Toll Road Update – September 2006

Recent developments in the toll road industry are summarized below. These developments are based on our September 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. 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. New Transportation Secretary Nominated by President Bush: Mary Peters, a proponent of increased private involvement in U.S. roads, was nominated to be the next Secretary of Transportation by President Bush on September 5, 2006. From 2001 to 2005 Peters served as the Administrator of the Federal Highway Administration (FHWA). Prior to joining the FHWA, Ms. Peters served as the director of the Arizona Department of Transportation, and since leaving the FHWA, Ms. Peters has been working for HDR Inc., an architectural, engineering and consulting firm. According to the *New York Times*, “[a]t a time when state and federal governments said they barely had enough money to service existing systems, Ms. Peters had advocated expanding the private sector’s role in building, financing and operating highways.” Some experts are predicting that Ms. Peters could face difficult questions at her confirmation hearings regarding her support of privatization and tolling. Ms. Peters would replace former Secretary Norman Y. Mineta, who retired from the cabinet position earlier this summer. Mineta’s Deputy, Maria Cino, has been serving as acting Secretary since his retirement. A copy of President Bush’s nomination speech is available at: http://www.whitehouse.gov/news/releases/2006/09/20060905-5.html.

2. Federal Corridors of the Future: The United States Department of Transportation (USDOT) is currently soliciting proposals for the development of three to five interstate “Corridors of the Future” from single or multiple states and/or private sector participants. The purpose of The Corridors of the Future Program (CFP) is to identify high priority interstate corridors, either existing or new, to be developed using alternative financial models and private sector capital. According to the August 1, 2006 *Draft DOT Strategic Plan for Fiscal Years 2006-2011* (USDOT’s Draft Strategic Plan) “there is a need for large scale investment in physical infrastructure [which] must be targeted to areas where they are needed most - including major, multi-state, multi-use trade and travel corridors.” Proposals are expected to address congestion mitigation, freight system reliability and quality of life for U.S. citizens. The CFP is part of USDOT’s broader *National Strategy to Reduce Congestion on America’s Transportation Network*, a six-point plan introduced by Secretary Mineta in May 2006 to relieve congestion.

The CFP solicitation process outlined in the Federal Register on September 5, 2006, requires submission of preliminary proposals by October 23, 2006. Detailed proposals are due by April 2, 2007. Detailed proposals should address the corridor's (i) physical description, (ii) congestion mitigation benefits, (iii) mobility improvements, (iv) economic benefits and support of commerce, (v) benefits to users, (vi) innovations in project delivery and finance, (vii) exceptional environmental stewardship, (viii) financial plan, including private sector investment, and (ix) proposed project timeline. After a corridor is selected for development, the states, private sector participants and USDOT and other federal agencies involved in the project will enter into a CFP Development Agreement setting forth each party's respective rights and obligations.

The federal government will be directly involved in the development of CFP projects. In addition to running the competitive procurement process, USDOT expects to (i) work with other federal agencies to streamline the environmental review process for CFP projects, (ii) apply for expedited TIFIA commitments and conditional PABs approvals for CFP projects and (iii) make CFP projects eligible for priority treatment under federal interstate tolling programs and accelerate review and conditional approval of experimental features under the FHWA Special Experimental Project 15 process. In USDOT's Draft Strategic Plan the department emphasizes that these type of large scale infrastructure projects "face enormous organizational and funding challenges [and USDOT intends] to create a major Federal support structure through which sponsors can work" which will include ambitious permitting schedules, new financing options and a fast-track to Federal dollars.

3. Colorado Privatization and Greenfield PPPs: Colorado's Northwest Parkway Public Highway Authority released an RFQ on September 15, 2006, for private companies to bid for a long term lease of the 11-mile, $416 million Northwest Parkway (the RFQ is available at: http://www.northwestparkway.org/RFQdownloads/NWP%20RFQ%20Final.pdf). Responses to the RFQ are due on October 13 and the authority expects to shortlist proposers by October 20. The toll road, which opened on November 24, 2003, was initially funded entirely with non-recourse toll revenue bonds and "while the Parkway has experienced traffic volumes which are below original projections" (traffic has run as much as 45% below projected levels) the RFQ notes that "the road is demonstrating significant traffic and revenue growth." The Parkway has not yet defaulted on payments, but should begin dipping into reserves next year and is likely to have debt service problems within a couple of years. A privatization, which would be the fourth of its kind in the U.S., is more likely to resemble Virginia's 99-year, $604 million lease of the 8.8-mile Pocahontas Parkway, which also experienced lower than expected traffic volume in its first couple of years, than to resemble the 99-year, $1.8 billion lease of the Chicago Skyway or the 75-year, $3.8 billion lease of the Indiana Toll Road.

