

**P3**



# 2022 P3 Board Meeting Book



Office of Public-Private  
Transportation Partnerships

December 13, 2022 • 9:00 A.M.

PennDOT Riverfront Office Center, Room 408-409  
1101 South Front Street | Harrisburg, PA 17104

## **MEETING AGENDA**

### **A. Call to Order**

### **B. Roll Call**

### **C. Adoption of Meeting Minutes of the December 9, 2021 Board Meeting**

### **D. Chair's Remarks**

### **E. New Business**

- Act 84 of 2022
- Approval of P3 Implementation Manual Updates
- Adoption of the P3 Board Report 2021-2022

### **F. Project Updates**

- P3 Unsolicited Proposals
- Northampton County Bridge Renewal Program
- Rapid Bridge Replacement (RBR) Project
- PennDOT Sponsorship & Advertising Program
- Compressed Natural Gas (CNG) Fueling Stations for Public Transit Agencies
- Partnership 81 Project
- Major Bridge P3

### **G. Other Business**

### **H. Public Comments**

### **I. Adjournment**

PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIP BOARD  
SUMMARY MINUTES  
HARRISBURG, PENNSYLVANIA  
DECEMBER 9, 2021

**CALL TO ORDER:**

The nineteenth meeting of the Public-Private Transportation Partnership Board (Board) was convened by Secretary of Transportation Yassmin Gramian, at 1:04 p.m. on Thursday, December 9, 2021, via Microsoft Teams virtual meeting.

**ROLL CALL:**

P3 Office Director Michael Bonini called roll and noted that all seven Board members were present, and as such a quorum was established.

**Members Present:**

Honorable Yassmin Gramian  
Honorable Representative Michael Carroll  
Mr. Geoffrey Clarke  
Mr. Gregory Davis  
Mr. Ronald Drnevich  
Honorable Tim Murphy  
Mr. Mark Ryan (designated alternate to Mr. Gregory Thall)

**ADOPTION OF MEETING MINUTES:**

***The June 16, 2021, meeting minutes were unanimously approved on a motion by Mr. Ronald Drnevich and seconded by Honorable Michael Carroll.***

**CHAIR'S REMARKS:**

Secretary of Transportation Yassmin Gramian welcomed everyone to the virtual Board meeting and began by introducing a new Board member; Pennsylvania Secretary of the Budget Greg Thall, replacing Jen Swails, who retired during the summer. Mr. Mark Ryan was present as Mr. Thall's alternate. Secretary Gramian expressed gratitude for the efforts and support of Jen Swails over the years as a Board member.

Secretary Gramian noted that the Board has consulted attorneys and held executive sessions regarding Pennsylvania Senate Bill 382, but this topic would not be discussed during the present Board meeting. The only action item on the agenda would be the approval of the June 16, 2021, meeting minutes; with the remainder of the agenda comprising of updates on approved projects as well as Unsolicited Proposals.

Secretary Gramian provided an update on the Infrastructure Investment and Jobs Act (IIJA), which is expected to bring \$4 billion in new federal highway and bridge funds to Pennsylvania. With federal funds requiring a 20% state match, Pennsylvania would need \$1 billion in state funds in order to leverage the funding. Additionally, the IIJA

includes many grant programs and statutory changes with the potential to impact how PennDOT approaches infrastructure investments. Secretary Gramian emphasized the importance of connections between places and people, specifically in the form of funding programs to create opportunities in a vast number of areas, as well as build critical networks that enable information, commerce, and ideas to flow rapidly and freely for all.

Secretary Gramian also applauded legislators for passing Act 88 in 2012, noting that the unsolicited proposals received by the P3 Office consistently present a pipeline of opportunities to evaluate for P3 implementation.

### **PROJECT UPDATES:**

Secretary Gramian then turned the floor over to PennDOT P3 Office Director Michael Bonini, who noted that the Board meeting book and PowerPoint presentation will be made available to the public on the P3 website after the meeting. Mr. Bonini added that the agenda will begin with updates on the nine Unsolicited Proposals currently being examined and/or considered by PennDOT and the P3 Office.

#### **UNSOLICITED PROPOSALS UPDATE: PRESENTED BY MR. MICHAEL BONINI**

Mr. Bonini explained that the P3 Office accepts Unsolicited Proposals twice each year in pursuit of new, innovative opportunities. He displayed three data tables which placed the current Unsolicited Proposals into three categories: Under Consideration, On Hold and Dismissed.

The Under Consideration table encompasses items on which the Department is conducting feasibility analyses to determine merit in pursuing as a public-private partnership; six proposals fall under this categorization.

The PennDOT Solar Initiative is a design, build, finance, operate and maintain (DBFOM) proposal to design and install solar solutions within PennDOT right-of-way, with locations determined jointly to maximize benefits. The proposing firm, Solar Renewable Energy, LLC, identified significant financial value specific to electricity costs, tax credits and a renewable energy certificate. In the time since the proposal was received, the P3 Office has met with appropriate PennDOT staff and the proposer multiple times. Next steps include conducting a detailed screening analysis to share with the GreenGov Council to determine a path forward and examine P3 feasibility.

The District 4 Northern Tier Counties Bridge Replacements project, submitted by CDR Maguire, is a design, build, finance (DBF) proposal to replace/reconstruct 32 poor condition, PennDOT-owned bridges located in Northern Tier counties in Engineering District 4-0. At the time of the meeting, the P3 Office had performed an initial screening of the proposal to remove 20 of the bridges from a poor rating and post the remaining 12 to full service, an initiative in which District 4 is interested. A detailed-level screening analysis is being performed to identify funding that could be used to pay back the development entity (DE) if approved by the Board.

Shared Mobility Incentives, submitted by Hytch Rewards, a ride sharing application that offers those of economic impact a ride to and from work with incentives to driver and rider. The concept is to use in partnership with the Major Bridge P3 in order help those that would potentially be economically impacted by the possibility of user fees. The P3 Office is in the process of working with the proposer to identify further information needed to conduct a high-level screening to examine opportunities and feasibility. Mr. Bonini noted that since the proposal does not involve creating or improving a transportation facility (as required by P3 legislation) there remain further details to coordinate with the proposer.

Drivewyze PreClear (Weigh Station Bypass) and Other Services, proposed by Drivewyze, aims to use their PreClear product in conjunction with freight cameras for submitting requests for trucks to bypass weigh stations. This would be implemented with the existing electronic logging devices that are implemented at weigh station bypasses on PennDOT highways, at no cost to the Department. Mr. Bonini noted that the P3 Office has not received any financial information yet and will meet with the proposer to further discuss the funding details and overall vision.

The Mobile Trash Compaction proposal, submitted by D.C. Lehman Company (Smash My Trash), was received in the most recent submission window and aims to reduce overall waste hauling costs. The Department in the process of performing a high-level screening to determine P3 applicability, and then will meet with internal and external stakeholders to determine feasibility.

The I-76 Managed Lanes proposal, submitted by CINTRA, aims to improve an estimated 17 miles of Interstate 76 (I-76) between the I-202 and I-676 split. This would include constructing four new, tolled, managed lanes (two in each direction). As this proposal was also received in the most recent submission window, the Department is currently still preparing to conduct a high-level screening.

Mr. Bonini then explained that the items categorized as On Hold were projects that have passed a high-level screening stage but require further coordination with the proposer and/or stakeholders. This additional coordination will then lead to either further consideration or dismissal.

PA Smart Transportation Infrastructure Initiative, proposed by Keystone Initiative for Network Based Education and Research (KINBER), aims to offer PennDOT access to their 1,800 miles of existing fiber to connect PennDOT's statewide assets. The P3 Office has conducted several meetings with the proposer, and an additional internal initiative is underway in coordination with the Commonwealth Broadband Plan.

PennDOT Truck Parking Expansion Program, proposed by Truck Specialized Parking Services, Inc., aims to support important initiatives in truck safety. PennDOT is currently coordinating with a freight working group and external stakeholders to examine this and similar issues.

Mr. Bonini concluded the update by explaining that the one proposal listed as Dismissed had been recommended for dismissal in the time between the previous Board meeting and the present meeting, specifics of which are provided in the Board Meeting Book.

Dismissal is typically determined due to a project not having merit or P3 procurement is not the best approach following Department review.

Environmental Solutions P3, proposed by Resource Environmental Solutions, included five environmental solutions for the Department to consider: threatened/endangered mitigation; wetland mitigation; stormwater offsets; MS4 offsets; and a new stormwater facility construction retrofit. PennDOT performed a high-level screening evaluation of the proposal and, at the time, determined that there were opportunities to explore. Mr. Bonini explained that it was eventually determined that a P3 for open-ended mitigation needs is not in the best interests of the Commonwealth. PennDOT continues to evaluate ways to examine mitigation needs from a District perspective rather than statewide. A dismissal letter was issued to the proposer in addition to a follow-up discussion. The dismissal was not due to merit, but rather because statewide application of this would not be in the Commonwealth's best interests.

With no comments from the Board, Mr. Bonini turned the floor over to Mr. Charles Dertinger to present an update on the Northampton County Bridge Renewal Program.

NORTHAMPTON COUNTY BRIDGE RENEWAL PROGRAM: PRESENTED BY MR. CHARLES DERTINGER

Mr. Dertinger provided an overview of the project, which started in 2017 and originally aimed to replace and/or rehabilitate 33 bridges located within Northampton County at a cost of \$38 million. To date, they have only been able to replace 22 of these bridges, and eight have been requested to be removed from the project by Northampton County. Additionally, one rehabilitation bridge crumbled before work could begin and was subsequently removed from the program and funded through the Transportation Improvement Program. Mr. Dertinger continued, noting that the project is expected to conclude in 2022 with three bridges remaining to be completed. In 2021, only four bridges were completed, ranging in size from 19 to 102 feet. The program experienced challenging circumstances including varying levels of litigation faced to keep the project moving. They continue to face litigation for values and circumstances for the remaining eight bridges.

With no questions from the Board, he turned the floor over to Mr. Bonini. Before beginning the next project update, Mr. Bonini noted to all attendees that anyone interested in offering public remarks/comment please submit their name in the chat ahead of time to properly afford time for each person.

RAPID BRIDGE REPLACEMENT (RBR) PROJECT: PRESENTED BY MR. MICHAEL BONINI

Mr. Bonini thanked Mr. Dertinger and provided an overview to the Board and attendees regarding the RBR project, noting that it was approved by the P3 Board in 2013 as a project to replace 558 poor condition bridges located across the Commonwealth. As of June 2021, all 558 bridges have been replaced and opened to traffic. Of these 558, 95% completed construction within the first three years.

Mr. Bonini explained that the agreement is currently in the Maintenance Phase, meaning that the Development Entity, Plenary Walsh Keystone Partners, is responsible for maintaining these bridges until 2043, which marks the end of the 25-year maintenance period. At that point, the bridges will then be turned back over to PennDOT in the agreed suitable condition as established by handback requirements. In closing, Mr. Bonini noted that a the RBR project, delivering 558 bridges in a single Design Build Finance Operate Maintain project, remains a success story for P3 projects in Pennsylvania and nationwide.

With no questions from the Board, Mr. Bonini shifted focus to provide an update on the PennDOT Sponsorship and Advertising Program.

PENNDOT SPONSORSHIP AND ADVERTISING PROGRAM: PRESENTED BY MR. MICHAEL BONINI

Mr. Bonini explained that this project was approved in 2013 to provide opportunities to generate sponsorship and advertising revenue to offset the costs of sponsored programs, as well as provide an additional source of funds for other transportation-related projects and initiatives. The main sponsorship program included is the Safety Service Patrol, which provides free assistance to motorists on the Commonwealth's busiest interstates and expressways in 5 metropolitan areas.

Mr. Bonini provided a status update, noting that two firms, The Superlative Group and 2i Group, have been identified to serve as the program's vendors and are currently conducting an evaluation of sponsorship opportunities to present to the P3 Office and PennDOT for consideration. Prior to the present meeting, the P3 Office was informed that a safety service patrol vendor had been identified as willing to invest in a sponsorship of the patrol. If PennDOT would accept this, it would generate approximately \$2 million in revenue for the Department over a four-year period. The P3 Office will notify the Board and public once a vendor is officially selected.

With no questions from the Board, he turned the floor over to Mr. Andy Batson to provide an update on Compressed Natural Gas (CNG) Fueling Stations.

COMPRESSED NATURAL GAS (CNG) FUELING STATIONS: PRESENTED BY MR. ANDY BATSON

Mr. Batson provided a project status update and displayed a project map, noting that 19 of the 24 fueling stations are complete, with five remaining sites to be constructed. As of December 2021, transit agencies have saved \$5.1 million through the utilization of this program over traditional fueling methods. He explained that the P3 agreement began in 2017 and extends through 2037, at which point the assets will be turned back over to PennDOT and respective transit agencies. PennDOT is currently working with the development entity (DE), Trillium CNG, to transition to the operations and maintenance (O&M) phase and be properly set up for success for the remainder of the contract.

With no questions from the Board, Mr. Batson turned the floor over to Mr. Joseph Gurinko to provide an update on the Partnership 81 Project.

PARTNERSHIP 81 PROJECT: PRESENTED BY MR. JOSEPH GURINKO

Mr. Gurinko began his presentation by noting that the Partnership 81 Project was approved by the P3 Board in December 2019 as a bundle of 15 interstate bridge replacements along Interstates 80 and 81. PennDOT then conducted further analysis which recognized additional substantial needs for the I-81 corridor near Wilkes Barre that went beyond bridges. The Partnership 81 project focused on that corridor.

Mr. Gurinko continued, adding that the implementation of P3 delivery provides an excellent opportunity to address these identified needs/projects that were not programmed in the Twelve-Year Plan. Through P3 delivery, PennDOT can pay for the project through a longer term while continuing to provide benefits to motorists

Mr. Gurinko then displayed a map of the project limits and detailed the needed safety and mobility improvements; including widening to three lanes in both directions, elimination of a left-hand exit, improvements to adjacent intersections, and bridge replacements over a 7.5-mile section of I-81.

Mr. Gurinko then detailed the progress of ongoing project activities conducted in the past 18 months. Activities included receiving FHWA approval on the Purpose & Need document, identifying the selected Preliminary Design Consultant, performing an Alternatives Analysis, and receiving Board approval to procure the project through a Design-Build-Finance (DBF) approach.

Regarding next steps, Mr. Gurinko noted that the P3 Office aims to hold an Industry Forum for the project in spring 2022 to introduce the project and provide further details, including an anticipated schedule which is currently being refined.

Mr. Gurinko then opened the floor to the Board for any questions. With no questions from the Board, he turned the floor over to Mr. Kenneth McClain to provide an update on the Major Bridge P3 Initiative.

MAJOR BRIDGE P3 INITIATIVE: PRESENTED BY MR. KENNETH MCCLAIN AND MR. MICHAEL BONINI

Mr. McClain began by highlighting the Final Planning and Environmental Linkages (PEL) study, conducted in coordination with the Federal Highway Administration (FHWA), which can be used to determine which alternative funding options to pursue in near- and long-term to help build stable and dedicated transportation funding for Pennsylvania. Mr. McClain noted that this will serve as a guidebook for how the team analyzes and investigates programs moving forward and transparently relays this information to the public. He noted that these studies will only grow in importance as revenues continue to shrink.



Mr. McClain then provided an overview of key updates since the previous Board meeting in June 2021, specifically highlighting the efforts of the Transportation Revenue Options Commission (TROC) in the five-month period since its formation. Developments included a Strategic Funding Proposal which identified key processes being used to look at alternative funding opportunities moving forward.

Regarding federal funding, Mr. McClain noted the incoming increase in federal funding as a result of the Infrastructure Investment and Jobs Act (IIJA), which projects to allocated \$640 million in the first year, increasing annually for a period of five years; ultimately maturing at \$950 million. Despite this totaling approximately \$4 billion in additional funding, it still does not close the funding gap.

