

**NORTH CAROLINA  
CHATHAM COUNTY**

**AGREEMENT FOR GOODS AND/OR SERVICES**

**THIS AGREEMENT FOR GOODS AND/OR SERVICES** (this "Agreement"), made and entered into by and between Chatham County ("County"), and LilyPad EV, ("Contractor").

**WHEREAS**, Contractor has agreed to provide goods and/or services as hereinafter set forth in a professional manner in accordance with the standards of Contractor's business or industry; and

**WHEREAS**, the County wishes to enter into an Agreement with Contractor to provide the goods and/or services specified in Appendix 1, Scope of Work, attached hereto and incorporated herein by reference and made an integral part of this Agreement.

**NOW THEREFORE**, in consideration of the premises and the mutual agreement described below, the parties agree as follows:

1. **Term of Agreement:** The term of this Agreement shall commence on September 1, 2021 for the installation of a fast electric vehicle charging station ("Station"). Monitoring and maintenance of the Station shall continue for five (5) years from date of the Station's activation unless terminated as hereinafter set forth.
2. **Scope of Service:** The Contractor shall provide to the County the goods and/or services (the "Services") set forth in the "Scope of Work" attached hereto as Appendix 1.
3. **Compensation:** As compensation for the Services to be provided by Contractor, the County shall pay the Contractor the sum of \$84,669.15, payable within thirty (30) days from receipt of proper invoice, or as otherwise set forth in Appendix 1.
4. **Insurance:** Contractor shall maintain insurance policies at all times with minimum limits as follows:

<u>Worker's Compensation</u>	<u>Automobile Liability</u>	<u>General /Professional Liability</u>
Statutory Limits	\$250,000 bodily injury per person \$100,000 property damage	\$100,000 bodily injury per person \$500,000 bodily injury per occurrence \$100,000 property damage

All insurance policies shall be issued by companies authorized to do business under the laws of the State of North Carolina and shall be rated not less than "A" by A.M. Best and Company. Contractor shall furnish Certificates of Insurance to the County, naming the County as an additional insured, prior to the commencement of operations. The certificates shall clearly indicate that Contractor has obtained insurance of the type, amount, and classification as required for strict compliance with this paragraph and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. Compliance with the foregoing requirements shall not relieve Contractor from any liability or obligations under this Agreement.

5. **Confidentiality:** All proprietary data and information, if any, furnished to Contractor by the County shall be regarded as confidential, shall remain the sole property of the County and shall be held in confidence and safekeeping by Contractor for the sole use of the County and Contractor under the terms of this Agreement. Contractor agrees that its officers, employees, and agents will not disclose to any person, firm, or entity other than the County or its designated legal counsel, accountants, or practice management consultants any confidential information about the County. Contractor agrees to carry out its obligations to the County in compliance with all privacy and security regulations required by law.

6. **Intellectual Property Owned by Contractor:** This Agreement is subject to the North Carolina public records law, and may be released upon request. Not all "Trade Secrets" will qualify as protected under N.C.G.S. §132-1.2 and 66-152. Contractor should consult legal counsel before signing this document if Contractor is unsure of its intellectual property status under these statutes.

7. Status of Parties: Nothing contained in this Agreement shall be construed as establishing a partnership or joint venture relationship between Contractor and the County. Contractor and its employees and representatives are independent contractors, solely responsible for its or their performance under this Agreement and shall have no legal authority to bind the County.

8. Assignment and Subcontracting: Neither this Agreement nor any rights or obligations hereunder shall be subcontracted, assigned, or delegated by Contractor without prior written consent of the County, which consent may be withheld in the County's sole discretion.

9. Binding Effect: This Agreement shall be binding upon the parties hereto, their heirs, administrators, executors, successors and assigns, if such assignment has been approved by the County.

10. Notices: Any notice or other communication required or permitted under this Agreement shall be in writing and shall be deemed to have been given on the date delivered personally or deposited in the United States Postal Service, certified mail, return receipt requested, with adequate postage affixed, addressed as follows:

Chatham County  
Attn: County Manager  
Post Office Box 1809  
Pittsboro, North Carolina 27312  
919.542.8200

Contractor Name:  
Attn: Keith Anderson  
9801 W. 100<sup>th</sup> Terr  
Overland Park, KS 66212  
Phone: 913.269.2453  
Email: keith.anderson@lilypadev.com

Either party may change its address for notices under this Agreement by giving written notice of such change to the other party in accordance with the provisions of this paragraph.

11. Governing Law: This Agreement and the rights and obligations to the parties hereunder shall be construed and governed by the laws of the State of North Carolina and venue for any proceedings arising hereunder shall be in the state court of appropriate jurisdiction located in Chatham County, North Carolina.

