Toll Road Update — June 2007

Recent developments in the toll road industry are summarized below. These developments are based on our June 2007 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. Please also contact us if you know of anyone else that would like to be on our distribution list.

Regards,

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In the United States:

1. Texas Compromise: Texas Governor Rick Perry signed compromise legislation which will institute a two-year moratorium on new toll road PPPs, but will allow almost all of the toll road PPPs that were planned to be executed over the next two years to proceed. Governor Perry signed the compromise legislation, Senate Bill 792, on June 11, 2007. Governor Perry had previously vetoed a stronger toll road moratorium bill passed by the legislature and threatened to call a special session if the bill was passed by the legislature over his veto. Upon signing SB 792 Governor Perry stated, that "[u]nder this legislation, every planned road construction project will move forward as scheduled, local leaders will have more authority to build new toll roads and all toll revenue will be used for transportation projects in the area it was raised." Pursuant to the compromise legislation, local toll road agencies will have the first option to build and operate new toll roads. Before any project proceeds, local toll authorities and the Texas Department of Transportation (TxDOT) will agree to certain business terms, including toll rates, and a market valuation study will be performed to determine the toll road's total value. The project would be opened to bidding by the private sector if the local toll authority is unwilling to pay the market value. Local toll authorities will also be permitted to propose that state roads be built as toll roads (only TxDOT could initiate such a proposal prior to passage of SB 792). In addition, the compromise legislation mandates that comprehensive development agreements entered into with the private sector (i) be limited to 50 year terms, (ii) stipulate the state's future buyback cost, (iii) clarify that competing roads may not be built within four miles on either side of the subject toll road, and (iv) require that revenue generated for the state through the agreement be used only in the region in which it was generated.

2. Texas SH-121: Earlier this week the North Texas Regional Transportation Council (RTC) recommended that the Texas Transportation Commission (TTC) award the SH-121 toll road project to the North Texas Tollway Authority (NTTA) instead of to the Cintra-JP Morgan consortium that was approved by TxDOT following a competitive procurement process earlier this year. Upon completion, SH 121 will be a 25.9-mile, all

electronic toll road crossing through Collin, Dallas, and Denton counties. NTTA signed an agreement in August 2006 that it would not bid on the SH-121 project, but following TxDOT's approval of the Cintra-JP Morgan bid, TxDOT waived this agreement and allowed NTTA to submit a competing proposal. The TTC is scheduled to make a final decision regarding the RTC's recommendation on June 28. While the TTC is expected to support the RTC's recommendation, *The Dallas Morning News* reported on June 20, 2007 that two of the TTC's five commissioners have expressed doubts about accepting NTTA's proposal. The two commissioners are concerned that NTTA's proposal would still be subject to negotiation, while Cintra-JP Morgan's binding offer is already fully agreed and could move towards a financial closing right away.

Before making its recommendation in favor of NTTA, the RTC heard presentations from the Cintra-JP Morgan team, NTTA, TxDOT and PwC, the RTC's independent accounting firm. According to *P3**Americas**.com*, TxDOT stood by its original recommendation that the Cintra-JP Morgan team be chosen. TxDOT stated that the NTTA bid did not comply with the Instructions to Proposers (ITP) that TxDOT issued for the project and that the operating standards proposed by NTTA are less stringent than those required of the Cintra-JP Morgan team. TxDOT also expressed concerns that the NTTA's proposal is not based exclusively on revenue generated by the project, but rather relies on revenue generated by other parts of the NTTA system. The concerns raised at the hearings echoed some of the concerns recently raised by rating agencies that NTTA would be leveraging itself beyond what has historically been anticipated for the toll authority and may require cross-subsidies to support the debt it would incur for the SH-121 project.

3. Pennsylvania Turnpike Lease: Pennsylvania Governor Ed Rendell recently released a preliminary report prepared by Morgan Stanley which concluded that, of the options considered, a long term lease of the Pennsylvania Turnpike "has the highest potential for up-front proceeds" and "[c]ould potentially fund all $1.725 Bn of annual [state] highway and transit needs if bids exceed expected range," but warned that "ultimate value cannot be determined without market test." A long term lease similar to the recent leases of the Chicago Skyway and the Indiana Toll Road was the first option studied by Morgan Stanley. Another option studied by Morgan Stanley is the creation of a public corporation. Morgan Stanley also studied the Pennsylvania Turnpike Commission's (PTC's) proposal to (i) increase tolls on the Turnpike, (ii) introduce comparable tolls on I-80 and (iii) charge a $1.00 congestion tax on users of the Turnpike in Philadelphia, Pittsburgh, Harrisburg and Scranton. Morgan Stanley concluded that public corporation model could fund the state's $965 million annual highway needs if allowed the same toll-setting structure as a long term lease. The PTC's proposal would likely provide less funding than a long term lease or public corporation and would probably result in higher user payments for the first 29 years. A copy of Morgan Stanley's report is available at: http://www.rideonpa.org/transit/lib/transit/Financial_Analysis_ Book_052107.pdf.

