STATEMENT OF
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BEFORE THE

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS
U.S. SENATE

HEARING ON

INNOVATIVE PROJECT FINANCE

SEPTEMBER 28, 2010

Chairwoman Boxer, Ranking Member Inhofe, and Members of the Committee:

Thank you, for the opportunity to discuss the important issues associated with accelerating transportation investments. Our mission at the Florida Department of Transportation (FDOT) is to provide a safe transportation system that ensures the mobility of people and goods, enhances economic prosperity and preserves the quality of our environment and communities. We know how important federal, state, local and private sector partnerships are in combining scarce resources to achieve our mission.

Our studies have shown that there are significant economic benefits including jobs impacts that result from transportation infrastructure investments both long-term and short-term. In the long run, every dollar we invest in transportation yields a $5 return in user and economic benefits. Additionally, the current economic crisis has highlighted the short term jobs and income generated by these investments. Clearly, anything we can do to advance needed projects will accelerate the delivery of these benefits.

Florida has a long history in many forms of partnerships with the federal government, local governments and the private sector. This testimony highlights our approach and experience, including:

- State legislation authorizing multiple types of infrastructure partnerships and funding tools.
- An understanding that each project is unique which requires tailoring the financial approach to the characteristics of the project.
- Our experience with public private partnership projects, the Transportation Infrastructure Finance and Innovation Act, state infrastructure banks, and tolling; and
- Recommendations for the next surface transportation authorization.

In an era of economic difficulties and lack of consensus regarding transportation funding, we believe there are several areas where improvements in federal policy can accelerate transportation benefits through partnerships. They are:

- Clarify federal, state, local and private sector roles
- Provide greater flexibility for states and local governments to eliminate overly prescriptive federal funding categories, set asides and mode specific funding.
- Ensure an equitable return to each state by creating funding formulas and program structures that reward, not penalize, good management in asset preservation and provide flexibility to meet capacity needs.
- Encourage a wide range of flexible finance tools, and allow state and local governments the flexibility to tailor financing to the unique circumstances of each project.
- Limit the scope of the federal government in project selection and oversight.
- Provide technical assistance and information sharing without excessive federal project oversight.

Florida Overview

Florida is home to nearly 19 million people (more than 6% of the U.S. population) and we welcome 84 million visitors to our great state each year. Our transportation assets are necessary to sustain a competitive economy, livable communities, and a sustainable environment. Florida's transportation system is composed of:

- 121,446 centerline miles of public roads
- 12,088 centerline miles of State Highway System
- 42,634 lane miles of State Highway System
- 643 centerline miles of toll facilities
- 2,819 lane miles of toll facilities
- 649 miles of designated bike lanes on state roads
- 11,309 bridges - 6,222 maintained by the state
- 28 fixed route transit agencies
- 446 transportation disadvantaged operators
- 14 seaports - 7 with cruises
- 787 airports - 128 public use, 659 private use
    - 27 military
    - 19 commercial
- 15 railroads
    - 2,786 miles of rail lines
    - 3,947 public at-grade crossings
    - 2 Amtrak routes - 18 stations

Strategic Intermodal System – We've identified a Strategic Intermodal System (SIS) that is a statewide network of high-priority transportation facilities, including the state's largest and most significant commercial service airports, spaceport, deepwater seaports, freight rail terminals, passenger rail and intercity bus terminals, rail corridors, waterways and highways. These facilities are the workhorses of Florida's transportation system, carrying more than 99 percent of all commercial air passengers, virtually all waterborne freight tonnage, almost all rail freight, and more than 68 percent of all truck traffic and 54 percent of total traffic on the State Highway System.

We own and operate the State Highway System, but the rest of the SIS is owned by local governments, authorities, or the private sector. The SIS is our highest priority for the limited funds we have for investment in new capacity. In the five years following creation of the SIS in 2003, we tripled our investment in non-highway SIS facilities when compared to the preceding five years.

The SIS is an excellent example in partnerships to facilitate transportation projects with our modal partners. For SIS non-roadway connectors, a twenty-five percent match is required and a fifty 50 percent match is required for hub capacity improvements. Because of this partnership arrangement we are facilitating projects like the Southwest Florida International Airport Terminal Apron and Runway project with $14.3 million in state funds combined with a local match of $14.3 million. Similarly, a Port of Tampa Container Transfer Yard is currently planned for 2012 with a SIS investment of $5.8 million and a local match of $6.8 million.

