



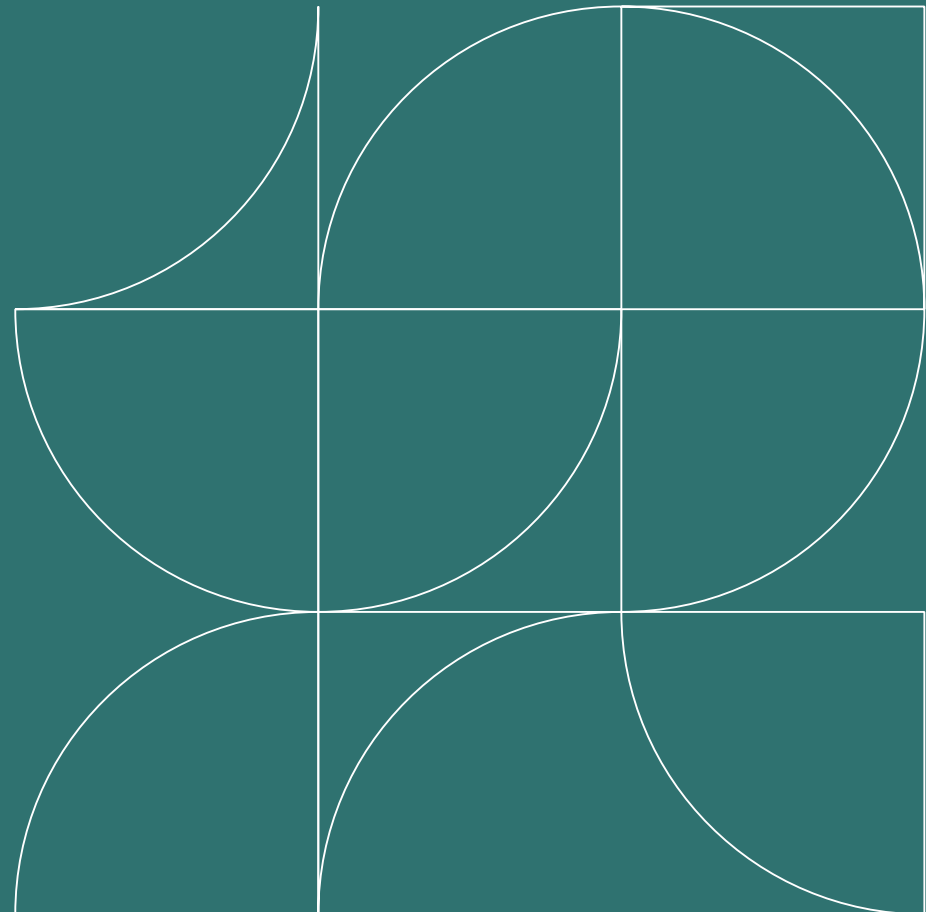
Legal Insights for the Transportation and Logistics Industries

*Part 2: Development and Delivery: New and
Improved Transportation & Logistics Facilities*

