

EXECUTION VERSION

CHARGING STATION MASTER SITE LICENSE AGREEMENT

This Charging Station Master Site License Agreement (“Agreement”) is entered into as of the [] day of [], 2023 (“Effective Date”) by and between the City of San Leandro, a California municipal corporation (“City”), and the East Bay Community Energy Authority, a Joint Powers Authority (“EBCE”). City and EBCE are individually referred to as “Party” and collectively as “Parties”.

1. Grant of License. City is the fee simple owner of certain real property(ies) identified in Exhibit A (each a “Property” and collectively “Properties”). City grants to EBCE and its contractors and vendors for the Term of this Agreement: (i) a non-exclusive, irrevocable and non-transferable, except as specifically set forth herein, license to use and occupy a designated portion of each Property (each such portion of a Property shall be referred to herein as a “Site”), including the designated parking spaces for charging electric vehicles (“Charging Stalls”), as such Site and Charging Stalls shall be more particularly described for each Property in a Notice to Proceed as provided in Section 3, below, issued pursuant to this Agreement; (ii) any necessary easements or rights for installation, maintenance, operation, access and utilities, as described herein, for the Purpose (including, but not limited to, any rights necessary for PG&E to interconnect the Charging Stalls); and (iii) the right for EBCE to issue a sublicense to its contractors and vendors that is up to, but no more than, coextensive with the license that City grants to EBCE herein. City shall not allow installation or use of direct current fast charging stations other than those of EBCE on any Property included in Exhibit A during the Term of this Agreement; provided nothing herein shall preclude the City from installing electrical vehicle charging stations that are not direct current fast charging stations. If, during the Term, City desires to install additional direct current fast Charging Stations at a particular Property, then City grants to EBCE a right of first refusal to design, develop, construct, install, operate and maintain such additional direct current fast Charging Stations. Upon notice by City to EBCE, EBCE will have up to six (6) months to determine if it will develop additional direct current fast Charging Stations at the Property. Should EBCE opt not to, or fail to respond to the City’s notice within six (6) months, the City may pursue development of the additional direct current fast Charging Stations with another third-party provider. City agrees that, although the license granted pursuant to this Section 1 is non-exclusive, to the extent the use of the Site is within the City’s control, the City will not allow uses of any Site during an applicable Operating Term which are non-compatible with the intent of this Agreement.

2. Purpose. City agrees that each Site may be used by EBCE and its contractors and vendors for any lawful activity in connection with the design, development, construction, installation, maintenance, repair, replacement, removal, security, and operation of direct current fast chargers and ancillary items to fuel electric vehicles, including, without limitation, electrical equipment, hardware, software, signage and all supporting equipment and structures (which may include concrete pads and protective bollards) (collectively, a “Charging Station”), together with any other uses permitted herein (“Purpose”), on the terms and conditions set forth in this Agreement.

3. Notice to Proceed. City and EBCE shall reasonably cooperate on the development of a preliminary project design for each Property included in Exhibit A. The preliminary project design shall include the Site and number and location of Charging Stalls and a single line diagram approved by PG&E. Once the preliminary project design is agreed upon by City and EBCE, EBCE shall be responsible for submitting the design to the distribution utility service supplier (presently PG&E) for review. To the extent the distribution utility service supplier provides revisions to the preliminary project design, EBCE shall make such revisions and submit the revisions to City for approval, not to be unreasonably withheld. EBCE shall be responsible for submitting any further revised project design(s) to the distribution utility service supplier for approval. The City shall not be liable for any delays caused by EBCE or PG&E and any such delays by PG&E shall not affect the Term of the Agreement, unless specified otherwise herein, or the rights and responsibilities of the Parties under this Agreement. Upon agreement of a final project design by the Parties, approved by PG&E, City and EBCE shall execute a Notice to Proceed for the respective Property in the form of Attachment 1 (each a “Notice to Proceed”). The Notice to Proceed shall identify the Site, the number and location of Charging Stalls, and Site Access Hours for such Property. The Construction Coordination Schedule shall be added as an amendment to the Notice to Proceed for such Property. Upon execution, each Notice to Proceed shall be incorporated herein by this reference. City’s City Manager, or City’s designee, and EBCE’s Jessie Denver (Director), or other duly authorized designee of EBCE, are delegated authority to execute Notices to Proceed, as well as any amendments to such Notices to Proceed, for each Property. The Parties intend for such Notices to Proceed to be administrative and to not require City budget appropriation; therefore, without waiving City Council approval where necessary, the Parties intend for such Notices to Proceed to be issued or amended without

