INTRODUCTION
The Eno Center of Transportation launched the first of its three Public-Private Partnership (P3) Technical Assistance Awards in Broward County, Florida. The Technical Assistance Awards are intended to educate public-sector professionals about the P3 development process and lessons learned, as well as spur P3 action at the local level, as most P3 activity in the U.S. is limited to a handful of states. As part of winning a P3 Technical Assistance Award, the Broward County team (led by Port Everglades) received a one-day summit about local P3 issues and a one-day course session about the P3 development process. This program was funded in part by a grant from the Surdna Foundation.

The summit took place on November 18, 2015 in Fort Lauderdale in the Greater Fort Lauderdale/Broward County Convention Center, with the local event coordination handled by Port Everglades. Attendees included professionals from various departments within the Broward County Government. The full list of attendees can be found at the end of the summary.

OVERVIEW OF ENO’S PARTNERSHIP FINANCING REPORT
Presentation and discussion led by Paul Lewis, Eno Center for Transportation

This session provided a brief overview of the basics of P3s and the findings from Eno’s Partnership Financing report, released in 2014. Although the amount of P3 investment in transportation infrastructure has increased dramatically in the United States in recent years, it is still a small part of the global P3 market (accounting for only 9% of all P3 investment in the world between 1985 and 2014).

Many state and local governments have considered pursuing P3s for various reasons, including limited funding and financing from the state and federal level; the possibility of risk transfer; and introducing efficiencies and innovation into potential projects. However, many public sector agencies mistakenly believe that P3s mean “free money” from the private sector, but in fact the private sector
only provides financing. Another important aspect is to understand how the public
and private sectors have different perspectives when approaching P3s. For instance,
whereas the public sector sees a P3 as a “project,” the private sector sees it as a
“transaction;” and while the public sector seeks transparency, the private sector
seeks confidentiality.

The Partnership Financing report studied state and local experiences with
transportation P3s, and identified the most common barriers to P3s in the U.S. The
barriers identified included political and public opposition; lack of dedicated and
skilled staff; limiting features of enabling legislation; and shortcomings in
institutional development and management.

OVERVIEW OF FLORIDA’S P3 LEGISLATION
Presentation by George Burgess, Becker & Poliakoff (formerly Miami-Dade County
Manager)
Discussion moderated by Paul Lewis, Eno Center for Transportation

This session provided an overview of Florida’s P3 enabling legislation to ensure an
overall understanding of regulations and project eligibility. While the legislation
currently defines the entities allowed to use P3s as a delivery method (e.g. Florida
Department of Transportation, local governments) and the permitted project types,
there are currently several amendments concerning the legislation. For instance,
confidentiality is a large concern of private companies submitting project bids.
However, state legislation known as the “Sunshine Law” requires all correspondence
and documents within the Florida public sector to be made public. One pending
amendment has proposed to alter language regarding unsolicited private bids, so
that bids would not be made public until the final winner has been selected.

Other key aspects of the state’s P3 legislation include allowing unsolicited proposals
(and outlining the required process for reviewing them); establishing a P3
guidelines task force to provide recommendations; outlining the timeline for
soliciting and reviewing proposals; outlining the minimum standards and
requirements for selecting a bid; outlining the types of financial tools available; and
establishing a clearinghouse for model contract language and best practices as a
resource for all Florida local governments (although this clearinghouse has not yet
been created).

P3S AROUND THE U.S. AND THEIR LESSONS FOR BROWARD COUNTY
Presentation and discussion led by Alex Bond, Eno Center for Transportation
Panelists: Pamela Bailey-Campbell, Jacobs Engineering; Susan Binder, Cambridge
Systematics; Mark Blanchard, AECOM; Eric Swanson, Odebrecht; Kelley Hall,
Florida Department of Transportation

This session focused on three selected case studies and their potential lessons for
Broward County: Florida’s Interstate 595 (I-595), Colorado’s Eagle P3, and the
Texas’ Trans-Texas Corridor.
I-595 was a roadway expansion project and the first transportation P3 in the U.S. to use the availability payment model. It reached financial close in 2009 and opened to road users in 2014. As the contract was developed around the time of the 2008 recession, FDOT was able to employ innovative financing and risk transfer in order to attract private financing despite the challenging fiscal conditions. For example, the public sector would bear the risk burden associated with hurricanes, which would otherwise discourage private bids. FDOT's efforts also indicated to the private sector that FDOT was investing the time and effort to ensuring a viable project. Performance measures within the contract, and public engagement both before and after project completion, ensures the protection of the public's interest. Individuals currently managing I-595 emphasized the importance of this continual engagement with the public and local municipalities because “public concern is tangible.”

