



PARTNERSHIPS IN TRANSIT

San Diego, CA

July 7, 2009



California PPP Authority

Nancy C. Smith



California Laws

- S&H 143 (as revised by SBX2 4 passed 2/15/2009)
- Also:
 - Gov. Code 5956 (fee producing infrastructure; no state highways; no state funds)
 - Pub. Cont. Code 20360 (L.A. Metro rail facilities, limitation on use of local funds, LAX/Palmdale)
 - PUC 130242 (L.A. Metro transit systems and facilities, low bid)
 - PUC 40075 and 40183 (OCTA agreements with operators)
 - Charter cities

S&H 143

- Public Infrastructure Advisory Commission” (PIAC) to advise Caltrans and regional transportation agencies (RTAs) in developing transportation projects through performance-based infrastructure partnerships
- “RTA” means:
 - transportation planning agencies
 - county transportation commissions
 - other entity designated by statute as a regional transportation agency;
 - a joint exercise of powers authority (with the consent of transportation planning agency or a county transportation commission)

S&H 143

- “Transportation project” means planning, design, development, finance, construction, reconstruction, rehabilitation, improvement, acquisition, lease, operation, and/or maintenance of the following facilities supplemental to existing facilities currently owned and operated by Caltrans or an RTA:
 - highway
 - public street
 - rail
 - related facilities
- Non-toll/toll conversions not allowed other than HOT lane projects

S&H 143

- Caltrans/RTAs may solicit proposals, accept unsolicited proposals, and enter into “comprehensive development lease agreements” with public or private entities for transportation projects
- Authorization of California Transportation Commission (“CTC”) required under Sec. 143(c)
 - CTC selects from among nominated projects at public hearing
 - CTC to consider the following objectives:
 - Improve mobility by improving travel times or reducing delays
 - Improve operation or safety
 - Provide quantifiable air quality benefits
 - Selected project must address a known forecast demand

S&H 143

- Lease agreement to be submitted to CTC
- Lease agreements to be submitted to Legislature and PIAC
 - At least 60 days prior to execution
 - Public hearing by Caltrans/RTA prior to submittal
- Caltrans responsible for:
 - predevelopment services for projects on the state highway system
 - preparation of documents
 - this work may be performed by Caltrans employees or assigned to consultants

S&H 143

- Flexibility in procurement approach
- Compensation allowed if competing facility is built
- Tolling authorized
- Lease agreement must include indemnity in favor of State/RTA
- Caltrans standards apply for state highway facilities
- Specified remedies for default
- Possessory interest tax exemption
- Reporting requirements
- Sunsets 1/1/2017

Contact

Nancy C. Smith
Nossaman LLP
445 South Figueroa Street, 31st Floor
Los Angeles, CA 90071

(213) 612-7837 Tel
(213) 612-7801 Fax

nsmith@nossaman.com
www.nossaman.com/infrastructure