



City Council Report

915 I Street, 1st Floor
Sacramento, CA 95814

www.cityofsacramento.org

File ID: 2017-00814

June 20, 2017

Consent Item 14

Title: Agreement: EVgo High Speed Charging Plaza at Southside Park

Location: 6th and W Streets near 2115 6th Street, District 4

Recommendation: Pass a Motion: 1) approving an agreement with EVgo for the installation of a high-speed charging plaza at Southside Park consisting of up to six electric vehicle (EV) chargers, ten designated EV parking spaces, and related improvements for accessibility and signage; and 2) authorizing the City Manager or City Manager's designee to enter into an agreement.

Contact: Jennifer Venema, Sustainability Manager, (916) 808-1859; Matt Eierman, Parking Services Manager, (916) 808-5849; Joseph Gluvers, Associate Engineer, (916) 808-8427, Department of Public Works

Presenter: None

Attachments:

1-Description/Analysis

2-Agreement

Description/Analysis

Issue Detail: Emerging EV technologies and business models provide new opportunities to expand public EV charging infrastructure. The 10-year agreement with EVgo is recommended as a Demonstration Partnership for the testing and demonstration of new EV technologies and services. EVgo operates the largest public fast charging EV network in the nation, with more than 1,000 charging stations. Staff would use lessons from the EVgo project to develop curbside charging permit guidance. The recommended agreement would authorize EVgo to install, operate, and maintain up to six direct current (DC) fast chargers and ten designated EV parking spaces in the public right-of-way at no cost to the City. The EVgo chargers would be available as a paid service for drivers of EVs. These would be the first “curbside” EV chargers available in the city, and EVgo’s first partnership with a local government for development of 150-kW high-power DC fast chargers. The project would be a cutting-edge demonstration as EVgo’s third high-power DC fast charge station in California.

Policy Considerations: A partnership with EVgo would support the goals of the General Plan and City Council. General Plan Policy M1.5.5 calls for collaboration with state and regional partners to support rapid adoption of zero-emissions and low-emission vehicles, including increasing the availability of public and private EV charging stations. City Council adopted the Demonstration Partnership Policy on April 25, 2017 (Resolution No. 2017-0150) for the testing, evaluation, and demonstration of innovative solutions to City services. The policy directs the City to streamline partnerships that provide new and innovative solutions to implement City goals and policies (Section III.1), and structure partnerships to maximize public benefit and advance financial, operational, and environmental sustainability (Section III.4). This proposal would allow for the development and demonstration of fast EV charging in the right-of-way, at no cost the City. These efforts are consistent with adopted goals to support zero-emission vehicles and test new ways to provide services.

Economic Impacts: None.

Environmental Considerations: The Community Development Department Environmental Services Manager has determined that the proposed project is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15303. The project consists of the construction and location of limited numbers of new small facilities and structures at an existing developed park and public right of way.

Sustainability: The General Plan and 2012 Climate Action Plan emphasize the role of EV programs. The installation of EV charging infrastructure in public locations can help increase community awareness and improve the practicality of EVs. The transportation sector is the largest greenhouse gas emissions sector in the community, comprising 48% of community-

wide greenhouse gas (GHG) emissions. The proposed agreement would expand the EV charging network and support EV programs, implementing Climate Action Plan strategies to reduce vehicular emissions. In addition to reducing GHG emissions, all-electric battery EVs also emit zero tailpipe emissions and help improve local air quality.

Commission/Committee Action: Not applicable.

Rationale for Recommendation: This agreement provides the City an opportunity, to analyze methods for future installations of EV infrastructure in the community. The High-Speed EV Charging Plaza will serve as a convenient location for the regional and interstate EV charging network. The recommended agreement would authorize EVgo to expand the City's EV charging services with new, advanced high-power DC fast charger technology in a highly visible location. Supporting innovative EV implementation with EVgo would enable the City to evaluate new types of EV applications. This approach is a first step to expanding permit processes to accommodate curbside charging city-wide.

Financial Considerations: Partnership with EVgo would facilitate an expansion of EV infrastructure at no cost to the City. Preliminary City estimates for developing a single, conventional 50-kW DC fast charger in the right-of-way range from over \$600,000 to more than \$1.2 million, plus ongoing costs for charger operations and maintenance. Due to EVgo's industry expertise, the EVgo team can realize greater cost efficiencies while installing more advanced charging infrastructure. EVgo would be responsible for all project design, electric services, ADA compliance, entitlements, permitting, and construction. EVgo will also operate and maintain the charging infrastructure for the duration of the ten-year agreement. Public-private partnership with an industry leader offers a no-cost, low risk opportunity. The recommended agreement would also include an annual licensing fee of \$2,000 to the City, for a total of \$20,000 over the ten-year agreement term. The licensing fee would help offset staff time and support the development of future EV projects.

Local Business Enterprise (LBE): Not applicable.

Background: The recommended agreement would authorize a partnership with EVgo, for EVgo's development and operation of up to six direct current (DC) fast chargers and ten designated EV parking spaces in the public right-of-way. All work would be at no cost to the City. The new chargers would be 150-kilowatt (kW) high-power DC fast chargers, a new generation of technology that can provide a 300-mile range in as few as 20 to 30 minutes. These would be the first "curbside" chargers in Sacramento, and EVgo's first partnership with a local government for development of 150-kW high-power DC fast chargers.

The project would make Sacramento just the third location in all of California with a high-power DC fast charger after Fremont and Baker. Additionally, Sacramento would be the first municipality to pilot the high-power DC fast charger technology on city property, and the first to deploy any type of DC fast charger on-street in California.

