

# Metropolitan Transportation Commission Programming and Allocations Committee

February 10, 2021

Agenda Item 2b - 21-0151

## MTC Resolution No. 4412, Revised

**Subject:** Regional Measure 3 (RM3) Letters of No Prejudice to the Contra Costa Transportation Authority for the I-680/SR-4 Interchange Improvement Project and the Mokelumne Trail Bicycle/Pedestrian Overcrossing over SR-4 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-680/SR-4 Interchange Improvement Project in Contra Costa County**

The Contra Costa Transportation Authority (CCTA) submitted an RM3 LONP request for \$8 million for the final design phase of the I-680/SR-4 Interchange Improvement Phase 1 and 2A project in Martinez/Pacheco, part of RM3 project 19. The Project will improve safety and reduce congestion, including, but not limited to, replacement of a loop ramp/connector with a third-level direct connector between northbound I-680 and westbound SR4, replacement of existing direct connector with a modified and relocated direct connector between eastbound SR4 and southbound I-680, and widening of SR4 to add auxiliary lanes and high occupancy vehicles lanes. The project's final design funding plan includes \$18 million in Senate Bill 1 (SB1) Trade Corridor Enhancement Program (TCEP) funds awarded in 2020. The environmental document for phases 1 and 2A of the project was approved in 2008; CCTA will re-validate the environmental document and complete final design with the RM3 and TCEP funds. CCTA expects to complete final design by late 2024.

### **Mokelumne Bike Trail/Pedestrian Overcrossing over State Route 4 in Contra Costa County**

The Contra Costa Transportation Authority (CCTA) submitted an RM3 LONP request for \$11 million for the construction phase of the Mokelumne Bike Trail/Pedestrian Overcrossing over State Route 4 in the city of Brentwood, part of RM3 Project 34. The project will bridge an existing gap in the Mokelumne Trail, will connect bike paths in the cities of Brentwood and Antioch and is adjacent to

the future East Contra Costa County Intermodal Transit Center. The Overcrossing will provide access for pedestrians and bicyclists to transit services. CCTA expects to begin construction in Spring 2021.

#### **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, CCTA will use its local option sales tax (Measure J) to complete environmental revalidation and final design of the I-680/SR-4 Interchange Improvement Phase 1 and 2A project, and CCTA will use East Contra Costa Fee and Financing Authority (ECCRFFA) funds to construct the Mokelumne Bike Trail/Pedestrian Overcrossing over SR-4 project. CCTA understands 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 Contra Costa 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.

