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**PLANNING AND PROGRAMMING COMMITTEE
SEPTEMBER 17, 2008**

SUBJECT: PUBLIC-PRIVATE PARTNERSHIP PROGRAM

ACTION: APPROVE RECOMMENDATIONS

RECOMMENDATION

- A. Receive and file the summary of responses (Attachment A) to the Request for Information (RFI) to seek industry input on the use of Public-Private Partnership (PPP); and
- B. Adopt the PPP Work Plan (Attachment B).

ISSUE

In April 2008, the Board approved a motion directing the issuance of an RFI to solicit concepts and proposals, and to seek industry input on the use of a Public-Private Partnership (PPP) model to build one or more of the unfunded transit and/or highway projects listed in the Draft 2008 Long Range Transportation Plan (LRTP) Tier 1 Strategic unfunded projects, including perspectives on project delivery methods and private project financing. Twelve RFI responses were received on July 14, 2008. This report provides a summary of the responses received.

This report also seeks Board approval of a work plan and assessment of resources needed to evaluate potential PPP candidates, following the previously Board adopted Framework.

POLICY IMPLICATIONS

The Draft 2008 LRTP includes language supporting the use of PPP as a project delivery method to fund and advance projects. Four projects in the LRTP assume partial funding by other methods such as PPPs. These are SR-710 Gap Closure, I-5 North HOV and Truck Lane Improvements, I-710 South and High Desert Corridor.

The Framework has been structured to assist us in developing a PPP program that is clear, concise and transparent and will provide consistent evaluation criteria for determining the PPP potential of these and other Strategic unfunded transit and highway projects.

OPTIONS

The Board could elect to make modifications to the proposed Work Plan or to not continue pursuing this project delivery process. However, we do not recommend these options. The recommendations will enable us to proceed with further evaluation of the PPP concept as a viable means of advancing strategic transportation projects and create a transparent evaluation and procurement process.

FINANCIAL IMPACT

Funding for in-house planning resources to continue work on the PPP Framework has been included in the FY 09 budget in Cost Center 4370, Project 405510, Task 06.02, General Planning. We will return to the Board for the contract award to develop the PPP program and strategy, and to commence the high level financial feasibility assessments. We will also address the FY 09 budget adjustment, if necessary.

BACKGROUND

On May 12, 2008, we released the RFI to more than 100 national and international construction, investment banking and program management firms. The RFI was also available on the Procurement Department's web page. On June 14, 2008, a pre-response workshop was attended by nearly 50 potential respondents. At this workshop, we provided information on the existing Metro system and the LRTP Strategic projects. Attendees were also given an opportunity to ask questions.

As of the July 14, 2008 due date, we received twelve responses. Attachment A is a matrix indicating the responses received. A technical review team consisting of individuals from the Departments of New Business Development, Treasury, Procurement, Construction Project Management and Planning reviewed and analyzed each response.

Analysis of RFI Responses

Half of the respondents were private investment providers or financial advisors, and two were systems operators with the balance providing engineering or management services.

The respondents variously showed interest in the following LRTP projects (listed in no specific order) as potential candidates for PPP delivery through the availability payment (transit) or user fee/toll (highway) financing models:

- SR-710 Gap Closure (*mentioned by four respondents*)
- Conversion of all HOV lanes to HOT lanes (*three respondents*)
- Harbor Subdivision (as stand alone LRT or commuter system) (*one respondent*)
- I-710 South (*three respondents*)
- High Desert Corridor (*three respondents*)
- Metro Subway Westside Extension/Purple Line (*two respondents*) (also build the Extension, operate and maintain entire heavy rail system)
- I-5 HOT lanes and truck lane improvements (*two respondents*)
- Exposition LRT Phase II (*one respondent*)
- LA/Burbank/Glendale Corridor (as stand alone LRT system) (*one respondent*)
- Regional Connector (also build the Connector, operate and maintain entire light rail system) (*one respondent*)

Except for the suggestion of user fees and/or availability payments, none of the twelve responses contained detailed information as to how any of these projects could be delivered. Instead, the overwhelming advice provided by the industry in these responses is that, due to the significant investment of time and expense required to submit a proposal, prior to soliciting proposals from experienced PPP players, we will need to:

- determine which projects we want to move forward,
- secure all environmental clearances and develop design to 30%,
- develop our goals, objectives, priorities and performance evaluation criteria,
- identify and resolve most of the public and legislative issues,
- identify public funding sources for construction costs for transit projects (highway projects may be different),
- have retained PPP-experienced consultants to provide guidance,
- set up a PPP-experienced management and procurement team.

