



Regional Measure 3

Annual Report to the Legislature

2023

This report is the 2023 Regional Measure 3 (“RM 3”) Annual Report to the Legislature on the status of projects and programs funded by the RM 3 bridge toll increase authorized by the Legislature by Senate Bill 595 (Beall, 2017) and approved by the voters in June 2018. This report is submitted pursuant to Streets and Highways Code (“SHC”), Section 30923(i). The report consists of the following sections:

1. Toll Implementation
2. Resolution of Litigation
3. Revenue Collection and Escrow
4. Independent Oversight Committee
5. Update of Policies and Procedures
6. Letters of No Prejudice (LONPs)
7. Allocations and Expenditures to Date

1. Toll Implementation

BATA adopted the toll schedule incorporating the three-dollar RM 3 phased-in toll increase for state-owned toll bridges in the Bay Area on December 19, 2018, pursuant to SHC Section 30916(c)(1). The first dollar increase became effective January 1, 2019 and the second dollar increase became effective January 1, 2022 (Attachment A, BATA Resolution No. 128). The third dollar increase will become effective January 1, 2025.

The toll schedule also incorporates the FasTrak® Electronic Toll Collection RM 3 Toll Discount for vehicles crossing more than one bridge on the same calendar day during commute hours and updates the high-occupancy vehicles rates to incorporate RM 3 increases.

2. Resolution of Litigation

Litigation challenging RM 3 was resolved in January 2023. BATA subsequently released the toll funds held in escrow and terminated the escrow agreement in March 2023.

3. Revenue Collection and Escrow

After the litigation was resolved in favor of the regional measure, BATA Resolution No. 170 (Attachment B) was adopted to terminate the RM 3 escrow arrangements, releasing and transferring the funds to regular BATA toll accounts in March 2023. Through September 30, 2023, RM 3 has generated \$708,526,456.50, including interest earnings. For the first quarter of this fiscal year—July 1 through September 30, 2023, RM 3 generated \$55,368,264. Additionally, SHC Section 30914.7(c) provides that, to the extent that funds made available for the ferry component of the RM 3 operating program are not requested for expenditure by the San Francisco Bay Area Water Emergency Transportation Authority (“WETA”) in a given year, the funds will be held in a reserve account, until such time that WETA requests these funds for an operating or capital purpose. As of November 2023, the WETA Operating Reserve amount is \$68 million.

4. Independent Oversight Committee Formation and Membership

BATA established the RM 3 Independent Oversight Committee on June 26, 2019, pursuant to SHC Section 30923(h). (Attachment C, BATA Resolution No. 131, Revised). As of November 2023, BATA has received two RM 3 Independent Oversight Committee appointees each from Alameda, Marin, Napa, San Mateo, Solano and Sonoma counties, and one appointee from San Francisco City and County. These appointees are listed in Attachment A to the resolution and can be found on our website at this [link](#). Updates to the RM 3 Oversight Committee Membership were referred to the Authority for approval in November 2023. As appointments are received for the remaining roster spots (two each from Contra Costa and Santa Clara counties, and one from San Francisco County), BATA Resolution No.131 will be further updated. Due to the lengthy litigation, the committee has not yet convened a meeting. With RM 3 operating program allocations having commenced in May 2023 and capital allocations

in June 2023, the Independent Oversight Committee is expected to convene in early 2024 to begin its mandate to annually review the expenditure of RM 3 funds and to prepare and submit a report to the Legislature summarizing its findings.

5. Update of Policies and Procedures

MTC first approved the RM 3 Policies and Procedures on December 18, 2019, with guidance to project sponsors requesting funding from the RM 3 capital program (Attachment D, MTC Resolution No. 4404). Resolution No. 4404 was subsequently revised in May 2023 and in October 2023 to introduce guidance to project sponsors seeking funding from the RM 3 Operating Program, including identification of eligible activities; instructions for requesting allocations and disbursements of funds; and detail on performance measures. Further updates are expected in 2024 to provide more guidance to project sponsors about compliance with regional policies.

6. Letters of No Prejudice

The adopted RM 3 Policies and Procedures included an option for MTC to approve Letters of No Prejudice (LONPs) to allow project sponsors to move projects forward with alternate funds, at-risk, while maintaining RM 3 eligibility if and when RM 3 funds became available. On March 25, 2020, MTC approved Resolution No. 4412, which enables MTC to issue LONPs for RM 3 projects. LONPs are issued at the request of project sponsors and specify the amount and scope for which RM 3 eligibility will be preserved and the alternate funding source to be used in place of RM 3 funds. The first LONP was approved in March 2020. As of November 2023, a total of 21 LONPs have been issued. See Attachment E for Resolution 4412 which contains a description of every project with an LONP.

7. Allocations and Expenditures to Date

In May 2023, the Commission directed staff to begin collecting RM 3 allocation requests, starting with projects that have LONPs and have begun expending funds. The first allocations were made in June 2023. As of November 2023, the RM 3 Capital

Program has made \$853.5 million in allocations, and almost \$80 million has been spent by project sponsors. A summary of the capital allocations made to date is included as Attachment F, RM 3 Capital Expenditure Plan.

In line with the schedule for capital allocations, the first RM 3 Operating Program allocations for fiscal year 2022-23 were made in May 2023, with another round of RM 3 Operating Program allocations made in June 2023. As of November 2023, the RM 3 Operating Program has made a total of \$18.8 million in allocations and has disbursed \$18.8 million to sponsors. A summary of the operating services funded by RM 3 is included as MTC Resolution 4579 (Attachment G). Table 1 below summarizes both allocations and expenditures for RM 3 Capital and Operating Programs.

Table 1. Summary of Allocations & Expenditures for RM 3 Capital & Operating Programs

<i>RM 3 Program</i>	Allocations as of November 2023	Expenditures as of November 2023
	(in millions)	(in millions)
<i>Capital</i>	\$853.5	\$76.9
<i>Operating</i>	\$18.9	\$18.9
<i>TOTAL</i>	\$872.6	\$95.8

For December 2023, there is a programmed public hearing for MTC Programming and Allocations Committee to propose amendments to the RM 3 Capital Program, involving RM 3 projects 2, 20, 21 and 23 (see Attachment F: RM 3 Capital Expenditure Plan). Proposed changes include minor adjustments to the scope, sponsor and/or funding for the projects listed above. No changes to the RM3 Capital Expenditure Plan have been made to date. If any changes are made, they will be communicated to the Legislature.

Attachments

- A. BATA Resolution No. 128 (Toll schedule for the state-owned toll bridges in the Bay Area)
- B. BATA Resolution No. 170 (Termination of Escrow Arrangements for Regional Measure 3 (RM 3) Bridge Toll Revenues)
- C. BATA Resolution No. 131, Revised (RM 3 Independent Oversight Committee establishment and membership)
- D. MTC Resolution No. 4404, Revised (RM 3 Policies and Procedures)
- E. MTC Resolution No. 4412, Revised (RM 3 Letters of No Prejudice)
- F. RM 3 Capital Expenditure Plan
- G. MTC Resolution No. 4579 (RM 3 Operating Funding)