Partnership with EVgo would be a first critical step to update citywide processes to accommodate a diversity of EV charging companies and technologies in the right-of-way. The City has used a wide range of charging technologies and vendors for off-street EV infrastructure. The City's earliest EV charging installations with SMUD date back to 1998. Chargers at City facilities consist primarily of ChargePoint equipment, in addition to AeroVironment, Clipper Creek, and other makes. However, EVgo is the first outside party that has provided a firm offer to construct a fast charger in the right of way in partnership with the City. This offer allows for an expansion of community EV infrastructure with state-of-the-art charging technology, at no cost to the City. EVgo has also demonstrated the ability to collaborate with the City and operate quickly and effectively. The recommendation supports a "learn by doing" approach, equipping City staff to identify and explore key issues in partnership with a third-party operator. This process would equip the City to analyze and determine appropriate regulations and guidance for on-street charging infrastructure.

EVgo is developing the project to primarily serve multi-family residential uses around Southside Park. The project location was feasible for EVgo due to several additional reasons:

- Availability of angled parking spaces, which can support a greater range of vehicles than parallel parking spots (regardless of charging port location on the front of the vehicle, driver side, passenger side, etc.)
- Availability of excess angled parking spots for accessibility improvements, to meet requirements of the Americans with Disabilities Act (ADA)
- Adequate space for approximately 500 square feet of mechanical equipment enclosures in Southside Park
- Free parking with time restrictions
- Proximity to secondary community amenities and activities, including the park, Saturday Farmer's Market at the W/X Parking Lots
- Proximity to regional corridor traffic on the Capital City Freeway

Charging equipment would be universally compatible for both CHAdeMO and CCS standards, offering "backwards" fast charging compatibility for electric vehicles with smaller batteries that are not currently able to charge at the full 150-kW level. The chargers will be accessible to EVgo subscribers and any non-subscribing customers.

The High-Speed EV Charging Plaza would serve as a key hub for the regional and interstate EV charging network. The City of Sacramento currently operates 91 EV chargers at City facilities, representing approximately 22% of more than 410 public and workplace chargers citywide. However, the U.S. Department of Energy Alternative Fuels Data Center estimates less than 20 DC fast chargers citywide. Expanding DC fast charging infrastructure is key to increasing the viability of EVs. The recommended agreement would authorize a private party to expand EV charging services with new, advanced high-power DC fast charger technology in a highly visible location.

Supporting innovative EV implementation with EVgo would enable the City to evaluate new types of EV applications. This approach is a first step to expanding permit processes to accommodate curbside charging citywide. Standard “Level 2” EV charging technologies typically only provide 10 – 20 miles of range for every hour of charge, resulting in different considerations for on-street parking. Yet curbside DC fast charging offers several benefits:

- New DC fast charger technologies allow for more rapid charging and higher vehicle turnover.
- Fast charging better avoids potential conflicts with time restrictions for on-street parking.
- Curbside charging is generally more visible and convenient, supporting a broader user base.
- High visibility charging in the public right-of-way sends a stronger message of City leadership and public support for EV technologies.

Current City policy does not provide guidance for curbside charging, but the recommendation would enable the City to analyze issues before establishing permit guidance. There has been past interest in curbside charging in Downtown. Several issues around curbside charging include ADA accessibility standards, risk and safety for equipment in the right-of-way, siting of electrical equipment, on-street parking enforcement, and consideration for metered parking. Staff is currently exploring necessary updates to create and enforce on-street EV parking regulations, including proposed State Assembly Bill 1452 (Parking: Exclusive Electric Charging and Parking on Public Streets). The bill would revise the California Vehicle Code (CVC) to authorize local jurisdictions for the enforcement of regulations for active on-street EV charging. Revision to the CVC is necessary before the City can enforce on-street EV charging. In the interim, the City can enforce time limits for on-street parking approved by City Council. Collaboration with EVgo would equip the City to identify solutions and appropriate regulatory tools based on a real-world test case.

The recommendation allows the City to prepare for potential near-term investment in zero emission vehicle (ZEV) programs. Early development of curbside DC fast charging with EVgo helps the City to prepare curbside charging guidance and explore related issues. These

actions equip the City to move quickly and effectively for any future ZEV investments in the community.



City of Sacramento

Tax ID # if applicable:

Requires Council Approval: ☐ No ☒ **YES** Meeting: 6/20/2017

☐ Real Estate

☐ Other Party Signature Needed

☐ Recording Requested

General Information

Type: Public Project		PO Type: Non-Comp-Commodity	Attachment: Original	No.:
\$ Not to Exceed: \$ 0.00		Original Doc Number:		
Other Party: EVgo Services LLC		Certified Copies of Document::		
Project Name: EVGO HIGH SPEED CHARGING PLAZA AT SOUTHSIDE PARK		Deed: <input checked="" type="checkbox"/> None <input type="checkbox"/> Included <input type="checkbox"/> Separate		
Project Number:	Bid Transaction #:	LBE:		

Department Information

Department: PUBLIC WORKS

Division: OFFICE OF THE DIRECTOR

Project Mgr: Jennifer Venema

Supervisor: Lucinda Wilcox

Contract Services: Kirsten Wise

Date: 06-14-17

Division Mgr: Hector Barron

PM Phone Number: 808-1859

Org Number: 15001021

Comment:

