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September 26, 2012

**VIA HAND DELIVERY**

AUDITOR 09/26/12 AM10:13

Mayor Sam Adams  
Commissioner Nicholas Fish  
Commissioner Amanda Fritz  
Commissioner Randy Leonard  
Commissioner Dan Saltzman  
City of Portland  
1221 SW Fourth Avenue  
Portland, OR 97204-1995

**Re: City of Portland September 2012 EOA Testimony (September 26, 2012 Council Agenda Item 1098)**

Dear Mayor Adams and Commissioners:

This office represents Schnitzer Steel Industries, Inc. regarding the Task 2 Economic Opportunities Analysis ("EOA") and related periodic review documentation that is under consideration by the Council. Please include this testimony in the record for Council Agenda Item 1098.

While we appreciate staff's follow up and additional analysis, believe that analytical and evidentiary deficiencies remain. As a consequence, the EOA as presented does not comply with Goal 9, is unsupported by an adequate factual base or substantial evidence and is not supported by adequate findings.

Our focus continues to be on the Harbor Access Lands ("HAL") sub-geography of the Columbia Harbor. While this is a relatively small part of the City's employment land supply, in terms of acreage, it has a tremendous affect on jobs and the region's economic vitality. We are concerned that the updated EOA that is under consideration for adoption continues to overestimate the supply of land within the HAL geography and underestimates the lack of HAL sites when the demand and supply are reconciled. It is critically important that we have an accurate assessment of not only the availability of HAL sites, but also the constraints that are unique to HAL uses

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because both influence the next steps of the EOA, which requires the City to ensure that there is an adequate short and long term supply<sup>1</sup> of Harbor Access Lands.

### **HAL as an Employment Geography and HAL Site Characteristics**

In several places the EOA recognizes the uniqueness of HAL uses. The most obvious unique attribute of uses in the HAL geography is the necessity that the land have access to a deepwater channel. Another example is typical measures of productivity or potential redevelopment of land does not apply to HAL sites because the uses are not building intensive. Other necessary attributes that are not included as site characteristics for HAL uses include significant infrastructure such as an interconnected transportation system that links ships, barges, rail and road. While we believe that the identified site characteristics are deficient because key attributes such as infrastructure are not articulated, of the site characteristics that we are able to discern, we remain concerned that the EOA is impermissibly imprecise in defining the unique HAL site characteristics (and the evidence the identified attributes are based upon). Moreover, the EOA only erratically applies these HAL distinctions. We believe consistently applying a robustly defined HAL geography and site characteristics are essential to an adequate EOA analysis.

Staff's memo dated September 19, 2012 lists nine locations where they believe that HAL site characteristics are identified, and synthesizes the attributes into the new Figure 6 that is included in the updated EOA. Upon careful review, many of the cited sections describe general job trends, not the attributes of HAL sites. When site attributes are mentioned, such as minimum lot sizes, the evidentiary basis for that assumption is not provided. Even if the few characteristics included in Figure 6 are acknowledged as accurate, it does not appear that the characteristics were relied upon in the supply and reconciliation analyses. For example, Figure 6 appears to list a minimum site size for HAL sites as 5 acres. Nonetheless, the analyses of land supply and reconciliation of land in the Columbia Harbor both include parcels that are less than 5 acres (Figures 26 and 28 of Section 2/3 of the September 2012 EOA).

It may be that all of the parcels that are less than 5 acres that are included in the inventory and analysis are located elsewhere in the Columbia Harbor than the HAL geography, which is another concern with the EOA. In many places, the EOA commingles the HAL geography with the Columbia Harbor. For example, the September 19th staff memo explains that the EOA did establish HAL as a separate forecast geography, but the demand, supply, and demand/supply reconciliation were specifically broken out for HAL. Goal 9 requires that the EOA identify sites by type based upon site characteristics (OAR 660-009-0015(2)), which is what the City tried to accomplish by designating separate employment geographies. Goal 9 requires that the HAL be

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<sup>1</sup> When considering the long term supply of employment land, the City uses a 25 year planning horizon. The appropriate planning period for Goal 9 is 20 years. See OAR 660-009-0005(13) and OAR 660-009-0025(2).

