Trans Texas Corridor Case Study

A bold and visionary transportation program that foundered due to lack of outreach and stakeholder buy-in.

Background

Initiative Description

The development, evolution, and recent end to the Trans Texas Corridor concept—at least as originally conceived—have been unfolding over the past seven years. The Trans Texas Corridor was introduced as an ambitious proposal by Governor Rick Perry in 2002 to build a 4,000-mile statewide network of transportation facilities and utility lines over a 50-year time span within new rights-of-way up to 1,200 feet in width. Included in the proposal were toll and non-toll highway lanes for general traffic as well as exclusive lanes for trucks, rail lines for high-speed passenger service, and separate tracks for freight, with room left over for power, telecommunications, and pipe lines for water, oil and gas.¹

Its introduction had quickly followed the beginning of what would become a period of multiple constitutional and statutory changes to Texas law from 2001 to the present, designed to finance the state’s growing transportation needs which could not be met by inadequate motor fuels tax receipts. Most notable and controversial of these new finance mechanisms were provisions for the development and operation of toll roads to be financed, designed, constructed and operated, by private entities (concessions) who would collect toll revenue to recover their initial investment and ongoing costs of operations and maintenance. Although as of early 2009, the Trans Texas Corridor is no longer, two of its original highway components (the TTC-35 and I-69/TTC) are being advanced, and future multimodal corridor expansions may be pursued on a case-by-case basis utilizing the new financing tools that have evolved throughout the Trans Texas Corridor process.

Texas’ Transportation Background

The Texas Department of Transportation (TxDOT) is governed by the five-member Texas Transportation Commission, whose commissioners are appointed by the Governor with the advice and consent of the Senate. The commissioners’ six-year terms are staggered, so that an appointment is generally made every two years. The governor designates one commissioner to serve as the chair. The Texas Transportation Commission is responsible for:²

- Developing a multimodal statewide transportation plan
- Guiding and overseeing the planning, design, construction, maintenance, and operation of the state highway system
- Awarding contracts for state highway improvements
Fostering, and assisting in the development of public and mass transportation in the state
Adopting rules for the operation of the department

TxDOT maintains nearly 80,000 miles of state roads and about 50,000 bridges—more than any other state. Historically, Texas has funded its transportation system almost exclusively on a pay-as-you-go basis, primarily relying on the motor fuels excise tax and vehicle registration fees. A shift in this fundamental approach began in 2001 when the voters of Texas approved a constitutional amendment (Proposition 15) designed to accelerate the funding of transportation projects aimed at both system preservation and new construction. This shift would soon propel Texas to the forefront in terms of innovative approaches to financing transportation, attracting interest from across the country and around the globe in new opportunities on a very large scale for investors and developers, as well as contractors and engineers.

In 2001, three significant changes to transportation funding were enacted through Proposition 15 and its enabling legislation:

- The enabling legislation supporting this constitutional amendment authorized, upon approval of the Texas Transportation Commission, the creation of Regional Mobility Authorities (RMAs). RMAs were granted the ability to operate at the county level and construct, maintain, and operate toll highways if a regional toll authority did not already exist. The advent of RMAs was expected to relieve TxDOT of the significant financial burden of building and maintaining numerous urban highways that had been identified as priority projects in metropolitan areas such as Austin, San Antonio, and El Paso, and placing these areas on a comparable footing with Dallas and Houston where toll authorities and toll roads already existed.
- The concept of toll equity was also authorized, by which TxDOT could finance the development and construction of toll roads without having to repay the State Highway Fund as previously stipulated in the Constitution. RMAs could now issue debt and leverage federal and state funds to finance toll facilities without the requirement of repayment, which often prohibited a project from being implemented.
- The constitutional amendment created the Texas Mobility Fund designed to finance the construction, reconstruction, acquisition, operation, and expansion of state highways as well as toll roads and bridges through grants, loans, and revenue from general obligation bonds. Sources of revenue other than the constitutionally dedicated vehicle registration fees and fuel taxes could be used, although these sources were not initially identified. The Texas Transportation Commission was authorized to sell bonds backed by the Fund, with the option of state backing if the Fund was insufficient.
In addition to these three provisions, enabling legislation also dissolved the Texas Turnpike Authority, transferring its powers and duties to the Texas Transportation Commission and granting it and TxDOT the authority to enter into four Exclusive Development Agreements (EDA) before March 1, 2004. EDAs were considered public-private partnerships, which could allow private franchises to construct, operate, and maintain a toll road project. They were also authorized to use design-build as a project delivery method.

**Development**

**Demonstrated Need**
Texas has been among the fastest growing states, with a 65 percent spike in population between 1988 and 2001. In addition, a dramatic growth in highway travel was a result of both passenger vehicles as well as sharp increases in truck traffic sparked by growth in goods-movement within the state and interstate traffic resulting from the 1994 North American Free Trade Agreement. These factors combined to create a level of demand on the state’s highway system that far outstripped the capacity of TxDOT to expand and maintain it. In 2001, TxDOT estimated that it had only 36 percent of the funding required to meet the growth in travel demand.

**Initiative Development**

**Governor Perry’s Proposal**
Notwithstanding the state’s extraordinary growth in a period of economic prosperity, and the manifest need for increased transportation capacity, the political will did not exist in Texas to raise the state’s fuel tax, which had not been increased from its rate of 20 cents per gallon since 1991 and whose purchasing power had been reduced by 25 percent by 2001. The clash between the “irresistible force” of growth in people and freight and the “immovable object” of no additional fuel taxes certainly helped to spark interest in alternative strategies that ultimately included a constitutional amendment in November 2001 and a number of innovative transportation funding approaches advanced by the Governor and the Legislature.