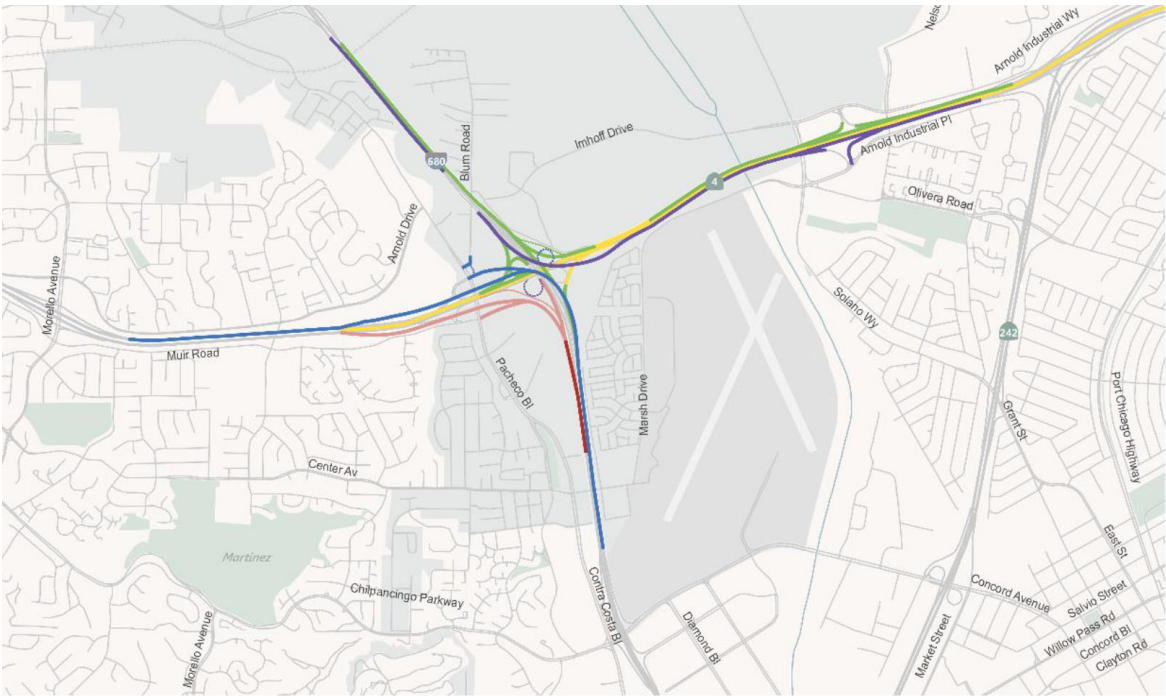
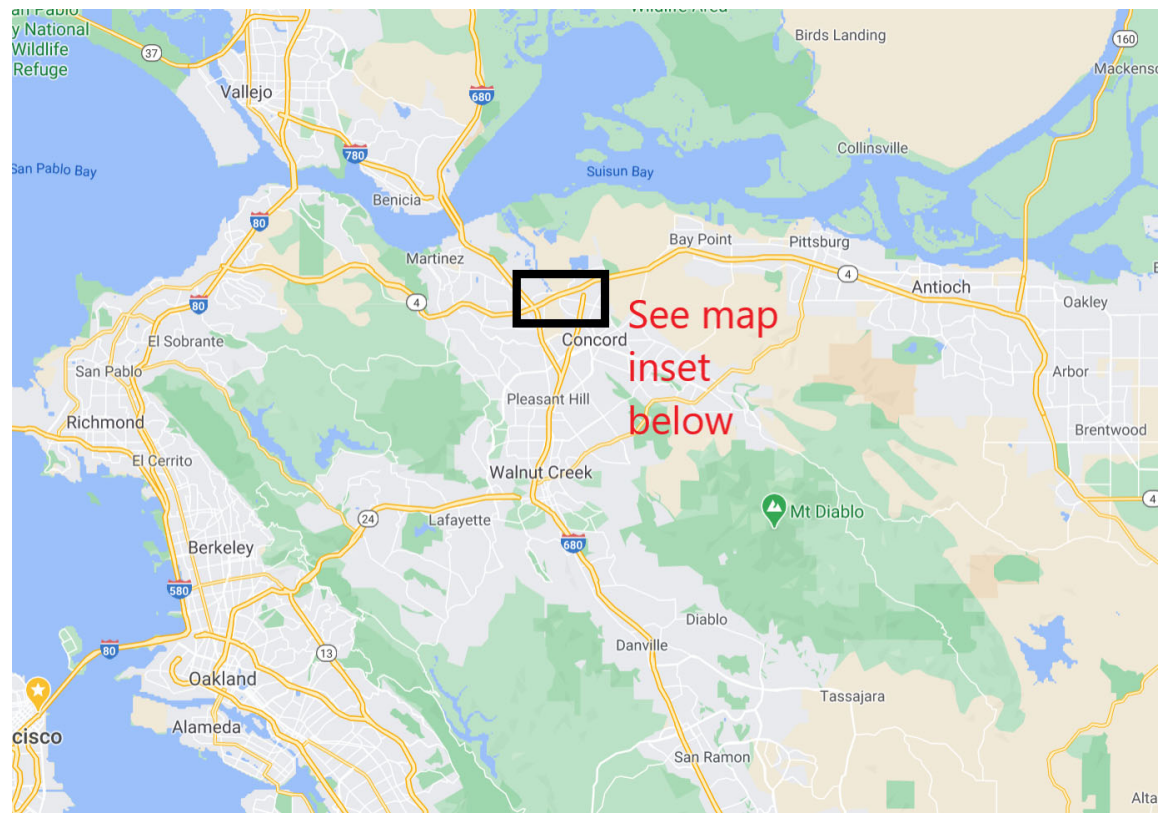
**Issues:** If the RM3 litigation is not resolved favorably, funds may never become available to reimburse CCTA. CCTA has acknowledged this risk in its agency resolution and MOU.

