

**Metropolitan Transportation Commission
Programming and Allocations Committee**

February 8, 2023

Agenda Item 3b - 23-0163

MTC Resolution No. 4556. FY 2023-24 MTC Fund Estimate

Subject:

Annual Fund Estimate and proposed apportionment and distribution of approximately \$1 billion in Transportation Development Act (TDA) Local Transportation Fund, State Transit Assistance (STA), State of Good Repair (SGR) Program, Assembly Bill 1107 (AB 1107), transit-related bridge toll, and Low Carbon Transit Operations Program (LCTOP) funds for FY 2023-24.

Background:

MTC is required by state statute to prepare and adopt an annual fund estimate of TDA Local Transportation Fund (LTF) ¼ cent sales tax revenues for the upcoming fiscal year by March 1st. This estimate assists the Bay Area's transit operators in budgeting for the next fiscal year, in this case FY 2023-24. The fund estimate prepared by MTC also includes several other fund sources which MTC allocates to transit operators, primarily for operations.

Economic Overview

The Bay Area economy has improved since the initial shocks caused by the Covid-19 pandemic. Unemployment rates have returned to close to pre-pandemic levels and taxable sales largely outperformed initial estimates. However, significant uncertainty remains about the general health of the economy, shifts in population which continue to trend lower, telecommute share which remains high, and transit ridership where recovery continues to be sluggish. All these factors could impact transit operating revenues significantly. Accordingly, it is prudent for transit operators to continue to budget with great caution.

Transportation Development Act (TDA)

State law requires county auditors to submit annual estimates of the ¼-cent TDA sales tax revenue generation to MTC by February 1st. A summary of the county auditors' mid-year estimates indicate that regional TDA revenue generation is expected to improve by 5% in the current year of FY 2022-23 to \$508 million, with a subsequent increase of 2.1% in FY 2023-24 to \$519 million.

There remains some uncertainty about the attribution of sales taxes for non-retail (online) sales in California. In October 2021, the California Department of Tax and Fee Administration (CDTFA)

issued a notice to Santa Clara County that an audit uncovered an erroneous attribution of sales on eBay as sales taxes to Santa Clara County instead of a use tax to point of delivery jurisdictions. An appeal has been filed by the City of San Jose and Santa Clara County, and a negative ruling would result in a reduction of TDA sales tax revenues in Santa Clara County going forward and a rescission of some already allocated funds dating back to October 2019. The CDTFA is also conducting audits of other major online retailers and it is possible that additional situations similar to the eBay case could be found which may impact other Bay Area jurisdictions. The result of the appeal is still pending.

Assembly Bill 1107 (AB 1107)

A portion (25%) of BART's half-cent sales tax revenue generated in Alameda, Contra Costa, and San Francisco counties is subject to allocation by MTC, and MTC staff is responsible for estimating the annual revenue generation. Based on actual performance to date along with sales tax projections from county auditor offices, staff proposes to revise the current FY 2022-23 estimate upwards to \$104 million and to forecast FY 2023-24 revenues of \$104 million. This amount would be split evenly between SFMTA and AC Transit per longstanding Commission policy.

State Transit Assistance (STA)

Governor Newsom's proposed FY 2023-24 State Budget estimates \$932 million in STA funds statewide in FY 2023-24. Based on this estimate, the Bay Area would receive approximately \$388 million (\$297 million in Revenue-Based and \$91 million in Population-Based) in FY 2023-24 STA funds. As noted in the Issues section below, FY 2023-24 is the first year that the STA Revenue-Based distribution should be based on actual FY 2021-22 qualifying revenues after several years of the calculation being frozen at pre-COVID-19 FY 2018-19 qualifying revenue levels. The revenue distribution factors for certain Bay Area operators are dramatically different from prior years and will require further investigation with the State.

While the Fund Estimate will reflect the latest available information from the State Controller's Office for the current year (FY 2022-23) estimates, the Governor's budget also forecasts additional increases in FY 2022-23 STA revenues. If the estimates in the Governor's Proposed Budget are correct, the Bay Area will see an increase of \$119 million STA revenues in FY 2022-

23 over FY 2021-22 levels, and \$127 million in FY 2023-24 over FY 2021-22 levels. STA revenues are based on a sales tax on diesel fuel, and higher prices and consumption in recent years have resulted in higher revenues to the STA programs. Based on data from the US Energy Information Administration, diesel retail price in California reached a peak of \$6.91 per gallon in June 2022, but have come down 20% to \$5.48 in January 2023. Staff will return to the Commission to update the estimates following the state budget approval later this year.

State of Good Repair (SGR) Program

Senate Bill (SB) 1 established the State of Good Repair (SGR) Program which will bring \$46 million to the Bay Area in FY 2023-24 for transit capital state of good repair projects. The funds from the SGR Program follow the same state-wide distribution policies as the regular STA program, with a Revenue-Based and Population-Based program.

Bridge Tolls

In April 2010, MTC Resolution No. 3948 resulted in a lump sum payment from BATA to MTC for an amount equal to the 50-year present value of AB 664, RM 1, and 2% Toll revenue. Future payments from these toll revenues will be made from this lump sum, in accordance with Commission policies established in MTC Resolution Nos. 4015 and 4022.