Review and Signature Routing

Department	Signature/Initial	Date
Project Mgr:	J. Venema JAV	6/14/2017
Contract Services:	K. Wise	
Supervisor:	L. Wilcox	
Division Manager:	H. Barron	
City Attorney	Signature or Initial	Date
City Attorney:	G. Hicks	6/14/2017



☒ Notify for Pick Up

Authorization	Signature	Date
Hector Barron		
Department Director:	Hector Barron	6-14-17
City Mgr: yes <input type="checkbox"/> No <input checked="" type="checkbox"/>		

Contract Cover/Routing Form: Must Accompany ALL Contracts;
however, is not part of the contract. (01-01-09)

For City Clerk Processing

Finalized:

Initial:

Date:

Imaged:

Initial:

Date:

Received:

(City Clerk Stamp Here)

CHARGING STATION LICENSE AGREEMENT

Host: _____
a _____

Agreement Date: _____, 2017

This Charging Station License Agreement ("Agreement") is entered into on the Agreement Date by and between the City of Sacramento, a municipal corporation ("City" or "Host") and EVGO SERVICES LLC, a Delaware limited liability company ("EVgo"). Capitalized terms not defined herein shall have the meanings given to them in the Terms & Conditions, attached as Exhibit A and incorporated by this reference.

BACKGROUND

- A. City owns and maintains certain real property within the City of Sacramento currently used for park and recreation purposes known as Southside Park (APNs 009-0183-016-0000) ("Host Property"). The Host Property abuts 6th Street north of "W" Street, with tennis courts and other existing improvements.
- B. State law authorizes local authorities to regulate uses and designate parking stalls or spaces on public streets for specified purposes.
- C. EVgo wishes to install a High Speed Charging Plaza ("Charging Plaza") that provides fee based electric vehicle charging to customers along that portion of the Host Property that runs along 6th Street north of "W" Street, adjacent to the existing tennis courts, and south of "V" Street (the "Premises"), as represented in Exhibit B. EVgo will initially install 1) three "Fast Chargers" along with underground conduit and related equipment and structures; 2) for each charger, markings to designate up to two on-street parking spaces for electric vehicle (EV) parking, up to a total of six designated spaces; 3) accessibility improvements for a minimum of one Fast Charger that meets current and future requirements of the Americans with Disabilities Act and complies with technical specifications for electric vehicle charging stations in the California Building Code; 4) appurtenances and related equipment for the future installation of up to three additional chargers; and 5) related signage and improvements to designate the Fast Chargers spaces. At its sole discretion, if demand warrants, in a second phase at a later date, EVgo may 1) install up to three additional electric vehicle chargers that are Fast Chargers and/or "Level 2" chargers (charger type to be determined by EVgo) using the appurtenances installed in Phase 1; 2) markings to designate up to four on-street parking spaces for EV parking; and 3) related signage and improvements. All improvements for both phases of work shall not exceed six total electric vehicle chargers and ten designated EV parking spaces at the Premises, and shall be as identified in Exhibit B. Collectively, this work is hereinafter referred to as "Improvements"; the Fast Charger(s) and Level 2 charger(s) are hereinafter referred to collectively as the "Charger(s)."
- D. The Improvements planned for installation at the Premises are described within this Agreement and are depicted on Exhibit B, where their operation will not interfere with the Host's uses of the remainder of the Host Property.
- E. The Host wishes to facilitate the charging of electric vehicles adjacent to the Host Property and is willing to allow the Improvements to be installed and operated at the Premises pursuant to the conditions set forth in this Agreement.
- F. The Host wishes to advance state-of-the-art "fast charging" technologies for electric vehicles, with the intent of supporting local multi-family charging, charging for recreational and community activities, and regional corridor charging.
- G. This Agreement meets the criteria of the Host's Demonstration Partnerships Policy adopted by City Council on [insert date], which provides for the City to enter into Demonstration Partnership agreements to test,

evaluate, and/or demonstrate innovative solutions. The Agreement allows the City to test on-street EV charging models and evaluate options for expanding charging citywide. Partnership with EVgo allows the City to expand EV charging at no cost to the City, allowing for private-sector delivery of EV services. The Agreement also fosters a more equitable distribution of alternative fuel infrastructure, increasing access for multi-unit dwellings that often lack dedicated parking and residential charging options. The Host will use performance metrics from this Agreement to evaluate citywide options to support EVs across a range of use types and scenarios.

The public benefits served by the parties entering into this Agreement include environmental sustainability by supporting the operation of zero emission and plug-in hybrid vehicles that reduce or eliminate tailpipe emissions and greenhouse gas emissions, with benefits flowing back to the Host and its citizenry. Public purposes served by this agreement also include an expansion of alternative fuel infrastructure, which support the City's existing agreements with other agencies participating in the Sacramento Clean Cities Coalition and the Plug-In Electric Vehicle Charging Collaborative. This Agreement also is in furtherance of the City's Climate Action Plan.

NOW, THEREFORE, in consideration of the foregoing recitals and the following covenants, terms, conditions, and provisions, the parties mutually agree as follows:

AGREEMENT

A. Grant of License.

1. Host is the fee simple owner of the Host Property and as such, grants to EVgo for the Term of this Agreement (i) an exclusive license to use and occupy the Premises as more particularly described on Exhibit B and (ii) any necessary easements for access and utilities, each for the Purpose (as defined below). The provisions of this Agreement shall bind Host's successors and assigns, for the term of the agreement.

