WSDOT

SR 16 TACOMA NARROWS BRIDGE

PUBLIC-PRIVATE PARTNERSHIP REVIEW

January 16, 2017

SUMMARY

In 2015,[1] the Legislature directed WSDOT's innovative partnerships program to consult with the Department's tolling division and participate in the division's ongoing efforts to reduce the costs associated with the Tacoma Narrows Bridge (TNB). This directive requires the Department to examine opportunities for the state to contract, using a public-private partnership (P3) model, with one or more private sector partners to collect tolls and provide services to drivers crossing the bridge.

The Department identified three potential options for consideration. If the Legislature chooses to pursue any of these potential public-private collaborative efforts, funding would be required for a formal in-depth feasibility analysis. Such analysis should include, among other factors:

- An assessment of economic impacts (costs/benefits) associated with each option.
- New customer services provided at the toll plaza would require a review of federal code and changes to state law.
- Any change to the existing nature of the toll facility must accommodate the existing toll booth operation and administrative functions, and also consider the impacts that development of retail and/or commercial space will have on the surrounding business community.
- Additional consideration must address where existing administrative functions will be housed, including whether these functions would be integrated into a retail/commercial site.

CONCEPTS:

1. **Retail partnership**
   Establish a retail venue, managed by a strongly branded partner that would attract daily commuters (i.e., Starbucks container store). Feasibility would require space for the retail function and associated parking. At least one toll booth would need to be decommissioned and fitted with *Good To Go!* Electronic toll readers and cameras to allow *Good To Go!* customers to access these services without paying at the toll booth. Questions for consideration include:

[1] Second Engrossed Substitute House Bill 1299 (Chapter 10, Laws of 2015), Section 214 (2): "Within the amounts provided in this section, the economic partnership program shall consult with the department's tolling division and participate in the division's ongoing efforts to reduce the costs associated with the Tacoma Narrows bridge. This participation must include examining opportunities for the state to contract with one or more private sector partners to collect tolls and provide services to drivers crossing the bridge."

- Development/construction costs could be high, and who would pay those costs?
- If a partner pays development costs, can this be factored into offsetting statutorily-required market lease rates?
- Will diverted traffic flow produce revenues that could sufficiently offset TNB operational expenses?
- Is there adequate space to accommodate this service and associated traffic within the toll plaza area?

2. **Lease administrative building**

   Vacate the toll administrative building and lease space out to private sector business or other governmental agency (State/Federal/Local/Tribal). The state would not incur any development cost but, as a landlord, would continue to bear responsibility for ongoing maintenance and upkeep of the facility. Realized lease payments could be used to offset TNB operational expenses.

3. **Developmental partnership**

   Demolish existing toll administrative building and sell or lease the land to a developer. This commercially-zoned parcel could possibly support a large retail/commercial office structure. Retaining a portion of the right-of-way to facilitate off-ramping of traffic into the developer's site and on-ramp tolling access from the site to the bridge would also need to be addressed.

   Note, with regard to concepts 2 and 3 space is required to service the toll booths as well as a review of impacts to the entire toll facility. These support functions would need to be accommodated during any construction period.

   This paper does not examine the option to eliminate toll booths, which would require a robust analysis of costs and benefits.

Further consideration of any of these options would require a comprehensive feasibility analysis. The Department estimates the minimum cost of this analysis at $250,000.

Any public-private partnership arrangement would need to accommodate toll collection, including use of the adjacent toll operations building used for cash collection support.

CHALLENGES

In order to understand the challenges and potential opportunities, a number of issues need to be addressed:

I. Statutory issues
II. Underlying financing/funding structure
III. Tolling operations and constraints
IV. Traffic and roadway considerations

Nationally, there is a desire to establish joint use facilities that provide complementary services to drivers. Initiatives include leasing toll booths and billboards for advertisements; leasing rights of way and underutilized offices; and partnering with other levels of government, parking or transportation operators.

While there are examples around the United States where commercial activities exist on state and federal highways, these often operate under exceptions to a myriad of state and federal policies. In many cases a respective state has authorized specific activities in its statutes and there are no federal restrictions on the respective activities. Or the facility is operated under a toll or turnpike authority and therefore not subject to established prohibitions. The most prevalent challenge existing today is a long-standing federal prohibition of commercial activities on federally-funded rights-of-way. This particular restriction precludes providing any type of commercial or retail offering in the highway right-of-way.

