

#29
SEP 24 2015



Chandler • Arizona
Where Values Make The Difference

MEMORANDUM

City Manager – Council Memo MC16-004

DATE: SEPTEMBER 24, 2015
TO: MAYOR AND COUNCIL
THRU: MARSHA REED, ACTING CITY MANAGER *MR*
FROM: MARIAN NORRIS, ASSISTANT TO CITY MANAGER *mn*
SUBJECT: AGREEMENT WITH BLINK N.A. II TO HOST ELECTRIC VEHICLE CHARGING STATIONS AT VARIOUS CITY FACILITIES

RECOMMENDATION: Staff recommends approval of the Municipal Electric Vehicle Charging Services Agreement between BLINK N.A. II and the City of Chandler allowing for the operation and maintenance of Electric Vehicle charging stations at various city facilities (four locations) for five (5) years with an additional five (5) years renewal.

BACKGROUND/DISCUSSION: In 2012, the City of Chandler entered into an agreement with ECotality NA to host Electric Charging Stations at various city facilities. ECotality received funding from the U.S. Department of Energy to deploy vehicle charging infrastructure to promote the use of electric vehicles. ECotality worked with Maricopa Association of Governments (MAG) to establish standards for siting and permitting. The original agreement called for a 50/50 sharing of revenues generated. The term of the agreement was to December 2012 and was extended to December 2013.

ECotality went out of business in 2013. At that time BLINK acquired the ECotality network of assets. BLINK has been working with individual communities to develop new agreements for the operations of the existing car charging stations. The City has been working with BLINK to develop a new agreement that establishes new revenue sharing provisions as well as guaranteeing the City recovers our costs associated with the utilization of electricity by the charging stations.

There are currently four (4) charging station locations in Downtown Chandler with the ability of charging six vehicles. There are two stations at the San Marcos Hotel, two stations at Chandler Office Center, one station at the Downtown Chandler Public Library and one station in the City Hall Parking Garage (Exhibit A).

Most of the provisions of the original agreement with ECotality are the same with the BLINK agreement. The equipment is owned and maintained by BLINK. All operations and maintenance costs, as well as replacement costs are paid for by BLINK. The major change to the agreement is the revenue provision. The agreement with BLINK provides for a new revenue sharing arrangement. The City will receive 5% of net profits and BLINK will pay the City \$0.15 per kilowatt hour (kWh) of electricity utilized at each charging station. With this new revenue agreement, the City will not incur any out of pocket costs for the stations. In addition, with increased success of the stations, the City will share in the net profits.

FINANCIAL IMPLICATIONS: The City will receive 5% of the total net profits generated by the vehicle charging stations. The City will also be paid \$0.15 per kilowatt hour utilized by the charging stations. There is no out of pocket expense for the City. Since 2012 the City has received \$310.00 from the six existing charging stations.

PROPOSED MOTION: Move to approve the Municipal Electric Vehicle Charging Services Agreement between BLINK N.A. II and the City of Chandler allowing for the operation and maintenance of Electric Vehicle charging stations at various city facilities (four locations) for five (5) years with an additional five (5) years renewal.

ATTACHMENTS:

Municipal Electric Vehicle Charging Services Agreement
Exhibit A, Location Map



Car Charging Station Locations





MUNICIPAL ELECTRIC VEHICLE CHARGING SERVICES AGREEMENT

This Municipal Electric Vehicle Charging Services Agreement ("Agreement") is made between Blink N.A. II, LLC, an Arizona limited liability company with offices at 1691 Michigan Avenue, Suite #601, Miami Beach, Florida 33139 ("Provider" and the City of Chandler, a State of Arizona Municipality with offices at 175 S. Arizona Ave., Chandler, AZ 85225 ("Client") For and in consideration of the covenants, terms, conditions and agreements contained in this Municipal Electric Vehicle Charging Services Agreement (this "Agreement") relating to the electric vehicle charging infrastructure (the "Installed Equipment") located and/or to be located within the real property owned and/or leased by Client at the property address(es) listed on Schedule I, attached hereto and part hereof, and/or which may be added to this Agreement from time to time, and which real property shall be collectively referred to herein as the "Property." The parties hereby mutually agree and covenant for the Term of this Agreement and any renewals and/or extensions hereof, as follows:

1. **Services.** Pursuant to the Terms and Conditions set forth herein, Provider will service and operate electric vehicle charging equipment (the "Installed Equipment") wheresoever located on the Property. The Equipment shall be maintained by Provider or its approved subcontractors in areas specifically designated by Client for electric vehicle charging at the location(s) within the Property specifically set forth and/or depicted by diagrams on annexed Schedule I (as it may be updated from time to time throughout the Term of this Agreement) (hereinafter the "Designated Areas"). The services provided hereunder may be performed by Provider and/or its agent(s), affiliate(s) or subcontractor(s).

