

CHARGING STATION AGREEMENT

This Charging Station Agreement (the "**Agreement**") is effective as of November 1, 2017 (the "**Effective Date**") by and between Fishers Redevelopment LR LLC, an Indiana limited liability company ("**Counterparty**"), the Fishers Town Hall Building Corporation, a corporation organized and existing pursuant to Ind. Code §§ 23-7-1.1 and 36-7-14-12.2(a)(25) (the "Corporation"), and Tesla, Inc., a Delaware corporation ("**Tesla**").

WHEREAS, Tesla, through the provision of electric vehicle charging services at the Property, will provide value to Counterparty and Corporation by attracting Tesla vehicle owners and the public to, and providing additional visibility of, the Property;

WHEREAS, Counterparty and Corporation acknowledge the value of Tesla's charging station at the Property and desire to grant possession and control of the Premises to Tesla pursuant to the terms set forth herein;

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. **RECITALS**. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section 1.

2. **CONTACT INFORMATION:**

Counterparty's Address for Notices:

Fishers Redevelopment LR LLC
PO Box 441219
Indianapolis, IN 46244
Attention: Kyle B. Robinson
Phone: 317.576.4676
Email: kyle@loftusrobinson.com

Tesla's Address for Notices:

Tesla, Inc.
3500 Deer Creek Road
Palo Alto, CA 94304
Attention: Supercharger Team
Phone: (650) 681-5000
Email: superchargerhost@tesla.com

Corporation's Address for Notices:

Fishers Town Hall Building Corporation
1 Municipal Drive
Fishers, Indiana 46038
Attention: Chris Greisl, City Attorney
Phone: 317-595-3111
Email: greislc@fishes.in.us

24-hour Technical Support & Service:
877-79-TESLA (877-798-3752)

3. **PREMISES**: Each of Counterparty and Corporation hereby grants to Tesla possession and control of twelve (12) parking spaces, up to five (5) feet of additional parking width to comply with the Americans with Disabilities Act of 1990 and approximately 200-400 square feet of landscaped

space for equipment (the "**Premises**") on the property commonly known as Switch Parking Garage, located at 9 Municipal Dr. Fishers, IN 46038 and as depicted on **Exhibit A** attached hereto (the "**Property**") in order to build an electric vehicle charging station to charge Tesla vehicles (the "**Charging Station**").

4. **CONSTRUCTION:** Upon delivery of possession of the Premises to Tesla, Tesla shall, at its sole expense, construct improvements as described in and pursuant to the procedures set forth in **Exhibit B**, attached hereto and made a part hereof, and will install certain trade fixtures indicated in **Exhibit B** (the "**Trade Fixtures**" as further described and defined in **Exhibit B**).
5. **INITIAL FOOTPRINT:** A total of ten (10) parking spaces shall be outfitted with charge posts ("**Chargers**") to charge Tesla vehicles. Initially, five (5) parking spaces shall serve as dedicated charging stalls to be used only by Tesla vehicles ("**Dedicated Stalls**"), and five (5) parking spaces shall serve as charging stalls to be used by Tesla vehicles and will also be available for general parking of non-Tesla vehicles for a maximum of thirty (30) minutes ("**Enabled Stalls**"). The Dedicated Stalls and Enabled Stalls and any applicable restrictions shall be identified by signage substantially similar to the signage depicted in **Exhibit B**. Tesla shall have the option to convert, upon obtaining any required permit and/or passing any required inspection, Enabled Stalls into Dedicated Stalls on ten (10) days written notice in order to meet demand for charging services, subject to Counterparty approval, which shall not be unreasonably withheld, conditioned or delayed.
6. **POSSESSION DATE:** The first date where Tesla may enter the Premises and Property to begin its work pursuant to the Agreement is November 3, 2017 (the "**Possession Date**").
7. **COMMENCEMENT DATE:** The date that the Charging Station opens to the public (the "**Commencement Date**") shall be within one hundred fifty (150) days following the Possession Date, provided that no external permitting, utility or other requirements beyond Tesla's control delay the installation, despite the best efforts of Tesla. Tesla shall deliver written notice to Counterparty and Corporation promptly following the Commencement Date to confirm such date for recordkeeping purposes; provided however, if the Charging Station is not open to the public within three hundred (300) days after the Possession Date, upon written notice from the Corporation (the "Corporation Notice"), this Agreement shall automatically terminate, Tesla shall surrender possession and control of the Premises, and within forty-five (45) days of the Corporation Notice Tesla shall remove the Charging Station, Trade Fixtures, Charger Cabinet(s) (as described in **Exhibit B**) and any portions thereof previously installed. Tesla shall not remove the Infrastructure (as described in **Exhibit B**).
8. **TERM:** The initial term of the Agreement shall expire five (5) years from the Commencement Date (the "**Initial Term**"). Tesla shall have the right to twice extend the Agreement and each extension shall be for an additional period of five (5) years (each a "**Renewal Term**" and together with the Initial Term, the "**Term**"). To extend the Term, Tesla shall deliver written notice of such extension to Counterparty and Corporation no later than thirty (30) days prior to the expiration of the Term. In the event of a sale or transfer of the Property or Premises by Corporation while the Agreement is in effect, Tesla's rights shall be conveyed with the Property or Premises.
9. **UTILITIES:** Tesla agrees to arrange for and be solely responsible for the cost of all Tesla-related utility services provided or used in or at the Premises during the Term, including, without

