CLACKAMAS COUNTY

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Mandy Putney
Oregon Dept. of Transportation
355 Capitol Street NE
Salem, OR 97301
Via email

April 19, 2023

Dear Ms. Putney:

Thank you for the opportunity to provide comments on the I-205 Toll Project Environmental Assessment (EA). Clackamas County would like to take this opportunity to once again reiterate its **request for a 30-day extension** to the public comment period as the current 60-day period is insufficient for review of the EA, which contains over 2,000 pages of analysis that needs to be carefully reviewed.

Despite the short amount of review time available, the County has identified serious procedural concerns and deficiencies in the EA that can only be fully addressed through the **completion of a comprehensive Environmental Impact Statement (EIS)**.

An overview of our concerns with the draft EA is included below. More detailed comments can be found in the attached technical letter. The County also joins in and concurs with the substantive comments and the technical reports submitted by other governmental entities, including but not limited to the City of West Linn, the City of Oregon City, the City of Canby, the City of Lake Oswego, and the City of Tualatin.

1. This project would cause significant impacts due to diversion of traffic onto County and City roadways.

    - The proposed tolling would shift trips off I-205 onto the local system, resulting in significant safety and congestion impacts that ODOT is unable to mitigate below the level of significance.

    - The EA acknowledges that the project could cause as much as 50% of the current afternoon peak period traffic to reroute to local streets.

- Impacts caused by the proposed project are in addition to those already occurring in this area due to the existing bottleneck on the freeway.

- Additional analysis is necessary to evaluate the difference of impacts between I-205 widening with tolling and widening without tolling.

2. Increased traffic volumes on the local system would cause high levels of traffic stress for people walking and rolling along County and City roadways.

    - The EA documents that impacted roadways do not have adequate vehicular capacity, intersection control, or pedestrian or bicycle facilities to address the increases in congestion, or the impacts to safety that this project presents to people walking and rolling. Currently, the EA does not propose adequate mitigation for these impacts.

3. Tolling will not change people's travel modes.

    - Clackamas County and our cities lack viable alternatives to car travel such as transit. This means that people would not be able to consistently utilize other travel modes that reduce greenhouse gas emissions. ODOT is not proposing mitigation to address the lack of transit or the lack of a complete protected bikeway path through the tolling corridor; as a result, vehicular miles traveled would not be reduced under the Project as suggested in the EA, but rather shifted to the local roadway network. Additionally, because the diversion routes are longer and will be more congested, vehicular hours traveled would also not be reduced under the current proposal.

4. Mitigation measures proposed in the EA are inadequate and lack commitment.

    - The mitigation measures proposed are poorly defined, unenforceable, and unlikely to be constructed.

    - The proposed transportation "monitoring program" is undefined and therefore we are unable to evaluate its effectiveness.

    - In short, we have no confidence that the significant negative impacts of the project can or will be adequately mitigated or that the suggested mitigation will be constructed in time to prevent significant impacts when tolling is scheduled to begin.

5. The EA lacks analysis of the impacts of pre-completion tolling.

    - The project asserts that tolls would be initiated prior to construction of the third lane of I-205 yet provides little to no analysis of the impacts of tolling before the

third lane is added. This is an unacceptable significant impact that will be experienced by the region for years and an example of the inadequacy of the current analysis and proposal.

6. The local economy would be significantly, negatively impacted by the Proposal.

    - The proposed project would negatively impact our local economy, which is contrary to the assertion by ODOT that the additional traffic and congestion on the local system would improve business conditions. Like most of the EA, the benefits and impacts are improperly focused on I-205 while ignoring impacts to local communities. More localized analysis must be completed to understand the true impacts to our communities and local economy.

7. This project would significantly impact low-income residents, seniors, and other vulnerable populations.

    - The current proposal would force vulnerable residents either to devote needed income to tolling or travel on more congested local routes because the Low Income Toll program is too restrictive in who it serves.

    - As mentioned previously, increased traffic on local roads would significantly reduce safety for travelers on these roads, and lower-income residents may be the most likely to take transit or alternative modes. Therefore, the project would hurt the most vulnerable of our community in multiple ways – by impacting their budget, their time, and their health.

8. The cumulative impacts of I-5 and I-205 Tolling must be evaluated.

    - It is critical that an EIS be required to evaluate the cumulative impacts of the Regional Mobility Pricing Project ("RMPP") and the I-205 Tolling project. The current EA provides an improperly narrow assessment of the I-205 project under an unlikely set of assumptions and essentially ignores the RMPP, which is anticipated to commence within a year of the I-205 project. As a result, many of the impact conclusions and mitigation requirements described in the EA could be invalid.

    - The EA does not meet NEPA's requirement to provide the full picture of implications, environmental consequences, viable alternatives, and mitigation solutions associated with ODOT's plan to implement tolling more broadly in the Portland Metro area, and instead only looks at a small isolated piece of the larger project. The preparation of separate staggered EAs for projects related in proximity, timing, and administration is an inefficient use of local, State, and federal resources.

As a participating agency, we firmly believe that the EA does not currently support a Finding of No Significant Impact (FONSI). Instead, the County urges the Federal Highway Administration to direct ODOT to proceed with an Environmental Impact Statement (EIS) for this project, combined with the RMPP, to address the deficiencies and issues identified above and in the attached technical letter.

Thank you for your consideration.

Sincerely,

Clackamas County Board of Commissioners

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CC: Kris Strickler, Oregon Department of Transportation
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City of Lake Oswego
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City of West Linn

Comments on the I-205 Toll Project Environmental Assessment

Prepared by Clackamas County Department of Transportation and Development

April 12, 2023

Contents

I. Introduction 1
II. Overall Issues 2
ODOT and FHWA should proceed with an EIS. 2
ODOT should conduct a tiered environmental review of regional congestion projects. 5
The RMPP is a reasonably foreseeable project that needs to be analyzed prior to making a decision regarding tolling on I-205. 6
The Project does not meet the stated Need. 7
The Purpose Statement is so narrow that it eliminates the possibility of reasonable alternatives. 7
The Project does not meet the stated Goals and Objectives. 8
The Project is a moving target. 9
The local community should not be forced to pay for the maintenance of a State facility. 10
The Project should be revised to eliminate pre-completion tolling and nighttime tolling. 10
Pre-Completion Tolling 10
Nighttime Tolling 11
The Project EA cannot result in a FONSI because the mitigation measures are unenforceable and unlikely to be performed. 12
The monitoring program is a prime example of unenforceable mitigation. 12
The indirect or secondary impacts of mitigation have not been analyzed. 13
Agencies and the public did not have sufficient opportunity to review or comment on the Project. 13
III. Detailed Transportation Comments 14
Significant Diversion of Traffic Volumes to County and City Facilities 14
Unmitigated Safety Impacts 16
Borland Road Corridor 17
Stafford Road Corridor 18
Rosemont Road Corridor 18
Canby/I-5 Corridor 19
Unmitigated Congestion Impacts 20
High Levels of Traffic Add Stress for People Walking and Rolling 20
Tolling is Not Shifting Travel Mode 21
Lack of Commitment to the Mitigation Measures 22

Truck Traffic on Local Roadways 23
Reasonably Foreseeable Future Actions in the Project Corridor Should be Part of Mitigation 23
IV. Other Topical Issues 24
Air Quality 24
MSAT Analysis 24
Cumulative MSAT Analysis 26
Geographic Boundary of MSAT Emissions Analysis 26
Other 26
Climate Change 27
Noise 29
Social Resources and Communities / Environmental Justice 30
Land Use 34
Historic and Archaeological Resources 35
Biological Resources 35
Public Involvement / Agency Coordination / Consultation 35
V. Conclusion 36

I. Introduction

Clackamas County (County) appreciates the opportunity to offer comments and questions on the *I-205 Toll Project Environmental Assessment (EA)*, as issued by the Oregon Department of Transportation (ODOT) and the Federal Highway Administration (FHWA) in February 2023.

As indicated in the County's requests for extensions, a 15-day extension was insufficient considering the EA relies on thousands of pages of supporting appendices and other documents. While we have identified many serious issues with the EA's analysis within the constrained comment period, the County and partner agencies could have provided a more thorough review with the additional time requested. As such, this letter should not be viewed as outlining every example of the EA's deficiencies, including unmitigated impacts. Rather, we are providing a multitude of examples which support the fact that additional analysis and information is required, particularly surrounding safety, diversion, and mitigation concerns.

Safety: The County is concerned with the safety of the entire regional transportation network, including non-highway roadways. While increased safety and decreased congestion are included in the purpose and need, the Project fails to meet this need as the Project will, in fact, *decrease* safety and *increase* congestion on local roadways. Further, the County found several examples in the EA of unmitigated safety impacts for vehicles, cyclists, and pedestrians.

Diversion Impacts: Based on our review, the EA does not take a "hard look" at the environmental consequences of diversion from I-205 onto County and city roadways. The EA fails to adequately analyze the impacts to the local community that will bear the burden of increased diversion. While the definition of the study area includes the local roadways and communities that would experience diversion, in many cases there is no meaningful analysis of localized impacts. This is especially true regarding impacts associated with transportation, air quality, and noise.

Mitigation Measures: The proposed mitigation measures are problematic on many levels.

- Mitigation measures are vague with respect to timing and other logistical details, rendering them unenforceable.
- The EA does not establish that the mitigation measures offered reduce all of the significant impacts of the Project to a level that would warrant a Finding of No Significant Impact (FONSI).
- The EA fails to disclose the conditions of the roadway network with mitigation. As a result, local agencies have no idea whether the proposed mitigation measures will address the identified significant impacts within their jurisdictions. The burden of analysis of the environmental impacts of the I-205 Toll Project and the Regional Mobility Pricing Project (RMPP) is on ODOT and FHWA, not local agencies.

Pre-Completion Tolling: Pre-completion tolling should be removed from the Project or the impacts should be fully analyzed. Due to pre-completion tolling, local communities will be significantly impacted for a number of years before mitigation is implemented. To address the issues of pre-completion tolling the EA states “any mitigation proposed to address near-term impacts that is determined to help alleviate pre-completion tolling impacts could be implemented before tolling begins.” This fails to assess which measures are needed for pre-completion tolling impacts, who will decide which measures to implement and when. The EA should disclose which mitigation measures are needed to address the impacts of pre-completion tolling and when they will be implemented. The EA improperly defers this discussion.

Cumulative Effects with RMPP: In addition to the inadequacies in the analysis of the I-205 Tolling Project alone, the EA fails to analyze the cumulative effects with the RMPP. The cumulative or “combined” impacts of I-205 tolling and the RMPP need to be disclosed to allow for informed decision-making and full understanding of the scope of environmental consequences.

The County’s review has identified serious procedural concerns and deficiencies in the EA that can only be fully addressed through the completion of a comprehensive Environmental Impact Statement (EIS) for this Project. Preparation of an EIS will provide for more rigorous analysis of project alternatives, disclosure of cumulative and indirect effects, comprehensive mitigation planning, and public engagement opportunities. The EIS must analyze and disclose the full scope of environmental impacts from the I-205 Toll Project and the RMPP, which are collectively referenced within the current EA as the Portland Metro Area Value Pricing Project, or the first phase of the Oregon Toll Program (see page 1-2 of the EA).