2. **Term of Agreement/Renewal/Removal of Equipment.**

2.1 The Term of this Agreement shall be five (5) years commencing on the latest date below; the Term shall renew for additional five (5) year terms upon mutual written agreement of the parties at least sixty (60) days prior to the end of the then-current Term. Should Client elect to terminate this Agreement prior to the expiration of the Initial Term, and Provider is not in default of this Agreement for any reason, Client shall pay Provider Equipment costs for any Additional Equipment as of the date of termination, pursuant to the attached Schedule III. The Equipment listed on Schedule I is not to be considered "Additional Equipment" hereunder and is not subject to payment by Client of any such equipment costs described in this paragraph.

2.2 Client hereby grants Provider the right, upon the termination of this Agreement, to enter upon the Property within sixty (60) days after such termination and to remove any and all Equipment (which all right, title and interest in said Equipment shall at all times during the term of this Agreement, be deemed property of Provider) as well as any other ancillary property of Provider relating thereto. Provider shall repair any damage caused from such removal, including but not limited to returning the area to a safe and acceptable condition to the satisfaction of the Client which shall not be reasonably withheld, excepting ordinary wear and tear, at the sole cost and expense of Provider and Provider shall coordinate removal of Equipment with Client. Provider shall only be required to return the area to the condition that it was in before the execution of this Agreement and for conditions caused by the Provider. Provider shall not be required to provide any other changes to the area.

3. **Additional Equipment.**

Subject to the approval by Client which shall not be unreasonably withheld, the parties may agree to the need for installation of additional Equipment on the Property ("Additional Equipment," together herein with Installed Equipment, "Equipment") based on usage and operational load. In the event Additional Equipment is installed on the Property, the Parties shall mutually determine the responsibility for the cost of any such installation at such time and the parties shall execute an Installation Date Acknowledgment establishing the Effective Date (based on the installation date of such Additional Equipment) for such Equipment, attached here in Schedule II. Provider shall perform all installations and work in such a way as to minimize interference with operation of the Property.

4. **Maintenance of Equipment and the Surrounding Property.**

4.1 Provider further agrees that it shall maintain and replace the Equipment as necessary to keep both in proper working order. During the Term of this Agreement, Provider, its employees, agents and vendors may enter upon the Property during normal business hours of Client, at any time upon reasonable agreement by the parties (except in the event of an emergency), for purposes of installing, inspecting, servicing and maintaining the Equipment. Client agrees that it shall not interfere, or cause its employees or agents to interfere with Provider in conjunction with the installation, service, maintenance, removal or data collection from the Equipment or in any way otherwise interfere with Provider's responsibilities under this Agreement.

4.2 Provider agrees to make available technical service support personnel to promptly service the Equipment, as described in Schedule V hereto, in a commercially reasonable manner. In the event Client knows of or becomes aware of any actual or potential claim against the Provider by any person or entity, or any actual or potential malfunction with the Equipment, Client shall notify Provider promptly of such actual or potential claim. Provider shall ensure the Equipment is clearly marked with Provider's or a designated contact party's telephone number for service issues.

4.3 Client agrees, at its own expense and at all times during the Agreement Term, to keep public areas, streets and sidewalks appurtenant to any Designated Areas, reasonably free of debris and rubbish and in good repair and condition. In addition, Client shall provide and maintain, in compliance with any applicable codes and statutes, such outdoor lights and lighting as may be required to illuminate the Designated Areas, and Equipment.

4.4 Upon installation of the Equipment, Provider shall have the right to install the following signage, or signage similar to the following (and in accordance with local jurisdictional rules) in the Designated Area(s) and on the Property:



(Actual Size: 12" x 18")

Provider shall pay all costs and expenses associated with the creation, installation, maintenance and removal of such signage.

5. Revenue.

5.1 Revenue Payment. Provider shall remit to Client five percent (5%) of the net profits generated by the Equipment, which shall include, but not be limited to, the gross revenues generated by electric vehicle charging fees, minus: (i) any and all applicable taxes, (ii) eight per cent (8%) transaction fees, and (iii) \$18.00 per month per charger in network/connectivity fees related to the operation of the Equipment (the "Revenue Payment"). Provider shall set all prices for charging fees on the Equipment. Any unpaid fees shall accrue to the next month. Should the fees described in (i), (ii) and (iii) above exceed the Revenue Payment at the end of any Term, the amount due from Client to Provider shall be waived at such time.

