



Request for Proposals

For

Alameda Public Electric Vehicle Charging Provider

For The

City of Alameda

Wednesday April 10, 2024

Due Date **(Extended):**

Thursday, May 23, 2024, 4:00 p.m. PDT

Table of Contents

1. Introduction	3
2. Background	3
2.1. Charging and Fueling Infrastructure Grant.....	3
2.2. Alameda’s Public EV Charging Goals	4
2.3. Existing Public EV Chargers	4
2.4. Proposed Public Charging Locations	5
2.4.1. Additional City-Owned Charging Locations	6
2.5. Equity Priority Locations	8
2.6. Alternative Fuel Corridors	8
2.7. Additional Funding	9
3. Provider Role	9
4. Scope of Work	10
5. RFP Schedule	12
6. Project Schedule	12
7. Project Manager.....	13
8. Questions.....	13
9. Submittal	13
9.1. Submittal Instructions.....	13
9.2. Submittal Requirements.....	14
10. Selection Process	14
11. Additional Terms and Conditions	15
12. Exhibits	16
Exhibit A: City’s Standard Service Provider Agreement.....	17
Exhibit B: Draft Licensing Agreement	18
Exhibit C: CFI Grant Budget Information.....	19

1. Introduction

The City of Alameda (City) is seeking a qualified organization or team (Provider) to provide public electric vehicle (EV) charging on City owned parking lots, including financing, equipment procurement, installation, ownership, operation and maintenance of EV charging infrastructure, at little or no cost to the City. The Provider may procure chargers from a third-party vendor. The City is open to Providers or teams who can who can evaluate the needs of the available sites and develop the best and most cost-effective solutions that meet the City's current and future needs, independent of technology.

The City is seeking both Level 2 and fast charging stations options as feasible. In most cases, fast charging will require transformer upgrades which will be the responsibility of the Provider, as required by Alameda Municipal Power (AMP). The City is also interested in alternative solutions to offset, reduce costs or eliminate the need for new transformers by utilizing alternative solutions such as battery storage, exploring opportunities to install solar on adjacent buildings (which are typically privately owned), or other solutions.

2. Background

The City's Climate Action and Resiliency Plan (CARP) calls for the City to reduce its greenhouse gas emissions by 50% below 2005 levels by 2030 and become carbon neutral as soon as possible. Transportation accounts for 70% of greenhouse gas emissions within the City. EVs are one solution to decrease transportation emissions. AMP is the City's not-for-profit municipal electric utility that provides 100% clean electricity at rates about 36% lower than PG&E, making charging costs more affordable to lower-income households.

To support broader EV ownership for residents without driveways, renters, multi-family dwellers, employees, and visitors, the City is seeking to develop a network of affordable public EV charging stations on city owned parking lots to enhance the existing network of public EV chargers currently available on private property. While the City requires new multi-family construction to have EV charging capabilities, the issue of providing charging locations for residents in existing housing stock without the mechanism to add chargers must be addressed to reach the City's emission reduction and equity goals.

Since 2017, the number of registered EVs in Alameda has more than doubled and now stands at 6.8% of all registered vehicles in the City with 728 new zero emission vehicles registered in Alameda in 2022. Statewide, more than 10% of new car sales are electric. Beginning in 2035, new internal combustion engine vehicles will no longer be sold in California. The EPA is also considering stricter tailpipe emissions standards that will further encourage the sale of EVs nationally. These factors further underline the need for more publicly available EV charging locations within Alameda. The City is undertaking efforts to examine all potential sites where charging may be feasible including city-owned parking lots.

2.1. Charging and Fueling Infrastructure Grant

The City applied for but was not awarded a Charging and Fueling Infrastructure (CFI) grant from the United States Department of Transportation for this project. The City is seeking partners to apply in the next round of CFI funding. Per the terms of the grant, the Provider would cover 20% of the total approved project costs while the grant would cover the remaining 80%. The provider would be responsible for developing a Site Assessment to evaluate which locations would be feasible for public EV charging to request grant funding. If funding is awarded, the Provider must abide by all stipulations and regulations of the CFI grant.

The Provider will also be eligible for Low Carbon Fuel Standard (LCFS) credits and charger rebates from AMP and may seek other grant opportunities that support the goals of this RFP.

2.2. Alameda’s Public EV Charging Goals

The City has established the following draft goals in regards to public EV charging:

- Provide affordable public EV chargers within a quarter-mile of all residents within Alameda and within 0.1 miles of multi-unit development (MUD) hot spots.
- Prioritize Level 3 DC fast chargers (DCFC) at parks, commercial areas and other short-term parking locations when possible
- Provide Level 2 charging options in residential and long-term parking locations.
- Prioritize chargers in equity priority locations.
- Take advantage of all available funds from federal, state, regional, and local sources and LCFS credits to limit costs incurred to the City.

2.3. Existing Public EV Chargers

Figure 1 shows public EV charging stations that currently exist or are under construction in Alameda. There is a total of 68 public charging ports in Alameda with 24 as DCFC and 34 as Level 2 chargers. Of the 10 charging locations, five are located within one or two blocks of Park Street on the East End, two are located on Bay Farm Island in the Harbor Bay Business Park, two are located on the West End, 10 are located at the Seaplane Lagoon Ferry Terminal and one is located near the marina in Central Alameda. Table 1 shows details for each site.



Figure 1: Existing Public EV Charging Locations

Table 1: Existing Public EV Chargers in Alameda

Site Name	Site Address	Level of Charging	Number of Ports
Target/Alameda Landing	2700 5th Street	DCFC	6
Nob Hill Foods	2531 Blanding Ave	DCFC	2
Alameda Municipal Power	2000 Grand St	DCFC	4
Civic Center Garage	1416 Oak St	Level 2	4
South Shore Ctr (West)	2210 South Shore Center	Level 2	2
South Shore Ctr (East)	523 South Shore Center	Tesla only	12
Broadway Management (Employee)	1516 Oak St	Level 2	2
Harbor Bay Park (Employee)	1131-1151 Harbor Bay Parkway	Level 2	14
Home2Suites (Guest)	1660 Harbor Bay Parkway	Level 2	2
Seaplane Lagoon Ferry Terminal	1760 Ferry Point	Level 2	10
Total			58

The City is seeking Providers who will take on responsibility for the operation, maintenance, and care of the existing City-owned charging sites located at Civic Center Garage and Seaplane Lagoon as part of this agreement.

2.4. Proposed Public Charging Locations

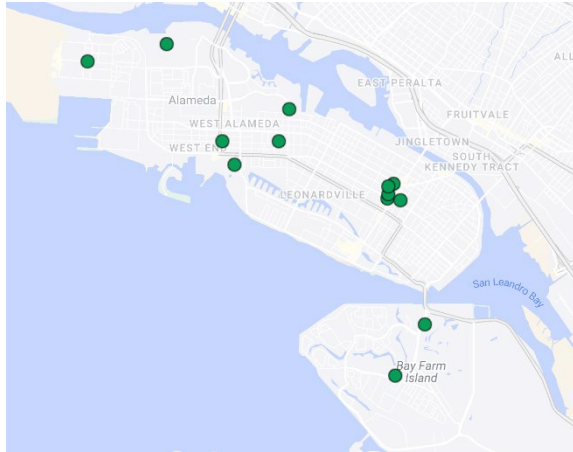


Figure 2: Proposed Public Charging Locations

Figure 2 shows the proposed public charging site locations identified by the City to date. The Provider may propose to fund all or some of the project locations. The Provider may also suggest additional locations. More details for each location are shown in Table 2 below. Site costs are preliminary and need to be verified. Assumption for the DCFC is that a new transformer will be required at a cost of \$100,000 per site. The number of Ports desired is also preliminary and subject to change by the Provider after completing a site assessment.

2.4.1. Additional City-Owned Charging Locations

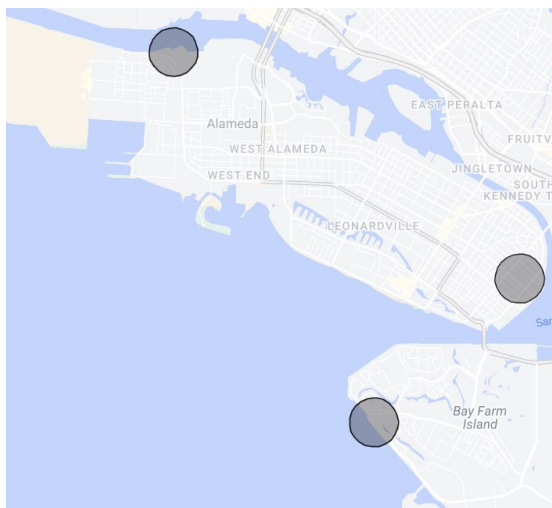


Figure 3: Additional Charging Locations

The City identified three additional locations where EV charging may be beneficial and highly used, however these locations were not included in the CFI grant as shown in Figure 3. The locations are the Main Street Ferry parking lot, Harbor Bay Ferry parking lot, and Lincoln Park.

The two ferry parking lots are long-term parking lots mainly for commuters and would benefit from Level 2 charging. Electrical service is being upgraded at these locations in the future by the Water Emergency Transportation Authority (WETA), at which time EV charging may become feasible.

The location at Lincoln Park has been proposed to receive one DC fast charger. This neighborhood on the East End does not have nearby public charging available but due to the high number of single-family homes in the area, this location is not currently prioritized.

Table 2: Proposed Public Charging Locations

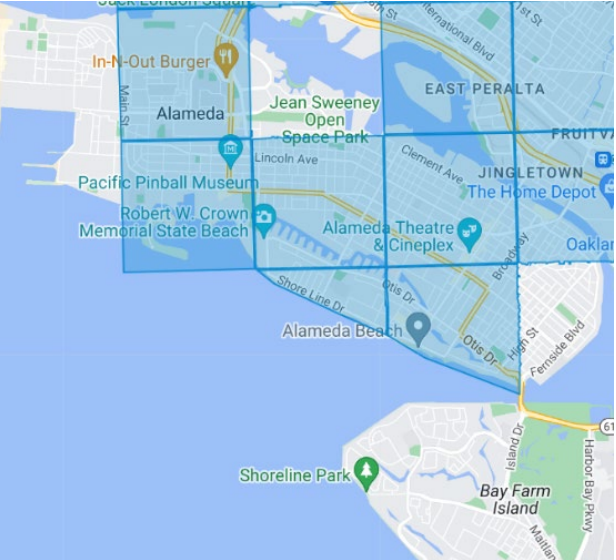
Site Address	Site Name	Charger Type	Number of Ports Desired	Justice 40 Area	MUD Hotspot	Estimated Site Cost
2312 Central Avenue	Central Ave Lot (Municipal Lot C)	DCFC	2	Yes	Yes	\$418,952
1416 Oak Street	Civic Center Garage	Level 2	6	Yes	Yes	\$210,827
1155 Santa Clara Avenue	Mastick Senior Center	Level 2	4	No	Yes	\$114,501
711 Santa Clara Avenue	West End Lot (Municipal Lot W)	DCFC	2	No	Yes	\$418,952
1925 Sherman Street	Jean Sweeney Park	DCFC	2	Yes	No	\$418,952
300 Island Drive	HBI Park and Ride	Level 2	10	No	No	\$228,818
950 W Mall Square	City Hall West	Level 2	4	Yes	No	\$128,365
1550 Oak Street	Main Library	DCFC	2	Yes	Yes	\$413,887
230 Mosley Avenue	Estuary Park	DCFC or Level 2	1 DCFC or 3 L2	Yes	Yes	\$288,652 (DCFC)
2263 Santa Clara Avenue	City Hall	DCFC	2	Yes	Yes	\$413,887
1418 Park Avenue	Park Ave Lot (Municipal Lot A)	DCFC	2	No	Yes	\$413,887
1333 Eighth Street	Washington Park	DCFC	4	No	Yes	\$627,908
3221 Mecartney Road	BFI Library	DCFC	4	No	No	\$627,908
Total						\$4,725,496

2.5. Equity Priority Locations

State and federal funding is focused on implementing chargers in equity priority locations in alignment with the federal government’s Justice40 initiative, which seeks to direct at least 40% of federal investment towards historically disadvantaged communities. Several grants also focus on EV charging infrastructure in multi-unit development (MUD) hotspots. Justice40 (left) and MUD hotspot (right) locations in Alameda are shown on the maps below. Details for which sites fall within a Justice40 or MUD hotspot area can be seen in Table 2.



Justice40 Map



MUD Hotspot Map

2.6. Alternative Fuel Corridors

Alternative Fuel Corridors (AFC) are federally-designated highways that will form a national network of EV chargers and other forms of alternative fueling for vehicles. Funding for DC fast charging is being provided by the federal government through multiple grants to establish this network. The relevant highway for Alameda is Interstate 880 which runs just north of Alameda in the City of Oakland.

Five locations may be eligible for AFC funding: City Hall, Main Library, Civic Center Garage, Municipal Lot C, and Municipal Lot A.



2.7. Additional Funding

The Provider will be entitled to all LCFS credits awarded from the project. For any locations using Level 2 charging, a rebate of \$6,500 per dual-port charging station (up to 6) is currently [available through AMP](#) to help offset costs. The Provider is also eligible to pursue other state and federal funding options as they see fit. Certain limitations around funding sources may exist such as restricted access to further federal funds.

3. Provider Role

This RFP is seeking a qualified Provider to install, manage, and maintain the City's public EV charging network for an initial five-year term at little to no upfront cost to the City. Through this RFP, the City will select a Provider who will perform the following tasks:

- Enter into Service Provider Agreement with the City.
- Review and prioritize available city owned sites based on physical and financial feasibility and meeting the city's EV charging goals.
- Work with AMP to determine feasibility of identified sites.
- Consult with Public Works to discuss any impacts or modifications to existing parking spaces, including compliance with the Americans with Disabilities Act.
- Enter into a licensing agreement with the City for identified sites.
- Take over management and maintenance of Civic Center Garage and Seaplane Lagoons EV charging stations that are currently owned by the City.
- Develop cost sharing arrangement that minimizes upfront and ongoing costs to the City.
- Identify and apply for available grant funding opportunities to reduce the cost of installation.
- Develop design drawings and apply for all necessary permits.
- Procure and install chargers, including providing all required materials, equipment and labor for the installation, any necessary infrastructure upgrades, maintenance, operations, and any necessary replacement.
- Operate EV chargers at an affordable and reasonable cost to the public to be negotiated with the City with no session fees. Peak pricing could be considered.
- Maintain chargers and ensure continuous operability of chargers for five years after installation.

- Identify one staff member and one engineer from the Provider’s organization to serve as a project liaison and point of contact between the Provider and the City and AMP for the five-year agreement period.
- Provide a designated City staff member with online access and credentials to monitor charger outages, usage, consumption, etc.
- Seek opportunities for project technical and financing solutions that can offset high fixed costs such as transformers and other electrical infrastructure upgrades that may also provide other co-benefits, such as co-located solar or storage, and battery storage charging solutions.
- Work with the City to select a charging connector(s) that meets the broadest public need and is most appropriate for future regulations, advances, and other factors that may impact usability.
- Abide by the rules and regulations surrounding labor as set forth by the City’s [Project Stabilization Agreement](#) and the Davis-Bacon Act, as appropriate.
- Agree to relinquish ownership of EV charging stations after five-year licensing agreement has expired, if Provider is not selected for renewal of term.

A detailed scope of work is provided below in the [Scope of Work](#) section.

4. Scope of Work

Task 1: Project Management

Provider will meet every two weeks with Project Manager to ensure project is on schedule and to address any concerns or needs. Provider will also meet with Project Manager, as requested, if project is not on schedule or to address ongoing concerns and needs.

