

T.3 Elected Officials Comments and Responses

T.3.A Draft Environmental Impact Statement Elected Officials Comments and Responses

CITY OF COLLEGE PARK – MAYOR PATRICK WOJAHN



CITY OF COLLEGE PARK

OFFICE OF THE MAYOR & CITY COUNCIL

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October 27, 2020

Ms. Lisa B. Choplin, DBIA
I-495 & I-270 P3 Program Director
I-495 & I-270 P3 Office
707 North Calvert Street
Mail Stop P-601
Baltimore, MD 21202

Re: Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Document I-495 and I-270 Managed Lanes Study

Dear Ms. Choplin:

The College Park City Council thanks you for the additional time granted for the submission of comments on this extensive document. The Council has focused its attention on the College Park area and the impacts to our community. The City Council has previously written to the Governor to oppose the Managed Lanes project and the P3 program. After reviewing the information provided in the DEIS, the City Council remains opposed to the project and strongly recommends the No Build Alternative as the responsible course of action.

The City has identified significant concerns and areas requiring additional information that should be addressed in the FEIS. These are described below:

Direct Access Interchanges

US 1 and I-495: It is not clear how this intersection will be rebuilt to accommodate adjustments to the ramps and reconstruction of the US 1 bridge. Storm water management facilities are shown in each quadrant. The City requests that that the facility in the southeast quadrant be eliminated due to its proximity to single-family homes on Niagara Road, Nantucket Road and Edgewood Road. It is suggested that the facility in the southwest quadrant be enlarged to accommodate this change. The bridge reconstruction should include bike lanes and sidewalks as well as crosswalks at ramp intersections to eliminate the barriers for pedestrians and bicyclists created by I-495. Similarly, pedestrian and bicycle access should be improved under the Beltway bridge on Rhode Island Avenue and at the Little Paint Branch trail

MDOT SHA RESPONSE



Larry Hogan
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Boyd K. Rutherford
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James F. Ports, Jr.
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Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Patrick L. Wojahn
Mayor, City of College Park
8400 Baltimore Avenue
Suite 375
College Park MD 20740

Dear Mayor Wojahn:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your October 27, 2020 letter on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

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where it crosses the Beltway at Cherry Hill Road.

Greenbelt Metro and I-495: It is assumed that a full interchange at this location is in place, however, this interchange was proposed to be constructed in conjunction with private sector development of WMATA property which has been canceled. The cost of building this interchange needs to be included in the project budget. More information is also needed about the realignment of the entrance to the Greenbelt Metro Station.

Noise Barriers

All noise barriers are proposed for replacement and some will be increased in length and height. It is requested that a noise barrier be extended along the northern property line of 4700 Edgewood Road and that the maximum height be used to buffer all single-family homes in College Park. The use of roadside vegetative barriers in these areas is highly encouraged to improve air quality and reduce concentrations of downwind pollutants.

Property Acquisition

Partial acquisition of 34 properties in College Park is proposed including two City-owned properties. For private property, acquiring even a small strip of land could result in the property becoming nonconforming under the Prince George's County Zoning Ordinance. These specific impacts need to be identified for each property.

Polish Club of College Park: This 5.6-acre property contains woodlands, wetlands and wildlife and adjoins the Hollywood neighborhood, Hollywood Park and a K-8 school and preschool. Please clarify if a full or partial acquisition is contemplated. The proposed use of this site for construction staging, materials storage, and placement of storm water management ponds would result in unacceptable impacts to this neighborhood in terms of vehicle exhaust, pesticide use, noise, loss of tree canopy and construction traffic. The City Council has heard from nearby residents who have expressed serious concerns about human health (e.g. asthma, COPD, and cancer) due to loss of the buffer wall and application of pesticides needed to maintain storm water ponds. The City strongly opposes the acquisition and disturbance of this property. A more suitable location for construction staging would be nearby on the north end of the Greenbelt Metro Station parking lot, which is already disturbed and underutilized for parking. A more suitable location for storm water ponds would be the grassy areas adjacent to the Greenbelt Metro Station parking lot, which are not near any residences. If the impact on the Polish Club property cannot be avoided, it is requested that the fewest trees possible be removed during construction, that trees be replanted on the site, the property returned to its natural state, and the barrier wall rebuilt.

10020 51st Avenue: The limit of disturbance (LOD), as shown, would eliminate driveway access to this property. In addition, the proposed storm water pond located at the intersection of this property and 51st Avenue is extremely close to single-family residences and should be relocated. The Beltsville Agricultural Research Center (BARC) property is a suggested location.

Sunnyside Outlots/Odessa Park: This property is owned by the City of College Park and proposed for development by the City as a neighborhood park and playground. The LOD covers half of this site to accommodate a storm water management facility. Construction of this facility will reduce the design footprint of the park, and result in park improvements being placed closer to existing residences and

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There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George's County or the City of College Park. Many of the potential impacts raised in your comment letter had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area, including direct access at US 1 and Greenbelt Metro interchange. Because Prince George's County and the City of College Park are located outside the Preferred Alternative limits of build improvements, impacts to community, historic and natural resources such as the Polish Club, City and County parkland, Indian Creek, Paint Branch and other streams, communities and community facilities within the County and City have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, as well as with the City of College Park.

In response to each of your specific concerns, I offer the following responses.

1. Traffic Congestion

Throughout the National Capital Region, FHWA, Metropolitan Washington Council of Governments (MWCOC) and MDOT SHA have established a consistent approach to project level traffic analysis. The methodology implemented for this Study is consistent with other similar MDOT projects and was reviewed and approved by FHWA when this NEPA process was initiated.

The methodology of traffic analysis involved two primary steps: (1) projecting future traffic volumes using the MWCOC regional forecasting model, and (2) running a traffic simulation model using VISSIM, which is the state of practice for traffic flow simulation, to evaluate the projected operations under each Build Alternative compared to the No Build Alternative as a baseline. The analysis used models that were validated and calibrated specifically for the MLS. The general methodology and assumptions applied to the analysis are summarized in Chapter 3 of the DEIS and discussed in greater detail in DEIS Appendix C-Traffic Technical Report. Updated traffic review for the Preferred Alternative is summarized in Chapter 3 of the SDEIS and in Appendix C to the SDEIS.

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

Given the uncertainty surrounding resolution of the pandemic and how travel patterns will adjust, and over what time period, no definitive traffic model exists to predict how the global pandemic will affect long-term mobility patterns. To adapt to the ongoing and potential long-term travel impacts associated with the pandemic, MDOT SHA developed a COVID-19 Travel Analysis and Monitoring Plan. Refer to FEIS, Appendix C for a copy of the latest version of that plan and results. The plan included three components:

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the loss of tree buffer. This will have a negative impact on the park’s attractiveness and utility. It is requested that the storm water pond be moved to the east on to BARC property where the impacts will be less. Odessa Park should also be included and evaluated as part of the parks inventory contained in the study including clarification of the amount of land required for acquisition.

Park Impacts

Hollywood Park: While the impacts are listed as de minimis, there is concern about how the realignment of the Greenbelt Metro Station access road might impact the viewshed and noise in the park and larger neighborhood. Please provide this information in the Final Environmental Impact Statement (FEIS).

Cherry Hill Road Park: The natural areas of this park will be significantly impacted by the substantial loss of trees, which will further degrade the green infrastructure surrounding the City. Additional information is needed to understand the full extent of impacts to parkland and how to make the park system whole through mitigation.

Streams and Waterways

The College Park area has three streams that will be impacted by the project: Indian Creek, Little Paint Branch and Paint Branch. As many neighborhoods in the City lie within the 100-year floodplain, the increases in impervious surface from the project and changes to groundwater and hydrology, elevate the risk for increased flooding. Additional floodplain modeling for this watershed must be done at this time to understand the full impacts and offer mitigation strategies. It cannot wait until later in the design phase. We are also concerned that local water quality will be degraded and endanger aquatic biota in the streams that cannot tolerate warmwater conditions.

Green Infrastructure and Forest Mitigation

College Park is already experiencing a decrease in tree canopy based on development activity, which will be exacerbated by this project. The green infrastructure corridor along the Beltway offers ecologically important undeveloped land which will be disrupted by the project. Study area impacts are reported in the DEIS but are not broken down to the local level. Please provide this information in the FEIS.

While the City is poised to lose green infrastructure, it is unlikely to be the beneficiary of forest mitigation. Under Maryland Reforestation Law, a minimum of five contiguous acres of public land is needed for replanting within the same watershed. Please reconsider this standard in College Park and other communities in the Developed Tier where this standard cannot be met.

City staff will work with M-NCPPC and your team to identify alternative sites to help restore the tree canopy in the College Park area.

Traffic Congestion

The stated purpose and need for the project are to provide congestion relief and accommodate future long-term traffic growth. The traffic modeling and analysis in the DEIS is insufficient to conclude that the project will meet this need for several reasons. The analysis needs to be updated using current

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- Monitoring: tracking changes in roadway and transit demand during the pandemic, i.e., how travel varies in response to infection figures, vaccine distribution, unemployment rates, school closings, and policy changes;
- Research: reviewing historical data and projections from the Transportation Research Board and the National Capital Region Transportation Planning Board; and
- Sensitivity Analyses: evaluating “what if” scenarios, including potential changes in teleworking, eCommerce, and transit use on projected 2045 travel demand and operations.

The monitoring effort included tracking changes in traffic volumes and transit usage throughout the pandemic, and the corresponding impact on speeds and congestion along I-495 and I-270. The data shows a severe drop in traffic volumes in April 2020 after stay-at-home orders were issued across Maryland, with daily traffic volumes on I-270 and I-495 reducing by more than 50 percent compared to April 2019. After the stay-at-home order was replaced with a “safer at home” advisory in May 2020, traffic volumes gradually increased throughout the summer, stabilizing at approximately 15 percent less than typical conditions during fall 2020. As cases began to surge in November/December 2020, traffic volumes dipped again through the winter. With the rollout of vaccines in early 2021, the corresponding drop in COVID-19 cases, and the gradual reopening of schools and businesses, daily traffic volumes have continued to recover. Statewide, weekly traffic volumes were only down five percent for the week of November 8, 2021 compared to the same week in 2019, per MDOT’s coronavirus tracking website. Refer to <https://www.mdot.maryland.gov/tso/Pages/Index.aspx?PageId=141>. Transit use has been slower to recover, with use of Maryland Transit Administration (MTA) services statewide down over 40 percent compared to pre-pandemic levels as of October 2021 (see link above). In the D.C. region, usage of Washington Metropolitan Area Transit Authority (WMATA) facilities is also down significantly compared to 2019. As of Fall 2021, WMATA rail ridership is down 73 percent on weekdays, while WMATA bus ridership is down 40 percent on weekdays, and parking at Metro facilities is down 88 percent. Refer to <https://www.wmata.com/initiatives/ridership-portal/upload/October-2021-Ridership-Snapshot.pdf>.

While congestion decreased significantly on I-495 and I-270 at the onset of the pandemic in Spring 2020, significant congestion had returned to the study area by November 2021, approaching pre-pandemic levels. For example, average speeds on the I-495 Inner Loop crossing the American Legion Bridge during the PM peak in early November (non-holiday) of 2021 were 20 miles per hour (mph), reflecting significant congestion, and matching the speeds during the similar period in November 2019 (also 20 mph). In the AM peak, average speeds on the I-495 Outer Loop between MD 650 and US 29 in early November 2021 were even lower - below 15 mph. While these speeds are slightly higher than those observed in that same area during the AM peak in November 2019 (10 mph), the findings indicate that there is still a lot of congestion along I-495 even though volumes have not fully rebounded to pre-pandemic levels along I-495 during the morning peak period. Along I-270, average speeds are generally 5 to 10 mph higher in November 2021 compared to November 2019 despite volumes exceeding 2019 levels at MDOT SHA’s permanent count station located on I-270 South of MD 121. These improvements could be attributed to recent improvements completed by MDOT SHA along I-270, including the opening of the Watkins Mill interchange in 2020 and the implementation of ramp metering along southbound I-270 on-ramps in September 2021 as part of the Innovative Congestion Management (ICM) project. Even so, some congestion remains along I-270, with average speeds on I-270 southbound of approximately 30 mph during the AM peak period and average speeds on I-270 northbound below 40 mph during the PM peak period in November 2021.

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traffic data from the Metropolitan Washington Council of Governments (MWCOC), and to consider the impacts of increased capacity on land use. It is unrealistic to assume that there will be no effect on land use, therefore, new trip generation is likely underestimated. Consideration also needs to be given to the effects of the pandemic on traffic growth patterns as many people may permanently transition to telework. The probable increase in the use of Autonomous Vehicles in the future is not addressed and should be.

The City is concerned that induced traffic demand on arterial and collector roads leading to the Beltway such as Baltimore Avenue, Rhode Island Avenue and MD 193 is underestimated. These roads are already highly congested and specific details for them need to be provided in the FEIS including an analysis of traffic, noise, and air quality impacts.

It is unfortunate that no public transit options were included as alternatives retained for detailed study in the DEIS. The City believes this was a mistake that should seriously be revisited along with transportation systems management (TSM) and transportation demand management (TDM) as these approaches have less environmental and financial costs.

Environmental Justice

The DEIS claims that all Build Alternatives under consideration will benefit minority and low-income populations (Environmental Justice (EJ) communities) but does not adequately explain this conclusion. College Park census blocks in the study area meet the definition of an EJ community yet measures to mitigate any potential disproportionate effect on them is missing. The report does not give sufficient attention to the fact that the expected high toll prices may be too much of a cost burden to the EJ community. Equitable access to the managed lanes has not been demonstrated, and recommendations such as toll subsidies should be addressed in the FEIS.

Outreach and input from the EJ community is also missing and must be addressed prior to any second phase of construction. Only one stakeholder meeting in June 2019 is reported to be held but the feedback from the meeting has not been included in the study. Better public participation and involvement is needed going forward.

For the reasons stated, the City Council finds that the DEIS falls significantly short of meeting the stated purpose and need for the project, and that the environmental and other costs far outweigh the benefits of the project.

Sincerely,



Patrick L. Wojahn
Mayor

cc: Maryland District 21 Delegation

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Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS, Section 4.3 using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the MWCOC regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4, Section 4.3 of this FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

With regard to teleworking, current studies indicate that remote work can be expected to continue at levels higher than before the pandemic. With this in mind, MDOT SHA is working with local and regional businesses and with other state agencies, including the Maryland Departments of Environment, Budget and Management, Commerce, and General Services, to better understand the types of initiatives that would support increased telework while maintaining or increasing productivity. While supporting telework will continue to be part of MDOT SHA’s approach to addressing the transportation needs and economic wellbeing of the region, commuting trips only account for around 20 percent of daily travel in the National Capital Region (“NCR”).¹ Therefore, even assuming a substantial shift to telework, this would likely have minimal impact on the remaining 80 percent of daily trips, which include tourism and interstate travel, shipping and freight deliveries, errands, and other personal and business travel. These activities will continue to put pressure on the region’s road network.

I-495 has been at or over capacity since the late 1980s during peak hours, and I-270 has been at or over capacity since the late 1990s during the peak hours. Over the years, those hours of peak congestion on I-495 and I-270 have increased to 10 and 7 hours, respectively. Additionally, projections of long-term growth in the region indicate that another 1.3 million people and 1.0 million jobs will be here by 2045. These developments are expected to continue to drive growth in travel demand, even with the potential for increased telework/remote working. MDOT SHA will commit to tracking travel behavior trends and traffic volumes and will reevaluate during final design.

¹ TPB Regional Travel Survey, 2020 - <https://www.mwcog.org/newsroom/2020/10/21/survey-provides-detailed-look-at-17m-trips-taken-per-day-by-area-residents/>

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2. Environmental Justice

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding Environmental Justice (EJ) pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011). In addition, under Title VI of the Civil Rights Act, each federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subject to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.

In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study Area. See DEIS, Chapter 4, Section 4.21.4 and DEIS, Appendix E; SDEIS, Chapter 4 Section 4.21.2 and FEIS Chapter 5, Section 5.21.2 and FEIS, Appendix F.

Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, U.S. Environmental Protection Agency (USEPA), Maryland Department of Planning, Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project. See FEIS Chapter 5, Section 5.21.2 and FEIS Appendix F for details on this initiative.

MDOT SHA's initial analysis of potential EJ impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, U.S. Department of Transportation (USDOT), and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS, Chapter 4, Section 4.21.2 and DEIS, Appendix E. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the USEPA, EJ Screening and Mapping Tool (EJSCREEN), and through the state of Maryland, EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities was consistent with similar assessments completed by outside expert institutions.

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A final EJ analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis (FEIS Chapter 5, Section 21) and in accordance with Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities Act-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements including:

- Define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity as part of its commitment to support Vision Zero;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by M-NCPPC), readiness, and landowner consensus, also as part of its commitment to support Vision Zero; and
- Work with Montgomery, Frederick and Prince George's Counties to expand transit fare subsidies for eligible low-income riders.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Patrick L. Wojahn
Page Seven

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
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Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

CITY OF GAITHERSBURG – MAYOR JUD ASHMAN



November 9, 2020

The Honorable Gregory Slater
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, Maryland 21076

Dear Secretary Slater:

Across the region, the broader I-495 & I-270 Public Private Partnership (P3) Program has the potential to further economic development, improve infrastructure, and enhance existing and planned multimodal mobility and connectivity. On behalf of the Gaithersburg City Council, I would like to thank the Federal Highway Administration (FHWA) and the Maryland Department of Transportation State Highway Administration (MDOT SHA) for the opportunity to provide feedback on the I-495 and I-270 Managed Lanes Study – Draft Environmental Impact Statement (DEIS), prior to selecting the Preferred Alternative and finalizing the Environmental Impact Statement. We commend FHWA and the MDOT SHA for completing the DEIS on time and for providing multiple opportunities for the public to comment during an unprecedented national pandemic.

The DEIS study includes approximately 1.5 miles of I-270 within the City (between Shady Grove and I-370), but Phase II (I-370 to I-70) will have a greater impact on the City. The alternative that is ultimately selected in Phase I will directly impact the range of options in Phase II. It was our hope that the state would wait to issue a final EIS on Phase I until the DEIS for Phase II is completed. Without a sense of how the alternatives included in the DEIS Study could impact Phase II, the City Council and I are unable to make a formal recommendation. We would request MDOT SHA consider delaying the finalization of the Environmental Impact Statement for Phase I until the Draft Environmental Impact Statement for Phase II has been released. This would allow the City to take a more holistic view of the proposed improvements along the entire length of I-270 corridor.

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June 10, 2022

The Honorable Jud Ashman
Mayor
City of Gaithersburg
31 South Summit Avenue
Gaithersburg MD 20877

Dear Mayor Ashman:

Thank you for your comments regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS) published in July 2020 and the Supplemental Draft Environmental Impact Statement (SDEIS) published in October 2021. I appreciate the opportunity to respond to concerns noted in your November 9, 2020 letter on the DEIS and your November 12, 2021 letter on the SDEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA, and FHWA published the SDEIS in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the Draft Environmental Impact Statement (DEIS), and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

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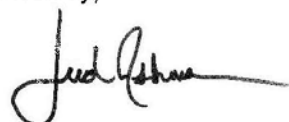
While the City Council and I are not ready to endorse a specific alternative identified in the Phase I DEIS, we want to express our belief that the Managed Lane Studies should move forward. A no-built alternative would not meet the needs of our community or the region. However, we are still concerned that all of the options will have impacts on park land and several residential communities such as Brighton Village and Fireside Condominiums. We believe it is important that consideration be given to limiting these impacts and that these residential communities be directly notified of the potential impacts.

Given the complexity of this project, we also wanted to ensure that the P3 structure takes into account any relocation of existing utilities. The Council and I believe it is extremely important that any utility relocation cost be borne by the private entity of the P3 rather than by the individual utility rate payers.

Finally, I wanted to bring to your attention that City staff has provided several technical comments regarding the DEIS which have been forwarded to Lisa Choplin, Director of the I-495 & I-270 P3 Office. I have included a copy of the comments for your information.

We value our role as a partnering agency and we look forward to engaging with the state and providing input throughout the second phase (I-370 to I-70) of the Governor's P3 Program.

Sincerely,



Jud Ashman
Mayor

Attachment

Cc: Tim Smith, Administrator, Maryland Department of Transportation State Highway Administration
Gregory Murrill, Division Administrator, Federal Highway Administration
Marc Elrich, Executive, Montgomery County
Sidney A. Katz, Council President, Montgomery County Council

The Honorable Jud Ashman
Page Two

There is no action or improvements included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to each of your specific concerns, I offer the following responses.

1. Study Limits

The limits of Phase 1 for the purpose of the solicitation process include I-495 from south of the George Washington Memorial Parkway in Virginia to the I-270 east spur and I-270 from I-495 to I-70. Phase 1 consists of two separate phases: Phase 1 South and Phase 1 North. The area of Phase 1 South is currently under this environmental study in compliance with NEPA and includes I-495 from south of the George Washington Memorial Parkway to west of MD 187 and on I-270 from I-495 to north of I-370, including the I-270 west and east spurs. While the limits of the current NEPA study, the I-495 & I-270 Managed Lanes Study, extend beyond the limits of Phase 1 South, no improvements or no action are included at this time on I-495 east of the I-270 east spur to MD 5.

Phase 1 North extends on I-270 from I-370 to I-70. Pre-NEPA work for Phase 1 North kicked off in 2019. The planning activities included identifying the draft Purpose and Need for the project, developing a range of preliminary alternatives, reviewing and collecting data on existing and future traffic volumes and metrics and existing environmental conditions, and engaging both the public and agency partners in the planning process. These activities and decisions made during Pre-NEPA will be utilized during the eventual NEPA review process to help streamline the environmental review process.

The two studies are being analyzed independently from each other in recognition of independent utility and acknowledgement that range of alternatives for Phase 1 North would not be limited by the Preferred Alternative selected for Phase 1 South.

At this time, MDOT SHA is focused on completing the NEPA efforts for Phase 1 South and obtaining final approval from the Board of Public Works for Phase 1 South before moving Phase 1 North into NEPA.

The City of Gaithersburg is encouraged to comment on both studies throughout the process.

2. Utility Concerns

From the earliest stages of the NEPA process, MDOT SHA has coordinated with WSSC and other utility providers concerning potential impacts that would require the relocation of existing utility infrastructure. During the NEPA process, impacts to utility infrastructure and potential relocations have been considered. As the project advances from planning to final design, the scope and cost of utility relocations will be further refined in close coordination with WSSC and other utility providers.

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The Honorable Jud Ashman
Page Three

During predevelopment work for Phase 1, the Developer is working collaboratively with MDOT SHA and our utility partners to further identify, avoid, and reduce any impacts to utility and, where necessary, develop plans to relocate utilities in the most efficient and accommodating manner as possible. To the extent applicable, the Developer is required to adhere to the utility provider's regulations, design standards, and specifications and coordinate any design and construction with the utility provider.

Potential cost of utility relocation has consistently been factored into the overall estimates developed for the project. The reduced footprint of proposed improvements associated with the Preferred Alternative as compared to the Build Alternatives discussed in the DEIS, together with ongoing coordination to identify, avoid and minimize conflicts with existing infrastructure to the maximum extent practicable, have lowered the cost estimates significantly. It is too early in the predevelopment process to determine the exact scope and cost of any utility relocations that may still be required, but it now appears that these costs will be significantly lower than WSSC's original estimates. The cost estimate for the Preferred Alternative includes the cost of utility relocation based on planning level information and can be found in the Final Environmental Impact Statement (FEIS), Chapter 3, Section 3.3.

3. Committed Transit Investment/Bus Operations and Maintenance Facility at Metropolitan Grove

On August 11, 2021, in accordance with Maryland law, MDOT and the Maryland Transportation Authority (MDTA) presented to and received approval from the Board of Public Works to award the Phase 1 Public-Private Partnership (P3) Agreement to the Selected Proposer for the predevelopment work. As part of its proposal, the Developer has committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South.

To further support transit services, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high priority transit investments in Montgomery County and committed to deliver the Metropolitan Grove Bus Operations and Maintenance Facility including the necessary bus fleet. Refer to FEIS Chapter 3, Section 3.2.

MDOT SHA is committed to working with the City and other stakeholders as these potential transit projects, including the operations and maintenance facility. We have been and will continue to include the City of Gaithersburg in these discussions to ensure we are receiving and considering feedback from all interested parties.

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The Honorable Jud Ashman
Page Four

4. Parkland Impacts

Due to extensive coordination and consultation with local, state, and federal resource agencies and stakeholders, including the City, throughout the NEPA process, MDOT SHA was able to advance avoidance and minimization measures for regulated and sensitive resources along I-495 and I-270. This process resulted in a limits of disturbance (LOD) that significantly avoided and minimized impacts associated with the DEIS Build Alternatives while appropriately addressing a wide range of water resources, parkland, and historic and/or cultural resources. MDOT SHA accomplished this through a number of approaches, including the elimination or relocation of managed lane access points, shifting the centerline alignment, changing interchange configurations and other design refinements. These design refinements have continued on the Preferred Alternative and have resulted in complete avoidance of Morris Park and a significant reduction in impact to Malcolm King Park. The impacts to Malcolm King Park are now 0.5 acre, a reduction of 1.1 acres. These changes are largely attributed to refinements to the drainage design. MDOT SHA, in coordination with City staff, are proposing to mitigate impacts to Malcolm King Park through parkland replacement.

5. Community Impacts

We appreciate the noted request to continue to seek ways to limit property, noise and environmental impacts within the City of Gaithersburg. As noted above, impacts to City-owned parkland have been avoided and significantly reduced. We also note your specific concerns related to the residential area near Bralan Court, which is within or near an Equity Focus Area. Based on the design refinements noted above, the LOD has been modified and impacts to the residential properties have been avoided. The proposed improvements on I-270 adjacent to Bralan Court are now within existing state-owned right-of-way. As the design progresses during final design, MDOT SHA will continue to seek ways to further reduce impacts to property and resources in coordination with the Developer.

Thank you again for your comments on the SDEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 Public-Private Partnership (P3) Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Jud Ashman
Page Five

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

CITY OF GREENBELT – MAYOR COLIN A. BYRD

Colin Byrd

Please see the attached letter with attachments from the Greenbelt City Council.

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

Mayor and City Council
City of Greenbelt
23 Crescent Road
Greenbelt MD 20770-1886

Mayor Emmett V. Jordan
Councilmember Colin A. Byrd
Councilmember Ric Gordon
Councilmember Rodney M. Roberts

Mayor Pro Tem Kristen L.K. Weaver
Councilmember Judith F. Davis
Councilmember Silke I. Pope

Dear Mayor and Councilmembers:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your November 6, 2020 letter on the DEIS.

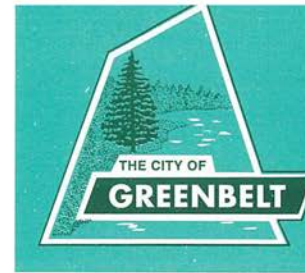
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The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

CITY OF GREENBELT

25 CRESCENT ROAD, GREENBELT, MD. 20770-1886



CITY COUNCIL

Colin A. Byrd, Mayor
Emmett V. Jordan, Mayor Pro Tem
Judith F. Davis
Leta M. Mach
Silke I. Pope
Edward V.J. Putens
Rodney M. Roberts

November 6, 2020

Ms. Lisa B. Choplin, DBIA Director
I-495 & I-270 P3 Office
Maryland Department of Transportation
State Highway Administration
707 North Calvert Street
Mail Stop P-601, Baltimore, MD 21202

Dear Ms. Choplin:

The City of Greenbelt has completed its review of the Draft Environmental Impact Statement (DEIS) for the I-495 & I-270 Managed Lane Study and feels even more strongly that this project does not represent a "Traffic Relief Plan", but rather a costly project that will cause tremendous adverse environmental, social, economic, historical and cultural impacts while offering little relief to the residents of the City and the region. The City fully supports the No Build Alternative and is opposed to all the Build Alternatives, which the City believes to be essentially the same.

It is clear from the DEIS that the preferred alternative, two managed lanes in each direction, was predetermined. If this is the case, by Federal law the DEIS should have disclosed this information. Furthermore, as outlined below, the DEIS analysis and findings are deficient in many aspects and raise more concerns and questions about the project. The analysis and findings fail to provide confirmation, let alone comfort, that there is a build alternative under consideration that will not harm our community and the region.

The purpose and need for the project, by focus on auto congestion and specific roadways fails, to advance a reasonable range of alternatives (i.e., transit) that would reduce the environmental impacts created by the project while meeting the purpose and needs identified by the State. The omission of transit-based alternatives is a major flaw of the DEIS and is in direct conflict with the project's stated goal of leveraging other modes of transportation. Furthermore, the DEIS fails to address the recent changes in commuting patterns due to the pandemic, along with any impact this may have on future project need. As stated in the DEIS Executive Summary, the pandemic has invalidated prior transportation modeling on which the Study was designed. The Executive Summary admits

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Mayor and City Council
City of Greenbelt
Page Two

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George's County or the City of Greenbelt. Many of the potential impacts raised in your comment letter had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area, including the City's parkland, historic resources, local roadway network, such as Cherrywood Lane, and environmental justice (EJ) communities in Greenbelt. Because Prince George's County and City of Greenbelt are located outside the Preferred Alternative limits of build improvements, impacts to community, historic and natural resources such as the City's Forest Preserve Areas and other natural resources, parkland, communities and community facilities within the County and City have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, as well as with City of Greenbelt.

In response to each of your specific concerns, I offer the following responses.

1. Reasonable Range of Alternatives Including Transit

Consistent with long-established federal environmental regulations, the Purpose and Need for the MLS generally describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local and regional transportation professionals over several decades. The Purpose and Need statement identifies a proposed action to address those needs and describes a variety of financial and transportation reasons for the agency to consider some form of managed lanes as a proposed solution.

NEPA requires FHWA and MDOT SHA to identify the proposed solution to the public and then to objectively and thoroughly evaluate the environmental effects of that proposed solution and benefits and effects of other reasonable alternatives. This is what has been done for the MLS as outlined in the DEIS. The study sets forth the well-recognized transportation problem, analyzed 17 alternatives including transit and smaller roadway improvements, Transportation Systems Management/Transportation Demand Management (TSM/TDM) as well as a variety of managed lanes alternatives. TSM/TDM and transit elements have been incorporated into the Build Alternatives to support the purpose of enhancing multimodal connectivity and mobility.

The initial screening of alternatives considered the initiatives and projects outlined in Visualize 2045 Plan, the latest financially Constrained Long-Range Plan (CLRP) which was approved by the National Capital Region (NCR) Transportation Planning Board in 2018. The Visualize 2045 Plan identified Seven Aspirational Initiatives for a Better Future to address mobility on a regional basis. One of the seven initiatives was "Expand Express Highway Network", which includes congestion-free toll roads, building on an emerging toll road network, and new opportunities for transit for express buses to travel in the toll lanes."

that there is currently “no definitive traffic model to predict how this unprecedented global pandemic will affect long-term future traffic projects and transit use.” To disregard possible long-term implications for commuter travel project need is not responsible planning.

The analysis sections of the DEIS generate additional issues regarding the project’s financial viability; parkland, stormwater, and environmental impacts; as well as environmental justice requirements. This project, while having previously been touted as financially self-sufficient, does not appear to be so in the DEIS. The DEIS references the possible need for a State subsidy ranging from \$482 million to more than \$1 billion, high tolling fees, and use of taxpayer dollars for water and sewer infrastructure relocation. The DEIS states that the use of a progressive P3 is being considered. This presents significant additional concerns as project opponents have stated that the DEIS grossly underestimates the cost of the project, the large scale of the project, and the current uncertain state of the Purple Line P3 program. It is clear to the City that the No Build alternative is the only financially self-sufficient alternative under consideration.

The City echoes the concerns referenced in the recent comments made by M-NCPPC, that the Limits of Disturbance (LOD) in the DEIS are too narrowly defined and cannot be relied on to understand the full impacts of the project. This is very concerning to the City, given the impacts this project will have on City parkland, historic resources and private lands. The LOD needs to be realistic and accommodate all construction impacts and associated mitigation and rehabilitation, including stormwater management, noise barriers, retaining walls, environmental mitigation, etc. to fully understand the true extent of impacts associated with the Build Alternatives.

The DEIS also fails to accurately identify impacts to City parkland and woodlands by omitting one of the City’s designated Forest Preserve Areas (referred to as the Sunrise Preserve). Contrary to the findings of the DEIS, this project will have significant impacts on Historic Greenbelt and the City’s parklands and woodlands. The City does not support the DEIS findings that the impacts to City parklands and historic resources are *de minimis*. By law, the City’s concurrence with this finding is required. The City will not grant the use of City-owned land for a project that will not benefit our community, and, in fact, will irreparably alter valuable City resources.

The use of outdated traffic data in the DEIS, the failure of the DEIS to address induced travel demand and the omission of the impacts the build alternatives will have on local roadways represent significant problems with the DEIS. This project will significantly impact the City’s roadways such as MD 193, Cherrywood Lane and MD 201. For example, the DEIS fails to address how the proposed direct access to/from the managed lanes interchange at Cherrywood Lane will impact this City-owned collector roadway.

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The Purpose and Need statement recognizes that “accommodating existing and proposed multimodal mobility and connectivity” is an important need to address the severe congestion on I-495 and I-270 and was added to address specific comments received during scoping. In support of this identified need, multi-modal alternatives and elements were analyzed through the alternatives development process. Several standalone transit alternatives (e.g., Alternatives 14A, 14B, 14C, and 15) were considered in the preliminary range of alternatives and were dismissed from further consideration based on a number of factors, most significantly of which was the inability of standalone transit to address long-term traffic growth.

Although these standalone transit alternatives were found to not meet the Study’s Purpose and Need, the Preferred Alternative incorporates multiple transit elements. These transit elements will serve to address existing and planned multimodal mobility and connectivity included in the purpose of the MLS by:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Westfield Montgomery Mall Transit Center, and Medical Center Metro.

Additionally, MDOT SHA has committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority (WMATA) Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

Transit elements were also considered by the Transit Work Group, and the I-495/American Legion Bridge (ALB) Transit/TDM joint study by the Virginia Department of Rail and Public Transit and the Maryland Department of Transportation Maryland Transit Administration. Both of these initiatives resulted in publicly available reports.

The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the Op Lanes Maryland website.¹ This report is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed; provide a basis for the evaluation and prioritization of future capital and operating needs in the service area; and initiate discussions about ways to incorporate regional transit services into the Op Lanes Maryland Program.

The I-495/ALB Transit/TDM Final Report and Plan was completed in March 2021 and was posted online.² It identified a series of potential investment packages to provide new mobility choices to service bi-state travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the ALB in fewer vehicles.

¹ <https://oplanesmd.com/transit-benefits/>

² http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf

Furthermore, the DEIS traffic model assumes that highway construction will have no effect on land use, and thus underestimates the new trips that the project will generate. The potential strain this project will have on adding new trips to local roadways must be understood and appropriately addressed in the DEIS. For example, the City and State have invested significant dollars in developing a Complete and Green Street plan for Cherrywood Lane. A highway interchange is not envisioned in our plan. Furthermore, there are significant improvements referenced for Greenbelt Metro Station, MD 193 and MD 295. Their impact on Greenbelt are not adequately addressed in the DEIS.

The project is required to consider whether this project's adverse effects are disproportionately borne by Environmental Justice Communities. The DEIS fails to fully consider this requirement in two ways. First, the DEIS repeatedly refers to further study being needed and that decisions will be finalized during final design. This approach fails to allow for a full understanding of the true impact of the Build Alternatives, and therefore precludes the possibility of the public understanding and commenting fully on the consequences associated with the proposed highway widening. In addition, the attached memorandum/analysis by the City's planning staff clearly supports the finding that this project will have disproportionate and unacceptable impacts on the Greenbelt Community Effects/Environmental Justice Area. All build alternatives will have adverse impact on our local wetlands/waterways, forest canopy/green infrastructure, stormwater, noise, air and viewsheds. For example, the DEIS indicates that the highway widening will have significant noise impacts on residential areas along the highway corridor in Greenbelt. While noise barriers are proposed to mitigate some of the impacts, the DEIS fails to fully mitigate the impacts along the entirety of the corridor in Greenbelt, as supported by the analysis and findings in DEIS Appendix J. The City urges you to review the attached memorandum, so you can fully understand how the DEIS fails to adequately evaluate and mitigate the impacts of this project on the City and its residents. Greenbelt residents are being asked to bear the harsh, adverse impacts of this project, while very likely not having the financial means to benefit from the new managed lanes. This clearly does not represent nor promote social and environmental justice.

In closing, the City wants to restate its support for the No Build Alternative and voice support for the comments provided by the Maryland General Assembly; Maryland-National Capital Park and Planning Commission; our neighboring jurisdictions of New Carrollton, College Park and Berwyn Heights; the Sierra Club; Prince George's County Council; Greenbelt Homes, Inc.; and the Anacostia Watershed Society.

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On August 11, 2021, in accordance with Maryland law, MDOT and the Maryland Transportation Authority presented to and received approval from the Board of Public Works to award the Phase 1 Public-Private Partnership (P3) Agreement to the Selected Proposer for the predevelopment work. As part of its proposal, the Developer has committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South.

To further support transit services, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high priority transit investments in Montgomery County and committed to deliver the Metropolitan Grove Bus Operations and Maintenance Facility, including the necessary bus fleet.

The proposed solutions are not only about solving today's congestion challenges, but also about multimodal solutions that are adaptable to the growth expected in the region over the long-term, through 2045 and beyond. MDOT SHA has been performing traffic sensitivity analyses for a variety of potential traffic scenarios specifically including scenarios with increased work-from-home and other changes in travel patterns. This new information and analysis are presented in the Final Environmental Impact Statement (FEIS).

2. Effects of Pandemic

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

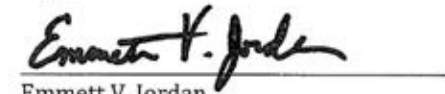
Given the uncertainty surrounding resolution of the pandemic and how travel patterns will adjust, and over what time period, no definitive traffic model exists to predict how the global pandemic will affect long-term mobility patterns. To adapt to the ongoing and potential long-term travel impacts associated with the pandemic, MDOT SHA developed a COVID-19 Travel Analysis and Monitoring Plan. Refer to FEIS, Appendix C for a copy of the latest version of that plan and results. The plan included three components:

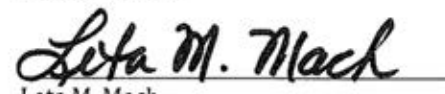
- Monitoring: tracking changes in roadway and transit demand during the pandemic, i.e., how travel varies in response to infection figures, vaccine distribution, unemployment rates, school closings, and policy changes;
- Research: reviewing historical data and projections from the Transportation Research Board and the NCR Transportation Planning Board; and
- Sensitivity Analyses: evaluating "what if" scenarios, including potential changes in teleworking, eCommerce, and transit use on projected 2045 travel demand and operations.

Thank you for the opportunity to comment. If you have any questions, please contact Terri Hruby, Director of Planning and Community Development, at 301-345-5417.

Sincerely,

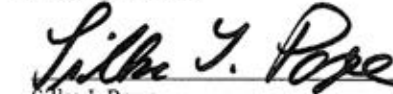

Colin A. Byrd
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Silke I. Pope
Council Member


Rodney M. Roberts
Council Member

Attachments

cc: City Council
Senator Ben Cardin
Senator Chris Van Hollen
Majority Leader Steny Hoyer
Senator Paul Pinsky
Delegate Anne Healey
Delegate Alonzo Washington
Delegate Nicole Williams
County Council
Secretary Gregory Slater
Four Cities Coalition
Nicole Ard, City Manager
Terri Hruby, Director of Planning & Community Development

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The monitoring effort included tracking changes in traffic volumes and transit usage throughout the pandemic, and the corresponding impact on speeds and congestion along I-495 and I-270. The data shows a severe drop in traffic volumes in April 2020 after stay-at-home orders were issued across Maryland, with daily traffic volumes on I-270 and I-495 reducing by more than 50 percent compared to April 2019. After the stay-at-home order was replaced with a “safer at home” advisory in May 2020, traffic volumes gradually increased throughout the summer, stabilizing at approximately 15 percent less than typical conditions during fall 2020. As cases began to surge in November/December 2020, traffic volumes dipped again through the winter. With the rollout of vaccines in early 2021, the corresponding drop in COVID-19 cases, and the gradual reopening of schools and businesses, daily traffic volumes have continued to recover. Statewide, weekly traffic volumes were only down five percent for the week of November 8, 2021 compared to the same week in 2019, per MDOT’s coronavirus tracking website. Refer to <https://www.mdot.maryland.gov/tso/Pages/Index.aspx?PageId=141>. Transit use has been slower to recover, with use of Maryland Transit Administration (MTA) services statewide down over 40 percent compared to pre-pandemic levels as of October 2021 (see link above). In the D.C. region, usage of WMATA facilities is also down significantly compared to 2019. As of Fall 2021, WMATA rail ridership is down 73 percent on weekdays, while WMATA bus ridership is down 40 percent on weekdays, and parking at Metro facilities is down 88 percent. Refer to <https://www.wmata.com/initiatives/ridership-portal/upload/October-2021-Ridership-Snapshot.pdf>.

While congestion decreased significantly on I-495 and I-270 at the onset of the pandemic in Spring 2020, significant congestion had returned to the study area by November 2021, approaching pre-pandemic levels. For example, average speeds on the I-495 Inner Loop crossing the ALB during the PM peak in early November (non-holiday) of 2021 were 20 miles per hour (mph), reflecting significant congestion, and matching the speeds during the similar period in November 2019 (also 20 mph). In the AM peak, average speeds on the I-495 Outer Loop between MD 650 and US 29 in early November 2021 were even lower - below 15 mph. While these speeds are slightly higher than those observed in that same area during the AM peak in November 2019 (10 mph), the findings indicate that there is still a lot of congestion along I-495 even though volumes have not fully rebounded to pre-pandemic levels along I-495 during the morning peak period. Along I-270, average speeds are generally 5 to 10 mph higher in November 2021 compared to November 2019 despite volumes exceeding 2019 levels at MDOT SHA’s permanent count station located on I-270 South of MD 121. These improvements could be attributed to recent improvements completed by MDOT SHA along I-270, including the opening of the Watkins Mill interchange in 2020 and the implementation of ramp metering along southbound I-270 on-ramps in September 2021 as part of the Innovative Congestion Management (ICM) project. Even so, some congestion remains along I-270, with average speeds on I-270 southbound of approximately 30 mph during the AM peak period and average speeds on I-270 northbound below 40 mph during the PM peak period in November 2021.

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Memorandum

To: Ms. Nicole Ard, City Manager
FROM: Terri Hruby, Director of Planning and Community Development
DATE: October 22, 2020
RE: I-495 & I-270 Managed Lanes Study Draft Environmental Impact Statement Overview

BACKGROUND

On July 10, 2020, the Federal Highway Administration (FHWA) and the Maryland Department of Transportation State Highway Administration (MDOT SHA) released the Draft Environmental Impact Statement (DEIS) and Draft Section 4(f) Evaluation for the I-495 & I-270 Managed Lanes Study. The comment period has been extended 30 days to November 9, 2020.

The stated purpose of the DEIS is to, “provide a detailed description of the Study Purpose and Need, reasonable alternatives, the existing environmental conditions, and the analysis of the anticipated beneficial and adverse environmental effects and consequences of the alternatives, and potential mitigation.”

Initially, 15 alternatives were identified and run through a screening process to eliminate alternatives that clearly did not meet the Study’s Purpose and Need, and ultimately seven (7) alternatives were retained and analyzed including a no build alternative. Of the remaining alternatives none include a standalone transit alternative; however allowing free bus usage in managed lanes and accommodating connections to existing transit stations are proposed in each build alternative. Managed lanes are proposed to control the number of vehicles using the lane to keep them flowing at an acceptable level of service (LOS) and include, high-occupancy toll lanes (HOT) lanes, express toll lanes (ETL’s) and bus only lanes. The seven alternatives retained and analyzed in the DEIS are:

- Alternative 1: No Build

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Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS, Section 4.3 using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4, Section 4.3 of this FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

With regard to teleworking, current studies indicate that remote work can be expected to continue at levels higher than before the pandemic. With this in mind, MDOT SHA is working with local and regional businesses and with other state agencies, including the Maryland Departments of Environment, Budget and Management, Commerce, and General Services, to better understand the types of initiatives that would support increased telework while maintaining or increasing productivity. While supporting telework will continue to be part of MDOT SHA’s approach to addressing the transportation needs and economic wellbeing of the region, commuting trips only account for around 20 percent of daily travel in the NCR.³ Therefore, even assuming a substantial shift to telework, this would likely have minimal impact on the remaining 80 percent of daily trips, which include tourism and interstate travel, shipping and freight deliveries, errands, and other personal and business travel. These activities will continue to put pressure on the region’s road network.

I-495 has been at or over capacity since the late 1980s during peak hours, and I-270 has been at or over capacity since the late 1990s during the peak hours. Over the years, those hours of peak congestion on I-495 and I-270 have increased to 10 and 7 hours, respectively. Additionally, projections of long-term growth in the region indicate that another 1.3 million people and 1.0 million jobs will be here by 2045. These developments are expected to continue to drive growth in travel demand, even with the potential for increased telework/remote working. MDOT SHA will commit to tracking travel behavior trends and traffic volumes and will reevaluate during final design.

³ TPB Regional Travel Survey, 2020 - <https://www.mwcog.org/newsroom/2020/10/21/survey-provides-detailed-look-at-17m-trips-taken-per-day-by-area-residents/>

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- Alternative 8: 2-Lane, Express Toll Lane (ETL) Managed Lanes Network on I-495 and 1-ETL and 1-Lane High Occupancy Vehicle (HOV) Managed Lane on I-270
- Alternative 9: 2-Lane, High Occupancy Toll (HOT) Lanes Network on both I-495 & I-270
- Alternative 9 Modified (9M): 2-Lane, HOT Managed Lanes Network on west and east side of I-495 and on I-270; 1-Lane HOT Lane on top side of I-495
- Alternative 10: 2-Lane, ETL Managed Lanes Network on I-495 & I-270 plus 1-Lane HOV Lane on I-270 only
- Alternative 13B: 2-Lane, HOT Managed Lanes Network on I-495; HOT Managed, Reversible Lane Network on I-270
- Alternative 13C: 2-Lane, ETL Managed Lanes Network on I-495, ETL Managed, Reversible Lane Network and 1-Lane HOV Lane on I-270

Using regional forecasting models, detailed traffic operation analyses were performed for each build alternative to evaluate its ability to meet the Study's Purpose and Need in the design year 2040. The alternatives that consistently performed well in all the operational metrics that were evaluated were Alternatives 9 and 10. Alternative 9 would perform the best in terms of average speed, LOS and effect on the local network. Alternative 10 would perform the best in terms of delay, travel time index and throughput (the number of vehicles that pass by a given point in the roadway network in a set amount of time).

The DEIS presents the existing environmental conditions (affected environment) identified along the study corridors, the anticipated effects to the resources (environmental consequences), and measures to avoid, minimize and mitigate unavoidable effects to those resources. Additional opportunities to avoid and minimize effects will be considered and documented in the Final Environmental Impact Statement (FEIS).

Throughout the review of this project, the City has advocated against the widening of the Capital Beltway (I-495) due to the significant impact this would have on the natural, socioeconomic, cultural, and built environments. The City has advocated for the State to study and identify alternative congestion relief approaches, including dedicating more funding to transit and other alternative modes of transportation.

The transit alternatives that were included in the preliminary range of alternatives are no longer under consideration in the DEIS. With respect to transit, the DEIS states that buses would be permitted free usage of the managed lanes, and direct and indirect connections to existing transit stations and planned Transit Oriented Development would be accommodated.

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3. Project Cost

For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and a range of interest rates. The results showed that some alternatives would have a higher likelihood of being cash flow positive and others would have a higher likelihood of being cash flow negative. These wide ranges were necessary to account for various market conditions that could change before financial close.

Regarding the subsidy of taxpayer dollars, on a revenue-risk P3, as being pursued under Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 Agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

From the earliest stages of the NEPA process, MDOT SHA has coordinated with Washington Suburban Sanitary Commission (WSSC Water) and other utility providers concerning potential impacts that would require the relocation of existing utility infrastructure. During the planning process, impacts to utility infrastructure and potential relocations have been considered. As the project advances from planning to final design, the scope and cost of utility relocations will be further refined in close coordination with WSSC Water and other utility providers.

During predevelopment work for Phase 1, the selected Developer is working collaboratively with MDOT SHA and our utility partners to further identify, avoid and reduce any impacts to utilities and, where necessary, develop plans to relocate utilities in the most efficient and accommodating manner as possible. To the extent applicable, the Developer is required to adhere to the utility provider's regulations, design standards and specifications, and coordinate any design and construction with the utility provider.

Potential cost of utility relocation has consistently been factored into the overall estimates developed for the project. The reduced footprint of proposed improvements associated with the Preferred Alternative as compared to the Build Alternatives discussed in the DEIS, together with ongoing coordination to identify, avoid and minimize conflicts with existing infrastructure to the maximum extent practicable have lowered the cost estimates significantly. The cost estimate for the Preferred Alternative includes the cost of utility relocation based on planning level information and can be found in the FEIS, Chapter 3, Section 3.3.

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For this review, staff have focused on the impacts to the City. In addition to reviewing the DEIS, staff have reviewed comments made by various agencies and organizations including, but not limited to, the Sierra Club, City of College Park, Prince George's County M-NCPPC, Montgomery County Planning Board, Greenbelt Homes, Incorporated, Legislative Government Affairs Committee, and Greenbelt Forest Preserve Advisory Board.

ANALYSIS

Purpose and Need

The stated purpose of the DEIS is, "To develop a travel demand management solution(s) that addresses congestion, improves trip reliability on I-495 and I-270 within the study limits and enhances existing and planned multimodal mobility and connectivity". And the stated needs are: Accommodate Existing Traffic and Long-Term Traffic Growth, Enhance Trip Reliability, Provide Additional Roadway Travel Choices, Accommodate Homeland Security and Improve Movement and Goods and Service. Two Study goals focused on financial viability and environmental responsibility are also identified. The full Study Purpose and Need is included as an appendix to the DEIS.

Opponents of the project have repeatedly pointed out that the purpose and need for the project, by referencing auto congestion and specific roadways, failed to advance a reasonable range of alternatives (i.e. transit) that would reduce environmental impacts of the project while meeting the purpose and needs identified by the State. The omission of transit-based alternatives is a major flaw of the DEIS, given the environmental and socio-economic impacts of the proposed build alternatives, the ongoing COVID-19 pandemic and potential impact on traffic growth patterns and the issue of project affordability.

Traffic Congestion

Congestion relief and accommodating future long-term traffic growth are stated purposes and needs of the project, but transportation experts indicate that the traffic modeling and analysis in the DEIS is insufficient to conclude that the project will meet these needs. The DEIS includes an analysis of existing and future traffic conditions. Travel speed, delay, travel time, LOS, throughput and impacts on local road network were analyzed (i.e. arterials); however, the DEIS traffic analysis fails to use the most up-to-date traffic data available from Metropolitan Washington Council of Governments (MWCOC). The DEIS analysis should be updated using the most recent travel data from MWCOC. In addition, the DEIS assumes that the increased highway capacity generated from this project will not affect land use. As a result of the failure to anticipate

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4. Limits of Disturbance

MDOT SHA employed a conservative approach to defining the limits of disturbance (LOD) for all the DEIS Build Alternatives and the Preferred Alternative. The LOD represent the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management (SWM), noise barrier replacement/construction, stream stabilization, and related activities will take place. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. The methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS, as the LOD was established to include a reasonable area to construct the Preferred Alternative. For complete graphic descriptions of the Preferred Alternative LOD across the entire span of study limits, refer to the FEIS, Appendix E, Environmental Resource Mapping.

The reasonableness of the LOD applied for determining resource impacts was further reinforced by performing a constructability analysis. This ensured that adequate area within the LOD was provided to construct all project elements, including bridges, retaining walls, noise walls, drainage structures, and interchange ramps, among others. Refer to FEIS, Appendix E, Environmental Resources Mapping.

Importantly, the methodology to determine project impacts for a variety of key natural, cultural, and socioeconomic resources considered areas beyond anticipated areas of physical disturbance, whether temporary or permanent. For example, the assessment of community impacts and EJ concerns considered a broad range of jurisdictions across the study area. Refer to FEIS, Chapter 5, Section 5.21. Similarly, the Area of Potential Effects (APE) for purposes of analysis under Section 106 of the National Historic Preservation Act extended to a wider boundary and was agreed to by the Maryland State Historic Preservation Officer in coordination with consulting parties. Refer to FEIS, Chapter 5, Section 5.7. Additionally, MDOT SHA's analysis of air quality impacts also reflected, as required, a regional perspective. Refer to FEIS, Chapter 5, Section 5.8.

Due to extensive coordination and consultation with local, state, and federal resource agencies and stakeholders throughout the NEPA process, MDOT SHA was able to advance avoidance and minimization measures for regulated and sensitive resources and property displacements along I-495 and I-270. This process resulted in an LOD that avoided and minimized impacts associated with the DEIS Build Alternatives and the Preferred Alternative addressing a wide range of water resources, parkland, and historic and/or cultural resources. MDOT SHA accomplished this through a number of approaches, including the elimination or relocation of managed lane access points, shifting the centerline alignment, changing interchange configurations and other design refinements. Refer to DEIS Appendix B, Alternatives Technical Report and SDEIS, Chapter 2. For the environmentally sensitive area surrounding the ALB, a separate "Strike Team" was convened to develop and evaluate alternatives for replacement of the ALB to avoid and minimize overall impacts to the Chesapeake and Ohio Canal National Historic Park, Clara Barton Parkway, and the George Washington Memorial Parkway. Refer to SDEIS, Chapter 4.

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and account for intensification of land use, the DEIS underestimates projection of new trips generated.

The impact of the build alternatives on local roadways needs further consideration to ensure that induced traffic demand on arterial (i.e., MD 193 and MD 201) and collector (i.e., Cherrywood Lane) roads leading to the Beltway and/or are associated with managed lane access points is not underestimated. For example, the impact of the proposed direct access to/from the managed lanes interchange at Cherrywood Lane would have significant impacts on traffic demand on Cherrywood Lane and MD 210, not to mention impacts on the City's Approved Complete and Green Street plans for Cherrywood Lane. The DEIS also references a full I-495 interchange at Greenbelt Metro Station, which will have further transportation demand impacts on our local roadways. It is also not clear if the cost and impacts for the full interchange is included in the DEIS, which it should be since the private sector development associated with constructing and funding the full interchange has been cancelled. The arterials and collector roadways are already highly congested, and must be fully addressed in the FEIS including an analysis of traffic (capacity and demand), noise and air quality impacts.

Financial ViabilityProject Cost/Public Private Partnership Program

The estimated cost of the project to the State of Maryland is approximately \$8 to 10 billion. The DEIS details preliminary construction costs for the six build alternatives. This analysis considered estimates of the preliminary capital costs, initial revenue projections, preliminary operations and maintenance costs, and the likely methods for how construction phases would be financed. A preliminary estimate is provided for each alternative for low, mid, and high capital costs. The study shows that a needed State subsidy could range from \$482 million to \$1,088 million depending on the selected alternative. The study states, "If a state subsidy is required, it would typically be paid to the developer at the beginning of the contract, whereas if positive excess cashflows are anticipated, they could be paid to the State at the beginning of the contract and/or as revenue sharing payments to the State during the operation of the facility."

Since the State lacks the bonding capacity to take out loans even with tolls to pay back the loan, a Public-Private Partnership (P3) is being considered. A P3 is a partnership between the public or governmental sector with private entities. Under a P3 Program a developer is selected to design, building, finance, operate, and maintain the managed

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An important benefit to conducting a P3 process with pre-development work concurrent with the NEPA process is to increase efficiency by receiving input by the Developer on design and ancillary elements of the project such as SWM. This collaborative effort ensures that the design and associated LOD are appropriate and feasible ahead of final design. While additional LOD refinements may occur during final design, including additional avoidance and minimization, the risk of substantial changes in the LOD or substantial increase in environmental impacts is significantly lowered by the early involvement of the Developer.

Overall, the conservative approach to defining the LOD for impact assessment was conducted with the goal of first accurately defining the likely construction of all foreseeable elements of the proposed action, and then continuously encouraging engineering techniques aimed at avoiding and reducing impacts to the greatest extent practicable.

5. Traffic Analysis

Throughout the National Capital Region, FHWA, MWCOG, and MDOT SHA have established a consistent approach to project level traffic analysis. The methodology implemented for this Study is consistent with other similar MDOT projects and was reviewed and approved by FHWA when this NEPA process was initiated.

The methodology of traffic analysis involved two primary steps: (1) projecting future traffic volumes using the MWCOG regional forecasting model, and (2) running a traffic simulation model using VISSIM, which is the state of practice for traffic flow simulation, to evaluate the projected operations under each Build Alternative compared to the No Build Alternative as a baseline. The analysis used models that were validated and calibrated specifically for the MLS. The general methodology and assumptions applied to the analysis are summarized in Chapter 3 of the DEIS and discussed in greater detail in DEIS Appendix C, Traffic Technical Report. Updated traffic analysis for the Preferred Alternative is summarized in SDEIS, Chapter 3 and SDEIS Appendix C and FEIS, Chapter 4 and FEIS, Appendix A.

As explained in Appendix C to the DEIS: "Induced demand refers to newly generated trips that would not exist without capacity improvements to the transportation network." For the proposed action, MDOT's goal was not to increase demand but to address current and predicted demand. Current and predicted demand in the project area could be met by adding many additional new lanes but MDOT recommends adding capacity via managed lanes instead of widening the existing facilities with additional general purpose lanes. This fundamental difference is crucial to understanding why the traffic analysis shows only a very modest increase in traffic through induced demand.

Most importantly, managed lanes do a better job at regulating overall travel demand, including induced demand, due to dynamic pricing. As explained in the DEIS, dynamic pricing means that as the demand for use of the managed lanes increases, the rate charged for access to the lanes also increases. This tends to regulate uses of the managed lanes in order to permit them to operate in a free-flow of traffic and at general speed of at least 45 miles per hour.

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lanes. The DEIS states that without a P3 it would take more than 25 years to fund the I-495 & I-270 improvements and would use all of MDOT's capital expansion budget for this one project.

Tolling

All the remaining Build Alternatives would operate under a dynamic tolling approach for the managed lanes for the full length of the study. The study defines a dynamic tolling approach as one where, "the toll rates would change in response to real-time variations in traffic conditions such as travel speeds, traffic density, and traffic volumes." The cost range for the toll rates has not been determined at this time. The DEIS outlines the process for setting the toll rate range which includes a traffic and revenue study, 60-day public comment period, and approval by the MDTA Board Members.

The toll rate will be determined to accomplish three (3) goals: manage traffic demand and congestion on the I-270 and I-495, ensure a minimum average operating speed of 45 miles per hour within the overall managed lanes system, and ensure maximum volumes are not exceeded in the managed lanes. The study anticipates that the average daily toll rates would range between \$0.68/mile to \$0.77/mile depending on the selected alternative. However, as referenced in Metropolitan Washington Council of Government's memorandums found in Appendix C of the DEIS, dynamic tolling may result in excessive toll rates. For example, to travel from I-95 to the American Legion Bridge could cost upward to \$24 in tolls.

Washington Suburban Sanitary Commission (WSSC) Financial Implications

The Managed Lanes project was introduced with the promise that it would come at no expense to taxpayers and that the private sector would bear the financial responsibility. In the last few months the City learned of an unexpected cost responsibility that would be borne by WSSC ratepayers in Prince George's and Montgomery Counties. In a March 12, 2020 presentation, representatives from WSSC detailed that the cost to relocate water and sewer infrastructure to accommodate highway widening could potentially be borne by ratepayers and would range from \$1.3 billion to \$2.0 billion

There are reasons to be concerned about the financial viability and the P3 Program. As stated by Casey Anderson, Montgomery County Planning Board Chair, *"The revenue and cost estimates in the draft EIS show that MDOT SHA is going to be hard-pressed to deliver on the commitments made about how this project would be financed and what elements will ultimately be included."* He further stated, *"In fact, it seems likely that toll*

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The traffic analysis shows that there could be some induced demand as a result of this project, but the impact will be small (less than one percent increase in vehicle miles traveled (VMT) in the region) and those effects are fully accounted for in the regional traffic models used by the MWCOG. Even with these effects, the proposed managed lanes would reduce regional congestion delays and significantly improve travel times along both I-495 and I-270 in Phase 1 South and on local roads throughout the Preferred Alternative area.

