



**Washington State
Department of Transportation**

Washington's Electric Vehicle Charging Reliability and Accessibility Accelerator Grant Program

Notice of Funding Opportunity and Request for Proposals

Updated: December 2024

Office of Innovative Partnerships
Washington State Department of Transportation
partnerships@wsdot.wa.gov

Title VI Notice to Public

It is the Washington State Department of Transportation's policy to assure that no person shall, on the grounds of race, color, national origin or sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or be otherwise discriminated against under any of its federally funded programs and activities. Any person who believes his/her Title VI protection has been violated, may file a complaint with WSDOT's Office of Equal Opportunity (OEO). For additional information regarding Title V complaint procedures and/or information regarding our non-discrimination obligations, please contact OEO's Title VI Coordinator at (360) 705-7090.

Americans with Disabilities Act (ADA) Information

This material can be made available in an alternate format by emailing the Office of Equal Opportunity at wsdotada@wsdot.wa.gov or by calling toll free, 855-362-4ADA (4232). Persons who are deaf or hard of hearing may make a request by calling the Washington State Relay at 711

Notificación de Título VI al Público

Es la póliza de el Departamento de Transportes del Estado de Washington de asegurar que ninguna persona sea excluida de participación o sea negado los beneficios, o sea discriminado bajo cualquiera de sus programas y actividades financiado con fondos federales sobre la base de raza, color, origen nacional o sexo, como proveído por el Título VI de el Acto de Derechos Civiles de 1964. Cualquier persona que cree que sus protecciones de Título VI han sido violadas, puede hacer una queja con la Oficina de Igualdad de Oportunidades (OEO). Para información adicional con respecto a procedimientos de quejas de Título VI y/o información con respecto a nuestras obligaciones sin discriminación, por favor de comunicarse con el Coordinador de Título VI de la Oficina de Igualdad de Oportunidades (OEO) (360) 705-7090.

Información del Acta Americans with Disabilities Act (ADA)

Este material es disponible en un formato alternative. Envie su petición por correo electrónico al equipo de Oficina de Igualdad de Oportunidades (OEO) en wsdotada@wsdot.wa.gov o llamando gratis, 855-362-4ADA (4232). Personas sordas o con problemas de audición pueden solicitar llamando el relé de estado de Washington al 711.

EVC RAA grant summary page

Funding available:

This is an open and competitive grant solicitation. The Washington State Department of Transportation announces the availability of up to \$9,545,728 in federal grant funds for projects that will improve the reliability of existing non-operational publicly accessible electric vehicle charging infrastructure across Washington.

Eligible chargers:

The repair or replacement of existing broken or non-operational publicly accessible EV chargers listed on FHWA's Final List or Final List Addendum of Non-Operational Chargers.

Eligible applicants:

This solicitation is open to public or private entities registered to do business in Washington, excluding investor-owned utilities.

Completion date:

The goal of this program is to have funded chargers operational within 12 months of the Notice to Proceed. Chargers need to be operated and maintained for 5 years, including reporting.

Applications due:

Applications must be received by **5:00 p.m. Pacific Time on Thursday, January 30, 2025** and must be submitted in the format outlined in How to Apply.

EVC RAA grant schedule:

Activity	Date	Time	Details
NOFO/RFP posted	12/31/2024*		Posted to EVC RAA website
NOFO webinar	1/10/2025	9:00 a.m.	Register through Teams
Questions due	1/17/2025	5:00 p.m.	To partnerships@wsdot.wa.gov
Answers posted	1/22/2025*		Posted to EVC RAA website
Applications due	1/30/2025	5:00 p.m.	To partnerships@wsdot.wa.gov
Proposed awards	2/14/2025*		Posted to EVC RAA website
Notice to Proceed	4/15/2025*		Email from grant manager

* Or as soon as possible thereafter

EVC RAA webinar:

WSDOT staff will present the EVC RAA funding opportunity and take questions at an online Microsoft Teams webinar. Please [register for the EVC RAA webinar through Teams](#). It is anticipated that this webinar will be recorded and posted to the EVC RAA website after the event. The registration list will also be posted to the website.

EVC RAA distribution list:

Interested parties may sign up to receive formal EVC RAA announcements by subscribing to [WSDOT's National Electric Vehicle Infrastructure GovDelivery distribution list](#).

1	Introduction.....	6
1.1	Purpose of solicitation	6
1.2	Background.....	6
1.3	Key activities and dates	6
1.4	Award determination.....	7
1.5	Availability of Funds.....	7
1.6	Maximum award amounts per port.....	7
1.7	Maximum number of applications.....	7
1.8	Single applicant cap.....	7
1.9	Pre-application workshop.....	8
1.10	Questions	8
1.11	Contact information	8
1.12	Program references	8
2	Eligibility	9
2.1	Eligible applicants.....	9
2.2	Eligible projects	10
2.3	Eligible project costs.....	10
2.4	Ineligible project costs.....	11
2.5	Match funding requirements.....	12
2.6	Unallowable costs	14
3	Project requirements	15
3.1	Compliance with EVC RAA federal requirements.....	15
3.2	Project location	15
3.3	Federally-designated Disadvantaged Communities.....	16
3.4	Number of charging stations.....	16
3.5	Number of charging ports	16
3.6	Requirements for replacements	17
3.7	Compliance with applicable laws, regulations, and standards.....	17
3.8	EV charging station accessibility and availability	17
3.9	Project Team	18
3.10	Charging Equipment Requirements.....	18
3.13	Reasonable Return on Investment and Use of Program Income	23
4	How to apply.....	24
4.1	Application due date	24
4.2	Application format	24
4.3	Application submittal.....	24
4.4	Applicant certifications.....	24
4.5	Application components	25
4.6	Question and answer period.....	27
5	Project evaluation.....	27
5.1	Administrative screening criteria.....	27
5.2	Evaluation criteria summary	27
5.3	Tiebreaker	28
5.4	Award determination.....	28
5.5	Notice of proposed awards	28
5.6	Grant agreement execution.....	28

5.7 Application debrief	29
5.8 Complaint and protest procedures	29
6 Administration.....	31
6.1 Confidential information.....	31
6.2 Cost of developing application.....	31
6.3 Solicitation cancellation and updates.....	31
6.4 Immaterial defect	31
6.5 Opportunity to cure administrative errors.....	32
6.6 Disposition of applicant’s documents	32
6.7 Applicant’s admonishment.....	32
6.8 Agreement requirements	32
6.9 No agreement until signed and approved	33
6.10 Reimbursements.....	33
6.11 Reporting.....	33
Attachment 1 - EVC RAA grant agreement terms and conditions	33

1 Introduction

1.1 Purpose of solicitation

This is an open and competitive grant solicitation. The Washington State Department of Transportation announces the availability of up to \$9,545,728 in grant funds for projects that will improve the reliability of existing non-operational publicly accessible electric vehicle charging infrastructure across Washington. Funds available for this solicitation are only for ports listed on the Federal Highway Administration’s Final List and Final List Addendum of Non-Operational Chargers. Washington’s [list of eligible chargers](#) is located on the [EVC RAA grant website](#).

1.2 Background

The Infrastructure Investment and Jobs Act was signed into law in November 2021 (Public Law 117-58). The law authorizes hundreds of billions of dollars in new investments in a wide array of infrastructure categories, including roads and bridges, water infrastructure, passenger rail, energy, and broadband internet. EV charging infrastructure will see significant new funding, with \$5 billion to accelerate EV infrastructure deployment nationally under the National Electric Vehicle Infrastructure Formula Program. The \$5 billion NEVI Formula Program contains a 10 percent set-aside for the Secretary “to make grants to States and localities that require additional assistance to strategically deploy electric vehicle charging infrastructure”. The Electric Vehicle Charger Reliability and Accessibility Accelerator Program was developed through this set-aside.

1.3 Key activities and dates

Activity	Date	Time	Details
NOFO/RFP posted	12/31/2024*		Posted to EVC RAA website
NOFO webinar	1/10/2025	9:00 a.m.	Register through Teams
Questions due	1/17/2025	5:00 p.m.	To partnerships@wsdot.wa.gov
Answers posted	1/22/2025*		Posted to EVC RAA website
Applications due	1/30/2025	5:00 p.m.	To partnerships@wsdot.wa.gov
Proposed awards	2/14/2025*		Posted to EVC RAA website
Notice to Proceed	4/15/2025*		Email from grant manager

* Or as soon as possible thereafter

1.3.1 Project Timeline

The program goal is to have stations operational within 12 months of the Notice to Proceed. Recipients are encouraged to start work as soon as full execution of the grant agreement and Notice to Proceed. Each charging port, charger, and charging station funded through this solicitation must operate for public use for at least five (5) years after its repair or operational date.

1.4 Award determination

Applications passing the administrative screening criteria will be ranked based on evaluation criteria. Unless WSDOT exercises any of its other rights regarding this solicitation (e.g. to cancel the solicitation or reduce funding), charging stations will be recommended for funding in the ranked order until all funds available under this solicitation are exhausted. Funds will be awarded at the charging station level.

If the funds available under this solicitation are insufficient to fully fund a charging station, WSDOT reserves the right to recommend partially funding that charging station. In this event, the proposed applicant and WSDOT grant manager shall meet and attempt to reach agreement on a reduced scope of work commensurate with the level of available funding.

EVC RAA is a Justice40 covered initiative. At least 40% of the ports funded through this solicitation should be physically located within federally designated disadvantaged communities. WSDOT reserves the right to select charging stations with lower passing scores that might not otherwise be selected, if required, to meet these objectives.

1.5 Availability of Funds

A total of \$9,545,728 is available for awards under this solicitation. WSDOT, at its sole discretion, reserves the right to increase or decrease the amount of funds available under this solicitation.

1.6 Maximum award amounts per port

WSDOT has established a per port cost cap of \$15,000 for Level 2 ports and \$220,000 for DCFC ports. Therefore, based on the mandatory 20% non-federal match, the total amount that can be awarded per port is:

Level 2 port: \$12,000
DCFC port: \$176,000

1.7 Maximum number of applications

Applicants are only eligible to submit one application under this solicitation. A single application may include multiple charging stations. Each proposed charging station within an application must be separate and distinct and adhere to all requirements contained in this solicitation. Each station will be scored independently. Applicants may be project partners or subcontractors on other applications but must be able to complete the work on all awarded charging stations.

1.8 Single applicant cap

A single applicant is eligible to receive no more than 40% of the total funds awarded under this solicitation. WSDOT reserves the right, at its sole discretion, to modify the single applicant cap.

1.9 Pre-application workshop

There will be one pre-application webinar; participation in this meeting is optional but encouraged. The webinar will be held remotely through Microsoft Teams at the time date and date listed below:

Friday, January 10, 2025
9:00 a.m. – 10:00 a.m. Pacific
Via Microsoft Teams

To join this webinar, please [register through Teams](#). WSDOT will publish the attendee list and video of the presentation, if available, after the event. If you need assistance registering, please contact partnerships@wsdot.wa.gov.

1.10 Questions

Applicants may ask questions at the pre-application webinar, and may submit written questions to partnerships@wsdot.wa.gov. Please note that all technical questions must be received by the date listed in key activities and dates. The question and answer set will be posted to WSDOT's EVC RAA website.

Any verbal communication with a WSDOT employee concerning this this solicitation is not binding on the State and shall in no way alter a specification, term, or condition of the solicitation. All communication must be directed in writing to the EVC RAA grant manager assigned to the solicitation.

1.11 Contact information

Kara Symonds, EVC RAA Grant Manager
Washington State Department of Transportation
Email: partnerships@wsdot.wa.gov

1.12 Program references

The following references will aid applicants in understanding the EVC RAA program:

- [USDOT's EVC RAA Notice of Funding Opportunity](#)
- FHWA's [Final List](#) and [Final List Addendum](#) of Non-Operational Chargers. Please note these links navigate to FHWA downloads.
- [FHWA's Alternative Fuel Corridors](#)
- [USDOE's Alternative Fuel Station Locator](#)
- [NEVI Standards and Requirements](#)
- [JOET's Technical Assistance](#)
- [Climate and Economic Justice Screening Tool](#)
- [Electric Vehicle Infrastructure Training Program](#)

2 Eligibility

2.1 Eligible applicants

The solicitation is open to public and private entity applicants, excluding investor-owned utilities. All eligible applicants must either own the property where the charging station is located or must obtain a site-host agreement allowing the construction and operation of the station for at least five years. The following lists eligible applicant types.

Businesses licensed in Washington State, including but not limited to:

Corporations

Partnerships

Limited liability companies

Other legal business entities

Non-profit 501(c)(3) organizations

Municipal utilities

State, Local, or Tribal governments and related entities in Washington State, including but not limited to:

Cities and towns

State and local parks

Counties

Special districts (such as health districts, fire districts, college districts, metropolitan municipal corporations)

Port Authorities

Public utility districts and municipal utilities

Air pollution control authorities

2.1.1 Washington Secretary of State registration

All corporations, limited liability companies (LLCs), limited partnerships (LPs) and limited liability partnerships (LLPs) that conduct intrastate business in Washington are required to be registered and in good standing with the Washington's Secretary of State prior to its project being recommended for approval. If not currently registered with the Washington Secretary of State, applicants, project team members, and match fund partners are encouraged to contact the Secretary of State's Office as soon as possible to avoid potential delays in beginning the proposed project(s) (should the application be proposed for funding). applicants should provide the exact legal names of entities included in their applications, along with any fictitious business names. Fictitious business names must be currently valid, i.e., not expired with the Secretary of State. As part of the WSDOT's due diligence, particularly during the agreement development phase, WSDOT staff may request the supporting documentation regarding the above registration requirements.

