



## MEMORANDUM

**To:** Willamette Falls Legacy Project Partners Group

**From:** Technical Advisory Committee

**Date:** Aug. 24, 2016

**Re:** Whitewater park proposal recommendation and analysis

**Recommendation Summary:** The Technical Advisory Committee recommends proceeding on time and budget with the riverwalk project. The TAC also recommends rejecting full integration of a whitewater park into the public project (Scenario 1), and remaining open to Scenario 2 with the whitewater park as a parallel but separate project with no added cost to the Legacy Project. Regardless of the outcome, riverwalk design will include investigation of non-whitewater kayaking opportunities (Scenario 3).

### EXECUTIVE SUMMARY

The Willamette Falls Legacy Project is designed to reconnect Oregonians with one of the state's most spectacular natural treasures, while supporting Oregon City's vision for a vibrant economy and thriving downtown. To honor that commitment, we must ensure that the project stays on budget, on time and within scope while we deliver the first piece — a public riverwalk along the banks of the Willamette. We must also stay true to the project's core values: public access, healthy habitat, historic and cultural interpretation, and economic redevelopment.

Over the past few months, the project team has used this foundation to evaluate a request by the nonprofit organization We Love Clean Rivers to construct a professional-caliber whitewater channel. The channel would create a series of rapids for kayakers and rafters, though the location, funding source and future ownership have not been identified. This idea demonstrates the power of Willamette Falls to capture Oregonians' imagination, and we all share advocates' excitement about connecting people with nature.

Legacy Project partners remained united in their work to make the most of Willamette Falls on behalf of Oregon City and all Oregonians. They have slightly different perspectives about how to navigate this intriguing, but complex idea for a whitewater park. Partners agree that Legacy Project funding should not be used to study a developed whitewater park, and that we should stay on time and on budget as we provide public access to Willamette Falls. However, there has not been consensus about whether to

leave the door open to integrating a developed whitewater park into the public project. The Clackamas County Commission provided direction to their representatives on the Partners Group to proceed with the riverwalk project as planned, considering ways to support kayaking as an activity – but deferring to Metro and Oregon City. The Metro Council also offered direction to its representatives to proceed as planned. Both bodies said that financial, logistical and compatibility questions about a developed whitewater park were too substantial to risk delaying the delivery of a public riverwalk. After hearing public comment, the Oregon City Commission voted to keep alive the possibility of a developed whitewater park on the site. Staff’s assumption is that the Oregon City representatives to the Partners Group will bring that direction to the next Partners Group meeting. City Commissioners were enthusiastic about the potential for a whitewater park to bring people and businesses to their downtown.

Given this context, the Willamette Falls Technical Advisory Committee has refined the three scenarios originally presented, in an attempt to provide as much clarity and transparency on this decision as possible, and recommends proceeding with riverwalk design as planned without any further delay. Fundamental questions would need to be answered to seriously consider constructing a developed whitewater park. If We Love Clean Rivers, the private property owner and any other partners identify funding to study the feasibility, the project team will provide information just as we might for other potential uses, such as hotels, shops or offices. This memo lays out the minimum criteria that advocates would need to address to demonstrate the viability of a whitewater park. With that information, the Partners Group could decide whether to incorporate a developed whitewater park as part of the public riverwalk.

## BACKGROUND

The Willamette Falls Legacy Project centers on two tightly intertwined but separate initiatives, each critical to the success of the other: the creation of an overall development strategy for the 22-acre site owned by Falls Legacy LLC, and the design and construction of a public riverwalk on a portion of the site. The creation of a riverwalk will open up Willamette Falls to the people, allowing residents and visitors alike a close-up view of the second largest waterfall by volume in North America.

