plugs at the site are inoperable for more than 15 minutes.
 - c. One or more pieces of equipment essential to the operation of the charging units/station experience a system failure, or
 - d. Other incidents related to charging electric vehicles such as:

- i. Damage to an electric vehicle as a result of connecting to or receiving electricity from the station, or
- ii. Any other safety related incident, such as an accident or fire, at or near the charging station, ~~or~~

~~5) Any time emergency responder personnel are dispatched to or near the charging station.~~

~~6) 5) _____ Customer Service. Consultant shall ensure that customer service is provided and available 24 hours per day, 7 days a week. Customer service shall provide support and responses to inquiries and comments from EVSE users who are using or attempting to use the EVSE charging equipment. Consultant must provide customer service and provide related data to meet requirements of NEVI Final Rule. Quarterly reports by Consultant must include key performance indicators (KPI) for monitoring and to ensure quality performance of customer service (e.g., number of calls, length of calls, customer problem areas, a log of all customer service activities, etc.).~~

~~7) 6) _____ Project Revenue and Pricing for EV Charging.~~

- a. Consultant must provide sufficient information for LADOTD/LTRC to evaluate and confirm that Project revenue will be used in accordance with the Final NEVI Federal Rule. Any material decreases in costs or increases in revenues must be reported to LADOTD/LTRC for review and confirmation that the Project remains in compliance with the Final Nevi Federal Rule and other applicable requirements.
- b. Project Revenue. As per § 680.106(m) of the Final Nevi Federal Rule, Consultant may use revenue generated from the operation of charging stations for debt service, a reasonable return on investment, and/or costs for operation, maintenance, and site improvement.
- c. Profits in excess of 10% of costs from operation of charging stations must be justified in writing.
- d. Profits in excess of 25% of costs from operation of charging stations may require a greater degree of justification, at LADOTD/LTRC's sole discretion. ~~will be considered an unreasonably high return on investment.~~
- e. End User Pricing for EV Charging. In consideration of the financial assistance provided by LADOTD/LTRC, Consultant agrees that the price charged to end users for EV charging shall be reasonable. If LADOTD/LTRC has reason to believe that Consultant is charging an unreasonable rate, LADOTD/LTRC will notify the Consultant. As soon as possible after notification, but in no case more than seven calendar days, Consultant shall contact LADOTD/LTRC to meet and discuss LADOTD/LTRC's concerns. If LADOTD/LTRC requests, then Consultant shall develop and implement a corrective action plan. Repeated non-compliance with the reasonable charging fee requirement may be considered an event of default. Notwithstanding anything to the contrary contained in this Contract, if the Consultant is out of compliance with these terms, LADOTD/LTRC may terminate this Contract, and if the termination occurs within the five-year operations and maintenance obligation, then LADOTD/LTRC reserves the right to pursue any remedies available under the law to recover funds, including but not limited to recovery from the performance bond.

~~8) 7) _____ Security.~~

- a. Consultant must implement physical and cybersecurity strategies consistent with the Louisiana Electric Vehicle Infrastructure Deployment Plan to ensure charging station operations protect consumer data and protect against the risk of harm to, or disruption of,

- charging infrastructure and the grid.
- b. Physical security strategies may include topics such as lighting; siting and station design to ensure visibility from onlookers; driver and vehicle safety; video surveillance; emergency call boxes; fire prevention; charger locks; and strategies to prevent tampering and illegal surveillance of payment devices.
 - c. Physical security must include, as defined in NIST Special Publication 800-53 Revision 5 “Security and Privacy Controls for Information Systems and Organizations”:
 - i. Must utilize anti-tamper techniques to prevent, deter, and detect unauthorized physical access. [DOT 5.2.4 (SSH-06); NIST 800-53 Rev5: AT-3(2), PE-3; ENCS 4.3.1; DOE 8.1 (8.1.1, 8.1.2)]
 - ii. Unexpected or unauthorized accesses must be immediately communicated. [DOE A.2; NISTIR]
 - d. Consultant shall be responsible for cybersecurity as it relates to owning, operating, maintaining, and data sharing for the EVSE. Consultant’s implementation of cybersecurity strategies must be consistent with **Attachment B – Cybersecurity Requirements for Internet Service and EV Charging Providers**.
 - e. Consultant shall participate in a privacy impact assessment with LADOTD/LTRC and share the following:
 - i. How cybersecurity will be assessed throughout the Contract term,
 - ii. Results of third-party cybersecurity testing (not proprietary information that would make the overall system vulnerable),
 - iii. How system updates will affect end users, and
 - iv. Proposed protocols for notifying LADOTD/LTRC of any security breach.
 - f. Cybersecurity strategies may include the following topics: user identity and access management; cryptographic agility and support of multiple PKIs; monitoring and detection; incident prevention and handling; configuration, vulnerability, and software update management; third-party cybersecurity testing and certification; and continuity of operation when communication between the charger and charging network is disrupted.
 - g. Cybersecurity strategies must include the following protocols, as defined in NIST Special Publication 800-53 Revision 5 “Security and Privacy Controls for Information Systems and Organizations”:
 - i. Identity, Credential, and Access Management. [23 CFR §680.114(a)(2); 23 CFR §680.106(h)(2)]
 1. Access must be authenticated and authorized. [NIST 800-53 Rev5: AC-2; IA-2, IA-3]
 2. Must use multi-factor authentication as defined in NIST 800-53 Revision 5. [NIST 800-53: IA-2, IA-5]
 - ii. Configuration, Vulnerability, and Update Management. [23 CFR §680.106(h)(2); 23 CFR §680.114(a)(2) and (3)]
 1. Authenticity and integrity of applied updates must be ensured and violations are reported. [NIST 800-53 Rev5: SA-22; NIST 800-40v2]
 2. Security updates must be timely applied. [NIST 800-53 Rev5: SI-7]
 - iii. Secure Payment. [23 CFR §680.106(f)]
 1. Payment systems must comply with current payment card industry security standards. [PCI DSS v4.0]
 2. Payment terminals must be EMVCo L1 Certified. [EMV]

- iv. Secure Communications. [23 CFR §680.114(a)-(d); 23 CFR §680.106(l); 23 CFR §680.106 (h)(2); 23 CFR 680.114(a)(2)]
 - 1. Must use standardized secure communication protocols utilizing modern encryption. [NIST 800-53 Rev5: SC-13]
 - 2. Personal information will be minimally collected and must be protected throughout its life cycle. [NIST 800-53 Rev5:AC-16]
- v. All data must reside in the United States throughout its life cycle and is administered by those who have undergone background screening. [CSA; FedRAMP; NIST 800-53 Rev5: PS-3, SA-9(4), SA-9(5)]
- h. Consultant, including but not limited to any subcontractors or operators, shall only collect, process, and retain personal information that is strictly necessary to provide charging services to a customer and shall take reasonable measures to safeguard customer data.