B. Premises.

1. Use. The Premises may be used by EVgo for any lawful activity in connection with the design, development, construction, installation, maintenance, repair, replacement, removal, security and operation of electric vehicle charging stations and ancillary items as identified in Exhibits A and B, including, without limitation, all Improvements identified pursuant to this Agreement, including electrical equipment, hardware, software, signage and all supporting equipment and structures (which may include concrete pads and protective bollards), and flatwork improvements, together with any other uses permitted herein (the "Purpose"), on the terms and conditions set forth in this Agreement. EVgo shall obtain advance written approval from the Host for any additional construction including the second phase improvements, which the Host shall not unreasonably withhold.

2. Access. EVgo Customers shall have access to the Premises twenty-four (24) hours per day, seven (7) days per week, and 365/366 days per year. EVgo and its employees, contractors, and vendors may, at any time during the Term, access the Premises and Host Property to maintain, inspect, repair, upgrade or replace any portion of the Charging Station. Notwithstanding the foregoing, access to the Premises may be prevented at certain times due to City-sponsored events or for emergency situations. First and foremost, the City maintains the right to continue operations or service in the right-of-way for issues that are not related to project Improvements. If the City is aware of actual or planned closures for 6th Street that would preclude access to the Premises, the City shall provide EVgo (i) two (2) weeks prior notice for up to two (2) weeks of closure and (ii) forty-five (45) days prior notice for more than two (2) weeks of closure.

3. Host Obligation. Host shall maintain the Premises in a clean, safe, and orderly condition, to at least the same standard as other areas of the Host Property that are maintained and under Host control. The Host will enforce its

parking rules for the parking stalls within the Premises, including enforcement of time limits for spaces designated for vehicle charging. Host shall take reasonable measures to enforce posted time limits for parking and/or charging at the Premises. Any changes to the posted time limits shall be approved by authorities established per Sacramento City Code provisions.

4. Exclusivity. Host grants EVgo an exclusive right to provide fee based electric vehicle charging services at the Premises as designated in Exhibit B during the Term hereof. Further, Host shall not hire a third party to provide electric vehicle charging services at the Host Property within a five hundred (500) foot radius of the Premises.

5. Quiet Enjoyment. EVgo shall have quiet enjoyment of the Premises during the Term of this Agreement.

6. Recording of Agreement. EVgo may record this Agreement or memorandum of the Agreement in the public records of any public office.

C. Term.

1. The term of this Agreement (as extended from time to time, the "Initial Term") shall commence on the Agreement Date, subject to the Terms & Conditions, and continue until ten (10) years following the date the Charging Station is first operational (the "Commencement Date"). The Agreement will automatically renew for successive one (1)-year periods, unless terminated by either party upon at least thirty (30) days prior written notice. EVgo shall send to Host notice of the Commencement Date within a reasonable period following the occurrence of such date.

2. The Initial Term of this Agreement may be terminated upon (30) days' written notice to either party without penalty or fee:

- a. in the case of EVgo, at any time prior to the submission of the permit application for construction of the Charging Station at the Host Property or in the event that EVgo determines that the construction or continued operation of the Charging Station is impracticable or uneconomical; and
- b. in the case of Host, in the event the Commencement Date has not occurred within twelve (12) months following the Agreement Date; provided that Host's rights shall terminate upon the Commencement Date.
- c. in the case of the Host, (i) in the event of EVgo's removal of the Chargers, closure of the Charging Plaza, or failure to repair and/or failure to make a substantial effort to repair the Chargers on the Premises, for more than sixty (60) consecutive days, when such closure, removal, or failure to repair results in the absence of any functioning Chargers at the Premises and is solely the fault of EVgo and not attributable to other causes such as utility outages, acts of God, acts of a public enemy, fires, natural disasters, or other situations beyond the control of EVgo or the City; or (ii) in the event EVgo fails to reimburse Host for maintenance and/or repairs performed and paid for by Host under Section F after 30 days' of written notice of default; or (iii) in the event EVgo fails to pay the License Fee within 30 days' of written notice of default.
- d. In the event of the casualty and condemnation conditions identified in Section C(7) of Exhibit A.

3. Surrender of the site. Unless otherwise directed by the Host in writing or otherwise mutually agreed upon by the parties, within ninety (90) days of the expiration or earlier termination of this Agreement, at EVgo's sole cost and expense, EVgo shall remove all of its above-grade Improvements from the Premises, and shall restore the above-grade portion of the Premises to its original condition prior to the installation of the Improvements, normal wear and tear excepted. Should EVgo fail to complete said removal within ninety (90) days, the City shall conduct the removal and disposal of improvements at EVgo's sole cost and expense. If the Site is damaged by EVgo in the process

of removal, such damage shall be repaired forthwith by EVgo at its sole cost and expense. Real property, as defined below, shall become the property of the Host upon termination of the Agreement or upon the Agreement expiration, whichever occurs first, without the requirement of reimbursement to EVgo. "Real property" is defined as land and anything permanently affixed to the Premises by EVgo or EVgo's agents, employees, invitees, contractors, or subcontractors, including but not limited to any real property alterations, improvements, or additions that are permanently affixed to the Premises, such as sidewalk flatwork or road improvements.

D. License Fee. EVgo shall pay to Host a fee (the "License Fee") equal to an annual amount of two-thousand dollars beginning on the Commencement Date and each annual anniversary thereafter throughout the initial Term of this Agreement, for a total amount of \$20,000 for the Initial Term. EVgo may, at its option, prepay all or a portion of such License Fee.

