

Metro | Agenda

Meeting: Metro Council
Date: Thursday, April 12, 2012
Time: 2 p.m.
Place: Metro, Council Chamber

CALL TO ORDER AND ROLL CALL

1. INTRODUCTIONS

2. CITIZEN COMMUNICATIONS

3. CONSENT AGENDA

3.1 Consideration of the Minutes for April 5, 2012

3.2 **Resolution No. 12-4341**, For the Purpose of Confirming the Reappointment of Pre-Existing Members to the Natural Areas Program Performance Oversight Committee.

4. HEARING ON ENFORCEMENT OF TITLE 13 OF THE METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN – CITY OF TROUTDALE

Please note the Metro Council may decide to continue the public hearing to June 14, 2012

5. ORDINANCES – SECOND READING

5.1 **Ordinance No. 12-1276**, For the Purpose of Amending Metro Code Chapter 3.09, Local Government Boundary Changes, to Conform to New Legislation and to Improve the Boundary Change Process. **Roberts**

Public Hearing

6. RESOLUTIONS

6.1 **Resolution No. 12-4340**, For the Purpose of Revising the 2011 Land Use Final Order for the Expo Center/Hayden Island Segment of the South/North Light Rail Project on Remand for LUBA and the Oregon Supreme Court. **Burkholder**

Public Hearing

7. CHIEF OPERATING OFFICER COMMUNICATION

8. COUNCILOR COMMUNICATION

ADJOURN

Television schedule for April 12, 2012 Metro Council meeting

<p>Clackamas, Multnomah and Washington counties, and Vancouver, WA Channel 30 – Community Access Network <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Thursday, April 12</p>	<p>Portland Channel 30 – Portland Community Media <i>Web site:</i> www.pcmtv.org <i>Ph:</i> 503-288-1515 <i>Date:</i> Sunday, April 15, 7:30 p.m. <i>Date:</i> Monday, April 16, 9 a.m.</p>
<p>Gresham Channel 30 - MCTV <i>Web site:</i> www.metroeast.org <i>Ph:</i> 503-491-7636 <i>Date:</i> Monday, April 16, 2 p.m.</p>	<p>Washington County Channel 30– TVC TV <i>Web site:</i> www.tvctv.org <i>Ph:</i> 503-629-8534 <i>Date:</i> Saturday, April 14, 11 p.m. <i>Date:</i> Sunday, April 15, 11 p.m. <i>Date:</i> Tuesday, April 17, 6 a.m. <i>Date:</i> Wednesday, April 18, 4 p.m.</p>
<p>Oregon City, Gladstone Channel 28 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>	<p>West Linn Channel 30 – Willamette Falls Television <i>Web site:</i> http://www.wftvmedia.org/ <i>Ph:</i> 503-650-0275 Call or visit web site for program times.</p>

PLEASE NOTE: Show times are tentative and in some cases the entire meeting may not be shown due to length. Call or check your community access station web site to confirm program times.

Agenda items may not be considered in the exact order. For questions about the agenda, call the Metro Council Office at 503-797-1540. Public hearings are held on all ordinances second read. Documents for the record must be submitted to the Regional Engagement Coordinator to be included in the decision record. Documents can be submitted by e-mail, fax or mail or in person to the Regional Engagement Coordinator. For additional information about testifying before the Metro Council please go to the Metro web site www.oregonmetro.gov and click on public comment opportunities. For assistance per the American Disabilities Act (ADA), dial TDD 503-797-1804 or 503-797-1540 (Council Office).

Agenda Item No. 3.1

Consideration of the Minutes for April 5, 2012

Consent Agenda

Metro Council Meeting
Thursday, April 12, 2012
Metro, Council Chamber

Agenda Item No. 3.2

Resolution No. 12-4341, For the Purpose of Confirming the Reappointment of Pre-Existing Members to the Natural Areas Program Performance Oversight Committee.

Consent Agenda

Metro Council Meeting
Thursday, April 12, 2012
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE REAPPOINTMENT OF PRE-EXISTING MEMBERS AND THE APPOINTMENT OF NEW MEMBERS TO THE NATURAL AREAS PROGRAM PERFORMANCE OVERSIGHT COMMITTEE) RESOLUTION NO. 12-4341) Introduced by Chief Operating Officer Martha Bennett, with the concurrence of Council President Tom Hughes

WHEREAS, Metro Code Chapter 2.19 establishes the Natural Areas Program Performance Oversight Committee (the "Committee"); and

WHEREAS, the terms of several Committee members will expire June 30, 2012; and

WHEREAS, Drake Butsch has expressed his willingness to serve as chair of the Committee; and

WHEREAS, the Council President has reappointed 14 other members for additional two-year terms and appointed two new members to full two-year terms as set forth in Exhibit "A" attached hereto; and

WHEREAS, the Council desires to confirm these reappointments and appointments; now, therefore,

BE IT RESOLVED, that the Metro Council confirms the reappointments and appointments to the Natural Areas Program Performance Oversight Committee as set forth in Exhibit "A" attached hereto.

ADOPTED by the Metro Council this 12th day of April, 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney

Exhibit A to Resolution No. 12-4341

**Natural Areas Program
Performance Oversight Committee**

Member Reappointments

The following person shall serve as committee chair:

Drake Butsch

The following persons each are reappointed to serve a two-year term from July 1, 2012 until June 30, 2014, their final term of eligibility for consecutive service on this committee:

Dean Alterman	Andrew Nordby
Michelle Cairo	Norman Penner
Christine Dupres	David Pollock
Kay Hutchinson	Autumn Rudisel
Rick Mishaga	Kendra Smith
Walt McMonies	Cam Turner
Shawn Narancich	Steve Yarosh

New Member Appointments

The following persons each are appointed to serve a two-year term from July 1, 2010 until June 30, 2012, and shall be eligible thereafter to serve one additional two-year term:

Bill Drew	Peter Mohr
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New Member Biographies

William A. Drew

Bill is a native Oregonian from western Washington County, and a lawyer with Elliott, Ostrander & Preston, P.C., in Portland, specializing in complex business and real estate disputes. He received his bachelor's degree from Willamette University, and his law degree from Harvard. Bill has served as secretary for the Willamette University Alumni Board, chairman of the non-profit "Adventures Without Limits," vice-chairman of the Westside Lutheran Schools Association, and as an executive member of the Owen M. Panner Inn of Court. He and Mary, his wife of 20 years, have two boys.

Peter Mohr

Peter is an attorney of counsel with Tonkon Torp LLP. As a member of the firm's Energy and the Environmental and Natural Resources practice groups, he is considered among the region's most knowledgeable water law attorneys. His environmental and natural resources practice focuses on helping public and private sector clients throughout the west in matters involving water quality and water rights permitting, compliance, protection and transactions. Mohr has repeatedly been recognized in *Chambers USA*, *America's Leading Lawyers for Business* and is a frequent speaker on water rights regulation and transactions, and ongoing developments in state and federal policies that affect the management of water supplies.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4341, FOR THE PURPOSE OF CONFIRMING THE REAPPOINTMENT OF PRE-EXISTING MEMBERS AND THE APPOINTMENT OF NEW MEMBERS TO THE NATURAL AREAS PROGRAM PERFORMANCE OVERSIGHT COMMITTEE

Date: April 12, 2012

Prepared by: Heather Nelson Kent
503-797-1739

BACKGROUND

The 2006 Natural Areas Bond Measure included a provision for the establishment of a citizen oversight committee in order to review and suggest improvements to the implementation and administration of the Natural Areas Program. Members of the committee serve two-year terms, some of which expire at the end of June in odd-numbered years and some of which expire at the end of June in even-numbered years. This resolution confirms the reappointment of 14 members who served on the committee during the previous years and are willing to serve a new term, and confirms the appointment of two new members and a new committee chair.

The purpose of the committee is to provide the Metro Council and the citizens of the region outside third-party review that will help the region achieve the best results for clean water, fish and wildlife, and future generations. Specifically, the committee will review program performance and report to the Metro Council regarding the program's progress in implementing the strategies, goals and objectives approved by the Metro Council for property acquisition and protection in 27 target areas, as described in Council-approved refinement plans, local share projects and the Nature in Neighborhoods Capital Grants Program. In addition, the committee may make recommendations regarding the Natural Areas Implementation Work Plan to improve program efficiency, administration and performance.

Members of the committee are drawn from all areas of the region and from a variety of technical and professional disciplines, including finance, auditing, accounting, real estate, banking and law. Committee members share their technical and professional expertise to ensure that expenditure of bond measure funds satisfies the requirements of the program.

Metro staff assist the committee as necessary. Staff performs such duties as making technical presentations and preparing reports to the committee, coordinating and staffing meetings, and the committee drafts an annual report which is presented to the Metro Council.

In accordance with Metro Code 2.19.220, the Natural Areas Program Performance Oversight Committee has met consistently over the past five years and has produced three annual reports; the first in the fall of 2008, the second in spring 2010 and the third in fall 2011. They have focused on specific elements of the program so that members may immerse in particular topic areas to develop meaningful recommendations. Thus far they have led staff in development of a new regional acquisition performance measurement system and advised on the Capital Grants Program and property stabilization practices.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. **Legal Antecedents**

Metro Resolution No. 06-3672B, For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection, approved March 9, 2006

Metro Code Chapter 2.19, "Metro Advisory Committees," providing generally applicable rules for the creation of committees providing advice to the Metro Council and appointment of members to such committees

Ordinance No. 07-1155A, Amending Metro Code Chapter 2.19 to establish the Natural Areas Program Performance Oversight Committee, and declaring an emergency, adopted May 31, 2007

Resolution No. 07-3817, Confirming the Appointment of Members to the Natural Areas Program Performance Oversight Committee, adopted May 31, 2007

Resolution No. 08-3953, Confirming the Reappointment of Members to the Natural Areas Program Performance Oversight Committee, adopted June 26, 2008

Resolution No. 09-4046, Confirming the Reappointment of Pre-Existing Members and the Appointment of New Members to the Natural Areas Program Performance Oversight Committee, adopted August 6, 2009

Resolution No. 10-4182, Confirming the Reappointment of Pre-Existing Members and the Appointment of New Members to the Natural Areas Program Performance Oversight Committee, adopted August 19, 2010

3. **Anticipated Effects**

By approving Resolution No. 12-4341, the Metro Council will reappoint 14 members, appoint two new members and appoint a new committee chair to the committee as directed by the region's voters in November 2006. The expertise of the committee will help ensure that the funds voters have authorized provide the greatest possible benefit to the region.

4. **Budget Impacts**

Staff time to staff the committee meetings and prepare reports.

RECOMMENDED ACTION

The Council President recommends adoption of Resolution No. 12-4341.

Agenda Item No. 4.0

**Hearing on Enforcement of Title 13 of the Metro Urban
Growth Management Functional Plan -
City of Troutdale**

Metro Council Meeting
Thursday, April 12, 2012
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF TAKING) RESOLUTION NO. 12-4344
ENFORCEMENT ACTION TO BRING THE)
CITY OF TROUTDALE INTO COMPLIANCE)
WITH TITLE 13 OF THE URBAN GROWTH) Introduced by Councilor Shirley Craddick
MANAGEMENT FUNCTIONAL PLAN)

WHEREAS, the Metro Council enacted Title 13 (Nature in Neighborhoods) of the Urban Growth Management Functional Plan (UGMFP) to protect upland habitat in the region; and

WHEREAS, the Council established January 5, 2009, as the date cities and counties must revise their land use regulations to comply with Title 13; and

WHEREAS, the City Council of Troutdale voted to postpone action on proposed regulations to comply with Title 13 on October 13, 2009; and

WHEREAS, Metro’s Chief Operating Officer granted the city, at its request, an extension of time to comply with Title 13 to December 31, 2011; and

WHEREAS, the extended deadline for compliance with Title 13 has passed and the City Council has not adopted complying regulations; and

WHEREAS, Title 8 (Compliance Procedures) of the UGMFP provides a process for ensuring compliance with requirements of the functional plan; and

WHEREAS, the Council held a public hearing on enforcement pursuant to Title 8 on April 12, 2012; now, therefore,

BE IT RESOLVED that the Metro Council hereby takes the following actions:

1. Enters Order No. 12-071, attached to this resolution as Exhibit A, which concludes that the city of Troutdale has failed to comply with Title 13 within the time allowed by law, and directs the city to take the actions set forth in Exhibit A to remedy its noncompliance.
2. Directs the Chief Operating Officer to send a copy of Order No. 12-071 to the city of Troutdale, the Metropolitan Policy Advisory Committee and those persons who participated in the enforcement hearing on April 12, 2012.

ADOPTED by the Metro Council this _____ day of April 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney

Exhibit A to Resolution No. 12-4344

Order No. 12-071

**RELATING TO NONCOMPLIANCE BY THE CITY OF TROUDALE
WITH TITLE 13 (NATURE IN NEIGHBORHOODS)**

APPLICABLE LAW

ORS 268.390(5) authorizes Metro to adopt a regional framework plan and implementing ordinances and to require local government comprehensive plans and implementing regulations to comply within two years after acknowledgement of the implementing ordinances. Metro adopted Title 13 (Nature in Neighborhoods) of its Urban Growth Management Functional Plan (UGMFP), a component of and an implementing ordinance of the Regional Framework Plan by Ordinance No. 05-1077C on September 29, 2005. The Metro Council set a date for compliance with Title 13 by cities and counties of the region of January 5, 2009. Pursuant to Title 8 (Compliance Procedures) of the UGMFP, Metro's Chief Operating Officer granted an extension to the city of Troutdale, at its request, to December 31, 2011. The city was required to bring its comprehensive plan and implementing regulations into compliance with Title 13 by that date.

Title 8 sets forth a process for enforcement of compliance with its functional plans. The process calls for a public hearing on the alleged noncompliance. Title 8 provides that, if the Council determines that a city or county has failed to comply, the Council may adopt an order that directs actions to bring the city or county into compliance.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Metro Council finds the facts set forth in the Staff Report dated April 12, 2012, attached to this order as Attachment 1. In addition, the Council finds that Troutdale's existing regulations fall short of compliance with Title 13 as described in the letter from Metro Chief Operating Officer Martha Bennett, sent to the city on January 3, 2011, following the City Council resolution of December 13, 2011 (see attached staff report).

Based upon these findings, the Council concludes that the city of Troutdale has failed to comply with Title 13 and that the remedies set forth below will protect the resources addressed by Title 13 during the time it takes the city to bring its ordinances into compliance, and will encourage the city to comply.

IT IS HEREBY ORDERED THAT:

- (1) Metro will include no transportation funds in its Metropolitan Transportation Improvement Program, and will authorize no planning or technical assistance grants, for the city of Troutdale until Metro determines that the city's regulations are in compliance with Title 13.
- (2) Until such time that Metro determines the city's regulations are in compliance with Title 13, the city shall apply the Title 13 model ordinance described in Metro Code 3.07.1330_ directly to city land use decisions.

ENTERED this 12th day of April, 2012.

Tom Hughes, Council President

Approved as to form:
Alison Kean Campbell, Metro Attorney

DRAFT

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4344, FOR THE PURPOSE OF TAKING ENFORCEMENT ACTION TO BRING THE CITY OF TROUTDALE, OREGON, INTO COMPLIANCE WITH TITLE 13 OF THE URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN.

Date: April 12, 2012

Prepared by: Brian Harper

BACKGROUND

Title 13 of the Urban Growth Management Functional Plan is one part of the Nature in Neighborhoods initiative which is a broad based regional initiative to restore and protect the region's natural assets. Title 13 was meant to achieve its intended purpose through the conservation, protection and appropriate restoration of riparian and upland fish and wildlife habitat using a mix of regulatory and non-regulatory approaches.

Title 13's main purpose is to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the stream's headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region. Within the region approximately 80,000 acres or a third of the urban area provides habitat for fish and wildlife.

Throughout 2008 and 2009 City of Troutdale staff worked with their citizen advisory group, planning commission and city council to develop a natural resource protection program that would comply with Title 13. Jurisdictions within the Metro Boundary were required to adopt implementing ordinances to comply with the requirements of Title 13 by January 5, 2009. Troutdale was not granted an initial extension in early 2009, as there was reason to believe that they were close to adopting a new ordinance. Final adoption of a compliant protection program was expected to occur October 13, 2009. However, at the October 13 meeting the city council approved a motion 4-2 to postpone action indefinitely.

After a change in membership on the Troutdale City Council, Troutdale staff held a work session on March 15, 2011 to re-introduce Metro's Title 13 program and the proposed code amendments to the new members of the City Council. City staff also outlined a timeline for adopting the proposed code changes with final adoption scheduled for consideration on October 11, 2011. In the meantime Troutdale requested, and received, a time extension until December 31, 2011 from the Metro COO to adopt the proposed code changes. The Audubon Society of Portland appealed the COO extension to the Metro Council and on September 15, 2011 the Council denied the appeal and upheld the time extension until December 31, 2011.

On November 8, 2011, the Troutdale City Council voted unanimously against adoption of the proposed code amendments. On December 13, 2011 the Troutdale City Council also unanimously passed a resolution indicating that the City's existing standards and provisions for development substantially comply with the performance standards and best management practices identified in Title 13 and the City's mapped natural resource areas substantially overlap with identified Title 13 Habitat Conservation Areas (Attachement A). Metro staff responded to the City's resolution on December 20, 2011, with a

detailed list of where the City was out of compliance with Title 13 (Attachment B). At the February 7, 2012 Metro Council Work Session, Metro's Chief Operating Officer indicated to the Council that Troutdale was out-of-compliance with Title 13 of the Urban Growth Management Functional Plan, and had no intention of re-visiting changes to their ordinance to come into compliance. The Metro Council made the determination to proceed with enforcement of the Urban Growth Management Functional Plan at that time, and a hearing was scheduled for April 12, 2012.

Metro Staff have worked with Troutdale staff for the last several years to finalize proposed code amendments that substantially comply with the requirements of Title 13 (see Timeline below). The proposed amendments do not change the coverage or protection level for natural resource land in Troutdale on privately-owned land. The proposed amendments do provide for a more refined mitigation process and a resource verification processes that will help city staff review future development proposals more efficiently and with greater clarity as to what is expected, consistent with regional requirements. The proposed amendments were recommended for approval by city staff, the Troutdale Citizens Advisory Committee and the Planning Commission. At this time, it appears the City Council does not want to follow the recommendation from staff or the advisory committees. Metro staff believes that the proposed code amendments are necessary for Troutdale to be in substantial compliance with Title 13.

Update: On March 1, 2012, Metro and Troutdale staff and elected officials met in an attempt to As of April 3, 2012, the Troutdale City Council has agreed to move forward with a new set of amendments to address the issue of compliance with Title 13. The amendments have been reviewed and agreed upon by Metro and City of Troutdale staff. The City has sent the proposed code amendments to The Department of Land Conservation and Development for the required 35-day review period. This submittal means that the earliest that the Troutdale City Council can have a 1st reading of the ordinance would be early to mid-May. It is reasonable to assume that the amendments will be adopted by mid June.

TIMELINE

The following represents a timeline of the significant events surrounding Title 13 compliance in Troutdale:

March 4, 2008- Troutdale Council Work session held to discuss compliance with Title 13. Metro staff describes the Nature in Neighborhoods program and requirements in a presentation to Troutdale City Council.

January 5, 2009- All local jurisdictions are required to be in compliance with Title 13 of the Urban Growth Management Functional Plan.

February 25, 2009- Initial staff report from Troutdale to Metro, outlining their analysis of current conditions in the City related to Title 13 and how they would approach new regulatory changes. City also provides a timeline for adoption of new ordinance.

April 1, 2009- Initial meeting of the Troutdale Citizen's Advisory Committee. CAC discusses proposed changes to Troutdale Development Code.

May 4, 2009- Metro staff meet with Troutdale staff to discuss proposed code changes.

May 6, 2009- Troutdale Citizen's Advisory Committee recommends approval of changes to Troutdale Development Code (vote total unknown). Amendments are sent to Planning and Zoning Commission for consideration.

May 20, 2009- Troutdale Planning and Zoning Commission discuss proposed changes to development code related to Title 13.

June 17, 2009- Metro staff attend and testify at Troutdale Planning and Zoning Commission meeting on behalf of the proposed changes to the development code that would address Title 13 requirements.

July 15, 2009- Troutdale Planning and Zoning Commission recommends approval of the changes to the Troutdale Development Code by a vote of 4-3. Amendments are sent to the Troutdale City Council for consideration.

October 13, 2009- Troutdale City Council meets to discuss the text amendments to the Troutdale Development Code, related to Title 13. Troutdale City Councils votes 4-2 to postpone the action indefinitely. Metro staff attend the meeting, but do not testify.

January 22, 2010- Metro staff begin the process of re-engaging the City of Troutdale on Title 13 through correspondence and meetings.

March 15, 2011- Council work session held to re-introduce Title 13 requirements and code changes to Troutdale City Council. A recent local election has produced new council members that need to be informed of Title 13 requirements and history of the current process.

September 27, 2011- 1st reading of development ordinance changes to comply with Title 13 is held by the Troutdale City Council. Metro staff are present but do not testify at this hearing. Troutdale City Council decides to postpone decision to November 8, 2011, pending an Open House for members of the public to learn more about the proposed changes.

October 26, 2011- Troutdale staff conduct an Open House for members of the public. Metro staff are told that they are not needed at the Open House.

November 8, 2011- Troutdale City Council unanimously votes 7-0 against the proposed development code changes needed to come into compliance with Title 13.

December 13, 2011- Troutdale City Council unanimously votes 7-0 on a resolution that finds their current codes to be compliant with Title 13, and submits that resolution to Metro for review.

January 9, 2012- Metro COO provides a letter to the City of Troutdale, informing them that they are technically out of compliance with Title 13 of the Urban Growth Management Functional Plan.

February 7, 2012- Metro Council sets an enforcement hearing date for April 12, 2012.

March 1, 2012- Metro and City of Troutdale elected officials and staff meet to discuss issues surrounding compliance with Title 13. At this meeting, a tentative agreement is reached on necessary code changes.

April 4, 2012- City of Troutdale submits code amendments related to Title 13 compliance to the Department of Land Conservation and Development for the required 35-day review period.

ENFORCEMENT OPTIONS

1. Direct application of functional plan requirements to City land use decisions
2. Withhold Metro's discretionary funds (e.g., transportation and planning funds) from the City
3. Seek an enforcement action by the state, which has authority to withhold cigarette and gas tax revenues from the City.

ANALYSIS INFORMATION

1. **Known Opposition.** To date, Metro has not received public comments from individuals, interest groups, or government agencies regarding Troutdale being out of compliance with Title 13.
2. **Legal Antecedents.** Policies in Metro's Regional Framework Plan and Title 13 of Metro's Urban Growth Management Functional Plan requires local jurisdictions to meet regional performance standards related to the protection of regionally identified fish and wildlife habitat. The purpose of Title 13 is to conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the stream's headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.
3. **Anticipated Effects.** Enforcement of Title 13 requirements will ensure consistent application of Title 13 habitat conservation area requirements to support protection of the region's fish and wildlife habitat. In addition, enforcement will act to discourage other jurisdictions from attempting to circumvent Title 13 requirements. Enforcement of Title 13, in this case particularly, will also serve to protect publicly owned properties acquired through the Metro Open Space Bond Measure program.
4. **Budget Impacts.** There are negligible budget impacts from this order.

RECOMMENDED ACTION

Staff recommends that the Metro Council continue the enforcement hearing process to June 14, 2012. This will allow the Troutdale City Council to hold the public hearings required to adopt the proposed code amendments. Should the Troutdale City Council fail to adopt the proposed code amendments, a decision on final enforcement action may be taken on June 14, 2012.



CITY OF TROUTDALE

"Gateway to the Columbia River Gorge"

December 14, 2011

Metro

Attn: Martha Bennett, Chief Operating Officer
600 NE Grand Avenue
Portland, Oregon 97232

Re: City of Troutdale Compliance with Urban Growth Management
Functional Plan, Title 13 Nature in Neighborhoods

Dear Ms. Bennett:

After lengthy consideration of amendments to the City's codes for compliance with Metro Title 13, the City Council adopted Resolution #2132 on December 13, 2011. The findings in Resolution #2132 demonstrate that the City's existing standards and provisions for development, as adopted in the Troutdale Development Code, the Troutdale Municipal Code and the Construction Standards for Public Works Facilities substantially comply with the performance standards and best management practices described in Metro Code Section 3.07.1340. In addition, the City's position is that the mapped and unmapped Metro Title 3 water quality and floodplain management areas within the City substantially overlap with the Metro Title 13 habitat conservation areas. The minutes of the Council's meeting of November 8, 2011 provide a deeper explanation of the Council's deliberations.

Sincerely,

A handwritten signature in black ink, appearing to read "Craig R. Ward", is written over a horizontal line.

Craig R. Ward, City Manager

Enclosures

cc: w/enc.

✓ Brian Harper, Assistant Regional Planner, Metro
City Community Development Department

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RESOLUTION NO. 2132

A RESOLUTION ESTABLISHING THAT THE CITY OF TROUTDALE DEVELOPMENT STANDARDS SUBSTANTIALLY COMPLY WITH TITLE 13 OF THE METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN—NATURE IN NEIGHBORHOODS.

THE TROUTDALE CITY COUNCIL FINDS AS FOLLOWS:

1. The City held numerous meetings, work sessions and hearings before the public in consideration of whether the City's codes needed to be amended to substantially comply with Metro Title 13—Nature in Neighborhoods:
 - a. March 4, 2008: introductory work session with the City Council with the Planning Commission and Citizens Advisory Committee.
 - b. November 5, 2008, December 3, 2008 and April 1, 2009: meetings before the Troutdale Citizens Advisory Committee.
 - c. May 20, 2009: public hearing before the Planning Commission.
 - d. May 27, 2009: work session with the Planning Commission and the City Council.
 - e. June 17 and July 15, 2009: public hearings before the Planning Commission. The Planning Commission adopted a recommendation to the Council on July 15, 2009.
 - f. September 15 and 22, 2009: work sessions with the City Council to consider text amendments recommended by the Planning Commission.
 - g. October 13, 2009: public hearing before the City Council to consider recommendations of the Planning Commission with changes as discussed at the September 15 and 22, 2009 Council work sessions. The City Council voted to postpone action indefinitely.
 - h. March 15 and August 16, 2011: work sessions with the City Council to consider text amendments considered on October 13, 2009.
 - i. September 27, 2011: public hearing before the City Council to consider text amendments discussed at the March 15 and August 16, 2011 work

sessions. The City Council directed staff to hold an open house on the proposed amendments.

- j. October 26, 2011: open house on proposed text amendments that were presented at the September 27, 2011 City Council hearing.
 - k. November 8, 2011: public hearing before the City Council to consider text amendments.
2. The purpose of Title 13 of the Metro Urban Growth Management Functional Plan—Nature in Neighborhoods (Section 3.07.1310) is:
- a. To conserve, protect, and restore a continuous ecologically viable streamside corridor system, from stream headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and
 - b. To control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.
3. The existing standards of Troutdale Development Code (TDC) Chapter 4.300 Vegetation Corridor and Slope Overlay, Chapter 4.600 Flood Management Area, 5.600 Erosion Control and Water Quality, 5.800 Stormwater Management, 9.000 Off-Street Parking and Loading, 11.000 Landscaping and Screening; along with the City of Troutdale Construction Standards for Public Works Facilities, and the Troutdale Municipal Code Chapter 13.10.270 Tree Removal carry out the stated purpose of Title 13. These standards for development apply to:
- a. Land next to protected water features, as defined by Metro as part of Title 3 and adopted into the Troutdale Development Code definitions;
 - b. The one percent annual chance floodplain (Special Flood Hazard Areas-SFHA) as mapped by FEMA on the Flood Insurance Rate Maps effective December 18, 2009;
 - c. The Vegetation Corridor and Slope District (VECO) as defined in TDC Section 1.040;
 - d. Wetlands identified on the U.S. Department of the Interior, Fish and Wildlife Service National Wetland Inventory 1988 (NWI) (as generally mapped on the Metro Title 3 map) and any other wetlands determined to

be subject to Oregon's wetland fill/removal laws as determined by the Oregon Division of State Lands.

- e. The aforementioned areas substantially overlap with areas identified by Metro on its Title 13 Habitat Conservation Area map.

4. The City's existing codes and standards:

- a. Include avoidance measures and are responsive to Metro Title 13 goals. The avoidance measures allow for flexibility in setbacks; increased height for apartments; clustering of homes; density transfers; and use of the Vegetation Corridor and Slope District as part of required landscaping in order to preserve that area from development.
- b. Include design and construction standards to minimize hydrologic impacts.
- c. Allow developers to use pervious paving materials in parking areas, driveways, aisles and turnarounds.
- d. Allow for the incorporation of stormwater quality facilities into the Vegetation Corridor and Slope District.
- e. Allow stormwater quality and management to be incorporated into the design of the public rights-of-ways on a case-by-case basis as the City of Troutdale Construction Standards for Public Works Facilities does not prohibit such alternative designs.
- f. Do not prohibit the collection of rooftop runoff into rain barrels for later use in lawn and garden watering or the use of rain gardens within landscaped areas to provide on-lot detention, filtering of rainwater, and groundwater recharge. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities allow developers to propose rain gardens and other alternatives. These alternatives are evaluated and approved on a case-by-case basis provided it is in compliance with Chapter 11 Storm Drainage of the State of Oregon Plumbing Specialty Code and the State Plumbing Code Approved Alternate Methods.
- g. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities do not prohibit the use of green roofs for runoff reduction, energy savings, improved air quality and enhanced aesthetics. Green roofs may be proposed, evaluated and approved on a case-by-case basis provided it is in compliance with Chapter 11 Storm

Drainage of the State of Oregon Plumbing Specialty Code and the State Plumbing Code Approved Alternate Methods.

- h. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities do not prohibit the disconnection of downspouts from roofs to redirect the flow of stormwater to rain gardens or the Vegetation Corridor. Downspouts disconnection may be proposed, evaluated and approved on a case-by-case basis provided it is in compliance with Chapter 11 Storm Drainage of the State of Oregon Plumbing Specialty Code and the State Plumbing Code Approved Alternate Methods.
- i. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities do not prohibit the use of multi-functional open drainage systems in lieu of more conventional curb-and-gutter systems. A multi-functional open drainage system may be proposed, evaluated and approved on a case-by-case basis provided it is in compliance with Chapter 11 Storm Drainage of the State of Oregon Plumbing Specialty Code and the State Plumbing Code Approved Alternate Methods.
- j. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities do not prohibit the use of bio-retention cells as rain gardens in landscaped parking lot islands to reduce runoff volume and filter pollutants, and may be proposed, evaluated and approved on a case-by-case basis provided it is in compliance with Chapter 11 Storm Drainage of the State of Oregon Plumbing Specialty Code and the State Plumbing Code Approved Alternate Methods.
- k. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities do not prohibit the use of a treatment train approach to provide multiple opportunities for stormwater treatment and reduce the possibility of system failure, and treatment trains may be proposed, evaluated and approved on a case-by-case basis provided it is in compliance with Chapter 11 Storm Drainage of the State of Oregon Plumbing Specialty Code and the State Plumbing Code Approved Alternate Methods.
- l. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities include a discretionary process (variance and/or deviation) for consideration of narrower driveways to reduce the impervious impacts of residential driveways within the Vegetation Corridor and Slope District on a case-by-case basis.

- m. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities allow residential access from the rear of a site in order to reduce impervious impacts within the Vegetation Corridor and Slope District.
- n. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities allow for shared driveway access on a case-by-case basis where there are easements for reciprocal ingress/egress or where such easements can be obtained.
- o. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities allow a developer to request narrower street rights-of-way, sidewalks on one side, and reduced travel lane width, through the discretionary review process when not in conflict with required fire access and ADA standards.
- p. The Troutdale Development Code and the City of Troutdale Construction Standards for Public Works Facilities require local streets to be laid out to permit efficient drainage and minimize the number and length of streets necessary to serve the development.
- q. The Troutdale Development Code design and construction standards for stream crossings minimize impacts on wildlife corridors and fish passage by encouraging the use of bridges rather than culverts, where practicable.
- r. Migratory routes of terrestrial wildlife have been mapped by Metro. However, only local streets are expected to be built in remaining undeveloped areas of the City. Local streets do not have barriers such as center dividers nor are they walled.
- s. The Troutdale Development Code requires the use of native plants exclusively within the Vegetation Corridor and Slope District and the floodplain and encourages the use of native plants throughout development when it is adjacent to the Vegetation Corridor and Slope District.
- t. The Outdoor Lighting standards of the Troutdale Municipal Code, Chapter 8.26, reduce light-spill into the Vegetation Corridor and Slope District because the standards require shielding of outdoor lights so that light is directed down and only directly illuminates the property upon which the light is located.

- u. Preservation of trees on undeveloped and underdeveloped property outside of the Vegetation Corridor and Slope District and/or the Flood Management Area is regulated by the Tree Removal standards of the Troutdale Municipal Code Chapter 13.10.270 and applies to trees of six inches in diameter or greater as measured at 4.5 feet above the ground on the upslope side of the tree.
- v. Tree preservation within the Vegetation Corridor and Slope District and Flood Management Area is regulated by the standards of Troutdale Development Code 4.315. The standards for vegetation removal and restoration apply to trees of any diameter within the Vegetation Corridor and Slope District and the Flood Management Area. If a developer meets the tree removal standards and trees are removed from the Vegetation Corridor and Slope District or the Flood Management Area, mitigation is required.
- w. The removal of old road culverts from within stream beds is important for the health of protected water features: standards in the Troutdale Development Code (TDC) already include the following provisions for new roads:
 - 1) TDC 4.614 Uses Within the Floodplain but Outside the Floodway and Outside Wetlands. B. Permitted Uses. 7. New culverts, stream crossings, and transportation projects may be permitted if designed as balanced cut and fill projects, or designed to not significantly raise the design flood elevation, and in compliance with the standards of section 4.617, Development Standards, of this chapter. Such projects shall be designed to minimize the area of fill in Flood Management Areas and to minimize erosive velocities. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable.
 - 2) TDC 4.615 Uses within the Floodway or within Wetlands. B. Permitted Uses within the Floodway or within Wetlands. 8. New culverts, stream crossings, and transportation projects necessary to implement the City, County, or State Transportation System Plans or other development permitted under this chapter, and as applicable, meet the specifications of the Oregon Department of State Lands, Oregon Department of Fish and Wildlife, and federal regulations.

- 3) TDC 4.617 Flood Management Area Development Standards. R. Utilities and Roads. 1. Stream crossings shall be as close to perpendicular to the stream as practicable. Bridges shall be used instead of culverts wherever practicable, and comply with the Oregon Department of Fish and Wildlife construction standards.
- x. Riparian areas are being enhanced within the City by cooperative efforts of property owners, the City and SOLV. The City already encourages the removal of invasive plants, such as English ivy and Himalayan blackberries and the planting of trees to reduce stream temperatures.
5. The existing standards of the Troutdale Development Code Chapters 4.300, 4.600, 5.600, 5.800, 9.000 and 11.000 implement the City of Troutdale Comprehensive Land Use Plan Goals 5, 6 and 7 policies for the protection of wildlife habitat, water quality and floodplain management as explained below.
 - a. Goal 5 Policy 1. The vegetation corridor area is a tool used to conserve open space between protected water features and development. The standards of these codes apply to areas generally mapped on Metro's Title 3 "Water Quality and Floodplain Management" map, wetlands mapped on the US Fish and Wildlife Service wetland inventory map as well as unmapped areas that meet the definition of vegetation corridor and slope district, wetlands, the 100-year floodplain as mapped by FEMA and 1996 floodplain as mapped by Metro.
 - b. Goal 5 Policy 2. Existing vegetation corridor, steep slope, erosion control and stormwater management development standards reduce potential pollution of domestic groundwater and surface water resources.
 - c. Goal 5 Policy 3. Existing Troutdale Development Code standards pertaining to the Vegetation Corridor and Slope District and the Flood Management Area, Erosion Control and Water Quality Standards and Stormwater Management standards, address the storage and disposal of hazardous substances.
 - d. Goal 5 Policy 4. Existing stormwater management standards in TDC 4.300 Vegetation Corridor and Slope District and TDC 5.800 Stormwater management satisfy this policy. The use of vegetated swales for stormwater quality within the vegetation corridor is allowed and encouraged.

- e. Goal 5 Policy 5. Where the management of drainageways does not conflict with flood control, vegetation corridors adjacent to drainageways may be maintained as specified in TDC 4.300 standards.
 - f. Only a maximum of 30% of the vegetation corridor may be used for development: the remaining 70% provides wildlife habitat characteristics including food, water, cover, breeding, nesting, resting and wintering areas.
 - g. Goal 5 Policy 7. The existing standards require mitigation for use of the vegetation corridor when development cannot avoid use of the vegetation corridor. The standards include limitations on how much of the vegetation corridor can be used (30-percent) and provide for a variance procedure.
 - H. Goal 5 Policy 8. Density transfers to avoid construction within the vegetation corridor and slope districts are permitted for single family residential development. Other density transfers are possible under the Planned Development standards of Troutdale Development Code 4.500.
 - i. Goal 6 Policy 5. The existing development standards maintain environmental quality by guiding future development and land use activities to avoid the vegetation corridor, steep slopes and floodplain, foremost, unless there is no other practical means of development. The standards prohibit activities within the vegetation corridor and slope district and floodplain that will significantly deteriorate the existing high quality of the air, water, and land resources.
 - j. Goal 6 Policy 6. The existing City standards adhere to federal and state standards relating to air and water quality.
 - k. Goal 7 Policy 2. The existing standards of Troutdale Development Code 4.600 Flood Management Area require that development occur in a manner that respects and retains natural vegetation in areas with sensitive features such as streams, creeks, and other bodies of water and steep slopes.
 - l. Goal 7 Policy 4. The existing standards of Troutdale Development Code 4.600 Flood Management Area require mitigating measures where development occurs on slopes of 25% or greater, which is consistent with this policy.
6. A balance between private property rights and environmental protection is required. While urban development may reduce habitat, there are cougars,

coyotes, beavers, and skunks traveling through Troutdale and more animals are believed to be using the Beaver Creek area today than there were two decades ago, including deer, which were not evident then.

7. Troutdale still has a prominent tree canopy (24% of the area) even after over 100-years of development. The Beaver Creek report of the Sandy River Basin Watershed points out that in Beaver Creek there are 12 native fish and 4 non-native fish that use the creek today. The fact that the Sandy River and Beaver Creek are productive fisheries is evidence that the existing rules are sufficiently stringent.
8. There are impacts on the Sandy River and Beaver Creek that extend beyond the City's boundaries over which the City has no control. The removal of Marmot Dam on the Sandy River and flooding in January 2011 had impacts on fish habitat to a greater degree than any one landowner under the current development standards. There are very few properties left in the City on the Sandy River or Beaver Creek that are yet undeveloped. Congress has appropriated \$13 million dollars to spend on the Sandy River. The Sandy River is not just a fish habitat river it is also used for recreation and must continue to be accessible for both uses.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TROUTDALE THAT:

Section 1. The existing Troutdale Development Code standards adopted for compliance with Metro Title 3 Water Quality And Floodplain Management pertaining to vegetation corridor and slope protection, floodplain management, parking lots, landscaping, erosion control, water quality and stormwater management; the existing City of Troutdale Construction Standards for Public Works Facilities; and the existing Troutdale Municipal Code standards tree removal and outdoor lighting standards already require habitat-friendly development practices and substantially comply with Title 13 of the Metro Urban Growth Management Functional Plan—Nature in Neighborhoods and amendments to the City Codes are unwarranted.

Section 2. This resolution shall be effective upon adoption.

YEAS: 6
NAYS: 0
ABSTAINED: 0


Mayor Jim Kight

Date December 15, 2011


Sarah Skroch, Deputy City Recorder

Adopted: December 13, 2011

Attachment 2



January 3, 2012

Craig R. Ward, City Manager
City of Troutdale
104 SE Kibling Avenue
Troutdale, OR 97060

Mr. Ward:

Thank you for your letter dated December 14, 2011, regarding Troutdale's compliance status with Urban Growth Management Functional Plan (Functional Plan) Title 13: Nature in Neighborhoods. Metro staff has reviewed the material included in Troutdale Resolution 2132 and does not concur with the findings in the resolution that Troutdale is in substantial compliance with Title 13 based on existing codes and protection measures. Metro staff does recognize the unique nature of the habitat areas in Troutdale and the significant protection measures Troutdale already has in place; however there are deficiencies in Troutdale's development code and protection measures that need to be amended in order to meet compliance with Title 13, including:

- Protection for habitat areas on publicly owned land;
- Adoption of mitigation standards for impacts to habitat areas;
- Documentation that the city has eliminated barriers to habitat friendly development practices;
- Clarification on the city's discretionary review process; and
- Clarification of a process for verification of the habitat areas.

As you know, your staff has been working on a set of code amendments since early 2009 to address the points listed above and meet substantial compliance with Title 13. These code amendments were reviewed and approved by the Troutdale Citizen's Advisory Committee and the Troutdale Planning and Zoning Commission and Metro staff indicated they were sufficient to meet the Title 13 requirements as outlined in our letter of October 12, 2009. The following is a list of the specific Title 13 requirements that are needed for substantial compliance and the proposed Troutdale staff amendments that address the requirements:

1. **Metro Code Section 3.07.1330.C & D:** *Protection measures shall contain Clear & Objective and a Discretionary approval process.* City staff proposed clarifying language to the Troutdale Development Code that addressed this requirement under Troutdale code sections 4.315.A & B.
2. **Metro Code Section 3.07.1330.G:** *Provide property owners with a reasonable, timely, and equitable process to verify habitat locations.* City staff proposed additional code language to Section 4.311.A of the Troutdale Development Code that would require the delineation of the habitat boundary when development is to occur in the Vegetation Corridor and Slope District (VECO).

3. **Metro Code Section 3.07.1330.B:** *Each city shall either adopt the Metro HCA map or demonstrate that maps that it has adopted and references substantially comply with Metro's HCA maps.* Although the City has not proposed to adopt the Metro HCA maps, existing coverages (VECO, Steep Slopes, Water Quality) within the City leave approximately 18 acres of identified HCAs on privately held land unprotected. This is less than 3% of the total amount of HCA land within the City limits and the vast majority of these unprotected areas can be found along the edge of protected areas, indicating potential issues with the mapping of the habitat areas. This small amount of unprotected habitat area combined with the delineation requirement noted above in item 2 negated the need for additional mapping or extending protection to new properties.
4. **Metro Code Section 3.07.1340.A.5:** *Habitat Conservation Areas (HCAs) within publicly owned parks and open spaces that have been designated as natural areas and are not intended for future urban development shall be protected.* The Metro Council included this provision to send a clear message that if local and regional governments are going to require protections on privately owned important sensitive lands, they must clearly hold themselves to the same, if not higher standard, as the public at-large. By the City's own calculations, there are 130 acres of publicly-owned land in Troutdale that is covered by a Metro identified HCA but left unprotected by Resolution 2132. City staff proposed code language that referenced the identified habitat areas on public lands and required the protection of the habitat areas without additional mapping of the areas.
5. **Metro Code Section 3.07.1330.E:** *Identify and remove barriers to Habitat Friendly Development Practices (HFDPs).* As part of compliance with Title 13, jurisdictions are required to identify provisions in their comprehensive plans and implementing ordinances that prohibit or limit the use of HFDPs and remove the barriers identified in those documents so that HFDPs may be used where practicable. Table 3.07-13c of Title 13 provides examples of HFDPs for use in the code review. In 2007, Metro staff completed a HFDP code review audit for the City to utilize in its compliance process. This audit provided code amendment recommendations that would meet the intent of the HFDP component of Title 13. A similar type of detailed description of how Troutdale is meeting these recommendations (which codes or documents they occur in), or reasons why compliance with some of the practices are not reasonable, is required to determine the City's compliance with the HFDP portion of Title 13.
6. **Metro Code Section 3.07.1340.B.2.c:** *Mitigate impacts on HCAs and Water Quality.* The current version of the Troutdale Vegetation Corridor and Slope District (VECO) does not contain numeric values for mitigation of disturbed vegetation in protected areas. City staff proposed the inclusion of new numeric standards for mitigation of disturbed areas in Troutdale Development Code section 4.315.B.2-5. These new standards would offer more clarity and certainty to property owners and potential developers concerning how/where/when mitigation will occur on development projects.

Metro staff supported these proposed amendments to the current Troutdale Development Code as a means to obtain "substantial compliance" with Title 13. The failure of the Troutdale City Council to adopt these changes means that the current guidelines and protection measures contained in the Troutdale Development Code do not provide the City with "substantial compliance" with Title 13.

Because the City's land use regulations do not comply with Title 13, and the extension of time granted by the Metro Council to revise the city's regulations to bring them into compliance expired on December 31, 2011, I will recommend to the Metro Council that it begin an enforcement

proceeding. The process for ensuring compliance with functional plan requirements is contained in Title 8 of the Urban Growth Management Functional Pan. Under Title 8, if the Council finds, after a public hearing, that the City is not in compliance with Title 13, it must adopt a remedy. Possible remedies include direction to the City to make specified changes to its land use regulations; direct application of functional plan requirements to City land use decisions; withholding Metro's discretionary funds (e.g., transportation and planning funds) from the City; and seeking an enforcement action by the state, which has authority to withhold cigarette and gas tax revenues from the City.

Of course, the City Council can avoid an enforcement action by adopting the proposed amendments that were recommended by the Citizen's Advisory Committee, the Troutdale Planning and Zoning Commission and your planning staff. Please do not hesitate to contact me if you would like to discuss this issue further.

Sincerely,

Martha Bennett
Chief Operating Officer
Metro

cc: Metro Council
Robin McArthur, Planning Director
Brian Harper, Assistant Regional Planner

Agenda Item No. 5.1

Ordinance No. 12-1276, For the Purpose of Amending Metro Code Chapter 3.09, Local Government Boundary Changes, to Conform to New Legislation and to Improve the Boundary Change Process.

Ordinances – Second Reading

Metro Council Meeting
Thursday, April 12, 2012
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO) Ordinance No. 12-1276
CODE CHAPTER 3.09, LOCAL GOVERNMENT)
BOUNDARY CHANGES, TO CONFORM TO NEW) Introduced by Councilor Barbara Roberts
LEGISLATION AND TO IMPROVE THE)
BOUNDARY CHANGE PROCESS)

WHEREAS, ORS 268.347 to 268.354 charges Metro with responsibilities for the process of changing local government boundaries in the region; and

WHEREAS, the 2011 Oregon Legislature revised the responsibilities assigned to Metro, reducing the types of local government service districts whose boundary changes Metro must regulate; and

WHEREAS, clarification of Metro’s administrative role in the processing of final changes to local government boundaries would simplify and improve the boundary change process; and

WHEREAS, the Council held a public hearing on the proposed amendments on April 12, 2012; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 3.09, Local Government Boundary Changes, is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The Findings of Fact and Conclusions of Law, set forth in Exhibit B, attached and incorporated into this ordinance, explain how the amendments comply with state and regional laws.

ADOPTED by the Metro Council this 12th day of April 2012.

Tom Hughes, Council President

Attest:

Approved as to Form:

Kelsey Newell, Regional Engagement Coordinator

Alison Kean Campbell, Metro Attorney

**AMENDMENTS TO METRO CODE CHAPTER 3.09
LOCAL GOVERNMENT BOUNDARY CHANGES**

3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS ~~268.347 to~~ 268.354. This chapter applies to ~~all~~ boundary changes within the boundaries of Metro or of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary (UGB).

3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

- A. "Adequate level of urban services" means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate design type in section 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.
- B. "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.
- C. "Affected territory" means territory described in a petition.
- D. "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of urban reserves designated.
- E. "Deliberations" means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.
- ~~F. "District" means a: district defined by ORS 199.420 or any district subject to Metro boundary procedure act under state law.~~
 - ~~1. Domestic water supply district organized under ORS chapter 264;~~

Exhibit A to Ordinance No. 12-1276

2. Park and recreation district organized under ORS chapter 266;
3. Metropolitan service district organized under ORS chapter 268;
4. Sanitary district organized under ORS 450.005 to 450.245;
5. Sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989; or
- 4.6. District formed under ORS 451.410 to 451.610 to provide water or sanitary service.

F.G. "Final decision" means the action by a reviewing entity, ~~whether~~ adopted by ordinance, resolution or other means, ~~which is the determination of that determines~~ compliance of the proposed boundary change with applicable criteria and ~~which~~ requires no further discretionary ~~decision or~~ action by the reviewing entity other than any required referral to electors. "Final decision" does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors, ~~or~~ to declare the results of an election, or ~~any action~~ to defer or continue deliberations on a proposed boundary change.

G.H. "Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.

H.I. "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a ~~city-~~ county to a city. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.

I.J. "Necessary party" means any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

Exhibit A to Ordinance No. 12-1276

~~J.~~K. "Petition" means any form of action that initiates a boundary change.

~~K.~~L. "Reviewing entity" means the governing body of a city, county or Metro, or its designee.

~~L.~~M. "Urban reserve" means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

~~M.~~N. "Urban services" means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

3.09.030 Notice Requirements

- A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.
- B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.
- C. The notice required by subsection (b) shall:
 - 1. Describe the affected territory in a manner that allows certainty;
 - 2. State the date, time and place where the reviewing entity will consider the boundary change; and
 - 3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.

Exhibit A to Ordinance No. 12-1276

- D. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (b) of this section at least five days prior to the continued date of decision.
- E. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060.

3.09.040 Requirements for Petitions

- A. A petition for a boundary change must contain the following information:
 - 1. The jurisdiction of the reviewing entity to act on the petition;
 - 2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
 - 3. For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and
 - 4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.
- B. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

3.09.045 Expedited Decisions

- A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.

Exhibit A to Ordinance No. 12-1276

- B. The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.

- C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:
 - 1. The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;
 - 2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
 - 3. The proposed effective date of the boundary change.

- D. To approve a boundary change through an expedited process, the city shall:
 - 1. Find that the change is consistent with expressly applicable provisions in:
 - a. Any applicable urban service agreement adopted pursuant to ORS 195.065;
 - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
 - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
 - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - e. Any applicable comprehensive plan; and
 - f. Any applicable concept plan; and
 - 2. Consider whether the boundary change would:
 - a. Promote the timely, orderly and economic provision of public facilities and services;
 - b. Affect the quality and quantity of urban services; and

Exhibit A to Ordinance No. 12-1276

- c. Eliminate or avoid unnecessary duplication of facilities or services.
- E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

- A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.
- B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:
 - 1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
 - 2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
 - 3. The proposed effective date of the boundary change.
- C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.
- D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of section 3.09.045.

~~3.09.060 Ministerial Functions of Metro Process to Make Boundary Change Effective~~

- A. ~~Metro shall create and keep current maps of all service provider service areas and the jurisdictional boundaries of all cities, counties and special districts within Metro. The maps shall be made available to the public at a price that reimburses Metro for its costs. Additional~~

Exhibit A to Ordinance No. 12-1276

~~information requested of Metro related to boundary changes shall be provided subject to applicable fees. After a reviewing entity makes a final decision on a boundary change, the entity and Metro shall follow the process set forth below:~~

- ~~1. The reviewing entity shall send its final decision, with the map, legal description and other supporting materials required by law, to the Oregon Department of Revenue (DOR);~~
- ~~2. The DOR will review the materials to determine whether they are in final approval form and notify the reviewing entity of its determination;~~
- ~~3. The reviewing entity shall send its final decision, with supporting materials and the DOR approval, to Metro;~~
- ~~4. Metro shall record and map the final decision, with supporting materials and DOR determination, and send it to the Secretary of State (SOS), the reviewing entity, the appropriate county assessor's and elections offices, making the final decision effective on the date of Metro's submittal;~~
- ~~5. The SOS will send its filing letter to Metro;~~
- ~~6. Metro shall post the final decision, supporting materials, the DOR determination and the SOS filing letter at the Metro website.~~

~~The Metro Chief Operating Officer (COO) shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor and elections officer, the Oregon Secretary of State and the Oregon Department of Revenue. Notification of public utilities shall be accomplished as provided in ORS 222.005(1)-B. If a reviewing entity notifies Metro that the entity needs expedited treatment of its final decision at the time the entity sends its decision to the DOR, Metro will ensure it completes Step 4 in subsection A within 24 hours of its receipt of the final decision and DOR determination from the entity.~~

~~2. _____~~

~~C. The COO shall establish a fee structure establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, and for related services by the reviewing entity with submittal of its final decision in Step 3 of subsection A to cover Metro's costs for the~~

~~services set forth in this section. The fee schedule shall be filed~~COO shall file the fee schedule with the Clerk of the Council Clerk and ~~distributed~~send it to all cities, counties and special districts ~~within~~in the Metro region.

