



# Memo

Date: February 2, 2024  
 To: JPACT and Interested Parties  
 From: Ken Lobeck, Funding Programs Lead  
 Subject: February 2024 MTIP Formal Amendment & Resolution 24-5384 Approval Request

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## FORMAL MTIP AMENDMENT STAFF REPORT

### Amendment Purpose Statement

### FOR THE PURPOSE OF ADDING OR AMENDING SEVEN PROJECTS IN THE 2024-27 MTIP TO MEET FEDERAL TRANSPORTATION PROJECT DELIVERY REQUIREMENTS

### BACKGROUND

#### What This Is - Amendment Summary:

The February 2024 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment bundle adds or amends a total of seven projects. There are three new projects being added to the MTIP and four existing projects being amended. Three of the projects belong to ODOT with the remaining four impacting TriMet.

#### What is the requested action?

**TPAC met on February 2, 2024, and now are providing their approval recommendation to JPACT for Resolution 24-5384 to add and amend the seven projects to the 2024-27 MTIP.**

#### TPAC February 2, 2024 meeting Summary:

TPAC met on Friday, February 2, 2024 and received their official notification of the February 2024 MTIP Formal Amendment under Resolution 24-5384. Ken Lobeck provided an overview of the amendment contents and discussed why the changes are occurring. TPAC members raised a few questions about the amendment content which included the following:

- *Questions: Does TriMet's New Line Transit Signal Priority (TSP) mean all of the Metro Carbon Reduction Program awarded projects are now programmed? What is the programming status for the awarded projects?*

Exhibit A to Staff Report of Resolution 23-5337  
Project Allocation List and Project Descriptions

TPAC Recommended Investment Package	
Tualatin Valley Highway Bus Rapid Transit	\$5,000,000
82nd Avenue Bus Rapid Transit	\$5,000,000
Line 33 McLoughlin Transit Signal Priority	\$4,000,000
Climate Smart Implementation Program	\$1,800,000
Transportation System Management & Operations	\$3,000,000
Subtotal:	\$18,800,000

Answer: TriMet's new Line 33 TSP project is the second of the awarded projects now being programmed in the MTIP and STIP. The first project was the 82<sup>nd</sup> Ave Bus Rapid Transit (BRT) Metro will lead (in Key 23589) as a companion project the new TriMet 82<sup>nd</sup> Ave Project Development project (in Key 23580). Although Metro Council awarded the federal Carbon funds a while ago, only the two mentioned projects have completed sufficient programming development actions to be now ready to be added to the MTIP and STIP. Programming development actions are occurring for the remaining Carbon awarded projects. They will move forward for MTIP and STIP programming when they are ready. This requires the project to achieve and meet a basic level of fiscal constraint demonstration requirements, a developed and acceptable funding plan, meet all RTP consistency reviews, contained a satisfactorily defined project scope, and a realistic delivery schedule.

- *Question: Why is the 82<sup>nd</sup> Ave BRT project being split into two separate project development projects?*

Answer: TriMet will be the lead agency to construct and implement the new 82<sup>nd</sup> Ave BRT project. The split approach to complete project development activities (e.g. completion of NEPA requirements/obtain a final Record of Decision, complete the final funding plan, complete final design and engineering actions) occurs as a result of the multiple funding sources and the multiple agencies involved. The split approach will streamline and help simplify the fund obligation and expenditures in support of specific project development activities. Both Metro and TriMet discussed the split approach with FTA before programming actions started. FTA has authorized the split approach in the hope it will facilitate and more streamlined obligation and expenditure process to complete the required project development activities.

- *Question: The term "flex transfer" is used as part of the programming process description for the TriMet Line 33 TSP and 82<sup>nd</sup> Ave BRT projects. What does the term flex transfer mean?*

Answer: The flex transfer terminology refers to the action where FHWA based funds are transferred over to FTA. The funds will then follow the FTA obligation, expenditure, and reimbursement process which is different from the FHWA process. Both FHWA and FTA has funding programs which they oversee and manage. For FHWA managed funds (such as Surface Transportation Block Grant STBG), FHWA has a very process to appropriate, obligate, expend, and reimburse the federal funds. Oversight and management of this process is normally delegated to the State DOT. This includes development of the Intergovernmental Agreement (IGA), obligation of the federal funds through FHWA's Financial Management Information System (FMIS), and how the lead agency can expend and reimburse the FHWA federal funds.

Some of the appropriated FHWA funds are eligible to be use on transit related project under the FTA project delivery process. The process to commit and transfer

the eligible FHWA funds (e.g. STBG funds) to FTA is referred to as the “flex transfer process”. The flex transfer process is complicated and requires FTA to determine the fund are eligible under FTA delivery rules. Once FTA accepts the funds, the lead agency will complete obligation, expenditure, reimbursement and overall delivery under FTA project delivery process. Once the flex transfer process is complete, FHWA relinquishes their oversight responsibilities which also removes ODOT. The former FHWA funds now belong to FTA.