E. Installation Activities.

1. Subject to the requirements of the Terms and Conditions, EVgo shall, at its sole cost and expense, be responsible for all installation activities (the "Installation Activities") required to support the operation of the Charging Station and services therewith, 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 all permitting, entitlement, and inspection costs.

2. Following the Host's approval of the construction schedule and installation plans, which approval, for clarity, shall not be for EVgo to pursue Modifications, as described below, but only for the actual construction and installation plans of such Modifications, pursuant to Section A(7) in Exhibit A, EVgo may, in its sole and absolute discretion, at any time and for any reason during the Term, (i) increase the number of charging stations located within the Premises, up to the maximum amount of six chargers and ten designated parking spaces at the Premises; and/or (ii) modify, including, without limitation, upgrade, replace, and/or remove (whether or not said items are considered fixtures and attachments to the Premises under applicable laws) (collectively, "Modifications"), all or a portion of the of the charging stations at any time during the Term, consistent with the allowable Improvements in this Agreement. .

3. Subject to Section C(3) herein, on completion of any Installation Activities under this Agreement, Host shall not retain any ownership rights of the Chargers and related equipment, hardware, software, EVgo signage, and supporting equipment and structures at the Host Property.

F. Maintenance. EVgo, at its sole expense, shall be responsible for maintaining Improvements at the Premises for the duration of the Agreement including, but not limited to, the Chargers, flatwork and accessibility improvements, and all supporting equipment and structures. At all times during the term of this Agreement, EVgo shall, at its own cost and expense, keep and maintain all Improvements in a safe and clean condition, in good order and repair. Should EVgo fail to maintain Improvements according to these standards, the City shall provide notice to EVgo. Should EVgo fail to respond within thirty (30) days after receiving City notice and initiate remediation of conditions, the City may elect to conduct such maintenance at EVgo's sole cost and expense, in which case, EVgo shall reimburse the City for such costs on or before the 45th day following the applicable invoice due date.

G. Electricity. Unless otherwise mutually agreed by the parties in a formal amendment to this agreement, EVgo shall, at its sole expense, be responsible for creating and maintaining a new separately-metered electrical account to pay for all electricity-related costs of the Charging Station, including and not limited to the costs of establishing a new service, utility permitting, installation of a transformer, and demand and delivery charges for power. Host shall reasonably cooperate with EVgo's efforts regarding the provision of electricity to the Charging Station. Neither Host nor EVgo has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of utilities furnished to the Charging Station, unless the cause of the interruption is covered by the party's indemnity provided for in the Terms and Conditions.

H. Charger Specifications. For the first project phase, EVgo shall install three 150-kilowatt (kW) direct current Fast Chargers, as the initial three Fast Chargers to be constructed at the Premises. If EVgo chooses to install up to three additional chargers at a later date, the charger type shall be either Level 2 and/or Fast Chargers, at EVgo's discretion. To the extent feasible, all Chargers installed at the Premises shall be universally compatible with both CHAdeMO and CCS standards, with "backwards" fast charging compatibility for electric vehicles with smaller batteries that are not currently able to charge at the full 150 kW level. The Chargers will be accessible to EVgo subscribers and any non-subscribing customers.

I. Relocation.

1. If, other than for solely health, safety and/or emergency reasons, (i) circumstances result in a closure of 6th Street for more than sixty (60) consecutive days or (ii) the City's entitlements allowing its use of the Premises for the operation of the Charging Plaza are revoked ("Relocation Triggers"), then EVgo shall have the right to require the City to assist EVgo in the relocation of the Charging Plaza to another mutually agreeable premises within the Host Property (or another City-owned property) **or** a premises, approved solely by EVgo, located at a property not owned by the City. Further, the City shall use best efforts to provide EVgo at least one (1) year prior written notice before any such Relocation Triggers occur ("Relocation Notice").

2. Such assistance required by the City shall include (i) using its best efforts to locate a new premises for the Charging Plaza and (ii) paying for actual out-of-pocket costs of the relocation up to a maximum of four hundred and fifty thousand dollars (\$450,000) (the "Relocation Cap"), including but not limited to the actual cost of physically relocating the Charging Plaza and electrical infrastructure, the cost of producing all plans and specifications necessary to obtain all necessary government and/or utility approvals, the cost of any governmental or utility permits and approvals, and the reproducing and/or relocating of any directional signage for the relocated Charging Plaza (the "Relocation Activities"). EVgo shall be responsible for all costs in excess of such amount.

3. The City may, within ten (10) days of providing the Relocation Notice, request to procure its own contractors and/or services providers to perform Relocation Activities. Upon such request, EVgo will submit to the City, in its sole discretion, certain Relocation Activities, the City may provide ("Approved Activities"). If the City provides documentation to EVgo within ten (10) days of such approval evidencing the City's procurement will result in a reasonably substantial price decrease compared to the price EVgo evidenced it would pay for the Approved Activities ("Relocation Savings"), then EVgo may approve City performance of such Relocation Activity; provided however, EVgo shall have the right to supervise any and all such Relocation Activity. Any Relocation Savings the City obtains through its own procurement of an Approved Activity (together with the total cost of such Approved Activity to the City) shall be subtracted from the Relocation Cap.

J. Other Provisions.

1. At the City's periodic request, to occur not more than quarterly, EVgo will either provide access to updated data in an online portal, or a summary of statistical data regarding use of the EVgo Charging Station. The data will contain usage statistics such as charges by hour, kilowatts consumed, number of charges, average charge times, and shall be prepared according to a format prescribed by EVgo with the concurrence of the City.

