

TESTIMONY

**PUBLIC POLICY IMPLICATIONS OF COMPREHENSIVE
DEVELOPMENT AGREEMENTS AND RECOMMENDATIONS
CONCERNING WHETHER THEY SHOULD BE REAUTHORIZED TO
CONSTRUCT SPECIFIC ROADWAYS**

**Testimony Before the
Senate Committee on Transportation and Homeland Security**

October 13, 2010

**Alan C. Clark
MPO Director
Houston-Galveston Area Council**

**PUBLIC POLICY IMPLICATIONS OF COMPREHENSIVE DEVELOPMENT
AGREEMENTS AND RECOMMENDATIONS CONCERNING WHETHER THEY
SHOULD BE REAUTHORIZED TO CONSTRUCT SPECIFIC ROADWAYS**

Introduction

Thank you Chairman Williams and distinguished Committee Members for your invitation to address the Committee's Interim Charge 4 concerning the use of Comprehensive Development Agreements (CDAs), or as I prefer to call them, Public Private Partnerships, for the construction of specific projects. My name is Alan Clark and I am the Houston-Galveston Area Council's Director of Transportation and Air Quality Planning.

Our Metropolitan Planning Organization's (MPO) Transportation Policy Council has not yet taken a formal position on CDA authority for TxDOT. So these comments reflect my own observation though I have consulted with a number of our local toll authorities.

Recommendations

The legislature should enable the Texas Department of Transportation to use Public Private Partnerships (of which the CDA is but one example) for the development of defined transportation projects with:

- Explicit approval of County Toll Authorities which might otherwise exercise Primacy for the development of the project, and
- Explicit approval of the Metropolitan Planning Organization (if the project is located within a metropolitan area).

Additionally, the legislature should preserve the ability of local toll authorities to utilize Public Private Partnerships (PPPs) for project development, finance, implementation and operation.

Finally, I also recommend the legislature encourage the use of PPPs which contain only those elements needed to enable more traditionally developed projects to be implemented. For some projects, finance may be the focus of the PPP. For others, a PPP may be limited to project environmental, engineering and design. Still others may include only construction and operation. Few projects may benefit from a true Comprehensive

Development Agreement combining all elements of project development, finance and operation. More flexible use of PPPs could create greater opportunity for competition among a larger number of firms, including those traditionally operating within the state.

Policy Implications

Toll Authorities in the Houston-Galveston area are a response to inadequate investment in the state's transportation infrastructure. Seven of the eight counties in the Houston-Galveston urban area have created or have authorized formation of a county toll authority. Two (Harris and Fort Bend counties) have successfully developed critical mobility projects serving hundreds of thousands of travelers each day. A third (Montgomery County) has smaller scale toll projects under construction. These three plus Brazoria County have additional toll projects under various stages of development.

Moreover, our local toll authorities have implemented projects with a variety of partner agencies, most notably TxDOT. However, local toll authorities are often not best positioned to be the developer and operator of toll viable projects within their service area. There are several reasons why TxDOT may be in a position to better deliver a toll viable project, including:

- **Scope:** The tolled project is a minor addition to an existing or planned state highway (the development of new "managed" or "priced" lanes on an existing freeway);
- **Size:** The size of the toll investment is beyond the financial capacity of the local toll authority or the local toll authority may not be in the best position to secure attractive financing terms;
- **Equity:** The proposed project may require an "equity" investment beyond the capacity of a local toll authority or its parent county government;
- **Geography:** The toll project may not be logically divided along the political boundaries of toll authorities or may represent vital (but not independently toll viable) connecting pieces to a larger state route;

- **Connectivity:** connectivity of the potential toll project to existing elements of the state system may not be readily, effectively made without addressing roadway deficiencies on those connecting state routes.

Therefore, restoration of project specific PPP authority to TxDOT under the following conditions would be of public benefit:

- Local governments (county toll authorities) must retain the opportunity to exercise Primacy (first right of refusal to develop a toll project).
- TxDOT should have ability to use PPP when:
 - Specific toll road projects that have concurrence for state development from the county toll authorities in which the project is located and (if in the MPO planning region) the MPO Policy Board.
 - Project scope is consistent with adopted MPO Metropolitan Transportation Plan or (if outside MPO planning region) the State Transportation Plan.
 - Toll rates and the toll rate policy for each state developed toll project have received concurrence of the MPO Policy Board if located in the MPO planning region.
 - Concession payments to the state (if any) are maintained, reported and its use directed by the MPO Policy Board (if the project is located within the MPO planning region).
 - State equity participation in a toll project does not reduce state and federal highway funds otherwise available to the area served by the project unless approved by the MPO Policy Board (if located within the MPO planning region).
 - MPO Policy Board concurrence and consultation is sought on design issues such as: access to/from the proposed facility, transit and HOV use, aesthetic treatments, etc.

This completes my prepared remarks. Thank you again for the opportunity to address you today.