

Memo



Metro

600 NE Grand Ave.
Portland, OR 97232-2736

Date: December 19, 2022
To: Metro Council and Interested Parties
From: Ken Lobeck, Funding Programs Lead
Subject: Highway Infrastructure Program (HIP) Exchange and Supplemental Funding Recommendations – Resolution 22-5302

HIP EXCHANGE AND SUPPLEMENTAL FUNDING RECOMMENDATIONS STAFF REPORT

Purpose Statement

FOR THE PURPOSE OF COMPLETING A HIP FUND EXCHANGE WITH ODOT FOR LESS RESTRICTIVE FEDERAL FUNDS ALLOWING THEM TO BE APPLIED AS SUPPLEMENTAL FUNDING SUPPORT TO SEVEN METRO REGIONAL FLEXIBLE FUND ALLOCATION FUNDED PROJECTS TO HELP OFFSET INFLATION COST INCREASE IMPACTS

INTRODUCTION

High levels of inflation over the past few years has been a significant issue on the ability to successfully deliver transportation projects. Between 2018 and 2022, the transportation industry construction cost increase for the Pacific Northwest was reported at 32.4%. Projects funded prior to that time through the Regional Flexible Fund Allocation (RFFA) process based on budgets that anticipated inflation at more traditional historic levels, are now trying to execute construction contracts and facing these unprecedented cost increases.

Fortunately, a one-time allocation of federal funding through the Highway Improvement (HIP) funding program has made approximately \$3.85 million available for allocation to projects in the Metro area. This proposal will allocate these funds to local projects with existing RFFA funding that are ready to proceed to construction but that are facing funding shortfalls due to these recent, unexpected high levels of inflation. These allocations will help address the inflationary costs and keep the projects, and the region's funding obligation performance, delivered on schedule and as planned.

BACKGROUND

What This Is:

Federal Highways Administration appropriates various types of federal funds usually to the State DOT to be applied to eligible transportation improvement projects. Each fund type contains specific eligibility criteria, required funding matches, obligation and expenditure shelf-life requirements along with other application conditions in order to properly use the funds. Some federal fund types are included detailed eligibility conditions such as Congestion Mitigation Air Quality (CMAQ) improvement funds that require project to demonstrate quantifiable improvements to specific air pollutant groups to meet eligibility criteria. Other fund types such as STBG are less restrictive and have a much more flexible eligibility range.

Periodically, the MPO may receive an additional fund type formula-based allocation based on the main appropriation ODOT receives. During Federal Fiscal Year (FFY) 2020 and 2021, FHWA appropriated Highway Infrastructure Program (HIP) funds to the State DOTs. Based on the eligibility criteria for the funds, ODOT allocated a portion of the HIP funds to Metro to be applied on eligible projects. The two-year allocated totaled \$3,850,000. The funds came with several conditions.

As the name suggest HIP funds are intended to be used on roadway improvement projects with an emphasis to be applied to the construction phase. Eligible areas include the following:

- Construction of:
 - Highways, bridges, tunnels, including designated routes of the Appalachian Development Highway System and local access roads.
 - Ferry boats and terminal facilities eligible for funding
 - Transit capital projects eligible for assistance
 - Infrastructure-based intelligent transportation systems capital improvements, including the installation of vehicle-to-infrastructure communication equipment
 - Truck parking facilities eligible for funding under section 1401 of the Moving Ahead for Progress in the 21st Century Act; and
 - Border infrastructure projects eligible for funding under section 1303 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.
- Highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings.
- The funds may also be obligated to provide necessary charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors designated pursuant to 23 U.S.C. 151.

