



# FUNDING, PROGRAMS & LEGISLATION EXECUTIVE COMMITTEE MEETING

MONDAY, APRIL 12, 2021  
2:00 PM

Zoom link:

<https://us02web.zoom.us/j/86260356793?pwd=OVJPSGtEZ2V4MHlXSXZVWVZvRTNpZz09>

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Webinar ID: 862 6035 6793  
Passcode: 535856

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• Before the meeting: email your comments to [dmerleno@tam.ca.gov](mailto:dmerleno@tam.ca.gov). Please email your comments no later than 5:00 P.M. Sunday, April 11, 2021 to facilitate timely distribution to Committee members. Please include the agenda item number you are addressing and your name and address. Your comments will be forwarded to the Committee members and will be placed into the public record.

• During the meeting (only): Your meeting-related comments may be sent to [info@tam.ca.gov](mailto:info@tam.ca.gov). During the meeting your comments will be read (3-minute limit per comment) when the specific agenda item is considered by the Committee. Your comment will also become part of the public record. (In order to ensure staff receives your comment during the meeting, it is recommended that you send your comment using [info@tam.ca.gov](mailto:info@tam.ca.gov) early in the meeting.

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**Belvedere**

James Campbell

**Corte Madera**

Charles Lee

**Fairfax**

Chance Cutrano

**Larkspur**

Dan Hillmer

**Mill Valley**

Urban Carmel

**Novato**

Eric Lucan

**Ross**

P. Beach Kuhl

**San Anselmo**

Brian Colbert

**San Rafael**

Kate Colin

**Sausalito**

Susan Cleveland-Knowles

**Tiburon**

Alice Fredericks

**County of Marin**

Damon Connolly  
Katie Rice  
Stephanie Moulton-Peters  
Dennis Rodoni  
Judy Arnold



Late agenda material can be inspected in TAM's office between the hours of 8:00 a.m. and 5:00 p.m.

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## AGENDA

1. Chair's Report (Discussion)
2. Commissioners Comments (Discussion)
3. Executive Director's Report (Discussion)
4. Open time for public expression, up to three minutes per speaker, on items not on the Board of Commissioners' agenda. (While members of the public are welcome to address the Board, under the Brown Act, Board members may not deliberate or take action on items not on the agenda, and generally may only listen.)
5. Approval of Meeting Minutes from March 8, 2021 (Action) - **Attachment**
6. Regional Measure 3 (RM3) Letter of No Prejudice (LONP) and Associated Actions for the Marin Sonoma Narrows (MSN) Project (Action) – **Attachment**
7. Regional Measure 3 (RM3) North Bay Transit Access Improvement Fund Apportionment Proposal (Action) – **Attachment**



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MEETING OF THE  
TRANSPORTATION AUTHORITY OF MARIN  
EXECUTIVE COMMITTEE  
Funding, Programs & Legislation  
March 8, 2021  
2:00 p.m.

Virtual Meeting

**MEETING MINUTES**

Members Present: Beach Kuhl, Ross Town Council  
Eric Lucan, Novato City Council, Committee Chair  
Judy Arnold, County of Marin Board of Supervisors  
Katie Rice, County of Marin Board of Supervisors  
Susan Cleveland-Knowles, Sausalito City Council

Members Absent: None

Staff Members Present: Anne Richman, Executive Director  
David Chan, Manager of Programming and Legislation  
Denise Merleno, Executive Assistant  
Derek McGill, Planning Manager  
Helga Cotter, Senior Accountant  
Li Zhang, Deputy Executive Director/Chief Financial Officer  
Scott McDonald, Senior Transportation Planner

*Chair Lucan called the meeting to order at 2:05 p.m.*

**1. Chair’s Report (Discussion)**

Chair Lucan welcomed everyone to the virtual meeting as allowed by Governor Newsom’s Executive Order N-29-20. Ms. Merleno conducted a roll call, reported that there was a quorum of the Committee, and she provided instructions on how members of the public may participate in the meeting.

**2. Commissioner Comments (Discussion)**

None.

**3. Executive Director’s Report (Discussion)**

Executive Director (ED) Anne Richman highlighted items in her report including: the appointment of Dina El-Tawansy as the Director of Caltrans District 4; a public meeting hosted by the City of San Rafael for the Third Street Rehabilitation Project on March 24; a Town Hall hosted by State Senator Mike McGuire on April 15 about State Route 37; the March 19 deadline to take the Marin-Sonoma Bike Share Pilot Program Survey; and the impending release of a survey on March 17 associated with TAM’s Interchange study.

