



**DATE:** April 22, 2021

**TO:** Transportation Authority of Marin Board of Commissioners

**FROM:** Anne Richman, Executive Director *Anne Richman*  
David Chan, Programming and Legislation Manager

**SUBJECT:** Regional Measure 3 North Bay Transit Access Improvement Fund Apportionment Proposal (Action), Agenda Item No. 6c

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## RECOMMENDATION

The TAM Board adopts the proposal to apportion \$20 million in Regional Measure 3 (RM3) funds to each of the five eligible counties from the RM3 North Bay Transit Access Improvement Program.

On April 12, 2021, the Funding, Programs & Legislation (FP&L) Executive Committee reviewed the proposal to apportion \$20 million in RM3 funds to each of the five eligible counties from the RM3 North Bay Transit Access Improvement Program and recommended it to the TAM Board for adoption.

## BACKGROUND

In June 2018, Bay Area voters approved RM3 to raise tolls on the region's state-owned toll bridges by \$1 beginning January 1, 2019. Tolls will rise by another \$1 in January 2022 with another \$1 increase in January 2025. Toll revenues, estimated at \$4.45 billion total, will be used to fund highway and transit improvements in the toll bridge corridors and their approach routes to address the Bay Area's congestion problems.

Four projects in Marin were included in the RM3 Expenditure Plan approved by the voters:

- U.S. 101 Marin-Sonoma Narrows (MSN) – \$120 million (Marin and Sonoma counties)
- Richmond-San Rafael Bridge Access (580) Improvements – \$210 million total, of which \$135 million is for improvements in Marin County
- State Route 37 Improvements – \$100 million (Marin, Sonoma, Napa, and Solano counties)
- San Rafael Transit Center – \$30 million

In addition, projects in Marin are also potentially eligible for funds under other programmatic categories such as the Bay Trail Program and the North Bay Transit Access Improvement Program. The Bay Trail Program is a regional competitive program. The North Bay Transit Access Improvement Program provides \$100 million for programming for five North Bay counties including Marin.

### **RM3 Pending Litigation**

Since the passage of RM3, two lawsuits challenging RM3 were initiated. The tolls collected are being placed into an escrow account and are not being disbursed to projects. If the Bay Area Toll Authority (BATA) prevails in the litigation, the funds will be applied to RM3 approved projects. Should BATA ultimately lose the litigation, the funds will be reimbursed to toll-payers as much as possible.

### **DISCUSSION**

The RM3 North Bay Transit Access Improvement Program provides funding for transit improvements, such as new transit vehicles, transit facilities and access to transit facilities, benefiting Contra Costa, Marin, Napa, Solano, and Sonoma Counties. The legislative description for this program reads:

(26) North Bay Transit Access Improvements. Provide funding for transit improvements, including, but not limited to, bus capital projects, including vehicles, transit facilities, and access to transit facilities, benefiting the Counties of Marin, Sonoma, Napa, Solano, and Contra Costa. Priority shall be given to projects that are fully funded, ready for construction, and serving rail transit or transit service that operates primarily on existing or fully funded high-occupancy vehicle lanes. The project sponsor is the Metropolitan Transportation Commission. Eligible applicants are any transit operator providing service in the Counties of Contra Costa, Marin, Napa, Solano, or Sonoma. One hundred million dollars (\$100,000,000).

Each of the five named counties are eligible to receive a portion of the \$100 million in RM3 funds from the North Bay Transit Access Improvement Program. MTC has yet to establish guidelines for the North Bay Transit Access Improvement Program and has not indicated how the funds would be distributed. MTC can conceivably allocate the funds on a competitive basis or use a formula distribution among the five counties. In the case of a formula distribution, different metrics could be factored into the formula, such as population, ridership, transit service hours, and so forth.

To remove uncertainty, County Transportation Agencies (CTAs) in the five eligible counties are supporting a proposal to apportion the \$100 million evenly, with \$20 million to each county. The proposal is being relayed to MTC as well.

The apportionment proposal provides predictability and certainty to each county and avoids the possibility of an inequitable distribution under a competitive model. Furthermore, where there are projects ready to advance and local funds are available to support the projects in the near term, while RM3 litigation is pending, the five CTAs recognize that there are benefits to accelerating project delivery through cost reduction and a favorable bidding environment.

Establishing funding apportionments is expected to provide some guarantee of reimbursements should MTC's arguments prevail in pending litigation; an approved Letter of No Prejudice (LONP) from MTC would be additionally needed for any projects wishing to advance with local funds and be reimbursed by MTC later. However, staff does not intend to submit an LONP for projects under this category presently. Staff is aware of one other county that is considering seeking LONP approval this Spring.

### **FISCAL IMPACTS**

There are no immediate fiscal impacts to TAM with submitting an apportionment proposal request to MTC.

### **NEXT STEPS**

Upon approval from the TAM Board and the other four CTAs' boards, staff will communicate to MTC on the CTAs' joint request for the appointment agreement. If approved by MTC, staff will consider the appropriate timing to solicit eligible projects for funding under this program, given the pending RM3 litigation, and will keep the Board informed of those activities.

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