October 30, 2024

Seyfarth Shaw LLP

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Speakers



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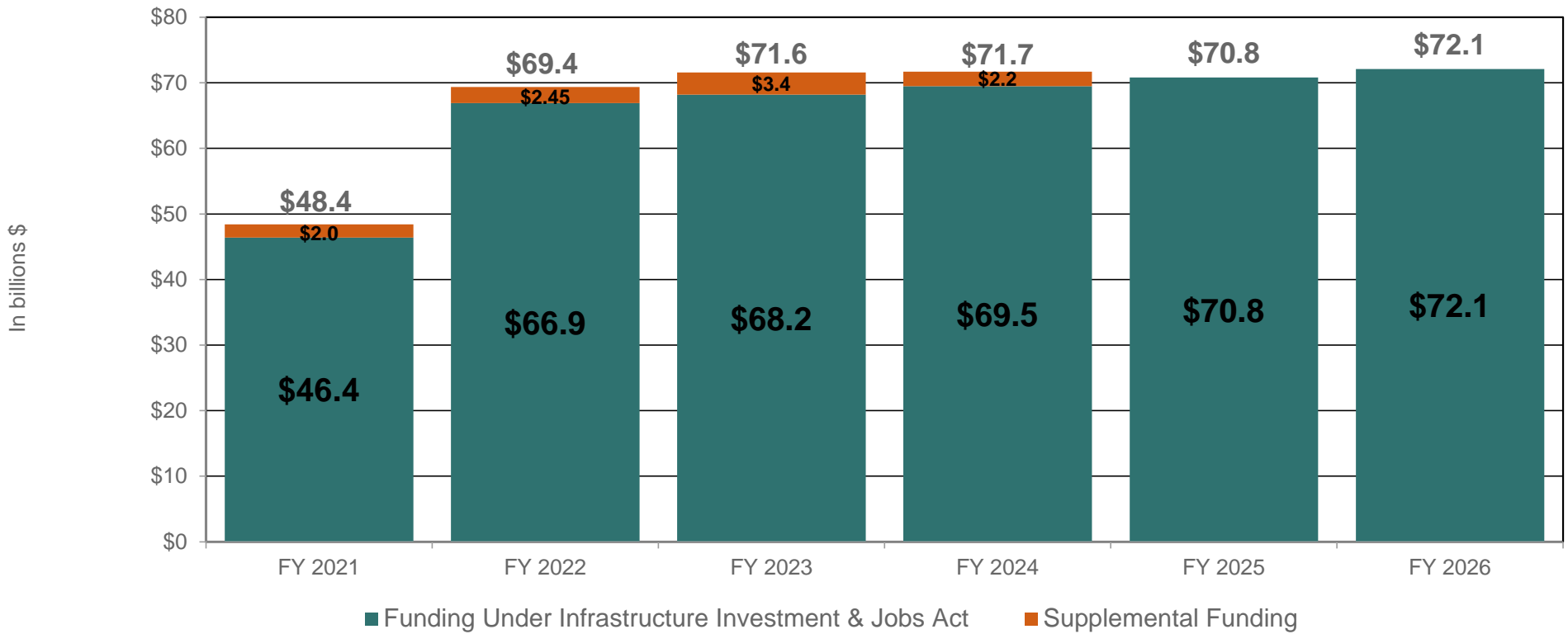


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Agenda

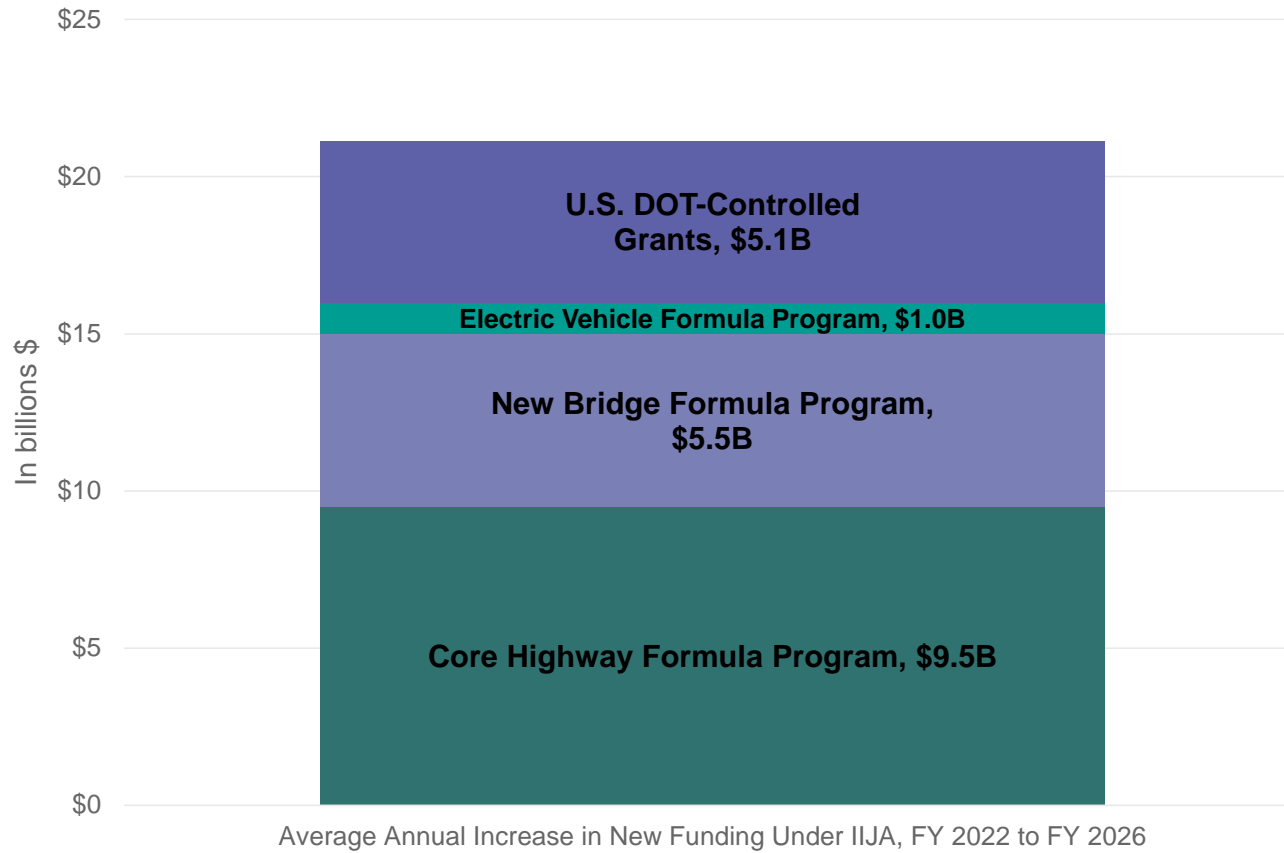
- 1** Current impacts of funding from Infrastructure Investment and Jobs Act
- 2** Innovative delivery methods for transportation projects (procurement and contracting)
- 3** Adaptive reuse and sustainability in industrial development
- 4** Impacts of automization on logistics industries

