



CITY OF NOVI CITY COUNCIL
OCTOBER 9, 2023

SUBJECT: Approval of License Agreement with Charge EV, LLC. To install an EV charging pedestal at the Nov Library. Final form and agreement to be decided by the City Attorney and City Manager

SUBMITTING DEPARTMENT: City Manager's Office

BACKGROUND INFORMATION:

In 2010-11, the City installed two EV charging stations on municipal grounds. One located at the Police Station, and the other at the Novi Library. After about five years it was decided to remove the location at the Police Station due to low usage. Over the years the City began to experience service interruptions with the Library location and ultimately could not access the interface to service the remaining station. Calls for service with the operator Charge Point, a nationwide electric vehicle (EV) charging company, went unanswered. Ultimately, it was decided to remove the remaining pedestal as one of the chargers stopped working.

The City was approached by a local GM dealership participating in the General Motors Dealer Community Charging Program, whose goal is to expand charging station accessibility. GM's program is facilitated through Charge EV LLC, a Michigan-based electric vehicle (EV) charging company. The City and EV LLC began conversations about re-installing a Level 2 charger at the Library. Similar to the agreement previously held with Charge Point, Charge EV, LLC., License Agreement will continue electric vehicle charging services for current Novi residents at the Novi Public Library while bolstering visibility. The City of Novi will grant Charge EV LLC (CEV) a license that will permit the installation and maintenance of electric vehicle chargers.

Per the Agreement, CEV is responsible for the EV chargers, and the City of Novi will not be liable for any damages unless the damages are caused by the City of Novi's gross negligence. CEV will install the electric vehicle chargers, a transformer, and the utility transmission lines needed to operate the electric vehicle chargers. The chargers to be installed are two Level 2 chargers connected to one pedestal, similar to what the City previously had. Users will be charged no more than 150% of the cost of delivered power (\$10.00 - \$30.00 per full charge, on average 7 – 15 hours). Per the

agreement, CEV shall share revenue of \$0.03 per kilowatt-hour, payable on the tenth day of each quarter of the year, \$0.05 following a renewed contract.

Having a Michigan-based EV charging company will make for more effective communication between the City of Novi and Charge EV, LLC, eliminating the previous problems plaguing the agreement with Charge Point.

RECOMMENDED ACTION: Approval of License Agreement with Charge EV, LLC. To install an EV charging pedestal at the Nov Library. Final form and agreement to be decided by the City Attorney and City Manager

CHARGE EV, LLC. CHARGING STATION LICENSE AGREEMENT

This Charging Stations Agreement (the “**Agreement**”) is effective as of the date signed by **HOST** (the “**Effective Date**”) by and between (“**Host**”), **City of Novi, 45175 W. Ten Mile Road, Novi, Michigan 48375** and Charge EV, LLC. (“**CEV**”), a Michigan company with its principal place of business located at 15045 Dixie Hwy, Ste A, Holly, MI 48442. CEV and Host may individually be referred to herein as a “**Party**” and collectively as the “**Parties.**”

WHEREAS, Host has possession and title of property located at **45255 W. Ten Mile Road, Novi, Oakland County, State of Michigan, having Tax Parcel ID No. 50-22-27-100-03**, (“**Site**”). Host has agreed to allow CEV access to and the right to install and maintain electric vehicle chargers (“**EV Chargers**”) under the terms of this License, to the area outlined in red on **Exhibit A** and referred to as (the “**Premises**”) which CEV has accepted. The EV Chargers will provide value to Host by attracting electric vehicle owners and the public to, and providing additional visibility of, the property;

NOW THEREFORE, in consideration of the above and for other good and valuable consideration, the receipt and legal sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. USE OF LICENSED PREMISES:

Host hereby grants to CEV a license to install and maintain EV Chargers at the locations contained in **Exhibit A (the “Premises”)**, upon which CEV shall install the EV Chargers, subject to the requirements of this License includes the right to install a transformer and utility transmission lines necessary to operate the EV Chargers, subject to Host’s right to designate the route to be utilized. Host reserves all powers it has under applicable local, state or federal law to regulate the Premises. CEV shall be subject to all present and future ordinances of Host.

