

**Metropolitan Transportation Commission
Programming and Allocations Committee**

February 9, 2022

Agenda Item 3b - 22-0063

MTC Resolutions Nos. 4321, Revised and 4504. FY 2022-23 Fund Estimate and American Rescue Plan Funding Exchange to support implementation of the Blue Ribbon Transit Transformation Action Plan

Subject:

Annual Fund Estimate and proposed apportionment and distribution of \$967 million 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 2022-23. The Fund Estimate will also implement the exchange of STA and American Rescue Plan (ARP) funds endorsed by the Commission in October 2021 for the purpose of supporting Blue Ribbon Transit Transformation Action Plan initiatives.

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 2022-23. The fund estimate prepared by MTC also includes a number of other fund sources which MTC allocates to transit operators, primarily for operations.

Economic Overview

The Bay Area economy, like local economies worldwide, has been significantly impacted by the COVID-19 pandemic. Unemployment rates remain above pre-pandemic levels across all nine counties but have improved since the onset of the pandemic. Taxable sales, which declined in FY 2020-21 relative to original projections, have improved in FY 2021-22. Significant uncertainty remains about possible shifts in population, work from home policies, and commute patterns – all of which could impact revenues. 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 12% in the current year of FY 2021-22 to \$470 million, with a subsequent increase of 2.9% in FY 2022-23 to \$483 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 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.

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 2021-22 estimate upwards to \$98 million and to forecast FY 2022-23 revenues of \$100 million (16% increase from actual FY 2020-21 revenues of \$86 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 2022-23 State Budget estimates \$735 million in STA funds statewide in FY 2022-23. Based on this estimate, the Bay Area would receive approximately \$268 million (\$197 million in Revenue-Based and \$72 million in Population-Based) in FY 2022-23 STA funds. 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 \$44 million to the Bay Area in FY 2022-23 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 2022-23 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 2022-23, the region is projected to receive \$66 million from the program based on an estimate from Governor Newsom's proposed FY 2022-23 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).

American Rescue Plan Funding Exchange

In the July 2021 the MTC Commission set aside \$85 million of American Rescue Plan (ARP) funds for Blue Ribbon Transit Transformation Action Plan activities. In October 2021, these funds were instead allocated directly to operators through MTC Resolution 4481 to preserve operator eligibility to compete for Federal Transit Administration Additional Assistance Funds. The resolution directed staff to identify fund sources for a funding exchange. The FY 2022-23 Fund Estimate implements part of this fund exchange with STA Population-Based and STA Revenue-Based funds. MTC Resolution 4321 is proposed to be amended to suspend the STA County Block Grant program for one year only, FY 2022-23. The 70% of STA Population-Based funds that would typically be allocated through the STA County Block Grant program will

instead be programmed directly to operators (as noted on page 13 of Attachment A to Resolution 4504), with the first dollars applied to satisfy the ARP funding exchange obligations. Each county share is not adversely affected by the funding exchange. STA Revenue-Based funds will be programmed to operators as usual, and funding agreements will facilitate additional exchange obligations. Attachment 2 details the ARP Exchange amounts by operator.

Issues:

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 changes to 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. Although payment for feeder service was assumed in the calculation of financial need through FY 2022-23 that informed the distribution of federal COVID relief funding, MTC recognizes the need to update the feeder service agreements that govern these payments. Discussions are on-going between MTC and the relevant agencies on this matter. To ensure a timely re-set of the feeder service agreements, MTC will only allocate up to 50% of the feeder bus payments programmed for FY 2022-23 until such time that the agreements are updated, or at a minimum, satisfactory progress has been made toward that goal. An update on progress will be provided this summer at the time of the next Fund Estimate revision.