The Revenue Payment shall be issued by Provider to Client on or before the fifteenth (15th) day of each month immediately subsequent to the applicable monthly revenue period. Each payment will be accompanied by an activity report which will detail the number of transactions, the gross revenue received by Provider for the prior month from all sources and any charges incurred by Provider. Client shall be entitled to no additional payments beyond the Revenue Payment made hereunder. The foregoing notwithstanding, no Revenue Payment shall be sent to Client unless and until either (i) the aggregate amount due to Client exceeds \$25.00 or (ii) it is January 15th and there are unpaid Revenue Payments due to Client as of December 31st of the previous year. In the event no Revenue Payment is remitted during a particular month, Provider shall be entitled to send the activity report via email to Client at the email address provided herein.

5.2 Session Limits. The parties agree that Provider shall be solely responsible for issues relating to session time limits, third-party advertising fees or other charges relating to use of the Equipment by any party and that the Client shall approve any such advertising in writing in advance of such advertising appearing.

5.3 Collection of Revenue. Provider will determine, arrange for and supervise all revenues generated by the Equipment and/or Additional Equipment.

5.4 Electricity Charges. Provider shall reimburse Client for electricity at the rate of fifteen cents (\$0.15) per kilowatt hour, in accordance with the usage indicated by the separate meter within the Equipment. The Parties shall reevaluate the rate for appropriateness every two (2) years within the term and mutually determine if any adjustment is necessary. The Electricity Charge Reimbursement shall be issued by Provider to Client on or before the fifteenth (15th) day of each subsequent month to the applicable monthly period of usage. No Electricity Charge Reimbursement shall be sent to Client unless and until either (i) the aggregate amount due to Client exceeds \$25.00 or (ii) it is January 15th and there are unpaid Electricity Charge Reimbursements due to Client as of December 31st of the previous year .

6. Equipment Upgrade. Client hereby acknowledges that notwithstanding anything to the contrary herein, at any time during the Term of this Agreement, Provider may, upon mutual agreement by the Parties upgrade any Equipment within the Designated Areas. Provider shall be solely responsible for any costs involved with such upgrade.

7. Relocation. Client hereby acknowledges that notwithstanding anything to the contrary herein, at any time during the Term of this Agreement, Provider may, upon mutual agreement by the Parties, relocate or remove Equipment to the extent that a specific location within the Designated Areas is not performing to Provider's specifications. Provider shall be solely responsible for any costs involved in the relocation or removal of any Equipment.

8. Indemnification.

8.1 Client shall indemnify Provider and hold it harmless from and against any and all claims, actions, damages, liabilities and expenses incurred in connection with loss of life, personal injury and/or damage to property arising out of the negligence or misconduct of Client, its agents, employees or servants, including costs and reasonable attorneys' fees incurred as a result thereof or in enforcement of this Section.

8.2 Provider shall indemnify Client and hold it harmless from and against any and all claims, actions, damages, liabilities and expenses incurred in connection with loss of life, personal injury and or damage to property arising out of the negligence or misconduct of Provider, its agents, employees or servants including costs and reasonable attorneys' fees incurred as a result thereof or in enforcement of this Section.

9 Exclusive Right/Option/Reimbursement.

9.1 Client agrees that it will not contract with any entity other than Provider to install, maintain, service or operate any electric vehicle charging equipment during the Term of this Agreement on the Property referenced in Schedule I hereto. Therefore, at any time during the Term of this Agreement, should it be determined by mutual Agreement of the Parties that Additional Equipment be installed, on the Property, Provider shall have the exclusive right to install, maintain, operate and service the Equipment at such location. This Agreement shall be updated to reflect each additional Property added during the Term of this Agreement and each additional Designated Area added during the Term of this Agreement shall be added via the form in Schedule II and the form shall be acknowledged by the parties to reflect such additions. The determination of the appropriate ratio of Equipment in a Designated Area under this Agreement shall be made by mutual agreement of the Parties.

9.2 Upon the termination of this Agreement, Provider shall have a right of first refusal to match the terms of any proposal by another vendor/company to supply any other electric vehicle charging equipment, facilities or services provided by Provider at the Property, including any future properties added to the scope of this Agreement by amendment, addenda or other writing between the parties.

10. Licenses/Permits. Provider agrees that it shall obtain any and all necessary licenses and/or permits for the installation and operation of the Equipment.

11. Breach. Should either Party breach any substantial or material term of this Agreement, and where such breach shall not have been cured within sixty (60) days after receipt of written notice from the non-breaching party specifying the breach, the non-breaching party shall have the right, at the option of the non-breaching party, to (i) terminate this Agreement, whereupon, neither party shall have any further rights, obligations or liabilities hereunder, except as otherwise expressly provided herein, or (ii) continue this Agreement in full force and effect, notwithstanding the occurrence of such default. Except as otherwise provided in this Agreement, the rights and remedies granted in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any other agreement between the parties or otherwise.

12. Injunctive Relief. The parties recognize that with regard to the sole issue of Provider's Trade Secrets, injunctive relief is an appropriate remedy.