This relatively modest increase of induced demand can also be explained by several factors related to existing conditions in the study area. First, there is very little undeveloped land surrounding the Phase 1 South study area and, therefore, the traffic models account for the negligible anticipated land use changes. As the traffic analysis details, new housing areas and/or places of employment (usual causes of additional trip generation) are not expected to be developed as a result of the project. Because the area in and around Phase 1 South is largely built out or otherwise protected from additional development, the likelihood of additional new trips is minimized.

Second, as the existing conditions and the anticipated No Build scenarios described in the DEIS demonstrate, the highway facilities in question are already extremely congested. The anticipated future growth of traffic demand is already very high, and largely dependent on already anticipated population and economic growth. Congestion on I-495 also reflects not only local trips, but a substantial regional demand for travel on that facility as a major connection for I-95. As a result, most of the travel demand for these roads already exists.

Finally, important elements of the proposed action itself will have the tendency to reduce induced demand. Specifically, there is a strong potential for the managed lanes to encourage the transit usage for express buses, as well as HOV and car and/or vanpool rides, will likely assist in managing induced demand for single-occupancy vehicles. As the DEIS/SDEIS describe, the transit and HOV elements of the proposed action have the possibility of serving more person-trips without necessarily increasing the number of vehicles (induced demand) using the system as a whole.

6. Environmental Justice Analysis

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding EJ pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011). In addition, under Title VI of the Civil Rights Act, each federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subject to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.

In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study area. See DEIS, Chapter 4, Section 4.21.3 and DEIS, Appendix E, SDEIS, Chapter 4 Section 4.21.2, and FEIS Chapter 5, Section 5.21 and FEIS, Appendix F.

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revenue will be insufficient to pay for the first phase of highway expansions proposed by the governor, much less a meaningful contribution toward better transit service—and that's without any accounting for the cost of water and sewer pipe relocations that are not included in the project budget."

Additional Concerns

Additionally, as stated in the DEIS Executive Study, the COVID19 pandemic has invalidated prior transportation modeling on which the Study was designed and admits that there is currently "no definitive traffic model to predict how this unprecedented global pandemic will affect long-term future traffic projects and transit use." With questions being raised about the validity of the traffic modelling and the potential long-term impact of the pandemic on travel demand/patterns, the financial viability of the P3 program must be studied before this project progresses further. If not, ultimately the taxpayers will be the ones held financially responsible. There is also the current state of the Purple Line P3 program that raises serious concerns about the financial viability of this project and the State's ability to manage such a complex P3 project. Greater consideration needs to be given to the financial magnitude of this project, and the financial risk to the State and taxpayers. Finally, there is the issue of costly WSSC infrastructure issues noted above and implications to taxpayers, many who are fixed incomes and or of limited financial means.

The project's purpose and need statement specified that alternatives retained for detailed study must be financially self-sufficient, but as stated above the DEIS acknowledges that state subsidies may be required, and taxpayers may be financially liable for WSSC infrastructure improves. As a result, the No Build alternative is the only financially self-sufficient alternative under consideration.

Impacts on Parkland, Forest Preserve Areas and Historic Resources

A Section 4(f) property is "publicly-owned land of a public park, recreation area, or wildlife and waterfowl refuge of national, state, or local significance, or land of an historic site of national, state, or local significance." In total the study identified that the total potential impacts to Section 4(f) Properties, including park and historic properties range from 144.7 acres to 149.0 acres depending on the selected alternative.

Under Section 4(f) of the US Department of Transportation Act of 1966, the FHWA cannot approve a transportation project that uses Section 4(f) property unless FHWA determines that: there is no feasible and prudent avoidance alternative to the use of

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Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, U.S. Environmental Protection Agency (USEPA), Maryland Department of Planning, Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project. See FEIS Chapter 5, Section 5.21 and FEIS Appendix F for details on this initiative.

MDOT SHA's initial analysis of potential EJ impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, U.S. Department of Transportation (USDOT), and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS/SDEIS, Chapter 4, Section 4.21.2 and DEIS, Appendix E. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the USEPA, EJ Screening and Mapping Tool (EJSCREEN), and through the state of Maryland, EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities was consistent with similar assessments completed by outside expert institutions.

A final EJ analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis and in accordance with Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

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land from the property, and the action includes all possible planning to minimize harm to the property resulting from such use; or the use of the Section 4(f) properties, including any measures to minimize harm (such as avoidance, minimization, mitigation or enhancement measures) committed to by the applicant will have a *de minimis* impact on the property. A *de minimis* impact is defined as one that will not adversely affect the activities, features, or attributes that qualify the resources for protection under Section 4(f).

Within the study corridor area 111 Section 4(f) Properties have been identified. Of these 111 properties, five (5) are located in the City of Greenbelt and have been determined to be Section 4(f) properties (refer to Attachment A for maps of Section 4(f) properties). These properties are the Greenbelt Historic District, Buddy Attick Lake Park, Indian Springs Park, McDonald Field, and Greenbelt Park. The DEIS does not identify the Sunrise Property as public park land. A discussion of the Sunrise property is below. The parkland next to the Springhill Lake Recreation Center which was purchased with Program Open Space funds is significant because while there are no impacts identified for this property, there is concern that there will be impacts associated with the new managed lane access proposed at Cherrywood Lane. Table 1 provides a list of impacts to parks and historic properties within Greenbelt.

Table 1. Impacts to Parks and Historic Properties

Inventory #	Name	Type of Property	Potential Acres Impacted	DIES Study Comment
	McDonald Field	Public Park	<.1	
	Spellman Overpass	Pedestrian/Bicycle connection	<.1	
	Buddy Attick Lake Park	Public Park	.1	
	Indian Springs Park	Public Park	.1	
	Greenbelt Historic District			
	Greenbelt Park		.6	

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- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities Act-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements including:

- Define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity as part of its commitment to support Vision Zero;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by M-NCPPC), readiness, and landowner consensus, also as part of its commitment to support Vision Zero; and
- Work with Montgomery, Frederick and Prince George's counties to expand transit fare subsidies for eligible low-income riders.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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	Baltimore Washington Parkway		69.3	
	Sunrise Property Forest Preserve	OMMITTED FROM STUDY		

The DEIS states that the FHWA intends to apply *de minimis* impact findings for the Greenbelt Historic District, Buddy Attick Lake Park, McDonald Field, and Indian Springs Park because, "many of the anticipated uses of Section 4(f) properties consist of minor impacts along the edge of the properties in question adjacent to the existing transportation facility." Under Section 4(f) regulations, written concurrence from the City is required for regulators to make a finding of *de minimis* impact findings. The DEIS notes that the Maryland Historical Trust has concurred with the findings of *de minimis* impacts for Greenbelt's parks and historic resources but acknowledges the City's concurrence is needed. MDOT has indicated it plans to engage the City this fall to discuss the project's impacts on the City's parks and historic resources.

The DEIS fails to recognize the Sunrise Forest Preserve as public park land as required under the Section 4(f) regulatory process. It is estimated that the build alternatives would impact about 2.5 acres (25% of the Sunrise tract). The area impacted is heavily wooded and has significant environmental resources. Not only is the Sunrise property city parkland and a designated Forest Preserve Area, it was purchased with Program Open Space (POS) funding. In addition to being subject to Section 4(f) avoidance and mitigation requirements there are requirements associated with the conversion of POS property to a transportation use. Per Section 4(f) regulations, "The conversion of POS property to transportation use would require replacement of that property with land of equal or greater value." The conversion of State funded parks and open space must demonstrate a net positive benefit to the public: demonstrating that the site or the jurisdiction's open space resources will significantly benefit from the proposed conversion. Staff has concerns with the omission of the Sunrise Forest Preserve in the DEIS, and the impacts associated with the build alternatives. MDOT staff have acknowledged the omission of the Sunrise property and the need to address it in the FDEIS, including avoidance alternatives and mitigation.

The realignment of the interchange of Baltimore Washington Parkway with Southway and Greenbelt Road has the potential to significantly adversely impact what is essentially the gateway to the Greenbelt Historic District, as well as to parkland and private properties within this area of the project. The DEIS needs to more fully evaluate

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bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services, MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

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the adverse historical, environmental and socio-economic impacts of this realignment and identify strategies to avoid impacts.

There needs to be greater analysis of the potential impacts of the project on the City's parks and historic resources, as well as to private properties. As identified by M-NCPPC project staff, "Detailed field review demonstrates that the current Limits of Disturbance (LOD) does not comprehensively reflect expectations of environmental impact and what will be needed to restore and mitigate for proposed construction. The LOD needs adjustments on Parkland in many locations; to allow for stable outfall transitions, stormwater management, or rehabilitation of impacted assets." Noise, air, visual, stormwater and green infrastructure impacts need to be fully evaluated in partnership with the City and avoidance of impacts must be a priority. The realignment of the interchange of Baltimore Washington Parkway with Southway and Greenbelt Road has the potential to significantly adversely impact what is essentially the gateway to the Greenbelt Historic District.

The Study also provides information about the significant impacts to the Baltimore Washington Parkway (BW Parkway). During their coordination with MDOT SHA and FHWA, the National Park Service provided comments about having no direct access to BW Parkway in response to the draft options for avoiding Greenbelt Park, BW Parkway, and Suitland Parkway. In response to these comments a traffic analysis to determine the implications of no direct access on I-495 and BW Parkway was completed. This analysis showed that direct access was needed to meet the Study's Purpose and Need. The Build Alternatives now include the realignment of the ramp from eastbound Greenbelt Road to southbound Baltimore-Washington Parkway. It is anticipated that 69.3 acres of the BW Parkway will be impacted by the Build Alternatives. The study also identifies the known adverse effect on the BW Parkway as "limits of disturbance impacts to contributing features and diminishment of the integrity of setting and association." The City has consistently raised concerns about the impacts this project will have on the BW Parkway due to the original intent of the scenic highway and aesthetic underpinnings.

Environmental Resources, Consequences & Mitigation

Chapter 4 of the DEIS, "presents an overview of the socio-economic, cultural, natural, and other environmental resources along the study corridors, the anticipated effects to those resources, and a preliminary assessment of measures to avoid, minimize, and mitigate unavoidable effects to these resources."

Private Property Impacts and Acquisitions

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Concerns have been raised consistently about the impact on established adjacent neighborhoods and the loss of existing homes and businesses. The DEIS provides additional detail about these impacts. The study details that Alternative 9M would result in 29 full property acquisitions (25 residential relocations and four business relocations). Alternatives 8, 9, 10, 13B, and 13C would each result in 38 full property acquisitions (34 residential relocations and four business relocations). The build alternatives would impact between 313.4 and 337.3 acres of right-of-way from properties adjacent to the existing I-495 and I-270 roadway alignments.

Property acquisitions would generally occur to properties adjacent to the existing I-495 roadway, acquiring strips of land from undeveloped areas or areas of trees and landscaping. Larger areas will be acquired for stormwater management. The DEIS states that all property owners from whom total or partial right-of-way acquisitions would be obtained would be compensated and paid fair market value for the affected property.

Specific to Greenbelt, while no full property acquisitions (i.e., requiring relocation of businesses and residents) would result from any of the build alternatives, the Greenbelt area is second to the City of Rockville, in terms of partial acquisitions with an acreage range of 28.2 to 31.5 acres including public parkland and multiple private property owners. The DEIS indicates the following property impacts for Greenbelt by land use type: Commercial/employment – 2.8 acres, Mixed-Use 10.2 acres, Park/Open Space – 4.6 acres, Residential 8.5 acres, Transportation 2.2 acres. Attached (Attachment B) are Environmental Resource Mapping for the project area in Greenbelt to further illustrate private property impacts.

Stormwater Management

The DEIS identifies five types of stormwater management (SWM) facilities in its SWM analysis: quantity ponds, environmental site design (ESD) ponds, swales, quantity vaults, and water quality ponds. These facilities are mostly located within the edges of the LOD, and many are located on public parkland and privately-owned property. The DEIS references all new impervious area and a minimum of 50 percent of reconstructed impervious area will require treatment. Reconstructed impervious area is defined as existing impervious area that is removed, exposing bare earth, before being repaved or repurposed. This calculation method is concerning because the DEIS claims only 25 percent of existing highway surfaces will be reconstructed, requiring a low level of stormwater runoff treatment. However, based on the scope of the project it's realistic to believe all existing lanes will be reconstructed, resulting in a much higher level of treatment being needed.

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The DEIS references that deficits in meeting quantity requirements may be met by utilizing compensatory stormwater management within the same watershed. Specifically, the DEIS references reliance on water quality trading credits, purchased from other MDOT SHA programs, to meet permitting requirements instead of reducing pollution where the project is located. The use of credits will impact local roadways and have adverse impacts on adjacent parklands/properties. The DEIS needs to address how the proposed expansion will impact local waterways, including downstream impacts resulting from increased stormwater pollution and needs to consider existing stormwater levels that continue to damage downstream waterways and infrastructure.

Air Quality

Throughout this review process the City has continually voiced a concern that the impact on greenhouse gas emissions and air pollution was not included in the screening criteria. The DEIS claims that, "the Build Alternatives are not predicted to increase emission burdens compared to the No Build Alternative in 2040, aside from a slight increase in GHG emissions." This prediction is based on the projection that vehicles will become more energy efficient and that additional lanes will reduce congestion and increase speeds. However, as stated by the Sierra Club, "The DEIS fails to fully analyze the increased harmful air emissions the proposed project would cause. Instead, the DEIS seeks to minimize these harms by relying on unrelated increases in fuel efficiency." Furthermore, the DEIS projects more traffic would result on our local streets that are in proximity to the reconfigured interchange of I-495 and the Baltimore-Washington Parkway. The cumulative impact associated with more traffic on local roads, construction operations and loss of tree canopy/forest will have adverse impacts on the City's air quality.

The topic of air quality/greenhouse gas emissions requires further study to fully understand the impacts this project will have on the City and the region.

Noise

The study area was divided into 133 Noise Sensitive Areas (NSAs). Geographically 92 of the NSAs are located along I-495, 37 are located along I-270, two are located along I-95 and two are located along MD295, adjacent to respective interchange with I-495. Of the 133 NSAs, 88 are within Maryland and seven include properties in Greenbelt. They are:

NSA 1-20: Consists of Rental apartments and townhouses along Edmonston Road, Springhill Drive, and Franklin Park at Greenbelt Station.

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NSA 1-21: Consists of townhouses along Belle Point Drive, Damsel Court, Vanity Fair Drive, and Lady Anne Court, and professional offices.

NSA 1-22: This NSA is located within Greenbelt Park

NSA 1-23: Consists of townhouses, condominiums, and apartments along Hanover Parkway, Village Park Drive, and Lake Parke Drive in the Hunting Ridge and Greenbelt Lake Village neighborhoods, a commercial area that includes Holiday Inn Hotel.

NSA 1-24: Consists of Greenbelt Park along the inner loop of I-495/I-95 from the Baltimore Washington Parkway to approximately 2,000 feet southeast of the Baltimore Washington Parkway.

NSA BW-N: Consists of McDonald Field, Green Ridge House, single-family residences (Greenbelt Homes, Inc.) and multi-family townhomes and apartments.

NSA BW-S: Consists of Eleanor Roosevelt High School, Greenbelt Children's Center, and multi-family apartments along Hanover Parkway, Spellman Overpass, and Mandan Road.

Of the NSAs in Greenbelt the DEIS identifies NSAs 1-20, 1-22, 1-23, BW-N and BW-S as warranting further consideration of new noise abatement measures due to the construction of the project (Appendix J, p.55). NSA 1-21 (Belle Point, Charlestowne North and Charlestown Village) was not identified on Appendix D, Map 79 and in Appendix J, Page 55 as warranting additional noise abatement measures, which contradicts data elsewhere in the Study that states that noise barriers are reasonable and feasible (Appendix J, p. 141). Given existing noise levels, the relationship of these residential properties to I-95/I-495 lane widening, and the loss of dense vegetative buffer associated with the build alternatives, this NSA should be the recipient of new noise barriers. There also seems to be conflicting statements about NSA BW-N (McDonald Field, Greenbelt Homes, Inc., Green Ridge House and portions of Greenbelt Historic District). While Table 4-15, on page 4-69 of the DEIS, references sound barriers are warranted, there are no sound barriers shown as proposed on Map-78 found in Appendix J. This map rather shows sound barriers as not reasonable/feasible for NSA BW-N. Today, roadway noise from the Baltimore Washington Parkway adversely impacts the quality of life for residents who live along the corridor, and certainly the loss of tree cover associated with the build alternatives will have adverse noise impacts on residents living in the NSAs along the Baltimore Washington Parkway.

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As stated in the DEIS, sensitive land uses located near a construction zone may experience excessive noise levels (between 78 db(A) and 83 db(A)). The DEIS further states that mitigation measures will be considered during final design to minimize exposure to short-term noise impacts. Construction mitigation noise measures should be addressed in the DEIS to fully understand the feasibility and impacts associated with maintaining acceptable noise levels. Certainly, NSA's within Greenbelt, including the Greenbelt Historic District, will adversely be impacted by construction noise.

Wetlands and Waterways

Strong concerns have been raised about the impacts that this project would have on wetlands and waterways in the study area. The DEIS states that, "Direct impacts to wetlands and waterways associated with construction of the Build Alternatives include fill from roadway and interchange construction, drainage improvements, and temporary construction-related activities." The study found that 16.1 to 16.5 acres of wetlands and 155,229 to 156,984 linear feet of streams have the potential to be affected depending on the selected alternative. The increases in impervious service from the project and change to groundwater and hydrology, requires that additional floodplain modeling and stormwater runoff analysis needs to be done now to fully understand the full impacts to local water quality, potential flooding problems and to identify appropriate mitigation strategies.

Forest Canopy/Green Infrastructure

It is also important to note that this project would impact 1,477 to 1,515 acres of forest canopy, depending on the alternative. Total study area impact is reported in the DEIS, but is not broken down to the local level. This information should be provided in the DEIS so that a full understanding of the local impacts, avoidance and mitigation aspects can be fully understood and evaluated. The build alternatives will have green infrastructure impacts to city parkland and Forest Preserve Areas (Sunrise) and to private property, resulting in air, noise, wildlife, visual and water quality impacts. These impacts, along with associated mitigation, need to be evaluated within the DEIS and not during final design. The potential impacts to National Park Service Properties under the build alternatives to tree canopy includes 47 acres along the Baltimore-Washington Parkway and .8 acres within Greenbelt Park. These impacts would include the physical removal and disturbance of vegetated areas, including forests, for land needed for construction. The DEIS recognizes that in addition to direct impacts to forest and trees, indirect impacts to vegetated areas could result from increased roadway runoff, sedimentation, and the introduction of non-native species within disturbed areas that could lead to habitat degradation with the corridor study boundary.

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The DEIS does not state where tree mitigation will occur, and under Maryland Reforestation Law if there is no on-site and/or off-site planting on public lands within the same county and/or watershed, there is an option to purchase credits from forest mitigation banks, or to pay into the state Reforestation Fund at a rate of ten cents per square foot or \$4,356 per acre. This fee will not mitigate for the social and environmental impacts associated with this project. Given the challenges with finding public lands suitable for reforestation projects of substantial(?) size, the fee in-lieu approach is very likely to be selected, particularly for impacts within the City of Greenbelt and vicinity where there is little to no land that meets reforestation requirements. This means that communities like Greenbelt will suffer irreparable harm to their woodlands/tree canopy, while communities outside the project area will benefit from Greenbelt's loss. This does not represent a fair and equitable approach.

Environmental Justice

Per Title IV of the 1964 Civil Rights Act and Executive Order 12898, "...each Federal agency shall make achieving Environmental Justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations". The Environmental Justice (EJ) evaluation in the DEIS is based on using block group 2010 US Census Data. Within the environmental justice analysis area surrounding the I-495 and I-270 study corridors there are collectively 199 block groups, and 16 of those are within the Greenbelt Community Effects Assessment (CEA)/Environmental Justice Area (EJA). Of the 16 block groups within the Greenbelt EJ Analysis Area, slightly less than half (seven) had a median household income below \$63,150 and 13 had a minority population of 50 percent or more.

The DEIS claims that all build alternatives under consideration will benefit EJ (minority and low-income populations) communities, but the DEIS does not adequately explain this conclusion. As stated above, many Greenbelt's census blocks in the study area meet the definition of an EJ community yet measures to mitigate any potential disproportionate effect on them is missing. Also, since managed lanes are reserved solely for those with the ability to pay, the DEIS needs to evaluate who is benefiting from this project and to what extent. This is necessary to understand whether any of the build alternatives address equity/environmental concerns to a greater degree. The expected high toll prices and environmental impacts of the build alternatives does not justify a conclusionary statement that those residing in the Greenbelt EJ Analysis Area will benefit from this project.

RECOMMENDATION

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As explained above, staff has identified several serious concerns associated with the project and its DEIS. The project purpose and need are auto-focused, leading to no consideration of transit and transportation demand management alternatives. Instead, costly build alternatives are the focus of the DEIS. The six build alternatives under consideration will all have significant adverse impacts (i.e., noise, air, woodlands, stormwater, etc.) on the City's parkland, Sunrise Forest Preserve Area, historic resources, local street network, woodlands/tree canopy and privately-owned properties. The financial cost of the project is also of significant concern and the ability of the State to complete the project without putting a significant burden on taxpayers seems unlikely.

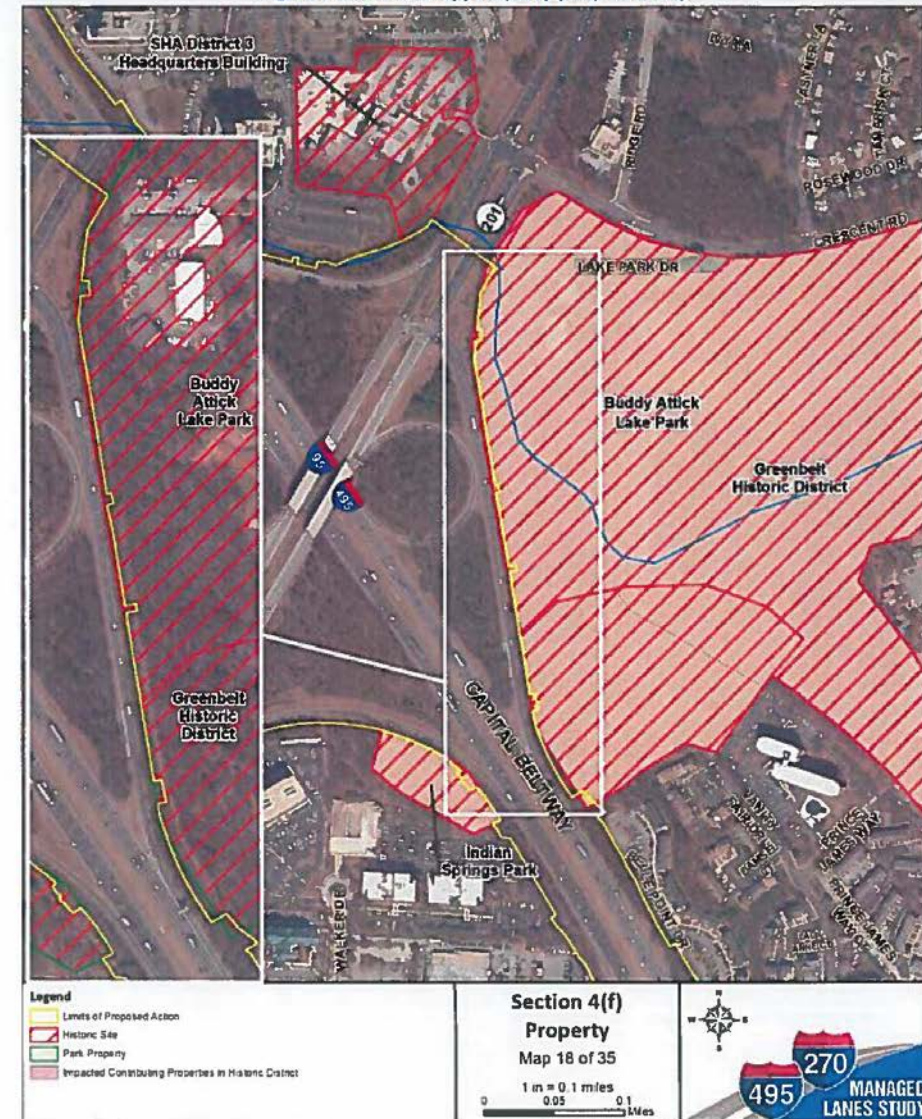
The Maryland Department of Transportation is accepting comments on the DEIS until close of business on November 9, 2020. Staff recommends the City submit a letter supporting the No Build Alternative and stating strong opposition to the Build Alternatives. The letter will highlight the issues and/or deficiencies in the DEIS as discussed in staff's analysis above (Refer to Attachment C for a list of highlighted issues). If agreeable to City Council, the letter can also voice support for comments submitted by M-NCPPC staff, Greenbelt Homes Inc., the Sierra Club and the Anacostia Watershed Society.

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Attachment A

DRAFT SECTION 4(f) EVALUATION

Figure 2-21: Section 4(f) Property (Map 18 of 35)

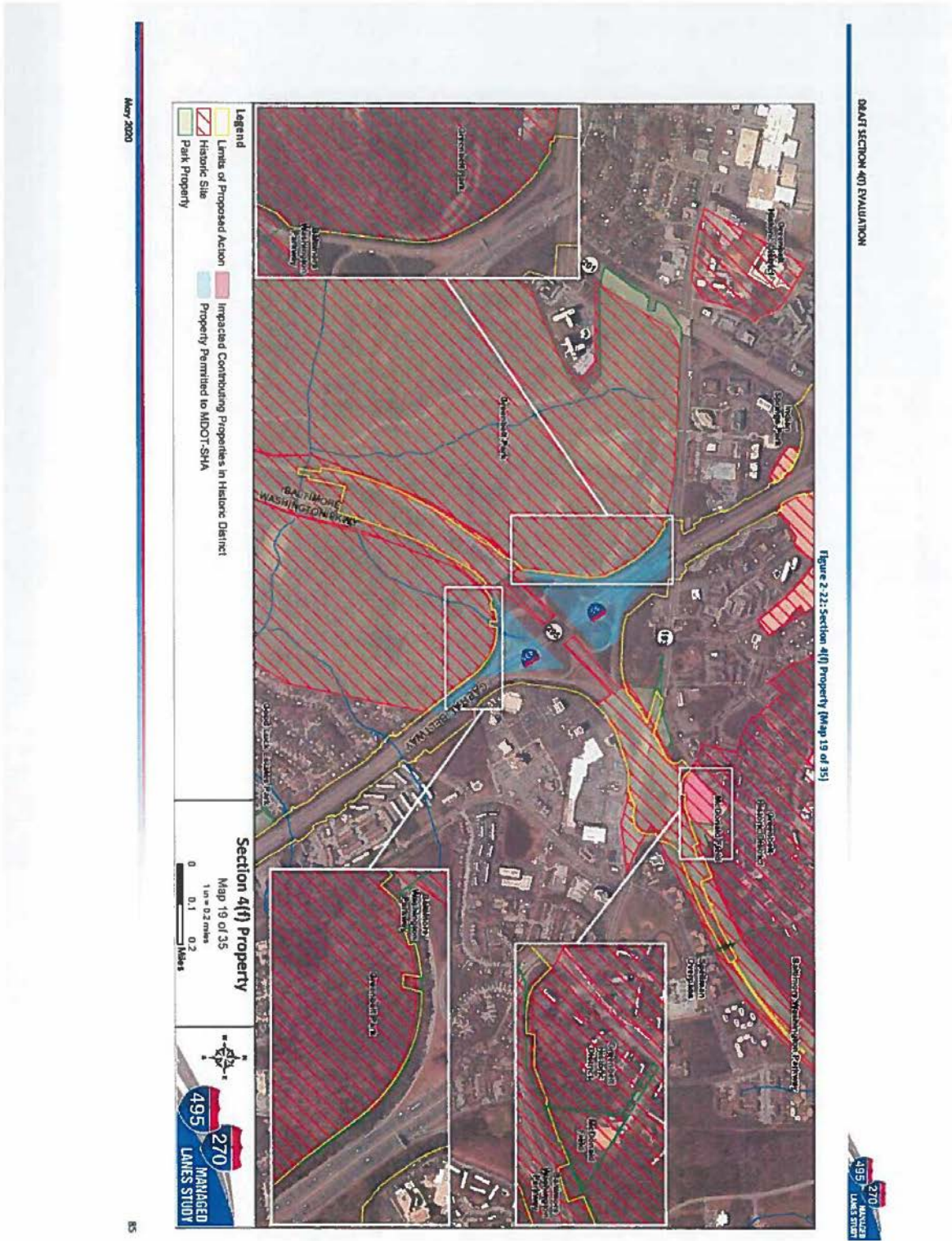


May 2020

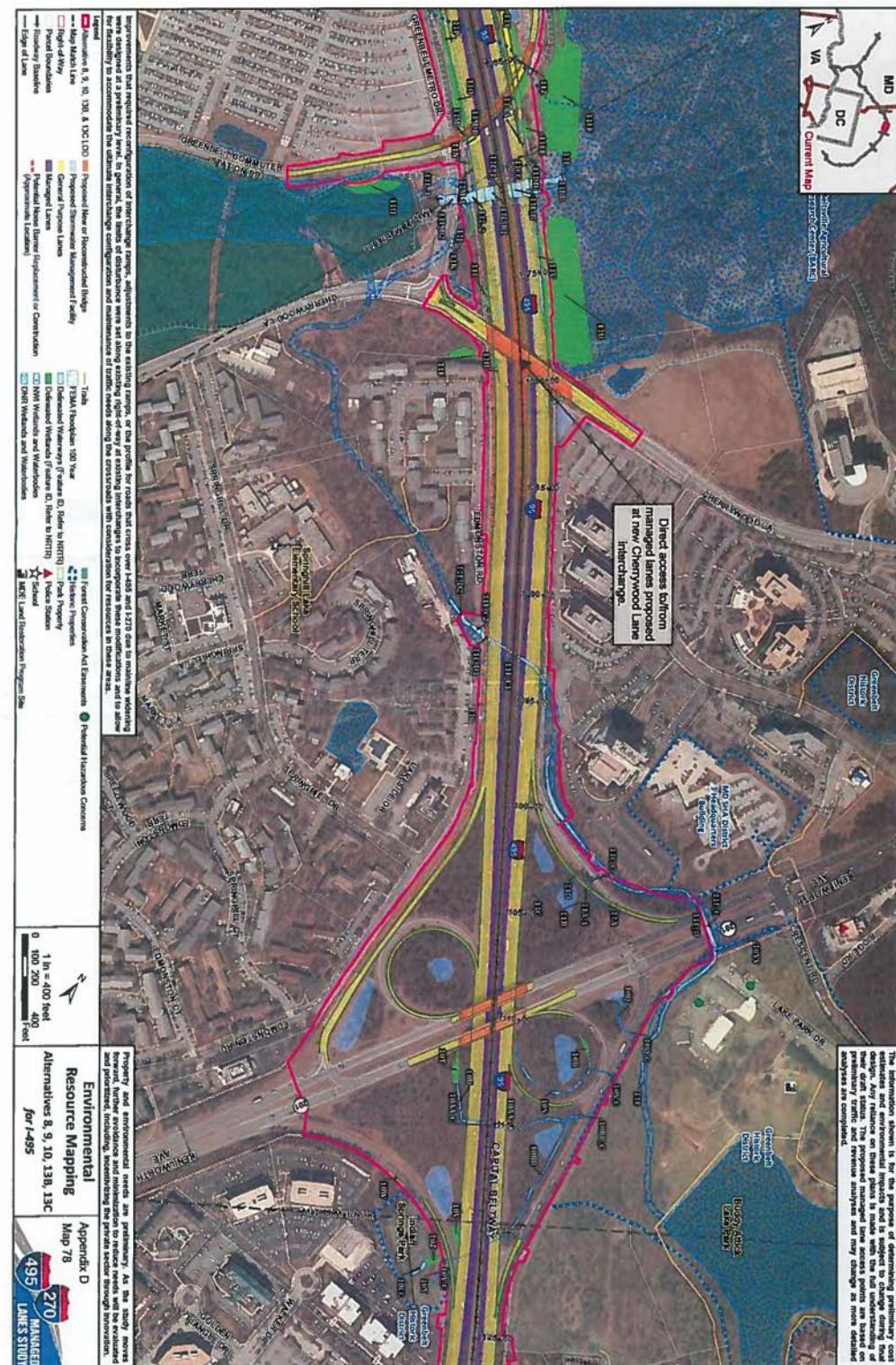
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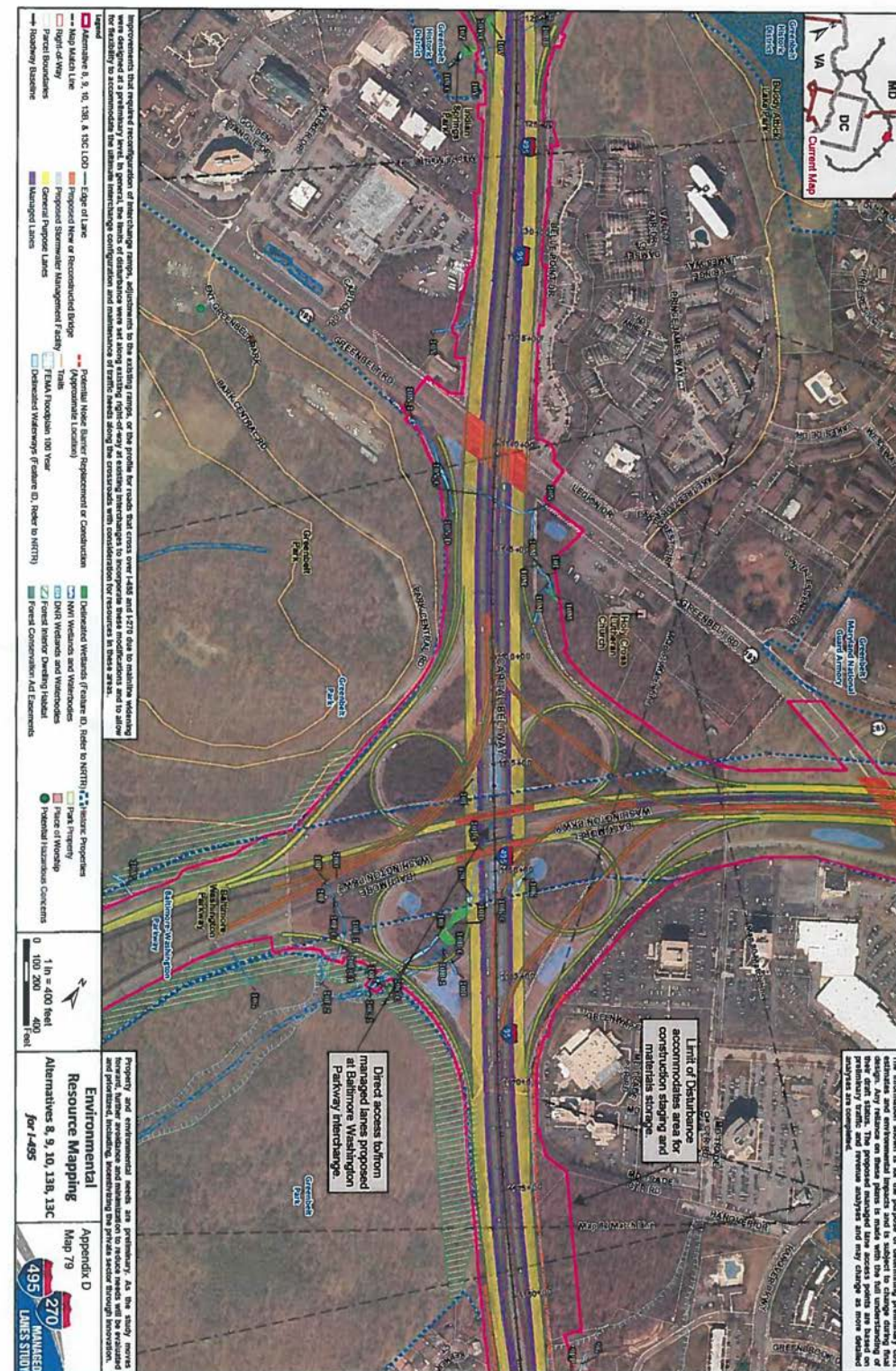
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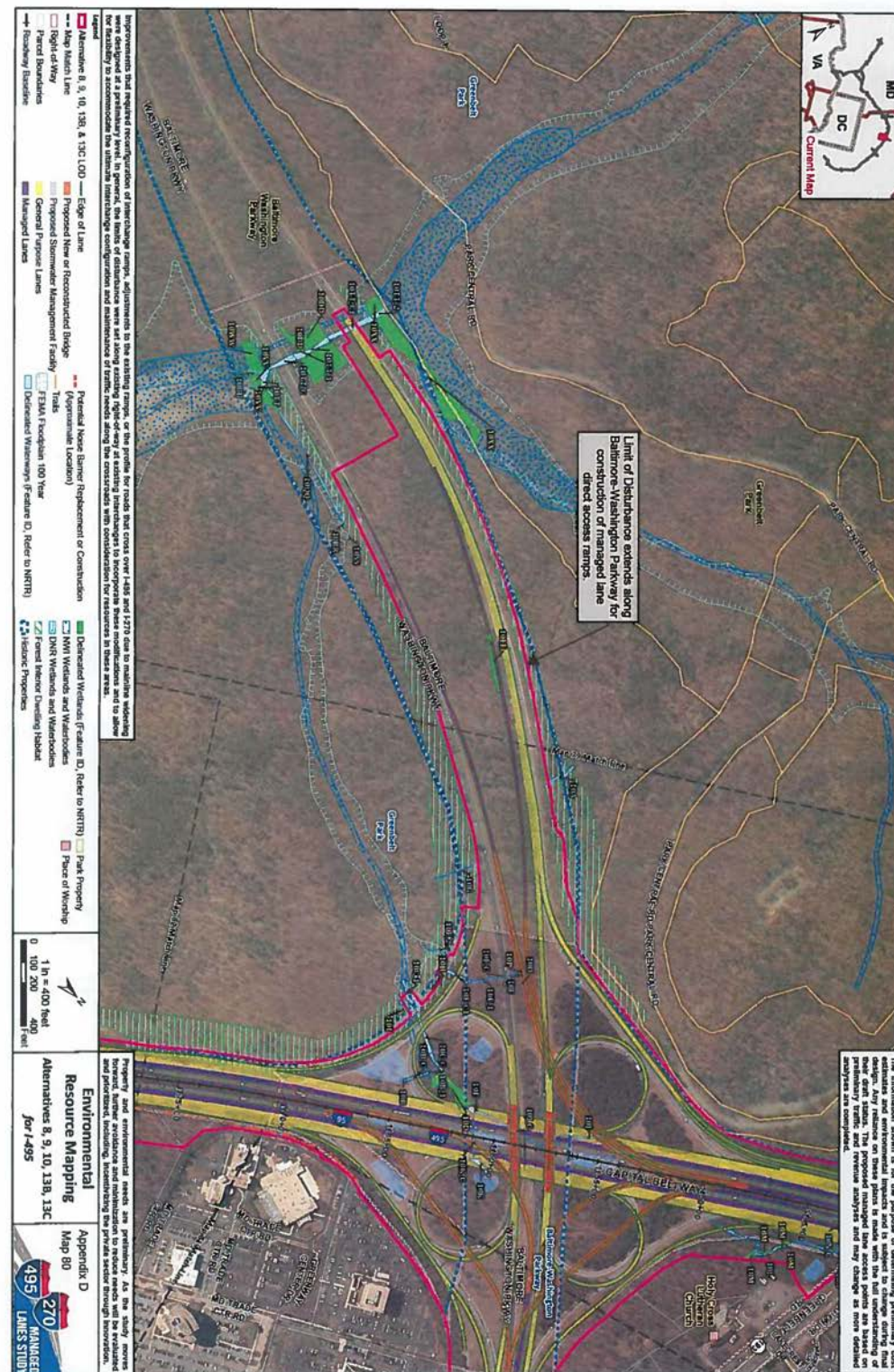
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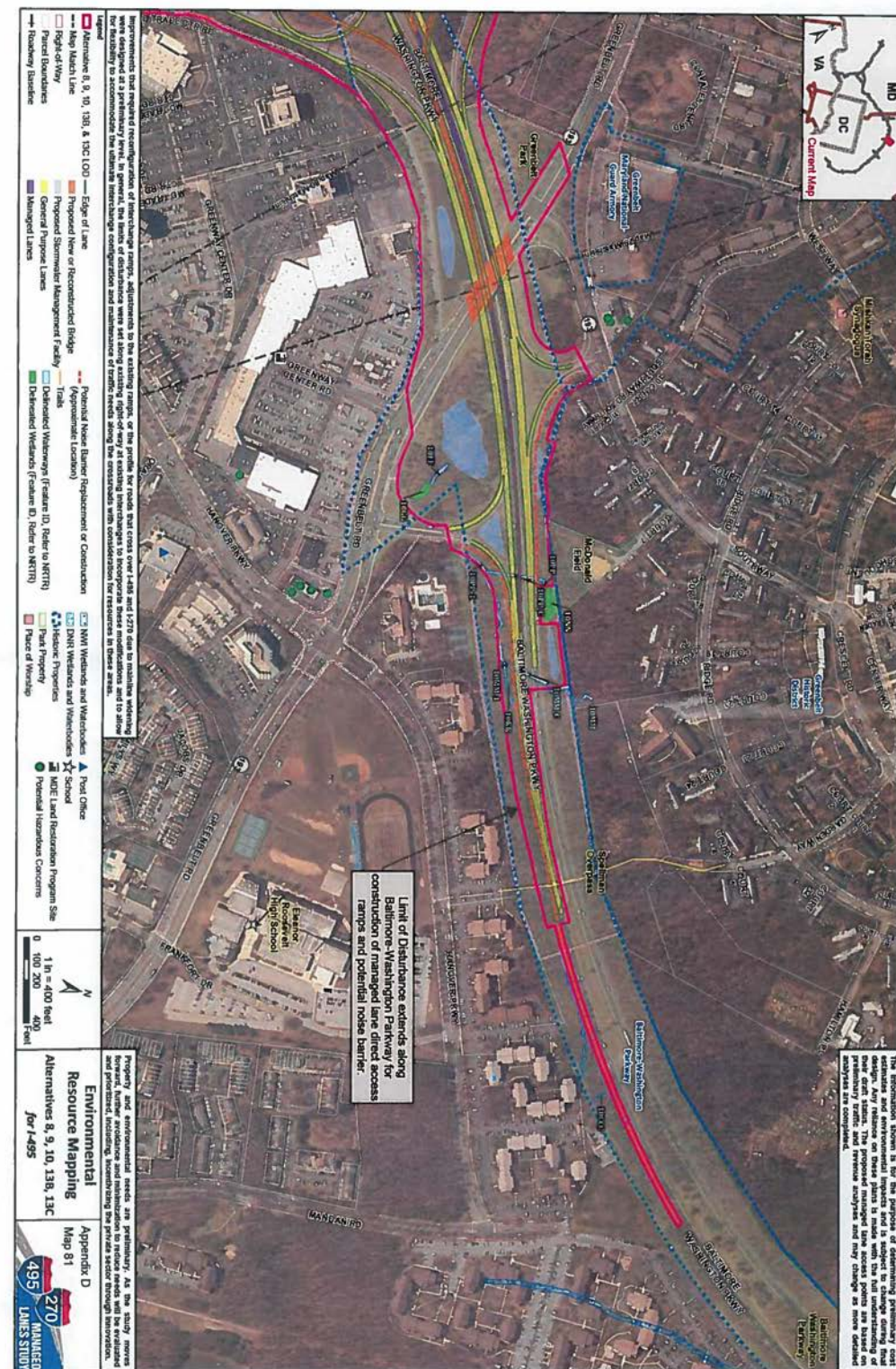
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Attachment C

Highlighted Issues

I-495 & I-270 Managed Lanes Study Draft Environmental Impact Statement

**Prepared by Greenbelt Planning Staff
October 22, 2020**

- 1) The Study Purpose and Need are too narrowly defined and fail to advance a reasonable range of alternatives that would reduce environmental impacts of the project while meeting the purpose and needs of the project identified by the State. Traffic Demand Management, transportation systems management and transit alternatives should be considered.
- 2) The traffic modelling and analysis in the DEIS is insufficient to conclude that the project will meet the project needs. The DEIS should be updated using the most recent travel data available from Metropolitan Washington Council of Governments (MWCOC).
- 3) The DEIS does not adequately address the theory of induced demand and how the highway expansion may lead to increased traffic on auxiliary roads.
- 4) The impacts on local arterial and collector roads require further analysis, particularly on Cherrywood Lane where a new access interchange is proposed to ensure traffic demand is not underestimated.
- 5) Cherrywood Lane is a City street and the City has an adopted complete and green street concept plan for the entirety of this corridor and the construction of a new interchange is not consistent with the City's adopted plan.
- 6) The DEIS references a full interchange at Greenbelt Metro Station. Clarification is needed to understand if the cost of the full interchange is accounted for in the project budget. More information is also needed on the proposed realignment of the entrance to the Greenbelt Metro Station.
- 7) The full costs of the project, including costs of adequate environmental mitigation and taxpayer dollars needed for the relocation of water and sewer infrastructure, must be understood prior to selecting a Preferred Alternative. According to the Washington Post, the cost for moving water and sewer pipes for this project could potentially lead to a 277% increase in water and sewer rates over the next 40 years (source: https://www.washingtonpost.com/local/trafficandcommunity/moving-pipes-to-add-toll-lanes-to-beltway-i-270-will-cost-up-to-2-billion-wssc-says/2020/03/12/0d0f89fe-6406-11ea-acca-80c22bbee96f_story.html).
- 8) Consider the impacts of the COVID-19 pandemic on traffic growth patterns and congestion through 2040 as the transition to teleworking may become permanent for many businesses/people.
- 9) Explain how social equity is being addressed when the high cost of managed lanes may be out of reach for lower income populations.
- 10) The DEIS has not adequately fulfilled the requirements under the Historic Preservation Act. This project will impact five Section 4(f) properties within the City. The City does not concur with the finding that the project will have *de minimis* impact to these properties.
- 11) The DEIS fails to recognize the Sunrise Forest Preserve Area as an eligible Section 4(f) property. It is estimated that the build alternatives would adversely impact about 2.5 acres (25%) of this property. The City has provided information to MDOT on this property so the FEIS can address it

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Attachment C

- appropriately. As public parkland, protected forestland and property purchased with Program Open Space funding, the project shall avoid impacts to this property.
- 12) The DEIS fails to adequately address impacts (i.e., noise, visual, air, stormwater, etc.) to the Greenbelt Historic District, particularly as it relates to improvements associated with MD-295.
 - 13) The limits of disturbance (LOD) does not adequately address likely environmental impacts to natural resources. As identified by M-NCPPC project staff, "Detailed field review demonstrates that the current LOD does not comprehensively reflect expectations of environmental impact and what will be needed to restore and mitigate for proposed construction". There needs to be a greater understanding of the potential impacts of the project on the City's parks and historic resources, as well as to private property.
 - 14) The proposed impacts to the Baltimore Washington Parkway do not respect the original intent of the scenic highway and aesthetic underpinnings.
 - 15) The build alternatives will require the partial acquisition of 28.2 to 31.5 acres of public and private lands in the City, depending on the alternative. This will have significant adverse environmental, cultural and social impacts for individual property owners and the City as a whole.
 - 16) The use of stormwater credits should not be considered a viable option to mitigating stormwater impacts. The DEIS should rely on on-site mitigation.
 - 17) The DEIS needs to address how the proposed expansion will impact local waterways, including downstream impacts resulting from increased stormwater pollution. Consideration also needs to be given to addressing the current degradation plaguing our local waterways as a direct result of highway construction projects.
 - 18) The DEIS needs to fully analyze the increased harmful air emission (i.e., greenhouse gas emissions) the proposed project will cause. The predictions for the build alternatives minimize impacts by relying on projections that vehicles will become more energy efficient, and the DEIS analysis does not account for induced demand.
 - 19) The DEIS identifies seven Noise Sensitive Areas (NSAs) in Greenbelt and fails to adequately address noise abatement efforts. For example, noise barriers for NSA 1-21 were identified on page 141 and on Map 78 in Appendix J as being reasonable and feasible. However, noise barriers are not shown as proposed on Map 79 in Appendix D. Given existing noise levels, the relationship of these residential properties to I-95/I-495, and the loss of dense vegetative buffer associated with construction, noise barriers are warranted for this NSA.
 - 20) There are no sound barriers shown on Map 78 in Appendix J for NSA BW-N despite Table 4-15 on Page 4-69 of the DEIS saying they are warranted. To protect the Greenbelt Historic District and adjoining residential properties noise barriers are needed NSA BW-N.
 - 21) Construction impacts (i.e., noise) must be analyzed and adequate mitigation measures identified to address the potential excessive noise levels the DEIS references near construction zones. This is particularly concerning to Greenbelt given the proximity of residential properties to the project.
 - 22) The DEIS fails to break down forest canopy impacts to a local level, therefore not allowing local jurisdictions the ability to fully understand the local impacts, avoidance and mitigation aspects of the project. The DEIS also does not address where tree mitigation will occur. For the project to equitably mitigate for the social and environmental impacts associated with this project, credits or payment into the State Reforestation Fund should not be considered viable mitigation options.

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Attachment C

- 23) The build alternatives will have green infrastructure impacts to city parkland/Forest Preserve Areas and to private properties, resulting in air, noise, wildlife, visual and water quality impacts. These impacts need to be evaluated now and not during final design.
- 24) The DEIS relies too heavily on off-site mitigation. For the project to be environmentally just, mitigation should be required to occur in the same watershed or community that is being impacted.
- 25) The DEIS claims that all build alternatives under consideration will benefit Environmental Justice Analysis Areas but does not adequately explain this conclusion. Many of Greenbelt's census blocks in the study area meet the definition of an EJ Analysis Area yet measures to mitigate any potential disproportionate effect on them is missing. Further, the expected high toll prices and environmental impacts of the build alternatives do not justify the conclusionary statement that the DEIS makes indicating that residents residing in the Greenbelt EJ Analysis Area will benefit from the project.

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CITY OF NEW CARROLLTON – MAYOR PHELECIA E. NEMBHARD



CITY OF NEW CARROLLTON
6016 PRINCESS GARDEN PARKWAY, NEW CARROLLTON, MARYLAND 20784
Phone (301) 459-6100 Fax (301) 459-8172

October 12, 2020

Ms. Lisa B. Choplin, DBIA,
Director
Maryland Department of Transportation State Highway Administration
I-495 & I-270 P3 Office
707 North Calvert Street
Mail Stop P-601
Baltimore, Maryland 21201

RE: The I-495 & I-270 Managed Lane Study – Draft Environmental Impact Statement
and Draft Section 4(f) Evaluation for the Managed Lane Study

Dear Ms. Choplin:

The Maryland Department of Transportation’s plan to widen I-495, the Capital Beltway, is ill-advised and will have a deleterious impact on the City of New Carrollton, as explained below. The City of New Carrollton opposes the Beltway widening project and takes issue with the Draft Environmental Impact Statement (“DEIS”) and Draft Section 4(f) Evaluation for the Managed Lane Study. Although the DEIS analyzes seven possible alternatives for the project, the only acceptable option proposed is the no build option.

The proposed Beltway expansion will, depending on the alternative selected:

- result in the loss of a significant amount of parkland, ranging from 144.7 to 149 acres;
- eliminate or significantly reduce the buffer between the Capital Beltway and existing homes located proximate to the Beltway, creating an increased level of traffic noise for residents in those homes, thereby ruining the peaceful enjoyment of their properties;
- incur a cost of construction in the neighborhood of \$9 billion to \$12 billion, including an estimate of \$2 billion for WSSC water and stormwater abatement, which may result in exorbitant tolls that creates a situation where people will not be able to afford to use the newly created lanes (the DEIS mentions that the average daily toll rates would range between \$0.68/mile to \$0.77/mile). Furthermore, the

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Phelecia E. Nembhard
Mayor
City of New Carrollton
6016 Princess Garden Parkway
New Carrollton MD 20784

Dear Mayor Nembhard:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your September 23, 2020 letter on the DEIS

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration’s (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA’s procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

Ms. Lisa B. Choplin, DBIA, Director
Maryland Department of Transportation State Highway Administration
October 12, 2020

- DEIS shows that there may be a need for a State subsidy in the amount of \$482 to \$1,088 million;
- increase air pollution;
- impact wetlands, possibly over 16 acres of wetlands;
- result in a tremendous loss of tree canopy; and
- contribute adversely to climate change.

The DEIS analyzes seven possible alternatives considered for the project, one of which is a no build option, although it is recognized that the no build option does not achieve the goal of the Study. The acquisition of properties in the City for this project is expected to be 5.3 acres¹. The DEIS identifies eight public park property owners along the study corridor that will be impacted, including the City of New Carrollton. The City's Beckett Field will be impacted by a taking of 0.2 acres for all of the alternatives, other than the no build. The DEIS shows that the northeast portion of the City of New Carrollton will be directly affected by the project.

Furthermore, there will be significant disruptions to traffic along the Capital Beltway during construction. Cars trying to avoid the construction related congestion may exit 495 onto roads within the City, such as Md. Route 450, and roads near the City, Md. Routes 193 or 201, which could result in additional traffic driving through our City. And, the environmental and social impacts will be everlasting, with potential stormwater runoff issues, reduction in trees, parks and green space, homes being destroyed and/or yards decreased, to name a few.

It is imperative that the State and the DEIS not only seriously consider alternative ways to relieve congestion on the Capital Beltway, but also further explore the impact that the coronavirus pandemic has had on the way that businesses, schools, colleges, and governments operate. Although the DEIS recognizes the COVID-19 pandemic and the "uncertainty surrounding post-shutdown traffic levels and transit use," it fails to offer a traffic model that predicts how the pandemic will affect long-term future traffic projections and transit use. Many businesses have stated that they may not return to the traditional business model, which means allowing employees to telework resulting in a decrease in vehicles on the highway. This step is an absolute must as the selection of the action/alternative to be taken requires consideration of "all practicable means to avoid, minimize or mitigate environmental harm."

¹ The Overview of Potential Impacts by CEA Analysis Area Community as Summarized from the Community Profiles.

The Honorable Phelecia E. Nembhard
Page Two

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George's County or the City of New Carrollton. Many of the potential concerns and impacts raised in your comment letter had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area. Because Prince George's County and the City of New Carrollton are located outside the Preferred Alternative limits of build improvements, impacts to parkland, communities and community facilities, historic resources, and natural resources within the County and City have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, including the City of New Carrollton.

In response to some of your specific concerns, I offer the following responses.

1. The proposed Beltway Expansion will incur a cost of construction in the neighborhood of \$9 billion to \$12 billion, including an estimate of \$2 billion for Washington Suburban Sanitary Commission (WSSC Water) and stormwater abatement, which may result in exorbitant tolls that creates a situation where people will not be able to afford to use the newly created lanes (the DEIS mentions that the average daily toll rates would range between \$0.68/mile to \$0.77/mile). Furthermore, the DEIS shows that there may be a need for a State subsidy in the amount of \$482 to \$1,088 million.

For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and a range of interest rates. The results showed that some alternatives would have a higher likelihood of being cash flow positive and others would have a higher likelihood of being cash flow negative. These wide ranges were necessary to account for various market conditions that could change before financial close.

Regarding the subsidy of taxpayer dollars, on a revenue-risk Public-Private Partnership (P3), as being pursued under Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

Ms. Lisa B. Choplin, DBIA, Director
Maryland Department of Transportation State Highway Administration
October 12, 2020

Since the next step is the development of a Final Environmental Impact Statement identifying the preferred alternative, it is important that all comments be fairly considered, including those in opposition to the project. Given the potential tremendous negative impact of the Beltway expansion project, and the lack of proof that any of the proposed alternatives will reduce traffic congestion, one can only conclude that the no build option is the only option. The City of New Carrollton vehemently opposes the widening of the Beltway as proposed and evaluated in the DEIS. **The Mayor and the City Council of New Carrollton unanimously supports the no build option.**

Sincerely,



Phelecia E. Nembhard
Mayor
City of New Carrollton

The Honorable Phelecia E. Nembhard
Page Three

During predevelopment work for Phase 1, the Developer will continue to work collaboratively with MDOT SHA and our utility partners to further reduce any impacts to utility and, where necessary, plan to relocate utilities in the most efficient and accommodating manner as possible. The Developer will be required to adhere to WSSC Water's regulations, design standards, and specifications as granted through the Public Utilities portion of the Maryland Code. Following a Record of Decision (ROD), final project activities and design will allow the Developer to identify, mitigate and reduce the impact of utility relocations in the Phase 1 South area.

Potential cost of utility relocation has consistently been factored into the overall estimates developed for the project. The reduced footprint of proposed improvements associated with the Preferred Alternative as compared to the Build Alternatives discussed in the DEIS, together with ongoing coordination to identify and avoid, to the maximum extent practicable, conflicts with existing infrastructure, minimize the risk of increased costs to regional WSSC Water and utility customers, and have lowered the original cost estimates significantly. The cost estimate for the Preferred Alternative includes the cost of utility relocation based on planning level information and can be found in the Final Environmental Impact Statement.

Finally, the toll-rate range setting process is led by the Maryland Transportation Authority (MDTA), who are the only State entity with the authority to set, revise, and fix toll rates.¹ As outlined in the DEIS and SDEIS, the toll rate ranges were determined through a multi-step process that is codified in Maryland law, which provides for public input through public hearings and official public testimony. On November 18, 2021, the MDTA Board voted to approve the toll rate ranges.

2. The proposed Beltway Expansion will increase air pollution and contribute adversely to climate change.

Recognizing the importance of Greenhouse Gas (GHG) emissions to our environment, technical experts with MDOT SHA and FHWA agreed upon a methodology to analyze emissions, including GHG emissions, for all DEIS Build Alternatives and the Preferred Alternative. This methodology was consistent with the CEQ's 2016 Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews. To date, GHG National Ambient Air Quality Standards (NAAQS) have not been established by the U.S. Environmental Protection Agency (USEPA), and there is no approved regulatory requirement established by USEPA to analyze these emissions at a project level for transportation projects since their effects in the atmosphere are global rather than localized as they remain in the atmosphere for decades to centuries. Since there is no approved methodology for conducting a project-level quantitative GHG emissions analysis, there are numerous parameters that could be applied to conduct this review. Consistent with FHWA guidance on developing an affected network to analyze project-related pollutants, such as MSATs, MDOT SHA analyzed GHG emissions using the same affected network as the MSAT analysis. This definition of the affected network, however, is likely extremely conservative, as GHG emissions are most commonly considered on a regional or even broader level.

¹ Transportation Article, § 4-312, Annotated Code of Maryland; COMAR Title 11, Department of Transportation, Subtitle 07 MDTA, Chapter 05 Public Notice of Toll Schedule Revisions (11.07.05)

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The Honorable Phelecia E. Nembhard
Page Four

The analysis shows GHG emissions are expected to decline in the Opening (2025) and Design (2045) years for all GHG pollutants when compared to existing conditions. Specifically, for CO₂e, there is projected to be a 94,664 TPY decrease (13% reduction) in the Opening year and a 67,272 TPY decrease (9% reduction) in the Design year. These reductions occur despite projected increase in vehicle miles traveled (VMT) on the affected network between the 2016 and 2025 and 2045 Build scenarios. Under the No Build condition, VMT on the affected network would gradually increase for the years between 2016 and 2045 as employment and population in the area increases. In addition to an analysis of operational GHG emissions, an analysis of construction emissions associated with the Preferred Alternative using the FHWA Infrastructure Carbon Estimator (ICE) is included in the FEIS. Refer to FEIS, Chapter 5, Section 5.23.3 and FEIS, Appendix K.

MDOT has demonstrated a commitment to implement a variety of strategies to reduce GHG emissions programmatically in the transportation sector. Maryland has been a leader in adopting strategies to advance cleaner vehicles and fuels, via the Maryland Clean Cars Program, which implemented California's low emissions vehicle (LEV) standards to vehicles purchased in Maryland, starting with model year 2011. Since then, adopted and proposed enhancements in federal motor vehicle emissions standards overlap with this program, and further improvements in vehicle technologies and fuels are anticipated to play a key role in significantly improving air quality and reducing GHG emissions. Some of the GHG reduction strategies presented for the transportation sector in the Maryland 2012 Greenhouse Gas Reduction Act Plan and 2015 Update (<https://climatechange.maryland.gov/plan/>) include: transportation technologies, such as vehicle emission and fuel standards, on-road technologies, and low emission (including electric) vehicle initiatives, public transportation initiatives, pricing initiatives, GHG emission impact evaluation of major new transportation projects, and bicycle and pedestrian initiatives.

