

LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "**Agreement**") is made effective as of December 26, 2012, between the City of Chula Vista, a municipal corporation organized under the laws of the State of California ("**Licensor**"), and ELECTRIC TRANSPORTATION ENGINEERING CORPORATION, d/b/a ECOTality North America, an Arizona corporation, ("**Licensee**") Each of Licensor and Licensee may hereinafter be referred to individually as, a "**Party**", and collectively, as the "**Parties**".

RECITALS:

- A. Licensor possesses and controls that certain real property whose permanent property tax number and legal description are attached hereto and incorporated herein by reference as **Exhibit A** (the "Licensor Property (ies)"), specific portions of which Licensor Property will be licensed to Licensee pursuant to this Agreement which portions are described, depicted and attached hereto as **Exhibit B** (collectively, the "**Licensed Premises**").
- B. Licensee is the owner of certain electric vehicle service equipment and related software (collectively, the "EVSE").
- C. Licensee desires to obtain from Licensor certain rights over, under and across the Licensor Property for the purpose of installing, maintaining, operating and removing the EVSE.

AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- 1. The License. Licensor hereby grants to Licensee license to use and occupy the Licensed Premises (the "License") for the Permitted Uses, on the terms and conditions stated in this Agreement.
 - 1.1. Scope of License; Permitted Uses. The Licensed Premises is licensed for the purpose of installing, maintaining, operating, improving, supplementing, posting advertising (whether physically, digitally or via other remotely changeable technology), repairing, repositioning and/or removing EVSEs, including, without limitation, fixture connections, electrical and broadband supply and connections and any other equipment and accessories as Licensee may place thereon (collectively, the "**EVSE Equipment**"). This License includes all necessary rights of ingress and egress over the Licensor Property. Licensee may license the use of the EVSE Equipment, or any portion thereof, for any lawful purpose.
 - 1.2. Limitations. This License is nonexclusive authorization for Licensee to enter upon and use the Licensed Premises solely for the Permitted Uses on the terms and conditions stated herein.
 - 1.3. Rights of Others. Licensee agrees to obtain, at its sole expense, such other licenses, permits, consents and agreements as may be required to address the rights of others by other appropriate agreements, easements, privileges or other rights, whether recorded or unrecorded, and shall make its own arrangements with holders of such prior rights. Licensee must confine activities on the Licensed Premises strictly to those necessary for the enjoyment of the rights hereby licensed, and must refrain from marring or impairing the appearance of the Licensed Premises, obstructing access thereto, interfering with the transaction of Licensor's business and the convenience of the public, or jeopardizing the safety of persons or property. Except as may be otherwise provided for in this Agreement, Licensee will bear the costs and expenses, associated with the operation and use of the EVSE, including, without limitation, any increased

electrical operating costs resulting from the EVSE. Under this agreement, Licensee is permitted to utilize existing power at specified and agreed upon sites. Licensee shall be responsible for all costs and expenses associated with or caused by operation of the EVSE. Such costs include, but are not limited to, non-coincident demand charges, taxes, and public goods charges that may recur in billing cycles subsequent to the month of origination. Licensee shall reimburse Licensor for such costs within 30 days of Licensor's demand for payment. However, Licensor does not warrant the supply of power in that there may be times when electrical power is not available due to unforeseen circumstances or is shut off for routine maintenance. In such circumstances, Licensee waives any claims or causes of action against Licensor.

- 1.4. Condition of Licensed Premises. Licensee acknowledges that Licensor is not obligated to construct or install any improvements or facilities of any kind on the Licensed Premises. Further, Licensee shall pay to install and maintain a separate service panel to the Licensed Premises for the EVSE. Licensee must use commercially reasonable efforts to maintain the Licensed Premises in good and clean condition, including the removal from the Licensed Premises of any unsightly, dangerous or offensive conditions and must not cause or permit any generation of hazardous waste. During the term of this Agreement Licensor will cooperate with Licensee to implement reasonable and appropriate, mutually agreed upon procedures to assure that the Licensed Premises are maintained in a satisfactory condition. Licensee agrees not to use or store, or permit to be used stored, on the Licensed Premises, gasoline or petroleum products, hazardous or toxic substances or inflammable materials, herbicides, pesticides, fungicides, algacides. Licensee may not engage in the production, location, transportation, storage, treatment, discharge, disposal, or release upon or under the Licensed Premises of any substance regulated under any local, state or federal environmental protection law or regulation. Except as otherwise expressly set for in this Agreement, Licensee will bear the costs and expenses, associated with performing any alterations to the Licensed Premises, including, without limitation, costs of construction and any increased electrical operating costs resulting from such alterations. In the event of any alterations to the Licensed Premises, Licensee shall promptly replace, return, repair and restore any such property to a condition satisfactory to Licensor and any other affected landowner at Licensee's sole cost and expense.
- 1.5. Condition of EVSE. During the term of this Agreement Licensee must maintain the EVSE situated on the Licensed Premises in a reasonable, safe and operable condition at all times. Licensor will have no right or responsibility to repair, maintain, or operate the EVSE. Licensor will cooperate with Licensee to implement appropriate, mutually agreed upon measures to assure that the EVSE is maintained in operable condition and that if the EVSE is damaged or becomes inoperable that Licensee is promptly notified. Licensee will repair or replace, at Licensee's option and at Licensee's sole expense, the EVSE or parts or components thereof as Licensee deems necessary and appropriate.
- 1.6. Compliance with Laws. In the exercise of any right granted by this Agreement, Licensee must comply with all applicable State, municipal and local laws, and the rules, orders, regulations and other legal requirements. Licensee must obtain promptly and maintain in effect throughout the term of the License all licenses, permits, authorizations, registrations, rights and franchises necessary to conduct the actions required or permitted by the License. Furthermore, Licensee will not encourage or permit any use in or upon the Licensed Premises, or any part

thereof, in violation of any applicable laws, statutes, rules or regulations of any federal, state or local authority.

