



Oregon Department of Transportation



Oregon Innovative Partnerships Program (OIPP)

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Alternative Funding**





Innovations in Procurement for Oregon Transportation Projects

1. Nature of Oregon Innovative Partnerships Program (OIPP)
2. Procurement Innovations Underway for Transportation Projects
3. Local Government Applications



OREGON INNOVATIVE PARTNERSHIPS PROGRAM (OIPP)

New Transportation Procurement Method

- Develop Partnerships with Private Entities and Units of Government;
- Expedite Transportation Project Delivery;
- Maximize Transportation Project Innovation (ORS 367.804(1))
- Leverage Public Funding with Private Sources of Capital
(Legislative History of SB 772 (2003))



OIPP Statutory Definition

“Transportation project” -- “any proposed or existing undertaking that facilitates any mode of transportation in this state.” (ORS 367.802(3))

- Broad application authority could be applied to Roads, Bridges, Rail, Ports, Ancillary Facilities, Telecommunications, Transmissions . . .



Oregon Innovative Partnerships Program allows ODOT to Solicit Proposals or Accept Unsolicited Proposals (ORS 367.804)

- **From Private Firms** (“Any ... legal entity or natural person ...”) (ORS 367.802(2))
- **From Units of Government** (“... any department or agency ... federal, ... state, ... city, county, district, commission, authority, entity, port or other public corporation ... and any intergovernmental entity ...”). (ORS 367.802(2))
- **OIPP procurements outside processes of Oregon government procurement law of ORS Chapter 279** (ORS 367.806(5))
 - Projects Selected by Best Value instead of Lowest Bid
 - Allows Entry of Private Partners at Conceptual Stages of Project



OIPP Agreements

Under OIPP authority, ODOT may enter into agreements - if approved by Oregon Transportation Commission - relating to transportation projects the subject of which may include, but need not be limited to:

Planning

Development

Reconstruction

Maintenance

Leasing

Acquisition

Design

Replacement

Management

Operation

Financing

Construction

Improvement

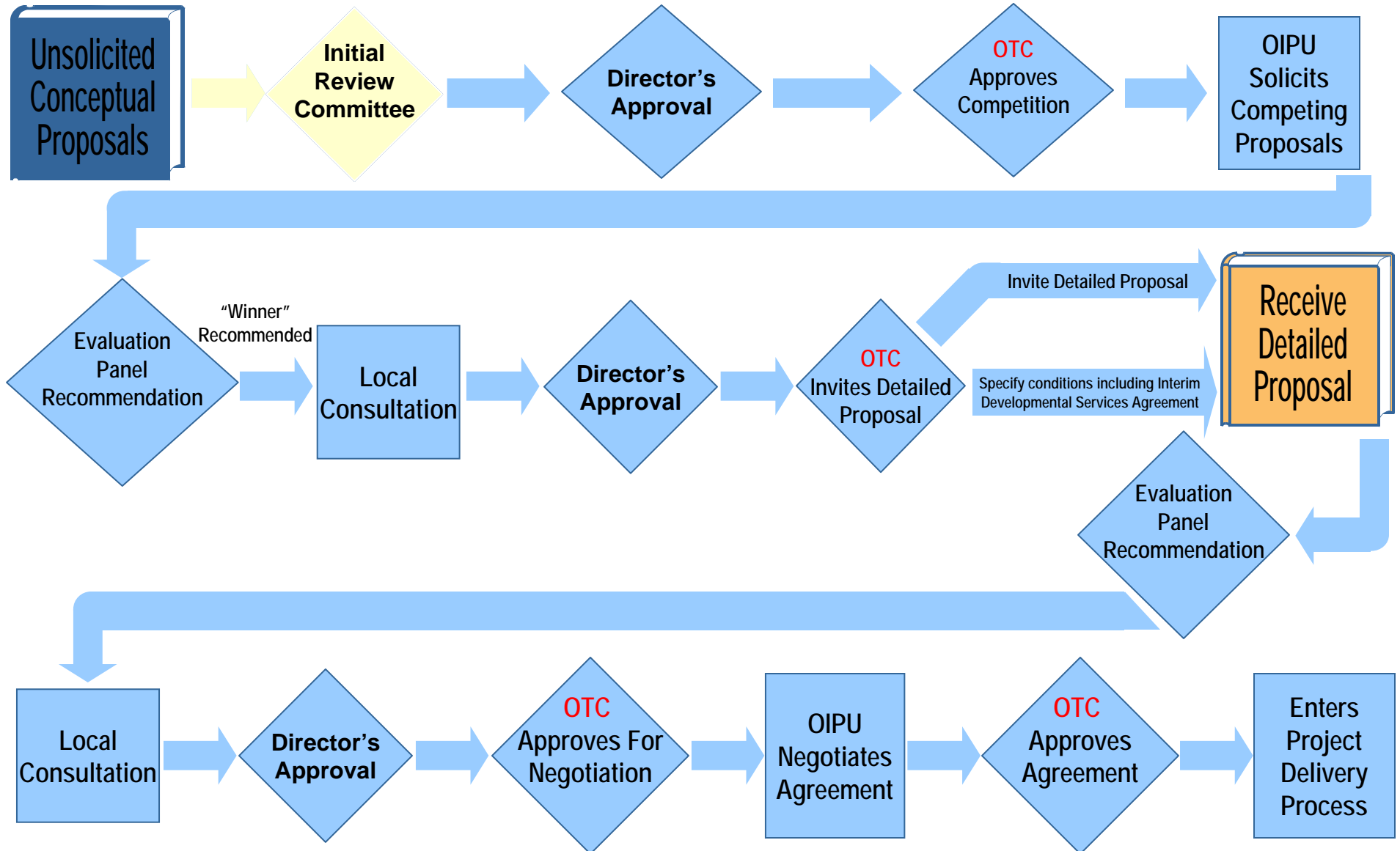
Repair

Any Financing Mechanism (franchise & user fees)

(ORS 367.806)