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requiring approval from City's City Council or EBCE's Board. If City Council approval is required to issue a Notice to Proceed for any Property, the timeframes set forth in Sections 5(c) and 6(a) shall be counted beginning with the date such City Council approval is issued. The Notice to Proceed shall enable EBCE to advance project development which includes: (i) detailed project design, (ii) development of a permitting package to be submitted to the City for review, and (iii) approval through City permitting processes. City maintains discretion to not issue a Notice to Proceed for any Property listed in Exhibit A, in which case such Property shall be removed from this Agreement.

4. Term; Operating Term. The term of this Agreement shall commence on the Effective Date and shall terminate fifteen (15) years from the last Commercial Operation Date at any Property subject to this Agreement (as extended or renewed from time to time, the "Term"). The "Commercial Operation Date" for each Property shall mean the date on which all Charging Stations that are to be installed at such Property pursuant to an executed Notice to Proceed are first operational. Following the expiration of the initial Term, the Parties may mutually agree in writing to extend the Term of the Agreement. Each Property shall have a fifteen (15) year "Operating Term", which shall commence on the Commercial Operation Date for such Property and expire on date that is the fifteen (15) year anniversary of such Commercial Operation Date. The Parties shall update Exhibit A to include the Commercial Operation Date and date of Operating Term expiration for each Property. EBCE shall provide six (6) months advanced written notice to City of the expiration of the initial Term and the expiration of any Operating Term stating whether EBCE will offer to extend the initial Term or an applicable Operating Term and if so, under what terms and conditions. Following such written notice, the Parties may mutually agree in writing to extend either the Term of the Agreement or the Operating Term for any Property. Absent an agreement to extend the Operating Term for a Property, such Property shall be removed from this Agreement upon the expiration of the applicable Operating Term.

5. Removal of Properties. A Property identified in Exhibit A, and any Notice to Proceed executed for such Property, may be removed from this Agreement:

a. by EBCE, upon thirty (30) days' written notice to City, in the event EBCE determines that the construction of a Charging Station is impracticable or uneconomical at such Property; or

b. by EBCE, upon thirty (30) days' written notice to City, if a Site or any portion of the applicable Property necessary to access such Site is condemned or rendered unusable for the intended purpose through action of the City; or

c. by City, upon thirty (30) days' written notice to EBCE, in the event a Notice to Proceed for such Property has not been issued within the later of fifteen (15) months following the Effective Date or fifteen (15) months following the date on which such Property was added to Exhibit A; or

d. by City or EBCE, upon thirty (30) days' written notice to City, if any portion of such Property is damaged by fire or other casualty in a manner extinguishes EBCE's use of the Site at such Property; or

e. by City or EBCE, upon thirty (30) days' written notice to the other Party, if the Commercial Operation Date has not occurred for such Property within thirty-six (36) months following the date on which a Notice to Proceed was issued for such Property.

6. Termination. This Agreement may be terminated in its entirety with respect to all Properties, as follows:

a. by City, upon thirty (30) days' written notice to EBCE, in the event a Notice to Proceed has not been issued for any Property within thirty-six (36) months following the Effective Date; provided City agrees that such thirty-six (36) month period shall be extended for delays that are not caused by EBCE's unreasonable delay in performing any of its obligations under this Agreement or that are outside the reasonable control of EBCE, including delays caused by the City in approving a Notice to Proceed under Section 3, or by the distribution utility (currently PG&E) in completing new electric vehicle service extensions at a Property (as described in Section 7 of this Agreement); or

b. by City or EBCE if the other Party breaches or fails to perform any of its obligations in any material respect, and such breach or failure continues uncured for ten (10) business days after delivery of written notice; provided that if such breach or failure cannot reasonably be cured within such period and if diligent efforts to cure

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promptly commence within (10) business days of delivery of notice, then the cure period shall continue as long as such diligent efforts to cure continue, but not beyond a date agreed to in writing by the Parties; or

c. by City or EBCE, if the other Party becomes insolvent or proceedings are instituted by or against it under any provision of any federal or state bankruptcy or insolvency laws; or

d. by City or EBCE, if all Properties identified in Exhibit A have been removed from this Agreement either pursuant to Section 5 or upon expiration of each applicable Property's Operating Term.