3. ~~D. Metro shall create and keep current maps of all service provider service areas~~district boundaries and the ~~jurisdictional boundaries of all cities~~ and ~~counties and special districts~~ within Metro. ~~The maps and any additional information requested that relates to boundary changes~~ shall be made available to the public at a price that reimburses Metro for its costs. ~~Additional information requested of Metro related to boundary changes shall be provided subject to applicable fees.~~

3.09.070 Changes to Metro's Boundary

- A. Changes to Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or other public agencies if allowed by ORS 198.850(3). Petitions shall meet the requirements of section 3.09.040 above. The COO shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.
- B. Notice of proposed changes to the Metro boundary shall be given as required pursuant to section 3.09.030.
- C. Hearings shall be conducted consistent with the requirements of section 3.09.050.
- D. Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.
- E. The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:
1. The affected territory lies within the UGB;
 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and

Exhibit A to Ordinance No. 12-1276

3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.
- F. Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in this section.

3.09.080 Incorporation of a City that Includes Territory within Metro's Boundary

- A. A petition to incorporate a city that includes territory within Metro's boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in subsections (a), (c), and (e) of section 3.09.050, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.
- B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.
- C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(d). An approving entity shall demonstrate that:
 1. Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
 2. The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and
 3. Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute.

3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.

Exhibit B to Ordinance No. 12-1276

Findings of Fact and Conclusions of Law

[PLACEHOLDER]

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 12-1276, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 3.09, LOCAL GOVERNMENT BOUNDARY CHANGES, TO CONFORM TO NEW LEGISLATION AND TO IMPROVE THE BOUNDARY CHANGE PROCESS

Date: March 20, 2012

Prepared by: Dick Benner (1532)

BACKGROUND

The 2011 Oregon Legislature passed (and the Governor signed) a bill introduced for Metro to reduce the types of local government service districts whose boundary changes Metro must regulate and track. The Legislature removed types of districts – such as vector control and highway lighting districts – whose activities do not relate to Metro’s missions. Metro must now conform its code to the new law.

DRC and OMA took the opportunity to draft improvements to the boundary change process and vetted the changes with local governments in the region and the Oregon Department of Revenue (ODOR) and the Secretary of State’s office (SOS) to ensure practicality and acceptance. After thorough discussion with these practitioners, we reached consensus on the changes. The process changes clarify the steps cities, counties, districts, Metro and ODOR/SOS take to finalize a boundary change.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition. A group of local government boundary change practitioners reached consensus on the changes to the process.
2. **Legal Antecedents:** ORS 268.347 to 268.354 charge Metro with responsibility to regulate and track city and service district boundary changes in the region. The Oregon Legislature enacted Senate Bill 48 in the 2011 session to reduce the types of service districts Metro must track to those whose services relate to Metro missions.
3. **Anticipated Effects:** Adoption of the amendments will clarify and simplify the boundary change process for Metro and other local governments.
4. **Budget Impacts:** Adoption of the amendments is expected to have a small, positive effect on Metro’s costs to carry out its duties under the statute.

RECOMMENDED ACTION

DRC and OMA recommend that the Council adopt the amendments to Metro Code Chapter 3.09.

Agenda Item No. 6.1

Resolution No. 12-4340, For the Purpose of Revising the 2011
Land Use Final Order for the Expo Center/Hayden Island
Segment of the South/North Light Rail Project on Remand for
LUBA and the Oregon Supreme Court.

Resolutions

Metro Council Meeting
Thursday, April 12, 2012
Metro, Council Chamber

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REVISING THE 2011	)	RESOLUTION NO. 12-4340
LAND USE FINAL ORDER FOR THE EXPO)	
CENTER/HAYDEN ISLAND SEGMENT OF THE	)	Introduced by Councilor Rex Burkholder
SOUTH/NORTH LIGHT RAIL PROJECT ON)	
REMAND FROM LUBA AND THE OREGON)	
SUPREME COURT)	

WHEREAS, the Oregon Legislature enacted Oregon Laws 1996, Chapter 12 (the Act), establishing procedures for developing the South/North MAX Light Rail Project through adoption by the Metro Council of a Land Use Final Order (LUFO); and

WHEREAS, on August 11, 2011, the Metro Council adopted a Land Use Final Order (LUFO) for the segment of the South/North MAX Light Rail Project extending northward from the Expo Center and the Interstate 5/Victory Boulevard Interchange to the Oregon/Washington state line; and

WHEREAS, among other things, the 2011 LUFO approved new two-tier northbound and southbound Interstate-5 Columbia River bridges - with highway on the upper decks, light rail on the lower deck of the southbound bridge, and bicycle and pedestrian facilities on the lower deck of the northbound bridge - a portion of which extend from Hayden Island to the Oregon-Washington state line; and

WHEREAS, in *Weber Coastal Bells Limited Partners v. Metro*, LUBA 2011-80 to 2011-83 (October 26, 2011), affirmed by the Oregon Supreme Court (SC S059872, February 16, 2012), LUBA upheld the 2011 LUFO on all issues except one: LUBA and the Court remanded the LUFO to Metro, ruling that the Council exceeded its authority under the Act by approving light rail facilities and associated improvements between the northern boundary of Hayden Island and the state line because the Act authorizes the Council to adopt LUFOs for the South/North Project only within Metro's UGB; and

WHEREAS, section 10(4) of the Act directs the Council to respond to matters remanded by adopting by resolution a land use final order on remand; and

WHEREAS, on March 9, 2012, TriMet submitted a letter to the Metro Council seeking a revision to the boundary of the 2011 LUFO to remove the portion of the project that extends north of the UGB to the state line in order to conform to the remand from LUBA and the Oregon Supreme Court; and

WHEREAS, on March 29, 2012, Metro published in *The Oregonian* a notice of a public hearing before the Metro Council to consider revision to the 2011 LUFO, such notice containing all the information required by section 7 of the Act; and

WHEREAS, Metro sent notice of the public hearing on March 29, 2012, to TriMet, ODOT, Clackamas and Multnomah counties and the cities of Portland, Milwaukie, Gladstone, Gresham, and Oregon City, and also to the parties to the proceeding before the Land Use Board of Appeals; and

WHEREAS, the Council finds and determines that *The Oregonian* is a newspaper of general circulation in the region and the above-described notices are reasonably calculated to give notice to persons who may be affected substantially by a decision to revise the 2011 LUFO on remand; and

WHEREAS, on March 29, 2012, Metro made available for public inspection a staff report addressing compliance of the proposed revision to the 2011 LUFO with the requirements of the Act; and

WHEREAS, the Council held a public hearing on the proposed revision to the 2011 LUFO on remand on April 12, 2012; and

WHEREAS, the Council President made a statement at the beginning of the hearing containing the information required by section 7 of the Act; and

WHEREAS; the Council considered the decisions of the Land Use Board of Appeals and the Oregon Supreme Court, TriMet's letter, Metro's official UGB map, the staff report, the Findings of Fact and Conclusions of Law and all relevant public testimony presented at the hearing on the proposed revision to the 2011 LUFO; and

WHEREAS, the new two-tier northbound and southbound Interstate-5 Columbia River bridges between the UGB and the state line, with highway on the upper decks of the northbound and southbound bridges, light rail on the lower deck of the southbound bridge, and bicycle and pedestrian facilities on the lower deck of the northbound bridge have received land use approval in Metro's 2035 Regional Transportation Plan (RTP) and the city of Portland's Transportation Plan (TSP), both acknowledged under state planning laws; now, therefore,

BE IT RESOLVED THAT the Metro Council:

1. Hereby adopts the Revised 2011 Land Use Final Order (LUFO) for the Expo Center/Hayden Island Segment of the South/North Light Rail Project, attached and incorporated into this resolution as Exhibit A, including the locations of the light rail route, station and highway improvements extending north from the Expo Center and the Victory Boulevard Interchange to the urban growth boundary at the north shore of Hayden Island and as shown in Exhibit A to be identical to the LUFO boundary in the March 9, 2012, letter from TriMet to the Metro Council.
2. Adopts the Findings of Fact and Conclusions of Law, attached and incorporated into this resolution as Exhibit B, as the Council's written findings demonstrating how the Revised 2011 LUFO complies with the Act and the applicable criteria.

ADOPTED by the Metro Council this 12th day of April, 2012.

Tom Hughes, Council President

Approved as to form:

Alison Kean Campbell, Metro Attorney

Draft
Exhibit A to Resolution No. 12-4340

Revised 2011 South/North Land Use Final Order

**On Remand from the Land Use Board of Appeals
and the Oregon Supreme Court**

**Columbia River Crossing Project
Expo Center/Hayden Island Segment**

Adopted by the Metro Council

April 12, 2012

DRAFT: UPDATED 2/23/12

Background

On August 11, 2011, the Metro Council adopted Resolution No. 11-4280, approving a Land Use Final Order (LUFO) for the Columbia River Crossing segment of the South/North Light Rail Project extending northward from approximately the Expo Center and the Interstate 5/Victory Boulevard Interchange to the Oregon/Washington state line. Among other things, that 2011 LUFO approved new two-tier northbound and southbound Interstate-5 Columbia River bridges between Hayden Island and the state line, with highway on the upper decks of the northbound and southbound bridges, light rail on the lower deck of the southbound bridge, and bicycle and pedestrian facilities on the lower deck of the northbound bridge. It also approved the widening of I-5 and removal of the existing I-5 bridges between Hayden Island and the state line.

While Metro's jurisdictional boundary extends to the Oregon/Washington state line, its urban growth boundary (UGB) ends at the northern shoreline of Hayden Island. In *Weber Coastal Bells Limited Partners v. Metro*, ___ Or LUBA ___ (LUBA Nos. 2011-080, 2011-081, 2011-082 and 2011-083, October 26, 2011), *affirmed* ___ Or ___ (SC S059872, February 16, 2012), LUBA ruled that the Council exceeded its jurisdiction by approving light rail facilities and highway improvements between the northern shoreline of Hayden Island and the Oregon/Washington state line because the controlling law, Oregon Laws 1996, Chapter 12 (House Bill 3478) authorizes the Council to adopt LUFOs for the South/North Project only within Metro's UGB. LUBA held: "The portion of the LUFO that approves the portion of the Project that is located outside the UGB is remanded. The portions of the LUFO that approve the part of the Project that is located inside the UGB are affirmed." Slip opinion at 32-33.

LUBA's ruling on this issue was not appealed to the Oregon Supreme Court. Consequently, it controls this proceeding on remand. On those LUBA rulings that were appealed, which LUBA had decided in Metro's favor, the Supreme Court affirmed LUBA's opinion. Consequently, those decisions are final and no additional land use decision-making is required.

The Council now adopts this revision to the 2011 LUFO (Revised 2011 LUFO) as requested by TriMet, to conform its decision to LUBA's remand. As described textually below and as illustrated in the attached figures, the project improvements located outside the UGB have been removed from this Revised 2011 LUFO, while the project improvements within the UGB have been retained.

Because the provisions of HB 3478 do not apply to the section of the Columbia River Crossing segment of the South/North Project between the UGB and the state line, the Columbia River Crossing Project light rail facilities and highway improvements to be located within this area must gain authorization through the usual land use decision-making processes. As it found in its findings supporting the 2011 LUFO, the Council finds that this has already occurred. Specifically, it finds that the new I-5 bridges, the light rail alignment and I-5 widening between the northern shoreline of Hayden Island and the Oregon/Washington state line are authorized in Metro's acknowledged 2035 Regional

Transportation Plan (RTP) and the City of Portland's acknowledged Transportation System Plan (TSP).¹

Introduction

This document constitutes a Land Use Final Order for the South/North Project in accordance with Oregon Laws 1996, Chapter 12 (House Bill 3478). This Revised 2011 LUFO, modified to conform to the remand from LUBA and the Oregon Supreme Court, is the fifth in a series of LUFOs adopted by the Metro Council that established or amended the light rail route, light rail stations, light rail park-and-ride lots and maintenance facilities, and the highway improvements for the South/North Project, including their locations. The four previously adopted LUFOs are as follows:

- On July 23, 1998, the Metro Council adopted Resolution No. 98-2673 (the 1998 LUFO), establishing the initial light rail route, stations, lots and maintenance facilities and the highway improvements, including their locations, for the South/North Project.
- On October 28, 1999, the Metro Council adopted Resolution No. 99-2853A (the 1999 LUFO), amending the 1998 LUFO to reflect revisions for that portion of the South/North Project extending from the Steel Bridge northward to the Portland Metropolitan Exposition Center (Expo Center), primarily along Interstate Avenue. The 1999 LUFO modified the northern light rail alignment; established, relocated or expanded light rail station locations along that alignment; and authorized park-and-ride lots at Portland International Raceway (PIR) and the Expo Center along the light rail route.
- On January 15, 2004, the Metro Council adopted Resolution No. 03-3372 (the 2004 LUFO), further amending the previous South/North LUFO resolutions to (1) establish the light rail route, stations and park-and-ride lots, including their locations, along the Interstate-205 right-of-way from the Gateway Transit Center to Clackamas Regional Center; (2) modify the route along the downtown Portland Transit Mall to extend light rail transit (LRT) to Portland State University (PSU) and establish, adjust or relocate station locations; (3) modify the 1998 LUFO for the segment from Portland to Milwaukie by revising the alignment and adding study areas; (4) remove the 1998 LUFO designations from Milwaukie to Clackamas Regional Center; and (5) complete technical amendments to the 1999 LUFO alignment to reflect the final built configuration at certain stations consistent with the Full Funding Agreement Grant approved by the Federal Transit Administration.
- On July 25, 2008, the Metro Council adopted Resolution No. 08-3964 (the 2008 LUFO), amending the 1998 and 2004 South/North LUFOs as they relate to the

¹ See RTP Project 10893 (Replace I-5/Columbia River bridges and improve interchanges on I-5); RTP Project 10902 (MAX Light Rail: CRC I-5 Northern Extension, Expo to Vancouver); TSP Project 30020 (Improve I-5/Columbia River Bridge); and TSP Project 30033 (Extend light rail service from Expo Center to Vancouver, Washington).

segment of the South/North Project extending from Portland State University (PSU) in downtown Portland through SE Portland and downtown Milwaukie to SE Park Avenue in unincorporated Clackamas County. The 2008 LUFO realigned the light rail route between PSU and SE 7th Avenue; established the route from SE Tacoma Street to SE Park Avenue; relocated light rail stations or authorized new stations along the light rail route; and established the park-and-ride lots and highway improvements for the Portland to Milwaukie segment.

This Revised 2011 LUFO amends the 1998 LUFO as it relates to the segment of the South/North Project in north Portland extending northward from the Expo Center and the Interstate 5/Victory Boulevard Interchange to the northern shoreline of Hayden Island, which is the boundary of the UGB.² This Revised 2011 LUFO realigns the light rail route between the Expo Center and the northern shore of Hayden Island westward from its alignment in the 1998 LUFO and it relocates the Hayden Island station west of its previous location. It also establishes a number of highway improvements, including the portions of new northbound and southbound Interstate-5 bridges that are located within Metro's UGB; widening of Interstate 5 in both directions between approximately N Victory Boulevard and the northern shoreline of Hayden Island; new or modified interchanges at N Marine Drive, Hayden Island and Victory Boulevard; a new integrated rail/vehicular/bicycle pedestrian bridge connecting Hayden Island with the Expo Center; and roadway realignments, widenings, modifications and new connections within the project area. This Revised 2011 LUFO further provides for expansion and improvement of the Ruby Junction Maintenance Facility along NW Eleven Mile Avenue in Gresham within the facility boundaries established in the 2008 LUFO, to accommodate and maintain additional LRT vehicles associated with the Columbia River Crossing Project.

While the Columbia River Crossing Project provides for a light rail alignment and highway improvements on two new I-5 bridges connecting Hayden Island with Vancouver, Washington, this Revised 2011 LUFO addresses only those portions of these improvements that are located within Metro's UGB. The remaining portions of these light rail and highway improvements are authorized through the acknowledged 2035 RTP and the City of Portland's TSP.

1. Requirements of House Bill 3478

Chapter 12 of the 1998 Oregon Laws (House Bill 3478) provides procedures for siting the South/North light rail route, associated light rail facilities, and the highway improvements included in the South/North Project. In brief, it provides a set of regulations for making and for appealing land use decisions related to the South/North Project as it may be amended or extended from time to time. The law includes a provision directing the Land Conservation and

² The 1998 LUFO included a light rail alignment extending beyond the UGB to the Oregon/Washington state line. The Council finds that its use of LUFO procedures for the portion of the Project outside its UGB exceeded its authority. It finds that outside the UGB, the 2035 RTP and Portland's TSP now supersede and control the nature and location of the Project.

Development Commission (LCDC) to adopt criteria for land use final orders; a requirement that TriMet make application for land use final orders; requirements for how the Metro Council conducts its public hearings; and procedures for appeal.

Pursuant to House Bill 3478, upon a pplication by TriMet and following an initial public hearing held on August 11, 2011, the Council adopted the 2011 LUFO. Now on remand, upon receipt of a letter from TriMet requesting Council action to conform the 2011 LUFO to the remand, and following a public hearing on remand held on April 12, 2012, and in consideration of the whole record and based on a finding that there is substantial evidence supporting the proposed action, the Metro Council hereby adopts this Revised 2011 LUFO for the South/North Project by Resolution No. 12-4340.

2. Establishment of Columbia River Crossing Project Light Rail Routes, Stations, Maintenance Facilities and Highway Improvements, Including their Locations

The Metro Council reconfirms its approval in the 2011 LUFO of the light rail route, light rail station and highway improvements identified textually below and illustrated in the location boundary maps (**Figures 1.1 to 1.3**) that follow. These light rail facilities and highway improvements and their location boundaries are identical to those that the LUFO Steering Committee and ODOT recommended to TriMet, that TriMet included in its application for a LUFO amendment, and that the Council adopted in the 2011 LUFO, with the sole exception that they exclude those improvements located outside Metro's UGB between the northern shoreline of Hayden Island and the Oregon/Washington state line. As it did in the 2011 LUFO, the Metro Council also reconfirms its approval in the 2011 LUFO of the expansion and improvement of the Ruby Junction Maintenance Facility within the location boundaries established in the 2008 LUFO to accommodate light rail vehicles associated with the Columbia River Crossing Project. **See Figure 2.1.**

The LUFO boundary maps contained in this order were prepared using cad line work of proposed improvements on top of aerial photos taken in 2005 and 2007. The maps illustrate the adopted boundaries at an approximate scale of one inch equals 400 feet. The boundaries shown on these maps represent the areas within which the light rail facilities and highway improvements may be located.

Preliminary and final engineering have not yet been completed. Preliminary and advanced preliminary engineering will continue until about October, 2012, when the Project is expected to enter into its final engineering phase. With more detailed engineering and environmental information available, some variations from the illustrations in the attached figures may be needed when the project is built. Accordingly, the LUFO shows a larger, more generalized boundary than that actually needed for the track alignment, station and highway improvements to accommodate such variations. Final location of the light rail facilities and highway improvements anywhere within the boundaries found on the LUFO maps would be consistent with this LUFO.

The 1998 LUFO established a light rail alignment that included a segment extending from downtown Portland across the Steel Bridge and through northeast and north Portland to the

Expo Center and the Oregon/Washington state line. The 1999 LUFO amended the light rail alignment for that portion located between approximately the Steel Bridge and the Expo Center.

This Revised 2011 LUFO further modifies the 1998 LUFO by:

- 1) Relocating the light rail alignment and Hayden Island station farther to the west within Metro's UGB;
- 2) Relocating the light rail alignment between the Jantzen Beach station and the northern shoreline of Hayden Island onto the lower tier of a new southbound Interstate 5 bridge;
- 3) Providing significant highway improvements between approximately N. Victory Boulevard and the northern shoreline of Hayden Island, including but not limited to portions of new northbound and southbound Interstate 5 bridges to accommodate highway, rail, pedestrian and bicycle travel; widening of northbound and southbound Interstate 5 within the UGB to accommodate three travel lanes and two auxiliary lanes; and interchange and roadway modifications and improvements and new roadway improvements within the UGB.

In the 1998 LUFO there were two segments that, together, provided LRT service between the Expo Center and the northern shoreline of Hayden Island. These segments were the North Portland segment and the Hayden Island segment. In the 1999 LUFO, the Metro Council renamed the portion of the North Portland segment extending from south of the Columbia Slough near N Columbia Boulevard to the Expo Center the "Expo Center Segment." This Revised 2011 LUFO retains the name "Expo Center Segment" and extends it to N Marine Drive, where the Hayden Island Segment begins. This Revised 2011 LUFO also extends the Expo Center and Hayden Island segments east of Interstate 5 approximately 2,500 feet to include all areas within the UGB identified for highway improvements. For convenience purposes, these two segments are consolidated and addressed as a single segment (Expo Center/Hayden Island).

Light Rail Alignment and Station

From the Expo Center station, the light rail alignment proceeds northward under N Marine Drive and onto a new, integrated light rail/vehicular/bicycle/pedestrian bridge crossing over the North Portland Harbor onto Hayden Island west of I-5. The alignment then continues northward to the northern shoreline of Hayden Island, crossing over N Hayden Island Drive onto the lower deck of the new southbound Interstate 5 bridge. Pursuant to other land use approvals, the Project will continue over the Columbia River into Vancouver, Washington.

A single light rail station is located in the Expo Center/Hayden Island Segment. The Hayden Island Station will be elevated and positioned adjacent to I-5, over or near Tomahawk Island Drive. Tomahawk Island Drive will be extended under I-5 to provide a third east/west street connection for Hayden Island.

There are no new park-and-ride lots or maintenance facilities within the Expo Center/Hayden

Island Segment.

Highway Improvements

The highway improvements in the Expo Center/Hayden Island Segment include the following:

1. The portions of new northbound and southbound I-5 Columbia River bridges within the UGB, and removal of those portions of the existing I-5 Columbia River bridges within the UGB. The new southbound bridge is a two-tier bridge with highway on the upper deck and light rail on the lower deck. The new northbound bridge is a two-tier bridge with highway on the upper deck and bicycle and pedestrian facilities on the lower deck. Each new bridge will include three travel lanes and two auxiliary lanes.
2. Widening of I-5 in both the northbound and southbound directions within the UGB between N Victory Boulevard and the northern shoreline of Hayden Island. Northbound, I-5 will widen from three travel lanes at N Victory Boulevard to three travel lanes and two auxiliary lanes on the new northbound I-5 Columbia River bridge. Southbound, I-5 will narrow from three travel lanes and two auxiliary lanes on the new southbound I-5 Columbia River bridge to three lanes south of N Victory Boulevard.
3. A newly designed I-5/Marine Drive interchange, including ramps connecting I-5 with N Marine Drive and NE Martin Luther King Jr. Boulevard.
4. A newly designed I-5/Hayden Island interchange including relocated northbound and southbound exit and entrance ramps.
5. A new integrated light rail/vehicular/bicycle/pedestrian bridge west of I-5 connecting Hayden Island with the Expo Center and N Expo Road.
6. Realignment and widening of NE Martin Luther King Jr. Boulevard between the new I-5/Marine Drive interchange and approximately N Hayden Meadows Drive.
7. Realignment and widening of N Marine Drive between N Gantenbein Avenue and N Vancouver Way.
8. Modification, widening and extension of N Vancouver Way between east of N Haney Drive and approximately the light rail alignment west of I-5.
9. Realignment and widening of NE Union Court between N Hayden Meadows Drive and N Vancouver Way.
10. A new northbound connection between NE Martin Luther King Jr. Boulevard and N Vancouver Way and a new southbound connection between NE Martin Luther King Jr. Boulevard and NE Union Court.

11. Realignments, widening and roadway modifications to N Jantzen Avenue, N Jantzen Drive and N Hayden Island Drive.
12. Modification, widening and extension of N Tomahawk Island Drive from east of N Jantzen Drive to the west of I-5.
13. Construction of a new roadway west of I-5 and the light rail alignment between N Jantzen Avenue and N Hayden Island Drive.
14. A new public road extending N Expo Road westward to N Force Avenue.

See **Figures 1.1 to 1.3** of the LUFO for the boundaries within which the above described light rail facilities and highway improvements would be located.

Ruby Junction Maintenance Facility

The Ruby Junction Maintenance Facility along NW Eleven Mile Avenue in Gresham was first authorized in 1980 as part of the Portland to Gresham light rail project. The facility includes light rail tracks, vehicle storage spaces and maintenance bays, an operation center, and related facilities necessary to maintain light rail vehicles.

As part of the 2008 LUFO amendments for the Portland to Milwaukie Project, the Metro Council approved the modification and expansion of the Ruby Junction Maintenance Facility and adopted location boundaries for it. See **Figure 2.1** of this Revised 2011 LUFO. The 2011 LUFO, reconfirmed herein, authorizes the use of that facility to serve light rail vehicles associated with the Columbia River Crossing Project. Such use was expressly anticipated in the 2008 LUFO findings. Because use and improvement of the facility in connection with the Columbia River Crossing project will occur within the location boundaries approved in 2008, no location boundary amendments are necessary.

3. Interpretation of Terms

As it did in the 1998, 1999, 2004 and 2008 LUFOS, the Metro Council interprets the terms "light rail route", "stations", "lots", "maintenance facilities" and "highway improvements" as it did in its previous South/North LUFOS, to have the following meanings:

- "**Light rail route**" means the alignment upon which the light rail tracks will be located. The light rail route will be located on land to be owned by or under the operating control of TriMet.
- "**Stations**" means those facilities to be located along the light rail route for purposes of accessing or serving the light rail system. Stations include light rail station platforms; kiss-and-ride areas; bus transfer platforms and transit centers; vendor facilities; and transit operations rooms.
- "**Lots**" means those parking structures or surface parking lots that are associated with a station, owned by or under the operating control of either TriMet or another entity with the concurrence of TriMet, and intended primarily for use by persons riding

transit or carpooling. Parking structures may include some retail or office spaces in association with the primary use.

- "**Maintenance facilities**" means those facilities to be located on land to be owned or controlled by TriMet for purposes of operating, servicing, repairing or maintaining the light rail transit system, including but not limited to light rail vehicles, the light rail tracks, stations, lots, and ancillary facilities and improvements. Maintenance facilities include maintenance facility access trackways; storage tracks for light rail vehicles; service, repair and maintenance shops and equipment; office facilities; locker rooms; control and communications rooms; transit district employee and visitor parking lots; and storage areas for materials and equipment and non-revenue vehicles.
- "**Highway improvements**" include new roads, road extensions or road widenings outside existing rights-of-ways that have independent utility in themselves and are not needed to mitigate adverse traffic impacts associated with the light rail route, stations, lots or maintenance facilities.

Also consistent with its previous South/North LUFOs, the Metro Council determines that implementation of the South/North LUFO under sections 8(1)(a) and (b) of Chapter 12 of the 1996 Oregon Laws (HB 3478), including the construction, operation and maintenance of the light rail route, stations, lots and maintenance facilities and the highway improvements for the Project, necessitates and requires development approval of certain associated actions and the permitting of certain associated or ancillary facilities or improvements. These associated actions or ancillary facilities or improvements generally are required: (1) to ensure the safe and proper functioning and operation of the light rail system; (2) to provide project access; (3) to improve traffic flow, circulation or safety in the vicinity of the Project; or (4) to mitigate adverse impacts caused to the adjoining roadway network resulting from the alignment, stations, lots or maintenance facilities. For these reasons, these actions, facilities or improvements are integral and necessary parts of the Project.

The Metro Council further determines that the associated actions and ancillary facilities or improvements for the South/North Project include, but are not limited to: ties, ballast, and other track support materials such as tunnels and bridges; modifications to existing tracks; retaining walls and noise walls; culverts and other drainage systems; traction electrification equipment including substations; light rail signals and communications equipment and buildings; lighting; station, lot and maintenance facility accesses, including road accesses, pedestrian bridges and pedestrian and bicycle accessways; roadway crossing protection; and the provision of pedestrian paths, bike lanes, bus stops, bus pullouts, shelters, bicycle storage facilities and similar facilities. They also include temporary LRT construction-related roadways, staging areas and road or lane closures; roadway reconstruction, realignment, repair, widening, channelization, signalization or signal modification, lane reconfiguration or reduction, addition or modification of turning lanes or refuges, modification of traffic circulation patterns, or other modifications or improvements that provide or improve Project access, improve traffic flow, circulation or safety in the vicinity of the Project, facilitate or are necessary for the safe or proper functioning and operation of the Project, or are necessary to mitigate adverse traffic impacts created by the Project; modifications of private roadways adjoining the Project; permanent road, lane or access closures associated with and

necessitated by the Project; and other associated actions or associated or ancillary facilities or improvements related to the Project.

4. Applicable Land Use Criteria

On May 30, 1996, pursuant to Section 4 of House Bill 3478, LCDC established the criteria to be used by the Metro Council in making land use decisions establishing or amending the light rail route, stations, lots and maintenance facilities, and the highway improvements for the South/North Project, including their locations. The approved criteria include two procedural, six substantive, and two alignment-specific standards, set out below, with which the Council demonstrated compliance in its findings supporting Resolution No. 11-4280.

Procedural Criteria

1. Coordinate with and provide an opportunity for Clackamas and Multnomah counties, the cities of Gladstone, Milwaukie, Oregon City and Portland, the Tri-County Metropolitan Transportation District of Oregon and the Oregon Department of Transportation to submit testimony on the light rail route, light rail stations, park-and-ride lots and vehicle maintenance facilities, and the highway improvements, including their locations.
2. Hold a public hearing to provide an opportunity for the public to submit testimony on the light rail route, light rail stations, park-and-ride lots, vehicle maintenance facilities and the highway improvements, including their locations.

Substantive Criteria

3. Identify adverse economic, social and traffic impacts on affected residential, commercial and industrial neighborhoods and mixed use centers. Identify measures to reduce those impacts which could be imposed as conditions of approval during the National Environmental Policy Act (NEPA) process, or, if reasonable and necessary, by affected local governments during the local permitting process.
 - A. Provide for a light rail route and light rail stations, park-and-ride lots and vehicle maintenance facilities, including their locations, balancing (1) the need for light rail proximity and service to present or planned residential, employment and recreational areas that are capable of enhancing transit ridership; (2) the likely contribution of light rail proximity and service to the development of an efficient and compact urban form; and (3) the need to protect affected neighborhoods from the identified adverse impacts.
 - B. Provide for associated highway improvements, including their locations, balancing (1) the need to improve the highway system with (2) the need to protect affected neighborhoods from the identified adverse impacts.

4. Identify adverse noise impacts and identify measures to reduce noise impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by affected local governments during the permitting process.
5. Identify affected landslide areas, areas of severe erosion potential, areas subject to earthquake damage and lands within the 100-year floodplain. Demonstrate that adverse impacts to persons or property can be reduced or mitigated through design or construction techniques which could be imposed during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.
6. Identify adverse impacts on significant fish and wildlife, scenic and open space, riparian, wetland and park and recreational areas, including the Willamette River Greenway, that are protected in acknowledged local comprehensive plans. Where adverse impacts cannot practicably be avoided, encourage the conservation of natural resources by demonstrating that there are measures to reduce or mitigate impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.
7. Identify adverse impacts associated with stormwater runoff. Demonstrate that there are measures to provide adequate stormwater drainage retention or removal and protect water quality which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.
8. Identify adverse impacts on significant historic and cultural resources protected in acknowledged comprehensive plans. Where adverse impacts cannot practicably be avoided, identify local, state or federal review processes that are available to address and to reduce adverse impacts to the affected resources.

Alignment-Specific Criteria

9. Consider a light rail route connecting the Clackamas Town Center area with the City of Milwaukie's Downtown. Consider an extension of the light rail route connecting the City of Oregon City and the City of Gladstone with the City of Milwaukie via the Interstate 205 corridor and/or the McLoughlin Boulevard corridor.
10. Consider a light rail route connecting Portland's Central City with the City of Milwaukie's Downtown via inner southeast Portland neighborhoods and, in the City of Milwaukie, the McLoughlin Boulevard corridor, and further connecting the Central City with north and inner northeast Portland neighborhoods via the Interstate 5/Interstate Avenue corridor.

DRAFT

Exhibit B to Resolution No. 12-4340

Findings of Fact and Conclusions of Law

**Revisions to 2011 South/North Land Use Final Order
Columbia River Crossing Project**

**On Remand from the Land Use Board of Appeals
And the Oregon Supreme Court**

Updated Draft 03/14/12

1. Introduction

1.1 Nature of the Metro Council's Action

This action adopts a Land Use Final Order (LUFO) for the Columbia River Crossing (CRC) Project, which is an element of the larger South/North Corridor Project. The action is taken pursuant to Oregon Laws 1996 (Special Session), Chapter 12 (referred to herein as "House Bill 3478" or "the Act"), which directs the Metro Council (Council) to issue LUFOs establishing the light rail route, light rail stations, park-and-ride lots and maintenance facilities, and any highway improvements to be included in the South/North Project, including their locations (*i.e.* the boundaries within which these facilities and improvements may be located).¹

This LUFO is the fifth in a series of LUFOs the Council has adopted for the South/North Project. The previously adopted LUFOs are as follows:

- On July 23, 1998, the Metro Council adopted Resolution No. 98-2673 (the 1998 LUFO), establishing the initial light rail route, stations, lots and maintenance facilities and the highway improvements, including their locations, for the South/North Project.
- On October 28, 1999, the Metro Council adopted Resolution No. 99-2853A (the 1999 LUFO), amending the 1998 LUFO to reflect revisions for that portion of the South/North Project extending from the Steel Bridge northward to the Portland Metropolitan Exposition Center (Expo Center), primarily along Interstate Avenue. The 1999 LUFO modified the northern light rail alignment; established, relocated or expanded light rail station locations along that alignment; and authorized park-and-ride lots at Portland International Raceway (PIR) and the Expo Center along the light rail route.
- On January 15, 2004, the Metro Council adopted Resolution No. 03-3372 (the 2004 LUFO), further amending the previous South/North LUFO resolutions to (1) establish the light rail route, stations and park-and-ride lots, including their locations, along the Interstate-205 right-of-way from the Gateway Transit Center to Clackamas Regional Center; (2) modify the route along the downtown Portland Transit Mall to extend light rail transit (LRT) to Portland State University (PSU) and establish, adjust or relocate station locations; (3) modify the 1998 LUFO for the segment from Portland to Milwaukie by revising the alignment and adding study areas; (4) remove the 1998 LUFO designations from Milwaukie to Clackamas Regional Center; and (5) complete technical amendments to the 1999 LUFO alignment to reflect the final built configuration at certain stations consistent with the Full Funding Agreement Grant approved by the Federal Transit Administration.

¹ Metro's Regional Transportation Plan shows northward extension of light rail to Clark County Washington. However, the Metro Council's jurisdiction is limited to the Oregon portion of the South/North Project.

- On July 25, 2008, the Metro Council adopted Resolution No. 08-3964 (the 2008 LUFO), amending the 1998 and 2004 South/North LUFOs as they relate to the segment of the South/North Project extending from Portland State University (PSU) in downtown Portland through SE Portland and downtown Milwaukie to SE Park Avenue in unincorporated Clackamas County. The 2008 LUFO realigned the light rail route between PSU and SE 7th Avenue; established the route from SE Tacoma Street to SE Park Avenue; relocated light rail stations or authorized new stations along the light rail route; and established the park-and-ride lots and highway improvements for the Portland to Milwaukie segment.

This **South/North LUFO Amendment (Revised 2011 LUFO)** amends the 1998 LUFO as it relates to the segment of the South/North Project in north Portland extending northward from the Expo Center and from the Interstate 5 (I-5)/Victory Boulevard Interchange to the northern shoreline of Hayden Island, which is the edge of Metro's urban growth boundary (UGB).² ~~Oregon/Washington state line on the Columbia River.~~ This Revised 2011 LUFO realigns the light rail route between the Expo Center and the northern shoreline of Hayden Island Oregon/Washington state line westward from its alignment in the 1998 LUFO and it relocates the Hayden Island station west of its previous location. It also provides for the rail route to be accommodated on the lower tier of a new southbound I-5 bridge. This Revised 2011 LUFO also establishes a number of highway improvements for the Columbia River Crossing Segment of the South/North Project, including new northbound and southbound I-5 bridges within Metro's UGB; widening of I-5 in both directions between approximately N Victory Boulevard and the northern shoreline of Hayden Island the Oregon/Washington state line on the Columbia River; new or modified interchanges at Marine Drive, Hayden Island and Victory Boulevard; a new integrated rail/vehicular/bicycle pedestrian bridge connecting Hayden Island with the Expo Center; and roadway realignments, widenings, modifications and new connections within the project area.

This Revised 2011 LUFO also provides for expansion and improvement of the Ruby Junction Maintenance Facility along NW Eleven Mile Avenue in Gresham to accommodate and maintain additional LRT vehicles associated with the Columbia River Crossing Project.

This Revised 2011 LUFO is also the latest in a long string of land use final orders dating back to 1991 to the approval of the first LUFO for the Westside Corridor Project. That LUFO, and several amendments to that LUFO which followed, expanded the Portland metropolitan region's commitment to a multi-modal transportation network including light rail transit serving populations to the north, south, east and west of the Central City, an improved state

² On August 11, 2011, the Metro adopted a LUFO (the 2011 LUFO) and supporting findings for the CRC segment of the South/North Project. Amending that 2011 LUFO is required to conform to a remand from the Land Use Board of Appeals (LUBA) and the Oregon Supreme Court that held that under House Bill 3478, the Council has jurisdiction to approve light rail facilities and highway improvements through a LUFO only within its UGB. Because the 2011 LUFO authorized light rail facilities and highway improvements to be located between the Oregon/Washington state line and the northern shoreline of Hayden Island, which is the edge of the UGB, the Council must amend the 2011 LUFO to remove those improvements from the LUFO. In all other regards, LUBA and the Supreme Court affirmed the Council's decisions in its 2011 LUFO. The Council relies on those affirmations and readopts and reaffirms those earlier decisions herein. These findings differ from the findings for the 2011 LUFO only in their effort to conform to the remand.

highway and local street network, and facilities to encourage walking and bicycle travel. These steps coincided with the Land Conservation and Development Commission's adoption in 1991 of the Transportation Planning Rule, which encourages and supports the availability of a variety of transportation choices for moving people that balance vehicular use with other modes to avoid principal reliance on any one mode. The Westside LUFOs, among other things, approved the extension of light rail initially through Portland, unincorporated Washington County and Beaverton and then later into downtown Hillsboro. They also approved highway and bicycle improvements associated with the light rail projects, including the widening of US 26 and Oregon 217, new or modified freeway ramps, a new bridge crossing US 26 at Sylvan, a new collector-distributor road system west of the Sylvan Interchange, a new US 26 bridge crossing at Sylvan, the closing of some local accesses to and from US 26, local street realignments, modifications and improvements, and bicycle facility improvements extending from approximately the Oregon Zoo to Oregon 217. The South/North Project continued this commitment to a multi-modal transportation system with a series of light rail and highway improvements extending along the South/North corridor between Clackamas County and the [northern shoreline of Hayden Island, Oregon/Washington state line](#).³ The Council anticipates that this [Revised 2011 LUFO](#) amendment will not be the final step in that process, as House Bill 3478 envisions that at some future point, light rail transit will extend farther south into Oregon City.

1.2 Relationship of Council's Order to Requirements of the National Environmental Policy Act of 1969

Like the 1998, 1999, 2004 and 2008 LUFOs before it, this [Revised 2011 LUFO](#) is adopted solely to implement the provisions in HB 3478 authorizing the Council to make land use decisions on the light rail route, stations, lots and maintenance facilities and the highway improvements for the South/North Project, including their locations. This land use decision is not required by the National Environmental Policy Act of 1969 (NEPA) or other federal law.

1.3 Requirements of House Bill 3478

Section 6(1) of House Bill 3478 requires the Council to "establish the light rail route, stations, lots and maintenance facilities, and the highway improvements for the project or project extension, including their locations." Section 6(1)(a) further provides that the locations for each of these facilities and improvements:

"shall be in the form of boundaries within which the light rail route, stations, lots and maintenance facilities, and the highway improvements shall be located. These boundaries shall be sufficient to accommodate adjustments to the specific placements of the light rail route, stations, lots and maintenance facilities, and the highway improvements for which need commonly arises"

³ The region's rail transit system now has 50 miles of light rail, with a new line south from the Central City to Milwaukie (7.3 miles) in final planning stages. The system includes a 14.7-mile commuter rail serving the southwest part of the region, opened in 2008, and four miles of streetcar with another eight miles under construction. Future light rail projects under consideration include a light rail line along the Barbur Boulevard corridor.

upon the development of more detailed environmental or engineering data following approval of a Full Funding Grant Agreement."

Section 6(2) of the Act addresses amendments to the 1998 LUFO. It provides:

"Any siting of the light rail route, a station, lot or maintenance facility, or a highway improvement outside the locations established in a land use final order, and any new station, lot, maintenance facility or highway improvement, shall require a land use final order amendment or a new land use final order which shall be adopted in accordance with the process provided for in subsection (1) of this section."

Section 7 of HB 3478 requires the Council to apply land use criteria established by the Land Conservation and Development Commission (LCDC) in making decisions in a land use final order on the light rail route, stations, lots and maintenance facilities, and the highway improvements, including their locations, and to prepare and adopt findings of fact and conclusions of law demonstrating compliance with those criteria. *These findings serve to demonstrate compliance with LCDC's criteria for the modifications and new improvements selected in this LUFO amendment.*

Section 3(1) of HB 3478 provides that the procedures and requirements set out in the Act are the *only* land use procedures and requirements to which the Council's decisions on the light rail route, the stations, lots and maintenance facilities, and the highways improvements for the Project, including their locations, are subject. Consequently, these findings focus on the matters identified in HB 3478 as land use actions being taken at this time.

The Columbia River Crossing Project is an integrated bridge, light rail transit and highway project within the Expo Center and Hayden Island segments of the South/North corridor in Oregon that extends northward [across the Columbia River](#) into the state of Washington. The Council finds that the combination of light rail and highway improvements is consistent with and authorized by House Bill 3478. Section 1(18) of House Bill 3478 defines "Project" to mean the South/North Light Rail Project as it may be amended from time to time. "The project includes the light rail route, stations, lots and maintenance facilities and any highway improvements to be included in the project." The Council finds that this definition anticipates that the character of the Project may change over time and may include highway improvements. Section 1(12) defines "highway improvements" to mean "the highway improvements, if any, to be included in the project * * *. The highway improvements shall be selected from among the highway improvements, if any, described in a Draft Statement or Final Statement for the project or project extension for the project * * *. The Council finds that this provision anticipates the inclusion of highway improvements to the Project where such improvements are addressed in a draft or final environmental impact statement involving the project. Similarly, Section 6(2) anticipates new highway improvements being added as amendments to an earlier LUFO. Section 1(13) defines "land use final order" as an order or orders of the Council deciding, among other things, the highway improvements for the project. The Council finds that this language, together with Sections 6(1) and 6(2) of the Act, authorizes the Council to make decisions on highway improvements for the project in a land use final order. Section 3(3) provides that "the procedures and requirements provided for in

[HB 3478] shall be the only land use procedures and requirements applicable to * * * [d]ecisions on the highway improvements for the project * * *.” The Council finds that this language directs it to follow the requirements of HB 3478 for any highway improvements that are included in the project.

The Council finds that the language in HB 3478 parallels language in Oregon Laws 1991, Chapter 3 (Senate Bill 573) for the Westside Corridor Project, which extended light rail transit from Portland to Hillsboro. Portions of that project included highway improvements along US 26 and Oregon 217, as well as along local arterials and local streets in the vicinity of these highways.⁴ Like HB 3478, SB 573 similarly defined “Project” to include highway improvements, and it similarly defined “highway improvements” as “those highway improvements to be included in the project” as described in a draft environmental statement. SB 573 similarly defined “final order” as a decision (made by the TriMet Board) deciding the light rail route, light rail facilities and highway improvements”, and it similarly provided that the procedures and requirements of that Act were the only procedures and requirements applicable to TriMet Board decisions on the light rail facilities and highway improvements.⁵

The Council further finds that in Section 2(1) of SB 573, the Oregon Legislature found that to obtain maximum federal funding for the Westside Corridor Project, it was necessary to consolidate land use decisions regarding light rail and highway improvements into a single land use decision, and in Section 2(2), it found that the Act should be liberally construed to accomplish the purposes set out in Section 2(1). Similarly, for the South/North Project, Section 2(1) of HB 3478 provides that to maximize the state’s and metropolitan region’s ability to obtain the highest available level of federal funding for the South/North Light Rail Project and to ensure the timely and cost-effective construction of the project, it is necessary “to establish a process to be used in making decisions in a land use final order on the light rail route, light rail stations, light rail park-and-ride lots, light rail maintenance facilities and any highway improvements to be included in the South/North MAX Light Rail Project, including their locations.” Like Section 2(2) of SB 573, Section 2(2) of HB 3478 states, “Sections 1 to 13 of this Act shall be liberally construed to accomplish the purposes enumerated in subsection (1) of this section.” The Council finds that the purposes of obtaining the highest level possible of federal funding and ensuring the timely and cost-effective construction of the Project as it may be amended from time to time remain important priorities for the region and state. It further finds that a large portion of the project cost of the Columbia River Crossing Project will be federally funded and that the procedures and requirements in HB 3478 were developed to help the region obtain maximum federal funding for the Project.⁶

⁴ Among other highway improvements, the Westside Corridor Project authorized a new westbound truck climbing lane on US 26, the widening of US 26 to six lanes (three in each direction) between the Skyline Interchange and Oregon 217, widening of Oregon 217 from four to six lanes with an additional auxiliary lane both southbound and northbound between the Walker Road and Canyon Road interchanges, changes to the Zoo and Sylvan interchanges, construction of an eastbound collector-distributor road system between the Sylvan Interchange and SW Camelot Court, realignment of SW Canyon Court east of SW Skyline Boulevard, realignment of SW Hewitt Boulevard, and other local street improvements.

⁵ See Senate Bill 573, Sections 2(10), (11) and (13) and Section 3(1).

⁶ The Council finds that the legislature anticipated a need to amend the Project over time in, among other things, the Act’s definitions of “Project”, “Project extension”, “Draft Statement” and “Final Statement”, all of which authorize amendments from time to time; in its definition of “Land use final order” as a written order or orders

The Council finds that the Columbia River Crossing Project is a significant multi-modal public works project designed to accommodate the interstate travel needs of Portland metropolitan area residents, including residents of Vancouver, Washington in a manner that moves people and freight efficiently and minimizes conflicts between the various travel modes. The Council finds that the Project reflects negotiation and compromise among governmental bodies and that for all practical purposes, the light rail component could not have gone forward without the highway component and the highway component could not have gone forward without the light rail component. Indeed, the Council finds that the extension of light rail transit to Vancouver without accompanying highway improvements was attempted in 1998 but rejected by the voters.

More specifically, the Council finds that the original 1998 LUFO that this action is amending was borne out of the proposal to build the South/North light rail project from Clackamas Town Center through Milwaukie and downtown Portland to Vancouver, terminating in the vicinity of I-5 and I-205 in the State of Washington. The crossing of the Columbia River was via a proposed new bridge for light rail transit purposes only west of the existing I-5/Interstate Bridge. TriMet successfully obtained voter support of General Obligation Bonds for one-third of the local match in November 1994 by a wide margin. That ballot measure was predicated on a state legislative contribution of another one-third and a Washington State/Clark County contribution of the final one-third. In early 1995 the voters of Clark Co. turned down a ballot measure for their local match contribution. It was clear from this action that a stand-alone light rail project was not politically acceptable to the voters of Clark County. In response, TriMet and the Oregon side of the region proceeded to implement segments of the Project in Oregon (Interstate MAX, I-205 MAX to the Clackamas Town Center and Portland to Milwaukie MAX).

The question of how to address travel needs in the I-5 corridor started over through a bi-state initiative called the I-5 Trade and Transportation Partnership. In June 2002, the conclusions of the I-5 Transportation and Trade Partnership were published,⁷ calling for a comprehensive approach to addressing the needs in the corridor, including improvements to I-5 from north of the Fremont Bridge in Oregon to I-205 in Vancouver, extension of the newly completed Interstate MAX from the Expo Center to downtown Vancouver, implementation of demand and system management strategies to encourage more efficient use of the transportation system, and implementation of tolling to help pay for the Columbia River crossing and other corridor improvements. While light rail remained an important element of the improvement

of the Council; and in the language of Section 6(2) of the Act . The Council further finds that by so providing for amendments, the Act demonstrates consistency with the Westside Corridor Project, which included an initial LUFO adopted on April 11, 1991, establishing the light rail alignment through Beaverton and the highway improvements on and near US 26 and Oregon 217; a LUFO adopted on July 28, 1993 for the "Hillsboro Extension" of light rail project; and amendments to these LUFOs dated July 28, 1993 and November 22, 1995 for light rail facilities and August 23, 1995 and February 28, 1996 for highway improvements. The Council takes official notice of those TriMet Board decisions.

⁷ See http://www.columbiarivercrossing.org/FileLibrary/NonCRCRelatedDocuments/I-5_Partnership_2002_Final_Strategic_Plan.pdf, incorporated herein by this reference. The Metro Council endorsed that plan, including highway and light rail improvements, through its adoption of Resolution No. 02-3237A on November 14, 2002.

plan to meet the needs, it became clear that it could only become part of a more comprehensive solution. As such, light rail is functionally linked to the bridge and highway improvements because of the demonstration through the I-5 Transportation and Trade Partnership that the functional requirements of the corridor required all of the elements included in the recommendations. The conclusion was reached that the Oregon interests required emphasis on a multi-modal solution, including better management of traffic demand, because of the difficulty of accommodating that demand through a highway-only expansion of I-5. At the same time, the conclusion recognized the Clark County interests would benefit from those improvements but needed a highway element because the land use patterns of Clark County requires a system with greater dependence on auto access.

This LUFO reflects the conclusion of the Columbia River Crossing Project on how to best implement the recommendations of the I-5 Transportation and Trade Partnership. There is not light rail without the freeway bridge being replaced.

Additionally, the Council finds that the highway improvements are necessitated by the light rail improvements. Extension of light rail transit to Vancouver along the I-5 corridor requires a new bridge crossing over the Columbia River. The proposed I-5 Columbia River bridge crossing consists of two bridge structures. The light rail extension is located beneath the bridge structure carrying southbound I-5 traffic, and a bicycle and pedestrian crossing is located beneath the bridge structure carrying northbound I-5 traffic. The Council finds that the proposed pedestrian and bicycle facilities on the northbound bridge are needed to connect pedestrians and bicyclists wishing to travel across the Columbia River between Oregon and Washington to the light rail transit stations located north and south of the bridge, including the Expo Center Station and the new Hayden Island Station.

The Council further finds that construction of these new bridge structures will necessitate improvements to the I-5 highway and interchanges, including the Hayden Island and Marine Drive Interchanges, and to the local street network that connects those interchanges including realignments, widenings or extensions of or new connections between N Marine Drive, NE Martin Luther King Boulevard, N Gantenbein Avenue, N Expo Road, N Vancouver Way, N Haney Drive, NE Union Court, N Jantzen Drive, N Jantzen Avenue, N Hayden Island Drive, N Tomahawk Island Drive and N Force Avenue. It also finds that additional highway improvements are needed to integrate the transit corridor extension into the existing transportation network and to facilitate multimodal access to and from the existing light rail station at the Expo Center and a new light rail station at Hayden Island. Specifically, the Council finds that the extension of light rail tracks requires grade-separated crossings with the local road system. Accommodation of the grade-separated crossings necessitate modifications to the I-5/Marine Drive Interchange and connecting roadways including the realignments of N Vancouver Way and N Marine Drive and modifications of the road connections to NE Martin Luther King Boulevard.

The Council finds that the extension of the light rail alignment requires an additional bridge crossing over the North Portland Harbor, a navigable waterway. The new local bridge will be a multimodal facility accommodating the light rail extension as well as bicycles, pedestrians and vehicles.

The Council finds that the Expo Center Station will serve as a multimodal connection to enhance accessibility and connectivity with the East Columbia and Bridgeton neighborhoods east of I-5. Accommodation of this connection to Hayden Island requires improvements to the local street network including the construction of a new local multimodal bridge over the North Portland Harbor, a new public road extending N Expo Road westward to N Force Avenue, the extension of N Tomahawk Island Drive under I-5 to the Hayden Island Station, the creation of “Avenue A” in front of the Hayden Island Station, and modifications to N Janzen Drive, N Jantzen Avenue and N Hayden Island Drive.

