

**Metropolitan Transportation Commission
Programming and Allocations Committee**

March 9, 2022

Agenda Item 2e - 22-0412

MTC Resolution No. 4412, Revised

Subject:

Regional Measure 3 (RM3) Letters of No Prejudice to the San Mateo County Transportation Authority for the Highway 101/State Route 92 Interchange Project.

Background:

Regional Measure 3 Letters of No Prejudice (LONP)

Bay Area voters approved Regional Measure 3 (RM3) on June 5, 2018, and on December 19, 2018, the Bay Area Toll Authority (BATA) adopted a toll schedule phasing in the resulting toll increase. The first and second dollars of the toll increase were implemented on January 1, 2019 and January 1, 2022, respectively. RM3 is under litigation and collected RM3 revenue is being held in an escrow account. No allocations of RM3 funds are anticipated until and unless litigation is resolved in favor of RM3. In December 2019, MTC approved a Letter of No Prejudice (LONP) process as part of the overall RM3 Policies and Procedures to allow project sponsors to move projects forward with alternate funds, at-risk, while maintaining RM3 eligibility if and when RM3 funds are available.

Through MTC Resolution No. 4412, the Commission may approve specific RM3 LONPs, at the request of project sponsors, and following the RM3 Policies and Procedures. Details on each LONP request specifying the amount and scope for which RM3 eligibility will be preserved will be included in the attachments to the resolution.

Highway 101/State Route 92 Interchange Project

The San Mateo County Transportation Authority (SMCTA) submitted RM3 LONP requests for about \$2 million for the environmental and right of way phases of the Highway 101/State Route 92 Interchange Project, RM3 project 18. The project aims to reduce congestion and associated travel delays, and eliminate/minimize congestion spillover onto local streets. SMCTA proposes to segment the project into two subprojects.

Subproject 18.1: Highway 101/State Route 92 Interchange Area Improvements Project. SMCTA submitted an RM3 LONP request for \$25,000 for the right of way phase of the 101/92

Interchange Area Improvements project. The project includes four elements that will improve the operations and reduce congestion in and around the Interchange, including ramp improvements and intersection modifications. The project completed the environmental phase in September 2021. The right of way phase is expected to last 18 months starting in April 2022.

Subproject 18.2: Highway 101/State Route 92 Interchange Direct Connector Project. SMCTA submitted an RM3 LONP request for \$2 million for the environmental phase of the 101/92 Interchange Direct Connector project. The project aims to implement long-term direct connection improvements within the 101/92 Interchange to facilitate movement between SR 92 and the 101 Express Lanes. The proposed managed lane direct connectors will encourage carpooling, promote transit access, and reduce demand on the existing interchange ramp connections. The environmental phase is expected to last about two years starting in early 2022.

LONP Funding Source

The RM3 Policies and Procedures require that the project sponsor provide a non-RM3 source of funding to cover the portion that would be covered by RM3 funds, and that a plan be provided in case the RM3 funds never become available. In lieu of RM3 funds at this time, SMCTA will use its local option sales tax (Measures A and W) to complete the environmental and right of way phases of the two subprojects within the Highway 101/State Route 92 Interchange project. SMCTA understands the risk that RM3 funds may never become available.

Staff has reviewed the Initial Project Reports and LONP requests and recommend issuing the LONPs. Issuing the LONPs will preserve the eligibility of activities related to the above-mentioned projects in San Mateo County occurring after the issuance of the LONP, for future RM3 allocation and reimbursement if RM3 legislation is resolved favorably.

The RM3 LONPs do not represent a general funding commitment by MTC. In the event RM3 funds do not become available, there is no expectation that MTC or BATA will provide alternate funds.

Issues:

While SMCTA is the lead sponsor and implementing agency, the RM3 enabling legislation lists both SMCTA and the City/County Association of Governments of San Mateo County (C/CAG)

as project sponsors. As such, both agencies must approve LONP requests. SMCTA approved the LONP requests in January 2022, while C/CAG's LONP requests will be considered in March 2022. MTC staff proposes the LONPs be contingent upon C/CAG's approval of the LONP requests.

