

**Metropolitan Transportation Commission
Programming and Allocations Committee**

February 8, 2023

Agenda Item 2c - 23-0231

MTC Resolution No. 4412, Revised

Subject:

Regional Measure 3 (RM3) Letter of No Prejudice of \$0.7 million to the Solano Transportation Authority for the I-80/680/SR-12 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. Given a recent ruling in the case, it is anticipated that RM3 funds will be accessible. However, this LONP is necessary pending the ability to release RM3 funds. 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.

I-80/680/SR-12 Interchange Project in Solano County

The Solano Transportation Authority (STA) submitted an RM3 LONP request for \$700,000 for the right-of-way phase of the I-80/680/SR-12 Interchange Initial Construction Package (ICP) Phase 2A project, part of RM3 project 21. The project widened the existing ramp from eastbound SR-12 to eastbound I-80 and improved safety by eliminating weaving on the I-80 ramps.

The project is now open to traffic. However, extended right-of-way negotiations related to the project have prolonged the right-of-way process. STA requires additional funds to cover right-of-way expenses related to the project. STA proposes to loan local funds to cover the right-of-way expenses, which could be repaid when RM3 funds can be allocated.

LONP Funding Source

The RM3 Policies and Procedures require that the project sponsor provides 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, STA will use local funds for the right-of-way phase of the Interchange Phase 2A project. STA understands the risk that RM3 funds may never become available.

Staff have reviewed the Initial Project Reports and LONP request and recommend issuing an LONP. Issuing an LONP will preserve the eligibility of activities related to the above-mentioned project in Solano County occurring after the issuance of the LONP, for future RM3 allocation and reimbursement if RM3 legislation is resolved favorably.

An RM3 LONP does 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:

Staff recommends granting an exception for this LONP and allow reimbursable expenses effective one week before the Commission date, or February 15, 2023. Per legal order, STA must transmit payment by February 18; therefore, an earlier LONP effective date would allow STA to meet its legal obligations.

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

Recommendation:

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

Attachments:

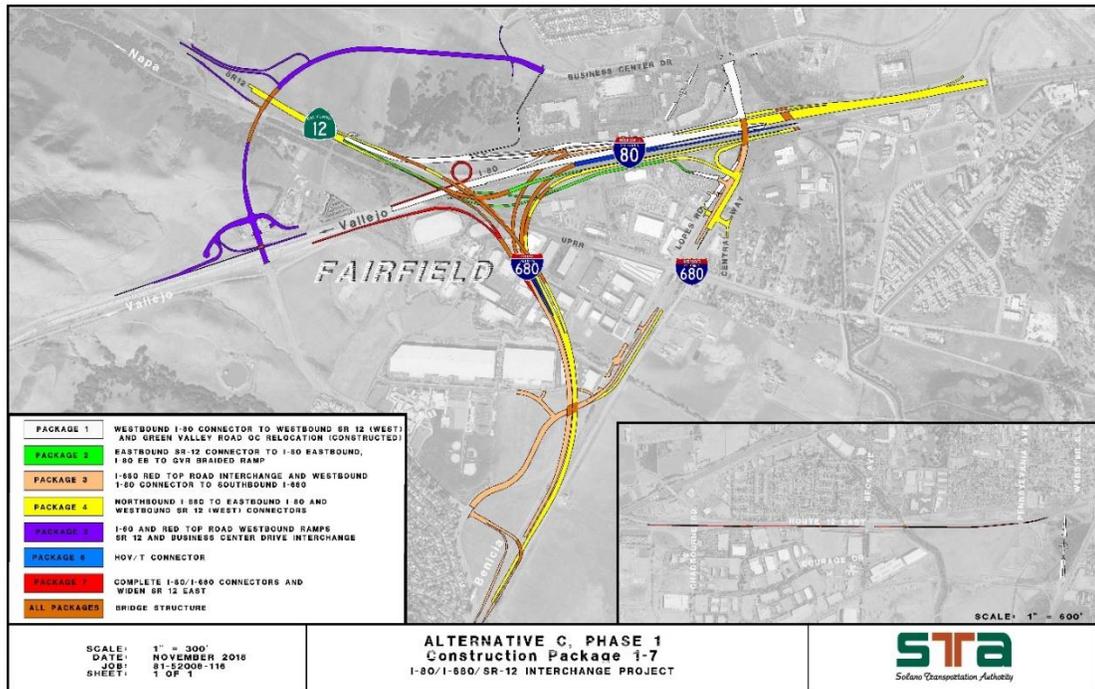
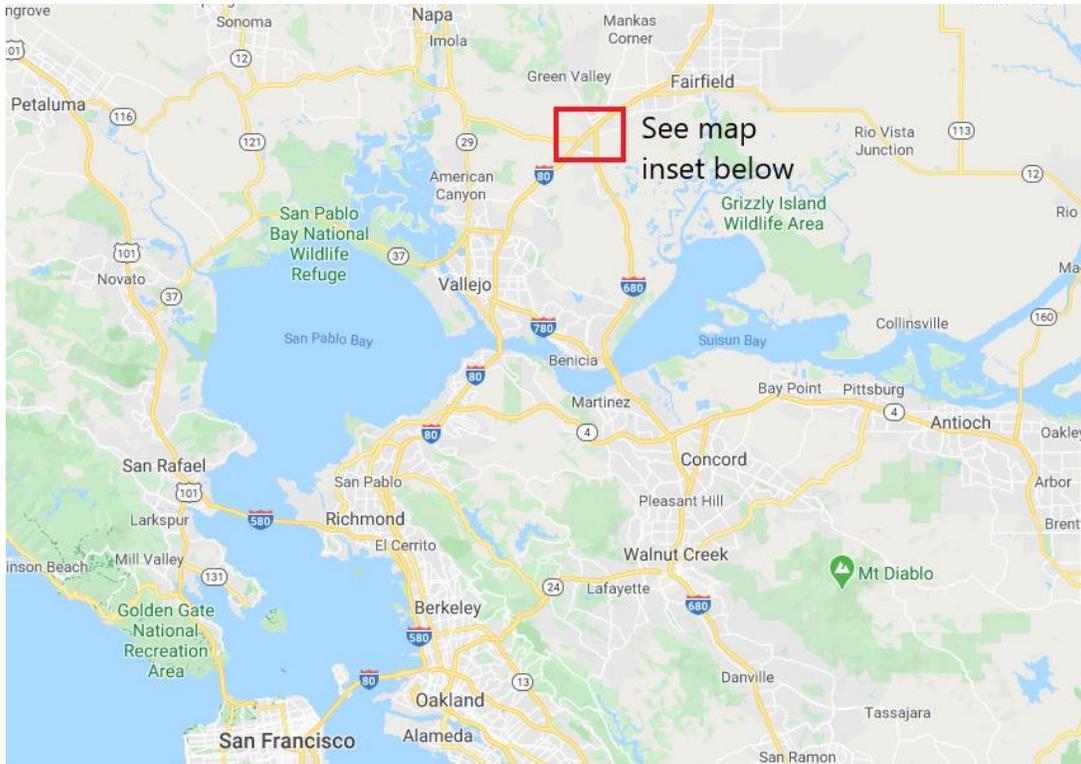
- Attachment A: Project Area Map
- MTC Resolution No. 4412, Revised



Alix A. Bockelman

Attachment A

Project Area Map: I-80/680/SR-12 Interchange Project



* Subject project shown in green.

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
04/27/22-C 06/22-22-C
11/16/22-C 02/22/23-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

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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

Attachment T – State Route 29 Improvement Project (Napa Valley Transportation
Authority) LONP Summary

Attachment U – San José Diridon Station Project (Santa Clara Valley 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).

