

# 16-384 - Exhibit 2

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## Salem River Crossing Preferred Alternative

LEGISTAR

11/15/2016

# Contents

<b>1</b>	<b>Overview of Plan Amendments Process .....</b>	<b>1</b>
1.1	Introduction.....	1
1.2	Public Hearing and Testimony Process.....	1
1.3	Report Organization .....	2
<b>2</b>	<b>Testimony and Supplemental Findings in Support of Urban Growth Boundary Amendment.....</b>	<b>3</b>
2.1	Findings Addressing Relevant Portions of Goals 12 and 14 and Related Statutes and Administrative Rules .....	3
2.1.1	Applicability.....	3
2.1.2	Land Need .....	4
2.1.3	Transportation Need.....	9
2.1.4	Meeting Identified Land Needs .....	11
2.1.5	Boundary Location.....	16
2.2	Findings Addressing Local Comprehensive Plan Policies .....	19
2.2.1	Salem Area Comprehensive Plan.....	19
2.2.2	Polk County Comprehensive Plan.....	20
<b>3</b>	<b>Findings in Support of Transportation System Plan Amendments .....</b>	<b>24</b>
3.1	Findings Addressing Goal 12 and Related Administrative Rules.....	24
3.1.1	Goal 12 (Transportation) .....	24
3.1.2	OAR 660, Division 12 (the “Transportation Planning Rule”) .....	25
3.2	Findings Addressing Consistency with Local, Regional and State Transportation Plans.....	30
3.2.1	Salem Urban Area Goals and Policies (SACP, Section IV) .....	30
3.2.2	Salem Transportation System Plan (TSP).....	36
3.2.3	Polk County Transportation System Plan.....	38
3.2.4	Regional Transportation Plan.....	38
3.2.5	State Transportation Plans .....	38
<b>4</b>	<b>Findings in Support of Greenway Goal Exception.....</b>	<b>40</b>
4.1	Statewide Planning Goal 15 and Related Statutes and Rules .....	41
4.1.1	Goal 15 .....	41
4.1.2	Goal Exceptions Statutes and Rules.....	41
4.2	Local Plans and Policies.....	48
4.2.1	Salem Area Comprehensive Plan: Willamette River Greenway .....	48
<b>5</b>	<b>Findings Addressing Other Statewide Planning Goals and Administrative Rules</b>	<b>51</b>
5.1	State Post-Acknowledgement Plan Amendment Procedures.....	51
5.1.1	ORS 197.610 and ORS 197.626 .....	51
5.1.2	OAR 660, Division 18.....	51
5.2	Statewide Planning Goals .....	51
5.2.1	Goal 1 (Citizen Involvement).....	51
5.2.2	Goal 2 (Land Use Planning).....	53
5.2.3	Goal 3 (Agricultural Lands).....	53
5.2.4	Goal 4 (Forest Lands) .....	54

5.2.5	Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources) .....	54
5.2.6	Goal 6 (Air, Water and Land Resources Quality).....	54
5.2.7	Goal 7 (Areas Subject to Natural Disasters and Hazards) .....	55
5.2.8	Goal 8 (Recreational Needs) .....	56
5.2.9	Goal 9 (Economic Development) .....	57
5.2.10	Goal 10 (Housing) .....	57
5.2.11	Goal 11 (Public Facilities and Services).....	58
5.2.12	Goal 12 (Transportation).....	58
5.2.13	Goal 13 (Energy Conservation) .....	58
5.2.14	Goal 14 (Urbanization) .....	60
5.2.15	Goal 15 (Willamette River Greenway) .....	60
<b>6</b>	<b>Findings in Support of Plan Amendments Package: Local Policies and Regulations.....</b>	<b>61</b>
6.1	Local & Regional Plan Amendment Procedures .....	61
6.1.1	Salem Revised Code .....	61
6.1.2	Salem Area Comprehensive Plan .....	61
6.1.3	Polk County Development Code.....	62
6.1.4	Keizer Comprehensive Plan .....	63
<b>7</b>	<b>Findings Regarding Additional Public Testimony .....</b>	<b>64</b>

# 1 Overview of Plan Amendments Process

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## 1.1 Introduction

This report (Supplemental Findings) supplements the findings of fact and reasons set out in the Findings Report published on October 4, 2016 to respond to public testimony regarding proposed Land Use actions needed to implement the Salem River Crossing Project (SRC Project). These Supplemental Findings augment and reference the Findings Report, which is incorporated herein in its entirety by this reference. To the extent, if at all, the findings contained in these Supplemental Findings are inconsistent with the findings contained in the Findings Report, these Supplemental Findings will control.

The subject of this report is testimony submitted in regards to the plan amendments (UGB amendment, TSP amendments, and Greenway goal exception) needed to allow for the Preferred Alternative to be implemented from a state and local land use planning perspective. These amendments have a broader focus than the FEIS, and place consideration of the Preferred Alternative in the context of all alternatives evaluated in the DEIS. The findings of fact and conclusions in this document and in the earlier Findings Report draw from the DEIS and other evidence. However, because the Preferred Alternative represents a hybrid and refinement of alternatives evaluated in the DEIS, the technical reports developed for the Preferred Alternative/FEIS have been entered into the public hearing record to support the consolidated plan amendments.

Background information related to the SRC Project, including the environmental analysis process and results and the Plan Amendment process is found in Chapters 1 and 2 of the Findings Report and is not included here for brevity's sake.

The introduction to the Findings Report provides an overview of the proposed plan amendments and the plan amendment process.

## 1.2 Public Hearing and Testimony Process

Testimony related to the Plan amendment was submitted in advance of, during, and after a multi-jurisdictional public hearing conducted on October 12, 2016 at the Salem Center 50+ in Salem, Oregon. The following advisory and decision-making bodies took part in the hearing:

- City of Salem City Council
- City of Keizer Planning Commission
- City of Keizer City Council
- Marion County Board of Commissioners
- Polk County Planning Commission
- Polk County Board of Commissioners

The Findings Report was made available for public review in advance of the hearing. Written testimony was accepted until the afternoon of the hearing and at the hearing; verbal testimony was taken at the hearing. Forty-two (42) people submitted written testimony in advance of or at the hearing and approximately sixty (60) people testified during the hearing. During the course of the hearing, each jurisdictional body closed the hearing to further oral testimony but left the record open to additional written testimony for one week. An additional week was provided for rebuttal testimony to be submitted in response to testimony providing during the first week. Twenty one documents were submitted as written testimony during the open record period after the hearing. During the open record period, the local jurisdictions and their consultants entered 26 additional documents into the record as potential evidence in support of the proposed plan amendments. Some testimony is related directly or indirectly to approval criteria addressed in the Findings Report. Other testimony is related to issues or topics not directly related to the criteria. This Report addresses both types of testimony but focuses and provides greater detail related to issues associated with the relevant approval criteria.

## 1.3 Report Organization

This Supplemental Findings document is organized into the following chapters:

Chapter 1 – Overview of Plan Amendments Package

Chapter 2 – Supplemental Findings in Support of UGB Amendment

Chapter 3 – Supplemental Findings in Support of TSP Amendments (Salem and Polk County)

Chapter 4 – Supplemental Findings in Support of Greenway Goal Exception

Chapter 5 – Supplemental Findings addressing Statewide Planning Goals

Chapter 6 – Supplemental Findings addressing other Relevant Local Policies and Regulations

Chapter 7 – Additional findings in response to testimony not related to specific land use approval criteria

References to additional information previously published in the Findings Report are included throughout this document, rather than repeating the content of those Findings.

Throughout this document, *indented italic font* is used for goal, policy and statutory language.

## 2 Testimony and Supplemental Findings in Support of Urban Growth Boundary Amendment

This chapter summarizes testimony, and considers and makes supplemental findings addressing:

- Statewide Planning Goal 14 (Urbanization)
- OAR 660, Division 24 (Urban Growth Boundaries)
- Statewide Planning Goal 12 (Transportation) and relevant portions of OAR 660-012-0030 (Determination of Transportation Needs)
- Goals and policies in the Salem Area Comprehensive Plan and Polk County Comprehensive Plan relevant to the UGB Amendment.

Additional supplemental findings to address other statewide planning goals relevant to the UGB Amendment are provided in Chapter 5. Findings to address applicable procedures for the consolidated plan amendments (UGB Amendment, TSP Amendments, and Greenway Goal Exception) are provided in Chapter 6.

### 2.1 Findings Addressing Relevant Portions of Goals 12 and 14 and Related Statutes and Administrative Rules

#### 2.1.1 Applicability

##### 2.1.1.1 Division 24 Applicability (660-024-0000)

No testimony was submitted in regard to this provision of Division 24.

##### 2.1.1.2 Applicability of Statewide Planning Goals to a UGB Amendment (660-024-0020)

*(1) All statewide goals and related administrative rules are applicable when establishing or amending a UGB, except as follows:*

*(a) The exceptions process in Goal 2 and OAR chapter 660, division 4, is not applicable unless a local government chooses to take an exception to a particular goal requirement, for example, as provided in OAR 660-004-0010(1);*

#### **Testimony**

One commentor provided testimony including criteria associated with approval of goal exceptions and stated that the Findings Report did not address these criteria. The commentor also asserted that a Goal Exception is required under the Transportation Planning Rule (TPR, OAR 660-012-0070) in order to implement the project.

### **Supplemental Findings**

As noted in the criteria cited above, the exceptions process is not applicable unless an exception to a particular goal requirement is needed. A goal exception is required where it is not otherwise possible to comply with the statewide planning goal. The provisions cited in relation to a goal exception in the TPR (OAR 660-012-0070) apply to certain transportation improvements on rural lands. The proposed UGB amendment expands the UGB to include the land where the transportation facilities will be located, thus converting the land from rural to urban and urbanizable land. As a result, exceptions to goals 3, 4, 11, and 14 are not required.

As noted in the Findings Report (page 76), the portions of the Preferred Alternative that are within the Willamette River Greenway require a Greenway goal exception. The findings for the Greenway goal exception are included in Section 5.1.2 of the Findings Report and through supplemental findings in Chapter 4 (page 40) of this report.

*(b) Goals 3 and 4 are not applicable;*

### **Testimony and Findings**

No testimony was submitted in relation to these approval criteria.

## **2.1.2 Land Need**

### **2.1.2.1 Goal 14 – Land Need:**

*Goal 14: Urbanization*

*To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.*

*Land Need*

*Establishment and change of urban growth boundaries shall be based on the following:*

- (1) Demonstrated need to accommodate long range urban population, consistent with a 20-year population forecast coordinated with affected local governments; and*
- (2) Demonstrated need for housing, employment opportunities, livability or uses such as public facilities, streets and roads, schools, parks or open space, or any combination of the need categories in this subsection (2).*

*In determining need, local government may specify characteristics, such as parcel size, topography or proximity, necessary for land to be suitable for an identified need.*

*Prior to expanding an urban growth boundary, local governments shall demonstrate that needs cannot reasonably be accommodated on land already inside the urban growth boundary.*

### **Testimony**

Several testifiers questioned the need for a new bridge or asserted that the need could be met on land already inside the urban growth boundary.

**Goal 14 Supplemental Findings:**

Supplemental findings to address testimony on the determination of land need are provided in Sections 2.1.2.2 and 2.1.3. In addition, suitability characteristics applied in Section 3.1.5 of the Findings Report relating to establishment of a Study Area to evaluate land for inclusion in the UGB are discussed in that section of the Findings Report (page 119) and in Section 2.1.5 of this report (page 16).

**2.1.2.2 660-024-0040 Land Need**

The applicable sections of OAR 660-024-0040 applicable to a UGB amendment for a specific transportation need are (1), (2), (3), and (7). The remaining sections address other land needs.

**Criteria – 660-024-0040(1), Population Forecasts:**

*(1) The UGB must be based on the appropriate 20-year population forecast for the urban area as determined under Rules in OAR 660, div 32, and must provide for needed housing, employment and other urban uses such as public facilities, streets and roads, schools, parks and open space over the 20-year planning period consistent with the land need requirements of Goal 14 and this rule. The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision.*

**Testimony**

Commenters assert that a different set of population projections should have been used, consistent with the most recent changes to OAR 660 Division 32. They note that the methodology outlined in OAR 660 Division 32 would result in a lower regional population forecast (approximately 301,000 vs. 317,000). They describe the forecast on which the transportation modeling is based as representing a 25% increase in population growth, although it should be noted that the two forecasts differ by approximately 5% in total future population, which is the primary basis of future traffic forecasts.

**Supplemental Findings**

The Findings Report provides background on the population forecasts used for both regional and local transportation planning (see Section 2.1.4.1, pages 22-26). Findings in Section 3.1.2.2 of the Findings Report, beginning on page 79, address compliance with population forecast rules set out in OAR 660, Divisions 24 and 32. The following supplemental findings incorporate highlights from those findings as well as additional findings on the issue of the appropriate population forecast methodology.

The issue of which population projection methodology to use is very complicated. New administrative rules for population forecasting were created within OAR 660, Division 32 within the last few years. These rules became effective on March 25, 2015. Amendments to OAR 660-024-0040 making those rules applicable to UGB expansions were also effective on March 25, 2015. The transportation analysis for the SRC Preferred Alternative was already well underway at that time, using population forecasts that were developed in compliance with the rules in Division 24 (OAR 660-024-003(4)) that were in effect before March 25, 2015. However, the City must address the rules in place at the time that the UGB amendment is “initiated”, which is the date that the City provides official notice to DLCD of the proposed amendment, not the date that the analysis began. As noted on page 226 of the Findings



Report, the City of Salem submitted the Post Acknowledgement Plan Amendment (PAPA) notice to DLCD on September 8, 2016.<sup>1</sup> Therefore, the Division 32 rules are applicable.

As described in the Findings Report, pages 79-80, the rules in Division 32 direct the Population Research Center (PRC) at Portland State University to prepare population forecasts for all counties in the state. The PRC is scheduled to finalize the population forecasts for counties and cities in Region 3 in June 2017. OAR 660-032-0040 outlines a process for local governments to use when initiating a UGB amendment prior to the date the PRC issues its final population forecast. This process involves the use of interim forecasts. Since the PRC forecast for the Salem region was not finalized when the UGB amendment was initiated (via PAPA notice to DLCD), the proposed UGB amendment is subject to the interim forecast rules.

Those rules, which are cited on pages 79-80 of the Findings Report, provide that when the final PRC forecast is not available, the local government may use “the population forecast that was acknowledged before the review was initiated,” provided the acknowledged forecast meets the following conditions:<sup>2</sup>

*(a) Adopted by the local government not more than 10 years before the date of initiation, as a part of the comprehensive plan, consistent with the requirements of ORS 195.034 and 195.036 as those sections were in effect immediately before July 1, 2013, and*

*(b) Acknowledged as provided in ORS 197.251 or 197.625 prior to the effective date of this rule.*

Thus, a previously adopted forecast must pass both OAR 660-032-0040(1) tests before it can be used as an “interim forecast”. Under subsection (1)(a), it must be less than 10 years old, and must have been adopted under former ORS 195.034 and 195.036; and under subsection (1)(b), it must have been adopted prior to March 25, 2015. Such a forecast exists for the Salem-Keizer UGB—the coordinated 2010-2030 forecast was adopted on October 7, 2009, as Marion County Ordinance 1291.<sup>3</sup> However, that forecast does not cover the entire 20-year planning period required for the UGB evaluation and amendment (2015-2035). Various Salem planning documents have been adopted and acknowledged using a 2015-2035 planning horizon and population forecast (a Housing Needs Analysis was adopted February 8, 2016; an Economic Opportunities Analysis was adopted October 26, 2015; and the Transportation System Plan was adopted February 8, 2016); however, none was acknowledged prior to March 25, 2015.

