



Public-Private Partnerships 101

League of Women Voters

Nick Farber, Operations Manager, High Performance
Transportation Enterprise

April 3, 2018

What is Driving the Need? – Continued Growth

1991



3.3 million



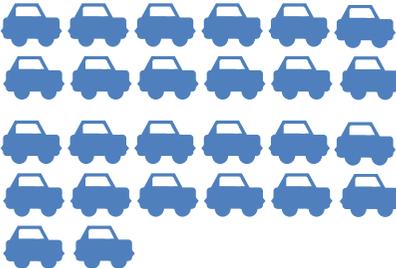
27.7 billion
vehicles miles traveled

\$125.70
spent per person

2015



5.4 million



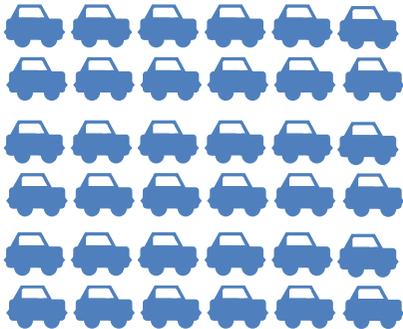
50.5 billion
vehicle miles traveled

\$68.94
spent per person

2040



7.8 million



72.3 billion
vehicle miles traveled

\$41.16
spent per person

All dollar figures adjusted for inflation

What is Driving the Need? – No Increase in Gas Tax

1991



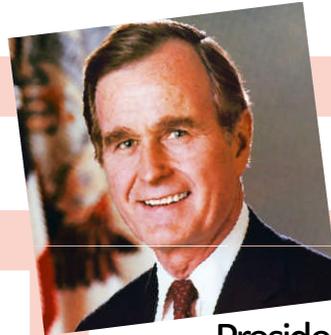
Avalanche logo



Denver's Stapleton airport 4 years away from closing

\$1.14/gal

Average Gas Price



President George H.W. Bush



Terminator 2 released

\$15,473

Average Price of a New Car



Dan Reeves was Broncos head coach with John Elway as Quarterback and Gary Kubiak as backup QB