ODOT states in the EA that they plan to issue a Revised EA (page 1-7 of the EA); however, agencies and the public are not guaranteed an opportunity to comment on a Revised EA. It would be unacceptable to release a “Finding of No Significant Impact" until ODOT and FHWA have shown that there will be no residual significant impacts from the Project.

II. Overall Issues

ODOT and FHWA should proceed with an EIS.

As outlined in subsequent sections of this comment letter, there are significant, unmitigated environmental consequences associated with the Project. If an EA determines that the environmental impacts of a proposed Federal action will be significant, an EIS must be prepared.

Pursuant to FHWA's NEPA regulations, "[a]ctions that significantly affect the environment require an EIS." 23 C.F.R. 771.115(a). Section 771.115(a) incorporates the definition of "significant" from Section 1508.27 of the pre-2020 CEQ NEPA Regulations. While the CEQ NEPA regulations were amended in 2020 to, in part, remove the definition of "significant," FHWA has not amended its regulations since the 2020 amendments were implemented, and therefore the definition is still relevant to FHWA actions and guides ODOT's analysis of the impacts of the Project. As demonstrated below, the Project significantly affects the environment and should be analyzed in an EIS.

> *§1508.27 Significantly. "Significantly" as used in NEPA requires considerations of both context and intensity:*
>
> *(a) Context. This means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Significance varies with the setting of the proposed action. For instance, in the case of a site-specific action, significance would usually depend upon the effects in the locale rather than in the world as a whole. Both short and long-term effects are relevant.*
>
> - As discussed throughout this comment letter, there will be significant and adverse short-term effects from pre-completion tolling and long-term effects from diversion which have not been sufficiently disclosed or mitigated.
>
> *(b) Intensity. This refers to the severity of impact. Responsible officials must bear in mind that more than one agency may make decisions about partial aspects of a major action. The following should be considered in evaluating intensity:*
>
> *(1) Impacts that may be both beneficial and adverse. A significant effect may exist even if the federal agency believes that on balance the effect will be beneficial.*
>
> - While on the balance certain effects of the Project may be beneficial on I-205, there will be undeniable significant adverse local effects to communities from diversion to local roadways that have not been properly disclosed.
>
> *(2) The degree to which the proposed action affects public health or safety.*
>
> - As discussed further in this comment letter under the heading *III. Detailed Transportation Comments*, there are major public safety concerns for multiple modes of travel on local roadways. As discussed under the heading *IV. Other Topical Issues*, the localized impacts of air toxics and noise on public health have not been considered.

(3) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas.

- The effects of the Project on historic and archaeological resources and biological resources have not been fully evaluated along roadways experiencing significant diversion, nor have the secondary impacts of mitigation been evaluated on these resources. For example, the Project increases traffic volumes across the historic Oregon City Arch Bridge by 40-50%. The Bridge is not included in the Historic Area of Potential Impact or the discussion of 4(f) resources. See further discussion under the Historical and Archaeological Resources and Biological Resources subheadings under *IV. Other Topical Issues*.

(4) The degree to which the effects on the quality of the human environment are likely to be highly controversial.

- As noted in the Public Engagement Report for the EA, the Project is highly controversial with 60% of survey respondents disagreeing with the alternatives ODOT proposed for environmental review (Alternative 3/the Project and Alternative 4). Of those that disagreed, 52% strongly disagreed (page 40 of EA Appendix R) "ODOT acknowledges that most commenters who provided input during the comment period opposed the Project and tolling in general" (page 104 of Appendix R).

(5) The degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.

- The project relies on highly uncertain future mitigation actions to mitigate significant impacts, most notably a long-term monitoring program. See further discussion under the subheading *The monitoring program is a prime example of unenforceable mitigation*.

(6) The degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future consideration.

- This project is essentially the first phase of the Oregon Toll Program and Portland Metro Area Value Pricing Project. Given the interrelated diversion effects and associated mitigation, the I-205 Tolling and RMPP should be analyzed together as one project. See further discussion under the subheading *The RMPP is a reasonably foreseeable project that needs to be analyzed prior to making a decision regarding tolling on I-205*.

(7) Whether the action is related to other actions with individually insignificant but cumulatively significant impacts. Significance exists if it is reasonable to anticipate a cumulatively significant impact on the environment. Significance cannot be avoided by terming an action temporary or by breaking it down into small component parts.

- The Portland Metro Area Value Pricing Project has been improperly segmented into smaller component parts: I-205 Tolling and the RMPP. By not assessing the effects of tolling I-205 and the RMPP, the cumulative significant impacts of the larger project have not been disclosed.

ODOT should conduct a tiered environmental review of regional congestion projects.

CEQ's NEPA Implementation Regulations allow agencies to review national or regional plans using a "tiered" analysis wherein the agency (or agencies) first look at the broad impacts of large-scale programs or policies, and then use those studies to guide subsequent analyses for smaller individual projects that make up the larger program or policy. *See* 40 C.F.R. 1508.1(ff) (defining "tiering" as "coverage of general matters in broader environmental impact statements or environmental assessments … with subsequent narrower statements or environmental analyses … incorporating by reference the general discussions and concentrating solely on the issues specific to the statement subsequently prepared."); *see also* 40 C.F.R. 1501.11.

U.S. Department of Transportation guidance acknowledges the common practice of using a tiered EIS to evaluate the effects of tolling projects on a larger scale.[1] From the U.S. Department of Transportation's (DOT's) *Procedures for Considering Environmental Impacts* (DOT 5610.1C, emphasis added in bold):

> *g. Tiering. Tiering of EISs as discussed in CEO 1502.20 is encouraged when it will improve or simplify the environmental processing of proposed DOT actions. Preparation of tiered EISs should be considered* ***for complex transportation proposals (e.g. major urban transportation investments****, airport master plans, aid to navigation systems, etc.)* ***or for a number of discrete but closely related Federal actions****.*

In this instance, ODOT should prepare an EIS for the Portland Metro Area Value Pricing Project, or at a minimum evaluate both the I-205 Toll and RMPP projects cumulatively within their respective EISs, for the following reasons:

[1] U.S. Department of Transportation, February 2022; NEPA Reviews of Tolling and Road Pricing Projects Case Studies, page 6. Accessed at: https://www.environment.fhwa.dot.gov/pubs_resources_tools/publications/case_studies/Introduction-NEPA_and_Tolling_Case_Studies.pdf

1) There are significant impacts for which there are no feasible and/or enforceable mitigation measures. The I-205 Toll Project alone will result in significant and unavoidable impacts associated with diverted traffic. See further discussion under the heading *III. Detailed Transportation Comments*.

2) Since the Project is a large, complex transportation proposal and is closely related to another major federal action, namely the RMPP, it should be analyzed together with the RMPP under a single NEPA document.

3) The Portland Metro Area Value Pricing Project is controversial and affects millions of people in the region. The processing of the projects under separate EAs sets a dangerous precedent for FHWA that is counter to the purposes of NEPA.

The RMPP is a reasonably foreseeable project that needs to be analyzed prior to making a decision regarding tolling on I-205.

ODOT should have evaluated the cumulative impacts of the RMPP and the I-205 Tolling Project because the RMPP is a reasonably foreseeable action that will impact the local community.

Under CEQ regulations, an agency must evaluate the cumulative effects of a project, which are defined in the regulations as the "effects on the environment that result from the incremental effects of the action when added to the effects of other past, present, and reasonably foreseeable actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions" 40 C.F.R. 1508.1(g)(3). "Reasonably foreseeable" means "sufficiently likely to occur such that a person of ordinary prudence would take it into account in reaching a decision" 40 C.F.R. 1508.1(aa).

ODOT is incorrect to characterize the RMPP's impacts as not "reliably quantifiable or quantified at this time" when environmental review for the RMPP has already commenced. ODOT/FHWA anticipate completing the environmental review of the RMPP within the year and implementing the RMPP within one year of I-205.[2] This analysis cannot be deferred to the RMPP environmental review process. Our review of initial modeling results from the RMPP indicates that there will be additional impacts to diversion onto local roads, possibly at different levels and in different locations than disclosed in the EA.

Without this cumulative assessment, the public and County have been deprived of the "big picture" in terms of real-world implications, environmental consequences, viable alternatives, and mitigation solutions. The impacts and mitigation associated with the projects are

[2] ODOT, 2023. RMPP Project Schedule. Available online at: https://www.oregon.gov/odot/tolling/PublishingImages/I-5_I-205_Projects_TimelineNarrow_01.27.2023.jpg

interconnected and the full impact of both projects has not been discussed or disclosed in the I-205 Toll Project EA. The analysis of the two projects combined could completely alter the nature and severity of impacts and mitigation analyzed for I-205. As stated in our September 15, 2022 comments on the Draft Transportation Technical Report (TTR): “Traffic diversion will be different for I-205 versus I-205 and I-5. The traffic analysis is inherently flawed without looking at the broader tolling context as impacts may shift to other roads, worsen or make some current improvements unneeded.”

Either the RMPP should be evaluated in the cumulative analysis of the I-205 Toll EA or, ideally, ODOT/FHWA should prepare an EIS that fully evaluates both components of the Portland Metro Area Value Pricing Project. Analysis of both projects together will allow for a more comprehensive review of feasible alternatives, diversion impacts, and mitigation planning.

The Project does not meet the stated Need.

The EA does not explain how the Project meets the Needs defined in Section 1.4 of the EA. The EA makes the assumption that the Project will improve congestion, resolve unreliable travel issues, increase safety, and reduce climate change impacts. In reality, the created diversion from the highway system onto local roadways will merely displace these issues. Further, the impacts and costs on local roadways and communities are not fully assessed or defined.

One of the fundamental needs for the Project is to improve transportation safety, which is not achieved. Overall, the Project does not increase safety for the region. The Project diverts traffic to local roadways that have greater safety issues than I-205 (see heading *III. Detailed Transportation Comments* discussion below).

“Critical Projects Need Construction Funding” is included within the Project Need statement (page 1-4 of the EA). While critical projects do need infrastructure financing, there are a variety of tools to access funding for this Project that do not involve tolling.

The Purpose Statement is so narrow that it eliminates the possibility of reasonable alternatives.

The EA includes tolling on I-205 in the Project purpose statement which restricts the range of reasonable alternatives. Since many freeway projects throughout the country are funded without tolling, we do not believe that tolling is the only mechanism to fund these improvements.

The following guidance from *Linking the Transportation Planning and NEPA processes* is located in FHWA’s regulations:

> “Consistent with NEPA, the purpose and need statement should be a statement of a transportation problem, not a specific solution. However, the purpose and need

> statement should be specific enough to generate alternatives that may potentially yield real solutions to the problem at-hand. A purpose and need statement that yields only one alternative may indicate a purpose and need that is too narrowly defined." 23 CFR Appendix A to Part 450.

