



WILLAMETTE FALLS LOCKS COMMISSION

Report to the Co-Chairs and Members of the Joint Way and Means Committee of the Oregon State Legislature

Pursuant to Budget Note in HB 5024 (2019 Session)
January XX, 2020
DRAFT

Introduction

This report from the Willamette Falls Locks Commission responds to the Budget Note included in HB 5024 (2019 Session). The Budget note reads as follows:

Willamette Falls Locks Commission

The Joint Committee on Ways and Means requests that the Willamette Falls Locks Commission resubmit its proposal for lottery revenue bond authorization to repair and reopen the Willamette Falls navigation canal and locks in the February 2020 legislative session. The request for state funding should include details on:

- *planned ownership of the Locks,*
- *actions required to transfer ownership,*
- *contributions toward renovations from the US Army Corps of Engineers,*
- *availability of other funds to support project costs, and*
- *a long-term sustainable business plan for continued operation and maintenance.*

The Willamette Falls Lock Commission (WFLC or the Commission) was created by HB 256 (2017 Session) (attached). The Commission was established to accomplish the following tasks:

- *Negotiate agreement with the U.S. Army Corps of Engineers to allow transfer of the Willamette Falls Locks (Locks) to a willing public or private recipient (or in the alternative allow Corps to permanently close the Locks with a concrete bulkhead);*
- *Develop agreement on a transferee and governance model for owning and operating the Locks; and*
- *Develop agreement on a fiscal structure and funding to allow for (1) repair and restoration, and (2) ongoing maintenance and operation of the Locks.*

Supporting documents are attached as follows:

- SB 256 (2017 Session) (establishing the Willamette Falls Locks Commission)
- Willamette Falls Locks Commission Roster

In the 2019 Oregon Legislative Session, the Commission sought Lottery Bond Funding for capital repairs and restoration of the Willamette Falls Locks (Locks) in the amount of approximately \$14 million. There was and is substantial support for restoring and reopening the Locks among local communities, businesses and the legislature. Before providing the capital funds, the Joint Ways and Means Committee asked for some additional information as outlined in the Budget Note. This report responds to that request. The Report is organized as follows (consistent with the budget note above):

- I. Request for State Funding
- II. Planned Ownership of the Locks
- III. Actions Required to Transfer Ownership

- IV. Contributions Toward Renovations from the US Army Corps of Engineers
- V. Availability of Other Funds to Support Project Costs
- VI. Long-Term Sustainable Business Plan for Continued Operation and Maintenance

I. Request for State Funding

The Willamette Falls Locks Commission voted to recommend \$14,043,375 in lottery bonding for capital repairs and restoration of the Locks to a safe and readily operable condition. The recommendation was based on strong stakeholder support and the projected economic development return on investment from the reopening of the Locks.

The scope of work includes the repair of the fundamental life/safety defects, fire protection and safety improvements, repair of operational mechanical and electrical equipment, lighting, seismic repairs on gates 1-5 (beyond that to be undertaken by the Corps on gates 6 and 7), upgraded hydraulic power units and modernized control systems. The work is assumed to be scheduled across two years (2021 and 2022), after the lottery bonds are issued, incorporating two years of escalation at 5% per year. There are no maintenance costs or sinking fund contributions for future repairs included in the capital funding request.

Supporting documents are attached as follows:

- KPFF Engineering Report
- Summary Cost Estimate
- ECONorthwest Report: Economic Benefits of Reopening the Willamette Falls Locks (January 2018)

II. Planned Ownership of the Locks

Public Corporation. Pursuant to a vote of the Commission, a legislative concept to establish a public corporation, the Willamette Falls Locks Authority, to serve as the owner, operator, manager and regulator of the Willamette Falls Locks and Canal has been filed by Representative Meek for the 2020 legislative session. Attached is a copy of the proposed legislation.

The new public corporation is modeled after the successful examples of the Oregon Health and Science University (OHSU) and the State Fair Board. It provides the public accountability provisions of a public entity using publicly provided funds and the entrepreneurial ability to function like a business.

The new public corporation would be responsible for negotiating the transfer from the Corps, establishing bylaws governing the operation of the organization, contracting for repairs and upgrades and providing for operations through either staff, contractors or certified private operators.

Supporting documents are attached as follows:

- Draft Legislative Concept as submitted to Legislative Counsel

III. Actions Required to Transfer Ownership

Disposition Study. The US Army Corps of Engineers has completed a Disposition Study with an integrated environmental document calling for transfer to a non-federal entity due to lack of federally significant economic benefit. The direction on the course of action to be undertaken by the Corps has been approved by the Assistant Secretary of the Army for Civil Works, the highest civilian position in the Department of Defense. The Final

Disposition Study included an integrated Final Environmental Assessment (EA) and Finding of No Significant Impact (FONSI).

Federal Deauthorization and Transfer. Congress will need to deauthorize the Locks as a federal facility and authorize transfer of the Locks to a new entity. In this case, our hope is that the Oregon Legislature will approve Public Corporation legislation establishing the Willamette Falls Locks Authority. Congress will set the terms of the transfer. Discussions are underway regarding how to best coordinate the repair work of the Corps and that of the new entity.

Deauthorization and transfer will take place as part of the Water Resource Development Act (WRDA). The U.S. Senate has started its work on WRDA. Our congressional delegation is very supportive and working closely with the Corps. Sen. Merkley sits on the key Senate committee and with support from Sen. Wyden has written a provision to transfer the Locks, but the Senate Committee has taken no formal action yet. In the House, Rep. DeFazio chairs the Committee that will need to take action and he and his staff are already coordinating with Rep. Schrader and the Senate.

