

**WASHINGTON ELECTRIC COOPERATIVE, INC.**

**P. O. Box 8**

**East Montpelier, Vermont 05651**

**TYPE II ELECTRIC VEHICLE  
CHARGING STATION INSTALLATION  
MEMBER AGREEMENT**

This agreement by and between Washington Electric Co-op (“Co-op” or “WEC”), with its principal place of business located in East Montpelier, Vermont, and its Member, the Town of East Montpelier, of East Montpelier, Vermont (herein after, “Member”) is intended to define the responsibilities of each party, and the role and obligations concerning the installation of a Type II electric vehicle (EV) charging station on the member’s premises.

**WITNESSETH**

WHEREAS, as a membership cooperative electric utility, WEC has committed itself to improving its members' electric service and end-use efficiency through education, research and analysis, and installation of cost-effective equipment;

WHEREAS, WEC has entered into an agreement with the Vermont Low Income Trust for Electricity (VLITE) to promote the complete installation of various Type II EV charging stations;

Whereas, WEC has offered to the Member an EV charging station installation specific to the Member’s location and circumstances;

Whereas, WEC separately has contracted with a qualified Contractor to perform the specific installation of a proposed EV charging station on the member’s premises, according to an agreed-upon site-specific scope of work, and with the acknowledgement and understanding of the member; and

WHEREAS, Member has agreed to host a Type II EV charging station.

**NOW THEREFORE**, in consideration of the mutual covenants and promises contained herein, the parties hereto agree as follows:

1. Definitions:
  - a. The term "Contractor" refers to the person, firm, or corporation performing the work called for in these documents, whether general or sub-contractor. The Contractor is responsible to both WEC and the Member for all materials and labor to be installed under this Agreement.

b. The term “Charge Point” refers to the manufacturer of the Type II charging station equipment, and the vendor that will provide a network service agreement for an initial five year period.

c. The term “event of default” shall mean the failure of a party to cure a material breach of this Agreement as set forth below in this paragraph. An event of default shall not exist where such failure is the result of a force majeure event. Upon an event giving rise to a default (i.e., a material breach of this Agreement), the non-defaulting party shall give written notice to the defaulting party to cure such default within ten (10) business days.

d. The term “force majeure” shall mean acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes; lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any governmental authority acting in its regulatory or judicial capacity (and beyond the reasonable ability of a party to foresee or to contest or prevent such acts, failures to act or orders); insurrections; military action; war, whether or not it is declared; sabotage; terrorist acts; riots; civil disturbances; explosions; or any other cause or event, not reasonably within the control of the party (and its subcontractors and suppliers) claiming *Force Majeure* (other than the financial inability of such party), which precludes that party from carrying out, in whole or in part, its obligations under this Agreement.

e. The term “property” or “property site” shall refer to the location where the Type II electric vehicle charging station is constructed and located as depicted on a site plan attached hereto as Exhibit A.

f. The term “Type II EV charging system” shall mean a device for charging vehicles in accordance with National Electrical Code NFPA 70.

2. Scope of Work:

a) WEC, through its Contactor, shall install and provide to Member a Type II EV charging system in working order.

b) WEC shall provide a Contractor who shall furnish all labor, materials, equipment, and accessories required to fully complete the work necessary to complete installation of the Type II electric vehicle charging station as set forth in the site plans attached hereto as Exhibit A.

c) Construction and installation by WEC and its Contractor shall commence \_\_\_\_\_. It is anticipated that the Type II electric vehicle charging station shall be completed no later than \_\_\_\_\_.

d) At the completion of the scope of work, WEC’s Contractor shall remove from the property site all of its waste materials, tools, equipment, machinery and surplus materials not constituting the installation of the Type II electric vehicle charging station.

e) The parties affirm and recognize that WEC may delay, suspend, or terminate its performance of the scope of work after immediate written notice to Member upon the occurrence and during the continuance of any *Force Majeure* event. If a *Force Majeure* event causes suspension of the scope of work or other delay not caused by or within the responsibility of WEC and its Contractor, the scheduled completion date shall be equitably adjusted by Member and WEC taking into account (among other factors) the length of any suspension or delay of the Work caused by such *Force Majeure* event and the stage of the Work during which such *Force Majeure* event occurred. WEC and its contractor shall not be liable to Member for any loss, damage, injury or expense resulting from, or arising out of an event of force majeure.

3. Access to Property.

a) Member shall cooperate fully with WEC and its Contractor to accomplish the scope of work set forth in section 2 above. Member shall provide unrestricted access to its property to allow for the timely completion of the scope of work. Member shall provide WEC and its Contractor any and all licenses, easements, right of way, and/or any other needed authorizations to perform the scope of work.