Pennsylvania does not currently have legislation enabling PPPs, but Governor Rendell recently submitted proposed legislation that would allow for a long term lease of the Turnpike, among other PPP alternatives. The Morgan Stanley report noted that broad enabling legislation is an important factor in maximizing the payments that private entities will offer for a long term lease. As part of the process of convincing state lawmakers to support legislation authorizing a long term lease of the Turnpike, Governor Rendell recently released to the state legislature the 48 expressions of interest that the Governor received from the private sector when he initially raised the idea of a long term lease. The lawmakers had previously asked for these documents, but Governor Rendell was advised at the time that disclosure could hurt the state's chances of getting the highest possible bid for the Turnpike.

4. New Jersey Toll Roads: New Jersey Governor Jon Corzine recently announced that he is considering creating a new state agency to tap the value of the New Jersey Turnpike and the Garden State Parkway. Governor Corzine's administration has been considering various options to monetize state assets, including long term leases to the private sector, but Governor Corzine indicated that New Jersey's plan for the toll roads will be more along the lines of a new state agency than a privatization, which would allow the state to maintain ownership and control of the toll roads. Further details of the plan are expected in late June. Another option proposed by Governor Corzine is a hike in the state's gas tax. The last time New Jersey increased its 14.5 cent per-gallon gas tax was in 1988. While Governor Corzine clarified that he is not proposing an increase in the gas tax right now, especially with the rising cost of gasoline , he is considering the option as the state's debt burden continues to grow. *The Associated Press* recently reported that, "New

Jersey's debt nearly doubled since 2000 to about $30 billion and will cost the state about $3 billion next year, about 10 percent of the state budget."

5. Colorado PPP Moving Forward: Colorado's Northwest Parkway Public Highway Authority recently announced that it reached an agreement in principle for a $603 million, 99-year lease of the Northwest Parkway toll road to a consortium composed of Brisa Auto-Estradas de Portugal, S.A. and Companhia de Concessoes Rodoviarias. This agreement also includes committed funding for a potential 2.3 mile extension of the toll road to State Highway 128 in Broomfield. It is anticipated that the Parkway's outstanding bonds will be retired as part of the concession and operational and financial responsibility for the toll road will be transferred to the concessionaire. Operation of the Parkway will revert back to the Authority at the end of the 99-year term of the concession. The Northwest Parkway, which opened to traffic in 2003, connects Broomfield, northwest of Denver, with the E-470 toll road which runs north-south on the east side of Denver.

6. Delaware Considering PPP (US-301 Bypass): Delaware Transportation Secretary Carolyn Wicks plans to submit a report to Delaware Governor Ruth Ann Minner's office sometime this year on the possibility of leasing or privatizing the planned $590 million U.S. 301 bypass and connecting spur. The Delaware Transportation Department (DelDOT) announced the final route for the 301 bypass on May 17, 2007. DelDOT is facing a six-year $1.5 billion construction funding shortfall and does not have the money to build the 301 bypass without considering alternative financing, such as tolls and PPPs. The 301 bypass will run from the Maryland state border to north of Armstrong Corner Road (to the west of Middletown) and continue northeast, eventually meeting up with Del. 1. The project's general timeline calls for a finished environmental impact statement this summer, with the state moving forward with permits and federal approval sometime in the fall. Delaware has legislation enabling PPPs but has not implemented any PPP toll road projects.

7. Virginia Considering PPP (SR-3/I-95): A Virginia metropolitan planning organization is considering a PPP for the proposed SR-3 bypass and I-95 interchange project north and east of Fredericksburg. The Fredericksburg Area Metropolitan Planning Organization (FAMPO) is studying the potential traffic that would use the bypass if it is a toll road. FAMPO ordered the study in conjunction with the I-95 interchange justification report required by the federal government for the interchange portion of the project. The proposed bypass would run northeast from east of the Chancellorsville battlefield, above the Rappahannock River flood plain, and connect with I-95 near the rest area just south of the Rappahannock River. FAMPO's director of transportation planning said that the traffic forecast could provide confidence to potential bidders that the toll road would attract vehicles. The project is not currently in Virginia's six year road plan and significant work remains to be done before the project could be proposed to the private sector.