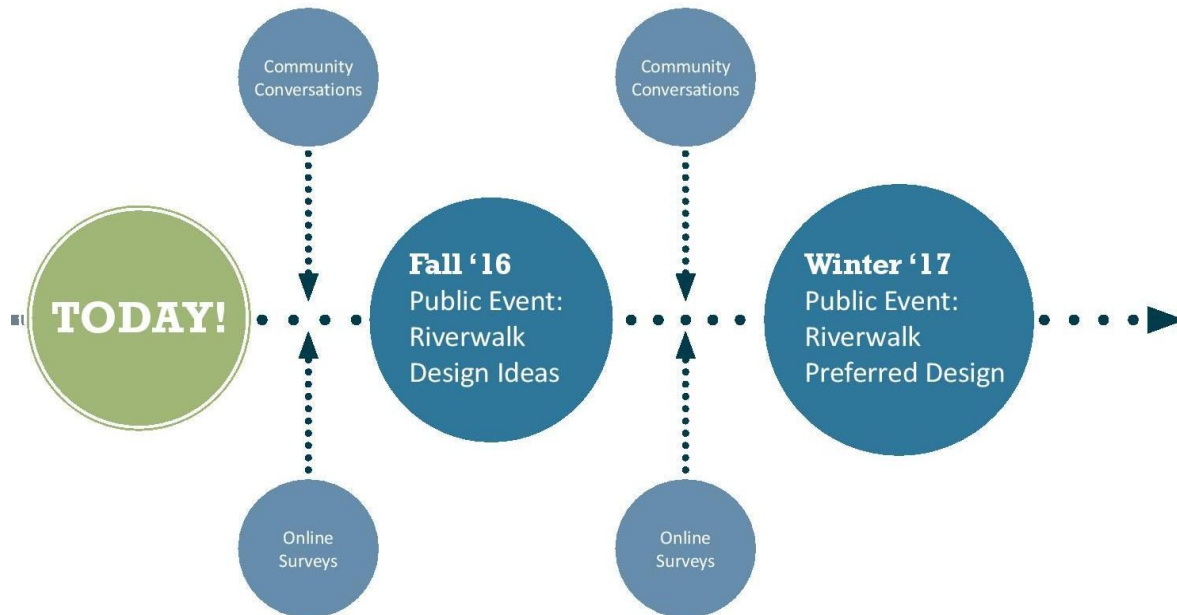
This work builds on more than three years of community engagement in Oregon City and throughout the greater Portland region. Over this time, the Willamette Falls Legacy Project has heard from thousands of Oregonians and dozens of stakeholder groups about their vision and goals.

The riverwalk project focuses on a portion of the former Blue Heron site where Metro has acquired an easement to preserve habitat and provide public access. Funding for the riverwalk project comes from Metro’s 2006 Natural Areas Bond Measure, which must be used for these purposes as well.

As work on riverwalk design continues, various programming ideas that were identified by the public are being considered, including kayaking, ceremonial space for Native American tribes, performance spaces, education centers, boating and fishing. The core values are the primary lens used to assess

programming, followed by important considerations such as technical feasibility and cost, to ensure that public funds dedicated to the project are spent responsibly and meet the original intent.

The riverwalk project timeline, shown below, lays out next steps: design ideas will be presented in fall 2016 and a preferred design is anticipated to be reviewed in early 2017.



### Whitewater park proposal

Earlier this year, We Love Clean Rivers, a local nonprofit organization, developed a whitewater park concept and requested that it be considered as a site element. The concept, a constructed water channel that could serve as a professional-caliber whitewater kayaking facility, is a conceptual idea with many unknowns, including location and size, cost, feasibility and future ownership.

Falls Legacy LLC, the owner of the Willamette Falls Legacy Project site, is intrigued by the concept of a whitewater park in general — and has neither included nor excluded it in plans for private development.

As the body charged with guiding the project, the Willamette Falls Legacy Project Partners Group is responsible for making a decisions related to the project scope, schedule and budget within the parameters of the authorized funding sources identified in the intergovernmental agreement. Under the binding agreement approved by all the Partners, any such decision must be unanimous.

