

3.21 Section 6(f) and Federal Lands to Parks

Analyses of impacts to park and recreation resources protected under Section 6(f) of the federal Land and Water Conservation Fund (LWCF) Act of 1965 (Section 6(f)) (16 U.S. Code [USC] 4601-4 et seq. and Public Law 88-578, 78 Stat. 897) and the Federal Lands to Parks (FLP) program are included in this section.

3.21.1 Changes or New Information Since 2013

The Columbia River Crossing (CRC) Selected Alternative identified in the 2011 Record of Decision (ROD), as revised by the 2012 and 2013 re-evaluations, is referred to as the CRC Locally Preferred Alternative (CRC LPA). Over the past 10+ years since the CRC LPA was identified, the physical environment in the study area, community priorities, and regulations have changed, which necessitated design revisions and resulted in the IBR Modified LPA (see Section 2.5.2). Evaluation of potential impacts associated with Section 6(f) and FLP has been updated in this Draft SEIS to include:

- Updates to information on Section 6(f) and FLP resources.
- Changes in land uses such as development at the Vancouver Waterfront, planned uses on Hayden Island, and recently constructed, altered, or removed buildings.
- Changes in the project footprint necessitated by changed conditions resulted in shifting the LRT alignment and modifying interchange designs.
- Updates to long-term and temporary effects of the Modified LPA.
- Updates to mitigation, in consultation with the agencies with jurisdiction, for the long-term and temporary effects of the Modified LPA.

The Parks and Recreation Technical Report for the CRC Final EIS identified the following four resources in the study area that are protected by either Section 6(f) and/or the FLP program. The CRC Final EIS discussed potential FLP replacement property related to Marshall Park but did not conclude the FLP or 6(f) processes. The same four facilities are identified in this Draft SEIS.

- East Delta Park and Strasser Field (Oregon) – Section 6(f) (south of North Union Court) and FLP program (north of North Union Court)
- Burnt Bridge Creek Trail (Washington) – Section 6(f)
- Old Apple Tree Park (Washington) – FLP program
- Marshall Community Center and Park (Washington) – FLP program

3.21.2 Relevant Laws and Regulations

The following provides a description of the Section 6(f) and FLP program regulations and requirements.

Section 6(f)

Section 6(f) of the LWCF Act requires that an area funded with LWCF assistance be “continually maintained in public outdoor recreation use” unless the Secretary of the Interior, via the National Park Service (NPS), approves substitution per the conversion requirements. Environmental review of affected properties must include the entire LWCF-assisted park proposed for conversion even if only a partial conversion is proposed (54 U.S.C. § 200305(f)(3)).

What is Section 6(f)?

Section 6(f) of the Land and Water Conservation Fund Act protects parks and recreational facilities that have received funding through this act. Converting protected properties to non-recreational use requires replacement land of at least equal fair market value and reasonably equivalent recreational utility and location.

Interstate Bridge Replacement Program

The purpose of the LWCF Act is to assist in preserving, developing, and ensuring accessibility to outdoor recreation resources and to strengthen the health and vitality of the citizens of the United States by providing funds, planning, acquisition, and development of recreational facilities.

A partial acquisition of Section 6(f) property cannot affect the recreational function of the parklands. A temporary use of the land for more than six months may be considered a permanent conversion and acquisition of replacement land may be required.

Section 6(f)(3) requires that conversion of these lands or facilities be coordinated with NPS via the appropriate state liaison officer(s), which, for the IBR Program, are the Oregon Parks and Recreation Department (OPRD) and the Washington State Recreation and Conservation Office (RCO), and that all practical alternatives to the conversion of a 6(f) property must be evaluated as a prerequisite for conversion approval. If conversion is approved, other recreation properties of at least equal fair market value and of reasonably equivalent usefulness and location must be substituted.

