

**CITY OF TAKOMA PARK, MARYLAND  
ELECTRIC VEHICLE CHARGING STATION  
RIGHT-OF-WAY PERMIT PROGRAM  
INDEMNITY & INSURANCE AGREEMENT**

**THIS AGREEMENT** is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between the **CITY OF TAKOMA PARK**, a municipal corporation of the State of Maryland, (hereinafter also referred to as “the City”) and \_\_\_\_\_, and their successors, heirs, and assigns, (hereinafter also referred to as “the Charging Party”) and collectively referred to as “the Parties.”

**RECITALS**

**WHEREAS**, the City maintains a Curbside Electric Vehicle Charging Station Program that operates by permit; and

**WHEREAS**, the Charging Party has applied to the City for a permit to install, use, and or occupy a public right-of-way charging station; and

**WHEREAS**, the Mayor and City Council have authorized the City Manager to enter into this Agreement in connection with the Charging Party’s application for a permit; and

**WHEREAS**, the Parties are entering into this Agreement pursuant to that authorization.

**TERMS**

**NOW, THEREFORE**, in consideration of the mutual promises of the Parties, and other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**SECTION 1. SCOPE**

**1.1.** The City is awarding the Charging Party with a permit to install, use, and or occupy a Curbside Electric Vehicle Charging Station in a public right-of-way within the territorial limits of the City. This award is conditioned on the Charging Party’s compliance with all federal, state,

county, and city laws, including the permit requirements of the Curbside Electric Vehicle Charging Station Program.

**1.2.** Receipt of a permit issued through the Curbside Electric Vehicle Charging Station Program also requires the recipient to indemnify and hold harmless the City according to the terms of this Agreement and to acquire and or maintain certain insurance coverages.

## **SECTION 2. INDEMNIFICATION**

**2.1.** The Charging Party, and its successors, heirs, and assigns shall forever defend, indemnify, and hold harmless the City, its officials, officers, employees, and agents from and against all liabilities, claims, causes of action, suits, losses, costs, expenses, judgments, attorney fees and necessary litigation expenses, and damages of every kind and description including, but not limited to, actual or alleged bodily injury (including death) or actual and alleged damage to property resulting directly or indirectly from any act or omission of the Charging Party, its subcontractors, any third-party directly or indirectly employed by the Charging Party, and any third-party for whose acts or omissions the Charging Party may be liable for arising out of or in connection with the Charging Party's installation, use, and or occupation of a Curbside Electric Vehicle Charging Station in a public right-of-way.

**2.2.** The Charging Party's successors', heirs', and assigns' indemnification obligations under this Agreement do not apply to any liabilities, claims, causes of action, judgments, or expenses resulting from bodily injury or property damage caused by the sole negligence of the City, its officers, employees, elected officials, agents, or subcontractors.

## **SECTION 3. INSURANCE**

**3.1.** The Charging Party shall obtain and maintain continuously throughout the entire term of the permit, at no expense to the City, the following insurance coverage and limits of liability:

### **3.1.1. Standard Insurance Coverages and Limits of Liability:**

**3.1.1.1.** Homeowner General Liability, hereinafter referred to as "HGL," written on an occurrence form.

**3.1.1.1.1.** Coverage shall include: Premises and Operations; Personal Injury and Liability; Severability of Interest Clause; General Aggregate Limits of Insurance shall apply separately; "Claims Made" and "Modified Occurrence" policy forms are not acceptable.

**3.1.1.1.2.** Umbrella or Excess Liability “follow form” insurance over primary HGL insurance limits, if necessary.

**3.1.2.** Charging Party shall, within ten (10) days of the execution of this Agreement, file with the Sustainability Manager, a Certificate of Insurance from an insurance company authorized to do business in the State of Maryland and satisfactory to the City showing issuance of insurance coverage required by sub-section 3.1.1.. Unless waived in writing by the City, the Certificate shall bear an endorsement in words exactly as follows: “The insurance company certifies that the insurance covered by this certificate has been endorsed as follows” “The insurance company agrees that the coverage shall not be canceled, changed, allowed to lapse, or allowed to expire until thirty (30) days after notice to: Public Works, Deputy Director, 31 Oswego Ave, Takoma Park, Maryland, 20910 (Ian Chamberlain).”

