

THIS PRINT COVERS CALENDAR ITEM NO. : 12

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance and Information Technology

BRIEF DESCRIPTION:

Presentation and discussion regarding San Francisco's Construction Mitigation Program, proposed options for implementing the citywide direct business support component of the program and use of the \$5 million Small Business Impact Mitigation Fund.

SUMMARY:


- In September 2017, Mayor Ed Lee announced the creation of a City and County of San Francisco Construction Mitigation Program.
- The Construction Mitigation Program is designed to limit or negate the negative impact construction projects have on surrounding businesses.
- The SFMTA has worked to lead the way in the implementation of this program integrating the program into the implementation of major projects on commercial corridors in partnership with other city departments, especially the Office of Economic and Workforce Development (OEWD).
- In March 2019, the Mayor and San Francisco Board of Supervisors approved a Budget Amendment and Supplemental Appropriation of \$38.1 million, of that amount \$5 million in funding was set aside for a Small Business Impact Mitigation Fund.
- SFMTA and OWED staff have been working on how to integrate the funds into the overall implementation of the Construction Mitigation Program and the directed business support component of the program.
- SFMTA staff have now developed two final alternatives for feedback from the SFMTA Board to be implemented by OEWD.

ENCLOSURES:

1. Slide presentation

APPROVALS:

DIRECTOR 

SECRETARY 

DATE

September 12, 2019

September 12, 2019

ASSIGNED SFMTAB CALENDAR DATE: September 17, 2019

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PURPOSE

Presentation and discussion regarding San Francisco's Construction Mitigation Program, proposed options for implementing the citywide direct business support component of the program and use of the \$5 million Small Business Impact Mitigation Fund.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This request supports the following SFMTA Strategic Plan Goals:

Goal 1: Create a safer transportation experience for everyone

Objective No. 1.1: Achieve Vision Zero by eliminating all traffic deaths.

Objective No. 1.2: Improve the Safety of the Transit System.

Goal 2: Make transit and other sustainable modes of transportation the most attractive and preferred means of travel.

Objective No. 2.1: Improve Transit Service.

Objective No. 2.2: Enhance and expand the use of the city's sustainable modes of transportation.

Goal 3: Improve the quality of life and environment in San Francisco and the region.

Objective No. 3.5: Achieve financial stability for the agency.

Goal 4: Create a workplace that delivers outstanding service.

Objective No. 4.3: Enhance customer service, public outreach, and engagement

Objective No. 4.5: Increase the efficiency and effectiveness of business processes and project delivery through implementation of best practices.

This request supports the following Transit Principles:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.
2. Decisions regarding the use of limited public street and sidewalk space shall encourage the use of public rights of way by pedestrians, bicyclists, and public transit, and shall strive to reduce traffic and improve public health and safety.
3. Transit-priority improvements, such as designated transit lanes and streets and improved signalization, shall be made to expedite the movement of public transit vehicles (including taxis and vanpools) and to improve pedestrian safety.
4. Pedestrian areas shall be enhanced wherever possible to improve the safety and comfort of pedestrians and to encourage travel by foot.
5. Bicycling shall be promoted by encouraging safe streets for riding, convenient access to transit, bicycle lanes, and secure bicycle parking.
6. New transportation investment should be allocated to meet the demand for public transit generated by new public and private commercial and residential developments.

DESCRIPTION

In September 2017, Mayor Ed Lee announced the creation of a City and County of San Francisco Construction Mitigation Program. While city construction projects have the potential to produce long-term economic benefits, in the short term, these projects might have negative impacts surrounding businesses. The most specific impact is the limiting of access to businesses and the resulting impacts changing customers' shopping patterns. A core element of the program and initial pilot was determining a package of mitigation measures for the Central Subway Project.

The development of City's Construction Mitigation Program included an extensive review of the best practices and includes several mitigation measures that should be implemented during the construction phase of a project to minimize impacts to businesses.

Construction Mitigation is applied to a capital project when that project is anticipated to be implemented along a commercial corridor or one of the designated Invest in Neighborhood Corridors as identified by OEWD. Over the past 24-months, the SFMTA has fully implemented and operationalized the Construction Mitigation Program. This includes full-time staffing for the program, a master Memorandum of Understanding with partner departments and OEWD and the implementation of construction mitigation measures into project budgets.