The purpose and need statement for the Project has been designed to yield one solution. The problem is regional congestion on both I-205 and I-5, and thus the I-205 Toll Project must be analyzed with the RMPP project.

Reasonable alternatives that should be analyzed include a tolled/managed third lane only and funding from sources other than tolling. In fact, ODOT must analyze and disclose an alternative with construction of the improvements without tolling in order for agencies and the public to understand the effects of ODOT's proposal. Alternative methods for pricing I-205 such as ramp tolling should be analyzed as one of the alternatives.

In addition, the elimination of pre-completion and nighttime tolling should be included for any toll alternatives, as discussed further under the subheading *The Project should be revised to eliminate pre-completion tolling and nighttime tolling*.

In a 2015 guidance document, FHWA cautions that even if there is a valid justification for eliminating non-tolled alternatives, it may be advisable to continue examining non-tolled alternatives if there is public opposition to tolls.[3] There is strong public opposition to the Project. As noted in the EA Public Engagement Summary, 60% of survey respondents disagreed with the alternatives ODOT proposed for environmental review (Alternative 3/the Project and Alternative 4). Of those that disagreed, 52% **strongly disagreed** (page 40 of EA Appendix R). In the Public Engagement Summary "ODOT acknowledges that most commenters who provided input during the comment period opposed the Project and tolling in general" (page 104 of Appendix R). The RMPP is similarly controversial. During public engagement on the RMPP, 70% of respondents disagreed (of which 59% **strongly disagreed**) with a minimum toll for any use of the highway (page 23 of the RMPP Spring 2022 Engagement Report).

The Project does not meet the stated Goals and Objectives.

The EA provides no explanation as to how the Project meets the goals and objectives that were established through input with agencies, the public, and other stakeholders.

Goal: Provide benefits for historically and currently excluded and underserved communities.

- How does the Project support equitable and reliable access to job centers, schools, and health care facilities? The Project is forcing Equity Framework Communities (EFC) and Environmental Justice (EJ) communities on the outskirts of the Area of Potential Impact

[3] FHWA, "Public–Private Partnership Oversight: How FHWA Reviews P3s" (Jan. 2015), p. 20.

(API) to either devote needed income to tolling or travel on more congested local routes. Due to the increases in traffic on local roads, these roads will actually be less safe for travel. EFCs and EJ communities do not have the luxury of being able to travel outside of peak hours to reach work, school, health care facilities or social services.

- How has the Project been designed to support travel options for excluded and underserved communities? The Project has been proposed in an area without reliable regional transit and bicycle facilities, and does not provide mitigation to fund development of these facilities.

Goal: Limit additional traffic diversion from tolls on I-205 to adjacent roads and neighborhoods. Alternatives 1 and 2 were not advanced in part because they would result in higher traffic volumes near Oregon City due to diversion. It is unclear how the Project lessens or avoids this issue. How has the Project been designed to limit rerouting from tolling and to minimize impacts on quality of life for local communities? Increased traffic and congestion on local roadways will worsen air quality, increase noise, and decrease safety on non-highway facilities as discussed throughout this comment letter.

Goal: Support safe travel regardless of mode of transportation. The EA focuses too heavily on I-205 benefits and does not disclose the anticipated increase in crashes on the non-highway system. Any conclusions regarding the perceived safety benefit on I-205 from the Project and local roadways from mitigation must also consider increased traffic/crashes on local roadways.

Goal: Contribute to regional improvements in air quality and support the State's climate change efforts. While congestion on I-205 would be improved, traffic and congestion would increase on non-highway facilities throughout the local community, meaning there would be even more motor vehicle emissions near residences, schools, parks, and other sensitive receptors. Such diverted traffic would travel at slower speeds than if it was on I-205 and the diversion routes are longer than I-205. Both of these factors would result in greater air quality impacts.

Goal: Support regional economic growth. How does the Project provide reliable and efficient movement of goods and people on local roadways experiencing diversion from tolling? The EA does not provide evidence that increased pass-through trips in the form of congested peak hour traffic on local roadways will benefit local businesses. Heavy traffic on local roadways would be a deterrent to retail customers, particularly during peak hours.

The Project is a moving target.

The EA states that some of the mitigation "may" be incorporated into the project. "Chapter 3 describes potential mitigation measures that would reduce the effects of rerouting. These measures could become part of the Build Alternative" (page 2-7 of EA).

- How will this selection be made?

- Will these measures no longer be considered “mitigation measures” and instead become “project commitments”?
- Will the EA analysis be revised to incorporate these measures as part of the Project?

This seemingly innocuous statement fundamentally confuses the environmental review process -- the review of the Project itself -- and the comparison among alternatives. The EA should clearly distinguish what the Project is, what significant impacts would result, what feasible mitigation measures would be implemented for each alternative, who would implement/fund the mitigation measures, and the residual impact after mitigation.

The local community should not be forced to pay for the maintenance of a State facility.

Why would tolls pay for maintenance? It is already an extra burden on users to pay for the improvement; why also make them pay for maintenance? No other area of the State pays extra to maintain the State facility in their neighborhood. ODOT has claimed that this makes the bonding more attractive to investors so they know the highway will be in good condition and people will want to use it. But it would be just as attractive for bonding if ODOT committed Statewide funding to keep it in adequate condition like every other mile of interstate in Oregon. This would be a double hit for the local population.

Also, there is no money being set aside for future mitigation projects. ODOT should pay for more local improvements, including maintenance of local roads that will be overloaded because of diversion.

The Project should be revised to eliminate pre-completion tolling and nighttime tolling.

Pre-Completion Tolling

For the I-205 Project, tolling is proposed to begin at the end of 2024/beginning of 2025, before the construction of the third lane is completed. To fully understand the impacts of pre-completion tolling and provide clearer information on which intersections and locations need immediate mitigation, a full modeling analysis needs to be completed of the impacts of applying tolling without the third lane on I-205, both with and without the implementation of the RMPP. ODOT has not addressed these concerns, which were raised in our September 15, 2022 comments on the Draft TTR.

The Project should allow for the completion of Phase 1A in 2025 and other local construction projects -- such as the Stafford Road/Childs Road roundabout scheduled to be under construction by Clackamas County during the pre-completion tolling period -- prior to tolling, so that the supporting local road system does not create additional construction bottlenecks on primary diversion routes.

There is a large temporal delay between when impacts will occur and when mitigation will be implemented. Due to pre-completion tolling, local communities will be significantly impacted for a number of years before mitigation is implemented. Neither the EA nor the Level 2 Toll Traffic and Revenue Study sufficiently address the timing of completion of mitigation. Most mitigation measures cannot be completed prior to construction as scheduled. As noted above, there will be local projects in the areas along critical routes that will not be completed and elements of the I-205 construction project itself (*e.g.*, the required blasting) that will likely cause even greater diversion.

In the near term, pre-completion tolling will cause up to 30% of the trips that would have been on I-205 to divert onto local roadways during the years of construction. The specific roads that will be impacted the most are:

- SW Borland Road/Willamette Falls Drive
- SW Stafford Road
- OR 99E
- OR 213, and
- OR 43

Therefore, it is clear that the impacts to the local system and local communities will be experienced immediately, as soon as the tolls begin to be collected. This will be especially acute for EFCs and EJ communities since, under the pre-completion tolling scenario, none of the benefits of the third lane will be experienced. The types of impacts these communities will be faced with during pre-completion tolling (identified as Long Term Impacts in Table 3-37) include:

- Higher transportation costs for social and emergency service providers;
- The cost of tolls on low-income households, which may include older adults and people experiencing a disability;
- Language and technological barriers to using and understanding the electronic toll system, and
- Delays and longer travel times near intersections, which could affect access to social resources in Canby, Gladstone, Lake Oswego, Oregon City, Tualatin, West Linn, and unincorporated Clackamas County near Stafford Hamlet and Canby.

Pre-completion tolling should be removed from the Project or fully analyzed in the NEPA review. If pre-completion tolling remains in the Project description it is likely that an EIS will be needed to disclose the significant adverse transportation impacts during the construction period which cannot be mitigated. The NEPA document should also identify which of the two pre-completion tolling alternatives is preferred.

Nighttime Tolling

The County is opposed to nighttime tolling because, while it will raise very little revenue, at the same time it will decrease safety due to diversion of nighttime traffic onto surrounding local roads. Drivers should remain on the well-lit, safe highway after dark rather than divert to unlit,

narrow, winding rural roads. Safety, as always, should be the prime consideration. ODOT has not addressed these concerns, which were raised in our September 15, 2022 comments on the Draft TTR.

The Project EA cannot result in a FONSI because the mitigation measures are unenforceable and unlikely to be performed.

CEQ guidance approves the use of a "mitigated FONSI" when the NEPA process results in enforceable mitigation measures (76 F.R. 3843, 3848 n.21). Many of the mitigation measures identified by ODOT are unenforceable because they rely on implementation by local municipalities and agencies that are not controlled by ODOT.[4] These mitigation measures will require an intergovernmental agreement or letter of commitment between ODOT and the affected jurisdictions. What if ODOT and the local jurisdictions are unable to reach an agreement? These agreements should be executed prior to making a decision on the Project.

Additionally, CEQ guidance states that an agency should not rely on mitigation measures necessary for a mitigated FONSI if it is not reasonable to foresee the availability of sufficient resources to perform or ensure the performance of the mitigation (76 F.R. 3843, 3848). It is not reasonably foreseeable that local municipalities will have the funding to undertake the necessary mitigation measures set forth in the EA. It is still unclear what percentage of mitigation would be funded by ODOT.

The vagueness of the timing and funding of the mitigation measures render them unenforceable. As discussed previously, neither the EA nor the Level 2 Toll Traffic and Revenue Study sufficiently address the time schedule for completing mitigation.

There are also mitigation measures proposed that would require the acquisition of right-of-way and have significant construction feasibility issues that could result in unfundable projects and/or significant time delays for construction. See further discussion under the heading *III. Detailed Transportation Comments*. How will ODOT address these issues?

The monitoring program is a prime example of unenforceable mitigation.

There are no specific mitigation measures proposed for implementation after 2027. Instead, the EA relies entirely on a "transportation mitigation monitoring program." We were unable to find any details on the scope of this program, the length of the monitoring period, the transportation network that will be monitored, how it will be administered and funded, and what standards will apply. It is also unclear what measures could be implemented as a result of monitoring, how mitigation might change in response to monitoring, and how ODOT and the local jurisdictions would reach consensus on the implementation and amendments to the monitoring program.

[4] *See Preservation Coalition v. Pierce*, 667 F.2d 851, 860 (9th Cir. 1992)

This reliance on a monitoring program with no specificity, timeline or guarantee of implementation or success represents additional significant unmitigated impacts in the EA.

The indirect or secondary impacts of mitigation have not been analyzed.