limitation utilities related to and used for the Chargers, Dedicated Stalls and Enabled Stalls (individually, jointly or collectively, the “Tesla Utility” or “Tesla Utilities”). Tesla shall pay directly to the utility company the cost of installation of any and all such Tesla Utility services and shall arrange to have the Tesla Utilities separately metered. Counterparty shall be responsible for paying all utility bills, other than the Tesla Utilities, related to the Premises during the Term. The account for utility services for the general Premises shall be in the name of Counterparty, and Counterparty agrees to timely pay the full amount of all utility bills directly to the utility to avoid any service interruptions. If requested by Tesla, Counterparty agrees that it will complete and sign documentation needed to authorize the utility to deliver copies of monthly statements and account notifications directly to Tesla, and to allow Tesla to make account changes and payments on behalf of Counterparty to the utility if necessary to avoid any service interruptions. Counterparty or Corporation shall not be responsible for any damages suffered by Tesla in connection with the quality, quantity or interruption of utility service, unless the cause of the disruption or damage was due to Counterparty’s or Corporation’s gross negligence or intentional misconduct or failure to timely pay utility bills.

10. **USE:** Tesla shall use and occupy the Premises during the Term for a Charging Station and incidental purposes, including generating photovoltaic electricity and operating an energy storage system. All use of the Premises by Tesla shall comply with applicable codes, laws, and ordinances.
11. **PAYMENT FOR CHARGING SERVICES:** Counterparty shall have no right to request or accept payment from Tesla, Tesla customers or any other third-parties in connection with Tesla charging services.
12. **MAINTENANCE:** Tesla shall be responsible for maintaining the Trade Fixtures and Infrastructure (as defined in **Exhibit B**), and Counterparty and Corporation shall not have any liability for damage to the Trade Fixtures or the Infrastructure unless such damage is caused by Counterparty’s or Corporation’s gross negligence or intentional misconduct. Notwithstanding the foregoing, Counterparty’s normal responsibility to maintain the common areas of the Property shall also apply to the Premises, such as for snow removal and garbage collection. Counterparty agrees to coordinate any parking lot maintenance with Tesla to ensure that charging stalls remain available for vehicle charging at all times. Tesla may, in its discretion and at its sole cost, install security cameras and other equipment to monitor the Premises from off-site, Tesla acknowledges and agrees that neither Counterparty nor Corporation shall be liable for the installation of such security cameras or monitoring and shall not be liable for damage caused to the Trade Fixtures by third parties.
13. **COUNTERPARTY COVENANTS:** Each of Corporation and Counterparty represents that they are in control of the Property and that this Agreement does not violate any agreement, lease or other commitment of Counterparty. Each of Corporation and Counterparty shall not take any action that would impair or interrupt the use of the Premises or the Trade Fixtures. Counterparty agrees to notify Tesla within a commercially reasonable time if (i) it has knowledge of third-parties impairing or misusing the Premises or Trade Fixtures, or (ii) it obtains knowledge of a needed repair to the Premises or Trade Fixtures. If non-Tesla motorists repeatedly park in the Dedicated Stalls, thereby impairing use of the Dedicated Stalls, or if motorists repeatedly park in the Enabled Stalls for greater than the permitted duration, 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. Counterparty shall use commercially reasonable efforts to actively monitor the Premises to ensure that use of the charging stalls is not impaired.