**4. Open Time for Public Expression**

Chair Lucan asked if any member of the public wished to speak or had submitted a comment by e-mail, and hearing of none, he closed this item.

**5. Approval of Meeting Minutes from February 8, 2021 (Action)**

Commissioner Arnold moved to approve the Minutes of February 8, 2021 which was seconded by Commissioner Kuhl. A roll call vote was conducted, and the motion was unanimously approved.

**6. Adopt Positions on 2021 State Legislative Bills (Action)**

Chair Lucan disclosed that among the bills that were to be discussed were two on electric bike rebates and since he is an officer of a bicycle company, he asked staff to provide an overview on legislative activity at the state level and then he would recuse himself for the part of the discussion focused on the two e-bike bills. A vote would be taken on the e-bike bills and then he would return to participate in the vote on the balance of the bills.

ED Richman introduced Gus Khouri, Khouri Consulting, who presented this item which asked the Committee to review positions on 2021 State Legislative bills, as shown in the staff report, and refer them to the TAM Board for adoption.

Mr. Khouri provided an update on relevant activity and information from State agencies, including the reduction in fuel consumption due to the pandemic shelter in place order and the effect that will have on funding local streets and roads, the State Highway Operations and Protection Program (SHOPP), and the State Transportation Improvement Program (STIP). He also reviewed the draft Climate Action Plan for Transportation Infrastructure (CAPTI) which is focused on reducing greenhouse gas emissions.

Commissioner Rice asked when decisions are made relative to SB1 allocations and what funding cycle and projects/work plans would be impacted by any changes from CAPTI.

Mr. Khouri noted that the Solutions for Congested Corridors, Active Transportation Program, Local Partnership Program, and the Trade Corridor Enhancement Program would be impacted, that SB1 Cycle 2 was approved last December, and that Cycle 3 funding would be considered in approximately 18 months.

Commissioner Rice asked about the possibility of partnering with a small county similar to Marin to be more competitive for a state award.

ED Richman stated that TAM is a member of the Self-Help Counties Coalition (SHCC) and is working with the group, comprised of 25 California counties who have passed a sales tax similar to Measure AA and may be drafting a comment letter to express its balanced position on the CAPTI program. She added that staff will be seeking guidance from the board on TAM's input for this letter if timing allows.

Commissioner Cleveland-Knowles asked ED Richman to clarify the timing of the letter that the SHCC would be forwarding to the State and when TAM commissioners would be providing their input.

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March 8, 2021

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ED Richman stated that staff will ask the board for input as soon as the SHCC letter is drafted which could be in time for the March 25 board meeting. She noted that the public comment period ends in mid-April but that the California State Transportation Agency (CalSTA) has received requests for an extension of that deadline.

Chair Lucan recused himself from the discussion on the two e-bike bills and asked Commissioner Arnold to preside over that portion of the item.

*Chair Lucan stepped away from the virtual dais.*

Mr. Khouri reviewed AB 117 (Beorner Horvath) which would establish, implement, and administer an Electric Bicycle Rebate Pilot Project, and a federal bill which was awaiting introduction (Panetta, Blumenauer), which would create a federal tax credit for e-bikes. He noted that staff is recommending a “support” position on both bills.

Commissioner Rice spoke about AB 117 and asked about eligibility criteria for receiving a rebate, particularly using an equity lens. Mr. Khouri stated that there is none in place, but future amendments could change that.

Mr. Khouri noted that there was still time to request an amendment to the bill to have it address whether the rebate includes disadvantaged communities. TAM could take a “support if amended” position.

Commissioner Rice questioned whether providing rebates without eligibility requirements would be a good use of funds since buyers may use them more for recreation than to replace carbon-emitting vehicles.

Commissioner Cleveland-Knowles expressed her desire for a “support” position with the added encouragement to reach out to low-income communities and adding a programmatic aspect to reduce vehicle miles traveled.

Commissioner Kuhl agreed with the other commissioners and stated that there is no point to supporting this bill if it is not directed toward the appropriate recipients. He added that the bill, in its current form, does not accomplish that, and as such, he questioned whether TAM should support this bill until more information proves that it is worthy of TAM’s support.

Commissioner Rice suggested that additional research should be conducted on the bill after which TAM can decide on a support position.

The Committee agreed to change the position to one of “Watch” while Mr. Khouri explores with the bill’s author TAM’s sentiment to support it if language is included to place a focus on the inclusion of disadvantaged communities.

Mr. Khouri clarified with the committee that a similar position could be taken with the, yet unnamed, federal bill.

Commissioner Rice made a motion to adopt a “watch” position on reviewed AB 117 (Beorner Horvath) and on the pending federal bill (Panetta, Blumenauer) which was seconded by Commissioner Kuhl.

