

## Toll Road Update — July 2006

Recent developments in the toll road industry are summarized below. These developments are based on our July 2006 research. If you would like any additional information regarding this research or if we can be of any assistance to you, please let us know.

Regards,

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*In the United States:*

1. Texas Gets Conditional TIFIA Commitment For Three Projects: The Texas Department of Transportation (TxDOT) has reached an agreement with the Federal Highway Administration (FHWA) whereby TxDOT is authorized to apply for TIFIA credit assistance early in the procurement process for particular projects, in advance of selecting a concessionaire, and FHWA makes a “conditional” TIFIA credit commitment available to all bidders on such projects. The “Early Development Agreement” addresses the legal requirement that applications for TIFIA credit assistance be submitted by project sponsors only, which created the inefficiency of multiple bidders submitting multiple applications for TIFIA credit assistance in respect of the same project. By providing all bidders with an early indication of whether, and how much, TIFIA assistance is likely to be available for particular projects, the agreement will make it more likely that TIFIA assistance will be available in time for the financial close of such projects. TxDOT and FHWA utilized special authority contained in the federal Special Experimental Program 15, known as SEP 15, to get around the restrictive legal requirement and reach their agreement. (TIFIA, the “Transportation Infrastructure Finance and Innovation Act of 1998,” provides public and private sponsors of road projects with supplemental subordinated credit, loan guarantees or loans of up to 33% of project costs from the federal government.)

TxDOT’s Early Development Agreement covers three PPP toll road projects in the Dallas area, each of which will be procured as a concession: the SH 161 toll lanes project west of Dallas, the SH 121 Turnpike Project north of Dallas and the IH 635 Managed Lanes Project (LBJ Freeway) in Dallas. Bidders have already been shortlisted on the latter two projects and a request for qualifications is outstanding for the SH 161 toll lanes project. TxDOT could apply for similar conditional commitments for other concession-based toll road projects and has indicated at recent workshops that it may seek similar conditional commitments from the federal government for the use of tax-exempt private activity bonds (PABs) for concession-based toll road projects. In these circumstances, TxDOT would be the conduit issuer of PABs for qualifying projects.

2. Texas Tollway Authority Seeks Private Partner For SH 121: The North Texas Tollway Authority (NTTA) issued an RFQ for a private sector partner to submit a bid with NTTA for the TxDOT concession for the SH 121 Turnpike Project. NTTA, a public authority, has been authorized to submit a proposal which will com-

pete (based on the same criteria) with four private sector proposals. The four private sector proposers were shortlisted approximately one year ago on July 26, 2005 and TxDOT expects to receive and evaluate proposals from the shortlisted proposers and NTTA in late 2006, although it has not yet released the RFP. In its press release regarding the RFQ, NTTA indicated that it had already received indications of interest from 11 firms, including some of the largest in the industry. NTTA's press release is available at <http://www.ntta.org/pub/news/SH%20121%20RFQ.doc>. *P3Americas.com* reported that the NTTA is looking for a firm that has had success bidding on and delivering PPP highway projects and can handle complex design and construction, project finance, and life-cycle maintenance.

3. North Carolina Legislature Passes PPP Law Amendment: A bill has been sent to the Governor of North Carolina which would amend the state's PPP law and allow for the tolling of Interstate 540 (the future Raleigh Beltway), which is currently being constructed in Durham and Wake Counties. If signed, North Carolina would still have authority to toll up to nine pilot projects (Turnpike Projects), but six of the nine projects would have to be the following, which are specified in the proposed legislation: (i) the Triangle Parkway, (ii) the Gaston East-West Connector, (iii) the Monroe Connector, (iv) the Cape Fear Skyway, (v) a coastal bridge to a peninsula near Virginia and (vi) the I-540 project. The other three Turnpike Projects are not specifically identified in the legislation and would require additional legislative approval in order to be tolled. While North Carolina's legislation would permit the toll projects discussed above to be delivered as PPPs, it is not clear which, if any, North Carolina intends to deliver as PPPs.

