MARYLAND DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
Gregory Slater
Secretary

June 10, 2021

The Honorable Peter Franchot
Comptroller of Maryland
80 Calvert Street
Annapolis MD 21401

The Honorable Nancy K. Kopp
Maryland State Treasurer
80 Calvert Street
Annapolis MD 21401

The Honorable Guy Guzzone
Chair, Senate Budget and Taxation Committee
3 West Miller Senate Office Building
Annapolis MD 21401

The Honorable Maggie McIntosh
Chair, House Appropriations Committee
House Office Building, Room 121
Annapolis MD 21401

The Honorable Anne R. Kaiser
Chair, House Ways and Means Committee
House Office Building, Room 131
Annapolis MD 21401

Ms. Victoria L. Gruber
Executive Director, Department of
Legislative Services
90 State Circle
Annapolis MD 21401

Dear Comptroller Franchot; Treasurer Kopp; Chairs Guzzone, Kaiser, McIntosh; and Ms. Gruber:

Under the State Finance and Procurement Article § 10A-203 of the Annotated Code of Maryland ("SFP § 10A-203"), a copy of a proposed public-private partnership ("P3") agreement is required to be submitted simultaneously to the Comptroller, the State Treasurer, the Budget Committees, and the Department of Legislative Services, in accordance with § 2-1257 of the State Government Article, prior to seeking approval from the Board of Public Works ("BPW").

The Maryland Department of Transportation ("MDOT") and the Maryland Transportation Authority ("MDTA"), together as the "Reporting Agencies," hereby submit the attached P3 agreement (the "Phase 1 P3 Agreement") for Phase 1: American Legion Bridge to I-270 Relief Plan ("Phase 1") to the Comptroller, the State Treasurer, the Budget Committees, and the Department of Legislative Services. Under SFP § 10A-203, the Comptroller, State Treasurer, Budget Committees, and the Department of Legislative Services have up to 30 days from the date of submission to review, analyze, and comment on the Phase 1 P3 Agreement. As required by SFP § 10A-203, the Phase 1 P3 Agreement will be posted on the project website during the 30-day review period to allow for a public review of the documents.

The Honorable Peter Franchot
The Honorable Nancy K. Kopp
The Honorable Guy Guzzone
The Honorable Maggie McIntosh
The Honorable Anne R. Kaiser
Ms. Victoria L. Gruber

The Phase 1 P3 Agreement, which is solely for predevelopment and preliminary design work and does not include any construction work, includes certain confidential commercial, financial, and proprietary information that has been deemed commercially sensitive by MDOT after consultation with the selected Phase Developer and if disclosed could be detrimental to the MDOT and MDTA's ability to get the best deal possible for the citizens of Maryland. The progressive P3 approach MDOT is using for this solicitation necessitates the need for certain information to remain confidential during the predevelopment phase, which includes further refinement of design, risk mitigation work and cost optimization. This information would not normally be disclosed by the Phase Developer to the public and disclosure of this information could cause substantial competitive harm to the Phase Developer. Disclosure of certain aspects of this information at this time, such as financial mark-ups, would also hinder the Phase Developer's ability to negotiate terms with design and construction proposers and potential lenders who would not typically have access to such information. As the Phase P3 Agreement is solely for preliminary design and does not include construction, the Section P3 Agreement will include the costs for final design, construction, financing, operations, and maintenance. The Section P3 Agreement will also include a 30-day public and legislative review process before submission to BPW and it is not expected to go to BPW before Summer 2022.

In addition to submitting the Phase 1 P3 Agreement for review and comment, a Final Agreement Report (the "Report") is required to be submitted in accordance with the Code of Maryland Regulations 11.01.17.09(J) and 11.07.06.09(J). This Report provides background into Phase 1, information on the rationale for utilizing a P3 delivery method, and the methodology used in the solicitation and selection of the Phase 1 developer. In addition, it discusses key elements of the Phase 1 P3 Agreement, the financial plan, tolling operations, the National Environmental Policy Act activities, and updates to previously defined BPW commitments.

If you have any questions related to the Phase 1 P3 Agreement, the Report, or Phase 1 in general, please do not hesitate to contact Mr. Jeffrey T. Folden, P.E., DBIA, MDOT I-495 & I-270 P3 Office Deputy Director, at 410-637-3321 and jfolden1@mdot.maryland.gov. Mr. Folden will be happy to assist you with any questions. Of course, you may always contact me directly.

Sincerely,

Gregory Slater
Secretary
Chairman, Maryland Transportation Authority

Attachment

cc: The Honorable Adrienne A. Jones, Speaker, Maryland House of Delegates
The Honorable Bill Ferguson, President, The Senate of Maryland
Mr. Steve McCulloch, Senior Policy Analyst, Department of Legislative Services

Attachments:

Here is the link to the Phase 1 P3 Agreement page on the P3 Program website:

https://495-270-p3.com/p3-information/phase-1-agreement/

Here are the direct links to each of the Phase 1 P3 Agreement documents:

Phase 1 P3 Agreement

https://495-270-p3.com/wp-content/uploads/2021/06/Phase-1-P3-Agreement.pdf

Phase 1 P3 Agreement Exhibits

https://495-270-p3.com/wp-content/uploads/2021/06/Phase-1-P3-Agreement-Exhibits.pdf

Phase 1 P3 Agreement Exhibit 6 – Predevelopment Work Requirements

https://495-270-p3.com/wp-content/uploads/2021/06/Phase-1-P3-Agreement-Exhibit-6-Predevelopment-Work-Requirements.pdf

Phase 1 P3 Agreement Exhibit 8 – Section P3 Agreement Term Sheet
https://495-270-p3.com/wp-content/uploads/2021/06/Phase-1-P3-Agreement-Exhibit-8-%E2%80%93-Section-P3-Agreement-Term-Sheet.pdf

A Report to the Maryland General Assembly

Senate Budget and Taxation Committee

and

House Appropriations Committee

House Ways and Means Committee

Regarding

Phase 1 of the I-495 and I-270 Public-Private Partnership (P3) Program

June 8, 2021

The Maryland Department of Transportation

The Maryland Transportation Authority

This report was prepared by the Maryland Department of Transportation ("MDOT") and the Maryland Transportation Authority ("MDTA"), together as the "Reporting Agencies", in accordance with the Annotated Code of Maryland State Finance and Procurement Article § 10A-203, and the Code of Maryland Regulations ("COMAR") 11.01.17.09 and 11.07.06.09.

Section (J)(2) of COMAR 11.01.17.09 and 11.07.06.09 set out the contents to be included in the Final Agreement Report. Below are the requirements of Section (J)(2) of COMAR 11.01.17.09, which are substantially similar to the requirements of Section J(2) of COMAR 11.07.06.09:

A final agreement report shall accompany a final agreement submitted under State Finance and Procurement Article, §10A-203, Annotated Code of Maryland, containing the following items, if relevant:

(a) The financial plan, including annual cash flows, for any public-private partnership including:

- (i) State contributions;
- (ii) Federal loans or credit assistance;
- (iii) Private investment;
- (iv) Local contributions; and
- (v) Other funding contributions;

(b) The ongoing financial costs and increases associated with any operating and maintenance contracts;

(c) The impact any public private partnership agreement may have on the State's debt affordability measures;

(d) The authority a private entity may have to recover its investment through tolls or other fees, including how future increases in tolls or other fees may increase;

(e) An analysis of why the proposed agreement is more advantageous than a conventional project delivery;

(f) A description, including the estimated value, of any land, buildings, or other structures or assets that are transferred or exchanged with a private entity as part of the public private partnership;

(g) A summary of the performance measures included in the ongoing operation of the public private partnership;

(h) A summary of the penalties associated with non-performance relating to the ongoing maintenance and operation; and

(i) A plan for how the long-term operating and maintenance contract will be overseen by the agency.