Federal-Aid Highway Investment Under the IJA



Source: FHWA final notices for annual highway program obligations and supplemental programs, Infrastructure Investment & Jobs Act

Market Impact of the Increase in IJA Federal-Aid Highway Investment Depends on Program Details



Source: ARTBA's IJA Analysis report, totals may not add up due to rounding and do not include budget authority subject to appropriation from the General Fund. U.S. DOT-controlled grants include project-focused national grants and other programs, such as National Significant Freight & Highway Projects, the Bridge Investment grants, and PROTECT discretionary grants.

IIJA Total Highway Allocations, Obligations and Reimbursements (through August 2024)

\$348B

Total IIJA Highway Funding
FY22-FY26

\$162.5B

Total Funds Committed to Date
FY22-YTD FY24

\$303B
Formula Funds

82k+

New Project Commitments

\$178.9B

Formula Funds Available
FY22-FY24

\$93.9B

Total IIJA Funds
Reimbursed to States

\$45B
Discretionary
Funds

ARTBA American Road
& Transportation
Builders Association

Source: Data from U.S. Treasury and the Federal Highway Administration. Project commitments are included if the base year of the award (identified in the U.S. Treasury data). Does not include COVID relief, emergency, or supplemental funds. FY2022 totals include project commitments made using FAST Act extension funds, to provide a full year on year comparison of total projects supported by the federal aid highway program. Total obligations and reimbursements are pooled across both formula and discretionary programs.

Mississippi: I-10 Freight Corridor

Freight traffic from two major ports, plus local and highway traffic

Will relieve congestion, high crash rates, noise, etc.

Economic benefits: Improved access to cities across the Gulf Coast (including New Orleans, Baton Rouge, Houston and Mobile)

Estimated cost: \$60 million

IIJA funds: \$60 million



Washington & Oregon: Interstate Bridge Replacement (IBR) Program

Part of a critical trade route for regional, national, and international commerce

