

**GRANTEE**  
**BID**

Effective Date:

This Bid (“**Bid**”) is dated and effective on the effective date noted herein and is by and between \_\_\_\_\_ with a principal place of business at \_\_\_\_\_ (“**Grantee**”), and TOWN OF OCCOQUAN, a municipal corporation of the Commonwealth of Virginia (the “**Client**”). This Bid is governed by the Terms and Conditions attached hereto, which are incorporated herein by reference. Capitalized terms used but not defined in this Bid shall have their meanings set forth in the Terms and Conditions.

1. Client Representative: Adam Linn, Town Manager – Town of Occoquan, VA
2. Property Address(es): Eastern Side of 100 Block of Mill Street Parking Lot (approximately 170 Mill Street, Occoquan, VA 22125)
3. EV Designated Parking Spaces: Four (4) parking spots on the eastern side of the parking lot and two (2) charging stations - one (1) charging station and two (2) ports per every two (2) spaces.



4. Number of Electric Vehicle (EV) Charging Stations: Two (2) charging stations
5. EV Charging Station Model(s): 80A Level 2 Charging Stations
6. Electric Meter Responsible Party: Grantee
7. Operating Margin Share: 10% to Client

By signing below, the parties agree to this Bid and the Terms and Conditions attached hereto.

**[CLIENT]**

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

**[GRANTEE]**

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

**GRANTEE**  
**TERMS AND CONDITIONS**

These Terms and Conditions entered into between \_\_\_\_\_ (“**Grantee**”) and the Client set forth in the Bid (“**Client**”) to which these Terms and Conditions are attached (“**Bid**”), are effective as of the effective date (“**Effective Date**”) of the Bid. These Terms and Conditions and the Bid, together, are referred to as the agreement (“**Agreement**”).

**RECITALS**

WHEREAS, Grantee is engaged in the development, installation, ownership, marketing, management, and operation of charging stations (“**Stations**”) used for electric vehicles (“**EVs**”);

WHEREAS, Client is the owner, lessee, tenant, or manager of the Property located at the address listed in the Bid (the “**Property**”);

WHEREAS, Client desires for Grantee to install and operate Stations on the Property; and

WHEREAS, Grantee shall develop and install the charging infrastructure (“**Infrastructure**”) on the Property needed for the installation and operation of the Stations in accordance with these Terms and Conditions.

NOW, THEREFORE, in consideration of the foregoing, the parties hereby agree as follows:

**1. INSTALLATION**

- 1.1. Grantee will install the Infrastructure and Stations which, together, make up the EV charging system (“**System**” or “**Systems**”), in accordance with the Bid. The Stations will be owned by Grantee before, during, and after the Initial Term or Full Term.
- 1.2. The System as set forth in the Engineering Plans (the “**Plans**”) may include the following components, which make up the Infrastructure: A metered power source (“**Meter**”), Meter enclosure, switchgear, circuit protection, conduits, pull-boxes, conductors, transformers, electric panels, disconnects, auxiliary power outlets, racking, and wired/wireless communication equipment.
- 1.3. Grantee will install the System in coordination with the Electric Utility Company (“**EUC**”), as needed, and in accordance with the Plans as approved by both parties and attached hereto as **Exhibit A**. The System will be installed on the Property to supply electricity to EVs for Customers (“**Customer**” or “**Customers**”) in the EV designated parking spots (“**Spots**”). During the installation, the Spots will require new markings and signage, as provided by Grantee. Additional signage may be required on the Property and will be noted on the Plans.
- 1.4. Upon the party’s execution of the Plans, Grantee will commence the work and if required, will file the permit application. When ready, Grantee will coordinate with the Client to begin installation.
- 1.5. Upon the completion of the installation, Grantee will send an Installation Date Certificate for signature by Client and attached hereto as **Exhibit B**.

**2. OPERATION AND MAINTENANCE**

- 2.1. Grantee will operate and maintain the System and provide Customers with support by phone.
- 2.2. Grantee may enter the Property, in coordination with the Client, who shall not unreasonably deny access for inspection, service and maintenance purposes.

**3. CUSTOMER PAYMENTS**

- 3.1. Grantee shall establish pricing, track usage, and collect Revenue (“**Revenue**”) from Customers using the Stations, and in accordance with the agreement between Grantee and the Customer.
- 3.2. Revenue is generated by billing Customers for the supply of electricity measured in kilowatt-hours (“**kWh**”) and if electricity is not being supplied, a standby hourly rate (“**Idle Parking**”). Once a Customer payment transaction is processed and a payment processing fee is deducted, it becomes Net Revenue (“**Net Revenue**”).
- 3.3. Grantee maintains the right to bill Customers additional fees that will not be part of the Revenue, including but not limited to, membership fees, connection fees, and priority fees.