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Background and Overview

In 2017, Governor Larry Hogan announced Maryland's Traffic Relief Plan (the "Plan") to reduce traffic congestion, increase economic development, but most importantly, enhance safety and return quality of life to Maryland commuters. Since then, the I-495 & I-270 Public-Private Partnership Program (the "P3 Program"), the largest component of the Plan, is being guided by the overarching goals of Congestion Relief, Minimize Impacts, No Net Cost to the State, Accelerated Delivery, and Innovation.

As further detailed below, based on continuous collaboration and listening to agency partners, public officials and stakeholders, the Maryland Department of Transportation and the Maryland Transportation Authority (the "Reporting Agencies") have continued to refine the P3 Program and take a Phased Delivery approach starting for Phase 1 South of the American Legion Bridge I-270 to I-70 Relief Plan. Phased Delivery will allow initial focus on the portion of the P3 Program area that is most critical and where agreement with stakeholders is the greatest.

The P3 Program is part of the National Capital Region's ("NCR") approved long-range transportation plan, Visualize 2045[1]. This plan recognizes the importance of creating a transportation network to accommodate current and future growth demands. The initiatives identified by the NCR Transportation Planning Board include bringing jobs and housing closer together, expanding bus rapid transit, moving more people on Metrorail, increasing telecommuting, improving walking and bike access to transit, completing the National Capital Trail, and expanding the express highway network with new managed lanes using dynamic pricing. While the P3 Program is only one piece of the overall puzzle, it is critically important to supporting the State of Maryland's (the "State") economy and making many of the other initiatives possible.

The Reporting Agencies have been, and will continue, closely monitoring traffic patterns and traffic projections throughout the COVID-19 pandemic, which has impacted how Marylanders work, spend free time, and travel. In the past, travel has historically increased as the economy recovered following past economic events and societal changes (such as the 2008 recession). Traffic volumes on area highways already have recovered to about 90 percent of pre-COVID levels. Many current studies are showing that as the restrictions continue to be reduced and as vaccination rates increase, teleworking is expected to continue to decrease, even if it does not completely reach pre-pandemic levels. There are many industries where workers can rarely telework, if ever, including hospitality, manufacturing, building and construction trades, and bio science labs. Moreover, commuting trips only account for about 20 percent of daily travel in the NCR. Therefore, even with some shift to teleworking, such shift would have minimal impact on the remaining 80 percent of daily trips, including interstate travel, tourism, shipping and freight deliveries, errands, and other personal and business travel which will continue to be made on the regions' road network. In May 2021, TRIP, a national transportation research nonprofit, published Transportation Impact and Implications of COVID-19[2]. This report notes that analysis from INRIX has shown that evening rush hours have largely returned to pre-pandemic levels

[1] https://www.mwcog.org/visualize2045/document-library/
[2] https://tripnet.org/wp-content/uploads/2021/05/TRIP_COVID-19_Transportation_Impact_Report_May_2021.pdf

and traffic volumes during the mid-day remain higher than before the pandemic. This report also notes that while travel in downtown areas has declined the most during COVID-19 and will likely be the slowest to recover that travel in suburban areas, such as served by I-495 and I-270, has largely recovered. WTOP also noted in its May 26, 2021 article DC's Rush Hour Traffic is Back[3] that the American Legion Bridge afternoon traffic on May 21, 2021 was at the highest level since March 2020, surpassing the 2019 daily average. The pandemic has not changed long-term projections that traffic volumes will continue to rise over time and it is expected that at the time the improvements open, traffic volumes will be at pre-pandemic or even higher levels. It is important to note, the improvements are being developed to accommodate increased long-term traffic demand, as the region is expected to add 1.3 million more people and nearly one million more jobs by 2045.

Phase 1 of the P3 Program, known as the American Legion Bridge I-270 to I-70 Relief Plan[4] (the "Project"), begins south of the American Legion Bridge in the vicinity of the George Washington Memorial Parkway, includes upgrades of the American Legion Bridge, and extends north to I-270 and then up I-270 to I-70 in Frederick. Within the Project there will be multiple sections with Phase 1 South, from the vicinity of the George Washington Memorial Parkway across the American Legion Bridge to I-370, ("Phase 1 South") will be developed and delivered as the first section. "Phase 1 North" includes the remaining improvements to I-270, from I-370 to I-70.

Figure 1

[3] https://wtop.com/dc-transit/2021/05/dc-regions-rush-hour-traffic-is-back/
[4] Figure 1 summarizes the geographical location of the Project

Phase 1 South will address the regionally long-recognized need for a new American Legion Bridge to alleviate one of the worst traffic chokepoints in the nation. Based on the 2019 Maryland State Highway Mobility Report developed in conjunction with the University of Maryland Center for Advanced Transportation Technology, segments of the highway perform poorly on nearly every traffic measure, such as ranking as the worst congested freeway corridor in the afternoon, and second worst corridor for truck travel. With or without the Project, a deck replacement or a bridge replacement will be needed in the next decade and no public funding is currently available. Construction and traffic impacts will be similar for replacing the deck or bridge, but alone will not address current or future congestion. Simply providing a wider bridge, on its own, and not the extension of the regional high-occupancy toll ("HOT") lane improvements will not provide the significant public benefits of travel time savings projected and new opportunities for transit and high-occupancy vehicle travel unavailable today due to the significant congestion.

The Project addresses congestion and trip reliability through a multi-faceted approach. The new HOT lanes recommended for Phase 1 South will address congestion by setting tolls with the purpose of maintaining the free flow of traffic at speeds of 45 mph or greater, as described below. This will prevent congestion in the new lanes from degrading performance and maximize throughput. In addition, the Project will also provide new transit opportunities and connection for suburban transit services by providing reliable travel in the HOT lanes and connections to transit centers, park-and-rides, and job and activity centers near the corridor. The HOT lanes will boost ridesharing and encourage less dependence on single-occupancy vehicles by incentivizing vehicles with three or more people to use the HOT lanes for free. Traffic will be reduced on local roadways by increasing the number of travelers that can be accommodated on the interstate. Barriers to bicycle and pedestrian connections will be addressed as part of the Recommended Preferred Alternative ("RPA"), with commitments consistent with connections identified in the Montgomery County and City of Rockville master plans and priorities:

- New pedestrian/bicycle path across the American Legion Bridge
- Replace and widen Bethesda Trolley Trail bridge crossing of I-495
- Lengthen I-270 bridge over Tuckerman Lane to accommodate future separated bikeway along Tuckerman Lane
- New buffer-separated side paths across MD 190 over I-495
- Upgraded sidepath along Seven Locks Road under I-495

Different from other public-private partnerships ("P3") that have been delivered in the State, the Project will be developed and delivered using a multi-step progressive P3, or predevelopment, model. While new to the State, progressive P3s have been used to successfully deliver managed lanes projects in Virginia for I-95, I-495, and I-395, and in Texas for the North Tarrant Express.

Progressive P3 Model

The Project will be delivered using a progressive P3 approach, which is designed to minimize risks to the State and provide more-efficient pricing and better schedule certainty. Under a progressive P3, the selected developer (the "Phase Developer") will enter into a phase P3 agreement ("Phase P3 Agreement") and collaborate directly with the Reporting Agencies and stakeholders on predevelopment work. This upfront effort will focus on advancing the preliminary design and due diligence activities for the Project by involving all stakeholders – including Montgomery and Frederick counties, municipalities, property owners, utilities, and citizens. During the predevelopment work, the focus will be on further avoiding and minimizing impacts to environmental resources, communities, properties, utilities, and other features by working collaboratively with the Phase Developer and the counties, municipalities, State and federal agencies, property owners, utilities and citizens.