Since no proposals to actually design, construct, finance, operate and/or maintain any projects were actually received, we do not have an analysis of advantages and disadvantages of approach to project concepts or delivery. The summary matrix, Attachment A, highlights the comments and expressions of project interest provided in each response.

While the RFI respondents indicated that some of the projects identified in the RFI could have the potential to benefit from PPPs, they also noted that most of these projects are still in the early planning stages. Therefore, we recommend pursuing the process identified in the June 2008 Board-adopted Framework, which outlines the criteria and process for evaluating PPPs, as well as approving the Work Plan that more clearly identifies and defines the necessary steps.

Work Plan

The Work Plan, Attachment B, tracks how the Framework Steps will be followed within the next two to three years to identify PPP projects. With the exception of the High Desert Corridor, which is being advanced by a Joint Powers Authority (JPA), the analysis may include those projects identified in the RFI responses. We will coordinate with the High Desert Corridor's JPA so as to not duplicate their efforts.

NEXT STEPS

Upon Board approval, the Work Plan will be implemented and we will proceed with preparing a scope of services for procuring a PPP specialist advisory consultant to support PPP program and strategy development, and to provide technical, legal and financial services. We will return to the Board this winter to award the contract and will continue to follow the steps as outlined in the Work Plan.

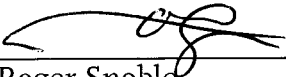
ATTACHMENTS

- A. Matrix Summarizing RFI General Responses
- B. Public Private Partnership FY08 through FY10 Work Plan

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SUMMARY OF REQUEST FOR INFORMATION RESPONSES

Ten different projects were identified in the responses as potential opportunities for Metro to partner with the private sector. These responses suggested general concepts, including operation and maintenance of our existing systems, but did not include preliminary proposals for Public-Private Partnerships. They did provide suggestions as to feasible private partner payment methods, as well as advice as to what essential commitments are needed of the public agencies prior to requesting formal proposals. These include identifying projects to be pursued as PPPs, securing environmental clearances, setting fares or tolls, and committing public funding sources.

Summaries of responses are provided below:

Respondent Name	Metro Project Interest	Highlights of the Proposed Approach/Concepts	Evaluation Panel Comments
<p>ACS INFRASTRUCTURE DEVELOPMENT</p>	<ul style="list-style-type: none"> • SR-710 Gap Closure • High Desert Corridor • I-710 South • HOT lanes • Purple Line Westside extension • High Speed Rail Transit (HSRT) connection 	<p>Propose to recommend combination payment based on fixed, availability and system performance; propose to set fares and tolls and to include automatic fare increase based on CPI. Advise against use of Pre-Development Agreement. Instead, for greater likelihood of success, recommend agency develop project and solicit bids when sufficient definition and political/social/environmental understanding is available.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> • gain elected officials' support • establish dialogue with labor unions • complete environmental clearance (with 30% design) • fund 40% to 70% of total construction for transit projects (highway may be different) • provide "level 2" ridership projections • acquire Right-of-Way • secure enabling legislation 	<ul style="list-style-type: none"> • Dragados USA, a sister construction company of ACSID, is undertaking construction projects in New York area, Miami and Puerto Rico. Dragados usually does construction or design/build. ASCID usually manages Design Build Finance Operate and Maintain (DBFOM) PPP projects.
<p>BABCOCK AND BROWN</p>	<ul style="list-style-type: none"> • SR-710 Gap Closure 	<p>Propose to serve as concessionaire lead (private sector "project company" established for the partnership) and lead equity participant; use DBFOM as the most effective delivery method; propose to integrate construction and operation & maintenance (O&M) in one contract, and to use availability payment structure for transit projects. Prefer availability payment structure for highways as well, but not necessarily preclude tolling.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> • secure public subsidy for rail projects • complete environmental clearances, site remediation, etc. • assure permitting process to not delay project • gain public support for identified need • identify source of public sector funding • provide certainty of procurement process and risk allocation • collect revenues, and set fares/tolls 	<ul style="list-style-type: none"> • International investment and specialized fund and asset management group; operating divisions in real estate, infrastructure, operating leasing and corporate & structured finance. • Various PPP project roles include financial advisor, equity investor, and consortium lead. • Propose toll road to fund SR-710 Gap Closure construction • Suggest selection of projects that have strong public support.