After providing an overview of the scope of need for PennDOT highway and bridge funding, Mr. McClain detailed Major Bridge P3 Initiative work being performed: technical analyses, financial modeling, procurement documents and development of diversion route improvements. Additional program updates include examination of one-way tolling on Interstate 80 (I-80) bridges. This would encompass four bridges along I-80, tolled in one direction to reduce the number of toll collection points drivers would encounter as well as reducing overall diversions and need for additional tolling infrastructure.

Mr. McClain then turned the floor back over to Mr. Bonini, who began with an overview of the Major Bridge P3 Initiative and several noteworthy details. Mr. Bonini reviewed the project goals, noting that they have not changed as the Department has progressed through procurement. A map of candidate bridge locations was shown to attendees, with Mr. Bonini highlighting the four bridges along I-80 that were previously referenced (shown on the map as items G, H, B and D).

Mr. Bonini continued to the topic of procurement, noting that the purpose of the project is to deliver improvements focusing on the rehabilitation and replacement of the nine candidate bridges through a progressive P3 agreement (which allows for either individual or packaged delivery) with a Design-Build-Finance-Maintain (DBFM) model. The maintenance portion of the agreement is still being determined, but financial models estimate a 30- 35-year period. Repayment would be made through availability payments, where the Department makes payments to the DE funded by toll revenues at the conclusion of construction on a bridgepackage basis, subject to performance specifications. Toll collection will be operated by the Pennsylvania Turnpike Commission (PTC) and their vendor, with PennDOT retaining toll-setting authority.

Mr. Bonini then provided an update on project milestones, noting that the Department received 23 responses to the issued Request for Information (RFI) and held one-on-one meetings with nine of these teams. A resulting Request for Qualifications (RFQ) was released in June 2021, with a Statement of Qualifications (SOQ) due date of Aug. 12, 2021. The resulting shortlist of teams was announced on Sept. 20, 2021.

Mr. Bonini then presented a timeline providing an overview of a general project schedule. PennDOT is currently executing a pre-development agreement (PDA) which will govern the initial work between the Development Entity and public owner. While a resulting fixed price cannot yet be determined, the PDA will present an indicative budget

to provide estimates of what can be delivered. PennDOT aims to identify a selected proposer in February 2022.

Regarding the project's conceptual structure, Mr. Bonini noted that the Department aims to execute the PDA in either late-Q1 or early-Q2 of 2022. Once executed, PennDOT will coordinate with the DE to identify how the bridges can be packaged and delivered together in separate DBFM agreements. PennDOT aims to reach financial close on the first package by the end of 2022.

Mr. Bonini continued, providing an overview of the required DE information for SOQ submittal. Respondents were required to include roles for four Major Team Members: equity members, lead construction contractor, lead engineering firm, and independent quality firm. The resulting information was then provided to a scoring committee, which conducted review/analysis which included input from Department subject matter experts. Once completed, a shortlist of three teams was announced to submit a response to the Request for Proposals (RFP): Keystone Pathway Developers; Bridging Pennsylvania Partners; and Keystone Pathways Mobility Partners. In addition to identifying these three teams, PennDOT also asked for nominated subcontractors that have started to align with these respective teams.

PennDOT walked through the draft RFP documents with the teams to further detail project expectations. Multiple draft versions of the RFP were distributed to the teams for their feedback to best understand the terms and conditions to outline. Agreements were identified in three segments: 1) instructions to proposers; 2) project agreement term sheet; and 3) draft PDA and exhibits.

Mr. Bonini concluded his presentation by providing attendees with the project procurement schedule, noting that each step was coordinated with FHWA throughout the process, and that the project will meet federal requirements and regulations. Additionally, the RFP is anticipated for issuance in the coming days. He then opened the floor to the Board for questions.

Honorable Michael Carroll thanked the P3 Office for their efforts, especially in responding to inquiries, meeting with the public and conducting public outreach sessions.

#### **NEW BUSINESS:**

With no new business, Mr. Bonini turned the floor over to Secretary Gramian.

#### **OTHER BUSINESS:**

Secretary Gramian thanked all presenters and expressed gratitude for their efforts in advancing P3s in Pennsylvania, and then opened the floor to any Board members for comments on other business. With none, Secretary Gramian opened the floor for public comment. With no comments from the public, Secretary Gramian thanked all attendees for their time and support of the P3 program and thanked all presenters. After noting

that the next Board meeting is scheduled for June 14, 2022 at 9:00 a.m., she brought forth a request for a motion to adjourn.

**ADJOURNMENT:**

***On a motion by Honorable Michael Carroll, seconded by Mr. Mark Ryan and unanimously approved, the meeting was adjourned at 2:52 p.m.***

DRAFT

**PART V**  
TRANSPORTATION INFRASTRUCTURE

**Chapter**

- 91. Public-Private Transportation Partnerships
- 92. Traffic Signals
- 93. Bridge Bundling Program
- 95. Public Utility Facilities
- 96. Steel Painting

**Enactment.** Part V was added July 5, 2012, P.L.853, No.88, effective in 60 days unless otherwise noted.

**CHAPTER 91**  
PUBLIC-PRIVATE TRANSPORTATION PARTNERSHIPS

**Sec.**

- 9101. Scope of chapter.
- 9102. Definitions.
- 9103. Public-Private Transportation Partnership Board.
- 9104. Duties of board.
- 9105. Operation of board.
- 9106. Solicitations for transportation projects.
- 9107. Transportation projects.
- 9108. Requests.
- 9109. Selection of development entities.
- 9110. Public-private transportation partnership agreement.
- 9111. Records of requests.
- 9112. Use of intellectual property.
- 9113. Police powers and violations of law.
- 9114. Environmental and other authorizations.
- 9115. Taxation of development entity.
- 9115.1. Prohibition on mandatory user fees.
- 9116. Power of eminent domain.
- 9117. Sovereign immunity.
- 9118. Specific performance.
- 9119. Applicability of other laws.
- 9120. Adverse interests.
- 9121. Federal, State, local and private assistance.
- 9122. Public-Private Transportation Account.
- 9123. Pennsylvania Turnpike Commission.
- 9124. Regulations.

**Enactment.** Chapter 91 was added July 5, 2012, P.L.853, No.88, effective in 60 days unless otherwise noted.

**Special Provisions in Appendix.** See section 6 of Act 84 of 2022 in the appendix to this title for special provisions relating to transportation projects.

**§ 9101. Scope of chapter.**

This chapter relates to public-private transportation partnerships.

**§ 9102. Definitions.**

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

**"Account."** The Public-Private Transportation Account.

**"Board."** The Public-Private Transportation Partnership Board.

**"Department."** The Department of Transportation of the Commonwealth.

**"Development entity."** An entity which is a party to a public-private transportation partnership agreement and which is any of the following:

(1) A private entity.

(2) A public entity, other than the public entity providing or improving its own transportation facilities.

**"Electronic toll."** A system of collecting tolls or charges which is capable of charging an account holder for the prescribed toll by electronic transmission of information. The term includes open road tolls, video tolls or other similar structural or technological enhancements pertaining to tolls.

**"Offeror."** A person that submits a proposal or a response in answer to a request for proposals or transportation projects.

**"Private entity."** A person, entity, group or organization that is not the Federal Government, the Commonwealth or a municipal authority.

**"Proprietary public entity."** A public entity which owns a public-private transportation project and which is a party to a public-private transportation partnership agreement.

**"Public entity."** A Commonwealth agency as defined in 62 Pa.C.S. § 103 (relating to definitions), a municipal authority or an authority created by statute which owns a transportation facility. The term does not include the General Assembly and its members, officers or agencies or any court or other office or agency of the Pennsylvania judicial system.

**"Public-private transportation partnership agreement."** A contract for a transportation project which transfers the rights for the use or control, in whole or in part, of a transportation facility by a public entity to a development entity for a definite term during which the development entity will provide the transportation project to the public entity in return for the right to receive all or a portion of the revenue generated from the use of the transportation facility, or other payment, such as transportation-related services.

(1) (Deleted by amendment).

(2) (Deleted by amendment).

(3) (Deleted by amendment).

(4) (Deleted by amendment).

(5) (Deleted by amendment).

(6) (Deleted by amendment).

(7) (Deleted by amendment).

**"Public-private transportation project."** A transportation project undertaken by a development entity pursuant to a public-private transportation partnership agreement.

**"Request for transportation projects."** A solicited or unsolicited plan for a transportation project submitted to the board by a public entity.

**"Responsible offeror."** An offeror that has submitted a responsive proposal and that possesses the capability to fully perform the public-private transportation partnership agreement requirements in all respects and the integrity and reliability to assure good faith performance.

**"Responsive proposal."** A proposal that conforms in all material aspects to the requirements and criteria in the request for proposals.

**"State Adverse Interest Act."** The act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

**"Transportation facility."** A proposed or existing road, bridge, tunnel, overpass, ferry, busway, guideway, public transportation facility, vehicle parking facility, port facility, multimodal transportation facility, airport, station, hub,

terminal or similar facility used or to be used for the transportation of persons, animals or goods, together with any buildings, structures, parking areas, appurtenances, intelligent transportation systems and other property needed to operate or related to the operation of the transportation facility. The term includes any improvements or substantial enhancements or modifications to an existing transportation facility.

**"Transportation project."** An undertaking by a private entity or a public entity, other than the public entity providing or improving its own transportation facilities, to provide or improve a transportation facility or transportation-related service which is totally or partially located within this Commonwealth.

**"Transportation-related service."** Only the following services:

- (1) Operations and maintenance.
- (2) Revenue collection.
- (3) Optional user fee collection or enforcement.
- (4) Design.
- (5) Construction.
- (6) Development and other activities with respect to existing or new transportation facilities that enhance traffic throughput, reduce congestion, improve safety or otherwise manage or improve a transportation facility.

(7) Financing.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 amended the def. of "public-private transportation partnership agreement" and added the def. of "transportation-related service."

**Effective Date.** Section 3(1) of Act 88 of 2012 provided that section 9102 shall take effect immediately.

**§ 9103. Public-Private Transportation Partnership Board.**

**(a) Establishment.--**There is established a board to be known as the Public-Private Transportation Partnership Board.

**(b) Composition.--**The board shall be composed of the following members:

(1) The Secretary of Transportation, who shall be the chairperson of the board, or a designee who shall be an employee of the department.

(2) The Secretary of the Budget or a designee who shall be an employee of the Office of the Budget.

(3) Four members appointed by the General Assembly under subsection (c).

(4) One member appointed by the Governor under subsection (d).

**(c) Legislative appointments.--**

(1) Appointments of members by the General Assembly shall be made as follows:

(i) One individual appointed by the President pro tempore of the Senate.

(ii) One individual appointed by the Minority Leader of the Senate.

(iii) One individual appointed by the Speaker of the House of Representatives.

(iv) One individual appointed by the Minority Leader of the House of Representatives.

(2) Legislative appointees shall be residents of this Commonwealth and serve at the pleasure of the appointing authority.

(3) Legislative appointees shall have expertise or substantial experience in one or more of the following areas:

(i) Transportation.

(ii) Finance.

(iii) Law.

(iv) Land use and public planning.

**(d) Gubernatorial appointment.**--A member appointed under subsection (b) (4):

(1) May not hold any other position as an elected official or employee of the Commonwealth.

(2) Shall be a resident of this Commonwealth and have expertise or substantial experience in one or more of the following areas:

(i) Transportation.

(ii) Finance.

(iii) Law.

(iv) Land use and public planning.

(3) Shall serve at the pleasure of the Governor.

**(e) Quorum.**--Four members of the board shall constitute a quorum. The adoption of a resolution or other action of the board shall require a majority vote of the members of the board.

**(f) Compensation.**--The members of the board shall be entitled to no compensation for their services as members of the board but shall be entitled to reimbursement by the department for all necessary and reasonable expenses incurred in connection with the performance of their duties as members of the board.

**(g) Initial appointment and vacancy.**--Appointing authorities shall appoint initial board members within 30 days of the effective date of this section. Whenever a vacancy occurs on the board, the appointing authority shall appoint a successor member within 30 days of the vacancy.

**(h) Financial interests.**--No member of the board, during his term of office, shall directly or indirectly own, have any significant financial interest in, be associated with or receive any fee, commission, compensation or anything of value from any public entity or private entity seeking to engage in a public-private transportation partnership agreement. The provisions of this subsection shall not apply to the salary of a Commonwealth employee.

**(i) Applicability.**--The following acts shall apply to the board:

(1) The act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(2) The State Adverse Interest Act.

(3) The provisions of 65 Pa.C.S. Chs. 7 (relating to open meetings) and 11 (relating to ethics standards and financial disclosure).

**Effective Date.** Section 3(1) of Act 88 of 2012 provided that section 9103 shall take effect immediately.

**§ 9104. Duties of board.**

**(a) Duties.**--The board shall do all of the following:

(1) Meet as often as necessary but at least annually.

(2) Adopt guidelines establishing the procedure by which a public entity may submit a request for a proposed transportation project or a private entity may submit an unsolicited plan for a proposed transportation project to the board.

(3) Consult with persons affected by proposed transportation projects.

(4) Evaluate and, where the board finds that the requests or plans for proposed transportation projects are in the best interests of the Commonwealth and a public entity, approve the requests or plans for proposed transportation projects. No proposed transportation project that provides for optional user fees may be approved by the board unless the board members approve such a project unanimously. The board shall approve a proposed transportation project by adopting a resolution.

(5) Submit an annual report to the General Assembly detailing all transportation projects evaluated and resolutions adopted.

**(b) Actions.**--Actions by the board are a determination of public policy and public interest and shall not be considered adjudications under 2 Pa.C.S. Chs. 5 Subch. A (relating to practice and procedure of Commonwealth agencies) and 7 Subch. A (relating to judicial review of Commonwealth agency action) and shall not be appealable to the department or a court of law.

**(c) General Assembly.**--The following shall apply:

(1) Upon receipt of the resolution from the board under section 9105(b.2), the General Assembly may, within 20 calendar days or nine legislative days, whichever is longer, pass a concurrent resolution rescinding the approval of a transportation project if the transportation facility which is the subject of the transportation project is owned by the Commonwealth.

(2) If the General Assembly adopts the concurrent resolution within the time period under paragraph (1) by majority vote in both the Senate and the House of Representatives, the transportation project shall be deemed disapproved.

(3) If the General Assembly fails to adopt the concurrent resolution by majority vote in both the Senate and the House of Representatives within the time period under paragraph (1), the transportation project shall be deemed approved.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 amended subsecs. (a)(2) and (4) and (c)(1).

**Effective Date.** Section 3(1) of Act 88 of 2012 provided that section 9104 shall take effect immediately.

**Cross References.** Section 9104 is referred to in section 9109 of this title.

#### **§ 9105. Operation of board.**

**(a) Technical assistance.**--The department shall supply all necessary assistance to assist the board in carrying out its duties and responsibilities, including retention of legal, financial and technical consultants to assist with this role.

**(b) Analysis.**--The following shall apply:

(1) The department shall develop a detailed analysis of a request or recommendation for a proposed transportation project prior to requesting approval by the board.

(2) The analysis shall include the following:

(i) The anticipated location of the proposed transportation project.

(ii) The type of transportation facility or transportation-related service to be improved.

(iii) The estimated costs of the proposed transportation project to the public entity.

(iv) The estimated length of the public-private transportation partnership agreement.

(v) The potential social, economic and environmental impacts of the proposed transportation project.

(vi) If the proposed transportation project proposes an optional user fee, include the estimated amount for each user group and type of user fee as described under section 9110(f) (relating to public-private transportation partnership agreement).

(vii) Applicable Federal and State laws.

(viii) Alternative courses of action to improve the transportation facility or transportation-related service without a public-private transportation partnership and the



associated risks of improving the transportation facility or transportation-related service with a public-private transportation partnership.

(2.1) The department may conduct additional evaluations prior to the development of the analysis.

(3) The department shall post a copy of the analysis on the department's publicly accessible Internet website, submit the analysis to the board and the chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives and transmit notice of the analysis to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin for 60 days prior to any action by the board.

