



600 NE Grand Ave.  
Portland, OR 97232-2736

## Council work session agenda

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Tuesday, October 30, 2018

2:00 PM

Metro Regional Center, Council chamber

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**2:00 Call to Order and Roll Call**

**2:05 Chief Operating Officer Communication**

**Work Session Topics:**

2:10 SW Corridor Land Use Final Order

[18-5106](#)

Presenter(s): Chris Ford, Metro  
Hope Whitney, Metro

Attachments: [Work Session Worksheet](#)  
[Official Notice Resolution Draft](#)  
[LUFO Adoption Resolution Draft](#)

2:30 2019 Legislative Agenda

[18-5107](#)

Presenter(s): Randy Tucker, Metro

Attachments: [Work Session Worksheet](#)  
[Legislative Issue: Conservation Tax Deferral](#)  
[Legislative Issue: Jurisdictional Transfer](#)  
[Legislative Issue: Product Stewardship](#)  
[Legislative Issue: Automated Vehicles](#)  
[Legislative Issue: Clean Diesel](#)

**3:15 Councilor Communication**

**3:30 Adjourn**

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### សេចក្តីជូនដំណឹងអំពីការមិនរើសអើងរបស់ Metro

ការគោរពសិទ្ធិពលរដ្ឋរបស់ ។ សំរាប់ព័ត៌មានអំពីកម្មវិធីសិទ្ធិពលរដ្ឋរបស់ Metro ឬស្នើសុំទទួលបានកាតបណ្តឹងរើសអើងសូមចូលទស្សនាគេហទំព័រ [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights)។ បើលោកអ្នកត្រូវការអ្នកបកប្រែភាសានៅពេលអង្គប្រជុំសាធារណៈ សូមទូរស័ព្ទមកលេខ 503-797-1700 (ម៉ោង 8 ព្រឹកដល់ម៉ោង 5 ល្ងាច ថ្ងៃធ្វើការ) ប្រាំពីរថ្ងៃ ថ្ងៃធ្វើការ មុនថ្ងៃប្រជុំស្នើសុំអាចឲ្យគេសម្រួលតាមសំណើរបស់លោកអ្នក ។

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Metro tributes cai. Rau cov lus qhia txog Metro txoj cai kev pab, los yog kom sau ib daim ntawv tsis txaus siab, mus saib [www.oregonmetro.gov/civilrights](http://www.oregonmetro.gov/civilrights). Yog hais tias koj xav tau lus kev pab, hu rau 503-797-1700 (8 teev saww ntxov txog 5 teev tsaus ntuj weekdays) 5 hnub ua hauj lwu ua ntej ntwam lub rooj sib tham.

**SW Corridor Land Use Final Order**

*Work Session Topics*

Metro Council Work Session  
Tuesday, October 30, 2018  
Metro Regional Center, Council Chamber

# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** 10/30/18

**LENGTH:** 20 minutes

**PRESENTATION TITLE:** Southwest Corridor Land Use Final Order

**DEPARTMENT:** Planning & Development

**PRESENTER(S):** Hope Whitney (x1661, [hope.whitney@oregonmetro.gov](mailto:hope.whitney@oregonmetro.gov)) and Chris Ford (x1633, [chris.ford@oregonmetro.gov](mailto:chris.ford@oregonmetro.gov))

### WORK SESSION PURPOSE & DESIRED OUTCOMES

- **Purpose:** Update Council on upcoming resolutions related to a land use final order for the SW Corridor light rail project
- **Outcome:** Receive Council input on draft resolutions

### TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

The Southwest Corridor Steering Committee has recommended a final route, known as the locally preferred alternative (LPA), for the proposed Southwest Corridor Light Rail Project. Council will consider approval of the LPA on November 15th.

In addition, on November 15th, the Metro Council is scheduled to consider TriMet's application for a land use final order (LUFO) for the SW Corridor Project. Rather than TriMet seeking land use permits from each city and county for just that portion of the new light rail line that is within each jurisdiction, state law allows the issuance of a LUFO. It is a single permit for the entire project granted by one entity (Metro). The LUFO will establish the project improvements, including locations, for the proposed light rail line to serve Southwest Portland, Tigard and Tualatin.

LUFOs have been issued for past light rail lines planned and constructed in the Portland region, most recently for the MAX Orange line. The LUFO would create a streamlined legal appeals process for the project and helps demonstrate local approval to FTA. The LUFO would apply only to a narrowly defined boundary that covers the project.

The process for issuing the LUFO was created by state legislation in 2017 and culminates in Metro Council as the deciding body at a public hearing, considering criteria established by the Oregon Land Conservation and Development Commission. The November 15 Council session will serve as that hearing.

Council will consider two resolutions related to the LUFO. One establishes procedures for this and any future LUFOs and the other is the resolution of adoption. The scheduled dates for consideration of those resolutions are:

- November 8 – Metro Council considers resolution to establish adoption procedures
- November 15 – Metro Council considers resolution approving the LUFO

### **QUESTIONS FOR COUNCIL CONSIDERATION**

- What questions does Council have regarding the implications of the LUFO for the SW Corridor Light Rail project?
- What questions does Council have regarding the LUFO approval process, including how to address findings and comments?
- What input does Council have regarding the draft resolution?

