

SB4 AND THE PDA PROJECT DELIVERY METHOD

High Desert Corridor JPA

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Overview

- SB 4
- Hard Money/Committed Concession vs. PDA
- High Desert Corridor

SB 4



SB 4

Authorized Agencies

- Caltrans
- “Regional transportation agencies” (“RTAs”) – Includes:
 - ...Joint exercise of powers authority as defined in Gov. Code Section 6500, with the consent of a transportation planning agency or a county transportation commission.
- Caltrans and RTAs may procure these projects together or separately
- Also creates a new agency under BTH called Public Infrastructure Advisory Committee (PIAC)

SB 4

Authorized Projects

- Unlimited # of projects authorized
- Includes highway and rail projects
- May include:
 - Planning, design, construction, finance, operation, maintenance, etc.
- To use PPP, must apply and be selected through CTC
 - CTC has issued draft guidelines for that process
 - Should be adopted/completed in September

SB 4

Caltrans' Role

- Can procure or jointly procure with RTAs
- For PBI projects on the state highway system, Caltrans' employees and consultants are responsible for performing "project development services," such as drafting technical requirements documents and performance specifications, carrying out preliminary engineering and performing construction inspection services
- Somewhat unclear as to role of Caltrans on RTA projects, but they likely will have a substantive role

SB 4

Procurement Process

- Unsolicited and solicited proposals
- Use best value or low bid selection
- Shortlisting after RFQ may be used
- Negotiations may be used
- After completion of negotiations, final agreement goes to PIAC, Legislature and BTH for 60 day review and comment period
 - No approval requirement
- Caltrans/RTA retains discretion on whether to address/integrate comments received
- Public hearing requirement

SB 4

Select Contract and Other Issues

- Facility ownership remains with Caltrans/RTA
- Lease can establish toll rates and adjustments
 - Anything outside of that must be approved by Caltrans/RTA
- Project reverts back to Caltrans/RTA at end of term
- No maximum term length
- Provides for use of performance standards
- Allows for exemption of real property/ad valorem taxes

SB 4

Sunsets

- *Lease agreements must be entered into before January 1, 2017*

Hard Money/Committed Concession vs. PDA



Delivering the Greenfield/Development Project

- 2 Main Procurement Options for PPP:
 - Hard Money/Committed Concession
 - Pre-Development Agreement (PDA)
- Advantages/disadvantages to either approach
 - Both successfully used in US

Hard Money/Committed Concession vs. PDA

Hard Money/Committed Concession

- Parties = Agency and Developer/Concessionaire
- When to Use
 - Project well defined
 - Major environmental approvals in hand or close (e.g., NEPA/CEQA environmental clearances, 404 Permit)
 - Preliminary engineering complete or close
 - Technical standards/specifications developed or close
 - Basically, the project is able to be priced by engineers/contractors and equity and debt sources will be willing to commit to financing

Hard Money/Committed Concession vs. PDA

Hard Money/Committed Concession

- Items Needed to Pursue:
 - Environmental Approvals (in hand or close)
 - Preliminary Engineering
 - If a toll concession, intermediate level traffic & revenue reports
 - Documents that allow full project pricing and financing commitment
 - Form of P3 Agreement that sets out full elements of business deal, including risk allocation
 - Technical Provisions/requirements that set out full project scope and requirements

Hard Money/Committed Concession vs. PDA

Hard Money/Committed Concession

- Items Needed to Pursue (cont’):
 - Team
 - Internal Team – Technical, Financial, Legal
 - External Team
 - Financial, Technical and Legal Advisors
 - Traffic & Revenue Consultant
 - Insurance Advisor
 - Team/apparatus to administer contract, project delivery and operations phase
 - \$ to fund pre-development and procurement costs
 - \$ to support any public subsidy or compensation that may be payable to private sector under PPP agreement

Hard Money/Committed Concession vs. PDA

Hard Money/Committed Concession

- Result of the procurement process:
 - Committed pricing and financing – defined financial proposal
 - Defined technical proposal for development
 - Concession Agreement that defines project scope, financial terms, obligations and risk allocation