8. Georgia Transportation Board Votes Against Unsolicited Proposals: The Georgia State Transportation Board resolved to temporarily postpone its acceptance of unsolicited proposals for PPP road projects beginning June 1, 2007. The resolution will allow the state to determine which projects to solicit bids for, instead of allowing private companies to submit bids for sections of roadway they deem attractive. *The Atlanta Journal and Constitution* reported that by no longer accepting unsolicited proposals Georgia hopes to prevent private companies from bidding on the most lucrative portions of the state highway system, and leaving the state to fend for itself on the less lucrative portions. The resolution does not affect those projects already bid on or any unsolicited proposals that arrived before June 1, 2007. A copy of the Georgia State Transportation Board's resolution is available at: http://www.dot.state.ga.us/ specialsubjects/board/documents/pdf/pressreleases/STB-5-18-07.pdf.

9. US House of Representatives Addresses PPPs: Two members of the United States House of Representatives recently sent out two position papers to state officials regarding PPPs. The papers were sent to state governors, key state legislators, and state level transportation officials by Representative James L. Obserstar, a Democrat from Minnesota who chairs the House Transportation and Infrastructure Committee, and Representative Peter DeFazio, a Democrat from Oregon who is chairman of the Highways and Transit Subcommittee of the House Transportation and Infrastructure Committee. In the first paper, Representatives Oberstar and DeFazio wrote "to strongly discourage [state officials] from entering into public-private partnership ("PPP") agreements that are not in the long-term public interest in a safe, integrated national transportation system that can meet the needs of the 21st Century," and noted that the Committee

on Transportation and Infrastructure of the U.S. House of Representatives "will work to undo any state PPP agreements that do not fully protect the public interest and the integrity of the national system." The second paper raised certain concerns about PPPs, but noted that "under the right circumstances and conditions, [PPPs] can lead to more efficient and effective construction, management, operation, and maintenance of transportation facilities." Representative John Mica from Florida, the Republican Leader of the Transportation and Infrastructure Committee, responded that he thinks "we can all agree that we want states to enter into agreements that are beneficial to the state and are consistent with an efficient and reliable national transportation system. But I have faith that state and local governments will use the financing tool of public-private partnerships in a rational and beneficial way, and I believe that states should have the flexibility to use the financing mechanisms that best suit their particular situation when building transportation infrastructure."

Outside the United States:

10. Russia Tunnel PPP: *P3**Americas**.com* recently reported that a preliminary information memorandum has been released by the government of St. Petersburg for the planned Orlovsky Tunnel in St. Petersburg, Russia and that pre-qualification will begin in July 2007 and is set to be completed by November 2007. The Orvlovsky tunnel, which will cost an estimated US$990 million, will run beneath the Neva River for approximately 1.7 kilometers with a daily capacity of 60,000 vehicles and will better connect central St. Petersburg with its outlying districts. The concessionaire will be required to design, build, finance and operate the tunnel over a 30-year concession term and will collect payments through an availability payments scheme. Detailed proposals are expected to be due in the second half of 2008. *The St. Petersburg Times* recently reported that St. Petersburg Governor Valentina Matviyenko wants the city to reach a goal of US$8.6 billion in foreign investment per year by 2010. Also planned in the city is the Western High-Speed road link which is anticipated to cost of 83 billion rubles. Four international consortia are bidding on the Western High-Speed road link. Both projects are expected to be completed in either 2010 or 2011.

11. Hungary Shortlist for M6-M60 PPP: Hungary recently shortlisted three consortia to bid on a concession for the second part of the M6-M60 project (the first portion of the project was awarded to a Bilfinger Berger led team). The three consortia shortlisted for Phase Three include: (i) Mota-Engil, Hochtief, and Macquarie Investment Management; (ii) Bilfinger Berger, Porr, Egis, and Vinci; and (iii) Strabag, John Laing Infrastructure, Bouyges, and Intertoll. A preferred bidder is expected to be announced in November. The project is being procured on a design, build, finance, operate (DBFO) basis and will have a 30-year concession term. The project includes 49 kilometers of the M6 motorway between Szekszard and Boly and 30.2 kilometers of the M60 motorway between Boly and Pecs.

12. Israel Signs Tel Aviv Metro Concession: Israel signed a concession agreement for the 22-kilometer Red Line of the Tel Aviv Metro with the MTS consortium on May 28, 2007. The MTS consortium is made up of Africa Israel, Siemens, Egged (the Israeli bus cooperative), CCECC, Da Costa Soares and HTM. The MTS consortium bid approximately US$1.71 billion for the 32-year concession to build, operate and transfer the project. Construction is expected to begin in 2008 and to be completed by 2013.