Task 2: Needs Assessment

The Provider will conduct a needs assessment to identify areas most in need of EV charging and how to implement a network that serves all residents of the City. This assessment should consider factors including geographic location, local average income, existing infrastructure and current access to public EV chargers, homeownership rates, EV ownership rates, racial and ethnic identities, and other equity-focused metrics.

Task 3: Site Identification

The Provider shall identify potential charging locations across Alameda using the results of the Needs Assessment and existing locations provided by the City. These locations should align with the outcomes of the Assessment as well as meeting Alameda’s Public EV Charging Goals.

The identified sites should focus on City-owned parking lots to establish a robust network of Level 2 and DCFC chargers. The City seeks to begin with installation of at least three sites within the first year of the licensing agreement effective date.

Task 4: Feasibility Assessment

The Provider shall work with AMP and the City to establish which identified locations are financially, spatially, and practically feasible for EV charging infrastructure through a feasibility study. The study will examine current electrical infrastructure and determine what upgrades, if any, are required to make the location EV-ready for Level 2 and/or DCFC. The Provider and the City will work together to determine what level of service, in terms of charging speed and quantity of charging ports, is preferred at each site. The Provider and City will determine what manufacturer and quantity to proceed with at each site. The Provider will develop initial cost estimates for each site.

Deliverables from this task will include list of feasible City-owned sites for EV charging, determination of number and type of charger for each site, priority list of feasible sites (which ones to pursue first), initial cost estimate for each site, phased plan for installing chargers.

Task 5: Engineering and Design

The Provider will provide engineering and design plans for each site determined feasible for construction and collaborate with AMP to ensure conditions can be met. AMP will also provide their engineering plans during this period.

Task 6: Permitting and Environmental Review

The Provider will complete all necessary approvals and permits and environmental review including CEQA and NEPA clearance required to install EV chargers at the identified sites.

Task 7: Licensing Agreement

The Provider will enter into a licensing agreement with the City to install, operate and maintain Level 2 and DCFC at identified City-owned locations for an initial period of five years. Draft Licensing Agreement is shown in Exhibit B.

Task 8: Install EV Chargers

Provider will perform all necessary work to install EV chargers identified in licensing agreement, including any necessary infrastructure upgrades and obtain any additional grant funding, with City support as necessary, to offset costs of installation and operation.

Task 9: Maintain and Operate EV Charging Network

The Provider will maintain and operate the EV charging network in its entirety after installation for the following five years. The Provider will be solely responsible for: repairs

to the charging infrastructure due to natural wear-and-tear, driver negligence, vandalism, graffiti, an act of God, or any other occurrence, maintaining the online system that receives payments and allows for operation of the charger, ensuring the charging network is working properly and at all times, and responding swiftly and reasonably to any outages or disruptions to an EV charger.

5. RFP Schedule (Revised)

The table below shows the preliminary RFP Schedule. Dates are subject to change. Any changes will be posted in an addendum that can be found on the RFP website. All times shown are in Pacific Daylight Time. Please note that all proposals will be public record. **Do not submit confidential information in your Proposal.**

Dates and Times	Action
Wednesday, April 10, 2024	RFP Issued
Thursday, April 18, 2:00 – 3:00 p.m.	Pre-Bid Meeting (optional)
Friday, April 26, 4:00 p.m.	Deadline for RFP Questions
Thursday, May 2	RFP Q&A Posted
Thursday, May 23, 2024, 4:00 p.m.	Proposals Due
Tuesday June 18 - morning	RFP Interviews (if needed)
Week of June 24	Selection of Provider

6. Project Schedule (Revised)

The table below shows the estimated project schedule by start date and action. These tasks will primarily be completed by the Provider with assistance from the City and AMP.

Start Date	Action
Quarter 3, 2024	Provider procurement
Quarter 4, 2024	Project Management Meetings, Review of Provider deliverables, Needs Assessment performed by Provider
Quarter 1, 2025	Concept/design/construction Review, Site Identification, Feasibility Assessment completed by Provider, Public Engagement and Education performed by the City with assistance from the Provider

Quarter 2, 2025	Licensing Agreement signed, Engineering and design performed by AMP and Provider
Quarter 3, 2025	Permitting and Environmental Review
Quarter 4, 2025	Installation of EV chargers begins, Maintenance and operation of network begins

7. Project Manager

With the release of this RFP, all communications must be directed in writing via email to the contact person below. Any oral communication is considered unofficial and non-binding to the City.

The RFP contact and Project Manager is:

Danielle Mieler, Sustainability and Resilience Manager
 Planning, Building and Transportation Department
 Alameda City Hall
 2263 Santa Clara Avenue, Room 120
 Alameda, CA 94501
 Phone: (510) 747-4713
 Email: dmieler@alamedaca.gov

8. Questions

Please email any questions regarding the RFP to Danielle Mieler at dmieler@alamedaca.gov by Friday April 26 at 4:00pm. Questions and answers will be posted on the RFP webpage by Thursday, May 2.

The website for this RFP and related documents is:
<https://www.alamedaca.gov/BUSINESS/Bid-on-City-Contracts>.

All project correspondence will be posted on the RFP website, linked above. It is the responsibility of vendors to check for updates and any RFP addenda.

9. Submittal

9.1. Submittal Instructions

Please submit your proposal electronically to Danielle Mieler, Project Manager at dmieler@alamedaca.gov by **4:00PM PST on Thursday, May 23, 2024**. Late proposals will not be accepted.

The proposal should be submitted as a single .pdf file, with the subject line: **(Name of Organization) Response to RFP: City of Alameda Public EV Charging Provider.**

9.2. Submittal Requirements

The City, is requesting Provider to submit the following materials for consideration by the Selection Panel:

1. Letter of Interest: A letter expressing interest in being considered the Provider. Please include the name, title, mailing address, phone number and email address of the person whom the City should contact regarding this response. The letter of interest must be signed on behalf of the submitting Provider by someone authorized to bind the Provider to its proposal (1-page recommended).
2. Project Understanding and Approach: A statement demonstrating Provider understanding of the need and describing Provider approach to achieving the City's EV charging objectives (1-page recommended).
3. Team Organization and Description: An organizational chart and information about the relevant experience for the applicable staff. One employee must be designated as the principal contact and Project Manager for the City (1-page recommended).
4. Key Staff/Team Experience: For key team members, please provide resumes and include examples of experience as providing EV charging solutions and contracting with local governments as an EV charging provider (5-page maximum excluding resumes).
5. Letters of Commitment: If applying with partners, letters of commitment from all partner organizations (other than lead) certifying their role and responsibilities in the proposed work plan (1-page recommended for each letter).
6. Work Plan, Fee Proposal and Schedule: A detailed work plan, site budget proposal, including proposed City and Provider cost sharing, and implementation schedule that aligns with the Scope of Work listed in Section 4 of the RFP. If Provider has additions or suggested amendments to the presented Scope of Work, please include them in Provider response.
10. City, State and Federal Standards: The City's standard service provider agreement is attached as Exhibit A. If Provider has any questions/concerns related to the agreements, Provider must submit them in writing with the response to this RFP.

10. Selection Process

Based upon the submitted written responses to this RFP, the Selection Committee will review and rank the Provider proposals according to the criteria below.

A Provider will have its points increased by 5 percent of the points awarded if the Provider fits into one or multiple of the following categories: disadvantaged business enterprise, minority-owned business, women-owned business, or if the Provider can

incorporate workforce development opportunities for those underrepresented in infrastructure-related jobs, including inclusive hiring practices to ensure barriers of entry are lowered for people of color, women, people with disabilities, the formerly incarcerated, and other underrepresented populations.

Categories	Points
<p>Project Understanding and Approach</p> <ul style="list-style-type: none"> • Proposed work plan supports the project's goals and activities with clear, technically sound, and practical approaches, methodologies, and activities related to implementing the Scope of Work. • Project activities are clearly defined and described. • Time commitment of staff is appropriate to the project scope. 	40 points
<p>Work Plan, Fee Proposal and Schedule</p> <ul style="list-style-type: none"> • Timeline of work is feasible. • Budget is in alignment with the proposed activities and demonstrates cost sharing principles that minimize cost to the city. • Budget and timeline demonstrate understanding of projects. • This will not be a low-bid contract. However, proposed budget, cost controls, program efficiencies, and other budget matters will be taken into consideration. 	20 points
<p>Organization Experience</p> <ul style="list-style-type: none"> • Qualifications and relevant organization, staff experience and capacity to perform the proposed work plan. • Experience partnering with both public entities and private organizations on projects of similar size and scope. 	35 points
<p>Ability to meet the City's standard contract requirements</p> <ul style="list-style-type: none"> • Through execution of the Service Provider Agreement and Licensing Agreement attached as <u>Exhibits A and B</u>; written confirmation of this condition is required to be eligible to submit a proposal. If Provider has questions/concerns related to the Agreement, Provider must submit them in writing with the response to this RFP. 	5 points
<p>Total Eligible Points</p>	100 points

11. Additional Terms and Conditions

1. Nondiscrimination: Applicants for this RFP shall not discriminate against any interested individual, firm or applicant on the grounds of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation.
2. Permits, Licenses, and Insurance: The successful applicant for this RFP shall, at its sole expense, obtain and maintain during the term of any agreement executed pursuant to this RFP all appropriate permits, certificates, licenses, and insurance including, but not limited to,

a City of Alameda Business License which may be required in connection with the performance of services hereunder.

3. Signatures and Declarations: Each proposal responding to this RFP must be signed on behalf of the submitting entity by an officer authorized to bind the entity to its proposal.
4. City's Right to Waive: The City reserves the right, in its sole discretion, to waive any immaterial irregularities in a proposal responding to this RFP or in the submission of a proposal.
5. City's Right to Modify the RFP: The City reserves the right, in its sole discretion, to modify this RFP should the City deem that it is in its best interests to do so. Any changes to the RFP requirements will be made by written addendum posted on the City's website. The failure of an applicant to read any addenda shall have no effect on the validity of such modification.
6. City's Right to Suspend or Cancel the RFP: The City reserves the right, in its sole discretion, to suspend or cancel this RFP in part or in its entirety should the City deem that it is in the City's best interests to do so.
7. City's Right to Reject Any Proposal: The City reserves the right, in its sole discretion, to reject any proposal responding to this RFP that the City determines does not satisfy the conditions set forth in this RFP, or contains false, misleading, or materially incomplete information.
8. City's Right to Reject All Proposals: The City reserves the right, in its sole discretion, to reject all applicants and not to award to any applicant should the City deem that it is in its best interests to do so.
9. City's Right to Extend RFP Deadlines: The City reserves the right, in its sole discretion, to extend any of the deadlines listed in this RFP by written addenda should the City deem that it is in its best interests to do so.
10. Cost of Proposals: All costs incurred during proposal preparation or in any way associated with an applicant's preparations, submission, presentation or oral interview (if any) shall be the sole responsibility of Applicant.
11. Liability for RFP Errors: Applicants are solely responsible for all errors and omissions contained in their responses to the RFP.
12. Proposals Property of City: Upon receipt, each proposal responding to this RFP that an applicant submits to the City becomes the sole property of the City and will not be returned to the applicant.
13. Oral and Written Explanations: The City shall not be bound by oral explanations or instructions given at any time during the process or after the award. Oral explanations given during the review process and after award become binding only when confirmed in writing by an authorized City official. Written responses to question(s) asked by one proposer will be provided to all applicants to this RFP.

12. Exhibits

Exhibit A: City's Standard Service Provider Agreement

Exhibit B: Draft Licensing Agreement

Exhibit C: CFI Grant Budget Information

Exhibit A: City's Standard Service Provider Agreement

SERVICE PROVIDER AGREEMENT

This SERVICE PROVIDER AGREEMENT (“**Agreement**”) is entered into this ____ day of _____ 20__ (“**Effective Date**”), by and between the CITY OF ALAMEDA, a municipal corporation (“the **City**”), and COMPANY, a [STATE corporation, LLC, LP, GP, or sole proprietor/individual], whose address is ADDRESS (“**Provider**”), in reference to the following facts and circumstances:

RECITALS

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of the following services: Provide public electric vehicle (EV) charging on City owned property. City staff issued an RFP on DATE and after a submittal period of NUMBER days received NUMBER of timely submitted proposals. Staff reviewed the proposals, interviewed qualified firms and selected the service provider that best meets the City’s needs.
- C. Provider possesses the skill, experience, ability, background, certification and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- D. Whereas, the City Council authorized the City Manager to execute this agreement on _____.
- E. The City and Provider desire to enter into an agreement for EV charging on City owned property, upon the terms and conditions herein.

AGREEMENT

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

1. TERM:

The term of this Agreement shall commence on the ____ day of _____ 20__, and shall terminate on the ____ day of _____ 20__, unless terminated earlier as set forth herein.

The parties may agree to extend the term of this Agreement on a year-by-year basis, for up to five (5) additional years. Any extension shall be documented in a signed amendment. In the event that the parties agree to extend the Agreement, all provisions of the Agreement shall remain unchanged.

2. SERVICES TO BE PERFORMED:

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included

in Exhibit A as requested. Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.

3. COMPENSATION TO PROVIDER:

a. By the 7th day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule as set forth in Exhibit B and incorporated herein by this reference as set forth in Exhibit B.

b. If you wish to encumber department funds for the aggregate amount of the contract compensation, then state: The total five-year compensation for this Agreement shall not exceed \$XXX,XXX. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

4. TIME IS OF THE ESSENCE:

Provider and the City agree that time is of the essence regarding the performance of this Agreement.

5. STANDARD OF CARE:

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

6. INDEPENDENT PARTIES:

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by the City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave, are available from the City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.

7. IMMIGRATION REFORM AND CONTROL ACT (IRCA):

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold the City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

8. NON-DISCRIMINATION:

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider and its employees, contractors, and agents shall not harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to: race, religious creed, color, national origin, ancestry, disability (both mental and physical) including HIV and AIDS, medical condition (e.g. cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

9. HOLD HARMLESS:

a. To the fullest extent permitted by law, Provider shall indemnify, defend (with counsel acceptable to the City) and hold harmless the City, its City Council, boards, commissions, officials, employees, agents and volunteers ("Indemnitees") from and against any and all loss, damages, liability, obligations, claims, suits, judgments, costs and expenses whatsoever, including reasonable attorney's fees and costs of litigation ("Claims"), arising from or in any manner connected to Provider's performance of its obligations under this Agreement or out of the operations conducted by Provider even if the City is found to have been negligent. If the Claims filed against Indemnitees allege negligence, recklessness or willful misconduct on the part of Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. Provider shall not have any obligations to indemnify Indemnitees if the loss or damage is found to have resulted solely from the negligence or the willful misconduct of the City. The defense and indemnification obligations of this Agreement are undertaken in addition to, and shall not in any way be limited by, the insurance obligations contained in this Agreement.

b. As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnitees shall expressly survive the expiration or early termination of this Agreement.

10. INSURANCE:

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 10.b. (1) through (5). The Certificate Holder should be The City of Alameda, 2263 Santa Clara, Ave., Alameda, CA 94501. Such certificates, which do not limit Provider's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda. Attention: Risk Manager."

Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

As to commercial general liability and automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City.

c. SUBROGATION WAIVER:

Provider hereby agrees to waive rights of subrogation that any insurer of Provider may acquire from Provider by virtue of the payment of any loss. Provider agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether the City has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by Provider, its employees, agents and subcontractors.

d. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, the City shall be permitted to obtain such insurance in Provider's name or as an agent of Provider and shall be compensated by Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

e. ADDITIONAL INSUREDS:

The City, its City Council, boards, commissions, officials, employees, agents, and volunteers shall be named as additional insured(s) under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy. Additional Insured coverage under Provider's policy shall be primary and non-contributory and will not seek contribution from the City's insurance or self-insurance. Any available insurance proceeds broader than or in excess of the specified minimum insurance coverage requirements and/or limits shall be available to the additional insured(s).

f. SUFFICIENCY OF INSURANCE:

The insurance limits required by the City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider. The coverage and limits shall be (1) the minimum coverage and limits specified in this Agreement; or (2) the broader coverage and maximum limits of the coverage carried by or available to Provider; whichever is greater.

g. EXCESS OR UMBRELLA LIABILITY:

If any Excess or Umbrella Liability policies are used to meet the limits of liability required by this Agreement, then said policies shall be true “following form” of the underlying policy coverage, terms, conditions, and provisions and shall meet all of the insurance requirements stated in this Agreement, including but not limited to, the additional insured, SIR, and primary insurance requirements stated therein. No insurance policies maintained by the indemnified parties or Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until all the primary and excess liability policies carried by or available to the Provider are exhausted.

11. CONFLICT OF INTEREST:

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS:

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or their designee may consent or reject such request in their sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock, membership interest, partnership interest, or the equivalent, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of Provider.

13. APPROVAL OF SUB-PROVIDERS:

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in their sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers’ compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by Provider.

c. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement. Provider shall include the following language in their agreement with any sub-provider: “Sub-providers hired by Provider agree to be bound to Provider and the City in the same manner and to the same extent as Provider is bound to the City.”

d. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information that Provider then analyzes and incorporates into its work product.

14. PERMITS AND LICENSES:

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City business license that may be required in connection with the performance of the services and tasks hereunder.

15. REPORTS:

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of the City.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or their designee.

c. Provider shall, at such time and in such form as City Manager or their designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

16. RECORDS:

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of Provider’s performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by the City that relate to the performance of the services and tasks under this Agreement (collectively the “**Records**”).

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of the City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by the City’s preliminary examination or audit of records, and the City’s supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall

reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

17. NOTICES:

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to the City shall be addressed to the City at:

City of Alameda
Planning, Building and Transportation Department
2263 Santa Clara Ave, Room 120
Alameda, CA 94501
ATTENTION: Danielle Mieler
Ph: (510) 427-8120 / dmieler@alamedaca.gov

e. All notices, demands, requests, or approvals from the City to Provider shall be addressed to Provider at:

[Provider Name]
[Department]
[Address]
[City, State, zip]
ATTENTION: [Title]
Ph: (xxx) [xxx-xxxx]

f. All updated insurance certificates from Provider to the City shall be addressed to the City at:

City of Alameda
Planning, Building and Transportation Department
2263 Santa Clara Ave, Room 120
Alameda, CA 94501
ATTENTION: Danielle Mieler
Ph: (510) 427-8120 / dmieler@alamedaca.gov

18. SAFETY:

a. Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

19. TERMINATION:

a. In the event Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by Provider from the City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, the City may thereafter immediately terminate the Agreement forthwith by giving to Provider written notice thereof.

b. The foregoing notwithstanding, the City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

20. ATTORNEYS' FEES:

In the event of any litigation, including administrative proceedings, relating to this Agreement, including but not limited to any action or suit by any party, assignee or beneficiary against any other party, beneficiary or assignee, to enforce, interpret or seek relief from any provision or obligation arising out of this Agreement, the parties and litigants shall bear their own attorney's fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.

21. HEALTH AND SAFETY REQUIREMENTS.

Provider acknowledges that the City shall have the right to impose, at the City's sole discretion, requirements that it deems are necessary to protect the health and safety of the City employees, residents, and visitors. Provider agrees to comply with all such requirements, including, but not limited to, mandatory vaccinations, the use of personal protective equipment (e.g. masks), physical distancing, and health screenings. Provider also agrees to make available to the City, at the City's request, records to demonstrate Provider's compliance with this Section.

22. COMPLIANCE WITH ALL APPLICABLE LAWS:

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by the City.

23. CONFLICT OF LAW:

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

24. WAIVER:

A waiver by the City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

25. INTEGRATED CONTRACT:

Subject to the language of Section 30, the Recitals and exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both the City and Provider.

26. CAPTIONS:

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

27. COUNTERPARTS:

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

28. SIGNATORY:

By signing this Agreement, signatory warrants and represents that they executed this Agreement in their authorized capacity and that by their signature on this Agreement, they or the entity upon behalf of which they acted, executed this Agreement.

29. CONTROLLING AGREEMENT:

In the event of a conflict between the terms and conditions of this Agreement (as amended, supplemented, restated or otherwise modified from time to time) and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

30. NONDISCRIMINATION – FEDERAL REQUIREMENTS (IF FEDERAL GRANT IS AWARDED):

a. Provider certifies and agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ancestry, sex, age, or condition or physical or mental handicap (as defined in 41 C.F.R. Section 60-741, et seq.), in accordance with requirement of state or federal law. Provider shall take affirmative action to ensure that qualified applicants are employed and that employees are treated during employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap in accordance with requirements of state and federal law. Such shall include, but not be limited to, the following:

- (1) Employment upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation.
- (2) Selection for training, including interns and apprentices.
 - A. Provider agrees to post in conspicuous places in each of Provider's facilities providing services hereunder, available and open to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - B. Provider shall, in all solicitations or advertisements for employees placed by or on behalf of Provider, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirements of state and federal law.

- C. Provider shall send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of Provider's commitments under this paragraph.
- D. Provider certifies and agrees that it will deal with its subcontractors, bidders, or vendors without regard to race, color, religion, national origin, ancestry, sex, age, or condition of physical or mental handicap, in accordance with requirement of state and federal law.
- E. In accordance with applicable state and federal law, Provider shall allow duly authorized county, state and federal representatives access to its employment records during regular business hours in order to verify compliance with the anti-discrimination provisions of this paragraph. Provider shall provide such other information and records as such representatives may require in order to verify compliance with the anti-discrimination provisions of this paragraph.

b. If the City finds that any of the provisions of this paragraph have been violated, the same shall constitute a material breach of Agreement upon which the City may determine to cancel, terminate, or suspend this Agreement. The City reserves the right to determine independently that the anti-discrimination provisions of this Agreement have been violated. In addition, a determination by the California Fair Employment Practices Commission or the Federal Equal Employment Opportunity Commission that Provider has violated state and federal anti-discrimination laws shall constitute a finding by the City that Provider has violated the anti-discrimination provisions of Agreement.

c. The parties agree that in the event Provider violates any of the anti-discrimination provisions of this paragraph, the City shall be entitled, at its option, to the sum of \$500.00 pursuant to California Civil Code Section 1671 as liquidated damages in lieu of canceling, terminating, or suspending this Agreement.

d. Provider hereby agrees that it will comply with Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794), all requirements imposed by the applicable regulations, and all guidelines and interpretations issued pursuant thereto, to the end that no qualified handicapped person shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity of Provider receiving Federal Financial Assistance. In addition, Provider shall comply with the Uniform Federal Accessibility Standards, and Provider, Engineer, or Architect responsible for any design, construction or alteration shall certify compliance with those Standards.

e. Provider's attention is directed to laws, including but not limited to:

- (1) CIVIL RIGHTS/EQUAL OPPORTUNITY

- A. Civil Rights Act of 1964. Under Title VII of the Civil Rights Act of 1964, no person shall, on the grounds of race, sex, religion, 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.
- B. Section 109 of the Housing and Community Development Act of 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- C. Section 109 of the Act further provides that any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.) or with respect to an otherwise qualified handicapped individual as provided in Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) shall also apply to any program or activity funded in whole or in part with funds made available pursuant to the Act.

(2) PROGRAM ACCESSIBILITY FOR INDIVIDUALS WITH DISABILITIES

This Agreement is subject to laws and regulations concerning the rights of otherwise qualified individuals with handicaps for equal participation in, and benefit from federally assisted programs and activities, including but not limited to:

- A. Americans with Disabilities Act of 1990 (ADA) (28 C.F.R. 5). Title II, Subpart A of the Americans with Disabilities Act of 1990 applies to all publicly funded activities and programs. Provider shall also comply with the public accommodations requirements of Title III of the ADA, as applicable.
- B. Nondiscrimination on the Basis of Handicap (24 C.F.R. 8). These regulations, which implement Section 504 of the Rehabilitation Act of 1973, as amended, and as cited in Section 109 of the Housing and Community Development Act, apply to all federally assisted activities and programs and are implemented through the regulations at 24 C.F.R. 8.
- C. Architectural Barrier Act of 1968. Any building or facility, excluding privately owned residential structures, designed, constructed, or altered with federal funds, shall comply with the Uniform Federal Accessibility Standards, 1984 (41 C.F.R. 3) and the Handicapped Accessibility Requirements of the State of California Title 24. The Consultant, Engineer or Architect

responsible for such design, construction or alteration shall certify compliance with the above standards.

- D. In resolving any conflict between the accessibility standards cited in paragraphs (A), (B) and (C) above, the more stringent standard shall apply.

32. RESTRICTIONS ON LOBBYING – FEDERAL REQUIREMENT:

This Agreement is subject to 24 C.F.R. 87 which prohibits the payment of Federal funds to any person for influencing or attempting to influence, any public officer or employee in connection with the award, making, entering into, extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

COMPANY
a (California corporation, LP, LLC,
GP, sole proprietor/individual)

CITY OF ALAMEDA
a municipal corporation

NAME
TITLE

Jennifer Ott
City Manager

NAME
TITLE

RECOMMENDED FOR APPROVAL

Allen Tai
Planning, Building and Transportation
Director

APPROVED AS TO FORM:
City Attorney

Celena H. Chen
Chief Planning Counsel

SAMPLE

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 10 10 93

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED - OWNERS, LESSEES or PROVIDERS FORM B

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name of Person or Organization:

City of Alameda
2263 Santa Clara Avenue
Alameda, CA 94501

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

REF: _____

The City of Alameda, its City Council, boards and commissions, officers & employees are additional insured for work done on their behalf by the named insured.

PRIMARY INSURANCE:

IT IS UNDERSTOOD AND AGREED THAT THIS INSURANCE IS PRIMARY AND ANY OTHER INSURANCE MAINTAINED BY THE ADDITIONAL INSURED SHALL BE EXCESS ONLY AND NOT CONTRIBUTING WITH THIS INSURANCE.

SEVERABILITY OF INTEREST:

IT IS AGREED THAT EXCEPT WITH RESPECT TO THE LIMIT OF INSURANCE, THIS COVERAGE SHALL APPLY AS IF EACH ADDITIONAL INSURED WERE THE ONLY INSURED AND SEPARATELY TO EACH INSURED AGAINST WHOM CLAIM IS MADE OR SUIT IS BROUGHT.

WAIVER OF SUBROGATION:

IT IS UNDERSTOOD AND AGREED THAT THE COMPANY WAIVES THE RIGHT OF SUBROGATION AGAINST THE ABOVE ADDITIONAL INSURED (S), BUT ONLY AS RESPECTS THE JOB OR PREMISES DESCRIBED IN THE CERTIFICATE ATTACHED HERETO.

NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

POLICY NUMBER:

COMMERCIAL AUTO
CG 20 48 02 99

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

DESIGNATED INSURED

This endorsement modifies insurance provided under the following:

- BUSINESS AUTO COVERAGE FORM
- GARAGE COVERAGE FORM
- MOTOR CARRIER COVERAGE FORM
- TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by this endorsement.

This endorsement identifies person(s) or organization(s) who are "insureds" under the Who Is An Insured Provisions of the Coverage Form. This endorsement does not alter coverage provided in the Coverage Form.

This endorsement changes the policy effective on the inception date of the policy unless another date is indicated below.

Endorsement Effective:	Countersigned By: (Authorized Representative)
Named Insured:	

SCHEDULE

SAMPLE

Name of Person or Organization:
 City of Alameda
 2263 Santa Clara Avenue
 Alameda, CA 94501-7558

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of your ongoing operations performed for that insured.

REF: _____

The City of Alameda, its City Council, boards and commissions, officers, employees and volunteers are additional insured for work done on their behalf by the named insured.

NOTICE OF CANCELLATION:

IT IS UNDERSTOOD AND AGREED THAT IN THE EVENT OF CANCELLATION OF THE POLICY FOR ANY REASON OTHER THAN NON-PAYMENT OF PREMIUM, 30 DAYS WRITTEN NOTICE WILL BE SENT TO THE CERTIFICATE HOLDER BY MAIL. IN THE EVENT THE POLICY IS CANCELED FOR NON-PAYMENT OF PREMIUM, 10 DAYS WRITTEN NOTICE WILL BE SENT TO THE ABOVE.

Exhibit B: Draft Licensing Agreement

LICENSE AGREEMENT

BY AND BETWEEN

CITY OF ALAMEDA,

a charter city and municipal corporation

AS LICENSOR

and

_____,

AS LICENSEE

Table of Contents

1.	DEFINITIONS.....	6
2.	GRANT OF LICENSE	6
3.	TERM; TERMINATION.....	7
4.	LICENSE FEES.....	9
5.	TAXES AND OPERATING EXPENSES.....	9
6.	ELECTRIC VEHICLE CHARGING STATIONS.....	10
7.	INTELLECTUAL PROPERTY; PUBLICITY	15
8.	REPRESENTATIONS AND WARRANTIES; COVENANTS	16
9.	USE; COMPLIANCE WITH LAWS	17
10.	UTILITIES.....	18
11.	ENVIRONMENTAL PROTECTION PROVISIONS	18
12.	INDEMNITY AND WAIVER OF CLAIMS	21
13.	INSURANCE.....	22
14.	PROHIBITION AGAINST TRANSFERS.....	25
15.	SURRENDER.....	25
16.	NONDISCRIMINATION.....	25
17.	PERMITS AND LICENSES	25
18.	SUBMISSION OF NOTICES	26
19.	CONDITION OF LICENSE AREA.....	26
20.	HOLDING OVER	26
21.	SAFETY	26
22.	DEFAULT:	27
23.	WAIVER OF RELOCATION ASSISTANCE.....	28
24.	MISCELLANEOUS:	28

Index of Exhibits

Exhibit

A LICENSE AREA

B CHARGING STATION DETAILS

License Agreement

Basic License Information

License Date:	Dated as of _____, 20__ for reference purposes only	
Licensor:	City of Alameda, a charter city and municipal corporation	
Licensor's Address:	City of Alameda Alameda City Hall 2263 Santa Clara Ave. Room 190 Alameda, CA 94501 Tel: (510) 748-4509 Attn: Danielle Mieler Notice Copy to: RiverRock Real Estate Group, as Agent for City of Alameda 950 W. Mall Square, Suite 239 Alameda, CA 94501 Tel: (510) 749-0304	
Licensee:		
Licensee's Address:		
License Area:	See Exhibit A	
Building:	N/A	
Length of Term:	One Hundred Twenty (120) months	
Estimated Commencement Date:	_____	
Estimated Expiration Date:	_____	
License Fee:	Months	Monthly License Fee
	1-12	\$75.00 per Direct Current Electric Vehicle Charging Station; \$25 per dual port (\$12.50 per single port) Alternating Current Electric Vehicle Charging Station

	13-120	Increases annually per local CPI index
Taxes and Utilities:	Licensee shall pay all costs for services and utilities for the Electric Vehicle Charging Stations, as defined herein. Licensee shall pay all taxes (including possessory interest taxes) levied on or against the Electric Vehicle Charging Stations or any other equipment installed by it in the License Area.	
Licensee's Share:	N/A	
Security Deposit:	N/A	
Permitted Use:	Electric Vehicle Charging Stations	
Parking:	N/A	
Brokers:	Cushman and Wakefield	

LICENSE AGREEMENT

THIS LICENSE AGREEMENT is entered into this ___ day of _____, 20___ (“**Effective Date**”), by and between the CITY OF ALAMEDA, a municipal corporation (“the **City**”), and COMPANY, a [STATE corporation, LLC, LP, GP, or sole proprietor/individual], whose address is ADDRESS (“**Licensee**”), in reference to the following facts and circumstances. The Basic License Information, the Exhibits and this License Agreement are and shall be construed as a single instrument and are referred to herein as the “**Agreement**”.

