

THIS PRINT COVERS CALENDAR ITEM NO.: 10.3

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance & Information Technology

BRIEF DESCRIPTION:

Adopting a resolution of local support for the allocation of Regional Measure 3 (RM3) bridge toll funds in the amount of \$2,694,000 for the Kirkland Yard Electrification project; and providing assurances that the SFMTA will comply with Metropolitan Transportation Commission (MTC) policies.

SUMMARY:

- RM3 bridge toll funds were approved by Bay Area voters in July 2018. Although increased tolls started being collected in January 2019, legal challenges prevented the MTC, acting as the Bay Area Toll Authority, from disbursing the funds until the challenges were dismissed in January 2023 by the State Supreme Court.
- RM3's Expenditure Plan includes \$140,000,000 of funds for SFMTA Muni fleet and facility capital projects. This resolution supports the SFMTA's sixth request for RM3 fund allocations.
- To receive RM3 funds, the MTC requires that the SFMTA adopt a resolution of local support for the projects to be funded and provide assurances that the SFMTA will comply with MTC's RM3 implementation policies.
- The \$2,694,000 of RM3 funds will be programmed to the Kirkland Yard Electrification project.
- The SFMTA, under authority delegated by the Planning Department, has determined that the proposed allocation of RM3 funding for the environmental review, engineering design, and costs associated with the preparation of Request for Qualifications/Proposals (RFQ/P) phases of the Kirkland Yard Electrification Project are statutorily exempt from the California Environmental Quality Act (CEQA).
- The proposed action is the Approval Action as defined by the S.F. Admin. Code Chapter 31.
- The adoption of this resolution does not constitute the approval of any specific project that may be funded by the grant program. Rather, projects would be subject to California Environmental Quality Act (CEQA) review, and other approvals as applicable, as determined according to their scope.

ENCLOSURES:

1. SFMTAB Resolution

APPROVALS:

DATE

DIRECTOR



July 10, 2024

SECRETARY



July 10, 2024

ASSIGNED SFMTAB CALENDAR DATE: July 16, 2024

PURPOSE

Adopting a resolution of local support for the allocation of Regional Measure 3 (RM3) bridge toll funds in the amount of \$2,694,000 for the Kirkland Yard Electrification project; and providing assurances that the SFMTA will comply with Metropolitan Transportation Commission (MTC) policies.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This item supports the following five Strategic Plan Goals:

- Goal 5: Deliver reliable and equitable transportation services.
- Goal 6: Eliminate pollution and greenhouse gas emissions by increasing use of transit, walking, and bicycling.
- Goal 8: Deliver quality projects on-time and on-budget.
- Goal 9: Fix things before they break and modernize systems and infrastructure.
- Goal 10: Position the agency for financial success.

This item supports the following four Transit First Policy Principles:

1. To ensure quality of life and economic health in San Francisco, the primary objective of the transportation system must be the safe and efficient movement of people and goods.
2. Public transit, including taxis and vanpools, is an economically and environmentally sound alternative to transportation by individual automobiles. Within San Francisco, travel by public transit, by bicycle and on foot must be an attractive alternative to travel by private automobile.
9. The ability of the City and County to reduce traffic congestion depends on the adequacy of regional public transportation. The City and County shall promote the use of regional mass transit and the continued development of an integrated, reliable, regional public transportation system.
10. The City and County shall encourage innovative solutions to meet public transportation needs wherever possible and where the provision of such service will not adversely affect the service provided by the Municipal Railway.

DESCRIPTION

RM3 Funds for the SFTMA:

The SFMTA is requesting that the MTC allocate \$2,694,000 for the project described below. This amount represents 1.9% of the \$140,000,000 of RM3 funds designated for SFMTA fleet and facilities, as included in the RM3 Expenditure Plan approved by the voters. The SFMTA has broad latitude to spend these funds as it deems fit for fleet and facility projects. RM3 funds are a primary funding source for facilities, for which it is generally challenging to secure funding.

Project Descriptions and RM3-Funded Scope:

Kirkland Yard Electrification

Project Description: The Kirkland Yard Electrification Project aims to upgrade the Kirkland Yard, in the Fisherman’s Wharf area. The current facility, which supports eighty-eight (88) 40-foot diesel hybrid buses, will be modified to accommodate a fleet of approximately one-hundred ten (110) 40-foot battery electric buses (BEB).

The Project will involve demolishing the existing operations building and trailer and replacing them with new office trailers or their 15-year life cycle equivalent on the west side of the site, on the Powell Street frontage. A new electric vehicle (EV) charging system using overhead inverted pantograph chargers for depot/fleet-wide charging will be installed.

