



Finance Committee

Tuesday, November 8, 2022

8:30 a.m.

Executive Conference Room and via Zoom
Brea Civic & Cultural Center

MEMBERS: Council Member Christine Marick and Council Member Marty Simonoff
ALTERNATE: Mayor Cecilia Hupp

The Finance Committee meeting will be held on November 8, 2022 at 8:30 a.m. and the public is welcome to participate. To provide comments in person, the Executive Conference Room will be open to a limited number of members from the public. To provide comments by teleconference (Zoom), members of the public must contact City Staff at (714) 990-7676 or arlenem@cityofbrea.net no later than 12:00 p.m. Monday, November 7, 2022 to obtain the Zoom information. Participants will be muted until recognized at the appropriate time by the Committee. Written comments may be sent to the Administrative Services Department at arlenem@cityofbrea.net no later than 12:00 p.m. on Monday, November 7, 2022. Any comments received via email will be summarized aloud into record at the meeting.

The Finance Committee agenda packet can be viewed on the City of Brea website at: <https://www.ci.brea.ca.us/509/Meeting-Agendas-Minutes>. Hard copies of the agenda packet are available via USPS with proper notice by calling (714) 990-7676. Materials related to an item on the agenda submitted to the Finance Committee after distribution of the agenda packet are available for public inspection during normal business hours in the Administrative Services Department located on the third floor of the Civic & Cultural Center at 1 Civic Center Circle, Brea, CA 92821. Such documents may also be available on the City's website subject to staff's ability to post documents before the meeting.

CALL TO ORDER / ROLL CALL

1. **Matters from the Audience**

CONSENT

2. **October 25, 2022 Finance Committee Regular Meeting Minutes - Approve.**

Attachments

Draft Minutes 10-25-2022

DISCUSSION

3. **Authorize Mayor to Execute Electric Vehicle Charging Station License Agreement with Carbon Solutions Group LLC - Execute License Agreement.**

Attachments

CSG Agreement

4. **Police Department Recruiting and Hiring Incentives** - Authorize hiring incentives for Police Cadet, Police Officer (lateral and entry level), and Public Safety Dispatcher (lateral and entry level) applicants; authorize referral bonuses for employees who recruit successful applicants; appropriate \$50,000 from the FY 2022-23 Operating Budget to fund incentives for the current fiscal year.
5. **Schedule Next Meeting:** November 29, 2022

cc: Mayor Pro Tem Glenn Parker and Council Member Steven Vargas

Special Accommodations

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk's Office at (714) 990-7757. Notification 48 hours prior to the meeting will enable City staff to make reasonable arrangements to ensure accessibility. (28 CFR 35.102.35.104 ADA Title II)

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members
FROM: Bill Gallardo
DATE: 11/08/2022
SUBJECT: October 25, 2022 Finance Committee Regular Meeting Minutes

RECOMMENDATION

Approve.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager
Prepared by: Alicia Brenner, Senior Fiscal Analyst
Concurrence: Kristin Griffith, Director of Administrative Services

Attachments

Draft Minutes 10-25-2022



DRAFT FINANCE COMMITTEE MINUTES

Tuesday, October 25, 2022

8:30 AM

Brea Civic & Cultural Center, 1 Civic Center Circle, Brea, California

CALL TO ORDER / ROLL CALL

ATTENDEES: Council Member Christine Marick, Council Member Marty Simonoff, Kristin Griffith, Michael Ho, Faith Madrazo, Will Wenz and Alicia Brenner.

1. **Matters from the Audience - None**

CONSENT

2. **October 11, 2022 Finance Committee Regular Meeting Minutes – Approved**

DISCUSSION

3. **Professional Services Agreement (PSA) with Bucknam Infrastructure Group, Inc. for Biennial Pavement Management Plan Update and Inspection – *Committee discussed item and recommended to clarify the term language (section 2; subsection B.) in the agreement that the agreement may not be extended except by written amendment executed by CONTRACTOR and the City Council. Item recommended for City Council approval.***
4. **Schedule Next Meeting: Tuesday, November 8, 2022**

Meeting adjourned: 8:31 AM

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members

FROM: Bill Gallardo

DATE: 11/08/2022

SUBJECT: Authorize Mayor to Execute Electric Vehicle Charging Station License Agreement with Carbon Solutions Group LLC

RECOMMENDATION

Execute License Agreement.

BACKGROUND/DISCUSSION

During the Study Session on July 19, 2022, the City Council directed staff to work with Carbon Solutions Group LLC (CSG) on a new agreement. The City Council requested that the additional renewable extensions be shortened from a five (5) year term to a one (1) year term, with up to three (3) extensions only, and that a revenue sharing feature be added in the agreement. The new agreement contains both of these items. With the variable revenue sharing feature that has been added to this agreement, the City will generate \$8,775 over the next five years based on an average utilization of 44% for each charging station. CSG will charge the electric vehicle (EV) user affordable charging rates based on the fair market value taking into consideration the seasonal costs of the electrical rates. This agreement also includes reimbursing the City quarterly for all electricity costs for all the charging sessions.

City staff worked with Clipper Creek to install three Level II EV chargers in the parking structure at the Civic & Cultural Center, which replaced several first generation non-universal EV chargers that were only able to charge a specific vehicle. As EV car manufacturing technology has advanced, a universal charging plug was incorporated into all the new vehicles being built. The Clipper Creek manufacturer offered this new technology, which allowed the City to continue to provide public EV charging at the Civic & Cultural Center. However, when the City installed the Clipper Creek units, technology was limited and there wasn't the ability to charge EV users for their charging sessions. It is a common practice to charge EV users for their usage throughout Southern California.

