

**AGREEMENT BETWEEN
THE CITY OF SAN ANTONIO
AND
BLINK CHARGING COMPANY
FOR PUBLICLY-ACCESSIBLE ELECTRIC VEHICLE (EV) CHARGING
INFRASTRUCTURE ON CITY PROPERTY (RFP 20-076)**

**STATE OF TEXAS
COUNTY OF BEXAR**

This Integration Agreement (hereinafter referred to as the “Agreement”), made and entered into in San Antonio, Bexar County, Texas, between the City of San Antonio, a Municipal Corporation in the State of Texas acting by and through its City Manager (hereinafter referred to as “City”), and

Blink Charging Co.
407 Lincoln Road, Suite 704
Miami Beach, FL 33139

a Corporation chartered under the laws of the State of Florida (hereinafter referred to as “Blink” or “Contractor”), said Agreement being executed by Michael D. Farkas, Founder, Executive Chairman and CEO, Blink Charging Co..

Terms and conditions for performance and compensation payment for this Agreement are set forth in the following contract documents, true and correct copies of which are attached and fully incorporated herein verbatim for all purposes:

1. Exhibit I, a Request for Proposals (RFP) for “Publicly-Accessible Electric Vehicle (EV) Charging Infrastructure on City Property” (RFP 20-076; RFX 6100012932) issued by the City on July 1, 2020.
2. Exhibit II, Addendum I to the RFP, dated July 21, 2020;
3. Exhibit III, Price Schedule submitted by Blink as RFP Attachment B.
4. Exhibit IV, Copy of the Enabling Ordinance, 2020-12-10-_____.
5. Exhibit V, Blink Charging Company Parking Agreement

Referenced Documents: Further, Blink’s response to the RFP, dated July 31, 2020, and Blink’s response to the City’s September 18, 2020 “Request for Clarification for Request for Proposals”, dated September 23, 2020, is also fully incorporated by reference, verbatim, for all purposes. All the documents attached hereto and those incorporated by reference constitute the contract documents for this Agreement.

Conflict: The RFP governs Blink’s response; this Integration Agreement governs the RFP and response and the Exhibit V; the Enabling Ordinance governs all in case of conflict.

This agreement supersedes any previous agreement or understanding of the parties, whether written or oral.



Compensation: As provided in the contract documents, Blink will provide, install, operate and maintain all electric vehicle support equipment (EVSE) and associated infrastructure under this Agreement at no cost to the City. This project is cost neutral for the City, and Blink will pay the City a 50/50 charging revenue share of the proceeds once revenue exceeds costs, as provided in Exhibit V, section 4. City funding will not be required during the term of this Agreement.

The Blink proposal is for a turn-key ownership model, where Blink is responsible for all costs and operations, and provides a revenue share to the City. This proposed structure guarantees cost neutrality for the City given they have no responsibility for program costs and will receive a revenue share to offset the city's program administration costs.

In order to ensure cost-neutrality to the City, Blink will own and operate the EVSE, assume all costs incurred, and provide a revenue sharing arrangement with COSA as outlined in the Parking Agreement (Exhibit V). Revenue share values will be determined by mutual agreement based on actual projects selected, actual costs incurred to deploy, and incentives available. Blink intends to fully pursue all grants, rebates, and incentives available, including the anticipated support through the TCEQ under the TxVEMP. The project may be implemented in phases in order to access funding opportunities. For example, TxVEMP allows grant applicants to apply for up to 50 activities every three months. Grantees must pay project costs upfront, after which TCEQ reimburses grantee for eligible activities.

If funding for the entire agreement is not appropriated at the time this Agreement is entered into, City retains the right to terminate this Agreement at the expiration of each of City's budget periods, and any subsequent contract period is subject to and contingent upon such appropriation.

Work Start Date: Work shall start immediately upon instruction to Blink from the Director, Office of Sustainability (the Chief Sustainability Officer) or designee, for performance of various City projects described in the RFP's scope of services and the contract documents identified above.