**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-680/SR-4 Interchange Improvement Project



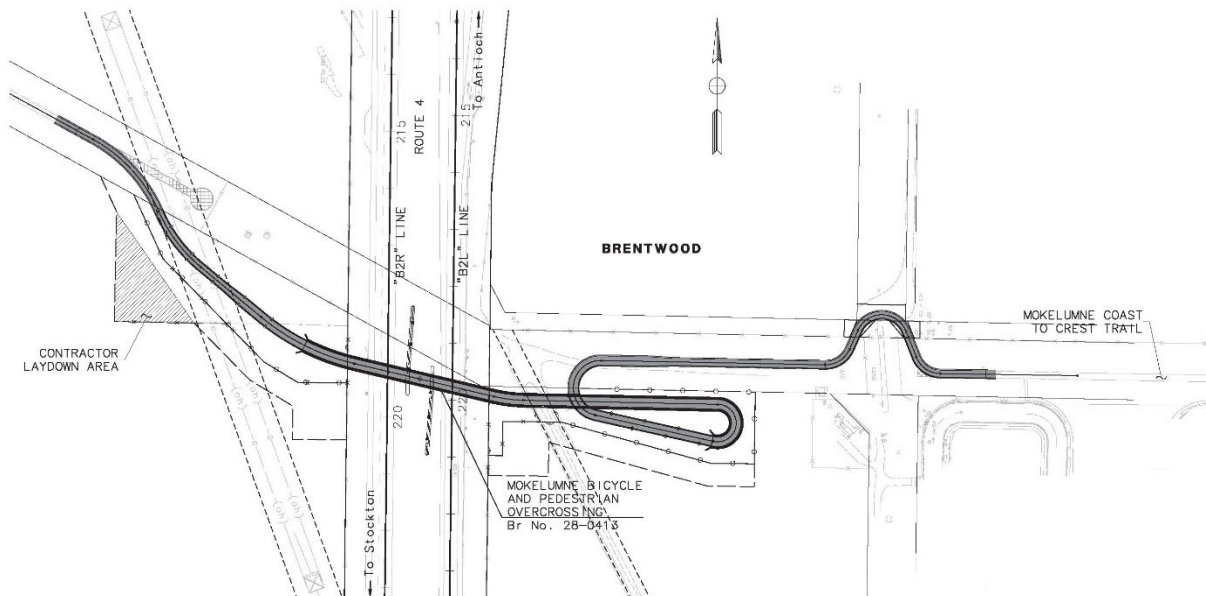
**Key**

	Phase 1	Phase 2A	Phase 2B	Phase 3	Phase 4	Phase 5
New Construction						
Removal of Existing Roadway						
				(already under construction)		

Project Phases

**Attachment A-2**

**Project Area Map: Mokelumne Bike Trail/Pedestrian Overcrossing over State Route 4 Project**



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

### 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
- 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

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).

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, and February 10, 2021.



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

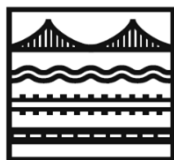
RESOLVED, that an RM3 LONP does not represent a general funding commitment by MTC; in the event that RM3 funds do not become available, there is no expectation that MTC or BATA will provide alternate funds; and be it further

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>	19.1	
<b>Project Title</b>	Interstate 680/State Route 4 Interchange Improvements (Phase 1 and 2A)	
<b>Lead Sponsor(s)</b>	<b>Other Sponsor(s)</b>	<b>Implementing Agency</b>
Contra Costa Transportation Authority		CCTA
<b>Legislated Project Description</b>	<b>RM3 Legislated Funding (in \$1,000s)</b>	
(19) Contra Costa Interstate 680/State Route 4 Interchange Improvements. Fund improvements to the Interstate 680/State Route 4 interchange to improve safety and reduce congestion, including, but not limited to, a new direct connector between northbound Interstate 680 and westbound State Route 4, a new direct connector between eastbound State Route 4 and southbound Interstate 680, and widening of State Route 4 to add auxiliary lanes and high-occupancy vehicle lanes. The project sponsor is the Contra Costa Transportation Authority. Two hundred ten million dollars (\$210,000,000).	\$210,000	
<b>Sponsor Programming and LONP Request Action</b>		
The Contra Costa Transportation Authority approved CCTA Resolution No. 20-34-P on 1/20/2021, approving a \$8,000,000 RM3 LONP request.		
<b>Detailed Project Description</b>		
The Project will fund improvements to I-680/SR4 Interchange to improve safety and reduce congestion, including, but not limited to, a new direct connector between northbound I-680 and westbound SR4, a new direct connector between eastbound SR4 and southbound I-680, and widening of SR4 to add auxiliary lanes and high occupancy vehicles lanes.		
<b>LONP Phase</b>	<b>LONP Amount (in \$1,000s)</b>	<b>LONP Approval Date</b>
Final Design	\$8,000	24-Feb-21
<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 final design of the I-680/SR-4 Interchange 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>	19.1
<b>Project Title</b>	Interstate 680/State Route 4 Interchange Improvements (Phase 1 and 2A)
<b>RM3 Replacement Funding Source</b>	Measure J, CCTA's Local Option Sales Taxes