2. EVgo shall provide the City with digital materials showcasing the Charging Plaza that the City may use for community outreach presentations for purposes of presenting project information and inviting community input.

3. Except as otherwise particularly stated herein, the parties shall bear their own costs, expenses, or fees in connection with the performance of its obligations under this Agreement.

4. This agreement may not be amended except pursuant to a written instrument signed by the parties.

5. Representative parties for this Agreement are as follows. The Host Representative for this Agreement is:

Joseph J. Gluvers, P.E.
Associate Engineer
City of Sacramento Department of Public Works
Facilities and Real Property Management
5730 24th Street, Building 4
Sacramento, CA 95822
P: 916-808-8427
Email: JGluvers@cityofsacramento.org

All EVgo questions pertaining to this Contract shall be referred to the City Representative or the Representative's designee.

The EVgo Representative for this Contract is:

Jonah Eidus
Manager - Market Development
EVgo
555 12th Street, 5th floor
Oakland CA 94607
Phone: 415-633-6554

All Host questions pertaining to this Agreement shall be referred to the EVgo representative.

[Signature page follows]

HOST:

By: Hector Barron

Name: Hector Barron

Title: Interim Director of Public Works

Notice Address:

915 I Street
Sacramento, CA 95814

APPROVED AS TO FORM:

[Signature]
CITY ATTORNEY

EVGO:

EVGO SERVICES LLC,
a Delaware limited liability company

By: [Signature]

Name: Terry O'Day

Title: VP, Market Development

Notice Address:

11390 West Olympic Blvd., Suite 250
Los Angeles, CA 90064
Attn: Site Development

with a copy to:

11390 West Olympic Blvd., Suite 250
Los Angeles, CA 90064
Attn: Director of Legal Affairs

Revised 05/25/17

Exhibit A

Terms and Conditions

See attached.

TERMS & CONDITIONS

A. GENERAL

1) **Charging Services, Operation and Maintenance.**

a) EVgo's network on the Charging Station shall be publicly accessible to EVgo's subscribers, customers, agents, employees, contractors, vendors, guests and invitees ("EVgo Customers"), who shall be charged in amounts reasonably determined by EVgo, which may change from time to time in EVgo's sole discretion.

b) Subject to the terms and conditions of the Agreement, EVgo will operate the Charging Station for the benefit of EVgo Customers and shall use commercially reasonable efforts to maintain the Charging Station in good working order and repair.

c) To the extent Host has actual knowledge of the same, Host shall promptly notify EVgo and, as appropriate, emergency response personnel regarding any malfunction of a charging station.

2) **Taxes.** EVgo is solely responsible for personal property taxes imposed on the Charging Station. Each party is responsible for its own income, franchise and similar taxes.

3) **Method of Payment.** For any amounts owed by EVgo to Host, on or before the forty-fifth (45th) day following the applicable invoice due date (or at the end of each calendar month in the case of monthly payments), EVgo shall make a payment to Host of such amount by ACH or other method mutually agreed upon by EVgo and Host. Prior to Host receiving any accrued payments owed under the Agreement and in order to facilitate such payments, EVgo shall formally request and Host shall provide EVgo certain information, including, without limitation, a completed Form W-9 and valid ACH payment information.

4) **Termination.**

a) The Agreement may be immediately terminated for cause by either party in the event of the following:

i) **Breaches.** 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 receipt of written notice.

ii) **Insolvency.** 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.

b) Within sixty (60) days following the termination or expiration of the Agreement, EVgo shall remove its property associated with the Premises from the Host Property and return the property to its original condition, normal wear and tear excepted.

5) **Promotional Activities.** During the Term of the Agreement, EVgo may promote the availability of the Charging Station (to the extent they are on EVgo's network of EV charging stations) through traditional and/or electronic media, including providing the address of the Host Property and a description thereof. No party shall use the other party's trade or service marks, logos, seals, or other proprietary materials

without the prior written consent of the other party. Any use of the City seal shall comply with City Code Chapter 1.08.

6) **Signage.** Subject to Host's prior approval, EVgo may paint, place, erect or project marks, advertising devices, or non-parking related signage for the Charging Plaza in, on, or about and around the Premises within the Host Property at EVgo's sole cost and subject to applicable laws and regulations; signage installed by EVgo shall be exclusive of any signage related to parking time limits and enforcement of City Code, which shall be installed by the Host in conjunction with construction completion, and upon mutual agreement with EVgo. At no time may Host place any signage on EVgo trade fixtures, as defined in the Agreement.

7) **Installation Activities.** The term "Installation Activities" refers to the installation activities described in the Agreement, including any Modifications as applicable.

a) Before beginning any Installation Activities for either phase of construction, EVgo shall provide a copy of the construction schedule and installation plans to Host for its approval, which approval shall not be unreasonably delayed or withheld. No work will begin until plans have been approved by Host and all applicable permits and certifications have been obtained. Once approved, and once the parties' respective demonstration that all insurance coverages required by this Agreement are in place, EVgo will, at its sole expense, oversee and manage the installation of the Improvements, 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 EVgo-branded signage.

b) EVgo shall designate the contractors and/or other service providers who will be performing the Installation Activities.

c) EVgo or its designated contractor(s) and/or service providers are authorized to perform any field inspection or preparatory work reasonably necessary in connection with the installation or replacement of the Improvements and shall keep the Host apprised of the status of these efforts, as requested by the Host. The parties shall bear their own cost and expense in connection with the performance or appraisal of such field inspections or preparatory work.