Chair Arnold opened this item to public comment.

Warren Wells of the Marin County Bicycle Coalition stated that MCBC supports the funds from these two bills to go to low-income communities but noted that research from the University of California at Davis, showed that 35-50 percent of e-bike trips would have been made by car if e-bikes had not been available. He cautioned that the more means testing that is done on a program, the less likely more people will be able to take advantage of the program.

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A roll call vote was conducted, and the motion passed unanimously.

*Chair Lucan returned to the virtual dais.*

Mr. Khouri reviewed the balance of the bills in the staff report for which an action by the committee was requested, including support for AB 43 (Friedman), AB 361 (Rivas, Robert) and SB 551 (Stern), and an oppose position for SB 542 (Limón) and SB 771 (Becker).

Commissioner Cleveland-Knowles stated that an “oppose unless amended” position would be more appropriate for SB 771 (Becker). On AB 361 (Rivas, Robert), she suggested that continuing to allow some of the smaller public meetings to be held virtually would create efficiencies for many public officials and would help reduce greenhouse gas emissions.

Commissioner Arnold agreed with Commissioner Cleveland-Knowles regarding allowing flexibility in the Brown Act to allow for some public meetings to be held virtually.

Commissioner Rice expressed her support for more expansion in latitude relative to virtual meetings. She commented that she believes that virtual meetings allow for more public participation since one is not required to physically go to the meeting location.

Mr. Khouri suggested that, based on committee members’ comments, a “support if amended” position may be more appropriate for AB 361 which was agreed upon by the committee members.

Mr. Khouri confirmed the committee’s amended recommendation:

AB 43 (Friedman): Support

SB 551 (Stern): Support

SB 542 (Limón): Oppose

SB 771 (Becker): Oppose unless amended (Reinstitute the state reimbursement for lost local revenues)

AB 361 (Rivas, Robert): Support if amended (Broaden the applicability of the statutory authority on compliance with the Brown Act).

Chair Lucan opened the item to public comment, and hearing none, closed the item to public comment.

Commissioner Kuhl made a motion to support AB 43 (Friedman) and SB 551 (Stern); oppose SB 542 (Limón); an “oppose unless amended” position on SB 771 (Becker) with amendment to reinstitute the state reimbursement for lost local revenues; and a “support if amended” position on AB 361 (Rivas, Robert) with amendment to broaden the applicability of the statutory authority on compliance with the Brown Act. The motion was seconded by Commissioner Cleveland-Knowles. A roll call was conducted, and the motion passed unanimously.

## **7. MTC Safe and Seamless Mobility Quick-Strike Program (Action)**

ED Richman introduced Programming and Legislation Manager, David Chan, who presented this item which asked the Committee to review staff funding recommendations to forward to MTC for the MTC Safe and Seamless Mobility Quick-Strike (“Quick-Strike”) Program, as shown in the staff report, and refer it to the TAM Board for adoption.

Mr. Chan reviewed the background of this program, the issuance of a Call for Projects; the list of applications that were received; TAM’s application for the Street Smarts Project, TAM’s evaluation process of the projects for further submission to MTC; the need for a project to be shovel ready in order to be considered; the applications that were

not considered for advancement to MTC; the project list ranked into two tiers; staff's recommendation to submit projects from both tiers to MTC for consideration; and next steps in the process.

Commissioner Rice asked about project scoring and specifically why two of the projects received a lower rating and were placed in the Tier Two category which Mr. Chan reviewed and stated that they did not meet the criteria set by MTC. Additionally, he clarified how projects were rated for the connectivity criterion.

Commissioner Rice commented that she would prefer to remove the Street Smarts application from the list as she found the Corte Madera and Larkspur infrastructure projects on the list to be more worthy of receiving funding.

Commissioner Cleveland-Knowles spoke about the Sausalito Bridgeway Bike Lane Project that did not rank high enough to be placed in one of the two tiers. She suggested that it is a regional project for connectivity purposes, and she asked as well if more technical assistance could be provided to the cities and towns.

Mr. Chan agreed as to the project's value but stated that it did not rank because it had not begun the pre-construction phase. As a result, it would be unlikely to deliver the project within the short timeframe associated with this funding requirement.

Commissioner Arnold asked Mr. Chan to clarify how the recommendation for SMART Pathways to San Rafael project was made. Mr. Chan explained that SMART is working in coordination with the City of San Rafael on this project and that, if awarded, SMART would consider transferring the grant to FTA which will increase the speed with which the project is delivered. However, due to the price tag and funding shortfall that would exist even if it received the award, it was placed into the Tier 2 category.

