Texas' landmark North Tarrant Express

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04/03/2010

The US$2.101 billion North Tarrant Express (NTE) stands as one of the most complex PPP road projects ever undertaken in the US - leading the way in the emerging P3 market.

The groundbreaking transaction marks the first time long-term investment grade transportation private activity bonds (PABs) have been issued - sold "unwrapped" without credit enhancement from an insurer or a bank.

Despite economic uncertainty, the deal attracted significant investor demand in a market where unwrapped project revenue bonds have had little market access.

The NTE deal [Projects Database] also stands out as the first time a US pension fund has come on board as a direct equity shareholder in a toll road concession project.

A further accolade is the fact it was the only road development project in the US to have closed in 2009 in which the private sector assumed all risk.

Background

In 2004 the Texas Department of Transportation (TxDOT) started using the PPP model as a delivery method for its ambitious highways expansion agenda.

This came about as a result of rapid population growth combined with a lack of expansion of the roadway system in the state, and the inability to fund the work through taxes and other public revenues.

NTE was identified as an important project to accommodate the increasing transport demand in this fast growing region of Texas.

Procurement was launched on 8 December 2006 with the issuance of an RFQ and bids were submitted in March 2007.

By July 2007 four bidders were shortlisted:

- **B3 Connect Texas** - Balfour Beatty Capital (equity member), Brisa Auto-Estradas de Portugal (equity member), CH2MHill, Balfour Beatty Construction, CH2MHill Constructors, Royal Bank of Canada Capital Markets, Brisa Engenharia e Gestão, Balfour Beatty Infrastructure Services, Cambridge Systematics, Chiang Patel and Yerby, PHAROS, Winstead, Allen & Overy and Pavlik and Associates
- **Itinere Infrastructure** - Itinere (equity member), Sacyr, Kellogg Brown & Root Services, Merril Lynch & Co, Itinere Infrastructuras, Infrastructure Corporation of America, Somague Engenharia, Witherspoon Advertising & Public Relations, IM Technologies and Jones Day
- **NTE Mobility Partners** - Cintra (equity member), Meridiam Infrastructure (equity member), Ferrovial, WW Webber, JD Abrams, Earth Tech, Maunsell Australia Proprietary, AE Com, Aguirre & Fields and Othon

- **OHL Infrastructure** - OHL Concesiones (equity member), OHL Construction, TransSystems, Dexia and Bridgefarmer & Associates

Teams that did not make it through to shortlisting were:

- **Acciona (Concesiones)** - Omega (equity partner), Acciona Infraestructuras (equity partner), PB Americas, Arup, BNP Paribas, Indra Sistemas, DFW Advisors and Austin Bridge & Road
- **FCC Construction** (equity member) - Texas Sterling Construction, Brown & Gray Engineers, Edwards and Kelcey, Pierce Goodwin Alexander & Linville, Klotz and Associates, Aztec, Proser, Hicks, Arcadis, HVJ Associates, Cobb Fendley & Associates, Property Acquisition Services, Partnering for Success, Société Générale Corporate & Investment Banking, Atkins and Gunda
- **T-Bar Mobility Alliance** - ACS (equity member), Zachary American Infrastructure (equity member), Jacobs Civil, Dannenbaum Engineering Corporation, UBS, Steer Davies Gleave, SICE, Fugro, HRH Consultants, Crossland, Pinnacle, Dragados, Zachry, Williams Brothers Construction Company and Infrastructure Group of Texas

The procurement involved an intricate series of measures to allow for the submission of uncommitted financing at proposal stage while still maintaining risk transfer to the developer.

An RFP was released in March 2008 and in August the NTE Mobility Partners (NTE MP) consortium submitted its bid. By January 2009 the contract was conditionally awarded to the NTE MP team.

On 23 June NTE MP signed a comprehensive development agreement (CDA) with TxDOT and on 17 December 2009 financial close was achieved well ahead of the timeline allowed by TxDOT - 26 March 2010 with the option to extend.

Construction work will now start later this year and take 5.5 years to complete.

NTE MP will concurrently develop master financial and development plans for the rest of the 36-mile corridor (phase two) and will have first right to negotiate for the development of this phase.

Project Details

The 52-year DBFOM project includes the construction, tolling and operation of parts of the North Tarrant Express toll road in the Dallas-Fort Worth area, along with the rehabilitation of existing lanes that will all be managed under a new toll system - resulting in enhanced traffic regulation.

The scope of the NTE project includes four segments comprising 36 miles and the addition of new managed lanes, the reconstruction of existing non-tolled, general-purpose lanes and the addition of new non-tolled general purpose lanes.

Up to three managed lanes will be added in each direction, as well as frontage roads and auxiliary lanes.

Reconstruction work will be carried out on the following roads:

- IH-820
- SH-121
- SH-183 from I-35W to the SH-121 split - 13 miles

It also includes the addition of direct connectors at the IH-35/IH-820 interchange connecting IH-35W to the IH-820 managed toll lanes.

In the context of the NTE the developer is assuming patronage risks and further is responsible for the reconstruction and O&M of not only the revenue-generating managed lanes but also the competing general purpose lanes as well.