3. The proposed Beltway expansion will significantly disrupt traffic along the Capital Beltway during construction.

It is anticipated that construction will last approximately five to six years. The management of construction impacts is addressed in an agreement between MDOT SHA and the Public-Private Partnership (P3) Developer for design and construction of Phase 1 South. Pursuant to that agreement, MDOT SHA and the Developer will continue to coordinate with the neighboring communities following completion of the NEPA process, through final design and construction. The agreement includes requirements to minimize impacts to surrounding communities and the traveling public, while completing construction as efficiently as possible. Work hours and duration of construction will be identified to minimize impacts to traffic in an effort to reduce construction related congestion and in consideration of noise and vibration impacts to adjacent communities. Construction methods and materials will comply with contract, state, federal, and environmental permit and mitigation requirements. Careful attention will be taken to assure that material placement will occur when weather conforms to industry standards and regulation. In addition to required governmental inspections, the Developer is required by contract to provide independent environmental, quality, and safety oversight of its contractor's performance. See Final Phase 1 P3 Agreement, <https://oplanesmd.com/p3-information/phase-1-agreement/>. The schedule and duration for Phase 1 South construction will be made available to the public when available.

4. The State must further explore the impact that the coronavirus pandemic has had on the way that businesses, schools, colleges, and governments operate.

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The Honorable Phelecia E. Nembhard
Page Five

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office,
MDOT SHA

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The Honorable Phelecia E. Nembhard
Page Six

bec: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

CITY OF ROCKVILLE – MAYOR BRIDGET DONNELL NEWTON

From: Linda Moran <lmoran@rockvillemd.gov>
Sent: Wednesday, November 4, 2020 12:30 PM
To: Lisa Choplin <LChoplin@mdot.maryland.gov>
Subject: Correspondence from the Rockville Mayor and Council - I-270&I-495 Managed Lanes Study DEIS

Good afternoon, Ms. Choplin,

Provided is correspondence from the Rockville Mayor and Council regarding the I-270 & I-495 Managed Lanes Study Draft Environmental Impact Statement. Please include it in the official public record for this matter. We would appreciate an acknowledgement of receipt, and thank you for your assistance.

Sincerely,

Linda Moran
Assistant to the City Manager
City Manager's Office
City of Rockville
111 Maryland Avenue
Rockville, MD 20850
P: 240-314-8115
F: 240-314-8130
Email- lmoran@rockvillemd.gov
www.rockvillemd.gov

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Bridget Donnell Newton
Mayor
City of Rockville Council
111 Maryland Avenue
Rockville MD 20850

Dear Mayor Newton and City of Rockville Councilmembers:

Thank you for your comments regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS) published in July 2020 and Supplemental DEIS (SDEIS) published in October 2021. I appreciate the opportunity to respond to concerns noted in your oral testimony at the September 10, 2020 hearing on the DEIS as well as those noted in your DEIS and SDEIS comment letters

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.



City of Rockville
111 Maryland Avenue
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20850-2364
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240-314-5000
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MAYOR
Bridget Donnell Newton

COUNCIL
Monique Ashton
Beryl L. Feinberg
David Myles
Mark Pierzchala

CITY MANAGER
Robert DiSpirito

CITY CLERK/DIRECTOR OF
COUNCIL OPERATIONS
Sara Taylor-Ferrell

ACTING CITY ATTORNEY
Cynthia Walters

November 4, 2020

Ms. Lisa B. Choplin, DBIA
Maryland Department of Transportation
707 North Calvert Street, Mail Stop P-601
Baltimore, Maryland 21202

Dear Ms. Choplin:

We, the Mayor and Council of the City of Rockville, are writing to express our extreme concern with the Draft Environmental Impact Statement (DEIS) for the I-495 & I-270 Managed Lanes Study. The DEIS is severely flawed because it completely neglects the impact of the pandemic. The Travel Demand Model assumes traffic volumes will resume to pre-COVID levels, includes too many human health and environmental impacts, and does not include a public mass transit component. Therefore, the City of Rockville supports the only rational alternative in compliance with the National Environmental Policy Act: The No-Build Alternative.

The DEIS's faulty assumption that traffic will return to pre-COVID levels negates the entire DEIS process and project decision-making. The Environmental Impact Statement is supposed to convey not only the benefits of the project, but also the negative environmental impacts, so they can be properly weighed. An assumption which significantly overstates the benefits of a project (such as reduction of traffic congestion) will cause the impacts to be improperly compared.

Below are some of the City's major concerns, with more technical concerns attached to this letter.

- The potential toll rate of as much as \$0.77 per mile (for Alternative 9M) is high enough to deter significant number of drivers from using the toll lanes. This rate is the projected average throughout the day, which means that the rates during the peak periods will be significantly higher and expected to exceed \$2 per mile. This reveals a lack of transparency of the peak toll rates in the DEIS. Rates this high will certainly discourage usage. The DEIS also does not account for the high cost of utility relocation, specifically WSSC utilities.
- The current experience with the Purple Line P3 demonstrates the risks of such a P3 project. The state should not proceed with the even larger I-270/I-495 P3 project until it demonstrates that it can properly handle the fundamental Purple Line P3 difficulties. Further, the Purple Line experience shows that the state and its taxpayers may be required to make up large construction funding shortfalls when all costs are considered, and may have to make up large ongoing operational deficits.
- The DEIS fails to look at the human health and environmental impacts of the proposed expansion in order to understand the balancing and tradeoffs required. Instead, the DEIS repeatedly notes that many project details remain unknown. This is insufficient and prevents the public from understanding the true consequences of the proposed expansion.

The Honorable Bridget Donnell Newton
City of Rockville Council
Page Two

There is no action or improvements included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to your specific concerns, I offer the following.

1. Traffic Modeling and Analysis

The Preferred Alternative is projected to provide meaningful operational benefits to the system even though it includes no action, or no improvements, for a large portion of the study area to avoid and minimize impacts. These operational benefits include reduction in network-wide average delay per vehicle (13 percent improvement in the AM peak period and a 38 percent improvement in the PM peak period), a 25 – 30 percent increase in throughput across the American Legion Bridge (ALB) during the peak hours, a 10 – 15 percent increase in throughput on I-270 at Montrose Road during the peak hours, a 4.8 percent decrease in daily delay on the arterials in Montgomery County, increased average speeds in the general purpose lanes on I-495 and I-270 during the peak hours compared to the No Build Alternative, and the option for vehicles with three or more occupants and transit vehicles to have a reliable trip in the HOT lanes system at free flow speeds without paying a toll.

As part of the ongoing NEPA process and to address concerns raised regarding operations along the I-495 Inner Loop under the Preferred Alternative, the design has been refined and the forecasting assumptions were revisited for the Final Environmental Impact Statement (FEIS), resulting in improved projected operations on I-495 and I-270 compared to what was reported in the SDEIS. Refer to Section 4.3 of the FEIS for the updated results. The HOT lanes are now projected to achieve at least 45 miles per hour (mph) in the design year. Projected speeds along the I-495 Inner Loop general purpose lanes between the George Washington Memorial Parkway (GWMP) and I-270 West Spur during the 2045 PM peak period following the design updates are projected to be 15 mph, which is better than the No Build (14 mph), and also improved compared to the preliminary results presented in the SDEIS (7 mph). Operations outside the Phase 1 South limits are projected to be similar under Build and No Build conditions, as would be expected.


With respect to the local roadway network related to the Build Alternatives, information in the DEIS was based on preliminary design that did not include direct access at Gude Drive or Wootton Parkway. Since that time, MDOT SHA has coordinated with various stakeholders, including the City of Rockville, and has updated the design to include direct access connections to the managed lane system at these two interchanges. The results presented in the SDEIS and FEIS account for these updates.


Ms. Lisa B. Choplin, DBIA
November 4, 2020
Page 2

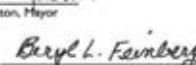
- The Mayor and Council vigorously advocate that MDOT and the Governor protect the homes, businesses, and infrastructure of the nine Rockville neighborhoods that abut I-270. Many residents are anxious about the uncertainty surrounding their homes, neighborhood, and community. It is essential that the State understand that even if a home is left untouched, the taking of a portion of a yard, playground, park, or other amenity would still damage our community. There also are several schools close to I-270 that would be adversely impacted due to the noise and air quality that this project brings.
- The recommended alternatives retained for detailed study do not include public mass transit. The DEIS did not analyze reasonable public transit options, smaller-scale roadway improvements, or transportation systems and transportation demand management options. Suggestions to improve Park & Ride lots and enhance current transit lines are not acceptable, since the benefit of those transit improvements is expected to be negligible.
- The I-270/I-495 P3 will further degrade the climate in major ways. This proposed project will add a devastating loss of parks, adverse impacts to the Chesapeake watershed, wetlands and tree canopy, as well as the air and noise pollution that comes with increased speed and traffic. Rockville's effort to develop a Climate Action Plan to reduce municipal and community-wide greenhouse gas emissions will be undermined by the widening of I-270, which will generate even more global warming pollution from increased traffic.
- The DEIS does not sufficiently address social equity as required under NEPA. The need to conduct an equity evaluation on the transportation benefits of each of the Alternatives is of utmost importance. The DEIS's conclusion that everyone benefits, particularly given the widely-held public perception that managed lanes are intended and feasible solely for those with the ability to pay, is just not acceptable.

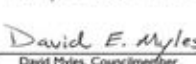
The City of Rockville requests MDOT make the fiscally, environmentally, and socially responsible decision to not proceed further with this project. We endorse only the No-Build Alternative.

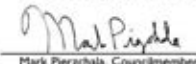
Sincerely,


Bridget Donnell Newton, Mayor


Monique Ashton, Councilmember


Beryl L. Feinberg, Councilmember


David E. Myles, Councilmember


Mark Pierzchala, Councilmember

Mayor and Council
City of Rockville

cc: Rockville City Manager
District 17 Delegation

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The results indicate that the net impact of the Preferred Alternative will be an overall reduction in delay on the surrounding arterials, including a 4.8 percent reduction in daily delay on the arterials in Montgomery County, despite some localized increases in arterial traffic near the managed lane access interchanges. The portions of the local road network with an anticipated increase in volumes were evaluated in more detail as part of the FEIS, and mitigation was proposed where needed to maintain acceptable operations and safety per FHWA Interstate Access Point Approval Policy guidelines. In addition, based on follow-up meetings between MDOT SHA and the City of Rockville, additional improvements were considered and incorporated where feasible, including extension of the Maryland Avenue bike lane, modifications to the right-turning movement from the I-270 off-ramp onto eastbound MD 189, and additional turn lanes at Wootton Parkway at Seven Locks Road, Gude Drive at Research Boulevard, and MD 189 at Great Falls Road. All these enhancements will help manage and/or improve the function of the local roadway network. Refer to MDOT SHA's Application for Interstate Access Point Approval in FEIS, Appendix B.

Regarding your comments on the assumptions in the updated traffic analysis presented with the SDEIS, the transit projects you noted are approved projects including the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model. Therefore, the traffic analysis assumes those transit projects are in place as part of the modeling. for the Average Daily Traffic (ADT) estimates in the SDEIS, they have been updated for the final traffic analysis in support of the FEIS and show an increase which is expected with capacity improvements. The increase in ADT from the No-Build Alternative to the Preferred Alternative can be primarily attributed to I-270 being able to accommodate latent demand under the build condition (i.e. trips that would otherwise use the local roadway network to avoid congestion on the freeways).

Lastly, your comments questioned the continued need for the project and the validity of the traffic model due to the effects of the COVID-19 pandemic on travel patterns. MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several "what if" scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted.

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Attachment A

Additional City comments and concerns:

1. The numbers included in the Executive summary (Table ES-2) are slightly different than those included in Table 2-3 in the main report.
2. Transit components are not adequate in the study: No standalone transit alternative has been proposed in the DEIS.
3. Rockville and Montgomery County question the validity of the Travel Demand Model used to project 2040 traffic volumes and patterns. Travel habits and the extensive use of video meetings, as well as the wide acceptance of teleworking during recent months, suggest that travel demand models should be revised taking into consideration all recent changes, and to project future demand accordingly.
4. The study is based on annual average daily traffic of 260,000 vehicles per day in 2018 (on I-270 between MD 28 and I-495). What is the current daily traffic in 2020? And how will it affect the purpose and need of this study? The forecasted 2045 traffic shown on page 1-5 (46 of 353) of the document should be revised accordingly.
5. The report did not include any data or specific analysis for Rockville's local networks and surrounding arterials, such as Wootton Parkway and Gude Drive, as well as traffic impact on neighborhoods.
6. The limits of disturbance (LOD) will likely need to be expanded because the LOD does not adequately address likely environmental impacts to natural resources. This includes inadequate allowance for stable outfall transitions, stormwater management, and rehabilitation of impacted resources, some that occur outside the limits of the LOD, in addition to other factors and incomplete analysis.
7. There are no sections of the DEIS which speak specifically to utility impacts. Concerns about utility relocation as well as cost associated with this task is significant.
8. Appendix B: Alternatives Technical Report section 5.5 Structures speaks to bridges but does not identify each specific bridge that would be impacted.
9. There are no specifics in the DEIS regarding utility impacts.
10. Appendix E: Community Effects Assessment (CEA)/Environmental Justice Technical Report: The Public Utilities section within the project limits makes no mention of any of Rockville's utility impacts or services.

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The first part of the sensitivity analysis involved modifying input parameters in the MWCOG regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented in Chapter 4 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOG and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

2. Standalone Transit and Reversible Lane Alternatives

Non-highway alternatives were considered during the alternatives screening process. These included heavy rail and light rail parallel to the existing alignments (the Purple Line Light Rail was already proceeding), fixed guideway or Bus Rapid Transit along a new alignment parallel to the existing highway alignments and dedicated managed bus lanes on I-495 and I-270. Refer to DEIS, Appendix B. As with all the alternatives under the Preliminary Range of Alternatives, these non-highway options were evaluated using the various project needs, a review of available data, similar proposals that had been made over time, as well as a qualitative traffic assessment of each alternative's potential to reduce congestion on I-495 and I-270.

The standalone transit options failed to address all the major areas of need identified and had major engineering and operational challenges associated with them. As one example, the Purple Line FEIS and Purple Line Travel Forecasts Results Report evaluated the impact of transit alternatives on overall automobile usage by presenting the vehicle miles traveled (VMT) in the region. The results showed that in 2040, under the Purple Line Preferred Alternative, 0.07 percent less VMT would be traveled each day in the region versus the 2040 Purple Line No Build Alternative. Based upon the analysis conducted and presented and input from agencies and public, FHWA and MDOT determined they would not adequately accommodate long term traffic growth or enhance trip reliability along I-495 or I-270, and none of them would accommodate homeland security or freight movement needs. For these reasons, those standalone transit alternatives were dropped from further consideration. Refer to DEIS, Chapter 2 and DEIS, Appendix B and FEIS, Chapter 2.

Although standalone transit alternatives were found to not meet the Study's Purpose and Need, the Preferred Alternative incorporates multiple transit elements. These transit elements will serve to address existing and planned multimodal mobility and connectivity included in the purpose of the MLS by:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Westfield Montgomery Mall Transit Center, and Medical Center Metro.

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11. The project would impact parkland, streams, wetlands, and forests in Rockville. At the current scale, the extent of impact to Rockville natural resources is difficult to determine. Additionally, the current LOD included in the Draft DEIS does not comprehensively reflect all the environmental impacts that will be needed to construct, restore and mitigate for the proposed project. The LOD needs adjustments in many locations to factor in access, construction, outfall stabilizations and transitions, stormwater management, and the mitigation of impacted assets.
12. The City is concerned that the DEIS does not address the expected impacts to Rockville's waterways and stormwater management (SWM). The DEIS provides inadequate stormwater management treatment for current and future impervious surfaces. Additionally, staff believes that proposed roadway changes and the increase in runoff added to already undersized and deteriorated SHA pipes may overwhelm our storm drain system, increase our stream erosion, and cause more issues for the City to deal with in the future.
13. Much of the DEIS is targeted to show compliance with State and federal regulatory requirements. However, Rockville's local SWM regulations have higher standards that require water quantity control or alternative mitigation for larger storms. These are not currently addressed in the DEIS.
14. Some onsite stream mitigation (meaning within the I-270 construction limits of disturbance) is proposed within the city limits at locations of expected impacts from I-270 storm drain outfalls, new or retrofitted stormwater management, culvert replacement, etc. However, it is not clear how this would address the downstream effects on Rockville streams and storm drains, nor is there information about what type of mitigation is planned.
15. Given that Rockville has an extensive section of I-270 that will be impacted, staff recommends that SHA also commit to addressing Rockville's waterway and stormwater impacts by providing mitigation projects located inside city limits.
16. City staff are concerned that adequate stormwater treatment is not provided and that multiple adjustments to the City's drainage system will result from the I-270 construction, many of which will not be compatible with existing downstream infrastructure or capacity. The DEIS does not account for how the meshing of new SHA infrastructure with older, lower-capacity City pipes and stream channels can be accomplished, and no downstream mitigation projects within Rockville are mentioned. We strongly urge SHA to add projects from the detailed list provided by the City in the spring of 2020, to help compensate closer to the source of increased runoff.
17. Appendix I, Air Quality Technical Report, suggests the project's added toll lanes to Washington-area highways would reduce air pollution, along with congestion, and have minimal impacts on greenhouse gases. The analysis doesn't account for the long-term likely increase in the number of vehicles traveling on the widened highways because of induced demand, which could offset reductions in congestion-related emissions. The study should assess the air quality and greenhouse gas impacts under the new SAFE Vehicles Rule.

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Additionally, MDOT SHA has committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

The use of contraflow or reversible lanes were included among the alternatives that were screened prior to consideration in the DEIS. The contraflow lane alternatives, Alternatives 12A and 12B, would require conversion of existing general purpose lanes on I-495 and conversion of existing HOV lane on I-270 and require a movable barrier system to separate opposing traffic. Shifting the moveable barriers for miles of highway could take many hours to complete, thereby reducing available roadway capacity during the operational change. Additional issues with a movable barrier system include: a long duration of time and complexity of deploying the movable barrier system; communicating movable barrier operations to travelers (in both directions); location and storage of the movable barrier during un-deployed periods; storage and maintenance of the movable barrier machines; and operations/configurations at interchanges with median piers and the numerous crossroads; and any new direct access interchanges with median ramps. Creation of the barrier system also creates substantial operational and maintenance expenses. The contraflow lane would end/exit into the existing peak period lane(s). Consequently, these lanes would likely be congested since no additional peak period capacity would be provided beyond the end of the contraflow lane. As such, the end/exit would likely create a congested merge point that would affect operations on the contraflow lane and general purpose lanes upstream.

On I-495, contraflow lanes are not conducive to travel patterns as traffic data indicates the split in peak travel is nearly equal in both directions. The creation of contraflow lanes on I-270 would have created a difficult merge for single occupancy vehicles to cross and/or merge into the existing HOV lane to enter and exit the contraflow access points. Refer to DEIS, Chapter 2, Section 2.5.2.

Reversible managed lanes alternatives, Alternatives 13A, 13B and 13C, would be separated from general purpose lanes by concrete barriers, as shown in the typical section figures for the Build Alternatives, refer to DEIS, Figures 2-10 and 2-11. Reversible lanes are more effective where there is a significant directional split in traffic. Similar to contraflow lanes, traffic data revealed that I-495 traffic is fairly evenly split by direction and peak period. As a result, the direction of traffic that is not benefitting from the reversible lanes would experience the same congestion as the No Build Alternative, and there would be no improvement in trip reliability in that direction. Additionally, switching the reversible system and ensuring that vehicles do not enter in the wrong direction (a potential safety hazard) would require extensive, daily maintenance due to the length of the improvements. On I-270, the existing HOV lane in both directions would be converted to reversible managed lanes. While the directional traffic split on I-270 is greater than I-495, many of the same operational issues would exist including losing capacity during the period when the lanes are closed to switch directions, safety concerns associated with ensuring vehicles do not enter in the wrong direction, extensive daily maintenance, and potential confusion from time-of-day restriction.

In addition to the operational and logistical issues identified above, the contraflow and reversible lanes alternatives would only provide capacity in one direction on I-495 and I-270 and therefore, would not address existing and long-term traffic growth, would not improve trip reliability, would not accommodate Homeland Security or emergency events, or improve the movement of goods and services.

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18. The encroachments into parks are not well defined.
19. Since specific impacts are not defined in the documents, avoidance of impacts must be included, as well as justification acceptable to the Director of Recreation and Parks. Also, there is not enough detail for all park encroachments to identify wetlands, forest types, historical sites, significant trees, and cultural resources. A Natural Resource Inventory (NRI) shall be required prior to approval of all encroachments, and based on the resources, encroachment maybe denied.
20. Staff found that the DEIS report makes no mention of the City's Forest Conservation Act (FCA) requirements. The report is limited to discussion of State and County FCA issues.
21. Numerous sections of the report should be modified to include City of Rockville Forest and Tree Preservation Ordinance definitions, permitting requirements, existing easements, and the mitigation options.
22. The City requires the forest conservation easements (FCE) impacts be mitigated by planting trees or acquiring forested parcels within boundaries of the city or, as a last resort, via fee-in-lieu money paid to the City, not the County. The report should reflect this requirement.
23. For historic resource, 628 Great Falls Road is a designated historic house. It is a triangular lot at the corner of Great Falls Road and Maryland Avenue, and would be impacted if the project were to proceed as planned.

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3. Environmental Justice (EJ) and Equity

The FEIS includes the final environmental justice (EJ) analysis. Per FHWA Order 6640.23A, a *Disproportionately High and Adverse Effect on Minority and Low-Income Populations* is an adverse impact that is predominately borne by a minority population and/or a low-income population; or will be suffered by the minority population and/or low-income population and is appreciably more severe or greater in magnitude than the adverse effect that will be suffered by the nonminority population and/or non-low-income population.

Due to the parallel nature of the Preferred Alternative to I-495 and I-270, plus the infrequent distribution of EJ and non-EJ populations along the Phase 1 South limits, impacts would occur consistently throughout the limits. Quantifiable impacts, including impacts to property, community facilities and services, natural resources, noise, and hazardous waste, would be borne primarily by non-EJ populations.

Impacts to demographics, traffic, air quality and its effect on public health, safety, visual and aesthetic resources, economy and employment, access and mobility, community cohesion/isolation and quality of life, and impacts resulting from construction would occur consistently along the Phase 1 South limits and more frequently in non-EJ populations. Given the reasoning documented in detail in the EJ Analysis and summarized above and in accordance with Executive Order 12898, U.S. Department of Transportation (USDOT) Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative. Refer to FEIS, Appendix F and FEIS, Chapter 5, Section 5.21.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities Act-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements, including:

- Define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity as part of its commitment to support Vision Zero;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by the Maryland-National Capital Park and Planning Commission), readiness, and landowner consensus, also as part of its commitment to support Vision Zero; and

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- Work with Montgomery, Frederick and Prince George’s counties to expand transit fare subsidies for eligible low-income riders.

MDOT SHA is also committed to providing equitable transportation solutions for everyone and project elements or commitments that support fair, accessible and affordable transportation options for everyone include:

- Supporting or offering additional affordable, multi-modal travel options including toll-free bus transit and HOV 3+ and committing to new pedestrian and bicycle facilities;
- Improving accessibility to work, school and other modes of transportation by upgrading or replacing existing pedestrian and bicycle facilities in consideration of master plan priorities, providing direct or indirect managed lane access to multiple transit centers, providing safer pedestrian and bicycle improvements and connecting to Rockville’s planned improvements; and
- Upgrading existing transportation facilities for all user throughout Phase 1 South by replacing or rehabilitating existing bridges on I-495 and I-270 and rehabilitating and repaving the existing general purpose lanes for a smoother and safer travel.

4. Property Impacts

As noted in the DEIS and SDEIS, no residential or business displacements would occur within the City of Rockville based on the DEIS Build Alternatives or the Preferred Alternative. MDOT SHA worked early in the Study to avoid and reduce property impacts, including those within the City limits, by eliminating the concrete barrier and repurposing the pavement on I-270 between the Collector-Distributor system and the general purpose lanes to provide a new lane and largely stay within the existing roadway footprint on I-270. Although partial acquisitions would still be necessary to construct the Preferred Alternative (limited “strip takes” of parcels and undeveloped areas of trees or landscaping adjacent to I-495 and I-270), the existing sense of community cohesion of communities along the study corridors would not be impacted. Also, the Preferred Alternative would not eliminate access or provide new access to properties, nor would it impede access between residences, community facilities, and businesses as no properties are accessed directly from I-495 or I-270. Impacts to parkland within the City limits have been reduced by over two acres since the SDEIS with the complete avoidance of Cabin John Stream Valley Park.

MDOT SHA will continue to make minimizing impacts a priority through design and construction and is committed to further coordination with neighboring communities and individual property owners. Monetary incentives have been added to the Developer’s Technical Provisions to encourage further avoidance and minimization of impacts to properties and resources. Based upon the overall project benefits and strong values of communities currently located near the Study, any projected decline or increase in property values related to the construction of the Project but not directly impacted is speculative. Where MDOT SHA acquires property, property owners are compensated for decreases in value to the remainder of the property.

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5. Noise

MDOT SHA has reevaluated noise impacts and abatement recommendations along I-270 within the City of Rockville as part of the FEIS. Refer to FEIS, Chapter 5 and Appendix L. The noise analysis was conducted in compliance with MDOT SHA’s Highway Noise Abatement Planning and Engineering Guidelines (2020), which are in turn, based on FHWA regulations Title 23 Code of Federal Regulations Part 772, “Procedures for Abatement of Highway Traffic Noise and Construction Noise.” The federal regulations require MDOT SHA to assess whether abatement is “feasible and reasonable” based on a series of practical engineering and performance measures.

A noise barrier was evaluated along Redland Boulevard, but it does not meet the criteria for feasibility or reasonableness. Because the residences are set so far back from the noise source, a barrier at the maximum height of 40 feet is unable to provide enough noise level reduction to satisfy the acoustic requirements in the MDOT SHA Guidelines. A noise barrier was also evaluated for the Falls Ridge community, with similar results to Redland Boulevard due to the distance between the residences and the highway. In addition, the barrier for the Falls Ridge community exceeds the cost effectiveness threshold. Our evaluation did not identify any noise impacts along I-270 near Wootton Parkway. The land uses adjacent to I-270 in this area are commercial, with an impact criterion of 71 dB(A); the highest predicted noise level is 65 dB(A).

As the Study is in final stages of project planning, available preliminary engineering and design files were used to complete this planning-level noise analysis. The noise analysis will continue to be refined during the design process. Supplemental ambient noise measurements will be taken during final design and the noise models will be updated to reflect the more detailed roadway design as it is developed. Although MDOT SHA does not provide post-construction noise monitoring, the noise analysis is being done and will continue to be done following MDOT SHA’s standard methodology. MDOT SHA will oversee the noise analysis throughout the design process to ensure that those methodologies continue to be followed.

6. Stormwater Management (SWM)

MDOT SHA will fully meet all requirements to address SWM as regulated under Maryland’s SWM Act of 2007. Maryland SWM requirements aim to maintain post-development runoff as near as possible to pre-development runoff characteristics. The Preferred Alternative will require both Erosion and Sediment Control, SWM permits, and will also have to meet a high standard of providing protection to receiving waters both during and after construction. Maryland has several other regulations that will be required to be met for this project that will help address the concerns noted in your comments. These include Maryland Department of the Environment (MDE) Wetlands and Waterways permits, which require that the 2-year, 10-year and 100-year impacts be determined and mitigated, for all impacted jurisdictional waters. In addition, Maryland stormwater permitting requirements require that proposed runoff be controlled to match existing runoff for the 10-year storm in the City of Rockville. Waivers or variances may be requested for minimal increases in the 10-year storm; however, the City of Rockville, as the downstream jurisdictional review authority, will have to concur with the waiver or the variance requests within the City of Rockville.

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This project will utilize stormwater runoff estimates based on the National Oceanic and Atmospheric Administration (NOAA) Atlas 14 historical rainfall data for the region. At this time, Maryland does not require increased intensity or amount of rainfall to account for future climate change. If Maryland develops a standardized watershed approach and requirement to address climate resiliency and rainfall increases as the project design process evolves, the SWM design can potentially be adjusted to accommodate such changes.

7. Environmental Impacts

MDOT SHA employed a conservative approach to defining the limits of disturbance (LOD) for all the DEIS Build Alternatives and the Preferred Alternative. The LOD represent the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, SWM, noise barrier replacement/construction, stream stabilization, and related activities will take place. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. The methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS, as the LOD was established to include a reasonable area to construct the Preferred Alternative. For complete graphic descriptions of the Preferred Alternative LOD across the entire span of study limits, refer to the FEIS, Appendix E, Environmental Resource Mapping.

Due to extensive coordination and consultation with local, state, and federal resource agencies and stakeholders throughout the NEPA process, MDOT SHA was able to advance avoidance and minimization measures for regulated and sensitive resources and property displacements along I-495 and I-270. This includes the complete avoidance of the Cabin John Stream Valley Park property, a City of Rockville Park.

Regarding your specific comments about the City's Forest Conservation Act requirements, as a MDOT SHA project that will impact over one acre of forest, this project will be reviewed at the State level by Maryland Department of Natural Resources (MDNR) for compliance with the Maryland Reforestation Law, which requires 1:1 replacement of forest acreage according to an established mitigation hierarchy. The hierarchy expresses a preference for on-site planting within the project corridor, followed by off-site planting on public land within the affected county, off-site planting on public land within the affected watersheds, purchase of credits from approved forest mitigation banks within the affected county or watersheds, and payment into the Reforestation Fund. Mitigation must occur within two years or three growing seasons of the completion of project construction. MDOT SHA contacted the City of Rockville to identify potential forest mitigation sites on public lands in the City but received a response in April 2020 that the City of Rockville will not be able to offer any property for forest mitigation for the MLS project. We look forward to continuing coordination with the City to find opportunities for plantings within the City limits.

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We appreciate the City's active participation over the course of the Study. Many of the additional comments raised by the City have been addressed in development of the Preferred Alternative and in the final analyses presented in the FEIS. For more details on responses to common comments received, please refer to FEIS, Chapter 9. We look forward to continued dialogue and engagement on critical transportation issues facing the City of Rockville.

Thank you for your comments on the DEIS and SDEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

CITY OF ROCKVILLE – MAYOR BRIDGET DONNELL NEWTON & COUNCILMEMBER MARK BRUSHAYLA

Refer to the MDOT SHA Response Letter above for a resposne to the City of Rockville.

Joint Public Hearing - September 10, 2020

I-495 AND I-270 MANAGED LANE STUDY

1 your address.

2 So, the first person we will hear from is Rockville Mayor

3 Bridget Donnell-Newton. Rockville Mayor Newton, please come on

4 up. Again, state your name, spell your name and your address.

5 MAYOR NEWTON: B-R-I-D-G-E-T D-O-N-N-E-L-L N-E-W-T-O-N.

6 Home or work?

7 MR. BING: Work is fine.

8 MAYOR NEWTON: 111 Maryland Avenue, Rockville, Maryland

9 20850.

10 Good afternoon and welcome to our city. I am here joined

11 by Councilmember Mark [Brushayla] speaking today on behalf of

12 our entire council and our community of over 70,000 people.

13 Thank you for the opportunity to once again firmly and without

14 equivocation state our position on the proposed I-495 and I-270

15 Managed Lanes Project. The City of Rockville unanimously

16 supports the only rational alternative in compliance with the

17 National Environmental Policy Act; the No-Build Alternative.

18 The DEIS neglects the impact of the pandemic altogether

19 and is fundamentally flawed as the travel demand model uses

20 traffic counts that were performed prior to the March COVID

21 shutdown across our country and without evidence, assumes the

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Joint Public Hearing - September 10, 2020

I-495 AND I-270 MANAGED LANE STUDY

1 traffic volumes will resume to pre-COVID levels and then
2 increase.
3 A recent study performed by AECOM, a widely respected
4 transportation consultant for MBTA predicts far lower vehicle
5 miles traveled across the DMV in 2025. The MT post-pandemic
6 could see 40% decrease. In fact, as our entire world has
7 changed, less congestion seems to be our future.
8 Six months into this pandemic, governments, businesses,
9 and non-profits are teleworking and many in our region say that
10 they will continue to work remotely or with staggered schedules.
11 Elementary, middle and high schools are taking classes online.
12 Developers and office building owners are regrouping and
13 reimagining their projects. Businesses are letting office
14 leases expire and planning for either downsized or no permanent
15 office space. Companies are canceling leases on parking garage
16 spaces and the use of technology to conduct business has proven
17 not only to be efficient; it's also more cost effective.
18 At a projected cost of \$11 billion, the numbers just don't
19 work. The current congestion on I-270 begins north of
20 Gaithersburg where six lanes reduce to two going towards
21 Frederick and equally the crush immediately lessens coming south

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Joint Public Hearing - September 10, 2020

I-495 AND I-270 MANAGED LANE STUDY

1 when two lanes magically become six.

2 As we've seen in Northern Virginia, Texas, Indiana and

3 Illinois, P3's are not a panacea. They frequently end up

4 costing tax payers millions of dollars. Add to this the recent

5 surprise findings that the replacement of WSSC lines could cost

6 an additional \$2 billion. What other costs will suddenly come to

7 light? Replacement of the three City of Rockville bridges over

8 the I-270?

9 And most critically now, what is the financial impact of

10 COVID and the loss of jobs? We have yet to see the full impact

11 of this trifecta, the public health, economic and racial crises

12 gripping our country.

13 Let's move to the EIS. The EIS is supposed to convey not

14 only the environmental impacts, but also any benefits of the

15 proposed project so that they can be weighed equally. Any

16 assumption which significantly overstates the benefit of a

17 project, in this case the purported reduction in traffic

18 congestion, and doesn't address the negative impacts to the

19 environment is fundamentally suspect. We are witnessing the

20 daily impacts of climate change throughout our country. This

21 proposed project will add a devastating loss of parks, adverse

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1 impacts to the Chesapeake watershed, wetlands and tree canopy
2 and we mustn't forget the air and noise pollution that comes
3 with increased speed in traffic. Hasn't it been nice to not
4 have Code Red Ozone days this summer?

5 On behalf of the Council and the community, I appreciate
6 the commitment of Director [Chaplin] in her letter of July 15,
7 2020, stating, "No homes, businesses or community facilities
8 will need to be relocated within Rockville." Additionally, she
9 writes, "Furthermore, the MDOT SHA is committed to avoiding and
10 minimizing any property needed and impacts to environmental
11 features such as green space and mitigating for noise where
12 possible."

13 With all due respect, what exactly does this mean? What
14 does where possible mean when you're talking about someone's
15 home, play space for children, enjoyment of a conversation in
16 your own backyard. A track and field space at Julius West
17 Middle School, a peaceful night's sleep for the residents of the
18 Rockville Nursing Home.

19 What does mitigating for noise where possible mean when
20 residents of Rockville's West End neighborhood has been striving
21 for over twenty years to get a sound wall built after the

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Joint Public Hearing - September 10, 2020

I-495 AND I-270 MANAGED LANE STUDY

1 widening of I-270 25 years made being outside untenable.

2 On a personal note, if I may, I appreciate your reference

3 to the NCR National Capital Region Transportation Planning

4 Board's visualized 2045. However, as a 2018 chair of the TPB, I

5 think you minimize the strength of our commitment to all the

6 goals.

7 TPB's desire for congestion relief is equal to our demands

8 for environmental justice, social justice, and racial justice.

9 Protecting our environment, access to affordable housing, good

10 paying jobs, quality education will come when we put the focus

11 on access to all modes of transportation, walkability,

12 bike-ability and affordable transit options. Access for all is

13 the lynchpin to realizing each of our goals.

14 I'm sure you're familiar with the words in Joni Mitchell's

15 song "they paved paradise and put up a parking lot." Well, the

16 TPB is actively working to stop the spread of development and

17 concentrate housing and jobs in activity centers which means

18 less macadam period.

19 I am here to tell you again that the ninth most livable

20 city in America, the City of Rockville, is equally committed to

21 protecting and supporting our residents, our environment and our

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GAITHERSBURG CITY COUNCIL – NEIL HARRIS

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

Name: Neil Harris

Date/Hearing: 8/25/20

Type/Session: Live/Evening

Transcription:

Hi. My name is Neil Harris. That's (N-E-I-L H-A-R-R-I-S). My address is 300 Alfandre Mews, Gaithersburg, Maryland 20878.

Thank you for the opportunity to testify regarding the P3 Project. I'm an elected member of the Gaithersburg City Council and I serve as the city's representative on the Transportation Planning Board. My comments will focus on the impact of the Project on the I-270 Corridor. At the TPB, I learned much about the Region's transportation infrastructure. I was part of the TPB's Long-Range Planning Task Force, which examined many out-of-the-box approaches to increasing Regional mobility. I also became very familiar with the Region's current transportation plans and learned that congestion is only expected to dramatically increase in the years ahead. Based on all this, I am in support of the states - State of Maryland's P3 plan to increase highway capacity and I will tell you why.

First, any new project will have an impact on the environment. This is a large project, however, based on the report, the impact appears to be quite small. Although, some may disagree, it's clear that the benefits outweigh the minor issues. One issue that people focus on is auto emissions and they are an issue, but thanks to improved efficiency and the development of hybrids, electric vehicles, and other zero-emission options, emissions from automobiles are actually expected to continue to decline. We experience in this region some of the worst highway congestion in the country and our population continues to grow. The last time capacity was added to I-270 was 30 years ago and hundreds of thousands of new residents have moved into the 270 Corridor since the last expansion back in 1990. Now, transit and smart growth advocates have opposed this Project and virtually every other highway project on the books, on the basis that we should invest in transit instead. But the fundamental issue is how to pay for increasing mobility. The highway expansion P3 is on top - solid fiscal ground and no one has a proposal for funding equivalent levels of increased mobility through transit. And please note that this highway plan does make capacity available for transit within the new Managed Lanes. Speaking of benefits, this project represents a major investment in the corridor with major improvements to mobility and the regional economy. Here in the county, there are many of us who are concerned about our economic growth. This is the kind of investment by the public sector that has potential to pay huge dividends by enabling job creation and the mobility that people need to get to those new jobs. One final point, the pandemic has so many of us working from home and it shows that the highways can run with little congestion. Reducing usage is one option, but the pandemic's impact is temporary. Once we're all back to work, teleworking may be more common, but it's unlikely to reduce travel enough to fix mobility. Adding this kind of infrastructure to provide the necessary capacity is the right answer for us. Thank you.

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Neil Harris
Gaithersburg City Council
31 S. Summit Avenue
Gaithersburg MD 20877

Dear Councilmember Harris:

Thank you for your comments regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS) published in July 2020. I appreciate the opportunity to respond to concerns noted in your oral testimony at the August 25, 2020 public hearing on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA, and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

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The Honorable Neil Harris
Page Two

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

Alternative 9 – Phase 1 South was identified as the Preferred Alternative based on additional factors including:

- Further aligning with the phased delivery and permitting approach;
- Focusing improvements on Phase 1 South, including the American Legion Bridge (ALB), the biggest traffic chokepoint in the region. Replacement of the bridge is part of a bi-state effort to improve mobility and would provide a seamless regional system of managed lanes by connecting to Virginia over the ALB;
- Expediting replacement of the ALB with a private funding source;
- Providing options for travel by keeping all existing general purpose lanes free;
- Reducing reliance on single occupancy vehicles and permitting buses, carpool, vanpool, and personal vehicles with three or more people to travel faster and more reliably in the new HOT lanes free of charge any time of the day; and
- Avoiding all residential and commercial displacements and avoiding and/or significantly minimizing impacts to cultural, natural and community resources within the study area.

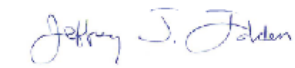
Severe congestion on I-495 and I-270 adversely affects the regional and local roadway network, especially in and around the interchanges and arterial roads within the I-495 and I-270 within the Study limits. The congestion on these corridors also has negative effects on access to and usage of other transportation modes. Besides enhanced performance on I-495 and I-270 themselves, the Preferred Alternative will provide congestion relief on these facilities and will also enhance existing and proposed multimodal travel modes including transit by improving connectivity and mobility through enhancing trip reliability and providing additional travel choices for efficient travel during times of extensive congestion. Opportunities to enhance transit mobility and connectivity within the Preferred Alternative including direct and indirect connections from the managed lanes to transit centers and free bus transit usage of the HOT lanes. Additional transit improvements include increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center. The Preferred Alternative will also provide new or upgraded pedestrian and bicycle improvements throughout the corridor in consideration of local master plans and identified priorities from regional and local agencies.

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The Honorable Neil Harris
Page Three

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 Public-Private Partnership (P3) Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Neil Harris
Page Four

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

MARYLAND GENERAL ASSEMBLY

From: Solomon, Jared Delegate <Jared.Solomon@house.state.md.us>
Sent: Thursday, September 24, 2020 10:16 AM
To: Lisa Choplin <LChoplin@mdot.maryland.gov>; Gregory Slater <GSlater@mdot.maryland.gov>; Tim Smith <TSmith2@mdot.maryland.gov>; Jeff Tosi <jtosi1@mdot.maryland.gov>
Cc: Korman, Marc Delegate <Marc.Korman@house.state.md.us>; 'Marc Korman' <mkorman@gmail.com>; Lierman, Brooke Delegate <Brooke.Lierman@house.state.md.us>; Brooke Lierman <brookefordelegate@gmail.com>
Subject: MDGA Letter on 495/270 DEIS

Secretary Slater, Administrator Smith, and Lisa,

Attached please find a letter from Delegate Korman, Delegate Lierman, myself, and many of our colleagues in the General Assembly regarding comments on the Draft Environmental Impact Statement for the proposed 495 & 270 expansion.

Let me know if you have any questions.

Warm Regards,

Jared

Delegate Jared Solomon

Maryland 18th District
Room 222, House Office Building
7 Bladen Street, Annapolis, MD 21401
(410) 841-3130

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

Members of the Maryland General Assembly
90 State Circle
Annapolis MD 21401

Senator Joanne Benson
Senator Sarah K. Elfreth
Senator Arthur Ellis
Senator Delores G. Kelley

Senator Clarence Lam
Senator Susan C. Lee
Senator William C. Smith Jr.
Senator Charles E. Sydnor III

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Senator Mary Washington
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Delegate Jen Terrasa
Delegate Kris Valderrama
Delegate Geraldine Valentino-Smith
Delegate Jay Walker
Delegate Alonzo T. Washington
Delegate Courtney Watson
Delegate Ron Watson
Delegate Jheanelle Wilkins
Delegate Nicole A. Williams
Delegate Pat Young
Delegate Karen Lewis Young

Dear Members of the Maryland General Assembly:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS) published in July 2020. I appreciate the opportunity to respond to concerns noted in your September 23, 2020 letter on the DEIS.

The MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

September 23, 2020

Lisa B. Choplin, DBIA Director,
I-495 & I-270 P3 Office
Maryland Department of Transportation
State Highway Administration
707 North Calvert Street
Mail Stop P-601, Baltimore, MD 21202

Ms. Choplin:

As members of the Maryland General Assembly, we write to express our frustration and extreme concern with the Draft Environmental Impact Statement (DEIS) of the I-495 & I-270 Managed Lanes Study, part of the Governor's so-called Traffic Relief Plan that would expand I-495 & I-270 by two lanes in each direction the entire length of both roads in Maryland.

At best, the DEIS presents incomplete and inadequate analysis. At worst, it is heavily skewed toward selecting the outcome the Maryland Department of Transportation (MDOT) and Governor would like, so that MDOT can move forward with its predetermined preferred alternative. Under federal law, a DEIS need not specify a preferred alternative but if there is a preferred alternative, it is supposed to be disclosed. See 40 C.F.R. § 1502.14. It is obvious to anyone who has ever heard the Governor and prior Secretary of Transportation speak that Alternative 9 (2 managed lanes in each direction on both roads) is the Department's preferred alternative and you have failed to disclose that information. The inadequate information presented, however, shows that the project will harm Maryland citizens and their environment and cannot be justified. Below we share just some of our many specific criticisms:

1) Despite years of promises that the proposed expansion will pay for itself through managed toll Lanes—promises used to justify the removal of non-road options, the DEIS shows that all of the build alternatives might require a state subsidy paid to the developer ranging from \$482 million to more than \$1 billion. This subsidy does not include the billions of taxpayer dollars needed to fund the required relocation of water and sewer infrastructure, nor does it account for the cost of adequate environmental mitigation. Nor does it account for travel changes because of the COVID-19 pandemic. The DEIS contains no itemized budget. Given the legislature's role in shaping the state budget, we find this particularly concerning.

Member of the Maryland General Assembly
Page Two

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

There is no action or improvements included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to each of your specific concerns, I offer the following responses.

1. Despite years of promises that the proposed expansion will pay for itself through managed toll lanes—promises used to justify the removal of non-road options, the DEIS shows that all of the build alternatives might require a state subsidy paid to the developer ranging from \$482 million to more than \$1 billion. This subsidy does not include the billions of taxpayer dollars needed to fund the required relocation of water and sewer infrastructure, nor does it account for the cost of adequate environmental mitigation. Nor does it account for travel changes because of the COVID-19 pandemic. The DEIS contains no itemized budget. Given the legislature's role in shaping the state budget, we find this particularly concerning.

2) The purpose of an environmental impact statement is to take a hard look at the human health and environmental impacts of the proposed expansion and understand the balancing and trade-offs required. Yet the DEIS fails to do this and instead repeatedly excuses cursory reviews by noting that many project details remain unknown. This is insufficient and contrary to the law. By failing to appropriately study the available information, the DEIS prevents the public from understanding and commenting on the consequences of the proposed expansion.

3) The Agencies fail to explain their rationale for not conducting a Programmatic EIS analyzing the proposed expansion within the broader context of the so-called Traffic Relief Plan. A Programmatic EIS should have been conducted to study the alternatives within the context of this region-wide plan which includes planned modifications to I-270 from I-370 to I-70 and to other corridors in the Baltimore Washington Region.

4) Prior to the DEIS, the Agencies unreasonably defined the study's purpose and need so narrowly that they only considered alternatives which involved construction of two to four new toll lanes. The Agencies did not analyze reasonable public transit options, smaller scale roadway improvements, or transportation systems and transportation demand management options. Given the changing dynamic in commuting patterns with the current public health emergency, it is also irresponsible to not take these tremendous shifts in to account. Nevertheless, the DEIS shows that stated goals for the study, the use of alternative funding approaches for financial viability and environmental responsibility, cannot be met by any of these managed lane expansion alternatives.

5) It is essential that the new American Legion Bridge accommodate future rail transport, as was done for the Woodrow Wilson Bridge. By not accommodating rail, the project fails to meet the stated purpose of enhancing existing and planned multimodal mobility and connectivity. MDOT has represented that it is in a transit study related to the bridge with Virginia but no public information has been made available. Moreover, any new American Legion Bridge must have a separate bike/pedestrian pathway.

6) The DEIS fails to sufficiently address how degradation to waterways and wetlands will be mitigated. The Agencies plan to rely on water quality trading credits, purchased from other MDOT State Highway Administration (SHA) programs, to meet permitting requirements instead of actually reducing water pollution where the project is located. The DEIS fails to analyze how the purchase of water quality trading credits will impact local waterways and evidence shows that such trading programs may, in fact, degrade them. Importantly, onsite and localized mitigation must be considered when addressing impacts to waterways in parklands. It also fails to demonstrate that there is not an alternative that will have less of an impact on wetlands, etc.

7) The DEIS does not appropriately analyze the effect that increased capacity will have on long-term traffic demand on I-495 and I-270 and connected arterial roads. The Travel Model assumes that highway construction has no effect on land use, and thus underestimates the new trips that the project will generate. Additionally, while the DEIS admits that the project has the potential to induce increased traffic along arterial roads leading to I-495 and I-270, there is no analysis of the strain this potential increase may place on those roads, particularly when access to toll lanes is

Member of the Maryland General Assembly
Page Three

The question above does not accurately reflect the full range of possible cash flow outcomes presented in the DEIS, which also include a potential cash flow surplus of more than \$2.7 billion, which would not only allow the project to be constructed and operated without any net State funding but could potentially provide significant new net revenues to the State. For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and a range of interest rates. The results showed that some alternatives would have a higher likelihood of being cash flow positive and others would have a higher likelihood of being cash flow negative. These wide ranges were necessary to take into account various market conditions that could change before financial close.

Regarding the subsidy of taxpayer dollars, on a revenue-risk Public-Private Partnership (P3), as being pursued under Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 Agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

While a very small number of P3 toll roads have faced economic challenges, we have found no cases in our research where taxpayer funding bailed out the Developer. In the case of SH 130 in Texas, the equity investors lost their investment, and the lenders and bondholders attained ownership in the restructured private company that emerged from the bankruptcy settlement. There was no taxpayer bailout, and the road continued to be open uninterrupted for traveling public to use.

Regarding your concerns over the cost of relocating utilities, from the earliest stages of the NEPA process, MDOT SHA has coordinated with Washington Suburban Sanitary Commission (WSSC Water) and other utility providers concerning potential impacts that would require the relocation of existing utility infrastructure. During the planning process and NEPA review, impacts to utility infrastructure and potential relocations have been considered and included in cost estimates. As the project advances from planning to final design, the scope and cost of utility relocations will be further refined in close coordination with WSSC Water and other utility providers.

Regarding the itemized budget, MDOT SHA followed its cost estimating practices including contingencies to develop the preliminary capital cost estimates for the six Build Alternatives. Chapter 8 of the DEIS Appendix B (Alternatives Technical Report) documents that quantities and costs for wetland, stream, parkland, and forest mitigation were estimated based on environmental mitigation costs from previous large MDOT SHA projects, including the Intercounty Connector and the Woodrow Wilson Bridge.

not available on some of the most heavily travelled destinations.

8) Similarly, just as the alternatives will likely increase traffic on some arterials, the DEIS ignores that its own estimates (Table 5-6 in DEIS Appendix C) show the managed lanes would cause increased travel times on I-270's general lanes during the PM peak travel time. There are five needs stated in the DEIS' Purpose and Need section and none of them are "increase traffic."

9) The Agencies must consider whether the project's adverse effects are disproportionately borne by communities where most of the residents are minority or low-income, or Environmental Justice ("EJ") communities. This requires a DEIS to compare the effects on EJ communities with non-EJ communities. Here, however, the DEIS includes no such comparison. Instead, the DEIS simply describes the 36 EJ communities in the study area and the potential impacts to those communities. This precludes the Agencies from considering measures to mitigate any potential disproportionate effects to the 36 EJ communities in the DEIS study area. Additionally, the DEIS makes only conclusory statements claiming that the managed lanes will benefit EJ communities, despite the expected high toll prices and environmental impacts to their communities.

10) While not tied directly to the DEIS, it is important to note that when the pre-determined alternative is announced, MDOT intends to pursue a so-called "progressive P3" to execute the project. Under a progressive P3, MDOT enters into an agreement with the private sector before it knows the project details. The state will be stuck with a private sector consortium regardless of what design challenges, increased costs, or changes to traffic patterns may affect the project's viability. A progressive P3 has never been tried on this scale and should not be risked now.

We have many other concerns, but these Top Ten are reason enough to reject Governor Hogan's privatized toll lane road-widening project. Instead, the state should prioritize and consider other more realistic and immediate solutions to traffic and congestion issues that affect the quality of life of our constituents.

Thank you,

Senator Joanne Benson
 Senator Sarah K. Elfreth
 Senator Arthur Ellis
 Senator Delores G. Kelley
 Senator Clarence Lam
 Senator Susan C. Lee
 Senator William C. Smith Jr.
 Senator Charles E. Sydnor III
 Senator Jeff Waldstreicher
 Senator Mary Washington
 Senator Ronald N. Young

Delegate Gabriel Acevero
 Delegate Heather Bagnall
 Delegate Ben Barnes
 Delegate Darryl Barnes

Member of the Maryland General Assembly
 Page Four

Given the uncertainty surrounding resolution of the pandemic and how travel patterns will adjust, and over what time period, no definitive traffic model exists to predict how the global pandemic will affect long-term mobility patterns. To adapt to the ongoing and potential long-term travel impacts associated with the pandemic, MDOT SHA developed a COVID-19 Travel Analysis and Monitoring Plan. Refer to FEIS, Appendix C for a copy of the latest version of that plan and results. The plan included three components:

- Monitoring: tracking changes in roadway and transit demand during the pandemic, i.e., how travel varies in response to infection figures, vaccine distribution, unemployment rates, school closings, and policy changes;
- Research: reviewing historical data and projections from the Transportation Research Board and the National Capital Region (NCR) Transportation Planning Board; and
- Sensitivity Analyses: evaluating "what if" scenarios, including potential changes in teleworking, eCommerce, and transit use on projected 2045 travel demand and operations.

The monitoring effort included tracking changes in traffic volumes and transit usage throughout the pandemic, and the corresponding impact on speeds and congestion along I-495 and I-270. The data shows a severe drop in traffic volumes in April 2020 after stay-at-home orders were issued across Maryland, with daily traffic volumes on I-270 and I-495 reducing by more than 50 percent compared to April 2019. After the stay-at-home order was replaced with a "safer at home" advisory in May 2020, traffic volumes gradually increased throughout the summer, stabilizing at approximately 15 percent less than typical conditions during fall 2020. As cases began to surge in November/December 2020, traffic volumes dipped again through the winter. With the rollout of vaccines in early 2021, the corresponding drop in COVID-19 cases, and the gradual reopening of schools and businesses, daily traffic volumes have continued to recover. Statewide, weekly traffic volumes were only down five percent for the week of November 8, 2021 compared to the same week in 2019, per MDOT's coronavirus tracking website. Refer to <https://www.mdot.maryland.gov/tso/Pages/Index.aspx?PageId=141>. Transit use has been slower to recover, with use of Maryland Transit Administration (MTA) services statewide down over 40 percent compared to pre-pandemic levels as of October 2021 (see link above). In the D.C. region, usage of Washington Metropolitan Area Transit Authority (WMATA) facilities is also down significantly compared to 2019. As of Fall 2021, WMATA rail ridership is down 73 percent on weekdays, while WMATA bus ridership is down 40 percent on weekdays, and parking at Metro facilities is down 88 percent. Refer to <https://www.wmata.com/initiatives/ridership-portal/upload/October-2021-Ridership-Snapshot.pdf>.

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 Delegate Regina T. Boyce
 Delegate Tony Bridges
 Delegate Benjamin Brooks
 Delegate Jon Cardin
 Delegate Al Carr
 Delegate Lorig Charkoudian
 Delegate Charlotte Crutchfield
 Delegate Bonnie Cullison
 Delegate Eric Ebersole
 Delegate Wanika Fisher
 Delegate Andrea Harrison
 Delegate Anne Healey
 Delegate Julian Ivey
 Delegate Michael Jackson
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 Delegate Dana Jones
 Delegate Ariana Kelly
 Delegate Kenneth Kerr
 Delegate Marc Korman
 Delegate Mary A. Lehman
 Delegate Jazz Lewis
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 Delegate Vaughn Stewart
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 Delegate Kris Valderrama
 Delegate Geraldine Valentino-Smith

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While congestion decreased significantly on I-495 and I-270 at the onset of the pandemic in Spring 2020, significant congestion had returned to the study area by November 2021, approaching pre-pandemic levels. For example, average speeds on the I-495 Inner Loop crossing the American Legion Bridge (ALB) during the PM peak in early November (non-holiday) of 2021 were 20 miles per hour (mph), reflecting significant congestion, and matching the speeds during the similar period in November 2019 (also 20 mph). In the AM peak, average speeds on the I-495 Outer Loop between MD 650 and US 29 in early November 2021 were even lower - below 15 mph. While these speeds are slightly higher than those observed in that same area during the AM peak in November 2019 (10 mph), the findings indicate that there is still a lot of congestion along I-495 even though volumes have not fully rebounded to pre-pandemic levels along I-495 during the morning peak period. Along I-270, average speeds are generally 5 to 10 mph higher in November 2021 compared to November 2019 despite volumes exceeding 2019 levels at MDOT SHA's permanent count station located on I-270 South of MD 121. These improvements could be attributed to recent improvements completed by MDOT SHA along I-270, including the opening of the Watkins Mill interchange in 2020 and the implementation of ramp metering along southbound I-270 on-ramps in September 2021 as part of the Innovative Congestion Management (ICM) project. Even so, some congestion remains along I-270, with average speeds on I-270 southbound of approximately 30 mph during the AM peak period and average speeds on I-270 northbound below 40 mph during the PM peak period in November 2021.

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS, Section 4.3 using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several "what if" scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4, Section 4.3 of this FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

2. The purpose of an environmental impact statement (EIS) is to take a hard look at the human health and environmental impacts of the proposed expansion and understand the balancing and trade-offs required. Yet the DEIS fails to do this and instead repeatedly excuses cursory reviews by noting that many project details remain unknown. This is insufficient and contrary to the law. By failing to appropriately study the available information, the DEIS prevents the public from understanding and commenting on the consequences of the proposed expansion.

Delegate Jay Walker
Delegate Alonzo T. Washington
Delegate Courtney Watson
Delegate Ron Watson
Delegate Jheanelle Wilkins
Delegate Nicole A. Williams
Delegate Pat Young
Delegate Karen Lewis Young

CC: Secretary of Transportation Gregory Slater, State Highway Administrator Tim Smith

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The MLS fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS, SDEIS, and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study to a comparable level of detail. This analysis directly contributed to MDOT SHA's evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

Pursuant to accepted FHWA policy, the EIS documents were drafted to enhance readability and accessibility for all members of the public. These documents summarized an enormous amount of underlying data and information related to the proposed action, with complete references to supporting technical reports. Stakeholders or concerned citizens could easily access the 19 technical reports appended to the DEIS and updated reports in the SDEIS to obtain a higher level of detail and specificity concerning virtually any topic related to the proposed action. These reports, comprising close to 18,000 pages in the DEIS and approximately 8,200 pages in the SDEIS and supporting documentation, detail the extensive analysis undertaken by MDOT SHA and reviewed by FHWA and cooperating agencies prior to publication of the DEIS and SDEIS. The reports reflect extensive coordination between local, state, regional and federal agencies, as well as input from the stakeholders and communities since Spring 2018. The methodologies applied to conduct the analyses reflected in those technical reports were reviewed and approved by the applicable lead federal and state agencies. Resource and regulatory agencies were also consulted on the methodologies and were afforded the opportunity to review and comment on the analyses before being conducted and once the analyses were finalized. As a result, the structure and format of the EIS documents are consistent with federal practice.

With respect to the engineering details concerning the Build Alternatives presented in the DEIS and the Preferred Alternative in the SDEIS, this information accurately reflected the level of design available to the agency during different phases of its NEPA review and was appropriate to ascertain environmental information and potential impacts. FHWA regulations prohibit agencies from advancing to final design for a proposed action prior to completion of NEPA. Therefore, as with any other NEPA review, the DEIS and SDEIS were based on preliminary levels of design for the likely engineering elements of the proposed Build Alternatives. The Preferred Alternative presented in the SDEIS was refined based on additional survey information, an assessment of constructability and permanent and temporary impacts, as well as avoidance and minimization efforts resulting from interagency coordination. The SDEIS presented updated information based on the Preferred Alternative (Alternative 9 – Phase 1 South) and additional coordination that occurred in the 10 months following publication of the DEIS. The FEIS reflects further design refinements and details, including final mitigation and commitments of the Preferred Alternative, many of which directly responded to public comments. The public had reasonable and timely access to all this information, consistent with the usual development of project design during a NEPA review. The DEIS and SDEIS were fully accessible and available to the public for a 123-day and 60-day comment period, respectively.

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3. The Agencies fail to explain their rationale for not conducting a Programmatic EIS analyzing the proposed expansion within the broader context of the so-called Traffic Relief Plan. A Programmatic EIS should have been conducted to study the alternatives within the context of this region-wide plan which includes planned modifications to I-270 from I-370 to I-70 and to other corridors in the Baltimore Washington Region.

The decision concerning the scope of analysis to be conducted under NEPA lies within the discretion of the project proponent and lead federal agency. Depending on the factual circumstances, a programmatic or a project-specific analysis could be conducted to fulfill NEPA's procedural requirements. In this case, proceeding with a project-level review for the MLS was entirely appropriate.

You correctly note that the Governor's Traffic Relief Plan is statewide and includes I-95, I-695, I-495, I-270, MD 295, and the Smart Signals Program. The MLS focuses specifically on a portion of one element of that plan, and the intent of Op Lanes Maryland is to reduce congestion on I-495 and I-270 by seeking input from the private sector to design, build, finance, operate, and maintain improvements along the corridors. The plan is focused on transforming these overloaded interstates to allow people to reach their destinations faster and to remove overflow traffic from the local roads.

