

AUGUST 27, 2018

To: WILLAMETTE FALLS LOCKS COMMISSION
Subject: GOVERNANCE & FUNDING OPTIONS – REFINEMENT

This memorandum is intended to describe the current status of the governance and funding models for the repair and on-going operation of the Willamette Falls Locks. Included with this memorandum are a flow chart that lays out five different ownership scenarios, and brief papers summarizing “Intergovernmental Agreements” (IGAs) and “Special Districts”.

The five ownership scenarios are as follows:

- Single Government Agency
- New Special District
- Intergovernmental Agreement
- Public-Private Partnership
- Private Ownership

OBSERVATIONS ON THE SIX SCENARIOS

As the flow chart makes clear, within each of the five scenarios, there are a number of sub-scenarios related to which entity actually restores the locks (i.e., the transferee, or another entity through some agreement); and which entity operates the locks (again – the transferee, or another entity). There are a number of permutations regarding who will own, restore, and operate the Locks.

This memorandum doesn’t attempt to evaluate the pros and cons of every possible permutation, but it is worthwhile to make at least high level observations about each of the five overall scenarios, along with some general observations that apply to most or all of the scenarios.

GENERAL OBSERVATIONS

- No entity is likely to undertake ownership and/or operation of the Locks, without two things – first, a demonstration of adequate funding for the cost of repair of the Locks; and second, a long term funding stream for the operation, maintenance, and capital reserve for the Locks.
- In our meetings with various agency staff, we have determined that several agencies are open to the possibility of contributing some amount annually to the operation of the Locks for a limited period of time (five years or so). Collectively, it is quite possible that we could secure commitments in the several hundred thousand dollar range – possibly enough to operate the Locks on a limited basis. However, those staff who are open to this discussion stressed that they would only consider such a scenario if, as noted above, there was funding in place for the repair of the Locks. They may also want to know that there is a long-term off-ramp, i.e. an entity which is committed to the long term operation of the Locks.

- It should also be noted that the Corps is unlikely to transfer the Locks to an entity in the short term without the assurance that there is a long term entity that will eventually operate the Locks. The Corps will not want to be in the position of transferring to a short term entity, with a high risk that the Locks will revert to the Corps at the end of that term.
- Further – private companies which might consider investing in facilities which would take advantage of the re-opened locks are unlikely to invest in such facilities without the reasonable assurance that the Locks will function for the long term.
- Legislative Requests: If we want to pursue legislation in the 2019 Session, we may want Commission member legislators request legislative concepts by the September 28 deadline for pre-session filing. In the observations for each scenario, we attempt to identify what (if any) legislation might be necessary to implement those scenarios. Given where we are in the process – i.e. we don't know which scenario the Commission will ultimately recommend – it behooves us to identify possible legislation or concepts.
- For all scenarios, one legislative request we suggest the Commission will want to make is for State funding.

SINGLE AGENCY OWNERSHIP

- Most likely Single Agency scenario would be a State agency which would have the financial and legal experience along with the capacity to take on any challenges that may arise.
- Ease of administration and decision making if a single entity owns the facility
- Could receive funds for repair, or enter into an IGA with another entity to perform the work
- Could operate the Locks, or contract with another entity
- A single agency ownership (e.g. the Department of State Lands) would likely entail some form of IGA with other entities to share cost and other burdens
- Legislative Ask: Funding for the transferee agency to carry out the transfer and legislative direction would be required, as well as working with the state's attorneys to identify any legal obstacles.

SPECIAL DISTRICT

- Could receive funds for repair, or enter into an IGA with another entity to perform the work
- Could operate the Locks, or contract with another entity
- Could be small (limited to the area around the Locks); medium (the entire Falls area, including both sides of the River); or large (Canby, Wilsonville, Newberg, McMinnville, portions of Clackamas, Yamhill, and even Marion County).
- A small district would require a relatively high millage rate. A large district might impose a relatively low millage rate – but on the other hand, a large district would need to encompass a broader range of projects (the RiverWalk at the Falls Legacy site; West Linn Waterfront improvements; new resiliency/pedestrian bridge at Wilsonville;

improvements to the Canby Ferry; infrastructure to support the redevelopment of the Newberg riverfront, etc.) to justify the larger geography.