Term of Performance and Termination Date: The term of this agreement is for one year and shall commence, after approval by the City Council as signified by the passage of an Ordinance, on the date recited in the enabling Ordinance, or on the date of the last party to execute this agreement, and terminate on December 31, 2021. At the City's sole option, the Agreement may be renewed for four (4) additional one (1) year terms, under the same terms and conditions, subject to and contingent upon appropriation of funding therefore.

Adjustments to the RFP: In connection with Blink's submittal of its proposal in response to the RFP, the Parties have agreed to clarify the Scope of Services and other provisions in order to provide clear guidance and in the interests of avoiding future misunderstanding. The following changes to the RFP are agreed to by the Parties and hereby adopted:

Selection of Locations. The Request for Proposal includes 32 electric vehicle (EV) charging EVSE plugs or ports at suggested City-owned sites. Plugs refer to the number of charging 'spots' per location. Phase I may include additional sites and/or additional plugs at suggested sites. Other locations may be proposed and installed in future phases. All proposed locations may not be suitable for installation of EVSE based upon a detailed analysis and site visit.



Blink's initial evaluation recommends 140 Level 2 (L2 AC) charging plugs distributed across all properties and six (6) Level 3 (L3 DC) Fast chargers at three (3) locations with direct access to I-10/35/37. The terms of this contract cover only the infrastructure installed on City-owned property. Blink is free to locate additional EVSE in the San Antonio-area to further augment EVSE presence, brand awareness and network reach. For the City-owned sites, after installation and a suitable trial period, the City will consider equipment relocation and/or 'right-sizing' to support maximum use and meet customer demand.

The Parties have agreed that the following procedures will be used to select locations for installation of EVSE in the event the initial proposed locations are not suitable or additional locations are offered: Either Party can recommend a location. Blink will evaluate the location for suitability based upon their criteria and expertise. Both Parties shall agree to the installation of EVSE at a location. Blink will be responsible for the procurement and installation all EVSE equipment, infrastructure, operation, repair and maintenance, relocation, and for removal of the EVSE at the termination of the Agreement, unless arrangements are made with the City for other disposition prior to termination.

The initial proposed locations for the EVSE are as provided in the Parking Agreement (Exhibit V). Additional or substitute locations will be determined by Blink subject to approval by the Director using the procedures outlined above. Blink shall pay all costs associated with site preparation, installation, permits, ongoing operations and maintenance for the locations selected as detailed in the lease agreement. City will use its best efforts to facilitate Blink's negotiations with City departments. Advertising and corporate sponsorships on the EVSE will be permitted subject to review and approval by appropriate City departments and the Director.

TCEQ TxVEMP Grant. The Parties have agreed that Blink will apply for and accept grant funds from the Texas Commission on Environmental Quality (TCEQ) under the Texas Volkswagen Environmental Mitigation Program (TxVEMP) Level 2 EVSE grant funding opportunity. The Parties will coordinate the Agreement procedures to the grant requirements in order to receive the maximum amount of grant funding available. As grants are distributed via reimbursement of eligible costs, Blink agrees to front the funds necessary for Phase I deployment of EVSE and will pursue reimbursement directly with TCEQ. At this time, grant recipients will be eligible for a reimbursement of up to \$2,500 per activity (charging unit installed). Grant amounts and the percentages of eligible costs are as provided in the TxVEMP program.

Timeline and Deployment of EVSE. Upon execution of the contract, Blink and the City agree to immediately begin final vetting of the initial suggested City-owned sites in order to take advantage of the TxVEMP call for Level 2 EVSE projects. Blink agrees to pursue TxVEMP grant applications at the soonest possible opportunity, and both parties will work in good faith to line up contractor support, site prep, and utility agreements should a successful grant be awarded. City staff will assist with connecting Blink to utility and partner department representatives involved in project implementation.

Purchase of Energy. Blink will install a utility meter and establish new service for EV charging. Blink will be the utility customer and pay the charges as billed. If by mutual agreement, charging



loads are added to the existing facility loads and connected to a common meter, Blink will reimburse the City monthly for energy used at actual costs based on the utility charges at a specific site.

Reporting and Data Sharing. Blink agrees to supply City staff with monthly usage reports, at a minimum, or at staff's request when needed for ad hoc information-sharing for internal and external updates and decision-making. Usage reports should include site-level and system-wide usage data, in addition to any customer support issues or feedback.

