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Technical Memorandum

Date: April 17, 2023
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From: Gretchen Greene, PhD and Rabia Ahmed, Greene Economics
cc: City of West Linn

Thank you for this opportunity to comment on the I-205 Toll Project Draft Environmental Assessment (draft EA). Our comments on the document are based on our experience analyzing the socioeconomic and environmental justice (EJ) aspects of National Environmental Policy Act (NEPA) compliance, a thorough review of the draft EA and technical appendices, and several guidance documents surrounding NEPA, EJ, and tolling projects. Our comments are organized first into an Executive Summary, second a deeper examination of the failure to specify mitigation, third the failure to adequately analyze impacts to the local populations, and finally comments specifically related to EJ communities. In addition, there are a few comments about revenues and the economic analysis. A final section compares and distinguishes the draft EA with another tolling draft EA that did use the FONSI approach in New York.

There are many guidance documents related to how to analyze equity concerns in NEPA processes. These are used throughout our comments to evaluate how the analyses should be conducted by the appropriate Agencies involved herein. The guidance documents cited include:

- ODOT. 2015. Guidelines for Addressing Title VI and Environmental Justice in Transportation Planning. January (**ODOT EJ Guidelines**);
- National Academies of Science, Engineering and Medicine. 2018. Environmental Justice Analyses When Considering Toll Implementation or Rate Changes Final Report. (**NASEM EJ Tolling**);
- US Department of Transportation Federal Highway Administration. 2013. Guidebook for State, Regional, and Local Governments on Addressing Potential Equity Impacts of Road Pricing. April. (**FHWA Equity Pricing**); and
- Federal Interagency Working Group on Environmental Justice and NEPA Committee. 2016. Promising Practices for EJ Methodologies in NEPA Reviews. March (**All Fed EJ NEPA**).

For each of the comments below, references have been provided related to the recommended direction from one or more of these guidance documents. For convenience the shorthand reference name shown in bold above is used in the text.

I. INTRODUCTION and OVERVIEW

The I-205 Toll Project draft EA falls short of the NEPA required analysis in several significant ways described in more detail in subsequent subsections. However, there are some major deficiencies that permeate the draft EA including:

- failure to specify mitigation measures;
- failure to reduce safety risks under the Build alternative;
- failure to clearly define the project purpose and alternatives; and
- failure to adequately analyze impacts to EJ communities.

Given the many shortfalls in the draft EA, it is clear at this point that the project should not proceed to a Finding of No Significant Impacts or FONSI, but rather should go through an Environmental Impact Statement (EIS) analysis. Details of these points are provided in the numbered comments below.

I.A. Mitigation plans are not specified and therefore impacts are significant.

We acknowledge that an agency need not, in the context of a draft EA, specify the mitigation measures that will be taken to complete the project. However, as pointed out in the NASEM EJ Tolling report on how to conduct environmental justice analyses for toll implementation,

> "Given the timing of planning and NEPA studies**,** it may not be possible to fully define all pricing and account management policies; however, **the absence of definition appears to undermine the basis for a finding of no significant adverse impacts** as it relates to low-income households' willingness to use transponders, in particular."[1] (emphasis added)

Strategies for avoidance, minimization, and mitigation techniques are offered as options to consider in the draft EA. But they are not clearly specified, nor are funding sources for the mitigation identified, and neither is there a firm commitment to carrying out any of the identified techniques. For example, one mitigation option was presented as "ODOT may establish a group consisting of local leaders, staff, and/or elected officials to meet with ODOT

[1] National Academies of Science, Engineering and Medicine. 2018. Environmental Justice Analyses When Considering Toll Implementation or Rate Changes Final Report. Page 86Available at: https://doi.org/10.17226/24992.

staff on an agreed upon basis… to be a direct line of communication with ODOT to address rerouting concerns" (Appendix C Section 6.1 page 161). The draft EA does not include how this potential mitigation option will be funded or created, or if they will follow through with this mitigation option. Due to this absence of specificity, it is not possible to determine how local populations, particularly local EJ populations, will be impacted. Therefore, it would be inappropriate for the draft EA to result in a FONSI.

I.B. The Build alternative poses an overall greater safety risk to local populations and violates the 'do no additional harm' directive.

Guidance from the **FHWA Equity Pricing** document directs an agency to,

> "Evaluate equity impacts of the base case or "No Build" alternative as well as the impact of the road pricing project… Part of the baseline evaluation is that, at a minimum, an agency should 'do no additional harm' with a road pricing project."[2]

Notwithstanding this mandate, the Build alternative in the draft EA clearly will increase the numbers of crashes in the Area of Potential Impact (API) compared to the No Build alternative as traffic is diverted off I-205 to other road segments and local intersections. Building on the analysis in Section 5.3.7 of Appendix C of the draft EA (pages 138 to 152), there will be increased rates of crashes on local roadways by 2045 under the Build, compared to the No Build alternative (see Table 1). For the several intersections analyzed, the draft EA shows an overall increase in crashes of 22 percent, including a 17 percent increase in injuries and fatalities.

Table 1 – Change in Forecasted Crashes at Analyzed Intersections for Build Alternative Compared to No Build Alternative - 2045

Intersections	Fatalities/Injuries	Property Damage Only	Total
Stafford and SW Borland	13%	17%	15%
SW Stafford and I-205 N Ramp	19%	26%	23%
SW Stafford and I-205 S Ramp	31%	39%	36%
SW Stafford and SW Ek	25%	42%	35%
OR 99E and South End	0%	33%	20%
OR 99E and New Era Rd	8%	8%	8%
Total	**17%**	**26%**	**22%**

Source: Elaborations on data found in Section 5.3.7 of Appendix C of the draft EA (pages 138 to 152)

[2] FHWA Equity Pricing, Section 4.1 Page 15

Additional information provided by the agency in Appendix C shows that pedestrian and bicycle accidents would also increase with the Build alternative compared with the No Build alternative:

Table 2 – Change in Forecasted Crashes on Analyzed Road Segments for Build Alternative Compared to No Build Alternative - 2045

Roadway Segment	Pedestrian	Bike	Fatalities and Injuries	Property Damage Only	Total
SW Borland Rd	0%	0%	-7%	-10%	**-9%**
OR 213	0%	0%	3%	920%	**198%**
OR 43	0%	0%	-14%	-13%	**-13%**
OR 99E	0%	8%	5%	3%	**4%**
SW Stafford Rd	0%	0%	24%	24%	**24%**
Willamette Falls Dr.	50%	0%	34%	35%	**35%**
Total	**11%**	**7%**	**7%**	**14%**	**11%**

Source: Elaborations on data found in Section 5.3.7 of Appendix C of the draft EA (pages 138 to 152)

These estimates suggest an overall increase in crashes of 11 percent for pedestrians, and an 11 percent increase overall, and an overall 7% increase in fatalities and injuries.

I.C. Project Definition is Not Clear and the Alternatives Analyzed are Insufficient.