One of the lessons learned in the two-year implementation of the program has been to begin the planning process for the mitigation measures much earlier than post-award on the construction contract. Beginning in Spring 2019 the SFMTA began doing construction mitigation planning at approximately 65% design. In addition, a review of current businesses and initial outreach to businesses on proposed mitigation measures begins during this period. Construction Mitigation Plans have been developed and implemented to date on the following SFMTA led projects: Central Subway, Twin Peaks, Van Ness Improvement, 22-Fillmore/16th Street, Geary Improvement and L-Taraval.

Construction Mitigation measures are implemented depending on the total amount of time of anticipated disruption to a corridor, specific block and the commercial businesses on that block. Projects are determined to be "low-impact," if the planned and scheduled construction duration is less than 12 months. In those cases, outreach to impacted businesses should occur before physical construction begins with a way to directly contact projects staff to deal with issues real time in the field.

Projects with a construction duration of more than 12-months include additional mitigation elements including: signage, corridor marketing produced with OEWD, an assigned business liaison and ambassadors that can walk project sites and deal with real-time issues immediately in the field, business support programs and educations are also presented as part of pre-construction outreach by OEWD.

For projects that are planned to be a "major-impact" or more than 24-months of construction duration, additional measures can be implemented including the development of a business advisory committee, parking mitigation plans, transit fare passes, and directed business support.

Directed Business Support was anticipated to be used on the most extreme of circumstances and for the City's largest infrastructure projects. The elements of directed business support include: technical business assistance, the development of Business Action Plans, and one-time financial support for rent, utilities, tenant and other capital improvements. The only example where directed business support has

been used as a construction mitigation measure to date is the Central Subway Project.

In February 2019, the SFMTA Board of Directors approved Resolution No. 190205-014 authorizing the Director of Transportation to submit a request to the Board of Supervisors for a Budget Amendment and Supplemental Appropriation of \$38.1 million for Fiscal Year 2019 to support the acceleration of the purchase of light rail vehicles for the Muni transit fleet and/or for other capital projects that the Director of Transportation. The funding associated with the proposed budget amendment and supplemental appropriation was excess Educational Revenue Augmentation Fund (ERAF) funds resulting in an increase in the SFMTA General Fund baseline in FY 2019 of \$38.1 million. This funding was designated for one-time uses. As part of the final recommendation to the SFMTA Board, \$5 million of this amount was designated for a Small Business Impact Mitigation Fund.

In March 2019, the Mayor and San Francisco Board of Supervisors approved Ordinance No. 34-19 the appropriating the \$38.1 million in ERAF funds and establishing Small Business Impact Mitigation Fund using \$5 million of that amount.

Since March 2019, SFMTA and OEWD staff have been working on proposed uses of the one-time \$5 million Small Business Impact Mitigation Fund and have been providing updates to the San Francisco County Transportation Authority Board (TA Board) on the various proposals.

When considering the use of the fund as a baseline it is recommended that it be used within the context and confines of the City and County of San Francisco's existing Construction Mitigation Program. In addition, since the funding came from the SFMTA's General Fund baseline, that the funding be used exclusively for SFMTA led major infrastructure projects. This would mean, projects that were not SFMTA-led, but were other projects that included SFMTA scope would not be eligible for the fund.

In late April 2019, SFMTA, OEWD, Public Utilities Commission (PUC) and San Francisco Public Works staff presented an update to the TA Board on the overall implementation of the Construction Mitigation Program. The update included specific lessons learned since program creation in September 2017. It also included initial recommendations for the use of the \$5 million Small Business Impact Mitigation Fund. This initial recommendation was that the fund be used to reduce the impact of construction mitigation measures on existing project budgets. The Construction Mitigation Program was built around fund eligibility, so that mitigation measures could be built into project budgets to the greatest extent possible. However, sometimes the cost of these measures can result in a negative impact on a project or even prevent it from being implemented. For example, if a construction project includes simple elements of SFMTA scope such as paint and simple civil work with disruptive impacts to business, this could require full time business liaison plus other construction mitigation elements such as marketing. This cost of implementing these measures may result in a percentage such as 20 percent or more that would then result in the actual transportation project scope being put at risk. In addition, it was recommended that the funding be used to enhance existing mitigation measures within project budgets. Lastly, it was recommended that the fund be used if mitigation measures including directed business support were not eligible for existing project funds. At that meeting members of the TA Board made clear that the intent of the fund was for directed business support and not other mitigation measures as part of the overall construction mitigation program.

