



DATE: April 12, 2021

TO: Transportation Authority of Marin Funding, Programs & Legislation Executive Committee

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

SUBJECT: Regional Measure 3 (RM3) North Bay Transit Access Improvement Fund Apportionment Proposal (Action), Agenda Item No. 7

RECOMMENDATION

Recommend the Funding, Programs & Legislation (FP&L) Executive Committee to review a proposal to apportion \$20 million each in RM3 funds to the five eligible counties from the RM3 North Bay Transit Access Improvement Program and refer 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. TAM does not intend to submit an LONP for projects under this category at present; staff is aware of one other county that is considering seeking LONP approval this Spring.

Staff is requesting the TAM Board to approve the proposal to be conveyed to MTC, to apportion \$20 million to each county from the RM3 North Bay Transit Access Improvement Program.

FISCAL IMPACTS

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

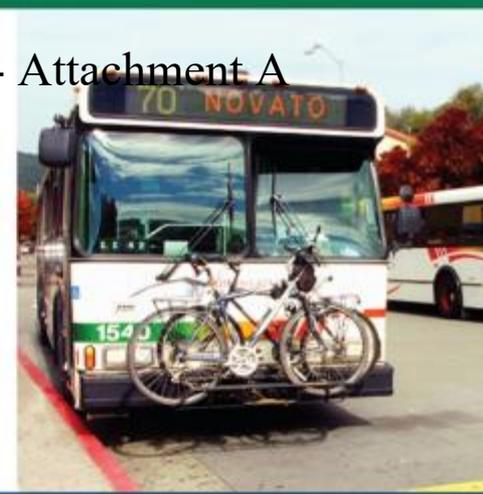
NEXT STEPS

Upon approval from the TAM Board and the other four CTA's 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.

ATTACHMENT

Attachment A – PowerPoint Presentation

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Regional Measure 3 North Bay Transit Access Improvement Fund Apportionment Proposal

FPL Executive Committee Meeting
April 12, 2021

Background

- In June 2018, Bay Area voters approved RM3 to raise tolls on the region's state-owned toll bridges
- An estimated \$4.45 billion in RM3 toll revenues are expected to be collected
- RM3 funds 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
- RM3 currently in pending litigation

Background, cont.

- Four projects in Marin were included in the RM 3 Expenditure Plan approved by the voters, including the MSN Project, Richmond-San Rafael Bridge Access (580) Improvements, State Route 37 Improvements, and San Rafael Transit Center
- Other 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

North Bay Transit Access Improvement Program

- Includes \$100 million for programming for five eligible counties: Contra Costa, Marin, Napa, Solano, and Sonoma
- Provides funding for transit improvements, such as new transit vehicles, transit facilities and access to transit facilities
- MTC has not established programming guidelines for the North Bay Transit Access Improvement Program

Apportionment Proposal

- Each of the five named counties are eligible to receive a portion of the \$100 million in RM3 funds
- The five CTAs are proposing to request that MTC apportion the funds \$20 million to each eligible county

Reasons for Apportionment Proposal

- Provides predictability and certainty to each county and avoid the possibility of an inequitable distribution under a competitive model
- If applicants are ready and able to advance projects through the Letter of No Prejudice (LONP) process, there are benefits to accelerating project delivery through cost reduction and a favorable bidding environment

Request MTC for Approval

- A request to approve this apportionment proposal will be provided to MTC
- If the agreement is approved by MTC, recipient agencies can request LONPs for projects that can move forward using other revenues to be reimbursed by RM3 funds (pending litigation)
 - TAM does not intend to request an LONP at present but could at later time – would return to the Board

Staff Recommendation

- That the TAM Board approves the proposal to apportion \$20 million to each county from the North Bay Transit Access Improvement Program



Questions