After completion of the predevelopment work with respect to a section of the Project, and only if a build alternative is identified under the National Environmental Policy Act ("NEPA") approval process, MDOT would seek final approval from the Board of Public Works ("BPW") to move forward with a section P3 agreement (the "Section P3 Agreement") under which a subsidiary of the Phase Developer (the "Section Developer") will be responsible for the final design, construction, financing, operations and maintenance of such section for a term of 50 years.

P3 Rationale and Solicitation Process

P3 and Priced Managed Lanes Rationale

The Reporting Agencies have determined that delivering the Phase 1 improvements through a design-build-finance-operate-maintain revenue risk P3 is the only means to provide congestion relief in the near term for the NCR.

For many years, the Reporting Agencies have studied solutions to the congestion that plagues travelers across the American Legion Bridge and I-270. Over the last few years, the Reporting Agencies have worked intensively to develop a solution to this acute problem, closely partnering and coordinating with stakeholders to advance an environmental study, engaging with industry, and analyzing possible delivery methods. A P3 will bring private sector innovation and billions of dollars in investment to the region while optimizing the transfer of key risks and providing numerous benefits to the State.

In the region, Virginia's priced managed lanes already have been shown to provide congestion relief, leading to more dependable travel times for all users including transit, carpoolers, toll payers, and general-purpose lanes even as demand increases. They also provide the revenue source necessary to fund project costs and long-term maintenance of the priced managed lanes.

Achieving public benefits and generating revenue is not expected to be possible without completing very large road sections. Building mile-by-mile is not practical because it will not produce benefits until a phase of independent usefulness is complete. As such, financing or significant funding is needed to advance the proposed improvements in a meaningful way. Using a P3, the Reporting Agencies will be able to deliver a priced managed lanes solution across Phase 1 South in the near term and transfer the risk of toll revenue performance to a Section Developer while bringing private capital in the form of equity and debt.

If MDOT State Highway Administration ("MDOT SHA") were to use a public delivery model and fund the capital cost to reconstruct the American Legion Bridge alone from the Transportation Trust Fund, this investment would represent approximately a full year of MDOT SHA's capital program, while the full Phase 1 South would represent an even higher figure at approximately 3 years' worth of MDOT SHA's capital program[5]. Using State funding would require MDOT to delay or cancel projects that are already programmed from the Transportation Trust Fund. If Maryland must utilize the Transportation Trust Fund, this means that other potential projects would lose their funding and not be constructed.

In addition, to raise such funding from MDTA Transportation Facilities Projects (TFP) Revenue Bonds, legislatively enacted debt limits would need to be significantly expanded. As of FY 2020, MDTA had $1.9 billion[6] in bonds outstanding, leaving $1.1 billion capacity under the current $3.0 billion debt cap. However, MDTA has other significant projects underway including the $636 million replacement of the Nice Bridge and the $1.1 billion expansion of the I-95 Express Toll Lanes. MDTA forecasts total outstanding debt increasing to $2.5 billion by FY2023[7] and therefore could not pursue a project of this size without expanding debt limits. Additionally, financing the Project (ALB to I-70) in this way would require MDTA's existing TFP to generate additional revenue through toll increases in order to maintain its AA credit rating and avoid increased borrowing costs caused by extending its current debt limit.

Consolidated Transportation Bonds ("CTBs") are also not a viable solution to finance the P3 Program because MDOT imposes a statutory outstanding debt limit on CTBs of $4.5 billion, with a separate annual statutory cap on outstanding bonds for FY 2021 of $3.88 billion. As of October 2020, with the issuance of $300 million CTBs Series 2020, the aggregate amount of CTBs is $3.87 billion[8]. Under the State's debt affordability analysis, using CTBs to finance the P3 Program would also likely degrade coverage ratios outside of benchmarks and reduce debt capacity for all other important needs like schools and other State facilities. As such, the Reporting Agencies view a P3 as the only financially viable way for the State to meet its P3 Program goals in the near term.

<u>Solicitation Process</u>

The BPW approved the P3 designation in June 2019 and provided a supplemental approval in January 2020, approving the delivery of the Project through the solicitation of a phase developer under a phased delivery approach allowing for further minimization of impacts, and design concept collaboration with communities and stakeholders within the delivery process. As part of the progressive P3 solicitation for the Project, the Reporting Agencies followed a two-step

[5] FY2021 - FY2026 Maryland Consolidated Transportation Program, Department of Transportation Operating and Capital Program Summary By Fiscal Year.
[6] Maryland Transportation Authority (MDTA), "June 30, Comprehensive Annual Financial Report" June 30, 2020
[7] Maryland Transportation Authority Cash flow forecast FY 2020 - 2026
[8] https://emma.msrb.org/P11426478-P11107286-P11516884.pdf

Request for Proposal ("RFP") process, which began with the Reporting Agencies seeking interested phase developers through a Request for Qualifications issued in February 2020. Statements of Qualification were submitted and evaluated by the Reporting Agencies, which provided for a shortlist of four highly qualified respondents (the "Proposers") in July 2020. The Proposers were then invited to submit a proposal to assist in the predevelopment work and enter into the Phase P3 Agreement for the Project. **Transparency, fairness, and competition** were prioritized to ultimately identify which of the Proposers (the "Selected Proposer") would be best able to deliver the Project in the manner most advantageous to the State. With the initiation of the solicitation process in February 2020, Proposers have had nearly a year to develop their proposals with minimal changes to the State's goals or requirements in that time.

Figure 2 depicts the key steps of the solicitation process including the following:

- **Request for Qualifications (RFQ) –** The RFQ process identified the most highly qualified teams based on their skills and expertise, experience on similar projects, and financial capabilities. The solicitation process for the Project began in February 2020 with the issuance of the RFQ and resulted in MDOT's announcement of a shortlist of four highly qualified respondents in July 2020.

- **Request for Proposals (RFP) –** A Draft RFP that was distributed to Proposers in July 2020 contained a draft Phase P3 Agreement and Section P3 Agreement Term Sheet, which included the terms and conditions that will govern how the Phase Developer and the Section Developers will deliver the Project. Over the subsequent 6 months, the Reporting Agencies fielded more than one thousand five hundred written questions and periodically met with Proposers to receive feedback, provide clarifications, consider innovative technical and financial solutions, and optimize the framework of the P3 agreements during this competitive RFP process. Three predevelopment work proposals were submitted on December 23, 2020, followed by three financial proposals submitted on January 8, 2021.

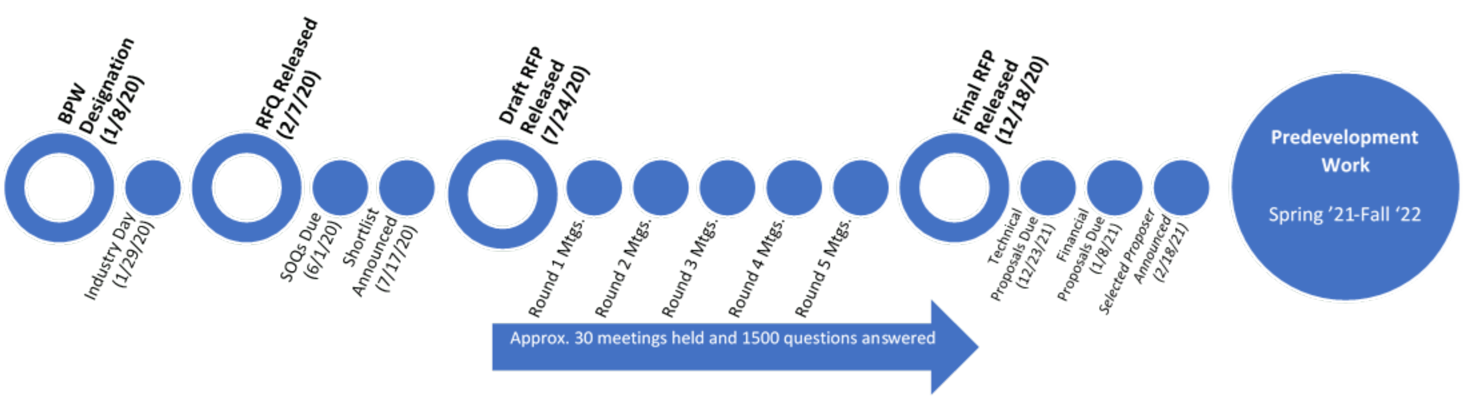

Figure 2

A comprehensive evaluation process, which included MDOT, MDOT SHA, MDTA, industry experts, advisors from Montgomery and Frederick counties and an observer from the Federal