SFMTA and OEWD staff began the process of developing a more robust Directed Business Support program. The only example to date was the Central Subway Project. The total construction mitigation package of mitigations was \$1.5 million, of which \$400,000 was set aside for directed business support elements such as rent, utilities, and wages physical improvements to their storefronts such as fixtures,

furnishings and equipment painting, compliance with accessibility, and technology upgrades. In considering fund sustainability and the sustainability of the program, SFMTA and OWED staff considered numerous programmatic options.

In July 2019, SFMTA staff provided a second update to the TA Board recommending that the Small Business Impact Mitigation Fund be used exclusively for directed business support; that the funding be used for SFMTA-led projects that met the criteria as having a “major impact;” that the funding be split between one-time grants for immediate major planned SFMTA projects and a revolving loan-fund to ensure the long term sustainability of the fund and ensure continuous support to projects with SFMTA scope. In addition, the overall amount and process for the program was recommended to match that of the Central Subway including:

- Storefront: Ground floor street facing store.
- Directly impacted: Construction that impacts and/or impedes visual or physical access to business including structures and large-scale equipment for a period of six months or longer.
- Indirectly impacted: No physical or visual impediment in front of the storefront, but construction is within a one block radius of construction site that indirectly impacts the business corridor for a period of 12 months or longer.
- \$5,000 to \$10,000 per business based on the level of construction impact.
- Includes: rent, utilities, and wages and to help a business complete physical improvement to their storefronts such as fixtures, furnishings and equipment painting, compliance with accessibility, and technology upgrades or to develop a Business Action Plan.

At this meeting TA Board members noted generally their preference for one-time grants versus loans, there was also discussion about what the amounts should be, and that they perhaps be larger than a maximum of \$10,000.

With all alternatives considered SFMTA staff have two final alternatives for feedback from the SFMTA Board. The final program set the parameters and criteria for a Memorandum of Understanding with OEWD to manage the directed business support on behalf of the SFMTA.

Option One includes the following:

- Funds to be used for directed business support as defined in the City and County of San Francisco Construction Mitigation Program;
- Program eligibility be consistent with the foundations set with the Central Subway Project, however increasing the maximum amount of support per business from \$10,000 to \$15,000;
- Of the \$5 million in the Small Business Impact Mitigation Fund:
 - \$4 million will be set-aside for Grants for SFMTA-led projects that meet the criteria for a “major-impact project,” and
 - \$1 million will be set-aside in a revolving loan fund for zero-percent interest loans to businesses impacted by SFMTA scope.

Option Two would remove the requirement that \$1 million be set-aside for a revolving loan fund for projects that include SFMTA scope and would set aside the entire \$5 million fund for one-time grants of up to \$15,000.

PUBLIC OUTREACH

In February, in anticipation of the appropriation action by the Mayor and Board of Supervisors, SFMTA staff presented an update on the Construction Mitigation Program to the San Francisco Council of District Merchants. In addition, SFMTA staff have regularly been keeping members of the SFMTA Small Business Working Group updated on the refinements to the SFMTA's implementation of the Construction Mitigation Program.

Staff has presented in April 2019 and July 2019 to the TA Board and hearing public comment on the various program proposals.

ALTERNATIVES CONSIDERED

The development, implementation and operationalization of the City's Construction Mitigation Program within the SFMTA has been a collaborative and iterative process. As noted above, numerous alternatives have been considered including: program augmentation, impacts to delivering capital projects using existing project funding, directed business support criteria as well as the financial sustainability of such a program.

FUNDING IMPACT

The funding for the Small Business Impact Mitigation Fund is a one-time \$5 million appropriation from excess Educational Revenue Augmentation Fund (ERAF) or one-time general funds in Fiscal Year 2019.

Funding directed business support is not eligible using traditional project funds such as: General Obligation Bonds, Revenue Bonds, Transportation Sales Tax Funds or capital project funds from the State of California or through the Federal Transit Administration (FTA).

If an expansion of this element of the Construction Mitigation Program is to continue to future projects, then the financial sustainability of the program should be taken into consideration. This could take the form of a revolving loan fund, in which the payback of funds is used for future loans or further appropriations of revenue sources for which this use would be eligible.

ENVIRONMENTAL REVIEW

This is an informational item to solicit feedback from the SFMTA Board.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

No further approvals are required for this item.

RECOMMENDATION

Staff is requesting feedback on the final two options and will administratively implement the option based on feedback from the SFMTA Board