### **PACKET MATERIALS**

- Would legislation be required for Council action  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today?
  - none

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ESTABLISHING ) RESOLUTION NO. 18-4937  
HEARING PROCEDURES FOR THE ADOPTION )  
OF LAND USE FINAL ORDERS ) Introduced by Councilor Craig Dirksen  
)  
)

WHEREAS, Oregon Laws 2017, Chapter 714, effective August 15, 2017 (the “Act”) created a single process for the Metro Council to use in adopting a land use final order (“LUFO”) for the Southwest Corridor MAX Light Rail Project (the “Southwest Corridor Project”);

WHEREAS, the Metro Council is scheduled to consider adopting of a LUFO for the Southwest Corridor Project at a hearing of the Metro Council on November 15, 2018;

WHEREAS, any Metro Council decision on the LUFO for the Southwest Corridor Project, including the project improvements and their locations, must be supported by substantial evidence in the record;

WHEREAS, in consideration of the adoption of a LUFO, Section 6(9) of the Act allows the Metro Council to take official notice of any matter identified in ORS 40.065 and 40.090, or as authorized by resolution of the council establishing hearing procedures for the adoption of LUFOs; now therefore

BE IT RESOLVED that the Metro Council is hereby authorized at any hearing regarding a LUFO for the Southwest Corridor Project, pursuant to Section 6(9) of the Act and by its inherent authority, to take official notice of (a) any ordinance, resolution, or enactment of Metro or any local jurisdiction, (b) any comprehensive, functional, or regional framework plan of Metro, or (c) any local, regional, state, or federal policy, plan or order issued or adopted by the applicable jurisdiction.

ADOPTED by the Metro Council this 8th day of November, 2018.

\_\_\_\_\_  
Tom Hughes, Council President

Approved as to Form:

\_\_\_\_\_  
Nathan A. S. Sykes, Acting Metro Attorney

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF ADOPTING THE LAND ) RESOLUTION NO. 18-4938  
USE FINAL ORDER ESTABLISHING THE )  
SOUTHWEST CORRIDOR LIGHT RAIL ROUTE ) Introduced by Councilor Craig Dirksen  
AND OTHER PROJECT IMPROVEMENTS, )  
INCLUDING THEIR LOCATIONS )

WHEREAS, Oregon Laws 2017, Chapter 714, effective August 15, 2017 (the “Act”) created a single process for establishing criteria, making decisions, and adopting a land use final order (“LUFO”) for the Southwest Corridor MAX Light Rail Project (the “Southwest Corridor Project”), which LUFO is necessary and desirable for the siting of the proposed light rail line and other Project Improvements (as defined in the Act);

WHEREAS, as required by Section 6 of the Act, on September 28, 2017, the Metro Council by Resolution No. 17-4843 established the Southwest Corridor LUFO Steering Committee, so that the committee could provide recommendations on the Southwest Corridor Project Improvements and their locations;

WHEREAS, the LUFO Steering Committee’s membership included a representative of each local government affected by the Southwest Corridor Project, as well as Metro, the Tri-County Metropolitan Transportation District of Oregon (“TriMet”), and the Oregon Department of Transportation (“ODOT”);

WHEREAS, on November 2, 2017, in accordance with Section 4 of the Act, and following a public hearing on September 22, 2017, the Land Conservation and Development Commission (“LCDC”) adopted Order No. 001887, *Criteria for a Land Use Final Order to be used by the Metro Council in Making Decisions on the Project Improvements for the Southwest Corridor MAX Light Rail Project*;

WHEREAS, on August 13, 2018, the Southwest Corridor LUFO Steering Committee approved its recommendation to TriMet for the siting of the Southwest Corridor Project light rail route and other Project Improvements and their locations, which committee recommendation is attached as Exhibit A;

WHEREAS, on October 11, 2018, in accordance with Section 6 of the Act, and following consideration of the recommendation from the Southwest Corridor LUFO Steering Committee, TriMet applied to the Metro Council for a LUFO approving the Southwest Corridor Project Improvements and their locations, which application of TriMet is attached as Exhibit B;

WHEREAS, TriMet’s proposed locations for the Southwest Corridor Project Improvements are in the form of boundaries within which the light rail route, stations, lots and maintenance facilities, and other Project Improvements would be located, as provided in Section 6(2)(b) of the Act;

WHEREAS, following receipt of TriMet’s application, public notice of this November 15, 2018, public hearing of the Metro Council to consider TriMet’s application was published [at least fourteen days] \_\_\_\_\_ days prior to this public hearing (on October \_\_\_\_, 2018), in The Oregonian, which the Metro Council finds to be a newspaper of general circulation within Metro’s jurisdictional area, and the notice stated the subject matter of the hearing and otherwise complied with the requirements of Section 5(a) of the Act;

WHEREAS, the Metro Council provided additional public notice of the November 15, 2018, public hearing by (a) posting information on its website regarding the Southwest Corridor Project, (b) posting information on the Metro Council portion of Metro's website; (c) posting information on social media, including Metro's Facebook and Twitter accounts; (d) posting a notice regarding the hearing in Metro's newsfeed, which is subscribed to by the news media and other interested parties, and appears on an additional section of Metro's website; (e) mailing postcards to all mailboxes within the boundaries for the Project Improvements described in TriMet's application; (f) mailing postcards to local jurisdictions within the Southwest Corridor; and (e) direct email notice to approximately 2,000 individuals that have signed up to receive project updates.