The Council finds that the Hayden Island Station will be sited where the existing I-5/Hayden Island interchange southbound on- and off-ramps are currently located, prompting the need to reconfigure the existing I-5/Hayden Island Interchange. It further finds that the reconfigured interchange requires modifications to the local roadway network to provide local access to the light rail station and to reconnect local streets to the reconfigured Hayden Island Interchange.

This Revised 2011 LUFO approves only those light rail and highway improvements located within Metro’s UGB. As discussed in Section 6.3.1 of these findings, the Council finds that nearly all of the highway improvements identified as part of the Columbia River Crossing Project, including all highway improvements located between the UGB (located at the northern shoreline of Hayden Island) and the Oregon/Washington state line, are already identified as transportation improvements in the City of Portland’s acknowledged Transportation System Plan (TSP) or comprehensive plan, or in Metro’s Regional Transportation Plan (RTP). The only exceptions to this are the new local multimodal bridge over the North Portland Harbor connecting Hayden Island with the Expo Center and local roadway improvements in the vicinity of the Marine Drive Interchange. As noted above, the new multimodal bridge is an integrated multi-modal facility that includes the light rail alignment as well as travel lanes, bike lanes and sidewalks to serve motor vehicles, bicyclists and pedestrians. As further noted above, the local road improvements in the vicinity of the Marine Drive Interchange will improve local access to and from the Expo Center and Hayden Island light rail stations. These improvements are needed as well to accommodate the new I-5 Columbia River bridges and the modifications to the Hayden Island and Marine Drive interchanges.⁸

Finally, the Council notes that HB 3478 authorizes the Council to make land use decisions only with respect to light rail facilities and highway improvements. See Sections 6(1) and 6(2). The effect of these decisions is to permit such facilities to be constructed within the location boundaries established in the LUFO. The LUFO does not decide or address the design of these improvements, nor does it decide what mitigation will be provided. Design issues are addressed in local proceedings pursuant to Section 8 of the Act. Mitigation is

⁸ As elements of the Columbia River Crossing Project, the highway improvements are eligible for federal funding. While as noted, most of these improvements are already identified in Portland’s acknowledged Transportation System Plan and the RTP, those within the UGB are nonetheless included in the LUFO and addressed in these findings because, as part of the Columbia River Crossing Project, they remain subject to the requirements of HB 3478.

determined through the FEIS process or during local permitting proceedings pursuant to Section 8 of the Act.

2. Amendments to the Light Rail Route, Stations, Lots and Maintenance Facilities, and Highway Improvements for the Project, Including Their Locations

2.1 Introduction

The Metro Council initially approved a light rail route, stations, park-and-ride lots, maintenance facilities and highway improvements for the Project, including their locations, in the 1998 LUFO. That decision established an alignment from the Clackamas Town Center through downtown Milwaukie to downtown Portland and northward to the Oregon/Washington state line on the Columbia River.

The 1999 LUFO modified the 1998 LUFO by relocating the light rail alignment farther to the west, establishing new light rail station locations, and providing an interim terminus at the Expo Center.⁹ The remainder of the Project outside that portion between the Steel Bridge and the Expo Center remained unchanged.

This [Revised 2011 LUFO](#) modifies the 1998 LUFO by:

- 1) Relocating the light rail alignment and Hayden Island station farther to the west [within Metro's UGB](#);
- 2) Relocating the light rail alignment [between the Jantzen Beach station and the northern shoreline of Hayden Island onto the lower tier of a new southbound Interstate 5 bridge leading into Vancouver, Washington onto the lower tier of a new southbound Interstate 5 bridge](#);
- 3) Providing significant highway improvements between approximately N. Victory Boulevard and the [northern shoreline of Hayden Island](#) ~~Oregon/Washington state line on the Columbia River~~, including but not limited to [portions of](#) new northbound and southbound Interstate 5 bridges to accommodate highway, rail, pedestrian and bicycle travel; widening of northbound and southbound Interstate 5 [within the UGB](#) to accommodate three travel lanes and two auxiliary lanes; and interchange and roadway modifications and improvements and new roadway connections within the Project area.

These [revised](#) findings replace and supersede findings supporting the 1998 LUFO as follows:

- That part in Section 6.4.8 of the 1998 LUFO findings addressing the portion of the North Portland segment between the Expo Center and N Marine Drive;
- In their entirety, Section 6.4.9 of the 1998 LUFO findings addressing the Hayden Island segment.

⁹ The 1999 LUFO did not amend the Expo Center station location or the light rail alignment immediately south of the Expo Center in any significant way.

Further, to the extent these Revised 2011 LUFO findings create inconsistencies with other sections of the 1998 LUFO findings [*see, e.g.*, Sections 2.1, 6.1 and 6.3], these 2012 findings control and supersede the earlier findings.

This Revised 2011 LUFO also authorizes use of the Ruby Junction Maintenance Facility in Gresham to serve light rail vehicles associated with the Columbia River Crossing Project.

2.2 Selected Expo Center/Hayden Island Segment Amendments

The Metro Council amends the 1998 LUFO to select and establish the locations of the light rail route, stations, maintenance facilities and highway improvements identified below. The Council finds that its selected light rail route, stations, maintenance facilities and highway improvements, including their locations, are identical to those for which TriMet requested Council approval in its "Application for South/North Land Use Final Order Amendment (Expo Center/Hayden Island Segments)", which TriMet filed on July 13, 2011, and which the Council incorporates herein by this reference, except that they exclude those improvements located outside Metro's UGB between the northern shoreline of Hayden Island and the Oregon/Washington state line.¹⁰ The light rail route, station, maintenance facility and highway improvements selected by this amendment are described textually and illustrated on the maps contained in the Council's adopted Revised 2011 LUFO.

In the 1998 LUFO there were two segments that, together, provided light rail transit (LRT) service between the Expo Center and the Oregon/Washington state line on the Columbia River. These segments were the North Portland segment and the Hayden Island segment. In the 1999 LUFO, the Metro Council renamed the portion of the North Portland segment extending from south of the Columbia Slough near N Columbia Boulevard to the Expo Center the "Expo Center Segment." This Revised 2011 LUFO amendment retains the name "Expo Center Segment" and extends it to N Marine Drive, where the Hayden Island Segment begins. This Revised 2011 LUFO amendment also extends the Expo Center and Hayden Island segments east of Interstate 5 approximately 2,500 feet to include all areas identified for highway improvements. For convenience purposes, these two segments are consolidated and addressed as a single segment (Expo Center/Hayden Island) in these findings.

The Metro Council now deems it appropriate to approve the Revised 2011 LUFO changes for the Expo Center/Hayden Island Segment as follows:

Light Rail Alignment

From the Expo Center station, the light rail alignment proceeds northward under N Marine Drive and onto a new, integrated light rail/vehicular/bicycle/pedestrian bridge crossing over the North Portland Harbor onto Hayden Island west of I-5. The alignment then continues northward to the northern shoreline of Hayden Island, crossing over N Hayden Island Drive onto the lower deck of the new southbound Interstate 5 Bridge.

From the northern shoreline of Hayden Island, state line on the Columbia River, the alignment continues northward across the Columbia River into Vancouver, Washington. Because the portion of the Project over the Columbia River and in the State of Washington is ~~outside the jurisdiction of the State of Oregon, it is~~ not subject to compliance with House Bill 3478, it and is not addressed in the LUFO or these LUFO findings.

¹⁰ TriMet's application is attached as Exhibit B to Resolution No. 11-4289. The area outside the UGB has been excluded to conform with the Land Use Board of Appeals' decision in Weber Coastal Bells Limited Partners v. Metro, ___ Or LUBA ___ (October 26, 2011), aff'd ___ Or ___ (February 16, 2012).

Light Rail Stations

A single light rail station is located in the Expo Center/Hayden Island Segment. The **Hayden Island Station** will be elevated and positioned adjacent to I-5, over or near Tomahawk Island Drive. Tomahawk Island Drive will be extended under I-5 to provide a third east/west street connection for Hayden Island. The Hayden Island Plan calls for retail development, a mixed-use station community, and a well-connected street system to be developed adjacent to the station.

Park-and-Ride Lots

There are no new park-and-ride lots in the Expo Center/Hayden Island Segment.

Operations & Maintenance Facilities

There are no operations & maintenance facilities in the Expo Center/Hayden Island Segment. Maintenance will be provided at the existing Ruby Junction Maintenance Facility in Gresham, discussed in Section 2.3 below.

Highway Improvements

The highway improvements in the Expo Center/Hayden Island Segment include the following:

1. The portions of Nnew northbound and southbound I-5 Columbia River bridges within the UGB. The southbound bridge is a two-tier bridge with highway on the upper deck and light rail on the lower deck. The northbound bridge is a two-tier bridge with highway on the upper deck and bicycle and pedestrian facilities on the lower deck. Each bridge will include three travel lanes and two auxiliary lanes.
2. Widening of I-5 in both the northbound and southbound directions between fromN Victory Boulevard and the northern shoreline of Hayden Island to the Oregon/Washington state line. Northbound, I-5 will widen from three travel lanes at N Victory Boulevard to three travel lanes and two auxiliary lanes on the new northbound I-5 Columbia River bridge. Southbound, I-5 will narrow from three travel lanes and two auxiliary lanes on the new southbound I-5 Columbia River bridge to three lanes south of N Victory Boulevard.
3. A newly designed I-5/Marine Drive interchange, including ramps connecting I-5 with N Marine Drive and NE Martin Luther King Jr. Boulevard.
4. A newly designed I-5/Hayden Island interchange including relocated northbound and southbound exit and entrance ramps. The redesign is intended to further the Hayden Island Plan and implement features that are supportive of transit.

5. A new integrated light rail/vehicular/bicycle/pedestrian bridge west of I-5 connecting Hayden Island with the Expo Center and N Expo Road.
6. Realignment and widening of NE Martin Luther King Jr. Boulevard between the new I-5/Marine Drive interchange and approximately N Hayden Meadows Drive.
7. Realignment and widening of N Marine Drive between N Gantenbein Avenue and N Vancouver Way.
8. Modification, widening and extension of N Vancouver Way between east of N Haney Drive and approximately the light rail alignment west of I-5.
9. Realignment and widening of NE Union Court between N Hayden Meadows Drive and N Vancouver Way.
10. A new northbound connection between NE Martin Luther King Jr. Boulevard and N Vancouver Way and a new southbound connection between NE Martin Luther King Jr. Boulevard and NE Union Court.
11. Realignments, widening and roadway modifications to N Jantzen Avenue, N Jantzen Drive and N Hayden Island Drive.
12. Modification, widening and extension of N Tomahawk Island Drive from east of N Jantzen Drive to the west of I-5.
13. Construction of a new roadway west of I-5 and the light rail alignment between N Jantzen Avenue and N Hayden Island Drive.
14. A new public road extending N Expo Road westward to N Force Avenue.
15. Removal of the portions of the existing I-5 Columbia River bridges within the UGB.

See **Figures 1.1 to 1.3** of the Revised 2011 LUFO for the boundaries within which the above described light rail facilities and highway improvements would be located.

2.3 Ruby Junction Maintenance Facility Improvements

The Ruby Junction Maintenance Facility along NW Eleven Mile Avenue in Gresham was first authorized in 1980 as part of the Portland to Gresham light rail project. The facility includes light rail tracks, vehicle storage spaces and maintenance bays, an operation center, and related facilities necessary to maintain light rail vehicles.

As part of the 2008 LUFO amendments for the Portland to Milwaukie Project, the Council approved the modification and expansion of the Ruby Junction Maintenance Facility and adopted location boundaries for it. See **Figure 2.1** of this Revised 2011 LUFO. This LUFO authorizes the use of the facility to serve light rail vehicles associated with the Columbia

River Crossing Project. Such use was expressly anticipated in the 2008 LUFO findings. Because use and improvement of the facility in connection with the Columbia River Crossing Project will occur within the location boundaries approved in 2008, the Council finds it is not necessary to amend those boundaries.

3. South/North Project Land Use Final Order Criteria

On May 30, 1996, pursuant to Section 4 of HB 3478, LCDC established the criteria to be used by the Council in making land use decisions establishing or amending the light rail route, stations, lots and maintenance facilities, and the highway improvements for the Project or Project Extension, including their locations. The approved criteria include two procedural, six substantive, and two alignment-specific standards, set out as follows:

3.1 Procedural Criteria

1. Coordinate with and provide an opportunity for Clackamas and Multnomah Counties, the cities of Gladstone, Milwaukie, Oregon City and Portland, the Tri-County Metropolitan Transportation District of Oregon and the Oregon Department of Transportation to submit testimony on the light rail route, light rail stations, park-and-ride lots and vehicle maintenance facilities, and the highway improvements, including their locations.
2. Hold a public hearing to provide an opportunity for the public to submit testimony on the light rail route, light rail stations, park-and-ride lots and vehicle maintenance facilities, and the highway improvements, including their locations.

3.2 Substantive Criteria

3. Identify adverse economic, social and traffic impacts on affected residential, commercial and industrial neighborhoods and mixed-use centers. Identify measures to reduce those impacts which could be imposed as conditions of approval during the National Environmental Policy Act (NEPA) process or, if reasonable and necessary, by affected local governments during the local permitting process.
 - A. Provide for a light rail route and light rail stations, park-and-ride lots and vehicle maintenance facilities, including their locations, balancing (1) the need for light rail proximity and service to present or planned residential, employment and recreational areas that are capable of enhancing transit ridership; (2) the likely contribution of light rail proximity and service to the development of an efficient and compact urban form; and (3) the need to protect affected neighborhoods from the identified adverse impacts.
 - B. Provide for associated highway improvements, including their locations, balancing (1) the need to improve the highway system with (2) the need to protect affected neighborhoods from the identified adverse impacts.
4. Identify adverse noise impacts and identify measures to reduce noise impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by affected local governments during the permitting process.

5. Identify affected landslide areas, areas of severe erosion potential, areas subject to earthquake damage and lands within the 100-year floodplain. Demonstrate that adverse impacts to persons or property can be reduced or mitigated through design or construction techniques which could be imposed during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.
6. Identify adverse impacts on significant fish and wildlife, scenic and open space, riparian, wetland and park and recreational areas, including the Willamette River Greenway, that are protected in acknowledged local comprehensive plans. Where adverse impacts cannot practicably be avoided, encourage the conservation of natural resources by demonstrating that there are measures to reduce or mitigate impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.
7. Identify adverse impacts associated with stormwater runoff. Demonstrate that there are measures to provide adequate stormwater drainage retention or removal and protect water quality which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.
8. Identify adverse impacts on significant historic and cultural resources protected in acknowledged comprehensive plans. Where adverse impacts cannot practicably be avoided, identify local, state or federal review processes that are available to address and to reduce adverse impacts to the affected resources.

3.3 Alignment-Specific Criteria

9. Consider a light rail route connecting the Clackamas Town Center area with the City of Milwaukie's Downtown. Consider an extension of the light rail route connecting the City of Oregon City and the City of Gladstone with the City of Milwaukie via the Interstate 205 corridor and/or the McLoughlin Boulevard corridor.
10. Consider a light rail route connecting Portland's Central City with the City of Milwaukie's Downtown via inner southeast Portland neighborhoods and, in the City of Milwaukie, the McLoughlin Boulevard corridor, and further connecting the Central City with north and inner northeast Portland neighborhoods via the Interstate 5/Interstate Avenue corridor.

Compliance with Procedural Criteria 1 and 2 is demonstrated in Section 5 of these findings. Compliance with Substantive Criteria 3 through 8 is demonstrated in Section 6 (long-term impacts) and Section 7 (short term construction impacts) of these findings. The Council finds that Criterion 9 is not relevant to this [Revised 2011 LUFO](#) because the South/North Project already connects Clackamas Town Center with downtown Milwaukie and this amendment does not concern light rail extensions from Milwaukie to Gladstone or Oregon City. It finds that compliance with Criterion 9 has been addressed in prior South/North LUFOs, including the 2004 LUFO. Regarding Criterion 10, the Council finds that this [Revised 2011 LUFO](#)

amendment further connects the Central City with the Kenton and Hayden Island neighborhoods in north Portland via the existing alignment along the Interstate Avenue corridor.

For all of the reasons set out in these findings, the Council finds and concludes that these Revised 2011 LUFO amendments comply with the applicable LCDC criteria.

4. Implementation of a Land Use Final Order

4.1 Overview of Process for Selecting Mitigation Measures

LCDC Criteria 3 through 8 require the Council to identify (1) specified adverse impacts (*e.g.*, impacts to neighborhoods and natural resources) that would result as a consequence of its decisions, and (2) "measures" to reduce those impacts which potentially could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the local jurisdiction permitting processes. Consideration of appropriate measures is consistent with local comprehensive plan policies and land use regulations which recognize that development can have adverse impacts on persons and property and which seek to reduce those impacts to the extent reasonable and permitted by law.¹¹

The Council's decisions selecting the light rail route, stations, lots and maintenance facilities, and the highway improvements for the Project, including their locations, are not the final steps in the process culminating with completion of construction of the South/North Project. Subsequent to or concurrent with Council actions, Final Environmental Impact Statements (FEIS) are submitted to the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA). As part of that process, mitigation plans are developed addressing mitigation of adverse impacts associated with the selected rail and highway improvements for the Project. In each case, following federal approval of the FEIS, issuance of a Record of Decision and the signing of a Full Funding Grant Agreement with FTA and FHWA, the Final Design phase will begin. During Final Design, all necessary federal and state permits for project construction are obtained.

Also during Final Design, the siting of light rail and highway improvements is subject to local permitting processes. Section 8(1)(b) of House Bill 3478 directs all affected local governments and agencies to "issue the appropriate development approvals, permits, licenses and certificates necessary for the construction of the Project or project extension consistent with a land use final order." Section 8(1)(b) further allows these affected local governments to attach approval conditions to their development approvals permits, licenses and certificates. However, any such conditions must be "reasonable and necessary" and "may not, by themselves or cumulatively, prevent implementation of a land use final order." Under Section 8(3) of HB 3478, unreasonable or unnecessary conditions would include 1) measures for which there are insufficient funds within the Project budget to pay for those measures; 2) measures that would significantly delay the completion or otherwise prevent the timely implementation of the Project; and 3) measures that would significantly negatively impact Project operations. See also *TriMet v. City of Beaverton*, 132 Or App 253 (1995).¹² A condition prevents implementation of a LUFO if its imposition would require TriMet to finance construction of the condition at the expense of improvements funded under the Full

¹¹Section 1(17) of HB 3478 defines "measures" to include "any mitigation measures, design features, or other amenities or improvements associated with the project or project extension."

¹² In the *Beaverton* case the Court explained: "The reasonable and necessary test applies to conditions that are related to or necessitated by the project, but the bill does not permit conditions of a kind that are designed to further unrelated land use objectives of local plans and regulations."

Funding Grant Agreement or to go beyond the available federal funds and local matching funds for the Project. The Council finds that these funds constitute the envelope of available funds for the Project.

In summary, Criteria 3 through 8 require the Council to identify measures which potentially "could be imposed" later in the process as part of an approved mitigation plan under NEPA or through local permitting (if reasonable and necessary). However, the actual determination and imposition of appropriate measures occurs only through these later federal or local processes, not through this Council action. The Council finds this approach to be reasonable and appropriate, particularly given that the LUFO is not based on final design plans. Through final design, many identified adverse impacts may be avoided, and appropriate mitigation can be better determined.

4.2 Effect of Land Use Final Order on Local Comprehensive Plans and Land Use Regulations

Section 8(1)(a) of HB 3478 requires the affected cities and counties and Metro to amend their comprehensive or functional plans, including their public facility and transportation system plans and land use regulations, to the extent necessary to make them consistent with a land use final order. Section 8(2) further provides that a LUFO "shall be fully effective upon adoption."

The legal effects of these provisions are (1) to immediately authorize, as permitted uses, the light rail route, stations, lots and maintenance facilities and the highway improvements, including their locations, as identified and approved in a land use final order, and (2) to require appropriate plan and land use regulation amendments so that local land use requirements are consistent with a land use final order.¹³ However, as noted above, the uses approved in a land use final order remain subject to local imposition of reasonable and necessary approval conditions under Section 8(1)(b).

While approval of a LUFO identifies where rail and highway improvements may go and authorizes their development at these locations subject to reasonable and necessary conditions, it does not concurrently prevent other uses allowed by existing zoning. Stated another way, a LUFO is not a right-of-way preservation tool. It does not prevent development of economically feasible uses currently permitted under acknowledged plans and land use regulations. It merely adds to the list of uses permitted on the properties affected by the LUFO without eliminating other uses from that list.

Similarly, a LUFO does not require local zoning amendments to allow more intense scales of development. Instead, it requires amendments only as necessary to authorize the approved Project elements and ancillary facilities or improvements that may be required to ensure the safe and proper functioning and operation of the light rail system or other Project elements,

¹³This may require amendments to authorize the ancillary facilities and improvements for the South/North Project.

provide Project access, improve traffic flow, circulation or safety in the Project vicinity, or mitigate adverse impacts resulting from the Project.

In summary, Metro Council adoption of a LUFO has the immediate effect of authorizing, on the affected properties, the light rail and highway facilities and improvements approved in the LUFO. It also identifies the affected locations for future public acquisition for rail or highway purposes. However, LUFO adoption in no way prevents or limits currently allowed uses on these properties during the interim period pending ultimate public acquisition, nor does it mandate the rezoning of areas nearby light rail stations to achieve regional growth management objectives.

5. Compliance with Procedural Criteria (1-2)

5.1 Criterion 1: Agency Coordination

"Coordinate with and provide an opportunity for Clackamas and Multnomah Counties, the cities of Gladstone, Milwaukie, Oregon City and Portland, the Tri-County Metropolitan Transportation District of Oregon and the Oregon Department of Transportation to submit testimony on the light rail route, light rail stations, park-and-ride lots and vehicle maintenance facilities, and the highway improvements, including their locations."

Criterion 1 ensures Metro coordination with the Tri-County Metropolitan Transportation District of Oregon (TriMet), the Oregon Department of Transportation (ODOT), and six cities and counties within the South/North corridor that are directly affected by the Project or Project Extension. Criterion 1 further requires Metro to provide these jurisdictions and agencies an opportunity to submit testimony on the light rail and highway facilities and improvements for the Project or Project Extension, including their locations.

The light rail route, station, maintenance facility and highway improvement decisions that are the subject of this LUFO amendment fall within the jurisdictional boundaries of the cities of Portland and Gresham. While the City of Gresham is not identified in Criterion 1, the Council finds that coordination with the city is appropriate because the maintenance facility serving light rail vehicles associated with the Columbia River Crossing Project is located in Gresham. The Council finds that the City of Portland's planning, engineering, and other technical staff, as well as staff from TriMet and ODOT, have been actively involved in the process resulting in these proposed amendments, and that TriMet staff has met with City of Gresham staff with regard to expanding use of the Ruby Junction Maintenance Facility.

The Council finds that Metro coordination with TriMet, ODOT, Clackamas and Multnomah Counties and the cities of Portland, Milwaukie, Gresham, Oregon City and Gladstone has occurred both through their participation (except for Gladstone) on the LUFO Steering Committee to make recommendations to TriMet on a 2011 LUFO amendment, and through invitations to these local governments and agencies to submit testimony to the Metro Council on this amendment. The Council finds that on or about June 13, 2011, TriMet staff mailed Project materials (*Proposed LUFO Steering Committee Recommendation Concerning the 2011 South/North Land Use Final Order*, dated June 23, 2011) describing all aspects of the proposed Project to ODOT and to elected officials of the cities of Portland, Milwaukie, Gresham, and Oregon City, the counties of Multnomah and Clackamas, and Metro, providing them with information regarding the proposed 2011 LUFO amendments for the Columbia River Crossing Project. The Council further finds that the LUFO Steering Committee, which includes representatives from Metro, TriMet, ODOT, Clackamas and Multnomah Counties, and the cities of Portland, Milwaukie, Gresham and Oregon City, reviewed the proposed LUFO amendments and on June 23, 2011, made recommendations to TriMet on those amendments as documented in the 2011 LUFO and as provided for in Section 6(1)(a) of

House Bill 3478. Also, the Council finds that ODOT separately submitted its own recommendations to TriMet as required by Section 6(1)(a).

In addition, the Metro Council finds that notice of its August 11, 2011, public hearing to consider the 2011 ~~this~~ LUFO amendment, and also notice -of its April 12, 2012 hearing to consider revisions to the 2011 LUFO on remand, were ~~was~~ mailed directly to each of the above-identified local governments and agencies, including the City of Gladstone, thus providing those local governments and agencies with the opportunity to submit testimony to the Council on the proposed LUFO amendments at those hearings.

The Council further finds that following the remand by LUBA and the Oregon Supreme Court, TriMet requested the Council by letter dated March 9, 2012, to revise the 2011 LUFO to conform to the remand from LUBA, affirmed by the Supreme Court.

In adopting ~~these~~ 2011 LUFO amendments, the Metro Council carefully considered the recommendations of the LUFO Steering Committee and ODOT and the comments of the affected jurisdictions. The Council's decision in the 2011 LUFO amendment as revised in this Revised 2011 LUFO -amendment proceeding is fully consistent with TriMet's application, which in turn is consistent with the recommendations of the LUFO Steering Committee and ODOT, except to the extent required by the remand from LUBA and the Supreme Court. -As noted, TriMet has requested the Council to revise the 2011 LUFO to conform with the remand.

For all of these reasons, the Metro Council finds that Criterion 1 is satisfied.

5.2 Criterion 2: Citizen Participation

"Hold a public hearing to provide an opportunity for the public to submit testimony on the light rail route, light rail stations, park-and-ride lots and vehicle maintenance facilities, and the highway improvements, including their locations."

Criterion 2 ensures that the public has an opportunity to submit testimony and be heard in the process leading to the Metro Council's selection of the light rail route, stations, lots and maintenance facilities, and the highway improvements for the Project, including their locations.

On August 11, 2011, consistent with Criterion 2, the Metro Council held a public hearing and accepted public testimony on the proposed amendments to the 1998 LUFO. This followed public notice, which Metro published in *The Oregonian* on July 14, 2011, which is more than 14 days prior to its hearing. The Metro Council finds that *The Oregonian* is a newspaper of general circulation and that this publication of notice in *The Oregonian* meets and exceeds the requirements for notice set out in HB 3478.

In addition to the published notice, a postcard mailing announcing the hearing was mailed to people on Metro's South/North mailing list for the Columbia River Crossing Project. This list

includes owners of property within 250 feet of the light rail and highway alignments and within 250 feet of the Ruby Junction Maintenance Facility boundary. Also, announcements of the 2011 LUFO public hearing were included on Metro's website.

Further, the Metro Council finds that there has been substantial community participation in the process leading to the selection of the proposed amendments. The Metro Council takes notice of, and incorporates by reference herein, the description of the community participation process leading up to adoption of these 2011 LUFO amendments as set out in Appendix B of the Columbia River Crossing Draft Environmental Impact Statement (2008).

In summary, the Metro Council finds that the holding of the public hearing on August 11, 2011, satisfies the requirement of Criterion 2. It further determines and concludes that the notices provided through publication, mailings, recorded announcements and by other means were reasonably calculated to give notice to people who may be substantially affected by the Metro Council's decision on TriMet's application.

The Council also finds that on April 12, 2012, consistent with Criterion 2, it held a public hearing to consider the remand from LUBA and the Supreme Court. It finds that notice of the April 12, 2012 public hearing on remand was published in *The Oregonian* at least 14 days prior to the hearing on remand and also mailed to the parties to the proceeding before the LUBA. It further finds that on March 29, 2012, Metro made available for public inspection a staff report addressing compliance of the proposed revisions to the 2011 LUFO with the requirements of the Act.

The Council heard argument that the nature of this proceeding required the Council to follow quasi-judicial hearing procedures. The Council doubts that a proceeding involving miles of light rail track and roadway improvements affecting scores of properties and serving many tens of thousands of users each day is quasi-judicial. More significantly, the Council finds that the procedures it follows in adopting land use final orders are dictated by Section 7 of HB 3478 and that Section 7 does not mandate the use of quasi-judicial procedures in such proceedings. The Council finds that its compliance with the process set out in HB 3478 providing public notice of this proceeding, authorizing submittal of written testimony and calling for a public hearing provided interested parties with an adequate opportunity to present their views to the Council is sufficient, noting that the process set out in HB 3478 is an alternative land use siting process authorized by the legislature to achieve the purposes of the legislation. *See Seto v. Tri-County Metro. Transportation Dist.*, 311 Or 456 (1991). All that stated, the Council also finds that the procedures it authorized for this LUFO amendment provided for limited rebuttal to any new evidence introduced by the applicant during the applicant's rebuttal.

6. Compliance with Substantive Criteria (3-8) Long Term Impacts

6.1 Introduction

The Columbia River Crossing portion of the South/North Project will extend South/North light rail transit from the Expo Center to the northern shoreline of Hayden Island, inside Metro's UGB, Oregon/Washington state line on the Columbia River and then farther northward across the Columbia River into Vancouver, Washington. The total length of the LRT extension is 2.9 miles, of which 1.0 mile is within the State of Oregon. Additionally, the Columbia River Crossing portion of the Project will provide portions of two new bridge spans over the Columbia River, enhance pedestrian and bicycle travel in the area, widen and improve I-5, and substantially improve mobility on and the connectivity of the surrounding roadway network between N Victory Boulevard and the Columbia River.

This LUFO amendment affects the Hayden Island segment and a portion of the Expo Center segment of the South/North Project, as identified by the Council in the 1998 and 1999 LUFOs and further modified to exclude land outside the UGB. For ease of analysis, those two segments are addressed as a single, consolidated segment (Expo Center/Hayden Island) in these findings. ¹⁴

6.2 Supporting Documentation

In addition to the findings of fact addressing the selected light rail route, stations, maintenance facilities and highway improvements for the Columbia River Crossing Section of the South/North Project, the Metro Council believes, adopts and incorporates by reference herein the facts set forth in the following documents:

- *Columbia River Crossing Draft Environmental Impact Statement (2008)¹⁵
- *CRC Project Description for Oregon (describing the Oregon portion of the Project to be included in the FEIS) (2011)
- *Preliminary Columbia River Crossing Technical Reports (including appendices) (2011):
 - *Acquisitions Technical Report
 - *Air Quality Technical Report
 - *Archaeology Technical Report

¹⁴ While the improvements authorized in the Revised 2011 LUFO are located entirely inside the UGB, they may impact areas outside the UGB, such as the Columbia River and Vancouver, Washington. Consequently, in places, these findings address impacts to areas outside the UGB. To the extent such findings might be found to go beyond what is necessary to demonstrate compliance with the applicable LUFO review criteria for improvements inside the UGB, the Council deems them surplusage. Their inclusion in these findings is neither intended to authorize, nor authorizes, transportation improvements outside the UGB.

¹⁵ The Council is aware that the CRC Project as identified in the DEIS has been modified and supplemented and its supporting information has been updated. The 2011 technical reports reflect the Project, as it will appear in the FEIS. To the extent the DEIS is inconsistent with the Project as developed for the FEIS (e.g., a 10-lane bridge instead of a 12-lane bridge) and information in the 2011 Preliminary Columbia River Crossing Technical Reports, the Council relies on the more recent information.

- *Aviation Technical Report
- *Cumulative Effects Technical Report
- *Economics Technical Report
- *Ecosystems Technical Report
- *Electromagnetic Fields Technical Report
- *Energy Technical Report
- *Environmental Justice Technical Report
- *Geology and Groundwater Technical Report
- *Hazardous Materials Technical Report
- *Historic Built Environmental Technical Report
- *Indirect Effects Technical Report
- *Land Use Technical Report
- *Navigation Technical Report
- *Neighborhoods and Population Technical Report
- *Noise and Vibration Technical Report
- *Parks and Recreation Technical Report
- *Public Services Technical Report
- *TDM and TSM Technical Report
- *Traffic Technical Report
- *Transit Technical Report
- *Utilities Technical Report
- *Visual and Aesthetics Technical Report
- *Water Quality and Hydrology Technical Report
- *Wetlands and Jurisdictional Waters Technical Report
- *Stacked Transit/Highway Bridge Memorandum
- *Highway, local road and transit roll map
- *Biological Assessment for Threatened, Endangered, and Candidate Fish
- *Draft Stormwater Management Design

Additionally, the Metro Council takes official notice of the following documents:

1. Oregon Laws 1996 (Special Session), Chapter 12 (House Bill 3478) and Oregon Laws 1991, Chapter 3 (Senate Bill 573)
2. Metro Regional Framework Plan and its components, including the 2040 Growth Concept Map, the Urban Growth Management Functional Plan, the 2035 Regional Transportation Plan (RTP) and the Regional High Capacity Transit System Plan
3. City of Portland Comprehensive Plan, Transportation Plan and Land Use Regulations
4. The following resolutions adopted by the Metro Council, including their exhibits and attachments:
 - Resolutions No. 98-2673, July 23, 1998; No. 99-2853A, October 28, 1999; No. 03-3372, January 15, 2004; ~~and~~ No. 08-3964, July 24, 2008; and No. 11-4280, August 11, 2011, (adopting or amending the South/North Land Use Final Order)
 - Resolution No. 02-3237A, November 14, 2002, (endorsing the I-5 Transportation and Trade Partnership’s “Final Strategic Plan” (June 2002))

- Resolution No. 08-3960B, July 17, 2008 (endorsing the Locally Preferred Alternative for the Columbia River Crossing Project)
 - Resolution No. 11-4264, June 9, 2011 (regarding considerations and concerns raised about the Columbia River Crossing Project)
5. Metro Ordinance No. 10-1241B, June 10, 2010 (adopting the 2035 Regional Transportation Plan)
6. The following resolutions adopted by TriMet, including their exhibits and attachments:
- Resolution Adopting a Land Use Final Order (SB 573), April 12, 1991 (adopting the Westside Corridor Project Land Use Final Order)
 - Resolutions No. 93-07-56, July 28, 1993; No. 93-07-57, July 28, 1993; No. 95-08-60, August 23, 1995; and No. 96-01-10, February 28, 1996 (adopting the Hillsboro extension of the Westside Corridor Project and amendments to the Westside Corridor Project and Hillsboro Extension Land Use Final Orders)

6.3 Expo Center/Hayden Island Segment: Findings and Mitigation Measures

As noted in Section 2.2 of these findings, the Expo Center/Hayden Island Segment of the South/North Project includes the following facilities in Oregon:

- For light rail, the Project extends the existing MAX light rail facilities from the Expo Center Station in north Portland northward ~~across to the northern shoreline of Hayden Island to the Oregon/Washington state line on the Columbia River~~. The light rail transit alignment is located generally to the west of the alignment approved in the 1998 South/North LUFO and includes one LRT station on Hayden Island.
- For the highway improvements, the Project begins just south of N Victory Boulevard and extends northward to the ~~northern shoreline of Hayden Island Oregon/Washington state line on the Columbia River~~. The multi-modal Project includes ~~portions of two a new I-5 Columbia River bridges crossing over the Columbia River (including the LRT extension noted above)~~, and related highway, interchange and bicycle and pedestrian improvements.

See **Figures 1.1 to 1.3** of the LUFO for the boundaries within which these light rail facilities and highway improvements will be located.

6.3.1 Criterion 3: Neighborhood Impacts

“Identify adverse economic, social and traffic impacts on affected residential, commercial and industrial neighborhoods and mixed use centers. Identify measures to reduce those impacts which could be imposed as conditions of approval during the National Environmental Policy Act (NEPA) process or, if reasonable and necessary, by affected local governments during the local permitting process.”

- “A. Provide for a light rail route and light rail stations, park-and-ride lots and vehicle maintenance facilities, including their locations, balancing (1) the need for light rail proximity and service to present or planned residential, employment and recreational areas that are capable of enhancing transit ridership; (2) the likely contribution of light rail proximity and service to the development of an efficient and compact urban form; and (3) the need to protect affected neighborhoods from the identified adverse impacts.”**
- “B. Provide for associated highway improvements, including their locations, balancing (1) the need to improve the highway system with (2) the need to protect affected neighborhoods from the identified adverse impacts.”**

Criterion 3 requires the Council to provide for a light rail route, stations, lots, maintenance facilities and associated highway improvements, “balancing” the need to protect affected neighborhoods from identified adverse impacts with the positive benefits provided by light rail proximity and service (including the development of an efficient and compact urban form) and by an improved highway system.

The Council finds that the Columbia River Crossing Project amending the 1998 LUFO includes both light rail facilities and associated highway improvements. These improvements were identified and analyzed as Alternative 3 in the DEIS issued in 2008. After a public hearing on the DEIS on May 29, 2008 and extensive public review, a Locally Preferred Alternative (LPA) was selected. The LPA was endorsed by TriMet and ODOT and is being advanced into the Final Environmental Impact Statement as the Preferred Alternative. The Preferred Alternative includes the light rail improvements necessary and appropriate to extend the South/North Light Rail Project into the State of Washington and the associated highway improvements, as presented in this application.

The Council finds that the CRC Project, as set out in the LPA and the LUFO application, will be a significant transportation improvement project in which light rail, highway, bicycle and pedestrian improvements are all associated as part of an integrated, multi-modal project. The Council finds that the affected local governments and agencies involved in this Project have expressed strong interest that the Project be a joint light rail and highway project. It finds that the associated highway improvements directly and indirectly serve the light rail improvements by accommodating the alignment (e.g., new I-5 bridges, new arterial bridge over the North Portland Harbor) or providing regional and local access to the Expo Center and Hayden Island light rail stations (e.g., I-5 interchange improvements, access and circulation improvements and roadway modifications on Hayden Island and in the vicinity of the Marine Drive interchange). The Council further finds that some of the highway improvements are needed for engineering purposes to accommodate the new bridge containing the light rail alignment and the modifications to the I-5 interchanges and their approaches. And the Council finds that the light rail and highway improvements are linked together as well in federal and state proposals for funding the Project. See Metro Resolution No. 11-4264 and Exhibit A attached thereto, incorporated herein by this reference.

Description of Affected Neighborhoods in the Expo Center/Hayden Island Segment

The consolidated Expo Center/ Hayden Island segment extends north from N Marine Drive across the North Portland Harbor ~~to the northern shoreline of and Hayden Island to the Oregon/Washington state line in the Columbia River~~. The segment includes portions of the East Columbia, Kenton, Bridgeton and Hayden Island neighborhoods. These neighborhoods are identified and described in the Neighborhoods and Population Technical Report, incorporated herein by reference. Major public land uses in this segment include the Portland International Raceway, the Expo Center, and Delta Park.

The *East Columbia Neighborhood* is located directly east of I-5 and extends from the Columbia Slough north to Marine Drive. East Columbia contains a variety of land uses including large recreational and entertainment uses on the western and eastern boundaries of the neighborhood. One such use is East Delta Park, which is 86 acres in size. It features the Delta Sports Complex with five lighted softball fields and a synthetic soccer field. The complex also hosts additional softball fields, seven grass soccer fields, six sand volleyball courts, a playground, picnic tables, an off-leash dog area, and nature trails. The neighborhood also includes wetlands, trucking companies, and small industrial businesses. Other amenities within the East Columbia Neighborhood are Portland Meadows Race Track and Columbia Edgewater Golf Course. Between these large tracts of land are several manufactured home parks and large tracts of industrial land.

The East Columbia Neighborhood contained an estimated 2000 US Census population of 344. The percentage of African American residents is approximately twice that of the county or city, while the percentage of Hispanic or Latino residences is substantially smaller than that of the county or city. The percentage of population 65 years of age or older is one-third of the city percentage and slightly more than one-third of the county percentage.

The *Kenton Neighborhood* is located west of I-5 and extends from Lombard Avenue to North Portland Harbor. Kenton contains a wide range of uses, including residential, commercial, industrial, and recreational. Single-family residential development is concentrated south of Columbia Boulevard, with commercial and industrial uses located to its north. Multi-family residential dwellings are scattered throughout the neighborhood, but a majority are found among densely packed commercial structures along Interstate and Lombard Avenues.

The northern portion of Kenton contains multiple community resources including Portland International Raceway, Heron Lakes Golf Course, Multnomah County Fairgrounds, and the Expo Center. The large Paul Bunyan statue at the intersection of N Interstate and N Argyle Avenues, the Kenton Neighborhood Rose Garden, and the Historic Kenton Firehouse are also important cultural resources that provide identity to the community. West Delta Park and Vanport Wetlands serve as natural resources, as does Kenton Park on Brandon Avenue. There are many historic resources including the Kenton commercial historic shopping district on Denver Avenue, the historic David Cole House on N McClellan, and the historic Kenton Firehouse on Brandon Avenue.

The Kenton Neighborhood contained an estimated 2000 US Census population of 7,086. The percentage of African American residents in Kenton is more than twice that of the county or city, while the percentage of Hispanic or Latino residents is slightly higher than that of the county or city. The percentage of population 65 years of age or older is within one percent of the city percentage and county percentage.

The *Bridgeton Neighborhood* is located east of I-5 on North Portland Harbor. It is an early Portland neighborhood with cottages built between 1915 and 1930 along the Columbia River. Residential uses are concentrated at the eastern end of the neighborhood, both on land in rowhouses and detached single-family dwellings, and on the river in floating homes. Industrial uses can be found directly adjacent to I-5 around the Marine Drive interchange. There is a small commercial node at Marine Drive and I-5. Columbia High School and its adjacent playfield act as important community resources, as do the neighboring sloughs and the Columbia River, which provide recreational uses.

The Bridgeton Neighborhood contained an estimated 2000 US Census population of only 39 within the area of potential impact from the CRC Project. The percentage of Hispanic or Latino population is lower than the county and city, while the percentage of African Americans is double that found in Multnomah County and almost double the percentage found in Portland. The percentage of population 65 years of age or older is one-third of the city percentage and slightly more than one-third of the county percentage.

While a range of uses is located in the *Hayden Island Neighborhood*, the primary use is commercial. Jantzen Beach Center, a large commercial mall, and other retail uses are located to the west of I-5. Hotels and restaurants are also located on the island. Residential uses are located in the northwestern and eastern portions of the island. The residences in the northwestern area are manufactured homes. In the eastern portion of the island the residences are both on the land and in the river; floating homes are located on the south side of the island and along North Portland Harbor. Small marinas are located around the island.

The Hayden Island Neighborhood contained an estimated 2000 US Census population of 2,086. The percentage of minority population and proportion of households below the poverty level is lower in the neighborhood than for the county and the region. The percentage of population over 65 years of age is considerably higher than averages for the county and the region.

The LRT alignment will generally parallel the west side of I-5 through this segment, with a station located at the east end of the Jantzen Beach Center.

Identify adverse economic, social and traffic impacts on affected neighborhoods. Identify measures to reduce those impacts.

Economic, social and traffic impacts specific to the Expo Center/Hayden Island segment are addressed in the following section. Economic, social and traffic impacts are also described, along with corresponding mitigation measures, in the Acquisitions Technical Report, Aviation Technical Report, Economics Technical Report, Environmental Justice Technical Report,

Land Use Technical Report, Navigation Technical Report, Neighborhoods and Population Technical Report, Traffic Technical Report, Transit Technical Report, and Visual and Aesthetics Technical Report.

For the purpose of these findings, long-term adverse impacts generally are grouped under one of three headings: economic, social or traffic impacts. The Council recognizes, however, that impacts often can fall under more than one heading. For example, impacts on freight movement may be relevant as both economic and traffic impacts. Displacements have both economic and social implications. Parking can be categorized as an economic, social and traffic concern. The Council intends these findings to be interpreted broadly to allow overlap among these different categories.

Although the following list is not exclusive, the Council finds that the economic, social and traffic impacts associated with the CRC Project fall primarily within the following categories:

Economic Impacts

- Business displacements
- Loss of parking/access
- Tax base
- Freight movement (train, truck, water and air)

Social Impacts

- Residential displacements
- Access to community facilities
- Barriers to neighborhood interaction
- Safety and security
- Visual/aesthetic

Traffic Impacts

- Transit
- Systemwide and local traffic impacts

As noted, Criterion 3 directs the Council to balance these impacts with the need for light rail and highway improvements. Before identifying the adverse economic, social and traffic impacts on the affected neighborhoods, the Council finds it useful to briefly summarize the need for the light rail and highway improvements that comprise the Columbia River Crossing Project.

Overview of Need for Light Rail and Highway Improvements in the Expo Center/Hayden Island Segment

The Council finds that the [bi-state](#) Columbia River Crossing Project seeks to address problems relating to growing travel demand and congestion; impaired freight movement; limited public transportation operation, connectivity and reliability; safety and vulnerability to incidents; substandard bicycle and pedestrian facilities; and seismic vulnerability.

1. **Growing travel demand and congestion:** Heavy congestion on I-5 in the project area is the result of growth in regional population, employment, and interstate commerce. The existing I-5 crossing provides three lanes each for northbound and southbound travel, which can accommodate approximately 5,500 vehicles per hour in each direction. However, there are more people who want to use the crossing during peak periods than the bridges can accommodate, which results in stop-and-go traffic in the mornings and afternoons. Cars entering I-5 have little room to accelerate and merge with highway traffic (short merging lanes), and cars on I-5 have no room to pull off the highway (narrow or no shoulders) when an accident occurs or when vehicles break down. These conditions make congestion worse and decrease safety. Traffic can also become congested when the bridges' lift spans are raised to allow large river vessels to navigate underneath the bridges.
2. **Impaired freight movement:** Congestion on I-5 reduces freight mobility between regional markets in Portland and Vancouver, as well as national and international (Mexico or Canada) destinations along the I-5 corridor. Freight trucks most often travel in the middle of the day to avoid congestion, but can be delayed by bridge lifts. As hours of congestion continue to increase over time, travel times for freight trucks will continue to increase—even when traveling during the off-peak hours. This increases delivery times and raises shipping costs. It also negatively affects this region's economy. Truck-hauled freight in the Portland-Vancouver metropolitan region is expected to grow more rapidly than other forms of freight movement (such as marine-hauled freight).
3. **Limited public transportation operation, connectivity, and reliability:** Congestion on I-5 reduces bus travel speeds and reliability. Local bus services currently travel between downtown Vancouver and downtown Portland. Express bus routes serve commuters by providing service directly from Clark County park-and-rides to downtown Portland. Both of these services travel over the I-5 bridges. Bus travel times from downtown Vancouver to Hayden Island increased 50 percent between 1998 and 2005. On average, local bus travel times are from 10 to 60 percent longer during peak periods than during off-peak periods.
4. **Safety and vulnerability to incidents:** Over 300 vehicle crashes are reported annually on I-5 in the project area, making this one of the most accident-intensive sections of I-5. This high accident rate is a result of multiple highway design features that do not meet current standards, including:
 - Close interchange spacing – Within the CRC Project area, I-5 has six interchanges spaced approximately one-half mile apart. The recommended minimum distance between interchanges is one mile so that cars entering and exiting the highway have enough distance to fully merge with traffic or diverge to the off-ramp before the next interchange.
 - Short on- and off-ramps – Several on-ramps are not long enough for vehicles to reach highway speed before merging with highway traffic. Off-ramps are too short for safely slowing down, and during heavy traffic, these short ramps may cause exiting vehicles

to back up onto I-5. This generates traffic congestion and can cause accidents because maneuvering is difficult, especially for large trucks.

- Vertical grade changes – A “hump” in the I-5 bridges that accommodates the Columbia River shipping channel blocks the view of roadway conditions ahead. This blocked view reduces speeds and creates potential hazards to motorists.
 - Narrow lanes and shoulders – Several portions of I-5 in the project area have narrow inside and outside shoulders, while the I-5 bridges essentially have no shoulders, with less than one foot between the outside lanes and the bridges’ side barriers. The northbound I-5 bridge also has lanes one foot narrower than the minimum standard for a highway, and no shoulders. These conditions place vehicles very close to physical barriers and other vehicles, causing motorists to slow down, and do not provide space for disabled or emergency vehicles.
 - Hazardous river navigation – The U.S. Coast Guard (USCG) allows ODOT to not raise the I-5 bridges’ lift spans during peak traffic periods because of the substantial impacts this would have on bridge traffic. This requires boats heading downstream (west) to navigate using the fixed “barge channel” near the middle of the river, and then quickly turn to line up with the narrow opening on the north end of the Burlington Northern Santa Fe (BNSF) railroad bridge, located about one mile downstream. This movement is especially difficult during high river levels.
5. **Substandard bicycle and pedestrian facilities:** The bicycle and pedestrian paths on the I-5 bridges are very narrow (four feet wide in most places, decreasing to less than four feet at some locations) and extremely close to traffic and to the steel trusses. Also, the connections to these paths at both ends of the bridges are difficult to follow, especially around the Marine Drive and Hayden Island interchanges, which at times require riders to cross active roadways. Many existing non-motorized facilities cannot be used by persons with disabilities, and thus do not comply with the Americans with Disabilities Act (ADA) accessibility standards.
6. **Seismic vulnerability:** The I-5 crossing of the Columbia River main stem consists of two bridges, one built in 1917 (the northbound structure) and the other built in 1958 (the southbound structure). The foundations of both bridges rest in soils that could liquefy during a major earthquake. Neither bridge was built to current earthquake safety standards and could be damaged or collapse during a major earthquake.

Economic Impacts

The overall quality of the transportation system is an important factor in the viability of the local and regional economy. For decades, transit has played an important role in maintaining the level of service and operation of the overall regional transportation system, particularly because the region has made a policy commitment to invest in transit improvements rather than expanded highway capacity. But for the overall transportation network to function efficiently, including transit service, significant highway improvements are necessary at

times. This is the case with I-5, which is the principal major arterial in Oregon serving statewide transportation needs, including the movement of freight.¹⁶

Overall, the Columbia River Crossing portion of the South/North Project will result in positive impacts in the Expo Center/Hayden Island segment because improved transit capacity will be available to support more intensive development in the Jantzen Beach area and the highway improvements, including the new I-5 bridges, improvements to I-5 and its interchanges, and improvements to local roadways in the area, will provide greater accessibility and mobility not just for automobile and truck traffic but also for transit riders, bicyclists and pedestrians. LRT will also offer an alternative to traveling on I-5. However, the long-term benefit must be balanced by the short-term adverse economic impacts associated with the displacement of existing businesses on Hayden Island and in and near North Portland Harbor.

Business Displacements. In every instance where the South/North Project displaces an existing commercial or industrial use, that represents an adverse economic impact. Displacements affect employment, incomes, services and taxes. Even though the adverse impacts associated with displacements in the Expo Center/Hayden Island segment may not be significant on a region-wide or citywide level, the Metro Council recognizes and is sympathetic to the significance of each displacement at the individual business and community level. The Council understands and acknowledges that relocations can cause significant anxiety and trauma not only to the company being displaced, but also to employees who work for the company.

Given that the South/North Project as a whole, including the Columbia River Crossing Project portion of the South/North Project, serves a largely developed urban area, it is impossible to avoid displacement impacts while still providing transit accessibility and highway improvements. To the extent feasible and practicable, the South/North LRT route has been designed to follow existing public road and railroad rights-of-way to minimize displacement impacts. Locations for related facilities such as LRT stations, park-and-ride lots and operations & maintenance facilities also have been selected with the objective of balancing displacement and other adverse impacts with the positive benefits of LRT proximity and service. Highway improvements generally have been located within or next to existing highway right-of-way to minimize displacement impacts.

Oregon Mainland. On the Oregon mainland south of Hayden Island, the Columbia River Crossing Project would displace five businesses in the Marine Drive area: a boat sales business, a boat repair business with an auxiliary boat dock, a billboard operated as a business, and two marine businesses with a total of 25 staff and approximately \$10.6 in annual sales revenues. The boat sales business and the two marine-related businesses are dependent upon a location close to the river. Finding suitable locations for boat sales, a boat dock, and the repair and marine-related businesses may be difficult because much of the Columbia River area in the vicinity of freeway access is built up for either residential or

¹⁶ I-5 serves this role for Washington and California as well, as (heading north to south) the freeway extends from the Washington/British Columbia border through major northwest metropolitan centers in Seattle, Tacoma, Olympia, Portland, Salem, Eugene and Medford into northern and southern California.

industrial/commercial use. ODOT would provide relocation assistance to displaced businesses.

