



Project Status of Infrastructure Investment Opportunities in the State of Texas

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Overview

- **History**
- **Three procurements have been completed**
- **Several projects currently in some stage of procurement**
- **Many other projects assessed and analyzed for CDA feasibility**

History

■ **HB 3588**

- Comprehensive Development Agreements
 - Design and Construction
 - May also provide financing, acquisition, maintenance or operation

■ **HB 2702**

- Clarifications
- Flexibility

■ **SB 792**

History

■ Highlights of New Legislation – SB 792

- Moratorium on Certain Terms in Comprehensive Development Agreements (CDAs)
- Sunset date to enter into CDAs
- 52 year term limit
- Public access to Trans Texas Corridor information
- Use of CDA payments
- Primacy for tollway authorities and regional mobility authorities
- Tollway authorities to provide customer service and other toll collection and enforcement services for a toll project
- Allows tollway authorities and regional mobility authorities to enter into CDAs

TTC-35

- **CDA signed with Cintra-Zachry in 2005**
 - Pre-development agreement for north-south corridor parallel to I-35
- **Master Development Plan delivered last fall**
 - Projects identified as near-, mid- and long-term
 - 7 identified as near term facilities
 - Update to plan is underway
- **Approach to project development remains to be seen**
 - TxDOT may negotiate with CZ for self-performance
 - TxDOT may mandate a CZ procurement
 - TxDOT may initiate a CDA procurement
 - TxDOT may deliver traditionally

SH 130 Segments 5 and 6

■ FCA signed with Cintra-Zachry in 2006

- 50-year lease
- Within the TTC-35 corridor

■ Project Characteristics

- Location – Austin/San Antonio
- Continuation of SH 130 Segments 1-4
- 40 miles
- Greenfield

SH 121

■ **Project Characteristics**

- Location Between Ft Worth and Dallas
- Continuation of existing 121
- Approximately 26 miles
- Partially constructed
- Rapidly growing area

■ **Procurement Stopped**

■ **Compensation to the region**

I-69/TTC

- **Trans Texas Corridor stretching from Louisiana through “The Valley” to the Mexico border**
- **Two teams short-listed**
 - Cintra,
 - Zachry, ACS and Dragados
- **Similar in nature to TTC-35**
 - Contemplating the inclusion of US 77

IH 635

■ **Critical project in DFW area**

- Concession CDA
- Tolled managed lanes, general purpose lanes and frontage roads
- Likely requires a subsidy

■ **Four teams short listed, two remain**

- Cintra
- Dragados and Zachry

North Tarrant Express

- **Replaces the former IH 820/SH 183 procurement which was canceled**
- **Combines a concession with a PDA**
 - Priority Segment 1 must be constructed as a concession
 - Developer will create plans for constructing the remainder of the facilities
 - Includes tolled managed lanes, general purpose lanes and frontage roads
 - Likely requires a subsidy
- **Four teams short listed**
 - Balfour Beatty/ Brisa
 - Cintra/Meridiam
 - OHL
 - Itinere

DFW Connector

- **Traffic relief project just north of DFW airport**
 - Includes managed lanes for SH 114
 - Will be procured as a Design Build

- **Three teams short listed**
 - Flour/Balfour Beatty
 - Kiewit/Zachry
 - Ferrovial Agroman/WW Webber

Other Projects Going Forward

- **Analyzing 87 Projects - \$86 Billion**
- **Market Valuation**

Addressing PPP Myths

PPP Myth #1: “Toll Rates will be Exorbitant”

■ Toll rate policy for the project will be developed in cooperation with the MPO

- Initial maximum toll rate is comparable to toll rates nationally
- Toll rates may be adjusted upwards every two years
- In general, maximum increase linked to inflation – with some adjustments:
 - In periods of high inflation, consider the corresponding increase in labor rates
 - Time of day and/or congestion pricing
- “Floor” of 0%
- Tolls for video users 45% higher
 - Predicated on estimate of cost and risk

■ Traffic and revenue are developer’s risk

- In practice, developer can only charge what the market will bear

PPP Myth #2: “Constrain Future Development”

- **Beyond the competing facilities zone, TxDOT has no restrictions**

- **Within the competing facilities zone, exclude all projects in:**
 - Certain limited access highway lanes
 - STIP
 - UTP
 - Mobility 2025 Plan
 - Mobility 2030 Plan

- **Developer has no right to prohibit future development**
 - Remedy linked to compensation
 - Developer bears the burden of proof
 - Compensation to project sponsor if traffic improves

PPP Myth #3: “Developers Earn Exorbitant Profits”

- **Proposers have been reasonable given risk profile and market conditions**
 - Return expectations are subject to competition

- **Toll rate increases are effectively capped at CPI**

- **Revenue sharing mechanism will allow the Region to benefit from higher than expected traffic and revenue**
 - Base case – 0% of revenue
 - Band 1 ceiling – 12.5% of revenue
 - Band 2 ceiling – 25% of revenue
 - Band 3 ceiling – 50% of revenue

- **Unplanned project refinancing gains incorporated into annual revenue share calculation**

PPP Myth #4: “Cannot Transfer Construction Risk”

■ Risk that has been completely transferred

- Performance vis-à-vis construction standards
- Changes in standards for new construction and/or reconstruction
- Utility adjustments
- Known or reasonably should have known archeological, paleontological and cultural resources
- Known or reasonably should have known threatened and endangered species

PPP Myth #5: “Cede Control for over a Generation”

■ **52 year term limit**

- Begins at contract execution

■ **Developers determined that tax benefits of depreciation would likely be achieved**

- Treatment of “goodwill” for brownfield element of the project
- Likely deemed to be the “tax owner” for tax purposes
- Developer assumes this risk

■ **Independent engineer continues to monitor TxDOT’s interests**

- Non-compliance points help ensure standards are maintained

Myth #6: “Inappropriate Use of Funds”

- **By law, concession revenue must be spent on transportation projects in the region**
- **MPO drives the spending decisions**
- **MPO may create a method for allocating the concession fee to local projects**
 - Funding for other CDA projects in the region
 - Advanced timing for several projects
 - Several unfunded projects will be constructed

Myth #7: “Toll Authorities Do Not Have a Role”

- **SB 792 requires toll authorities to provide customer service and other toll collection and enforcement services**
 - Enhances value to the region by minimizing duplication of back office costs
 - Builds upon strong local presence, established track record and pre-existing customer base
 - Helps achieve interoperability as technology and business models evolve

Myth #8: “Public Sector Can Always Do Better”

- **Both TxDOT and/or tollway authorities had previously determined a public subsidy would be required for SH 121 and SH 130 5&6 projects**

More Information

■ Procurement related documents

http://www.dot.state.tx.us/services/texas_turnpike_authority/pub_priv_partnerships.htm

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