Without limitation to the above obligations by Member to cooperate with WEC and its Contractor, Member shall provide WEC and its Contractor with the use and occupancy of all portions of the property necessary to complete the scope of work, and Member shall minimize any inconvenience and/or hazard in performing the scope of work on its property. This shall include access to property necessary to complete the scope of work from the hours of 7 a.m. to 6 p.m., Monday through Friday, and Saturdays from 8 a.m. to 5 p.m.

b) WEC and its Contractor shall be permitted to store all materials needed to complete the scope of work on its property identified in the site plan attached hereto as Exhibit A.

c) Member shall notify WEC and its Contractor of any conditions which may compromise the structure, electrical, or other systems of the property. In the event such a condition arises, the parties shall confer in good faith to amend this Agreement to provide for the completion of the scope of work. In the event completion no longer is either physically or financially feasible, the parties may terminate this agreement without further liability to the other.

d) WEC and its Contractor shall take no action to otherwise encumber or create any lien against Member as a result of its fulfillment of the scope of work.

4. Permits.

Member shall be responsible for obtaining all permits needed to complete the scope of work. WEC and its Contractor shall cooperate fully with Member to obtain all permits needed to complete the scope of work.

5. Title, Operation and Maintenance.

a) Upon completion of the scope of work, WEC shall transfer and member shall accept title of the Type II EV charging station. Except as expressly provided in this Agreement, member shall have full responsibility for all costs, charges, expenses, labor, materials and liabilities related to the ownership, operation, and maintenance of the Type II EV charging station.

b) Without limitation to the Member's responsibilities and liabilities identified herein, WEC shall pay for a five year subscription to Charge Point to provide Member services on its Commercial Plan to assist Member's operation of the Type II EV charging station.

c) Member agrees to operate the Type II EV charging station and make it available [to employees, licensees, and/or members of the public] for a minimum of five (5) years. Member shall be responsible for all decommissioning costs and expenses associated with the removal of the Type II EV charging station. Notwithstanding Member's responsibilities contained in this paragraph, in the event Member decides it wants to terminate this Agreement, in the absence of an event of default, within five years from the initial installation of the Type II EV charging station, WEC shall remove the device from Member's property and utilize reasonable efforts to return the property where the Type II EV charging station was located to its original condition (prior to installation). In the event Member exercises this right to return the Type II EV charging station within the five (5) year period, title and ownership of the Type II EV charging station shall revert to WEC.

d) WEC shall provide electricity to Member for the Type II EV charging station through its Commercial Tariff, as updated and approved by the Vermont Public Service Board. Member shall not resell the electricity provided under the Commercial Tariff to any other person or entity.

6. Warranties.

WEC shall procure a warranty from Contractor, for the benefit of Member, to guarantee labor and materials utilized in the scope of work against defects for a period of one year. Such warranty shall not include defects or damages resulting from lack of maintenance, misuse, abuse negligence, accident, or alteration on the part of Member its licensees, guests, employees, agents, tenants, administrators, successors and/or assigns.

WEC shall deliver to Member any and all manufacturer's and/or supplier's warranties, installation manuals, specification sheets, and operating and maintenance instructions covering all materials and equipment furnished under this Agreement.

**THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT ARE EXCLUSIVE, AND WEC MAKES NO OTHER WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE TYPE II EV CHARGING STATION, WHETHER AS TO VALUE, QUALITY, CHARACTERISTICS, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ANY OTHER MATTER.**

7. Data.

For a period of five years, member shall permit WEC access to the Type II EV Charging Station to procure and download data regarding the device's use and operation. Member agrees that WEC may share such data with VLITE and/or its regulators (the Vermont Public Service Board and/or the Vermont Department of Public Service).

8. Insurance

Member shall maintain and furnish general liability insurance in an amount not less than \$1,000,000 (one million dollars) aggregate single limit any bodily injury, death, property damage arising out of the ownership, use maintenance, storage, and operation of the Type II EV Charging Station.