Hayden Island. On Hayden Island, the Columbia River Crossing Project would displace an estimated 39 businesses with a total of 643 employees and approximately \$62.7 million in annual sales revenues. The displacements include a section of restaurant and bar establishments currently between the existing freeway and N Center Drive; a restaurant and an office supply store west of N Center Drive; eateries and a cellular services store north of N Hayden Island Drive; fast food and service establishments along N Jantzen Beach Drive; two cellular arrays run as businesses both east and west of I-5; and the Safeway store east of I-5 between the existing freeway and N Jantzen Drive.

Hayden Island is a regional draw because of the numerous big box retail establishments located west of the freeway and the Jantzen Beach SuperCenter. Although the extent of displacements caused by the project is substantial, these regional attractors would not be directly affected. The City of Portland has, however, documented a vision for this area in the Hayden Island Plan (City of Portland, adopted August 2009). This plan assumes redevelopment of the SuperCenter property into a Regional Retail Center (called a “Lifestyle Center”) with mixed-use and transit-oriented residential to the south. Redevelopment of the property is of interest to its current owners, who have entered into a design process, but planning has been put on hold because of current economic conditions. Even without redevelopment of the property, the retail uses west of the freeway could be assumed to draw regional traffic in the long run.

More important from an economic standpoint is the effect of the project on island residents as customers and/or employees of displaced businesses. The majority of businesses displaced by the project serve mainly local clientele. These include a series of delis and bars west of the freeway; local fast food and sit-down restaurants; retail; and services. The project displaces one of the two banking establishments and the only grocery store on the island. ODOT would work with affected business owners to provide relocation assistance.

The Safeway Grocery Store is the only grocery store on Hayden Island since another grocery store (Zupan’s) closed several years ago. The Columbia River Crossing Project may suggest replacement sites for the relocation of Safeway, but it is up to the storeowners to choose their replacement location, if any. While Safeway may not relocate on the island, it could be replaced by other grocery stores. Officials representing the Jantzen Beach SuperCenter initiated a site plan review with the City of Portland for a relocation and expansion of the Target store on the island. Plans submitted to the City of Portland’s Bureau of Development Review indicate that the Target store would include a grocery and a pharmacy.

Safeway officials have indicated that it would be difficult for the store to relocate to another site on Hayden Island or in the Delta Park area because of the current lack of available sites. They may be able to locate a replacement store in either the North Portland area or South Vancouver. Alternately, Safeway may choose to remodel or expand existing stores in Vancouver or Portland. Relocation of Safeway to the north would mean a permanent loss in tax revenues for the City of Portland. Relocation to either the north or south would mean

required travel on I-5 or the local traffic bridge between Hayden Island and North Portland for all customers and employees currently living on the island. Added to this is that movement to another location could reduce the viability of other Safeway stores nearby. Currently there are six other Safeway stores within five miles of the store on Hayden Island. Four of these are in Vancouver and two are in Portland.

The direct impacts on Hayden Island have the potential to significantly affect wage-earning opportunities for those seeking service industry employments. According to the Oregon Employment Department, the average salaries of most food preparation and service workers within Multnomah and Washington Counties fall within the range of \$18,000 to \$23,000 per year. Wages within this range would lift all individuals and most small families above the federal poverty guidelines and therefore would not constitute an environmental justice impact.

Measures to Mitigate Displacement Impacts. The methods used to determine displacement impacts are described in the Acquisitions Technical Report. A displacement occurs if a use, such as a building or parking lot, is demolished or moved as a result of the project, or if people or a business can no longer occupy the building as a result of the project. Individuals or businesses that are displaced from their real or private property would be eligible to receive relocation benefits.

Where property acquisition and residential or business displacements are unavoidable, the project would provide mitigation. These mitigation measures are addressed by federal and state regulations, which require that acquired property be purchased at fair market value and that individuals living in a residence displaced by the project be provided decent, safe, and sanitary replacement housing. Displaced households and businesses would be relocated per the Uniform Relocation and Real Property Acquisitions Policies Act of 1970, as amended (Uniform Act). Under these regulations, relocation experts would:

- Explain all relocation programs to the affected businesses;
- Assist in preparing and filing reimbursement claims; and
- Assist in completing forms required by the lending institutions, the Small Business Administration, and others associated with the lease or purchase of new properties.

All properties required for the CRC Project will be acquired at fair market value for land and improvements. If only a portion of a property is required, the acquisition price will also reflect any measurable loss in value to the remaining property due to the partial acquisition. Generally, the relocation process occurs concurrently with the acquisition of affected properties. Relocation benefits vary between residential and business properties and may include payment for actual reasonable expenses of moving a business or personal property and/or other benefits, such as rent supplements, increased interest costs on replacement dwellings, reasonable search costs for new business sites, and business reestablishment costs. Relocation assistance for businesses could include moving costs, site search expenses, business reestablishment expenses, and assistance in locating a replacement business site. The specifics of relocation assistance are determined on an individual basis and are based, in part, upon ownership or tenant status.

Each acquiring agency (TriMet or ODOT) has an established advisory services program to ensure that displaced businesses or persons receive adequate assistance in relocating to a new business site or to decent, safe, and sanitary housing, respectively, with a minimum of hardship. For displaced businesses, such services could include the hiring of an outside specialist to assist in planning the move, making the move, and reinstalling machinery and other personal property. For displaced residents, these advisory services could include supplying information concerning federal and state programs that offer assistance to displaced persons and technical help in applying for such assistance or providing transportation to displaced persons to search for or view replacement housing. These programs work to ensure that the acquiring agency takes advantage of all financial and personal resources available during the relocation process.

The displacement of publicly owned facilities, such as the ODOT permit center, could be mitigated by functionally replacing the property acquired with another facility that would provide equivalent utility. Alternately, such facilities could be provided relocation assistance in a similar fashion as displaced businesses.

In some instances there may be opportunities for minor design modifications to avoid or reduce business displacement impacts. During the preliminary and final engineering processes, engineering staff will try to minimize displacement impacts to the extent practicable through design refinements.

Although there are multiple vacant buildings on the island, including several in and around the Jantzen Beach SuperCenter, the island is limited in its capacity to provide appropriate replacement sites for the 39 businesses that would be displaced by the Project. As a result, many of these businesses may have to relocate outside the main project area. According to the Hayden Island Plan, there are plans to redevelop a portion of the Jantzen Beach SuperCenter site into a high-density mixed-use transit-oriented development supported by the new light rail station. This redevelopment would include new commercial space that could house existing businesses and attract new ones to the island. It is not known when this redevelopment would occur, and therefore it is not known whether businesses displaced by the Project could be directly relocated to the newly constructed space.

Several measures are potentially available to mitigate for the loss of service industry jobs on Hayden Island. Many large public projects in the region set goals for hiring local contractors, utilizing apprenticeships, and otherwise cooperating with job training programs. The City of Portland has requirements for City projects that pertain to both of these measures as well as the hiring of minority, women-owned, emerging, and disadvantaged businesses. The project could adopt similar goals for construction contracting. The project could include innovative requirements in its construction contracting and contractor selection, with the intent of providing job training and a preference for local services.

Workforce practices can be used to provide experience and business for disadvantaged workers and companies. For instance, apprentices could be used for a percentage of labor during construction. Alternatively, the project could set a goal for the percentage of construction dollars contracted to DBE firms with a focus on those in within the project area.

Lastly, the project could work with TriMet to maintain the existing bus service that regularly connects Hayden Island with nearby grocery and other retail services. This may include additional routing on the island to provide greater transit access during construction. The project could also work with TriMet to maintain paratransit service for qualifying, mobility impaired Hayden Island residents.

The provision of a light rail station, the completion of Tomahawk Drive, the improved I-5 access and capacity of the Hayden Island interchange, and the addition of direct local access on a new local multimodal bridge would provide beneficial land use and economic impacts and would all contribute to the viability and success of the redevelopment plans for the island and mitigate for the business displacements on the island. Additional beneficial effects would result in improvements in the local street network consistent with the Hayden Island Plan.

Loss of Parking/Access. Loss of parking, and the loss or change of access, can have adverse economic impacts on businesses. If the project must remove an existing access, and if that access cannot be safely and adequately relocated or reconfigured, then the entire business is assumed to be displaced. Even if alternative access is available, it may not be as convenient as the existing access and could result in some loss of business.

Oregon Mainland. On the Oregon mainland on-street parking would not be impacted. However, the Expo Center parking lot would be reduced by 280 parking spaces, a reduction of 13 percent of the total parking. This area would be used for landscaping and the realignment of both Marine Drive and the new Expo Center Drive. The Expo Center seldom requires the use of all 2,100 parking stalls and any impacts that could be observed during peak events would likely be offset by the new light rail transit service provided connecting the Expo Center with Vancouver.

The realignment of Marine Drive and the new Expo Center Drive would eliminate parking spaces in a parking lot located on ODOT land, which is currently leased by Diversified Marine for equipment storage. Currently there are approximately 20 unstriped parking spaces in this parking lot. There is potential for identifying new space on the lessee's property or along property remainders for vehicle storage.

Two existing freight and truck storage businesses would experience impacts to their parcels from construction of the Delta Park to Vancouver Way connection over Martin Luther King Jr. Boulevard, and a connection between Martin Luther King Jr. Boulevard and N Haney Drive via Vancouver Way. These new connections could require relocation of existing access for both parcels. This portion of the CRC Project would reduce the parking capacity on the truck storage parcel south of Vancouver Way by approximately 55 to 60 vehicles, out of a total capacity of around 200 vehicles. Typical utilization is approximately 80 percent. This limits the number of vehicles able to park in the lot and could impact the viability of business at this location. The new roadway alignment bisects the existing storage lot, requiring a new access to be added for the northeastern segment cut off by the new road connecting to Marine Drive. The truck storage and distribution business north of Vancouver Way would lose approximately 50 truck parking spots, out of a total capacity of approximately 400 total spaces. The business could also lose some employee parking in one lot, though there is

adequate room to relocate the displaced parking. Additionally, two fuel storage tanks and a refueling area located on the parcel would need to be relocated, potentially impacting existing parking configuration and reducing the number of available parking spaces.

The roadway realignments and extensions in the vicinity of the Marine Drive interchange associated with the CRC Project would improve access and circulation overall, with specific benefit for commercial vehicles accessing the freeway from Marine Drive. The realignment of Marine Drive would still provide circulation to I-5, Vancouver Way, and Martin Luther King Jr. Boulevard. Current uses in the area described below include a convenience store, gas station, truck stop, hotels, residential, recreational, industrial and other commercial uses. Accessing the existing area of Marine Drive northeast of I-5 would require a minimum level of out-of-direction travel, but access would remain with the development of a new underpass that crosses through Werner Enterprise to Vancouver Way and on to Marine Drive.

A tire business would need to relocate its main entrance off of Vancouver Way to an existing access from N Haney Drive. A freight storage business south of Vancouver Way would need to relocate its entrance between N Haney Drive and the new connection to Marine Drive. Access would be kept open for the manufacturing facilities north of Marine Drive and west of I-5; however a local road would be constructed to preserve access to two businesses. The new Anchor Way extension under I-5 would allow traffic to circulate back onto the major roadways east of I-5 and would provide improved access to the west of I-5 for the businesses along this roadway.

The local traffic bridge connection between North Portland and Hayden Island would provide one lane in each direction over the North Portland Harbor, allowing residents and those accessing Hayden Island from the Oregon mainland an additional access option between the two areas, creating a local connection that currently does not exist. Local traffic near the arterial bridge and the Anchor Way extension could increase as drivers have the option to avoid the highway.

An aggregate gravel business's access and circulation would be modified. The access to the site would be via a driveway from the Anchor Way connection under I-5. Currently vehicles accessing I-5 from the site turn left directly onto Marine Drive. With the CRC Project, traffic accessing I-5 north from the site would go south on the new access road, travel along the east side of the Expo Center parking lot, turn right on Expo Road and right again on N Force Avenue, and finally turn right on Marine Drive, accessing I-5 via the single point urban interchange (phased highway option) or the flyover in the Full Build option. This is illustrated in Exhibit 4-5 of the *Economics Technical Report*.

The option of constructing the Bridgeton Trail between Marine Drive and the Columbia River would require a partial acquisition of multiple industrial parcels though no displacements would occur, and no economic impacts are anticipated. Design of the trail would need to consider the potentially conflicting users of freight and recreational bicyclists and pedestrians. Internal circulation within the aggregate gravel business is currently difficult. Some backing of vehicles onto Marine Drive is needed to access certain areas of the site. Left turns are

currently allowed onto Marine Drive directly from the business but can be difficult when traffic flows are heavy

Hayden Island. There is currently no on-street parking on Hayden Island. However, parking lot impacts would be experienced for the following properties adjacent to I-5: Large hotel on N Hayden Island Drive (10 stalls removed out of approximately 700); Hotel on N Jantzen Drive (8 stalls out of 185); parking lot for floating homes (40 stalls out of 200), Jantzen Beach SuperCenter (175 stalls out of 1300+). The Jantzen Beach SuperCenter parking lot would have 175 spots permanently removed, but because of the high number of overall parking spaces in the area, the effect of this change would be small; a sufficient supply of parking would remain at the SuperCenter to serve to serve anticipated future need most of the year, and the addition of light rail transit adjacent to the SuperCenter would help offset the small reduction in on-site parking.

Overall, the Project would improve access to Hayden Island. The extension of the Yellow MAX Line would provide direct transit service for residents, employees, and customers between the island and both downtown Portland and Vancouver. The two-lane local traffic bridge between Hayden Island and North Portland would also provide an off-highway option for travelers between the island and mainland Oregon. The Project includes widening two east-west local streets, extending N Tomahawk Drive under I-5, and widening N Jantzen Drive. Subsequent plans for the Jantzen Beach Super Center include rearranging the buildings around an extension of N Tomahawk Drive and the development of a new road connecting N Jantzen Drive to N Hayden Island Drive.

The widened N Jantzen Drive between the underpass with I-5 and N Hayden Island Drive to the north would acquire all the existing properties except for a fast food restaurant on the west and the hotel on the east side of N Jantzen Drive. The Project would restrict access to both the hotel and the restaurant to right-in/right-out only movements. The hotel and restaurant along N Jantzen Drive could experience circulation impacts, because the entrances and areas adjacent to the road are currently the primary access and circulation for the businesses. The expansion of the sidewalk along N Jantzen Drive to the east would require reconstruction of the guest canopy and load/unload area currently facing the street. This is the primary entrance for guests to the hotel, and alterations to the canopy could impact business operations. Access to the large hotel along N Hayden Island Drive would be reduced from three points to one new access opposite the widened N Jantzen Drive. This entrance would also serve banquet services and restaurants located on the property. All four businesses could experience slightly impaired circulation in the parking lot and increased congestion at the entrance. However, the design for N Jantzen Drive extends into the parking lot of the hotel, and could cause internal circulation issues, as the guest loading/unloading canopies and the principal entrance to the hotels would be difficult to maintain with the extension of the street.

The Columbia River Crossing Project team has coordinated with the City of Portland Office of Transportation, Bureau of Planning, the Portland Development Commission, and business owners on Hayden Island (through the development of the Hayden Island Plan and an Interchange Area Management Plan for the I-5/Hayden Island Interchange), to identify an

adequate local circulation system, access spacing, and land use policies to manage demand on the interchange.

Although portions of parking lots near the Hayden Island Station could potentially be used as a de facto park-and-ride, the availability of 2,900 park-and-ride spaces in Vancouver, Washington should minimize this likelihood. Because there will be a toll for vehicles to cross the bridge, the Council believes and finds that most Washington commuters travelling by light rail would park in Vancouver rather than at Jantzen Beach.

To mitigate for the adverse economic effects of the project, Interchange Area Management Plans (IAMPs) for the Hayden Island and Marine Drive interchanges are currently being developed in coordination with the City of Portland, ODOT, and other stakeholders. These efforts are building off the adopted Hayden Island Plan and the work of the Marine Drive Stakeholders Group. The IAMPs will provide a framework for access management and local circulation decisions in the context of these interchanges.

An Interstate Access Modification Request (IAMR) for the Hayden Island, Marine Drive, and Victory/Denver interchanges is also in preparation. The IAMR is a stand-alone document that includes the necessary supporting information needed for access modification requests to the Interstate System. An IAMR provides the rationale for access modifications to the Interstate System and documents the assumptions and design of the preferred alternative, the planning process, the evaluation of alternatives considered, and the coordination that supports and justifies the request for an access revision.

Tax Base. Local jurisdiction tax bases are affected in two ways by the development of large public infrastructure projects such as South/North light rail. First, and by far the greatest long-term impact, is the development and redevelopment that could occur in conjunction with the project. As this development occurs, the value of the investments is added to the tax base. The effect of this kind of impact is difficult to estimate because it is dependent upon many independent private decisions that would occur in the future. However, the Council finds that the overall impact should be positive.

The second type of impact is the direct impact to tax bases that occurs through property acquisition for construction of the project. Private property is typically acquired by the Project. Through acquisition, this property converts to public property and, as such, is removed from the tax rolls unless resold for private purchase. Often, the short-term impacts are minimal, as the loss in value in the tax rolls is offset over time by the expected greater increase in value added to the tax base due to new development in the corridor, specifically in station areas.

As shown below, the Columbia River Crossing Project will have a negative economic impact on the tax base through the displacement of business uses from the tax rolls. However, the Council finds that tax base impacts associated with displacement may be shorter-term because the availability of light rail and highway improvements is expected to spur redevelopment of the commercial area around the Hayden Island Station and could enhance property values and the tax base on a long-term basis.

Oregon Mainland. The five businesses displaced have an estimated right-of-way value of \$4.1 million, a property tax impact of \$27,000, which is 0.01% of Multnomah County budgeted 2008 property tax revenue.

Hayden Island. The 39 businesses to be displaced have an estimated right-of-way value of \$33.3 million, a property tax impact of \$219,000, which is 0.10% of Multnomah County budgeted 2008 property tax revenue.

Freight Movement. The area encompassed by the South/North Corridor is of critical importance to the movement of commodities within and through the Portland metropolitan area. The freight movement system in the South/North Corridor is comprised of two primary transportation modes: freight railroads and trucking. Additionally, along the Columbia River, the movement of commodities also relies on water freight movement and air transportation.

There are no rail lines crossed by LRT or the highway improvements in the Oregon portion of the Expo Center/Hayden Island Segment, so there will be no impact on *rail freight movement*.

Truck traffic relies heavily on the major streets and highways in the South/North Corridor and the region, including I-5. The Project is expected to improve traffic conditions in the corridor compared to No-Build and therefore will improve conditions for truck traffic, as addressed in the *Traffic Technical Report*. Daily truck travel demand would be similar for the No-Build and the Project because the movement of freight is substantially related to economic conditions in the region, and freight moved by trucks is not likely to shift travel modes due to congestion. However, truck demands by time of day would likely change because there would be fewer congested hours with the CRC Project, resulting in more trucks during the commuter peak and midday hours.

The Project would result in higher volumes of trucks during midday operations compared to the No-Build Alternative. The reduction in congestion and truck travel occurring throughout the day would mean more flexibility in truck scheduling and improved reliability of truck shipments. Exhibit 7-10 of the Traffic Technical Report summarizes truck volumes by time of day.

Adverse impacts to truck movements in the South/North Corridor include both potential delays due to increased congestion or out-of-direction travel associated with light rail, and the possible loss of on-street loading zones. Localized delays to peak-period truck activity could occur due to increased congestion that would result from reductions in roadway/intersection capacity associated with light rail operations. However, the overall improvement to traffic conditions in the corridor mitigates the localized delays that would occur from light rail.

The roadway realignments and extensions in the vicinity of the Marine Drive interchange associated with the Project would improve access and circulation overall, with specific benefit for commercial vehicles accessing the freeway from Marine Drive. The realignment of Marine Drive would still provide circulation to I-5, Vancouver Way, and Martin Luther King Jr. Boulevard. Accessing the existing area of Marine Drive northeast of I-5 would require a

minimum level of out of direction travel, but access would remain with the development of a new underpass that crosses under I-5 to Vancouver Way and on to Marine Drive

The Council finds that the project would improve truck traffic through better local intersection operations and fewer hours of congestion on I-5 compared to the No-Build alternative.

Segments of two navigable waterways are located within or adjacent to the Expo Center/Hayden Island segment: the North Portland Harbor and the main Columbia River channel. The United States Coast Guard (USCG) has jurisdiction over navigation within these waterways, and construction of a bridge across these waterways will require the USCG's approval of a bridge permit under Section 9 of the Rivers and Harbors Act of 1899 and the General Bridges Act of 1946, as amended.

The CRC project would have a positive effect on marine commerce on the Columbia River. The existing I-5 bridge structures each have nine piers that result in navigation "channels" between the piers. Three such channels are used for navigation:

- A wide span with approximately 60 feet of mid-span vertical clearance;
- A high span with approximately 70 feet of mid-span vertical clearance; and
- A lift span with approximately 40 feet of mid-span vertical clearance when closed and 180 feet when open.

The wide span is the main channel used for navigation, but during high-water many barges need to use the high span, or require bridge lifts at the lift span. In 2004, there were 604 bridge openings. The proposed I-5 bridges would be high enough to allow the vast majority of vessels to pass without bridge openings. With the exception of a small number of specialized vessels that use the river infrequently, the majority of vessels require vertical clearances of less than 90 feet from the surface of the water to the bottom of the bridge deck. The project team, in consultation with the Coast Guard, established a 95-foot minimum vertical clearance for structures built without a lift span. Vertical clearances greater than 95 feet would raise the bridge structure into restricted airspace for flight navigation. The 95-foot clearance with the Project will be fixed, not subject to lift restrictions, and accommodate all recreational and commercial vessels. Infrequent trips of marine contractor's cranes will not be accommodated. Their cranes or cargo may be broken down, at a cost, to meet proposed clearances. Reduced clearances resulting from the project will be mitigated by significantly improved navigational safety

Currently, bridge openings are restricted to non-peak roadway commute hours. Thus, the new spans would provide more flexibility in operating schedules for marine commerce. The new spans would also eliminate some of the "S-Curve" marine movements currently required for marine traffic to pass under the highway and railroad bridge structures at their highest elevation.

Six piers would support the bridge structures, which is three fewer than exist on the current bridges, thus widening the horizontal clearance of navigation channels. The bridge span length would be 465 feet, with 390 feet of clearance for marine travel between the pile caps,

which would be an increase over the width of the “main channel” by 127 feet and a decrease of the “barge channel” width by 121 feet. The current main channel width is 263 feet, and the barge channel has a horizontal clearance of 511 feet. The longer span lengths in the main channel would provide more room for boat captains to maneuver between the piers and improve the inherent safety of marine navigation.

The North Portland Harbor does not include a designated shipping channel and is largely travelled by recreational boaters and those accessing the water-oriented uses along the Harbor. All of the new structures would have at least as much vertical clearance over the river as the existing North Portland Harbor bridge.

The Council finds that the project will improve marine navigation due to the removal of the “S-Curve” maneuver that currently exists; the removal of bridge lifts and associated restrictions; and the reduction in the number of piers in the river.

Two airports are located near the CRC Project area. Portland International Airport (PDX) is located about three miles southeast of the project on the Oregon side of the Columbia River. It is the major regional airport and serves large commercial passenger and freight service, private aircraft, and the Air National Guard. Planned expansions include both potential runway extensions and the addition of a new runway.

Pearson Field is located directly east of the project on the Washington side of the Columbia River. It serves primarily small piston-engine aircraft weighing 10,000 pounds or less. Because developed urban uses and the Vancouver National Historic Reserve (VNHR) surround it, there are no plans to expand facilities or operations at this airfield.

The lift towers of the existing bridge currently intrude 98 vertical feet into protected airspace for Pearson Field and are an aviation hazard. To avoid the towers, aircraft must use special departure and arrival procedures. The new bridge designs will not include lift towers. The bridges would be located slightly farther from the airfield, and so would intrude less into Pearson Field airspace.

The Council finds that the project will improve aviation safety and efficiency due to the removal of lift spans in Pearson Field’s airspace. At worst, the project will have no negative impact to air freight.

Other Economic Impacts. Other economic impacts include the disruption of business during construction, possible loss of property values, possible inability to sell a business or secure loans to pay off mortgages or other business debts due to proximity to the light rail alignment or related light rail facilities, changes in business activity resulting from changes in traffic patterns or access management measures, and utility relocations. Construction impacts are addressed in the Short-Term Impacts portion of these findings (Section 7.0). The Council finds that generally, there is no required mitigation for temporary economic loss or business interruption during construction of a public project. However, for this specific project, the Council finds that TriMet would be willing to provide staff assistance to impacted property owners in assisting the property owners with their loan refinancing and/or loan application processes. Programs to help businesses affected during construction would include some

combination of the following: business planning assistance, marketing and retail consulting, and promotions to generate patronage in construction areas. TriMet would provide these programs; similar programs have been employed on recent light rail extension projects. The Council also finds that there may be reductions in property values, but it believes and finds that most of these properties will increase in value over the long term following construction. The Council finds that no mitigation is necessary for possible temporary reductions in property value.

As a result of improvements to I-5 and the local street network, including access management measures associated with highway improvements, some area traffic patterns will change. Drivers are likely to choose routes that can take advantage of the new roadway capacity and intersections that operate better as a result of the Project. Some local businesses will experience an increase in drive-by traffic, while others will experience a decrease, especially if access becomes more out-of-direction. A significant decrease in drive-by traffic, for some businesses, may result in an adverse effect on business revenues. For example, the Project includes a new design for the North Marine Drive/Union Court intersection. The new design will improve mobility, traffic operations and safety. However, it will also reduce traffic volumes at North Marine Way and North Vancouver Way. There are businesses at this location that could experience a decline in revenues as a result of this change in the local traffic patterns. Similarly, access management measures associated with the Marine Drive and Hayden Island interchanges could make access to certain businesses more out-of-direction and less convenient, which could impact overall business revenues. Out-of-direction travel associated with changing traffic patterns or access management measures also adds costs in terms of increased fuel consumption for patrons of affected businesses. The Council finds that during the preliminary and final engineering processes, engineering staff will try to minimize impacts associated with traffic pattern changes and access management measures to the extent practicable through design refinements.

The Council heard testimony that in some instances, impacts associated with changes in traffic patterns or access management resulting in more out-of-direction travel will severely impact existing businesses, such as fast food restaurants, a hotel and convenience stores that have not been identified as being displaced, to the point that they would not be profitable. Initially, the Council finds that for some of these businesses located on Hayden Island, the roadway modifications resulting in these impacts are consistent with the City of Portland's adopted Hayden Island Plan and that testimony objecting to the provisions of that plan constitute an unlawful collateral attack on that plan. That stated, the Council finds that a process is available to consider these kinds of impacts through final design and development of an Interchange Area Management Plan. During these processes, there will be a detailed analysis of impacts on affected properties. If damages to a business are found to be different from those currently projected, such that a full displacement is justified and warranted, then the property could be fully displaced. And while the Council heard testimony that current economic conditions may put redevelopment plans for Hayden Island "on hold", it finds that planning addresses development over the long-term and that economic conditions are cyclical, such that redevelopment is likely to occur when the economy improves.

The project will require relocation of certain utility facilities and lines. Utility relocations typically are addressed during preliminary engineering and final design. The Council finds that the costs of relocating utilities impacted by the project are addressed, and can be paid, as provided in existing law.

For some, bridge tolling may constitute an adverse economic impact. Tolling of interstate facilities must be consistent with Title 23 U.S.C. Section 129, the federal law that specifies the circumstances under which interstate facilities may be tolled. The CRC Project qualifies, though tolling on I-205 does not. The Council finds that at this point that tolling will be necessary both to manage congestion and as part of a funding package for the CRC Project along with federal and state funding. It also finds that tolling would likely be beneficial for freight-dependent businesses and businesses that rely on just-in-time deliveries, because the predictability of travel times would improve. However, the greater the toll, the higher the operating costs for truck movements. For other kinds of businesses, tolling will be an additional expense. However, time savings associated with improved mobility on I-5 will help mitigate that impact.

Concerns have been raised that tolling the I-5 bridge could divert traffic onto the I-205 bridge, increasing congestion and causing added delays on that bridge and its approaches from I-84 and I-205. The Tolling Study Report, released in January 2010, indicates and the Council finds that at the Columbia River, there is an approximate 4.5% shift of auto trips on an all day basis from I-5 to I-205 as compared to a Build-No Toll scenario. More diversion to I-205 is predicted in the off-peak hours when capacity is available than during peak hours. On I-205 south of I-84, the models estimate that diversion will be approximately 1% on an all day basis as compared to the no-build.

While the Tolling Study found, under most of the I-5 only toll scenarios, that the majority of drivers would not change their travel patterns and that most diversion would occur in off-peak hours, the Council finds that the full extent of diversion onto I-205 and associated impacts from tolling on I-5 are not fully known at this time. This will require additional study and analysis as the Project advances. In particular, more refined analysis of traffic demand and patterns will be developed prior to setting the toll rates, and tracking of travel demand and patterns after completion of the Project will allow for adjustment over time. In addition to adjusting the toll rates over time, there will also be adjustments as appropriate to transit service and fares and demand management programs such as incentives for carpooling and vanpooling. These adjustments will mitigate the effects of tolling on travel patterns.

The Council heard testimony questioning the adequacy of the models used to forecast toll traffic and revenues. Modeling experts acknowledge that there is a level of modeling analysis required at the environmental impact state, and a more rigorous analysis required at the point of financial commitments, in several years. By that time, Metro's modeling will be upgraded and input data regarding traffic, growth forecasts, gas prices, transit coverage, interest rates and other conditions will be updated to be as current as possible to the timing of financial commitments.

However, while the Council recognizes the importance of funding for this Project, it finds that the LUFO process under HB 3478 is a land use decision-making process established to address land use impacts and provide land use authorization for the Project. See HB 3478, Sections 3, 4, 6(1), 7. It finds that the criteria established by LCDC are criteria established for making land use decisions. It further finds that the LUFO process and the LCDC criteria do not address how a project gets paid for and that project funding is not a land use issue.¹⁷ The Council understands that in order to be eligible to obtain federal funding, it must demonstrate that the Project is consistent with land use requirements. These findings demonstrate such compliance.

As explained in the social impact findings below, the Project may affect localized access to properties by police, fire and ambulance vehicles. However, the project should not otherwise increase these governmental services. The Council has seen no evidence to this effect, and it finds that any significant increase in police, fire or emergency medical services as a result of the project is speculative. The Council concludes that no mitigation is necessary in this regard.

Conclusions on Economic Impacts

While the Council is sensitive to the displacement of businesses and loss of existing jobs associated with the Columbia River Crossing Project, the Council finds that, on balance, the CRC Project will result in positive economic impacts in the East Columbia, Kenton, Bridgeton and Hayden Island neighborhoods, particularly because the extension of light rail transit to Hayden Island and northward into Vancouver, Washington will further support commercial development at the Jantzen Beach Center and because highway improvements, including new I-5 bridges with greater capacity, improved I-5 interchanges at Hayden Island, Marine Drive and Victory Boulevard, and better roadway connections to I-5 and between Hayden Island and N Marine Drive will improve access and circulation for companies and businesses in the area. Furthermore, the improvements to I-5 will substantially reduce delay and improve the movement of freight between Oregon and Washington, improve navigation along the Columbia River, and remove hazards to air navigation associated with the existing I-5 Interstate Bridge lift towers.

The Council also finds that the Project would result in short-term economic benefits with the increase in employment resulting from the construction of the LRT facilities and highway improvements in the Expo Center/Hayden Island segment. The Council finds that there will be a short-term decrease in the tax base due to business displacements. However, the availability of light rail is expected to spur redevelopment of the commercial area around the Hayden Island Station and could enhance property values and the tax base on a long-term basis.

Based on information in the CRC technical reports, the Council finds that adverse economic impacts associated with LRT and highway improvements can be mitigated through a variety

¹⁷ Although the provisions in OAR Chapter 660 do not apply, the Council understands that provisions addressing the timing and financing of transportation improvements are not considered to be land use decisions. See, e.g., OAR 660-012-0040(5).

of means, including relocation assistance programs for displaced businesses and coordination with local jurisdictions and stakeholders. The Council finds that the bridge has been designed to avoid any need for bridge raising or lowering to accommodate river traffic on the Columbia River, and also designed to avoid interference with air navigation using PDX or Pearson Field Airport in Vancouver.

Tolling issues have yet to be fully resolved and could impact larger portions of the region than just the I-5 corridor. Coordination between the states and regionally among the affected South/North Project local governments could help lead to a more generally accepted resolution of this concern.

Social Impacts

The Council finds that the social impacts of the South/North Project are generally positive in the Expo Center/Hayden Island segment. Light rail will provide quicker, more reliable and more comfortable transit access to the substantial commercial and employment base at the Jantzen Beach commercial center and to residents of Hayden Island. The highway improvements will improve access and circulation on I-5 and local roads in the area, improving safety, reducing congestion, and increasing mobility of motorists, freight traffic, bicyclists, and pedestrians along the I-5 corridor.

Residential Displacements. As with business displacements, the Council recognizes that in every instance where the South/North Project displaces an existing household, that represents an adverse social impact, and the Council is sympathetic to the significance of each residential displacement. The Council understands and acknowledges that relocations can cause significant anxiety and trauma to families, uprooting them from neighborhoods, schools and friends and imposing change on them.

Given that the South/North Project serves a largely developed urban area, it has been impossible to avoid residential displacement impacts while still providing transit accessibility. To the extent feasible and practicable, the LRT route follows existing public road and railroad rights-of-way to minimize displacement impacts. Locations for related facilities such as LRT stations and park-and-ride lots have also been selected with the objective of balancing displacement and other adverse impacts with the positive benefits of LRT proximity and service.

The methods used to determine displacement impacts are described in the Acquisition Technical Report and in the discussion of economic impacts above. The same methods applicable to business displacements are relevant to determination of residential displacement impacts and are incorporated by reference. Additionally for residential displacements, federal and state guidelines determine the standards and procedures for providing replacement housing, based on the characteristics of individual households. Eligibility for relocation benefits would be determined after the issuance of the NEPA Record of Decision (ROD) and once the project is granted approval to begin right-of-way acquisition. Relocation assistance could include replacement housing for displaced persons, moving costs, and assistance in locating replacement housing.

Oregon Mainland. Impacts summarized in this section include those between the southern terminus of the project at Victory Boulevard and the south shore of North Portland Harbor. Most of the permanent property impacts in this portion of the project area are due to the highway portion of project, specifically, the realignment of Marine Drive and the addition of local street connections near the Marine Drive interchange.

The transit alignment over North Portland Harbor would result in the displacement of one floating home associated with the parcel adjacent to and west of I-5. The remaining portion of this parcel, not impacted by transit, would be permanently acquired for the highway alignment, which would displace a single-family home with two households on land and two additional floating homes in the harbor. A total of five households would be displaced in this portion of the project area.

Hayden Island. Impacts summarized in this section include those on Hayden Island and associated portions of North Portland Harbor. The permanent acquisition of property would be required in this area to accommodate the reconstruction of the Hayden Island interchange and the extension of light rail over Hayden Island.

The project would have 32 residential displacements on Hayden Island. Twelve of the 32 residential displacements on Hayden Island would be from Row 9 of the Columbia Crossings Jantzen Bay moorage in North Portland Harbor east of I-5. Two of the homes were identified by survey as also containing businesses that would be displaced, as would an additional floating home in this moorage that is used solely for a business. These business displacements are included in the business displacement section of this document. The remaining 20 residential displacements on Hayden Island would occur at rows A, B, and the east side of row C in the Jantzen Beach Moorage, Inc. located in North Portland Harbor west of I-5.

Mitigation of residential displacements could include minor redesign of the project during preliminary and final engineering to avoid or reduce displacements. Some displacements could be mitigated by taking only a portion of the property and/or structure and by modifying the remaining property and/or structure to allow continued occupancy. Where displacements are unavoidable, the project will provide compensation to property owners based on fair market value and a comprehensive relocation program. The compensation/relocation program for residential properties operates in the same manner as described above for business relocations.

It has been FTA's and FHWA's long-standing policy to actively ensure nondiscrimination under Title VI of the Civil Rights Act. Title VI-related impacts include those impacts that are specific to a protected population under the 1964 Civil Rights Act. Under Title VI and related statutes, each federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subjected to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion. Some of these populations (such as the elderly) are not covered by EO 12898, which specifically addresses disproportionately high and adverse effects to minorities and low-income populations.

The Council finds that for the Expo Center/Hayden Island Segments, the data on residential displacements does not suggest disproportionate or discriminatory impacts to environmental justice populations.

Access to Community Facilities. The Columbia River Crossing portion of the South/North Project will improve mobility for Hayden Island residents to travel to and from community facilities and employment centers outside their neighborhood. This is a particular benefit given the absence of other convenient travel options besides the automobile. The Hayden Island Station will improve transit access to the substantial concentration of jobs and commercial services at the Jantzen Beach Center. It will also provide improved transit accessibility and links for Hayden Island residents to local and regional employment centers, community facilities and recreational destinations along the South/North and East/West MAX lines, including employment centers and community facilities in the downtown areas of Portland, Milwaukie, Gresham, Beaverton and Hillsboro. The highway improvements will improve local access and circulation in the area and improve mobility along I-5.

Construction of the Project would displace the Safeway grocery store and pharmacy, which are the only grocery store and pharmacy on the island and are important community resources. While ODOT can suggest replacement sites for the relocation of Safeway, it is up to the storeowners to choose their replacement location, if any. While Safeway may not relocate on the island, it could be replaced by other grocery stores. Officials representing the Jantzen Beach SuperCenter initiated a site plan review with the City of Portland for a relocation and expansion of the Target store on the island. The Council heard testimony that the plan has been approved by the city. That plan provides for a grocery and possibly a pharmacy. During construction, the project would work with TriMet to maintain the existing bus service that regularly connects Hayden Island with nearby grocery and other retail services. This would include additional routing on the island to provide greater transit access during construction. DOTs would also work with TriMet to maintain paratransit service for qualifying, mobility-impaired Hayden Island residents.

Displacement of the Safeway grocery store and pharmacy may disproportionately impact low-income residents who use these services and do not own cars. This impact would be mitigated by the addition of light rail to Oregon and Vancouver.

The displacement of the Safeway store would also displace an extremely active bottle return center. The store managers report over \$10,000 each week paid out through the returns. Although it limits each patron to only \$7.20 in returns per day, this bottle return center provides an opportunity for individuals to generate income. There are other locations where bottles can be returned on the island and in north Portland. Many of these smaller establishments (such as convenience marts) also enforce limits on the number of bottle returns per visit. However, as long as these businesses continue to operate and proper access to them is maintained, displacement of the return center at Safeway would not result in a high degree of impact.

To mitigate for the displacement of the Safeway bottle return center, the project could provide some written and posted guidance before the closure of the Safeway return center. The guidance would provide community members with alternate bottle-return locations, and

directions for getting to these locations. In the event that there would be no other return center on the island, the project could work with an appropriate business site to provide this service.

Barriers to Neighborhood Interaction. The Council finds that the light rail alignment will not result in barriers to neighborhood interaction, primarily because the alignment in large measure parallels the I-5 freeway that already functions as an edge and boundary to the local neighborhoods. Similarly, the Council finds that the highway improvements generally improve existing roadways that either already create barriers to neighborhood interaction (e.g., I-5) or provide convenient access and circulation within and between the affected neighborhoods. The bicycle and pedestrian lanes on the new northbound I-5 bridge will improve interaction between north Portland and Vancouver, Washington neighborhoods.

Safety and Security. The Council is sensitive to the importance of safety and security in neighborhoods affected in particular by the light rail components of the South/North Project. For the South/North Project as a whole to succeed, passengers must feel safe using the stations and trains. The Council finds that with appropriate location and design, and with implementation of system-wide transit security measures as described below, the Hayden Island station would not adversely affect passenger safety and security.

The extension of light rail north from its existing terminus at the Expo Center would cross several intersections at grade. Train frequency in the peak periods is estimated to have 7.5-minute headways with greater headways during off-peak periods. Positive traffic control such as signalization, signage and pedestrian treatments would be used to enhance the safety of other vehicles, pedestrians and bicyclists traveling near light rail vehicles. Transit security on vehicles and at stations and park and ride lots would also be addressed during the design, construction, and operational phases of the project. Examples of safety and security measures that may be designed into the project include:

- Physical barriers such as medians, fencing, landscaping, or chain and bollard (short, vertical posts) to help channel automobiles, pedestrians and bicyclists
- Signage, tactile pavers, audio warnings, and pavement markings at track crossings to alert individuals they are approaching tracks
- Active treatments such as flashing lights, bells, and illuminated and audible warning devices in traffic signals
- The creation of inviting, well-lighted platforms and station areas
- Maintaining clear sight lines for oncoming trains
- Implementing a public safety education campaign before the start of rail service

TriMet has adopted a system-wide Transit Security Plan that applies community policing techniques to transit security. Elements of the Transit Security Plan that will be incorporated into the design and operation of the light rail line serving the Expo Center/Hayden Island segment include: increased in-house training of transit district employees in crime prevention; a high level of coordination with local law enforcement agencies and personnel; improved facility design and operation standards to increase visibility and security enforcement levels, and investment in new tracking and surveillance technology.

The Council further finds that security lighting will be provided at station platforms and that landscape design will ensure consideration of safety and security. Additional potential mitigation measures include emergency call boxes and monitoring/surveillance cameras. Strategies such as crime prevention through environmental design (CPTED) and the use of police, private security patrols, and security cameras could be employed as appropriate to make the light rail facilities as safe and secure as possible. The existing policies and procedures developed by TriMet and FTA for operations during a potential catastrophic event and to prevent terrorist activities would be expanded to include the CRC Project. Finally, design criteria such as platform location and length, pedestrian crossings, and alignment design would be used to ensure that the project operates safely.

Localized access to properties by fire, police and ambulance vehicles could be affected by changes in local street configurations throughout the corridor. The current level of design reflects consideration of access by emergency vehicles (e.g., street and bike path dimensions, proximity to emergency facilities, primary access routes for emergency vehicles, etc.)

The Council finds that, with appropriate design and implementation of systemwide transit security measures identified above, the new Hayden Island Station will not adversely affect safety and security. The station will be elevated to the level of I-5. The final design of the station will include careful consideration of security concerns. Security lighting and landscape design will ensure consideration of safety and security.

Visual/Aesthetic. The CRC Project will result in impacts to visual and aesthetic resources in the Expo Center/Hayden Island segment as a consequence of introducing:

- Cut/fill slopes, bridges, overhead structures, sound/retaining walls, catenary poles and overhead wires;
- A light rail station at Hayden Island;
- New I-5 bridges and interchanges;
- New North Portland Harbor bridges;
- Improvements and modifications to existing structures, roads, vegetation, topography;
- Disruptions of existing visual resources, viewpoints, view corridors and vistas; and
- New views.

Impacts to the Columbia River main channel, which lies adjacent to the Expo Center/Hayden Island segment outside the UGB, would be mostly positive. Potential impacts would include:

- Removal of the visually complicated truss structures and lift towers of the existing I-5 bridges, which obstruct views from the river, from the Interstate bridges themselves, and from the shoreline. This action would remove an important contributor to the area's historic context (the I-5 bridges) and a character-defining aspect of interstate travel.
- From I-5, views of the Portland and Vancouver skylines, distant shorelines, rolling hills, and mountain profiles would generally improve. Toward I-5, views of open

water and shorelines from shoreline-level and elevated viewpoints would also generally improve.

- Removal of the lift towers would be interpreted to have a generally positive visual impact on views from downtown Vancouver.
- Modifications to interchanges would increase heights at the Marine Drive and Hayden Island interchanges, where new ramps and elevated roadways would be higher than any existing facilities in these immediate areas. Even at these interchanges, the degree of change is expected to be moderate, since these areas are already and would continue to be large urban interchanges.
- Removal of the existing bridge structures that currently obstruct views of much of the area immediately beneath the bridges, along the river. This would provide for more light and vegetation under the bridges. These elements would all provide positive visual changes to the immediate area and adjacent areas.

North Portland Harbor would experience moderately negative visual impacts from the addition of piers for the LRT bridge and collector/distributor ramps; these would clutter views along the slough and reduce views of open water.

Given the types of visual impacts summarized in the *Visual and Aesthetics Technical Report*, the Council finds that the following strategies can be used to reduce adverse visual impacts to affected neighborhoods:

- Planting vegetation, street trees, and landscaping for screening or visual quality. The project will adhere to a green-over-grey approach for treatment of many new structures, using climbing vines and non-invasive ivies, where practicable.
- Designing landscape plans and other visual treatments consistent with adopted guidance and plans.
- Shielding station and facility lighting from nearby residences and the night sky.
- Minimizing structural bulk, such as for ramps and columns.
- Designing architectural features to blend with the surrounding community context.
- Placement of public art (to be relocated when necessary and added as part of transit stations and gateways).
- Where practicable, integrating lighting with facilities in a manner that produces a positive visual and aesthetic impact, reduces night sky light pollution, reduces possible light trespass into residential units, and contributes to crime prevention through environmental design (CPTED).
- Utilizing the UDAG Design Guidelines, as well as design guidelines of the City of Portland and Tri-Met.
- Selecting new and replacement pole and utility cabinet locations, colors, and styles in relation to their context and in accordance with municipal lighting standards.

In each affected neighborhood, the Council recognizes that potential mitigation measures will vary to fit neighborhood scale, character and concerns. In some neighborhoods, potential measures could improve the visual character of impacted areas. In other areas, the CRC portion of the South/North Project will be a prominent visual feature even with mitigation.

The area from Victory Boulevard, the Expo Center and Marine Drive north to Hayden Island and the Columbia River consists primarily of a major interstate freeway with connecting arterials, a busy, auto-dominated commercial strip, and large, dramatic expanse of open water. The area from Victory Boulevard to Marine Drive has industrial, recreational, and transit developments scattered throughout the area amid large tracts of open space. Commercial development patterns on Hayden Island have obscured natural features to the point where any connection to water or natural landforms is not visually apparent unless one is on the shoreline. Throughout this segment, many signs and utility poles; constant, fast traffic and noise; scattered moderate and large-scale commercial structures; and the artificial landforms associated with I-5 create a coarsely textured, complex environment with a confusing visual character. The breadth and openness of the Columbia River provides visual contrast to an otherwise cluttered visual environment.

Dominant visual features in this segment include I-5, Delta Park, the Vanport wetlands, the North Portland Harbor, Jantzen Beach Center, the historic I-5 truss bridge between Hayden Island and Vancouver, Washington and the wide, flat and open stretch of the Columbia River. The river is a significant regional resource and the dominant visual element within this segment because of its large scale and openness. It also serves as a dramatic gateway between Oregon and Washington.

LRT improvements in the Expo Center/Hayden Island Segment include a good deal of bridging. The bridges over the North Portland Harbor would remove structures, including floating homes and vegetation, along both banks of the harbor, and interrupt views south from Hayden Island to the west hills. The light rail alignment then parallels the west side of I-5, removing commercial structures along that side of the freeway

In general, the Council finds that the impacts to views would vary within the Columbia River Crossing portion of the project area. Impacts to the Columbia River main channel would be mostly positive, as described above. Impacts to North Portland Harbor would be moderately negative, with the addition of more bridges across the harbor. Impacts to the area from Victory Boulevard to Marine Drive would be low.

The Council finds that possible measures that could mitigate the adverse impacts of the new bridges on views include those described above. Appropriate conditions can be imposed through the local review process consistent with Section 8(1)(b) of HB 3478 to avoid or mitigate adverse impacts on designated scenic resources and viewpoints.

Other Social Impacts. Other social impacts include loss of property values, property acquisitions not requiring displacements, loss of trees along roadsides and in neighborhoods, increase in electric and magnetic fields (EMF), and perceived reductions in "quality of life" associated with LRT and highway improvements, both during construction and in the long term. Construction impacts are addressed in the Short-Term Impacts portion of these findings. The Council finds that there may be reductions in property values, especially during the construction phase, but it believes that most of these properties will increase in value following completion of construction. The Council also finds that residing immediately next to the alignment or a station may result in some property owners experiencing perceived

reductions in quality of life. Others may see a reduction in quality of life associated with increased density that might result from the proximity of rail to an area. These are very subjective matters that can vary from individual to individual. Landscaping and noise barriers might help mitigate adverse impacts. Where trees are removed, potential mitigation includes equivalent tree replacement. Extension of the light rail system would generate EMF and could increase exposure. However, in those locations where people could be exposed (within and near the light rail right-of-way, near substations, or in the light rail vehicles), EMF emissions would be below exposure guidelines. Because light rail electric power substations tend to generate the highest EMF intensities in the field measurements, the substations have been designed and sited to minimize exposure to users of the system, the general public, and sensitive users.

The Council heard testimony regarding health concerns and vibration impacts to the manufactured housing community on Hayden Island. Mitigation can include monitoring vibration and halting construction if thresholds are exceeded; monitoring dust and halting working if thresholds are exceeded; and covering debris or application of water to avoid release of dust into the air.

The manufactured housing community also expressed concern about access on and off the island during construction, especially for emergency vehicles. Mitigation could include construction of the local bridge over the North Portland harbor as a first state of construction.

Social benefits include cleaner air by providing improved transit access in the region, resulting in less automobile driving than would otherwise occur and less congestion and air pollution. Cleaner air also is provided by decreasing congestion through improvements to the highway system. Social benefits also include improved quality of life from lower and more reliable transit travel times, resulting in more time for people to spend doing things other than commuting.

A greenhouse gas emissions analysis was prepared for the Columbia River Crossing Project and is detailed in the Energy Technical Report. The report includes a macroscale analysis to provide a picture of the regional emissions, as well as a microscale analysis that focuses more on the project area. The Project is expected to reduce regional emissions by approximately 130 metric tons of CO₂e /day, which equates to a reduction of approximately 0.5 percent. For the 12.2-mile length of I-5 surrounding the CRC project area, the Project is expected to reduce emissions by roughly 21 metric tons of carbon dioxide equivalent during the AM and PM peak periods, or 5.4 percent.

The differences in long-term effects on water quality between the Project and the No-Build Alternative are substantial. Although the total amount of pollution-generating impervious surface (PGIS)¹⁸ would slightly increase for the Project, the amount of untreated impervious

¹⁸ Pollution-generating impervious surfaces include highways, parking lots, sidewalks and other surfaces that do not absorb water and to which contaminants may adhere, so that when stormwater strikes the surface, it runs off to a nearby surface, carrying some of these contaminants with it. If the water runs off to soil, these contaminants can enter the soil, causing harmful effects. Additionally, PGIS are often warmer than the surrounding surfaces, and runoff from these surfaces that enters nearby rivers or lakes can raise water temperatures, causing harmful

surface would drop dramatically compared to existing conditions and the No-Build Alternative. This is because under the Project, stormwater runoff from all new or reconstructed impervious surface area would be treated, while stormwater runoff from most of the existing PGIS does not currently undergo stormwater treatment.

Payment of the new highway toll would require a higher proportion of income for lower income drivers than for higher income drivers. The Council finds, however, that when considered in combination with the other elements of the project, the impact would not be high and adverse. In exchange for the toll, travelers would receive the benefits of shorter highway travel times, lower congestion, extended LRT service, more reliable commute trips, reduced crashes, no bridge lift interruptions, increased access to employment, housing, education and services, and improved biking and walking facilities. There would also be toll-free options for crossing the river, including transit, carpooling, biking or walking, and crossing on I-205. The toll rate is also reduced during the off-peak travel times.

The project team reviewed the available research to inform the environmental justice impact evaluation. Several academic studies have been conducted on equity and tolling. The Washington State Department of Transportation (WSDOT) also conducted research on tolling equity for various projects.

The University of Washington and the Washington State Transportation Center published in 2009 a research paper entitled “The Impacts Of Tolling On Low-Income Persons In The Puget Sound Region.” The paper starts with the assertion that “Tolls may be progressive, regressive, or neutral, depending on the social and geographic characteristics of the town or region and the structure of the tolling regime. The distributional effects must be evaluated on a site and project specific basis.”

In “International Experiences with Congestion Pricing” (May 1993), Anthony May considered the equity component of congestion pricing. He cited older studies that argue that congestion pricing is a regressive measure that has greater impacts on lower-income drivers, but indicated this population is more likely to travel by bus or foot. May concluded that the most inequitable effects are dependent on the pricing scheme implemented and would likely impact a small percentage of lower-income drivers. He suggests that the only way to address the issue of equity is to invest some of the toll revenue in public transport rather than solely to improve the road infrastructure. The Project includes substantial improvements to transit as well as bicycle and pedestrian facilities.

