



Memo

Date: January 19, 2024
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead
Subject: January 2024 MTIP Formal Amendment & Resolution 24-5380 Approval Request

FORMAL MTIP AMENDMENT STAFF REPORT

Amendment Purpose Statement

FOR THE PURPOSE OF ADDING OR AMENDING SEVEN PROJECTS TO THE MTIP TO MEET FEDERAL DELIVERY REQUIREMENTS

BACKGROUND

What This Is - Amendment Summary:

The January 2024 Formal Metropolitan Transportation Improvement Program (MTIP) Formal/Full Amendment bundle adds or amends a total of seven projects.

What is the requested action?

JPACT approved Resolution 24-5380 on January 18, 2024, and now requests Metro Council provide the final approval to add and amend the seven projects to the 2024-27 MTIP.

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

- **Key 23462. Beaverton School District EV Chargers project cancelation:**
Upon additional review of the project DEQ with the Beaverton School District, the Oregon Department of Environmental Quality (DEQ) has determined the Congestion Mitigation Air Quality (CMAQ) funded improvement project will not move forward and has requested ODOT cancel the project from the MTIP and STIP. The project proposed to add 22 electric charging stations to the existing 8 charge stations at its Transportation Service Center (TSC) in Beaverton. The CMAQ funds were awarded by DEQ to the Beaverton School District.
- **Key 23589 – NEW Metro 82nd Ave Bus Rapid Transit (BRT) Project Development project:**
 - Action: The formal amendment adds the new project development project to the MTIP and STIP. The project contains \$6 million of Metro approved Carbon Reduction Program (CRP) federal funds along with the required 10.27% minimum local match.

- The Carbon funds are being pulled from the Metro prior approved CRP Project Grouping Bucket (PGB) in Key 23239.
- The project development activities will complete pre-design, NEPA, and final design actions in support TriMet's effort to obtain an FTA Small Starts grant.
- TriMet will be submitting a similar project to complete design & NEPA activities in support of the 82nd Ave BRT project. The split project programming approach to complete the required project development activities has been reviewed and approved by FTA to proceed this way.
- **Key 23239, Metro Carbon Reduction Program Reserve and Key 23229, Metro Transit Corridor Development split project:**
 - Action: Split Project.
 - Split Carbon funds (\$6 million federal and STBG funds (\$1 million federal) are off the project grouping bucket and transfer them to support the new 82nd Ave BRT Project Development planning project in Key 23589.
 - January 18, 2024 added Note: A subsequent review of the Carbon funds by FHWA indicated there may be a possible eligibility issue with another Metro awarded Carbon funded project. To eliminate the conflict, the planned use of the \$1 million of STBG will be transferred and programmed to the project under the eligibility review. \$1 million of the Carbon funds from the eligibility project are being transferred to the new Metro 82nd Ave BRT Project Development project in Key 23589. This is a funding lateral move and does not reflect a scope, limits, description, or fiscal constraint change to the new 82nd Ave BRT Project Development project.
 - This is being done now to avoid an additional MTIP amendment later.
 - As a result, the January 2024 MTIP Formal Amendment bundle under Resolution 24-5380 is reduced from eight projects to seven projects. Key 23229 is removed from the amendment bundle.
 - The required 10.27% minimum local match is included.
- **Key 22435. ODOT - OR47/OR8/US30 Curb Ramps:**
 - Action: Cost Increase.
 - The project will construct curb ramps to ADA standards t various site locations at OR47 and US30. Most of the project is located outside of the Metropolitan Planning Boundary.
 - The project requires the addition of a Utility phase (UR) to cover utility reimbursements and an increase in Construction phase (CN) to cover additional and increased project costs.
 - The project will construct approximately 250 curb ramps along OR47, OR8, and US 30 in Forest Grove, Gaston, Vernonia, and Ranier.
 - The estimated construction phase costs have increased due to higher bids received. Per ODOT, the bids were higher than expected due to the following:
 - An abundance of work and firms are experiencing resource and staffing limitations impacting the submitted bids.
 - The design and delivery are being outsourced with increases in temporary traffic features.