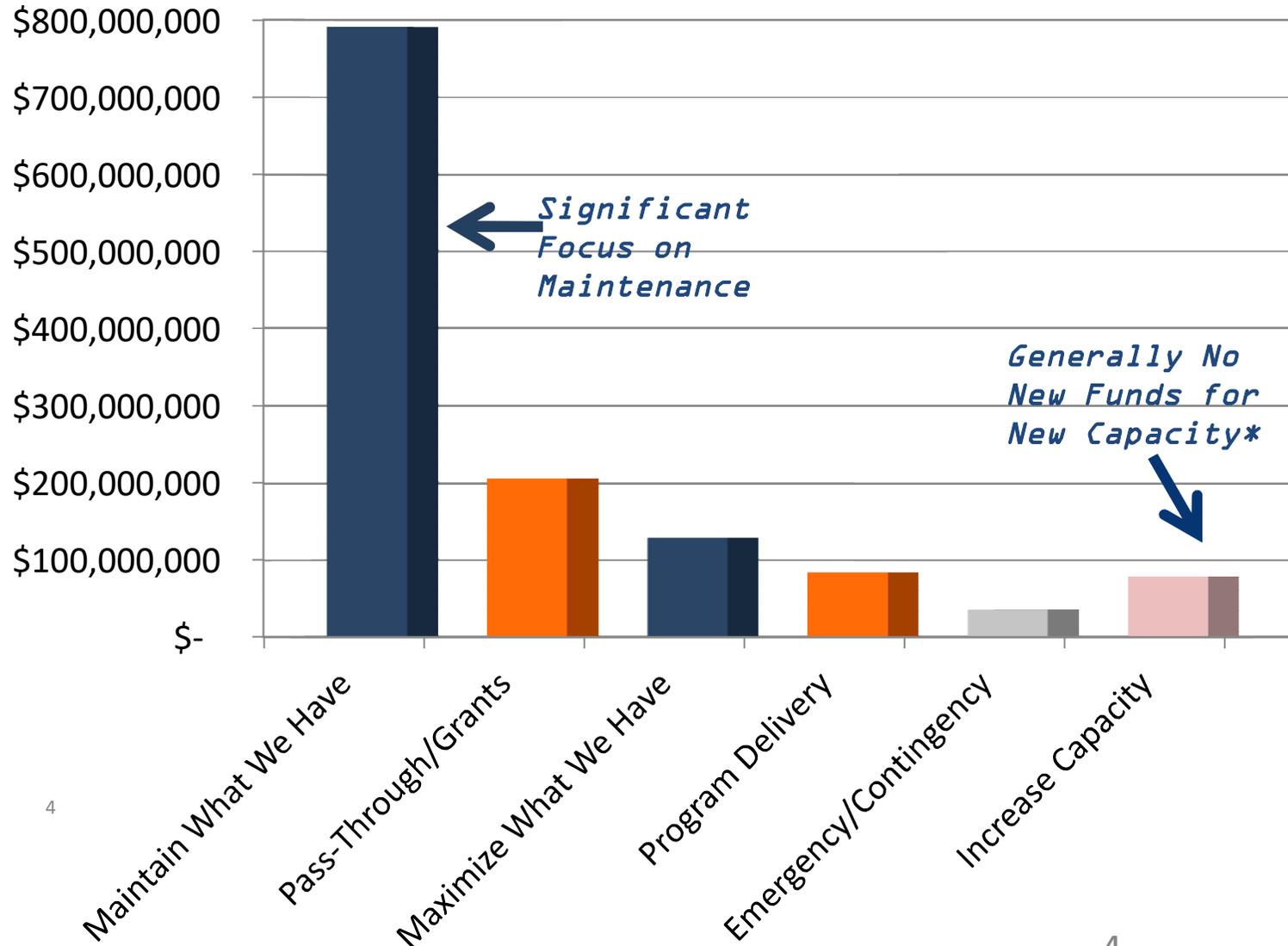


Broncos logo

\$109,071

Metro Denver Median Home Price

CDOT's Budget: Focus on Maintaining the System



Public Private
Partnerships

Express Lanes

Innovative Finance
Think Tank

Required to **“aggressively pursue”** innovative means of more efficiently financing important transportation projects:

- Public Private Partnerships
- Operating concession agreements
- User fee-based project financing (tolls)
- Annual performance payment agreements



Exists to *make Coloradans’ commutes better*



What are Public-Private Partnerships?

Public-private partnerships (P3s) are contractual agreements formed between a public agency and a private sector entity that allow for greater private sector participation in the delivery and financing of transportation projects (FHWA)





Public Private Partnerships





- WHY use P3 to deliver a project?

- Project Acceleration
- Risk Allocation
- Engineering Innovation
- Life Cycle Costs/ Value For Money

- Many types of P3

- Toll/revenue risk
- DBFOM
- DBM
- Revenue share?



Risks and Roles are transferred

- Not designing a project, but establishing performance standards for design
- Not engineering a project, but creating performance standards for engineering
- Not plowing the highway, but creating performance standards for plowing

Types of P3: Availability

- Developer responsible for design, construction, operation, maintenance and financing
- In return, Govt provides
 - Payment for the initial design and construction work typical to a DB contract; and
 - For ongoing operations and maintenance, Govt provides “availability payments”
- Concept of “*availability payments*” derived from Developer being required to have the facility available
- Often used in transit projects and other projects where transfer of revenue risk may not be the best value for money

Types of P3: Concession

- Like Availability, Developer responsible for design, construction, operation, maintenance and financing
- Unlike Availability, Developer in Concession receives funds actually received and bears **risk** from traffic and revenue perspectives
- Notwithstanding risk allocation, Govt typically provides firm amount of parameters for operations
- Govt has opportunity to benefit from excess revenues