Existing electronic toll collection systems with transponders present various hurdles for low-income users. One must normally either pay a deposit or link the account to a credit card or bank account. Some low-income populations may not be able to purchase a transponder. Not being able to purchase a transponder due to large set-up fees or lack of a credit card and/or bank account would be an adverse impact on those low-income populations affected. A similar barrier may exist when new tolls are instituted in areas where some groups and

effects.

individuals lack the English language skills to understand the complex tolling system. These impacts would be mitigated through outreach and special programs.

The Council finds there are several strategies that would mitigate the potential impacts of tolling on low-income populations. Since toll transponders are unfamiliar to most Oregon and southwest Washington residents, educational materials can be made available that explain how tolling and transponders work. All such communications would be made available in selected non-English languages, as appropriate. C-TRAN offers programs that assist low-income populations and people with disabilities to obtain a reduced transit fare. TriMet offers similar programs that assist senior and disabled populations using transit.

Conclusions on Social Impacts. The Council finds the social impacts of the Columbia River Crossing project are generally positive in the affected East Columbia, Kenton, Bridgeton and Hayden Island neighborhoods, although there are 46 potential residential displacements in these segments.

Relative to access to community facilities, the project would displace the only grocery store and pharmacy (Safeway) on Hayden Island. The displacement could also affect low-income populations that use the bottle return center. However, the Council finds that the improved transit access, improvement of the local street network, and a bridge providing local multimodal access to and from the island, as well as the other mitigation measures mentioned above, would mitigate the displacement of the Safeway.

Relative to barriers to neighborhood interaction, the Council finds that the LRT alignment will not result in barriers to neighborhood interaction, primarily because the alignment in large measure parallels the I-5 freeway which already functions as an edge and boundary to the Hayden Island Neighborhood. It finds that the extension of LRT to Hayden Island will better connect the island and its residents to the region and its amenities. Similarly, the highway improvements generally expand or improve existing roadways.

Relative to safety and security impacts, the Council acknowledges and supports TriMet's continuing efforts to improve passenger and community safety throughout its service area. The Council finds that TriMet is committed to making continued improvements to help maintain a safe and effective transit system, and it finds that the measures identified above improve public safety.

Relative to the visual impacts, the Council finds that the project would result in positive and negative impacts. The negative impacts could be mitigated by the measures addressed above, including following existing design guidelines from the City of Portland and TriMet when designing the light rail and highway improvements.

Traffic Impacts

The *Transit Technical Report*, *Traffic Technical Report* and Section 3.1 Transportation of the Draft Environmental Impact Statement (DEIS) evaluate the Project's impacts to the highway and street network. Traffic impacts from transit and highway improvements and potential mitigation are summarized below.

Transit. The Council finds that the light rail route and station on Hayden Island will provide light rail proximity and service to the substantial employment and commercial base located at the Jantzen Beach Center. Additionally, through improved high capacity transit service, island residents will have improved accessibility to local and regional employment centers, community facilities and recreational destinations throughout the Portland metropolitan region.

Currently, travel options to and from Hayden Island are limited and often congested, and under the DEIS No-Build alternative, these options would get much worse over time. Light rail will provide a convenient, reliable alternative mode of travel.

The CRC Project would more than double the number of transit passenger trips over the I-5 crossing, compared to the 2030 No-Build Alternative. For weekdays, there would be 20,600 bridge crossings on transit, compared to 10,200 trips under the 2030 No-Build Alternative. Of the transit passengers crossing the Columbia River, 18,700 would be on light rail transit (91 percent) and 1,900 would be on buses (9 percent).

One of the major contributing factors to reliable transit service is reserved or separated right-of-way for transit vehicles. Transit vehicles operating in mixed traffic are subject to delays caused by accidents, breakdowns, congestion, and in the case of existing I-5 Columbia River bridges, bridge openings. With a separated right-of-way and separated bridge crossing on the lower deck of the new southbound I-5 bridge, transit service between Portland and Vancouver, Washington will become faster and more reliable. For example, a transit trip between Hayden Island and Vancouver would save an estimated five minutes in comparison with the No-Build Alternative, while a trip between Pioneer Square and Clark College would save 28 minutes (dropping from 72 minutes with the No-Build to 44 minutes with LRT).

Additionally, most of the intersections within the South/North Corridor through which light rail vehicles will operate have traffic signals preempted for LRT, have gated crossings for LRT, or have LRT separated from other traffic. In summary, the Columbia River Crossing portion of the South/North Project will provide significantly more reliable transit service than the No-Build Alternative, and a significant portion of the corridor's transit riders will experience the improvement in reliability with light rail.

Transit improvements in the Expo Center/Hayden Island segment of the South/North Project could affect traffic congestion in two basic ways. First, these improvements could divert trips from automobiles to transit, resulting in reduced systemwide vehicular travel. Second, transit facilities could also affect localized traffic operations on highways and streets in the study area.

The LRT alignment will have an at-grade crossing with the extension of N Vancouver Way, at the south end of the local multimodal bridge. Traffic analysis performed for the *Traffic Technical Report* indicates that this intersection will operate acceptably (meeting City of Portland Bureau of Transportation standards) in design year 2030. Light rail will be grade-separated on Hayden Island, with no traffic impacts on the island. The LRT alignment will

bridge over N Jantzen Avenue and N Jantzen Drive, and Hayden Island Drive and N Tomahawk Island Drive (to be constructed as part of the project). Given the design, the Council concludes that the CRC transit portion of the South/North Project will not result in adverse traffic impacts in the Expo Center/Hayden Island Segment.

The traffic analysis model shows only one intersection in Oregon as not meeting the appropriate jurisdictional standards. The intersection, Going Street and Interstate Avenue, will not meet Portland Bureau of Transportation standards in 2030. Potential mitigation could be to optimize the light rail transit pre-emption at the intersection, install advanced signal controllers to manage light rail transit pre-emption, and change the westbound right lane into a through/right choice lane to allow traffic to continue westbound.

Regarding traffic safety, light rail transit is designed to be safe through methods and devices such as speed control, signalization, gated crossings, and pedestrian movement controls. In general, light rail vehicle speeds match road vehicle speeds where the vehicles run in adjacent lanes. Light rail vehicles operate in accordance with normal traffic control devices (traffic signals) as supplemented by specific light rail signals where needed. Specific train warning signals may be provided as needed. Pedestrian movements are governed by pedestrian signals at signalized intersections. At gated intersections, the gates and warning signals control pedestrian movements. At non-signalized, non-gated pedestrian crossings, barriers ("z-crossings") may be used to focus pedestrian attention on the direction of approaching light rail vehicles. The project could provide pedestrian access to stations by establishing "through-walking areas"—clear pathways free of street furniture or other impediments—adjacent to the planned station locations. The project would strive to maintain the width of these areas at approximately 7 to 8 feet in busy pedestrian locations and 6 feet in areas with lower levels of pedestrian traffic. For bicycles, station areas could include bicycle facilities, which could include secure storage areas. The Council concludes that these methods and devices provide for a safe multi-modal environment.

Highway Improvements. Since the stated purpose from the Columbia River Crossing Project DEIS is "to improve I-5 corridor mobility by addressing present and future travel demand and mobility needs in the CRC Bridge Influence Area," most project impacts to traffic are positive. The associated highway improvements in the segment are provided as part of the CRC Project in order to improve transportation performance compared to the No-Build alternative.¹⁹

In 2030 the traffic models under the No-Build Alternative predict 15 hours of congestion per day (northbound and southbound) on I-5. With the CRC Project, there would be just 3.5 to 5.5

¹⁹ House Bill 3478, Section 8(1)(a), directs all affected local governments and special districts to amend their comprehensive or functional plans, including transportation system plans, "to the extent necessary to make them consistent with a land use final order." As noted below and in Section 1.3 of these findings, most of the highway improvements included in the CRC Project are already identified and authorized in the City of Portland's acknowledged Transportation System Plan (TSP) or in Metro's Regional Transportation Plan (RTP). As such, they already have land use approval. They are addressed in these findings because they are included as part of the Columbia River Crossing Project which, as an element of the South/North Project, requires findings of compliance with the applicable criteria for any "highway improvements". For these improvements, no further plan amendment action is necessary to make them consistent with this [Revised 2011 LUFO](#). For those local highway improvements that are not already part of Portland's TSP, the city will need to amend its plan to comply with Section 8(1)(a).

hours of congestion in 2030. During the peak period, the Project would increase the number of people traveling over the I-5 crossing northbound in 2030 from 26,500 with No-Build to 35,300 (in vehicles), and from 2,200 to 6,100 (on transit).

Local street traffic performance is monitored and measured by the City of Portland and ODOT based on established performance standards for the facilities under their respective jurisdictions. Local street congestion is most intense near the I-5 ramps and is influenced by the travel direction and length of time that I-5 is congested during each weekday. This section summarizes existing local street performance at selected study intersections. Results are reported for the AM and PM peak hours of travel.

The Project would address most of the non-standard geometric and safety design features currently existing on the I-5 mainline and ramps within the main project area. Improvements would be made to the existing short on-ramp merges/acceleration lanes and off-ramp diverges/deceleration distances, short weaving areas, substandard lane widths, vertical and horizontal curves that limit sight distance, and narrow or non-existent shoulders. The Project would remove both Interstate Bridge lift spans. In addition, the Project would substantially reduce traffic congestion compared to No-Build conditions.

As the number of vehicular collisions in the main project area is related to the presence of non-standard geometric design and safety features, which is exacerbated when traffic levels are at or near congested conditions, the Project would substantially improve traffic safety in the area. It is estimated that the Project would reduce average annual yearly collisions in the main project area from 750 under the No-Build Alternative to between 210 and 240.

This estimate was calculated by making the assumption that the highway geometric and safety improvements would result in a highway corridor that performed at least as good as an average, similar type of urban interstate facility in Oregon. The collision rate for similar urban, interstate facilities is approximately 0.55 collisions per million vehicle miles travelled (MVMT). Applying this rate (with an allowance for a higher collision rate during congested periods and during late evening and early morning hours) to the forecasted traffic volumes over a year period generated an estimated annual collision total of between 210 and 240.

The Portland local street system is divided by I-5, with community connections across I-5 limited to the following interchange and non-interchange crossing locations: Skidmore Street, Alberta Street, Killingsworth Street, Ainsworth Street, Rosa Parks Way, Lombard Street, Columbia Boulevard, Schmeer Road, Victory Boulevard, Martin Luther King Jr. Boulevard, Pier 99 Street, Jantzen Street, and Hayden Island Drive (overcrossings for non-motorized travel also exist at Failing Street and Bryant/Saratoga Streets). In addition to the interchanges, several local streets and nearby intersections are affected by traffic operations in the I-5 corridor.

Under 2030 No-Build conditions, 25 intersections were analyzed, one of which would not meet applicable performance standards during the morning peak hour - the intersection of Fremont Street with Martin Luther King Jr. Boulevard. During the afternoon/evening peak hour, five intersections would not meet applicable performance standards: Martin Luther King

Jr. Boulevard with Fremont and Alberta Streets, Interstate Avenue with Argyle and Going Streets, and Marine Way with Vancouver Avenue.

With the Project, Portland's local street operations would improve along the I-5 corridor relative to No-Build conditions. For example, at the I-5 interchange with Marine Drive, 2030 afternoon peak intersection performance would improve from V/C 0.82 (LOS F) with the No-Build Alternative to V/C 0.42 (LOS B) with the Project. This indicates that the Project would improve mobility and accessibility to this freight and employment corridor during the afternoon peak. Similar findings were observed during the morning peak. The Project with highway phasing would improve the 2030 p.m. peak V/C to 0.64 (LOS B) from 0.82 (LOS F).

With the Project improvements, the total number of local intersections and ramps would increase to 38, primarily as a result of additional intersections associated with the local roads in the Hayden Island and Marine Drive interchange areas. During the 2030 morning peak hour, 37 of these 38 intersections and ramps are expected to operate within acceptable standards, while one would fail to meet standards. The intersection of Interstate Avenue with Going Street is expected to fail to meet applicable performance standards and to require mitigation. During the 2030 afternoon/evening peak hour, with Project improvements, all intersections would operate within acceptable standards. Potential mitigation for the Interstate Avenue and Going Street intersection (also described above in the Transit section) could be to optimize the light rail transit pre-emption at the intersection, install advanced signal controllers to manage light rail transit pre-emption, and change the westbound right lane into a through/right choice lane to allow traffic to continue westbound.

The existing pedestrian and bicycle facilities throughout the Columbia River Crossing main project area are outdated, potentially unsafe, and confusing to navigate. The width of the shared-use pedestrian and bicycle facility on the I-5 bridge is non-standard (generally no wider than 4 feet) and separated from traffic by the bridge girders and non-standard low barriers. The mixing of pedestrians and bicycles in this narrow facility can cause safety problems. The Project would improve bicycle and pedestrian facilities in the area, as described in the *Traffic Technical Report*, resulting in greater use of the facilities and safety improvements.

Several pedestrian and bicycle forecasting scenarios predict that pedestrian and bicycle travel demands would increase substantially if a new I-5 bridge is constructed with sufficient multimodal facilities. Pedestrian travel across the bridge would be expected to increase from 80 daily pedestrians today to between 600 and 1,000 daily walkers in 2030, an increase of 650 to 1,150 percent. The number of bicyclists predicted to use the crossing would increase from 370 today to between 900 and 6,400 riders in 2030, an increase of between 150 and over 1,600 percent. With the exercise and visual benefits this will provide, the Council finds this results in both positive traffic and social impacts.

The majority of the Project transit and highway improvements are identified in Metro's RTP and in the City of Portland TSP and are therefore consistent with those transportation system plans. Below is a list and description of the RTP and TSP projects for which the Project would build the improvements:

Regional Transportation Plan (Metro)

- **RTP Project 10893: Improve I-5/Columbia River Bridge (Victory Boulevard to Washington State Line);** *Replace I-5/Columbia River bridges and improve interchanges on I-5.* New bridges will replace the existing I-5 bridges and the following I-5 interchanges in Oregon will be improved: Victory Boulevard, Marine Drive, Hayden Island/Jantzen Beach
- **RTP Project 10902: MAX Light Rail: Yellow Line: CRC/I-5 North Extension** *CRC: Expo to Vancouver, north on Main to Lincoln.* Light rail will be extended from the Expo Center MAX station in Portland to a station and park-and-ride lot at Clark College in Vancouver.
- **RTP Project 11032: Ruby Junction light rail operating base expansion:** *LRV maintenance and storage facility, including expansion on the west side of Eleven Mile Avenue. Capital cost is included in Milwaukie and CRC projects.* Ruby Junction maintenance facility in Gresham will be expanded to accommodate a new operations facility, new storage tracks and additional light rail vehicles.

Transportation System Plan (Portland)

- **TSP Project 30018: Hayden Island: Street Network Improvements.** *Provide a street network plan for improvements that implement the Region 2040 connectivity standards and improve multi-modal access for Hayden Island.* The Hayden Island Street Plan is described in more detail in the Hayden Island Plan, which was adopted into the City Comprehensive Plan in August 2009. The Hayden Island Plan recommends amending the TSP to implement the street network as shown in the document. The CRC Project would build these improvements consistent with the Hayden Island Street Plan.
- **TSP Project 30020: I-5 (Columbia River-Columbia Blvd): Bridge Widening** *Improve I-5/Columbia River bridge (local share of joint project) based on recommendations in I-5 Trade Corridor Study. Project addresses a high congestion location.* The CRC Project would build these improvement
- **TSP Project 30033: Light Rail Extension - Phase 2.** *Extend light rail service from Expo Center to Vancouver WA.* The CRC Project would build these improvements.
- **TSP Project 40080: Marine Dr. (6th - 33rd & Gantenbein - Vancouver Way) Bikeway** *Retrofit bike lanes to existing street and complete off-street paths in missing locations.* The CRC Project would build these improvements.

The CRC Project also includes improvements to the local street system east and west of the Marine Drive interchange and a new bridge over North Portland Harbor to the west of I-5 that would carry light rail vehicles as well as local motor vehicle and bicycle/pedestrian traffic between Marine Drive and Hayden Island. The local street improvements east and west of the Marine Drive Interchange will improve local access to and from the Expo Center and Hayden Island light rail stations and are necessary as well to accommodate the design of the new I-5 bridges and the modified interchanges.

The physical and operational elements of the CRC Project provide the greatest Transportation Demand Management (TDM) opportunities by promoting other modes to fulfill more of the travel needs in the project corridor. These include:

- Major new light rail line in exclusive right-of-way, as well as express bus and feeder routes.
- Modern bicycle and pedestrian facilities that accommodate more bicyclists and pedestrians, and improve connectivity, safety, and travel time.
- Park and ride lots and garages.
- A variable toll on the highway crossing.

In addition to these fundamental elements of the Project, facilities and equipment would be implemented that could help existing or expanded Transportation System Management (TSM) programs maximize capacity and efficiency of the system. These include:

- Replacement or expanded variable message signs or other traveler information systems in the Project area.
- Expanded incident response capabilities.
- Queue jumps or bypass lanes for transit vehicles where multi-lane approaches are provided at ramp signals for entrance ramps.
- Expanded traveler information systems with additional traffic monitoring equipment and cameras.
- Active traffic management

Conclusions on Traffic Impacts. The Council finds that the transit and highway improvements summarized above will substantially improve traffic operations in 2030 compared to the No-Build Alternative and that adverse traffic impacts associated with extending light rail transit through the Expo Center/Hayden Island segment can be mitigated. The Council finds that the potential mitigation for the Interstate Avenue and Going Street intersection would mitigate for the reduction in intersection performance as a result of the Project. Potential mitigation could be to optimize the light rail transit pre-emption at the intersection, install advanced signal controllers to manage light rail transit pre-emption, and change the westbound right lane into a through/right choice lane to allow traffic to continue westbound.

The Council finds that transit improvements will increase transit ridership, decrease transit travel times, and improve accessibility to local and regional employment centers, community facilities and recreational destinations throughout the Portland metropolitan region.

Relative to general transit safety and transit impacts on bicycle and pedestrians, the Council finds that the impacts could be mitigated through the measures described above. Relative to impacts from highway improvements, the Council finds that most impacts from the Columbia River Crossing portion of the North/South project would be positive and would improve transportation performance in the Hayden Island/Expo Center segment.

Provide for a light rail route and associated facilities, balancing the need for light rail proximity and service to areas that are capable of enhancing transit ridership; the likely contribution of light rail proximity and service to the development of an efficient and compact urban form; and the need to protect affected neighborhoods from the identified adverse impacts.

The South/North Steering Committee initially assembled in the 1990s to recommend the federal Locally Preferred Strategy adopted the following goal for the project²⁰: *To implement a major transit expansion program in the South/North Corridor that supports bi-state land use goals, optimizes the transportation system, is environmentally sensitive, reflects community values and is fiscally responsive.* That "LPS Steering Committee" also adopted the following objectives for the project:

1. Provide high quality transit service;
2. Ensure effective transit system operations;
3. Maximize the ability of the transit system to accommodate future growth in travel;
4. Minimize traffic congestion and traffic infiltration through neighborhoods;
5. Promote desired land use patterns and development;
6. Provide a fiscally stable and financially efficient transit system; and
7. Maximize the efficiency and environmental sensitivity of the engineering design of the proposed project.

The project goal and objectives closely parallel the emphasis of Criterion 3(A) for this Land Use Final Order. The effectiveness evaluation of the South/North Project relative to meeting the objectives is summarized below.

Ability to Provide High Quality Transit Service. The Council finds that the portions of South/North Project already constructed or currently under construction provide a significant amount of light rail coverage between the Portland downtown and Milwaukie and Clackamas Town Center to the south and between the Portland downtown and the Expo Center to the north. The Columbia River Crossing Project provides the missing piece to the original transit concept by extending LRT coverage into Vancouver, Washington. The Council finds that the South/North Project, including the CRC Project, provides improved reliability over the No-Build Alternative. Factors that affect reliability include the amount of reserved right-of-way, percent of protected trunk-line intersections and percent of passengers on exclusive transit right-of-way.

The Council finds that the CRC Project will result in improved peak-hour in-vehicle and total weighted travel times between Portland and Vancouver, Washington compared to the No-Build Alternative. It will increase transit trips within the South/North Corridor and increase the transit mode split for peak-hour radial trips.

²⁰This Steering Committee was assembled under requirements of federal law. It differs from the LUFO Steering Committee assembled to comply with House Bill 3478.

Moreover, compared to an expanded all-bus system, the Council finds that the CRC Project will:

- Increase transit trip production in the Project Transit Corridor by 150 percent compared to existing conditions by the year 2030;
- Increase weekday transit ridership into on the Interstate Max Yellow Line by 21,400 trips (150 percent) compared to the No-Build Alternative;
- Double the number of transit passenger trips over the I-5 Columbia River crossing, compared to the 2030 No Build alternative
- Decrease rush-hour transit travel times between Pioneer Courthouse Square and Clark College in Vancouver by 28 minutes compared to the No Build alternative; and
- Increase the percent of transit trips between the project corridor and downtown Portland from 21% in 2005 to 39% in 2030.

Ensure Effective Transit System Operations. By locating the South/North light rail alignment on the downtown Portland transit mall, all alignment alternatives have allowed for easy transfers to other transit routes serving most of the metropolitan region. The Council believes that this improved transit access has enhanced transit ridership, and it so finds.

Maximize the Ability of Transit to Accommodate Growth in Travel Demand. In 1998 the Council determined that the South/North Project had the greatest ability to accommodate growth of the various DEIS alternatives studied. The CRC portion of the South/North Project would increase LRT place miles (“place miles” are transit vehicle capacity for each vehicle type multiplied by vehicle mile travelled) by 58% and would increase total bus and LRT place miles by over 2% compared to No-Build.

Minimize Traffic Congestion and Traffic Infiltration Through Neighborhoods. In 1998 the Council determined that the South/North Project would help slow the rate of traffic congestion and related problems, compared to the No-Build Alternative. It would:

- Remove almost 133,000 vehicle miles of travel per average weekday from the corridor road system;
- Eliminate 16 lane-miles of congested roadways; and
- Avoid 4,500 hours of traffic delays each weekday (compared to the No-Build Alternative in the year 2015).

By slowing the rate of traffic congestion growth, avoiding delay, and reducing the number of vehicle miles of travel per average weekday as compared to the No-Build Alternative, the South/North Project will minimize traffic congestion. The Council found that the slowing of congestion and reductions in vehicle miles of travel also would reduce the amount of traffic infiltrating Portland and Clackamas County neighborhoods by causing fewer vehicles to be on the roads than would otherwise occur in the absence of light rail transit.

The Traffic Technical Report indicates and the Council now finds that the CRC Project, in comparison with a No-Build Alternative and with the highway improvements that are included in the Project, will result in a 57 percent decrease northbound and a five percent

decrease southbound in rush-hour automobile travel times between Columbia Boulevard in Portland and SR 500 in Vancouver. It also finds that the Project will reduce the duration of congestion from 15 hours per day in the No-Build to between 3.5 and 5.5 hours per day with the improvements being made for automobile, transit and truck travel.

Facilitate Efficient Land Use Patterns. The Council finds that light rail has influenced the quality of access to vacant developable and redevelopable parcels of land in the South/North Corridor. It finds that light rail transit throughout the South/North corridor has supported the region's growth management strategy and the urban growth boundary (UGB) by:

- Providing access to vacant and redevelopable infill properties;
- Providing transportation capacity to the Portland Central City that will enable the region's core to accommodate the expected high growth levels;
- Providing the high quality transit needed to make the Clackamas Regional Center and Milwaukie Regional Center function in accordance with the growth strategy;
- Establishing new station communities which can be developed as mixed-use areas; and
- Instituting a pattern of growth that conforms to the goals, objectives and policies of local land use and infrastructure plans.

The Council finds that the CRC Project will further facilitate efficient land use patterns by promoting denser, transit-oriented development on Hayden Island. This shift in land use patterns from the existing auto-oriented development is consistent with the Hayden Island Plan, which includes plans to redevelop a portion of the Jantzen Beach SuperCenter site into a high-density mixed-use transit-oriented development supported by the new light rail station.

Balance the Efficiency and Environmental Sensitivity of the Engineering Design. Indicators of environmental sensitivity include displacements, noise and vibration impacts, parkland impacts, floodplain impacts, wetland impacts and historic and archaeological resources impacts. These impacts are addressed in other findings, set out below, addressing the relevant LCDC criteria applicable to this proposal. For the reasons stated in the findings addressing those other criteria, the Council concludes that the positive impacts of the Project outweigh the negative environmental impacts.

Social Equity Considerations. In addition to the LPS Steering Committee objectives listed above, the Council believes and finds that social equity considerations should be taken into account. When it adopted the initial South/North LUFO back in 1998, the Council found the percentage of minority populations in nearly one half of the neighborhoods in the South/North Corridor to be higher than the regional average of 8.6 percent. Nearly two-thirds of corridor neighborhoods have a percentage of low-income households that is higher than the regional average (1990 US Census). The Council also found that the South/North Project would serve both low-income and minority neighborhoods. The Council concluded that the South/North Project would not adversely affect low income or minority neighborhoods disproportionate to the benefits they would receive with improved transit access. Indeed, it found that the project would substantially benefit a much larger segment of the populations of these affected areas, including low-income, transportation-disadvantaged, minority and elderly populations, than

are otherwise directly adversely affected by the project. The Council continues to abide by these findings.

Finally, the Council intends that the project will leave the project area and surroundings better off. There are many enhancements in the project, such as improved local street connections on Hayden Island, replacement of substandard facilities for bicyclists and pedestrians, local auto access from North Portland to Hayden Island on a separate arterial bridge, and inclusion of public art in the transit element of the project. The Council finds that establishment of an enhancement fund would complement and build upon the enhancements included in the project itself and make the area more livable for all segments of the population. There is general agreement to continue to explore the establishment of a community enhancement fund – which would require consideration of funding mechanisms and administration of the fund – as an ongoing responsibility of the Department of Transportation.

Overall Conclusions Regarding Neighborhood Impacts (Transit)

In summary, the Council finds and concludes that the selection of the light rail route and the Hayden Island station, including their locations, within the area constituting the Columbia River Crossing Project includes a balancing of:

- the need for light rail proximity and service to present or planned residential, employment and recreational areas that are capable of enhancing transit ridership;
- the likely contribution of light rail proximity and service to the development of an efficient and compact urban form; and
- the need to protect affected neighborhoods from identified adverse impacts.

The Council finds and concludes that the CRC portion of the South/North Project will enhance transit service to areas all along the South/North Corridor, with particular benefits to Hayden Island and Vancouver Washington. The Council finds and concludes that this Project will improve connections and mobility throughout the Portland metropolitan region, including to areas along the existing eastside and westside MAX light rail lines; that the presence of light rail transit north of the Expo Center into Vancouver, Washington will encourage and support new and efficient development, consistent with Region 2040 Growth Concepts and Portland's adopted Hayden Island Plan that will benefit the affected local communities and the region; and that the improved accessibility provided by extending the South/North Project, and its many benefits, north to Hayden Island and Vancouver, Washington, especially when compared with the No-Build Alternative, combined with available measures to mitigate adverse impacts created by the Project, result in a substantial net benefit to the affected local communities, the region, and the states of Oregon and Washington.

For the reasons stated herein, the Council finds that it has considered the adverse economic, social and traffic impacts of the Columbia River Crossing Project and balanced these impacts against the Project's benefits. It finds and concludes that the northern extension of the South/North light rail line to Hayden Island and Vancouver, Washington will make a significant positive contribution to the quality of life in the Portland region, through improved mobility, decreased congestion, improved air quality, reduced energy consumption, and decreased reliance on the automobile, which will benefit Oregonians now and well into the future. It further finds that light rail transit can, has, and will continue to stimulate and enhance development of an efficient and compact urban form in appropriate locations identified for such development. It also finds that with mitigation imposed as part of the NEPA process or during local permitting processes, most of the adverse consequences identified in these findings can be reduced or avoided. Potential mitigation measures are identified in findings.

Provide for associated highway improvements, balancing the need to improve the highway system with the need to protect affected neighborhoods from the identified adverse impacts.

The Columbia River Crossing Project includes a broad spectrum of highway improvements including new I-5 bridges across the Columbia River,²¹ widening of and interchange improvements along I-5, and improvements to highways accessing I-5, the Expo Center and Hayden Island. The Council finds that these highway improvements are in addition to other highway improvements that the Council previously approved for the South/North Project, including highway improvements in SW Portland, SE Portland and Milwaukie. All other street and highway changes, such as intersection modifications, installation of traffic signals, access changes, etc. are ancillary to light rail improvements or proposed as mitigation to address specific adverse impacts of the South/North Project, and are not classified as highway improvements.

The Council finds that the need to construct new I-5 bridges is the principal catalyst behind the CRC Project and that light rail transit is a fundamental component of the bridge project. It finds that the CRC Project is a combined transit/highway project that represents a consensus among affected local government officials. It finds that without the identified highway improvements, the light rail improvements would not and could not go forward independently and that without the rail component, the highway improvements would not independently be going forward. For this project to work, both components are required. Additionally, the Project will facilitate bicycle and pedestrian travel across the Columbia River, thereby being a truly multi-modal project. The Council further finds that the combining of rail and highway improvements is not unique to the region. Indeed, it finds that the Westside Corridor Project, which extended light rail transit from downtown Portland to downtown Hillsboro, was a combination rail and highway project that was approved through a series of LUFOS and LUFO amendments adopted between 1991 and 1996.

The Council finds that construction of new I-5 bridges, including a southbound bridge carrying light rail transit and a northbound bridge accommodating bicycle and pedestrian traffic, is necessary to maintain and improve an adequate interstate highway system. It finds that I-5 is the principal arterial serving the west coast states of Oregon, Washington and California, and the principal facility serving the interstate movement of freight by truck travel in these states. It finds that the existing I-5 bridges are severely congested during peak travel hours and severely hindered by their need to close traffic for periods at a time to allow ships and boats to pass underneath, and that these conditions will worsen substantially over time. All of this impedes mobility and delays the timely and efficient movement of freight between Oregon and Washington.

The Council also finds that the other identified highway improvements are necessary to complement the I-5 improvements and allow for an efficient local transportation system and access to/from I-5, the Hayden Island and Expo Center LRT stations, and residential, commercial and industrial areas in the project area.

The improvements at the Victory Boulevard Interchange would improve safety and lengthen short, substandard on- and off-ramps. All movements within the Marine Drive Interchange

²¹ [Again, this LUFO approves only those portions of the new I-5 bridges within the UGB. The remaining portions of those bridges within the State of Oregon are authorized in Metro's RTP and Portland's TSP. Because this LUFO approves a portion of the bridges, the overall benefits the bridges will provide are discussed here.](#)

would be reconfigured to reduce congestion and improve safety for trucks and other motorists entering and exiting I-5. Trucks currently account for 8 to 10 percent of the daily vehicles that cross the I-5 bridges. At the Marine Drive Interchange, trucks account for greater than 20 percent of the daily vehicle composition. During the hour when the highest numbers of trucks are using the Marine Drive Interchange (9-10 a.m.), trucks account for approximately 30 percent of vehicles in the interchange. So by virtue of the improvements, the proposed design for the Marine Drive Interchange improves truck mobility. The improvements would allow the movements with the highest volumes in the interchange to move freely without being impeded by stop signs or traffic signals.

All movements for the Hayden Island Interchange would be reconfigured. The new configuration would be a split tight diamond interchange. Ramps parallel to the highway would be built, lengthening the ramps and improving merging speeds. Improvements to N Jantzen Drive and N Hayden Island Drive would include additional through, left-turn, and right-turn lanes. A new local road, N Tomahawk Island Drive, would travel east-west through the middle of Hayden Island and under the I-5 interchange, improving connectivity across I-5 on the island and improving access to and from the Hayden Island LRT station.

The CRC Project would also include local street improvements on the Oregon mainland, which would improve access between I-5 and local roads in the area. The project would build a local multimodal bridge that would provide access to and from Hayden Island and the Hayden Island station for vehicle traffic, bicycles and pedestrians separate from the I-5 mainline.

Many bicycle and pedestrian improvements are included in the CRC Project. These include new facilities such as the multi-use pathway across the Columbia River, street improvements around the rebuilt interchanges, and new facilities for bicyclists and pedestrians around the new light rail station.

The proposed Marine Drive Interchange area would be entirely grade-separated, with the local road network and multi-use paths running below the interchange. Pedestrian and bicycle improvements at the Marine Drive Interchange would include a multi-use path constructed from the Marine Drive Interchange, over Hayden Island and the Columbia River. The path would be a minimum of 16 feet wide between its barriers and would direct users with pavement markings and signage. Larger curves would provide improved sight distance and flow, and path components would meet ADA accessibility standards.

Sidewalks would be constructed on most reconstructed streets throughout the project area. To improve east-west connections on Hayden Island, a 6- to 8-foot-wide sidewalk would be provided along N Jantzen Drive and N Hayden Island Drive. A 6-foot minimum width sidewalk would be provided along N Tomahawk Island Drive. Crosswalks would be provided at all intersections and would meet ADA accessibility standards. The island streets would also include 6-foot bicycle lanes wherever improvements are made. All of the improvements would facilitate access to the light rail system.

The new northbound bridge over the Columbia River would also accommodate a multi-use pathway under the highway deck. A portion of this pathway is within the UGB. This path would be 16 to 20 feet wide, located within the superstructure above the bridge columns and below the bridge deck. The multi-use path would separate pedestrians and bicyclists from vehicle noise and avoid proximity to moving vehicles.

The Council finds that the local improvements summarized above would improve the flow of traffic in the I-5 corridor, would improve intersection performance on local intersections compared to No-Build and would improve bicycle and pedestrian mobility and safety.

The Council finds that the local multimodal bridge that provides local access to/from Hayden Island would benefit residents of the island, providing an alternate access to the island.

The Council finds that although there are adverse impacts associated with the highway improvements of the Project, many of the impacts can be sufficiently mitigated, as addressed in the NEPA documentation. The Council finds that the benefits of the Project including improved I-5 and local intersection performance, decreased congestion in the corridor, improved bicycle and pedestrian mobility and safety, and others as addressed in this document herein, outweigh the impacts and that the Columbia River Crossing Project would cause a net positive impact to residents.

Overall Conclusions Regarding Neighborhood Impacts (Highway)

Overall, the Council finds that these highway improvements, taken together, will have a positive impact on interstate and local travel and on interstate and local commerce. They will enhance nearby neighborhoods and improve opportunities for pedestrian, bicycle and vehicle circulation to and around the Expo Center, Jantzen Beach Center, Hayden Island and Vancouver, Washington. While the expansion of and modifications to the local highway network may result in some adverse impacts identified and discussed above, the Council believes and concludes that on balance, these highway improvements will be a substantial benefit to the City of Portland, the Metro region, the State of Oregon, and their residences and businesses, in terms of accessibility, mobility, improved movement of commerce, and improved bicycle and pedestrian transport. The Council concludes that the benefits of these improvements strongly outweigh the adverse impacts that are associated with them.

6.3.2 Criterion 4: Noise Impacts

“Identify adverse noise impacts and identify measures to reduce noise impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by affected local governments during the permitting process.”

Noise is a form of vibration that causes pressure variations in elastic media such as air and water. The ear is sensitive to this pressure variation and perceives it as sound. The intensity of these pressure variations causes the ear to discern different levels of loudness, and these differences are measured in decibels, or dBs. Vibrations can also be carried through the

ground, in which case they are described in terms of vibration velocity levels in dB referenced to one micro-inch per second. As with air or water borne vibrations, ground vibrations have a threshold of human perception. Because air and ground borne vibrations have similar properties and are measured in similar ways, the Council finds that vibration impacts are appropriately considered with noise impacts in these findings.

Noise and vibration impacts specific to the Expo Center/Hayden Island Segment are addressed in the following section. Noise and vibration impacts also are identified, along with corresponding mitigation measures, in the Noise and Vibration Technical Report (Noise Report).

Identification of Noise and Vibration Impacts in the Expo Center/Hayden Island Segment.

The guidelines and standards for analyzing and mitigating transit noise and vibrations are different from those used for analyzing and mitigation highway noise. For transit noise, the guidelines and standards are established by the FTA while for highway noise, the guidelines and standards are established by the FHWA and ODOT. Because of the different guidelines and standards, the noise and vibration impacts of the transit and highway improvements in the Expo Center/Hayden Island Segment are addressed separately.

Transit Noise and Vibration Impacts and Mitigation Options

The noise criteria in the FTA Guidance Manual are founded on well-documented research on community reaction to noise and are based on change in noise exposure using a sliding scale. The amount that a transit project is allowed to change the overall noise environment is reduced with increasing levels of existing noise.

The FTA Noise Impact Criteria groups noise sensitive land uses into the following three categories:

Category 1: Buildings or parks where quiet is an essential element of their purpose.

Category 2: Residences and buildings where people normally sleep. This includes residences, hospitals, and hotels where nighttime sensitivity is assumed to be of utmost importance.

Category 3: Institutional land uses with primarily daytime and evening use. This category includes schools, libraries, churches, office buildings, and other commercial and industrial land uses.

There are two levels of impact included in the FTA transit noise criteria.

Severe Impact: Severe noise impacts are considered “significant” as this term is used in NEPA and implementing regulations. Noise mitigation will normally be specified for severe impacts unless there is no practical method of mitigating the noise.

Impact: In this range, often called a “moderate” impact, other project-specific factors must be considered to determine the magnitude of the impact and the need for mitigation. These other factors can include the predicted increase over existing noise levels, the types and number of noise-sensitive land uses affected, existing outdoor-

indoor sound insulation, and the cost-effectiveness of mitigating noise to more acceptable levels.

Transit noise can take several forms. These include LRT-induced noise impacts resulting from changes to roads and to motor vehicle traffic volumes; wayside LRT noise impacts; LRT wheel squeal impacts; noise from ancillary LRT facilities; and LRT vibration impacts and mitigation.

LRT-induced road traffic noise is generally associated with park-and-ride lots. There are no new planned park-and-ride lots in the Expo Center/Hayden Island segment. There are, however, numerous highway improvements proposed for this segment. Their noise impacts are addressed below.

Wayside LRT noise is modeled based on measurements of existing LRT systems, the length and speed of trains, rates of acceleration and deceleration, location of special trackwork, auxiliary equipment and other factors. Options generally available to mitigate wayside LRT noise impacts include sound walls, crossover relocation and reduced LRT speeds. Within the Expo Center/Hayden Island segment, wayside LRT noise impacts floating homes within the North Portland Harbor. These noise impacts are addressed below

Wheel squeal noise is generated by train wheels as they traverse a curve. Whether wheel squeal occurs and how loud it is depends on many factors, including the material used to make the rail, the level of wheel/rail contact point lubrication, the sharpness of the curve, train speed and wheel profile. While there are several locations in the South/North Corridor where track curvature is acute enough to create wheel squeal impacts, none are located within the Expo Center/Hayden Island segment.

Where wheel squeal noise is generated, the noise impacts can be reduced or eliminated using the following general techniques:

- Dampening the wheel or using resilient wheels;
- Lubricating the wheel surface that slides against the rail;
- Using track designed to dampen squeal on sharply curved sections of the alignment.

If any wheel squeal impacts remain following the use of these mitigation measures, the use of barriers near affected receivers could be considered.

Noise from ancillary facilities includes noise from crossing bells and electrical substations located adjacent to the LRT trackway and LRT switching gear and transformers. Designing and building substations to meet federal noise criteria for transit system ancillary facilities can mitigate substation noise. Noise levels less than 60 dBA, which is a level typical of many residential areas, is expected at one foot from the exterior substation wall. This noise level can be reduced by as much as 10 dBA through the use of enhanced substation housing where substations are located near sensitive receivers. No noise impacts from crossing bells or substations are expected in the Expo Center/Hayden Island segment.

LRT vibration impacts resonate from the wheel/rail interface and are influenced by wheel/rail roughness, transit vehicle suspension, train speed, track construction and the geologic strata underlying the track. Vibration from a passing light rail train moves through the geologic strata into building foundations, potentially causing the buildings to vibrate. Ground-borne

vibration is of such a low level that there is almost no possibility of structural damage to buildings near the alignment. The main concern of ground-borne vibration is that it can be annoying to building occupants. The primary options available to mitigate vibration impacts include: incorporating state-of-the-art vehicle specifications; keeping special trackwork (such as crossovers) as far as possible from sensitive receptors; using either spring-loaded frogs in tie-and-ballast track sections or flange-bearing rail in paved track sections where special trackwork cannot be moved; and installing ballast masts (in tie-and-ballast sections) or vibration isolation technology, such as “whisper rail,” “booted” track-type support systems or resilient supported rail (for paved track sections). Small speed reductions may be able to reduce impacts to acceptable levels in a few locations, provided the speed reductions do not affect service schedules. There are several locations in the South/North Corridor where LRT vibration impacts occur. However, none of these are located within the Expo Center/Hayden Island segment.

The FTA has developed impact criteria for acceptable levels of ground-borne vibration that would apply to the light rail component of the Project. Exhibit 2-3 of the Noise Report summarizes the FTA impact criteria for ground-borne vibration as it affects most buildings. Exhibit 2-8 shows the ground-borne vibration and noise impact criteria for special buildings such as concert halls, TV and recording studios, auditoriums and theaters.

Overall, noise levels in the Expo Center/Hayden Island segment are currently dominated by motor vehicle traffic on I-5 and Portland International Airport aircraft. Existing noise levels in this area exceed traffic noise criteria for 96 noise-sensitive receptors. As discussed in the Noise Report, the first three banks of floating homes in the vicinity of the new light rail alignment would be relocated due to project construction, and therefore those homes were not analyzed for project-related noise impacts. Of the floating homes that will remain, analysis identified 8 floating homes where noise levels are predicted to meet or exceed the moderate FTA noise impact criteria. The impacts occur at the row of homes nearest the future tracks, where light rail operations are predicted to produce a noise level of 61 dBA Ldn, which just meets the 61 dBA Ldn impact criteria. Noise from future light rail operations is well below the traffic noise levels at all other noise sensitive properties in the Expo Center/Hayden Island segment, including the manufactured home residential area along the Columbia River.

Potential mitigation measures evaluated for reducing noise impacts from light rail for the project include 1) sound barriers, 2) track lubrication at curves, 3) special trackwork at crossovers and turnouts, 4) reduced train speed, and 5) building sound insulation. No light rail vibration impacts requiring mitigation were identified in the Expo Center/Hayden Island segment. The eight light rail noise impacts at the floating homes would be best mitigated with the installation of sound barriers along the elevated light rail structure. A 3- to 4-foot acoustical absorbent sound wall or 6-foot reflective sound wall would be effective at reducing noise levels at these homes by 7 to 10 dBA.

Traffic Noise Impacts and Mitigation Options

Traffic and construction noise analyses are required by law for federal projects that 1) involve construction of a new highway, 2) substantially change the horizontal or vertical alignment, or 3) increase the number of through traffic lanes on an existing highway. Oregon policies also require the review and consideration of noise abatement on projects that substantially alter the ground contours surrounding a state highway.

FHWA and ODOT impact criteria for noise studies depend on existing land uses or planned and permitted future land uses. Existing land uses in the Expo Center/Hayden Island segment include commercial, industrial, park/open space and residential. Most of the land uses near the LRT and highway improvements are commercial/industrial and park/open space. There is a large group of floating homes located along the southern edge of Hayden Island on both sides of I-5. Other residential land uses include the Red Lion Jantzen Beach Hotel, the Oxford Suites, and the Courtyard by Marriott. There is also a large group of single and multi-family residential units east of I-5 along N Hayden Island Drive and N Tomahawk Island Drive.

As described in the discussion of transit noise impacts above, existing noise levels in the project corridor were modeled and noise levels currently exceed FHWA and ODOT traffic noise criteria for 96 noise-sensitive receptors located in the Expo Center/Hayden Island Segment. These receptors include floating homes, the south portion of Delta Park and at the Red Lion Columbia Center Hotel, which include all rooms facing toward I-5

The project includes removal of the floating homes closest to the I-5 crossing of the North Portland Harbor and the addition of 3.5-foot safety barriers along all sides of all elevated roadway structures. The combined effect of displacing noise sensitive properties nearest the project roadways, and the addition of the safety barriers, would result in no newly impacted noise-sensitive receptors in the Expo Center/Hayden Island segment. In addition, those receptors currently impacted will not experience substantial increases in the severity of those impacts.

Overall Conclusions Regarding Noise Impacts and Mitigation Options

Based on the information in the Noise Report, the Council finds and concludes that sound wall options are available and have been recommended to mitigate the identified light rail noise impacts in the Expo Center/Hayden Island segment. Based also on information in the Noise Report, with the removal of some existing noise-sensitive receptors and the addition of safety walls, no new highway noise impacts are expected in the Expo Center/Hayden Island segment. The final decision and recommendation to include the approved mitigation will be made during the final design process.

6.3.3 Criterion 5: Natural Hazards

“Identify affected landslide areas, areas of severe erosion potential, areas subject to earthquake damage and lands within the 100-year floodplain. Demonstrate that adverse impacts to persons or property can be reduced or mitigated through design or construction techniques which could be imposed during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.”

Natural hazard impacts specific to the Expo Center/Hayden Island segment are addressed in the following section. Natural hazard impacts, and associated mitigation measures, also are described in the Geology and Groundwater Technical Report (Geology Report) and the Water Quality and Hydrology Technical Report (Hydrology Report).

Overview of Natural Hazards Impacts in South/North Corridor and Mitigation Measures

The South/North Project, including the Columbia River Crossing portion, lies within the Portland Basin, a basin characterized by relatively low topographic relief with areas of buttes and valleys containing steep slopes. Much of the overall South/North Project alignment crosses developed land. Long-term impacts to the geologic environment consist of relatively minor changes in topography and drainage patterns, minor settlement of near-surface materials, and potential changes in slope stability and erosion. These impacts could occur as a result of excavation, placement of structures and fills and clearing and grading.

The geology and soils in the area of the South/North Project are typical of the Portland Basin. Soils within the South/North Corridor developed on flood and alluvial deposits. Where undisturbed, they are generally sandy to clayey loam and are well to poorly drained. However, much of the area is classified as urban land, where the original soils have been extensively modified or covered. Associated with the channel deposits, areas of highly organic silt and clay and deposits of peat may be encountered and require special construction techniques. Expansive (high shrink-swell) soils are present in the corridor.

The potential for major landslides within the South/North Corridor is very limited because the topography within the corridor is relatively gentle, and the geologic conditions are generally favorable.

The Pacific Northwest is a seismically active area and subject to earthquakes. Oregon has the potential for three types of earthquakes: crustal, intraplate and subduction zone. Although earthquake prediction is an inexact science, it is reasonable to assume that earthquakes will occur in Oregon.

Studies of relative earthquake hazards have been completed for much of the Portland area. These studies show that much of the South/North corridor lies in areas with relatively high potential for earthquake damage. Project design and estimated construction costs reflect the need to conform to the relevant seismic standards for capital construction.

To mitigate earthquake hazards, TriMet and ODOT will adhere to applicable Federal, State and local building codes or standards for bridges and structures in the South/North Project.

Groundwater may be encountered at shallow depths along sections of the corridor that cross the flood plains of rivers and creeks. Other areas of shallow groundwater levels may exist locally, controlled by local variations in soil type and drainage.

Additionally, the study area intersects major rivers, minor watercourses and floodplains within the lower Columbia and Willamette River basins. Floodplains are valuable natural resource areas providing fish and wildlife habitat, flood control, stormwater storage, water quality enhancement, sediment and erosion control, and educational, recreational, research, and aesthetic uses. Executive Order 11988 directs federal agencies to conduct their activities in ways designed to reduce the risk of flood loss; to minimize the impact of floods on human

safety, health, and welfare; and to restore and preserve the natural and beneficial values served by floodplains.

Natural Hazard Impacts within the Expo Center/Hayden Island Segment

As shown in Exhibit 3-12 of the Geology Report, no specific *landslide areas* or steep slopes (greater than 25 percent) are identified in the Expo Center/Hayden Island segment. As noted above, the potential for major landslides within the South/North Corridor is very limited because the topography within the corridor is relatively gentle. Although the LRT and highway improvements will cross the North Portland Harbor and the Columbia River on new bridge structures, the banks associated with the crossings are not particularly steep. As shown in Exhibit 3-4 of the Geology Report, the mapped surface unit for the bridge footprints is Quaternary alluvium and fill. In addition, historic aerial photographs for the area indicate that construction of North Portland Harbor and Columbia River bridge foundations and abutments would likely encounter fill embankments at Hayden Island. However, because steep slopes and landslides have not been identified near the proposed bridge footprints, no long-term adverse effects due to steep slopes or landslides are anticipated.

Exhibit 3-5 of the Geology Report identifies soil types within the greater Expo Center/Hayden Island segment area, and Exhibit 3-6 describes the erosion hazard ratings for these soil types. As shown in Exhibit 3-5, the project footprint extends to areas with three soil types – Pilchuck-Urban land complex (0 to 3 percent slope); Sauvie-Rafton-Urban land complex (0 to 3 percent); and Rafton silt loam, protected. These soil types are not considered to have *severe erosion potential*.

As stated above, the Pacific Northwest is a seismically active area and is subject to *earthquake damage*. Bridges are vital links in the transportation system and are often especially vulnerable during seismic events. The Geology Report does not identify any seismically active earthquake faults in the Expo Center/Hayden Island segment. However, several types of earthquakes could occur in the project area. In particular, there is a large, offshore fault located in the Pacific Ocean west of the I-5 crossing. Exhibit 3-16 of the Geology Report shows a map of the relative earthquake hazard ratings in the project area. These ratings take into account a variety of potential earthquake effects, with Zone A being the most hazardous areas and Zone D being the least hazardous. Earthquake effects include ground motion amplification, slope instability, and soil liquefaction, all of which have a high potential to impact public safety and cause structural damage and economic disruption. The Expo Center/Hayden Island segment is identified in relative earthquake hazard Zones A and B.

The Hydrology Report includes background information on hydrology and floodplains in the CRC project corridor. The I-5 bridges are located at river mile 106 of the Columbia River. The Columbia River is highly constrained within the project area by existing levees and landform. In addition, 10 bridge footings are currently located below the river's ordinary high water level (OHW), and also constrict the river. The North Portland Harbor is a large channel of the Columbia River located between North Portland and the southern bank of Hayden

Island. A flood control levee runs along the south bank of the North Portland Harbor and forms a boundary between the adjacent neighborhoods and the harbor.

The installation of piers within the Columbia River and North Portland Harbor would encroach upon the Columbia River's *100-year floodplain*. However, this would result in little, if any, increase in flooding risks, given the relatively small size of the bridge piers compared to the size of the Columbia River. The LRT and highway improvements in the Expo Center/Hayden Island segment would either avoid or be elevated above the floodplain, with no significant encroachment or fill that would cause adverse flooding conditions or changes in flood velocity. The volume of displacement presented by the piers is expected to be insignificant.

Mitigation Options for Natural Hazard Impacts in the Expo Center/Hayden Island Segments

Based on the information contained in the Geology Report, the Council finds that no *landslide areas* or *areas of severe erosion potential* have been identified in the Expo Center/Hayden Island segment. While historical evidence of seismic activity in Oregon is minimal, recent studies indicate that western Oregon may be subject to a greater risk from *earthquake hazards* than previously thought. Site geology has a significant impact on earthquake damage. Young unconsolidated silt, sand, and clay deposits are associated with enhanced earthquake damage through amplification of shaking, settlement, liquefaction, and landsliding.

Potential mitigation measures to address geologic/soils conditions are provided in the Geology Report. During final engineering stage of the project, site-specific assessments would include additional geotechnical testing and monitoring. Soft foundation conditions, delineated by the exploration program, can be mitigated with proper designs. The site-specific assessments will also assess the use of soil stabilization techniques to minimize liquefaction of soils. Stabilization techniques include the use of compaction grouting, stone columns, and other techniques.

Mitigation measures would also apply to project structures. The project will provide seismic upgrades to existing structures, as needed, and new and upgraded structures will adhere to the following applicable building codes and standards:

- AASHTO LRFD Bridge Design Specifications
- AASHTO Guide Specifications for LRFD Seismic Bridge Design
- WSDOT Bridge Design Manual, LRFD M 23-50 (BDM)
- ODOT Bridge Design and Drafting Manual (BDDM)
- City of Vancouver Municipal Code (VMC) Chapter 20.740.130 Critical Areas Protection- Geologic Hazards Areas

The project will use elements such as drilled shafts, driven piles, abutments and retaining walls. Structural designs will take into consideration stormwater infiltration or other future changed conditions near shallow footings, retaining walls and/or other structures that could increase the potential for soil liquefaction during a future seismic event.