9)8) Reporting Requirements.

- a. Quarterly Reporting. Consultant must provide all data required by the NEVI Final Rule to LADOTD/LTRC on a quarterly basis. Quarterly reports are due one month following the end of the quarter unless an extension is approved in writing by LADOTD/LTRC. Required quarterly information includes but may not be limited to:
 - i. The charging station name or identifier used to identify the charging station in data made available to third-parties in 23 C.F.R. §680.116(c)(1);
 - ii. The charging port identifier used to identify the charging port in data made available to third-parties in 23 C.F.R. §680.116(c);
 - iii. Charging session start time, end time, and any error codes associated with an unsuccessful charging session by port;
 - iv. Energy (kWh) dispensed to EVs per charging session by port;
 - v. Peak session power (kW) by port;
 - vi. Payment method associated with each charging session;
 - vii. Charging station port uptime, T_{outage}, and T_{excluded} calculated in accordance with the equation in 23 C.F.R. § 680.116(b) for each of the previous three months; and
 - viii. Duration (minutes) of each outage.
- b. Annual Reporting. Consultant must provide an annual report to LADOTD/LTRC that includes all data required by the NEVI Final Rule to LADOTD/LTRC on an annual basis. Annual reports are due on or before March 1, in a manner prescribed by FHWA. Required annual information includes but may not be limited to:
 - i. Maintenance and repair cost per charging station for the previous year;
 - ii. An annual report summarizing operation and maintenance activities. Such report shall be submitted on or before June 30th of each fiscal year for five (5) years; and
 - iii. Identification of and participation in any State or local business opportunity certification programs including but not limited to minority-owned businesses, Veteran-owned businesses, woman-owned businesses, and businesses owned by economically disadvantaged individuals.
- c. One-time Report. The following data must be submitted once for each charging station, on or before March 1 of each year, in a manner prescribed by the FHWA. Any one-time data made public will be aggregated and anonymized to protect confidential business

information.

- i. The name and address of the private entity(ies) involved in the operation and maintenance of chargers.
 - ii. Distributed energy resource installed capacity, in kW or kWh as appropriate, of asset by type (e.g., stationary battery, solar, etc.) per charging station
 - iii. Charging station real property acquisition cost, charging equipment acquisition and installation cost, and distributed energy resource acquisition and installation cost
 - iv. Aggregate grid connection and upgrade costs paid to the electric utility as part of the project, separated by:
 1. Total distribution and system costs, such as extensions to overhead/underground lines, and upgrades from single-phase to three-phase lines; and
 2. Total service costs, such as the cost of including poles, transformers, meters, and on-service connection equipment.
- d. Data Sharing. LADOTD/LTRC is required to provide both quarterly and annual data submittals as per § 680.112 of the NEVI Final Rule. Consultant must prepare and provide all data required to complete the quarterly and annual reports.
- ~~10)9)~~ 10)9) Permitting and Third-Party Agreements. LADOTD/LTRC will obtain environmental approvals for the site related to the Project as required by the National Environmental Protection Act (“NEPA”). Consultant shall be responsible for obtaining all permits and third-party agreements for the site.
- ~~11)10)~~ 11)10) Licenses. Consultant shall be licensed as required by applicable federal and state laws, rules, and regulations including, but not limited to, Louisiana Revised Statutes Section 48:250.3(B). Evidence of proper licensing shall be required to be provided prior to execution of the Contract.
- ~~12)11)~~ 12)11) Design and Construction Review. The design and construction of the Project are subject to LADOTD/LTRC’s review and approval, including costs, materials, plans, specifications, design, and operational details. LADOTD/LTRC reserves the right to specify or make determinations as to the standards, methods, techniques, design, and dimensional criteria acceptable in the Project. Failure to meet special conditions, performance criteria, or specifications may result in the withdrawal of the funding, disqualification from future consideration for a grant, or declaration of a Consultant to be in default of the terms of this Contract.
- ~~13)12)~~ 13)12) Construction Progress Schedule. Prior to or at the preconstruction conference and before beginning work on the Project, the Consultant shall submit to the project engineer a Construction Progress Schedule giving a satisfactory schedule of operations that provides for completion of the work within the contract time. The contractor shall have copies of the schedule available at the preconstruction conference.
- a. If the Consultant’s operations are affected by changes in the plans or amount of work, or if the Consultant has failed to comply with the approved schedule, or if requested by the engineer, the Consultant shall submit a revised Construction Progress Schedule for approval. This revised schedule shall show how the Consultant proposes to prosecute the balance of the work. If the engineer requests a revised schedule, the Consultant shall submit the revised schedule within 14 calendar days after the date of request or progress payments may be withheld.

- b. The approved Construction Progress Schedule will be used as the basis of establishing the controlling item of work, charging contract time and as a check on the progress of the work. The Construction Progress Schedule shall show only one controlling item of work for each contract day. If the Construction Progress Schedule has not been approved prior to the issuance of the Notice to Proceed, the engineer will establish the controlling work item and charge contract time accordingly.

~~14)13)~~ Testing and Inspection.

- a. Testing. Consultant shall ensure that standard factory testing and post-installation system testing is conducted for each charging unit to verify functionality of the EVSE. In addition, Consultant shall ensure access and/or integration into the LADOTD/LTRC or other prescribed data sharing systems. Factory test results shall be provided for each unit as verified by the Consultant's quality assurance or test manager. Similar test results for the installed system shall be provided with the test manager's approval. LADOTD/LTRC will also have the right to test the EVSE and any data sharing connections (LADOTD/LTRC systems and/or Consultant provided portal). For data sharing, LADOTD/LTRC will participate in the testing through verification of receipt of the specified data. For the charging unit, LADOTD/LTRC may run on-site testing at its own expense.
- b. Inspection. Consultant agrees to allow LADOTD/LTRC to perform periodic inspections of its charging stations to ensure the stations are operable and compliant with federal requirements. Consultant shall allow LADOTD/LTRC access to all documents, in whatever form, necessary for reporting purposes and ensuring compliance with federal and contractual requirements. LADOTD/LTRC, FHWA, and/or any person designated or authorized by LADOTD/LTRC has the absolute right to inspect the Project sites, proposed Project sites, records, and construction materials relating to the Project. An inspection ordered or conducted by LADOTD/LTRC may include reproduction and examination of records, taking samples, and assessing any factor relevant to the Project, Consultant's Proposal, or Contract terms. Consultant's denial of access to records, failure to produce records, or obstruction of an inspection may result in termination of the Contract and/or disqualification from future consideration for grants.