<sup>1</sup> The PAPA notice is included in the record on the web site <http://www.cityofsalem.net/CA16-04>

<sup>2</sup> OAR 660-032-0040(1)

<sup>3</sup> Ordinance 1291 adopted a report titled “Population Forecasts for Marion County, its Cities and Unincorporated Area 2010-2030.” The Marion County forecast encompasses the entire Salem-Keizer UGB, including the portion that lies in Polk County. The West Salem numbers were also adopted by Polk County as part of its 2008-2030 forecast. That Polk County forecast also qualifies as an interim forecast under OAR 660-032-0040(1). We treat the Marion and Polk forecasts for the Salem-Keizer UGB as a single forecast, even though they were adopted separately, because they were coordinated and are consistent with one another. In addition, as will be explained later, Division 32’s methodology for preparing an extended forecast for the Salem-Keizer UGB requires the use of one forecast for the entire UGB

As described in the Findings Report (page 80), the UGB amendment is based on the 20-year population forecast for the 2035 RTSP and the adopted and acknowledged Salem TSP.<sup>4</sup> This creates consistency in transportation modeling with the adopted and acknowledged Salem TSP. The 2015 to 2035 forecast for these plans was originally created as part of developing the 2035 RTSP. For consistency in transportation planning assumptions at the local and regional level, the population forecast for the 2035 RTSP also became the basis for the adopted and acknowledged Salem Transportation System Plan (Salem TSP).<sup>5</sup> (Note that the 2035 RTSP is based on regional population and employment trends and forecasts for the entire SKATS boundary, an area slightly larger than the Salem-Keizer UGB.) Salem adopted the updated 2035 RTSP population and employment forecasts for the Salem-Keizer UGB as a component of the Salem TSP on February 8, 2016.<sup>6</sup>

The methodology used to develop the population forecast for the 2035 RTSP used the Marion County 2010-2030 coordinated population forecast as the starting point.<sup>7</sup> As noted, this forecast was acknowledged prior to March 25, 2015. The 2035 forecast for the Salem-Keizer UGB (316,479) was determined by extending the acknowledged 2030 Marion County forecast for the Salem-Keizer UGB for five years and then allocating that forecast to the Salem and Keizer portions of the regional UGB.<sup>8</sup> The methodology was consistent with the version of OAR 660 Division 24 that was in effect prior to March 25, 2015, which provided:<sup>9</sup>

*(a) If a coordinated population forecast was adopted by a county within the previous 10 years but does not provide a 20-year forecast for an urban area at the time a city initiates an evaluation or amendment of the UGB, a city and county may adopt an updated forecast for the urban area consistent with this section. The updated forecast is deemed to comply with applicable goals and laws regarding population forecasts for purposes of the current UGB evaluation or amendment provided the forecast:*

*(A) Is adopted by the city and county in accordance with the notice, procedures and requirements described in section (1) of this rule; and*

*(B) Extends the current urban area forecast to a 20-year period commencing on the date determined under OAR 660-024-0040(2) by using the same growth trend for the urban area assumed in the county's current adopted forecast.*

The new rules in OAR 660-032-0040 provide more specific guidance on how forecasts should be extended:

*(4) If the forecast is consistent with sections (1)(a) and (1)(b) of this rule but does not provide a forecast for the entire applicable planning period for a purpose described in section (2), the local government may apply an extended forecast for*

<sup>4</sup> City of Salem, *Salem Transportation System Plan*, amended by Ordinance 1-16 (February 8, 2016).

<sup>5</sup> City of Salem, *Salem Transportation System Plan*, amended by Ordinance 1-16 (February 8, 2016).

<sup>6</sup> The PAPA notice initiating the TSP amendments to incorporate the population and employment forecasts was provided on November 10, 2015. These forecasts for the Salem TSP are acknowledged. However, the forecasts are intended only for the purposes of transportation planning and do not replace forecasts adopted for the purpose of analyzing land needed for housing and employment.

<sup>7</sup> SKATS, *2015-2035 Regional Transportation System Plan*, adopted May 24, 2015.

<sup>8</sup> A detailed discussion of the population and employment trends, forecasts, and methodologies used for the region is included in Appendix A of the 2035 RTSP.

<sup>9</sup> OAR 660-024-0030(4), effective 4-16-09.

*such purpose. The extended forecast shall be developed by applying the long term growth trend that was assumed in the acknowledged forecast, for the particular planning area, to the current population of the planning area.*

\* \* \*

*(8) For purposes of this rule:*

\* \* \*

*(d) "Current population of the planning area" for an urban area means the PRC estimate of population of the city at the time the review is initiated, plus the population for the area between the urban growth boundary and the city limits as determined by the most recent Decennial Census published by the U.S. Census Bureau.*

The "long term growth trend" for the older adopted forecast is the 1.2% annual growth rate for the 2010-2030 period. The "current population of the planning period" must be computed using the instructions in subsection (8)(d) of OAR 660-032-0040. The resulting 2015 UGB population using the rule's methodology as amended in 2015 is 236,678 people. Extending that forecast to 2035 in a manner consistent with the rules cited above results in a 2035 regional population projection of 300,447 people.

The new methodology would result in a relatively modest (roughly 5%) reduction in the projected population of the UGB in 2035 relative to the older methodology used in generating the 2035 population forecast for the RTSP (300,440 vs. 316,479).

Nearly all technical analysis and traffic modeling for the SRC was completed prior to the adoption of either Division 32 or the most recent update to Division 24. The population projections used for the analysis were consistent with the rules in place at the time they were developed. Furthermore, because the UGB amendment is for transportation facilities only, rather than other categories of land need, and because the project is proposed to be added to the Salem TSP, it would seem that the most appropriate population forecast on which to base the traffic analysis is one consistent with the acknowledged TSP and with other regional transportation modeling for the same planning horizon. Nevertheless, changes to the OAR's guiding population projections that occurred after traffic analysis was completed require using a different methodology for preparing the projections, as described above.

Division 24 rules explicitly state that: "The 20-year need determinations are estimates which, although based on the best available information and methodologies, should not be held to an unreasonably high level of precision."<sup>10</sup>

Given all of the above, the question has been raised whether the small reduction in the population projection to 2035 using the appropriate methodology impacts the determination of need for the project. The answer is "no." The project's transportation planning consultants note that "a 5% difference in the population forecast will not have a substantive influence on the design of the transportation system, nor the resulting traffic performance" and further state that the use of the lower forecast "would not have an appreciable influence on design

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<sup>10</sup> OAR 660-024-0040(1)

of the street or highway to address the capacity needs and such a difference falls within the level of accuracy of travel forecasting models.”<sup>11</sup> In other words, either forecast would indicate the need for additional transportation facility capacity to address projected future population growth.

**Criteria – 660-024-0040(2)-(3)**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**Criteria - 660-024-0040(7):**

*(7) The determination of 20-year land needs for transportation and public facilities for an urban area must comply with applicable requirements of Goals 11 and 12, rules in OAR chapter 660, divisions 11 and 12, and public facilities requirements in ORS 197.712 and 197.768. The determination of school facility needs must also comply with 195.110 and 197.296 for local governments specified in those statutes.*

**Findings - 660-024-0040(7):**

No testimony was provided on this criterion and no supplemental findings have been prepared for it. However, supplemental findings related to relevant sections of Division 12 associated with determining needs for transportation are addressed in Section 2.1.3 below.

## **2.1.3 Transportation Need**

### **2.1.3.1 660-012-0030 Determination of Transportation Needs**

**Criteria – 660-012-0030(1)-(2):**

*(1) The TSP shall identify transportation needs relevant to the planning area and the scale of the transportation network being planned including:*

*(a) State, regional, and local transportation needs;*

*(b) Needs of the transportation disadvantaged;*

*(c) Needs for movement of goods and services to support industrial and commercial development planned for pursuant to OAR chapter 660, division 9 and Goal 9 (Economic Development).*

*(2) ... Local governments preparing local TSP's shall rely on the analyses of state and regional transportation needs in adopted elements of the state TSP and adopted regional TSP's.*

**Testimony and Findings**

Most testimony related to the need for the bridge was oriented to evaluating other alternatives for improvements instead of, or in advance of, considering a new river crossing. That testimony and supplemental findings to address it are summarized in subsequent sections of this document.

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<sup>11</sup> David Simmons, P.E. to Salem River Crossing Project Management Team, 10/19/2016, Salem River Crossing EIS: Population Impacts on Design and Traffic Performance.

**Criteria – 660-012-0030(3):**

*(3) Within urban growth boundaries, the determination of local and regional transportation needs shall be based upon:*

*(a) Population and employment forecasts and distributions that are consistent with the acknowledged comprehensive plan, including those policies that implement Goal 14. Forecasts and distributions shall be for 20 years and, if desired, for longer periods; and*

*(b) Measures adopted pursuant to OAR 660-012-0045 to encourage reduced reliance on the automobile.*

**Testimony**

As noted in Section 2.1.2.2 of this Report, the adequacy or correctness of population forecasts was the subject of public testimony. In addition, other commenters questioned whether the City has done enough to reduce reliance on the automobile prior to considering or planning for a new river crossing.

**Supplemental Findings**

The Findings Report includes findings about the City's programs and policies aimed at reducing reliance on the automobile (pages 87-90). These include a variety of land use, planning, and zoning initiatives and enhancements to bicycle facilities and transit services. In addition, all "build" alternatives studied in the DEIS (including the Preferred Alternative) assumed a set of transportation demand management and transportation system management (TDM and TSM) measures, such as the ones which were evaluated as part of the Alternative Modes Study prepared concurrently with the EIS process. Aggressive implementation of these strategies is estimated to result in a further reduction in traffic of eight percent (8%).

Additional findings related to reducing reliance on the automobile are found under the discussion of Transportation Planning Rule (TPR) requirements (OAR 660-012-0030(4) and OAR 660-012-0035(4)), below, and are incorporated by this reference.

**Criteria – 660-012-0030(4) and 660-012-0035(4):**

*(4) In MPO areas, calculation of local and regional transportation needs also shall be based upon accomplishment of the requirement in OAR 660-012-0035(4) to reduce reliance on the automobile.*

**Testimony**

Commentors noted that the Findings Report did not demonstrate consistency with requirements to reduce reliance on the automobile.

**Supplemental Findings**

The criteria cited by commenters (OAR 660-012-0030(4) and OAR 660-012-0035(4)) apply to overall updates to a local Transportation System Plan and/or to performance of the transportation system as a whole. They do not apply to specific transportation projects or to targeted amendments to a TSP (as is the case here). As a result, neither of these criteria are applicable to the proposed UGB and TSP amendments in isolation. Both are addressed in the Findings Report in the context of the overall TSP's compliance with these criteria, given the proposed amendments: OAR 660-012-0035(4) is addressed in Section 4.2.1.5, and OAR 660-012-0030(4) is addressed in Section 3.1.3.1.

Salem's TSP includes a variety of measures to reduce reliance on the automobile, including policies that support enhanced transit service and transit-supportive land use and design, improved bicycle and pedestrian facilities, policies that support transportation demand management strategies, and transportation system management policies and projects. Taken together, these measures plus the improvements for bicycles, pedestrians, and vehicles that would result from the Preferred Alternative create a transportation system that increases transportation choices.

The city's implementation of measures to improve transportation options since 1994 is documented in a presentation by the Mid-Willamette Valley Council of Governments to the Salem City Club dated February 8, 2013, which is part of the record of this proceeding. The presentation includes a map and list of projects that have been completed, which include TDM, TSM, bicycle/pedestrian system improvements, and transit facility enhancements. An additional summary of implementation of the SRC Alternative Modes Study recommendations was provided by the City on July 1, 2015.<sup>12</sup> This memo, which is part of the record of this proceeding, identifies bicycle and pedestrian system improvements that the City has implemented over the past few years as well as those with approved funding over the next five years; planned transit enhancements; and TDM implementation strategies that have been advanced, including parking management and pricing. Together, these summaries demonstrate that the City has made progress towards improving transportation choices.

## 2.1.4 Meeting Identified Land Needs

### 2.1.4.1 660-024-0050 Land Inventory and Response to Deficiency

The sections of OAR 660-024-0050 applicable to a UGB amendment for a specific transportation need are (1), (4), (5), (6), and (7).

#### **Criteria - 660-024-0050(1) and (4):**

*(1) When evaluating or amending a UGB, a local government must inventory land inside the UGB to determine whether there is adequate development capacity to accommodate 20-year needs determined in OAR 660-024-0040. For residential land... For employment land...*

*(4) If the inventory demonstrates that the development capacity of land inside the UGB is inadequate to accommodate the estimated 20-year needs determined under OAR 660-024-0040, the local government must amend the plan to satisfy the need deficiency, either by increasing the development capacity of land already inside the city or by expanding the UGB, or both, and in accordance with ORS 197.296 where applicable. **Prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.** If the local government determines there is a need to expand the UGB, changes to the UGB must be determined by evaluating alternative boundary locations consistent with Goal 14 and applicable rules at OAR 660-024-0060 or 660-024-0065 and 660-024-0067.*

<sup>12</sup> Memorandum from Julie Warncke, City of Salem, to Salem River Crossing Project File, dated July 1, 2015, regarding "Salem River Crossing Alternate Modes Study Implementation Overview".

**Testimony**

A number of commenters asserted that Alternative 2A or other measures undertaken within the existing UGB would be adequate to meet future transportation needs and should be proposed, rather than the Preferred Alternative. Commenters made several assertions related to this topic, including:

- Alternative 2A reasonably meets the project needs, particularly in terms of addressing congestion.
- Other improvements or policies could be implemented in concert with or in addition to Alternative 2A within the UGB that would address the project needs, such as seismic retrofits to existing bridges, additional bridgehead improvements, modifying the Union Street Rail Bridge to allow emergency vehicle use during bridge closures, TSM and TDM actions, and additional investments in alternative modes.
- Improvements to existing facilities must be undertaken prior to considering new facilities.
- Land use findings do not address 1974 and 1980 bridge studies that indicated that transportation needs could be met through improvements to existing bridges.

**Supplemental Findings*****Adequacy of Alternative 2A to Meet Project Needs***

The Findings Report provides extensive documentation supporting the conclusion that Alternative 2A cannot reasonably meet the project needs (Section 3.1.4.2, pages 94-112). While Alternative 2A would cost less to build and result in fewer dislocations than the Preferred Alternative, Alternative 2A would not address key aspects of the needs identified for this project and is inferior to the Preferred Alternative in a number of respects:

- Alternative 2A would continue to funnel all traffic into and through downtown and contribute to related livability issues.
- Alternative 2A would result in a bridge that is too large in the context of connecting infrastructure at either end of the bridge.
- Alternative 2A has significant operational issues in relation to connections to transportation facilities at either end of the bridge.
- Alternative 2A would not be able to provide multi-modal (bicycle/pedestrian) facilities.
- Alternative 2A does not provide redundancy which is important for emergency preparedness and resiliency.

***Assessment of Other Actions Within the UGB to Meet the Project Needs***

The Findings Report summarizes the analysis of other actions that could be undertaken within the UGB to meet the project needs, including alternatives considered but dismissed prior to DEIS alternatives and other improvements within the existing bridge footprint (Section 3.1.4.1, pages 92-94). Supplemental findings are provided below.

### **TDM, TSM, and Alternative Modes**

One of the alternatives considered early in the EIS process focused exclusively on transportation demand management and transportation system management strategies within the existing corridor and associated facilities. This alternative included a combination of new high capacity transit services; a lane of capacity across the river dedicated to transit, with supportive improvements to the roadway, pedestrian, and cycling system; a set of demand management policies; and a set of changes to comprehensive plan designations in west Salem. This option was evaluated and found not to meet the mobility objectives of the project. It also would not have addressed the redundancy and emergency operations goals of the project. However, all “build” alternatives (including the Preferred Alternative and Alternative 2A) assumed a set of TDM and TSM measures, such as the ones that were evaluated as part of the Alternative Modes Study prepared concurrently with the EIS process. While aggressive implementation of these strategies is estimated to result in a further reduction in traffic of 8%, that is still not enough to solve the transportation issues identified in the project’s purpose and need statement.

### **Improvements to Existing Bridges & Bridgeheads**

Over the last several decades, a variety of improvements have been considered and made to the existing bridges. Those improvements are described in Section 2.3 (pages 37-40) of the Findings Report, and detailed further in a memorandum from ODOT Region 2 to the City of Salem, which is part of the record of this proceeding. The memorandum details actions that have been taken to protect, improve the efficiency of, and add capacity to, the existing system, including the following types of improvements.

- Protect the existing transportation, including access management on adjacent roads, relocation of traffic signals, expansion of transit service and completion of the SRC Alternative Modes Study.
- Improved efficiency and capacity of highway facilities, including addition of additional turning lanes, pedestrian facilities, widened approach lanes and exit ramp enhancements, as well as construction of transit facilities, bicycle facilities and local street connections.
- Added capacity, including for OR 221 and the Wallace Road at Glen Creek project.

The memorandum concludes that the SRC has met state requirements to improve system efficiency and management before adding capacity.<sup>13</sup>

In addition, the No Build alternative, Alternative 2A and all “build” alternatives included modifications to the existing bridgeheads that are already adopted in the Regional Transportation System Plan.

Alternative 2A included further improvements at both bridgeheads, described in Section 2.3.2 of the DEIS (pages 2-31 through 2-32), in addition to adding lanes to the bridges themselves. The improvements to bridgeheads that were part of Alternative 2A include

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<sup>13</sup> Memorandum from Dan Fricke (Oregon Department of Transportation Region 2) to Julie Warncke (City of Salem), dated October 19, 2016, regarding “Salem River Crossing – Oregon Highway Plan Policy 1G – Major Improvements”.



improvements to the Center Street Bridge to Northbound Front Street ramp, one of the items suggested in testimony as something that could have been added to Alternative 2A.