NEPA guidance directs authors to describe and analyze any reasonable alternatives. In a draft EA, this is limited to "when reasonable alternatives are reasonably available." [3] Though four other alternatives were initially considered, these alternatives were limited and not advanced in the draft EA. The Engagement Summary for the draft EA stated, "The dual purpose of the Project is to manage congestion and to raise revenue for congestion relief projects, such as the I-205 Improvements Project" (Section 10.4.11 Page 116). This purpose could include several options to manage congestion and raise revenue. However, all four alternatives initially included in the early draft EA proceedings included tolling in the same section of I-205 across all lanes. The draft EA did not consider adding tolls along a different section of I-205 or I-5 where other large roadway construction projects are sanctioned and where congestion is even greater. They did not consider tolling only the additional third lane they plan to construct, which is what WSDOT did to help with congestion on I-405[4]. These

[3] 40 CFR 1502.2(d-g). Available here.
[4] WSDOT. I-405 Corridor Program Final EIS.

other alternatives could lessen the disproportionate impact residents within the API will bear with the addition of two tolling gantries that are nearly unavoidable. These potential alternatives are also reasonable, as an express toll lane project was instituted in Washington, and tolling in Oregon has been approved to support construction of roadways[5]. Instituting a larger tolling system, or a single lane toll could still meet the needs presented in the draft EA – funding, improving travel time reliability, improving freight movement, improving safety, reducing climate change contributions, and increasing seismic resiliency (draft EA Section 1.4 Pages 1-4 – 1-6). Other alternatives should be considered before moving forward with the project.

I.D. The draft EA does not account for the disproportionate impact the I-205 tolling project will have on local Environmental Justice (EJ) communities.

Within the API, 20 percent of residents are experiencing low-income, and 20 percent identify as a racial or ethnic minority.[6] There are also hundreds of people experiencing chronic homelessness within the API.[7] Together, these groups account for the EJ communities that should be considered in the draft EA. Despite the prevalence of EJ communities and individuals near the proposed toll project, the draft EA does not adequately analyze the disproportionate impacts the Build alternative will have on this populace. In particular, the draft EA fails to analyze EJ impacts at the correct geographic scale. Also, the lack of specificity surrounding the proposed tolling tiers prevents us from fully understanding the financial implication tolls may have on EJ communities in the API. The lack of analysis regarding typical commute times for these community members, and the disproportionate health impacts from worsened air quality due to traffic diversion constitute additional deficiencies of the draft EA. The draft EA does not state how ODOT plans to make transponders accessible for low-income populations, how low-income tolling will be accomplished, appropriately analyze EJ commute timing, or properly analyze changes in employment and service availability under the Build alternative. The details of each of these deficiencies is explained more fully in the section below titled, “IV Impacts to Environmental Justice Communities.”

II. Mitigation is Not Specified

Within the main I-205 Toll Project draft EA and the numerous technical reports, concrete mitigation plans were not provided. Rather, mitigation options are considered, though as noted above the funding for these plans is not listed nor are their impacts fully analyzed. The

[5] House Bill 2017 “Keep Oregon Moving.”
[6] EA Appendix J Section 5 Table 5-2 Page 19
[7] EA Appendix J Section 5.2 Page 26

draft EA fails to articulate a mitigation strategy, fails to address mitigation plans for EJ communities, and contradicts itself with the proposed mitigation.

II.A. The draft EA fails to articulate the mitigation strategy to decision makers and the public.

Following the **FHWA Equity Pricing** guidance,

> "In order for road pricing projects to succeed, the implementing State, regional, and local agencies **must** understand equity issues, **develop** mitigating measures, and **articulate the issues and mitigation strategy to both decisionmakers and the public**." (Section 1.1 Page 1)

The draft EA presents mitigation options that are vague, have not been fully developed,[8] are not fully analyzed, and are listed without a source of funding. These mitigation plans are neither commitments nor are they analyzed to an extent where their impacts can be understood. Until the mitigation plans are fully defined and analyzed, the issuance of a FONSI is inappropriate, and the need for an EIS essentially a requirement. Despite this, ODOT would like the FHWA to "identify ODOT's mitigation commitments" if a FONSI is issued, at which point ODOT would not be required to conduct a proper analysis on the mitigation impacts (draft EA Section 1.6 Page 1-8). In another section of the draft EA, it states "ODOT will identify final mitigation strategies in coordination with the local jurisdictions and with input from comments on this Environmental Assessment" resulting in a revised draft EA.[9] It is unclear if ODOT is requesting FHWA to determine whether there are significant environmental impacts for this project and to identify which mitigation plans they should put in place or if ODOT will establish committed mitigation plans in a finalized EA. As a result, ODOT's draft EA is not consistent with FHWA guidance.

II.B. The draft EA offers avoidance, minimization and mitigation plans as options rather than guarantees, making it impossible to fully deduce the impact the Build alternative will have on EJ communities in the API.

ODOT's presentation in the draft EA does not allow for anyone to fully understand or evaluate the full impact the Build alternative will have on EJ communities in the API. For

[8] ODOT is in the process of developing a low-income toll program. There are presently three options with many variations under consideration. It is unclear how ODOT will address low-income households within the tolling program based on the large number of options still under consideration. It is impossible to deduce how low-income households will be impacted without knowing the extent of this tolling program. (Appendix J Section 7 Page 50)

[9] The City of West Linn believes that if this draft EA is followed up with a revised draft EA, that document will be required to go through the public comment process. The City of West Linn reserves its rights in this regard.

example, the OR 99E and Ivy Street Intersection in Canby, located within an EJ TAZ,[10] would experience worse traffic operations under the Build alternative in 2045.[11] Without mitigation, under the Build alternative this intersection would have a disproportionately negative impact on the EJ community. The draft EA does not offer a definitive plan to address these impacts. To potentially address mobility concerns, the draft EA states ODOT should "consider operational improvements at OR 99E and Pine St to facilitate more traffic use of that intersection to reach downtown Canby, thereby alleviating some traffic impact at Ivy St" (App C Section 6 Page 173). This mitigation plan is vague and presented without supporting information to prove the improvements to other intersections will alleviate traffic in the EJ TAZ. Nor is any information provided regarding how these proposed mitigation measures will be funded. To minimize the increase of transportation costs on low-income drivers, the draft EA presents three ambiguous mitigation options that vary in the amount of transportation cost reduced (App J Section 6 Page 50). Without an established plan in place, or an identified funding source for the mitigation measures, it is impossible to deduce the true economic and safety impact the Build alternative will have on low-income and EJ households.

II.C. The lack of mitigation is in direct contradiction with the draft EA itself.

The draft EA states in Section 1.5, page 1-6, "Past land use and transportation investments have resulted in negative cultural, health, and economic effects on local communities and populations, and have disproportionately affected historically and currently excluded and underserved communities." Later, on page 2-6, the draft EA states that a goal of the project is to "Limit additional traffic diversion from tolls on I-205 to adjacent roads and neighborhoods;

i. Design the toll system to limit rerouting from tolling.
ii. Design the toll system to minimize impacts on quality-of-life factors, such as health, noise, safety, job access, travel costs, and environmental quality for local communities from traffic rerouting."

The draft EA fails, however, to set forth how any of these goals have been or will be accomplished.

III. Impacts to Local Residents Not Analyzed

The draft EA does not consider the disproportionate impact the I-205 Toll Project will have on local residents. The Transportation Technical Report notes that a high percentage of

[10] See Appendix J Section 7 Page 50
[11] See Appendix C Section 5.3.3 Page 121

Abernathy Bridge users originate from nearby areas – 22 percent from the West Linn/Gladstone area with fewer travelers coming from areas further away (draft EA Appendix C Section 4.2.1 Page 26). This poses an equity issue, as local residents will bear the brunt of the safety and economic impacts, whilst others receive the same benefits with a smaller burden. The draft EA does not consider mitigation options for local residents, the economic impact of tolling for local residents, or how traffic diversion disproportionately increases safety concerns for local residents.