Over the past few years, there has been a significant increase in EV users on the road. With the increase in EV users, chargers located at City Hall have been used more frequently. Now that it has become common practice to charge the EV user for their charging session, staff is recommending removing the three (3) free chargers and replacing them with three (3) DirtRoad Intelligent Level 2 units. These new EV chargers would be managed by Carbon Solutions Group LLC (CSG). Staff is recommending CSG because there were no out-of-pocket costs from the City to upgrade these EV chargers. GSC would be responsible for all the installation costs to upgrade the chargers and manage the charger interface to charge the EV user for their charging session.

To extend the agreement, both parties would have to agree to extend the additional terms mutually. If either party does not extend the term, then both parties would need to discuss either the removal of the stations or for the units to be sold to the City for fair market value at the time of termination. The City Attorney has reviewed the agreement and is amenable to the terms.

SUMMARY/FISCAL IMPACT

CSG will be responsible for reimbursing the City for electricity consumed quarterly at a rate equivalent to the City's commodity cost of electricity. CSG will also pay the City the variable revenue share annually based on the chargers' utilization. Approval of this agreement will result in cost savings to the General Fund for electricity costs.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager
Prepared by: Brian M. Ingallinera, Environmental Services Coordinator
Concurrence: Rudy Correa, Water Superintendent and
Michael Ho, Public Works Director / City Engineer

Attachments

CSG Agreement

ELECTRIC VEHICLE CHARGING STATION LICENSE AGREEMENT

This ELECTRIC VEHICLE CHARGING STATION LICENSE AGREEMENT (this “Agreement”), dated as of _____, 2022 (the “Effective Date”), is between Carbon Solutions Group LLC, a Delaware limited liability company, d/b/a (“CSG”), and the City of Brea, a California municipal corporation (“Host”). Each of CSG and Host is a “party,” and together they are the “parties,” to this Agreement.

BACKGROUND

- A. CSG provides a variety of vehicle charging and support services to owners of electric plug-in vehicles (“EVs”);
- B. Having Electric Vehicle Charging Stations onsite allows Host to promote sustainable and environmentally-sound transportation;
- C. Host desires to participate in CSG’s network of Electric Vehicle Charging Stations; and
- D. This Agreement sets forth the parties’ agreement with respect to Host’s grant of a revocable license to CSG.

AGREEMENT

In consideration of mutual benefits and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. LICENSE;

- 1.1. Host Property. Host is the Owner of the property described in Exhibit A, attached hereto and made a part hereof (the “Host Property”).
- 1.2. Grant of License. Host, for good and valuable consideration, the sufficiency of which is acknowledged, grants to CSG a revocable license (the “License”) to use a certain portion of Host Property specifically identified in Schedule I of Exhibit A and herein referred to as (the “Licensed Space”) for the purposes described in this Agreement, including but not limited to those described in Section 1.3 below.
- 1.3. Utilization Bonus.
 - 1.3.1. The Host will receive a Utilization Bonus, paid annually within 90 days of the end of each 365 day period after the charging stations are activated, for each charging station for which the average Annual Utilization exceeds a 5% threshold. The Utilization Bonus is calculated according to table included in Exhibit B, which is determined by the following formula:
 - (a) Take the Multiplier Rate representative of the Annual Percent Utilization and multiply it by the dollar value shown in the tier.
- 1.4. Use of Licensed Space. The License includes use of the Licensed Space and the areas of Host Property that are reasonably necessary to provide ingress and egress to and from the Licensed Space and the Electric Vehicle Charging Stations (as defined below) for the purposes of the construction, installation, maintenance, repair and operation of the grid integrated Electric Vehicle Charging Stations by CSG; and for any ancillary uses permitted herein, all in accordance with this Agreement) (collectively the “Necessary Space”);
- 1.5. Host Obligations. Subject to limitations contained herein, Host agrees to, at all times, make the Licensed Space and Necessary Space available to CSG, its subcontractors and vendors, and all users of the Electric Vehicle Charging Stations.

2. TERM; TERMINATION

- 2.1. License Term.
 - 2.1.1. The term of the License (“License Term”) shall commence on the Effective Date and, subject to the provisions of Section 2.2 below, end on the date that is five (5) years from the Commencement Date (as extended from time to time, the “License Expiration Date”). The “Commencement Date” shall mean the date on which a CSG Electric Vehicle Charging Station is first operational on the Host Property. Within one (1) day after the Commencement Date, CSG shall give Host written notice of such date.

2.1.2. Host and CSG shall have the right to extend the Term of this Agreement for two (2) consecutive terms of five (5) years each in accordance with the terms and provisions of this Agreement (collectively “Extended License Term”) by mutual consent, which consent may be granted or denied in each party’s absolute discretion, within one hundred eighty (180) days of the end of the existing License Term. The Extended License Term shall begin immediately following the end of the 5-year term.

2.2. Termination.

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

2.2.1.1. In the case of termination by CSG, in the event that the Commencement Date has not yet occurred.; and

2.2.1.2. In the case of termination by Host, in the event the Commencement Date has not occurred within twenty-four (24) months following the Effective Date; provided that the foregoing right shall terminate upon the Commencement Date.

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

2.2.2.1. *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 forty-five (45) business days after receipt of written notice.

2.2.2.2. *Assigns*. The other party attempts to assign or otherwise transfer its rights, obligations, or duties under this Agreement except as provided in Section 8.6 below.

