

## SITE LICENSE AGREEMENT

THIS SITE LICENSE AGREEMENT (“*Agreement*”) is entered into effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_ (“*Effective Date*”) between Westar Energy, Inc. and its affiliates (“*WESTAR*”), a Kansas Corporation, with primary offices at 818 S. Kansas Ave., Topeka, KS 66612 and \_\_\_\_\_ City of Lawrence \_\_\_\_\_, a Kansas municipality, with a mailing address at 6 East 6th Street, Lawrence, KS 66044 (“*Host*”).

WHEREAS, Host is the owner of that certain property legally described and depicted on Exhibit A (the “*Site*”), attached hereto and incorporated by reference herein;

WHEREAS, WESTAR desires to install and operate 1 Level Two Electric Vehicle Supply Equipment station and 1 Level Three Electric Vehicle Supply Equipment station (together with all related utilities and accessories, the “*EVSE*”) in the location(s) shown on the Site Plan on Exhibit B, attached hereto and incorporated by reference herein, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, conditions and agreements set forth herein, WESTAR and Host agree as follows:

1. License. Host hereby grants to WESTAR a license to install and operate the EVSE station in the location(s) within the Site shown on Exhibit B in accordance with and subject to the terms and conditions of this Agreement. The EVSE shall include a vehicle charging station and related signage. WESTAR (or its affiliates) shall (a) at no cost to Host, install all necessary electrical service, connections and equipment to serve the EVSE, and (b) provide all necessary electric utility services to Host at the EVSE. Host agrees to take reasonable actions to assist WESTAR with the installation of the EVSE. Upon completion of installation of the EVSE, Host understands and acknowledges that ownership of the EVSE shall remain with WESTAR.

2. Consumption Costs. The responsibility for the payment of kilowatt-hour (kWh) energy charge shall be as follows (check the box that applies; if no box is checked, it is Host Responsibility):

A. Host Responsibility (check here):  The Host pays the kilowatt-hour (kWh) charge including applicable riders, surcharges, taxes and fees assessed by WESTAR and the EVSE charging station user pays the session charge, if applicable as described in the Schedule CCN tariff that can be accessed, once approved by the Kansas Corporation Commission, at [www.westarenergy.com/rates](http://www.westarenergy.com/rates).

B. User Responsibility (check here):  The EVSE charging station user pays the kilowatt-hour (kWh) charge including applicable riders, surcharges, taxes and fees assessed by WESTAR, and, if applicable, the session charge as described in the Schedule CCN tariff that can be accessed at [www.westarenergy.com/rates](http://www.westarenergy.com/rates).

During the Term, the Host shall have the right to change the above election (to the alternative option) upon 30 days’ prior written notice to WESTAR. Host represents and

warrants that it will not charge any third party for the consumption or usage of said power, electrical and/or usage costs at any time during the Term of this Agreement.

3. Access. Host shall provide WESTAR access to and sufficient space for locating and maintaining the EVSE at the locations shown on the Site Plan, and also agrees to provide governmental authorities access to the EVSE for any inspections and installation of monitoring hardware and/or software on the EVSE as necessary for WESTAR to fulfill its reporting requirements to regulatory entities. Host will allow potential end users access to the area where the EVSE is located in the same manner that it grants non-end users access to the area.

4. Operation. WESTAR shall operate the EVSE in accordance with commercially reasonable practices. However, uninterrupted service is not guaranteed, and WESTAR may interrupt service when necessary to ensure safety or to perform maintenance. If any governmental license or permit shall be required for the proper and lawful use of the EVSE, WESTAR, at its sole cost and expense, shall obtain and thereafter maintain the same and shall comply with all of the terms and conditions thereof. WESTAR shall promptly deliver copies of all such licenses and permits to Host.

Hours of Operation; Demand Response Procedures. Except as otherwise provided herein, the EVSE shall be operated by WESTAR for up to 24 hours each day and made available to the general public. Further, Host acknowledges and agrees that WESTAR will be utilizing “Demand Response” (“**DR**”) procedures. The EVSE will display a message notifying the consumer of the various DR application scenarios. Host acknowledges and understands that WESTAR utilizes such Demand Response options to optimize usage at peak times, which could result in temporarily disabling the EVSE from electrical output or consumption during the Term of this Agreement. Host shall not charge WESTAR or any other party rent or any other fees to use the Site during the Term of this Agreement.

5. Consent; Permits. WESTAR shall not install the EVSE, including any utility service, equipment or accessories or, after the installation thereof, alter the EVSE or any of its components in any manner that requires architectural or engineering plans without first obtaining Host’s prior written approval (which shall not be unreasonably withheld, conditioned or delayed) of the architectural and engineering plans and specifications therefore. WESTAR shall not install the EVSE or any utility service, equipment or accessories until all required municipal and other governmental permits and authorizations have been obtained by WESTAR.