**(b.1) Public input.--**The following shall apply:

(1) The department shall collect comments from the public on the proposed transportation project during a public comment period which shall commence with the publication of the notice in the Pennsylvania Bulletin of the analysis and shall continue for a period of not less than 30 days. Prior to any action by the board, the department shall post a copy of all submitted comments and a summary as provided under paragraph (2) on the department's publicly accessible Internet website and provide the submitted comments and summary to the board and the chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(2) The summary under paragraph (1) shall include a description of the proposed transportation project, a copy of the notice that was published in the Pennsylvania Bulletin, the time period that the public was allowed to provide input and a chart or graph that accurately portrays all submitted comments, including the positive and negative public input, on the proposed transportation project.

**(b.2) Evaluation and approval.--**The following shall apply:

(1) After consideration of the analysis and public comment, if the board finds that the proposed transportation project is in the best interests of the Commonwealth, it may approve the proposed transportation project in the form of a resolution. For a proposed transportation project that may impose an optional user fee, unanimous approval of the board is required.

(2) Approval of a proposed transportation project, including a project with an optional user fee, shall be in the form of a resolution signed by the chairperson of the board. A copy of the resolution shall be posted on the department's publicly accessible Internet website and shall be transmitted by the department to the following entities within 48 hours after approval:

(i) The chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(ii) The Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

**(c) Oversight.--**If a transportation project becomes a public-private transportation project, the department shall retain oversight and monitor the public-private transportation project, including periodic reports to the board, as necessary.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 amended subsec. (b) and added subsecs. (b.1) and (b.2).

**Effective Date.** Section 3(1) of Act 88 of 2012 provided that section 9105 shall take effect immediately.

**Cross References.** Section 9105 is referred to in sections 9104, 9109 of this title.

**§ 9106. Solicitations for transportation projects.**

A public entity may solicit transportation projects through a request for transportation projects. The public entity shall give public notice of a request for transportation projects consistent with section 9109(c) (relating to selection of development entities). Offerors shall submit their responses to the public entity in the form and manner required by the request for transportation projects. A public entity shall evaluate each response to determine if the response is in the best interest of the public entity. Upon being satisfied, the public entity may prepare and submit a request to the board to review the transportation project in accordance with this chapter.

**Cross References.** Section 9106 is referred to in section 9120 of this title.

**§ 9107. Transportation projects.**

**(a) Submission.--**Except as provided under subsection (b), a public entity which seeks to undertake a transportation project which has not been previously approved by the board shall submit a request for the transportation project to the board.

**(b) Exception.--**This chapter shall not apply to a transportation project which a public entity is authorized under law to undertake on the effective date of this subsection.

**§ 9108. Requests.**

A request may be solicited or unsolicited and may provide for the development or operation of transportation facilities using a variety of project delivery methods and forms of agreement. The methods may include:

- (1) Predevelopment agreements leading to other implementing agreements.
- (2) A design-build agreement.
- (3) A design-build-operate agreement.
- (4) A design-build-maintain agreement.
- (5) A design-build-finance-operate agreement.
- (6) A design-build-operate-maintain agreement.
- (7) A design-build-finance-operate-maintain agreement.
- (8) An operate-maintain agreement.
- (9) A concession providing for the development entity to design, build, operate, maintain, manage or lease a transportation facility.
- (10) Any other innovative or nontraditional project delivery method or agreement or combination of methods or agreements that the public entity determines will address the transportation needs of the Commonwealth and the public entity and serve the public interest.

**§ 9109. Selection of development entities.**

**(a) Conditions for use.--**If a transportation project is approved under sections 9104 (relating to duties of board) and 9105 (relating to operation of board), the public entity may enter into a contract for the transportation project by competitive sealed proposals.

**(b) Request for proposals.--**After receiving the determination required by subsection (a), a public entity shall solicit proposals through a request for proposals.

**(c) Public notice.--**A public entity shall give public notice of a request for proposals consistent with regulations adopted by the department. The notice shall be given a reasonable time prior

to the date set for the close of receipt of the proposals. The method of public notice may include any of the following:

- (1) Electronic publication which is accessible to the general public.
- (2) Advertisement as provided for in 45 Pa.C.S. § 306 (relating to use of trade publications).
- (3) Issuance of request for proposals to offerors on the mailing list of the public entity.
- (4) Publication in a newspaper of general circulation.
- (5) Where prequalification is a requirement of submitting a proposal, notification to all private entities who have been prequalified by the public entity.

**(d) Copies of request for proposals.**--Copies of a request for proposals shall be made available to any interested person upon request to the public entity. A public entity may establish procedures for the distribution of a request for proposals, including the imposition of a fee to reimburse the public entity for the costs of photocopying and mailing.

**(e) Receipt of proposals.**--Offerors shall submit their proposals to ensure that their proposals are received prior to the time and date established for receipt of the proposals. Proposals shall be submitted in the format required by the request for proposals. Proposals shall be opened so as to avoid disclosure of their contents to competing offerors.

**(f) Evaluation.**--A public entity shall evaluate each proposal to determine which proposal has the best value for and is in the best interest of the public entity. In making this determination, a public entity may consider any of the following:

- (1) Cost.
- (2) Price.
- (3) Financial commitment.
- (4) Innovative financing.
- (5) Bonding.
- (6) Technical, scientific, technological or socioeconomic merit.
- (7) Financial strength and viability.
- (8) Design, operation and feasibility of the transportation project.
- (9) Public reputation, qualifications, industry experience and financial capacity of the private entity.
- (10) The ability of the transportation project to improve economic growth, to improve public safety, to reduce congestion, to increase capacity or to rehabilitate, reconstruct or expand an existing transportation facility.
- (11) The compatibility of the proposal with existing local and regional land use plans.
- (12) The commitment of local communities to approve land use plans in preparation for the transportation project.
- (13) Other factors deemed appropriate by the public entity.

**(g) Weighted consideration.**--The relative importance of each evaluation factor shall be fixed prior to opening the proposals.

**(h) Participation in evaluation.**--If the public entity is a Commonwealth agency, the department is required to invite its comptroller to participate in the evaluation as a nonvoting member of any evaluation committee. No individual who has been employed by an offeror within the last two years may participate in the evaluation of proposals.

**(i) Discussion with responsible offerors and revision of proposals.**--As provided in the request for proposals, discussions and negotiations may be conducted with responsible offerors for the purpose of clarification and of obtaining best and final offers. Responsible offers shall be accorded fair and equal

treatment with respect to any opportunity for discussion and revision of proposals. In conducting discussions, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

**(j) Selection for negotiation.**--The responsible offeror whose proposal is determined in writing to be the best value for and in the best interests of the public entity, taking into consideration all evaluation factors, shall be selected for contract negotiation.

**(k) Cancellation.**--A request for proposals may be canceled at any time prior to the time a public-private transportation partnership agreement is executed by all parties when it is in the best interests of the public entity.

**(l) Award.**--Upon reaching an agreement with a responsible offeror, a public entity shall enter into a public-private transportation partnership agreement with the responsible offeror. The public-private transportation partnership agreement shall be consistent with the requirements of this chapter. If agreement cannot be reached with the best qualified responsible offeror, then negotiations will be formally terminated with the offeror. If proposals were submitted by one or more other responsible offerors, negotiations may be conducted with the other responsible offeror or responsible offerors in the order of their respective qualification ranking. The contract may be awarded to the responsible offeror then ranked as best qualified.

**(m) Resolution of controversies involving the Commonwealth.**--If a prospective offeror, offeror or development entity is aggrieved by a selection under this section and the public entity or proprietary public entity in the invitation or contract is a Commonwealth agency, the prospective offeror, offeror or development entity may file a protest or a claim, as appropriate, in accordance with 62 Pa.C.S. Ch. 17 (relating to legal and contractual remedies).

**(n) Resolution of controversies not involving the Commonwealth.**--If a development entity is aggrieved by a selection under this section and the proprietary public entity in the contract is an entity other than the Commonwealth, a development entity may file a claim with the court of common pleas where the proprietary public entity is located. The process for the filing and resolution of claims, including rights, contents, timing, evaluation, determination and remedies, which are established in 62 Pa.C.S. Ch. 17, shall apply insofar as they are practicable. (July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 amended subsec. (a).

**Cross References.** Section 9109 is referred to in sections 9106, 9119, 9120 of this title.

**§ 9110. Public-private transportation partnership agreement.**

**(a) Agreement provisions.**--A public-private transportation partnership agreement shall include the following provisions:

(1) A description of any planning, development, design, leasing, acquisition or interest in, financing, installation, construction, reconstruction, replacement, expansion, operation, maintenance, improvement, equipping, modification, expansion, enlargement, management, running, control and operation of the public-private transportation project.

(2) The term of the public-private transportation partnership agreement.

(3) The type of property interest or other relationship the development entity will have in or with respect to the public-private transportation partnership project, including acquisition of rights-of-way and other property interests that may be required.

(4) Authorization for the proprietary public entity or its authorized representatives to inspect all assets and properties of the public-private transportation project and all books and records of the development entity relating to the public-private transportation project to review the development entity's performance under the public-private transportation partnership agreement.

(5) Grounds for termination of the public-private transportation partnership agreement by the parties.

(6) Procedures for amendment of the public-private transportation partnership agreement.

(7) The rights and remedies available in the event of breach, default or delay.

(8) Requirements for a private development entity to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security in an amount acceptable to the proprietary public entity.

(9) A requirement that ownership of a transportation facility acquired or constructed go to or remain with the proprietary public entity.

(10) Standards for construction, maintenance and operation of the public-private transportation project if the activities are to be performed by the development entity.

(11) Standards for capital improvement or modification of the public-private transportation project if they are to be made by the development entity.

(12) Standards relating to how payments, if any, are to be made by the proprietary public entity to the development entity, including availability payments, performance-based payment and payments of money and revenue-sharing with the development entity.

(13) Standards relating to how the parties will allocate and share management of the risks of the public-private transportation project.

(14) Standards relating to how the parties will allocate costs of development of the public-private transportation project, including any cost overruns.

(15) Standards relating to damages to be assessed for nonperformance, specifying remedies available to the parties and dispute resolution procedures.

(16) Standards relating to performance criteria and incentives.

(17) A requirement that upon termination of the public-private transportation partnership agreement, a transportation facility that was the subject of the public-private transportation partnership agreement must be in a state of proper maintenance and repair and shall be returned to the proprietary public entity in satisfactory condition at no further cost to the proprietary public entity.

(18) Provisions for law enforcement related to the public-private transportation project.

(19) An obligation of the development entity to offer employment to any employee of the proprietary public entity who would lose employment due to the execution of the public-private transportation partnership agreement and who is in good standing at the time of execution of the public-private transportation partnership agreement, including salary, retirement, health and welfare and benefits which are substantially identical to the benefits received by the employees immediately prior to execution of the public-private transportation partnership agreement for the term of the collective bargaining agreement of those employees in effect.

An employee of the proprietary public entity who does not accept employment with the development entity shall be reassigned to an equivalent position, without loss of seniority, within a worksite in as close proximity to the public-private transportation project as feasible. Nothing in this paragraph shall impair provisions related to furloughs and layoffs of the collective bargaining agreement of those employees in effect.

(20) Other terms and provisions as required under this chapter or agreed to by the development entity and the proprietary public entity.

**(b) Term.**--The proprietary public entity may enter into a public-private transportation partnership agreement with any development entity that includes the provisions under subsection (a) for a term not to exceed 99 years.

**(c) Public partner.**--Nothing in this chapter shall prohibit the department from entering into a public-private transportation partnership agreement with another Commonwealth agency in accordance with this chapter.

**(d) Public entity.**--Nothing in this chapter shall prohibit a public entity from entering into a public-private transportation partnership agreement with one or more public entities in accordance with this chapter.

**(e) Environmental costs.**--

(1) A proprietary public entity may provide in a public-private transportation partnership agreement that it will pay or reimburse, on terms that it deems appropriate, the development entity for actual costs associated with necessary remediation for existing environmental contaminants located on, under or emanating from the real property associated with a public-private transportation project as of the date the development entity assumes responsibility for the public-private transportation project. If the public-private transportation partnership agreement provides for environmental remediation, the public-private transportation partnership agreement shall require that the proprietary public entity be given:

(i) Prompt notice of any claim against the proprietary public entity or a third party pertaining to the contaminants.

(ii) The right to elect to undertake the necessary remediation.

(iii) The right to participate in the defense of or response to any claim.

(iv) The right of prior approval before the development entity may settle any claim.

(2) No payment by a proprietary public entity under this section may be for anything other than actual costs incurred by a development entity to remediate the environmental contamination on, under or emanating from the real property associated with the public-private transportation project as of the date the development entity assumes responsibility for the public-private transportation project.

**(f) Optional user fees.**--A provision establishing whether optional user fees will be imposed for use of the public-private transportation project and the basis by which any optional user fees will be imposed and collected shall be determined in the public-private transportation partnership agreement. If an optional user fee is proposed as part of the public-private transportation project, a proprietary public entity shall include provisions in the agreement that authorize the collection of optional user fees, tolls, fares or similar charges, including provisions that:

(1) Specify technology to be used in the public-private transportation project.

(2) Establish circumstances under which the proprietary public entity may receive a share of revenues from the charges.

(3) Govern the enforcement of optional electronic tolls, including provisions for use of available technology.

(4) Establish payment collection standards, including provisions for enforcement of nonpayment and penalties.

(5) In the event an operator of a vehicle fails to pay the optional toll or user fee at any location on a public-private transportation project where optional tolls or user fees are collected by means of an electronic or other automated or remote form of collection, the collection provisions of section 8117 (relating to electronic toll collection) shall apply except that the development entity shall possess all of the rights, roles, limitations and responsibilities of the Pennsylvania Turnpike Commission.

**(g) Amounts received under a public-private transportation partnership agreement.**--The net proceeds received by the proprietary public entity under a public-private transportation partnership agreement shall be available exclusively to provide funding for transportation needs in this Commonwealth. The use of the proceeds or other revenues from the public-private transportation project shall comply with Federal or State law restricting or limiting the use of revenue from the public-private transportation project based on its public funding.  
(July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 amended subsec. (f).

**Cross References.** Section 9110 is referred to in sections 9105, 9117 of this title.

**§ 9111. Records of requests.**

The following shall apply:

(1) Upon the selection of a development entity to be a party to a public-private transportation partnership agreement, the identity of the development entity selected, the contents of the response of the development entity to the request for proposals, the final proposal submitted by the development entity and the form of the public-private transportation partnership agreement shall be made public. Any financial information of a development entity that was requested in the request for proposals or during discussions and negotiations to demonstrate the economic capability of a development entity to fully perform the requirements of the public-private transportation partnership agreement shall not be subject to public inspection.

(2) A proprietary public and a private development entity may agree, in their discretion, to make public any information described under paragraph (1) that would not otherwise be subject to public inspection.

(3) If a proprietary public entity terminates a public-private transportation partnership agreement for default, rejects a private entity on the grounds that the private entity is not responsible or suspends or debars a development entity, the private entity or development entity, as appropriate, shall, upon written request, be provided with a copy of the information contained in the file of the private entity or development entity maintained by the proprietary public entity under a contractor responsibility program.

(4) The following information shall not be public:

(i) Information relating to proprietary information, trade secrets, patents or exclusive licenses, architectural

and engineering plans and information relating to competitive marketing materials and strategies.

(ii) Security information, including risk prevention plans, detection and countermeasures, emergency management plans, security and surveillance plans, equipment and usage protocols and countermeasures.

(iii) Records considered nonpublic matters or information by the Securities and Exchange Commission under 17 CFR 200.80 (relating to commission records and information).

(iv) Any financial information deemed confidential by the proprietary public entity upon a showing of good cause by the offeror or development entity.

(v) Records prepared or utilized to evaluate a proposal.

#### **§ 9112. Use of intellectual property.**

Unless otherwise agreed and except to the extent not transferable by law, the department or a proprietary public entity shall have the right to use all or a portion of a submitted proposal, including the technologies, techniques, methods, processes and information contained in the proposal. Notice of nontransferability by law shall be given to the department and the proprietary public entity in response to the request for proposals.