Partners could look to whitewater parks throughout the country and the world for ideas and lessons. However, many existing parks do not face some of the complexities we are navigating at the former Blue Heron site, including its location adjacent to a working dam, its construction on top of solid basalt and the presence of endangered fish species in the river. A great deal of work would be needed to determine whether a whitewater park is viable in this location.

## Partners group direction

The Partners Group held a work session during its meeting on July 11 to discuss the whitewater park proposal, followed by an opportunity for members of the public to submit written comments. During the work session, Partners Group members clearly stated they wanted to avoid creating delays or incurring additional costs to the riverwalk project, as well as avoid losing focus on the primary goal of providing public access to Willamette Falls. Some members also voiced other concerns, such as whether a whitewater park attraction could draw sufficient funding and permits to move from vision to reality and remain a viable long-term business. Other comments included the opinion that a whitewater channel could and should be developed privately, and the observation that most funding for the riverwalk comes from public sources — currently restricted to creating basic public access to the falls and restoring habitat. Other members spoke in support of building a whitewater channel to boost tourism and economic development, but said they thought Willamette Falls was not the right place for it.

The Partners also agreed to accept public comments during a two-week window after the work session and before their eventual decision. Legacy Project staff received a total of 81 emailed comments. Many comments were in support of a whitewater park, and a few raised concerns about the proposal. While some of the comments came from Oregon City residents, over half of the comments were from individuals who live elsewhere in the region or state; many of them kayaking enthusiasts excited about a place to practice kayaking close to home. Some of the supportive comments came from organizations as well, including the Oregon City Business Alliance, the Portland Kayak and Canoe Team, and the Oregon Sports Authority. The full set of comments is provided as a separate document.

At the work session, the Partners Group clarified that staff should focus efforts on making progress on the riverwalk and avoid spending significant time on further analysis of the whitewater park proposal. The Partners also agreed that each agency should bring the item to its board or commission for direction. The Metro Council and Clackamas County Commission agreed at separate meetings to include kayaking as a potential activity while moving forward with riverwalk design, without including a whitewater channel. Subsequently, the Oregon City Commission discussed the whitewater channel proposal at a meeting and agreed that the project should keep the door open to allow for a potential whitewater park.

## RECOMMENDATION

The Technical Advisory Committee has clarified the three scenarios originally presented, taking into consideration direction from the Partners Group to avoid delays or additional costs to the riverwalk project — as well as Oregon City's desire to keep the door open for a whitewater park. In all scenarios, the riverwalk design process will investigate opportunities for water access for kayakers, such as portage trails and put-ins. This has always been part of the scope of work, especially considering the enthusiastic public support for kayaking access. The TAC recommendation is based on direction from the Partners

Group and their governing bodies, recent conversations with We Love Clean Rivers, and discussions with Falls Legacy LLC.

As a reminder, Scenario 1 combines the whitewater park and riverwalk together, and the whitewater park becomes part of the public project. This scenario has been ruled out due to lack of funding and delays that could put the riverwalk project funding in jeopardy.

Scenario 2 keeps the riverwalk and whitewater park projects separate, but parallel. The riverwalk can move forward, and We Love Clean Rivers can continue whitewater park feasibility investigations. If feasibility studies show that a whitewater park is viable, then the Partners could consider integrating it into the riverwalk in the future. There is no deadline for feasibility work; integration is possible at any phase, but with varying costs.

If feasibility studies show that a whitewater park is not viable, then scenario 3 would proceed with only the riverwalk.

The updated decision matrix is attached to this document to reflect the clarifications that have been made during the last few weeks. The Technical Advisory Committee recommends proceeding as planned on the riverwalk, and sharing all available information with We Love Clean Rivers if they decide to study the feasibility of a whitewater park using other funds. This approach is described in scenario 2.