Commissioner Rice asked if staff believed there was value in submitting a project that is unlikely to receive an award in order to better understand how to package it, in the future, for new grant applications. Mr. Chan stated that MTC suggested an agency streamline its applications so that the ask is no more than three times the amount it could be awarded.

Chair Lucan asked about the number of options that staff intends to recommend to the full board. ED Richman stated that she believes that a single recommendation would be best, but that staff would follow the committee's guidance.

Chair Lucan asked if the projects would be submitted in the tiered fashion or grouped together. ED Richman replied that staff's intention would be to submit one group of projects but, internally, would keep the tiered status in the event that MTC requested a prioritized list.

ED Richman spoke on the Street Smarts Project noting that the application focuses on updating the program's messaging and on replacing the materials produced and displayed about the county which are in very poor condition after having been reused for a number of years. She believes that it is appropriate to have a one-time revenue source, via the Quick Strike program to cover such expenses.

Chair Lucan opened this item to public comment.

Kevin McGowan, Director of Public Works for the City of Sausalito, thanked TAM staff for their assistance with the application for the bike project and was disappointed that the project did not receive a higher rank. He requested that TAM continue to consider this regional project for other funding that may become available.

Commissioner Kuhl made a motion to recommend that the TAM Board approve both Tier 1 and Tier 2 projects for submission to MTC for the MTC Safe and Seamless Mobility Quick-Strike Program, but without identifying the

application's assigned tier unless requested by MTC. The motion was seconded by Commissioner Arnold. A roll call vote was conducted, and the motion was unanimously approved.

*The meeting was adjourned at 3:35 p.m.*

DRAFT



**DATE:** April 12, 2021

**TO:** Transportation Authority of Marin Funding, Programs & Legislation Executive Committee

**FROM:** Anne Richman, Executive Director *Anne Richman*  
David Chan, Programming and Legislation Manager  
Nicholas Nguyen, Project Manager

**SUBJECT:** Regional Measure 3 (RM3) Letter of No Prejudice (LONP) and Associated Actions for the Marin Sonoma Narrows (MSN) Project (Action), Agenda Item No. 6

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## RECOMMENDATION

The Funding, Programs & Legislation Executive Committee reviews the request to apply for a Regional Measure 3 (RM3) Letter of No Prejudice (LONP) for the Marin Sonoma Narrows (MSN) Project and recommends the TAM Board authorizes the Executive Director to:

1. request an LONP from the Metropolitan Transportation Commission (MTC) for the MSN Project, when appropriate;
2. sign MTC required resolution(s) and agreement needed to accept federal discretionary funds for the construction phase of the MSN Project;
3. sign a California Transportation Commission (CTC) Baseline Agreement to accept SB1 Solutions for Congested Corridor Program (SCCP) funds for the MSN Project; and
4. submit a request to the CTC to program Federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) funds to the MSN Project when appropriate.

## BACKGROUND

In June 2018, Bay Area voters approved RM3 to raise tolls on the region's state-owned toll bridges by \$1 beginning January 1, 2019. Tolls will rise by another \$1 in January 2022 with another \$1 increase in January 2025. Toll revenues, estimated at \$4.45 billion total, will be used to fund highway and transit improvements in the toll bridge corridors and their approach routes to address the Bay Area's growing congestion problems.

Four projects in Marin were included in the RM 3 Expenditure Plan approved by the voters:

- U.S. 101 Marin-Sonoma Narrows (MSN) - \$120 million (Marin and Sonoma counties)
- Richmond-San Rafael Bridge Access (580) Improvements – \$210 million total, of which \$135 million is for improvements in Marin County
- State Route 37 Improvements - \$100 million (Marin, Sonoma, Napa, and Solano counties)
- San Rafael Transit Center - \$30 million

Other projects in Marin are also potentially eligible for funds under other programmatic categories in RM3 such as the North Bay Transit Access Improvements program and the Bay Trail program.

However, since the passage of RM3, two lawsuits challenging RM 3 were initiated. Therefore, the tolls collected are being placed into an escrow account and are not being disbursed to projects. If the Bay Area Toll Authority (BATA) prevails in the litigation, the funds will be applied to RM3 approved projects. Should BATA ultimately lose the litigation, the funds will be reimbursed to toll-payers as much as possible. It is still unclear when the litigation will be resolved, as of date of this memo.