An initial affirmative outcome at the polls, helped set the stage for Governor Rick Perry, who in January 2002, just three months after the referendum passed, unveiled the broad and bold Trans Texas Corridor proposal introduced earlier and discussed in greater detail below. The Governor intended to finance the plan without raising taxes by capitalizing on Proposition 15’s provisions—the newly created Texas Mobility Fund, toll equity, partnerships with public or private entities through Exclusive Development Agreements, and the formation of Regional Mobility Authorities.

It would not be unreasonable to infer that the Trans Texas Corridor plan was in the making, but not yet discussed publicly, at the same time that voters were being asked to...
approve a measure that would help establish plausibility for the plan’s financing over the next 50 years. The plan was announced without any prior public discussion and was not a product of TxDOT’s ongoing statewide transportation planning activities. Following the announcement, the Governor directed TxDOT to create a more detailed implementation plan, which took several months to prepare and was released in June 2002.

**TxDOT’s Implementation Plan**

The TxDOT report, *Crossroads of the Americas: Trans Texas Corridor* outlined the framework to implement the Governor’s vision. The Trans Texas Corridor would include a network of multimodal corridors up to 1,200 feet wide encompassing 4,000 miles of:

- A high-speed, controlled-access tollway with separate lanes for passenger vehicles (three lanes in each direction) and trucks (two lanes in each direction)
- Two-way rail (six tracks, three in each direction) with separate commuter/freight and high-speed passenger facilities
- A dedicated utility zone for transmission of oil, natural gas, energy, water and data

The report estimate that 6.2 million residents would live near the Trans Texas Corridor, out of which 3.7 million residents (59 percent) would live near four priority corridors out of the eleven proposed (see Figure 1). Four priority routes would represent 49 percent of the total Trans Texas Corridor mileage:

- I-35, I-37 and I-69 (proposed) from Denison to the Rio Grande Valley
- I-69 (proposed) from Texarkana to Houston to Laredo
- I-45 from Dallas-Fort Worth to Houston
- I-10 from El Paso to Orange

The cost estimate for the entire Trans Texas Corridor ranged from $145 to $184 billion and would require more than half a million acres of new right-of-way. Proposed finance mechanisms included those enacted through Proposition 15 in 2001 and introduced in the Governor’s proposal—toll equity, RMAs, and the Texas Mobility Fund. Additionally, the TxDOT report recommended the use of private concessions, effectively expanding upon the authorization for EDAs. In a concession, a private or quasi-private company covers capital as well as ongoing operational costs and is compensated either on a set schedule or based on facility use. The concessionaire is typically responsible to perform design, construction, operation, finance, and maintenance. Contract periods typically run for decades, with recent examples extending from 35 up to 100 years, after which an extension can be granted or, in some cases, the facility may revert to the public sponsor.

The TxDOT report noted that further state (and potentially federal) legislation would be required to finance and implement the Trans Texas Corridor, including capitalizing the Texas Mobility Fund, clarifying and expanding the use of EDAs, and streamlining right-of-way acquisition and environmental review processes.
One year after the TxDOT implementation report was issued, HB 3588 was passed and signed by the Governor in June 2003. The bill instituted the following provisions:

- It statutorily created the Trans Texas Corridor and authorized TxDOT to finance the plan using the State Highway Fund, tolls, fees, bond proceeds, the state infrastructure bank, and federal sources. It also permitted and encouraged the Department to solicit the participation of private entities in the planning, design, construction, and operation of facilities. TxDOT was also granted the authority to acquire real property in advance of determining the corridor’s final route.
- TxDOT was granted the power to plan, construct, maintain, and operate rail facilities or systems, both new and existing.
- TxDOT was granted the power to convert segments of the non-tolled state highway system to toll road projects and, if so desired, transfer them to RMAs.
- The cap on toll equity was changed from 30 percent of the annual obligation authority under the federal highway-aid program established in 2001 to $800 million from monies in the State Highway Fund.
• It also authorized several new financing tools to implement the Trans Texas Corridor including:
  ▪ Authorizing RMAs to issue revenue bonds, to impose tolls, fees, and fares, and to lease or sell a part of a transportation project;
  ▪ Authorizing TxDOT to pay pass-through tolls to public or private entities (fees based on the number of vehicles using a highway paid by a state or local agency or authority to a private concessionaire as reimbursement for particular service [e.g. maintenance])
  ▪ Capitalizing the Texas Mobility Fund with motor vehicle inspection and driver’s license fees, which was expected to generate $250 million to back $3 billion in bonds
• The sunset date for the four EDAs authorized in 2001 in conjunction with Proposition 15 was eliminated. Instead TxDOT was authorized to enter into any number of Comprehensive Development Agreements (CDA), which again included the potential for concessions with private entities to construct, maintain, repair, operate, extend, or expand a turnpike project.

Although HB 3588 was “revolutionary” in the annals of transportation financing, not just for Texas, but for the U.S. as a whole, and would have enormous impacts both on the public as well as the transportation community, the measure garnered relatively little legislative or public attention, passing late in the 2003 session. As one retrospective article in the *Austin American-Statesman* put it, “amid the hoopla over redistricting and the state budget crunch [roughly a $10 billion deficit], most people probably didn’t notice.”6 Much of the media reporting at the time focused on a driver responsibility component of the bill which implemented a modified driver points system and increased fines and court costs associated with traffic violations, directing the revenue to trauma facilities and emergency medical services.

Also in 2003, Proposition 14 was approved by the voters granting TxDOT debt authority. Revenue bonds, restricted to two-year terms and backed by the State Transportation Fund, were designed to deal with TxDOT’s short-term cash flow problems.