FLP Program

The FLP program, administered by NPS in compliance with Section 203 (k)(2) of Public Law 91-485, as amended (40 USC 484 (k)(2)), helps communities to acquire, reuse, and protect federal properties for local parks and recreation. States, counties, and communities may (at no cost) acquire federal land and buildings that are no longer needed by the federal government with the condition that they are protected as public parks and recreation. FLP program lands or facilities have similar restrictions as Section 6(f) properties in that their conversion requires replacing with land of comparable or greater value and recreational utility, with another federal public-benefit conveyance program (such as for education, public health, or law enforcement) or purchased at fair market value (NPS 2022). If property conveyed under this program is acquired for a nonpark or recreation use, this conversion must be approved by NPS, and replacement property of equal market value and reasonable equivalent recreational utility must be identified and acquired. Additionally, the General Services Administration (GSA) must concur on a conveyance and exchange of property rights.

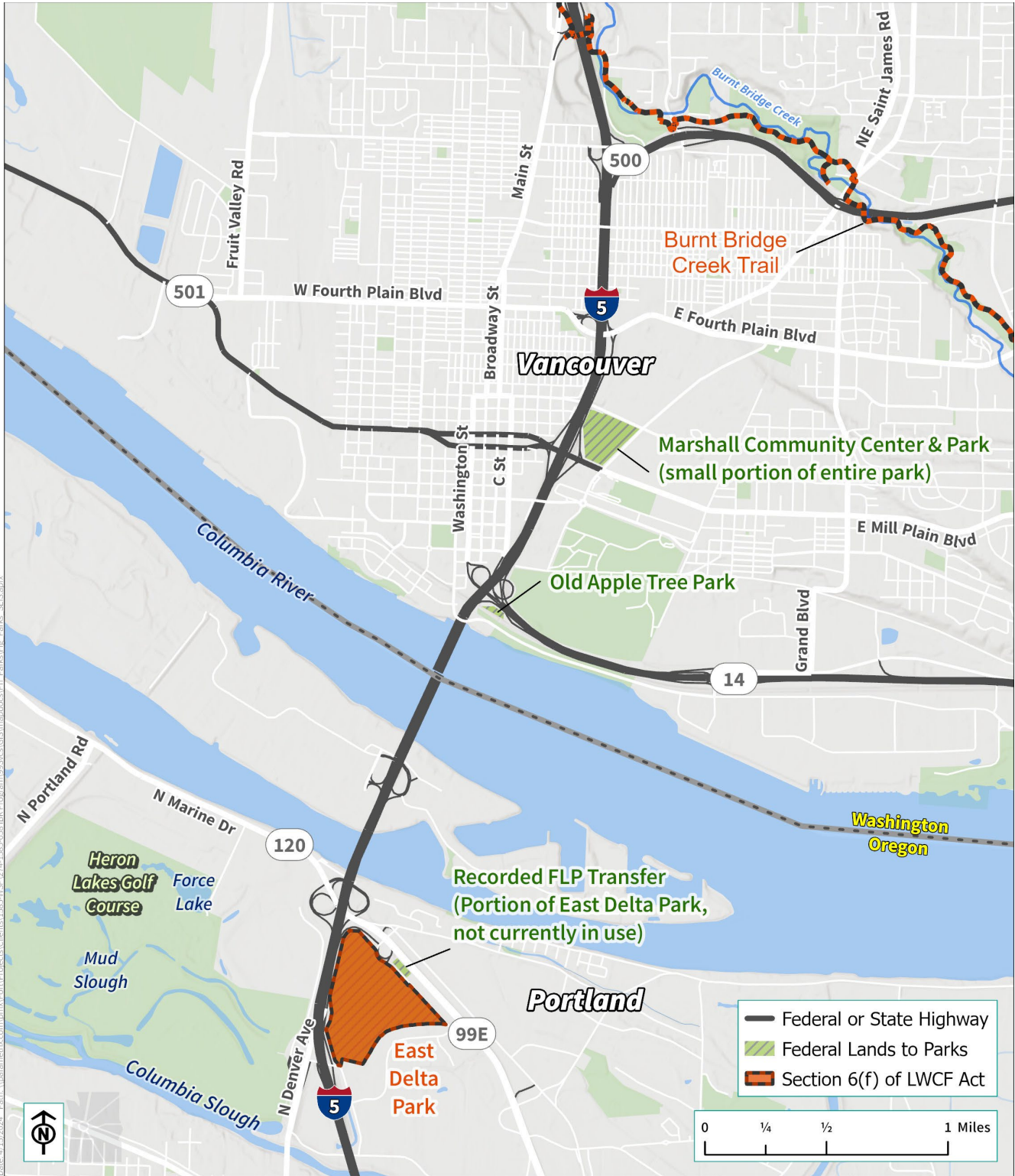
What is Federal Lands to Parks?