Project Funding Plan				Project Schedule	
Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
ENV				Apr-21	Aug-22
	ENV Subtotal		\$ -		
PSE	CCTA Measure Funds (RM3 Replacement)	Yes	\$ 8,000	Apr-21	Dec-24
	SB1 Trade Corridor Enhancement Program	Yes	\$ 18,000		
	PSE Subtotal		\$ 26,000		
ROW	Regional Measure 3	No	\$ 14,000	Jul-22	Dec-24
	ROW Subtotal		\$ 14,000		
CON	Regional Measure 3	No	\$ 188,000	Feb-25	Jun-28
	SB1 Local Partnership Program	No	\$ 8,000		
	CON Subtotal		\$ 196,000		
<b>Capital Funding Total</b>			\$ 236,000		



## Regional Measure 3

### Letter of No Prejudice Project Summary

#### Project Information

<b>RM3 Project Number</b>	34.1	
<b>Project Title</b>	Mokelumne Trail Bicycle/Pedestrian Overcrossing At SR-4 (under the East Contra Costa Intermodal Transit Center Project)	
<b>Lead Sponsor(s)</b>	<b>Other Sponsor(s)</b>	<b>Implementing Agency</b>
Contra Costa Transportation Authority (CCTA)		CCTA
<b>Legislated Project Description</b>		<b>RM3 Legislated Funding (in \$1,000s)</b>
(34) East Contra Costa County Transit Intermodal Center. Fund the construction of a Transit Intermodal Center in Brentwood enhancing access to eBART and Mokelumne Bike Trail/Pedestrian Overcrossing at State Route 4. The project sponsor is the Contra Costa Transportation Authority. Fifteen million dollars (\$15,000,000).		\$15,000
<b>Sponsor Programming and LONP Request Action</b>		
The Contra Costa Transportation Authority approved Resolution No. 21-07-P on 2/17/2021, programming \$11,000,000 of the RM3 East Contra Costa Intermodal Transit Center to the Mokelumne Trail Bicycle/Pedestrian Overcrossing project and approving a \$11,000,000 RM3 request.		
<b>Detailed Project Description</b>		
The Mokelumne Bicycle/Pedestrian Overcrossing will close a gap between the existing Mokelumne Trail segments east and west of SR-4, south of the Lone Tree Way interchange. The overcrossing will include a multi-span bridge with columns in the SR-4 median. Bridge approaches will be constructed from earthen embankments. The trail overcrossing will be 18.5 feet wide to accommodate two directions of bicycle and pedestrian travel, including the safety barriers.		
<b>LONP Phase</b>	<b>LONP Amount (in \$1,000s)</b>	<b>LONP Approval Date</b>
CON	\$11,000	24-Feb-21
<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 construction of the Mokelumne Bike Trail/Pedestrian Overcrossing 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>	34.1
<b>Project Title</b>	Mokelumne Trail Bicycle/Pedestrian Overcrossing At SR-4 (under the East Contra Costa Intermodal Transit Center Project)
<b>RM3 Replacement Funding Source</b>	East Contra Costa Regional Fee and Financing Authority (ECCRFFA) loan

#### Project Funding Plan

#### Project Schedule

Phase	Funding Source	Committed? (Yes/No)	Total Amount (\$1,000s)	Start	End
ENV				Oct-17	Oct-18
	ENV Subtotal		\$ -		
PSE	BART	Yes	\$ 200	Oct-17	Jan-21
	Measure J	Yes	\$ 806		
	PSE Subtotal		\$ 1,006		
ROW	ECCRFFA	Yes	\$ 1,270	Jun-18	Jan-21
	Measure J	Yes	\$ 64		
	ROW Subtotal		\$ 1,334		
CON	ECCRFFA (RM3 Replacement)	Yes	\$ 11,000	Mar-21	Aug-22
	CON Subtotal		\$ 11,000		
<b>Capital Funding Total</b>			\$ 13,340		