Partnerships in Transit

San Francisco, California – July 31, 2008

Meeting Summary

Welcome Keynote: Dorothy Dugger introduced Sherry Little

The goals behind the Partnerships in Transit events are to advance the concept of public-private partnerships (PPPs) and to get people together to discuss their different communities, by sharing ideas and solutions to common problems. Funding for transit is nearing a crisis level because vehicles are more fuel efficient, customers face rising gas prices, and per capita vehicle miles are decreasing; all of this translates into less revenue from the gas tax and less federal funding for transit projects. Lower levels of federal funding are coupled with rising costs of construction, maintenance, and construction costs, making it very difficult for transit agencies to keep their equipment in a state of good repair, let alone expand their systems. Innovative solutions must be created and must include the private sector as another tool to solving this problem. The PPP pilot program (signed into law in 2005) is an excellent example that not only shows how the public and private sectors can partner together, but also valuable information about risk sharing, financing, management, and construction through successful and less than successful projects. There is about $400 billion in private sector funds available for roads, bridges, and transit projects because people are interested in investing; the public and private sectors need to team up to use these funds in creative ways that will improve and expand transit systems.

Fundamentals and Issues: Dorothy Dugger introduced Richard Norment

PPPs have been in use for a long time, but their application and frequency are new. Highway and water projects are abundant and lessons from those sectors can be applied to transit to help establish strong partnerships. PPPs are an important tool that is just another option for financing and managing a project. A major challenge is building a level of trust and communication between the public and private sectors because typically the sectors do not communicate well, when in fact they are saying the same thing using different language. A balance between the sectors, where each side utilizes their skills and strengths, is important for a well-functioning partnership. There are 6 keys to a successful partnership: a statutory and political environment favorable to PPPs, dedicated group, an enforceable contract created from a detailed business plan, guaranteed revenue stream, stakeholder support, and a well selected partner.

Local and National Statutory Perspective: Dana Nifosi and Stanley Taylor

The first question to ask when attempting to create a PPP is does the public agency have the authority to contract. The authority can come in the form of a state-wide statute, a project specific statute, or an agency specific statute. PPPs are inconsistent with many customary contracting processes because PPPs are based on the best value instead of the lowest cost. Under many PPPs design and construction are combined, but under traditional procurement the two steps are separate, with design based on qualifications and construction is based on lowest cost. States without a statute should look at other states' statutes and then adapt them to meet their needs and concerns. Issues that should be taken into account when looking to adopt a statute include property taxes and PPPs, transparency, stipends for bids, and bonding.

Case Studies: Kathy Mayo, Cal Marsella, Michel Thomet, and Pamela Bailey-Campbell

Case studies in the United States from San Francisco, Denver, and Oregon, as well as international case studies were presented to highlight successful and less than successful aspects of various projects. Prior to initiating a project, the agency should complete or commission a feasibility study that evaluates the project and how it will be impacted by changes in the economy and in the region. For projects deemed viable, transit agencies should be open to creative financing—a combination of federal and state funding, bonds, taxes, tax increment financing, user payments, and private funding—for their projects because capital costs of expanding transit lines are so vast and there is usually not enough funding from just one source available to complete the project. For many projects demand risk or ridership is kept by the transit agencies and availability or lease payments are made to the private sector partners. This allocation ties into the important concept of allocating risk to the partner best able to carry that risk and creating a partnership that will be successful for both partners. The ultimate goal in transit projects is for the project to be self sustaining, with the fares covering the operation and maintenance of the line; any additional revenue is seen as a bonus.

Luncheon Keynote: Robert Tuccillo introduced David Crane

The nation's infrastructure system was built over two generations ago and is in serious need of repairs and expansions. Economic power is tied to a nation or state's ability to move people and good; if the United States wants to maintain its top spot in the world, infrastructure must be improved drastically. In California, the government sees a connection between infrastructure and quality of life and is continually seeking to improve the quality of life for its citizens, which translates into a push for improved infrastructure. Repair and expansion projects are more and more difficult to do because over the past two decades the federal government has reduced its contribution for infrastructure by half, the California government stopped funding infrastructure in the 1960s and neither government has worked to remove obstacles that block private sector funding. Legislation must be passed for PPPs so that government and private companies can assume co-responsibility for infrastructure and use their strengths to create a strong partnership because PPPs get more competitive bids, reduce costs, and improve performance of all projects, not just PPPs. Despite the positives of PPPs, many misconceptions still exist; the private sector needs to do a better job helping to waylay concerns.

Generating Private Sector Finance: Peter Winder, Peter Lucetti, and Danette Jones

PPP are an alternative method of financing that can be used for a multitude of projects and in a variety of sectors. A Value for Money (VfM) assessment or public sector comparator should always be completed to see if using a PPP is the best option for a given project; if the VfM net present value is negative, then a PPP should not be used. Currently there is approximately $80 billion in private equity available for infrastructure projects, but the majority of it is not in use yet partly because in the current market, lending practices have tightened. With 80 to 90 percent of private funding coming through debt, it is a little more difficult to get projects going; however, with all the funds available, projects are possible. To expedite the procurement process, the public sector partner needs to obtain any right-of-ways required; the private sector will see the public agency's commitment to the project and will work on compiling funding. A major issue affecting project funding is risk allocation because investors and banks want to know they will get their money back. Partners can take out insurance policies to help mitigate some of the risk in PPPs.

Transit Oriented Development and Joint Development: Roger Moliere, Shelley Poticha, and Maria Ayerdi-Kaplan

Recent studies show that people are in favor of walkable communities, which are usually centered on transit. People are five times more likely to use transit if they live within a ten minute walk of a station and three times more likely to ride if they work near a transit station. Property values in many of these communities are increasing and retail companies see the value and open stores. Transit agencies can take advantage of this new demand by using revenue generated through transit oriented development (TOD) to help with the operation, maintenance, and expansion of their systems. The local jurisdiction also benefits through increased property tax revenue. TOD projects require great city and regional leaders, who will work closely with the private sector and other public officials in the area in order to move it forward. Transit helps provide a visible anchor for development and as people see a positive economic impact, support for the projects will continue to increase.

Roundtable Discussion

A roundtable format was used to address questions about the different stages of a PPP, from prior to the issuance of a RFP, through the negotiation of a contract, to the implementation and management of a project. When a public agency has a project it thinks might work well as a PPP, the agency should first check to make sure there is a state statute allowing a PPP; otherwise, private companies will not express interest or issue bids. The NEEPA and NEW STARTS processes should be completed as early as possible when needed for a project. When building a partnership, it's best to start with a model contract and make changes as necessary, so that it's tailored to the specific needs of the community. Good legal counsel and financial advisors are crucial for establishing the contract and partnership. Once a contract is signed, the public sector partner continues to play an important role in the partnership. The PPP needs to be evaluated throughout its lifetime on whether the performance measures outlined in the contract are met.