For more information, contact the Secretary of State's Office via the Secretary of State Office's website at <https://www.sos.wa.gov/>. Sole proprietors using a fictitious business

name must be registered with the appropriate county and provide evidence of registration to WSDOT prior to their project being recommended for approval.

2.2 Eligible projects

All proposed projects must repair or replace existing broken or non-operational publicly accessible EV chargers listed on FHWA's Final List and Final List Addendum of Non-Operational Chargers. WSDOT expects applicants to carry out the grant funded project as describe in the application.

To be eligible for funding under this solicitation, ports on FHWA's Final List and Final List Addendum of Non-Operational Chargers must:

- Not be compliant with 23 CFR 680 AND
- Not be covered by a warranty that covers the cost of the needed repair/ replacement work.
- If a formerly inoperable charging port has been repaired, but the charging station has not been upgraded to CFR 680 standards (including having four ports at each site), the charging station still qualifies for EVC RAA funding.

2.3 Eligible project costs

Costs incurred for the following are eligible for WSDOT reimbursement or as the applicant's match share, after both of the following occur: 1) the grant agreement has been formally executed and 2) the grant manager has notified the recipient of a Notice to Proceed:

- Costs directly related to the repair or replacement of the broken or non-operational EV charging equipment, including:
 - Repairing or replacing a broken EV charging port
 - Repairing or replacing broken components or subcomponents (e.g., connector, screen, cord, payment terminals)
 - Upgrading broken or functional hardware as necessary to meet 23 CFR 680 (e.g., replacing a DCFC power module to provide at least 150kW per port)
 - Fully replacing related equipment (e.g., switchgear, utility distribution equipment, battery storage) that is intrinsically related to the EVSE and solely dedicated to the operation of EVSE
 - Installation and labor costs
 - Service upgrades necessary to meet 23 CFR 680
 - Labor costs and scrapping or recycling costs necessary to remove broken or non-operational EV chargers from service when new chargers need to be installed at the same location to meet 23 CFR 680.
- Adding an additional port or ports to meet or 23 CFR 680.
- Permitting needed to complete replacements to meet 23 CFR 680.
- Renewable distributed energy resources capable of providing independent or supplemental power to the EV chargers and that are intrinsically needed to make the charger operational. Eligible renewable distributed energy resources include solar photovoltaic and wind and if desired can be coupled with a battery energy

storage system. Any of these systems must be interconnected to the charging system and must be separately metered from the site host's regular business meter.

- Projects repairing or replacing existing broken or non-operational charging ports may include upgrades to other functioning components to be in compliance with 23 CFR 680 and other Federal requirements, as applicable, such as the Americans with Disabilities Act.
- Operations and maintenance, including networking agreements, equipment warranties, and maintenance or service level agreements.
- Indirect rates – applicants may choose an existing federally approved indirect rate or a 10% de minimis rate.

2.4 Ineligible project costs

Costs other than those listed as eligible for WSDOT reimbursement or as match share are not eligible as reimbursement or match share. This includes but is not limited to:

- Repair projects for which costs would exceed the cost to replace the broken or non-operational equipment with new equipment.
- Replacement projects that could be returned to a reliable operational status with less costly repairs.
- Projects to repair or install Level 1 or non-networked Level 2 charging equipment. However, Level 1 and non-networked Level 2 charging equipment that is broken may be replaced with Level 2 charging equipment that complies with 23 CFR 680.
- Equipment and/or infrastructure that exceeds the NEVI standards. For example, expenses associated with deploying renewable distributed energy resources that are not intrinsically needed to make the charger operational are not permitted. Another example includes replacing Level 2 ports with DCFCs at a charging station that is not along an AFC.
- Repair/replacement work covered under a warranty.
- A standard outlet (110/120 volt or 220/240 volt).
- Vehicle purchases.
- Paper studies or research projects (e.g., a study which assesses the cost and feasibility of EV charging station installations along certain regions/corridors).
- Projects that are primarily surveys to determine interest in the installation of EV charging stations in a particular region/corridor.
- Proposals for vehicle demonstrations or demonstrations of existing technologies.
- Major grid upgrades, such as long line extensions or upgrades, improvements to offsite power generation, bulk power transmission, or substations.
- Distribution grid or other equipment costs that are otherwise covered by programs or tariff rules of the electric utilities.
- Projects that are mandated by any local, regional, state, or federal law, rule, or regulation.
- Permitting for repairs and insurance are not eligible for reimbursement through EVC RAA but may be included in the applicant's match share expenditure.

2.5 Match funding requirements

- The total match share is at least 20% of the total allowable cost for the charging station.
- “Total allowable cost” is the sum of the WSDOT’s reimbursable share (up to maximum award per port) and recipient’s match share of the costs for the charging station.
- “Match funding” or “match share” means cash or in-kind (non-cash) contributions provided by the applicant/recipient or other parties that will be used in performance of the proposed project. Match share percentage is calculated by dividing the total match share contributions by the total allowable cost. Match share expenditures have the following requirements:
- All match share expenditures must conform to the terms and conditions of this solicitation and the resulting grant agreement.
- Applicants must disclose the source and provide verification and documentation for the match share funding committed to the project. For any match share committed by a third party (i.e., other than match share committed by the applicant), applicants must submit a letter of commitment from each match share partner identifying the source(s) and availability of match funding.
- During the term of the grant agreement, recipients will be required to document and verify all match share expenditures through invoices submitted to WSDOT.
- Match share funding may be in the form of cash or in-kind contributions such as donated labor hours and equipment.
- Equipment may count as match funds as long as the value of the contribution is based on documented market values or book values, prorated for its use in the project, and depreciated or amortized over the term of the project using generally accepted accounting principles (GAAP).
- Match share expenditures (cash and/or in-kind) must be documented, reasonable, allowable, and allocable to the project as determined by WSDOT.
- Match share expenditures are allowable under an agreement only if they are incurred after an agreement is fully executed with the WSDOT and receiving the Notice to Proceed. Both match and reimbursable expenditures incurred prior to the execution of an agreement and the Notice to Proceed will not be eligible costs. WSDOT is not liable for applicant’s match share costs if the grant is not executed, if execution is delayed, or if the match share expenditure is not allowable under the terms and conditions of the grant or this solicitation.

2.5.1 Match Share Restrictions

- Other Sources of WSDOT Funding – Other sources of WSDOT funding may not be claimed as match share.
- Other sources of Federal Funding - Other sources of Federal funding may not be claimed as match share, unless specifically allowed by law to be used as non-Federal match.
- Property Not Owned by the Applicant – Donated property may be claimed as match based on the fair market value of renting or leasing the property. Fair

market value is based on rental costs of comparable property (if any), market conditions in the area, alternatives available and the type, life expectancy, condition, and value of the property.

- Existing Property Owned by the Grant Recipient – Applicants may use the property’s depreciation expense as a method to allocate the value of the property to the project. Valuation will need to be documented to support the initial acquisition costs as well as the method of depreciation.
- Valuation of Land – Land cannot be depreciated. If the value of land is claimed as match, the applicant must provide documentation to support a fair market value for the use of the land (i.e., rent or lease cost) for the time period it is used. Appraised value of land cannot be used since this represents the full value of the land if it is sold which includes value beyond the term of the proposed project.
- Property Owned by a Related Party – Related parties are individuals or other entities that are able to control or substantially influence the actions of the applicant and includes spouses, board members, family members of principals or employees of the applicant as well as property owned by principals/employees of the applicant. Because an agreement between an applicant and a related party is a “less than arms-length” transaction, applicants must disclose the relationship between the Applicant and the related party and be able to support the fair market value of property that is claimed as match.
- If WSDOT funds are used to reimburse lease/rental payments for property owned by a related party, the applicant can only claim the lesser of fair market value or actual lease payments, regardless of lease agreement terms.
- Prorated Value of Property – The allowable claimed value of property must be prorated based on the percentage the property is used for the proposed project. For example, if only half of a building is being used for the proposed project, then only 50% of the monthly fair market value of the entire building can be claimed as match while the building is being used for the project.
- Documentation – If selected for an award, all claimed match share expenditures must be adequately documented to WSDOT during the agreement invoicing process which may include but is not limited to: the fair market value of existing property, methodology to allocate existing property on a prorated basis, lease agreements, and other appropriate documentation.
- Funds already expended (or otherwise encumbered) – Applicants cannot claim funds that have already been expended or otherwise encumbered as match share. Match share expenditures are only allowable if they are incurred after an agreement is fully executed with WSDOT and after the Notice to Proceed.
- Grant recipients must budget for permits for repairs, insurance (for all projects), etc. WSDOT will not reimburse expenditures for permitting for repairs or insurance (for all projects). However, these expenditures can be included as match share expenditure.

2.6 Unallowable costs

For an item of cost to be allowable for reimbursement with WSDOT funds or as match share expenditure, it must be included in the executed agreement budget and allowable per the terms and conditions of the resulting agreement. The following are examples of unallowable costs under an agreement resulting from this solicitation. This list is not comprehensive and additional items of cost may be unallowable in accordance with the agreement terms and conditions.

- Forgone Profit – For example, if a company usually charges 10% profit but only charges 4% to CEC the unclaimed difference is not an allowable item of cost.
- Forgone Rent – For example, rent that is not paid is not an allowable item of cost.
- Discounted or Refunded Equipment Costs – For example, a claim that equipment costs \$10,000 but the grant recipient only pays \$6,000 due to some “special” discount. The difference of \$4,000 is not an allowable match share expense. Another example is if the grant recipient actually pays \$10,000 but the vendor refunds \$4,000 – only the net \$6,000 is an allowable item of cost.
- Forgone Salary, Fringe, Indirect or Other Types of Cost – For example, a person normally charges or is paid \$100 per hour, but will only charge \$50 per hour towards the WSDOT award. Only actual costs incurred and paid to the employee are allowable. Therefore, if an employee is actually paid \$100 per hour and WSDOT only reimburses at \$40 per hour, then the unreimbursed \$60 per hour is an allowable match share cost because this is an actual payment as opposed to a forgone salary amount. Volunteer labor (i.e., labor from a person who does not receive any compensation for their labor) may be an allowable in-kind match share expense if the value of the labor is reasonable and justified.
- Utility Provided Electrical Upgrades and Funding-- For example, expenses that are already paid or to be paid for through a utility program, tariff, or other ratepayer funding is not an allowable item of cost. This includes ratepayer funded enrollment incentives.
- Compliance with Local, Regional, State, or Federal Law, Rule or Regulation - Unless a cost is listed as an eligible project cost, all expenses associated with ensuring compliance with local, regional, state, or federal laws, rules or regulations are unallowable. For example, state or federal building codes, including provisions requiring the installation of Electric Vehicle Capable, or Electric Vehicle Ready parking spaces, is not an allowable item of cost.
- Excessive Repair or Replacement Costs – Costs to repair broken or non-operational equipment that would exceed the cost to replace the equipment with new equipment are not allowable. Alternatively, costs to replace equipment that could be returned to a reliable operational status with less costly repairs are also not allowable.
- Equipment/Infrastructure that Exceeds the Standards and Requirements in 23 CFR 680 – For example, expenses associated with deploying distributed energy resources that are not intrinsically needed to make the charger operational are not an allowable cost item. Another example includes expenses associated with

replacing Level 2 chargers with DCFC that are not designed to serve users of designated AFCs, as required under 23 CFR 680.

- Equipment/Infrastructure that Does Not Meet the Standards and Requirements in 23 CFR 680 – For example, expenses associated with repairing Level 1 and non-networked Level 2 chargers are not allowed.
- Relocating or Moving EV Chargers – Costs to relocate or move chargers to a new location are not allowable.
- Ancillary Equipment or Software – For example, vehicle purchases, distributed energy resources that are not intrinsically needed to make the charger operational, distribution grid or other equipment costs that are otherwise covered by other programs or tariff rules of the electric utilities, utility service upgrade costs covered by the utility, paper studies or research projects, and valuation of land, are not allowable costs.

3 Project requirements

3.1 Compliance with EVC RAA federal requirements

Project selection and grant administration shall be consistent with the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act. The NEVI Formula Program, which EVC RAA is part of, is authorized under Paragraph (2) under the Highway Infrastructure Program heading in title VIII of division J of the Bipartisan Infrastructure Law.

Applicants should take note that there are special requirements associated with federal NEVI funding, which will apply to projects awarded under this grant. Those requirements are described in detail in the terms and conditions which will be required for grants awarded under this solicitation, which are referenced in Section II.A.2 above. Without limitation to those terms or any other provision of this solicitation or resultant grant agreements, applicants should in particular note that all work must comply with the Build America, Buy America Act; Davis Bacon and Related Acts; National Environmental Policy Act; Americans with Disabilities Act of 1990; Title VI of the Civil Rights Act of 1964; all applicable requirements of Title VIII of the Civil Rights Act of 1968; the Uniform Relocation Assistance and Real Property Acquisition Act (49 CFR 24 et seq.); and the requirements of the federal NEVI Program, including and not limited to the requirements of USC Title 23, Chapter 1; and 2 CFR part 200; and 23 CFR parts 35 and 36; and any promulgated regulations for the federal NEVI Program. The federal Uniform Act must be followed on all federal-aid, local assistance projects. This applies if federal funds are used in any phase of a project.