~~15)14)~~ Maintenance and Operation of Improvements.

- a. Consultant's Responsibilities. Consultant shall operate and maintain, at its sole cost and expense, all completed Project improvements financed under this Contract for the full five-year operation and maintenance period. Consultant shall perform the maintenance to ensure an acceptable level of physical integrity and operation consistent with original design standards. Consultant certifies that it shall make available sufficient funds to provide the operations and maintenance and that it shall have and keep in place a full-coverage service contract for the entire five-year operations and maintenance period.
- b. Transfer of Ownership and Maintenance Responsibilities. Consultant may transfer ownership and maintenance responsibilities for the equipment and other improvements constructed pursuant to the Contract, subject to prior approval by LADOTD/LTRC following thirty-day written notice to LADOTD/LTRC of intent to transfer. LADOTD/LTRC shall determine the appropriate written documentation required to approve and authorize the transfer of ownership and maintenance responsibilities (including reporting and customer service obligations). LADOTD/LTRC shall not unreasonably withhold its approval.

- c. Uptime Requirement. During the five-year operation and maintenance period, other than allowable downtime for maintenance, vandalism, and natural disasters, charging equipment must be fully operational greater than 97 percent (97%) of the time on average, annually, as per § 680.116(b) of the Federal Rule. Uptime shall be self-monitored by Consultant and reported to LADOTD/LTRC if this requirement is not met.
- i. LADOTD/LTRC may notify Consultant if it has reason to believe the Uptime requirement is not being met and require Consultant to develop an action plan to bring the equipment back to working condition and improve system Uptime to the required level. Consultant shall implement the action plan.
 - ii. Material or repeated non-compliance with the Uptime requirements may be considered an event of default. Notwithstanding anything to the contrary contained this Contract, if Consultant is in default of the Uptime requirement and has failed to perform the requirements of any applicable plan to improve Uptime, LADOTD/LTRC may terminate this Contract.
- d. Failure to Reasonably Maintain. If LADOTD/LTRC determines that Project sites are not in a state of good condition, LADOTD/LTRC shall notify Consultant in writing. Consultant shall begin necessary work as soon as possible, but not more than fourteen (14) calendar days, after receipt of LADOTD/LTRC's notice, for items it does not dispute and notify LADOTD/LTRC in writing of items it does dispute. The parties shall promptly communicate and meet to resolve disputed items. Consultant shall pay the cost to repair the damages without reimbursement from LADOTD/LTRC. Consultant shall complete the undisputed work as promptly as reasonably possible but in no event later than twenty-four (24) calendar days after LADOTD/LTRC's written notice. Consultant may request an additional cure period to address deficiencies identified by LADOTD/LTRC. Approval of a cure period request, including extensions, is at LADOTD/LTRC's discretion.
- e. If the average annual uptime for a charging port is less than or equal to 97%, LADOTD/LTRC will assess liquidated damages.
- 16)15) Consultant shall furnish good and solvent bond in an amount not less than one hundred percent (100%) of the amount of the contract for the faithful performance of Consultant's duties in a form and with a qualified surety to the satisfaction of DOTD. Consultant shall maintain the performance bond and provide a certificate evidencing the performance bond annually. LADOTD/LTRC reserves the right to waive performance bond requirement or limit the scope. Failure to furnish the performance bond may be grounds for terminating this Contract. The performance bond under this Contract shall adhere to the requirements set forth in La. Admin. Code Title 34 §323.

Add any additional deliverables, terms, or site specific information.

CONTRACT TIME

The consultant shall proceed with the services specified herein after the execution of this Contract and upon written Notice-to-Proceed (NTP) from the LADOTD/LTRC and shall be completed within _____ calendar months, which includes review time. The delivery schedule for all project deliverables will be established by the Project Manager.

COMPENSATION

Compensation to the Consultant for services rendered in connection with this Contract shall be made on the basis of reimbursement for 80% of eligible project costs with a maximum limitation of \$ _____ to be reimbursed.

The Consultant shall submit payment milestone ~~monthly~~ invoices which shall be in accordance with the LTRC Manual of Research Procedures for work accomplished towards the completion of project tasks.

- 1) Maximum Amount of Reimbursement. The maximum amount of reimbursement to the Consultant is \$ _____, or 80% of eligible, actual, reasonable, and necessary project costs based on the approved budget, whichever is less. Consultant is responsible for project costs exceeding this amount.
- 2) Consultant is required to match the grant funding with a minimum of 20% of the eligible, actual, reasonable, and necessary project costs based on the approved budget from non-federal sources.
- 3) When costs are submitted for reimbursement, they will be reviewed for eligibility by LADOTD/LTRC to ensure conformance with 2 C.F.R. Part 200 *et seq.*, the NEVI Final Rule, and FWHHA guidance.
- 4) The following list of eligible and ineligible costs reflect LADOTD/LTRC's current understanding of Federal guidance, however, no costs deemed ineligible pursuant to 2 C.F.R. Part 200 *et seq.*, the NEVI Final Rule, or other applicable standards will be eligible for reimbursement.
 - a. Eligible costs include those incurred following a site award and may include acquisition, installation, operations/maintenance and network subscriptions for infrastructure for the first 5 years of operation, including:
 - i. DC fast charging equipment costs. Chargers must be purchased and not leased;
 - ii. Utility infrastructure upgrade costs, including components to connect the charger to the power source, transformers and other on-site equipment for power, costs to acquire and install service, equipment, and upgrades (e.g., power meter, transformer, switch gear), minor grid upgrades to connect the charger to the grid distribution network (e.g., extending power lines or upgrading existing lines);
 - iii. Site preparation and construction costs directly related to the charging of vehicles (concrete slab, conduit, wiring, drainage);
 - iv. Signage;
 - v. Lighting;
 - vi. Site layout and design. Per federal rule, final design and construction costs for installations are eligible after National Environmental Policy Act (NEPA) processing is completed;
 - vii. Permitting fees related to the charger;
 - viii. Cellular/Internet network infrastructure upgrade fees;
 - ix. Operations/Maintenance and network subscription costs, including service agreements with qualified contractors and charging equipment manufacturers or warrantors;
 - x. On-site energy storage to transfer power to and from the EV charger (on-site distributed energy resource (DER) equipment directly related to vehicle charging) (Battery-integration);