Two greenfield PPP projects may also move forward in Colorado. First, a group of private developers (Flatiron Constructors, Fluor and Lindsay Case) have proposed the construction of $600 million worth of self sufficient toll lanes to complete a 33-mile express route around the eastern side of Colorado Springs. The project contemplates the addition of toll lanes to certain existing roads and the construction of new toll roads to connect the existing portions of the network. The city already owns the necessary right-of-way, but must still approve the project. The project also needs approval from the Colorado Tolling Enterprise, which is a division of the Colorado Department of Transportation (CDOT), and the Pikes Peak Area Council of Governments, which would add the project to the region's transportation plan.

Second, after various setbacks the Front Range Toll Road has been renamed the Prairie Falcon Parkway Express and is back on track. As planned, the approximately $2.5 billion toll road would run 210 miles from Pueblo to Fort Collins and would include a freight rail line and a utility corridor. New legislation in Colorado is making private toll roads more difficult to develop, adding time and expense to the development process, however, the legislation also adds a certain amount of predictability to the development process (private developers must now follow all of the same rules as CDOT for building roads, private developers can no longer use eminent domain without CDOT collaboration, and the development process is now more transparent and requires demonstration of a project's necessity and public acceptance). As a first step under the new law, the Prairie Falcon Parkway Express Company recently narrowed the width of the area being studied for the proposed new corridor from 12 miles to 3 miles and sent letters to 4,000 landowners regarding their rights in the development process. The developer has hired Kellogg, Brown & Root, a subsidiary of Halliburton, to assist with the project's development.

4. New Jersey Exploring Asset Monetization: New Jersey has appointed UBS Investment Bank and Merrill Lynch to a pool of Asset Monetization Financial Advisors for a one-year period. Seventeen firms responded to the state's RFP. New Jersey Governor Jon Corzine introduced the asset monetization plan to a special joint legislative session in July as a plan to "reduce the debt load in New Jersey and release billions in free cash flow over the next four years." Corzine asserted that "[New Jersey's] state budget carries $2.3 billion in debt service and will expand by more than 25% in just four years." New Jersey lawmakers have proposed privatization of the New Jersey Turnpike, the Garden State Parkway and the Atlantic City Expressway over the last several months, but the assets covered by the current monetization financial advisory role also include transit facilities, rights of way, air rights or other developmental rights, naming rights, and infrastructure such as airports, bridges, water facilities, ports, parks and recreational facilities. Phase 1 of the services, which is being undertaken by UBS, focuses on developing strategies with respect to New Jersey's assets. Phase 2 of the services will focus on finalizing a plan to proceed with the monetization of selected assets, including addressing legislative requirements. Phase 3 will involve conducting RFPs and bringing any transactions the state elects to proceed with to financial close.

5. Pennsylvania Considering PPPs: The Pennsylvania Turnpike Commission recently confirmed that it is exploring a PPP option for the construction of the $3 to $4 billion Mon-Fayette Expressway and Southern Beltway Projects, a partially constructed 100-mile extension of the Pennsylvania Turnpike through the Monongahela River Valley south of Pittsburgh. The extension was originally planned in the 1960's to serve the valley's steel, coal and coke production facilities and is currently directed at the valley's redevelopment. The commission's CEO confirmed that Macquarie is undertaking studies regarding the feasibility of private investment in the extension, but that the state would need new legislation and a competitive bidding process before any deal could be completed. Governor Ed Rendell also recently announced that Pennsylvania is considering a sale of the 359-mile Pennsylvania Turnpike, which runs from the Delaware River in the east to Ohio in the west. Pennsylvania is struggling to fund necessary transportation initiatives without significant tax increases. An August 2006 preliminary report from the Pennsylvania Transportation Funding and Reform Commission confirms that: "[Pennsylvania's] public transportation and state highway and bridge systems are in a financial crisis. If not solved, this crisis will result in major service reductions across the Commonwealth." (The preliminary report is available at: ftp://ftp.dot.state.pa.us/public/pdf/TransFunding8-06.pdf) The report, commissioned by Governor Rendell in 2005, is to be finalized by November 15, 2006 (the commission is holding public meetings to discuss alternatives throughout September).