6. Marketing. The parties understand and agree that the EVSE will be WESTAR-branded. WESTAR may publish and promote the locations of the Sites throughout the Term of the Agreement. Host’s name may also be used in the initial launch of the program. Thereafter, neither party will make any press release or otherwise formally publicize the EVSE on the Site without first obtaining formal written approval from the other party. WESTAR has created marketing material which includes but is not limited to logos, stickers, decals and signage made a part of equipment purchased or infrastructure established; printed materials and other marketing and/or outreach materials, activities, and websites. WESTAR has logo usage and publicity standards that can be shared by WESTAR with Host for their review only. With respect to any marketing efforts including but not limited to logos, stickers, decals or signage made a part of equipment purchased or infrastructure established; or any printed materials or other marketing and/or outreach materials, activities, or websites created by Host under this Agreement, Host agrees to submit such material in advance any such marketing effort, for review and approval by WESTAR, which approval shall not be unreasonably withheld, conditioned or delayed as outlined by the logo usage and publicity standards provided by WESTAR.

7. Maintenance and Repair. WESTAR shall maintain the EVSE in good working condition, ordinary wear and tear excepted, during the Term of this Agreement. Host shall maintain the common area

improvements immediately surrounding the EVSE in good condition ordinary, wear and tear excepted, and will promptly notify WESTAR of any problems it is aware of that are related to the EVSE. Such maintenance by Host of the immediately surrounding common areas shall include, but not be limited to, pavement maintenance and snow removal services.

8. Term and Termination. This Agreement shall commence on the Effective Date and continue in effect through \_\_\_\_\_ December 31, 2028 (“*Term*”); provided, however, WESTAR has the right to terminate this Agreement at any time by delivering written notice of such election to Host, in which case the Agreement shall terminate on the date that is 10 days after the Host’s receipt of the termination notice. If WESTAR fails to perform any of its obligations or comply with any of the other terms and conditions of this Agreement and such failure continues for a period of 15 days after receipt of written notice from Host, Host may immediately terminate the Agreement by delivering written notice to WESTAR. Upon the expiration or termination of this Agreement, WESTAR will remove the EVSE at WESTAR’s cost and expense, and restore the portions of the Site on which the EVSE was installed to a condition similar to the condition it was prior to installation of the EVSE, ordinary wear and tear excepted.

9. Liens. Host represents and warrants that (a) Host is the fee simple owner of the Site and has good and marketable title to the Site and (b) the contents and terms of this Agreement are not in violation of any other agreement entered into by Host with any other party. Neither party will allow any liens or encumbrances to be placed on the EVSE or the Site. If any liens are placed on or filed against the EVSE, or the Site as a result of any work or materials contracted by or on behalf of either party hereto, said party shall cause the lien to be released of record within 15 days after the filing thereof. Nothing in this Agreement shall be construed as empowering either party to encumber or cause to be encumbered the title or interest of Host to the Site nor WESTAR to the EVSE in any manner. Each party shall indemnify the other party against, and hold the other party harmless from, any and all loss, damage, claims, liabilities, judgments, interest, costs, expenses, and attorney fees arising out of the filing of any such lien that is in violation of this section.

10. Insurance. Each party agrees that it will at all times during the term hereof, at its own expense, procure, maintain, and keep in force insurance with an insurance company authorized to transact business in the State of Kansas, a commercial general liability insurance policy covering: (a) the operation and use of the EVSE (in the case of WESTAR) and (b) the operation and use of the Site (in the case of Host), in each case affording protection in an amount of not less than One Million Dollars (\$1,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate for injury to or death of one or more persons. The policy must include customary coverages for liability arising from premises, operations, independent contractors and liability assumed under an insured contract. The policy shall name the other party hereto (including said party’s parent, affiliates, subsidiaries, officers, directors, employees, agents and assigns) as additional insureds whereby neither party may cancel or reduce the insurance without first giving the other party hereto at least 30 days prior written notice. Each party further covenants to deposit with the other party a certificate of such insurance and the certificate of each such renewal policy complying with the terms of this Agreement.

Further, unless third-party insurance coverage is required by applicable law, both parties shall have the right to self-insure against perils and liabilities for which it would otherwise be required to obtain insurance under the terms of this Agreement. If a party elects to self-insure against certain perils and/or liabilities against which it would otherwise be required to obtain a policy of insurance under this Agreement, then for purposes of this Agreement, such party shall be deemed to hold insurance against such perils and/or liabilities in the minimum amounts of insurance which such party is otherwise required to maintain under the terms of this Agreement. By so electing, such party shall be deemed to be self-insuring against the perils and/or liabilities that are the subject of such claims.

11. Waiver. Host and WESTAR each hereby waive (to the extent of insurance proceeds collected) any and all rights of recovery, claim, action or cause of action against the other, its agents, officers, or employees for any damage that may occur to the Site, including but not limited to the EVSE, and/or any personal property of such party therein by reason of any cause which is insured against under the terms of any insurance policies referred to herein or self-insured, regardless of cause or origin, including negligence.

12. Indemnification.

WESTAR shall be liable for, and shall indemnify, defend and hold Host harmless from, any and all liabilities, claims, demands, administrative proceedings, orders, judgments, assessments, fines, penalties, costs and lawsuits, of whatever nature (collectively, “*Liabilities*”), arising out of the negligent, willful or intentional acts or omissions of WESTAR, its express agents, contractors or employees at the Site during the Term of this Agreement and/or a breach of any of the representations, warranties, covenants or the terms of this Agreement.

