

BEFORE THE METRO COUNCIL

FOR THE PURPOSE OF SUPPORTING THE
REOPENING OF THE WILLAMETTE FALLS
LOCKS

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RESOLUTION NO. 14-4576

Introduced by Chief Operating Officer
Martha Bennett in concurrence with Council
President Tom Hughes

WHEREAS, On January 1, 1873, the Willamette Falls Locks opened to allow passage around the waterfall at Oregon City thereby providing access to a one river system; and

WHEREAS, in 1915, the Army Corps of Engineers purchased the Locks from the private operator thereby ensuring free public passage through the Locks; and

WHEREAS, in 1974, the Willamette Falls Locks were listed on the National Register of Historic Places; it was the first significant facility built to improve navigation on the Columbia-Snake River Inland Waterway system and through 1939, the most important; and

WHEREAS, in 1991, the Willamette Falls Locks were designated as a State Historic Civil Engineering Landmark by the American Society of Civil Engineers; and

WHEREAS, in 2006, Governor Kulongoski designated the Willamette Falls Locks as an Oregon Solutions project, and Metro joined in the formation of the Willamette Falls Locks Oregon Solutions Task Force which continues to the present as the One Willamette River Coalition coordinated by the Willamette Falls Heritage Foundation to preserve the Locks and support its continued operation; and

WHEREAS, on October 23, 2008, the Center for Economic Development Education and Research released a report under contract to the Willamette Falls Heritage Foundation, titled "*The Willamette Falls Locks: A Case Study Analysis of Potential Transfer Issues*;" and

WHEREAS, from 2006 through 2010, funding provided to the Army Corps of Engineers from the Oregon Department of Transportation, Clackamas County and the US Congress allowed for seasonal operations and selected structural upgrades, including \$2.2 million in funds from the American Recovery and Reinvestment Act of 2009 (PL 111-5); and

WHEREAS, in November 2011, the Willamette Falls Locks were placed into "non-operational" status and on short notice were closed to vessel passage based upon an engineering assessment that identified safety concerns of potential failure; and

WHEREAS, closure has placed a severe hardship on commercial, recreational, and tribal river users; and

WHEREAS, in March 2012, the National Trust for Historic Preservation declared the Willamette Falls Locks as one of the most threatened National Treasures, thereby providing added technical assistance; and

WHEREAS, in 2012, the Historic Preservation League of Oregon (now Restore Oregon) named the Willamette Falls Locks as one of its 10 "Most Endangered Places;" and

WHEREAS, an application is being prepared for designation of the area surrounding the Locks as a National Heritage Area by the National Park Service; and

WHEREAS, on September 23, 2013, Metro received notice from the Army Corps of Engineers of their intent to initiate a public consultation process under Section 106 of the National Historic Preservation Act to determine whether the closure action has an adverse effect on the historic integrity of the Locks based upon the defining qualities and features that made the Locks eligible for listing on the National Register of Historic Places; and

WHEREAS, on May 15, 2014, the Army Corps of Engineers released its finding of historic adverse effect under Section 106 of the Historic Preservation Act and announced its intent to develop an agreement to establish how to best “avoid, minimize or mitigate” the identified adverse effect to the historic character of the Locks; and

WHEREAS, in September 2014, ECO Northwest, under contract with the Willamette Falls Heritage Foundation, published the “*Willamette Locks Economic Potential Report*,” providing information on potential operating costs and community benefits of re-opening the Locks; and

The non-operational status of the Locks has rendered the Willamette river non-navigable above Willamette Falls; and

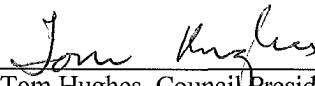
WHEREAS, the Locks are a primary historic asset under applications being prepared for designation of the area at the Willamette Falls as State and National Heritage Areas; now therefore

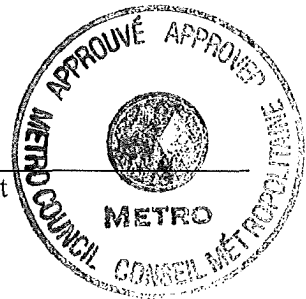
BE IT RESOLVED

1. The Metro Council urges the Corps of Engineers to expedite the needed rehabilitation of the Willamette Falls Locks and re-open the Locks to general public commercial, recreational and cultural marine traffic.
2. The Metro Council thanks the Corps of Engineers for working with local stakeholders to assess and determine how to mitigate the adverse effects of the closure and urges the Corps of Engineers to craft a plan for sustainable operations of the Locks.
3. The Metro Council supports recognition of the Willamette Falls Locks rehabilitation and re-opening in the Regional Transportation Plan and inclusion of the Willamette Falls Locks project as a Metro/JPACT priority for federal funding.
4. The Metro Council supports creation of a State Task Force to work with the Corps of Engineers to develop a plan for sustainable operations of the Willamette Falls Locks.
5. The Metro Council urges the Oregon Congressional delegation to support the expedited repair and reopening of the Willamette Falls Locks.
6. The Metro Council may support the formation of an intergovernmental workgroup to identify federal and other sources of funding for the repair, reopening and operation of the Locks, develop a plan for the sustainable operation of the Locks, and recommend governance models for the transfer, lease, partnership or management of the Locks to a local, regional, state or other entity.
7. The Metro Council may make recommendations to the United States Army Corps of Engineers relating to its responsibilities under the National Historic Preservation Act of 1966, including the Section 106 process, assessment under the National Environmental Policy Act of 1969, the Corps DSAC-1 expedited investigation and other applicable studies.


8. The Metro Council supports the rehabilitation of the Locks as an integral part of the State and National Heritage Area at Willamette Falls.

ADOPTED by the Metro Council this 11th day of December 2014.