WHEREAS, the Staff Report for this hearing and the draft Statement of Findings of Fact and Conclusions of Law in Support of a Land Use Final Order set forth the criteria established by LCDC, provide a description of the proposed boundaries within which the Project Improvements will be located as applied for by TriMet, and address how the boundaries and the Project Improvements comply with the criteria;

WHEREAS, the Staff Report and the draft Statement of Findings of Fact and Conclusions of Law in Support of a Land Use Final Order were made available for public inspection at the Metro Regional Center commencing \_\_\_\_\_, 2018 [at least 7 days prior to the hearing];

WHEREAS, the Metro Council determines and finds that the above-described published notice required by the Act, together with the additional notice, are in its judgment, reasonably calculated to give notice to persons who may be substantially affected by its decision on TriMet's application for the LUFO;

WHEREAS on November 15, 2018, the Metro Council held a public hearing at which it accepted oral and written public testimony on TriMet's application for a LUFO, and at the public hearing, the Metro Council President and the Metro Attorney made statements to those in attendance that contained the information required by Section 6(7) of the Act;

WHEREAS, the Metro Council has considered TriMet's application, the recommendations of the LUFO Steering Committee, the staff report, and the oral and written testimony provided in support of and in opposition to TriMet's application; now therefore

BE IT RESOLVED that the Metro Council hereby:

- (1) Adopts the Land Use Final Order for the Southwest Corridor Project as applied for by TriMet, without change. The LUFO is attached to this Resolution 18-4938 as Exhibit C, and it establishes the Project Improvements for the Southwest Corridor Project, including their locations;
- (2) Adopts the Statement of Findings of Fact and Conclusions of Law in Support of a Land Use Final Order, attached as Exhibit D to this Resolution 18-4938, as its written findings of fact demonstrating how the Metro Council's decisions on the Project Improvements (including their locations) in its adopted Land Use Final Order applied LCDC's *Criteria for a Land Use Final Order to be used by the Metro Council in Making Decisions on the Project Improvements for the Southwest Corridor MAX Light Rail Project* and how its decisions complied with these criteria;



(3) States its intention to amend its plans to be consistent with this LUFO and to ensure its *Regional Transportation Plan* and related documents are consistent with the LUFO adopted by this Resolution 18-4938.

ADOPTED by the Metro Council this 15th day of November, 2018.

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Tom Hughes, Council President

Approved as to Form:

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Nathan A. S. Sykes, Acting Metro Attorney

**2019 Legislative Agenda**

*Work Session Topics*

Metro Council Work Session  
Tuesday, October 30, 2018  
Metro Regional Center, Council Chamber

# METRO COUNCIL

## Work Session Worksheet

**PRESENTATION DATE:** October 30, 2018      **TIME:** 2:00 PM      **LENGTH:** 45 minutes

**PRESENTATION TITLE:** 2019 State Legislative Agenda

**DEPARTMENT:** Government Affairs and Policy Development

**PRESENTER(S):** Randy Tucker, (503) 797-1512, randy.tucker@oregonmetro.gov

### WORK SESSION PURPOSE & DESIRED OUTCOMES

- **Purpose:** This work session is the second opportunity to discuss the Metro Council's objectives for the 2018 legislative session. Proposed legislative principles and concepts will be presented; additional concepts will be presented at subsequent work sessions.
- **Outcome:** The Council may wish to discuss specific legislative concepts or principles or direct staff to develop additional concepts.

### TOPIC BACKGROUND & FRAMING THE WORK SESSION DISCUSSION

Preparations are under way for the 2019 legislative session, which convenes in January and will run for approximately five months. Among these preparations are meetings of a new Joint Committee on Carbon Reduction, chaired by the House Speaker and the Senate President, to discuss a possible climate "cap and invest" bill. Meanwhile, staff have been preparing to advance a handful of issues on which the Council has previously taken clear positions.

### QUESTIONS FOR COUNCIL CONSIDERATION

- Does the Council wish to endorse the concepts to be presented today?
- Are there other topics on which the Council would like to adopt legislative positions?
- Does the Council wish to make changes to the Legislative Principles that guide the actions of staff on issues that may arise during the 2018 session?

### PACKET MATERIALS

- Would legislation be required for Council action  Yes  No
- If yes, is draft legislation attached?  Yes  No
- What other materials are you presenting today? Legislative issue sheets

**METRO**  
**2019 LEGISLATIVE ISSUE IDENTIFICATION**

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**Department:** Parks and Nature

**Date:** October 15, 2018

**Person completing form:** Dan Moeller

**Phone:** x1819

**ISSUE:** Property Tax Deferral for Land in Special Assessment – Farm, Forest, Conservation

**BACKGROUND:** In 2015, a bill introduced on behalf of the Oregon State Association of County Assessors passed unanimously with little fanfare. The bill, HB 2127, requires that before property can be transferred to or acquired by a tax-exempt public entity, the county assessor must certify that all “charges against the real property” are paid.

It was understood at the time that HB 2127 would help counties collect delinquent taxes on property disqualified from farm and forest deferral. However, after its passage, it became clear that these “charges against the real property” included not just the delinquent taxes, but all deferred taxes for lands that were under a special assessment program, such as farm or forest use or conservation.

This has created a problem for land trusts, government organizations and other Metro conservation partners who have encountered significant financial impacts on land purchases subject to deferrals and on land transfers to nontaxable public entities, such as the BLM or the Forest Service. It has been especially problematic for soil and water conservation districts (SWCD) and other non-exempt government agencies that are now required to pay the deferred taxes when buying property from a private entity for the purpose of maintaining the existing use (e.g., farming, forestry, grazing).

In the past, SWCDs have selectively acquired agricultural and conservation properties that were at risk of conversion to other uses, and in so doing, achieved important outcomes such as creating access and learning opportunities for new farmers, which has been identified as a critical challenge to the future of agriculture in Oregon. Deferred tax payments can add up to thousands of dollars, complicating funding when structuring a property transaction, or negatively impacting the attractiveness of a purchase offer.