The FLP program helps communities to acquire, reuse, and protect federal properties for local parks and recreation. Similar to Section 6(f), converting FLP properties to a non-recreational use requires replacement land of comparable or greater value and recreational utility.

3.21.3 Existing Conditions

As described in Section 3.7, Parks and Recreation, parks and recreation facilities were identified within the study area, which extends from approximately the SR 500 interchange in Washington and the I-5/Columbia Boulevard interchange in Oregon and includes the potential construction staging sites, identified in Chapter 2, and the Ruby Junction Maintenance Facility in Gresham, Oregon. Both East Delta Park and the Burnt Bridge Creek Trail have received LWCF grant funds (OPRD 2023; RCO 2023). Portions of Marshall Park, Old Apple Tree Park, the Burnt Bridge Creek Trail, and a portion of East Delta Park that is not currently in use are protected by the FLP program. Parks within the study area that are protected by Section 6(f) and the FLP program are shown on Figure 3.21-1.

Figure 3.21-1. Section 6(f) and FLP Program Resources in the Study Area



Note: This figure does not include resources protected under Section 4(f) of the U.S. Department of Transportation Act, which are described in Chapter 4 of this Draft SEIS.

East Delta Park (Oregon)

Protected by Section 6(f) of the LWCF Act and FLP Program

East Delta Park is an 87.5-acre neighborhood/regional park located adjacent to I-5 between NE Martin Luther King Jr. Boulevard and N Denver Avenue.

East Delta Park is open to the public from 6:00 a.m. to 10:00 p.m. and is managed by Portland Parks and Recreation (PP&R). Facilities at East Delta Park include a sports complex with seven lighted softball fields, four synthetic soccer fields, five grass soccer fields, six sand volleyball courts, a playground, picnic tables, restrooms, a parking lot, support buildings, and nature trails. An off-leash dog area was located in ODOT right of way across Union Court; the dog park is currently closed. East Delta Park is also home to the PP&R Urban Forestry Division Headquarters, located between I-5 and Walker Slough. The area of East Delta Park protected with LWCF federal assistance is only the area within the official Section 6(f) boundary identified by NPS and shown in OPRD's geographic information system (GIS) data layer. No official boundary determination has been requested at this point; however, a boundary determination would be requested before conclusion of the NEPA process.

The FLP program-protected land is limited to an approximately 1-acre area north of North Union Court. This portion of East Delta Park is separate from the land protected by Section 6(f).

Old Apple Tree Park (Washington)

Protected by FLP Program

Old Apple Tree Park is a 1.3-acre community park located north of the Columbia River and BNSF Railway and south of SR 14 in the Vancouver National Historic Reserve (VNHR). Old Apple Tree Park can be accessed from Waterfront Park via a pedestrian underpass beneath the railroad or from the VNHR using the Confluence Land Bridge over SR 14. It is owned and maintained by the City of Vancouver and is open to the public from 5:00 a.m. to 10:00 p.m. The Old Apple Tree died in 2020 at the age of 194. Its history lives on through saplings that share its genetic makeup. Interpretive signs, fencing, and the stump of the original tree remain. Old Apple Tree Park still provides passive recreational space, viewing, and bike parking for the Confluence Land Bridge.