**3.1.3. No Limitation of Liability:**

**3.1.3.1.** Insurance coverage and limits of liability as specified herein are minimum coverage and limit of liability requirements only. Nothing in the City’s requirements for minimum insurance coverage shall be interpreted to limit or release liability of the Charging Party or any of the Charging Party’s insurers. The City shall be an additional insured as required in sub-section 3.1.2. regarding the total limits of liability maintained, whether such limits are primary, excess, contingent or otherwise.

**3.2.** The Charging Party shall cause to be timely provided a copy of declarations pages and schedules of forms and endorsements to the City upon request. In the event that the City tenders a claim or lawsuit for defense and indemnity invoking additional insured status, and the insurer either denies the tender or issues a reservation of rights letter, the Charging Party shall also cause a complete and certified copy of the requested policy to be timely provided to the City.

**3.3.** The Charging Party shall send the Certificates of Insurances, additional insured endorsements, declaration pages, and schedules of forms required or requested pursuant to this Section to Ian Chamberlain, Public Works, Deputy Director, at [IanC@TakomaParkMD.gov](mailto:IanC@TakomaParkMD.gov).

## **SECTION 4. MISCELLANEOUS**

**4.1.** The Charging Party acknowledges that the permission granted to it by the City to use and or occupy the public right-of-way in connection with the Curbside Electric Vehicle Charging

Program is of a temporary nature and vests no permanent rights in the Charging Party. The City may revoke the permission to use or occupy the public right-of-way upon thirty (30) days' written notice mailed to the Charging Party by first-class mail. If the use or occupation becomes dangerous, or if the use or occupation is not being maintained or used according to the requirement of the Right-of-Way Permit the City may revoke permission to use the public right-of-way without providing the thirty (30) day notice.

**4.2.** The Charging Party and its successors, heirs, and assigns acknowledge that if the City revokes the permission to use or occupy the public right-of-way for the purposes of the Electric Vehicle Charging Station Program, the Charging Party and its successors, heirs, and assigns shall, at its sole expense, remove the Electric Vehicle Charging Station and restore the public place to at least as good a condition as required by current applicable standards

**4.3.** The Charging Party, and the individual executing this Agreement on the Charging Party's behalf, warrants it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of this Agreement.

**4.4.** The terms and conditions of this Agreement form the entire contract between the Parties and supersede any and all prior proposals or agreements. The insurance requirements of the Electric Vehicle Charging Station Program are incorporated by reference into and made a part of this Agreement.

**4.5.** The laws of the State of Maryland, excluding conflicts of law rules, shall govern this Agreement as if this Agreement were made and performed entirely within the State of Maryland. Any suit to enforce the terms hereof or for damages or other relief as a consequence of the breach or alleged breach hereof shall be brought exclusively in the courts of the State of Maryland in Montgomery County, and the Parties expressly consent to the jurisdiction thereof and waive any right which they have or may have to bring such elsewhere.

**4.6.** If any term or provision of this Agreement shall be held invalid or unenforceable to any extent, the remainder of this Agreement shall not be affected thereby, and each term and provision of this Agreement shall be enforced to the fullest extent permitted by law.

4.7. This Agreement shall not be construed in favor or against either party based on the fact that it was drafted by the City.

4.8. This Agreement may be executed electronically and in counterparts. All such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.

4.9. The recitals above are hereby incorporated into this Agreement.

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be executed by their proper and duly authorized officers on the day and year first above written.

Witness:

Charging Party:

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

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

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

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

Witness:

City of Takoma Park:

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

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

Ian Chamberlain

Robert DiSpirito

Public Works Deputy Director

City Manager