

Attachment N

Planning and Environmental Linkages Strategy and Progress Documentation through November 2020

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Attachment N. Planning and Environmental Linkages Strategy and Progress Documentation through November 2020

Introduction

This memo documents the strategy developed and process followed by the Earthquake Ready Burnside Bridge (EQRB) Project to ensure that the work completed during the Feasibility Study (2016-2018) and other work performed in advance of issuance of the Notice of Intent to prepare an EIS, satisfied the requirements of NEPA. The Project developed and implemented a Planning and Environment Linkages (PEL) Strategy with the intent of being able to use certain products developed during the planning phase and “informal scoping”, in the subsequent environmental review process; this approach used the PEL statutory authorities in 23 U.S.C. 168 and 23 U.S.C. 139(f)(4)(E). These authorities allow FHWA (and other federal agencies) to:

- define a purpose and need
- conduct a preliminary screening of alternatives and eliminate unreasonable alternatives
- adopt planning decisions, and
- eliminate alternatives from detailed consideration.

The first three are under 23 U.S.C. 168 and the last one is under 23 U.S.C. 139(f)(4)(E). A summary of how the EQRB project is consistent with specific requirements of these regulations is in Appendix B.

One of the drivers for developing a PEL strategy was the release of Executive Order (E.O.) 13807 during the EQRB Feasibility Study. E.O. 13807 *on Establishing Discipline, Accountability in the Environmental Review and Permitting Process for Infrastructure*¹, released in August 2017, and the *One Federal Decision Memorandum of Understanding (MOU)*² on implementing E.O. 13807, published in April 2018, directed federal agencies to aim to complete the EIS process for relevant actions within two years of the issuance of the Notice of Intent (NOI).

Background

PEL is a collaborative and integrated approach to decision-making that engages the public, agencies and tribes, and considers environmental, community and economic goals starting early in the planning process and continuing through project development and delivery. Integrating these considerations and engaging stakeholders and agencies before formally initiating NEPA can result in a project that better incorporates multiple interests and objectives, while also reducing redundancy and the duration of the project development process.

FHWA guidance, issued November 2016, prescribes a PEL approach based on 23 U.S.C. 168 as amended by the FAST Act³. It is commonly referred to as “statutory PEL” or Section 168 PEL. It focuses mainly on pre-NOI activities and outlines how agencies can conduct planning phase analyses and make planning phase decisions that they can use in the subsequent environmental

¹ <https://www.whitehouse.gov/presidential-actions/presidential-executive-order-establishing-discipline-accountability-environmental-review-permitting-process-infrastructure/>

² <https://www.whitehouse.gov/wp-content/uploads/2018/04/MOU-One-Federal-Decision-m-18-13-Part-2-1.pdf>

³ <https://www.fhwa.dot.gov/hep/guidance/pel/pelqa2016.pdf>

review phase. It lays out various requirements including notification and timing with an emphasis on public and agency involvement, as well as requirements for post-NOI activities.

In October 2018, FHWA released additional guidance⁴ specifically for “major infrastructure projects” containing a list of activities, in alignment with the E.O. 13807 and the One Federal Decision MOU, that should be completed prior to issuing an NOI. The list of pre-NOI activities includes securing concurrence on the Purpose and Need and the Range of Alternatives from the Cooperating Agencies, as well as completing the following specific actions:

- Identify Cooperating and Participating Agencies for the project
- Develop a draft Purpose and Need
- Develop a draft Coordination Plan that includes a permitting timetable
- Identify community and stakeholders affected and develop a Public Involvement Plan
- Identify preliminary Range of Alternatives
- Determine the extent of analysis needed for each resource
- Initiate applicable resource surveys/studies
- Identify potentially significant environmental issues
- Identify potential mitigation strategies
- Initiate permit activities as soon as possible, such as pre-application processes

The intent of the EQRB PEL strategy is to incorporate each of the recommended activities to ensure that the planning phase and NEPA phase analysis and decisions are in compliance with NEPA and the relevant guidance.

Planning and Environmental Linkages Strategy

The EQRB PEL Strategy consists of 13 sets of actions that address the recommendations specified in the November 2016 guidance document (for complying with Section 168 PEL) and October 2018 guidance documents (for complying with the OFD MOU). There is considerable overlap and so both are addressed in the PEL Strategy. Items 1-12 are to be done pre-NOI, while item 13 is to be done post-NOI. Each action is organized as follows:

- Summary of the relevant guidance
- Summary of relevant actions completed during the Feasibility Study
- Summary of relevant actions completed since the Feasibility Study, through November 2020 prior to issuance of the DEIS.

The action items are also collated in a single table in Appendix A.

