

## STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 11-4280, FOR THE PURPOSE OF AMENDING THE 1998 LAND USE FINAL ORDER FOR THE SOUTH/NORTH LIGHT RAIL PROJECT AND ADOPTING A LAND USE FINAL ORDER FOR THE EXPO CENTER-HAYDEN ISLAND SEGMENTS OF THE PROJECT.

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## BACKGROUND

### Overview

In 1996, the Oregon Legislature passed legislation that enabled the Metro Council to approve Land Use Final Orders (LUFO) to address multi-jurisdictional light rail projects in the South/North corridor and any highway improvements consolidated in environmental statements addressing South/North light rail projects. LUFOs were found to be appropriate so that multi-jurisdiction project-related land use actions could be consolidated into a single decision that would provide more certainty for the project and to provide an expedited land use appeal process. However, the LUFO process does not diminish the need for a light rail project to seek and secure local land use and other permits that may include reasonable and necessary conditions of approval once the light rail route, stations, park-and-ride lots, maintenance facilities and highway improvements have been determined.

It has been the practice of the region to follow approval of a Locally Preferred Alternative (LPA) with consideration of a LUFO action, thereby helping to ensure that the two decisions are consistent. In this instance, however, the LUFO actions follow the decision on the LPA by several years, as the affected local governments needed additional time to determine more specifically the components and scale of the Columbia River Crossing (CRC) Project that includes the Expo Center-Hayden Island segments of the South/North Project and to ensure that certain regional expectations would be satisfied.

There have been four South/North LUFOs approved. The first established the South/North LUFO and the other three were amendments to the original. More specifically, in 1998 the Metro Council approved a LUFO for the South/North Corridor that extended from Clackamas Town Center and Milwaukie north to the Oregon/Washington state line. In 1999, the Council approved an amendment of the South/North LUFO for the northern portion of the corridor, establishing the Interstate MAX (Portland to Expo Center) LRT Project. In 2004, the Council amended the South/North LUFO to add a two-phase element to the southern portion of the corridor, adding the I-205 alignment and making some changes to the Portland-Milwaukie alignment, including revisions that designated study areas in some locations in Milwaukie where additional LRT alignment analysis was needed. Then in 2008 the Council amended the LUFO a third time to approve the Portland-Milwaukie Project, which again made some changes to the alignment from downtown Portland to Milwaukie and extended light rail into unincorporated Clackamas County.

This proposed 2011 South/North LUFO amendment is intended to address changes from the 1998 LUFO so as to be consistent with the improvements to be included in the 2011 CRC Final Environmental Impact Statement (FEIS). This proposed 2011 LUFO relocates the light rail alignment and the Hayden Island station farther to the west between the Expo Center and the Oregon/Washington state line within the Expo Center and Hayden Island segment of the South/North Project. It also authorizes use of the Ruby Junction

maintenance facility to serve light rail vehicles needed for the Project, and it adds a number of highway improvements, including new Interstate 5 Columbia River bridges that will extend light rail to Vancouver, Washington; improvements to I-5 that improve access to the Hayden Island and Expo Center stations or are required as a consequence of building the new bridges; and a number of local road improvements providing access and circulation to the light rail stations or necessitated by construction of the new bridges.

#### Requirements of House Bill 3478

Section 6(1) of House Bill 3478 requires the Council to "establish the light rail route, stations, lots and maintenance facilities, and the highway improvements for the project or project extension, including their locations." Section 6(1)(a) further provides that the locations for each of these facilities and improvements:

*"shall be in the form of boundaries within which the light rail route, stations, lots and maintenance facilities, and the highway improvements shall be located. These boundaries shall be sufficient to accommodate adjustments to the specific placements of the light rail route, stations, lots and maintenance facilities, and the highway improvements for which need commonly arises upon the development of more detailed environmental or engineering data following approval of a Full Funding Grant Agreement."*

Section 6(2) of the Act addresses amendments to the original LUFO. As relevant to this 2011 LUFO amendment decision, it provides that any siting of the light rail route or a station, lot or maintenance facility or highway improvements outside the boundaries previously established in a LUFO, or any new station, lot or maintenance facility or highway improvement,

*"shall require a land use final order amendment or a new land use final order which shall be adopted in accordance with the process provided for in subsection (1) of this section."*

Section 7 of HB 3478 requires the Council to apply land use criteria established by the Land Conservation and Development Commission ("LCDC") in making decisions in a land use final order on the light rail route, stations, lots and maintenance facilities, and the highway improvements, including their locations, and to prepare and adopt findings of fact and conclusions of law demonstrating compliance with those criteria. Draft findings, attached as Exhibit B to Resolution No. 11-4280, serve to demonstrate compliance with LCDC's criteria for the modifications selected in this LUFO amendment.

Section 3(1) of HB 3478 provides that the procedures and requirements set out in the Act are the only land use procedures and requirements to which the Council's decisions on the light rail route, the stations, lots and maintenance facilities, and the highway improvements for the Project, including their locations, are subject. Consequently, the findings focus on the matters identified in HB 3478 as land use actions being taken at this time.

#### **ANALYSIS/INFORMATION**

This staff report is intended to meet the requirements of HB 3478. This law requires that the LUFO staff report:

*"...set forth and address compliance with the criteria. The staff report also shall include a description of the proposed boundaries within which the light rail route, stations, lots and maintenance facilities, and the highway improvements shall be located, as recommended by Tri-Met...."*

This LUFO is in response to TriMet's application which is included as Attachment A to the staff report. Also included in Attachment A is TriMet's letter to Metro Council President Tom Hughes requesting consideration by the Metro Council of their application to amend the South/North LUFO, the LUFO Steering Committee recommendation, and ODOT's letter to TriMet recommending approval of the LUFO application in accordance with the Steering Committee's recommendation.

