

# TEXAS PUBLIC-PRIVATE- PARTNERSHIPS RECENT DEVELOPMENTS

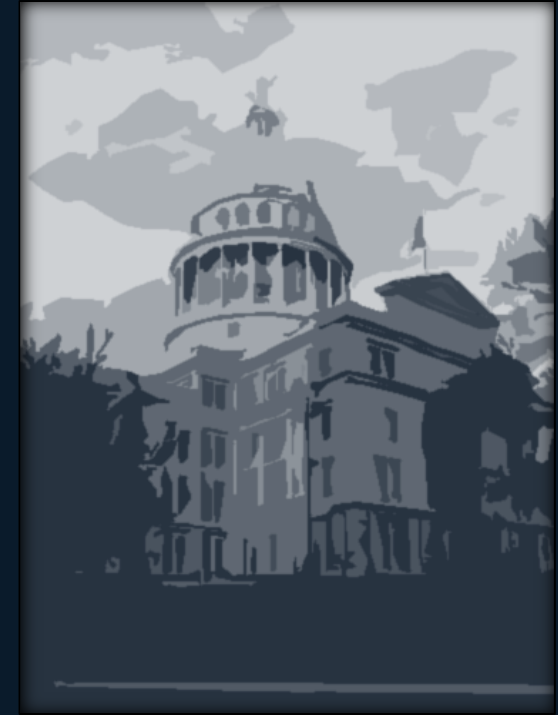
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TxDOT – Strategic Projects Division Chief Planning and Project Officer

# Evolution/Development of P3s - Legislative Authority & Limitations

- 2002- TxDOT began procuring PPP projects
  - \$1.3 billion (SH-130 Seg 1-4) toll road
- 2003 – Legislation provided TxDOT concession authority
  - 2005 – Negotiated SH-130 Segments 5 & 6 Concession
- TxDOT's present authority came in 2011 with Senate Bill 1420 and 2013 with Senate Bill 1730
- Texas 2011, 82<sup>nd</sup> Legislative Session:
  - Primacy Legislation (SB 1420)
    - Stakeholder committee must concur to deliver via concession
- Texas 2013, 83<sup>rd</sup> Legislative Session:
  - Concession Authority (SB 1730)
    - Authorized 22 specific CDA projects
    - Termination Formula Required
    - Concession procurement authorization expires in 2017



## Design-Build

- May not include private financing
- Not a prescriptive design
- Innovation by the Developer
- Review at project level as packages are released
- Coordination with FHWA as needed
- May include optional Maintenance Agreement
- Limited to 3 projects per fiscal year approved by Commission
- Construction must be estimated at \$50 million or more

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## Comprehensive Development Agreements

- Same as Design-Build (D-B)
- May also include:
  - Toll Concession (Revenue Risk)
  - Gap Financing (f)
  - Maintenance
  - Toll Operations
- More risk transfer than D-B
- May include private financing
- Limited to specific projects identified in Senate Bill 1730

- Texas **2015**, 84<sup>th</sup> Legislative Session:
  - Anticipate Transportation Funding to be at the forefront
  - Potential Legislation regarding:
    - ❑ Additional CDA and or DBOM with finance
    - ❑ Construction Manager at Risk or Construction Manager/General Contractor
    - ❑ Innovative Rail Agreements



# TxDOT P3 Program Overview

## Transportation Projects Program Overview

Total \$27.6B

- Concession- Operations & Maintenance
  - Total \$4.8B
- Concession-Design/Construction
  - Total \$4.2B
- Concession-Active Procurement
  - Total \$0.6B
- DB -Operations & Maintenance
  - Total \$1.3B
- DB -Design Construction
  - Total \$5.8B
- DB- Active Procurement
  - Total \$3.0B
- Pre-Procurement
  - Total \$7.9B