Highway Administration ("FHWA"), was conducted to select the right partner to bring innovation and effectively collaborate with community stakeholders and other partners to (i) provide delivery certainty, (ii) minimize impacts, (iii) maximizing value to the State, (iv) providing community benefits, and (v) congestion relief.

The extensive evaluation process involved reviews of the proposals in three steps:

1. **Technical and Financial Review Teams:** These teams were comprised of subject matter experts in various areas related to the P3 Program goals, including a combination of MDOT staff, MDTA staff, consultants, and advisors. The Technical and Financial Review Teams were comprised of 40 multi-disciplinary experts with more than 500 years of combined, relevant experience. These teams held 15 meetings, reviewed each proposal in detail and deliberated for 120 hours.

2. **Evaluation Committee:** This committee included senior leadership representing MDOT, MDOT SHA, and MDTA, supported by Review Team Leaders, community representatives from Montgomery and Frederick counties (advisors), and a FHWA representative (observer). The Evaluation Committee held six full-day meetings, reviewed the work of the technical and financial review teams and deliberated for more than 50 hours.

3. **Selection Committee:** The Evaluation Committee Chairs presented the staff recommendation to the Selection Committee which include the MDOT Secretary, MDTA Executive Director and MDOT SHA Administrator. Following review and discussion, the Selection Committee determined to approve the Evaluation Committee recommendation.

The Technical and Financial Review Teams conducted their reviews independently and presented their recommendations separately to the Evaluation Committee. The Evaluation Committee independently reviewed the proposals and considered the input from the Technical Review Teams in deliberating the ratings.

- **Technical Review:** As outlined in the Request for Proposals, each predevelopment work proposal received an adjectival rating (exceptional, good, acceptable, or unacceptable) with respect to each primary evaluation criteria and an overall adjectival rating. Accelerate Maryland Partners, LLC ("AMP") received an overall rating of Good while Accelerate Maryland Express Partners received an overall rating of Acceptable and Capital Express Mobility Partners ("CEMP") received an overall rating of Good +.

- **Financial Review:** As outlined in the RFP, there were a total of 1,791 possible points available for the financial proposal evaluation criteria: Proposal Equity IRR (457 points), Developer Closing Fee Percentage (40 points), Development Rights Fees (145 points), Predevelopment Cost Cap (100 points), D&C General Conditions Cost Percentage (435 points), Contractor Markup Percentage (585 points) and Renewal Work General Conditions Cost Percentage (29 points). AMP had the highest-ranking financial proposal with 1,356 points compared to 800 points for Accelerate Maryland Express Partners and 665 points for Capital Express Mobility Partners.

Proposal	Technical Review	Financial Review
AMP	Good	1,356
CEMP	Good +	665
Accelerate MarylandExpress Partners	Acceptable	800

The Evaluation Committee reviewed and rated the technical proposals before reviewing the financial proposals. It then completed a trade-off analysis (as described in, and permitted by, the RFP) to determine a recommendation of the proposal that is most advantageous to the State. The Evaluation Committee determined that CEMP’s technical proposal was marginally superior to AMP’s technical proposal. However, AMP’s financial proposal scored significantly higher than CEMP’s financial proposal. The Evaluation Committee determined that AMP’s significantly higher financial proposal score outweighed the marginally higher technical rating of CEMP, making the AMP proposal the most advantageous offer to the State and the overall best value. The recommendation was presented to the Selection Committee, which accepted the Evaluation Committee’s recommendation of AMP as the most advantageous and overall best value to the State when both technical and price proposals were considered.

Accelerate Maryland Partners Proposal Highlights

AMP proposed $145 million in Development Rights Fees and a $54.3 million Predevelopment Cost Cap. The "Development Rights Fee" or “DRF” is a cash commitment to make a payment by the Phase Developer to the State upon financial close of a Section P3 Agreement for Phase 1 South. The "Predevelopment Cost Cap" is the maximum amount of allowed predevelopment costs that the Phase Developer may recover from the Section Developer at financial close of Phase 1 South.

When the predevelopment work proposals were rated and the financial proposals were scored, AMP provided the best value to the State by having a strong predevelopment work proposal and a significantly stronger financial proposal as compared to those submitted by the two other teams.

AMP brought strong relevant regional experience and P3 priced managed lanes experience. AMP’s strong predevelopment work proposal demonstrated a strong understanding of the Project and offered well thought-out approaches to manage and mitigate Phase 1 risks. Their proposal also identified detailed solutions to further reduce property impacts, reduce potential utility conflicts, and provide environmental stewardship.

AMP’s predevelopment work proposal outlines potential solutions to provide funding for transit services, community grants, Vision Zero, and an innovation alliance for Phase 1 South. They are estimating that they could provide $5 million for Vision Zero to improve pedestrian and bicyclist safety along the corridor during construction. Over the 50-year term of the Section P3 Agreement for Phase 1 South, AMP estimated investing $300 million in transit services, $50 million in community grants and $25 million to support emerging technologies through an innovation alliance. Ultimately, the exact investments will be determined as part of the Section P3 Agreement along with the other components to advance final design, construction, financing, operations, and maintenance of the section for 50 years. Additional factors in the development of Phase 1 South will be determined over the next year, during the predevelopment phase, which will inform the final Section P3 Agreement. These factors include the design developed in collaboration with stakeholders, the construction price, and MDTA's final approval of the toll rate range and soft rate cap.

The Accelerate Maryland Partners Team

The AMP team is made up of the following members:

Transurban (USA) Operations, Inc. – Lead Project Developer and Lead Contractor
The Transurban Group is one of the world's largest toll-road operators and developers, working to get people where they want to go, as quickly and safely as possible. By embracing collaboration with government, its P3s are delivering transformative infrastructure solutions across five markets. Transurban designs roads for the long term, ensuring they will deliver real and lasting benefits to communities. As an industry leader, Transurban has set high standards for performance on social and environmental issues and invests in both to create social inclusion and manage environmental impacts. With a leading market share of transportation P3 investment in North America, they are pioneering travel solutions like dynamically tolled express lanes and are partnering with governments to think about the policies, technology, and infrastructure that will get travelers home today as well as over the next 50 years.

Macquarie Infrastructure Developments LLC – Lead Project Developer and Lead Contractor
The Macquarie Group is the world's largest infrastructure investor with over $118 billion in infrastructure assets under its management, including over $30 billion in North America, and has been at the forefront of infrastructure finance and asset management for more than two decades. Macquarie is one of the world's largest P3 developers, equity sponsors, and financial advisors with unparalleled experience in successfully applying a holistic and collaborative approach to developing large and complex infrastructure projects with an integrated team of both technical and financing experts. Macquarie has a large funding ability and appetite, and flexible balance sheet with $5.7 billion of cash or cash equivalents. As a leading developer of P3s globally, Macquarie has developed or advised on over $34 billion of P3 projects worldwide and over the last 10 years Macquarie committed over $55 billion of equity to infrastructure transactions in North America and supported $10 billion in private financing for US toll roads.

