

**CONTRACT BETWEEN THE OKLAHOMA DEPARTMENT OF COMMERCE  
AND  
CANOO, INC. FOR AN AWARD FROM THE OKLAHOMA QUICK ACTION  
CLOSING FUND**

COMES NOW the Oklahoma Department of Commerce (hereinafter ODOC), an Agency of the State of Oklahoma, on behalf of the Governor of the State of Oklahoma, and CANOO, INC. (hereinafter CANOO), a recipient of an award by the Governor of the State of Oklahoma from the Oklahoma Quick Action Closing Fund (hereinafter Fund), established at 62 O.S. § 48.2, in the amount of \$10,000,000 as evidenced by a letter from Governor Stitt authorizing the same.

The funds subject to this contract are being expended by the Governor for purposes of economic development and related infrastructure development. Both the Governor and ODOC find that the expenditure of these funds would likely be a determining factor in either locating this high-impact business project or facility in Oklahoma or in retaining such project or facility within the State.

ODOC further finds that CANOO, the establishment making application, qualifies to receive these funds pursuant to 62 O.S. §48.2(C). ODOC has conducted a complete analysis of the potential impact of the applicant's business activity using the factors outlined in the statute, as well as the associated administrative rules. The Director of ODOC further finds that, this expenditure from the Fund is expected to result in a net economic benefit to the State using the criteria required by statute and administrative rules.

**THE PARTIES AGREE AS FOLLOWS:**

**1. PROJECT DESCRIPTION**

The funding from the Fund is being used to support the location of an automotive manufacturing site to the Pryor, Oklahoma area. Money awarded pursuant to this contract shall be used to pay for the construction of this manufacturing facility (hereinafter "Oklahoma Facility").

The projected public benefit for the above project over the next 10 years consists of the following:

New jobs	1,500
Average salary of the new jobs	\$64,430
Capital investment	\$482.6 Million

## 2. CONDITIONS FOR PAYMENT OF FUND PROCEEDS

The following provisions must be completed before payment is made from ODOC to CANOO:

1. Three Million dollars (\$3,000,000) shall be paid to CANOO from the Fund when CANOO has completed at least ten percent (10%) of construction of the Oklahoma Facility.
  - a. The Oklahoma Facility will be deemed to have met this requirement when ODOC has received a letter from an independent Oklahoma Certified Public Accountant ("CPA") attesting that at least \$48,000,000 has been spent on capital expenditures relating to designing, constructing, and equipping the Oklahoma Facility.
  - b. This condition must be met with a request for payment received by ODOC on or before July 1, 2023 to qualify for payment.
  
2. Two Million Dollars (\$2,000,000) shall be paid to CANOO from the Fund when CANOO has completed at least twenty-five percent (25%) of construction of the Oklahoma Facility.
  - a. The Oklahoma Facility will be deemed to have met this requirement when ODOC has received a letter from an independent Oklahoma CPA attesting that at least \$120,500,000 has been spent on capital expenditures relating to the design, construction, and equipping of the Oklahoma Facility.
  - b. This condition must be met with a request for payment received by ODOC on or before January 1, 2024 to qualify for payment
  
3. Two Million Dollars (\$2,000,000) shall be paid to CANOO from the Fund when CANOO has completed at least fifty percent (50%) of construction of the Oklahoma Facility.
  - a. The Oklahoma Facility will be deemed to have met this requirement when ODOC has received a letter from an independent Oklahoma CPA attesting that at least \$241,000,000 has been spent on capital expenditures relating to the design, construction, and equipping of the Oklahoma Facility.
  - b. This condition must be met with a request for payment received by ODOC on or before January 1, 2025 to qualify for payment
  
4. Three Million Dollars (\$3,000,000) shall be paid to CANOO from the Fund when CANOO has completed construction of the Oklahoma Facility
  - a. The Oklahoma Facility will be deemed to have met this requirement when ODOC has received a letter from an independent Oklahoma CPA attesting that at least \$450,000,000 has been spent on capital expenditures relating to the

design, construction and equipping of the Oklahoma Facility and a letter from the Chief Administrative Officer of Mid America Industrial Park indicating that the Facility is completed and occupied by Canoo, Inc.

- b. This condition must be met with a request for payment received by ODOC on or before July 1, 2026 to qualify for payment.

As required by 62 O.S. §48.2(J), all funds from the Fund used to build the Oklahoma Facility shall be deemed to be held in trust for the benefit of the State and shall be considered as a priority claim for purposes of federal bankruptcy law. Furthermore, if the Oklahoma Facility is sold prior to having met the conditions set forth in section five (5) of this contract and prior to having substantially provided the projected public benefit set forth in section one (1) of this contract, CANOO shall repay the State the money actually paid to CANOO from the Fund to pay for the Oklahoma Facility with interest at a rate of 2% and share with the State a proportionate amount of any profit realized from the sale. For purposes of this paragraph, the term "sale" shall be limited to the sale of the Oklahoma Facility and shall expressly not include any merger, reorganization, sale of all or substantially all of CANOO's assets, or any other similar transaction involving CANOO.

### **3. TIMELINE FOR PAYMENT OF FUND PROCEEDS**

The funding will be provided to CANOO, upon request, at the intervals specified in section two (2) of this contract. To receive payment pursuant to this contract, CANOO agrees to register as a vendor with the State of Oklahoma and shall send an invoice to ODOC for the funds. All payment procedures shall follow those as authorized or otherwise required by Oklahoma law.

To request payment from ODOC, CANOO shall e-mail an invoice along with all other documentation set forth in section two (2) of this contract to [accounts\\_payable@okcommerce.gov](mailto:accounts_payable@okcommerce.gov).