- xi. Clean fuel backup power sources;
- xii. Pre-construction costs associated with environmental review and preliminary engineering;
- xiii. Purchase of proprietary adapters that meet the following criteria:
 - 1. Directly or indirectly compatible with a J3400 connector to a permanently attached Combined Charging System (CCS) connector
 - 2. Approved by the charger manufacturer to ensure consistency, safety, and reliability
 - 3. Fully integrated into the charger such that it cannot be removed from the site
 - 4. Other operating costs that are necessary and directly related to the charging of electric vehicles.
- b. Ineligible costs include:
 - i. Any costs incurred before the fully executed Contract related to submitting the proposal application, design and construction for site installations, are not eligible for reimbursement;
 - ii. Costs not directly related to charging of vehicles;
 - iii. Costs for construction or general maintenance of building and parking facilities (if not directly related to charging of vehicles);
 - iv. Variable operating and maintenance costs, including costs for insurance and other recurrent business costs such as staffing;
 - v. Construction or maintenance of buildings;
 - vi. Costs of major grid upgrades (longer line extension or upgrades, improvements to offsite power generation, bulk power transmission, substations, or beyond what is required to connect a charging station to the electric grid distribution network);
 - vii. Any Project costs covered by the utility, including utility service upgrade costs;
 - viii. Costs for studies or research projects; and
 - ix. Costs for property purchase or rental.
- 5) Milestones. Consultant is responsible for incurring 100% of the upfront costs of each milestone, and is then reimbursed up to 80% of the eligible, actual, reasonable, and necessary costs based on the approved budget after each milestone is reached and LADOTD/LTRC approves the Consultant's submitted invoices.
 - a. Reimbursement may only occur after funds are expended and appropriate documentation, as determined by LADOTD/LTRC, is submitted for reimbursement.
 - b. Reimbursable work may not begin until a Notice to Proceed has been issued.
 - c. Consultant is eligible for operation and maintenance reimbursements for the duration of the mandatory five-year period. Consultant may submit operations and maintenance reimbursement requests to LADOTD/LTRC on an annual basis.
 - d. The following are payment milestones:
 - i. Design and Permitting Completed
 - ii. Utility Infrastructure Improvements Completed
 - iii. Site Preparation and Construction Completed
 - iv. EVSE Hardware and Software Completed
 - v. Operations and Maintenance, Network Subscription and Power (Annually)
 - e. If Consultant fails to produce a useable unit of work then LADOTD/LTRC reserves the right to pursue any remedies available under the law to recover funds, including but not

limited to recovery from the performance bond.

6) Liquidated Damages

- a. Each charging port shall have an average annual uptime greater than 97%.
- b. Uptime calculations are defined in 23 CFR 680.116(b).
- c. If the average annual uptime for a charging port is less than or equal to 97%, LADOTD/LTRC will assess liquidated damages pursuant to the following table based on the number of days of “downtime” for each charging port during an annual period. The liquidated damages will be assessed against O&M, Network, and Power Invoice payment due to the Awardee annually.

Range Uptime	Average Annual Percentage	# of days per Year in Range	Amount of Liquidated Damages Per Site
1	> than 97%	[11]	N/A
2	80% to <= 97%	[62]	33% of Previous Year O&M, Network Subscription and Power Invoices
3	50% to < 80%	[110]	66% of Previous Year O&M, Network Subscription and Power Invoices
4	< 50%	[182]	100% of Previous Year O&M, Network Subscription and Power Invoices

7) Liability, Forfeiture of Funds, Repayment.

- a. **Improper Use.** If Consultant fails to comply with the terms and conditions of this Contract, the Consultant shall immediately reimburse LADOTD/LTRC the amount demanded by LADOTD/LTRC, up to the total amount of payments to Consultant. LADOTD/LTRC may, at the discretion of the Secretary, disqualify the Consultant from future consideration for grants or other opportunities to contract with LADOTD/LTRC. A Consultant aggrieved by a LADOTD/LTRC decision under this section may appeal the decision pursuant to LADOTD/LTRC policies and Louisiana state law.
- b. **Payment Reduction.** If LADOTD/LTRC determines, by audit or otherwise, which determination shall be conclusive, that the financial participation properly attributable to the NEVI Formula Program is less than the amount authorized for reimbursement, the Consultant shall, at LADOTD/LTRC’s request, refund to LADOTD/LTRC the amount by which the reimbursement exceeds the justified financial participation within 60 days of LADOTD/LTRC’s demand. In lieu of these requirements, LADOTD/LTRC may, by letter, adjust the amount of funds authorized for reimbursement under this Contract to reflect the actual justified amount.

PAYMENT

Payments to the Consultant for services rendered by the Consultant shall be made per the schedule provided above. The payments shall be based on a standard certified correct invoice. Invoices reflecting the amount and value of work accomplished to the date of such submission shall be submitted directly to the Project Manager. The invoice shall also show the total of previous payments on account of this contract, and the amount due and payable as of the date of the current invoice.

A principal member of the Consultant to whom the contract is issued must sign, date, and certify the invoice for correctness. Invoices may be submitted electronically. The original and three copies of each

~~invoice shall be submitted to the Project Manager.~~

Upon receipt and approval of each invoice, the LADOTD/LTRC shall check the invoice for correctness and return if required; upon acceptance and approval of a standard certified correct invoice, for services satisfactorily performed, the LADOTD/LTRC shall pay the amount shown to be due and payable within 30 calendar days, in accordance with Louisiana R.S. 48:251.5.

PUBLICATION OF DATA

The following provisions shall govern publication of resultant data from each contract research project.