2. Term of License. This Agreement shall be in effect for an initial term of five (5) years, commencing on the date last signed below (the "**Commencement Date**") and may be renewed upon mutual election thereafter for successive one (1) year periods, up to five additional years. Notice to renew for each period must be given by written notice of request to renew ninety (90) but not more than one hundred fifty (150) days prior to the expiration of the then existing term.
3. License Fee. Licensee shall pay Licensor a license fee in the amount of One Hundred Dollars (\$100.00) per year payable in full upon the Commencement Date and each anniversary date thereafter for the period of time prior to complete construction of the EVSE Equipment and receipt by Licensee of all necessary governmental authorizations for operation of the EVSE Equipment.
4. Removal of the EVSE. On the expiration or any earlier termination of this Agreement, Licensee shall vacate the Licensed Premises.
 - 4.1. Removal of the EVSE by Licensee upon Expiration of the Term or Earlier Termination. Licensee shall remove (at Licensee's sole cost and expense) all of the EVSE, and must restore the Licensed Premises to a safe and reasonable condition, as more specifically described in § 4.2 hereof.
 - 4.2. Restoration. Upon expiration or termination of the License and removal of the EVSE Licensee will, at Licensee's sole expense, restore the affected portions of the Licensed Premises (surface and subsurface) to a safe condition, with the electricity to the EVSE locations capped, the breakers turned off, and the EVSE anchor/mounting bolts cut flush/removed.
5. Ownership. Licensee is and shall remain the owner of the EVSE Equipment until Licensee no longer has any rights to use or possess the Licensed Premises whether (1) under this Agreement, or any extension, renewal, or modification of this Agreement; (2) by operation of law; or (3) as such right is otherwise held by Licensee, provided, however, that Licensee has the right to remove the EVSE Equipment at any time or within ninety days (90) following the termination of such right to use or possess the Licensed Premises. If for any reason, Licensee's EVSE Equipment are removed, materially damaged or destroyed, all license fee payments shall cease until the EVSE Equipment are rebuilt and all necessary governmental authorizations are obtained to operate the EVSE Equipment. Licensee has the sole right to make any necessary applications with, and obtain permits from, governmental entities for the construction, use and maintenance of the EVSE Equipment. All of the information, content, services and software displayed on, transmitted through, or used in connection with the use and operation of the EVSE, including, but not limited to advertising, text, photographs, images, illustrations, video, html, source and object code, software, data, Internet account access, and the like (collectively, the "Content") is owned by ECotality and its affiliates, licensors, or suppliers.
6. Media Content. The Parties acknowledge and agree that ECotality shall have control over the solicitation, contracting, and distribution of any and all media content placed on, through or in connection with the EVSE. However, the media, including advertising, placed on, through or in connection with the EVSE shall not be inconsistent with (and Licensee may not place) the Licensor's Website linking Policy provisions related to prohibited links. The Parties will work together in a good faith effort to resolve any objections that the Licensor may have with the subject matter, time of display, and format of media content. Licensor and Licensor's tenants, agents, employees, or other persons acting on Licensor's behalf shall not place or maintain any object on or within ten (10) feet of the EVSE displays which, in Licensee's sole opinion, would obstruct the information displays on the EVSE displays.

7. Termination. Licensee agrees to the following:
- 7.1. Termination for Cause. This Agreement may be terminated in writing by either party for cause if either party violates any term of this Agreement and fails to cure the same within thirty (30) days of receiving written notice of such default.
8. Defense, Indemnity, and Hold Harmless. Licensee agrees to the following:
- 8.1. Licensee shall defend, indemnify, protect and hold harmless the Licensor, its elected and appointed officers, agents and employees, from and against any and all third party claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions, negligence, or willful misconduct of Licensee, its officials, officers, employees, agents, and contractors, arising out of or in connection with the performance of this Agreement. This indemnity provision does not include any claims, damages, liability, costs and expenses (including without limitations, attorneys fees) arising from the sole negligence (whether passive or active) or willful misconduct of the Licensor, its officers, employees. Also covered is liability arising from, connected with, caused by or claimed to be caused by the active or passive negligent acts or omissions of the Licensor, its agents, officers, or employees which may be in combination with the active or passive negligent acts or omissions of the Licensee, its employees, agents or officers, or any third party.
- 8.2. Costs of Defense and Award. Included in the obligations in Section 8.1, above, is the Licensee's obligation to defend, at Licensee's own cost, expense and risk, any and all suits, actions or other legal proceedings, that may be brought or instituted against the Licensor, its directors, officials, officers, employees, agents and/or volunteers, subject to the limitations in Section 8.1. Licensee shall pay and satisfy any judgment, award or decree that may be rendered against Licensor or its directors, officials, officers, employees, agents and/or volunteers, for any and all related legal expenses and costs incurred by each of them, subject to the limitations in Section 8.1.
- 8.3. Limitation of Liability. Notwithstanding anything to the contrary herein, any claims for damages by either party arising under or in connection with this agreement shall be limited to the insurance amounts set forth under this Agreement. This section shall only be in effect so long as licensee has insurance that is valid, current, and in full force and effect as set forth in Exhibit C. Otherwise, this section shall be null and void.
- 8.4. Declarations. Licensee's obligations under Section 8 shall not be limited by any prior or subsequent declaration by the Licensee.
- 8.5. Enforcement Costs. Licensee agrees to pay any and all costs Licensor incurs enforcing the indemnity and defense provisions set forth in Section 8.
- 8.6. Survival. Licensee's obligations under Section 8 shall survive the termination of this Agreement.
- 8.7. **LIMITATION OF LICENSEE'S LIABILITY.** LICENSEE MAKES NO WARRANTY OR REPRESENTATION, EXPRESSED, IMPLIED, ORAL OR STATUTORY, TO THE LICENSOR OR ANY THIRD PARTY, WITH RESPECT TO THE SOFTWARE OR THE EVSE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY, CONDITION OR REPRESENTATION: (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE; OR (B) THAT THE OPERATION OF ANY

SOFTWARE SUPPLIED WILL BE UNINTERRUPTED OR ERROR FREE. THIS LIMITATION DOES NOT RELIEVE LICENSEE OF ITS INDEMNIFICATION REQUIREMENTS SET FORTH IN SECTION 8.