The developer must add additional general purpose lanes if performance triggers are set off or by the end of 2030 (whichever is sooner) at no additional cost to TxDOT.

The cost of the project was estimated at more than US$3 billion and was not financially feasible with only limited toll revenues from the managed lanes and just US$600 million of TxDOT funding available.

Therefore, the competition was structured so that the winning bidder was determined based largely on how much of the project's scope would be delivered within the US$600 million available funds, and giving credit if less than the available funds were needed.

A minimum scope was defined that had a cost slightly in excess of US$700 million. This scope represented what the state felt it could deliver for its US$600 million assuming a traditional financing of the toll revenue stream, without considering funding of the ongoing O&M.

NTE MP ended up delivering nearly three times the minimum required project scope and did not need the entire US$600 million.

The NTE Mobility Partners consortium includes:

- Cintra Concesiones de Infraestructuras de Transporte - 56.7 per cent equity
- Meridiam Infrastructure SICAR - 33.3 per cent equity
- Dallas Police and Fire Pension System - 10 per cent equity
- AECOM
- Aguirre & Fields
- CSJ Engineering Assoc
- Earth Tech
- Ferrovial Agromán
- JPMorgan Chase - financial adviser
- Maunsell Australia Proprietary
- Ross Communications
- W.W. Webber

Nossaman acted as legal adviser to TxDOT, financial advice came from KPMG and Goldman Sachs, while Mott MacDonald was technical adviser.

White & Case acted as legal adviser to the sponsor, Bracewell & Giuliani and Orrick Herrington & Sutcliffe also provided legal advice, while Maunsell Aecom was technical adviser.

JP Morgan acted as financial adviser on the PABs, while Macquarie provided financial advice on the last phase of the deal.

Orrick Herrington & Sutcliffe was legal adviser to the underwriters, while McCall Parkhurst & Horton provided legal advice to the bond issuer.

Financing

The US$2.101 billion project was financed through:

- the issuance of US$400 million in long-term, fixed-rate, unwrapped PABs
- US$400 million in equity
- US$1.274 billion in public support

The consortium's decision to follow the PAB issuance as its primary strategy was driven by a number of considerations including:

- the long-term flexible funding aspect, which mitigates refinancing risks
- the most effective use of the supports that the Federal Administration introduced in early 2009
- and the consequent visibility on the US market

The 30-year unwrapped, Baa2/BBB-/BBB- PABs - underwritten by JP Morgan, Merrill Lynch and Estrada Hinojosa &

Company - were successfully placed in the markets on 10 December 2009.

JP Morgan was the bookrunner, while local placement firm Estrada and Merrill Lynch were key underwriters.

The issue offers an average yield of 6.98 per cent - a premium of 2.5 per cent over the 30-year US Treasury bond at present.

Two separate bonds were issued:

- US$59.8 million - paying a 7.5 per cent coupon - maturing on 31 December 2031
- US$340.2 million - paying a 6.875 per cent coupon - maturing on 31 December 2039

The transaction marks the first time long-term investment grade transport PABs have been issued and attracted significant investor demand, with a 2.4 over-subscription.

Total senior debt amounted to US$406 million including the US$400 million PABs and US$6 million interest income on the bond proceeds.

Government support included:

- TIFIA loan tranche of US$650 million
- Capitalised interest on TIFIA loan of US$52 million
- TxDOT subsidy of US$572 million

The TIFIA (Transportation Infrastructure Finance and Innovation Act) loan was structured to achieve an investment grade rating thereby allowing for the maximum use of this flexible, low cost financing structure. The subordinated loan has a final maturity date of 30 June 2050.

It includes no scheduled or mandatory debt service for the first five years of operation. This implies the capitalisation of interests until year five and provides comfort to the senior debt facility as it allows for 100 per cent of cash flows to be dedicated to senior debt until that point of time. The interest deferral is until 31 December 2020.

The scheduled interest is equal to 100 per cent of current interest in years six through 25 of operations.

It includes mandatory interest payments of 10 per cent in year six, 17.5 per cent in year seven and 25 per cent in years eight to 25.

Mandatory debt service will start no later than year 26 of operations and senior debt principal payments are allowed if mandatory TIFIA debt service is paid.

The TxDOT public subsidy amounted to US$572 million with payments subject to a maximum payment curve of 36 months, and subject to legislative appropriation (except for fiscal years 2010 and 2011).

Future "windfall" profits are also shared with the public sector through revenue sharing and refinancing gain sharing provisions.

Conclusion

The NTE financing encompasses some innovative features including the first managed lanes project developed under a PPP in the US, along with the Dallas Police & Fire Pension System participating as an equity provider.

This last point could kick start a trend across the states of pension funds becoming more active in infrastructure investment.

The deal also successfully managed to combine the first PABs of their kind and federal TIFIA loans, together with equity, to finance the construction phase of the project.

The North Tarrant Express demonstrates how large, complex infrastructure deals can make it through to financial close in the challenging economic environment of the emerging US P3 sector.