

Staff Report

Re: I-5 Rose Quarter Improvement Project

2025 Findings of Compatibility with Acknowledged Comprehensive Plans per Oregon Administrative Rule 731-015-0075

Date: August 1, 2025

I. Introduction

As part of the planning process for the I-5 Rose Quarter Improvement Project (“Project”), state law requires the Oregon Department of Transportation (“ODOT”) take steps to ensure that the Project complies with Oregon’s Statewide Planning Goals and Guidelines (“Statewide Goals”) and that it is compatible with the acknowledged comprehensive plans of the city or county where the Project will be built.¹ ODOT has adopted by rule a state agency coordination program (“SAC”) that details how ODOT and the Oregon Transportation Commission (“OTC”) will coordinate with public agencies and other interested persons when taking an action that may significantly affect land use.² For the Project, ODOT and OTC are required to comply with OAR 731-015-0075 which sets forth the coordination requirements for a project that is defined under the National Environmental Policy Act (“NEPA”) as a Class 1 or 3 project. This Staff report provides context for the draft findings documenting compliance with OAR 731-015-0075 submitted for the Director’s approval.

II. Purpose

Immediately following FHWA’s issuance of the 2024 FONSI, ODOT adopted its SAC findings pursuant to OAR 731-015-0075 for the Project, entitled “I-5 Rose Quarter Improvement Project: Findings of Compatibility” (“2024 SAC Findings”). During the NEPA process and in response to the 2024 SAC findings, questions arose from some constituents. To create better clarity, ODOT withdrew the 2024 SAC findings on July 3, 2025, and has developed updated findings. Due to the complexity of the Rose Quarter Improvement Project and Oregon land use regulations, the purpose of this staff report is to provide the Director with the requisite information to support his review of the SAC findings under reconsideration and is part of the information supporting those findings.

¹ All state agencies involved the land use activities are required to carry out their planning duties, powers and responsibilities in compliance with the statewide land use planning goals and in a manner compatible with the acknowledged comprehensive plans of the cities and counties that have planning jurisdiction where the state agency action will take place. ORS 197.180, OAR 660 divisions 30 and 31. Statewide Goal 2, Part 1 further provides that state agency “plans and actions related to land use shall be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.”).

² OAR Chapter 731, division 015.

III. Background

The Project was developed from the I-5 Broadway/Weidler Interchange Improvements Facility Plan (“Facility Plan”). The City of Portland (City) adopted the Facility Plan by adding it into its North/Northeast Quadrant Plan (“N/NE Quadrant Plan”), which was later added to the City’s Central City 2035 Plan (“CC 2035 Plan”) in 2018 as an amendment to the City’s acknowledged comprehensive plan (“City Comp Plan”).³ At the time of the Facility Plan adoption, OTC issued SAC findings under OAR 731-015-0065 setting out the coordination procedures for final facility plans. OTC’s findings were never challenged.

After the adoption of the Facility Plan, ODOT and the City collaboratively developed the Project. The Project is included in the City’s adopted 2035 Transportation System Plan (TSP), under Appendix A - TSP Projects and Programs, consistent with the adopted N/NE Quadrant Plan and the Facility Plan.⁴ The Project is also identified in CC 2035 Plan in Section B “Work Plans/Action Charts” which sets forth the “projects, programs and other activities” that the City and others “will undertake to implement the goals and policies of the CC2035 Plan.”⁵ Section B expressly identifies the Facility Plan and Projects implementing the Plan as TSP Project numbers 20119, 20120 and 20121, and sets forth conditions of the *City’s participation* in these projects.⁶ All of these conditions have been resolved, or a path has been laid to resolution, as discussed in this report, in the Project documents identified in this report, and in the attached findings.

The Federal Highway Administration (FHWA) and ODOT, in compliance with NEPA, issued an Environmental Assessment (EA)⁷ for the Project in February 2019. Following Project design refinement in response to public comments received on the 2019 EA, FHWA issued a Revised Environmental Assessment (REA) and Finding of No Significant Impact (FONSI)⁸ in October of 2020. ODOT issued SAC Findings in April 2021, which were subsequently withdrawn in May 2022. Below is a chronology of key documents.