2. INITIAL INSPECTION:

A. Early Access. Beginning on “**Effective Date**” (“**Initial Inspection Start Date**”) CEV shall have a period of up to thirty (30) days during which it will have reasonable, non-exclusive access to the Premises for conducting its reviews and inspections (the “**Inspection Period**”).

B. Application for Permits. During the Inspection Period, CEV shall apply and pay for all required permits or approvals required for CEV’s construction of the improvements on, and CEV’s use of, the Premises (collectively, the “**Permits**”).

C. Right to Terminate. If CEV determines, in its sole and absolute discretion, for any reason or for no reason whatsoever, that the Premises are unacceptable for CEV’s proposed use, CEV may, without any liability hereunder, terminate this Agreement upon written notice delivered to Host no later than five (5) business days following the expiration of the Inspection Period pursuant to Section 20 of this Agreement. CEV shall restore any damage to the Premises that is attributable to CEV.

3. INSTALLATION:

Upon acceptance of the Premises, CEV shall, at its sole expense, install the EV Chargers.

4. EQUIPMENT:

It is estimated that **(1) Pedestal and (2) Level 2 Chargers** will be installed on the Premises. The Parties may adjust these numbers up or down after a final site review. CEV can elect to change the equipment for equivalent equipment depending on utility support transformer and supply chain availability. City shall have the right to approve the equivalent equipment, with such approval not to be unreasonably withheld. The equipment may contain advertising that is in harmony with decency and good taste of the community and is approved by the Host. The Host maintains full discretion and reserves the right in its sole discretion to reject any ad for any reason. If the equipment displays video and/or sound, CEV shall comply with the applicable requirements in the City's zoning ordinance for signs.

5. COMMENCEMENT DATE:

The date that the EV Chargers open to the public (the "**Commencement Date**") shall be within one hundred and fifty (150) days following the Initial Inspection Start Date, provided that no external permitting, utility or other requirements beyond CEV's control delay the installation, despite the best efforts of CEV. CEV shall provide written notice of the Commencement Date to Host pursuant to Section 20 and this notice shall provide the Commencement Date, which in no event shall be any later than two hundred (200) days following the Initial Inspection Start Date.

6. TERM:

A. The initial term of the Agreement shall expire ten (10) years from the Commencement Date (the "Initial Term"). Thirty (30) days prior to the expiration of the Initial Term, the Parties may elect to extend the Agreement and such extension shall be for an additional period of five (5) years (the "Renewal Term" and together with the Initial Term, the "Term"). Following the Renewal Term, any further renewals will be subject to mutual agreement between CEV and Host and may be of any duration agreed upon by the Parties. In the event Host wishes to sell or transfer of the Premises by Host while the Agreement is in effect, Host shall either assign this Agreement to the prospective buyer, which assignment shall be effective upon the sale or transfer of the Premises or terminate this Agreement in accordance with Section 7 below. Host grants exclusive EV charging stations to CEV within the parcel ID number location(s) identified in this Agreement.

7. EARLY TERMINATION:

A. If at any time after the 36th month of the Term, the EV Chargers at the Premises are performing at an average of fewer than 50 kilowatt hours per month over any period of six (6) consecutive months, CEV shall have the right to terminate this Agreement by providing Host written notice (the "Termination Notice") pursuant to Section 20 of this

Agreement at least sixty (60) days in advance of the termination date, which shall specify the effective date of CEV's termination of this Agreement ("Termination Date"). As of the Termination Date, this Agreement shall terminate and neither Party shall thereafter have any further rights or obligations hereunder, except that CEV shall pay all monies owed pursuant to Section 11 of this Agreement through the Termination Date, and this Agreement shall be of no further force and effect.