Hard Money/Committed Concession vs. PDA

PDA

- Parties = Agency and Developer/Concessionaire
- When to Use
 - Project less defined
 - Major environmental approvals, preliminary engineering, technical standards development not complete or close
 - Could benefit from private sector innovation and ideas in the concept phase, private sector energy and (potentially) cost-sharing/sweat equity
 - These items may substantially accelerate development of project

Hard Money/Committed Concession vs. PDA

PDA

- Items Needed to Pursue:
 - Project concept/basic alignment
 - Basic feasibility analysis
 - Documents that allow pricing of pre-project delivery scope
 - Form of P3 Agreement that sets out obligations for pre-project delivery, milestones and compensation
 - Technical Provisions/requirements that guide the project definition/development phase and that will generally apply to future delivery

Hard Money/Committed Concession vs. PDA PDA

- Items Needed to Pursue (cont’):
 - Team
 - Internal Team – Technical, Financial, Legal
 - External Team
 - Financial, Technical and Legal Advisors
 - Team/apparatus to administer contract and undertake pre-project delivery scope of work
 - \$ to Fund (less than under the Hard \$/Committed Concession Model)

Hard Money/Committed Concession vs. PDA

PDA

- Result of the procurement process:
 - Conceptual financial and technical proposal
 - A pre-development agreement
 - Developer assists and supports agency with enviro process (Agency still prepares enviro docs)
 - Perform studies, prelim engineering
 - Helps develop delivery plan and financial plan
 - Private entity may or may not be paid for this work and may contribute “sweat equity”

Hard Money/Committed Concession vs. PDA

PDA

- Private entity often receives a right of first negotiation when the project is defined and capable of being priced and financed
- If milestones aren't achieved or a deal cannot be reached with the private entity, they may get paid something (more) for their services and agency is free to procure a Hard Money/Committed Concession or other means to deliver the project

Hard Money/Committed Concession vs. PDA

PDA

- Unlike a Hard Money/Committed Concession, a PDA is not the last step before “delivery” commences
- PDA will lead to:
 - Negotiated concession agreement;
 - Negotiated “other delivery model” agreement; or
 - Procured concession agreement; or
 - Procurement using other delivery model
- Items “needed” for Hard Money/Committed Concession will ultimately still be needed under a PDA

Hard Money/Committed Concession vs. PDA

U.S. Examples Where Used

- Hard Money Concessions
 - IH 635 and North Tarrant Express Projects (Texas DOT)
 - Port of Miami Tunnel and I-595 (Florida DOT)
 - Airport Parkway (Mississippi DOT)
- PDAs
 - SR-91 and SR-125 (Caltrans)
 - TTC-35 and TTC-69 (Texas DOT)
 - Mid-Currituck Bridge (North Carolina Turnpike Authority)

High Desert Corridor



The High Desert Corridor

Current Status

■ Characteristics

- Project is not ready to get firm/committed financing and pricing
 - No defined alignment
 - Portions of project under environmental assessment but entirety of project is not
 - Environmental approvals several years off
 - Preliminary engineering not complete or close
 - No sketch level or intermediate traffic and revenue studies
- Limited funds available for planning, pre-development and pre-procurement work

The High Desert Corridor Current Status

- Other background factors
 - SB 4 sunsets in 2017
 - Currently, have motivated stakeholders:
 - Caltrans, LAMTA, SANBAG and Sacramento
- Options
 - JPA funds and completes environmental and planning process itself and then pursues procurement for hard money/committed concession or other delivery method
 - May or may not be possible by 2017
 - Proceed with PDA

The High Desert Corridor

Current Status

- Things needed to proceed with a PDA
 - Go through CTC P3 selection process to get authority to use P3
 - Work with stakeholders to identify roles and responsibilities of each agency
 - Retain financial advisor and technical advisor support
 - These are owner advisors, not people that will pursue project
 - Identify \$ to pay for advisors
 - Commence procurement

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