3.2 Project location

All proposed charging stations must be within Washington, located at addresses that match exactly with addresses listed in FHWA's Final List and Final List Addendum of Non-Operational Chargers. All charging stations must be at existing structures or

facilities and involve negligible or no expansion of existing or former use. Charging stations should be completed at the existing location of the broken chargers.

Charging stations will be designated as either an “AFC Charging Station” or a “Non-AFC Charging Station” depending on its location. There are specific requirements associated with each designation.

- AFC Charging Stations: Charging stations located within one mile, as a car drives by the shortest route, of a designated AFC’s nearest off-ramp are designated as AFC charging stations.
- Non-AFC Charging Stations: Charging stations not located within one mile, as a car drives, by the shortest route, of a designated AFC’s nearest off-ramp are designated as Non-AFC charging stations.

3.3 Federally-designated Disadvantaged Communities

This is a Justice40-covered initiative. As such, the FHWA is tracking how EVC RAA benefits disadvantaged communities. FHWA recognizes disadvantaged communities as the census tracts identified as disadvantaged by the Climate and Economic Justice Screening Tool (CEJST), located at <https://screeningtool.geoplatform.gov/>, as well as all Federally Recognized Tribes (whether or not they have land). Disadvantaged communities may be referred to as “Justice40 communities.”

At least 40% of the ports funded through this solicitation should be physically located within federally-designated disadvantaged communities (Justice40 communities) as identified by the CEJST tool. To accomplish this, WSDOT in its sole discretion may award charging stations located in disadvantaged communities that have a lower passing score and otherwise might not have been funded.

3.4 Number of charging stations

For purposes of this solicitation, a charging station refers to 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. A single charger or multiple chargers may be associated with one charging station.

Each charging station within an application will be independently evaluated and scored in accordance with the evaluation process. Applicants may receive funding for all, some, or none of the charging stations for which they apply. Applicants may also receive partial funding for a charging station.

3.5 Number of charging ports

Per 23 CFR 680.106, AFC charging stations must have a minimum of four network-connected DCFC ports that have a continuous power delivery rating of at least 150 kW and supply power according to an EV’s power delivery request up to 150kW, simultaneously from each charging port, and be capable of simultaneously charging at

least four EVs. Non-AFC charging stations must also have a minimum of four ports; these ports can be all DCFC, all Level 2, or a combination of DCFC and Level 2.

If the charging station does not have four ports that meet the federal NEVI standards in 23 CFR 680, applicants must propose to install additional ports to meet the four-port minimum. For AFC charging stations, additional ports must be DCFC and meet the requirements stated in the paragraph above. For non-AFC charging stations, additional ports must be Level 2.

Applicants may install extra ports beyond the four-port minimum, but these extra ports cannot be included in the proposed project, cannot use EVC RAA funding, and cannot count towards the applicant's Match funding.

3.6 Requirements for replacements

Applicants may not propose replacements that exceed the standards and requirements in 23 CFR 680. Per FHWA, Level 1 and non-networked Level 2 chargers cannot be repaired. However, they may be replaced with network-compliant Level 2 chargers that meet 23 CFR 680 standards.

- AFC Charging Stations: Existing non-operational Level 1 or Level 2 ports may be replaced with DCFC ports to comply with the port count and power requirements in 23 CFR 680. Once the charging station has four DCFC ports that have a continuous, simultaneous power delivery rating of at least 150 kW, Level 1 or Level 2 ports may only be replaced with Level 2 ports. Any existing non-operational DCFC ports may be replaced with new DCFC ports, regardless of whether the charging station already has four DCFC ports that have a continuous power delivery rating of at least 150 kW.
- Non-AFC Charging Stations: Existing non-operational Level 1 or Level 2 ports may only be replaced with Level 2 ports. Existing non-operational DCFC ports may be replaced with new Level 2 or DCFC ports. The power delivery rating of the new ports must not exceed the power delivery rating of the existing ports they are replacing.

3.7 Compliance with applicable laws, regulations, and standards

All applicants proposed for award must comply with all applicable laws, ordinances, regulations, and standards, including and not limited to federal, state, and local electrical and building codes for construction.

3.8 EV charging station accessibility and availability

All charging stations and equipment must be publicly accessible.

AFC charging stations must be publicly accessible 24 hours per day, 7 days per week, year-round. Non-AFC charging stations must be publicly accessible at least as frequently as the business operating hours of the site host.

Publicly accessible as defined under NEVI guidance means the equipment is available to the public without restriction. A station that is not maintained or restricts access only to customers, tenants, employees, or other customers is not publicly accessible. This does not prohibit isolated or temporary interruptions in service or access because of maintenance or repairs.

The charging stations must have paved parking spaces available to render electric vehicle charging services. Charging stations and parking areas must be well lit. The charger user must be able to easily read any instructions on the charger and the area around the vehicle must have adequate lighting to allow the driver to safely walk from the charger to the charging port on the vehicle.

Since charging stations through this solicitation are intended to offer a service to the public, accessibility to all EV drivers is required. All recipients are required to comply with the Americans with Disabilities Act of 1990 by, at a minimum, adhering to the US Access Board's Design Recommendations for Accessible Electric Vehicle Charging Stations.

3.9 Project Team

The project team must include a charging network provider that has demonstrated experience or has the capability to provide networking services for the charging stations for at least the entire 5-year in-service requirement.

3.10 Charging Equipment Requirements

Applicants may use any EV service provider and charging equipment that complies with these requirements and the project requirements so long as they have consent from the site host to complete the work at the charging station.

3.10.1 Power Requirements

- DCFCs – Each DCFC charging port must support output voltages between 250 volts DC and 920 volts DC. DCFCs located at AFC charging stations 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. Lower power DCFCs may be installed at non-AFC charging stations.
- Level 2 – Each Level 2 charging port must have a continuous power delivery rating of at least 6 kW and the charging station must be capable of providing at least 6 kW per port simultaneously across all Level 2 ports.
- AFC charging stations should be supported by a grid connection of at least 600 kW. For AFC charging stations not connecting to the grid with at least 600 kW, applicants will need to justify how the charging station will still comply with the simultaneous supply of 150 kW per charging port requirement.

3.10.2 Connectors

- DCFCs - Each charging port must have at least one permanently attached CCS connector. Additional connector types such as SAE J3400 are allowed to be installed if the previous requirement is still met.
- Level 2 – Each charging port must have at least one permanently attached SAE J1772 connector. Additional connector types such as SAE J3400 are allowed to be installed if the previous requirement is still met.

3.10.3 Energy Star Certification

- The chargers must be Energy Star certified and listed on the Energy Star Product Finder Page at <https://www.energystar.gov/productfinder/product/certified-evse/results>. Chargers do not have to be certified at the time of submitting the proposal, but must be certified prior to submitting an invoice that seeks repayment for the chargers. Chargers over 350 kW are not required to be Energy Star certified.

3.10.4 Interoperability: Charger-to-EV Communication

- The chargers must conform to ISO 15118-3, and hardware must be capable of implementing both ISO 15118-2 and ISO 15118-20.
- The chargers must include all necessary software and hardware to perform Plug-and-Charge using ISO 15118-2.
- Conformance testing for charger software and hardware should follow ISO 15118-4 and 15118-5, respectively.

3.10.5 Interoperability: Charger-to-Charger Network Communication

- The chargers must conform to OCPP 2.0.1 or later. Manufacturers must attest that the charger conforms to OCPP 2.0.1 or later by detailing it on a publicly available charger specification sheet.

3.10.6 Interoperability: Charging-Network-to-Charging Network Communication

- The charger's networking software must connect to a central management system using OCPP 2.0.1 for the purposes of charger management and data reporting.

3.10.7 Interoperability: Network Switching Capability

- The chargers must be designed to securely switch network providers without any changes in hardware.

3.10.8 Cybersecurity

- The chargers and charging software must meet all the NEVI cybersecurity requirements listed in the federal NEVI standards. Cybersecurity strategies may include: 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.

- All services implemented in Washington on state energy systems and networks must be compliant with the National Institute of Standards and Technology Cybersecurity Framework Profile for Electric Vehicle Fast Charging Infrastructure, International Standard 15118-20:2022, and third-party contractor approval. Recipients will be required to represent and warrant that they will comply with all applicable elements of the State Energy Resilience and Emergency Management Office cybersecurity and physical security program.

3.10.9 Charger Network Connectivity Requirements

- Each charging port must be covered by and included in a networking agreement for at least five (5) years.
- Have network connectivity with one of the following:
 - IEEE 802.11n for high-bandwidth wireless networking, or
 - IEEE 802.3 for Ethernet for local- or wide-area network applications
- Be able to receive remote software updates, real-time protocol translation, encryption, and decryption, including:
 - Internet Protocol (IP)-based processor which must support multiple protocols, and
 - Compliance with Transmission Control Protocol (TCP)/IP and IPv6.
- Be able to connect to a network's back-end software

3.10.10 Safety and Weather Resistance

- The charging equipment must be certified by an Occupational Safety and Health Administration Nationally Recognized Testing Laboratory.
- The charging equipment must be able to withstand extreme weather conditions, including temperature extremes, flooding, heavy rains, and high winds.
- Display screens must be protected from malfunctions due to condensation and any local area weather conditions.

3.10.11 Emergency shut-off

- The 2023 National Electric Code specifies that each individual EVSE exceeding 60A or having more than 150V to ground requires a disconnect or emergency stop device.

3.10.12 Build America, Buy America

- Applicants should in particular note that recipients must comply with federal Buy America requirements consistent with the final federal NEVI standards (23 U.S.C. 313 at <https://www.govinfo.gov/content/pkg/USCODE-2021-title23/pdf/USCODE-2021-title23-chap3-sec313.pdf>) and Build America, Buy America Act (Pub. L. No 117-58, div. G sections 70901-70927). This includes, but is not limited to, requirements that all iron and steel; all manufactured products; and all construction materials that are used in the project are produced in the

United States. Applicants are encouraged to review the Federal requirements and to verify with their equipment supplier(s) that their equipment meets and can document compliance with this requirement.

3.10.13 Electric Vehicle Infrastructure Training Program

- Applicants shall ensure that the workforce installing, maintaining, and operating chargers have the appropriate licenses, certifications, and training to ensure the installation and maintenance of chargers is performed by a safely by a qualified and increasingly diverse workforce of licensed technicians and other laborers, as outlined in 23 CFR 680.106(j). Further:
 - (1) Except as provided in paragraph (j)(2) of 23 CFR 106, all electricians installing, operating, or maintaining EVSE must meet one of the following requirements:
 - (i) Certification from the EVITP.
 - (ii) 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 Department of Labor in consultation with the Department of Transportation.
 - (2) For projects requiring more than one electrician, at least one electrician must meet the requirements above, and at least one electrician must be enrolled in an electrical registered apprenticeship program.
 - (3) 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.

3.10.14 Data Submittals

- Applications that result in proposed awards and executed agreements will be required to perform recordkeeping and reporting on charger operations and reliability. These requirements include quarterly, annual, and one-time data submittals, as well as real-time reporting of charger status and charging session information through application programming interface (API) for third-party developers. Applicants should familiarize themselves with EVChart and the National Electric Vehicle Infrastructure data submittal requirements found at <https://www.federalregister.gov/documents/2023/02/28/2023-03500/national-electric-vehicle-infrastructure-standards-and-requirements> and ensure they have systems in place to comply.

3.10.15 Operation, Maintenance, and Uptime

- Each charging port, charger, and charging station funded through the solicitation must operate for public use for at least five (5) years after the project is complete.
- Each charging port must have an average annual uptime of greater than 97% per the requirements of the NEVI program specified in 23 CFR 680.116(b). A charging port is considered to be “up” when its hardware and software are both online and

available for use, or in use, and the charging port successfully dispenses electricity in accordance with requirements for the minimum power level.

- Each charger shall meet the specific recordkeeping, maintenance, and reporting requirements related to uptime and other metrics that are detailed in the grant agreement.

3.10.16 Payment Options

All of the following requirements must be met:

- The public charging stations must provide secure payment methods, be accessible to persons with disabilities, and must at minimum include:
 - Near Field Communication (NFC) and Radio Frequency Identification (RFID) contactless payment methods that accept major debit and credit cards.
 - Either an automated toll-free phone number or short message/messaging system (SMS) that provides the EV charging customer with the option to initiate a charging session and submit payment.
- Additional payment mechanisms may be offered, such as Plug-and-Charge or payment through mobile apps.
- Any customer or vehicle with the appropriate charging port connection must be allowed to utilize the charging station. Charging cannot be restricted to a specific customer base or vehicle manufacturer.
- The charging stations must not require a membership for use.
- The charging stations must not delay, limit, or curtail power flow to vehicles on the basis of payment method or memberships.
- The charging stations must provide access for users that are limited English proficient and accessibility for people with disabilities.
- Automated toll-free phone numbers and SMS payment options must clearly identify payment access for these populations.
- The point-of-sale and supporting network must use an open protocol to allow subscribers of other EV charging system networks to access the charging station.
- The point-of-sale and supporting network must be secure and meet the final NEVI cybersecurity requirements.

3.10.17 Customer Service

- The project must provide customer support service and ensure that EV charging customers have mechanisms to report outages, malfunctions, and other issues with the charging infrastructure. Mechanisms may include, but are not limited to, a toll-free telephone number, an email, instant messaging chat, or an online portal. The customer support service must be capable of providing or dispatching services to address customer concerns at the charging station. Customer support must be available in at least English and Spanish. Projects must comply with the American with Disabilities Act of 1990 requirements and provide multilingual access when creating reporting mechanisms.