The Eagle P3, the first transit P3 to reach financial close in the U.S., consists of three transportation projects: two commuter rail lines and a maintenance facility. It was carried out as a joint venture between the Denver Regional Transportation District (RTD) and the Colorado Department of Transportation’s High-Performance Transportation Enterprise (HPTE). The project was funded by a combination of funding from the Federal Transit Administration (FTA), private equity, and funding from Denver RTD. Its success as a transit P3 can be attributed to multiple factors: public buy-in through a voter-passed sales tax increase to help fund the project, federal involvement as a catalyst, and P3 enabling legislation that allows for interagency agreements.

The Trans-Texas Corridor was originally proposed in 2003, and was intended to create a state-wide network of combined highway lanes, rail, and utility lines. Tolls were intended as the primary funding source. However, the project was eventually cancelled in 2009, in large part due to the public opposition, stemming from a lack of transparency and public engagement during the project development process. Although the project was ultimately cancelled, it led to lessons learned for the local government, including amending the P3 legislation to account for public concerns. The Trans-Texas Corridor is an example of a top-down proposal that was not developed with public input, which fostered the opposition that led to its eventual cancellation.

DISCUSSION TAKEAWAYS

**The importance of public input throughout the P3 process**

Throughout all case studies discussed, public buy-in or opposition was crucial to the project’s ultimate outcome. As one participant phrased it, “If they [the public sector] don’t reach in and get buy-in, the project won’t happen or happen the way they expect.” The Eagle P3 is considered a successful example of achieving public buy-in. This could be attributed to not only the voter-passed sales tax increase, but also an “exceedingly transparent” process and continual public engagement in the project’s final design.
Participants also highlighted the importance of being open and flexible to public feedback and being prepared to make changes. There is also the potential pitfall that while the public sector may perceive its outreach as transparent, the public may not share that sentiment. Protecting the public interest was not only present in the contract development process but also anticipated for project completion. For example, the Eagle P3 and I-595 have “very detailed performance requirements,” ensuring that the public sector can hold the private sector to a higher standard (compared to a project built using traditional procurement).

**The significance of P3s to set precedent for future projects**

The Trans-Texas Corridor was an example of the ramifications of an unsuccessful P3. Its cancellation led to legislative changes that addressed the project’s pitfalls. Participants also highlighted past P3 projects where the contracts were poorly developed and led to public opposition. Poor public perceptions of P3s create difficulties for the public sector to pursue future P3s, due to the precedent. On the other hand, one successful P3 may lead to future successful projects, as the public perception is favorable and aids in gathering additional public buy-in for future P3s.

**Ensuring proper staffing within the public sector**

All the panelists emphasized the need for the public sector to compile a team capable of navigating the technical, legal, and financial complexities of the P3 contract development process. Often, the public sector is pursuing its first P3 contract but is dealing with private companies (both domestic and foreign) that have had extensive experience in the P3 process. In addition, one panelist emphasized the need to put in the necessary work, rather than simply being ready to make a deal. This requires the public sector hiring capable staff at the beginning of the P3 development process.

**Public engagement and internal processes**

*Presentation and discussion led by Roy Kienitz, Roy Kienitz LLC*

This session focused on two key concepts from Eno’s P3 report: public engagement during the P3 process and the public sector’s institutional processes, the basis of establishing P3 capacity.

Within a public agency, it is crucial for public sector staff to understand the intent behind a proposed P3 and why the project needs to be accomplished as a P3. Beyond a top-down command, lacking an answer creates challenges for public engagement. In other words, the government needs to have responses ready when the public first asks, “Why are we doing this project?” or “Why can’t the public agency do the project itself?” After initially defining the foundation of the project proposal, other components would need to be developed concurrently, such as defining the specific physical details and the necessary financial arrangement, and then reaching out to the private sector to understand the level of interest in the private market.

Understanding the pulse of the private market is key to eventually obtaining competitive bids. Otherwise, too few bids may lead to a higher priced offer and leaves the public sector with less leverage for negotiating during the contract
negotiating process. However, it is crucial for the public sector to understand which project aspects to emphasize and to balance project complexity with the need for healthy competition.

Although institutional processes are key to successful implementation of transportation P3s, these processes will vary with each state and local government. However, some common themes are clear. While P3 legislation provides a map of process, it does not communicate why a P3 is a valuable form of project delivery. While the public sector is capable of developing staff with expertise and outline the parameters of what needs to be achieved, nonetheless political barriers pose a challenge (e.g. a governor prioritizes P3 tolls roads, while his successor does not). In addition, P3s are oftentimes carried out by specific modal authorities -- such as port authorities, airport authorities, or toll authorities -- rather than one core team at the executive level. While many aspects of P3s apply to all modes, the staff may not develop a set of values that is transferrable between modes.