RECITALS

- A. The City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. Licensee provides a variety of vehicle charging and support services to owners of electric plug-in vehicles (“EVs”);
- C. Having Electric Vehicle Charging Stations onsite allows City to differentiate its location, attract high-value customers, and promote sustainable and environmentally-sound transportation;
- D. City desires to participate in Licensee’s network of Electric Vehicle Charging Stations; and
- E. This Agreement sets forth the parties’ agreement with respect to City’s grant of the License to Licensee.

LICENSE AGREEMENT

1. DEFINITIONS

The following terms, when used in this Agreement, whether singular or plural, shall have the meanings specified:

“Project” means all activities associated with the Scope of Work identified in Exhibit B including, but not limited to, installation, operation, and maintenance of the Charging Stations.

2. GRANT OF LICENSE

- 2.1. City Property. The City is the owner of the property described in Exhibit A, attached hereto and incorporated herein by reference (the “City Property”).
- 2.2. Grant of License. As specified in the Basic License Information and described herein, in consideration for the License Fee and all other charges and payments payable by Licensee, and for the terms and conditions to be performed by Licensee in this Agreement, and for other good and valuable consideration, the sufficiency of which is acknowledged, Licensor hereby grants permission to Licensee to occupy a certain

portion of City Property specifically identified in Exhibit A and herein referred to as the “License Area” for the purposes described in this Agreement, including but not limited to those described in Section 2.3 below.

- 2.3. Use of License Area. The License includes use of the License Area and the areas of City Property that are reasonably necessary to provide ingress and egress to and from the License Area and the Electric Vehicle Charging Stations (as defined below) for the purposes of the construction, installation, maintenance, repair and operation of the Electric Vehicle Charging Stations by Licensee; and for any ancillary uses permitted herein, all in accordance with this Agreement (collectively the “Necessary Space”). Access to and upon the License Area and City Property shall be done in such a manner as to allow the City continued reasonable rights of ingress and egress.
- 2.4. City Obligations. Subject to limitations contained herein, City agrees to, at all reasonable times, make the License Area and Necessary Space available to Licensee, its subcontractors and vendors, and all users of the Electric Vehicle Charging Stations.
- 2.5. No Representations. Licensee accepts the License Area in “AS-IS” condition “WITH ALL FAULTS” without any representations or warranties by Licensor, and with no obligation of Licensor to make alterations or improvements to the License Area. Licensee acknowledges that neither Licensor nor any agent of Licensor has made any representation or warranty with respect to the suitability of the License Areas for the conduct of Licensee’s business. Licensor shall not be liable for any latent or patent defects in the License Area. If required for the conduct of Licensee’s business, Licensee shall be responsible for requesting an inspection and obtaining a Certificate of Occupancy from the City of Alameda.
- 2.6. No Interest in Land Granted. Nothing herein shall be deemed to grant to Licensee any fee interest, leasehold, or other possessory interest in the City Property, or any portion thereof, or any exclusive right or special status to negotiate or purchase. This Agreement grants a limited revocable license upon specified terms and no more.

3. TERM; TERMINATION

3.1. License Term.

- 3.1.1. The term (“Initial Term”) of the License shall commence on the Effective Date and, subject to the provisions of Section 3.2 below, end on the date that is five (5) years from the Commencement Date (as extended from time to time, the “License Expiration Date”). The “Commencement Date” shall mean the date on which the first Electric Vehicle Charging Station is operational.
- 3.1.2. The City and Licensee shall have the right to extend the Initial Term of this Agreement for up to two (2) terms of five (5) years each in accordance with the terms and provisions of this Agreement (collectively “Extended License Term”) if the two parties mutually agree to the extension by providing written notice to each of the parties intent to extend the Initial Term within one hundred eighty (180) days

of the end of the existing Term. The Extended License Term shall begin immediately following the end of the Initial Term. During the Extended License Term, Licensee shall pay Owner the License Fee. The Initial Term together with the Extended License Term shall be referenced collectively herein as the "Term".

3.2. Termination.

3.2.1. Upon Certain Events. This Agreement may be terminated upon thirty (30) days' written notice to either party without penalty or fee in any of the following circumstances:

3.2.1.1. In the case of termination by Licensee, in the event that the Commencement Date has not yet occurred for a specific Location listed on Schedule I, Licensee may elect to forgo development or modify the number and type of charging stations as it pertains only to that specific Location if Licensee determines, at its sole discretion, that the installation is impracticable or uneconomical by providing written notice to Licensor; and

3.2.1.2. In the case of termination by City, in the event the Commencement Date of any Location listed in Schedule I has not occurred within 24 months following this Agreement Date, Licensor may terminate the contract as it pertains only to that specific Location; provided that the foregoing right shall terminate upon the Commencement Date of that specific Location listed in Schedule I. Notwithstanding the foregoing, the City may not terminate the agreement for any Location if Licensee has commenced construction ("Commenced Construction" shall mean the date Licensee's contractors first begin site preparation for construction) for that Location. However, the right to terminate at a specific location which has Commenced Construction shall be restored if six months have elapsed after the date of Commenced Construction and there have been no delay issues related to the utility or Licensee's suppliers.

3.2.2. For Cause. This Agreement may be immediately terminated for cause by either party in the event of the following circumstances:

3.2.2.1. *Breaches by Licensee.* The occurrence of a Default pursuant to Section 22.1.

3.2.2.2. *Breaches by City.* The City breaches or fails to perform any of its obligations in any material respect, and such breach or failure continues uncured for thirty (30) calendar days after receipt of written notice.

3.2.2.3. *Assigns.* The Licensee attempts to assign or otherwise transfer its rights, obligations, or duties under this Agreement except as provided in Section 14 below.

3.2.2.4. *Insolvent.* The other party become insolvent or proceedings are instituted by or against it under any provisions of any federal or state bankruptcy or insolvency laws.

3.2.3. License Area on Termination. Within ninety (90) calendar days following the expiration of the Term or termination under Section 3.2, Licensee shall remove, at its sole cost and expense, the Electric Vehicle Charging Stations and any other supporting or ancillary equipment installed by Licensee from the License Area and restore the affected area to its former condition, excluding ordinary wear and tear; provided, however, that any underground electrical wiring shall be capped off and secured, but not removed. For the avoidance of doubt, Licensee will not remove any equipment installed by a utility, which may include but may not be limited to: transformers, junction boxes, primary cable and conduit and electric meters and panels. Notwithstanding the foregoing, the parties may elect for City to take possession and ownership of the Electric Vehicle Charging Stations for an agreed upon price.

3.2.3.1. No Further Obligations. Upon any termination pursuant to this ARTICLE 3, both parties are relieved of any further obligations contained in this Agreement, except for those that by their nature survive or may require performance after termination (e.g., indemnity).

4. LICENSE FEES

4.1. Base License Fee. Licensee agrees to pay City a license fee (the “License Fee”) of Seventy Five (\$75) per installed Direct Current Electric Vehicle Charging Station (as defined below) and Twenty Five Dollars (\$25) per dual port (\$12.50 per single port) “Level II” Alternating Current Electric Vehicle Charging Station port, per month as consideration for the License herein for the first year of operation (commencing with the completion of the first Electric Vehicle Charging Station). For each subsequent year, the License Fee will increase for each Electric Vehicle Charging Station (including with respect to any subsequently installed Electric Vehicle Charging Station) consistent with the locally applicable consumer price index adjustment.

4.2. Additional Fees. As used in this License, the term “Additional Fees” shall mean all sums of money that are due and payable by Licensee under the terms of this Agreement, other than the base License Fee. The term “Fees,” as used herein, shall mean the License Fee and, Additional Fees and all other amounts payable hereunder from Licensee to Licensor. Unless otherwise specified herein, all Fees shall be due and payable by Licensee on or before the date that is thirty (30) days after billing by Licensor.

4.3. Security Deposit. Waived.

5. TAXES AND OPERATING EXPENSES

5.1. Taxes

- 5.1.1. Personal Property and Possessory Interest Taxes. Licensor shall pay all Taxes (as hereinafter defined) levied or imposed against the Electric Vehicle Charging Stations or Licensee's equipment, personal property or trade fixtures placed by Licensee in or about the License Areas during the Term ("**Personal Property Taxes**"). In addition, if the interest created by this License is subject to property taxation under the laws of the State of California, the party in whom the possessory interest is vested may be subject to the payment of the taxes levied on such interest. This notice is included in this License pursuant to the requirements of section 107.6 (a) of the Revenue and Taxation Code of the State of California.
- 5.1.2. Payment. Licensee shall pay the Personal Property Taxes or possessory interest taxes in accordance with the instructions of the taxing entity. Licensee shall pay the Personal Property Taxes, if any, originally imposed upon Licensor, upon Licensor's election, either (a) annually within thirty (30) days after the date Licensor provides Licensee with a statement setting forth in reasonable detail such Taxes, or (b) monthly in advance based on estimates provided by Licensor based upon the previous year's tax bill. All Personal Property Taxes originally imposed upon Licensor and payable by Licensee with respect to the License Area shall be prorated on a per diem basis for any partial tax year included in the Term. Licensee's obligation to pay Taxes during the last year of the Term shall survive the expiration or termination of this License.

6. ELECTRIC VEHICLE CHARGING STATIONS

6.1. Electric Vehicle Charging Stations; Ancillary Facilities.

- 6.1.1. The design, make, model, and manufacturer of the Electric Vehicle Charging Stations (each an "Electric Vehicle Charging Station" or "Charging Station") and their number and approximate locations are specified in Exhibit B. This includes both Direct Current Electric Vehicle Charging Stations (aka DC Fast Chargers) and Level II Alternating Current Electric Vehicle Charging Stations. Any additional charging stations installed on City Property shall be pursuant to further mutual written agreement between the parties. Licensee, at any time and for any reason during the Term, may elect to upgrade, revise, alter, or swap any Charging Station installed in the License Area with the City's permission and City, if permission is granted, shall provide Licensee access to the License Area as necessary to do so.
 - 6.1.2. For purposes of this Agreement, "Electric Vehicle Charging Station" shall mean all electrical equipment, hardware, and software installed by Licensee, all Licensee signage and all supporting equipment and structures, including without limitation concrete pads and protective bollards.
- 6.2. Additional Services. Licensee may, subject to the City's prior written approval, include at the License Area other additional services related to charging of electric vehicles, equipment or facilities for automobile upkeep that Licensee may elect to offer its

customers from time to time during the Term. Additionally, Licensee and its employees and vendors may, subject to the City's prior written approval, perform security assessments and install (or add additional) reasonable security features at the Electric Vehicle Charging Stations, including, without limitation, lighting and cameras.

- 6.3. Access. Licensee, its subcontractors and vendors shall have access to the License Area and Necessary Space twenty-four (24) hours per day, seven (7) days per week, and 365/366 days per year. Licensee and its employees and vendors may, at any time during the Term, access the License Area and City Property to maintain, inspect, repair or replace any portion of the Electric Vehicle Charging Stations pursuant to its obligations under this Agreement. In the event that the actions of City, its officers, agents, employees, contractors, or assigns prevent or limit access for more than two (2) consecutive days after City's receipt of written notice thereof, the total monthly License Fee owed under Section 4.1 shall be reduced by the pro rata value of the monthly License fee attributable to each day that access is limited or prevented, for so long as such interruption may last, except as provided by Section 24.15 herein. Any reduction of the License Fee under this paragraph may be deducted from the License Fee paid the following month.
- 6.4. Signage. Signage at minimum will include what is legally required by law for electric vehicle charging stalls. Additionally, Licensee may paint, place, erect, or project signs, marks, or advertising devices in, on, or about the License Area or elsewhere on the City Property upon obtaining City's written consent (which may be granted or denied in City's reasonable discretion). Licensee shall, at its own cost and expense, obtain any and all permits necessary for the installation of its signs, and Licensee shall be solely responsible for all costs and expenses associated with such permitting, the erection of such sign(s), and the maintenance and operation thereof. Further, Licensee and City also agree to place signage on or around the Electric Vehicle Charging Station, designating the area as "Electric Vehicle Charging Only," and will take reasonable measures to discourage non-EV vehicles from parking in the License Area, including, without limitation, ticketing and/or towing.
- 6.5. Installation.
 - 6.5.1. Licensee shall, at its sole cost and expense, be solely responsible for supervising or conducting the design, engineering, permitting, construction and installation activities for the Direct Current Electric Vehicle Charging Station, including both Direct Current Electric Vehicle Charging Stations and Level II Alternating Current Electric Vehicle Charging Stations, and, as between the parties, Licensee has sole control over construction, construction schedule, and installation means, methods, techniques, sequences, and procedures, including the coordination of all work. Any construction and installation activities must be performed by a licensed contractor.
 - 6.5.2. Licensee shall be solely responsible for all installation activities, as well as all other activities as set forth in this Agreement required to support the operation of the charging stations and services therewith, for the Electric Vehicle Charging Station, including furnishing all permits, materials, equipment, and labor required for the

installation, maintenance, operation, any necessary replacement, and removal of the Electric Vehicle Charging Station. This includes but is not limited to all work related to the development of plans and documents for the Electric Vehicle Charging Stations, including plans and documents for supplying power to the Electric Vehicle Charging Stations per all applicable laws and regulations, including applicable utility standards and the requirements of governmental agencies with jurisdiction. Except as may otherwise be limited by law, Licensee shall be responsible for all loss and damage, directly and indirectly, which may arise out of the services provided in this Agreement, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the work, unless such loss or damage arises, solely or in part, due to the negligence, recklessness, or intentional conduct of City, in which case the Parties shall be responsible for such loss or damage in proportion to their respective degrees of fault. Following the installation, Licensee shall activate and test the Electric Vehicle Charging Stations.

- 6.5.3. Before beginning activities to install the Electric Vehicle Charging Stations in the License Area, Licensee shall give a copy of the tentative construction schedule, installation plans, Charging Station specifications, and Charging Station locations to City for its approval, which is not to be unreasonably withheld. No work will begin until approvals by the City and all applicable permits and certifications have been obtained. Once all insurance coverages required by this Agreement are in place, Licensee will oversee and manage the installation of the Electric Vehicle Charging Station, including the hiring and coordination of all vendors and contractors; the installation of electrical equipment, utility lines, hardware, and software; site preparation, trenching, repaving, and landscaping; and installation of all Licensee branded signage.
- 6.5.4. Licensee will obtain from applicable governmental authorities all licenses, permits, or other approvals required to install the Electric Vehicle Charging Station, and City will reasonably cooperate upon request with Licensee's efforts to do so.
- 6.5.5. City grants to Licensee and its employees and vendors the non-exclusive right to use and occupy the License Area and City Property for the construction, installation, maintenance, and operation of the Electric Vehicle Charging Station, and shall confine its operations strictly to those sites permitted by applicable law, ordinances, permits, City, and the terms of this Agreement. Only those materials and equipment that are being used directly in the construction and installation of Electric Vehicle Charging Station shall be brought to and stored on the License Area and City Property. Licensee shall ensure that, subject to reasonable and unavoidable interruptions, all work is performed in a manner that affords continuous, reasonable access to City Property.
- 6.5.6. Licensee will not permit or suffer any mechanic's or materialmen's liens to attach to the License Area or City Property as a result of the installation of the Electric Vehicle Charging Station. If such a lien attaches to the License Area or City Property, Licensee shall remove or bond over such lien at Licensee's sole cost and

expense, within twenty (20) days of Licensee receiving written notice thereof from City.