The geographic scope of the MLS, while large, is distinctly defined. It includes 37 miles of I-495 and 11 miles of I-270. Consistent with CEQ NEPA regulations 40 CFR 1502.4(a) and 1508.25(a), as well as FHWA NEPA regulations at 23 CFR 771.111(f), MDOT SHA and FHWA have identified the MLS as an independent action that may proceed regardless of whether other actions of the Traffic Relief Plan or Op Lanes Maryland are implemented.

Furthermore, the identified scope of the MLS has been sufficiently defined to be advanced with a project-level NEPA document and does not exclude the possibility that a broader planning effort could be evaluated at some other time in a Programmatic EIS. Consistent with FHWA regulations, other proposed actions, such as potential improvements to I-270 from I-370 to I-70, have been determined to possess independent utility from the MLS and thus will require separate project-level NEPA documents.

4. Prior to the DEIS, the Agencies unreasonably defined the study's purpose and need so narrowly that they only considered alternatives which involved construction of two to four new toll lanes. The Agencies did not analyze reasonable public transit options, smaller scale roadway improvements, or transportation systems and transportation demand management options. Given the changing dynamic in commuting patterns with the current public health emergency, it is also irresponsible to not take these tremendous shifts in to account. Nevertheless, the DEIS shows that stated goals for the study, the use of alternative funding approaches for financial viability and environmental responsibility, cannot be met by any of these managed lane expansion alternatives.

Consistent with long-established federal environmental regulations, the Purpose and Need for the MLS generally describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local and regional transportation professionals over several decades. The Purpose and Need statement identifies a proposed action to address those needs and describes a variety of financial and transportation reasons for the agency to consider some form of managed lanes as a proposed solution.

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NEPA requires FHWA and MDOT SHA to identify the proposed solution to the public and then to objectively evaluate the environmental effects of that proposed solution and benefits and effects of other reasonable alternatives. This is what has been done for the MLS and outlined in the DEIS. The study sets forth the well-recognized transportation problem, analyzed 17 alternatives including transit and smaller roadway improvements, Transportation Systems Management/Transportation Demand Management (TSM/TDM) as well as a variety of managed lanes alternatives. TSM/TDM and transit elements have been incorporated into the Build Alternatives to support the purpose of enhancing multimodal connectivity and mobility.

The initial screening of alternatives considered the initiatives and projects outlined in Visualize 2045 Plan, the latest financially Constrained Long-Range Plan (CLRP) which was approved by the National Capital Region (NCR) Transportation Planning Board in 2018. The Visualize 2045 Plan identified Seven Aspirational Initiatives for a Better Future to address mobility on a regional basis. One of the seven initiatives was “Expand Express Highway Network”, which includes congestion-free toll roads, building on an emerging toll road network, and new opportunities for transit for express buses to travel in the toll lanes.”

Regarding consideration of other improvements, as noted above, the Preliminary Range of Alternatives included TSM/TDM as Alternative 2 and modes of transit in Alternatives 14A, 14B, 14C, and 15. Alternative 2, TSM/TDM was dropped as a single solution alternative from further consideration during the analysis for the Screened Alternatives. Refer to Appendix B of the DEIS (Alternatives Technical Report (DEIS) Appendix B). Transit-only alternatives including Heavy Rail (Alternative 14A), Light Rail (Alternative 14B), Fixed Guideway Bus Rapid Transit [Off Alignment] (Alternative 14C), and Dedicated Bus Managed Lanes on I-495 and I-270 (Alternative 15). These transit-only options were also dropped from consideration during this analysis. Refer to DEIS, Appendix B.

As described above, MDOT SHA and FHWA identified the Preferred Alternative based in part to be responsive to comments received from the public, agencies and other stakeholders to avoid impact to sensitive resources including natural, community and cultural resources.

Although these standalone transit alternatives were found to not meet the Study’s Purpose and Need, the Preferred Alternative incorporates multiple transit elements. These transit elements will serve to address existing and planned multimodal mobility and connectivity included in the purpose of the MLS by:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Westfield Montgomery Mall Transit Center, and Medical Center Metro.

Additionally, MDOT SHA has committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the WMATA Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

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Transit elements were also considered by the Transit Work Group, and the I-495/ALB Transit/TDM joint study by the Virginia Department of Rail and Public Transit and the Maryland Department of Transportation Maryland Transit Administration. Both of these initiatives resulted in publicly available reports.

The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the Op Lanes Maryland website.¹ This report is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed; provide a basis for the evaluation and prioritization of future capital and operating needs in the service area; and initiate discussions about ways to incorporate regional transit services into the Op Lanes Maryland Program.

The I-495/American Legion Bridge Transit/TDM Plan Final Report was completed in March 2021 and was posted online.² It identified a series of potential investment packages to provide new mobility choices to service bi-state travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the American Legion Bridge in fewer vehicles.

To further support transit services, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high priority transit investments in Montgomery County and committed to deliver the Metropolitan Grove Bus Operations and Maintenance Facility including the necessary bus fleet.

The proposed solutions are not only about solving today's congestion challenges, but also about multimodal solutions that are adaptable to the growth expected in the region over the long-term, through 2045 and beyond. MDOT SHA has been performing traffic sensitivity analyses for a variety of potential traffic scenarios specifically including scenarios with increased work-from-home and other changes in travel patterns. This new information and analysis are presented in the FEIS.

5. It is essential that the new American Legion Bridge (ALB) accommodate future rail transport, as was done for the Woodrow Wilson Bridge. By not accommodating rail, the project fails to meet the stated purpose of enhancing existing and planned multimodal mobility and connectivity. MDOT has represented that it is in a transit study related to the bridge with Virginia but no public information has been made available. Moreover, any new ALB must have a separate bike/pedestrian pathway.

All Build Alternatives include the full replacement of the ALB with a new, wider bridge (not widening of the existing bridge). Regardless of this study, the bridge is nearly 60 years old. The new ALB would be constructed in phases to maintain the same number of existing lanes during peak hours, and would be replaced in the same existing location. MDOT SHA has also committed to providing a bike/pedestrian path along the east side of the ALB to provide regional pedestrian and bicycle connectivity.

¹ <https://oplanesmd.com/transit-benefits/>

² http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf

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MDOT SHA also commits to designing and constructing the ALB such that a future capital improvement project will have one or more feasible options to achieve the full design and implementation of a transit line across the ALB. These options will be enabled by designing the northbound and southbound structures to not preclude a possible future transit line including the addition of foundation and substructure elements.

6. The DEIS fails to sufficiently address how degradation to waterways and wetlands will be mitigated. The Agencies plan to rely on water quality trading credits, purchased from other MDOT SHA programs, to meet permitting requirements instead of actually reducing water pollution where the project is located. The DEIS fails to analyze how the purchase of water quality trading credits will impact local waterways and evidence shows that such trading programs may, in fact, degrade them. Importantly, onsite and localized mitigation must be considered when addressing impacts to waterways in parklands. It also fails to demonstrate that there is not an alternative that will have less of an impact on wetlands, etc.

MDOT SHA and FHWA recognize that the study corridor is characterized by an extensive network of streams and wetlands that are adjacent to and flow beneath the existing I-495, I-270, and crossroads, resulting in certain unavoidable impacts to natural resources with roadway modifications and/or widening under all Build Alternatives. In coordination with the United States Army Corps of Engineers (USACE) and the Maryland Department of Environment (MDE), avoidance and minimization of wetland, their buffers, 100-year floodplain and waterways impacts have been incorporated into the Preferred Alternative. A significant reduction in wetland and waterway impacts was realized by limiting the build improvements under the Preferred Alternative. Over 110,000 linear feet of waterway impacts and over 12 acres of wetland impacts have been avoided under the Preferred Alternative. Additional detail concerning the impacts and the final detailed mitigation plan for unavoidable impacts is in Chapters 5 and 7 of the FEIS. The wetland mitigation requirements that are being used for this project in Maryland and Virginia were developed using standard practices of the USACE, MDE, and Virginia Department of Environmental Quality (VDEQ). We continue dialogue with our permitting agency partners to satisfy regulatory requirements consistent with NEPA's prohibition of advancing a project to final design prior to issuance of a Record of Decision (ROD). This effort will continue as the study progresses and into final design. For more details, reference FEIS, Appendix N and Appendix O.

At this time, no mitigation bank credits or in-lieu fee programs were identified in Maryland; therefore, MDOT SHA decided to pursue permittee-responsible mitigation. Permittee-responsible mitigation sites means that MDOT SHA (the permittee), will identify, design, construct, monitor, and maintain mitigation sites to compensate for impacts and the regulatory agencies have the opportunity to approve these sites prior to permit issuance. Permittee-responsible mitigation must meet the same criteria as mitigation bank sites and in-lieu fee sites. Permittee-responsible mitigation sites were chosen based on their potential for functional uplift, construction feasibility, proximity to the study area, mitigation credits, and replacement of lost functions and values resulting from roadway improvements. In Virginia, privately-owned mitigation banks will be used to fulfill mitigation requirements.

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As outlined in Chapter 2 and Appendix B of the DEIS, Chapter 2 and Appendix C of the SDEIS and Chapter 3 and Appendix D of the FEIS, stormwater management (SWM) considerations including methodology and assumptions, a description of major culvert crossings, and assumed SWM provided by the Build Alternatives and the Preferred Alternative were documented. Detailed SWM design is not part of the EIS documents, as SWM assumptions are based on conceptual design level information during this stage of planning. Detailed SWM design will be developed during final design, should the Preferred Alternative be selected. The project will provide adequate SWM to meet state and federal SWM requirements. The project will provide an overall improvement to waterways in the area by treating portions of existing impervious areas, as well as all new impervious areas.

To reduce degradation of waterways and control water pollution, Maryland SWM regulations require that MDOT SHA maximize on-site water quality treatment through Environmental Site Design (ESD) to the maximum extent practicable. If the ESD requirements cannot be met on-site, Maryland SWM regulations allow for offsite water quality treatment within the same six-digit watershed once MDOT SHA has demonstrated that all onsite measures have been exhausted. Every effort has been made to provide the full water quality requirements onsite; however, where water quality requirements could not be met onsite, offsite water quality SWM has been identified within the same six-digit watershed. The final stormwater plan will look to further maximize on-site SWM as final design is completed, assuming the Preferred Alternative is approved in the ROD.

7. The DEIS does not appropriately analyze the effect that increased capacity will have on long-term traffic demand on I-495 and I-270 and connected arterial roads. The Travel Model assumes that highway construction has no effect on land use, and thus underestimates the new trips that the project will generate. Additionally, while the DEIS admits that the project has the potential to induce increased traffic along arterial roads leading to I-495 and I-270, there is no analysis of the strain this potential increase may place on those roads, particularly when access to toll lanes is not available on some of the most heavily travelled destinations.

This question is related to latent demand (diverted trips) and induced demand (new trips). These topics are addressed in DEIS, Appendix C, SDEIS, Chapter 3, and updated in FEIS, Chapter 4 and Appendix A.

Latent demand refers to travelers who want to use I-495 or I-270 during the peak hours, but don't because it is too congested. They still need to make their trip, but they do it either on local roads or at another time of day. Unserved latent demand hurts the system in several ways. First, drivers are inconvenienced by having to adjust their trip. Second, this adds to congestion on the local roads. Finally, it increases congestion during what should be the "off peak" periods on the freeways. The Build alternatives evaluated in the DEIS for the MLS will serve a lot of latent demand, getting vehicles off the local roads, reducing what we call "peak hour spreading" (10 hours of congestion every day), and helping the efficiency of the transportation network. Also, with managed lanes, the amount of latent demand served can be controlled, and the new lanes would not become congested like they would by adding general purpose lanes.

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Induced demand refers to new trips within the system. Typically, new trips are the result of development – for example, more people move to an area when a new housing development is constructed, or people travel to a new shopping center when it opens. All of the forecast modeling presented in the DEIS is based on approved land use estimates provided by the local jurisdictions to MWCOG for use in their regional forecasting model. Potential changes to induced demand resulting from changes in future land use policy after this project is constructed are beyond the project team’s control and are therefore not included in the DEIS.

There are some instances where improving the freeway network could result in additional car trips or longer car trips, which also could be considered induced demand. For example, a person may choose to work at a place that is farther away from their home if their travel time is reduced due to a major roadway improvement. It is also possible that some people would use their cars for some trips that they would not have used the car for previously (known as mode shift). However, because managed lanes provide incentive to carpooling (either directly through reduced tolls for HOVs or indirectly by reducing the toll per person), an increase in ridesharing is also anticipated. Additionally, there could be an increase in bus usage because bus service along I-495 and I-270 would be more efficient. The MWCOG model helps us estimate these potential impacts from induced demand. Overall, very minor changes in mode choice would be expected and the amount of induced demand resulting directly from this project would be less than one percent based on total vehicle miles traveled (VMT), as discussed in Section 5.8 of DEIS Appendix C.

Specifically, with respect to the local roadway network related to the Build Alternatives, information in the DEIS was based on preliminary design that did not include direct access at Gude Drive or Wootton Parkway. Since that time, MDOT SHA has coordinated with various stakeholders, including the City of Rockville, and has updated the design to include direct access connections to the managed lane system at these two interchanges. The results presented in the SDEIS and FEIS account for these updates.

The results indicate that the net impact of the Preferred Alternative will be an overall reduction in delay on the surrounding arterials, including a 4.8 percent reduction in daily delay on the arterials in Montgomery County, despite some localized increases in arterial traffic near the managed lane access interchanges. The portions of the local road network with an anticipated increase in volumes were evaluated in more detail as part of this FEIS, and mitigation was proposed where needed to maintain acceptable operations and safety per FHWA’s Interstate Access Policy guidelines. In addition, based on follow-up meetings between MDOT SHA and the City of Rockville, additional improvements were considered and incorporated where feasible, including extension of the Maryland Avenue bike lane, modifications to the right-turning movement from the I-270 off-ramp onto eastbound MD 189, and additional turn lanes at Wootton Parkway at Seven Locks Road, Gude Drive at Research Boulevard, and MD 189 at Great Falls Road. All these enhancements will help manage and/or improve the function of the local roadway network. Refer to MDOT SHA’s Application for Interstate Access Point Approval in FEIS, Appendix B.

8. Similarly, just as the alternatives will likely increase traffic on some arterials, the DEIS ignores that its own estimates (Table 5-6 in DEIS Appendix C) show the managed lanes would cause increased travel times on I-270’s general lanes during the PM peak travel time. There are five needs stated in the DEIS’ Purpose and Need section and none of them are “increase traffic.”

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There are some segments shown in Table 5-6 in DEIS, Appendix C that show little or no improvement. This is due to travelers being stuck in significant congestion on I-495 and the local system under the No Build condition, limiting the number of vehicles on I-270 Northbound in the 2040 PM peak period model (an effect referred to as “metering”). This makes the reported travel time in that segment for No Build alternative seem better than it is, because it is a byproduct of severe congestion elsewhere in the study area (refer to the reported travel times for I-495 in Table 5-6, which show that travel times on I-495 under Alternative 1 (No Build) would be over an hour longer than the Build Alternatives for both the Inner Loop and Outer Loop). However, it is not accurate to say that the overall result of building the Preferred Alternative would be to “increase traffic.” The overall effects include a significant reduction in system-wide travel delay (as indicated in Table 3-6 in page 3-10 of the SDEIS, 2045, system-wide delay is reduced by 18 percent in the AM peak period and 32 percent in the peak period) indicating a significant overall reduction in traffic congestion. Indeed, the SDEIS shows improved peak travel speeds on most of the improved sections of I-495 and I-270 for users of the existing general purpose lanes and for users of the new proposed HOT lanes (as detailed in Table 3-5 on page 3-9 of the SDEIS).

The Preferred Alternative is projected to provide meaningful operational benefits to the system even though it includes no action or no improvements for a large portion of the study area to avoid and minimize impacts. Although the Preferred Alternative provides less improvement to traffic operations when compared to the Build Alternatives that included the full 48-mile study limits evaluated in the DEIS (such as Alternatives 9 and 10), it was chosen based in part on feedback from the public and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east side of I-495.

The Preferred Alternative will significantly increase throughput across the ALB and on the southern section of I-270 while reducing congestion. It would also increase speeds, improve reliability, and reduce travel times and delays along I-495, I-270, and the surrounding local roadway network compared to the No Build Alternative.

9. Agencies must consider whether the project’s adverse effects are disproportionately borne by communities where most of the residents are minority or low-income, or Environmental Justice (EJ) communities. This requires a DEIS to compare the effects on EJ communities with non-EJ communities. Here; however, the DEIS includes no such comparison. Instead, the DEIS simply describes the 36 EJ communities in the study area and the potential impacts to those communities. This precludes the Agencies from considering measures to mitigate any potential disproportionate effects to the 36 EJ communities in the DEIS study area. Additionally, the DEIS makes only conclusory statements claiming that the managed lanes will benefit EJ communities, despite the expected high toll prices and environmental impacts to their communities.

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding EJ pursuant to Executive Order 12898, U.S. Department of Transportation (USDOT) Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011).

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In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study area. See DEIS, Chapter 4, Section 4.21.4 and DEIS, Appendix E; SDEIS, Chapter 4 Section 4.21.2; FEIS, Chapter 5, Section 5.21.2 and FEIS, Appendix F. Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, U.S. Environmental Protection Agency (USEPA), Maryland Department of Planning, Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project. See FEIS Chapter 5, Section 5.21 and FEIS, Appendix F for details on this initiative.

MDOT SHA's initial analysis of potential EJ impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, USDOT, and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS, Chapter 4, Section 4.21.2 and DEIS, Appendix E. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the USEPA EJ Screen and Mapping Tool (EJSCREEN), and through the state of Maryland EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities was consistent with similar assessments completed by outside expert institutions.

A final EJ Analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis (FEIS Chapter 5, Section 21) and in accordance with Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

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Member of the Maryland General Assembly
Page Fifteen

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities Act-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements including:

- As part of its commitment to support Vision Zero, will define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by M-NCPPC), readiness, and landowner consensus, as part of its commitment to support Vision Zero; and
- Work with Montgomery, Frederick and Prince George’s Counties to expand transit fare subsidies for eligible low-income riders.

10. While not tied directly to the DEIS, it is important to note that when the pre-determined alternative is announced, MDOT intends to pursue a so-called “progressive P3” to execute the project. Under a progressive P3, MDOT enters into an agreement with the private sector before it knows the project details. The state will be stuck with a private sector consortium regardless of what design challenges, increased costs, or changes to traffic patterns may affect the project’s viability. A progressive P3 has never been tried on this scale and should not be risked now.

Under the Progressive P3 model, the Developer is working collaboratively with MDOT and other stakeholders to develop the final requirements, right-of-way needs and acquire any environmental permits or needed approvals. This reduces the risk to MDOT and the Developer in the delivery of Phase 1 providing improved value to Marylanders. This collaborative, up-front effort will provide more efficient pricing and better schedule certainty prior to P3 Agreement approval by the Maryland Board of Public Works (BPW) for the agreement of the final design, construction, financing, operations, and maintenance of any section of Phase 1 of the P3 Program. This is possible because of the opportunity created by a Progressive P3 to perform additional due-diligence, planning, site investigations, and other risk mitigation activities associated with their design and preferred construction approach during the predevelopment work of Phase 1. If for any reason MDOT and the Developer cannot reach agreement on a section of Phase 1, MDOT retains the right to terminate the Predevelopment Agreement with the ability to deliver the improvements through other ways deemed appropriate including utilizing the predevelopment work completed. Progressive P3 agreements have been used on this scale to successfully deliver managed lanes like those envisioned under Phase 1 of the P3 Program in Virginia for I-95, I-495, and I-395 and in Texas for the North Tarrant Express.

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Member of the Maryland General Assembly
Page Sixteen

As part of the predevelopment work requirements, and to ensure pricing consistent with the market, the selected Developer will be required to engage with local subcontractors and suppliers to demonstrate competitive pricing for a significant portion of design and construction work. The early engagement, collaboration and opportunity to undertake additional risk mitigation work prior to committing to a fixed-price is what is unique and beneficial about a Progressive P3 delivery approach and helps to avoid future disputes, claims, and delays. All of the predevelopment work will be consistent with and in support of the NEPA process and provides a greater opportunity to identify ways to further reduce impacts along the corridors.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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Member of the Maryland General Assembly
Page Seventeen

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

MARYLAND SENATE – SENATORS SUSAN C. LEE AND RON N. YOUNG (AUGUST 6, 2020)



THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

August 6, 2020

Dear Secretary Slater,

Senator Susan Lee and Senator Young formally request the release of additional information omitted from the Draft Environmental Impact Statement for the I-495/I-270 Managed Lanes Study. Perhaps the most important metric of traffic study, the length of travel, was not included for the Northern Section of I-270. Of clear interest to our constituents, the omission of this vital clearly collected data from the report, denies the State of Maryland any critical or honest assessment of the project's fundamental utility, projected length of travel time. We hereby request the calculated information be made public as was the analysis for another option, undermining a full and fair comparison.

The figures and table on pages 120 and 121 of Appendix C (the Traffic Analysis Technical Report) show predicted travel times on I-270 between Frederick and the Beltway in 2040 for Alternative 1, the No-Build Alternative. We ask you to provide us the same information for the Build alternatives that were modeled in the traffic analysis. This would include the two-managed-lane alternative used to prepare Figure 5-72, which shows traffic delays just north of Shady Grove increasing by more than 10% from adding the lanes to the south.

While the report does include travel times between the Beltway and Shady Grove, that information makes it all the more urgent to release the travel times to Frederick. Table 5-6 shows that the "build" alternatives all make afternoon rush hour traffic on the un-tolled lanes slower than the "no-build" alternative. Before committing to a "Traffic Relief Plan," the legislature and the public need to know whether it will relieve traffic congestion.

We look forward to facilitate any clear, effective and timely dialogue with the effected residents, political subdivisions, and other interested parties to fully understand the commitments of the project before they are made without full public transparency. Your efforts to resolve this matter are greatly appreciated.

Sincerely,

Senator Susan C. Lee

Senator Ron N. Young

MDOT SHA RESPONSE



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

Office of the Secretary

September 28, 2020

The Honorable Susan C. Lee
Senate of Maryland
11 Bladen Street, Room 223
Annapolis MD 21041

The Honorable Ronald N. Young
Senate of Maryland
11 Bladen Street, Room 301
Annapolis MD 21041

Dear Senators Lee and Young:

Thank you for contacting me regarding the Draft Environmental Impact Statement (DEIS) for the I-495 and I-270 Managed Lanes Study (MLS). I appreciate the opportunity to address your concerns.

The Northern section of I-270 from I-370 to I-70 is part of a separate, independent National Environmental Policy Act (NEPA) study under the I-495 and I-270 Public-Private Partnership (P3) Program. We recognize that improvements are needed in the Northern section of I-270 with or without the improvements being considered under the MLS. The need for these improvements has been studied in the past, and previous analyses can be found in the I-270/US 15 Multi-Modal Corridor Study.

I have attached the figures that show the projected travel time in the general-purpose lanes in 2040 along I-270 between Frederick and Virginia during the morning and evening peak hours for each build alternative under the MLS. The results of the build alternatives assume that no additional improvements are made in the Northern section of I-270 in the year 2040 due to the separate study, and therefore may be underestimating the overall future benefits on I-270.

The MLS DEIS shows that travel time on I-270 Northbound between I-495 and I-370 in the general-purpose lanes is lowest in the no-build condition in the evening peak. This is due to travelers being stuck in significant congestion on I-495 and the local system, limiting the number of vehicles on I-270 Northbound in the evening peak period. The proposed improvements on I-495 and I-270 will provide congestion relief for users of the overall system by moving more people on I-270 Northbound, resulting in reduced delays on the local system, and reducing travel times for the most common trips, such as from the American Legion Bridge to I-370. A person using the general-purpose lanes from the American Legion Bridge to I-370 in the 2040 evening peak will save up to 14 minutes with speeds up to 42 miles per hour (mph). Without the improvements to both I-495 and I-270, the speed of the same trip would be 24 mph, demonstrating the need for improvements south of I-370.

7201 Corporate Center Drive, Hanover, Maryland 21076 | 410.865.1000 | 888.713.1414 | Maryland Relay TTY 410.859.7227 | mdot.maryland.gov

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The Honorable Susan C. Lee
The Honorable Ronald N. Young
Page Two

Thank you again for contacting me. If you have any additional questions or concerns, please feel free to contact Lisa B. Choplin, DBIA, MDOT State Highway Administration (MDOT SHA) I-495 and I-270 P3 Office Director, at 410-637-3320 or lchoplin@mdot.maryland.gov. Ms. Choplin will be happy to assist you. Of course, you may always contact me directly.

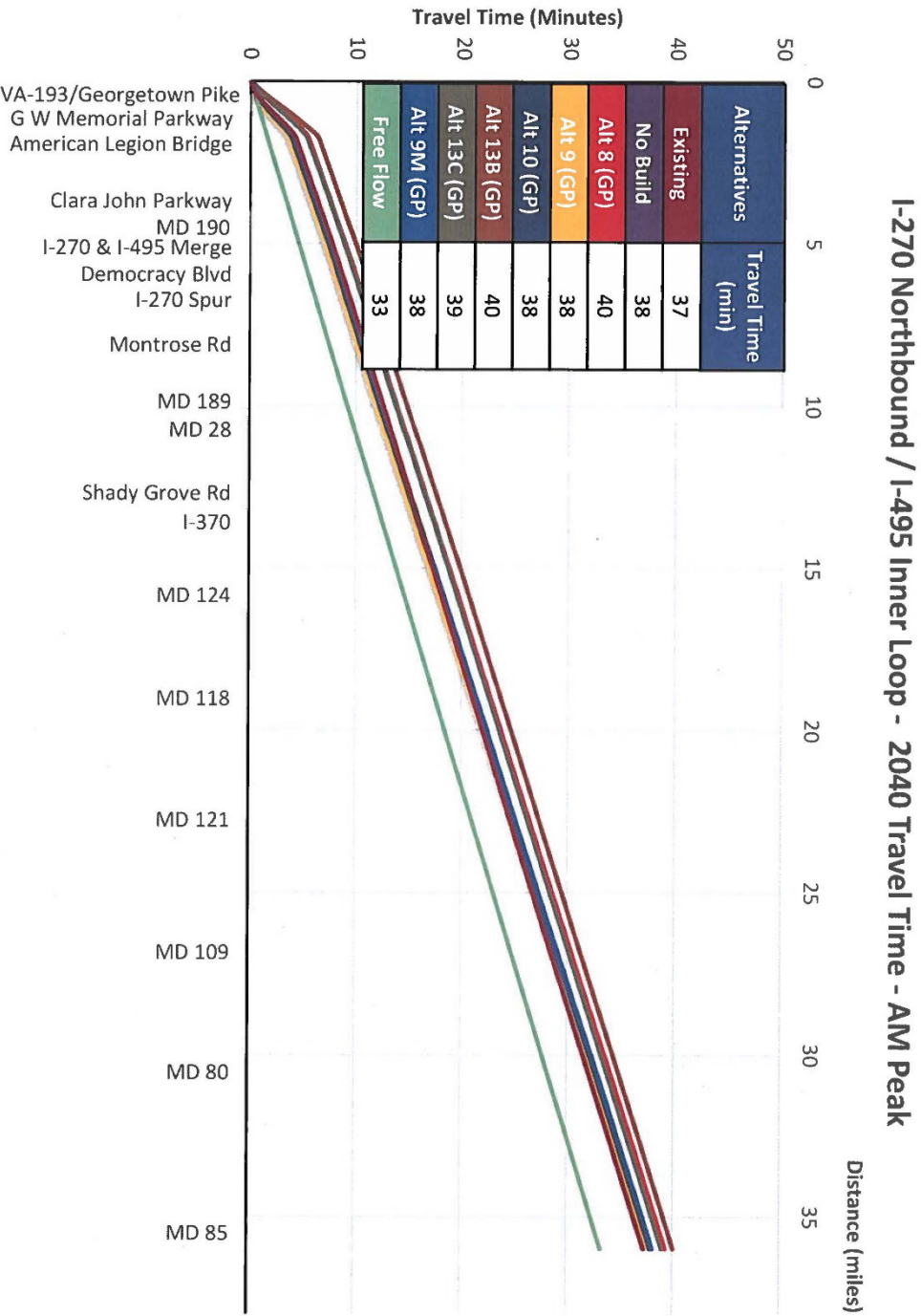
Sincerely,


Gregory Slater
Secretary

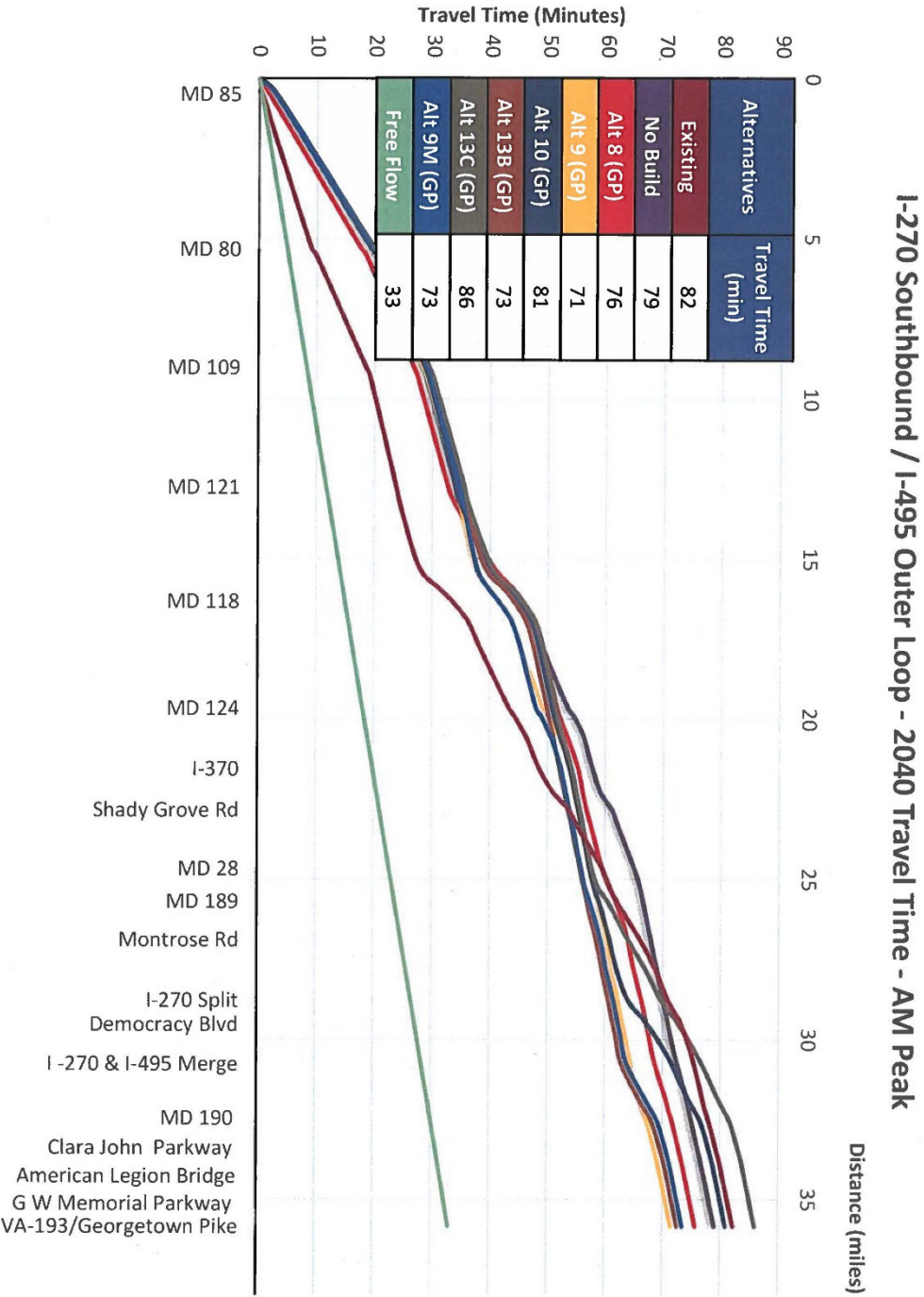
Attachment

cc: Lisa B. Choplin, DBIA, Director, I-495 and I-270 P3 Office, MDOT SHA
Tim Smith, P.E., Administrator, MDOT SHA

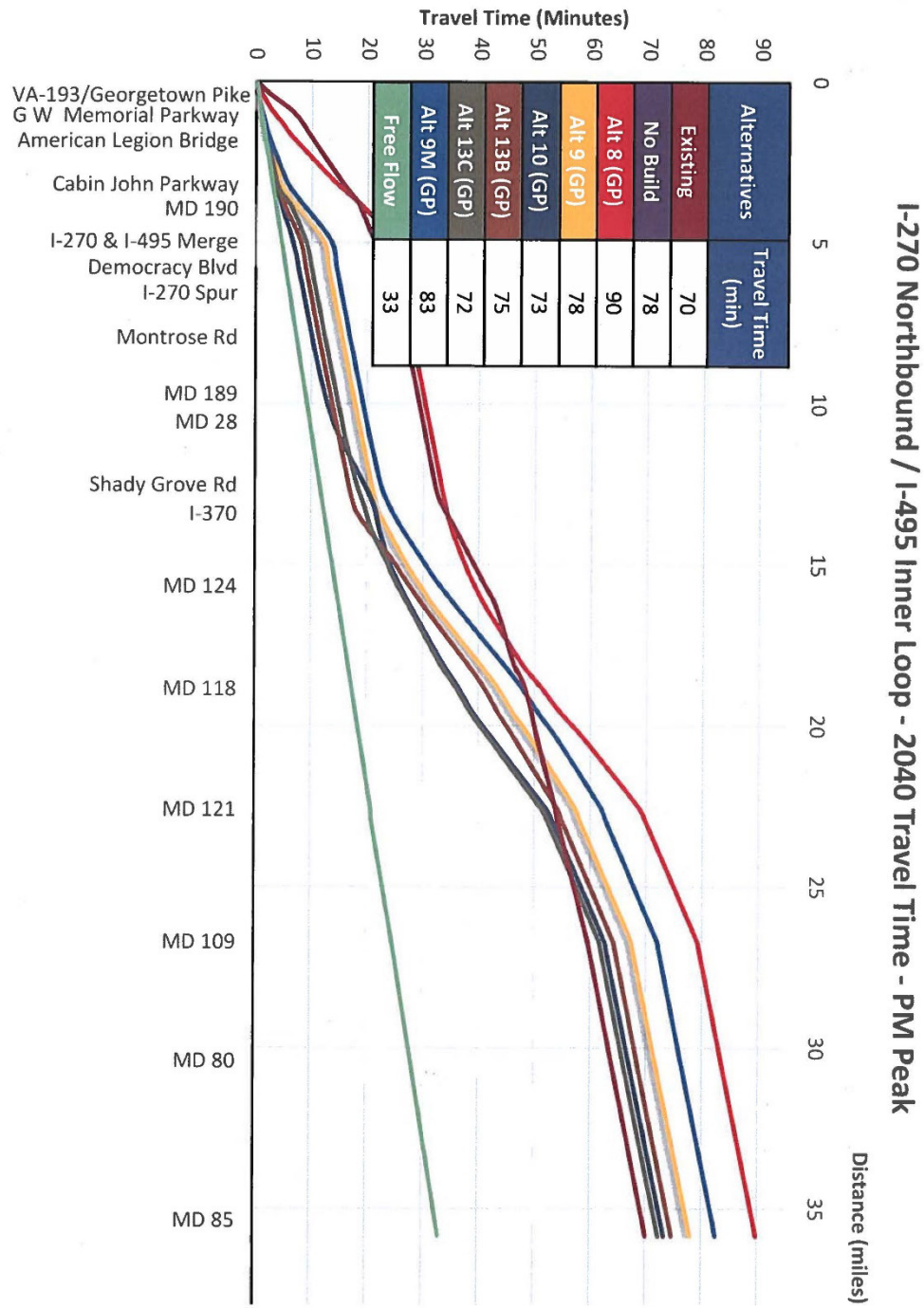
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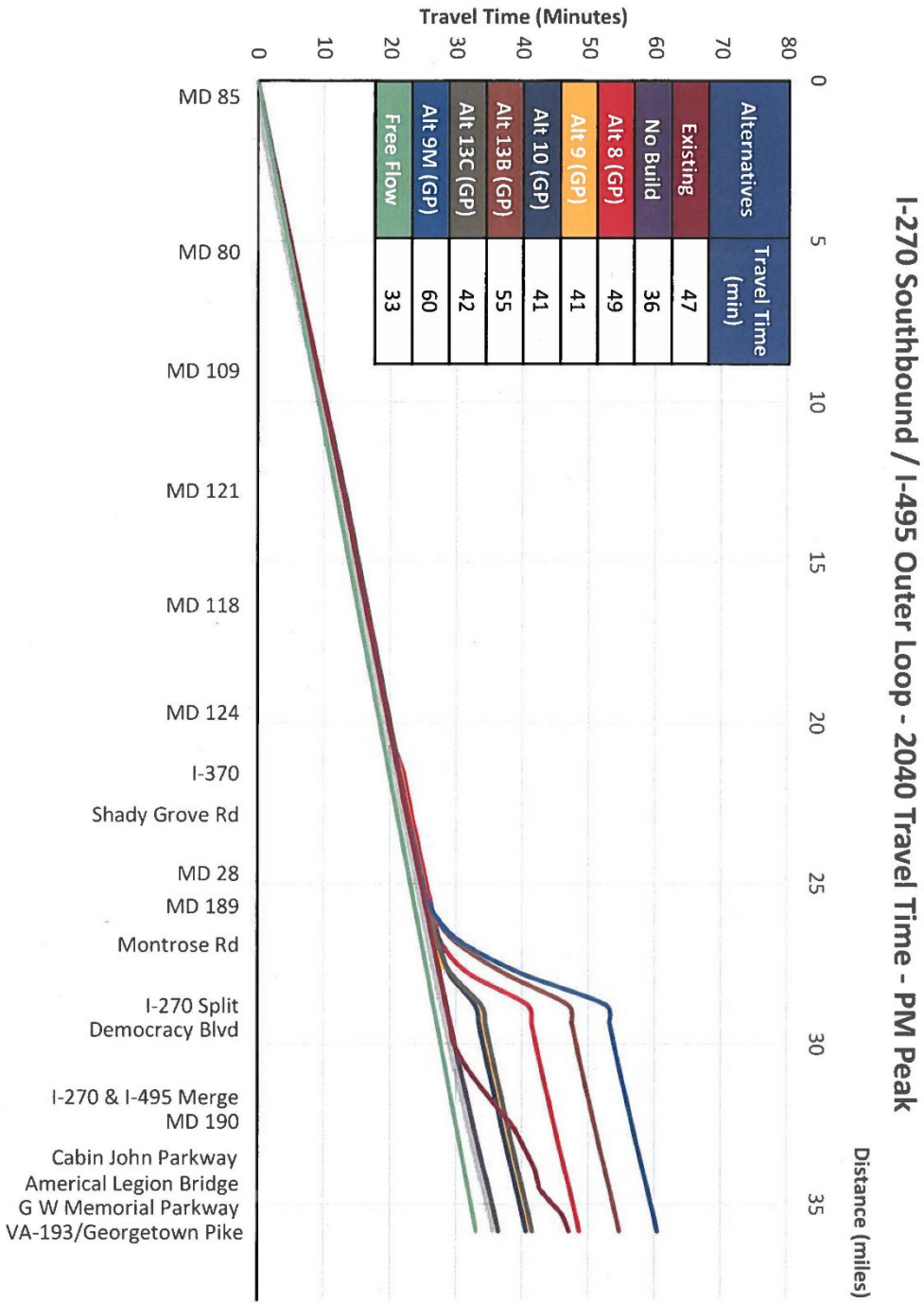
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MARYLAND SENATE – SENATOR SUSAN C. LEE (NOVEMBER 9, 2020)

From: Lee, Susan Senator <Susan.Lee@senate.state.md.us>
Sent: Monday, November 9, 2020 4:44 PM
To: MLS-NEPA-P3
Cc: Lore, Michael; 'Susan Lee'
Subject: Senator Lee Comments on DEIS
Attachments: DEIS_SenLee.pdf; DEIS_SenLee.docx

Good Afternoon,

Please see the attached letter from Senator Lee.

Regards,
Michael
--

Michael W. Lore, Esq.

Chief of Staff | Senator Susan C. Lee

11 Bladen Street | Annapolis, Maryland 21401

p: 301.858-3124 | e: MLore@senate.state.md.us



MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Susan C. Lee
Senate of Maryland
11 Bladen Street, Room 223
Annapolis MD 21401

Dear Senator Lee:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your November 9, 2020 letter on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

SUSAN C. LEE
Legislative District 16
Montgomery County

—

MAJORITY WHIP

—

Judicial Proceedings Committee

—

Joint Committee on
Cybersecurity, Information Technology,
and Biotechnology

—

Chair Emeritus
Maryland Legislative Asian American
and Pacific Islander Caucus

—

President Emeritus
Women Legislators of the
Maryland General Assembly, Inc.



THE SENATE OF MARYLAND
ANNAPOLIS, MARYLAND 21401

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11 Bladen Street, Room 223
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800-492-7122 Ext. 3124
Susan.Lee@senate.state.md.us

November 9, 2020

Lisa B. Choplin, DBIA Director
I-495 & I-270 P3 Office
Maryland Department of Transportation
State Highway Administration
707 North Calvert Street
Mail Stop P-601, Baltimore, MD 21202

Ms. Choplin:

My vast majority of my constituents have reached out to me in opposition to this process thus far due to the lack of democratic accountability and oversight. In addition to the letter already submitted by myself and many of my Senate and House colleagues, I wanted to also highlight some serious concern about depriving the affected communities a democratic voice in the process. The citizens I represent are being neglected with the progression of this proposed project, and the failure of a democratic check is causing the process itself to fail. The process is moving along without an actual design or specific plan to analyze many of the apparent negative externalities associated with a project of this scope.

The district I am so fortunate to represent, District 16, includes the American Legion Bridge and the I-270 spur. We are blossoming with neighborhoods, schools, and parks that adjoin the interstate. I am elected of the people, by the people, and for the people of my district, yet my voice is limited to this comment on a clearly insufficient draft report that ignores new technological realities, cost pass-alongs to local government and commuters, without representation on the approval or management of the traditional government function.

My constituents are not staying silent, and have already commented on the DEIS through various outlets, including the prior letter I signed onto with Delegate Korman, the letter submitted by the Maryland Transit Opportunities Coalition, as well as the comments from local groups such as the Carderock Springs Association, Friends of Moses Hall Morningstar Tabernacle Number 88, the Citizens Against Beltway Expansion, and many more groups that represent the interests of the local community members in opposition, listed comprehensively in the Sierra Club of Maryland submission. The opposition is clear,

The Honorable Susan C. Lee
Page Two

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to each of your specific concerns, I offer the following responses.

1. Insufficient Analysis of Intercounty Connector

As requested by several cooperating and partner agencies, MDOT SHA evaluated the MD 200 Diversion Alternative that would provide an alternate route for travelers to use MD 200 (Intercounty Connector) instead of the top side of I-495 between I-270 and I-95 to avoid or reduce impacts to significant, regulated resources and residential relocations to that section of I-495. Refer to DEIS, Appendix B. This new alternative was developed and analyzed with input from the agencies to the same level of detail and using the same approach for the anticipated limits of disturbance as all other screened alternatives. Detailed traffic analyses were completed on the MD 200 Diversion Alternative to assist in evaluating its ability to meet the Study's Purpose and Need, again, using the same methodology that was used for the Screened Alternatives.

Two key underlying factors played a large role in evaluating whether the MD 200 Diversion Alternative could meet the project Purpose and Need. First, the portion of I-495 proposed to be excluded from any improvements is one of the most congested and least reliable segments of highway in Maryland. While the presumed Transportation Systems Management/Transportation Demand Management (TSM/TDM) measures could slightly improve congestion there, that portion of I-495 would still experience severe congestion. Second, while MD 200 currently has capacity to accommodate the potential for diverted traffic, it is projected that portions of MD 200 would reach capacity during peak travel periods by 2040. Therefore, the ability to handle diverted traffic would be limited in the future.

Traffic analysis on the MD 200 Diversion Alternative was performed using the same key traffic metrics applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput; and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. The MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to DEIS, Chapter 2 and DEIS, Appendix B. Moreover, the preliminary financial analysis conducted for this screening process, which was the same process used for all the Screened Alternatives, showed that the MD 200 Diversion Alternative would require a payment by the state. Recognizing that the MD 200 Diversion Alternative would have avoided all residential displacements and all but one business displacement and would have reduced the number of parks and historic resources potentially impacted by the proposed action, MDOT SHA's final conclusion, with concurrence from FHWA, was that this alternative would not adequately meet the established Purpose and Need.

but the response to these concerns has fallen short, and the legitimacy of the project is intertwined with the success and democratic accountability of the process itself.

As a reminder, I sponsored legislation in 2020 to provide all counties in Maryland the authority that the Eastern Shore counties currently possess under Maryland law. Toll-road projects are especially controversial, and the combination with the P3 model, and no state funding whatsoever – remove local and state elected officials from the process. While this legislation did not move forward last session, it served as a clear and elegant mechanism to return some accountability.

The County council is in fact powerless under the existing paradigm – they said - “I feel pretty strongly that the council and executive should say something. ... Unless we say what we want, we may be missing the boat in terms of having any kind of control over what happens, in terms of a build option.” The council as a body is also limited to this comment opportunity. My legislation sought to raise their authority to that of other counties in Maryland. There should be a uniform system for toll road construction, and it shouldn’t subvert democratic accountability.

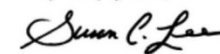
Specifically, I share the concerns raised from the MD-NCPPC, which include:

- 1) An insufficient analysis of Intercounty Connector use growth to offset traffic;
- 2) A failure to meet a stated goal of leveraging alternative modes of transportation, such as designing to allow for transit across the American Legion Bridge;
- 3) The need to expand the SHA’s current limits of disturbance for the project and the likely environmental impacts;
- 4) Failure to “sufficiently address impact to economically challenged populations or social equity as required under NEPA”;
- 5) The need to “include clear commitments that MDOT SHA and the private P3 partner apply such [required] avoidance and minimization efforts, and specific parkland mitigation” to all parkland affected by the project, as required by Federal Transportation Act and the Montgomery County Parks Policy for Park, Recreation and Open Space Plan 2017;
- 6) “The DEIS does not sufficiently address impact to economically challenged populations or social equity as required under NEPA,” and;
- 7) An inadequate approach to storm water management.

Especially not to be ignored are the projected Billions in costs that the WSSC said it would have no option but to pass along to ratepayers. Without this cost concern specifically confronted, there is no reason to move forward with planning, when the state was under the impression that there would be no costs for taxpayers who don’t use the toll lanes. The projected costs are misleading to Marylanders.

For these reasons and those stated through the multitude of organizations, listed by the Sierra Club, I urge you to forego any approvals until the democratic legitimacy is restored to projects of this scale and scope.

Very truly yours,



Senator Susan Lee

The Honorable Susan C. Lee
Page Three

Although the Preferred Alternative also avoids improvements to the topside of I-495 and provides less improvement to traffic operations when compared to the DEIS Build Alternatives, it was chosen based in part in response to comments received from the public, partner agencies and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east sides of I-495. While MDOT SHA and FHWA recognize that congestion would be present during the afternoon peak period on I-270 southbound and the I-495 inner loop in the design year 2045 due to downstream bottlenecks outside of Phase 1 South, the Preferred Alternative would provide tangible operational benefits to the system including significantly increasing throughput across the American Legion Bridge (ALB) and the southern section of I-270 while reducing congestion.

2. Alternative Modes of Transportation and Transit on the ALB

Consistent with long-established federal environmental regulations, the Purpose and Need for the MLS generally describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local and regional transportation professionals over several decades. The Purpose and Need statement identifies a proposed action to address those needs and describes a variety of financial and transportation reasons for the agency to consider some form of managed lanes as a proposed solution.

NEPA requires FHWA and MDOT SHA to identify the proposed solution to the public and then to objectively evaluate the environmental effects of that proposed solution and benefits and effects of other reasonable alternatives. This is what has been done for the MLS and outlined in the DEIS. The study sets forth the well-recognized transportation problem, analyzed 17 alternatives including transit and smaller roadway improvements, TSM/TDM as well as a variety of managed lanes alternatives. TSM/TDM and transit elements have been incorporated into the Build Alternatives to support the purpose of enhancing multimodal connectivity and mobility.

The initial screening of alternatives considered the initiatives and projects outlined in Visualize 2045 Plan, the latest financially Constrained Long-Range Plan (CLRP) which was approved by the National Capital Region Transportation Planning Board in 2018. The Visualize 2045 Plan identified Seven Aspirational Initiatives for a Better Future to address mobility on a regional basis. One of the seven initiatives was “Expand Express Highway Network,” which includes congestion-free toll roads, building on an emerging toll road network and new opportunities for transit for express buses to travel in the toll lanes.”

Although standalone transit alternatives were found to not meet the Study’s Purpose and Need, the Preferred Alternative incorporates multiple transit elements. These transit elements will serve to address existing and planned multimodal mobility and connectivity included in the purpose of the MLS by:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Westfield Montgomery Mall Transit Center, and Medical Center Metro.

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The Honorable Susan C. Lee
Page Four

Additionally, MDOT SHA is committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority (WMATA) Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

Transit elements were also considered by the Transit Work Group, and the I-495/ALB Transit/TDM joint study by the Virginia Department of Rail and Public Transit and the MDOT Maryland Transit Administration. Both of these initiatives resulted in publicly available reports.

The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the Op Lanes Maryland website.¹ This report is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed, provide a basis for the evaluation and prioritization of future capital and operating needs in the service area, and initiate discussions about ways to incorporate regional transit services into the Op Lanes Maryland Program.

The I-495/ALB Transit/TDM Plan Final Report was completed in March 2021 and was posted online.² It identified a series of potential investment packages to provide new mobility choices to service interstate travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the ALB in fewer vehicles.

On August 11, 2021, in accordance with Maryland law, MDOT and MDTA presented to and received approval from the Board of Public Works to award the Phase 1 Public-Private Partnership (P3) Agreement to the Selected Proposer for the predevelopment work. As part of its proposal, the Developer has committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South. To further support transit services, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high priority transit investments in Montgomery County and committed to deliver the Metropolitan Grove Bus Operations and Maintenance Facility including the necessary bus fleet.

The proposed solutions are not only about solving today's congestion challenges, but also about multimodal solutions that are adaptable to the growth expected in the region over the long-term, through 2045 and beyond. MDOT SHA has been performing traffic sensitivity analyses for a variety of potential traffic scenarios specifically including scenarios with increased work-from-home and other changes in travel patterns. This new information and analysis are presented in the Final Environmental Impact Statement (FEIS).

¹ <https://oplanesmd.com/transit-benefits/>

² http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf

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The Honorable Susan C. Lee
Page Five

All Build Alternatives include the full replacement of the ALB with a new, wider bridge (not widening of the existing bridge as the bridge is nearly 60 years old. The new ALB would be constructed in stages to maintain the same number of existing lanes at all times and will be replaced in the same general existing location. MDOT SHA has also committed to providing a bike/pedestrian path along the ALB.

As reviewed by MDOT SHA and the Virginia Department of Transportation (VDOT), current land-uses on both sides of the Potomac lack sufficient density to support rail transit in this area. The ALB location is not comparable to the area surrounding the Woodrow Wilson Bridge, which connects dense populations in Alexandria with National Harbor, and where rail transit is a more viable future option. Finally, as a requirement under the P3 Agreement, the new ALB will be designed so as not to preclude future transit options.

3. Limits of Disturbance, Environmental Analysis and Avoidance, Minimization and Mitigation

The I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS, SDEIS, and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study to a comparable level of detail. This analysis directly contributed to MDOT SHA's evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

MDOT SHA employed a conservative approach to defining the limits of disturbance (LOD) for all the DEIS Build Alternatives and the Preferred Alternative. The LOD represent the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management, noise barrier replacement/construction, stream stabilization, and related activities will take place. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. The methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS, as the LOD was established to include a reasonable area to construct the Preferred Alternative. For complete graphic descriptions of the Preferred Alternative LOD across the entire span of study limits, refer to the FEIS, Appendix E, Environmental Resource Mapping.

The reasonableness of the LOD applied for determining resource impacts was further reinforced by performing a constructability analysis. This ensured that adequate area within the LOD was provided to construct all project elements, including bridges, retaining walls, noise walls, drainage structures, and interchange ramps, among others.

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Importantly, the methodology to determine project impacts for a variety of key natural, cultural, and socioeconomic resources considered areas beyond anticipated areas of physical disturbance, whether temporary or permanent. For example, the assessment of community impacts and environmental justice (EJ) concerns considered a broad range of jurisdictions across the study area. Refer to FEIS, Chapter 5, Section 5.21. Similarly, the Area of Potential Effects (APE) for purposes of analysis under Section 106 of the National Historic Preservation Act extended to a wider boundary and was agreed to by the Maryland State Historic Preservation Officer in coordination with consulting parties. Refer to FEIS, Chapter 5, Section 5.7. Additionally, MDOT SHA's analysis of air quality impacts also reflected, as required, a regional perspective. Refer to FEIS, Chapter 5, Section 5.8.

Due to extensive coordination and consultation with local, state, and federal resource agencies and stakeholders throughout the NEPA process, MDOT SHA was able to advance avoidance and minimization measures for regulated and sensitive resources and property displacements along I-495 and I-270. This process resulted in an LOD that avoided and minimized impacts associated with the DEIS Build Alternatives and the Preferred Alternative addressing a wide range of water resources, parkland, and historic and/or cultural resources. MDOT SHA accomplished this through a number of approaches, including the elimination or relocation of managed lane access points, shifting the centerline alignment, changing interchange configurations and other design refinements. Refer to DEIS, Appendix B and SDEIS, Chapter 2. For the environmentally sensitive area surrounding the ALB, a separate "Strike Team" was convened to develop and evaluate alternatives for replacement of the ALB to avoid and minimize overall impacts to the Chesapeake and Ohio Canal National Historic Park, Clara Barton Parkway, and the George Washington Memorial Parkway. Lastly, since the publication of the DEIS, additional and successful avoidance and minimization efforts also involved the Morningstar Tabernacle No. 88 Moses Hall and Cemetery. Through additional investigation and survey including ground penetrating radar (GPR), MDOT SHA identified potential unmarked graves within the right-of-way adjacent to I-495. The Preferred Alternative incorporated design refinements that minimized the overall width of the improvements to completely avoid the current cemetery property boundary and the known area of state-owned right-of-way that has the potential for unmarked graves. Refer to SDEIS, Chapter 4.

An important benefit to conducting a P3 process with pre-development work concurrent with the NEPA process is to increase efficiency by receiving input by the Developer on design and ancillary elements of the project such as stormwater management. This collaborative effort ensures that the design and associated LOD are appropriate and feasible ahead of final design. While additional LOD refinements may occur during final design, including additional avoidance and minimization, the risk of substantial changes in the LOD or substantial increase in environmental impacts is significantly lowered by the early involvement of the Developer.

Overall, the conservative approach to defining the LOD for impact assessment was conducted with the goal of first accurately defining the likely construction of all foreseeable elements of the proposed action, and then continuously encouraging engineering techniques aimed at avoiding and reducing impacts to the greatest extent practicable.

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4. Environmental Justice (EJ) and Social Equity

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding EJ pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011). In addition, under Title VI of the Civil Rights Act, each federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subject to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.

In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study area. See DEIS, Chapter 4, Section 4.21.4 and DEIS, Appendix E; SDEIS, Chapter 4, Section 4.21.2, FEIS, Chapter 5, Section 5.21.2 and FEIS, Appendix F. Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, U.S. Environmental Protection Agency (USEPA), Maryland Department of Planning, Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project. See FEIS Chapter 5, Section 5.21 and FEIS Appendix F for details on this initiative.

MDOT SHA's initial analysis of potential EJ impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, U.S. Department of Transportation (USDOT), and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS, Chapter 4, Section 4.21.2 and DEIS, Appendix E, Section 4.2.1. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the USEPA EJSCREEN, and through the state of Maryland EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities was consistent with similar assessments completed by outside expert institutions.

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A final EJ Analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis (FEIS Chapter 5, Section 21) and in accordance with Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities Act-compliant ramps as needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements including:

- Define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity as part of its commitment to support Vision Zero;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by M-NCPPC), readiness, and landowner consensus, also as part of its commitment to support Vision Zero; and
- Work with Montgomery, Frederick and Prince George's counties to expand transit fare subsidies for eligible low-income riders.

5. Stormwater Management (SWM)

As outlined in DEIS, Chapter 2 and Appendix B, SDEIS, Chapter 2 and Appendix C and FEIS, Chapter 3 and Appendix D, SWM considerations including methodology and assumptions, a description of major culvert crossings, and assumed SWM provided by the Build Alternatives and the Preferred Alternative were documented. Detailed SWM design is not part of the EIS documents, as SWM assumptions are based on conceptual design level information during this stage of planning. Detailed SWM design will be developed during final design, should the Preferred Alternative be selected. The project will provide adequate SWM to meet state and federal SWM requirements. The project will provide an overall improvement to waterways in the area by treating portions of existing impervious areas, as well as all new impervious areas.

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To reduce degradation of waterways and control water pollution, Maryland SWM regulations require that MDOT SHA maximize on-site water quality treatment through Environmental Site Design (ESD) to the maximum extent practicable. If the ESD requirements cannot be met on-site, Maryland SWM regulations allow for offsite water quality treatment within the same six-digit watershed once MDOT SHA has demonstrated that all onsite measures have been exhausted. Every effort has been made to provide the full water quality requirements onsite; however, where water quality requirements could not be met onsite, offsite water quality SWM has been identified within the same six-digit watershed. The final stormwater plan will look to further maximize on-site SWM as final design is completed, assuming the Preferred Alternative is approved in the Record of Decision (ROD).

6. Project Cost

For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and a range of interest rates. The results showed that some alternatives would have a higher likelihood of being cash flow positive and others would have a higher likelihood of being cash flow negative. These wide ranges were necessary to take into account various market conditions that could change before financial close.

Regarding the subsidy of taxpayer dollars, on a revenue-risk P3, as being pursued under Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 Agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

MDOT does not have enough funds to construct improvements of the magnitude associated with the Preferred Alternative and does not have enough bonding capacity to take out loans to pay for the improvements, even with the promise of tolls to pay them back. Therefore, MDOT elected to use a Public-Private Partnership or P3 approach to finance the project.

A P3 is an alternative model for delivery of a capital project in which the governmental sector works with the private entities. The particular P3 model identified for Phase 1 South is a progressive multi-step approach. This P3 model, like others, seeks to make the most of private sector expertise, innovation, and financing to deliver public infrastructure for the benefit of the public owner and users of the infrastructure. This P3 Agreement includes designing, building, financing, operating, and maintaining a transportation facility; however, MDOT SHA would continue to own all lanes and infrastructure on I-495 and I-270 and ensure the highway meets their intended transportation function.

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Regarding your concerns over the cost of relocating utilities, from the earliest stages of the NEPA process, MDOT SHA has coordinated with Washington Suburban Sanitary Commission (WSSC Water) and other utility providers concerning potential impacts that would require the relocation of existing utility infrastructure. During the planning process and NEPA review, impacts to utility infrastructure and potential relocations have been considered. As the project advances from planning to final design, the scope and cost of utility relocations will be further refined in close coordination with WSSC Water and other utility providers.

During predevelopment work for Phase 1, the Developer is working collaboratively with MDOT SHA and our utility partners to further identify, avoid and reduce any impacts to utilities and, where necessary, develop plans to relocate utilities in the most efficient and accommodating manner as possible. To the extent applicable, the Developer is required to adhere to the utility provider's regulations, design standards and specifications, and coordinate any design and construction with the utility provider.