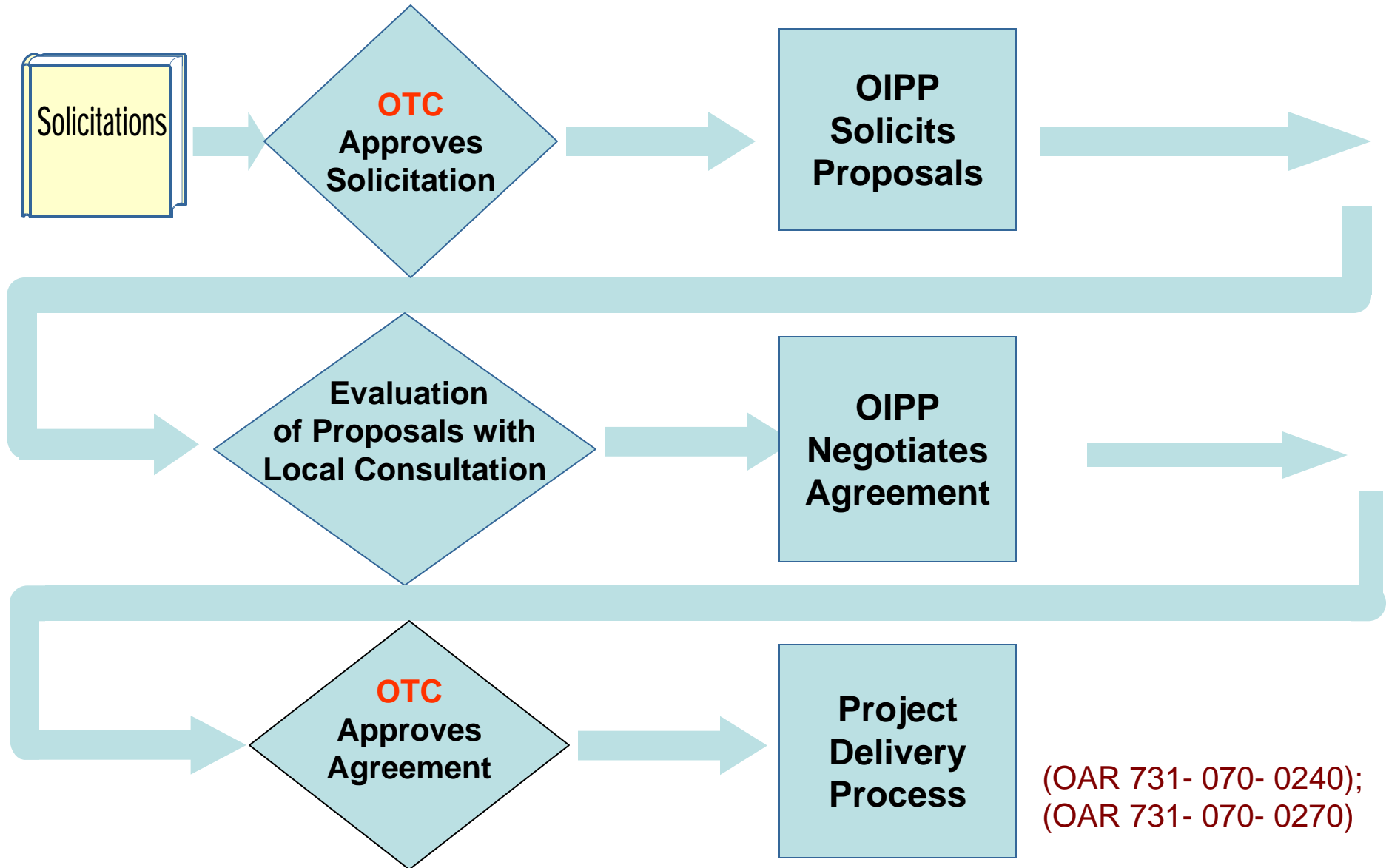
OREGON INNOVATIVE PARTNERSHIPS PROGRAM



(OAR 731- 070- 0050 et seq.)



OREGON INNOVATIVE PARTNERSHIPS PROGRAM



(OAR 731-070-0240);
(OAR 731-070-0270)



OIPP Public Records Disclosure Exemptions

- **Submitted Proposals** ... until selection for negotiation or sharing with local governments, MPOs and Area Commissions on Transportation or evaluation complete (ORS 367.804(6))
- **Sensitive Business, Commercial or Financial Information** not customarily provided to business competitors ... until submitted to Oregon Transportation Commission (OTC) in connection with review and approval (ORS 367.804(6))
- **Documents, Communications and Information Developed in Negotiations** ... until submitted to OTC in connection with review and approval (ORS 367.806(7))
- **Terms of Proposed and Final Agreements** submitted to OTC are NOT exempt from disclosure (ORS 367.806(8))



Other Relevant Provisions of OIPP Law

- Local Consultations (ORS 367.804(3)(c))
- Consistency with Local, Regional and State Transportation Planning (ORS 367.806(2)(h))
- Formation of Local Fee or Tax Districts (ORS 367.820)
- State Transportation Enterprise Fund (ORS 367.810)
- Labor & Subcontracting Provisions (ORS 367.806(5),(6))
- Expanded Eminent Domain Authority (ORS 367.818)



OIPP Currently Soliciting Proposals In One Procurement For Multiple Projects

1.The Sunrise Corridor - New limited-access
4-lane facility

2.South I-205 Corridor Improvements – Possible
tolled expressway in SE Portland

3.Newberg-Dundee - Bypass of congested state
highway

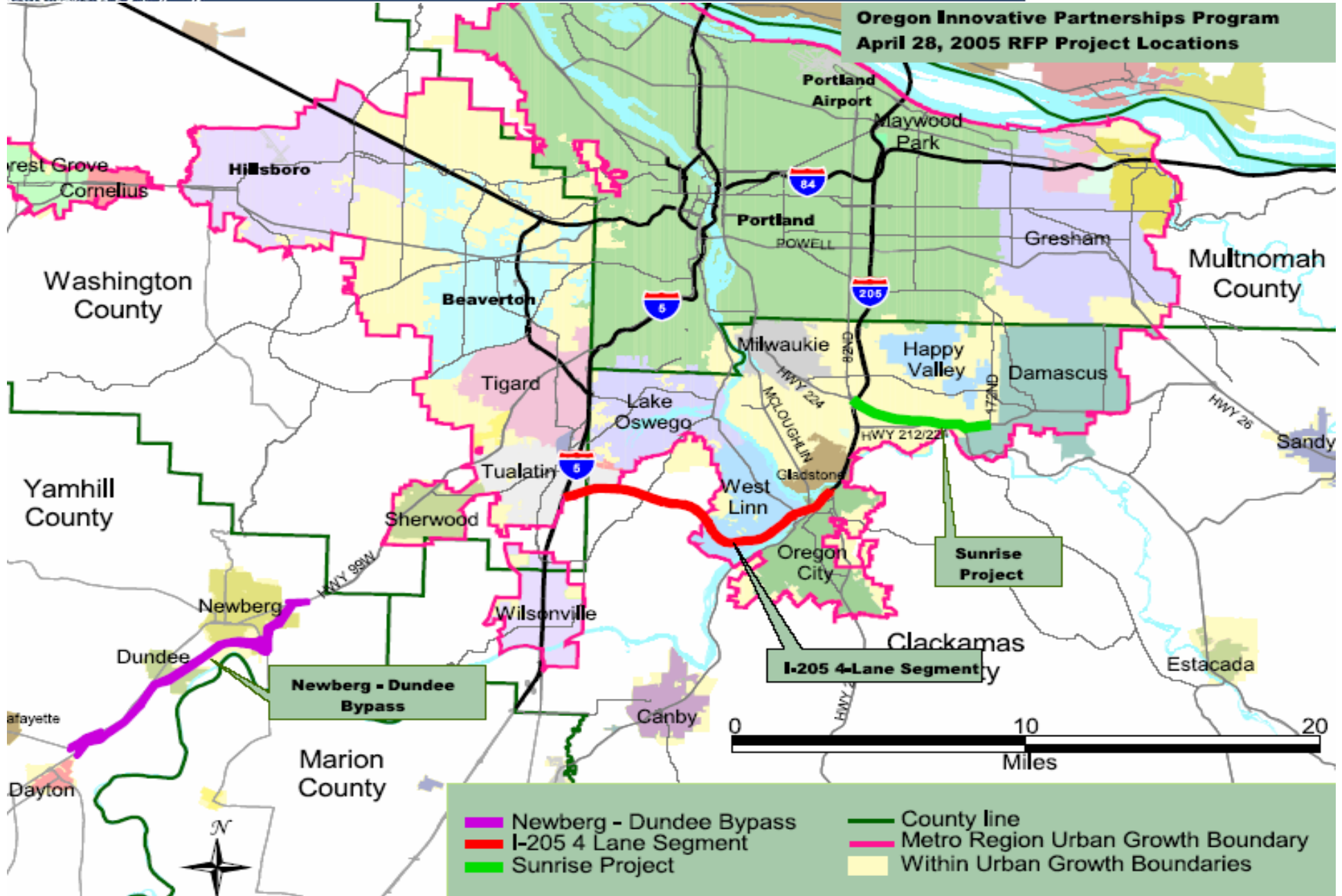
- **Two Phase Procurement Process:** Pre-development Agreement followed by Implementation Agreement
- **RFP allows Enhancements and Modifications** beyond project descriptions