The lead agency will now work through the FTA project delivery process which include submission of a grant application to obligate the flexed funds through FTA’s Transit Award Management Systems (TrAMS) to obligate, expend and seek reimbursement of the federal funds. Due to the complexity of the flex transfer process, the initial project programming must identify that the project intends to “flex” the federal funds over to FTA as part of the amendment approval process in the MTIP and STIP.

With no further discussion, TPAC members provided an unanimous approval recommendation to JPACT to approve Resolution 24-5384 containing the seven projects in the February 2024 MTIP Fromal amendment package.

A summary of the project changes occurring as part of the January 2024 Formal Amendment bundle include the following:

- **Key 22551 - US26: SE Powell Blvd & SE 36th Ave:**
  - Lead Agency: ODOT
  - Description: Design and construct a Rectangular Rapid Flashing Beacon (RRFB) traffic signal to increase pedestrian safety. This location was part of the ODOT Inner Powell Road Safety Audit determining location will merit by adding traffic signal at location.
  - Action: Cost Increase. The Design Acceptability Process (DAP) resulted in updated PE, ROW, and Construction phase costs resulting in a \$792k funding gap for the project. State HB2017 funds have been approved to fill the funding gap. The cost increase exceeds the 50% threshold for projects under \$1 million dollars. This triggers the need for a formal amendment.
  
- **Key 22322 - Oregon Transportation Network - TriMet FFY23:**
  - Lead Agency: ODOT
  - Description: Urbanized public transit capital funding for Federal fiscal year 2023. Funds will be transferred to FTA for delivery. Projects and programs to be determined based on funding requirements.
  - Action: Cost Decrease. Per direction from the ODOT Public Transit Division, the authorized funding for this project grouping bucket is being reduced. The project as programmed functions as a project grouping bucket (PGB). The final selected projects from this PGB will then be split off and programmed separately as required.

- **Key 23541 - Oregon Transportation Network - Ride Connection:**
  - Lead Agency: ODOT
  - Description: Urbanized public transit capital funding project grouping bucket (PGB) to be used for gas bus and van replacement, as well as preventative maintenance and mobility management for federal fiscal year 2023.
  - Action: Add New Project. The project is a new PGB from the ODOT Public Transit Division. The PGB appears will support later eligible elderly/disabled rideshare type projects that will be split off the PGB and programmed separately.
  
- **Key New - TriMet Line 33 Traffic Signal Priority Upgrade:**
  - Lead Agency: TriMet
  - Description: Design and implement the next generation transit signal priority (TSP) upgrade along TriMet's Line 33 to improve reliability of transit service
  - Action: Add New Project. This is a new project for TriMet from Metro's Carbon Reduction Program. The Carbon award is \$4 million dollars. TriMet will provide the required 10,27% match. The project will provide TSP upgrades along Line 33 in the southeast Metro region to help improve transit service delivery.
  
- **Key 23580 - 82nd Ave Bus Rapid Transit Project Development: PDX - Sunnyside Ave:**
  - Lead Agency: TriMet
  - Description: Complete project development activities in support of the planned new 82<sup>nd</sup> Ave BRT including preliminary design, addressing NEPA requirements, development of FTA rating materials and other activities needed to obtain a Small Starts grant
  - Action - Add New Project:
    - TriMet will complete various project development actions up through NEPA completion and final design as they move forward to secure a FTA Capital Improvement Program Small Starts Grant.
    - There are two project development projects being programmed supporting the 82<sup>nd</sup> Ave BRT project. There is this one and Metro's project development version.
    - FTA has approved the "two-project development" approach to complete project development activities under FTA guidelines.
    - Assuming TriMet is successful in securing the Small Starts grant FTA, the Small Starts grant would be applied to the Construction phase.
    - The total estimated project development cost is about \$30 million. Metro's portion contains nearly \$11 million with TriMet's project containing the remaining \$19 million.
    - The total estimated project cost is \$300 million.
    - Metro's project version is included in the January 2024 Formal Amendment bundle with TriMet's project moving forward with the February Amendment bundle.