Supporting documents are attached as follows:

- USACE Director's Report
- Link to USACE Final Disposition Study with Integrated Environmental Assessment

IV. Contributions Toward Renovations from the US Army Corps of Engineers

Seismic and Safety Upgrades by the Corps. Prior to transfer, the Corps has committed to seismically retrofit the upper two gates (6 and 7) which function as part of the FERC licensed dam which encompasses Willamette Falls. The dam serves to maintain the depth of the pool that extends upstream to Newberg and to maximize water intake into the PGE hydroelectric plant. The seismic upgrades are intended to protect the federal interest in salmon habitat restoration upriver throughout the Willamette Valley. Lacking these seismic upgrades, these upper gates could fail in a seismic event, resulting in a domino effect causing the downstream gates to fail and producing a bypass of the Falls and the hydroelectric water intake. This bypass would jeopardize salmon restoration and undermine the millions of dollars being spent by the Corps towards this purpose. The initial \$500,000 of a \$2.7 million seismic retrofit has been provided and the Portland office of the Corps is working to complete the project design, plans, specifications and estimates and prepare bid documents for the actual repair.

V. Availability of Other Funds to Support Project Costs

Other funding possibilities includes the Travel Oregon capital grant program and the Metro Open Spaces Bond Measure. These sources will be subject to a competitive application process which will be established at a future date. Grants from these funding sources could be used to improve the real property and buildings adjacent to the Locks which will be included in the transfer from the Corps. Improving access to the historic museum on the site and access to the Locks might also be the subject of potential requests for grant funding from these sources.

VI. Long-Term Sustainable Business Plan for Continued Operation and Maintenance

The Commission voted to recommend a business plan for the Willamette Falls Locks public corporation (the proposed Willamette Falls Locks Authority). Key provisions of the business plan include the following:

Transition and Repair Phase.

The first period of the business and operations plan is the transition period for transfer of the locks and for contracting for the repairs to the locks. The funding to establish and support the work of the Willamette Falls Locks Authority will be provided through contributions from public and private entities interested in seeing the Locks repaired and reopened to the public. Major contributors are expected to include local and regional government agencies and the marine and tourism industries. This model was successfully employed during the past two-year period to support the due-diligence work of the Willamette Falls Locks Commission created by SB 256 by the 2017 Legislature. Attached is a document showing local contributions for the locks over the past 5 years. Local governments, businesses and organizations have advocated for the repair and reopening of locks and supported the advocacy with direct contributions of over \$980,000 as well as in-kind contributions of staff time.

Upon passage of the public corporation legislation, the sole function of the Willamette Falls Locks Commission will be to support the public corporation (the Willamette Falls Locks Authority). Consequently, the funds remaining in the Oregon Solutions budget at Portland State would be used to support the establishment of the Willamette Falls Locks Authority, prior to the proposed sunset date of the Commission on June 30, 2021, and subject to state budgeting requirements.

Operations Phase.

Near Term. The recommendation for funding near-term operations of a restored and reopened Willamette Falls Locks is to directly charge those vessels passing through the locks as follows:

- A direct per ton charge for barging of commodities such as gravel, pulp and paper; it is estimated at this time a fee would be levied at about 35-cents per ton or \$450 per two-barge lockage.
- A direct per passenger fee for tour boat passengers, and motorized and non-motorized recreational passengers; it is estimated at this time a fee would be levied at about \$5 per passenger. Other examples are the Canby Ferry at \$5 per auto and the OH&SU tram at \$5.15 per passenger.

It is anticipated that operation will include (1) a summer season staffed to provide service to the recreational public and (2) establishment of a commercial operator certification process allowing commercial vessels (barges, tugs and tour boats) to pass through the locks throughout the year using their own “locks-certified” crew. This approach is designed to minimize operating costs while maximizing the benefits to the users.

Long Term. The recommendation for funding the long term and consistent scheduled operations for the reopened locks (which will result in the greatest benefit to economic development) is to implement a small increase to a broad-based fee to support operations of the locks. This would allow for access and use by the general public with staffing provided at the Locks during desired times, such as summer months and weekends. Options include the following:

- A small addition to the motorized and non-motorized boat licensing fee to pay for the lockage of recreational vessels
 - It is estimated, for example, that an additional fee of approximately 15 cents per foot to the statewide motorized boat licensing fee (currently being collected at the rate of \$5.95 per foot - as increased from \$4.50 per foot per legislation approved in the 2019 session) would provide adequate funding.
 - The Marine Board is expected to ask for legislative approval for an increase in fees in 2025 and this would be the appropriate time to include this small additional fee for operation of the Locks.
- A small addition to the Portland harbor marine fuel tax to pay for the lockage of commercial vessels (barges and tour boats).

Supporting documents are attached as follows:

- Willamette Falls Locks Authority Public Corporation Business Plan

- Local Contributions Toward the Willamette Falls Locks Effort.
- Letters of Conditional Financial Commitment from Local Governments, Organizations, Businesses, including:
 - XXX
 - XXX
 - XXX

Economic Development Support for Reopening the Locks and the Proposed Business Plan

There is strong and continued support for repairing and reopening the Willamette Falls Locks from a broad constituency of local and regional communities/government entities as well as private businesses and other entities interested in economic development. A sampling of that support is demonstrated by the correspondence attached.

List of Letters from Corporations/Entities Demonstrating Economic Development Opportunities:

- XXX
- XXX
- XXX