Additional use and eligibility conditions included the following:

- Pursuant to section 133(c) of title 23, U.S.C., projects may not be undertaken on a road functionally classified as a local road or a rural minor collector unless the road was on a Federal-aid highway system on January 1, 1991, except;
 - For a bridge or tunnel project (other than the construction of a new bridge or tunnel at a new location)
 - Highway and transit safety infrastructure improvements and programs, including railway-highway grade crossings
 - To provide necessary charging infrastructure along corridor-ready or corridor-pending alternative fuel corridors designated pursuant to 23 U.S.C. 151
 - As approved by the Secretary. Further, 23 U.S.C. 133(g)(1), allowing a portion of Surface Transportation Block Grant funds to be obligated on roads functionally classified as minor collectors, does not apply to these funds.
- Pursuant to section 133(d)(5) of title 23, U.S.C., programming and expenditure of funds for projects shall be consistent with sections 134 and 135 of title 23, U.S.C. Projects must be identified in the Statewide Transportation Improvement Program/Transportation Improvement Program and be consistent with the Long-Range Statewide Transportation Plan and the Metropolitan Transportation Plan(s).

- Obligation status: For the FFY 2021 and FFY 2022 cycles the HIP funds must be obligated before the end of FFY 2023, or they lapse.

Along with the various eligibility conditions, the funds were appropriated somewhat late to the State DOTs. As a result, the MPOs receive the funding notification late and had about a year to complete the nomination and selection of project candidates, approval of funding awards, complete MTIP and STIP programming, and obligate the funds through the FHWA Financial Management and Information System (FMIS). The eligibility criteria and obligation requirements has produced significant challenges for Metro to commit the HIP funds to qualified projects.

As a second option, Metro requested ODOT consider a fund swap for the HIP funds. Metro would relinquish the HIP funds for less restrictive federal funds such as STBG funds. Both ODOT and Metro agreed to complete the fund swap, but several conditions still applied.

The revised eligibility conditions included the following:

1. **The exchanged federal funds Metro receives still had to be obligated before the end of FFY 2023.**
2. As a result of this condition, the exchanged supplemental funding could not be included as part of the 2025-27 RFFA call.
3. The exchanged funds Metro will receive from ODOT are anticipated to be State STBG and programmed under Advance Construction (AC) funding procedures. The eligibility criteria for STBG funds apply and will provide additional flexibility for use on projects than using the HIP criteria.
4. However, the exchange funding is to be applied to the construction phase in the same spirit of the original HIP funds. The construction phase requirement is a “request” and not a “must”.

BASIS FOR FUNDING RECOMMENDATION

With the above foundation conditions, the following additional conditions have been identified to help ensure the funds could be programmed and obligated quickly. The added conditions include the following:

- a. The exchange funding is considered “supplemental funding” and will be applied to eligible projects that have experienced recent cost increases due to inflation.
- b. The supplemental funding to mitigate inflation cost increases can’t supplant local overmatch commitments already programmed to the project. The supplemental funding is considered “needed funding on top of existing programming” to address funding shortfalls caused by inflation cost increases.
- c. The funding increase must be due to a recent adjustment from inflation corrections. The cost increase can’t be the result of a scope or limits change to the project.
- d. To be consistent with existing RFFA program allocation objectives, the total funding of \$3,850,000 will be allocated to projects across the region that meet the need and eligibility criteria described above.

During early October 2022, staff reviewed the comprehensive list of active RFFA projects and identified possible funding candidates based on the eligibility logic identified above. Staff worked with the ODOT Local Agency Liaisons (LAL) and reviewed project delivery schedule, current cost estimates, readiness to obligate funds before the end of FFY 2023, etc. to identify eligible candidates and then narrow the recommendations to stay within the \$3.85 million funding limit.

JPACT December 15, 2022 Meeting Summary:

Ted Leybold, Manager, Metro Resource Development Department provided an overview of the HIP fund exchange and supplementation funding recommendations. He explained to JPACT the origin of the funding from ODOT and why Metro pursued the fund exchange option. He discussed the impact inflation has on RFFA funded projects, and the timely opportunity the fund exchange would provide several existing funded RFFA projects. Finally, he summarized the funding recommendations to the seven projects proposed to receive and split the available \$3,850,000.

