



**CALIFORNIA
ENERGY COMMISSION**



**California Energy Commission
February 14, 2024 Business Meeting
Backup Materials for California Department of Transportation**

The following backup materials for the above-referenced agenda item are available in this PDF packet as listed below:

1. Proposed Resolution
2. Contract Request Form
3. Scope of Work

STATE OF CALIFORNIA
STATE ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

RESOLUTION: California Department of Transportation

RESOLVED, that the State Energy Resources Conservation and Development Commission (CEC) adopts the staff CEQA findings contained in the Agreement or Amendment Request Form (as applicable); and

RESOLVED, that the CEC approves agreement RMB600-23-009 for Caltrans to provide up to \$60,418,469 to the CEC to administer California's Electric Vehicle Charger Reliability and Accessibility Accelerator (EVC RAA) Program. The CEC will provide \$483,532 in match funds for the EVC RAA Program, and will work with Caltrans to ensure charging infrastructure investments made by California through the EVC RAA Program are strategic, coordinated, efficient, and equitable while meeting applicable laws and regulations; and

FURTHER BE IT RESOLVED, that the Executive Director or their designee shall execute the same on behalf of the CEC.

CERTIFICATION

The undersigned Secretariat to the CEC does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the CEC held on February 14, 2024.

AYE:

NAY:

ABSENT:

ABSTAIN:

Dated:

Kristine Banaag
Secretariat



CONTRACT REQUEST FORM (CRF)

A. New Agreement Number

IMPORTANT: New Agreement # to be completed by Contracts, Grants, and Loans Office.

New Agreement Number: RMB600-23-009

B. Division Information

1. Division Name: Fuels and Transportation
2. Agreement Manager: Ben De Alba
3. MS-6
4. Phone Number:(916) 539-6828

C. Contractor's Information

1. Contractor's Legal Name: California Department of Transportation
2. Federal ID Number: 68-027494

D. Title of Project

Title of project: Electric Vehicle Charger Reliability and Accessibility Accelerator Program
Interagency Agreement

E. Term and Amount

1. Start Date: March 1, 2024
2. End Date: June 30, 2031
3. Amount: \$60,418,469

F. Business Meeting Information

1. Operational agreement to be approved by Executive Director? No
2. Are the ARFVTP agreements \$75K and under delegated to Executive Director? No
3. The Proposed Business Meeting Date: February 14, 2024
4. Consent or Discussion? Discussion
5. Business Meeting Presenter Name: Ben De Alba
6. Time Needed for Business Meeting: 5 minutes
7. The email subscription topic is: Clean Transportation Program, Electric Vehicle Charger Reliability and Accessibility Accelerator Program

Agenda Item Subject and Description:

California Department of Transportation (Caltrans). Proposed resolution approving Interagency Agreement RMB600-23-009 for Caltrans to provide up to \$60,418,469 to the CEC to administer California's Electric Vehicle Charger Reliability and Accessibility Accelerator (EVC RAA) Program and adopting staff's determination that this action is exempt from CEQA. The CEC will provide \$483,532 in match funds for the EVC RAA Program and will work with Caltrans to ensure charging infrastructure investments made by California through the EVC RAA Program are strategic, coordinated, efficient, and equitable. (Federal EVC RAA Funding, CTP Match Funding) Contact: Ben De Alba (Staff Presentation: 5 minutes)

G. California Environmental Quality Act (CEQA) Compliance

1. Is Agreement considered a "Project" under CEQA?

Yes



If yes, skip to question 2.

If no, complete the following (PRC 21065 and 14 CCR 15378) and explain why Agreement is not considered a "Project":

Agreement will not cause direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment because: N/A

2. If Agreement is considered a "Project" under CEQA answer the following questions.

a) Agreement **IS** exempt?

Yes

Statutory Exemption?

No

If yes, list PRC and/or CCR section number(s) and separate each with a comma. If no, enter "None" and go to the next question.

PRC section number: None

CCR section number: None

Categorical Exemption?

Yes

If yes, list CCR section number(s) and separate each with a comma. If no, enter "None" and go to the next question.

CCR section number:

Common Sense Exemption? 14 CCR 15061 (b) (3)

Yes

If yes, explain reason why Agreement is exempt under the above section. If no, enter "Not applicable" and go to the next section.

Under this proposed interagency contract, CEC will work with Caltrans to design the EVC RAA Program (Program), including ensuring that charging infrastructure investments by the state made through the Program are strategic, coordinated, efficient, and equitable while meeting applicable laws and regulations. CEC will perform environmental review and recommend CEQA findings for resultant agreements when they are developed. The scope of work of this contract is administrative in nature and there is no possibility that the activity in question will have a significant effect on the environment.

b) Agreement **IS NOT** exempt.

IMPORTANT: consult with the legal office to determine next steps.

