

## Metropolitan Transportation Commission Programming and Allocations Committee

July 8, 2020

Agenda Item 2h - 20-0879

### MTC Resolution No. 4412, Revised

**Subject:** Regional Measure 3 (RM3) Letters of No Prejudice to the Solano Transportation Authority for the I-80/680/SR-12 Interchange Project; and to the Transportation Authority of Marin for the US-101/I-580 Direct Connector 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 dollar of the toll increase was implemented on January 1, 2019. 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.

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

The Solano Transportation Authority (STA) submitted an RM3 LONP request for \$16.7 million for construction of the I-80/680/SR-12 Interchange Initial Construction Package (ICP) Phase 2A project, part of RM3 project 21. The project will widen the existing ramp from eastbound SR-12 to eastbound I-80 and improve safety by eliminating weaving on the I-80 ramps. The funding plan includes \$53 million in Senate Bill 1 (SB1) Trade Corridor Enhancement Program (TCEP) funds awarded in 2018, and toll funding that is the subject of a separate item on this month's Bay Area Toll Authority (BATA) Oversight Committee.

Earlier this Spring, STA notified MTC of an expected cost increase of \$16.7 million due to refined cost estimates and differing site conditions. To address the increase, STA redirected \$16.7 million in State Transportation Improvement Program (STIP) funds from the Solano I-80 Managed Lanes project. This Committee concurred with the STIP action at its June meeting. RM3 includes funds legislatively committed to the Interchange project and could have been used to cover this increase if it were not in litigation. The STA requests this RM3 LONP against the STIP funds so that STA can be repaid when/if RM3 funds become available. STA will commit the repaid funds to complete the I-80 Managed Lanes funding plan. This action is consistent with the regional program of nominations for the SB1 Solution for Congested Corridors and Trade Corridor Enhancement Programs (MTC Resolution Nos. 4417 and 4418), adopted by the MTC Commission in May 2020. Construction is expected to begin in Fall 2020.

**US-101/I-580 Direct Connector Project in Marin County**

The Transportation Authority of Marin (TAM) submitted an RM3 LONP request for \$5.6 million for the planning and environmental document phases of the US-101/I-580 Direct Connector project in Marin County, part of RM3 Project 25. The project will 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. TAM expects to complete the environmental document by late 2023.

**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 STIP funds to construct the Interchange Phase 2A project, and TAM will use its local option sales tax (Measure AA) to begin work on the planning and environmental document of the US-101/I-580 Direct Connector project. Both STA and TAM understand the risk that RM3 funds may never become available.

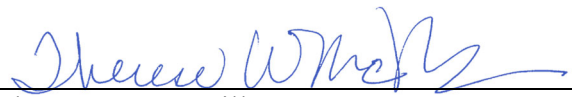
Staff has reviewed the Initial Project Reports and LONP requests and recommend issuing LONPs. Issuing LONPs will preserve the eligibility of activities related to the above-mentioned projects in Solano and Marin Counties occurring after the issuance of the LONP, for future RM3 allocation and reimbursement 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.