B. If Host elects to terminate the Agreement prior to the expiration of the Term, Host must provide written notice to CEV pursuant to Section 20 of this Agreement (the "Termination Notice"), specifying the effective date of Host's termination of this Agreement.

i. Any termination without cause by the Host prior to the end of the one hundred and twentieth (120th) month of the Term, the Host is responsible to reimburse CEV for the full cost of any EV Rebate that CEV may have received, all costs CEV incurred for installing the EV Chargers on the Premises, and any costs for CEV to remove the Electrical Service Equipment, Electrical Infrastructure, Charging equipment, Utility equipment, decommissioning of equipment, bollards, foundations and EV Chargers from the Premises. In addition, Host shall pay CEV 50% of monthly gross sales from previous 90 days average, per month for remainder of the contract term.

ii. Host may terminate for cause without penalty as outlined below in (1), (2), and (3):

(1) In the event Host has not received payment under the terms of Section 11 of this Agreement by the tenth day of the calendar month, Host must provide written notice pursuant to Section 20 of this Agreement to CEV notifying CEV that it has not received payment. If CEV has not remitted the payment due to Host within thirty (30) days of the receipt of Host's notice, Host may terminate the Agreement for cause and without penalty.

(2) In the event that CEV has failed to properly maintain the EV Chargers, Host must provide notice pursuant to Section 20 of this Agreement to CEV. This notice shall provide information about the EV Charger(s) requiring maintenance. If CEV has failed to repair or replace the EV Chargers within thirty (30) days of receipt of Host's notice, host may terminate the Agreement for cause and without penalty.

(3) Any other reason beyond Host's control, including but not limited to the acts or omissions of third parties, regulatory changes, civil disorder, labor strikes or disruptions, war, terrorism, pandemics, disease and natural disasters.

C. In all events of termination or expiration of this Agreement, the EV Chargers are owned by CEV and upon termination or expiration of the Agreement, CEV shall remove them and restore the Premises to the original condition.

D. The indemnity responsibilities as described in Section 15 of this Agreement survive termination.

8. UTILITIES:

CEV, if owning the utility, agrees to arrange and pay the charges for all utility services provided or used in or at the Premises during the Term. CEV shall pay Host directly if service is owned by the Host company. In the event that utility services are disrupted and Host becomes aware of such disruption, Host shall use its best efforts to quickly notify CEV as soon as possible of the disruption. If CEV is using utility service from Host, Host shall provide CEV with a utility statement showing amount per kWh charged for reimbursement of utility cost. Usage will be reported on a quarterly basis with payment. CEV shall provide reimbursement to Host within 30 days of receipt of the utility statement from Host.

9. USE:

CEV shall use and occupy the Premises during the Term for electric vehicle charging services. All use of the Premises by CEV shall comply with applicable codes, laws, and ordinances.

10. CHARGING RATES:

CEV shall not charge over 150% above the cost of delivered power.

11. PAYMENT FOR CHARGING SERVICES:

CEV shall share revenue generated from the EV Chargers in the amount of \$0.03 per kilowatt-hour payable on the tenth day of each quarter of the year. If the Term is renewed pursuant to Section 6 of this Agreement, during the first Renewal Term, CEV shall pay a quarterly revenue share to Host in the amount of \$0.05 per kilowatt-hour, payable on the tenth day of each quarter of the year. Payments shall be made via check unless otherwise agreed to by the Parties. CEV shall provide Host with a quarterly statement to show the operational/utilization data of the EV Chargers including the number of kilowatts delivered, the number of visits, the duration of each charge and the downtime when an EV Charger is not operational. CEV shall not collect personal data concerning the owners of the vehicles being charged.