Potential cost of utility relocation has consistently been factored into the overall estimates developed for the project. The reduced footprint of proposed improvements associated with the Preferred Alternative as compared to the Build Alternatives discussed in the DEIS, together with ongoing coordination to identify, avoid and minimize conflicts with existing infrastructure to the maximum extent practicable have lowered the cost estimates significantly. The cost estimate for the Preferred Alternative includes the cost of utility relocation based on planning level information and can be found in the FEIS, Chapter 3, Section 3.3.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Susan C. Lee
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bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

MONTGOMERY COUNTY GOVERNMENT – COUNTY EXECUTIVE MARK ELRICH (ORAL TESTIMONY)

Joint Public Hearing - September 10, 2020

I-495 AND I-270 MANAGED LANE STUDY

1 There are a lot of people, for example, who separate what
2 you could do on 270 and the American Legion Bridge, you'd be
3 hard put to find anybody who said don't improve the American
4 Legion Bridge or make some improvements along 270, which is way
5 different than how people feel about the Beltway. But we're
6 given again this kind of all-or-nothing approach to things which
7 we think is unfortunate. It's confusing for the public the
8 DEIS that's under review isn't even the DEIS for the project
9 that's going to be built. I don't know how you reviewed the
10 DEIS if it's not for the project that you're being asked to
11 build. So, we view that as another major problem. And, our
12 comments, you'll be hearing more from us, when we actually get
13 to see the final documents you have which I can't comment on
14 because we haven't seen them yet.
15 Like other parties you've heard from, we believe there are
16 better uses of resources and we do believe in the necessity of
17 moving people, but we think there are other ways of dealing with
18 these bottlenecks and we would urge you to think about that.
19 The project claims to improve traffic, but the analysis
20 itself finds that in many cases, the managed lanes barely
21 perform better than general purpose lanes. I know that

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MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Marc Elrich
Montgomery County Executive
101 Monroe Street
2nd Floor
Rockville MD 20850

Montgomery County Council
100 Maryland Avenue
Rockville MD 20850

Dear County Executive Elrich and Montgomery County Council Members:

Thank you for your letter and oral testimony regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your testimony provided at the September 10, 2020 public hearing and your November 9, 2020 letter on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

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1 northbound, when the managed lanes end, they created major
2 congestion problems going north in the afternoon. This is not a
3 complete solution to a problem which we think merits a more
4 complete solution.

5 The general lanes themselves worsen in most segments. So,
6 basically you're taking the people who can least afford to use
7 the managed lanes and worsening their commute out of what's
8 supposed to be a public road. You're denigrating the quality of
9 travel on a public road to privileged people who can pay for the
10 toll lanes, and you have to charge high enough prices on the
11 toll lanes in order to keep people who are using the public road
12 from being able to use the toll lanes.

13 It's kind of counterintuitive and it certainly is an
14 equity issue in terms of who benefits and who doesn't benefit
15 from this project. There's been no detailed evaluation of the
16 interchanges in connections to local arterials. The DEIS
17 doesn't consider what will happen to roads like [Gudi],
18 Connecticut Avenue, and Colesville Road when more traffic is
19 sent to them faster.

20 I point out that I live near Georgia Avenue. At one
21 point, there was one lane coming off of the Beltway onto Georgia

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The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

As noted above, identification of Alternative 9-Phase 1 South was based in large part on input and feedback received from the public, stakeholders and partner agencies, including Montgomery County, during the DEIS public comment period. We appreciate your continued participation and are pleased to offer a Preferred Alternative that addresses the majority of the recommendations outlined in your November 9, 2020, letter including:

1. Aligning Alternative 9-Phase 1 South with the phased delivery and permitting approach.
2. Including transit elements to support multimodal connectivity and mobility into the Preferred Alternative. See SDEIS, Chapter 2, Section 2.3.7 and Final Environmental Impact Statement (FEIS) Chapter 3, Sections 3.1.4 and 3.2.1.
3. Committing to significant investment as part of Phase 1 South through the public-private partnership (P3) delivery model, including:
 - a. Committing to fund not less than \$60 million, upon financial close of the Section P3 Agreement for Phase 1 South, for design and permitting of high priority transit investments in Montgomery County and committing to deliver the Metropolitan Grove Operations and Maintenance Facility including the necessary bus fleet.
 - b. In accordance with the terms and conditions of the Phase 1 P3 Agreement, the Developer has committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South.
4. Significantly minimizing and avoiding environmental resources and property impacts including complete avoidance of direct impacts to the Morningstar Tabernacle No. 88 Moses Hall Cemetery based on the current historic boundary and reducing parkland impacts within the study area by over 100 acres.

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I-495 AND I-270 MANAGED LANE STUDY

1 Avenue and the traffic backed up to the bridge that we used to
2 call the Surrender Dorothy Bridge. After adding a second lane
3 to that exit, the traffic still backs up on the Beltway, and
4 sometimes impairs the flow of the thru-lane.

5 So, even adding two exits to that have not solved the
6 problem because Georgia Avenue does not work. So, speeding up
7 people around the Beltway so they can get off at Georgia Avenue
8 and Connecticut Avenue when those roads aren't moving does not
9 solve the problem and the State does not have a complete
10 solution that ties not only the improvements to this project to
11 what you would need to move traffic and create capacity on the
12 roads that this project feeds into.

13 I guess although we consider I-270 and I-475 vital, they
14 certainly already impact the environment and have serious
15 impacts on Rock Creek Park. While those impacts haven't been
16 addressed for decades, this project certainly threatens to make
17 those impacts worse. We're all baffled by the claim that this
18 is an environmentally friendly project when the likelihood is
19 that it induces more people to drive. It totally favors driving
20 over transits. It doesn't even attempt to create a balanced
21 transit system, and while we are working with the State and

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5. Supporting Montgomery County's Non-Auto Driver Mode Share goals by incorporating elements into the Preferred Alternative that reduce reliance on single occupancy vehicles including:
- Allowing HOV with three or more users, transit buses, and carpool/vanpools to travel toll free on the HOT lanes.
 - Committing to certain regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.
 - Committing to additional bicycle and pedestrian improvements including a new shared use path along the east side of the American Legion Bridge (ALB). See SDEIS Chapter 2, Section 2.3.8 and FEIS Chapter 3, Sections 3.1.5 and 3.2.2 for additional improvements.
 - Designing the ALB so as not to preclude future transit options on the bridge.
 - Evaluating portions of the local road network with an anticipated increase in volumes in more detail in the FEIS and proposing mitigation where needed to maintain acceptable operations and safety per FHWA's Policy on Access to the Interstate System. See FEIS, Chapter 4, Appendix B.

In response to each of your specific concerns, I offer the following responses.

1. Insufficient Alternatives Analysis of Intercounty Connector

As requested by several cooperating and partner agencies, MDOT SHA evaluated the MD 200 Diversion Alternative that would provide an alternate route for travelers to use MD 200 (Intercounty Connector) instead of the top side of I-495 between I-270 and I-95 to avoid or reduce impacts to significant, regulated resources and residential relocations to that section of I-495. Refer to DEIS, Appendix B. This new alternative was developed and analyzed with input from the agencies to the same level of detail and using the same approach for the anticipated limits of disturbance (LOD) as all other screened alternatives. Detailed traffic analyses were completed on the MD 200 Diversion Alternative to assist in evaluating its ability to meet the Study's Purpose and Need, again, using the same methodology that was used for the Screened Alternatives.

Two key underlying factors played a large role in evaluating whether the MD 200 Diversion Alternative could meet the project Purpose and Need. First, the portion of I-495 proposed to be excluded from any improvements is one of the most congested and least reliable segments of highway in Maryland. While the presumed Transportation Systems Management/Transportation Demand Management (TSM/TDM) measures could slightly improve congestion there, that portion of I-495 would still experience severe congestion. Second, while MD 200 currently has capacity to accommodate the potential for diverted traffic, it is projected that portions of MD 200 would reach capacity during peak travel periods by 2040. Therefore, the ability to handle diverted traffic would be limited in the future.

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1 trying to negotiate what would be the payments or how they would
2 handle tolls, we have no assurance that we would get adequate
3 money from the State in any toll arrangement that would allow us
4 to build transit that might otherwise mitigate some of this
5 impact.

6 I'll just close as I see I'm running out of time.

7 MR. BING: You can take extra time if you need it.

8 MR. ELRICH: Thank you. I wanted to say something about
9 contracting and financing. A lot of work was done on the Purple
10 Line before that contract was ever let. We obviously saw how
11 that played out today. Not very well and not all the delays
12 were caused by court cases. Some of it had to do with unforeseen
13 things in that project. The pipes under WSSE, the crash wall
14 next to the Metro, they're just part of some of the problems
15 that were encountered.

16 This project, which is ready to go to P3, has had none of
17 the scrutiny and study that was done on the Purple Line. We
18 don't have a lot of confidence that the State is able to manage
19 this project. We don't have a lot of confidence based on the
20 way the P3 was structured that the State could manage a second
21 P3 in a way that doesn't ultimately leave the State vulnerable

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Traffic analysis on the MD 200 Diversion Alternative was performed using the same key traffic metrics applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput, and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. The MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to DEIS, Chapter 2 and DEIS, Appendix B. The preliminary financial analysis conducted for this screening process, which was the same process used for all the Screened Alternatives, showed that the MD 200 Diversion Alternative would require a payment by the State.

Recognizing that the MD 200 Diversion Alternative would have avoided all residential displacements and all but one business displacement and would have reduced the number of parks and historic resources potentially impacted by the proposed action, MDOT SHA's final conclusion, with concurrence from FHWA, was that this alternative would not adequately meet the established Purpose and Need.

Although the Preferred Alternative also avoids improvements to the topside of I-495 and provides less improvement to traffic operations when compared to the DEIS Build Alternatives, it was chosen based in part in response to comments received from the public, partner agencies and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east sides of I-495. While MDOT SHA and FHWA recognize that congestion would be present during the afternoon peak period on I-270 southbound and the I-495 inner loop in the design year 2045 due to downstream bottlenecks outside of Phase 1 South, the Preferred Alternative would provide tangible operational benefits to the system including significantly increasing throughput across the American Legion Bridge and the southern section of I-270 while reducing congestion.

2. Confidence in Project and Public-Private Partnership (P3) Model

The P3 process used for Phase 1 is different from the Purple Line and other P3s in Maryland, in that this process uses a multi-step Progressive P3 model to further identify and reduce impacts and risks. The first step of this process is the collaborative Predevelopment Work. The selected developer for the project proposed a sound approach to delivering Phase 1 that allows the developer to closely collaborate with MDOT, Maryland Transportation Authority (MDTA) and other stakeholders during the Predevelopment phase before finalizing its design and pricing, which will reduce and mitigate risks and challenges that would exist in a more traditional procurement process as well as other P3 models.

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1 to what essentially is blackmail. Somebody can walk off a
2 half-done job because they didn't get the money they wanted, and
3 there is no process that requires a mandatory reaching of an
4 agreement by neutral arbiter. Then there is no way you don't
5 put yourself in a position to be abused, and the State has
6 experienced that today. We don't have the level of confidence
7 the State's ready to manage a P3 at this magnitude and with as
8 many things that are likely to be unknown on this project that
9 dwarf the scale of the project that was the Purple Line.

10 If this is the predetermined view of the State, they're
11 going to go through with this anyway. We're going to continue
12 to work with you. One of my staff members is on the committee,
13 but we need a look at everything from the environmental impacts,
14 to the impacts on the roads this thing is going to empty into,
15 to certainty about how the local jurisdictions will receive
16 tolls in order to pay for alternative infrastructure, and
17 frankly, we all think you ought to go back and look at the
18 drawing board.

19 In the world of COVID, there's no guarantee. Look at us
20 today. There's no guarantee people are going back to work in
21 offices in the numbers they went to before. You could very

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The Honorable Marc Elrich
Montgomery County Council
Page Five

Regarding the subsidy of taxpayer dollars, on a revenue-risk P3, as being pursued under Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the P3 Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

MDOT does not have enough funds to construct improvements of the magnitude associated with the Preferred Alternative and does not have enough bonding capacity to take out loans to pay for the improvements, even with the promise of tolls to pay them back. Therefore, MDOT elected to use a Public-Private Partnership or P3 approach to finance the project.

A P3 is an alternative model for delivery of a capital project in which the governmental sector works with the private entities. The particular P3 model identified for Phase 1 South is a progressive multi-step approach. This P3 model, like others, seeks to make the most of private sector expertise, innovation, and financing to deliver public infrastructure for the benefit of the public owner and users of the infrastructure. This P3 Agreement includes designing, building, financing, operating, and maintaining a transportation facility; however, MDOT SHA would continue to own all lanes and infrastructure on I-495 and I-270 and ensure the highway meets their intended transportation function.

3. Changing Travel Patterns

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

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The Honorable Marc Elrich
Montgomery County Council
Page Six

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to **FEIS, Appendix C.**

4. Inadequate Purpose and Need

Consistent with long-established federal environmental regulations, the Purpose and Need for the MLS generally describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local, and regional transportation professionals over several decades. The Purpose and Need statement identifies a proposed action to address those needs and describes a variety of financial and transportation reasons for the agency to consider some form of managed lanes as a proposed solution.

NEPA requires FHWA and MDOT SHA to identify the proposed solution to the public and then to objectively thoroughly evaluate the environmental effects of that proposed solution, and the benefits and effects of other reasonable alternatives. This is what has been done for the MLS and is outlined in the DEIS. The study sets forth the well-recognized transportation problem, analyzed 17 alternatives including transit and smaller roadway improvements, TSM/TDM as well as a variety of managed lanes alternatives. TSM/TDM and transit elements have been incorporated into the Build Alternatives to support the purpose of enhancing multimodal connectivity and mobility.

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The Honorable Marc Elrich
Montgomery County Council
Page Seven

The initial screening of alternatives considered the initiatives and projects outlined in the Visualize 2045 Plan, the latest financially Constrained Long-Range Plan (CLRP) which was approved by the National Capital Region (NCR) Transportation Planning Board in 2018. The Visualize 2045 Plan identified Seven Aspirational Initiatives for a Better Future to address mobility on a regional basis. One of the seven initiatives was “Expand Express Highway Network”, which includes congestion-free toll roads, building on an emerging toll road network, and new opportunities for transit for express buses to travel in the toll lanes.”

Regarding consideration of other improvements, as noted above, the Preliminary Range of Alternatives included TSM/TDM as Alternative 2 and modes of transit in Alternatives 14A, 14B, 14C, and 15. Alternative 2, TSM/TDM was dropped as a single solution alternative from further consideration during the analysis for the Screened Alternatives. The Alternatives Technical Report (DEIS Appendix A) includes a description of the justification in Section 4.4.3. Although these standalone transit alternatives were found to not meet the Study’s Purpose and Need, the Preferred Alternative incorporates multiple transit elements.

The solutions we are developing are not only about solving today’s congestion challenges, but also about multimodal solutions that are adaptable to the growth expected in the region over the long-term, through 2045 and beyond.

5. Uncertain Environmental Impacts and Mitigation

The I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS, SDEIS, and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study to a comparable level of detail. This analysis directly contributed to MDOT SHA’s evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

Due to extensive coordination and consultation with local, state, and federal resource agencies and stakeholders throughout the NEPA process, MDOT SHA was able to advance avoidance and minimization measures for regulated and sensitive resources including property displacements along I-495 and I-270. This process resulted in an LOD that avoided and minimized impacts associated with the DEIS Build Alternatives and the Preferred Alternative addressing a wide range of water resources, parkland, and historic and/or cultural resources. MDOT SHA accomplished this through a number of approaches, including the elimination or relocation of managed lane access points, shifting the centerline alignment, changing interchange configurations, and other design refinements. Refer to DEIS Appendix B, Alternatives Technical Report and SDEIS, Chapter 2. For the environmentally sensitive area surrounding the ALB, a separate “Strike Team” was convened to develop and evaluate alternatives for replacement of the ALB to avoid and minimize overall impacts to the Chesapeake and Ohio Canal National Historic Park, Clara Barton Parkway, and the George Washington Memorial Parkway.

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The Honorable Marc Elrich
Montgomery County Council
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Lastly, since the publication of the DEIS, additional and successful avoidance and minimization efforts also involved the Morningstar Tabernacle No. 88 Moses Hall and Cemetery. Through additional investigation and survey including ground penetrating radar (GPR), MDOT SHA identified potential unmarked graves within the right-of-way adjacent to I-495. The Preferred Alternative incorporated design refinements that minimized the overall width of the improvements to completely avoid the cemetery property and the known area of state-owned right-of-way that has the potential for unmarked graves. Refer to SDEIS, Chapter 4 and FEIS, Appendix J.

An important benefit to conducting a P3 process with pre-development work concurrent with the NEPA process is to increase efficiency by receiving input by the P3 Developer on design and ancillary elements of the project such as stormwater management. This collaborative effort ensures that the design and associated LOD are appropriate and feasible ahead of final design. While additional LOD refinements may occur during final design, including additional avoidance and minimization, the risk of substantial changes in the LOD or substantial increase in environmental impacts is significantly lowered by the early involvement of the Developer.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office, MDOT SHA

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Marc Elrich
Montgomery County Council
Page Nine

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

MONTGOMERY COUNTY GOVERNMENT – COUNTY EXECUTIVE MARK ELRICH



November 9, 2020

Mr. Gregory Slater, Secretary
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

RE: I-495/I-270 Managed Lanes Study DEIS Comments

Dear Secretary Slater:

The Montgomery County Executive and County Council have been closely following the Managed Lanes Study (MLS) for I-270 and I-495 since its initiation. For ease of reference, we have attached our previous correspondence. We understand that, under your leadership of the Maryland Department of Transportation (MDOT), efforts to have constructive dialogue between the State Highway Administration (MDOT/SHA) and the agencies representing the County have increased. We applaud these efforts to resolve disagreements and encourage you to take further steps to bring transparency and to build understanding and trust within the community about this major initiative.

Detailed technical comments have been provided by both the Maryland-National Capital Park and Planning Commission (M-NCPPC) and the Montgomery County Department of Transportation (MCDOT) on behalf of many County departments. The Executive and Council request your thoughtful consideration of these comments and we encourage you to respond to the questions and concerns identified. We also request that you address the concerns raised by the National Capital Planning Commission (NCPC) and the Metropolitan Washington Council of Governments Transportation Planning Board (MWCOG/TPB) as well as those raised in correspondence and testimony from residents of Montgomery County. Our most significant concerns are identified in the following paragraphs.

Insufficient Alternatives Analysis

Montgomery County recommended the study of the MD-200 Diversion Alternative, which was subsequently endorsed by M-NCPPC and NCPC as a parkland impact avoidance alternative under NCPC's statutory responsibilities, but unfortunately was not given due consideration by MDOT. In our current review of the DEIS, we do not find an alternative that is more attractive than the county's proposed alternative. We did not find any current alternative that was suitable for the entire geographic area of the study. For that reason, we echo our request of October 2019 for a full and detailed analysis of the ability of Maryland 200 to accommodate some of the travel demand on I-495 when coupled with Transportation Systems Management (TSM) for I-495 between the I-270 West Spur and I-95 and for the I-270 East Spur.

Refer to the MDOT SHA Response Letter above for a response to the Montgomery County Government.

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We also identified the need for meaningful inclusion of transit in the DEIS. It does not appear that either of these requirements have been fully considered in the DEIS as the Maryland 200 Alternative and the TSM alternative were dismissed from consideration without detailed development of how either alternative, or the alternatives in combination, could work to improve transportation in these corridors.

Furthermore, transit is not a baseline element of the alternatives, but rather appears to be an afterthought. The next steps in this study should include specific and robust exploration of specific TSM strategies--particularly along I-495 between the I-270 West Spur and I-95, and along the I-270 East Spur--and definition of how this project will provide substantial and ongoing support for transit.

Confidence in the Project and the Public Private Partnership (P3) Model

In addition to the concerns about the impacts to natural resources, adjacent property and parkland, agency comments highlight significant uncertainty about the transportation impacts and benefits of the project, its financial viability, and the equity implications of the project as currently conceived. In terms of transportation benefits, in some instances, the No-Build appears to be the best performing alternative. For example, the No-Build condition provides the fastest average speed and the most reliability for the general-purpose lanes on I-270 northbound in the PM peak hour. In terms of financial viability, concerns about utility relocation costs and impacts to rate payers appear to be unaccounted for in the analysis, as mentioned in our May 14, 2020 letter. In terms of equity, without a robust transit component and favorable policy for high-occupancy vehicles (HOVs), we are concerned that this project will further disadvantage those who are unable to afford to use priced managed lanes in their own personal vehicle. MDOT's current experience with the Purple Line reinforces our concerns about the public private partnership model and therefore, we urge extreme caution about embarking on such a significant undertaking without more confidence in the project risks and the protections to the taxpayers from another massive and complex public-private partnership.

Changing Travel Patterns

We acknowledge that these highways were very congested until March 2020, and that travel on these highways impacted the quality of life for residents and constrained access to businesses within Montgomery County. Action to address these problems was warranted; however, we remain concerned about the range of solutions under consideration and the short- and long-term impacts of these strategies. Additionally, MDOT needs to be cautious as the COVID-19 pandemic may have caused permanent changes in regional travel patterns. As an example, a new independent study conducted for the Northern Virginia Transportation Authority predicts far lower vehicle miles traveled across the region in 2025 than previously thought. The study predicts that Northern Virginians will spend 31% less time traveling at all in 2025 than they would have without COVID.

Inadequate Purpose and Need

As the MLS reaches this major milestone, we restate our concerns that the fundamentals of the analysis, including the Purpose and Need and Alternatives Screening are too narrowly framed to allow a full and detailed exploration of the solutions available to meet transportation needs in these corridors. If the Purpose and Need of the project had been broader, this study might have identified solutions to the most pressing highway needs along with other investments that could transform and differentiate Maryland from competitive jurisdictions in the Capital Region.

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Instead, the alternatives are constrained to highway investments that mirror those of Northern Virginia, but without the commitment to transit exhibited by Virginia. We urge MDOT to broaden its focus so that this project conforms, at a minimum, to the established practice in the region that new express toll facilities provide meaningful and ongoing support to transit.

Uncertain Environmental Impacts and Mitigation

The environmental focus of this project must also be expanded to address the impacts of the whole facility, not just its expansion. If a project results from this study, all reasonable steps must be taken to avoid harm to, and even improve the condition of, resources along the corridors. More detail is needed on the specific strategies planned to address stormwater runoff, impacts to streams, and other watershed impacts.

The project must also address air quality impacts to nearby communities. Expanded monitoring should be included in the project as the analysis shows that congested operations will continue, and traffic volumes will be increased because of the project. It does not appear that there are any monitoring stations near I-270 or I-495 in Montgomery County. As noted in the DEIS, Mobile Source Air Toxins (MSAT) are projected to be higher in the Build Alternatives than under No-Build conditions. The analysis also shows that all Build alternates increase Greenhouse Gas (GHG) emissions in comparison to the No-Build, which is counter to our climate change mitigation goals. These findings in the DEIS highlight the importance of strategies to reduce single-occupant vehicle (SOV) travel as part of this project through provision of transit and facilities like park-and-ride. It also highlights that the FEIS needs to address how the project is consistent with the County's Non-Auto Driver Mode Share (NADMS) goals contained in our adopted Master Plans.

Our communities are also deeply concerned with highway noise. The analysis seems to indicate that noise barriers are "feasible and reasonable" or that existing barriers will be replaced for many areas of concern. This analysis must be translated into commitments to provide noise barriers to the maximum extent possible.

There is major concern about impacts to community and cultural resources. Based on the DEIS, impacts to parks and neighborhoods along I-495 east of the I-270 West Spur appear significant and unacceptable. West of I-270, the Moses Morningstar Cemetery is immediately adjacent to I-495 near Seven Locks Road, in a location where a major ramp system is proposed. As emphasized by our Congressional Delegation on October 26, 2020, impacts to this sensitive historic site are unacceptable.

Recommendations for Next Steps

As MDOT/SHA works to address the comments received and considers a Recommended Preferred Alternative (RPA), we offer the following as guidance about the County's perspective on the project:

- The Final Environmental Impact Statement (FEIS) and Record of Decision (ROD) should correspond to the Phase 1 project approved by the Board of Public Works and currently in procurement by MDOT/SHA. The current disconnect between the environmental and procurement processes will continue to cause confusion and is likely to hamper progress on any part of the project if legal challenges to either process occur.

- Agreement about substantial and ongoing funding for transit must be reached and detailed in the FEIS and ROD for Phase 1 and incorporated into the RPA. Additionally, we expect that the P3 project will directly deliver transit supportive infrastructure. The FEIS and ROD should explicitly define the transit elements, such as park-and-ride, transit centers, and transit facilities to be built directly by the project in the RPA.
- All work to reconfigure the highways should occur within the existing noise walls, or within the developed area of the right-of-way where noise walls are missing, to the maximum extent possible. Encroachment of highway facilities toward nearby businesses, residences, and resources and into undeveloped areas of the right of way remain a major concern with any potential changes to I-495 and I-270 for the entirety of the study area. We do not support expansion of the right-of-way and we expect that you will work with adjacent businesses and residents to minimize potential harm to private property from this project. If any businesses are directly or indirectly impacted by construction of the project, State-managed business impact assistance must be provided.
- Reversible Managed Lanes appear to be effective on I-270 between the split and I-370; however, the RPA should only be selected after the completion of alternatives analysis for I-270 north of I-370. This would allow identification of an RPA for the entirety of Phase 1 of the project and avoid unexpected outcomes resulting from the separation of the studies. We note that residents in the surrounding neighborhoods have consistently expressed concerns about unmitigated noise from the existing highway and have expressed opposition to physical expansion of the highway.
- Managed lanes appear to help meet the traffic demands between the project limit at the George Washington Memorial Parkway (GWMP) and the I-270 split, although it is not clear exactly what configuration best balances the transportation needs with the need to protect community, cultural and environmental resources, like the Carderock Springs Elementary School and Moses Morningstar Cemetery, along this section of the corridor. Our residents in this area continue to express concerns about project noise and stormwater impacts. It appears that the most significant impacts result from proposed interchange ramps and alternative configurations that avoid these impacts should be explored. We agree with the concerns about unacceptable impacts to the Moses Morningstar Cemetery raised by members of our Congressional Delegation on October 26, 2020.
- If retained in the FEIS, improvements to I-495 between the I-270 West Spur and I-95 and to the I-270 East Spur should be limited to Transportation Systems Management (TSM) including ramp metering, variable speed limits, peak period shoulder use, merge/diverge lane adjustments, and potential interchange reconfigurations as contemplated in the recently adopted Montgomery Hills/Forest Glen master plan.
- Direct ramps between the managed lanes and River Road, Westlake Terrace, Wootton Parkway, and Gude Drive appear to improve the benefits to auto users and transit passengers alike. The RPA must include mitigation measures for traffic impacts within the community associated with the increased traffic volumes and new connections generated by the project. Vision Zero requires that mitigation measures must enhance the safety performance of local roads.
- We support your earlier decision for transit to use the managed lanes at no charge. We also encourage you to adopt a High Occupancy Toll (HOT) lane policy consistent with Virginia, where

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High Occupancy Vehicles with three or more people (HOV3+) are permitted to use the managed lanes free of charge.

- We support including a shared use trail in the reconstructed American Legion Bridge and the RPA should detail other pedestrian and bicycle facility improvements to be implemented with this project including master-planned facilities and improved pedestrian/bicycle safety around existing and proposed interchanges. These facilities are essential if the project is to comply with Vision Zero.
- As was done for the Woodrow Wilson Bridge, the replacement of the American Legion Bridge should include design provisions that allow for the addition of new transit modes, like rail transit, without requiring reconstruction of the bridge.

We welcome your continued engagement on this important project.

Sincerely,



Marc Elrich
County Executive



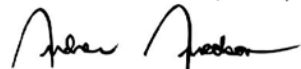
Sidney Katz
Council President, County Council District 3



Tom Hucker
Council Vice President, County Council District 5



Gabriel Albornoz
County Council At-Large



Andrew Friedson
County Council District 1



Evan Glass
County Council At-Large



Will Jawando
County Council At-Large



Nancy Navarro
County Council District 4



Hans Reimer
County Council At-Large



Craig Rice
County Council District 2

cc: Tim Smith, Administrator MDOT/SHA and Lisa Choplin, MLS Project Director

Attachments: October 23, 2019 County Letter to MDOT Secretary Rahn re MD-200 Diversion Alternate
May 14, 2020 Letter to MDOT Secretary Slater re WSSC
October 26, 2020 Congressional Delegation Letter re Moses Morningstar Cemetery



OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Marc Elrich
County Executive

October 23, 2019

Pete K. Rahn, Secretary
Maryland Department of Transportation
P.O. Box 548
7201 Corporate Center Drive
Hanover, MD 21076

RE: Clarification of the County Position on the MDOT/SHA I-495/I-270 Managed Lanes Study

Dear Secretary Rahn:

In July, the County Executive wrote to Chairman Nohe of the Transportation Planning Board (TPB) of the Metropolitan Washington Council of Governments requesting inclusion of a new alternative for the I-495/I-270 Managed Lanes Study in the Visualize 2045 Long Range Transportation Plan Air Quality Conformity Analysis. At that time, MDOT/SHA agreed to consider a similar alternative, calling it the Maryland 200 Diversion Alternative, and we appreciate your team's decision to add this alternative to the National Environmental Policy Act (NEPA) analysis. Since that time, members of the community have approached County officials expressing concern that the County no longer supports reversible lanes on I-270 and that the County has endorsed an alternative for the MDOT/SHA Managed Lanes project. We want to be clear that this is not the case.

While we believe that the Maryland 200 Diversion Alternative is worthy of study, we have not endorsed any alternative for this project and remain concerned about the potential impacts of all of the project alternatives still under consideration. In particular, we maintain that the MDOT/SHA NEPA study dismissed the transit and transportation systems management (TSM) alternatives without adequate consideration of how these approaches could meet the transportation needs of the study area. Additionally, the alternative the County provided to the TPB includes several transit, transportation demand management (TDM), and TSM measures that complement the highway elements included in the MDOT/SHA Maryland 200 Diversion alternative. We believe these are essential elements of any congestion relief plan.

For I-270 specifically, the MDOT/SHA Alternatives Retained for Detailed Study (ARDS) include reversible lanes (Alternatives 13B and 13C) and we support continued evaluation of reservable lanes for all of I-270 since this configuration should have a smaller environmental footprint compared to other ARDS. I have attached a revised map for your reference clarifying a preference for reversible lanes. While the preliminary MDOT/SHA analysis shows that a more efficient configuration of I-270 is possible within the limits of the existing highway, we remain very concerned about expansion of I-270 as planning and design progresses. Much like along I-495 where the County has clearly-stated concerns about impacts to communities and parkland, homes in many neighborhoods along I-270 are very close the highway and we do not support further expansion of the highway toward neighborhoods and sensitive resources.

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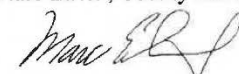
October 23, 2019
Page 2

We would appreciate an update on your plan to communicate with affected communities while the NEPA Study advances. Many community members have indicated that they do not feel engaged in the study process and have expressed a great deal of uncertainty and fear regarding MDOT's plans for this project.

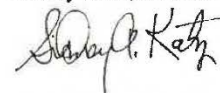
Additionally, we reiterate that transit needs to be part of the solution for meeting the transportation needs of the I-270 corridor. Your decision to eliminate the Corridor Cities Transitway (CCT) from the draft FY 2020 – 2025 Consolidated Transportation Program is troubling to us as it seems counter to the transportation strategy envisioned for this corridor for the last two decades and undercuts the potential for economic growth of the life-sciences sector in Maryland. We ask that you reconsider this decision and commit to developing multimodal solutions to meet travel needs along the I-270 corridor that include the CCT, MARC Rail, Bus Rapid Transit on Maryland 355 and other transit projects.

Sincerely,

Marc Elrich, County Executive



Sidney Katz, Council Vice President



Evan Glass, Councilmember



Will Jawando, Councilmember

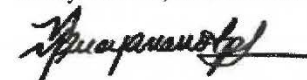


Hans Riemer, Councilmember



c: Greg Slater, MDOT SHA Administrator
Kevin Quinn, MDOT MTA Administrator

Nancy Navarro, Council President



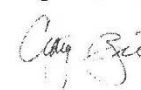
Gabe Albornoz, Councilmember



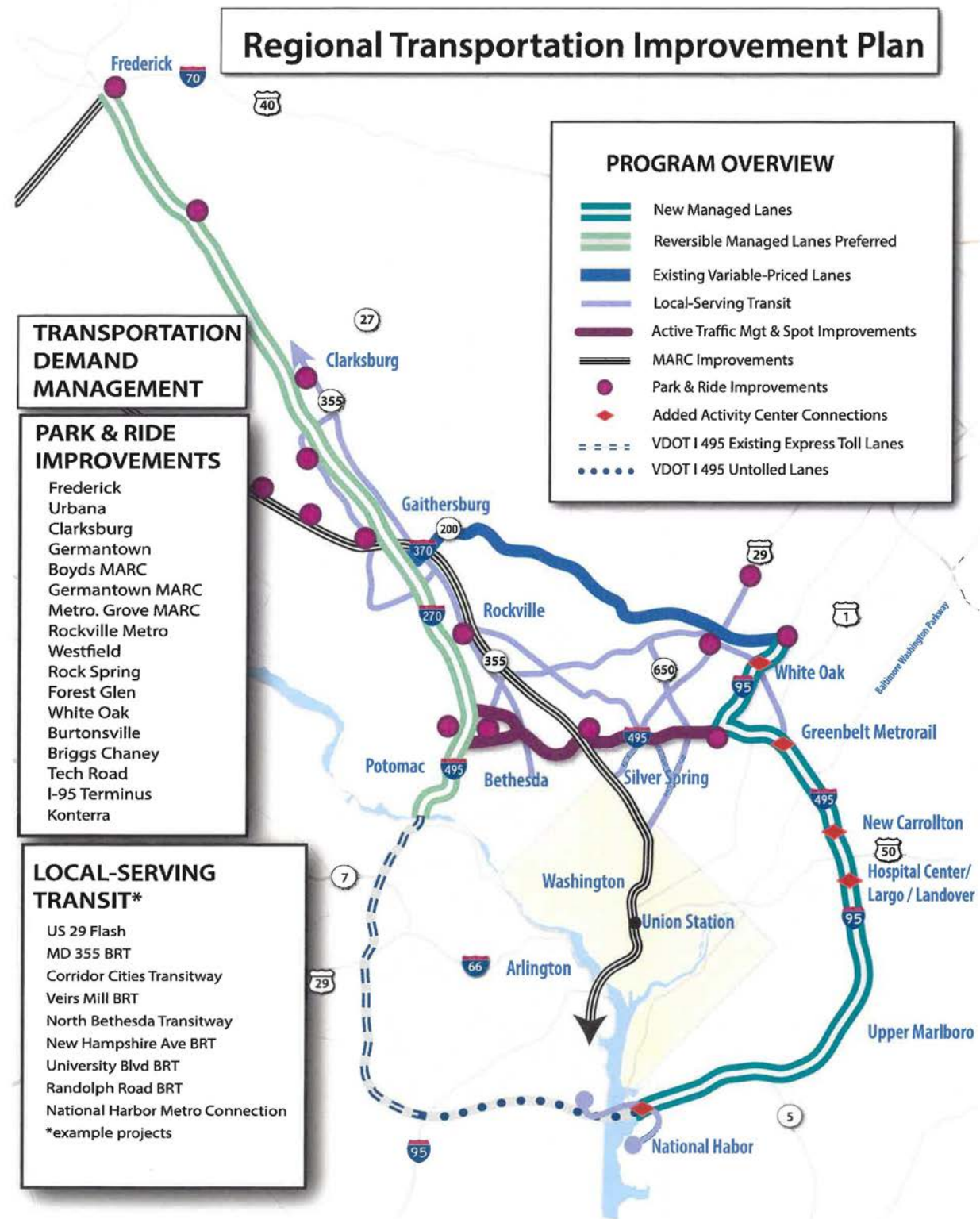
Tom Hucker, Councilmember



Craig Rice, Councilmember



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MONTGOMERY COUNTY
ROCKVILLE, MARYLAND

May 14, 2020

Mr. Gregory Slater, Secretary
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

Re: I-495 & I-270 Managed Lanes P3 Project Potential Impacts on the Washington Suburban Sanitary
Commission Infrastructure

We write on behalf of the Montgomery County Council regarding the potential financial and other
impacts of the Maryland Department of Transportation's ("MDOT") I-495 & I-270 Managed Lanes P3
Project ("Managed Lanes Project") on the infrastructure of the Washington Suburban Sanitary
Commission ("WSSC Water") in Prince George's and Montgomery counties.

The Transportation and Environment Committee of the Montgomery County Council and the
Transportation, Infrastructure, Energy and Environment Committee of the Prince George's County
Council conducted a joint briefing on March 12th with WSSC Water on this yet discussed issue. WSSC
Water staff presented a scenario where the widening of I-495 and I-270 in both counties could – if MDOT
selects and proceeds with the most impactful design alternative - require spending up to \$2 billion to
relocate water and/or sewer infrastructure. In addition, WSSC Water staff detailed the potential impacts to
its network, the most alarming of which was WSSC Water's belief that its portion of the associated cost to
relocate water and/or sewer infrastructure will be borne by ratepayers in the two counties under the
current agreement with MDOT.

The Committees were informed that a 1958 memorandum of understanding, which remains in effect,
between WSSC Water and the then-Maryland State Roads Commission - now the Maryland State
Highway Administration (SHA) within MDOT - states that the cost responsibility for the water and/or
sewer infrastructure relocation required by modifying or widening a state road is determined by which
agency first occupied an easement or "prior rights". Under the 1958 memorandum, the agency holding
prior rights is not responsible for the relocation costs of the WSSC Water's infrastructure resulting from
SHA's roadway improvements.

WSSC Water has estimated its cost responsibility in the Managed Lanes Project to be \$1 billion
(approximately 50% of the relocation costs) based on historical data. As you are familiar, when the
proposed Managed Lanes Project was announced by Governor Hogan and MDOT three years ago, he
promised that the project would be constructed at no cost to taxpayers, and that the private concessionaire
would bear the costs and risks of constructing the new lanes, paying down those costs over time through
toll collections. It is fair to say that the likes of the Managed Lanes Project was not contemplated in the
1958 memorandum, particularly relocation costs.

It is our understanding that WSSC Water has had initial discussions with MDOT who has provided some
cost estimates for water and/or sewer infrastructure relocations. At this time, MDOT has neither

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confirmed nor indicated that the concessionaire would cover these relocation expenses. We also understand that MDOT has stated that relocation costs were included in their preliminary project cost calculations, but the estimates provided are far less than what WSSC Water has estimated in the most impactful design scenario. Again, it remains unclear whether WSSC Water relocation costs will be borne by ratepayers or the P3 concessionaire.

This Council strongly believes that our residents should not be responsible for the cost of these private toll lanes in any way, specifically if WSSC Water ratepayers will face significant increases to their water and sewer bills to cover all costs (construction, design and administrative) associated with infrastructure relocation. If MDOT proceeds with the project and WSSC Water remains responsible for any associated relocation costs of its water and/or sewer infrastructure, the Montgomery County Council joins the Prince George's County Council in not entertaining any WSSC Water Capital Improvements Program that includes such costs and associated rate increases.

I am heartened to learn that you and members of your team have met with WSSC Water leadership, and that you are creating a joint working group to address these concerns. We encourage you and MDOT Project Team to work with WSSC Water to: (1) enter into a new or amended agreement or memorandum on the true estimated costs associated with relocation of its water and/or sewer infrastructure for this project; and (2) ensure that the private concessionaire selected to build and operate any new toll lanes is aware of these cost estimates and is responsible for paying all utility relocation costs as part of the project.

Thank you for your consideration and action in this matter. We look forward to your prompt resolution to the issues raised in this correspondence. Please feel free to contact my office should you have any questions or need additional information.

Sincerely,



Sidney Katz
President



Tom Hucker
Vice President



Gabe Alborno
Councilmember At-Large



Evan Glass
Councilmember At-Large



Will Jawando
Councilmember At-Large



Hans Riemer
Councilmember At-Large



Nancy Navarro
Councilmember District 4

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Congress of the United States
Washington, DC 20510

October 26, 2020

The Honorable Nicole R. Nason
Administrator
Federal Highway Administration
1200 New Jersey Ave. SE
Washington, D.C. 20590

The Honorable Aimee Jorjani
Chairman
Advisory Council on Historic Preservation
401 F Street NW, Suite 308
Washington, D.C. 20001

Dear Administrator Nason and Chairman Jorjani:

We are writing to express our concerns about the potential impacts of Maryland's proposed Capital Beltway-widening project on sites of historic and cultural significance. In particular, Morningstar Tabernacle No. 88 Moses Hall and Cemetery and the Gibson Grove A.M.E. Zion Church are National Register-eligible sites in an historically African American community that has already suffered the impacts of the Beltway's initial construction. If the project were to proceed with new impacts to the site, it would add to the cumulative damage caused by the Beltway's construction through the Gibson Grove community that isolated its church from the cemetery grounds.

Without urgent attention to the Moses Hall site and its significance early in the environmental and historic preservation review process under the requirements of NEPA and Section 106 of the National Historic Preservation Act, we risk once again committing the error of building roads without regard to the historic, cultural, and social values of vulnerable communities, especially those of African American heritage. Instead of repeating past mistakes, we should pursue infrastructure development that promotes inclusivity, connectivity, and uplift, rather than further isolation and erosion of historic and cultural assets.

We urge you, therefore, to use your role in the historic preservation and environmental review process to emphasize the importance of avoiding to the greatest extent possible physical impacts to the Moses Hall property and the Gibson Grove A.M.E. Zion Church as part of any agreement to construct new lanes on the Beltway. Furthermore, we hope that you will work with stakeholders to advance the goal of historic and cultural preservation for the Gibson Grove community. Besides simply avoiding further harm, a major infrastructure project should be an

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occasion to promote recovery from earlier impacts by enhancing the visibility and access of the cemetery site and its connection to the community.

At minimum, we hope that you will use your platform to ensure a rigorous and thorough historic preservation review process that establishes the full scope and significance of historic sites that could be impacted by the construction of new roadways, with stipulations that the consulting parties have the ability to review design documents, advocate fully for the community, and that the future private partner commit to the requirement to avoid harmful physical impacts to these fragile historic sites.

Your role in this process is even more important given that a public-private partnership (P3) was chosen in advance as the approach to delivering the proposed Beltway-widening/managed lanes project. With a P3 structure, the details of many design decisions with consequences for historic sites will be in the hands of the private sector entity that wins a contract with the State. Therefore, it is imperative to establish early on in the review process certain priorities in the public interest that must be fully considered in any project that moves forward.

Thank you for your attention to this matter and for your work to ensure the integrity of the historic preservation review process.

Sincerely,



Benjamin L. Cardin
United States Senator



Chris Van Hollen
United States Senator



Jamie Raskin
Member of Congress



David Trone
Member of Congress

MONTGOMERY COUNTY GOVERNMENT – COUNCIL VICE PRESIDENT TOM HUCKER

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

Name: Tom Hucker

Date/Hearing: 8/25/20

Type/Session: Live/Morning

Transcription:

Thank you all. My name is, I'm Montgomery County Council Vice President, Tom Hucker. I chair our Transportation and Environment Committee and I'm testifying today for our Transportation Environment Committee on the Managed Lanes Study Draft Environmental Impact Statement. Ultimately, the Council and County Executive intend to develop a single, detailed set of recommendations for a County-preferred alternative and to transmit that to Governor Hogan and Secretary Slater. However, today's testimony will concentrate on what our committee sees as shortcomings in the DEIS and the process of its review.

The first shortcoming is the insufficient time allowed for the public and our professional staff to review the DEIS and to help the Council and the Executive develop a County-preferred alternative. Ninety days is not nearly enough to fully grasp the information contained in the report and all of its 19,000 associated documents. We agree with the Executives' proposal to extend the deadline by at least 30 days, especially with the revelation that not all the information was included in the DEIS that was released on July 10th. Our review is further hampered since State Highway administrative staff won't be sending us transcripts of its public hearings until after the October 8th deadline and that SHA will not send us copies of testimony and correspondence, including attachments, submitted to it.

We also wholeheartedly agree with our County Planning Board, that SHA has given short shrift to the, to the Intercounty Connector Diversion Alternative and the cost and the negative impacts that this alternative have been overstated by assuming the toll lanes need to be added between the ICC and the Capital Beltway. The lively refusing to study alternatives put forward in good faith by the elected leadership and the top professional transportation planners who work for the very residents whose lives will be greatly disrupted by this Project is the most cynical type of government decision-making.

We also agree with the Board that the Limits of Disturbance of the alternatives will be much broader than is characterized in the DEIS because the environmental impacts occurring outside these limits have not been identified, and because the inventory of impacts on cultural and historic resources is incomplete. The stormwater management approach in the DEIS discounts the years that existing state highways have degraded the land. SHA anticipates that one quarter of the existing highway surface will be rebuilt. So, under current rules, it would treat only 1/8 of the existing roadway. As the Planning Board has noted, this is wholly inadequate as the runoff from the existing highways continue, causes continued damage to downstream waterways infrastructure. At a time when social equity concerns have risen to the forefront, in this regard the DEIS is particularly tone-deaf. I'm dismayed at the conclusion that every person will benefit from this Project. We know that, by definition, managed lanes benefit those with the ability to pay and it's well established that privately-run managed lanes have a perverse incentive to create, to maintain congestion in public lanes. Imagine if we allow WSSC to provide really clean and safe water for those who could pay for it and mostly clean water for the rest of us. That would not be seen as equitable which is why we don't allow it.

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Tom Hucker
Council Office Building
100 Maryland Avenue
6th Floor
Rockville MD 20850

Dear Councilmember Hucker:

Thank you for your oral testimony regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS) published in July 2020. I appreciate the opportunity to respond to concerns noted in your testimony provided at the August 25, 2020 public hearing on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

So, let's be clear to MDOT – one of the most important priorities for our County Council is striving to achieve equity. And our colleagues in Prince George's and Frederick feel the same way. Yet this Project, through the heart of our counties, flies in the face of that goal.

Last, I'm very concerned about the financial implications of this Project. After the unprecedented failures of the Purple Line P3, MDOT is rushing forward with a new P3 larger in scope and impact. At this point, it's professional malpractice not to include estimates for extended litigation and for cost overruns from design changes, land acquisition, and construction delays. If MDOT wants to avoid some of those costs, then it should make the Record of Decision for the DEIS concurrent with the Phasing. If the Agency doesn't do this, it's going to jeopardize the entire Project. We've argued since the beginning that since MDOT should focus, that MDOT should focus on the parts of the Project that there is broad-based consensus for, such as revamping the American Legion Bridge and then try to tackle other phases later.

Unfortunately, it feels like we're continuing on the same path regarding taxpayer liability for this Project also. We already know, thanks not to MDOT staff, but to a whistle blower, that the cost of utility relocation for WSSC pipes alone could cost ratepayers over one billion dollars. Finally, it's extremely foolish not to reconsider this Project to reflect the fact that congestion and vehicle miles traveled have dropped significantly due to COVID and are expected to stay that way. A new independent, unbiased study construct, conducted for the Northern Virginia Transportation Authority predicts far lower vehicle miles traveled across the Region in 2025 than would have otherwise occurred. The comprehensive analysis considered current economic data and projections, traffic information, and a survey of over a 1,000 people, asking about their travel habits and expectations. The study predicts that Northern Virginians will spend 31 percent less time traveling at all in 2025 than they would without COVID. We will continue to work collaboratively with you to develop a preferred alternative that will meet all these concerns. Thank you.

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There is no action or improvements included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to each of your specific concerns, I offer the following responses.

1. DEIS Public Comment Period

Publication of the DEIS in July 2020 was the product of a tremendous amount of technical analyses and coordination between local, state, regional and Federal officials, and has benefitted from the input the MDOT SHA and FHWA received from the public throughout the process. As outlined in Chapter 7 of the DEIS, extensive engagement with the public, stakeholders, communities, and local, state, regional and federal resource protection agencies had occurred leading up to publication of the DEIS. This coordination informed the development of the Purpose and Need statement, identification a preliminary range of alternatives, and determination of the reasonable alternatives retained in the DEIS for detailed study.

The MDOT SHA and FHWA not only fulfilled, but exceeded, the NEPA regulation requirements for publication of the DEIS and supporting appendices for public review and comment. On July 10, 2020, MDOT SHA and FHWA published the DEIS and made it available on the Op Lanes Maryland webpage and on the U.S. Environmental Protection Agency (USEPA) Environmental Impact Statement (EIS) Database webpage. To accommodate persons without computer access to view the DEIS in hard copy, MDOT SHA and FHWA employed innovative approaches. Temporary facilities to house the DEIS for public review were located at eight community-based public library locations along the I-495 and I-270 corridors, as well as one location in Washington, D.C., due to the continued closure of public facilities. Lobbies at six centrally located post offices in Montgomery and Prince George's counties were also used for DEIS viewing locations. Day and evening hours, week and weekend days were available to provide adequate options for the public to view the documents.

The MDOT SHA, Maryland Transportation Authority, and Virginia Department of Transportation offices within or near the study area were also open to the public for viewing of the DEIS and Technical Reports. Finally, we provided an initial public comment period that was double the regulatory minimum and extended the period by another 30 days, for a total of 123 days, to accommodate requests from the public and elected officials.

The effort to provide opportunity for comment on the DEIS was unprecedented in Maryland. The MDOT SHA and FHWA held four virtual public hearings, each lasting nine hours. Two in-person public hearings were also held in early September, each lasting nine hours, in full compliance with state mandated COVID-19 guidelines to keep both the public and our staff safe. The virtual hearings were live-streamed, and the recorded testimony was posted on the Op Lanes Maryland webpage for full transparency. Additionally, each virtual and in-person hearing could be listened to live via phone to accommodate persons without access to a computer.

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While circumstances related to the global pandemic were different, the same opportunity to comment on the SDEIS was made available. The SDEIS, supporting appendices, public hearing material, information displays, and interactive mapping was made available on the Op Lanes Maryland webpage and the USEPA EIS Database webpage starting on October 1, 2021, for a 60-day public comment period. Hard copies of the SDEIS were placed in public libraries in Montgomery and Prince George's counties, Maryland, Fairfax County, Virginia, and Washington, D.C. One virtual public hearing with two sessions was held on November 1, 2021.

2. Analysis of MD 200 Diversion Alternative

As requested by several cooperating and partner agencies, MDOT SHA evaluated the MD 200 Diversion Alternative that would provide an alternate route for travelers to use MD 200 (Intercounty Connector) instead of the top side of I-495 between I-270 and I-95 to avoid or reduce impacts to significant, regulated resources and residential relocations to that section of I-495. Refer to DEIS, Appendix B. This new alternative was developed and analyzed with input from the agencies to the same level of detail and using the same approach for the anticipated limits of disturbance (LOD) as all other screened alternatives. Detailed traffic analyses were completed on the MD 200 Diversion Alternative to assist in evaluating its ability to meet the Study's Purpose and Need, again, using the same methodology that was used for the Screened Alternatives.

Two key underlying factors played a large role in evaluating whether the MD 200 Diversion Alternative could meet the project Purpose and Need. First, the portion of I-495 proposed to be excluded from any improvements is one of the most congested and least reliable segments of highway in Maryland. While the presumed Transportation Systems Management/Transportation Demand Management (TSM/TDM) measures could slightly improve congestion there, that portion of I-495 would still experience severe congestion. Second, while MD 200 currently has capacity to accommodate the potential for diverted traffic, it is projected that portions of MD 200 would reach capacity during peak travel periods by 2040. Therefore, the ability to handle diverted traffic would be limited in the future.

Traffic analysis on the MD 200 Diversion Alternative was performed using the same key traffic metrics applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput, and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. The MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to DEIS, Chapter 2 and DEIS, Appendix B. The preliminary financial analysis conducted for this screening process, which was the same process used for all the Screened Alternatives, showed that the MD 200 Diversion Alternative would require a payment by the state.

Therefore, even recognizing that the MD 200 Diversion Alternative would have avoided all residential displacements and all but one business displacement and would have reduced the number of parks and historic resources potentially impacted by the proposed action, MDOT SHA's final conclusion, with concurrence from FHWA, was that this alternative would not adequately meet the established Purpose and Need.

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Although the Preferred Alternative also avoids improvements to the topside of I-495 and provides less improvement to traffic operations when compared to the DEIS Build Alternatives, it was chosen based in part in response to comments received from the public, partner agencies and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east sides of I-495. While MDOT SHA and FHWA recognize that congestion would be present during the afternoon peak period on I-270 southbound and the I-495 inner loop in the design year 2045 due to downstream bottlenecks outside of Phase 1 South, the Preferred Alternative would provide tangible operational benefits to the system including significantly increasing throughput across the American Legion Bridge (ALB) and the southern section of I-270 while reducing congestion.

3. Limits of Disturbance (LOD)

The I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS SDEIS, and Final Environmental Impact Statement (FEIS) summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study to a comparable level of detail. This analysis directly contributed to MDOT SHA's evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

MDOT SHA employed a conservative approach to defining the LOD for all the DEIS Build Alternatives and the Preferred Alternative. The LOD represent the proposed boundary within which all construction, mainline widening, managed lane access, intersection improvements, construction access, staging, materials storage, grading, clearing, erosion and sediment control, landscaping, drainage, stormwater management (SWM), noise barrier replacement/construction, stream stabilization, and related activities will take place. Property impacts associated with the LOD were broken into permanent (long-term) and temporary (short-term) areas. This conservative approach to defining the LOD fairly captured the full scope of potential impacts. The methodology used to assess impacts to a number of key resources appropriately considered a broader geographic area than the LOD immediately surrounding the anticipated construction and related activity boundaries. When the project advances to final design, it is anticipated that the design will closely adhere to the LOD defined in the FEIS as the LOD was established to include a reasonable area to construct the Preferred Alternative. For complete graphic descriptions of the Preferred Alternative LOD across the entire span of study limits, refer to the FEIS, Appendix E, Environmental Resource Mapping.

As noted above, the LOD is a conservative estimate of the potential area of disturbance and included a full spectrum of project elements associated with all of the DEIS Build Alternatives and the Preferred Alternative. Refer to FEIS, Chapter 3, Section 3.1.2.

The reasonableness of the LOD applied for determining resource impacts was further reinforced by performing a constructability analysis. This ensured that adequate area within the LOD was provided to construct all project elements, including bridges, retaining walls, noise walls, drainage structures, and interchange ramps, among others. Refer to FEIS, Appendix E, Environmental Resources Mapping.

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Importantly, the methodology to determine project impacts for a variety of key natural, cultural, and socioeconomic resources considered areas beyond anticipated areas of physical disturbance, whether temporary or permanent. For example, the assessment of community impacts and environmental justice (EJ) concerns considered a broad range of jurisdictions across the study area. Refer to FEIS, Chapter 5, Section 5.21. Similarly, the Area of Potential Effects (APE) for purposes of analysis under Section 106 of the National Historic Preservation Act extended to a wider boundary and was agreed to by the Maryland State Historic Preservation Officer in coordination with consulting parties. Refer to FEIS, Chapter 5, Section 5.7. Additionally, MDOT SHA's analysis of air quality impacts also reflected, as required, a regional perspective. Refer to FEIS, Chapter 5, Section 5.8.

Due to extensive coordination and consultation with local, state, and federal resource agencies and stakeholders throughout the NEPA process, MDOT SHA was able to advance avoidance and minimization measures for regulated and sensitive resources and property displacements along I-495 and I-270. This process resulted in an LOD that avoided and minimized impacts associated with the DEIS Build Alternatives and the Preferred Alternative addressing a wide range of water resources, parkland, and historic and/or cultural resources. MDOT SHA accomplished this through a number of approaches, including the elimination or relocation of managed lane access points, shifting the centerline alignment, changing interchange configurations and other design refinements. Refer to DEIS Appendix B, Alternatives Technical Report and SDEIS, Chapter 2. For the environmentally sensitive area surrounding the ALB, a separate "Strike Team" was convened to develop and evaluate alternatives for replacement of the ALB to avoid and minimize overall impacts to the Chesapeake and Ohio Canal National Historic Park, Clara Barton Parkway, and the George Washington Memorial Parkway.

Lastly, since the publication of the DEIS, additional and successful avoidance and minimization efforts also involved the Morningstar Tabernacle No. 88 Moses Hall and Cemetery. Through additional investigation and survey including ground penetrating radar (GPR), MDOT SHA identified potential unmarked graves within the right-of-way adjacent to I-495. The Preferred Alternative incorporated design refinements that minimized the overall width of the improvements to completely avoid the current cemetery property boundary and the known area of state-owned right-of-way that has the potential for unmarked graves. Refer to SDEIS, Chapter 4 and FEIS, Appendix J.

An important benefit to conducting a Public-Private Partnership (P3) process with pre-development work concurrent with the NEPA process is to increase efficiency by receiving input by the Developer on design and ancillary elements of the project such as SWM. This collaborative effort ensures that the design and associated LOD are appropriate and feasible ahead of final design. While additional LOD refinements may occur during final design, including additional avoidance and minimization, the risk of substantial changes in the LOD or substantial increase in environmental impacts is significantly lowered by the early involvement of the Developer.

Overall, the conservative approach to defining the LOD for impact assessment was conducted with the goal of first accurately defining the likely construction of all foreseeable elements of the proposed action, and then continuously encouraging engineering techniques aimed at avoiding and reducing impacts to the greatest extent practicable.

4. Stormwater Management (SWM) Approach

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As outlined in Chapter 2 and Appendix B of the DEIS, Chapter 2 and Appendix C of the SDEIS and Chapter 3 and Appendix D of the FEIS, SWM considerations including methodology and assumptions, a description of major culvert crossings, and assumed SWM provided by the Build Alternatives and the Preferred Alternative were documented. Detailed SWM design is not part of the EIS documents, as SWM assumptions are based on conceptual design level information during this stage of planning. Detailed SWM design will be developed during final design, should the Preferred Alternative be selected. The project will provide adequate SWM to meet state and federal SWM requirements. The project will provide an overall improvement to waterways in the area by treating portions of existing impervious areas, as well as all new impervious areas.

To reduce degradation of waterways and control water pollution, Maryland SWM regulations require that MDOT SHA maximize on-site water quality treatment through Environmental Site Design (ESD) to the maximum extent practicable. If the ESD requirements cannot be met on-site, Maryland SWM regulations allow for offsite water quality treatment within the same six-digit watershed once MDOT SHA has demonstrated that all onsite measures have been exhausted. Every effort has been made to provide the full water quality requirements onsite; however, where water quality requirements could not be met onsite, offsite water quality SWM has been identified within the same six-digit watershed. The final stormwater plan will look to further maximize on-site SWM as final design is completed, assuming the Preferred Alternative is approved in the Record of Decision (ROD).

5. Social Equity

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding Environmental Justice (EJ) pursuant to Executive Order 12898, U.S. Department of Transportation (USDOT) Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011). In addition, under Title VI of the Civil Rights Act, each federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subject to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.

In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study Area. See DEIS, Chapter 4, Section 4.21.3 and DEIS Appendix E, Community Effects Assessment and EJ Analysis Technical Report; SDEIS, Chapter 4 Section 4.21.2 (D), FEIS Chapter 5, Section 5.21 and FEIS Appendix F. Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, USEPA, Maryland Department of Planning, Maryland-National Capital Park and Planning Commission (M-NCPPC), Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project. See FEIS Chapter 5, Section 5.21 and FEIS Appendix F for details on this initiative.

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MDOT SHA's initial analysis of potential EJ impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, USDOT, and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS/SDEIS, Chapter 4, Section 4.21.2 and DEIS Appendix E. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the USEPA EJ Screening and Mapping Tool (EJSCREEN), and through the state of Maryland EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities was consistent with similar assessments completed by outside expert institutions.

A final EJ Analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis (FEIS Chapter 5, Section 21) and in accordance with Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities Act-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements including:

- As part of the commitment to support Vision Zero, a neighborhood walk and cycle connectivity zone will be defined to enhance multi-modal connectivity;

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- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by M-NCPPC), readiness, and landowner consensus, also in commitment to support Vision Zero; and
- Work with Montgomery, Frederick and Prince George's counties to expand transit fare subsidies for eligible low-income riders.

6. P3 Model and Costs

The P3 process used for Phase 1 is different from the Purple Line and other P3s in Maryland, in that this process uses a multi-step Progressive P3 model to further identify and reduce impacts and risks. The first step of this process is the collaborative Predevelopment Work. The Developer for the project proposed a sound approach to delivering Phase 1 that allows the Developer to closely collaborate with MDOT, Maryland Transportation Authority (MDTA) and other stakeholders during the Predevelopment phase before finalizing its design and pricing, which will reduce and mitigate risks and challenges that would exist in a more traditional procurement process as well as other P3 models.

Regarding the subsidy of taxpayer dollars, on a revenue-risk P3, as being pursued under Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

MDOT does not have enough funds to construct improvements of the magnitude associated with the Preferred Alternative and does not have enough bonding capacity to take out loans to pay for the improvements, even with the promise of tolls to pay them back. Therefore, MDOT elected to use a Public-Private Partnership or P3 approach to finance the project.