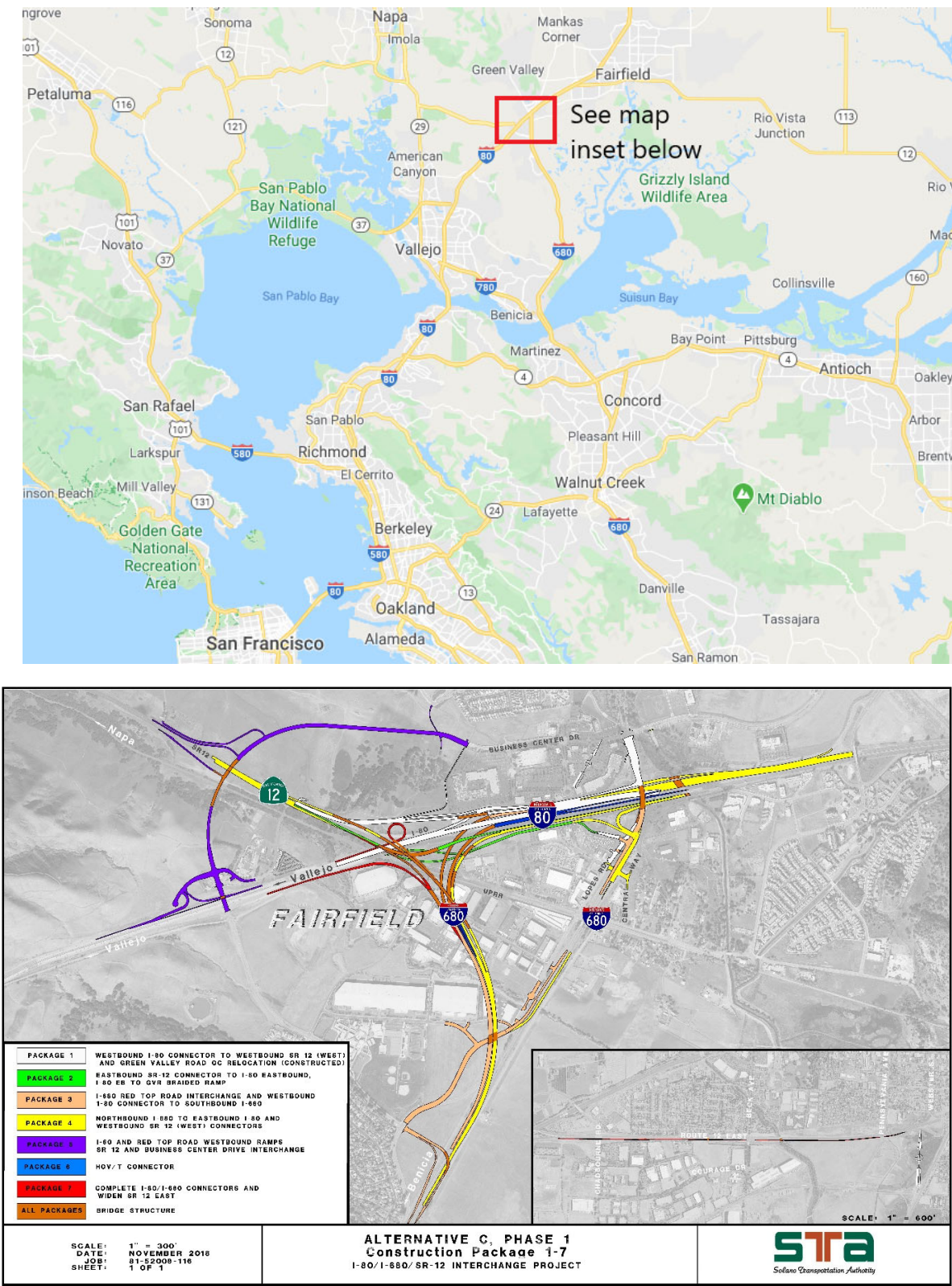
**Issues:** If the RM3 litigation is not resolved favorably, funds may never become available to reimburse STA or TAM. Both STA and TAM have acknowledged this risk in its agency resolution and MOU.