Dewberry Engineers Inc. & Stantec Consulting Services Inc. – Lead Designers
Dewberry is a nationwide design and consulting firm. With its earliest Maryland office dating back to 1969 and four offices in Maryland today, Dewberry supports the needs of clients within federal, state, local, and commercial markets. Services include civil engineering, surveying, planning, land development, and landscape architecture. Dewberry served as lead designer, as well as provided construction quality assurance and quality control, for Contract C and Contract D/E of the Intercounty Connector (ICC) project. **Stantec** offers 22,000 specialists working in

350 locations worldwide including three offices in Maryland (Baltimore, Laurel, and Germantown) and has provided a full suite of services for numerous large and complex transportation projects using Design-Build and P3 delivery methods. Over the past six decades, Stantec has had a major role in the development of infrastructure in Maryland, the District of Columbia, and Virginia.

Bechtel Infrastructure Corporation – Supporting Construction Manager
Bechtel is a trusted engineering, construction and project management partner to industry and government. Differentiated by the quality of their people and relentless drive to deliver the most successful outcomes, the team aligns capabilities to customers' objectives to create a lasting positive impact. Since 1898, Bechtel has helped customers complete more than 25,000 projects in 160 countries on all seven continents that have created jobs, grown economies, improved the resiliency of the world's infrastructure, increased access to energy, resources, and vital services, and made the world a safer, cleaner place. Bechtel has experience in projects' entire lifecycle, from initial planning and conceptualization, through design, construction, testing, commissioning, and handover to operations. Bechtel's global headquarters are in Reston, VA. Over the years Bechtel has been involved in high-profile transportation projects in the Washington, DC metropolitan region.

Exclusive Subconsultants:

- ECS Mid-Atlantic, LLC
- Floura Teeter Landscape Architects
- Soltesz, Inc.
- STV Incorporated
- Whitney, Bailey, Cox & Magnani, LLC (WBCM)

Accelerate Maryland Partner's exclusive subconsultants bring even more local experience to Phase 1. **Engineering Consulting Services Mid-Atlantic** is a leader in geotechnical, construction materials, environmental and facilities engineering. **Floura Teeter**, a Maryland-certified DBE firm in landscape architectural services, brings an innovative approach to problem-solving, the knowledge to cultivate true sustainability, and a commitment to help craft better communities. Floura Teeter's experience and knowledge bring LEED Accredited Professionals, registered landscape architects, ISA-Certified Arborists, Design-Build Professionals, a registered forester, and a SITES Accredited Professional to any environmental goal or challenges. **Soltesz** is a multi-disciplinary engineering firm experienced in navigating clients through each phase of a project to innovative, effective solutions, whose clients include developers, builders and property owners, public agencies, and institutions around the greater Washington metropolitan area. **STV** is a leader in providing architectural, engineering, planning, environment, and construction manager services for transportation systems, infrastructure, buildings, energy, and other facilities. **WBCM**'s transportation division provides safe, efficient, and cost-effective solutions for innovative multi-modal transportation and transit projects, including planning and feasibility studies, with a goal of improving the mobility of people and goods to enhance the overall quality of life within our communities.

Strategic Partners:

- Cavnue, LLC
- SIP Maryland Project Co. LLC
- Via Transportation, Inc.

Cavnue, a technology infrastructure leader founded by **Sidewalk Infrastructure Partners,** aims to build the future of roads alongside strong government and industry partners for the acceleration of autonomous and connected vehicles. As AMP's digital-innovation partner, Cavnue provides digitally advanced road technology that is designed to be safer, less congested, more efficient in the movement of goods, and improve access to public transit. **Via** is the world's leading developer and operator of advanced public mobility systems. Through its partnerships with cities, counties, and transit agencies in more than 20 countries, Via powers shared networks of microtransit and paratransit systems, fixed route buses, and electric autonomous vehicles. Via's technology has delivered more than 85 million rides, making mobility more sustainable, efficient, and accessible for communities around the world.

Diversity, Inclusion and Local Workforce:

- Modern Times, Inc. – Diversity and Inclusion Manager
- Three E Consulting – Community Partnership Manager
- Laisar Management Group LLC – Mentor Protégé Training Manager

Modern Times, a national firm with a local office in Riverdale, is the DBE Program Manager on 12 mega projects. Modern Times brings extensive experience implementing local workforce programs subject to Equal Employment Opportunity regulations, Project Labor Agreement (PLA), Community Benefits Agreement (CBA), and similar instruments. A recognized community programs leader in Maryland, **Three E** brings key relationships with community-based organizations within the Greater Washington Area. Three E worked on the MGM National Harbor Casino and is supporting M/WBE programs on the Prince George's County Schools P3 and the Clean Water Partnership with Corvias Solutions. **Laisar**, a Silver Spring-based firm develops innovative solutions to comply with minority and disadvantaged business enterprise goals, enhances inclusion, and drives economic and social impacts. Laisar was the M/WBE Program Manager on the MGM National Harbor Casino project which realized 40% M/WBE participation, exceeding project goals by 9%.

Phase P3 Agreement

<u>Predevelopment Work</u>

Upon the BPW approval of a Phase P3 Agreement for Phase 1, the Reporting Agencies would begin predevelopment and preliminary design work with AMP for Phase 1 South – from the vicinity of the George Washington Memorial Parkway in Virginia across the American Legion Bridge to I-270 and up I-270 to I-370. Different from Maryland's other P3s, this new predevelopment work will require AMP to conduct robust collaboration and engagement with the counties, municipalities, state and federal agencies, property owners, utilities, and citizens.

These efforts will further help identify the best ways to advance the preliminary design and due diligence activities to further avoid and minimize impacts to environmental resources, communities, properties, utilities, and other features. Predevelopment also will allow AMP and the Reporting Agencies to work together to continue refining cost and revenue assumptions to further the State's interests. Only after this significant collaboration and completion of a Final Environmental Impact Statement/Record of Decision for a build alternative, would MDOT seek BPW approval for a 50-year Section Agreement for final design, construction, financing, operations, and maintenance.

MDOT SHA will concurrently continue to work through the I-270 North (I-270 from I-370 to I-70) pre-NEPA activities that would lead to a full NEPA process for Phase 1 North. The Phase Developer would support the NEPA process for Phase 1 North once it begins by providing studies such as financing plans, traffic and revenue, and other studies. MDOT SHA may utilize these studies in the development of the NEPA document for Phase 1 North. However, the Phase Developer will not have any decision-making authority for the NEPA processes for Phase 1 South or Phase 1 North. Of notable importance here is that the progressive P3 process is structured and will be conducted to complement and support the success of MDOT's Phase Delivery approach for the MDOT RPA under the Managed Lanes Study for Phase 1 South, as well as any alternative selected as part of environmental processes for Phase 1 North.

Upon execution of the Phase P3 Agreement, the Phase Developer must fund all costs required to perform the scope of work during predevelopment work (as outlined in the Phase P3 Agreement, including Exhibit 6). At financial close under the Section P3 Agreement for Phase 1 South, the Phase Developer will be reimbursed, subject to the Predevelopment Cost Cap, for its eligible predevelopment work costs to perform the design and other work required to achieve financial close. This payment will be funded from the financing raised by the Section Developer on the basis of future toll revenues, which also will provide all of the funding necessary to deliver the first section.