3.10.18 Highway and On-Site Signage

- The project must coordinate with appropriate local agencies and WSDOT if applicable for directional signage on and along the highway and local roads, if it is not already installed. The signs must meet the Manual on Uniform Traffic Control Devices (MUTCD) standards, and all other applicable laws, ordinances, regulations, and standards. Recipients shall coordinate with cities and counties on trailblazer signage on local roads leading to the charging location. This award may cover funding for trailblazer and on-site signage as required to comply with the federal NEVI standards.

3.11 Compliance with grant agreement terms and conditions

- Each grant agreement resulting from this solicitation will include terms and conditions that set forth the grant recipient's rights and responsibilities. By submitting an application under this solicitation, each applicant agrees to enter into an agreement, if awarded, with WSDOT to conduct the proposed project according to the terms and conditions for this solicitation (Attachment 1), without negotiation.
- Failure to agree to the terms and conditions by indicating that acceptance is based on modification of the terms may result in rejection of the application. Applicants must read the terms and conditions carefully. WSDOT reserves the right to modify the terms and conditions prior to executing grant agreements.

3.12 Recycling or Scrapping Equipment Replaced through this Solicitation

- Broken or non-operational equipment replaced through this solicitation cannot be redeployed through any other state or federally funded program and must be either recycled or scrapped.

3.13 Reasonable Return on Investment and Use of Program Income

Any net income from revenue from the sale, use, lease, or lease renewal of real property acquired shall be used for Title 23, United States Code, eligible projects.

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 operation of the EV charging facility are used only for:

- Debt service with respect to the EV charging station project, including funding of reasonable reserves and debt service on refinancing.
- A reasonable return on investment of any private person financing the charging station project, as determined by the State or other direct recipient.
- Any costs necessary for the improvement of and proper operation and maintenance of the EV charging station, including reconstruction, resurfacing, restoration, and rehabilitation.
- 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.

- Any other purpose for which Federal funds may be obligated under Title 23, United States Code.
- WSDOT has the discretion to determine what a reasonable rate of return is, and an applicant may not be selected if the rate of return is not considered reasonable.

4 How to apply

4.1 Application due date

The deadline to submit grant applications is **5:00 p.m. on Thursday, January 30, 2025**. To ensure a competitive application process and attract qualified projects, WSDOT reserves the right to extend or add application periods, as necessary.

4.2 Application format

Applicants must follow all application format instructions, answer all questions, and supply all requested information. The format will allow WSDOT to evaluate each application uniformly, fairly, and in an expedited manner.

All applications submitted under this solicitation must be in a Microsoft Word (.doc) file type, typed or printed using a standard 11-point font, single-spaced and a blank line between paragraphs. Pages must be numbered and address each component listed under project description.

4.3 Application submittal

Applications must be submitted electronically to the EVC RAA grant manager, as follows. A confirmation reply will be sent.

Kara Symonds, EVC RAA grant manager
Washington State Department of Transportation
Office of Innovative Partnerships
Email: partnerships@wsdot.wa.gov

4.4 Applicant certifications

By submitting an application, the applicant is certifying that:

- I am authorized to submit this application on behalf of the applicant.
- I authorize the WSDOT to make any inquiries necessary to verify the information presented in this application.
- I authorize WSDOT to obtain business credit reports and make any inquiries necessary to verify and evaluate the financial condition of the applicant.
- I have read and understand the terms and conditions contained in this solicitation. I accept the terms and conditions contained in this solicitation on behalf of the applicant and the applicant is willing to enter into an agreement with the WSDOT to conduct the proposed project according to the terms and conditions without negotiation.

- I certify that this application does not contain any confidential or proprietary information.
- I certify under penalty of perjury under the laws of the State of Washington that, to the best of my knowledge, the information contained in this application is correct and complete.
- I am authorized to agree to the above certifications on behalf of the applicant.

4.5 Application components

Please use the numbered template below for **each station** included in your application. Section 1 components are mandatory, but not scored. This information will inform the pre-agreement risk assessment, environmental and cultural reviews, and ensure the applicant meets the minimum administrative requirements. The Section 2 components are mandatory and scored according to the evaluation criteria.

Section 1

- 1 - Applicant Name, Organization Type, Address, and Federal tax number
- 2 - Application point of contact - name, title, phone, and email address
- 3 - Key project partners and associated responsibilities. Please indicate the partner that satisfies the project requirement of having a network operator with experience.
- 4 - AFDC Station ID and address
- 5 - Current station site host agreement status
- 6 - Current station network agreement status
- 7 - Number and type of ports being proposed for project funding
- 8 - Map of station
- 9 - Project schedule from Notice to Proceed
- 10 - Operations and maintenance plan - list key project partners and associated responsibilities
- 11 - Budget - should include total project cost, total amount of funds requested, and match amount and source. Suggested budget categories for both federal and match funding, if applicable:
 - Design, engineering, and permitting
 - Equipment
 - Distributed energy resources
 - Service upgrades
 - Operations and maintenance
- 12 - Describe if the project includes any ground disturbing activities (e.g. trenching), note those locations on the map of station, and indicate if these are previously disturbed soils.

Section 2

1 - Applicant team experience (Maximum 10 points)

Please indicate the teams total prior experience with EVSE projects - select one:

- 10+ projects (10 points)
- 5-9 projects (5 points)
- 1-4 projects (3 point)
- No prior experience (0 points)

2 - Justice40 Disadvantaged Community (Maximum 15 points)

Is the station located within a Justice40 Disadvantaged census tract, according to the [Climate and Economic Justice Screening Tool](#)? Select one:

Yes (15 points)

No (0 points)

3 - Median household income (Maximum 15 points)

What is the project's census tract score for Median Household Income, based on the [Washington Tracking Network](#) - Social Vulnerability - Socioeconomic Determinants layer? Select one:

Rank 9 or 10 (15 points)

Rank 7 or 8 (10 points)

Rank 5 or 6 (5 points)

Rank 1 to 4 (0 points)

4 - Alternative Fuel Corridor proximity (Maximum 15 points)

Is the station located within 1 mile of a federally designated Alternative Fuel Corridor for Electric Vehicles, according to the [U.S. Department of Transportation's AFC map](#)? Select one:

Within 1 mile of AFC (15 points)

Greater than 1 mile of AFC (0 points)

5 - DCFC port(s) (Maximum 10 points)

Does the project include the upgrade to, repair of, or replacement of a DCFC port? Select one:

Yes (10 points)

No (0 points)

6 - Rural communities (Maximum 10 points)

What is the project's census tract FIPS primary Rural-Urban Community Area (RUCA) code, according to the [USDA's Economic Research Service](#)? Select one:

10 (10 points)

7 to 9 (5 points)

1 to 6 (0 points)

7 - Charging gaps (Maximum 10 points)

How many miles are there to the nearest EVSE site, according to the [U.S. Department of Energy's Alternative Fuel Data Center station locator](#)? Select one:

20+ miles (10 points)

15.0 to 19.9 miles (8 points)

10.0 to 14.9 miles (6 points)

5.0 to 9.9 miles (4 points)

1.0 to 4.9 miles (2 points)

0 to 0.9 miles (0 points)

8 – Adequate power (Maximum 15 points)

Is there existing adequate power at the site to serve the repaired or replaced EV charging equipment? Select one:

Yes (15 points)

No (0 points)

4.6 Question and answer period

After the notice of funding opportunity is published, questions or clarifications about this notice must be directed to the grant manager. You may submit written questions about the grant application via electronic mail. All questions must be received by 5:00 pm on the date listed in the schedule of activities.

Question and answer sets will be published on WSDOT's EVC RAA website on the date listed in schedule of activities.

Any verbal communication with a WSDOT employee concerning this solicitation is not binding on the State and shall in no way alter a specification, term, or condition of the solicitation. Therefore, all communication should be directed in writing to the grant manager assigned to the solicitation.

5 Project evaluation

5.1 Administrative screening criteria

The following criteria will be scored on a pass/fail basis:

- Application was submitted to grant manager by deadline
- The applicant is an eligible applicant
- The project is an eligible project
- The application does not contain any confidential information or identify any portion of the application as confidential

5.2 Evaluation criteria summary

Criteria	Maximum points
Team experience	10
Justice40 Disadvantaged Community	15
Median household income	15
Alternative Fuel Corridor proximity	15
DCFC port	10
Rural community	10
Charging gaps	10
Adequate power at site	15
Total maximum score	100

5.3 Tiebreaker

If the score for two or more applications are tied, the application with the higher score in adequate power will serve as the tiebreaker. The second tiebreaker is the highest score in charging gap. The third tiebreaker is the higher score in rural community.

5.4 Award determination

Applicants passing administrative screening will compete based on ranking criteria; each station will be scored and ranked based on those criteria. The projects will be recommended for funding in the order of rank and in the order necessary to meet Justice40 requirements. WSDOT reserves the right to recommend partial funding of any proposal. In this event, the proposed applicant and WSDOT's EVC RAA grant manager must meet and reach agreement on a reduced scope of work commensurate with the level of available funding.

5.5 Notice of proposed awards

The results of the evaluation will be posted in a notice of proposed awards and will include the recommended funding level of awardees. WSDOT will publish the NOPA on its EVC RAA website and email the NOPA to all parties that applied.

5.6 Grant agreement execution

5.6.1 Pre-agreement risk assessment

The EVC RAA grant manager will work with successful applicants to complete a pre-agreement risk assessment prior to executing the grant agreement. This includes, but is not limited to, applicant's experience managing federally funded grants, legal assessment and status, accounting systems and internal controls, financial assessment, and monitoring/audit findings. The grant manager will use the results of the pre-agreement risk assessment to determine the appropriate level of monitoring.

5.6.2 Execution of Agreement and Notice to Proceed

Expected approximate timeframe:

- Notice of Proposed Awards – February 14, 2025
 - Predecessor: Completion of solicitation
- Grant Agreement Execution – March 31, 2025
 - Predecessors: pre-agreement risk assessment
- Notice to Proceed – April 15, 2025
 - Predecessors: WSDOT completion of NEPA and Section 106, Utility confirmation of required load for the charging station, signed site host agreement, signed network provider agreement, cybersecurity plan
- Charger operational – 12 months from Notice to Proceed

5.7 Application debrief

Unsuccessful applicants may request a debriefing after the release of the NOPA. A request for debriefing must be received by the EVC RAA grant manager no later than five calendar days after the NOPA is released.

5.8 Complaint and protest procedures

Eligible applicants may make formal complaints during the application process both prior to award and after award.

5.8.1 Complaint prior to award

A complaint may be made before a potential applicant responds to a solicitation document, if the potential applicant believes that the application document unduly constrains competition or contains inadequate or improper criteria. The written complaint must be made to the department before the due date of the application. A person authorized to bind the eligible applicant to a contractual relationship must sign the complaint. The agency solicitation process may however continue. The complaint must be addressed to:

Tonia Buell, Alternative Fuels Program Manager
Washington State Department of Transportation
Office of Innovative Partnerships
Email: tonia.buell@wsdot.wa.gov

The EVC RAA grant manager must reply to the eligible applicant with a written decision within five calendar days after the complaint was received by WSDOT. If the potential applicant rejects WSDOT's proposed solution to the complaint, the potential applicant may appeal to the Director of Innovative Partnerships. The Director may direct modification of solicitation requirements or the schedule, direct withdrawal of the solicitation, or take other appropriate steps or may affirm the decision of the EVC RAA grant manager. The Director's decision is final and no further administrative appeal is available.

5.8.2 Protests after award

Protests may be made after the notice of proposed awards. Protests may be made only after the applicant has had a debriefing conference with WSDOT. Protests may be made on only the following grounds;

- Failed to follow procedures established in NOFO/RFP, or applicable State or Federal laws or regulations.
- There was bias, discrimination or conflict of interest in the evaluation

A person authorized to bind the applicant to a contractual relationship must sign the protest letter. The WSDOT Innovative Partnerships Director must receive the written protest within ten (10) business days from the date of notice of proposed award and must, in turn, immediately notify the EVC RAA grant manager of receipt of the protest. If

the Director needs more time to issue a written decision, WSDOT must notify the protesting applicant and the applicant against whom the protest was made of the delay. WSDOT must also postpone further steps in the awards process until the protest has been resolved. Protests must be addressed to:

Anthony Buckley, Director
Washington State Department of Transportation
Office of Innovative Partnerships
Email: anthony.buckley@wsdot.wa.gov

WSDOT will issue a written decision within ten (10) business days after receipt of the notice of appeal, unless more time is needed. The protesting proposer will be notified if additional time is necessary. WSDOT's determination is final, and no further administrative appeal is available.

If the Director finds that the award should not have been awarded, he must notify the applicant that received the award and provide the reasons for the decision. Such applicant must then have five (5) business days in which to appeal the director's decision to WSDOT's Chief Financial Officer who will review the director's decision. The written appeal must be mailed to the following address:

Doug Vaughn, Principal Financial Officer
Washington State Department of Transportation
Budget and Financial Analysis
Email: douglas.vaughn@wsdot.wa.gov

The proposer must also forward a copy of the written appeal to the EVC RAA grant manager at the same time the appeal is sent to WSDOT's Principal Financial Officer and the applicant against whom the protest is being made.

WSDOT's Principal Financial Officer must consider the facts available and issue a decision within ten (10) business days after receipt of the appeal, unless more time is needed. If more time is required, the appellant and the initial protesting proposer must be notified.

