Transportation Authority of Marin

DATE: April 23, 2020

TO: Transportation Authority of Marin Board of Commissioners

FROM: Anne Richman, Executive Director Anne Richman
Derek McGill, Planning Manager

SUBJECT: TAM Memorandum of Understanding with MCE for CALeVIP (Action), Agenda Item No. 9

RECOMMENDATION

Authorize the Executive Director to enter into a Memorandum of Understanding (MOU) with MCE for the California Electric Vehicle Infrastructure Project (CALeVIP) and authorize $80,000 for Marin County Electric Vehicle (EV) Charging Infrastructure through CALeVIP.

BACKGROUND

In January 2020, MCE approached TAM and the County Transportation Agencies in its service area including Napa Valley Transportation Authority (NVTA), Contra Costa Transportation Authority (CCTA) and Solano Transportation Authority (STA) as well as county representatives to discuss a joint application for the California Energy Commission's (CEC's) CALeVIP program.

Funded by the CEC and implemented by the Center for Sustainable Energy (CSE), CALeVIP provides incentives for EV charger installations and works with local partners to develop and implement projects that meet current and future regional EV needs for Level 2 and DC fast charging for light duty vehicles. The statewide efforts aim to provide a streamlined process for charger installations to fill the significant gaps in charging availability.

CALeVIP and its regional incentive projects are made possible through a grant by the CEC's Clean Transportation Program (formerly known as the Alternative and Renewable Fuel and Vehicle Technology Program) that supports innovations in transportation and fuel technologies. CALeVIP is currently funded for $71 million, with the potential of up to $200 million.

DISCUSSION/ANALYSIS

In February 2020, the TAM board received an update on its Alternative Fuel Program and noted the coordination underway with MCE and TAM on CALeVIP. Since that time, TAM, MCE and other partners have been refining an initial concept design with CSE, working on behalf of the CEC. In March 2020, TAM staff received news from CEC that the initial concept design package was selected to enter into Phase 2 for refinement. A completed program design package and MOU between MCE and partners will be needed by CEC by May 11, 2020.

The design package is currently being developed jointly in an iterative process by partners and CEC. As such, the program details are being refined based on input from partner agencies and are subject to modifications during this period. At the time of this staff report, the following program details have been determined:

Funding Levels

- MCE is requesting $8.4M in CEC funding for Napa, Solano and Contra Costa Counties for a four-year cycle starting January 2021.
- MCE is committing $5.2M in funding over four years as a local match to this program, including $300,000 for Marin County for the initial year of the program. TAM would be committing to $80,000 for the initial year of the program.
- For the initial program year starting in January 2021, Marin County will self-fund charger installations using TAM and MCE funding. Marin County would receive technical support, streamlined grant applications, marketing and outreach as part of the initial CEC funding package.
- For the remaining years of the program, starting in FY 21/22, MCE and TAM will apply for CEC funding in the next program cycle, expected to be released in January 2021. TAM and MCE will determine funding levels at the time of the application.

Program Details

- CALeVIP will fund both Level 2 and Level 3 charging infrastructure. TAM and MCE are not proposing to use local funds for Level 3 charging equipment, so no level 3 charging installations will be included in the first year of the program for Marin County.
- For Level 2 chargers, CALeVIP will fund 1-20 connectors at a site, with rebates of $4,500/connector at up to 75% of the total cost, with additional added rebate levels for low income/disadvantaged communities.
- TAM and MCE will use CALeVIP requirements and are requesting the following changes on behalf of Marin County Public Agencies, including:
    - additional ability for public agencies to exceed the 20-connector limitation: and
    - additional funding to maintain the $6,000 in rebates currently available to Marin County public agencies.
    - If CALeVIP is unable to provide these additional changes for the benefit of Marin County public agencies, TAM may consider augmenting this program with additional funding from the Alternative Fuel Program.
- Currently this program is designed to provide charging infrastructure at a wide range of eligible locations, including commercial, workplace, public facilities, and retail locations among others. TAM funding is currently proposed to only fund public agency chargers, at this point, however this is dependent on CEC approval.
- BAAQMD funding would be stackable to this program, to increase funding for eligible agencies.