**Criticism Begins in 2004**
Not long after the passage of HB 3588, in mid-2003, it became more apparent to the public how sweeping its changes were to the ways in which Texas could finance its road system. Between October 2003 and March 2004, TxDOT adopted a set of toll road guidelines, including guidance on the conversion of non-tolled segments of the state highway system. This action drew strong debate on the strategy’s merits concerning, for example, the toll conversion of two Airport Freeway lanes in the Dallas-Fort Worth area7 or the Central Texas Regional Mobility Authority’s (CTRMA) plans to convert Austin area freeways to toll roads.8 TxDOT’s push for future capacity expansion through tolling drew objections from
local officials across all areas of the state, although some acceptance came from the Dallas-Fort Worth area.9

The public awakening was also sparked as TxDOT began advancing the planning for the Trans Texas Corridor by hosting a statewide series of public hearings in February 2004 to solicit input on when and where to build the corridor’s components. Later, towards the end of the year, TxDOT hosted public hearings specific to the first Trans Texas Corridor route selected for study—TTC-35/I-35 Bypass running north-south from Denison north of Dallas-Fort Worth to San Antonio—and awarded the development contract to the private consortium Cintra-Zachry, a Spanish-Texan team, in December. The 316-mile TTC-35 was estimated to cost $6 billion with a 50-year concession worth $1.2 billion to the state.

Rural opponents began to vocalize their concerns against the corridor’s plan to take large swathes of undeveloped land. The Texas Farm Bureau, which had supported the initial proposal in 2002, reversed its position and began to oppose the plan. TxDOT’s response that the Trans Texas Corridor was meant to be a long-range vision, and not a detailed blueprint, did not resonate among those who guessed from available small-scale maps that their land or their communities were being threatened.10 One outspoken couple in Fayette County, located midway between Austin and Houston, began a watchdog website to track the developments of the Trans Texas Corridor and encourage residents to communicate their opposition to their legislators. Local leaders were also concerned with the cost of connecting urban areas to the Trans Texas Corridor, which was intended to pass many miles from cities they were ostensibly meant to serve.

HB 2702 (2005)
Following the mounting criticism toward the Trans Texas Corridor as well as the prospect of a heavily increased reliance on tolling to fund transportation, there was an expectation going into the 2005 legislative session that the policies put in place by HB 3588 would undergo significant change. Underscoring how that bill “slipped under the radar” in 2003, the Austin American-Statesman reported that even the media had not been paying close attention at the time. But that circumstance was about to change for the upcoming session, as HB 2702, which initiated a series of limitations and prohibitions, was passed by the Legislature and signed by the Governor in June 2005.11 Its key provisions included:

- A number of modifications and clarifications to the acquisition of real property for the Trans Texas Corridor (and other projects) including encouraging the purchase of options for possible future use (of not more than five years in duration) and offering leasebacks to property owners when the property is needed for immediate use
- Prohibiting non-compete clauses in CDAs for projects included in the Unified Transportation Program of a local government. (Non-compete clauses meant that state and local authorities agree that no transportation improvement can be made
which might adversely affect traffic and revenue for the project covered by the CDA)

- Requiring RMAs, CDAs, or toll authorities to approve a methodology for setting, increasing, or collecting tolls
- Authorizing RMAs to offer transit services and the transfer of toll authority assets to an RMA
- Limiting concessions to 50 years and expanding them to rail projects, joint toll road-rail projects, and projects that contain both tolled and untolled elements; TxDOT CDAs could be 70 years under certain conditions, if not on the Trans Texas Corridor
- Clarifying the application of pass-through tolls and authorizing pass-through fares for rail projects
- Prohibiting the conversion of an untolled highway to tolled highway expect under certain pre-existing stipulations or if it gained county and voter approval
- Removing the $800 million cap on toll equity, replacing it with a five-year, average, annual expenditure limit of $2 billion

A retrospective on transportation project and policy development across the state for 2005 noted that, although the bill contained notable modifications to HB 3588, including better protection of rural interests during the development of the Trans Texas Corridor, the Legislature at that time remained committed to supporting the Governor’s pro-toll policies as the preferred alternative for financing future transportation projects. Legislative efforts to increase the state’s motor fuels tax, index it to inflation, or allow local regions to increase it separately failed to gain traction in 2005. It was also expected that all or part of three new toll roads under construction would open in 2006, while several others would continue in their planning and construction.

**TTC-35 DEIS and Governor’s Race (2006)**

The Draft Environmental Impact Statement (DEIS) for the TTC-35 project was released in early April 2006 and over 50 public hearings were held along the corridor in July and August. The public meetings drew substantial negative reaction to the proposal, including opposition to the taking of virgin land and farmland outside of existing right-of-way, the potential for unfair compensation, increased illegal immigration and truck traffic along the corridor, and the prospect of the facility’s foreign ownership.

The 2006 gubernatorial race, which ultimately reelected Governor Perry, also generated strong, unfavorable sentiment for private toll road development and the Trans Texas Corridor. Chris Bell, the Democratic nominee, and Republican-turned-Independent Carole Keeton Strayhorn expressed their opposition to these plans. Strayhorn, responding to the large crowds at the TTC-35 public hearings, criticized the proposal, arguing that tolling highways was unnecessary, and instead suggested the Texas Mobility Fund, GARVEE bonding, and realizing efficiencies within TxDOT’s operations.
Meanwhile, the plans for the TTC-35 moved forward. TxDOT and Cintra-Zachry signed an agreement in June under the umbrella of the overall corridor to develop a 40-mile extension of the soon-to-be-complete State Highway 130 near Austin. SH 130 and this extension would ultimately form a part of the full TTC-35 corridor. The announcement was made at a seminar for investors in New York City by a Texas Transportation Commission member who declared the state “open for business,” an oft-cited quote underscoring the state’s approach to involving the private sector in future transportation facility development. Later in September, a master plan for the full development of the TTC-35 was released. It included a timeline for building certain components over the next 50 years, their costs, means of payment, and estimates of revenue generation.