Respondent Name	Metro Project Interest	Highlights of the Proposed Approach/Concepts	Evaluation Panel Comments
BALFOUR BEATTY CAPITAL	Would like to assist Metro to establish PPP program and prioritize projects	<p>Propose to recommend use of availability payment model for transit: Metro's payment would be based 70% to 80% on system availability, and the balance based on system performance and possibly ridership</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> take environmental clearance lead complete ridership forecasts assure payments establish procurement framework & risk assessment retain service delivery responsibility and fare setting 	<ul style="list-style-type: none"> Balfour Beatty PLC consists of six companies providing international civil engineering, construction, facilities and investment services. Finance, engineering, construction and design-build contractor BBC infrastructure investment group does project development, financing, project execution, long-term asset management and operations.
DELOITTE	Interested in providing consulting services to develop PPP program	<p>Propose to perform screening and strategic assessment and value for money analysis for all projects considered. Propose availability payment model.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> define project scope and provide project description provide cost estimates complete risk assessment define project objectives or restraints obtain legislative and regulatory approvals determine appropriate delivery model assume ridership risk allocate project cost overrun risk to private party 	<ul style="list-style-type: none"> Infrastructure and financial advisory services. Developed implementation work plan for Transport Canada. Response provides detailed screening process for project selection and includes a particular methodology that rates risk and assesses the appropriate PPP model.
DMJIM HARRIS - AECOM	<ul style="list-style-type: none"> Expo Phase II SR-710 Gap Closure (Toll) I-710 South (Toll) High Desert Corridor (Toll) 	<p>Propose to serve as Project Delivery Manager (PDM) who will assist Metro in project management and manage procurement of individual firms (i.e., financing, construction, operation, etc.) rather than consortium; recommend 50 year concession period and incremental regional sales tax funding source; use availability payment model based on system performance to deliver DBFOM concession.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> obtain legislative and regulatory authority establish dedicated funding source for availability payments acquire ROW in advance obtain environmental clearance ROW site remediation prior to long term lease to concessionaire 	<ul style="list-style-type: none"> Architectural, engineering and project management firm.
GOLDMAN SACHS	Interested in serving as PPP advisor, PPP investor or bond underwriter	<p>Propose to recommend availability payment model to deliver DBFOM and to develop Transit-Oriented Development (TOD) value capture strategies.</p>	<ul style="list-style-type: none"> Currently serving as PPP and alternative finance advisor for Denver RTD.
LEHMAN BROTHERS	Interested in bond underwriting	<p>Propose to provide financial structure</p>	<ul style="list-style-type: none"> Assist with structure and bond underwriting

Respondent Name	Metro Project Interest	Highlights of the Proposed Approach/Concepts	Evaluation Panel Comments
RBC CAPITAL MARKETS	Interested in PPP program consulting, with emphasis on financial analysis	<p>Propose to recommend traditional PPP model with RBC providing financial assets or act as financial advisor</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> do O&M set fares/tolls Assume environmental clearance risk 	<ul style="list-style-type: none"> Global investment bank and U.S. based brokerage firm Core business is infrastructure and Project Finance Group Assist transit agencies in study of value for money, define financial availability payments, and help with proposal evaluations.
SIEMENS TRANSPORTATION SYSTEMS, INC.	<ul style="list-style-type: none"> Build Regional Connector, operate and maintain entire light rail system Build, operate, and maintain LA/Burbank/Glendale light rail 	<p>Propose to use availability payment model to deliver DBFOM.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> prepare RFPs limit private ridership revenue risk solicit proposals from PPP-experienced bidders obtain good public/private working relationship. 	<ul style="list-style-type: none"> Want to provide light rail technology expertise, project management services and investment.
THE CARLYLE GROUP	<ul style="list-style-type: none"> HOT projects: I-405, I-5, US-101 Build Regional Connector Build Purple Line Operate and maintain existing heavy/light rail system 	<p>Propose to provide infrastructure investment funds. Suggest Metro use availability payment model, so that we can utilize debt financing, which is more stable than fare box revenue.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> provide financial subsidies assume farebox revenue risk 	<ul style="list-style-type: none"> U.S. based infrastructure fund willing to provide equity financing for range of transit and highway projects.
VEOLIA TRANSPORTATION	<ul style="list-style-type: none"> Harbor Subdivision Line; stand alone LRT or commuter system Bus operations 	<p>Propose to serve as concessionaire lead, assuming single point of responsibility to deliver DBFOM, providing project equity and arranging debt financing. If not the lead, would invest equity in O&M component after Notice to Proceed (NTP).</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> provide up to 70% project financing set service parameters do environmental studies provide 30% design including specifications conduct pre-conferences before RFP 	<ul style="list-style-type: none"> Transit operator; also serves as equity partner Operator of several PPP rail projects in Europe, the Mideast and South Asia
WILBUR SMITH	<ul style="list-style-type: none"> SR-710 Gap Closure I-710 south High Desert corridor I-5 HOT lane improvements Convert all HOV to HOT lanes 	<p>Propose to recommend use of revenues from different sources to fund transit projects.</p> <p>Expect Metro to:</p> <ul style="list-style-type: none"> determine potential project value develop goals, objectives, and evaluation criteria assemble experienced professional PPP team identify public issues: toll regimes, pricing policies, future capacity improvements, congestion pricing, revenue maximizing pricing, concession term, corridor throughput 	<ul style="list-style-type: none"> Provides consulting services such as systems valuations, feasibility studies, procurement advice, traffic and revenue studies, engineering consulting and public outreach services. Related experience on Chicago Skyway and Indiana Toll road projects.

