




**REPORT TO CITY COUNCIL**

**DATE: MAY 8, 2019**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER** 

**BY: LOUIS A. CELAYA, DEPUTY CITY MANAGER**   
**JOHN TREICHLER, ADMINISTRATIVE AIDE** 

**SUBJECT: APPROVE DONATION AGREEMENT BETWEEN CHARGEPOINT INC., AND THE CITY OF AGOURA HILLS; APPROVE AGREEMENT FOR CONTRACTOR SERVICES TO BLACKDOG ELECTRICAL SYSTEMS, INC., TO INSTALL TWO (2) ELECTRICAL VEHICLE CHARGING STATIONS (EVCS) AT THE RECREATION AND EVENT CENTER**

---

In February 2018, the City Council adopted Resolution No. 18-1861 authorizing participation in the South Coast Air Quality Management Division (SCAQMD) and the Mobile Source Air Pollution Reduction Review Committee (MSRC) Local Government Partnership Program, in which the City received \$50,000 MSRC Funds. The resolution identified the installation of Electrical Vehicle Charging Stations (EVCS) at the Recreation and Event Center.

Staff researched potential vendors, in acquiring the EVCS, by looking into features such as equipment costs, network outreach, including any incentive-based programs that could possibly be beneficial to the City. One vendor in particular, ChargePoint, was offering a donation program called "FivePoint Charging Station Donation Program". The donation agreement allows the City to receive two (2) pedestal single port EVCS at no cost, but does have expenses associated with the installation and delivery process. A five-year prepaid Commercial Cloud Plan that handles all network and software applications and a five-year prepaid ChargePoint Assure Plan that covers the maintenance and management portion of the stations. City staff has been working with both ChargePoint and the City Attorney on an acceptable Donation Agreement, which has been attached.

In addition, during the process of working with ChargePoint, staff solicited and received three (3) informal bids from authorized ChargePoint installation companies, to perform EVCS installation services. Below are the bids received:

<b>Companies</b>	<b>Bids</b>
ABM Electrical & Lighting Solutions	\$31,101
<b>Blackdog Electrical Systems, Inc.</b>	<b>\$16,420</b>
Voltaic	\$17,947

Staff reviewed all informal bids submitted and selected the low bidder, Blackdog Electrical Systems, Inc., and deemed their bid responsive and acceptable.

The project is estimated to cost a total of \$24,064, which includes the Blackdog Electrical Systems, Inc., bid of \$16,420 and the upfront ChargePoint software and maintenance costs of \$7,644.

Funding has been appropriated in FY 2018-19 AB2766 AQMD Fund; MSRC Grant Program will reimburse the 75% of total costs back into the AB2766 fund. The City's partnership with both ChargePoint and MSRC assisted with an estimated \$28,000 savings.

Should the City Council approve the proposed agreements, staff will begin coordination with the contractor to begin installation in May.

## **RECOMMENDATION**

Staff respectfully recommends the City Council:

- 1) Approve the Donation Agreement between ChargePoint Inc. and the City of Agoura Hills.
- 2) Approve the Agreement for Contractor Services with Blackdog Electrical Systems, Inc. to install two (2) Electrical Vehicle Charging Stations (EVCS) at the Recreation and Event Center.
- 3) Authorize the City Manager to execute all associated documents and agreements.

Attachment(s):

- 1) FivePoint EV Charging Station Donation Agreement.
- 2) Agreement for Contractor Services – Blackdog Electrical Systems, Inc.

## FIVEPOINT EV CHARGING STATION DONATION AGREEMENT

This FivePoint EV Charging Station Donation Program Agreement (“**Agreement**”) is effective as of April 9, 2019 by and between ChargePoint, Inc., a Delaware corporation, with its headquarters located at 240 Hacienda Avenue, Campbell, California 95008 (“**CPI**”) and the City of Agoura Hills (“**Owner**”), a local government agency, with its headquarters located at 30001 Ladyface Court, Agoura Hills, CA 91301. CPI and Owner are each sometimes referred to herein as a “**Party**” and collectively as “the **Parties**.”

1. **Charging Stations.** Owner has been awarded one or more CPI electric vehicle charging stations described in this Section 1 (“**Charging Stations**”) under the FivePoint EV Charging Station Donation Program. The Program has been funded in part by The Newhall Land and Farming Company LLC (Newhall). The charging stations will be installed at the locations specified on Appendix A under this Agreement.