Termination Events and Compensation

If a proposed section does not reach financial close due to the failures or fault of the Phase Developer, MDOT will not reimburse the Phase Developer for any of its predevelopment work costs related to that section. If such failure is with respect to the first section, MDOT will not reimburse the Phase Developer for any of its predevelopment work costs. In this circumstance, MDOT also would have the right to draw on the $10 million performance security and the $145 million Development Rights Fee Security and terminate the Phase P3 Agreement.

If MDOT and the Phase Developer are unable to reach an agreement with respect to the terms of the Section P3 Agreement to deliver the first section of Phase 1 during the predevelopment work, the Phase Developer will not be repaid for any of its predevelopment work costs incurred to that point.

If Phase 1 is cancelled for certain reasons that are not the fault of the Phase Developer, including (i) termination by MDOT for convenience, (ii) NEPA does not permit priced managed lanes for Phase 1, or (iii) other changes to the key assumptions set forth in Exhibit 18 to the Phase P3 Agreement (the "Key Assumptions") that cause Phase 1 South to not be financially viable, MDOT will be responsible for paying the lesser of $50 million ("the Phase 1 South Termination Cap") or the eligible costs incurred by the Phase Developer for the predevelopment work of

Phase 1 South up to the time of termination of the Phase P3 Agreement. In return, the Phase Developer will provide MDOT with all of its work product developed up to and during the predevelopment work, including any designs and other intellectual property that could be used for the development of Phase 1 in the future by the Reporting Agencies. A separate termination cap for Phase 1 North will be agreed between MDOT and the Phase Developer in connection with the determination of the financial viability of Phase 1 North.

In addition to the termination caps, MDOT could be responsible for reimbursing "reasonable and proper" costs to the Phase Developer for certain limited compensable events, such as those requiring the Phase Developer to perform remedial actions to address issues including the discovery of pre-existing hazardous materials or archaeological artifacts. Finally, the State would be responsible for reimbursing the Phase Developer for any MDOT-directed change orders that it requests for work that is not contemplated in the Phase P3 Agreement. These amounts would either be paid directly or result in an increase in the termination and predevelopment work caps to reflect additional costs. However, as part of developing any Section P3 agreements, MDOT will collaborate with the Phase Developer so any and all of these costs ultimately are at no net cost to the State of Maryland, by factoring them into and accounting for them through the Section Developer's financing at financial close. In addition, the occurrence of certain "Relief Events" that could give rise to rights for the Phase Developer to recover additional costs caused by such events, again it must be stressed, would be accounted for as part of the Section Developer's financing at financial close.

As noted above, the Phase Developer has committed to pay a Development Rights Fee ("DRF"). The DRF is intended to provide developers with a mechanism to offer a minimum concession payment that would be used at financial close to offset MDOT-related project costs and commitments. The DRF is subject to certain conditions associated with the Key Assumptions. If some of the Key Assumptions change during the predevelopment work, the DRF would be adjusted to reflect the demonstrated financial impact of such changes. For instance, the Phase Developer would be allowed to adjust the DRF payment accordingly if there are significant scope changes related to the Bi-State Agreement. The DRF will be paid to MDOT at financial close of Phase 1 South or will be forfeited and paid to MDOT in the event the Phase P3 Agreement is terminated due to a default by the Phase Developer during the predevelopment work.

Security for Obligations

In accordance with the RFP, the selected Phase Developer has provided MDOT SHA with a proposal security of $5 million which will be forfeited if the selected Phase Developer fails to enter into the Phase P3 Agreement due to any of its actions that are inconsistent with the requirements of the RFP documents.

Once the Phase P3 Agreement is executed, the Phase Developer will provide performance security of $10 million for the predevelopment work on which MDOT would be entitled to draw if the Phase Developer fails to meet the requirements of the Phase P3 Agreement. In addition to losing its performance security, the Phase Developer will be required to pay MDOT the DRF and would not be eligible to be reimbursed for any of its predevelopment work costs.

Phase 1 South Financial Close Deadline

Subject to the requirements of the approved Phase P3 Agreement, financial close for Phase 1 South is to occur by October 31, 2022. Future sections of Phase 1 are uncommitted, and predevelopment of such sections will only proceed if the Phase Developer and MDOT agree that they are financially viable.

Financial Plan

As part of the predevelopment work activities of Phase 1, the Phase Developer will prepare a fully committed section proposal (the "Committed Section Proposal") for each section. Each Committed Section Proposal will include a financial plan (the "Financial Plan") for the relevant section. The Financial Plan will meet the federal requirements for major projects. The Financial Plan will also include a financial model containing design, construction, operation, and maintenance costs, with such costs developed in collaboration with MDOT on an open-book basis and/or based on a separate, competitive solicitation undertaken by the Phase Developer. Because these costs will be developed as part of the predevelopment work, the Section Developer's annual cash flows are not currently available, but will be included as part of the Committed Section Proposal which will be submitted for future BPW approval along with the relevant Section P3 Agreement.

Additional activities to support the development of each Financial Plan include securing two investment grade ratings from major rating agencies and completing an audit of the financial model to confirm it reflects the relevant Section P3 Agreement and the underlying data and assumptions.

Throughout the process, the Reporting Agencies will provide input, oversight, and review of all the Phase Developer's activities under the Financial Plan. The Financial Plan and Committed Section Proposal must be agreed to by all parties.

State Contributions

The State will not make any payments to the Phase Developer for the predevelopment work performed with respect to any section of the Project under the Phase P3 Agreement if that section of Phase 1 successfully achieves financial close.

Federal Loans or credit assistance

There will be no federal loans or credit assistance to the Reporting Agencies provided under the Phase P3 Agreement.

With respect to each Financial Plan, the primary federal loan and credit assistance tool anticipated to be utilized by the Section Developer is the United States Department of Transportation ("USDOT") Transportation Infrastructure and Innovation Act ("TIFIA") credit assistance program. During the predevelopment work, the Phase Developer will develop a TIFIA financing work plan that outlines their process for securing a TIFIA loan, including submitting a Letter of Interest, completing a creditworthiness review, negotiating a TIFIA Loan Agreement and finalizing the TIFIA Application. The specific amount requested and TIFIA loan parameters will be developed and refined specific to each section advanced.

Private Investment

As described above, the predevelopment work will be completed at the Phase Developer's risk and without funding from the State.

During the predevelopment work, the Phase Developer will be required to plan for, and ultimately secure, financing commitments from debt and equity providers to pay for the delivery of the section, as outlined in its Committed Section Proposal. This will involve undertaking a competition of potential non-TIFIA financing sources which may include tax-exempt Private Activity Bonds ("PABs"), taxable bank debt, and taxable private placements. The Phase Developer will also develop an equity commitment work plan that details the process to secure all equity commitments required to meet the total equity contributions of the Financing Plan for each section. If the Financial Plan includes PABs, then the Phase Developer will be solely responsible for obtaining ratings, bond counsel opinions, credit enhancement (as applicable), and an underwriting commitment or placement of the PABs, as well as satisfying any conditions placed on the use of the allocation by USDOT. The Maryland Economic Development Corporation (MEDCO) will serve as the issuer of the PABs.

Local and other funding contributions

No local or other funding contributions for the scope of the program are expected outside of the sources of funding articulated above.

Expected Financing Plan Considerations for the Section P3 Agreement

As described above, the section construction responsibilities will be financed through private debt and equity secured solely on toll revenue from the applicable section. The private debt and equity will be non-recourse to MDOT, MDTA, and the State. In addition to the private financing, certain costs to be borne by the State will be financed through the issuance of MDTA Notes through a private placement issuance to the Section Developer which is described below.

