



Electric Vehicle Charge Station Site Host Agreement

This Electric Vehicle Charge Station Site Host Agreement ("Agreement") regarding electric vehicle supply equipment (EVSE) is effective as of the date the last party signs this Agreement (the "Effective Date") between:

EV Connect, Inc. (a California Corporation) ("EV Connect"): 615 North Nash
Street
Suite 203
El Segundo, CA 90245
(888) 780-0062

-and-

Charging Site Host:	<u>City of Commerce</u>
Address:	<u>2535 Commerce Way</u>
City, State, Zip Code:	<u>Commerce, CA 90040</u>
Contact Name:	<u>Mr. Claude McFerguson</u>
Telephone Number(s):	<u>(323) 887-4419</u>
Email:	<u>ClaudeM@ci.commerce.ca.us</u>

Please list on Attachment A the site location(s) and denote any known special instructions.

EV Connect and the Charging Site Host (either individually "Party" or collectively "Parties") agree as follows:

1. Term of Agreement

This Agreement shall commence on the Effective Date and shall continue through the end of required reporting as discussed in Paragraph 4, (the "Term"). This Agreement may be terminated early in accordance with the Termination section of this Agreement.

2. Terms and Definitions

The definitions for the following terms which are used throughout this Agreement are as follows:

Network	EVSE Network
Sponsor	Electrify America
EVSE	Electric Vehicle Supply Equipment
The Project	Electrify America Workplace/MUD program
Station Utilization Reporting	Station utilization reports are available to the Charging Site Host via EV Connect's Site Host Portal and will be provided to Electrify America via an Application Programming Interface (API).
Site	Location where the EVSE will be used



3. EV Connect Goods and Services

In consideration of Charging Site Host's participation in The Project and for allowing the collection of the Data, as described below, EV Connect agrees to provide the following goods and services:

1. Provide Level II (240 VAC) charge stations (EVSEs) for Charging Site Host use;
2. Provide installation of EVSEs through subcontractors;
3. Provide an EV charging management platform/network to manage all aspects of the charging experience;
4. Provide training on how to use the EV Charging management platform; and
5. Provide on-going warranty support and repair through subcontractors, for the Term of the Agreement

4. EVSE Data

Charging Site Host acknowledges that Sponsor has provided funding for The Project through the term of this Agreement. In consideration of the Goods and Services provided, and as part of this project, Charging Site Host acknowledges and agrees to allow EV Connect reasonable access to the Equipment at the Site and existing sources of electrical energy that power the EVSE in order for EV Connect to collect and transmit EVSE Data regarding both private and public use of the EVSE during the Term of this Agreement. This obligation to provide power and to allow access, data collection and transmission shall commence upon the Effective Date, and shall end on December 31, 2026. In addition, Charging Site Host further acknowledges that the data provided by the Equipment at the Site is the property of the Sponsor.

5. Charging Site Host's Representations, Warranties and Commitments

Charging Site Host covenants to EV Connect that the Charging Site Host:

- a) Upon reasonable notice, will allow EV Connect and its contractors reasonable access to the EVSE in order for EV Connect to collect, use, maintain and distribute the data to EV Connect and The Project partners and participants;
- b) Will provide and maintain the supply of electric power, at Charging Site Host's cost, to the EVSE for the duration of the Term of this Agreement;
- c) Is not required to make the EVSEs available to the general public;
- d) Will set driver usage pricing for its own user groups (e.g., employees, residents), which may include "free-of-charge" usage to these groups. For EVSEs that Charging Site Host makes available to the general public, Charging Site Host can set driver usage pricing different from the pricing of its own user groups, which also may include "free-of-charge" usage. Any revenues generated by the EVSE's pricing to the user groups or general public (less transaction fees) will be split with the Sponsor, with 50% going to the Charging Site Host and 50% going to Sponsor;
- e) Will not knowingly allow the EVSE to be maintained, opened, modified, reverse engineered, disassembled on the whole or any part thereof in any manner, or repaired by anyone other than EV Connect or its licensed contractors;
- f) Will not transfer, assign, encumber or pledge the EVSE;
- g) Assumes all responsibility in obtaining any required approvals from property owners, landlords and/or corporate offices; and is responsible for approval of the terms and execution of EVSE installation and EVSE siting provided by EV Connect;
- h) Will not uninstall the EVSE;
- i) Will make its Equipment reasonably available for electric vehicle educational and/or awareness programs sponsored by EV Connect and/or Sponsor; and