**SB 792 (2007)**

In early 2007, much of the dissatisfaction with the state’s aggressive policy toward private toll road development began to culminate in a legislative response. There was widespread sentiment that TxDOT’s power to pursue CDAs needed to be brought into check. Local toll authorities in Dallas-Fort Worth (North Texas Tollway Authority [NTTA]) and Houston (Harris County Toll Road Authority [HCTRA]) had felt marginalized by TxDOT’s preference to seek deals with private developers and collect multibillion dollar upfront payments. In February, a deal was announced to lease SH 121 near Dallas to Cintra, which would assume responsibility for existing operations, construction already underway, and an additional extension. Additionally, a State Auditor’s Report was released that same month noting that TxDOT had overstated the expected gains and underestimated the potential costs of the TTC-35 project, and had been pursuing the deal without sufficient oversight.15

The 2007 state legislative session produced numerous proposed bills curtailing TxDOT’s powers and the execution of CDAs with private entities. An all-day senate transportation committee hearing was held on March 1 examining the efficacy of private toll road development through the questioning of state transportation officials. Committee members expressed concern that private development would lead to higher toll rates, which would provide excessive profits rather than needed investments in the region’s transportation system. A large contingent of the public was also in attendance, primarily voicing their opposition to the TTC-35.

By May and following negotiations with the Governor, who had disapproved of an initial bill passed by the House and Senate (HB 1892), SB 792 was signed in June after the end of the legislative session. It placed further restrictions on the development of private toll road development, although several exceptions were made. The main provisions of the bill included:
• Reducing the maximum term of a CDA with TxDOT from 70 to 50 years and requiring the contract to contain an explicit mechanism for setting the facility’s purchase price if TxDOT chose to take over the project
• Placing a two-year moratorium (through September 1, 2009) on CDAs with private entities, with a number of exceptions, including those in which a major portion was located in a nonattainment or near-attainment air quality area, and establishing a legislative committee to study this prohibition
• Sunsetting authorization to enter into CDAs following the end of the moratorium; authorization for projects still allowed under the moratorium were excepted, instead sunsetting on August 31, 2011
• Requiring TxDOT to reinvest CDA revenue back into projects in the same region containing the toll project
• Granting certain counties the right of first refusal (primacy) to develop a toll project, rather than permitting TxDOT to pursue a CDA with a private developer as the first option
• Establishing a market valuation process under which a toll project must be developed; the market valuation process specified an initial toll rate and rate increase formula
• Furthering the limitations on including non-compete clauses in CDAs
• Requiring TxDOT to issue and distribute timely updates on the Trans Texas Corridor, including contract documents and master plan updates
• Requiring greater fiscal transparency for public and private developers of toll projects

Although SB 792 enacted a comprehensive set of new restrictions on the use of CDAs with private entities, a number of project exceptions applied.

Nonetheless, as part of the backlash to private deals, TxDOT permitted NTTA to submit a last-minute bid for SH 121 after the terms of the Cintra deal had been released. Although the NTTA deal was less expensive and incorporated a plan to reinvest a greater amount of money into the region’s existing tollway network, an independent report concluded that a private deal for SH 121 would result in a better overall value and less risk.¹⁶ Even so, Dallas-Fort Worth MPO’s Regional Transportation Council voted to lease the roadway to NTTA in June, supplanting Cintra.

**TxDOT’s Difficulties and the End of the Trans Texas Corridor Vision**

In November 2007, TxDOT announced a budget shortfall of $1.1 billion for 2008, ascribing the delay for expansion projects to inflation, reduced federal aid, increased maintenance needs, and loss of toll revenue through private toll road leases. That same month, a DEIS was released for a second planned Trans Texas Corridor project—the I-69/TTC—a part of the federally-envisioned I-69 running from Canada to Mexico. Plans called for the highway
to use existing South Texas roadways south of Houston but pass through rural regions north and west of the city. Eleven town hall meetings on the overall Trans Texas Corridor were held in January and February 2008, followed by 46 public hearings on the I-69/TTC DEIS into early March. The meetings drew continued opposition toward the Trans Texas Corridor concept and many of the same objections to the I-69/TTC as previously voiced for the TTC-35. Especially in rural areas, concerns cited included the taking of land and destruction of rural quality of life, increased illegal immigration and crime along the corridor, and environmental harm. Many comments suggested that TxDOT utilize existing highways first for expansion before pursuing new corridors.¹⁷

Meanwhile, in February 2008, TxDOT revealed the funding shortage that it had announced three months earlier was due to an accounting error in which revenue from the sale of bonds was double counted, resulting in an over commitment of funds. The revelation of this error triggered a state audit. A second announcement of bad news that month revealed that the six toll roads owned by TxDOT were not producing the anticipated level of revenue that was to be reinvested in road projects. By the end of March, legislators were questioning the continued use of the Trans Texas Corridor term because of the severe negative connotation it had acquired.¹⁸

Further criticism of TxDOT was levied in June when a preliminary Sunset Advisory Commission report was released. (The Sunset Advisory Commission is comprised of state legislators who review state agencies on a 12-year cycle to examine if they are successfully fulfilling their established function.) The report, citing TxDOT’s objectionable strategy for toll road development and poor financial planning, recommended overhauling the agency.

In June, 2008 TxDOT announced plans that the I-69/TTC would use only existing highways along the route, abandoning plans to pass through rural regions. They also announced the selection of the private consortium of Zachry/ACS over a competing proposal from Cintra to plan the I-69/TTC.