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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 Acton 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.

This resolution was revised by Commission Action on April 27, 2022 to add Attachment T, LONP Summary for the State Route 29 Improvement Project in Napa County.

This resolution was revised by Commission Action on June 22, 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 November 16, 2022 to add Attachment U, LONP Summary for the San José Diridon Station Project in Santa Clara County.

This resolution was revised by Commission Action on February 22, 2023 to amend Attachment D, LONP Summary for the I-80/680/SR-12 Interchange Project in Solano County.

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, March 9, 2022, April 13, 2022, June 8, 2022, November 9, 2022, and February 8, 2023.

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.

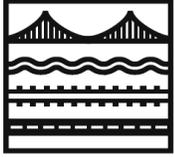


Regional Measure 3

Letter of No Prejudice Project Summary

Project Information

RM3 Project Number	21	
Project Title	I-80/680/SR-12 Interchange Project	
Lead Sponsor(s)	Other Sponsor(s)	Implementing Agency
Solano Transportation Authority (STA)		STA/ Caltrans
Legislated Project Description	RM3 Legislated Funding (in \$1,000s)	
(21) Solano County Interstate 80/Interstate 680/State Route 12 Interchange Project. Construct Red Top Road interchange and westbound Interstate 80 to southbound Interstate 680 connector. The project sponsor is the Solano Transportation Authority. One hundred fifty million dollars (\$150,000,000).	\$150,000	
Sponsor Programming and LONP Request Action		
<p>The STA Board approved STA Resolution No. 2020-03 on 6/10/2020, approving a \$16,700,000 RM3 LONP request. STA will use State Transportation Improvement Program (STIP) funds to begin construction on Phase 2A of the Interchange project.</p> <p>The STA Board also approved STA Resolution No. 2021-21 on 12/8/2021, approving a \$375,000 RM3 LONP request. STA will use local funds. The STA Board also approved STA Resolution No. 2022-05 on 5/11/2022, approving a \$800,000 RM3 LONP request. STA will use local funds.</p>		
Detailed Project Description		
<p>The Interchange Phase 2A project will 1) remove the existing eastbound SR 12W to eastbound I-80 connector; 2) construct a new two-lane highway alignment and bridge structure for the eastbound SR 12W to eastbound I-80; 3) construct the off-ramp from eastbound SR 12W to Green Valley Road; and 4) construct a braided ramp connection for eastbound I-80 to Green Valley Road and southbound I-680.</p>		
LONP Phase	LONP Amount (in \$1,000s)	LONP Approval Date
CON	\$16,700	22-Jul-20
ROW	\$375	26-Jan-22
ROW	\$800	22-Jun-22
ROW	\$700	22-Feb-23 (Effective 15-Feb-23)
Scope - Activities eligible for future allocation and reimbursement if RM3 funds become available		
<p>The LONP preserves future RM3 eligibility for costs related to construction of the Solano Interchange Phase 2A project incurred after the LONP approval dates (with one exception for the 2/22/23 LONP noted above).</p>		
Conditions - In addition to the successful outcome of RM3 litigation, eligibility for future allocation and reimbursement is conditioned upon the following:		
<p>1 Repaid RM3 funds (for the Construction phase LONP) will be committed to the Solano I-80 Managed Lanes funding plan.</p>		



Regional Measure 3

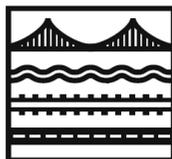
Letter of No Prejudice Project Summary

Project Funding Plan and Schedule

July 22, 2020
 Attachment D
 MTC Resolution No. 4412
 Revised: 01/26/22-C; 06/22/22-C
 02/22/23-C
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RM3 Project Number	21
Project Title	I-80/680/SR-12 Interchange Project
RM3 Replacement Funding Source	State Transportation Improvement Program (STIP), Local Funds