14. **ASSIGNMENT:** Tesla shall not assign this Agreement voluntarily or by operation of law, or any right hereunder, nor sublet the Premises or any part thereof, without the prior written consent of Counterparty and Corporation, which shall not be unreasonably withheld, conditioned or delayed; provided that the foregoing prohibition shall not limit Tesla's ability to transfer this Agreement to a company that is controlled by, controls, or is under common control with Tesla.
15. **ALTERATIONS:** Excepting the items listed in **Exhibit B**, Tesla shall not make or permit to be made any alterations, changes in or additions to the Premises without the prior written consent of Counterparty and Corporation, which shall not be unreasonably withheld, conditioned or delayed. Upon termination of this Agreement the Infrastructure (as described in **Exhibit B**) shall become the property of Counterparty and Corporation. All Trade Fixtures and all related intellectual property, other than Infrastructure, shall at all times remain the property of Tesla. Within thirty (30) days of termination of this Agreement, Tesla shall remove the Charging Station, Trade Fixtures, Charger Cabinet(s) (as described in **Exhibit B**) and all component parts thereof, and only the Infrastructure shall remain.
16. **SIGNAGE:** Tesla signage to be installed at the Premises is represented in **Exhibit B** and shall include signs to identify Dedicated Stalls and Enabled Stalls. Any material revisions or additions to the signage depicted in **Exhibit B** shall be subject to Counterparty approval, which shall not be unreasonably withheld, conditioned or delayed. All signage shall be professionally prepared, installed and maintained at Tesla's expense.
17. **INDEMNIFICATION:** Except to the extent of any gross negligence or intentional misconduct of Counterparty or Corporation, Tesla hereby agrees to indemnify, hold harmless and defend the Property, Counterparty and Corporation, their managers, members, agents and representatives from all liability, damages, loss, costs and obligations, including, court costs and attorney's fees, on account of or arising out of or alleged to have arisen out of any claim of any third party directly related to Tesla's use of the Premises. Tesla shall promptly remove or bond any liens placed on the Property as a result of any claims for labor or materials furnished to or for Tesla at or for use on the Premises.

Except to the extent of any gross negligence or intentional misconduct of Tesla, Counterparty hereby agrees to indemnify, hold harmless and defend Tesla, its directors, officers, employees, consultants, agents and representatives from all liability, damages, loss, costs and obligations, including, court costs and attorney's fees, on account of or arising out of or alleged to have arisen out of directly or indirectly, any claim of any third party directly related to Counterparty's actions with respect to the Premises.

This Section 16 shall survive termination of this Agreement.

18. **DESTRUCTION:** Any total destruction of the Premises shall, at Counterparty's, Corporation's or Tesla's written election within thirty (30) days of such destruction, terminate the Agreement.

19. **DEFAULT:** Each of the following shall constitute an “**Event of Default**” by Tesla under this Agreement:

(1) the failure by Tesla to perform or observe any material term or condition of the Agreement and such failure continues for a period of thirty (30) days after receipt of written notice thereof, provided however, that if the nature of such default is such that the same cannot reasonably be cured within said thirty (30) day period, then Tesla shall have such additional time as is reasonably required to cure such failure provided Tesla commences to cure such failure within such thirty (30) day period and proceeds to cure such failure with diligence and continuity; or

(2) the appointment of a receiver or trustee to take possession of all or substantially all of the assets of Tesla located at the Premises if possession is not restored to Tesla within sixty (60) days; or a general assignment by Tesla for the benefit of creditors; or any action or proceeding commenced by or against Tesla under any insolvency or bankruptcy act, or under any other statute or regulation having as its purpose the protection of creditors and in the case of involuntary actions filed against the Tesla the same are not discharged within sixty (60) days after the date of commencement.