The EA improperly defers the analysis of the indirect/secondary impacts from mitigation to the Revised EA. EA page 3-31 notes "[s]econdary impacts from implementing mitigation measures may require additional avoidance, minimization, or mitigation measures. An assessment of the effects associated with mitigation will be included in the Revised EA." Mitigation measures would have their own set of environmental impacts that are not disclosed. Impacts from these measures need to be evaluated and disclosed in the EA and be subject to public comment. The reviewing agencies and the public may not have an opportunity to review and comment on the indirect/secondary impacts of mitigation.

Agencies and the public did not have sufficient opportunity to review or comment on the Project.

The County has not had ample time to review the Project. The EA relies on thousands of pages of supporting appendices and other documents, which are highly technical and require the County and other municipalities to engage expert consultants to review and analyze. It is impossible to conduct a full review in such a short time frame. Moreover, the public has encountered several roadblocks that have thwarted this process.

- The County is aware that the City of West Linn spent two weeks of the comment period trying to obtain proper traffic model inputs from ODOT before they were finally provided on March 29, 2023, which has severely impacted and delayed their analysis and ability to comment.
- Further, the public was not given a sufficient opportunity to comment on the Project at public hearings. These hearings were poorly publicized: other than two overview email notices sent to a handful of public staff when the EA was published and when the 15-day extension was granted, there was no separate notification or announcement from ODOT alerting the public that hearings were being held. Details of the hearing were also difficult to find on ODOT's website.
- In person events were only noted on the calendar link, meaning that the public had to dig through several layers of the site to find that information. Moreover, the "drop in" events were held during normal business hours and thus were not accessible to anyone who works a standard schedule.

These factors all limited meaningful public participation.

III. Detailed Transportation Comments

Our primary concern is that the diverted traffic from I-205 onto County roadways and our partner City streets results in unmitigated impacts not disclosed in the EA. The lack of adequate mitigation on our facilities will result in safety impacts to people driving, moving freight, riding bikes, walking, and taking transit on non-highway facilities.

The following discussion summarizes our primary points of concern and offers examples of the unmitigated impacts not disclosed by transportation-related topic area. As discussed in *I. Introduction*, **not all areas of concern nor every example of unmitigated impacts are identified** herein. Rather, we are providing examples to demonstrate how the EA is deficient in its identification and mitigation of impacts.

Our primary points of concern relate to:

- Significant Diversion of Traffic to County and City Facilities
- Unmitigated Safety Impacts
- Unmitigated Congestion Impacts
- High Levels of Traffic Adding Stress for People Walking and Rolling
- Tolling is Not Shifting Travel Mode
- Lack of Commitment to the Mitigation Measures
- Truck Traffic on Local Roadways
- Reasonably Foreseeable Future Actions in the Project Corridor Should be Part of Mitigation

Significant Diversion of Traffic Volumes to County and City Facilities

The EA presents detailed analysis for two scenarios: a Short Term of 2027 (i.e., the year when the construction of the additional lanes on I-205 was assumed to be completed) as well as a Long Term scenario identified as 2045. The EA and the TTR (Appendix C of the EA) provide very minimal information about the impacts of “pre-completion tolling” which is defined as the period between when tolling is initiated in 2024 and completion of construction in 2027.

Our review of the EA reveals that it is difficult to separate the benefits and impacts of tolling on the transportation system from the construction of the additional lanes on I-205. This difficulty is exacerbated by the fact that I-205 is currently an inadequate facility, causing trips to reroute off the freeway onto local streets to avoid the congestion. As cited on page 3-1 of the EA, 20–30% of traffic currently using I-205 to travel to Oregon City reroutes in the PM peak period; the EA further acknowledges that this rerouting can increase to as much as 50%. If pre-completion tolling is implemented, it will exacerbate these existing conditions.

The EA needs to be modified to clearly define the differences in impacts between tolling and I-205 widening. This could be accomplished through the introduction of a new alternative that analyzes the proposed widening and seismic improvements on I-205 with an alternative, non-tolling funding source, and then comparing the impacts of that alternative against the current Project. Without this analysis, our communities cannot understand the true impacts of tolling on the local transportation system and our cities and rural areas.

As documented in the EA, but not adequately mitigated, our impacted streets and roadways do not have adequate vehicular capacity, intersection control, or pedestrian or bicycle facilities to address the increases in congestion, the impacts to safety, and the high level of stress that this Project presents to people walking and rolling in either 2027 or 2045.

The EA also documents (as evidenced in Figures 5-8 through 5-12 of the TTR) that our impacted facilities are inadequate to serve 2045 traffic. As discussed in the EA, the 2045 Build scenario results in an increase in traffic volumes by more than 50% at several locations as compared to the No Build. Some examples of unmitigated facilities shown in the comparison of 2045 Build versus No Build include:

- A 40-50% traffic increase on the Arch Bridge, which is a 2-lane historic bridge with a narrow sidewalk and a “sharrow” where cyclists share the lane with the automobiles. Due to the grade and existing traffic, cyclists often choose to use the sidewalk instead of the travel lane. ODOT, in collaboration with Oregon City and West Linn prepared the “Pedestrian-Bicycle Bridge Concept Plan” in 2021 that documents the existing needs of this bridge.
- A 50-60% traffic increase on Borland Road east of Stafford Road. The County has spent substantial resources in planning for future (non-tolled) needs at the Borland Road/Stafford Road intersection, including significant capital and maintenance dollars on constructing a roundabout to increase the capacity and safety of the intersection. Borland Road to the east of this intersection is abutted by rural industrial, commercial, residential, and recreational uses. This roadway is narrow and lacks shoulders of sufficient width for people walking or riding bikes. The significant volume of traffic that will be diverted to this roadway is not sufficiently mitigated. This is also discussed in the safety section below.
- A 50–60% traffic increase on Borland Road between Ek Road and Fields Bridge. This section of Borland Road is also narrow without any usable shoulders. The significant volume of traffic that will be diverted to this roadway is also not sufficiently mitigated.

Table 5.3 of TTR identifies streets that are expected to more than double in traffic volume in 2027 as compared to the 2027 No Build, such as:

- Traffic on Borland Road, east of Stafford, is anticipated to increase by 112%.
- Traffic on Lone Elder east of OR 99E is anticipated to increase by 104%.

Several other roadways will experience a traffic increase of over 25% when tolling is initiated.

For the pre-completion tolling scenario, the EA only includes information about increased volume on selected API arterials and intersections but does not undertake the other analysis that was conducted for year 2027 or year 2045. This lack of information on impacted facilities limits our ability to understand how tolling truly affects our rural and city facilities. The EA needs to be amended to fully document the impacts on our communities.

Further, the impacts to Ek Road are not accounted for in the EA. In fact, during the EA scoping it was Clackamas County staff who identified the need to include Ek Road in the modeling analyses as it parallels I-205 through the corridor. The published EA and TTR does not provide adequate information on the increase in volume along Ek Road, but rather assumes that traffic will use Mountain Road. Since some of the near-term mitigation could be influenced by the usage of Ek Road, it needs to be incorporated into the analyses and appropriately mitigated.

Lastly, it should be noted that with modern navigation apps, many motorists will adjust their routes of travel to "avoid tolls" resulting in instant changes to traffic patterns. The real-time rerouting of traffic onto County and city roadways can result in an abrupt increase in through traffic on our roadways, limiting the ability of people using intersecting streets along these routes, and presenting further difficulties (beyond that documented in the EA) for people to travel within the County. Without proper mitigation, these abrupt traffic volume changes result in the rapid degradation of safety performance and shift the burdens of safety mitigation and crash response to local law enforcement and public works teams to provide traffic control. On the whole, injuries and lost quality of life will increase, and in many cases, in already equity-challenged communities.

Unmitigated Safety Impacts

As demonstrated in the EA, many of the diversion routes have intersections and roadway segments that exceed ODOT's critical crash rate today and/or are listed as Top 5% or 10% Safety Priority Index System (SPIS) sites. We are unclear how adding more traffic to these locations is not considered a significant impact.

Any diversion of traffic from a freeway facility results in an overall decrease in safety as shown in ODOT's crash rate Table V below.[5] Fatal and serious injury rates on freeways are less than 1.5 per million miles of vehicle travel (MMVT), whereas rural arterials have rates in excess of 11 MMVT and collector crash rates can be over 40 MMVT. Diverting traffic to roadways with higher safety risks is contrary to both ODOT's and Clackamas County's Transportation Safety Action Plans (TSAPs), both of which have a goal to eliminate fatal and serious injury crashes by 2035.

[5] https://www.oregon.gov/odot/Data/Documents/Crash_Rate_Tables_2020.pdf

TABLE V: 2020 Fatal & Serious Injury Highway Crash Rates and Casualty Rates

Table V tabulates data for mainline state highway crashes that resulted in death or a suspected serious injury (INJ-A). ODOT's fatality and injury definitions are adopted from the Model Minimum Uniform Crash Criteria (MMUCC), Fourth Edition.

JURISDICTION AND FUNCTIONAL CLASSIFICATION	MILES*	ANNUAL VEHICLE MILES*	FATAL & SERIOUS INJURY (INJ-A) CRASHES*	DEATHS AND SERIOUS INJURIES*	FATAL & INJ-A CRASH RATE**	FATAL & INJ-A CASUALTY RATE**
TOTAL STATE HWY SYSTEM	**7,377.44**	**19,388,425,028**	**825**	**967**	**4.26**	**4.99**
Interstate Freeways	729.57	8,466,908,094	95	107	1.12	1.26
Other Fwys/Expressways	66.88	1,289,794,763	16	17	1.24	1.32
Non-Freeways (combined)	6,580.99	9,631,722,171	714	843	7.41	8.75
Other Principal Arterials	3,256.45	7,433,739,009	509	597	6.85	8.03
Minor Arterials	1,968.43	1,843,069,966	148	180	8.03	9.77
Urban Collectors	47.31	55,830,059	7	8	12.54	14.33
Rural Major Collectors	1,272.62	296,635,232	49	57	16.52	19.22
Rural Minor Collectors	34.03	2,348,898	1	1	42.57	42.57
Rural Local	2.15	99,007	0	0	0.00	0.00
URBAN HWY SYSTEM	**1,141.30**	**10,341,826,489**	**376**	**418**	**3.64**	**4.04**

To help further emphasize the EA's deficiency in addressing safety impacts, Clackamas County staff reviewed the effects of the diversion to four primary corridors identified in the EA -- Stafford Road, Borland Road, Rosemont Road, and the Canby/I-5 corridor. These rural corridors serve as vital connections between urban communities. The impacted roadways along these corridors are typically two-lane, carrying between 7,000 and 14,000 vehicles per day under current conditions. These roadways are often characterized by only having 11-foot travel lanes and, in most cases, 0- to 4-foot shoulders. Further details on each corridor are presented below.