**Recommendation:** Staff requests that the Commission approve MTC Resolution No. 4412, Revised.

**Attachments:** Attachment A: Project Area Maps  
MTC Resolution No. 4412, Revised

  
Therese W. McMillan

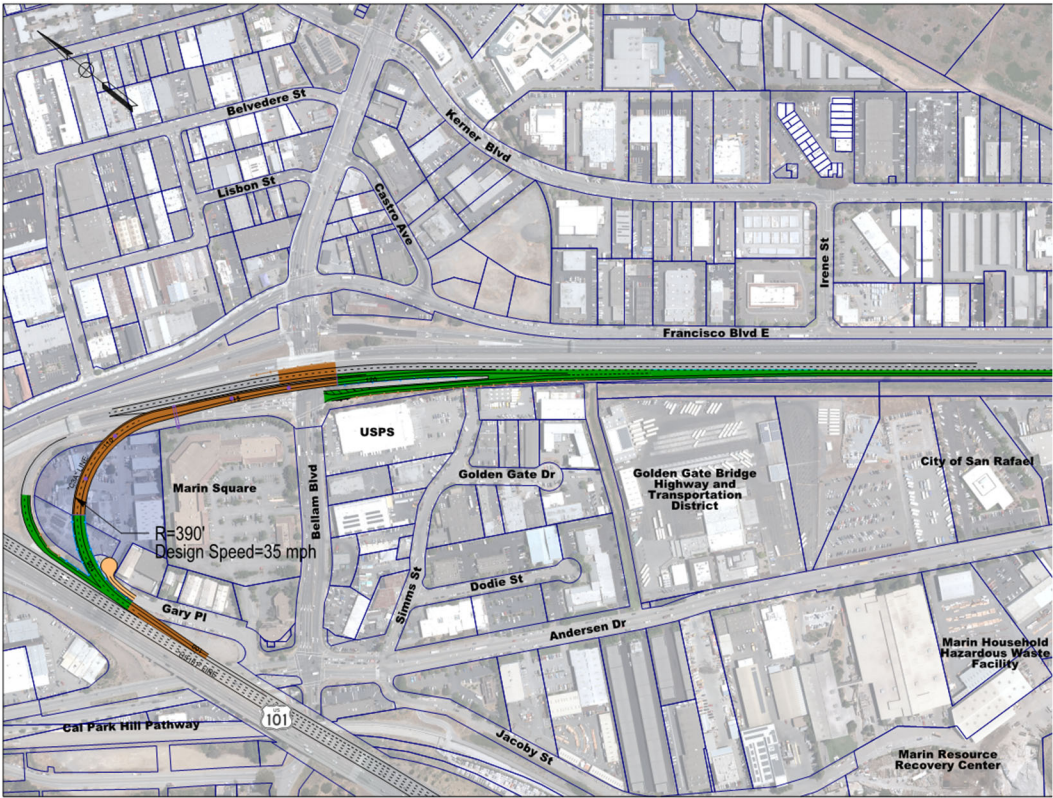
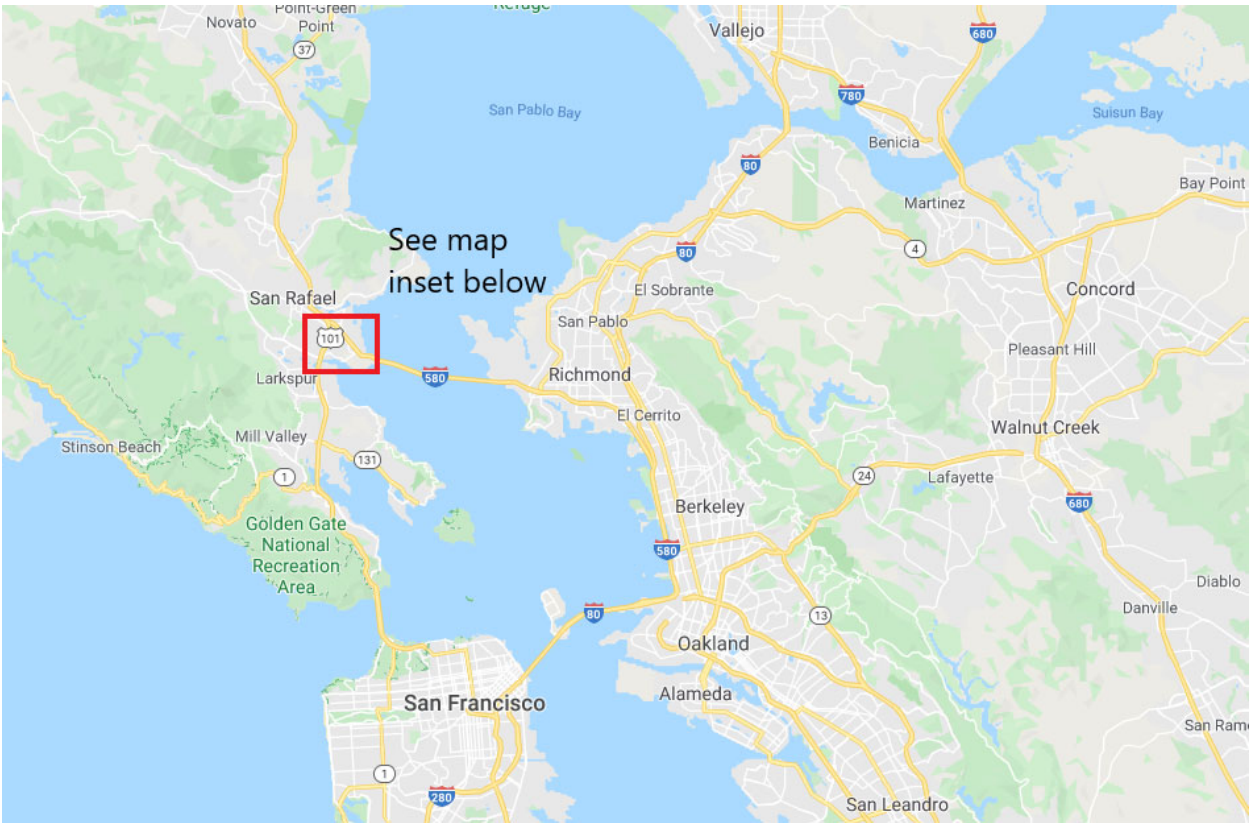
Attachment A-1  
Project Area Map: I-80/680/SR-12 Interchange Project



\* Subject project shown in green.



Attachment A-2  
Project Area Map: US-101/I-580 Direct Connector Project



Date: March 25, 2020  
Referred by: PAC  
Revised: 05/27/20-C  
07/22/20-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 7<sup>th</sup> 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

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 C and D, LONP Summaries for two RM3 projects sponsored by the Solano Transportation Authority (STA) and the Transportation Authority of Marin (TAM).