13. Binding. This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns. Nothing contained in it, whether expressed or implied, is intended to give nor shall be construed as giving anyone other than the parties and the named Client and their respective successors or assigns any rights under this Agreement This Agreement may not be assigned by either Party without the prior consent of the other party except that the Agreement may be assigned by Provider to a parent, a wholly-owned subsidiary, an affiliate, any entity with which it might merge, or to any successor-in-interest without notice to or consent of Client.

14. Governing Law, Jurisdiction, Venue and Waiver of Jury Trial. This Agreement shall be governed by the laws of the State of Arizona, without regard to conflict of laws. Any suit involving any dispute or matter arising under this Agreement may only be brought in State or Federal Court of Maricopa County, Arizona, which shall have jurisdiction over the subject matter of the dispute or matter. Provider and City irrevocably waive any objection that they now have or hereafter may have to the laying of venue of any suit, action or proceeding brought in any such court and further irrevocably waive any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

15. Ownership of Equipment. The parties expressly acknowledge that some of the Equipment may have been financed through the ChargePoint America program, the EV Project, the American Recovery and Reinvestment Act ("AARA"), or another grant-based program. The parties further expressly acknowledge and understand that, as between Client and Provider and regardless of whether or not such Equipment was sponsored through a grant program or otherwise financed, all right, title and interest in and to the Equipment shall at all times be and remain the property of Provider.

16. Notices: Any notice required to be given or otherwise given pursuant to this Agreement shall be in writing and shall be hand delivered, mailed by certified mail, return receipt requested or sent recognized overnight courier service to the addresses listed above, and for Provider, with a copy to The Bernstein Law Firm, 1688 Meridian Avenue, Suite #418, Miami Beach, FL 33139.

17. **Insurance.** At all times during the term of this Agreement, Provider shall keep and maintain insurance as may be required by law or as may be adequate to cover the activities contemplated by this Agreement and as described on Schedule IV hereeto. Provider shall further procure and maintain, at its own cost and expense and at all times during the Agreement term, comprehensive general liability insurance. Provider shall furnish to Client, upon request during the term of the Agreement, a certificate of insurance evidencing such insurance is in full force and effect.
18. **Informational Assistance.** Client agrees to place a link on a website maintained by it to www.carcharging.com and/or www.blinknetwork.com for users to reach Provider and/or obtain more information about Provider's electric vehicle chargers. Provider agrees to place a link on its website to inform users of Client's location.
19. **Attorneys' Fees.** In the event of any dispute hereunder, the prevailing party shall be entitled to recover all costs and expenses incurred by it in connection with the enforcement of this Agreement, including all attorneys' fees on both trial and appellate levels.
20. **Relationship of the Parties.** Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the parties hereto and neither party shall have authority or power to bind the other or to contract in the name of, nor create a liability against, the other in any way or for any purpose.
21. **Force Majeure.** If Provider shall be delayed in or prevented from the performance of any act required under this Agreement by reason of any strike, lockout, labor trouble, inability to procure materials or energy, failure of power, hurricane, 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 Provider, 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.
22. **Condemnation.** If any of the Designated Areas shall be taken for public or quasi-public use by any public or quasi-public authority under the power of eminent domain, Client shall make best commercial efforts to provide another Designated Area for the Equipment.
23. **Stoppel Certificate.** From time to time during the Term, Client agrees upon request in writing from Provider to execute, acknowledge and deliver to Provider a statement in writing certifying that this Agreement is unmodified and in full force and effect (or if there have been modifications that the same is in full force and effect as modified) and the dates to which the Revenue Payment has been made.
24. **Exhibits and Schedules.** All exhibits and schedules attached to this Agreement and referred to herein are hereby incorporated by reference as if fully set forth herein.
25. **Proprietary Data.** City, by executing this Agreement, specifically acknowledges and agrees that Provider owns all right, title and interest in any records, files and/or data collected or produced by the Equipment on the Property (the "Proprietary Data") and same shall be deemed the proprietary and exclusive property of Provider. Provider shall allow City access to such Proprietary Data during the term of this Agreement solely for its own internal purposes, subject to the aforesaid ownership interests of Provider with such access by City concluded immediately upon termination or expiration of this Agreement. City may not disclose any such Proprietary Data to any person, firm, corporation, association or other third party entity for any reason or purpose whatsoever without the prior written consent of an authorized representative of Provider or a lawful Court Order, provided however, that nothing herein shall be interpreted as preventing City from using the Proprietary Data for use in verifying the accuracy of the Revenue Payment made by Provider hereunder or to comply with a public records request or subpoena pursuant to Arizona or federal law. In the event City elects to inspect such records required to verify such accuracy, City shall only have access to records, files and/or data relating to City's Property and Equipment.
26. **No Third-Party Rights.** The provisions of this Agreement are for the exclusive benefit of Provider and Client only, and no other party shall have any right or claim against either party or be entitled to enforce any provisions hereunder against any party hereto.
27. **Headings.** The headings in this Agreement are used for convenience only and shall not be used to define, limit or describe the scope of this Agreement or any of the obligations herein.
28. **Final Agreement.** The terms and conditions described herein are made a part of the Agreement and expressly incorporated by reference therein. This Agreement constitutes the final understanding and agreement between the parties with respect to the subject matter hereof and supersedes all prior negotiations, understandings and agreements between the parties, whether written or oral. This Agreement may be amended, supplemented or changed only by a written agreement executed by authorized representatives of both Parties.
29. **Severability.** If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement, including all of the remaining terms and provisions, shall remain in full force and effect and the invalid provision shall be replaced by a valid and enforceable provision that most closely effects the intent of the invalid provision.
30. **Press Releases/Public Filings.** Client acknowledges that Provider and/or its parent may publish information relating to this Agreement in any manner necessary to fulfill any regulatory responsibilities under the Securities Exchange Act of 1934 or other applicable law. Client further