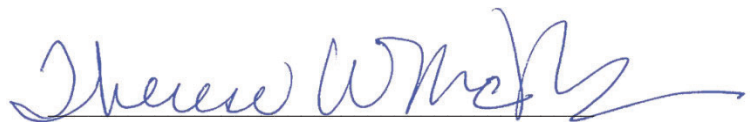
Recommendations:

Refer MTC Resolutions Nos. 4321, Revised and 4504 to the Commission for approval.

Attachments:

Attachment 1: Presentation slides

Attachment 2: ARP-STA Exchange Details



Therese W. McMillan

Date: February 23, 2022
W.I.: 1511
Referred by: PAC

ABSTRACT

MTC Resolution No. 4504

This resolution approves the FY 2022-23 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 Sheet dated February 9, 2022.

Date: February 23, 2022
W.I.: 1511
Referred by: PAC

RE: Determination of Transportation Development Act (TDA) Area Apportionments and Proposed Distribution of Operating Funds for FY 2022-23

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4504

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 2021-22 and FY 2022-23 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 2022-23 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 2022-23 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 2022-23 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 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 23, 2022.

MTC Resolutions 4321, Revised and 4504: FY 2022-23 MTC Fund Estimate and American Rescue Plan Funding Exchange

MTC Programming and Allocations Committee

February 9, 2022



Fund Estimate Background

- State law requires MTC to complete a Fund Estimate by March 1st annually
- Assists transit operators in budgeting
- Approx. 40% of Bay Area transit operating revenues are based on sales taxes
- As expected, caution is warranted in budgeting for FY 2022-23 given uncertainties around the ongoing impacts of COVID-19 on public transit
- **FY 2022-23 Fund Estimate will program approx. \$967 million, mostly for transit operations**



Fund Estimate Overview

	Program	Description	FY 2020-21 Actuals	FY 2021-22 Revised Estimates	FY 2022-23 Estimates
Sales Taxes and Tolls	Transportation Development Act (TDA) ¼ ¢ Sales Tax	¼ ¢ sales tax in each county	\$403	\$470	\$483
	AB 1107 ½ ¢ Sales Tax	MTC administers 25% of the revenue from the ½ ¢ sales tax in the three BART district counties	\$86	\$98	\$100
	Bridge Tolls	MTC 2% Toll Revenues and 5% State General Fund Revenues	\$5	\$5	\$5
STA Formula	State Transit Assistance (STA)	Sales tax on diesel fuel in CA	\$199	\$245*	\$269
	State of Good Repair (SGR) Program	Transportation Improvement Fee (vehicle registration fee)	\$42	\$43*	\$44
	Low Carbon Transit Operations Program (LCTOP)	5% of Cap-and-Trade auction revenues	\$37	\$39*	\$66

Note: Estimated revenue amounts are rounded to nearest million.

*Amounts reflect adopted FY21-22 CA Budget

TDA Sales Tax Forecast

FY 2022-23

- Return to Source – Revenue earned in a county is spent in that county.
- Estimates for each county prepared by individual county Auditor/Controllers
- FY22 (Current Year) estimates revised to **\$470M**
 - Up 12% from original \$419M FY22 estimate
 - Up 16% from FY21 Actuals (\$403M)
- FY23 estimates projected to be 2.9% higher at **\$483M**
 - Contra Costa, SF, and Sonoma projecting ~5% growth over FY22 revised estimates
- Does not account for possible impacts due to eBay sales tax adjustment in Santa Clara