NOTWITHSTANDING THE ABOVE, LICENSEE WARRANTS TO LICENSOR THAT THE EVSE WILL OPERATE AND PROVIDE ELECTRICAL POWER TO VEHICLES FOR PERIODS AND IN A MANNER CONSISTENT WITH INDUSTRY STANDARDS. IF THE PERIODS AND MANNER ARE NOT CONSISTENT WITH INDUSTRY STANDARDS ("INCONSISTENCY"), LICENSOR SHALL PROVIDE WRITTEN NOTICE TO LICENSEE AND THE PARTIES SHALL MEET TO CORRECT THE UNACCEPTABLE PERIOD AND MANNER OF PERFORMANCE. LICENSEE SHALL HAVE 30 DAYS (UNLESS OTHERWISE AGREED UPON BY THE PARTIES) TO CURE THE INCONSISTENCY. FAILURE TO CORRECT THE INCONSISTENCY SHALL CONSTITUTE FOR CAUSE TERMINATION UNDER THIS AGREEMENT.

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, ANY CLAIMS FOR DAMAGES BY EITHER PARTY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO THE INSURANCE AMOUNTS SET FORTH UNDER THIS AGREEMENT SO LONG AS LICENSEE HAS INSURANCE THAT IS VALID, CURRENT, AND IN FULL FORCE AND EFFECT AS SET FORTH IN EXHIBIT C. OTHERWISE, THIS PARAGRAPH SHALL BE NULL AND VOID.

9. Insurance Requirements. Licensee shall maintain insurance under the terms set forth in Exhibit C. Notwithstanding anything to the contrary, the required insurance amounts under this Agreement may not be decreased by licensee unless approved by the Licensor.
10. Notices. All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing. All notices, demands and requests to be sent to any party shall be deemed to have been properly given or served if personally served or deposited in the United States mail, addressed to such party, postage prepaid, registered or certified, with return receipt requested, at the addresses identified in this Agreement as the places of business for each of the designated parties. Notices shall be addressed as follows:

To Licensor:

Company: City of Chula Vista
Attn: Brendan Reed
Title: Environmental Resource Manager
Address: 276 Fourth Avenue
Chula Vista, CA 91910
Fax Number: 619-476-5310

To Licensee:

Electric Transportation Engineering
Corporation dba ECOtality North
America

Attn: Legal Department
Address: 430 S. 2nd Avenue
Phoenix, AZ 85003-2418
Fax Number: 602-443-9007

11. Interpretation. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. When a reference is made in this Agreement to a Section, such reference shall be to a Section of this Agreement unless otherwise indicated.
12. Severability. If any terms or other provision of this Agreement or the schedules or exhibits hereto shall be determined by a court, administrative agency or arbitrator to be invalid, illegal or unenforceable, such invalidity or unenforceability shall not render the entire Agreement invalid.
13. Information. Subject to applicable law and privileges, each Party hereto covenants with and agrees to provide to the other Party all information regarding itself and transactions under this Agreement that the other Party reasonably believes is required to comply with all applicable federal, state, county and local laws, ordinances, regulations and codes. *Further Agreements.* The Parties shall execute or cause their applicable affiliates to execute such additional agreements between the Parties and/or their respective affiliates as may be reasonably necessary to effectuate the intent of this Agreement.
14. Assignment. This Agreement shall inure to the benefit of, and be binding upon, the parties hereto and their respective successors, and permitted assigns. Licensor agrees not to assign this Agreement (or interest) to any competitor of Licensee without Licensee's prior written permission. Licensee agrees not to assign this Agreement (or interest) without Licensor's prior written permission. Consent to assignment by either party shall not be unreasonably withheld. Any assignment which does not satisfy the requirement of this section shall be null and void.
15. Binding Effect. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and their respective heirs, assigns and successors.
16. Amendment and Modification. This Agreement may be amended, modified or supplemented only by a written agreement signed by all of the Parties hereto.
17. Failure or Indulgence Not Waiver; Remedies Cumulative. No failure or delay on the part of either Party hereto in the exercise of any right hereunder shall impair such right or be construed to be a waiver of, or acquiescence in, any breach of any representation, warranty or agreement herein, nor shall any single or partial exercise of any such right preclude other or further exercise thereof or of any other right. All rights and remedies existing under this Agreement are cumulative to, and not exclusive of, any rights or remedies otherwise available.
18. Authority. Each of the Parties represent to the other Party that it has the corporate or other requisite power and authority to execute, deliver and perform this Agreement. Licensor represents that it is the owner (or owner's authorized agent) of the Licensor Property.
19. Third Party Beneficiaries. None of the provisions of this Agreement shall be for the benefit of or enforceable by any third party, including any creditor of any Person. No such third party shall obtain any right under any provision of this Agreement or shall by reasons of any such provision make any claim in respect of any liability (or otherwise) against either Party hereto. Notwithstanding the foregoing, it is understood that the Licensee's rights hereunder shall inure to the benefit of Licensee's affiliates and their officers, directors and employees.
20. Agents/Agency. Licensee is not an agent of the Licensor. Licensee shall not, in any manner, represent itself as an Agent of Licensor or undertake any act as an agent of the Licensor.