In October 2015 the Oregon Department of Revenue (ODR) provided guidance on resolving potential issues in HB 2127’s implementation. This guidance noted that another statute (ORS 308A.709) exempts property acquired by certain entities for certain purposes from the requirement to pay deferred taxes. The list of exemptions includes land “[a]cquired by a city, county, metropolitan service district created under ORS chapter 268 ... for public recreational purposes or for the preservation of scenic or historic places.” Based on this language, Metro’s natural areas program has been exempted from the requirements of HR 2127.

However, while certain property transfers from land trusts to public entities may fall under a 308A.709 exemption, not all land trust to public entity transfers are covered by 308A.709. Many farmland protection and conservation acquisitions by government agencies are also not covered under the existing 308A.709 exemptions.

While HB 2127 does not directly affect Metro’s land acquisitions, land trusts in the greater Portland region and across the state also work to protect land for wildlife habitat and water quality. This work supports and reinforces the benefits of Metro’s natural areas program. Moreover, land trusts also

protect farmland for production, something that Metro is not specifically doing with its bond funding, but strongly supports. This work will come to a halt if land trusts cannot purchase agricultural land that they intend to keep in long-term production without being disadvantaged by having to pay all deferred taxes.

**RECOMMENDATION:**

Support adding appropriate language to ORS 308A.709 that would exempt land trusts, public agencies and other nonprofit organizations from the requirements of HB 2127.

**LEGISLATIVE HISTORY:** As noted above, HB 2127 passed in 2015.

**OTHER INTERESTED PARTIES:** All land trusts statewide, conservation organizations that conduct land transactions, government agencies not exempt from the requirements of HB 2127 such as SWCDs, federal agencies and other government agencies maintaining the land's use as productive farm or forest land or otherwise not purchasing land explicitly for the purposes described in ORS 308A.709.

**IMPACT IF PROPOSED ACTION OCCURS:** Additional farm, forest and conservation land will be protected that would otherwise not be acquired due to financial constraints put on land transactions.

**METRO**  
**2019 LEGISLATIVE ISSUE IDENTIFICATION**

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**Department:** GAPD/Planning and Development

**Date:** October 15, 2018

**Person completing form:** Randy Tucker

**Phone:** x1512

**ISSUE:** Jurisdictional transfer of state-owned highways

**BACKGROUND:** In many parts of Oregon, and specifically in the Portland region, ownership patterns of streets, roads and highways reflect historical patterns but do not necessarily reflect or support current transportation needs, land uses and development patterns. Many state highways originally built as farm-to-market roads and designed and managed for throughput, intercity travel and freight movement today serve as local roads or main streets for cities that have grown up around them. These facilities now need to safely accommodate many different kinds of users than those for which they were originally designed: pedestrians, bicycles, buses, and passenger vehicles making short trips with lots of turning movements.

Because ODOT's mission focuses on intercity travel and freight movement rather than local travel, the state has not made the investments to bring these roads up to multimodal urban standards. In some cases actual or planned ODOT investments would actually work against the desires of the local community for which a state highway serves as its main street. Often referred to as "orphan highways," these roads end up failing to adequately support the aspirations of the local community. They become a barrier to community livability and economic development, present safety hazards that put people at risk, and fall into disrepair because they are considered unimportant in the context of the state highway system.

Because these roads now serve very different functions in very different communities from the ones in which they were built, it makes sense to align their ownership with their current context and function. In many cases this means transferring ownership from the state to a local government (usually a city). In the Portland area, roads that would be prime candidates for transfer from state ownership to local ownership can be found in every part of the region: Hall Boulevard in the west, Lombard Street to the north, McLoughlin Boulevard to the south, 82<sup>nd</sup> Avenue to the east, and more.

However, while this makes logical sense and is good policy, years of deferred maintenance and the cost of improving these facilities to urban standards – with the safety and multimodal elements that that entails – create a substantial financial liability that local governments are not prepared to assume. No city can afford to take on a huge liability like a road with poor pavement condition, major safety problems and inadequate facilities for bicycles, pedestrians and transit. A funding source is needed that can support improvements to these roads to the point that it is possible for the local community to willingly assume responsibility.

**RECOMMENDATION:** Support legislation that would strategically advance the prospect of jurisdictional transfers of key facilities in the Portland region and statewide. Such legislation might support a broader evaluation of candidate facilities and/or identify sources of funding that can be used to bring the highest priority candidate facilities to a condition that would allow a local jurisdiction to accept a transfer. Placeholder legislation is being drafted.

**LEGISLATIVE HISTORY:** In 2015, the Oregon Transportation Forum proposed the creation of a jurisdictional transfer account funded with a dedicated one-cent gas tax increase. That year, the Legislature allocated non-transportation funds for investments in outer Powell Boulevard that can support eventual transfer of that road to the City of Portland, and in 2017, the transportation package directed earmarked dollars to several specific roads to prepare them for transfer (including one that would be transferred from county to state ownership), but there is no systematic or ongoing program or funding source to facilitate jurisdictional transfers.

**OTHER INTERESTED PARTIES:** The Oregon Highway Plan (OHP) declares that it is state policy to consider jurisdictional transfers that rationalize and simplify management responsibilities, reflect the appropriate functional classification, and lead to increased efficiencies in the operation and maintenance of a particular roadway segment or corridor. In our region, ODOT and Metro are already collaborating to evaluate facilities that are candidates for transfer, including those mentioned above, based on a variety of factors, including cost, to establish priorities for future investments that can facilitate a transfer of ownership.

As noted above, facilities that are reasonable candidates for transfer can be found in all three counties of the Portland region and in many other parts of the state. In addition to ODOT and cities, local community groups have been highly engaged in these conversations around specific facilities like 82<sup>nd</sup> Avenue.