Based on the facts in the Geology Report, the Council finds that long-term Project impacts to geology and soils in the Expo Center/Hayden Island segment are minor and can be mitigated. Mitigation could consist of using standard engineering practices to construct stable slopes; design of bridges to meet Uniform Building Code seismic standards; and techniques such as excavation and backfilling, special footing and foundation designs, and special construction techniques such as surcharging and dewatering to address the stability of artificial fill and the high water table on Hayden Island. Additionally, the CRC Project would replace existing bridges with new and retrofitted structures built to modern seismic safety standards, and would stabilize weak soils along the Columbia River on Hayden Island and around Marine Drive. The Council concludes that the proposed LRT and highway improvements would significantly improve public safety and structure stability during earthquake seismic events when compared with existing conditions.

The North Portland Harbor and the Columbia River will span the 100-year *floodplain*, but with no significant fill or encroachment into the floodplain resulting from pier placement. A minor amount of fill will be associated with the placement of piers for the new bridges. However, the Council finds that floodplain impacts, if any, would be very small given the relatively small size of the bridge piers in comparison to the Columbia River. A flood-rise analysis will be conducted during the final design to calculate the impact that piers in the water will have on flood elevation, in accordance with local regulations and Executive Order 11988 – Floodplain Management. If flood-rise exceeds the allowable limit, the rise would be mitigated through floodplain excavation (cut/fill balance) activities, and the Council finds that such mitigation is feasible

6.3.4 Criterion 6: Natural Resource Impacts

“Identify adverse impacts on significant fish and wildlife, scenic and open space, riparian, wetland and park and recreational areas, including the Willamette River Greenway, that are protected in acknowledged local comprehensive plans. Where adverse impacts cannot practicably be avoided, encourage the conservation of natural resources by demonstrating that there are measures to reduce or mitigate impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.”

Natural resource impacts specific to the Expo Center/Hayden Island segment are addressed in the following section. Natural resource impacts, along with associated mitigation measures, also are described in the Ecosystems Technical Report (Ecosystems Report), the Wetlands Technical Report (Wetlands Report), the Parks and Recreation Technical Report (Parks Report) and the Visual and Aesthetics Technical Report (Visual Report).

Identification of Impacts to Significant, Protected Natural Resources in the Expo Center/Hayden Island Segment

Criterion 6 of this Land Use Final Order requires identification of adverse impacts on *significant* resources (fish and wildlife, scenic and open space, riparian, wetland and park and recreational areas, including the Willamette River Greenway) that are *protected* in acknowledged local comprehensive plans. Oregon planning under Statewide Planning Goal 5 calls for inventories and protection of significant natural resources including fish and wildlife habitat, wetlands, riparian and scenic and open space areas. Because not all natural resource sites within the project area are identified as significant by local governments in their comprehensive plans, the scope of analysis of natural resource impacts under Criterion 6 is generally narrower than the scope of analysis contained in the federal environmental impact statements.

For the Columbia River Crossing portion of the South/North Project, the relevant acknowledged comprehensive plan is the City of Portland Comprehensive Plan. That plan includes policies and objectives to address conservation of a range of natural resources identified in Statewide Goal 5, including wetlands, riparian areas and water bodies, fish and wildlife habitat, scenic routes and viewpoints, and significant upland areas. The City has completed an inventory and analysis of natural resource sites, identified the significance of each resource site and provided varying levels of protection to specific sites through the application of Environmental Overlay zones (E-zones). The city applies two environmental overlay zones: environmental protection (ep) and environmental conservation (ec). The *environmental protection zone* provides the highest level of protection for resource areas deemed highly valuable through a detailed inventory and economic, social, environmental, and energy (ESEE) analysis. Development is largely prevented in these areas. The *environmental conservation zone* areas are also considered valuable, but can be protected while allowing “environmentally sensitive urban development.”

Within the Expo Center/Hayden Island segment, the Council finds that the environmental conservation zone applies to the Columbia River, North Portland Harbor, Columbia Slough, and the Vanport Wetlands to identify and protect these areas for multiple resource values, including *fish and wildlife habitat, riparian corridors, open space and scenic and wetland areas*. However, the E-zone regulations are superseded by the regulations of Peninsula Drainage District #1 at the Vanport Wetlands. As identified in the Ecosystems Report, about 41 acres within the project’s footprint in the Expo Center/Hayden Island segment are within Portland’s E-zones, and impacts to these resources are regulated.

The Council also finds that N Marine Drive is identified as a *scenic corridor* in the Portland Comprehensive Plan and the Columbia Slough has been defined as a *scenic waterway* by the City of Portland, and could be considered a recreational resource. Further, the Portland Comprehensive Plan designates the planned extension of the 40-Mile Loop *recreational trail* along N Marine Drive adjacent to the south side of the North Portland Harbor. Additionally, the Portland Comprehensive Plan designates lands within the Expo Center/Hayden Island segment as *Open Space*. This designation provides for the enhancement and preservation of public and privately owned open, natural, and improved parks and recreational areas. Designated Open Space is found on the east side of I-5 between N Martin Luther King Jr. Boulevard and N Hayden Meadows Drive (Delta Park), and on the west side near the Expo

Center exit. The Open Space designation also borders the N Columbia Boulevard interchange at the southern end of the area of primary impact. Based on these facts, the Council concludes that the natural resources highlighted above are significant and afforded some protection under the acknowledged Portland Comprehensive Plan.

Fish and Wildlife Habitat. The Columbia River and North Portland Harbor are major aquatic resources in the Expo Center/Hayden Island segment and are recognized as significant natural resources for multiple values, including *fish and wildlife habitat*. Shorelines along both of these waterways have been substantially altered and now support limited natural vegetation. These aquatic resources could be directly affected by one or more of the following activities: 1) in-water construction work, 2) construction in or near riparian areas, 3) re-routing of stormwater drainage from roadways and bridges, and 4) permanent structures placed in or removed from waterways.

Historically, the project area was forested, with forested wetlands along the Oregon shoreline and on Hayden Island. The Oregon shoreline was part of a large floodplain wetland system and included many sloughs, back channels, and small or seasonal lakes. Urban development has substantially degraded historic habitat in all parts of the project area, particularly for land-based species. Exhibit 3-10 of the Ecosystems Report shows the amount of different habitat types within the project area. The largest area is comprised of open water, as this classification includes the portions of the Columbia River, North Portland Harbor and Columbia Slough within the project area, and stretches up and downstream from the existing I-5 bridges to account for hydroacoustic attenuation areas. Outside of open water, the project area is almost exclusively occupied by urban habitats. Less than 2 percent of the project area is classified as either wetland or forest habitat, with most of this occurring as small patches isolated from other natural areas.

As described in the Ecosystems Report, the Columbia River and its tributaries are the dominant aquatic system in the Pacific Northwest. In the project area, tides and upstream dams influence river height and flow rate. Because the project is within a heavily developed area, riparian habitat quality along the banks of the Columbia River is poor. Dikes and levees, particularly when reinforced with riprap or concrete, as is the case near the I-5 bridges, make poor quality riparian habitat. The river in this area offers pool and glide habitats for fish, though the water quality is limited for several pollutants. The I-5 bridges influence aquatic habitat conditions in the main channel and North Portland Harbor. Bridge piers in the river provide potential refuge from the current for both predatory fish and juvenile salmon.

The North Portland Harbor channel, on the south side of Hayden Island, supports several floating home communities and commercial and recreational moorages. Average depth in this channel is about 14 feet, with deeper water on the south side. The south shore supports active industrial uses. Piers and moorages line the shore, providing very low quality riparian habitat. Piers and floating homes provide shade and refuge for both predatory fish and juvenile salmon. With the exception of a few large cottonwoods along both shores of the harbor, ornamental plantings and weedy exotic species comprise most of the vegetative cover. Only the open water of the river, and to a lesser extent the harbor, provides much habitat value to

wildlife. A variety of resident and migratory waterfowl are expected on both waterways, as are small mammals such as nutria and river otter.

The Ecosystems Report contains detailed information on the status of protected species in the project corridor. Bald eagles use the Columbia River and environs to forage for fish and waterfowl, but no nesting or breeding sites are known within one mile of the project. Bald eagles were removed from the federal ESA list in August 2007, but are still listed as threatened under Oregon and Washington ESAs.

Peregrine falcons are known to be present in the project area, and utilize the existing I-5 bridge structures year-round. This species was removed from the federal ESA list in 1999 and from the Oregon ESA list in March 2007.

The project area is located in the Pacific flyway, the major north-south route for migratory birds that extends from Patagonia to Alaska. Many migratory birds use the area for resting, feeding, and breeding.

The Columbia River is an important passageway for anadromous fish species moving between the ocean and upstream spawning areas, and also provides significant habitat for resident fish species. The Columbia River and North Portland Harbor are known to support listed anadromous salmonids, including Chinook salmon, chum salmon, sockeye salmon, steelhead trout, and coho salmon, which use this habitat primarily for migration, holding, and rearing. Exhibit 3.9 of the Ecosystems Report summarizes the protected aquatic species known to use or potentially be using waterways in the project area.

The Council finds that the existing I-5 highway, bridges, and interchanges are located in a highly urbanized area. The combined effect of existing transportation facilities and development patterns results in adverse impacts to aquatic, riparian, and terrestrial habitats and the species that rely on them for survival. Existing fish and wildlife habitat impacts include the following: 1) Untreated stormwater runoff has degraded water quality, 2) Columbia River bridge piers provide a refuge for fish species that prey on juvenile salmon, and 3) the bridge and roadway alignment travels through locally and regionally designated habitats.

In general, the Council finds that the long-term effects to aquatic habitat would be consistent with current conditions with the continued presence of bridge piers in the Columbia River and a major transportation structure over the river. Compared with the No-Build Alternative, the Project has fewer bridge piers; however, the piers will be bigger than those currently in place, casting larger shadows and displacing some shallow water habitat.

The Council finds that effects to riparian habitat will be negligible in the Columbia River and North Portland Harbor, as there is very little functioning riparian vegetation in the main project area. About 35 acres within Portland's E-zones would be directly impacted by light rail and highway improvements in the Expo Center/Hayden Island segment. However, the additional acreage impacted should not adversely affect the overall function of terrestrial and riparian habitat or the long-term sustainability of plant and animal species in the project area.

The project improvements will mostly be constructed within existing rights-of-way or land already developed to urban densities, areas that generally provide poor quality fish and wildlife habitat. The project will revegetate disturbed shoreline areas, minimizing long-term effects to Columbia River riparian habitat. There will be no excavation or removal of trees from the Columbia Slough riparian area. Therefore, the project will have no effect on Columbia Slough riparian habitat.

Scenic and Open Space Areas. *Scenic and open space* resources recognized in the City of Portland’s *Scenic Views, Sites and Drives Inventory, Scenic Resource Protection Plan* include the Marine Drive scenic corridor, the North Portland Harbor scenic corridor, the historic northbound I-5 truss and lift bridge, and the Columbia River scenic corridor. Additionally, the Columbia Slough has been defined as a scenic waterway by the City of Portland and could be considered a recreational resource.

The Council recognizes that highways and major transit facilities are highly visible public facilities that can noticeably affect the visual character of surrounding landscapes and the perception of visual resources. Such changes can be of keen interest to local residents and jurisdictions as well as to travelers using the facilities.

The Visual Report describes existing conditions and long-term effects to the viewsheds in the project corridor. A viewshed, or “landscape unit”, is the portion of the landscape that can be seen from within the project area and that has views of the project area. The boundaries of a viewshed are determined by the surrounding topography, vegetation, and built environment. Two viewsheds are described for the Expo Center/Hayden Island Segment: 1) the Columbia Slough landscape unit, and 2) the Columbia River landscape unit.

Mixed industrial-commercial development, sports fields, and marinas define the visual character of the Columbia Slough landscape unit. Visual resources include the Columbia Slough Scenic Corridor, stands of mature trees, Vanport Wetlands (west of I-5), and views of the Tualatin Hills, Mount St. Helens, and the Washington Cascades. Viewer sensitivity in the Columbia Slough landscape unit is low for drivers and high for recreational users.

The river defines the visual character of the Columbia River landscape unit. Visual resources include the Columbia River and its shoreline and views of Mt. Hood and the Tualatin Hills. Viewer sensitivity and vividness in the Columbia River landscape unit is high.

The primary elements of the CRC Project that would affect visual quality and character are the new bridge structures across the North Portland Harbor and the Columbia River. Visual impacts to the North Portland Harbor scenic corridor would occur from the new light rail/vehicular/bicycle/pedestrian bridge between Hayden Island and Expo Center Drive. Visual impacts to the N Marine Drive and Columbia River scenic corridors would occur from:

- The greater heights and widths of the new structures across the Columbia River;
- The widening of the I-5 corridor due to the addition of auxiliary lanes along I-5;
- The new light rail/vehicular/bicycle/pedestrian bridge between Hayden Island and Expo Center Drive; and

- The wider or higher ramps for reconfigured interchanges at Marine Drive and Hayden Island.

This section of the N Marine Drive Scenic Corridor borders the North Portland Harbor, a narrow waterway dominated on the east by the large horizontal forms of I-5 and heavy industrial activities and busy roads along its south banks. Older, wooden and metal storage and other buildings rim the bank. Views from the south and north bank of the Harbor are blocked to the east by the I-5 bridge but focus on a cluster of small docks and houseboats nestled against the south shore of Hayden Island adjacent to the bridge. Views west down the harbor focus on the channel and on river-related commercial and industrial activities along both banks.

The new light rail/vehicular/bicycle/pedestrian bridge will cross under N Marine Drive and over the North Portland Harbor on an approximately 1000 foot structure constructed west of the existing I-5 bridge over the harbor. The LRT bridge would remove some houseboats and vegetation along both banks of the harbor. The bridge would also introduce a new overhead structure over the Marine Drive and North Portland Harbor scenic corridors. However, because the multi-modal bridge will closely parallel the existing I-5 bridge and is located in an intensively urban, industrial section of the scenic corridor, the Council finds that the project will not result in a significant adverse impact on either scenic corridor.

The reach of the Columbia River crossed by the I-5 bridges is flat, open water bordered by industrial, commercial, residential and undeveloped areas along its shoreline. The river is a significant regional resource and the dominant visual element within this segment because of its large scale and openness. The river also serves as a dramatic gateway between Oregon and Washington. The Visual Report concludes that the new bridge forms over the Columbia River and the resulting changes to views of (and from) the Columbia River would be mostly positive. Potential impacts would include:

- Removal of the visually complicated truss structures and lift towers of the existing I-5 bridges. This action would remove an obstruction of views from the higher deck and from the river. However, this action would remove an important contributor to the area's historic context (the I-5 bridges) and a character-defining aspect of interstate travel.
- From I-5, views of the Portland and Vancouver skylines, distant shorelines, rolling hills, and mountain profiles would generally improve. Toward I-5, views of open water and shorelines from shoreline-level and elevated viewpoints would also generally improve.

The Council finds that high-quality design and construction of the proposed transit and highway facilities will be important mitigation tools for visual quality and aesthetics associated with designated scenic and open space resources. The City of Portland and other stakeholders will continue to discuss the aesthetic attributes of the new bridge structures to best mitigate potential visual impacts and to create a noteworthy visual feature. The Council understands that design guidelines have been developed and will be used during the final design phases of the Project to guide decisions that impact visual character and quality. It

considers the design of the I-5 bridges to be a substantial visual mitigation opportunity for the Project. Appropriate conditions that are reasonable and necessary and do not prevent implementation of the LUFO can be imposed through the local review process to avoid or mitigate adverse impacts on designated scenic resources and viewpoints.

Riparian Areas. As described in the discussion of fish & wildlife habitat, the *riparian area* along the North Portland Harbor and the Columbia River has been significantly altered with development. Shorelines along both of these waterways now support limited natural vegetation. The project improvements will mostly be constructed within existing rights-of-way or on land already developed to urban densities, areas that generally provide poor quality fish and wildlife habitat. The project will revegetate disturbed shoreline areas, minimizing long-term effects to Columbia River riparian habitat. There will be no excavation or removal of trees from the Columbia Slough riparian area. Therefore, the project will have no adverse effect on Columbia Slough riparian habitat.

Wetland Areas. The Wetlands Report notes that there are large wetland systems east and west of the immediate project area in the Expo Center/Hayden Island segment, including the Vanport Wetland, Force Lake, Smith and Bybee Lakes, and West Hayden Island wetlands. Additionally, the Columbia Slough watershed has substantial wetlands and other water present within the urban matrix. Exhibit 3.6 identifies the following field-identified wetlands in the Expo Center/Hayden Island Segment: 1) Victory interchange wetlands, 2) Schmeer Slough, 3) Walker Slough, 4) Expo Road wetland, and 5) Vanport Wetlands. The wetland delineation report was submitted for concurrence to the Oregon Department of State Lands (DSL) in 2008 and DSL has concurred with the delineation (#WD 2008-0205). In addition to field-identified wetlands, a potentially jurisdictional water area is also identified in Exhibit 3-6 of the Wetlands Report (PJWA O). The CRC project has the possibility of encroaching upon the eastern edge of PJWA O, however, lacking permission from the property owner to enter the Vancouver Way property, neither the project team nor regulatory agencies can confirm the presence or absence of jurisdictional wetlands at this location.

Based on information in the Wetlands Report, the Council finds that the project footprint would not encroach upon any identified wetlands in the Expo Center/Hayden Island Segment. The new impervious surface will not discharge untreated stormwater runoff into the wetlands and the urbanized environment already negatively affects the wildlife activities that may be impacted.

Park and Recreational Areas and Willamette River Greenway. Designated *park and recreational areas* close to the proposed LRT and highway improvements in the Expo Center/Hayden Island segment include East Delta Park, the Marine Drive Multi-Use Trail and the proposed Bridgeton Multi-Use Trail. The project improvements are located outside of the boundaries of the *Willamette River Greenway*.

East Delta Park is a regional park located east of I-5 between N Denver and Martin Luther King Jr. Boulevard. East Delta Park encompasses about 85 acres and facilities include softball and soccer fields, control line flying field, sand volleyball courts, playground, and off-leash dog area on ODOT property. Approximately 0.4 acre of off-leash area associated with East

Delta Park, but located in ODOT right-of-way, would be permanently acquired for the project improvements.

The Marine Drive Multi-Use Trail is a designated *recreational trail* along N Marine Drive. The five-mile segment extending from I-5 west to Kelley Point Park connects to the Marine Drive interchange and North Portland Harbor bridges. The 40-Mile Loop is designated a significant recreational resource and is protected in the acknowledged City of Portland Comprehensive Plan. Project improvements in the Expo Center/Hayden Island segment would not require any use of the trail. Based on information included in the Parks and Recreation Report, the Council finds that improvements to the bicycle and pedestrian facilities would represent a large improvement over the circuitous paths that exist today within the loops and ramps of the Marine Drive interchange. New, wide multi-use paths beneath the Marine Drive Interchange would connect both sides of I-5 to the Expo Center light rail station, East Delta Park, the Marine Drive Multi-Use Trail, and the crossing over North Portland Harbor to Hayden Island. Additionally, the Council finds that the new improvements to bicycle and pedestrian facilities within the Marine Drive Interchange area could be connected to the proposed Bridgeton Trail sometime in the future.

Mitigation Options for Natural Resource Impacts in the Expo Center/Hayden Island Segments

The Council finds that the South/North Project will have no adverse impacts on park areas and designated recreational trails, riparian areas and identified wetland areas. Pedestrian and bicycle improvements in the vicinity of the Marine Drive interchange will substantially improve connections to the Marine Drive multi-use recreational trail.

The Council finds that the bridges across the North Portland Harbor will have an impact on the scenic and visual character of this segment. However, by locating the LRT bridges in close proximity to the existing and more dominant I-5 bridges, the Council concludes that visual impacts will be reduced. Additionally, by locating the LRT alignment to the west of I-5, views up the Columbia River from the I-5 bridges toward Mt. Hood are not affected.

Construction of the new LRT and highway bridges over the North Portland Harbor and the Columbia River could result in adverse impacts to wildlife habitat. Impacts to riparian habitat along North Portland Harbor would be limited to the loss of several relatively large cottonwood trees along the harbor shorelines. Since these trees occur in small, isolated stands surrounded by development, their loss would not adversely affect wildlife populations. Small, isolated stands of trees in an urbanized area afford relatively poor quality habitat due primarily to the lack of habitat diversity, lack of buffering from human activity and lack of movement corridors to other habitat areas.

Long-term impacts to fisheries include the removal of a small amount of channel bottom habitat due to construction of the bridge pier foundations. None of the bridge piers is expected to adversely modify critical habitat; however, elements such as cover, shelter, refuge, holding, or rearing might be adversely affected to a relatively small extent. No suitable spawning habitat, and limited rearing and holding habitat for juvenile salmonids, is present in the area of the bridge crossings. As a result of the analysis and findings presented in the *Biological Assessment for Threatened, Endangered, and Candidate Fish* and the approved Biological

Opinion, the Council concludes that, with implementation of a number of conservation measures, the South/North Project would not likely jeopardize populations of threatened or endangered fish species or adversely modify their critical habitat in the CRC project area. However, due to the extent of in-water work and the presence of many ESA-listed fish, it is acknowledged that adverse effects to individual fish and their critical habitat are likely to occur, but effects are avoided or minimized to the extent practicable. The Council notes that the National Marine Fisheries Service (NMFS) produced this finding in its Biological Opinion.

The Council finds that the following mitigation measures outlined for Threatened, Endangered, and Candidate Fish in the Expo Center/Hayden Island Segment are available to mitigate adverse impacts to the North Portland Harbor and the Columbia River and could be imposed as conditions of approval during the FEIS process and/or the local permitting process if reasonable and necessary:

- Implement erosion and sediment control measures to prevent sediment from entering surface waters.
- Time in-water construction activities based on discussions with NMFS and the Oregon Department of Fish and Wildlife, and take into consideration factors such as timing of fish migration and construction schedule and cost.
- Use of hydroacoustic attenuation measures to reduce impacts on the behavior of fish and sea lions.
- Conduct sediment sampling prior to construction of in-water bridge piers in order to determine the presence of and characterize potential contaminants.
- Limit the operation of equipment in the active river channel to the minimum necessary.
- Clean all equipment that is used for in-water work prior to entering the water.
- Do not store or transfer petroleum products within 150 feet of the active river channel, unless isolated within a hard zone with suitable containment measures in place.
- Assure the development and implementation of plans for the safe storage and containment of all hazardous materials used in project construction.
- Include measures in the plan for containment berms and/or detention basins, where appropriate.
- Develop a site-specific sediment control and erosion control plan prior to project implementation.

6.3.5 Criterion 7: Stormwater Runoff

“Identify adverse impacts associated with stormwater runoff. Demonstrate that there are measures to provide adequate stormwater drainage retention or removal and protect water quality which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.”

Stormwater runoff impacts specific to the Expo Center/Hayden Island segment are addressed in the following section. Stormwater impacts and mitigation measures are also described in the Water Quality and Hydrology Technical Report.

General Overview of Stormwater Runoff Impacts and Mitigation

The South/North Project intersects major rivers, minor watercourses and floodplains within the lower Columbia and Willamette River basins, including the Willamette and Columbia Rivers. Existing waterways in the South/North Project area receive large volumes of stormwater and surface runoff containing a variety of pollutants, including chemicals and nutrients from fertilizers and pesticides, roadway sediments, motor vehicles and other man-made or natural sources. Water quality in the corridor is typical of drainage basins with urban development.

Areas developed or under development increase the rate and volume of peak stormwater discharges. The peak runoff rate and volume of stormwater discharges usually increase when construction removes vegetation, compacts soils, and/or covers significant portions of a site with buildings or pavement. Typical problems associated with increases in peak discharge rates include higher flow velocities in streams, more erosion, and more frequent flooding. These problems degrade habitat areas, damage property, and require increased maintenance of culverts and stormwater facilities.

A range of federal laws, state statutes, and local and regional ordinances address hydrologic impacts from development. State and local regulations typically establish standards for controlling the peak rate of stormwater runoff. Regional standards, contained in Title 3 of Metro's *Urban Growth Management Functional Plan*, more broadly address flood mitigation, erosion and sediment control, and the protection of long term regional continuity and integrity of water quality and flood management areas. Federal National Flood Insurance Program criteria and Executive Order 11988 regulate development in flood prone and floodplain areas.

Potential sources of water quality degradation include pollutants from chemicals and nutrients from natural or man-made sources. Eroded sediments and other pollutants can be carried by stormwater to downstream receiving waters. Resulting water quality issues can impair the beneficial use of local waterways for recreation, wildlife habitat, and watering of livestock or other farm animals.

Water quality impacts are generally regulated by federal and state guidelines, usually through required water quality standards for receiving waters quality and limitations on the generation and release of urban pollutants.

Stormwater detention treatment facilities can be used to mitigate the effects of long-term and short-term hydrologic and water quality impacts changes. State and local regulations establish standards for detention stormwater treatment and other methods of stormwater control which can be applied as conditions of approval during local permitting proceedings. Mitigation for hydrologic and impacts is usually accomplished by reducing or attenuating peak runoff rates, by either detaining (store and release), retaining (store but do not release) through stormwater detention, or infiltrating runoff from a developed site. Stormwater detention provides water

quality benefits because storage promotes settlement of suspended sediments and other pollutants. Stormwater detention and water quality facilities are typically combined to use land more efficiently. “Dry” ponds, bioretention ponds, “wet” ponds, constructed treatment wetlands, retention ponds, biofiltration swales, biofiltration swales filter strips, underground vaults, bioslopes, and constructed wetlands dry wells are typically used stormwater treatment facilities. The Council finds that a range of measures are available and site-specific mitigation for hydrologic and water quality impacts will be refined and selected during the Final Design and local permitting processes.

All of these facilities detain stormwater by releasing runoff through a regulating structure, such as an orifice or weir. Stormwater detention provides water quality benefits because storage promotes settlement of suspended sediments and other pollutants. Stormwater detention and water quality facilities are typically combined to use land more efficiently.

Source control Best Management Practices (BMPs) are intended to mitigate pollutants generated through normal operation and use of buildings, roadways, and other urban facilities. The Council finds that water quality degradation resulting from erosion and sedimentation and the release of pollutants can be minimized through the use of BMPs during construction. Construction BMPs include use of barrier berms, silt fencing, temporary sediment detention basins, plastic covering for exposed ground, vegetative buffers (hay bales), and restricting clearing activities to dry weather periods to contain sediment on-site. Further requirements could include diapering of all dump trucks to avoid spillage, and cleaning of heavy equipment tires and trucks before they are allowed to drive off-site. A variety of special BMPs can also be used at crossings or adjacent to streams or watercourses during construction.

In general, the Council finds that water quantity and water quality and hydrology impacts created by the construction and operation of the CRC Project can be substantially mitigated by complying with the following: DEQ water quality standards; Army Corps of Engineers Section 404 permit regulations; Department of State Lands regulations for instream activities; NMFS conservation measures specified in the project Biological Opinion; Metro Title 3 regional standards; and City of Portland erosion control and stormwater regulations. These rules and regulations outline Best Management Practices to prevent or limit pollutants from entering surface waters through urban drainage systems. These types of measures could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the local permitting process.

Stormwater Runoff Impacts and Mitigation Options with the Expo Center/Hayden Island Segment

Within the Expo Center/Hayden Island segment, specific water bodies include the Columbia Slough, the Columbia River and North Portland Harbor. As described in the Water Quality and Hydrology Report, the Columbia Slough is a slow-moving, low-gradient drainage channel running nearly 19 miles from Fairview Lake in the east to the Willamette River in the west. Water levels are managed with pumps, weirs, and levees. The levee system protects most of the floodplain in the vicinity of I-5 against flooding. Within the project area, the Columbia Slough is currently on Oregon’s 303(d) list because it does not meet water quality standards for four parameters.

The I-5 crossing of the Columbia Slough is in a highly urbanized area. Riparian habitat along the slough has largely been replaced by buildings and paved surfaces compared to historic conditions. Riparian areas along the Slough are generally not adequate to provide shade, bank stabilization, sediment control, pollution control, or stream flow moderation. Within the project area, I-5 is elevated on embankments or structures and, in general, the highway drainage systems do not handle runoff from outside the right-of-way.

I-5 crosses the Columbia River near river mile 106.5. North Portland Harbor, the portion of the Columbia River running south of Hayden Island, lies within the project area. Runoff from I-5 on Hayden Island drains directly into the Columbia River and North Portland Harbor. The east portion of Hayden Island is highly developed, with large hotels, a shopping center, residential communities, and other commercial activities. The western portion of the island is undeveloped and is comprised of pasture, woods, and wetland areas. Within the project area, the Columbia River is currently on Oregon's 303(d) list because it does not meet water quality standards for six parameters. DEQ does not differentiate between the North Portland Harbor and the Columbia River when compiling the 303(d) list.

Project data show four outfalls that drain to the Columbia River/North Portland Harbor within the project area. On Hayden Island, runoff from I-5 discharges directly to the Columbia River through roadside grates located along the entire span. Runoff from the bridge is not treated prior to release to the river.

As summarized in the Water Quality and Hydrology Report, the differences in long-term effects on water quality between the Columbia River Crossing Project and the No-Build Alternative are substantial. Although the Project would increase the total amount of pollutant generating impervious surfaces in the Columbia Slough Watershed and the Columbia River Watershed, the amount of untreated impervious surface would drop dramatically compared to existing conditions and the No-Build Alternative. This is because, with the Project, stormwater runoff from the entire Contributing Impervious Area (CIA) would be treated, while stormwater runoff from most of the existing impervious surfaces does not currently undergo stormwater treatment.

Based on the information contained in the Water Quality and Hydrology Report, the Council concludes that no adverse hydrologic or water quality impacts are expected in the Expo Center/Hayden Island Segment. It finds that the Project would increase overall impervious surfaces by about 28 acres, which could result in increased stormwater runoff rates and volumes and increase the amount of pollutants in stormwater. Without mitigation, this would affect the hydrology of project waterways. However, the Columbia Slough and the Columbia River are large water bodies and the project-related increase in stormwater volume would not result in a measurable increase of flows in these surface waters. Additionally, stormwater treatment design for the project corridor includes a number of stormwater treatment and/or infiltration facilities to reduce pollutants (including sediments and metals). Therefore, although the impervious surface area will increase by about 28 acres, untreated pollution generating surface area would be reduced from 219 acres to 0 acres.

The Council finds that, as described in the Water Quality and Hydrology Report, the Project will provide treatment not only for the new impervious area, but also for runoff from existing impervious surface area that does not currently receive treatment. The Council concludes that the project will provide treatment of approximately nine times the area of additional impervious surface being added as part of the Project and will result in overall positive effects to the water quality and hydrology of receiving waters. Stormwater runoff would be treated in compliance with current standards before being discharged to project area water features.

The Council recognizes that specific and detailed mitigation erosion control and water quality measures will be required for the construction of the LRT facilities and highway improvements in the Expo Center/Hayden Island segment. The project team has prepared a draft stormwater management design in order to evaluate general feasibility and water quality effects associated with the Project. For the portion of the CRC Project in Oregon, the draft was prepared to meet the stormwater management requirements of ODOT and the City of Portland. The draft design includes gravity pipe drainage systems that would collect and convey runoff from the new bridges, transit guideway, and road improvements. Stormwater treatment facilities would reduce total suspended solids (TSS), particulates, and dissolved metals to the maximum feasible extent before runoff reaches surface waters.

The following stormwater treatment devices are included in the draft stormwater management design:

- Bioretention ponds – infiltration ponds that use an engineered (amended) soil mix to remove pollutants as runoff infiltrates through this material and into underlying soils.
- Constructed treatment wetlands – shallow, permanent, vegetated ponds that function like natural wetlands. They remove pollutants through such means as sedimentation, microbial activity, and uptake by plants.
- Soil-amended biofiltration swales – channels with mild slopes and shallow depths of flow. The channels are dry between storm events and they treat runoff by filtration as runoff flows through the vegetated surface and amended soils.
- Soil-amended filter strips – similar to grass swales, filter strips are intended to treat sheet runoff from an adjacent roadway surface.
- Bioslopes – like filter strips, are intended to treat sheet runoff from an adjacent roadway surface. The percolating runoff flows through a special mixture of materials, which promotes the absorption of pollutants.

Based on the draft stormwater management design, the Council finds that a range of measures are available to mitigate stormwater impacts and site-specific mitigation for stormwater quantity and quality impacts associated with the LRT and highway improvements, including the bridge construction across the North Portland Harbor and the Columbia River. These measures will be refined and selected during the FEIS and local permitting processes.

6.3.6 Criterion 8: Historic and Cultural Resources

“Identify adverse impacts on significant historic and cultural resources protected in acknowledged comprehensive plans. Where adverse impacts

cannot practicably be avoided, identify local, state or federal review processes that are available to address and to reduce adverse impacts to the affected resources.”

Historic and cultural resource impacts specific to the Expo Center/Hayden Island Segment are addressed in the following section following a more general discussion of historic and cultural resource impacts and mitigation. Historic and cultural resource impacts and mitigation measures are also described in the Historic Built Environment Technical Report (Historic Report), and the Archaeology Technical Report (Archaeology Report).

General Overview of Historic and Cultural Resource Impacts

Section 106 of the National Historic Preservation Act of 1966, as amended, and Executive Order 11593 require that a federal agency consider the effect of a federally assisted project on any historic district, sites, buildings, structures, objects or any archaeological sites listed in or eligible for inclusion in the National Register of Historic Places (NRHP).

Throughout earlier phases of the Columbia River Crossing Project, as with previously approved segments of the South/North Project, alternatives and options have been developed, evaluated, narrowed and refined. A significant objective in the narrowing and refinement of alternatives and options has been to avoid where practicable, or to minimize where avoidance is impracticable, potential impacts to historic and cultural resources. During preliminary and final engineering, further design work will be completed that would further attempt to avoid, minimize and/or mitigate adverse impacts to historic and cultural resources. Under federal procedures, the resulting impact analyses and commitment to feasible mitigation measures will be completed in coordination with the Oregon State Historic Preservation Officer (SHPO) and the Advisory Council for Historic Preservation (ACHP). A Memorandum of Agreement between FTA, FHWA, SHPO and ACHP and others will be executed to define how the Project will mitigate adverse effects to historic and cultural resources.

Project staff, in consultation with Oregon's SHPO, made a determination of the “area of potential effect” for that portion of the CRC Project within Oregon. The criteria of effect and criteria of adverse effect as set forth in the National Historic Preservation Act are highlighted below. The Council agrees with and adopts these criteria for purposes of measuring compliance with Criterion 8.

An undertaking has *an effect* on an historic property when the undertaking may alter characteristics of the property that may qualify the property for inclusion in the *National Register*. For the purpose of determining effect, alteration to features of the property’s location, setting, or use may be relevant depending on a property’s significant characteristics and should be considered.

An undertaking is considered to have an *adverse effect* when the effect on a historic property may diminish the integrity of the property’s location, design, setting, materials, workmanship, feeling or association. Adverse effects on historic properties include, but are not limited to:

- Physical destruction, damage, or alteration of all or part of the property;

- Isolation of the property from or alteration of the character of the property’s setting when that character contributes to the property’s qualification for the *National Register*;
- Introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting;
- Neglect of a property resulting in its deterioration or destruction; and
- Transfer, lease or sale of the property.

The Historic Report includes an analysis of historic resources and historic districts within the Expo Center/Hayden Island segment to determine the National Register of Historic Places status. It also assesses short and long-term impacts of the Project on historic, cultural and archeological resources. The Council accepts the methodology for determining “adverse effect” established in the Historic Report, and it adopts and incorporates by reference herein the facts and conclusions set forth in that document.

The City of Portland has completed an inventory of cultural resources and designated significant resource sites in its comprehensive plan. Some resources, which are inventoried in the local comprehensive plans under LCDC Goal 5, are not necessarily defined as “significant” through the NEPA process. Conversely, the federal environmental documents include discussion of some resources that are not inventoried or protected in Portland’s plan. Criterion 8 only requires identification of adverse impacts on significant historic and cultural resources *protected* in acknowledged comprehensive plans.

General Discussion of Historic and Cultural Resource Mitigation Measures

The Historic Report outlines general measures to avoid, minimize or mitigate for long-term impacts and short-term construction impacts. It also includes a more specific discussion of mitigation measures for resources that may be adversely affected by the CRC Project. The Council finds the following to be examples of avoidance, minimization and mitigation options:

1. Demolition of resources could be minimized in some instances through refinement in the design of the Project in a specific area.
2. Demolition could also be avoided through relocating the resource.
3. If these options are not feasible, recordation and salvage of the resource could mitigate for its loss.
4. Loss of access or isolation of resources could be minimized through design treatments such as creation of alternative access points, more visible signage, or traffic control to facilitate accessibility.
5. Noise and vibration impacts to resources could be minimized through design treatments and vibration suppression.
6. Visual impacts could be mitigated through enhanced design treatments. Station and shelter design, construction materials, and street improvements could be chosen to complement existing building and street settings. Stations could be moved to avoid

placement in front of historic resources. Where possible, overhead wiring could be attached to existing support structures.

7. Areas with a high probability of archaeological resources have been identified. A professional archaeologist would be on site to monitor construction activities in these specified areas.

The Council finds that the discussion of general mitigation measures included within the Historic Report provides a good base for more detailed mitigation commitments in the FEIS.

Federal, State and Local Review Processes to Reduce Resource Impacts

Federal and State Processes

Section 106 of the National Historic Preservation Act of 1966, described above, defines the federal review process designed to ensure that historic properties are considered during federal project planning and execution. The process is administered by the ACHP and coordinated at the state level by the SHPO. An agency must afford the ACHP a reasonable opportunity to comment on the agency's project. Section 106 requires that every federal agency take into account how each of its undertakings could affect historic properties.

For the purposes of Section 106, any property listed in or eligible for listing in the National Register of Historic Places is considered historic. The process has five steps as follows: 1) identify and evaluate historic properties; 2) assess effects of the project on historic properties; 3) if an adverse effect would occur, then consultation with the SHPO and other interested parties would occur, and if necessary, a Memorandum of Agreement would be developed which defines what will be done to reduce, avoid or mitigate the adverse effects; 4) ACHP comment; and 5) proceed with the project, incorporating the mitigation in the Memorandum of Understanding.

At the state level, the historic preservation process is defined in ORS Chapter 358 and in the Land Conservation and Development Commission's Goal 5. The state process is implemented by the local jurisdictions through the adoption of historic preservation identification and protection plans in their individual comprehensive plans. The state process limits local preservation options. Under current law, local protection of historic properties requires owner consent. However, local governments may preserve properties listed on the National Register. Within the City of Portland, demolition must be reviewed and may be denied.

State law in ORS Chapter 358 and LCDC's Goal 5 rule, OAR 660-023-0200, encourage the preservation, management, and enhancement of structures of historic significance. It authorizes local governments to adopt or amend lists of significant historic resource sites. However, owners of inventoried historic resources must be notified and may refuse local historic resource designation at any time prior to adoption of the designation. No property may be included on the local list of significant historic resources where the owner objects. Moreover, a property owner may remove from the property a local historic property designation that was imposed by the local government.

OAR 660-023-0200(7) encourages local governments to adopt historic preservation regulations regarding the demolition, removal or major exterior alteration of all designated historic resources. It encourages consistency of such regulations with the standards and guidelines recommended in the Standards and Guidelines for Archaeology and Historic Preservation published by the US Secretary of the Interior. Further, OAR 660-023-0200(9) prohibits local governments from issuing permits for demolition or modification of an inventoried significant historic resource for at least 120 days from the date a property owner requests removal of historic resource designation from the property. It requires that local governments protect properties that are listed on the National Register, including demolition review and design review.

Local Process

The City of Portland has a local process in place to address alteration or demolition of historic and cultural resources that are identified as significant and protected in local comprehensive plans. This process could be applied to address and to reduce adverse impacts to affected historic and cultural resources.

As described below, certain protected historic resources in the City of Portland would be adversely affected. City review processes to address and to reduce adverse impacts to such resources are provided in the City's Zoning Code at Chapter 33.445, Historic Resources Protection, and Chapter 33.846, Historic Reviews.

Under these chapters, two levels of historic resource designation are created: Historic Landmarks and Conservation Landmarks. The Historic Landmark designation offers the highest level of protection for resources of citywide significance. Resources in this designation have access to incentives for historic preservation, including transfer of development rights and the right to a more flexible range of uses (such as multi-family use in a single family zone; reuse of institutional and business buildings in residential zones for commercial or institutional purposes; and streamlined review procedures). However, owners doing projects that utilize incentives must consent to designation and agree not to demolish or modify the building without City approval.

Conservation Landmarks are available for resources whose significance is local rather than citywide. Although part of the city's inventory, these sites generally are not qualified to be Historic Landmarks.

The City has the option to deny demolition only for those resources designated as landmarks that have taken advantage of one or more of the preservation incentives offered by the code or are listed on the National Register. A condition for use of the incentives is the owners entering into a covenant with the city agreeing not to modify or demolish the resource without city approval. Also, demolition delays have been adjusted to meet the requirements of state law. The delay period is 90 days for Conservation Landmarks and 180 days for Historic Landmarks and resources in the Historic Resources Inventory. These delay periods start the day an application for demolition is received by the city.

Identified Significant and Protected Historic and Cultural Resources in the Expo Center/Hayden Island Segment

The Historic Report and the Portland Comprehensive Plan identify three significant and protected historic resources in the Expo Center/Hayden Island Segment.

- The northbound structure of the I-5 bridge (built in 1917); listed in the National Register of Historic Places (NRHP) in 1982.
- The carousel located at the Jantzen Beach Shopping Center; listed in the National Register of Historic Places.
- The Columbia Slough and Levee System as contributing elements of the Columbia Slough Drainage Districts Historic District. The State Historic Preservation Office determined this resource eligible in 2005.

Additionally, the 1960 Pier 99 commercial building has been determined to be NRHP-eligible for two reasons: (1) it is a good example of a Mid-Century Modern Commercial building designed and constructed in the “Google” style; and (2) it was designed by Oregon architect John Storrs, whose innovative designs were an important contribution to the Northwest Regional style of architecture. However, the Pier 99 commercial building is not currently identified as a significant and protected resource in the Portland Comprehensive Plan.

The Archaeology Report states that no archaeological resources have previously been recorded within the Columbia River Crossing area of potential effect on the Oregon shore. The high degree of commercial development, along with a century of roadway construction and improvement within the area of potential effect, contributes to a low potential for historical archaeological features and deposits on the Oregon shore. Although the City of Portland Comprehensive Plan does not specifically identify and protect archeological resources, federal regulations, particularly Section 106 of the National Historic Preservation Act (NHPA), are applicable to such resources through the federal NEPA process.

Mitigation Options for Identified Historic and Cultural Resource Impacts in the Expo Center/Hayden Island Segment

Property acquisitions and physical changes are the primary source of long-term and direct effects to known and potential historic resources. Based on the findings in the Historic Report, the Council concludes that the CRC project will require the removal of the northbound bridge, which is included in the National Register of Historic Places and considered a significant resource in the Portland Comprehensive Plan. This northbound bridge structure has been a critical part of the transportation system and historic landscape for both Oregon and Washington since 1917.

The Council finds that a Memorandum of Agreement (MOA) to implement Section 106 of the National Historic Preservation Act will dictate the mitigation of effects to historic properties. Mitigation measures for the I-5 bridge are summarized below.

The Washington Department of Transportation (WSDOT) and ODOT would ensure that all efforts will be attempted to find an alternative use through a bridge marketing plan, including separating and relocating individual spans if relocation of the bridge in its entirety is not feasible. If it is not feasible to pursue moving and relocating the structure for adaptive reuse, documentation may be updated, including applicable photography and drawings. If appropriate, decorative or interpretive structural elements would be offered to local historical societies/museums or other interested parties. As the bridge is a critical component of the regional historic landscape, contributions would be made to interpretive programs and small projects which will result in documentation, waysides, exhibits, or other means of communicating the structure's history and meaning to the general public.

Based on the findings in the Historic Report, the Council concludes that the Columbia River Crossing project would have no adverse effects on the carousel located at the Jantzen Beach Shopping Center.

The project has an effect on the NRHP-eligible Columbia Slough Drainage District's Historic District, but that effect is "not adverse." The Oregon Slough Levee is part of an extensive, historic system of engineered improvements to the area's drainage. A small portion of the levee, approximately 330 linear feet extending east of I-5, would need to be demolished and rebuilt in order to accommodate the ground improvements needed to stabilize soils below the I-5 ramps and bridges. There would also be modest modifications made to portions of two additional contributing properties: the North Denver Avenue Cross Levee and Union Avenue/Martin Luther King Fill/Cross Levee. Although localized alterations to contributing elements would occur, the integrity of each of the levees, as well as the overall system, would be maintained.

The Pier 99 Building would be displaced due to the construction of a ramp on I-5 between Marine Drive and Hayden Island. This would be an adverse effect. Although this building is not identified as significant or protected by the Portland Comprehensive Plan, it is identified as an NRHP-eligible structure. There is little likelihood that the structure can be relocated given the structural design and condition of the building. Documentation, including applicable photography and drawings, will be sought. If appropriate, decorative or interpretive building elements would be offered to local historical societies and museums.

Based on information in the Archaeology Report, the Council finds that long-term curation of any artifacts or samples recovered during archaeological investigations or during construction of the project will be determined in consultation with agencies, property owners, and appropriate tribes. Long-term curation of recovered materials is an essential element of archaeological investigations and is required as part of federal and state permitting processes.

6.4 Ruby Junction Maintenance Facility Findings and Mitigation Measures

As indicated in Section 2.3 of these findings, the Council authorized the modification and expansion of the previously approved Ruby Junction Maintenance Facility in 2008 to accommodate additional light rail vehicles associated with the Portland to Milwaukie Project. In its 2008 LUFO findings supporting that action, the Council noted: “The Ruby Junction expansion also is expected to serve additional light rail vehicles needed for future LRT expansion to Vancouver, Washington and potentially Oregon City.”²² Accordingly, the 2008 LUFO was approved with the expectation that the Ruby Junction Maintenance Facility would at some future time serve light rail vehicles associated with the CRC Project. With this [Revised 2011 LUFO](#), that expectation becomes a reality. As implied in the 2008 LUFO findings, the Council finds that such use can be fully accommodated within the location boundaries established in the 2008 LUFO.

Section 6.5 of the 2008 LUFO findings identified the impacts relevant to LCDC Criteria 3-8 that were expected to occur at the Ruby Junction Maintenance Facility as a consequence of expansion of that facility within the newly established location boundaries. Because all activity associated with the CRC Project will occur within the 2008 boundaries, the Council finds that additional impacts beyond those identified in the 2008 LUFO findings are not likely. The Council finds that increased light rail activity within the previously established boundaries will not result in any additional displacements or adverse economic, social or traffic impacts beyond those contemplated in 2008. For reasons stated in the 2008 findings, it also finds that use of the facility by light rail vehicles serving the CRC Project will not increase noise in the vicinity of the facility or alter its findings with respect to natural hazards, natural resources, stormwater runoff or historic or cultural resources. The Council continues to adhere to those 2008 findings, which it incorporates herein by this reference.

²² 2008 LUFO Findings of Fact and Conclusions of Law at page 91.

7.0 Compliance with Substantive Criteria (3-8) Short Term (Construction) Impacts

7.1 Introduction

This section summarizes the short-term impacts associated with construction of the light rail and highway improvements in the Expo Center/Hayden Island Segment. The primary objectives of including short-term, construction impacts in the LUFO findings are to:

- Identify the location, importance and duration of potential, major construction impacts; and
- Identify potential mitigation measures (in general terms) for major impacts.

Linear projects such as light rail transit are typically divided into various segments or line sections for construction of the trackway, structures, stations and related work. In sections where the track is located within a separate right-of-way, extensive clearing and grading may be required. During the grading phase, culverts and other permanent drainage structures will be installed. Underground utility services may be relocated during the grading phase to avoid interference with light rail construction.

Following the grading and preliminary site work, installation of light rail utility duct banks, catenary pole foundations, platform foundations, and major structures such as bridges will begin. Bridgework will be accompanied by foundation construction that may involve pile driving or other specialized operations. Other activity outside the trackway also may occur during this period, such as construction or relocation of roadways and construction of traction power substations and signal buildings.

The next construction phase involves the installation of track work, catenary poles, catenary wire, signals, communications cables and other system-wide elements. Once all elements of the LRT system are complete, integrated testing and start-up will begin.

For both the light rail transit and highway improvements, construction of the bridges over the Columbia River will be the most substantial element of the Project, and this element sets the sequencing for the other Project components. The main river crossing and immediately adjacent highway improvement elements would account for the majority of the construction activity necessary to complete the Project. Construction of the I-5 Columbia River bridges is expected to last approximately four years. The general sequencing of constructing the bridges would likely entail the following steps:

- Initial preparation – mobilize construction materials, heavy equipment and crews; prepare staging areas; install temporary piles to support work and anchor barge platforms
- Installation of drilled shafts – install drilled shafts to support the bridge pier columns

- Shaft caps – construct and anchor concrete foundations on top of the drilled shafts to support column piers
- Pier columns – construct or install pier columns on the shaft caps
- Bridge superstructure – build or install the horizontal structure of the bridge spans across the piers; the superstructure would be steel or reinforced concrete; concrete could be cast-in-place or precast off-site and assembled on-site.

Interchanges on each end of the bridge would first be partially constructed so that all I-5 traffic could be temporarily rerouted onto the new southbound (western) Columbia River bridge. Constructing the southbound approaches for the Hayden Island interchange (and SR 14 interchange in Washington) would require approximately three years. Certain portions of the Hayden Island interchange (and SR 14 interchange) must be completed before traffic can be moved onto the new southbound lanes and construction of the remaining northbound lanes and interchange ramps can proceed. Once I-5 traffic in both directions is rerouted to the new western I-5 bridge, the new northbound segments of the Hayden Island interchange (and SR 14 interchange) would be constructed.

The Marine Drive interchange construction would need to be coordinated with construction of the southbound lanes coming from Vancouver. While this interchange can be constructed independently from the work described above, the completion and utilization of the ramp system between Hayden Island and Marine Drive requires the work to occur in the same period.

Constructing the Project would entail many different activities, some of which would disrupt traffic. Typical construction methods would require shifting I-5 traffic onto temporary alignments, narrowing lanes and shoulders to accommodate equipment and workers, shortening merge and exit distances, reducing posted speed limits, and closing or detouring some traffic movements. For I-5, it is anticipated that three southbound and three northbound lanes would be maintained during all weekdays, except when the final changeover occurs between the old bridges and the new bridges. Local streets and driveway accesses may be closed temporarily and traffic detoured. All parcels impacted by temporary access closures or detours will have alternate access routes.

The following summarizes the types of activities anticipated to construct the CRC project:

- Over-water bridge construction. This work would include the steps outlined above.
- Over-water bridge demolition of the existing I-5 bridges. The components of the existing I-5 bridges would be dismantled and removed. The main components include the bridge decks, the counterweights for the lift span, towers, decks trusses, piers and piles.
- Highway and over-land bridge construction. The reconstruction of mainline I-5 and associated interchanges and local roads would involve a sequence of activities that would be repeated several times, including on-land bridge and retaining wall construction, the excavation of embankments, and laying the pavement driving surface.

Construction would require staging areas to store construction material, to load and unload trucks, and for other construction support activities. The existing I-5 right-of-way would likely accommodate most of the common construction staging requirements. However, some construction staging would likely be needed outside the existing right-of-way, and temporary property easements from adjacent or nearby property owners may be required.

7.2 Short Term Construction Impacts and Mitigation Measures

7.2.1 Criterion 3: Neighborhood Impacts

“Identify adverse economic, social and traffic impacts on affected residential, commercial and industrial neighborhoods and mixed use centers. Identify measures to reduce those impacts which could be imposed as conditions of approval during the National Environmental Policy Act (NEPA) process or, if reasonable and necessary, by affected local governments during the local permitting process.”

“A. Provide for a light rail route and light rail stations, park-and-ride lots and vehicle maintenance facilities, including their locations, balancing (1) the need for light rail proximity and service to present or planned residential, employment and recreational areas that are capable of enhancing transit ridership; (2) the likely contribution of light rail proximity and service to the development of an efficient and compact urban form; and (3) the need to protect affected neighborhoods from the identified adverse impacts.”

“B. Provide for associated highway improvements, including their locations, balancing (1) the need to improve the highway system with (2) the need to protect affected neighborhoods from the identified adverse impacts.”