North Carolina is also interested in tolling its 182-mile portion of I-95 and is currently conducting studies. North Carolina's stretch of this major east coast interstate requires approximately \$4 billion in repairs, which includes overhauling many bridges and adding lanes. One idea under consideration in collaboration with Virginia is to charge a toll on I-95 at the North Carolina-Virginia border, and to split the money collected to pay for repairs on I-95 in each state. In addition to state approval, federal approval is required for tolling any interstates and the federal government currently has a number of programs pursuant to which interstate tolling authorization may be obtained. South Carolina has already submitted an application to the federal government to toll its portion of I-95, which is also in need of major rehabilitation and reconstruction. South Carolina's application and the federal programs for tolling interstates will be discussed in the Toll Road Update in Chadbourne's next *Project Finance NewsWire*.

4. Georgia I-285 TOT Lanes Project Attracts Competition: Five consortia have submitted letters of intent to compete with a Goldman Sachs-led consortium's unsolicited proposal to plan, permit, finance, design, and implement truck-only toll (TOT) lanes on I-285 in northwest Atlanta from I-75 south to I-20. Letters of intent were due by the end of July and final proposals will be due on October 31. The Georgia Department of Transportation posted the names of the five consortia that intend to compete: Cintra, Skanska/Citigroup/ARCADIS, Babcock & Brown, Horizon Mobility Group and Fluor/Transurban (<http://www.dot.state.ga.us/ppi/index.shtml>). As noted in our June Toll Road Update, the Goldman Sachs-led consortium is seeking the rights to develop the project, but not to construct it, and it will be interesting to see if any of the competitive proposals, which include construction companies, submit substantially different conceptual proposals including construction or other services. Cintra has shown interest in Georgia before, submitting letters of intent for the GA 316 toll road project and the Northwest Corridor widening project, but in both cases Cintra did not end up submitting a detailed proposal. In fact, Georgia did not get competing proposals for any of its three previous PPP procurements. To help insure that competitors have enough time to submit competitive competing proposals, last summer Georgia extended the time period for submitting competing proposals from 90 to 135 days.

5. Nevada May Seek PPP For Boulder City Bypass: Boulder City, Nevada may consider a PPP structure for the contemplated Boulder City bypass highway. Boulder City is interested in a bypass highway to accommodate traffic from Arizona to Las Vegas, which is expected to increase when the Hoover Dam bypass bridge opens towards the end of 2008. A map of the Boulder City bypass (and the Hoover Dam bypass bridge) as well as the Final Environmental Impact Statement and Record of Decision for the highway is available at <http://www.bouldercitybypass.com/>. Boulder City isn't interested in waiting for government funding to pay for the project, even if, the *Las Vegas Review-Journal* reports, it "only" takes 17 years, and its City Council began to explore innovative financing solutions in May. The City Council is considering

tolls, but is also considering a PPP whereby the private partner has the right to property along the highway which would be used for gas stations and other revenue generating commercial activities. Nevada has PPP enabling legislation for certain types of transportation projects, but toll roads and toll bridges are specifically excluded from the legislation so legislative approval would be required to deliver the bypass as a PPP. A state task force is exploring the potential for toll road PPPs in Nevada.

6. Idaho May Consider PPPs: Idaho's transportation needs over the next 30 years are in excess of \$20 billion which leaves Idaho with a \$200 million per year shortfall in transportation funding. Because federal funding cannot bridge that gap an Idaho Transportation Department Forum on Transportation Investment concluded that Idaho must look at innovative and non-traditional sources of revenue for its transportation needs. Among other policy recommendations, the Forum suggested integrating land use and transportation planning, considering toll roads, promoting PPPs for transportation projects, and considering new taxes. The Forum also noted that Idaho is a "bridge" state for freight traffic and needs to address its ability to accommodate goods movement on its state highways and interstates and to integrate its networks for inter-modal traffic. Idaho does not have statutory authority for PPP transportation projects. The Executive Summary of the Forum's report is available at <http://itd.idaho.gov/info/ti.forum/FinalReport/FTI%20Report-e.c.r%20011706%20EDITED.pdf>.