No

If yes, answer yes or no to all that applies. If no, list all as "no" and "None" as "yes".

| Additional Documents | Applies |
|--------------------------------|---------|
| Initial Study | No |
| Negative Declaration | No |
| Mitigated Negative Declaration | No |
| Environmental Impact Report | No |



| | |
|--|-----|
| Statement of Overriding Considerations | No |
| None | Yes |

H. Subcontractors

List all Subcontractors listed in the Budget (s). Insert additional rows if needed. If no subcontractors to report, enter "No subcontractors to report" and "0" to funds. **Delete** any unused rows from the table

| Subcontractor Legal Company Name | Budget |
|----------------------------------|-------------|
| TBD | \$1,000,000 |

I. Key Partners

List all key partner(s). Insert additional rows if needed. If no key partners to report, enter "No key partners to report." **Delete** any unused rows from the table.

| Key Partner Legal Company Name |
|--------------------------------|
| No key partners to report |

J. Budget Information

Include all budget information. Insert additional rows if needed. If no budget information to report, enter "N/A" for "Not Applicable" and "0" to Amount. **Delete** any unused rows from the table.

| Funding Source | Funding Year of Appropriation | Budget List Number | Amount |
|------------------------------------|-------------------------------|--------------------|--------------|
| Other – Caltrans (Federal EVC RAA) | FY 23/24 | TBD | \$60,418,469 |
| ARFVTF | Multiple | N/A | \$483,532 |

TOTAL Amount: \$60,902,001

R&D Program Area: Not Applicable

Explanation for "Other" selection: Caltrans will reimburse the CEC's ARFVTF (fund 3117) with federal EVC RAA funds for CEC administrative costs of \$1,934,124 and program costs of \$58,484,345. The CEC will provide a sum of \$483,532, in match funds from the ARFVTF, which accounts for 20 percent of the CEC's administrative costs. The match funding contribution is in addition to the \$60,418,469 in federal EVC RAA funds. This contribution fulfills the 20 percent non-federal match requirement set by the Federal Highway Administration (FHWA).

Reimbursement Contract #: Not Applicable

Federal Agreement #: Not Applicable

K. Contractor's Contact Information



1. Contractor's Administrator/Officer

Name: Jimmy O' Dea

Address: 1120 N Street MS-49

City, State, Zip: Sacramento, CA, 95814

Phone: (916) 708-3002

E-Mail: Jimmy.ODEa@dot.ca.gov

2. Contractor's Project Manager

Name: Jimmy O' Dea

Address: 1120 N Street MS-49

City, State, Zip: Sacramento, CA, 95814

Phone: (916) 708-3002

E-Mail: Jimmy.ODEa@dot.ca.gov

L. Selection Process Used

There are three types of selection process. List the one used for this CRF.

| Selection Process | Additional Information |
|--|------------------------|
| Competitive Solicitation # | Not Applicable |
| Non Competitive Bid (<i>Attach DGS-GSPD-09-007</i> https://www.dgs.ca.gov/PD/Forms) | Not Applicable |
| Exempt | Interagency Exemption |

M. Contractor Entity Type

| Contractor Entity Type | Yes or No? |
|---|------------|
| Private Company (<i>including non-profits</i>) | No |
| CA State Agency (<i>including UC and CSU</i>) | Yes |
| Government Entity (<i>i.e. city, county, federal government, air/water/school district, joint power authorities, university from another state</i>) | No |

N. Is Contractor a certified Small Business (SB), Micro Business (MB) or Disabled Veterans Business Enterprise (DVBE)?

The contractor is a certified: Not applicable.

O. Civil Service Considerations



- a. Not Applicable (Agreement is with a CA State Entity or a membership/co-sponsorship)?
Yes.
- b. Public Resources Code 25620, et seq., authorizes the Commission to contract for the subject work. (PIER) No.
- c. The Services Contracted: No.

If no, go to the next question. If yes, which of the following applies to the contract? More than one can apply, list each answer choice, and separate them with a comma:

- are not available within civil service
- cannot be performed satisfactorily by civil service employee
- are of such a highly specialized or technical nature that the expert knowledge, expertise, and ability are not available through the civil service system

The following applies to the contract: Not applicable.

- d. The Services are of such an urgent, temporary, or occasional nature that the delay to implement under civil service would frustrate their very purpose?

Not Applicable.

Justification:

Civil service requirements are not applicable as this is an interagency agreement. The \$100 million EVC RAA Program is part of the \$1.2 trillion Infrastructure Investment and Jobs Act (IIJA) signed into law by President Biden in November 2021. The EVC RAA Program focuses on repairing or replacing broken or non-operational EV chargers to improve the reliability of existing EV charging infrastructure. Caltrans is the designated lead agency for the EVC RAA Program, and the CEC is their designated state energy partner and program implementer.

P. Payment Method

1. Is the payment method Reimbursement, Advanced Payment, or Other? Reimbursement
2. If Reimbursement, is it in arrears based on Itemized Monthly, Itemized Quarterly, Flat Rate, or One-time? Arrears based on Itemized Semi-Annually.

Q. Retention

Is Agreement subject to retention? No.

If Yes, Will retention be released prior to Agreement termination? Not Applicable.