2.2.3. Licensed Space on Termination. Within a reasonable time following the expiration of the License Term or termination under Section 2.2, CSG shall remove the Electric Vehicle Charging Stations and any other supporting or ancillary equipment installed by CSG from the Licensed Space and restore the affected area to its former condition, excluding ordinary wear and tear; *provided, however,* that any underground electrical wiring shall be capped off and secured, but not removed. For the avoidance of doubt, CSG will not remove any equipment installed by a utility, which may include but may not be limited to: transformers, junction boxes, primary cable and conduit and electric meters and panels.

2.2.4. No Further Obligations. Upon any termination pursuant to this ARTICLE 2, both parties are relieved of any further obligations contained in this Agreement, except for those that by their nature survive or may require performance after termination (e.g., indemnity).

3. ELECTRIC VEHICLE CHARGING STATIONS

3.1. Electric Vehicle Charging Stations; Ancillary Facilities.

3.1.1. The design, make, model, and manufacturer of the Electric Vehicle Charging Stations (each an “Electric Vehicle Charging Station” or “Charging Station”) and their number and approximate locations are specified in Exhibit A. CSG, at any time and for any reason during the License Term, may elect to upgrade, revise, alter, or swap any Charging Station installed in the Licensed Space at its sole discretion and Host shall provide CSG access to the Licensed Property as necessary to do so.

3.1.2. For purposes of this Agreement, “Electric Vehicle Charging Station” shall mean all electrical equipment, hardware, and software installed by CSG, the Charging Stations, all CSG signage and all supporting equipment and structures, including without limitation concrete pads and protective bollards.

3.2. Access. CSG, its subcontractors, vendors and customers shall have access to the Licensed Space and Necessary Space twenty-four (24) hours per day, seven (7) days per week, and 365/366 days per year. CSG and its employees and vendors may, at any time during the Term, access the Licensed Space and Host Property to maintain, inspect, repair or replace any portion of the Electric Vehicle Charging Stations pursuant to its obligations under this Agreement. Signage at minimum will include what is legally required per law for electric vehicle charging stalls. Additionally, CSG may paint, place, erect, or project signs, marks, or advertising devices in, on, or about the Licensed Space or elsewhere on the Host Property upon obtaining Host’s written consent (which may be granted or denied in Host’s absolute discretion). CSG shall, at its own cost and expense, obtain any and all permits necessary for the installation of its signs, and CSG shall be solely responsible for all costs and expenses associated with such permitting, the erection of such sign(s), and the maintenance and operation thereof. Further, CSG and Host also agree to place signage on or around the Electric Vehicle Charging Station, designating the area as “Electric Vehicle Charging Only,” and will take reasonable measures to discourage non-EVs from parking in the Licensed Space,

including, without limitation, towing. Host agrees that it shall not place any signs, marks or advertising devices on any portion of the Electric Vehicle Charging Station or in the Licensed Space without CSG's prior written consent (which may be granted or denied in CSG's commercially reasonable discretion).

3.3. Installation.

3.3.1. CSG, at its sole cost, is solely responsible for supervising or conducting the construction and installation activities for the Electric Vehicle Charging Stations, and, as between the parties, has sole control over construction, construction schedule, and installation means, methods, techniques, sequences, and procedures, including the coordination of all work.

3.3.2. Host warrants that the site includes an existing 32 Amp electrical supply with a 40 Amp breaker that CSG will utilize for the new stations to be installed.

3.3.3. Before beginning activities to install the Electric Vehicle Charging Stations in the Licensed Space, CSG shall give a copy of the tentative construction schedule and installation plans to Host. No work will begin until all applicable permits and certifications have been obtained. Once all insurance coverages required by this Agreement are in place, CSG will oversee and manage the installation of the Electric Vehicle Charging Stations, 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 CSG branded signage.

3.3.4. CSG, at its sole cost, will obtain from applicable governmental authorities all licenses, permits, or other approvals required to install the Electric Vehicle Charging Stations, and Host will reasonably cooperate upon request with CSG's efforts to do so.

3.3.5. Host grants to CSG and its employees and vendors the non-exclusive right to use and occupy the Licensed Space and Host's adjacent property for the construction and installation of the Electric Vehicle Charging Station. CSG shall confine its operations strictly to those sites permitted by applicable law, ordinances, permits, Host, and the terms of this Agreement. Only those materials and equipment that are being used directly in the construction and installation of Electric Vehicle Charging Stations shall be brought to and stored on the Licensed Space and its adjacent areas. CSG shall ensure that, subject to reasonable and unavoidable interruptions, all work is performed in a manner that affords continuous, reasonable access to Host Property.

3.3.6. CSG will not permit or suffer any mechanic's or materialmen's liens to attach to the Host Property as a result of the installation of the Electric Vehicle Charging Stations. If such a lien attaches to the Host Property, CSG shall remove or bond over such lien at CSG's sole cost and expense, within twenty (20) days of CSG receiving written notice thereof from Host.

3.3.7. Ownership of Intellectual Property and Charging Stations. CSG owns all worldwide right, title, and interest in and to its Electric Vehicle Charging Stations, their related hardware, software, commodities and all derivatives thereof; any processes, relationships, and contracts associated therewith; all related graphics, user interfaces, logos, and trademarks reproduced during their operation; and all Intellectual Property rights therein. Host hereby assigns all such rights to CSG and agrees to execute any documents desirable to effectuate or evidence the foregoing. The foregoing rights shall vest with CSG upon the Effective Date and shall remain with CSG in perpetuity absent CSG's disposing or transferring of such rights at its sole discretion. CSG shall have the right to temporarily remove all or a portion of the Electric Vehicle Charging Stations at any time during the License Term, whether or not such items are considered fixtures and attachments to the Licensed Space under applicable laws. CSG shall have sole right and title to any government grants, rebates, incentives and credits awarded as a result of the construction and/or operation of the Electric Vehicle Charging Stations.

