

LEGAL REPORT RELATING TO THE VERIFICATION AND AUTHORIZATION PROCEDURE OF ACCESS TO THE ELECTRIC VEHICLE RECHARGING INFRASTRUCTURE MANAGED BY BACELONA DE SERVEIS MUNICIPALS, SA

1. Purpose and necessity of the contract

The purpose of the contract is the verification and authorization of access to the electric vehicle charging infrastructure managed by Barcelona de Serveis Municipals, SA (hereinafter, BSM).

The necessary requirements and the technical procedure that enable different Electromobility Service Providers (EMSP) to operate through the electric vehicle charging network managed by BSM will be defined. Specifically, through the monitoring of the requirements, the procedure will be conducted that will allow the interested parties to operate with the aim of allowing their users to recharge the batteries of their electric vehicles in the network of charging points managed by BSM.

The EMSPs will have to connect to the BSM platform that manages the charging points using the OCPI (Open Charge Point Interface) protocol so that, once connected, their users can recharge at the connection points in Barcelona managed by BSM under the agreed conditions.

2. Subjection of the procedure to the Public Sector Contracts Law

Law 9/2017, of November 8, on Public Sector Contracts (hereafter LCSP) establishes that onerous contracts, regardless of their nature, that are entered into by public business entities will be subject to it (art. 2).

In the present case, even though we are not faced with a provision that can fit within one of the contractual types defined in articles 13 et seq. of the same Law, it is undeniable that the formalization of the legal business that aims to promote results in an onerous result for the contractor. Although it is not a direct burden because it does not receive a direct payment or consideration from the entity with which it formalizes the contract, it does receive a consideration that leads to an economic return, either through charging users of the services it provides, thanks to its inclusion in the network of electromobility operators who have access to BSM charging points, or by improving its positioning as a reference operator in the field of electromobility.

It should be noted that the reference contract does not fall under any of the cases of legal business excluded from the LCSP established in articles 4 and following. Therefore, until its formalization, the procedure remains subject to the provisions and principles of the LCSP, without prejudice to the necessary adaptations, given that the estimated value of the contract cannot be calculated exactly and we are also not faced with 'one of the contractual types defined in the same law.

Against the acts derived from the procedure, therefore, all those resources that the interested parties consider appropriate will proceed administratively, as well as their eventual challenge before the contentious-administrative jurisdiction.

3. Legal nature of the contract

The contract that results from the procedure governed by the provisions of the LCSP will have a private nature, in accordance with article 26.1.c) of the LCSP.

4. Tender budget

BSM foresees for the year 2024 a total number of 140,000 top-up operations for an approximate amount of 500,000 euros.

The tariff structure by type of operation currently applied by electro-mobility operators is as follows:

Vehicle	Ubicació	Tipus càrrega	€/kWh diürn	€/kWh nocturn	Recàrrega mínima
Turisme/Furgoneta	Aparcament	Normal	0,31 €	0,26 €	1,50 €
Turisme/Furgoneta	Carrer	Ràpida	0,44 €	0,39 €	3,00 €
Moto	Aparcament	Normal	0,31 €	0,26 €	0,25 €
Moto	Carrer	Normal	0,35 €	0,30 €	0,30 €

*Amounts include 21% VAT

Taking into account the above data and taking into account the estimate of the potential number of foreseeable top-ups through the BSM top-up points by operators in the sector, which is estimated, by one operator, at 3% of all carried out for BSM during one year, the tender budget is set at a total of €15,000 (before VAT).

The unit prices corresponding to each operation will be those established through the approval of the private price structure by Barcelona City Council, and therefore may be subject to change. These unit prices will in any case correspond to the price that the user pays for the use of the charging point, before including the additional commissions that the operator receives for the provision of services to its customers through its platform.

The approved operator must comply with the following conditions regarding the fees for the use of electric charging points managed by BSM:

1. The sales price can never be lower than the rate for sporadic use of BSM in force (EcoOne rate).
2. In the event that BSM applied discounts to the previous rate, the sales price will not be lower than the rate for sporadic use of BSM in force (EcoOne rate) once the discount has been applied.

5. Estimated value of the contract

Given that no contractual changes are foreseen, the estimated value will correspond to the tender budget and those of any extensions that may be agreed (up to four), thus being fixed at 75,000 euros (before VAT).

6. Duration of the contract

The duration of the contracts that result from the procedure for verifying compliance with requirements will have an initial duration of ONE (1) YEAR from their signature.

It is foreseen the possibility of agreeing up to four (4) additional extensions, for annual maturities. This extension will be agreed by the Contracting Authority of BSM taking into account elements such as the need for a new verification procedure resulting from advances in the technology of the charging points or due to the verification of new legal requirements.

7. Solvency check procedure

The procedure for the formalization of the contracts will not require the application of award criteria specific to the contracts specified in the LCSP, but will require the verification of technical and economic elements that guarantee that the companies that wish to include the points of recharge managed by Barcelona Municipal Services, within the network to which users of its mobility solutions have access, meet the necessary characteristics to guarantee good integration and minimum quality standards in the service.

This solvency is materialized in the following requirements:

Technical solvency

The technical solvency, which will determine together with the economic solvency the possibility of formalizing the reference contract, will be proven by providing documentation that will allow the verification of various elements, which are expressly established in article 90 of the LCSP and are detailed below:

1. Indication of the technical staff or technical units, integrated or not in the company, participants in the contract, especially those in charge of quality control.

The operator must certify that it has a customer service service operating 24 hours a day, every day of the year, able to attend to user queries regarding the charging stations that are integrated into the network that shows its mobility solution. This customer service will include inquiries regarding the price and invoicing of top-up services.

The operator must present a responsible declaration expressing that it has a service with the characteristics detailed in the documentation included in the procedure. Additionally, you must present a descriptive report of the operation of your customer service, where the development of the necessary procedures that will result from the integration is reflected.

2. Declaration indicating the availability of a compatible platform

The operator will have to certify the provision of a platform capable of connecting to the charging point management application used by Barcelona Municipal Services, using the OCPI protocol.

The operator will have to present a responsible declaration stating that his platform works using the indicated protocol. Additionally, you must present the platform's technical data sheet or alternatively a descriptive report summarizing its characteristics.

The specification of particular conditions will establish in each case the necessary documentation for the accreditation and verification of compliance with the detailed technical requirements.

Financial solvency

Declaration on the overall volume of business, referring at most to the last three financial years available depending on the date of creation or start of the entrepreneur's activities, to the extent that the references of this volume of business are available business The operator will have to prove that in the year with the highest performance of the last three (3) years, an annual business value of at least €22,500 has been achieved.

To prove this, the operator will present the annual accounts approved and deposited in the corresponding Mercantile Registry, if the entrepreneur is registered and, otherwise, by those deposited in the official register in which he must be registered. In the case of individual entrepreneurs, it will be certified through the inventory books and legalized annual accounts in the Mercantile Registry.

Following the criteria established by administrative doctrine (among others Resolution 1206/2018 TARC, in relation to article 87.1 LCSP), newly created operators will be understood to meet the necessary financial solvency if faced with the impossibility of 'accreditation of the same through the provision of the required documentation in a general way, a certificate is presented attesting that the operator has a civil liability policy for an amount greater than the estimated value of the contract, detailed in section 4 of this report.

Apart from the specific technical requirements specified, the operators must be in a position to proceed with the integration in the terms described in the technical specifications, in full coordination with the technicians and the Department of Barcelona Municipal Services Systems.

Means attached to the execution of the contract

The operator must assign the three professional profiles specified below to the execution of the contract:

- **Head of customer service:** this profile will be in charge of coordinating the team responsible for responding to inquiries from users of the operator's mobility solution, either by phone, via email or through the support system that the operator has.

Qualification required: University degree related to Marketing and Communication Management, alternatively other university studies will be accepted as long as they include the skills related to the tasks specific to the position.

- **Specialist technician in charge of coordination with the Information Systems Unit of BSM**, who will have direct interaction with the technicians and will lead the technical operations that the operator must undertake for integration and compatibility in accordance with what is established by technical specification

Qualification required: University degree in the engineering family that includes the skills necessary for the development of highly complex computer software and applications. Alternatively, other related studies will be accepted, BSM reserving the right to request additional information on the training and work experience of the proposed technician.

- **Director of electromobility service as interlocutor of the contract** : this figure will be the main interlocutor of the agreement, he will guarantee the proper functioning of the personnel, equipment and means necessary to guarantee the success of the object of the agreement, establishing a direct line of communication between this professional and the Head of BSM's Plug Unit.

Qualification required: University degree related to the branch of Economics or Business Administration and Management. Alternatively, other related studies will be accepted, BSM reserving the right to request additional information on the training and work experience of the proposed manager.

The specification of particular conditions will establish for each professional profile the academic qualification that is considered necessary, for the purposes of accreditation of the same by the operator.

8. Unlimited and recurring nature of the verification of requests

It is noted that in order to guarantee equal opportunities for all operators in the sector who wish to incorporate BSM charging points in their mobility solutions, no limitation is established on the number of applicants who will be admitted and with which the reference contract will be formalized as long as they meet the necessary requirements.

In this sense, in order for the integration to be periodically carried out by new operators or operators who did not participate in the first phase, the procedure will be recurrent, repeating itself periodically and every six months.

A period of 6 months is set between each call given that this is the minimum period to analyze, study the requirements and formalize the corresponding contracts, but above all because it is the minimum period necessary for the technicians of Barcelona Municipal Services and those of the operators can carry out the technical and IT operations necessary to guarantee the success of the object of the contract in the terms described in the technical specifications.

9. Conclusions

In accordance with the technical and legal criteria set out in this report, it is considered that the development of the proposed procedure is suitable for responding to the referenced need. The legal adequacy of the procedure to the requirements of the LCSP is confirmed and the relevant technical and economic elements are established to make possible the integration of the charging points managed by BSM in the network available through the platforms of third-party operators.

The recurrence of the procedure, as well as the limitation of the formalization requirements of the contracts to aspects related to technical and economic solvency, adjusted also to the assumptions of newly created companies, guarantees the possibility of participation of any operator in the sector concerned.

Therefore, the present report is transferred to the Contracting Authority of Barcelona of Municipal Services in order to adopt the resolution it deems appropriate in relation to the promotion of the reference procedure.

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