

## STAFF REPORT

### IN CONSIDERATION OF RESOLUTION NO. 18-4938, FOR THE PURPOSE OF ADOPTING THE LAND USE FINAL ORDER ESTABLISHING THE SOUTHWEST CORRIDOR LIGHT RAIL ROUTE AND OTHER PROJECT IMPROVEMENTS, INCLUDING THEIR LOCATIONS

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## BACKGROUND

On October 11, 2018, in accordance with Section 6 of Oregon Laws 2017, Chapter 714, TriMet applied to the Metro Council for a LUFO approving the Southwest Corridor Project Improvements and their locations. The proposed resolution would adopt the LUFO requested by TriMet.

**Land Use Final Orders.** Starting with the Westside MAX Blue Line, all previous light rail lines in the greater Portland region have obtained a land use final order (LUFO). In 2017, the Oregon Legislature enacted Oregon Laws 2017, Chapter 714 (House Bill 3202), enabling the Metro region to approve a LUFO to address the multi-jurisdictional land use aspects of light rail projects in the Southwest Corridor, which includes southwest Portland, Tigard and Tualatin.

The state found a compelling state interest in creating the LUFO process, in order to “obtain the maximum federal funding” for light rail projects in the corridor, enhance “the statewide transportation network,” ensure “the viability of the transportation system planned for the Portland metropolitan area,” complete the project “in a timely and cost-effective manner,” and to further the state’s “air quality and energy efficiency standards.” The process allows potential land use impacts to be more efficiently and consistently addressed. In addition, the LUFO process allows for an expedited land use appeal process.

While the LUFO is the sole land use approval required for the Southwest Corridor project, it does not supersede local design guidelines or bypass the need to comply with local design standards and building codes.

**Relationship to the LPA.** Adoption of a LUFO is a land use proceeding that is entirely separate from the selection of a Locally Preferred Alternative (LPA) pursuant to the requirements of the National Environmental Policy Act. It has been Metro’s practice to consider approval of a LUFO immediately following approval of an LPA, thereby helping to ensure that the two decisions are consistent. It is proposed that upon favorable consideration of Resolution No. 18-4915 (For the Purpose of Approving the Southwest Corridor Light Rail Preferred Alternative), the Metro Council consider this 2018 LUFO resolution for approval.

This is the first LUFO to establish a Southwest Corridor light rail alignment. Like the authorizing language for the South-North light rail project that preceded it, HB 3202 and the Land Conservation and Development Commission’s (LCDC) Southwest Corridor land use criteria would allow for future light rail extensions in the corridor within the urban growth boundary.

**LUFO Recommendation and TriMet Application.** HB 3202 requires that TriMet submit its application to the Metro Council following its receipt of the recommendations from the LUFO Steering Committee,

comprised of a representative of each local government affected by the Southwest Corridor Project, as well as Metro, TriMet, and the Oregon Department of Transportation (ODOT). On September 28, 2017, the Metro Council established the Southwest Corridor LUFO Steering Committee through Resolution No. 17-4843. On August 13, 2018, the Southwest Corridor LUFO Steering Committee approved its recommendation to TriMet (Attachment A to Exhibit 1 to this Staff Report). On October 11, 2018, in accordance with Section 6 of the Act, TriMet applied to the Metro Council for a LUFO approving the Southwest Corridor Project Improvements and their locations. TriMet's application is attached as Exhibit 1 to this Staff Report.

**Hearing Notification and Procedures.** Section 6(4) of HB 3202 requires the Metro Council to hold a public hearing on the project improvements, including their locations, for which decisions will be made in the LUFO. The Council meeting on November 15 will serve as this hearing.

Section 6(5) of HB 3202 requires Metro to publish a notice of the hearing on the LUFO in a newspaper of general circulation within Metro's jurisdictional area at least 14 days prior to the hearing on the LUFO, and provide such other notice as Metro deems necessary to give notice to persons who may be substantially affected by the decision. Metro published notice in the Oregonian on October 28, 2018, and has publicized the hearing through its website, direct mailings to owners of properties located within the proposed LUFO boundary and to local governments in the corridor, by email, and through social media.

Sections 6(7), (8) and (9) of HB 3202 set forth hearing procedures, including the reading of a prescribed statement at its commencement, the taking of testimony and taking official notice of materials including "as authorized by resolution of the council establishing hearing procedures for the adoption of land use final orders." Resolution No. 18-4937, scheduled for Council consideration on November 8, 2018, would establish such procedures if adopted.