STA Formula Programs

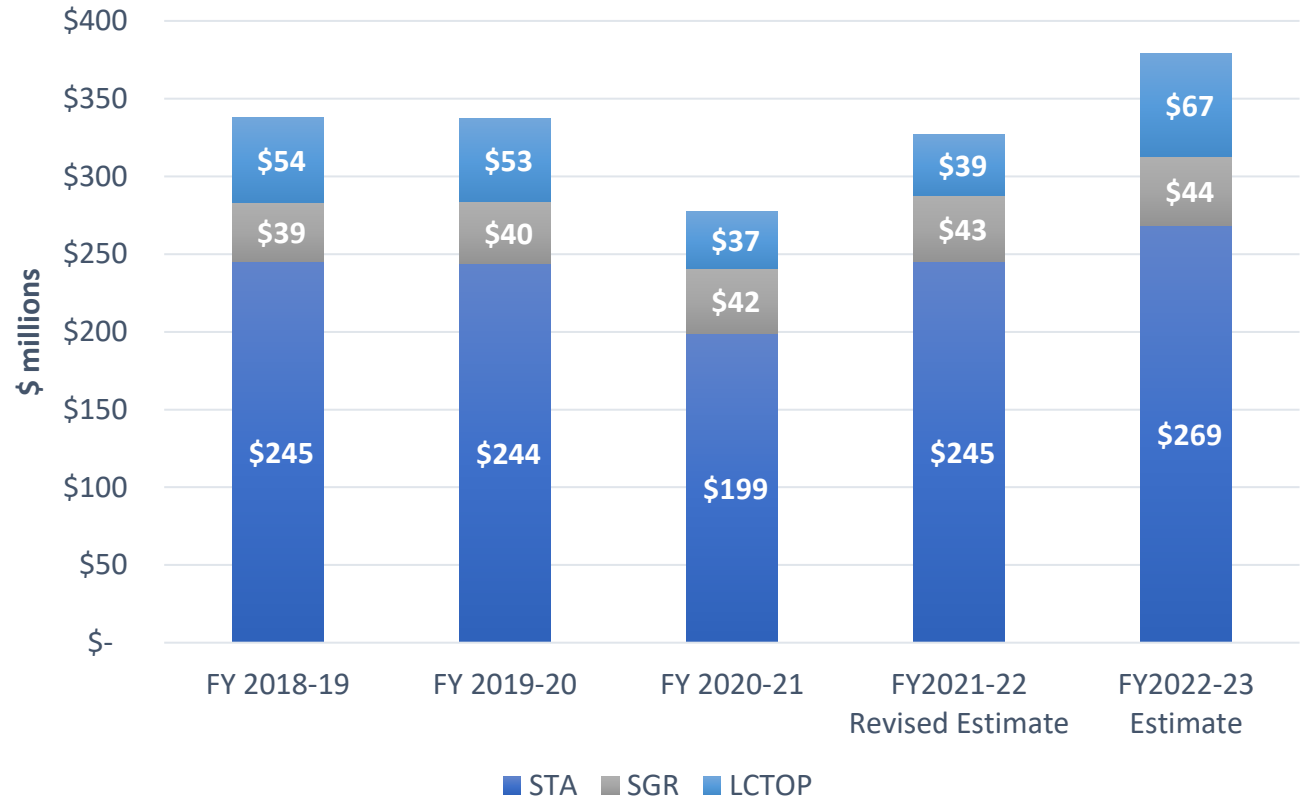
FY 2022-23

State Transit Assistance (STA) formula splits statewide revenue 50/50 between a Revenue-Based program and a Population-Based program

Revenue-Based funds flow to transit operators via MTC based on their qualifying local revenue

Population-Based funds flow to the Bay Area based on our 19.5% share of the state's population and are programmed by MTC

FY 2022-23 forecast of \$379 million for the Bay Area in STA, State of Good Repair (SGR) Program and Low Carbon Transit Operations Program (LCTOP) revenue