Tom Hughes, Council President



Approved as to Form:


Alison R. Kean, Metro Attorney

STAFF REPORT

IN CONSIDERATION OF RESOLUTION NO. 14- 4576, FOR THE PURPOSE OF SUPPORTING THE REOPENING OF THE WILLAMETTE FALLS LOCKS

Date: October 13, 2014

Prepared by: Andy Cotugno, xt. 1763

BACKGROUND

Metro has been a member of the One Willamette River Coalition (the Coalition) since 2006, which was formed to advocate for the continued operation of the Willamette Falls Locks. The Locks were opened in 1873 and for the next 65 years operated as the most significant navigational facility on the entire Columbia-Snake River Inland Waterway System. In more recent decades, the traffic through the Locks (agriculture products, timber floats, paper, gravel, marine construction equipment, ferries, etc.) has dropped dramatically while the construction of the dams on the Columbia and Snake Rivers has resulted in river traffic through those Locks increasing dramatically. Under Congressional directive, the U.S. Army Corps of Engineers (the Corps) is obligated to prioritize its resources toward the highest tonnage facilities, resulting in considerable disinvestment and deterioration of the Willamette Falls Locks. As a result, there have been periodic closures or limited operation since 2002 and permanent closure due to safety concerns in December 2011. The shift of the Locks to non-operational status in 2011 was carried out by the Corps through a “Dam Safety Action Class – 1” (DSAC-1) designation. This is the Corps’ most serious safety designation based upon the facility being near failure with high risk of life or economic consequences. Under this designation, the Corps is required to take immediate action to avoid failure, implement interim measures to reduce risk (including closure) and expedite investigations to support justification for remediation using all resources and funding necessary. In addition, the Corps is not allowed to transfer out of their ownership facilities with a DSAC-1 designation.

For a period after its formation in 2006, the One Willamette River Coalition was quite successful in securing funds to rehabilitate certain components of the Locks system and provide for periods of limited operation, including \$2.2 million in funding from the American Recovery and Reinvestment Act of 2009 (commonly referred to as the Stimulus Bill). However, in more recent years, with the loss of Congressional earmarks, special funding toward the Locks has dried up.

Following the closure of the Locks in 2011, the National Trust for Historic Preservation declared the Locks one of their most threatened National Treasures; bringing substantial technical and legal assistance to the Coalition. At the urging of the Coalition and the National Trust, the Corps concluded that its emergency closure for safety reasons should be evaluated for its adverse effect on this facility under Section 106 of the National Historic Preservation Act. Under that process, the Corps has determined that the continued closure and disinvestment is having an adverse effect based upon three criteria set out in the Act:

1. Elimination of the navigational function of the Locks and the isolated nature of the Locks location results in a loss of public awareness and understanding of their significance;
2. Continued disinvestment and degradation will negatively impact the historic architectural and engineering qualities of the Locks and undermines the Corps obligation under the Historic Preservation Act to “preserve” the facility;
3. Closure has resulted in an impact on the traditional culture and education practices of Native Americans by limiting their ability to use a canoe journey.

Based upon this finding of adverse effect, the Corps is now in the process of consulting with the community on methods to “avoid, minimize or mitigate” the adverse effects. This process will result in a Memorandum of Understanding on actions necessary to comply with and complete the Section 106 proceedings. The preferred method of mitigation to the One Willamette River Coalition is the rehabilitation of the Locks to allow them to reopen for continued operations for freight/commercial and personal movement around the Willamette Falls. While negotiations with the Corps are on-going, discussions to date suggest that the best path is to seek federal funds for the rehabilitation and seek a local party to transfer the Locks to and take over operations. While the rehabilitation may mitigate the historic impact by stopping continued deterioration, it will not alter the Corps fundamental directive from Congress to prioritize the Corps’ funds consistent with tonnage, leaving the prospect of continued operations by the Corps unlikely. In addition to this transfer option, consideration is also being given to the option of leasing the facility and partnering with the Corps under their ownership and operation.

As part of this negotiation process, the One Willamette River Coalition commissioned the attached economic potential report by ECO Northwest (Attachment 1). It provides economic benefit information about the potential users of a re-opened Locks system and a range of operating costs to consider as part of determining who the local operator should be and how the operating costs are to be funded. Attachment 2 is an interactive operating cost calculator allowing the user to determine the annual operating cost taking into consideration assumptions relating to duration of service (from 3-12 months of the year), the amount to budget for deferred maintenance and future capital improvements (up to \$250,000/year and \$150,000/year respectively), and the level of contingency for which to budget (from 5-30%). The potential range of annual operating cost is from \$215,000/year (for 3 months of service and minimal reserves and contingency) up to \$1.2 million/year (with 12 months of service and healthy contingencies and reserves).

This resolution of support is important as a demonstration to the Corps of widespread community interest in the rehabilitation and re-opening of the Locks.

ANALYSIS/INFORMATION

- 1. Known Opposition:** None
- 2. Legal Antecedents:** The Locks is owned and operated by the US Army Corps of Engineers and must comply with Corps policies. The historic adverse affect of closure is being evaluated by the Corps of Engineers under Section 106 of the Historic Preservation Act. Designation of the Willamette Falls National Heritage Area requires an authorizing act of Congress and would be administered under the National Park Service, providing access to technical and financial assistance.
- 3. Anticipated Effects:** Continued negotiations with the Corps; continued evaluation of options for rehabilitation, re-opening or local transfer and operations.
- 4. Budget Impacts:** Metro has continued to maintain a membership in the One Willamette River Coalition at a cost of \$1,500 per year. Metro made a one-time contribution toward the economic potential study of \$8,000.

RECOMMENDED ACTION

Adoption of Resolution No. 14-4576