**Requirements of LUFO Adoption.** Section 7(1) of House Bill 3202 requires the Council to "establish the project improvements, including their locations" for the Southwest Corridor Project. As defined, "project improvements" means the light rail route, stations, lots and maintenance facilities, and the highway improvements related to the project." "Locations" means the boundaries within which the project improvements will be located. Section 6(2)(b) further provides that the locations for each of these facilities and improvements "must provide sufficient boundaries to accommodate adjustments to the specific placements of the project improvements for which need commonly arises upon the development of more detailed environmental or engineering data following approval of a Full Funding Grant Agreement." The LUFO, attached as Exhibit A to Resolution No. 18-4938, provides the locations for the project improvements as defined in HB 3202.

Section 7(2)(b) of HB 3202 requires the Metro Council, upon adopting a LUFO, to include with the LUFO a statement of findings demonstrating how the LUFO complies with land use criteria that the Land Conservation and Development Commission (LCDC) established in 2017 to govern Council decision-making on the Southwest Corridor project improvements and their locations. These findings, which, once final, will be attached as Exhibit B to Resolution No. 18-4938, serve to demonstrate compliance with LCDC's criteria for the project improvements and locations selected in the LUFO. As required by Section 6(6) of HB 3202, the draft findings were made available for public review on November 8, 2018 (at the Metro Regional Center and on the Metro website). The draft findings may require revision or supplementing prior to adoption of Resolution No. 18-4938 to respond to public testimony.

Following the public hearing, Section 7(1) of HB 3202 directs the Metro Council to either adopt the LUFO as applied for by TriMet, or continue the public hearing and refer the proposed project improvements back to TriMet for further review. The Metro Council may close the public hearing and adopt the LUFO and final findings at a subsequent meeting.

Once the Metro Council adopts the LUFO, Section 7(2)(c) of HB 3202 requires Metro, as soon as reasonably practicable, to publish notice of the adoption in a newspaper of general circulation within Metro's jurisdictional area, provide notice of the adoption to each affected local government in the corridor, and mail notice of the adoption to everyone who provided oral or written testimony on the LUFO, provided a written request for a copy of the notice of adoption, and provided Metro their mailing address.

## **ANALYSIS/INFORMATION**

This staff report is intended to meet the requirements of HB 3202. This law requires that the LUFO staff report: (1) set forth LCDC's established land use criteria for the project; (2) include a description of the proposed boundaries within which the project improvements will be located, as applied for by TriMet, and (3) address how the proposed boundaries comply with the criteria.

Rather than duplicate the description of the proposed boundaries as proposed by TriMet, a copy of TriMet's application is attached to this staff report as Exhibit 1. Compliance with the criteria is demonstrated in the form of the draft Statement of Findings of Fact and Conclusions of Law that is attached as Exhibit 2 to this Staff Report. A copy of LCDC's criteria is contained within that Statement of Findings.

The approved LUFO and final Statement of Findings of Fact and Conclusions of Law will be attached to Resolution 18-4938 as Exhibits A and B, respectively.

1. **Known Opposition** Staff is aware of no organized opposition. Comments from members of the public are included in the record.
2. **Legal Antecedents** The Southwest Corridor Project is the third light rail project within Metro's urban growth boundary to be approved under the LUFO process. That process originated with the Legislature's enactment of Senate Bill 573 (1991 Oregon Laws, Chapter 3) for the Westside Corridor Project, then continued with its enactment of House Bill 3478 (Oregon Law 1996, Chapter 12) for the South-North light rail line, which LUFO was amended several times to accommodate the Interstate MAX yellow line, the green line, and the Portland-Milwaukie MAX orange line.
3. **Anticipated Effects** Approval of this resolution would advance the Southwest Corridor Light Rail Project by addressing the land use impacts of multiple jurisdictions in one action and providing assurance to the Federal Transit Administration of the Project's ability to receive all necessary local permits. Other actions, including preparation of a Final Environmental Impact Statement (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** The cost for Metro to publish and mail notices upon adoption of the LUFO would be minimal and accounted for as part of the budget for the Southwest Corridor Plan.

## **RECOMMENDED ACTION**

Staff recommends adoption of Resolution No. 18-4938, For the Purpose of Adopting the Land Use Final Order Establishing the Southwest Corridor Light Rail Route and Other Project Improvements, Including Their Locations. This recommendation is based on staff's review of the draft Statement of Findings of

Fact and Conclusions of Law, attached as Exhibit 2 to this staff report, and staff's conclusion that the findings adequately address how the proposed boundaries comply with LCDC's land use criteria. Council is invited to revisit this conclusion with staff after the submission of any oral or written testimony at the public hearing.

Exhibit 1:       TriMet's Application for the LUFO  
                  Attachment A: LUFO Steering Committee Recommendation  
                  Attachment B: Revised Figure 1.8  
                  Attachment C: Resolution of the TriMet Board

Exhibit 2:       *Draft* Statement of Findings of Fact and Conclusions of Law