7. Electricity and Communications. Unless otherwise agreed by the Parties, EBCE shall be responsible for all electricity and communications costs of the Charging Station(s) by obtaining separately metered electricity service at each Property. City shall reasonably cooperate with EBCE's efforts regarding the provision of electricity to the Charging Station(s) at each Property. Absent any affirmative or intentional conduct of the Parties, neither City nor EBCE has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of the distribution utility service furnished to the Charging Station(s) at each Property, which is presently provided by PG&E. City grants to EBCE the right to establish and/or receive utility services to the Charging Stations at each Site, including but not limited to electric, and the right for the distribution utility service supplier to construct, reconstruct, install, inspect, maintain, replace, remove, and use said utility services to serve each Charging Station together with the right for the distribution utility service supplier to ingress to and egress from said utility service facilities across each Property. City understands that per PG&E Electric Rule 29, PG&E requires that new electric vehicle service extensions must provide a clear route (clear of obstructions) which inhibit the construction of either underground or overhead electric vehicle service extensions. PG&E and EBCE will work together to design the shortest or most practical and available route for PG&E to provide service extensions to the Charging Stations. City shall not unreasonably deny the distribution utility and the service utility for each Property to right to trim, cut down, and clear away or otherwise control any trees or brush within five (5) feet of said route and within the City's property for the installation and operation of utility services in compliance with PG&E Electric Rule 29. Nothing by way of the rights established under this section shall excuse EBCE, its contractors, or the distribution utility, from their duty to obtain any and all necessary easements, licenses, permits (including encroachment and building permits), or other approvals to perform the services under this section.

8. Maintenance and Operation of Sites. City shall cause each Site, including EBCE Charging Stalls (but not including EBCE Charging Stations or related equipment, hardware, software or signage), to be maintained in a reasonably clean, safe, and orderly condition, to at least the same standard as other similar areas (e.g. parking areas) at each such Property that are under City control are maintained. For purposes of clarification, City shall have no responsibility to maintain EBCE's Charging Stations or related EBCE equipment, hardware, software, or signage. City shall not retain any ownership rights in the Charging Station(s) and related EBCE equipment. EBCE and its employees, contractors, and vendors may, at any time during the Term, access each Site and each associated Property to maintain, inspect, repair, upgrade, remove or replace any portion of a Charging Station. EBCE shall operate and maintain, and/or retain a third-party contractor to operate and maintain, the Charging Station(s) in accordance with Exhibit C, attached hereto and incorporated herein by this reference ("Maintenance and Operations Plan"). Nothing by way of the rights established under this section shall excuse EBCE, its contractor, or electric service provider, including the distribution utility and the service utility, from their duty to obtain any and all necessary licenses, permits (including encroachment and building permits), or other approvals to perform the services under this section. Unless otherwise provided in a Notice to Proceed for a specific Site, nothing in this Agreement shall prevent City from operating parking meters or other parking payment systems on a Property, including for any parking spaces which are included in a Charging Stall or otherwise part of a Site; provided, City shall not, without EBCE's consent, charge additional parking fees to park in a Charging Stall as compared to parking fees charged for similar parking spaces that lack Charging Stalls. City may adjust parking fees at its sole discretion; provided, City shall obtain EBCE's consent, not to be unreasonably withheld, to charge higher fees for parking at a Charging Stall on the Property as compared to parking fees charged for similar public parking spaces at the same Property that lack Charging Stalls. Nothing in this agreement shall require City to alter its parking enforcement policies and practices.

9. EBCE Customers: Access. EBCE will provide Charging Station access to customers ("EBCE Customers"), which may include members of the public, as well as commercial fleet and rideshare vehicles, who shall be charged in amounts reasonably determined by EBCE, which may change from time to time in EBCE's sole discretion. EBCE Customers shall have access to each Site during the hours set forth in a Notice to Proceed for each Property (the

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“Site Access Hours”). City shall notify EBCE at least forty-eight (48) hours in advance of any need to limit access to any Site during Site Access Hours due to maintenance, safety, or other unforeseen reasons, or, if possible, as soon as reasonably practical in the event of an emergency.