III.A. The draft EA does not consider mitigation options to reduce the disproportionate economic impact tolling will have on local residents.

The **FHWA Equity Pricing** guidance states that agencies should,

> "Analyze the potential for adverse impacts and evaluate both whether it is disproportionate on the community and whether it includes potential environmental, human health, social, economic, and cultural impacts."[12]

ODOT concluded that 74 percent of trips using I-205 initiate, terminate, or both between SW Stafford Road and OR 213 (Appendix C Section 4.2.2 Page 27). Therefore, only 26 percent of trips are through trips made by those living farther away from the proposed tolling facilities. Despite making note of the high percentage of local use of I-205, ODOT does not analyze how this might result in a disproportionate economic impact to residents. Many West Linn and other local residents, especially those from Clackamas County made comments stating that this group would bear a disproportionate burden due to their proximity to the proposed toll facilities.[13] These comments were not addressed in the draft EA. Not only were the economic impacts not analyzed separately for local residents that utilize I-205 more frequently, but mitigation was not considered to lessen this burden. ODOT's failure to analyze the economic impact the proposed tolls would have on local residents and lack of mitigation consideration is in not in line with the FHWA equity guidance. As such, proceeding forward with a FONSI would be inappropriate.

[12] US Department of Transportation Federal Highway Administration. 2013. Guidebook for State, Regional, and Local Governments on Addressing Potential Equity Impacts of Road Pricing. April. (Section 4.2 Page 16)

[13] WSP and EnviroIssues. 2021. I-205 Toll Project Engagement Summary: Summer-Fall 2020. Prepared for Oregon Department of Transportation. March. Pages 50 – 67.

III.B. Local residents, such as those living in Clackamas County and/or West Linn were not considered. This failure represents horizontal inequities not analyzed.

Step 2 of the **FHWA Equity Pricing** guidance states,

> "Determine who may potentially be impacted by the project. What kind of equity is important?" (Section 1.1 Page 1)

With 74 percent of all traffic either originating, terminating, or both between I-205/Stafford Road and the I-205/OR 213 intersections,[14] the populations who live in these areas will be using the toll roads more frequently than travelers or commuters traveling through the API. The disproportionate impact to local residents represents horizontal inequity[15] and is inconsistent with FHWA guidance.

For example, the median household in the API is expected to see an annual toll fee of $575, (Section 3.4.2, Environmental Consequences, Economics, page 3-61), but the local households were not considered. Following the **FHWA Pricing Guidance** mandate for equity, an estimate of the dollar value for the households located within the area where 74 percent of trips either originate or terminate (within the area I 205/Stafford Rd. and the I205/OR 213) is also needed.

III.C. The significant increase in congestion in intersections under the Build alternative impacts local communities disproportionately, and no mitigation is identified.

Congestion and traffic are already significant issues within the API on local roadways. We understand that traffic volumes will increase in 2045 due to population growth, but the Build alternative results in significantly worse conditions for many intersections during peak travel times and this is unacceptable. Rather than reduce congestion, which is listed as one of the needs for this project, the project simply pushes congestion onto arterial roads where it further impacts local communities. The draft EA fails to identify clear mitigation measures to reduce congestion on arterial roads.

For example, 25 of the 50 intersections, or 50% of the studied intersections, will experience higher v/c (volume to capacity) ratios and longer delays (seconds/vehicle) under the Build alternative compared to the No Build alternative during AM peak hours in 2045 (draft EA Appendix C Section 5.3.3 Table 5-14 Pages 106-108). Additionally, 15, or 30% of the intersections would not operate within mobility standards during AM peak hours under the

[14] See Figure 4.2 Page 27, Appendix C I205 Toll Project Transportation Technical Report.
[15] US Department of Transportation Federal Highway Administration. 2013. Guidebook for State, Regional, and Local Governments on Addressing Potential Equity Impacts of Road Pricing. April., page 8.

Build alternative. Of the 50 intersections studied, 13 intersections would fail mobility standards under both alternatives in 2045. However, of the 13 intersections that would fail under both alternatives, 11, or 85%, would perform worse under the Build alternative (draft EA Appendix C Section 5.3.3 Page 105).

15 of the 50, or 30% of the intersections studied will experience higher v/c ratios and longer delays under the Build alternative compared to the No Build Alternative during PM peak hours in 2045 (draft EA Appendix C Section 5.3.3 Table 5-15 Pages 111- 112). Additionally, 23 intersections would not operate within mobility standards during PM peak hours under the Build alternative. Again, 19 intersections would fail mobility standards under both alternatives in 2045, but of these 19 intersections, 13, or 68%, would perform worse under the Build Alternative (draft EA Appendix C Section 5.3.3 Page 109).

III.D. The Build alternative poses a greater safety risk for residents in the API that utilize active modes of transport that is not acknowledged in the draft EA.

In general, the Build Alternative results in decreased traffic on I-205 and increased traffic on arterial roads and intersections due to toll avoidance.[16] Increased traffic and congestion on arterial roads and intersections will impact those who utilize active modes of transportation, walking or biking, within the API. The increase in diverted traffic to arterial roads in and of itself would pose an increased safety risk for those utilizing active modes of transport at unsignalized intersections. However, the results of this analysis are not mirrored in the draft EA because the analysis in the draft EA at unsignalized intersection in 2045 include unfunded future projects to improve intersection infrastructure and safety. For example, the bicycle level of traffic stress analysis, every study corridor was given the same score under both alternatives. Some of the analyses included planned infrastructure and safety projects and others excluded unfunded future projects.[17]

Again, the lack of bicycle safety concerns acknowledged highlights ODOT's failure to take increased arterial traffic into account under the Build alternative. For the pedestrian level of traffic stress analysis, every corridor was given the same score under both alternatives except for four corridors, two of which scored worse under the Build alternative and two

[16] Figure 5-7 in Appendix C Section 5.3.2 on page 73 broadly describes the changes in daily traffic expected under the Build alternative compared to the No Build alternative. Traffic on I-205 is expected to decrease between 16 and 5 percent, while some roads are expected to see up to 31% more daily traffic.

[17] See Appendix C Section 5.3.5 pages 129-132 Tables 5-24 through 5-29. We did not use the comparison including future projects because there is no funding in place for these projects. As these projects may or may not be built, it is not prudent or appropriate to include them within the analysis.

under the No Build alternative.[18] According to ODOT's analysis, the Build alternative will result in slightly worsened safety for those utilizing modes of active transport within the API. The minimal predicted impact to active transportation safety despite increased traffic volumes expected on local roadways does not make sense. It is unclear if ODOT performed a complete analysis that captured the change in traffic volume, especially during peak hours, and how that might negatively impact safety conditions for those utilizing active modes of transport.

III.E. The draft EA does not fully consider the impact the Build alternative will have on small local businesses.