If requested, project staff would share technical investigations, studies, design ideas and decisions that might inform an independently funded feasibility study for a whitewater park. The same is true for any other compelling investment proposal that helps realize the four core values and activate the site.

Under this recommendation, the Partners may consider future integration of a whitewater channel if an alignment that fits successfully into the riverwalk is identified, and if a whitewater park proves to be a legally, technically and financially viable project. The feasibility investigations would need to address the following key questions, many of which also apply to the riverwalk:

1. Demonstration of water rights, including how much water is needed and available for use, and how rights would be obtained.
2. Demonstration of compliance with state and federal requirements for migratory fish.
3. Design and alignment options that are consistent with the adopted framework plan, Oregon City land use code and conditions of approval for Oregon City land use file CP 14-02.
4. Demonstration of legal control of property necessary for project construction, with necessary easement or pre-development agreements with related parties.
5. A credible finance plan for funding design and construction.
6. A strategy for defining ownership and operations of the facility, and legal analysis of liability and contingencies in the case that projections are not realized.
7. Agreement with Portland General Electric about necessary access above and below the falls (e.g. kayaking in the intake basin).
8. Addressing Federal Energy Regulatory Commission requirements and other PGE safety concerns.

9. Support from the tribes, and demonstration that the project protects or enhances their vision for the falls.
10. Floodplain impact analysis.

The TAC also suggests that We Love Clean Rivers begin the initial steps of the development review process in Oregon City to further inform feasibility work.

Willamette Falls riverwalk and whitewater kayaking scenarios | Decision-making considerations

SCENARIO	Core concept →	Design phase →→→		Construction and operations	
	Four core values Does this approach support core values of public access, healthy habitat, economic redevelopment, and historic and cultural interpretation?	Design cost and schedule Who bears the cost of design?	Core requirements Is the project feasible in terms of water rights, easements, safety and permitting?	Capital costs Are capital construction costs funded?	Operations Is there a funding source for operations and maintenance?
<b>Scenario 1: Whitewater park becomes part of public project</b> Fully integrate the proposed whitewater kayak park as part of the public project, slowing down to secure additional resources and answer questions.	Consensus has not been reached. Some partners and stakeholders have concerns about the impact of a whitewater park on habitat and cultural elements. Whitewater park supporters believe that the proposal supports the core values.	Because public funds are restricted and cannot cover the cost of investigating a whitewater park, riverwalk design would be put on hold to secure additional funding and consultant staff, which could put the whole project in jeopardy. <div>STOP</div>	The site is complex. Significant questions would need to be answered to determine the feasibility of a whitewater park.	We Love Clean Rivers estimates whitewater park construction costs of \$9 million. This estimate has not been vetted by Legacy Project staff. A funding source has not been identified.	An owner, along with funding, would need to be identified to operate and maintain the proposed whitewater park.
<b>Scenario 2: Whitewater study continues as a parallel process, avoiding riverwalk costs and delays</b> We Love Clean Rivers could conduct a feasibility study for the whitewater kayak park. If investigations show the park is viable, the Partners could consider accommodating it within the riverwalk.	The feasibility study would need to address concerns that have been raised about the impact of a whitewater park on the project's four core values.	We Love Clean Rivers could conduct feasibility studies, using funding from a source outside of the Legacy Project, while riverwalk design progresses. There is no deadline for feasibility work; the whitewater park could be integrated in any phase.	The site is complex. Significant questions would need to be answered to determine the feasibility of a whitewater park.	As part of the feasibility study, resources would need to be identified to construct the proposed whitewater park.	As part of the feasibility study, resources would need to be identified to operate and maintain the proposed whitewater park.
<b>Scenario 3: Whitewater park is not included in riverwalk.</b> Continue riverwalk process as planned, incorporating ideas we heard such as kayaking opportunities, portage trails to access the river, and water trail connections. A whitewater park would not be included in the riverwalk.	The riverwalk design is on track to put the project's four core values front and center.	The approved riverwalk design budget includes designing for water access. The riverwalk team anticipates presenting design concepts in fall 2016 and a recommended design option in winter 2017.	The site is complex. Investigations are underway as part of the riverwalk design process to determine what kayaking opportunities are feasible on site.	Over \$19 million has been raised for the first phase of the riverwalk, and additional funding will be sought once a preferred design is selected.	Riverwalk design will include an operations and maintenance plan.