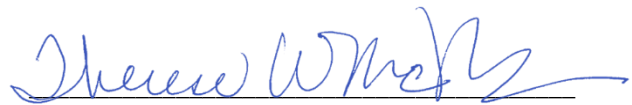
If the RM3 litigation is not resolved favorably, funds may never become available to reimburse SMCTA. SMCTA has acknowledged this risk in their agency resolution and MOU.

Recommendation:

Refer MTC Resolution No. 4412, Revised, to the Commission for approval.

Attachments:

- MTC Resolution No. 4412, Revised



Therese W. McMillan

Date: March 25, 2020
Referred by: PAC
Revised: 05/27/20-C 07/22/20-C
10/28/20-C 12/16/20-C
02/24/21-C 04/28/21-C
06/23/21-C 07/28/21-C
09/22/21-C 01/26/22-C
02/23/22-C 03/23/22-C

ABSTRACT

MTC Resolution No. 4412, Revised

This resolution authorizes the Executive Director to issue Letters of No Prejudice for RM3 funds for eligible projects.

This resolution includes the following attachments:

- Attachment A – Mission Bay Ferry Landing (WETA) LONP Summary
- Attachment B – Goods Movement GoPort 7th Street Grade Separation (Alameda County Transportation Commission (ACTC)) LONP Summary
- Attachment C – I-680/SR-84 Interchange Reconstruction and SR-84 Expressway Widening (ACTC) LONP Summary
- Attachment D – I-80/680/SR-12 Interchange (Solano Transportation Authority) LONP Summary
- Attachment E – US-101/I-580 Direct Connector (Transportation Authority of Marin) LONP Summary
- Attachment F – SMART System Extension to Windsor and Healdsburg (SMART) LONP Summary
- Attachment G – US-101 Marin-Sonoma Narrows Marin Segment Project (Transportation Authority of Marin) LONP Summary
- Attachment H – I-680/SR-4 Interchange Improvement Phase 1 and 2A Project (Contra Costa Transportation Authority) LONP Summary
- Attachment I – Mokelumne Trail Bicycle/Pedestrian Overcrossing of SR-4 Project (Contra Costa Transportation Authority) LONP Summary
- Attachment J – SR-262 (Mission Blvd.) Cross Connector Project (Alameda County Transportation Commission) LONP Summary
- Attachment K – I-80 Westbound Truck Scales Project (Solano Transportation Authority) LONP Summary

Attachment L – US-101 Marin-Sonoma Narrows Project (Transportation Authority of Marin) LONP Summary

Attachment M – I-80 Express Lanes Project (Solano Transportation Authority) LONP Summary

Attachment N – Vine Transit Maintenance Facility (Napa Valley Transportation Authority) LONP Summary

Attachment O – I-80 Express Lanes Project Toll System (Bay Area Infrastructure Financing Authority) LONP Summary

Attachment P – I-680 Southbound Express Lane (ACTC) LONP Summary

Attachment Q – Next Generation Clipper Regional Fare Payment System Integrator (MTC) LONP Summary

Attachment R – Highway 101/State Route 92 Interchange Area Improvement Project (San Mateo County Transportation Authority) LONP Summary

Attachment S – Highway 101/State Route 92 Interchange Direct Connector Project (San Mateo County Transportation Authority) LONP Summary

This resolution was revised by Commission Action on May 27, 2020 to add Attachments B and C, LONP Summaries for two RM3 projects sponsored by the Alameda County Transportation Commission (ACTC).

This resolution was revised by Commission Action on July 22, 2020 to add Attachments D and E, LONP Summaries for two RM3 projects sponsored by the Solano Transportation Authority (STA) and the Transportation Authority of Marin (TAM).

This resolution was revised by Commission Action on October 28, 2020 to add Attachment F, LONP Summary for an RM3 project sponsored by the Sonoma-Marín Area Rail Transit District (SMART).

This resolution was revised by Commission Action on December 16, 2020 to add Attachment G, LONP Summary for an RM3 project sponsored by the Transportation Authority of Marin (TAM).

This resolution was revised by Commission Action on February 24, 2021 to add Attachments H and I, LONP Summaries for two RM3 projects sponsored by the Contra Costa Transportation Authority (CCTA).