If WSDOT's Principal Financial Officer agrees that the award should be canceled, he must order the EVC RAA grant manager to cancel the award within ten (10) business days after the decision is delivered to the applicant which the contract had been initially awarded. If the award is canceled, WSDOT may award the contract to the next highest ranked and responsible applicant whose proposal is responsive to the solicitation.

Protest form and content

- A protest or appeal must be in writing and must contain the facts and arguments upon which the protest is based and must be signed by a person authorized to bind the applicant to a contractual relationship. At a minimum, this must include:
- The name of the protesting applicant, mailing address, phone number, and the name of the individual responsible for submission of the protest.
- Specific and complete statement of the agency's action(s) being protested.
- Specific reference to the grounds for the protest.
- Description of the relief or corrective action requested. All facts and arguments on which the protesting applicant is relying as the basis for its action.
- All relevant exhibits related to, or referred to in the protest, which must be attached to the protest or supplied on demand by WSDOT.
- Copies of all protests, appeals and exhibits must be mailed or delivered by the protesting applicant to the applicants against whom the protest is made at the same time such protest, appeal, and exhibits are submitted to WSDOT.

6 Administration

6.1 Confidential information

WSDOT will not accept or retain any applications that have any portion marked confidential.

6.2 Cost of developing application

The applicant is responsible for the cost of developing an application, and this cost cannot be charged to the State.

6.3 Solicitation cancellation and updates

It is WSDOT intention to award agreements from this solicitation. However, if it is in the State's best interest, WSDOT reserves the right to do any of the following:

- Cancel this solicitation.
- Revise the amount of funds available under this solicitation.
- Amend this solicitation as needed.
- Reject any or all applications received in response to this solicitation.

If the solicitation is updated, or if an error in the solicitation is discovered, WSDOT will publish corrections, clarifications, and/or updates through the question and answer document.

6.4 Immaterial defect

WSDOT may waive any immaterial defect or deviation contained in an applicant's application. WSDOT's waiver shall in no way modify the application or excuse an applicant proposed for funding from full compliance with solicitation requirements.

6.5 Opportunity to cure administrative errors

WSDOT understands and appreciates the significant time and expense applicants spend preparing applications. An administrative error that prevents an applicant from submitting a complete application frustrates both WSDOT and applicants. The purpose of this process is to reduce the number of applications screened out or receiving a significantly reduced score for administrative errors while maintaining a fair competition. This process also ensures better competition and thus better projects to benefit Washington. If an administrative error has been identified and communicated to the EVC RAA grant manager, WSDOT may, but is not required to, allow the applicant a period of time to provide the missing materials.

6.6 Disposition of applicant's documents

The evaluation process from receipt of applications up to the posting of the Notice of Proposed Award is treated as confidential as possible. On the Notice of Proposed Award posting date, or date of solicitation cancellation, all applications and related material submitted in response to this solicitation become public record.

6.7 Applicant's admonishment

This solicitation contains the instructions governing the requirements for a firm quotation to be submitted by interested applicants, the format in which the technical information is to be submitted, the material to be included, the requirements which must be met to be eligible for consideration, and applicant responsibilities. Applicants are responsible for carefully reading the entire solicitation, asking appropriate questions in a timely manner, submitting all required responses in a complete manner by the required date and time, and making sure that all procedures and requirements of the solicitation are followed and appropriately addressed.

6.8 Agreement requirements

The content of this solicitation shall be incorporated by reference into the final agreement. See the sample agreement terms and conditions included in this solicitation.

WSDOT reserves the right to negotiate with Applicants to modify the project scope, the level of funding, or both. If WSDOT is unable to successfully negotiate and execute a funding agreement with an Applicant, WSDOT, at its sole discretion, reserves the right to cancel the pending award and fund the next highest ranked eligible project.

WSDOT must formally approve all proposed grant awards. Public agencies that receive funding under this solicitation must provide an authorizing resolution approved by their governing authority to enter into an agreement with WSDOT and designating an authorized representative to sign.

WSDOT will send the approved agreement, including the terms and conditions and any additional terms and conditions, to the recipient for review, approval, and signature.

Once the grant recipient signs, WSDOT will fully execute the agreement. Recipients are approved to begin the project only after full execution of the agreement and Notice to Proceed.

6.9 No agreement until signed and approved

No agreement between WSDOT and an applicant is in effect until the agreement is signed by both the grant recipient and WSDOT.

6.10 Reimbursements

All reimbursable and match share expenditures must be expended within the approved term of the grant agreement. Reimbursable and match expenditures may only be incurred after an agreement is fully executed and the recipient receives a Notice to Proceed.

WSDOT can only approve and reimburse for actual costs that are properly documented in accordance with the grant agreement terms and conditions. WSDOT uses Office of Management and Budget Circular 2 CFR 200 as the standard when assessing your documentation of project costs. To comply you must be able to clearly identify the costs charged to the project, and revenues used to support the project, within your accounting system. To accomplish this, you may keep a separate set of accounts or a subaccount within your accounting system.

6.11 Reporting

In addition to data reporting requirements associated with equipment operation, recipients will need to submit written quarterly progress and expenditure reports and a final grant closeout report. Quarterly and final closeout reports will follow timeframes as identified in 2 CFR 200.329.

Attachment 1 - EVC RAA grant agreement terms and conditions

The following EVC RAA grant agreement is currently under review and subject to change.

EVC RAA GRANT AGREEMENT

This Grant Agreement (“Agreement”) is between the State of Washington, acting through its Department of Transportation, (“State” or “WSDOT”), and [full legal name of the grantee including its address] (“Grantee”), acting by and through its governing body, both referred to individually or collectively as “Party” or “Parties”.

RECITALS

1. WSDOT is authorized to enter into this agreement under RCW 47.01.260 and RCW 47.04.350.
2. The Infrastructure Investment and Jobs Act (IIJA) established a National Electric Vehicle Infrastructure (NEVI) Formula Program set-aside fund to provide funding to for the repair or replacement of non-operational EV chargers.
3. The purpose of this Agreement is to provide funding to the Grantee to repair or replace, operate, and maintain EV charging stations using Federal Highway Administration (FHWA) NEVI set-aside funds. The Grantee shall operate and maintain the EV charging stations for 5 years from the date the WSDOT issues a Notice to Proceed in Exhibit C - Task 4.
4. All applicable requirements of Title 23 United States Code (USC) and 2 Code of Federal Regulations (CFR) Part 200 apply to the administration of these funds, which include, but are not limited to: 23 CFR 680, FHWA Federal Form 1273, the Davis Bacon Act, the Americans with Disabilities Act of 1990, Title VI of the Civil Rights Act of 1964, the National Environmental Policy Act of 1969 (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Act, Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Drug-Free Workplace requirements under subpart B of 49 C.F.R. Part 32, and the Build America, Buy America Act. In addition to these requirements, the Grantee must comply with all other standards and requirements that may be required by federal, state, and local laws.
5. In accordance with 2 C.F.R. 170.220(a) (Federal Funding Accountability and Transparency Act (FFATA)), the terms in Appendix A to 2 C.F.R. Part 170 are incorporated by reference into this Agreement.
6. Grantee will repair or replace eligible EV charging stations as identified in Section 2.2 of the Notice of Funding Opportunity (NOFO).
7. Grantee represents that it is duly qualified and agrees to perform all activities described in Exhibit C to this Agreement (collectively, the “Project”) to the satisfaction of the State.

AGREEMENT TERMS

1 Term of Agreement and Survival of Terms.

- 1.1 **Effective Date.** This Agreement shall become effective on the date it is fully executed and approved as required by applicable law (the “Effective Date”). Grantee shall not be reimbursed for any eligible Project costs before the Effective Date. Grantee can begin work under this Agreement only after both the Effective Date has passed and the Notice to Proceed by the State’s Authorized Representative to begin the work has been issued.
- 1.2 **Expiration Date.** This Agreement expires the earlier of eight (8) years from the Effective Date, or the date that Grantee has completed the Project to the State’s satisfaction.
- 1.3 **Time.** Grantee must comply with all the time requirements described in this Agreement. Time is of the essence. If additional time is required to complete a Task as defined in the approved project schedule (see Exhibit C – Scope of Work and Deliverables Task 1.3), the Grantee must submit a request for a time extension, in writing, to WSDOT describing why additional time is

required. WSDOT reserves the right to ask for additional information and to approve or deny time extensions, at WSDOT's sole discretion.

- 1.4 **Limitation.** Under this Agreement, the State is only responsible for receiving and disbursing funds. Nothing in this Agreement will be construed to make the State a principal, co-principal, partner, or joint venturer with respect to the Project. The State may provide technical advice and assistance as requested by the Grantee; however, the Grantee will remain responsible for providing direction to its contractors and consultants and/or subconsultants, for administering its contracts with such entities. The Grantee's consultants and contractors and/or subconsultants are not intended to be third party beneficiaries of this Agreement, nor are they intended to be contractors or consultants of the State.
- 1.5 **Electronic Records and Signatures.** The parties agree to contract by electronic means. This includes using electronic signatures and converting original documents to electronic records.
- 1.6 **Certification.** By signing this Agreement, the Grantee certifies that it is not suspended or debarred for receiving federal or state awards.
- 1.7 **Survival of Terms.** All clauses which impose obligations continuing in their nature and which must survive in order to give effect to their meaning will survive the expiration or termination of this Agreement, including, without limitation, the following clauses: 16. Indemnification; 17.4.3 Workers Compensation; 20. State Audits; 21. Publicity and Endorsement; and 26. Governing Law, Jurisdiction, and Venue.

Exhibits. The following exhibits are made a part hereof and together with this instrument constitute the entire Agreement. This Agreement contains all of the terms and conditions agreed upon by the parties hereto.

- 2.1 Exhibit A: WSDOT Notice of Funding Opportunity
- 2.2 Exhibit B: Technical Specifications and Requirements for Operation
- 2.3 Exhibit C: Scope of Work and Deliverables
- 2.4 Exhibit D: Grantee Response to RFP ("Grantee Response")
- 2.5 Exhibit E: National Electric Vehicle Infrastructure Standards and Requirements ("NEVI Rule")
- 2.6 Exhibit F: FHWA Form 1273 ("Form 1273")
- 2.7 Exhibit G: Standard Title VI/Nondiscrimination Form
- 2.8 Exhibit H: RESERVED
- 2.9 Exhibit I: Project Wage Rates (Davis-Bacon and Washington Prevailing Wage Rates as of **DATE – Add before signing Agreement**)
- 2.10 Exhibit J: Reimbursement Request Template ("Grant Progress Report and Reimbursement Request Templates")
- 2.11 Exhibit K: Buy America Requirements for EV Chargers ("NEVI BABA Rule")
- 2.12 Exhibit L: Design Recommendations for Accessible EV Charging Stations (Accessibility Recommendations)
- 2.13 Exhibit M: Federal Transparency Act Subaward Reporting

- 3.1 The State's Authorized Representative is: [name, title, address, telephone number, email], or his/her designated successor. If the State's Authorized Representative changes at any time during this Agreement, the State will immediately notify the Grantee in writing. The State's Authorized Representative has the responsibility to monitor Grantee's performance and the authority to accept the Project work provided under this Agreement. If the Project work is satisfactory, in the State's sole discretion, the State's Authorized Representative will certify acceptance on each reimbursement request submitted for payment.
- 3.2 Grantee's Authorized Representative is: [name, title, address, telephone number, email]. If Grantee's Authorized Representative changes at any time during this Agreement, Grantee will immediately notify the State in writing.
- 3.3 Grantee acknowledges and agrees that State selected Grantee is entering into this Agreement because of the special qualifications of Grantee's key team members. The State, through this Agreement, is engaging the expertise, experience, and judgment of the key team members as shown in the grant application.
- 3.4 In the event Grantee requests that the State approve a reassignment or transfer of the Grantee's Authorized Representative or key team members:
 - 3.4.1 Grantee shall provide a resume for the proposed substitute, demonstrating that the proposed replacement has qualifications that are equal to or better than the qualifications of the person being replaced.
 - 3.4.2 The State shall have the right to interview, review the qualifications of, and approve or reject the proposed replacement(s) for the Grantee's Authorized Representative and key team member, in its sole discretion.
 - 3.4.3 Any substitute or replacement for the Grantee's Authorized Representative or key team members must be approved in advance and in writing (e-mail acceptable) and shall be deemed to be a key person under the Agreement.
- 3.5 Grantee agrees that the time/costs associated with the transfer of knowledge and information for a key team member replacement is not a cost borne by State and shall not be billed to the State. This includes labor hours spent reviewing project documentation, participation in meetings with personnel associated with the Agreement/Project and participating in site visits to become familiar with the project.

4 **Grantee's Duties.** Grantee will:

- 4.1 Perform the duties specified in the Exhibits.
- 4.2 Comply with all requirements and regulations specified in the Exhibits.
- 4.3 Submit required reports per Exhibit C. If a required report is past due, reimbursement will not be made until the Grantee has submitted the required report.
- 4.4 Procure all necessary permits and licenses; pay all charges, fees, and taxes; and give all notices necessary and incident to the due and lawful prosecution of the Agreement.
- 5.5 Be familiar with all laws, ordinances, and regulations that may in any manner affect those engaged or employed upon the work, or materials or equipment used in or upon the work, or that may in any way affect the conduct of the work. Grantee shall so conduct the work such that conflict with any such laws, ordinances, or regulations will be avoided, and the Grantee

shall defend, indemnify and save harmless the State and its representatives against any claims arising from violation thereof.

