

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2021-81

By Rick Skoczen Sponsored By Mayor Cyril M. Kleem

AN ORDINANCE

AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE NORTHEAST OHIO AREAWIDE COORDINATING AGENCY AND TO GRANT A TEMPORARY, NON-EXCLUSIVE, REVOCABLE LICENSE FOR THE PURPOSE OF INSTALLING, OPERATING AND MAINTAINING TWO ELECTRIC VEHICLE CHARGING STATIONS ON A PORTION OF PERMANENT PARCEL NO. 364-11-026, OWNED BY THE CITY OF BERA, AND DECLARING AN EMERGENCY.

WHEREAS, on August 5, 2021, President Biden signed an Executive Order that sets a new target to make half of all new vehicles sold in 2030 zero-emissions vehicles, including battery electric, plug-in hybrid electric, or fuel cell electric vehicles; and

WHEREAS, the Council of the City of Berea and the Administration support the target goals of President Biden's Order; and

WHEREAS, General Motors, Ford, Stellantis and the United Auto Workers of America have issued strong statements in support of the Executive Order; and

WHEREAS, as a result of the Executive Order, the federal government is providing billions of dollars in funding to shift to electric vehicles and away from gas-powered vehicles; and

WHEREAS, approximately 3% of all vehicles sold in the United States are electric vehicles, the numbers are steadily increasing and will continue to increase as additional funding is provided to auto manufacturers and ancillary industries; and

WHEREAS, the increased funding will result in the manufacturing of electric vehicles, which will, in turn, require the construction of charging stations; and

WHEREAS, the Northeast Ohio Areawide Coordinating Agency (NOACA) has been allocated federal funds and is contributing a portion of local funds for a project involving the planning, distribution and installation of DCFC and/or Level 2 Dual Port Electric Vehicle Charging Stations at multiple locations throughout Cuyahoga, Geauga, Lake, Lorain and Medina counties (hereinafter the "Project"), with said locations identified in Exhibit A, which is attached hereto and incorporated by reference; and

WHEREAS, the City of Berea owns Permanent Parcel No. 364-11-026, a portion of which was mutually identified by the City and NOACA as a desirable location to construct charging stations for electric vehicles, as designated in Exhibit B, which is attached hereto and incorporated by reference; and

WHEREAS, NOACA shall use the funding to pay for all eligible items at a rate of 100% participation to implement the Project as scoped, including all expenses associated with preliminary engineering, design, planning, construction and construction administration activities; and

WHEREAS, the City shall be responsible for maintenance and operation of the charging stations for a period not to exceed five years; and

WHEREAS, NOACA will provide consultant services to assist the City in determining the manner of operations, including fees for use of the charging stations; and

WHEREAS, the Council of the City of Berea wishes to enter into an agreement with NOACA to install, operate and maintain two charging stations.

COUNCIL CHAMBER

City of Berea, Ohio

ORDINANCE No. 2021-81

By Skoczen Sponsored By Mayor Kleem

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Berea, State of Ohio:

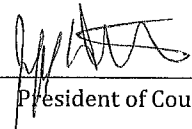
SECTION 1. That subject to the terms and conditions of the Agreement, which is attached hereto as Exhibit C and incorporated herein, the City of Berea grants of a temporary, non-exclusive revocable License for the purpose of providing access to the site designated in Exhibit B, which is attached hereto and incorporated by reference.

SECTION 2. That the Mayor be and he is hereby authorized to execute an Agreement with the Northeast Ohio Areawide Coordinating Agency, in substantially the form which is attached to this Legislation as Exhibit C, and incorporated herein.

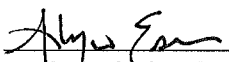
SECTION 3. That it is found and determined that all formal actions of this Council concerning and relating to the adoption of the Ordinance were adopted in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 4. That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare, or providing for the usual daily operation of a municipal department and for the further reason that the public safety, welfare and health would be best served by the expedient use of federal funds for this energy-efficient project, which will provide public charging stations. Therefore, provided this Ordinance receives the affirmative vote of two-thirds of all members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, from and after the earliest period allowed by law.