agrees that information concerning this Agreement may be released as a press release by Provider and/or its parent, but will be released in good faith coordination with Client. Client agrees that Provider may name Client as a customer in Provider's marketing materials.

31. **Confidentiality.** Client will keep Confidential those items marked as Confidential by Provider. Client is subject to the Arizona Public Records Law, and, if there is a Public Records Request for the documents marked "Confidential", Client will notify Provider of the request and allow Provider to obtain an injunction from Maricopa County Superior Court barring disclosure of such documents. Client will allow Provider 5 business days to obtain such a Court Order. Client will not represent Provider in any capacity in seeking such a court order and will not be responsible for any fees or costs including but not limited to attorneys' fees in seeking such a Court Order.

32. **Conflict of Interest.** Provider stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract.

Pursuant to A.R.S. Section 38-511, the City may cancel this contract within three (3) years after its execution without penalty or further obligation by the City if any person significantly involved in initiating, negotiating, securing, drafting or creating the contract on behalf of the City of Chandler is, at any time while the contract is in effect, an employee of the other party to the contract in any capacity or a consultant to any other party of the contract with respect to the subject matter of the contract.

33. **Counterparts.** This Agreement may be executed in any number of counterparts (including facsimile or scanned versions), each of which shall be an original but all of which together will constitute one instrument.

34. **Further Assurances.** Each party shall do and perform, or cause to be done and performed, all such further acts and things, and shall execute and deliver all such other agreements, certificates, instruments and documents, as the other party may reasonably request in order to carry out the intent and accomplish the purposes of this Agreement and the consummation of the transactions contemplated hereby, including, without limitation, documentation that may be required by permitting offices, granting agencies or third party partners of Provider.

35. **Authority.** Each Party represents and warrants that it has the requisite power and authority to enter into this Agreement.

36. **Immigration Warranty:** Pursuant to the provisions of A.R.S. § 41-4401, the Provider hereby warrants to the City that the Contractor and each of its subcontractors ("Subcontractors") will comply with all Federal Immigration laws and regulations that relate to the immigration status of their employees and the requirement to use E-Verify set forth in A.R.S. §23-214(A) (hereinafter "Contractor Immigration Warranty").

A breach shall constitute a material breach of this Contract that is subject to penalties up to and including termination of the contract.

The City retains the legal right to inspect the papers of any Provider or Subcontractor employee who works on this Contract to ensure that the Provider or Subcontractor is complying with the Contractor Immigration Warranty. The Contractor agrees to assist the City in the conduct of any such inspections.

The City may, at its sole discretion, conduct random verifications of the employment records of the Provider and any Subcontractors to ensure compliance with Contractors Immigration Warranty. Provider agrees to assist the City in performing any such random verification.

The provisions of this Article must be included in any contract the Provider enters into with any and all of its subcontractors who provide services under this Contract or any subcontract. "Services" are defined as furnishing labor, time or effort in the State of Arizona by a contractor or subcontractor. Services include construction or maintenance of any structure, building or transportation facility or improvement to real property.

37. **Email Address for Receipt of Activity Reports:** Marian.Norris@chandleraz.gov

38. Payment Remittance. All payments due to Client hereunder shall be sent to the following address:

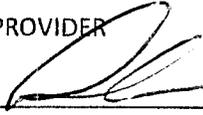
Payee Name (if different from Client):
Payee Address:
FEIN (if different from Client): 86-6000238

IN WITNESS WHEREOF, the parties have herunto subscribed their names to this ____ day of _____, 2015.

