

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 allocation of Regional Measure 3 (RM3) bridge toll funds in the amount of \$640,000 for the design phase of the SFMTA’s Battery Electric Buses (BEB) Replacement Procurement Pilot project; and providing assurances that the SFMTA will comply with Metropolitan Transportation Commission (MTC) policies.



SUMMARY:

- RM3 bridge toll increases were approved by Bay Area voters in June 2018 to finance highway and transit improvements. 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 by the State Supreme Court in January 2023.
- RM3’s Expenditure Plan includes \$140,000,000 of funds for SFMTA Muni fleet and facility capital projects. The SFMTA programmed RM3 funds for projects based on need and readiness as identified by the SFMTA’s Building Progress Program and the Transit Division. This resolution supports the SFMTA’s seventh formal 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 \$640,000 of RM3 funds will be programmed to the detailed design phase of the Battery Electric Bus Replacement Procurement Pilot project.
- 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:

DIRECTOR 
SECRETARY 

DATE

September 25, 2024
September 25, 2024

ASSIGNED SFMTAB CALENDAR DATE: October 1, 2024

PURPOSE

Adopting a resolution of local support for allocation of Regional Measure 3 (RM3) bridge toll funds in the amount of \$640,000 for the design phase of the SFMTA’s Battery Electric Buses (BEB) Replacement Procurement Pilot 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 SFMTA:

The SFMTA is requesting that the MTC allocate \$640,000 for the detailed design phase of the SFMTA project described below. This amount represents 0.5% 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. RM3 funds serve as a valuable match source for federal grants for fleet projects. Additionally, RM3 funds provide primary funding for facilities, for which it is generally challenging to secure funding.

Project Description and RM3-Funded Scope:

i. **Battery Electric Bus Procurement**

Project Description: The SFMTA is considering expanding its procurement of three (3) 60' and three (3) 40' battery electric buses as replacements for six (6) 40' diesel electric hybrid buses beyond its current contracts for several reasons:

- to continue moving towards the SFMTA’s zero-emission goal
- to address the rising prices of BEBs
- to broaden the agency’s purchasing options
- to increase market competitiveness.

The SFMTA is in contact with King County (Seattle) and New York City to attract a new original equipment manufacturer (OEM) to the United States market. The RM3 funds will play a crucial role in allowing the SFMTA to collaborate with a new OEM that may lead to more competitive pricing for future, and larger procurements.

RM3 Allocation Scope: \$640,000 of RM3 funds will contribute 4.6% of the project’s total cost of \$13,943,988 as shown in Table 1. The project funding plan can be found in Table 2.

Table 1: Proposed Allocation

Project Title	RM3 Request Amount	% of SFMTA RM3 \$140,000,000 Funds	Total Project Cost	Percent Funded by RM3
Battery Electric Bus Replacement Procurement Pilot	\$640,000	0.5%	\$13,943,988	4.6%
Total	\$640,000	0.5%	\$13,943,988	4.6%

Table 2: Battery Electric Bus Replacement Procurement Pilot Funding Plan

Project Phase	Fund	FY25-29 Total	Notes
Planning	FY22 Low Carbon Fuel Standard Credits Sales Fund	\$180,486	Allocated
Detail Design	FY22 Low Carbon Fuel Standard Credits Sales Fund	\$11,496	Allocated
Detail Design	FY24 MTC Regional Measure 3 Funds	\$215,976	Allocated
Detail Design	FY25 MTC Regional Measure 3 Funds	\$640,000	Planned
Construction	FY26 MTC Regional Measure 3 Funds	\$2,847,420	Planned
Construction	Prop L Sales Tax Program Expenditure Plan 6	\$10,000,000	Awarded
Construction	FY26 Population Baseline Streets General Fund	\$48,610	Planned
Total Project Cost		\$13,943,988	

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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 detailed design phase of the SFMTA's Battery Electric Buses (BEB) Replacement Procurement Pilot project in accordance with California Streets and Highways Code 30914.7(a)(10).
8. On August 30, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the proposed resolution for programming Regional Measure 3 funds for the detailed design phase of the Battery Electric Bus Procurement 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).
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 for the detailed design phase of the SFMTA's Battery Electric Buses (BEB) Replacement Procurement Pilot project with the MTC for RM3 funds in the amount of \$640,000 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 forgo 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 project. This alternative was not pursued because large capital projects need to utilize all reasonable funding options, including RM3, as the funds are made available.

FUNDING IMPACT

Including the proposed allocation of \$640,000, the SFMTA has requested \$77,198,096 or 55.1% of the available \$140,000,000 RM3 funding. The previous allocations are summarized below.

Table 3: Regional Measure 3 Allocation Requests

Project Title	Request Amount	Total Project Cost	Percent Funded by RM3
Potrero Modernization Project	\$3,503,055	\$487,951,860	0.7%
Light Rail Vehicle Procurement	\$6,495,096	\$1,192,651,577	0.5%
40’/60’ hybrid buses project	\$27,013,000	\$147,338,000	18.3%
Kirkland Electrification	\$3,815,000	\$156,615,000	2.4%
Battery Electric Bus Procurement	\$2,381,000	\$30,439,932	7.8%
Presidio Modernization Project	\$12,594,945	\$455,143,755	2.8%
New Flyer Midlife Overhaul Phase I	\$11,344,000	\$146,244,957	7.8%
Vintage Streetcar Rehabilitation	\$6,718,000	\$12,143,817	55.3%
Kirkland Electrification	\$2,694,000	\$156,615,000	1.7%
Battery Electric Bus Replacement Procurement Pilot	\$640,000	\$13,943,988	4.6%
Total	\$77,198,096	\$2,612,032,954	3.0%

ENVIRONMENTAL REVIEW

On August 30, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the proposed resolution for programming Regional Measure 3 funds for the design phase of the Battery Electric Bus Procurement 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).

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 these RM3 allocations at its October 23, 2024, meeting.

The City Attorney has reviewed this staff 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 \$640,000 for the design phase of the SFMTA's Battery Electric Buses (BEB) Replacement Procurement Pilot project; and providing 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 design phase of the SFMTA's Battery Electric Buses (BEB) Replacement Procurement project 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 the MTC allocate Regional Measure 3 funds; and

WHEREAS, On August 30, 2024, the SFMTA, under authority delegated by the Planning Department, determined that the proposed resolution to program Regional Measure 3 funds for the design phase of the Battery Electric Bus procurement is not a "project" under the California Environmental Quality Act (CEQA) pursuant Title 14 of the California Code of Regulations Sections 15060(c) and 15378(b); 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 \$640,000 for the design phase of the SFMTA's Battery Electric Buses (BEB) Replacement Procurement Pilot project; and providing assurances that the SFMTA will comply with

Metropolitan Transportation Commission (MTC) policies.; 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 August 30, 2024, the SFMTA, under authority delegated by the Planning Department, also determined that the proposed resolution for programming Regional Measure 3 funds for design phase of the Battery Electric Bus Procurement, 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 for the detailed design phase with the MTC for Regional Measure 3 funds in the amount of \$640,000 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 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 October 1, 2024.

Secretary, Board of Directors
San Francisco Municipal Transportation Agency