R. Justification of Rates

Costs for this Agreement shall be computed in accordance with State Administrative Manual (SAM) Sections 9210 and 9211.

S. Disabled Veteran Business Enterprise Program (DVBE)

Provide requested additional information.

1. Exempt (Interagency/Other Government Entity) Yes.
2. Meets DVBE Requirements DVBE No.
Amount: \$ 0 DVBE %:0



3. Is the Contractor Certified DVBE or Subcontracting with a DVBE? If subcontracting with a DVBE, provide the name of the DVBE company. Not Applicable.
4. Contractor selected through CMAS or MSA with no DVBE participation No.
5. Requesting DVBE Exemption (attach CEC 95) No.

T. Miscellaneous Agreement Information

1. Will there be Work Authorizations? No.
2. Is the contractor providing confidential information? No.
3. Is the contractor going to purchase equipment? No.
4. What is the check frequency of the progress reports? Quarterly.
5. Will a final report be required? No.
6. Is the Agreement, with amendments, longer than three years? If yes, why?

Yes. The IIJA appropriates a total of \$100 million for the EVC-RAA program over a twelve month period of fiscal years 2023 through 2024, but States must also ensure that the chargers repaired or replaced be maintained in compliance with National Electric Vehicle Infrastructure (NEVI) standards for a period of at least five years from the date of installation.

U. The following items should be attached to this CRF (as applicable)

List all items that should be attached to this CRF by entering "Yes" or "No".

| Item Number | Item Name | Attached |
|-------------|--|----------|
| 1 | Exhibit A, Scope of Work/Schedule | Yes |
| 2 | Exhibit B, Budget Detail | Yes |
| 3 | DGS-GSPD-09-007, NCB Request | No |
| 4 | CEC 95, DVBE Exemption Request | No |
| 5 | Awardee CEQA Documentation | No |
| 6 | Resumes | No |
| 7 | CEC 105, Questionnaire for Identifying Conflicts | Yes |

Approved By

Individuals who approve this form must enter their full name and approval date in the MS Word version.

Agreement Manager: Ben De Alba

Approval Date: January 11, 2024

Office Manager: Jaron Weston

Approval Date: January 11, 2024

Deputy Director: Melanie Vail

Approval Date: January 12, 2024

Interagency Agreement

Between

The California Department of Transportation

And

The California Energy Commission

Regarding the Coordination of the Electric Vehicle Charging Reliability and Accessibility
Accelerator in California

Exhibit A: Scope of Work

Definitions

The Federal Highway Administration is hereinafter referred to as “FHWA.”

The Joint Office of Energy and Transportation is hereinafter referred to as the “Joint Office.”

The California Department of Transportation (“Caltrans”) is the recipient of federal funding under the Electric Vehicle Charging Reliability and Accessibility Accelerator (“Federal EVC RAA Program”), and Caltrans is the “Contracting Agency” referenced in the California Department of General Services’ (“DGS”) Standard Agreement – Amendment Form 213A.

The California Energy Commission (“CEC”) is the subrecipient to Caltrans of federal funding under the Federal EVC RAA Program, and the CEC is the “Contractor” referenced in DGS Form 213A.

Caltrans and the CEC are hereinafter collectively referred to as “Parties.”

California’s implementation of the Federal EVC RAA Program as described in Caltrans’ application to the Federal EVC RAA Program is hereinafter referred to as “California’s EVC RAA Program,” or “the California EVC RAA Program,” which includes development and administration of funding opportunities and is aligned with California’s Deployment Plan for the National Electric Vehicle Infrastructure Formula Program (NEVI), or “Deployment Plan.”

A project using funding under California's EVC RAA Program to repair or replace electric vehicle charging infrastructure is hereinafter referred to as a "EVC RAA Project."

A funding opportunity issued by the CEC for a EVC RAA Project is hereinafter referred to as a "EVC RAA Funding Opportunity."

An entity awarded funding by the CEC under a EVC RAA Funding Opportunity is the primary source for delivering the project listed in the award agreement and is hereinafter referred to as an "Awardee." Subcontractors to Awardees are hereinafter referred to as "Awardee Subcontractors."

An agreement entered into by the CEC and an Awardee for a EVC RAA Project is hereinafter referred to as a "EVC RAA Project Agreement."

An agreement entered into by Caltrans and the CEC for an individual EVC RAA Project is hereinafter referred to as a "Project Specific Supplement Agreement."

Commencement

This Interagency Agreement ("Agreement") will become effective upon execution by Caltrans and the CEC, and approval by DGS. This Agreement shall have no force or effect unless and until execution by Caltrans and the CEC and approval by DGS.

The CEC shall not receive payment for work performed prior to the effective date of the Agreement and before receipt of notice to proceed by the Caltrans Contract Manager.