#### **§ 9113. Police powers and violations of law.**

(a) **Enforcement of traffic laws.**--To the extent the public-private transportation project is a highway, bridge, tunnel overpass or similar transportation facility for motor vehicles, 75 Pa.C.S. (relating to vehicles) and other laws of this Commonwealth or, if applicable, any local jurisdiction shall be the same as those applying to conduct on similar transportation facilities in this Commonwealth or the local jurisdiction. Punishment for offenses shall be prescribed by law for conduct occurring on similar transportation facilities in this Commonwealth or the local jurisdiction.

(b) **Arrest powers.**--All officers authorized by law to make arrests for violations of law in this Commonwealth shall have the same powers, duties and jurisdiction within the limits of a public-private transportation project as they have in their respective areas of jurisdiction. The grant of authority under this section shall not extend to the private offices, buildings, garages and other improvements of a development entity to any greater degree than the police power extends to any other private offices, buildings, garages and other improvements.

#### **§ 9114. Environmental and other authorizations.**

(a) **The Administrative Code of 1929.**--Notwithstanding any other provision of law, neither soliciting nor approving a request for proposals, nor executing a public-private transportation partnership agreement under this chapter shall constitute the submission of a preliminary plan or design to the department under section 2002(b) of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(b) **Environmental authorizations.**--A public-private transportation partnership agreement may require that prior to commencing any construction in connection with the development, operation or financing of any public-private transportation project if the agreement requires environmental authorizations to be obtained, the development entity shall do any of the following:

(1) Secure all necessary environmental permits and authorizations and, if specified under the act of May 19, 1995 (P.L.4, No.2), known as the Land Recycling and Environmental Remediation Standards Act, obtain the approval of the Department of Environmental Protection.



(2) Complete environmental remediation of the site on which the public-private transportation project is to be located, including acts required under any agreement entered into with the Department of Environmental Protection for remediation of the site under the Land Recycling and Environmental Remediation Standards Act.

**§ 9115. Taxation of development entity.**

**(a) General rule.**--To the extent that revenues or optional user fees received by a development entity pursuant to a public-private transportation partnership agreement are subject to a tax imposed by a political subdivision prior to the effective date of this section, the revenues or user fees shall continue to be subject to the tax and to future increases in the rate of the tax.

**(b) New taxation barred.**--After the effective date of this section, no new tax shall be imposed by a political subdivision or the Commonwealth on the revenues or optional user fees received by a development entity pursuant to a public-private transportation partnership agreement.

**(c) Realty transfer tax.**--No public-private transportation partnership agreement, lease, concession, franchise or other contract involving real property of a public-private transportation project shall be subject to a Commonwealth or local realty transfer tax imposed under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, or a successor statute.

**(d) Property.**--Property used in connection with a public-private transportation project shall be considered public property and shall be exempt from ad valorem property taxes and special assessments levied against property by the Commonwealth or any political subdivision.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 amended subsecs. (a) and (b).

**§ 9115.1. Prohibition on mandatory user fees.**

A user fee may not be imposed as part of a transportation project approved under this chapter, unless the user fee is imposed only on individuals who select optional means to transit the transportation facility, such as limited access lanes or similar programs that allow individuals multiple means to transit the same transportation facility.

(July 11, 2022, P.L.1566, No.84, eff. imd.)

**2022 Amendment.** Act 84 added section 9115.1.

**§ 9116. Power of eminent domain.**

The exercise of the power of eminent domain by any condemnor to acquire property for public-private transportation project purposes under a public-private transportation partnership agreement shall be considered a taking for a public purpose and not for a private purpose or for private enterprise.

**§ 9117. Sovereign immunity.**

Under section 11 of Article I of the Constitution of Pennsylvania, it is declared to be the intent of the General Assembly that the Commonwealth, and its officials and employees, and a municipal authority, and its officials and employees, acting within the scope of their duties, shall continue to enjoy sovereign immunity and official immunity and remain immune from suit except as provided in section 9118 (relating to specific performance). A claim against the Commonwealth and its officials and employees or municipal authority and its officials and employees shall be brought only in such manner and in such courts and in such cases as directed by the provision of section 9110(e) (relating to public-private transportation partnership agreement),

42 Pa.C.S. Ch. 85 (relating to matters affecting government units), 62 Pa.C.S. Ch. 17 (relating to legal and contractual remedies) or any procurement law applicable to a municipal authority.

**§ 9118. Specific performance.**

A proprietary public entity is authorized to agree that specific performance shall be available to a development entity as a remedy for a breach by the proprietary public entity of its representations, covenants, warranties or other obligations under the public-private transportation partnership agreement to the extent set forth in the public-private transportation partnership agreement.

**Cross References.** Section 9118 is referred to in section 9117 of this title.

**§ 9119. Applicability of other laws.**

**(a) General rule.**--Except as provided under subsection (b), all provisions of laws related to the development, construction, operation or financing of a transportation project in effect on the date the public-private transportation partnership agreement is fully executed shall apply to a public-private transportation partnership agreement entered into between a proprietary public entity and a development entity. The provisions shall include:

(1) The act of May 1, 1913 (P.L.155, No.104), referred to as the Separations Act; however, the development entity selected under section 9109 (relating to selection of development entities) shall be the person whose duty it is to receive separate bids and award and enter into separate contracts for each of the subject branches of work required for the erection, construction and alteration of a public building under a public-private transportation partnership agreement.

(2) The act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act.

**(b) Limitation.**--The following apply:

(1) If the public entity or the proprietary public entity is a Commonwealth agency, 62 Pa.C.S (relating to procurement) shall apply only to the extent provided under paragraph (2).

(2) The following shall apply if the public entity or the proprietary public entity is a Commonwealth agency:

(i) Section 107 (relating to reciprocal limitations).

(ii) Section 531 (relating to debarment or suspension).

(iii) Section 541 (relating to approval of accounting system).

(iv) Section 551 (relating to right to inspect plant).

(v) Section 552 (relating to right to audit records).

(vi) Section 563 (relating to retention of procurement records).

(vii) Chapter 17 (relating to legal and contractual remedies).

(Nov. 25, 2013, P.L.974, No.89, eff. 60 days)

**2013 Amendment.** Act 89 amended subsec. (a)(1). See the preamble to Act 89 in the appendix to this title for special provisions relating to legislative findings and declarations.

**§ 9120. Adverse interests.**

**(a) Private entity adverse interests.**--The following shall apply:

(1) Except as provided under paragraph (2), a private entity which submits a response to a request for proposals under section 9109 (relating to selection of development entities), a request for transportation projects under section 9106 (relating to solicitations for transportation projects) or

an unsolicited proposal, and which is also a State advisor or a State consultant for the department or the Pennsylvania Turnpike Commission, shall not be deemed to be in violation of the State Adverse Interest Act while engaging in any of the following activities:

(i) Preparing or submitting a response to a request for proposals or transportation projects.

(ii) Participating in any activity with the department related to a request for proposals or transportation projects.

(iii) Negotiating and entering into any contract lease or public-private transportation partnership agreement which results from a request for proposals or transportation projects.

(iv) Engaging in any other action taken in furtherance of the purposes of this chapter.

(2) A private entity which submits a response to a request for proposals or transportation projects or acts as a consultant or an advisor to a private entity which submits a response to a request for proposals or transportation projects to the department shall be prohibited from consulting or providing advice to the department on the review or approval of the response to the request for proposals or transportation projects as submitted.

(3) A private entity which submits a response to a request for proposals or transportation projects or acts as a consultant or an advisor to a private entity which submits a response to a request for proposals or transportation projects to the board shall be prohibited from consulting or providing advice to the department on the review or approval of the response to the request for proposals or transportation projects so submitted.

**(b) Definitions.**--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"State advisor." As defined in section 2(7) of the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

"State consultant." As defined in section 2(9) of the act of July 19, 1957 (P.L.1017, No.451), known as the State Adverse Interest Act.

**§ 9121. Federal, State, local and private assistance.**

**(a) Federal assistance.**--The following shall apply:

(1) The department or a proprietary public entity may accept from the United States or any of its agencies funds that are available to the Commonwealth for carrying out this chapter, whether the funds are made available by grant, loan, loan guarantee or otherwise.

(2) The department or a proprietary public entity is authorized to assent to any Federal requirements, conditions or terms of any Federal funding accepted by the department or a proprietary public entity under this section.

(3) The department or a proprietary public entity may enter into agreements or other arrangements with the United States or any of its agencies as may be necessary for carrying out the purposes of this chapter.

**(b) Acceptance of grants and donations.**--The department or a proprietary public entity may accept from any source any grant, donation, gift or other form of conveyance of land, money or other real, personal or mixed property or other item of value for carrying out the purpose of this chapter.

**(c) Contributions.**--Subject to acceptance and agreement between the development entity and a proprietary public entity,

any public-private transportation project may be financed, in whole or in part, by contribution of any funds or property made by a proprietary public entity, a development entity or an affected jurisdiction.

**(d) Combination of funds.**--The department or proprietary public entity may combine Federal, State, local and private funds to finance a public-private transportation project under this chapter.

**(e) Itemization.**--Pursuant to section 7(a)(4) of Article VIII of the Constitution of Pennsylvania, a public-private transportation project funded, in whole or in part, through the issuance of debt where the credit of the Commonwealth is pledged shall be itemized in a capital budget itemization act.

**§ 9122. Public-Private Transportation Account.**

**(a) Establishment.**--

(1) There is established within the Motor License Fund a separate account to be known as the Public-Private Transportation Account.

(2) Money in the account shall be used only for the purposes enumerated under subsection (c).

**(b) Deposits to account.**--The following shall apply:

(1) The department shall deposit in the account the following:

(i) All money received by the department pursuant to the terms of a public-private transportation partnership agreement under which the department is the proprietary public entity.

(ii) Repayment of any loans from the account made under this chapter.

(iii) Subject to the provisions of any public-private transportation partnership agreement under which the department is the proprietary public entity, monetary damages and other amounts for failure by a development entity to comply with the terms of the public-private transportation partnership agreement.

(iv) Subject to the provisions of any public-private transportation partnership agreement under which the department is the proprietary public entity, payments made from any insurance proceeds or reserve funds or performance or payment bonds in connection with a public-private transportation project.

(v) Earnings from the investment of the money in the account.

(2) The Secretary of the Budget shall establish any restricted accounts within the account as the secretary deems necessary for the proper administration of the account.

(3) All money related to any public-private transportation partnership agreement in which the department is not the proprietary public entity shall not be held in the account, but shall be held by the proprietary public entity or its agent.

**(c) Appropriation.**--The funds in the account are continuously appropriated to the department for the following purposes:

(1) Paying the amounts as the department may be required to repay the Federal funding agencies.

(2) Paying all amounts designated by the department as required for repayment or defeasance of outstanding bonds.

(3) Paying costs of maintenance, operating and financing of transportation facilities in this Commonwealth which are available for use by the public, including the costs of insurance or reserves against risks of contingencies.

(4) Paying expenses incurred under or in connection with any public-private transportation partnership agreement by the department, including professional fees and expenses.

(5) Paying the costs of the department relating to performing and administering duties under this chapter.

(6) Paying all expenses approved by the board for its costs incurred to perform its duties, including paying professional fees and expenses.

(7) Paying costs of any purpose authorized under this chapter.

**(d) Amounts received.**--The net proceeds received under a public-private transportation partnership agreement shall be available exclusively to provide funding for transportation needs in this Commonwealth. The use of the proceeds or other revenues from the public-private transportation project shall be in accord with Federal or State law restricting or limiting the use of revenue from the public-private transportation project based on its public funding.

**§ 9123. Pennsylvania Turnpike Commission.**

The Pennsylvania Turnpike Commission may not enter into a public-private transportation partnership agreement in the capacity of a proprietary public entity with respect to granting substantial oversight and control over the Turnpike Mainline to another entity unless specific authority is granted through an act of law passed by the General Assembly. However, this shall not restrict the Pennsylvania Turnpike Commission from entering into a public-private transportation partnership agreement under this chapter or under other statutes which does not involve granting substantial oversight and control over the Turnpike Mainline to another entity.

**§ 9124. Regulations.**

**(a) Department.**--In order to facilitate the implementation of this chapter, the department is authorized to promulgate regulations or publish guidelines that include the following:

(1) The process for review of a request for proposals or transportation projects or responses to requests for proposals or transportation projects issued by a public entity.

(2) The process for receipt and review of and response to competing responses to requests for proposals or transportation projects.

(3) The type and amount of information that is necessary for adequate review of and response to each stage of review of a proposal or transportation project.

(4) Any other provisions which are required under this chapter or which the department determines are appropriate for implementation of this chapter.

**(b) Temporary regulations.**--Notwithstanding any other provision of law, any regulation promulgated by the department under this chapter during the two years following the effective date of this section shall be deemed temporary regulations which shall expire no later than three years following the effective date of this section or upon promulgation of final regulations. The temporary regulations shall not be subject to any of the following:

(1) Sections 201, 202, 203 and 204 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(2) The act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

**Effective Date.** Section 3(1) of Act 88 of 2012 provided that section 9124 shall take effect immediately.

**TRANSPORTATION (74 PA.C.S.) - OMNIBUS AMENDMENTS AND RESCINDING,  
IN PART, A RESOLUTION OF THE PUBLIC-PRIVATE TRANSPORTATION  
PARTNERSHIP BOARD**

**Act of Jul. 11, 2022, P.L. 1566, No. 84**

**Cl. 74**

Session of 2022

No. 2022-84

SB 382

AN ACT

Amending Title 74 (Transportation) of the Pennsylvania Consolidated Statutes, in public-private transportation partnerships, further providing for definitions, for duties of board, for operation of board, for selection of development entities, for public-private transportation partnership agreement and for taxation of development entity and providing for prohibition on mandatory user fees; and rescinding, in part, a resolution of the Public-Private Transportation Partnership Board.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "public-private transportation partnership agreement" in section 9102 of Title 74 of the Pennsylvania Consolidated Statutes is amended and the section is amended by adding a definition to read:

§ 9102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

\* \* \*

"Public-private transportation partnership agreement." A contract for a transportation project which transfers the rights for the use or control, in whole or in part, of a transportation facility by a public entity to a development entity for a definite term during which the development entity will provide the transportation project to the public entity in return for the right to receive all or a portion of the revenue generated from the use of the transportation facility, or other payment, such as [the following] transportation-related services.[:

- (1) Operations and maintenance.
- (2) Revenue collection.
- (3) User fee collection or enforcement.
- (4) Design.
- (5) Construction.

(6) Development and other activities with respect to existing or new transportation facilities that enhance traffic throughput, reduce congestion, improve safety or otherwise manage or improve a transportation facility.

(7) Financing.]

\* \* \*

**"Transportation-related service." Only the following services:**

(1) **Operations and maintenance.**

(2) **Revenue collection.**

(3) **Optional user fee collection or enforcement.**

(4) **Design.**

(5) **Construction.**

(6) **Development and other activities with respect to existing or new transportation facilities that enhance traffic throughput, reduce congestion, improve safety or otherwise manage or improve a transportation facility.**

(7) **Financing.**

Section 2. Section 9104(a)(2) and (4) and (c)(1) of Title 74 are amended to read:

§ 9104. Duties of board.

(a) Duties.--The board shall do all of the following:

\* \* \*

(2) Adopt guidelines establishing the procedure by which a public entity may submit a request for a **proposed** transportation project or a private entity may submit an unsolicited plan for a **proposed** transportation project to the board.

\* \* \*

(4) Evaluate and, where the board finds that the requests or plans for **proposed** transportation projects are in the best interests of the Commonwealth and a public entity, approve the requests or plans for **proposed** transportation projects. **No proposed transportation project that provides for optional user fees may be approved by the board unless the board members approve such a project unanimously.** The board shall approve a proposed transportation project by adopting a resolution.