The draft EA states "there would be higher levels of opportunity (traffic exposure-oriented) consumer spending" from 2027 through 2045 under the Build alternative due to toll avoidance and traffic diversion onto local roadways (draft EA Section 3.4.2 Page 3-60). The model used by ODOT calculated annual consumer spending benefits under the Build alternative relative to the No Build alternative resulting in $313,000 in economic output, $108,000 in labor income and 3 job years (draft EA Section 3.4.2 Table 3-30 Page 3-60). The draft EA analysis, however, does not account for how increased local roadway traffic might decrease local patronage or note if local businesses have the parking capacity to handle greater influxes during peak traffic hours.

Moreover, the following section of the draft EA states "The household spending category indicates that **because regional households would spend an additional portion of their transportation budget on toll payments, they would in turn reduce their spending in other categories**, such as retail, entertainment and recreation, and restaurants and food services" (draft EA Section 3.4.3 Page 3-61) (emphasis added). The draft EA then notes total annual household spending in the API from 2027 to 2045 on retail, entertainment and recreation, and food services would decrease by $131.7 million (draft EA Section 3.4.3 Table 3-33 Page 3-62). Though other industries like construction would see a boost in annual spending and economic output, local, small businesses will be negatively impacted under the Build alternative affecting local residents and EJ communities. The draft EA does not include any plans to mitigate the negative impact tolling will have on small businesses via reduced household spending and changes in traffic volume.

[18] See Appendix C Section 5.3.5 pages 132-136 Tables 5-30 through 5-35. We did not use the comparison including future projects because there is no funding in place for these projects, so intersections with a range of values were assigned the score on the lower end of the range to represent the intersection without improvement projects. As these projects may or may not be built, it is not prudent or appropriate to include them within the analysis.

IV. Impacts to Environmental Justice Communities

The comments in section I.D. outline the many ways in which the draft EA fails to correctly analyze the impacts to EJ communities. Details of these points are set forth below. ODOT must examine the tolling program ramifications before moving forward so that the true impact to EJ community members is fully understood and mitigated.

IV.A. The draft EA does not analyze environmental justice impacts at the appropriate geographic level and specificity.

While Section 3.8 of the draft EA (Environmental Justice) identifies EJ communities by Census Tract on Map 3-16 (page 3-87) with other more specific maps provided within Appendix J, most of the analysis of impacts, to the extent it is performed, is conducted at the API level. This is highlighted in Table 3-38 (page 3-88) and the preceding text, where race/ethnicity and income data for the overall API is compared with counties, the Metropolitan Statistical Area (MSA), and Washington and Oregon state. However, the analysis of impacts occurs at the aggregated scale of the API, and as such defeats the purpose of analyzing impacts to EJ sub-populations. For example, the draft EA states, "… the population in the API has similar or lower percentages of environmental justice populations than the four counties, Portland MSA, and Oregon and Washington State as a whole, as shown in Table 3-38." (Section 3.8.1; Page 3-86). This high level of geographic detail is not sufficiently granular to determine true disproportionate impacts on EJ communities, especially those related to road pricing projects. The Environmental Justice Technical Report includes a more detailed EJ TAZ (transportation analysis zone) analysis but impacts to specific EJ TAZ within Clackamas County are only identified in the Rerouting Traffic to Local Streets section (Appendix J Page 38). The other Build Alternative Environmental Consequences sections offer a general summary of the impacts to all TAZ in the API.
We agree with the authors of the draft EA that there will likely be disproportionate impacts on EJ communities due to the project, specifically with respect to traffic and safety issues, higher costs, and electronic tolling. Following guidance for the determination of whether an agency should proceed to an EIS or a FONSI, the question stands upon whether or not an impact is significant, and this determination requires consideration of both the context **and** the intensity[19] (or severity) of the impact.

Absent analyzing the impacts to specific EJ communities, it is not possible to interpret the intensity of the impacts. Without this analysis, ODOT is essentially ignoring the requirement to analyze whether or not EJ communities will be disproportionately impacted by the project

[19] See CFR 1508.27 (a) – (b)

in a significant way. However, the fact that these communities will be impacted by three categories of the impacts (traffic and safety issues, higher costs, and electronic tolling) suggests both the context and intensity of impacts will in fact be significant, and that an EIS should appropriately be performed.

IV.B. The draft EA does not fully consider how reduced household spending will impact EJ communities.

Building off comment III.E. above, the draft EA does not include an analysis of how reduced household spending at retail, entertainment and recreation, and restaurant and food service businesses will impact EJ communities within the API. The Build alternative would result in 1,699 fewer job years per year from 2027 to 2045 in the services just mentioned (draft EA Section 3.4.3 Table 3-34 Page 3-62). Minority populations are more likely to work in service occupations,[20] and therefore more likely to lose their job or have a decrease in work hours due to reduced spending in these service areas. While access to social resources, travel-time, cost of tolls, rerouting, roadway safety, active transportation, noise, air quality and ability to use the toll system are analyzed for impacts to EJ community members (draft EA Section 3.8.3 Table 3-40 Pages 3- 95 through 97), job loss is not considered. ODOT claims most of the job years will be offset through investment of toll revenue in construction and professional services (draft EA Section 3.4.3 Page 3-61). However, EJ community members may not be qualified or considered for these positions. Therefore, lower employment in retail, entertainment and recreation, and restaurant and food services due to the reallocation of household spending will negatively impact EJ community members working in these industries through under and unemployment. These community members are already less financially stable than higher income residents, so under and unemployment can be detrimental to these community members. ODOT must analyze how lower employment in these service industries will impact EJ community members and create a plan to mitigate this impact.

Finally, the draft EA points out that the median household will experience a mere 0.7 percent difference in transportation costs as a percent of the total household budget (Section 3.4.2, Environmental Consequences, Economics, page 3-61) due to the expected $575 annual toll fees. But a low income household – for example a household of two people, at the federal poverty level of $19,720[21] - would see that same $575 expenditure as a nearly three percent 2.9) increase in total household budget. This distinction represents a significantly disproportionate impact on low income households. For context, the same 2.9 percent

[20] (BLS) US Bureau of Labor Statistics. 2020. Labor Force Characteristics by Race and Ethnicity, 2020. Available at: Labor force characteristics by race and ethnicity, 2020: BLS Reports: U.S. Bureau of Labor Statistics
[21] Federal Poverty Guidelines. 2023. Available at: detailed-guidelines-2023.pdf (hhs.gov)

increase to the median household budget used in the draft EA ($88,400) would represent $2,577 per year.

IV.C. The draft EA assumes commuters and travelers will change the time of day they drive to avoid the highest tolling periods even though the most common industry sectors in the API generally require specific work hours and EJ community members are more likely to work hourly paying jobs.

As stated in the Transportation Technical report, the model used in this analysis noted vehicle hours traveled (VHT) would lower significantly during peak traffic periods with the highest toll rates and the hours right before and after these periods would experience lower VHT. They attribute this change to "the trend that some travelers would change the time of day that they make their trip to avoid the highest tolls" (Appendix C Section 5.3.1 Page 67).

The report further notes that VHT on arterial roadways under the Build alternative will decrease during peak traffic and high tolling periods on arterial roads because, "every limited-access roadway trip also includes an arterial road component. When limited-access roadway trips shift to a time outside of the peak period to avoid the higher tolls, the arterial portion of those trips would also shift to that time. Therefore, overall VHT on both types of facilities would decrease during these periods" (Appendix C Section 5.3.1. Page 70).