Product Name	Product Description	Product Code	Quantity	Unit Price	Total Price
CT4011-GW1	Single Output Gateway Option USA, Bollard Mount Unit - 208/240V @30A with Cord Management	00-400024-00	2	\$5,010	\$10,020
Tax:				\$713.84	
Grand Total:				\$10,733.84	

In addition, Owner is purchasing the following CPI products.

Product Name	Product Description	Product Code	Quantity	Unit Price	Total Price
CT4001-CCM	CT4000 Bollard Concrete Mounting Kit. Bolts: 5/8 - 11 x 9” F1554 Grade 55 hot-dipped galvanized threaded bolts - 3 ea. Nuts: 5/8 - Heavy Galvanized Hex Nuts (DH Rated) - 12 ea. Washers: Galvanized Washers (ASTM F436) - 9 ea. Plastic Template - 1 ea.	99-001665-01	2	\$95	\$190
CPSUPPORT-ACTIVE	Initial Station Activation & Configuration Service includes activation of cloud services and configuration of radio groups, custom groups, connections, access control, visibility control, pricing,	00-SP0020-00	2	\$0	\$0

	reports and alerts. One time initial service per station.				
<b>CPCLD-COMMERCIAL-5</b>	5yr Prepaid Commercial Cloud Plan. Includes Secure Network Connection, Ongoing Station Software updates, Station Inventory, 24x7 Driver Support, Host Support, Session Data and Analytics, Fleet Vehicle Management and Integration, Fleet Access Control, Valet Dashboard, Power Management	00-CL0105-00	2	\$1,105	\$2,210
<b>CPSUPPORT-SITEVALID</b>	Customer works with their own contractor to perform the construction and station installation. CPSUPPORT-SITEVALID is used to validate that a customer installation has been performed per ChargePoint published requirements. The on-site validation of electrical capacity, transformers, panels, breakers, wiring, cellular coverage and that the station installation meets all ChargePoint published requirements and local codes. A site is defined as a group of stations all connected to the same gateway station. CPSUPPORT-SITEVALID is priced per gateway station and used when the customer	00-SP0041-00	1	\$0	\$0
<b>CT4000-ASSURE5</b>	5 Prepaid years of ChargePoint Assure	00-400274-00	2	\$2,495	\$4,990
<b>Shipping:</b>				<b>\$240</b>	
<b>Tax:</b>				<b>\$13.50</b>	
<b>Grand Total:</b>				<b>\$7,643.50</b>	

2. Shipment and Delivery. Owner will pay for the cost of standard delivery charges of the Charging Stations to the locations designated by Owner in writing to CPI. CPI shall choose the method by which Charging Stations are to be delivered.

3. Installation.

a. Installation of the Charging Stations shall be at Owner's sole cost and expense. Installation of the Charging Stations may only be done by a CPI approved installer.

b. Owner agrees to cause the installation of the Charging Stations, and the provisioning of such Charging Stations on the ChargePoint Network, within sixty (60) days following the delivery of the Charging Stations to Owner; provided that, in the event of a force majeure event described in Section 15, the period of time for Owner to install the Charging Stations shall be increased by an amount of days equal to the number of days that Owner is reasonably prevented from performing its obligations as a result of such event.. In the event that the Charging Stations have not been installed by the expiration of such sixty (60) day period, Owner shall be responsible for paying to CPI the manufacturer's suggested retail price of \$5,010.00 for each of the Charging Stations. Owner shall provide proof, or cause its installer to provide proof, to CPI that the Charging Stations have been installed within ninety (90) days of their delivery to Owner including an executed verification form in the form set forth in Appendix B. If Owner so fails to cause the installation of the Charging Stations and provide proof thereof, CPI may invoice Owner for the manufacturer's suggested retail price of the Charging Stations. All invoices are due net thirty (30) days. In the event that Owner is having trouble arranging for the installation of the Charging Stations, Owner shall contact CPI as soon as possible so that the parties can cooperate to cause the prompt installation of the Charging Stations. The Charging Stations are not to be removed from their packaging by any person other than the Installer.

