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WEST HAYDEN ISLAND PLANNING DOCUMENT

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TRANSPORTATION INTERGOVERNMENTAL AGREEMENT

Volume 7

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Port of Portland

OCTOBER 1999

THIS IS ONE OF SEVERAL VOLUMES COMPRISING THE WEST HAYDEN ISLAND PLANNING DOCUMENT AS FOLLOWS:

Volume 1:	Area Plan
Volume 2:	Natural Resource Element
Volume 3:	Market Study
Volume 4:	Transportation Analysis
Volume 5:	Plan District
Volume 6:	Mitigation Plans
Volume 7:	Transportation Intergovernmental Agreement
Volume 8:	Annexation Application

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TRANSPORTATION AGREEMENT FOR WEST HAYDEN ISLAND MARINE TERMINAL DEVELOPMENT

THIS TRANSPORTATION AGREEMENT FOR WEST HAYDEN ISLAND MARINE TERMINAL DEVELOPMENT (this "**Agreement**") is entered into as of _____, by and between the **PORT OF PORTLAND**, an Oregon municipal corporation (the "**Port**") and the **CITY OF PORTLAND**, an Oregon municipal corporation (the "**City**").

RECITALS

A. The Port intends to develop marine terminal facilities, including bulk terminals, container terminals, auto distribution facilities, and an intermodal rail yard on the western end of Hayden Island in accordance with the West Hayden Island Development Plan (the "**Proposed Development**"). The Proposed Development will include all or some of these identified facilities and each of the facilities and combinations of facilities will have levels of impact upon the transportation system.

B. The Port has prepared a West Hayden Island Marine Terminal Development, Highway Transportation Analysis dated June 1999 (the "**Transportation Study**"). The Transportation Study identifies various options for the Proposed Development which include bulk terminals, container terminals, auto distribution facilities and intermodel rail yard and recommends mitigation measures associated with each use or combination of uses. The Transportation Study also addresses development impacts for two potential time frames, 2005 and 2020.

C. In addition, the Transportation Study also recommends an access alternative to West Hayden Island that is dependent upon the following improvements associated with completion of the entire Proposed Development:

1) Construction of a new bridge to connect North Marine Drive with the southern portion of West Hayden Island (the "**West Hayden Island Bridge**").

2) Construction of a new, private road between the West Hayden Island Bridge and the western portion of the Island to provide access to the proposed bulk terminal facility.

3) Construction of a new road between the West Hayden Island Bridge and the eastern portion of the Island to provide access to other marine facilities and the intermodel rail yard and to connect the West Hayden Island Bridge with the portion of Hayden Island east of the Burlington Northern railroad mainline, which is Hayden Island Drive. The connection to non-Port property east of the railroad will be accessible to autos only.

D. According to the Transportation Study, the Proposed Development will increase transportation impacts on Hayden Island. Specifically, the Transportation Study predicts the following three stages of transportation impact as a result of the Proposed Development:

(1) **Stage 1**: With development of fewer than 450 daily trip ends by 2005, there will be no change in intersection levels of service.

(2) **Stage 2**: With development of between 450 and 1,000 daily trip ends by 2005, traffic operations at the Hayden Island Drive and Center Avenue intersection would drop from Level of Service ("**LOS**") C to LOS F during the midday peak hour. By 2020, traffic operations at this intersection would remain at LOS F during the midday peak hours as projected for conditions without the Proposed Development and would drop from LOS B to LOS F during the p.m. peak hour. Traffic operations at the Center Avenue and I-5 southbound ramp intersection would drop from LOS D to LOS F during the midday peak hour.

(3) **Stage 3**: With development of between 1,000 and 5,110 daily trip ends by 2020, traffic operations at the Hayden Island Drive and Center Avenue intersection would remain at LOS F during the midday peak hour and would drop from LOS B to LOS F during the p.m. peak hour. Traffic operations at the I-5 and Marine Drive intersection would remain LOS F during the p.m. peak hour.

E. For each of the stages, certain traffic mitigation measures and traffic circulation enhancements are identified which are proportionate to the demand created by the trip ends identified in each stage. The stages are not meant to imply any particular order or timing of development but, instead, are intended to set forth the level of traffic mitigation measures required and proposed traffic circulation enhancements that will be required dependent upon the number of trip ends generated by any Proposed Development. The Transportation Study recommends specific transportation system improvements to mitigate the traffic operation impacts for Stage 2 and Stage 3.