**IMPACT IF PROPOSED ACTION OCCURS:** Under a successful jurisdictional transfer program, funding will be available for investments that have been prioritized through a rational evaluation process, improvements will be made that improve pavement condition, safety, and multimodal accessibility for local residents, and cities (and some counties) will be able to accept the ownership of roads in order to manage them appropriately for current community needs.

**METRO**  
**2019 LEGISLATIVE ISSUE IDENTIFICATION**

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**Department:** PES

**Date:** October 16, 2018

**Person completing form:** Scott Klag

**Phone:** x1665

**ISSUE:** Product Stewardship

**BACKGROUND:** Product stewardship is an approach to environmental management providing that whoever designs, produces, sells or uses a product takes responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle.

The principle of product stewardship has been endorsed by a number of national organizations, including the U.S. Conference of Mayors, the Solid Waste Association of North America (SWANA), the Environmental Council of the States (ECOS) and the North American Hazardous Materials Management Association (NAMHMA). Metro is a member of the Product Stewardship Institute, an organization that counts 47 states and hundreds of local governments as members.

Throughout the United States, local governments generally take responsibility for ensuring that residents and businesses within their jurisdictions have environmentally sound and efficient solid waste collection and disposal options. However, local governments and their ratepayers are struggling with an array of products that contain materials that are problematic, sometimes toxic; that can be expensive to handle; and for which no adequate recycling infrastructure may have been developed. Those materials that are recyclable may lack reliable markets, leaving the burden on local governments. Because manufacturers are not responsible for end-of-life costs, there is little incentive for them to design products that are less toxic, more recyclable and more economical to handle at the end of their useful life.

Metro's ratepayers should not be required to continue to absorb the costs of handling these materials in an environmentally responsible manner. Product stewardship provides a way to reduce the costs of handling these products to our ratepayers while providing incentives for manufacturers to design products that are less toxic and easier to process or disassemble for recycling. Product stewardship also can reduce costs to local governments by requiring manufacturers to bear or share the costs of collecting and transporting these products for recycling or safe disposal. Legislators and regulators have the important role of establishing baseline policies and programs to level the playing field and encourage product stewardship. Product stewardship approaches have been shown to be effective for a wide variety of materials.

**Product stewardship programs in effect in Oregon**

- Computers, TVs, printers and computer peripherals ("e-waste")
- Beverage containers
- Paint



### **Product stewardship legislation likely to be proposed in Oregon in 2019**

- Hazardous household products (pesticides, flammables, corrosives)
- Pharmaceuticals
- Sharps (i.e., syringes)
- Mattresses

### **Product stewardship legislation in other jurisdictions**

- Packaging
- Carpet
- Solar Panels
- Textiles
- Mercury-containing products (e.g., thermostats, fluorescent lamps and tubes)
- Batteries
- Tires

**RECOMMENDATION:** Support the establishment of product stewardship programs for additional product categories. In addition to Metro’s proposal to establish such a program for household hazardous waste, it is anticipated that others will propose programs for mattresses and pharmaceutical drugs (possibly including sharps) in 2019.

**LEGISLATIVE HISTORY:** Oregon is a leader in product stewardship legislation. Our Bottle Bill, an early form of stewardship, was first in the nation in 1971. It has been modernized over the last several years to increase the deposit to 10 cents, establish a network of clean “Bottle Drop” redemption centers and cover almost all beverage containers. Oregon’s E-Cycle law in 2007 was among the first state laws to tackle that growing waste stream. In 2009, Oregon became the first state to pass a PaintCare program. Metro has been working on a stewardship bill to manage additional household hazardous wastes beyond paint over the past couple of legislative sessions.

**OTHER INTERESTED PARTIES:** Local solid waste recycling and other environmental organizations support stewardship programs. Reaction from the private sector in general (e.g., retailers, manufacturers, distributors) differs by industry and depends on how the proposal is presented and what particular products are perceived as the focus.

### **IMPACT IF PROPOSED ACTION OCCURS:**

- Reduces the cost to ratepayers and local governments of waste disposal and recycling.
- Encourages manufacturers to reduce product toxicity and the resulting risk to workers, citizens and the environment.
- Increases resource conservation and produces local economic activity by returning usable commodities back to commercial use.

## **ATTACHMENT: What is Product Stewardship?**

Product stewardship is an environmental management strategy providing that whoever designs, produces, sells, or uses a product takes responsibility for minimizing the product's environmental impact throughout all stages of the product's life cycle.

The following principles of product stewardship have been widely accepted by product stewardship proponents throughout the United States.

**Responsibility:** The responsibility for reducing product impacts should be shared among industry (designers, manufacturers, and retailers of products or product components), government, and consumers. The greater the ability an entity has to minimize a product's life-cycle impacts, the greater is its degree of responsibility, and opportunity, for addressing those impacts.

**Internalize Costs:** All product lifecycle costs – from using resources, to reducing health and environmental impacts throughout the production process, to managing products at the end-of-life – should be included in the total product cost. The environmental costs of product manufacture, use, and disposal should be minimized, to the greatest extent possible, for local and state governments, and ultimately shifted to the manufacturers and consumers of products. Manufacturers should thus have a direct financial incentive to redesign their products to reduce these costs.

**Incentives for Cleaner Products and Sustainable Management Practices:** Product stewardship policies and programs should create incentives for the manufacturer to design and produce "cleaner" products – ones made using less energy, materials, and toxics, and which result in less waste (through reduction, reuse, recycling, and composting) and use less energy to operate. These policies should also create incentives for the development of a sustainable and environmentally sound system to collect, reuse and recycle products at the end of their lives.