20. **REMEDIES:** Counterparty, Corporation and Tesla acknowledge and agree that each party shall have all remedies available at law or in equity if the other party is in default under the terms of this Agreement. If an Event of Default has occurred and is continuing, then Counterparty and/or Corporation, in addition to any other remedies given at law or in equity, may:

(A) continue this Agreement in effect by not terminating Tesla’s right to possession of said Premises and thereby be entitled to enforce all Counterparty’s and Corporation’s rights and remedies under this Agreement; or

(B) bring an action to recover and regain possession of said Premises in the manner provided by the laws of eviction of the State where the Premises are located then in effect.

21. **INSURANCE:** Tesla shall carry commercial general liability insurance with limits of not less than One Million Dollars (\$1,000,000) for bodily injury or death and property damage and an umbrella insurance policy of not less than Five Million Dollars (\$5,000,000) which insurance shall name Corporation and Counterparty as additional insureds. A certificate evidencing such insurance shall be delivered to Counterparty and Corporation upon the execution of this Agreement and from time to time thereafter as may be requested by Counterparty or Corporation. Tesla will also carry worker’s compensation insurance in accordance with state and federal law.

22. **CONFIDENTIALITY AND PUBLICITY:**

(A) Tesla and Counterparty agree that the terms of this Agreement are confidential information, and both parties agree not to disclose such confidential information to any person or entity other than (i) financial, legal and space planning consultants that have a “need to know” such confidential information and have agreed to abide by confidentiality terms no less protective than the terms of this Agreement and (ii) as required by law.

(B) Neither party will use the other party's name, trademark or logo without such other party's prior written consent.

Notwithstanding the foregoing or anything contained herein to the contrary, Tesla acknowledges and agrees that, in some instances, the Corporation may be subject to Indiana's public access statutes, Ind. Code § 5-14-3 *et. seq.* ("APRA"). Accordingly, to the extent disclosure of this Agreement or the terms hereof is required by APRA, Corporation shall provide Tesla not less than seven (7) days' written notice prior to disclosing the Agreement.

23. **EXCLUSIONS:** Notwithstanding anything herein to the contrary, Tesla shall not be liable for, and Counterparty and Corporation expressly release Tesla from any claims from, speculative, indirect, consequential or punitive damages, including any lost sales or profits of Counterparty or Corporation.
24. **ENVIRONMENTAL MATTERS:** Each of Corporation and Counterparty represents and warrants that the Premises shall be delivered free of environmental contamination. Tesla shall have no liability for any environmental contamination unless caused by Tesla, its agents, employees or contractors. During the Term, Counterparty is responsible for remediating any pre-existing contamination or any contamination not caused by Tesla, its agents, contractors or employees. Tesla shall have no liability for diminution in value of the Property as it relates to environmental contamination.
25. **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 Section 1 above. Counterparty, Corporation and Tesla may change their respective addresses for notices by giving notice of such new address in accordance with the provisions of this paragraph.
26. **BROKERS:** Corporation, Counterparty and Tesla represent to each other that each has dealt with no broker and each hereby agrees to indemnify and hold the other harmless from any claims for any such commissions or fees.
27. **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding upon and shall inure to the benefit of Counterparty, Corporation and Tesla and their respective successors and assigns.
28. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of Indiana. All proceedings arising in connection with this Police Station Agreement shall be tried and litigated only in the state courts in Hamilton County, Indiana, or the federal courts with venue that includes Hamilton County, Indiana.
29. **TIME:** Time is of the essence in this Agreement.
30. **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.

[Signature page follows.]