MDTA P3 Trust Agreement

MDTA will establish a new master trust indenture for the P3 Program and issue limited recourse toll revenue bonds for each section of the Project. At financial close of each section, the Section Developer will purchase debt obligations from MDTA (the "MDTA Notes") in a private placement. The total principal amount of the MDTA Notes for Phase 1 South is not expected to exceed $100 million. The project costs paid for with the proceeds of the MDTA Notes are intended to be costs that are the responsibility of the State and that are critical components of the Project. Examples of these costs include environmental mitigation costs, program management costs, and certain right of way acquisition costs. MDTA will pledge to the trustee a security interest in all of the right, title, and interest of MDTA in and to the revenue collected from users of the priced managed lanes applicable to that section, in order to secure the payment of the principal and interest on the MDTA Notes and other payments payable by MDTA, for the benefit of the Section Developer as noteholder. This pledge is required in order to segregate the toll revenues for the section of the Project. (*See*, Transportation Article, § 4-313, Annotated Code of Maryland.) There will be no impact to MDTA's current trust and other TFPs. Specifically, principal and interest on the notes are repaid solely from tolls from the section and shall be non-recourse on the MDTA system revenue or the State. MDTA will be protected from toll collection and timing risk through the creation of an Operating Reserve Account with a commitment from MDOT to pre-fund the Operating Reserve Account and fund any future shortfall during the term. To the extent that a shortfall is forecast or experienced, MDTA shall evaluate changes to operations or fee structure to mitigate the potential shortfall.

<u>State Debt Impact</u>

As described above, under the Phase P3 Agreement, MDOT will assume contingent liabilities of termination compensation and compensable events, which is currently a potential liability of $50 million for the Phase 1 South Termination Cap. The circumstances in which the State would be required to compensate the Phase Developer under the Phase P3 Agreement are very limited, as set out in the *Phase P3 Agreement* section above. As such, it is anticipated that the P3 Program will have no impact on the State's debt capacity. The Reporting Agencies have consulted with the Department of Budget and Management (DBM), and DBM has agreed with this assessment.

No private financing is to be raised by the Phase Developer with respect to funding the predevelopment work. All project financing is to be raised for the delivery of the section in the future by the Section Developer (as described in the relevant Financial Plan), subject to future approval by MDOT, the BPW and MDTA Board (as defined below). Any future borrowing, even if borrowed from a federal credit program such as TIFIA or issued as Private Activity Bonds, will be non-recourse to the State and will be part of a Section P3 Agreement subject to future approval from MDOT, the MDTA Board and BPW.

MDTA is expected to issue the MDTA Notes within its statutory bonding authority, which will be repaid from the tolls derived from the relevant section of the P3 Program and which will not impact the debt coverage of MDTA's outstanding bonds. The MDTA Notes will, however, be subject to MDTA's statutory debt limit. The issuance of the MDTA Notes is not expected to negatively impact MDTA's ability to progress other capital projects.

<u>Future Revenue Sharing</u>

Within each Section P3 Agreement, there will be contractual terms associated with future revenue sharing in circumstances where the Project outperforms initial expectations. Any revenue sharing would be in addition to the Development Rights Fee and any upfront payment paid to the Reporting Agencies at financial close of each Section P3 Agreement.

Tolling

MDTA has the responsibility to fix, revise, and set toll rates for the P3 Program in accordance with the Transportation Article §4-312 of the Annotated Code of Maryland and Code of

Maryland Regulations (COMAR) 11.07.05. As a Reporting Agency, MDTA is conducting due diligence on the toll rate setting process, which eventually will include a toll rate setting proposal presented by MDTA staff to the MDTA Chairman and Board ("MDTA Board"), followed by a public comment period and hearings, and concluded with final toll rate range recommendations to the MDTA Board for approval. The MDTA staff anticipates presenting the toll rate setting proposal and initiating this process with the MDTA Board in Spring 2021.

No tolling shall take place in connection with the predevelopment work performed under the Phase P3 Agreement. The Section Developer shall be entitled to payments of certain toll revenues for all valid transactions recorded and submitted to MDTA for trips within its Section of Phase 1. Such toll revenues shall be the Section Developer's source of funds to pay its operation and maintenance costs, return on debt and equity investment and its other costs.

Setting Toll Rates for the Project

When establishing or adjusting toll rates for the toll facilities that the MDTA currently owns and operates, the primary focus is revenue to ensure the agency meets its fiscal responsibilities to operate, maintain and finance its facilities. Traffic and revenue models help staff determine the revenue impact for various toll rate scenarios. This Project requires a different focus using a successfully proven approach of establishing toll rates/ranges to effectively manage congestion. Rather than focusing on a certain amount of revenue, the managed lanes on the Project are designed to maintain speeds of 45 mph or greater in the managed lanes. The goal of the managed lanes is to maintain free-flowing traffic and to use pricing factors to influence traffic flow. As such, toll rates need to apply economic supply and demand principles to influence utilization of the managed lanes.

MDTA continues to conduct its thorough due diligence to ensure that the toll rate ranges it proposes and approves are those necessary to generally maintain and, as circumstances warrant, quickly restore free flowing traffic on the managed lanes.

Soft Rate Cap

In addition to setting the toll rate ranges, MDTA also anticipates establishing a soft rate cap and operational metrics for the Phase 1 South portion of the Project. The purpose of the soft rate cap is to constrain the toll rate charged to customers when throughput and speed operational metrics are within certain defined thresholds. The soft rate cap may only be exceeded if the established operational metrics are not being met for the specific tolling segment impacted (i.e., not entire trip). A controlled rate increase will be allowed above the soft rate cap but will always remain within the toll rate range established by the MDTA Board. Toll rates above the soft rate cap will be permitted only until the required operational metrics have been met, after which, the toll rate must be adjusted to a rate at or below the soft rate cap. The soft rate cap will be established through future action by the Executive Director.

Minimum and Maximum Toll Rates

As part of the toll rate ranges, MDTA also establishes minimum and maximum toll rates along with a minimum toll per trip. The minimum toll rate is the lowest toll rate per mile that will be charged at any tolling point for the managed lanes. The minimum toll per trip is intended to cover toll capture, and MDTA processing, and collection costs.

The maximum toll rate is the highest toll rate per mile that may be charged at any tolling point for the managed lanes. The actual per mile rate paid by customers is responsive to real-time traffic. The maximum rates cannot be exceeded under any circumstance. The maximum rate will only be realized under conditions where the soft rate cap is exceeded, which would be during times of deteriorating performance when operational metrics are not being met. The toll rate is determined on a segment-by-segment basis. The maximum toll rate is required for the most congested tolling segments and would minimally come into effect for certain segments.

<u>Escalation</u>

The MDTA staff anticipates the minimum and maximum toll rates and the soft rate cap will be escalated from the 2021 rates (2021$) using escalation factors based on the Washington Metro regional consumer price index – all urban consumers (CPI-U) values, population and employment real growth rate, and per capita personal income real growth rate. These factors will be set by the MDTA Board and will be escalated annually on July 1and are anticipated to account for and keep pace with (1) the growing traffic demand for the managed lanes, (2) annual inflation, and (3) the goal of providing a faster and more reliable trip for customers who choose to pay the toll over the life of Phase 1 South.

<u>High Occupancy Vehicles (HOV) on the Project</u>

The MDTA Board is responsible for establishing any discount programs (including free passage) such as high-occupancy vehicles (HOV) and transit. The preliminary information developed by MDTA staff, consistent with the RPA for Phase 1 South, recommends free passage for HOVs with three or more people, mass transit vehicles, over the road buses, and motorcycles. This will provide opportunities for faster, more-reliable bus transit service, carpooling and vanpooling. Existing general-purpose lanes throughout the corridor will be retained and will remain free for use by all motorists.