4. Warranty/Limitation of Liability/Release of Claims Against Newhall. (a) Warranty. The Charging Station is covered by the terms of CPI's standard one year Parts Only Warranty (the "Warranty"). All applicable warranties with respect to the Charging Station are set forth in the Warranty, and are hereby incorporated by reference into this Agreement. (b) Disclaimer of Warranties. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 4 AND IN THE WARRANTY, CPI MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATION, THE CHARGEPOINT™ NETWORK STANDARD SERVICES OR THE CHARGEPOINT™ NETWORK, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. CPI EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS BY THE CHARGING STATION, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CPI DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF THE CHARGING STATION. (c) Limitation of Liability. (i) REGARDLESS OF WHETHER ANY REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE OR OTHERWISE, IN NO EVENT WILL CPI BE LIABLE FOR ANY LOST REVENUE OR PROFIT, LOST OR DAMAGED DATA, BUSINESS INTERRUPTION, LOSS OF CAPITAL, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL OR PUNITIVE DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY OR WHETHER ARISING OUT OF THE USE OF OR INABILITY TO USE THE CHARGING STATION, THE CHARGEPOINT NETWORK, ANY CHARGEPOINT NETWORK

SERVICE PLANS, OR OTHERWISE OR BASED ON ANY EXPRESSED, IMPLIED OR CLAIMED WARRANTIES BY YOU NOT SPECIFICALLY SET FORTH IN THIS AGREEMENT. BECAUSE SOME STATES OR JURISDICITON DO NOT ALLOW LIMITATION OR EXCLUSION OF CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATION MAY NOT APPLY.

(ii) YOUR SOLE REMEDY FOR ANY BREACH BY CPI OF ITS OBLIGATIONS OR WARRANTIES UNDER THIS AGREEMENT SHALL BE LIMITED TO, AT CPI'S OPTION, REPAIR OR REPLACEMENT OF THE CHARGING STATION. (d) Warranty Exclusions. Exclusive Remedies. THE REMEDIES CONTAINED IN SECTION 4 ARE YOUR SOLE AND EXCLUSIVE REMEDIES AND ARE IN LIEU OF ANY OTHER RIGHTS OR REMEDIES YOU MAY HAVE AGAINST CPI WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, THE CHARGEPOINT™ SERVICE PLANS OR THE CHARGEPOINT™ NETWORK. (e) Release of Claims Against Newhall. As consideration for Newhall's agreeing to fund the donation of the Charging Stations to Owner under this Agreement, Owner forever releases, discharges and disclaims any claims of any nature whatsoever against Newhall or any of its affiliates, officers, employees, directors, partners, or members arising from or related to the installation and use of the Charging Stations.

5. Network Access. As a part of the award, Owner shall subscribe, for a minimum period of one (1) year (the "Subscription Period") to the ChargePoint Network Commercial Service Plan for use with Owner's awarded Charging Stations. Owner must keep the Charging Stations connected to the ChargePoint Network throughout the entire Subscription Period. In order to access its service plan, Owner will be required to execute CPI's standard Master Services and Subscription Agreement.

6. Access to Information. As part of the Program, CPI will report and release to Newhall, and such other participants and partners of CPI in the Program as CPI shall determine necessary, all data and information relating to the use of Owner's Charging Stations (the "Data"). The use of any of personally identifying information will be subject to CPI's standard privacy policy (the "Privacy Policy"). The Privacy Policy is located on CPI's web site and may be accessed at: <http://www.coulombtech.com/privacy-policy.php>

7. Low Carbon Fuel Standard Credit. As a condition to participating in the Program owner agrees not to claim any Low Carbon Fuel Standard Credits arising from the use of the Charging Stations.

8. Failure to Comply with Terms of the Program. In the event that Owner fails to (i) use a CPI authorized installer or (ii) provide proof of installation, Owner shall reimburse CPI the manufacturer's suggested retail price of \$5,010.00 for the Charging Station(s).

9. No Amendment or Modification. No modification, amendment or waiver of this Agreement shall be effective unless in writing and either signed or electronically accepted by the party against whom the amendment, modification or waiver is to be asserted.

10. Waiver. CPI's or Owner's failure at any time to require performance of any obligation under this Agreement will in no way affect the full right to require such performance at any time thereafter. CPI's or Owner's waiver of a breach of any provision of this Agreement will not constitute a waiver of the provision itself. CPI's or Owner's failure to exercise any of its rights provided in this Agreement will not constitute a waiver of such rights. No waiver will be effective unless in writing and signed by an

authorized representative of the party granting such waiver. Any such waiver will be effective only with respect to the specific instance and for the specific purpose given.