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

COUNTERPARTY:

Fishers Redevelopment LR LLC,
an Indiana limited liability company

By: Loftus Robinson LLC, Manager, an
Indiana limited liability company

By: Kyle B. Robinson
Kyle B. Robinson (Nov 3, 2017)

Name: Kyle B. Robinson

Title: Member

TESLA:

Tesla, Inc.
a Delaware corporation

By: 

Name: Cal Lankton

Title: VP, Energy Sales and Operations

CORPORTATION:

FISHERS TOWN HALL BUILDING CORPORATION

By: _____

Name: _____

Title _____

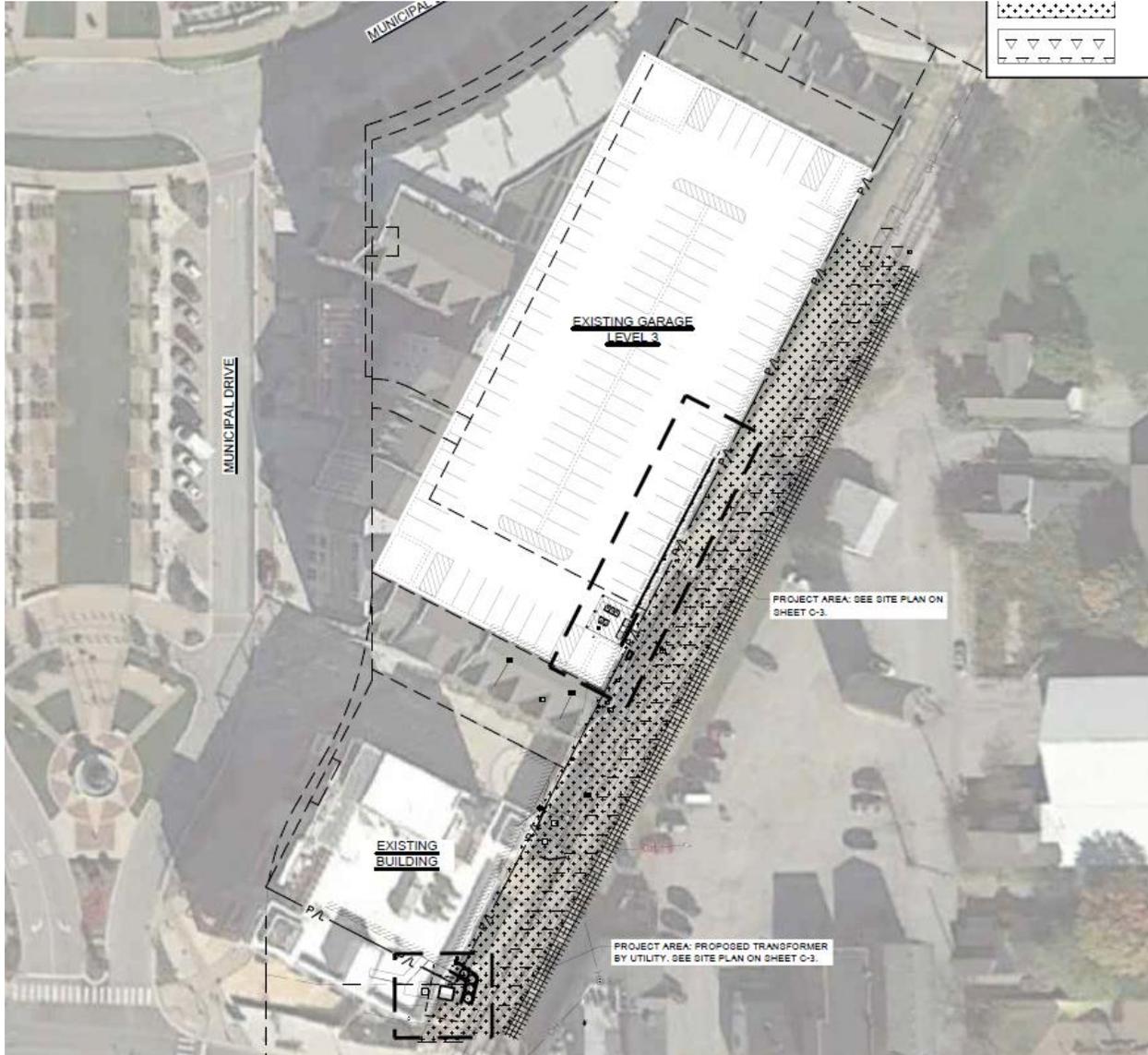
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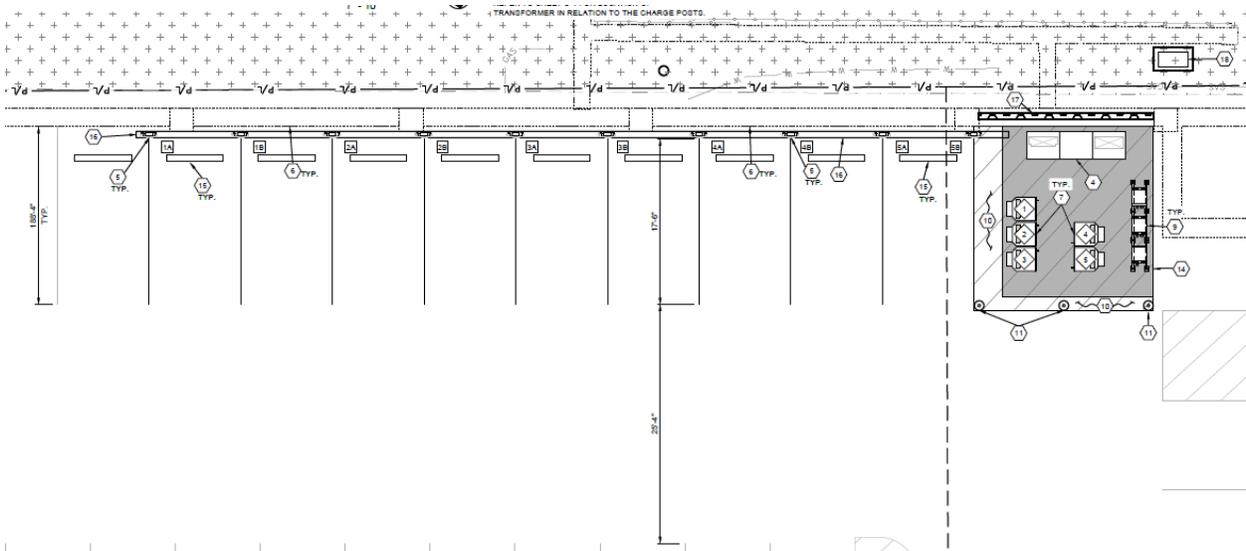
EXHIBIT A