Host shall be liable for, and shall indemnify, defend and hold WESTAR harmless from any and all liabilities arising out of the negligent, willful or intentional acts or omissions of Host, its agents, contractors, subcontractors or employees at the Site during the Term of this Agreement and/or a breach of any of the representations, warranties, covenants or the terms of this Agreement.

Notwithstanding the foregoing, neither party shall be liable for or be required to indemnify, defend or hold the other party harmless to the extent of any Liabilities that are caused by the negligent, willful or intentional acts or omissions of the other party hereto.

13. No Consequential Damages. Except for indemnification obligations to third parties as set forth in Section 14 of this Agreement, neither party shall be liable to the other party for any special, incidental, consequential, punitive or indirect damages or loss of profit or business interruption damages whatsoever.

14. Performance. Performance under this Agreement is subject to all valid laws, rules and regulations of courts or regulatory bodies having jurisdiction.

15. Contingency. If, after execution of this License, WESTAR is unable to use Host’s property due to any action, or lack of action, by any federal, state, or local governing agency, this License Agreement may be canceled without obligation on party of either party.

16. Casualty. If all or any portion of the EVSE on the Site are damaged or destroyed by fire or other casualty which materially and adversely affects the operation of the EVSE (any, a “*Casualty*”), Host shall have the right to terminate the Agreement by written notice to WESTAR in which event the Agreement shall terminate on the date that is 10 days after the date of Host’s termination notice and WESTAR may elect to remove the EVSE from the Site. In the event of any Casualty which materially and adversely affects the operation of the EVSE, WESTAR shall have the right to terminate the Agreement by written notice to Host within 14 days after the Casualty, in which event the Agreement shall terminate on the date that is 10 days after the date of WESTAR’s termination notice and WESTAR may elect to remove the EVSE from the Site.

17. Assignment. This Agreement and the rights conferred hereunder shall not be assigned by either party except with the prior written consent of the other party in each instance, and such consent shall not be unreasonably withheld, conditioned or delayed.

18. Entire Agreement. This Agreement and the exhibits attached hereto contains the entire agreement of the parties. No term or provision of this Agreement may be modified, amended, changed, or waived, temporarily or permanently, except, in the case of modifications, changes and amendments, pursuant to the written consent of both parties to this Agreement, and in the case of waivers, pursuant to the written consent of the waiving party.

19. No Partnership. This Agreement shall not be construed as creating a partnership, joint venture, agency relationship, franchise, or association, nor shall this Agreement render WESTAR and Host liable as partners, co-venturers or principals.

20. Governing Law. This Agreement shall be governed by the laws of the State of Kansas.

21. Counterparts. This Agreement may be executed in any number of counterparts all of which taken together shall constitute one and the same instrument. Facsimile and digital electronic signatures shall constitute original signatures for purposes of this Agreement.

22. Notice. Any and all notices shall be in writing and addressed to the parties at the addresses specified below or such other addresses as either party may direct by notice given in accordance with this section, and shall be delivered in one of the following manners: (i) by personal delivery, in which case notice shall be deemed to have been duly given when delivered; (ii) by certified mail, return receipt requested, with postage prepaid, in which case notice shall be deemed to have been duly given on the date indicated on the return receipt; or (iii) by reputable delivery service (including by way of example and not limitation Federal Express, UPS and DHL) which makes a record of the date and time of delivery, in which case notice shall be deemed to have been duly given on the date indicated on the delivery service's record of delivery.

If to WESTAR:

Evergy, Inc.  
Attn: Wendy Marine, Product Manager  
1200 Main Street  
Kansas City, MO 64105

If to Host:

City of Lawrence  
Attn: City Manager  
6 E 6<sup>th</sup> Street  
Lawrence, KS 66044

23. Headings. Section headings herein have been inserted for reference only and shall not be deemed to limit or otherwise affect, in any manner, or be deemed to interpret in whole or in part any of the terms or provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto execute this Agreement agreeing to be bound by the terms herein as of the date first above written.

**WESTAR**  
Westar Energy, Inc.

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

**HOST:**

City of Lawrence

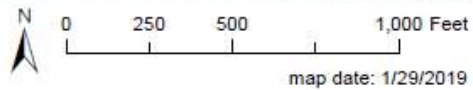
By: \_\_\_\_\_  
Print Name: Tom Markus  
Title: City Manager, City of Lawrence

**EXHIBIT A**

**Legal Description of Site**

**ROCK CHALK PARK ADD NO 1 LT 2 (PLAT 2013)**

**Rock Chalk Park**



# EXHIBIT B

## Site Plan where EVSE(s) will be located within the Site

ArcGIS Web Map



1/30/2019, 5:00:38 PM

— Road Labels

□ Parcels

1:2,257  
0 0.01 0.03 0.05 mi  
0 0.02 0.04 0.09 km  
Douglas County, KS GIS Division, Sundex Corporation

Web AppBuilder for ArcGIS  
City of Lawrence Kansas