10. Signage & Promotional Activities. At EBCE’s sole cost, EBCE and its contractors and vendors may stripe and place appropriate signage at each Site and mark each Charging Station and all Charging Stalls and related EBCE equipment in EBCE’s reasonable discretion, subject to City’s written prior approval, not to be unreasonably withheld. In addition, subject to City’s prior approval, not to be unreasonably withheld, EBCE and its contractors and vendors may place signage, marks, or advertising devices in, on, or about and around each Site within each Property at EBCE’s sole cost and subject to applicable laws and regulations. At no time may City place any signage on EBCE Charging Stalls, Charging Stations or related EBCE equipment or in a manner that interferes with EBCE operations at each Site. Nothing by way of the rights established under this section shall excuse EBCE, its contractors and vendors, from the requirements set forth in the City’s municipal code or their duty to obtain any and all necessary licenses, permits (including encroachment and building permits), or other approvals to perform the services under this section.

11. Promotional Activities. During the Term of the Agreement, EBCE may promote the availability of the Charging Stations through traditional and/or electronic media, including providing the address to each Property and a description thereof. No Party shall use the other Party’s trade or service marks, logos, or other proprietary materials without the prior written consent of the other Party. Parties agree to coordinate promotional activities to the greatest extent possible and will establish a promotional plan, using the resources of both the City and EBCE.

12. Construction; Permits. EBCE shall, at its sole cost and expense, be responsible for installation, construction and removal of the Charging Stalls and Charging Stations, including the hiring and coordination of vendors and contractors. City and EBCE shall develop a schedule (the “Construction Coordination Schedule”), which shall set forth the details, timing and coordination of the work described above (“Construction Work”). The Construction Coordination Schedule shall be set forth in a Notice to Proceed for each Property; provided, that if the Construction Coordination Schedule is not available at the time of execution of the Notice to Proceed, the Parties agree to amend the Notice to Proceed to include the Construction Coordination Schedule once it is available. Any delay in providing the Construction Coordination Schedule at the time of the Notice to Proceed, shall not affect or otherwise extend any obligation that is calculated from the date of the Notice to Proceed. Before beginning any Construction Work, EBCE shall provide a copy of the construction schedule and installation plans to the City for its approval, including pricing and bid procedure, which approval shall not be unreasonably delayed or withheld. EBCE shall ensure that it or its designated contractor(s) and/or service providers obtain from governmental authorities all licenses, permits (including encroachment and building permits), or other approvals required to conduct such installation activities (collectively, “Approvals”). City shall reasonably cooperate with EBCE’s designated contractors and service providers as required to obtain such Approvals. EBCE shall not permit or suffer any Stop Orders, mechanic’s or materialmen’s liens to attach to any Site. A “Stop Order” means the notice and claim procedures for payment available in California Civil Code section 9000, et seq., to laborers, subcontractors, suppliers, materialmen and other parties identified in California Civil Code 9100 that provide labor or materials to a public project. If such a Stop Order, mechanic’s or materialmen’s lien attaches to a Site, EBCE shall remove or bond over such Stop Order or lien at EBCE’s sole cost and expense, within twenty (20) days of EBCE receiving written notice thereof from City. Failure to do so shall constitute a material breach of this Agreement. EBCE shall ensure that it or its designated contractors, subcontractors and/or service providers shall pay prevailing wages for any construction, installation work or maintenance contracts related to each Charging Station and related equipment, as those wages are determined pursuant to Labor Code Section 1720 *et seq.*, and Sections 1774 and 1775, to employ apprentices as required by Labor Code Section 1777.5 *et seq.*, and shall cause the contractors and subcontractors to comply with all other applicable provisions of the Labor Code and the implementing regulations of the Department of Industrial Relations (the “DIR”). Failure to comply with the terms under this Section 12 shall constitute a material breach of this Agreement.

13. Modification. EBCE may, at any time during the Term, and subject to the terms of this Agreement, in its sole discretion modify, including, without limitation, upgrade, replace, and/or remove all or a portion of any Charging Station (collectively, “Modifications”), except for items that are considered fixtures and attachments to a Site or Property under applicable laws in which case EBCE shall require the City’s prior written authorization; provided,

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however, before any such Modifications, EBCE shall provide at least sixty (60) days written prior notice to City and obtain all necessary permits prior to commencing any Modification.