- 2019 Environmental Assessment

³ The N/NE Quadrant Plan and I-5 Broadway Weidler Facility Plan are available at: <https://www.portland.gov/policies/environment-built/community-neighborhood-planning/enb-1152-n-ne-quadrant-plan-and-i-5> The CC 2035 Plan is available at: portland.gov/bps/planning/central-city/central-city-2035-documents.

⁴ The City’s planning documents include multiple plans focused on particular regions. These area-specific plans comply with the City’s Comp Plan in effect at the time the area plan is developed. They are adopted by ordinance or resolution and may result in an amendment to the City Comp Plan or its implementation tools. The N/NE Quadrant Plan is a regional plan that is a component of the CC 2035 Plan. The TSP is available at <https://www.portland.gov/transportation/planning/tsp-document-downloads>

⁵ CC 2035 Plan, version 5A adopted 2018, Section B, page 90.

⁶ Id. page 114-115.

⁷ I-5 Rose Quarter Improvements Project, Environmental Assessment (February 15, 2019). FHWA and ODOT. https://www.i5rosequarter.org/pdfs/environmental_assessment/I5_Rose_Quarter_Environmental_Assessment.pdf

⁸ I-5 Rose Quarter Improvements Project, Finding of No Significant Impact and Revised Environmental Assessment (October 30, 2020). Federal Highway Administration and Oregon Department of Transportation. [I-5 Rose Quarter Improvement Project Finding of No Significant Impact and Revised Environmental Assessment \(i5rosequarter.org\)](https://www.i5rosequarter.org/pdfs/environmental_assessment/I5_Rose_Quarter_Environmental_Assessment.pdf)

- 2020 Environmental Peer Review
- 2020 Revised Environmental Assessment and Finding of No Significant Impact (FONSI)
- 2021 SAC Findings issued
- 2021 Independent Cover Assessment
- 2022 withdrawal of 2021 SAC Findings
- 2022 Supplemental Environmental Assessment
- 2024 Revised Supplemental Environmental Assessment and FONSI
- 2024 SAC Findings issued
- 2025 withdrawal of 2024 SAC Findings

In July 2020, Portland City Council issued a Suspend Work directive to all City Bureaus (July 6, 2020) related to Project work. The suspend work directive was issued due to the City's concerns about the project's alignment with its values, particularly regarding racial equity, climate action, and community engagement.

Metro, Multnomah County, City, Portland Public Schools and the Albina Vision Trust helped shape the formation of an independent highway cover scope of work and selection of the Independent Cover Assessment (ICA) consultant team. Beginning in 2020 and extending through 2021, the team engaged the Project's advisory committees and community partners to explore design opportunities for the highway cover that supported restorative justice outcomes. The purpose of the ICA was to better understand partner goals and objectives within the Project Area, generate potential highway cover scenarios which focused on local street connections and neighborhood restoration, and assess the impacts and benefits of those scenarios. In July 2021 the ICA team submitted to the OTC a Final Report with highway cover design options. The outcome of the ICA resulted in recommendations for modification to the design concept approved by FHWA (the Build Alternative approved in the 2020 REA and FONSI). These modifications to the design concept focused on creation of a "lid" over the freeway and the related supporting structural needs, recommendations for modifications to ramp locations, and improved local connections.

In July 2021, Oregon Governor Brown convened a series of meetings with Project stakeholders and community organizations, including the City, to discuss the design concepts developed in the ICA. In August 2021, the Project's Historic Albina Advisory Board (HAAB)—as supported by the Executive Steering Committee (ESC) and the Community Oversight Advisory Committee (COAC)—recommended "Hybrid 3" as the preferred highway cover design concept for the Project. In September 2021, following the community and stakeholder recommendations, the OTC directed ODOT to advance further evaluation of the Hybrid 3 highway cover design concept, with conditions related to the Project's funding process and other technical analyses.