Go  Needs additional study  Do not proceed

## RESEARCH INFORMING DECISION MATRIX

In an attempt to provide useful information to the Partners, the TAC conducted some preliminary meetings and investigations. Please note that the information provided below is not definitive findings, and does not represent in any way a definitive analysis of whitewater feasibility. Most of this content was already collected or underway prior to the July 11 Partners Group meeting. Based on direction from the Partners, staff refrained from spending the time and consultant fees needed to collect and analyze additional information.

### **Four core values**

Determining whether the whitewater park, or any other developing proposal, is a match for the four core values is by its nature a subjective exercise. Under the intergovernmental agreement among the four governments, the Partners are the final arbiters of this standard. It is also possible that a proposal may be a theoretical match for the values but may turn out not to be so in practice after additional discovery. For instance, it might turn out that the impact to one core value significantly outweighs any benefits to the other values.

There has been a diversity of opinion among the partners as to whether the whitewater proposal is a match for the four values. The TAC recommends to the Partners that it has sufficient potential to offer benefits for public access and economic development that it is eligible for feasibility analysis.

If We Love Clean Rivers brings a feasible whitewater park plan to the partners for integration in the riverwalk, it would need to be evaluated again against the four core values to make sure that it delivers sufficient benefits and minimizes any potential harm to any of the four values.

### **Cost and schedule**

According to We Love Clean Rivers, the construction cost of the current concept is \$9 million, and soft costs (design and engineering) are estimated to be 11 percent of total costs. We Love Clean Rivers has also stated that to add the channel into design, \$250,000 to \$300,000 would be needed. Based on an initial review, the project design team led by Snøhetta believes this is an underestimate. Further scoping would be needed to achieve a fully vetted cost estimate.

In Bend, \$9.6 million was spent on a whitewater park project (\$8.5 million of public funding and \$1.1 of private fundraising). The project was originally estimated around \$5 to \$6 million in a larger bond measure proposal.



Identified funding for the riverwalk is not approved for spending on design for a professional-caliber whitewater park.

The design team estimates that were the Willamette Falls Legacy Project to suspend design and wait for We Love Clean Rivers to conduct feasibility studies, the riverwalk design process would be delayed by at least several months, if not more than a year, putting the project's state funding in jeopardy.

## **Core requirements**

As part of its evaluation of the whitewater park concept, the TAC conducted early investigations of some of the criteria that would ultimately be necessary for integration of the two parallel projects. These assessments are shared below for your consideration, and for the benefit of future work by We Love Clean Rivers.

### Tribal opinions

Staff met with members of the Columbia River Intertribal Fish Commission in May 2016 for a site tour. Representatives included members of Yakama, Warm Springs, Umatilla and Nez Perce tribes. Individual members expressed concerns about a whitewater channel on the site from the standpoint of respect for tribal culture and fishing practices. Willamette Falls is a site of cultural significance for several tribes.

### Oregon Department of Fish and Wildlife opinion

Staff did not request an official statement from the Oregon Department of Fish and Wildlife, but project staff did have a brief meeting with them, and they participated in one of the focus group meetings in July. Staff learned that new flows of water introduced on the Oregon City side could be problematic for fish migration. Salmon are currently directed toward fish ladders on the West Linn side of the river, and ODFW has no plans or interest in adding fish ladders for salmon on the Oregon City side. Significant flows of water, such as a whitewater channel outfall, attract fish and would detract from fish passage toward the existing fish ladders.

