

I-4 ULTIMATE FINANCIAL CLOSE A P3 BENCHMARK

by Patrick D. Harder

With the dust now settled on the financial close of the I-4 Ultimate project, it is an opportune moment to examine some of the features of the transaction that helped to make it such a success. First and foremost, the Florida Department of Transportation (FDOT) continues to make public-private partnerships (P3) a priority for the right projects, at the right time. It is an agency excited and motivated about the power of the P3 tool, while having reverence for the consequences of using the tool indiscriminately. With three complex and highly successful P3 transactions now under its belt, FDOT has developed and nurtured home-grown talent to fill the various key roles critical to the success of a P3 program. Both FDOT headquarters and its districts have identified the brightest and most creative talent across financial, technical, procurement and legal disciplines and brought this talent to the bear on its P3 transactions, both in the planning and in the implementation phases.

The commitment that FDOT brings to its P3 transactions, coupled with its success to date in the P3 market, gives FDOT a great deal of credibility in the market, resulting in robust competition throughout the procurement. Starting with an industry workshop attended by over 1,000 people, the project attracted 7 very high quality teams, including several new participants to the market including U.S.-based equity participants, and equity and major non-equity participants from such countries as Sweden, South Korea, Spain, Australia, the UK, Israel, and Canada. This credibility extended to the finance community as well, with active participation by nearly all of the major financiers in the market. The high level of interest by the market resulted in extremely high quality proposals, with highly competitive pricing, committed financing, and extensive innovation in the technical proposals.

Part of the strategy FDOT employed to ensure healthy competition and efficient pricing was to implement a

process whereby each interaction with the proposers was followed by a corresponding internal discussion about the points raised by the proposers. In addition to responding to well over 3,000 written questions received from proposers, FDOT conducted 4 rounds of all-day one-on-one meetings with proposers. At de-briefing meetings after each one-on-one meeting, FDOT would assign one or more people to advocate the major issues raised by the proposer, and have an internal debate about the advisability of making changes to address the points raised by the proposer. As a result of this process, FDOT was able to develop a set of contract documents that maximized efficiency in risk transfer and facilitated reduced risk contingency in pricing.

With the confidence that comes from a successful, stress-tested P3 program comes a willingness to experiment with new ideas, paving the way for its brethren in other states. FDOT has relished the role of pioneer, bringing availability payment structures to the United States for the first time and developing processes and precedent documents that have found their way into most of the subsequent availability payment P3 transactions in the United

Patrick Harder led the Nossaman team representing FDOT in the development and negotiation of contract and procurement documents for the \$2.3 billion I-4 Ultimate project. A design-build team of Skanska-Granite-Lane, with HDR/Jacobs will reconstruct and widen 21 miles of I-4 in Orange and Seminole Counties. The work includes reconstruction of 15 major interchanges, 56 new bridges and 71 bridge replacements. Four tolled express lanes will be added. The project was procured as a PPP, through a 40-year DBFOM concession agreement. The concessionaire will receive milestone payments and final acceptance payments during construction, and availability payments throughout the operating period. The project achieved commercial and financial close in September 2014. The equity investors are Skanska and John Laing Investments Ltd.

States. I-4 was no different—FDOT wanted to explore ways to innovate and bring new approaches to the table for this groundbreaking project. Among the innovations FDOT introduced was the concept of “Project Technical Enhancements,” which involved a process whereby proposer teams were given an opportunity to propose additional work scope, higher quality or warranty enhancements on portions of the work not part of the long term operations and maintenance phase, in order to garner additional technical points in the evaluation process. Through this process, FDOT was able to contract for the more feature-packed project put forth by I-4 Mobility Partners, a consortium led by Skanska Infrastructure Development and John Laing Investments. Their proposal included the introduction of direct connections from the I-4 Express Lanes to State Road 408, additional auxiliary lanes and an additional pedestrian bridge

over I-4 at Maitland Boulevard. FDOT was able to achieve this result despite its incorporation of an affordability limit into the procurement.

FDOT was also the first public agency to implement the new streamlined TIFIA loan process under which proposer teams are provided with a uniform term sheet upon which to base their assumptions regarding TIFIA loan terms and conditions. The process, while not perfect in its debut, was instrumental in getting from an award to financial close within the 4 months remaining in the proposal validity period. With the help of a motivated team at the USDOT's TIFIA office, the parties were able to reach financial close in a period of favorable interest rates, resulting in savings in financing costs of about \$70 million as compared to the interest rate assumptions built into I-4 Mobility Partner's financial model.

FDOT is one of very few public agencies who have been successful in accomplishing consolidated commercial and financial close within the freshness period of the committed financing. FDOT communicated its expectations to proposers at an early stage and remained steadfast that financial close must occur within the bid validity period. This ensured that FDOT would not face the additional pricing uncertainty surrounding a bifurcated closing, and helped to keep all parties focused on the project throughout the period leading up to the close.

As the baton has been passed to the technical team to bring the project alive, FDOT remains at the forefront of agencies willing to spend some political capital, gather their most creative employees, and bring something special to the travelling public. ■