F. The Port recognizes the need to construct the West Hayden Island Bridge in conjunction with full development of the marine terminal facilities and intermodal rail yard and also recognizes the need to mitigate against other transportation system impacts caused by the Proposed Development. The parties hereto acknowledge that obtaining funding for the West Hayden Island Bridge may require an extended process and, thus, the interim mitigation measures outlined herein are intended to provide a proportionately-based mitigation program to support partial construction of the Proposed Development until such time as the West Hayden Island Bridge may be funded, permitted and constructed.

G. The parties wish to define their respective rights and obligations concerning the Proposed Development and the construction of traffic system improvements to provide traffic

circulation enhancements and mitigate the transportation impacts as a result of the Proposed Development.

AGREEMENT

The parties agree to undertake the following to the extent not otherwise previously constructed with respect to any other stage:

1. **STAGE 1**. Subject to the requirements of this Section 1, the Port may commence with construction of the Proposed Development to a point, as defined in the Transportation Study, at which the Proposed Development is projected to generate fewer than 450 daily trip ends. In conjunction with this stage of development, the Port shall have the following traffic improvement obligations:

1.1 **Traffic Mitigation Measures**. During Stage 1, the Port shall have no obligations to construct any Traffic Mitigation Measures.

1.2 **Traffic Circulation Enhancements**. During Stage 1, the Port shall construct the following improvements:

1.2.1 A two-lane road between the westerly terminus of Hayden Island Drive and the marine facility, built to industrial street standards established by the City.

1.2.2 Unless otherwise constructed or under construction, restriping and signalization improvement to the Hayden Island Drive and Center Avenue intersection. However, in no circumstance shall the cost of this improvement exceed $305,000.00.

2. **STAGE 2**. Subject to the requirements of this Section 2, the Port may continue with construction of the Proposed Development to a point, as defined in the Study, at which the Proposed Development is projected to generate between 450 and 1,000 daily trip ends. In conjunction with this stage of development and to the extent not otherwise provided for, the Port shall have the following traffic improvement obligations:

2.1 **Traffic Mitigation Measures**. During Stage 2, the Port shall provide restriping and signalization improvements to the Hayden Island Drive and Center Avenue intersection.

2.2 **Traffic Circulation Enhancements**. During Stage 2, the Port shall construct the following improvements:

2.2.1 Reconstruct Hayden Island Drive between the Center Avenue vicinity and the four-way stop controlled intersection at the existing mobile home park. The existing three-lane cross-section will be maintained and appropriate traffic control modifications will be made as appropriate and warranted. However, in no circumstance shall the cost of this improvement exceed $3,400,000.

2.2.2 Add a southbound left turn lane and signal at the intersection of Center Avenue and the I-5 southbound ramps. However, in no circumstance shall the cost of this improvement exceed $250,000.00.

2.2.3 Improve the sidewalks on Hayden Island in the vicinity of I-5 and the Hayden Island and Center Avenue intersection. However, in no circumstance shall the cost of this improvement exceed $250,000.00.

3. **STAGE 3**. Subject to the requirements of this Section 3, the Port may continue with construction of the Proposed Development to a point, as defined in the Study, at which the Proposed Development is projected to generate in excess of 1,000 daily trip ends but not more than 5,110 daily trip ends. In conjunction with this stage of development, the Port shall have the following traffic improvement obligations:

3.1 **Traffic Mitigation Measures**. Before commencing with Stage 3 construction of the Proposed Development, the Port shall construct the West Hayden Island Bridge and bridge approach roads to link West Hayden Island with North Marine Drive unless the Port elects to contribute to construction of the Alternate Bridge as defined and set forth in Section 4.2.

3.2 **Traffic Circulation Enhancements**. During Stage 3, the Port shall provide restriping and signalization improvements to the Hayden Island Drive and Center Avenue intersection. However, in no circumstance shall the cost of this improvement exceed $305,000.

4. **ADJUSTMENTS**. The dollar amounts for the mitigation measures and circulation enhancements set forth in Sections 1, 2 and 3 herein shall be adjusted by a percentage as determined below. The adjustment shall be determined by the comparison of the Consumer Price Index published by the United States Bureau of Labor Statistics of the United States Department of Labor for January 1, 2000 with the same Index for the date in which actual expenditure is required.

5. **OTHER OBLIGATIONS OF THE PORT**.

5.1 **Waiver of Remonstrance**. The Port shall not remonstrate against the formation of a Local Improvement District ("**LID**") formed for purposes of improving the following locations to standards established by the City: (a) Hayden Island Drive in the vicinity of I-5 and Center Avenue, (b) the intersection of Hayden Island Drive and Center Avenue, and (c) the intersection of Center Avenue and the I-5 southbound ramps.