\* \* \*

(c) General Assembly.--The following shall apply:

(1) [The] **Upon receipt of the resolution from the board under section 9105(b.2),** the General Assembly may, within 20 calendar days or nine legislative days, whichever is longer, [of the adoption of the resolution under subsection (a)(4),] pass a concurrent resolution rescinding the approval of a transportation project if the transportation facility which

is the subject of the transportation project is owned by the Commonwealth.

\* \* \*

Section 3. Section 9105(b) of Title 74 is amended and the section is amended by adding subsections to read:

§ 9105. Operation of board.

\* \* \*

(b) Analysis.--**The following shall apply:**

(1) The department shall develop a detailed analysis of a request or recommendation **for a proposed transportation project** prior to **requesting** approval by the board.

(2) **The analysis shall include the following:**

(i) The anticipated location of the proposed transportation project.

(ii) The type of transportation facility or transportation-related service to be improved.

(iii) The estimated costs of the proposed transportation project to the public entity.

(iv) The estimated length of the public-private transportation partnership agreement.

(v) The potential social, economic and environmental impacts of the proposed transportation project.

(vi) If the proposed transportation project proposes an optional user fee, include the estimated amount for each user group and type of user fee as described under section 9110(f) (relating to public-private transportation partnership agreement).

(vii) Applicable Federal and State laws.

(viii) Alternative courses of action to improve the transportation facility or transportation-related service without a public-private transportation partnership and the associated risks of improving the transportation facility or transportation-related service with a public-private transportation partnership.

(2.1) The department may conduct additional evaluations prior to the development of the analysis.

(3) The department shall post a copy of the analysis on the department's publicly accessible Internet website, submit the analysis to the board and the chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives and transmit notice of the analysis to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin for 60 days prior to any action by the board.

(b.1) Public input.--**The following shall apply:**



(1) The department shall collect comments from the public on the proposed transportation project during a public comment period which shall commence with the publication of the notice in the Pennsylvania Bulletin of the analysis and shall continue for a period of not less than 30 days. Prior to any action by the board, the department shall post a copy of all submitted comments and a summary as provided under paragraph (2) on the department's publicly accessible Internet website and provide the submitted comments and summary to the board and the chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(2) The summary under paragraph (1) shall include a description of the proposed transportation project, a copy of the notice that was published in the Pennsylvania Bulletin, the time period that the public was allowed to provide input and a chart or graph that accurately portrays all submitted comments, including the positive and negative public input, on the proposed transportation project.

(b.2) Evaluation and approval.--The following shall apply:

(1) After consideration of the analysis and public comment, if the board finds that the proposed transportation project is in the best interests of the Commonwealth, it may approve the proposed transportation project in the form of a resolution. For a proposed transportation project that may impose an optional user fee, unanimous approval of the board is required.

(2) Approval of a proposed transportation project, including a project with an optional user fee, shall be in the form of a resolution signed by the chairperson of the board. A copy of the resolution shall be posted on the department's publicly accessible Internet website and shall be transmitted by the department to the following entities within 48 hours after approval:

(i) The chairperson and minority chairperson of the Transportation Committee of the Senate and the chairperson and minority chairperson of the Transportation Committee of the House of Representatives.

(ii) The Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

\* \* \*

Section 4. Sections 9109(a), 9110(f) and 9115(a) and (b) of Title 74 are amended to read:

§ 9109. Selection of development entities.

(a) Conditions for use.--If a transportation project is approved under [section] **sections** 9104 (relating to duties of

board) **and 9105 (relating to operation of board)**, the public entity may enter into a contract for the transportation project by competitive sealed proposals.

\* \* \*

§ 9110. Public-private transportation partnership agreement.

\* \* \*

(f) [User] **Optional user** fees.--A provision establishing whether **optional** user fees will be imposed for use of the public-private transportation project and the basis by which any **optional** user fees will be imposed and collected shall be determined in the public-private transportation partnership agreement. If [a] **an optional** user fee is proposed as part of the public-private transportation project, a proprietary public entity shall include provisions in the agreement that authorize the collection of **optional** user fees, tolls, fares or similar charges, including provisions that:

(1) Specify technology to be used in the public-private transportation project.

(2) Establish circumstances under which the proprietary public entity may receive a share of revenues from the charges.

(3) Govern the enforcement of **optional** electronic tolls, including provisions for use of available technology.

(4) Establish payment collection standards, including provisions for enforcement of nonpayment and penalties.

(5) In the event an operator of a vehicle fails to pay the [prescribed] **optional** toll or user fee at any location on a public-private transportation project where **optional** tolls or user fees are collected by means of an electronic or other automated or remote form of collection, the collection provisions of section 8117 (relating to electronic toll collection) shall apply except that the development entity shall possess all of the rights, roles, limitations and responsibilities of the Pennsylvania Turnpike Commission.

\* \* \*

§ 9115. Taxation of development entity.

(a) General rule.--To the extent that revenues or **optional** user fees received by a development entity pursuant to a public-private transportation partnership agreement are subject to a tax imposed by a political subdivision prior to the effective date of this section, the revenues or user fees shall continue to be subject to the tax and to future increases in the rate of the tax.

(b) New taxation barred.--After the effective date of this section, no new tax shall be imposed by a political subdivision or the Commonwealth on the revenues or **optional** user fees

received by a development entity pursuant to a public-private transportation partnership agreement.

\* \* \*

Section 5. Title 74 is amended by adding a section to read:  
**§ 9115.1. Prohibition on mandatory user fees.**

**A user fee may not be imposed as part of a transportation project approved under this chapter, unless the user fee is imposed only on individuals who select optional means to transit the transportation facility, such as limited access lanes or similar programs that allow individuals multiple means to transit the same transportation facility.**

Section 6. The following shall apply:

(1) Except as provided under paragraphs (2) and (3), the resolution ratifying action of the Public-Private Transportation Partnership Board on November 12, 2020, approving the public-private partnership delivery model, including user fees, for interstate bridges or expressway bridges shall be rescinded.

(2) Notwithstanding any other provision of law and subject to paragraph (3), the Department of Transportation may continue work and proceed with the transportation project ratified by the resolution under paragraph (1), including any contract issued under a public-private partnership delivery model, but may not impose or collect optional user fees unless the department submits the transportation project for approval under 74 Pa.C.S. Ch. 91 after the effective date of this section.

(3) The transportation project ratified by the resolution under paragraph (1) shall only provide authority to the department for the following transportation facilities:

- (i) Allegheny County, bridge keys 855 and 858.
- (ii) Berks County, bridge key 4677.
- (iii) Clarion County, bridge keys 10944 and 10945.
- (iv) Dauphin County, bridge key 14257.
- (v) Jefferson County, bridge keys 19565 and 19566.
- (vi) Luzerne County, bridge keys 23645 and 23646.
- (vii) Luzerne and Carbon Counties, bridge keys 8972 and 8974.
- (viii) Philadelphia County, bridge keys 38533 and 38535.
- (ix) Susquehanna County, bridge keys 32209 and 32210.

Section 7. This act shall take effect immediately.

APPROVED--The 11th day of July, A.D. 2022.  
TOM WOLF

## UNSOLICITED PROPOSALS | CANDIDATE – LEGEND

The following are descriptions of the status of the unsolicited proposals received by the P3 Office. More information is available on each candidate in their respective technical sheet.

### UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION

Candidates UNDER CONSIDERATION are submissions received by the P3 Office, currently receiving or have progressed through a High-Level screening to evaluate compliance and alternative delivery feasibility, and, as a result of the High-Level screening, are deemed to warrant further investigation and development.

### UNSOLICITED PROPOSALS UPDATE | CANDIDATE – ON HOLD

Candidates ON HOLD are proposals that have passed the high-level screening stage and generally require more coordination with and input from the proposer or other stakeholders identified in the unsolicited proposal. Additional coordination will lead to either a dismissal or a more defined project to present to P3 Board.

### UNSOLICITED PROPOSALS UPDATE | CANDIDATE – DISMISSED

Candidates DISMISSED are projects or proposals that are not well-defined, not compliant with the P3 enabling legislation or they do not provide a significant transportation benefit to the Commonwealth (or other public entity).

**UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022**

<b>PROJECT:</b>	<b>UP No. 154 – PennDOT Solar Initiative   <i>April 2019 submission</i></b>
<b>BOUNDARY:</b>	<b>Statewide</b>

**PROPOSED BY:** Solar Renewable Energy, LLC (SRE)

**DESCRIPTION:**

An Unsolicited Proposal was received by the P3 Office for a Design-Build-Finance-Operate-Maintain (DBFOM) project to design and install a 5 MW DC solar array on one or more sites located within PennDOT right-of-way. The location of the site(s) would be determined jointly between PennDOT and the proposer to maximize benefits.

**PRELIMINARY FINANCIAL PLAN:**

<b>Total Estimated Project Cost:</b>	\$5,300,000
<b>Projected Revenue:</b>	\$200,000/yr. in years 1 – 5 \$450,000/yr. from year 6 on
<b>Projected Term:</b>	40 years

For the first 5 years, SRE will design-build-operate-finance-maintain the site(s) and PennDOT would receive approximately \$200,000 in annual cash flow. In Year 6, PennDOT would purchase the system for approximately \$5,300,000 and begin to receive an increased cash flow of approximately \$450,000 annually. This is based on projected average direct and indirect revenue approximating \$745,000 per year, and average costs being approximately \$335,000 per year. Potential savings to PennDOT over the 40-year term could range between \$5.8M and \$16.3M, depending on the purchase terms and SREC values.

**SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:**

The project, as presented, would provide PennDOT with a mechanism to re-purpose PennDOT owned lands, reduce PennDOT’s energy costs, and contribute to sustainability benefits offered by renewable energy. The proposer also has the potential to offer significant financial value to PennDOT in three (3) areas:

- savings in electricity costs
- rebates and tax credits for implementing renewable energy programs
- value in Solar Renewable Energy Certificates (SRECs)

The project is also best delivered as a P3/Alternate Delivery project in lieu of a conventional design-bid-build. A conventional design-bid-build delivery would require PennDOT solicit, manage, and deliver design and construction services of a facility for which they have little experience. A P3 project enables PennDOT to employ an outside service whose primary function is providing and packaging solar renewable energy facilities. Since first submitted, the P3 Office has met with PennDOT staff, the Proposer (twice), the Department of General Services (DGS), and the Governor’s Green Council. The Green Council acknowledged that the ownership structure of the proposal enabled tax advantages and SREC credits that would not be available under a typical power-service agreement that is part of the PA Pulse Program. The Green Council expressed interest in the proposal and requested to be communicated with as the proposal developed.

**P3 STEERING COMMITTEE RECOMMENDATION:**

Based on the above noted benefits, the P3 Office recommended that the Proposal continue to be developed and progressed to a Detailed Level Screening Report (DLSR) in accordance with the P3 Implementation Manual & Guidelines.

**P3 TRANSPORTATION BOARD ACTION:** No action required

**UPDATE/ACTION ITEMS:**

A High-Level Screening Report (HLSR) was completed and accepted by the P3 Office on March 24, 2022. As part of the initial efforts of the Detailed Level Screening Report the P3 Office held discussions with the Governor’s Green Council and will continue to coordinate with them as the proposal develops. Additionally, the following items will be undertaken as part of the DLSR:

- Investigate spatial opportunities within PennDOT ROW, quantify areas, and identify respective power supplies
- Discuss maintenance and traffic safety concerns with PennDOT and FHWA
- Identify ownership issues with the Office of Chief Counsel
- Identify major technical component needs, power-distribution options, and power sources

## UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022

**PROJECT:** UP No. 155 – District 4 Northern Tier County Bridge Replacements | *July 2020 submission*  
**BOUNDARY:** Susquehanna, Wyoming & Wayne Cos. In District 4-0

**PROPOSED BY:** CDR Maguire

### DESCRIPTION:

The project is a Design-Build-Finance (DBF) to replace or reconstruct 32 poor condition, PennDOT-owned bridges located in the “Northern Tier” counties of Susquehanna, Wayne, and Wyoming in District 4-0. The scope would include preliminary engineering and final design, survey, geotechnical services, environmental permitting, right-of-way acquisition, utility coordination, construction, quality assurance, construction inspection, and finance.

### PRELIMINARY FINANCIAL PLAN:

<b>Total Estimated Project Cost:</b>	\$38,500,000
<b>Projected Revenue:</b>	None anticipated
<b>Projected Term:</b>	5-year Design-Build; 20-year financing

The structure is a Design-Build-Finance; Operate or Maintain components were not included. The estimated cost is based on an assumed lump sum \$1,000,000 for any structure less than 30’ span; for structures longer than 30’, the Proposer added a premium equal to \$350/sq. ft. of deck area to the \$1,000,000 lump sum base.

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

The P3 Office performed an initial screening of the concept. The project would return a minimum of 12 closed or posted bridges to full service and remove as many as 20 bridges from poor sufficiency rating lists. After the initial submission, the Proposer did provide a bridge list. However, the bridges on the list are located in different settings, and involve a wide range of structure types, span lengths, ADT, and impacts associated with their replacement. Precedent of similar P3/Alternative Delivery projects include the Statewide Rapid Bridge Replacement (RBR) project and the Northampton County Bridge Bundle.

Conversations with the District indicated that they are interested in using this approach to address numerous posted or closed rural bridges. Although low in Average Daily Traffic, these bridges pose long detours and increased delivery costs for businesses needing to access the regional road network. Depending on the financing terms and business model, a P3/Alternative Delivery could enable the District to address a significant number of poorly rated bridges for which they presently do not have the funding or resources.

The proposal does not include criteria for including bridges or detailed financial information. Given the potential benefit and precedent of a bridge bundle P3, the P3 Office engaged Deloitte to prepare a financial report that compared the costs of several project delivery options, including P3.

### P3 STEERING COMMITTEE RECOMMENDATION:

There is potential to gain significant value by combining public and private resources which is the intent of a P3 Delivery. The precedent projects support using P3/Alternative Delivery as a mechanism to address deficient bridges. Therefore, the P3 Office is recommending the Proposal continue to be developed and progressed to a Detailed Level Screening Report (DLSR) in accordance with the P3 Implementation Manual & Guidelines. The DLSR will research the outstanding issues, establish criteria for bridges to be included, and quantify the financials.

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A High-Level Screening Report (HLSR) dated Nov. 16, 2021, was used as the starting point for the financial study. After two rounds of reviews, the financial study was finalized on July 26, 2022. The following action items will be undertaken by the P3 Office:

- Prepare Detailed Level Study that evaluates project size and includes bridge selection criteria
- Develop brief presentation for the District to use to coordinate with the MPO

## UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022

**PROJECT:** UP No. 166 – I-76 Schuylkill Expressway Managed Lanes | *October 2021 submission*

**BOUNDARY:** District 6

**PROPOSED BY:** CINTRA

### **DESCRIPTION:**

Proposal to improve 16.9 miles of I-76 (Schuylkill Expressway) between the SR 202 interchange and I-676 split. Project includes building 4 new tolled, managed lanes (2 in each direction), integration of public transit, new technologies, social integration and development programs as well as upgrade the General Purpose Lanes (GPLs) to improve the existing free capacity along the corridor. Additional connectivity would be added to the corridor, including additional ramps and new interchanges. Proposer plans to deliver this project through a Design-Build-Finance-Operate-Maintain (DBFOM) agreement for a term of 50 years. Responsibility would include fence-to-fence management of the entire project corridor including the GPLs, tolling operations, customer service, back office and O&M of toll equipment.

### **PRELIMINARY FINANCIAL PLAN:**

<b>Total Estimated Project Cost:</b>	\$3.25 billion (\$0 to PennDOT)
<b>Projected Revenue:</b>	\$200,000,000 concession fee to PennDOT
<b>Projected Term:</b>	50 years

### **SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:**

Review of the Unsolicited Proposal is being performed by the Office of Alternative Delivery and Funding.