### **Emergency Response / Seismic Upgrades**

Findings addressing testimony asserting that seismic upgrades to the existing bridges could meet the need for improved resiliency and redundancy are provided in Section 5.2.7.2 of this document (see page 56) and are incorporated by this reference.

As described in Section 1.5 of the DEIS, the Union Street Railroad Bridge is already designed to handle a 20,000-pound vehicle or a 40,800-pound fire engine, but infrequently at low speed. This connection is only suitable for use under extreme circumstances, and does not provide an adequate alternative for emergency response vehicles in the event of the closure of the existing bridges.<sup>14</sup>

### **Consideration of Previous Bridge Studies**

Commenters cite studies conducted in 1974 and 1980 that indicate that additional river crossings are not needed to address local and regional transportation needs. While those studies provide relevant historical information about analyses and recommendations prepared at the time, their conclusions are no longer directly relevant to the need for a new bridge or the ability of the existing bridges to accommodate current or future traffic needs, given increases in population, traffic congestion, and other conditions that have changed during the past 36-42 years. In addition, those earlier studies did not evaluate the same range of project needs that the current study does.

Additionally, those studies do not take into account the many improvements that have been made to the existing bridge since that time, discussed above.

### **Timing of Undertaking Improvements Within the UGB**

This approval criterion says that *“prior to expanding the UGB, a local government must demonstrate that the estimated needs cannot reasonably be accommodated on land already inside the UGB.”* This does not mean that improvements must actually be undertaken or completed within the UGB prior to considering or planning for an UGB amendment and does not preclude the City from expanding the UGB while simultaneously implementing improvements within the UGB. The Findings Report and supporting documentation have clearly demonstrated that other actions within the UGB by themselves will not meet the project need.

### **Evaluation of Alternative Boundary Locations**

Findings regarding the evaluation of alternative boundary locations, demonstrating compliance with OAR 660-024-0065 and -0067, are provided in Sections 3.1.5.2 (page 119) and 3.1.5.3 (page 125) of the Findings Report, respectively.

### **Criteria - 660-024-0050(5):**

*(5) In evaluating an amendment of a UGB submitted under ORS 197.626, the director or the commission may determine that a difference between the estimated 20-year needs determined under OAR 660-024-0040 and the amount of land and development capacity added to the UGB by the submitted amendment is unlikely to*

<sup>14</sup> DEIS Chapter 1, Purpose and Need for the Project, pages 1-17 – 1-18.

*significantly affect land supply or resource land protection, and as a result, may determine that the proposed amendment complies with section (4) of this rule.*

### **Testimony and Findings**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### **Criteria - 660-024-0050(6)-(7):**

*(6) When land is added to the UGB, the local government must assign appropriate urban plan designations to the added land, consistent with the need determination and the requirements of section (7) of this rule, if applicable. The local government must also apply appropriate zoning to the added land consistent with the plan designation or may maintain the land as urbanizable land until the land is rezoned for the planned urban uses, either by retaining the zoning that was assigned prior to inclusion in the boundary or by applying other interim zoning that maintains the land's potential for planned urban development. The requirements of ORS 197.296 regarding planning and zoning also apply when local governments specified in that statute add land to the UGB.*

*(7) Lands included within a UGB pursuant to OAR 660-024-0065(3) to provide for a particular industrial use, or a particular public facility, must be planned and zoned for the intended use and must remain planned and zoned for that use unless the city removes the land from the UGB.*

### **Testimony**

Commenters note that the City is not proposing to apply zoning designations concurrently with adoption of the UGB amendment and application of new Comprehensive Plan designations and question whether the proposed Comprehensive Plan designation adequately protects the land for transportation uses.

### **Supplemental Findings**

As noted in the Findings Report (page 116), the City of Salem will apply a *Parks, Open Space and Outdoor Recreation* (POS) plan designation to the 35 acres added to the UGB, but the existing Polk County EFU zoning will be retained as interim zoning and will maintain the land for the planned transportation facility. The EFU zone precludes urban development, while allowing a continuation of current rural uses in the interim. The City has no Comprehensive Plan designation or zone that allows for only transportation facilities; as noted in the Findings Report (page 116), Salem's zoning designations extend to the centerline of the right-of-way and the zoning code does not include a specific "use category" for linear transportation facilities; the use is permitted outright in all zones. The City also does not have zones or Comprehensive Plan designations that allow only public uses; however, the Public Amusement (PA) zone that implements the POS Comprehensive Plan designation allows a very limited set of uses. Further, the 35 acres will continue to be located in outside the city, within Polk County, and the City does not have authority to rezone the property.

## 2.1.5 Boundary Location

### 2.1.5.1 Goal 14 – Boundary Location:

*The location of the urban growth boundary and changes to the boundary shall be determined by evaluating alternative boundary locations consistent with ORS 197.298 and with consideration of the following factors:*

- (1) Efficient accommodation of identified land needs;*
- (2) Orderly and economic provision of public facilities and services;*
- (3) Comparative environmental, energy, economic and social consequences; and*
- (4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB.*

### **Testimony**

Some comments relate generally or indirectly to these factors, including comments related to the cost of and ability to fund the facility, as well as concern that a cost-benefit analysis had not been done.

Another commenter noted that potential impacts on surrounding agricultural uses had not been addressed.

### **Supplemental Findings**

#### **Costs and Funding**

No statute or administrative rule requires a cost-benefit analysis to amend the UGB, the TSP, or the Comprehensive Plan.

As noted in the Findings Report, findings to address the administrative rule provisions implementing the four Goal 14 factors highlighted above are provided in the response to 660-024-0067(7) in Section 3.1.5.3 (page 125) and in Table 15 of the Findings Report. Those findings include estimated project costs along with many other performance measures related to the Goal 14 factors. Goal 14 does not require a cost-benefit analysis per se, but rather consideration and balancing of the four location factors above. It also does not require selection of the lowest cost alternative. The information provided in Table 15 demonstrates that all four factors were considered, including cost and a variety of benefits. As discussed in Section 1.1 of the Findings Report, the City Council took costs and impacts into consideration in balancing the factors to identifying a preferred alternative that would meet the City's key transportation needs of improvement multimodal connectivity and system redundancy while minimizing social, economic and fiscal costs.<sup>15</sup>

That said, the issues of cost and funding are addressed in the Findings Report (page 159) and in the proposed TSP amendments, which note that portions of the project will likely be under the jurisdiction of the State (ODOT), while other portions will be maintained and operated by the City. The overall project is a high priority for the City of Salem, but given the significant costs, it will likely be designed and constructed in phases. Costs associated

<sup>15</sup> Salem City Council packet for June 24, 2013, *Salem River Crossing Preferred Alternative – Input from City Council to Regional Partners*, Agenda Item 4(d). <http://www.cityofsalem.net/CouncilMeetingAgenda/Documents/273/4d.pdf>. This document is part of the record of this proceeding.

with the Salem River Crossing Preferred Alternative (\$425M) are noted in the High Priority Street Improvement Projects Table of the proposed Salem TSP amendments, with a footnote that costs will be shared by Local, State, and Regional partners.

Approval of funding is not feasible without completing the EIS process and the EIS process cannot be completed without approval of the UGB amendment process. Furthermore, implementation of the project will require significant partnerships and phasing to make it a reality. These partnerships and decisions cannot be made until the footprint and general design are established, which also requires completion of the UGB amendment process. For all these reasons, it is not feasible to have an approved funding plan at this stage in the planning process.

### ***Impacts to Farm Land***

Impacts to farm land in the form of bringing that land into the UGB are discussed in Section 3.1.5.3 of the Findings Report (pages 126-129) and in Table 15 of the Findings Report. Compatibility with farm land that will remain outside the UGB is discussed in supplemental findings below.

A map identifying farm land adjacent to the proposed UGB expansion is part of the record of this proceeding.<sup>16</sup> It shows several properties that are already wholly or partially within the current UGB or are already abutting the UGB that are receiving farm deferral. All but one of these properties would not be impacted by urban uses to a greater degree than they are today, because there is no change to the UGB line in those areas. Only one small parcel (less than one acre) within or abutting the proposed UGB amendment areas is currently receiving farm deferral for agricultural activities. This parcel would be acquired for right-of-way to construct Marine Drive and the property owner would be offered compensation. Other large properties receiving farm deferral are located to the north along River Bend Road. These properties would see little impact, because River Bend Road will continue to be a dead end, and the Marine Drive alignment will route traffic to the west onto OR 221 / Wallace Road rather than east onto River Bend Road.

Several properties closer to the proposed UGB expansion area along River Bend Road appear to be cultivated in some fashion based on the aerial photography, but are not currently receiving farm deferral. The farm uses appear to be low impact hay or similar crops that will have few compatibility issues with the new Marine Drive collector road nearby.

The properties most directly adjacent to the proposed UGB expansion areas and the proposed future transportation facilities are currently not receiving farm deferral and/or actively being farmed. One of the affected areas is an active aggregate site that does not have farming uses on it. Many of these parcels are currently vacant, while a few have residential structures and/or businesses.

Given the degree of parcelization already present, the absence of farm tax deferrals, and the presence of nonfarm uses on several of the parcels most directly affected, these parcels do not and are not likely to maintain or contribute in any substantial or meaningful way to the commercial agricultural enterprise of the area. Those properties that are actively farmed are located at some distance from proposed UGB expansion areas and future transportation

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<sup>16</sup> Attachment to email dated October 19, 2016 from Clinton Doxsee to Matt Hastie and Becky Hewitt.

facilities. As a result, the proposed UGB expansion will be compatible with adjacent farm uses.

**2.1.5.2 660-024-0065 Establishment of Study Area to Evaluate Land for Inclusion in the UGB**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

**2.1.5.3 660-024-0067 Evaluation of Land in the Study Area for Inclusion in the UGB; Priorities**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**2.1.5.4 660-024-0020 Adoption or Amendment of a UGB**

**Criteria - 660-024-0020(2):**

*(2) The UGB and amendments to the UGB must be shown on the city and county plan and zone maps at a scale sufficient to determine which particular lots or parcels are included in the UGB. Where a UGB does not follow lot or parcel lines, the map must provide sufficient information to determine the precise UGB location.*

**Testimony and Findings – 660-024-0020(2):**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

## 2.2 Findings Addressing Local Comprehensive Plan Policies

### 2.2.1 Salem Area Comprehensive Plan

#### **N. NATURAL RESOURCES:**

##### *Waterways*

*(5) Waterways shall be protected, preserved, and maintained as drainage courses and scenic, recreational, and natural resources. These characteristics shall be considered during the development review process. Public access to waterways for maintenance purposes should be provided.*

#### **Testimony – Waterways:**

Commenters noted potential adverse impacts to water resources and associated activities.

#### **Findings – Waterways:**

Chapter 5 (Greenway Goal Exception) of the Findings Report and supplemental findings in Chapter 4 of this report (Greenway Goal Exemption) are incorporated by this reference to address this criterion. They indicate that prior to construction, a subsequent Greenway Development Review will be required and will ensure compliance with all greenway development standards relating to protection of the riparian area, stormwater management, design, potential public access, etc. The findings in Section 6.2.6 of the Findings Report (page 238) address Statewide Planning Goal 6 (Air, Water and Land Resource Quality) and also summarize the potential effects of the SRC project on water resources, wetlands, and riparian areas. FEIS technical reports are included in the record to provide evidence to support the conclusion that waterways will be protected, preserved and maintained and compliance with all applicable local, state, and federal standards relating to waterways can and will be met.

##### *Flood Hazards*

*(7) Development in the floodplain shall be regulated to preserve and maintain the capability of the floodplain to convey the flood water discharges and to minimize danger to life and property.*

#### **Testimony – Flood Hazards:**

Commenters noted potential adverse impacts to flood hazard areas and asserted that the Preferred Alternative will not meet flood hazard or floodplain management requirements.

#### **Findings - Flood Hazards:**

As noted in the Findings Report (Section 3.2.1) the 35 acres proposed to be added to the UGB are largely within the 100-year floodplain. The Federal Emergency Management Agency (FEMA) addresses floodplain areas at the federal level. In addition, goals and policies relating to development in natural hazard areas are also addressed in Statewide Planning Goal 7. The findings in Section 6.2.6.2 (page 239) and 6.2.7.1 (pages 243-244) of the Findings Report and supplemental findings in Section 5.2.6.2 and 5.2.7.1 of this report addressing water quality and quantity are incorporated by this cross-reference to show compliance with the Salem Area Comprehensive Plan policy regarding flood hazards.

##### *Aggregate Resources*

*(9) The location, quality, and quantity of aggregate resources shall be identified. The property owner shall plan for the conservation, development, and redevelopment of the resource land as appropriate to meet future needs. The map designation of these lands shall be Resource Extraction, with a secondary designation established based on the redevelopment potential of the residual lands. The secondary designation shall not be activated until extraction operations have been terminated. The reclamation plans of the individual extraction operations, which are subject to local governmental review and approval, shall incorporate secondary land use designations for each parcel.*

**Testimony and Findings - Aggregate Resources:**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

**O. WILLAMETTE RIVER GREENWAY**

Findings addressing the Salem Area Comprehensive Plan policies for the Willamette River Greenway are provided in Section 5.2.1 of the Findings Report (page 220) and in Section 4.2.1 of this document and are incorporated by this cross-reference.

**2.2.2 Polk County Comprehensive Plan**

**2.2.2.1 Section 2 Goals & Policies**

**A. Citizen Involvement**

*(1) To provide for a wide range of opportunities for citizens to be involved in all public phases of the planning process in Polk County. For the purposes of the Polk County Citizen Involvement Program, the term "citizen" shall mean property owners, land use applicants and the general public.*

*(1.5) Polk County will provide notice to those citizens that may be affected by proposed and adopted land use decisions and actions including but not limited to: amendments to the comprehensive plan and implementing regulations, zone changes, land use determinations, variances, conditional use permits, dwelling approvals, land divisions and subdivisions.*

*(2) To make land use information readily available to the public in an understandable form and provided in a timely manner.*

*(2.1) Polk County will prepare and make available to the public upon request clear and concise information reports, and supporting findings of fact and conclusions of law to citizens regarding County land use decisions and actions.*

*(2.2) Polk County will, as required by law provide public notices of proposed and approved land use decisions that sufficient and concise information to enable citizens to provide timely, informed comments.*

**Testimony – Citizen Involvement:**

Several commenters testified that there was inadequate time for the public to review documents and findings prior to the hearing.

**Findings - Citizen Involvement:**

Findings addressing Statewide Planning Goal 1 (Citizen Involvement) are provided in Section 6.2.1 of the Findings Report (page 228) and are incorporated by this reference. Additional findings are found in Section 5.2.1 of this report (page 51). As noted in those findings, public outreach and citizen involvement have been a central part of the NEPA environmental process for the SRC project for about ten years. The *Salem River Crossing Project EIS Public Involvement Summary* (2016) provides a detailed summary of public involvement in three distinct phases: 1) Prior to the DEIS, 2) DEIS Phase, including key issues and themes, and 3) following the DEIS and selection of the Preferred Alternative.

All four jurisdictions (Salem, Keizer, Polk County and Marion County) must concur in a decision to expand the Salem-Keizer UGB. The City of Salem initiated the UGB amendment, and the other jurisdictions have passed Resolutions to participate in the regional process, including holding a joint public hearing(s) to accept and consider public testimony on the consolidated plan amendments. Subsequent to the joint public hearing, all four jurisdictions left the record open for one week to accept additional public testimony, and another week for rebuttal testimony. Over 60 pieces of written testimony were received, some as long as 35 pages or more. Decision-making bodies for each jurisdiction have met or will meet separately to deliberate on the proposed land use actions and will consider all public testimony, new information, evidence added to the record, and these supplemental findings prior to making a decision. As the lead jurisdiction, the City of Salem has established a website to provide public access to all plan amendment materials. All jurisdictions provided public notice prior to the first evidentiary hearing to those entitled to mailed notice under the provisions of their respective zoning ordinances. Additional courtesy notices to other community members also have been provided.

**B. Agricultural Lands**

*(1.1) Polk County will endeavor to conserve for agriculture those areas which exhibit a predominance of agricultural soils, and an absence of nonfarm use interference and conflicts.*

*(1.2) Polk County will place lands designated as agriculture on the Comprehensive Plan Map consistent with Oregon Revised Statutes Chapter 215 and Oregon Administrative Rules Chapter 660, Division 33 in an exclusive farm use zoning district.*

**Testimony - Agricultural Lands:**

One commentor noted that the findings had not adequately addressed potential impacts on surrounding agricultural uses.

**Findings - Agricultural Lands:**

Findings in response to this issue are provided above, under Goal 14, on page 17, and are incorporated by this reference.