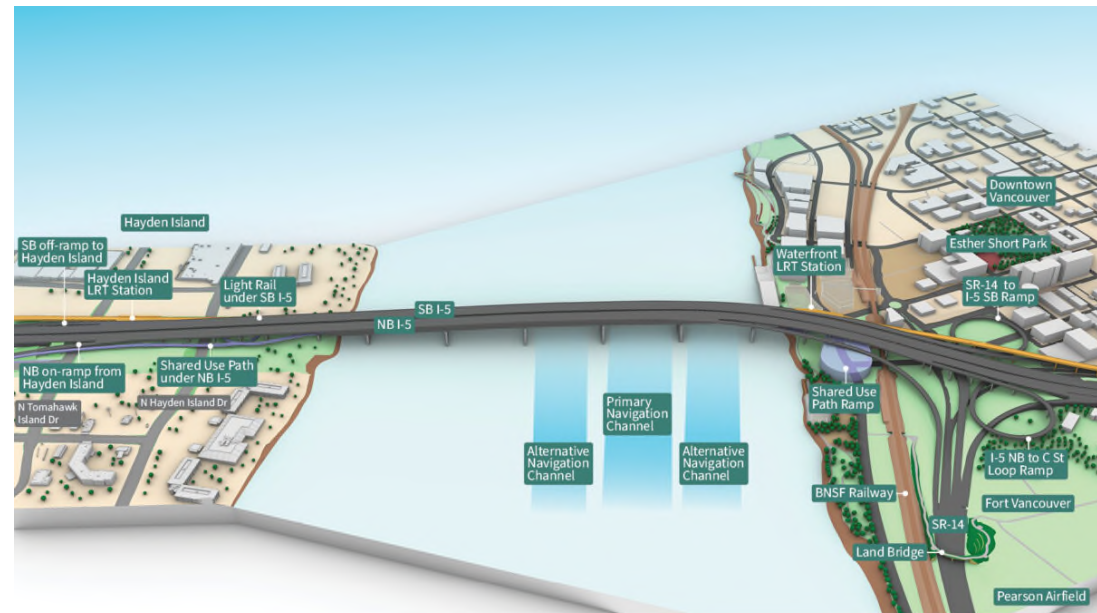
Bridge lift slows freight and travelers along I-5


Replace with modern, seismically resilient, multimodal structure

Economic benefits: Improved mobility and access

Estimated cost: \$5-7.5 billion

IIJA funds: \$600 million



 *Visualization is intended as a high-level example for illustration purposes only and does not reflect property impacts or indicate that decisions on design options have been made.* 5.25.2022 | Copyright 2022 Interstate Bridge Replacement Program

Project Procurement and Contracting: Progressive Design-Build

Authorizing legislation

Design-builder retained by owner in early stages of project development

Two-phased delivery:

- Preliminary design and preconstruction – Owner and design-builder collaborate on design and risk reduction
- Final design and construction – Design-builder completes design and construction

PROS

- Higher levels of collaboration and innovation
- More transparency around costs
- Risk mitigation (and reduced pricing contingency)

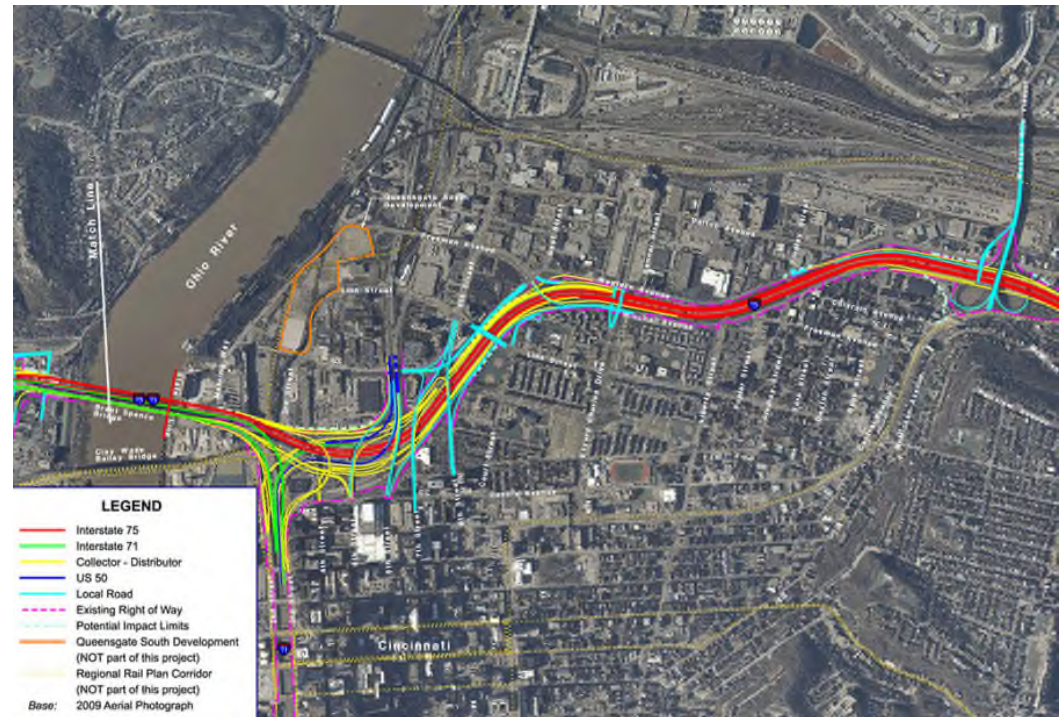
CONS

- No bidding
- More owner resources
- Hesitancy in off-ramping

Brent Spence Bridge Corridor

PDB selected (over Value-Based Fixed-Price Design-Build):