⁴ https://www.environment.fhwa.dot.gov/nepa/oneFederal_pre-NOI.aspx

1. Identify Cooperating and Participating Agencies (pre-NOI)

Summary of relevant guidance:

E.O./MOU Guidance Message: *Identify Cooperating and Participating Agencies for the project*

Summary of Relevant Feasibility Study Activities:

The joint lead agencies (FHWA, Multnomah County, and ODOT) identified a comprehensive list of potential Cooperating and Participating Agencies in summer 2018, based on the project location and potential issues. FHWA sent invitations to these agencies on September 19, 2018. These included local, state and federal agencies, and tribes.

Updates as of November 2020:

- a. Following additional coordination in 2019 and January 2020, the list of Cooperating Agencies was finalized to include the U.S. Army Corps of Engineers, the U.S. Coast Guard, and the National Marine Fisheries Service.
- b. The final list of Participating Agencies is documented in the Agency Coordination Plan.

2. Develop Draft Purpose and Need (pre-NOI)

Summary of relevant guidance:

E.O./MOU Guidance Message: *Develop a draft Purpose and Need*

Summary of Relevant Feasibility Study Activities:

The Project team developed a draft “Problem Statement” as a precursor to a statement of Purpose and Need. The problem statement outlined the deficiencies to be addressed by the project and the intended outcome or purpose. Following review by FHWA, ODOT and other agencies, the Statement was then used to inform screening and evaluation criteria to help identify a reasonable Range of Alternatives. As the Feasibility Study neared completion, the team refined the Problem Statement into a draft Purpose and Need. This draft was provided to all invited Cooperating and Participating Agencies, the relevant tribes, and the public as part of the public review of the findings of the Feasibility Study.

Updates as of November 2020:

- a. The Purpose and Need Statement received additional review from agencies and the public. It was approved by the project’s Policy Group and the Multnomah County Board of Commissioners in November 2018. All the Cooperating Agencies formally concurred on the Purpose and Need Statement in April/May 2020.

3. Develop Draft Coordination Plan that includes a Permitting Timetable (pre-NOI)

Summary of relevant guidance

E.O./MOU Guidance Message: *Develop a draft Coordination Plan that includes a permitting timetable*

Summary of Relevant Feasibility Study Activities:

The Project team, with input from FHWA and ODOT, developed a draft Coordination Plan that includes a list of potential state and federal permits that may be needed by the project, and a general timeline. The draft Plan was sent to invited Participating and Cooperating

Agencies to review in September 2018. The joint lead agencies may amend the Coordination Plan based on comments from these agencies.

Updates as of November 2020:

- a. The Coordination Plan has been periodically updated through the informal scoping process and after the NOI, primarily to reflect changes in agency contacts and the status of participating and cooperating agencies.
- b. A Federal Permitting Timetable Worksheet, which shows the timeline for completing the EIS process in less than two years and for issuing federal permits not more than 90 days after signing the ROD, was finalized with input from relevant permitting agencies in March 2020. All the relevant permitting agencies agreed with the final Timetable. The information was posted on the Federal Permitting Dashboard prior to issuance of the NOI.

4. Develop a Public Involvement Plan and Engage Stakeholders (pre-NOI)

Summary of Relevant Guidance:

E.O./MOU Guidance Message: *Identify community and stakeholders affected and develop a Public Involvement Plan*

PEL Guidance: *The general approach to developing a public involvement and participation plan should contain elements that are relevant to communities and that meet the specific Section 168 requirements relating to availability of documents and opportunities for notice and comment (Question #4) (Note: also see item 12 below which addresses the related Question #3)*

Summary of Relevant Feasibility Study Activities:

The project team implemented a broad stakeholder engagement process to inform local, regional, and state agencies, as well as the local community about the project and solicit their input. Key elements of the public involvement plan included stakeholder committees, interviews, briefings and presentations, stakeholder workshops, booth tabling, online surveys and briefings, project videos and a project website. The media also showed much interest in the project, providing widespread information to their audiences.

The team also formed a Stakeholder Representative Group (SRG) that provided input during the Feasibility Study phase. After the SRG provided its final input on the Feasibility Study, that group concluded and a new stakeholder group, called the Community Task Force (CTF), was formed. The CTF has some of the same membership as the SRG and some additional membership to reflect evolving community and stakeholder interest in the project.

Updates as of November 2020:

- a. The list of potentially affected communities and stakeholders has continued to be updated as needed. Each phase of the project is accompanied by a phase-specific public involvement strategy. More information on the public involvement process and results can be found in the DEIS Attachment K, Summary of Public Involvement and Agency Coordination.