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analyzed as an employment geography that is independent of the Columbia Harbor because the Columbia Harbor site characteristics are more generalized than HAL characteristics, so combining the two site types into a single employment geography results in an overestimation of supply of land in the HAL geography.

### **Brownfields**

Another example of how failing to distinguish between HAL and Columbia Harbor lands skews the analysis of the availability of land in the HAL geography is the EOA's assessment of brownfields. All brownfields are not alike or equal, in terms of potential economic or other community benefits/costs. The September 19th staff memo explains that the brownfield constraint factor (40%) was derived by analyzing the number of brownfield sites that redeveloped in the Columbia Harbor. No analysis or data of what percentage of HAL brownfield sites redeveloped was offered, and there is no analysis of how the remediation trend in the HAL geography many increase or decrease in the future. As testified by PBA, the consensus in the development community is that the remaining brownfields are the more problematic ones, and the cost to remediate is typically not supported by the value of the land. The data and analysis provided in the attached Regional Industrial Site Readiness Project supports our concerns about the financial obstacles for developing land in the HAL geography, particularly related to brownfields. For example, the Time Oil site (which is within the HAL geography) has a \$30m market viability gap<sup>2</sup> and 46 year time to market feasibility. Of these costs, over \$754,000 is attributable to environmental contamination, which does not include costs associated with the Portland Harbor Superfund<sup>3</sup> allocation of liability.

### **Floor Area Ratio (FAR) and Redevelopment**

The final example of how commingling HAL and Columbia Harbor land leads to an overstatement of supply is the EOA's assumptions about FAR and site redevelopment. We understand the September 19th staff memo to explain that FAR was not the basis for calculating land demand for marine terminals. However, FAR was used to calculate land demand for "employment driven" uses in the HAL that are not marine terminals. The September 19th memo also notes that when marine terminals are included in the FAR calculation for HAL, the effective

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<sup>2</sup> The market viability gap is what we encouraged the City to capture in a market factor adjustment constraint.

<sup>3</sup> As we have previously testified, most sites in the HAL that include brownfields also have Superfund liability. As a consequence, in only the rarest of circumstances with HAL brownfield sites be remediated prior to the resolution of Superfund liability issues. While we hope that the Portland Harbor Superfund is resolved during the planning period, the brownfield constraint factor that applies to HAL should reflect that the resolution will likely come late in the planning period.

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FAR is 0.17.<sup>4</sup> We are unable to identify, track or confirm in the EOA what subset of the HAL (or Columbia Harbor lands) was subject to the FAR assumptions, either for demand, supply or the reconciliation. It appears that despite the recognition elsewhere in the EOA that HAL uses are not building intense uses, a relatively intense level of industrial development of 0.35 FAR is assumed for HAL. Similarly, we are unable to determine what portion, if any, of the HAL geography is considered eligible for redevelopment. The September 19th staff report notes that 4% of the supply in the HAL geography is considered redevelopable, but the September 26th staff report explains that no Industrial Sanctuary designated land is considered redevelopable.

### Conclusion

We recognize that the package of background documents under consideration by the Council are intended to address the City's obligation to provide an adequate supply of employment and residential land, and that a concern has been expressed that the provision of adequate employment lands should not come at the expense of needed residential land supply. However, we believe that it is important to note that the City's obligation under periodic review requires independent compliance with the land supply requirements of both Goals 9 and 10. Therefore, providing sufficient land to accommodate employment uses does not, and indeed, cannot, mean that the required inventory of residential land must be compromised in any manner or to any degree.

In closing, we appreciate the opportunity to provide these comments regarding the Periodic Review Task 2 documentation pending before Council, and we welcome the City's continued solicitation of such comments from the full range of stakeholders in support of a prosperous Portland. More importantly, however, we reiterate that the concerns identified in our previous testimony dated September 5, 2012 and September 12, 2012, and identified herein, have not be resolved. We request that these concerns be resolved as part of any adopted EOA.

Very truly yours,



Steven L. Pfeiffer



Dana L. Krawczuk

Enclosures

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<sup>4</sup> The City has not provided an analysis of the existing FAR in the HAL geography, excluding marine terminals.