Florida Partnerships

We know how important partnerships are to the achievement of the long-range goals and objectives of our 2025 Florida Transportation Plan. Florida has 67 Counties, over 400 cities, 26 Metropolitan Planning Organizations (more than any state), 10 transportation and expressway authorities,[1] and nearly 70 statewide partners. We place high importance on partnering at all levels.

Of course, a key partner in providing the framework within which we operate is our State Legislature. Florida statutes for public private partnerships (P3s) are found in Section 334.30, F.S. They enable the department to have a creditworthy program that allows for an active P3 pipeline. The statute authorizes the department to pursue multiple types of P3s and outlines procurement requirements. Key elements are:

- In 2009, Florida legislation exempted the department's public-private partnerships from property taxes.

[1] These authorities are under the oversight of the Florida Transportation Commission.

- Florida's P3 statute authorizes the department to solicit proposals as well as receive unsolicited proposals.
- The department monitors its financial capacity when considering additional P3s. By statute, no more than 15 percent of total federal and state funding in any year shall be obligated for P3 projects.

Florida P3 Projects

Florida has a long history of partnering with the private sector to develop innovative project solutions. The department began utilizing public private partnerships (P3s) in 2007 as a procurement method for advancing projects. We currently have 10 P3s under contract, most of which are on the Strategic Intermodal System. P3s allow us to leverage financial assistance and innovation from the private sector, advancing priority projects that would otherwise be on hold due to funding constraints. P3s help us transfer risks such as construction delays or cost overruns, thereby delivering the best value to the department. The private partner carries project costs and is reimbursed, either by department funds or user-generated revenues, over a period of time extending beyond the completion of construction.

Our experience has shown that flexibility is a key requirement because each project is unique and the financial approach must be tailored to the characteristics of the project. FDOT has used several types of public private partnerships as highlighted below:

Design-Build-Finance (DBF) and Build-Finance (BF) – The private sector helps provide the funding to advance projects that are programmed in the outer years of the Department's 5-Year Work Program. The contractor receives reimbursement according to a Cash Availability Schedule provided by the department during procurement. Once construction is complete, the department assumes operations and maintenance responsibilities. Six DBF P3s and two BF P3 are under contract in four districts. Success stories for these types of agreements are:

- The **I-75 Widening DBF** (www.irox75.com) in Lee/Collier Counties expands 30 miles of I-75 (from Golden Gate Parkway to Colonial Boulevard (SR 884)) to six lanes and includes numerous bridge enhancements. The P3 approach advanced this project by about 5 years. Results of the partnership have exceeded expectations. The new lanes opened December 23, 2009, one year ahead of schedule.The estimated cost is $469 million with final payment scheduled in fiscal year 2012.

- The **I-95 Express Lanes DBF** (www.95express.com**)** are High Occupancy Toll (HOT) lanes with variable congestion pricing to maintain a minimum speed targeted at 45 mph. Registered vanpools, carpools of 3+, registered hybrid vehicles and motorcycles can use the lanes toll-free. I-95 travelers in both the express and general purpose lanes have benefited from the improvements in Miami-Dade County. Previously, the general purpose lanes and the High Occupancy Vehicle (HOV) lanes

were operating at below 20 mph during the peak period in the peak direction. With the opening of Phase 1A in December 2008, users have seen their travel times reduced and operating speeds for all users dramatically improved to more than 40 mph in the general purpose lanes and 55 mph in the new express lanes. Electronic tolling on the new Phase 1B lane**s** began in January 2010. The DBF contract for Phase 1 was awarded in January 2008 for $121.5 million.

Availability Payment Concession Agreements – Availability Payment Concession Agreements allow complex projects to be designed, built, financed, operated and maintained (DBFOM) by a private concessionaire. Following completion of construction, the department pays the concessionaire an annual "availability payment" that is only made to the extent the facility is open to traffic and meets contractual performance specifications for operations and maintenance. The term of the DBFOM Concession Agreement spans several decades of operations and maintenance by the private partner. Initial milestone payments may be made at key points during construction or at the completion of construction. Success stories for this type agreement are:

- The $1.2 billion **I-595 Corridor Improvements** (www.i-595.com) and the $607 million **Port of Miami Tunnel** (www.portofmiamitunnel.com) concession agreements, both executed during challenging economic conditions in 2009, are the first two transportation availability payment projects in the United States. These projects have been nationally recognized as innovative solutions to funding restrictions that most states now face. The I-595 project will be completed about 15 years sooner than originally programmed. The Port of Miami Tunnel would not have been financially feasible without the P3 approach.