In August 2023, the Project completed the planning phase and is now beginning the Preliminary Engineering Phase. During this phase, the decision was made to pursue an alternate project delivery path using Progressive Design Build (PDB). This second RM3 allocation for the Kirkland Yard Electrification project will support the costs associated with the preparation of Request for Qualifications/Proposals (RFQ/P) documents for procurement of the PDB Contract.

RM3 Allocation Scope: \$2,694,000 of RM3 funds will contribute 1.7% of the project’s cost of \$156,615,000. The project’s total cost has increased \$3,063,000 since the previous RM3 allocation presented to the Board at its January 16, 2024, meeting. Tables 1 and 2 reflect the new cost.

Table 1: Proposed Allocations

Project Title	RM3 July 2024 Request Amount	Percent of SFMTA RM3 \$140,000,000	Total Project Cost	Percent Funded by RM3 July 2024 Allocation
Kirkland Yard Electrification	\$2,694,000	1.9%	\$156,615,000	1.7%

SFMTA Assurances to the MTC:

The MTC requires that the SFMTA Board of Directors approve a resolution providing local support for the RM3-funded projects, acknowledging the following conditions:

1. The SFMTA will comply with the provisions of the MTC’s RM3 Policies and Procedures.
2. The SFMTA will certify that the projects are consistent with the Regional Transportation Plan (RTP).

3. The SFMTA will certify that the year of funding for any design, right-of-way and/or construction phase has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project.
4. The RM3 phase or segment is fully funded, and results in an operable and usable segment.
5. The SFMTA has reviewed the projects' needs and has adequate staffing resources to deliver and complete the projects within the schedules set forth in the allocation request and updated Initial Project Reports.
6. The SFMTA is an eligible sponsor of projects in the RM3 Expenditure Plan, in accordance with California Streets and Highways Code 30914.7(a)(10).
7. The SFMTA is authorized to apply for RM3 funds for the Kirkland Yard Electrification project in accordance with California Streets and Highways Code 30914.7(a)(10).
8. On May 29, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the allocation of RM3 funds to prepare the RFQ/P documents for procurement of the PDB Contract associated with the SFMTA's Kirkland Yard Electrification Project (Planning Case No. 2024-004773ENV) is statutorily exempt from environmental review under Title 14 of the California Code of Regulations Sections 15262.
9. That there is no legal impediment to the SFMTA making allocation requests for RM3 funds.
10. That there is no pending or threatened litigation which might in any way adversely affect the proposed projects, or the ability of the SFMTA to deliver such projects.
11. The SFMTA agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866.
12. The SFMTA indemnifies and holds harmless MTC, BATA, and their Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of the SFMTA, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM3 funds. The SFMTA agrees at its own cost, expense, and risk, to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, BATA, and their Commissioners, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM3 funds as shall reasonably be considered necessary by the MTC may be retained until disposition has been made of any claim for damages.

13. The SFMTA shall, if any revenues or profits are received from any non-governmental use of property (or project), use those revenues or profits exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the MTC is entitled to a proportionate share equal to MTC's percentage participation in the project.
14. The SFMTA shall use assets purchased with RM3 funds, including facilities and equipment, for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to the MTC in the same proportion that RM3 funds were originally used.
15. The SFMTA authorizes its Director of Transportation or his designee to execute and submit an allocation request to prepare the RFQ/P documents for procurement of the PDB Contract associated with the SFMTA's Kirkland Yard Electrification Project with the MTC for RM3 funds in the amount of \$2,694,000 for the projects, purposes and amounts included in the project applications.
16. The Director of Transportation or his designee is hereby delegated the authority to make non-substantive changes or minor amendments to the allocation request or initial project report (IPR) as he or she deems appropriate.
17. A copy of this resolution shall be transmitted to the MTC in conjunction with the filing of the SFMTA applications referenced herein.

STAKEHOLDER ENGAGEMENT

The proposed allocations are consistent with the public process that led to the RM3 ballot measure. Additionally, SFMTA has actively worked with the MTC to ensure that the proposed RM3 funding is acceptable and consistent with program requirements.

ALTERNATIVES CONSIDERED

The alternative option is to forego pursuing the RM3 funding, which would result in a deficit in the SFMTA's capital program. In this scenario, SFMTA staff would seek funding from other capital projects and programs to fund the proposed projects. This alternative was not pursued because large capital projects need to use all reasonable funding options, including RM3, as the funds are made available.

FUNDING IMPACT

Including the proposed allocation of \$2,694,000, the SFMTA has requested \$76,558,096 or 55% of the available \$140,000,000 RM3 funding. The previous allocations are summarized below.