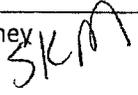
FOR THE CITY OF CHANDLER

MAYOR

FOR THE PROVIDER

By:  _____
Signature PRESIDENT

APPROVED AS TO FORM:

City Attorney 

ATTEST:

City Clerk

SEAL

ATTEST: If Corporation

Schedule I – Installed Equipment

Location	Type of Chargers	Number of Chargers	Serial Numbers
Library 22 S Delaware, Chandler, AZ 85225	Level 2 Pedestal	1	208079
Office Center 55 N. Arizona Place, Chandler, AZ 85225	Level 2 Pedestal	2	210823, 212422
Park Side 11 W Buffalo St., Chandler, AZ 85225	Level 2 Pedestal	2	212413, 212421
City Hall Parking Garage, 240 S Wahshington St., Chandler, AZ 85225	Level 2 Wall Mount	1	215895



Schedule II – Additional Equipment Installation Date Acknowledgment Form

For the purposes of determining the installation date for Additional Equipment installed during the Term of this Agreement, the following date shall be deemed the acknowledgement of the initial date of installation of the Additional Equipment at the following location(s):
Include detailed diagram, plan and/or map of the location indicating exact location and position of the Equipment.

SCHEDULE III – Equipment Cost Schedule

Month	Beginning Net Book Value	Depreciation Expense	Ending Net Book Value
1	\$ 2,249.00	\$ (37.48)	\$ 2,211.52
2	\$ 2,211.52	\$ (37.48)	\$ 2,174.04
3	\$ 2,174.04	\$ (37.48)	\$ 2,136.56
4	\$ 2,136.56	\$ (37.48)	\$ 2,099.08
5	\$ 2,099.08	\$ (37.48)	\$ 2,061.60
6	\$ 2,061.60	\$ (37.48)	\$ 2,024.12
7	\$ 2,024.12	\$ (37.48)	\$ 1,986.64
8	\$ 1,986.64	\$ (37.48)	\$ 1,949.16
9	\$ 1,949.16	\$ (37.48)	\$ 1,911.68
10	\$ 1,911.68	\$ (37.48)	\$ 1,874.20
11	\$ 1,874.20	\$ (37.48)	\$ 1,836.72
12	\$ 1,836.72	\$ (37.48)	\$ 1,799.24
13	\$ 1,799.24	\$ (37.48)	\$ 1,761.76
14	\$ 1,761.76	\$ (37.48)	\$ 1,724.28
15	\$ 1,724.28	\$ (37.48)	\$ 1,686.80
16	\$ 1,686.80	\$ (37.48)	\$ 1,649.32
17	\$ 1,649.32	\$ (37.48)	\$ 1,611.84
18	\$ 1,611.84	\$ (37.48)	\$ 1,574.36
19	\$ 1,574.36	\$ (37.48)	\$ 1,536.88
20	\$ 1,536.88	\$ (37.48)	\$ 1,499.40
21	\$ 1,499.40	\$ (37.48)	\$ 1,461.92
22	\$ 1,461.92	\$ (37.48)	\$ 1,424.44
23	\$ 1,424.44	\$ (37.48)	\$ 1,386.96
24	\$ 1,386.96	\$ (37.48)	\$ 1,349.48
25	\$ 1,349.48	\$ (37.48)	\$ 1,312.00
26	\$ 1,312.00	\$ (37.48)	\$ 1,274.52
27	\$ 1,274.52	\$ (37.48)	\$ 1,237.04
28	\$ 1,237.04	\$ (37.48)	\$ 1,199.56
29	\$ 1,199.56	\$ (37.48)	\$ 1,162.08
30	\$ 1,162.08	\$ (37.48)	\$ 1,124.60
31	\$ 1,124.60	\$ (37.48)	\$ 1,087.12
32	\$ 1,087.12	\$ (37.48)	\$ 1,049.64
33	\$ 1,049.64	\$ (37.48)	\$ 1,012.16
34	\$ 1,012.16	\$ (37.48)	\$ 974.68
35	\$ 974.68	\$ (37.48)	\$ 937.20
36	\$ 937.20	\$ (37.48)	\$ 899.72
37	\$ 899.72	\$ (37.48)	\$ 862.24
38	\$ 862.24	\$ (37.48)	\$ 824.76
39	\$ 824.76	\$ (37.48)	\$ 787.28
40	\$ 787.28	\$ (37.48)	\$ 749.80
41	\$ 749.80	\$ (37.48)	\$ 712.32
42	\$ 712.32	\$ (37.48)	\$ 674.84
43	\$ 674.84	\$ (37.48)	\$ 637.36
44	\$ 637.36	\$ (37.48)	\$ 599.88
45	\$ 599.88	\$ (37.48)	\$ 562.40
46	\$ 562.40	\$ (37.48)	\$ 524.92
47	\$ 524.92	\$ (37.48)	\$ 487.44
48	\$ 487.44	\$ (37.48)	\$ 449.96
49	\$ 449.96	\$ (37.48)	\$ 412.48
50	\$ 412.48	\$ (37.48)	\$ 375.00
51	\$ 375.00	\$ (37.48)	\$ 337.52
52	\$ 337.52	\$ (37.48)	\$ 300.04
53	\$ 300.04	\$ (37.48)	\$ 262.56
54	\$ 262.56	\$ (37.48)	\$ 225.08
55	\$ 225.08	\$ (37.48)	\$ 187.60
56	\$ 187.60	\$ (37.48)	\$ 150.12
57	\$ 150.12	\$ (37.48)	\$ 112.64
58	\$ 112.64	\$ (37.48)	\$ 75.16
59	\$ 75.16	\$ (37.48)	\$ 37.68
60	\$ 37.68	\$ (37.58)	\$ 0.10