- A Special District could be formed, but it may be advisable to delay the vote establishing a permanent rate (perhaps through the formation of an interim IGA as discussed earlier). During this period of several years, perhaps the new district would “prove itself”, making voter approval of a permanent rate more likely.
- Legislative Asks: Possible legislation authorizing formation of a Special District

IGA

- As noted earlier there may be support from multiple agencies to be a part of an IGA during the initial stage of the effort (either for the sole purpose of funding the operations, relying on a single state agency to serve as the actual transferee; OR with the IGA serving as the actual initial transferee, albeit with a path to an “off ramp” for future long-term ownership and operation)
- Could receive funds for repair, or enter into an IGA with another entity to perform the work
- Could operate the Locks, or contract with another entity
- Could include State and local agencies, as well as tribes, and for-profit or non-profit private entities
- Advantage of bringing multiple partners to the table, spreading the risk and cost burden; i.e. a means for one agency to leverage others’ dollars in a mutually beneficial undertaking
- More complex decision making than a single entity transferee
- Legislative Asks: Depending on the nature of the IGA, we may need legislation directing certain state agencies to participate in the 190 IGA.

PUBLIC-PRIVATE PARTNERSHIP

- Could take a number of forms. One or more agency could engage with one or more private companies (most likely through some form of competitive bid) for the purpose of ownership. As with other scenarios, this public-private transferee could own, restore, and operate the Locks (short or long term); it could also opt to engage another entity to either restore and/or operate the Locks.
- It is possible that such a provision could be more cost-effective than a purely public ownership scenario. For instance, if a company has the capacity to operate the Locks, it might get free or deeply reduced rates for use of the Locks in exchange for assisting in the operation of the Locks (especially in “non-peak” times), thereby reducing operating costs.
- Private entity may be an existing or future company with expertise in restoring or operating the Locks – exchanging that expertise in exchange for free access to the Locks
- Private entity could include a charitable non-profit, receiving tax deductible donations
- Public agency/s would assure public access to the Locks.

PRIVATE COMPANY

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LESS LIKELY OWNERSHIP SCENARIOS

The following are entities mentioned as possible owners in the July 18, 2018 report. We have not spoken to representatives from each of these entities – some have made it clear that they have no interest in serving as the transferee. However, some of these entities have expressed a willingness to consider financial participation in contributing to the short term (5 years?) operation of the Locks, with the proviso that a long term owner/operator will be in place at the end of that initial period.

- West Linn
- Metro
- Clackamas County
- State Marine Board
- Oregon Office of Emergency Management
- TriMet
- Land Bank Authority
- New Port District
- Parks & Recreation District
- County Service District
- County Transportation District

One last “unlikely” owner is for the Corps to retain ownership at least in the short term:

- This scenario is unlikely, but worth “keeping on the table”. It is possible that the Corps might agree to retain ownership in the short term, receive funds for the repair, and then transfer to a long term owner/operator. Note that the Corps is extremely unlikely to perform this scenario without an iron-clad commitment from a future transferee.
- The Corps may also undertake the repair of the Locks, and then retain ownership in the long term – but this is very unlikely.

- If the Corps were to hold the Locks in the long term, they may opt to enter into an IGA with another entity to operate the Locks.

CAPITAL FUNDING SOURCES – LIKELY OR POSSIBLE

- Corps.
- Federal Energy & Water Appropriation Bills
- National Parks Service (limited funds, but likely once Congress has created the Willamette Falls National Heritage Area)
- WRDA Re-Authorization
- State Appropriation
- State Parks grants
- State Marine Board Facility grants
- West Linn UR (if West Linn forms an Urban Renewal Area, i.e. as an implementation strategy of its Waterfront Plan)
- LID with West Linn Paper and PGE
- Metro Open Space and Transportation bonds (opportunity to with parallel efforts – RiverWalk, West Linn WF, and Locks – SEE BELOW)
- Private fund-raising
- Tourism Oregon grants
- Clackamas County Tourism grants

CAPITAL FUNDING SOURCES – LESS LIKELY

- Federal Farm Bill
- Federal “BUILD” (formerly TIGER) grants
- State Payroll Tax
- STIP
- Transportation Options
- CMAQ
- Transportation Safety
- Seismic Grants
- Immediate Opportunity Fund
- State “Regional Infrastructure Fund
- State Infrastructure Finance Authority
- Transportation Systems Development Charges

FUNDING OF OPERATIONS & MAINTENANCE

- As discussed earlier, it appears that there is some willingness on the part of some agencies to contribute some amount to the initial period of operations
- User Fee from Businesses which would use the Locks on a regular or semi-regular basis
- Boat License Surcharge, perhaps within a defined geography
- Special District Tax Base (will require a vote)