21. Counterparts. This Agreement may be executed in separate counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute one and the same agreement.
22. Administrative Claims Requirements and Procedures. No suit or arbitration shall be brought arising out of this Agreement, against Licensor unless a claim has first been presented in writing and filed with Licensor and acted upon by Licensor in accordance with the procedures set forth in Chapter 1.34 of the Chula Vista Municipal Code, as same may from time to time be amended, the provisions of which are incorporated by this reference as if fully set forth herein, and such policies and procedures used by Licensor in the implementation of same. Upon request by Licensor, Licensee shall meet and confer in good faith with Licensor for the purpose of resolving any dispute over the terms of this Agreement.
23. Governing Law/Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of California. Any action arising under or relating to this Agreement shall be brought only in the federal or state courts located in San Diego County, State of California, and if applicable, the City of Chula Vista, or as close thereto as possible. Venue for this Agreement, and performance under it, shall be the City of Chula Vista.
24. Entire Agreement. This Agreement and the exhibits and schedules referenced or attached hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and shall supersede all prior agreements, understandings and negotiations, both written and oral, between the Parties with respect to the subject matter hereof.
25. Exhibits. Exhibits to this agreement include the following:
 - A. Description of Licensor's Properties
 - B. Description and/or Depiction of Licensed Premises
 - C. Licensee Insurance Requirements
 - D. Licensee's Proposal for Electrical Vehicle Charging Stations

IN AGREEMENT, each of the Parties hereto has caused this Agreement to be duly executed as of the day and year first set forth above.

(Signature page to follow.)

**SIGNATURE PAGE TO LICENSE AGREEMENT BETWEEN THE CITY OF CHULA VISTA
(LICENSOR) AND ELECTRIC TRANSPORTATION ENGINEERING CORPORATION DBA
ECOTALITY NORTH AMERICA (LICENSEE)**

IN WITNESS WHEREOF, Licensor and Licensee have executed this Agreement, indicating that they have read and understood same, and indicate their full and complete consent to its terms:

Dated: 12/31/12

Licensor (City of Chula Vista),

By: [Signature]

for James D. Sandoval
City Manager

Attest:

[Signature]

Donna Norris, City Clerk

Approved as to form:

[Signature]

Glen R. Googins, City Attorney

Dated: 12/20/12

Licensee (ELECTRIC
TRANSPORTATION ENGINEERING
CORPORATION, d/b/a ECotality North
America),

By: [Signature]

Name: Thomas K Jacobson

Title: Dir of Sales

By: _____

Name: _____

Title: _____

EXHIBIT A: Description of Licensor's Properties

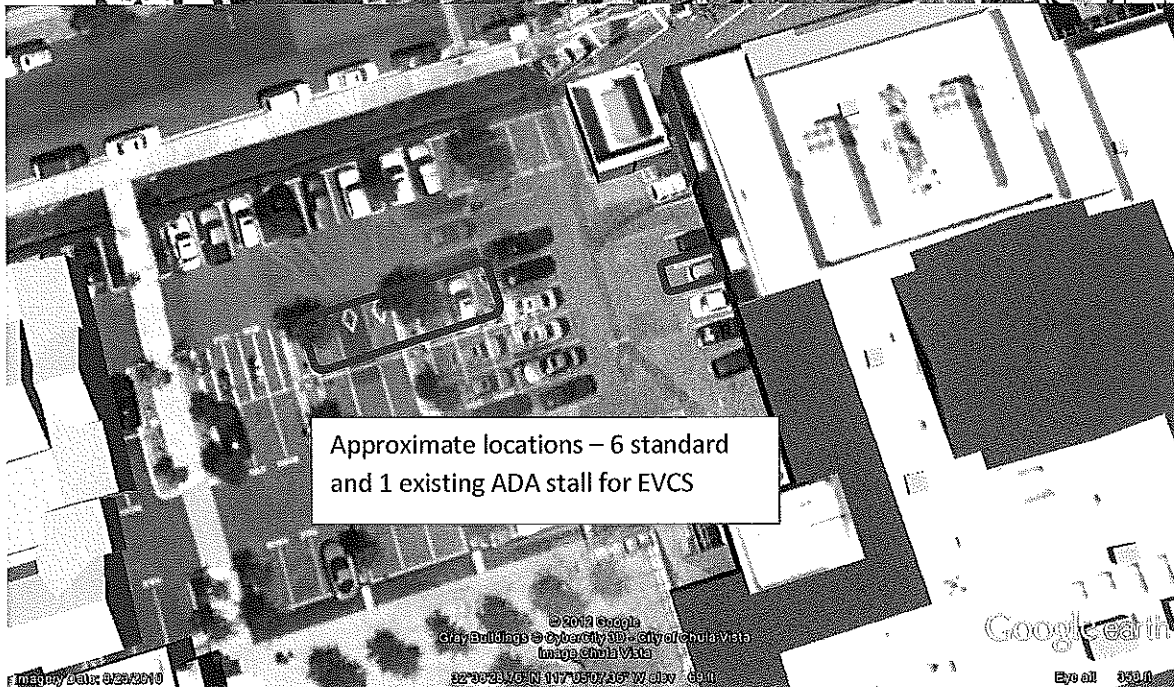
NOTE: This Exhibit A may be amended from time to time to add or delete properties

