



Oregon's Efforts on Infrastructure Integration and Innovation **Overview Memo**

Recent studies indicate that there is a \$1 trillion need for infrastructure on the west coast in the next 30 years and declining federal support. A 2008 study on infrastructure for the Portland area alone found a gap of over \$20 billion.

Experts note that there is in fact private and institutional capital out there to help close these financing gaps; what is missing is the right mechanics to attract such investment. The key to growing a better pipeline of investable, innovative infrastructure projects is stronger local and state technical assistance, regulatory innovation and reforms in how governments conduct capital facilities planning.

To address these gaps, the state of Oregon has begun a process to integrate Governor, Treasurer and agency efforts around infrastructure acceleration and capital facilities planning. This summary memorandum outlines where the State began, where it is so far in the process, and where it hopes to go.

I. Summary Timeline of Major Activities

- In September 2011, the Oregon Office of Multi-State Initiatives was created to lead efforts in the Governor's office to develop innovative performance partnerships, regional infrastructure finance mechanisms and grow a pipeline of innovative projects.
- Recognizing the need for multi-state infrastructure initiatives and the efficiencies that would derive from regional cooperation, the Governor and Treasurer of Oregon convened a meeting in November, 2011, of regional partners from the States of California, Washington and Oregon to explore the creation of regional financing mechanisms. This later led to the formation of the West Coast Infrastructure Exchange (www.westcoastinfrastructure.org)
- In April 2012, a joint Governor-Treasurer Infrastructure Staff Work Group was formed to make a series of initial recommendations about what the State needed to do to raise its game in-state and begin to screen for pilot projects to learn by doing.

- This was followed up with an Executive Order (http://www.oregon.gov/gov/docs/executive_orders/eo_12-17.pdf) issued on November 14, 2012 that among other things, called for reforms in the state's capital facilities planning process, an examination of new performance-based infrastructure partnerships, and expressed an intent to consider the formation of an entity to concentrate performance infrastructure expertise in the State. Such a center would, among other things, help develop standard life cycle cost analysis of all major State capital spending on infrastructure and enable the bundling of smaller innovative projects to help local governments engage private capital.
- In November 2012, the Work Group began developing specific options for the proposed center of expertise in Oregon and screening project pilots to demonstrate the model with an outside team composed of Sarah Clark and Susan Tinker of Partnerships British Columbia (supported by a generous Living Cities grant) and Karen Williams of Carroll Investments (working under contract to the Governor's office).
- A major progress briefing was conducted on February 27, 2013 for senior staff in the Governor's office, the Department of Administrative Services and several state agency directors at which time the following were presented:
 - a proposed five-year business plan to create a "Partnerships Oregon" entity modeled after the successful Partnerships British Columbia (Partnerships BC)
 - recommendations regarding the next phases of activity from February-June 2013
 - Proposed 2013-2015 outcomes.
- At the same time, the Work Group has testified before key committees of the Oregon legislature to move forward on plans to consider the implementation of these initiatives. The primary bill governing this work, now under consideration, is HB 2345.
- Lastly on the regulatory innovation front, the Governor's Office is working with the Office of Management and Budget (OMB) on President Obama's Executive Order 1364 – Improving Performance of Federal Permitting and Review of Infrastructure projects. As announced by the White House on February 25, 2013, the OMB has detailed someone to Oregon for the next six months to work with the State Regional Solutions team¹ to accelerate some early infrastructure wins in Oregon, including two transmission projects and our Columbia River water projects.

¹ Regional Solutions Centers are places of collaboration where state agencies, local governments and other public, private and civic stakeholders meet to address regional problems. Regional Solutions Centers are staffed by representatives of each of five State agencies.

II. System Innovations We Need

The schematic below outlines where Oregon is in its efforts to build out new systems for innovative and investable infrastructure on three levels:

- The creation of an independent project unit / center of infrastructure expertise to ensure that major state infrastructure projects consider life cycle costs and risk transfer to the private sector, and have thorough business cases capable of attracting outside capital.
- Smart implementation of the Governors' Executive Order 12-17 to fund bundling capacity for small projects.
- A West Coast Infrastructure Exchange supported by jurisdictions to facilitate regional project development and accelerate best practices across the states. Work on this initiative to date has been funded by the Rockefeller Foundation.