In early 2009, TxDOT declared that the Trans Texas Corridor as originally conceived and planned, dating back to 2002, was officially dead. Only standalone projects would be considered in the future, with the environmental analyses of the TTC-35 and I-69/TTC continuing. This approach would result in the selection of individual transportation projects, tailored to specific regions’ needs, using the various financing tools made available throughout the Trans Texas Corridor process. Corridor widths, while still potentially accommodating multiple modes as necessary, would be generally up to 600 feet, rather than 1,200 feet in the initial concept. The Trans Texas Corridor designation, despite still being codified in statute, would no longer be used, replaced by the highway numbers originally associated with each highway segment. TxDOT discussed this revised approach in its publication titled *Innovative Connectivity in Texas/Vision 2009.*¹⁹
Sponsors and Stakeholders

**Governor Rick Perry & Commissioner Ric Williamson**

Rick Perry became Governor in late 2000, after serving as Lt. Governor (1999-2000), Agriculture Commissioner (1991-1998), and a member of the state House of Representatives (1985-1990). While in the Legislature, he worked closely with Ric Williamson, a state representative from 1985-1998. Shortly after taking office in 2001, Governor Perry appointed Ric Williamson to the Texas Transportation Commission. Multiple interviewees noted that Governor Perry and Commissioner Williamson were like-minded and generally in favor of market-based solutions to financing state transportation needs, a strategy that eschewed raising taxes. As one interviewee remarked, Commissioner Williamson felt that TxDOT should be operated like a public utility.

Governor Perry introduced the Trans Texas Corridor in early 2002 one year after taking office. Although he was credited with proposing this unprecedented plan, Commissioner Williamson was the key architect and implementer of the Trans Texas Corridor, and ultimately the focal point of its detractors. Throughout the ongoing debate over the Trans Texas Corridor and related legislation supporting private toll road development, there was a general consensus that Commissioner Williamson, who became chair in 2004, was intellectually brilliant, embracing of debate, and a strong believer that his policies and values were the right ones. However, Williamson was also often considered authoritarian, running TxDOT in a way that ultimately engendered significant opposition from the public, local entities (notably toll authorities), and elected officials. As the backlash to the Trans Texas Corridor and TxDOT’s approach to implementing toll roads reached a critical state in 2007, Senate Transportation and Homeland Security Committee Chair John Carona (R-Dallas) said publicly that Williamson had “worn out his welcome” and should be replaced.

Representative Mike Krusee

Representative Mike Krusee (R-Round Rock) became chairman of the House Transportation Committee in 2003 and was the legislative leader behind the financing techniques implemented through HB 3588 and HB 2702.

His vision of a comprehensive and innovative financing package that culminated in HB 3588 began in 1998 when Dell, a major employer headquartered in Rep. Krusee’s district north of Austin, decided to locate a major expansion of their business, expected to create 10,000 jobs, to Nashville, Tennessee, rather than the Austin area. Rep. Krusee reports that Dell cited as a primary reason for this decision the failure to implement necessary Austin-area highway improvements (particularly I-35) and the likelihood that such
implementation was not going to happen within a sufficient timeframe to suit their just-in-time manufacturing and shipping business model. Rep. Krusee approached then-Lieutenant Governor Rick Perry determined to work on a financing package to back the construction of SH 130, a tolled route facilitating mobility within the critical north-south corridor on the east side of Austin that Dell had cited as a key reason for its decision.

By 2001, a financing package for SH 130 had been engineered to include toll-backed revenue bonds, a TIFIA loan, $700 million in motor fuel tax funds, and $500 million from local contributions. Also in 2001, Rick Perry had become Governor and had appointed Ric Williamson to the Texas Transportation Commission. Although the SH 130 financing package drew accolades for being innovative and sufficient to accelerate construction of the badly-needed roadway, Commissioner Williamson did not approve of the deal because an inordinate share of motor fuel tax revenue would have gone to the Austin area. Rep. Krusee felt that this outcome meant that such a financing package would not be developed again.

Rep. Krusee began to examine alternative finance models, including public-private partnerships, that would provide capital and absorb many of the risks associated with building SH 130. Broadening this thinking beyond a single project over the 2001 to 2002 period culminated in Rep. Krusee’s championing of HB 3588 in 2003, after having been appointed chairman of the House Transportation Committee. Rep. Krusee’s then-counterpart in the Senate, Sen. Steve Ogden (R-Bryan), as well as TxDOT staff, were not actively involved in the formulation of the bill. However, Rep. Krusee disagreed with assertions later made by many legislators that they had not fully understood the implications of HB 3588 when voting to pass it.

Additionally, in devising HB 3588, Rep. Krusee had been considering the benefits of applying the bill’s financing mechanisms to comprehensive corridor planning, incorporating, for example, multiple modes or other infrastructure such as utilities into one overall environmental review to accelerate their implementation. However, he disagreed with the approach taken by Governor Perry and Commissioner Williamson to present such a project concept in the form of the Trans Texas Corridor, where all corridors envisioned for the next 50 years were laid out on a map, appearing to be more than just conceptual in nature.

In 2005, Mr. Krusee again led the development of the follow-up to HB 3588, HB 2702. The need for the bill was dictated by necessary statutory clarifications and a response to mounting opposition from rural regions of the state to plans for the Trans Texas Corridor and the use of concessions. During the formulation of HB 2702, input was solicited from TxDOT, whose staff was newly-energized by the prospect of expanded project work from
the provisions enacted in HB 3588. Compromises were made with rural legislators to curtail private development along the Trans Texas Corridor’s proposed rights-of-way.

**Transportation Industry**

Prior to the enactment of HB 3588, the transportation industry involved in road-building in Texas—principally the engineering and contracting communities—primarily measured their business based on the volume of projects that could be designed or built each year with revenue from the motor fuels tax. With the introduction of HB 3588 promising to create a wide array of new and little-understood funding mechanisms and involve the private sector in the implementation and operation of new facilities, there were some initial misgivings with the proposed legislation. Especially concerned were small business members of the Texas Association of General Contractors (AGC) who worried that these new measures would bring about greater competition from larger firms, especially those positioned to capitalize on private concessions (i.e. through comprehensive development agreements). Several interviewees noted that the concerns of the engineering and contracting communities were assuaged when it was promised that the new funding initiatives in HB 3588 would be over and above existing levels from the motor fuels tax and that these levels would be sustained. In fact, baseline funding was to be increased through capitalization and use of the Texas Mobility Fund.