- 6.5.7. Ownership of Intellectual Property and Charging Stations. Licensee owns all worldwide right, title, and interest in and to the Electric Vehicle Charging Station, its related hardware, software, and all derivatives thereof; any processes, relationships, and contracts associated therewith; all related graphics, user interfaces, logos, and trademarks reproduced during its operation; and all Intellectual Property rights therein. City hereby assigns all such rights to Licensee and agrees to execute any documents desirable to effectuate or evidence the foregoing. The foregoing rights shall vest with Licensee upon the Effective Date and shall remain with Licensee in perpetuity absent Licensee's disposing or transferring of such rights at its sole discretion.
- 6.5.8. Licensee is aware of the requirements of California Labor Code Sections 1720 et seq. and 1770 et seq., which require the payment of prevailing wage rates and the performance of other requirements on certain "public works" and "maintenance" projects ("Prevailing Wage Laws"). If the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by the Prevailing Wage Laws, Licensee agrees to fully comply with such Prevailing Wage Laws. Licensee shall defend, indemnify and hold the City, its officials, officers, employees and agents free and harmless from any claims, liabilities, costs, penalties or interest arising out of any failure or alleged failure to comply with the Prevailing Wage Laws. It shall be mandatory upon Licensee and all subcontractors to comply with all California Labor Code provisions, which include but are not limited to prevailing wages (Labor Code Sections 1771, 1774 and 1775), employment of apprentices (Labor Code Section 1777.5), certified payroll records (Labor Code Sections 1771.4 and 1776), hours of labor (Labor Code Sections 1813 and 1815) and debarment of contractors and subcontractors (Labor Code Section 1777.1). If the services are being performed as part of an applicable "public works" or "maintenance" project and if the total compensation is \$15,000 or more for maintenance or \$25,000 or more for construction, alteration, demolition, installation, or repair, then pursuant to Labor Code Sections 1725.5 and 1771.1, Licensee and all contractors performing such services must be registered with the Department of Industrial Relations. Licensee shall maintain registration for the duration of the project and require the same of any contractors, as applicable. This Agreement may also be subject to compliance monitoring and enforcement by the Department of Industrial Relations. It shall be Licensee's sole responsibility to comply with all applicable registration and labor compliance requirements.
- 6.6. Operation and Maintenance. Except as otherwise provided in this Agreement, Licensee will, at its sole cost and expense, maintain and operate the Electric Vehicle Charging Station, including maintaining the cleanliness and proper working order of the Electric Vehicle Charging Stations and License Area at all times, ensuring the proper care and maintenance of the area immediately surrounding the Electric Vehicle Charging Stations, making all necessary repairs, arrange for appropriate remote monitoring, and obtaining and installing appropriate software and hardware upgrades. Licensee shall

regularly provide inspection services to ensure all equipment is properly checked, tested, and activated for safe and proper operation. Licensee shall create a network communications system capable of monitoring the Electric Vehicle Charging Stations for errors or malfunction at all times. Licensee shall address repairs or replacements of non-functioning Electric Vehicle Charging Stations within five (5) calendar days of notice of such issues. Licensee shall, other than expressly stated herein, be the sole beneficiary of all revenues and costs associated with the foregoing. All damage or injury to the Electric Vehicle Charging Stations, whether requiring structural or nonstructural repairs, shall be repaired by Licensee at Licensee's sole cost and expense, to the condition that existed before the damage.

- 6.7. User Fee. Licensee will charge users a fee that shall not exceed a 30% maximum mark-up over the highest Blended Rate over the previous Calendar Year per kilowatt-hour to Licensee "the Maximum Mark-up", unless approved by the City. The Blended Rate is calculated by dividing the total amount of Licensee's operating costs including, but not limited to, administrative, network, maintenance as well as fixed and variable costs associated with electricity delivered to the charging station by the total kilowatt-hours consumed during the billing statement. However, the calculation of Licensee's operating costs for a given Calendar Year associated specifically with the following type of costs shall not exceed:

Administrative: \$0.10/kWh

Network: \$0.10/kWh

License Fees: \$0.10/kWh

Maintenance: \$0.10/kWh

User Fees: \$0.03/kWh

For avoidance of doubt, there will be no cap on the calculation of electricity related costs as they pertain to the determination of the Maximum Mark-up.

- 6.8. City Obligations. City shall, at its sole cost and expense:

- 6.8.1. Take all actions necessary to maintain the License Area in a clean, safe, and orderly condition, to at least the same standard as it customarily maintains the common areas at the City Property, including, without limitation, parking lot sweeping, parking lot repaving and restriping, and maintenance and repair of curbs, gutters and landscaping features within the License Area. In addition, City shall take reasonable precautions to protect the Electric Vehicle Charging Station from graffiti and other vandalism. For the avoidance of doubt, City shall be under no obligation to maintain the Electric Vehicle Charging Station, signage or any other equipment installed by Licensee within the License Area. To the extent City has actual knowledge of the same, City shall promptly notify Licensee and, as appropriate, emergency response personnel regarding any malfunction of the Electric Vehicle Charging Station. City shall make commercially reasonable efforts

to accommodate any reasonable request by Licensee in connection with the operation of the Charging Station.

6.8.2. City shall cooperate with Licensee to obtain electricity and any other utilities necessary to operate the Electric Vehicle Charging Station, including by granting appropriate easements to local utility providers and/or obtaining necessary easements from adjacent property owners for the location of necessary utilities; provided, however, that City is not required to pay money to satisfy the requirements of the utility, the adjoining landowner or Licensee associated with the provision of such utilities.

6.9. Taxes. Licensee is solely responsible for personal property, possessory interest, income, franchise and similar taxes imposed on the Electric Vehicle Charging Station, and any other equipment installed by it, that is located in the License Area.

6.10. Compliance with Laws. Licensee and its contractors shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local government, including the California Fair Employment and Housing Act, the American with Disabilities Act, Cal/OSHA requirements, and all laws and regulations prohibiting discrimination because of age, ancestry, color, creed, denial of family and medical care leave, disability, marital status, medical condition, national origin, race, religion, sex, or sexual orientation. Licensee shall comply with the prevailing wage provisions of the Labor Code, and the Political Reform Act provisions of the Government Code.

6.11. Qualifications. Licensee represents and maintains that it is skilled in the professional calling necessary to perform the services required by this Agreement. Licensee's services will be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. Licensee warrants that all employees and contractors shall have sufficient skill and experience to perform the work assigned to them. Licensee represents that it, its employees, and contractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services required by this Agreement, including a City of Alameda business license, and that such licenses and approvals shall be maintained throughout the term of this Agreement.

7. INTELLECTUAL PROPERTY; PUBLICITY

7.1. Intellectual Property. As used in this Agreement, "Intellectual Property" means all copyrights, patents, trademarks and service marks, names, logos, designs, domain names, generic Top-Level Domain names, all registrations for copyrights, patents, trademarks and service marks/names, domain names, generic Top-Level Domain names, trade secrets, know-how, and all unique concepts, information, data and knowledge that is eligible for legal protection under applicable laws as intellectual property, whether protected through confidentiality, registration or pending registration, regardless of form, whether disclosed in writing, electronically, orally or through visual means, whether learned or obtained orally, through observation, through the discharge

of responsibilities under this Agreement, or through analysis of that information, data or knowledge.

7.1.1. *City Intellectual Property.* The parties agree that, as between them, City has and retains ownership of all of City's Intellectual Property, and Licensee has no right, and shall not obtain any right, in any City Intellectual Property.

7.1.2. *Licensee Intellectual Property.* The parties agree that, as between them, Licensee has and retains ownership of all of Licensee's Intellectual Property, and City has no right, and shall not obtain any right, in any Licensee Intellectual Property.

7.2. Ownership of Drawings and Other Documents. All documents prepared by or under the direction of Licensee pursuant to this Agreement, including, without limitation, drawings, surveys, technical drawings, specifications, and other documents, including those in electronic format, are solely and exclusively Licensee Intellectual Property, and Licensee retains all common law, statutory and other reserved rights, including the copyright.

7.3. Publicity.

7.3.1. Licensee and City may make general press releases and statements, hold press conferences, both through traditional and electronic media, including websites created by Licensee or other third parties, regarding the execution of this Agreement and the status of the activities contemplated herein, provided each has the ability to review and approve in advance the other's public statements and any use of the other's Intellectual Property in connection therewith.

7.3.2. Notwithstanding anything to the contrary within this Agreement, Licensee may advise mapping services, the manufacturers of vehicle navigation systems, map data providers, and other third-parties of the existence, location, and other details of the Electric Vehicle Charging Stations at the License Area so that such services and manufacturers may include such information in connection with their mapping and listing services and navigation systems; and Licensee may disclose to the public information about the location of the Electric Vehicle Charging Stations and the progress of its construction as required by governmental authorities. In addition, the parties may provide copies of this Agreement or portions hereof to utility providers, governmental authorities, and/or third parties referenced in Section 8.2.1 as reasonably necessary or desirable to facilitate or effectuate the intents and purposes of this Agreement.

8. REPRESENTATIONS AND WARRANTIES; COVENANTS

8.1. Representations and Warranties. Each of City and Licensee hereby represents and warrants to the other as of the Effective Date that: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, rule, regulation, order, judgment, or other

legal or regulatory determination applicable to it; (c) there is no pending or, to its knowledge, threatened litigation or administrative proceeding that may materially adversely affect its ability to perform this Agreement; (d) it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing; (e) this Agreement constitutes a legal, valid and binding obligation of such party, except as the enforceability of this Agreement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity; and (f) at all times during the Term, it will comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes) in performing its obligations under this Agreement.

8.2. Rights to City Property. Permitted Uses on City Property.

8.2.1. City further represents, warrants and covenants that it has obtained or it shall obtain any and all consents, permits or approvals required in order for City to grant the License and other rights and perform its obligations under this Agreement, and for Licensee to take the actions with respect to the License Area contemplated in this Agreement, from any third parties: (i) with an interest in the City Property (including, without limitation, any owner, lender, lessee, ground lessor, or any party to any reciprocal easement agreement); (ii) whose consent is otherwise required under conditions, covenants and restrictions documents, declarations or similar agreements affecting the City Property: or who exercise governmental or regulatory jurisdiction over the City Property, including local and state governments. When obtaining consent, permit or permissions is required, City and Licensee shall use cooperative commercially reasonable efforts to contact and educate the applicable third parties of the terms, conditions, and benefits of the activities proposed to be taken pursuant to this Agreement. As part of that effort, the parties will, on request, include applicable necessary third parties as additional named insureds on the insurance policies required by ARTICLE 13 and Licensee will offer appropriate indemnities on terms similar to those stated in ARTICLE 12 to satisfy reasonable third party requests and concerns regarding the Electric Vehicle Charging Stations and related items, and take other commercially reasonable steps required to obtain any required consent, permits or permissions of those third parties that is consistent with this Agreement.

8.2.2. City further represents and warrants that there are no liens, judgments, encumbrances or other impediments of title on the City Property that would adversely affect the use or occupancy of the License Area by Licensee pursuant to this Agreement, and during the Term of this Agreement covenants to maintain the City Property free of any such liens, judgments, encumbrances or other impediments.

9. USE; COMPLIANCE WITH LAWS

9.1. Compliance with Laws. Licensee shall comply with all laws, ordinances, rules, regulations and codes, of all municipal, county, state and federal authorities, including

(to the extent applicable) the Americans With Disabilities Act, as amended (42 U.S.C. Section 1201 et seq. [the “ADA”]) (collectively, “Laws”) pertaining to Licensee’s use and occupancy of the License Area. Licensee shall not commit, or suffer to be committed, any waste upon the License Area, or any public or private nuisance.

10. UTILITIES

10.1. Payments for Utilities and Services. Rate at which Licensee shall reimburse City for electricity, if applicable (not separately metered):

Unit	Unit cost
kWh	The current kWh rate the City pays the utility provider.

10.2. No Liability of Licensor. In no event shall Licensor be liable or responsible for any loss, damage, expense or liability, including, without limitation, loss of business or any consequential damages, arising from any failure or inadequacy of any service or utility provided to the License Area, whether resulting from any change, failure, interference, disruption or defect in supply or character of the service or utility provided to the License Area, or arising from the partial or total unavailability of the service or utility to the License Area, from any cause whatsoever, or otherwise, nor shall any such failure, inadequacy, change, interference, disruption, defect or unavailability constitute an actual or constructive eviction of Licensee, or entitled Licensee to any abatement or diminution of License Fees or otherwise relieve Licensee from its obligations under this License.

10.3. Limitation of Liability. In no event shall either party be liable (in contract or in tort, including negligence and strict liability) to such other party or its Related Parties for any special, indirect or consequential damages relating to the Agreement. The entire liability of each party for any and all claims of any kind arising from or relating to the Agreement will be subject in all cases to an affirmative obligation on the part of the other party to mitigate its damages.

11. ENVIRONMENTAL PROTECTION PROVISIONS

11.1. Hazardous Materials. “**Hazardous Materials**” shall mean any material, substance or waste that is or has the characteristic of being hazardous, toxic, ignitable, reactive, flammable, explosive, radioactive or corrosive, including, without limitation, petroleum, solvents, lead, acids, pesticides, paints, printing ink, PCBs, asbestos, materials commonly known to cause cancer or reproductive problems, and those materials, substances and/or wastes, including wastes which are or later become regulated by any local governmental authority in the state in which the License Area is located or the United States Government, including, but not limited to, substances defined as “hazardous substances,” “hazardous materials,” “toxic substances” or

“hazardous wastes” in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. §9601, et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §1801, et seq.; the Resource Conservation and Recovery Act; all environmental laws of the state where the Station is located, and any other environmental law, regulation or ordinance now existing or hereinafter enacted. **“Hazardous Materials Laws”** shall mean all present and future federal, state and local laws, ordinances and regulations, prudent industry practices, requirements of governmental entities and manufacturer’s instructions relating to industrial hygiene, environmental protection or the use, analysis, generation, manufacture, storage, presence, disposal or transportation of any Hazardous Materials, including without limitation the laws, regulations and ordinances referred to in the preceding sentence.

11.2. Reportable Uses Required Consent. Except as permitted in this Section 11, Licensee hereby agrees that Licensee and Licensee’s officers, employees, representatives, agents, contractors, subcontractors, successors, assigns, vendors, concessionaires, invitees and any other occupants of the License Area (for purposes of this Section 11, referred to collectively herein as **“Licensee’s Representatives”**) shall not cause or permit any Hazardous Materials to be used, generated, manufactured, refined, produced, processed, stored or disposed of, on, under or about the License Area or transport to or from the License Area without the express prior written consent of Licensor, which consent may be limited in scope and predicated on strict compliance by Licensee of all applicable Hazardous Materials Laws and such other reasonable rules, regulations and safeguards as may be required by Licensor (or any insurance carrier, environmental consultant or lender of Licensor, or environmental consultant retained by any lender of Licensor) in connection with using, generating, manufacturing, refining, producing, processing, storing or disposing of Hazardous Materials on, under or about the License Area. In connection therewith, Licensee shall, at its own expense, procure, maintain in effect and comply with all conditions of any and all permits, licenses and other governmental and regulatory approvals required for the storage or use by Licensee or any of Licensee’s Representatives of Hazardous Materials on the License Area, including without limitation, discharge of (appropriately treated) materials or wastes into or through any sanitary sewer serving the License Area. The foregoing notwithstanding, Licensee may use ordinary and customary materials reasonably required to be used in the course of the Permitted Use, ordinary office supplies (copier, toner, liquid paper, glue, etc.), common household cleaning materials and gasoline and oil in vehicle tanks, so long as such use is in compliance with all Hazardous Materials Laws and does not expose the License Area or neighboring property to any meaningful risk of contamination or damage or expose Licensor to any liability therefor.