**Flexible Management Strategies:** Those that are responsible for reducing the health and environmental impacts of products should have flexibility in determining how to most effectively address those impacts. The performance of responsible parties shall be measured by the achievement of goal-oriented results.

**Roles and Relationships:** Industry should provide leadership in realizing these principles. Government will provide leadership in promoting the practices of product stewardship through procurement, technical assistance, program evaluation, education, market development, agency coordination; by addressing regulatory barriers; and, where necessary, by providing regulatory incentives and disincentives. Industry and government shall provide – and consumers should take full advantage of – information needed to make responsible environmental purchasing, reuse, recycling, and disposal decisions.

**METRO**  
**2019 LEGISLATIVE ISSUE IDENTIFICATION**

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**Department:** Planning and Development

**Date:** 10 October 2018

**Person completing form:** Eliot Rose

**Phone:** x1825

**ISSUE:** Automated vehicles (AV)

**BACKGROUND:** Automated vehicles (AVs) use sensors and advanced control systems to operate independently of input from a human driver. AVs are currently being tested, typically with backup human drivers ready to take control if necessary, in communities throughout the U.S. Most testing has taken place in warm, dry climates. AVs are not yet capable of navigating in snow, heavy rain, and other extreme weather conditions, but the technology is improving rapidly. Most experts expect AVs to begin operating in full deployment within one to five years.

AVs are likely to have sweeping impacts on safety, transportation equity, jobs, congestion, emissions, and health. It is too early to say whether these impacts will be positive or negative, but it is critical that Metro and our local partners have insight into and oversight of how AVs use our streets so that we can plan and manage the transportation system as technology evolves. Local and regional advocacy on AV policy has focused in the near term on ensuring that agencies have access to data on AV travel so they can monitor impacts and are not pre-empted from fulfilling their responsibilities to manage the transportation system.

As of October 2018, 29 U.S. states had enacted AV legislation, which ranges widely in scope and responsiveness to local and regional concerns. Beginning in April 2018, Oregon, which has not yet enacted legislation regarding AV testing or deployment, convened the Task Force on Autonomous Vehicles to develop policy recommendations for the Legislature to consider during the 2019 session. The task force consists of 34 members representing the Legislature, state agencies, labor and advocacy groups, industry, and local and regional transportation agencies.

In its first phase, the task force was charged with developing a report with recommendations that cover licensing and registration, law enforcement, insurance and cybersecurity. This report was issued in September 2018. The task force's purview covers both testing and deployment of AVs, but its 2018 report focused on testing. Since testing is more imminent and limited in scope than deployment this made it easier for the task force to reach consensus, but it also means that the report is largely silent on the issues of greatest concern to Metro.

Metro and its partners will likely need to address the following concerns during the 2019 legislative session:

- **Pre-emption:** multiple industry representatives on the task force have already stated their support for pre-empting local and regional agencies' authority to restrict or oversee AV testing. Ride-hailing companies like Uber and Lyft, which plan to be among the first to deploy AVs, seem likely to push for accompanying legislation that would pre-empt local governments' ability to regulate ride-hailing services.

- Data sharing: industry has sought to limit the AV data that is shared with local and regional agencies to the bare minimum needed by law enforcement to investigate a crash by a test vehicle. More comprehensive data sharing is needed to enable responsible oversight of testing and inform future AV policy.
- Testing vs. deployment: Legislation that focuses narrowly on testing and does not address deployment would mainly benefit the handful of Oregon companies that are developing AV technology that they want to test locally instead of serving the public interest. Such legislation could also allow companies to deploy AVs without adequate public oversight.

**RECOMMENDATION:** Support legislation advancing AV testing provided that it:

- Does not pre-empt local authority to establish traffic laws, including laws that apply to AVs.
- Includes requirements to share data on AV travel patterns and other information necessary to ensure that testing is safe and inform long-term policy.
- Addresses AV deployment, either by prohibiting deployment until the state adopts relevant legislation or by including the key elements of a responsible deployment policy. Metro outlined these elements in a platform that was included in our comments on the task force report. The platform includes points related to safety, workforce development, transportation equity, transportation funding, transparency, and local authority.

**LEGISLATIVE HISTORY:** HB 4036 (2018) established the Task Force on Autonomous Vehicles. While the bill initially only included state agencies on the task force, Metro and our partners successfully advocated for local and regional agencies to be included as well. HB 3246, which failed to pass during the 2017 session, would have pre-empted local regulation of ride-hailing services. Industry may advance similar legislation in 2019. The proposed AV START Act (S.1885), which would codify the federal role in regulating AVs, raises many of the same concerns associated with state legislation related to data sharing, pre-emption, testing and safety.

**OTHER INTERESTED PARTIES:** Metro's public agency partners the City of Portland (representing the League of Cities) and TriMet (representing the Oregon Transit Association) also serve on the task force. Metro, Portland and TriMet submitted a joint comment letter on the task force report, which included the platform discussed above. That platform was drafted in collaboration with several other task force members, including representatives from the Amalgamated Transit Union, Oregon Environmental Council, Oregon Trial Lawyers' Association, Teamsters, AFL-CIO, University of Oregon, and consumer protection advocates.

More generally, local and regional agencies, labor and advocacy groups, and certain industry representatives on the task force have all voiced support for AV legislation that addresses deployment, though industry's perspective on what that legislation should contain would likely differ from that of the other groups listed. Meanwhile, state agencies and companies that are developing AV technology in Oregon favor an incremental approach focused on testing.

