

**Metropolitan Transportation Commission
Policy Advisory Council**

February 10, 2021

Agenda Item 8

**MTC Resolution No. 4453 – Programming of Coronavirus Response and
Relief Supplementary Appropriations Act of 2021**

- Subject:** Proposed programming of approximately \$180 million of Coronavirus Response and Relief Appropriations Act of 2021 (CRRSAA) funding to Bay Area transit operators that received insufficient shares of CARES Act funding due to inaccurate revenue loss forecasts.
- Background:** Policy Advisory Council Agenda Item 8, MTC Resolution No. 4453 – Programming of Coronavirus Response and Relief Supplementary Appropriations Act of 2021, is attached. This report was presented to the Metropolitan Transportation Commission on January 27, 2021.
- Staff will be at your February 10 meeting to discuss this report. The Council's input is requested.
- Attachments:** Agenda Item 9a from the January 27, 2021 Metropolitan Transportation Commission meeting.

Metropolitan Transportation Commission

January 27, 2021

Agenda Item 9a - 21-0207

MTC Resolution No. 4453 – Programming of Coronavirus Response and Relief Supplementary Appropriations Act of 2021

Subject: Proposed programming of approximately \$180 million of Coronavirus Response and Relief Appropriations Act of 2021(CRRSAA) funding to Bay Area transit operators that received insufficient shares of CARES Act funding due to inaccurate revenue loss forecasts.

Background: As reported on at the January 13th Programming and Allocations Committee meeting, last month Congress approved and the President signed a combined \$2.3 trillion COVID relief package and FY 2021 Appropriations bill, providing significant funding for public transportation in addition to other relief.

The COVID-relief portion of the bill provides \$14 billion in supplemental funding to public transit to offset the massive drop in revenue resulting from the pandemic. This will provide about \$982 million to the Bay Area to assist the region’s transit operators. The specific amounts to those urbanized areas are as follows:

- San Francisco-Oakland: \$822,676,366
- San Jose: \$144,159,107
- Santa Rosa: \$15,435,820

True-Up

When approving the final distribution of CARES Act funding last July, the Commission directed staff to apply a “true-up” of the CARES funding distribution to any future allocation of federal dollars for pandemic relief, that would compensate operators that received less CARES funding than they should have due to inaccurate revenue loss forecasts. The true-up directive was contained in an amendment to the motion approving the programming of the second tranche of funds. The related language from the July 22, 2020 meeting minutes is below:

“Revised with an amendment conditioned upon a “true up” of any negative differential between projected and actual sales tax and/or fare revenues with any future allocation of federal dollars for pandemic/ economic relief. Such calculation shall be based upon the actual receipts for the periods March - August and September – December 2020, or appropriate time-period for actual available data. In the event any transit operator received less than their adjusted share of CARES Act funding

due to the inaccurate forecasts, such differentials shall be compensated with a future federal allocation of emergency funding. If Congress fails to appropriate any such additional dollars for transit operators, then MTC staff shall identify other new augmented sources of flexible new federal funding which can appropriately compensate operators for those shortfalls.”

To fulfill the directive of the Commission as well as to quickly get funding to those operators that are struggling to meet budget requirements in the current fiscal year, staff is proposing to program a portion of the CRRSAA funds to complete the CARES funding true-up.

To determine programming amounts, staff recalculated the total \$1.3 billion CARES allocation for all operators using the actual revenue losses between March and December of 2020, rather than the revenue loss assumptions that were used at the time. Based on this recalculation, staff proposes the following allocations to operators that received a lesser share of CARES funding due to inaccurate forecasts:

Agency	True-Up Allocation
BART	\$103,717,002
Caltrain	\$6,936,627
GGBHTD	\$20,319,959
SFMTA	\$43,750,147
WETA	\$4,877,943
TOTAL	\$179,601,678
Remaining for 2nd Distribution:	\$802,669,615

While only five operators are proposed to receive allocations from the initial distribution, it is important to note that all Bay Area operators are facing significant budgetary impacts due to the pandemic and economic uncertainty. Many, due to social distancing requirements and budgetary constraints, are struggling to meet the needs of transit dependent riders now, and budget for the post-pandemic reinstatement of adequate service levels.

