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Finding the Express Lane to a Successful P3.

Managed-lane projects are springing up all over. There are some key considerations to making public-private partnerships work for them.

Even with the enactment in December of the new five-year federal transportation law, the Highway Trust Fund will remain underfunded to meet our needs as many heavily travelled corridors continue to deteriorate at a rapid pace. Public authorities will continue to look for new ways to manage highway congestion, make the best use of limited capacity, and pay for rehabilitation and expansion of existing roadway infrastructure.

“Managed lane” projects refer to toll roads where the rates motorists pay vary depending on the level of traffic: the more traffic, the higher the tolls. Drivers choose to either pay the tolls or stay in the adjacent free lanes. Public-private partnerships (P3s) have become an important tool to help meet many of these projects’ technical and financial challenges. But P3s have challenges of their own that sponsors of these kinds of projects will need to deal with.

A dozen managed-lane P3s have emerged across the country — including projects in Colorado, Florida, North Carolina and Texas — since the first one, the Capital Beltway Express Lanes project in northern Virginia, got underway in 2008, and several other jurisdictions are contemplating the use of P3s to deliver managed-lane projects.

Managed-lane projects are technically demanding, as they typically involve building or reconstructing busy highway corridors in densely-populated urban centers. They are also complicated in that they can require integration of active traffic management, variable-rate tolling, high occupancy vehicle enforcement and transit vehicles — or a blend of these — to improve overall traffic flow. These projects not only include the construction of new lanes but also the conversion of existing free or HOV lanes.

Historically, variations of the managed-lane concept have been attempted using conventional design-bid-build procurements financed with traditional techniques, such as tax-exempt bonds or toll revenue bonds, and paid for with associated toll revenues. Even using these conventional, well-understood project delivery methods, managed-lane projects are complex, and a P3 approach can take on added commercial and financial dimensions that can be even more difficult to navigate. To maximize the chances for success, there are three common factors that public project sponsors should consider:

- Establish a clear decision framework: The decision to deliver a managed-lane project as a P3 is often assessed using a value-for-money framework, which evaluates whether the public sponsor receives better value on a risk-adjusted basis for the life of the project through the P3 alternative than through a more traditional project-delivery and financing model. Having a clear decision framework that assesses risk factors such as financial feasibility, operations and maintenance, and design and construction is critically important. Such a framework supports defensible, well-informed decisions and allows public officials to communicate a project’s benefits with confidence.

- Create innovative structures to fill the funding gap: All large infrastructure projects depend on a reliable funding plan — a particular challenge for managed-lane P3s, which tend to be among the largest and most costly highway projects in the market. Most of these projects are tolled, and the uncertainty of forecasting traffic demand and toll revenue makes their funding plans more difficult to analyze and structure.

To address this challenge, successful managed-lanes project funding plans must balance three major elements: payment mechanisms for private developers (that is, whether they get paid based on how many cars use the tolled lanes or a set amount each year depending on their performance in managing and maintaining the road); financial structuring (whether the public sponsor guarantees the amount of toll revenue) and tolling policies (such as whether HOVs ride free in the toll lanes and how tolls are adjusted over time). An approach that takes into account all of those elements will help sponsors to better address funding gaps.

- Incentivize high-performance infrastructure: One advantage of P3 structures is that commercial incentives for private-sector innovations can drive down costs, accelerate project completion and improve overall asset performance (the condition of the facility and its ability to function as intended) and corridor throughput (how many vehicles pass through the facility over time). P3 contracts typically define the required performance standards for the private developer, and their payments are contingent on meeting those standards. P3s typically include contractual mechanisms that require the private developer to maintain a defined level of throughput or be subject to financial penalties. Private developers are strongly motivated to achieve these objectives when their own capital is at risk.

Ultimately when officials consider whether a managed-lane project should be developed as a P3 transaction, project owners must know what questions to ask in search of striking a correct balance between the public interest and a project's benefits to developers and investors. Finding this balance is not easy, but the right blend of private-sector creativity, innovation and risk transfer can deliver successful solutions.

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