In signing this Agreement, the Parties agree to follow the provisions described herein. The Parties may amend this Agreement as permitted by law. All inquiries and notices made during the term of this Agreement will be directed to the project representatives listed below.

| California Department of Transportation | California Energy Commission |
|---|--|
| Section/Unit: Director's Office of Equity, Sustainability, and Tribal Affairs | Section/Unit: Fuels and Transportation Division, ZEV Acceleration Branch |
| Contract Manager: Jimmy O'Dea | Project Manager: Ben De Alba |
| Address: 1120 N Street Sacramento, CA 95814 | Address: 715 P Street Sacramento, CA 95814 |
| Business Phone Number: 916-708-3002 | Business Phone Number: 916-539-6828 |
| Email: jimmy.odea@dot.ca.gov | Email: ben.dealba@energy.ca.gov |

Background

The Infrastructure Investment and Jobs Act (IIJA), also known as the Bipartisan Infrastructure Law (BIL), Public Law 117-58 (Nov. 15, 2021), provides \$5 billion through the Federal National Electric Vehicle (NEVI) Formula Program (“Federal NEVI Program”) to build a national network of electric vehicle (EV) charging infrastructure along highway corridors. The BIL set aside 10 percent of the Federal NEVI Program for the Secretary of Transportation “to make grants to States and localities that require additional assistance to strategically deploy electric vehicle charging infrastructure.” One program in this set-aside is the Federal EVC RAA Program which focuses on repairing or replacing broken or non-operational EV chargers to improve the reliability of existing EV charging infrastructure.

As the established State Department of Transportation in California, Caltrans can carry out projects that satisfy the requirements of Title 23 of the United States Code (USC) including 23 USC Section 302 and is the recipient of Federal Highway Administration (FHWA) funds. Caltrans manages more than 50,000 miles of California’s highway and freeway lanes, provides inter-city rail services, permits more than 400 public-use airports and special-use hospital heliports, and works with local agencies on transportation projects. The CEC is leading the state to a 100 percent clean energy future and is the state’s lead agency for the deployment of zero-emission vehicle infrastructure. The CEC manages the Clean Transportation Program which, among other things, funds and manages grant projects to meet the state’s needs for zero-emission vehicle infrastructure.

The Federal-aid Highway Program (FAHP) is a federally assisted program of state-selected projects. The scope of FHWA responsibilities, and the legal authority for Caltrans’ assumption of FHWA responsibilities have been developed over time. The U.S. Secretary of Transportation delegated responsibility to the Administrator of FHWA for the FAHP.

The assumptions outlined in this agreement are subject to the Stewardship and Oversight Agreement (“S&O”) between FHWA and Caltrans.¹ The CEC’s and Caltrans’ actions on EVC RAA Projects will be subject to (1) the Caltrans-FHWA S&O Agreement, (2) “Exhibit 2b Federal-Aid Project Responsibilities List,”² (3) this Agreement, (4) Project Specific Supplement Agreements, and (5) state and federal law. The CEC’s and Caltrans’ actions on EVC RAA Projects will also be subject to the provisions of the Local Assistance Procedures Manual (LAPM)³ as applicable to the

¹ The S&O Agreement between FHWA and Caltrans can be found online at: www.fhwa.dot.gov/federalaid/stewardship/agreements/ca.pdf

² Exhibit 2-b Federal-Aid Project Responsibilities List can be found online at: <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/c02/02b.pdf>

³ Caltrans’ LAPM can be found online at: <https://dot.ca.gov/programs/local-assistance/guidelines-and-procedures/local-assistance-procedures-manual-lapm>

California EVC RAA program, Federal EVC RAA Program, and the Parties' respective responsibilities as a recipient and sub-recipient as described herein.

CEC will be responsible as specified in 2 CFR Part 200, and Title 23, to the extent of its role as a subrecipient of Caltrans and as the state entity making EVC RAA Project awards; Caltrans will be responsible as recipient for oversight of CEC's performance of CEC's duties and responsibilities. For each EVC RAA Project, Caltrans will provide oversight of CEC through Project Specific Supplement Agreements.

The CEC will be responsible, to the extent of its role as a subrecipient of Caltrans and as the state entity making EVC RAA awards, for the duties and obligations of a subrecipient described in the S&O Agreement, Project Specific Supplement Agreements, Caltrans' Right of Way Manual, and the LAPM as applicable to the Federal EVC RAA Program. Caltrans is responsible and accountable to FHWA for overseeing federal funds and the CEC consistent with the S&O.

The CEC will be responsible and accountable for compliance with all applicable federal laws and requirements, to the extent of its role as a subrecipient. To the extent permitted by the S&O, the Parties agree to work together and share their expertise with each other, as needed, and within the scope of this Agreement. While CEC is responsible for content of EVC RAA Project Agreements, the CEC may consult with Caltrans for their expertise in managing federal funds to ensure compliance with all federal requirements. Specifically, the CEC may ask Caltrans to review draft EVC RAA Funding Opportunities and EVC RAA Project Agreement terms and conditions to ensure that federal requirements are incorporated. If FHWA deems that federal requirements have not been met and decides to request repayment of Federal EVC RAA Program funds from Caltrans, the CEC may be required to repay that same amount of Federal EVC RAA funds to Caltrans if it has not met federal requirements.