- (1) The author shall be free to copyright material developed under each contract with the provision that the State and all other Governmental funding agencies reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the work for Government purposes.
- (2) Either party to this contract may initiate a request for publication of the final or interim reports or any portions thereof. Technical papers, articles, and submissions for review to technical journals, prepared for submission prior to approval of the final report required under the contract, must be submitted to the LADOTD/LTRC for approval prior to publication. In the event of failure of agreement between the LADOTD/LTRC and the Consultant relative to publication of the final report, or of any progress reports during the contractual period, either party reserves the right to publish independently in which event the non-concurrence of the other party shall be set forth as technical comments in the report in a clearly identified section such as “sponsor’s comments,” or “Consultant’s comments.” Following publication of the final report under a contract, no approvals are required from LADOTD/LTRC for subsequent publications, as noted below in item 4.
- (3) Both parties to the agreement shall have equal responsibility to review and approve material for publication prior to publication of the final report, except that the LADOTD/LTRC reserves the right initially to publish the final report.
- (4) After acceptance of the final report, the Consultant and the LADOTD/LTRC are free to use the data and results without restriction except as noted above in item 2. Whenever the Consultant uses the data and the results, due credit will be given to the LADOTD/LTRC and all other funding agencies.
- (5) All reports published by the LADOTD/LTRC and/or the Consultant shall contain a disclaimer statement as provided in the *LTRC Manual of Research Procedures*.
- (6) Publication by either party shall give credit to the other party and to all other funding agencies unless, due to failure of agreement on any report of the study, any funding agency or either of the parties to this agreement requests that its credit acknowledgement be omitted.

PATENT RIGHTS

The proprietary rights of any special equipment or procedures developed as a result of this project shall be governed by the following provisions.

The parties to this agreement hereby mutually agree that, if patentable discoveries or inventions should result from the Consultant's work described herein, all rights accruing from such discoveries or inventions shall be the sole property of the Consultant. However, the Consultant agrees to and does hereby grant to all State Highway and/or Transportation Departments and the United States Government an irrevocable, non-exclusive, nontransferable and royalty-free license to practice each invention in the manufacture, use and disposition, according to law, of any article or material, and in the use of any method that may be developed as a part of the work under this agreement.

CONTRACT CHANGES

Minor revisions in the described work shall be made by the Consultant without additional compensation as the work progresses. Considerations for minor revisions have been included in the compensation computations. If the LADOTD/LTRC requires more substantial revisions or additional work which the consultant believes warrants additional compensation, the Consultant shall notify the LADOTD/LTRC in writing within thirty (30) days of being instructed to perform such work.

If the LADOTD/LTRC agree that the required work is necessary and warrants additional compensation, the Contract shall be changed by a **Supplemental Agreement** or by an **Extra Work Letter**. The Consultant shall not commence any additional work until written authority to proceed has been given by the LADOTD/LTRC. An Extra Work Letter shall be utilized in cases when the additional compensation is small and the work does not constitute a change in scope. The cumulative value of all extra Work Letters shall not exceed 10% of the cumulative value of all contract compensation exclusive of Extra Work Letters (original contract compensation plus all Supplemental Agreements). In all other cases wherein the LADOTD/LTRC agrees that the required work is necessary and warrants additional compensation, a Supplemental Agreement shall be utilized.

If the LADOTD/LTRC disagrees that additional compensation is due for the required work it shall be the Consultant's responsibility to perform the work and adhere to the procedures set forth in the Claims and Disputes provisions of this Contract.

OWNERSHIP OF DOCUMENTS

All data collected by the Consultant and all documents, notes, drawings, tracing and files collected or prepared in connection with this work, except the Consultant's personnel and administrative files, shall become and be the property of the LADOTD/LTRC and the LADOTD/LTRC shall not be restricted in any way whatever in its use of such material, except as specified in Louisiana R.S. 38:2317.

No public news releases, technical papers, or presentations concerning this project may be made without prior written approval of the LADOTD/LTRC.

TERMINATION OR SUSPENSION

This contract shall become effective from the date of execution and shall be binding upon the parties until the work has been completed by the Consultant in accordance with the terms of this Contract and accepted by the LADOTD/LTRC, and all payments and conditions have been met. Further, this Contract shall remain in effect until the LADOTD/LTRC has issued final acceptance of the services provided for herein. However, this Contract may be terminated earlier under any or all of the following conditions:

1. By mutual agreement and consent of the parties hereto.
2. By the LADOTD/LTRC as a consequence of the failure of the Consultant to comply with the terms, progress or quality of work in a satisfactory manner, proper allowance being made for circumstances beyond the control of the Consultant. LADOTD/LTRC reserves the right to pursue any remedies available under the law to recover funds, including but not limited to recovery from the performance bond.
3. By either party upon failure of the other party to fulfill its obligations as set forth in this contract.
4. By the LADOTD/LTRC due to Consultant's deviation from the staffing plan submitted with their application, unless such changes are approved by LADOTD/LTRC in writing~~the departure for whatever reason of any principal member or members of the Consultant's firm.~~
5. By satisfactory completion of all services and obligations described herein.
6. By the LADOTD/LTRC giving thirty (30) days notice to the Consultant in writing and paying compensation due for completed work.

Upon termination, the Consultant shall deliver to the LADOTD/LTRC a report in complete detail of all findings and all obtained data for the LADOTD/LTRC's use as well as copies of all records of the work compiled to the date of termination and the LADOTD/LTRC shall pay in full for all work accomplished up to the date of termination.

If for any reason, the LADOTD/LTRC wishes to suspend this Contract, it may do so by giving the Consultant thirty (30) days written notice of intent to suspend. The Consultant shall, at expiration of the thirty (30) days from the date of the notice of intent to suspend, stop all work on the Project. Work shall resume no later than thirty (30) days after the LADOTD/LTRC provides the Consultant with a notice of intent to resume work.

The consultant shall not have the authority to suspend work on this Contract.

CLAIMS AND DISPUTES

The Consultant's failure to provide the required written notification pursuant to the provisions of the Contract Changes section of this contract shall be deemed a waiver of any and all claims for additional compensation.

When the Consultant has timely filed notice pursuant to the provisions of the Contract Changes section of this contract, the Consultant shall submit the entire claim and supporting documentation to the LTRC Director within thirty (30) days of the notice. The LTRC Director shall submit the claim to the LTRC Policy Committee (hereinafter, "the Committee") for review.

The Consultant shall be notified in writing of the Committee's recommendation, and, if accepted by the Consultant and approved by the Chief Engineer and FHWA, if applicable, the parties hereto shall execute a Supplemental Agreement based upon said recommendation. If the Committee's recommendation is not accepted by the Consultant, the Consultant may file a written appeal to the Chief Engineer. The decision of the Chief Engineer shall be final, and the Consultant shall be notified in writing of the Chief Engineer's decision, which is final and unappealable.