**P3 STEERING COMMITTEE RECOMMENDATION:** None at this time

**P3 TRANSPORTATION BOARD ACTION:** No action required

### **UPDATE/ACTION ITEMS:**

- Identify and engage technical subject matter experts to review components of the proposal
- Upon meeting technical considerations, evaluate proposal documents with legal and financial advisors
- Meet with P3 Office on evaluation development and coordinate with the Office of Chief Counsel (OCC)
- Assemble high-level risks, target schedule and activities going forward

**UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022**

<b>PROJECT:</b>	UP No. 167 – EV Infrastructure Installation Plan   <i>April 2022 submission</i>
<b>BOUNDARY:</b>	Statewide

**PROPOSED BY:** Charge Zero PA, LLC

**DESCRIPTION:**

An Unsolicited Proposal was received by the P3 Office for a Design-Build-Finance-Operate-Maintain (DBFOM) project to install electric vehicle (EV) charging stations with supporting solar arrays and batteries to create a statewide infrastructure network. The proposer would provide PennDOT with EV charging stations to reduce operating expenses, risk and management burdens while increasing reliable access to energy. Specifics regarding location and number of sites will be jointly determined.

The proposer would develop and deploy a single base station which would provide an average of 1.5MWh of solar energy per day, with an on-site battery for storage and four or more EV chargers in a mix of Level 2 and 3 (DC fast chargers) as desired. This base station would take approximately 16 months to complete, with a forecasted useful life of 30 years.

**PRELIMINARY FINANCIAL PLAN:**

<b>Total Estimated Project Cost:</b>	\$10,000,000 (w/ \$50,000 review fee)
<b>Projected Revenue:</b>	TBD
<b>Projected Term:</b>	TBD

The estimated \$2.5 million cost to construct the base station does not reflect the actual cost to the Department, as the proposer would create specialty financing to include an optimized blend of NEVI and grant funds, as well as low-cost borrowing to reduce costs below what would be possible in PennDOT’s standard program.

The proposal states there are potential revenue opportunities available through use of the excess energy from the solar array. Suggested options were to power PennDOT facilities, selling back to the grid, or charging neighbors to use the EV Chargers. The proposal claims estimated saving and revenue opportunities available using solar energy, but it does not provide details regarding what is covered by the above referenced cost or the payback to the development entity. So, there was no comparative context in which to evaluate the financials.

**SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:**

The proposal aligns and is consistent with existing EV initiatives currently existing within PennDOT regarding building clean energy infrastructure for the Commonwealth. The proposed approach differs from traditional EV charging solutions through the utilization of solar arrays and batteries, which reduces grid strain and carbon footprint. Additionally, the Investment Tax Credit creates an opportunity for PennDOT to access substantial time-sensitive financial incentives for low carbon infrastructure, generating significant credits that would substantially decrease the cost of the program.

Additional benefits of the proposed P3 program include:

- Reduced operating expense for PennDOT
- Development of an EV charging infrastructure to meet PennDOT’s EV needs
- Development entity responsibility for ongoing maintenance of the infrastructure
- Opportunity to generate revenue source(s) from EV charging if desired / allowed
- Possible revenue source(s) from EVs, and EV charging capability for private sector EVs
- Alternative funding and delivery mechanism for expanding PennDOT’s EV infrastructure

**P3 STEERING COMMITTEE RECOMMENDATION:** Progress to High-Level Screening

The proposal highlights numerous benefits that PennDOT would receive from this P3 project but there are still questions that need to be investigated further. Given the potential benefits, this project merits additional investigation to better assess the risk and impact to PennDOT.

**P3 TRANSPORTATION BOARD ACTION:** No action required

**UPDATE/ACTION ITEMS:**

Initiate the High-Level Screening Report to address questions regarding the actual financial burden of the project to PennDOT, length of the DBFOM project, and any long risk on PennDOT. The P3 Office does need to consider the availability of federal tax credits in the evaluation. Consideration and development of this EV based proposal does overlap with UP 154 Solar Array Initiative, so PennDOT would benefit by combining the evaluation of both UP 154 and UP 167 into one High Level Screening Review (HLSR).



**UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022**

<b>PROJECT:</b>	UP No. 171 – Bus Portal for PA Schools   <i>October 2022 submission</i>
<b>BOUNDARY:</b>	Lehigh Valley

**PROPOSED BY:** Busie

**DESCRIPTION:**

Presently, school officials can only arrange bus transportation through broker services. This proposal would create an online portal that enables PA schools to arrange student/student athlete transportation directly with school bus and motor coach providers throughout Pennsylvania. The portal would verify the operators are available, are validated PA School Bus & Motor Coach operators, and have up-to-date PA DOT credentials and operation status.

**PRELIMINARY FINANCIAL PLAN:**

<b>Total Estimated Project Cost:</b>	<b>\$3,000,000</b>
	\$1,500,000 for operation, deployment, and implementation
	\$1,000,000 for maintenance
	\$500,000 for engineering
<b>Projected Revenue:</b>	Not indicated in proposal
<b>Projected Term:</b>	Not indicated in proposal

**SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:**

The system would put school officials in direct contact with owners of buses and offer better service by avoiding trip delays and cancellations that occur because brokers did not fulfill the request. The Proposal also eliminates lost monies that result from cancelling and re-arranging trips.

Although there are benefits, the Proposal appears to be more of a service agreement that does not involve PennDOT-owned facilities.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action needed at this time

**P3 TRANSPORTATION BOARD ACTION:** No action needed at this time

**UPDATE/ACTION ITEMS:** Perform candidacy review and complete Candidacy Form for review by the P3 Office

## UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022

**PROJECT:** UP No. 172 – Commuter Vanpool Program | *October 2022 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Enterprise Holdings via Commute

**DESCRIPTION:**

Proposing to provide vehicles, insurance, maintenance, ride matching services and other support services for a public, statewide vanpool program. PennDOT would provide financial assistance to vanpool groups via a monthly subsidy.

**PRELIMINARY FINANCIAL PLAN:**

**Total Estimated Project Cost:** \$5,183,600 (over 4 years)

**Projected Revenue:** Potential \$2,300,000 in federal formula funds from CO2 savings

**Projected Term:** 4 years

**SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:**

A public, statewide vanpool program would reduce congestion, pollution, vehicles miles traveled, and remove 3 million pounds of CO2 from being released into the atmosphere. The program would increase access to jobs, recruitment and retention efforts while also diversifying transportation options, addressing transit service gaps and transit deserts.

Enterprise’s teams are experts at managing vanpool programs of any size — and with more than 1.2 million vehicles in North America, vanpool groups can choose from passenger vans, crossovers, minivans, or SUVs. They propose a local account management team and locally established operations give the program a complete, turnkey solution.

Creating a P3 partnership for a statewide vanpool program will reduce expenses as PennDOT will not have to buy vehicles or directly manage the program, saving valuable public dollars. The program will also be flexible to market demands compared to a directly operated public vanpool program. Additionally, PennDOT is only charged for vehicles operating instead of vans sitting due to procurement and deployment timelines.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action needed at this time

**P3 TRANSPORTATION BOARD ACTION:** No action needed at this time

**UPDATE/ACTION ITEMS:** Perform candidacy review and complete Candidacy Form for review by the P3 Office

## UNSOLICITED PROPOSALS | CANDIDATE – UNDER CONSIDERATION | DEC 2022

**PROJECT:** UP No. 173 – Snow Removal Scraper System | *October 2022 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Rite-Hite

**DESCRIPTION:**

Proposal to install plow systems to remove snow from the surfaces of PennDOT fleet vehicles. The system is a wheel-mounted Model 440T FleetPlow that can be installed in less than a day and once installed, can have snow and ice removed within 24 hours mandated by state law Act 90 (75 Pa. Code 3721).

**PRELIMINARY FINANCIAL PLAN:**

**Total Estimated Project Cost:** \$360,000 - \$2,500,000 (dependent on number installed)

**Projected Revenue:** Not indicated in proposal

**Projected Term:** Not indicated in proposal

**SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:**

The system features easy-to-install equipment that can save time and labor spent on manually removing snow from PennDOT vehicles, while also ensuring vehicles can be safely operated on roads within 24 hours of snowfall, thereby complying with state mandate.

Although there are benefits, the Proposal appears to be more of a service agreement that does not involve PennDOT owned facilities.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action needed at this time

**P3 TRANSPORTATION BOARD ACTION:** No action needed at this time

**UPDATE/ACTION ITEMS:** Perform candidacy review and complete Candidacy Form for review by the P3 Office

## UNSOLICITED PROPOSALS | CANDIDATE – ON HOLD | DEC 2022

**PROJECT:** UP No. 138 – PennDOT Truck Parking Expansion Program (TPEP) | *April 2018 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Truck Specialized Parking Services, Inc.

### DESCRIPTION:

An Unsolicited Proposal was received by the P3 Office to enable underutilized public and private real estate assets along key interstates and highways in eastern Pennsylvania that are most likely to relieve truck parking congestion. The proposed solution incorporates a technology platform developed specifically to manage parking availability and reservations for commercial vehicles.

### PRELIMINARY FINANCIAL PLAN:

**Total Estimated Project Cost:** \$1,800,000  
**Projected Revenue:** None anticipated  
**Projected Term:** Details not provided

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

The P3 Office has conducted multiple discussions with the Proposer. In coordination with the Freight Working Group, the P3 Office released a Request for Information (RFI) in fall 2018 to gather feedback related to the development, design, construction, implementation, maintenance, operation, and commercialization of truck parking facilities. Nineteen (19) responses were received for this RFI; supplemental one-on-one meetings have been conducted with selected respondents and their input was incorporated into findings for the project.

This Proposal, offered by Truck Specialized Parking Services, Inc., will be considered during the development of a Department truck parking initiative potentially scoped to include new or modified capacity in addition to the technology capturing a vacancy inventory and disseminated to truck drivers.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action required

**P3 TRANSPORTATION BOARD ACTION:** No action needed at this time

### UPDATE/ACTION ITEMS:

- Coordinate with Freight Working Group and report on truck parking strategies
- Reactivate the Proposal once when more scope details exist to fully screen as P3 opportunity

## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 159 – PA Smart Transportation Infrastructure Initiative | *July 2020 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Keystone Initiative for Network Based Education & Research (KINBER)

### DESCRIPTION:

KINBER is proposing to offer PennDOT access to KINBER's 1,800 miles of existing fiber network to connect PennDOT's statewide assets. KINBER will provide two (2) fibers within the network at no cost, while building the connections from the PennDOT asset to the KINBER network. The project would involve multiple phases, with the first phase connecting the eleven (11) District offices. Subsequent phases could address smart traffic signals, autonomous vehicles and 5G connectivity.

### PRELIMINARY FINANCIAL PLAN:

<b>Total Estimated Project Cost:</b>	\$9,800,000
<b>Projected Revenue:</b>	None anticipated
<b>Projected Term:</b>	Details not provided

PennDOT would pay for engineering and construction required to complete the connections and compensate KINBER for coordination services at a negotiated percentage of the total project. KINBER's proceeds would be reinvested into KINBER assets.

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

The P3 Office performed an initial screening of the concept, held two (2) Q&A sessions with the Proposer, and discussed the proposal with Mark Kopko, Office of Transformational Technology.

By accessing KINBER's existing network, PennDOT would be able to create an intelligent transportation fiber-based infrastructure at 1/5<sup>th</sup> to 1/10<sup>th</sup> the cost it would take to build the network from scratch. The concept may also offer future opportunities to address present rural, remote broadband limitations. However, the work included in the estimated project cost needs to be broken down to determine the real value. Also, the proposal does not address facility ownership to sufficient detail to determine whether the concept fits within the P3 legislation requirements. PennDOT would own the last-mile connections that would be constructed under this proposal. KINBER would maintain ownership of the inner core and the two (2) fibers in the core that will be dedicated to PennDOT data communications. After receipt and review of the proposal, the KINBER organization began changing its ownership configuration. The outcome of that process remains unclear.

PennDOT also indicated that the Office of Transformational Technology (OTT) was working internally on the logistics of expanding and incorporating redundancy into the PennDOT network. This is an internal initiative separate from the KINBER proposal, but with a similar goal.

A High-Level Screening report based on these latest evaluations is dated Nov. 3, 2021.

### P3 STEERING COMMITTEE RECOMMENDATION:

Because of the potential benefits, along with several outstanding issues regarding facility ownership, proposer status, and internal strategizing, the P3 Office had recommended this proposal remain **On-Hold** until the issues are better defined and addressed. As noted in the update below, those issues, particularly strategy, have led to a P3 Office recommendation to dismiss.

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

As part of the "Follow-Up Actions" from the HLSR, the P3 office held coordination calls with OTT, which indicated that PennDOT is in the process of establishing statewide priorities and needs for their fiber network. From this, PennDOT will formulate a policy and overall strategy that results in the most effective expansion of the Commonwealth's fiber network. Proposals cannot be prepared or properly evaluated until the statewide strategy and priorities are identified.

Because of the pending statewide fiber strategy and the potential ownership transition of the Proposer, the P3 Office will move this proposal from "**On-Hold**" status to "**Dismissed**". The P3 Office has issued a formal dismissal letter and offer a follow-up meeting to discuss specifics of the dismissal and provide feedback that could help the proposer prepare a new proposal that can be better evaluated relative to an overall strategy for fiber expansion. Feedback would include additional financial information noted in the HLSR and those specific questions listed on the following pages.

## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 161 – Shared Mobility Incentives | *April 2021 submission*

**BOUNDARY:** Coordinated with Tolloed Bridges locations

**PROPOSED BY:** Hytch Rewards

### DESCRIPTION:

The Developing Entity proposes to use a communications program to help make P3 projects and bridge tolling more accepted by the public. The program uses incentive strategies to engage impacted communities in a creative way that may reduce opposition to tolls. The Proposer intends on focusing on mitigating impacts on minority and low-income populations for projects in the Harrisburg and Philadelphia areas.

Shared Mobility Incentives is a financial technology platform that functions as smart phone application fully owned, operated, and maintained by Hytch Rewards. Users that subscribe to the application would agree to let Hytch Rewards sell their data to third parties in exchange for Hytch Rewards pushing notifications or advertisements to the users based on their data uses, location or other markers targeted by the marketing.

### PRELIMINARY FINANCIAL PLAN:

**Total Estimated Project Cost:** Not provided

**Projected Revenue:** None

**Projected Term:** Not provided

The Proposer is requesting PennDOT provide a grant for the yet-to-be-determined program costs.

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

No formal proposal or supporting information was provided by the Proposer. The Proposer did provide video example of their technique used for transit projects in Nashville, TN and a USDOT Study (*Alternatives of Travel Changes and Scenarios for Sharing Rides*) that provides data on incentives for ridesharing (TNC) carpooling.

The intent to reduce opposition to tolling and mitigate toll impacts to minority and low-income communities is consistent with PennDOT's goals for the Pathways Program and the Major Bridge P3. Also, there are precedent programs being implemented by FHWA to aid under-served populations with transportation user-fees, including a recent initiative led by Virginia DOT.

In this format, PennDOT would not be procuring a transportation facility nor is the Department directly receiving any services through a public private partnership between PennDOT and Hytch Rewards. Instead, PennDOT would be a funding partner with Hytch Rewards to provide cash rewards to motorists for choosing shared mobility modes of transportation. Hytch would also invite local businesses to participate in the incentive program.

Follow-up meetings were held with the Proposer to gain more information regarding alternative structures and ways to create an actual facility. No options seemed viable.

### P3 STEERING COMMITTEE RECOMMENDATION:

The proposal does offer benefits to transportation consistent with PennDOT strategies. However, the proposal does not involve creating a new or improving an existing transportation facility that is owned by PennDOT. The proposal does not appear to comply with Title 74 Pa. C.S. Chapter 91 and is therefore being recommended for dismissal by the P3 Office.

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A dismissal letter was issued on April 8, 2022, and included a recommendation to contact planning organizations to make them aware of this service. No further action needed.

## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 164 – Weigh Station Bypass (Pre-Clear) | *April 2021 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Drivewyze, Inc.