This resolution was revised by Commission Action on April 28, 2021 to add Attachment J, LONP Summary for SR-262 (Mission Blvd.) Cross Connector Project sponsored by the Alameda County Transportation Commission; Attachment K, LONP Summary for I-80 Westbound Truck Scales Project sponsored by the Solano Transportation Authority; Attachment L, LONP Summary for US-101 Marin-Sonoma Narrows Project sponsored by the Transportation Authority of Marin; and Attachment M, LONP Summary for I-80 Express Lanes Project sponsored by the Solano Transportation Authority.

This resolution was revised by Commission Action on June 23, 2021 to add Attachment N, LONP Summary for a project sponsored by the Napa Valley Transportation Authority (NVTa).

This resolution was revised by Commission Action on July 28, 2021 to amend Attachment M, LONP Summary for the I-80 Express Lanes Project in Solano County, and to add Attachment O, LONP Summary for the I-80 Express Lanes Toll System Project in Solano County.

This resolution was revised by Commission Action on September 22, 2021 to add Attachment P, LONP Summary for the I-680 Southbound Express Lanes Project in Alameda County.

This resolution was revised by Commission Action on January 26, 2022 to amend Attachment D, LONP Summary for the I-80/680/SR-12 Interchange Project in Solano County.

This resolution was revised by Commission Action on February 23, 2022 to add Attachment Q, LONP Summary for the Next Generation Clipper Fare Payment System Integrator.

This resolution was revised by Commission Action on March 23, 2022 to add Attachment R, LONP Summary for the Highway 101/State Route 92 Interchange Area Improvement Project, and Attachment S, LONP Summary for the Highway 101/State Route 92 Interchange Direct Connector Project.

Additional discussion of this allocation is contained in the Programming and Allocations Committee Summary sheets dated March 11, 2020, May 13, 2020, July 10, 2020, October 14, 2020, December 9, 2020, February 10, 2021, April 14, 2021, June 9, 2021, July 14, 2021, September 8, 2021, January 12, 2022, February 9, 2022, and March 9, 2022.

Date: March 25, 2020
W.I.: 1255
Referred by: PAC

Re: Authorization to Issue Letters of No Prejudice for Regional Measure 3 Funds

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION No. 4412

WHEREAS, pursuant to Government Code Section 66500 *et seq.*, the Metropolitan Transportation Commission (“MTC”) is the regional transportation planning agency for the San Francisco Bay Area; and

WHEREAS, Streets and Highways Code Sections 30950 *et seq.* created the Bay Area Toll Authority (“BATA”) which is a public instrumentality governed by the same board as that governing MTC; and

WHEREAS, on June 5, 2018, a special election was held in the City and County of San Francisco, and the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma (individually, each a “County” and, collectively, the “Counties”) to approve a toll increase of three dollars (\$3.00) phased in over time, including a one dollar (\$1.00) toll increase on January 1, 2019, a one dollar (\$1.00) toll increase on January 1, 2022, and a one dollar (\$1.00) toll increase on January 1, 2025, for vehicles traveling on the state-owned bridges located in the San Francisco Bay Area (“Regional Measure 3”); and

WHEREAS, on September 26, 2018, the Bay Area Toll Authority (“Authority”) adopted Resolution No. 126 accepting certified statements from the Registrar of Voters of the City and County of San Francisco and each of the Counties and observing that a majority of all voters voting on Regional Measure 3 (“RM3”) at such special election voted affirmatively for RM3; and

WHEREAS, on December 19, 2018, the Authority adopted Resolution No. 128 adopting a toll schedule phasing in the toll increase approved pursuant to RM3, effective on January 1, 2019; and

WHEREAS, RM3 establishes the RM3 Expenditure Plan and identifies specific capital projects and programs and operating programs eligible to receive RM3 funding as identified in Sections 30914.7(a) and (c) of the California Streets and Highways Code; and

WHEREAS, BATA shall fund the projects of the RM3 Expenditure Plan by bonding or transfers to MTC; and

WHEREAS, MTC adopted RM3 Policies and Procedures for the implementation of the RM3 Expenditure Plan, specifying the allocation criteria and project compliance requirements for RM3 funding (MTC Resolution No. 4404); and

WHEREAS, the RM3 Policies and Procedures established a process whereby eligible transportation project sponsors may request a Letter of No Prejudice (LONP) for Regional Measure 3 funding; and