3.4. Operation and Maintenance. CSG will, at its sole cost and expense, maintain and operate the Electric Vehicle Charging Stations, including making all necessary repairs, arrange for appropriate remote monitoring, and obtaining and installing appropriate software and hardware upgrades. CSG shall, other than expressly stated herein, be the sole beneficiary of all revenues and costs associated with the foregoing.

3.5. Host Obligations. Host shall, at its sole cost and expense, take all actions necessary to maintain the Licensed Space in a clean, safe, and orderly condition, to at least the same standard as it customarily maintains the common areas at the Host Property, including, without limitation, parking lot sweeping, parking lot repaving and restriping, and maintenance and repair of curbs, gutters and landscaping features within the Licensed Space. In addition, Host shall take reasonable precautions to protect the Electric Vehicle Charging Stations from graffiti and other vandalism. For the avoidance of doubt, Host shall be under no obligation to maintain the Electric Vehicle Charging Stations, signage or any other equipment installed by CSG within the Licensed Space. To the extent Host has actual knowledge of the same, Host shall promptly notify CSG and, as appropriate, emergency response personnel regarding any malfunction

of the Electric Vehicle Charging Stations. Host shall make commercially reasonable efforts to accommodate any reasonable request by CSG in connection with the operation of the Charging Station.

3.6. Utility Availability.

3.6.1. CSG shall be responsible for all electricity costs of the Electric Vehicle Charging Stations. CSG will reimburse Host for the electricity used by the Electric Vehicle Charging Station according to the Electricity Cost Reimbursement table in Exhibit A. Electricity usage shall be determined based on the charger internal metering devices which measure in kWh the electricity used by the Electric Vehicle Charging Stations.

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

3.6.3. Neither Host nor CSG has any responsibility or liability for interruption, curtailment, failure, or defect in the supply or character of utilities furnished to facilities or equipment located in the Licensed Space, unless the cause of the interruption is covered by the party's indemnity provided for in ARTICLE 7.

3.7. Taxes. CSG is solely responsible for personal property taxes imposed on the Electric Vehicle Charging Stations, and any other equipment installed by it, that is located in the Licensed Space. All other real or personal property taxes related to the Licensed Space, including any increase in real estate taxes on the real property on which the Licensed Space is located which arise from CSG's improvements and/or CSG's use of the Licensed Space, are the sole obligation of Host. Each party is responsible for its own income, franchise and similar taxes.

4. INTELLECTUAL PROPERTY; PUBLICITY

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

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

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

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

4.3. Publicity.

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

4.3.2. Notwithstanding anything to the contrary within this Agreement, CSG may advise mapping services, the manufacturers of vehicle navigation systems, map data providers, and other third-parties of the existence, location, and other details of the Electric Vehicle Charging Stations at the Licensed Space so that such services and manufacturers may include such information in connection with their mapping and listing services and navigation systems; and CSG may disclose to the public

information about the location of the Electric Vehicle Charging Stations and the progress of their construction as required by governmental authorities. In addition, the parties may provide copies of this Agreement or portions hereof to utility providers, governmental authorities, and/or third parties as reasonably necessary or desirable to facilitate or effectuate the intents and purposes of this Agreement.

5. REPRESENTATIONS AND WARRANTIES; COVENANTS

5.1. Representations and Warranties. Each of Host and CSG hereby represents and warrants to the other as of the Effective Date that: (a) it has all necessary power and authority to execute, deliver, and perform its obligations hereunder; (b) the execution, delivery, and performance of this Agreement have been duly authorized by all necessary action and do not violate any of the terms or conditions of its governing documents, any contract to which it is a party, or any law, rule, regulation, order, judgment, or other legal or regulatory determination applicable to it; (c) there is no pending or, to its knowledge, threatened litigation or administrative proceeding that may materially adversely affect its ability to perform this Agreement; (d) it is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing; (e) this Agreement constitutes a legal, valid and binding obligation of such party, except as the enforceability of this Agreement may be limited by the effect of any applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting creditors' rights generally and by general principles of equity; and (f) at all times during the License Term, it will comply with all federal, state, and local laws, rules, regulations (including, without limitation, all zoning ordinances and building codes) in performing its obligations under this Agreement.

5.2. Rights to Host Property. Permitted Uses on Host Property.

5.2.1. Host further represents, warrants and covenants that it has obtained or it shall obtain any and all consents, permits or approvals required in order for Host to grant the License and other rights and perform its obligations under this Agreement, and for CSG to take the actions with respect to the Licensed Space contemplated in this Agreement, from any third parties: (i) with an interest in the Host Property (including, without limitation, any owner, lender, lessee, ground lessor, or any party to any reciprocal easement agreement); (ii) whose consent is otherwise required under conditions, covenants and restrictions documents, declarations or similar agreements affecting the Host Property; or who exercise governmental or regulatory jurisdiction over the Host Property, including local and state governments. When obtaining consent, permit or permissions is required, Host and CSG shall use cooperative commercially reasonable efforts to contact and educate the applicable third parties of the terms, conditions, and benefits of the activities proposed to be taken pursuant to this Agreement. As part of that effort, the parties will, on request, include applicable necessary third parties as additional named insureds on the insurance policies required by ARTICLE 6, offer appropriate indemnities on terms similar to those stated in ARTICLE 7, satisfy reasonable third party requests and concerns regarding the Electric Vehicle Charging Stations and related items, and take other commercially reasonable steps required to obtain any required consent, permits or permissions of those third parties that is consistent with this Agreement.