INSURANCE REQUIREMENTS

During the term of this Contract, the Consultant or their designated pass-through shall carry professional liability insurance in the amount of \$1,000,000. During the term of this Contract, the Consultant shall also carry commercial general liability insurance in the amount of \$2,000,000. This insurance shall be written on a "claims-made" basis. The Consultant shall provide or cause to be provided a Certificate of Insurance to LADOTD/LTRC showing evidence of such professional liability insurance.

Consultant agrees to procure and maintain insurance on all Project property (including EVSE) against fire, destruction, storm, or other similar risks, including but not limited to flood insurance, in sufficient amounts to adequately protect the current value of the Project property. Consultant shall provide evidence of such insurance coverage to LADOTD/LTRC upon request. If the Project property is wholly or partially destroyed by fire or other casualty covered by insurance, Consultant agrees to cooperate by taking or causing to be taken all action necessary to enable recovery upon such insurance. The proceeds of any insurance will be applied to rebuild any Project property partially destroyed, or to replace any Project property wholly destroyed, if rebuilding or replacement is feasible.

INDEMNITY

Consultant agrees and obligates itself, its successors and assigns to protect, defend, indemnify, save and hold harmless LADOTD/LTRC, its officials, officers, agents, servants, employees, and volunteers from and against any and all claims, damages, expenses, and liability arising out of injury or death to any person or the damage, loss or destruction of any property resulting from any violation of State or Federal law, any negligent act or omission by Consultant, its representative, its agents, servants, and employees.

Further, Consultant agrees that it shall defend, hold harmless and indemnify LADOTD/LTRC, its officials, officers, agents, servants, employees, and volunteers, against any and all claims, demands, suits, actions (ex contractu, ex delictu, quasi-contractual, statutory or otherwise), judgments of sums of money, attorney's fees and court costs, to any party or third person including, but not limited to, amounts for loss of life or injury or damage to persons, property or damages to contractors, subcontractors, suppliers, laborers or other agents or contractors of the Consultant or any of the above, growing out of, resulting from, or by reason of, any negligent act or omission, operation or work of the Consultant, its employees, servants, contractors, or any person engaged in or in connection with this Contract. Consultant shall provide and bear the expense of all personal and professional insurance related to its duties arising under this Contract.

CLAIMS FOR LIENS

The Consultant shall hold the LADOTD/LTRC harmless from any and all claims for liens for labor, services or material furnished to the consultant in connection with the performance of its obligations under this Contract.

COMPLIANCE WITH LAWS

The Consultant shall comply with all applicable Federal, State and Local laws and ordinances, as shall all others employed by it in carrying out the provisions of this Contract.

COMPLIANCE WITH CIVIL RIGHTS ACT

The Consultant agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, Federal Executive Order 11246, the Federal Rehabilitation Act of 1973, as amended, the Vietnam Era Veteran's Readjustment Assistance Act of 1974, Title IX of the Education Amendments of 1972, the Age Discrimination Act of 1972, and Consultant agrees to abide by the requirements of the Americans with Disabilities Act of 1990.

Consultant agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation or disabilities.

Any act of discrimination committed by Consultant, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

COVENANT AGAINST CONTINGENT FEES

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warranty the LADOTD/LTRC shall have the right to annul this contract without liability, or, in its discretion to deduct from the contract price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

No legislator or person who has been certified by the Secretary of the State as elected to the legislature or member of any board or commission, members of their families or legal entities in which the legislator, person or board or commission member has an interest, may derive any benefit from this Contract or share in any part of the Contract in violation of Louisiana Code of

Governmental Ethics (LSA-R.S. 42:1101, et seq.)

CODE OF GOVERNMENTAL ETHICS

The consultant acknowledges that Chapter 15 of Title 42 of the Louisiana Revised Statutes (R.S. 42:1101 et. seq., Code of Governmental Ethics) applies to the consultant in the performance of services called for in this contract. The consultant agrees to immediately notify the state if potential violations of the Code of Governmental ethics arise at any time during the term of this contract.

SUBLETTING, ASSIGNMENT OR TRANSFER

This Contract, or any portion thereof, shall not be transferred, assigned, or sublet without the prior written consent of the LADOTD/LTRC, following thirty day written notice of the Consultant's intent.

COST RECORDS

The Consultant and its subcontractors shall maintain all books, documents, papers, accounting records and other evidence pertaining to cost incurred relative to this project. Costs shall be in accordance with Title 2 Code of Federal Regulations Part 200 *et seq.* and LADOTD/LTRC's audit guidelines, which are incorporated herein by reference as if copied *in extenso*. Records shall be retained until such time as an audit is made by LADOTD/LTRC or the Consultant is released in writing by LADOTD/LTRC's Audit Director, at which time the Consultant may dispose of such records. The Consultant shall, however, retain such records for a minimum of three (3) years from the date of payment of the last invoice under this contract or the release of all retainage for this contract, whichever occurs later, for inspection by the LADOTD/LTRC and/or Legislative Auditor, and the FHWA or General Accounting Office (GAO) under State and Federal Regulations as of the date of this Contract.

SUCCESSORS AND ASSIGNS

This contract shall be binding upon the successors and assigns of the respective parties hereto.

TAX RESPONSIBILITY

The Consultant hereby agrees that the responsibility for payment of taxes related to this Contract and on the payments received under this contract shall be its obligation.

JOINT EFFORT

This Contract shall be deemed for all purposes prepared by the joint efforts of the parties hereto and shall not be construed against one party or the other as a result of the preparation, drafting, submittal or other event of negotiation, drafting, or execution of the Contract.

SEVERABILITY

If any term, covenant, condition, or provision of this Contract or the application thereof to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Contract or the application of such term, covenant, condition or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term, covenant, condition, and provision of this Contract shall be valid and enforced to the fullest extent permitted by law.