WHEREAS, the Attachments to this resolution, attached hereto and incorporated herein as though set forth at length, list the scope, amount, and conditions for which project sponsors have requested an LONP, and the replacement funding source used in place of RM3 funds; and

WHEREAS, the claimants to which an LONP is issued under this resolution have certified that the projects and purposes listed and recorded the Attachments are in compliance with the requirements of the California Environmental Quality Act (Public Resources Code Section 21000 et seq.), and with the State Environmental Impact Report Guidelines (14 California Code of Regulations Section 15000 et seq.); now, therefore, be it

RESOLVED, that MTC approves MTC staff's review of the LONP requests for the projects listed in the Attachments; and be it further

RESOLVED, that MTC authorizes the Executive Director to issue LONPs in accordance with the amount and activities as set forth in the Attachments; and, be it further

RESOLVED, that future allocation and reimbursement with RM3 funds will be conditioned upon successful outcome of RM3 litigation; and, be it further

RESOLVED, that future allocation and reimbursement with RM3 funds will be conditioned upon compliance with the provisions of the RM3 Policies and Procedures as set forth in length in MTC Resolution No. 4404; and be it further

RESOLVED, that future allocation and reimbursement of RM3 funds are further conditioned upon the project specific conditions as set forth in the Attachments; and, be it further

RESOLVED, that project sponsors receiving an LONP are responsible for delivering the usable project segment or complete phase with alternate funds before RM3 funds are available, at risk to the project sponsor; and be it further

RESOLVED, that an RM3 LONP does not represent a general funding commitment by MTC; in the event that RM3 funds do not become available, there is no expectation that MTC or BATA will provide alternate funds; and be it further

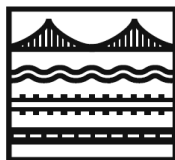
RESOLVED, that a certified copy of this resolution and applicable attachments shall be forwarded to the project sponsor.

METROPOLITAN TRANSPORTATION COMMISSION



Scott Haggerty, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at the regular meeting of the Commission held in San Francisco, California, on March 25, 2020.

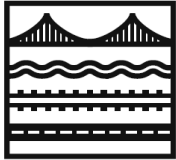


Regional Measure 3

Letter of No Prejudice Project Summary

Project Information

RM3 Project Number	18.1	
Project Title	Highway 101/State Route 92 Interchange: Area Improvements Project	
Lead Sponsor(s)	Other Sponsor(s)	Implementing Agency
San Mateo County Transportation Authority (SMCTA)	City/County Assoc. Governments of SM Co.	SMCTA
Legislated Project Description		RM3 Legislated Funding (in \$1,000s)
Fund improvements to the interchange of Highway 101 and State Route 92 in the County of San Mateo. The project is jointly sponsored by the City/County Association of Governments of San Mateo County and the San Mateo County Transportation Authority. Fifty million dollars (\$50,000,000).		\$50,000
Sponsor Programming and LONP Request Action		
SMCTA approved Resolution No. 2022-4 on 1/6/2022, approving a \$25,000 RM3 LONP request.		
Detailed Project Description		
The San Mateo County Transportation Authority (SMCTA) in partnership with the cities of Foster City and San Mateo and the City/County Association of Governments of San Mateo County (C/CAG), and in cooperation with Caltrans, propose to provide improvements at the US 101 and State Route (SR) 92 interchange and its vicinity. The US 101 / SR 92 Interchange Area Improvements Project (Project) considers four build improvements within the project limits that can either be implemented independently or together.		
LONP Phase	LONP Amount (in \$1,000s)	LONP Approval Date
ROW	\$25	23-Mar-22
Scope - Activities eligible for future allocation and reimbursement if RM3 funds become available		
The LONP preserves future RM3 eligibility for costs related to the right of way phase of the 101/92 Interchange Area Improvements project incurred after the LONP approval date.		
Conditions - In addition to the successful outcome of RM3 litigation, eligibility for future allocation and reimbursement is conditioned upon the following:		
1	The allocation is contingent upon San Mateo City/County Association of Governments approving an LONP authorizing request for the project.	