Oregon Infrastructure Acceleration

| Innovation Opportunity | Status | Next Steps |
|--|--|--|
| <p>Innovation Opportunity 1 Big state and local projects (>\$20 million) that need to get screened to see if there is a full business case to justify and attract private capital.</p> | <p>April 2013 Working with Partnerships BC, Oregon Governor's office innovation team has completed business planning for creating a similar entity and center of expertise in Oregon. Phase 1 budget is under review in legislature. Funded by Living Cities grant.</p> | <p>Formally create Oregon Partnerships entity.</p> |
| <p>Innovation Opportunity 2 Bundles of smaller projects (<\$1-5 million) that need to be grouped together into investable pools and products. (eg. Columbia River Water, Wastewater, LED/Municipal Lighting)</p> | <p>Spring 2013 Oregon infrastructure innovation team is screening projects for bundling efficiencies under Governor's Executive Order 12-17.</p> | <p>Create a state project bundling unit.</p> |
| <p>Innovation Opportunity 3 Major regional projects can only be advanced through innovative efforts like West Coast Infrastructure Exchange.</p> | <p>April 2013 WCX hires Exchange Manager. WCX advocates for regional pilots under proposed national infrastructure legislation and through the President's Partnership to Rebuild America.</p> | <p>Partnerships Oregon joins WCX.</p> |

III. The Procurement Innovation Oregon Needs – Performance-Based Infrastructure

To be clear, when infrastructure can be successfully financed and built through traditional methods, it should be. But closing a multi-billion gap in Oregon’s future community infrastructure investment needs will require changes in *some* procurement systems for *some* kinds of projects. The need for capital is far too great to rely solely on traditional public sources. The question is how to go about that in the right way. A number of Oregon officials think the best pathway to success will come in creating a new approach called “performance-based infrastructure” (PBI).

PBIs are different than so-called PPPs (“public-private partnerships. Infrastructure PPPs in the United States have frankly come to mean so many different things to different stakeholders, that the term is no longer a helpful descriptor. To important stakeholders in Oregon and including organized labor, PPPs suggest privatization of public assets.

The Oregon plan for performance-based infrastructure (PBI) represents an effort to clarify the type of partnership procurement process that it believes is appropriate. The Governor strongly supports public infrastructure and the State is working closely with national and labor stakeholders to ensure that the development of any new performance-based approaches for building public infrastructure increases the importance, funding and visibility for funding project maintenance, and strengthens high road contracting standards and project quality. To that end, the state's innovative infrastructure team is currently reviewing and gathering best practices and model language, which are included on the project’s summary flash drive.

Oregon’s proposed innovation pathway is a method of procurement in which the project is bid based on performance outcomes and life-cycle performance. Prospective teams of private parties will design, build, finance, and assure performance of the project over a long-term contract, typically up to 30 years. The construction capital should be an optimized blend of public and private sources, so that the private team has capital at risk while the overall cost of financing is optimized. The public sponsor will continue to own the project and deliver the services it provides. It is not necessary to impose fees or tolls for this method of procurement, though if a sponsor chooses to do so, the sponsor remains in control of the assessment and receives the revenues. Projects remain public works in order to ensure that prevailing wage and other high-road public contracting characteristics are retained.

Oregon’s program is not a plan to transfer existing infrastructure to a private operator in exchange for a net present monetization of a project’s revenue stream.

Traditional infrastructure development methods result in the public project owner retaining almost all of the risks of project design, construction, financing, and maintenance. The most traditional method is design-build or design-bid-build, in

which a design is prepared and released for least-cost construction bids.

Designing and constructing for the least cost at the time of construction drives decisions that, for some projects, would be made differently if the goal of the project team was to design and construct for the greatest overall value, including cost of maintenance for a contemplated life-cycle of the project.

The purpose of Oregon's innovative infrastructure program is to develop and institutionalize the skills necessary to identify projects for which performance-based, life-cycle contracting will bring greater value for the taxpayers' money, and to have the same center of infrastructure expertise use best practices to evaluate risks that are best managed by the private sector for highest economic efficiency. When performance-based contracting and negotiated risk transfer will provide higher value, the role of the proposed "Partnerships Oregon" state center of expertise would be to assist the sponsor agency in managing an RFI / RFP process, negotiating and pricing contracts, and implementing the project.

Structuring transactions with appropriate and well-priced risk transfer to leverage taxpayer investment in public infrastructure in this manner requires a unique skill set not currently available in Oregon and most other U.S. jurisdictions.