6. North Texas PPPs: Two public road agencies, the Texas Department of Transportation (TxDOT) and the North Texas Tollway Authority (NTTA) have agreed to split control of several toll roads planned for the Dallas/Fort Worth area in north Texas. Over the last several months, NTTA has been challenging TxDOT's efforts to procure concession arrangements for Dallas/Fort Worth roads. Pursuant to the settlement, TxDOT will be free to evaluate private sector proposals and enter into agreements for concessions of the SH-121 and SH-161 toll road projects without having to entertain competing NTTA proposals. In addition, NTTA will not contest TxDOT's procurement of concessions for planned managed lanes projects in the area. On the other hand, pursuant to the settlement, TxDOT will relinquish to NTTA control of the planning and construction of the Southwest Parkway and the eastern extension of the President George Bush Turnpike. NTTA will also be given the right to control the collection of tolls on any new toll road built in the area for the first five years of operations to ensure inter-compatibility with other area toll roads.

Also in North Texas, the Cintra-Zachry consortium that is developing the TTC-35 corridor has notified TxDOT that the southern portion of the Loop 9 project, a ring road around the Dallas/Fort Worth area, could be developed and built as a connecting facility to the TTC-35 corridor. The notice kicks-off a process whereby TxDOT will decide whether to open the project to competitive bidding or to award the project to the Cintra-Zachry consortium under the framework of its TTC-35 comprehensive development agreement. Earlier this summer, following a similar notice procedure, TxDOT awarded a PPP for Segments 5 and 6 of the SH-130 Project to Cintra-Zachry as a connecting facility to the TTC-35 corridor.

7. Hawaii Considering PPPs: Hawaii will be considering PPPs to alleviate congestion on its roads according to Rodney Haraga, the director of the Hawaii Department of Transportation. At an August conference of the Western Association of State Highway and Transportation Officials Haraga noted that states are facing

common issues: "highway and traffic safety, traffic congestion, construction, maintenance and how to deal with these issues with decreasing revenues." *The Honolulu Advertiser* reported that according to Haraga, the 'Ewa area of O'ahu would be a likely first candidate for PPPs and that the first step would be to find a company willing to finance toll roads. In addition, state Representative Rida Cabanilla recently authored a commentary for *The Honolulu Advertiser* encouraging Hawaii to pass enabling legislation and embrace PPPs as a source of transportation funds.

8. Washington State Study Suggests PPP: A state-appointed review panel recently suggested that Washington consider a PPP or tolling structure to fund the replacement of the Highway 520 Bridge east of Seattle. The state is considering 4 and 6 lane alternatives for the replacement bridge with cost estimates ranging from $1.7 to $3.1 billion. Washington Governor Christine Gregoire appointed the panel to review the finance and implementation plans for the replacement of the Highway 520 Bridge and the replacement of the Alaska Way Viaduct. For the Alaska Way Viaduct, the state is considering elevated structure and tunnel alternatives with cost estimates ranging from $2 to $3.6 billion. The panel concluded that the state is unlikely to be able to pay for the replacement of the Highway 520 Bridge with current funding sources, but that current funding sources provide a reasonable framework for funding the replacement of the Alaska Way Viaduct as a new viaduct. The state does not have enough current funding for the Alaska Way Viaduct tunnel alternative.

9. 2006 U.S. Gubernatorial Elections: 36 states will hold elections for governor on November 7, 2006. While it is difficult to predict which states will consider PPP road projects over the next few years and which potential governors would champion PPP road projects, transportation is already a hot issue in some of these races and some of the candidates have taken sides. Of notable interest:

Texas: An independent candidate for Governor in Texas, State Comptroller Carole Keeton Strayhorn, announced that she is adamantly opposed to toll roads and the Trans-Texas Corridor (TTC) and would "blast [the TTC] off the bureaucratic books" if elected. Democratic challenger Chris Bell and independent Kinky Friedman are also against the TTC, Governor Rick Perry's ambitious plan for adding 4,000 miles of tolled superhighways across Texas. Governor Perry introduced the TTC in 2002 and signed a PPP agreement for the first segment of the TTC (TTC-35) in 2005 with a Cintra-Zachry consortium. Attacks on the TTC, especially from the rural and farm communities which are nervous about losing land, have made toll roads and PPPs one of the top issues in Texas' gubernatorial race. Governor Perry, hoping to be elected for another term, argues that private investment and toll roads are necessary to fund $86 billion in unmet transportation needs over the next 25 years and has challenged his opponents to formulate a plan to cover this shortfall. Perry's opponents appear to favor traditional transportation funding and a local paper reported that Kinky Friedman has even suggested converting existing toll roads into free roads - and naming them for musicians such as Willie Nelson, Waylon Jennings and Buddy Holly.