Premises and Property Depiction and Address

Property Address: 9 Municipal Dr. Fishers, IN 46038

Premises and Property Depiction:





<p>NOTE: SEE THE PLAN FOR LOCATION AND QUANTITY OF WHEELSTOPS.</p>	<p>NOTES:</p> <ol style="list-style-type: none"> SIGN AND SIGN FASTENERS TO BE CONTRACTOR PROVIDED AND INSTALLED. CONTRACTOR TO PROVIDE SIGN FASTENERS IF REQUIRED AND PAINTED TO MATCH. SECURE PANELS TO WALL WITH COUNTERSINK MECHANICAL FASTENERS (PROVIDED BY CONTRACTOR). IF PAINT FINISH IS DAMAGED DURING INSTALLATION, CONTRACTOR SHALL REPAINT AS REQUIRED. NON-ILLUMINATED PARKING SIGN FACES AND RETURNS TO BE 6.00\" ALUMINUM PANELS WITH #66-42 RED REFLECTIVE VINYL APPLIED (VERIFY REFLECTIVITY WITH OWNER). LOGO TO BE #66-10 REFLECTIVE WHITE VINYL (VERIFY REFLECTIVITY WITH OWNER). 	<p>NOTE:</p> <p>1. TESLA PROVIDED TEMPLATE PLATE TO BE USED TO LAYOUT CHARGER ANCHORING BOLT LOCATIONS AND CONDUIT STUB UP LOCATIONS.</p>	
<p>P.C.C. WHEELSTOP</p>	<p>N.T.S 5</p>	<p>TESLA CHARGER ANCHOR BOLT PLAN</p>	<p>N.T.S 1</p>
<p>MOUNTING FRAME NOTES:</p> <ol style="list-style-type: none"> SEE DETAIL SHEET C-4 FOR MOUNTING FRAME AND COVER DETAILS. 1/4\" STUD ANCHOR BOLTS, WASHERS, AND NUTS SHALL BE GALVANIZED FINISH. CONTRACTOR SHALL CAP ANCHOR BOLTS & INTERIOR FRAME TO ENSURE NO SHARP EDGES FOR CONDUCTOR ROUTING. CONTRACTOR SHALL FIELD VERIFY LOCATION OF EXISTING REINFORCEMENT BEFORE DRILLING. ENSURE 1\" GAP BETWEEN ANCHORS AND EXISTING REINFORCEMENT. REFER TO ELECTRICAL SHEETS FOR CONDUCTOR ROUTING DETAILS. 	<p>NOTES:</p> <ol style="list-style-type: none"> SIGN AND SIGN FASTENERS TO BE CONTRACTOR PROVIDED AND INSTALLED. CONTRACTOR TO PROVIDE SIGN FASTENERS IF REQUIRED AND PAINTED TO MATCH. SECURE PANELS TO WALL WITH COUNTERSINK MECHANICAL FASTENERS (PROVIDED BY CONTRACTOR). IF PAINT FINISH IS DAMAGED DURING INSTALLATION, CONTRACTOR SHALL REPAINT AS REQUIRED. NON-ILLUMINATED PARKING SIGN FACES AND RETURNS TO BE 6.00\" ALUMINUM PANELS WITH #66-42 RED REFLECTIVE VINYL APPLIED (VERIFY REFLECTIVITY WITH OWNER). LOGO TO BE #66-10 REFLECTIVE WHITE VINYL (VERIFY REFLECTIVITY WITH OWNER). 	<p>TESLA CHARGER</p> <p>ENCLOSURE: INGRESS PROTECTION (IP55)</p> <p>WEIGHT: 800 kg, 1320 lbs.</p> <p>COMPLIANCE: THE UNIT IS TÜV LISTED AS IEC 61861-23, UL 2202, CSA 22.2 NO. 107-1-01 COMPLIANT.</p> <p>NOTE:</p> <ol style="list-style-type: none"> CABINET SHOULD BE LIFTED USING ROOF MOUNTED EYE HOOKS. A FORKLIFT OR PALLET JACK CAN ALSO BE USED TO MOVE CABINET IF DONE PROPERLY. SEE EN-1 FOR CHARGER CABINET NOTE. 	
<p>TESLA CHARGING POST MOUNTING DETAIL</p>	<p>N.T.S 6</p>	<p>TESLA DEDICATED NON-ILLUMINATED PARKING SIGN DETAIL</p>	<p>N.T.S 4</p>
<p>TESLA CHARGING POST MOUNTING DETAIL</p>	<p>N.T.S 6</p>	<p>TESLA CHARGER CABINET DETAIL</p>	<p>N.T.S 2</p>

EXHIBIT B

Tesla Improvements

Tesla shall install the Charging Station on the Premises pursuant to the terms of this **Exhibit B**. Tesla installation shall include the installation of the infrastructure for the Charging Station, which may include power supply, utility connections, concrete pads, conduit and wiring (the “**Infrastructure**”).

The Charging Station will also include certain trade fixtures as determined by Tesla, which may include, without limitation, the charger cabinets (“**Charger Cabinets**”), charge posts, switchgear, signage, fence or other visual barriers, canopy, solar panels, and an energy storage system (the “**Trade Fixtures**”). The type of charge posts installed at the Charging Station shall be determined by Tesla, in its’ sole discretion, and shall consist of Tesla’s “Superchargers” capable of delivering (i) up to 73 kW of power, (ii) up to 120 kW of power, or (iii) a combination of the two types of Tesla Superchargers.

The Trade Fixtures to be installed as of the Commencement Date will include the following:

- Five (5) Chargers Cabinets
- Ten (10) charge posts, as determined by Tesla
- Switchgear and meter panel
- Signage

The installation of the Infrastructure and the Trade Fixtures is collectively referred to as the “**Tesla Improvements**.” Tesla will not perform the Tesla Improvements until the plans and specifications, including exact locations, have been approved by Counterparty and Corporation, which approval may be by e-mail communication and shall not be unreasonably withheld, conditioned or delayed. All Tesla Improvements shall at all times comply with applicable laws, codes and ordinances and Infrastructure and Trade Fixtures shall be installed, maintained and replaced at Tesla’s sole cost.

Signage

Dedicated Stall Sign Example



Enabled Stall Sign Example

