

ELECTRIC VEHICLE CHARGING EQUIPMENT TRANSFER AGREEMENT

This Electric Vehicle Charging Equipment Transfer Agreement ("Agreement") is made this ____ day of _____, 2024 by and between **Imagen Energy, Inc.** ("Vendor") and the **City of San Antonio, Texas**, a Texas Municipal Corporation, acting by and through its City Manager ("City").

WITNESSETH:

WHEREAS, in April of 2024, City entered into a Memorandum of Understanding with the Advanced Research Projects Agency-Energy ("ARPA-E"), an agency within the United States Department of Energy, CPS Energy, and the University of Texas at San Antonio, the goals of which were to develop and promote technologies that include, but are not limited to, sustainable aviation, battery technologies and innovative battery storage solutions, enhanced electric vehicle (EV) charging, and power demand management technologies; and

WHEREAS, Imagen Energy, Inc ("Vendor") is an awardee under ARPA-E's SCALEUP ("Seeding Critical Advances for Leading Energy technologies with Untapped Potential") program; and

WHEREAS, Vendor wishes to provide experimental software and network enabled electric vehicle charging equipment to be installed and utilized at San Antonio International Airport, pursuant to the ARPA-E Memorandum of Understanding; and

WHEREAS, Vendor is the owner of the electric vehicle charging equipment, described in **Exhibit I** ("Transferred Property"); and

WHEREAS, Vendor desires to transfer the Transferred Property to City in accordance with the terms of this Agreement and subject to ABB e-mobility's General Terms and Conditions for Sale of Goods and Services, as outlined in Exhibit III, which is incorporated by reference; and

WHEREAS, City acknowledges that the transfer of the Transferred Property will benefit City and desires to accept the transfer of the Transferred Property in accordance with the terms of this Agreement;

NOW, THEREFORE, in consideration of the foregoing, which is hereby deemed a contractual part hereof, and in consideration of the mutual promises, covenants and agreements hereinafter set forth, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do agree as follows:

1. **Closing.** As a transfer, and without condition other than City's agreements as set forth in this Agreement, Vendors agree to transfer to City all of its interest in the Transferred Property at a closing (the "Closing") on a mutually agreed upon date subsequent to the date of this Agreement. The transfer of the Transferred Property may be by document of conveyance, should such be reasonably requested by City.

2. **Condition of Transferred Property.** City acknowledges and agrees that Vendors are transferring, and City is accepting the Transferred Property in an as-is condition. The condition, warranties, and liabilities related to the Transferred Property are governed solely by the standard terms and conditions of ABB e-mobility, as outlined in Exhibit III, which is incorporated by reference into this Agreement..

3. **Indemnification.** Vendor's transfer of the Transferred Property is subject to the standard terms and conditions of ABB E-mobility, which shall govern this Agreement. City acknowledges and agrees that any indemnification provisions within those terms shall apply only to the extent permitted by Texas law.

4. **Delivery, Possession, Duration and Decommissioning.** Vendor shall deliver possession of the Transferred Property subsequent to Closing at which time title shall pass. The estimated value of the Transferred Property and associated costs is approximately Three Hundred Thousand Dollars (\$300,000.00). The first unit is anticipated to be delivered in late Fall of 2024, with the second unit expected in Q1 of 2025.. At such time, the Transferred Property shall become part of the City of San Antonio's equipment inventory. Further, the Parties agree that delivery, placement, and installation of the Transferred Property shall be at the sole cost and expense of City. The estimated costs for installation of the unit(s) is approximately Thirty Thousand Dollars (\$30,000.00). The Transferred Property will be installed at the Flight Safety Building at San Antonio International Airport. The unit(s) will remain at San Antonio International Airport for at least ten (10) years, or until the unit(s) are no longer serviceable. Decommissioning assistance, if required, will be subject to mutual agreement at that time.

ABB E-mobility's Enterprise Care Service Level Agreement (SLA) for three years will also be included as part of the transfer to ensure ongoing support and service, providing regular maintenance and service coverage as specified by ABB E-mobility.

5. **Mutual Representations.** The Parties represent that they each have the full right, power, and authority to execute and deliver this Agreement and to consummate the transaction provided for herein without obtaining any further consents or approvals from, or the taking of any other actions with respect to third parties.