Regional Measure 3

Letter of No Prejudice Project Summary

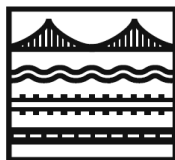
Project Funding Plan and Schedule

RM3 Project Number	18.1
Project Title	Highway 101/State Route 92 Interchange: Area Improvements Project
RM3 Replacement Funding Source	Measure W, SMCTA's Local Option Sales Tax

Project Funding Plan

Project Schedule

Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
ENV	STIP	Yes	\$ 2,411	Jan-19	Dec-21
	ENV Subtotal		\$ 2,411		
PSE	STIP	Yes	\$ 3,200	Mar-22	Jul-23
	Measure W	Yes	\$ 750		
	PSE Subtotal		\$ 3,950		
ROW	Measure W (RM3 Replacement)	Yes	\$ 25	Mar-22	Jul-23
	Measure W	Yes	\$ 200		
	ROW Subtotal		\$ 225		
CON	RM3	No	\$ 26,875	Aug-23	Mar-24
	STIP	Yes	\$ 1,600		
	Measure W	Yes	\$ 4,125		
	CON Subtotal		\$ 32,600		
Capital Funding Total			\$ 39,186		

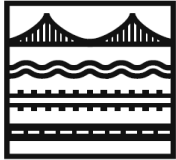


Regional Measure 3

Letter of No Prejudice Project Summary

Project Information

RM3 Project Number	18.2	
Project Title	Highway 101/State Route 92 Interchange: Direct Connector Project	
Lead Sponsor(s)	Other Sponsor(s)	Implementing Agency
San Mateo County Transportation Authority (SMCTA)	City/County Assoc. Governments of SM Co.	SMCTA
Legislated Project Description		RM3 Legislated Funding (in \$1,000s)
Fund improvements to the interchange of Highway 101 and State Route 92 in the County of San Mateo. The project is jointly sponsored by the City/County Association of Governments of San Mateo County and the San Mateo County Transportation Authority. Fifty million dollars (\$50,000,000).		\$50,000
Sponsor Programming and LONP Request Action		
SMCTA approved Resolution No. 2022-4 on 1/6/2022, approving a \$2,000,000 RM3 LONP request.		
Detailed Project Description		
The San Mateo County Transportation Authority (SMCTA) is the lead agency in submitting this LONP Request. SMCTA in partnership with the Cities of Foster City and San Mateo and the City/County Association of Governments (C/CAG), and in cooperation with California Department of Transportation (Caltrans), propose to provide direct connector ramps at the US 101 and SR 92 Interchange. The project aims to implement long-term direct connection improvements within the 101/92 Interchange to facilitate movement between SR 92 and the 101 Express Lanes. The proposed managed lane direct connectors will encourage carpooling, promote transit access, and reduce demand on the existing interchange ramp connections.		
LONP Phase	LONP Amount (in \$1,000s)	LONP Approval Date
ENV	\$2,000	23-Mar-22
Scope - Activities eligible for future allocation and reimbursement if RM3 funds become available		
The LONP preserves future RM3 eligibility for costs related to the environmental phase of the 101/92 Interchange Direct Connector project incurred after the LONP approval date.		
Conditions - In addition to the successful outcome of RM3 litigation, eligibility for future allocation and reimbursement is conditioned upon the following:		
1	The allocation is contingent upon San Mateo City/County Association of Governments approving an LONP authorizing request for the project.	



Regional Measure 3

Letter of No Prejudice Project Summary

Project Funding Plan and Schedule

RM3 Project Number	18.2
Project Title	Highway 101/State Route 92 Interchange: Direct Connector Project
RM3 Replacement Funding Source	Measures A and W, SMCTA's Local Option Sales Taxes

Project Funding Plan

Project Schedule

Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
ENV	Measures A/W (RM3 Replacement)	Yes	\$ 2,000	Mar-22	Jan-24
	Measures A/W	Yes	\$ 10,200		
	ENV Subtotal		\$ 12,200		
PSE	RM3	No	\$ 2,000	Feb-24	Feb-26
	TBD	No	\$ 10,200		
	PSE Subtotal		\$ 12,200		
ROW	RM3	No	\$ 500	Feb-24	Feb-26
	TBD	No	\$ 3,300		
	ROW Subtotal		\$ 3,800		
CON	RM3	No	\$ 18,600	Apr-26	Feb-28
	TBD	No	\$ 146,300		
	CON Subtotal		\$ 164,900		
Capital Funding Total			\$ 193,100		