Purpose

The CEC and Caltrans have a strong collaboration. The purpose of this Agreement is to provide terms of the collaboration between the two agencies to ensure charging infrastructure investments by the state made through California's EVC RAA Program are strategic, coordinated, efficient, and equitable while meeting the applicable laws and regulations.

This Agreement describes the work necessary to repair, replace, or install EV charging infrastructure in accordance with the Federal EVC RAA Program, including the FHWA's program guidance and any promulgated regulations for the Federal NEVI Program, all as amended from time to time.

Administration of this Agreement by Caltrans and the CEC will facilitate open communication between Parties and identify any needed modifications to the tasks, products, schedule, or budget to meet Federal EVC RAA Program requirements and achieve state and federal goals, including those in the Deployment Plan.

Notwithstanding any other provision in this Agreement, the CEC will follow and comply with the requirements and processes established by the FHWA for awards of non-competitively bid agreements and sole source agreements, in accordance with federal and state law.

This Agreement addresses roles and responsibilities associated with:

☐ **Agreement administration**, including:

- Scheduling and preparing materials for meetings between Caltrans and the CEC, regarding the status and trajectory of California's EVC RAA Program. A final meeting or meetings will be held to close out this Agreement after completion and closing of California's EVC RAA Program.
- Invoicing and paying support-costs associated with the administration of California's EVC RAA Program.

☐ **EVC RAA Project administration**, including:

- Developing the state's application, if any, to the Federal EVC RAA Program, including public engagement to inform the application.
- Developing and publishing EVC RAA Funding Opportunities to fund private entities' repair, replacement, and upgrade of EV charging infrastructure.
- Executing EVC RAA Project Agreements with Awardees, managing EVC RAA Project Agreements, requiring compliance with state and federal requirements, and reimbursing Awardees for actual expenses per EVC RAA Project Agreements' terms and conditions.

Roles, Responsibilities, and Deliverables

Both Parties agree to:

- ☐ Perform their respective duties and responsibilities (as recipient and subrecipient) in

accordance with the S&O and LAPM as applicable to the Federal EVC RAA Program.

- ☐ Subject to the foregoing, meet regularly (e.g., no less than monthly) for the duration of California's EVC RAA Program as it exists or if it is re-authorized under new provisions.
- ☐ Subject to the foregoing, share information, ideas, and knowledge freely and openly to the maximum benefit of the state and the public.
- ☐ Both parties agree and understand that Caltrans is not providing any funding or reimbursement for EVC RAA Projects beyond available Federal EVC RAA Program funding.

The CEC will:

Agreement Administration

- ☐ Prepare and present a California EVC RAA Program update at each regular meeting between Parties, including a final report (including findings, conclusions, and recommendations) at a closeout meeting or meetings for California's EVC RAA Program. The CEC will prepare written documentation of EVC RAA Project Agreements reached, if any, at these meetings.
- ☐ Provide descriptions of the modifications needed to the tasks, schedule, products, or budget associated with California's EVC RAA Program.
- ☐ Provide a budget of the CEC's support-costs for the purposes of programming in advance of a request for authorization (E-76) and followed by incurring expenses. Only work performed after E-76 authorization is eligible for reimbursement.
- ☐ Prepare and submit an authorization request (E-76) to Caltrans for all budgeted support costs incurred by the CEC prior to incurring expenses and subsequently invoice Caltrans semiannually. Only work performed after E-76 authorization is eligible for reimbursement.
- ☐ Estimate indirect cost rates and submit to Caltrans for approval before reimbursement of support costs.

California EVC RAA Program Administration

Development and Management of EVC RAA Funding Opportunities

- ☐ Conduct stakeholder outreach, including public workshops, one-on-one meetings, small group meetings, and responses to e-mailed questions, as necessary. Outreach shall specifically include engagement with disadvantaged communities, including but not limited to outreach to the Disadvantaged Communities Advisory Group (DACAG).
- ☐ Provide and maintain a docket that allows for the submission, publication, and retention of materials and public comments related to California's EVC RAA Program.
- ☐ Draft EVC RAA Funding Opportunity materials that comply with federal laws, ordinances, regulations, and standards, including but not limited to compliance requirements under the following, as amended from time to time:
 - Build America, Buy America Act
 - Davis Bacon Act
 - National Environmental Policy Act
 - Americans with Disabilities Act
 - Title VI of the Civil Rights Act of 1964
 - Title VIII of the Civil Rights Act of 1968
 - Uniform Relocation Assistance and Real Property Acquisition Act (49 CFR 24 et seq.)
 - Requirements of the Federal NEVI Program, including the requirements of CFR Title 23; CFR Title 49; 2 CFR 200; 28 CFR parts 35 and 36.
 - National Electric Vehicle Infrastructure Standards and Requirements (23 CFR 680)
- ☐ Create and manage EVC RAA Funding Opportunities in consultation with Caltrans. At the request of CEC, Caltrans shall review draft funding opportunities for compliance with EVC RAA requirements, including but not limited to the requirements of Title 23 and Title 49, United States Code, Chapter 1; 2 CFR part 200; 23 CFR parts 35 and 36; and any promulgated regulations for the Federal NEVI Program all as amended from time to time. To this end, the

CEC will provide Caltrans a draft of EVC RAA Funding Opportunity materials for review and comments prior to publishing. The CEC may consider the oversight feedback of Caltrans regarding compliance with federal requirements.