### **Regional Measure 3 Policies and Procedures**

An LONP permits a project sponsor to incur costs on a project using non-RM 3 resources, with the understanding that the costs incurred after the approval of the LONP may be eligible for reimbursement once RM 3 funds are available. The intent of an LONP is to allow a project sponsor to advance a project that is ready to proceed to a deliverable phase, but for the availability of RM 3 funds. Project sponsors that receive an LONP will be responsible for delivering the usable project segment or complete phase with alternate funds before RM3 funds are available. The project sponsor would be proceeding at their own risk, in that if RM3 is not available due to the litigation or other causes, the sponsor would not be repaid. MTC adopted an LONP process with the RM 3 Policies and Procedures in December 2019.

### **DISCUSSION**

In January 2020, the TAM Board authorized staff to request LONPs from MTC for the Richmond-San Rafael (RSR) Bridge Access Improvement (101-580 Direct Connector Improvement) Project and the MSN Project. Since then, staff has requested and received approval from MTC for the following LONPs:

- \$5.6 million for the Project Approval & Environmental Document (PAED) Phase of the RSR Bridge Access Improvement Project
- \$7.1 million for the Right of Way (ROW) Phase of the Marin Sonoma Narrows (MSN) Project

The action taken by the TAM Board in January 2020 is still valid, but the staff memo indicated that TAM does not have sufficient local funds to proceed with the construction phase of the MSN Project absent the RM3 funds and would not be requesting an LONP for the construction phase at the time.

### **New LONP Request**

The circumstances around the MSN Project have changed since January 2020 in several ways.

First, design for the B7 Project (HOV lanes between North Novato and Olompali) has been completed, and the project can be advertised for construction as soon as September 2021 and proceed to construction as soon as February 2022, pending funding availability. As a reminder, the MSN Project has been completed through a series of phases based on operational priority and funding availability. Between Sonoma and Marin Counties, all HOV lane segments are either underway or completed except for the B7 segment in north Novato. In addition to the carpool lanes, new interchanges and frontage roads are being built to remove unsafe access from private properties and local roads. The project also includes continuous Class I and Class II bikeways between Novato and Petaluma. Accompanying this project is a necessary utility relocation project called the MSN B8. Completion of the final remaining six-mile gap of HOV lanes for the entire MSN corridor will result in over 50 miles of continuous HOV lanes north of the Golden Gate Bridge through Marin and Sonoma Counties.

Second, in December 2020, the MSN B7 Project was awarded \$40.118 million in SB1 Solutions for Congested Corridors Program (SCCP) funds by the CTC. CTC policies require that TAM enter into a

“Baseline Agreement” with the CTC to accept the SCCP funds for the MSN Project, discussed further below in this memo.

Third, with the MSN Project ready for construction, MTC has expressed a willingness to program discretionary federal funds to help move the project to completion if an LONP for the construction phase is requested. MTC is considering this action in light of the delay with RM3, the desire to secure the SCCP funds, and the regional importance and partnership in completing this final mainline segment of the whole MSN corridor.

Therefore, staff anticipates requesting an LONP from MTC for up to \$80.878 million for the construction phase of the MSN Project as illustrated in the below table, with the MTC federal funds being the “up-front” funding to be repaid by RM3 once it clears litigation. The actual amount used may be less than \$80.878 million depending on the availability of other funds that may be realized in the near future.

<b>MSN Project</b>	<b>Cost</b>	<b>Funds Secured</b>	<b>Remaining Need</b>
Design (PS&E)	\$7,300,000	\$7,300,000	\$0
Right of Way (ROW)	\$7,345,000	\$7,345,000	\$0
Construction (CON)	\$120,996,000	\$40,118,000	\$80,878,000
<b>Total</b>	<b>\$135,641,000</b>	<b>\$54,763,000</b>	<b>\$80,878,000</b>

One such anticipated source is funding from H.R.133 - the Federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA). California is receiving approximately \$912 million from CRRSAA for highway programs. Under a recently approved sub-allocation distribution, the state gets 60% and the regions get 40% of these new funds, with approximately \$70 million coming to the Bay Area, to be divided between MTC and the counties. Marin is anticipated to receive approximately \$1.2 million from the Bay Area share. MTC expects TAM to program funds from CRRSSA on the MSN Project to support an LONP request. Staff will submit a request to the CTC to program CRRSSA funds to the MSN Project when appropriate.

It is expected that if RM3 is upheld in litigation, MTC will use RM3 funds to repay the amount of federal discretionary funds used on the construction phase of the MSN Project. Additionally, for local funds such as the CRRSAA funds that are proposed to be used on the project and the SB1 Local Partnership Program funds that were approved at last month’s TAM Board meeting, TAM would potentially be repaid from the RM3 funds as well; some of these detailed terms are still being discussed between MTC and TAM staffs and are expected to be resolved in the coming weeks.