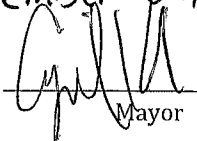
PASSED: December 20, 2021



President of Council

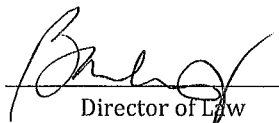
ATTEST: 

Clerk of Council

APPROVED: December 21, 2021


Mayor

Approved as to Form:



Director of Law

Ex. A

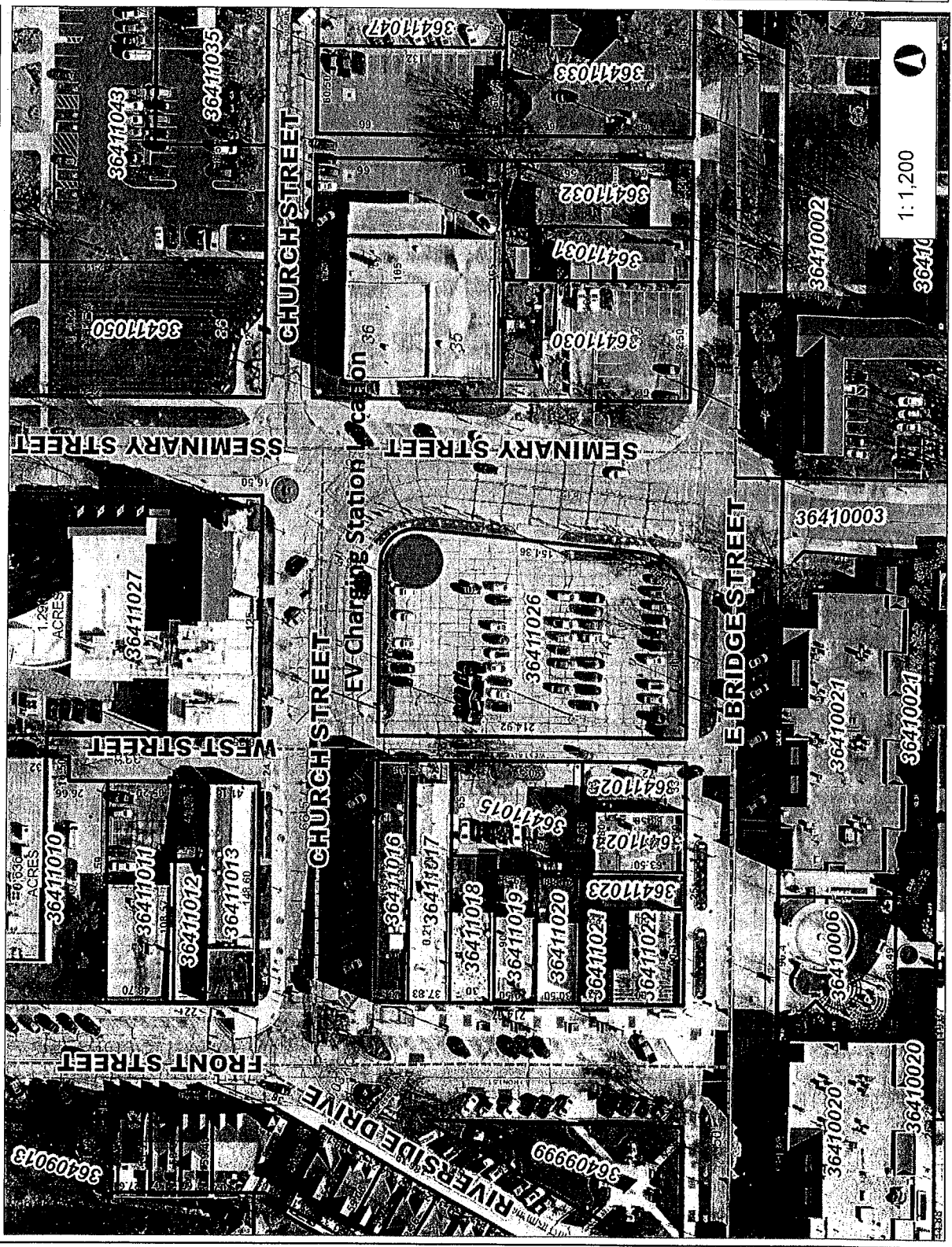
NOACA Electric Vehicle Charging Station Program - Agency Partners and Sites