5. Identify a Preliminary Range of Alternatives (pre-NOI)

Summary of Relevant Guidance:

E.O./MOU Guidance Message: *Identify preliminary Range of Alternatives*

Summary of Relevant Feasibility Study Activities:

One of the primary goals of the EQRB Feasibility Study was to consider a very wide range of potential alternatives and to narrow them down to a reasonable range that could be evaluated in an Environmental Impact Statement (EIS). The study findings, based on extensive analysis and input from multiple committees comprised of agencies and stakeholder representatives, proposed that decision-makers consider forwarding four alternatives into the EIS. In November 2018, the Board of County Commissioners (BCC) gave their approval, consistent with recommendations from the project committees and input from the public, to advance four alternatives plus the no-build alternative, into the environmental review phase of the project.

Updates as of November 2020:

- a. The BCC's recommendation received additional analysis and input through informal scoping in 2019 and into early 2020. During this time, the project's Community Task Force reviewed the additional input and analysis and recommended that a revised range of alternatives be advanced into the DEIS (this included dropping the high-level fixed bridge alternative primarily because a navigation study showed that it could not meet US Coast Guard vertical clearance requirements; and adding a long-span alternative that would have lower impacts and lower seismic risk than the other alternatives). This recommendation received strong support from the project committees. The recommendation was also forwarded to the Cooperating Agencies with a request for formal concurrence (see item 6 below).

6. Secure Concurrence from Cooperating Agencies (pre-NOI)**Summary of Relevant Guidance:**

E.O./MOU Guidance Message: *Secure concurrence from Cooperating Agencies on the Purpose and Need and the Range of Alternatives prior to issuing the NOI*

PEL Guidance: *The planning product should be developed in consultation with the appropriate Federal and State resource agencies and Indian tribes (Question #3)*

PEL Guidance: *To incorporate planning information, directly or by reference, into subsequent NEPA documents under 23 CFR 450.212 and 450.318, involve interested State, local, Tribal, and Federal agencies; support public review; provide a reasonable opportunity to comment during the ... development of the corridor or subarea planning study; create documentation of the relevant decisions in a form suitable for review during NEPA scoping; and secure FHWA review as appropriate (Question #7b)*

Summary of Feasibility Study Actions:

Cooperating Agencies were invited to attend an informal scoping meeting for agencies on October 15, 2018 as part of the early coordination process. At this meeting the draft Purpose and Need, the draft Feasibility Study, a recommended range of alternatives, and other project information were provided for review and comment. Input was also solicited on the scope of the environmental analysis.

Updates as of November 2020:

- a. In April/May 2020, all three of the Cooperating Agencies formally concurred with the Purpose and Need statement and the range of alternatives to be studied in the DEIS.

7. Identify Impact Analysis Needs (pre-NOI)

Summary of Relevant Guidance:

E.O./MOU Guidance Message: *Determine the extent of analysis needed for each resource*

Summary of Feasibility Study Actions:

The project team developed a list of Methods Memos to be prepared that will define the area of potential impact and identify the analysis methodologies for each element of the environment.

Updates as of November 2020:

- a. The project team developed Methods Memos that included consideration of comments from the public and agencies.
- b. The Participating Agencies were given the opportunity to review and comment on the Methods Memos. The Memos were then finalized in 2019 and were used to guide the analysis methods in the Environmental Technical Reports that support the DEIS.

8. Begin Resource Studies (pre-NOI)

Summary of Relevant Guidance:

E.O./MOU Guidance Message: *Initiate applicable resource surveys/studies*

Summary of Feasibility Study Activities:

During the Feasibility Study phase the team collected existing information and conducted field data collection on specific resources. This information was used to apply the evaluation criteria used to screen alternatives during the Feasibility Study.

Updates as of November 2020:

- a. Resource surveys were conducted in 2019 and the Affected Environment sections of the Technical Reports were drafted in early 2020.

9. Identify Environmental Issues (pre-NOI)

Summary of Relevant Guidance

E.O./MOU Guidance Message: *Identify potentially significant environmental issues*

PEL Guidance: *The planning process should include broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment (Question #3).*

Summary of Feasibility Study Actions

The PEL guidance refers to system- and corridor-wide transportation plans that precede NEPA review on specific projects within that broader system. The EQRB Feasibility Study included broad multidisciplinary consideration of potential effects on the human and natural environment, to the extent they could be meaningfully evaluated at that time and that they helped inform the decisions on which alternatives to advance for further study. This included impacts on historic resources, parks, housing and business displacements, access, and view barriers.

Updates as of November 2020:

- a. Coordination with Cooperating and Participating Agencies continued through 2019 and 2020 as part of informal scoping and after the NOI was issued. Coordination included email, project committees, and topic specific working groups. This included opportunities to provide input on environmental issues.

10. Identify Potential Environmental Mitigation (pre-NOI)**Summary of Relevant Guidance:**

E.O./MOU Guidance Message: *Identify potential mitigation strategies*

Summary of Feasibility Study Actions:

Some likely and potential impacts (such as displacement of the skate park under the Burnside Bridge, and navigation concerns) were identified during the Feasibility Study. No specific mitigation strategies were proposed in the Feasibility Study, but additional analysis was recommended to identify ways to avoid or reduce potential impacts prior to initiating the DEIS.