MISCELLANOUS

- 1) Disputes. Any dispute concerning a question of fact in connection with the work not disposed of by agreement between the parties hereto shall be referred to the LADOTD's Secretary for determination, whose decision in the matter shall be final and conclusive on the parties hereto.
- 2) Build American Buy America. Pursuant to the Build America Buy America ("BABA") provisions of the Infrastructure Investment and Jobs Act enacted on November 15, 2021 (Pub. L. No. 117-58), all iron and steel materials (including the application of a coating), manufactured products manufactured in the United States and having the cost of the components greater than 55 percent of the total cost of all components of the manufactured product, as well as construction materials permanently installed in the project, shall be manufactured and produced in the United States, unless a waiver of these provisions is granted.
 - a. Consultant Certification. Consultant shall provide certification of intent to conform to BABA with their completed contract documents, through transmittal of a completed certification document. The certification document, "DOTD's Bidder's Build America, Buy America Certification Form," will be provided in the federal package with the other required federal documents, and shall be the only form acceptable for use in certification of intent to conform to BABA. The contractor shall provide a separate Certification Form from the supplier for each applicable material.
 - b. Waiver. Consultant will be allowed minimal use of foreign steel and iron materials without waiver provided the cost of these materials does not exceed 0.1 percent of the total contract cost or \$2,500, whichever is greater. However, the contractor shall make written request to DOTDEVProgram@la.gov for permission to use such foreign materials and shall furnish a listing of the materials, their monetary value, and their origin and place of production.
 - c. Records Retention. The contractor shall retain any and all records pertaining to or relating with the contractor's BABA certification and processes for a period of not less than five years after final acceptance of the construction project.
 - d. Inspection. At LADOTD/LTRC's sole discretion, LADOTD/LTRC shall have the right to inspect or audit any and all records pertaining to or relating with the contractor's BABA certification and processes.
- 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.
- 4) Americans with Disabilities Act. The Americans with Disabilities Act of 1990 (ADA), and implementing regulations, apply to EV charging stations by prohibiting discrimination on the basis of disability by public and private entities. Consultant agrees to construct and/or install EV charging stations in compliance with the ADA and implementing regulations.

- 5) Title VIII of the Civil Rights Act of 1968 (Fair Housing Act). Consultant shall comply with all applicable requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), and implementing regulations.
- 6) Uniform Relocation Assistance and Real Property Acquisition Act (URA). If applicable, Consultant shall comply with the Uniform Relocation Assistance and Real Property Acquisition Act, and implementing regulations, which establish 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.
- 7) National Environmental Policy Act of 1969. Consultant shall comply with the National Environmental Policy Act of 1969 (NEPA), the Council on Environmental Quality's NEPA implementing regulations, and agency NEPA procedures applicable to this program.
- 8) Energy Conservation. Consultant agrees to comply with the mandatory energy standards and policies of energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321, *et seq.*
- 9) Justice40 Initiative. Consultant agrees to comply with federal Justice40 requirements and follow through with the equity plan submitted with their application ~~goals by implementing initiatives to ensure that at least forty percent of the funds received under the program benefit historically underserved communities. These communities include the Tribal Nation, Women, Black, Latino, Asian American Pacific, Indigenous, and other underrepresented groups. Justice40 goals related to the NEVI Formula Program may be achieved by site locations in disadvantaged communities; ownership by a member of a historically underserved group; workforce development; apprenticeships or on the job training in construction, operation, and maintenance; Louisiana-certified DBE participation; affordable charging rates; and other innovative means.~~
- 10) Civil Fraud. Consultant acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities pertaining to this Project. Upon execution of this Contract, Consultant certifies and affirms the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that it has made, it makes, it may make, or causes to be made, pertaining to this Contract or the federally funded assisted project for which work is being performed. In addition to other penalties that may be applicable, Consultant further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Consultant to the extent the Federal Government deems appropriate.
- 11) Criminal Fraud. Consultant acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001. If Consultant provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal program under 49 U.S.C. 53 or any other applicable federal law, 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 or other applicable federal law to the extent the Federal Government deems appropriate.
- 12) Controlling Law. The validity, interpretation, and performance of this Contract shall be controlled and constructed in accordance with the laws of the State of Louisiana. In the event of default by either Party, the aggrieved Party shall have all rights granted by the general laws of the State of Louisiana.
- 13) Legal Compliance. The Parties shall comply with all applicable federal, state, and local laws and regulations, including, specifically, the Louisiana Code of Government Ethics (LSA-R.S.

- 42:1101, *et seq.*) in carrying out the provisions of this Contract.
- 14) Venue. The exclusive venue for any suit arising out of this Contract shall be in the Nineteenth Judicial District Court for the Parish of East Baton Rouge, State of Louisiana.
 - 15) Third Parties. The parties to this Contract understand that this Contract does not create or intend to confer any rights in or on persons or entities not a party to this Contract.
 - 16) Ownership. Nothing in this Contract shall construe to create or vest in LADOTD/LTRC any ownership interest in, or responsibility for, any electric vehicle charging station(s) to be improved or built under this Contract.
 - 17) Provision of Law Deemed Inserted. Each provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein. The Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon the application of either Party, the Contract shall forthwith be amended to make such insertion or correction.
 - 18) Applicability to Subcontracts. The Consultant agrees that all contracts it enters into pursuant to this Contract shall comply with the forgoing terms and conditions hereto.
 - 19) Public Records. Consultant acknowledges familiarity with Louisiana’s Public Records Law (La. R.S. 44, *et seq.*) applicable to public information and the requirements of the RFP. LADOTD/LTRC will not advise Consultant as to the nature or content of the documents or other records entitled to protection from disclosure under Louisiana’s Public Records Law, as to the interpretation of such laws, or as to the definition of “trade secret.”
 - 20) Consultant must acquire adequate property interests to construct, operate, and maintain the NEVI-funded EV charging stations.

IN WITNESS WHEREOF, the parties have caused these presents to be executed by their respective officers thereunto duly authorized as of the day and year first above written.

WITNESSES:

Witness for First Party

Witness for First Party

Witness for Second Party

NAME OF CONSULTANT

BY: _____

Authorized Person

Title

Date: _____

Federal Identification Number: #####

STATE OF LOUISIANA
DEPARTMENT OF TRANSPORTATION
AND DEVELOPMENT

BY: _____

Secretary

Witness for Second Party

Date: _____

RECOMMENDED FOR APPROVAL:

BY: _____
Division Head

Attachment A – Order of Precedence

1. In the event of any conflict, ambiguity, or inconsistency between or among the contract and any attachments or exhibits thereto (collectively referred to as the “Contract Documents”), the order of precedence, from highest to lowest, is as follows:
 - a. The NEVI Final Rule (Title 23, C.F.R. Chapter I, subchapter G, part 680, *et seq.*), including all other applicable Federal laws;
 - b. The provision of the main body of this Contract, as may be amended from time to time;
 - c. The advertisement of the RFP including all attachments, appendices, exhibits, plans, drawings, and any other items attached to or made a part of it; and
 - d. Consultant’s proposal including all attachments, appendices, exhibits, plans, drawings, and any other items attached to or made a part of it.
2. If there is a conflict, ambiguity, or inconsistency between any of the provisions of the Contract Documents having the same order of precedence, the provisions establishing a higher standard of safety, reliability, quality level of service, quantity, or scope will prevail.
3. Consultant acknowledges and agrees that it had the opportunity and obligation, before submission of its proposal, to review the terms and conditions of this Contract and to bring to the attention of LADOTD/LTRC any conflicts, ambiguities, or inconsistencies of which it is aware contained within this Contract.