During the discussion period, Emerald Bogue, Port of Portland provided a statement of support from the Port for the funding recommendation and complemented Metro and ODOT for the timeliness it will provide with the 40 Mile Loop project. Ali Mirzakhali, Oregon Department of Environmental Quality asked Ted why the obligation condition remained upon the exchanged Funds. Ted explained that ODOT also has annual obligation targets they must reach, or they could lose funding through the annual Redistribution process. By agreeing to maintain the end of FFY 2023 obligation requirement, Metro would be adding further pressure on ODOT to obligate other funds to cover the HIP fund exchange if the projects failed to obligate their funds by the end of the FFY 2023. The action maintains the obligation balance ODOT requires to help ensure they reach their state obligation targets.

With no further discussion, JPACT members moved the item and unanimously approved the Resolution 22-5202 and the seven projects with fund exchange recommendations.

TPAC December 2, 2022 Meeting Summary:

Ken Lobeck provided TPAC members an overview and summary of the HIP Exchange and subsequent decision to provide funding support to existing Regional Flexible Fund Allocation (RFFA) awarded projects to help offset recent cost increases due to inflationary cost revisions. TPAC members were curious about the source of the funding and why staff proceeded outside of the regular TPAC process.

Ken Lobeck explained that the HIP funds allocated to Metro included multiple eligibility and use restrictions that prevent their direct application to Metro RFFA projects. Additionally, the HIP funded had to be obligated before the end of FFY 2023 (September 30, 2023). The obligation requirements prevented them the HIP funds from being added to the RFFA project call.

The obligation requirement became the primary issue in determining how Metro could apply the HIP funds. Because the short timeframe and eligibility restrictions, a direct application of the HIP funds to eligible projects appeared improbable. As a fallback option, staff requested a fund exchange with ODOT to replace the HIP funds with less restrictive funding. Discussions with Jeff Flowers, Statewide Investments Section Manager at ODOT occurred during July to work through the exchange parameters. By late August 2022 we had the key elements for the exchange agreed upon. The key points included the following:

- Metro agreed to follow the “spirit” of the HIP which included obligating all funds before the end of FFY 2023. This eliminated the option of adding the funds to the current RFFA call in progress.
- The exchanged funds would be applied as much as possible to project construction phases.
- By agreeing to this construction phase objective, it negated the option of using the funds exchange to be applied to the UPWP for planning needs. The original eligibility use for the HIP funds prevents their use for planning activities.

- Programming will utilize the “Advance Construction – ACP0” fund code to provide ODOT with maximum flexibility to commit the final exchanged funds to the project when they were obligated.
- ODOT could apply the HIP funds based on their priorities. No geographic balancing conditions were included.
- Metro would provide the final funding recommendations to ODOT by the end of November.

Again, because of the short time to award and obligate the funds, available options to commit the funds appeared limited. Example: Completing a second fund exchange with TriMet for local funds was removed from consideration as the original HIP funds can’t be flex transferred to FTA.

However, addressing inflationary impacts upon many existing RFFA funded projects became a viable option. Ken Lobeck went on to describe the coordination process with the ODOT Local Delivery Section Local Agency Liaisons (LAL) to identify inflation cost increases and development of the final funding recommendations. He acknowledged that staff worked outside of the normal TPAC process because of the obligation shelf-life requirement. Through this process, seven projects are recommended for funding (as stated further in the staff report).

With this overview and background provided, TPAC members voted unanimously to recommend an approval recommendation to JPACT to approve Resolution 22-5302 and the funding for the seven projects.

STAFF FUNDNG RECOMMENDATIONS

The final staff project funding recommendations for the \$3,850,000 of HIP Exchange Supplemental funding are shown below. Proposed approval and implementation steps will then follow.

HIP Exchange Supplemental Federal Funding Recommendations					
Key	Lead Agency	Project Name	Project Description	Federal Funding Recommendation	Notes
Clackamas County					
19276	Clackamas County	Jennings Ave: OR 99E to Oatfield Rd	Construct sidewalk on the north side of the road and bike lanes on both sides of the road to provide safe bicycle and pedestrian facilities to connect residents with nearby schools, businesses, and transportation options. (2016-18 RFFA Award)	\$577,500	Add to the construction phase along with local match. Current cost estimate update indicates the construction phase is short by \$789,644.
Washington County					
19327	Tigard	Fanno Crk Trail: Woodard Pk to Bonita Rd/85th Ave - Tualatin BR	This project will construct four sections of the Fanno Creek Trail from Woodward Park to Bonita Road and 85th Avenue to Tualatin River Bridge in Tigard. (2016-18 RFFA Award)	\$695,605	Add funds plus required match to the construction phase in FFY 2023. Latest cost update indicates construction phase is still short of funding.
Split from 18758	ODOT & Beaverton	OR8: SW Hocken Ave - SW Short St	Design and construct streetscape elements focused on pedestrian safety and place making. (2016-18 RFFA Award)	\$325,948	Key 18758 is being split into two separate projects to avoid further delivery conflicts between ODOT’s scope elements and Beaverton’s.