- 5.6 Obtain prior written approval of the State for any significant changes related to the scope of work. This includes, but is not limited to:
 - 5.6.1 Any significant revision of the scope, schedule, goals, objectives or tasks of the proposal Scope of Work, or related activities (regardless of whether there is an associated budget revision requiring prior approval), which may impact the cost of the Project or the approved project schedule; and
 - 5.6.2 Changes in key personnel, program manager, or prime contractor.
- 5.7 Comply with all applicable federal regulations, including 2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards.
- 5.8 Submit written progress reports and expenditure reports at least quarterly, and a final grant closeout report. Quarterly and final closeout reports must be submitted within the timeframes identified in 2 CFR 200.329. Reimbursements will not be made under NOFO section 9.1 if a progress report is past due, unless Grantee has been given a written extension by the State.
- 5.9 Maintain separate accounts for this Project in accordance with generally accepted accounting principles. Accounts must be sufficient to permit the preparation of reports or audits required by general and program specific terms and conditions. In addition, accounts must be sufficient to allow for the tracing of funds to a level of expenditures adequate to establish that such funds have been used according to the federal statutes, regulations, and the terms and conditions of the federal award.
 - 5.9.1 Grantee shall maintain all records for the Project separately and shall make them available to WSDOT for review or audit in a timely manner, if requested.
- 5.10 Submit data through the Federal Highway Administration online reporting platform on the following schedules: quarterly station operation data as required in 23 CFR 680.112(a), annual data as required in 23 CFR 680.112(b) and one-time data as required in 23 CFR 680.112(c).

6 Contracting and Bidding Requirements.

- 6.1 **Anti-Lobbying.** Grantee shall comply with all Anti-Lobbying requirements outlined in Form 1273, which is attached and incorporated into this Agreement as Exhibit F.
- 6.2 **Debarment and Suspension.** Grantee shall comply with all Debarment and Suspension requirements outlined in Form 1273, which is attached and incorporated into this Agreement as Exhibit F.
- 6.3 **Federal Award Uniform Administrative Requirements.** For all procurements of goods and services supported in whole or in part with federal funds, Grantee agrees to comply with the current requirements and standards of the Uniform Administrative Requirements, 2 CFR part 200, subpart D, which is incorporated by reference into this Agreement.
- 6.4 **Excluded Parties Listing System.** Before entering into a third-party contract or subcontract, Grantee agrees to check the System for Awards Management at <https://www.sam.gov/portal/public/SAM/> to ensure the selected vendor, subconsultant, or contractor has not been excluded from doing business with the federal government or its

grantees. Grantee will provide State with evidence that the System for Awards Management website has been checked.

6.5 **Fund Use Prohibited.** The Grantee will not utilize any funds received pursuant to this Agreement to compensate, either directly or indirectly, any contractor, corporation, partnership, or business, however organized, which is disqualified or debarred from entering or receiving a State or Federal contract. This restriction applies regardless of whether the disqualified or debarred party acts in the capacity of a general contractor, a subcontractor, subconsultant, or as an equipment or material supplier. This restriction does not prevent the Grantee from utilizing these funds to pay any party who might be disqualified or debarred after the Grantee's contract award on this Project.

6.6 **Procurement of Recovered Materials.** See 2 CFR 200.323 Procurement of Recovered Materials.

7 **Asset Monitoring.** Grantee is required to use the dedicated asset(s) – including but not limited to the Project Site, electric vehicle supply equipment (EVSE), and other ancillary equipment -- obtained under this Agreement – whether purchased, owned, leased or acquired by other means - solely for the NEVI Formula Program for five years. Any dedicated Project assets acquired with grant funds under this Agreement are subject to the technical and reporting requirements under 23 CFR 680 and 23 CFR 680.112(c)(3), respectively. Grantee shall guarantee that WSDOT and its agents shall have the right of full access to dedicated Project assets, for any and all activities needed to ascertain Grantee's compliance with 23 CFR 680 and all applicable Federal, State, and local laws and regulations. Grantee shall also guarantee that any Site Certification Form shall also include a statement entitling WSDOT to unrestricted access to any Project Site to confirm compliance with all applicable state, local and federal laws and that such Certification Form shall include clauses which shall incorporate by reference this Grant Agreement and all of its obligations. Grantee may not sell or change the purpose or use of the capital asset(s) obtained with grant funds under this Agreement without the prior written consent of the State and an agreement executed and approved by the same Parties who executed and approved this Agreement, or their successors in office. If disposition of asset(s) obtained under this Agreement is approved, any proceeds from the sale of such asset(s) must follow the requirements under 2 CFR 200.311, 2 CFR 200.313, and 2 CFR 200.314, or as specifically identified in federal law or the terms and conditions of the award.

8 **Federal Funds Compliance and Full Financial Responsibility.** Reimbursements under this Agreement will be made from federal funds. The Grantee is responsible for compliance with all federal requirements imposed on these funds and accepts full financial responsibility for any requirements imposed by the Grantee's failure to comply with federal requirements. If, for any reason, the federal government fails to reimburse part of the cost or expense of eligible Project costs incurred by the Grantee, or in the event the total amount of federal funds is not available, the Grantee will be responsible for any and all costs or expenses incurred under this Agreement. The Grantee further agrees to pay any and all lawful claims arising out of or incidental to the performance of the work covered by this Agreement in the event the federal government does not pay the same.

9 **Consideration**

- 9.1 **Total Obligation.** The total cost of the Project work will not exceed \$ _____, which includes all eligible Project capital expenditures and operations and maintenance (O&M) costs (the “Total Project Cost”). The total obligation of the State for all eligible Project capital reimbursements to Grantee under this Agreement will not exceed \$[] (“Total Capital Obligation”). The total obligation of the State for all O&M reimbursements to Grantee under this Agreement will not exceed \$[] (“Total O&M Obligations”). The total obligation of the State for all reimbursements to Grantee under this Agreement will not exceed a federal participation rate of 80% of the Total Project Cost (“Maximum Total Project Reimbursement”). Grantee is responsible for a minimum 20% match. See Exhibit D for site specific project cost caps.
- 9.2 **Consideration.** The State will pay for all Project work performed by Grantee during the Period of Performance under this Agreement as follows:
- 9.2.1 **Compensation.** Grantee will receive expenditure reimbursements based on actual, eligible Project costs incurred which will be submitted on a quarterly basis pursuant to NOFO section 9.1. Costs incurred must be consistent with the Project budget and work plan in Exhibit C and Exhibit D).
- 9.2.2 **Expenses and scope not included in original project budget or work plan.** Changes in the scope of work in Exhibit C and total Project costs in Exhibit D must be approved in advance and in writing prior to Grantee incurring costs. The overall budget shall not change, but changes may occur between cost items within the Capital Costs and between cost items within the O&M category. If costs are incurred prior to the amendment to the scope of work, expenses will be deemed ineligible.
- 9.2.4 **Eligible Costs.** Grantees shall be reimbursed for eligible Project costs as shown in Exhibit D and that are deemed eligible according to 23 CFR 680 and federal, state, and local laws.
- 9.2.5 **Ineligible Costs.** Grantee shall not be reimbursed for costs incurred prior to the Effective Date, costs deemed ineligible per 23 CFR 680 or other federal, state, or local laws; costs that exceed the Maximum Total Project Reimbursement; or costs incurred for work that does not meet the requirements of this Agreement at the sole discretion of WSDOT.
- 9.2.6 **Indirect Cost.** As required by 2 CFR 200.332 (a)(xiv), Grantee may elect to use a rate from a current cost allocation plan approved by WSDOT; or may elect to use a de minimis rate up to 10% Modified Total Direct Cost (MTDC) as described in 2 CFR 200.414.
- 9.3 **Program Income.** For the purposes of program income or revenue earned from the operation of an EV charging station, all revenues received from operation of the EV charging facility shall only be used for:
- 9.3.1 Debt service with respect to the EV charging station project, including funding of reasonable reserves and debt service on refinancing;
- 9.3.2 A reasonable risk-adjusted return on investment of any private entity financing the EV charging station project, as determined solely by the State;

- 9.3.3 Any eligible Project costs directly related to the improvement and proper operation and maintenance of the EV charging station, including reconstruction, resurfacing, restoration, and rehabilitation;
- 9.3.4 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
- 9.3.5 Any other purpose for which federal funds may be obligated under Title 23 USC.

9.4 **Reimbursement Mechanism.**

- 9.4.1 **Reimbursement Request.** Grantee acknowledges that Project funds are provided solely through a reimbursement mechanism. Grantee will submit a reimbursement request for payment on a quarterly basis due by April 10th for the period January through March, July 20th for the period April through June, October 20th for the period July through September, and January 20th for the period October through December using Exhibit J. Grantee shall submit a separate Reimbursement Request for each AFC Corridor and/or AFC segment location. Each Reimbursement Request must include the start and end date of the billing period, itemize all expenses for which reimbursement is claimed. Grantee must pay its contractors, subconsultants, and vendors before submitting a Reimbursement Request to WSDOT for reimbursement and must provide written evidence of such payment. The State's Authorized Representative will review each reimbursement request against the cost proposal, grant expenditures to-date, and the latest written progress report before approving payment. The State will reimburse Grantee after Grantee presents an itemized reimbursement request of eligible Project costs for the Project work actually performed and the State's Authorized Representative accepts the Project work performed.
- 9.4.2 **Quarterly Payment schedule.** Grantee may begin incurring eligible Project costs no earlier than the Effective Date. All eligible Project costs for a calendar quarter should be submitted by the 20th day of the month following the end of a quarter. For example, a contract that was executed on January 16 would need to submit quarterly expenses for reimbursement from January 16 to March 31, the request for reimbursement should be submitted no later than April 20th. WSDOT will review and approve the costs per State payment requirements.
- 9.4.3 **Data Submittal Requirement.** During the life of the Project, Grantee shall submit reports as required by Exhibit C. Applicable reports must be submitted through EV-ChART, the online reporting platform provided by the Federal Highway Administration. Data submittals will be reviewed and approved by the State's Authorized Representative before processing reimbursement requests.
- 9.4.4 **All Reimbursement Requests Subject to Audit.** All reimbursement requests are subject to audit, at State's discretion. Audits will be conducted using the cost principles and procedures set forth in 2 CFR part 200.
- 9.4.5 **State's Reimbursement Requirements.** The State will reimburse all eligible Project costs under this Agreement within 45 days after receiving Grantee's invoices and progress reports for the Project work performed. If a reimbursement request is incorrect, disputed, defective or otherwise improper, State will notify Grantee within ten days of discovering the error. After

State receives the corrected reimbursement request, State will pay Grantee within 45 days of receipt of such request.

9.4.6 **Prompt Reimbursement.** Grantee shall reimburse all subconsultants within 15 calendar days upon acceptance of an approved invoice.

9.5 **Monitoring Visit and Financial Reconciliation.** The State may make at least one monitoring visit and conduct annual financial reconciliations of Grantee's expenditures during the period of performance.

9.5.1 The State's Authorized Representative will notify Grantee's Authorized Representative where and when any monitoring visit and financial reconciliation will take place, which State employees and/or contractors will participate, and which Grantee staff members should be present. Grantee will be provided with at least seven calendar days of notice prior to any monitoring visit or financial reconciliation.

9.5.2 Following a monitoring visit or financial reconciliation, Grantee will take timely and appropriate action on all deficiencies identified by State, and will correct all identified deficiencies within thirty (30) calendar days.

9.5.3 At least one monitoring visit and one financial reconciliation must be completed prior to final payment being made to Grantee.

9.6 **Unexpended Funds.** The Grantee must promptly return to the State at grant closeout any unexpended funds that have not been accounted for in a financial report submitted to the State. Any funds that remain at the end of the Project shall revert to WSDOT's EVC RAA Program.

9.7 **Repayment of Funds.** Grantee shall repay any and all funds received as a result of this Agreement in the Event of Default or unlawful use of funds. WSDOT may request for the repayment of funds from the Grantee or WSDOT may make a claim against the Surety Bond provided to the Department, at the Department's sole discretion.

9.8 **Closeout.** Grantee must liquidate all obligations incurred under this Agreement and submit all financial, performance, and other reports as required by the terms of this Agreement and the Federal award within 90 calendar days of the end date of the Period of Performance. The State will determine, at its sole discretion, whether a closeout audit is required prior to final payment approval. If a closeout audit is required, final payment will be held until the audit has been completed. Monitoring of any capital assets acquired with grant funds will continue following grant closeout.

9.9 **Conditions for Project Reimbursement.** All Project work provided by Grantee under this Agreement must be performed to the State's satisfaction, as determined at the sole discretion of the State's Authorized Representative and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations. The Grantee will not be reimbursed for work found by the State to be unsatisfactory or performed in violation of federal, state, or local law.

9.10 **Matching Funds.** Any cost sharing or matching funds required of Grantee in this Agreement must comply with 2 CFR 200.306.

10 **Build America and Buy America (BABA) Act**

10.1 **General Requirements.** Equipment used for EV charging must comply with both the Title 23 Buy America clause (23 U.S.C. § 313) and the Build America, Buy America Act (Pub. L. No 117-58, div. G §§ 70901– 70927). FHWA has provided a phased waiver to the Buy America provisions for

NEVI EV charging equipment (88 FR 10619) to allow for a smoother transition while the market adjusts to the Buy America conditions. This waiver is broken into two phases. The first phase includes equipment manufactured before July 1, 2024, and installed before October 1, 2024. The second phase includes equipment manufactured and/or installed after these dates until a future date to be determined by FHWA. For the purposes of this Agreement, all proposed equipment and costs will assume compliance with the second phase of the waiver, regardless of when equipment is planned to be procured and installed. However, if, after award, equipment is purchased and installed prior to the deadlines of the first phase of the waiver, the first phase requirements may be used for this equipment.