Schedule IV
INSURANCE REQUIREMENTS

1. General.

A. At the same time as execution of this Agreement, the Provider shall furnish the Client a certificate of insurance on a standard insurance industry ACORD form. The ACORD form must be issued by an insurance company authorized to transact business in the State of Arizona possessing a current A.M. Best, Inc. rating of A-7, or better and legally authorized to do business in the State of Arizona with policies and forms satisfactory to CITY. Provided, however, the A.M. Best rating requirement shall not be deemed to apply to required Worker's Compensation coverage.

B. The Provider and any of its subcontractors shall procure and maintain, until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, the insurances set forth below.

C. The insurance requirements set forth below are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

D. The Client in no way warrants that the minimum insurance limits contained in this Agreement are sufficient to protect Provider from liabilities that might arise out of the performance of the Agreement services under this Agreement by Provider, its agents, representatives, employees, or subcontractors and the Provider is free to purchase any additional Insurance as may be determined necessary.

E. Failure to demand evidence of full compliance with the insurance requirements in this Agreement or failure to identify any insurance deficiency will not relieve the Provider from, nor will it be considered a waiver of its obligation to maintain the required insurance at all times during the performance of this Agreement.

F. Use of Subcontractors: If any work is subcontracted in any way, the Provider shall execute a written agreement with Subcontractor containing the same Indemnification Clause and Insurance Requirements as the Client requires of the Provider in this Agreement. The Provider is responsible for executing the Agreement with the Subcontractor and obtaining Certificates of Insurance and verifying the insurance requirements.

2. Minimum Scope and Limits of Insurance. The Provider shall provide coverage with limits of liability not less than those stated below.

A. **Commercial General Liability-Occurrence Form.** Provider must maintain "occurrence" form Commercial General Liability insurance with a limit of not less than \$2,000,000 for each occurrence, \$4,000,000 aggregate. Said insurance must also include coverage for products and completed operations, independent contractors, personal injury and advertising injury. If any Excess insurance is utilized to fulfill the requirements of this paragraph, the Excess insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

B. **Automobile Liability-Any Auto or Owned, Hired and Non-Owned Vehicles**

Vehicle Liability: Provider must maintain Business/Automobile Liability insurance with a limit of \$1,000,000 each accident on Provider owned, hired, and non-owned vehicles assigned to or used in the performance under this Agreement. If any Excess or Umbrella insurance is utilized to fulfill the requirements of this paragraph, the Excess or Umbrella insurance must be "follow form" equal or broader in coverage scope than underlying insurance.

C. **Workers Compensation and Employers Liability Insurance:** Provider must maintain Workers Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction of Provider employees engaged in the performance of Work under this Agreement and must also maintain Employers' Liability insurance of not less than \$1,000,000 for each accident and \$1,000,000 disease for each employee.

D. **Builders' Risk/Installation Floater Insurance:** The Provider bears all responsibility for loss to all equipment or Work under construction. Unless waived in writing by the Client the Provider will purchase and maintain in force Builders' Risk/Installation Floater insurance on the entire Work until completed and accepted by the Client. This insurance will be Special Causes of Loss policy form, (minimally including perils of fire, flood, lightning, explosion, windstorm and hail, smoke, aircraft and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, and collapse), completed value, replacement cost policy form equal to the contract price and all subsequent modifications. The Provider's Builders' Risk/Installation Floater insurance must be primary and not contributory.

1. Builders' Risk/Installation Floater insurance must cover the entire Work including reasonable compensation for architects and engineers' services and expenses and other "soft costs" made necessary by an insured loss. Builders' Risk/Installation Floater insurance must provide coverage from the time any covered property comes under the Provider's control and or responsibility, and continue without interruption during course of construction, renovation and or installation, including any time during which any project property or equipment is in transit, off site, or while on site for future use or installation. Insured property must include, but not be limited to, scaffolding, false work, and temporary buildings at the site. This insurance must also cover the cost of removing debris, including demolition as may be legally required by operation of any law, ordinance, regulation or code.

2. The Provider must also purchase and maintain Boiler and Machinery insurance with the same requirements as Builders' Risk/Installation Floater insurance cited above if the Work to be performed involves any exposures or insurable property normally covered under a Boiler and Machinery insurance policy or made necessary as required by law or testing requirements in the performance of this

Agreement. The Provider will be responsible for any and all deductibles under these policies and the Provider waives all rights of recovery and subrogation against the Client under the Provider- Builders' Risk/Installation Floater insurance described herein.

3. Builders' Risk/Installation Floater Insurance must be maintained until whichever of the following first occurs: (i) final payment has been made; or, (ii) until no person or entity, other than the Client, has an insurable interest in the property required to be covered.

a. The Builders' Risk/Installation Floater insurance must be endorsed so that the insurance will not be canceled or lapse because of any partial use or occupancy by the Client.

b. The Builders Risk/Installation Floater insurance must include as named insureds, the Client, the Provider, and all tiers of subcontractors and others with an insurable interest in the Work who will be named as additional insureds unless they are able to provide the same level of coverage with the Client and Provider named as additional insureds. Certificates must contain a provision that the insurance will not be canceled or materially altered without at least 30 days advance notice to the Client. The Client must also be named as a Loss Payee under the Builders' Risk/Installation Floater coverage.

c. The Builders Risk/Installation Floater insurance must be written using the Special Causes of Loss policy form, replacement cost basis.

d. All rights of subrogation under the Builders Risk/Installation Floater insurance are, by this Agreement, waived against the Client, its officers, officials, agents and employees.

e. The Provider is responsible for payment of all deductibles under the Builders' Risk/Installation Floater insurance policy.

3. Additional Policy Provisions Required.

A. **Self-Insured Retentions Or Deductibles.** Any self-insured retentions and deductibles must be declared and approved by the Client. If not approved, the Client may require that the insurer reduce or eliminate any deductible or self-insured retentions with respect to the Client, its officers, officials, agents, employees, and volunteers.

B. **City as Additional Insured.** The policies are to contain, or be endorsed to contain, the following provisions:

1. The Commercial General Liability and Automobile Liability policies are to contain, or be endorsed to contain, the following provisions: The Client, its officers, officials, agents, and employees are additional insureds with respect to liability arising out of activities performed by, or on behalf of, the Provider including the Client's general supervision of the Provider; Products and Completed Operations of the Provider; and automobiles owned, leased, hired, or borrowed by the Provider.

2. The Provider's insurance must contain broad form contractual liability coverage and must not exclude liability arising out of explosion, collapse, or underground property damage hazards ("XCU") coverage.

3. The Client, its officers, officials, agents, and employees must be additional insureds to the full limits of liability purchased by the Provider even if those limits of liability are in excess of those required by this Agreement.

4. The Provider's insurance coverage must be primary insurance with respect to the Client, its officers, officials, agents, and employees. Any insurance or self-insurance maintained by the Client, its officers, officials, agents, and employees shall be in excess of the coverage provided by the Provider and must not contribute to it.

5. The Provider's insurance must apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

6. Coverage provided by the Provider must not be limited to the liability assumed under the indemnification provisions of this Agreement.

7. The policies must contain a severability of interest clause and waiver of subrogation against the Client, its officers, officials, agents, and employees, for losses arising from Work performed by the Provider for the Client.

8. The Provider, its successors and or assigns, are required to maintain Commercial General Liability insurance as specified in this Agreement for a minimum period of 3 years following completion and acceptance of the Work. The Provider must submit a Certificate of Insurance evidencing Commercial General Liability insurance during this 3 year period containing all the Agreement insurance requirements, including naming the required Additional Insureds set forth herein.

9. If a Certificate of Insurance is submitted as verification of coverage, the Client will reasonably rely upon the Certificate of Insurance as evidence of coverage but this acceptance and reliance will not waive or alter in any way the insurance requirements or obligations of this Agreement. If any of the required policies expire during the life of this Agreement, the Provider must forward renewal or replacement Certificates to the Client within 10 days after the renewal date containing all the required insurance provisions.

Schedule V

Upon City entering into this Agreement, Provider agrees it shall be bound to provide the following Maintenance Services for all Installed Equipment (the "Equipment") at City's Properties:

1. Upon the report to Provider by City of an issue with the Equipment, Provider shall take no less than one (1) day to investigate and diagnose the problem;
2. If Provider confirms that service of the Equipment is needed, Provider shall assign any such service case to a local, area technician to schedule services in conjunction with City;
3. Provider shall ensure that either Provider or service technicians follow up with City to schedule services within one (1) business day of any case assignments; and,
4. Provider shall ensure that all service technicians shall be able to remedy any on-site Equipment issues within two (2) business days from the point of visiting City's property and determining the problem (if any) with the Equipment.