### DESCRIPTION:

The Developing Entity proposes to use their Pre-Clear product with existing Electronic Logging Device (ELD) technology to implement a weigh station bypass notification system on PennDOT highways. The system would enable freight carriers to make in-cab, live requests to bypass an approaching PennDOT weigh station. The request would include carrier and vehicle identifiers that are already on file, including vehicle ID, and compliance and safety history. PennDOT would review the request and issue either an approval to bypass or directive to enter the weigh station. The interactive process would start a minimum of 2 miles in advance of the weigh station.

### PRELIMINARY FINANCIAL PLAN:

<b>Total Estimated Project Cost:</b>	None
<b>Projected Revenue:</b>	None
<b>Projected Term:</b>	Not provided

The Proposal did not include any financial information other than to state it would be implemented at no cost to PennDOT. It was also not clear how Drivewyze would be compensated, or if the system would incur additional costs to the users (freight carriers).

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

Pre-Clear by Drivewyze is in operation at over 800 locations in North America. According to the Proposer, Pre-Clear would improve PennDOT's operational efficiency of roadside operations by enabling enforcement officers to prioritize trucks with active violations and lower safety scores for pull-in and inspection, while minimizing disruption to truck flow on and off the highway mainline.

An initial review indicates that the system could improve PennDOT efficiencies by allowing Motor Carrier Enforcement to focus on those with problematic history. It could also provide incentive/benefit to carriers with good safety and compliance records.

PennDOT would not own the software or supporting hardware used to implement the program. But the technology would impact PennDOT owned facilities and PennDOT staff. The P3 Office performed additional investigation of the proposed system along with the existing weight enforcement procedures that are in place. The additional investigation culminated in a completed Candidacy Form and draft High-Level Screening Report. The reports concluded that a P3 solicitation is not the best vehicle to procure the project.

### P3 STEERING COMMITTEE RECOMMENDATION:

Because the proposed project is not viable as a P3 / Alternative Delivery solicitation, it is therefore being recommended for dismissal.

The P3 Office does acknowledge that a weigh station bypass program could be beneficial for safety and operations. As such, the P3 Office is recommending forwarding to the PA State Police, the proposal along with draft high screening reports since the PSP is directly involved with enforcement.

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A dismissal letter to Drivewyze, Inc. was issued on April 8, 2022. The letter indicated that although not suitable as a P3 project, the proposal was forwarded to the PA State Police for possible benefits to the statewide weight enforcement program. No further action needed.

## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 165 – Mobile Trash Compaction | *October 2021 submission*

**BOUNDARY:** District 8

**PROPOSED BY:** DC Lehman Co. (d/b/a Smash My Trash)

### DESCRIPTION:

Smash My Trash is a new mobile waste service that can be coupled with new and existing projects to reduce overall waste hauling costs. Smash My Trash uses mobile waste hydraulic compaction equipment to service construction sites, and distribution and warehouse locations where open top dumpsters are used for waste deposits. The mobile equipment compacts the trash collected in the dumpsters to consolidate the volume allowing for more trash to be collected while reducing the number of hauling trips needed to remove the full dumpster to the waste location.

### PRELIMINARY FINANCIAL PLAN:

<b>Total Estimated Project Cost:</b>	None offered
<b>Projected Revenue:</b>	None
<b>Projected Term:</b>	Not provided

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

The proprietary mobile compaction service states that they can reduce waste volumes by as much as 70% and help the environment through fewer hauling trucks on the road resulting in lower CO2 and particulate emissions, while increased waste density would reduce the amount of landfill space required. The Proposal may also spur economic growth by supporting a new small business to create jobs for Pennsylvanians.

Since the Dec. 2021 Board meeting, the P3 Office completed a candidacy review of the proposal. Although it has some benefits, the proposal does not involve an existing PennDOT transportation facility or building a new one. It is service-oriented and can only be paired up to an existing or future project(s). It does not meet the definition of a P3 project that the Department could solicit proposals for as required under Title 74 Pa. C.S. Chapter 91.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action required

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A dismissal letter to was issued on April 8, 2022. No further action needed.



## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 168 – IBS Litter Removal Program | *April 2022 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Interstate Business Solutions, LLC

### DESCRIPTION:

The proposed program would encompass cleaning highway litter and debris from PennDOT right-of-way and homeless encampments; as well as provide indestructible on-site restroom facilities for events, unsheltered citizens and for rapid response during flooding or other natural disasters.

### PRELIMINARY FINANCIAL PLAN:

**Total Estimated Project Cost:** TBD

**Projected Revenue:** TBD

**Projected Term:** TBD

The proposed financial plan is based on the following estimates: Professional highway litter and debris removal services that meet FHWA Manual on Uniform Traffic Control Devices (MUTCD) specifications can range from \$525 - \$2,800 per mile based on clean-up demands and maintenance requests. SOS PODS range from \$2,500+ per month based upon model, response, and storage needs. On-site indestructible restroom/hand washing stations range from \$2,000+ per month depending on deposit, model and service requirements, and encampment clean-up ranges from \$150+ per hour depending on scope.

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

Additional program benefits include:

- Limited liability to the Commonwealth
- Beautification of PennDOT Right of Way
- Improved restroom/sanitation for encampments with indestructible facilities

Information provided was not sufficient to determine the full extent of how the project would be approached as a P3. The Proposal, as submitted, appears to be more of a contract-for-service rather than expanding or providing a transportation facility and is not consistent with the intent of the P3 program. Furthermore, discussions with Bureau of Operations noted that PennDOT has existing agreements in place to address litter within PennDOT's right-of-way. These existing litter removal service agreements and the "Adopt-the-Highway" program marginalize potential advantages and required costs associated with an additional P3 solicitation. For these reasons, the P3 Office is recommending this Proposal be dismissed.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action required

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A dismissal letter was issued. No further action needed.

## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 169 – Maximum Fiber Utilization for ITS | *April 2022 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Drive Integration, LLC and Ciena

### DESCRIPTION:

This Proposal is for a project to leverage the existing fibers owned on PennDOT right of way to facilitate two different potential projects. One project, via P3 solicitation, to consolidate Intelligent Transportation System (ITS) data traffic onto a single or dual pairs of fiber along all roadways. This would free up fiber infrastructure to pursue additional revenue streams through P3 arrangements, dark fiber leasing or swapping. The second potential project is leveraging the single or dual fiber pairs to build a statewide middle-mile network to provide broadband services to underserved communities near or on PennDOT right of way.

### PRELIMINARY FINANCIAL PLAN:

**Total Estimated Project Cost:** \$2,500,000

**Projected Revenue:** TBD

**Projected Term:** TBD

Additional capacity that will be achieved by maximizing the utilization of existing fiber could be offered up to private entities for which PennDOT could charge a user fee. However, the Proposer did not provide any details as to the amount of or what's included in preliminary financials, nor was any range of anticipated revenue given.

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

Investment in optical dense wavelength-division multiplexing (DWDM) systems to power the Department's connectivity backbone allows for a maximum utilization and leverage of Department-owned fiber assets, while also creating future opportunities to grow the ITS network at little to no cost. Additional project benefits include:

- Improved data communications and assured bandwidth for future ITS projects
- Identification of new revenue sources to leverage by reducing PennDOT reliance on large fiber counts
- Minimal or no-cost fiber ITS buildout through Rural Broadband funds

However, no detail was provided in the Proposal regarding the specifics on how the concept would be implemented. The risk transfer opportunities noted above are possible, but not committed to by this Proposer.

Additional coordination with the Office of Transformational Technology indicated that PennDOT is in the process of establishing statewide priorities and needs for their fiber network. From this, PennDOT will formulate a policy and overall strategy that results in the most effective expansion of the Commonwealth's fiber network. Proposals cannot be prepared or properly evaluated until the statewide priorities and strategy are established. For these reasons, the P3 Office is recommending this proposal be dismissed.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action required

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A dismissal letter was issued. No further action needed.

## UNSOLICITED PROPOSALS | CANDIDATE – DISMISSED | DEC 2022

**PROJECT:** UP No. 170 – Mobility Mode Incentivization App | *April 2022 submission*

**BOUNDARY:** Statewide

**PROPOSED BY:** Carma Technology Corp.

### DESCRIPTION:

The proposed project would provide the Commonwealth with the ability to address congestion, equity, air quality, and access by utilizing an app-based program to incentivize mode shift. Applications of such technology could be deployed in a number of different settings for various purposes including equity, access, and congestion and carbon reduction.

### PRELIMINARY FINANCIAL PLAN:

**Total Estimated Project Cost:** \$8,750,000

**Projected Revenue:** TBD

**Projected Term:** TBD

The Proposal includes an initial pilot which will include a two-year license of the technology with an urban and rural pilot. The Proposer presented just one example case in its submittal with limited information reflecting the true benefits. This technology has a range of potential applications to manage travel-related-payment transactions and incentives, and impact mode share and travel patterns. However, the Proposal suggests the specific applications would need to be worked out in the pilot, which would cost at a minimum \$1 million. This seems to imply that the risk would not be transferred to the private entity.

### SUMMARY EVALUATION OF P3/ALTERNATIVE DELIVERY:

The GoCarma App provides municipal governments with the ability to promote increased carpool usage by securely providing benefits to those who share rides. Additional benefits include:

- Carbon reduction
- Emphasis on equity
- Congestion relief
- Increased average vehicle occupancy

The Proposal is for a service that promotes alternative travel modes that could improve traffic and accessibility. However, the technology appears to be proprietary, and the proposal does not result in a transportation facility belonging to PennDOT. As such, this Proposal does not comply with Title 74 Pa. C.S. Chapter 91 and is therefore being recommended for dismissal.

**P3 STEERING COMMITTEE RECOMMENDATION:** No action required

**P3 TRANSPORTATION BOARD ACTION:** No action required

### UPDATE/ACTION ITEMS:

A dismissal letter was issued. No further action needed.

## Rapid Bridge Replacement (RBR) Project

**Public Authority:**

PennDOT

**Private Partners:**

Plenary Walsh Keystone Partners

**Status:**

Maintenance Term

**P3 Office Staff Lead:**

Michael Bonini

**PennDOT Technical Advisor:**

Gary Kleist, P.E.

**P3 Board Meeting Approval Date:**

September 2013

**PROJECT OVERVIEW:**

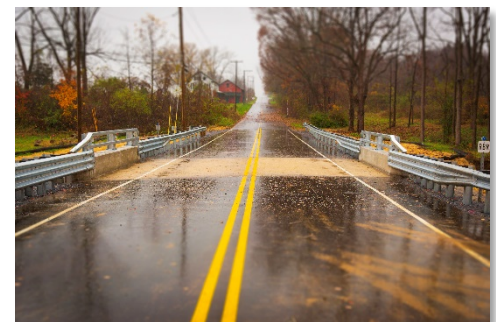
The project is bolstering PennDOT's ongoing effort to address Pennsylvania's more than 4,000 poor bridges. Plenary Walsh Keystone Partners (PWKP) was selected for the Department's Rapid Bridge Replacement (RBR) project to replace 558 bridges across the state. Commercial Close (execution of the contract) was achieved on January 9, 2015. The team, which includes over 50 Pennsylvania-based companies, began construction of the bridges in June 2015.

The commonwealth retains ownership of the bridges, but PWKP is responsible for maintaining each bridge for 25 years after its replacement. The team managed bridge design and construction and will continue to manage maintenance under the contract. The team is responsible for financing the effort and PennDOT will make performance-based payments based on the contractor's adherence to the contract terms. PennDOT will be responsible for routine maintenance, such as snow plowing and debris removal.

**BENEFITS:**

The project provides the following benefits:

- Construction of 558 bridges;
- Potential cost savings due to similar design of the P3 bridges, bulk purchase of materials, and standardization of pre-fabricated bridge elements;
- Contractor responsible for the maintenance of these bridges for 25 years;
- Transfer of risk to the PWKP team for the design and construction of the 558 bridges;
- Transfer of risk to PWKP for the maintenance of the bridges for 25 years (excluding routine maintenance like snow plowing/debris removal); and



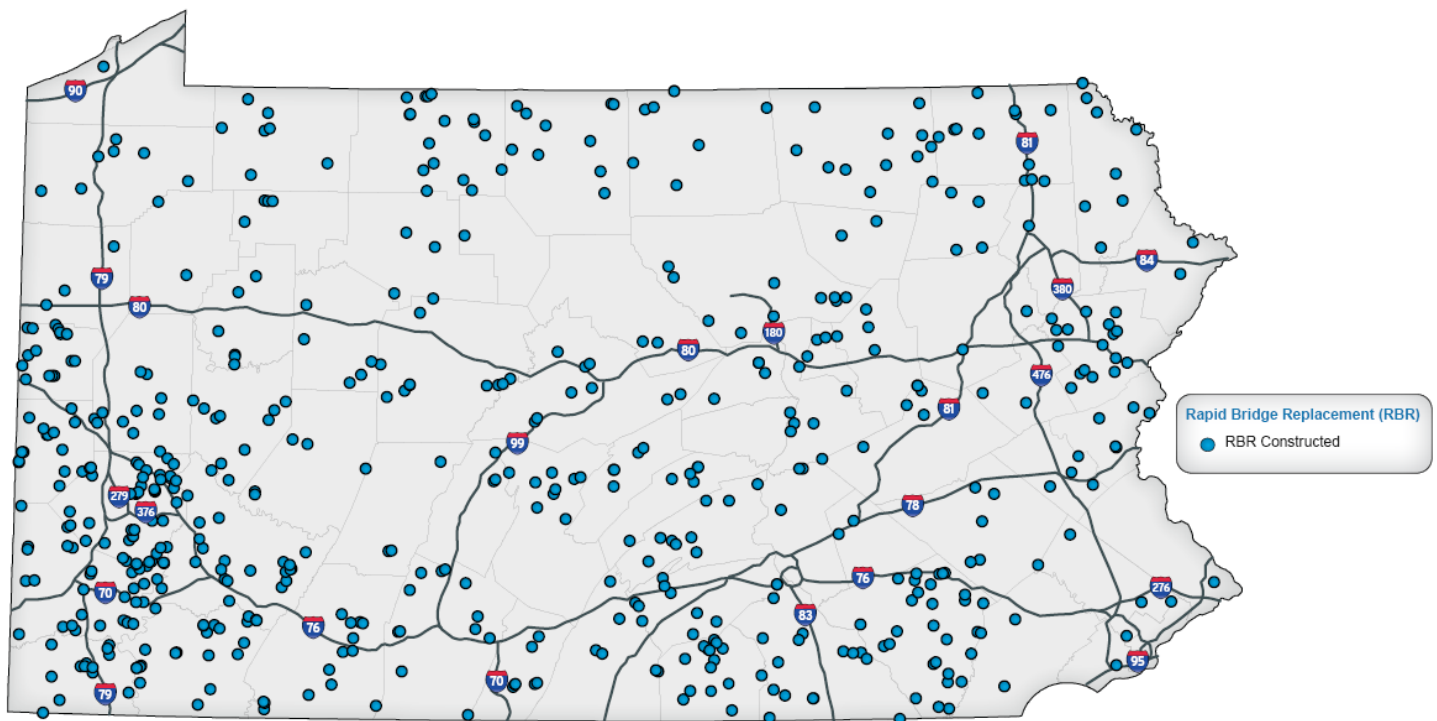
*Bridge JV-577, Jonestown Road (RT 4013) over Tributary to Raccoon Creek, Lebanon County*

## Rapid Bridge Replacement (RBR) Project

- Financial cost for delivery of bridges and maintenance of bridges (post construction) is spread over 28 years (initial mobilization payment, milestone payments during the design and construction phases of the project, and availability payments spread over 25 years)

### STATUS:

As of August 2020, all 558 bridges have been replaced and are open to traffic. PWKP is obligated to maintain the bridges to the end of 2042.



## **PennDOT Sponsorship & Advertising Program**

**Public Authority:**

PennDOT

**Private Partners:**

Superlative Group; 2i Group

**Status:**

Active

**P3 Office Staff Lead:**

James Nicastro

**PennDOT Technical Advisor:**

Varies per sponsorship project

**P3 Board Meeting  
Approval Date:**

January 2013

### **PROJECT OVERVIEW:**

In January 2013, the P3 Board approved the P3 Traveler Information and Traffic Management Systems project. A key component of this program was to develop a Sponsorship and Advertising program to offset operational costs incurred by PennDOT. After P3 Board approval, the Department procured the services of a consultant to evaluate the Department's assets to determine which had potential for generating sponsorship revenue. The procurement was structured to select firm(s) to fully develop the sponsorship and advertising program, and then further explore and identify additional sponsorship and advertising opportunities. The scope of work was broken out into two phases.