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**Oregon Innovative Partnerships Program
April 28, 2005 RFP Project Locations**



- Newberg - Dundee Bypass
- I-205 4 Lane Segment
- Sunrise Project
- County line
- Metro Region Urban Growth Boundary
- Within Urban Growth Boundaries



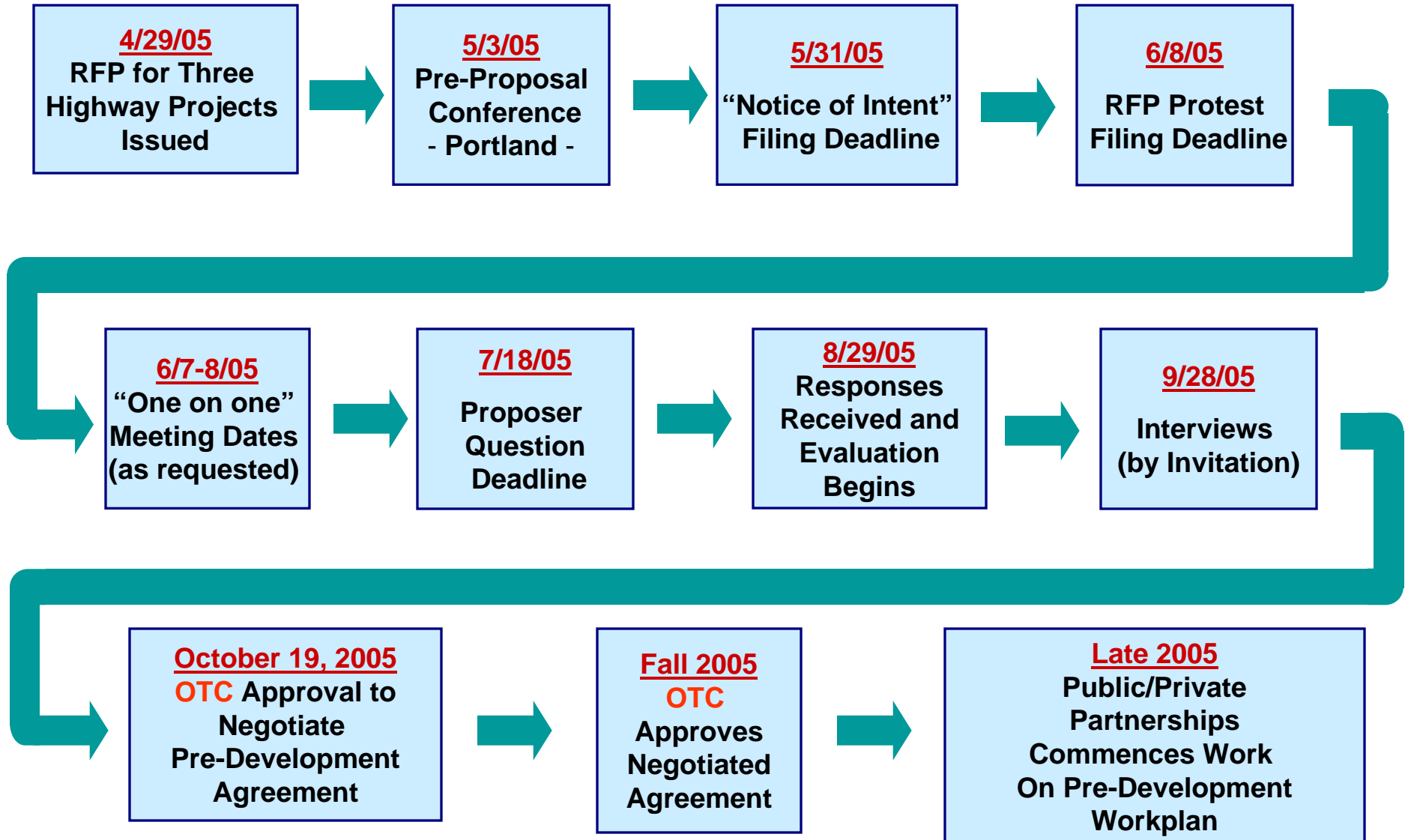
Characteristics of Pre-Development Agreements