**4. CLIENT PAYMENTS**

- 4.1. For the fulfilment of its obligations in accordance with this Agreement, the Client will be entitled to a quarterly payment equal to the Operating Margin Share set forth in the Bid (“**Margin**”), which represents a share of Grantee’s Net Revenue (“**Client Payments**”). The Client Payments will constitute full and final payment to the Client.
- 4.2. The calculation for the Margin is completed by taking the Net Revenue and subtracting the following operating expenses:
  - 4.2.1. Cost of electricity as calculated in section “Electricity Payments”; and
  - 4.2.2. Charge Point Operator (“**CPO**”) fees of fifty dollars (\$50) per Spot.
- 4.3. If the Margin is greater than zero dollars (\$0), the Client Payments will be made once per quarter within thirty (30) days following the end of the previous quarter.

- 4.4. Grantee will provide a quarterly report detailing the Client Payments. The Client’s right of review will be limited solely to data relating to this Agreement and the Client will not have a right to review Grantee’s books or other documents.

**5. ELECTRICITY PAYMENTS**

- 5.1. Grantee will reimburse Client by making a quarterly payment to the Client (“**Reimbursement**”) based on the Station’s internal submeters, which record the electricity usage, and the calculations below.
  - 5.1.1. Grantee will process Reimbursement to Client within thirty (30) days from receipt of the EUC bills from Client, once per quarter and if the total Reimbursement amount is at least one-hundred dollars (\$100).
  - 5.1.2. Grantee shall reimburse the full amount of electricity used by the Stations by multiplying the energy measured in kWh by the electricity rate (“**Electricity Rate**”), which is calculated by using information on the EUC bill and dividing the total cost of the electricity by the total kWh consumed.
- 5.2. The Client and Grantee will pay the EUC bills in a timely manner and will each bear any charge resulting from delinquent payment or non-payment applicable to each party.

**6. UPGRADES AND EXPANSION**

- 6.1. Once Customer usage reaches a certain point, Grantee may recommend future upgrades of the System to the Client, including expansion to additional Spots. If any upgrade and/or expansion is approved by Client, the parties will enter into an amendment to the Bid and Grantee will follow the same process as set forth in **Section 1** of this Agreement.

**7. TERM AND TERMINATION**

- 7.1. This Agreement will be valid for a term of five (5) years from the date of the last signature of an executed Installation Date Certificate attached hereto as **Exhibit B** (hereinafter, the “**Initial Term**”).
- 7.2. The Initial Term shall be automatically extended for up to two (2) renewal terms of five (5) years each unless either party provides written notification of termination at least sixty (60) days prior to the expiration of the Initial Term or renewal terms (“**Early Termination**”). The Initial Term and five (5) year extensions make up the Full Term (hereinafter, the “**Full Term**”). Upon expiration of the Initial Term or Full Term, unless terminated earlier, the Agreement shall continue on a month-to-month basis.
- 7.3. The Client may terminate this Agreement for cause, subject to providing written notice to Grantee at least ninety (90) days in advance of termination, in any of the following cases:
  - 7.3.1. Grantee ceased providing services to Customers for more than ninety (90) consecutive days, on its own initiative and not due to ongoing repairs and maintenance. If the foregoing occurs, then the parking spaces will be made available for public use. If services were ceased based on Grantee’s own initiative, upon notice, Grantee shall have sixty (60) days to remedy the situation; or
  - 7.3.2. Grantee made a resolution for its dissolution, or has been declared insolvent, or a dissolution order has been issued by a competent court, and the resolution, declaration or order has not been revoked within sixty (60) days.
- 7.4. In the event that the Client initiates Early Termination for any reason other than a material breach of this Agreement by the Grantee, the Client shall pay to the Grantee an amount equal to the Grantee’s costs incurred as of the termination date, less the cost of the Stations, less the aggregate amount of net Margin kept by Grantee, and less any grants/rebates received by the Grantee as of that date (“**Early Termination Payment**”). Upon notice of Early Termination from the Client, the Grantee will submit documentation detailing the Early Termination Payment amount to the Client within fourteen (14) days. Within thirty (30) days of receipt by the Client of documentation for the Early Termination Payment from the Grantee, which documentation is reasonably necessary for the Client to confirm the amount of the Grantee’s costs as of the termination date, the Client shall make payment to the Grantee. Once the Grantee has received the Early Termination Payment from the Client, the Grantee shall transfer ownership of the Infrastructure to the Client and remove the Stations within sixty (60) days. After the transfer of ownership of the Infrastructure to the Client, Grantee will not bear any responsibility in connection with the Infrastructure.
- 7.5. Grantee has the right to transfer ownership of the Infrastructure to the Client at any time during the Full Term, at expiration of the Full Term, or if Grantee initiates Early Termination of the Full Term. After the transfer of ownership of the Infrastructure to the Client, Grantee will not bear any responsibility in connection with the Infrastructure. If the Infrastructure is not transferred to the Client, Grantee shall have the right, but not the obligation, within sixty (60) days after termination or expiration of this Agreement, to enter upon the Property and remove the Infrastructure.
- 7.6. Grantee shall have the right, but not the obligation, to remove the Stations within sixty (60) days after termination or expiration of this Agreement, and Client shall reasonably cooperate with Grantee for such removal.