In January 2022, Oregon Governor Brown and local government parties, including the City, Multnomah County and Metro elected official representatives, signed a Letter of Agreement⁹ to demonstrate shared understanding and support for the proposed Hybrid 3 highway cover

⁹ Governor Letter of Agreement: Hybrid Option 3: I-5 Rose Quarter Improvement Project

design concept as part of the Project. The proposed Hybrid 3 design concept was intended to address a collective desire to reconnect the neighborhood, create buildable space, and enhance wealth-generating opportunities for the community, while simultaneously addressing the area's multimodal transportation needs.

In accordance with NEPA, ODOT considered the differences of a Project that included the Hybrid 3 highway cover design compared to the design that was analyzed in the 2020 REA/FONSI. FHWA and ODOT agreed that the design changes required additional analysis beyond what was presented in the 2020 REA, and FHWA rescinded the FONSI on January 18, 2022. ODOT rescinded its April 2021 SAC Findings on May 10, 2022.

In July 2022, the Portland City Council unanimously approved an ordinance to re-engage as a Project partner and approve an Intergovernmental Agreement¹⁰ with ODOT to support further analysis of the Hybrid 3 concept. The City Council reaffirmed their support for the Project in April 2023¹¹ and again in September 2023¹² in support of ODOT's application for a Reconnecting Communities and Neighborhoods Grant for the Project. The City also provided a letter of support for ODOT's 2022 Reconnecting Communities grant application.¹³

To satisfy NEPA requirements, ODOT and FHWA prepared a Supplemental Environmental Assessment (SEA) analyzing Hybrid 3 as the revised Build Alternative. The SEA was released for a 50-day public comment period in November 2022. Many comments on the SEA focused on the relocation of the I-5 southbound off-ramp, a component of the Hybrid 3 design concept, and its effects on pedestrian and bicycle safety, freight movement, and traffic management during events in the Rose Quarter. In response to these comments and in collaboration with the City, the HAAB, Project partners, and key community partners, ODOT refined the design of the Revised Build Alternative. The design refinements improve safety for people walking, biking, and rolling; reduce car and transit delays; support redevelopment opportunities for the Albina community; and create safer access to Moda Center events. This refined Revised Build Alternative is analyzed in the 2024 Revised Supplemental Environmental Assessment (RSEA).

FHWA issued a FONSI¹⁴ for the Project concurrently with the publication of the RSEA on March 12, 2024. The term "Project" used in this staff report refers to the Revised Build Alternative, as approved in the 2024 RSEA and FONSI, unless otherwise indicated.

IV. Clarification of ODOT and OTC's Obligations under its SAC Program

As the Project is categorized as a Class 3 Project under NEPA, ODOT and OTC are required to comply with the coordination procedures in OAR 731-015-0075. While the updated 2025 SAC

¹⁰ IGA No. 33370/73000-00007431

¹¹ City I5RQ Ltr to ODOT 04_2023

¹² City Support Letter 09_2023

¹³ City I5RQ RCP Support Ltr 2022.pdf

¹⁴ https://www.i5rosequarter.org/media/xureybji/i5rq_fonsi_508.pdf

Findings address all elements of OAR 731-015-0075, this Staff Report provides additional perspective on the following sections as they related to various comments and issues that have been raised:

(2) Goal compliance and plan compatibility shall be analyzed in conjunction with the development of the Draft Environmental Impact Statement or Environmental Assessment. The environmental analysis shall identify and address relevant land use requirements in sufficient detail to support subsequent land use decisions necessary to authorize the project.

(3) Except as otherwise set forth in section (4) of this rule, the Department shall rely on affected cities and counties to make all plan amendments and zone changes necessary to achieve compliance with the statewide planning goals and compatibility with local comprehensive plans after completion of the Draft Environmental Impact Statement or Environmental Assessment and before completion of the Final Environmental Impact Statement or Revised Environmental Assessment. These shall include the adoption of general and specific plan provisions necessary to address applicable statewide planning goals.