14. Removal. Within ninety (90) days following the expiration of the Operating Term at a Property, the removal of a Property from this Agreement pursuant to Section 5, or the termination of this Agreement, EBCE shall remove, or cause its contractors and vendors to remove, relevant Charging Station(s) from either the removed Property or from all Properties, as applicable, and all of EBCE's other equipment and personal property from the applicable Property, but not electric infrastructure, which shall remain with each Property. EBCE shall ensure that no EBCE equipment or EBCE personal property is left on the Property that would impede any sidewalks, walkways or paths. Any pavement or other surface impacted by EBCE's removal pursuant to this section shall be restored to its original condition and to City's satisfaction, normal wear and tear excepted. EBCE shall ensure that it or its designated contractor(s) and/or service providers obtain from governmental authorities all approvals, including but not limited to permits, required to conduct such removal activities. This provision shall survive the termination of this Agreement. EBCE and its contractors and vendors shall coordinate with PG&E and have the electric service and switchgear removed. Electrical conduits can be capped and abandoned in place. Wires must be disconnected and removed.

15. Representations, Warranties & Covenants. The Parties each hereby represent and warrant to the other Parties that, as of the Effective Date: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of the 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, regulation, order, or other legal determination applicable to it; (c) there is no pending or, to its knowledge, threatened litigation or proceeding that may adversely affect its ability to perform the Agreement; (d) it is duly organized and validly existing under the laws of the jurisdiction of its organization; (e) the Agreement constitutes a legal, valid and binding obligation of such Party, except as enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting creditors' rights and by general principles of equity. Each Party shall comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes, nondiscrimination laws) and as amended from time-to-time in performing its obligations under the Agreement.

16. Indemnity. To the fullest extent permitted by law, each Party shall defend, indemnify and hold harmless the other Party, and their respective affiliates, representatives, agents, officers, officials, directors, managers, members, partners, contractors, or employees, from and against all third-party claims, demands, causes of action, liabilities, costs, damages, losses, penalties, fines, judgments or expenses, including reasonable attorneys' fees and costs of collection (collectively, "Losses") that arise out of or result from (i) any willful misconduct or negligence of the indemnifying Party in connection with this Agreement, (ii) any breach by the indemnifying Party of its obligations, representations or warranties under section 15 of this Agreement, or (iii) the indemnifying Party's operation of each Site or Property, except to the extent arising out of or resulting from any willful misconduct or negligence of the indemnified Party. The obligations of the Parties under this Section 16 shall survive the expiration, cancellation, or termination of this Agreement and the Term.

17. Insurance. During the Term, EBCE shall maintain insurance in full force and effect, at its cost and expense, as set forth in Exhibit B, attached hereto and incorporated herein by this reference. The insurance limits required of EBCE may be satisfied through self-insurance or a JPA, as designated in Exhibit B.

18. Limitation of Liability. In the absence of gross negligence or intentional conduct, in no event shall either Party be liable (in contract or in tort, including negligence and strict liability) to such other Party for any special, indirect or consequential damages relating to this Agreement. The provisions of this Section 18 shall apply to the full extent permitted by law and shall survive termination of this Agreement.

19. Miscellaneous.

a. Notice. Any notice provided or permitted to be given under the Agreement must be in writing and be served either by (i) deposit in the mail, addressed to the Party to be notified, postage prepaid, and registered or certified, with a return receipt requested, or (ii) deposit with an internationally recognized overnight delivery carrier, with notice of delivery to the recipient Party. Notice given by registered or certified mail or overnight carrier shall

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be deemed delivered and effective on the date of delivery shown on the return receipt or proof of receipt. Each Party may change its address for notice by giving notice thereof to the other Party. For purposes of notice the addresses of the Parties shall be as follows:

To City:

Attention: City of San Leandro
CC: Sustainability Manager
City Manager's Office
835 E14th Street
San Leandro, California 94577

To EBCE:

Attention: East Bay Community Energy
CC: Jessie Denver
1999 Harrison Street, Suite 800
Oakland, California 94612

b. Property Rights; Assignment. The rights granted to EBCE in this Agreement shall bind City's successors and assigns during the Term of the Agreement. City agrees that it shall not, during the Term, grant any sublease or property right to any third party that prevents EBCE from exercising the license granted to EBCE pursuant to this Agreement. EBCE may record this Agreement, any sublicense with EBCE's contractors and vendors, or any memorandum thereof in the public records of any public office. This Agreement is binding on and inures to the benefit of the Parties and their respective heirs, successors, assigns, and personal representatives. In the event a Property is transferred or City ceases to have the requisite level of control over a Property necessary to fulfill its obligations under the Agreement (each, a "Transfer Event"), City shall assign its rights and obligations under the Agreement to the person or entity which would be able to comply with City's obligations following such Transfer Event. Further, City agrees that any such Transfer Event shall not affect, terminate or disturb EBCE's right to quiet enjoyment and possession of each Site under the terms of the Agreement or any of EBCE's other rights under the Agreement, so long as EBCE is not then in default under any of the terms, covenants or conditions of the Agreement.