Marshall Community Center, Luepke Senior Center, and Marshall Park (Washington)

Protected by FLP Program

The Marshall Community Center and Park is a 19-acre community park located on the east side of I-5 south of McLoughlin Boulevard. Marshall Park, which was renovated in 2006, is owned and maintained by the City of Vancouver and is open from 5:00 a.m. to 10:00 p.m. The site facilities include large fully accessible playground with multiple features, community gardens, a loop trail, picnic tables, horseshoe pits, ball fields, and the Marshall Community Center and Luepke Senior Center. The Marshall Community Center, open weekdays from 6:00 a.m. to 8:00 p.m., with shortened hours on Fridays and weekends, has a swimming pool, a fitness center, two basketball courts, a commercial kitchen, meeting rooms, administrative offices, an aerobics dance studio, and an arts and craft studio. In 2022, the City of Vancouver completed a playground renovation at Marshall Park. The parking lot contains 272 parking spaces, including 26 spaces that are accessible per requirements of the Americans with Disabilities Act. The Luepke Senior Center is a full-service senior center with a multi-purpose room and meeting rooms. In 2010, a large group picnic shelter was added to Marshall Park.

The property was originally transferred to the City of Vancouver in 1986 through the FLP program, as administered by NPS. The FLP parcel is described in the original Application for Federal Surplus Property as a grassy area that is used by the public. It is adjacent to a horseshoe pit area and is gently sloping from south to

north. The existing parcel also contains a few medium-sized trees and provides a partial vegetative buffer between Marshall Park and I-5.

Burnt Bridge Creek Trail (Washington)

Protected by Section 6(f) of the LWCF Act

The Burnt Bridge Creek Trail is an 8-mile paved multiuse trail that travels through the Burnt Bridge Creek Greenway located on the east and west sides of I-5, north of the I-5/SR 500 interchange. The trail is owned and maintained by Vancouver Parks, Recreation and Cultural Services and travels over I-5 on a pedestrian and bicycle-only overcrossing south of the I-5/Main Street interchange.

3.21.4 Long-Term Benefits and Effects

East Delta Park and Strasser Field (Oregon)

Protected by Section 6(f) of the LWCF Act and FLP Program

Under all current design options, the Modified LPA would require the permanent acquisition of a sliver of park land (approximately 0.1 acres) to construct a wall supporting the I-5 northbound to Marine Drive interchange ramp along the western edge of East Delta Park (see Figure 3.21-2). This acquisition is being evaluated as a potential conversion of a Section 6(f)-protected resource. The IBR Program is coordinating with the Portland Parks and Recreation Department and OPRD on how to avoid, minimize, and/or mitigate potential impacts to East Delta Park—most recently in October 2023. As the coordination proceeds, OPRD will coordinate with NPS. Final approvals would occur after completion of the Draft SEIS process as project design is further developed and right of way is acquired.