- ❑ Development of EVC RAA Funding Opportunities shall comply with the FHWA and Caltrans requirements, state and federal laws and regulations, and consistent with CEC's own procedures, including the following:
 - Draft and publish funding opportunity and funding opportunity materials and documents, including but not limited to those for a proposed EVC RAA Project Agreement's scope of work, terms and conditions, budget, and schedule.
 - Hold public workshops
 - Receive applications, proposals, or responses
 - Evaluate applications, proposals, or responses
 - Publish Notice(s) of Proposed Awards, if applicable
- ❑ Create, manage, and update evaluation criteria for the EVC RAA Funding Opportunities that satisfy the goals and objectives of California's EVC RAA Program and is agreed to by both Parties.

Development and Management of EVC RAA Project Agreements

- ❑ Develop EVC RAA Project Agreements with proposed Awardees that satisfy state, federal, and EVC RAA Program requirements, for potential approval by the CEC's Commissioners. At minimum, each EVC RAA Project Agreement will include a scope of work with specific and measurable goals, deliverables, requirements for each deliverable, and shall describe how each EVC RAA Project Agreement will meet the Federal EVC RAA Program requirements. Terms in EVC RAA Project Agreements may include but are not limited to the following:
 - Installation, repair or replacement, and operation and maintenance by qualified technicians of EV charging infrastructure.
 - Interoperability of EV charging infrastructure.

- Traffic control devices and on-premise signs acquired, installed, or operated.
 - Data related to a project funded under the EVC RAA Program, including the format and schedule for the submission of such data.
 - Network connectivity of EV charging infrastructure.
 - Information on publicly available EV charging infrastructure locations, pricing, real-time availability, and accessibility through mapping applications.
- ☐ Ensure that the federally-required match is identified and secured as part of the EVC RAA Project Agreements.
 - ☐ Support Caltrans and regional partners (i.e., Metropolitan Planning Organizations, Regional Transportation Planning Agencies, etc.) to program or amend the Federal Transportation Improvement Program to include EVC RAA Projects.
 - ☐ Provide draft EVC RAA Project Agreements to Caltrans for oversight review.
 - ☐ Approve EVC RAA Project Agreements.
 - ☐ Execute approved EVC RAA Project Agreements and manage such agreements for their duration and in accordance with their terms.
 - ☐ Ensure that no reimbursable work for a EVC RAA Project begins until federal funds for the project are authorized by FHWA via E-76, and that all work for which an Awardee intends to seek reimbursement using EVC RAA funds is incurred during the term of its EVC RAA Project Agreement, not before or after, and that the project is closed within 120 days of the project end date. Adjustments to project end date should be requested via E-76 (AMOD) prior to the project end date lapsing to ensure the project end date does not lapse before billable work is complete. Should the project end date lapse, any project work done after the lapsing of the project end date and the approval of a new project end date by FHWA at the request of the CEC via a Request for Authorization Request package submittal to Caltrans, will not be eligible for federal reimbursement and the project costs and expenses may be paid by CEC without reimbursement.
 - ☐ Require Awardees to participate in monthly calls and provide quarterly project reports to communicate progress. Perform periodic critical project reviews as necessary to determine if

the Awardee should continue to receive funding to complete the EVC RAA Project and to identify any needed modifications to the tasks, products, schedule, or budget.

- ☐ Collect and submit required data to FHWA and the Joint Office on quarterly and annual basis in compliance with Federal EVC RAA Program requirements.
- ☐ Review Awardee invoices and prepare and submit reimbursement requests to Caltrans for actual costs incurred by Awardees in accordance with the terms and conditions in its EVC RAA Project Agreement and federal requirements within CFR Title 23 and the LAPM Chapter 5.
- ☐ Comply with all applicable environmental laws and regulations, including the requirements of the California Environmental Quality Act (CEQA).
- ☐ Ensure Awardees are reimbursed in accordance with the provisions of their EVC RAA Project Agreement. Amend EVC RAA Project Agreements, including budgets as needed and appropriate in accordance with the provisions of this Agreement.
- ☐ Maintain records of Awardees' invoicing and reimbursements for three years after the closeout of the project.
- ☐ Work with Caltrans and other stakeholders to establish a Project Specific Supplement Agreement between Caltrans and the CEC for each EVC RAA Project that includes scope, goals/objectives, deliverables, requirements for each deliverable, acceptance criteria, schedules, and costs including an Indirect Cost Allocation Rate calculation. Each Project Specific Supplement Agreement executed under this Agreement will be managed and billed separately.
- ☐ Establish an Indirect Cost Allocation Plan/Rate that is approved by the Parties' respective accounting divisions and by the Caltrans Internal Audits Office.
- ☐ Manage EVC RAA Project Agreements and evaluate individual EVC RAA Project Agreements expenses for eligibility within the Federal and California EVC RAA Programs, state, and federal rules, notably 2 CFR Part 200.
- ☐ Request the de-obligation of unused federal funds in accordance with individual Project Specific Supplement Agreements between Caltrans and the CEC.
- ☐ Prepare EVC RAA Project Agreement templates and review with Caltrans. CEC shall ensure