County	Partner Agency/Organization	Proposed EV Charging Station Site Location	City	Utility Company	New/Existing Service	12 Ports	DEFER Ports	Power Draw
Cuyahoga	Beauford	135 Center Road, Beauford 44146	41-39652	First Energy	New	2	0	100
Cuyahoga	Beres	Corner of Seminary and Church Streets	41-36687	First Energy	New	2	1	260
Cuyahoga	Brook Park	17400 Holland Road, Brook Park, Ohio 44142	41-395278	First Energy	New	2	2	420
Cuyahoga	Brooklyn	7600 Memphis Avenue Brooklyn Ohio 44154	41-440399	Cleveland Public Power	Existing	4	0	200
Cuyahoga	Cleveland	1979 West 25th St, Cleveland, OH 44113	41-46971	Cleveland Public Power	Existing	2	0	100
Cuyahoga	Cleveland	601 Lakeside Ave E, Cleveland, OH 44114	41-50579	Cleveland Public Power	New	2	0	100
Cuyahoga	Cleveland Metropolitan	7600 Memorial Shoreway, Cleveland, Ohio 44012	41-48544	Cleveland Public Power	Existing	4	0	200
Cuyahoga	Cleveland Metropolitan	2689 Cedar Road, Beachwood, Ohio 44122	41-50179	First Energy	Undetermined	4	0	200
Cuyahoga	Cleveland Public Library	Leighton and East 86th Street, Cleveland, OH	41-52084	Cleveland Public Power	New	2	0	100
Cuyahoga	Cuy Co Community College	4250 Richmond Rd, Highland Hills, OH 44122	41-64452	Cleveland Public Power	Existing	4	0	200
Cuyahoga	Cuy Co Community College	2600 Community College Ave, Cleveland, OH 44115	41-49415	First Energy	Existing	4	0	200
Cuyahoga	Cuy Co Community College	11000 Pleasant Valley Road Parma, OH 44130	41-36805	First Energy	New	4	0	200
Cuyahoga	Cuyahoga County	2501 Harvard Rd, Newburgh Heights OH 44105	41-44937	First Energy	Existing	8	0	400
Cuyahoga	Cuyahoga County	Southeast Intersection of Parkins and E 40th Street	41-5006	First Energy	Existing	2	0	100
Cuyahoga	Euclyd	28134 Lakeshore Blvd, Euclyd 44123	41-61572	First Energy	New	2	0	100
Cuyahoga	Fairview Park	20777 Lorain Road	41-446761	First Energy	New	2	0	100
Cuyahoga	GCRTA	14239 Euclid Ave, East Cleveland, 44112	41-53061	First Energy	Undetermined	4	0	200
Cuyahoga	GCRTA	18000 Brookpark Rd, Cleveland, OH 44135	41-41927	First Energy	Existing	2	2	320
Cuyahoga	GCRTA	2800 S. Green Road, Shaker Heights, OH 44122	41-47878	First Energy	New	3	0	150
Cuyahoga	Independence	Rockside Woods Blvd, North	41-40927	First Energy	New	4	4	640
Cuyahoga	Lakewood	14100 Franklin Blvd, Lakewood, OH 44107	41-46106	First Energy	New	2	0	100
Cuyahoga	Lorain County	40 East Ave, Elyria, OH 44035	41-36816	First Energy	New	2	0	100
Cuyahoga	Maple Heights	5553 Lee Road, Maple Hts Ohio 44137	41-41547	First Energy	New	0	4	640
Cuyahoga	Mayfield	6622 Wilson Mills Road, Mayfield Village, Ohio 44143	41-58852	First Energy	New	0	4	640
Cuyahoga	North Olmsted	5000 Dover Center Road, North Olmsted Ohio 44070	41-415194	First Energy	New	0	2	320
Cuyahoga	North Royalton	16600 State Rd.	41-30995	First Energy	New	0	2	320
Cuyahoga	ODOT District 12	5500 Transportation Blvd, Garfield Heights, Ohio 44125	41-42418	First Energy	New	4	0	200
Cuyahoga	Parma	6611 Ridge Road	41-42258	First Energy	New	2	2	420
Cuyahoga	Rocky River	21016 Hilliard Blvd, Rocky River, OH 44116	41-468146	First Energy	Existing	2	1	260
Cuyahoga	Seven Hills	7925 Summerview Drive, Seven Hills 44131	41-36664	First Energy	New	4	4	840
Cuyahoga	Shaker Heights	3444 Tuttle, Shaker Heights	41-66054	First Energy	New	0	2	320
Cuyahoga	Strongsville	15100 Royalton Road	41-66276	First Energy	Existing	4	0	200
Cuyahoga	Wrestlake	28955 Hilliard Blvd, Westlake, Ohio 44145	41-31802	First Energy	Existing	4	0	200
Cuyahoga	Chardon	Maple Highland Trail Trailhead Parking Lot	41-44545	First Energy	Existing	4	0	200
Cuyahoga	Geauga County Public Library	16645 Madison Rd, Thompsons OH 44086	41-53072	First Energy	New	0	4	640
Lake	Lake County	105 Main St, Painesville, 44077	41-62933	First Energy	Existing	0	2	320
Lake	Lakeland Community College	1700 Clocktower Drive, Kirtland, Ohio 44094	41-72543	Painesville Power	Existing	0	4	640
Lake	Mentor	8500 Civic Center Boulevard	41-63933	First Energy	Existing	2	2	420
Lorain	Elyria Public Library	1194 West River Road N, Elyria OH 44035	41-66872	First Energy	New	0	2	320
Lorain	Lorain Co Comm College	11005 N. Abbe Road, Elyria, Ohio 44035	41-389571	First Energy	New	0	2	320
Lorain	North Ridgeville	7307 Avon Balden Road, North Ridgeville, 44039	41-415608	First Energy	Existing	0	2	320
Lorain	Oberlin	169 S. Main Street, Oberlin, OH 44074	41-385287	First Energy	New	2	2	420
Lorain		City hall and public library parking lot	41-289464	Oberlin Municipal Light and Power	New	0	2	320