This conclusion fails to consider increased arterial road use during peak traffic hours to avoid tolls that would contribute to increased VHT for certain populations, particularly those in the EJ communities. The report assumes a significant number of drivers will have the ability to change their travel times to avoid the highest tolling period. However, "manufacturing, health care and social assistance, and retail trade were the three largest industry sectors in the API for total employment in 2018" (draft EA Section 3.4.1 Page 3-55).

These sectors generally require employees to work standard hours onsite, meaning a large percentage of those working within the API would not have the option to change their travel times to avoid peak toll hours. This is especially true for EJ community members that are more likely to work hourly paying jobs with specific start and end times at a designated work site[22]. While VHT for some members of the community travelling on I-205 under the Build scenario may reduce during high tolling rate hours, those who are forced to travel during these hours and who choose to avoid the high tolls will likely create greater congestion on arterial roads and thus increase VHT on those roads. Individuals experiencing higher VHT will

[22] (BLS) US Bureau of Labor Statistics. 2020. Labor Force Characteristics by Race and Ethnicity, 2020. Available at: Labor force characteristics by race and ethnicity, 2020: BLS Reports: U.S. Bureau of Labor Statistics.

likely be those who cannot afford high tolls, including EJ community members.[23] Ultimately the assumption that many drivers will have the ability to alter their drive times to avoid high tolling hours is unfounded and has led ODOT to underestimate VHT on arterial roads during peak traffic hours and neglect to recognize how this might disproportionately impact EJ populations in the API.

IV.D. The draft EA does not consider the disproportionate health impacts from worsened air quality on EJ communities.

According to the EPA,

> "Many people are disproportionately impacted by air pollution, including those who live in communities of color and low-income communities… Residents of low-income communities may experience increased health impacts from air pollution due to many environmental, social and economic factors."[24]

There are several EJ communities within the API located near non-highway roads that will receive increased traffic volumes under the Build alternative. The draft EA states that a "particular concern for the Project is the potential to increase pollutant emissions by shifting vehicles from the highway onto local roadways with lower travel speeds and more intersections" (draft EA Appendix D Section 4.3.2 Page 17). These concerns are warranted as net MSAT (mobile source air toxic) emissions in 2027 on "non-highway emissions would be 1% to 13% higher than the No Build alternative" and MSAT emission in 2045 on "non-highway emission would be up to 8% higher than the No Build alternative" (Appendix D Section 6.3 Page 30). Under the Build alternative, communities near local roadways will have poorer air quality and increased health risks. This analysis applies to the entire API, and therefore does not identify specific communities that may experience worse air quality under the Build alternative. While ODOT acknowledges "the localized changes in MSAT concentrations would likely be most pronounced on roadways where traffic volumes would be higher under the Build Alternative relative to the No Build Alternative due to rerouted trips… the magnitude and the duration of these potential increases compared to the No Build Alternative cannot be reliably quantified due to incomplete or unavailable information" (draft EA Section 3.2.2 Page 3-49). Therefore, neither we nor ODOT can determine to what degree air quality will worsen

[23] Interestingly, significant traffic on this section of I-205 led to this proposed project. If the traffic is this severe, it would be safe to assume that those who could change their travel time from peak hours would already have done so to reduce their VHT. ODOT provides no analysis of this fact.
[24] US EPA. 2022. EPA Research: Environmental Justice and Air Pollution. November. Available at: EPA Research: Environmental Justice and Air Pollution | US EPA.

under the build alternative in EJ communities. Additionally, ODOT does not consider how poor air quality has a disproportionate impact on EJ communities more so than other residents due to socioeconomic factors. A more detailed analysis quantifying MSAT concentration changes under the Build alternative is needed to fully understand the potential health impacts the Build alternative will impose on EJ communities through reduced air quality near local roadways.

IV.E. The draft EA does not consider the disproportionate financial effects of increase in vehicle crashes and pedestrian/bicycle accidents on EJ communities.

As discussed previously, the Build alternative clearly involves increased numbers of crashes in the API compared to the No Build alternative as traffic is diverted off I 205 to other road segments and local intersections.

Vehicle losses due to crashes can impact some EJ populations disproportionately, especially those who need to work hourly and onsite. Without a working vehicle, these individuals would likely be unable to reach their worksite and, thus, lose valuable income opportunities. For these individuals, car damage can be detrimental and result in significant loss of income either in the form of under employment or job loss altogether. In cases where new employment is difficult to find, this could also divert resources from social services and other programs geared towards EJ communities. It can also be a challenge when it comes to accessing health and other services.

In addition, the expense of repairing car damage can disproportionately affect EJ populations due to their lower earning power. Some of these individuals may not have the appropriate level of vehicle insurance to cover all repair costs. Limited affordability for a repair shop could disproportionately affect EJ populations, who might need their vehicle repaired quickly to return to work and also may not be able to afford to have their vehicles towed to a repair shop quickly.

Research on this topic has shown that low-income households spend larger portions of their household income on vehicle ownership, with the figure below showing how this breaks down by income (see Figure 1).[25]

[25] Reproduced from Bauer, et.al. 2021. When Might lower-income Drivers Benefit from Electric Vehicles? Quantifying the Economic Equity Implications of Electric Vehicle Adoption. February. Available **here**.

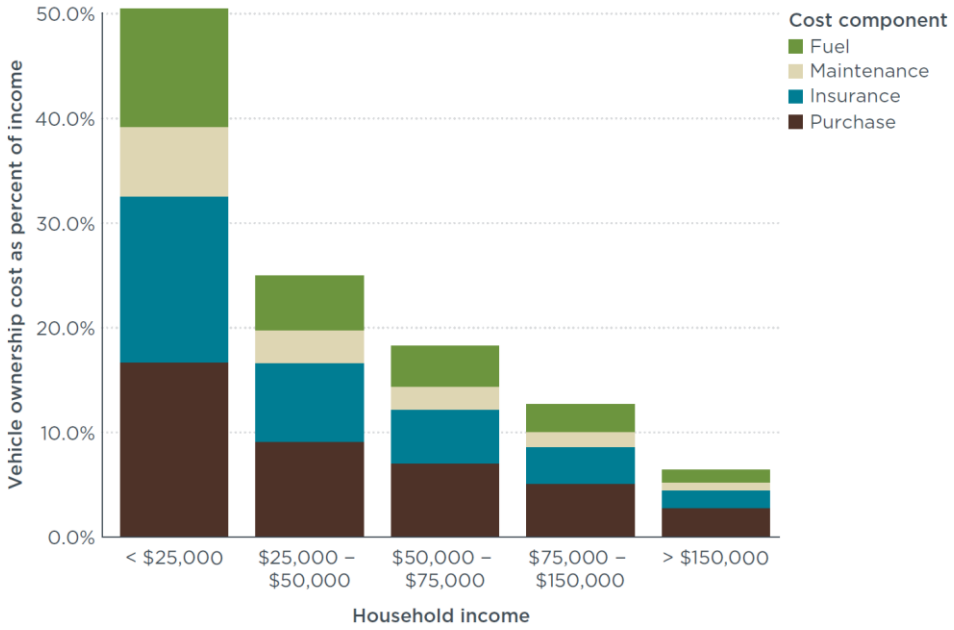

Figure 1. Total cost of vehicle ownership as percent of income, by annual household income.