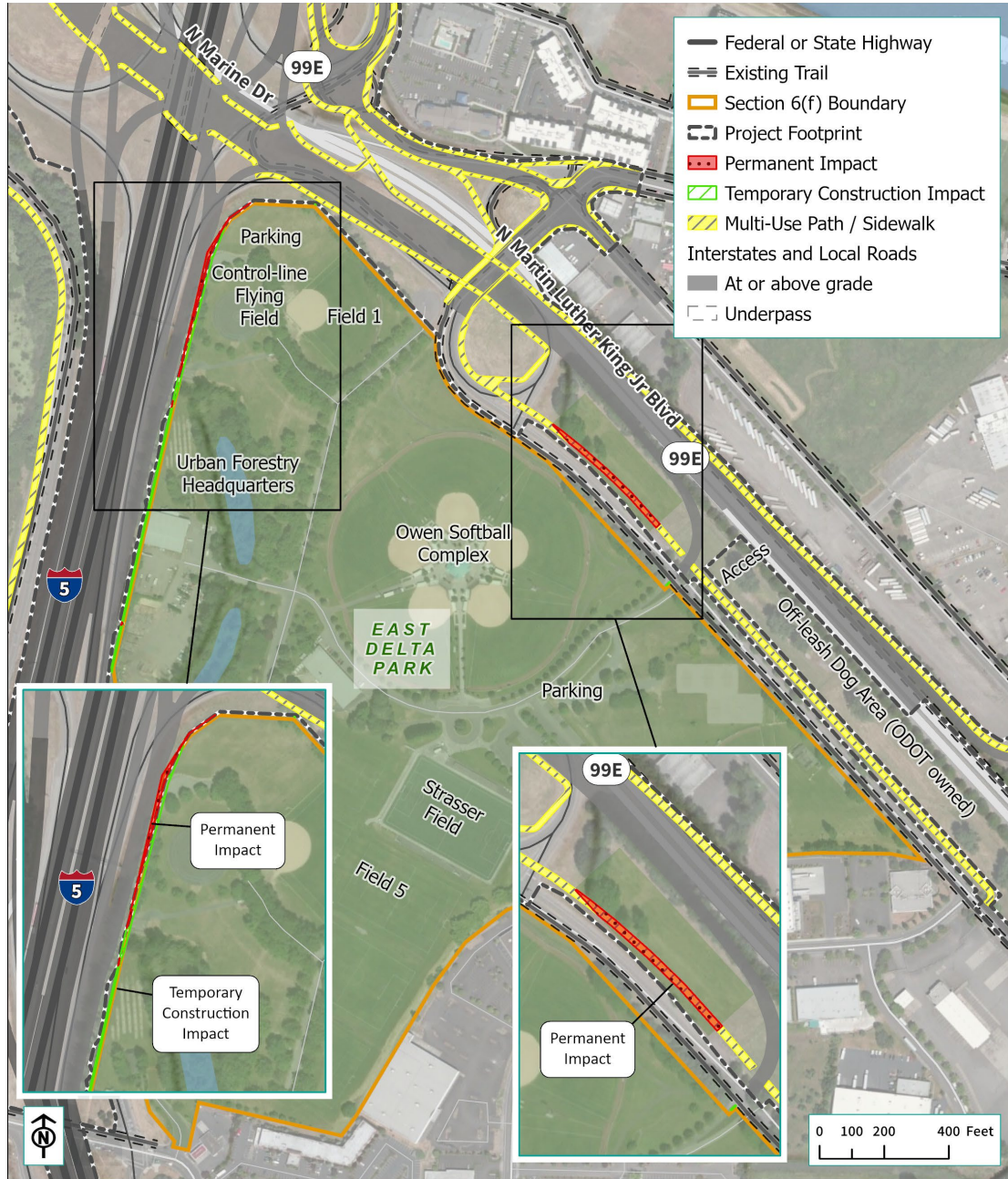
Approximately 0.1 acres of additional PP&R-owned park land would be acquired to construct the roadway connection between Martin Luther King Jr. Boulevard and N Union Court. This portion of East Delta Park is protected by the FLP program. This area is a small parcel located northeast of the main park and is not used by PP&R. Because the Modified LPA would affect FLP program-protected lands, it would require identifying replacement recreational land. Coordination and consultation will occur during the NEPA process, but final approvals of replacement land would occur after completion of the Draft SEIS process, as project design is further developed and right of way is acquired. These approvals by OPRD and NPS of the replacement land would be documented in a signed and executed LWCF conversion amendment.

Old Apple Tree Park (Washington)

Protected by the FLP Program

Under all design options, the Modified LPA would permanently acquire approximately 0.08 acres from Old Apple Tree Park for a new shared-use path that would link Main Street and downtown Vancouver (Figure 3.21-3). Users of the Confluence Land Bridge, which extends over SR 14 and connects the Vancouver waterfront with the VNHR, would benefit from this new path as they travel through Old Apple Tree Park. This acquisition may require providing replacement parkland, pending coordination among the IBR Program, RCO, and NPS. The IBR Program is coordinating with the City of Vancouver and NPS on how to avoid, minimize, and mitigate potential impacts to Old Apple Tree Park—most recently in October 2023.. Final approvals of replacement land would occur after completion of the Draft SEIS process, as the project design is further developed and right of way is acquired.

