

SAN FRANCISCO
MUNICIPAL TRANSPORTATION AGENCY
BOARD OF DIRECTORS

RESOLUTION No. 240806-094

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 August 6, 2024.



Secretary, Board of Directors
San Francisco Municipal Transportation Agency