(4) The Department may complete a Final Environmental Impact Statement or Revised Environmental Assessment before the affected cities and counties make necessary plan amendments and zone changes in the following case:

(a) The Final Environmental Impact Statement or Revised Environmental Assessment identifies that the project be constructed in phases; and

(b) The Department finds:

(A) There is an immediate need to construct one or more phases of the project. Immediate need may include, but is not limited to, the facility to be improved or replaced currently exceeds or is expected to exceed within five years the level of service identified in the Oregon Highway Plan; and

(B) The project phase to be constructed meets a transportation need independent of the overall project, is consistent with the purpose and need of the overall project as identified in the FEIS, and will benefit the surrounding transportation system even if no further phases of the project are granted land use approval.

A. ODOT Is Not Required to Show Compatibility with Metro's RFP or RTP

ODOT's SAC requirement that the Oregon Transportation Commission (OTC) or its designee adopt findings of compatibility refers only to "the *acknowledged comprehensive plans* of affected *cities and counties*".¹⁵ The term "affected cities and counties" is defined as a "city or county with comprehensive planning authority over a site or area which is directly impacted by a proposed OTC or Department action." Metro is not a city or a county.

Moreover, the statutory definition of the Metro Regional Functional Plan (RFP) expressly states that "[n]either the regional framework plan nor its individual components constitute a comprehensive plan." ORS 197.015(16) (Defining the RFP as it is used in all of Oregon's statutes relating to comprehensive land use planning in ORS Chapters 195, 196, 197 and 197(a)). The Metro RFP is a state requirement, whereas the Regional Transportation Plan (RTP) is a federal plan requirement. The two are very similar, but for purposes of state land use law, the RFP is the plan that local agencies within the Metro area must be consistent with (see Section B), and the RTP applies to Federal processes such as NEPA.

Even if the RFP or its component RTP were analogous to a comprehensive plan such that a showing of compatibility with it was required under OAR 731-015-0075, Metro's 2023 RTP has not been acknowledged. A Metro plan is "acknowledged" when the Land Conservation and Development Commission (LCDC) "certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals." ORS 197.015(1). LCDC has not certified the 2023 update to the RTP. However, even if the 2023 RTP was acknowledged, the Project is not required to be compatible with the RTP under OAR 731-015-0075 as the RTP is not an affected city or county comprehensive plan.

Accordingly, staff did not address compatibility with any version of the RTP and/or RFP in the amended findings that are provided for the Director's consideration.

B. Compatibility between City TSP and Metro RFP

As described above under section A, ODOT is not required to show compatibility with Metro's RFP and/or RTP. However, under ORS 268.390, Metro has authority to review the adopted comprehensive plans of the cities and counties within its district boundaries. If it determines that any or part of a plan may not substantially comply with Metro's functional plans, *e.g.* its RFP, Metro may require the local jurisdiction to change their respective comprehensive plan. ORS 268.390(4).

Essentially, Metro relies on its regional partners to ensure the affected city and county TSPs are consistent with the RFP, and if they are not, Metro has authority to require the regional partners to update their plans.

¹⁵ OAR 731-015-0015(2)

Although ODOT is not required to show compatibility with the RFP, the Project is compatible because it is compatible with the City's Comp Plan.

Metro has not indicated any inconsistency by requiring its regional partner, the City, to make any amendments to its comprehensive plan. To the contrary, Metro added the Project to its list of constrained projects in the RTP.¹⁶

C. City Plan Amendments and Zone Changes

OAR 731-015-0075, subsections (3) and (4) set forth a process for making zone changes or plan amendments if an ODOT land use action does not comply with statewide land use goals or is not compatible with the affected cities' and counties' acknowledged comprehensive plans. If the affected city or county does not identify a conflict, then the requirements in these provisions to amend a plan or make zone changes do not apply and ODOT may find that these provisions are fully satisfied.