IV.F. The draft EA does not offer specific mitigation options for making toll transponders accessible to EJ and low-income community members.

According to the **NASEM EJ Tolling** guidance,

> "Large transponder deposits, initial prepayment amounts, and use of credit cards are required by many toll agencies, putting transponder usage outside the reach of large percentage of the U.S. population. It is estimated that between 10 and 20 percent of the population is unable to overcome these barriers to transponder ownership."[26]

ODOT has not yet developed a plan to make transponders accessible to those in the EJ community, especially to those who may not know about the toll program, are unbanked, lack technological expertise, or lack the funds to cover the initial cost of the transponder. Under the Avoidance, Minimization and Mitigation sections of the draft EA, ODOT states customer service centers would be established so drivers can use cash to purchase transponders and provide assistance (draft EA Section 3.8.4 Page 3-99). However, it is unclear how these centers will be funded, where and how many will be built, and how ODOT will make transponders accessible for EJ and low-income communities. ODOT created a Low-Income Toll Report in 2022 to the Oregon legislature. The proposed low-income toll program

[26] National Academies of Science, Engineering and Medicine. 2018. Environmental Justice Analyses When Considering Toll Implementation or Rate Changes Final Report. Available at: https://doi.org/10.17226/24992. (Section 3.1.3 Page 48)

plans to provide free transposers for low-income households[27], but the program has not yet been approved or funded, nor have the logistics been considered.

According to the same **NASEM EJ Tolling** guidance document,

> "Ensuring access to transponders is a form of mitigation that should be considered in initial program design."[28]

ODOT has not yet determined how to make transponders accessible, established low-income tolling criteria or levels, nor indicated how much more tolls will cost with invoicing fees, which goes against the early establishment of transponder mitigation included in the NASEM guidance report.

IV.G. The draft EA does not consider the disproportionate financial effects of increased tolling due during peak hours.

According to the **NASEM EJ Tolling** guidance,

> "Those who purport to be interested in vertical equity and social justice should consider differences in commuting behavior **by time of day**, distance traveled, and auto ownership of low-income persons."[29] (emphasis added)

ODOT plans to institute a variable toll rate with the most expensive rates occurring during peak travel times in the morning and afternoon. Unlike those with salaried positions, flexible work schedules and telework options, those who work in industries that require specific work hours onsite cannot shift their travel schedules to avoid the more expensive tolls. This is especially true for EJ community members who are more likely to work in industries with hourly paying jobs with specific start and stop times[30]. Even though EJ community members are not as likely able to change their travel times due to the nature of their jobs, ODOT failed to analyze the difference in commuting behavior for this population and how variable toll rates might affect EJ community members more so than the general population. This shortcoming goes against the NASEM EJ guidance for toll implementation. Further analysis is

[27] ODOT. 2022. Oregon Toll Program Low-Income Toll Report: Options to Develop a Low-Income Toll Program and Best Practices for Implementation. September. Section 2.2 Page 17.
[28] National Academies of Science, Engineering and Medicine. 2018. Environmental Justice Analyses When Considering Toll Implementation or Rate Changes Final Report. Available at: https://doi.org/10.17226/24992. Section 3.1.3 Page 58
[29] Ibid.
[30] (BLS) US Bureau of Labor Statistics. 2020. Labor Force Characteristics by Race and Ethnicity, 2020. Available at: Labor force characteristics by race and ethnicity, 2020 : BLS Reports: U.S. Bureau of Labor Statistics

needed to understand how a variable toll rate would impact EJ community members due to their limited ability to alter their travel times.

V. Revenue Use and Economic Analysis

V.A. Where is the toll funding going? And why is the Federal government not funding this?

draft EA has not provided a clear statement on how the toll funding will be used. draft EA Section 1.4.1 Page 1-4 states,

"Available funding for transportation has not kept pace with the cost of maintaining the transportation system or the cost of construction of new transportation and congestion-relief projects… State and federal funding sources have not been adjusted to reflect increasing construction costs, rising inflation, a more fuel-efficient vehicle fleet, and growing transportation infrastructure demand. Despite recent federal investments in transportation infrastructure, including the Infrastructure Investment and Jobs Act of 2021, federal funding has not kept pace with rising transportation costs over the last several decades (Congressional Budget Office 2020). The federal gas tax has not been adjusted since October 1993, and federal funds have been supplemented by increasing state-based contributions including from sources outside of state fuel taxes (Oregon Legislative Revenue Office 2022)."

While all the above may be true, ODOT fails to articulate how and where the toll funding will be used. For example, ODOT notes that the tolls must be spent on roadway projects, but there is no specification as to where the roadway projects are in relation to where the toll is collected. ODOT's failure in this regard is notable, particularly because "judicious use of revenues generated by a pricing project is the single most important way of mitigating equity effects." - FHWA (Section 6.1 Page 24)

V.B. The Economics Technical Report does not provide sufficient information about the methods used to calculate the results.

The economics technical report for the EA[31] is not clear about the sources of information used to identify the annual net benefits claimed (over $104 million in undiscounted dollars, page 29, EA Appendix F). Some information is covered in the "Overview of the WSP Benefit-Cost Analysis model" that was an attachment to the I-205 Toll Project Economics Methodology Memorandum, [32] but even so, details of how the estimates were used are lacking. For example, while the economics technical report does identify the source for estimating the "value of time for truck freight transportation" ($160 per hour, page 26,

[31] WSP, 2023. Appendix F I 205 Toll Project Economics Technical Report, February.
[32] Tim Thornton, WSP, 2021. Economics Methodology Memorandum, I-205 Toll Project, September 1.

Appendix F, and EA page 3-57), it is not clear why this value is selected nor what alternative values were considered. In the article cited, (Guerrero, 2019) the $160 estimate is for the "Value of Reliability," which the authors derived by surveying shippers about the tradeoffs they make. But on the FHWA website, the value of reliability, or VOR is distinct from the value of travel time (VOT), in that VOR is the "monetary value of reducing variability of travel time." [33] But the EA does not, to our knowledge address the reduced variability of travel time or if so, does not clarify this benefit, which would more closely correspond to the Guerrero article. Further, the quotations below from the FWHA website show research that suggests both VOR and VOT are much lower than $160 on average,

> In the trucking industry, shippers and carriers value travel time at $25 to $200 per hour (depending on the product being carried).(2) A recent study in the area of freight transportation found that the VOT ranged from $12.80 to $283 per shipment hour, and the **average value was $37 per shipment hour**. VOR ranged from $51 to $290 per shipment hour, and the average of the distribution of VOR **was $55 per shipment hour**.(34, 35) This indicates that freight shippers valued travel time reliability 1.5 times as much as travel time savings.[34]

While the Overview of the WSP model, travel time savings for truck drivers is estimated using USDOT Guidance at $29.50 per hour,[35] which is very near the average of $37 per shipment hour cited by the FHWA above, the estimate of VOR used in the EA ($160 per hour) is more than three times the average cited by the FHWA review. This calls into question whether the economic analysis may have grossly overestimated the $19 million in value of time savings reported as a benefit on page 29 of Appendix F, in Table 6-6.