Another institutional process is the need for sufficiently skilled staff, a topic that was also emphasized in earlier sessions. Specific expertise is especially necessary for legal, finance, and public relations. As public engagement and outreach is key to a successful P3, oftentimes, larger projects require an individual to focus entirely on the public relations of one project. While these staffing needs require substantial expenses, one participant emphasized that their significance could go beyond cost (“it could be worth a lot more than what you paid them in terms of getting a good deal at the end of the day”). However, most state and local government lack the sufficient in-house staffing to fulfill these needs and lack the P3 experience to navigate the process.

**DISCUSSION TAKEAWAYS**

*Understanding of the importance of processes*

Many of the discussion questions touched on topics related to the processes of developing P3s, whether it was about the role of the leadership in spurring P3 activity, adjusting from the traditional procurement process, or how Europe managed to foster a mature P3 market while delivering projects that preserve the public interest.

Within the public sector, leadership that supports P3s is key towards enabling action (although this becomes less true as the market matures). However, as one participant phrased it, “if no one in leadership cares, then the field office doesn’t care.” In addition, one question addressed the difference in traditional procurement, whereby most or all of the project costs are known at the beginning, compared to the project costs for P3s, which is finalized during negotiations and thus not entirely known until towards the end. In order for the public sector staff to adapt to this change, they would need to understand “the spectrum of needs” involved with a P3.

Regarding the maturity of the P3 market in Europe, much of this can be attributed to reasons beyond the financial. The large divestment of industries previously owned
and operated by governments following World War II forced private-sector participation. Once the role of the private sector had been refined, the public sector was able to focus on protecting the public interest, rather than on operational services.

**Balancing the Needs of Public and Private Sector**
Much of balancing the needs of the public and private sector involves the public sector’s understanding of “the spectrum of needs” and the expectations of the public-sector staff. This also applies to understanding the culture of the bidding companies.
There was also concern about seeking a balance between developing a project that would sufficiently generate competition among bidders and potentially “giving away something very profitable” to the private sector. While a project is an asset that has users and those users will generate revenue, one form of ensuring a fair distribution of revenues is to incorporate transparency into the project contract, such as the private operator’s providing the cost data when the project returns to public ownership.

**Performances Metrics as a Means to Protect the Public Interest**
The local government participants voiced concerns about protecting the public interest, particularly regarding what the public sector can do while a P3 is under private operation. Performance metrics are key to ensuring the protection of the public interest once the project has been built. There is a large variety in scale and detail, such as a toll rate table linked to the Consumer Price Index, sufficient lighting, and ensuring that snow is plowed during the winter. In addition, the contractual provisions are also crucial towards protecting labor rights. In terms of ensuring that infrastructure remains in good condition for return to public ownership, the public sector must ensure that it understands which components will have a specific and universally accepted form of quality and good condition, and how to address those that are less defined, such as the structural quality of a wharf. Moreover, if the public sector assumes that the infrastructure would not return in good condition, this aspect should be considered when a proposed project is evaluated as suitable or not for a P3.

**Overcoming Obstacles to P3s in South Florida**
*Moderated by: Emil Frankel, Eno Center for Transportation*
*Panelists: Pamela Bailey-Campbell, Jacobs Engineering; Susan Binder, Cambridge Systematics; Mark Blanchard, AECOM*

This session was intended to focus on recurring topics during the summit, as well as important issues that were only discussed briefly.

**The Intertwined Role of Leadership and Public Communication**
In addition to public engagement, the role of leadership emerged as a key component to a P3’s success. In the case of Florida’s I-595, having support from the executive level and having his active involvement (such as participating in meetings with concessionaires and coordinating directly with the governor) was part of I-595’s overall success, especially as residents and businesses began to see benefits once
the project was completed. Because P3s are often delayed due to public opposition, rather than to technical project details, having political support aids in overcoming public opposition. However, due to the limited terms of elected officials, it is also worth developing relationships that go beyond particular public officials.

**The significance of processes to ensure the long-term success of P3s**
While having support from the political leadership helps a project overcome public opposition, having the processes in place within the public sector is key to the sustainability of P3s. The success of one P3 helps build goodwill towards future P3s, by institutionalizing its legitimacy and becoming “business as usual,” rather than simply as a form of innovative financing. Having the enabling legislation is only the beginning of the process, but it is up to the public sector to create a uniform process. Part of creating this uniform approach towards P3s is understanding a project’s goals and also understanding project delivery beyond traditional procurement. Regarding the Broward County context, one of the challenges in adopting P3s as a form of project delivery is overcoming bureaucratic challenges and ensuring that the public understands the potential benefits of P3s. As one participant described it, many people have been “doing things a certain way for a while.”