10.2 **NEVI BABA Rule.** Exhibit K is attached and incorporated into this Agreement.

11 **Civil Rights and Non-Discrimination Requirements.**

11.1 **Title VI of the Civil Rights Act.** Exhibit G is attached and incorporated into this Agreement.

11.2 **Equal Employment Opportunity.** Exhibit G is attached and incorporated into this Agreement.

11.3 **Other Federal Nondiscrimination Requirements.** Exhibit G is attached and incorporated into this Agreement.

11.4 **Discrimination Prohibited Americans with Disabilities Act of 1990 (ADA).**

11.4.1 **General Requirements.** The ADA and 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.

11.4.2 **Accessible EV Charging Stations.** In addition to general requirements of 11.4.1, WSDOT requires, as part of NEVI ADA compliance, Grantees' compliance with [U.S. Access Board's Design Recommendations for Accessible Electric Vehicle Charging Stations](#) (Exhibit L). Exhibit L is attached and incorporated into this Agreement.

11.5 **Fair Housing Act, Title VII of the Civil Rights Act.** All applicable requirements of Title VII of the Civil Rights Act of 1968 (Fair Housing Act), and implementing regulations, apply to this Agreement.

12 **Prevailing Wages and Labor Standards.**

12.1 **Davis-Bacon Act, as amended.** Exhibit I is attached and incorporated into this Agreement. Grantee will comply with Davis-Bacon Act (40 U.S.C. 3141 et seq.). Failure to comply may result in civil or criminal penalties.

12.2 **Washington Prevailing Wage Act.** Exhibit I is attached and incorporated into this Agreement. Grantee will comply with prevailing wage provisions of RCW 39.12. Failure to comply may result in civil or criminal penalties.

13 **State and Federal Environmental Laws.**

13.1 **Environmental Review.**

- 13.1.1 **General Requirements.** 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 Agreement 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.
- 13.1.2 **Roles and Responsibilities.** The State will conduct environmental review for the proposed Project Site work related to EV charger installation as required by NEPA. Grantee will be responsible for all permitting responsibilities and third-party agreements for the Project Site. Grantees shall also provide access and right-of-entry to WSDOT as requested for purposes of environmental review and due diligence. Any amendments to the obtained NEPA clearances will be the responsibility of the Grantee.
- 13.1.3 **Conditional Award.** The State will conduct an environmental review at the State’s expense, in compliance with NEPA. If the State determines that the NEPA review will take additional time and/or would result in an undue cost to WSDOT, or that the NEPA review would significantly impact the environment, the State may cancel its award of this Project.
- 13.2 **Clean Air Act and the Federal Water Pollution Control Act.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued under the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the WSDOT, the FHWA and the Regional Office of the Environmental Protection Agency (EPA).

14 **RESERVED**

15 **Additional Federal Requirements**

- 15.1 **Uniform Relocation Assistance and Real Property Acquisition Act.** The Uniform Relocation Assistance and Real Property Acquisition Act, and implementing regulations, 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, and applies to this Agreement.
- 15.2 **Telecommunications Certification.** By signing this Agreement, Grantee certifies that, consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), and 2 CFR 200.216, Grantee will not use funding covered by this Agreement to procure or obtain, or to extend, renew, or enter into any contract to procure or obtain, any equipment, system, or service that uses “covered telecommunications equipment or services” (as that term is defined in Section 889 of the Act) as a substantial or essential component of any system or as critical technology as part of any

system. Grantee will include this certification as a flow down clause in any contract related to this Agreement.

- 15.3 **Appendix II 2 CFR Part 200 Federal Contract Clauses.** Grantee agrees to comply with the federal requirements as identified in 2 CFR 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, and agrees to pass through these requirements to its subconsultants, subcontractors and third-party contractors, as applicable.
- 15.4 **Remedies.** Grantee contracts for more than the simplified acquisition threshold currently set at \$250,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where Grantee contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- 15.5 **Termination.** All Grantee contracts in excess of \$10,000 must address termination for cause and for convenience by the Grantee, including the manner by which it will be affected and the basis for settlement.
- 15.6 **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
- 15.7 **Drug-Free Workplace.** In accordance with 2 C.F.R. § 32.400, Grantee will comply with the Drug-Free Workplace requirements under subpart B of 49 C.F.R. Part 32.
- 15.8 **Federal Funding Accountability and Transparency Act (FFATA).** In accordance with 2 C.F.R. 170.220(a), the terms in Appendix A to 2 C.F.R. Part 170 are incorporated by reference into this Agreement.

16 **Defense and Indemnification.**

- 16.1 Grantee, its successors and assigns, agrees to defend, indemnify, and hold harmless the State, WSDOT, its officers, employees, and agents, from any and all claims, demands, losses, and/or liabilities to or by third parties, including attorney fees, arising from, resulting from, or connected with, acts or omissions performed or to be performed under this AGREEMENT by Grantee its agents, employees, contractors, subcontractors, consultants, suppliers of any tier, invitees and licensees, to the fullest extent permitted by law and subject to the limitations provided below. Grantee’s duty to defend and indemnify the State, WSDOT, its officers, employees, and agents, shall not apply to liability for damages arising out of bodily injury to persons or damage to property caused by or resulting from the sole negligence or willful misconduct of the State, WSDOT, its officers, employees, and agents. Grantee’s duty to defend and indemnify the state, WSDOT, its officers, employees, and agents, for damages arising out of bodily injury to persons or damage to property caused by or resulting from the concurrent

negligence of (a) the State, WSDOT, its officers, employees, and agents, and (b) Grantee, its employees, contractors, subcontractors, suppliers of any tier, and invitees and licensees, shall apply only to the extent of negligence of Grantee, its agents, employees, contractors, subcontractors, suppliers of any tier, invitees and licensees. The Parties agree that their obligations under this section extend to any claim, demand, and/or cause of action brought by, or on behalf of, any of their officers, officials, employees or agents. For this purpose only, **the Parties, by mutual negotiation, hereby waive**, with respect to each other only, any immunity that would otherwise be available against such claims under the Industrial Insurance provisions of Title 51 RCW. This indemnification and waiver will survive the termination of this Agreement.

17 Insurance Requirements

17.1 Notice to Grantee

- 17.1.1 Grantee shall obtain the insurance required in this Section 17 from insurance companies or entities that are authorized to transact the business of insurance and issue coverage in the state of Washington and that are acceptable to the State.
- 17.1.2 Grantee is required to submit Certificates of Insurance acceptable to the State as evidence of insurance coverage requirements before the Effective Date of this Agreement.
- 17.1.3 Grantee will not commence work under the Agreement until it has obtained all the insurance described below and the State has approved such insurance. Grantee will maintain such insurance in full force and effect throughout the term of this Agreement, unless otherwise specified in this Agreement.
- 17.1.4 Failure of Grantee to provide a Certificate of Insurance for the policies required under this Agreement or renewals thereof, or failure of the Grantee or insurance company to notify the State of the cancellation of policies required under this Agreement, will not constitute a waiver by the State to Grantee to provide such insurance.
- 17.1.5 State reserves the right to immediately terminate this Agreement if Grantee is not in compliance with the insurance requirements and retains all rights to pursue any legal remedies against Grantee.
- 17.1.6 All insurance providers are subject to State acceptance. If requested by State, Grantee shall provide complete copies of insurance policies, endorsements, self-insurance documents and related insurance documents to State's Authorized Representative for verification of the insurance requirements.
- 17.1.7 Grantee agrees to periodic review of insurance requirements by State under this Agreement and to provide updated requirements as mutually agreed upon by Grantee and State.

17.2 Notice to Insurer

- 17.2.1 Grantee's insurance company(ies) waives its right to assert the immunity of the State as a defense to any claims made under said insurance.
- 17.2.2 Insurance certificate holder should be addressed to the State and submitted to the State's Authorized Representative.

17.3 **Additional Insurance Conditions.** The following apply to Grantee, or Grantee's subaward or contractor:

- 17.3.1 Grantee is responsible for payment of Agreement related insurance premiums and deductibles;
- 17.3.2 If Grantee is self-insured, a Certificate of Self-Insurance must be attached;
- 17.3.3 Grantee's policy(ies) must include legal defense fees in addition to its policy limits, with the exception of professional liability.
- 17.3.4 An Umbrella or Excess Liability insurance policy may be used to supplement the Grantee's policy limits to satisfy the full policy limits required by the Agreement.
- 17.3.5 The Grantee shall be named insured and the State, WSDOT, and all officers and employees of the State (collectively the additional insureds) shall be included as additional insureds for all policies and coverages specified in this section. Any insurance or self-insurance beyond that specified in this Contract that is maintained by any named insured or additional insured shall be in excess of such insurance and shall not contribute with it. All insurance coverage required by this section shall be written and provided by "occurrence-based" policy forms rather than by "claims made" forms. All endorsements adding additional insureds to required policies shall only be provided pursuant to form CG-20-10 (1985 edition) or a combination of the following: CG 2010 entitled "Additional Insured - Owners, Lessees or Contractors - Scheduled Person or Organization" and CG 2037 entitled "Additional Insured - Owners, Lessees or Contractors - Completed Operations"; or CG 2033 entitled "Additional Insured - Owners, Lessees or Contractors - Automatic Status When Required in Construction Agreement With You" and CG 2037 entitled "Additional Insured - Owners, Lessees or Contractors - Completed Operations". No form shall contain limitations or exclusions with respect to "products/completed operations" or ongoing operations coverage. No additional insured endorsement shall seek to limit coverage for the additional insureds for their own negligence with respect to liability arising out of Project operations and/or solely to vicarious liability arising out of the ongoing or completed operations of the Grantee, its contractors, subcontractors of any tier, consultants, agents or employees. The coverage, together with all coverage limits, required to be provided to the additional insureds shall be primary and non-contributory with respect to any other insurance maintained by, or obtained for the benefit of, the additional insured. Any insurance or self-insurance that is maintained by an additional insured, or their members, directors, officers, and employees shall be in excess of, and shall not contribute with, the insurance required herein.

17.4 **Coverages.** Grantee is required to maintain and furnish satisfactory evidence of the following insurance policies:

- 17.4.1 **Commercial General Liability Insurance.** Commercial General Liability insurance shall be issued on an occurrence basis covering bodily injury, death, and property damage and shall include personal and advertising injury liability, products and completed operations and contractual liability coverage. When work to be performed includes operations or

activity within 50 feet of any railroad property, bridge, trestle, track, roadbed, tunnel, underpass or crossing, the coverage shall provide the Contractual Liability – Railroads CG 24 17 endorsement, or equivalent, on the Commercial General Liability policy.

Commercial General Liability insurance shall not be less than the following amounts:

- \$2,000,000 – per occurrence
- \$4,000,000 – annual aggregate
- \$4,000,000 – annual aggregate – applying to Products/Completed Operations

17.4.2 **Commercial Automobile Liability Insurance.** Commercial Automobile Liability insurance covering business-related automobile use on all owned, non-owned or hired vehicles for bodily injury and property damage. Automobile Liability insurance shall not be less than the following amount:

- \$1,000,000 – per occurrence Combined Single limit for Bodily Injury and Property Damage

17.4.3 **Workers' Compensation Insurance.** All employers, including Grantee, that employ subject workers, as defined in RCW 51.12 shall comply with RCW 51.12 and shall provide Workers' Compensation insurance coverage for those workers. Grantee shall ensure that each of its sub-awardees or contractors complies with this requirement.

17.4.4 **Network Security and Privacy Liability Insurance (or equivalent).** Grantee shall provide Network Security and Privacy Liability insurance for the duration of this Agreement and for the period of time in which Grantee (or its business associates, subcontractor(s) and/or subconsultants) maintains, possesses, stores, or has access to Agency or client data, whichever is longer, with a combined single limit of not less than \$1,000,000 per claim or incident. This insurance must include coverage for third party claims and for losses, thefts, unauthorized disclosures, access or use of State or client data (which may include, but is not limited to, Personally Identifiable Information (“PII”), Payment Card Data and Protected Health Information (“PHI”)) in any format, including coverage for accidental loss, theft, unauthorized disclosure access or use of State data.

18 **Independent Contractor.** Grantee shall perform the Project as an independent contractor and not as an agent or employee of State. Grantee has no right or authority to incur or create any obligation for or legally bind State in any way. State cannot and will not control the means or manner by which Grantee performs the Project, except as specifically set forth in this Agreement. Grantee is responsible for determining the appropriate means and manner of performing the Project. Grantee acknowledges and agrees that Grantee is not an “officer”, “employee”, or “agent” of State, and shall not make representations to third parties to the contrary.