Also, the economics methods memo assures the reader that the analysis is based on "industry accepted practices and federal guidance regarding benefit-cost analysis including the valuation of benefits such as travel time savings and reliability."[36] However, the effective compliance with guidance documents hinges on how the information has been interpreted and applied. So, additional information is needed to understand if, for example, was travel time savings for automobiles only evaluated for the toll-paying drivers who reduced their travel times on I 205? Or, was the additional travel time experience by those who diverted

[33] FHWA, "Benefit Cost: Value of Travel Time and Value of Reliability" highlighted box in "Does Travel Time Reliability Matter – Primer," Office of Operations, US Federal Highway Administration Website: https://ops.fhwa.dot.gov/publications/fhwahop19062/whatis.htm

[34] FHWA, "Benefit Cost: Value of Travel Time and Value of Reliability" highlighted box in "Does Travel Time Reliability Matter – Primer," Office of Operations, US Federal Highway Administration Website: https://ops.fhwa.dot.gov/publications/fhwahop19062/whatis.htm

[35] Attachment to Tim Thornton, WSP, 2021. Economics Methodology Memorandum, I-205 Toll Project, September 1, Overview of WSP BCA, Draft #4, Feb. 11, 2021.

[36] Page 6, Tim Thornton, WSP, 2021. Economics Methodology Memorandum, I-205 Toll Project, September 1.

from I 205 also added? More transparency is needed regarding exactly how the analysis was conducted. Also, failure to specify these details calls into question the entire analysis.

VI. Comparison with a Tolling draft EA and FONSI in New York

ODOT attempts to use the use of FONSIs at other tolling projects around the country to justify its efforts to use one here. As will be discussed below, none of the other projects are comparable, and ODOT is engaging in an apples to oranges comparison.

In 2022, an environmental assessment was conducted for the Central Business District (CBD) Tolling Program in New York that resulted in a FONSI.[37]The tolling concept and the reasons for instituting tolls in New York were similar to those claimed by ODOT for the I-205 Toll Project. There are, however, distinct differences in the level of mitigation commitment, tolling area size, clarity of need, clarity of where tolling revenue will go, and variety of alternatives considered between the two projects. Though the CBD Tolling Program in New York resulted in a FONSI, the impacts of I-205 Toll Project draft EA should be further analyzed in an EIS due to the differences elaborated upon in the following comments.

VI.A. The CBD Tolling Program covers the entire Central Business District in Manhattan, while the I-205 Tolling Program proposes to cover a single 7 mile stretch of highway.

The CBD Tolling Program encompasses the Central Business District in Manhattan, the largest metropolitan region in the United States. (CBD draft EA section 1.2 Page 1-4). The size of the project equitably distributes the economic burden across a larger population. The programmatic benefits and impacts are spread evenly within the project area, unlike the I-205 Toll Project, which considers only two tolls within a 7-mile stretch of I-205 (I-205 draft EA Section 2.1.2 Page 2-1). The proposed I-205 tolls place the economic burden on a much smaller population, as local users are most dominant on this section of I-205[38]. The disproportionate impact to local users was not analyzed in the I-205 Toll Project draft EA, compounding the need for an EIS to better understand how significantly these community members are impacted by the proposed tolling project.

VI.B. The CBD Tolling Program will use toll revenue to improve transit within the CBD, while the I-205 Tolling Program is unclear if the revenue will remain in the area it is collected.

[37] USDOT. 2022. Central Business District (CBD) Tolling Program Environmental Assessment. August.
[38] I-205 EA Section 3.1.1 Page 3-1: "About 25% of I-205 trips in the API are through trips, and about 75% are local trips, meaning they enter and/or exit I-205 at one of the five interchanges in the API."

The purpose of the CBD Tolling Program was to reduce congestion and "generate revenue to fund $15 billion to improve subway, bus, and commuter rail systems in MTA's 2020–2024 Capital Plan or successor plans" (CBD EA Page ES 1). The New York EA clearly states that revenue collected from the tolls will be used to improve transit services into the CBD. The revenue is going toward projects that will further reduce traffic by providing more transit options and ensure EJ and low-income households have a toll-free mode of transport to enter the CBD. Conversely, the I-205 Toll Project draft EA is not clear on how the toll revenue will be spent beyond purportedly paying for the planned improvements on I-205 from Stafford Road to OR 213 (I-205 draft EA Section 1.3 Page 1-4). The Oregon Constitution stipulates that "revenues collected from the use or operation of motor vehicles is to be spent on roadway projects" (I-205 draft EA Section 1.4.1 Page 1-4), but neither the Oregon Constitution nor the draft EA stipulates that the revenue remain in the region it was collected. The FHWA guidance states that,

> "Judicious use of revenues generated by a pricing project is the single most important way of mitigating equity effects."[39]

ODOT's failure to articulate how and commit where the purported toll revenue with be used is contrary to the FHWA guidance, and at odds with the EA from New York.

The New York CBD Tolling Program helps mitigate equity effects by committing revenue to improving transit, benefitting low-income and EJ community members. The I-205 Toll Program makes no such commitment, and has not determined how or where toll revenue will be spent beyond paying for the planned improvements to I-205, which do not include transit expansion or improvements. The I-205 Toll Project draft EA simply does not align with FHWA guidance on addressing equity impacts of road pricing.

VI.C. The CBD Tolling Program has a mitigation plan to address the economic impacts to local residents, while the I-205 Tolling Program does not include any specific mitigation plans for local residents.

The CBD Tolling Project considered the disproportionate burden tolls could have on locals who may enter or exit the CBD more frequently than other populations. Rather than tolling a vehicle every time it passed through a toll gantry, "noncommercial passenger vehicles entering the CBD would be tolled once per day" (CBD EA page ES-10). This tolling method ensures local residents who frequently travel in and out of the CBD do not face disproportionate economic impacts compared to those who enter or exit the CBD less

[39] US Department of Transportation Federal Highway Administration. 2013. Guidebook for State, Regional, and Local Governments on Addressing Potential Equity Impacts of Road Pricing. April. Section 6.1 Page 24.

frequently. Within the I-205 Toll Project draft EA, disproportionate impacts to local residents are not considered or analyzed. While ODOT plans to institute a low-income toll program, they have not identified any mitigation to lessen the economic burden that will be put on communities like West Linn and Gladstone, where over 22 percent of I-205 trips crossing the Abernathy Bridge originate[40]. Without further analysis or determined mitigation, local Oregon residents will face significant impacts, requiring an EIS.

VI.D. The CBD Tolling Program includes clear mitigation measures for low-income drivers, while the I-205 Tolling Program has not decided how costs will be mitigated for low-income drivers on I-205.

The CBD Toll Program established clear mitigation plans for low-income drivers and taxis and FHVs. For example, "the Project will include a tax credit for CBD tolls paid by residents of the Manhattan CBD whose New York adjusted gross income for the taxable year is less than $60,000" (CBD EA ES-15). The project also committed to establishing an EJ Community Group that would meet biannually to discuss updated data and listen to potential concerns (CBD EA ES-15). The CBD Toll Program EA clearly states how they planned to mitigate the disproportionate economic impact placed on low-income populations. With clear, established mitigation plans the CBD Toll Project ensured low-income communities would not bear a significant economic impact due to the proposed tolls.