Project Funding Plan			Project Schedule		
Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
ENV				Oct-02	Dec-12
	ENV Subtotal		\$ -		
PSE	Bridge Tolls	Yes	\$ 1,500	Jun-18	Jun-20
	State Transportation Improvement Program	Yes	\$ 9,000		
	PSE Subtotal		\$ 10,500		
ROW	Bridge Tolls	Yes	\$ 5,200	Mar-19	Dec-22
	Local Funds (RM3 replacement)	Yes	\$ 1,875		
	STIP Funds	Yes	\$ 3,200		
	ROW Subtotal		\$ 10,275		
CON	SB1- Trade Corridor Enhancement Program	Yes	\$ 53,200	Sep-20	Dec-22
	Bridge Tolls	Yes	\$ 7,100		
	STIP (RM3 replacement)	Yes	\$ 16,700		
	CON Subtotal		\$ 77,000		
Capital Funding Total			\$ 97,775		

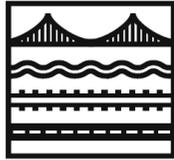


Regional Measure 3

Letter of No Prejudice Project Summary

Project Information

RM3 Project Number	25.1	
Project Title	US-101/I-580 Direct Connector Project	
Lead Sponsor(s)	Other Sponsor(s)	Implementing Agency
Transportation Authority of Marin		TAM
Legislated Project Description	RM3 Legislated Funding (in \$1,000s)	
(25) Richmond-San Rafael Bridge Access Improvements. Fund eastbound and westbound improvements in the Richmond-San Rafael Bridge corridor, including a direct connector from northbound Highway 101 to eastbound Interstate 580, westbound access and operational improvements in the vicinity of the toll plaza east of the bridge in Contra Costa County, and Richmond Parkway interchange improvements. Of the amount allocated to this project, one hundred thirty-five million dollars (\$135,000,000) shall be dedicated to the direct connector from northbound Highway 101 to eastbound Interstate 580 in Marin County and seventy-five million dollars (\$75,000,000) shall be dedicated to the projects in Contra Costa County. The project sponsors are the Bay Area Toll Authority, the Contra Costa Transportation Authority, and the Transportation Authority of Marin. Two hundred ten million dollars (\$210,000,000).	\$135,000	
Sponsor Programming and LONP Request Action		
TAM's Board approved TAM Resolution No. 2020-05 on 1/23/2020, approving a \$5,600,000 RM3 LONP request.		
Detailed Project Description		
The Project proposes to construct a direct connection route between northbound US 101 to eastbound I-580 accessing the Richmond-San Rafael Bridge for travel toward Contra Costa County.		
LONP Phase	LONP Amount (in \$1,000s)	LONP Approval Date
Planning and Environmental	\$5,600	22-Jul-20
Scope - Activities eligible for future allocation and reimbursement if RM3 funds become available		
The LONP preserves future RM3 eligibility for costs related to the planning and environmental document phases of the US-101/I-580 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 None		



Regional Measure 3

Letter of No Prejudice Project Summary

Project Funding Plan and Schedule

RM3 Project Number	25.1
Project Title	US-101/I-580 Direct Connector Project
RM3 Replacement Funding Source	Measure A, TAM's Local Option Sales Taxes

Project Funding Plan

Project Schedule

Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
ENV	TAM Measure Funds	Yes	\$ 1,050	Apr-19	Dec-23
	TAM Measure Funds (RM3 Replacement)	Yes	\$ 5,600		
	ENV Subtotal		\$ 6,650		
PSE	Regional Measure 3	No	\$ 7,500	Jan-24	Dec-25
	PSE Subtotal		\$ 7,500		
ROW	Regional Measure 3	No	\$ 13,900	Jan-24	Nov-25
	ROW Subtotal		\$ 13,900		
CON	Regional Measure 3	No	\$ 108,000	Mar-26	Dec-27
	CON Subtotal		\$ 108,000		
Capital Funding Total			\$ 136,050		