MTC anticipates seeking Commission approval to program the federal discretionary funds to the MSN Project on April 28, 2021.

Caltrans, as the system owner/operator and the entity that will be issuing the construction contract, is aware of these funding discussions.

## **FISCAL IMPACTS**

There are no immediate impacts to TAM with authorizing the Executive Director to submit an LONP request or to submit a programming request to CTC for the CRRSAA funds. If approved by MTC and CTC respectively, TAM’s budget for the approved project(s) will be amended to reflect any expenditures using non-RM 3 funds.

For the Baseline Agreement to receive SCCP funds, TAM will work with CTC and Caltrans to assign all funds directly to Caltrans as the implementing agency of the construction phase. TAM's budget will not be impacted if the SCCP funds are assigned to Caltrans in this regard.

#### **NEXT STEPS**

Upon approval from the TAM Board, staff will prepare and submit an LONP request for the construction phase of the MSN Project for MTC's consideration at the appropriate time. The Executive Director will enter into necessary resolution(s) and agreement with MTC to facilitate the LONP and the programming of federal discretionary funds for the MSN Project. The Executive Director will also enter into a Baseline Agreement with the CTC to accept SCCP funds for the MSN Project. Lastly, the Executive Director will submit a request to the CTC to program CRRSAA funds to the MSN project when appropriate.

#### **ATTACHMENT**

Attachment A: PowerPoint Presentation



# Regional Measure 3 Letter of No Prejudice Marin Sonoma Narrows Project

## FPL Executive Committee Meeting April 12, 2021

# Background

- In June 2018, Bay Area voters approved RM3 to raise tolls on the region's state-owned toll bridges
- An estimated \$4.45 billion in RM3 toll revenues are expected to be collected
- RM3 funds will be used to fund highway and transit improvements in the toll bridge corridors and their approach routes to address the Bay Area's congestion problems
- RM3 currently in pending litigation

# Background, cont.

- Four projects in Marin were included in the RM 3 Expenditure Plan approved by the voters, including:
  - MSN Project,
  - Richmond-San Rafael Bridge Access (580) Improvements,
  - State Route 37 Improvements, and
  - San Rafael Transit Center
- Other projects in Marin are also potentially eligible for funds under other programmatic categories such as:
  - the Bay Trail Program, which is a regional competitive program and
  - the North Bay Transit Access Improvement Program (to be discussed at the next item of the meeting)

# Letter of No Prejudice

- Permits a project sponsor to incur costs on a project using non-RM 3 resources, with the understanding that the costs incurred after the approval of the LONP may be eligible for reimbursement once RM 3 funds are available
- Intent is to allow a project sponsor to advance a project that is ready to proceed to a deliverable phase

# Prior LONPs

- As authorized by the TAM Board in January 2020, staff has requested and received approval from MTC for the following LONPs:
  - \$5.6 million for the Project Approval & Environmental Document (PAED) Phase of the RSR Bridge Access Improvement Project
  - \$7.1 million for the Right of Way (ROW) Phase of the Marin Sonoma Narrows (MSN) Project

## Prior LONPs (cont.)

- Action taken by the TAM Board in January 2020 authorizing staff to request LONP for the MSN Project is still valid
- However, at that time staff indicated that an LONP for the construction phase of the MSN Project would not be requested because of insufficient local funds to proceed with the construction phase

# New Circumstances

- Design for the B7 Project (HOV lanes between North Novato and Olompali) has been completed, and the project can be advertised for construction as soon as September 2021 and proceed to construction as soon as February 2022
- In December 2020, the MSN B7 Project was awarded \$40.118 million in SB1 Solutions for Congested Corridors Program (SCCP) funds by the CTC
- MTC is proposing to program discretionary federal funds to help move the project to completion if an LONP for the construction phase is requested

# New LONP Request

- Staff anticipates requesting an LONP from MTC for up to \$80.878 million for the construction phase of the MSN Project
  - Could be less, depending on the availability of other funds that may be realized in the near future.
- MTC will use RM3 funds to repay the federal discretionary funds

MSN Project	Cost	Funds Secured	Remaining Need
Design (PS&E)	\$7,300,000	\$7,300,000	\$0
Right of Way (ROW)	\$7,345,000	\$7,345,000	\$0
Construction (CON)	\$120,996,000	\$40,118,000	\$80,878,000
<b>Total</b>	<b>\$135,641,000</b>	<b>\$54,763,000</b>	<b>\$80,878,000</b>