6. **City Representations.** City represents to Vendor that as of the date hereof and as of Closing:

(a) City is a municipality validly existing and in good standing under the laws of the State of Texas, has duly authorized the execution and performance of this Agreement, and such execution and performance will not violate any term of its City Charter;

(b) City is exempt from Federal income tax and is a political subdivision of the State of Texas as required by Section I 70(c)(1) of the Internal Revenue Code of 1986; is similarly exempt and classified under the tax laws of the State of Texas;

(c) City has not had any dealings, negotiations or consultations with any broker, agent, representative, salesperson, employee, or other intermediary in connection with this

Agreement or the transfer or acceptance of the Transferred Property which would give rise to a broker's commission or finder's fee, commission or fee; and

(d) No payments have been made, directly or indirectly, by or on behalf of City to or for the benefit of Vendors' employee or agent who may reasonably be expected to influence any of Vendors' decisions to enter into this Agreement, or the transfer contemplated by this Agreement (as used herein "payment" shall include money, property, services and all other forms of consideration).

(e) Pursuant to the ARPA-E MOU, City agrees to provide Imagen Energy and its project team members, and ARPA-E, access to performance data associated with the use of the electric vehicle charging station(s). This data may be provided with on-line portal access, or through on-site visits.

(f) City confirms that the Transferred Property shall only be used to charge City-owned vehicles. No use of the charging stations by any other parties shall be allowed.

7. **Vendor's Representations.** Vendor covenants, represents and warrants to City that as of the date of this Agreement and as of Closing, Vendor:

(a) warrants and represents that it owns good and indefeasible title to the Transferred Property and that there are no other sales contracts outstanding for acquisition, license or lease of the Transferred Property;

(b) warrants and represents that there are no actions, suits, claims, assessments, or proceedings pending or, to the knowledge of Vendor, threatened that could materially adversely affect the ownership, operation, or maintenance of the Transferred Property or Vendor's ability to perform under this Agreement; and

(c) warrants and represents that all bills and other payments due with respect to the ownership, operation, and maintenance of the Transferred Property have been paid or will be paid prior to the Closing Date.

8. **Non-Disclosure.** Neither Vendor nor City shall ever disclose to any third party the financial terms of this Transfer Agreement except as may be required by law or except as may be approved in writing by the other party. No press release shall be issued by either party without the prior written consent of the other party (which consent may be withheld or delayed in such party's sole and absolute discretion), and in no event shall any press release disclose the financial terms of this Agreement. Notwithstanding the foregoing, Vendor acknowledges and understands that City is subject to the Texas Public Information Act ("Act") and that the financial terms are subject to this Act.

9. **Notices.** Any notice required or permitted under this Agreement shall be given in writing and shall be effective for all purposes if hand delivered to the party designated below or if sent by (a) certified or registered United States mail, postage prepaid; or (b) by expedited delivery service, either commercial or United States Postal Service, with proof of delivery; or (c) by telecopy

(provided that such telecopy is confirmed by expedited delivery service or by mail in the manner previously described), addressed as follows:

If to the Vendor:

Imagen Energy, Inc
Attn.: Don Melnikoff, COO
1225 Discovery Parkway
Wauwatosa, WI 53226

If to the City:

City of San Antonio
Aviation Department
Attn: Steven Southers
9800 Airport Blvd.
San Antonio, Texas 78216

or to such other address and person as shall be designated from time to time by either party in a written notice to the other in the manner provided for in this paragraph. The notice shall be deemed to have been given at the time of delivery if hand delivered, or in the case of registered or certified mail, three (3) business days after deposit in the United States mail, or if by expedited delivery, upon first attempted delivery on a business day. A party receiving notice that does not comply with the technical requirements for notice under this paragraph may elect to waive any deficiencies and treat the notice as having been properly given.

10. Prior to Closing, Vendor shall provide Technical and Maintenance Instructions, which shall be attached and incorporated as Exhibit II.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

CITY OF SAN ANTONIO, TEXAS
a Texas Municipal Corporation

Erik Walsh
City Manager

Date: _____

IMAGEN ENERGY, INC


By: Ezana Mekonnen - CTO

Date: 23-Oct-2024

Approved as to Form:

City Attorney

Attachments: Exhibit I - Description of Transferred Equipment
Exhibit II - Technical and Maintenance Instructions
Exhibit III - ABB e-mobility Standard Terms and Conditions

EXHIBIT I
DESCRIPTION OF TRANSFERRED EQUIPMENT

EXHIBIT II
TECHNICAL AND MAINTENANCE INSTRUCTIONS

EXHIBIT III
ABB E-MOBILITY STANDARD TERMS AND CONDITIONS