Figure 3.21-2. East Delta Park Section 6(f) and FLP Program Boundaries



Source: City of Portland, ODOT, WSDOT, Mapbox, OpenStreetMap

All design options would also require a permanent airspace easement (less than 0.1 acres) over the northwest corner of Old Apple Tree Park for maintenance of the I-5 northbound to SR 14 elevated ramp. This easement would provide WSDOT with the right to enter Old Apple Tree Park with equipment to perform routine inspections of the ramp structure. This easement would not change the recreational use of the park, affect landscaping on the park property, or convert the land to a nonpark use.

Figure 3.21-3. Old Apple Tree Park FLP Program Boundaries



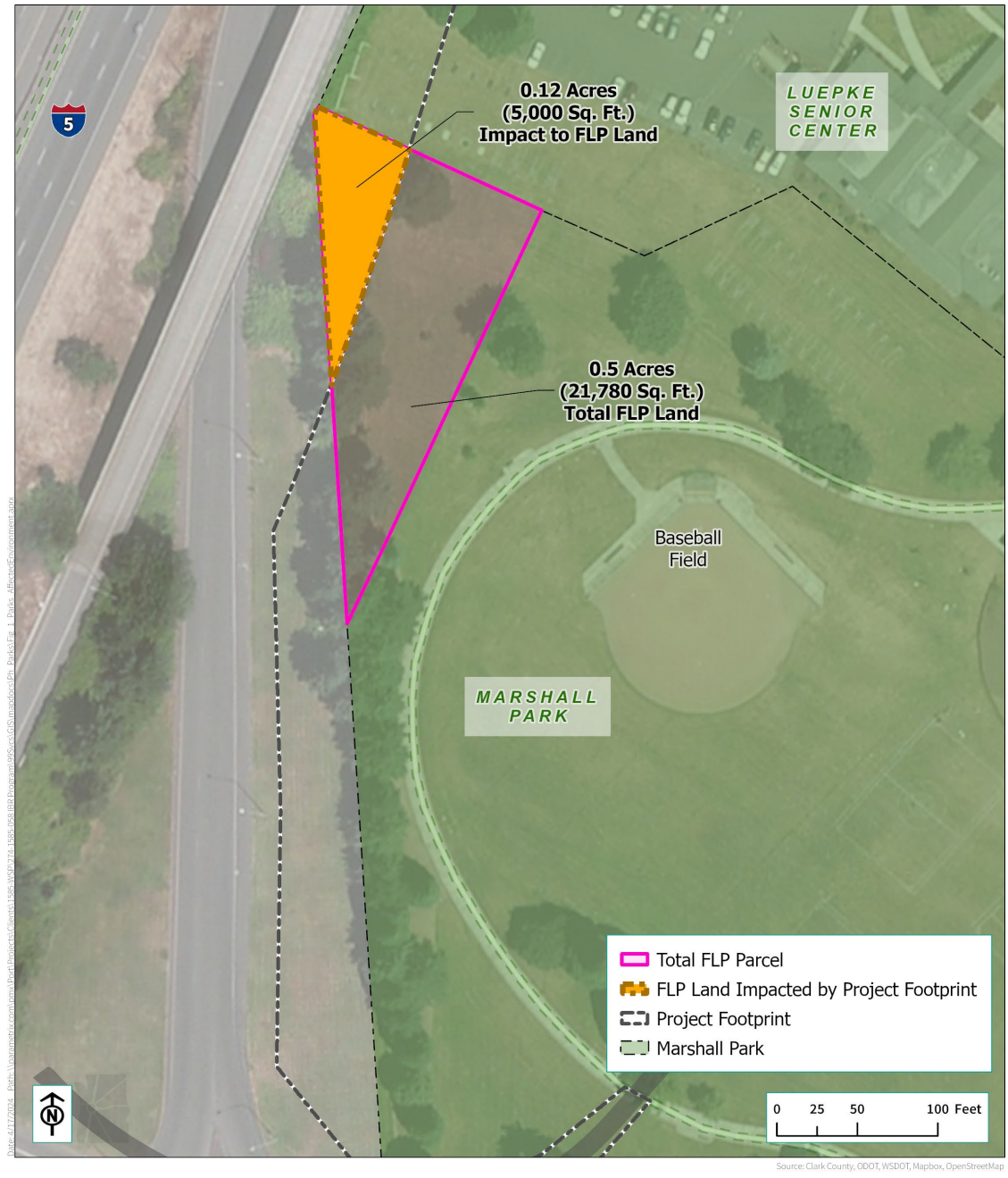
Marshall Community Center, Luepke Senior Center, and Marshall Park (Washington)