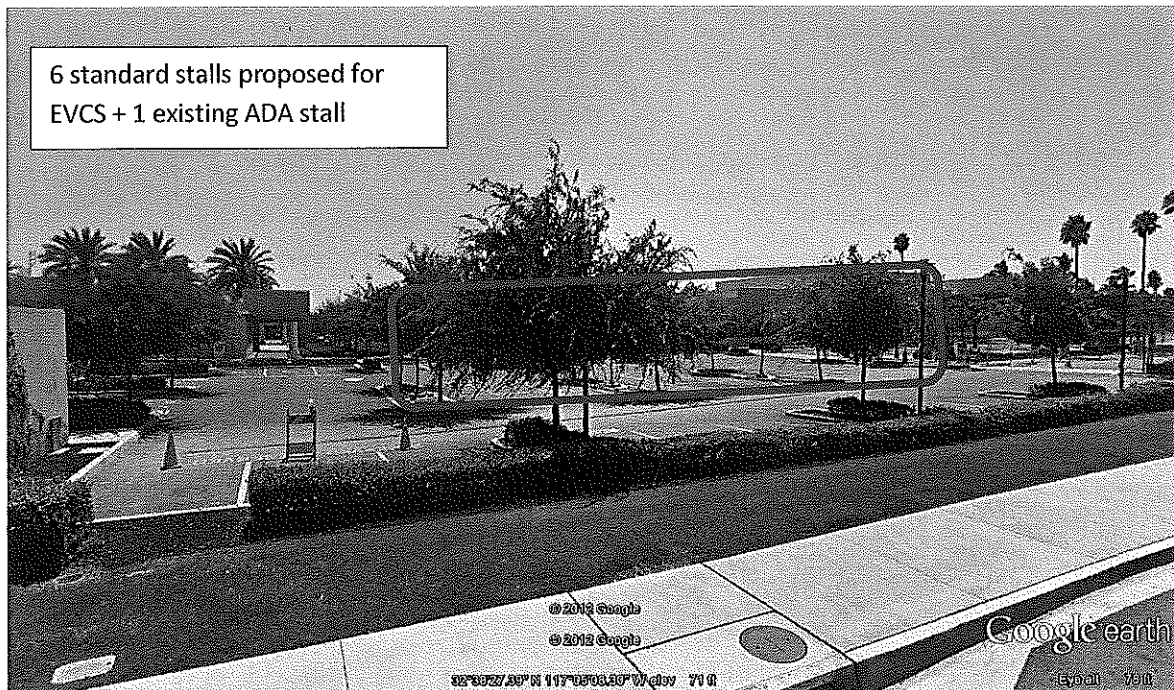
Location No.	Property Address	Assessor's No.	Parcel
01	Civic Center North, 276 Fourth Avenue, Chula Vista, CA 91910	5681103300	
02	Loma Verde Recreation Center, 1420 Loma Lane, Chula Vista, CA 91911	6240107200	
03	Towne Center Parking Structure, 340 F Street, Chula Vista, CA 91910	5682702900	
04	Parkway Community Center & Gymnasium, 373 Park Way, Chula Vista, CA 91910	5683004300	
05	Monteville Park & Recreation Center, 840 Duncan Ranch Road, Chula Vista, CA 91914	5957360600	

EXHIBIT B: Description and/or Depiction of Licensed Premises

Civic Center North – 276 Fourth Ave:

- 7 L2 EVCS
- Provide electrical disconnect outside of electrical room on primary feeder to EV chargers
- Existing service; SDG&E transformer incorrect secondary voltage for L2 EVCS

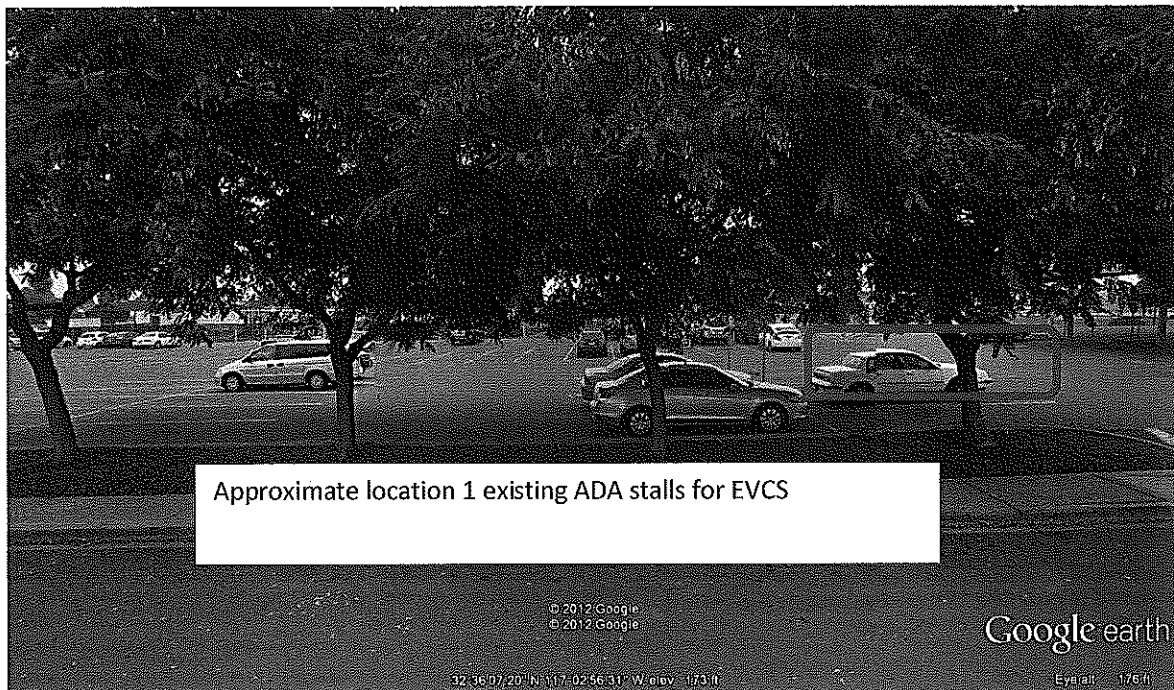




Loma Verde Rec Center – 1420 Loma Lane:

- 5 L2 EVCS
- New service of SDG&E 120/240V transformer on Loma Lane

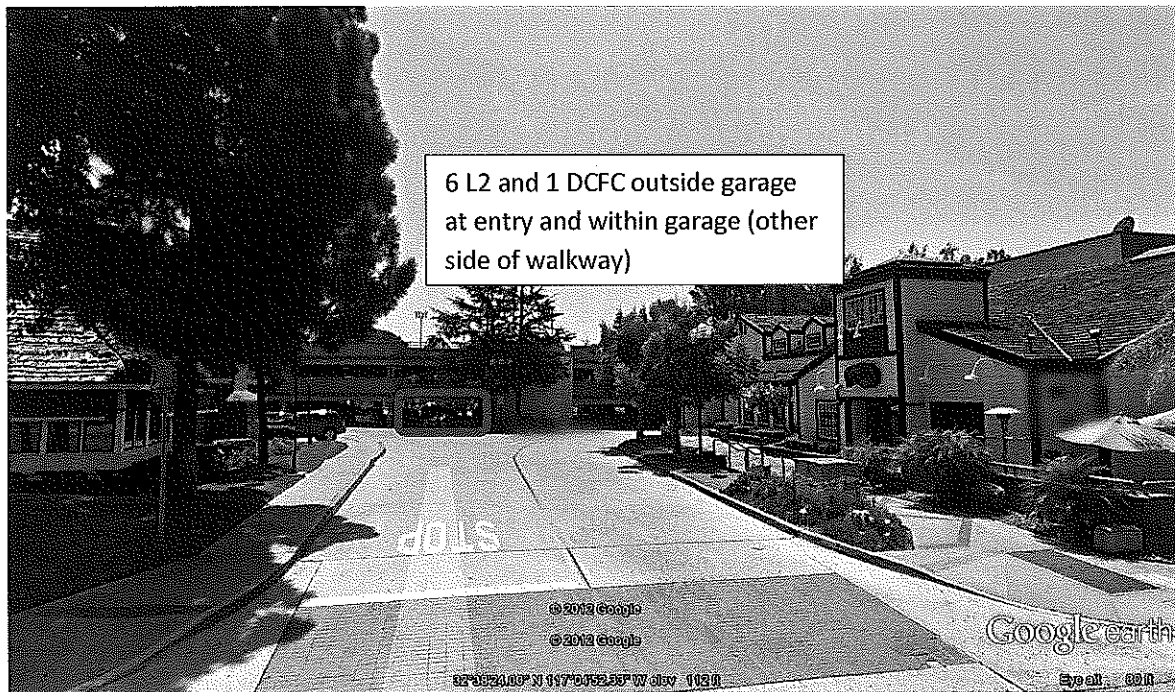
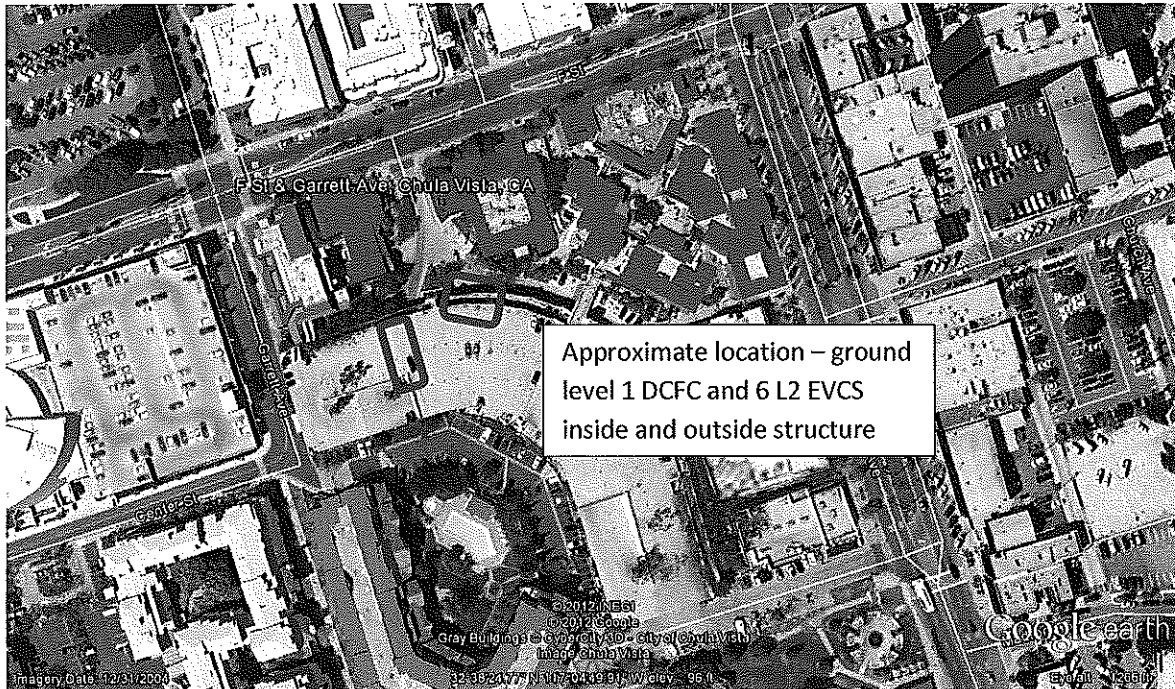




Towne Center Parking Structure – 340 F Street:

- 6 L2 & 1 DCFC EVCS
- New service off SDG&E 120/208V three phase transformer – correct for both L2 and DCFC