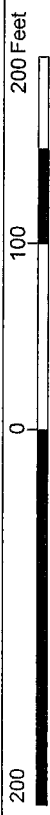
Medina	Brunswick	4096 Center Road, Brunswick, Ohio 44222	City Hall front parking lot	41,298,563	-81,693,006	First Energy	New	2	2	420
Medina	Lodi	711 Wooster Street, Lodi, Ohio, 44254	Lodi Power Station Site (Adjacent to Miller Bros Grocery)	41,073,451	-81,996,243	Village of Lodi Electric Dept	New	0	2	320
Medina	Medina	123 West Liberty Street, Medina, OH 44256	Medina City Hall Parking Structure	41,139,998	-81,866,666	First Energy	Refining	0	2	320
Medina	Medina County	144 North Broadway Street, Medina OH 44255	County Administration Parking Lot	41,140,468	-81,851,051	First Energy	New	4	0	200
Medina	Wadsworth	King Street, Wadsworth, 44281	King Street Public Parking Lot	41,026,655	-81,790,823	Wadsworth City	New	2	2	420

Exh. B

NOACA EV Charging Station Program - Berea Location Map

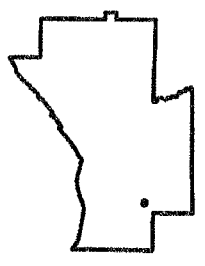


1: 1,200



Projection:
WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION



Date Created: 11/30/2021

Legend

- Municipalities
- Right Of Way
- Platted Centerline
- Parcel

Cuyahoga County
Enterprise GIS
PUTTING CUYAHOGA COUNTY ON THE MAP

Electric Vehicle Charging Station Program Partner Agreement

THIS AGREEMENT is made effective and entered into as of the date last signed by the parties by and between the **City of Berea**, hereinafter referred to as the **Partner**, 11 Berea Commons, Berea, OH 44017; and the Northeast Ohio Areawide Coordinating Agency, herein referred to as **NOACA**, 1299 Superior Avenue, Cleveland, Ohio, 44114.