By 2006, several years into the implementation of HB 3588, some industry representatives began to join the opposition to private toll road development, although its members generally had not been opposed to concessions. TxDOT, led by Ric Williamson, maintained a preference for pursuing concessions with private entities. This strategy drew strong opposition in the Dallas and Houston areas, where existing regional toll authorities, the North Texas Toll Authority (NTTA) and Harris County Toll Road Authority (HCTRA), respectively, felt marginalized. Industry, instead, supported primacy for toll road authorities—the right of first refusal to develop a toll road—because they considered them to have a proven track record for delivering projects. Local toll road authority opposition is discussed further in the next section.

**Opponents**

The Trans Texas Corridor and the broad menu of new ways to finance transportation projects drew considerable opposition from a host of sources. Perhaps most outspoken was the sustained opposition to the Trans Texas Corridor led by members of the public and local elected officials in rural regions of the state. Detractors decried the potential taking of virgin land and farmland far outside existing highway rights-of-way, along corridors that seemingly did not require increased capacity for many years to come. Two prominent voices representing this opposition were the Texas Farm Bureau and a grassroots coalition called CorridorWatch.org.
The Texas Farm Bureau is an independent group of farmers and ranchers that advocates for public policies that promote the economic wellbeing of its more-than-400,000 members. The Bureau vigorously opposed the Trans Texas Corridor and its first two proposed segments, the TTC-35 and the I-69/TTC, because of the prospective loss of land and severing of remaining parcels without what they considered to be just compensation. Others opposed the projects on the basis of anticipated environmental damage, expected increases in illegal immigration and crime along newly-developed corridors, and the high local costs of connecting them to urban centers.

CorridorWatch.org was a highly effective grassroots organization that acted as a voice for rural opposition. The coalition was started by a former city manager and his wife in rural Fayetteville, mid-way between Austin and Houston. CorridorWatch.org maintained a comprehensive website disseminating information on the Trans Texas Corridor’s development and the negative impacts that would result. They also brought a strong presence to the Corridor’s public hearings, vocalizing their opposition and receiving significant media coverage.

As the concept of the Trans Texas Corridor led to the more concrete proposals of the TTC-35 and the I-69/TTC, opposition began to focus more on the private development of toll roads throughout the state and the ongoing perception that these facilities would be owned by self-serving, off-shore private interests. As mentioned earlier, Dallas (NTTA) and Houston (HCTRA) area toll authorities were disfavored by TxDOT and its Commission chairman, Ric Williamson, to develop new toll road projects. One interviewee suggested that TxDOT’s view was that these authorities were too focused on exacting revenue from existing facilities and not sufficiently focused on rapidly implementing new projects. Elected officials from Dallas and Houston supported the local toll authorities’ position and were especially concerned that the upfront concession payments made by the private consortia preferred by TxDOT would not be justly reinvested in their regions. The initial award of SH 121 near Dallas to foreign-owned Cintra and the subsequent retraction and award to NTTA highlighted the strife that culminated in the 2007 legislative response to these developments, SB 792. Sen. John Carona of Dallas led the charge, instituting the moratorium on private concessions and gaining primacy for local toll authorities.

**Communications/Marketing**

The rise and fall of the Trans Texas Corridor and pursuit of privatized toll road development highlights an outcome of inadequate and ineffective communication about a transportation initiative’s underlying purpose, scope, and methods for implementation. The introduction of the Trans Texas Corridor itself in early 2002 set the stage for this characterization. Later, policies adopted and actions taken by TxDOT and the Texas Transportation Commission, after the funding initiatives of HB 3588 were introduced,
continued to result in transportation decisions which critics alleged were inadequately debated in public forums.

**Trans Texas Corridor Introduction (2002)**
The Trans Texas Corridor introduction and the subsequent implementation plan produced by TxDOT generated a fair amount of incredulity in terms of its unprecedented size and scope. One interviewee remarked that those in attendance at the press conference announcing the plans thought the proposal was “outlandish” and “campaign rhetoric” for Governor Perry entering his reelection year. The concept itself had been developed among a small circle of people, led by the Governor and Texas Transportation Commissioner Ric Williamson. The follow-up implementation plan issued by TxDOT in June 2002 also was a transportation planning product produced without involvement from other stakeholders, of which there were many.

It became clear that the way the Trans Texas Corridor was presented and communicated would become a driving force behind its widespread opposition. Several interviewees commented that by focusing on the entire state at once and proposing such a set of comprehensive, multimodal, and multi-sector infrastructure improvements all at once gave detractors numerous viable targets. By presenting the concept with renderings of the 1,200-foot corridors and a map of proposed routes (which were intended to be very general since relatively little in the way of detailed studies had been done), opposition was quickly generated by those who saw the proposal as more than conceptual and assumed the routes could directly impact them—by cutting through their farmland, for example, in the case of rural opponents. Overall, critics felt that during the rollout of the Trans Texas Corridor and the development of the TTC-35, TxDOT performed the bare minimum in terms of public outreach and that a much more proactive approach was needed, particularly in view of the size and complexity of the proposals and the issues and concerns that might have been anticipated.

**HB 3588 and Toll Roads (2003-2004)**

**Bill Formulation**
Although it was a technical package of transportation funding measures implemented legislatively and not by referendum, the passage of HB 3588 was also marked by a lack of public engagement and debate. One interviewee believed that the formulation HB 3588 was characterized by insider legislative negotiations among those with influence over transportation policy-making. According to this critic of the legislation, no input from potential stakeholders outside this insular group was solicited. The lack of initial media coverage and the perception that legislators were not fully aware of the implications of what they were voting for only served to reinforce sentiment that the bill’s far-reaching initiatives had not been greatly publicized, and only became readily apparent after the legislated tools were used in practice. Additionally, the public focus on the Trans Texas
Corridor drew attention away from these new funding mechanisms, the full comprehension and acceptance of which would have been necessary to successfully implement the Governor’s bold proposal.