Table 2: SFMTA RM3 Allocations

Project Title	MTC Approval Date	Request Amount	Total Project Cost	Percent Funded by RM3
Potrero Modernization Project	Dec-23	\$3,503,055	\$487,951,860	0.7%
Light Rail Vehicle Procurement	Jan-24	\$6,495,096	\$1,192,651,577	0.5%
40’/60’ hybrid buses project	Jan-24	\$27,013,000	\$147,338,000	18.3%
Kirkland Electrification	Feb-24	\$3,815,000	\$156,615,000	2.4%
Battery Electric Bus Procurement	Feb-24	\$2,381,000	\$44,116,000	5.4%
Presidio Modernization	Mar-24	\$12,594,945	\$455,143,755	2.8%
New Flyer Midlife Overhaul Phase I	Jun-24	\$11,344,000	\$146,244,957	7.8%
Vintage Streetcar Rehabilitation	Jun-24	\$6,718,000	\$12,143,817	55.3%
Kirkland Electrification	Jul-24	\$2,694,000	\$156,615,000	1.7%
	Total	\$76,558,096	\$2,642,204,966	2.9%

ENVIRONMENTAL REVIEW

The proposed allocation of RM3 funds to comply with requirements for the statutory exemption, to prepare the RFQ/P documents for procurement of the PDB Contract associated with the SFMTA’s Kirkland Yard Electrification Project is subject to the California Environmental Quality Act (CEQA). CEQA provides a statutory exemption from environmental review—as defined in Title 14 of the California Code of Regulations Section 15262—Feasibility and Planning Studies. A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities.

On May 29, 2024, the SFMTA, under authority delegated by the Planning Department, determined (Case Number 2024-004773ENV) that the proposed allocation of RM3 funds for the Kirkland Yard Electrification Project is statutorily exempt from environmental review under Title 14 of the California Code of Regulations Section 15262.

A copy of the CEQA determination is on file with the Secretary of the SFMTA Board of Directors and is incorporated herein by reference.

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OTHER APPROVALS RECEIVED OR STILL REQUIRED

The MTC is anticipated to act on this RM3 allocation at its July 24, 2024, meeting. The City Attorney has reviewed this report.

RECOMMENDATION

Staff recommends that the SFMTA Board adopt a resolution of local support for allocation of Regional Measure 3 (RM3) bridge toll funds in the amount of \$2,694,000 for the Kirkland Yard Electrification project; and provide assurances that the SFMTA will comply with Metropolitan Transportation Commission (MTC) policies.

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. _____

WHEREAS, Senate Bill (SB) 595 (Chapter 650, Statutes 2017), commonly referred as Regional Measure 3, identified projects eligible to receive funding under the Regional Measure 3 Expenditure Plan; and,

WHEREAS, The Metropolitan Transportation Commission (MTC) is responsible for funding projects eligible for Regional Measure 3 funds, pursuant to Streets and Highways Code Section 30914.7(a) and (c); and,

WHEREAS, The MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 3 funding; and,

WHEREAS, Allocation requests to the MTC must be submitted consistent with procedures and conditions as outlined in Regional Measure 3 Policies and Procedures (MTC Resolution No. 4404); and,

WHEREAS, The San Francisco Municipal Transportation Agency (SFMTA) is an eligible sponsor of transportation project(s) in the Regional Measure 3 Expenditure Plan; and,

WHEREAS, The Kirkland Yard Electrification project is eligible for consideration in the Regional Measure 3 Expenditure Plan, as identified in California Streets and Highways Code Section 30914.7(a); and,

WHEREAS, The Regional Measure 3 allocation request lists the project, purpose, schedule, budget, expenditure, and cash flow plan for which the SFMTA is requesting the MTC allocate Regional Measure 3 funds; and,

WHEREAS, The proposed allocation of RM3 funds to support feasibility and planning studies associated with the SFMTA's Kirkland Yard Electrification Project is subject to the California Environmental Quality Act (CEQA). CEQA provides a statutory exemption from environmental review—as defined in Title 14 of the California Code of Regulations Section 15262—Feasibility and Planning Studies. A project involving only feasibility or planning studies for possible future actions which the agency, board, or commission has not approved, adopted, or funded does not require the preparation of an EIR or Negative Declaration but does require consideration of environmental factors. This section does not apply to the adoption of a plan that will have a legally binding effect on later activities; and,

WHEREAS, On May 29, 2024, the SFMTA, under authority delegated by the Planning Department, determined (Case Number 2024-004773ENV) that the proposed allocation of RM3 funds for the compliance with requirements in Public Resources code section 21080.25 and preparation of the RFQ/P documents for procurement of the PDB Contract associated with

the SFMTA's Kirkland Yard Electrification Project is statutorily exempt from environmental review under Title 14 of the California Code of Regulations Section 15262; and,

WHEREAS, the SFMTA Board finds that the proposed allocation of RM3 funds for the Kirkland Yard Electrification Project is only for the purpose of the preparation of RFQ/P documents for procurement of the PDB Contract for the project; and,