- **Selection.** Choose partner based on qualifications, project understanding, financing approach and proposed compensation
- **Early Project Entry.** Private partners brought in early to undertake activities to support NEPA process and speed up project delivery
- **Financial resources.** Contributed from both sides
- **Work Tasks.** Concurrent rather than sequential work:
 - Development of funding and financing plans
 - Public and political consensus building
 - Design innovation and project staging
 - Optimizing transportation solutions (modifications)
 - Formation of necessary districts or authorities

If phase one is successful, ODOT and Private Partner enter into negotiations for subsequent implementation agreements



OIPP 2005 Procurement Timeline





FHWA Special Experimental Project 15 (SEP-15)

On May 6, 2005, FHWA granted ODOT exemptions from certain federal requirements of CFR Title 23 for the current OIPP procurement for three highway projects, ...

... subject to negotiation of Early Development Agreement (EDA).



Future OIPP Procurements

- Real Property for Services Transactions (HB 2115 (2005))
 - ODOT Maintenance Station Land Swaps – ODOT Issued SOI on August 2, 2005
 - Overpass Construction in exchange for ODOT Surplus Property
- **Second Wave of Highway Projects**



Opportunities for Local Government

- Local governments may access the OIPP procurement process for local projects (ORS 367.802(3) & 367.804(3))
- Local governments may join private firm in submitting unsolicited proposal to ODOT under OIPP (ORS 367.804(3)(b))
- Local governments may enter into project agreements with ODOT for an OIPP project without submitting proposal (ORS 367.806(3))



Oregon Department of Transportation



*Website for Oregon Innovative
Partnerships Program*

www.oregon.gov/ODOT/HWY/OIPP/innovative.shtml





FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

#1 A modified procurement approach.

(a) Ability to accept and review proposal modifications requested by ODOT



FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

#1(b) Price negotiations occur after selection of best proposer. Other proposal ideas may be shared with successful proposer during Negotiations. If negotiations fail with best proposer, negotiations may proceed with second best proposer.



FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

- #1(c) Authority to issue RFP and execute OIPP Pre-Development Agreements prior to receiving final NEPA approval



FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

- #2 In lieu of FHWA approval of RFP, FHWA reviews for further processing the OIPP procurement and contract documents and facility implementation and finance plans. Project authorization to follow completion of NEPA analysis.



FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

- #3 Project developer to undertake
responsibility for maintenance services
for toll facilities



FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

- #4 The combined two step procurement and price reasonableness assessment process prior to project authorization constitutes a competitive process for title 23 purposes, provided there is compliance with state and local laws



FHWA Special Experimental Project 15 (SEP-15)

FHWA Approval of OIPP Experimental Feature

- #5 Developer may provide NEPA support for the project, provided (a) unaffiliated consultant compiles NEPA documents, (b) all services are subject to control and direction by ODOT and FHWA; and (c) ODOT and FHWA are responsible for preparation, content and conclusions of NEPA documents