1. PURPOSE

- 1.1 Chapter 23, Section 133 of the United States Code provides states with Federal funds to conduct the Congestion Mitigation and Air Quality (CMAQ) program and the funds apportioned to Ohio under 23 U.S.C. 149 are administered by the Ohio Department of Transportation ("ODOT").
- 1.2 NOACA has been allocated federal funds and is contributing a portion of local funds for a project involving the planning, distribution and installation of DCFC and/or Level 2 Dual Port Electric Vehicle Charging Stations at multiple locations throughout Cuyahoga, Geauga, Lake, Lorain and Medina counties (hereinafter the "Project"), which has received Federal Highway Administration ("FHWA") approval and authorization. The Project is identified as PID 112897, and named District 12/District 3 NOACA EV Charging Stations.
- 1.3 The Partner is authorized to enter into a contract with NOACA to administer the design, qualification of bidders, competitive bid letting, use of the improvement on local agency property, construction inspection, research, and acceptance of any projects or transportation facilities, provided the administration of such projects or transportation facilities is performed in accordance with all applicable local, state and federal laws and regulations with oversight by ODOT, specifically including Section 5501.03 of the Ohio Revised Code as to the Ohio Department of Transportation.
- 1.4 The City of Berea owns the property known as and located at the corner of Seminary and Church Streets; and agrees to allow use of a portion of that property as a site for installation, operation and maintenance of electric vehicle charging stations under the Project.
- 1.5 The purpose of this Agreement is to set forth requirements associated with the Federal funds available for the Project and to establish the responsibilities for NOACA and the Partner in administration, construction, operation and maintenance of the Project.

2. FUNDING

- 2.1 NOACA shall use the above-mentioned federal funding and the local share that NOACA is providing to pay for all eligible items at a rate of 100% participation to implement the Project as scoped, including all expenses associated with preliminary engineering, design, planning, construction and construction administration activities.
- 2.2 Unless otherwise agreed to in writing between the parties, Partner shall not be responsible for any costs of the development and construction of the Project, including costs related to preliminary engineering, environmental engineering, design and plans, construction contractor costs for purchase and installation of EV charging station equipment and software, site preparation, marking of parking spaces, extension of electric supply lines and connection to the charging stations.

3. NOTICE

3.1 Notice under this Agreement shall be directed as follows:

NOACA and the Partner shall designate a point of contact for all communications with associated with performance of the Project. The point of contact shall be responsive to all communications in the performance of the Project. As of the Effective Date of this Agreement, the parties designate the following contacts:

NOACA:

Randy Lane
NOACA
1299 Superior Avenue
Cleveland, OH 44114
rlane@mpo.noaca.org
(216) 241-2414, ext. 300

PARTNER:

Antonio Armagno
City of Berea
11 Berea Commons
Berea, OH 44017
aarmagno@cityofberea.org
(440) 826-5814

4. TERM

The Term of this Agreement shall begin on the above-stated effective date and, unless otherwise terminated as provided in this Agreement, shall last for a period of five (5) years, which period shall coincide with the duration of the Project funding period with FHWA.

5. EXPIRATION AND TERMINATION PROVISIONS

5.1 This Agreement and obligation of the parties herein may be terminated by either party with thirty (30) days advance written notice to the other party. In the event of termination during construction, NOACA shall order a cease work, terminate all subcontracts relating to such terminated activities, take all necessary or appropriate steps to limit disbursements and minimize costs at the site, and furnish all data results, reports, and other materials describing all work under this contract, including without limitation, results accomplished, conclusions resulting therefrom, and such other matters as NOACA and/or ODOT may require.

6. OBLIGATIONS/RESPONSIBILITIES OF NOACA

6.1 NOACA will service as the Local Public Agency ("LPA") for the project, assuming all responsibilities to FHWA and ODOT in adherence to all requirements contained with the Locally Administered Transportation Projects Manual of Procedures. NOACA will engage the services of any consultants and contractors necessary to perform the Project provided under this Agreement.

6.2 NOACA will, in coordination with the Partner, assess potential sites to determine level of scope, costs, and schedule for charger installation at the identified site.

6.3 NOACA will be responsible for:

a. Development of detailed project scope and location identification as well as an engineer's estimate identifying all costs necessary for implementation of the Project.