As a partner to this program, TAM's rebate program for EV infrastructure would be administered though the CALeVIP program, along with MCE's rebate funds, aligning the rebate programs into a single framework for applicants. Marin County EV infrastructure applicants would have a single point of contact for financial information for chargers, technical assistance to support project development, and consolidated marketing and outreach for rebate programs.

TAM staff is closely coordinating with CSE, MCE and other project partners to develop the program design by the CEC deadline of May 11th. During this process, a number of changes may occur to the program, including changes in the funding levels by CEC, MCE or other project partners. Additionally, program changes including additional flexibility for public agency applicants requested by TAM and MCE have not yet been approved by CEC. As the CEC reviews and provides input to MCE and TAM staff on the program design, elements of the program may change; however in order to meet the May 11th deadline, staff is requesting approval of this item at this time. By June 1st, staff will be notified if this program is selected to move forward during the FY20/21 timeframe. If the program is not selected for CEC funding, MCE and CEC are likely to reapply the following cycle, using the framework agreed upon during this program design phase. TAM staff will return to the TAM board for any program commitment beyond the initial year of the program.

MCE will enter into agreement with the CEC on behalf of TAM and all other partners. A draft MOU between TAM and MCE is provided as **Attachment A.**

FISCAL CONSIDERATION

Funding for this effort will be included in the FY 2020/21 budget. Funding is available from the Measure B $10 Vehicle Registration Fee, as part of the Alternative Fuel Program.

NEXT STEPS

Upon approval of the TAM Board, staff will execute the MOU between TAM and MCE. Staff will also continue discussions with MCE and CEC on the program design details. Based on an agreed upon program design, MCE will submit the final package to CEC by May 11, 2020. and notification of award is expected by June 1st, 2020.

If CEC choses to award funding for this program, the program would launch in January 2021. If not, MCE and partner agencies would use the program design through this process and the program would be considered as a high priority need for the following cycles.

ATTACHMENTS

Attachment A: Draft MOU between TAM and MCE

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Memorandum of Understanding

Between

Marin Clean Energy *and*

[Co-Funding Partner].

This Memorandum of Understanding ("MOU") is made and entered into effective as of this ___ day of ___, 2020 ("Effective Date"), by and between Marin Clean Energy (hereinafter "MCE"), a California Joint Powers Authority, and [Co-Funding Partner Name] (hereinafter "Co-Funding Partner"), a _____ corporation for the purpose of developing and implementing EV charger projects within the California Electric Vehicle Infrastructure Project ("CALeVIP"). This MOU has been created to clearly define roles and expectations for two partners (Marin Clean Energy and Co-Funding Partner).

I. **Background**

The California Energy Commission (CEC) established the CALeVIP as an EV charger rebate program offered on a region-by-region basis, and the Center for Sustainable Energy (CSE) serves as the CALeVIP implementer. CALeVIP works with local partners to develop and implement EV charger incentive projects that meet regional needs for Level 2 and DC fast chargers. The statewide project aims to provide a streamlined process for getting chargers installed to fill the significant gaps in charging availability. MCE has dedicated resources for this effort and is well positioned to assist with program design and implementation in partnership with Transportation Authority of Marin (hereinafter "TAM"), Solano Transportation Authority (hereinafter "STA"), and Contra Costa Transit Authority (hereinafter "CCTA") (co-funding partners and agencies). To this end, MCE staff have been collaborating with TAM, STA, and CCTA to leverage and maximize funding for a unified electric vehicle charger incentive program ("Program") that best serves the MCE service area and efficiently achieves program goals.

II. **Partner Roles and Responsibilities**

The Parties wish to define the roles and responsibilities, including funding commitments, of all parties for implementation of the CALeVIP program. The Parties agree to be direct and proactive with each other in raising any concerns related to this MOU. The expectations of each partner with regard to CALeVIP program implementation specified below:

A. Co-Funding Partner agrees to:

1. Commit [$___] for [level 2/DC fast charger] incentives and Program design and administration beginning in Co-Funding Partner fiscal year 2020/2021 and continuing through Co-Funding Partner fiscal year 2022/2023.
2. Remit payment to MCE within 30 days of receipt of an approved MCE invoice. Payment of the entire funding commitment for each fiscal year shall be made no later than _____.
3. Participate in regular project meetings with MCE and CSE. Co-Funding Partner will provide timely comments and recommendations on project design, development and

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configuration of the Program processing website, and Program marketing, education, outreach and technical assistance plans and materials.