Location of DCFC and 1 L2 EV charger

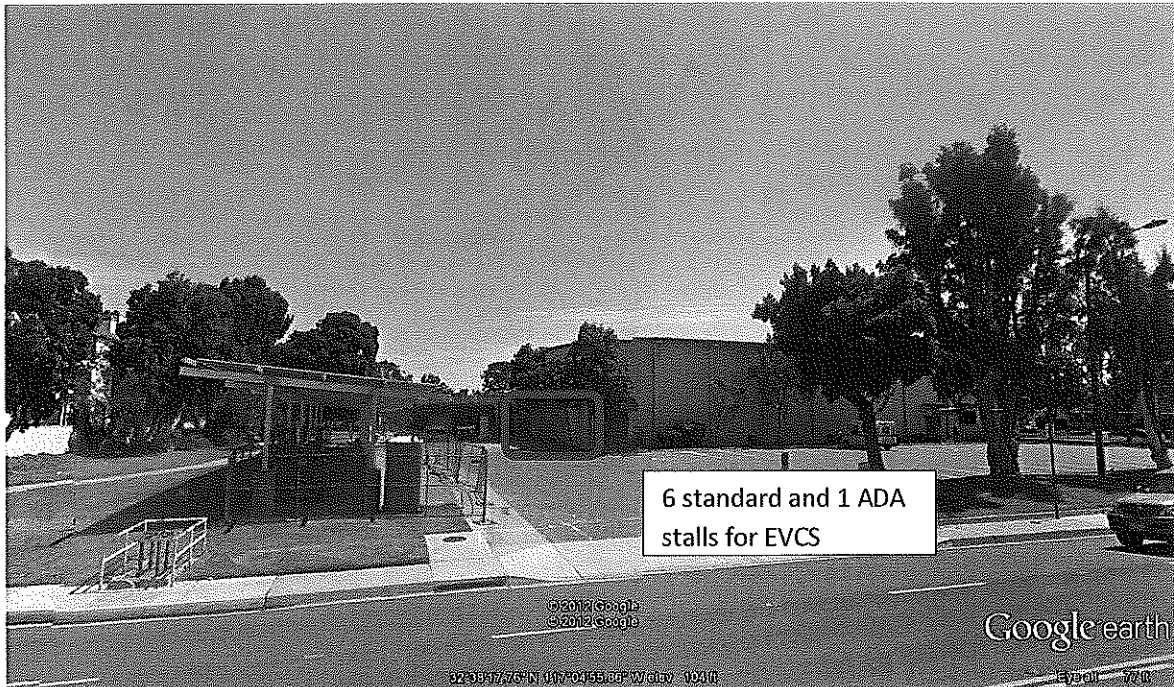


Location 5 L2 EV chargers to right of entry from F Street

Parkway Community Center – 373 Park Way:

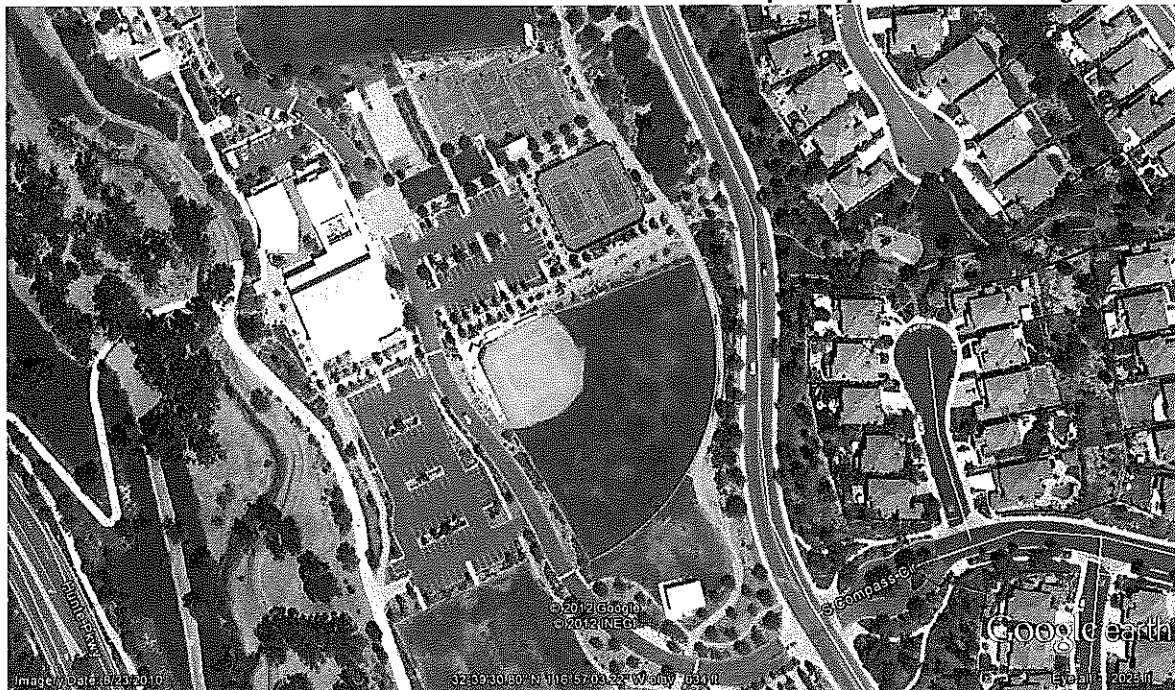
- 7 L2 EVCS
- New service off 120/208V three phase transformer
- Provide 2 LED Wall pack lights in area of EV charger installation





Monteville Park & Recreation Center- 840 Duncan Ranch Road:

- 7 L2 EVCS
- Existing Service – spare off main gear
- Provide electrical disconnect outside of electrical room on primary feeder to EV chargers



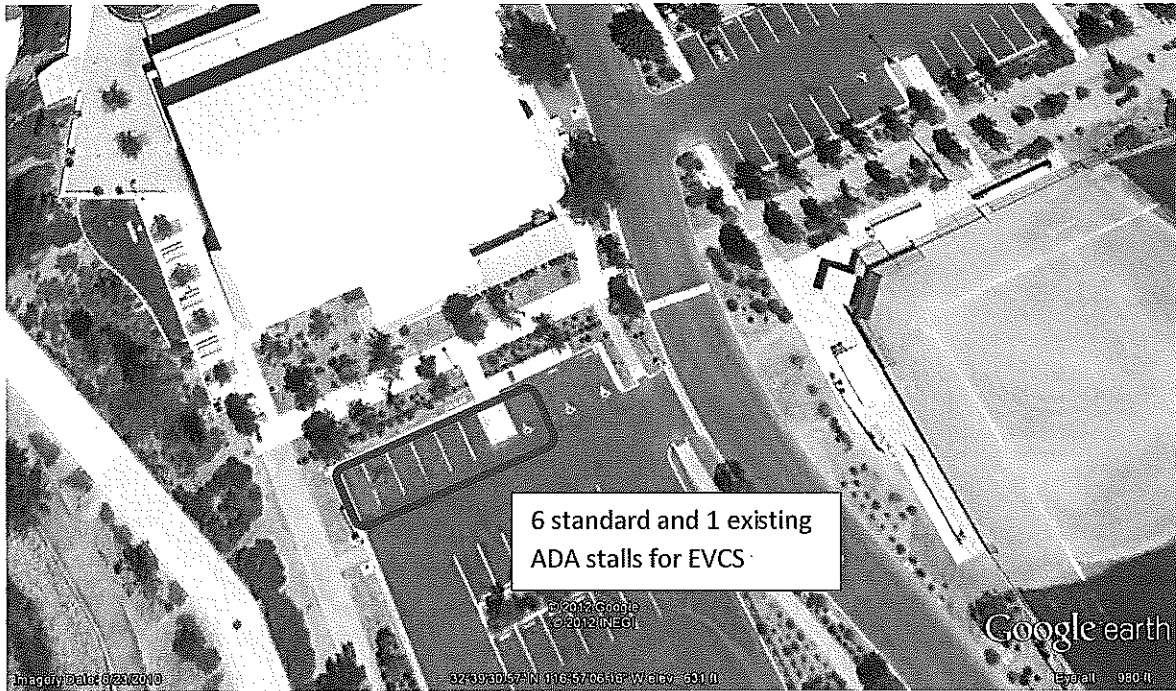


Exhibit C: Licensee Insurance Requirements

Licensee agrees to the following insurance terms.