I. Statutory Issues

Legal aspect of public property usage by private entities

In considering contracting opportunities with a private sector partner for toll collections and/or to provide services, it is important to identify and address all of the legal barriers (federal and state), and consider all of the tradeoffs and challenges such collaboration entails. Under current state law, such collaboration would be justified only if it reduces the cost of toll collection to toll customers; however, other effects such as the impact on bridge operations would need to be considered as well.

Within Washington state statutes, there are explicit prohibitions against commercial businesses operating on the state highway right-of-way.

- RCW 47.17.065 designates SR-16, and the Tacoma Narrows Bridge, as a state highway and the bridge itself is considered a toll road.
- RCW 47.32.120 prohibits commercial business operations on the right of way of a state highway.
- RCW 47.56.077 prohibits concessions to operate private business on toll roads. It states “The department shall not grant concessions for the operation or establishment of any privately owned business upon toll road rights-of-way.”
- RCW 47.52.010 – Defines “limited access” as:

  A highway or street especially designed or designated for through traffic, and over, from, or to which owners or occupants of abutting land, or other persons, have no right or easement, or only a limited right or easement of access, light, air, or view by reason of the fact that their property abuts upon such limited access facility, or for any other reason *to accomplish the purpose of a limited access facility.*

The TNB toll plaza and adjacent buildings are located within the existing state limited access area for the roadway. The limited access line would likely need to move to place the toll plaza and buildings out of the area.

A legal analysis of both state and federal statutes must be conducted to fully develop any strategy the Legislature would need to consider if it were to decide to implement new or amend existing state laws. Such analysis would need to assess whether the property is no longer needed for transportation purposes, and an analysis should assess the ability to surplus the property in order for the state to lease it to a private entity for concession opportunities. Legislative direction may be needed to facilitate the surplus of property.

II. Underlying Financing/Funding Structure

Financial considerations associated with capital funding structure

The Tacoma Narrows Bridge was constructed using tax exempt bonds. Proceeds of these bonds must be used for governmental purposes. The interest on these bonds is excluded from gross income (tax-exempt) for the bond holder. If proceeds of the bonds were determined to have funded commercial activities, such a bond issue would then be considered a “private activity” bond under the federal tax code and interest would become taxable for bond holders, negatively impacting the value of the bonds.

Bonds are treated as “private activity” bonds if more than 10 percent of the proceeds of the issue are used for private business use and debt service on more than 10 percent of the issue is secured by – or could be sourced from private payments or security. There are approximately $1.1 billion in outstanding tax-exempt bonds used to finance construction of the Tacoma Narrow Bridge. It is unlikely that commercial activities could be established on the bridge without incurring significant negative impacts to the tax classification of these bonds.

III. Tolling Operations and Constraints

For this analysis, it is assumed that cash tolls will be collected using toll booths until tolling is ended in the early 2030s when the bonds are retired, at which time the toll plaza would be decommissioned and could be surplused.

Tolls are currently collected by a private vendor under contract to WSDOT (hence, there does exist a current public-private partnership contract, albeit for toll collections only). The same vendor operates the toll collection equipment and systems in the electronic toll collection lanes. Very few firms in the U.S. can provide the highly technical expertise to operate toll collections. Likewise, it is highly unlikely that a vendor specializing in toll collection would provide any ancillary services, outside of their respective operational niche, in an effort to capitalize on what might be construed as marginal revenue opportunities. Therefore, the option to gain additional revenue by swapping out or changing the toll vendor contract does not seem feasible at this time.

The cash toll collection area limits the opportunities to accommodate other uses within the site footprint. There is limited space elsewhere in the toll plaza to accommodate services without interfering with toll and traffic operation circulating through the plaza. The toll administration building is needed to support the toll booth collectors, cash handling and offices.

If an opportunity was identified to redevelop the toll administration building, the feasibility of toll operation during the construction period would need to be assessed and, if feasible, the added cost of operating the toll plaza from an off-site facility would need to be factored into any analysis.

IV. Traffic and Roadway Considerations

If the Legislature were to decide to eliminate cash toll collection, it may be possible to accommodate other uses on the site either through joint development or surplusing. The Legislature should consider the following if the intent is to provide direct access into the area to and from SR 16:

1. Provide for maximum business customer potential:
    a. Businesses and customers located in the toll booth area would need the ability to exit the area without having to cross the bridge.
    b. Access to bridge for toll customers cannot be impeded.
2. Maintain distance upstream from toll booths for adequate exit.
3. Limit weaving into toll booth area. A “weaving” problem exists today with motorists merging into the toll plaza and motorists entering the 36th Street on-ramp. Elimination of cash operations would reduce the need to weave toward the toll booths.
4. Provide an additional general purpose (GP) lane for bridge access.
5. Maintain general design standards, lane widths, shoulders, radii, etc.
6. Maximize safety for pedestrians and cars.