**The importance of having a centralized office with skilled staff**
Part of establishing uniform processes for the public sector to review P3 proposals and develop contracts is having a centralized team within a public agency. Oftentimes, some P3 teams develop within a modal unit (e.g. port, highways) but this leads to inconsistencies and a lack of some transferrable skills. In addition, it can be challenging to find the most qualified people to staff the team. A concentration of resources and skills can facilitate forming that team. Having a centralized P3 team also ensures that a public sector entity has extensive knowledge about the P3 process. There could be a tendency to reply heavily on consultants to develop the contract and on a private company to build the project. However, this is ultimately “not a good model” if the public sector is not equipped with the knowledge to develop future P3s.

**CONCLUSION**
The P3 summit for Broward County provided a forum for public-sector professionals to discuss relevant and local P3 issues. The participants found all the sessions useful, especially the overview of Eno’s Partnership Financing report. Eno staff and Working Group members will continue to be a resource for Broward County as they pursue P3 projects in 2016 and beyond.

Following this Technical Assistance Award for Broward County, the Working Group will continue this work for the District of Columbia Office of the Mayor, where the new P3 unit is located, in December. The third Technical Assistance Award winner, the Metropolitan Transportation Commission in San Francisco, will receive its summit and course session in early 2016. For Broward County, this summit and the P3 course session can help build P3 capacity among public-sector professional staff, enabling a more thoughtful approach towards P3s.
LIST OF SUMMIT ATTENDEES

Broward County Government and related entities
1. Karen Brooks, City of Coconut Creek
2. Brian Donovan, City of Deerfield Beach
3. Hector Vasquez, City of Miramar
4. Julie Leonard, City of Fort Lauderdale
5. Allison Justice, Redevelopment Management Associates
6. Farrell Tiller, Redevelopment Management Associates
7. Namita Uppal, Broward County
8. Jorge Hernandez, Broward County Port Everglades
9. David Anderton, Broward County Port Everglades
10. Steve Hammond, Broward County Public Works
11. Marie Williams, Broward County
12. Brenda Billingsley, Broward County
13. Mike Kerr, Broward County
14. Alphonso Jefferson, Broward County
15. Alan Cohen, Broward County
16. Gretchen Cassini, Broward County
17. Chris Walton, Broward County Transportation
18. Juan Catasus, Broward County Construction Management
19. Jim Rowlee, Broward County
20. Ariadna Musarra, Broward County Construction Management
21. Kevin Haas, Broward County Aviation
22. Jeffrey Thompson, Broward County Construction Management
23. Sandy-Michael McDonald, Broward County Economic Development
24. Michael Hammond, Broward County Highway Construction
25. Lou Metz, Broward County Parks and Recreation Business Enterprise
26. Peg Buchan, Broward County Port Everglades
27. Steven Cernak, Broward County Port Everglades
28. Glenn Wiltshire, Broward County Port Everglades
29. Luis Seta, Broward County Construction
30. Steven Greco, Broward County Expansion Project Administration
31. Jamil Jalloul, Broward County Construction Management
32. Jack Shim, Broward County Construction Management
33. Robert Dennis, Broward County Construction Management
34. Carlos Molinet, Broward County Convention and Visitors Bureau
35. Derrick Chan, Broward County Broward County Transit
36. Neil Kutchera, Broward County Port Everglades
37. Leah Brasso, Broward County Port Everglades
38. John Foglesong, Broward County Public Works
39. Paul Calvaresi, Broward MPO
40. Anthea Thomas, Broward MPO
41. Daniel Knickelbein, Broward MPO
42. George Burgess, Becker & Poliakoff
43. Mark Blanchard, AECOM, Florida Council for Public-Private Partnerships
44. Dodie Keith-Lazowick, Keith & Associate
45. Eric D. Swanson, Odebrecht USA
46. Jonathan Schwartz, Broward College
47. Maggie Gunther, Greater Fort Lauderdale Alliance
48. Daria van Engelen, Surface Transportation Serco, Inc.
49. Jennifer Drake, Becker & Poliakoff, Florida Council for Public Private Partnerships
50. Greg Haile, Broward College General Counsel
51. Patricia Zeiler, Fort Lauderdale Historical Society
52. Paul Lampley, FDOT
53. Kelley Hall, FDOT
54. Andrea Knowles, Broward Legislative Delegation

Eno Working Group members
55. Susan Binder, Cambridge Systematics Transportation
56. Pamela Bailey-Campbell, Jacobs Engineering Group

Staff (Eno Center for Transportation)
57. Emil Frankel, Eno Center for Transportation
58. Alex Bond, Eno Center for Transportation
59. Paul Lewis, Eno Center for Transportation
60. Roy Kienitz, Roy Kienitz LLC
61. Emily Han, Eno Center for Transportation