On the other hand, the I-205 draft EA has done no more than suggest a number of mitigation options but has not committed or planned funding for any of the suggested mitigation. The Transportation Technical report states "ODOT may establish a group consisting of local leaders, staff, and/or elected officials to meet with ODOT staff on an agreed upon basis immediately after tolling is implemented to be a direct line of communication with ODOT to address rerouting concerns" (I-205 EA App C Section 6.1 Page 161) (emphasis added). At the outset, it is unclear if this group will be established. Even if it is, it will be established after tolling is implemented, not before, which essentially precludes any consideration of the proposed mitigation measures prior to implementation of the tolling program. ODOT also plans to institute a low-income tolling program but provides no details. For example, we do not yet know if low-income drivers will receive credits, a reduction, or stipend and ODOT has not yet determined how significant the reduction/credit/stipend will be[41]. The lack of clarity surrounding what mitigation will or will not be enacted according to the I-205 Toll Project draft EA makes it impossible to determine the significance of the proposed tolls on low-

[40] See Figure 4-1

[41] WSP for ODOT. Low-income Toll Report: Options to Develop a Low-Income Toll Program and Best Practices for Implementation – a Report to the Oregon Legislature. September.

income and EJ communities especially, and places it completely at odds with the CBD Tolling Program enacted in New York.

VI.E. The CBD Tolling Program's purpose and project are clearly aligned and connected, while the I-205 Tolling program's purpose and project are not clearly aligned.

The CBD Tolling Program EA states "the Project purpose is to reduce traffic congestion in the Manhattan CBD in a manner that will generate revenue for future transportation improvements" (CBD EA Section 1.3 Page 1-10). The correlation between the purpose and project is clear. Tolls will dissuade some drivers from driving in the CBD and improvements to transportation will also encourage drivers to use public transit rather than drive themselves in the Manhattan CBD. The I-205 Toll Project draft EA states "the purpose of the Project is to use variable-rate tolls on the I-205 Abernethy Bridge and Tualatin River Bridges to raise revenue for construction of planned improvements on I-205 from Stafford Road to OR 213 and to manage congestion" (I-204 EA Section 1.3 Page 1-4). For the I-205 project, the purpose itself is the tolls in this very specific area. Setting aside the lack of specifics in terms of what and where the "construction of planned improvements on I-205" is to take place between Stafford Road and OR 213, the authors of the draft EA state the purpose of the tolls is to manage congestion. Their own analysis shows the I-205 project will increase congestion on arterial roads near the tolls[42]. The I-205 project does not seek to address the congestion that poses a much larger problem in other parts of the Portland Metro Area is not considered at all. The purpose also singles out both the Abernathy and Tualatin bridges as tolled locations when initial alternatives considered tolling at only one bridge. Unlike the CBD Tolling Program EA, the I-205 Toll Program draft EA seems like it was biased toward one alternative, which prematurely narrowed its purpose and misaligned the project and its purpose.

VI.F. The CBD Tolling Program considered twelve varied alternatives before narrowing down the alternatives considered to two, while the I-205 Tolling project considered five very similar alternatives before considering two in the EA.

The CBD Tolling Program EA initially considered twelve different alternatives, four of which considered tolling options (T), while one considered non-toll pricing alternatives (NTP), five considered non pricing alternatives (O), and one no action alternative (NA)[43]. The

[42] See I-205 Toll Project draft EA Section 5.3.2 Traffic Volumes and Potential Rerouting Page 72-82

[43] The preliminary alternatives considered are as follows – NA 1: No Action, NTP 1: Parking pricing strategies, T 1: Pricing on full roadways – raise tolls or implement variable tolls on existing toll facilities, T 2: Pricing on full roadways – Toll East and Harlem Bridges, T 3: high-occupancy toll (HOT) lanes, T 4: Zone-based pricing – CBD Tolling program, O 1: Parking pricing – reduce government-issued parking permits, O 2: Provide additional taxi stands to reduce cruising, O 3: Create incentives for teleworking, O 4: Ration license plates, O 5: Mandatory carpooling, O 6: Truck time-of-day restrictions (CBD EA Section 2.3 Table 2-1 Page 2-4).

alternatives presented varied greatly in revenue generating and congestion reducing methods. The CBD EA contained a table explaining how the CBD tolling alternative best met the purpose, need and objectives of the project (CBD Tolling Project EA Section 2.3 Page 2-6 and 2-7). The I-205 Toll Project draft EA only analyzed 5 alternatives, all of which considered tolling across all lanes at one or both bridges along the specified section of I-205[44]. ODOT did not consider the use of HOT lanes, or other methods of congestion relief. An EIS would ensure other alternatives are further explored and analyzed for their impact on local and EJ residents.

VII. Summary and Conclusion

The I-205 Toll Project draft EA consists of a deficient NEPA analysis due to a number of significant shortcomings highlighted in the comments above. Most notably,

- The draft EA **does not follow best practices** nor meet the standards supported by the four Environmental Justice and Equity Guidance documents introduced at the top of this letter.
- The draft EA also **fails to properly analyze how local residents** in cities like West Linn and elsewhere in Clackamas County, could be impacted by the Build alternative. Even though 75 percent of all trips along the considered stretch of I-205 originate, terminate or both locally, impacts from the Build alternative on local residents are essentially ignored throughout the draft EA.
- The ambiguous mitigation plans included in the draft EA limit our understanding of the impact the Build alternative could have on local residents, particularly EJ community members. Without substantial, concrete mitigation plans, local and **EJ residents will bear disproportionate health, safety, and financial burdens** under the proposed Build alternative.
- Though the project needs include reducing congestion and improving safety conditions, this is only achieved on I-205. Local roadways will experience increased congestion and reduced safety conditions for vehicle operators and those utilizing active modes of transport. Yet the **draft EA ignores how the shift to local roadways**

[44] Alternative 1: vehicles would be tolled crossing the Abernathy bridge in any direction, Alternative 2: vehicles would be charged a single toll for crossing Abernathy Bridge with toll gantries on the bridge and OR 43 and OR 99E, Alternative 3: vehicle would be tolled at both bridge locations, Alternative 4: vehicles would be tolled at four segments between Stafford Road and OR 213, Alternative 5: a single zone toll structure would be used to toll vehicles on I-205 between Stafford Road and OR 213 the full amount regardless of distance traveled. (I-205 EA Section 2.2 Pages 2-8 through 2-12).

will disproportionately burden local communities, while benefiting all users of the I-205 corridor in consideration.

Compared to another toll project EA in New York that resulted in a FONSI, the I-205 Toll Project draft EA falls short or differs significantly on several important aspects including the number of alternatives initially considered, the geographic size of the project, clarity of mitigation for low-income and local resident drivers and alignment of the project needs and purpose.

These differences stress why an EIS analysis is the only path forward for the I-205 Toll Project. The I-205 Toll Project Draft Environmental Assessment offers ambiguous mitigation measures, fails to identify the horizonal inequities that will be felt by residents under the Build alternative and includes many shortcomings within the EJ impact analysis. An EIS analysis is necessary to ensure that an appropriate number of alternatives are considered and fully analyzed for their impact on the Oregonians most affected by the proposed Toll Project – local residents and EJ community members. Further, most of these issues were raised by local communities repeatedly through comments and meetings during the scoping process. However, these issues were still not addressed in the draft EA. Until these issues are resolved, the project will continue to be highly controversial.