12. MAINTENANCE:

CEV shall be responsible for maintaining the EV Chargers and Host shall not have any liability for damage to the EV Chargers unless such damage is caused by Host's gross negligence or willful misconduct. CEV shall provide regularly scheduled inspections and preventative maintenance on the EV Chargers and regularly update software and maintain the EV Chargers to avoid excessive downtime. The exterior of the EV Chargers,

including the cables and electronic interface shall be maintained in a clean manner, free from dirt and grime. The cables shall be mechanically sound with no cracks or cuts. Notwithstanding the foregoing, Host must maintain the Premises and common areas of the Premises. Host agrees to ensure that charging stalls remain available as much as is reasonably feasible during any parking lot maintenance by Host. CEV may request Host to provide footage from its security cameras should it have a reason to believe there has been improper use or damage to the EV Chargers by the users. All site equipment installed in relation to the charging infrastructure shall be maintained in good condition for the entire term of the Agreement.

13. HOST COVENANTS:

Host represents that it is the owner of the Premises and that this Agreement does not violate any agreement, lease or other commitment of Host. Host shall not take any action that would impair or interrupt the use of the Premises or the EV Chargers, except as necessary for Host to satisfy its obligations as a government entity. Host agrees to notify CEV within a commercially reasonable time if (i) it has knowledge of third-parties impairing or misusing the Premises or EV Chargers, or (ii) it obtains knowledge of a needed repair to the Premises or EV Chargers. If non-electric vehicle motorists repeatedly park in the stalls dedicated to the EV Chargers (“Dedicated Stalls”), thereby impairing use of the Dedicated Stalls, then the Parties shall together determine and implement an appropriate and effective strategy for preventing such impairment, including, without limitation, alternative signage and painted asphalt, for which CEV shall bear the entire cost. Host shall use commercially reasonable efforts to actively monitor the Premises to ensure that use of the EV Chargers is not impaired. CEV shall not be responsible for any consequential or delay claims and damages arising out of the sites in any fashion regardless whether or not said claims are foreseeable.

14. SIGNAGE:

CEV signage to be installed at the Premises is represented in **Exhibit B** and shall include signs to identify Dedicated Stalls. Any material revisions or additions to the signage depicted in **Exhibit B** shall be subject to Host approval, which shall not be unreasonably withheld, conditioned or delayed. All signage shall be professionally prepared, installed and maintained at CEV’s expense.

15. INDEMNIFICATION:

Except to the extent of any gross negligence or willful misconduct of Host, CEV hereby agrees to indemnify, hold harmless, the Premises, Host, its elected and appointed officials, employees, agents and representatives from all liability, damages, loss, costs and obligations, on account of or arising out of or alleged to have arisen out of any claim of any third party directly related to CEV’s use of the Premises. CEV shall promptly remove or bond any liens placed on the Premises as a result of any claims for labor or materials furnished to or for CEV at or for use on the Premises.

16. DESTRUCTION:

Upon total destruction of the Premises either Party shall terminate the Agreement by furnishing written Notice pursuant to Section 20 of this Agreement within thirty (30) days of such destruction.

17. INSURANCE:

CEV shall carry commercial general liability insurance with limits of not less than Two Million Dollars (\$2,000,000) for bodily injury or death. A certificate evidencing such insurance shall be delivered to Host upon completion of the EV Charger installation and from time to time thereafter as may be requested by Host. CEV shall include the City of Novi, its elected and appointed officials, employees and agents as additional insured on its commercial general liability and umbrella insurance policies. CEV will also carry worker's compensation insurance in accordance with state and federal law.

18. PUBLICITY:

Neither Party will use the other Party's name, trademark or logo without the other Party's prior written consent.

19. ENVIRONMENTAL MATTERS:

To the best of Host's knowledge, Host believes that the Premises shall be delivered free of environmental contamination. CEV shall have no liability for any environmental contamination unless caused by CEV, its agents, employees or contractors.