B. MCE agrees to:

1. Commit $5,200,000 in total, or $1,300,000 per year, through termination of the MOU.
2. Design and administer the Program while CALeVIP funding is available to the MCE service area and be the primary point of contact between CSE and Co-Funding Partner for the duration of the Program.
3. Invoice Co-Funding Partner for its contribution toward [level 2/DC fast charger] incentives and for reimbursement of Co-Funding Partner's costs for Program design and administration.
4. Pay CSE invoices in accordance with the CALeVIP agreement. Invoiced amounts will include the incentive amounts and both the MCE Share and Co-Funding Partner share of CSE costs for Program design and administration.
5. Coordinate regular project meetings with CSE to include Co-Funding Partner for its input on Program project design and implementation. MCE will also forward final project deliverables from CSE to Co-Funding Partner.

C. MCE and Co-Funding Partner mutually agree:

1. That CSE costs will be attributable to each party as follows:
    a. MCE Share. Of the total amount committed by MCE to the Program, ___% will be for CSE costs associated with Program design and administration.
    b. Co-Funding Partner Share. Of the total amount committed by Co-Funding Partner to the Program, __% will be for CSE costs associated with Program design an administration.
2. That all obligations of the parties under the terms of this MOU are subject to the appropriation of the required resources by MCE and Co-Funding Partner and the approval of each party's Board of Directors.

III. **Term of Agreement**

This term of this MOU will be from the Effective Date until _____, unless otherwise agreed upon by the Parties in writing. Either Party may terminate the MOU without cause by providing thirty (30) days' advance written notice to the other Party.

IV. **Miscellaneous Terms and Conditions**

A. Jurisdiction and Venue
This MOU shall be construed in accordance with the laws of the State of California. If any action is brough to interpret or enforce any term of this MOU, the action shall be brough in a state or federal court situated in the County of Marin, State of California.

B. No Recourse Against Constituent Members of MCE

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MCE is organized as a Joint Powers Authority in accordance with the Joint Exercise of Powers Act of the State of California (Government Code Section 6500, et seq.) pursuant to the Joint Powers Agreement and is a public entity separate from its constituent members. MCE shall solely be responsible for all debts, obligations and liabilities accruing and arising out of this MOU. Partner shall have no rights and shall not make any claims, take any actions or assert any remedies against any of MCE's constituent members in connection with this MOU.

C. Indemnification

Each Party agrees to indemnify, defend, and hold the other Party, their employees, officers, and agents, harmless from any and all liabilities including, but not limited to, litigation costs and reasonable attorney's fees arising from any and all claims and losses to anyone who may be injured or damaged by reason of either Party's negligence, recklessness or willful misconduct in the performance of this MOU.

D. All terms, conditions, and provisions hereof shall inure to and shall bind each of the parties hereto, and each of their respective heirs, executors, administrators, successors, and assigns.

E. No alteration or variation of the terms of this MOU shall be valid unless made in writing and signed by the parties hereto, and no oral understanding or agreement not incorporated herein shall be binding on any of the parties hereto.

F. Nothing in the provisions of this MOU is intended to create duties or obligations to or rights in third parties to this MOU or affect the legal liability of the parties to this MOU.

G. This MOU may be executed in any number of identical counterparts, each of which shall be deemed to be an original, and all of which together shall be deemed to be one and the same instrument when each party has signed one such counterpart.

The Parties to this MOU hereby acknowledge and agree, by executing this document, that the provisions herein shall constitute legally binding and enforceable obligations in accordance with applicable laws effective on the date first above written.

_____ _____

Dawn Weisz, MCE CEO DATE

_____ _____

[Co-Funding Partner Name] DATE

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