*Outside the United States:*

7. Mexico Tenders Another Shadow Toll Road: Mexico recently put out to bid another shadow toll-based PPP project for the approximately US\$300 million, 112-kilometer Rio Verde-Ciudad Valles highway. Other shadow toll-based PPP projects in the bidding stage in Mexico include the 85-kilometer Nuevo Necaxa-Tihuatlan highway in the State of Mexico and the 45-kilometer Tapachula-Talisman-Ciudad Hidalgo highway in Chiapas. Upcoming bids in Mexico include the 30-kilometer Nueva Italia-Apatzig\_n highway in Michoac\_n and the 213-kilometer Zacatecas Saltillo highway. Additional shadow toll-based projects are being prepared. Mexico also has several real toll highway concessions out to bid and more under preparation. According to a recent presentation released by Mexico's Ministry of Transport and Communication (SCT), one of the primary goals of Mexico's shadow and real toll concession programs is to help cover a funding gap of more than US\$2.5 billion per year.

SCT's presentation, which was released in July 2006 and is available at <http://uac.sct.gob.mx/fileadmin/ingles/presentations/public.pdf>, contains a complete listing of Mexico's current and planned highway concessions and explains the differences between the SCT's shadow toll-based program, which it refers to as its private service contracts program, and the SCT's real toll-based program, which it refers to as its highway concessions program. Under the shadow toll-based program SCT provides the revenue, there is no government revenue guarantee, only a small portion of the traffic risk is transferred to the private partner, the private partner has some flexibility in designing the project and no minimum equity contribution is set. For highway concessions, user fees make up the revenue stream, the government provides initial contributions and revenue guarantees, the concessionaire assumes the traffic risk, SCT delivers the project design and there is a minimum set equity contribution.

8. Israel PPP Reaches Financial Close: A subsidiary of Africa Israel Investments, Danya Cebus, has reached financial close on the US\$400 million, 20-kilometer Road 431. According to *Haaretz*, an Israeli paper, Road 431 will be a primary east-west link for Route 6, and will start at Modiin and end at Rishon Letzion. The road is to be delivered under a build, operate and maintain model and will have a 25 year term. The lead arranger is Bank Hapoalim and the syndicate also includes Mizrahi Tefahot Bank, HSBC, and First International Bank of Israel. The bank funding is short term (30 months). Once construction is complete, HSBC will be repaid US\$90 million by a grant from the government of Israel and a group of investors will buy out the remaining bank debt. Nitvei Hayovel, the Danya Cebus subsidiary constructing the project, began construction a year ago and would have been responsible for all of the costs had financing not been arranged.

9. Bangladesh To Tender Major Highway Project: A tender process for the US\$896 million Dhaka-Chittagong elevated highway was approved by the government of Bangladesh. Construction of the 270-kilometer highway, which will connect the capital with Chittagong, the country's primary port city, is expected to begin by the end of the year. Azimat Consortium from Malaysia submitted a proposal to build the highway on a build, operate and transfer basis in June 2004 to the Ministry of Communications (MoC). MoC sent the proposal to the government's Private Infrastructure Committee for approval in December 2005. Azimat Consortium proposes to collect tolls over a 30-year term. The developer would also build associated facilities, including parking, rest houses, terminals, toilets, CNG pump stations, food courts and mosques along the corridor. There is an existing road which will remain open, but the new toll road is expected to cut the time of the current 6-7 hour trip in half.

10. Slovakia To Tender D1 Motorway: *P3Americas.com* recently reported that several consortia are planning to bid for the concession of a 28-kilometer portion of the D1 motorway in Slovakia. The tender has not yet been released and while all administrative issues have been resolved experts believe the procurement could be delayed as Slovakia's new government settles into office. The D1 motorway is part of the Trans European Network and the procurement has been approved by the EU. Financing is expected from the EIB. Slovakia is expected to tender another four portions of the D1 motorway for a total value of 1.8 billion Euros.