					The Beaverton portion is still short funding to complete all scope elements. The \$325,948 will be applied to median landscaping elements.
22128	Washington County	Aloha Access Improvements: SW 174th Ave–SW 187th Ave	Design and implement various pedestrian access and crossing enhancements in the Aloha Town Center area to improve safety. (2019-21 RFFA Award)	\$325,947	Add to Planning phase to support the project development re-scoping effort due to Washington County's prior completion of existing RFFA project scope elements.
Washington County Recommended Funding Total:				\$1,347,500	
Multnomah County (Includes Portland)					
20812	Portland	Brentwood Darlington Bike/Ped Improvements	Connect to parks community gardens and shopping. Sidewalks fill gaps in the ped network. Greenway provides connections between bikeways in Springwater corridor (2019-21 RFFA Award)	\$282,483	Add to Construction phase along with required local match to address construction phase funding shortfall
20813	Portland	NE Halsey Street Bike/Ped/Transit Improvements	Signal improvements intersection redesigns bus stop improvements and high priority crossings on NE Halsey between 65th and 92nd bikeway from 65th to 92nd path from the 82nd Ave. MAX station (19-21 RFFA Award)	\$900,000	Add to Construction phase to reduce existing funding shortfall. The project is scheduled to obligate the construction phase before the end of FFY 2023. If an obligation delay occurs, then Option B will be considered which will backfill funding shortfalls in PE (\$475,000) and ROW (\$200,000) providing the project a total of \$675,000. The remaining difference of \$225,000 would be applied to the Port of Portland's 40 Mile Loop project.
17270	Port of Portland	40 Mile Loop: Blue Lake Park - Sundial & Harlow Rd	The project consists of two approved segments: (1) Blue Lake Park to Sundial Rd which 1.7 miles of mixed-trail improvements and (2) Harlow Rd which is SE of Segment 1 and includes 1900 ft running on the west Band of the Sandy River (2010-13 RFFA Award)	\$742,517	Add to the construction phase to address a \$1.3 to \$1.8 million phase funding shortfall. Final alignment scope elements will determine the revised phase cost.
Multnomah County Recommended Funding Total:				\$1,925,000	

Current MTIP Project Programming Summaries

LEAD AGENCY		Clackamas County				
PROJECT NAME		Jennings Ave: OR 99E to Oatfield Rd				
Project IDs		Project Description				Project Type
ODOT KEY	19276	Construct sidewalk on the north side of the road and bike lanes on both sides of the road to provide safe bicycle and pedestrian facilities to connect local residents with nearby schools businesses and transportation options.				Pedestrian
MTIP ID	70674					
RTP ID	11503					
Phase		Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount
Purchase right of way		2021	STP	\$897,322	\$102,703	\$0
Construction		2023	STP	\$2,149,994	\$246,076	\$791,913
FY 21-26 Totals				\$3,047,316	\$348,779	\$791,913
Prior Years' Totals				\$1,077,967	\$123,378	\$0
Estimated Project Cost (YOE\$)				\$4,125,283	\$472,157	\$791,913
						\$5,389,353