11.3. Remediation Obligations. If at any time during the Term, any contamination of the License Area by Hazardous Materials shall occur where such contamination is caused by the act or omission of Licensee or Licensee’s Representatives (**“Licensee’s Contamination”**), then Licensee, at Licensee’s sole cost and expense, shall promptly and diligently remove such Hazardous Materials from the License Area or the groundwater underlying the License Area to the extent required to comply with applicable Hazardous Materials Laws. Licensee shall not take any required remedial action in response to any Licensee’s Contamination in or about the License Area or

enter into any settlement agreement, consent, decree or other compromise in respect to any claims relating to any Licensee's Contamination without first obtaining the prior written consent of Licensor, which may be subject to conditions imposed by Licensor as determined in Licensor's sole discretion. Such prior written consent shall not be required to the extent the delay caused by the requirement to obtain consent may increase the damage to the License Area or the risk of harm to human health, safety or security caused by the Licensee Contamination. Licensor and Licensee shall jointly prepare a remediation plan in compliance with all Hazardous Materials Laws and the provisions of this License. In addition to all other rights and remedies of Licensor hereunder, if Licensee does not promptly and diligently take all steps to prepare and obtain all necessary approvals of a remediation plan for any Licensee's Contamination, and thereafter commence the required remediation of any Hazardous Materials released or discharged in connection with Licensee's Contamination within thirty (30) days after all necessary approvals and consents have been obtained, and thereafter continue to prosecute such remediation to completion in accordance with the approved remediation plan, then Licensor, at its sole discretion, shall have the right, but not the obligation, to cause such remediation to be accomplished, and Licensee shall reimburse Licensor within fifteen (15) business days of Licensor's demand for reimbursement of all amounts reasonably paid by Licensor (together with interest on such amounts at the highest lawful rate until paid), when such demand is accompanied by proof of payment by Licensor of the amounts demanded. Licensee shall promptly deliver to Licensor copies of hazardous waste manifests reflecting the legal and proper disposal of all Hazardous Materials removed from the License Area as part of Licensee's remediation of any Licensee's Contamination. The foregoing notwithstanding, "Licensee's Contamination" shall not refer to or include any Hazardous Materials that were not clearly introduced to the License Area by Licensee or Licensee's Representatives. As an example, if lead dust or asbestos is found on the License Area, unless there is clear evidence that Licensee introduced those Hazardous Materials to the License Area, those Hazardous Materials shall not be considered "Licensee's Contamination," and it shall not be Licensee's responsibility to take remedial action relating to such Hazardous Materials. Moreover, Licensee shall not be responsible for any Hazardous Materials that were present in, on, or below the License Area before Licensee occupied the License Area.

- 11.4. Licensor's Inspection Right. Licensor shall have the right to inspect the License Area for compliance with environmental, safety, and occupational health laws and regulations, regardless of whether Licensor is responsible for enforcing or complying with them. Licensee shall have no claim against Licensor, or any officer, agent, employee, contractor or subcontractor of Licensor by reason of entrance of such Licensor officer, agent, employee, contractor or subcontractor onto the License Area, provided such inspection is undertaken as reasonably as possible so as not to disrupt or interfere with the Permitted Use. Except in the event of an emergency, Licensor shall provide Licensee with reasonable prior notice and an opportunity to have a representative present at any inspection.
- 11.5. Hazardous Materials Indemnity. In addition to any other provisions of this License, Licensee shall, and does hereby agree, to indemnify and hold harmless Licensor from

any costs, expenses, liabilities, fines or penalties resulting from discharges, emissions, spills, storage or disposal resulting from Licensee's Contamination, giving rise to liability, civil or criminal, or any other action by Licensee or its contractors, employees, agents, or assigns giving rise to responsibility under any Hazardous Materials Laws. Licensee's obligations hereunder shall apply whenever Licensor incurs costs or liabilities for Licensee's Contamination as provided hereunder. This provision shall survive the expiration or termination of this License.

12. INDEMNITY AND WAIVER OF CLAIMS

- 12.1. Licensee Indemnification. Licensee shall indemnify, defend and hold Licensor and its trustees, members, principles, beneficiaries, partners, officers, directors, employees, and property managers ("**Licensor Related Parties**") harmless against and from all third party liabilities, obligations, damages, penalties, claims, actions, costs, charges, judgment and expenses (including reasonable attorneys' fees, costs and disbursements) arising from (a) the use of, or any activity done, permitted or suffered in or about the License Area by Licensee (including, but not limited to, injuries suffered by Licensee's agents or employees); (b) any activity done, permitted or suffered by Licensee or Licensee's agents or employees in or about the License Area during Licensee's possession and use of the License Area; (c) any act, neglect, fault, willful misconduct of Licensee or Licensee's agents or employees in or about the License Area during Licensee's possession and use thereof; or (d) from any breach or default in the terms of this Agreement by Licensee or Licensee's agents or employees, except to the extent such claims arise out of or relate to the gross negligence or willful misconduct of Licensor or any Licensor Related Party. If any action or proceeding is brought against Licensor by reason of any such claim, upon notice from Licensor, Licensee shall defend the same at Licensee's expense by Licensor's Office of the City Attorney or, at Licensor's election, other counsel reasonably satisfactory to Licensor. As a material part of the consideration to Licensor, Licensee releases Licensor and Licensor Related Parties from responsibility for, waives its entire claim of recovery for, and assumes all risks of (i) damage to property or injury to person in or about the License Area from any cause whatsoever except to the extent caused by the gross negligence or willful misconduct of Licensor or Licensor Related Parties, or (ii) loss resulting from business interruption or loss of income at the License Area.
- 12.2. Licensee Waiver of Claims. Except in the event of City Indemnitees' willful misconduct, City Indemnitees shall not be liable to Licensee and Licensee waives all claims against City Indemnitees for any injury or damage to any person or property occurring or incurred in connection with or in any way relating to the License Area from any cause. Without limiting the foregoing, City Indemnitees shall not be liable for and there shall be no abatement of Fees for (a) any damage to Licensee's property stored with or entrusted to any City Indemnitees, (b) loss of or damage to any property by theft or any other wrongful or illegal act, or (c) any injury or damage to person or property resulting from fire, explosion, water or rain or any other cause whatsoever or from the acts or omissions of other tenants, occupants or other visitors to the License Area or from any other cause whatsoever, (d) any diminution or shutting off of light, air or view by any structure that may be erected on lands adjacent to the License Area or (e) any

latent or other defects in the License Area. Licensee agrees that in no case shall City Indemnitees or Licensee be responsible or liable to the other on any theory for any injury to such parties' business, loss of profits, loss of income or any other form of consequential, punitive or incidental damage, except as otherwise provided in Section 13, Insurance.

12.3. Survival/No Impairment. The obligations of both parties under this Section 12 shall survive any termination of this License. The foregoing indemnity obligations shall not relieve any insurance carrier of its obligations under any policies required to be carried by either party pursuant to this License, to the extent that such policies cover the peril or currents that results in the claims that is subject to the foregoing indemnity.

13. INSURANCE

13.1. Licensee's Insurance. On or before the commencement of the Term of this License, Licensee shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with Sections 13.1.1 through 13.1.4. The Certificate Holder should be The City of Alameda, 2263 Santa Clara Ave., Alameda, CA 94501. Such certificates, which do not limit Licensee's indemnification, shall also contain substantially the following statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide thirty (30) days' advance written notice to the City of Alameda. Attention: Risk Manager."

13.2. Licensee shall procure and maintain in force at all times during the performance of this License, all appropriate coverage of insurance required by this License. Licensee shall deliver updated insurance certificates to the City at the Licensor's Address prior to the expiration of the existing insurance certificate for the duration of the term of License. Endorsements naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers as additional insured shall be submitted with the insurance certificates. The cost of such insurance shall be borne by Licensee. Licensee shall maintain insurance coverage and limits at least as broad as:

13.2.1. Commercial General Liability Coverage in the following minimum limits:

Bodily Injury:	\$1,000,000 each occurrence \$2,000,000 aggregate - all other
Property Damage:	\$1,000,000 each occurrence \$2,000,000 aggregate

If submitted, combined single limit policy with per occurrence limits in the amounts of \$2,000,000 and aggregate limits in the amounts of \$4,000,000 will be considered equivalent to the required minimum limits shown above. Licensee shall also submit declarations and policy endorsements pages. Additional Insured

Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required. The Additional Insured Endorsement shall include primary and non-contributory coverage at least as broad as the CG 2010.

As to commercial general liability, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City

13.2.2. Automobile Liability Coverage:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:	\$1,000,000 each occurrence
Property Damage:	\$1,000,000 each occurrence

or

Combined Single Limit:	\$2,000,000 each occurrence
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Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, agents, and volunteers is required.

As to automobile liability insurance, such insurance will provide that it constitutes primary insurance with respect to claims insured by such policy, and, except with respect to limits, that insurance applies separately to each insured against whom claim is made or suit is brought. Such insurance is not additional to or contributing with any other insurance carried by or for the benefit of the City

13.2.3. Property Insurance Coverage:

Licensee shall maintain in full force and effect on all of its personal property, furniture, furnishings, vehicles, fixtures and equipment, either owned by Licensee or its agents, vendors, or clients, which may from time to time be located in, on or upon the License Area (“Licensee’s Property”) in an amount not less than their full replacement value from time to time during the Term, providing protection against all perils, included within the standard form of “all-risk” (i.e., “Special Cause or Loss”) fire and casualty insurance policy.

13.2.4. Workers Compensation Coverage:

Statutory coverage as required by the State of California, with Employer’s Liability coverage with limits of not less than \$1,000,000, as well as a Waiver of Subrogation (Rights of Recovery) endorsement.

- 13.3. Additional Insureds. The City of Alameda, its Council, boards, commissions, officials, employees, agents, and volunteers and River Rock Real Estate Group, shall be included as an additional insured under all liability insurance coverages, except on worker's compensation and professional liability insurance policies. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not included as such additional insured. An additional insured included herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.
- 13.4. Notice of Cancellation. Licensee's third party insurance policies shall be endorsed to require the insurer to provide the Licensor with at least thirty (30) days' written Notice of Cancellation; provided, however, that if Licensee's insurers are unwilling to issue such an endorsement, then Licensee agrees as follows: if Licensee is notified by any insurer of the insurance coverage required under this Section 13 that the insurer is cancelling any required policy, Licensee shall immediately provide Licensor with written notice of having received such notice from its insurer and shall take all reasonable action to either preserve the existing policy/policies or replace the cancelled insurance with other policy/policies of insurance meeting the requirements of this Section 13 before the effective date of the cancellation.
- 13.5. Subrogation Waiver. Licensee hereby agrees to waive rights of subrogation that any insurer of Licensee may acquire from Licensee by virtue of the payment of any loss. Licensee agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether Licensor has received a waiver of subrogation endorsement from the insurer. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of Licensor for all work performed by Licensee, its employees, agents and subcontractors.
- 13.6. Failure to Secure. If Licensee at any time during the term hereof should fail to secure or maintain the foregoing insurance, Licensor shall be permitted to obtain such insurance in Licensee's name or as an agent of Licensee and shall be compensated by Licensee for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.
- 13.7. Sufficiency of Insurance. The insurance limits required by the Licensor are not represented as being sufficient to protect Licensee. Licensee is advised to consult Licensee's insurance broker to determine adequate coverage for Licensee. Licensee's insurance policy shall be endorsed stipulating that Licensee's insurance is primary with respect to claims assumed by Licensee under the terms of this License, and that the Licensor's self-insurance program and excess insurance policies shall not be called upon to contribute to a loss that should otherwise be paid by Licensee's insurer.
- 13.8. Insurer Acceptability. Licensee's insurers must be domiciled in the United States of America. They must meet a minimum A.M. Best & Co. rating of A: VII and a Standard and Poor's Rating (if rated) of at least BBB. In the event that a proposed insurance

company is not rated by A.M. Best & Co. or Standard and Poor's, said insurance carrier must be domiciled in the State of California and approved by Licensor.

- 13.9. Certificate of Insurance. On or before Licensee takes possession of the License Area, Licensee shall furnish to Licensor new certificate(s) of insurance reflecting that the insurance required by this Section for the License Area is in force, accompanied by an endorsement(s) showing the required additional insured reasonably satisfactory to Licensor.

14. PROHIBITION AGAINST TRANSFERS

Licensee shall not assign, sublicense, hypothecate, or transfer this License or any interest therein directly or indirectly, by operation of law or otherwise. Any attempt to do so shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. The forgoing notwithstanding, Licensee may Transfer, with notice but without Licensor's consent, to an entity (i) that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with Licensee; (ii) in connection with a merger, consolidation, non-bankruptcy reorganization or government action; or (iii) in connection with the acquisition or transfer of all or substantially all of Licensee's stock or assets (each of the foregoing is a "**Permitted Transfer**").

15. SURRENDER

Upon the expiration or earlier termination of the License, Licensee shall surrender the License Area clean, free of debris and, in substantially the same condition as at the commencement of the Term, reasonable wear and tear excepted, and clear of all liens and encumbrances created by any action or inaction of Licensee. Licensor shall not be responsible for the value, preservation or safekeeping of Licensee's property that is not removed by Licensee from the License Area. Licensee shall pay Licensor, upon demand, the expenses and storage charges incurred for any such property. If Licensee fails to remove Licensee's property from the License Area, upon the expiration or earlier termination of the License, Licensor may deem all or any part of Licensee's property to be abandoned and, at Licensor's option, title to Licensee's property shall vest in Licensor or Licensor may dispose of Licensee's property in any manner Licensor deems appropriate.

16. NONDISCRIMINATION

Consistent with Licensor's policy that harassment and discrimination are unacceptable conduct, Licensee agrees that harassment or discrimination directed toward a City employee, or contractor, or employees, or Licensee's employee or contractor on the basis of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation will not be tolerated. Licensee agrees that any and all violations of this provision shall constitute a material breach of this Agreement.

17. PERMITS AND LICENSES

Licensee, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits (including any Special Event Permits, as required), certificates and licenses,

including a City business license that may be required in connection with its use or occupation of the License Area.

18. SUBMISSION OF NOTICES

All notices, demands, requests, consents, or approvals (collectively “Notice”) which may or are required to be given by either party to the other shall be in writing and shall be deemed given upon (i) personal delivery or transmission by facsimile or electronic mail (unless delivery occurs on a Sunday or holiday, in which case notice will be deemed given on the next-succeeding business day), or (ii) refusal of delivery during normal business hours when sent by United States Certified or Registered Mail, postage prepaid, or (iii) one business day after deposit with a reputable overnight delivery service at the party’s respective Notice Address(es) set forth in the Basic License Information. Any party may from time to time designate an alternate and/or additional address by notice.

19. CONDITION OF LICENSE AREA

The License Area is delivered to Licensee by Licensor “as is, where is,” and, as such, Licensor makes no warranty as to such facilities and property either as to their usability generally or as to their fitness for any particular purpose. No promises of Licensor to alter, remodel, repair or improve the License Area and no representation respecting the condition of the License Area have been made by Licensor to Licensee, except as expressly stated in this Agreement, and Licensor shall have no obligation to repair or maintain License Area.