The Columbia River Crossing Project will result in adverse short-term economic, social and traffic impacts through disruptions to existing land uses. However, these impacts will be temporary in duration and should end when the construction activities are completed. Construction of light rail facilities and highway improvements will adversely impact local economic and social interests located adjacent to or nearby construction or staging areas by interfering with residences and businesses, disrupting traffic and pedestrian movement, displacing parking, altering accesses, and causing noise, vibrations, dust, congestion, increased truck traffic near residences and businesses, and visual impacts. Rerouting, detours and lane closures will create temporary additional traffic through neighborhoods, with associated noise, dust and congestion. Construction machinery, trucks, and general construction activities will be temporary negative visual features of the project. Businesses that would be likely to feel the greatest impact are those that would experience the longest

construction periods, those that have many other convenient competitors and those that are most dependent upon convenient access.

Economic and Social Impacts

Throughout the Expo Center/Hayden Island segment, construction will have short-term and temporary impacts to businesses and neighborhoods of the nature described above. During the FIES and preliminary engineering phase, specific mitigation plans will be developed to address short-term economic and social impacts to businesses and residences. These measures will include maintaining access to existing uses and providing screening to minimize dust and visual impacts. Wherever possible, the Project will provide alternative access and ensure that access is maintained to all properties during construction. Businesses that require access at all times and generate many trips (e.g., delivery services, drive-ins) may be inconvenienced. Utility services also may be interrupted as a result of construction. In the event that access or utility service to a residence or businesses would be temporarily disrupted, advance notice would be provided and the length of the disruption would be minimized to the extent practical.

Temporary construction impacts on neighborhoods could result from increased traffic congestion, truck traffic, noise, vibration and dust. Temporary street closures, traffic reroutes and detours could increase traffic within neighborhoods and impede access to community facilities. These short-term impacts include partial closures of streets, temporary rerouting or relocation of driveways, noise impacts from pile driving and bridge pier construction, and impaired access for elderly and mobility-impaired residents.

For neighborhoods affected by construction, the Council finds that TriMet and ODOT can work with neighborhood representatives to identify issues of concern and potential mitigation measures. Potential mitigation measures for short-term impacts include:

- Developing construction management plans for incorporation into contracts following close coordination with neighborhood and business associations and with representatives of public facilities/utilities located adjacent to the alignment/corridor
- Providing on-going coordination during construction to keep affected neighborhood and business area representatives informed about the schedule and location of construction work and anticipated modifications to access
- Limiting construction hours for certain activities in sensitive areas
- Providing fencing around construction and staging areas

Construction activities also could reduce accessibility to police, fire departments and other public safety and emergency service providers. Construction activities will, at times, impede the movement of emergency vehicles by temporarily narrowing or reducing the number of travel lanes or by detouring traffic and road segment closures. To ensure the most effective, continuous access to construction site vicinity uses for public safety and emergency service providers, the Council finds that the following measures could be employed:

- Develop construction management plans, for incorporation into construction contracts, in close coordination with affected police and fire departments and other emergency service providers
- Involve emergency service providers in planning for traffic management during construction in order to identify alternate emergency routes in advance of construction
- Maintain regular coordination with emergency service providers during construction to give them advance notice of when, where and for how long traffic capacity constraints on streets will be employed, and to plan for how local emergency access will be maintained

In summary, the Council finds that numerous measures are potentially available to mitigate impacts to businesses and neighborhoods. Potential mitigation measures beyond those listed above include:

- Management of construction activities to reduce dust, noise and vibration
- Fencing and buffering to reduce construction impacts in sensitive areas
- Use of berms, hay bales, plastic sheeting and other similar measures to reduce surface erosion and runoff into water bodies and storm sewers
- Provision of temporary alternative parking and pedestrian access.

Traffic Impacts

Construction of the LRT and highway improvements in the Expo Center/Hayden Island segment would result in temporary impacts to local and regional traffic operations. These impacts would include increased congestion on several major traffic facilities in the corridor including I-5 and, potentially I-205, impacts resulting from traffic relocations or detours, full or partial street closures, and increased truck traffic associated with construction activity. Impacts could also result from the intrusion of non-local traffic into residential areas as a result of temporary street closures and traffic detours, disruptions to vehicular and pedestrian access to businesses and community services, and the temporary loss of on- or off-street parking.

A major element of the Project would be construction of new bridges over North Portland Harbor and the Columbia River to accommodate vehicular, light rail, and non-motorized traffic coupled with a partial or complete reconstruction of I-5 from south of the Victory Boulevard Interchange to the new bridges. Complete reconstruction of freeway interchanges at N Marine Drive and Hayden Island would be included. Another major element of the Project would be construction of the light rail station on Hayden Island. High levels of truck traffic are anticipated in connection with earthwork and the delivery of materials at the bridge crossings, freeway mainline segments, and interchanges. Several construction staging areas would be needed.

Construction in the vicinity of Marine Drive is expected to include partial closure of this street and/or development of detour routing to accommodate vehicular traffic, particularly trucks moving between the freeway and the Columbia Corridor and Rivergate industrial areas.

Temporary access may need to be provided to Delta Park and the residential/business areas on the east side of the freeway and to the Expo Center on the west side. Existing transit, bicycle, and pedestrian connections must also be maintained, including access to the Expo Center light rail station and the 40-mile loop trail.

Construction activities on Hayden Island include reconstruction of the existing I-5 interchange, including the development of a collector-distributor system of auxiliary freeway lanes, modifications to local traffic circulation, and a new light rail station and trackage. Temporary access routes to and from I-5 would need to be maintained to ensure continual multimodal access to the island for residents and businesses, as well as connections on the island between areas to the east and west of the freeway. A high level of truck activity associated with the freeway, bridge, ramp and construction of local facilities is anticipated on Hayden Island.

Transit impacts during construction could include service delays, relocation or temporary elimination of bus stops, street detours, and deterioration in reliability for bus routes using certain roadways and facilities within the corridor. Short-term construction would impact bus operations along I-5 and on Hayden Island.

Mitigation Strategies for Construction Impacts to Traffic, Transit and Bike and Pedestrian Mobility

As highlighted above, short-term construction impacts will likely take the form of roadway closures, detours and/or lane reductions, increased truck traffic, pedestrian access restrictions and local access restrictions. Mitigation measures for construction impacts to traffic and highways could include a variety of activities, ranging from scheduling construction activities to minimize conflicts during peak travel periods to using alternative construction techniques or equipment. The Council finds that measures to mitigate the short-term traffic impacts in the Expo Center/Hayden Island Segment could include, but are not limited to, the following:

- Work with appropriate jurisdictions to obtain approval of traffic control plans.
- Develop and implement a transportation management plan with affected businesses and community interests. This plan would address a variety of traffic, transit, and alternative mode strategies to minimize the transportation impacts of project construction. The plan would also identify detour routes where necessary to maintain traffic movement. This would be particularly important during construction of the Marine Drive interchange that serves the Port of Portland.
- Wherever possible or practical, limit or concentrate work areas to minimize disruptions to vehicular traffic and bus and pedestrian circulation, as well as to business access.
- Identify, provide and/or advertise temporary parking locations to replace parking temporarily displaced by construction.
- As appropriate, develop and implement functional and reasonable alternative construction techniques to minimize traffic impacts. These techniques might include activities such as limiting construction to non-daylight hours in certain locations. Use

of two or three shifts per day to reduce construction time could be implemented in critical traffic areas, subject to development of adequate traffic control plans, noise control measures, and budget and schedule allowances.

The Council also finds that TriMet has years of experience helping communities and small businesses overcome the challenges of transit construction activities. Light rail guideway construction may require rerouting the buses on Hayden Island. Minor rerouting of buses would be necessary as new ramps and access points are opened at the Hayden Island interchange.

TriMet and other organizations could conduct a large communications campaign to inform the public about transit changes. The temporary routing, potential for more crowded buses and slower travel times can be communicated through TV, radio, web site, newspaper or other multimedia instruments to broadcast rider alerts to potential impacted customers.

Keeping businesses open and accessible during light rail construction in the Expo Center/Hayden Island segment would be a top priority. During previous light rail transit construction projects, TriMet has taken steps to keep construction disruption to a minimum while maintaining access to businesses, and responded rapidly to concerns and potential issues.

Measures to minimize construction impacts to bicycle and pedestrian mobility through the project areas will also be implemented during construction. Such measures could include:

- Coordination with local jurisdictions and bicycle and pedestrian advocacy groups to disseminate information about construction activities and associated temporary closures and detours near construction zones.
- Temporary enclosures to maximize the safety of bicyclists and pedestrians traveling beneath structures under construction.
- Additional signage and/or lighting along popular bicycle and pedestrian routes that may experience an increase in vehicle traffic due to traffic detours.
- Traffic calming measures in work zones to improve safety for bicyclists, or alternate routes on parallel streets where convenient and effective.

The Council finds that while tolling of I-5 during construction is permissible under federal statutes, no recommendations or decisions about tolling during construction have yet been made. Tolling during construction could serve as a demand reduction measure to reduce traffic during the construction phase. The Council finds that the Oregon and Washington Transportation Commissions will make decisions on this issue following consultation with the Project's local partners and a public outreach and education process.

Criterion 4: Noise Impacts

“Identify adverse noise impacts and identify measures to reduce noise impacts which could be imposed as conditions of approval during the

NEPA process or, if reasonable and necessary, by affected local governments during the permitting process.”

As with any large project, construction of light rail and highway improvements and bridges involves the use of heavy equipment and machinery that result in intense noise levels and occasionally high vibration levels in and around the construction site. Sections of the LRT alignment and highway improvements in the Expo Center/Hayden Island segment are adjacent to noise sensitive uses such as houseboats and hotel rooms.

As described in the Noise Report, four general construction phases would be required to complete the project: 1) land preparation, 2) constructing new structures, 3) miscellaneous construction activities, and 4) demolition activities.

Major noise-producing equipment used during the preparation stage could include concrete pumps, cranes, excavators, haul trucks, loaders, tractor-trailers and vibratory equipment. Maximum noise levels could reach 82 to 86 dBA at the nearest residences (50 to 100 feet) for normal construction activities during this preparation phase. Major noise and vibration-producing activities would occur primarily during demolition and preparation for the new bridges. Activities that have the potential to produce a high level of vibration include pile driving, vibratory shoring, soil compacting, and some hauling and demolition activities.

The loudest noise sources during the phase of constructing new structures would include pile drivers, cement mixers, concrete pumps, pavers, haul trucks, and tractor trailers. Maximum noise levels would range from 82 to 94 dBA at the closest receiver locations.

Following the heavy construction, miscellaneous construction activities such as installation of bridge railings, signage, lighting, roadway striping, and others would occur. These less intensive activities are not expected to produce noise levels above 80 dBA at 50 feet except on rare occasions, and then only for short periods.

Demolition of existing structures would require heavy equipment such as concrete saws, cranes, excavators, hoe rams, haul trucks, jackhammers, loaders, and tractor-trailers. Maximum noise levels could reach 82 to 92 dBA at the nearest residences. Demolition would occur at various locations and times during the construction process.

The Council finds that adverse noise impacts associated with construction are temporary and can be effectively mitigated by avoiding construction on Sundays, legal holidays, and during the late evening and early morning hours in noise sensitive areas. Additionally, the Council finds that equipping motorized construction equipment with sound control devices, and developing construction contract documents that include noise limit specifications, reinforced with state/local ordinances and regulations, can be effective techniques for minimizing adverse noise impacts associated with construction.

If specific noise complaints are received during construction, the contractor could be required to implement one or more of the following noise mitigation measures:

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- Locate stationary construction equipment as far from nearby noise-sensitive properties as possible.
- Install temporary or portable acoustic barriers around stationary construction noise sources.
- Shut off idling equipment.
- Reschedule construction operations to avoid periods of noise annoyance identified in the complaint.
- Notify nearby residents whenever extremely noisy work will be occurring.
- Operate electrically powered equipment using line voltage power rather than generators.

Criterion 5: Natural Hazards

“Identify affected landslide areas, areas of severe erosion potential, areas subject to earthquake damage and lands within the 100-year floodplain. Demonstrate that adverse impacts to persons or property can be reduced or mitigated through design or construction techniques which could be imposed during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.”

Although no *landslide areas* or *areas of severe erosion potential* have been identified in the Expo Center/Hayden Island segment, construction activities at stream crossings and near water bodies could result in erosion and have detrimental effect on water quality. To avoid and minimize such impacts, the project will prepare and implement stormwater pollution prevention plans and grading plans, hydroseed, manage stockpiled fill, and employ other best management practices (BMPs) for erosion control.” Construction activities will specifically comply with:

- WSDOT Standard Specifications for Road, Bridge and Municipal Construction M 41-10
- ODOT Erosion Control Manual
- City of Vancouver VMC Chapter 14.24, Erosion Control
- City of Portland Erosion and Sediment Control Manual

Inspection and observation monitoring and reporting could be conducted throughout the project to ensure the appropriate erosion-control measures are being conducted.

The Council finds that construction-related impacts associated with landslides, earthquakes, and the 100-year floodplain are not anticipated, and potential construction-related impacts associated with erosion can be effectively mitigated for through the measures discussed above.

Criterion 6: Natural Resource Impacts

“Identify adverse impacts on significant fish and wildlife, scenic and open space, riparian, wetland and park and recreational areas, including the Willamette River Greenway, that are protected in acknowledged local comprehensive plans. Where adverse impacts cannot practicably be avoided, encourage the conservation of natural resources by demonstrating that there are measures to reduce or mitigate impacts which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.”

Natural resource impacts specific to the Expo Center/Hayden Island segment are addressed in the following section.

Fish and Wildlife Habitat. Short-term impacts to fisheries include the impact pile driving of temporary piles and use of barges. The installation of up to 1,500 temporary steel piles will result in behavioral disturbance and injury or death to ESA-listed and other native fish species. The Project will use hydroacoustic attenuation measures, such as bubble curtains, to reduce initial sound levels from impact pile driving, resulting in less severe impacts to fish in the project area. Through timing impact pile driving activities and use of attenuation measures, impacts to ESA-listed fish are minimized to the extent practicable. Due to the extent of in-water work and the presence of many ESA-listed fish, it is acknowledged that adverse effects to individual fish and their critical habitat are likely to occur, but the continued existence of any species will not be jeopardized. Adverse effects are avoided or minimized to the extent practicable. The Council notes that NMFS produced this finding in their Biological Opinion. In addition to this mitigation, the Council finds that the mitigation measures outlined above in Section 6.3.4 of these findings for Threatened, Endangered, and Candidate Fish are available to mitigate adverse impacts to the Expo Center/North Portland Harbor and the Columbia River and could be imposed as conditions of approval during the FEIS process and/or the local permitting process if reasonable and necessary.

The Project would temporarily impact terrestrial resources, such as migratory birds and species of interest, through noise impacts and removal or degradation of habitat. Mitigation measures to address these impacts include impact avoidance and impact minimization. Impact avoidance would be addressed by timing vegetation removal to occur outside of nesting seasons for migratory birds. Demolition of existing structures, if necessary, would likely be scheduled outside of nesting seasons for native migratory birds, to avoid direct impacts to active nests.

Impact minimization would be addressed by implementing Best Management Practices (BMPs) such as erosion and sediment control to protect riparian buffers and sensitive terrestrial habitats (for example, for riparian species such as pond turtles). Swallows may nest on the concrete piers but are assumed not to be nesting on steel portions of the existing I-5 bridges. The I-5 bridges could be inspected at least one full year prior to commencement of construction activities to determine whether any species of interest or migratory birds are using the bridges for nesting or roosting. If such species are present, exclusionary devices may be installed on the bridges during the non-nesting season to prevent them from being

used for nesting or roosting during construction activities. If high-disturbance activities must take place during the nesting season, the Columbia River Crossing project team would coordinate with US Fish & Wildlife Service, Oregon Department of Fish and Wildlife, and Washington Department of Fish and Wildlife to establish work buffer zones around the nest(s) during nesting season.

Scenic and Open Space Areas. During construction the visual quality of views to and from the project area would be temporarily altered. Construction-related signage and heavy equipment would be visible in the vicinity of construction sites. Vegetation may be removed from some areas to accommodate construction of the bridges, new ramps, and the light rail transit guideway. This would degrade or partially obstruct views or vistas.

Nighttime construction would be necessary to minimize disruption to daytime traffic. Temporary lighting may be necessary for nighttime construction of certain project elements. This temporary lighting would affect residential areas by exposing residents to glare from unshielded light sources or by increasing ambient nighttime light levels.

Mitigation for temporary construction-related effects would include:

- Shielding of construction site lighting to reduce spillover of light onto nearby residences and businesses,
- Locating construction equipment and stockpiling materials in less visually sensitive areas, when feasible and in areas not visible from the road or to residents and businesses in order to minimize visual obtrusiveness, and
- Cover exposed soils as soon as possible with vegetation.

Riparian Areas. To address temporary loss of riparian vegetation resulting from project impacts, mitigation measures could include streambank revegetation and reshaping to restore habitat function, removal of noxious weeds in certain areas, and revegetation of disturbed areas with native species.

Wetland Areas. Construction will occur near several identified wetland areas in the Expo Center/Hayden Island segment. Temporary disturbances to wetland-related wildlife activity, hydrology, and water quality will be avoided as much as possible through the use of BMPs such as silt fences, construction fencing, and wildlife exclusionary netting during the construction process.

Park and Recreational Areas. Temporary effects to park and recreation resources include the temporary use of parkland to stage construction and store materials; increased noise, glare, dust, and vibration; and temporary closures, detours, and congestion that could delay users traveling to parks or recreational activities. Mitigation activities to address these impacts could include:

- Restoring landscaping to original condition following construction and protect remaining trees close to construction areas.
- Providing adequate signage for any limited or closed access points and detour routes.

- Adopting a joint public information campaign with parks’ jurisdictions for some of the longer closures.
- Maintaining safety for bicyclists and pedestrians traveling on t rails and between facilities with temporary enclosures, additional signage and lighting, etc.

Criterion 7: Stormwater Runoff

“Identify adverse impacts associated with stormwater runoff. Demonstrate that there are measures to provide adequate stormwater drainage retention or removal and protect water quality which could be imposed as conditions of approval during the NEPA process or, if reasonable and necessary, by local governments during the permitting process.”

Stormwater runoff impacts specific to the Expo Center/Hayden Island segment are addressed in the following section.

The in-water construction of bridge piers could stir up sediments from the riverbed, which would increase turbidity. In-water work includes the use of barges and work bridges in the Columbia River and North Portland Harbor, equipment that would be temporarily anchored to the riverbed. Temporary cofferdams would also be installed, but would not be dewatered, for the piers nearest the shoreline, where the water is shallow. Turbidity caused by any activity inside the cofferdams (including installation of permanent shafts as well as temporary piles) would be contained within the cofferdams. Sediment would be disturbed during the installation and removal of the cofferdams. During the demolition of the existing structures, riverbed sediment would be disturbed when the timber piles of the I-5 bridges are cut off below the mudline.

There are no known records of contaminated sediments in the Columbia River portion of the project area. Therefore, there is very little risk that in-water work in the Columbia River would re-suspend contaminated sediments. Contaminated sediments have been identified in the North Portland Harbor, but they are likely outside of the project footprint. If there is potential that in-water work could disturb these sediments, they would be analyzed in accordance with regulatory criteria, and if necessary, removed from the river and disposed of properly. Removed sediments may be disposed of in a permitted upland disposal site, if required.

Potential sources of toxic contaminants associated with in-water work include refueling track-mounted equipment located on the barges or work bridges, lead-based paint from the existing bridges, turbidity and concrete debris from wire-saw-cut concrete during demolition, green concrete (concrete that has not fully cured) associated with bridge construction, potential spills from construction equipment, and materials accidentally entering the Columbia River and North Portland Harbor during over-water work. Full containment of fuel, other hazardous

materials, and green concrete would be required to prevent these materials from entering the Columbia River and North Portland Harbor, in accordance with project specifications.

On land, construction activities occurring below-grade may require the removal of groundwater through pumping, a process known as dewatering. Therefore, constructing roads, transit lines, and other infrastructure below the surrounding surface can alter groundwater conditions. If there are nearby hazardous materials sites, dewatering can increase the likelihood of contaminants migrating through the groundwater and into surface waters. The following elements of the Project within the Expo Center/Hayden Island segment are relatively close to high ranking potential hazardous materials sites and near-surface groundwaters, and work at these sites would require below-grade construction techniques:

- Marine Drive Interchange
- North Portland Harbor Bridges
- Hayden Island Interchange
- Columbia River Crossing

Left unmitigated, construction of these elements could result in moderate risks for the migration of existing contamination, potentially affecting both ground and surface water quality. In addition to existing contamination, the installation of shafts and piles below ground includes the risk of introducing new contamination, for example from green concrete, into groundwater. Further discussion of contamination issues associated with below-grade construction is included in the Hazardous Materials Technical Report.

Without proper management, land-based construction activities may have temporary adverse effects on water quality in nearby water bodies. Construction involves ground disturbances that can increase soil erosion substantially, especially for construction activities along river or stream banks. The Project would involve ground disturbance near North Portland Harbor and the Columbia River within the Expo Center/Hayden Island Segments. If runoff contains extra sediment from erosion, waterways can become turbid (cloudy) and can build up excessive sediment deposits. Runoff and soil erosion can also transport pre-existing hazardous materials and construction-related hazardous materials into water bodies, some of which may dissolve in water or are water-transportable. These materials can be harmful to aquatic life.

The construction of the CRC Project would require at least one large site to stage equipment and materials, and may also need a large site for use as a casting yard for fabricating segments of the new bridges. Each site being considered, including one in Oregon, is adjacent to the Columbia River. The existing conditions on these sites range from a developed and paved port terminal to a currently undeveloped site. Staging and casting/assembly site activities may increase stormwater runoff over existing conditions and may increase pollutant levels in the runoff. However, any staging and/or casting site would be required to meet all applicable stormwater requirements, including the implementation of erosion and sediment controls. All necessary permits would be secured prior to site development and operations for any major staging or casting yard.

The Council finds that water quality degradation resulting from erosion and sedimentation and the release of pollutants can be minimized through the use of BMPs during construction. Construction BMPs include use of barrier berms, silt fencing, temporary sediment detention basins, plastic covering for exposed ground, vegetative buffers (hay bales), and restricting clearing activities to dry weather periods to contain sediment on-site. Further requirements could include diapering of all dump trucks to avoid spillage, and cleaning of heavy equipment tires and trucks before they are allowed to drive off-site. A variety of special BMPs can also be used at crossings or adjacent to streams or watercourses during construction.

Criterion 8: Historic and Cultural Resources

“Identify adverse impacts on significant historic and cultural resources protected in acknowledged comprehensive plans. Where adverse impacts cannot practicably be avoided, identify local, state or federal review processes that are available to address and to reduce adverse impacts to the affected resources.”

Historic and cultural resource impacts specific to the Expo Center/Hayden Island Segment are addressed in the following section.

As discussed above in Section 6.3.6 of these Findings, three significant and protected historic resources exist in the Expo Center/Hayden Island Segment:

- The northbound structure of the I-5 bridge (built in 1917); listed in the National Register of Historic Places (NRHP) in 1982.
- The carousel located at the Jantzen Beach Shopping Center; listed in the National Register of Historic Places.
- The Columbia Slough and Levee System as contributing elements of the Columbia Slough Drainage Districts Historic District.

The impacts to the northbound structure of the I-5 bridge and to the Columbia Slough and Levee System would be permanent, as opposed to temporary. The carousel is located with the Jantzen Beach Shopping Center and would not experience any temporary effects.

Mitigation for any cultural resources impacted during construction is as described in Section 6.3.6 of these LUFO findings.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4340 FOR THE PURPOSE OF REVISING
THE 2011 LAND USE FINAL ORDER FOR THE EXPO CENTER/HAYDEN ISLAND
SEGMENT OF THE SOUTH/NORTH LIGHT RAIL PROJECT ON REMAND FROM LUBA
AND THE OREGON SUPREME COURT

Date: March 26, 2012

Prepared by: Richard Benner (xt. 1532)
Andy Cotugno (xt. 1763)

BACKGROUND

On August 11, 2011, by Resolution No. 11-4280, the Metro Council amended the Land Use Final Order (LUFO) for the South/North Light Rail Project and Associated Highway Improvements to recognize the revised LRT alignment, the integration of light rail with the Columbia River Crossing bridge replacement, the reconstruction of the interchanges connecting I-5 to Hayden Island, Marine Drive and Victory Blvd., the inclusion of bicycle and pedestrian facilities, the addition of a local bridge connecting Hayden Island to an extension of Expo Drive and local access and circulation improvements connecting to the interchanges and the local bridge. That action approved the final segment of the original South/North light rail project from Clackamas County to Clark County and represented the final approval under state land use law for the overall Columbia River Crossing project (note: the final approval action under federal law was accomplished by approval of the Record of Decision on December 7, 2011, by the Federal Highway Administration and Federal Transit Administration).

Oregon Laws 1996, Chapter 12, established by the 1996 Special Session of the Oregon Legislature (HB 3478), established Metro's authority to adopt a Land Use Final Order as a consolidated and expedited approval process. It also established specific and expedited appeal procedures and timelines to the Land Use Board of Appeals (LUBA) and the Supreme Court. Under those procedures, on August 25, 2011, five petitioners appealed the LUFO decision to the Land Use Board of Appeals, raising the following issues:

- Objecting to the portion of the LUFO outside the urban growth boundary, north of the north shore of Hayden Island (see Attachment 1 to the staff report for location of the urban growth boundary);
- Objecting to the application of the LUFO to the highway elements of the project;
- Objecting to the use of the LUFO statute so long after its adoption in 1996, asserting it was established due to imminent federal funding availability at that time which is no longer applicable;
- Objecting to inadequate consideration of impacts that will result from delayed construction due to funding availability;
- Objecting to the movement of the light rail alignment further west (from its previously adopted location) since the move was caused by the highway project, not any light rail needs;
- Objecting to the inadequate treatment of traffic and economic impacts on Hayden Island;
- Objecting to the lack of response to evidence submitted by the petitioner;

- Objecting to the inadequacy of the traffic forecasts and therefore the need for the highway project;
- Objecting to the lack of opportunity for the petitioner to rebut the submission of additional evidence by staff and TriMet (the applicant);
- Objecting to the lack of disclosure by the Metro Councilors of ex-parte contact (as required for quasi-judicial actions);
- Objecting to the lack of public access to technical documents.

On October 26, 2011, LUBA remanded the portion of the LUFO that is outside the urban growth boundary (north of the north shore of Hayden Island) and affirmed the portion inside the urban growth boundary, denying all other objections of the petitioners.

Upon issuance of the LUBA Final Opinion and Order, the five petitioners, the respondent (Metro) and the intervenor (TriMet) had the right to appeal the decision to the Supreme Court on the basis that the LUBA decision was incorrect. Metro and TriMet chose not to appeal the remand of the portion outside the urban growth boundary (essentially agreeing with that conclusion). Two of the petitioners chose to appeal the portion of the decision inside the urban growth boundary, contending LUBA decided some issues incorrectly. On February 16, 2012, the Supreme Court issued its decision, which is a final decision and not subject to appeal, fully affirming the opinion of the Land Use Board of Appeals. In so doing, it denied all of the issues that the petitioners raised (summarized above) and affirmed that the LUFO cannot apply outside the urban growth boundary (north of the north shore of Hayden Island).

On March 9, 2012, TriMet submitted a letter to the Metro Council (see Attachment 2 to the staff report) requesting an amendment to the LUFO in compliance with the Supreme Court to remove the portion outside the urban growth boundary. The purpose of this resolution is to adopt such an amendment. Exhibit A to the Resolution is the amended LUFO and map which eliminates the portion north of the north shore of Hayden Island. Exhibit B to the Resolution is the full set of Findings adopted by Resolution No. 11-4280, with amendments incorporated to be responsive to the Supreme Court directive to limit the LUFO to the portion within the urban growth boundary. Although the Findings are comprehensive in their application to the portion of the project inside the urban growth boundary, the relevant portion of the Findings being adopted by this Resolution are the amendments displayed in strike through and underscore format. Since it is a limited decision, dealing only with the single issue directed by the Supreme Court, public comment can be directed only to that issue. All other aspects of the past LUFO decisions are final, are not covered by this resolution and not subject to reconsideration.

ANALYSIS/INFORMATION

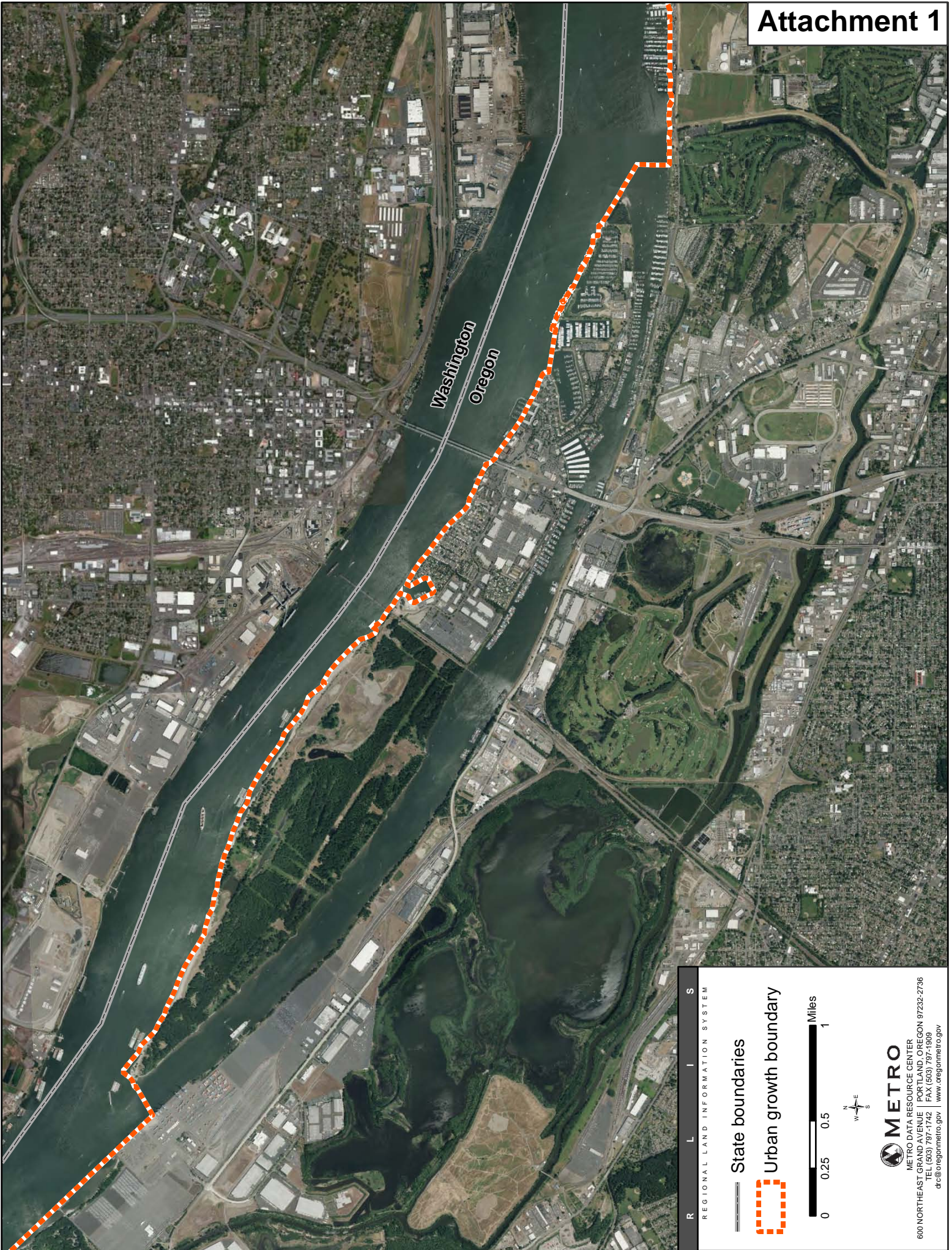
1. **Known Opposition:** There remain many opponents to the project, however, the action is limited to removing the application of the LUFO outside the urban growth boundary which the petitioners objected to in their original appeal to LUBA. Public comment on the resolution is open to all parties.
2. **Legal Antecedents:** The LUFO is authorized by HB 3478. LCDC rules, adopted pursuant to HB 3478, established the criteria for the LUFO. This amendment to the LUFO is directed by the Supreme Court and requested by TriMet, the applicant.
3. **Anticipated Effects:** Upon adoption of this Resolution, the amended LUFO will be filed with the Supreme Court. The two petitioners that appealed the LUBA decision to the Supreme Court will

having standing to appeal this decision to the Supreme Court within 14 days following adoption of the resolution. Pending that appeal, the Supreme Court will issue its final decision.

4. **Budget Impacts:** None

RECOMMENDED ACTION

Adoption of Resolution No. 12-4340 FOR THE PURPOSE OF REVISING THE 2011 LAND USE FINAL ORDER FOR THE EXPO CENTER/HAYDEN ISLAND SEGMENT OF THE SOUTH/NORTH LIGHT RAIL PROJECT ON REMAND FROM LUBA AND THE OREGON SUPREME COURT





March 9, 2012

Mr. Tom Hughes, President
 Metro Council
 600 NE Grand Avenue
 Portland, Oregon 97232-2736

Re: Remand Proceeding on South/North Land Use Final Order (CRC)

Dear Mr. Hughes:

On February 16, 2012, the Oregon Supreme Court issued its decision affirming the October 26, 2011 decision of the Land Use Board of Appeals (LUBA) that affirmed in part and remanded in part the Council's land use final order (LUFO) approving the light rail alignment, station locations and highway improvements for the Columbia River Crossing (CRC) segment of the South/North Light Rail Project. LUBA's decision affirmed all project elements of the CRC segment located within Metro's urban growth boundary, and remanded those elements located outside the UGB on the ground that Metro lacked jurisdictional authority to approve project elements outside its UGB under the applicable statute, Oregon Laws 1996, Chapter 12 (House Bill 3478).

To respond to LUBA's remand, the Council must amend the 2011 CRC LUFO to eliminate those light rail and highway improvements located outside the UGB. This letter requests that the Council do so. (As the Council has noted, those improvements had previously received land use approval when the Council and the City of Portland, respectively, adopted the 2035 Regional Transportation Plan and the Portland Transportation System Plan.)

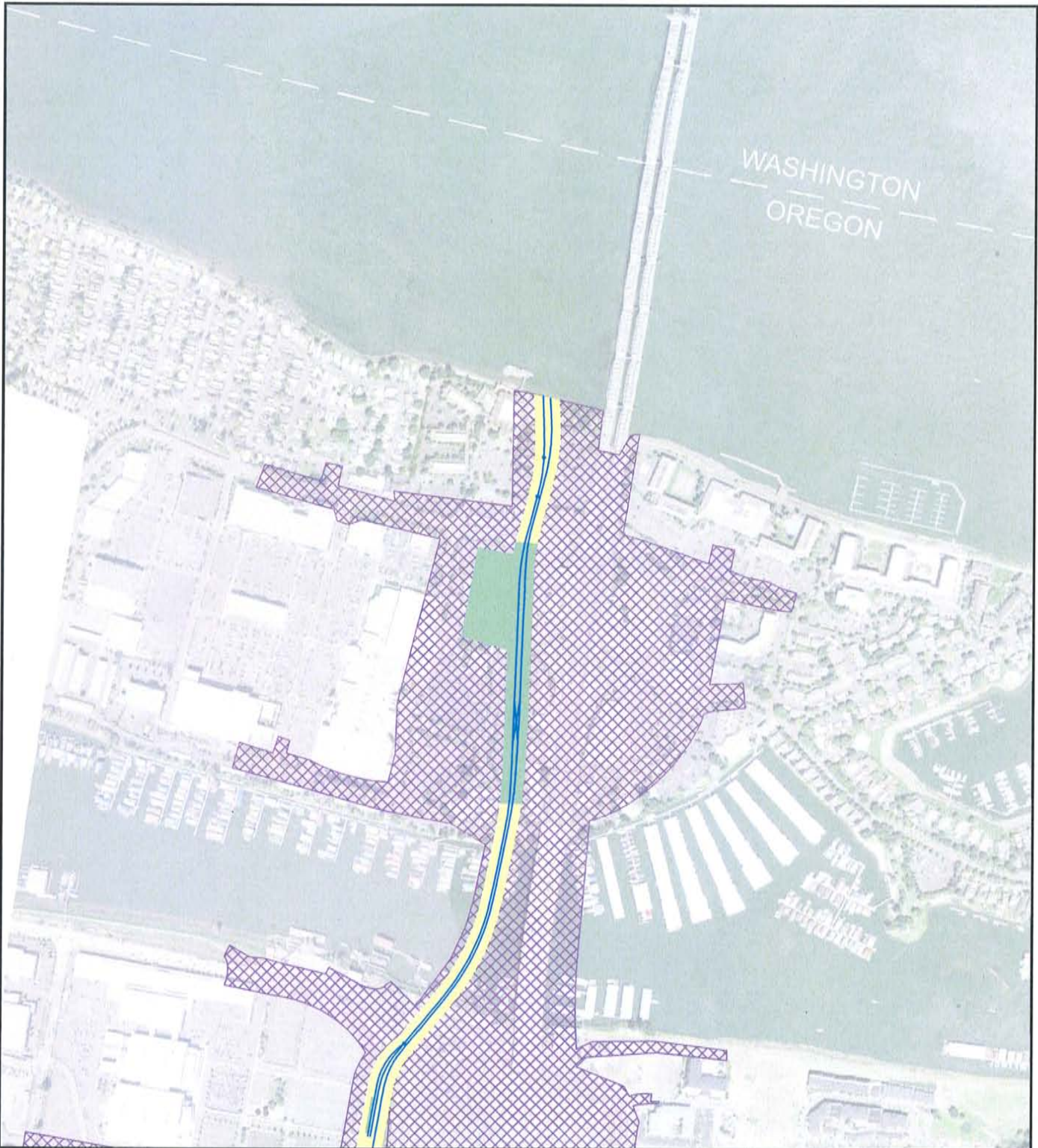
To facilitate the Council's action on remand, TriMet has developed a revised LUFO Figure 1.1 (enclosed) that no longer shows project improvements outside the UGB. In coordination with Metro Attorney Richard Benner, TriMet also has revised the 2011 LUFO and the 2011 LUFO findings to remove textual references to those improvements as being part of the CRC LUFO decision. Mr. Benner has copies of those revised documents in his possession. I am requesting that Metro schedule a public hearing and Council action on this remand matter in early April 2012. I further request that the scope of the hearing be limited to this very narrow issue that is before the Council on remand.

Thank you for your cooperation and assistance in bringing the South/North CRC LUFO into conformance with the decisions of LUBA and the Supreme Court.

Very truly yours,

Neil McFarlane
 General Manager

Enclosure




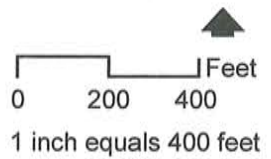
South/North Land Use Final Order Amendment Boundary Map

Figure 1.1

Columbia River Crossing Project

-  Light Rail Route
-  Light Rail Stations
-  Highway improvements

-  Potential Alignment
-  Potential Station Platform



Materials following this page were distributed at the meeting.

The Columbia River Crossing
2030 Transit Analysis states:

“The potential for new
ridership will depend on the
type of service offered to these
markets.”

Market areas with employment centers and industrial sanctuaries not serviced by light rail:

.Port of Vancouver

.Fruit Valley Rd.

.Port of Portland

.Delta Park Industrial Area

.Rivergate

.Northgate

.Columbia Corridor

.Swan Island

Current Transit Service

(Bus & Light Rail)

.Transit Area	.Level of Service
.Portland Central City	.High
.North Portland	.Low – Moderate
.Rivergate	.Low – Moderate
.Delta Park	.Low
.Hayden Island	.Low

Proposed light rail does not add service to employment centers except for at Portland Central City where existing transit service is already high. Portland Central City is primarily used as a transferring point; not as a point of origin or destination.

Expanded Service Routes Warranted

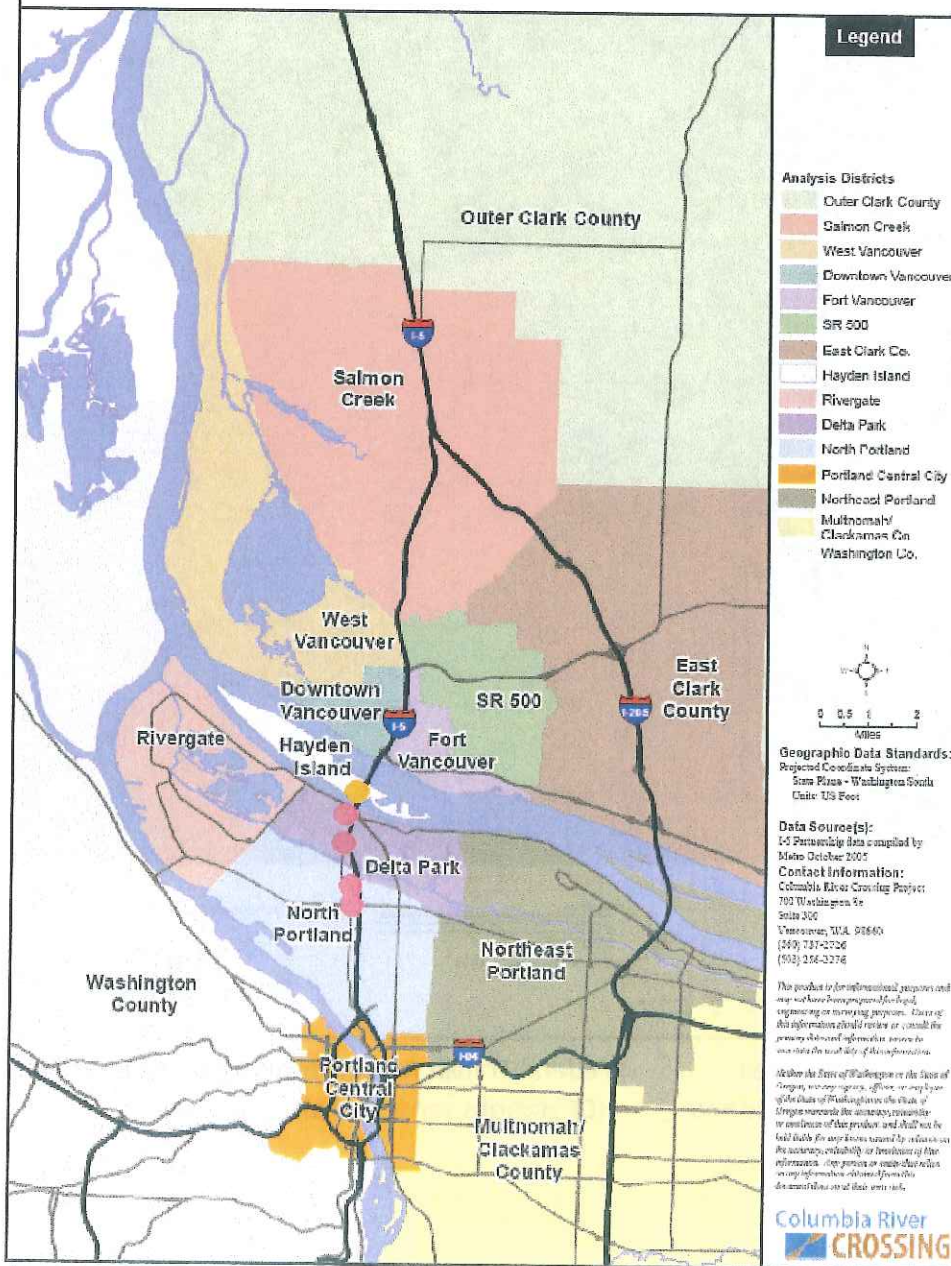
The existing transit system service areas are inadequate and do not take into account districts with high numbers of employment center locations.

The demand for an adequate transportation infrastructure in these districts will only increase with time.

Service Areas

Distance From Light Rail Stations

Figure 1: Districts for Transit Market Analysis



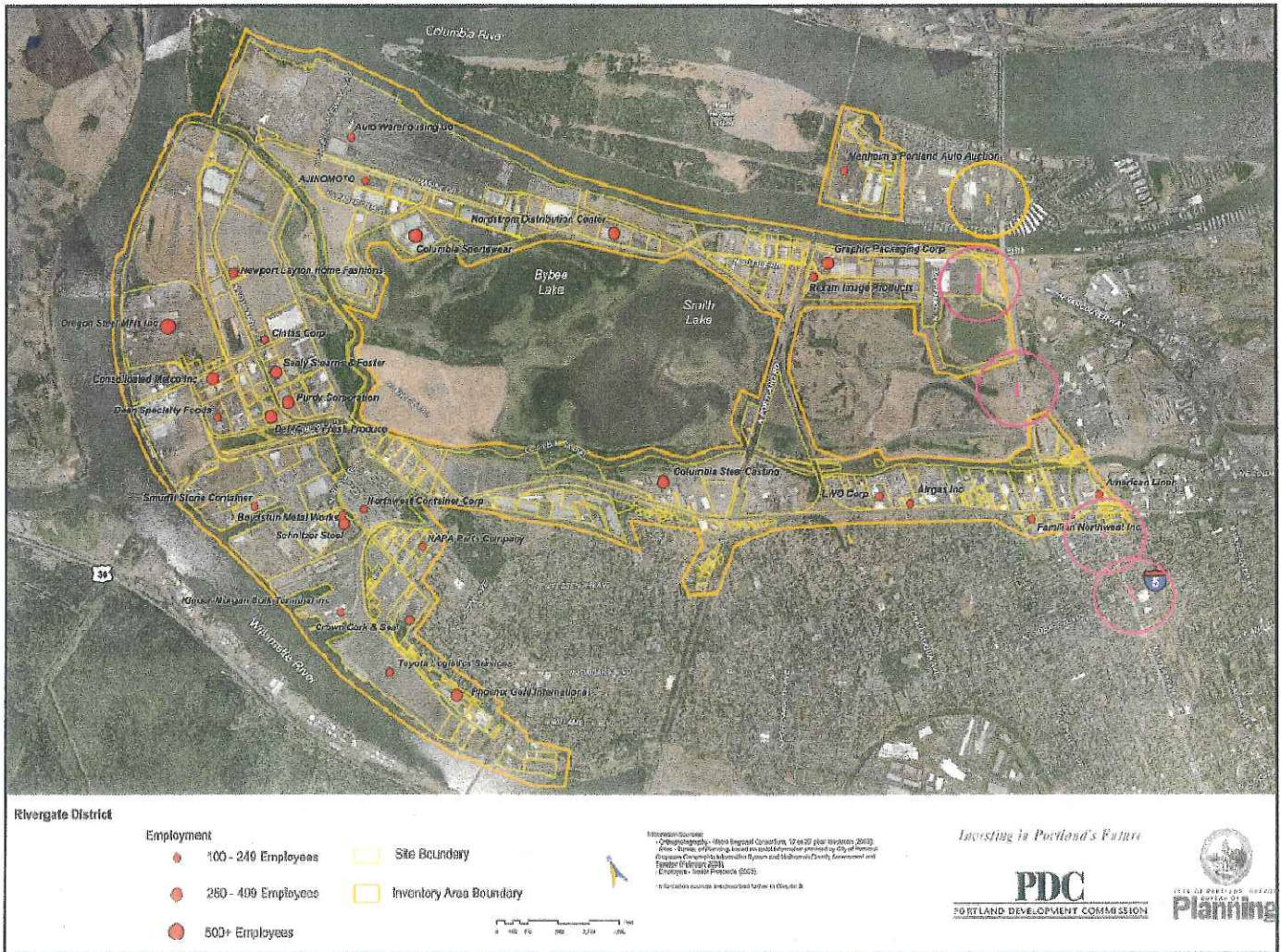
Circles added represent the half mile service radius surrounding HCT stations.

The pink circles represent the half mile radius surrounding existing light rail HCT stations.

The orange circle represents the half mile radius surrounding the proposed Janzten Beach light rail HCT station.

Federal Transit Administration guidelines state that HCT stations service a half mile radius

Employment Centers Distance From Light Rail Stations



Pink Circle = Existing HCT station service area
 Orange Circle = Proposed HCT station service area

Federal Transit Administration guidelines state that
 HCT stations service a half mile radius

Secondary Transportation Needed to Reach Light Rail

The light rail origination point in Washington is located within downtown Vancouver: the majority of potential ridership are not Washington commuters will have to access secondary transportation, such as cars or buses, to reach light rail stations.

Congestion & Air Pollution

.Light rail signal priority increases congestion and air pollution in downtown Vancouver

-Signals bring traffic to a stop

-Park & Rides located in residential neighborhoods increase congestion

-Signals slow Vancouver port access

HCT Delays Access to Port of Vancouver

Percentage Increase in Travel Times by 2023

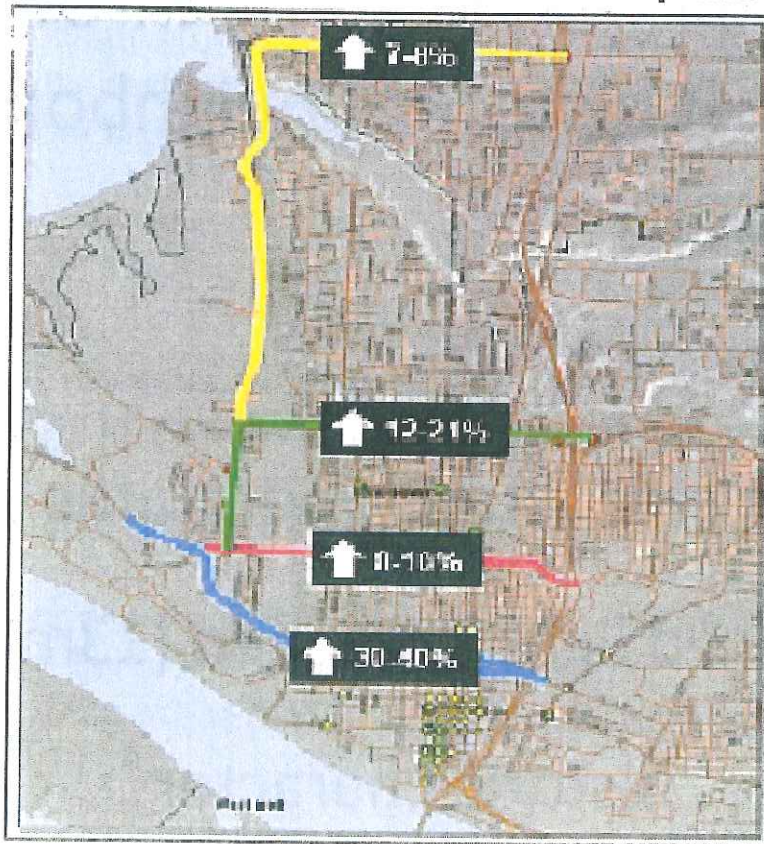


Table 2
Effect on Potential Delay of High Capacity Transit on Washington Street
at Mill Plain Boulevard/15th Avenue

Type of HCT	2013 Additional Travel Time		2025 Additional Travel Time	
	Eastbound	Westbound	Eastbound	Westbound
Bus Rapid Transit	9 seconds	5 seconds	9 seconds	15 seconds
Light Rail Transit	5 seconds	3 seconds	5 seconds	10 seconds

SOURCE: DKS Associates

Not a Good Match For Historic Neighborhoods

•Light rail will be going through 3 of the most historical neighborhoods in Vancouver

-Reduces parking

-Impairs cross street foot traffic

-Decreased light rail speed (13mph)

-Devalues historic character

-Fewer stops (than a bus)

-Light rail vibrations can damage:

•Historical Structures

•Underground Utilities

Light Rail Reliability Issues

- .Cold causes lines to freeze

- .Heat causes lines to bend

- .Accidents can shut down line

- Criminal

- Vehicular

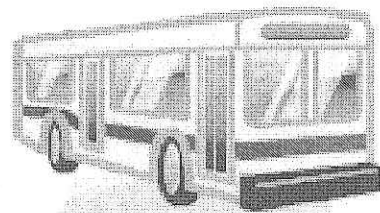
- .Not environmentally friendly

- Receives 50% of power from Boardman Coal Electrical Plant

- .Buses can easily be added, light rail trains cannot

Bus Transit vs. Light Rail

- .Faster
- .More Stops
- .Flexible routes
- .Less expensive
- .Flexible capacity
- .More availability
- .Non-intrusive infrastructure
- .Additional service functions
- .Used to backup existing light rail



Bus is twice as fast as MAX

from Downtown Vancouver to Downtown Portland

C-Tran Bus = 15 min

MAX = 34 min

C-Tran Bus #105 Salmon Creek Express



South to Portland

Morning trips travel south on 5th Ave.