- b. Development of the Plans, Specifications and Estimate (PS&E) package in accordance with ODOT Project Development Process (PDP) requirements, including:
- Environmental (NEPA) Documentation
 - Right of Way Certification to ODOT
 - Design Plans (Consultant, proposed Design-Build)
 - Construction Specifications (Design-Build Scope)
 - Bidding Documents
- c. Procurement and contract award for charging station equipment, electrical upgrades, and all labor necessary for proper installation
- d. Directly or through a consultant perform construction inspection
- e. Directly or through its Project contractor, obtain any applicable zoning and building permits, certificate of occupancy or other license, permit and approval. To the extent necessary to obtain such permit, license or approval, Partner will cooperate with NOACA or its contractor in obtaining such permit, license or approval as may be necessary.
- 6.4 NOACA shall provide copies of its plans, drawings, specifications for the construction and installation of the EV charging stations at Partner's site for review and acceptance,
- 6.5 NOACA shall require of its construction contractor that it indemnify and hold harmless the State of Ohio and ODOT and that such contractor maintain those levels of liability, motor vehicle and Worker's Compensation insurance coverage that are provided in Section 107.12, of ODOT's Construction & Materials Specifications (Jan. 2019, as amended).
- 6.6 Typical construction items for which NOACA is responsible depending on site conditions, include:
- New charging station units and associated equipment.
 - Conduit, signage at the parking spot, bollards, cable/wiring and electrical service box disconnects.
 - Concrete or asphalt addition or replacement.
 - Paint striping and stenciling of the charging station parking spaces.
 - Charging station installation labor (electrical, trenching, etc.)
 - Annual network fees for up to 5 years included in the original purchase price
 - Warranty and annual maintenance contract costs for the charging equipment (at least 5 years warranty required) included in the original purchase price
 - Construction inspection
- 6.7 NOACA shall require that its contractor or vendor cooperate with the Partner in setting up multiple pay options which users may employ to pay for any fee that may be charged for use of the EV charging stations under Section 12.
- 6.8 NOACA or its contractor or vendor will be responsible for registering the location, hours of availability and other details about the EV charging stations in any mapping or other relevant EV charging station database.

6.9 NOACA will ensure compliance with all federal requirements associated with project implementation, including environmental review, coordination of right of way or rights to locate on specific properties, design, contracting and reporting.

6.10 NOACA will include provisions in its Project or construction contract requiring that routine troubleshooting of the EV charging equipment and network upgrades are included under that contract for the five (5) year useful life of the charging units.

7. OBLIGATIONS/RESPONSIBILITIES OF PARTNER

7.1 As provided in Section 8, Partner will provide access to a specific location on its property for the construction, maintenance and use of the EV charging stations for the duration of the project, which coincides with the life expectancy of the charging stations of five (5) years.

7.2 Partner will coordinate with NOACA in:

- a. The assessment of potential sites to determine level of scope, costs, and schedule for charger installation at each identified site:
- b. The development of detailed project scope and location identification.
- c. The development of an engineer's estimate identifying all costs necessary for implementation.
- d. The certification of availability of necessary property to comply with FHWA regulations for federally funded projects.

7.3 Partner will within this Agreement grant NOACA a right of entry onto its property to perform inspections or surveys in the planning of construction and for the full construction/installation of the EV charging station equipment at Partner's site. In the event that any additional or supplemental instrument or conveyance is needed to allow such construction as well as troubleshooting and installation of network updates, during the term of this Agreement, Partner will cooperate to provide such instrument.

7.4 Partner will allow for the installation of any additional electrical service facilities across its property which may be necessary to provide a power source to the EV charging stations.

7.5 Partner will maintain public access to the EV charging stations site for no less than twelve (12) hours per day for the useful life of the equipment of five (5) years.

8. RIGHT OF ENTRY AND LICENSE

8.1 The Partner hereby grants a temporary license and permission for a Right of Entry to NOACA, its consultants, contractors and subcontractors, and utility providers ("Agents") for entry onto the work area located at the corner of Seminary and Church Streets in the City of Berea, OH 44017 for the purpose of making surveys and tests and constructing the Project, including installation of electric vehicle supply equipment ("EVSE"), necessary site and utilities improvements to operate the EVSE.