11. **Applicable law.** This Agreement will be construed, and performance will be determined, according to the laws of the State of California without reference to such state's principles of conflicts of law and the state and federal courts of California shall have exclusive jurisdiction over any claim arising under this Agreement.

12. **Waiver of Jury Trial.** Owner and CPI each hereby waive any right to jury trial in connection with any action or litigation arising out of this Agreement.

13. **Severability.** Except as otherwise specifically provided herein, if any term or condition of this Agreement or the application thereof to either Owner or CPI will to any extent be determined by any judicial, governmental or similar authority, to be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to this Agreement, Owner and CPI or circumstances other than those as to which it is determined to be invalid or unenforceable, will not be affected thereby.

14. **Assignment.** Owner may not assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without the prior written consent of CPI, except in connection with a sale or other transfer of Owner's interest in the property on or about which the Charging Stations are being installed, or as may be required by any current or future lender having a mortgage against the property on or about which the Charging Stations are being installed.

15. **Force Majeure.** Neither CPI nor Owner will be liable for failure to perform any of its obligations hereunder due to causes beyond such party's reasonable control and occurring without its fault or negligence, including but not limited to fire, flood, earthquake or other natural disaster (irrespective of such Party's condition of any preparedness therefore); war, embargo; riot; strike; labor action; any lawful order, decree, or other directive of any government authority that prohibits a Party from performing its obligations under this Agreement; material shortages; shortage of transport; and failures of suppliers to deliver material or components in accordance with the terms of their contracts.

16. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute but one and the same document. Delivery of an executed counterpart of this Agreement by facsimile or electronic transmission in a Portable Document Format ("**PDF**") shall be equally effective as manual delivery of an executed counterpart of this Agreement and each such counterpart, whether delivered manually, by facsimile or PDF shall be deemed an original. Any party delivering an executed counterpart of this Agreement by facsimile or PDF shall also manually deliver an executed counterpart of this Agreement, however the failure to do so shall have no effect on the validity, enforceability or binding nature and effect of this Agreement.

17. **Priority.** To the extent of any conflict or inconsistency between the terms and conditions of this Agreement and any purchase order, the Agreement shall prevail. To the extent of any conflict or inconsistency between the terms and conditions of the Warranty and any purchase order, the Warranty shall prevail.

SIGNATURE PAGE FOLLOWS

CHARGEPOINT, INC.

By:  \_\_\_\_\_

(Signature)

Name: Rex S. Jackson

Title: Chief Financial Officer

Date: 4/15/2019

CITY OF AGOURA HILLS

By: \_\_\_\_\_

(Signature)

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**APPENDIX A – CHARGING STATION LOCATIONS**

**29900 Ladyface Ct., Agoura Hills, CA 91301**

**APPENDIX B – VERIFICATION FORM**

## ELECTRIC VEHICLE CHARGING STATION VERIFICATION

This Electric Vehicle Charging Station Verification (“**Verification**”) is made on behalf of \_\_\_\_\_ (“**Owner**”). By executing this Verification, Owner represents and warrants as follows:

1. The following Electric Vehicle Charging Stations (“**Charging Stations**”) have been installed.

EVSE Make:  
EVSE Model:  
EVSE Serial Number:  
EVSE Functionality Level: Level 2  
Number of Parking Spaces Served:

2. The **Charging Stations** are located at the following address:

Street Address:  
City, State Zip Code:

Installation of these improvements is complete as of [insert date], and photographic evidence of the improvements’ installation is attached to this Verification.

I declare under penalty of perjury that I have the authority to execute this Verification on behalf of the Contractor, and that the foregoing is true and correct.