**D. Natural Resources**

*(2.3) When adequate information regarding the location, quality and quantity of mineral and aggregate resources becomes available, Polk County will make a determination of significance and, for significant sites, complete the Goal 5 process to provide a suitable level of protection to the resources site (Amended by Ordinance 91-34, dated September 25, 1991).*



**Testimony and Findings – Natural Resources (Mineral and Aggregate):**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**F. Land Capability/Resource Quality**

*(1.1) Polk County will cooperate with governmental agencies to protect life and property from natural hazards and disasters.*

*(1.2) Polk County will review all proposed development in floodplains and may prohibit construction of habitable structures in designated floodplains.*

**Testimony – Land Capability/Resource Quality (Floodplains):**

Commenters asserted that the Preferred Alternative would have adverse impacts on flood hazard management and that such impacts would not be properly mitigated.

**Findings – Land Capability/Resource Quality (Floodplains):**

As noted previously in this report, the 35 acres proposed to be added to the UGB is largely within the 100-year floodplain. The findings in Section 6.2.6.2 (page 239) of the Findings Report and in Section 5.2.6.2 of this document (page 54) addressing water quality and quantity are incorporated by this cross-reference to show compliance with the Polk County Plan policy regarding natural hazards. In addition, the Preferred Alternative will improve transportation connectivity and redundancy with an additional crossing of the Willamette River that will benefit urban and rural areas of the region in the event of a natural disaster such as a major flood or earthquake.

**K. Urban Land Development**

*(1.1) Polk County and each municipality will contain future urban development within the geographical limits of a mutually adopted Urban Growth Boundary.*

*(1.3) Polk County and municipalities will base establishment and change of urban growth boundaries upon consideration of the following factors:*

*(a) Demonstrated need to accommodate long-range urban population growth requirements consistent with LCDC goals;*

*(b) Need for housing, employment opportunities and livability;*

*(c) Orderly and economic provision for public facilities and services;*

*(d) Maximum efficiency of land uses within and on the fringe of the existing urban area;*

*(e) Environmental, energy, economic and social consequences;*

*(f) Retention of agricultural lands as defined, with Class I being the highest priority for retention and Class VI the lowest priority; and,*

*(g) Compatibility of the proposed urban uses with nearby agricultural activities.*

*Change of an adopted Urban Growth Boundary will be a cooperative process between Polk County and the affected municipality.*

**Findings - Urban Land Development (UGB Amendment):**

Testimony and associated findings related to the support of the proposed UGB amendment are provided in Chapter 3 of the Findings Report and Chapter 2 of this report and are incorporated by this reference and cross-reference to show compliance with Policies 1.1 and 1.3 listed above. The findings in Chapter 3 of the Findings Report address all applicable standards in the current version of Goal 14 and the Goal 14 administrative rule. Supplemental findings in this document address testimony related to these issues.

*(2.1) Polk County will consider areas lying between unincorporated city limits and an adopted urban growth boundary as "urbanizable," available for annexation and urban development over time.*

*(2.2) Polk County will support the development of land within existing urban areas before the conversion of urbanizable lands to urban uses. Expansion of urban areas should occur outward from existing development in an orderly, efficient and logical manner.*

*(2.5) Polk County zoning will reflect and support the intent of a municipality's coordinated and adopted land use plan for the urbanizable area in order to protect that area from random development actions.*

*(2.8) Polk County will encourage the orderly annexation to municipalities of the land within the adopted urban growth boundary.*

**Testimony and Findings - Urban Land Development (Urbanizable Lands):**

Testimony regarding this criterion and associated findings are found in Section 2.1.4.1 (page 11) of this report and Sections 3.1.4.1 (page 91-94) and 3.2.2.1 (pages 147-148) of the Findings Report and are incorporated here by reference and cross-reference.

*(3.1) Polk County and each municipality will adopt a plan for the management of growth and the provision of services to the urbanizable area. Growth management plans are to set forth priorities for the provision of urban services over time, and to guide the eventual annexation and development of urbanizable lands. Growth management plans should include a process for plan implementation and review.*

*(3.3) Polk County and municipalities will utilize policies contained within the intergovernmental agreement between the two parties to guide the annexation and development of urbanizable lands until specific growth management plans are developed.*

**Testimony and Findings – Urban Land Development (Growth Management):**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

## 3 Findings in Support of Transportation System Plan Amendments

This chapter addresses testimony and provides supplemental findings and references to the Findings Report addressing:

- Statewide Planning Goal 12 (Transportation)
- Relevant portions of OAR 660, Division 12 (the Transportation Planning Rule)
- Relevant goals and policies in Salem TSP, Polk County TSP, RTSP and State Transportation Plans.

Findings to address other statewide planning goals relevant to the TSP Amendments are provided in Chapter 6 of the Findings Report and Chapter 5 of this document. Findings to address applicable procedures for the consolidated plan amendments (UGB Amendment, TSP Amendments and Greenway Goal Exception) are provided in Chapter 7 of the Findings Report and Chapter 6 of this report.

### 3.1 Findings Addressing Goal 12 and Related Administrative Rules

#### 3.1.1 Goal 12 (Transportation)

*To provide and encourage a safe, convenient and economic transportation system.*

*A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services; (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans.*

#### **Goal 12 Findings:**

OAR 660, Division 12 (the Transportation Planning Rule or TPR) implements Goal 12. Findings addressing applicable provisions of the TPR are provided in Section 4.1.2 of the Findings Report. Specific issues identified during public testimony are further addressed in Section 3.1.2 of this report below and demonstrate compliance with Goal 12.

### 3.1.2 OAR 660, Division 12 (the “Transportation Planning Rule”)

#### 3.1.2.1 660-012-0015 Preparation and Coordination of Transportation System Plans

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

#### 3.1.2.2 660-012-0016 Coordination with Federally-Required Regional Transportation Plans in Metropolitan Areas

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

#### 3.1.2.3 660-012-0020 Elements of Transportation System Plans

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

#### 3.1.2.4 660-012-0025 Complying with the Goals in Preparing Transportation System Plans; Refinement Plans

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

#### 3.1.2.5 660-012-0030 Determination of Transportation Needs

**Criteria** – See criteria in Section 2.1.3.1 (page 9).

**Testimony** – See summary of testimony in Section 2.1.3.1 (page 9)

**Supplemental Findings** – See findings in Section 2.1.3.1 (page 9).

#### 3.1.2.6 660-012-0035 Evaluation and Selection of Transportation System Alternatives

**Criteria – 660-012-0035(1)-(3):**

*(1) The TSP shall be based upon evaluation of potential impacts of system alternatives that can reasonably be expected to meet the identified transportation needs in a safe manner and at a reasonable cost with available technology. The following shall be evaluated as components of system alternatives:*

*(a) Improvements to existing facilities or services;*

*(b) New facilities and services, including different modes or combinations of modes that could reasonably meet identified transportation needs;*

*(c) Transportation system management measures;*

*(d) Demand management measures; and*

*(e) A no-build system alternative required by the National Environmental Policy Act of 1969 or other laws.*

*(2) Local governments in MPO areas of larger than 1,000,000 population shall, and other governments may also, evaluate alternative land use designations, densities, and design standards to meet local and regional transportation needs.*

*(3) The following standards shall be used to evaluate and select alternatives:*

- (a) The transportation system shall support urban and rural development by providing types and levels of transportation facilities and services appropriate to serve the land uses identified in the acknowledged comprehensive plan;*
- (b) The transportation system shall be consistent with state and federal standards for protection of air, land and water quality including the State Implementation Plan under the Federal Clean Air Act and the State Water Quality Management Plan;*
- (c) The transportation system shall minimize adverse economic, social, environmental and energy consequences;*
- (d) The transportation system shall minimize conflicts and facilitate connections between modes of transportation; and*
- (e) The transportation system shall avoid principal reliance on any one mode of transportation by increasing transportation choices to reduce principal reliance on the automobile. In MPO areas this shall be accomplished by selecting transportation alternatives which meet the requirements in section (4) of this rule.*

### **Testimony**

Several commentors testified that additional consideration should have been given to transportation system management, transportation demand management, and improvements to existing facilities.

### **Supplemental Findings**

Supplemental findings related to consideration of TDM, TSM, and improvements to existing facilities are provided in Section 2.1.3.1 of this document, beginning on page 9. Those findings are incorporated by this reference.

### **Criteria – 660-012-0035(4):**

*(4) In MPO areas, regional and local TSPs shall be designed to achieve adopted standards for increasing transportation choices and reducing reliance on the automobile. Adopted standards are intended as means of measuring progress of metropolitan areas towards developing and implementing transportation systems and land use plans that increase transportation choices and reduce reliance on the automobile. It is anticipated that metropolitan areas will accomplish reduced reliance by changing land use patterns and transportation systems so that walking, cycling, and use of transit are highly convenient and so that, on balance, people need to and are likely to drive less than they do today.*

### **Testimony and Findings – 660-012-0035(4):**

One commenter noted that findings had not been prepared for this criterion. However, that commenter was reviewing an early draft of the findings. The Findings Report published in advance of the October 12, 2016 joint hearing contains findings in support of this criterion (Section 4.1.2.5, page 157). Supplemental findings related to compliance with requirements to reduce reliance on the automobile are provided in Section 2.1.3.1 of this document (page 9). Those findings are incorporated by this reference.

### **660-012-0035(10)-(12)**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

### 3.1.2.7 660-012-0040 Transportation Financing Program

#### **Criteria – 660-1012-0040:**

- (1) *For areas within an urban growth boundary containing a population greater than 2,500 persons, the TSP shall include a transportation financing program.*
- (2) *A transportation financing program shall include the items listed in (a)-(d):*
  - (a) *A list of planned transportation facilities and major improvements;*
  - (b) *A general estimate of the timing for planned transportation facilities and major improvements;*
  - (c) *A determination of rough cost estimates for the transportation facilities and major improvements identified in the TSP; and*
  - (d) *In metropolitan areas, policies to guide selection of transportation facility and improvement projects for funding in the short-term to meet the standards and benchmarks established pursuant to 0035(4)-(6). Such policies shall consider, and shall include among the priorities, facilities and improvements that support mixed-use, pedestrian friendly development and increased use of alternative modes.*

#### **Testimony**

A number of commenters testified that the Preferred Alternative should not be carried forward due to the relatively high cost of the new crossing and because potential funding sources are not guaranteed. Other commenters suggest that a cost-benefit analysis should have been conducted for the proposed project.

#### **Findings**

These issues are addressed in Section 4.1.2.6 (pages 159-160) of the Findings Report and in supplemental findings in Section 2.1.5.1 (page 16) of this document. Those findings describe how regional and local financing plans address the proposed project. They note that: “Portions of the project will likely be under the jurisdiction of the State (ODOT), while other portions will be maintained and operated by the City. The overall project is a high priority for the City of Salem, but given the significant costs, it will likely be designed and constructed in phases. Costs associated with the Salem River Crossing Preferred Alternative (\$425M) are noted in the High Priority Street Improvement Projects Table of the proposed Salem TSP amendments, with a footnote that costs will be shared by Local, State, and Regional partners.” Clearly, there is awareness that funding is a significant issue to be addressed as the project moves forward.

It also should be noted that approval of funding is not feasible without completing the EIS process and the EIS process cannot be completed without first approving the UGB amendment process. Furthermore, implementation of the project will require significant partnerships and phasing to make it a reality. These partnerships and decisions cannot be made until the footprint and general design are established, which also requires completion of the UGB amendment process. For all these reasons, it is not feasible or practicable to have an approved funding plan at this stage in the planning process.

**3.1.2.8 660-012-0050 Transportation Project Development**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**3.1.2.9 660-012-0055 Timing of Adoption and Update of Transportation System Plans; Exemptions**

No testimony was provided relevant to this section and no supplemental findings have been prepared.

**3.1.2.10 660-012-0060 Plan and Land Use Regulation Amendments****Criteria – 660-012-0060(1) and (2):**

*(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:*

*(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);*

*(b) Change standards implementing a functional classification system; or*

*(c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.*

*(2) If a local government determines that there would be a significant effect, then the local government must ensure that allowed land uses are consistent with the identified function, capacity, and performance standards of the facility measured at the end of the planning period identified in the adopted TSP through one or a combination of the remedies listed in (a) through (e) below, unless the amendment meets the balancing test in subsection (2)(e) of this section or qualifies for partial mitigation in section (11) of this rule. A local government using subsection (2)(e), section (3), section (10) or section (11) to approve an amendment recognizes that additional motor vehicle traffic congestion may result and that other facility providers would not be expected to provide additional capacity for motor vehicles in response to this congestion.*

*(a) Adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*

*(b) Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or*

*mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.*

*(c) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.*

*(d) Providing other measures as a condition of development or through a development agreement or similar funding method, including, but not limited to, transportation system management measures or minor transportation improvements. Local governments shall, as part of the amendment, specify when measures or improvements provided pursuant to this subsection will be provided.*

*(e) Providing improvements that would benefit modes other than the significantly affected mode, improvements to facilities other than the significantly affected facility, or improvements at other locations, if the provider of the significantly affected facility provides a written statement that the system-wide benefits are sufficient to balance the significant effect, even though the improvements would not result in consistency for all performance standards.*

**Testimony – 660-012-0060(1) and (2):**

Testimony related to these criteria included the following comments:

- A. Amendments to the Oregon Highway Plan (OHP) to revise mobility targets must be in place prior to approval of the project and have not yet been adopted.
- B. Closure of the Rosemont ramps would significantly affect the transportation system and those effects are not adequately addressed in the findings.
- C. The Preferred Alternative would adversely affect performance at several intersections which would not meet local performance targets.
- D. One commenter was reviewing an older draft of the findings that did not fully address these criteria, and noted that it had not addressed all elements.

**Findings – 660-012-0060(1):**

The Findings Report addresses these criteria generally (Section 4.1.2.9, pages 160-162). Supplemental findings to address testimony are provided below.

**A. OHP Mobility Target Amendments**

ODOT guidelines and administrative rules do not require revision of the Alternative Mobility Targets prior to adoption of a UGB amendment. ODOT is in the process of developing alternative mobility targets for the state highway intersections affected by, and consistent with, the Preferred Alternative for the Salem River Crossing project. ODOT Region 2 will prepare documentation and a recommendation for the Oregon Transportation Commission (OTC) to amend the Oregon Highway Plan (OHP) to include the alternate mobility targets. By ODOT and OTC policy, the proposed amendment will not be presented to the OTC until the local land use adoption process for the Salem River Crossing has been completed. This is consistent with other ODOT and local planning processes where OHP



amendments are adopted as the last step after local adoption to demonstrate the local agency support for the amendment.<sup>17</sup>

### **B. Rosemont Ramp Closure**

The project assumes future closure of the Rosemont Avenue off-ramp with the possibility of relocating it to Eola Drive or further west. The primary reason for the closure of the westbound Rosemont off ramp is the short weave distance and the anticipated high volume of traffic that would be using both ramps. Illustrations entered into the record illustrate these unsafe conditions. During peak traffic periods, the weave movement would be heavier, resulting in this area becoming congested as drivers slow down to make the weave movement. The potential for conflict would occur during all periods of the day, but would likely be more severe during the off-peak periods when speeds would be higher. The DEIS and Land Use findings state that the potential relocation of the Rosemont Interchange to Eola will be deferred pending development of a Facility Plan for OR 22 to be prepared by ODOT in coordination with local jurisdictions (Salem and Polk County). That Facility Plan will identify measures to mitigate any adverse impacts of the Rosemont closure and strengthen beneficial impacts. The City adoption of the Preferred Alternative into the Salem Transportation System Plan includes the following language:

Access to OR 22: The City will not support closure of the exit at Rosemont Avenue NW until a facility plan has been adopted that addresses access to the southwest portion of west Salem from westbound OR 22.

### **C. Intersection Performance**

It is true that some intersections in the study area will remain congested in the future under the Preferred Alternative. However, this alternative improves performance of the transportation system overall in comparison to the No Build alternative and Alternative 2A. Improvements to the overall system and the portions of the system associated with the existing bridges and downtown Salem are a key objective of the project. There is no review standard that requires that the proposed alternative must result in less congestion than the no-build at every affected intersection or at some minimum number of intersections. In addition, the proposed TSP amendments include the following statement:

*The City supports a greater level of peak hour congestion in order to reduce the physical impact to the surrounding neighborhoods and business districts.<sup>18</sup>*

## **3.2 Findings Addressing Consistency with Local, Regional and State Transportation Plans**

### **3.2.1 Salem Urban Area Goals and Policies (SACP, Section IV)**

The supplemental findings in this section focus on goals and policies that are most applicable to the proposed Salem TSP amendments. General goals and policies in the SACP are addressed first, followed by relevant goals and policies in the Salem TSP. There is quite a bit of redundancy in the SACP policies for Transportation and the TSP policies, and findings are cross-referenced where appropriate to minimize duplication. Relevant policies in the

<sup>17</sup> Email from Dan Fricke, ODOT Region 2 to Matt Hastie, dated October 19, 2016, and part of the record of this proceeding.

<sup>18</sup> Proposed Addition to Salem Transportation System Plan Street System Element, Ordinance Bill No. 14-16, Exhibit 2.