- The project includes additional locations than were initially projected and found to require 3D modeling.
 - The project requires additional signal and utility relocations than estimated.
 - The project requires extensive earthwork to get slopes within allowable limits.
- **Key 22185 and 23188. TriMet - Enhanced Seniors Mobility/ Individuals w/Disabilities (2024 and 2025 appropriations):**
 - Action: Add Funds
 - Both projects belong to TriMet. They involve providing para-transit services to senior and to disable persons. The funding program is referred to as Section 5310.
 - A review of the FTA Urbanized Zone estimated appropriations indicated that the federal 5310 funds could be slightly increased.
 - TriMet is also adding local overmatching funds based on a total programming logic of 50% federal and 50% local funds supporting the 5310 services.
 - Adding the local overmatch results in a cost increase of 26.6%. This is above the 20% threshold for administrative cost increase and triggers the need for a formal amendment.
 - **Key 20329. West Linn - OR43: Willamette Dr at Marylhurst Dr (West Linn):**
 - Action: Scope Change
 - The formal amendment revises the project scope to primarily be located at the Marylhurst Dr intersection and be limited to intersection safety improvements and an upgrades traffic signal.
 - The planned scope between Hidden Springs and Cedar Oak is no longer feasible due to adjacent projects not being completed as planned.
 - Additionally, construction estimates for this section exceeded the available budget. A reduction in scope is necessary in order to deliver the remaining scope of the project, which will consist of upgrades to the Marylhurst/OR43 intersection.
 - The intersection will be rebuilt as a protected intersection with a new traffic signal, new ADA ramps, and new bike facilities.
 - As a result, PE requires additional funds to complete the scope adjustment. The ROW phase decreases allowing funds to be shifted from ROW to PE.

TPAC January 5 Meeting Summary:

TPAC members received their official MTIP formal amendment notification on January 5, 2024. Ken Lobeck provided an overview of the eight projects in the amendment bundle. He added that the minor programming technical change now would be needed to the 82nd Ave BRT project. The change will move the approved funding from the Planning phase to the Preliminary Engineering (PE) phase. Initially, staff were under the impression that Metro's project development would follow the logic of FHWA's definition and proceed no further than 30% design and only complete pre-NEPA scope actions. However, subsequent

discussions revealed Metro's project will support TriMet all the way through the completion of NEPA and final design. Because of this, the fund programming should be reflected in the Preliminary Engineering phase and not be programmed in the Planning phase.

Karen Buehrig, Clackamas County TPAC Representative asked about the origin logic for the split federal funding of Carbon Reduction and Surface Transportation Block Grant (STBG) funds committed to the project. She also inquired if we would see the other CRP awarded projects come forward in future MTIP amendments, or if this one had a special requirement. Ken Lobeck and Ted Leybold, Metro Resource Development Department Manager explained that the \$5 million of federal CRP funds was from the Metro prior approved Carbon Reduction Program funding call. The \$5 million is being split from the existing project grouping bucket that contains the \$18 plus million allocated to Metro. Additionally, as part of the IJA legislation Metro received added STBG which a portion was approved Council to support Unified Planning Work Program (UPWP) Transit Corridor Development planning needs. A total of \$2.5million was committed to this area. Out of this commitment, \$1 million of STBG is being split off the Transit Corridor bucket to support the 82nd Ave BRT Project Development project.

With no further discussion, TPAC unanimously voted to provide their approval recommendation to JPACT to approve Resolution 24-5380 containing the eight new and amended projects.

JPACT January 18, 2024 Meeting Summary:

The January 2024 MTIP Formal Amendment bundle under Resolution 24-5380 was included as a consent item on the Consent Calendar. JPACT unanimously passed the Consent Calendar without discussion.