- The goal is to have both projects in the approved MTIP and STIP by early April. This will allow FTA to consider the funds committed and the pre-award authorization clock to be established.
- **Key 23189 – Enhanced Seniors Mobility/Individuals w/Disabilities (2026):**
  - Lead Agency: TriMet
  - Description: Supports mobility management activities, purchase of services, operating, and preventative maintenance on vehicles for services focused on the elderly and persons with disabilities within the Portland Urbanized Area in FFY 2026
  - Action - Add Funds: The formal amendment adjusts the estimated formula 5310 allocation and adds local overmatch to the project. Including the local overmatch results in the net cost change being above the 30% threshold for administrative cost changes.
- **Key 23204 - Enhanced Seniors Mobility/ Individuals w/Disabilities (2027):**
  - Lead Agency: TriMet
  - Description: Supports mobility management activities, purchase of services, operating, and preventative maintenance on vehicles for services focused on the elderly and persons with disabilities within the Portland Urbanized Area in FFY 2027
  - Action - Add Funds: The formal amendment adjusts the estimated formula 5310 allocation and adds local overmatch to the project. Including the local overmatch results in the net cost change being above the 30% threshold for administrative cost changes

## **METRO REQUIRED PROJECT AMENDMENT REVIEWS**

In accordance with 23 CFR 450.316-328, Metro is responsible for reviewing and ensuring MTIP amendments comply with all federal programming requirements. Each project and their requested changes are evaluated against multiple MTIP programming review factors that originate from 23 CFR 450.316-328. They primarily are designed to ensure the MTIP is fiscally constrained, consistent with the approved RTP, and provides transparency in their updates, changes, and/or implementation. The programming factors include ensuring that the project amendments:

- Are eligible and required to be programmed in the MTIP.
- Properly demonstrate and fiscal constraint as a result of the required changes.
- Pass the RTP consistency review which requires a confirmation that the project(s) are identified in the current approved constrained RTP either as a stand-alone project or in an approved project grouping bucket.
- Are consistent with RTP project costs when compared with programming amounts in the MTIP.
- If a capacity enhancing project, the project is identified in the approved Metro modeling network and has completed required air conformity analysis and transportation demand modeling.

- Supports RTP goals and strategies consistency: Meets one or more goals or strategies identified in the current RTP.
- Contains applicable project scope elements that can be applied to Metro’s performance requirements.
- Verified to be part of the Metro’s annual Unified Planning Work Program (UPWP) for planning projects that may not be specifically identified in the RTP.
- Verified that the project location is part of the Metro regional transportation network, and is considered regionally significant, or required to be programmed in the MTIP per USDOT direction.
- Verified that the project and lead agency are eligible to receive, obligate, and expend federal funds.
- Does not violate supplemental directive guidance from FHWA/FTA’s approved Amendment Matrix.
- Reviewed and evaluated to determine if Performance Measurements will or will not apply.
- Successfully complete the required 30-day Public Notification/Opportunity to Comment period.
- Meets other MPO responsibility actions including project monitoring, fund obligations, and expenditure of allocated funds in a timely fashion.

**APPROVAL STEPS AND TIMING**

Metro’s approval process for formal amendment includes multiple steps. The required approvals for the February FFY 2024 Formal MTIP amendment (FB24-05-FEB) will include the following:

<u>Action</u>	<u>Target Date</u>
• TPAC Agenda mail-out.....	January 26, 2024
• Initiate the required 30-day public notification process.....	January 30, 2024
• TPAC notification and approval recommendation.....	February 2, 2024
• <b>JPACT approval and recommendation to Council.....</b>	<b>February 15, 2024</b>
• Completion of public notification process.....	February 2, 2024
• Metro Council approval.....	February 29, 2024

Notes:

- \* The above dates are estimates. JPACT and Council meeting dates could change.
- \*\* If any notable comments are received during the public comment period requiring follow-on discussions, they will be addressed by JPACT.

USDOT Approval Steps (The below timeline is an estimation only):

<u>Action</u>	<u>Target Date</u>
• Final amendment package submission to ODOT & USDOT.....	March 8 ,2024
• USDOT clarification and final amendment approval.....	Early to mid- April 2024

**ANALYSIS/INFORMATION**

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:**
  - a. Amends the 2024-27 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 20-5335 on July 20, 2023 (FOR THE PURPOSE OF ADOPTING THE 2024-2027 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA)
  - b. Oregon Governor approval of the 2021-24 MTIP on September 13, 2023.
  - c. 2024-2027 Statewide Transportation Improvement Program (STIP) Approval and 2024 Federal Planning Finding on September 25, 2023.
3. **Anticipated Effects:** Enables the projects to obligate and expend awarded federal funds or obtain the next required federal approval step as part of the federal transportation delivery process.
4. **Metro Budget Impacts:** There are no direct or indirect impacts to the approved Metro budget through the actions of this amendment.

**RECOMMENDED ACTION:**

**TPAC met on February 2, 2024, and now are providing their approval recommendation to JPACT for Resolution 24-5384 to add and amend the seven projects to the 2024-27 MTIP.**

No Attachments.