EVC RAA Project Agreements include the requirements of the Federal EVC RAA Program, including but not limited to the following:

- Build America, Buy America Act, including language that steel and iron products and construction materials permanently incorporated into projects must comply with Buy America requirements per 23 CFR 635.410 et seq. and the Build America, Buy America Act.
- Davis Bacon Act
- National Environmental Policy Act
- The Americans with Disabilities Act of 1990 (ADA), and any implementing regulations, including applicable accessible standards adopted by the U.S. Department of Transportation into its ADA regulations (49 CFR 37 et seq.) in 2006, and adopted by the U.S. Department of Justice into its ADA regulations (28 CFR parts 35 and 36 et seq.) in 2010.
- Title VI of the Civil Rights Act of 1964, and implementing regulations to ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
- All applicable requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) and implementing regulations.
- Uniform Relocation Assistance and Real Property Acquisition Act (49 CFR 24 et seq.) and implementing regulations.
 - A Caltrans District Right of Way Local Programs Coordinator may monitor right of way activities at any time during a EVC RAA Project. However, most monitoring will take place in real time to ensure Uniform Act compliance.
 - Pre-coordination and consultation shall occur between the CEC and Caltrans prior to submittal of the right of way certification as described in Ch. 13 of the LAPM.

- The CEC may request Caltrans District Right of Way Local Programs Coordinators to review documentation to verify qualifications are met for right of way activities to be performed.
- Requirements of the Federal NEVI Program, including the requirements of CFR Title 23; CFR Title 49; 2 CFR part 200; and 28 CFR parts 35 and 36 et seq.
- National Electric Vehicle Infrastructure Standards and Requirements (23 CFR 680)
- ❑ Regarding NEPA, submit a Preliminary Environmental Study (PES) Form to the Caltrans Division of Local Assistance, Office of Environmental Compliance and Outreach (ECO). This form may be prepared by EVC RAA Project applicants. The PES includes relevant project information including potential impacts, class of action, and lists required technical studies. Preparation of technical studies may begin with approval of the PES Form and shall be completed by EVC RAA Project applicants.
- ❑ CEC, Awardees, or Awardee Subcontractors shall consult with Caltrans prior to commencing any environmental work, right of way activities, and construction as part of the E-76 approval process.
- ❑ When right of way activities on a EVC RAA Project are performed, CEC, Awardee, or Awardee Subcontractor shall prepare the Right of Way Certification in consultation with Caltrans in its oversight role (“Exhibit-13A” or “Exhibit-13B” in the LAPM, Chapter 13) for each project and submits a Right of Way Certification to Caltrans, necessary even for projects that do not involve the Caltrans right of way.
 - Supporting documentation shall be submitted prior to the Certification package, if applicable including: Appraisal or Waiver Valuation, Title Reports, contracts, Title VI Compliance, Deed, Rental/Lease Agreement, Insurance Requirement, Return on Investment to determine cost liability, Notice to Owners, Specific Authorization, and Review of Invoices for Utilities. For utility relocation details refer to LAPM Chapter 14: Utility Relocation and Caltrans Right of Way Manual Chapter 13: Utility Relocation.

Only personnel meeting the qualifications criteria identified in the Ch. 17 of the Right of Way Manual will perform right of way activities.

Caltrans will:

Agreement Administration

- ☐ Determine location, time, and date of meetings between Parties and prepare meeting agendas, including closeout meetings. Caltrans will prepare a schedule of activities to close out the Agreement.
- ☐ Program support-costs estimated by the CEC.
- ☐ Process the CEC's invoices for program support in accordance with the Prompt Payment Act and provide payment to the CEC within 45 days of receipt of an undisputed invoice. Expenses will be paid with funds made available by the Federal EVC RAA Program for program administration after approvals are obtained by Caltrans from FHWA.