Polk County TSP are addressed in 4.2.2. For the majority of the specific goals and policies, no public testimony was provided.

## **E. RESIDENTIAL DEVELOPMENT**

### *Circulation System and Through Traffic*

*(7) Residential neighborhoods shall be served by a transportation system that provides access for pedestrian, bicycles, and vehicles while recognizing the neighborhoods physical constraints and transportation service needs:*

*(a) The transportation system shall promote all modes of transportation and dispersal rather than concentration of through traffic;*

*(b) Through traffic shall be addressed by siting street improvements and road networks that serve new development so that short trips can be made without driving;*

*(c) The transportation system shall provide for a network of streets fitted to the terrain with due consideration for safety, drainage, views, and vegetation.*

### **Testimony – Residential Development:**

Several commenters testified that the Preferred Alternative would negatively impact neighborhoods on both sides of the river (West Salem / Edgewater and Highland Neighborhood).

### **Findings - Residential Development:**

Findings addressing these standards are provided on pages 162-163 of the Findings Report. Supplemental findings are provided below.

Virtually all transportation projects of this scale can expect to have some adverse impacts on affected neighborhoods. They also typically have benefits in terms of providing better mobility, improved access and enhanced safety. The Preferred Alternative would be no exception. The mere fact that a transportation project may have some negative impacts does not mean that such projects are disallowed. Instead, transportation improvement projects are expected to identify adverse impacts and provide reasonable mitigation.

The DEIS summarizes a number of measures that will be undertaken to address impacts to adjacent neighborhoods. For example the DEIS indicates that project design shall include consideration of traffic calming needs in neighborhoods adjoining the bridgeheads on both sides of the Willamette River. Mitigation measures may include access restrictions or other traffic calming features, such as speed humps, diverters, or similar measures. In addition to mitigating negative impacts, the Preferred Alternative was designed to avoid other negative impacts. For example, it displaces significantly fewer residents and businesses in comparison to other Build Alternatives. It also will provide improved multi-modal access across the river to adjacent and surrounding neighborhoods.

## **G. COMMERCIAL DEVELOPMENT**

### *Central Business District*

*(1) The central business district shall be maintained and developed as a mixed-use regional retail and employment center for the Salem urban area as well as Marion and Polk counties.*

**Testimony and Findings - Commercial Development:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them.

**J. TRANSPORTATION**

**Regional Mobility**

*(3) A balanced system of transportation facilities and services shall be designed to meet the regional travel patterns and mobility needs of residents, businesses, and industries.*

**Testimony and Findings – Regional Mobility:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them.

**Multimodal Transportation System**

*(4) The transportation system for the Salem Urban Area shall consist of an integrated network of facilities and services for a variety of motorized and nonmotorized travel modes.*

**Findings - Multimodal System:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them.

**Connectivity and Circulation**

*(5) The vehicle, transit, bicycle, and pedestrian circulation systems shall be designed to connect major population and employment centers in the Salem Urban Area, as well as provide access to local neighborhood residential, shopping, schools, and other activity centers.*

**Testimony and Findings - Connectivity and Circulation:**

One commenter asserted that the Preferred Alternative will not enhance pedestrian and bicycle connectivity. Findings in support of this criterion are found in the Findings Report (Section 4.2.1.J, page 165) and supporting documents. No supplemental findings have been prepared for this criterion.

**Supportive of Land Use Plan Designations and Development Patterns**

*(6) The provision of transportation facilities and services shall reflect and support land use designations and development patterns as identified in the Salem Area Comprehensive Plan. The design and implementation of transportation facilities and services shall be based on serving current and future travel demand, residential densities, retail, and employment centers.*

*(7) Local governments shall encourage the expansion of transit services throughout and beyond the Salem Urban Area, especially to areas of increased residential densities, major commercial concentrations, and large institutional and employment centers.*

**Testimony and Findings - Supportive of Land Use Plan Designations and Development Patterns:**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**Growth Management**

*(8) The construction of transportation facilities shall be timed to coincide with community needs, and shall be implemented in such a way as to minimize impacts on existing development.*

**Testimony - Growth Management:**

Commenters asserted that the Preferred Alternative will adversely impact homes and businesses in the area and that closure of Rosemont Avenue will have adverse impacts on existing and future residents.

**Findings - Growth Management:**

Findings in support of this criterion are found in the Findings Report (Section 4.2.1, pages 166-167) and supporting documents. Supplemental findings associated with these issues are found in section 3.1.2.10 of this report (beginning on page 30).

**System Efficiency**

*(12) The implementation of transportation system and demand management measures, enhanced transit service, and provision for bicycle and pedestrian facilities shall be pursued as a first choice for accommodating travel demand and relieving congestion in a travel corridor, before widening projects are constructed.*

*(13) The Salem Transportation System Plan shall identify methods that citizens can use to commute to work and decrease overall traffic demand on the transportation system. Such methods include transit ridership, telecommuting, carpooling, vanpooling, flexible work schedules, walking, and bicycling.*

**Testimony - System Efficiency:**

Commenters testified that the Preferred Alternative does not do enough to promote alternative methods of reducing vehicle trips and/or that those actions should be undertaken prior to considering the Preferred Alternative.

**Findings - System Efficiency:**

These issues are addressed in the Findings Report (Section 4.2.1.J, page 167). Supplemental findings related to these issues also are found in this document in Section 2.1.4.1 (pages 17-19).

**Public Safety**

*(15) The rapid and safe movement of fire, medical, and police vehicles shall be an integral part of the design and operation of the transportation system.*

**Testimony and Findings - Public Safety:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them.

**Economic Development**

*(17) Supportive of the mobility needs of businesses and industries, the transportation system shall consist of the infrastructure necessary for the safe and efficient movement of goods, services, and people throughout the Salem Urban Area.*

*The Salem Transportation System Plan shall include consideration of the area's rail, aviation, inland marine, pipeline, and truck movement network. The Plan shall include ways to facilitate the intermodal transfer of freight in the area.*

**Testimony and Findings - Economic Development:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them.

**Neighborhood Livability**

*(19) Transportation facilities shall be designed and constructed to: minimize noise; energy consumption; neighborhood disruption; economic losses to the private or public economy, and social, environmental, and institutional disruptions; and to encourage the use of public transit, bikeways, and walkways.*

**Testimony - Neighborhood Livability:**

Several commenters described potential negative impacts on neighborhood livability issues including displacements of residents and businesses, local streets and traffic.

**Findings - Neighborhood Livability:**

Findings addressing these standards are provided on pages 1672-163 of the Findings Report. Supplemental findings addressing impacts on neighborhoods are provided on page 37 of this document.

**Aesthetics and Landscaping**

*(20) Aesthetics and landscaping shall be considered in the design of the transportation system. Within the physical and financial constraints of the project, landscaping, and where appropriate, public art, shall be included in the design of the transportation facility. Various landscaping designs, plants, and materials shall be utilized by local governments, private entities, or individuals to enhance the livability of the area.*

**Testimony - Aesthetics and Landscaping:**

Commenters testified that the construction of ramps and other structures proposed for the Preferred Alternative will have adverse impacts on views of the Willamette River, including from nearby parks (e.g., Wallace Park) and other viewpoints.

**Findings - Aesthetics and Landscaping:**

The Findings Report (Section 5.1.2.1, pages 190-194) contains a detailed discussion of the visual resources evaluation undertaken as part of the DEIS and FEIS, which evaluated impacts to viewpoints throughout the project area. In addition, the findings in Section 4.2.1.J of the Findings Report (pages 169-170) address the issue of aesthetics in the context of the TSP policy above, and note that prior to construction, a Greenway Development Review will be required, which will include consideration of more detailed plans for design of the bridge, potential viewpoints and/or access to the river, etc. In addition, the Findings Report (page 170) notes that the proposed Salem TSP amendments include a requirement for public input into the design of the bridge and related improvements.

While the *FEIS Visual Resources Technical Report Addendum* (CH2M Hill, 2016) notes that new structures would result in visual impacts, from many viewpoints they would occur within the context of a number of elevated structures (including the existing bridges) already located within the area. They also would be generally consistent with adopted plans for a

road proposed to be located along the western edge of the park shown in the adopted Wallace Park Master Plan. Physical connectivity under the new ramps also would be maintained where feasible. In addition, a variety of improvements would be undertaken as part of the process which would result in beneficial impacts to park users and others, including bicycle and pedestrian pathway improvements, park enhancements, new and enhanced viewing points, acquisition of additional public land and enhanced public access to other areas along the river.

#### **Citizen Involvement**

*(22) Opportunities for broad-based citizen involvement in the development, revision, monitoring and implementation of the Salem Area Comprehensive Plan shall be provided by the City of Salem and Marion and Polk Counties. Where neighborhood groups have been officially recognized by the governing body, they shall be included in the planning process. To help assure citizen participation and information, public hearings shall be held prior to adoption of all land use ordinances.*

#### **Testimony – Citizen Involvement:**

Commenters testified that the City of Salem and other participating jurisdictions did not provide adequate time or opportunities for community members to review or comment on recommendations associated with the Preferred Alternative or findings and other materials prepared in support of the proposal Plan Amendments.

#### **Findings - Citizen Involvement:**

Findings addressing Statewide Planning Goal 1 (Citizen Involvement) are provided in Section 6.2.1 of the Findings Report (page 51). Supplemental findings in response to testimony about lack of time for review are provided on page 21 of this document.

#### **Intergovernmental Coordination and Consistency**

*(23) Local governments within the Salem Urban Area shall coordinate their transportation planning and construction efforts with those of the SKATS, the State of Oregon Department of Transportation, the Salem Area Mass Transit District, and each other. Local transportation plans will be consistent with those developed at the regional and State level.*

#### **Testimony – Coordination and Consistency:**

Commenters testified that the City of Salem and did not adequately coordinate with the Salem Transit District.

#### **Findings - Coordination and Consistency:**

This criterion is addressed in the Section 4.2.4 of the Findings Report (page 177) which is incorporated by this reference. Supplemental findings associated with this criterion are found in Section 5.2.1 (page 53) of this report.

#### **Environment**

*(24) The City shall take proactive measures to reduce the environmental impacts from transportation programs and projects by ensuring that environmental resources are identified and evaluated for impacts early in the planning stage. Design, construction, and maintenance activities should avoid, minimize, or mitigate adverse environmental impacts. Where appropriate, the City shall look for cooperative opportunities with other public and private organizations to enhance the*

*natural environment as a component of transportation projects and maintenance activities.*

**Testimony and Findings – Environment:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them.

### **3.2.2 Salem Transportation System Plan (TSP)**

#### **3.2.2.1 Street System Element**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### **3.2.2.2 Bicycle System Element**

*Goal: To provide a comprehensive system that accommodates a range of bicyclists with varying skill levels by providing a well-connected system of bicycle facilities that will encourage increased ridership, safe bicycle travel, active transportation, and support public health.*

**Testimony - Bicycle System Element:**

Commenters assert that the Preferred Alternative will not provide adequate improvements to the bicycle system. The commenters also state that the improvements made to the city's bicycle system to date have not been robust enough.

**Findings - Bicycle System Element:**

This criterion is addressed in the Findings Report (Section 4.2.2.2, page 174) which demonstrate that the bicycle system improvements integrated in the Preferred Alternative will result in improvements to the overall bicycle element of the transportation system. This criterion is not intended to be used to judge the overall adequacy of the system in evaluating a single project.

#### **3.2.2.3 Pedestrian System Element**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### **3.2.2.4 Transit System Element**

*Goal: A public mass transit system that provides convenient and accessible transit services to the citizens of the Salem Urban Area.*

**Testimony and Findings - Transit System Element:**

No testimony was provided on this criterion and no supplemental findings have been prepared for them. Testimony related to coordination with the Salem Keizer Transit District and consideration of other transit-related strategies is addressed in Section 5.2.1 of this report (page 53)

#### **3.2.2.5 Freight Movement Element**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

### 3.2.2.6 TSP Guiding Principles and Strategies – Policy 5

*Policy: The City shall work with the Oregon Department of Transportation to first identify what types of capacity and seismic improvements can and should be made to the existing Center Street and Marion Street Bridges. Secondly, the City shall work with the State and other regional jurisdictions to identify the need for additional river crossings over the next 20-40 years. If such a need is justified, the location of additional river crossings should be identified. The type of crossing method should then be determined. Finally, the method of construction and operation should be identified and pursued.<sup>19</sup>*

#### **Testimony – Policy 5:**

One commenter asserts that the City must make seismic improvements before determining the need for a new river crossing.

#### **Findings – Policy 5:**

The commenter appears to interpret the words “first” and “secondly”, as used in this policy, as requirements that the second item (determining the need for a new river crossing) cannot take place prior to implementing seismic upgrades to the existing bridge. However, the language more accurately means that the City must pursue both avenues.

As noted in the Findings Report, the Preferred Alternative would include construction of a new bridge built to current standards that take a magnitude 9.0 CSZ and liquefaction into account and would be consistent with the purpose of Goal 7 to protect people and property from natural hazards. On a long-term basis, having a new bridge across the Willamette River would improve connectivity and reduce local vulnerability to a major seismic event relative to the No Build and Alternative 2A.

However, the City agrees that construction of a new bridge would not replace the need for continued local and regional support and advocacy for seismic improvements to the existing bridges, particularly in light of ODOT’s designation of the segment of OR 22 that includes the existing bridges as a Tier 3 (lower priority) seismic lifeline route. Towards that end, the City of Salem has partnered with ODOT in submitting a request to SKATS for federal funding to complete a seismic retrofit study for the Center Street bridge in 2017. This funding was approved by SKATS in September 2016. In addition, as part of the package of Draft Amendments to the Salem TSP supporting the Preferred Alternative, the following new text is proposed:

*While there is a need for a new bridge across the Willamette River, the Marion and Center Street bridges will continue to be a critical part of the local, regional, and state transportation system. The City will continue to advocate for ODOT to maintain these bridges in a state of good repair. The City fully supports cost-effective efforts to undertake seismic upgrades of these existing facilities to protect life safety and to minimize disruption in the event of an earthquake.*

<sup>19</sup> Guiding Principles of the Long-Range Transportation Strategy, #5, Salem TSP, February 2016, page 16-3.



### 3.2.3 Polk County Transportation System Plan

#### 3.2.3.1 Goal 2

No testimony was provided on this criterion in relation to coordination and participation undertaken by Polk County and no supplemental findings have been prepared for it.

#### 3.2.3.2 Goal 3

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### 3.2.3.3 Goal 6

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

### 3.2.4 Regional Transportation Plan

#### 3.2.4.1 2015-2035 SKATS Regional Transportation System Plan (SKATS MPO, 2015)

##### **Testimony and Findings**

No testimony was provided directly related to goals and objectives in the SKATS Regional Transportation Plan and no additional findings related to those criteria have been prepared.

### 3.2.5 State Transportation Plans

#### 3.2.5.1 Oregon Transportation Plan (ODOT, 2006)

No testimony was provided directly related to goals in the Oregon Transportation Plan and no additional findings related to those criteria have been prepared.

#### 3.2.5.2 Oregon Highway Plan (ODOT, 1999, republished with all amendments, 2015)

##### **Policy 1B – 1E**

No testimony was provided directly related to these policies of the Oregon Highway Plan and no additional findings related to those criteria have been prepared.

##### **Policy 1F: Highway Mobility Standards**

*It is the policy of the State of Oregon to maintain acceptable and reliable levels of mobility on the state highway system, consistent with the expectations for each facility type, location and functional objectives. Highway mobility targets will be the initial tool to identify deficiencies and consider solutions for vehicular mobility on the state system. Specifically, mobility targets shall be used for:*

*Identifying state highway mobility performance expectations for planning and plan implementation;*

*Evaluating the impacts on state highways of amendments to transportation plans, acknowledged comprehensive plans and land use regulations pursuant to the Transportation Planning Rule (OAR 660-12-060); and*

*Guiding operations decisions such as managing access and traffic control systems to maintain acceptable highway performance.*

*Where it is infeasible or impractical to meet the mobility targets, acceptable and reliable levels of mobility for a specific facility, corridor or area will be determined through an efficient, collaborative planning process between ODOT and the local jurisdiction(s) with land use authority. The resulting mobility targets will reflect the balance between relevant objectives related to land use, economic development, social equity, and mobility and safety for all modes of transportation.*

*Oregon Transportation Commission adoption of alternative mobility targets through system and facility plans should be accompanied by acknowledgement in local policy that state highway improvements to further reduce congestion and improve traffic mobility conditions in the subject area are not expected.*

*Traffic mobility exemptions in compliance with the TPR do not obligate state highway improvements that further reduce congestion and improve traffic mobility conditions in the subject area.*

**Testimony - Policy 1F:**

One commenter asserts that the state must adopt amendments to the alternative mobility standards for the facilities associated with the Preferred Alternative prior to adoption of the proposed local TSP amendments.

