

Date: October 26, 2022
W.I.: 1512
Referred by: PAC
Revised: 05/24/23-C 06/28/23-C

ABSTRACT

Resolution No. 4540, Revised

This resolution establishes the project selection and programming policies for the federal Carbon Reduction Program (CRP) assigned to MTC for programming through the Infrastructure Investment and Jobs Act (IIJA)/Bipartisan Infrastructure Law (BIL). In coordination with the One Bay Area Grant (OBAG 3) program (MTC Resolution No. 4505, Revised), this resolution directs CRP funds to advance the carbon reduction strategies identified in *Plan Bay Area 2050*.

The resolution includes the following attachments:

- Attachment A – CRP Project Selection and Programming Policies
- Attachment B – CRP Project List

With the adoption of the project selection and programming policies, Attachment B programs \$40,000,000 to MTC for Electric Vehicles and Infrastructure program and \$20,000,000 to MTC for the Mobility Hubs program.

On May 24, 2023, Attachment B was revised to reprogram \$10,000,000 from MTC's Electric Vehicles and Infrastructure program to MTC's Mobility Hubs program.

On June 28, 2023, Attachment B was revised to program \$10,089,000 in Mobility Hubs funds to various projects.

Further discussion of the project selection criteria and programming policy is contained in memorandums to the Programming and Allocations Committee dated October 12, 2022 and May 10, 2023; the Planning Committee dated June 9, 2023; and the Programming and Allocations Committee dated June 14, 2023.

Date: October 12, 2022
W.I.: 1512
Referred by: PAC

RE: Carbon Reduction Program (CRP) Project Selection and Programming Policies

METROPOLITAN TRANSPORTATION COMMISSION
RESOLUTION NO. 4540

WHEREAS, the Metropolitan Transportation Commission (MTC) is the Regional Transportation Planning Agency (RTPA) for the San Francisco Bay Area pursuant to Government Code Section 66500 *et seq.*; and

WHEREAS, MTC is the designated Metropolitan Planning Organization (MPO) for the nine-county San Francisco Bay Area region and is required to prepare and endorse a Transportation Improvement Program (TIP) which includes federal funds; and

WHEREAS, MTC, as the RTPA/MPO for the San Francisco Bay Area, is assigned programming and project selection responsibilities for certain state and federal funds; and

WHEREAS, state and federal funds assigned for RTPA/MPO programming discretion are subject to availability and must be used within prescribed funding deadlines; and

WHEREAS, Title 23 CFR § 630, Subpart G, allows the advancement of federal-aid projects and expenditure of eligible costs prior to the obligation of funds (referred to as “Advance Construction” or “AC”) with reimbursement of eligible expenditures permitted following conversion of the AC to a regular obligation; and

WHEREAS, MTC, in cooperation with Caltrans, transit operators, the Bay Area Air Quality Management District (BAAQMD), Bay Area County Transportation Agencies (CTAs), counties, cities, and interested stakeholders, has developed policies and procedures to be used in the selection of projects to be funded with various funding including regional federal funds as set forth in Attachments A and B of this Resolution, incorporated herein as though set forth at length; and

WHEREAS, using the policies set forth in Attachment A of this Resolution, MTC, in cooperation with the Bay Area Partnership and interested stakeholders, will develop a program

of projects to be funded with these funds for inclusion in the federal TIP, as set forth in Attachment B of this Resolution, incorporated herein as though set forth at length; and

WHEREAS the federal TIP and subsequent TIP revisions and updates are subject to public review and comment; now therefore be it

RESOLVED that MTC approves the “Project Selection and Programming Policies” for projects to be funded through the CRP program as set forth in Attachments A and B of this Resolution; and be it further

RESOLVED that the funds assigned to MTC as the RTPA/MPO for programming and project selection shall be pooled and distributed on a regional basis for implementation of project selection criteria, policies, procedures, and programming, consistent with implementation of the Regional Transportation Plan (RTP); and be it further

RESOLVED that the projects will be included in the federal TIP subject to final federal approval and requirements; and be it further

RESOLVED that the Executive Director or designee may make technical adjustments and other non-substantial revisions, including changes to project sponsor, updates to fund sources and distributions to reflect final funding criteria and availability; and be it further

RESOLVED that the Executive Director or designee is authorized to revise Attachment B as necessary to reflect the programming of projects as the projects are selected, revised, and included in the federal TIP; and be it further

RESOLVED that the Executive Director or designee is authorized to execute Advance Construction (AC) Authorizations with Caltrans and/or the Federal Highway Administration (FHWA) for federal projects sponsored or implemented by the Metropolitan Transportation Commission; and be it further

RESOLVED that the Executive Director or designee shall make available a copy of this resolution, and attachments as may be required and appropriate.

