

THIS PRINT COVERS CALENDAR ITEM NO.: 10.4

**SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY**

DIVISION: Finance & Information Technology

BRIEF DESCRIPTION:

Adopting a resolution of local support for programming Regional Measure 3 (RM3) bridge toll funds in the amount of \$33,209,000 for three SFMTA projects: (1) 40' / 60' hybrid bus procurement for \$27,013,000; (2) battery electric bus design procurement design phase for \$2,381,000; and (3) Kirkland bus yard electrification design phase for \$3,815,000; and providing assurances that the SFMTA will comply with Metropolitan Transportation Commission policies.

SUMMARY:

- RM3 bridge toll funds were approved by Bay Area voters in June 2018. Although increased tolls started to be collected in January 2019, legal challenges prevented 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 is in support of the SFMTA's second formal request for RM3 fund allocations.
- To receive RM3 funds, the Metropolitan Transportation Commission (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 \$33,209,000 of RM3 funds will be programmed to the 40' / 60' hybrid bus procurement (\$27,013,000), the battery electric bus procurement design phase (\$2,381,000), and the Kirkland Bus Yard Electrification design phase (\$3,815,000).
- The SFMTA, under authority delegated by the Planning Department, has determined that the proposed allocation of RM3 funding for the environmental review and design phases of the Kirkland Bus 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 CEQA review, and other approvals as applicable, as determined according to their scopes.

ENCLOSURES:

1. SFMTAB Resolution

APPROVALS:

DIRECTOR 

SECRETARY 

DATE

January 10, 2024

January 10, 2024

ASSIGNED SFMTAB CALENDAR DATE: January 16, 2024

PURPOSE

Adopting a resolution of local support for programming Regional Measure 3 (RM3) bridge toll funds in the amount of \$33,209,000 for three SFMTA projects: (1) 40' / 60' hybrid bus procurement for \$27,013,000; (2) battery electric bus design procurement design phase for \$2,381,000; and (3) Kirkland bus yard electrification environmental and design phases for \$3,815,000; and providing assurances that the SFMTA will comply with Metropolitan Transportation Commission policies.

STRATEGIC PLAN GOALS AND TRANSIT FIRST POLICY PRINCIPLES

This action supports several SFMTA 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.

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 SFMTA:

The SFMTA is requesting that the MTC allocate \$33,209,000 for three SFMTA projects described below. This amount represents 23% of the \$140,000,000 of RM3 funds designated for SFMTA fleet and facilities and included in the RM3 Expenditure Plan approved by the voters. The SFMTA has broad latitude to spend these funds. For the fleet, RM3 funds are a valuable match source to federal grants. For facilities, RM3 funds provide primary funding because funding for facilities is hard to secure.

Project Descriptions and RM3-Funded Scope:

i. **40' / 60' Hybrid Bus Procurement**

Project Description: This project replaces ninety-four hybrid 40' motor coaches that were procured from 2013 onwards and have reached the end of their useful lives. Doing so lowers the average age of the bus fleet, increases overall reliability, and keeps the fleet in a state of good repair.

RM3 Allocation Scope: The total project cost is estimated at \$147,338,000 with RM3 funds of \$27,013,000. The remainder of the project is funded by general funds, SFCTA sales tax funds, developer fees, and future FTA and bridge toll funds.

ii. **Battery Electric Bus Procurement**

Project Description: This project purchases six 60' and twelve 40' battery electric buses (BEBs), along with all required tools and equipment, spare parts, training, and data monitoring subscription, and deploys the vehicles in revenue service to replace eighteen 40' hybrid buses. The BEBs shall be procured from multiple manufacturers through statewide procurement contracts or as options through existing procurement contracts, as authorized under Federal Transit Administration statutes and regulations.

The project scope does not include the required charging infrastructure needed to accommodate the eighteen BEBs. The charging infrastructure will be installed prior to the arrival of BEBs. The cost of charging infrastructure is approximately \$37,000,000 and is fully funded.