LEAD AGENCY		Tigard				
PROJECT NAME		Fanno Crk Trail: Woodard Pk to Bonita Rd/85th Ave - Tualatin BR				
Project IDs		Project Description				Project Type
ODOT KEY	19327	This project will construct four sections of the Fanno Creek Trail from Woodward Park to Bonita Road and 85th Avenue to Tualatin River Bridge in Tigard.				Trail
MTIP ID	70690					
RTP ID	10766					
Phase		Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount
Construction		2023	CMAQ - URBAN	\$3,042,724	\$348,253	\$2,589,023
FY 21-26 Totals				\$3,042,724	\$348,253	\$2,589,023
Prior Years' Totals				\$1,358,512	\$155,488	\$622,000
Estimated Project Cost (YOE\$)				\$4,401,236	\$503,741	\$3,211,023
						\$8,116,000

LEAD AGENCY		ODOT				
PROJECT NAME		OR8: SW Hocken Ave - SW Short St				
Project IDs		Project Description				Project Type
ODOT KEY	18758	Design and construct streetscape safety and operational improvements				Roadway and bridge
MTIP ID	70757					
RTP ID	12043					
Phase		Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount
Construction		2023	STBG - STATE	\$1,615,497	\$184,901	\$3,900,000
Construction		2023	STP	\$1,974,955	\$226,042	\$0
FY 21-26 Totals				\$3,590,452	\$410,943	\$3,900,000
Prior Years' Totals				\$2,934,171	\$335,828	\$0
Estimated Project Cost (YOE\$)				\$6,524,623	\$746,771	\$3,900,000
						\$11,171,394

LEAD AGENCY		Washington County				
PROJECT NAME		Aloha Access Improvements: SW 174th Ave-SW 187th Ave				
Project IDs		Project Description				Project Type
ODOT KEY	22128	Design and implement various access and crossing enhancements in the Aloha Town Center area to improve pedestrian safety.				Active Transportation
MTIP ID	71095					
RTP ID	10608					
Phase		Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount
Planning		2023	STBG-URBAN	\$358,920	\$41,080	\$0
Preliminary engineering		2024	STBG-URBAN	\$1,512,848	\$173,152	\$0
Purchase right of way		2025	STBG-URBAN	\$323,028	\$36,972	\$0
Other		2025	STBG-URBAN	\$44,865	\$5,135	\$0
Construction		2026	STBG-URBAN	\$1,587,898	\$181,742	\$1,522,845
FY 21-26 Totals				\$3,827,559	\$438,081	\$1,522,845
Estimated Project Cost (YOE\$)				\$3,827,559	\$438,081	\$1,522,845
						\$5,788,485

LEAD AGENCY		Portland				
PROJECT NAME		Brentwood Darlington Bike/Ped Improvements				
Project IDs		Project Description				Project Type
ODOT KEY	20812	Connect to parks community gardens and shopping. Sidewalks fill gaps in the ped network. Greenway provides connections between bikeways in Springwater corridor(2019-21 RFFA Award)				Active Transportation
MTIP ID	70877					
RTP ID	11193					
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Purchase right of way	2022	TA - URBAN	\$528,090	\$60,442	\$0	\$588,532
Other	2022	TA - URBAN	\$44,865	\$5,135	\$0	\$50,000
Construction	2023	TA - URBAN	\$668,545	\$76,518	\$3,268,309	\$4,013,372
FY 21-26 Totals			\$1,241,500	\$142,095	\$3,268,309	\$4,651,904
Prior Years' Totals			\$918,500	\$105,126	\$813,374	\$1,837,000
Estimated Project Cost (YOE\$)			\$2,160,000	\$247,221	\$4,081,683	\$6,488,904

LEAD AGENCY		Portland				
PROJECT NAME		NE Halsey Street Bike/Ped/Transit Improvements				
Project IDs		Project Description				Project Type
ODOT KEY	20813	Signal improvements intersection redesigns bus stop improvements and high-priority crossings on NE Halsey between 65th and 92nd bikeway from 65th to 92nd path from the 82nd Ave. MAX station (19-21 FFFA Award)				Roadway and bridge
MTIP ID	70880					
RTP ID	11559					
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Purchase right of way	2022	STBG-URBAN	\$147,320	\$16,861	\$190,631	\$354,812
Other	2022	STBG-URBAN	\$44,865	\$5,135	\$50,000	\$100,000
Construction	2023	STBG-URBAN	\$1,071,762	\$122,668	\$2,485,309	\$3,679,739
Construction	2023	TA - URBAN	\$250,598	\$28,682	\$0	\$279,280
FY 21-26 Totals			\$1,514,545	\$173,346	\$2,725,940	\$4,413,831
Prior Years' Totals			\$839,055	\$96,034	\$459,911	\$1,395,000
Estimated Project Cost (YOE\$)			\$2,353,600	\$269,380	\$3,185,851	\$5,808,831