### Water rights

Water rights are not currently in place. Staff did not fully investigate the feasibility of obtaining water rights, but can provide some preliminary information that We Love Clean Rivers and PGE have shared with us:

- The whitewater park would need to apply for a junior water right, meaning their right can be exercised only after the senior water right holders have used their flow. The current priority for water flow in the Willamette is first for fish, then for power generation, and last, for recreation.
- There would need to be water flow at Willamette Falls in excess of the needs of the pre-existing water rights located there. During most of the year this would not be a problem, but during low-flow periods the vested water rights at the falls could leave little water

flow left for the whitewater park. For example, during July, PGE's vested water rights can exceed the actual flow of the river.

- Water right and use thereof would require approval and cooperation from PGE and the Oregon Department of Fish and Wildlife.
- Once a water right permit is issued, the applicant normally has five years to "prove-up" their water right by building the infrastructure and actually using the water (in volume and purpose) as described by the permit.
- According to We Love Clean Rivers, 300 to 500 cubic feet per second (cfs) of water would be needed to operate the channel as desired.

#### Dam safety

Based on direction at the July 11 Partners Group meeting, staff did not fully investigate this, but did learn the following from Portland General Electric: PGE has reviewed four potential designs for the whitewater park. There is one design that PGE does not object to as it is outside of the Federal Energy Regulatory Commission boundary for the TW Sullivan hydroelectric generation project at the falls. Such a park cannot create a situation where there is no physical barrier between recreationist and dam structures above or below the dam spillways and structures, or put members of the public in the direct path of any controlled or uncontrolled release of water to areas below the dam.

#### Property control

Falls Legacy, LLC has written support letters for We Love Clean Rivers to obtain grant funding for the whitewater park study. The owner is intrigued by the idea of a whitewater park as an active use and tourism driver. However, Falls Legacy has not contributed funding to the effort, and understands that existing riverwalk funding is limited to providing public access to the falls and restoring habitat and the current public easement is not applicable to a whitewater park. Falls Legacy LLC could consider the idea independently (as it could consider any private development proposal on Falls Legacy LLC's private property) as part of future development on the site, but would also have to negotiate a new easement with We Love Clean River for this purpose. Easement rights would also have to be negotiated with the Partners where it intersects with the existing riverwalk easement.

### **Construction and operations**

#### Finance plan for construction

Based on direction at the July 11 Partners Group meeting, staff did not fully investigate construction funding. After reviewing the information from We Love Clean Rivers, the design team responded that given the complexity of the site and the necessary demolition and excavation required for a whitewater park and/or channel, the \$9 million hard construction cost and 11 percent design cost assumption referenced in the reports are likely underestimated. We Love Clean Rivers has suggested that public bond measures, private fundraising, and tourism grants could fund the project. At this time no specific funding source has been identified. We expect that fundraising for the whitewater park may be targeting the same sources of funds that will be sought to implement future phases of the riverwalk.

#### Ownership, operations and maintenance plan

We Love Clean Rivers has suggested a facility could be owned and operated by Falls Legacy or a private owner, or could be publicly owned and operated. In either case, there would likely be a fee for entry. A fee-based model is typical for most heavily maintained outdoor activities and sites, whether it be whitewater centers, climbing gyms, campgrounds, park fees, ski resorts and Nordic ski centers, lift-served mountain bike parks, etc. However, if the whitewater park is developed more like a community park paid for out of public funds, then conceivably it could be free for the public to access. Limited staff research has indicated that most whitewater parks in the country operate with public subsidy.

WFLP project staff interviewed staff at the Bend Parks and Recreation District in May and learned about the whitewater park development on the Deschutes River. Bend's whitewater park, which consists of four waves in the river that are free and open to the public, is operated by the Parks and Recreation District and requires 1.5 full-time-equivalent staff, in addition to park rangers, communications and facilities staff who spend significant time working on site.