5.2 **Duty to Cooperate**. The Port shall cooperate with the City and the Oregon Department of Transportation ("**ODOT**") to identify and implement, through local, regional, state, and federal funding programs, transportation improvements needed to improve traffic circulation and traffic flow on Hayden Island and/or along Marine Drive in the vicinity of I-5 beyond those provided by the Port as set forth in Sections 1, 2, and 3 of this Agreement. The Port agrees to develop an annual monitoring program after Stage 1 to monitor actual

transportation impacts from the Proposed Development. The program shall, at a minimum, provide for an annual report to the City as to the results of the monitoring program. The Port shall also cooperate with the City, Metro, and ODOT to develop improvements for the transportation system in the North Portland area through the I-5 Trade Corridor Study and the St. Johns Truck Strategy. If the I-5 Trade Corridor Study recommends construction of a new highway bridge to serve Hayden Island (the "**Alternate Bridge**"), then the Port may elect to contribute to the construction cost of such Alternate Bridge in lieu of and proportionate to its obligations under Section 3.1 provided that such Alternate Bridge would provide access to/from West Hayden Island equal to or better than the West Hayden Island Bridge included in Section 3.1.

5.3 **Duty to Make Proposals**. The Port shall propose the following additions to the City's transportation Systems Development Charge ("**SDC**") capital improvement list based on the recommendations of the Study:

5.3.1 Improve lane striping and signalization at the intersection of Hayden Island Drive and Center Avenue.

5.3.2 Reconstruct Hayden Island Drive between the I-5 northbound ramps and the Burlington Northern Railroad mainline.

5.4 **Commuter Reduction Program**. In conjunction with the City and Tri-Met, the Port shall establish and maintain a commute trip reduction program for the employees of its marine facility tenants on West Hayden Island.

5.5 **Construction Traffic Management Plan**. Before beginning Stage 1, Stage 2, and Stage 3 of the Proposed Development, the Port shall develop a construction traffic management plan to minimize, to the extent practicable and cost-effective, construction-related vehicle trips on Hayden Island Drive. The City shall review and approve each such management plan.

5.6 **Traffic Study**. Upon application for any building permit or development approval in conjunction with construction of the Proposed Development, the Port shall prepare and submit to the City a traffic study that identifies the level traffic estimated to be generated by the particular development proposed in the application. The traffic study shall refer to and incorporate the findings and recommendations of the Transportation Study.

6. OBLIGATIONS OF THE CITY.

6.1 **Establish LID**. The City shall initiate an LID to fund improvements to Hayden Island Drive. The district shall consist, at a minimum, of all affected property owners on Hayden Island west of the I-5 interchange.

6.2 **Duty to Cooperate**. The City shall cooperate with the Port to (a) secure all necessary state or federal permits to construct the West Hayden Island Bridge, (b) secure

federal funding for construction of the West Hayden Island Bridge as part of the 2004 reauthorization of the Transportation Efficiency Act for the 21st Century, and (c) add the improvements proposed by the Port pursuant to Section 4.3 to the City's SDC capital improvement list.

7. GENERAL PROVISIONS.

7.1 **Integration.** This Agreement sets forth the entire agreement of the parties with respect to the subject matter it addresses.

7.2 **Nonwaiver.** Waiver of performance of any provision of this Agreement shall not be a waiver of nor prejudice the party's right otherwise to require performance of the same provision or any other provision.

7.3 **Severability.** If any of the provisions of this Agreement are invalid, illegal, or unenforceable in any respect, the validity of the remaining provisions shall not be affected.

7.4 **Modification.** This Agreement may not be modified except in writing signed by both parties.

7.5 **Applicable Law.** This Agreement shall be governed and construed according to the laws of the State of Oregon.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first written above.

THE PORT:

The Port of Portland

By: _____
Name: _____
Title: _____

THE CITY:

The City of Portland

By: _____
Name: _____
Title: _____

APPROVED AS TO FORM:

_____
City Attorney

STATE OF OREGON

ss.

County of

This instrument was acknowledged before me this ____ day of _____, _____ by _____, as _____ of the Port of Portland, an Oregon municipal corporation.

_____
Notary Public for Oregon
My Commission Expires: _____

STATE OF OREGON

ss.

County of

This instrument was acknowledged before me this ____ day of _____, _____ by _____, as _____ of the City of Portland, an Oregon municipal corporation.

_____
Notary Public for Oregon
My Commission Expires: _____