9. Indemnification and damages.

a) WEC shall indemnify and hold harmless the Member from any liability for any bodily injury, property damage, or other claims or demands of third parties resulting from performance of the scope of work.

b) Member shall fully indemnify and hold harmless WEC from any liability arising from its ownership, use, maintenance, storage, and operation of the Type II EV charging station.

c) Without limiting the obligations to indemnify and hold harmless as provided herein, **IN THE EVENT OF A DEFAULT, THE DEFAULTING PARTY'S LIABILITY SHALL BE LIMITED TO DIRECT, ACTUAL DAMAGES ONLY, AND SUCH DIRECT, ACTUAL DAMAGES SHALL BE THE SOLE AND EXCLUSIVE REMEDY HEREUNDER. IN NO EVENT SHALL ANY OTHER LIABILITY BE INCURRED BY EITHER PARTY FOR ANY OBLIGATIONS WHICH ARISE UNDER THIS AGREEMENT, INCLUDING (BUT NOT LIMITED TO) CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES IN TORT, CONTRACT, OR OTHERWISE.**

10. TERMINATION:

In the event of a default, either party may immediately terminate this Agreement. In addition, either party may terminate this Agreement in the absence of an event of default with ten (10) business days advance notice. In the event Member seeks to terminate this Agreement, in the absence of an event of default, its sole remedy shall be the removal provisions contained in section 5(c) of this Agreement.

Member and WEC's obligations to indemnify and hold harmless shall survive termination of this Agreement.

11. ARBITRATION:

Any disputes or differences arising out of this Agreement that cannot be amicably settled between the parties shall be finally settled under the Rules of Conciliation and Arbitration of the American

Arbitration Association by one or more arbitrators appointed in accordance with said Rules. The arbitration shall take place in Montpelier, Vermont.

12. ASSIGNMENT:

Member shall not assign this Agreement without the prior written consent of WEC.

13. Governing law.

The interpretation of the terms and conditions of this Contract shall be governed by the laws of the State of Vermont.

14. Notices.

a) WEC's primary contact is Bill Powell, Director of Products and Services, located at 40 Church Street, East Montpelier, Vermont.

b) Member's primary contact is C. Bruce Johnson, East Montpelier Town Administrator, located at 40 Kelton Road, East Montpelier, Vermont.

c) Any notice or request required or permitted to be given or made under this Contract shall be in writing to the appropriate primary contact. Such notice or request shall be deemed to be duly given or made when it shall have been delivered by hand, mail, facsimile or electronic mail to the party to which it is required to be given or made, at such party's address specified below or at such other address as the party shall have specified in writing to the party giving such notice, or making such request.

For Member:

C. Bruce Johnson, Town Administrator  
Town of East Montpelier  
40 Kelton Road  
PO Box 157  
East Montpelier, VT 05651

For WEC:

Bill Powell, Director Products and Services  
Washington Electric Cooperative, Inc.  
40 Church St.  
East Montpelier, Vermont 05651

15. Attachments.

All attachments to this Agreement are incorporated by reference and made a part of this Agreement. In the event of a conflict between this Agreement and any attachment hereto, the terms and conditions of this Agreement shall control.

16. Severability.

If any term or provision of this Agreement shall be held to be invalid or unenforceable, the remaining terms and provisions of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

17. Nonwaiver.

The failure of either party to enforce any one or more of the provisions of this Agreement shall not be construed to be a waiver thereof, nor shall such failure affect the validity of the Agreement or either party's right to enforce any provision(s) of the Agreement.

18. Counterparts.

This agreement may be executed in several counterparts by the parties and when so executed shall be considered fully executed to the same extent as if all parties had signed the original document. Facsimile execution is authorized.

19. Contract Amendments.

Any changes to this Agreement, including the scope of work, will be accomplished via written amendment to this Agreement signed by an authorized officer or employee of WEC and Member.

20. No Partnership or Joint Venture.

This Agreement does not in any way create an association, joint venture, or partnership between the parties or impose any partnership obligation or liability upon either party. Neither WEC nor Member shall have any right, power or authority to enter into any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

21. Miscellaneous.

By signing this Agreement, the parties agree to cooperate and acknowledge and agree to execute all other documents reasonably necessary to effectuate the intent of this Agreement. The individuals signing this Agreement represent that they are the duly authorized agents and representatives of their respective corporations and are vested with the full power and authority to enter into this Agreement. Both parties have had an ability to review and negotiate

the terms of this Agreement. Therefore the presumption against the drafter shall not apply to the construction of this Agreement.

**ACKNOWLEDGEMENT OF ARBITRATION**

I understand that this Agreement between Washington Electric Cooperative Inc. and the Town of East Montpelier, VT contains an agreement to arbitrate. After signing this document, I understand that neither Washington Electric Cooperative Inc. nor the Town of East Montpelier, VT will be able to bring a lawsuit concerning any dispute that may arise which is covered by the arbitration agreement, unless it involves a question of constitutional or civil rights. Instead each party agrees to submit any such dispute to an impartial arbitrator.

**FOR WEC**

**FOR Town of East Montpelier, VT**

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**Signature, Date**

**Signature, Date**