## 8. CLIENT'S REPRESENTATIONS AND WARRANTIES

- 8.1. The Client represents and warrants that: (i) it has the authority to enter into this Agreement with Grantee including having, by virtue of its rights in and to the Property, (ii) it has the authority to permit and enable the execution of the Project, and to grant the authorizations hereunder, and to undertake the obligations in this Agreement, and that (iii) it has all the rights, consents, approvals and authorizations required from any third party, including the Property owners, for the purpose of entering into this Agreement and performing its obligations hereunder.
- 8.2. The Client further represents and warrants that Grantee will have the exclusive right to own, operate, maintain, and provide services for any Systems on the Property during the Initial Term and Full Term. The Client will not self-perform and/or permit any other party to install, operate, and/or maintain any Systems on the Property.
- 8.3. The Client further represents and warrants that Customers shall have safe and convenient access to the Property and the Spots 24/7/365, except during Town events, force majeure, by other governmental agencies, or as necessary to protect the public health, safety, and welfare.

## 9. GRANTEE'S REPRESENTATIONS AND WARRANTIES; DISCLAIMERS

- 9.1. Grantee represents and warrants that will perform the installation, operations, and maintenance in accordance with the applicable codes, laws, and regulations of all federal, state, local, administrative and/or other agencies having any authority. Grantee agrees that installation will be completed within 180 days or shall provide Client with written notification. If written notification is received, the Client shall provide the Grantee with an additional 180 days to complete the installation. Failure to complete installation timely shall make this Agreement null and void.
- 9.2. EXCEPT AS SET FORTH IN SECTION "TERM AND TERMINATION", CLIENT'S SOLE REMEDY FOR ANY BREACH BY GRANTEE OF ITS OBLIGATIONS OR WARRANTIES UNDER THIS AGREEMENT IS LIMITED TO, AT GRANTEE'S OPTION, REPAIR OR REPLACEMENT OF THOSE CHARGING STATIONS TO WHICH SUCH BREACH IS APPLICABLE.
- 9.3. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, GRANTEE MAKES NO WARRANTY WITH RESPECT TO THE PERFORMANCE OF THE CHARGING STATIONS, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE. GRANTEE EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS AND WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF NON-INFRINGEMENT OF THIRD-PARTY RIGHTS, MERCHANTABILITY, AND FITNESS FOR A PARTICULAR PURPOSE. GRANTEE DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF CHARGING STATIONS. FOR THE AVOIDANCE OF DOUBT, IT IS CLIENT'S SOLE RESPONSIBILITY TO ENSURE THE ACCURACY AND COMPLETENESS OF THE PLANS AND THE PARTIES AGREE THAT GRANTEE SHALL NOT BE LIABLE FOR ANY LOSSES OR DAMAGES RELATED TO THE PLANS, INCLUDING ANY DAMAGE TO EXISTING INFRASTRUCTURE OF THE PROPERTY AS A RESULT OF ANY ACTS OR OMISSIONS OF GRANTEE IN RELIANCE ON THE PLANS APPROVED BY CLIENT.

## 10. INSURANCE

- 10.1. Both parties will maintain a Commercial General Liability policy of at least one-million dollars (\$1,000,000) in coverage and will provide each other a certificate of insurance listing the other party as an additional insured prior to the commencement of construction of the Infrastructure and Stations on the Property.

## 11. LIABILITY AND INDEMNIFICATION

- 11.1. EXCEPT FOR GRANTEE'S GROSS NEGLIGENCE AND WILLFUL MISCONDUCT RELATING TO OR ARISING OUT OF THIS AGREEMENT AND ANY CHARGING INFRASTRUCTURE, IN NO EVENT SHALL GRANTEE BE LIABLE TO THE CLIENT FOR PUNITIVE, INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING OUT OF THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBLE EXISTENCE OF SUCH LIABILITY. The foregoing includes claims related to the infrastructure works, the Property's infrastructure system, the establishment of the Charging Infrastructure and the provision of the services hereunder, and Grantee will not be in any way responsible for any loss of income or profit incurred by the Client, whether directly or indirectly, in connection with this Agreement and its performance.