Simply repurposing the toll booths would have significant challenges both with access and egress to the business enterprise and general size of the toll booths. All access to the toll booths would require employees to utilize the existing pedestrian ramp to the booths via the toll plaza building and to cart all supplies, garbage, etc. to and from the booth (approx. distance 650ft). The toll booths themselves are approximately 4ft x 8ft, which is significantly narrower than most coffee stands. This could present a challenge to finding entrepreneurs willing to utilize the existing space (figures 1 & 2).

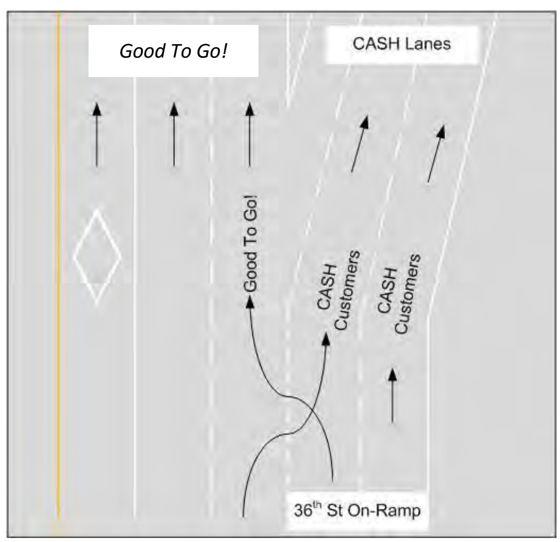

Figure 1. Existing Weave to access toll booths

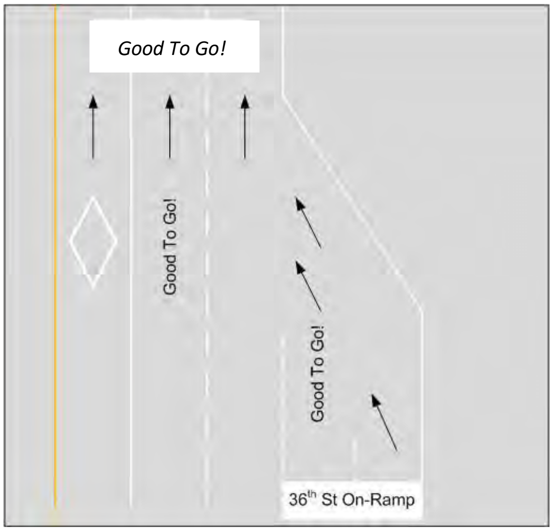

Figure 2: Existing 36th Street Weave

Figure 3. Toll Booths

Figure 4. Toll Plaza

NEXT STEPS TO CONSIDER

1. A feasibility study should include an analysis of the authority needed to proceed with conversion of the toll plaza and adjacent buildings to a leased facility for private concessions.

Feasibility Study Considerations:

- Potential right of way implications for ramp build out.
- Partial or complete demolition of existing toll plaza due to current ramp width and potentially significant build-out depending on concessionaire use.
- Demolition of toll booths to provide adequate business access and size.
- Additional traffic volumes to 24th St NW.
- Elevated ramp design cost implications.
- Safety considerations for pedestrians.

2. Pursue a revision to applicable statutes that preclude concessions by private businesses on toll roads.
3. Pursue development of a Concept Feasibility Study to determine opportunities and barriers to implementing a revised use for the toll plaza and buildings.
4. Consider development of a Cost Benefit Analysis for the conversion and associated changes to limited access boundaries and conducting subsequent public hearings.

RECOMMENDATION

It is the Department's recommendation to not further pursue public-private partnerships for the collection of tolls and/or provision of services related to the Tacoma Narrows Bridge tolling facility.

Based on the options available for the TNB facility, the cost of conducting necessary feasibility studies and benefit/cost analyses, and the low likelihood of success, further investment of limited state resources is not recommended. It is the Department's conclusion that other projects throughout the state would offer more appropriate public-private partnership opportunities. The Department welcomes the prospect of working with the Governor's Office and the Legislature to identify more viable options.