20. NOTICES:

All notices or demands shall be in writing and shall be deemed duly served or given only if delivered by prepaid (i) U.S. Mail, certified or registered, return receipt requested, or (ii) reputable, overnight courier service (such as UPS or FedEx) to the addresses of the respective parties as specified in this Section. Copies of such correspondence shall be delivered via email as well as a courtesy if an email address is provided, but email notification does not suffice as effective notice for the purpose of this Agreement. Host and CEV may change their respective addresses for notices by giving notice of such new address in accordance with the provisions of this paragraph.

HOST, to:

Contact Name: Victor Cardenas
Position: City Manager
Address: 45175 Ten Mile Road, Novi, MI 48375
Email: vcardenas@cityofnovi.org

CEV, to:

Contact Name: Duane Lobbestael
Position: President
15045 Dixie Hwy Ste A, Holly, MI 48442
Email Address: duane@statecontractingus.com

21. SUCCESSORS AND ASSIGNS:

This Agreement shall be binding upon and shall inure to the benefit of Host and CEV and their respective successors and assigns.

22. ARBITRATION:

If a dispute arises out of or relates to this Contract or the breach thereof or otherwise, and if the dispute cannot be settled through direct discussions the parties agree to first endeavor to settle the dispute by mediation under the construction industry mediation rules of the American Arbitration Association or privately before having recourse to arbitration. Thereafter, any remaining claims or disputes arising out of, or relating to, this Contract or the breach thereof may be decided by arbitration in accordance with the most current Construction Industry.

23. GOVERNING LAW, JURISDICTION AND VENUE:

Governing Law, Jurisdiction and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule (whether of the State of Michigan or any other jurisdiction) that would cause the application of laws of any jurisdiction other than those of the State of Michigan. Any legal suit, action or proceeding arising out of this Agreement or the matters contemplated hereunder shall be instituted in state court in Oakland County in the State of Michigan, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding and waives any objection based on improper venue or inconvenient forum. Service of process, summons, notice or other document by mail to such Party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

24. VOLUNTARY AND INFORMED EXECUTION:

The Parties acknowledge and agree that they have fully read, completely understand and voluntarily enter into and execute this Agreement and acknowledge they have been represented and advised by counsel or had ample opportunity to be represented by counsel during the negotiations and drafting of this Agreement.

25. AMENDMENT:

This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each Party hereto.

26. SEVERABILITY:

If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, the Parties agree that such provision shall be adjusted or modified by the

court to the extent necessary to cure that invalidity, and that such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

27. COUNTERPARTS:

This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together will constitute one agreement. Signed copies transmitted electronically in PDF or similar format shall be treated as originals.

IN WITNESS WHEREOF, the Parties hereto have each caused an authorized representative to execute this Agreement as of the Effective Date first written below.

Charge, EV, LLC.

BY: Duane Lobbestael
Its: President

City of Novi:

By: Victor Cardenas
Its: City Manager
Effective Date

EXHIBIT A
THE PREMISES

22-22-361-068

22-22-361-012

Ten Mile Rd

22-27-100-006

22-27-100-009



**EXHIBIT B SIGNAGE
CHARGING
STATIONS**

12" x 18" sign



EV Charging Parking Spaces will be clearly signed and striped to indicate reserved spaces. Post height will be no taller than 72”h, Panel sign will be 12” w x 18”h x .125” d

Ultium Charge 360: Charging Networks

DEALER COMMUNITY CHARGING PROGRAM

UP TO

40,000

DESTINATION
CHARGERS

- Aims to
 - Accelerate EV adoption across US & Canada
 - Enhance experience for GM EV owners
- Utilize the strength of the GM Dealer network

How the Dealer Community Charging (DCC) Program Works



- Dealer finds the Site Host in their community - Start NOW!
- Site Host &/or dealer can utilize local electrician for install (needs to meet guidelines)
- GM may refer turnkey installers to assist with installation (optional)
- GM administers program and may provide testimonials, support, resources throughout the process