Next Steps for the Distribution of Remaining CRRSAA Funds

In the coming weeks, staff will be developing alternative distribution scenarios for the approximately \$803 million in CRRSAA funds that remain, and will be communicating with Commissioners, transit operators, and other stakeholders, as appropriate, to develop a proposal that takes into account anticipated revenue losses resulting from the pandemic, operator budgetary expenses, and service needs of transit dependent riders.


At the February 24th Commission meeting, staff will provide an update on the reported financial and service outlook for Bay Area operators in the current and upcoming fiscal years, to help inform the distribution discussions.

Staff intends to bring a proposal for the distribution of remaining CRRSAA funding to the Programming and Allocation Committee meeting in March, for consideration and recommendation for approval by the Commission later the same month.

Issues: None.

Recommendation: Approval of Resolution No. 4453.

Attachments: MTC Resolution No. 4453



Therese W. McMillan

Date: January 27, 2021
W.I.: 1512
Referred By: Commission

ABSTRACT

Resolution No. 4453

This resolution approves the process, establishes the criteria, and programs projects for Federal Transit Administration (FTA) Sections 5307 Urbanized Area Formula and 5311 Rural Area formula funds apportioned to the San Francisco Bay Area pursuant to the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) (H.R. 133) for FY2020-21 Emergency Transit Operations Assistance.

This resolution includes the following attachments:

Attachment A – FY2020-21 Emergency Transit Operations Program of Projects

Attachment B – Text of July 22, 2020 Amended Motion of Approval of MTC Resolution No. 4420, Revised (“True Up Directive”)

Attachment C – FY2020-21 Emergency Transit Operations Programming Policy

Further discussion is contained in the Metropolitan Transportation Commission Summary Sheet dated January 27, 2021.

Date: January 27, 2021
W.I.: 1512
Referred By: Commission

RE: San Francisco Bay Area FY2020-21 Emergency Transit Operations Programming and Policy

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4453

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

WHEREAS, MTC is the designated Metropolitan Planning Organization (MPO) for the nine-county Bay Area; and

WHEREAS, the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) (H.R. 133) has been signed into law in response to the nationwide Coronavirus pandemic, which provides supplemental appropriations for Emergency Transit Operations Assistance through the Federal Transit Administration (FTA) Section 5307 Urbanized Area and Section 5311 Rural Area formula programs; and

WHEREAS, MTC is the designated recipient of the FTA Section 5307 Urbanized Area Formula Program funds for the large urbanized areas of San Francisco-Oakland, San Jose, Concord, Antioch, and Santa Rosa, and has been authorized by the California Department of Transportation (Caltrans) to select projects and recommend funding allocations subject to state approval for the FTA Section 5307 funds for the small urbanized areas of Vallejo, Fairfield, Vacaville, Napa, Livermore, Gilroy-Morgan Hill, and Petaluma in MTC's Federal Transportation Improvement Program and for the Section 5311 funds in non-urbanized areas; and

WHEREAS, the projects to be funded are set forth in the detailed project listings in Attachment A, which are incorporated herein as though set forth at length; and

WHEREAS, this Commission approved MTC Resolution No. 4420, Revised with an amended motion of approval conditioned upon a "true up" of any negative differential between projected and actual sales tax and/or fare revenues with any future allocation of federal dollars for pandemic/economic relief as set forth in Attachment B, which is incorporated herein as though set forth at length; and

WHEREAS, the Policy to be used for the distribution of funds is set forth in Attachment C, which is incorporated herein as though set forth at length; now, therefore, be it

RESOLVED, that MTC adopts the FY2020-21 Emergency Transit Operations Program of Projects to be funded as set forth in Attachment A; and, be it further

RESOLVED, that MTC approves FY2020-21 Emergency Transit Operations Programming Policy as set forth in Attachment C; and, be it further

RESOLVED, that MTC will use the Policy as set forth in Attachment C to program supplemental FTA Sections 5307 and 5311 formula funds appropriated in the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 for Emergency Transit Operations Assistance as provided under statute; and, be it further

RESOLVED, that the Executive Director of MTC, or their designee, is authorized and directed to modify the Program of Projects as listed in Attachment A to meet requirements of FTA; and, be it further

RESOLVED, that the Executive Director of MTC, or their designee, is authorized and directed to forward a copy of this resolution to FTA or other such agencies as may be appropriate.