METROPOLITAN TRANSPORTATION COMMISSION

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a long horizontal line extending to the right.

Alfredo Pedroza, Chair

The above resolution was entered into
by the Metropolitan Transportation
Commission at the regular meeting
of the Commission held in San Francisco,
California and at other remote locations
on October 26, 2022.

Date: October 26, 2022
W.E.: 1512
Referred by: PAC
Revised:

Attachment A
Resolution No. 4540

Carbon Reduction Program (CRP)

Project Selection and Programming Policies

This resolution establishes the policy framework and commitments for investing federal Carbon Reduction Program (CRP) funds from federal fiscal year (FY) 2021-22 through FY 2025-26. Attachment A outlines the CRP revenue estimates and programming policies. Attachment B details the project categories, projects, funding amounts, and project sponsors, as they are approved by the Commission.

Revenue Estimates

Programming capacity is based on anticipated federal transportation program apportionments from FY 2021-22 through FY 2025-26. Over the five-year period of the Infrastructure Investment and Jobs Act (IIJA)/Bipartisan Infrastructure Law (BIL), there is an estimated \$60 million in CRP programming capacity within the San Francisco Bay Area. Should actual apportionments deviate from this apportionment estimate, the Commission may adjust the CRP programming capacity as appropriate. Such adjustments could include increasing or decreasing funding amounts to one or more programs, postponement of programmed projects, development of new programs, or adjustments to subsequent CRP program cycles.

CRP programming capacity is based upon apportionment rather than obligation authority. As the amount of obligation authority available to the region is less than the region's annual apportionments, there is typically a carryover balance of apportionment each year. MTC staff will monitor apportionment and obligation authority balances throughout the CRP program period to support the accelerated delivery of programmed projects.

Program Approach

As part of a comprehensive regional investment strategy, CRP funds shall be programmed in coordination with the overall One Bay Area Grant (OBAG 3) framework. As the CRP funds constitute a relatively limited share of federal transportation revenues available to the region, coordinating CRP with OBAG 3 and other complementary fund sources provides important resources to further the ambitious strategies laid out in MTC's Regional Transportation Plan/Sustainable Communities Strategy, *Plan Bay Area 2050*.

Project Lists

Attachment B of Resolution 4540 contains the list of projects to be programmed under the CRP program. This project list is subject to MTC project selection actions. MTC will update Attachment B as projects are selected or revised by the Commission.

Programming Policies

General Policies

In alignment with the OBAG 3 program framework, the following programming policies apply to all projects funded in CRP:

- 1. RTP Consistency:** Projects funded through CRP must be consistent with the adopted Regional Transportation Plan (RTP), currently *Plan Bay Area 2050*. As part of the project selection and TIP programming processes, project sponsors must identify each project's relationship with meeting the goals and objectives of the RTP, including the specific RTP ID number or reference. RTP consistency will be verified by MTC staff for all projects as part of the project selection and TIP programming processes.
- 2. Federal Fund Eligibility:** Projects must be eligible for CRP in order to be selected for CRP funding. CRP provides funds for projects designed to reduce transportation emissions, defined as carbon dioxide (CO₂) emissions from on-road highway sources. More detailed eligibility requirements can be found in 23 U.S.C. § 175 and at: https://www.fhwa.dot.gov/bipartisan-infrastructure-law/fact_sheets.cfm.
- 3. Air Quality Conformity:** In the Bay Area, it is the responsibility of MTC to make a regional air quality conformity determination for the TIP in accordance with federal Clean Air Act requirements and Environmental Protection Agency (EPA) conformity regulations. MTC evaluates the impact of the TIP on regional air quality during the update of the TIP. Non-exempt projects that are not incorporated in the current finding for the TIP will not be considered for funding in the CRP program until the development of a subsequent air quality finding for the TIP. Additionally, the EPA has designated the Bay Area as a non-attainment area for fine particulate matter (PM_{2.5}). Therefore, based on consultation with the MTC Air Quality Conformity Task Force, projects deemed Projects of Air Quality Concern (POAQC) for PM_{2.5} must complete hot-spot analyses as required by the Transportation Conformity Rule. Generally, POAQC are those projects that result in significant increases in, or concentrations of, emissions from diesel vehicles.
- 4. Public Involvement.** MTC is committed to a public involvement process that is proactive and provides opportunities for continuing involvement, comprehensive information, timely public notice, and public access to key decisions. MTC provides many methods to fulfill this commitment, as outlined in the *MTC Public Participation Plan*. The Commission's adoption of the CRP project selection and programming policy meets the provisions of the *MTC Public Participation Plan*. MTC's Policy Advisory Committee and the Bay Area Partnership working groups are consulted in the development of funding commitments and policies for the OBAG 3 program framework. Additional opportunities for public and stakeholder involvement will be provided throughout the CRP program period as specific programs are developed and projects are selected.

