Partnerships in Transit

Denver, Colorado – June 12, 2008

Meeting Summary

Welcome: Cal Marsella introduced Sherry Little, keynote speaker

Like author Maxwell Gladwell wrote in his book, The Tipping Point, PPP's in the United States have reached a point when the momentum for change is unstoppable. The large turnout from both the public and private sectors is a testament of this momentum and a way to form ever-important partnerships that provide an opportunity to work together for economic vitality in transit. PPPs are an important tool because they combine the strengths of each sector. The public sector must continue to address safety, oversight, and public need while at the same time providing enough flexibility for the private sector to employ creative and innovative solutions to the tough problems we face.

Fundamentals and Issues: Cal Marsella introduced Richard Norment

PPPs are not a revolutionary concept; they have been used over time for many infrastructure projects in the United States. Given the condition of infrastructure today, constrained budgets and constituent demands, governments are hard pressed to deliver. PPPs are one of many options that can be used to solve this problem. Although the public and private sectors appear to be speaking different languages, they both say the same thing and partnerships combine the strengths of each sector. There are six keys to PPPs that are necessary: a statutory and political environment, strong leadership in the public sector, a contract, a guaranteed revenue stream, stakeholder support and a carefully selected partner. The most important key is political leadership.

Local and National Statutory Perspective: Stephen Miller, Raymond Friedlob and Nancy Smith

Public entities must have enabling legislation granting the authority to contract in order for them to enter into PPPs agreements. This can be a problem because legislation does not happen in a vacuum; it occurs as a response to public demands and pushing, but it is difficult to get the public pushing until projects are already in place. In 2007, the ABA issued model PPP legislation that should be adopted by all states, with the caveat the legislation remain flexible to incorporate state and partnership differences. Prior to signing a contract, agencies must make sure the contract is transparent, an arbitration framework is included and is structured in such a way that the private company has invested some of their own equity into the project. To reduce the number of roadblocks, all stakeholders of the project must be kept informed throughout every step of the process.

Case Studies: Cal Marsella, John Inglish and Russell Zapalac

Case studies from the Denver Regional Transit District and the Utah Transit Authority highlight the strengths and positive effects that can come from PPPs. Transit agencies should take a regional approach that includes a family of transit options—commuter rail, light rail, subway and buses—combined in a way to be most effective. In the cases outlined, residents of the region were supportive of the measures and even voted for slight tax increases to help finance the projects. Transit offers many opportunities from design, construction, operation and maintenance to include the private sector and by doing cost-benefit analyses/value for money analyses, agencies can decide the areas where it is best to maintain control and where best to utilize a PPP. Another reason for the success seen in the case studies is the level of trust that was built between the sectors, beginning with the contract structure that allowed both sectors to do what they do best.

Luncheon: Bob Truccillo introduced Mayor Hickenlooper

Denver is part of a regional network and all agenda is set with this concept in mind. To this end, the region has created a strategic transportation plan that looks to all elements, including biking and walking. Part of this plan is the FasTracks project, which was created by the whole community and has the support of a majority of residents as well as all thirty-two area mayors. Even people who choose not to use light rail see the benefits it brings to the region.

Generating Private Sector Financing

PPPs should not be considered a way to fill the funding gap that can be applied to any project; it is a potential tool that can be used and its usage should be based on its “Value for Money” (VFM), risk allocation/transfer and its life cycle costs. When a PPP is based on these principles, both sectors share in the risks and rewards in such a way that the strengths of each sector are employed and the best value of money can be achieved. PPPs need to be performance and output based, not input specified because when based on desired outcomes, the private sector is able to be creative and innovative, giving the public sector the best possible solution. While the public sector is able to borrow capital at a lower cost, PPPs, using private sector funding, which have positive VFM, are more cost-effective in the long run because life cycle costs were considered.

Transit Oriented Development/Joint Development

For TOD to take place, the local government, the transit agency and the developer must all be involved in the partnership and communicate with each other and all stakeholders throughout the project. A developer will get involved in a project if there is strong leadership in the local government, land is available and a real estate market already exists in the area. If these conditions are met, then TOD will create a destination along a transit line, not just construct a building. Currently, and for the past ten years, there is demand for walkable communities near transit stations. By investigating trends and exploring completed projects, local governments and transit agencies can create long-term development plans that meet constituent demands and focus on transit. TOD is a top real estate market of the future because transit ridership has exceeded ridership projections and membership in the transit demographic (empty nesters and young adults) continues to increase as well. There are lots of opportunities for TOD and both the private and public sector must educate themselves and plan if they want to take advantage of these opportunities.

Roundtable

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. States need to create a model statute that authorizes the use of PPPs while at the same time minimizing the red tape. Before a RFP is issued, the public agency must do an analysis of the project, create project expectations that are performance based, make sure there is a revenue stream in order to attract private investors and make the process transparent. To help expedite the negotiation process, a tiered binding arbitration system should be included in the contract; however, each sector must remember that it is a partnership and disputes should be resolved as quickly and on the lowest level possible to ensure the continued functioning of the project. To reach this end, the local agency should create a dedicated team that works on the project throughout its lifetime and works closely with the private sector team, with a focus on a constructive and amicable working relationship.