METROPOLITAN TRANSPORTATION COMMISSION

Scott Haggerty, Chair

The above resolution was entered into by the Metropolitan Transportation Commission at a duly called and noticed meeting held in San Francisco, California and at other remote locations, on January 27, 2021.

Date: January 27, 2021
W.I.: 1512
Referred By: Commission

Attachment B
Resolution No. 4453
Page 1 of 1

**Text of July 22, 2020 Amended Motion of Approval of MTC Resolution No. 4420, Revised
("True Up Directive")**

Upon the motion by Commissioner Josefowitz and the second by Commissioner Sperling, the Commission unanimously adopted MTC Resolution No. 4420, Revised with an amendment conditioned upon a "true up" of any negative differential between projected and actual sales tax and/or fare revenues with any future allocation of federal dollars for pandemic/economic relief. Such calculation shall be based upon the actual receipts for the periods March – August and September – December 2020, or appropriate time period for actual available data. In the event any transit operator received less than their adjusted share of CARES Act funding due to the inaccurate forecasts, such differentials shall be compensated with a future federal allocation of emergency funding. If Congress fails to appropriate any such additional dollars for transit operators, then MTC staff shall identify other new or augmented sources of flexible new federal funding which can appropriately compensate operators for those shortfalls. In addition, transit operators will be required to approve resolutions confirming commitment to safety as well as submit monthly reports to MTC on health and safety, including public health actions and COVID case data.

Date: January 27, 2021
W.I.: 1512
Referred By: Commission

Attachment C
Resolution No. 4453
Page 1 of 7

**San Francisco Bay Area FY2020-21 Emergency Transit Operations
Assistance Programming Policy**

Metropolitan Transportation Commission
Bay Area Metro Center
375 Beale Street, Suite 800
San Francisco, CA 94105

I. About the Policy

- a. **Background:** The FY2020-21 Emergency Transit Operations Assistance Programming Policy applies to the programming of supplemental Federal Transit Administration Section 5307 Urbanized Area and 5311 Rural Area formula program funds apportioned to the San Francisco Bay Area in FY2020-21, pursuant to the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) (H.R. 133).

This policy contains the rules for establishing a program of projects for eligible transit operators in the San Francisco Bay Area Region.

On December 27, 2020, CRRSAA was signed into law, providing supplemental appropriations for emergency transit operations in response to the global Coronavirus pandemic. These supplemental appropriations were provided via existing FTA Section 5307 and 5311 formula programs, and follow many of the same statutory guidelines and requirements. However, the funds are explicitly eligible for use for operating assistance and capital expenses related to transit operator response to the Coronavirus pandemic.

- b. **Goals & Objectives:** The goal of this policy is to provide emergency operating assistance to transit operators to mitigate lost fare revenues, reduced sales tax revenues, and other lost revenues, and increased costs associated with the Coronavirus pandemic; recognizing distinctions between initial responses to the crisis, and recovery efforts emerging from it.

II. The Policy

a. FTA Funds

- i. Federal Eligibility: In addition to the typical eligibility for capital and operating projects for the FTA Section 5307 Urbanized Area and FTA Section 5311 Rural Area Formula Programs as described in detail in MTC Resolution Nos. 4036, Revised (5311 Program Policy), and 4444 (Transit Capital Priorities Policy), CRRSAA also makes these funds *“available for the operating expenses of transit agencies related to the response to a COVID-19 public health emergency including, beginning on January 20, 2020, reimbursement for operating costs to maintain service and lost revenue due to the COVID-19 public health emergency, including the purchase of personal protective equipment, and paying the administrative leave of operations or contractor personnel due to reductions in service.”* Further, CRRSAA provides this supplemental funding up to a 100% Federal share.
- ii. CRRSAA Funding to Limited Urbanized Areas: CRRSAA specified that its FTA Section 5307 funding for a given urbanized area (UZA), when combined with the amounts allocated to that UZA from Section 5307 funds appropriated under the CARES Act, could not exceed 75 percent of that UZA’s 2018 NTD operating cost. Therefore, due to the amounts that were allocated in the CARES Act, within the region only the San Francisco-Oakland, San Jose, and Santa Rosa UZAs received appropriations under CRRSAA.
- iii. Regional Eligibility: Transit operators are required to submit annual reports to the