- Addressing and allocating project risk
- Inflationary trends
- Need for ongoing engagement (adjacent impacted communities and interested third parties)



Francis Scott Key Bridge Rebuild

PDB selected:

- Schedule compression
- Cost containment
- Allocation of project risk

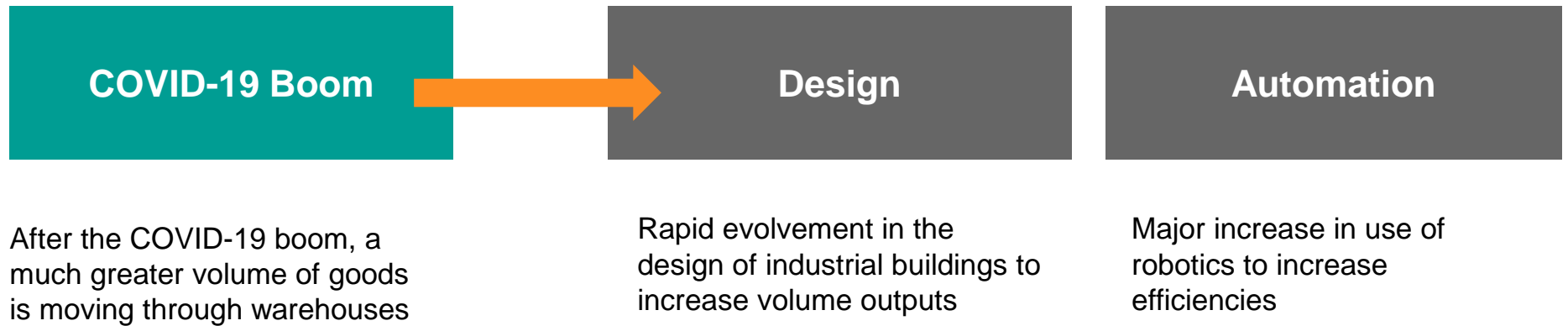


Public-Private Partnerships

- Authorizing legislation
- Contract structure (DBFOM, DBF, DBOM, etc.)
- Emerging P3 projects:
 - Tennessee Choice Lanes I-24 P3
 - PANYNJ Newark Terminal B
 - Denver International Airport – ConRAC (Program Management Team)



Change in the Industrial Landscape



Impacts to Building Design, Location, and Mechanisms of Delivery

- Advancements in storage capacity
 - Buildings are taller with smaller footprints
- Major increase in robotics
 - Adding additional floors of storage
 - Robots utilized for unpacking, sorting, and picking goods
- Move toward urban core
 - Transition to smaller footprints and taller buildings has opened up different land for these types of industrial buildings
 - Facilities can now be closer to urban cores

Impacts to Building Design, Location, and Mechanisms of Delivery

- Change to speculative projects
 - Developers are rethinking speculative development now that users are employing robotics
- Increase in vehicles required for movement of goods
 - As facilities are generating packages more quickly, need more vehicles to move goods
 - Industrial users are employing mechanisms for more efficient vehicles
 - EV and other renewable energy for fleet vehicles (biofuel, natural gas, hydrogen renewable diesel, etc.)

Issues to Navigate

1

Fire Codes

- Fact that robots are being used reduces the likelihood of confronting fire code obstacles
- Still significant push and pull with jurisdictions and fire marshals
- Forcing jurisdictions to interpret land use code on novel issues

2

Increased traffic due to volume of goods being moved

3

More power required to operate robotics

- Users are looking to forms of alternative/renewable energy to support higher power demands as part of building development

Looking to the Future

- Additional changes will come with investment in driverless technology (e.g. drones, driverless cars)
- Concerns with driverless technology are still abundant:
 - FAA approval for drones
 - Local jurisdictions' land use codes
- Users are trying to find creative solutions to address the demand for more efficient movement of goods



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