c. No Agency Relationship. Nothing in the Agreement shall be deemed or construed to create a joint venture, partnership, fiduciary, or agency relationship between the Parties for any purpose set forth in this Agreement, and the employees of one Party shall not be deemed to be the employees of the other Party. Except as otherwise stated in the Agreement, no Party has any right to act on behalf of the other, bind the other to any obligation, or enter into a contractual agreement on behalf of the other, nor represent that it has such right or authority.

d. Severability. If any term of the Agreement is held by any court of competent jurisdiction to be invalid, such invalidity shall not invalidate the remainder of the Agreement and the Agreement shall be construed and deemed reformed to the extent necessary to render valid such term and the rights and obligations of the parties shall be enforced accordingly.

e. Governing Law. This Agreement shall be governed by the laws of California with venue in Alameda County.

f. No Waiver. The failure of a Party to insist on strict performance of any provision of the Agreement does not constitute a waiver of or estoppel against asserting the right to require performance in the future and a waiver or estoppel given in any one instance does not constitute the same with respect to a later obligation or breach.

g. Remedies. The rights and remedies provided by the Agreement are cumulative, and the use of any right or remedy by any Party does not preclude or waive its right to use any or all other remedies. These rights and remedies are given in addition to any other rights a Party may have under any applicable law, in equity or otherwise.

h. Force Majeure. No Party is responsible for any delay or failure in performance of any part of the Agreement to the extent that delay or failure is caused by fire, flood, explosion, war, embargo, government

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requirement, civil or military authority, act of God, pandemic, act or omission of carriers or other similar causes beyond the Party's control.

i. Attorneys' Fees. If a Party institutes a suit against another Party for violation of or to enforce any covenant, term or condition of the Agreement, the prevailing Party shall be entitled to reimbursement of all of its costs and expenses, including, without limitation, reasonable attorneys' fees.

j. No Third-Party Beneficiaries. The Agreement does not confer any rights or remedies on any person other than the Parties and their respective successors and permitted assigns.

k. Integration; Amendments. The Agreement contains all agreements, promises and understandings between the Parties as to the subject matter of this Agreement. Any amendment, modification or other change to the Agreement shall be ineffective unless made in a writing signed by the Parties hereto.

l. Counterparts. The Agreement may be executed in any number of counterparts with the same effect as if all the Parties had signed the same document.

m. Construction. All documents or items attached to, or referred to in, the Agreement are incorporated into the Agreement as fully as if stated within the body of the Agreement. Each Party has cooperated in the drafting, negotiation and preparation of the Agreement and nothing herein shall be construed against any Party on the basis of that Party being the drafter of such language.

n. Annual Reports. EBCE shall provide City with reports, at least annually, for each Site. Annual reports will be provided within thirty (30) days of the close of each EBCE fiscal year, which currently ends June 30 of each calendar year. To the extent such information is available to EBCE, annual reports shall include: number of charging sessions (by month), usage trends (by month), number of hours that stations were inoperable (including for periods of planned maintenance and repair), and cleaning, maintenance and repair records. Where possible, report data shall be provided in sufficient granularity to identify usage trends by days of the week and times of day.

[Signature page follows on next page.]

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In witness thereof, the Parties have entered into this Agreement as of the Effective Date set forth above.