d) With respect to its Installation Activities, EVgo shall ensure that it or its designated contractor(s) and/or service providers:

i) obtain from governmental authorities all licenses, permits, or other approvals (collectively, "Approvals") required to conduct such installations. Host will reasonably cooperate with EVgo's designated contractors and service providers as required to obtain such Approvals;

ii) bring on the Premises and permitted adjacent areas of the Host Property only those materials and equipment that are being used directly in the Installation Activities;

iii) perform Installation Activities only during times and days acceptable to Host and in a manner so as to not unreasonably interfere with Host's business operations;

iv) conduct Improvements according to applicable City requirements and standard City specifications.

v) not permit or suffer any mechanic's or materialmen's liens to attach to the Premises. If such a lien attaches to the Premises, EVgo shall remove or bond over such lien at EVgo's sole cost and expense, within twenty (20) days of EVgo receiving written notice thereof from Host.

e) Host shall reasonably cooperate with EVgo to facilitate the Installation Activities. EVgo shall be responsible for providing electricity to the Charging Station during construction. With respect to any construction or other installation activities not directed by EVgo, EVgo shall have no responsibility or liability for any such activities, including obtaining Approvals.

8) **City Inspection of EVgo Improvements.**

a) *Inspection by Host.* During construction, the Host may visually inspect the Improvements at all reasonable times, with or without notice, to ensure compliance with the terms of this Agreement. EVgo shall use commercially reasonable efforts to include the Host in preconstruction meetings and project team meetings during construction. After construction, EVgo shall use commercially reasonable efforts to provide the Host with written notice not less than twenty-four (24) hours prior to conducting such periodic inspections and shall allow the Host to have a representative present; provided, however, such periodic inspections shall commence whether or not a Host representative is present.

b) *No Liability of Host for Inspections.* The Host's conduct of periodic inspections, or the failure to do so, shall not operate to impose upon EVgo any liability on the Host of any kind whatsoever, nor relieve EVgo of any responsibility, obligations or liability assigned to EVgo by this Agreement.

B. REPRESENTATIONS, WARRANTIES & COVENANTS

1) **General.** Host and EVgo hereby represent and warrant to the other that, as of the Agreement 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; 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 the Agreement.

2) **Consents and Approvals.** Host further represents, warrants and covenants that it has obtained or shall obtain prior to the commencement of EVgo's Installation Activities or Charging Services

any and all consents or approvals required in order for Host to grant the rights and perform its obligations under the Agreement, and for EVgo to take the actions contemplated in the Agreement.

C. INSURANCE

1) **EVgo Insurance.**

a) During the Term, EVgo shall maintain in full force and effect, at its cost and expense, the following coverages and amounts of insurance: (i) Statutory Worker's Compensation Insurance, and Employer's Liability limits of \$1,000,000 per accident per employee (the Workers' compensation policy shall include a waiver of subrogation in favor the City); (ii) Commercial General Liability Insurance, written on an occurrence basis, covering bodily injury (including death), personal injury, and property damage, with limits of not less than \$1,000,000 per occurrence, \$2,000,000 aggregate; (iii) Automobile Liability with a combined single limit of \$1,000,000; and (iv) \$1,000,000 in excess liability coverage per occurrence, which coverage shall sit excess of the scheduled underlying General Liability, and Automobile Liability and Employer's Liability Insurance policies with exclusions that are no more broad than those contained in the underlying policies. EVgo's indemnity obligations to the City shall not in any way be limited to or affected by the amount of insurance coverage required or carried by EVgo in connection with this agreement.

b) With respect to EVgo's Commercial General Liability Insurance, Automobile Liability Insurance and Excess Liability Insurance, Host shall be included as an additional insured with respect to liability arising out of EVgo's performance under the Agreement. EVgo insurance shall be primary, and shall not seek contribution from similar insurance being maintained by the Host as to the acts or omissions of EVgo.

c) EVgo, upon the City's request, shall furnish CITY with certificates and required endorsements evidencing the insurance required. The certificates and endorsements shall be forwarded to the City's risk manager. The certificate(s) shall clearly state the policy number; name of insurance company; name and address of the agent or authorized representative; name and address of the insured; policy expiration date; and specific required coverage amounts. Certificates of insurance shall be signed by an authorized representative of the insurance carrier. The City's risk manager is:

Patrick Flaherty
Risk Manager
915 I Street, 4th Floor
Sacramento, CA 95814-2604
Phone: 916-808-8587

d) For all insurance policy renewals during the term of this Agreement, EVgo shall, upon the City's request, send insurance certificates reflecting the policy renewals directly to:

City of Sacramento
c/o EXIGIS LLC
P.O. Box 4668 ECM- #35050
New York, NY 10168-4668

Insurance certificates also may be faxed to (888) 355-3599, or e-

2) **Host Insurance.** During the Term, Host shall maintain in full force and effect, at its cost and expense: (i) full replacement cost Property Insurance (written on an "all-risk/special perils" basis) for (1) the Host Property and all improvements thereon (but excluding any EVgo property); and (2) all personal property and trade fixtures owned by Host located at the Host Property; and (ii) Commercial General Liability Insurance, written on an occurrence basis, covering bodily injury (including death), personal injury, and property damage, with limits of not less than \$1,000,000 per occurrence, \$2,000,000 aggregate. Host may self-insure to fulfil this requirement.