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

6. INSURANCE; CASUALTY AND CONDEMNATION

6.1. CSG Insurance.

6.1.1. During the License Term, CSG shall maintain in full force and effect, at its cost and expense, the following coverages and amounts of insurance:

6.1.1.1. Full replacement cost Property Insurance (written on a "special perils" basis) for the Electric Vehicle Charging Stations and all other personal property, machinery, equipment and trade fixtures owned by CSG;

6.1.1.2. Statutory Worker's Compensation Insurance, and Employer's Liability limits of \$1,000,000.00 per accident/per employee;

6.1.1.3. 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

\$1,000,000.00 per occurrence, that includes coverage for contractual liability, independent contractors, premises/operations, products/completed operations, and cross liabilities/separation of insureds; CSG shall consider its own insurance primary, and shall not seek contribution from similar insurance being maintained by Host, but only as to the negligent acts or omissions of CSG or the CSG Parties.

- 6.1.1.4. Automobile Liability with a combined single limit of \$1,000,000.00 that includes coverage for owned, non-owned and hired vehicles; and
- 6.1.1.5. \$5,000,000.00 in excess liability coverage per occurrence, for injuries, losses, claims for damages to persons or property occurring on the Licensed Space, and resulting from the use of the Electric Vehicle Charging Stations, the occupancy of the Licensed Space and/or the negligence of CSG and its agents, contractors, employees or invitees, which coverage shall sit in 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.
- 6.1.2. With respect to CSG's Commercial General Liability Insurance, Automobile Liability Insurance and Excess Liability Insurance, include Host as an additional insured with respect to liability arising out of the ownership, maintenance or use of the Electric Vehicle Charging Station or the Licensed Space.
- 6.1.3. Annually, CSG shall provide Host with a certificate of insurance and endorsement, evidencing the required coverages.
- 6.2. Host Insurance
 - 6.2.1. During the License Term, Host shall maintain insurance in the following amounts:
 - 6.2.1.1. Full replacement cost Property Insurance (written on a "special perils" basis) for (1) the Host Property and all improvements thereon (including without limitation the Licensed Space and all electrical infrastructure for the Electric Vehicle Charging Station); and (2) all personal property, machinery, equipment and trade fixtures located at the Host Property or owned by Host; and
 - 6.2.1.2. Commercial General Liability insurance with a minimum combined single limit of liability of at least \$2,000,000 for personal injuries or deaths of persons occurring in or about the Licensed Space and Host Property.
 - 6.2.2. Annually, Host shall provide CSG with a certificate of insurance and endorsement, evidencing the required coverages, stating that the insurance is primary with regard to Host and naming CSG as an additional insured.
- 6.3. Policy Requirements. The insurance policies required under Sections 6.1 and 6.2 shall:
 - 6.3.1. 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 Commencement Date; if the Best's ratings are changed or discontinued, the parties shall agree to a comparable method of rating insurance companies;
 - 6.3.2. contain provisions whereby each party's insurers waive all rights of subrogation against the other party on each of the coverages required herein.
- 6.4. Waiver. Anything in this Agreement to the contrary notwithstanding, to the extent covered by any property insurance maintained (or required to be maintained) hereunder, 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, the Licensed Space, the Electric Vehicle Charging Stations, or any improvements on any of the foregoing, or to the personal property of either party, or their respective affiliates, representatives, agents, officers, directors, managers, members, shareholders, partners, contractors, or employees, 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.
- 6.5. Casualty and Condemnation.
 - 6.5.1. Damage. If any portion of the Licensed Space is damaged by fire or other casualty; or any portion of the Host Property is damaged by fire or other casualty caused by the negligent act or omission of CSG, CSG will have thirty (30) days from date of such fire or casualty to elect to repair the property with notice of such intent delivered in writing to Host. If no written notice is received by Host within that thirty-day period, then either party may, within forty-five (45) days of the date of such fire or other casualty elect to terminate the License on written notice to the other party. If CSG elects to repair such property, it shall restore, rebuild, or replace those portions of the Electric Vehicle

Charging Station in the Licensed Space and any other property damaged as a result of such fire or other casualty to its prior or better condition as necessary, and all property insurance proceeds of Host applicable to the Licensed Space shall be made available to CSG in connection with such repair and restoration. If CSG elects to terminate the License, it shall remove all of CSG's property from the Licensed Space in accordance with Section 2.2.2 of this Agreement. Any repair and restoration required by CSG under this Section 6.5.1 shall commence within sixty (60) days of the date CSG elects to repair and restore the Licensed Space and shall be completed no later than 180 days thereafter.

6.5.2. Condemnation/Taking. If any portion of the Licensed Space or Host Property is condemned or taken in any manner for a public or quasipublic use that could adversely affect the use of the Electric Vehicle Charging Stations, then CSG may elect to terminate this Agreement effective as of the date title to the condemned portion of the Host Property is transferred to the condemning authority. If CSG does not elect to terminate, the parties will use commercially reasonable efforts to find an alternate location for the Electric Vehicle Charging Stations elsewhere on Host Property. The costs of the relocation of the Electric Vehicle Charging Stations shall be shared by CSG and Host. CSG may file a separate claim to the condemning authority for any relocation award made as a result of such condemnation. All relocation awards made as a result of such condemnation shall be paid to CSG to the extent that the Necessary Space is affected.