Concession Agreements with Demand Risk Transfer – FDOT is evaluating another P3 solution that awards a long-term concession agreement for the private sector to develop segments of new assets. The private sector commits to design, build, finance, operate, and maintain the asset over several decades. The private sector is dependent on the projected user revenue stream (tolls, farebox, etc.) outweighing the project capital and/or operations costs. An example of this type of P3 currently under consideration is the **First Coast Outer Beltway** in Duval, Clay and St. Johns counties in northeast Florida (www.fdotfirstcoastouterbeltway.com). The department is also considering a P3 solution for High Speed Rail from Tampa to Orlando in which the private concessionaire would assume the risk of the farebox revenues covering operations and maintenance costs.

Transportation Infrastructure Finance and Innovation Act (TIFIA)

Florida leverages Federal funds by attracting substantial private and other non-Federal investments in critical improvements to Florida's transportation system. The Miami Intermodal Center (MIC) is a transportation hub that will link Tri-Rail, Amtrak, Greyhound, Miami-Dade (County) Transit's bus system and future connections to Miami-Dade Transit's rail system. An

initial $269 million TIFIA loan was repaid in 2006. Repayment of a current $270 million TIFIA loan for the MIC Rental Car Facility will come from rental car user fees and contingent rent, if necessary, to be paid by participating rental car companies.

Two recent public-private partnerships have utilized TIFIA loans. They are the I-595 Corridor Improvements and the Port of Miami Tunnel with loans of $603 million and $341 million, respectively. These loans were made to the private entities responsible for designing, building, financing, operating, and maintaining these facilities.

Strengthening of the TIFIA program would help additional projects of national and regional significance to move forward. Suggestions include:

- Additional funding for the TIFIA program, an increase in the eligible loan amount of project costs (currently at 33%), and a decrease in loan subsidy costs.
- Providing a 30-day window prior to financial close to "lock into" the final TIFIA interest rate to reduce uncertainty and volatility.

State Infrastructure Bank (SIB)

Florida's SIB is an innovative financing tool used by the department to advance transportation projects, often in conjunction with other project financing tools. SIB funds may be loaned to public or private entities, and may be used for several forms of financial assistance such as subordinated loans, interest subsidies, letters of credit, capital reserves for bond financing, and construction loans. Below market rate loans and assistance helps accelerate the development of transportation projects, or completes the financing of projects that might not be built otherwise.

Florida's SIB has a federally-funded SIB account for projects meeting federal requirements and guidelines. There is also a state-funded SIB account for projects either on the State Highway System, providing increased mobility on the state's transportation system, or providing intermodal connectivity with airports, seaports, rail facilities, transportation terminals, and other intermodal options for moving people or freight. Florida has approved more than 60 applications for $1.1 billion in SIB assistance, leveraging more than $8.2 billion in total project investments.

Tolling

Tolling allows customers that choose to pay the toll a direct benefit of convenience (reduced travel time) and higher level of service. Tolling can finance the construction, maintenance and operations of entirely new facilities or can be used on select lanes on the Interstate to manage congestion with projects such as the I-95 Express lanes discussed previously.

Recognizing that conventional transportation funding is not keeping pace with demand, Florida has invested over $10 billion in toll-finance facilities. In fact, since the completion of the

interstate in 1993, 91% of new corridors are toll facilities. More specifically, Florida's Turnpike System (part of FDOT) has added 595 lane miles of new, tolled expansion projects.

The Florida Turnpike System has the statutory authority to issue up to $10 billion in revenue bonds. The Turnpike System maintains a strong "double-A" bond rating which allows the System to leverage its revenue stream at a low cost of borrowing. Because of the low cost of borrowing, the Turnpike System has the ability to reinvest toll revenues collected in excess of operations and maintenance costs and debt service payments to fund needed transportation improvements within the State of Florida. Without Turnpike System toll revenues to leverage needed transportation projects, gas taxes would need to be increased 8 cents/gallon to provide the same benefit.

Finally, toll projects can be built more quickly than tax-supported roads because complete funding is usually available at the start. As a result, capital costs of toll projects are usually lower. With the development and implementation of electronic tolling technology, tolling continues to be a viable means to finance transportation improvements.