Borland Road Corridor

As documented in the EA, Borland Road between Ek Road and Fields Bridge is expected to have increases of up to 8,000 ADT in 2027, resulting in a total expected 2027 ADT of more than 16,000 vehicles. Under today's conditions, Borland Road carries 5,500 ADT. Our detailed analysis of the current conditions indicates that the crash experience in this corridor is very close to the expected crashes/mile/year for similar facilities, but that the rear-end crashes are overrepresented. This over-representation of rear-end crashes is indicative of the frequency and density of intersections along this corridor and the high percentage of through traffic currently using the facility. With the significant increase in through traffic anticipated in 2027 attributable to the tolling, the total crash rates in this corridor are expected to at least double to 2.7 crashes / mile / year for total crashes and to 1.5 Fatal-Injury C crashes/mile/year in 2027. Without appropriate mitigation to address rear-end crashes, our analysis suggests the crash rates would likely be even higher.

The anticipated volumes and crash patterns identify that Borland Road meets the thresholds for needing mitigation improvements, including a center turn lane at intersections and driveways

along with paved shoulders and rumble strips. These mitigation measures are not included in the EA.

Stafford Road Corridor

Stafford Road between Ek Road and Mountain Road is predicted to have an increase of 2,800 ADT going from approximately 13,000 ADT to nearly 16,000 ADT on a two-lane road with 11-foot travel lanes with little or no shoulders. People on Trail Road, a local road serving over 50 lots, currently see times of the day when accessing Stafford Road is challenging and residents have expressed concerns regarding access and safety.

Under current conditions, there are 4.6 crashes/mile/year, nearly double the expected rate; and severe crashes are 2.33 crashes/mile/year, again nearly double the expected amount. Adding 2,800 vehicles per day to this route would elevate the crash rates to about 5.5 crashes/mile/year and 2.75 severe crashes/mile/year. In addition, roadway departure and wet condition crashes are overrepresented.

The volumes and crash patterns show that Stafford Road meets the thresholds for needing mitigation impacts, including paved shoulders with rumble strips and either an overlay or high friction surface treatment to increase friction during wet weather. In addition, installing a left turn lane should be considered for Trail Road or connecting Trail Road to the proposed roundabout at the Stafford Road/Mountain Road intersection or traffic signal at Ek Road. These mitigation measures are not included in the EA.

Rosemont Road Corridor

Rosemont Road provides a critical link to the Salamo area of West Linn and is a route that allows toll avoidance of the Tualatin River bridges for people traveling to and from the west and south. This facility was not analyzed in the EA despite having a predicted ADT increase of 1,500 in 2027 and 500 in 2045. Safety performance is already poor for this facility, with total and severe crash rates more than 22% and 30% higher than the expected values (i.e., 1.92 and 1.06 crashes/mile/year, respectively).

Rear-end and roadway departure crashes are over-represented for this road, reflecting the challenges of a two-lane rural road with no shoulders currently carrying 10,000 vehicles per day. Adding 1,500 more vehicles with no mitigation further degrades the safety performance. The volumes and crash patterns identify that Rosemont Road needs to be improved to include turn lanes and shoulders with rumble strips.

The EA documents that the Stafford Road/Rosemont Road roundabout will be impacted by the traffic volume increases. This roundabout is already over capacity under current volumes and no mitigation for the increase in traffic volumes is proposed.

None of these clearly needed mitigation measures within the Rosemont Road corridor are included in the EA.

Canby/I-5 Corridor

The EA documents increases in traffic volumes along OR 99E associated with drivers exiting I-5 near Canby at either Miley Road or Ehlen Road to avoid tolling, but does not analyze the impacts to the Arndt Road-Knights Bridge Road intersection nor to Barlow Road between Arndt Road and OR 99E.

Per the EA, tolling is anticipated to increase traffic volumes on Arndt Road between Airport Road and Knights Bridge Road by 3,000 ADT in 2027 and by 2,000 ADT in 2045. The EA makes no mention of the fact that this corridor has daily truck volumes in excess of 20%. These high truck volumes have significant impacts on the capacity and safety of the roadway to handle the increase in tolling-related diversion traffic. This corridor provides access to an active quarry and to freight moving to and from Canby's vibrant and growing industrial area. With this vehicle mix and these unique industrial/quarry uses, the EA needs to document both the operational and safety impacts of tolling on this corridor and of the businesses along it.

Our analysis of Arndt Road suggests that existing safety performance is affected by queue spill-back associated with the signalized Arndt Road/Knights Bridge Road intersection. Rear-end crashes are over-represented; the County is planning to add a queue warning system for eastbound Arndt Road to address this issue. Adding 3,000 more vehicles per day will increase overall volumes from 18,000 ADT to 21,000 in 2027. This added traffic will result in higher levels of congestion, necessitating an additional turning lane at the traffic signal to address queue storage and capacity needs. Based on historical trends on this roadway, the impact of 3,000 vehicles per day in the 2027 tolling scenario would be the equivalent of 10 years' worth of traffic growth in this corridor if tolling did not occur.

Further, safety performance is currently poor on Arndt Road east of Knights Bridge Road with crashes double the expected rate (4.3 crashes/mile/year) and nearly triple the expected rate for severe crashes (3 severe crashes/mile/year). Rear-end crashes are over-represented as are injury crashes and are associated with the existing queue spillbacks on each end of the corridor. A westbound queue warning system for the Arndt Road/Knights Bridge Road intersection would help, and reconfiguration of the Barlow Road/Arndt Road intersection is needed.

As with other parts of this corridor, the Barlow Road/Arndt Road intersection also has poor safety performance with crashes more than double the expected rate at 2.3 crashes/year and 0.97 severe crashes per year versus an expected rate of 0.64. With nearly 11,000 vehicles per day on Barlow Road south of the intersection and less than 700 vehicles per day north of Arndt, the intersection needs to be realigned to reflect existing travel patterns.

The last portion of this corridor includes Barlow Road between Arndt Road and OR 99E, including the portion that is aligned through the City of Barlow. Analysis shows that safety

performance is poor with both total and severe crashes triple the expected rates at 6.6 and 3.3 crashes/mile/year, respectively. Rear-end crashes influenced by Arndt Road and OR 99E are over-represented. Although the County has proposed a speed zone reduction from 35 MPH to 30 MPH in this corridor, including funding for radar feedback signs, the increases in traffic may require additional improvements to maintain adequate safety. With rear-end crashes being overrepresented, mitigation of a center turn lane would address the safety issues.

None of these needed safety mitigation measures are included in the EA.

Unmitigated Congestion Impacts

We are unclear how ODOT can make the conclusion that "of the 50 study intersections, most would not experience new impacts under the Build condition." Per Table 5-49 of the TTR, more than 20% of intersections would not meet applicable mobility standards under the Build Condition in both 2027 and 2045.

For the limited number of congestion mitigation measures identified for 2027, the results of the mitigation measures on congestion, i.e., the resultant level of service and volume-to-capacity ratio, was not documented in the EA. (In fact, no congestion mitigation measures are identified for 2045; rather the EA refers to a "monitoring program" for future mitigation.) How can the conclusion be drawn that the mitigation measures are effective in addressing the significant impacts created by the Project?

A primary example of an unmitigated impact and lack of enforceable mitigation is at the Ek Road/Borland Road intersection. Table 6-4 and Figure 6-5 of the TTR identify the need for an all-way stop-control or a roundabout by the year 2045, "pending future analyses." These two traffic control devices have very different vehicular capacities, right-of-way impacts and significant costs of construction. How and when will the "future analyses" be conducted and what assurance does the community have that the mitigation measures will be in place by the time tolling begins? Also, how can an improvement to this intersection not be needed in 2027?

High Levels of Traffic Add Stress for People Walking and Rolling

As documented in the EA and the TTR, many of the roadways that will need to shoulder the burden of the diverted traffic do not have any facilities or have only very limited facilities for people walking and rolling. As documented in Table 4-8 of the TTR, the majority of the impacted facilities are rated as having the highest level of traffic stress for cyclists without any diverted traffic. Table 4-9 also documents the lack of pedestrian facilities in the rural area.

The County is very concerned about the safety of cyclists and pedestrians with the significant increase in traffic volume on these roadways that are already rated as having the highest levels

of traffic stress. How can significant increases in traffic not result in definable and mitigatable impacts? It is also unclear whether ODOT's rural Level of Traffic Stress (LTS) methodology was used for these facilities. Per ODOT's Analysis Procedures Manual, there are different methodologies employed for rural contexts versus urban contexts. Many of the impacted County roadways would be considered rural, not urban, facilities. With the implementation of tolling, the rural facilities will be impacted by urban levels of traffic.

Examples of unmitigated impacts on cyclists and pedestrians include volume increases on parallel routes to I-205 and the Oregon City Arch Bridge:

- The EA identifies that parallel routes to I-205 such as SW Borland Road and Willamette Falls Drive could experience 30–100% increases in ADT (page 3-12) under the Build Alternative. Mitigation measures for these increases in daily traffic volumes have not been identified.
- The EA discloses that the daily volumes will increase up to 50% in downtown Oregon City and across the Oregon City Arch Bridge. As was previously noted, this is already a sub-standard facility, and is the only location for pedestrians and bicyclists to cross the Willamette River. The cumulatively significant increase in volume will have negative impacts on the pedestrian and bikeway environment at this location.

Given the lack of clear mitigation measures for these high stress facilities, the County concludes that there are impacts to cyclists and pedestrians that are not sufficiently mitigated in the EA. We also are concerned that the LTS assessment for both pedestrians and cyclists in the future year does not sufficiently acknowledge the near-term impacts to pedestrians and cyclists that will occur due to increases in traffic volume as soon as tolling begins. Many of the pedestrian facilities and bikeway facilities are already substandard. Since the rating scale for LTS is not very granular, it does not recognize the potential impacts, especially on facilities already rated as LTS 4 (the highest LTS). How can there be no significant impacts to facilities already rated as having the highest LTS?

The EA specifically notes on page 1-2, paragraph 1.2: Governor's Transportation Vision Panel that "Community livability" is a key issue. It also recommends bike and pedestrian investments to reduce fatalities and injuries. Tolling impacts are not mitigated, will degrade the safety on local roads, and will reduce community livability by increasing traffic on neighborhood streets.

Tolling is Not Shifting Travel Mode

There is insufficient investment in the pedestrian, bikeway, and transit systems to affect mode shift. ODOT has not addressed these concerns, which were raised in our September 15, 2022 comments on the Draft TTR. The Project does nothing to contribute to an improved environment for transit riders through the I-205 Corridor. The EA identifies on pages 3-5 through 3-6 that limited transit service exists. While the report claims "slightly higher" transit ridership, the mode share figured in Table 5-5 indicates there would only be 800 additional transit trips throughout

the entire Metro Region, which is a marginal increase at best. “The need for improved transit and other transportation choices” is one of the three priority issues that ODOT was directed to address by the Oregon Transportation Commission (page 1-2 of EA).