Dealer Community Charging Program Guidelines: Eligible Charger Locations



- Dealers must place chargers within their sales territory
- Locations must meet the program's guidelines (Dealership premises are ineligible)
- Dealer may allocate charging stations to multiple locations; a minimum of 2 per location
- Locations must be visible, well-lit, and easily accessible



Schools, universities,
colleges



Sports, leisure, &
entertainment venues
(hotels, concert halls,
parks, country clubs)



Multi-unit dwellings
with first floor retail



Retail sites (shopping
malls, grocery stores)

DCC - Program Hardware



Level 2 Charging Station

- AC Level 2 Charger - 19.2 kW
- Dual pedestal format (2 chargers per pedestal)
- LTE connectivity enabling
 - Proactive monitoring and software updates
 - Dedicated owner's web portal for monitoring chargers
- Ultium branded top sign with dealership logo
- Pedestal with custom QR codes & Steps
- Cable management system



~7 ft
Approx.
total height

~5 ft

For illustration purposes only, charger setup may be subject to change at any time. Simulated image shown.

DCC - Charging Stall Design

- Chargers shall be installed in the dual (side-by-side) format similar to either Figure 1 or Figure 2.
- It is strongly recommended that Site Host mark (e.g. paint) and enforce the parking spaces as “EV Parking Only.”
- Chargers must be in a well-lit area, easily accessible and ideally, ADA compliant

Figure 1

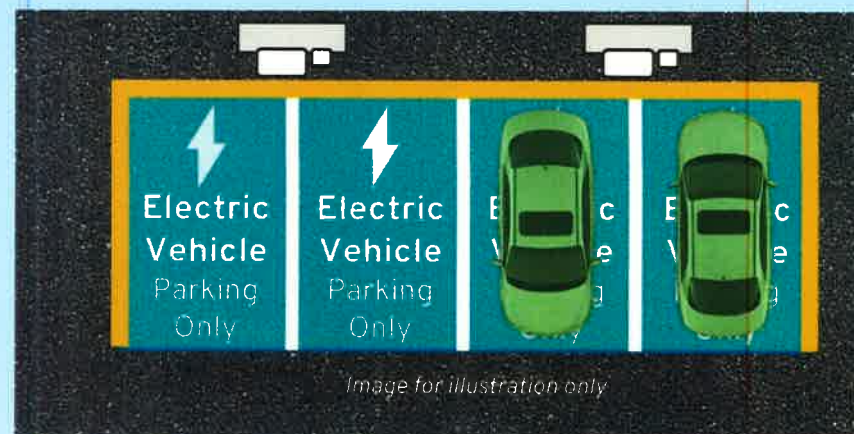
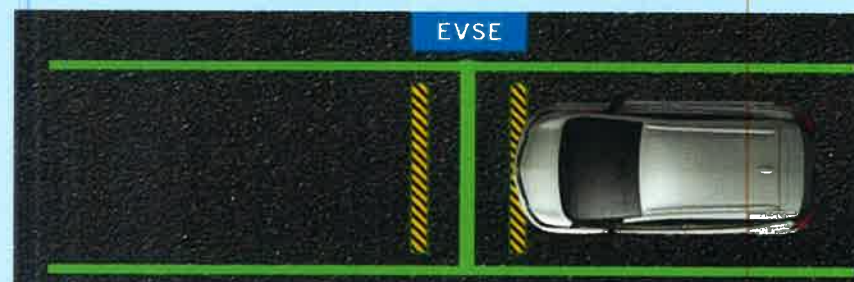


Figure 2



For illustration purposes only

Who pays for what?

3-Part Investment

- Chargers
- Shipping

GM

ultium 
charge 360

- Pedestals
- Cable Mgmt
- Dealer Branding
- Network/Maint
- Warranty

Dealer



- Installation
- Permitting
- Electricity

Site Host