Protected by the FLP Program

The total area of FLP program-protected land at Marshall Park is approximately 0.5 acres. All design options for the Modified LPA would require approximately 5,096 square feet (0.12 acres) of the 0.5 acres of FLP program-protected land. Figure 3.21-4 shows this permanent property acquisition occurring along the western edge of the park parcel. These 5,096 square feet of land represent a small portion of the park’s overall recreational utility and do not include recreational attributes that are unique to Marshall Park. The IBR Program is coordinating with the City of Vancouver and NPS on how to avoid, minimize, and mitigate potential impacts to Marshall Park—most recently in October 2023.. Final approvals of replacement land

would occur after completion of the Draft SEIS process as the project design is further developed and right of way is acquired.

Figure 3.21-4. Marshall Community Center, Luepke Senior Center, and Marshall Park FLP Program Boundaries



Burnt Bridge Creek Trail (Washington)

Protected by Section 6(f) of the LWCF Act

No design option under the Modified LPA would result in a conversion of the Burnt Bridge Creek Trail that is protected by Section 6(f) of the LWCF Act. The Burnt Bridge Creek Trail travels through Leverich Community Park (Figure 3.21-5) but would not be affected by the ramp from 39th Street to I-5 northbound that would tie into mainline I-5 south of the trail overpass. No adverse impacts to the trail are expected and no conversion would occur.

Figure 3.21-5. Burnt Bridge Creek Trail



3.21.5 Temporary Effects

No parklands protected by FLP would be subject to conversion during the construction of the Modified LPA, including construction of the new bridges and removal of the existing Interstate Bridge.

A temporary occupancy of approximately 0.2 acres and lasting less than 180 days at East Delta Park would be required during nearby construction activities. Because East Delta Park has been granted funds through the LWCF State Assistance Program, a request for the temporary non-conforming use within the LWCF boundary area must be submitted to OPRD, under the guidelines of the LWCF Federal Financial Assistance Manual. Later in the NEPA process, this would require state approval from OPRD and ultimately approval from NPS. Because the use would be temporary and would not exceed beyond 180 days, there would be no requirements for the provision of substitution property; however, mitigation will require bringing this area back to its original state,

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including reseeding the lawn in this area and replanting any landscape that would require removal during construction. Criteria for OPRD and NPS approval of a temporary non-conforming use within an LWCF boundary area may include some or all of the following, depending on further consultation with and direction provided by OPRD and/or NPS:

- Size of the parkland area affected by the temporary non-recreation use, and its lack of significant impact to the other areas of the fund-assisted park.
- Temporary use does not result in permanent damage to the park and mitigation ensures there are no residual impacts on the site after the temporary use is concluded.
- No practical alternatives to the proposed temporary use exist.
- All applicable federal requirements for approval are met.

The application for approval from OPRD and NPS for temporary use requires the following documentation:

- OPRD recommendation.
- Complete description of the proposed temporary use, including the following:
 - Start and completion dates.
 - Identification of the portion of the site affected, including a map.
 - Justification of why the area needed is the minimum necessary for the proposed use.
 - Analysis of alternatives considered.
 - Description of impacts.
 - Mitigation and schedule.
- An acknowledgement from local agencies with jurisdiction over LWCF resources and OPRD stating that a full conversion will result if the temporary use extends beyond the maximum six-month (180-day) period.