CITY OF SAN LEANDRO

EAST BAY COMMUNITY ENERGY

Fran Robustelli, City Manager

Nick Chaset, Chief Executive Officer

Attest:

Consultant's DIR Registration Number
(if applicable)

Kelly Clancy, Acting City Clerk

Budget Approved:

Approved as to Fiscal Authority:

T. Michael Yuen, Finance Director

Account Number

Approved as to Form:

Richard D. Pio Roda, City Attorney

**EXHIBIT A
PROPERTY(IES)**

Property #	Property Location	Charging Stalls	Third Party Stakeholder(s) (yes/no)	Date Site Added to MSLA	Site COD Date	Site Removal Date (from Exhibit A)	Site Removal Description
1	City Hall 835 E. 14 th Street (between Lorraine & Peralta) San Leandro, CA 94577	~90					
2	Senior Community Center 13909 E. 14 th Street San Leandro, CA 94578	~50					
3	Marina Community Center 15301 Wicks Blvd. San Leandro, CA 94579						
4	Main Library 300 Estudillo Avenue San Leandro, CA 94577						
5	Downtown Parking Garage 122 Estudillo Avenue San Leandro, CA 94577						
6	Manor Library 1241 Manor Blvd. San Leandro, CA 94579						
7	San Leandro Family Aquatic Center 14900 Zelma Street San Leandro, CA 94579						
8	Mulford Library 3699 Aurora Dr,						

	San Leandro, CA 94577						
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EXHIBIT B INSURANCE

Insurance. During the term of this Agreement, EBCE shall maintain in full force and effect, at its own cost and expense, insurance coverages either: (a) through a City-approved self-insurance pool; or (b) with insurers with an A.M. Best's rating of no less than A:VII. EBCE shall have the obligation to furnish City, as additional insured, the minimum coverages identified below, or such greater or broader coverage for City, if available in EBCE's policies:

a. **General Liability and Bodily Injury Insurance.** Commercial general liability insurance with limits of at least \$5,000,000 combined limit for bodily injury and property damage that provides that the City, its officers, officials, employees, volunteers and agents are named additional insureds under the policy as evidenced by an additional insured endorsement satisfactory to the City Attorney. The policy shall further state in writing either on the Certificate of Insurance or attached rider that this insurance will operate as primary insurance for work performed by EBCE, its contractors and subcontractors, and that no other insurance effected by City or other named insured will be called on to cover a loss.

b. **Automobile Liability Insurance.** Automobile liability insurance with limits not less than \$2,000,000 per person/per occurrence.

c. **Workers' Compensation Insurance.** Workers' Compensation Insurance for all of EBCE's employees shall be in strict compliance with State laws, including a waiver of subrogation and Employer's Liability Insurance with limits of at least \$1,000,000.

For work or services deemed public works, by signing this Agreement, EBCE is certifying, pursuant to Section 1861 of the California Labor Code, that: "I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Contract."

d. **Certificate of Insurance.** EBCE shall file a certificate of insurance with the City prior to engaging in any operation or activity set forth in this Agreement. The Certificate of Insurance shall provide in writing that the insurance afforded by this Certificate shall not be suspended, voided, canceled, reduced in coverage or in limits without providing notice to the City in accordance with California Insurance Code section 677.2 which requires the notice of cancellation to: 1) include the effective date of the cancellation; 2) include the reasons for the cancellation; and 3) be given at least 30 days prior to the effective date of the cancellation, except that in the case of cancellation for nonpayment of premiums or for fraud, the notice shall be given no less than 10 days prior to the effective date of the cancellation. Notice shall be sent by certified mail, return receipt requested. In addition, the insured shall provide thirty (30) days prior written notice to the City of any cancellation, suspension, reduction of coverage or in limits, or voiding of the insurance coverage required by this agreement. The City reserves the right to require complete certified copies of policies.

e. **Contractors and Subcontractors.** EBCE shall include all contractors and subcontractors as insured under its policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. All coverages for contractors and subcontractors shall be subject to all of the requirements stated in this Agreement, including but not limited to naming additional insureds.

f. **Waiver of Subrogation.** The insurer agrees to waive all rights of subrogation against the City, its officers, officials, employees, volunteers and agents. EBCE hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss.

g. Defense Costs. Coverage shall be provided on a “pay on behalf of” basis, with defense costs payable in addition to policy limits. There shall be no cross liability exclusions.

**EXHIBIT C
MAINTENANCE AND OPERATION PLAN**

OPERATIONS & MAINTENANCE

- EBCE shall maintain a minimum of ninety-seven percent (97%) operational availability (as a percent of the time) of Charging Stations at each site.
- EBCE, or its representative, will employ a network communication system with a service provider capable of monitoring the Charging Stations for any error or malfunction twenty-four (24) hours a day, seven (7) days a week.
- Maintenance of the Charging Stations shall be performed by EBCE and/or its subcontractors who have the capabilities and capacity to notify and respond to issues or malfunction.