1. General. Licensee must procure and maintain, during the period of performance of this Agreement, and for twelve months after completion, policies of insurance from insurance companies to protect against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work under this Agreement and the results of that work by the Consultant, his agents, representatives, employees or subcontractors, and provide documentation of same prior to commencement of work.
2. Minimum Scope of Insurance. Coverage must be at least as broad as:
 - a. *CGL.* Insurance Services Office Commercial General Liability coverage (occurrence Form CG0001).
 - b. *Auto.* Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
 - c. *WC.* Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
 - d. *E&O.* Professional Liability or Errors & Omissions Liability insurance appropriate to the Consultant's profession. Architects' and Engineers' coverage is to be endorsed to include contractual liability.
3. Minimum Limits of Insurance. Licensee must maintain limits no less than those included in the table below:

i. General Liability: Including operations, products and completed operations, as applicable)	\$10,000,000 per occurrence for bodily injury, personal injury, (including death), and property damage. If Commercial General Liability insurance with a general aggregate limit is used, either the general aggregate limit must apply separately to this Project/location or the general aggregate limit must be twice the required occurrence limit.
ii. Automobile Liability:	\$1,000,000 per accident for bodily injury, including death, and property damage.
iii. Workers' Compensation Employer's Liability:	Statutory \$1,000,000 each accident \$1,000,000 disease-policy limit \$1,000,000 disease-each employee
iv. Professional Liability or Errors & Omissions Liability:	\$1,000,000 each occurrence

4. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the Licensor. At the option of the Licensor, either the insurer will reduce or eliminate such deductibles or self-insured retentions as they pertain to the Licensor, its officers, officials, employees and volunteers; or the Licensee will provide a financial guarantee satisfactory to the Licensor guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

5. Other Insurance Provisions. *The general liability, automobile liability, and where appropriate, the worker's compensation policies are to contain, or be endorsed to contain, the following provisions:*

- a. *Additional Insureds.* Licensor, its officers, officials, employees, agents, and volunteers are to be named as additional insureds with respect to all policies of insurance, including those with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of the Licensee, where applicable, and, with respect to liability arising out of work or operations performed by or on behalf of the Licensee, including providing materials, parts or equipment furnished in connection with such work or operations. The general liability additional insured coverage must be provided in the form of an endorsement to the Licensee's insurance using ISO CG 2010 (11/85) or its equivalent. Specifically, the endorsement must not exclude Products/Completed Operations coverage.
- b. *Primary Insurance.* The Licensee's General Liability insurance coverage must be primary insurance as it pertains to the Licensor, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the Licensor, its officers, officials, employees, or volunteers is wholly separate from the insurance of the Licensee and in no way relieves the Licensee from its responsibility to provide insurance.
- c. *Cancellation.* The insurance policies required by this Agreement shall not be canceled by either party, except after thirty days' prior written notice to the Licensor by certified mail, return receipt requested. The words "will endeavor" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the company, its agents, or representatives" shall be deleted from all certificates.
- d. *Active Negligence.* Coverage shall not extend to any indemnity coverage for the active negligence of the additional insureds in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.
- e. *Waiver of Subrogation.* Licensee's insurer will provide a Waiver of Subrogation in favor of the Licensor for each required policy providing coverage for the term required by this Agreement.

6. Claims Forms. If General Liability, Pollution and/or Asbestos Pollution Liability and/or Errors & Omissions coverage are written on a claims-made form:

- a. *Retro Date.* The "Retro Date" must be shown, and must be before the date of the Agreement or the beginning of the work required by the Agreement.
- b. *Maintenance and Evidence.* Insurance must be maintained and evidence of insurance must be provided for at least five years after completion of the work required by the Agreement.
- c. *Cancellation.* If coverage is canceled or non-renewed, and not replaced with another claims-

~~made policy form with a "Retro Date" prior to the effective date of the Agreement, the~~

License Agreement

Licensee must purchase "extended reporting" coverage for a minimum of five years after completion of the work required by the Agreement.

- d. *Copies.* A copy of the claims reporting requirements must be submitted to the Licensor for review.
7. Acceptability of Insurers. Insurance is to be placed with licensed insurers admitted to transact business in the State of California with a current A.M. Best's rating of no less than A V. If insurance is placed with a surplus lines insurer, insurer must be listed on the State of California List of Eligible Surplus Lines Insurers (LESLI) with a current A.M. Best's rating of no less than A X. Exception may be made for the State Compensation Fund when not specifically rated.
8. Verification of Coverage. Licensee shall furnish the Licensor with original certificates and amendatory endorsements effecting coverage required by Section I.C. of this Agreement. The endorsements should be on insurance industry forms, provided those endorsements or policies conform to the requirements of this Agreement. All certificates and endorsements are to be received and approved by the Licensor before work commences. The Licensor reserves the right to require, at any time, complete, certified copies of all required insurance policies, including endorsements evidencing the coverage required by these specifications.
9. Subcontractors. Licensee must include all subcontractor as insureds under its policies or furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors is subject to all of the requirements included in these specifications.
10. Not a Limitation of Other Obligations. Insurance provisions under this Article shall not be construed to limit the Licensee's obligations under this Agreement, including Indemnity.

EXHIBIT D: Licensee's Proposal for Electrical Vehicle Charging Stations