A map of the transit in the area should be included in the TTR and the EA. In the EA, ODOT acknowledges (on pages 3-5 and 3-6) that there is limited transit service, insufficient pedestrian systems and a lack of quality bikeways in the area. So how did ODOT determine that there will be a shorter transit travel time through the corridor (as shown on page 3-25 of the EA) when there is currently no transit service on Borland Road, Stafford Road, or I-205? More clarity is needed on how the shorter transit time is achieved.

With insufficient travel mode choice in the region (Table 3-2), it is unclear how the desired greenhouse gas reduction aspirations can be met, especially in light of the fact that the cumulative impacts related to climate change identify a need to shift mode away from single-occupancy vehicles. Investment in non-auto facilities is essential if tolling can truly be expected to provide options for people to shift to a different mode of travel, rather than simply shifting traffic to local streets, as appears to be the case under the current Project. The Project should be modified to incorporate improvements to transit and pedestrian infrastructure as part of the solution to the stated Need to reduce traffic congestion and improve safety or, at the very least, analyze such an alternative.

The EA does not provide adequate mitigation to sufficiently address the lack of travel choices in the corridor. Additional mitigation must be added, including but not limited to, collaborating with transit service providers to support availability and enhancements of transit and other transportation services along I-205, especially for historically and currently excluded and underserved communities traveling through the area.

Lack of Commitment to the Mitigation Measures

Tables 6-1 through 6-6 of the TTR identify mitigation measures for implementation by 2027, many of which are on County or city facilities. Implementation of the mitigation measures by ODOT will require an intergovernmental agreement between the affected jurisdictions. The EA does not specify whether the County and cities are being asked to help fund the mitigation.

For example, the mitigation for SW Borland Road between SW Stafford Road and the Tualatin River Bridge (Table 3-15 of the EA) states “Contribute to…” The EA does not state what the contribution amount will be or how the other portion of this mitigation measure will be funded.

There will be a long period of time between when impacts will begin to occur (i.e., 2024 when tolling begins) and when identified mitigation measures can be feasibly funded, designed and constructed. As a result, the local communities will experience significant impacts for several years before mitigation measures, if they are even feasible, are fully constructed.

Many of the proposed mitigation measures would require the acquisition of right-of-way, have topographical and/or adjacent land impacts that lead to significant questions of construction feasibility, and could be extremely costly to actually construct. How will ODOT address these issues and assure our communities that the impacts will be sufficiently mitigated?

The EA also proposes mitigation measures that are technically infeasible. A good example of this is the widening and signalization mitigation proposed at the OR 99E/South End Road intersection. OR 99E parallels the rail tracks and the Willamette River, so no widening of this intersection can occur to the west, and there are significant topographic constraints to the east in the form of a solid rock bluff adjacent to OR 99E. To add lanes to the intersection, OR 99E would need to shift eastward well in advance of the intersection. Between the costs of widening and the impacted embankment areas, it would not be feasible to complete this mitigation project prior to 2027, if at all.

Finally, there is a lack of clarity on the mitigation measures proposed, how they will be shaped by local officials and the impacted communities, and a realistic timeline for implementation. The EA states that “any mitigation proposed to address near-term impacts that is determined to also help alleviate pre-completion tolling impacts could be implemented before tolling begins.” This statement defers the analysis of pre-completion tolling impacts. The EA needs to analyze the impacts from pre-completion tolling, identify which mitigation measures will be required to address the significant impacts of pre-completion tolling, and condition tolling to start no sooner than completion of these mitigation measures.

Truck Traffic on Local Roadways

Traffic and air quality modeling assumes that truck traffic on local roadways will *decrease* with the Project, while passenger car traffic will increase as a result of diversion. This assumption, which is used to justify the lack of local modeling and consideration of air toxics and noise, is not supported by evidence. In particular, the County is concerned that ODOT has not properly accounted for the movement of aggregate materials from the rock quarries near Canby and Vancouver or access to the developing warehouse/industrial district in Canby.

Reasonably Foreseeable Future Actions in the Project Corridor Should be Part of Mitigation

If a project is identified as a Reasonably Foreseeable Future Action (RFFA) in Section 4.4 of the Cumulative Impact Technical report, and is within the Project corridor, it should be considered eligible for mitigation funding. Examples include 2018 Regional Transportation Plan (RTP) projects 10127, 10128, 11242, and 12089. While these projects are on the 2018 RTP, they are not guaranteed to be funded. In order to achieve the benefits that are described as a part of the Project, the RFFAs need to be constructed.

IV. Other Topical Issues

In general, the County is concerned that the analysis of other topical areas in the EA focuses on impacts to the highway system while ignoring local impacts in areas that will experience increased traffic from diversion. The geographic boundary associated with the API for the following resources (identified in Table 4-1 of Appendix Q) should be modified to extend onto the roadways that experience diversion and where there are identified mitigation projects: Land Use, Geology and Soils, Hazardous Materials, Vegetation and Wildlife, Wetland and Water Resources, and Historical and Archeological Resources. This is necessary to address the full extent of direct and indirect impacts of the Project. In other areas, including air quality and noise, where the API has been defined to include certain local roadways and communities that would experience diversion, there is no meaningful or quantitative analysis of impacts. Our detailed comments are outlined below.

Air Quality

MSAT Analysis

Under the Build Alternative, the projected addition of diverted traffic to non-highway roadways will increase the generation of mobile source air toxics (MSATs) along those roadways, which will increase the concentration of MSATs at specific locations. However, the EA does not adequately address the potential increase of MSATs at affected locations and the associated potential health hazards. The following factors raise concerns without providing adequate analysis to understand the potential health hazards.

- Table 6-3 of the Air Quality Technical Report identifies an 11% increase of non-highway vehicle miles traveled (VMT) under the Build Alternative.
- Table 6-5 of the Air Quality Technical Report identifies a 12% increase in annual benzene emissions along non-highway roadways under the Build Alternative.
- Figure 3-4 of the EA shows average daily traffic on specific non-highway roadways could increase by up to 31% under the Build Alternative.
- Sensitive receptors (e.g., residences, Willamette Primary School) are in close proximity to affected non-highway roadways and would be exposed to increased MSAT concentrations.
- The quantitative analysis of MSAT provided in the Air Quality Technical Report is limited to aggregate emissions and does not address concentrations at affected non-highway locations.
- As identified in Table 5-2 of the Air Quality Technical Report, concentrations of MSATs at one intersection near the project location exceed Oregon Department of Environmental Quality Benchmarks.[6]

[6] The benchmarks "are based on concentration levels that would result in a cancer risk of one-in-a-million additional cancers based on a lifetime of exposure. For non-carcinogens, the benchmarks are levels you

- Section 3.2.2 of the EA states the following: “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. However, 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 in forecasting project-specific MSAT concentrations and related health impacts.”
- Section 6.2.2 of the Air Quality Technical Report provides approximately two pages of justification for the decision to not characterize the magnitude of the changes in MSAT concentrations at affected locations. The discussion in Section 6.2.2 raises significant human health concerns without resolving them.

The sum of limitations raised within Section 6.2.2 of the Air Quality Technical Analysis does not absolve ODOT from a good-faith effort to characterize the increase in MSAT concentrations along affected non-highway roadways. ODOT should model MSAT concentrations at two or more locations and compare these to established health risk levels, such as the Oregon Air Toxics Benchmarks. Analysis would be limited to two alternatives (No Build, Build) and could be corroborated with existing air quality monitoring data. If the benchmarks are exceeded, then a more detailed health risk assessment should be conducted. While the analysis would entail some level of uncertainty, understanding the magnitude of potential MSAT concentrations is critical for understanding potential health impact on residents. This information is necessary for the decision-makers as well as the affected communities.

Additionally, the assumption that truck traffic and associated MSAT emissions will decrease on local roadways should be revisited. As noted above, the County is concerned that ODOT has not properly accounted for the movement of aggregate materials from the rock quarries near Canby and Vancouver and access to the developing warehouse/industrial district in Canby. Further, Borland Road, which parallels a significant segment of I-205 and is one of the primary roads that would experience an increase in traffic from diversion, currently does not allow truck traffic; therefore, there would effectively be no change in truck traffic on this roadway, but the volume of passenger cars would increase dramatically, along with associated emissions of MSAT. A health risk assessment should be conducted to evaluate impacts from the increase in MSAT along Borland Road and other affected roadways.

Appendix D2, Truck Toll Sensitivity Analysis- Air Quality, only addresses the potential for criteria air pollutant and GHG emissions, stating that even with variable rate tolling for trucks, VMT would be reduced, and therefore “air quality” impacts would be less than significant. But this logic completely ignores MSAT concentrations on local roadways from increased truck diversion from variable rate tolling. The air quality analysis of variable rate truck tolling (Appendix D2) should be revised to consider MSAT health impacts on local streets.

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could breathe for a lifetime without any non-cancer health effects” (https://www.oregon.gov/deq/aq/air-toxics/Pages/Benchmarks.aspx).

Cumulative MSAT Analysis

The cumulative air quality analysis does not appear to address potential for cumulative projects (including the RMPP) to increase traffic and therefore increase MSAT concentrations along affected non-highway roadways. The cumulative air quality analysis in the EA references FHWA expectations of declining MSAT emissions to conclude that the Build Alternative would not have negative cumulative effects on air quality. While overall emissions are expected to decline, the Build Alternative in conjunction with the cumulative projects has the potential to significantly increase traffic on non-highway roadways. The MSAT analysis of the I-205 Toll Project should take into account the impacts of the RMPP and other cumulative projects on the specific non-highway roadways that will be impacted by the Build Alternative.

The cumulative MSAT analysis should address affected non-highway roadways that will experience increased traffic and intersections where the level of service will decline. ODOT should model cumulative MSAT concentrations at two or more locations and compare these to established health risk levels, such as the Oregon Air Toxics Benchmarks. If the benchmarks are exceeded, then a more detailed health risk assessment should be conducted.

Geographic Boundary of MSAT Emissions Analysis

The project elements are located entirely within Clackamas County and most of the air quality API is located within Clackamas County; however, the geographic boundary of Multnomah County was used for the MOVES modeling of MSAT emissions. The County is concerned that the geographic boundary used in the analysis does not accurately reflect actual conditions. ODOT should disclose how the geographic boundary was determined and whether emission estimates using Clackamas County as the geographic boundary would differ from those presented.

Other

The project area is located within an EPA-designated carbon monoxide maintenance area. This should be clarified in the EA.

While air pollutant emissions in the API are projected to be much lower in the future compared to current conditions due to improvements in vehicle technology and implementation of stricter emissions standards, Appendix Q of the EA cites that several of the RFFAs identify “reduced emissions” as a project objective, including the OR 43 Multimodal Improvement (RTP 10127) and Willamette Falls Drive Multimodal Improvements (RTP 10128). These projects should be identified as mitigation and funded through the Project if they are being listed as contributing to improved air quality.

The air toxics monitoring data presented in the Air Quality Technical Report is from a former monitoring station about 7 miles from the Abernethy Bridge. Closer and more recent monitoring data should be used to characterize existing air quality in the region. The Tualatin monitoring station air toxics data is closer to the project area (approximately 3.6 miles from the Tualatin

River Bridges), is more recent and more representative of a near-highway environment. The Tualatin monitoring data shows higher levels of air toxics, which should be taken into account for the analysis of the I-205 Toll Project. This data is available from the Oregon Department of Environmental Quality.