Environmental Review Update

Under the I-495 & I-270 Managed Lanes Study ("MLS"), the State has been evaluating alternatives that address the need to accommodate existing and long-term traffic growth, enhance trip reliability, expand travel options, accommodate homeland security, and improve the movement of goods and services. The MLS is following the NEPA process and will result in a Final Environmental Impact Statement (FEIS).

On January 27, 2021, MDOT announced to key partner agencies, stakeholders, elected officials, and the public that Alternative 9 -- two HOT lanes within the limits of the Managed Lanes Study -- is its RPA. This alternative also includes adding a bicycle and pedestrian connection across the new American Legion Bridge. In May 2021, MDOT decided to align the Managed Lanes Study to be consistent with the State's phased delivery plan by recommending Alternative 9 within the limits of Phase 1 South only. The new RPA does not include improvements to the remaining parts of the interstate system within the MLS area. This does not mean improvements will not be needed on these remaining parts of the system. Only that future consideration of improvements to these remaining parts would advance separately, subject to additional analysis and collaboration with the public, stakeholders and agencies.

Buses, motorcycles, and vehicles with three or more people would be able to travel the new HOT lanes free of charge, reducing dependence on single-occupant vehicles and providing opportunities for faster, more-reliable bus transit service, carpooling, and vanpooling throughout the region. Under the RPA, all existing general-purpose travel lanes will remain free for anyone to use. Design efforts continue to avoid and minimize community and environmental impacts and identification of mitigation measures for unavoidable impacts is well underway in coordination with our key partner agencies, as well as seeking additional multimodal opportunities for transit and bicycle/pedestrians and environmental enhancements. Under the progressive P3 process, the Phase Developer would advance the RPA for Phase 1 South as part of the predevelopment work.

MDOT SHA continues to work through Pre-NEPA activities on Phase 1 North. Through ongoing coordination with federal, State, and local partners, MDOT SHA will define a purpose and need and a range of options for highway and transit solutions that can be integrated to address the long-term transportation needs of the corridor. This work will support a more efficient environmental review, consistent with recently updated federal regulations.

Other Items

<u>Operation and Maintenance</u>

A summary of financial costs associated with operation and maintenance contracts, performance measures relating to the ongoing operation, the penalties associated with nonperformance relating to the ongoing operation and maintenance, and a plan for how the long-term operation and maintenance contract will be overseen by the agency are not relevant to the Phase P3 Agreement, since it does not include operations and maintenance work. These will be relevant to and included in the Section P3 Agreements.

<u>No transfer of real or personal property to developer</u>

No material land, buildings, or other structures or assets of the State shall be transferred to or exchanged with the Phase Developer or any Section Developer of the P3 Program.

MDOT Commitments to the BPW

<u>Property Acquisition Commitment</u>

> *No property acquisitions related to Traffic Relief Plan may take place before BPW final approval of a Section P3 agreement, except for option payments for the reservation of the purchase of lands. The Reporting Agencies are committed to implementing a solution with the least amount of impacts through minimization techniques and innovative solutions from the private sector. Through this process, the Reporting Agencies approach in which no property shall be acquired prior to the final approval.*

MDOT SHA shall not acquire land for the Project before the BPW approves a Section P3 Agreement, *except for MDOT SHA coordinating with specific property owners to initiate option payments for the reservation of the purchase of lands anticipated for Phase 1 South and right of entries to complete due diligence activities*. The Reporting Agencies are committed to working collaboratively with the Phase Developer and property owners in implementing solutions with the least amount of impacts through minimization techniques and innovative solutions.

<u>Mass Transit Bus Commitment</u>

> *RFP soliciting P3 contractor will permit mass transit bus access on managed toll lanes without tolls. The Reporting Agencies are developing solicitation approach in which it will be clear that public agency mass transit buses will be allowed on the managed toll lanes for free.*

The Phase P3 Agreement requires any Section P3 Agreement shall require that mass transit vehicles will be permitted to use the priced managed lanes free of charge, providing opportunities for faster, more reliable bus transit service, carpooling and vanpooling, and reductions in congestion on the general-purpose lanes.

<u>Regional Transit Commitment</u>

> *The Reporting Agencies will develop memoranda of understanding with the affected Counties defining regional transit service improvements to be provided as part of the P3 Agreements. Terms of the agreements will be provided to the BPW concurrently with the P3 Agreements. Furthermore, the Reporting Agencies will develop the transit service improvements collaboratively with the affected Counties.*
>
> *Specific transit investment will be provided as part of the P3 agreements. This will ensure these regional transit service improvements are provided at defined and predictable times. By including the regional transit service improvements in the P3 agreements, the affected Counties will be guaranteed the transit service improvements. This approach will fully honor the BPW request from June 5, 2019. The memoranda of understanding between MDOT and the affected Counties defining transit service improvements to be developed as part of the P3 Agreements will be provided to the BPW as part of the request for approval of the P3 Agreements to clearly show that the Reporting Agencies have complied with this BPW condition.*

The Reporting Agencies are working collaboratively with the affected counties in developing memoranda of understanding ("MOUs") to define regional transit service improvements to be provided as part of the Section P3 Agreements and be consistent with the financial constraints of the relevant section of the Project. Terms of the MOUs will be provided to the BPW as separate documents, concurrently with the corresponding Section P3 Agreements. These agreed upon regional transit service improvements will be included in the terms of each Section P3 Agreement, while ensuring the program remains no net cost to the State. Upon execution of the Phase P3 Agreement, the Phase Developer will begin its collaboration with MDOT and the affected counties to further define the specific regional transit service improvements that will be provided as part of the MOUs and in the Section P3 Agreements.

Monorail Feasibility Study Commitment

> *Initial feasibility study of monorail to be performed.*

The MDOT has recently completed (February 2021) an Independent I-270 Monorail Feasibility Study[9] to assess the viability to construct, operate, and maintain a monorail system between Shady Grove Metrorail Station and Frederick, Maryland.

The Feasibility Study evaluated existing monorail services around the world, alignment options, station locations and connectivity, frequency of service, ridership demand, environmental and land use considerations, operation and maintenance needs, and project costs for construction, operation, and maintenance.

Based on the evaluation completed as part of this Feasibility Study, the construction of monorail within this corridor is physically feasible. This feasibility determination is based on the technology and proposed alignment. Impacts to existing transit ridership and vehicle volume reductions on I-270 were not fully examined.

Phasing Commitment

> *The P3 Program will be delivered through the solicitation of one or more phase developers. The first solicitation, referred to herein as "Phase 1," will include the Bi-state Capital Beltway Accord partnership for the American Legion Bridge which will include I-495 from south of the George Washington Memorial Parkway to I-270 and I-270 from I-495 to I-70. The first section to be delivered under Phase 1 will be along I-495 from south of the George Washington Memorial Parkway to I-270 and along I-270 from I-495 to I-370. The remaining phases on I-495 from I-270 to the Woodrow Wilson Memorial Bridge and on I-270 from I-370 to I-70 will be solicited at a later date subject to BPW amendment approval of each subsequent phase(s).*

As noted above, this Phase P3 Agreement is only for Phase 1. Upon BPW approval of the Phase P3 Agreement, the Reporting Agencies will work with AMP on predevelopment and preliminary design work for Phase 1 South involving robust collaboration and engagement with the public and other stakeholders. The Phase Developer also will support the NEPA process for Phase 1 North once it begins by providing studies such as financing plans, traffic and revenue, and other studies. MDOT SHA may utilize these studies in the development of the NEPA document for Phase 1 North. However, again as noted previously, the Phase Developer will not have any decision-making authority for the NEPA processes for Phase 1 North. The Reporting Agencies shall seek additional BPW approvals for any Section P3 Agreements for Phase 1 North and for any subsequent, future phase(s).

[9] https://www.mdot.maryland.gov/OPCP/I-270_MFS_Report_2021-2_23.pdf