Added Note: As mentioned under the summary for Keys 23589 and 23239, and 23229, an eligibility issue has arisen concerning the use of federal Carbon funds in supporting planning actions. The eligibility issue specifically applies the Metro awarded Climate Smart Implementation project that received \$1.8 million of awarded Carbon funds under Resolution 23-5337. The \$1.8 million of Carbon funds have been programmed in a separate project grouping bucket that is intended to support various eligible Climate Smart Implementation strategy development planning activities. These activities normally will be included into the annual Unified Planning Work Program (UPWP).

The Carbon Reduction Program (CRP) is a new approved funding program authorized from the Infrastructure Investment Act/Bipartisan Infrastructure Law (IIJA/BIL). The CRP is similar in structure to the Congestion Management Air Quality (CMAQ) improvement program. Like CMAQ, CRP projects must demonstrate specific carbon footprint reduction improvements. The purpose of the Carbon Reduction Program (CRP) is to reduce transportation emissions through the development of State carbon reduction strategies and by funding projects designed to reduce transportation emissions. In the April 21, 2022 FHWA memo entitled: Carbon Reduction Program (CRP) Implementation Guidance, FHWA

outlines the various eligibility requirements for use of the funds. The memo includes numerous eligible project types and categories. It also indicates support for the development of carbon reduction strategies. However, the memo does not further qualify the eligibility parameters. Therefore, Metro’s understanding of the eligibility guidelines was that planning activities that directly support the development and implementation of carbon reduction strategies were eligible. Apparently FHWA does not agree with this assessment and has stated planning activities are not eligible. To avoid any further complications with the Climate Smart Implementation program, the formal amendment includes a fund swap to replace the Carbon funds for STBG.

As a result of this action, \$1 million of Carbon funds initially programmed for the Climate Smart Implementation program will be swapped for the \$1 million of STBG committed to the new Metro 82nd Ave BRT Project Development. The remaining Carbon funds in the Climate Smart project grouping bucket will be swapped out for STBG later as well through a separate administrative action. The swap increases the 82nd Ave BRT Project Development project to \$6 million of Carbon funds and removes the STBG funds. There is no change in the total project cost or project scope as a result.

Key 23239 contains the STBG planned to support the new 82nd Ave BRT Project Development. The fund swap results in the removal of Key 23239 from the January 2024 MTIP Formal Amendment bundle. The total number of projects in the January 2024 MTIP Formal Amendment bundle under Resolution 24-5380 decreases from eight to seven.

**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
82 nd 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

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 January FFY 2024 MTIP Formal amendment (JA24-04-JAN) will include the following:

<u>Action</u>	<u>Target Date</u>
• TPAC Agenda mail-out.....	December 29, 2023
• Initiate the required 30-day public notification process.....	January 3, 2024
• TPAC notification and approval recommendation.....	January 5, 2024
• J PACT approval and recommendation to Council.....	January 18, 2024
• Completion of public notification process.....	February 2, 2023
• Metro Council approval.....	February 8, 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.....	February 13 ,2024
• USDOT clarification and final amendment approval.....	Early March 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:** A follow-on budget change impact will occur as follows:
 - a. Required amendment changes to Keys 23462, 22435, 22185, 23188, and 20329 consist of non-Metro funding do not impact the Metro budget.
 - b. The addition of the new Metro 82nd Ave BRT Project Development study has an impact to the budget as follows:
 - i. The commitment to the budget of \$6 million of allocated and Metro approved Carbon Reduction Program (CRP) funds from Key 23239.
 - ii. The commitment of Carbon and STBG funds will also require a minimum match requirement of 10.27% of Metro local funds. This will equal a local commitment to the project of \$686,454.

RECOMMENDED ACTION:

JPACT approved Resolution 24-5380 on January 18, 2024 and now requests Metro Council provide the final approval to add and amend the seven projects to the 2024-27 MTIP.

No Attachments.