4. LADOTD/LTRC's interim or final answers to the questions posed during the RFP process for this Contract do not form part of this Contract and are not relevant in interpreting this Contract, except to the extent LADOTD/LTRC, in its discretion, believes this Contract is ambiguous, in which case interim or final answers may be used to clarify such ambiguous provisions.
5. Incorporation into this Contract of any part of the Consultant's proposal shall not (a) limit, modify, or alter LADOTD/LTRC's right to review and approve any submittal required hereunder, or (b) be deemed as acceptance or approval of any part of the Consultant's proposal by LADOTD/LTRC.
6. Consultant shall not take advantage of or benefit from any apparent or actual error, conflict, ambiguity or inconsistency in this Contract. If Consultant becomes aware that any matters with respect to the project are not sufficiently detailed, described, or explained in this Contract, or if Consultant becomes aware of any error or any conflict, ambiguity or inconsistency between or among the documents forming this Contract, Consultant shall promptly provide Notice to LADOTD/LTRC, including the item Consultant considers should apply based on the applicable rules in this **Attachment A - Order of Precedence**. Except as expressly stated in this Contract, if (a) the error, conflict, ambiguity or inconsistency cannot be reconciled by applying the applicable rules or (b) the Parties disagree about (i) which rule applies or (ii) the results of the application of such applicable rule(s), then LADOTD/LTRC will determine, in its reasonable discretion, which of the conflicting items is to apply and provide notice to the Consultant before the Consultant proceeds with the applicable aspect of the project.

Attachment B – Cybersecurity Requirements for Internet Service and EV Charging Providers

Purpose and Scope

This section is designed to provide clear and comprehensive cybersecurity guidance to all Broadband and Internet Service Providers (ISPs), EV Charging Providers (EVCPs) or other public services, which receive funding from the state, which offer internet connections to Louisiana constituents, visitors, residents, or businesses. Given the critical role that these providers play in ensuring consistent and secure connectivity for the State, it is imperative that they create and implement a robust cybersecurity plan to detect, manage, and report cyber threats promptly.

Responsibilities

Monitoring for Cyber Threats

Device Configuration: Devices that are a part of or connected to the network should be meticulously configured to generate logs at an appropriate level, ensuring that any irregularities or potential threats are properly recorded.

Event Management: All events, especially those that might indicate potential cyber threats, should be managed, correlated, monitored, and retained as per state standards and

regulations. This ensures that ISPs and EVCPs have a comprehensive understanding of their network's security posture at all times.

Continuous Monitoring: All internet connections, regardless of their nature, should be monitored continuously for both known and unknown cyber threats.

Threat Reporting

Immediate Notification: ISPs and EVCPs are expected to report all identified threats to the state in near real-time. This should be facilitated through threat sharing technology platforms, which ensure that threat intelligence is disseminated promptly and effectively.

Mandatory Reporting (during Period of Performance): Any attempted or successful cyber-attacks on the network or infrastructure of an ISP must be promptly reported to the State of Louisiana Fusion Center. This requirement is non-negotiable and is critical for the state to assess the larger cyber threat landscape.

Cyber Incident Response Plan

Development and Maintenance: All service providers are required to develop a comprehensive Cyber Incident Response Plan (CIRP) detailing their approach to managing and mitigating cyber incidents. This plan should cover everything from threat detection to post-incident analysis.

State Collaboration: ISPs and EVCPs are required to share their CIRP with the State's Governor's Office of Homeland Security and Emergency Preparedness (GOHSEP) office. This ensures that in the event of a statewide cyber incident, there is a coordinated response and that the ISP's measures align with the state's cybersecurity protocols.

Patch Management

Importance of Timely Patching: Ensuring that all systems, applications, and devices are up-to-date with the latest security patches is a critical aspect of maintaining a robust cybersecurity posture. Vulnerabilities that are left unpatched can serve as entry points for cyber attackers.

Routine Patching Schedule: Service providers should implement a routine patching schedule. Critical security patches should be applied as soon as possible, while non-critical patches should be implemented based on a predefined schedule that minimizes disruptions but ensures timely updates.

Patch Assessment: Before applying patches, ISPs and EVCPs should assess them in a controlled environment to verify their compatibility and to ensure that they do not introduce additional vulnerabilities or issues.

Patch Reporting (during Period of Performance): ISPs and EVCPs should maintain a

record of all applied patches, detailing the date of implementation, the nature of the patch, and any observed impact on systems or services. This record should be made available to the State upon request.

Patch Notification: In instances where a patch addresses a critical vulnerability or has a significant impact on services or user security, ISPs and EVCPs should notify their customers and provide guidance on any required actions.

Audits and Compliance: The state may conduct periodic audits to ensure ISPs and EVCPs are adhering to best practices in patch management. Non-compliance with patch management guidelines can lead to further actions as deemed appropriate by the state.

Timely and efficient patch management not only safeguards the service providers' infrastructure but also plays a pivotal role in ensuring the overall security of the Site's digital ecosystem. ISPs and EVCPs are encouraged to prioritize this process and leverage it as a core component of their cybersecurity strategy.

Supply Chain Risk Management

ISPs and EVCPs must understand the requirements contained within this policy section shall be shared with and are applicable to all critical third-party entities providing supporting service to the ISP or EVCP.

Compliance and Review

The appropriate state authority will conduct regular reviews of the ISP's cybersecurity measures to ensure adherence to this policy.

Third-party Cyber Risk Assessment: Every 3 years, ISPs and EVCPs are mandated to undergo a cyber-risk assessment conducted by an independent third party. This assessment will evaluate the effectiveness and resilience of the ISP's cybersecurity measures, ensuring that they are in line with best practices and state requirements. Risk Assessment scope shall also include a review of ISP critical vendors, partners, and shared services.

Non-compliance with any of the stipulated guidelines may result in penalties or further action as deemed necessary by the state.