Climate Change

The TTR (page 65) in Table 5-4 identifies that the Regional VMT will increase on non-highway roads and will decrease on the highway. The people who are choosing to shift their trips off of the highway do not have choices in travel options, and will therefore put additional strain on the local roadway system.

EA Appendix Q, page 25, identifies that "Tolling can encourage shifts away from single occupant-vehicle and a shift in travel time, which can reduce emissions associated with vehicle idling." While the report notes that the Build Alternative is expected to have a relatively "small effect" on choice on travel mode in the region, it should be more clear that it is a "negligible" impact with only a shift of 800 trips regionally to transit (of the 5,245,000 trips) and an increase of only 200 Active Transportation trips of the total 1,276,800 trips across the region.

One significant reason that trips are not shifting to another mode is because other modes of transportation are not available in this area. To take a trip using transit would require two to four times as much time for most travelers.

In addition, there are insufficient bikeway facilities in the area.

- As the analysis of the bikeway facilities demonstrates, the majority have a Bicycle Level of Traffic Stress (BLTS) rating of R3 and R4, and are not expected to improve.
- As noted on page 47 of the TTR, "Most study corridors are already at the highest or worst level (BLTS 4) when considering the overall corridor as a whole."
- The report goes on to say, "In rural areas (denoted with an "R"), shoulders are more important to the BLTS results because safety concerns tend to be higher (ODOT 2020a). All of Stafford Road, most of SW Borland and parts of 99E are considered rural."
- Even though a significant additional volume of traffic is anticipated in these corridors with the Build Alternative, the granularity of the BLTS rating system does not demonstrate any difference with the score, with the corridor going from a BLTS 4 to a BLTS 4, which means that no mitigation for the impacts to bikeway travel were proposed through the corridor.

If tolling is expected to be a tool to reduce GHG emissions, there must be reasonable mode choices. To achieve congestion management, as identified in the Project purpose, investments in bikeway and transit infrastructure are necessary as a part of the mitigation so that people have reasonable travel alternatives. For example:

- Investments need to be made in a complete protected bikeway path throughout the corridor, including along Stafford Road, SW Borland, and parts of OR 99E.
- Bikeway improvements as well as the RFFA OR 43 Multimodal Improvement (RTP 10127) and RFFA Willamette Falls Drive Multimodal Improvements (RTP 10128) are needed to help achieve the proposed GHG emissions reductions.
- There needs to be regular, reliable transit service throughout the corridor, addressing both through and local trips, to provide a viable mode option.

The pedestrian and bicycle level of stress analysis presented in the EA does not recognize the rural nature of many of the County roadways where diversion would occur. ODOT's Analysis Procedures Manual outlines procedures for assessing rural roadways and identifying potential risks and mitigation measures.

Emissions may be reduced on I-205, but due to diversion air quality will become worse within the communities when congestion shifts. This puts more families at greater risk and may create additional hardships due to healthcare costs, missed work and permanent illness.
As with other analyses in the EA, the benefits and impacts are focused on I-205 and ignore impacts to local communities.

Additional information is needed on the economic impact to downtown Oregon City and Canby. The EA states that businesses in Oregon City and Canby would benefit from pass-through traffic, but no documentation is provided beyond that statement. What other considerations were there when making the assumption that the increase in volume would improve business? Parking is limited in some areas and thus would not support someone trying to stop on a pass-through trip. There should be a mitigation program for the businesses that may be negatively impacted in Oregon City, Canby and West Linn. More traffic volume may not be better if it is in the form of congested traffic.

On page 3-60, Table 3-30: Under the Build Alternative, the EA claims there would be higher levels of opportunity (traffic exposure-oriented) consumer spending in three commercial districts because of the projected higher traffic volumes compared to the No Build Alternative. This is questionable at best considering conditions will be gridlocked. It seems more likely that people will avoid the area due to congested conditions. Logic would imply that individuals who elect to travel longer distances to avoid the costs of tolling are less likely to be the "opportunity shoppers" referred to in Appendix F, Economic Technical Report.

Estimated toll rates are expensive; with no real rates it is impossible to say what the true economic impact will be to individuals and families. Our rough estimate given the financial data provided is that it would cost a household at least $2,000 to $2,400 per year ($166 to $200 per month).

It is not clear whether commercial use will be tolled at a higher rate. Will these costs be passed through to consumers and further exacerbate the economic hardships families and businesses experience?

On page 3-77 of the EA it states that the Project would result in the “same or improved access to jobs.” However, if a person has problems traveling to a new job now, how will tolling improve access? This is not a positive impact as stated as it is based on representative scenarios which have many technical errors (see comments under the subheading of *Social Resources and Communities/Environmental Justice*). Additionally, some representative scenarios show that EJCs and EJ communities will be forced to choose between paying a toll or traveling on a non-toll path which is more congested as a direct result of the Project (increased non-toll path travel times under the Build Alternative in comparison to the No Build Alternative). The Project creates an even larger divide between socioeconomic households at different levels and creates more disadvantages for those who already have trouble accessing jobs.

On pages 19 & 23 of the Economics Technical Report (EA Appendix F) there are contradictions: on page 19 it states that “detailed household spending is not available at the state, regional, and API levels, household income is assumed”; yet on page 23 it states “based on analysis of spending by households in the API, the existing spending by cost category can be estimated”. This contradiction needs to be explained and resolved.

Noise

Some noise level increases on local roadways are disclosed, in some places up to 6 dBA, but there is no discussion of sensitive receptors located along these segments, and whether impacts would be significant. There is also no discussion of noise thresholds for significance or local policies related to noise. Mitigation is identified for I-205 segments only. The increases in local roadway noise appear to be a significant, unmitigated impact.

While EA Appendix Q states that the Build Alternative would not have negative cumulative effects related to noise, the EA states on pages 3-66 and 3-67:

> “Along non-highway roads in the API, changes in traffic noise levels under the Build Alternative would range from 6 dBA lower to 6 dBA higher than existing noise levels because of changes in traffic volumes. The largest reduction in noise levels would occur along the segment of Willamette Falls Drive east of 19th Street, where traffic volumes would be lower than under the No Build Alternative, and the largest increase would occur along the segment of SW Borland Road east of SW Stafford Road, where traffic volumes would be higher than under the No Build Alternative. Figure 3-14 shows the estimated increases in traffic noise levels on non-highway roads under the Build Alternative as compared to existing conditions. Most locations would experience 0 to 3 dB higher noise levels under the Build Alternative compared to the No Build Alternative, which would be barely perceptible to the human ear.”

The analysis does not appear to address the potential for cumulative projects (including the RMPP) to increase traffic and therefore increase noise levels along affected non-highway roadways. The noise analysis of the Project should take into account the impacts of the RMPP

and other cumulative projects on the specific non-highway roadways that will be impacted by the Build Alternative. Mitigation needs to be identified for significant cumulative impacts.

Figure 3-13 of the EA, which depicts the noise API, does not include all of the non-highway roads that will have significantly increased traffic. This figure should be revised to address all non-highway roads that will experience notable diversion as a result of the Project. For instance, Figure 3-4 of the EA shows an 11% increase in traffic on OR 99E near Canby, which is not shown in Figure 3-13.

Some noise walls were not included as mitigation as they were not feasible from a cost perspective; because there is no feasible mitigation, the EA should disclose that a residual significant noise impact will occur which is not mitigated, thereby triggering the need for an EIS.

Social Resources and Communities / Environmental Justice

Overall, the EA does not adequately address impacts to EFCs and EJ communities. This should be a prime focus as "Impacts of tolling on communities experiencing low income" is one of the three priority issues that ODOT was directed to address by the Oregon Transportation Commission (page 1-2 of EA).

The EFCs and the EJ communities will experience the impact of diversion during pre-completion tolling, and this is not addressed in the EA. There are high concentrations of these communities in several of the areas where impacts to the transportation system have been clearly identified in the EA, especially near OR 99E, from Jennings Avenue south through Oregon City, as well as in Canby and the surrounding areas. The EA must document how these areas will be impacted in the pre-completion tolling scenario.

The base map used in almost all of the figures inaccurately displays the "urban area" in this section, and throughout the document. For example, the industrial areas east of I-205 along OR 212 and the Clackamas Town Center area north of OR 224 and west of I-205 are both fully developed and highly urbanized. The EA maps appear to be displaying incorporated areas and census designated places, but this does not properly identify what is "urban" according to US Census data. The maps should be revised to utilize the 2010 or 2020 Urban Area as defined by the US Census Bureau. This revision would accurately show additional urban areas within Canby, Oregon City, West Linn, and other jurisdictions.[7]

While it is noted on page 35 of EA Appendix Q that, "In the short-term it is possible that the construction of the Build Alternative and the RFFAs could overlap leading to detours and travel time delay for people accessing social resources," it is much more likely that the implementation of pre-completion tolling will create delay for people to access social resources, and that some

[7] For reference, the US Census 2010 Urban Areas map for this area is available online at: https://www2.census.gov/geo/maps/dc10map/UAUC_RefMap/ua/ua71317_portland_or--wa/DC10UA71317.pdf

of the critical active transportation RFFAs will not be constructed due to lack of funding, further negatively impacting EFCs and EJ communities.

There is a need for active transportation investments throughout the corridor -- not just spot improvements at very minimal locations -- so that persons with low income and other EFC/EJ communities have choices of different modes. Page 27 of EA Appendix Q identifies that a "historic lack of transportation improvements and investment in these communities has led to increased safety risks, including risk of traffic fatality and limited access to transit and active transportation networks (Oregon Walks 2021; Cohen and Hoffman 2019)". As a part of this Project, this needs to change. Unfortunately, the proposed mitigation does not sufficiently address these issues faced by EFCs or EJ populations.

Page 28 of EA Appendix Q states that the "Build Alternative would have beneficial or neutral effects on environmental justice populations related to access to social resources and travel times, air quality, roadway safety, and travel mode shift" and goes on to say "with the implementation of mitigation measures, no disproportionately high or adverse effect on environmental justice populations would occur under the Build Alternative. **The RFFAs would also be required to mitigate any disproportionately high and adverse effects on environmental justice populations** (emphasis added in bold)."

Overall, it appears that the RFFAs are needed to address the impacts to EFCs/EJ communities and should be included in the mitigation measures that are constructed with the Project.

The analysis of both Social Resources and Communities and EJ (Appendices I and J) relies on Representative Scenarios, which included trips that started in areas with higher concentrations of EFCs and ended in areas with social resources. Representative Scenarios 1 and 8 describe people who will now be forced to choose between paying a toll or taking a non-toll route that is now longer and less safe due to the Project (the Build Alternative increases volumes and travel time in comparison to the No Build Alternative). This is a significant and unmitigated impact created by the Project that disproportionately affects EFC/EJ communities on the outskirts of the proposed tolling location. Further, all Representative Scenarios could be affected by the RMPP and thus do not accurately assess cumulative conditions.