Customer Interface and Marketing. Blink agrees to handle all customer interface to include marketing and outreach, payment and subscriptions, user questions, software and equipment issues, smart phone applications, repair tickets, etc. As a show of support and goodwill for the program's success, City will help market access to sites on City property and continue general electric vehicle driver awareness and education through its EVSA public information campaign, official website, and social media channels. Parties may negotiate mutually beneficial equipment branding to demonstrate the City's support of electric transportation on City-owned sites.

Equipment and Customer Response Time. Blink agrees that any repairs that can be corrected over the air will be completed within 24 hours; any repairs that require Blink to provide a replacement part will be completed within five business days with notification to the City as soon as possible; and any customer service issues not related to equipment shall be addressed within 24 hours.

Notice: Except where the terms of this Agreement expressly provide otherwise, any election, notice or communication required or permitted to be given under this Agreement shall be in writing and deemed to have been duly given if and when delivered personally (with receipt acknowledged), or three (3) days after depositing same in the U.S. mail, first class, with proper postage prepaid, or upon receipt if sending the same by certified mail, return receipt requested, or upon receipt when sent by a commercial courier service (such as Federal Express or DHL Worldwide Express) for expedited delivery to be confirmed in writing by such courier, at the addresses set forth below or to such other address as either party may from time to time designate in writing.

If intended for City, to:

City of San Antonio
Attn: Douglas Melnick,
Office of Sustainability
P.O. Box 839966
San Antonio, Texas 78283

If intended for Contractor, to:

Blink Charging Co.
Attn: Michael D. Farkas
407 Lincoln Road, Suite 704
Miami Beach, FL 33139



Assignment and Subcontracting: Contractor shall supply qualified personnel as may be necessary to complete the work to be performed under this Agreement. Persons retained to perform work pursuant to this Agreement shall be the employees or subcontractors of Contractor. Contractor, its employees or its subcontractors shall perform all necessary work. It is City's understanding, and this Agreement is made in reliance thereon, that Contractor intends to use: **TBD**. Any deviation from this subcontractor list, whether in the form of deletions, additions or substitutions shall be approved by the Director, prior to the provision of any services by said subcontractor.

Any work or services approved for subcontracting hereunder shall be subcontracted only by written contract and, unless specific waiver is granted in writing by the City, shall be subject by its terms to each and every provision of this Agreement. Compliance by subcontractors with this Agreement shall be the responsibility of Contractor. City shall in no event be obligated to any third party, including any subcontractor of Contractor, for performance of services or payment of fees. Any references in this Agreement to an assignee, transferee, or subcontractor, indicate only such an entity as has been approved by the Director.

Except as otherwise stated herein, Contractor may not sell, assign, pledge, transfer or convey any interest in this Agreement, nor delegate the performance of any duties hereunder, by transfer, by subcontracting or any other means, without the consent of the Director. As a condition of such consent, if such consent is granted, Contractor shall remain liable for completion of the services outlined in this Agreement in the event of default by the successor Contractor, assignee, transferee or subcontractor.

Any attempt to transfer, pledge or otherwise assign this Agreement without said written approval, shall be void ab initio and shall confer no rights upon any third person. Should Contractor assign, transfer, convey, delegate, or otherwise dispose of any part of all or any part of its right, title or interest in this Agreement, City may, at its option, cancel this Agreement and all rights, titles and interest of Contractor shall thereupon cease and terminate, in accordance with the termination provisions above, notwithstanding any other remedy available to City under this Agreement. The violation of this provision by Contractor shall in no event release Contractor from any obligation under the terms of this Agreement, nor shall it relieve or release Contractor from the payment of any damages to City, which City sustains as a result of such violation.