CRP investments must be consistent with federal Title VI requirements. Title VI prohibits discrimination on the basis of race, color, income, and national origin in programs and activities receiving federal financial assistance. Public outreach to and involvement of individuals in low income and minority communities covered under Title VI of the Civil Rights Act and the

Executive Order pertaining to Environmental Justice is critical to both local and regional decisions.

The current *MTC Public Participation Plan* is available online at: <https://mtc.ca.gov/about-mtc/public-participation/public-participation-plan>.

- 5. Project Selection Processes:** The program categories established through OBAG 3 are designed to reflect the investment priorities established in *Plan Bay Area 2050*. Additional information on the focus of these program categories within OBAG 3 are provided in MTC Resolution No. 4505, Revised, Attachment A.

CRP funds will be targeted to accelerate the emissions and mode shift goals of the regional OBAG 3 program categories, particularly Climate, Conservation, and Resilience and Complete Streets and Community Choice.

Additionally, MTC selects projects for CRP funding that are consistent with *Plan Bay Area 2050*, and with consideration of their achievement toward regional targets of federal performance goals, and project delivery.

- 6. TIP Programming:** Projects approved for CRP funding must be amended into the federal Transportation Improvement Program (TIP). The federally-required TIP is a comprehensive listing of transportation projects that receive federal funds, are subject to a federally required action, or are regionally significant for air quality conformity or modeling purposes. CRP project funding must first be approved by the Commission through revision to the Attachment B before it can be amended into the TIP.

Once a project has been selected for funding and is programmed in Attachment B, project sponsors must submit the project information into MTC's Fund Management System (FMS) in order for the project to be amended into the TIP. Proper submittal of project information into FMS is required for inclusion into the TIP in a timely manner. Additional information on FMS is available here: <https://mtc.ca.gov/funding/fund-management-system-fms>.

- 7. Resolution of Local Support:** A Resolution of Local Support is required for any CRP funded projects programmed to a local sponsor. The resolution must be approved by the project sponsor's governing board or council and submitted in FMS. A template for the Resolution of Local Support can be downloaded from the MTC website using the following link: <https://mtc.ca.gov/funding/federal-funding/federal-highway-administration-grants/one-bay-area-grant-obag-3>.

- 8. Local Match:** Although local match requirements are subject to change, the current local match requirement for CRP funded projects in California is 11.47% of the total project cost, with FHWA providing up to 88.53% of the total project cost through reimbursements. For capital projects, sponsors that fully fund the project development or Preliminary Engineering (PE) phase with non-federal funds may use toll credits in lieu of a match for the construction phase. For these projects, sponsors must still meet all federal requirements for the PE phase.

Per the Regional Toll Credit Policy (MTC Resolution No. 4008), MTC may use toll credits to waive the local match requirements for certain programs and projects of regional significance, such as ongoing regional programs and planning efforts.

- 9. Environmental Clearance:** Project sponsors are responsible for compliance with the requirements of the California Environmental Quality Act (Public Resources Code § 21000 et seq.), the State Environmental Impact Report Guidelines (14 California Code of Regulations Section § 15000 et seq.), and the National Environmental Policy Act (42 U.S.C. § 4321 et seq.) standards and procedures for all projects with federal funds.
- 10. Fund Exchanges:** Federal CRP funds may be exchanged with non-federal funds for projects that are consistent with the CRP programming policy but are ineligible or poorly suited to federal funding. Development and implementation of a funding exchange is the responsibility of the project sponsors and CTAs. Exchanges must be consistent with MTC's fund exchange policy for regional discretionary funds (MTC Resolution No. 3331), which also requires the locally-funded project to be included in the TIP for tracking purposes.
- 11. Advanced Construction:** When certain federal funds are not available for obligation due to an insufficient balance of apportionment or obligation authority, project sponsors may request authorization from FHWA and Caltrans to proceed with the project under advance construction (AC) procedures. AC procedures allow FHWA to authorize work to begin on a project without obligating federal funds. Project sponsors given the federal authorization to proceed with a project under AC procedures use local funds to perform work eligible for future federal reimbursement. Once federal apportionment or obligation authority becomes available, the sponsor may then seek to covert the amount authorized through AC into a real obligation of federal funds.

AC procedures streamline the delivery of federal projects and programs by allowing projects to proceed when current year apportionments or obligation authority has run out, and enables the region and the state to better manage the use of obligation authority for large projects.