- 8.2 This Temporary Right of Entry and License shall commence on the effective date of this Agreement and shall continue until the date of final construction completion and mutual acceptance (the "Term"), unless extended in writing pursuant to the mutual agreement of the parties hereto, at which time NOACA and its Agents shall vacate the property.
- 8.3 Use of the Work Area and the installation of the Project shall be in compliance with the requirements of all applicable Federal, State and local laws, ordinances, rules and regulations.
- 8.4 NOACA and its Agents shall coordinate all Improvements onsite with the designated Partner contact for the Work Area by telephone or by email.
- 8.5 NOACA, and its Agents shall notify the Partner contact at least 72 hours prior to entry onto the Work Area, and immediately if any unusual conditions are encountered. NOACA, or its Agents, shall provide the following information to the Partner contact at the time of notification:
- (i) Access routes to and from the Work Area;
 - (ii) Type, size and number of vehicles and crews to be used to perform the work; and
 - (iii) Copies of all plans, drawings, permits, etc., including, but not limited to permits related to sediment and erosion control and storm-water management.
- 8.6 Any and all proposed trimming of trees, cutting of timber and/or clearing of the Work Area by NOACA and its Agents, will be reviewed, approved and inspected by the Partner before any work is begun, to ensure that all such proposed work is permitted and within the Work Area.
- 8.7 NOACA and its Agents shall take any and all precautionary measures to protect any sensitive and threatened or endangered species and habitats.
- 8.8 In the event that historical, cultural or archeological resources are uncovered during the course of construction, work shall be halted immediately and NOACA shall contact State and Federal oversight agencies for guidance.

9. OWNERSHIP OF PROJECT EQUIPMENT

- 9.1 Upon completion of installation and construction EV charging station at the Partner's site and confirmation that the equipment is fully operational, the Partner will be considered to be the owner of the charging stations and thereafter responsible for providing maintenance as covered in Section 10, including maintenance of an electric power supply.
- 9.2 Partner shall be required to maintain the charging stations at its site for a period of five (5) years. Upon the expiration of that five-year period, coinciding with the expiration of this Agreement, Partner may choose to retain the equipment in place and to operate it; or choose to have the equipment removed and discontinue making the charging stations available to the public.
- 9.3 In the event that Partner determines to retain and operate the equipment following the expiration of the five-year period, the Partner will be responsible for maintaining an

agreement with a vendor for management of, receipt and disbursement of fees charges under Section 12.

10. PROJECT MAINTENANCE

- 10.1 23 United States Code, Section 116 requires a formal agreement with the appropriate officials of jurisdiction in which the project is located to provide for the maintenance of the PROJECT for the useful life of five (5) years, beginning from the date the facility is open to the public. The Partner shall be responsible for the maintenance of the PROJECT under this agreement. This includes the maintenance of electrical vehicle supply equipment and associated site improvements to allow for continued operation and functionality. The Partner shall also maintain public access to the site for 12 hours or more per day for the full useful life.
- 10.2 Maintenance under this Section shall include maintaining an electric power supply to the charging equipment and paying the costs of such electric service.
- 10.3 The Project will be included for review under NOACA's annual Project Maintenance Monitoring Policy. If selected for maintenance review, NOACA will coordinate with the Partner to perform a site maintenance review in accordance with the policy, which may result in corrective plans and action to ensure the facility continues to be functional and accessible for public utilization.

11. DATA SHARING AND REPORTING

- 11.1 The Partner will provide, or arrange to be provided through the Electric Vehicle Supply Equipment (EVSE) provider, usage data reports on a semi-annual basis for the five-year useful life (10 total reports). For each EVSE unit installed under this agreement, the following information, in summary form, will be required:
1. Location: Site name, EVSE ID number, address, city, zip, county
 2. Operational uptime (percentage)
 3. Number of charge events
 4. Number of unique vehicles
 5. Average charge time per event (minutes)
 6. Average kW per charge event
 7. Total kW consumed

12. FEE STRUCTURE

- 12.1 The Partner shall have the right to set and collect user or convenience fees to offset costs associated with electricity supply to and maintenance of EVSE. The Partner shall not monetarily profit or direct fees collected to any other purpose.
- 12.2 Payment of the fee shall be available through several optional forms: web/mobile application, pay card, subscription and credit card at point of sale.
- 12.3 Management of the fee payment system will be handled by NOACA's Project contractor or vendor, who shall collect the fees and disburse revenue. Details of the collection, management and disbursement of fees will be set out in a separate written Agreement to be entered after NOACA has awarded the Project construction contract.