Private service providers—designers, constructors, financiers, and those who preserve the operating condition of infrastructure projects—are willing to participate in projects if the sponsor is knowledgeable about structuring transactions, has a predictable business and political decision-making process and the sophistication to enter a transaction that is compatible with the needs of the private participants. Studies such as the Brookings / Rockefeller Project on State and Metropolitan Innovation report, *Moving Forward on Public Private Partnerships: U. S. and International Experience with PPP Units*, December 2011, confirm that establishing a specialized center of expertise which is distinct from any individual unit of government and supports procurement efforts in the jurisdiction is the best practice.

Oregon intends to follow the example of Partnerships BC whose board of directors is made up of persons with high subject-matter expertise. Because the function of the Oregon center is to augment the sponsor's project team and support procurement and implementation of projects, the center of expertise is not an entity responsible for spending or other decisions that are normally in the purview of elected officials. Like Partnerships BC, the center of expertise will not finance projects, issue bonds, or have its own capital to invest. Those decisions remain with the sponsoring agency or municipality, or the issuers and funders who would normally support their projects. Accordingly, the center of expertise requires public accountability, but does not require operational direction to come from elected officials. An important component of its ability to gain the confidence of private participants will be in its semi-autonomous, consistent, and depoliticized business practices.

The center of expertise will provide advisory services on a fee basis to public entities to assist them in their pursuit of maximizing the value of public investment in infrastructure. Its initial operating capital will likely come from a consulting or retainer agreement with the state government, to reduce over time as its fee revenue increases. Following Partnerships BC's experience, the proposed center of expertise would be designed to be self-sustaining within about five years.

IV. Learning By Doing: Pilot Projects Key To Success

The work in Oregon, to date, has been informed by a core belief that the State can't achieve the vision for community-based investment projects, supported by state innovation, without linking this effort to real projects and early wins that show the way to the vision. Over the next five months, the work will be expanded to focus on this challenge.

To this end, three types of project opportunities are being pursued:

- Bundles of smaller projects (< \$3 million) that need to be grouped together into investable pools and products.
- Big state and municipal projects (> \$20 million) that are screened, and, if appropriate, analyzed in a full business case to evaluate whether innovative procurement will bring greater value for money and attract private capital.
- Major regional projects that tend to involve major federal issues (e.g. transmission lines, bi-state water projects).

More on the pilot project assessment and screening work is included on the flash drive.

V. Legislative Implementation

Making system and procurement changes of this magnitude requires deep "buy-in" from a range of stakeholders. To facilitate this effort, Oregon's legislature is considering HB 2345, which will establish a task force to consider these issues and design the proposed Oregon Partnerships center of expertise. This work will be informed by the success achieved by Partnerships BC, British Columbia's center of expertise and by the Oregon-specific plan developed by the Living Cities grant. Partnerships BC has private agility and public accountability because it is a Crown Corporation, and its sole shareholder is the Minister of Finance.

This structure is not exactly replicable under Oregon law, but HB 2345 instructs the task force to identify methodology to gain similar functionality. A successful center

of expertise needs to have hybrid characteristics to bridge between public and private participants in project negotiations.

VI. Next Steps

At the time of this writing, a legislative work session has just adopted new amendments to HB 2345 clarifying the scope of work in 2013-2014 and the bill has been sent to the floor of the Oregon House of Representatives. We are hopeful that the proposed *Oregon Innovation Infrastructure Task Force* will be fully authorized in this legislative session and charged to report back consensus legislative recommendations for passage in the 2014 Legislature.

A new phase of work for the Governor's infrastructure work group to continue screening more projects has been extended through the second quarter of 2013; this work is being funded by a unique partnership of the state's Department of Transportation, the Department of Energy, the Regional Solutions team, two state water resources agencies, and the Governor's Multi-State Innovation budget. The objective with this next phase of work will be to develop an Oregon and regional project portfolio and to begin briefing interested outside investors and partners in the West Coast Infrastructure Exchange sometime this fall.

A second phase of work to allow Partnerships BC to assist in advancing the work objectives outlined in the Governor's executive order will be considered by the state's Department of Administrative Services (DAS) on April 9th.

A summary "flash drive" of materials developed under the Living Cities grant and through the multi-state program has been prepared and will be shared at a Brookings Institute-Living Cities event on April 18.

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