# Other Potential Funds

- Federal Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA)
  - California is receiving approximately \$912 million from CRRSAA for highway programs
  - State gets 60% and the regions get 40% of these new funds
  - Approximately \$70 million will come to the Bay Area, to be divided between MTC and the counties
  - Marin is anticipated to receive approximately \$1.2 million from the Bay Area share
- MTC expects TAM to program CRRSAA funds to the MSN Project to support an LONP request

# Miscellaneous Notes

- TAM funds (CRRSAA, LPP) may be repaid to TAM from the RM3 funds
- MTC anticipates seeking Commission approval to program the federal discretionary funds to the MSN Project on April 28, 2021
- Caltrans, as the system owner/operator and the entity that will be issuing the construction contract, is aware of these funding discussions

# Recommendations

Authorize the Executive Director to:

1. Request an LONP from MTC for the MSN Project, when appropriate, for up to \$80.878 M;
2. Sign MTC required resolution(s) and agreement needed to accept federal discretionary funds;
3. Sign a CTC Baseline Agreement to accept SB1 SCCP funds for the MSN Project; and
4. Submit a request to the CTC to program CRRSAA funds to the MSN Project when appropriate



# Questions



**DATE:** April 12, 2021

**TO:** Transportation Authority of Marin Funding, Programs & Legislation Executive Committee

**FROM:** Anne Richman, Executive Director *Anne Richman*  
David Chan, Programming and Legislation Manager

**SUBJECT:** Regional Measure 3 (RM3) North Bay Transit Access Improvement Fund Apportionment Proposal (Action), Agenda Item No. 7

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## **RECOMMENDATION**

Recommend the Funding, Programs & Legislation (FP&L) Executive Committee to review a proposal to apportion \$20 million each in RM3 funds to the five eligible counties from the RM3 North Bay Transit Access Improvement Program and refer it to the TAM Board for adoption.

## **BACKGROUND**

In June 2018, Bay Area voters approved RM3 to raise tolls on the region's state-owned toll bridges by \$1 beginning January 1, 2019. Tolls will rise by another \$1 in January 2022 with another \$1 increase in January 2025. Toll revenues, estimated at \$4.45 billion total, will be used to fund highway and transit improvements in the toll bridge corridors and their approach routes to address the Bay Area's congestion problems.

Four projects in Marin were included in the RM3 Expenditure Plan approved by the voters:

- U.S. 101 Marin-Sonoma Narrows (MSN) - \$120 million (Marin and Sonoma counties)
- Richmond-San Rafael Bridge Access (580) Improvements – \$210 million total, of which \$135 million is for improvements in Marin County
- State Route 37 Improvements - \$100 million (Marin, Sonoma, Napa, and Solano counties)
- San Rafael Transit Center - \$30 million

In addition, projects in Marin are also potentially eligible for funds under other programmatic categories such as the Bay Trail Program and the North Bay Transit Access Improvement Program. The Bay Trail Program is a regional competitive program. The North Bay Transit Access Improvement Program provides \$100 million for programming for five North Bay counties including Marin.

## **RM3 Pending Litigation**

Since the passage of RM3, two lawsuits challenging RM3 were initiated. The tolls collected are being placed into an escrow account and are not being disbursed to projects. If the Bay Area Toll Authority (BATA) prevails in the litigation, the funds will be applied to RM3 approved projects. Should BATA ultimately lose the litigation, the funds will be reimbursed to toll-payers as much as possible.

## **DISCUSSION**

The RM3 North Bay Transit Access Improvement Program provides funding for transit improvements, such as new transit vehicles, transit facilities and access to transit facilities, benefiting Contra Costa, Marin, Napa, Solano, and Sonoma Counties. The legislative description for this program reads:

(26) North Bay Transit Access Improvements. Provide funding for transit improvements, including, but not limited to, bus capital projects, including vehicles, transit facilities, and access to transit facilities, benefiting the Counties of Marin, Sonoma, Napa, Solano, and Contra Costa. Priority shall be given to projects that are fully funded, ready for construction, and serving rail transit or transit service that operates primarily on existing or fully funded high-occupancy vehicle lanes. The project sponsor is the Metropolitan Transportation Commission. Eligible applicants are any transit operator providing service in the Counties of Contra Costa, Marin, Napa, Solano, or Sonoma. One hundred million dollars (\$100,000,000).

Each of the five named counties are eligible to receive a portion of the \$100 million in RM3 funds from the North Bay Transit Access Improvement Program. MTC has yet to establish guidelines for the North Bay Transit Access Improvement Program and has not indicated how the funds would be distributed. MTC can conceivably allocate the funds on a competitive basis or use a formula distribution among the five counties. In the case of a formula distribution, different metrics could be factored into the formula, such as population, ridership, transit service hours, and so forth.