- Phase 1: Create the program and advise the Department in its consideration of sponsorship and advertising opportunities.
- Phase 2: Assist PennDOT to receive sponsorship and advertising revenue and identify future opportunities.

### **BENEFITS:**

This concept has generated sponsorship and advertising revenue to offset the costs of sponsored programs and provided an additional source of funds for other transportation-related projects and initiatives. In addition, the Freeway Service Patrol, a major sponsorship opportunity, provides added benefits including:

- Enhance safety of the traveling public;
- Increase efficiency; and
- Lessen congestion.

### **STATUS:**

PennDOT continues to work with the two Sponsorship firms to identify opportunities for sponsorship programs to be implemented.

## P3 Project Update | December 2022

### Compressed Natural Gas (CNG) Fueling Stations for Public Transit Agencies

**Public Authority:**

PennDOT

**Private Partners:**

Trillium CNG

**Status:**

Contract Executed –  
Under Construction

**P3 Office Staff Lead:**

Joseph Gurinko, AICP

**PennDOT Technical Advisor:**

Nick Baldwin, Bureau of Public  
Transportation

**P3 Board Meeting  
Approval Date:**

September 2014

#### PROJECT OVERVIEW:



PennDOT selected Trillium CNG as the development entity and partner to supply CNG fueling equipment to 24 transit facilities which will fuel up to 750 buses throughout the Commonwealth. Trillium will make CNG-related safety upgrades to existing transit maintenance facilities and will design, build, finance, operate and maintain the CNG fueling stations. Trillium will be responsible for maintaining the stations until 2037.

The Department also entered into agreements with transit agencies, establishing commitments to CNG fuel purchases and operational requirements. The project

will provide access to commercial CNG fueling stations for owners of private vehicles and business fleets in areas with sufficient market demand. The Department will receive a portion of the commercial fuel sales revenue to support future capital projects for transit agencies.

#### BENEFITS:

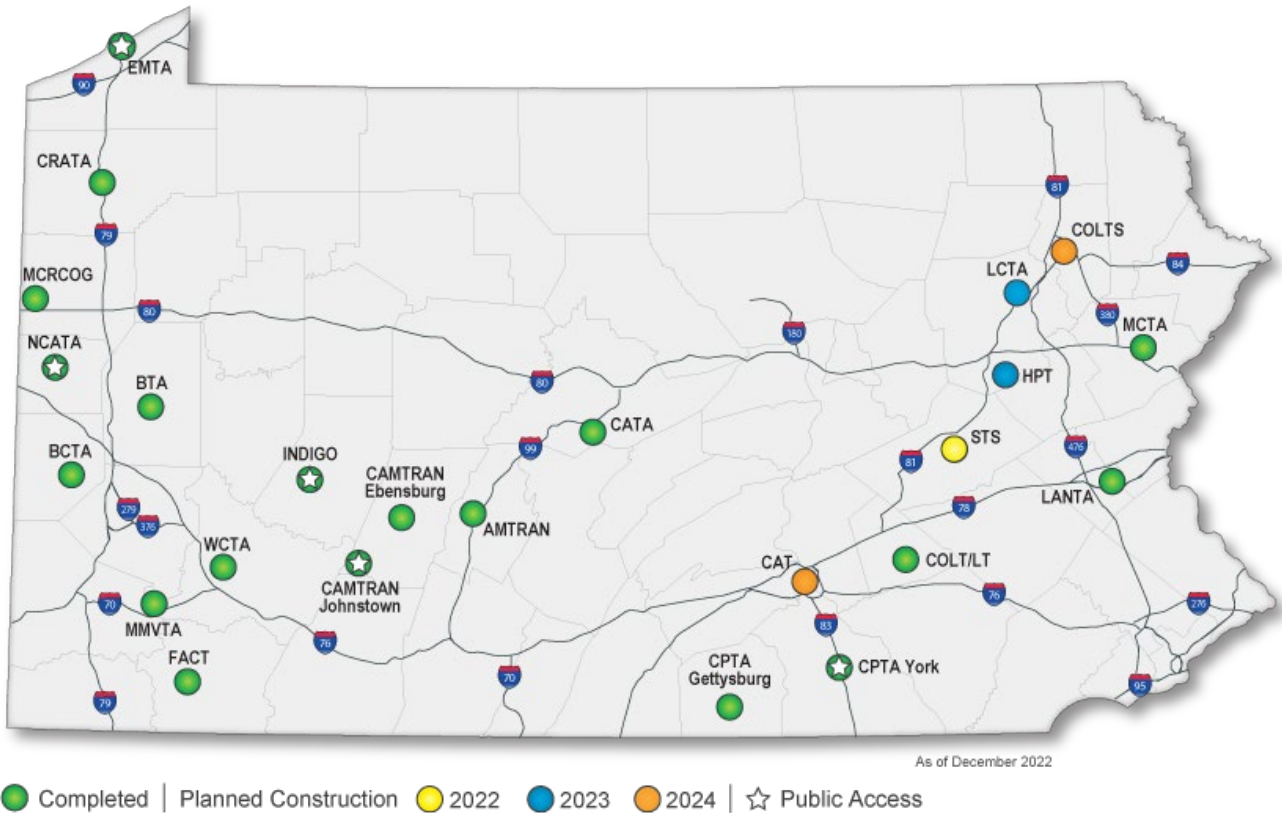
The construction of CNG fueling stations will provide benefits including:

- Operational cost savings for transit agencies;
- Improved engine life of CNG vehicles;
- Reduced carbon emissions and greenhouse gases; and
- Enhanced access to CNG for individuals and owners of small fleets.

## Compressed Natural Gas (CNG) Fueling Stations for Public Transit Agencies

### STATUS:

On April 20, 2017, Governor Tom Wolf announced the opening of the CNG fueling station at the Cambria County Transportation Authority (CamTran) in Johnstown. This marked the first CNG fueling station constructed through the public-private partnership with Trillium CNG. As of June 2022, 19 stations have been completed. Of those stations, five (New Castle, Erie, Indiana, Johnstown and York) have public fueling positions.



It is estimated that over the life of the P3 contract, this \$84.5 million project will pay for itself through economy of scale efficiencies in building the stations and through fuel cost savings to the transit agencies. When compared to the price of diesel fuel, Pennsylvania transit agencies have saved approximately \$9.5 million to date with the stations already open.



**P3 Project Update | December 2022**

**Partnership 81 Project**

**Public Authority:**

PennDOT

**Private Partners:**

To Be Selected

**Status:**

Pre-Development

**P3 Office Staff Lead:**

Joseph Gurinko, AICP

**PennDOT Technical Advisor:**

Susan Hazelton, PE

**P3 Board Meeting Approval Date:**

December 2019

**PROJECT OVERVIEW:**

Approved by the P3 Board in December 2019, the Partnership 81 Project aims to address needed safety, capacity and mobility improvements along a section of Interstate 81 near the City of Wilkes-Barre, Luzerne County. These improvements include the reconstruction and widening of I-81 to three lanes in each direction; replacement of poor condition bridges; the elimination of a left-hand exit currently existing on I-81; and the redesign of other intersections immediately off I-81.

In June 2020, the P3 Board approved an extension of the Partnership 81 project limits. The project limits now extend from MM 161.2 (current termini of the six-lane cross section) to 168.7 (Highland Park Boulevard interchange), a 7.5-mile reconstruction in total. At the same time, the P3 Board also approved using Design-Build-Finance (DBF) delivery to procure the project. After a review of project delivery alternatives, it was determined that a DBF approach would provide the best opportunity to meet PennDOT’s goals.



**BENEFITS:**

- Reconstruction/widening of 7.5 miles of I-81 to 3 lanes in both directions
- Replacement of poor condition bridges
- Safety and mobility improvements, including elimination of a left-hand exit
- Opportunity to innovate and create efficiencies in scheduling and cost savings
- Make proposed improvements to an interstate that are not covered by the TIP.

**STATUS:**

PennDOT continues to advance preliminary studies and engineering for the project, and in September 2022, submitted updated, revised versions of the Alternatives Alignment Report (AAR) and Conceptual Point of Access Study (CPOAS) to Central Office and FHWA. These latest versions addressed previous review comments and incorporated a new loop ramp connecting NB I-81 to WB PA-29 via the new I-91 / PA-309

## **Partnership 81 Project**

Interchange. This ramp is referred to as the “Luzerne Loop” and avoids direct impacts to bat habitat, PPL facilities, and unstable side slopes that were associated with having this ramp at the I-81 / PA-29 Interchange. It is anticipated that both reports will be completed and approved in December 2022.

Since the last Board Meeting in December 2021, the FHWA has adopted a new policy regarding the level of documentation needed for NEPA Clearance. Projects that require significant total takes of private property and/or could have significant public pushback can no longer be cleared via a Categorical Exclusions Level II document; these projects will require an Environmental Assessment level of documentation. Partnership 81 is affected by this change in policy. As such, the NEPA approval that had been targeted for fall 2022 is now projected for Spring 2024.

PennDOT is progressing key environmental activities, most notably the studies for and preparation of the Biological Assessment Report. All documentation for the Environmental Assessment (EA) is planned to be completed by December 2023 to receive NEPA Clearance before March 2024. Preliminary engineering activities that are being progressed include revisions to address AAR and CPOAS review comments, as well as a preliminary subsurface drilling and exploration program that began in April 2022 and should be completed this calendar year.

As part of the NEPA Environmental Assessment process, PennDOT held a Public Officials Meeting and a Public Meeting where the project was presented in an open-house format at Wilkes Barre Regional High School. PennDOT explained the purpose and need for the project, identified surrounding natural and socio-economic resources, and presented a preferred alignment that best addressed the existing problems while minimizing impacts to the surrounding resources. The preferred alignment that was presented included the loop ramp to WB PA-209 discussed earlier. The project was generally well received by attendees. Questions and comments were raised, but the project was generally well received by attendees of both meetings. The results of both meetings, including public comments, will be documented by the EA.

Because the Design-Build-Finance procurement activities for the project are linked to NEPA approval, procurement has been affected by the elevation to an EA document. Having held a Public Meeting, PennDOT is presently preparing to hold a Project Industry Forum to present the project to industry and finance groups this winter, followed by one-on-one meetings with potential industry partners to discuss the team and project specifics. The first phase of procurement, which includes the Request for Qualifications (RFQ), and shortlisting of industry partners is now targeted for mid-to-late 2023. The second phase, Request for Proposal (RFP), will begin in late 2023 with issuing draft versions of the RFP to the shortlisted partners and subsequently leading to Final RFP and Selection of the Development Entity in late summer/early fall 2024 after completing preliminary engineering.

Subsequent procurement steps (final due date and selection), Commercial and Financial close for the project are targeted for spring 2025. Notice to Proceed to the successful partner to begin work is anticipated for summer 2025.

## P3 Project Update | December 2022

### Major Bridge Public-Private Partnership (MB P3)

**Public Authority:**

PennDOT

**Private Partners:**

Bridging Pennsylvania  
Partners

**Status:**

Pre-Development Agreement  
Executed

**P3 Office Staff Lead:**

Michael Bonini

**PennDOT Technical Advisor:**

Christine Norris, P.E.

**P3 Board Meeting  
Approval Date:**

November 2020

#### PROJECT OVERVIEW:

The Major Bridge P3 (MB P3) was presented to and approved by the P3 Board, which includes representatives from all four legislative caucuses, in November 2020 and pursues the replacement or rehabilitation of 9 major bridges through the Design-Build, Finance, and Maintain (DBFM) method of progressive P3 project delivery. At that time, the plan was to pay for the work on these bridges through tolling, with the goal of preventing disruptions to the Transportation Program so that other important transportation projects on the state system could continue to proceed through the project development process.

#### STATUS:

On September 30, 2021, PennDOT released a draft Request for Proposals (RFP) to the three shortlisted proposers selected from the Request for Qualifications (RFQ) submissions. This commenced the RFP process in which PennDOT solicited proposals from shortlisted proposers seeking to enter into a Pre-Development Agreement (PDA).

During the RFP period from late September 2021 through the end of December, PennDOT engaged in a series of one-on-one meetings with and requests for clarification from each of the shortlisted proposers to provide them with a better understanding of the MB P3 and gather feedback on the draft RFP documents. Proposals were due from each of the shortlisted proposers by January 19, 2022.

Through the robust evaluation of the proposals, PennDOT determined that the Bridging Pennsylvania Partners (BPP) approach aligned more closely with the project goals for delivery of the MB P3. On March 9, 2022, it was announced that BPP was selected as the Apparent Best Value Proposer. On May 6, 2022, the PDA was executed between PennDOT and BPP.

As these activities were underway and proceeding as described, two lawsuits were filed against PennDOT challenging the P3 project. The Commonwealth Court issued an order on May 18, 2022, stopping work

## **Major Bridge Public-Private Partnership (MB P3)**

related to the MB P3. Accordingly, PennDOT canceled public hearings and procurement activities associated with the project. On June 30, 2022, the Commonwealth Court held that the MBP3 was void.

In July 2022, the state's P3 law was amended to remove tolling as a means of funding the MB P3. The updated law (Act 84 of 2022) provided the ability for PennDOT to continue the program as a P3 and preserved the existing March 2022 Pre-Development Agreement (PDA) with Bridging Pennsylvania Partners. The PDA enables PennDOT and BPP to work together to develop project packages in an open book, cost setting. The PDA also leads into separate contracts to Design, Build, Finance, and Maintain (DBFM) the bridges in the MB P3.

Package 1 includes six bridges and reached contract execution (Commercial Close) on November 29, 2022, with the goal of achieving Financial Close by end of 2022. PennDOT will repay the amounts financed by BPP through recurring availability payments over 35 years, beginning when construction is complete. The availability payments will be paid using a blend of federal and state funds. On the federal side, PennDOT will reallocate some funds and pursue additional funding opportunities from the Bipartisan Infrastructure Law (BIL). Funding for the availability payments is anticipated to come from the Interstate Management Program Line Item balances beginning in FFY 2028.

The 6 bridges included in Package 1 include:

- I-80 Canoe Creek Bridges
- I-80 North Fork Bridges
- I-78 Lenhartsville Bridge
- I-80 Nescopeck Creek Bridges
- I-80 over Lehigh River Bridge Project
- I-81 Susquehanna Project

## PennDOT P3 Board | Members and P3 Office Contacts

### P3 BOARD MEMBERS:

**Name:**

**Member Appointment (as per Act 88):**

Yassmin Gramian, P.E., Chair

Secretary of Transportation

Honorable Michael Carroll

House Minority Leader appointee

Geoffrey Clarke

Senate Minority Leader appointee

Gregory Davis

Office of the Governor appointee

Ronald Drnevich

House Majority Leader appointee

Honorable Timothy Murphy

Senate Majority Leader appointee

Ben Lukens

Secretary of the Budget

### P3 OFFICE CONTACTS:

**Name:**

**PennDOT Position:**

**Phone:**

**Email:**

Larry S. Shifflet

Deputy Secretary for Planning

717.787.3154

[lashifflet@pa.gov](mailto:lashifflet@pa.gov)

Michael Bonini

Director, P3 Office

717.772.4664

[mbonini@pa.gov](mailto:mbonini@pa.gov)

Joseph Gurinko

Deputy Director, P3 Office

717.705.4235

[jgurinko@pa.gov](mailto:jgurinko@pa.gov)

James Nicastro

Project Manager, P3 Office

717.934.4206

[janicastro@pa.gov](mailto:janicastro@pa.gov)

Madelyn Vergos

Executive Secretary,  
Office of the Deputy Secretary

717.787.3154

[mvergos@pa.gov](mailto:mvergos@pa.gov)