How to Define Risks in P3s

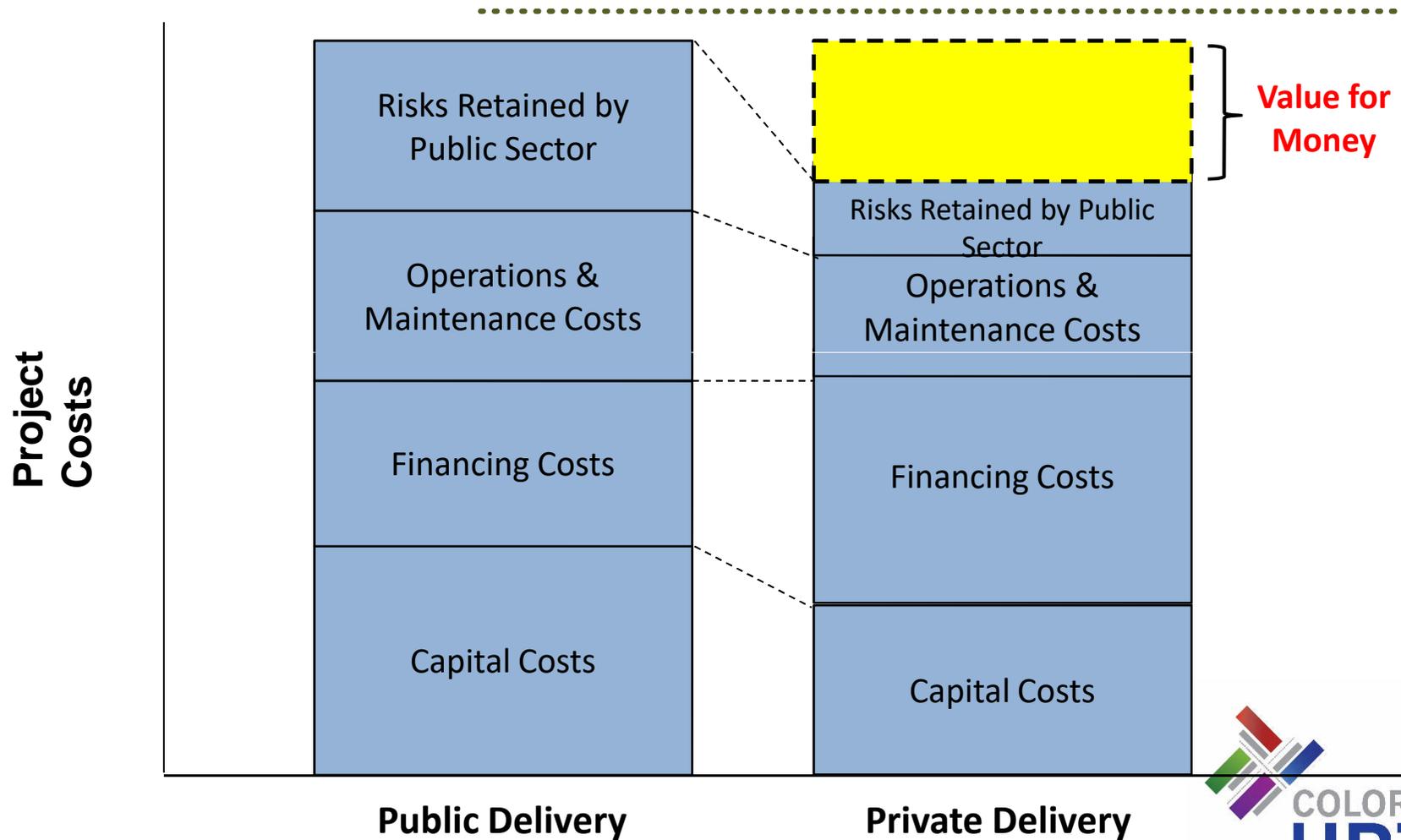
Risk is an uncertain event or condition that, if it occurs, has a positive or negative effect on at least one project variable:

- Planning / Environmental
- Political will
- Schedule
- Project or Program Development
- Financing
- Design/Engineering/Construction
- O&M
- Revenue
- Changes in Law
- Change in Market Conditions
- Termination

How to Define Risks in P3s

Risk	DBB	DB	DBFOM
Change in Scope	Public	Public	Public
Environment	Public	Public	Public
Permits	Public	Shared	Private
ROW	Public	Public	Shared
Utilities	Public	Shared	Shared
Design	Public	Private	Private
Ground Conditions	Public	Public	Private
Hazmat	Public	Public	Shared
Construction	Private	Private	Private
QA / QC	Public	Shared	Private
Final Acceptance	Public	Private	Private
O&M	Public	Public	Private
Financing	Public	Public	Private
Force Majeure	Public	Shared	Shared

Why P3s Are Attractive Options



Protecting the Public

What about the “risk” to the public?

- What controls are there for fares or tolls?
- Do we want private entities getting excessive financial returns?
- How do we address poor service delivery?
- What happens if a Developer goes bankrupt?
- So the Developer defaults, how can we terminate and what is the result?
- What does the public get back when a P3 contract is over?



Protecting the Public

- How do we police excessive returns?
 - Competitive process brings the process to the market
 - Prevents one-off instances where a Developer can receive a “super profit” since competitive market requires Developers to fight for being awarded the project
 - Parameters are the same for all bidders
- Capping the upside?
- Revenue sharing



Protecting the Public

- How do we address poor service delivery?
 - Structure escalation of remedies upon defaults
 - Performance monitoring
 - Step-in and self-help rights



Protecting the Public

- What happens in the event of insolvency?
 - Commercial debt markets are incentivized to assist and keep the project moving forward
 - Ownership typically remains with the Govt even in full Concession structures
 - Sub-contract direct agreements provide maximum continuity for construction and operations



Protecting the Public

- What are termination rights?
 - Ultimate right by either Developer or Govt in the event of sustained failures or even one-time material failures to the project
 - Govt still maintains ownership of assets



Protecting the Public

- What happens when the P3 term is over?
 - The parties agree at outset to delivery obligations
 - Process starts years (even a decade or more for some) to ensure compliance can and will occur



ANALYZING CORRIDORS



When CDOT asks HPTE to explore possible financing, HPTE will:

- Examine cost (construction + lifecycle) data, potential revenues
- Provide matrix of risks and identify best value
- Consider what possible risks to transfer:
 - Toll revenues?
 - Long-term annual and capital maintenance costs?
 - Ongoing operations?
 - Innovation of design, construction schedule and scope potential?

Safeguards to the Public

When considering private investment, CDOT:

- Decides what project to build
- Decides how much money is available and for how long
- Outlines expectations for the project
- Retains oversight rights
- Maintains ownership of the highway
- Protects against private company bankruptcy or other defaults

Commitment to Public Engagement and Transparency

HPTE Transparency and Public Outreach:

- HPTE Transparency Policy
- Executive Order D14-010
- US 36 Audit Recommendations

Transparency and Public Involvement

- Minimum of three Town Hall Meetings for the public
 - Coordinate with local governments
 - Held to maximize the public's convenience
- Legislative and public reporting requirements
- Explicit recognition of transit consideration

P3s Are Working in Colorado



What's Next for HPTE?



- Parking Facilities
- Road X
- Hyperloop
- Digital Communication Networks?
- Land/Right of Way Development?
- Tunnel Lighting?
- In-Road EV Charging?
- Employee Housing?
- Airports?



ROAD X

Opportunities | Challenges



CHOICE NEW CDOT STRATEGY

EXPRESS LANES

- Reduce delay on most seriously congested corridors
- Use toll pricing to manage congestion
- Maintain reliable travel times now and in the future
- Promote transit and carpooling (where viable)
- Always offered along free general purpose lane