RM3 Allocation Scope: The total project cost is estimated at \$44,116,000 with RM3 funds contributing \$2,381,000 for project planning and design. The procurement phase of the project will be funded by additional RM3 funds, SFCTA sales tax funds, and future FTA and bridge toll funds.

iii. **Kirkland Bus Yard Electrification**

Project Description: The Kirkland Yard Electrification Project proposes to upgrade Kirkland Yard to store, maintain, and charge one-hundred and eleven 40' Battery Electric Buses (BEBs) at the existing bus facility. Kirkland Yard currently stores, maintains, fuels, and services eighty-eight 40' hybrid buses. The project site is in the Fisherman's Wharf area of San Francisco, on the block bounded by Beach, Stockton, North Point, and Powell Streets. The BEB facility would be built in one phase to provide unencumbered site access and expedite construction. The existing diesel hybrid fleet would move its storage and light maintenance operations to a to-be-determined lease site.

RM3 Allocation Scope: The total project cost is \$153,552,000 with RM3 funds contributing \$3,815,000 to fund environmental review and early design stage funding

including development of a Request for Qualifications/Proposals for a progressive design build (PDB) construction contract. The selected PDB firm will provide the final design and construct the Kirkland Yard Facility for the SFMTA. The remainder of the project is funded by future RM3 funds and general funds in addition to planned SFCTA sales tax funds, developer fees, State clean energy funds, SFMTA capital funds, and future FTA and bridge toll funds.

Table 1: Regional Measure 3 Allocations

Project Title	RM3 Request Amount	% of SFMTA RM3 \$140,000,000 Funds	Total Project Cost	Percent Funded by RM3
40' / 60' Hybrid Bus Procurement	27,013,000	19%	147,338,000	18%
Battery Electric Bus Procurement	2,381,000	2%	44,116,000	5%
Kirkland Bus Yard Electrification	3,815,000	3%	153,552,000	2%
Total	\$33,209,000	24%	\$370,248,000	9%

SFMTA Assurances to MTC:

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 Regional Measure 3 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 Regional Measure 3 phase or segment is fully funded, and results in an operable and useable 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 Regional Measure 3 Expenditure Plan, in accordance with California Streets and Highways Code 30914.7(a)(10).
7. The SFMTA is authorized to apply for Regional Measure 3 funds for the 40’ / 60’ hybrid bus procurement, the battery electric bus design procurement design phase, and the Kirkland bus yard electrification environmental and design phases in accordance with California Streets and Highways Code 30914.7(a)(10).

8. On December 21, 2023, the SFMTA, under authority delegated by the Planning Department, determined that the allocation of RM3 funds to support feasibility and planning studies associated with SFMTA's Kirkland Bus Yard Electrification Project (Planning Case No. 2023-011564ENV) is statutorily exempt from environmental review under Title 14 of the California Code of Regulations Sections 15262. RM3 funds would be used to complete the environmental phase, as well as a portion of the design phase of the project.
9. On December 21, 2023, the SFMTA, under authority delegated by the Planning Department, determined that the proposed resolution for programming RM3 Funds for the following Muni fleet projects: 40' / 60' Hybrid Bus Procurement Project, and the Battery Electric Bus Procurement Project, 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).
10. That there is no legal impediment to the SFMTA making allocation requests for Regional Measure 3 funds.
11. 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.
12. The SFMTA agrees to comply with the requirements of MTC's Transit Coordination Implementation Plan as set forth in MTC Resolution 3866.
13. 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 MTC may be retained until disposition has been made of any claim for damages.
14. 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.
15. 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 MTC in the same proportion that Regional Measure 3 funds were originally used.

16. The SFMTA authorizes its Director of Transportation or his designee to execute and submit an allocation request for the environmental, design, and construction phases with MTC for Regional Measure 3 funds in the amount of \$33,209,000 for the projects, purposes and amounts included in the project applications.
17. 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.
18. A copy of this resolution shall be transmitted to 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 closely worked with MTC to ensure that the proposed RM3 funding is acceptable and consistent with program requirements.

ALTERNATIVES CONSIDERED

The other alternative considered was to not to pursue the RM3 funding, which would require the SFMTA to find alternative funding or defer the projects. This alternative was not adopted, because large capital projects need to tap into all reasonable funding options, including RM3, as the funds are made available.

FUNDING IMPACT

Of the \$140,000,000 in available RM3, the SFMTA Board has previously requested \$22,593,096 as described below.