**IMPACT IF PROPOSED ACTION OCCURS:** Metro and its public agency partners would have the authority and access to data needed to maximize the benefits and minimize the negative impacts of AVs in the Portland region.

## METRO

### 2019 LEGISLATIVE ISSUE IDENTIFICATION

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**Department:** Property & Environmental Services

**Date:** Oct. 15, 2018

**Person completing form:** Scott Klag

**Phone:** x1665

**ISSUE:** Clean Diesel

**BACKGROUND:** The health and environmental effects of diesel emissions have been the subject of extensive research throughout the world. Health experts have concluded that diesel exhaust is a known human carcinogen at exposure levels seen in many parts of Oregon and particularly the Portland metropolitan region. These levels of exposure can also lead to increased risk of cardiovascular and respiratory diseases, especially in children and the elderly. Diesel emissions also include black carbon, which is a potent contributor to climate change.

The Oregon Department of Environmental Quality estimates the annual health and environmental impacts in Oregon associated with emissions from highway, non-road (e.g., construction equipment), marine and locomotive diesel vehicles to be as high as 460 premature deaths per year with annual costs from exposure at \$3.5 billion. While U.S. emissions standards for diesel engines have been tightened dramatically over the last 20 years, diesel engines have a long life that can be extended even more by rebuilding these engines. The current projected rate of turnover to new engines likely means that the benefits from these tighter standards will not be fully realized within Oregon for many more years.

Reducing greenhouse gases and diesel particulate emissions is a goal of Metro's Regional Waste Plan (RWP) and Regional Transportation Plan (RTP). Our Climate Smart strategy also calls for reducing emissions from all transportation sources, including diesel. Over the past several years, Metro has undertaken multiple efforts to reduce diesel emissions including: requiring trucks with best available emission technology for long-hauling the region's garbage to the landfill in Gilliam County; implementing and providing funds for a program to retrofit 119 of the most polluting garbage trucks in the Metro area; working with a wide range of partners to address barriers to the conversion of diesel truck fleets to CNG; making RFFA investments in TriMet diesel bus filter installation and school bus retrofits; and submitting letters of support for FTA grants for TriMet's and SMART's conversion to non-diesel buses (CNG and electric buses).

The federal Diesel Emissions Reduction Act (DERA) of 2005 provided funds for projects in Oregon for several years. However, by 2014 DERA funds had diminished and sufficient state funds have not been made available to address the scope of the problem. In 2016, Volkswagen agreed to a nationwide settlement of \$2.9 billion to address diesel air pollution emitted by Volkswagen passenger vehicles. The agreement infused new funding for states to address diesel pollution as long as the activities funded are permitted by the settlement agreement. Oregon is to receive approximately \$72 million of the VW funds to address the reduction of diesel emissions from transportation sources. The Oregon Department of Environmental Quality (DEQ) is the designated recipient for the Volkswagen settlement funding for Oregon and must submit a plan on its use of

the funds to the nationwide trustee for the funds. In 2017, the Legislature directed the DEQ to include a request to allocate upwards of \$32 million to scrap/replace or retrofit exhaust controls of upwards of 450 school buses.

Legislation is expected to be introduced in 2019 to address diesel emissions. The bill may include provisions similar to previous clean diesel bills, including:

- **Further direction from the legislature to DEQ on VW funds:** Where should the remaining \$40 million in Volkswagen settlement funds be directed? Examples include providing funds for an incentive program or providing seed funding for a new regulatory program.
- **Increase the use of clean diesel on public contracts:** Require that a portion of contracts (for example, 1%) be reserved for that purpose; alternatively, establish minimum clean diesel specifications in public contracts. Metro is working with partners in the metropolitan region to develop clean diesel contract specifications that may provide a model for statewide legislation.
- **Establish emission requirements and provide incentives to reduce emissions from both on-road and non-road diesel engines:** Through a combination of new state rules and funding mechanisms, reduce the number of older diesel engines, focusing on priorities such as protecting vulnerable populations.
- **Establish a non-road diesel registration program:** The program would provide needed information about the scope of the non-road diesel issue.

**RECOMMENDATION:** Support through testimony, letters and similar means.

**LEGISLATIVE HISTORY:** In 2015, bills were introduced, but failed to pass, that addressed diesel emission issues through a variety of means. Senator Dembrow led a workgroup in 2016 to discuss issues raised during the 2015 session. While broad bills to reduce diesel emissions have been introduced since then, passage of a provision directing DEQ to fund school bus replacement is the Legislature's most notable accomplishment.

**OTHER INTERESTED PARTIES:** Sen. Dembrow's workgroup included several legislators and elected local government representatives including Councilor Sam Chase. Participants also include industry and union associations; several companies potentially impacted by the legislation; and public interest groups. Reducing diesel emissions continues to be a high priority of community groups and local governments in the Portland region. Councilors Chase and Stacey have both participated in recent community discussions on air quality that addressed diesel emissions.

**IMPACT IF PROPOSED ACTION OCCURS:**

- Supports Metro's desired outcomes for successful communities, including clean air and water and that the region is a leader in minimizing contributions to climate change.
- Supports Metro's 2014 Climate Smart strategy and Regional Transportation Plan.
- Supports improving the sustainability of our regional solid waste system by reducing the impact of solid waste garbage and recycling vehicles.

Materials following this page were distributed at the meeting.