Other technical issues with the representative scenarios that were used are listed below. In addition to the issues noted, all of these scenarios assume bus routes that are undefined and do not correspond to claims of travel time estimations. In giving alternative travel options (public transport, bus, etc.), far more specificity is needed as to which specific routes will yield equivalent or less travel times.

Scenario Description 2

- The map is inaccurate and shows a trip from Rivergrove to Oregon City, not Tualatin to Oak Grove.
- There is direct transit that should be added, and it would require 1 hour and 52 minutes to make the trip.

Scenario Description 3

- The scenario describes going to a farm outside of Oregon City, but the map shows traveling to the hilltop/central Oregon City.

Scenario Description 4

- This scenario does not travel through the toll corridor.
- The scenario indicates that there would be no difference in travel time between Wilsonville and Portland between Existing Conditions and the year 2045. Also, this would indicate that the tolling on I-205 has no impact to travel time on I-5. Are these conclusions accurate?
- The assumed toll-free travel route does not align with plausible navigation decisions.

Scenario Description 5

- This scenario does not travel through the toll corridor.
- The scenario describes a student living in SE Portland, but the map has the person traveling from Clackamas Town Center, which is in unincorporated Clackamas County (likely with a Happy Valley zip code).
- The travel time range of 1-2 hours is extremely large in comparison to the “minute” of travel time savings for automobiles using the freeway.
- The trip cannot be done as described. The assumed toll-free travel route does not align with plausible navigation decisions.

Scenario Description 6

- The map does not display a trip from Rivergrove to Oregon City; it shows a trip from Tualatin to Oregon City.

Scenario Description 7

- How would the No Build Alternative increase travel time by 10 minutes at 11 PM?

Scenario Description 12

- The map is incorrect and does not match the scenario description.
- McLoughlin Promenade is located in Oregon City, not Gladstone.

Scenario Description 16

- The toll path under this scenario does not provide an improved travel time.

Scenarios 9, 10, 11 and 15

- The assumed toll-free travel routes do not align with plausible navigation decisions.

The Social Resources and Communities Technical Report (EA Appendix I), Section 7 discusses short-term and long-term impacts.

- The impacts of tolling and congestion pricing happen immediately and in the near term. All of the items listed in Section 7.2 need to be incorporated into Section 7.1 Short Term Impacts.
- When describing long-term impacts in Avoidance, Minimization, and/or Mitigation Commitments in both the Social Resources and Communities Technical Report

(Appendix I of the EA, pages 57-58) and Environmental Justice Technical Report (Appendix J of the EA, pages 50-51), three different options are summarized for how the Oregon Transportation Commission (OTC) will develop the Low-Income Toll Program. Those options range from:

- (1) toll discounts and exemptions;
- (2) providing focused discounts for more specified demographics based on specific income levels, and
- (3) using a verification process that leverages existing low-income service programs or exploring self-certification to qualify for enrollment.

These options need to be exercised as early as possible in the pre-completion tolling period to allow efficient and measured pre-implementation and implementation of one or more of the OTC's Low-Income Tolling options. The report does not provide a realistic timeline of preparing for option three, in particular. We strongly recommend that the OTC give as much time and resources to existing low-income service programs to help implement a feasible verification process.

There was no discussion about the disproportionate impact on populations relying upon transit, and the lack of transit resources within and through the corridor. Also, the lack of other complete bikeways through the corridor limits the fare-free options for people who do not drive. While the low-income toll program addresses the disproportionate burden on low-income populations, the Project is not making any significant improvements to transit or bikeways which could be alternative modes for people taking trips through the corridor. In the Cumulative Impacts Technical Report (Appendix Q of the EA), there is a continued reliance upon the RFFAs to provide the benefits for cyclists and pedestrians.

Social services are offered during business hours, which are during peak travel times. The cost to get to appointments will not lessen if people receiving the services have to pay the tolls or take alternative routes. Instead the time to get to appointments and cost will increase, adversely impacting those individuals even more.

How will penalties impact those who can least afford tolling and how might those create further financial hardships?

While the EA states that "ODOT is prioritizing equity throughout the Project development process" (EA page 1-6), the Project fails to achieve equity-related goals for historically underserved and disproportionately affected communities.

- The Project does not increase access to job centers or other important community centers. In fact, it would represent a new financial burden through use of a toll path, or reduced access through a longer, more congested, and less safe non-toll path.
- The Project shifts air quality effects from I-205 to surrounding communities.
- The Project may negatively impact local businesses in underserved communities.
- The Project does not enhance or expand multimodal transportation choices.

Land Use

The Land Use API needs to be expanded to include areas of significant diversion and mitigation. For example, Willamette Park and Fields Bridge Park should be considered as they will be impacted by diversion.

We are concerned with the compliance/consistency analysis for following items:

- Oregon Highway Plan (OHP) Policy 1F and Policy 1G Action 1G 1
- Oregon City Transportation System Plan
- West Linn Comprehensive Plan Goal 12, Chapter 2 *Goal 4: Maintain, protect and improve the existing transportation system*
- Stafford Hamlet Community Vision – Goal to Minimize additional traffic and infrastructure impacts

There is no discussion of compliance or consistency with OHP Tolling and Congestion Pricing Policy Amendment, which was adopted by the OTC on January 12, 2023. Goal 6 supports investments in multimodal access and addressing impacts to neighborhood health, safety and congestion.

The Land Use review only takes into account areas within 100 feet of I-205. The land use impact of the diversion on to the local roads is not taken into account. Land use review should be conducted along all of the primary diversion routes that will have an increase in daily traffic volume due to the implementation of tolling.

Land use for the Stafford area is guided by a 3-party agreement which allows for the cities to begin concept planning the area for urban uses upon completion of the improvements along I-205. The land use discussion should analyze the indirect growth-inducing impact of urbanization of the Stafford area which will be caused by the Project.

The Oregon City Arch Bridge should also be evaluated as a 4(f) resource in the land use section. Before approving a project that uses Section 4(f) property, FHWA must determine that there is no feasible and prudent alternative that avoids the Section 4(f) properties and that the project includes all possible planning to minimize harm to the Section 4(f) properties. The Project will result in the increased use of the Arch Bridge (a 40-50% increase in daily volumes), and feasible and prudent alternatives must be further evaluated. A managed toll lane or alternative non-toll funding sources are feasible and prudent alternatives.

The EA should disclose if any County planning permits are required as a part of the Project or mitigation. County right-of-way (ROW) permits will be required for mitigation projects in County ROW.

Historic and Archaeological Resources

The historic and archaeological API should be expanded to include areas of significant traffic diversion, as well as transportation mitigation measures that would involve visual changes or ground disturbing activities. Due to the narrow nature of the API for the Historic and Archeological Resources section, the report does not address the impact to the extremely important resource of the historic Highway 43 Arch Bridge which connects Oregon City and West Linn. It will be the only toll-free crossing option between Oregon City and West Linn with the implementation of tolls and congestion management. The County requested a discussion of the issues related to the Arch Bridge and the condition of the bridge in our September 15, 2022 comment letter on the Draft TTR.

The Oregon City-West Linn Pedestrian Bridge Concept Plan report outlines the historic significance of the bridge, as well as the need for improvements to the pedestrian and bikeway access in this area.

Figure 5-11 in the TTR specifically identifies an expected increase of 40-50% in daily volume of traffic across the Arch Bridge. There needs to be greater detail provided on impacts of the increased daily volume on this resource, as well as the impact of this increased volume on the local circulation in downtown Oregon City. While there may be existing or cumulative capacity issues with the Arch Bridge, an increase of 40-50% would mean the Project contributes significantly to a cumulative impact. If there is no feasible mitigation to bring conditions to an acceptable level of service, an EIS should be prepared rather than a FONSI.

Biological Resources

The EA does not disclose the potential secondary impacts from mitigation on vegetation, wildlife, wetlands, and water resources. The EA should describe which mitigation measures would require work outside of the developed right-of-way and whether these measures would impact biological resources. Proposed mitigation includes roundabouts which could impact undeveloped areas next to the right-of-way.

Public Involvement / Agency Coordination / Consultation

The 60-day public comment period provided by ODOT was woefully insufficient for the public to review and evaluate 3,000 pages of text and several very complicated models. While shorter public comment periods may be the standard practice in other states where tolling is normalized, this will be Oregon’s first toll program in the Portland metropolitan area and the first toll program in the State applied to roadways, not just bridges. It is imperative that it is done correctly. Indeed, the public engagement report only details a 10-week period from August 3rd to October 15, 2021 and no other public engagement before and after that period. Instead, ODOT is rushing to implement a project that is based on inadequate and deficient data and analysis, significantly increasing the likelihood ODOT will make mistakes that will negatively affect the communities we are elected to represent for years to come. Thus, it would be

appropriate and prudent for ODOT to extend the public comment period, as is allowable under the NEPA regulations.

Further, governmental agencies and the public experienced several roadblocks that inhibited their ability to review and comment on the EA. For example, the EA, appendices and associated materials were initially published only in English and translated materials were not available for several days. The public engagement report notes that outreach included "[d]istributing flyers containing information about the Project and the comment period in English and Spanish to the Borland Road Free Clinic and Tualatin School House Food Pantry along I-205." ODOT should have distributed flyers to sites in West Linn, Oregon City, or other portions of Clackamas County.

The public hearings and public in-person information sessions were poorly publicized and held during typical working hours. Particularly underserved communities cannot take time off of work and risk lost income to attend these informational sessions. Additional informational sessions on the EA should be held outside of normal office hours, particularly in areas of environmental justice concern.

V. Conclusion

The full extent of environmental impacts from the Portland Metro Area Value Pricing Project (or the first phase of the Oregon Toll Program) needs to be evaluated. We must understand the combined impacts of tolling on I-205 and the RMPP to enable the development of appropriate mitigation and informed decision making. The County cannot afford to invest in mitigation projects only to find out that the RMPP makes them stranded investments, or simply the wrong investments. The County has raised this and other key issues throughout the process, yet these concerns remain ignored.

At this time, it is essential that a FONSI is NOT issued, and that ODOT/FHWA be required to complete an EIS. The EIS should include the information that has been identified as missing or needed to supplement the current analysis. Substantial new technical information and analysis is needed to truly understand the impacts of the Project and required mitigation – this includes, but is not limited to:

- Modeling the impacts of implementing the RMPP at the same time as I-205 tolling
- Modeling the impacts of pre-completion tolling (with and without the RMPP)
- Fully evaluating and modeling an alternative with a completed six-lane facility and no tolling

We look forward to receiving your response to our comments and would welcome an opportunity to discuss our concerns further with key ODOT representatives. Our goal is to partner with ODOT to provide for the safe travel of all of our residents, businesses, visitors, and the movement of freight, regardless of the facility that people use to move within and to/from the County and our local cities.