A P3 is an alternative model for delivery of a capital project in which the governmental sector works with the private entities. The particular P3 model identified for the MLS is a progressive multi-step approach. This P3 model, like others, seeks to make the most of private sector expertise, innovation, and financing to deliver public infrastructure for the benefit of the public owner and users of the infrastructure. This P3 Agreement includes designing, building, financing, operating, and maintaining a transportation facility; however, MDOT SHA would continue to own all lanes and infrastructure on I-495 and I-270 and ensure the highway meets their intended transportation function.

7. Changing Travel Patterns Due to COVID

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Given the uncertainty surrounding resolution of the pandemic and how travel patterns will adjust, and over what time period, no definitive traffic model exists to predict how the global pandemic will affect long-term mobility patterns. To adapt to the ongoing and potential long-term travel impacts associated with the pandemic, MDOT SHA developed a COVID-19 Travel Analysis and Monitoring Plan. Refer to FEIS, Appendix C for a copy of the latest version of that plan and results. The plan included three components:

- **Monitoring:** tracking changes in roadway and transit demand during the pandemic, i.e., how travel varies in response to infection figures, vaccine distribution, unemployment rates, school closings, and policy changes;
- **Research:** reviewing historical data and projections from the Transportation Research Board and the National Capital Region (NCR) Transportation Planning Board; and
- **Sensitivity Analyses:** evaluating “what if” scenarios, including potential changes in teleworking, eCommerce, and transit use on projected 2045 travel demand and operations.

The monitoring effort included tracking changes in traffic volumes and transit usage throughout the pandemic, and the corresponding impact on speeds and congestion along I-495 and I-270. The data shows a severe drop in traffic volumes in April 2020 after stay-at-home orders were issued across Maryland, with daily traffic volumes on I-270 and I-495 reducing by more than 50 percent compared to April 2019. After the stay-at-home order was replaced with a “safer at home” advisory in May 2020, traffic volumes gradually increased throughout the summer, stabilizing at approximately 15 percent less than typical conditions during fall 2020. As cases began to surge in November/December 2020, traffic volumes dipped again through the winter. With the rollout of vaccines in early 2021, the corresponding drop in COVID-19 cases, and the gradual reopening of schools and businesses, daily traffic volumes have continued to recover. Statewide, weekly traffic volumes were only down five percent for the week of November 8, 2021 compared to the same week in 2019, per MDOT’s coronavirus tracking website. Refer to <https://www.mdot.maryland.gov/tso/Pages/Index.aspx?PageId=141>. Transit use has been slower to recover, with use of Maryland Transit Administration (MTA) services statewide down over 40 percent compared to pre-pandemic levels as of October 2021 (see link above).

In the D.C. region, usage of Washington Metropolitan Area Transit Authority (WMATA) facilities is also down significantly compared to 2019. As of Fall 2021, WMATA rail ridership is down 73 percent on weekdays, while WMATA bus ridership is down 40 percent on weekdays, and parking at Metro facilities is down 88 percent. Refer to <https://www.wmata.com/initiatives/ridership-portal/upload/October-2021-Ridership-Snapshot.pdf>.

While congestion decreased significantly on I-495 and I-270 at the onset of the pandemic in Spring 2020, significant congestion had returned to the study area by November 2021, approaching pre-pandemic levels. For example, average speeds on the I-495 Inner Loop crossing the ALB during the PM peak in early November (non-holiday) of 2021 were 20 miles per hour (mph), reflecting significant congestion, and matching the speeds during the similar period in November 2019 (also 20 mph). In the AM peak, average speeds on the I-495 Outer Loop between MD 650 and US 29 in early November 2021 were even lower - below 15 mph. While these speeds are slightly higher than those observed in that same area during the AM peak in November 2019 (10 mph), the findings indicate that there is still a lot of congestion along I-495 even though volumes have not fully rebounded to pre-pandemic levels along I-495 during the morning peak period. Along I-270, average speeds are generally 5 to 10 mph higher in

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November 2021 compared to November 2019 despite volumes exceeding 2019 levels at MDOT SHA's permanent count station located on I-270 South of MD 121. These improvements could be attributed to recent improvements completed by MDOT SHA along I-270, including the opening of the Watkins Mill interchange in 2020 and the implementation of ramp metering along southbound I-270 on-ramps in September 2021 as part of the Innovative Congestion Management (ICM) project. Even so, some congestion remains along I-270, with average speeds on I-270 southbound of approximately 30 mph during the AM peak period and average speeds on I-270 northbound below 40 mph during the PM peak period in November 2021.

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS, Section 4.3 using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several "what if" scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4, Section 4.3 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

PRINCE GEORGE'S COUNTY COUNCIL – THOMAS E. DERNOGA



Thomas E. Dernoga
Council Member
District 1

PRINCE GEORGE'S COUNTY COUNCIL

November 9, 2020

Lisa B. Choplin, DBIA, Director
of the I-495 and I-270 P3 Office
Maryland Department of Transportation (MDOT)
State Highway Administration
707 North Calvert Street
Mail Stop P-601
Baltimore, Maryland 21201

RE: Comments on the I-495/I-270 Managed Lanes Draft Environmental Impact Study

Dear Director Choplin:

I appreciate the opportunity to comment on the I-495/I-270 Managed Lanes Draft Environmental Impact Study (DEIS). As a long-standing environmentalist and elected Councilmember for Prince George's County, Maryland, District 1, and Prince George's County representative to the Metropolitan Washington Council of Governments' (MWCOC) Air Quality Commission, I strongly oppose the proposed expansion of I-495 and I-270.

Having reviewed the DEIS, my specific concerns start with the statement that MDOT's #1 priority is the health and safety of Marylanders and the stated project goals of financial viability and environmental responsibility, but also include several key areas outlined below. The DEIS not only does not fully address these issues, but in several cases, ignores data regarding issues of air quality.

I have also reviewed the position of the Maryland-National Capital Park and Planning Commission (MNCPPC) and been briefed by MNCPPC legal staff. My comments below incorporate information and analysis provided by MNCPPC. Finally, I adopt the Prince George's County Joint Signature letter.

Purpose and Need. MDOT and FHWA have construed the purpose and need so narrowly as to exclude from consideration a number of reasonable alternatives. In addition, alternatives have been eliminated from detailed study, including the MD 200 Diversion Alternative, transportation demand management and transit alternatives, that would be much less damaging to the environment. The Section 404(b)(1) Guidelines prohibit the issuance of permits where there is an alternative available that has less adverse impact on the aquatic ecosystem and is capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. The failure of MDOT to advance the MD 200 Diversion Alternative with sufficient analysis to determine whether it meets these factors fails to meet Section 404.

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MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Thomas E. Dernoga
Prince George's County Council
County Administration Building
14741 Governor Oden Bowie Drive
2nd Floor
Upper Marlboro MD 20772

Dear Councilmember Dernoga:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your November 9, 2020 letter on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

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Mitigation. The DEIS fails to adequately address mitigation. As noted by MNCPPC, lack of stormwater and environmental treatment from existing runoff from I-495, as well as inadequate and inconsistent maintenance of the current outfalls, has long degraded affected streams. MDOT cannot cause the degradation, then use the degradation it caused to suggest that less mitigation is needed.

Phasing. MDOT and FHWA have failed to consider the Project's impacts from phasing. NEPA requires that potentially significant impacts from phasing must be adequately studied during the NEPA process with the impacts from the planned phasing addressed, particularly for projects such as this one that may span many years from start to finish, particularly since the implementation phasing that must be approved by the Board of Public Works leaves so much about the Project in question. The DEIS does not adequately account for local transportation issues, travel demands, and constraints on I-495 and I-270 in Montgomery County. It also fails to account for Prince George's County's land use and transportation plans, such as the development of the University of Maryland Capital Region Medical Center off of I-495.

Green Space and Floodplain Impacts. is approximately 1,500 acres regardless of options (except no build) including approximately 145 acres of total parkland, 119 acres of floodplain, and 16 acres of wetlands. Given the damaging rains received in the D.C. Metropolitan Area in recent years, the 100-year flood plain was breached at the rate of four times expected (now one in 25 years) and the one in 1,000 year storm was experienced twice in the past decade (Source: National Weather Service). Certainly, the most recent flooding of Maryland Route 50 with 8-feet of water, underscores the need to not only retain greenspace, especially wetlands and floodplains, but expand these areas. The removal of this many acres of greenspace will most certainly be detrimental to the residents adjoining the overall I-495 and I-270 corridors. In addition, the limits of disturbance in the DEIS do not adequately address the likely impacts of the project on aquatic resources. Because MDOT will not finalize the design until after it awards a contract to a private partner to engineer, design and construct, there is significant risk that the LOD will be much larger than what is reflected in the DEIS.

Stormwater Management. The requirement for improved stormwater management in general was not addressed in the DEIS. The concern of that the County and local jurisdictions will be left having to improve systems and mitigate the impacts of disturbing 1,500 acres. This hidden cost is just one of the financial viability issues not addressed.

Overall Design Focuses 100% on Automobiles and Trucks. The DEIS does not meet the stated goal of leveraging other modes of transportation. The primary focus is on moving cars and trucks more efficiently around the Maryland beltway I-95, and I-270. The DEIS fails to address alternatives such as metro, rail, multimodal, bike and other alternatives. The majority of current United States workforce are millennials and Gen-Z workers who place high value on public transportation (metro, commuter rails, carpooling). Any project to accommodate more commuters should integrate with existing transportation hubs and potentially use the additional wider boundaries for alternative transportation modes.

Other Design Omissions. The DEIS does not integrate the ending of this project with the existing traffic issues at I-95 and Maryland Route 5. Rather it assumes that the traffic in the new High Occupancy Toll Lanes will magically meld into existing traffic lanes and that the weaving of cars trying to move from the far left to a right-hand exit in a short distance will have no impact on

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There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George's County. Many of the potential impacts raised in your comment letter had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, impacts to parkland, communities and community facilities, historic resources and natural resources within the County have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, as well as with Prince George's County.

In response to each of your specific concerns, I offer the following responses.

1. Purpose and Need and MD 200 Diversion Alternative

The FHWA and MDOT SHA, as lead agencies, developed the Study's Purpose and Need through a collaborative process with other federal, state and local agencies, and the public that included examination of multiple transportation and regional planning studies that were conducted over the past 20+ years. As detailed in the Purpose and Need statement, these studies demonstrated the need in the National Capital Region (NCR) for a synergistic system of transportation solutions as this region is the most congested in the nation based on annual delay and congestion per auto commuter. Refer to DEIS, Appendix A. The Purpose and Need did not preclude or prevent consideration of non-tolled lane alternatives during the course of the study. In sum, both the process to establish the Purpose and Need and the manner in which the agencies considered potential alternatives in light of that Purpose and Need were conducted in accordance with well-established federal regulations.

This examination of previously identified solutions to congestion challenges on I-495 and I-270 were made in the context of existing environmental and socio-economic conditions. The final Purpose and Need established for the Study also reflected goals related to non-highway project elements, which have been incorporated into the final proposed action including environmental responsibility and financial viability. Consistent with FHWA guidance and the CEQ NEPA regulations, the Study's Purpose and Need briefly describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local and regional transportation professionals over several decades. The Study's Purpose and Need statement describes a set of problems arising out of the severe congestion on I-495 and I-270 as well as the geographic, transportation and financial needs for the agency to consider some form of managed lanes as a proposed solution.

As requested by several cooperating and partner agencies, MDOT SHA evaluated the MD 200 Diversion Alternative that would provide an alternate route for travelers to use MD 200 (Intercounty Connector) instead of the top side of I-495 between I-270 and I-95 to avoid or reduce impacts to significant, regulated resources and residential relocations to that section of I-495. Refer to DEIS, Appendix B. This new alternative was developed and analyzed with input from the agencies to the same level of detail and using the same approach for the anticipated limits of disturbance as all other screened alternatives. Detailed traffic analyses were completed on the MD 200 Diversion Alternative to assist in evaluating its ability to meet the Study's Purpose and Need, again, using the same methodology that was used for the Screened Alternatives.

traffic. This pattern which occurs today where I-270 merges with I-495 causes hours of delay and daily traffic accidents.

Air Quality. The DEIS states that carbon monoxide will remain below the maximum threshold but omits what if any changes will occur. It further states that Mobile Source Air Toxins will decrease or remain the same (this assumes no increase in usage), and that only greenhouse gases might increase. The overall impact is made to appear negligible.

The data provides a different analysis. Prince George's County has the highest ozone levels in the State (2018 data). Within my district the two highest 8-hour ozone values were recorded (ppm) at .092 and .09 ppm in the Laurel-Beltsville area. As we all know gas-burning vehicles are a major contributor to this problem.

The American Lung Association reviewed over 700 studies examining the health effects of traffic pollution. They concluded that traffic pollution causes asthma attacks in children and may cause a wide range of other effects including the onset of childhood asthma, impaired lung function, premature death and death from cardiovascular diseases and cardiovascular morbidity. Children and teenagers are among the most vulnerable – though not the only ones at risk. Studies found increased risk of premature death from living near a major highway or an urban road, decreased lung function associated with traffic-related pollution, increased risks of dementia for those living closest to roads.

The I-495 and I-270 project will decrease our ability to meet the goals by the dates stipulated by the Clean Air Act.

Human and Cultural Factors. The report fails to adequately address on adverse impacts of expansion of I-495 and I-270 on local communities. The DEIS does not sufficiently address impact to economically challenged populations or social equity as required under NEPA.

While it enumerates the number of homes (25 to 35 demolished; 1,045 to 1,165 impacted) and number of businesses (four demolished; approximately 350 impacted), it does not talk about quality of life. While listing factors such as noise, pollution, and loss of greenspace there was no analysis of impacts on quality of life and length of life.

The report itself admits that it did not complete a full study of historic sites. The DEIS does not meet the Historic Preservation Act, Section 106 as required as part of the National Environmental Policy Act program.

Outreach. The hearings have not been adjusted to permit virtual attendance and testimony during this period of COVID. Furthermore, the limited places to review the documents in person were small, cramped, and in one case a shed with port-a-potty adjacent, made an in-person review unlikely and downright discouraging. Again, the overall goal of the health and safety of Marylanders seems to have been ignored when it involved hearing from constituents.

Impact of COVID on Long-Term Highway Usage. The impacts of COVID-19 has had an impact on roadway usage across the United States. In the D.C. Metropolitan Area, the normal daily 2-hour morning commutes and 3-hour evening commutes along the proposed routes have disappeared as workers telecommute. Businesses and employees are finding that telework and flex schedules have not negatively impacted productivity but have decreased costs of their operation with lower

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Two key underlying factors played a large role in evaluating whether the MD 200 Diversion Alternative could meet the project Purpose and Need. First, the portion of I-495 proposed to be excluded from any improvements is one of the most congested and least reliable segments of highway in Maryland. While the presumed Transportation Systems Management/Transportation Demand Management (TSM/TDM) measures could slightly improve congestion there, that portion of I-495 would still experience severe congestion. Second, while MD 200 currently has capacity to accommodate the potential for diverted traffic, it is projected that portions of MD 200 would reach capacity during peak travel periods by 2040. Therefore, the ability to handle diverted traffic would be limited in the future.

Traffic analysis on the MD 200 Diversion Alternative was performed using the same key traffic metrics applied to all Screened Alternatives (System-Wide Delay, Corridor Travel Time and Speed, Level of Service (LOS), Travel Time Index (TTI), Vehicle Throughput; and Effect on Local Roadway Network). After this comprehensive evaluation, MDOT SHA determined that the MD 200 Alternative would not address the Study's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving the movement of goods and services. In fact, the MD 200 Diversion Alternative was the worst performing of the various Build Alternatives and provided the least congestion relief benefits. Refer to DEIS, Chapter 2 and DEIS, Appendix B. Moreover, the preliminary financial analysis conducted for this screening process, which was the same process used for all the Screened Alternatives, showed that the MD 200 Diversion Alternative would require a payment by the state.

Recognizing that the MD 200 Diversion Alternative would have avoided all residential displacements and all but one business displacement and would have reduced the number of parks and historic resources potentially impacted by the proposed action, MDOT SHA's final conclusion, with concurrence from FHWA, was that this alternative would not adequately meet the established Purpose and Need.

Although the Preferred Alternative also avoids improvements to the topside of I-495 and provides less improvement to traffic operations when compared to the DEIS Build Alternatives, it was chosen based in part in response to comments received from the public, partner agencies and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east sides of I-495. While MDOT SHA and FHWA recognize that congestion would be present during the afternoon peak period on I-270 southbound and the I-495 inner loop in the design year 2045 due to downstream bottlenecks outside of Phase 1 South, the Preferred Alternative would provide tangible operational benefits to the system including significantly increasing throughput across the American Legion Bridge (ALB) and the southern section of I-270 while reducing congestion.

2. Mitigation and stormwater management (SWM)

SWM considerations including methodology and assumptions, a description of major culvert crossings, and assumed stormwater management provided by the Build Alternatives and the Preferred Alternative were documented. Refer to DEIS, Chapter 2 and DEIS, Appendix B; SDEIS, Chapter 2 and SDEIS, Appendix C; and FEIS, Chapter 3 and FEIS, Appendix D. Detailed SWM design is not part of the Environmental Impact Statement (EIS) documents, as SWM assumptions are based on conceptual design level information during this stage of planning. Detailed SWM design will be developed during final design, should the Preferred Alternative be selected. The project will provide adequate SWM to meet state and federal SWM requirements. The project will provide an overall improvement to waterways in the area by treating portions of existing impervious areas, as well as all new impervious areas.

utility bills and reduced space requirements. Recent announcements by local large employers are extending the period of telework to May 2021. This is a new situation but if the current trend holds, the number of commuters have a strong probability of changing the long-term demand for roadways.

Financial Viability. The financial assumptions on which MDOT relies are speculative, and the basic project costs are omitted, such as a lack of consideration to relocate utilities and water and sewer lines, likely project delays due to litigation, design difficulties and land acquisition challenges—similar to what has happened with the Purple Line. The Purple Line project has resulted in massive cost overruns and time delays jeopardizing the overall project. The I-495 and I-270 P3 project is larger and more complex, what guarantees are there that this project will be successful in managing cost and time and not leave local jurisdictions with unfinished work and higher bills. MDOT fails to demonstrate that the joint P3 project will be successful.

The DEIS states the financial analysis considered preliminary capital costs, initial revenue projections, preliminary operations and maintenance costs, and construction methods, masking the true costs of adding managed lanes both in absolute terms, and in comparison, to transit and the MD 200 Diversion Alternative. Furthermore, projected revenues are likely to be overestimated due to changes in travel behavior as a result of the pandemic.

The DEIS shows it will be difficult or impossible for this project to be delivered without a significant source of public contribution. MDOT is not considering transit because transit will not pay for itself without a significant source of revenue to cover the cost. However, as demonstrated in the DEIS, neither can the addition of toll lanes to I-495 and I-270 pay for itself.

In addition, the analysis fails to address the ability of lower income drivers to pay for High Occupancy Toll Lanes and/or toll-lanes. The pricing of such roads in Northern Virginia have gone as high as \$64 on I-95 during rush hour commutes. The reality is many drivers will go back to neighborhood surface roads to avoid delays created by driving more cars into the “free” lanes. The overall impact of this project would then worsen local congestion, I-495 and I-270 congestion, and extend rush hour beyond the current 3-hours.

In summary, the DEIS not only fails to address the issues, its shortcomings highlight why this project should not be pursued as proposed. I will end as I started – I strongly oppose this project moving forward.

Sincerely,



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To reduce degradation of waterways and control water pollution, Maryland SWM regulations require that MDOT SHA maximize on-site water quality treatment through Environmental Site Design (ESD) to the maximum extent practicable. If the ESD requirements cannot be met on-site, Maryland SWM regulations allow for offsite water quality treatment within the same six-digit watershed. As documented in the SDEIS, Chapter 2 and Appendix C and FEIS, Chapter 3 and Appendix D, every effort has been made to provide the full water quality requirements onsite; however, where water quality requirements could not be met onsite, offsite water quality SWM has been identified within the same six-digit watershed. The cost of SWM has been consistently applied to the estimated project cost. The final stormwater plan will look to further maximize on-site SWM as final design is completed, assuming the Preferred Alternative is approved in the Record of Decision (ROD).

Lastly, MDOT SHA closely coordinated with Maryland-National Capital Park and Planning Commission (M-NCPPC) to determine appropriate mitigation for parkland impacts but also committed to additional environmental enhancement focused on providing water quality improvements. A detailed description of final mitigation as well as the environmental enhancements can be found in the FEIS, Chapter 7.

3. Greenspace and Floodplain Impacts

As a result of the reduction in limits of build improvements under the Preferred Alternative as well as continued efforts to avoid and minimize impacts, a substantial reduction in impacts to forest, wetlands and waterways has occurred. Forest canopy impacts have been reduced from approximately 1,500 acres in the DEIS to approximately 462 acres. Wetland and waterway impacts in the DEIS have also been reduced from approximately 16 acres to 4 acres, and 156,000 linear feet to 42,000 linear feet, respectively.

Mitigation for unavoidable impacts has been developed in coordination with the Maryland Department of Natural Resources, Maryland Department of the Environment and the U.S. Army Corps of Engineers. Final mitigation for forest, wetland, and waterway impacts can be found in the FEIS Chapter 7 and Appendices N and O.

4. Overall Design Focuses 100 on Automobiles and Trucks.

The Study’s Purpose and Need allowed for a robust analysis of a full range of alternative that included evaluation of non-tolled, general purpose lanes, tolled managed lanes, transit only, and a combination of highway and transit improvements. Initially a range of 15 preliminary alternatives were identified and analyzed based on previous studies and planning documents, input from the public and federal, state and local agencies during the scoping process. Additional alternatives were identified and analyzed in direct response to public and agency comments for a total of 17 different alternatives.

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Non-highway alternatives were considered during the alternatives screening process. These included heavy rail and light rail parallel to the existing alignments (the Purple Line Light Rail was already proceeding), fixed guideway or Bus Rapid Transit along a new alignment parallel to the existing highway alignments and dedicated managed bus lanes on I-495 and I-270. Refer to DEIS, Appendix B. As with all the alternatives under the Preliminary Range of Alternatives, these non-highway options were evaluated using the various project needs, a review of available data, similar proposals that had been made over time, as well as a qualitative traffic assessment of each alternative's potential to reduce congestion on I-495 and I-270. For all the major areas of concern, the standalone transit options failed to address the Study's Purpose and Need and had major engineering and operational challenges associated with them. Based upon the analysis conducted and presented and input from agencies and public, FHWA and MDOT determined they would not adequately address long-term traffic growth, address trip reliability, roadway choices, and none of them accommodated homeland security and freight movement needs. For these reasons, those preliminary standalone transit alternatives were dropped from further consideration.

Severe congestion on I-495 and I-270 adversely affects the regional and local roadway network, especially in and around the interchanges and arterial roads within the I-495 and I-270 within the Study limits. The congestion on these corridors also has negative effects on access to and usage of other transportation modes. Besides enhanced performance on I-495 and I-270 themselves, the Preferred Alternative will provide congestion relief on these facilities and will also enhance existing and proposed multimodal travel modes including transit by improving connectivity and mobility through enhancing trip reliability and providing additional travel choices for efficient travel during times of extensive congestion. Opportunities to enhance transit mobility and connectivity within the Preferred Alternative including adding direct and indirect managed lane connections to transit stations and free bus transit usage of the HOT lanes. Additionally, MDOT SHA is committed to regional transit improvements including increasing the number of new bus bays at Washington Metropolitan Area Transit Authority's (WMATA) Shady Grove Metrorail Station and increasing parking at Westfield Montgomery Mall Transit Center. The Preferred Alternative will also provide new or upgraded pedestrian and bicycle improvements throughout Phase 1 South in consideration of local master plans and identified priorities from regional and local agencies.

5. Air Quality

An Air Quality Analysis was completed for the Build Alternatives in the DEIS and updated for the Preferred Alternative in the FEIS. As described in the FEIS and previously described in the DEIS and SDEIS, the methodologies for assessing the established pollutants was done in compliance with the Clean Air Act and Amendment. The Preferred Alternative is located in counties that are listed as attainment for all National Ambient Air Quality Standards (NAAQS) as established by the U.S. Environmental Protection Agency (USEPA) including PM 2.5 and carbon monoxide, except for ozone. Because the area in which the MLS is located is designated as non-attainment for ozone, federal conformity requirements apply.

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Accordingly, there must be a currently conforming transportation plan and program at the time of project approval, and the project must come from a conforming plan and program (or otherwise meet criteria specified in 40 CFR 93.109(b)). The Study is currently included in the NCR Transportation Planning Board (TPB) FY 2019 – 2024 Transportation Improvement Program (TIP) [TIP ID 6432 and Agency ID AW0731 (planning activities)] and the TPB Visualize 2045 Long-Range Plan and accompanying Air Quality Conformity Analysis (CEID 1182, CEID 3281, and Appendix B page 56). The design concept and scope for the Preferred Alternative was included in the Air Quality Conformity analysis accompanying the update to Visualize 2045 which is anticipated be approved in 2022. As the Study is included in the currently conforming long-range plan, it is not anticipated that the updated Air Quality Conformity analysis, which includes the Preferred Alternative, would cause an exceedance of the NAAQS or ozone.

6. Human and Cultural Impacts

The I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS SDEIS, and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study to a comparable level of detail. This analysis directly contributed to MDOT SHA's evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding Environmental Justice (EJ) pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on Environmental Justice and NEPA (2011). In addition, under Title VI of the Civil Rights Act, each federal agency is required to ensure that no person is excluded from participation in, denied the benefit of, or subject to discrimination under any program or activity receiving federal financial assistance on the basis of race, color, national origin, age, sex, disability, or religion.

In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study area. See DEIS, Chapter 4, Section 4.21.4 and DEIS, Appendix E; SDEIS, Chapter 4, Section 4.21.2, FEIS, Chapter 5, Section 5.21.2 and FEIS, Appendix F. Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, USEPA, Maryland Department of Planning, M-NCPPC, Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project. See FEIS, Chapter 5, Section 5.21 and FEIS, Appendix F for details on this initiative.

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The Honorable Thomas E. Dernoga
Page Seven

A final EJ analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis (FEIS Chapter 5, Section 5.21) and in accordance with Executive Order 12898, U.S. Department of Transportation (USDOT) Order 5610.2(C), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:

- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, adding or upgrading Americans with Disabilities Act-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the Public-Private Partnership (P3) Agreement, the Developer has committed to additional community improvements including:

- Define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity as part of its commitment to support Vision Zero;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by M-NCPPC), readiness, an landowner consensus, also as part of its commitment to support Vision Zero; and
- Work with Montgomery, Frederick and Prince George's counties to expand transit fare subsidies for eligible low-income riders.

7. Outreach

Publication of the DEIS in July 2020 is the product of a tremendous amount of technical analyses and coordination between local, state, regional and federal officials and has benefitted from the input the MDOT SHA and FHWA received from the public throughout the process. As outlined in Chapter 7 of the DEIS, extensive engagement with the public, stakeholders, communities, and local, state, regional and federal resource protection agencies has occurred. This coordination has informed the development of the Purpose and Need statement, identification a preliminary range of alternatives, and determination of the reasonable alternatives retained in the DEIS for detailed study.

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The Honorable Thomas E. Dernoga
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The MDOT SHA and FHWA not only fulfilled, but exceeded, the NEPA regulation requirements for publication of the DEIS and supporting appendices for public review and comment. On July 10, 2020, MDOT SHA and FHWA published the DEIS and made it available on the Op Lanes Maryland webpage and on the USEPA EIS Database webpage. To accommodate persons without computer access, MDOT SHA and FHWA employed innovative approaches to view the DEIS in hard copy. Temporary facilities to house the DEIS for public review were located at eight community-based public library locations along the I-495 and I-270 corridors as well as one location in Washington, D.C. due to the continued closure of public facilities. Lobbies at six centrally located post offices in Montgomery and Prince George's counties were also used for DEIS viewing locations. Day and evening hours, week and weekend days were available to provide adequate options for the public to view the documents. The MDOT SHA, the Maryland Transportation Authority, and Virginia Department of Transportation offices within or near the study area were open to the public for viewing of the DEIS and Technical Reports. Finally, we provided an initial public comment period that was double the regulatory minimum and extended the period by another 30 days, for a total of 123 days, to accommodate requests from the public and elected officials.

The effort to provide opportunity for comment on the DEIS is unprecedented in Maryland. The MDOT SHA and FHWA held four virtual public hearings, each lasting nine hours. Two in-person public hearings were also held in early September, each lasting nine hours, in full compliance with state-mandated COVID-19 guidelines to keep both the public and our staff safe. The virtual hearings held were live-streamed and the recorded testimony was posted on the Op Lanes Maryland webpage for full transparency. Additionally, each virtual and in-person hearing could be listened to live via phone to accommodate persons without access to a computer.

MDOT SHA and FHWA have appreciated the assistance of Prince George's County Park and Planning staff in helping us inform and engage with citizens of Prince George's County. Targeted outreach to Prince George's County residents before and during the DEIS Comment Period has included:

- Social media posts on MDOT SHA, Prince George's County Planning Department and Prince George's County Planning Board Facebook and Twitter Accounts;
- Flyer translated in English, Chinese, and Spanish, Amharic, French, Korean, Malayalam, Punjabi, Tagalog, and Yoruba posted on the P3 Program website and distributed to targeted customers of the specialty markets within Prince George's and Montgomery counties;
- Email and phone calls to community associations and large landowners; and
- Coordination to distribute study information with the main contact who coordinates an extensive Faith Based Advisory Board in Prince George's County.

While circumstances related to the global pandemic were different, the same opportunity to comment on the SDEIS was made available. The SDEIS, supporting appendices, public hearing material, information displays, and interactive mapping was made available on the Op Lanes Maryland webpage and the USEPA EIS database webpage starting on October 1, 2021, for a 60-day public comment period. Hard copies of the SDEIS were placed in public libraries in Montgomery and Prince George's counties, Maryland, Fairfax County, Virginia, and Washington, D.C. One virtual public hearing with two sessions was held on November 1, 2021.

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The Honorable Thomas E. Dernoga
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8. Impacts of COVID on long-term highway usage

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the MWCOG regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOG and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

9. Financial Viability

For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and a range of interest rates. The results showed that some alternatives would have a higher likelihood of being cash flow positive and others would have a higher likelihood of being cash flow negative. These wide ranges were necessary to take into account for various market conditions that could change before financial close.

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The Honorable Thomas E. Dernoga
Page Ten

Regarding the subsidy of taxpayer dollars, on a revenue-risk P3, as being pursued under the Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

MDOT does not have enough funds to construct improvements of the magnitude associated with the Preferred Alternative and does not have enough bonding capacity to take out loans to pay for the improvements, even with the promise of tolls to pay them back. Therefore, MDOT elected to use a Public-Private Partnership or P3 approach to finance the project.

A P3 is an alternative model for delivery of a capital project in which the governmental sector works with the private entities. The particular P3 model identified for Phase 1 South is a progressive multi-step approach. This P3 model, like others, seeks to make the most of private sector expertise, innovation, and financing to deliver public infrastructure for the benefit of the public owner and users of the infrastructure. This P3 Agreement includes designing, building, financing, operating, and maintaining a transportation facility; however, MDOT SHA would continue to own all lanes and infrastructure on I-495 and I-270 and ensure the highway meets their intended transportation function.

With respect to your toll-related equity comment, the Preferred Alternative provides options for travel. First, the existing free general purpose lanes will remain free. Second, the Preferred Alternative allows vehicles with three or more users to travel toll-free, thus reducing reliance on single occupancy vehicles while encouraging use of bus transit, carpool, and vanpool travel options. Lastly, the Preferred Alternative includes elements that support multimodal mobility and connectivity including direct access to transit stations from the managed lanes, capital improvements, and numerous bicycle and pedestrian improvements.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office, MDOT SHA

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Thomas E. Dernoga
Page Eleven

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

PRINCE GEORGE’S COUNTY COUNCIL – DANNIELLE GLAROS (ORAL TESTIMONY)

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

Name: County Council Member Dannielle Glaros

Joint Public Hearing Date: 9/3/2020

Type/Session: Live Testimony/Evening

Transcription:

Hi, this is County Council Member Dannielle Glaros. I'm a Prince George's County Council Member representing District 3, which includes many of properties that would be affected under the proposal for the I-495 270 P3 project. On this act across Prince George's County, about a 169.4 acres have been identified for acquisition between all of the different options that have been put out. And today I am speaking on behalf of myself, I know our county council will be reviewing the documents further and will be taking a position later, but today I'm calling in, speaking on behalf of my residents of District 3 in support of the no build option. And in fact, you just heard from one of the mayors I represent, Mayor Dewey from Berwyn Heights. There's a multitude of reasons that I have deep concerns about this project. Many of you also are familiar with my district because the Purple Line 10, 9 of the 11 stops in Prince Georges County are in District 3, the district I represent. I'm well familiar with the challenges actually that have occurred around P3 projects here in the state of Maryland, which actually leads me to be even more concerned about what I see in front of us and the draft DEIS that's in front of us today. So far, the DEIS excludes a lot of the costs that I think we are going to incur. One, we know that the Washington Suburban Sanitary Commission has already estimated that moving the water and sewer pipes along these proposed alignment's and expansions would be much more expensive than what MDOT predicts. As was also mentioned in the DEIS, it admits that upwards of one billion in state subsidies might be needed to complete the project. The reality is, and this is mentioned as well in the DEIS, that there is a lot of impacts associated with this project that we don't yet know. Yes, there's 1,500 properties, homes that would be affected. But today, we still don't know the details about how much those properties would be affected. They may be losing a few feet of their backyard. They may be losing 15 feet of their backyard. That matters to the livelihood and the viability of those properties moving forward. So I believe that we've actually, at this point underestimated the number of properties that might be impacted and the number of properties that actually might need to be appropriately acquired to ensure people's safety. Local communities would definitely be hit hard by this proposal, but also would our environment. And that is everything from thinking about particulate matter to carbon monoxide to global warming, but I think in Prince George's County, what I'll highlight the most is that the county itself, based on this proposal in front of the state today, would be responsible for mitigating the effect of increased impervious surface on flooding and stormwater management. Across the entire project. across two counties, 550 acres of new and pervious services would be added depending on the options chosen. But it's just simply unacceptable, given the challenges we already have with flooding and stormwater management in our jurisdiction. We have numerous parks that would be affected on there, including Greenbelt Park, but also some neighborhood parks in communities along the route. And the forest canopy will be affected. A total of

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Dannielle Glaros
Councilmember-District 3
Prince George's County Council
14741 Governor Oden Bowie Drive
2nd Floor
Upper Marlboro MD 20772

Dear Council Member Glaros:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your oral testimony at the September 3, 2020 public hearing on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

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I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

1,500 acres of forest canopy will be removed. From the start I've had deep concerns about the DEIS review process and I do believe it's been flawed. And I think from day one, the challenge has been that the state has favored an extensive build option and has used advice really early on for potential P3 partners to guide their project proposal. In Prince George's County there is no examination of 495 of the link between the Woodrow Wilson Bridge and Route 5. No one can explain why that incredibly important and portion in 495 has been left out. In addition, you have the challenges associated with interchanges at 450 or at Route 1 that would need to conform to this wider alternatives being proposed. And as far as I can tell, and I will admit, I haven't read every piece of every page yet of the analysis. This has not yet been fully analyzed and it must be fully analyzed, so we move forward. There is so many lessons that the state needs to learn in regard to the shortcomings that have happened with the Purple Line P3 project. That would be incredibly irresponsible for the State of Maryland to move forward with any option this time besides a no build option. In conclusion, this project is terrible for our local communities and the environment, and it is a not a wise use of state taxpayer dollars. Thank you for your time, I appreciate it, and thank you for your work ahead.

The Honorable Dannielle Glaros
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There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George's County. Many of the potential impacts raised in your testimony had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, impacts to community, historic and natural resources such as Greenbelt Park and other natural resources, parkland, communities and community facilities within the County have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, including with the County.

In response to each of your specific concerns, I offer the following responses.

1. Project Cost

For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and a range of interest rates. The results showed that some alternatives would have a higher likelihood of being cash flow positive and others would have a higher likelihood of being cash flow negative. These wide ranges were necessary to account for various market conditions that could change before financial close.

Regarding the subsidy of taxpayer dollars, on a revenue-risk Public-Private Partnership (P3), as being pursued under the Op Lanes Maryland, debt is still non-recourse to the State, and future tax dollars are not used to reimburse the Developer for the equity and debt the Developer provides. The Developer will be reimbursed solely from future toll revenues generated from managed lanes it will operate and maintain under MDOT's oversight. What this means is that, unlike an availability payment agreement, if toll revenues are below what is projected when the P3 agreement is approved, the Developer, not MDOT, will be responsible to fill any funding gap. For example, when there were lower than expected toll revenues on the I-495 Express Lanes in Virginia, the Developer, not the Commonwealth of Virginia, provided an additional \$280 million in equity for operations and debt service. In an availability payment model, this funding gap would have been Virginia's responsibility, requiring funding to be reallocated from other vital improvements.

From the earliest stages of the NEPA process, MDOT SHA has coordinated with the Washington Suburban Sanitary Commission (WSSC) Water and other utility providers concerning potential impacts that would require the relocation of existing utility infrastructure. During the planning process and NEPA review, impacts to utility infrastructure and potential relocations have been considered. As the project advances from planning to final design, the scope and cost of utility relocations will be further refined in close coordination with WSSC Water and other utility providers.

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The Honorable Dannielle Glaros
Page Three

During predevelopment work for Phase 1, the Developer is working collaboratively with MDOT SHA and our utility partners to further identify, avoid and reduce any impacts to utilities and, where necessary, develop plans to relocate utilities in the most efficient and accommodating manner as possible. To the extent applicable, the Developer is required to adhere to the utility provider's regulations, design standards, and specifications and coordinate any design and construction with the utility provider. Potential cost of utility relocation has consistently been factored into the overall estimates developed for the project. The reduced footprint of proposed improvements associated with the Preferred Alternative as compared to the Build Alternatives discussed in the DEIS, together with ongoing coordination to identify, avoid and minimize conflicts with existing infrastructure to the maximum extent practicable have lowered the cost estimates significantly. The cost estimate for the Preferred Alternative includes the cost of utility relocation based on planning level information and can be found in the (Final Environmental Impact Statement (FEIS), Chapter 3, Section 3.3.

2. Stormwater Management (SWM)

As outlined in DEIS, Chapter 2 and Appendix B, SDEIS, Chapter 2 and Appendix C and FEIS, Chapter 3 and Appendix D, SWM considerations including methodology and assumptions, a description of major culvert crossings, and assumed SWM provided by the Build Alternatives and the Preferred Alternative were documented. Detailed SWM design is not part of the Environmental Impact Statements (EIS) documents, as SWM assumptions are based on conceptual design level information during this stage of planning. Detailed SWM design will be developed during final design, should the Preferred Alternative be selected. The project will provide adequate SWM to meet state and federal SWM requirements. The project will provide an overall improvement to waterways in the area by treating portions of existing impervious areas, as well as all new impervious areas.

To reduce degradation of waterways and control water pollution, Maryland SWM regulations require that MDOT SHA maximize on-site water quality treatment through Environmental Site Design (ESD) to the maximum extent practicable. If the ESD requirements cannot be met on-site, Maryland SWM regulations allow for offsite water quality treatment within the same six-digit watershed. As documented in the SDEIS and FEIS, every effort has been made to provide the full water quality requirements onsite; however, where water quality requirements could not be met onsite, offsite water quality SWM has been identified within the same six-digit watershed. The cost of SWM has been consistently applied to the estimated project cost. The final stormwater plan will look to further maximize on-site SWM as final design is completed, assuming the Preferred Alternative is approved in the Record of Decision (ROD).

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The Honorable Dannielle Glaros
Page Four

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Dannielle Glaros
Page Five

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
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Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

PRINCE GEORGE'S COUNTY GOVERNMENT – ANGELA D. ALSOBROOKS & TODD M. TURNER

From: Myers, Theresa D. <tdmyers@co.pg.md.us>
Sent: Wednesday, October 28, 2020 5:23:53 PM
To: joanne.benson@senate.state.md.us <joanne.benson@senate.state.md.us>; erek.barron <erek.barron@house.state.md.us>; Riddick, Major F. <MFRiddick@co.pg.md.us>; Holt, Floyd E. <FEHolt@co.pg.md.us>; Bellamy, Terry L. <TLBellamy@co.pg.md.us>; Harris, Martin L. <mlharris@co.pg.md.us>; Gwendolyn Clerkley <gtclerkley@co.pg.md.us>; Elizabeth M. Hewlett, Chairman <publicaffairs@ppd.mncppc.org>; Andree Green Checkley <andree.checkley@ppd.mncppc.org>; Bill Tyler <Bill.Tyler@pgparks.com>; Borden, Debra <Debra.Borden@mncppc.org>; Lisa Choplin <LChoplin@mdot.maryland.gov>; Jeffrey Folden <JFolden1@mdot.maryland.gov>; Caryn Brookman (Consultant) <CBrookman.consultant@mdot.maryland.gov>; Tim Smith <TSmith2@mdot.maryland.gov>; Shawn Eum <SEum@mdot.maryland.gov>
Cc: Brown, Donna J. <djbrown@co.pg.md.us>
Subject: 495/I-270 DIES Letter

Good afternoon,
Attached please find your copy of the signed Agenda Letter to Mr. Gregory Slater, Secretary, Maryland Department of Transportation regarding 495/I-270 Managed Lanes Study Draft Environmental Impact Statement ("DEIS"). This letter was approved on 10/27/2020.

LTR 10202020a Agenda Approved Proposed joint letter Mr. Gregory I. Slater, Secretary, Maryland Department of Transportation, regarding 495/I-270 Managed Lanes Study Draft Environmental Impact Statement ("DEIS")

*Terry Myers, Legislative Assistant
Office of the Clerk of the Council
(301) 952-3601 - tdmyers@co.pg.md.us
County Administration Building
14741 Governor Oden Bowie Drive, Room 2138
Upper Marlboro, Maryland 20772*



MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Angela D. Alsobrooks
County Executive
Prince George's County
1301 McCormick Place
Largo MD 20774

The Honorable Calvin S. Hawkins, II
County Council Chairman
Prince George's County Council
14741 Governor Oden Bowie Drive
2nd Floor
Upper Marlboro MD 20772

Dear Executive Alsobrooks and Chair Hawkins:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your October 28, 2020 letter on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, federal permitting agencies are charged with ensuring compliance with all federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the Supplemental Draft Environmental Impact Statement (SDEIS) in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.



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The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George's County. Many of the potential impacts raised in your comment letter had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area. Because Prince George's County is located outside the Preferred Alternative limits of build improvements, impacts to parkland, communities and community facilities, historic resources and natural resources within the County have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, as well as with Prince George's County.

In response to each of your specific concerns, I offer the following responses.

1. The County expects assurance that the State is meeting with impacted individuals and providing ample and accessible notification throughout the process.

Publication of the DEIS in July 2020 was the product of a tremendous amount of technical analyses and coordination between local, state, regional and federal officials and has benefitted from the input the MDOT SHA and FHWA received from the public throughout the process. As outlined in Chapter 7 of the DEIS, extensive engagement with the public, stakeholders, communities, and local, state, regional, and federal resource protection agencies had occurred leading up to publication of the DEIS. This coordination informed the development of the Purpose and Need statement, identification a preliminary range of alternatives, and determination of the reasonable alternatives retained in the DEIS for detailed study.

The MDOT SHA and FHWA not only fulfilled, but exceeded, the NEPA regulation requirements for publication of the DEIS and supporting appendices for public review and comment. On July 10, 2020, MDOT SHA and FHWA published the DEIS and made it available on the Op Lanes Maryland webpage and on the U.S. Environmental Protection Agency (USEPA) Environmental Impact Statement (EIS) Database webpage. To accommodate persons without computer access, MDOT SHA and FHWA employed innovative approaches to view the DEIS in hard copy. Temporary facilities to house the DEIS for public review were located at eight community-based public library locations along the I-495 and I-270 corridors, as well as one location in Washington, D.C., due to the continued closure of public facilities. Lobbies at six centrally located post offices in Montgomery and Prince George's counties were also used for DEIS viewing locations. Day and evening hours, week and weekend days were available to provide adequate options for the public to view the documents.



PRINCE GEORGE'S COUNTY GOVERNMENT

October 28, 2020

Mr. Gregory I. Slater, Secretary
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, Maryland 21076

Re: I-495/I-270 Managed Lanes Study Draft Environmental Impact Statement Comment

Dear Secretary Slater:

On behalf of Prince George's County (the County), we appreciate the opportunity to review and comment on the Maryland Department of Transportation State Highway Administration's (MDOT SHA) Draft Environmental Impact Statement (DEIS) for the I-495 & I-270 Managed Lanes Project. As you are aware, the Federal Highway Administration (FHWA) and MDOT SHA completed DEIS and Draft Section 4(f) Evaluation for the I-495/I-270 Managed Lanes Study, with the Notice of Availability published in the Federal Register on July 10, 2020. The DEIS included traffic, environmental, engineering, and financial analyses of the six Build Alternatives and the No Build Alternative.

This Managed Lanes Project is a large-scale endeavor with a potential substantial impact on the lives of people and motorists throughout our county and the region. Therefore we are very concerned about possible adverse impacts to communities, both economically and environmentally, in the region and specifically in Prince George's County. Overall, we concur with and adopt the findings raised by the Maryland-National Capital Park and Planning Commission (M-NCPPC) and strongly encourage MDOT's careful and thorough review of and response to their comments on the Managed Lanes Project. We also take careful note of recent concerns raised by both the National Capital Planning Commission (NCPC) and the Metropolitan Washington Council of Governments Transportation Planning Board (MWCOTB) on the analysis within the DEIS. In addition, we remind you of the County Council's May 7, 2020 letter regarding the potential financial and other impacts of the Project on the infrastructure of the Washington Suburban Sanitary Commission (WSSC) in Prince George's and Montgomery counties.

In order for the Managed Lanes Project to fulfil its alleged potential, it must actually reduce congestion, incorporate transit and support balanced sustainable development across its entire length. The State needs to ensure that the Managed Lanes Project is context sensitive and makes appropriate connections to established and planned major economic drivers specified by the County. Further, it needs to collaborate regionally to address both the American Legion Bridge and Woodrow Wilson Bridge to bring Maryland and Virginia together on both sides of the Potomac River. As the Managed Lanes Project currently stands, it literally comes up several miles short and ends just west of the MD-5 interchange. We have major concerns about an engineering strategy that dumps two lanes of highway traffic back into the existing I-495 Beltway adjacent to a major economic center, and prior to the Woodrow Wilson Bridge.

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The MDOT SHA, Maryland Transportation Authority, and Virginia Department of Transportation offices within or near the study area were also open to the public for viewing of the DEIS and Technical Reports. Finally, we provided an initial public comment period that was double the regulatory minimum and extended the period by another 30 days, for a total of 123 days, to accommodate requests from the public and elected officials.

The effort to provide opportunity for comment on the DEIS was unprecedented in Maryland. The MDOT SHA and FHWA held four virtual public hearings, each lasting nine hours. Two in-person public hearings were also held in early September, each lasting nine hours, in full compliance with state mandated COVID-19 guidelines to keep both the public and our staff safe. The virtual hearings were live-streamed and the recorded testimony was posted on the Op Lanes Maryland webpage for full transparency. Additionally, each virtual and in-person hearing could be listened to live via phone to accommodate persons without access to a computer.

MDOT SHA and FHWA have appreciated the assistance of Prince George's County Park and Planning staff in helping us inform and engage with citizens of Prince George's County. Targeted outreach to Prince George's County residents before and during the DEIS Comment Period has included:

- Social media posts on MDOT SHA, Prince George's County Planning Department and Prince George's County Planning Board Facebook and Twitter Accounts;
- Flyer translated in English, Chinese, and Spanish, Amharic, French, Korean, Malayalam, Punjabi, Tagalog, and Yoruba posted on the Public-Private Partnership (P3) Program website and distributed to targeted customers of the specialty markets within Prince George's and Montgomery counties;
- Email and phone calls to community associations and large landowners; and
- Coordination to distribute study information with the main contact who coordinates an extensive Faith Based Advisory Board in Prince George's County.

While circumstances related to the global pandemic were different, the same opportunity to comment on the SDEIS was made available. The SDEIS, supporting appendices, public hearing material, information displays, and interactive mapping was made available on the Op Lanes Maryland webpage and the EPA EIS Database webpage starting on October 1, 2021, for a 60-day public comment period. Hard copies of the SDEIS were placed in public libraries in Montgomery and Prince George's counties, Maryland, Fairfax County, Virginia, and Washington, D.C. One virtual public hearing with two sessions was held on November 1, 2021.

2. High Occupancy Toll (HOT) Lanes should be free for vehicles with three or more passengers rather than just a reduced rate.

As explained in the SDEIS, Chapter 2 and Final Environmental Impact Statement (FEIS) Chapter 3, the Preferred Alternative includes two HOT lanes on I-495 and I-270 within the limits of Phase 1 South and vehicles with three or more occupants would be able to use the HOT lanes toll-free.

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Therefore, with the interests of our residents in mind, the County expresses the following comments with the I-495 & I-270 Managed Lanes Study that should be considered prior to this Managed Lanes Project moving forward to the Final Environmental Impact Statement (FEIS):

1. The County expects assurance that the State is meeting with impacted individuals and providing ample and accessible notification throughout the process.

Although the deadline was extended to November 9, 2020, we still have concerns about the overall manner of transparency, timing and notice given for public outreach considering the length of the document. Both virtual and in person session were conducted during late summer and prior to the Labor Day weekend

2. The project needs to connect to major employment and activity centers, including a direct full access interchange to MD-202 and MD-214.

The concept design contains partial access points at the MD-202, MD-214, and US 50 interchanges. However, these partial ramps are insufficient to address the needs of these growing communities. The project design must connect to trails, communities, the and Largo Town Center including the University of Maryland Regional Medical Center. Improvements at every interchange and bridge crossing within the County should provide full bicycle and pedestrian facilities.

3. High Occupancy Toll (HOT) Lanes should be free for vehicles with three or more passengers rather than just a reduced rate.

This will promote more sustainable commuting by encouraging carpooling.

4. MDOT SHA needs to consider future traffic conditions.

The COVID-19 pandemic has significantly impacted the travel habits of County and regional residents. As acknowledged in the DEIS report, “there is no definite traffic model to predict how this unprecedented global pandemic will affect long-term future traffic projections and transit use.” Contemplation of what may be the ‘new normal’ needs to impact the study.

5. MDOT SHA must provide details on Stormwater Management (SWM) mitigation and methodologies.

While the DEIS is not required to include a complete mitigation plan, it should more extensively address existing stormwater runoff issues.

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3. MDOT needs to consider future traffic conditions.

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented Chapter 4 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

4. MDOT SHA must provide details on Stormwater Management mitigation and methodologies.

Stormwater management (SWM) considerations including methodology and assumptions, a description of major culvert crossings, and assumed SWM provided by the Build Alternatives and the Preferred Alternative were documented. Refer to DEIS, Chapter 2 and Appendix B; SDEIS, Chapter 2 and Appendix C; and FEIS, Chapter 3 and Appendix D. Detailed SWM design is not part of the EIS documents, as SWM assumptions are based on conceptual design level information during this stage of planning. Detailed SWM design will be developed during final design, should the Preferred Alternative be selected. The project will provide adequate SWM to meet state and federal SWM requirements. The project will provide an overall improvement to waterways in the area by treating portions of existing impervious areas, as well as all new impervious areas.

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6. The County recommends installing more air quality monitoring stations.

The air quality data in the DEIS for Prince George's County is only obtained from monitoring stations in Upper Marlboro and Beltsville. There was no monitoring station is near the southern segment of the I-495 study area.

7. We are concerned that the Project does not adequately address the possible increased noise level impacting the surrounding communities.

8. The County believes that it is critical for the Project to be comprehensive and multi-modal.

Transit connects key communities and economic centers throughout the circumference of the Capital Beltway and is needed in this Project. While transit is mentioned in the document, greater specificity and a comprehensive transit integration strategy is needed.

9. The County expects further analysis of the extent to which the phasing of the Project will exacerbate socio-economic impacts.

This includes equity, suburban sprawl, and the economic gap in the Washington Metropolitan Region. We have heard of potential impacts to minority communities, African-American cemeteries and communities of color within the Metropolitan Washington Council of Government's (MWCOC) economic emphasis areas.

10. Significant questions remain concerning the financial cost and impacts of the project.

These have been amplified by the recent developments pertaining to the Purple Line, and of course the ongoing pandemic.

In summary, when we talk about gridlock in our region, we know that it is Prince Georgians who are most adversely impacted. It is a majority of our residents who spend hours in traffic instead of being home with their families. While we agree that major actions need to be taken to address these issues and improve the quality of life for all residents and commuters, this project needs to be approached with diligence, flexibility and a full commitment to public engagement marked by coordination, outreach and transparency. We believe these issues can be resolved, and we stand ready to work with MDOT SHA to ensure that the transportation needs of all our residents and the region are met to their fullest extent.

Thank you for your serious consideration to these and the M-NCPPC comments as part of the DEIS. If you have questions or need additional information, please feel free to reach out to us.

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To reduce degradation of waterways and control water pollution, Maryland SWM regulations require that MDOT SHA maximize on-site water quality treatment through Environmental Site Design (ESD) to the maximum extent practicable. If the ESD requirements cannot be met on-site, Maryland SWM regulations allow for offsite water quality treatment within the same six-digit watershed. As documented in the SDEIS, Chapter 2 and Appendix C and FEIS Chapter 3 and Appendix D, every effort has been made to provide the full water quality requirements onsite; however, where water quality requirements could not be met onsite, offsite water quality SWM has been identified within the same six-digit watershed. The cost of SWM has been consistently applied to the estimated project cost. The final stormwater plan will look to further maximize on-site SWM as final design is completed, assuming the Preferred Alternative is approved in the Record of Decision (ROD).


5. The County recommends installing more air quality monitoring stations.


The air quality monitoring stations used to establish the monitored ambient air quality cited in the MLS Air Quality Technical Report (Appendix I of the DEIS and Appendix K of the FEIS) are sited, operated and maintained by the Maryland Department of the Environment (MDE) Air and Radiation Management Administration. There are 25 total stations located throughout Maryland but concentrated mostly in urban/industrial areas that have the highest population and number of pollution sources. The data from these monitors are used by the MDE and the USEPA to determine the ambient air quality concentrations of criteria pollutants to establish air quality data trends for the state. The data from the closest available air quality monitors to the study area were used in the Air Quality Technical Report. Data from these monitors show that the concentrations of criteria pollutants carbon monoxide, small particulate matter (PM_{2.5}) and ozone are all below the National Ambient Air Quality Standards (NAAQS) set for these pollutants, with the exception of the 2015 8-hour ozone standard at some monitor locations. Prince George's, Montgomery and Fairfax counties are all classified as attainment for all NAAQS with the exception of the 2015 8-hour ozone standard, for which the counties are in nonattainment. The analyses of pollutants presented in the Air Quality Technical Report and the FEIS are based on Study-specific data and modeling, and account for the anticipated emissions that would occur as a result of the implementation of the Preferred Alternative.

6. We are concerned that the Project does not adequately address the possible increased noise level impacting the surrounding communities.

A noise analysis for the MLS was conducted in accordance with *The MDOT SHA Highway Noise Abatement Planning and Engineering Guidelines* (April 2020) and FHWA's noise regulations and is summarized in DEIS, Chapter 4 and detailed in DEIS, Appendix J and updated in FEIS, Chapter 5 and FEIS, Appendix L. Noise abatement was investigated at all Noise Sensitive Areas (NSA) where the build traffic noise levels approach or exceed the FHWA criteria federal regulations and the MDOT SHA Guidelines for the defined land use category. Several noise barrier scenarios were analyzed for the MLS: existing noise barriers that would remain in place; existing noise barriers that will be displaced by construction and would be replaced by a reconstructed barrier on a new alignment; existing noise barriers that would be reconstructed and extended; and new barrier construction.

Sincerely,


Angela D. Alsobrooks
County Executive


Todd M. Turner
County Council Chair

Enclosure

cc: Honorable Joanne C. Benson, Chair, Prince George's County Senate Delegation
Honorable Erik Barron, Chair, Prince George's County House Delegation
Council Members, Prince George's County Council
Major F. Riddick, Jr., Chief Administrative Officer, Office of the County Executive
Floyd E. Holt, Deputy Chief Administrative Officer, Office of the County Executive
Terry L. Bellamy, Director, Department of Public Works and Transportation
Martin L. Harris, Deputy Director, Department of Public Works and Transportation
Gwendolyn T. Clerkley, Deputy Director, Department of Public Works and Transportation
Elizabeth Hewlett, Chair, Prince George's County Planning Board, M-NCPPC
Andree Green Checkley, Prince George's County Planning Department, M-NCPPC
Debra S. Borden, Deputy General Counsel, M-NCPPC
Tim Smith, Administrator, Maryland State Highway Administration
Kevin Quinn, Administrator, Maryland Transit Administration
Lisa B. Choplin, DBIA, Director, I-495 & I-270 P3 Office
Jeffrey T. Folden, PE, DBIA, Deputy Director, I-495 & I-270 P3 Office
Caryn J. G. Brookman, Environmental Program Manager, I-495 & I-270 P3 Office

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A preliminary determination of horizontal and vertical alignment for the noise barriers was made; however, final determination of barrier locations and dimensions will be made in final design. Refer to FEIS, Appendix L. Engineering changes reflected in final design could alter the conclusions reached in this analysis, leading to recommendations to add or omit noise barrier locations. A Final Design Noise Analysis will be performed for this Study based on detailed engineering information during the final design phase. The views and opinions of all benefited property owners and residents will be solicited through public involvement and outreach activities during final design.

7. The County believes that it is critical for the Project to be comprehensive and multi-modal.

Alternatives, such as light and heavy rail, were analyzed as part of the 15 Preliminary Range of Alternatives and were dismissed from further consideration because they did not meet the need of addressing existing and long-term traffic growth on I-495 and I-270. Transit options within the study area have been studied multiple times over the past few decades. In 2002, a study of I-495 considered both transit and highway improvements and it was determined that both were needed to address the significant congestion. The light rail alignment was recommended to move forward and in 2016, the 16-mile Purple Line light rail, circumferential to the Capital Beltway, began construction. The I-495 & I-270 MLS includes highway improvements that would complement the light rail system currently under construction to reduce regional congestion and further support one of several aspirational goals of the region's long-range transportation plan by expanding the express highway network.

Although these standalone transit alternatives were found to not meet the Study's Purpose and Need, the Preferred Alternative incorporates multiple transit elements. These transit elements will serve to address the multi-modal and connectivity need in the Purpose and Need and include:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Westfield Montgomery Mall Transit Center, and Medical Center Metro.

Additionally, MDOT SHA has committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

Transit elements were also considered by the Transit Work Group and the I-495/American Legion Bridge (ALB) Transit/Transportation Demand Management (TDM) joint study by the Virginia Department of Rail and Public Transit and the Maryland Department of Transportation Maryland Transit Administration. Both of these initiatives resulted in publicly available reports.



Todd M. Turner
Chair
District 4

PRINCE GEORGE'S COUNTY
Service. Community. Progress.

May 7, 2020

Mr. Gregory Slater, Secretary
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

Re: I-495 & I-270 Managed Lanes P3 Project Potential Impacts on the Washington Suburban Sanitary Commission Infrastructure

Dear Secretary Slater:

I write on behalf of the Prince George's County Council regarding the potential financial and other impacts of the Maryland Department of Transportation's ("MDOT") I-495 & I-270 Managed Lanes P3 Project ("Managed Lanes Project") on the infrastructure of the Washington Suburban Sanitary Commission ("WSSC Water") in Prince George's and Montgomery counties.

The Transportation and Environment Committee of the Montgomery County Council and the Transportation, Infrastructure, Energy and Environment Committee of the Prince George's County Council conducted a joint briefing on March 12th with WSSC Water on this yet discussed issue. WSSC Water staff presented a scenario where the widening of I-495 and I-270 in both counties could –if MDOT selects and proceeds with the most impactful design alternative - require spending up to \$2 billion to relocate water and/or sewer infrastructure. In addition, WSSC Water staff detailed the potential impacts to its network, the most alarming of which was WSSC Water's belief that its portion of the associated cost to relocate water and/or sewer infrastructure will be borne by ratepayers in the two counties under the current agreement with MDOT.

The Committees were informed that a 1958 memorandum of understanding, which remains in effect, between WSSC Water and the then-Maryland State Roads Commission - now the Maryland State Highway Administration (SHA) within MDOT - states that the cost responsibility for the water and/or sewer infrastructure relocation required by modifying or widening a state road is determined by which agency first occupied an easement or "prior rights". Under the 1958 memorandum, the agency holding prior rights is not responsible for the relocation costs of the WSSC Water's infrastructure resulting from SHA's roadway improvements.