Updates as of November 2020:

- a. Alternatives continued to be refined during informal scoping based on agency and public input as well as identification of ways to reduce impacts. For example: the design and construction approach for the replacement alternatives were modified to avoid permanent impacts to the Burnside Skatepark, a National Register eligible resource; the Fixed-span bridge alternative was dropped due to much higher navigation and built environment impacts than the other alternatives; a new Long-span alternative was added because of its ability to minimize geotechnical risks and reduce impacts to park and recreation resources; and, the design of the replacement alternatives was modified to reduce construction-phase impacts to a social service provider near the western bridgehead.

11. Initiate Early Permit Activities (pre-NOI)**Summary of Relevant Guidance:**

E.O./MOU Guidance Message: *Initiate permit activities as soon as possible, such as pre-application processes*

Summary of Feasibility Study Actions:

No permit applications can be completed pre-NOI, but the joint lead agencies developed a list of potential permits as part of Strategy #3.

Updates as of November 2020:

- a. During informal scoping, the project formed a Natural Resources Working Group and met several times with federal, state and local agencies.
- b. During informal scoping, the project formed a Historic Resources Coordinating Group and met several times with Oregon DOT's assigned historic preservation lead and tribal liaison/archaeology lead.
- c. See update on Permitting Timetable in Item 3.

12. Additional PEL Guidance Actions (pre-NOI)

Summary of Relevant Guidance

PEL Guidance: *The planning process should include public notice that the resulting planning products may be adopted during a subsequent environmental review process in accordance with Section 168 (Question #3).*

PEL Guidance: *The planning product should be developed through a planning process conducted pursuant to applicable Federal law (Question #3).*

Summary of Feasibility Study Actions

The following statement has been included in relevant documents already prepared during the pre-NOI phase, including the Feasibility Report, and will be included in future relevant documents:

“The information presented here, and the public and agency input received, may be adopted or incorporated by reference into a future environmental review process to meet the requirements of the National Environmental Policy Act.”

The guidance regarding developing the planning product “*through a planning process conducted pursuant to applicable Federal law*” applies primarily to the development of broad area transportation plans or corridor plans. The EQRB project is included in Metro’s Regional Transportation Plan, which follows a planning process that complies with applicable Federal law. The EQRB Feasibility Study, as well as development of the draft Purpose and Need, range of alternatives and other pre-NOI products, will continue to be developed in coordination with FHWA.

Updates as of November 2020:

- a. Included the above statement in public documents prepared during informal scoping.
- b. In the NOI, included reference to the relevant planning information that the lead agencies proposed to use in NEPA as well as the use of PEL to organize informal scoping activities and decision-making.

13. Additional PEL Guidance Actions (post-NOI):

Summary of Relevant Guidance

PEL Guidance: *The PEL Guidance includes conditions for the lead agency or Cooperating agency to implement during the subsequent environmental review process, after the NOI is issued (Question #3)*

Action Items after submitting the NOI:

- a. Make the planning documents available for public review and comment by members of the general public and Federal, State, local, and tribal governments that may have an interest in the proposed project.
- b. Provide notice of the intention of the relevant agency to adopt or incorporate by reference the planning product.
- c. Consider any resulting comments.
- d. Determine if there is significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product.

- e. Determine that the planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies.
- f. Ensure that the planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process.
- g. Ensure that the planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of NEPA and 40 CFR 1502.21 (as in effect on December 1, 2015).
- h. Adopt or incorporate by reference the planning product within 5 years after it was approved.

Updates as of November 2020:

- a. The EQRB Feasibility Study was adopted by the Multnomah County Board of Commissioners in September 2019.
- b. In March 2020, Metro provided written concurrence that they participated in the Feasibility Study and took the results into account when updating the Regional Transportation Plan.
- c. The findings from the Feasibility Study, as well as the additional analysis conducted, input received, and decisions made during the remainder of informal scoping were incorporated into documents that support the DEIS.

Conclusion

By implementing the actions listed above in items 1-13, the project will have successfully linked the EQRB planning phase and NEPA phase analysis and decisions in compliance with the relevant regulations and guidelines. The project team will continue to monitor the action items and document progress. The table in Appendix A collates all of the Action Items of this PEL Strategy.