### **4. VALIDATION OF PERFORMANCE**

The performance of CANOO under the terms and conditions of this contract shall be validated and verified by ODOC based upon written reports from CANOO and, if necessary, on-site reviews conducted by ODOC staff provided that such on-site reviews (i) shall take place at the Oklahoma Facility, (ii) shall not be disruptive to CANOO's business, (iii) shall take place at a mutually agreed time during CANOO's business hours and (iv) shall take place within forty-five (45) days of the request from ODOC, unless otherwise agreed by ODOC and CANOO. The reports shall be provided from CANOO to General Counsel or the Executive Director of the Oklahoma Department of Commerce upon request of ODOC. Satisfactory completion of the performance of

CANOO pursuant to this contract shall be solely determined by ODOC. The decisions of ODOC as to satisfactory completion of the contract terms shall be final and binding.

## **5. OBLIGATION FOR REPAYMENT OF FUND AWARD**

In the event CANOO does not meet each of the following conditions:

1. Begin construction by January 1, 2023.
  - a. Construction will be deemed to begin when the necessary property interests have been acquired, all necessary construction permits have been issued and ground has been broken on construction of the Oklahoma Facility.
2. Incur at least \$120,500,000 on capital expenditures relating to the design, construction, and equipping of the Oklahoma Facility on or before January 1, 2024.
3. Incur at least \$241,000,000 on capital expenditures relating to the design, construction, and equipping of the Oklahoma Facility on or before January 1, 2025.
4. Complete construction of the Oklahoma Facility on or before July 1, 2026.
  - a. Construction will be deemed to be completed when ODOC has received a letter from an independent Oklahoma CPA attesting that at least \$450,000,000 has been spent on capital expenditures relating to the design, construction and equipping of the Oklahoma Facility and a letter from the Chief Administrative Officer of Mid America Industrial Park indicating that the Facility is completed and occupied by Canoo, Inc.

Money actually paid from the Fund to CANOO shall be repaid to ODOC within thirty (30) days of failure to meet any one of the above stated conditions. No credit shall be given for partial performance of the conditions within this contract. Notwithstanding any other provision of this contract, the maximum aggregate liability or repayment amount due by CANOO under this contract shall not exceed the amount of money actually paid from the Fund to CANOO. The parties each expressly waive any right or claim to any punitive, indirect, incidental or consequential damages, whether arising at law, in equity or otherwise.

ODOC shall not make any final determination that CANOO has failed to satisfactorily complete any contract term until ODOC has given CANOO written notice and thirty (30) days within which to cure; however, if any term cannot reasonably be cured within the initial thirty (30) days, CANOO shall have a total of one hundred eighty (180) days in which to cure such term, so long as CANOO has commenced and is diligently proceeding to cure such term within the initial thirty (30) day period.

## **6. OPEN RECORDS**

Both parties acknowledge that all State agencies are subject to the Oklahoma Open Records Act, and that this contract is subject to public disclosure in accordance with the provisions of the Act. This disclosure is mandated regardless of the existence of any non-disclosure agreements that may have been previously executed by the parties and both parties agree that ODOC may disclose this document without further consultation with CANOO.

## **7. PROHIBITION ON POLITICAL ACTIVITY WITH PROCEEDS OF FUND**

CANOO agrees that no monies paid from the Fund shall be used by a recipient or any other person or entity for purposes of any political contribution to or on behalf of any candidate or for the support of or opposition to any measure including but not limited to an initiative petition or referendum. In the event any monies paid from the Fund are used for any political activity, the entire award from the Fund is immediately due and payable to ODOC.

## **8. APPLICABLE LAW**

This contract shall be governed by and will be construed in accordance with the laws of the State of Oklahoma. Proper venue for any dispute relating to this contract shall be in the District Court of Oklahoma County or in the United States District Court for the Western District of the State of Oklahoma.

## **9. GENERAL TERMS**

If any provision of this contract is deemed or held by a court of competent jurisdiction to be contrary to law or otherwise unenforceable, it shall be enforced to the extent legally permissible and as necessary to reflect the intent of the parties and shall not affect the remaining provisions of this contract, which shall remain in force and in effect. This contract may only be amended by a writing executed by duly authorized representatives of both parties. This represents the entire agreement and understanding between the parties with respect to the subject matter herein and supersedes all prior agreements and understandings and writings of any kind, written or oral, express, or implied, with respect to the subject matter hereof. Rights and obligations incurred pursuant to this agreement cannot be transferred to other entities without the written consent of both parties. Both parties agree to not unreasonably withhold, condition, or delay such written consent.

Written correspondence as relevant to this contract, other than submission of payment invoices, can be sent via US Mail, postage prepaid, to the following parties:


Commerce: Oklahoma Department of Commerce  
Attn: General Counsel  
900 N. Stiles Ave  
Oklahoma City, OK 73104


Canoo: Hector Ruiz  
General Counsel  
Canoo Inc.  
15520 Highway 114, Suite 2C  
Justin, TX 76247

IN WITNESS WHEREOF, the signatories represent that they are authorized to bind the parties to this agreement and that they have executed this agreement effective as of the date of the signatures below.

**Oklahoma Department of Commerce**

**Canoo, Inc.**

  
\_\_\_\_\_ 2.28.2022  
Brent Kising    Date  
Executive Director  
Oklahoma Department of Commerce

  
\_\_\_\_\_ 2/25/22  
Tony Aquila    Date  
Executive Chairman and CEO  
Canoo, Inc.