LEAD AGENCY		Port of Portland				
PROJECT NAME		40 Mile Loop: Blue Lake Park - Sundial & Harlow Rd				
Project IDs		Project Description				Project Type
ODOT KEY	17270	The project consists of two approved segments: (1) Blue Lake Park to Sundial Rd which 1.7 miles of mixed-trail improvements and (2) Harlow Rd which is SE of Segment 1 and includes 1900 ft running on the west Band of the Sandy River (2010-13 RFFA Award)				Throughways
MTIP ID	70007					
RTP ID	10408					
Phase	Year	Fund Type	Federal Amount	Minimum Local Match	Other Amount	Total Amount
Construction	2023	STP	\$2,004,083	\$229,376	\$0	\$2,233,459
FY 21-26 Totals			\$2,004,083	\$229,376	\$0	\$2,233,459
Prior Years' Totals			\$1,068,338	\$122,277	\$115,535	\$1,306,150
Estimated Project Cost (YOE\$)			\$3,072,421	\$351,653	\$115,535	\$3,539,609

APPROVAL STEPS AND TIMING

Metro's approval process to move forward with the proposed HIP Exchange Supplemental funding recommendations includes the following:

- | <u>Action</u> | <u>Target Date</u> |
|--|------------------------------|
| • TPAC notification and approval recommendation..... | December 2, 2022 |
| • JPACT approval and recommendation to Council..... | December 15, 2022 |
| • Metro Council approval..... | January 5 or 12, 2023 |
| • Complete required MTIP and STIP amendments..... | End of January 2023 |
| • Complete necessary project IGA amendments..... | January-March 2023 |
| • Commence phase obligations..... | Starting March 2023 |

Notes:

1. Required MTIP and STIP programming amendments are anticipated to occur as administrative modifications and will not require a formal/full MTIP amendment to complete
2. Intergovernmental Agreement (IGA) amendments are needed to ensure the supplemental federal finding is identified for the project.

ANALYSIS/INFORMATION

1. **Known Opposition:** None known at this time.
2. **Legal Antecedents:**
 - a. Approves the proposed HIP for less restrictive federal funds exchange with ODOT and enables federal allocation of the \$3,850,000 to be committed and programmed to seven staff recommended projects
 - b. Amends the 2021-24 Metropolitan Transportation Improvement Program adopted by Metro Council Resolution 20-5110 on July 23, 2020 (FOR THE PURPOSE OF ADOPTING THE 2021-2024 METROPOLITAN TRANSPORTATION IMPROVEMENT PROGRAM FOR THE PORTLAND METROPOLITAN AREA).
 - c. Oregon Governor approval of the 2021-24 MTIP: July 23, 2020
 - d. 2021-2024 Statewide Transportation Improvement Program (STIP) Approval and 2021 Federal Planning Finding: September 30, 2020
3. **Anticipated Effects:**
 - a. Enables the supplemental funding to complete MTIP/STIP programming and IGA amendment actions enabling the funds to be obligated before the end of FFY 2023 which will ensure they will not lapse.
 - b. Supports addressing and resolving existing project funding shortfalls due to inflation cost adjustments.
 - c. Helps resolves project delivery barriers due to inflation cost increases allowing the projects to move forward on schedule.
4. **Metro Budget Impacts:** None to Metro as the HIP funding allocation was always intended to support outside agency eligible projects and could not be applied to Metro planning or other MPO planning areas.

RECOMMENDED ACTION:

JPACT approved Resolution 22-5302 on December 15, 2022 and now recommends Metro Council approve Resolution 22-5302 supporting the HIP fund Exchange with ODOT and the proposed allocations to the seven identified projects

No Attachments