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Appendix A: PEL Strategy Action Items

Item Number	Action Item
<i>Pre-NOI Action Items (1-12)</i>	
1	a Follow up with agencies invited to participate as Cooperating and Participating to finalize their status.
2	a Revise Purpose and Need Statement as needed.
3	a Revise the Coordination Plan as needed.
	b Update the permitting information in the Coordination Plan to create a permitting timetable.
4	a Update the list of potentially affected communities and stakeholders.
	b Update the Public Involvement Plan.
5	a Further refine and finalize the range of alternatives.
6	b Follow up with the Cooperating Agencies to secure written concurrence on the Purpose and Need and the range of alternatives prior to the NOI.
7	a Review public and agency comments related to the extent of analysis and consider that input in identifying the scope of the EIS and in creating the methods memos.
	b Draft the Methods Memos.
	c Give Cooperating Agencies the opportunity to review the Methods Memos.
8	a Initiate the resource surveys.
	b Develop the Affected Environment sections of the Environmental Technical Reports. This will include conducting any necessary resource surveys or studies.
9	a Continue to identify potentially significant environmental issues.
	b Provide Cooperation Agencies with further opportunity to comment on significant environmental issues and analytical approaches in the Methods Memos.
10	a Inform the refinement of alternatives and detailed definition of alternatives with the information gathered on existing environmental conditions to promote impact avoidance and mitigation.
	b Identify potential mitigation for selected, known impacts, and coordinate with affected stakeholders. Consider integrating mitigation into the detailed definition of alternatives.
11	a Discuss and potentially initiate a Natural Resources Working Group with the relevant state and federal agencies.
	b Discuss and potentially initiate a Historic Resources Working Group with the relevant state and federal agencies.
	c Coordinate with permitting agencies to update the permitting timetable.
	d Identify how far in advance pre-consultations can begin
12	a Continue to include this statement in relevant future documents: <i>“The information presented here, and the public and agency input received, may be adopted or incorporated by reference into a future environmental review process to meet the requirements of the National Environmental Policy Act.”</i>
	b In the NOI, refer to the relevant planning information that the lead agencies propose to use in NEPA (per Guidance on Using Corridor and Subarea Planning to Inform NEPA)

Item Number	Action Item
<i>Post-NOI Action Items to complete PEL Strategy</i>	
13	<ul style="list-style-type: none"> <li data-bbox="289 264 1356 348">a Make the planning documents available for public review and comment by members of the general public and federal, state, local, and tribal governments that may have an interest in the proposed project. <li data-bbox="289 352 1356 411">b Provide notice of the intention of the relevant agency to adopt or incorporate by reference the planning product. <li data-bbox="289 415 737 447">c Consider any resulting comments. <li data-bbox="289 451 1356 510">d Determine if there is significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product. <li data-bbox="289 514 1356 573">e Determine that the planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies. <li data-bbox="289 577 1356 661">f Ensure that the planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process. <li data-bbox="289 665 1356 779">g Ensure that the planning product is appropriate for adoption, or incorporation by reference, and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, NEPA and 40 CFR 1502.21 (as in effect on December 1, 2015). <li data-bbox="289 783 1263 814">h Adopt or incorporate by reference the planning product within 5 years after approval.

Appendix B: Summary of EQRB Project Consistency with 23 U.S.C 168(d) and 23 U.S.C 139(f)(4)(E)(ii)

Condition	Summary and/or Evidence Consistency
<p>23 U.S.C. 168(d) CONDITIONS.—The relevant agency in the environmental review process may adopt or incorporate by reference a planning product under this section if the relevant agency determines, with the concurrence of the lead agency and, if the planning product is necessary for a cooperating agency to issue a permit, review, or approval for the project, with the concurrence of the cooperating agency, that the following conditions have been met: (1) The planning product was developed through a planning process conducted pursuant to applicable Federal law.</p>	<p>The EQRB Feasibility Study and other informal scoping documents were prepared through a planning process conducted pursuant to applicable Federal Law.</p> <p>See the April 1, 2020 letter from Metro to Phil Ditzler, FHWA Oregon Division Administrator, regarding the metropolitan planning organization’s participation in and support for the informal scoping work and results, including this excerpt from the letter:</p> <p><i>“Metro has participated closely with Multnomah County and other local partners in the planning and environmental review phases of the project. Staff are participating in the Project Management Team, Senior Agency Staff Group, and through topic-specific working groups, as well as providing travel demand modeling. Through this engagement we have provided input and recommendations on the planning studies, the analytical methods, the findings and the planning products, and have provided guidance on the project’s consistency with the Regional Transportation Plan (RTP). The County has been receptive to modifying methods, studies, and deliverables in response to feedback from Metro and other project partners. Members of the Metro Council have also participated on the project’s Policy Group which has made final recommendations at major project milestones.</i></p> <p><i>The planning process for the EQRB project has been consistent with the relevant policies and procedures outlined in the RTP for locally sponsored projects, and the project itself is included in the RTP. The project was first included in the RTP as part of Multnomah County’s Bridge Capital Improvement Program (CIP) that identified the need for a seismically resilient Burnside Bridge. Based on the progress made since then through the Feasibility Study and other planning studies, Metro has updated the RTP project list to include two more phases of the project, including the current and upcoming phases.</i></p> <p><i>Metro supports the use of these planning studies for informing decisions on the range of alternatives to carry into the NEPA EIS, as well as to support other decisions and requirements, such as analytical methods and the scope of analysis, as appropriate, in the NEPA process.” (the letter is included in Attachment F of the DEIS)</i></p> <p>Two phases of the project are included in the Regional Transportation Plan. They are in the 2018 Financially Constrained List of Projects and Programs (Appendix A of the RTP, pages 40 and 41 – see Project ID# 11129 and ID #11376)</p> <p>RTP Appendix is published online: https://www.oregonmetro.gov/sites/default/files/2019/04/02/2018-RTP-Appendices-A-and-B-Constrained-Project-List.pdf</p>
<p>23 U.S.C. 168(d) (2) The planning product was developed in consultation with appropriate Federal and State resource agencies and Indian tribes.</p>	<p>The EQRB Feasibility Study and subsequent informal scoping work was coordinated with appropriate federal and state resource agencies and tribes. See the DEIS <i>Attachment K, Summary of Public and Agency Involvement</i>.</p>