In Kansas (separated from Texas by Oklahoma), a candidate for U.S. congress, Nancy Boyda, has attacked Texas' plans for the TTC-35 saying it would "blow a quarter-mile-wide hole in the border [with Mexico]" and undermine get tough immigration measures. Boyda's opponent, Jim Ryun, dismisses fears of TTC-35-based illegal immigration and smuggling. While Kansas transportation officials have confirmed that there are no grandiose plans to push Texas' superhighway north through Kansas all the way to Canada at this time, they admit that someday traffic on I-35 may warrant widening Kansas' portion of the highway. The debate in Kansas highlights the national character of certain statewide mega projects such as Texas' TTC-35.

Ohio: As noted in our April Update, one of the major economic proposals of Republican J. Kenneth Blackwell's campaign for governor of Ohio is a lease of the publicly-owned Ohio Turnpike to a private entity. Blackwell suggests that a 99-year lease could earn the state as much $6 billion. According to *The Columbus Dispatch*, Blackwell's Democratic opponent, U.S. Representative Ted Strickland, has dismissed the proposed lease as "loony" and has called for Blackwell to clarify its terms. The 241-mile Ohio Turnpike runs from the Pennsylvania Turnpike in the East to the Indiana Toll Road in the west. Indiana Governor Mitch Daniels recently appeared at a Blackwell press conference to endorse Blackwell's plan and discuss his state's 75 year lease of the 157 mile Indiana Toll Road to a Cintra-Macquarie consortium for $3.8 billion. *P3**Americas**.com* recently reported that a Cintra-Macquarie consortium has requested and received traffic and revenue data from the Ohio Turnpike Commission.

New York: In recent interviews the two major party candidates for Governor in New York suggested that PPPs be considered for the Tappan Zee Bridge restoration project. According to a local Hudson Valley newspaper, Republican candidate John Faso would consider private financing and toll revenue and favors a PPP for the Tappan Zee restoration project, but would also dedicate a gas tax revenue fund for capital projects. Democratic candidate Elliott Spitzer would consider PPPs but would also consider federal funds and toll revenues. The Tappan Zee Bridge is over 50 years old and is approaching the end of its useful life. Several options are being considered for the redevelopment of the bridge with estimated costs ranging from a $500-700 million no build option to a $12-14.5 billion new bridge option which includes highway improvements and a commuter rail line. Faso reportedly favors a rail line for the Tappan Zee Bridge while Spitzer would provide the capacity to add a rail line in the future. In prepared remarks for the Regional Plan Association's 16th Annual Regional Assembly, Spitzer asserted in connection with the Tappan Zee that "[w]e have to look at robust public sector financing models such as the Florida Turnpike Enterprise model as well as other alternative financing mechanisms such as public private partnerships that can expand financial resources for replacement of the bridge."

Illinois: While Republican challenger Judy Baar Topinka and incumbent Governor Rod Blagojevich are both officially against privatization of the Illinois Tollway system, the state legislature's Illinois Commission on Governmental Forecasting and Accountability continues to study a potential sale or lease of the Tollway to a private company. While some early proponents no longer appear to be as enthusiastic about a sale proponents of the privatization are still optimistic about a lease. Governor Blagojevich has also expressed opposition to any new bridge over the Mississippi River between Illinois and St. Louis, Missouri, if such bridge contemplates a PPP or any other structure that includes tolls for Illinois citizens (Missouri would like to see this new bridge build as a PPP). Despite these recent pronouncements, last spring Governor Blagojevich said that he was open to considering PPPs and it appears likely that transportation PPPs will continue to demand attention in Illinois politics following the election.