Compliance with the criteria are provided in the form of draft Findings of Fact and Conclusions of Law that have been prepared and are attached as Exhibit B to Resolution No. 11-4280, For the Purpose of Amending the 1998 Land Use Final Order for the South/North Light Rail Project and Adopting a Land Use Final Order for the Expo Center-Hayden Island Segments of the Project.

## **1. Known Opposition**

The CRC is a large and complex and there are strong feelings associated with the project. Opposition to the project includes concerns regarding:

- the need for and size of the highway components of the project
- greenhouse gases and air pollution that could be generated by the project
- impacts to low-income and minority populations
- costs and funding
- the aesthetic quality of the bridge type

Additional concerns heard include whether the project would worsen the bottleneck on I-5 in the vicinity of the I-405 and I-84 interchanges. While traffic analysis shows that congestion does not worsen that bottleneck, there remains criticism that the project should not be built if that bottleneck is not addressed. Another concern is whether the project will lead to increased development in Washington and increased travel demand on the new facility. Analysis conducted for the EIS indicated that the tolls proposed would likely reinforce the region's goals of concentrating development in regional centers, reinforce existing corridors, and promote transit and pedestrian development patterns. Nevertheless, opposition by some Metro region residents remains.

However, there is broad public support and an understanding of the need for the project. Reasons heard in support of the project include addressing the severe bottleneck and safety issues on the bridge, improving freight movement, and significantly improving transit service to Vancouver. The Final Environmental Impact Statement reports that 66% of all commenters supported a replacement bridge and 90% supported light rail.

## **2. Legal Antecedents**

### State

As noted above, at the State level, HB3478 enacted as Chapter 12 of the 1996 Oregon Laws, provides for South/North MAX Light Rail Project LUFOs to decide:

- a. the light rail route for the project or project extension;
- b. stations, lots and maintenance facilities; and,
- c. highway improvements for the project or project extension.

### Metro

Following are actions by the Metro Council which relate to the proposed 2011 LUFO:

Resolution No. 98-2633, For the Purpose of Authorizing the Executive Officer to Execute an Intergovernmental Agreement Establishing the South/North Land Use Final Order (LUFO) Steering Committee (adopted May 14, 1998)

Resolution No. 98-2673, For the Purpose of Adopting the Land Use Final Order Establishing the Light Rail Route, Stations, Lots and Maintenance Facilities and the Related Highway Improvements for the South/North Light Rail Project (adopted July 23, 1998)

Resolution No. 99-2853A, For the Purpose of Adopting a Land Use Final Order Amending the Light Rail Route, Light Rail Stations and Park-and-Ride Lots, Including Their Locations, For That Portion of the South/North Light Rail Project Extending from the Steel Bridge to the Exposition Center (adopted October 22, 1999)

Resolution No. 03-3372, For the Purpose of Amending the South/North Land Use Final Order, to Include the Two Phases of the South Corridor Project Consisting of the Addition of the I-205 Light Rail Transit Project from Gateway to Clackamas Regional Center with the Downtown Portland Transit Mall Alignment, and Modification of the Proposed Light Rail Between Downtown Portland and Milwaukie, Deletion of Plans to Extend Light Rail from Milwaukie to Clackamas Regional Center, and to Reflect the Final Interstate MAX Design (adopted January 15, 2004)

Resolution No. 08-3959, For the Purpose of Approving the 2008 Portland-Milwaukie Light Rail Project Locally Preferred Alternative and Finding Consistency with the Metro 2035 Regional Transportation Plan (adopted July 25, 2008)

Resolution No. 08-3960B, For the Purposes of Endorsing the Locally Preferred Alternative for the Columbia River Crossing Project and Amending the Metro 2035 Regional Transportation Plan with Conditions (adopted June 5, 2008).

Resolution No. 11-4264, For the Purpose of Concluding that the Concerns and Considerations Raised about the Columbia River Crossing Project in Exhibit A to Resolution No. 08-3960B have been Addressed Satisfactorily (adopted June 9, 2011).

Resolution No. 11-4280, For the Purpose of Amending the 1998 Land Use Final Order for the South/North Light Rail Project and Adopting a Land Use Final Order for the Expo Center-Hayden Island Segments of the Project (proposed for adoption on August 11, 2011).

### **3. Anticipated Effects**

Approval of this resolution would advance the CRC Project by addressing the land use impacts of that project within the State of Oregon, and authorizing the Council President to sign the Final Environmental Impact Statement for the CRC Project. Other actions, including completion and issuance of the FEIS, securing federal funding and a final determination of local match sources remain to be addressed before the Project would be able to advance to construction.

### **4. Budget Impacts**

None at this time. Metro currently has an intergovernmental agreement with the CRC project for costs incurred for the work performed by Metro to adopt the LUFO, for Metro's role in approving the FEIS, modeling work, and assistance for a New Starts funding submittal.

This project is included within the Financially Constrained System of the Metro 2035 Regional Transportation Plan and the amended 2010-2013 Metropolitan Transportation Improvement Program.

**RECOMMENDED ACTION**

Adopt Resolution No. 11-4280, For the Purpose of Amending the 1998 Land Use Final Order for the South/North Light Rail Project and Adopting a Land Use Final Order for the Expo Center-Hayden Island Segments of the Project.