Condition	Summary and/or Evidence Consistency
<p>23 U.S.C. 168(d) (3) The planning process included broad multidisciplinary consideration of systems-level or corridor-wide transportation needs and potential effects, including effects on the human and natural environment</p>	<p>The EQRB Feasibility Study and subsequent informal scoping work included broad multidisciplinary consideration of the multi-modal transportation needs for the downtown Willamette River crossings, including effects on the human and natural environment. See the <i>EQRB Feasibility Study Report, Appendix C</i>, for a summary of how regional and corridor transportation considerations, as well as human and environmental effects, influenced the identification and screening of potential alternative. (https://multco.us/earthquake-ready-burnside-bridge/feasibility-study-archive) Also see <i>DEIS Attachment H, Preferred Alternative Evaluation Process and Results</i>, which includes a summary of how effects on human and natural environment further influenced modifications to the range of alternatives advanced into the DEIS.</p>
<p>23 U.S.C. 168(d) (4) The planning process included public notice that the planning products produced in the planning process may be adopted during a subsequent environmental review process in accordance with this section</p>	<p>The following statement was included in relevant documents prepared during the pre-NOI phase, including the <i>EQRB Feasibility Study Report</i>:</p> <p><i>“The information presented here, and the public and agency input received, may be adopted or incorporated by reference into a future environmental review process to meet the requirements of the National Environmental Policy Act.”</i></p>
<p>23 U.S.C. 168(d) (5) During the environmental review process, the relevant agency has— (A) made the planning documents available for public review and comment by members of the general public and Federal, State, local, and tribal governments that may have an interest in the proposed project; (B) provided notice of the intention of the relevant agency to adopt or incorporate by reference the planning product; and (C) considered any resulting comments</p>	<p>A. The <i>EQRB Feasibility Study Report</i> was made available on the project website (https://multco.us/earthquake-ready-burnside-bridge) for public review and comment by members of the general public and Federal, State, local and tribal governments that may have an interest in the EQRB project including its potential effects. In addition, information was shared through in-person meetings, online communications, community events, and open houses. Project committees, that included stakeholder and agency representatives, reviewed information and provided input. Information on agency coordination is included in the <i>EQRB Agency Coordination Plan</i>, and public and agency involvement are summarized in <i>DEIS Attachment K, Summary of Public and Agency Involvement</i>. Additional detail on public engagement can also be found in the <i>EQRB 2019 Public Engagement Summary</i> and the <i>EQRB 2020 Public Engagement Summary</i>, which are available in the Library on the project website (https://multco.us/earthquake-ready-burnside-bridge/project-library)</p> <p>B. See statement above for condition 168(d)(4)</p> <p>C. Comments received were considered in developing screening criteria as well as identifying the range of alternatives to advance into the DEIS. Examples of how input influenced decisions are found in the <i>EQRB 2019 Public Engagement Summary</i> (https://multco.us/earthquake-ready-burnside-bridge/project-library) as well as the <i>EQRB Feasibility Study Report</i> and <i>DEIS Attachment H, Preferred Alternative Evaluation Process and Results</i>.</p>
<p>23 U.S.C. 168(d) (6) There is no significant new information or new circumstance that has a reasonable likelihood of affecting the continued validity or appropriateness of the planning product</p>	<p>No new information has arisen since the publication of the Notice of Intent to prepare an EIS that has a reasonable likelihood of affecting the validity or appropriateness of the decisions made during informal scoping.</p>
<p>23 U.S.C. 168(d) (7) The planning product has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies</p>	<p>The EQRB Feasibility Study and other work conducted during informal scoping has a rational basis and is based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies. The environmental technical reports that support the DEIS are based in part on data sources used to inform the alternatives screening work conducted during informal scoping and follow the analytical methods outlined in the EQRB methods reports that were developed during the informal scoping period. All participating and cooperating agencies as well as interested tribes had the opportunity to provide input on the methods.</p>

