

Federal Highway Administration Webinar on Value Capture Techniques: Public Private Partnerships (P3s)

Webinar Date: June 9, 2021

Answers to Questions Posed During the Webinar

Klyde Warren Park (Dallas, TX)

How can the Klyde Warren Park model be applied in other cities?

There are 100+ look-alike projects across 33 municipalities around the country in contemplation or execution. The engineering firm involved with the project also brings clients to the park as a proof of concept. Interested municipalities should go into a similar project with their eyes wide open to the possibilities.

Would it be feasible to fill in more brownfields with the same dirt disposal method while stimulating the local economy?

There was no dirt disposal as we were "creating dirt" over a highway.

Is this a use of an airspace agreement or use of a cap agreement? Who owns the cap?

The City of Dallas owns the cap and the Woodall Rodgers Park Foundation leases the land for the park. The city also granted a right of way to TxDOT.

Was there any need to receive lease payments for the commercial portions of the cap in the use agreement?

The Foundation does not receive any city money to avoid the process of municipal budgeting. The Foundation receives 12% of food truck gross revenue, lease payments from the restaurant in the park, and all other revenue generated on top of the park.

Does the city in turn have an agreement with the DOT? Was there any requirement to have a termination clause so the DOT could retain control of the highway?

No, there was not an agreement with TxDOT or a termination clause.

I-95 Travel Plazas (Maryland)

Did the concessionaires have concerns about competition with food and gas in towns off of the I-95 exits?

The contract did not contain any non-compete clauses, but no potential partners raised questions or concerns about competition during the RFP process.

What, if any, P3 coordination is occurring to address the needs of the rapidly-increasing number of customers using electric vehicles on MDTA facilities?

The Maryland and Chesapeake Houses do have Tesla and universal charging stations. The toll facilities along the highway have charging stations as well, though none of these are part of the P3 agreements presented.

Since toll authorities don't get FHWA funding, how does this fit with FHWA funding opportunities?

MDTA has used TIFIA loans for some capital projects. Otherwise there are no direct funding opportunities with FHWA – the money goes to MDOT and municipal sources and may reach MDTA indirectly.

Union Station Revitalization (Denver, CO)

How did the hotel and retail contracts incentive or penalize the P3 partners if they were not performing?

The contracts for maintenance do have financial carrot-and-stick provisions to incentivize the P3 partners.

Questions for All Presenters

If given the opportunity to create the P3 agreements again, would you change the risk allocation responsibility between public and private stakeholders?

Dallas: The public sector liability was fixed at the initial agreement to cap at one third for each party (\$20 million), so the cost overruns fell to the private sector. Sharing the risk in overruns would have been helpful to have in the contracting.

Denver: The approaches taken during the first phase of this project worked very well and there is nothing we would want to change. Also, the maintenance and operation risks specific to the historic station building were transferred to the private sector whose strengths played better to the preservation aspects.

How did you first introduce the idea of using P3 vs. an agency/organization controlled project to elected officials and agencies? What were their greatest concerns that you had to overcome to make these P3 projects possible?

Denver: Many people involved in the initial P3 agreements are no longer with RTD. However, the ongoing conversations with new members who cycle onto the board involve education about how the P3s function.

Dallas: The City of Dallas was receptive to the project from the beginning and set up a \$20 million bond program quickly. The remaining \$20 million came from the Texas legislature in fairly short order. People at all levels of the public sector have been great to work with and the only change would be if they could have provided more money to the project.

How did the P3 contracts anticipate economic downturns? What were the results in practice during the COVID-19 pandemic?

Maryland: Economic cycles were not part of the RFP process – the concessionaires understand that economic downturns are part of doing business. MDTA allowed the concessionaires to modify their operations to comply with COVID restrictions and minimize expenses to weather the pandemic.

Denver: The contract has a revenue-sharing mechanism in place to provide funds to RTD. While there was not revenue to be shared in 2020 due to restaurant closures and the drop in foot traffic, the station operators in the P3 agreement still honored the maintenance arrangements as in any other year.

Dallas: The Foundation received two PPP loans from the COVID relief bills. The park was closed from March to June 2020, but opened with a full slate of programming during the summer. The park has remained open since then with social distancing in place.