National Transit Database (NTD). Service factors reported in large UZAs partially determine the amounts of FTA Section 5307 funds generated in the region. An operator is eligible to be programmed and apply to FTA for funds only in designated UZAs, as outlined in Table 1 below. Eligibility is based on geographical operations and 2018 self-reported NTD information and may be broader than the UZA eligibility for the Transit Capital Priorities (TCP) Program (MTC Resolution No. 4444) typically used for distribution of FTA formula funds, in which certain operator agreements are recognized. Additionally, MTC is an eligible recipient in each UZA in the region. As of January 2021, Table 1 presents the same information as the CARES Act programming policy for the three UZAs receiving funding. However, MTC may subsequently add operators, as justified, based on transit service provided.

Table 1. Urbanized Area Eligibility

Urbanized Area	Eligible Transit Operators[†]
San Francisco-Oakland	Alameda-Contra Costa Transit District (AC Transit), Altamont Corridor Express (ACE)*, San Francisco Bay Area Rapid Transit District (BART), Peninsula Corridor Joint Powers Board (Caltrain), Fairfield and Suisun Transit (FAST)*, Golden Gate Bridge, Highway & Transportation District (GGBHTD), Marin County Transit District (Marin Transit)*, MTC, San Francisco Municipal Transportation Authority (SFMTA), San Mateo County Transit District (SamTrans), Santa Clara Valley Transportation Authority (VTA), Solano County Transit (SolTrans)*, Sonoma-Marín Area Rail Transit (SMART)*, City of Union City (Union City Transit)*, Water Emergency Transportation Authority (WETA)*, Western Contra Costa Transit Authority (WestCAT)*
San Jose	AC Transit, ACE*, Caltrain, MTC, VTA
Santa Rosa	GGBHTD, MTC, Santa Rosa CityBus*, SMART*, Sonoma County Transit*

[†] Eligibility based on 2018 NTD Report Data

*Small Operator

The FTA Section 5311 Rural Area formula program provides funds to transit operators for service in non-urbanized and rural areas. Operator eligibility is determined by non-urbanized service as provided in the 2012 Regional Transit Database, as explained in MTC Resolution No. 4036, and as self-reported in 2018 NTD reporting. Operators eligible to receive Rural Area formula program funds, based on their provision of rural and non-urbanized area service are as follows:

AC Transit	FAST	SamTrans
Caltrain	LAVTA	SolTrans
CCCTA	Marin Transit	Sonoma County Transit
City of Dixon	NVTA/Vine	Vacaville CityCoach
City of Rio Vista	Petaluma	VTA
ECCTA/Tri Delta Transit		

Per the State Management Plan for Federal Transit Funds, Caltrans makes final determination of project eligibility for Section 5311 Rural Area Formula funds.

b. Funding Distribution Methodology

- i. Regional Programming Approach: The Regional Programming Approach, as described below, is designed to prioritize funds to operators based on needs. The approach assumes a regional programming perspective and constrains regional demands to the amount of funds available to the region, prior to programming funds to project. It then assigns funds from urbanized areas in the following order:
 1. Fund needs for operators that are restricted to receiving funds in one UZA (e.g., SFMTA, WestCAT, etc.).
 2. Fund balance of operator needs among multiple UZAs, as eligibility allows, with the objective of fully funding needs (as defined in III.a., below) due to the Coronavirus to the maximum extent possible.
 3. Reduce operator funding proportionately in UZAs where needs exceed available funding.
 4. If, after Future Phase(s) funds are programmed to address pandemic-related operator needs (further described in III.a.2. below), any remaining funds will be programmed for eligible recipients per the TCP Policy (MTC Resolution No. 4444), but using the UZA eligibility outlined in Table 1 to maintain maximum flexibility with these funds.
- ii. Phased Distribution of Funds: Funds will be distributed in two Phases:
 1. Phase 1: A first phase will be distributed according to the True Up Directive as detailed in Attachment A to this resolution using the methodology described in III.a.i., below.
 2. Phase 2: The remaining funding from the region's apportionment will be assigned to operators following a process to be determined in consultation with regional partners and adopted by the Commission. The methodology for future phases is described in III.a.ii., below.