	3	4	5
Washington & Evergreen			
5th Ave. & Alder			
5th Ave. & Clay			
5:45 AM	6:00	6:04	
6:29	6:44	6:48	
6:44	6:59	7:03	
6:59	7:14	7:18	
7:14	7:29	7:33	
7:29	7:44	7:48	
7:44	7:59	8:03	
7:59	8:14	8:18	
8:14	8:29	8:33	
9:04	9:19	9:23	
9:54	10:09	10:13	
10:44	10:59	11:03	
11:34	11:49	11:53	

15 min

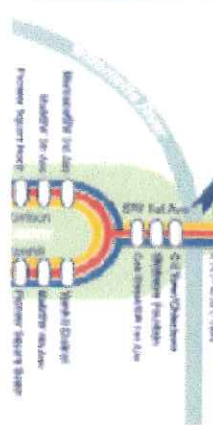
From C-Tran's 105route.pdf

Bus Travel Time from Vancouver to downtown Portland, 7:10 am - 11:34 am : 15 min

6th Ave. & Columbia	6th Ave. & Stark	Roadway & Evergreen
6	7	8
4:35	4:39	5:01
4:49	4:53	5:15
5:05	5:09	5:31
5:20	5:24	5:46
5:35	5:39	5:57
5:55	5:59	6:17
6:15	6:19	6:37
6:45	6:49	7:07
7:18	7:22	7:40

Afternoon, Northbound is still much faster than MAX, at 22 min (same source as above)

MAX Yellow line



MAX Yellow Line

Weekday To Portland City Center/PSU

	Expo Center MAX Station (7:33 - 11:33 AM)	N. 17th St MAX Station (7:33 - 11:33 AM)	Intercenter MAX Station (7:33 - 11:33 AM)	Urban MAX Station (7:33 - 11:33 AM)	SW 5th Ave MAX Station (7:33 - 11:33 AM)	Pioneer Plaza MAX Station (7:33 - 11:33 AM)
From TriMet's maxyellowmap.gif	4:12	5:04	6:08	7:13	8:21	9:36
	5:34	6:11	7:16	8:21	9:27	10:00
	6:54	7:11	8:16	9:21	10:24	10:50
	8:12	8:28	9:31	10:31	11:32	11:58
	9:24	9:41	10:40	11:40	12:39	13:00
	10:45	11:08	12:01	13:01	13:52	14:10
	12:04	12:11	13:16	14:21	15:14	15:40
	13:20	13:40	14:45	15:51	16:57	17:10
	14:35	15:05	16:00	17:03	18:12	18:19
From TriMet's MAX-yellow_t1190_1.pdf	5:55	6:10	6:10	6:23	6:27	6:53
	7:18	7:25	7:30	7:33	7:42	8:18
	8:37	8:40	8:45	8:51	9:17	9:10
	9:58	10:05	10:10	10:13	10:19	10:18

30 min

From TriMet's MAX-yellow_t1190_1.pdf

MAX travel time from Vancouver to downtown Portland, 7:33 am - 11:33 am : 33.6 min *

* add 3.6 min to Expo time to get Vancouver time. Source of 3.6 min: CRC Transit Technical Report Exhibit 20

Is The Bus Really that fast?

To check, we emailed C-Tran this on November 11, 2009:

Can I count on the travel times listed for your lines to/from Portland (#65, 105 & 164) being accurate during rush hour? Or do the buses generally arrive later than the listed times? Thanks JK

and got this answer (bold added):

Mr. Karlock,
 Thank you for your e-mail and interest in riding C-Tran. Our commuter buses along with non-commuter buses do their best to keep their given schedules, they are however subject to traffic issues. Generally, they are on schedule but may at times run into unavoidable difficulties particularly on Friday afternoons. Hope this helps answer your question.
 Sincerely,
 Pam F
 Passenger Service Rep



METRO COUNCIL MEETING

Meeting Summary

April 5, 2012

Metro, Council Chamber

Councilors Present: Council President Tom Hughes and Councilors Rex Burkholder, Barbara Roberts, Carl Hosticka, Kathryn Harrington, and Shirley Craddick

Councilors Excused: Councilor Carlotta Collette

Council President Tom Hughes convened the regular council meeting at 2:04 p.m.

1. INTRODUCTIONS

There were none.

2. CITIZEN COMMUNICATIONS

Art Lewellan, 3205 SE 8th Ave., Apt. 9, Portland: Mr. Lewellan congratulated Metro on its improvements to the Oregon Zoo, such as the light rail station. He also addressed the Council on the Columbia River Crossing Project. He stated that the latest bridge design was not functional or structurally sound. He stated that a southbound-only bridge, proposed as part of alternative Concept #1, should be reconsidered and the study completed. He also expressed support for investing in railroad track down river.

3. PACKY'S 50TH BIRTHDAY CELEBRATIONS

Ms. Krista Swan of the Oregon Zoo provided a presentation on upcoming events surrounding Packy's 50th birthday on April 14. Her presentation highlighted the campaign's media kit which includes television, print and radio ads, and publications that share information ranging from Packy's birthday festivities to conservation to the Oregon Zoo's new elephant habitat. Packy's birth, on April 14, 1962, made international headlines and called attention to the Zoo and the Portland area. Ms. Swan stated that Packy's milestone birthday presents an opportunity to celebrate the local community's years of overwhelming support, and how Packy's presence has helped the Oregon Zoo become a global leader in elephant care. Information on Packy's birthday festivities is available online at www.oregonzoo.org.

Council thanked Ms. Swan for her presentation and staff's work on the upcoming events.

4. 2012 OREGON ZOO BOND CITIZENS' OVERSIGHT COMMITTEE REPORT

Ms. Deidra Kryss-Rusoff, chair of the Oregon Zoo Bond Citizens' Oversight Committee, provided a presentation on the committee's 2012 annual report. Her presentation overviewed the committee's membership, mission, and reporting requirements to:

- Assess the Oregon Zoo's progress in implementing the bond's project improvements;
- Report on spending trends and current cost projections and independent auditors' report;
- and

- Consider and recommend project modifications intended to account for increases in construction costs in excess of budget estimates.

Highlighted 2011-12 accomplishments included, but were not limited to, the completion of the new Veterinary Medical Hospital, Penguin Life Support System Upgrade, and Comprehensive Capital Master Plan. The committee did not recommend any project modifications at this time. (Complete report included as part of the meeting record.)

Council thanked Ms. Krys-Rusoff for her work and emphasized the importance of the oversight committee. Discussion included the diverse expertise on the committee including professional land use, finance and construction representation, and the complexity of the bond projects. Committee information, including minutes and full annual report, is available on the Oregon Zoo web site at: www.oregonzoo.org.

5. CONSIDERATION OF THE MINUTES FOR MARCH 22, 2012

Motion:	Councilor Carl Hosticka moved to adopt the council minutes for March 22, 2012.
Second:	Councilor Barbara Roberts seconded the motion.

Vote:	Council President Hughes, and Councilors Burkholder, Roberts, Hosticka, Craddick and Harrington voted in support of the motion. The vote was 6 ayes, the motion <u>passed</u> .
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6. ORDINANCES – FIRST READING

- 6.1 **Ordinance No. 12-1276**, For the Purpose of Amending Metro Code Chapter 3.09, Local Government Boundary Changes, to Conform to New Legislation and to Improve the Boundary Change Process.

Second read, public hearing, and Council consideration and vote are scheduled for April 12, 2012. Councilor Roberts was assigned to carry the legislation.

7. CHIEF OPERATING OFFICER COMMUNICATION

Ms. Martha Bennett of Metro announced that Mr. Scott Cruickshank accepted the Oregon Convention Center executive director position. She also announced that Metro received the Government Finance Officers Association Certificate of Achievement for Excellence in Financial Reporting; she congratulated Finance and Regulatory Services staff.

Additional updates included the April 12 enforcement hearing on Title 13 of the Metro Urban Growth Management Functional Plan concerning the City of Troutdale. Ms. Bennett indicated that the City has submitted their plan to the Dept. of Land Conservation and Development. As such, she recommended the Council consider continuing the hearing to June 14, 2012.

8. COUNCILOR COMMUNICATION

Councilor updates on recent meetings or events included Recology Nature's Needs facility tour, NAIOP forum, MERC meeting, Oregon Zoo Foundation meeting, and a recent visiting delegation from Philadelphia. Additional updates included launch of the Oregon Zoo's new web site.

9. ADJOURN

There being no further business, Council President Hughes adjourned the regular meeting at 2:54 p.m. The Council will reconvene the next regular council meeting on Thursday, April 12 at 2 p.m. at the Metro Council Chamber.



Kelsey Newell, Regional Engagement Coordinator

ATTACHMENTS TO THE PUBLIC RECORD FOR THE MEETING OF APRIL 5, 2012

Item	Topic	Doc. Date	Document Description	Doc. Number
2.	Testimony	N/A	Written testimony from Art Lewellan	40512c-01
3.	PowerPoint	N/A	50 years of Packy	40512c-02
4.	Report	2/2012	Revised Oregon Zoo Citizens' Bond Oversight Committee Report	40512c-03
5.	Minutes	3/22/12	Council minutes for Feb. 2, 2012.	40512c-04

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF CONFIRMING THE	)	RESOLUTION NO. 12-4341
REAPPOINTMENT OF PRE-EXISTING MEMBERS)	
AND THE APPOINTMENT OF NEW MEMBERS TO	)	Introduced by Chief Operating Officer
THE NATURAL AREAS PROGRAM	)	Martha Bennett, with the concurrence of
PERFORMANCE OVERSIGHT COMMITTEE	)	Council President Tom Hughes

WHEREAS, Metro Code Chapter 2.19 establishes the Natural Areas Program Performance Oversight Committee (the "Committee"); and

WHEREAS, the terms of several Committee members expired June 30, 2011; and

WHEREAS, the terms of several Committee members will expire June 30, 2012; and

WHEREAS, Drake Butsch has expressed his willingness to serve as chair of the Committee; and

WHEREAS, the Council President has reappointed 14 other members for additional two-year terms and appointed two new members to full two-year terms as set forth in Exhibit "A" attached hereto; and

WHEREAS, the Council desires to confirm these reappointments and appointments; now, therefore,

BE IT RESOLVED, that the Metro Council confirms the reappointments and appointments to the Natural Areas Program Performance Oversight Committee as set forth in Exhibit "A" attached hereto.

ADOPTED by the Metro Council this 12th day of April, 2012.

Tom Hughes, Council President

Approved as to Form:

Alison Kean Campbell, Metro Attorney

Exhibit A to Resolution No. 12-4341

**Natural Areas Program
Performance Oversight Committee**

Member Reappointments

The following person is appointed chair of the committee and shall serve a two-year term that expires June 30, 2014:

Drake Butsch

The following persons each are reappointed to serve a two-year term that expires June 30, 2013:

Dean Alterman	Norman Penner
Christine Dupres	Steve Yarosh
Kay Hutchinson	

The following persons each are reappointed to serve a two-year term, from July 1, 2012 until June 30, 2014:

Michelle Cairo	Andrew Nordby
Autumn Rudisel	David Pollock
Rick Mishaga	Kendra Smith
Walt McMonies	Cam Turner
Shawn Narancich	

New Member Appointments

The following persons each are appointed to serve a two-year term expiring June 30, 2014, and shall be eligible thereafter to serve one additional two-year term:

Bill Drew	Peter Mohr
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New Member Biographies

William A. Drew

Bill is a native Oregonian from western Washington County, and a lawyer with Elliott, Ostrander & Preston, P.C., in Portland, specializing in complex business and real estate disputes. He received his bachelor's degree from Willamette University, and his law degree from Harvard. Bill has served as secretary for the Willamette University Alumni Board, chairman of the non-profit "Adventures Without Limits," vice-chairman of the Westside Lutheran Schools Association, and as an executive member of the Owen M. Panner Inn of Court. He and Mary, his wife of 20 years, have two boys.

Peter Mohr

Peter is an attorney of counsel with Tonkon Torp LLP. As a member of the firm's Energy and the Environmental and Natural Resources practice groups, he is considered among the region's most knowledgeable water law attorneys. His environmental and natural resources practice focuses on helping public and private sector clients throughout the west in matters involving water quality and water rights permitting, compliance, protection and transactions. Mohr has repeatedly been recognized in *Chambers USA*, *America's Leading Lawyers for Business* and is a frequent speaker on water rights regulation and transactions, and ongoing developments in state and federal policies that affect the management of water supplies.

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 12-4341, FOR THE PURPOSE OF CONFIRMING THE REAPPOINTMENT OF PRE-EXISTING MEMBERS AND THE APPOINTMENT OF NEW MEMBERS TO THE NATURAL AREAS PROGRAM PERFORMANCE OVERSIGHT COMMITTEE

Date: April 12, 2012

Prepared by: Heather Nelson Kent
503-797-1739

BACKGROUND

The 2006 Natural Areas Bond Measure included a provision for the establishment of a citizen oversight committee in order to review and suggest improvements to the implementation and administration of the Natural Areas Program. Members of the committee serve two-year terms, some of which expire at the end of June in odd-numbered years and some of which expire at the end of June in even-numbered years. This resolution confirms the reappointment of 14 members who served on the committee during the previous years and are willing to serve a new term, and confirms the appointment of two new members and a new committee chair.

The purpose of the committee is to provide the Metro Council and the citizens of the region outside third-party review that will help the region achieve the best results for clean water, fish and wildlife, and future generations. Specifically, the committee will review program performance and report to the Metro Council regarding the program's progress in implementing the strategies, goals and objectives approved by the Metro Council for property acquisition and protection in 27 target areas, as described in Council-approved refinement plans, local share projects and the Nature in Neighborhoods Capital Grants Program. In addition, the committee may make recommendations regarding the Natural Areas Implementation Work Plan to improve program efficiency, administration and performance.

Members of the committee are drawn from all areas of the region and from a variety of technical and professional disciplines, including finance, auditing, accounting, real estate, banking and law. Committee members share their technical and professional expertise to ensure that expenditure of bond measure funds satisfies the requirements of the program.

Metro staff assist the committee as necessary. Staff performs such duties as making technical presentations and preparing reports to the committee, coordinating and staffing meetings, and the committee drafts an annual report which is presented to the Metro Council.

In accordance with Metro Code 2.19.220, the Natural Areas Program Performance Oversight Committee has met consistently over the past five years and has produced three annual reports; the first in the fall of 2008, the second in spring 2010 and the third in fall 2011. They have focused on specific elements of the program so that members may immerse in particular topic areas to develop meaningful recommendations. Thus far they have led staff in development of a new regional acquisition performance measurement system and advised on the Capital Grants Program and property stabilization practices.

ANALYSIS/INFORMATION

1. Known Opposition

None.

2. **Legal Antecedents**

Metro Resolution No. 06-3672B, For the Purpose of Submitting to the Voters of the Metro Area a General Obligation Bond Indebtedness in the Amount of \$227.4 Million to Fund Natural Area Acquisition and Water Quality Protection, approved March 9, 2006

Metro Code Chapter 2.19, "Metro Advisory Committees," providing generally applicable rules for the creation of committees providing advice to the Metro Council and appointment of members to such committees

Ordinance No. 07-1155A, Amending Metro Code Chapter 2.19 to establish the Natural Areas Program Performance Oversight Committee, and declaring an emergency, adopted May 31, 2007

Resolution No. 07-3817, Confirming the Appointment of Members to the Natural Areas Program Performance Oversight Committee, adopted May 31, 2007

Resolution No. 08-3953, Confirming the Reappointment of Members to the Natural Areas Program Performance Oversight Committee, adopted June 26, 2008

Resolution No. 09-4046, Confirming the Reappointment of Pre-Existing Members and the Appointment of New Members to the Natural Areas Program Performance Oversight Committee, adopted August 6, 2009

Resolution No. 10-4182, Confirming the Reappointment of Pre-Existing Members and the Appointment of New Members to the Natural Areas Program Performance Oversight Committee, adopted August 19, 2010

3. **Anticipated Effects**

By approving Resolution No. 12-4341, the Metro Council will reappoint 14 members, appoint two new members and appoint a new committee chair to the committee as directed by the region's voters in November 2006. The expertise of the committee will help ensure that the funds voters have authorized provide the greatest possible benefit to the region.

4. **Budget Impacts**

Staff time to staff the committee meetings and prepare reports.

RECOMMENDED ACTION

The Council President recommends adoption of Resolution No. 12-4341.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF AMENDING METRO	)	Ordinance No. 12-1276
CODE CHAPTER 3.09, LOCAL GOVERNMENT)	
BOUNDARY CHANGES, TO CONFORM TO NEW	)	Introduced by Councilor Barbara Roberts
LEGISLATION AND TO IMPROVE THE)	
BOUNDARY CHANGE PROCESS)	

WHEREAS, ORS 268.347 to 268.354 charges Metro with responsibilities for the process of changing local government boundaries in the region; and

WHEREAS, the 2011 Oregon Legislature revised the responsibilities assigned to Metro, reducing the types of local government service districts whose boundary changes Metro must regulate; and

WHEREAS, clarification of Metro’s administrative role in the processing of final changes to local government boundaries would simplify and improve the boundary change process; and

WHEREAS, the Council held a public hearing on the proposed amendments on April 12, 2012; now, therefore,

THE METRO COUNCIL ORDAINS AS FOLLOWS:

1. Metro Code Chapter 3.09, Local Government Boundary Changes, is hereby amended as indicated in Exhibit A, attached and incorporated into this ordinance.
2. The Findings of Fact and Conclusions of Law, set forth in Exhibit B, attached and incorporated into this ordinance, explain how the amendments comply with state and regional laws.

ADOPTED by the Metro Council this 12th day of April 2012.

Tom Hughes, Council President

Attest:

Approved as to Form:

Kelsey Newell, Regional Engagement Coordinator

Alison Kean Campbell, Metro Attorney

**AMENDMENTS TO METRO CODE CHAPTER 3.09
LOCAL GOVERNMENT BOUNDARY CHANGES**

3.09.010 Purpose and Applicability

The purpose of this chapter is to carry out the provisions of ORS ~~268.347 to~~ 268.354. This chapter applies to ~~all~~ boundary changes within the boundaries of Metro or of urban reserves designated by Metro and any annexation of territory to the Metro boundary. Nothing in this chapter affects the jurisdiction of the Metro Council to amend the region's Urban Growth Boundary (UGB).

3.09.020 Definitions

As used in this chapter, unless the context requires otherwise:

- A. "Adequate level of urban services" means a level of urban services adequate to support the higher number of dwelling units and jobs specified for the appropriate design type in section 3.07.640A of Title 6 of the Urban Growth Management Functional Plan, or in the ordinance adopted by the Metro Council that added the area to be incorporated, or any portion of it, to the UGB.
- B. "Affected entity" means a county, city or district for which a boundary change is proposed or is ordered.
- C. "Affected territory" means territory described in a petition.
- D. "Boundary change" means a major or minor boundary change involving affected territory lying within the jurisdictional boundaries of Metro or the boundaries of urban reserves designated.
- E. "Deliberations" means discussion among members of a reviewing entity leading to a decision on a proposed boundary change at a public meeting for which notice was given under this chapter.
- ~~F. "District" means a: district defined by ORS 199.420 or any district subject to Metro boundary procedure act under state law.~~
 - ~~1. Domestic water supply district organized under ORS chapter 264;~~

Exhibit A to Ordinance No. 12-1276

2. Park and recreation district organized under ORS chapter 266;
3. Metropolitan service district organized under ORS chapter 268;
4. Sanitary district organized under ORS 450.005 to 450.245;
5. Sanitary authority, water authority or joint water and sanitary authority organized under ORS 450.600 to 450.989; or
- 4.6. District formed under ORS 451.410 to 451.610 to provide water or sanitary service.

F.G. "Final decision" means the action by a reviewing entity, whether adopted by ordinance, resolution or other means, which is the determination of that determines compliance of the proposed boundary change with applicable criteria and which requires no further discretionary decision or action by the reviewing entity other than any required referral to electors. "Final decision" does not include resolutions, ordinances or other actions whose sole purpose is to refer the boundary change to electors, or to declare the results of an election, or any action to defer or continue deliberations on a proposed boundary change.

G.H. "Major boundary change" means the formation, merger, consolidation or dissolution of a city or district.

H.I. "Minor boundary change" means an annexation or withdrawal of territory to or from a city or district or from a city-county to a city. "Minor boundary change" also means an extra-territorial extension of water or sewer service by a city or district. "Minor boundary change" does not mean withdrawal of territory from a district under ORS 222.520.

I.J. "Necessary party" means any county; city; district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory; Metro; or any other unit of local government, as defined in ORS 190.003, that is a party to any agreement for provision of an urban service to the affected territory.

Exhibit A to Ordinance No. 12-1276

~~J.~~K. "Petition" means any form of action that initiates a boundary change.

~~K.~~L. "Reviewing entity" means the governing body of a city, county or Metro, or its designee.

~~L.~~M. "Urban reserve" means land designated by Metro pursuant to ORS 195.137 et seq. for possible addition to the UGB.

~~M.~~N. "Urban services" means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit.

3.09.030 Notice Requirements

- A. The notice requirements in this section apply to all boundary change decisions by a reviewing entity except expedited decisions made pursuant to section 3.09.045. These requirements apply in addition to, and do not supersede, applicable requirements of ORS Chapters 197, 198, 221 and 222 and any city or county charter provision on boundary changes.
- B. Within 45 days after a reviewing entity determines that a petition is complete, the entity shall set a time for deliberations on a boundary change. The reviewing entity shall give notice of its proposed deliberations by mailing notice to all necessary parties, by weatherproof posting of the notice in the general vicinity of the affected territory, and by publishing notice in a newspaper of general circulation in the affected territory. Notice shall be mailed and posted at least 20 days prior to the date of deliberations. Notice shall be published as required by state law.
- C. The notice required by subsection (b) shall:
 - 1. Describe the affected territory in a manner that allows certainty;
 - 2. State the date, time and place where the reviewing entity will consider the boundary change; and
 - 3. State the means by which any person may obtain a copy of the reviewing entity's report on the proposal.

Exhibit A to Ordinance No. 12-1276

- D. A reviewing entity may adjourn or continue its final deliberations on a proposed boundary change to another time. For a continuance later than 28 days after the time stated in the original notice, notice shall be reissued in the form required by subsection (b) of this section at least five days prior to the continued date of decision.
- E. A reviewing entity's final decision shall be written and authenticated as its official act within 30 days following the decision and mailed or delivered to Metro and to all necessary parties. The mailing or delivery to Metro shall include payment to Metro of the filing fee required pursuant to section 3.09.060.

3.09.040 Requirements for Petitions

- A. A petition for a boundary change must contain the following information:
 - 1. The jurisdiction of the reviewing entity to act on the petition;
 - 2. A map and a legal description of the affected territory in the form prescribed by the reviewing entity;
 - 3. For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessor and county clerk; and
 - 4. For boundary changes under ORS 198.855(3), 198.857, 222.125 or 222.170, statements of consent to the annexation signed by the requisite number of owners or electors.
- B. A city, county and Metro may charge a fee to recover its reasonable costs to carry out its duties and responsibilities under this chapter.

3.09.045 Expedited Decisions

- A. The governing body of a city or Metro may use the process set forth in this section for minor boundary changes for which the petition is accompanied by the written consents of one hundred percent of property owners and at least fifty percent of the electors, if any, within the affected territory. No public hearing is required.

Exhibit A to Ordinance No. 12-1276

- B. The expedited process must provide for a minimum of 20 days' notice prior to the date set for decision to all necessary parties and other persons entitled to notice by the laws of the city or Metro. The notice shall state that the petition is subject to the expedited process unless a necessary party gives written notice of its objection to the boundary change.

- C. At least seven days prior to the date of decision the city or Metro shall make available to the public a report that includes the following information:
 - 1. The extent to which urban services are available to serve the affected territory, including any extra-territorial extensions of service;
 - 2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
 - 3. The proposed effective date of the boundary change.

- D. To approve a boundary change through an expedited process, the city shall:
 - 1. Find that the change is consistent with expressly applicable provisions in:
 - a. Any applicable urban service agreement adopted pursuant to ORS 195.065;
 - b. Any applicable annexation plan adopted pursuant to ORS 195.205;
 - c. Any applicable cooperative planning agreement adopted pursuant to ORS 195.020(2) between the affected entity and a necessary party;
 - d. Any applicable public facility plan adopted pursuant to a statewide planning goal on public facilities and services;
 - e. Any applicable comprehensive plan; and
 - f. Any applicable concept plan; and
 - 2. Consider whether the boundary change would:
 - a. Promote the timely, orderly and economic provision of public facilities and services;
 - b. Affect the quality and quantity of urban services; and

Exhibit A to Ordinance No. 12-1276

- c. Eliminate or avoid unnecessary duplication of facilities or services.
- E. A city may not annex territory that lies outside the UGB, except it may annex a lot or parcel that lies partially within and partially outside the UGB.

3.09.050 Hearing and Decision Requirements for Decisions Other Than Expedited Decisions

- A. The following requirements for hearings on petitions operate in addition to requirements for boundary changes in ORS Chapters 198, 221 and 222 and the reviewing entity's charter, ordinances or resolutions.
- B. Not later than 15 days prior to the date set for a hearing the reviewing entity shall make available to the public a report that addresses the criteria in subsection (d) and includes the following information:
 - 1. The extent to which urban services are available to serve the affected territory, including any extra territorial extensions of service;
 - 2. Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and
 - 3. The proposed effective date of the boundary change.
- C. The person or entity proposing the boundary change has the burden to demonstrate that the proposed boundary change meets the applicable criteria.
- D. To approve a boundary change, the reviewing entity shall apply the criteria and consider the factors set forth in subsections (d) and (e) of section 3.09.045.

~~3.09.060 Ministerial Functions of Metro Process to Make Boundary Change Effective~~

- A. ~~Metro shall create and keep current maps of all service provider service areas and the jurisdictional boundaries of all cities, counties and special districts within Metro. The maps shall be made available to the public at a price that reimburses Metro for its costs. Additional~~

Exhibit A to Ordinance No. 12-1276

~~information requested of Metro related to boundary changes shall be provided subject to applicable fees. After a reviewing entity makes a final decision on a boundary change, the entity and Metro shall follow the process set forth below:~~

- ~~1. The reviewing entity shall send its final decision, with the map, legal description and other supporting materials required by law, to the Oregon Department of Revenue (DOR);~~
- ~~2. The DOR will review the materials to determine whether they are in final approval form and notify the reviewing entity of its determination;~~
- ~~3. The reviewing entity shall send its final decision, with supporting materials and the DOR approval, to Metro;~~
- ~~4. Metro shall record and map the final decision, with supporting materials and DOR determination, and send it to the Secretary of State (SOS), the reviewing entity, the appropriate county assessor's and elections offices, making the final decision effective on the date of Metro's submittal;~~
- ~~5. The SOS will send its filing letter to Metro;~~
- ~~6. Metro shall post the final decision, supporting materials, the DOR determination and the SOS filing letter at the Metro website.~~

~~The Metro Chief Operating Officer (COO) shall cause notice of all final boundary change decisions to be sent to the appropriate county assessor and elections officer, the Oregon Secretary of State and the Oregon Department of Revenue. Notification of public utilities shall be accomplished as provided in ORS 222.005(1)-B. If a reviewing entity notifies Metro that the entity needs expedited treatment of its final decision at the time the entity sends its decision to the DOR, Metro will ensure it completes Step 4 in subsection A within 24 hours of its receipt of the final decision and DOR determination from the entity.~~

~~2. _____~~

~~C. The COO shall establish a fee structure establishing the amounts to be paid upon filing notice of city or county adoption of boundary changes, and for related services by the reviewing entity with submittal of its final decision in Step 3 of subsection A to cover Metro's costs for the~~

~~services set forth in this section. The fee schedule shall be filed~~COO shall file the fee schedule with the Clerk of the Council Clerk and ~~distributed~~send it to all cities, counties and special districts ~~within~~in the Metro region.

3. ~~D. Metro shall create and keep current maps of all service provider service areas~~district boundaries and the ~~jurisdictional boundaries of all cities~~ and ~~counties and special districts~~ within Metro. ~~The maps and any additional information requested that relates to boundary changes~~ shall be made available to the public at a price that reimburses Metro for its costs. ~~Additional information requested of Metro related to boundary changes shall be provided subject to applicable fees.~~

3.09.070 Changes to Metro's Boundary

- A. Changes to Metro's boundary may be initiated by Metro or the county responsible for land use planning for the affected territory, property owners and electors in the territory to be annexed, or other public agencies if allowed by ORS 198.850(3). Petitions shall meet the requirements of section 3.09.040 above. The COO shall establish a filing fee schedule for petitions that shall reimburse Metro for the expense of processing and considering petitions. The fee schedule shall be filed with the Council.
- B. Notice of proposed changes to the Metro boundary shall be given as required pursuant to section 3.09.030.
- C. Hearings shall be conducted consistent with the requirements of section 3.09.050.
- D. Changes to the Metro boundary may be made pursuant to the expedited process set forth in section 3.09.045.
- E. The following criteria shall apply in lieu of the criteria set forth in subsection (d) of section 3.09.050. The Metro Council's final decision on a boundary change shall include findings and conclusions to demonstrate that:
1. The affected territory lies within the UGB;
 2. The territory is subject to measures that prevent urbanization until the territory is annexed to a city or to service districts that will provide necessary urban services; and

Exhibit A to Ordinance No. 12-1276

3. The proposed change is consistent with any applicable cooperative or urban service agreements adopted pursuant to ORS Chapter 195 and any concept plan.
- F. Changes to the Metro boundary that occur by operation of law pursuant to ORS 268.390(3)(b) are not subject to the procedures or criteria set forth in this section.

3.09.080 Incorporation of a City that Includes Territory within Metro's Boundary

- A. A petition to incorporate a city that includes territory within Metro's boundary shall comply with the minimum notice requirements in section 3.09.030, the minimum requirements for a petition in section 3.09.040, and the hearing and decision requirements in subsections (a), (c), and (e) of section 3.09.050, except that the legal description of the affected territory required by section 3.09.040(a)(1) need not be provided until after the Board of County Commissioners establishes the final boundary for the proposed city.
- B. A petition to incorporate a city that includes territory within Metro's jurisdictional boundary may include territory that lies outside Metro's UGB. However, incorporation of a city with such territory shall not authorize urbanization of that territory until the Metro Council includes the territory in the UGB pursuant to Metro Code Chapter 3.07.
- C. The following criteria shall apply in lieu of the criteria set forth in section 3.09.050(d). An approving entity shall demonstrate that:
 1. Incorporation of the new city complies with applicable requirements of ORS 221.020, 221.031, 221.034 and 221.035;
 2. The petitioner's economic feasibility statement must demonstrate that the city's proposed permanent rate limit would generate sufficient operating tax revenues to support an adequate level of urban services, as defined in this chapter and required by ORS 221.031; and
 3. Any city whose approval of the incorporation is required by ORS 221.031(4) has given its approval or has failed to act within the time specified in that statute.

3.09.090 Extension of Services Outside UGB

Neither a city nor a district may extend water or sewer service from inside a UGB to territory that lies outside the UGB.

Exhibit B to Ordinance No. 12-1276

Findings of Fact and Conclusions of Law

Ordinance No. 12-1276 makes two changes to Metro Code Chapter 3.09, Local Government Boundary Changes (“the Boundary Change code”). First, the ordinance revises the definition in 3.09.020 of “district” to conform it to a change in state law enacted in 2011. The new statute (ORS 268.351) sets forth an explicit list of the types of service districts whose boundary changes are subject to Metro’s procedures and criteria. Second, the ordinance clarifies the roles of Metro and other agencies in the administrative process that follows final action by a city, county or service district to create or change a boundary (3.09.060). The effects of these changes are limited to local government boundary changes and are not implemented through land use regulations. Other changes to the code made by the ordinance correct grammar and citations.

Regional Framework Plan

There are no policies in the Regional Framework Plan (RFP) that apply expressly to local government boundary changes. Nor is Chapter 3.09 among the code chapters upon which Metro relies to implement policies of the RFP.

State Law

ORS chapters 198, 221, 222, 268 and 308 guide local government boundary changes in the Metro region. The revisions to Metro Code 3.09.020 conform to an amendment to ORS 268.351 made in 2011. The revisions are consistent with other provisions of these statutes.

The revisions to Metro Code 3.09.060 sets forth the roles of Metro and other agencies in, and the sequence of steps to complete, the administrative process that follows final action by a city, county or service district on a boundary change. The roles and the sequence of steps are consistent with the five statutes.

Conclusion

Based upon these findings, the Metro Council concludes that the changes made to Metro Code Chapter 3.09, Local Government Boundary Changes are consistent with the Regional Framework Plan and applicable statutes.

STAFF REPORT

IN CONSIDERATION OF ORDINANCE NO. 12-1276, FOR THE PURPOSE OF AMENDING METRO CODE CHAPTER 3.09, LOCAL GOVERNMENT BOUNDARY CHANGES, TO CONFORM TO NEW LEGISLATION AND TO IMPROVE THE BOUNDARY CHANGE PROCESS

Date: March 20, 2012

Prepared by: Dick Benner (1532)

BACKGROUND

The 2011 Oregon Legislature passed (and the Governor signed) a bill introduced for Metro to reduce the types of local government service districts whose boundary changes Metro must regulate and track. The Legislature removed types of districts – such as vector control and highway lighting districts – whose activities do not relate to Metro’s missions. Metro must now conform its code to the new law.

DRC and OMA took the opportunity to draft improvements to the boundary change process and vetted the changes with local governments in the region and the Oregon Department of Revenue (ODOR) and the Secretary of State’s office (SOS) to ensure practicality and acceptance. After thorough discussion with these practitioners, we reached consensus on the changes. The process changes clarify the steps cities, counties, districts, Metro and ODOR/SOS take to finalize a boundary change.

ANALYSIS/INFORMATION

1. **Known Opposition:** There is no known opposition. A group of local government boundary change practitioners reached consensus on the changes to the process.
2. **Legal Antecedents:** ORS 268.347 to 268.354 charge Metro with responsibility to regulate and track city and service district boundary changes in the region. The Oregon Legislature enacted Senate Bill 48 in the 2011 session to reduce the types of service districts Metro must track to those whose services relate to Metro missions.
3. **Anticipated Effects:** Adoption of the amendments will clarify and simplify the boundary change process for Metro and other local governments.
4. **Budget Impacts:** Adoption of the amendments is expected to have a small, positive effect on Metro’s costs to carry out its duties under the statute.

RECOMMENDED ACTION

DRC and OMA recommend that the Council adopt the amendments to Metro Code Chapter 3.09.

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF REVISING THE 2011	)	RESOLUTION NO. 12-4340
LAND USE FINAL ORDER FOR THE EXPO)	
CENTER/HAYDEN ISLAND SEGMENT OF THE	)	Introduced by Councilor Rex Burkholder
SOUTH/NORTH LIGHT RAIL PROJECT ON)	
REMAND FROM LUBA AND THE OREGON)	
SUPREME COURT)	

WHEREAS, the Oregon Legislature enacted Oregon Laws 1996, Chapter 12 (the Act), establishing procedures for developing the South/North MAX Light Rail Project through adoption by the Metro Council of a Land Use Final Order (LUFO); and

WHEREAS, on August 11, 2011, the Metro Council adopted a Land Use Final Order (LUFO) for the segment of the South/North MAX Light Rail Project extending northward from the Expo Center and the Interstate 5/Victory Boulevard Interchange to the Oregon/Washington state line; and

WHEREAS, among other things, the 2011 LUFO approved new two-tier northbound and southbound Interstate-5 Columbia River bridges - with highway on the upper decks, light rail on the lower deck of the southbound bridge, and bicycle and pedestrian facilities on the lower deck of the northbound bridge - a portion of which extend from Hayden Island to the Oregon-Washington state line; and

WHEREAS, in *Weber Coastal Bells Limited Partners v. Metro*, LUBA 2011-80 to 2011-83 (October 26, 2011), affirmed by the Oregon Supreme Court (SC S059872, February 16, 2012), LUBA upheld the 2011 LUFO on all issues except one: LUBA and the Court remanded the LUFO to Metro, ruling that the Council exceeded its authority under the Act by approving light rail facilities and associated improvements between the northern boundary of Hayden Island and the state line because the Act authorizes the Council to adopt LUFOs for the South/North Project only within Metro's UGB; and

WHEREAS, section 10(4) of the Act directs the Council to respond to matters remanded by adopting by resolution a land use final order on remand; and

WHEREAS, on March 9, 2012, TriMet submitted a letter to the Metro Council seeking a revision to the boundary of the 2011 LUFO to remove the portion of the project that extends north of the UGB to the state line in order to conform to the remand from LUBA and the Oregon Supreme Court; and

WHEREAS, on March 29, 2012, Metro published in *The Oregonian* a notice of a public hearing before the Metro Council to consider revision to the 2011 LUFO, such notice containing all the information required by section 7 of the Act; and

WHEREAS, Metro sent notice of the public hearing on March 29, 2012, to TriMet, ODOT, Clackamas and Multnomah counties and the cities of Portland, Milwaukie, Gladstone, Gresham, and Oregon City, and also to the parties to the proceeding before the Land Use Board of Appeals; and

WHEREAS, the Council finds and determines that *The Oregonian* is a newspaper of general circulation in the region and the above-described notices are reasonably calculated to give notice to persons who may be affected substantially by a decision to revise the 2011 LUFO on remand; and

WHEREAS, on March 29, 2012, Metro made available for public inspection a staff report addressing compliance of the proposed revision to the 2011 LUFO with the requirements of the Act; and

WHEREAS, the Council held a public hearing on the proposed revision to the 2011 LUFO on remand on April 12, 2012; and

WHEREAS, the Council President made a statement at the beginning of the hearing containing the information required by section 7 of the Act; and

WHEREAS; the Council considered the decisions of the Land Use Board of Appeals and the Oregon Supreme Court, TriMet's letter, Metro's official UGB map, the staff report, the Findings of Fact and Conclusions of Law and all relevant public testimony presented at the hearing on the proposed revision to the 2011 LUFO; and

WHEREAS, the new two-tier northbound and southbound Interstate-5 Columbia River bridges between the UGB and the state line, with highway on the upper decks of the northbound and southbound bridges, light rail on the lower deck of the southbound bridge, and bicycle and pedestrian facilities on the lower deck of the northbound bridge have received land use approval in Metro's 2035 Regional Transportation Plan (RTP) and the city of Portland's Transportation Plan (TSP), both acknowledged under state planning laws; now, therefore,

BE IT RESOLVED THAT the Metro Council:

1. Hereby revises the 2011 Land Use Final Order (LUFO) by adopting the Revised 2011 South North Land Use Final Order for the Expo Center/Hayden Island Segment of the South/North Light Rail Project, attached and incorporated into this resolution as Exhibit A, including the locations of the light rail route, station and highway improvements extending north from the Expo Center and the Victory Boulevard Interchange to the urban growth boundary at the north shore of Hayden Island and as shown in Exhibit A to be identical to the LUFO boundary in the March 9, 2012, letter from TriMet to the Metro Council.
2. Adopts the Findings of Fact and Conclusions of Law, attached and incorporated into this resolution as Exhibit B, as the Council's written findings demonstrating how the Revised 2011 LUFO complies with the Act and the applicable criteria.

ADOPTED by the Metro Council this 12th day of April, 2012.

Tom Hughes, Council President

Approved as to form:

Alison Kean Campbell, Metro Attorney

Michael J. Lilly
Attorney at Law
4800 SW Griffith Drive, Suite 325
Beaverton, OR 97005

Telephone: 503-746-5977
Facsimile: 503-746-5970
Email: mikelilly@michaeljlilly.com

April 12, 2012

Metro
Attention: Laura Dawson Bodner
600 NE Grand Avenue
Portland, OR 97232

Metro Council:
Tom Hughes, President
Shirley Craddick, District 1
Carlotta Collette, District 2
Carl Hosticka, District 3
Kathryn Harrington, District 4
Rex Burkholder, District 5
Barbara Roberts, District 6
c/o Metro
600 NE Grand Ave.
Portland, OR 97232

By Hand Delivery and Email
Re: Resolution No. 12-4340
Revised 2011 South/North Land Use Final Order

Dear Ms. Bodner, President Hughes and Councilors:

I am writing on behalf of Plaid Pantries, Inc. ("Plaid") to object to Resolution No. 12-4340, approving the revised version of the LUFO for the Columbia River Crossing Project (the "Project").

Background

The Council will recall that Plaid has opposed the Project for the last few years.

The Council may recall that Plaid representatives told you that you should not adopt the 2011 LUFO because Metro lacked jurisdiction to adopt a LUFO outside the Urban Growth Boundary. Trimet's Counsel scoffed at that objection, and led you to believe that the new bridges needed to be in the LUFO because the Project was an integrated, indivisible whole; that it was impossible to separate the bridges from the highway portions of the Project; that in any event the UGB issue was harmless error which the Supreme Court would disregard; and that the Supreme Court would repair any problems with the order.

Now that LUBA has upheld our contention that the LUFO cannot extend beyond the Urban Growth Boundary, and the Supreme Court has remanded the order to you instead of fixing it themselves, TriMet has decided that approval of the Project can be divided after all. You are now being led to believe that you are merely removing the interstate bridges from the Project. Somehow, the previously impossible division has become possible. You are now being asked to approve an amended LUFO for a "Columbia River Crossing" that does not cross the Columbia.

But this order does more than simply remove the proposed interstate bridges from the LUFO. It also purports to make a finding that the proposed interstate bridges already have land use approval from the City of Portland.

Objections

Plaid objects to the following findings in Exhibit A of the Resolution and to substantially similar statements repeated in the Resolution, Exhibit A, and Exhibit B, for the reasons stated below:

"As it found in its findings supporting the 2011 LUFO, the Council finds that this [authorization through the usual land use decision making processes] has already occurred. Specifically, it finds that the new I-5 bridges, the light rail alignment and I-5 widening between the northern shoreline of Hayden Island and the Oregon/Washington state line are authorized in Metro's acknowledged 2035 Regional Transportation Plan (RTP) and the City of Portland's acknowledged Transportation System Plan (TSP)." [Bracketed language inserted for clarity.] pp. 2 and 3

1) The assertion that this finding was made in the 2011 order is wrong. No finding was made stating that the Project had already independently "gain[ed] authorization through the usual land use decision making processes," because the similar statements in the 2011 LUFO were findings made in the context of the limited approvals that would have been required if the LUFO had applied to the proposed interstate bridges. There is no substantial evidence in the record to support your finding quoted above and it is erroneous as a matter of law.

2) Metro lacks the authority to find that the City of Portland's Transportation System Plan authorizes the interstate bridges. That is a determination that can only be made by the City of Portland. Metro has no

authority to apply Portland's Planning ordinances and determine whether the new interstate bridge portion of the Project is in compliance with Portland's ordinances. The LUFO statute would have given Metro some authority in that regard, but only if the LUFO had applied to the interstate bridges. LUBA determined that it did not. The City of Portland is the only government with the authority to make decisions applying its own land use regulations. This finding by Metro is an attempted end-run around the limitations that the LUBA decision imposed on Metro's authority, and an attempt to usurp the City of Portland's authority to administer and interpret its own ordinances. Your findings are not supported by substantial evidence and are erroneous as a matter of law.

3) Contrary to this finding, the City of Portland's Transportation System Plan (TSP) does not "authorize" these interstate bridges. Your draft findings refer to two specific parts of the Portland TSP. One part, TSP Project 30020, is actually inconsistent with the Project's plan for new bridges, because that part of the TSP calls for "Bridge Widening" of the Columbia River Bridge. There is no suggestion of a replacement with new bridges – see attached page. The other part referenced in your finding, TSP Project 30033, is a non-specific reference to extending light rail to Vancouver. See attached page. The City's Transportation System Plan is part of its comprehensive plan, and new bridges are not described, not even conceptually. Locations are not approved; nor is anything like a design approved.

In addition, compliance with a city's comprehensive plan is always necessary, but it is virtually never sufficient to provide land use approval for a development. For example, a comprehensive plan designation for multi-family housing on a particular piece of property does not automatically approve the construction of an apartment house. Usually a conditional use permit and site review are required. In the case of these proposed new interstate bridges, the situation is no different.

For example, the new bridges would be required to obtain a permit and show compliance with City of Portland Title 33 Chapter 33.430 Environmental Zones, because the new interstate bridges would be in Portland's environmental overlay "c" zone. Note in particular City Code Provisions 33.430.070 A and G. Note also that the new interstate bridges would be expansions of existing roads, and outside existing public rights of way used by truck or automobile traffic. Nothing in the City Transportation System Plan exempts the proposed new interstate bridge from the requirements of the City's environmental zone overlay. Again your findings are not supported by substantial evidence in the record, and are erroneous as a matter of law.

Standing

Plaid Pantries owns and operates three stores that would be adversely impacted directly by this Project because of impeded access during and after construction. Plaid Pantries owns and operates additional stores that will be adversely affected by a) the additional taxes and fees that will be needed to pay for bridge construction; b) the reduction in funds that will be available for

highway and road maintenance because of the cost of the CRC Project; c) the negative effect of the Project on the region's economy and the solvency of the state of Oregon stemming from the Project's likely cost overruns, over-estimated traffic counts and overstated funding projections.

Entirely aside from these legal objections, we again ask the Metro Council to step back and consider this project carefully instead of continuing to pass resolutions that facilitate the spending of tens of millions of dollars for planning a project that can never be built because there is no money to build it.

A handwritten signature in black ink, appearing to read "Michael J. Lily". The signature is written in a cursive, flowing style.

Michael J. Lily

Enclosures

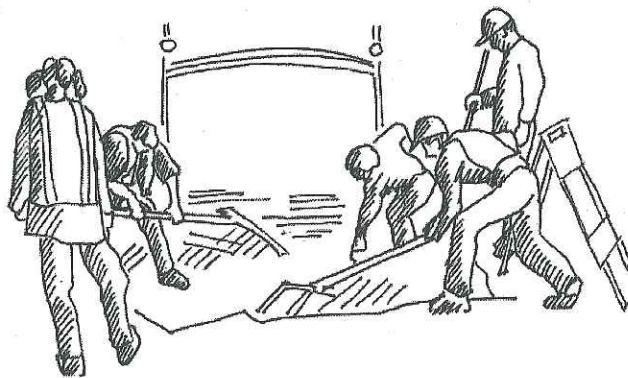
cc: Richard Benner, Attorney for Metro
Mark Greenfield, Attorney for TriMet

TRANSPORTATION SYSTEM IMPROVEMENTS

INTRODUCTION

Portland's Transportation System Plan (TSP) guides and coordinates investment in the transportation network over the next 20 years. The plan carries out this responsibility through policy directives (Chapter 2: Transportation Element of the Comprehensive Plan), regulation of development activity (Chapter 6: Implementation Strategies and Regulations), and public investment in transportation facilities and services.

This chapter focuses on public investment in transportation facilities and services: how identified needs will be met over the life of the TSP. It summarizes the project identification process and lists recommended transportation system improvements by Transportation District.



REQUIREMENTS

TSP/PFP Relationship

In accordance with the State Transportation Planning Rule (TPR), TSP must include a list of planned transportation facilities and major improvements, including a rough cost estimate, a general timing estimate, and the anticipated service provider for the facilities. The TSP must also provide a discussion of existing and potential funding mechanisms to support these facilities. (See Chapter 14: Financial Plan.)

TSPs adopted pursuant to the TPR fulfill the requirements of OAR 660-011-0000 through 0065, which require cities to develop and adopt a public facility plan (PFP), and implements State Goal 11 [ORS 197.712(2)(e)] as it relates to transportation facilities.

The PFP describes the various facilities (water, sewer, transportation, etc.) necessary to support urban development. It identifies the types and levels of urban facilities and services necessary to accommodate urbanization and helps ensure that those facilities are provided in a timely, orderly, and efficient arrangement.

30012
Going, N (Interstate – Basin): Bikeway

Design and implement bike lanes.

Portland

\$90,000 (Years 11 – 20)

30013
Going St Bridge, N: Overcrossing Improvements

Replace bridge over UPRR . Bridge is currently weight restricted.

Portland

\$3,000,000 (Years 1 – 5)

30014
Failing St & Bridge, N (Interstate – Mississippi): Street Improvements

Construct street improvements to provide a safe and pleasant connection between the MAX station and the Mississippi Target Area.

Portland

\$800,000 (Years 6 – 10)

30015
Going, N (Interstate – Greeley): ITS

CCTV at Greeley/Interstate intersections. Variable message sign for EB traffic at Greeley. Changeable message sign for EB traffic at Interstate. Monitoring station at Greeley.

Portland

\$255,000 (Years 1 - 5)

30016
Going/Greeley, N: Climbing Lane and Interchange Improvements

Redesign Going/Greeley interchange including climbing lane on Going to improve truck movement between Swan Island, Lower Albina, and I-5.

Portland

\$2,000,000 (Years 1 – 5)

30018
Hayden Island, N/NE: Street Network Improvements

Provide a street network plan for improvements that implement the Region 2040 connectivity standards and improve multi-modal access for Hayden Island.

Portland

\$2,000,000 (Years 11 – 20)

30019
Hayden Island/Rivergate, N: Rail Access

Rail access from Rivergate to Hayden Island development to support development.

Port

\$3,000,000 (Years 11 – 20)

30020
I-5, N (Columbia River – Columbia Blvd): Bridge Widening

Improve I-5/Columbia River bridge (local share of joint project) based on recommendations in I-5 Trade Corridor Study. Project addresses a high congestion location.

ODOT

\$200,000,000 (Years 1 – 5)

30022

I-5, N (Victory – Lombard): Freeway and Interchange Improvements

Widen I-5 to three lanes plus shoulders in each direction to improve safety and repair a system bottleneck and realign and improve the Columbia Boulevard interchange ramps.

ODOT

\$69,287,000 (Years 1 – 5)

30026

Kelly Point Park Access Trail/40 Mile Loop Trail, N

Construct multi-use trail for bicycle and pedestrian along the north bank of the Columbia Slough.

Portland/METRO

\$115,000 (Years 1 – 5)

30027

Kenton Pedestrian District, N: Pedestrian Improvements

Plan and develop improvements to the pedestrian environment to emphasize district identify and make walking the mode of choice for trips within the district.

Portland

\$500,000 (Years 6 – 10)

30028

Killingsworth, N (Interstate – MLK Jr Blvd): Street Improvements

Construct street improvements to improve pedestrian connections to Interstate MAX LRT and to establish a main street character promoting pedestrian-oriented activities.

Portland

\$ 4,900,000 (Years 1 - 5)

30029

Killingsworth Bridge, N (at I-5): Bridge Improvements

Construct improvements to the bridge to provide a safe and pleasant crossing for pedestrians and bicyclists, linking the MAX station to the Humboldt neighborhood.

Portland

\$ 2,700,000 (Years 11 - 20)

30030

Killingsworth, N (Denver – Greeley): Pedestrian Improvements

Plan and develop streetscape and transportation improvements.

Portland

\$1,320,000 (Years 11 – 20)

30031

Leadbetter, N (Marine Dr Loop): Street Extension/Overcrossing

Extend Leadbetter to Terminal 6/Marine Dr via a new rail overcrossing to provide access to developing Port property and address delay from at –grade rail crossing.

Port

\$10,800,000 (Years 1 – 5)

30033

Light Rail Extension - Phase 2; N

Extend light rail service from Expo Center to Vancouver WA.

Portland

\$300,000,000 (Years 6 – 10)



Metro

No. 3

April 12, 2012

Expo Center/Hayden Island Segment of the Columbia River Crossing Land Use Final Order Public Hearing

(Please print)

Name (required)

Debbie Peterson

Affiliation (if any)

-

Address (required)

P.O. Box 873834 1105 SE 104 Ave
Vancouver WA 98664

E-mail (optional)

on file

Send me written notification of adoption of the LUFO (requires valid mailing address).

Testimony (use back or attach additional sheets if necessary)

Please revisit ~~the~~ this project and Reconsider your
approval of the FEIS

Attach a copy of your testimony and any supporting material to this form. Make sure your name is on all material. If you choose not to testify orally, you may testify in writing by leaving this form, along with any prepared materials, with staff or by depositing it in the comment box. Only oral testimony at the hearing and written testimony received prior to the close of the hearing will be included in the record.