- 12.4 The Partner may apply the revenue resources to reimbursement costs of electricity supply and costs of maintenance or repair of the charging units during the term of this Agreement.
- 12.5 Following the term of this Agreement, in the event that Partner chooses to retain the electric vehicle charging equipment in place and operate and manage that equipment, Partner will be required to enter into a new, separate agreement for a party to manage collection of fees and disbursement of revenue.

13 INDEMNIFICATION

- 13.1 NOACA, to the extent allowable under law in the State of Ohio, and its Project contractor shall indemnify and save harmless the Partner against and from all expenses, liabilities, obligations, damages, penalties, claims, accidents, costs and expenses, including reasonable attorneys' fees paid, suffered or incurred for death or damage or injury to persons or property in whole arising out of the carelessness, negligence, or improper conduct of NOACA or its contractor or subcontractors, its agents, servants, employees or licensees resulting from its performance of its obligations under this Agreement or its use and occupancy of the Premises. Partner's liability shall be determined in accordance with Ohio Revised Code Chapter 2744. Notwithstanding anything to the contrary in this Agreement, no party shall be required to indemnify another party from or against such other party's intentional acts or omissions or negligence.
- 13.2 This provision may be met by maintaining liability insurance policies as outlined in Section 107.12 of the ODOT CMS and providing to Partner copies of certificates of insurance coverage.

14. GENERAL

- 14.1 Neither this contract, nor any rights, duties or obligation described herein shall be assigned by either party hereto without the prior express written consent of the other party. Any change to the provisions of this agreement must be made in a written amendment executed by both parties.
- 14.2 This Agreement shall be construed and interpreted and the rights of the parties determined in accordance with the laws of the State of Ohio.
- 14.3 Performance by the Partner as a political subdivision of the State of Ohio and in the event that the Agreement requires the payment of money, the Agreement is subject to Section 5705.41 requiring the certification of availability of funds by the Fiscal Officer of the political subdivision.
- 14.4 Any person executing this Agreement in a representative capacity hereby warrants that he/she has been duly authorized by his/her principal to execute this Agreement on such principal's behalf.
- 14.5. NOACA agrees for itself and its project contractors that it is in compliance with the requirements of R.C. § 125.111.

- 14.6 NOACA certifies that it: (i) has reviewed and understands the Ohio ethics and conflict of interest laws as found in Ohio Revised Code Chapter 102 and in Ohio Revised Code Sections 2921.42 and 2921.43, and (ii) will take no action inconsistent with those laws. NOACA understands that failure to comply with Ohio's ethics and conflict of interest laws is grounds for termination of this Agreement and may result in the loss of other contracts or grants with the State of Ohio.
- 14.7. NOACA affirms that it is compliant with R.C. § 3517.13.
- 14.8 NOACA affirms that it has read and understands Executive Order 2019-12D issued by Ohio Governor Mike DeWine. NOACA has signed and completed the Standard Affirmation and Disclosure Form and shall abide by those requirements in the performance of this Agreement and perform no services required under this Agreement outside of the United States. The Executive Order can be accessed at the following website: <https://governor.ohio.gov/wps/portal/gov/governor/media/executive-orders/2019-12d>.
- 14.9 Pursuant to R.C. § 9.76 (B), NOACA warrants that it is not boycotting any jurisdiction with whom the State of Ohio can enjoy open trade, including Israel, and will not do so during the contract period.
- 14.10 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which shall constitute one agreement. Signatures delivered electronically (by facsimile or electronic mail) shall be deemed originals for all intents and purposes. The signature of any party to any counterpart shall be deemed to be a signature to, and may be appended to, any other counterpart.
- 14.11 While this Agreement is captioned as Partner Agreement, neither that title nor any provision of this Agreement creates any agency, partnership, employer/employee, joint venture or other relationship between the Partner and NOACA.
- 14.12 If any term, covenant or condition of this Agreement or the application thereof to any part, person or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or the application of such term, covenant or condition shall be valid and shall be enforced to the fullest extent permitted by law.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year last written below.

NORTHEAST OHIO AREAWIDE COORDINATING AGENCY	NORTHEAST OHIO AREAWIDE COORDINATING AGENCY
By:	By:
Legal Counsel	Executive Director
Date:	Date:
PARTNER: CITY OF BEREA	PARTNER: CITY OF BEREA
By:	By:
Barbara L. Jones, Director of Law	Antonio Armagno, Director of Public Service
Date:	Date: