



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen

**SUBJECT: BATTERY SWITCH STATION
PARTNERSHIP AGREEMENT**

DATE: 05-27-11

Approved

Date

6/1/11

COUNCIL DISTRICT: Citywide

RECOMMENDATION

Adopt a resolution authorizing the City Manager to negotiate and execute a Public Private Partnership Agreement between the City of San José (City), City and County of San Francisco through San Francisco Municipal Transportation Authority (SFMTA) and Better Place Inc. (Better Place), relating to the development of battery switch stations and the operation of a network of zero-emission “battery switchable” electric taxi vehicles in San José and San Francisco as part of the Bay Area Electric Vehicle Taxi Corridor Program partially funded by a grant administered by the Federal Highway Administration of the U.S. Department of Transportation.

OUTCOME

Approval of the recommendation establishes a framework for the parties to cooperate on the development of two battery switch stations in San José, two battery switch stations in San Francisco, and operations of a network of zero-emission “battery switchable” electric taxi vehicles.

BACKGROUND

In an effort to address issues related to global climate change, the Metropolitan Transportation Commission (MTC) is administering a Climate Initiatives Innovative Grants Program. The purpose of the program is to support innovative projects with the greatest potential to reduce greenhouse gas emissions that can be replicated on a larger scale around the bay area region.

The funding source for these grants is the federal Congestion Mitigation and Air Quality Improvement Program (CMAQ) funds administered by the Federal Highway Administration of the U.S. Department of Transportation through the California Department of Transportation (Caltrans). All projects receiving funds through this program must meet certain federal fund eligibility and project delivery requirements as explained in detail in this memorandum.

In response to MTC’s “Call for Projects”, SFMTA, San José and Better Place, Inc., a private company submitted a joint grant application for the Bay Area Electric Vehicle Taxi Corridor project (Project). The application includes 1) the construction of two battery switch stations in

the City of San José, 2) the construction of two battery switch stations in San Francisco, 3) a neighborhood taxi program in San Francisco, 4) 76 electric taxi vehicles to be operated in San Francisco and San José, and 5) grid service and consumer education. The value of the Project is approximately \$20 million. At the time of the submittal, the City committed to provide a local match of \$100,000 for in-kind services.

Better Place is a venture backed company based out of Palo Alto that aims to reduce the use of gasoline through the development of transportation infrastructure that supports electric vehicles. The proposed Better Place battery switch station functions as a “gas station” for electric vehicles (see photo below). Specially designed vehicles can have their electric batteries replaced in a matter of minutes with new fully charged batteries.

Prototype of Better Place Battery Switch Station



On October 27, 2010, MTC approved for funding the Bay Area Electric Vehicle Taxi Corridor Project submitted jointly by SFMTA, San José and Better Place. The Project was selected to promote breakthrough techniques for reducing greenhouse gas emissions and vehicle-miles traveled around the Bay Area. The current Project budget based on the grant and available cash and in-kind contributions is \$20,265,424.

Project Funding Summary

Source	Amount
Better Place and Corporate Partners	\$10,142,924
MTC Grant	\$6,000,000
Better Place Local Partners	\$3,352,500
Other Grants	\$570,000
SFMTA	\$100,000
City of San José	\$100,000
Total Project Cost	\$20,265,424

The Project will be implemented in two phases. Phase I of the project contemplates the construction of one battery switch station in San José and one battery switch station in San Francisco, including three electric taxis in San José. Phase II would add additional taxis and the second battery switch station. As with many transportation projects, the funding has been split between two funding cycles by MTC, and the phasing of the Project allows for each phase to move forward in each of the programming cycles.

The potential site(s) for the battery switch stations located in the City has not been selected. The City proposes to work with Better Place to locate a site in San José that will be suitable for the battery switch station(s). However, no commitment will be made under the proposed partnership agreement that the City will or is required to locate any site for the Project. In the event the City and Better Place are able to find a suitable site for the Project, Better Place will have to seek all appropriate Planning permits and approvals, CEQA clearances, and enter into a ground lease agreement(s) with the City with certain terms and conditions for the construction, operation and maintenance of the station(s). All these required permits, leases, and approvals will go through the appropriate City process, including Council approvals, as required.

Also participating in the Project will be the San Francisco Yellow Cab Cooperative and San José Yellow Checker Cab Company. The Project will demonstrate the electrification of light duty fleet vehicles. Unlike private users of electric powered vehicles, which will have access to long-term charging, taxis are unable to spend extended periods of time waiting for a charge. The battery switch station will allow this market to drive in to a battery switch facility and change out the battery in less than one minute and be able to continue on to provide service. Once the batteries are removed, they are stored and recharged. Better Place will enter into separate agreements with the taxi companies for the lease of "battery switchable" electric vehicles to be procured by Better Place and leased to the taxi companies as part of the Project.

Staff has provided updates to the Transportation & Environment Committee regarding the status of the battery switch station Project. The last update was provided on April 4, 2011.

ANALYSIS

As a partner in the Bay Area Electric Vehicle Taxi Corridor, the City of San José is required under the grant program to enter into a Public Private Partnership (P3) agreement with SFMTA and Better Place. The P3 agreement involves a contract between public sector agencies and a private party and defines the roles and responsibilities of each partner. The term of the agreement is from date of full execution to June 30, 2017. If the City finds a suitable site for the Project and the City and Better Place are able to mutually agree on a ground lease agreement, the parties will commit to the following under the proposed P3 agreement:

SFMTA Responsibilities

- As the sub recipient of the federal funds for the Project, SFMTA will serve as the lead agency/project sponsor for the grant.
- In its role as the fiscal agent, SFMTA will be responsible to make sure that the Project is in compliance with Federal Highway Administration (FHWA) grant guidelines and disburse grant funds as required.
- SFMTA will be responsible for administrative services as required by the grant and assign appropriate staff as both grant manager and program manager.
- SFMTA will work with Better Place to secure potential sites for battery switch stations in San Francisco and complete appropriate environmental clearance.
- SFMTA will require all taxis participating in the Project to be driven under taxi permits issued by SFMTA.

Better Place Responsibilities

- Better Place will design and procure all equipment and vehicles for the projects in both San José and San Francisco. Better Place has selected Bovis Lend Lease as their consultant to provide all architectural, engineering, and design services.
- Better Place will submit the battery switch station proposal for City review and approval through the standard development process. This will include following all City rules, policies, and ordinances as required.
- Better Place will also be responsible for building, operating and maintaining the battery switch stations. Better Place will conduct required NEPA/CEQA review and will acquire all City of San José permits and pay all required City fees both for construction and operations.
- Better Place will enter into all necessary lease agreements for the battery switch stations. Better Place will own the facilities constructed as part of the Project.
- As required by SFMTA's Contract Compliance Office, Better Place will provide a list of all procurements planned that will be funded in whole or in part by the grant.
- Better Place will provide SFMTA and San José with a monthly report on the status of such procurements.
- Better Place will also conduct marketing and outreach to educate the public regarding the program.

- Better Place will be required to staff the program including a program manager, deployment manager, contracts manager, marketing/vehicle operations manager, and solution manager.

City of San José Responsibilities

- City staff will work with Better Place to locate two sites for the battery switch stations and enter into any necessary lease agreements. If appropriate sites cannot be located, the City is not obligated to participate in the Project. If City participates in the Project, City will be required to comply with the grant program, P3 agreement, and term and conditions explained in this section.
- The City is to provide \$100,000 in property lease value as its local match towards the grant.
- City will monitor Better Place's compliance with the grant program and review all invoices to assure that it operates within the budget for the San José portion of the grant.
- Better Place is required to meet all CEQA/NEPA requirements and to get all required City permits and to pay all required City fees. The City will process all permits per established rules, regulations, and ordinances.
- City of San José will assign a Program Manager for all activities involving the program.
- City will review and approve the design for the Project located in San José, monitor construction activities, issue applicable building permits, and approve the construction once completed.
- City will require all taxis participating in the Project to be driven under taxi permits issued by the City.

At the time the Council approves the ground lease agreements, the City's responsibilities under the P3 Agreement will be triggered as explained above. In addition, there will be standard insurance provisions in the proposed P3 agreement where Better Place will be required to obtain standard workers' compensation, commercial liability, automobile and professional liability insurances and name the City of San José as additional insured. The proposed agreement also will have standard indemnification provisions requiring Better Place to indemnify the City for any loss by Better Place arising from its performance under the agreement. However, Better Place has requested a limitation of liability provision where Better Place will not be liable for any special, incidental, consequential, indirect or incidental damages, except with respect to its indemnification obligations. Staff believes there is a low risk of any issues related to special damages outside the context of the indemnification obligations. Finally, Better Place is requesting language in the proposed agreement that if the City terminates for convenience, the City will allow them to continue to operate the battery switch station(s), without any City assistance, for at least 10 years. The City has not agreed to those terms and continues discussions with Better Place.

EVALUATION AND FOLLOW-UP

The proposed agreement will be the basis for future activities. Staff will seek Council approval for subsequent actions at the appropriate time.

PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

This memorandum and agreement will be posted on the City's website before the Council meeting.

COORDINATION

This item has been coordinated with the City Attorney's Office, the Department of Public Works, and the Office of Economic Development.

FISCAL/POLICY ALIGNMENT

The Project aligns with the City's Green Vision/Green Mobility goals and facilitates the investment of grant and private funds in support of the City's economic development.

CEQA

Not a Project, File No. PP10-066.

/s/

HANS F. LARSEN
Director of Transportation

For questions please contact Manuel Pineda, Acting Deputy Director of Transportation, at (408) 975-3295.