**Findings - Policy 1F:**

This issue is addressed in the Findings Report (Section 4.2.5.2, page 181). Supplemental findings associated with this criterion are found in Section 3.1.2.9 (page 28) of this document.

**Policy 1G: Major Improvements**

*It is the policy of the State of Oregon to maintain highway performance and improve safety by improving system efficiency and management before adding capacity. ODOT will work in partnership with regional and local governments to address highway performance and safety needs.*

*Use the following priorities for developing corridor plans, transportation system plans, the Statewide Transportation Improvement Program, and project plans to respond to highway needs:*

- (1) Protect the existing system*
- (2) Improve efficiency and capacity of existing highway facilities*
- (3) Add capacity to the existing system*
- (4) Add new facilities to the system*

**Testimony - Policy 1G:**

One commenter asserts that the City and ODOT have not adequately considered or undertaken improvements to the existing bridge facilities prior to considering a new river crossing.

**Findings – Policy 1G:**

The Findings Report addresses this criterion in background information in Section 2.3 (page 37) and the findings addressing OAR 660-024-0050(4) (page 92) of that report. Supplemental findings associated with this criterion are found in Section 2.1.4.1 (page 11) of this report.

## 4 Findings in Support of Greenway Goal Exception

This chapter provides supplemental findings in response to public testimony related to:

- Statewide Planning Goal 15
- ORS 390.310 to 390.368 (Willamette Greenway Statutes)
- OAR 660, Division 4 (Goal Exceptions)
- Relevant City of Salem Greenway Policies

### ***Description of Greenway Goal Exception***

The portion of the Preferred Alternative within the Greenway Overlay is within the existing UGB and Salem city limits. Therefore, Salem's plans and regulations are the controlling local documents for the Greenway goal exception. Additional information about the proposed Goal Exception and applicable elements of the Preferred Alternative are found in the Findings Report (Chapter 5, page 183).

### ***Summary of Testimony***

Commenters testified about the following aspects of the proposed Greenway Exception and impacts to the Greenway area:

- Coordination with public agencies (Salem Parks and Recreation Board, Oregon Parks and Recreation District) and community groups
- Overall attention to and assessment of Greenway impacts
- Scenic impacts related to proposed bridge structures
- Impacts on flood hazard areas and floodplain management
- Riparian vegetation impacts
- Recreation use, particularly the navigability of small boats (e.g., kayaks and canoes) and their ability to use landing points on McLane Island

The first item is addressed below. Remaining issues are addressed in relation to applicable approval criteria in the following pages. Only approval criteria relevant to these issues are addressed. All other approval criteria are addressed in Chapter 5 of the Findings Report.

### ***Findings – Coordination with Public Agencies and Citizens***

Extensive coordination and review of the DEIS and the Preferred Alternative has taken place. Findings in support of these efforts are found in Section 6.2.1 of the Findings Report (pages 228-230) and Section 5.2.1 of this report (beginning on page 51).

## 4.1 Statewide Planning Goal 15 and Related Statutes and Rules

### 4.1.1 Goal 15

Statewide Planning Goal 15 is intended to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

#### **Criteria – Goal 15, Section A.1:**

*(1) The qualities of the Willamette River Greenway shall be protected, conserved, enhanced and maintained consistent with the lawful uses present on December 6, 1975. Intensification of uses, changes in use or developments may be permitted after this date only when they are consistent with the Willamette Greenway Statute, this goal, the interim goals in ORS 215.515(1) and the statewide planning goals, as the case may be, and when such changes have been approved as provided in the Preliminary Greenway Plan or similar provisions in the completed plan as appropriate.*

#### **Testimony**

Several commentators raised concerns about how the Preferred Alternative would affect the qualities of the Willamette River Greenway.

#### **Findings**

Findings addressing this criterion are provided in Section 5.1.1 of the Findings Report, on pages 184-185. Supplemental findings responding to testimony about greenway impacts are provided in the following sections.

### 4.1.2 Goal Exceptions Statutes and Rules

Goal 15 exceptions need to show compliance with the standards for “reasons” exceptions set out in ORS 197.732(1)(c), Goal 2 Part II and OAR chapter 660, Division 4 (especially OAR 660-004-0018, -0020, and -0022(6)). Briefly, these require a demonstration of (1) reasons why the policies in Goal 15 should not apply; (2) consideration of alternative locations; (3) analysis of the economic, social, environmental and energy (ESEE) consequences of locating the use at the proposed location rather than other locations also requiring goal exceptions, and (4) analysis of how the use is or can be made compatible with adjacent uses.

OAR 660-004-0022(6) provides guidance on specific reasons that can be used to support an exception to Goal 15. Those specific criteria are addressed first in Section 5.1.2.1 below, followed by findings in Sections 5.1.2.2 through 5.1.2.6 (pages 201 through 220) that address the more general exception requirements of OAR 660-004-0020 and the provisions in OAR 660-004-0018 relating to planning and zoning for exception areas.

#### **4.1.2.1 OAR 660-004-0022:**

##### **Criteria – OAR 660-004-0022(6):**

*(6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal may be approved where reasons demonstrate the following:*

- (a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;*
- (b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;*
- (c) The use will provide a significant public benefit; and*
- (d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322."*

**Testimony – Greenway Values (6)(a):**

As noted above, commenters asserted that overall attention to and assessment of Greenway impacts was not adequate.

**Findings – Greenway Values (6)(a):**

The values of the Greenway are embodied in Goal 15: *"to protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities along the Willamette River as the Willamette River Greenway."*

The Findings Report devotes approximately 40 pages to a review of consistency with state and local approval criteria associated with an exception to Statewide Willamette River Greenway Goal 15. These findings rely on the DEIS and supporting technical reports, and updated technical reports for the FEIS that focus on the Preferred Alternative that examine impacts on resources within the Greenway in detail and include comparisons of the relatively impacts of all DEIS alternatives, including the Preferred Alternative and Alternative 2A. This represents a significant amount of attention to the proposed Greenway Exception which the City finds to be adequate for the proposed Plan amendments.

Specific issues noted by commenters are addressed below.

**Testimony – Natural Qualities (6)(a):**

Commentors assert that the Preferred Alternative would have adverse impacts on natural resources, including vegetation, wildlife and flood hazard management and that more analysis is needed.

**Findings – Natural Qualities (6)(a):**

The Findings Report includes extensive findings on these issues in Section 5.1.2.1 (pages 186-190). In addition, supplemental findings include:

The Preferred Alternative will be required to adhere to all adopted floodplain requirements as they exist now or at the time permit applications are filed and will obtain all required permits necessary to construct the project. The new floodplain measures are expected to require specific study, documentation, and design requirements. This project will not be able to move forward without meeting future floodplain management requirements and obtaining required permits.

In addition, due to the potential impacts of this project to aquatic species, continued coordination with the National Marine Fisheries Service (NMFS) is required and a Biological Assessment (BA) is currently being drafted in coordination with NMFS and ODOT. The BA will make some conservative estimates about bridge design and will include potential mitigation measures that are agreed upon by NMFS to offset any impacts the project may

incur, including impacts to listed species and their habitat. Once the draft BA is complete, the Federal Highway Administration (FHWA) will submit it to NMFS officially and NMFS will issue a Biological Opinion (BiOP). This BiOP will affirm and/or refine recommended mitigation activities and must be issued by NMFS prior to FHWA approving the project by signing the Record of Decision (ROD).<sup>20</sup> Measures that could be included in the BiOP to offset potential impacts include:

- Work within the active channel of the river will be completed during the in water work period as established by ODFW.
- Minimize impact area - confine construction impacts to the minimum area necessary to achieve project goals.
- Under high flow conditions, operations will cease that could result in inundation of the project area.
- Pollution and Erosion Control Plan implementation including inspection of erosion control best management practices (BMP).
- Construction discharge water will be treated.
- Isolation and fish salvage will occur within work areas.
- Prepare project completion report with photos.
- Site restoration - finish grade slopes and elevations.
- Look at opportunities to enhance riparian zones to allow for more shade, lower stream temperatures and more potential for large wood to be added to the system

These documents will require a variety of mitigation measures to be undertaken as part of any future bridge construction. Those measures are generally described in technical reports prepared for the FEIS and will be described in more detail in the BiOP.

**Testimony – Scenic Qualities (6)(a):**

Commentors assert that the Preferred Alternative would have adverse impacts on scenic resources associated with new bridge structures.

**Findings – Scenic Qualities (6)(a):**

The Findings Report includes extensive findings on these issues in Section 5.1.2.1 (pages 190-194). In summary, those findings state that based on the evidence in the DEIS and the *Visual Resources Technical Report Addendum* (2016), the Preferred Alternative will have some impact, but not a significant adverse effect, on Greenway scenic values. In addition, the new bridge, and associated bicycle and pedestrian facilities on and off the bridge, would provide additional opportunities for views of the Willamette River, McLane Island, and Wallace Marine Park and riparian areas that aren't available today.

Also, many people find bridges to be attractive and they become part of the character of the city. While some people may find a new bridge over the river to detract from the scenic qualities of the river, others may conclude that it enhances those scenic qualities. In the subsequent Greenway Development Permit phase, the public and decision-makers will have an opportunity to review the bridge design details and bicycle and pedestrian facilities and

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<sup>20</sup> Anna Henson, ODOT, "Re: ESA Consultation Process" Message to Julie Warncke, City of Salem, 10/18/2016

amenities, to ensure that the new bridge results in an overall net positive impact on the visual and scenic quality of the Willamette River Greenway.

Potential measures to avoid, minimize, and mitigate for adverse impacts to scenic values identified in the EIS include, but are not limited to:

- The use of sensitively designed architectural elements and details to be integrated with, complement, or otherwise enhance existing and new features.
- A sustainable, functional, and aesthetic landscape design.
- Increased spacing between bridge columns to open up views under bridge structures.

**Testimony – Historical Qualities (6)(a):**

Commentors assert that the Preferred Alternative would have adverse impacts on historic resources which are not adequately addressed in the Findings Report.

**Findings – Historical Qualities (6)(a)**

The Findings Report documents research, potential impacts, consultation, and assessment of impacts (Section 5.1.2.1, page 194). No additional findings are needed or have been prepared regarding this topic.

**Testimony – Recreational Qualities (6)(a):**

Commentors assert that the Preferred Alternative would have adverse impacts on park facilities and recreation use, particularly the navigability of small boats (e.g., kayaks and canoes) and their ability to use landing points on McLane Island, as well as on Wallace Marine Park.

**Findings – Recreational Qualities (6)(a):**

The Findings Report includes extensive findings on these issues in Section 5.1.2.1 (pages 196-199). In summary, those findings state that the Preferred Alternative would have relatively minimal impacts on area parks and associated recreational activities. In addition, the Hydraulics Technical Report Addendum states:

*No impacts to river traffic (e.g., recreational boating, Willamette River Queen tours) in the Willamette River are anticipated as a result of the preferred alternative. The preferred alternative new bridge would have full navigational clearance in both channels of the river around McLane Island and it is located far north of the boat ramp.* <sup>21</sup>

In addition, the Salem River Crossing Project Final Section 4(f) Evaluation states that “no impacts to small watercraft using the Willamette River Water Trail during construction are anticipated” and that “the design of the project has and will continue to ensure that recreation activities that currently occur within the Willamette River Water Trail will be maintained both during and after construction of the Project.” <sup>22</sup>

<sup>21</sup> Salem River Crossing Project Hydraulics Technical Report Addendum, prepared by CH2M, September 2016, page 1-16.

<sup>22</sup> Memorandum titled Salem River Crossing Project Final Section 4(f) Evaluation: Draft Findings for Park/Recreation Resources, to City of Salem and Oregon Department of Transportation, from: Michael Hoffmann/CH2M; October 5, 2016, page 21.

**Criteria – OAR 660-004-0022(6)(b)-(d):**

*(b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;*

*(c) The use will provide a significant public benefit; and*

*(d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322."*

**Testimony and Findings - OAR 660-004-0022(6)(b)-(d):**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**4.1.2.2 Willamette Greenway Statutes (ORS 390.314 Legislative findings and policy)****Criteria - ORS 390.314(1):**

*(1) The Legislative Assembly finds that, to protect and preserve the natural, scenic and recreational qualities of lands along the Willamette River, to preserve and restore historical sites, structures, facilities and objects on lands along the Willamette River for public education and enjoyment and to further the state policy established under ORS 390.010, it is in the public interest to develop and maintain a natural, scenic, historical and recreational greenway upon lands along the Willamette River to be known as the Willamette River Greenway.*

**Testimony**

As noted above, several commentors raised concerns about how the Preferred Alternative would affect the qualities of the Willamette River Greenway.

**Findings**

Findings addressing this criterion are provided in Section 5.1.1 of the Findings Report, on pages 184-185. Supplemental findings responding to testimony about greenway impacts are provided in Section 4.1.2.1 of this report, beginning on page 42.

**Criteria - ORS 390.314(2)(a):**

*2) In providing for the development and maintenance of the Willamette River Greenway, the Legislative Assembly:*

*(a) Recognizing the need for coordinated planning for such greenway, finds it necessary to provide for development and implementation of a plan for such greenway through the cooperative efforts of the state and units of local government.*

**Testimony - ORS 390.314(2)(a):**

Commentors testified that there was not adequate coordination with the Oregon Parks and Recreation Department, the Salem Parks Board and the Willamette Riverkeepers.

**Findings - ORS 390.314(2)(a):**

As noted above, extensive coordination and review of the DEIS and the Preferred Alternative has taken place. Findings in support of these efforts are found in Section 6.2.1 of the Findings Report (pages 228-230) and Section 5.2.1 of this report (beginning on page 51).

**Criteria - ORS 390.314(2)(b):**

*(b) Recognizing the need of the people of this state for existing residential, commercial and agricultural use of lands along the Willamette River, finds it*



*necessary to permit the continuation of existing uses of lands that are included within such greenway; but, for the benefit of the people of this state, also to limit the intensification and change in the use of such lands so that such uses shall remain, to the greatest possible degree, compatible with the preservation of the natural, scenic, historical and recreational qualities of such lands.*

*(c) Recognizing that the use of lands for farm use is compatible with the purposes of the Willamette River Greenway, finds that the use of lands for farm use should continue within the greenway without restriction.*

**Testimony and Findings - ORS 390.314(1)(b)-(c):**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

**Criteria - ORS 390.314(2)(d):**

*(d) Recognizing the need for central coordination of such greenway for the best interests of all the people of this state, finds it necessary to place the responsibility for the coordination of the development and maintenance of such greenway in the State Parks and Recreation Department.*

**Testimony - ORS 390.314(2)(d):**

Commentors testified that there was not adequate coordination with the Oregon Parks and Recreation Department.

**Findings - ORS 390.314(2)(d):**

As noted above, extensive coordination and review of the DEIS and the Preferred Alternative has taken place. Findings in support of these efforts are found in Section 6.2.1 of the Findings Report (pages 228-230) and Section 5.2.1 of this report (beginning on page 51).

**Criteria - ORS 390.314(2)(e):**

*(e) Recognizing the lack of need for the acquisition of fee title to all lands along the Willamette River for exclusive public use for recreational purposes in such greenway, finds it necessary to limit the area within such greenway that may be acquired for state parks and recreational areas and for public recreational use within the boundaries of units of local government along the Willamette River.*

**Testimony and Findings - ORS 390.314(2)(e):**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

**4.1.2.3 Requirements and Standards for a Reasons Exception: OAR 660-004-0020, Goal 2, Part II(c), Exception Requirements**

**Testimony and Findings – OAR 660-004-0020(1),(2):**

No testimony was provided on these criteria and no supplemental findings have been prepared for them.

**4.1.2.4 Long-term ESEE Consequences of Alternatives Requiring an Exception**

**Criteria - OAR 660-004-0020(2)(c):**

*(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse*

*impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site.” The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;*

**Testimony - OAR 660-004-0020(2)(c):**

Testimony related to the overall assessment of Greenway values and impacts also could be applied to this criterion.

**Findings - OAR 660-004-0020(2)(c):**

The Findings Report address this topic in detail in Section 5.1.2.1 (page 41), 5.1.2.2 (page 45), and 5.1.2.4 (page 209-217). In summary, those findings state that the Preferred Alternative and all build alternatives would require a Greenway goal exception. In general, the Preferred Alternative and Alternative 2A would have the lowest Greenway impacts relative to the other build alternatives. City of Salem regulations do not allow any rise in the base flood elevation. Therefore, mitigation and balanced cut and fill would be required as part of any build alternative.

Based on the information in Table 13, Table 15, Table 18, and the findings in Section 5.1.2.4 and 5.1.2.5 of the Findings Report, incorporated by this reference, the net adverse impacts on the Willamette River Greenway are not expected to be “significantly more adverse” for the Preferred Alternative relative to other build alternatives, particularly when accompanied by mitigation measures such as those identified in Section 5.1.2.5.