## 12. CONFIDENTIALITY

- 12.1. Confidential Information ("CI") means any and all technical and non-technical information disclosed by one party ("Disclosing Party") to the other party ("Receiving Party"), whether verbal or non-verbal, including patent, copyright, trade secret, and proprietary information, techniques, sketches, drawings, concepts, ideas, templates, surveys, pricing information, vendor and employee information, models, inventions, methodologies, know-how, processes, apparatus, equipment, algorithms, the Data, software programs, software-as-a-service, software source documents, and formulae related to the current, future and proposed products and services of the Disclosing Party and includes information

relating to the Disclosing Party's research, employee and contractor information and lists, pricing information, marketing plans, strategies, and information.

- 12.2. The Receiving Party shall not use the CI except in connection with the activities governed by this Agreement. Receiving Party shall treat all CI of the Disclosing Party with the same degree of care as Receiving Party according to its own CI, and in any event shall use at least reasonable care. Receiving Party shall immediately notify the Disclosing Party of any unauthorized use or disclosure of the CI. Receiving Party shall assist the Disclosing Party in remedying any such unauthorized use or disclosure of the CI. A Party shall not communicate any information to the other in violation of the proprietary rights of any third party.
- 12.3. The Receiving Party's obligations under this section with respect to any portion of CI will not apply to any information that is: (a) in the public domain through no fault of Receiving Party, (b) rightfully in Receiving Party's possession free of any obligation of confidence to any person, (c) developed by employees or agents of Receiving Party independently of and without reference to any CI, or (d) being disclosed by Receiving Party in response to a valid order by a court or other governmental body, or otherwise as required by law, or as necessary to establish the rights of either party under this Agreement.

## 13. MISCELLANEOUS

- 13.1. Grantee holds all right, title, and interest in and to any grants and/or rebates received, or may be received in the future, in connection with this Agreement. If any grant and/or rebate is received in the name of the Client or its subsidiaries, Client expressly agrees that this Agreement shall act as an assignment of its right, title, and interest in and to such grant and/or rebate.
- 13.2. Each party shall be entitled, at any time, to convert, transfer, pledge, assign or give to a third party its rights and obligations under this Agreement, in whole or in part, at its sole discretion and without the need for the consent of the other party, provided that the receiving party accepts, in writing, all the obligations of the transferring party towards the other party to the Agreement.
- 13.3. Grantee shall be entitled, at its sole discretion, to display advertising material of its own or with prior written approval from Client that of a third party, on the Stations. The Client gives Grantee approval to use the Client's name and logo on Grantee's website.
- 13.4. This Agreement shall be governed by the laws of the State of Virginia, without regard to conflict of laws. Any suit involving any unresolved Dispute arising under this Agreement may only be brought in State Court of Prince William County, which shall have exclusive jurisdiction over the subject matter of the unresolved Dispute.
- 13.5. If Grantee is delayed in or prevented from the performance of any act required under this Agreement by a reasons outside of its control including without limitation, , pandemics, strike, lockout, labor trouble, inability to procure materials or energy, failure of power, weather, restrictive governmental laws or regulations, riot, insurrection, picketing, sit-ins, war or other unavoidable reason of a like nature not attributable to the negligence or fault of Grantee, the performance of such work or action will be excused for the period of the unavoidable delay and the period for the performance of any such work or action will be extended for an equivalent period.
- 13.6. This Agreement constitutes the full and complete agreement between the parties regarding the subject matter herein and no offer, representation, summary, or promise given prior to its signing in matters related to the contents of this Agreement, will have any validity.
- 13.7. No change, waiver, or deviation from the provisions of this Agreement will have any validity, unless made in writing and signed by the parties to this agreement, after due compliance with Virginia Code section 15.2-2105.
- 13.8. This Agreement is not a contract for the benefit of a third party, and no provision herein shall be interpreted as intended to confer rights on any third parties. Notwithstanding anything to the contrary, Grantee may use subcontractors or other third parties to perform its obligations under this Agreement. Grantee shall remain fully liable for the performance of any third parties performing on its behalf.
- 13.9. This Agreement does not constitute a partnership or joint venture between the parties, and no provision in this Agreement shall be construed or considered as creating such a partnership or joint venture. None of the parties has nor will have the authority to bind the other or to enter into an Agreement on its behalf, or create a liability for it, in any way and for any purpose.
- 13.10. No waiver, refrain of action, or granting of an extension by one party to the other shall be considered a waiver of that party's rights under this Agreement or under any law and shall not prejudice the right of the refraining party from exercising its rights at any time, and no claim regarding a waiver or delay shall be entertained.
- 13.11. Any notice from one party to the other will be made in writing by registered mail to the addresses stated in the preamble (unless notice of a change of address has been given in accordance with the provisions of this agreement, in which case the notices will be sent to the new address) or by personal delivery, and will be considered as having reached its recipient after 72 hours from dispatch at a post office; then it will be considered as having reached the recipient after 24 hours from the date of transmission; or if sent by email, subject to receiving confirmation of its receipt.