19 **Grantee's Contract and Procurements.** Grantee may enter into contracts with subconsultants and/or contractors duly licensed to transact business in the State of Washington for performance of the Project, or with Site Hosts/Owners, as the case may be. If Grantee enters into a contract, Grantee agrees to comply with the following:

19.1 **Contracts.**

- 19.1.1 All contracts must be in writing, executed by Grantee and must incorporate and pass through all of the applicable requirements of this Agreement to the other party or parties to the contract. Use of a contract does not relieve Grantee of its responsibilities under this Agreement.
- 19.1.2 Grantee shall provide State with a copy of any signed contract, as well as any other purchasing or contracting documentation, upon State's request, at any time. This subparagraph shall survive expiration or termination of this Agreement.
- 19.1.3 Grantee must report to State any material breach of a term or condition of a contract within ten (10) calendar days of Grantee discovering the breach.
- 19.1.4 Before starting work on the Project, contractors and subcontractors shall each submit to Grantee a separate public works bond, in the full amount of the grant pursuant to RCW 39.04.010, or such other security if RCW 39.04.010(3) applies. The Grantee shall verify that all contractors and subcontractors and subconsultants are duly licensed and registered with the State of Washington before beginning work on the Project. The Grantee shall promptly provide the State with a copy of contractors and/or subcontractors bond documentation, sufficient to demonstrate their compliance with RCW 39.04.010, or if other security is applicable, with RCW 39.04.010(3)
- 19.1.5 Contractors, subcontractors and subconsultants shall comply with the provisions of FHWA Form 1273, *Required Contract Provisions Federal-aid Construction Contracts*. Grantee shall ensure FHWA Form 1273 is physically included to its contract with its contractor and the contractor's subcontracts.
- 19.1.6 Grantee's contracts with its subconsultants and contractors and any contractor's subcontracts and at any lower tiered subcontracts shall contain a clause or condition that if the contractor or any subcontractor fails, neglects, or refuses to make payment to an entity furnishing labor or materials in connection with this Agreement, the entity may file a lien in accordance with RCW 60.28.
- 19.1.7 In accordance with the provisions of RCW 39.04.250, subcontracts shall also include:
 - i. A payment clause that obligates the contractor to pay the contractor's first-tier subcontractor (or subconsultant) for satisfactory performance under the subcontract within 10 calendar days out of amounts the Grantee pays to the contractor under the contract.
 - ii. A clause that requires the contractor to provide the contractor's first-tier subcontractor (or subconsultant) with a standard form that the first-tier subcontractor may use as an application for payment or as another method by which the subcontractor may claim a payment due from the contractor.
 - iii. A clause that requires the contractor, except as otherwise provided in this subsection, to use the same form and regular administrative procedures for processing payments during the entire term of the subcontract. The contractor

may change the form or the regular administrative procedures the contractor uses for processing payments if the contractor:

- Notifies the subcontractor in writing at least 45 calendar days before the date on which the contractor makes the change; and
- Includes with the written notice a copy of the new or changed form or a description of the new or changed procedure.

- iv. An interest penalty clause that obligates the contractor, if the contractor does not pay the first-tier subcontractor within 30 calendar days after receiving payment from the Grantee, to pay the first-tier subcontractor an interest penalty on amounts due in each payment the contractor does not make in accordance with the payment clause included in the subcontract. The contractor or first-tier subcontractor is not obligated to pay an interest penalty if the only reason that the contractor or first-tier subcontractor did not make payment when payment was due is that the contractor or first-tier subcontractor did not receive payment from the Grantee or the contractor when payment was due. The interest penalty applies to the period that begins on the day after the required payment date and ends on the date on which the amount due is paid. The rate of interest on the amount due shall be nine percent per annum.

19.1.8 A clause that requires the contractor's first-tier subcontractor to include a payment clause and an interest penalty clause that conform to the standards of RCW 39.04.250 in each of the subcontractor's first-tier subcontracts and to require each of the subcontractor's first-tier subcontractors to include such clauses in its subcontracts with each lower-tier subcontractor or material supplier.

19.1.9 All subcontracts shall include:

- A provision requiring the subcontractor to be duly licensed and registered before starting work on the Project, unless exempt.
- A provision requiring that the workers shall be paid not less than the specified minimum hourly rate of wage.

19.1.10 Certified Payroll:

- i. The Grantee, their contractor(s) and all subcontractors shall submit written certified statements to WSDOT on the form prescribed by WSDOT certifying compliance with wage payment requirements and accurately setting out the Grantee's, contractor(s), and subcontractors weekly payroll records for each worker employed on the Project.
- ii. In addition to providing the required payroll information and certified statements, the Grantee, their contractor(s) and all subcontractors shall submit written certified statements that also meet the requirements in Section IV of FHWA Form 1273, except the Grantee, their contractor(s) and every subcontractor shall preserve the certified statements for a period of six years from the date of completion of the Agreement.

19.2 **Contract Indemnification.**

19.2.1 Grantee's contracts shall require the other party to such contract to indemnify, defend, save, and hold harmless the State, WSDOT, and its officers, agents and employees, in accordance with the requirements of, and subject to, Section 16.

19.3 **Contract Insurance.**

19.3.1 Grantee shall require its contractors to obtain and maintain insurance coverage that the Grantee deems appropriate based on the risks of the contract work. Grantee shall require its contractors to meet the requirements provided in section 17.3, Additional Insurance Conditions. Grantee shall verify that each of its contractors and/or subconsultants meet the insurance requirements.

19.3.2 Grantee shall require its contractors and/or subconsultants to require and verify that all subcontractors and/or subconsultants carry insurance coverage that the contractor deems appropriate based on the risks of the contract work.

19.3.3 Grantee shall include provisions in each of its contracts requiring its contractor(s) and/or subconsultants to comply with the insurance requirements within this Contract Insurance section.

20 **State Audits.**

Grantee's books, records, documents, and accounting procedures and practices of Grantee, or other party relevant to this Agreement or transaction, are subject to examination by WSDOT and the Washington Secretary of State for a minimum of six years from the end of this Agreement, receipt and approval of all final reports, or the required period of time to satisfy all state and program retention requirements, whichever is later. Grantee will take timely and appropriate action on all deficiencies identified by an audit.

21 **Publicity and Endorsement.**

21.1 **Publicity.** Grantee must contact the State with a draft of the publicity regarding the subject matter of this Agreement and provide the State the opportunity to decide if it will be identified as the sponsoring agency. Any publicity must not be released without prior written approval from the State's Authorized Representative. For purposes of this provision, publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Grantee individually or jointly with others, or any subcontractors and/or subconsultants, with respect to the program, publications, or services provided resulting from this Agreement. Grantee shall provide WSDOT a link to any website created about the Project before costs being considered eligible for reimbursement. Recipient shall notify WSDOT in writing when the link changes during the term of the Agreement.

21.2 **No Endorsement.** Grantee must not claim that the State endorses its products or services.

21.3 **Disclaimer.** Grantee must include the following statement in all plans, studies and reports funded under this Agreement: "The preparation of this report has been funded in part by the U.S. Department of Transportation and Federal Highway Administration. The contents of this document reflect the views of the authors who are responsible for the facts or accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of

the U.S. Department of Transportation. The report does not constitute a standard, specification, or regulation.”

22 Termination and Suspension.

- 22.1 **Termination by the State.** The State may terminate this Agreement at any time, with or without cause, upon written notice to the Grantee. Upon termination, the Grantee will be entitled to reimbursement, determined on a pro rata basis, for eligible Project work satisfactorily performed before termination, in the sole discretion of the State.
- 22.2 **Termination for Cause.** The State may immediately terminate this Agreement if the State finds that there has been an Event of Default, that there has been a failure to comply with the provisions of this Agreement, that reasonable progress has not been made, that fraudulent or wasteful activity has occurred, that Grantee has been convicted of a criminal offense relating to a state grant agreement, or that the purposes for which the funds were granted have not been or will not be fulfilled. The State may take action to protect its interests, including the refusal to disburse and/or reimburse additional funds and requiring the return of all or part of the funds already reimbursed to the Grantee.
- 22.3 **Termination for Insufficient Funding.** The State may immediately terminate this Agreement if it fails to receive funding, appropriations, limitations or other expenditure authority sufficient to allow WSDOT, in the exercise of its reasonable administrative discretion, to continue to make reimbursement payments under this Agreement. Termination must be by written or email notice to the Grantee. The State is not obligated to reimburse any Project work that is provided after the notice and effective date of termination. However, the Grantee will be entitled to reimbursement for eligible Project costs, determined on a pro rata basis, for Project work satisfactorily performed, to the extent that funds are available. The State will provide the Grantee with notice of the lack of funding, within a reasonable time of the State’s receiving that notice.
- 22.4 **Suspension.** The State may immediately suspend this Agreement in the event of a total or partial government shutdown due to the failure to have an approved budget by the legal deadline. Work performed by the Grantee during a period of suspension will be deemed unauthorized and undertaken at risk of non-reimbursement.
- 22.5 **Procedures upon Termination.**
- 22.5.1 **Notice.** WSDOT shall provide written notice to the Grantee of the decision to terminate, the reason(s) for the termination, and the effective date of the termination. If there is a partial termination due to a reduction in funding, the notice will set forth the change in funding and the changes in the approved budget. The Grantee shall not incur new obligations beyond the effective date of the termination and shall cancel as many outstanding obligations as possible. WSDOT’s share of non-cancellable obligations, which WSDOT solely determines were incurred properly prior to notice of cancellation, will be allowable Project costs, subject to this Agreement.
- 22.5.2 **Rights in Products.** All finished and unfinished documents, data, reports, or other material prepared by the Grantee under this Agreement shall, at WSDOT’s option, become the property of WSDOT.

22.5.3 **Return of Funds.** Any costs previously reimbursed by WSDOT to Grantee, which are subsequently determined to be unallowable through audit, monitoring, or closeout procedures, shall be returned to WSDOT within 30 days from notice by WSDOT of the unallowable costs.

23 **Default.**

23.1 **Events of Default.** The following shall constitute Events of Default under this Agreement:

23.1.1 **Material Misrepresentation.** If at any time any representation, warranty, or statement made or furnished to WSDOT by, or on behalf of, the Grantee in connection with this Agreement or to induce WSDOT to make an award to the Grantee shall be determined by WSDOT to be incorrect, false, misleading or erroneous in any material respect when made or furnished and shall not have been remedied to WSDOT's satisfaction within 30 days after written notice by WSDOT is given to the Grantee.

23.1.2 **Noncompliance.** If there is a failure by the Grantee to comply with any of the covenants, terms, or conditions contained in this Agreement.

23.1.3 **Misspending.** If the Grantee expends grant proceeds for purposes not described in the Proposal, this Agreement, or as authorized by WSDOT.

23.1.4 **Lack of Capacity.** If the Grantee demonstrates a lack of capacity to carry out the approved activities and Project work in a timely manner and with the funds awarded, at the sole discretion of WSDOT.

23.1.5 **Abandonment.** If the Grantee abandons any activities or Project work under this Agreement, as constituted by Grantee cessation or interruption of work without cause, for a consecutive period of 20 working days.

23.1.6 **Failure to Comply with Laws.** If the Grantee has failed to verify compliance with any state or federal laws, rules, regulations, guidance, or orders.

23.2 **Notice of Default.** WSDOT shall issue a written Notice of Default providing a 15-day period in which the Grantee shall have an opportunity to cure any and all deficiencies in Project work, provided that cure is possible and feasible.

23.3 **Remedies upon Default.** If the deficiencies remain after the opportunity to cure, WSDOT shall have the right, in addition to any rights and remedies available by law, to do one or more of the following:

23.3.1 **Reduce Payment.** Reduce the level of funds the Grantee would otherwise be entitled to be reimbursed for under this Agreement,

23.3.2 **Repayment.** Require immediate repayment of up to the full amount of funds disbursed to the Grantee under this Agreement, including making a claim against the surety bond provided to WSDOT, up to the full amount of the surety bond. WSDOT shall have sole discretion to determine the amount of the claim.

23.3.3 **Conditional Reimbursements.** Refuse or condition any future reimbursements upon conditions specified in writing by WSDOT.

24 **Assignment, Amendments, and Waiver.**

- 24.1 **Assignment.** Grantee may neither assign nor transfer any rights or obligations under this Agreement without the prior written consent of the State and a fully executed Assignment Agreement, executed and approved by the same Parties who executed and approved this Agreement, or their successors in office.
- 24.2 **Amendments.** Any amendments to this Agreement must be in writing and will not be effective until it has been executed and approved by the same Parties who executed and approved the original agreement, or their successors in office.
- 24.3 **Waiver.** If the State fails to enforce any provision of this Agreement, that failure does not waive the provision or the State's right to subsequently enforce it.

25 **Grant Agreement Complete.** This Agreement contains all negotiations and agreements between the State and Grantee. No other understanding regarding this Agreement, whether written or oral, may be used to bind either party.

26 **Governing Law, Jurisdiction, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Washington without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between WSDOT (or any other agency or department of the State of Washington) and Grantee that arises from or relates to this Agreement shall be brought and conducted solely and exclusively within the Superior Court of Thurston County in the State of Washington. In no event shall this section be construed as a waiver by the State of Washington of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Each party hereby consents to the exclusive jurisdiction of such court, waives any objection to venue, and waives any claim that such forum is an inconvenient forum.

27 **Notice of Proceedings**

27.1 Grantee shall notify the State within 30 days of the initiation of any claims, lawsuits, or proceedings brought against the Grantee.

27.2 In the event Grantee becomes aware of any material alteration in the Project, initiation of any investigation or proceeding involving the Project, or any other similar occurrence, the Grantee shall notify the State promptly.

Grantee, by and through its governing body

STATE OF WASHINGTON, by and through its Department of Transportation

By
(Legally designated representative)

By
Director

Name
(printed)

Name
(printed)

Date

Date

By

APPROVAL RECOMMENDED

Name
(printed)
Date

By
Program Manager

Date

**LEGAL REVIEW APPROVAL
(If required in Grantee's process)**

APPROVED AS TO LEGAL SUFFICIENCY

Grantee's Legal Counsel

Date

By
Assistant Attorney General

- Grantee's UEI:
- Grantee is required to report executive compensation to comply with the Federal Transparency Act:
Yes _____ No

Date

By