- j) Has no other internal or external funding committed or likely to be spent for the Equipment described in and through the term of this Agreement.
- k) Agrees that any non-usage based credits, benefits, rebates, refunds, or similar governmental incentives or the value thereof resulting from the installation of the Charging Stations belong to Electrify America. Site Host may cooperate with Electrify America to pursue the same, but is not required to. All out-of-pocket costs for this pursuit and cooperation by the Site Host shall be borne by Electrify America

6. Ownership

- 6.1** Charging Site Host will receive title to and ownership of the EVSE through the Term of this Agreement. All of the data, 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 EV Connect and its affiliates, licensors, or suppliers. The “Content” is protected by copyright, trademark, and other intellectual property laws of the United States of America.
- 6.2** During the term of this Agreement, EV Connect grants to the Charging Site Host a non-exclusive and non-transferable license to use such software in the form in which it is embedded in the EVSE on the delivery date for use in conjunction with other parts of the EVSE on the condition that the EVSE shall be used for its intended purpose only. Nothing contained in this Section shall be construed as an assignment or transfer of any copyright, design right or other intellectual property rights in such software, all of which rights are owned by EV Connect.
- 6.3** Upon the cancellation or termination of this Agreement, Sponsor has the right to take possession and remove EVSEs from the Site, or continue to operate the EVSE with or without management services from EV Connect. Upon the expiration of this Agreement, ownership and title of the EVSEs shall revert to the Site Host, which shall then bear all responsibility for the equipment, operation and maintenance.

7. Use of Mark/Advertising

EV Connect and Charging Site Host each hereby grant to the other, only during the Term of this Agreement, a nonexclusive, non-transferable, non-assignable license to use the name and marks owned by the Parties: (i) on the EVSEs installed at a Site; (ii) in relation to the advertising and promotion of the EVSEs, the services provided by the EVSEs, and any ancillary goods or services of EV Connect offered at the Sites; and (iii) in relation to advertising and promoting the business relationship between the Parties, including use on Websites, software/smart phone applications, or marketing materials.

8. Sponsor Rights and Limitations of Liability

The Charging Site Host hereby acknowledges that the Sponsor is an intended third-party beneficiary of this Agreement.

- 8.1** Charging Site Host agrees to allow Sponsor to use the data collected from such EVSEs installed at their Site for the purpose of publicizing The Project under which the charging stations were granted.
- 8.2** Charging Site Host acknowledges that Sponsor has provided funding for the EVSEs, installation, network services, and ongoing warranty/maintenance of the EVSEs. Charging Site Host acknowledges and agrees that Sponsor shall have no liability to Charging Site Host relating to the installation and operation of the charging stations or otherwise relating to the Agreement, and that all such liability and responsibility shall be between Charging Site Host and EV Connect.

8.3 Charging Site Host shall, at its sole cost and expense, throughout the term of this Agreement, maintain insurance in the following types and amounts: Commercial general liability insurance for bodily injury liability, including death and property damage liability, incurred in connection with the performance of the Station Award Agreement, with minimum limits of \$1,000,000 in respect of claims arising out of personal injury or sickness or death of any one person, \$1,000,000 in respect of claims arising out of personal injury, sickness or death in any one accident or disaster, and \$1,000,000 in respect of claims arising out of property damage in any one accident or disaster. All such insurance shall be evidenced by insurance policies, each of which will: (i) name or be endorsed to cover Sponsor and EV Connect as additional insureds; (ii) provide that such policy may not be cancelled or modified until at least 30 days after receipt by Sponsor of written notice thereof; and be reasonably satisfactory to Sponsor.

8.4 Indemnification. To the fullest extent permitted by law, the Charging Site Host shall defend, indemnify and hold harmless EV Connect, Sponsor, its agents and employees from and against any and all claims, actions, damages, losses, expense and costs of every nature and kind, including attorneys' fees up and through any and all appeals, incurred by or asserted or imposed against EV Connect or Sponsor resulting from, arising out of or relating to the Charging Site Host or any of its subcontractor's performance of this Agreement. The obligation of the Charging Site Host under this Article shall survive any expiration or termination of this Agreement, and shall not be limited by any enumeration herein of required insurance coverage. All money expended by EV Connect or Sponsor as a result of such claims, actions, damages, losses, expenses and costs, together with interest at a rate not to exceed the maximum interest rate permitted by law, shall be immediately and without notice due and payable by the Charging Site Host to EV Connect or Sponsor as the case may be. The Charging Site Host shall require this same indemnification clause from any and all contractors and others who work on the Project.