Condition	Summary and/or Evidence Consistency
<p>23 U.S.C. 168(d) (8) The planning product is documented in sufficient detail to support the decision or the results of the analysis and to meet requirements for use of the information in the environmental review process</p>	<p>The <i>EQRB Feasibility Study Report</i> documents the criteria, process and information used to identify and screen alternatives. In addition, <i>DEIS Attachment H, Preferred Alternative Evaluation Process and Results</i>, includes a summary of how effects on human and natural environment further influenced modifications to the range of alternatives advanced into the DEIS.</p>
<p>23 U.S.C. 168(d) (9) The planning product is appropriate for adoption or incorporation by reference and use in the environmental review process for the project and is incorporated in accordance with, and is sufficient to meet the requirements of, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1502.21 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the FAST Act)</p>	<p>As noted for Condition 168(d)(7) above, the EQRB Feasibility Study and other work conducted during informal scoping are based on reliable and reasonably current data and reasonable and scientifically acceptable methodologies using the same legal and scientific standards required by NEPA. The environmental technical reports that support the DEIS are based in part on the data sources used to inform the alternatives screening work conducted during informal scoping and follow the analytical methods outlined in the EQRB methods reports that were developed during the informal scoping period. All participating and cooperating agencies as well as interested tribes had the opportunity to provide input on the methods.</p> <p>The <i>EQRB Feasibility Study Report</i> is appropriate for adoption or incorporation by reference and use in the EQRB environmental review process and is incorporated in accordance with, and is sufficient to meet the requirements of, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and section 1502.21 of title 40, Code of Federal Regulations (as in effect on the date of enactment of the FAST Act).</p>
<p>23 U.S.C. 168(d) (10) The planning product was approved within the 5-year period ending on the date on which the information is adopted or incorporated by reference</p>	<p>The EQRB Policy Group, which includes the Metro Council President, provided regular input and direction to the EQRB Feasibility Study process from 2016-2018. In October 2018, the Policy Group then approved the <i>EQRB Feasibility Study Report</i> findings and recommended that they be advanced to the Multnomah County Board of Commissioners for approval. That was less than 2 ½ years prior to the publication of the Draft EIS.</p>
<p>23 U.S.C. 139(f)(4)(E) (ii) Consideration of alternatives.—The lead agency may eliminate from detailed consideration an alternative proposed in an environmental impact statement regarding a project if, as determined by the lead agency—</p> <p>(I) the alternative was considered in a metropolitan planning process or a State environmental review process by a metropolitan planning organization or a State or local transportation agency, as applicable;</p>	<p>The alternatives eliminated prior to the issuance of the Notice of Intent to prepare an EIS were considered in a metropolitan planning process, as noted in the April 1, 2020 letter from Metro (the metropolitan planning organization) to the FHWA Oregon Division Administrator, regarding participation in, support for and concurrence with the informal scoping work. Excerpt from Metro letter is below (full letter is in Attachment F of the DEIS):</p> <p><i>“Metro has participated closely with Multnomah County and other local partners in the planning and environmental review phases of the project. Staff are participating in the Project Management Team, Senior Agency Staff Group, and through topic-specific working groups, as well as providing travel demand modeling. Through this engagement we have provided input and recommendations on the planning studies, the analytical methods, the findings and the planning products, and have provided guidance on the project’s consistency with the Regional Transportation Plan (RTP). The County has been receptive to modifying methods, studies, and deliverables in response to feedback from Metro and other project partners. Members of the Metro Council have also participated on the project’s Policy Group which has made final recommendations at major project milestones.</i></p> <p><i>The planning process for the EQRB project has been consistent with the relevant policies and procedures outlined in the RTP for locally sponsored projects, and the project itself is included in the RTP. The project was first included in the RTP as part of Multnomah County’s Bridge Capital Improvement Program (CIP) that identified the need for a seismically resilient Burnside Bridge. Based on the progress made since then through the Feasibility Study and other planning studies, Metro has updated the RTP project list to include two more phases of the project, including the current and upcoming phases.</i></p>