WSSC Water has estimated its cost responsibility in the Managed Lanes Project to be \$1 billion (approximately 50% of the relocation costs) based on historical data. As you are familiar, when the proposed Managed Lanes Project was announced by Governor Hogan and MDOT three years ago, he promised that the project would be constructed at no cost to taxpayers, and that the private concessionaire would bear the costs and risks of constructing the new lanes, paying down those costs over time through toll collections. It is fair to say that the likes of the Managed Lanes Project was not contemplated in the 1958 memorandum, particularly relocation costs.

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The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the Op Lanes Maryland website.¹ This report is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed; provide a basis for the evaluation and prioritization of future capital and operating needs in the service area; and initiate discussions about ways to incorporate regional transit services into the Op Lanes Maryland Program.

The I-495/ALB Transit/TDM Plan Final Report was completed in March 2021 and was posted online.² It identified a series of potential investment packages to provide new mobility choices to service interstate travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the ALB in fewer vehicles.

On August 11, 2021, in accordance with Maryland law, MDOT and the Maryland Transportation Authority presented to and received approval from the Board of Public Works (BPW) to award the Phase 1 P3 Agreement to the Selected Proposer for the predevelopment work. As part of its proposal, the Developer has committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South.

To further support transit services, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high priority transit investments in Montgomery County and committed to deliver the Metropolitan Grove Bus Operations and Maintenance Facility including the necessary bus fleet.

Bicycle and pedestrian improvements have also been incorporated into the Preferred Alternative to address the need for accommodating existing and proposed multimodal connectivity and mobility. These improvements include replacing, upgrading or providing new pedestrian/bicycle facilities consistent with local master plans where existing facilities exist or crossroad bridges would be reconstructed due to the Preferred Alternative. Additional commitments that support multimodal travel options are detailed in FEIS, Chapters 3 and 7.

8. The County expects further analysis of the extent to which the phasing of the Project will exacerbate socio-economic impacts.

The DEIS, SDEIS, and FEIS summarize the comprehensive community outreach and engagement strategies and in-depth analyses developed by MDOT SHA to ensure equal access to relevant study information and to identify and address potential impacts to minority and low-income communities pursuant to federal requirements. These strategies reflected federal policy and guidance regarding Environmental Justice (EJ) pursuant to Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011).

¹ <https://oplanesmd.com/transit-benefits/>

² http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf

I-495 & I-270 Managed Lanes P3 Project Potential Impacts on the Washington Suburban Sanitary Commission Infrastructure Letter
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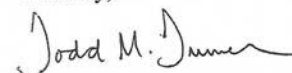
It is our understanding that WSSC Water has had initial discussions with MDOT who has provided some cost estimates for water and/or sewer infrastructure relocations. At this time, MDOT has neither confirmed nor indicated that the concessionaire would cover these relocation expenses. We also understand that MDOT has stated that relocation costs were included in their preliminary project cost calculations, but the estimates provided are far less than what WSSC Water has estimated in the most impactful design scenario. Again, it remains unclear whether WSSC Water relocation costs will be borne by ratepayers or the P3 concessionaire.

This Council strongly believes that our residents should not be responsible for the cost of these private toll lanes in any way, specifically if WSSC Water ratepayers will face significant increases to their water and sewer bills to cover all costs (construction, design and administrative) associated with infrastructure relocation. If MDOT proceeds with the project and WSSC Water remains responsible for any associated relocation costs of its water and/or sewer infrastructure, the Prince George's County Council, as I assume the Montgomery Council, will not entertain any WSSC Water Capital Improvements Program that includes such costs and associated rate increases.

I am heartened to learn that you and members of your team have met with WSSC Water leadership, and that you are creating a joint working group to address these concerns. We encourage you and MDOT Project Team to work with WSSC Water to: (1) enter into a new or amended agreement or memorandum on the true estimated costs associated with relocation of its water and/or sewer infrastructure for this project; and (2) ensure that the private concessionaire selected to build and operate any new toll lanes is aware of these cost estimates and is responsible for paying all utility relocation costs as part of the project.

Thank you for your consideration and action in this matter. We look forward to your prompt resolution to the issues raised in this correspondence. Please feel free to contact my office should you have any questions or need additional information.

Sincerely,



Hon. Todd M. Turner
Council Chair

cc: Hon. Larry Hogan, Governor
Hon. Angela D. Alsobrooks, Prince George's County Executive
Hon. Marc Elrich, Montgomery County Executive
Hon. Sidney Katz, President, Montgomery County Council
Members, Prince George's County Council
Members, Montgomery County Council
Hon. Joanne C. Benson, Chair, Prince George's County Senate Delegation
Hon. Ereik L. Barron, Chair, Prince George's County House Delegation
Hon. Craig Zucker, Chair, Montgomery County Senate Delegation
Hon. Marc Korman, Chair, Montgomery County House Delegation
Ms. Carla Reid, General Manager and CEO, WSSC Water

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In addition to the overall efforts to encourage public participation in the Study, MDOT SHA implemented a comprehensive strategy to ensure complete access to information to the broadest scope of identified EJ communities in the study area. See DEIS, Chapter 4, Section 4.21.4 and DEIS, Appendix E; SDEIS, Chapter 4, Section 4.21.2; and FEIS, Chapter 5, Section 5.21.2 and FEIS, Appendix F. Since publication of the DEIS, an EJ Working Group was formed in response to agency input. Agency members of the EJ Working Group include: MDOT SHA, FHWA, U.S. EPA, Maryland Department of Planning, Maryland-National Capital Park and Planning Commission, Montgomery County Department of Transportation, and Prince George's Department of Public Works and Transportation. The goals of the EJ Working Group focus on further enhancing outreach to potentially impacted underserved communities through engagement following publication of the DEIS to identify community concerns and potential community betterments that could be incorporated into the project.

MDOT SHA's initial analysis of potential EJ impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, U.S. Department of Transportation (USDOT), and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS, Chapter 4, Section 4.21.2 and DEIS, Appendix E. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the USEPA EJ Screening and Mapping Tool (EJSCREEN), and through the state of Maryland EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities was consistent with similar assessments completed by outside expert institutions.

A final EJ Analysis was completed on the Preferred Alternative in the FEIS. Given the reasoning documented in detail in the EJ Analysis (FEIS Chapter 5, Section 21) and in accordance with Executive Order 12898, USDOT Order 5610.2(c), FHWA Order 6640.23A, and an FHWA Guidance on EJ and NEPA (2011), FHWA and MDOT SHA have determined that a disproportionately high and adverse impact would not occur to the EJ Analysis Area population under the Preferred Alternative.

However, to be responsive to community concerns raised during the outreach and engagement efforts, which identified priorities for improved sidewalks and bicycle facilities, better lighting, and traffic calming measures, MDOT SHA commits to working with the City of Rockville, the City of Gaithersburg, and Montgomery County to:



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION
6611 Kenilworth Avenue • Riverdale, Maryland 20737

To: The Maryland-National Capital Park and Planning Commission

Date: October 19, 2020

From: Carol S. Rubin, Special Project Manager
I-495 & I-270 Managed Lanes Study

Debra Borden, Deputy General Counsel
Office of the General Counsel

Subject: Briefing and Discussion for October 21, 2020, Full Commission Meeting:
I-495/I-270 Managed Lanes Project - Comments to DEIS and Joint Permit Application

Recommendation

For the reasons described further below, we recommend that the Maryland-National Capital Park and Planning Commission (Commission or M-NCPPC) authorize the Chair, Vice-Chair, designated officers, staff and/or counsel to transmit correspondence necessary and appropriate to:

(a) Express the substantive and technical comments developed by Commission staff detailing the deficiencies in the Draft Environmental Impact Statement (DEIS) issued by the Federal Highway Administration (FHWA) and Maryland Department of Transportation's State Highway Administration (MDOT SHA) in connection with the I-495 and I-270 Managed Lanes Study (Project); and,

(b) Contest the approval of any joint permit application (JPA) made by FHWA and MDOT SHA to the U.S. Army Corps of Engineers (USA-COE) and the Maryland Department of Environment (MDE) for alteration of a floodplain waterway tidal or nontidal wetland in Maryland.

Background

Current Status. As we have previously reported during Commission briefings, our agency staff has identified a number of serious deficiencies in FHWA/MDOT SHA plans for the Project, and invited the responsible authorities to cure or ameliorate those deficiencies several times – most recently during Chair Anderson's testimony during the public hearing convened by the MDOT SHA hearing officer on August 18, 2020.

At this juncture, MDOT SHA and FHWA issued the Draft Environmental Impact Statement (DEIS) and, in addition, to pursue approval of a joint federal/state permit for the alteration of a floodplain, waterway, tidal or nontidal wetland. Even though FHWA/MDOT SHA have elected to conflate the two processes, and several of the environmental issues do indeed overlap, the environmental impact statement is

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- Identify locations where safer pedestrian crossings on major state roadways are needed;
- Identify locations where additional pedestrian improvements including adding or upgrading sidewalk, restriping for bicycle lanes, and adding or upgrading Americans with Disabilities-compliant ramps are needed; and
- Identify locations along state roads with existing pedestrian facilities where more or better lighting is needed.

As part of the P3 Agreement, the Developer has committed to additional community improvements including:

- Define a neighborhood walk and cycle connectivity zone to enhance multi-modal connectivity as part of its commitment to support Vision Zero;
- Facilitate the development of a facility improvement program for the installation or replacement of sidewalks, crossings, or signal modifications and formalizing trail development that has pedestrian demand, then rank projects according to safety significance (considering predictive safety analyses completed by the Maryland-National Capital Park and Planning Commission), readiness, and landowner consensus, as part of its commitment to also support Vision Zero; and
- Work with Montgomery, Frederick and Prince George's Counties to expand transit fare subsidies for eligible low-income riders.

9. Significant questions remain concerning the financial cost and impacts of the project.

The State of Maryland does not have enough funds to construct improvements of the magnitude associated with the Preferred Alternative. Additionally, the State does not have enough bonding capacity to take out loans to pay for the improvements, even with the promise of tolls to pay them back. Therefore, the State elected to use a Public-Private Partnership or P3 approach to fund the project.

A P3 is an alternative model for delivery of a capital project in which the governmental sector works with the private entities. The particular P3 model identified for the M.L.S is a progressive multi-step approach. This P3 model, like others, seeks to make the most of private sector expertise, innovation, and financing to deliver public infrastructure for the benefit of the public owner and users of the infrastructure. This P3 Agreement includes designing, building, financing, operating, and maintaining a transportation facility, however, MDOT SHA would continue to own all lanes and infrastructure on I-495 and I-270 and ensure the highway meets their intended transportation function.

The Phase 1 P3 Agreement has a termination cap of up to \$50 million for allowable and documented costs and provides that this is payment in full for all work products completed. Even if the Phase P3 Agreement is terminated, those work products will be available for future delivery of the ALB.

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required by the National Environmental Policy Act (NEPA) and the permits are mandated by Section 404 of the Clean Water Act, and a number of interrelated federal statutes. Public comments are due, respectively on November 9, 2020 and November 6, 2020, and the balance of this memorandum outlines our recommendations separately – to correlate with each of the distinctive processes at issue.

Disparate Scopes of Pending Activities. Although the Board of Public Works (BPW) authorized MDOT SHA to move forward with procurement activities to establish a P3 with a private concessionaire, it is for a limited segment of the Project Study Area referred to as Phase 1 (from the Virginia side of the American Legion Bridge north on I-495 and up the western spur of I-270 to I-370, then combining that segment with the northern extension of I-270 from I-370 north to I-70 in Frederick).

Even so, the DEIS as part of the NEPA process and the JPA address the entire Project area including I-495 east of I-270 to MD 5 in Prince George’s County.

Once again, to allow sufficient time for your discussion, we are prepared to address the major comments/issues as identified for the DEIS and the JPA that we believe need your greatest attention, that are consistent with the Commission’s role and responsibility for comment to both the DEIS and the JPA, and preserve the Commission’s interests with regard to the Final Environmental Impact Statement (FEIS), the Record of Decision (ROD), and the noted permits, if issued. However, we will include all of our continuing technical comments as an Appendix to the formal comment letters for appropriate response and inclusion in the ROD.

MDOT SHA plans to recommend a Preferred Alternative after it has received and considered all public comment to the DEIS. We continue to object to MDOT SHA’s omission of the MD 200 Diversion Alternative as well as transit options having advanced for further detailed study. And as we have indicated previously, MDOT SHA continues to rely on the private concessionaire to be responsible for the design, engineering and construction of the highway improvements. Therefore, the impacts presented in the DEIS are rudimentary and based on a limit of disturbance (LOD) as determined by MDOT SHA’s preliminary planning and design without detailed engineering and constructability analyses, adding layers of complexity and nuance to staff’s review and analysis of the DEIS. In that vein, many of the major issues we brought forth in July are still applicable as we prepare the Commission’s formal comments.

A. **JPA Comments:** To obtain a Clean Water Act, Section 404 permit from the USA-COE, MDOT SHA and FHWA must show that it has taken reasonable and practicable steps to avoid impacts to wetlands, streams and other aquatic resources; potential impacts have been minimized; and appropriate mitigation will be provided for all remaining unavoidable impacts. Regulations implementing Section 404 require the USA-COE to ensure that the project will not cause any significantly adverse effects to human health or welfare; aquatic life, and aquatic ecosystems; or recreational, aesthetic or economic values. Maryland law spells out similar preconditions for nontidal wetland permits to be issued by MDE. MDOT SHA must show that “practicable alternatives have been analyzed and that the regulated activity has no practicable alternative.”

The USA-COE and MDE should not approve the requested permits for the following reasons:

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Regarding impacts of the project, the I-495 & I-270 MLS fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS, SDEIS and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study and Preferred Alternative to a comparable level of detail. This analysis directly contributed to MDOT SHA’s evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

Thank you for your comments on the DEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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1. MDOT SHA and FHWA have eliminated alternatives from detailed study, including the MD 200 Diversion Alternative, transportation demand management and transit alternatives, that are practicable and would be much less damaging to the environment.

MDOT SHA rejected the MD 200 Diversion Alternative as not meeting the Project's Purpose and Need of accommodating long-term traffic growth, enhancing trip reliability, or improving movement of goods and services. However, based on information provided in the DEIS, and as acknowledged by MDOT SHA staff during a briefing to the Commission about why that Alternative was not advanced as an Alternative Retained for Detailed study (ARDS), the MD 200 Diversion Alternative does in fact meet Purpose and Need, *perhaps just not as well as some of the other Build Alternatives*. MDOT SHA found that although the MD 200 Diversion Alternative would require a public subsidy of approximately \$310 million, it acknowledged that public subsidies of up to \$1 billion may be needed for other Build Alternatives.

The Section 404(b)(1) Guidelines prohibit the issuance of permits where there is an alternative available that has less adverse impact on the aquatic ecosystem and is capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purposes. The failure of MDOT SHA to advance the MD 200 Diversion Alternative with sufficient analysis to determine whether it meets these factors fails to meet Section 404.

Maryland law spells out similar preconditions for nontidal wetland permits. MDOT SHA must show that "practicable alternatives have been analyzed and that the regulated activity has no practicable alternative." MDOT SHA acknowledges that the MD 200 Diversion Alternative is in a less vulnerable part of the aquatic ecosystem.

The Public Notice for the JPA notes that the six alternatives studied in detail in the DEIS all have substantial direct impacts to streams, wetlands and floodplains. However, the MD 200 Diversion Alternative would avoid impacts to environmental resources and property relocations within this area. Although the MD 200 Diversion Alternative would include improvements to I-95 that would result in some environmental impacts (i.e., to Paint Branch, Paint Branch Park, Little Paint Branch, and Little Paint Branch Park), those impacts are not "significant" compared to the impacts along the topside of I-495 under any Build Alternative. Furthermore, those improvements to I-95 are not necessary to meeting the Project's Purpose and Need, so the impacts to the MD 200 Diversion Alternative would be even less.

Furthermore, Alternative 15—a dedicated bus managed lane network—would also avoid environmental impacts compared to the Build Alternatives. The LOD would be relatively small because the alternative would use the existing roadway (as opposed to the other transit alternatives) and add only one lane in each direction. And, as the DEIS acknowledges, "[a] dedicated managed bus lane would result in higher operating speeds than a bus traveling in a [general purpose] lane." Despite these recognized benefits, the lead agencies concluded the alternative did not meet other aspects of Purpose and Need and elected not to retain it for further study. Finally, all transit options have been taken off the table.

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bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services, MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

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2. The limits of disturbance (LOD) in the DEIS do not adequately address the likely impacts of the project on aquatic resources.

As discussed in the DEIS, MDOT SHA made efforts to minimize the LOD for each of the Build Alternatives. As an example that staff presented at the July 15 briefing, MDOT SHA shifted the LOD closer to I-495 to avoid the need to relocate segments of Rock Creek at Rock Creek Park between Rockville Pike and Stony Brook Drive, opting instead for a retaining wall to protect the creek from the Beltway. However, staff is concerned that the proposed change will require removal of all vegetation along the stream edge. Because MDOT SHA will not finalize the design until after it awards a contract to a private partner to engineer, design and construct, there is significant risk that the LOD will be much larger than what is reflected in the DEIS. For example, stream impacts identified on the Impact Plates¹ severely underestimate the true impacts that will be required to address the existing drainage channels and waterways surrounding the proposed project. Staff expects the LOD to increase in many areas to allow for work to restore, stabilize, and protect natural resources, as well as for construction access, staging, grading, and materials storage. An important aspect of avoidance and minimization is minimizing the roadway footprint while keeping a larger LOD to address environmental issues and adequately restore disturbed areas to ensure that they can handle the increased drainage pressures that would result from a Build Alternative. Ongoing design of this project must ensure stable tie-in for outfalls, protection and restoration of stream banks, and improvements to resources on-site that are impacted by the project. Based on the limited information available, M-NCPPC has identified numerous locations where the LOD does not appear adequate for construction of these outfalls, necessary perennial stream stabilization, and roadway infrastructure.

Furthermore, the LOD may also be inaccurate for other reasons as more fully discussed during the July 15 briefing².

- a. The LOD does not adequately address likely environmental impacts to natural; resources, some that occur outside the limits of the LOD;
- b. Inventory of cultural and historic resource impact is incomplete;
- c. Access decisions are flawed; and
- d. Constructability concerns have not been appropriately addressed.

Finally, to the extent the LOD minimization efforts in the DEIS were too ambitious or optimistic in an attempt to downplay the Project's impacts, the final design may not reflect the DEIS LOD due to funding, engineering, and/or safety concerns.

3. The JPA and supporting documents fail to adequately address required mitigation.

¹ As a general matter, the layout of the supporting documents, particularly the impact plates, makes it extremely difficult to accurately review the quantity and type of impacts for each location. Currently, one has to search for the plate, the impact quantities, the Wetlands and Waterways Features Table, the Impact ID Designation Key, and the Wetland Delineation Data Sheets in multiple separate locations. The Corps and MDE should revise the impact plates such that impacts are shown on the applicable plate itself.

² Please refer to issue #2 in the Memorandum dated June 8, prepared for the June 15 briefing.

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The DEIS states that the USA-COE and MDE will not issue their permits until a detailed compensatory mitigation package, including final mitigation design, is developed and approved. Since the private partner will be responsible for developing a Final Mitigation Plan as part of its final design of the project, the USA-COE and MDE should delay their JPA review until after MDOT SHA and FHWA produce an acceptable mitigation package.

Second, staff objects to the proposed on-site stream mitigation strategy which outlines a credit ratio for impacts to stream resources classified as having “medium” function value. The impacted streams are classified as less than high quality primarily because of degradation caused by lack of stormwater and environmental treatment from existing runoff from I-495, as well as inadequate and inconsistent maintenance of the current outfalls. MDOT SHA cannot cause the degradation, then use the degradation it caused to suggest that less mitigation is needed. The stream features should be treated in the same way as the high quality resources are treated. The highly urbanized nature of the Project area must be accounted for and the extremely high functional value ecosystem functions of these resources must be appropriately mitigated.

Finally, all mitigation sites and privately-owned mitigation bank credits that the USA-COE or MDE requires must be located within M-NCPPC jurisdictions.

4. The JPA and supporting documents do not comply with Section 106 of the National Historic Preservation Act.

Prior to the issuance or authorization of any permit under Section 404 of the Clean Water Act or Section 10 of the Rivers and Harbors Act, the USA-COE, in consultation with the State Historic Preservation Officer and the Advisory Council on Historic Preservation must consider the effect the permit may have on Historic Properties, which include historic districts, sites, buildings, structures, objects, sacred sites, and traditional cultural places that are included in, or eligible for inclusion in, the National Register of Historic Places (NRHP). But first, the USA-COE must go through a rather detailed and arduous process, including identification, consultation, and determination of eligibility for the NRHP. The USA-COE must also define the Area of Potential Effect (APE) and assess the effects of any permits on Historic Properties to establish if they are adverse. The USA-COE must resolve adverse effects by developing and evaluating alternatives that could avoid, minimize, or mitigate these impacts on historic resources.

As indicated at the July 15 briefing³, MDOT SHA and FHWA have not even completed the identification phase of Section 106. And once fully identified, the impacted sites will require additional evaluation.

The permits MDOT SHA and FHWA are seeking from the USA-COE and the MDE would negatively impact Rock Creek Park, Sligo Creek Park and Cabin John Stream Park, parkland administered by M-NCPPC. While Rock Creek Park and Sligo Creek Parkway have officially been designated as historic resources in the NRHP, Cabin John Stream Valley Park should also be eligible for designation within the broader park system that includes Rock Creek Park and Sligo Creek Parkway. These parks are part of the same cultural landscape system that M-NCPPC created to preserve the watersheds of the

³ Please refer to issue #8 in the Memorandum dated June 8, prepared for the June 15 briefing.

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Anacostia and the Potomac Rivers and will be negatively impacted if the proposed permits are granted.

5. The Clean Water Act Section 401 Water Quality Certification and the Coastal Zone Management Act (CMZA), Section 307 consistency should be reviewed prior to the FEIS.

Prior to issuance of the Section 404 permit, the Corp must receive Clean Water Act, Section 401 certification from MDE that any discharge into the impacted waters (Rock Creek, Sligo Creek, etc.) will comply with applicable effluent limitations and water quality standards. Also, federal actions that have reasonably foreseeable effects on coastal uses or resources must be consistent with the policies of an approved coastal management program. MDOT SHA expects to apply for both the 401 certification from MDE and the CZMA consistency finding concurrent with publication of the FEIS with public comment being requested at that time. This is contrary to law and established practice.

MDOT is required to request a Section 401 Water Quality Certification before the Corp may issue an individual Section 404 permit because the authorization process must be completed concurrently with the NEPA process. Delaying these applications until publication of the FEIS would increase the likelihood that the outcome of each certification is predetermined.

Furthermore, the JPA and its supporting documents do not follow MDE's Nontidal Wetlands and Waterways Checklist Guidelines for a complete permit application in several other respects: i) no identification whether temporary or permanent impact, ii) maps omit key details, and iii) construction access and methodology must be described.

- B. **DEIS Comments:** As the regional planning agency and the steward of the natural and built environments in Montgomery and Prince George's Counties, M-NCPPC is responsible for making well-reasoned and informed decisions with regard to any impact from the Project on parkland, including the cultural and historic resources held in trust for the residents of both Counties. Both under the Transportation Act, Section 4(f) analysis, and in accordance with Park Policy, M-NCPPC must hold MDOT SHA to the highest standards to first avoid such impacts; and if avoidance cannot reasonably meet the Purpose and Need (P&N) of the project, by minimizing impact to the greatest extent practicable, and only then is mitigation appropriate. Mitigation must be at equal or greater natural, cultural or recreational value. Therefore, M-NCPPC fully expected MDOT SHA to provide a comprehensive analysis of the proposed project that includes best practices in transportation and land use planning.

Many of the comments to the DEIS and the JPA overlap, and although they will be included in each of the official comment letters, we will not repeat them. Also, since there was no significant change from the Administrative Draft of the DEIS in response to our comments, many of the same issues remain from the July 15 briefing to you. We refer you to the July 8 memorandum prepared for that briefing and sent to you for review on October 16, which included the following issues:

1. **Insufficient Accounting for the ICC.** MD 200 Diversion Alternative should be studied in more detail as a reasonable and practicable technique to avoid impact to critical environmental resources.

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- Various modeling assumptions should be considered in the analyses with and without the I-95 segment.
2. **LOD Modifications after FEIS and ROD.** The LOD as currently proposed by MDOT SHA is unrealistic to depend on to understand impacts to parkland as it is a preliminary planning tool.
 - a. The LOD does not adequately address likely environmental impacts to natural, resources, some that occur outside the limits of the LOD.
 - b. Inventory of cultural and historic resource impact is incomplete.
 - c. Access decisions are flawed.
 - d. Constructability concerns have not been appropriately addressed.
 - e. The final design may not reflect the DEIS LOD due to funding, engineering, and/or safety concerns.
 3. **Making Parks Whole Again.** Environmental responsibility must expressly address both the Federal Transportation Act Section 4(f) requirements and the Montgomery County Parks Policy for Parks - Park, Recreation and Open Space (PROS) Plan 2017. They require that if avoidance of an impact is deemed unreasonable – minimization of an impact must be explored. Once minimization of an impact has been reasonably exhausted, mitigation at equal or greater natural, cultural or recreational value must be sought and agreed upon.
 4. **Adherence to the Capper-Cramton Act.** M-NCPPC will need a complete understanding and commitment from MDOT SHA regarding parkland impacts and mitigation before approval from NCPC is sought for change in use or ownership of Capper-Cramton parkland.
 5. **Social Equity.** The DEIS does not sufficiently address impact to economically challenged populations or social equity as required under NEPA.
 6. **Alternative Modes of Travel.** The DEIS does not meet the stated goal of leveraging other modes of transportation.
 7. **Non-auto driver mode share (NADMS).** NADMS is a primary performance metric and a goal in many Montgomery County master plans, particularly for the urban centers, yet the DEIS does not address how the project will impact those goals or how negative impacts to these goals will be mitigated.
 8. **Non-Conformance with the Historic Preservation Act.** The DEIS does not adequately fulfill the Historic Preservation Act, Section 106 requirements as part of the NEPA process.
 9. **Inadequate stormwater treatment.** The storm water management (SWM) approach presented in the DEIS is insufficient and ignores decades of degradation that the existing highways have inflicted on local land.
- In addition, we recommend raising the following additional major issues as comments to the DEIS as MDOT SHA moves forward toward a Final Environmental Impact Statement and Record of Decision. Ultimately, we strive to hold MDOT SHA accountable to address our concerns in the P3 Agreement, in addition to the P3 Concessionaire responsible for design and development of the Project accordingly.
10. **In addition to omitting the MD 200 Diversion Alternative from further study, MDOT SHA and FHWA have construed the purpose and need so narrowly as to exclude from consideration a number of reasonable alternatives.**

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M-NCPPC raised this concern as part of the reason it did not concur with the selection of the ARDS, either as initially proposed, or as revised. Although the MDOT and FHWA as the Lead Agencies enjoy deference in determining the Project's purpose and need and do not need to advance alternatives for detailed study that are not consistent therewith, NEPA requires the Lead Agencies to define the purpose and need broadly enough to ensure that the review does not eliminate from consideration otherwise reasonable alternatives. Agencies must consider all alternatives that are "practical or feasible from a technical and economic standpoint." Despite this statutory mandate, the Purpose and Need has been defined so narrowly as to exclude from consideration a number of reasonable alternatives such as the MD 200 Diversion Alternative, transit options and transportation demand management. As a result, Alternatives that are reasonable and could have fewer environmental impacts have been given the short shrift. More than the six Build Alternatives warrant further consideration at the DEIS stage

11. MDOT SHA and FHWA have failed to consider the Project's impacts from phasing.

If a Build Alternative is selected, the Project construction will take place in phases. Yet MDOT SHA and FHWA refuses to align the NEPA review process with the State's procurement process under the P3 Act, and the DEIS does not consider the impacts that phased construction will have. The DEIS does not adequately account for local transportation issues, travel demands, and constraints on I-495 and I-270 in Montgomery County. It also fails to account for Prince George's County's land use and transportation plans, such as the development of the University of Maryland Capital Region Medical Center off of I-495. As MDOT SHA's planning process moves towards completion, so must consideration of the phased project's impacts from diverting traffic to use the Inter-County Connector, which requires the completion of the I-270 Managed Lanes expansion and south on I-495 through the bottleneck over the American Legion Bridge.

NEPA requires that potentially significant impacts from phasing must be adequately studied during the NEPA process with the impacts from the planned phasing addressed, particularly for projects such as this one that may span many years from start to finish, particularly since the implementation phasing that must be approved by the Board of Public Works leaves so much about the Project in question.

12. Lack of financial viability and incomplete project costs.

The revenue model as presented in the DEIS demonstrates that toll roads, much like transit can't be paid for without some level of government subsidy. Not only are the financial assumptions on which MDOT SHA relies too speculative, but the basic project costs are omitted, such as a lack of consideration to relocate utilities and water and sewer lines, likely project delays due to litigation, design difficulties and land acquisition challenges— similar to what has happened with the Purple Line.

The DEIS states the financial analysis considered preliminary capital costs, initial revenue projections, preliminary operations and maintenance costs, and construction methods, masking the true costs of adding managed lanes both in absolute terms, and in comparison to transit and the MD 200 Diversion Alternative. Furthermore, projected revenues are likely to be overestimated due to changes in travel behavior as a result of the pandemic.

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The DEIS shows it will be difficult or impossible for this project to be delivered without a significant source of public contribution. MDOT SHA is not considering transit because transit will not pay for itself without a significant source of revenue to cover the cost. However, as demonstrated in the DEIS, neither can the addition of toll lanes to I-495 and I-270 pay for itself. The analysis in the DEIS demonstrates that the cost of building and operating the managed lanes is likely to exceed the toll revenue generated by the project, making the state's decision to exclude transit and other alternatives that would require outside sources of funding arbitrary and capricious.

Anticipated NEPA and Procurement Schedules:

- **9/2020:** Notice of Intent to begin NEPA process for I-270 North portion of the project
- **5/2021:** FEIS and ROD for Project
- **5/2021:** Final selection of Private Partner for Phase 1

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TOWN OF BERWYN HEIGHTS – MAYOR AMANDA DEWEY (ORAL TESTIMONY)

I-495 and I-270 Managed Lanes Study
Joint Public Hearing Testimony

Name: Mayor Amanda Dewey

Joint Public Hearing Date: 9/3/2020

Type/Session: Live Testimony/Evening

Transcription:

Good evening, my name is Amanda Dewey, I'm the mayor of the town of Berwyn Heights. My last name is spelled D-E-W-E-Y and my address is 6216 Quebec Place. And forgive me in advance, we're in a tornado warning and in the basement, so sorry about any background noise. I'll say that in addition to my elected office as mayor, I am a PhD candidate with specialization in environmental sociology and expertise in environmental policy. I first want to clearly state that I do not support this project and support a no build option. First, I'll say that a preferred alternative should not be chosen until all of the true financial and environmental costs are known. To do otherwise would be deeply flawed. MDOT SHA also failed to consider other alternatives for study that I think cannot be ignored, including public transit, telecommuting, and these were not considered in depth. Our current pandemic context has demonstrated the importance of considering these more relevant, safe, healthy and cost-effective alternatives. To move forward with this project without considering these is irresponsible and shortsighted. I also want to say that mitigation measures in the DE - DEIS in my view, were insufficient. The NEPA analysis in many cases notes that the project's impacts are unknown because project details are unknown. But this is contrary to the spirit and purpose of NEPA and entirely insufficient. To determine an alternative and then to come up with detailed impacts later is inexcusable, insufficient and does a disservice to our community. The study segmentation also constrict the scope of evaluation. In my view, data use has been flawed throughout this process, including faulty data used to establish the problem state impacts. For example, air quality and accurate use of revoked, fuel efficient - fuel efficiency standards, and in accurate use of data to predict traffic outcomes. I am not convinced that this project would even see the traffic outcomes that it predicts. I am concerned with air pollution from this project would have an impact on the health of residents of my community who live, work, play, worship and learn near the proposed expansion. The community struggles with stormwater quality and quantity issues that could be impacted by this project. Cultural resources of importance to our community would also be impacted, including many, many acres of protected park land. This 90 day public comment period is too short for our community to understand the impact that our projects would have. While I understand that there has been a brief extension, it is still not enough time for our community to truly understand, evaluate and comment on this project, especially in a COVID-19 context. This project has continuously displayed errors and logic, seeming to have a predetermined outcome leading to widening the Beltway, that hasn't seemed to change in the face of evidence and public comment. So many people have pointed out the problems with the project. It is time that we focus our attention on healthy and appropriate transit solutions that are actually relevant, such as public transit, telework incentives and allowing people to work closer to where they live, as opposed to outdated views that focus only on vehicle traffic. This would protect our residents and natural resources without coming to an extreme cost to our community, and I asked MDOT SHA to move forward with no build option. Thank you very much.

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Amanda Dewey
Mayor, Town of Berwyn Heights
5700 Berwyn Road
Berwyn Heights MD 20740

Mayor Amanda Dewey
Councilmember Jason Papanikolas
Councilmember Ethan Sweep

Mayor Pro Tem Jodie Kulpa-Eddy
Councilmember Christopher Brittan-Powell

Dear Mayor and Councilmembers:

Thank you for comments regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS) and the Supplemental Draft Environmental Impact Statement (SDEIS). I appreciate the opportunity to respond to concerns noted in your September 3, 2020 oral testimony on the DEIS, your October 14, 2020 letter on the DEIS and your November 6, 2021 email on the SDEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the SDEIS in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

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The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free, thus reducing reliance on single occupancy vehicles.

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. No improvements are proposed in Prince George’s County or the Town of Berwyn Heights. Many of the potential impacts raised in your oral testimony had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area, including natural, cultural and community resources within the Town. Because Prince George’s County and the Town of Berwyn Heights are located outside the Preferred Alternative limits of build improvements, impacts to community, historic, and natural resources within the County and Town have now been completely avoided. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies, as well as with the Town of Berwyn Heights.

In response to each of your specific concerns, I offer the following responses.

1. Reasonable Range of Alternatives Including Transit

We understand the Town’s desire to look at the overall transportation needs of the region. MDOT continues to look at the full range of needs for the region’s complex transportation issues. While transit, teleworking and land use changes are tools that are part of the overall regional plan, one project cannot fully address, study and implement all of them. This project is intended to address a subset of the problems facing the National Capital Region. Consistent with long-established federal environmental regulations, the Purpose and Need for the MLS generally describes a set of transportation problems and needs regarding congestion on I-495 and I-270 that have been raised by state, local, and regional transportation professionals over several decades. The Purpose and Need statement identifies a proposed action to address those needs and describes a variety of financial and transportation reasons for the agency to consider some form of managed lanes as a proposed solution. The FHWA and MDOT SHA developed the Study’s Purpose and Need through a collaborative process with other federal, state and local agencies and the public that included examination of multiple transportation and regional planning studies that had been conducted over the past 20+ years. As detailed in the Purpose and Need statement, these studies demonstrated the need in the National Capital Region for a synergistic system of transportation solutions as this region is the most congested in the nation based on annual delay and congestion per auto commuter. Refer to DEIS, Appendix A.

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NEPA requires FHWA and MDOT SHA to identify the proposed solution to the public and then to objectively thoroughly evaluate the environmental effects of that proposed solution and benefits as well as the effects of other reasonable alternatives. This is what has been done for the MLS and outlined in the DEIS. The Study sets forth the well-recognized transportation problem and has analyzed 17 alternatives including transit and smaller roadway improvements and Transportation Systems Management/Transportation Demand Management (TSM/TDM), as well as a variety of managed lanes alternatives. TSM/TDM and transit elements have been incorporated into the Build Alternatives to support the purpose of enhancing multimodal connectivity and mobility.

The initial screening of alternatives considered the initiatives and projects outlined in Visualize 2045 Plan, the latest financially Constrained Long-Range Plan (CLRP) which was approved by the National Capital Region Transportation Planning Board in 2018. The Visualize 2045 Plan identified Seven Aspirational Initiatives for a Better Future to address mobility on a regional basis. One of the seven initiatives was “Expand Express Highway Network”, which includes congestion-free toll roads, building on an emerging toll road network, and new opportunities for transit for express buses to travel in the toll lanes.

The Purpose and Need statement recognizes that “accommodating existing and proposed multimodal mobility and connectivity” is an important need to address the severe congestion on I-495 and I-270 and was added to address specific comments received during scoping. In support of this identified need, multi-modal alternatives and elements were analyzed through the alternatives development process. Several standalone transit alternatives (e.g., Alternatives 14A, 14B, 14C, and 15) were considered in the preliminary range of alternatives and were dismissed from further consideration based on a number of factors, most significantly of which was the inability of standalone transit to address long-term traffic growth.

Although these standalone transit alternatives were found to not meet the Study’s Purpose and Need, the Preferred Alternative incorporates multiple transit elements. These transit elements will serve to address existing and planned multimodal mobility and connectivity included in the purpose of the MLS by:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Westfield Montgomery Mall Transit Center.

Additionally, MDOT SHA is committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at the Washington Metropolitan Area Transit Authority (WMATA) Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

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Transit elements were also considered by the Transit Work Group, and the I-495/American Legion Bridge Transit/TDM joint study by the Virginia Department of Rail and Public Transit and the Maryland Department of Transportation Maryland Transit Administration. Both of these initiatives resulted in publicly available reports.

The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the Op Lanes Maryland website¹. This report is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed; provide a basis for the evaluation and prioritization of future capital and operating needs in the service area; and initiate discussions about ways to incorporate regional transit services into the Op Lanes Maryland Program.

The I-495/American Legion Bridge Transit/TDM Plan Final Report was completed in March 2021 and was posted online.² It identified a series of potential investment packages to provide new mobility choices to service bi-state travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the American Legion Bridge in fewer vehicles.

On August 11, 2021, in accordance with Maryland law, MDOT and the Maryland Transportation Authority presented to and received approval from the Board of Public Works to award the Phase 1 Public-Private Partnership (P3) Agreement to the Selected Proposer for the predevelopment work. As part of its proposal, the Developer has committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South.

Moreover, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high-priority transit investments in Montgomery County and to deliver the Metropolitan Grove Bus Operations and Maintenance facility including the necessary bus fleet. Refer to Final Environmental Impact Statement (FEIS) Chapter 3, Section 3.2.

Bicycle and pedestrian improvements have also been incorporated into the Preferred Alternative to address the need for accommodating existing and proposed multimodal connectivity and mobility. These improvements include replacing, upgrading or providing new pedestrian/bicycle facilities consistent with local master plans where existing facilities exist or crossroad bridges would be reconstructed. For additional commitments that support multimodal travel options, refer to FEIS, Chapter 3, Section 3.2.

As the limits of build improvements for the Preferred Alternative do not extend east of the I-270 east spur, no bicycle or pedestrian improvements are proposed in Prince George's County.

¹ <https://oplanesmd.com/transit-benefits/>

² http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf

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The proposed solutions are not only about solving today’s congestion challenges, but also about multimodal solutions that are adaptable to the growth expected in the region over the long-term, through 2045 and beyond. MDOT SHA has been performing traffic sensitivity analyses for a variety of potential traffic scenarios specifically including scenarios with increased work-from-home and other changes in travel patterns. This new information and analysis are presented in the FEIS.

2. Effects of Pandemic

Many commenters suggested that the Study’s Purpose and Need, which was developed in 2018, was no longer valid due to the effects of the global pandemic seen in 2020, i.e., reduced car traffic, altered commuting patterns, and increased telework (or remote work). Some noted that the effects of the pandemic may reduce the need for the project or negatively impact the project’s financial viability. Others stated that incentivizing telework as an Alternate Transportation Improvement could also reduce the need for the project. These viewpoints raised the question of MDOT SHA’s justification for the traffic congestion and overall benefits of the proposed improvements.

MDOT has closely monitored changes in traffic patterns throughout the pandemic, and as of early 2022, daily traffic volumes have already recovered back to over 90 percent of pre-COVID levels. Although there is still uncertainty surrounding traffic projections resulting from the COVID-19 pandemic, transportation experts have analyzed pandemic traffic conditions and future traffic demand inputs and note that traffic volumes have continued to recover since the rollout of the vaccines in early 2021. Traffic volumes are anticipated to return to pre-COVID levels before the time the HOT lanes are operational. Given the ultimate 2045 design year, the HOT lanes will be required to accommodate long-term traffic.

Given the uncertainty surrounding resolution of the pandemic, how travel patterns will adjust, and over what time period, no definitive traffic model exists to predict how the global pandemic will affect long-term mobility patterns. To adapt to the ongoing and potential long-term travel impacts associated with the pandemic, MDOT SHA developed a COVID-19 Travel Analysis and Monitoring Plan. Refer to FEIS, Appendix C for a copy of the latest version of that plan and results. The plan included three components:

- Monitoring: tracking changes in roadway and transit demand during the pandemic, i.e., how travel varies in response to infection figures, vaccine distribution, unemployment rates, school closings, and policy changes;
- Research: reviewing historical data and projections from the Transportation Research Board and the National Capital Region Transportation Planning Board; and
- Sensitivity Analyses: evaluating “what if” scenarios, including potential changes in teleworking, eCommerce, and transit use on projected 2045 travel demand and operations.

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The monitoring effort included tracking changes in traffic volumes and transit usage throughout the pandemic and the corresponding impact on speeds and congestion along I-495 and I-270. The data shows a severe drop in traffic volumes in April 2020 after stay-at-home orders were issued across Maryland, with daily traffic volumes on I-270 and I-495 reducing by more than 50 percent compared to April 2019. After the stay-at-home order was replaced with a “safer at home” advisory in May 2020, traffic volumes gradually increased throughout the summer, stabilizing at approximately 15 percent less than typical conditions during fall 2020. As cases began to surge in November/December 2020, traffic volumes dipped again through the winter. With the rollout of vaccines in early 2021, the corresponding drop in COVID-19 cases, and the gradual reopening of schools and businesses, daily traffic volumes have continued to recover. Statewide, weekly traffic volumes were only down five percent for the week of November 8, 2021 compared to the same week in 2019, per MDOT’s coronavirus tracking website. Refer to <https://www.mdot.maryland.gov/tso/Pages/Index.aspx?PageId=141>. Transit use has been slower to recover, with use of Maryland Transit Administration (MTA) services statewide down over 40 percent compared to pre-pandemic levels as of October 2021 (see link above). In the D.C. region, usage of WMATA facilities is also down significantly compared to 2019. As of Fall 2021, WMATA rail ridership is down 73 percent on weekdays, while WMATA bus ridership is down 40 percent on weekdays, and parking at Metro facilities is down 88 percent. Refer to <https://www.wmata.com/initiatives/ridership-portal/upload/October-2021-Ridership-Snapshot.pdf>.

While congestion decreased significantly on I-495 and I-270 at the onset of the pandemic in Spring 2020, significant congestion had returned to the study area by November 2021, approaching pre-pandemic levels. For example, average speeds on the I-495 Inner Loop crossing the American Legion Bridge during the PM peak in early November (non-holiday) of 2021 were 20 miles per hour (mph), reflecting significant congestion, and matching the speeds during the similar period in November 2019 (also 20 mph). In the AM peak, average speeds on the I-495 Outer Loop between MD 650 and US 29 in early November 2021 were even lower – below 15 mph. While these speeds are slightly higher than those observed in that same area during the AM peak in November 2019 (10 mph), the findings indicate that there is still a lot of congestion along I-495 even though volumes have not fully rebounded to pre-pandemic levels along I-495 during the morning peak period. Along I-270, average speeds were generally 5 to 10 mph higher in November 2021, compared to November 2019 despite volumes exceeding 2019 levels at MDOT SHA’s permanent count station located on I-270 South of MD 121. These improvements could be attributed to recent improvements completed by MDOT SHA along I-270, including the opening of the Watkins Mill interchange in 2020 and the implementation of ramp metering along southbound I-270 on-ramps in September 2021 as part of the Innovative Congestion Management (ICM) project. Even so, some congestion remains along I-270, with average speeds on I-270 southbound of approximately 30 mph during the AM peak period and average speeds on I-270 northbound below 40 mph during the PM peak period in November 2021.

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Based upon historic research of other similar dramatic societal effects on travel and the most recent data suggesting that traffic is rebounding close to pre-pandemic levels, the 2045 forecasts and results presented in FEIS, Section 4.3 using models that were developed and calibrated prior to the onset of the COVID-19 pandemic have been determined to be reasonable for use in evaluating projected 2045 conditions. However, MDOT SHA acknowledges that residual effects of some of the near-term changes in travel behavior could be carried forward into the future. Therefore, a sensitivity analysis evaluating several “what if” scenarios related to future traffic demand due to potential long-term changes to teleworking, e-commerce, and transit use was also conducted. The first part of the sensitivity analysis involved modifying input parameters in the Metropolitan Washington Council of Governments (MWCOC) regional forecasting model based on observed changes in travel behavior during the pandemic to evaluate a range of potential long-term scenarios. The second part of the sensitivity analysis involved re-running the 2045 No Build and 2045 Build VISSIM models that were used to generate the operational results presented in Chapter 4, Section 4.3 of the FEIS, but with reduced demand volumes to account for potential sustained impacts from the pandemic. The results of the MWCOC and VISSIM sensitivity analyses confirm that the capacity improvements proposed under the Preferred Alternative would be needed and effective even if future demand changes from the pre-pandemic forecasts based on potential long-term impacts to teleworking, e-commerce, and transit use that are not formally accounted for in the current regional forecasting models. Refer to FEIS, Appendix C.

With regard to teleworking, current studies indicate that remote work can be expected to continue at levels higher than before the pandemic. With this in mind, MDOT SHA is working with local and regional businesses and with other state agencies, including the Maryland Departments of Environment, Budget and Management, Commerce, and General Services, to better understand the types of initiatives that would support increased telework while maintaining or increasing productivity. While supporting telework will continue to be part of MDOT SHA’s approach to addressing the transportation needs and economic wellbeing of the region, commuting trips only account for around 20 percent of daily travel in the National Capital Region.³ Therefore, even assuming a substantial shift to telework, this would likely have minimal impact on the remaining 80 percent of daily trips, which include tourism and interstate travel, shipping and freight deliveries, errands, and other personal and business travel. These activities will continue to put pressure on the region’s road network.

I-495 has been at or over capacity since the late 1980s during peak hours, and I-270 has been at or over capacity since the late 1990s during the peak hours. Over the years, those hours of peak congestion on I-495 and I-270 have increased to 10 and 7 hours, respectively. Additionally, projections of long-term growth in the region indicate that another 1.3 million people and 1.0 million jobs will be here by 2045. These developments are expected to continue to drive growth in travel demand, even with the potential for increased telework/remote working. MDOT SHA will commit to tracking travel behavior trends and traffic volumes and will reevaluate during final design.

³ TPB Regional Travel Survey, 2020 - <https://www.mwcog.org/newsroom/2020/10/21/survey-provides-detailed-look-at-17m-trips-taken-per-day-by-area-residents/>

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3. Sufficiency of Environmental Analysis

The I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS, SDEIS, and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study to a comparable level of detail. This analysis directly contributed to MDOT SHA's evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts could not be avoided.

With respect to the engineering details concerning the Build Alternatives presented in the DEIS and the Preferred Alternative in the SDEIS, this information accurately reflected the level of design available to MDOT SHA during different phases of its NEPA review and was appropriate to ascertain environmental information and potential impacts. FHWA regulations prohibit agencies from advancing to final design for a proposed action prior to completion of NEPA. Therefore, the DEIS and SDEIS were based on preliminary levels of design for the likely engineering elements of the proposed Build Alternatives. The Preferred Alternative presented in the SDEIS was refined based on additional survey information and an assessment of constructability and permanent and temporary impacts, as well as avoidance and minimization efforts resulting from interagency coordination.

The SDEIS presented updated information based on the Preferred Alternative (Alternative 9 – Phase 1 South) and additional coordination that occurred in the ten months following publication of the DEIS. The FEIS reflects further design refinements and details, including final mitigation and commitments of the Preferred Alternative, many of which directly responded to public comments. The public had reasonable and timely access to all this information, consistent with the usual development of project design during a NEPA review. The DEIS and SDEIS were fully accessible and available to the public for a 123-day and 60-day comment period, respectively.

4. Tolling and Equity

MDOT SHA's initial analysis of potential Environmental Justice (EJ) impacts focused on the entire study area, reflecting a broad geographic area surrounding the 48-mile highway corridor for the Build Alternatives assessed in the DEIS. MDOT SHA followed accepted practice as reflected in CEQ, U.S. Department of Transportation, and FHWA guidance to identify minority race and ethnicity populations, as well as low-income populations (EJ populations), in and around the study corridors. See DEIS, Chapter 4, Section 4.21.2 and DEIS, Appendix E. Basic demographic data was supplemented with a review of information concerning the presence of low-income subsidized housing, the distribution of Food Stamps (SNAP benefits), the proportion of students receiving free and reduced-priced lunch programs, among other measures.

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Once the relevant EJ populations were identified, MDOT SHA conducted a complete review of all relevant demographic data in order to determine existing environmental and relevant community conditions of the identified EJ populations. Each Build Alternative in the DEIS was then assessed for potential beneficial or adverse effects, with a particular focus on property impacts, including potential displacements and impacts to community facilities in EJ communities. Pursuant to FHWA Order 6640.23A, additional consideration was given to a broad range of environmental and natural resources issues, ranging from air and water quality, noise impacts, hazardous materials, and visual intrusions, as well as socio-economic factors such as employment, mobility access, and overall quality of life. See DEIS Section 4.21.5 and DEIS Appendix E.

The SDEIS focused on the Preferred Alternative for Phase 1 South, which substantially reduced the number and location of potentially impacted EJ communities analyzed in the DEIS. See SDEIS, Chapter 4, Figure 4-3. In addition, based on comments received on the DEIS from cooperating agencies, MDOT SHA further enhanced its EJ analysis for the Preferred Alternative by using analytical tools available on-line through the U.S. Environmental Protection Agency (EPA) EJ Screening and Mapping Tool (EJSCREEN), and through the State of Maryland EJSCREEN. See SDEIS, Appendix K. In general, these tools assist agencies in the analysis of potential EJ impacts by identifying primary risk factors and indicators of exposure to known pollutants, hazardous substances, and proximity to health hazards that historically have had the tendency to disproportionately impact EJ communities. Application of these tools confirmed that methodology and identification of potential EJ communities were consistent with similar assessments completed by outside expert institutions.

With respect to your concern regarding tolling being an inequitable approach, as described in the DEIS, the impacts of congestion pricing on EJ populations vary widely by context and type of project (i.e., full facility tolling or partial facility tolling). See DEIS, Section 4.21.5. For all Build Alternatives described in the DEIS, new travel choices would become available for all highway users through the addition of tolled roadway capacity while maintaining the existing, free general purpose lanes on I-495 and I-270.

Moreover, the traffic analysis disclosed in the DEIS and SDEIS and at community meetings and public workshops indicated that travel times would improve, and congestion would decrease along general purpose lanes under each of the Build Alternatives and the Preferred Alternative. This is because dynamic pricing on the tolled managed lanes enables those facilities to maintain a 45-mph speed at all times, thereby also reducing congestion in the general purpose lanes. This results in benefits for all users of the interstate facilities analyzed in the MLS, whether they pay a toll or not.

While travel speed and trip reliability benefits offered by the managed lanes could be a less feasible economic choice for EJ populations, studies based on actual user data show users of all incomes benefit from reduced travel times, including managed lane users and those who continue to use free general purpose lanes. In short, managed lane usage is not closely correlated to income. Nationwide research shows a majority of travelers choose to use managed lanes occasionally for critical or important trips, such as reaching an appointment or a school event. Relevant recent experience with similar facilities in Virginia on I-495 and I-95 further supports this conclusion.

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As reported in The Washington Post in 2018, "...most 495 and 95 express lane users are not affluent. About 60 percent of the frequent users said they have household incomes of less than \$100,000...". According to another Post report, the average toll rates for Virginia's managed lanes on I-495 and I-95 are \$5.40 and \$8.45 per trip, respectively. Experience in Virginia on I-495 shows that 82 percent of customers spend less than \$20 a month and 85 percent of trips were less than \$12. On the Virginia I-95 Express Lanes, 74 percent of customers spend less than \$20 a month.

Mobility and access for EJ communities are also increased by the proposed action as a result of new and/or improved bicycle and pedestrian access and toll-free travel for transit vehicles and car/vanpools with three or more occupants using the managed lanes. With respect to bus transit usage, it is anticipated that increasing the availability of higher speed and more reliable options connecting major transit locations and economic centers will have a positive impact on transit usage in the study area by encouraging new transit service or modifying routes. Similarly, because vehicles with three or more occupants will also travel toll-free on the new managed lanes, the use and availability of car and vanpools should be enhanced. These affordable transportation options can particularly benefit potential users who may not have reasonable access to personal vehicles.

Overall, due to the improvements on existing interstate systems associated with the Preferred Alternative, plus the scattered distribution of EJ among non-EJ populations along the Phase 1 South limits, impacts would occur proportionately throughout the study limits. Quantifiable impacts, including impacts to property, community facilities and services; and natural resources, noise, and hazardous waste would be borne primarily by non-EJ populations. Impacts to demographics; traffic; air quality and its effect on public health; safety; visual and aesthetic resources; economy and employment; access and mobility; community cohesion/isolation and quality of life; and impacts resulting from construction would occur consistently along the Phase 1 South limits and more frequently in non-EJ populations based on demographics and population distribution.

The types of impacts caused by the Preferred Alternative would not differ between EJ populations and non-EJ populations. The Preferred Alternative includes construction of project elements that are distributed throughout the Phase 1 South limits such as highway widening, additional managed lanes access, and construction of noise barriers, among others. As such, the types of impacts caused by the Preferred Alternative would not be greater in magnitude in EJ populations versus non-EJ populations.

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Thank you for your comments on the DEIS and SDEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 P3 Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Amanda Dewey
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bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
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Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
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TOWN OF BERWYN HEIGHTS – MAYOR, MAYOR PRO TEMPORE, COUNCILMEMBERS



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October 14, 2020

Lisa B. Choplin, DBIA
Director, I-495 & I-270 P3 Office
Maryland Department of Transportation State Highway Administration
I-495 & I-270 P3 Office
707 North Calvert Street
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Baltimore, MD 21201

We are writing to express opposition to the proposed I-495 and I-270 beltway expansion draft environmental impact statement, and to advocate for the no-build alternative.

We are unsure that the extreme cost, financial and otherwise, of the build alternatives will lead to a sufficient benefit. This includes costs in the form of utility rate increases that would be borne by WSSC customers in Prince George's County. In the face of the severe challenges faced by the Purple Line project, another P3 program, we do not think that pursuing an additional, major P3 project is appropriate while those problems have yet to be resolved.

We are concerned that air pollution from the project would have an impact on the health of Berwyn Heights residents who live, work, play, worship and learn near the proposed expansion. Our community struggles with stormwater quality and quantity issues which could also be impacted by this project. Berwyn Heights is in the Indian Creek, Anacostia River, and Chesapeake Bay watersheds, and an expansion of the beltway could negatively impact water quality in those bodies of water. Despite the immense scope of the project, the full environmental impacts are not known. Before an alternative is selected, the impact on our region must be fully understood and publicized. Hundreds of acres of park land that are important to the community would also be impacted by the project and are only rudimentarily considered in the draft environmental impact statement.

This project has continuously displayed errors in logic, seeming to have a pre-determined intent of widening the Beltway that hasn't seemed to change in the face of evidence and public comment. The scope is entirely too narrow to effectively assess and address transportation challenges in our region. It is time that we focus our attention on healthy, appropriate, and relevant solutions, such as public transit, telework incentives, and encouraging people to work closer to where they live. There has also not been a demonstrated consideration of design changes other than widening that could facilitate better traffic flow, including more pedestrian and bike-friendly approaches and on-demand transit. We must approach transit-related problems with 21st century solutions that would protect our residents and natural resources without posing an extreme cost to our community. We ask MDOT SHA to move forward with a no build option.

Page 1 of 2

- William T. Armistead, Jr. Administration Building -

Refer to the MDOT SHA Response Letter above for a response to the Town of Berwyn Heights.

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Respectfully,



Amanda Dewey,
Mayor, Town of Berwyn Heights



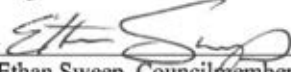
Jodie Kulpa-Eddy, Mayor Pro Tempore



Jason Papanikolas, Councilmember



Christopher Brittan Powell, Councilmember



Ethan Sweep, Councilmember

TOWN OF CHEVY CHASE – MAYOR CECILY BASKIR



Cecily Baskir, *Mayor*
Joel Rubin, *Vice Mayor*
Barney Rush, *Treasurer*
Ellen Cornelius Ericson, *Secretary*
Irene N. Lane, *Community Liaison*

October 30, 2020

Lisa B. Choplin, DBIA
Director, I-495 & I-270 P3 Office
Maryland Department of Transportation State Highway Administration
I-495 & I-270 P3 Office
707 North Calvert Street
Mail Stop P-601
Baltimore, MD 21201

Dear Ms. Choplin:

On behalf of the Town of Chevy Chase, we appreciate this opportunity to register our concerns about the I-495 & I-270 Managed Lanes Draft Environmental Impact Study (DEIS).

Highway projects should pass a cost-benefit test -- they should generate more social benefits than their financial, environmental, and traffic impact costs. Additionally, highway projects should employ new approaches that address future transportation needs and modes, not rely on old and likely outdated approaches. We are concerned about potential financial impacts of this project, and we are doubtful that the project's environmental harm is warranted. Moreover, we are skeptical that this project offers a successful solution to the area's future transportation needs.

Our detailed concerns follow.

I. Financial Concerns

1. MD-SHA should provide additional information about how cost overruns and delays will be avoided under the proposed public private partnership (P3) model. Given the failure of the State's P3 contract with Purple Line Transit Partners, we have concerns about the risks to taxpayers of cost overruns and time delays under the P3 model. Contingency plans should be written into the P3 contract to ensure the State is not required to subsidize the project costs or cover cost overruns. The State will not be in a good position to do so because its finances are likely to be highly constrained in the

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www.townofchevyCHASE.org



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Cecily Baskir
Mayor
Town of Chevy Chase
4301 Willow Lane
Chevy Chase MD 20815

Dear Mayor Baskir:

Thank you for your comments regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Draft Environmental Impact Statement (DEIS). I appreciate the opportunity to respond to concerns noted in your November 30, 2021 letter on the DEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA, and FHWA published the SDEIS in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.

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coming years due to Covid-19 and its sequelae and to the failure of the Purple Line P3.

2. The cost of all utility relocations should be part of the overall project budget; these expenses will be incurred solely because of the Managed Lanes Project. Residents of Montgomery County and Prince George's County should not bear the cost of these relocations. Rather, the users of the managed toll lanes should pay for them.
3. Taxpayers have been assured that this project will pay for itself, yet the DEIS found that the toll revenues might not be sufficient to cover the cost of the project, much less provide revenues promised for transit. The costs and revenues projections in the DIES should be updated to reflect the addition of the water/sewer relocation costs, likely substantially increased teleworking, and realistic toll revenues, and the underlying models should be carefully reviewed. The project cost-revenue gap may have widened, and the Final Environmental Impact Statement (FEIS) should explain how the gap will be covered.

II. Environmental Concerns

1. Section 3.5.2 of the Air Quality Technical report (Appendix I) concludes that expanding the highways will increase annual tailpipe greenhouse gas (GHG) emissions compared to the No Build Alternative. Over time, the shift to electric vehicles and renewable energy sources will somewhat mitigate this, but in the meantime, the increased emissions are likely to be deleterious to Montgomery County's and Maryland's GHG goals.

Expanding capacity on I-495 and I-270 is likely to reduce congestion only temporarily because the expanded roadway will induce people to drive relative to other transit choices. If the Managed Lanes Project is not approved, travelers are more likely to consider multi-modal options, telework, stagger work times, and live closer to their frequent destinations. A growing amount of academic research concludes that suburban localities are unlikely to "build their way out" of traffic congestion with new or widened roads. Alternatively, research suggests that traffic congestion can be addressed by denser development and more frequent and reliable mass transit options.

2. The FEIS and the Record of Decision must include stringent stormwater management (SWM) requirements. Moreover, they should detail SWM more comprehensively than the DEIS does. Flooding is a major problem because heavy rain events are increasing in frequency, and large swaths of land are paved. Current stormwater run-off from I-495 contributes to flooding in our area. Rock Creek, Sligo Creek, and North Branch frequently flood the roads and surrounding areas. Stormwater from an

The Honorable Cecily Baskir
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There is no action or improvements included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to each of your specific concerns, I offer the following responses.