To facilitate AC procedures on regional projects, the MTC Executive Director or designee, in consultation with the Chief Financial Officer, is authorized to execute AC authorizations with Caltrans and/or FHWA for federal projects sponsored or implemented by MTC, with the following conditions and limitations:

- The agency must have sufficient local funds to pay for all project costs until the federal funds become available.
- The project must comply with all federal requirements including programming in the TIP.
- The federal authorization date establishes the start date for performance of federally-reimbursable work.

- 12. Regional Fund Management:** CRP funding is available in federal fiscal years (FY) 2021-22 through FY 2025-26. Funds may be programmed in any of these years, conditioned upon the availability of federal apportionment and obligation authority (OA), and subject to TIP financial constraint requirements. Specific programming timelines will be determined through the development of the Annual Obligation Plan, which is developed by MTC staff in collaboration with the Bay Area Partnership technical working groups and project sponsors.

CRP projects are selected for funding based on program and fund source eligibility, project merit to achieve program objectives, and deliverability within established deadlines. Funds will

be assigned to specific projects as part of the project selection process. Following the initial CRP project selection and fund assignment process, MTC may re-assign fund sources between FHWA fund programs to reflect available apportionment or obligation authority, or to otherwise effectively manage regional STP, CMAQ, and CRP funds.

All CRP programming amounts must be rounded to the nearest thousand.

All project savings are returned to MTC for future programming and are not retained by the project sponsor.

13. Project Delivery Policy: Once programmed in the TIP, the funds must be obligated by FHWA or transferred to the Federal Transit Administration (FTA) within the federal fiscal year the funds are programmed in the TIP. Additionally, all CRP funds must be obligated no later than January 31, 2027.

Project sponsors are responsible for securing necessary matching funds and for cost increases or additional funding needed to complete the project.

Obligation deadlines, project substitutions and redirection of project savings will continue to be governed by the MTC Regional Project Funding Delivery Policy (MTC Resolution No. 3606 and any subsequent revisions). All funds are subject to obligation, award, invoicing, reimbursement and project close-out requirements. The failure to meet these deadlines may result in the de-programming and redirection of funds to other projects.

To further facilitate project delivery and ensure all federal funds in the region are meeting federal and state regulations and deadlines, every recipient of CRP funding is required to identify and maintain a staff position that serves as the single point of contact (SPOC) for the implementation of all FHWA-administered funds within that agency. The person in this position must have sufficient knowledge and expertise in the federal-aid delivery process to coordinate issues and questions that may arise from project inception to project close-out. The agency is required to identify the contact information for this position at the time of programming of funds in the TIP, and to notify MTC immediately when the position contact has changed. This person will be expected to work closely with FHWA, Caltrans, MTC, and the respective CTA on all issues related to federal funding for all FHWA-funded projects implemented by the recipient.

Project sponsors that continue to miss delivery milestones and funding deadlines for any federal funds are required to prepare and update a delivery status report on all projects with FHWA-administered funds they manage, and participate, if requested, in a consultation meeting with the CTA, MTC, and Caltrans prior to MTC approving future programming or including any funding revisions for the agency in the TIP. The purpose of the status report and consultation is to ensure the local public agency has the resources and technical capacity to deliver FHWA federal-aid projects, is fully aware of the required delivery deadlines, and has developed a delivery timeline that takes into consideration the requirements and lead-time of the federal-aid process within available resources.

**Attachment B
MTC Resolution No. 4540
Carbon Reduction Program
FY 2021-22 through FY 2025-26
June 2023**

MTC Res. No. 4540 Attachment B
Adopted: 10/26/22-C
Revised: 05/24/23-C 06/28/23-C

CRP Project List

PROJECT CATEGORY AND TITLE	SPONSOR	CRP	Other
CARBON REDUCTION PROGRAM			
CLIMATE INITIATIVES			
Mobility Hubs			
Mobility Hubs Capital - Balance (Revised)	TBD	\$19,910,000	\$300,000
Dublin/Pleasanton Access and Station Area Improvements (Added)	BART	\$3,000,000	
Martinez Amtrak Station Shared Mobility Hub (Added)	CCTA	\$3,000,000	
San Fernando Street Small-Scale Mobility Hubs (Added)	San Jose	\$1,140,000	
Contra Costa College (CCC) Mobility Hub (Added)	San Pablo	\$2,950,000	
Mobility Hubs Planning	MTC		\$2,000,000
Mobility Hubs Technical Assistance	MTC		\$500,000
Electric Vehicles and Infrastructure	TBD	\$30,000,000	\$35,000,000
CLIMATE INITIATIVES		\$60,000,000	\$37,800,000
CARBON REDUCTION PROGRAM		\$60,000,000	\$37,800,000

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