### PRE-PROCUREMENT

\$ 7.9 Billion

### PROCUREMENT

\$ 3.6 Billion

### DESIGN - CONSTRUCTION

\$ 10.0 Billion

### OPERATIONS & MAINTENANCE

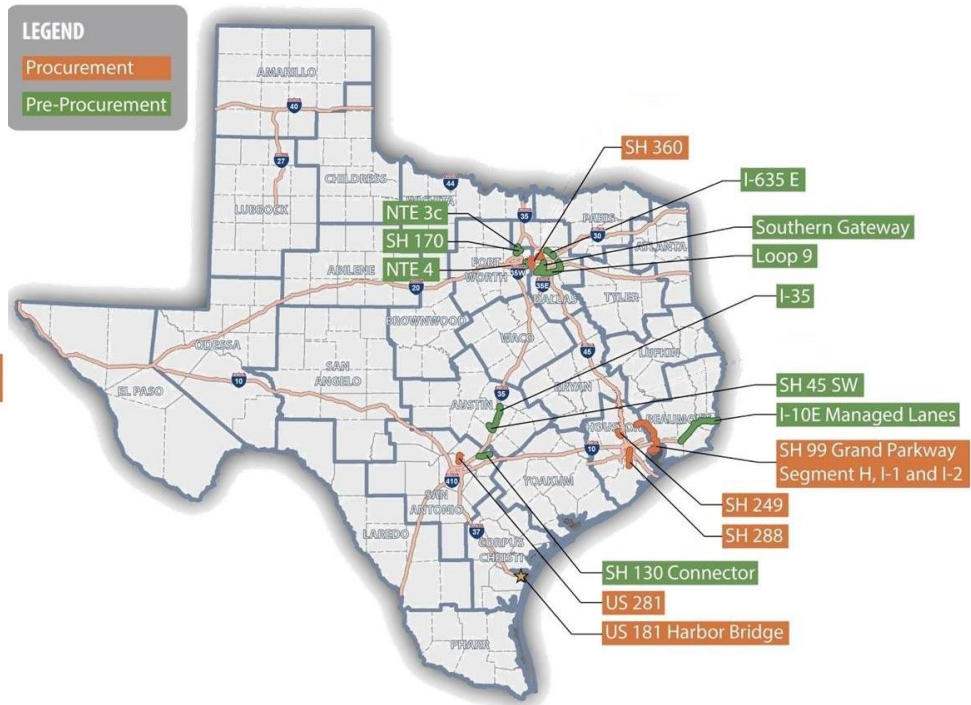
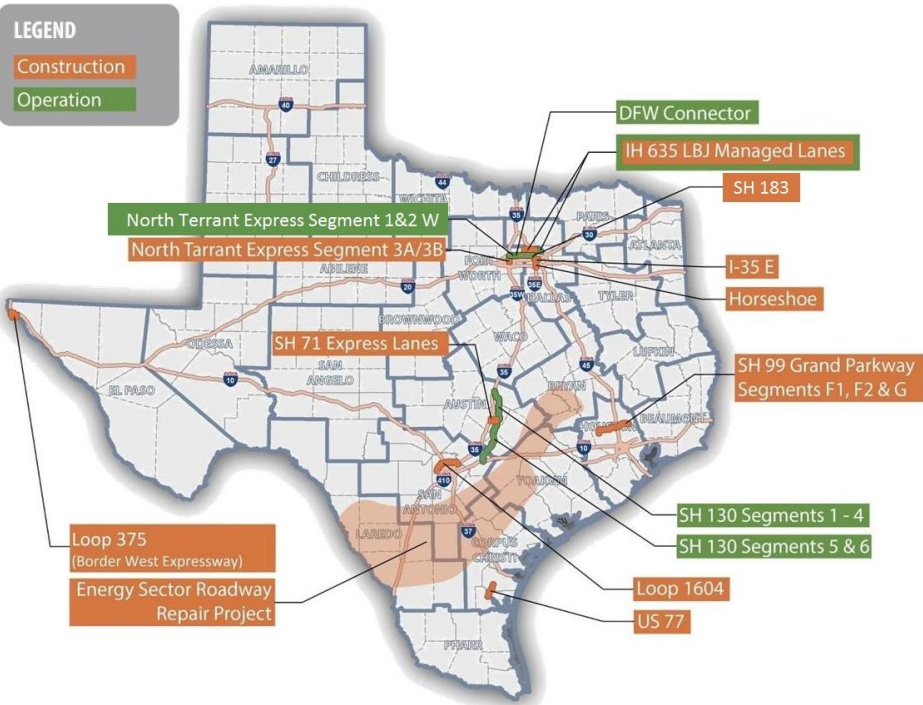
\$ 6.1 Billion\*

Includes SH 130 Seg 1-4, \$1.3B

# TxDOT P3 Program Overview

## Current Design-Build and Concession Projects

## Future Design-Build and Concession Projects



# Past Industry Challenges and Today's Solutions

## Keys to Success

- Departmental Paradigm Shift Allowing Innovation
  - Internal TxDOT D/B Training
  - Enterprise Risk Workshops
- Partnering (Industry Outreach)
  - Project Specific
  - General Industry
- Innovative Capture Initiative
  - Sought input from Private and Public Sector Across the Nation
  - Capturing lessons learned from innovation in contracting and ATCs
- Contract/ATC Reviews
  - Regular Validation of Technical and Contractual Requirements
  - Streamlining Submittal Requirements

## Lessons Learned

- Ensure Maximum NEPA flexibility
- Early Delivery Method Selection
- Pre-ATC Submittals/Confidentiality
- Pre FHWA Approvals on exceptions
- Don't Over Design
- Early Technical Information
- Proposal Evaluation Alternatives
- Expand ATC Definition
- Performance Based Specifications
- Post Award Innovation

# Concession Project Challenges and Today's Solutions

## Transparency and Accountability

- Legislative authority and rules mandate an open and public process
- Detailed and transparent process (TxDOT website)

## Loss of Public Control

- TxDOT retains ownership – lease agreement
- Texas Transportation Commission establishes toll rates
- TxDOT sets performance requirements and audits
- SB 1420 Committees – Local Stakeholder Committees

## Private Profits at Public Expense

- TxDOT sets maximum payment curves
- TxDOT sets revenue caps & maximum toll rates
- TxDOT receives shared revenue

## Risk of Bankruptcy

- Project reverts to TxDOT at owner's expense
- TxDOT not liable for private debt payments
- Contract terms protect TxDOT from liability

## Buy-Out

- TxDOT able to terminate contract and buy-out private interest
- Price greater of fair market value or outstanding debt



# Questions?

TxDOT website

<http://www.txdot.gov/business/partnerships/cda.htm>



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