Benefits of Funding Partnerships

There are significant benefits to funding partnerships including:

- Leverages funds from multiple partners to implement projects much sooner than by traditional pay-as-you-go funding methods, if at all
- Deferring construction payments over an extended period of time
- Utilizing private innovation and efficiencies for large and complex programs
- Tapping into private equity and the private sector's ability to access global capital markets and the widest range of financial resources
- Leveraging the TIFIA federal credit program which seeks to attract private investment
- Utilizing private sector innovation, expertise and technology to provide specialized management for large and complex programs
- Delivering "market approaches" and expertise from a competitive bid process
- Optimizing risk to the department by sharing it with the private sector
- Establishing long-term partnerships to contain costs, stabilize prices and create incentives for efficiency

Florida Recommendations

While the focus of this hearing is innovative project finance, we believe the key to improvement is clarifying the roles of federal, state and local partners; overhauling the current federal program structure, and providing a financial toolbox that enables government and private sector resources to be combined in a responsible manner. More specific recommendations in each of these areas follow.

Clarification of Roles – Federal, state, and local roles must be clarified if we are to make the most effective and efficient use of limited funding resources.

> The ***Federal Role*** should be to set national goals for transportation in the context of policies in the areas of defense, interstate and international commerce, and economic, energy, environment and other concerns common to the states. This includes refining a multimodal transportation network of national interest that reflects established goals and taking the lead in assuring the development and funding of interstate and defense transportation networks.
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> The ***State Role*** should be to link the state's transportation planning and investment decisions to statewide policies and designate an interconnected transportation system critical to the state's economic prosperity and its ability to compete in the domestic and global economies. States should continue to be responsible for the statewide planning and construction of major transportation facilities.
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> The ***Local Role*** should be to develop visions and action plans integrating transportation, land use, economic, community, and environmental systems to guide transportation decision making and investments. Multimodal transportation systems should be developed to support regional and community visions and ensure that the transportation system is accessible to all users.

State and local governments should continue to implement the federal transportation program through streamlined, equitable formula programs aimed to achieve national objectives.

Flexibility and Streamlined Program Structure - The time to eliminate overly prescriptive funding categories, set asides and mode specific funding is now. National policy goals and program accountability can be achieved in a far more efficient manner to produce transportation improvements for the public.

The majority of the current federal program is implemented through formula grants to the states. This has proven to be a highly successful model that can be greatly improved by streamlining the current program structure combined with maximum flexibility in use of federal funds. Each state has varying needs and conditions, and a rigid federal program structure can never fully address the unique challenges facing each state. The objective of the next surface transportation authorization should be to create a system where states can achieve certain national objectives while having the flexibility to fulfill their specific transportation strategies.

We expect the next surface transportation act will place a heightened attention on asset preservation. The effort to address the preservation of our Nation's transportation infrastructure is a worthy national objective. The traditional approach to this issue would be to create a large new program limiting the use of funds to address system preservation. This typical top-down federal approach will inevitably punish those states which have prioritized preservation and maintenance and can demonstrate they have maintained roads and bridges in a state of good repair. Any federal program geared towards asset preservation should reward not punish good behavior. This can be achieved by tying funding formulas and flexibility in the use funds to a state's demonstrated commitment to preserving the existing system.

- We believe the most effective approach to a federal transportation act is to limit, not expand the scope of the federal government in project decision making. No less than 90% of the total federal funds should be allocated by formula to the states and local governments to support implementation of their long-range planning. Three basic programs can accomplish the distribution of federal funding to state and local partners:
    - A Strategic National Transportation System with all funding distributed to the states by formula.
    - A Metropolitan Mobility Program with funding distributed to metropolitan areas by formula.
    - A Discretionary Program to address other national transportation priorities with funds distributed on a discretionary basis including project earmarks.
    - No more than 7.5% of total available funding should be used for the Discretionary Program and no more than 2.5% should be used for administration and research.

Financial Toolbox – The next authorization should encourage a wide range of flexible transportation finance tools and allow state and local governments the flexibility to tailor financing to the unique circumstances of each project. Current value pricing, express lanes and tolling pilot programs that have demonstrated success should become permanent federal policy nationwide. The types of tools include:

- Tolling
- Public-private partnerships
- Prudent use of short-term and long-term debt (infrastructure banks, bonding, TIFIA/GARVEE – type programs, etc.)
- Tools for programming flexibility, such as advance construction and soft match

This flexibility should include national technical assistance and information sharing unconstrained by federal project oversight or approvals beyond those in place today.

Closing

In closing, we applaud this Committee for holding this hearing and exploring innovative project finance.

As you consider the next federal transportation act, we encourage you to enhance the innovative financing toolbox, help facilitate public private parternships, and continue the strong role of state DOTs through formula-based federal programs that are equitable, streamlined and geared towards meeting national objectives.

On behalf of my Team at the Florida Department of Transportation, we stand ready to work with you as you develop new legislation that provides a road map to the future.

Thank you for your leadership.