

Hudson Valley

BUSINESS JOURNAL

Pannone Lopes Devereaux & West Highlight Public-Private Partnerships in Website Video Series

Pannone Lopes Devereaux & West LLC (PLDW) Partner Teno A. West, chair of the firm's Municipal Infrastructure Team, describes the benefits and trends of public-



Teno A. West, Partner

private partnerships (PPP) as part of the firm's continuing series of informational online video presentations available to the public at www.pldw.com.

West defines what and how a PPP operates and describes the vitality and cost-efficiencies that can result when public agencies and private companies collaborate on public infrastructure projects.

“Public-private partnerships are becoming more widely considered by municipalities, counties and states seeking alternative delivery methods for the development and construction of infrastructure projects that can be achieved at reduced cost through effective collaboration,” said West. “I am pleased to provide this video presentation as a platform to share information about how these collaborations work together on behalf of the public.”

West is considered a national authority in the areas of public-private partnerships; water and wastewater law; solid waste management alternative energy projects; procurement law; and design-build-operate projects. He routinely represents government agencies in many parts of the United States dealing with the challenges associated with municipal infrastructure projects and related legislation required for undertaking alternative procurements and design-build and design-build-operate projects.

In addition to the video broadcast, a more in-depth interview by *US Financier Worldwide* with West about PPPs in the US and around the globe is available on the firm's website and can also be accessed by logging onto the Hudson Valley Business Journal's website at www.hvbizjournal.com.

The following questions and answers are representative of the information shared by West in the video broadcast and the narrative interview.

What is a public-private partnership in general?

West: PPPs are contractual agreements between government agencies — in the US, a federal, state or local agency — and private entities. It is a model where private and public agencies work together to provide a public service, typically infrastructure-related utilities such as water, sewer and solid waste. However, PPP projects are becoming popular in other areas like transportation, bridges, highways, light rail, even office buildings, city halls and stadiums. In the past, these projects were traditionally provided exclusively by the government. The growth of PPP, particularly in the current economic climate, is for greater private involvement in delivering these types of traditional public projects because of the

financial issues that local, state and federal governments are facing. The private sector takes some of the risk and can undertake the project on a much more cost efficient basis.

What are the major benefits of public-private partnerships?

West: Public-private partnerships allow governments to get the best contractual arrangement and the best private company or vendor to provide the service. They allow the government to get the best value. The major benefit is in getting the private entities involved to deliver a product more efficiently, more cost effectively, and with improved service. The private entity has the expertise to provide the service; it is their focus, it is what they were created for – be it a water company, a solid waste company or a transportation company. PPPs are referred to as ‘alternative delivery’ project models and are not necessarily completed on a low bid basis. Rather, they are negotiated deals.

What types of projects can be done through public-private partnerships and how are they structured?

West: In the past PPPs have concentrated on water, sewer and solid waste projects, as well as toll roads, light rail, bridges, city halls and other civic centers. We are also seeing some emerging or advanced technologies, which lend themselves to the public-private partnership model. The private company takes much of the risk, since they are new technologies that have not seen widespread commercial use. In structuring the deal as a negotiated PPP, you strive to achieve a win-win for both sides.

What are the differences between a public-private partnership and the way public entities typically complete their public projects?

West: Traditionally, public works projects are designed by the government and follow a bidding process. The lowest responsible bidder is awarded the contract, then typically if there is an operational component, the facility will be operated by government employees. That is the conventional model. When you move into the public-private partnership arena, you move a dimension away from that model into one of best value procurement. Here you have a 'request for a proposal' process, and you may have a request for qualifications. Pre-qualified proposers are requested to submit proposals, and from these a selection is made of the most advantageous proposal. Contract negotiations then take place. This approach is very different from the traditional low bid approach and laws can vary from state to state. For instance, New York has general legislation for solid waste facilities that can be structured on a PPP procurement basis, but for waste water, for example, it is required to have special legislation enacted. So, there is a need to be familiar with what is involved in actually developing a project in each state, right from the initial procurement all the way through to the end.

Why and what types of project delivery methods are typically employed for public-private partnerships?

West: Traditionally, such public-private partnership projects are awarded on a structured 'design-build-operate', or 'design-build-operate-transfer', or 'design-build-operate-finance' basis. More and more states allow for PPP but contracts awarded on such a procurement approach do vary from state to state. Timing is one issue and questions raised in the initial stages would be; how quickly can you

move the procurement along based on your need to actually get the procurement under way in the first place? Is there a special law that needs to be enacted or not? Are there any special local requirements?

Will the need for public-private partnerships increase?

West: Demand for public-private partnerships will be driven by necessity. The hybrid model of government ownership and private operation started off as a necessity, and then proved to be the best approach for delivering the service. The fuller public-private partnership model will eventually prove itself in the same way. The hybrid model will continue to grow and then we will eventually see, based on necessity, a shift to the fuller privatisation approach.

For further information about the firm, please contact PLDW Director of Administration David Sweet at 401-824-5100 or email dsweet@pldw.com. To speak with West, contact him at twest@pldw.com or call 914-898-2497.

About Pannone Lopes Devereaux & West LLC

The attorneys and staff at Pannone Lopes Devereaux & West LLC (PLDW) are committed to developing practical and cost-effective solutions while also being supportive of the community in a meaningful way. With offices in Rhode Island, Connecticut, Massachusetts, New York and Florida, PLDW has developed a business model that combines international expertise with a more cost-effective delivery system that involves cross training of lawyers and a more practical approach to problem solving. The primary areas of practice for the firm include administrative, corporate and municipal law, civil litigation, government relations, real estate and commercial lending and estate planning and special masterships. The partners demand of themselves and those on the PLDW team, an unparalleled sense of urgency and responsiveness which is derived from an authentic appreciation for their clients and the community in which they serve. For more information, visit www.pldw.com.