Pennsylvania: As noted above, the final report from the Pennsylvania Transportation Funding and Reform Commission, which was mandated by Governor Ed Rendell in 2005, is to be delivered November 15, 2006, a week after the state's November 7 gubernatorial election. While the current draft of the report suggests that the state should consider PPPs to help cover its $866 million to $2.2 billion transportation funding shortfall and the Governor has suggested the same, at least one local paper raised the possibility that the Governor is waiting until after election-day to come clean on a decision to raise transportation related taxes. Pennsylvania's state gas tax is already among the Nation's highest at 31.5 cents per gallon and any increase is likely to be unpopular, regardless of a transportation funding shortage. A website sponsored by Rendell's Republican challenger, Lynn Swann, states that a "Swann Administration would … follow the lead of other states in promoting innovative public/private partnerships to help [Pennsylvania's] crumbling surface transportation infrastructure."

Massachusetts: As the facts surrounding this summer's Big Dig accident continue to be investigated, local newspapers are suggesting that a sale of the Massachusetts Turnpike Authority and the entire Metropolitan Highway System to private companies should be considered. The Big Dig began in 1997 as a $6 billion project, but is now estimated to cost $14.6 billion. The federal government is no longer funding its portion of the project because of cost overruns. The Massachusetts Turnpike Authority, which has supervised the Big Dig since 1997 (and which also controls the 123-mile, east-west Massachusetts Turnpike), is $2 billion in debt. Outside of Boston, local officials are tired of putting highway money into the Big Dig. These funding issues and the July 10 accident have encouraged a growing number of experts to suggest that Massachusetts consider PPPs, and it would not be surprising if one of the candidates for governor or a state transportation official suggested that PPPs be considered.

Outside the United States:

10. Stockholm Votes for Congestion Pricing: Stockholm successfully implemented a pilot congestion pric-

ing scheme earlier this year which reportedly cut weekday traffic in the Swedish capital by 20% and reduced emissions by 9% to 14%. With the help of a private sector partner, International Business Machines, Stockholm created a downtown charging zone, charging and collecting fees from drivers based on the time of day when they entered this zone. Cars were outfitted with a windshield transponder (or had their license plates photographed) and fees were collected by matching the vehicle with vehicle-registration information. Fees were highest during morning and evening rush hours and gradually decreased before and after such times. There were no fees to enter the charging zone at night (between 6:30 p.m. and 6:30 a.m.). *The Wall Street Journal* described the program as "a giant behavior-control experiment designed to distribute traffic more efficiently throughout the day and to spur more people to take public transportation" and noted that many cities, including New York, Bangkok, Dublin, San Francisco, Prague and Copenhagen, are in various stages of studying and/or considering similar programs. In a September 17, 2006, city-wide election, 53% of voting city residents approved a referendum for Stockholm to implement the program on a permanent basis, but a majority of voters also ousted the politicians that originally introduced the program.

11. <u>Austria's First PPP</u>: On September 8, 2006, the Austrian motorway company (ASFiNAG, a public limited company held in its entirety by the Republic of Austria) announced the winning bidder for the approximately 850 million Euro "PPP Ostregion Package 1" road concession, the first concession under the "Austria High Speed Road PPP Programme". The winning consortium is Bonaventura, led by Alpine Mayreder, Hochtief and Egis Projects (the two losing bidders are contesting the award and a final decision on the appeal is expected within 6 weeks). Package 1 involves the construction of approximately 51 kilometers of a trunk road network northeast of the city of Vienna. This section was chosen as a priority because Vienna's road network is overloaded and poorly connected to the urban areas north of Vienna. Upcoming concessions for additional portions of the Ostregion project will expand this initial project further north to provide an efficient north-south connection between Vienna and the Czech Republic and further south to provide a Lobau and Danube crossing east of Vienna. Under the Austrian procurement law, a road concession can only be given if the concessionaire assumes a significant part of the demand/traffic risk and value for money is generated for the state (i.e. the concession is more cost effective than "traditional procurement").

12. <u>Peru and Chile to Tender New PPPs</u>: Peru's Transport Minister is planning to tender 4,500 kilometers of roads worth US$830 million over the next three years. The Buenos Aires-Canchaque en Piura highway may be the first of these new concessions, which will also include the Costa-Sierra highway, one of Peru's largest planned projects. *P3**Americas**.com* reported that Peru's Transport Minister also expects to issue ten more tranches of concessions next year. In Chile, the public works ministry expects to solicit bids for a concession to develop the Coronel Tres Pinos stretch of Ruta 160 during the first half of 2007 and a concession to link Ruta 160 to Ruta Interportuaria during the first half of 2008. The Coronel Tres Pinos project is expected to cost approximately US$160 million and the Ruta 160/Ruta Interportuaria connector is expected to cost approximately $150 million.