

AMENDMENT AGREEMENT NO. 1
(DCFC Equipment Lease Agreement)

THIS AMENDMENT AGREEMENT NO. 1 is made as of the ____ day of December, 2020.

BETWEEN:

BRITISH COLUMBIA HYDRO AND POWER AUTHORITY, a corporation continued under the *Hydro and Power Authority Act* (British Columbia), with its head office at 333 Dunsmuir Street, Vancouver, BC V6B 5R3

(the “**Lessor**”)

AND:

CITY OF WEST KELOWNA, a municipal corporation located in West Kelowna, BC.

(the “**Lessee**”)

WHEREAS:

- A. Lessor and Lessee entered into a DCFC Equipment Lease Agreement dated **26 October 2015** (the “**Agreement**”) in connection with participating in a pilot project involving the acquisition, installation and operation of DC fast charging stations for electric vehicles; and
- B. The parties are desirous of amending the terms of the Agreement as set forth herein (the “**Amendment Agreement**”).

NOW THEREFORE THIS AGREEMENT WITNESSES that in consideration of good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by each party), the parties covenant and agree that:

- 1. Section 10 of the Agreement is amended by deleting the entire section and replacing it with the following:

“10. Use and Operation: Security

Lessee shall make the Equipment available for use and operation to provide EV charging services to end-users as contemplated by the Program throughout the Term in accordance with all applicable laws, including without limitation any applicable provisions of Lessor’s Electric Tariff. Lessee shall ensure the Site is free of debris, garbage, trash and/or refuse and in neat and tidy condition. The Lessee shall clear snow from the Site and any access roads to the Site at regular intervals to ensure public access to the DCFC station(s). Lessor shall be responsible for billing and collection of charges from end-users for the use of EV charging service provided through the Equipment, for payment of any costs, charges and expenses associated with the payment system included in the Equipment (such as transaction costs or network fees), and for payment of all electricity charges (including demand charges). The BC Hydro account shall be

in the name of the Lessor. Lessor shall retain any such charges collected from end-users for the use of EV charging service provided through the Equipment. Lessee shall routinely monitor the Equipment and Lessee's Infrastructure, in any event not less than daily on weekdays. Lessee shall ensure the Site is properly lit, patrolled by security (if otherwise available), and otherwise employ all reasonable measures to ensure the Equipment is reasonably secure at the Site. Lessee shall report any misuse or loss of, damage or required repairs to the Equipment to Lessor in writing within 24 hours of becoming aware thereof, and immediately after becoming aware thereof in case of any dangerous or emergency situation (which may initially be provided orally, to be followed by written notification)."

2. Section 11 of the Agreement is amended by deleting the entire section and replacing it with the following:

"11. Pricing

Lessor shall develop pricing structures for the EV charging service to determine the appropriate charge to the end-users of the EV charging service at the DCFC station, subject to any applicable rate structures set by the British Columbia Utilities Commission. Lessor may adjust such charge to the end-users of the EV charging service at the DCFC station from time to time, subject to any applicable rate structures set by the British Columbia Utilities Commission."

3. Section 12 of the Agreement is amended by deleting the entire section and replacing it with the following:

"12. Condition; Repairs and Maintenance

Lessor shall routinely inspect the condition of the Equipment and shall, at its own cost and expense, be responsible for routine maintenance. Lessor shall make arrangements for service, maintenance or repairs, including with Lessor's contractor(s), to provide or procure any and all parts and labour required to service or repair the Equipment or keep it in good mechanical working order (normal wear and tear and solely cosmetic repairs excepted). In the event that such service, maintenance or repairs are not covered by applicable third party warranties or funded by insurance, Lessor shall pay for such service, maintenance or repairs (excluding any solely cosmetic repairs that do not affect the functionality of the Equipment). Notwithstanding the above, in the event that the Equipment is damaged beyond reasonable repair or such service, maintenance or repairs costs exceed the cost of the Equipment, then, at the election of the Lessor, the Lessor may either repair the Equipment, replace the Equipment or terminate this Agreement on not less than one full calendar month's written notice to the Lessee.

Lessee may not alter or modify the Equipment or Lessee's Infrastructure without the prior written consent of Lessor.

Except for Lessee's Infrastructure (and all additions, parts, attachments, accessories and replacements thereto or thereof), all additions, parts, attachments, accessories and replacements of the Equipment, whether by substitution, repair, alteration, addition or improvement, shall immediately become the property of Lessor and part of the Equipment for all purposes thereto."

4. General

- (a) This Amendment Agreement shall have effect as of the day and year first above written.
- (b) Except as otherwise expressly defined in this Amendment Agreement, all capitalized terms have the meanings ascribed to them in the Agreement.
- (c) This Amendment Agreement supplements and forms part of the Agreement. Except as otherwise set forth herein, all terms and conditions of the Agreement remain unchanged and in full force and effect.
- (d) Each party will, upon the reasonable request of the other party, do, sign or cause to be done or signed all further acts, deeds, things, documents and assurances required for the performance of this Amendment Agreement.
- (e) This Amendment Agreement enures to the benefit of, and is binding upon, the parties and their respective successors and permitted assigns.
- (f) This Amendment Agreement shall be governed by, construed and enforced in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein. Each party attorns irrevocably and unconditionally to the exclusive jurisdiction of the courts of the Province of British Columbia, and to courts which appeals therefrom may be taken.
- (g) This Amendment Agreement may be executed and delivered by electronic means and in several counterparts, each of which when executed and delivered will be deemed to be an original and all of which together will be one and the same agreement.

IN WITNESS WHEREOF each party by its duly authorized representative(s) has signed this Amendment Agreement as of the day and year first above written.

[NAME OF LESSEE]

By: _____
Authorized Representative

Name: _____

Title: _____

**BRITISH COLUMBIA HYDRO AND POWER
AUTHORITY**

By: _____
Authorized Representative

Name: Alec Tsang

Title: Manager, EV Infrastructure Planning