Nonwaiver of Performance: Unless otherwise specifically provided for in this Agreement, a waiver by either Party of a breach of any of the terms, conditions, covenants or guarantees of this Agreement shall not be construed or held to be a waiver of any succeeding or preceding breach of the same or any other term, condition, covenant or guarantee herein contained. Further, any failure of either Party to insist in any one or more cases upon the strict performance of any of the covenants of this Agreement, or to exercise any option herein contained, shall in no event be construed as a waiver or relinquishment for the future of such covenant or option. In fact, no waiver, change, modification or discharge by either party hereto of any provision of this Agreement shall be deemed to have been made or shall be effective unless expressed in writing and signed by the party to be charged. In case of City, such changes must be approved by the Director. No act or omission by a Party shall in any manner impair or prejudice any right, power, privilege, or remedy available

to that Party hereunder or by law or in equity, such rights, powers, privileges, or remedies to be always specifically preserved hereby.

Independent Contractor: Contractor covenants and agrees that he or she is an independent contractor and not an officer, agent, servant or employee of City; that Contractor shall have exclusive control of and exclusive right to control the details of the work performed hereunder and all persons performing same, and shall be responsible for the acts and omissions of its officers, agents, employees, contractors, subcontractors and consultants; that the doctrine of respondent superior shall not apply as between City and Contractor, its officers, agents, employees, contractors, subcontractors and consultants, and nothing herein shall be construed as creating the relationship of employer-employee, principal-agent, partners or joint venturers between City and Contractor. The parties hereto understand and agree that the City shall not be liable for any claims which may be asserted by any third party occurring in connection with the services to be performed by the Contractor under this Agreement and that the Contractor has no authority to bind the City.

Termination: For purposes of this Agreement, "termination" of this Agreement shall mean termination by expiration of the Agreement term as stated above, or earlier termination pursuant to any of the provisions hereof. This Agreement may be terminated without cause by City upon 90 calendar days written notice. Upon written notice City may terminate this Agreement as of the date provided in the notice, in whole or in part, upon the occurrence of the sale, transfer, pledge, conveyance or assignment of this Agreement without prior approval, as provided above in Assignment and Subcontracting, which shall constitute an Event for Cause under this Agreement.

Defaults With Opportunity for Cure. Should Contractor default in the performance of this Agreement in a manner stated in this section below, same shall be considered an event of default. City shall deliver written notice of said default specifying such matter(s) in default. Contractor shall have fifteen (15) calendar days after receipt of the written notice to cure such default. If Contractor fails to cure the default within such fifteen-day cure period, City shall have the right, without further notice, to terminate this Agreement in whole or in part as City deems appropriate, and to contract with another Contractor to complete the work required in this Agreement. City shall also have the right to offset the cost of said new Agreement with a new Contractor against Contractor's future or unpaid invoice(s), subject to the duty on the part of City to mitigate its losses to the extent required by law.

A. Blink shall fail to pay any revenue rebate or utility reimbursement as provided for in this Agreement and such failure shall continue for a period of ten (10) days after receipt by Blink of written notice thereof.

B. Blink shall neglect or fail to perform or observe any of the material terms, provisions, conditions or covenants herein contained, and if such neglect or failure should continue for a period of thirty (30) days after receipt by Blink of written notice of same, or if more than thirty (30) days shall be required because of the nature of the default, if Blink shall fail within said thirty (30) day period to commence and thereafter diligently proceed to cure such default.

C. Blink shall become insolvent; take the benefit of any present or future insolvency statute; make a general assignment for the benefit of creditors; file a voluntary petition in

ADF

bankruptcy or a petition or answer seeking a reorganization or the readjustment of its indebtedness under the federal bankruptcy laws, or under any other law or statute of the United States or of any state thereof; or consent to the appointment of a receiver, trustee or liquidator of all or substantially all of its property.

D. An Order of Relief shall be entered, at the request of Blink or any of its creditors, under federal bankruptcy, reorganization laws or any law or statute of the United States or any state thereof.

E. A petition under any part of the federal bankruptcy laws, or an action under any present or future insolvency law or statute, shall be filed against Blink and shall not be dismissed within thirty (30) days after the filing thereof.

F. Pursuant to, or under the authority of, any legislative act, resolution, rule, or any court, governmental, agency or board order or decree or officer, a receiver, trustee, or liquidator shall take possession or control of all or substantially all of the property of Blink and such possession or control shall continue in effect for a period of thirty (30) days.