9. Termination of this Agreement

9.1 Without Cause: This Agreement may be terminated by EV Connect in writing to the Charging Site Host, without cause, at any time and for any reason, including the termination of The Project or a reduction in The Project funding, whereupon the Parties shall be fully released from their respective duties, rights, obligations and liabilities under this Agreement, except as provided below.

9.2 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. Upon such termination of this Agreement for Cause, as its sole and exclusive remedy, Sponsor shall have the right, but not the obligation, to disable or remove (at its sole cost and expense) any or all of the EVSE installed at the Site and terminate services to Charging Site Host's. Removal of EVSE includes site restoration to a safe and reasonable condition, but does not include the responsibility to restore the site to the same condition as prior to the installation of the EVSE. In the event that Sponsor does not elect to remove the EVSE within one hundred and eighty days (180) days following such termination, the EVSE shall be deemed abandoned by Sponsor and Charging Site Host shall possess all rights, title, and interest in and to the same.

Should the termination for Cause be solely the result of a violation of the terms of this Agreement by EV Connect which fails to cure the same within thirty (30) days of receiving written notice of such default, the Sponsor may assign all of the rights and obligations held by EV Connect in this Agreement to itself or an agent of Sponsor.

Should the termination for Cause be solely the result of a violation of the terms of this Agreement by the Charging Site Host which fails to cure the same within thirty (30) day of receiving written notice of such default, the Charging Site Host shall be solely responsible for reimbursing the Sponsor for the straight-line depreciated (over 10 years) installation costs associated with The Project.

10. Dispute Resolution

Except where necessary to seek injunctive relief to prevent or enjoin loss or harm to Intellectual Property, any dispute arising out of or relating to this Agreement shall be subject to mandatory confidential mediation for a period of up to thirty days, unless extended mutually by the Parties, by a neutral third party mediator acceptable to both Parties. Any dispute not resolved by such mediation, arising out of or relating to this Agreement shall be subject to final and binding arbitration under the then-current Commercial Arbitration Rules of the American Arbitration Association; provided that the arbitrator(s) shall be neutral and shall be chosen from a panel of arbitrators knowledgeable in the business of electronics manufacturing. The arbitration shall be held in Los Angeles, CA, unless otherwise mutually agreed by the Parties. The arbitrator(s) shall not have the power to award punitive or exemplary damages, or any damages which are disclaimed or waived in this Agreement. The decision and award of the arbitrator(s) shall be final and binding, and the award so rendered may be entered in any court having jurisdiction



thereof. Where it is necessary for a Party to seek injunctive relief to prevent or enjoin immediate and irreparable loss or harm to Intellectual Property, EV Connect and Charging Site Host hereby irrevocably and unconditionally submit to the jurisdiction of the courts of the State of California or the United States District Court for the State of California and all courts competent to hear any appeal therefrom. Nothing contained herein shall be deemed to waive arbitration for any claim other than injunctive relief to the sole extent described herein.

11. LIMITATION OF LIABILITY

EXCEPT FOR THE WARRANTIES STATED HEREIN FOR THE CHARGING SITE HOST, NO WARRANTY, CONDITION OR REPRESENTATION, EXPRESSED, IMPLIED, ORAL OR STATUTORY, IS PROVIDED TO THE CHARGING SITE HOST OR ANY THIRD PARTY, 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; (B) THAT THE PRODUCTS WILL BE FREE FROM INFRINGEMENT OR VIOLATION OF ANY RIGHTS, INCLUDING INTELLECTUAL PROPERTY RIGHTS OF THIRD PARTIES; OR (C) THAT THE OPERATION OF ANY SOFTWARE SUPPLIED WILL BE UNINTERRUPTED OR ERROR FREE. THIS DISCLAIMER AND EXCLUSION SHALL APPLY EVEN IF THE EXPRESS WARRANTY HEREIN FAILS OF ITS ESSENTIAL PURPOSE. THE CHARGING SITE HOST'S SOLE AND EXCLUSIVE REMEDIES HEREUNDER AND THE ONLY LIABILITY OF EV CONNECT IS EXPRESSLY LIMITED TO THE TERMS OF THE AGREEMENT.

NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY, OR ANY THIRD PARTY, FOR ANY OTHER SPECIAL, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY OR INDIRECT COSTS OR DAMAGES, INCLUDING WITHOUT LIMITATION, LITIGATION COSTS, LOSS OF DATA, PRODUCTION OR PROFIT ARISING FROM ANY CAUSE WHATSOEVER, REGARDLESS OF THE FORM OF THE ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES. FOR PURPOSES OF THIS PROVISION, THE PARTY INCLUDES THE PARTY'S DIRECTORS, OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES, AFFILIATES, SUBCONTRACTORS AND SUPPLIERS.

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, ANY CLAIMS FOR DAMAGES BY EITHER PARTY ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT SHALL BE LIMITED TO ACTUAL RECOVERIES UNDER SUCH PARTY'S INSURANCE POLICIES.

12. Notices

All notices given under this Agreement (each, a "Notice") shall be in writing and delivered to the addresses listed above of the parties as applicable, by one or more of the following methods, (i) given by certified mail, postage prepaid, return receipt requested, and is deemed given on the third (3rd) business day after the date of posting in a United States Post Office, (ii) given by a nationally recognized overnight courier and is deemed given one day after delivery to the overnight courier, or (iii) given by personal delivery and is deemed given upon receipt by the notified party. At any time, either party may designate in writing to the other party a different notice address.

13. Changes

This Agreement cannot be modified or amended except by a written instrument signed by both of the Parties.

14. Waiver

No waiver by either Party of any breach, default or violation of any term, warranty, representation, agreement, covenant, condition or provision of this Agreement will constitute a waiver of any subsequent breach, default or violation of the same or other term, warranty, representation, agreement, covenant, condition or provision of this Agreement.

15. Assignment

This Agreement shall inure to the benefit of, and be binding upon, the Parties hereto and their respective successors, and permitted assigns. This Agreement may be assigned by either party only with the prior written consent of the non-assigning party, which consent shall not be unreasonably withheld or delayed, except the rights and obligations of either party may be assigned to another entity in connection with reorganization, merger, consolidation, acquisition, divestiture, or other restructuring. Any assignment which does not satisfy the requirement of the preceding sentence shall be null and void.

16. Survival Of Obligations And Liabilities

Termination of this Agreement shall not relieve either party of any obligation under this Agreement which expressly or by implication survives termination of this Agreement including its obligations under the following section headings: Insurance, Limitation of Liability, Governing Law, and Dispute Resolution. The invalidity, illegality or unenforceability of any one or more provisions of this Agreement will not affect or impair the validity, legality or enforceability of the remaining provisions, which will remain in full force and effect.



17. Entire Agreement, Relationship

This Agreement contains the entire agreement and understanding between the parties relative to the subject matter herein, and supersedes any prior agreements and understandings between the parties relating to such subject matter, whether verbal or written. This Agreement may be executed in one or more counterparts each of which shall be deemed an original, but all of which shall constitute one and the same document. The parties agree that signatures transmitted by facsimile or e-mail (electronically scanned) shall be binding as if they were original signatures.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives.

EV Connect, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Charge Station Site Host

By: _____

Name: Oralia Y. Rebollo

Title: Mayor

Date: March 20, 2018

ATTACHMENT A
Installation Addresses (Sites)

EVSE #1: _____
Installation Address: _____
City, State, Zip: _____
Electrical Utility serving this location: _____

EVSE #2: _____
Installation Address: _____
City, State, Zip: _____
Electrical Utility serving this location: _____

EVSE #3: _____
Installation Address: _____
City, State, Zip: _____
Electrical Utility serving this location: _____

EVSE #4: _____
Installation Address: _____
City, State, Zip: _____
Electrical Utility serving this location: _____

EVSE #5: _____
Installation Address: _____
City, State, Zip: _____
Electrical Utility serving this location: _____

Special Instructions, if applicable (e.g., cellular repeater installation required, etc.)