III. The Process

- a. The distribution of funds in Phases 1 and 2 will utilize separate methodologies in order to balance the impacts of the Coronavirus pandemic on the various operators in the region. This process recognizes the myriad revenue sources that go into different operator budgets, and seeks to provide equitable levels of funding to each across the region.
 - i. Phase 1 Methodology: The following process describes the methodology used to determine the Phase 1 distribution of CRRSAA funds according to the True Up Directive:
 1. The methodology used to distribute Phase 2 of CARES Act funding – described in MTC Resolution No. 4420, Revised, Attachment B – was adjusted to include actual and anticipated transit operator revenue losses from March 2020 through December 2020, in place of forecasted losses. The distribution was then recalculated and resulting deficits between the initial CARES Act distribution and the recalculation, represent the recommended programming amounts for Phase 1 of CRRSAA funding.
 - ii. Phase 2 Methodology: *This section will be updated in the future to describe the process used to determine the funding targets to distribute the region's remaining apportionment of CRRSAA funds.*
 - iii. Funding: Once operator funding targets are determined by the methodology outlined above, the Phase 1 and Phase 2 targets will be funded using the Regional Programming Model described in II.b.i, above.
- b. Annual Programming in the TIP: MTC, in cooperation with the state and eligible transit operators, is required to develop a Transportation Improvement Program (TIP) for the MTC Region. The TIP is a four-year programming document, listing federally-funded transportation projects, projects requiring a federal action, and projects deemed regionally significant. TCP programming in each year of the TIP will be financially constrained to the estimated apportionment level. Programming adjustments in the TIP will be done in consultation with eligible transit operators in the MTC region.

CRRSAA waives the typical requirement for TIP inclusion for the supplemental apportionments included in the Act used for operating assistance or to pay for capital expenses for emergency relief do not need to be included in the TIP/STIP unless the projects are for substantial functional, locational, or capacity changes. [23 CFR §§ 450.326(e)(5), 450.218(g)(5)]. Over time, MTC will work to incorporate all such funding from CRRSAA in to the TIP for fund monitoring purposes. However, inclusion in the TIP is not a precondition for receiving these funds.
- c. Process for Programming Revisions & Amendments: The attachments to this resolution will be revised at a later date to include Future Phase funding amounts for operators and to include more detail on the FTA Section 5311 process, as needed, once provided by Caltrans. MTC will consider revisions to an operator's programming as requested.
- d. Grant Applications:

- i. FTA Section 5307 Programs: Each operator is expected to complete their own Federal grant application using FTA's Transit Award Management System (TrAMS). MTC staff will review grant applications and submit concurrence letters or other required materials to FTA on behalf of project sponsors as needed.
- ii. FTA Section 5311 Program: Operators are responsible for working with Caltrans, the designated recipient and grantee for the Section 5311 program, to respond to calls for projects and submit required materials to access these funds. MTC will assist with the Regional Agency/Transportation Planning Agency (TPA) Certifications and Assurances and any other documentation, as needed.

FY2020-21 Emergency Transit Operations Program of Projects

TIP ID	Operator	Project Description	Total FTA Program	FTA Section 5307	FTA Section 5311
		Apportionments	982,271,293	982,271,293	TBD
Phase 1 Programming					
	BART	CRRSAA-eligible Projects	103,717,002	103,717,002	
	Caltrain	CRRSAA-eligible Projects	6,936,627	6,936,627	
	GGBHTD	CRRSAA-eligible Projects	20,319,959	20,319,959	
	SFMTA	CRRSAA-eligible Projects	43,750,147	43,750,147	
	WETA	CRRSAA-eligible Projects	4,877,943	4,877,943	
Phase 1 Program Total			179,601,678	179,601,678	-
Fund Balance			802,669,615	802,669,615	TBD