City shall have no responsibility for the payment of maintenance, operation and repair costs, including any license, fees, and/or taxes. This responsibility spans from contract execution through expiration.

CUSTOMER SERVICE

EBCE currently manages a successful call center to respond to and manage questions about EBCE's electricity service and programs. EBCE will provide, or cause to be provided, the same level of customer service to EV drivers using EBCE Charging Stations. EBCE will ensure customer support is accessible in at least English and Spanish via a toll-free telephone number and email address. Both communication pathways will be clearly posted near the Charging Stations, and customer support service will be trained and equipped to provide or dispatch services to address any concerns at the Charging Stations that EBCE customers may experience. As applicable, access to these communication pathways will also be available through the contractor's online portal and/or smart phone app. As the Charging Stations will be accessible 24/7, EBCE will require that customer support service is equally accessible 24/7.

ATTACHMENT 1 – NOTICE TO PROCEED FOR [PROPERTY #1]

[insert Property address]

I. Site Description

The Site shall include *[add written description]*.

[include map designating Site on Property and preliminary design drawings]

II. Charging Stall Description

[Example Only]: EBCE plans to install 10-150 kilowatt dual port direct current fast chargers (“DCFC”) in 20 Charging Stalls at the Property. Each DCFC will be capable of powering 2 Charging Stalls. Please note, the capacity of the DCFC equipment may change in the final project design.

Per State of California requirements, 2 of the Charging Stalls will comply with the Americans With Disabilities Act (“ADA”). To accommodate the van accessible ADA requirements, and DCFC equipment requirements generally based on final product selection, 2 additional parking spaces may be needed at the Property (for a total of up to 24 parking spaces).

To accommodate the electrical load of 10 DCFCs at the Property, EBCE will bring in a new PG&E metering service at a 2-megawatt maximum size. EBCE costs related to the new electrical service will be assumed by EBCE. The electrical service that powers the Charging Stalls will be EBCE’s Renewable 100 electricity product and EBCE will be responsible for the meter. City will not pay any costs associated with the electricity consumption from this new meter. A new PG&E transformer will be installed by PG&E and EBCE will coordinate with PG&E through their Service Planning process to confirm the location of the transformer. EBCE will notify the City Representative about the required location of PG&E’s transformer. A 3000 Amp switchboard would be in the southwest corner of the property as well.

Through a public procurement solicitation issued by EBCE, EBCE has selected a vendor to provide turnkey services that includes final design, equipment, installation, load management system, ongoing maintenance services, and back-office services (e.g., communications, user account management, billing, reporting, utility interface application, etc.). The vendor will be under contract with EBCE and will:

- *Install all associated wiring and conduit that enable the operation of the Charging Stalls (following all applicable building codes, industry standards, and best practices)*
- *Install any additional lighting, if necessary, for the Charging Stations*
- *Be responsible for pouring the concrete pads on which the DCFCs will be installed and designing and installing appropriate physical barriers (barrier posts, wheel stops) for structural support and protection of the DCFCs*
- *Mount all equipment in front of the Charging Stalls and will take into consideration accessibility to cables and plugs as well as connectivity to vehicles*
- *Be required to incorporate cable management systems in each Charging Stall to keep the charging cables off the ground*
- *Ensure the installation of the DCFCs complies with ADA requirements*
- *Re-stripe the Charging Stalls as needed*
- *Provide all signage required in consultation with EBCE*
- *Procure DCFCs and incorporate load management systems*
- *Provide a credit card payment solution (i.e. kiosk) if the DCFCs procured do not have a built-in credit card reader to ensure compliance with SB 454*
- *Provide a Maintenance and Operations for inclusion to this Agreement (Exhibit B)*

EBCE will keep the City updated on a regular cadence of any project design changes and engage the City in project construction meetings.]

III. Construction Coordination Schedule

[to be completed as the Parties finalize specific construction task timing]

Milestone	Expected Date for Completion

IV. Site Access Hours

[Twenty-four (24) hours per day, seven (7) days per week, and 365/365 days per year.]

CITY OF SAN LEANDRO

By: _____
Name: _____
Title: _____

**EAST BAY COMMUNITY ENERGY
AUTHORITY**

By: _____
Name: _____
Title: _____

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