G. Blink shall become a corporation in dissolution or voluntarily or involuntarily forfeit its corporate charter.

H. The rights of Blink hereunder shall be transferred to, pass to or devolve upon, by operation of law or otherwise, any other person, firm, corporation or other entity, in connection with or as a result of any bankruptcy, insolvency, trusteeship, liquidation or other proceeding or occurrence described in paragraphs C through G above.

I. Blink shall voluntarily discontinue its operations of the EVSE at any location for a period of sixty (60) consecutive days for reasons other than an act or omission of City, its agents, employees or contractors.

Termination By Law. If any state or federal law or regulation is enacted or promulgated which prohibits the performance of any of the duties herein, or, if any law is interpreted to prohibit such performance, this Agreement shall automatically terminate as of the effective date of such prohibition.

Regardless of how this Agreement is terminated, Contractor shall affect an orderly transfer to City or to such person(s) or firm(s) as the City may designate, at no additional cost to City, all completed or partially completed documents, papers, records, charts, reports, and any other materials or information produced as a result of or pertaining to the services rendered by Contractor, or provided to Contractor, hereunder, regardless of storage medium, if so requested by City, or shall otherwise be retained by Contractor in accordance with records retention requirements. Any record transfer shall be completed within thirty (30) calendar days of a written request by City and shall be completed at Contractor's sole cost and expense. Payment of compensation due or to become due to Contractor is conditioned upon delivery of all such documents, if requested.

Within forty-five (45) calendar days of the effective date of completion, or termination or expiration of this Agreement, Contractor shall submit to City its claims, in detail, for the monies owed by City for services performed under this Agreement through the effective date of termination. Failure by Contractor to submit its claims within said forty-five (45) calendar days shall negate any liability on the part of City and constitute a **Waiver** by Contractor of any and all right or claims to collect moneys that Contractor may rightfully be otherwise entitled to for services performed pursuant to this Agreement.

Upon the effective date of expiration or termination of this Agreement, Contractor shall cease all operations of work being performed by Contractor or any of its subcontractors pursuant to this Agreement.

Termination not sole remedy. In no event shall City's action of terminating this Agreement, whether for cause or otherwise, be deemed an election of City's remedies, nor shall such termination limit, in any way, at law or at equity, City's right to seek damages from or otherwise pursue Contractor for any default hereunder or other action.

Amendments: Except where the terms of this Agreement expressly provide otherwise, any alterations, additions, or deletions to the terms hereof, shall be effected by amendment, in writing, executed by both City and Contractor, and signed by the Director. Substantive changes shall require City Council approval.

THIS AGREEMENT SHALL BE CONSTRUED UNDER AND IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND ALL OBLIGATIONS OF THE PARTIES CREATED HEREUNDER ARE PERFORMABLE IN BEXAR COUNTY, TEXAS.

Any legal action or proceeding brought or maintained, directly or indirectly, as a result of this Agreement shall be heard and determined in the City of San Antonio, Bexar County, Texas.

Entire Agreement: This Agreement, together with its exhibits as listed above, constitute the final and entire agreement between the parties hereto and contain all of the terms and conditions agreed upon. No other agreements, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind the parties hereto, unless same be in writing, dated subsequent to the date hereto, and duly executed by the parties.

REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK

SIGNATURES ON NEXT PAGE

Agreed, Consented to, and Executed this 25th day of December, 2020.

CITY OF SAN ANTONIO

Blink Charging Company

BY: _____

Printed name:

Title:

CITY MANAGER, or designee

BY:  _____

Michael D. Farkas, Founder, Executive
Chairman and CEO

APPROVED AS TO FORM:

Office of the City Attorney
Andrew Segovia, City Attorney

By: _____

Assistant City Attorney

- 1. Exhibit I, a Request for Proposals (RFP) for “Publicly-Accessible Electric Vehicle (EV) Charging Infrastructure on City Property” (RFP 20-076; RFx 6100012932) issued by the City on July 1, 2020.**
- 2. Exhibit II, Addendum I to the RFP, dated July 21, 2020.**
- 3. Exhibit III, Price Schedule submitted by Blink as RFP Attachment B.**
- 4. Exhibit IV, Copy of the Enabling Ordinance, 2020-12-10-_____.**
- 5.. Exhibit V, Blink Charging Company Parking Agreement.**