3) **Policy Requirements.** The insurance policies required under Sections C(1) and C(2) shall: (a) be issued by insurance companies licensed to do business in the state in which the Host Property is located, with a general policyholder's ratings of at least "A-" and a financial rating of at least "Class VIII," in the most current Best's Insurance Reports available on the Agreement Date; if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies; and (b) contain provisions whereby each party's insurers waive all rights of subrogation against the other party on each of the coverages required herein. During the term of the agreement each party shall provide the other with a certificate of insurance or Host may provide evidence of self-insurance, evidencing the required coverages.

4) **Waiver.** Anything in the Agreement to the contrary notwithstanding, each party hereby waives every right or cause of action for any and all loss of, or damage to (whether or not such loss or damage is caused by the fault or negligence of the other party or anyone for whom said other party may be responsible) the Host Property and any improvements thereon, the Charging Station, or to the personal property of either party, or its Related Parties, as defined in Section (D)1, regardless of cause or origin. These waivers and releases shall apply between the parties and they shall also apply to any claims under or through either party as a result of any asserted right of subrogation.

5) **Casualty and Condemnation.** If any portion of the Host Property is damaged by fire or other casualty in a manner that adversely affects EVgo's use of the Premises, then either party may, within thirty (30) days of the date of such fire or other casualty elect to terminate the Agreement on written notice to the other party. If any portion of the Host Property is condemned or taken in any manner for a public or quasipublic use that could adversely affect EVgo's use of the Premises, then EVgo may elect to terminate the Agreement effective as of the date title to the condemned portion of the Host Property is transferred to the condemning authority.

D. INDEMNITY

1) **Indemnification.** Each party shall indemnify and hold harmless the other party and its respective affiliates, representatives, agents, officers, directors, managers, members, shareholders, partners, contractors, or employees ("Related Parties") 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 such party or its Related Parties, (ii) any breach by such party of its obligations, representations or warranties under the Agreement; and (iii) in the case of EVgo, the use of the Premises by EVgo or its Related Parties, except to the extent arising out of or resulting from any willful misconduct or negligence of Host or its Related Parties.

2) **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. Each party's total liability to the other party and its Related Parties on an aggregate basis arising out of or in connection with the Agreement, whether in contract or in tort, shall not exceed the total amount expended by the other party directly in connection with the Agreement, except as it applies to a party's obligations pursuant to Section D(1).

E. MISCELLANEOUS

1) **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 be deemed delivered and effective on the date of delivery shown on the return receipt or proof of receipt. For purposes of notice the addresses of the parties shall be as set forth in the Agreement. Each party may change its address for notice by giving notice thereof to the other party.

2) **Assignment.** The Agreement is binding on and inures to the benefit of the parties and their respective heirs, successors, assigns, and personal representatives. The City has to consent to any assignments by EVgo in writing, and such consent shall not be withheld if EVgo provides documentation evidencing the potential assignee would be able to comply with EVgo's obligations following such assignment; provided, however, that EVgo may assign its rights and obligations in and under this Agreement at any time and without consent to a successor by merger or acquisition or successor to all or substantially all of its assets or to Electrify America, LLC. In the event the Premises is transferred or Host ceases to have the requisite level of control over the Premises necessary to fulfill its obligations under the Agreement (each, a "Transfer Event"), Host shall assign its rights and obligations under the Agreement to the person or entity which would be able to comply with Host's obligations following such Transfer Event. Further, Host agrees that any such Transfer Event shall not affect, terminate or disturb EVgo's right to quiet enjoyment and possession of the Premises under the terms of the Agreement or any of EVgo's other rights under the Agreement, so long as EVgo is not then in default under any of the terms, covenants or conditions of the Agreement.

3) **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, 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, neither party has any right to act on behalf of the other, nor represent that it has such right or authority.

4) Conflict; Severability. In any conflict between the Agreement and these Terms & Conditions, the Agreement shall control. 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.

5) Survival. The provisions of Sections A(6)(b), C(4), D, and E(6) shall survive termination of the Agreement.

6) Governing Law; Waiver of Jury Trial. The Agreement shall be governed by and interpreted in accordance with the internal laws of the state where the Host Property is located without giving effect to conflict of law rules. The parties hereby waive any and all rights to request or require that a jury determine any fact, matter, dispute or litigation between them, or render any judgment or decision, in any way concerning the Agreement, and agree that any and all litigation between them arising from or in connection with the Agreement shall be determined by a judge sitting without a jury.

7) 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.

8) 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.

9) Force Majeure; Change in Law. Neither 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 requirement, civil or military authority, act of God, act or omission of carriers or other similar causes beyond the party's control. If any rule, directive, order, decision or law adversely impacts the ability for EVgo to perform its obligations under the Agreement without becoming licensed or otherwise regulated by a public utility commission or analogous agency in the relevant jurisdiction, EVgo may, at its option, immediately suspend performance under the Agreement and/or terminate the Agreement upon notice to Host and without penalty.

10) 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.

11) Integration; Amendments. The Agreement contains all Agreements, promises and understandings between the parties, and that there are no verbal or oral Agreements, promises or understandings between the parties. Any amendment, modification or other change to the Agreement shall be ineffective unless made in a writing signed by the parties hereto.

12) 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.

13) 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 either party on the basis of that party being the drafter of such language.

Exhibit B

Host Property

Address: [~2201 6th street, Southside Park, Sacramento, CA 95818]

Legal Description: *"All that portion of South Side Park described as follows: bounded on the north by centerline of V Street if extended, on the east by the west line of 8th Street, on the south by the north line of X Street, on the west by the east line of 6th Street, excepting portions of land lying within Interstate 80 and extension of W Street."*

Premises