7. INDEMNITY; LIMITATION OF LIABILITY

- 7.1. CSG. Subject to Sections 6.4, and 7.3, CSG shall indemnify and hold harmless Host, its elected and appointed officials, employees, and agents (individually, "Host Party" and, collectively, the "Host Parties") from and against all 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 breach by CSG of its obligations, representations or warranties under this Agreement, or (ii) the willful misconduct or negligence of CSG, except to the extent arising out of or resulting from any willful misconduct or negligence of any Host Party or any installation or other activities conducted by a contractor, or other service provider designated by Host or by CSG per the express instructions of Host; and excepting any claims arising out of Host's active negligence or willful misconduct. The obligations of CSG under this Section shall survive the expiration, cancellation, or termination of this Agreement and the License Term.
- 7.2. Host. Subject to Sections 6.4 and 7.3 hereof, Host shall indemnify and hold harmless CSG, its affiliates, and their respective representatives, agents, officers, directors, shareholders, partners and employees (individually, "CSG Party" and collectively, the "CSG Parties") from and against all Losses that arise out of or result from (i) any willful misconduct or negligence of any Host Party in connection with this Agreement or (ii) any breach by Host of its obligations, representations or warranties under this Agreement; and excepting any claims arising out of CSG's active negligence or willful misconduct. The obligations of Host under this Section shall survive the expiration, cancellation, or termination of this Agreement and the Term.
- 7.3. Limitation of Liability. In no event shall either party be liable (in contract or in tort, including negligence and strict liability) to such other party or its related parties for any special, indirect or consequential damages relating to the Agreement. The entire liability of each party for any and all claims of any kind arising from or relating to the Agreement will be subject in all cases to an affirmative obligation on the part of the other party to mitigate its damages. Each party's total liability for any and all liability to the other party and to such other party's affiliates or their respective representatives, agents, officers, directors, shareholders, partners or employees (on an aggregate basis) arising out of or in connection this Agreement whether in contract or in tort (including negligence and strict liability) shall not exceed the greater of FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) or, if insurance coverage is applicable, the insurance coverage limits required under this Agreement. The provisions of this Section 7.3 shall apply to the full extent permitted by law and shall survive expiration or termination of this Agreement. The limits of this Section 7.3 shall not apply to a party's obligations pursuant to Section 7.2, to the Liquidated Damages calculation in Section 5.2.

8. MISCELLANEOUS

- 8.1. Brokers. CSG hereby represents to Host that CSG has dealt with no broker in connection with this Agreement. Host hereby represents to CSG that Host has dealt with no broker in connection with this

Agreement. Each party agrees to indemnify and hold the other party, its members, principals, beneficiaries, partners, officers, directors, employees, and agents, and the respective principals and members of any such agents harmless from all claims of any brokers claiming to have represented such party in connection with this Agreement.

- 8.2. Independent Agreements. The parties acknowledge and agree that the rights and obligations under the Agreement are separate and independent from, and shall not be conditioned on or affected by the performance or non-performance of the terms of, any other agreement between CSG and Host.
- 8.3. Survival of Covenants. The covenants, representations and agreements of Sections 2.2.3, 2.2.4, 3.5, 3.6, 4.1, 4.2, 4.3.2, 5.1, and 6.4, ARTICLE 7, and ARTICLE 8 shall survive the expiration, termination or cancellation of this Agreement, regardless of reason.
- 8.4. Ancillary Services. CSG shall hold all right and title to any ancillary services related to the production or consumption of electricity connected to the operation of the charging stations.
- 8.5. Notice. Any notice provided or permitted to be given under this 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 follows:

If to CSG:

CSG EV LLC
600 B Street Suite 300
San Diego, CA 92101
Attn: Kory Trapp, V.P. Project Development

If to Host:

City of Brea
1 Civic Center Circle
Brea, CA 92821-5732
Attn: _____

Each party may change its address for notice by giving notice thereof to the other party.

- 8.6. Assignment. This Agreement is binding on and inures to the benefit of the parties and their respective heirs, successors, assigns, and personal representatives. Neither party may assign its rights and obligations in and under this Agreement without first obtaining prior written consent of the other party, which shall not be unreasonably withheld.
- 8.7. Independent Entities. The parties shall act as and remain independent entities in the performance of this Agreement. 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 this Agreement, neither party has any right to act on behalf of the other, nor represent that it has such right or authority.
- 8.8. Host Consents. Host's City Manager is authorized to grant or deny consents required of Host under this Agreement.
- 8.9. Governing Law. This Agreement shall be governed by and interpreted in accordance with the internal laws of the State of California without giving effect to conflict of law rules. The parties further agree that all actions brought under this Agreement shall be brought in the courts located in Orange County, California.
- 8.10. Further Assurances. Each party agrees to execute (and acknowledge, if requested) and deliver additional documents and instruments and to perform additional acts as may be reasonably necessary or appropriate to effectuate, carry out, and perform all of the terms, provisions and conditions of this Agreement.
- 8.11. 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, suppliers or other similar causes including delays or cancellations by vendors of technology, materials or components related to the project beyond the party's control. If any rule, directive, order, decision or law adversely

impacts the ability for CSG 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, CSG may, at its option, immediately suspend performance under the Agreement and/or terminate the Agreement upon notice to Host and without penalty.