**4.1.2.5 The findings referenced above from the Findings Report demonstrate that the impacts of the Preferred Alternative are generally “less adverse” than would typically result from the same proposal being located at any of the three bridge crossing locations. Compatibility with Adjacent Uses**

**Criteria - OAR 660-004-0020(2)(d):**

*(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.” The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or*

*production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

**Testimony - OAR 660-004-0020(2)(d):**

Testimony related to impacts on visual resources, parks and surrounding neighborhoods may be relevant to this criterion.

**Findings - OAR 660-004-0020(2)(d):**

Section 5.1.2.5 of the Findings Report (pages 218-219) addresses these comments, as do Sections 4.1.2.1, 4.1.2.2, and 4.1.2.4 of this report (pages 41, 45, and 46). No other findings have been prepared.

**Criteria - OAR 660-004-0020(3):**

*(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.*

**Testimony and Findings - OAR 660-004-0020(3):**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### **4.1.2.6 Planning and Zoning for Exception Areas - OAR 660-004-0018**

**Criteria - OAR 660-004-0018(1)-(4):**

*(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions...*

*(4) "Reasons" Exceptions:*

*(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those uses that are justified in the exception.*

**Testimony and Findings - OAR 660-004-0018(4)(a):**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

## **4.2 Local Plans and Policies**

### **4.2.1 Salem Area Comprehensive Plan: Willamette River Greenway**

As described in the introduction to this chapter, the footprint of the Preferred Alternative within the Willamette River Greenway is entirely within the existing UGB and Salem city limits.

The following goal and policies are included in Section IV.O of the Salem Area Comprehensive Plan (SACP).

**Criteria - O. Willamette River Greenway:**

*Goal: To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River.*

- (1) Regulations to control the use of land and the intensity of uses within the Willamette River Greenway Boundary shall be maintained.*
- (2) Riparian vegetation and wildlife within the Greenway Boundary shall be conserved. Conservation shall include protecting and managing riverbanks, sloughs, wildlife, and vegetation.*
- (3) Scenic easements shall be used where practical to preserve and enhance the character of the river within the Greenway Boundary.*
- (4) Where private property is adjacent to public use areas, measures shall be taken to minimize disturbance to the private property.*
- (5) Development and redevelopment within the Greenway Boundary should include provisions for public access to and along the river.*
- (6) Existing parks within the Greenway Boundary shall be preserved and maintained. Additional sites for recreation and scenic views and access to the Willamette River should be acquired.*
- (7) New development and changes of land uses which are compatible with the Greenway concept as defined in the State Land Use Goal may be permitted along the Willamette River.*
- (8) The review of proposed land use changes shall include the establishment of an appropriate setback from the Willamette River.*
- (9) Aggregate extraction may be permitted within the river channel and on lands adjacent, when determined to be compatible with the purpose of the Greenway. Proposed extraction activities shall be designed to minimize the adverse effects on water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise and potential land use.*
- (10) The harvest of timber will be conducted in a manner which will ensure that the natural scenic qualities of the Greenway will be maintained to the greatest extent practicable or restored within a brief period of time.*
- (11) The continued dredging of the Willamette River shall be encouraged for the purpose of channel maintenance, bank stabilization, and to facilitate commercial river traffic and recreational boating. Dredging operations should minimize the adverse impact on existing fish and wildlife habitat, riverbank vegetation and public and private property.*
- (12) Visual access and a sense of openness should be provided by maximizing the open space between buildings and the river.*

*(13) Within Salem, the transition of the waterfront areas designated Commercial, Commercial Industrial or Industrial use to a mixture of commercial, office and high-density residential uses shall be encouraged.*

*(14) Except for aggregate and mineral extraction and processing, expansion of existing industries within the Salem Urban Area portion of the Greenway may be permitted only if such expansion is necessary to ensure their continuation or to comply with Federal or State requirements.*

**Testimony**

As noted above, several commentors raised concerns about how the Preferred Alternative would affect various aspects of the Willamette River Greenway.

**Findings**

Findings addressing these criteria are provided in Section 5.1.1 of the Findings Report, on pages 184-185. Supplemental findings responding to testimony about greenway impacts are provided above in this report.

## 5 Findings Addressing Other Statewide Planning Goals and Administrative Rules

This chapter includes supplemental findings related to testimony addressing:

- Relevant Statewide Planning Goals and related Administrative Rules. The Statewide Goals are applicable to all of the plan amendments (UGB Amendment, Greenway Goal Exception, and amendments to the Salem TSP and Polk County TSP).
- The findings generally address the consolidated plan amendments for the Preferred Alternative as a whole. However, the findings addressing Goal 5 (mineral aggregate site) are only applicable to the UGB Amendment.
- Findings in other chapters are cross-referenced for Goal 12 (Transportation – addressed in Chapters 3), Goal 14 (Urbanization – addressed in Chapter 2) and Goal 15 (Willamette River Greenway – addressed in Chapter 4).

### 5.1 State Post-Acknowledgement Plan Amendment Procedures

#### 5.1.1 ORS 197.610 and ORS 197.626

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### 5.1.2 OAR 660, Division 18

##### 5.1.2.1 660-018-0010 - 660-018-0021 Notice of a Proposed Change to a Comprehensive Plan or Land Use Regulation

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

### 5.2 Statewide Planning Goals

#### 5.2.1 Goal 1 (Citizen Involvement)

*To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

##### **Testimony – Goal 1:**

Several commenters testified in relation to this goal. Comments included:

- A. There was not adequate coordination with the Oregon Department of Parks and Recreation (OPRD) during the planning process
- B. There was not adequate coordination with the Salem Parks Board, given their testimony at the October 12 public hearing

- C. Coordination with the public and with coordinating public agencies, including the Salem Transit District was not adequate and violates Goal 2 of the Statewide Planning Goals
- D. The City did not meet Goal 1 because there was inadequate time for the public to review documents and findings prior to the hearing

### **Findings – Goal 1:**

Consistency with Goal 1 is addressed extensively in Section 6.2.1 of the Findings Report (pages 228-230). Those findings are incorporated here by reference. They noted that generally, Goal 1 is satisfied when a local government follows the public involvement procedures set out in its acknowledged comprehensive plan and land use regulations. Outreach and citizen involvement have been a central part of the NEPA environmental process for the SRC project for about ten years. The project is complex, with many stakeholders and interest groups wanting to participate. Therefore, establishing a decision-making process was a key element of the project. The Oversight Team, Task Force, and Project Management Team established the project's public involvement program around the major decision points. The Findings Report goes on to document those efforts in detail. In summary, they document that there has been a long history of public involvement in the NEPA process for the SRC Project<sup>23</sup>, with additional opportunities provided for input to refine the Preferred Alternative (from the originally recommended 4D) to reduce the project footprint and impacts to community and natural resources – while still achieving important community goals regarding connectivity and redundancy. Following are additional findings which address the public testimony described above.

#### **A. Coordination with OPRD**

Coordination with state agencies is required as part of a UGB amendment. However, coordination is not defined as formal support or concurrence. The OPRD was notified of the project through the DEIS coordination process and was provided notice of the proposed land use amendments. The OPRD has continued to be consulted during preparation of the Final EIS and will continue to be consulted during any future bridge design and construction processes in regards to potential impacts and mitigations to the Willamette River Water Trail and Willamette Greenway.

#### **B. Coordination with the Salem Parks and Recreation Advisory Board**

The Salem Parks and Recreation Advisory Board is advisory to the Salem City Council per Salem Revised Code Chapter 13 (SRC 13.080). The Board is not a separate agency or a formal decision-making body. Staff to the Board reviewed all EIS analyses associated with impacts to City park and recreation facilities. In addition, City of Salem staff met with the Board both before and after the October 12 hearing to review the status of the project, discuss the concerns raised by the Board at the October 12 hearing and review procedures for continued involvement of the board in the design of the project if it ultimately proceeds. Based on that consultation, the Board passed a motion regarding future participation in the bridge design process that reads:

*“The Salem Parks and Recreation Advisory Board (SPRAB), being concerned about the effects on Wallace Marine Park, supports the amendments to the Salem*

<sup>23</sup> Detailed in the *Salem River Crossing Project EIS Public Involvement Summary*, July 2016.

*Transportation System Plan with the design mitigation provisions outlined in the draft ordinance text amendments to the Transportation System Plan, which includes having SPRAB weigh in on future design phases."*

### **C. Coordination with the Salem-Keizer Transit Board**

The Salem-Keizer Transit Board ("Transit Board") has had ample opportunities to be engaged in and comment on this project. The Salem-Keizer Transit District, along with other local agencies, was a part of the Oversight Team for the NEPA process, providing a direct avenue for input from the Transit District. Salem staff also attended and made presentations to the Transit Board at least five times between 2012 and 2014 regarding the selection of the Preferred Alternative (see Transit Board Coordination email included in the record from 10/18/2016). Comments from the Transit Board have been considered throughout the process. In addition, many of the issues raised by the Transit Board would be more appropriately addressed during project design. Accommodations for transit operations also will require greater clarity from the Transit District as to future operational needs. Creating an alternate crossing of the Willamette River is intended to support all modes of transportation, including transit.

### **D. Inadequate Time for Public Review and Comment**

The City of Salem initiated the current land use proceedings, consistent with its policies and procedures for such land use actions. The City coordinated with the City of Keizer and Marion and Polk Counties in these actions and has exceeded the City's requirements for public notification for this type of land use procedure. The City provided required published notice of the action and associated hearings and mailed public notice of the first evidentiary hearing to those entitled to mailed notice under SRC 300.1110(e)(1). Salem also provide a "courtesy notice" of the proposed plan amendments beyond the notice requirements for a legislative amendment. This notice provided ample time to submit testimony as evidenced by the number and length of comments submitted (up to 30 pages of testimony from individual reviewers).

At the conclusion of the October 12 hearing, the City kept the record open for public testimony for an additional seven days and allowed additional rebuttal testimony for another seven days. The City has established and consistently maintained a website to provide public access to all plan amendment materials, including initiation resolutions, staff reports, evidence in the record, public hearing notices, minutes of public hearings, etc. The website will continue to be maintained and regularly updated throughout the course of the plan amendment process. The City also conducted briefings with interested parties and responded to requests for information during that same time period. Overall, the City has met and exceeded its own guidelines for informing the public and providing opportunities for public comments during this process.

## **5.2.2 Goal 2 (Land Use Planning)**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

## **5.2.3 Goal 3 (Agricultural Lands)**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.



#### **5.2.4 Goal 4 (Forest Lands)**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

#### **5.2.5 Goal 5 (Open Spaces, Scenic and Historic Areas, and Natural Resources)**

*To protect natural resources and conserve scenic and historical areas and open spaces.*

##### **Testimony**

Several commenters testified regarding concerns about impacts to riparian vegetation and wildlife.

##### **Supplemental Findings**

Supplemental findings addressing testimony on Greenway impacts is provided in Section 4.1 of this document, and is incorporated by this reference.

#### **5.2.6 Goal 6 (Air, Water and Land Resources Quality)**

*To maintain and improve the quality of air, water, and land resources of the state.*

##### **5.2.6.1 Air Quality**

##### **Testimony and Findings – Air Quality:**

Commenters asserted that the Preferred Alternative will have adverse impacts on air quality due to increases in traffic. Section 6.2.6.1 (pages 238-239) of the Findings Report includes extensive findings related to this criterion which address these comments and are incorporated by reference. No additional findings have been prepared for this criterion.

##### **5.2.6.2 Water Quality and Quantity**

##### **Testimony – Water Quality and Quantity:**

Commenters assert that the Preferred Alternative will have adverse impacts on water resources, including impacts on management of flood hazards and the floodplain.

##### **Findings – Water Quality and Quantity:**

Section 6.2.6.2 (pages 239-241) of the Findings Report includes extensive findings related to this criterion which address these comments and are incorporated by reference. Supplemental findings follow.

The Preferred Alternative will be required to adhere to all adopted floodplain requirements as they exist now or at the time permit applications are filed and will obtain all required permits necessary to construct the project. The new floodplain measures are expected to require specific study, documentation, and design requirements. This project will not be able to move forward without meeting future floodplain management requirements and obtaining required permits.

In addition, due to the potential impacts of this project to aquatic species, continued coordination with the National Marine Fisheries Service (NMFS) is required and a Biological Assessment (BA) is currently being drafted in coordination with NMFS and ODOT. The BA will make some conservative estimates about bridge design and will include potential mitigation measures that are agreed upon by NMFS to offset any impacts the project may incur, including impacts to listed species and their habitat. Once the draft BA is complete,

the Federal Highway Administration (FHWA) will submit it to NMFS officially and NMFS will issue a Biological Opinion (BiOP). This BiOP will affirm and/or refine recommended mitigation activities and must be issued by NMFS prior to FHWA approving the project by signing the Record of Decision (ROD).<sup>24</sup> Measures that could be included in the BiOP to offset potential impacts include:

- Work within the active channel of the river will be completed during the in water work period as established by ODFW.
- Minimize impact area - confine construction impacts to the minimum area necessary to achieve project goals.
- Under high flow conditions, operations will cease that could result in inundation of the project area.
- Pollution and Erosion Control Plan implementation including inspection of erosion control best management practices (BMP).
- Construction discharge water will be treated.
- Isolation and fish salvage will occur within work areas.
- Prepare project completion report with photos.
- Site restoration - finish grade slopes and elevations.
- Look at opportunities to enhance riparian zones to allow for more shade, lower stream temperatures and more potential for large wood to be added to the system

These documents will require a variety of mitigation measures to be undertaken as part of any future bridge construction. Those measures are generally described in technical reports prepared for the FEIS and will be described in more detail in the BiOP.

### 5.2.6.3 Noise

#### ***Testimony and Findings – Noise:***

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

## 5.2.7 Goal 7 (Areas Subject to Natural Disasters and Hazards)

*To protect people and property from natural hazards.*

### 5.2.7.1 Flood Hazards

#### ***Testimony – Flood Hazards:***

As noted in Section 5.2.6.2 of this document, commenters assert that the Preferred Alternative will have adverse impacts on water resources, including impacts on management of flood hazards and the floodplain.

#### ***Findings – Flood Hazards:***

Section 6.2.6.2 of the Findings Report (pages 243-244) and Section 5.2.6.2 of this document (page 54) references and includes findings that address comments related to risks associated with flood hazards. Those findings are incorporated here by reference and cross-reference.

<sup>24</sup> Anna Henson, ODOT, "Re: ESA Consultation Process" Message to Julie Warncke, City of Salem, 10/18/2016

### 5.2.7.2 Earthquake Hazards

#### **Testimony – Earthquake Hazards:**

Commenters assert that seismic retrofit of the existing bridges is a preferable alternative to construction of a new bridge and question whether the new bridge will be designed or able to withstand a significant earthquake, given soil characteristics in the area.

#### **Findings – Earthquake Hazards:**

Section 6.2.6.2 of the Findings Report (pages 244-248) includes findings that address comments related to risks associated with earthquake hazards. In summary, those findings indicate that, the Preferred Alternative would include construction of a new bridge built to current standards that take a magnitude 9.0 CSZ and liquefaction into account and would be consistent with the purpose of Goal 7 to protect people and property from natural hazards. On a long-term basis, having a new bridge across the Willamette River would improve connectivity and reduce local vulnerability to a major seismic event relative to the No Build and Alternative 2A.

At the same time, construction of a new bridge would not replace the need for continued local and regional support and advocacy for seismic improvements to the existing bridges, particularly in light of the designation of the segment of OR 22 that includes the existing bridges as a Tier 3 (lower priority) seismic lifeline route by ODOT. Towards that end, the City of Salem has partnered with ODOT in submitting a request to SKATS for federal funding to complete a seismic retrofit study for the Center Street bridge in 2017. This funding was approved by SKATS in September 2016. In addition, as part of the package of Draft Amendments to the Salem TSP supporting the Preferred Alternative, the following new text is proposed:

*While there is a need for a new bridge across the Willamette River, the Marion and Center Street bridges will continue to be a critical part of the local, regional, and state transportation system. The City will continue to advocate for ODOT to maintain these bridges in a state of good repair. The City fully supports cost-effective efforts to undertake seismic upgrades of these existing facilities to protect life safety and to minimize disruption in the event of an earthquake.*

### 5.2.8 Goal 8 (Recreational Needs)

*To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

#### **Testimony – Goal 8:**

Commenters noted potential adverse impacts to Wallace Marine Park and use by recreational boaters of the Willamette River Trail, and McLane Island, including including the ability to land boats there. One commenter notes that impacts to McLane Island are not consistent with stated policies to preserve the island for open space and recreational use.