12. Modifications: This Agreement may be amended or modified only by the mutual written consent of the parties. A modification is not enforceable against the County unless it is signed by the County Manager, Purchasing Agent, or other duly authorized official.

13. Entire Agreement: This Agreement contains the entire agreement between the parties pertaining to the subject matter of this Agreement. With respect to that subject matter, there are no promises, agreements, conditions, inducements, warranties or understandings, written or oral, expressed or implied, between the parties, other than as set forth or referenced in this Agreement.

14. Waiver: A waiver of any provision of this Agreement must be in writing, designated as such, and signed by the party against whom enforcement of the waiver is sought. The waiver of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach thereof.

15. Termination: This Agreement may be terminated as follows:

- (i) Cause: If the services provided by Contractor under this Agreement are not performed as specified herein, this Agreement may be terminated by the County for cause. Grounds for termination for cause shall include, but not be limited to, the following:
  - (a) Failure to respond to reasonable requests from the County to provide the Services covered by this Agreement.
  - (b) Failure to keep and maintain any equipment required for the performance of this Agreement in good working order and in compliance and with all laws.
  - (c) Failure to properly recycle any electronic equipment as specified in Article 9, Chapter 130A of the North Carolina General Statute, or failure to comply with any statutory requirement included in the formal bid request, as provided in the bid packet, which bid packet is incorporated herein by reference.
  - (d) Failure to maintain the insurance required by this Agreement.

- (e) Charging rates or fees in excess of those permitted under in this Agreement.
- (f) Inefficient, or unsafe practices in providing Services.
- (g) The material breach of any provision of this Agreement.

(ii) Convenience: The County reserves the right to terminate this Agreement upon thirty (30) days prior written notice to Contractor for any reason deemed by the County to serve the public interest. This termination for convenience will not be made when termination is authorized under any other provision of this Agreement. In the event of such termination the County shall pay the Contractor its costs directly attributable to those Services received by the County prior to termination that meet the requirements of this Agreement. Provided, however, that no costs will be paid to the Contractor which are recoverable in the Contractor's normal course of doing business. The County is not liable for the loss of any profits anticipated to be made hereunder, nor for any special, consequential or similar damage.

16. Annual Appropriations and Funding: This Agreement is subject to the annual appropriation of funds by the Chatham County Board of Commissioners. Notwithstanding any provision herein to the contrary, in the event that funds are not appropriated for this Agreement, the County shall be entitled to immediately terminate this Agreement, without penalty or liability, except the payment for all Service satisfactorily provided under this Agreement up to and through the Contractor's receipt of notice of termination.

17. Indemnity: Contractor agrees to indemnify and hold harmless the County, its officers, agents, servants, and employees from any and all claims, actions, lawsuits, losses, damages, expenses, judgments, or liabilities of any kind whatsoever (including without limitation, cost of defense and attorney fees) suffered by the County and proximately caused by an act or omission of Contractor, its subcontractors, agents, or employees.

18. County Policy: The County opposes discrimination on the basis of race and sex and requires all of its contractors to provide a fair opportunity for minorities and women to participate in their work force and as subcontractors and vendors under County contracts.

19. State and Federal Requirements; County Terms and Conditions: By signing this Agreement, Contractor certifies that (if applicable) Contractor, and any of Contractor's subcontractors are in compliance with State and Federal laws, including any divestment list by the NC State Treasurer, and Federal or State debarment or suspension lists. The County Terms and Conditions are incorporated herein and made an integral part of this Agreement and may be found at the County's web site: <http://www.chathamnc.org/finance>. A hard copy of the Terms and Conditions is available upon request.

20. Controlling Document: In the event of any conflict between this Agreement and any document, instrument, or other agreement prepared or provided by Contractor (including, without limitation, Contractor's purchase orders, invoices and warranties), the terms of this Agreement shall control.

**IN WITNESS WHEREOF**, the parties have executed this Agreement in their official capacities with legal authority to do so.

**Chatham County**

By: \_\_\_\_\_  
Dan LaMontagne, County Manager

**Contractor**

By: \_\_\_\_\_  
Name: Keith Anderson  
Title: Vice President – Business Development

<p>This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.</p> <p>_____ Hope Tally, Finance Director</p>
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## APPENDIX 1

**SCOPE OF WORK:** Install and maintain a DC fast electric vehicle charging Station at the Smithfield's Chicken N Barbecue restaurant at 14215 US-64, Siler City, North Carolina City for a period of five (5) years from date of activation. A quote from the vendor with the scope of work is attached and incorporated into this agreement by reference.

**PROJECT NAME:** Smithfield's DC Fast Electric Vehicle Charging Station

**SCOPE OF SERVICES:** Install, monitor, and maintain the Station for a period of five years.

**TOTAL COSTS:** \$84,669.15

**COMPLETION DATE:** Installation - 11/15/2021  
Monitor and maintain station for five (5) years from date of activation.