20. HOLDING OVER

If Licensee does not surrender possession at the end of the Term or sooner termination of this Agreement, Licensee shall indemnify and hold Licensor harmless from and against any and all losses or liability resulting from delay in Licensee so surrendering the License Area including, without limitations, any loss or liability resulting from any claim against Licensor made by any succeeding tenant or prospective tenant founded on or resulting from such delay. In addition to the foregoing, Licensee shall reimburse Licensor its reasonable attorneys’ fees and costs incurred in enforcing Licensee’s obligations under this Article, which include but are not limited to, any attorneys’ fees and costs incurred in an unlawful detainer, ejectment or other legal proceeding to compel Licensee to relinquish the possession of the License Area.

21. SAFETY

Licensee will be solely and completely responsible for conditions of all vehicles operated by Licensee in the License Area, including the safety of all persons and property during such operation. This requirement will apply continuously and not be limited to normal working hours. In addition, Licensee will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. Licensee’s failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and

penalties set forth herein. Licensee will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in the License Area.

22. DEFAULT:

22.1. Events of Default. The occurrence of any of the following shall constitute a “**Default**” by Licensee:

- (i) Licensee fails to make any payment of Fees when due, if payment in full is not received by Licensor within ten (10) days after written notice that it is past due.
- (ii) Licensee violates the restrictions on Transfer set forth in Article 12.
- (iii) Licensee ceases doing business as a going concern; makes an assignment for the benefit of creditors; is adjudicated an insolvent, files a petition (or files an answer admitting the material allegations of a petition) seeking relief under any state or federal bankruptcy or other statute, law or regulation affecting creditors’ rights; all or substantially all of Licensee’s assets are subject to judicial seizure or attachment and are not released within sixty (60) days, or Licensee consents to or acquiesces in the appointment of a trustee, receiver or liquidator for Licensee or for all or any substantial part of Licensee’s assets.
- (iv) Licensee fails to perform or comply with any provision of this Agreement other than those described in (i) through (iii) above, and does not fully cure such failure within fifteen (15) business days after notice to Licensee or, if such failure cannot be cured within such fifteen (15) business-day period, Licensee fails within such fifteen (15) business-day period to commence, and thereafter diligently proceed with, all actions necessary to cure such failure as soon as reasonably possible but in all events within ninety (90) days of such notice. However, any failure to cure owing to supply chain constraints out of Licensee’s control shall not be grounds for Default.

22.2. Remedies. Upon Default by Licensee, Licensor shall, without further notice or demand of any kind to Licensee or to any other person, in addition to any other remedy Licensor may have under this License and at law or in equity, have the ability to immediately terminate the License and Licensee’s right to use the License Area. Upon notice of any such termination, Licensee shall vacate and discontinue its use of the License Area and Licensor may take any and all actions to enforce Licensee’s obligations.

22.3. Licensor’s Right to Perform Licensee’s Obligations. If Licensee is in Default of any of its non-monetary obligations under this Agreement, in addition to the other rights and remedies of Licensor provided herein, then Licensor may at Licensor’s option, but without any obligation to do so and without further notice to Licensee, perform any such term, provision, covenant or condition or make any such payment and, except in the case of its gross negligence or willful misconduct, Licensor by reason of doing so shall not be liable or responsible for any loss or damage thereby sustained by Licensee. If Licensor performs any of Licensee’s obligations hereunder in accordance with this Section 22.3, the reasonable costs and expense incurred or the payments so made shall

be immediately be owed by Licensee to Licensor, and Licensee shall promptly pay to Licensor upon demand, as Additional Fees, the full amount thereof with interest thereon from the day of payment by Licensor the lower of ten percent (10%) per annum, or the highest rate permitted by applicable law.

- 22.4. Severability. This Article 22 shall be enforceable to the maximum extent such enforcement is not prohibited by applicable Law, and the unenforceability of any portion thereof shall not thereby render unenforceable any other portion.

23. WAIVER OF RELOCATION ASSISTANCE

Except in the event of a taking of the License Area by or under the threat of eminent domain, Licensee acknowledges that upon the expiration or earlier termination of the Term it will not be a displaced person or business and therefore waives any and all rights, benefits or privileges of the California Relocation Assistance Law, California Government Code Sections 7260 et seq. or under any similar state or federal law, statute or ordinance now or hereinafter in effect.

24. MISCELLANEOUS:

- 24.1. Entire Agreement. This Agreement, including all exhibits hereto, constitutes all of the covenants, conditions and agreements between and among the parties and shall supersede all prior correspondents, agreements and understandings, both verbal and written.
- 24.2. Amendments. This Agreement may be amended or modified only by a written instrument executed by Licensor and Licensee.
- 24.3. Severability. If any provision of this Agreement, or its application to any person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Agreement or the application of such provision to any other person or circumstance, and the remaining portions of this Agreement shall continue in full force and effect, unless enforcement of this Agreement as so modified by and in response to such invalidation would be unreasonable or grossly inequitable under all of the circumstances or would frustrate the fundamental purposes of this Agreement. Without limiting the forgoing, if any applicable federal or state law prevents or precludes compliance with any material term of this Agreement, the parties shall promptly modify, amend, or suspend this Agreement, or any portions of this Agreement, to the extent necessary to comply with such provisions in a manner which preserves to the greatest extent possible the benefits to each of the parties to this Agreement before such conflict with federal or state law.
- 24.4. Incorporation of Exhibits and Recitals. The exhibits and recitals to this Agreement are incorporated into this Agreement by this reference.
- 24.5. Broker's Commissions. Licensor and Licensee each represents and warrants to the other that neither it nor its officers or agents nor anyone acting on its behalf has dealt with any real estate broker except for Cushman & Wakefield ("Licensor's Broker") in the negotiating or making of this License. Licensor shall be responsible for any

commissions and other compensation which may be due to Licensor's Broker in connection with this Agreement. Each party agrees to indemnify and hold harmless the other from any claim or claims, and costs and expenses, including attorneys' fees, incurred by the indemnified party in conjunction with any such claim or claims of any other broker or brokers to a commission in connection with this License as a result of the actions of the indemnifying party.

- 24.6. Attorneys' Fees. In the event either party to this Agreement institutes an action, arbitration or proceeding to interpret or enforce any of the terms hereof, or to obtain money damages, the parties and litigants shall bear their own attorneys' fees and costs. No party or litigant shall be entitled to recover any attorneys' fees or costs from any other party or litigant, regardless of which party or litigant might prevail.
- 24.7. Access by Licensor. In addition to access provided by this License, Licensor shall be allowed access to the License Area at all reasonable times throughout the term of this License for any reasonable purpose. Licensee shall ensure that a telephone roster is maintained at all times for on-call persons representing Licensee who will be available on short notice, 24 hours a day, 365 days per year, and have authority to use all keys necessary to gain access to the License Area to facilitate entry in time of emergency. Licensee shall ensure that Licensor has a current roster of such on-call personnel and their phone numbers. Licensee shall have no claim against Licensor for exercise of its rights of access hereunder.
- 24.8. OFAC Certification. Licensee represents, warrants and covenants that: (a) Licensee and its principals are not acting, and will not act, directly or indirectly, for or on behalf of any person, group, entity, or nation named by any Executive Order or the United States Treasury Department as a terrorist, "**Specially Designated and Blocked Person**" or other banned or blocked person, entity, nation, or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and (b) Licensee acknowledges that the breach of this representation, warranty and covenant by Licensee shall be an immediate Default under the Lease.
- 24.9. Certified Access Specialist Disclosure. In accordance with Civil Code Section 1938, Licensor hereby discloses that the License Area has not undergone inspection by a Certified Access Specialist for purposes of determining whether the property has or does

not meet all applicable construction related accessibility standards pursuant to Civil Code Section 55.53.

- 24.10. Further Assurances. All parties agree to cooperate fully and execute any and all supplementary documents and take all additional actions which may be necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.
- 24.11. Time. Time is of essence of every provision herein contained in this Agreement.
- 24.12. Captions. All captions and headings in this Agreement are for the purpose of reference and convenience and shall not limit or expand the provisions of this Agreement.
- 24.13. Governing Law. This Agreement shall be governed by, and construed in accordance with, the laws of the State of California. All actions or proceedings arising directly or indirectly under this Agreement shall be litigated in courts located within the County of Alameda, State of California.
- 24.14. Authority. If Licensee is a corporation, partnership, trust, association or other entity, Licensee and each person executing this License on behalf of Licensee does hereby covenant and warrant that (a) Licensee is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation, (b) Licensee has and is duly qualified to do business in California, (c) Licensee has full corporate, partnership, trust, association or other power and authority to enter into this License and to perform all Licensee's obligations hereunder, and (d) each person (and all of the persons if more than one signs) signing this License on behalf of Licensee is duly and validly authorized to do so. Upon execution hereof and at Licensor's request, Licensee shall provide Licensor with written evidence substantiating the authority of the person(s) executing this Agreement on behalf of Licensee to bind Licensee to this Agreement.
- 24.15. Force Majeure. Neither party is responsible for any delay or failure in performance of any part of this Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, embargo, government requirement, civil or military authority, act of God, act or omission of carriers, suppliers or other similar causes beyond the party's control.
- 24.16. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, Licenser and Licensee have respectively signed and sealed this License as of the Effective Date.

LICENSEE

Company
a (California corporation, LP, LLC,
GP, sole proprietor/individual)

CITY OF ALAMEDA
a municipal corporation

NAME
TITLE

Jennifer Ott
City Manager

RECOMMENDED FOR APPROVAL

NAME
TITLE

Allen Tai
Planning, Building and Transportation
Director

APPROVED AS TO FORM:
City Attorney

Celena H. Chen
Chief Planning Counsel

EXHIBIT A
LICENSE AREA

<u>Site Name</u>	<u>Site Address</u>	<u>DCFC</u>	<u>Level II</u>

EXHIBIT B

Electric Vehicle Charging Station Specifications

DCFC Chargers

1. All DCFC chargers shall initially be Charge Point CPE 250 or approved alternative as mutually approved by City and Licensee. Power output shall be 50 kW minimum per charger.
2. All DCFC are required to use standard CCS plug head interface. CHAdeMO heads may be installed in addition to CCS as required by funding agreements.
3. Installation with 2 or more chargers power sharing is encouraged.
4. Installation of 150 kW+ chargers is encouraged, and even if 150 kW+ chargers are not installed, it is encouraged for Licensee to procure electrical capacity from SCE for future use of 150 kW+ chargers.
5. Fleet DCFC chargers and associated equipment is encouraged to have capability of bi-direction charging for possible future vehicle-to-grid energy services.

Level-2 Chargers

1. All Level-2 chargers shall initially be Charge Point CT 4000 series or approved alternative as mutually approved by City and Licensee.
2. Each charger head shall be equipped with minimum 7.2 kW output (30 amps)
3. Each charger head shall be equipped with J1772 port heads
4. Faster charging rates (12kW at 50 amps) are encouraged

Fleet Level-2 chargers and associated equipment is encouraged to have capability of bi-direction charging for possible future vehicle-to-grid energy services.

ADDITIONAL REQUIREMENTS FOR CHARGING AND FUELING INFRASTRUCTURE GRANT

All awards will be administered pursuant to the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards found in 2 CFR Part 200, as adopted by DOT at 2 CFR Part 1201. Applicable Federal laws, rules, and regulations set forth in title 23, U.S.C., and title 23 of the CFR, shall apply to awards provided under this program. Awards are subject to all applicable Federal laws, rules, and regulations, including the Uniform Relocation and Real Property Acquisition Act (42 U.S.C. §§ 4601 et seq.; 49 CFR part 24) and National 57 Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321 et seq.; 40 CFR parts 1500 – 1508; 23 CFR part 771). Applicants should consider the appropriate level of review under NEPA. Eligible CFI projects are generally the type of actions that would not be expected to result in significant environmental impacts. Several NEPA Categorical Exclusions (CE) may be applicable including those found at 23 CFR 771.117(c) and (d), depending on the scope of the action and the CEs conditions. One example of a CE that may apply to projects under this grant is the CE 23 CFR 771.117 (c)(23), however other CEs or other NEPA requirements may apply. Before a CE determination can be applied, the action must be analyzed to determine whether there are project impacts to natural, community, or historical resources (i.e., unusual circumstances that would require further analysis to determine whether the CE classification is appropriate (see 23 CFR 771.117(a-b)).

In connection with any program or activity conducted with or benefiting from funds awarded under this notice, recipients of funds must comply with all applicable requirements of Federal law, including, without limitation, the Constitution of the United States; the conditions of performance, non-discrimination requirements, and other assurances made applicable to the award of funds in accordance with regulations of DOT; and applicable Federal financial assistance and contracting principles promulgated by the Office of Management and Budget (OMB). In complying with these requirements, recipients, in particular, must ensure that no concession agreements are denied or other contracting decisions made on the basis of speech or other activities protected by the First Amendment. If FHWA determines that a recipient has failed to comply with applicable Federal requirements, FHWA may terminate the award of funds and disallow previously incurred costs, requiring the recipient to reimburse any expended award funds.

In particular, EO 14005 directs the Executive Branch Departments and Agencies to maximize the use of goods, products, and materials produced in, and services offered in, the United States through the terms and conditions of Federal financial assistance awards. If selected for an award, grant recipients must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project. Any grant projects involving vehicle acquisition must involve only vehicles that comply with applicable Federal Motor Vehicle Safety Standards (FMVSS) and Federal Motor Carriers Safety Regulations (FMCSR), or vehicles that are exempt from FMVSS or FMCSR in a manner that allows for the legal acquisition and deployment of the vehicle or vehicles.

Critical Infrastructure Security and Resilience: It is the policy of the United States to strengthen the security and resilience of its critical infrastructure against both physical and cyber threats. Each applicant selected for Federal funding under this notice must demonstrate, prior to the signing of

the grant agreement, effort to consider and address physical and cyber security risks relevant to the transportation mode and type and scale of the project. Projects that have not appropriately considered and addressed physical and cyber security and resilience in their planning, design, and project oversight, as determined by the Department and the U.S. Department of Homeland Security, will be required to do so before receiving funds for construction, consistent with Presidential Policy Directive 21 - Critical Infrastructure Security and Resilience and the National Security Presidential Improving Cybersecurity for Critical Infrastructure Control Systems. Information on cybersecurity performance goals can be found at <https://www.cisa.gov/cpg>. These performance goals provide a baseline set of cybersecurity practices broadly applicable across critical infrastructure with known risk-reduction value, a benchmark for critical infrastructure operators to measure and improve their cybersecurity maturity, and a combination of recommended practices for IT and OT owners, including a prioritized set of security practices. Additionally, funding recipients must be in compliance with 2 CFR § 200.216 and the prohibition on certain telecommunications and video surveillance services or equipment.

Domestic Preference Requirements: As expressed in EO 14005, ‘Ensuring the Future Is Made in All of America by All of America’s Workers’ (86 FR 7475), the executive branch should maximize, consistent with law, the use of goods, products, and materials produced in, and services offered in, the United States. Funds made available under this notice are subject to the domestic preference requirement at Build America, Buy America Act (Pub. L. No 117-58, div. G §§ 70901–70927). The Department expects all applicants to comply with that requirement. However, to obtain a waiver, a recipient must be prepared to demonstrate how they will maximize the use of domestic goods, products, and materials in constructing their project.

Civil Rights and Title VI: As a condition of a grant award, grant recipients should demonstrate that the recipient has a plan for compliance with civil rights obligations and nondiscrimination laws, including Title VI of the Civil Rights Act of 1964 and implementing regulations (49 CFR part 21), the ADA, and Section 504 of the Rehabilitation Act, all other civil rights requirements, and accompanying regulations. This should include a current Title VI plan, completed Community Participation Plan, and a plan to address any legacy infrastructure or facilities that are not compliant with ADA standards. The DOT’s and the applicable Operating Administrations’ Office of Civil Rights may work with awarded grant recipients to ensure full compliance with Federal civil rights requirements.