3.21.6 Potential Avoidance, Minimization, and Mitigation Measures

Long-Term Effects

Regulatory Requirements

This Draft SEIS identifies potentially affected Section 6(f)- and FLP-protected parkland resources, potential avoidance alternatives, and agency process requirements, which are early steps in a much longer process required to convert Section 6(f)- and FLP-protected properties to nonpark uses. The IBR Program has initiated consultation with OPRD and the City of Portland to discuss potential 6(f) impacts at East Delta Park. The IBR Program has initiated consultation with NPS, the City of Vancouver, and the City of Portland to discuss potential FLP impacts at Marshall Park, Old Apple Tree Park, and East Delta Park.

Looking forward, the conversion process will generally include replacement property proposal and consultation.

This process will consider public comment on potential conversion of LWCF and FLP lands identified in the Draft SEIS. The IBR Program will continue to look for ways to first avoid and then minimize effects on LWCF and FLP resources. If all practical alternatives to conversion of LWCF and FLP resources have been ruled out, the IBR Program will coordinate with the local agencies with jurisdiction over the LWCF and FLP resources, as well as a broader coordination process with OPRD NPS, and the GSA.

Avoidance

Alternatives to avoid 6(f) properties including reducing the right-of-way width of I-5 or realigning the Modified LPA farther west were evaluated.

Reducing the Right-of-Way Width of I-5 under the Modified LPA and Design Options

Measures to reduce the right of way of I-5 near East Delta Park could include reducing project elements such as shoulders, travel lanes, or light-rail transit (LRT) tracks. The Modified LPA and design options must meet federal and state highway design requirements for safety, to avoid substandard roadway design, and maintain or improve traffic operations. The project could potentially reduce the number of through travel lanes or eliminate the wider shoulders or auxiliary lanes. These measures would not meet the Program's Purpose and Need. The purpose of the Modified LPA is "to improve I-5 corridor mobility by addressing present and future travel demand and mobility needs in the IBR study area." Specific objectives include: "a) improve travel safety and traffic operations on the Interstate Bridge and associated interchanges; b) improve connectivity, reliability, travel times, and operations of public transportation modal alternatives in the study area; c) improve highway freight mobility and address interstate travel and commerce needs in the study area; and d) improve the Interstate Bridge's structural integrity (seismic stability)." Eliminating project elements including travel lanes, auxiliary lanes, shoulders, or LRT tracks would not improve traffic operations; connectivity, reliability, travel times, and operations of public transportation modes; nor would it improve highway freight mobility.

Reducing the width of project elements such as shoulders, and travel lanes would not meet federal and state highway design requirements, could compromise safety and would not meet the Program's Purpose and Need. For these reasons, reducing the width of the project is not a practical alternative to conversion of land from Delta Park.

Realigning Program Elements West

IBR Program Modified LPA and design options were designed to minimize impacts to existing businesses, residences, and natural resources in North Portland by using the existing I-5 alignment and right of way to the maximum degree possible. Shifting the Modified LPA or design options alignments to the west would incur large-scale impacts to businesses and residents in North Portland and also to natural resources. For example, immediately to the west of the proposed alignment near East Delta Park are the Vanport Wetlands.

For this reason, a westward alignment shift is not a practical alternative.

Program-Specific Mitigation

Program-specific mitigation measures for long-term effects related to LWCF resources will be developed in coordination with mitigation proposed for parks and recreation (see Section 3.7), and will be based on further consultations with the local, state, and national parks agencies throughout and beyond the NEPA process.

Temporary Effects

Mitigation measures for temporary effects related to LWCF resources will be developed in coordination with mitigation proposed for parks and recreation (see Section 3.7) and will be based on further consultations with the local, state, and national parks agencies throughout and beyond the NEPA process.