#### **Findings – Goal 8:**

The Findings Report (Section 6.2.6.2, pages 248-249) and supporting documents address these issues. They note that the Preferred Alternative will improve connections between neighborhoods in Keizer and the north Salem area and Wallace Marine Park, a regionally significant park and recreational area on the west side of the Willamette River.

The Findings Report also indicates that the Preferred Alternative would not negatively impact the primary active areas in the central and south portions of Wallace Marine Park (ball fields, a boat launch, canoe launch, and walking paths). The City of Salem considers the anticipated impacts of the Preferred Alternative to Wallace Marine Park *de minimis* because they do not “adversely affect the features, attributes or activities qualifying the property for protection under Section 4(f).” In total, there would be *de minimis* impacts to three 4(f) resources – Wallace Marine Park, Wallace Natural Area and the Willamette River Water Trail.

Prior to project construction, ODOT and the local park sponsor (City of Salem), would coordinate with the Oregon Park and Recreation Department and the National Park Service regarding potential conversion and replacement properties associated with the Preferred Alternative.

In addition, the Salem River Crossing Project Final Section 4(f) Evaluation states that: “No impacts to small watercraft using the Willamette River Water Trail during construction are anticipated” and that “the design of the project has and will continue to ensure that recreation activities that currently occur within the Willamette River Water Trail will be maintained both during and after construction of the Project.”<sup>25</sup>

Furthermore, the bridge piers will affect only a small portion of the island, preserving the majority of the island for continued open space and recreational use.

### 5.2.9 Goal 9 (Economic Development)

*To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.*

#### **Testimony and Findings – Goal 9:**

A number of commenters note that the Preferred Alternative will have positive impacts on the local and regional economy, echoing information in Section 6.2.6.2 of the Findings Report. No additional findings have been prepared in relation to this criterion.

### 5.2.10 Goal 10 (Housing)

*To provide for the housing needs of citizens of the state.*

#### **Testimony – Goal 10:**

Commenters note that the Preferred Alternative would displace affordable housing units and would have a disproportionate impact on elderly and low income residents as result of needed funding for the river crossing borne by area residents. They also note that displacement of multi-family units would exacerbate a potential future deficit of land needed for multi-family units.

#### **Findings – Goal 10:**

The Findings Report (Section 6.2.6.2, pages 252-253) and supporting documents address these issues. They indicate that the potential displacement would be mitigated through a combination of factors, including refinements designed to reduce displacements and

<sup>25</sup> Memorandum titled *Salem River Crossing Project Final Section 4(f) Evaluation: Draft Findings for Park/Recreation Resources*, to City of Salem and Oregon Department of Transportation, from: Michael Hoffmann/CH2M; October 5, 2016, page 21.

adoption of housing and land use efficiency measures to increase the development of future multi-family units.

In addition, while the most recently completed, but as yet unacknowledged housing needs analysis (HNA) from 2014 for Salem indicates a deficit of land needed for multi-family units, the current acknowledged HNA does not indicate a deficit. Until the 2014 HNA is acknowledged by DLCD, a UGB amendment must rely on the most recently acknowledged HNA, completed in 1997 and acknowledged by DLCD during Salem's periodic review work regarding Multifamily Residential Lands in November of 2001.<sup>26</sup> Cumulatively at the time, the City designated or committed 490.5 acres to multifamily residential in the Comprehensive Plan and Zoning Code.

Finally, a 2005 LUBA decision indicates that amending a TSP or Comprehensive Plan to include proposed transportation improvements, where transportation improvements are a permitted use within the zoning district and the amendment does not change the plan designation or zoning, does not violate Goal 9, even where there is a projected shortfall of industrial land. LUBA explained that an amendment that (1) does not establish regulations that apply to future applications in the industrial zone, and (2) authorizes a use that is permitted outright in the zone and will serve other industrial uses in the area, is consistent with Goal 9 despite any present or long-term shortage of industrial land. The same would hold true with regard to housing under Goal 10.<sup>27</sup>

### **5.2.11 Goal 11 (Public Facilities and Services)**

No testimony was provided on this criterion and no supplemental findings have been prepared for it.

### **5.2.12 Goal 12 (Transportation)**

*To provide and encourage a safe, convenient, and economic transportation system.*

#### **Findings – Goal 12:**

As noted in the Findings Report (Section 6.2.12, page 254), Goal 12 is implemented through the Transportation Planning Rule (TPR), OAR 660, Division 12. Supplemental findings related to the TPR are provided in Chapter 2 (UGB Amendment) and Chapter 3 (TSP Amendments) of this report, and those findings are incorporated by this reference.

### **5.2.13 Goal 13 (Energy Conservation)**

*To conserve energy.*

#### **Testimony – Energy Conservation:**

Commenters assert that construction of a new bridge is incompatible with actions needed to address climate change, does not comply with state and local requirements to reduce auto reliance, will result in an increase in idling and emissions, and is not consistent with Goal 13.

<sup>26</sup> City of Salem Residential Land Study (1997), Completed Periodic Review Work Task #1 – Multifamily Residential Inventory (2001), Periodic Review Task Approval Order #001346 (2001).

<sup>27</sup> *Grahn v. City of Newberg* 50 Or LUBA 219, affirmed 203 Or App 639 (2005).

**Findings – Energy Conservation:**

Goal 13 directs cities and counties to manage and control land uses to maximize the conservation of all forms of energy, based on sound economic principles. LCDRC has not adopted an administrative rule to implement Goal 13.

Highways are not generally synonymous with the notion of energy conservation. However, Goal 13 does not prohibit new highways or improvements to existing highways even if those actions could result in an increase in energy use. Indeed, such an interpretation would conflict with the provisions in Goal 12 and the TPR authorizing highway facilities and improvements as part of an overall connected and multimodal transportation system plan.

Section 6.2.13 of the Findings Report generally addresses comments related to this criterion and are incorporated by reference. Supplemental findings follow.

Potential impacts of climate changes are addressed in the analysis of the Preferred Alternative found in the DEIS and FEIS technical reports in the following ways:

- Reduction in vehicle trips through transportation demand management. Analysis of all “build” alternatives, including the Preferred Alternative and Alternative 2A assume a set of transportation demand management and transportation system management (TDM and TSM) measures, such as ones which were evaluated as part of the Alternative Modes Study prepared concurrently with the EIS process. These strategies are consistent with climate change strategies and are estimated to result in a further reduction in traffic of eight percent, which is a significant reduction.
- Improved multi-modal facilities. The conceptual design of the new bridge assumes development of significantly improved bicycle and pedestrian facilities in comparison to the no build alternative and improvements that would be feasible through improvements to the existing bridge under Alternative 2A. Providing these and other multi-modal improvements is consistent with strategies to address climate change.
- Analysis of induced traffic. There is projected to be increased traffic due to future increases in population no matter which improvement alternative is implemented, in comparison to the No-Build alternative. The potential for induced growth and induced traffic caused by construction of a new facility was addressed in the Land Use Technical Report for the DEIS. That report indicates that a review of literature associated with the issue of induced traffic does not provide the basis for a measurable increase in traffic which would be induced by a new transportation facility. Increases in traffic are much more likely to relate to population increases and other socio-economic factors than to construction of a new bridge or other transportation improvements.
- Overall energy impacts. There is expected to be an increase in energy usage associated with all of the build alternatives. However, even with the increased energy usage, the regional emissions analysis findings show that vehicle operations of the preferred alternative would contribute fewer overall emissions to the project area than they would under the No Build Alternative (see Table 4.2-1 of the draft *Air*

*Quality Final Technical Report Addendum*). The reason the No Build Alternative would result in higher criteria pollutant emissions in 2040 than the preferred alternative is because under the No Build there would be a greater amount of delay and a lower average speed compared to the preferred alternative. In addition, current and future improvements in non-fossil fuel vehicle technologies as well as coordinated land use and transportation planning efforts may further substantially offset energy usage impacts. Reduction of emissions is a key strategy in addressing climate change.

- Transportation Rule requirements. Goal 12, Transportation, and its implementing rule, the Transportation Planning Rule (TPR), direct local governments to adopt transportation system plans that consider all modes of transportation, including highways. While attention must be given to climate change impacts, concerns regarding climate change impacts are not sufficient in themselves to remove roadway and highway improvements as reasonable and often necessary transportation options under Goal 12 and the TPR. Indeed, where need for such improvements has been demonstrated, the failure to plan for them might itself violate Goal 12.

#### **5.2.14 Goal 14 (Urbanization)**

Goal 14 is addressed in Section 2.1.2.1 of this document beginning on page 4.

#### **5.2.15 Goal 15 (Willamette River Greenway)**

*To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

##### **Testimony and Findings – Goal 15:**

Testimony and supplemental findings regarding this criterion are described in Chapter 4 of this report. Those findings are incorporated by this reference.

## 6 Findings in Support of Plan Amendments Package: Local Policies and Regulations

This chapter includes supplemental findings addressing procedures and criteria applicable to the consolidate plan amendments.

- Salem Revised Code Chapter 64 – Procedures and Criteria for Major Comprehensive Plan Amendments (applicable to UGB Amendment, Salem TSP Amendments and Greenway Goal Exception)
- Salem Area Comprehensive Plan – Section III Regional Procedures and Policies (applicable to UGB Amendment)
- Polk County Development Code Chapter 115 – Procedures and Criteria for Legislative Plan Amendments (applicable to UGB Amendment and Polk County TSP Amendments)

In addition, relevant local policies are addressed in other chapters of this Report. Chapter 2 (Section 2.2, page 19) addresses compliance with City of Salem and Polk County plan amendment policies relevant to the proposed UGB Amendment. Chapter 3 (Section 0, page 30) includes findings of compliance with key relevant policies in the Salem TSP and the Polk County TSP. Chapter 4 includes findings of compliance with Salem Area Comprehensive Plan policies for the Willamette River Greenway (see Section 4.2.1, page 48).

### 6.1 Local & Regional Plan Amendment Procedures

#### 6.1.1 Salem Revised Code

***Testimony and Findings – SRC 64.020:***

No testimony was provided in relation to these criterion and no supplemental findings have been prepared for them.

#### 6.1.2 Salem Area Comprehensive Plan

##### 6.1.2.1 Salem/Keizer Urban Area (Regional) Procedures and Policies (SACP, Section III)

***Testimony and Findings – SACP:***

No testimony was provided in relation to these criterion and no supplemental findings have been prepared for them.



**Findings – Jurisdiction:****6.1.3 Polk County Development Code****6.1.3.1 CHAPTER 115 COMPREHENSIVE PLAN AMENDMENTS****115.040. PROCEDURES FOR LEGISLATIVE PLAN AMENDMENTS.**

No testimony was provided in relation to these criteria and no supplemental findings have been prepared for them.

**115.060. CRITERIA FOR LEGISLATIVE PLAN AMENDMENTS.**

*A legislative plan amendment may be approved provided that the request is based on substantive information providing a factual basis to support the change. In amending the Comprehensive Plan, Polk County shall demonstrate:*

*(A) Compliance with Oregon Revised Statutes, and the statewide planning goals and related administrative rules. If an exception to one or more of the goals is necessary, Polk County shall adopt findings which address the exception criteria in Oregon Administrative Rules, Chapter 660, Division 4;*

*(B) Conformance with the Comprehensive Plan goals, policies and intent, and any plan map amendment criteria in the plan;*

*(C) That the proposed change is in the public interest and will be of general public benefit; and*

*(D) Compliance with the provisions of any applicable intergovernmental agreement pertaining to urban growth boundaries and urbanizable land.*

**Testimony – Chapter 115 Criteria:**

One commentor asserts that a portion of the proposed UGB amendment is within the Polk County Willamette River Greenway and an exception to Statewide Goal 15 (Willamette River Greenway) by Polk County is required to move forward with the project.

**Findings – Chapter 115 Criteria:**

The City of Salem is taking an exception to Goal 15 (Willamette River Greenway) as part of the consolidated plan amendments. However, the portion of the Preferred Alternative within the Greenway is entirely within Salem's land use jurisdiction, and Polk County is not taking exceptions to any statewide goals.

In regards to the assertion that Polk County has jurisdiction over a portion of the Willamette River Greenway, Polk County never represented that the Greenway Boundary was located within the limits of Polk County's Jurisdiction at the UGB expansion site as part of LA 16-02. Furthermore, the City of Salem has consistently represented the Greenway as within their jurisdiction and has provided maps as part of the application which clearly indicate that.

It is possible, as some commenters have done, to zoom in on the Polk County Webmaps internet application, which provides an approximation of the boundary and interpret a portion of the Greenway as being within Polk County due to the fact that the County's Greenway layer that was hand-geocoded is not accurate at a scale that allows comparison with the alignment with the city limits layer at a scale beyond the official scale of the map. However, the Polk County Zoning Ordinance identifies the Official Zoning Map in PCZO

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111.090 at the scale of 1:24,000 and PCZO 111.130 describes the rules for interpretation of zone boundaries. Use of those guidelines and review of maps prepared by the City and County at their official scale confirm that the portion of the Greenway in question is entirely within the City of Salem's jurisdiction.

#### **6.1.4 Keizer Comprehensive Plan**

##### **6.1.4.1 Salem/Keizer Urban Area (Regional) Procedures and Policies (Keizer Comprehensive Plan (KCP), Section IV)**

No testimony was provided in relation to these criteria and no supplemental findings have been prepared for them.

## 7 Findings Regarding Additional Public Testimony

Additional public testimony was submitted that does not relate to land use approval criteria relevant to the proposed Plan amendments. Responses to those comments are provided below.

***Is inclusion of the Marine Drive improvements in the UGB amendment necessary and can that element of the amendment be separated from the location and implementation of the new bridge?***

Improvements to Marine Drive have been contemplated for many years. Since 2001, the City of Salem and its partner local jurisdictions have determined that a UGB amendment or goal exception would be needed to allow for these improvements. As part of the EIS process for the proposed river crossing, Salem has gone to extensive lengths in the findings package to demonstrate how the new bridge and Marine Drive will work together to provide an overall transportation system that will function more efficiently and effectively as planned. While the inclusion of Marine Drive impacts the project and makes up over half of the acreage needed in the proposed UGB expansion (approx. 19 acres), without that element, the project could not be effectively implemented. Furthermore, without a UGB amendment or an exception to the statewide goals, urban improvements to Marine Drive to meet other local transportation needs could not be undertaken.

Some commenters implied that the UGB expansion needed for Marine Drive should be undertaken now, but either did not support or took no position on the new bridge and plan amendments needed to allow for it. As noted above, extending Marine Drive has been in the City's plans for years, but that alone does not meet the identified transportation need to provide better multimodal connections across the Willamette River.

***The thresholds analysis used in draft EIS documents is flawed in a variety of ways.***

One commenter described a number of issues associated with a "Thresholds Analysis" that was included in an early draft of the FEIS Land Use Technical Report. However, that analysis was not included in the Final Technical Report or in the Findings prepared in support of the proposed UGB analysis and was not ultimately used to justify the UGB expansion. As a result, much of that testimony is not relevant to the decision at hand. In cases where the comments on the Thresholds Analysis are related to specific land use findings, those issues have been addressed in these Supplemental Findings.

***The proposed Plan amendments will impact property values of potentially displaced properties and will affect the ability of those owners to sell homes or businesses or make plans for properties affected by displacement. Displacements also would diminish tax revenues.***

Property owners are free to continue to use their properties according to existing regulations until right of way acquisition occurs. Property acquisition requires payment of fair market value for the property; those affected will be compensated fairly.

***The Preferred Alternative is not the same as the Salem Alternative approved by City Council.***

Relatively minor refinements were made to the Salem Alternative in formulating the Preferred Alternative. Specifically, changes included:

- The Preferred Alternative includes a bridge crossing in the Hope Avenue to Pine Street/Hickory Street crossing location. The Preferred Alternative is most similar to Alternative 4A in terms of the location of the bridge crossing and the bridgehead and distribution network on the east and west sides of the Willamette River.
- The Preferred Alternative includes construction of Marine Drive (at grade) from River Bend Road on the north to Glen Creek Road in the south, with a connection to OR 22 south of Glen Creek Road via elevated fly-over ramps. Some of the alternatives in the DEIS facilitated, but did not include this connection (4A and 4B). Other alternatives (4C, 4D and 4E) included the OR 22 connector on a viaduct/structure, with Marine Drive underneath. The Preferred Alternative eliminated this lengthy viaduct/structure.
- The preferred alternative assumes that the potential relocation of the Rosemont Interchange to Eola will be deferred pending development of a Facility Plan for OR 22 prepared by ODOT.

Analysis of the Preferred Alternative has been conducted as part of the EIS process and the results of that analysis are documented in technical reports associated with the FEIS and in the Findings Report. The Salem City Council and members of the public have had an opportunity to review those analyses as part of the Plan amendments process and as documented in Section 5.2.1 of this report (page 51) and Sections 6.2.1 (pages 229-230) and 7.1.2.1 (pages 262-264) of the Findings Report.