Cap and Trade – Low Carbon Transit Operations Program

The FY 2023-24 Fund Estimate includes details on funding that will flow to the region through the Low Carbon Transit Operations Program, which is a component of the state Cap and Trade program. In FY 2023-24, the region is projected to receive \$38 million from the program based on an estimate from Governor Newsom's proposed FY 2023-24 State Budget. Apportionments of these funds are guided by Caltrans policies for the Revenue-Based program (which are the same as the STA Revenue-Based program) and by the MTC Commission for the Population-Based program through the MTC Cap and Trade Framework (MTC Resolution No. 4130, Revised).

Issues:

1. STA- Revenue Based Calculations – Funds from the STA Revenue-Based program are apportioned through a formula-based calculation using operator qualifying revenues (ie. fare revenues, local sales tax, parking revenues). While these distribution factors have been frozen at FY 2018-19 levels since FY 2020-21 due to impacts of the COVID-19 pandemic, the FY 2023-24 revenue estimates should be calculated using actual qualifying revenues from FY 2021-22. The factors for SFMTA are significantly different than expected, resulting in drastic impacts to revenue estimates. Staff is working with the State Controller’s Office and SFMTA to investigate, and Attachment A will remain under development until the issue is resolved.
2. BART Feeder Bus Agreement – A 1997 agreement between BART and four East Bay bus operators (County Connection, LAVTA, Tri-Delta, and WestCAT) established a funding mechanism for BART to support feeder bus operators using BART’s STA Revenue-Based and TDA sales tax funds. Initial payment amounts were established by transition agreements, and subsequent payments over the last 25 years have been calculated based on growth of AB 1107 ½-cent sales tax revenues. BART had communicated an interest to amend the agreement before the pandemic and has recently expressed greater urgency given its looming fiscal cliff. Discussions towards a resolution are ongoing, and an update on progress will be provided verbally at the February 2023 Programming and Allocations Committee meeting.

Recommendations:

Refer MTC Resolution No. 4556 to the Commission for approval.

Attachments:

- MTC Resolution No. 4556 (*Attachment A to this Resolution is under development and will be posted prior to the meeting*).
- Attachment 1: Presentation slides



Alix A. Bockelman

Date: February 22, 2023
W.I.: 1511
Referred by: PAC

ABSTRACT

MTC Resolution No. 4556

This resolution approves the FY 2023-24 Fund Estimate, including the distribution and apportionment of Transportation Development Act (TDA), State Transit Assistance (STA), State of Good Repair (SGR) Program, Assembly Bill (AB) 1107 sales tax, Low Carbon Transit Operations (LCTOP) cap-and-trade auction revenues, and transit-related bridge toll funds.

Further discussion of this action is contained in the MTC Programming and Allocations Summary Sheets dated February 8, 2023.

Date: February 22, 2023
W.I.: 1511
Referred by: PAC

RE: Determination of Transportation Development Act (TDA) Area Apportionments and Proposed Distribution of Operating Funds for FY 2023-24

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4556

WHEREAS, the Metropolitan Transportation Commission (MTC) is the regional transportation planning agency for the San Francisco Bay Area pursuant to Government Code Section 66500 *et seq.*; and

WHEREAS, the Transportation Development Act (TDA), Public Utilities Code (PUC) Sections 99200 *et seq.*, provides that funds are made available from the Local Transportation Fund (LTF) for various transportation purposes; and

WHEREAS, pursuant to 21 California Code of Regulations Section 6620, the County Auditor for each of the nine counties in the Bay Area has submitted the revised and new TDA fund estimates for FY 2022-23 and FY 2023-24 as shown in Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length; and

WHEREAS, MTC is required to determine and advise all prospective claimants, prior to March 1 each year, of all area apportionments from the LTF for the following fiscal year pursuant to 21 California Code of Regulations Section 6644; and

WHEREAS, all area apportionments of TDA funds for the 2023-24 fiscal year are shown in Attachment A to this resolution, attached hereto and incorporated herein as though set forth at length; and

WHEREAS, MTC has prepared a proposed distribution of operating/capital assistance funds, including TDA, State Transit Assistance (STA) pursuant to Public Utilities Code § 99310 *et seq.*, State of Good Repair (SGR) Program pursuant to Public Utilities Code § 99312.1, Low Carbon Transit Operations Program (LCTOP) pursuant to Health and Safety Code § 39719(b)(1)(B), the twenty-five percent (25%) of the one-half cent transaction and use tax collected pursuant to PUC Section 29142.2 (AB 1107), and estimates of certain toll bridge revenues (SHC §§ 30910 *et seq.*), in order to provide financial information to all prospective claimants to assist them in developing budgets in a timely manner; and

WHEREAS, the proposed distribution of such operating assistance funds is also shown in Attachment A; now, therefore, be it

RESOLVED, that MTC approves the area apportionments of TDA funds, and the proposed distribution of operating assistance funds for the 2023-24 fiscal year as shown in Attachment A, subject to the conditions noted therein; and, be it further

RESOLVED, that MTC intends to allocate operating assistance funds for the 2023-24 fiscal year, based on the area apportionments of TDA funds, the proposed distribution of operating assistance funds and upon the receipt of appropriate claims from eligible claimants; and, be it further

RESOLVED, that Attachment A may be revised by the MTC Executive Director or his/her designee to reflect funds returned to the Local Transportation Fund and expired capital allocations or by approval of the MTC Programming and Allocations Committee, except that any significant changes shall be submitted to the full Commission for approval.

METROPOLITAN TRANSPORTATION COMMISSION

Alfredo Pedroza, Chair

The above resolution was approved by the Metropolitan Transportation Commission at a regular meeting of the Commission held in San Francisco, California, and at other remote locations, on February 22, 2023.