- 8.12. Attorneys' Fees; Waiver of Jury Trial. If either party institutes a suit against the other for violation of or to enforce any covenant, term or condition of this Agreement, the prevailing party shall be entitled to reimbursement of all of its costs and expenses, including, without limitation, reasonable attorneys' fees. The parties hereby waive any and all rights which either party may have to request or require that a jury determine any fact, matter, controversy, dispute or litigation between them, or render any judgment or decision, in any way concerning this Agreement, and agree that any and all litigation between them arising from or in connection with this Agreement shall be determined by a judge sitting without a jury.
- 8.13. 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. A waiver or estoppel given in any one instance does not constitute a waiver or estoppel with respect to a later obligation or breach.
- 8.14. No Third Party Beneficiaries. This Agreement does not confer any rights or remedies on any person other than the parties and their respective successors and permitted assigns.
- 8.15. Remedies. The rights and remedies provided by this 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 applicable law, in equity or otherwise.
- 8.16. Integration; Amendments. It is agreed and understood that this 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 this Agreement shall be ineffective unless made in a writing signed by the parties hereto.
- 8.17. Severability. If any term of this Agreement is held by any court of competent jurisdiction to contravene, or to be invalid under, the laws of any political body having jurisdiction over this subject matter, that contravention or invalidity shall not invalidate the entire Agreement. Instead, this Agreement shall be construed as reformed to the extent necessary to render valid the particular provision or provisions held to be invalid, consistent with the original intent of that provision and the rights and obligations of the parties shall be construed and enforced accordingly, and this Agreement shall remain in full force and effect as reformed.
- 8.18. Counterpart Execution. This Agreement may be executed in any number of counterparts with the same effect as if all the parties had signed the same document; all counterparts shall be construed together and shall constitute one and the same instrument. The delivery of an executed counterpart to this Agreement by electronic means (including via email) shall be as effective as the delivery of a manually executed counterpart.
- 8.19. Construction. The headings in this Agreement are inserted for convenience and identification only. When the context requires, the number of all words shall include the singular and the plural. In this Agreement, words importing any gender include the other genders and the words including, includes and include shall be deemed to be followed by the words without limitation. All documents or items attached to, or referred to in, this Agreement are incorporated into this Agreement as fully as if stated within the body of this
- 8.20. Agreement. The Agreement expresses the mutual intent of the parties to this Agreement and the rule of construction against the drafting party has no application to this Agreement.

Effective as of the date first set forth above.

HOST:

City of Brea,
a California municipal corporation

By: _____
Cecilia Hupp, Mayor

CSG:

CARBON SOLUTIONS GROUP LLC,
a Delaware limited liability company

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: Manager

Title: Manager

[Pursuant to California Corporations Code Section 17703.01(d), both signature lines must be executed unless the articles of incorporation state that the firm is managed by only one manager.]

EXHIBIT A

DESCRIPTION OF HOST PROPERTY

Description of Host Property: See table below

Count	Location
1	City of Brea City Hall

Number and Type of Electric Vehicle Charging Stations to be located on Licensed Space:

Charger Type	Charger Capacity	Quantity
DirtRoad Intelligent Level 2 Charger	7.2 kW or similar	03

Electricity Cost Reimbursement table:

Unit	Unit cost
kWh	CSG will reimburse Host for electricity consumed on a quarterly basis at a rate equivalent to the City's Commodity Cost of Electricity, where the Commodity Cost of Electricity includes delivery and generation charges and excludes all demand charges.

EXHIBIT B
UTILIZATION BONUS LEVEL 2 CHARGER

Annual Percent Utilization	Multiplier Rate	Tier	Compensation Per Charger
0%	0%	\$0.00	\$0.00
1%	1%	\$0.00	\$0.00
2%	2%	\$0.00	\$0.00
3%	3%	\$0.00	\$0.00
4%	4%	\$0.00	\$0.00
5%	5%	\$0.00	\$0.00
6%	6%	\$15.00	\$15.00
7%	7%	\$15.00	\$30.00
8%	8%	\$15.00	\$45.00
9%	9%	\$15.00	\$60.00
10%	10%	\$15.00	\$75.00
11%	11%	\$15.00	\$90.00
12%	12%	\$15.00	\$105.00
13%	13%	\$15.00	\$120.00
14%	14%	\$15.00	\$135.00
15%	15%	\$15.00	\$150.00
16%	16%	\$15.00	\$165.00
17%	17%	\$15.00	\$180.00
18%	18%	\$15.00	\$195.00
19%	19%	\$15.00	\$210.00
20%	20%	\$15.00	\$225.00
>20%	>20%	\$15.00	(Annual Utilization - 5%) x \$15.00

Formula: Take the Multiplier Rate representative of the Annual Percent Utilization and multiply it by the dollar value shown in the tier.

Schedule I

**IDENTIFICATION OF LOCATION OF LICENSED SPACE AND ELECTRIC VEHICLE
CHARGING STATIONS**

Charger stations will be installed in place of existing stations at City Hall.

City of Brea

FINANCE COMMITTEE COMMUNICATION

TO: Finance Committee Members
FROM: Bill Gallardo
DATE: 11/08/2022
SUBJECT: Police Department Recruiting and Hiring Incentives

RECOMMENDATION

Authorize hiring incentives for Police Cadet, Police Officer (lateral and entry level), and Public Safety Dispatcher (lateral and entry level) applicants; authorize referral bonuses for employees who recruit successful applicants to the above positions; appropriate \$50,000 from the FY 2022-23 Operating Budget to fund incentives for the current fiscal year.

BACKGROUND/DISCUSSION

Attracting applicants to law enforcement jobs has become a national issue, even rising to crisis levels in some jurisdictions. Police agencies across the country struggle to hire enough people to address attrition; are have difficulty maintaining staffing levels; and consequently struggle to maintain service levels in their communities. Because of this, the competition to attract new applicants to police agencies has become aggressive. Many police departments have started to offer lucrative hiring incentives to attract candidates to apply at their agencies.