To remove uncertainty, County Transportation Agencies (CTAs) in the five eligible counties are supporting a proposal to apportion the \$100 million evenly, with \$20 million to each county. The proposal is being relayed to MTC as well.

The apportionment proposal provides predictability and certainty to each county and avoids the possibility of an inequitable distribution under a competitive model. Furthermore, where there are projects ready to advance and local funds are available to support the projects in the near term, while RM3 litigation is pending, the five CTAs recognize that there are benefits to accelerating project delivery through cost reduction and a favorable bidding environment.

Establishing funding apportionments is expected to provide some guarantee of reimbursements should MTC's arguments prevail in pending litigation; an approved Letter of No Prejudice (LONP) from MTC would be additionally needed for any projects wishing to advance with local funds and be reimbursed by MTC later. TAM does not intend to submit an LONP for projects under this category at present; staff is aware of one other county that is considering seeking LONP approval this Spring.

Staff is requesting the TAM Board to approve the proposal to be conveyed to MTC, to apportion \$20 million to each county from the RM3 North Bay Transit Access Improvement Program.

## **FISCAL IMPACTS**

There are no immediate fiscal impacts to TAM with submitting an apportionment proposal request to MTC.

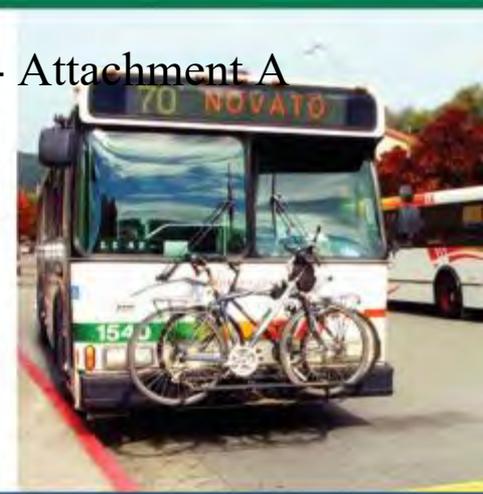
**NEXT STEPS**

Upon approval from the TAM Board and the other four CTA's boards, staff will communicate to MTC on the CTAs' joint request for the appointment agreement. If approved by MTC, staff will consider the appropriate timing to solicit eligible projects for funding under this program, given the pending RM3 litigation, and will keep the Board informed of those activities.

**ATTACHMENT**

Attachment A – PowerPoint Presentation

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# Regional Measure 3 North Bay Transit Access Improvement Fund Apportionment Proposal

FPL Executive Committee Meeting  
April 12, 2021

# Background

- In June 2018, Bay Area voters approved RM3 to raise tolls on the region's state-owned toll bridges
- An estimated \$4.45 billion in RM3 toll revenues are expected to be collected
- RM3 funds will be used to fund highway and transit improvements in the toll bridge corridors and their approach routes to address the Bay Area's congestion problems
- RM3 currently in pending litigation

# Background, cont.

- Four projects in Marin were included in the RM 3 Expenditure Plan approved by the voters, including the MSN Project, Richmond-San Rafael Bridge Access (580) Improvements, State Route 37 Improvements, and San Rafael Transit Center
- Other projects in Marin are also potentially eligible for funds under other programmatic categories such as the Bay Trail Program and the North Bay Transit Access Improvement Program
- The Bay Trail Program is a regional competitive program

# North Bay Transit Access Improvement Program

- Includes \$100 million for programming for five eligible counties: Contra Costa, Marin, Napa, Solano, and Sonoma
- Provides funding for transit improvements, such as new transit vehicles, transit facilities and access to transit facilities
- MTC has not established programming guidelines for the North Bay Transit Access Improvement Program

# Apportionment Proposal

- Each of the five named counties are eligible to receive a portion of the \$100 million in RM3 funds
- The five CTAs are proposing to request that MTC apportion the funds \$20 million to each eligible county

# Reasons for Apportionment Proposal

- Provides predictability and certainty to each county and avoid the possibility of an inequitable distribution under a competitive model
- If applicants are ready and able to advance projects through the Letter of No Prejudice (LONP) process, there are benefits to accelerating project delivery through cost reduction and a favorable bidding environment

# Request MTC for Approval

- A request to approve this apportionment proposal will be provided to MTC
- If the agreement is approved by MTC, recipient agencies can request LONPs for projects that can move forward using other revenues to be reimbursed by RM3 funds (pending litigation)
  - TAM does not intend to request an LONP at present but could at later time – would return to the Board

# Staff Recommendation

- That the TAM Board approves the proposal to apportion \$20 million to each county from the North Bay Transit Access Improvement Program



# Questions