WHEREAS, A copy of the CEQA determination is on file with the Secretary to the SFMTA Board of Directors, and is incorporated herein by reference; now, therefore, be it

RESOLVED, That the SFMTA Board of Directors adopts a resolution of support for the programming of Regional Measure 3 (RM3) bridge toll funds in the amount of \$2,694,000 for the Kirkland Yard Electrification project; and be it further

RESOLVED, That SFMTA will comply with the provisions of MTC's Regional Measure 3 Policies and Procedures; and be it further

RESOLVED, That the SFMTA certifies that the project is consistent with the Regional Transportation Plan (RTP); and be it further

RESOLVED, That the SFMTA certifies that the year of funding for any design, right-of-way and/or construction phase has taken into consideration the time necessary to obtain environmental clearance and permitting approval for the project; and be it further

RESOLVED, That the Regional Measure 3 phase or segment is fully funded, and results in an operable and useable segment; and be it further

RESOLVED, That SFMTA has reviewed the projects' needs and has adequate staffing resources to deliver and complete the projects within the schedule set forth in the allocation request and updated Initial Project Reports; and be it further

RESOLVED, That the SFMTA is an eligible sponsor of projects in the Regional Measure 3 Expenditure Plan, in accordance with California Streets and Highways Code 30914.7(a)(10); and be it further

RESOLVED, That the SFMTA is authorized to apply for Regional Measure 3 funds in accordance with California Streets and Highways Code 30914.7(a)(10); and be it further

RESOLVED, That, on May 29, 2024, the SFMTA, under authority delegated by the Planning Department, also determined that the proposed resolution for programming Regional Measure 3 funds for Kirkland Yard Electrification, is not a "project" under the California Environmental Quality Act (CEQA) pursuant to Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); and be it further

RESOLVED, That there is no legal impediment to the SFMTA making allocation requests for Regional Measure 3 funds; and be it further

RESOLVED, That there is no pending or threatened litigation which might in any way adversely affect the proposed projects, or the ability of the SFMTA to deliver such projects; and be it further

RESOLVED, That SFMTA agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866; and be it further

RESOLVED, That the SFMTA indemnifies and holds harmless MTC, BATA, and their Commissioners, representatives, agents, and employees from and against all claims, injury, suits, demands, liability, losses, damages, and expenses, whether direct or indirect (including any and all costs and expenses in connection therewith), incurred by reason of any act or failure to act of the SFMTA, its officers, employees or agents, or subcontractors or any of them in connection with its performance of services under this allocation of RM3 funds. The SFMTA agrees at its own cost, expense, and risk, to defend any and all claims, actions, suits, or other legal proceedings brought or instituted against MTC, BATA, and their Commissioners, officers, agents, and employees, or any of them, arising out of such act or omission, and to pay and satisfy any resulting judgments. In addition to any other remedy authorized by law, so much of the funding due under this allocation of RM3 funds as shall reasonably be considered necessary by the MTC may be retained until disposition has been made of any claim for damages, and be it further

RESOLVED, That the SFMTA shall, if any revenues or profits are received from any non-governmental use of property (or project), use those revenues or profits exclusively for the public transportation services for which the project was initially approved, either for capital improvements or maintenance and operational costs, otherwise the MTC is entitled to a proportionate share equal to MTC's percentage participation in the projects(s); and be it further

RESOLVED, That the SFMTA shall use assets purchased with Regional Measure 3 funds, including facilities and equipment, for the public transportation uses intended, and should said facilities and equipment cease to be operated or maintained for their intended public transportation purposes for its useful life, that the MTC shall be entitled to a present day value refund or credit (at MTC's option) based on MTC's share of the Fair Market Value of the said facilities and equipment at the time the public transportation uses ceased, which shall be paid back to the MTC in the same proportion that Regional Measure 3 funds were originally used; and be it further

RESOLVED, That the SFMTA authorizes its Director of Transportation or his designee to execute and submit an allocation request to prepare the RFQ/P documents for procurement of the Kirkland Yard Electrification's PDB Contract with the MTC for Regional Measure 3 funds in the amount of \$2,694,000 for the projects purpose and amount included in the project application; and be it further

RESOLVED, That the Director of Transportation or his designee is hereby delegated the authority to make non-substantive changes or minor amendments to the allocation request

or IPR as he or she deems appropriate; and be it further

RESOLVED, That a copy of this resolution shall be transmitted to the MTC in conjunction with the filing of the SFMTA applications referenced herein.

I certify that the foregoing resolution was adopted by the San Francisco Municipal Transportation Agency Board of Directors at its meeting of July 16, 2024.

Secretary, Board of Directors
San Francisco Municipal Transportation Agency