AB 1107 Sales Tax Forecast

FY 2022-23

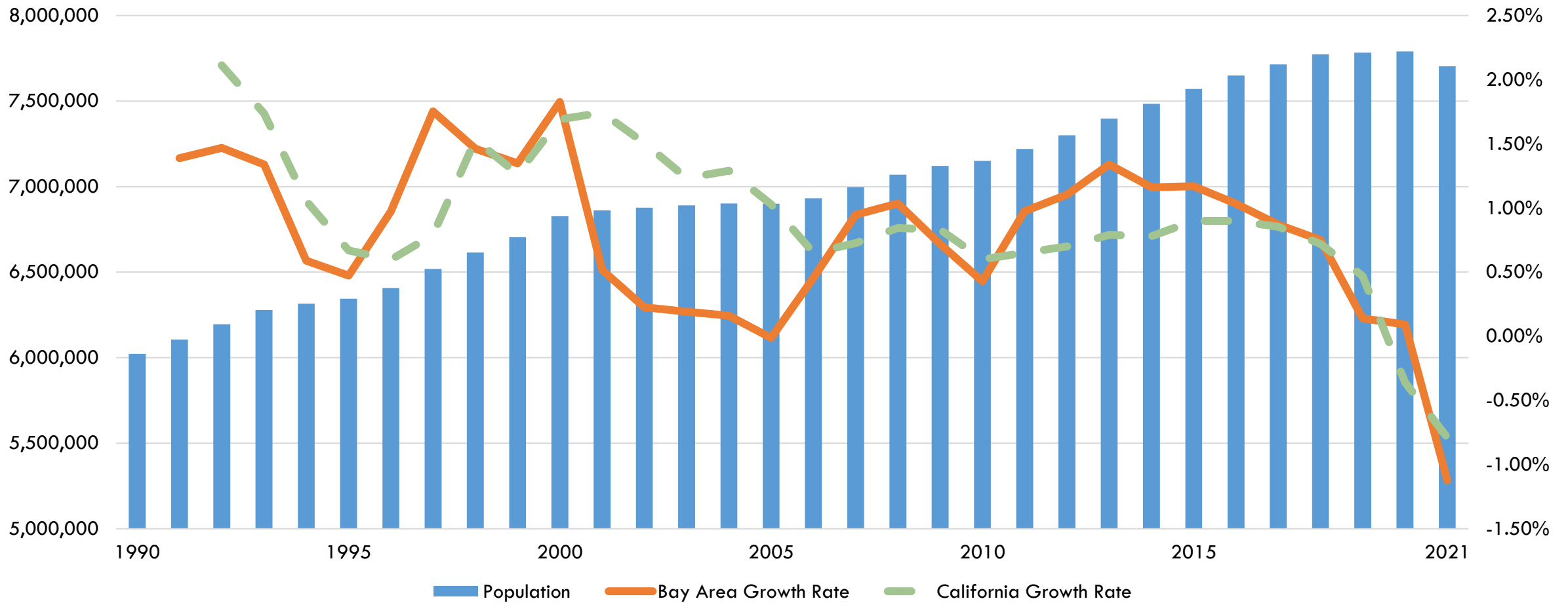
- 25% of total revenue from BART's sales tax in Alameda, Contra Costa, and San Francisco counties
- MTC estimates revenue and establishes funding policy
- Only AC Transit, BART, and SFMTA eligible to receive AB 1107 funds per state statute
- Historically, Commission policy is to distribute 50% of funds to AC Transit and 50% to SFMTA
- **FY 2022-23 forecast of \$100 million is a 16% increase from the actuals for FY 2020-21 (\$86.1M), in line with projected growth in TDA sales tax in Alameda, Contra Costa and San Francisco**