Here, no plan amendments or zone changes are necessary because the Project complies with the Statewide Planning Goals and is compatible with the City's Comp Plan. ODOT conducted a goal analysis in the preparation of the EA, the SEA and the RSEA.¹⁷ The Land Use Technical Report supporting these documents explains that the Project complies with the relevant Statewide Planning Goals.

As to compatibility with the City's Comp Plan, the Project is expressly included in the TSP as Project numbers 20119, 20120 and 20121. Further, the Section B Work Plan/Action Chart in the CC2035 Plan expressly includes the Project as an action item to "implement the I-5 Broadway Weidler Interchange Plan Improvement."¹⁸ In past transportation projects where ODOT has relied on the inclusion of a state project in a local plan as evidence of compatibility, LUBA has confirmed that approach.¹⁹ As expressed by LUBA, "it is difficult to imagine how [the project] could be incompatible with a comprehensive plan that was amended to include the [the project]." "

In addition, a transportation project that will have a significant land use impact is compatible with a comprehensive plan if it *may be* developed under the local jurisdiction's zoning.²⁰ There

¹⁶ "Constrained" projects are projects for which funding has already been dedicated in the near term, and projects that can be implemented with the funds the region currently expects to have available through 2045

¹⁷ ODOT's analyzed the Project's compliance with the Statewide Planning Goals in the Land Use Technical Report for the Environmental Analysis issued in 2019. The analysis was updated in 2022 for the issuance of the Supplemental EA and again in 2024 with the Revised Supplemental EA. These documents are available at: <https://www.i5rosequarter.org/library/>

¹⁸ CC2035 Plan, pages 139-140, 145-146, and 174.

¹⁹ *Parker Johnston Wilsonville Honda v ODOT*, Luba No 2010-019(2010)

²⁰ See, *Sky Lakes Medical Center, Inc. v Oregon Dept of Administrative Services*, 310 Or App 138 (2021). In *Sky Lakes*, the Oregon Court of Appeals analyzed DAS's adopted SAC rules requiring DAS to make the same land use

is no requirement that the Project, at the planning phase, have already received all necessary permits or that, in the case of the Section B Work Plan/Action Chart in the CC 2035 Plan, that all the conditions have been fully satisfied. And, significantly, these conditions are not zoning or code requirements necessary for the Project to move forward. As stated in the CC2035 Plan, “the action charts are adopted by City Council Resolution *with the understanding that they are starting places and that some actions will need to be refined, amended or replaced over time.*”²¹ In addition to showing compatibility, this shows the City’s commitment to making any amendments necessary, as required by the SAC. The City and ODOT, as demonstrated by the IGA,²² have worked together extensively to satisfy the City’s conditions. Regardless, identification of the Project by the City in its planning documents is sufficient to demonstrate that the Project is or will be an allowable use within the City’s planning.²³

C.1 Specific Consistency Questions Regarding City of Portland TSP

As described in B above, the NEPA process, along with the fact the Rose Quarter Improvement Project is included in the financially constrained TSP project list, is more than enough to demonstrate consistency with the City’s TSP. However, several questions have been raised around that consistency determination that Staff want to provide clarity about. These include:

- Local Street Classifications
- Congestion Pricing

compatibility requirements as part of its siting of a construction project on leased property. DAS found compatibility even though the siting would require a conditional use permit (“CUP”) by Klamath County. The Court of Appeals affirmed DAS’s findings agreeing that the fact a CUP was required to site the project on the leased property was not an issue. It was sufficient that DAS *could* apply for a CUP to comply with local zoning requirements. *Compare* Schaefer Oregon Department of Aviation, 312 Or App 316 (2021) (“Schaefer”). In Schaefer, the Court of Appeals was asked to review whether LUBA had jurisdiction to review a challenge to the Oregon Department of Aviation’s SAC findings regarding an airport master plan. As part of that analysis, the Court explained that the plan indicated that the location for the project included land zoned exclusive farm use (“EFU”) and therefore, LUBA needed to determine whether the master plan complied with the agricultural land policies of Marion County’s comprehensive plan to decide whether the plan was compatible. *Id.* at 330-331. Here, ODOT is able to demonstrate compatibility because the Project will be located within a zoning area that allows the Project as an outright use.