Table 2: Regional Measure 3 Allocation Requests (11/21/23)

Project Title	Request Amount	Total Project Cost	Percent Funded by RM3
Potrero Modernization Project	\$3,503,055	\$487,951,860	0.7%
Presidio Modernization Project	\$12,594,945	\$455,143,755	2.7%
Light Rail Vehicle Procurement	\$6,495,096	\$1,192,651,577	0.5%
Total	\$22,593,096	\$2,135,747,192	1.1%

ENVIRONMENTAL REVIEW

The proposed allocation of RM3 funds to support feasibility and planning studies associated with the SFMTA's Kirkland Bus 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 December 21, 2023, the SFMTA, under authority delegated by the Planning Department, determined (Case Number 2023-011564ENV) that the proposed allocation of RM3 funds for the Kirkland Bus Yard Electrification Project is statutorily exempt from environmental review under Title 14 of the California Code of Regulations Section 15262.

On December 21, 2023, the SFMTA, under authority delegated by the Planning Department, also determined that the proposed resolution for programming RM3 Funds for the following Muni fleet projects: 40' / 60' Hybrid Bus Procurement Project and the Battery Electric Bus Procurement Project, 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).

The proposed action is the Approval Action as defined by the S. F. Administrative Code Chapter 31.

Copies of the CEQA determinations are on file with the Secretary to the SFMTA Board of Directors, and the statutory exemption may be found in the records of the Planning Department by Case Number at [https://sfplanninggis.org/pim/or/49 South Van Ness Avenue, Suite 1400 in San Francisco](https://sfplanninggis.org/pim/or/49%20South%20Van%20Ness%20Avenue,%20Suite%201400%20in%20San%20Francisco), and are incorporated herein by reference.

OTHER APPROVALS RECEIVED OR STILL REQUIRED

The MTC is anticipated to act on these RM3 allocations at its February 28, 2024 meeting. The City Attorney has reviewed this report.

RECOMMENDATION

Staff recommends that the SFMTA Board adopt a resolution of local support for programming Regional Measure 3 (RM3) bridge toll funds in the amount of \$33,209,000 for three SFMTA projects: (1) 40' / 60' hybrid bus procurement for \$27,013,000; (2) battery electric bus design procurement design phase for \$2,381,000; and (3) Kirkland bus yard electrification environmental and design phases for \$3,815,000; and providing assurances that the SFMTA will comply with Metropolitan Transportation Commission 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, MTC has established a process whereby eligible transportation project sponsors may submit allocation requests for Regional Measure 3 funding; and,

WHEREAS, Allocation requests to 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 40' / 60' hybrid bus procurement, the battery electric bus design procurement design phase, and the Kirkland bus yard electrification environmental and design phases are 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 that 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 Bus 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 December 21, 2023, the SFMTA, under authority delegated by the Planning Department, determined (Case Number 2023-011564ENV) that the proposed allocation of RM3 funds for the environmental and design phases of the Kirkland Bus 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 feasibility and planning studies associated with the project; and,

WHEREAS, On December 21, 2023, the SFMTA, under authority delegated by the Planning Department, also determined that the proposed resolution for programming RM3 Funds for the following Muni fleet projects: 40' / 60' Hybrid Bus Procurement Project and the Battery Electric Bus Procurement Project, 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,

WHEREAS, The proposed action is the Approval Action as defined by the S. F. Administrative Code Chapter 31; and,

WHEREAS, Copies of the CEQA determinations are on file with the Secretary to the SFMTA Board of Directors, and the statutory exemption may be found in the records of the Planning Department by Case Number at [https://sfplanninggis.org/pim/or/49 South Van Ness Avenue, Suite 1400 in San Francisco](https://sfplanninggis.org/pim/or/49%20South%20Van%20Ness%20Avenue,%20Suite%201400%20in%20San%20Francisco), and are 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 in the amount of \$33,209,000 for three SFMTA projects: (1) 40' / 60' hybrid bus procurement for \$27,013,000; (2) battery electric bus design procurement design phase for \$2,381,000; and (3) Kirkland bus yard electrification environmental and design phases for \$3,815,000; and be it further

RESOLVED, That SFMTA will comply with the provisions of the 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 for the 40' / 60' hybrid bus procurement, the battery electric bus design procurement design phase, and the Kirkland bus yard electrification environmental and design phases in accordance with California Streets and Highways Code 30914.7(a)(10); 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 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 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

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 for the environmental and design, phases with MTC for Regional Measure 3 funds in the amount of \$33,209,000 for the projects, purposes and amounts included in the project applications; 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 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 January 16, 2024.

Secretary, Board of Directors
San Francisco Municipal Transportation Agency