G R E A T P L A C E S

**Corridor**

Portland • Sherwood • Tigard • Tualatin  
Beaverton • Durham • King City  
Washington County • ODOT • TriMet • Metro

# SW Corridor Land Use Final Order

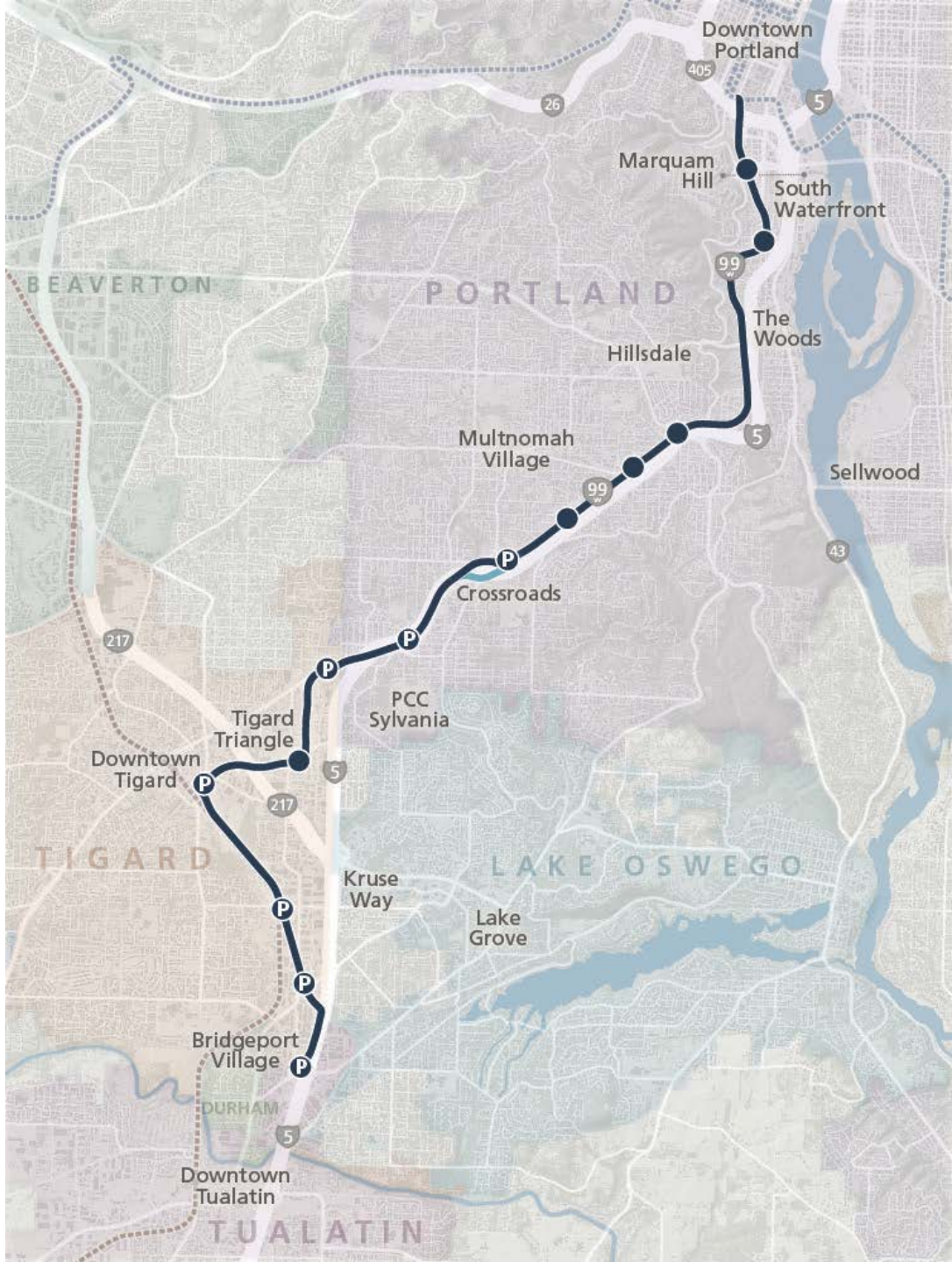
Metro Council Work Session  
October 30, 2018



***Preferred Alternative  
recommended by  
SW Corridor Steering  
Committee***

Based on...

- Purpose and Need
- Draft EIS
- Public + agency input
- FTA rating criteria



# What is a LUFO?

## “Land Use Final Order”

Single land use action for LRT project

Process created by the state legislature  
(HB 3202)

Issued for past LRTs (Orange line, etc.)

Defines locations where project is located  
including any “highway improvements”

# LUFO process

1. LCDC established 13 criteria for Metro to use to make its decision
  - ▶ Public hearing considered comments submitted, including from Tigard
  - ▶ LUFO adopted must contain findings, supported by evidence in the record, that these criteria have been met
2. LUFO steering committee
  - ▶ In August recommended location of the project improvements to TriMet

# LUFO process

3. TriMet Board approved submittal on September 26
4. Application submitted to Metro on October 11
5. Metro beginning process of notification required by HB 3202
  - Oregonian, mailing, social media, Metro website, email
6. Public hearing as part of November 15 Council session

# Hearing procedures

- Immediately following LPA
- Script for Council President and Metro Attorney to read
- Presentation from staff then TriMet
- Opportunity for public testimony
- Break for staff to confer
- Council may adopt the LUFO, continue the hearing, or refer the application back to TriMet for modification

# Notes on process

- Resolution on November 8 regarding procedures
- Failure to raise an issue before or at the hearing (orally, in person, or in writing) precludes standing to appeal
- LUFO will be amended to match:
  - ▶ Final EIS
  - ▶ Full Funding Grant Agreement

# Questions

- Regarding the implications of the LUFO for the SW Corridor Light Rail project?
- Regarding the LUFO approval process, including how to address findings and comments?
- What input does Council have regarding the draft resolution?