Condition	Summary and/or Evidence Consistency
	<p><i>Metro supports the use of these planning studies for informing decisions on the range of alternatives to carry into the NEPA EIS, as well as to support other decisions and requirements, such as analytical methods and the scope of analysis, as appropriate, in the NEPA process.”</i></p> <p>Two phases of the project are included in the Regional Transportation Plan. They are in the 2018 Financially Constrained List of Projects and Programs (Appendix A of the RTP, pages 40 and 41 – see Project ID# 11129 and ID #11376)</p> <p>RTP Appendix is published online: https://www.oregonmetro.gov/sites/default/files/2019/04/02/2018-RTP-Appendices-A-and-B-Constrained-Project-List.pdf</p>
<p>23 U.S.C. 139(f)(4)(E)(ii) (II) The lead agency provided guidance to the metropolitan planning organization or State or local transportation agency, as applicable, regarding analysis of alternatives in the metropolitan planning process or State environmental review process, including guidance on the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and any other Federal law necessary for approval of the project;</p>	<p>Metro’s formal involvement in the project began in 2017 as the project was preparing to develop an approach to conduct public outreach, develop an alternatives screening process, get input on a draft problem statement, and establish project committees to provide input, guidance and coordination among agencies. The most senior agency committees included a Policy Group followed by a Senior Agency Staff Group. The Metro Council president and the FHWA Division Director were represented on the Policy Group; Metro senior staff and FHWA senior staff were represented on the Senior Agency Staff Group; staff from both agencies were represented on the Project Management Team. As the project progressed, staff from Metro and FHWA participated in topic specific working groups.</p> <p>Guidance and coordination regarding the alternatives analysis, public outreach, NEPA requirements and approach, as well as other federal regulatory requirements, were included in the agendas of those committee meetings. The meeting agendas, presentations and notes are available on the project website:</p> <p>SASG and Policy Group meeting materials from October 2018 to present can be found here: https://multco.us/earthquake-ready-burnside-bridge/committee-meeting-materials#pg</p> <p>SASG and Policy Group meeting materials prior to October 2018 can be found here: https://multco.us/earthquake-ready-burnside-bridge/feasibility-study-archive</p>
<p>23 U.S.C. 139(f)(4)(E)(ii) (III) The applicable metropolitan planning process or State environmental review process included an opportunity for public review and comment;</p>	<p>Public involvement is summarized in <i>DEIS Attachment K, Summary of Public and Agency Involvement</i>. Additional detail on public engagement can also be found in the <i>EQRB 2019 Public Engagement Summary</i> and the <i>EQRB 2020 Public Engagement Summary</i>, which are available in the project website Library (https://multco.us/earthquake-ready-burnside-bridge/project-library)</p> <p>Also see the April 1, 2020 letter (in Attachment F of the DEIS) from Metro to FHWA Oregon Division Administrator, regarding Metro’s participation in and support for the informal scoping work including their statement that: <i>“the planning process to date has demonstrated robust public engagement...”</i></p>

Condition	Summary and/or Evidence Consistency
<p>23 U.S.C. 139(f)(4)(E)(ii) (IV) The applicable metropolitan planning organization or State or local transportation agency rejected the alternative after considering public comments;</p>	<p>See the April 1, 2020 letter (in Attachment F to the DEIS) from Metro to FHWA Oregon Division Administrator, regarding Metro’s participation in and support for the informal scoping work. Excerpt from Metro letter is below:</p> <p><i>“The project’s planning process to date has demonstrated robust public engagement and collaboration with Metro and other agencies, and has resulted in ... the identification, evaluation and screening of alternatives.</i></p> <p><i>Metro has participated closely with Multnomah County and other local partners in the planning and environmental review phases of the project. Staff are participating in the Project Management Team, Senior Agency Staff Group, and through topic-specific working groups, as well as providing travel demand modeling. ...The County has been receptive to modifying methods, studies, and deliverables in response to feedback from Metro and other project partners. Members of the Metro Council have also participated on the project’s Policy Group which has made final recommendations at major project milestones. The planning process for the EQRB project has been consistent with the relevant policies and procedures outlined in the RTP for locally sponsored projects, and the project itself is included in the RTP. ...Metro supports the use of these planning studies for informing decisions on the range of alternatives to carry into the NEPA EIS, as well as to support other decisions and requirements, such as analytical methods and the scope of analysis, as appropriate, in the NEPA process.”</i></p>
<p>23 U.S.C. 139(f)(4)(E)(ii) (V) The Federal lead agency independently reviewed the alternative evaluation approved by the applicable metropolitan planning organization or State or local transportation agency;</p>	<p>As the Federal lead agency for NEPA, FHWA independently reviewed the <i>EQRB Feasibility Study Report</i>, the Purpose and Need, the screening criteria, and the range of alternatives.</p>
<p>23 U.S.C. 139(f)(4)(E)(ii) (VI) The Federal lead agency determined— (aa) in consultation with Federal participating or cooperating agencies, that the alternative to be eliminated from consideration is not necessary for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or (bb) with the concurrence of Federal agencies with jurisdiction over a permit or approval required for a project, that the alternative to be eliminated from consideration is not necessary for any permit or approval under any other Federal law.</p>	<p>FHWA received formal concurrence on the range of alternatives to be studied in the DEIS from the federal cooperating agencies (US Army Corps of Engineers, National Marine Fisheries Service, and the US Coast Guard). See DEIS Attachment F for agency letters.</p>

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