Additional discussion of this allocation is contained in the Programming and Allocations Committee Summary sheets dated March 11, 2020, May 13, 2020, and July 10, 2020.

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

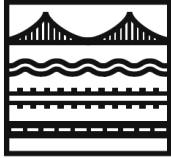
RESOLVED, that a certified copy of this resolution and applicable attachments shall be forwarded to the project sponsor.

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.



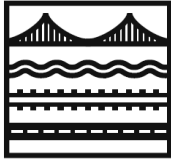


## Regional Measure 3

### Letter of No Prejudice Project Summary

#### Project Information

<b>RM3 Project Number</b>	21	
<b>Project Title</b>	I-80/680/SR-12 Interchange Project	
<b>Lead Sponsor(s)</b>	<b>Other Sponsor(s)</b>	<b>Implementing Agency</b>
Solano Transportation Authority (STA)		STA/ Caltrans
<b>Legislated Project Description</b>		<b>RM3 Legislated Funding (in \$1,000s)</b>
(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
<b>Sponsor Programming and LONP Request Action</b>		
The STA Board approved STA Resolution No. 2020-XX 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.		
<b>Detailed Project Description</b>		
The 7SGSE Project is one of the three projects included in the GoPort Program. This subproject proposes to realign and reconstruct the existing substandard railroad underpass between I-880 and Maritime Street, to increase clearance for trucks, meet other current geometric and seismic standards, and improve the shared pedestrian/bicycle pathway.		
<b>LONP Phase</b>	<b>LONP Amount (in \$1,000s)</b>	<b>LONP Approval Date</b>
CON	\$16,700	22-Jul-20
<b>Scope - Activities eligible for future allocation and reimbursement if RM3 funds become available</b>		
The LONP preserves future RM3 eligibility for costs related to construction of the Solano Interchange Phase 2A project incurred after the LONP approval date.		
<b>Conditions - In addition to the successful outcome of RM3 litigation, eligibility for future allocation and reimbursement is conditioned upon the following:</b>		
1	Repaid RM3 funds will be committed to the Solano I-80 Managed Lanes funding plan.	



## Regional Measure 3

### Letter of No Prejudice Project Summary

#### Project Funding Plan and Schedule

<b>RM3 Project Number</b>	21
<b>Project Title</b>	I-80/680/SR-12 Interchange Project
<b>RM3 Replacement Funding Source</b>	State Transportation Improvement Program (STIP)

#### 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	Apr-20
	State Transportation Improvement Program	Yes	\$ 9,000		
	PSE Subtotal		\$ 10,500		
ROW	Bridge Tolls	Yes	\$ 5,200	Mar-19	Dec-20
	ROW Subtotal		\$ 5,200		
CON	SB1- Trade Corridor Enhancement Program	Yes	\$ 53,200	Aug-20	Dec-21
	Bridge Tolls	Yes	\$ 7,100		
	STIP (RM3 replacement)	Yes	\$ 16,700		
	CON Subtotal		\$ 77,000		
<b>Capital Funding Total</b>			\$ 92,700		



## Regional Measure 3

### Letter of No Prejudice Project Summary

#### Project Information

<b>RM3 Project Number</b>	25.1	
<b>Project Title</b>	US-101/I-580 Direct Connector Project	
<b>Lead Sponsor(s)</b>	<b>Other Sponsor(s)</b>	<b>Implementing Agency</b>
Transportation Authority of Marin		TAM
<b>Legislated Project Description</b>		<b>RM3 Legislated Funding (in \$1,000s)</b>
(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
<b>Sponsor Programming and LONP Request Action</b>		
TAM's Board approved TAM Resolution No. 2020-05 on 1/23/2020, approving a \$5,600,000 RM3 LONP request.		
<b>Detailed Project Description</b>		
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.		
<b>LONP Phase</b>	<b>LONP Amount (in \$1,000s)</b>	<b>LONP Approval Date</b>
Planning and Environmental	\$5,600	22-Jul-20
<b>Scope - Activities eligible for future allocation and reimbursement if RM3 funds become available</b>		
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.		
<b>Conditions - In addition to the successful outcome of RM3 litigation, eligibility for future allocation and reimbursement is conditioned upon the following:</b>		
1	None	



## Regional Measure 3

### Letter of No Prejudice Project Summary

#### Project Funding Plan and Schedule

<b>RM3 Project Number</b>	25.1
<b>Project Title</b>	US-101/I-580 Direct Connector Project
<b>RM3 Replacement Funding Source</b>	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		
<b>Capital Funding Total</b>			<b>\$ 136,050</b>		