California EVC RAA Program Administration

Development and Management of EVC RAA Funding Opportunities

- ☐ Develop California's EVC RAA Program, including collection of necessary information from EV charging providers included in FHWA's list of "Temporarily Unavailable EV charging ports," in consultation with the CEC and as embodied in California's application(s) to the Federal EVC RAA Program prepared and submitted by Caltrans.
- ☐ Provide oversight review of draft EVC RAA Funding Opportunity materials, and make staff experts available as needed, to provide consultation for the CEC's compliance with federal laws, ordinances, regulations, and standards, including but not limited to compliance requirements under the following, as amended from time to time:
 - 2 CFR Part 200 and Title 23
 - Build America, Buy America Act
 - Davis Bacon Act
 - National Environmental Policy Act
 - Americans with Disabilities Act
 - Title VI of the Civil Rights Act of 1964
 - Title VIII of the Civil Rights Act of 1968

- Uniform Relocation Assistance and Real Property Acquisition Act (49 CFR 24 et seq.)
- Requirements of the Federal NEVI Program, including the requirements of CFR Title 23; CFR Title 49; 2 CFR 200; 28 CFR parts 35 and 36 et seq.
- National Electric Vehicle Infrastructure Standards and Requirements (23 CFR 680)

If discovered, Caltrans shall notify the CEC in writing of any issues regarding compliance with the aforementioned laws, ordinances, regulations, and standards and suggest a course of action to resolve those issues, with sufficient time for CEC to avoid any noncompliance.

- ❑ Provide staff to assist the CEC with evaluation of charging infrastructure project proposals as technical advisors, with emphasis on ensuring that proposed projects meet the federal requirements specified above. Caltrans and technical advisors in their individual capacity shall execute nondisclosure agreements provided by CEC prior to participation in review of applications and comply with conflict-of-interest requirements as provided in **Error! Reference source not found.**
- ❑ Serve as the point of contact for communications and obtaining federal authorizations for all projects with FHWA and associated federal agencies regarding EVC RAA Funding Opportunities.

Development and Management of EVC RAA Project Agreements

- ❑ In coordination with regional partners (i.e., Metropolitan Planning Organizations), process administrative modifications or amendments to the Federal State Transportation Improvement Program (FSTIP) to execute California's EVC RAA Program as mutually agreed upon. For EVC RAA Projects in rural and non-MPO areas, Caltrans will process administrative modifications or amendments to the FSTIP.
- ❑ Develop Project Specific Supplement Agreements with the CEC that allow for E-76 authorizations and reimbursement of project invoices for each EVC RAA Project.
- ❑ After all the required documents are properly prepared and submitted by the CEC, process federal funding authorization requests from the CEC (E-76) for EVC RAA Projects. Provide funding to CEC within forty-five (45) days of approval of any authorization request.
- ❑ Provide support to the CEC in the development and management of EVC RAA Project

Agreements consistent with Caltrans' oversight role. These costs will be considered administration support costs allowable by the Federal EVC RAA Program and reimbursed by the Federal EVC RAA Program.

- ❑ Consistent with its oversight role, review draft EVC RAA Project Agreement templates and notify the CEC in writing of any concerns. Caltrans' review of draft EVC RAA Project Agreements shall include but not be limited to provisions associated with the following:
 - Build America, Buy America Act, including language that steel and iron products and construction materials permanently incorporated into projects must comply with Buy America requirements per 23 CFR 635.410 et seq. and the Build America, Buy America Act.
 - Davis Bacon Act
 - NEPA, the Council on Environmental Quality's NEPA implementing regulations, and applicable agency NEPA procedure, as outlined in the Caltrans/FHWA Memoranda of Understanding for US Codes 326 and 327 (NEPA Assignment MOUs), Caltrans Standard Environmental Reference and Local Assistance Procedures Manual including:
 - The First Amended Section 106 Programmatic Agreement (106 PA) among FHWA, the State Office of Historic Preservation, the Advisory Council of Historic Preservation, and Caltrans on January 1, 2014. Compliance with Federal Laws, Regulations, and Executive Orders enumerated in the Part 3.2 of the FHWA/Caltrans MOU for USC 326 and Appendix B of the FHWA/Caltrans MOU for US Code 327.
 - The Americans with Disabilities Act of 1990 (ADA), and any implementing regulations, including applicable accessible standards adopted by the U.S. Department of Transportation into its ADA regulations (49 CFR 37 et seq.) in 2006, and adopted by the U.S. Department of Justice into its ADA regulations (28 CFR parts 35 and 36 et seq.) in 2010.
 - Title VI of the Civil Rights Act of 1964, and implementing regulations to ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

- All applicable requirements of Title VIII of the Civil Rights Act of 1968 (Fair Housing Act) and implementing regulations.
- Uniform Relocation Assistance and Real Property Acquisition Act (49 CFR 24 et seq.) and implementing regulations.
 - A Caltrans District Right of Way Local Programs Coordinator may monitor Right of Way activities at any time during the project. However, most monitoring will take place in real time during the right of way phase of the project to ensure Uniform Act compliance.
 - Pre-coordination and consultation shall occur with the CEC prior to submittal of the Certification package.
 - Caltrans District Right of Way Local Programs Coordinators will review documentation to verify qualifications are met for right of way activities to be performed.
- Requirements of the Federal NEVI Program, including the requirements of the United States Code and Code of Federal Regulations Titles 23 and 49; 2 CFR 200 et seq.; and 28 CFR 35 and 36 et seq.
- National Electric Vehicle Infrastructure Standards and Requirements (23 CFR 680)
- As NEPA Lead Agency, Caltrans will review and approve PES forms and technical studies completed by Awardees or Awardee Subcontractors, make NEPA findings, and provide NEPA documentation.