²¹ CC 2035 plan page 96. Conditions are set forth on pages 139-140

²² Intergovernmental Agreement (IGA) No. 33370/730000-00007341, I-5 Rose Quarter Improvement Project Preliminary Design Review Coordination (ODOT / City of Portland)

²³ Street classifications are identified in the TSP, Chapter 3 which sets forth general design guidance by which classifications should be made. Available at

<https://www.portland.gov/transportation/planning/documents/chapter-3-street-classifications/download> If the Project requires a change in the classification of a city right of way, the City may utilize this guide to make appropriate changes. The Project does not need to fit within the classification to be compatible, the classification may be amended to accommodate the Project as permitted under the TSP.

- OAR 660-012-0830

C1a. Local Street Classifications

The City is responsible for determining if street reclassification is necessary and, if so, to take appropriate action. Street reclassifications are not done during the planning phase of a project, but instead along with the action that causes the need to reclassify, or as part of a scheduled update of street classifications.

C1b. Congestion Pricing

Congestion Pricing and other forms of system pricing, like other Transportation Demand Management strategies, is not a land use action, but an operational tool. Therefore, this would not be addressed in the SAC findings. The Oregon Legislature has given authority to establish a congestion pricing program to the OTC.

On March 11, 2023, Governor Kotek issued a letter²⁴ to Chair Brown and Vice Chair Beyer of the OTC wherein she directed OTC and ODOT to pause work on all tolling and congestion pricing studies and projects, with the exception of the Interstate Bridge Replacement Program. The Governor's letter left the door open for future consideration of regional pricing strategies; however, it indefinitely paused ODOT's work on congestion pricing projects.

C1c. OAR 660-012-0830

To the extent the 2023 Metro RTP has been updated to address the enhanced review of select roadway projects under OAR 660-012-0830, those requirements do not apply to the Project. OAR 660-012-0830, also referred to as the Transportation Planning Rule (TPR), requires cities and counties to perform an enhanced review of certain projects that may add vehicular capacity to the system. One such type of project includes the addition of an auxiliary lane more than ½ mile in length. However, the enhanced review requirements do not apply to the Project because it falls within the exception created by LCDC in OAR 660-012-0830(1)(c)(B) which provides:

(1) Cities and counties shall review and may authorize certain proposed facilities to be included as a planned project or unconstrained project in any part of the local comprehensive plan, including the transportation system plan.

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²⁴ 03.11.24_Regional Mobility Pricing Project Governor Kotek Letter.pdf

(c) Notwithstanding subsection (a), a city or county may carry forward a proposed facility in a major transportation system plan update without review as provided in this rule if it is a planned project in a transportation system plan acknowledged prior to January 1, 2023, and the project meets any of the following at the time of adoption of the update:

(A) The project is included in a general obligation bond approved by voters prior to January 1, 2022;

(B) The project is included as a project phase other than planning in the State Transportation Improvement Program adopted by the Oregon Transportation Commission, or a metropolitan planning organization's transportation improvement program;

(C) The project has received a decision under the National Environmental Policy Act of 1969; or

(D) The project has been advertised for construction bids.

The Project meets exception (B) above.

Since phases for Planning and **Preliminary Engineering** have been in the State Transportation Improvement Program (STIP) since 2016, the Project meets the requirements for exception (B). OTC added the Project (Number 19071) to the Statewide Transportation Improvement Program (STIP). A phase for **Right of Way** was added in 2020. Please note that Metro, as part of the Metropolitan Transportation Improvement Program (TIP), included the same project descriptions as the STIP – which both included phases beyond just Planning.

V. Conclusion

This Staff Report includes detailed information that demonstrates Project consistency with the City of Portland Comp Plan and serves as supportive information for the SAC Findings, to be considered by the Director.