FY 2021-22 forecast is revised upwards to \$98 million from \$83 million



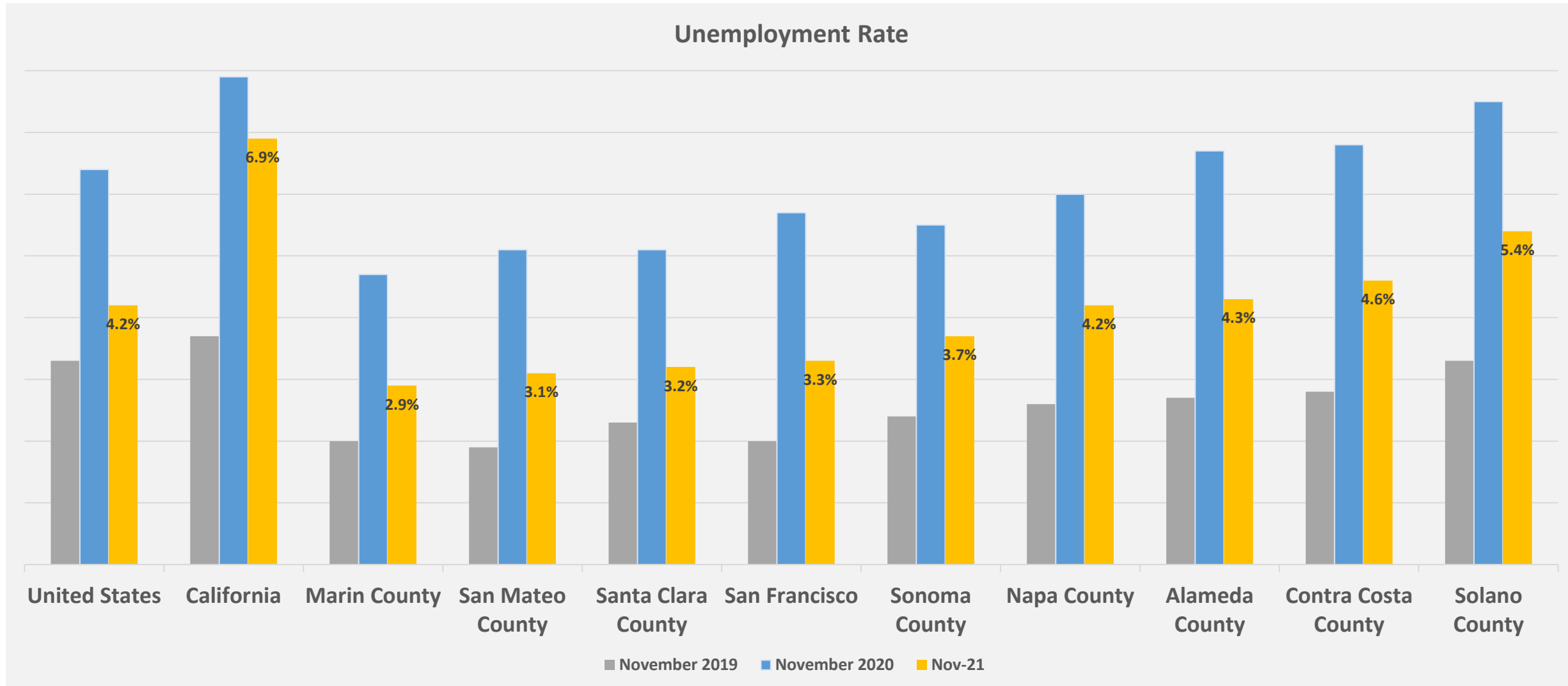
Bay Area Population

- Bay Area Population has declined, now equal to 2016 levels
- The regional population is shrinking faster than the state population.