PUBLIC-PRIVATE PARTNERSHIP WORK PLAN

Project Evaluation Process	
STEP 1	
Project Feasibility	
ACTIVITY	TASKS
FY 09	
Identify needed resources to evaluate project PPP potential	<ul style="list-style-type: none"> • Assess in-house capability • Formalize in-house Public-Private Partnership Task Force • Determine consultant requirements, scope of work and cost estimate for program and strategy development support, including technical, legal and financial services • Procure PPP consultant
Consultant procurement process	
Board action	<ul style="list-style-type: none"> • Award consultant contract
FY 10	
Assess PPP viability of initial project list	<ul style="list-style-type: none"> • Consider pending environmental information and legislative capacity • Perform high-level financial feasibility/life-cycle analyses • Consider opportunity for beneficial project innovation or alternative technical concepts • Assess risk allocation potential • Determine if clearly definable and measurable specifications can be established
Industry forum discussing those projects recommended as a result of consultant analyses	<ul style="list-style-type: none"> • Determine private sector interest in recommended projects • Gain technical guidance • Evaluate PPP model alternatives, advantages, risks, etc.

STEP 2 Project Definition	
ACTIVITY	TASKS
Develop Procurement Process	<ul style="list-style-type: none"> • Well defined, predictable and transparent • Procurement team experienced in PPP contracting process
Enabling legislation	<ul style="list-style-type: none"> • Determine needed legislation to support identified potential projects • Pursue required legislation, if necessary
FY 11	
Assess projects with Project Suitability Screening Criteria (Attached)	<ul style="list-style-type: none"> • Finalize environmental studies • Formulate well defined project scope and objectives • Assess PPP Project suitability, and identify and allocate potential projects risks
Outreach to interested parties	<ul style="list-style-type: none"> • Stakeholders • RFI respondents • Legislators • Unions
Establish Board adopted policy for PPP negotiations	<ul style="list-style-type: none"> • Operations/maintenance of projects • Tolls, fares • Project phasing options • Procurement policies
STEP 3 Procurement	
ACTIVITY	TASKS
Board action	<ul style="list-style-type: none"> • Final Public-Private Partnership project(s) selection • Identification of public sector funding contribution • Authorization to pursue PPP solicitation and execution of consultant contract option for development of procurement documents • Pursue project specific legislation, if necessary
Negotiations	<ul style="list-style-type: none"> • Negotiate PPP agreement • Structure contract documents to fulfill negotiated agreement
Board action	<ul style="list-style-type: none"> • Public sector funding source commitment • PPP agreement execution • Amend LRTP and RTP, if necessary • Exercise consultant contract option for program management support (optional)

PPP PROJECT SUITABILITY SCREENING

Public agency assessment of project risk under PPP delivery methods

Screening Criteria

ANALYSIS	CONCERNS
Financial Feasibility	<ul style="list-style-type: none"> • Project revenue generation potential and parameters • Private sector economics (capital, O&M costs, financing, etc.) • Public sector funding levels, identification of dedicated funding source, if possible • Financial viability of project, life-cycle costs, value for money evaluation • Project phasing or packaging
Design and Construction	<ul style="list-style-type: none"> • Significant design and construction constraints • Right of way, geotechnical, hazardous materials risks • Technical feasibility issues • Public sector acceptance of technical innovation
Operations and Maintenance	<ul style="list-style-type: none"> • Public or private operator • Assess existing O&M contracts and viability of PPP opportunities • Maintainability of service standards by private sector • Feasibility of performance accountability • Public sector acceptance of O&M innovation
Impacts of Approval Process	<ul style="list-style-type: none"> • Appraisal of necessary technical staff resources • Consideration of PPP negotiation process with respect to anticipated project schedule
Project System Interface	<ul style="list-style-type: none"> • Integration of project into existing system • Impact of private operation on system integration
Legislation	<ul style="list-style-type: none"> • Legal and legislative constraints • What new legislation, if any, is required to support proposed projects
Acceptability	<ul style="list-style-type: none"> • Stakeholder and political acceptance and support of private involvement in public facility • Public sector comparator analysis to determine if best project delivery method is really PPP or traditional financing