**Toll Road Conversions**

One early use of HB 3588’s provisions was TxDOT’s pursuit of toll road conversions—proposals to add tolls to finance improvements on existing free roads. The backlash toward the prospect of paying for roadways that previously were free was in sharp contrast to the acceptability of toll financing for new facilities. During the second half of 2003, the Texas Transportation Commission was formulating a set of toll road guidelines to spell out in more detail TxDOT’s intended policies and procedures regarding the newly enacted provisions of HB 3588. The conversion of non-tolled state highway segments to toll roads and the potential subsequent transfer to RMAs drew the greatest attention during this period of early guideline formulation. This was especially the case in the Austin area which was home to the only RMA in the state at the time, the Central Texas Regional Mobility Authority.

Specifically, TxDOT announced the possibility of converting roads under construction at the time with traditional funding to toll roads, even though they had not been initially developed in that manner. A three-mile extension of U.S. 183 north of Austin was a prime example of this. Public backlash against this plan and negative reaction to draft toll road guidelines that did not guarantee that a converted road would have to have a reasonable alternative (free) route created early hostility to TxDOT’s pursuit of the new toll road provisions in HB 3588.

This halted attempt at converting the newly-opening segment of U.S. 183 to a toll road also had a negative impact on the public’s trust of the fledgling CTRMA and its plans to build and operate a further 12-mile tolled extension of that road, the CR 183-A Turnpike. Acceptance of tolling new capacity and the credibility of the CTRMA faced an uphill battle. However, unlike TxDOT’s approach, the CTRMA performed extensive public outreach, especially among businesses and residents along the proposed corridor. Its chairman noted that the CTRMA had been both “honest and accessible” to the public during the process. The project opened in 2007 on time and on budget, and robust traffic and revenue were indicative of positive public feedback.

**Bumps in the Road (2005-2008)**

**TTC-35 CDA**

Throughout the evolution of the Trans Texas Corridor proposal, a limited rapport with the public and lack of consistent and sustained communication of the plan’s details continued to adversely affect its chances for implementation and served to build stronger opposition to TxDOT’s efforts. According to critics, the lack of transparency in advancing the initial
segment of the Corridor pursued by the Department—the proposed TTC-35 from San Antonio to north of Dallas—and the CDA award to Cintra-Zachry highlighted TxDOT’s reluctance to communicate its actions to the public, stakeholders, and elected officials. While certain information needed to remain confidential for a time in order to preserve the integrity of a competition among private enterprises, this could have been better communicated.

In March 2005, the Houston Chronicle requested a public release of the full 200-page CDA between TxDOT and Cintra-Zachry through an open records request. Citing privacy concerns over financial information and stating the plan was only conceptual in nature, TxDOT and Cintra-Zachry opposed the release. In May, however, the state Attorney General issued a ruling that the documents should be made public. The next month, TxDOT and Cintra-Zachry filed a lawsuit to overturn the ruling, beginning a period of legal battles. On its outreach website, CorridorWatch.org criticized TxDOT and their process for developing the Trans Texas Corridor following these recent actions:

> The entire Trans Texas Corridor project has developed and grown well out of public view, and certainly without public participation... There’s a stark difference between seeking public input on a project under consideration and working to sell the public on a project already in place. But even that pales when they go a giant step further and spend taxpayer money to keep the public from knowing the most important details of a 50-year contract that will affect most of us for the rest of our lives.

In September 2006, the CDA documents were released and the lawsuit dropped as the master plan for the TTC-35 was finalized. The master plan superseded the older conceptual documents that were the subject of the lawsuit, so these were released as well, ending the prolonged battle. However, the damage had been done, as opposition to the Trans Texas Corridor and the private concessionaire funding model continued to grow.

**TxDOT and Regional Toll Authorities**

As the provisions of HB 3588 became better understood and underwent some clarification with HB 2702 in 2005, the Department’s pursuit of toll road concessions with private firms began to draw greater criticism in 2006 and 2007. As discussed earlier, combative relationships with established local toll authorities in Dallas and Houston—the NTTA and HCTRA, respectively—and in turn the local lawmakers and stakeholders from those regions who supported their local authorities, eroded TxDOT’s credibility in its pursuit of private concessions. This course of events led to SB 792 in 2007, which significantly curtailed their use. To further illustrate the deteriorating relationship between TxDOT and the local toll authorities, one interviewee remarked on how TxDOT required HCTRA to pay market value for TxDOT right-of-way for projects the authority sought to develop. In the past TxDOT transferred these lands to HCTRA at much lower costs. The Department’s “bumps in the road” in marketing private concessions and toll roads had begun to affect
even toll road proponents themselves, and by extension, the local leaders who had the ability to react against the Department by seeking legislative changes.

**Damage to Public Relations**

Finally, from late 2006 through 2008, a series of reports reviewing various aspects of TxDOT’s operations and actions caused further damage to TxDOT’s credibility.

- **December 2006** – A Governor’s Business Council Report was released which included an assertion that indexing the motor fuels tax to inflation would have been sufficient to generate TxDOT’s required funding without the need for tolling on many planned roads.\(^{24,25}\)

- **February 2007** – A State Auditor’s Office report concluded that the public was at risk for unknown state costs for the development of the Trans Texas Corridor’s TTC-35 and that TxDOT generally had not been forthcoming with financial information related to the project. The audit recommended greater transparency and public access to information and that the state’s Comptroller assume responsibility from TxDOT for toll revenue projections.\(^{26}\)

- **June 2008** – The Sunset Advisory Commission released its preliminary findings (which were formally issued in January 2009) including its critical review of TxDOT.