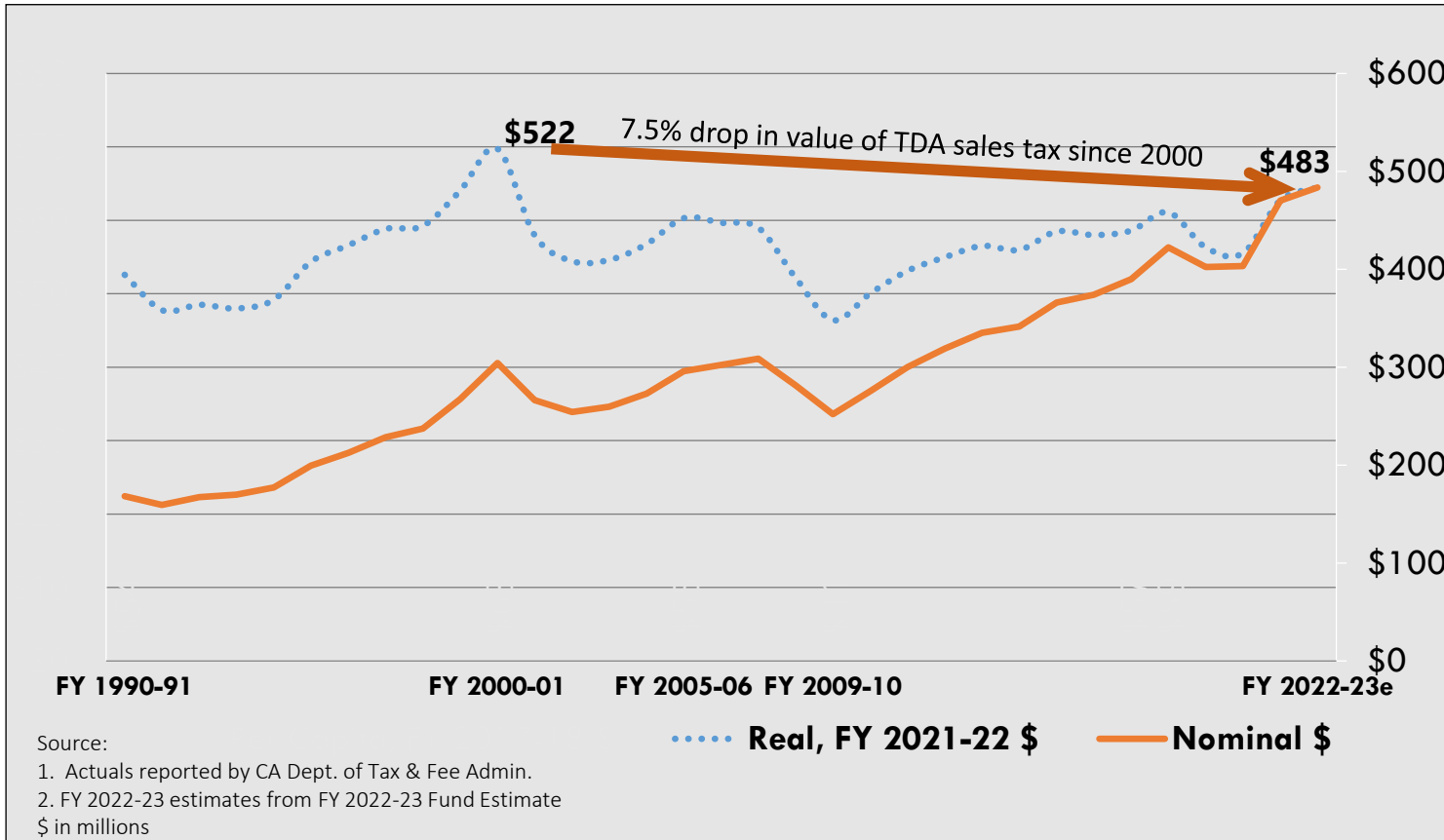


Bay Area Unemployment Rate

- Unemployment rates have improved significantly, but remain above pre-pandemic levels



Real Sales Tax Revenue: 7.5% drop since 2000



- Despite near continuous increases in sales tax revenues in nominal terms, revenues have not kept up with inflation
- Since 2000, real sales tax revenues have declined 7.5%

STA-ARP Exchange

- \$85 Million of ARP funds, originally set aside for Blue Ribbon Implementation Plan initiatives, were programmed directly to operators in Fall 2021
- Funding exchanges have been identified with STA Population Based (\$22M), STA Revenue Based (\$32M), and TCP/FTA Formula funds (\$31M)

STA Population-Based Program

Traditional Approach:

- 70% of funds are directed to the County Block Grant Program (established by **MTC Res. 4321**), and are programmed by County Transportation Authorities (CTAs)

Revised Approach:

- The County Block Grant program will be suspended through an amendment to MTC Res. 4321. The program will receive no new revenues in FY23.
- FY23 STA revenue will instead be programmed directly to operators.
- From those allocations, the first dollars will be applied to the ARP Fund Exchange, and any remaining FY23 revenues will be disbursed to operators
- A supplemental page to the Fund Estimate will detail the programming and exchange amounts by operator

STA Revenue-Based Program

- FY23 STA Revenue-Based funds will be allocated to operators as usual.
- Funding agreements will be executed with six operators to facilitate additional ARP exchange needs
- Details with precise exchange amounts will be included in the PAC memo, and as part of an attachment to the item that details the overall ARP exchange by operator.

Staff Recommendation

Staff recommendation is to forward to the Commission for approval:

MTC Resolution No. 4504 (FY 2022-23 Fund Estimate)

MTC Resolution No. 4321, Revised (STA Population-Based Policy)



American Rescue Plan Funding Exchange for Blue Ribbon Initiatives

Operator	\$85M Set-Aside Distribution	Fund Sources for ARP Exchange			
		STA Population-Based	STA Revenue-Based	TCP/FTA Formula	Total
AC Transit	\$ 6,175,442	\$ 6,175,442	\$ -	\$ -	\$ 6,175,442
ACE	\$ 335,130	\$ -	\$ -	\$ 335,130	\$ 335,130
BART	\$ 30,908,967	\$ 851,330	\$ 15,028,818	\$ 15,028,818	\$ 30,908,967
Caltrain	\$ 3,839,537	\$ -	\$ 1,919,769	\$ 1,919,769	\$ 3,839,537
CCCTA	\$ 548,920	\$ 548,920	\$ -	\$ -	\$ 548,920
ECCTA	\$ 178,426	\$ 178,426	\$ -	\$ -	\$ 178,426
GGBHTD	\$ 5,390,277	\$ 1,048,348	\$ 2,353,795	\$ 1,988,134	\$ 5,390,277
LAVTA	\$ 535,322	\$ 535,322	\$ -	\$ -	\$ 535,322
Marin Transit	\$ 243,613	\$ 243,613	\$ -	\$ -	\$ 243,613
NVTA	\$ 216,814	\$ 216,814	\$ -	\$ -	\$ 216,814
SamTrans	\$ 1,460,519	\$ 1,460,519	\$ -	\$ -	\$ 1,460,519
SFMTA	\$ 26,921,813	\$ 3,853,147	\$ 11,534,333	\$ 11,534,333	\$ 26,921,813
Solano County Operators	\$ 613,192	\$ 613,192	\$ -	\$ -	\$ 613,192
Sonoma County Operators*	\$ 868,262	\$ 118,262	\$ -	\$ -	\$ 118,262
TJPA	\$ -	\$ -	\$ -	\$ -	\$ -
Union City Transit	\$ 42,344	\$ 42,344	\$ -	\$ -	\$ 42,344
VTA	\$ 5,202,490	\$ 5,202,490	\$ -	\$ -	\$ 5,202,490
WCCTA	\$ 270,627	\$ 270,627	\$ -	\$ -	\$ 270,627
WETA	\$ 1,248,305	\$ -	\$ 1,248,305	\$ -	\$ 1,248,305
Total	\$ 85,000,000	\$ 21,358,796	\$ 32,054,490	\$ 30,471,054	\$ 84,250,001

*The Sonoma County Transportation Authority has redirected \$750,000 in Surface Transportation Program funds to MTC to lessen the redirection of STA Population-Based funds required

Note: Alternative fund sources will be programmed to MTC directly for Blue Ribbon initiatives; or to transit operators at MTC's direction to carry out specific initiatives, consistent with prior Commission action of such investment.