Locally, recruiting new applicants for Police Officer, Public Safety Dispatcher, and Police Cadet positions has also become a serious challenge for the Brea Police Department. In years past, the Police Department received many applicants for these positions, however, over the past couple of years, the number of people who apply for these jobs has dwindled significantly.

The Police Department seeks to offer a competitive set of hiring incentives to attract more candidates to apply for open positions. The Police Department reviewed hiring incentives across the Southern California region, both in law enforcement and the private sector, and also conducted an internal survey of current Police Department employees to determine the most attractive incentives to offer. Based on research, the Police Department seeks to offer the following monetary and non-monetary hiring incentives.

The Police Department seeks to offer the following monetary hiring bonuses:

- Lateral Police Officer: \$15,000
- Entry Level Police Officer (recruit, academy graduate, or academy enrollee): \$10,000
- Lateral Public Safety Dispatcher: \$7,500
- Entry Level Public Safety Dispatcher: \$5,000
- Police Cadet: \$2,000

Monetary bonuses will be paid incrementally: 25% at the time of hire, 50% at the completion of probation (typically at the end of year one), and 25% at the completion of two years of employment. For example, a lateral Police Officer would receive \$3,750 upon hire, \$7,500 at the end of their probationary period, and \$3,750 at the completion of their second year of employment.

In addition to monetary bonuses, the Police Department seeks to offer applicants a specified amount of leave time in their vacation and/or sick banks. The amount of leave given would be based on leave bank accruals at the applicant's most recent employer at the time of separation and would be capped. The Police Department proposes matching 50% of the applicant's most recent sick bank up to 40 hours and 50% of the applicant's most recent vacation bank up to 40 hours. The Police Department will have the authority to negotiate with an applicant whose most recent employer uses different labels for leave time (PTO, for example) to determine which banks to place alternate leave types.

The Brea Police Association's MOU with the City of Brea has graduated accrual rates for vacation hour accruals. The accrual rates increase with an employee's tenure. Lateral Police Officers and Lateral Public Safety Dispatchers often come to the Police Department from agencies where they have earned a higher vacation leave accrual rate based on similar graduated accrual rates. When they start with a new employer, this accrual rate often resets to what a new employee's accrual rate would be. In recognition of these applicants' tenure and experience, the Police Department proposes starting Lateral Police Officer and Public Safety Dispatcher applicants at the BPA MOU accrual rates based on their total tenure in the position. For example, a 13-year Lateral Police Officer applicant would start with a vacation accrual rate of 160 hours per year rather than the 80 hours per year rate that a first-year employee would begin with, as prescribed in the MOU.

Finally, it has been the Police Department's experience that employees are often the best recruiters. Police Department employees understand the culture and workplace environment, who might "fit" and who might not, and ultimately benefit from recruiting good co-workers (and seeking to exclude potentially poor co-workers). To encourage this practice, the Police Department proposes rewarding employees with a referral bonus for referring applicants who become successful employees. The referral bonuses will be limited to the five positions listed above. They would equal 10% of the above hiring bonuses (\$1,500 for a Lateral Police Officer, \$1,000 for Entry Level Police Officer, etc.). The referral bonuses would be paid when the applicant has successfully completed their probationary period.

The proposed incentives shall be given in conjunction with current foreign language hiring incentives being offered. All final decisions related to hiring incentives, referral incentives, leave banks, and leave accrual rates are at the discretion of the Police Chief.

The Police Department continues to work on other initiatives and incentives to attract potential applicants and retain current employees, such as a Residence Incentive Program (an interest-free loan toward purchasing a residence within the City of Brea), etc. The Police Department will evaluate our recruitment needs and bring forth additional ideas for future consideration.

SUMMARY/FISCAL IMPACT

To fund these incentives, the Police Department proposes allocating \$50,000 in FY 2022-23 (current fiscal year), \$175,000 in FY 2023-24, and \$50,000 in FY 2024-25. The Police Department requests that \$50,000 be appropriated from the FY 2022-23 Operating Budget to pay for these initiatives during the current fiscal year. Funding for the following two years will be programmed into the budget using normal budget planning processes.

In the following year, the Police Department anticipates needing to hire approximately 5-7 Police Officers (combination of lateral and entry level), 1-2 Public Safety Dispatchers, and 5-7 Police Cadets. With the fluid and unpredictable nature of the labor market, the Police Department's needs might increase.

Based on the Police Department's anticipated needs, and if all applicants qualified for all tiers of the hiring bonuses, the maximum expenditure to pay the monetary hiring bonuses would be \$134,000 (\$105,000 for Police Officers, \$15,000 for Dispatchers, and \$14,000 for Police Cadets). If all of those positions were filled (and all bonuses paid) in the current fiscal year, the cost would be \$33,500 in FY 2022-23, \$67,000 in FY 2023-24, and \$33,500 in FY 2024-25.

If all the newly hired employees came from employee referrals, the referral bonuses would be \$13,400 and would be paid in FY 2023-24. The Police Department has added contingency funding if the need arises to hire for more positions than currently anticipated. If the Police Department cannot fill all vacancies, a request will be made that unused funds from each year be carried over to the following fiscal year. There is no immediate fiscal impact related to the adding of leave bank hours nor the increased leave bank accrual rate.

RESPECTFULLY SUBMITTED

William Gallardo, City Manager

Prepared by: Lt. Chris Harvey

Concurrence: Adam Hawley, Chief of Police