**Lessons Learned**

**Bold Vision and Strong Leadership**

While in retrospect there has been much criticism of the Trans Texas Corridor concept, it must not be forgotten that the boldness of its vision and the strength of the Governor’s personal commitment did much to stir the imagination of many—perhaps most Texans at the time—and to marshal the interest of the private sector worldwide who seemingly stampeded to Texas with billions of dollars at their disposal to capitalize on what quickly became the poster-child in the U.S. and a leading example worldwide of innovative transportation financing and delivery. The lack of similar vision and leadership in other jurisdictions, and particularly at the federal level, has been often cited as a major reason for failure to move forward in addressing much needed investment in transportation. In Texas, for what was more than just a brief shining moment, there was engendered a sense of mission and urgency that was palpable. In the early days of the Trans Texas Corridor, some of the criticism levied against TxDOT was that it was moving too slowly to deliver the vision.

**Breadth and Pace**

Looking back, many observers agreed that the sheer scale and scope of the Trans Texas Corridor concept was an unrealistic and overly simplistic approach to the transportation and infrastructure needs it purported to address. There was no doubt that some of the corridors contained in the proposal had been identified as critical to Texas’s future
transportation network, such as many segments of the proposed north-south bypass to existing I-35—the TTC-35. However, to have proposed a statewide network across vast stretches of open rural land, where it was not obvious that highway expansion would be necessary even within the plan’s 50-year timeframe, proved to be one of the plan’s major undoings. That the proposed corridors were to also contain other modes of transportation and infrastructure in nearly ¼-mile-wide rights-of-way rendered the scheme even more outlandish in the eyes of its detractors.

Interviewees concurred that a more prudent approach to the concepts behind the Trans Texas Corridor would have been to focus initially on just a few key corridors. More serious consideration could have also been given to expanding existing facilities first and proposing construction within or building upon existing rights-of-way. Instead, the message of “need” in these priority corridors was somewhat obscured by the overwhelming magnitude of the proposed statewide network. Presenting the Trans Texas Corridor components on a statewide map led many to believe that these routes were more than conceptual in nature—that specific route alignments had been decided. This quickly resulted in opposition to the plan where the need for such a facility was not readily apparent.

Some also considered the broad menu of financing mechanisms introduced in HB 3588, a number of which had been untested, to be too many to properly initiate all at once. Elements of this legislation may have had a better chance for successful adoption and implementation if they had not been authorized simultaneously in such an ambitious package and absent sufficient time for broad-based understanding and careful development.

Finally, in retrospect, although at the time transportation industry representatives who had come to Texas from elsewhere in the U.S. and beyond were urging even faster action, the pace at which TxDOT began to pursue implementation of the Trans Texas Corridor concept primarily through the untested and ultimately distrusted private toll road concessionaire model, was seen by some as a strategic error. Other, more conservative approaches to public-private partnerships may have posed fewer risks and challenges in the early days of getting the proposal off the ground.

**Outreach and Buy-in**

While the need for bold vision and strong leadership, comparable to President Eisenhower’s much acclaimed launch of the nation’s interstate highway system, are widely regarded as essential to address a huge backlog of surface transportation needs—and the Trans Texas Corridor proposal had both—it became evident that a key aspect of leadership must include gaining sufficient support among stakeholders to sustain the enterprise over the long run. Virtually no proposal of any significance moves forward without its
challenges and detractors. The question is not whether there will be opposition, but whether a critical mass of support sufficient to withstand efforts by opponents to undermine the proposal has been developed. Even in authoritarian situations, great leaders seem to understand that winning the hearts and minds of followers is essential.

In the case of the Trans Texas Corridor, the energy and enthusiasm that surrounded the initial launch seemed to dissipate over time through an approach that can only be described as “announce-and-defend.” Whether or not this approach was a matter of conscious strategy remains unclear. It is at least plausible that the decision to keep the wraps on the Trans Texas Corridor proposal until after the November 2001 constitutional amendment and legislative actions was the result of a deliberate assessment that such an action might have jeopardized the passage of the underlying funding actions that were needed. It is also plausible that the “announce-defend” approach to the Trans Texas Corridor was just more a product of personalities or institutional culture in which a poker playing philosophy of revealing as little as necessary of ones intentions makes for a surer bet. Certainly this predisposition to secrecy about one’s intentions permeates the competitive worlds of both politics and the private sector, both of which were important parts of the Trans Texas Corridor from the outset.

Regardless of whether it was a product of conscious strategy or a product of personalities and culture, there seemed to be little attention paid to the need for outreach and soliciting stakeholder engagement and buy-in. It was as if the leadership believed the proposal was so compelling and the merits so apparent that it needed little or no “selling” beyond its initial announcement. For whatever reason, the absence of sufficient public and stakeholder outreach, and building of strong coalitions and widespread consensus, had far-reaching implications in terms of the ultimate fate of the Trans Texas Corridor concept. Multiple interviewees stated that doing greater outreach—to the public, to local and regional stakeholders, and to local elected officials—would have gone a long way to earning greater and perhaps more durable acceptance. Students of transportation initiatives note that just as much thought and effort needs to be put into a public education process, to communicate both the consequences of underinvestment and the validity of proposed solutions, as is placed in formulating the solutions themselves and the means to finance them.

**Building on Lessons Learned**

Perhaps the ultimate “lesson” to be gained from an assessment of lessons learned is that it is possible to bounce back. TxDOT went through a rough period in launching, defending, and ultimately withdrawing the Trans Texas Corridor proposal. But TxDOT is also working hard to turn things around, to retain and refine what seemed to work well while redefining and revising strategies and methods which were ineffective or counter-productive.
Ultimately, elements of the once grand Trans Texas Corridor and various innovative financing mechanisms, like private toll road development, will play an important role in Texas’ transportation future and are likely to gain support among Texans and the renewed attention and interest among participants in the transportation community.

**Additional References**

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