**Date:**

\_\_\_\_\_

**“Owner”**

**By:**

\_\_\_\_\_

**Name:**

\_\_\_\_\_

**Title:**

\_\_\_\_\_

**AGREEMENT FOR CONTRACTOR SERVICES  
WITH THE CITY OF AGOURA HILLS**

**NAME OF CONTRACTOR:** BLACKDOG Electrical Systems, Inc.

**RESPONSIBLE PRINCIPAL OF CONTRACTOR:** Attn: Chris Moody

**CONTRACTOR'S ADDRESS:** 2443 W. 208<sup>th</sup> Street, Suite # 1  
Torrance, CA 90501

**CITY'S ADDRESS:** City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, CA 91301  
Attn: City Manager

**PREPARED BY:** John Treichler

**COMMENCEMENT DATE:** May 13, 2019

**TERMINATION DATE:** June 30, 2019

**CONSIDERATION:** Contract Price  
Not to Exceed: \$ 16,420.00

**ADDITIONAL SERVICES** *(Describe Services, Amount, and Approval):*


Date: \_\_\_\_\_ Amount: \$ \_\_\_\_\_ Authorized By: \_\_\_\_\_  
*(Not to Exceed 10% of Contract Price)* City Manager

**AGREEMENT FOR CONTRACTOR SERVICES BETWEEN  
THE CITY OF AGOURA HILLS AND BLACKDOG  
ELECTRICAL SYSTEMS, INC.**

**THIS AGREEMENT** is made and effective as of May 13, 2019, between the City of Agoura Hills, a municipal corporation ("City") and BLACKDOG Electrical Systems, Inc. ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**1. TERM**

This Agreement shall commence on May 13, 2019, and shall remain and continue in effect until tasks described herein are completed, but in no event later than June 30, 2019, unless sooner terminated pursuant to the provisions of this Agreement.

**2. SERVICES**

Contractor shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Contractor shall complete the tasks according to the schedule of performance, which is also set forth in Exhibit A.

**3. PERFORMANCE**

In meeting its obligations under this Agreement, Contractor shall at all times faithfully and competently perform all tasks described herein in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

**4. PREVAILING WAGES**

A. Prevailing wages are required on all CITY agreements involving construction, design, and preconstruction phases of construction (including, but not limited to, inspection and land surveying work), and maintenance (except for janitorial or security guards) for work on CITY property.

B. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City Council has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute by this Contractor from the Director of the Department of Industrial Relations. Copies may be obtained from the California Department of Industrial Relations Internet website at <http://www.dir.ca.gov>. Contractor shall provide a copy of prevailing wage rates to any staff or sub-contractor hired, and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of Sections 1773.8, 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Contractor shall forfeit to the City, as a penalty, the sum of \$50.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work

done under this contract, by him or by any sub-contractor under him, in violation of the provisions of the Agreement..

## **5. PAYMENT**

A. The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed Sixteen Thousand Four Hundred Twenty Dollars and Zero Cents (\$16,420.00) ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

The City Manager may approve additional work up to ten percent (10%) of the amount of the Agreement. Any additional work in excess of this amount shall be approved by the City Council.

B. Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

C. Contractor shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees, it shall give written notice to Contractor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Contractor shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

## **6. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of

the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Section entitled "PAYMENT" herein.

## **7. DEFAULT OF CONTRACTOR**

A. The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

B. If the City Manager or his delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Contractor with written notice of the default. The Contractor shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement."

## **8. OWNERSHIP OF DOCUMENTS**

A. Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files containing data generated for the work, Contractor shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

## **9. INDEMNIFICATION**

Contractor shall defend, indemnify, and hold the City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers (collectively "Indemnitees") free and harmless from any and all claims, demands, causes of action, proceedings, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any acts or omissions of Contractor, its officials, officers, employees, agents or sub-contractors in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses, except for such Claims arising out of the sole negligence or willful misconduct of the Indemnitees. With respect to any and all such Claims, Contractor shall defend Indemnitees at Contractor's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Contractor shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Contractor or Indemnitees. All duties of Contractor under this Section shall survive termination of this Agreement.

## **10. INSURANCE REQUIREMENTS**

Prior to commencement of work, Contractor shall procure, provide, and maintain, at Contractor's own expense, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88, or equivalent.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92, or equivalent, covering Automobile Liability, code 1 (any auto). If the Contractor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Contractor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Contractor shall execute a declaration that it has no employees.



B. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1) General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the ***general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.***

2) Automobile Liability: \$1,000,000 per accident for bodily injury and property damage for all activities of the Contractor arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,000,000) per accident for bodily injury or disease.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Requirements Not Limiting. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Vendor maintains higher limits than the minimums shown above, the Agency requires and shall be entitled to coverage for the higher limits maintained by the Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Agency.

E. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City, its officers, officials, employees and volunteers are to be covered and named as additional insureds in respect to: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

6) **In addition to all other requirements, special endorsements and provisions the insurance policy must include the following:  
Contract # ML18040**

F. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self-insurance shall not be considered to comply with these insurance requirements.

G. Verification of Coverage. **Contractor shall furnish the City with original endorsements, specifically naming the City of Agoura Hills, its officers, officials, employees and volunteers as additional insured, effecting coverage required by this clause.** The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms acceptable to the City. Insurance certificates and endorsements must be received and approved by City's Risk Manager prior to commencement of performance. Current insurance certificates and endorsements shall be kept on file with the City at all times during the term of this agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

H. Mailing Instructions. Insurance documents shall be mailed with the signed Agreement to the attention of the staff person indicated on the cover sheet of this Agreement, to the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA 91301. Executed Agreement(s) cannot be released nor may any work commence on a project until the signed Agreement and appropriate insurance documents are on file with the City Clerk.

## **11. INDEPENDENT CONTRACTOR**

A. Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

## **12. LEGAL RESPONSIBILITIES**

The Contractor shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this section.

## **13. RELEASE OF INFORMATION**

A. All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released by Contractor without City's prior written authorization. Contractor, its officers, employees, agents or sub-contractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

B. Contractor shall promptly notify City should Contractor, its officers, employees, agents or sub-contractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Contractor and/or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review

any such response does not imply or mean the right by City to control, direct, or rewrite said response.

#### **14. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, California 91301  
Attention: City Manager

To Contractor: **BLACKDOG Electrical Systems, Inc.**  
**2443 W. 208<sup>th</sup> Street, Suite # 1**  
**Torrance, CA 90501**  
**Attention: Chris Moody**

#### **15. ASSIGNMENT**

The Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Contractor's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Contractor.

#### **16. LICENSES**

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

#### **17. GOVERNING LAW**

The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

**18. PROHIBITED INTEREST**

No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Contractor, or Contractor's sub-contractors for this project, during his/her tenure or for one year thereafter. The Contractor hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Contractor or Contractor's sub-contractors on this project. Contractor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

**19. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**20. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Contractor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF AGOURA HILLS**

---

Greg Ramirez,  
City Manager

ATTEST:

---

Kimberly M. Rodrigues, MMC  
City Clerk


---

APPROVED AS TO FORM:  
*City Attorney's Office (2019)*

---

**CONTRACTOR**

BLACKDOG Electrical Systems, Inc.  
2443 W. 208<sup>th</sup> Street, Suite # 1  
Torrance, CA 90501  
Contact Name: Chris Moody  
Office: 310-606-2187  
Fax: 310-606-3871

By:   
Name: Chris Moody  
Title: President

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Signatures of Two Corporate Officers Required]**

## EXHIBIT A

### TASKS TO BE PERFORMED

***The specific elements (scope of work) of this service include:***

Install (2) Level 2 Single Port EV Charging Stations @ City of Agoura Hills Recreation & Event Center located at 29900 Ladyface Court, Agoura Hills, CA 91301

Contract includes the following:

- a. Trenching approximately 50 ft.
- b. Cut & break asphalt,
- c. Bore under (2) DG Walkways,
- d. Install (2) 2x2 concrete base for chargers
- e. Core (2) holes at existing hand hole location
- f. Install approximately 70 ft. of 1" PVC conduit from pedestal to hand hole location
- g. Install #6 Copper conductors and #8 Ground
- h. Install (2) 40 amp 2 pole General Electric Breakers
- i. Install (2) Level 2 Charging Stations at Customer approved location
- j. Install (2) 42"x 4.5" Protective Bollards
- k. Striping & Signage to be completed by contractor
- l. Installation of (1) one post and 18" x 12" EV Charger Sign

City to approve all necessary plan drawings from BLACKDOG Electrical Systems, Inc., prior to the start of the installation process. All necessary permits and inspections will be conducted through the City's Building & Safety Department.

**EXHIBIT B**

**PAYMENT RATES AND SCHEDULE**

Materials & Labor	\$14,920.00
Permit (Allowance)	\$ 550.00
Striping & Signage	\$ 950.00

Costs based on Prevailing Wage requirements