Federal Contract Compliance: As a condition of grant award and consistent with EO 11246, EEO (30 FR 12319, and as amended), all Federally-assisted contractors are required to make good faith efforts to meet the goals of 6.9 percent of construction project hours being performed by women, in addition to goals that vary based on geography for construction work hours and for work being performed by people of color. Under Section 503 of the Rehabilitation Act and its implementing regulations, affirmative action obligations for certain contractors include an aspirational employment goal of 7 percent workers with disabilities.

The DOL’s OFCCP is charged with enforcing EO 11246, Section 503 of the Rehabilitation Act of 1973, and the Vietnam Era Veterans’ Readjustment Assistance Act of 1974. OFCCP has a Mega Construction Project Program through which it engages with project sponsors as early as the design phase to help promote compliance with non-discrimination and affirmative action obligations. The

OFCCP will identify projects that receive an award under this notice and are required to participate in OFCCP's Mega Construction Project Program from a wide range of federally-assisted projects over which OFCCP has jurisdiction and that have a project cost above \$35 million. Additional information on how OFCCP makes their selections for participation in the Mega Construction Project Program is outlined under "Scheduling" on the DOL website.

The applicability of Federal requirements to a project may be affected by the scope of the NEPA reviews for that project. For example, under 23 U.S.C. § 313(g), Buy America requirements apply to all contracts that are eligible for assistance under title 23, United States Code, and are carried out within the scope of the NEPA finding, determination, or decision regardless of the funding source of such contracts if at least one contract is funded with Title 23 funds. As another example, ADA regulations and Section 504 of the Rehabilitation Act of 1973 regulations apply to all projects funded under this notice.

Performance and Program Evaluation: As a condition of grant award, grant recipients may be required to participate in an evaluation undertaken by DOT or another Agency or partner. The evaluation may take different forms such as an implementation assessment across grant recipients, an impact or outcomes analysis of all or selected sites within or across grant recipients, or a benefit/cost analysis or assessment of return on investment. The DOT may require applicants to collect data elements to aid the evaluation. As a part of the evaluation, as a condition of award, grant recipients must agree to: (1) make records available to the evaluation contractor or DOT staff; (2) provide access to program records, and any other relevant documents to calculate costs and benefits; (3) in the case of an impact analysis, facilitate the access to relevant information as requested; and (4) follow evaluation procedures as specified by the evaluation contractor or DOT staff.

Recipients and subrecipients are also encouraged to incorporate program evaluation including associated data collection activities from the outset of their program design and implementation to meaningfully document and measure their progress towards meeting an Agency priority goal(s). Title I of the Foundations for Evidence-Based Policymaking Act of 2018 (Evidence Act), Pub. L. No. 115-435 (2019) urges Federal awarding Agencies and Federal assistance recipients and subrecipients to use program evaluation as a critical tool to learn, to improve equitable delivery, and to elevate program service and delivery across the program lifecycle. Evaluation means "an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency." 5 U.S.C. § 311. Credible program evaluation activities are implemented with relevance and utility, rigor, independence and objectivity, transparency, and ethics (OMB Circular A-11, Part 6 Section 290).

For grant recipients receiving an award, evaluation costs are allowable costs (either as direct or indirect), unless prohibited by statute or regulation, and such costs may include the personnel and equipment needed for data infrastructure and expertise in data analysis, performance, and evaluation (2 CFR Part 200).

Climate Change and Environmental Justice Impact Consideration: Each applicant selected for CFI Program funding must demonstrate effort to consider climate change and environmental justice impacts as described in Section E.1.b. Projects that have not sufficiently considered climate change

and environmental justice in their planning, as determined by the DOT, will be required to do so before receiving funds for construction, consistent with EO 14008, Tackling the Climate Crisis at Home and Abroad (86 FR 7619).

Equity and Barriers to Opportunity: Each applicant selected for CFI Program Grant funding must demonstrate effort to improve equity and reduce barriers to opportunity. Projects that have not sufficiently considered equity and barriers to opportunity in their planning, as determined by DOT, will be required to do so before receiving funds for construction, consistent with EO 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government (86 FR 7009).

Davis-Bacon Act: Recipients of an award under this program are also required to comply fully with the Davis-Bacon Act (40 U.S.C. §§ 3141-3148; 23 U.S.C. § 109(s)(2); 23 U.S.C. § 113(a)), which requires all laborers and mechanics employed by contractors or subcontractors in the performance of construction, alteration, or repair work on a project assisted in whole or in part by an award made available under this program, be paid wages at rates not less than those prevailing on similar projects in the locality, as determined by the Secretary of Labor.

Disadvantaged Business Enterprise Program: Recipients of an award under this program are also required to comply fully with the DBE Program, which is a legislatively mandated DOT program that applies to Federal-aid highway dollars expended on federally-assisted contracts issued by DOT recipients in order to ensure nondiscrimination in the award and administration of DOT-assisted contracts, help remove barriers to the participation of DBEs in DOT-assisted contracts, and assist in the development of firms that can compete successfully in the marketplace outside of the DBE Program. The DBE Program was most recently reauthorized by the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141).

Compliance with 23 CFR Part 680: Recipients of an award under this program are also required to comply fully with applicable sections of the National Electric Vehicle Infrastructure Standards and Requirements (23 CFR Part 680), which has certain requirements for EV charging infrastructure, including installation, operation, and maintenance requirements, interoperability and connectivity standards, minimum uptime requirements, data submission requirements, as well as certain data fields that must be made available, free of charge, to third-party software developers, via application programming interface. This regulation also has certain requirements for the workforce installing, maintaining, and operating EV chargers has appropriate licenses, certifications, and training to ensure that the installation and maintenance of EV chargers is performed safely by a qualified and increasingly diverse workforce of licensed technicians and other laborers. Installation, maintenance and operations of infrastructure for other fuel types is encouraged to follow a similar approach and utilize a skilled workforce with appropriate licenses, certifications, and training.

Exhibit C: CFI Grant Budget Information

Budget Information

	Part I Project						
	2312 Central Ave	1416 Oak St	1155 Santa Clara Ave	711 Santa Clara Ave	1925 Sherman Street	300 Island Drive	Part I Total
	Central Ave Lot C	Civic Center Garage	Mastick Senior Center	Webster St Lot	Jean Sweeney Park	HBI Park and Ride	6 locations
Level of charging	DCFC	Level 2	Level 2	DCFC	DCFC	Level 2	
# of ports	2	6	4	2	2	10	26
# of chargers	2	3	2	2	2	5	16
Total kWh	125	21.6	14.4	125	125	36	447
Charger Costs	\$ 104,000.00	\$ 27,570.00	\$ 18,380.00	\$ 104,000.00	\$ 104,000.00	\$ 45,950.00	\$ 403,900.00
Maintenance (5 yrs.)	\$ 32,550.00	\$ 8,085.00	\$ 5,390.00	\$ 32,550.00	\$ 32,550.00	\$ 13,475.00	\$ 124,600.00
Network (5 yrs.)	\$ 9,598.00	\$ 8,310.00	\$ 5,540.00	\$ 9,598.00	\$ 9,598.00	\$ 13,850.00	\$ 56,494.00
Wayfinding Signage and Installation	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 9,000.00
AMP Pre-Engineering Cost	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 48,000.00
AMP Material & Labor Cost	\$ 85,000.00	\$ 17,000.00	\$ 17,000.00	\$ 85,000.00	\$ 85,000.00	\$ 85,000.00	\$ 374,000.00
<i>AMP Facilities - Materials</i>	\$ 25,000.00	\$ 1,000.00	\$ 1,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 102,000.00
<i>AMP Facilities - Labor</i>	\$ 60,000.00	\$ 16,000.00	\$ 16,000.00	\$ 60,000.00	\$ 60,000.00	\$ 60,000.00	\$ 272,000.00
AMP Total Costs	\$ 93,000.00	\$ 25,000.00	\$ 25,000.00	\$ 93,000.00	\$ 93,000.00	\$ 93,000.00	\$ 422,000.00
Provider Design Costs	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 60,000.00
Provider Installation Material & Labor Cost	\$ 90,000.00	\$ 110,000.00	\$ 40,000.00	\$ 90,000.00	\$ 90,000.00	\$ 40,000.00	\$ 460,000.00
<i>Materials</i>	\$ 40,000.00	\$ 30,000.00	\$ 20,000.00	\$ 40,000.00	\$ 40,000.00	\$ 20,000.00	\$ 190,000.00
<i>Labor</i>	\$ 50,000.00	\$ 80,000.00	\$ 20,000.00	\$ 50,000.00	\$ 50,000.00	\$ 20,000.00	\$ 270,000.00
Provider Total Costs	\$ 100,000.00	\$ 120,000.00	\$ 50,000.00	\$ 100,000.00	\$ 100,000.00	\$ 50,000.00	\$ 520,000.00
AMP Rebates	\$ -	\$ (19,500.00)	\$ (13,000.00)	\$ -	\$ -	\$ (32,500.00)	\$ (65,000.00)
Subtotal	\$ 340,648.00	\$ 170,965.00	\$ 92,810.00	\$ 340,648.00	\$ 340,648.00	\$ 185,275.00	\$ 1,470,994.00
Contingency (20%)	\$ 68,129.60	\$ 34,193.00	\$ 18,562.00	\$ 68,129.60	\$ 68,129.60	\$ 37,055.00	\$ 294,198.80
Education and Community Engagement (3%)	\$ 10,174.44	\$ 5,668.95	\$ 3,129.30	\$ 10,174.44	\$ 10,174.44	\$ 6,488.25	\$ 45,809.82
Total Cost	\$ 418,952.04	\$ 210,826.95	\$ 114,501.30	\$ 418,952.04	\$ 418,952.04	\$ 228,818.25	\$ 1,811,002.62
<i>Federal Share (80%)</i>	\$ 335,161.63	\$ 168,661.56	\$ 91,601.04	\$ 335,161.63	\$ 335,161.63	\$ 183,054.60	\$ 1,448,802.10
<i>Match Share (20%)</i>	\$ 83,790.41	\$ 42,165.39	\$ 22,900.26	\$ 83,790.41	\$ 83,790.41	\$ 45,763.65	\$ 362,200.52

Budget Information

	Part II Project							Part II Totals	Part I and II Totals
	1418 Park Ave Municipal Lot A	1333 8th Street Washington Park	3221 Mecartney Road BFI Library	1550 Oak Street Main Library	950 W Mall Square City Hall West	230 Mosley Ave Estuary Park	2263 Santa Clara Ave City Hall		
Level of charging	DCFC	DCFC	DCFC	DCFC	Level 2	DCFC	DCFC	7 locations	13 locations
# of ports	2	4	4	2	4	1	2	19	45
# of chargers	2	4	4	2	2	1	2	17	33
Total kWh	125	250	250	125	14.4	62.5	125	951.9	1398.9
Charger Costs	\$ 104,000.00	\$ 208,000.00	\$ 208,000.00	\$ 104,000.00	\$ 18,380.00	\$ 52,000.00	\$ 104,000.00	\$ 798,380.00	\$ 1,202,280.00
Maintenance (5 yrs.)	\$ 32,550.00	\$ 65,100.00	\$ 65,100.00	\$ 32,550.00	\$ 18,380.00	\$ 16,275.00	\$ 32,550.00	\$ 262,505.00	\$ 387,105.00
Network (5 yrs.)	\$ 9,598.00	\$ 19,196.00	\$ 19,196.00	\$ 9,598.00	\$ 5,390.00	\$ 4,799.00	\$ 9,598.00	\$ 77,375.00	\$ 133,869.00
Wayfinding Signage and Installation	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00	\$ 10,500.00	\$ 19,500.00
AMP Pre-Engineering Cost	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 8,000.00	\$ 56,000.00	\$ 104,000.00
AMP Material & Labor Cost	\$ 85,000.00	\$ 85,000.00	\$ 85,000.00	\$ 85,000.00	\$ 17,000.00	\$ 85,000.00	\$ 85,000.00	\$ 527,000.00	\$ 901,000.00
<i>AMP Facilities - Materials</i>	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 25,000.00	\$ 1,000.00	\$ 25,000.00	\$ 25,000.00	\$ 151,000.00	\$ 253,000.00
<i>AMP Facilities - Labor</i>	\$ 60,000.00	\$ 60,000.00	\$ 60,000.00	\$ 60,000.00	\$ 16,000.00	\$ 60,000.00	\$ 60,000.00	\$ 376,000.00	\$ 648,000.00
AMP Total Costs	\$ 93,000.00	\$ 93,000.00	\$ 93,000.00	\$ 93,000.00	\$ 25,000.00	\$ 93,000.00	\$ 93,000.00	\$ 583,000.00	\$ 1,005,000.00
Provider Design Costs	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 10,000.00	\$ 70,000.00	\$ 130,000.00
Provider Installation Material & Labor Cost	\$ 90,000.00	\$ 120,000.00	\$ 120,000.00	\$ 90,000.00	\$ 40,000.00	\$ 60,000.00	\$ 90,000.00	\$ 610,000.00	\$ 1,070,000.00
<i>Materials</i>	\$ 40,000.00	\$ 60,000.00	\$ 60,000.00	\$ 40,000.00	\$ 20,000.00	\$ 20,000.00	\$ 40,000.00	\$ 280,000.00	\$ 470,000.00
<i>Labor</i>	\$ 50,000.00	\$ 60,000.00	\$ 60,000.00	\$ 50,000.00	\$ 20,000.00	\$ 40,000.00	\$ 50,000.00	\$ 330,000.00	\$ 600,000.00
Provider Total Costs	\$ 100,000.00	\$ 130,000.00	\$ 130,000.00	\$ 100,000.00	\$ 50,000.00	\$ 70,000.00	\$ 100,000.00	\$ 680,000.00	\$ 1,200,000.00
AMP Rebates	\$ -	\$ -	\$ -	\$ -	\$ (13,000.00)	\$ -	\$ -	\$ (13,000.00)	\$ (78,000.00)
Subtotal	\$ 340,648.00	\$ 516,796.00	\$ 516,796.00	\$ 340,648.00	\$ 105,650.00	\$ 237,574.00	\$ 340,648.00	\$ 2,398,760.00	\$ 3,869,754.00
Contingency (20%)	\$ 68,129.60	\$ 103,359.20	\$ 103,359.20	\$ 68,129.60	\$ 21,130.00	\$ 47,514.80	\$ 68,129.60	\$ 479,752.00	\$ 773,950.80
Education and Community Engagement (3%)	\$ 5,109.72	\$ 7,751.94	\$ 7,751.94	\$ 5,109.72	\$ 1,584.75	\$ 3,563.61	\$ 5,109.72	\$ 35,981.40	\$ 81,791.22
Total Cost	\$ 413,887.32	\$ 627,907.14	\$ 627,907.14	\$ 413,887.32	\$ 128,364.75	\$ 288,652.41	\$ 413,887.32	\$ 2,914,493.40	\$ 4,725,496.02
<i>Federal Share (80%)</i>	\$ 331,109.86	\$ 502,325.71	\$ 502,325.71	\$ 331,109.86	\$ 102,691.80	\$ 230,921.93	\$ 331,109.86	\$ 2,331,594.72	\$ 3,780,396.82
<i>Match Share (20%)</i>	\$ 82,777.46	\$ 125,581.43	\$ 125,581.43	\$ 82,777.46	\$ 25,672.95	\$ 57,730.48	\$ 82,777.46	\$ 582,898.68	\$ 945,099.20