1. Financial Concerns

On August 11, 2021, in accordance with Maryland law, MDOT and the Maryland Transportation Authority (MDTA) presented to and received approval from the Board of Public Works to award the Phase 1 Public-Private Partnership (P3) Agreement to the Selected Proposer for the predevelopment work. While concerns over the Purple Line project are understandable, the P3 Agreements are different from the Purple Line and other P3s in Maryland, in that this process uses a multi-step Progressive P3 model to further identify and reduce impacts and risks. The first step of this process is the collaborative Predevelopment Work. The evaluation criteria for the Predevelopment Work focused on reducing project risk, providing schedule certainty and the ability to deliver Phase 1 with no State of Maryland funding. The selected Developer for the project proposed a sound approach to delivering Phase 1 that will greatly reduce the likelihood of challenges that other projects have faced. The Progressive P3 approach allows the Developer to closely collaborate with MDOT, MDTA and other stakeholders during the Predevelopment phase before finalizing its design and pricing, which will reduce and mitigate risks and challenges that would exist in a more traditional procurement process as well as other P3 models.

From the earliest stages of the NEPA process, MDOT SHA has coordinated with WSSC and other utility providers concerning potential impacts that would require the relocation of existing utility infrastructure. During the NEPA process, impacts to utility infrastructure and potential relocations have been considered. As the project advances from planning to final design, the scope and cost of utility relocations will be further refined in close coordination with WSSC and other utility providers. Potential cost of utility relocation has consistently been factored into the overall estimates developed for the project. Refer to FEIS, Chapter 3, Section 3.1.1. The reduced footprint of proposed improvements associated with the Preferred Alternative as compared to the Build Alternatives discussed in the DEIS, together with ongoing coordination to identify, avoid and minimize conflicts with existing infrastructure to the maximum extent practicable, have lowered the cost estimates significantly. It is too early in the predevelopment process to determine the exact scope and cost of any utility relocations that may still be required, but it now appears that these costs will be significantly lower than WSSC's original estimates. The cost estimate for the Preferred Alternative includes the cost of utility relocation based on planning level information and can be found in the FEIS, Chapter 3.

For the purposes of a comparison of alternatives under NEPA, the DEIS assessed a broad analysis of the potential for each alternative to be financially self-sufficient. This analysis included multiple factors to determine potential cash flows, such as a range of capital costs, initial revenue projections, preliminary operations and maintenance costs, and assessed a range of interest rates. The DEIS, Table 2-6, shows a range of positive, as well as negative, cashflow outcomes. This analysis was necessary to account for various market conditions and could change as the P3 program continues forward. From the outset, MDOT SHA has stated its intention to deliver all planned improvements for the MLS at no net cost to Maryland taxpayers. That commitment stands.

expanded I-495 must have adequate on-site SWM and not rely on water quality trading credits, to ensure that run-off problems do not worsen. The environmental impacts of relocating utilities are not included in the DEIS. The environmental impacts of the relocations must be studied and should be included in the FEIS and Record of Decision.

3. The DEIS does not adequately address noise pollution, particularly its impact on park lands. The FEIS and Record of Decision should require provision of noise walls and other noise abatement to adequately protect neighborhoods and parkland from noise. We are especially concerned about negative impacts of increased noise levels on Rock Creek Park, which our residents frequently use for outdoor recreation.

III. Traffic Concerns

1. A detailed explanation of why drivers would choose not to use Connecticut Avenue if the managed lanes are built is needed. Additionally, the DEIS should include a plan for drivers to divert to other roads.

Tables in the Traffic Analysis Technical Report (Appendix C) show forecasts of higher traffic volumes on Connecticut Avenue south of I-495 under the No Build Alternative than current levels. This is plausible given projected population growth, increased jobs in Bethesda, and other factors. The tables also show forecasts of lower traffic volumes on this portion of Connecticut Avenue under Alternative 9 (the apparent preferred alternative) than under the No Build Alternative (and even to some extent lower than current levels). These forecasts are not plausible.

The No Build Alternative traffic counts show that future traffic in the area will be greater than it is today. Therefore, the implication of the forecasts is that the lower traffic counts under Alternative 9 result from three things. First, fewer cars exiting from I-495 onto Connecticut. It is important to note that this is unlikely because the project proposes adding four lanes with exit access to Connecticut. Second, more of the cars that start their journey on Connecticut north of I-495 exiting onto I-495 instead of continuing south on Connecticut. Third, in the evening, fewer cars traveling on Connecticut to reach I-495 or to continue north on Connecticut past I-495. Section 5.9 Effect on Local Roadways (Appendix C) does not provide an explanation of where this diverted traffic would go. An explanation is needed.

Connecticut Avenue is a key roadway that carries a large volume of traffic from Connecticut Avenue north of I-495, and from I-495, to downtown Washington, D.C., National Institutes of Health, Walter Reed National Military Medical Center, and Bethesda. This already heavily congested section of Connecticut Avenue will carry more traffic when development at Chevy Chase Lake is finished. The major cross-

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On August 11, 2021, in accordance with Maryland law, MDOT and MDTA received approval from the Board of Public Works to award the Phase 1 P3 Agreement to the Selected Proposer. In accordance with the terms and conditions of the Phase 1 P3 Agreement, MDOT and the Developer will further advance predevelopment work on Phase 1 South, which includes I-495 from the vicinity of the George Washington Memorial Parkway across the American Legion Bridge (ALB) to I-270 and on I-270 up to I-370. As part of its proposal, the Developer committed to provide an estimated \$300 million for transit services in Montgomery County over the operating term of Phase 1 South. Moreover, MDOT has committed, upon financial close of the Section P3 Agreement for Phase 1 South, to fund not less than \$60 million for design and permitting of high-priority transit investments in Montgomery County and committed to deliver the Metropolitan Grove Bus Operations and Maintenance facility including the necessary bus fleet. Refer to FEIS Chapter 3, Section 3.2.

The Phase 1 P3 Agreement has a termination cap of up to \$50 million for allowable and documented costs and provides that this is payment in full for all work products completed. For example, those work products will be available for future delivery of the ALB even if the Phase 1 P3 Agreement is terminated.

2. Environmental Concerns

MDOT acknowledges concerns about climate change and the I-495 & I-270 Managed Lanes Study; Maryland is committed to reducing greenhouse gas emissions and to preparing our State for the impacts of climate change. The Maryland Commission on Climate Change (MCCC) and its Mitigation Working Group (MWG) have demonstrated that commitment by working collaboratively with experts and stakeholders across State and local agencies, environmental, non-profit and academic institutions. The resulting body of work quantifies baseline GHG emissions by sector to understand the impacts that specific plans, policies, and programs will have on future emissions economy-wide.

Statewide analyses indicate that the Study will not impede Maryland's ability to meet its GHG emission reduction goals. In fact, the Greenhouse Gas Reduction Act (GGRA) Plan documents Maryland's existing and future emissions reductions under several scenarios, all of which include this project. The document illustrates that Maryland will not only meet the 40% by 2030 goal, but that we are dedicated to working together to exceed that goal and to strive for a 50% reduction by 2030. MDOT continues to be an active partner in the MCCC and Maryland's GHG reduction efforts. MDOT is leading the way on transportation sector scenario and emissions analyses and has worked with stakeholders, communities, and our partners on the MWG to better understand the impacts of the changes within the transportation sector, ranging from technology improvements, such as the deployment of automated, connected, and electric vehicles to the importance of improving mobility and expanding telework.

As MDOT is committed to reducing GHG emissions, measures aimed at reducing emission both in the short-term, during construction, and the long-term, during operations, have been committed to or are incorporated into the Preferred Alternative. Refer to FEIS, Chapter 5, Section 5.8.4 and Chapter 7, Section 7.2.

This project is part of a larger regional plan called Visualize 2045 that was prepared by the Washington Region's Transportation Planning Board. The regional plan looked at all modes of transportation to address the congestion issues. Visualize 2045 noted that the region needs improvements for both transit and highways to address this severe congestion.

streets in this area (Jones Bridge Road, East-West Highway, and Bradley Lane) are also near capacity, as are their intersections with Connecticut and Wisconsin Avenues. These roads generally cannot be expanded. Our town is bordered by East-West Highway, Connecticut Avenue, and Bradley Lane, and increased congestion on these roads will negatively impact our residents. Thus, we are concerned about the impacts that the proposed I-495 toll lanes will have on these roads and other nearby roads. It appears that traffic on these roads and associated intersections have not been correctly forecast. Given the importance of these roads in the regional and local transportation network, it is critical that the forecasts in the FEIS be correct.

2. The DEIS failed to explore adding an exit ramp from I-495 directly onto the Walter Reed National Military Medical Center campus. This option should be explored to see if an exit is feasible because it might mitigate the impacts of the I-495 expansion on Connecticut Avenue and Jones Bridge Road.

IV. Transit

1. The expanded highway should be required to accommodate future multi-modal transit options.

A highway investment plan should account for the aforementioned effects on communities, land use, land price, and population growth. The Managed Lanes Project's true cost has not been fully calculated. We know that a lack of accounting now will come at the expense of even larger costs later.

Respectfully submitted,



Cecily Baskir
Mayor

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Specific to the Managed Lanes Study, the Purpose and Need statement recognizes that "accommodating existing and proposed multimodal mobility and connectivity" is an important need to address the severe congestion on I-495 and I-270 and was added to address specific comments received during scoping of the study. In support of this identified need, multi-modal alternatives and elements were analyzed through the alternative's development process. Several standalone transit alternatives (e.g., Alternatives 14A, 14B, 14C, and 15) were considered in the preliminary range of alternatives and were dismissed from further consideration based on a number of factors, most significantly of which was the inability of standalone transit to address long-term traffic growth. That is, no standalone transit alternative would be able to attract and carry sufficient ridership to address the severe congestion on these facilities.

Although these standalone transit alternatives were found to not meet the Study's Purpose and Need (consistent with findings of the multiple planning studies summarized above), multiple transit elements have been incorporated into the Study to address the identified multi-modal and connectivity needs in the study area as a complement to the congestion relief offered by the proposed highway improvements. These include:

- Allowing toll-free bus transit usage of the HOT managed lanes to provide an increase in speed of travel, assurance of a reliable trip, and connection to local bus service/systems on arterials that directly connect to urban and suburban activity centers; and
- Accommodating direct and indirect connections from the HOT managed lanes to existing transit stations and planned Transit Oriented Development at the Shady Grove Metro, Twinbrook Metro, Montgomery Mall Transit Center, and Medical Center Metro.

Additionally, MDOT SHA is committed to regional transit improvements to enhance existing and planned transit and support new opportunities for regional transit service including increasing the number of new bus bays at WMATA Shady Grove Metrorail Station and increasing parking at the Westfield Montgomery Mall Transit Center.

Transit elements were also considered by the Transit Work Group and the joint I-495/ALB Transit/Transportation Demand Management (TDM) study by the Virginia Department of Trail and Public Transit and the Maryland Department of Transportation Maryland Transit Administration. Both of these initiatives resulted in reports.

The Transit Service Coordination Report completed in coordination with the Transit Work Group was made available to the public in June 2020 on the P3 Program website (<https://495-270-p3.com/transitbenefits/>) and it is being used to inform affected counties and transit providers about the significant transit opportunities offered by managed lanes such as strategies to maximize the benefits of reliability and speed; provide a basis for the evaluation and prioritization of future capital and operating needs in the service area; and initiate discussions about ways to incorporate regional transit services into the P3 Program. The I-495/ALB Transit/TDM Final Report and Plan was completed in March 2021 and was posted online. (http://www.drpt.virginia.gov/media/3375/i495_alb_transittdm_study_finalreport_030521_combined.pdf) It identified a series of potential investment packages to provide new mobility choices to service bi-state travel. Each package outlined a combination of transit service elements, technology enhancements, Commuter Assistance Programs, and parking needs. The investment packages offered options to move more people across the ALB in fewer vehicles.

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Regarding the comment about induced demand, which refers to newly generated trips that would not exist without capacity improvements to the transportation network, MDOT's goal was not to increase demand, but to address current and predicted demand. Current and predicted demand in the study area could be met by adding many additional new lanes and while MDOT SHA considered adding additional general purpose lanes during the alternatives screening process, the agency ultimately recommended capacity via managed lanes. This fundamental difference is crucial to understanding why the traffic analysis shows only a very modest increase in traffic through induced demand.

Most importantly, managed lanes do a better job at regulating overall travel demand, including induced demand, due to dynamic pricing. As explained in the DEIS, dynamic pricing means that as the demand for use of the managed lanes increases, the rate charged for access to the lanes also increases. This tends to regulate uses of the managed lanes in order to permit them to operate in a free-flow of traffic and at general speed of at least 45 miles per hour. Refer to FEIS, Chapter 9, Section 9.3.6.

The traffic analysis shows that there could be some induced demand as a result of this project, but the impact will be small (less than 1 percent increase in vehicle miles traveled (VMT) in the region) and those effects are fully accounted for in the regional traffic models used in the Study developed by the Metropolitan Washington Council of Governments. Even with these effects, the proposed managed lanes would reduce regional congestion delays and significantly improve travel times along both the I-495 and I-270 in Phase 1 South limits and on local roads throughout the study area. This relatively modest increase of induced demand can also be explained by several factors related to existing conditions in the study area. First, there is very little undeveloped land surrounding the Phase 1 South study area and, therefore, the traffic models account for the negligible anticipated land use changes. As the traffic analysis details, new housing areas and/or places of employment (usual causes of additional trip generation) are not expected to be developed as a result of the project. Because the area in and around Phase 1 South is largely built out or otherwise protected from additional development, the likelihood of additional new trips is minimized.

Second, as the existing conditions and the anticipated No Build scenarios described in the DEIS demonstrate, the highway facilities in question are already extremely congested. The anticipated future growth of traffic demand is already very high, and largely dependent on already anticipated population and economic growth in the region. Congestion on I-495 also reflects not only local trips, but a substantial regional demand for travel on that facility as a major connection for I-95. As a result, most of the travel demand for these roads already exists.

Finally, important elements of the proposed action itself will have the tendency to reduce induced demand. Specifically, there is a strong potential for the managed lanes to encourage transit usage for express buses, as well as HOV and car and/or vanpool rides. This potential should assist in managing induced demand for single-occupancy vehicles. Similar to the DEIS, the SDEIS and FEIS describe how the transit and HOV elements of the proposed action can serve more person-trips without necessarily increasing the number of vehicles (induced demand) in the system as a whole.

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MDOT SHA will fully meet all requirements to address stormwater management (SWM) as regulated under Maryland’s Stormwater Management Act of 2007. Maryland SWM requirements aim to maintain post-development runoff as near as possible to pre-development runoff characteristics. The Preferred Alternative will require both Erosion and Sediment Control and SWM permits and will have to meet Maryland’s high standard of providing protection to receiving waters both during and after construction. Best Management Practices (BMPs) will be implemented, such as silt fence, clear water diversion and sediment traps. In 2012, the Maryland Department of the Environment (MDE) revised erosion and sediment control regulations in adherence with the 2011 Maryland Standards and Specifications for Soil Erosion and Sediment Control (MDE, 2014). These revisions include the establishment of a grading unit criteria, along with stricter stabilization requirements to adequately protect water quality.

Consideration of providing effective SWM for all Build Alternatives, including the Preferred Alternative, has been considered throughout the planning process. A preliminary SWM analysis was described in the DEIS, SDEIS, and now in the FEIS.

The project planning process helped identify right-of-way needs for the most effective SWM solutions. That planning reflected avoidance of additional natural resource impacts from SWM to the maximum extent practicable. In general, on-site SWM locations were maximized while also minimizing impacts to natural resources, private property, and properties subject to other land use protections, such as Section 4(f) publicly owned parkland. On-site SWM for the FEIS was evaluated based on a more detailed volume-based approach to fit within the Preferred Alternative LOD developed during the SDEIS and refined during the FEIS. Refer to FEIS, Chapter 3, Section 3.1.6. Provided SWM facilities include wet ponds, extended detention ponds, underground quantity facilities, submerged gravel wetlands, grass swales, bio-swales, micro-bioretentions, bioretentions, underground sand filter, etc. Based on the SWM Concept developed for the FEIS, 11 out of 167 Point of Investigation (POIs) would require variances for water quantity increases and 3 out of 167 POIs would qualify for a waiver due to direct discharge to the Potomac River.

With respect to water quality requirements, the Study evaluated potential water quality loss due to impacts to existing SWM facilities. In addition to replacing water quality loss due to impacts to existing SWM facilities, the project intends to meet water quality standards to treat all new impervious area and a minimum of 50 percent of reconstructed existing impervious area through onsite measures, wherever practicable; where not practicable, these requirements would be met offsite in accordance with MDE regulations. The SWM analysis completed for the FEIS indicates that over 95 percent of the water quality requirements can be met onsite. However, due to the existing site constraints and the amount of impervious area requiring treatment for the Preferred Alternative, the remaining 5 percent of water quality could not be met onsite for the Preferred Alternative. Consequently, compensatory SWM treatment may be required to offset the Environmental Site Design deficit. Other measures may also be considered in particularly sensitive watersheds after further coordination with resource agencies, such as redundant erosion and sediment control measures and/or providing on-site environmental monitors during construction to provide extra assurance that these measures are fully implemented and functioning as designed.

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Page Seven

The preliminary Compensatory (Off-Site) SWM Mitigation Plan provides up to 27 acres for Phase 1 South, which exceeds the compensatory mitigation requirements, which are estimated to be 2.5 acres based on the FEIS SWM analysis. Based on that overall total, the Phase 1 Developer will be able to determine site feasibility and final design. Refer to FEIS, Appendix D. Detailed SWM design, to be performed during final design, and/or use of innovative technologies may reduce the compensatory SWM requirements. In addition, sensitive waters, such as Tier I watersheds and Use III and IV watersheds have additional requirements and restrictions on the type of SWM that can be used to provide extra protection. Final design of both the onsite and offsite SWM sites will be performed at later design stage.

MDOT SHA's noise impacts and abatement analysis was conducted in compliance with the agency's Highway Noise Abatement Planning and Engineering Guidelines (2020), which are in turn, based on FHWA regulations at 23 C.F.R. Part 772, "Procedures for Abatement of Highway Traffic Noise and Construction Noise." The noise analysis was updated for the SDEIS and FEIS to include receptor locations on trails throughout the study area.

Sound levels are measured on a logarithmic scale, which means that in order for there to be a perceptible (3 dBA) increase in noise, either traffic volume would need to double and still operate at high speeds, or the roadway would need to move significantly closer to the residence. Neither of these conditions are proposed as a result of the Build Alternative, so noise is not expected to become significantly louder within the study limits. The noise analysis has determined that no Noise Sensitive Areas within the study limits will experience a substantial increase (defined by MDOT SHA as 10 dBA) in noise levels.

The federal regulations require MDOT SHA to assess whether abatement is "feasible and reasonable" based on a series of practical engineering and performance measures. Based on preliminary design assumptions, MDOT SHA made recommendations for the installation or replacement of noise barriers. Those recommendations will be finalized based on detailed engineering performed during final design. That process will solicit the views and opinions of impacted property owners and residents.

3. Traffic Concerns

As described in the SDEIS, the Preferred Alternative was identified after coordination with resource agencies, the public, and stakeholders to respond directly to feedback received on the DEIS to avoid displacements and impacts to significant environmental resources, and to align the NEPA approval with the planned project phased delivery and permitting approach which focused on Phase 1 South only. The Preferred Alternative includes two new, HOT managed lanes on I-495 in each direction from the George Washington Memorial Parkway to east of MD 187 and conversion of the one existing HOV lane in each direction on I-270 to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs.

The Preferred Alternative includes no action or no improvements at this time on I-495 east of the I-270 spur to MD 5 in Prince George's County. Your comment had been identified in the DEIS related to Build Alternatives that would have spanned the entire study area. Because Connecticut Avenue, the Town of Chevy Chase and Walter Reed National Military Medical campus are located outside the Preferred Alternative limits of build improvements, the changes in traffic on and around Connecticut Avenue resulting from the Build Alternatives have been removed. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

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4. Transit

Transit elements of the Study are discussed in previous sections of this letter. For additional details on transit, refer to FEIS, Chapter 9, Section 3.3.D.

The I-495 & I-270 Managed Lanes Study fulfills the requirement to thoroughly evaluate potential impacts and allowed the agency decision-makers and the public to understand the various advantages and disadvantages of a range of reasonable alternatives. As required by the CEQ NEPA regulations, the DEIS, SDEIS, and FEIS summarize the reasonably foreseeable social, cultural, and natural environmental effects of the alternatives retained for detailed study and the Preferred Alternative to a comparable level of detail. This analysis directly contributed to MDOT SHA's evaluation of these alternatives and to recommendations for a full suite of potential measures to avoid and minimize impacts, as well as comprehensive mitigation proposals where impacts cannot be avoided. Additionally, refer to Chapter 9, Section 3.4.

Thank you again for your comments on the SDEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,



Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 Public-Private Partnership (P3) Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

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The Honorable Cecily Baskir
Page Nine

bec: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Ms. Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services,
MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

T.3.B Supplemental Draft Environmental Impact Statement Elected Officials Comments and Responses

CITY OF GAITHERSBURG – MAYOR JUD ASHMAN

Refer to MDOT SHA Response Letter on page EO-8 for a response.

From: Tom Loneragan-Seeger <Tom.Loneragan-Seeger@gaitHERSBURGmd.gov>
Sent: Friday, November 12, 2021 3:16 PM
To: SHA OPLANESMLS; Jeffrey Folden
Cc: Dennis Enslinger
Subject: SDEIS Comments- City of Gaithersburg
Attachments: 270-495 MLS SDEIS - Ashman Comments - 11122021.pdf

Dear Mr. Folden:

Attached please find comments from Mayor Jud Ashman, on behalf of the Gaithersburg City Council, regarding the Supplemental Draft Environmental Impact Statement (SDEIS) related to Preferred Alternative, Alternative 9 – Phase 1 South, for the I-495 & I-270 Managed Lanes Study.

Thank you in advance for your consideration, and please let me know if you have any questions or need additional information.

Respectfully submitted,

Tom Loneragan
Assistant City Manager
City of Gaithersburg

 Gaithersburg MARYLAND
Tom Loneragan-Seeger | Assistant City Manager
City of Gaithersburg | 31 S. Summit Ave. | Gaithersburg, MD 20877
Phone: 240.805.1093 | Cell: 301.250.8570



November 12, 2021

Jeffrey T. Folden, P.E., DBIA
Deputy Director, I-495 & I-270 P3 Office Maryland Department
of Transportation State Highway Administration
707 North Calvert Street
Mail Stop P-601, Baltimore, MD 21202

Dear Mr. Folden:

As Mayor of the City of Gaithersburg, and on behalf of the Gaithersburg City Council, I offer the following comments on the Supplemental Draft Environmental Impact Statement (SDEIS) related to Preferred Alternative, Alternative 9 – Phase 1 South, for the I-495 & I-270 Managed Lanes Study.

- 1) Upon financial close of the Section P3 Agreement for Phase 1 South of the I-495 & I-270 Managed Lanes project, the Maryland Department of Transportation (MDOT) has committed to fund not less than \$60 million for design and permitting of high priority transit investments in Montgomery County, such as the Corridor Cities Transitway (CCT), MD 355 Bus Rapid Transit (BRT), or other transit projects. The City of Gaithersburg enthusiastically supports the inclusion of enhanced transit options as part of this project, and appreciates the funding that has been pledged in furtherance of that objective. However, as both the CCT and MD 355 BRT projects would pass through, and have significant impacts upon, the City of Gaithersburg, we respectfully request that the City be invited to participate in any future discussions relating to these transit options, or any others proposed that may impact the City of Gaithersburg, to ensure that community feedback is considered.
- 2) As part of MDOT's Agreements with Montgomery County to fund transit investments, MDOT has also agreed to fund, design, and construct a Bus Operations and Maintenance (O&M) Facility at Metropolitan Grove, on land owned by the City of Gaithersburg. The City understands MDOT's need to construct an O&M facility for both short and long term needs. However, we would prefer that other options for a site for a new O&M facility be explored before using the City-owned property at Metropolitan Grove for this purpose. Should MDOT select this site or any other located within the City of Gaithersburg, we request that the City be invited to participate in any discussions relating to this project.

City of Gaithersburg • 31 South Summit Avenue, Gaithersburg, Maryland 20877-2038
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MAYOR
Jud Ashman

COUNCIL MEMBERS
Neil Harris
Laurie-Anne Sayles
Michael A. Sesma
Ryan Spiegel
Robert T. Wu

CITY MANAGER
Tanisha R. Briley


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- 3) Of the 4.7 acres of property impacts projected to be caused by the Managed Lanes Project within the City of Gaithersburg, two City parks- Morris and Malcolm King Parks- account for 2.4 acres. These impacts are apparently related to retaining walls and culvert installations associated with the project. As the impacts to the two parks are not considered *de minimus*, State Highway Administration (SHA) must explore mitigation options to offset these impacts (i.e. providing the City with replacement parkland and replanting areas). City staff has met with SHA to explore potential options for sites to consider, with our preferred alternative identified as a 2.8 acre parcel which is currently owned by the Maryland Department of Natural Resources and part of Seneca Creek State Park (11900 Clopper Road; Attachment 1). This site is bordered by City-owned parkland and would allow the City to expand the amount of passive parkland provided by neighboring Robertson Park and/or Diamond Farms Park. The site is slightly larger than the 2.4 acres being impacted in Morris Park and Malcolm King Park, but in addition to providing the City with replacement parkland, it also offers the opportunity for the provision of required forest plantings, making this site ideal for addressing both required mitigation efforts.
- 4) As the project progresses to Final Environmental Impact Statement (FEIS), we ask that the State continues to look for ways to limit property, noise and environmental impacts within the City of Gaithersburg, particularly in the area around Bralan Court. City staff has noted that, of the twelve properties impacted by the Managed Lanes project north of I-370, six are backyards of residences located along Bralan Court, principally caused by work associated with culvert projects at Morris Park (Attachment 2). While we recognize the need to undertake projects such as these in order to facilitate the widening of I-270, we request that the State works diligently to reduce impacts upon these residential properties and, if possible, shift the line for the limits of disturbance (LOD) as far back from any backyards as possible. The City notes that all of the residential areas north of Morris Park and Malcolm King Park are located within Equity Focus Areas, as identified by the Montgomery County Planning Department, and Equity Emphasis Areas as defined by the Metropolitan Washington Council of Governments (MWCOG). Equity Focus Areas are parts of Montgomery County that are characterized by high concentrations of lower-income people of color, while Equity Emphasis Areas are small geographic areas that have significant concentrations of low-income, minority populations, or both. Any impacts to these areas should be mitigated as much as possible.

We thank you for your consideration of these requests and for your continued support for the City of Gaithersburg. Please feel free to contact me directly with any questions.

Respectfully submitted,



Jud Ashman
Mayor

CITY OF GAITHERSBURG – MAYOR JUD ASHMAN

From: Tom Lonergan-Seeger <Tom.Lonergan-Seeger@gaitHERSBURGmd.gov>
Sent: Friday, November 12, 2021 3:40 PM
To: SHA OPLANESMLS; Jeffrey Folden
Subject: RE: SDEIS Comments- City of Gaithersburg
Attachments: 270-495 Attachment 1.pdf; 270-495 Attachment 2.pdf

Dear Mr. Folden:

Attached please two attachments I had forgotten to add to the previous e-mail, which offered comments from Mayor Jud Ashman, on behalf of the Gaithersburg City Council, regarding the Supplemental Draft Environmental Impact Statement (SDEIS) related to Preferred Alternative, Alternative 9 – Phase 1 South, for the I-495 & I-270 Managed Lanes Study.

Thank you again for your consideration, and please let me know if you have any questions or need additional information.

Respectfully submitted,

Tom Lonergan
Assistant City Manager
City of Gaithersburg

 Tom Lonergan-Seeger | Assistant City Manager
City of Gaithersburg | 31 S. Summit Ave. | Gaithersburg, MD 20877
Phone: 240.805.1093 | Cell: 301.250.8570

Refer to MDOT SHA Response Letter on page EO-8 for a response.

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Attachment 1
11900 Clopper Road
Preferred Parkland Mitigation Site
(Crosshatched in red)



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CITY OF ROCKVILLE – MAYOR BRIDGET DONNELL NEWTON & DEPUTY DIRECTOR OF DEPARTMENT OF PUBLIC WORKS JAMES WOODS

Refer to MDOT SHA Response Letter on page EO-48 for a response.

From: James Woods <jwoods@rockvillemd.gov>
Sent: Friday, November 12, 2021 3:23 PM
To: Jeffrey Folden; SHA OPLANESMLS
Cc: jeanette.mar@dot.gov; Parikh, Jitesh (FHWA); Craig Simoneau; Robert DiSpirito; Emad Elshafei
Subject: Mayor and Council of Rockville - comments on SDEIS 11-12-2021
Attachments: SDEIS LETTER RE-I270 11.8.21.pdf; SDEIS Stream Mitigation with date.pdf; I270-I495 DEIS Letter -11-2-2020-208.pdf

Mr. Folden, Ms. Mar and Mr. Parikh,

Please see attached for the City of Rockville's comments on the SDEIS for the I-495 & I-270 Managed Lanes Study. A hard-copy will follow.

Thanks,

-Jim

James Woods, P.E.
Deputy Director
Department of Public Works
jwoods@rockvillemd.gov
City of Rockville
111 Maryland Avenue
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November 12, 2021

Jeffery Folden, Director
I-495 & I-270 P3 Office
Maryland Department of Transportation State Highway Administration
707 North Calvert Street, Mail Stop P-601
Baltimore, Maryland 21202

Jeanette Mar
Jitesh Parikh
Federal Highway Administration
Maryland Division
George H. Fallon Federal Building
31 Hopkins Plaza, Suite 1520
Baltimore, MD 21201

Dear Mr. Folden, Ms. Mar, and Mr. Parikh:

The City of Rockville's Mayor and Council are writing to express the City's extreme concern with the Supplemental Draft Environmental Impact Statement (SDEIS) and Updated Draft Section 4(f) Evaluation for the I-495 & I-270 Managed Lanes Study. The SDEIS fails to respond to most of the City's prior November 2, 2020, submitted comments on the Draft EIS published on July 10, 2020 (DEIS), which the City attaches and incorporates herein by reference. As a result, the SDEIS still fails to sufficiently account for the impacts on the City and its residents directly in the pathway of the proposed project. While the SDEIS repeatedly claims it relies and builds upon DEIS information "that remains valid," it cannot do so where the DEIS information was not valid to begin with. The SDEIS perpetuates and adds to the severe flaws of the DEIS, to which the City has received no written responses to its prior comments, and the City of Rockville continues to support the only alternative adequately supported by the record: The No-Build Alternative.

At the outset, the City of Rockville is highly disappointed that the SDEIS comment period was not extended to provide a reasonable period of time to review and meaningfully comment. The City submitted a request on October 15, 2021, to extend the comment period until January 31, 2022. Similarly, on October 28, 2021, the Maryland Congressional delegation for the affected project area requested an extension of the 45-day comment period to at least 90 days. The mere 45 days afforded for SDEIS review and comment, of which only 29 are working days, and a one-day virtual public hearing, pales in comparison to the 123-day comment period for the earlier DEIS. A rushed process is unjustifiable for a project of this magnitude, particularly with its direct impacts on the City of

MAYOR
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David Myles
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CITY MANAGER
Robert DiSpirito

CITY CLERK/DIRECTOR OF
COUNCIL OPERATIONS
Sara Taylor-Ferrell

CORPORATE COUNSEL
Robert E. Dawson

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Jeffery Folden, Director Maryland of Transportation State Highway Administration
November 12, 2021
Page | 2

Rockville and its residents. The unreasonable denial of the requested extensions compromises the NEPA process for this project.

The SDEIS is flawed because implementing only Phase 1 South will create a major congestion and bottleneck in the eastbound direction at the points where the managed lanes end. Combining traffic from the toll lanes with general traffic while reducing the total number of lanes will definitely cause an existing chokepoint to get even worse. This congestion will also reduce any potential gains by adding the toll lanes. Indeed, the SDEIS concedes that (ES-12) "downstream bottlenecks outside the Preferred Alternative limits" will occur, and that (ES-10) "improvements on the remainder of the [I-495] interstate system may still be needed in the future." Therefore, the cost-benefit analysis should identify the disadvantages of segmenting and moving forward with Phase 1 South at this time rather than in conjunction with broader interstate system improvements.

While traffic volumes have been increasing in recent months, since the pandemic first started, traffic projections should consider the shift from car trips to use of broadband. This is not only true of commuting to work, but also for doctor appointments, car-damage inspections, conferences and seminars, etc. More and more, people are learning how to work and attend to many daily affairs from home, and this should be considered while projecting future traffic volumes.

The SDEIS states that standalone transit alternatives were found to not meet the Study's Purpose and Need. See ES-8. This conclusion is unjustified. The SDEIS only purports to update the Preferred Alternative 9 from the DEIS, and does not remedy the flaws in the DEIS failing to study a true transit-only alternative. Instead of featuring a solid transit solution, the Preferred Alternative will only enhance existing and planned multimodal mobility and connectivity. This is still not an acceptable alternative since the benefit of these transit improvements is expected to be negligible. The SDEIS's mention of other potential transit projects (see ES-8) is also immaterial for analysis of the proposed project, and the SDEIS analyzes no salient linkage among them. It is critical that MDOT and FHWA reinstate transit as a key project element, and consider other options such as the reversible lanes.

It will also be beneficial to pause and assess the benefits of the \$132M recently spent on the I-270 Innovative Congestion Management project before moving forward with the Managed-Lanes Study.

The Purpose and Need omits safety considerations typically featured for transportation projects, and that are critically important to the City of Rockville directly abutting I-270. Instead, the SDEIS (ES-12) states that "[o]pportunities to further address safety and operations will be evaluated on

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Jeffery Folden, Director Maryland of Transportation State Highway Administration
November 12, 2021
Page | 3

the Selected Alternative after the conclusion of NEPA and during final design.” This wholesale deferral of safety analysis in the draft NEPA document and frustration of public comments is untenable.

The potential toll rate is expected to be high enough to deter many drivers from using the toll lanes. The issue of economically challenged populations or social equity continues not to be adequately addressed by the SDEIS. The equity/environmental justice evaluation in the SDEIS does not make any reasonable recommendations to address the inequities, such as adding or modifying access locations or developing a toll subsidy program. More detailed information is needed as part of the Environmental Justice evaluation to help determine whether equity mitigation might be necessary with the project, and what that equity mitigation would entail.

The Mayor and Council continue to vigorously advocate with MDOT and the Governor to protect the homes, businesses and infrastructure of the nine Rockville neighborhoods that abut I-270. Many residents are anxious about the uncertainty surrounding their homes, neighborhood, and community.

The City remains strongly opposed to any alternative that will take all or portions of residences, businesses, or infrastructure, or include multi-parcel takings, or any potential loss of City property to add lanes or widen I-270 in either direction through Rockville. While the SDEIS represents that the Preferred Alternative now avoids all relocations or displacements of residences or businesses, it is essential that MDOT and FHWA understand that taking a portion of a yard, playground, park, or other amenity would damage our community. And while the SDEIS also states there has been an overall reduction in parkland impacts, there has been an *increase* in acres of City of Rockville parkland impacted, Table 5.1 shows a 3.9-acre increase since the DEIS in overall acres of City parkland impacted, of which most are permanent impacts. See Table 5-1. The SDEIS also defers and lacks full analysis under Section 4(f), and the City reserves the right to further comment.

The City strongly concurs with the additional sound walls recommended on the east side of I-270, starting at MD 189 to the Woodley Gardens Shopping Center,

and on the west side of I-270, north of MD 189 at the Saddlebrook neighborhood, and requests additional review for the east side of I-270 on Redland Blvd., just south of Shady Grove Road, as well as the west side of I-270, just south of MD 189, at the Falls Ridge Neighborhood near Seven Locks Road. The City of Rockville would also like MDOT to reexamine noise levels near Wootton Parkway and consider adding noise barriers in this area. If the project is implemented, the City requests a commitment from MDOT that sound levels be examined after 5-, 10- and 20-years post construction to confirm projections and if necessary, that corrective action be taken to

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Jeffery Folden, Director Maryland of Transportation State Highway Administration
November 12, 2021
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mitigate additional sound impacts that exceed the projections/threshold. Noise projections from prior improvements to I-270 have not been accurate resulting in an area of the City along Nelson St. where the current noise levels qualify for a sound wall.

Additional concerns of the City of Rockville include the following:

- The City is concerned that the SDEIS still does not address the expected impacts to Rockville's waterways and stormwater management (SWM) systems. Much of the SDEIS is targeted to show compliance with State and Federal regulatory requirements. However, Rockville's local SWM regulations have higher standards that require water quantity control or alternative mitigation for larger storms. This is especially concerning given the reality that precipitation norms are changing due to climate change and that neither the State nor the federal government has updated stormwater management and storm drain capacity standards accordingly. There is an increasing frequency of high intensity short duration storms that have significant negative impacts on the environment and infrastructure, exemplified by Ellicott City experiencing three 1,000-year flood events over the last decade (Maryland Commission on Climate Change 2020 Annual Report). The remnants of Hurricane Ida this year brought over 7 inches of rain to parts of Maryland in a short timeframe. These types of deluges are expected to continue for the foreseeable future (National Climate Assessment). Rockville raised these issues in its prior comments, yet they remain unaddressed in the SDEIS. Therefore, the City requests the design team to 1) analyze impacts of a 100-year storm to upstream and downstream assets and property within the City limits; and 2) provide, at a minimum, safe conveyance and capacity treatment for the 10-year storm (Qp10), which is required by the City's Stormwater Management Ordinance. Further, the City requests that mitigation be provided for the areas found to be impacted by the 100-year storm analysis.
- Section 3.1.3 - Traffic Modeling Assumptions, page 3-4, include benefits of proposed transit projects (such as the CCT and Randolph Road BRT). To date, there is no guarantee those projects will be in place in the future. Adding MD 355 BRT, Veirs Mill BRT, and New Hampshire Avenue BRT in the 2045 Model might also be ambitious and not realistic, knowing that those projects are still in early design stage in 2021. The SDEIS should perform and disclose a sensitivity analysis that omits these proposed transit projects to ensure the Preferred Alternative yields sufficient traffic benefits in the event they do not occur.
- Table 3-2 projects that existing average daily traffic (ADT) traffic on I-270 between I-370 and MD 28 is 226,000 and is projected to be 274,000 in 2045 if the project is not built. Table 3-3 projects ADT in 2045 to be 277,000 if the project is built. It is not realistic to project almost the same

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Jeffery Folden, Director Maryland of Transportation State Highway Administration
November 12, 2021
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exact ADT with or without the additional toll lanes. If congestion will be reduced after the project implementation, more traffic will be expected due to induced demand.

- Table 3-8 projects no noticeable change in the Travel Time Index (TTI) for the general purpose lanes [on I-495 and I-270] between the No-Build and the Preferred Alternative, and a negligible travel speed difference on I-270 between the No-Build alternative and the Preferred Alternative, which does not provide much benefit of this project relative to the stated Purpose and Need. The SDEIS does not quantify (Table 5-4) what it means that the Preferred Alternative meets the Purpose and Need "to a lesser degree," or justify its claim (ES-12) that the Preferred Alternative would operate "significantly better than the No-Build."

- While Table 3-12 indicates that the Preferred Alternative would result in a net reduction in daily delay on the surrounding arterials of 3.5% by drawing traffic off the local network, the City of Rockville is not expected to benefit from this reduction. In fact, adding new exits on Wootton Parkway and Gude Drive will

increase traffic congestion on these roads, which are already congested today, especially closer to Rockville Town Center and MD 355. Again, the City's prior comment on this topic has not been addressed. The City requests additional evaluation of the operations and safety on all interchange cross streets.

- Tables 4-3 of the SDEIS shows that Rockville would experience by far the largest proportion (38%) of property impacts of any community, with approximately 44 acres impacted, including 40.1 acres permanently. The City would like to raise again the issue of the failure to consider City Forest Conservation Act and City Forest and Tree Preservation Ordinance. There are also anticipated property acquisition needs insufficiently disclosed in the SDEIS, particularly the existing City-owned bridges across I-270, that remain to be assessed and evaluated. Table 4-12 additionally shows disproportionate impacts to City of Rockville parkland and environmental resources:

- 88.4 acres of forest canopy
- 2.5 acres of wetlands
- 2.8 acres of stream buffer
- 6,083 linear feet of waterways

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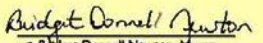
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Jeffery Folden, Director Maryland of Transportation State Highway Administration
November 12, 2021
Page | 6


The SDEIS validates the City of Rockville's concerns that the prior DEIS understated the proposed project's limits of disturbance, including areas impacted by stormwater management and other project-related measures. Despite the City experiencing the greatest community impacts, and the fact that the City's comments on the DEIS expressly asked for more wetlands and stream mitigation projects in Rockville, the mitigation proposed in our community for these impacts is severely lacking. Particularly for waterways and wetlands, mitigation is only proposed at three sites up-County. The City provided the MDOT team a list of potential streams and outfall stabilization/restoration sites in Rockville; however, none are included for mitigation, and the SDEIS includes no mention of them. The City attaches the previously provided list of priority mitigation projects with these comments. Given that the City has an extensive section of I-270 that will be impacted, the City recommends that MDOT and FHWA commit to also addressing Rockville's waterway and stormwater impacts by providing stormwater mitigation projects located inside the City limits. Deferring the resolution of mitigation of City of Rockville impacts until the Final EIS and Final Section 4(f) Evaluation is insufficient and unacceptable. See ES-1, ES-3.


The City of Rockville requests MDOT and FHWA make the fiscally, environmentally, and socially responsible decision, and to continue to work with the City, and all impacted jurisdictions, to identify the best solution that would achieve our mutual goals of reducing traffic congestion and protecting our residents' quality of life. The City of Rockville continues to support the only alternative adequately supported by the record: The No-Build Alternative. The Mayor and Council ask that you give every possible consideration to our comments and concerns. The City also reserves the right to further comment on NEPA and other project-related documents issued by MDOT or FHWA.

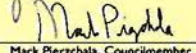
Sincerely,


Bridget Donnell Newton, Mayor


Monique Ashton, Councilmember


Beryl L. Feinberg, Councilmember


David Myles, Councilmember


Mark Pierzchala, Councilmember

Rockville Mayor and Council

cc: Rockville City Manager
Maryland District 17 Delegation

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City of Rockville Potential Stream and Stormwater Mitigation Projects
November 12, 2021

1) Existing City of Rockville Public SWM Facilities for Potential Retrofit

- a. Rose Hill Falls Regional Dry Pond (Pond #2)
 - Location: Along I-270 between Winding Rose Drive and Julius West Middle School. See below figure showing approximate pond location. This is a public SWM facility primarily on City open space property, with a small portion in SHA right-of-way, per agreement with SHA.



- City will accept a SWM facility retrofit that maximizes water quality, provided that the pond can safely convey the 10 and 100-year storm events.
 - SWM facility retrofit will need to include dredging of accumulated sediment from dry pond area and provide any other maintenance/repairs as needed.
 - SWM facility retrofit will need to include replacement of failing MDOT SHA storm drain outfall from I-270. Existing head cut exposes missing storm drain pipe in roadway embankment to within approximately 11 feet from I-270 shoulder paving.
 - SWM Facility Retrofit will need to ensure roadway and related storm drain/SWM improvements cause no additional 10 or 100-year flooding (including backwater) on adjacent properties other than undeveloped City parkland.
- b. County Detention Center Regional Wet Pond
 - Location: County Detention Center off of Seven Locks Road. See below figure showing approximate pond location. The City has an easement for this pond, but it is located on Montgomery County property. The pond was built under a three-way agreement with Montgomery County, City of Rockville and SHA. Please note: the county has proposed changes in this area.

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- City will accept a SWM facility retrofit that maximizes water quality, provided that the pond can safely convey the 10 and 100-year storm events.
- SWM Facility Retrofit will need to maintain or increase current level of water quality treatment for existing drainage area to pond (no loss of water quality credit to City under NPDES permit)
- SWM facility retrofit will need to include dredging of accumulated sediment from both pond cells and provide any other maintenance/repairs as needed.
- SWM facility retrofit will need to include replacement of failing MDOT SHA storm drain outfall into pond.
- SWM Facility Retrofit will need to ensure roadway and related storm drain/SWM improvements cause no additional 10 or 100-year flooding (including backwater) on developed portions of the Detention Center site or other private properties.

2) Potential Mitigation (Stream & Outfall Stabilization/Restoration)- Listed in order of recommended priority by City of Rockville

- a. Plymouth Woods Stream Valley Park (Private Owner)
 - i. Located south of Anderson Park and North of Nelson St. It already has a completed stream restoration design approved by SHA TMDL office.
- b. Rockmead Stream Valley Park (City Owned)
 - i. Located in Rockmead Stream Valley Park.

- ii. Existing stream erosion, exposed sanitary sewers, and several deteriorated 1970s-era dry ponds next to streams. Erosion threatens private back yards near Lochness Ct., Watts Branch Pkwy and Brookcrest Ct.
 - iii. Developer will need to negotiate project credit with the City.
- c. Fallsmead Stream Valley (Privately Owned)
 - i. Located between Rockmead Park and Wootton Parkway.
 - ii. Existing stream erosion concerns and deteriorated pedestrian bridge crossings.
- d. “Rockville Canyon” (Privately Owned)
 - i. Located between Rockville High School and The Forest Apartment complex off Baltimore Road.
 - ii. Existing severely eroded outfall channel on private property leading to Croyden Creek.
- e. Carter Hill HOA Stream Reach (Privately Owned)
 - i. Located between Glenora Park and City stream restoration project adjacent to Bouldercrest Court.
 - ii. Eroded Glenora Tributary stream channel next to pool deck.
- f. Norbeck Road Outfall Channel (Privately Owned)
 - i. Located between Norbeck Road (MD-28), just north of 1st street, and City’s Glenview Mansion property.
 - ii. Eroded stream channel traverses multiple private properties at back property lines.
- g. Cabin John Creek (City Property)
 - i. Located from Wootton Parkway downstream to City Limits – stream erosion
- h. Assess all stream crossings of I-270 for fish passage issues.
 - i. Recommend and implement improvements.

Specific location limits for the above potential mitigation projects will need to be coordinated with the City of Rockville.

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City of Rockville
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MAYOR
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CITY MANAGER
Robert DiSpirito

CITY CLERK/DIRECTOR OF
COUNCIL OPERATIONS
Sara Taylor-Ferrell

ACTING CITY ATTORNEY
Cynthia Walters

November 2, 2020

Ms. Lisa B. Choplin, DBIA
Maryland Department of Transportation
707 North Calvert Street, Mail Stop P-601
Baltimore, Maryland 21202

Dear Ms. Choplin:

We, the Mayor and Council of the City of Rockville, are writing to express our extreme concern with the Draft Environmental Impact Statement (DEIS) for the I-495 & I-270 Managed Lanes Study. The DEIS is severely flawed because it completely neglects the impact of the pandemic. The Travel Demand Model assumes traffic volumes will resume to pre-COVID levels, includes too many human health and environmental impacts, and does not include a public mass transit component. Therefore, the City of Rockville supports the only rational alternative in compliance with the National Environmental Policy Act: The No-Build Alternative.

The DEIS's faulty assumption that traffic will return to pre-COVID levels negates the entire DEIS process and project decision-making. The Environmental Impact Statement is supposed to convey not only the benefits of the project, but also the negative environmental impacts, so they can be properly weighed. An assumption which significantly overstates the benefits of a project (such as reduction of traffic congestion) will cause the impacts to be improperly compared.

Below are some of the City's major concerns, with more technical concerns attached to this letter.

- The potential toll rate of as much as \$0.77 per mile (for Alternative 9M) is high enough to deter significant number of drivers from using the toll lanes. This rate is the projected average throughout the day, which means that the rates during the peak periods will be significantly higher and expected to exceed \$2 per mile. This reveals a lack of transparency of the peak toll rates in the DEIS. Rates this high will certainly discourage usage. The DEIS also does not account for the high cost of utility relocation, specifically WSSC utilities.
- The current experience with the Purple Line P3 demonstrates the risks of such a P3 project. The state should not proceed with the even larger I-270/I-450 P3 project until it demonstrates that it can properly handle the fundamental Purple Line P3 difficulties. Further, the Purple Line experience shows that the state and its taxpayers may be required to make up large construction funding shortfalls when all costs are considered, and may have to make up large ongoing operational deficits.
- The DEIS fails to look at the human health and environmental impacts of the proposed expansion in order to understand the balancing and tradeoffs required. Instead, the DEIS repeatedly notes that many project details remain unknown. This is insufficient and prevents the public from understanding the true consequences of the proposed expansion.

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Ms. Lisa B. Choplin, DBIA
November 2, 2020
Page 2

- The Mayor and Council vigorously advocate that MDOT and the Governor protect the homes, businesses, and infrastructure of the nine Rockville neighborhoods that abut I-270. Many residents are anxious about the uncertainty surrounding their homes, neighborhood, and community. It is essential that the State understand that even if a home is left untouched, the taking of a portion of a yard, playground, park, or other amenity would still damage our community. There also are several schools close to I-270 that would be adversely impacted due to the noise and air quality that this project brings.
- The recommended alternatives retained for detailed study do not include public mass transit. The DEIS did not analyze reasonable public transit options, smaller-scale roadway improvements, or transportation systems and transportation demand management options. Suggestions to improve Park & Ride lots and enhance current transit lines are not acceptable, since the benefit of those transit improvements is expected to be negligible.
- The I-270/I-495 P3 will further degrade the climate in major ways. This proposed project will add a devastating loss of parks, adverse impacts to the Chesapeake watershed, wetlands and tree canopy, as well as the air and noise pollution that comes with increased speed and traffic. Rockville's effort to develop a Climate Action Plan to reduce municipal and community-wide greenhouse gas emissions will be undermined by the widening of I-270, which will generate even more global warming pollution from increased traffic.
- The DEIS does not sufficiently address social equity as required under NEPA. The need to conduct an equity evaluation on the transportation benefits of each of the Alternatives is of utmost importance. The DEIS's conclusion that everyone benefits, particularly given the widely-held public perception that managed lanes are intended and feasible solely for those with the ability to pay, is just not acceptable.

The City of Rockville requests MDOT make the fiscally, environmentally, and socially responsible decision to not proceed further with this project. We endorse only the No-Build Alternative.

Sincerely,

Mayor and Council

City of Rockville

cc: Rockville City Manager
District 17 Delegation

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Ms. Lisa B. Choplin, DBIA
November 2, 2020
Page 3

Attachment A

Additional City comments and concerns:

1. The numbers included in the Executive summary (Table ES-2) are slightly different than those included in Table 2-3 in the main report.
2. Transit components are not adequate in the study: No standalone transit alternative has been proposed in the DEIS.
3. Rockville and Montgomery County question the validity of the Travel Demand Model used to project 2040 traffic volumes and patterns. Travel habits and the extensive use of video meetings, as well as the wide acceptance of teleworking during recent months, suggest that travel demand models should be revised taking into consideration all recent changes, and to project future demand accordingly.
4. The study is based on annual average daily traffic of 260,000 vehicles per day in 2018 (on I-270 between MD 28 and I-495). What is the current daily traffic in 2020? And how will it affect the purpose and need of this study? The forecasted 2045 traffic shown on page 1-5 (46 of 353) of the document should be revised accordingly.
5. The report did not include any data or specific analysis for Rockville's local networks and surrounding arterials, such as Wootton Parkway and Gude Drive, as well as traffic impact on neighborhoods.
6. The limits of disturbance (LOD) will likely need to be expanded because the LOD does not adequately address likely environmental impacts to natural resources. This includes inadequate allowance for stable outfall transitions, stormwater management, and rehabilitation of impacted resources, some that occur outside the limits of the LOD, in addition to other factors and incomplete analysis.
7. There are no sections of the DEIS which speak specifically to utility impacts. Concerns about utility relocation as well as cost associated with this task is significant.
8. Appendix B: Alternatives Technical Report section 5.5 Structures speaks to bridges but does not identify each specific bridge that would be impacted.
9. There are no specifics in the DEIS regarding utility impacts.
10. Appendix E: Community Effects Assessment (CEA)/Environmental Justice Technical Report: The Public Utilities section within the project limits makes no mention of any of Rockville's utility impacts or services.

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Ms. Lisa B. Choplin, DBIA
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Page 4

11. The project would impact parkland, streams, wetlands, and forests in Rockville. At the current scale, the extent of impact to Rockville natural resources is difficult to determine. Additionally, the current LOD included in the Draft DEIS does not comprehensively reflect all the environmental impacts that will be needed to construct, restore and mitigate for the proposed project. The LOD needs adjustments in many locations to factor in access, construction, outfall stabilizations and transitions, stormwater management, and the mitigation of impacted assets.
12. The City is concerned that the DEIS does not address the expected impacts to Rockville's waterways and stormwater management (SWM). The DEIS provides inadequate stormwater management treatment for current and future impervious surfaces. Additionally, staff believes that proposed roadway changes and the increase in runoff added to already undersized and deteriorated SHA pipes may overwhelm our storm drain system, increase our stream erosion, and cause more issues for the City to deal with in the future.
13. Much of the DEIS is targeted to show compliance with State and federal regulatory requirements. However, Rockville's local SWM regulations have higher standards that require water quantity control or alternative mitigation for larger storms. These are not currently addressed in the DEIS.
14. Some onsite stream mitigation (meaning within the I-270 construction limits of disturbance) is proposed within the city limits at locations of expected impacts from I-270 storm drain outfalls, new or retrofitted stormwater management, culvert replacement, etc. However, it is not clear how this would address the downstream effects on Rockville streams and storm drains, nor is there information about what type of mitigation is planned.
15. Given that Rockville has an extensive section of I-270 that will be impacted, staff recommends that SHA also commit to addressing Rockville's waterway and stormwater impacts by providing mitigation projects located inside city limits.
16. City staff are concerned that adequate stormwater treatment is not provided and that multiple adjustments to the City's drainage system will result from the I-270 construction, many of which will not be compatible with existing downstream infrastructure or capacity. The DEIS does not account for how the meshing of new SHA infrastructure with older, lower-capacity City pipes and stream channels can be accomplished, and no downstream mitigation projects within Rockville are mentioned. We strongly urge SHA to add projects from the detailed list provided by the City in the spring of 2020, to help compensate closer to the source of increased runoff.
17. Appendix I, Air Quality Technical Report, suggests the project's added toll lanes to Washington-area highways would reduce air pollution, along with congestion, and have minimal impacts on greenhouse gases. The analysis doesn't account for the long-term likely increase in the number of vehicles traveling on the widened highways because of induced demand, which could offset reductions in congestion-related emissions. The study should assess the air quality and greenhouse gas impacts under the new SAFE Vehicles Rule.

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Ms. Lisa B. Choplin, DBIA
November 2, 2020
Page 5

18. The encroachments into parks are not well defined.
19. Since specific impacts are not defined in the documents, avoidance of impacts must be included, as well as justification acceptable to the Director of Recreation and Parks. Also, there is not enough detail for all park encroachments to identify wetlands, forest types, historical sites, significant trees, and cultural resources. A Natural Resource Inventory (NRI) shall be required prior to approval of all encroachments, and based on the resources, encroachment maybe denied.
20. Staff found that the DEIS report makes no mention of the City's Forest Conservation Act (FCA) requirements. The report is limited to discussion of State and County FCA issues.
21. Numerous sections of the report should be modified to include City of Rockville Forest and Tree Preservation Ordinance definitions, permitting requirements, existing easements, and the mitigation options.
22. The City requires the forest conservation easements (FCE) impacts be mitigated by planting trees or acquiring forested parcels within boundaries of the city or, as a last resort, via fee-in-lieu money paid to the City, not the County. The report should reflect this requirement.
23. For historic resource, 628 Great Falls Road is a designated historic house. It is a triangular lot at the corner of Great Falls Road and Maryland Avenue, and would be impacted if the project were to proceed as planned.

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CONGRESS OF THE UNITED STATES 8TH DISTRICT, MARYLAND – JAMIE RASKIN

HOUSE JUDICIARY COMMITTEE
VICE CHAIR, SUBCOMMITTEE ON CONSTITUTION,
CIVIL RIGHTS AND CIVIL LIBERTIES
SUBCOMMITTEE ON ANTI-TRUST, COMMERCIAL
AND ADMINISTRATIVE LAW
HOUSE COMMITTEE ON RULES



HOUSE COMMITTEE ON OVERSIGHT
AND REFORM
CHAIR, SUBCOMMITTEE ON CIVIL RIGHTS
AND CIVIL LIBERTIES
SUBCOMMITTEE ON GOVERNMENT OPERATIONS
COMMITTEE ON HOUSE ADMINISTRATION
VICE CHAIR

October 21, 2021

Stephanie Pollack
Acting Administrator
Federal Highway Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Dear Ms. Pollack:

I am writing to bring your attention to the October 18th letter submitted by my constituents during the public comment period for the Supplemental Draft Environmental Impact Statement (SDEIS) for the I-495 and I-270 Managed Lanes Study.¹

My constituents have expressed concerns about the accuracy of the SDEIS's underlying traffic model and have provided specific examples of modeling outputs that they believe are incorrect. One particular concern they have identified involves the section of the highway where I-270 and I-495 merge, near the Wisconsin Avenue exit. The highway lanes around this merge point are typically congested during the evening rush hour. My constituents note that adding three additional highway lanes before the merge point—without extending any lanes past this merge point—is certain to create a bottleneck that will worsen traffic congestion. My constituents have pointed out that the Maryland Department of Transportation's own analysis from November 2019 raises a similar concern about the creation of a new bottleneck if I-495 was not widened past the merge point. Despite this concern from MDOT, the SDEIS's traffic model now concludes that no bottleneck issue would arise. I respectfully urge you to review my constituents' concerns about the SDEIS's traffic model and take any necessary actions to ensure the public has the opportunity to provide comments on an accurate traffic model.

Thank you for your thoughtful attention on this matter, and please do not hesitate to contact me with any further questions.

Yours truly,


Jamie Raskin
Member of Congress

¹ The letter from my constituents submitted during the public comment period for the SDEIS is attached.

MDOT SHA RESPONSE



Larry Hogan
Governor
Boyd K. Rutherford
Lt. Governor
James F. Ports, Jr.
Secretary
Tim Smith, P.E.
Administrator

June 10, 2022

The Honorable Jamie Raskin
Congress of the United States
8th District
2242 Rayburn House Office Building
Washington DC 20515

Dear Congressman Raskin:

Thank you for your letter regarding the I-495 & I-270 Managed Lanes Study (MLS or Study) Supplemental Draft Environmental Impact Statement (SDEIS). I appreciate the opportunity to respond to concerns noted in your October 21, 2021 letter on the SDEIS.

The I-495 & I-270 MLS is being completed in compliance with the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) implementing regulations and the Federal Highway Administration's (FHWA) procedural regulations. FHWA, as lead federal agency, is charged with independently ensuring that the Study follows NEPA's procedural requirements. Similarly, Federal permitting agencies are charged with ensuring compliance with all Federal laws within their jurisdiction.

In January 2021, Alternative 9 was announced as the Maryland Department of Transportation State Highway Administration (MDOT SHA) Recommended Preferred Alternative based on results of traffic, engineering, financial, and environmental analyses, as well as public comment. After several months of further coordinating with and listening to agencies and stakeholders regarding Alternative 9 as the Recommended Preferred Alternative, MDOT SHA aligned the Study to be consistent with the previously determined phased delivery and permitting approach which focused on Phase 1 South only. As a result, FHWA and MDOT SHA identified a new Recommended Preferred Alternative: Alternative 9 – Phase 1 South. Alternative 9 – Phase 1 South includes the same improvements proposed as part of Alternative 9 but limited to the Phase 1 South limits only. Based on new information related to the Preferred Alternative, MDOT SHA and FHWA published the SDEIS in October 2021. As described in the SDEIS, this Preferred Alternative was identified after coordination with resource agencies, the public and stakeholders to respond directly to feedback received on the DEIS, and to align the NEPA approval with the planned phased delivery and permitting approach.

The Preferred Alternative includes a two-lane, High Occupancy Toll (HOT) managed lanes network on I-495 and I-270 within the limits of Phase 1 South only. On I-495, the Preferred Alternative consists of adding two, new HOT managed lanes in each direction from the George Washington Memorial Parkway to west of MD 187. On I-270, the Preferred Alternative consists of converting the one existing high-occupancy vehicle (HOV) lane in each direction to a HOT managed lane and adding one new HOT managed lane in each direction on I-270 from I-495 to north of I-370 and on the I-270 east and west spurs. Transit buses and vehicles with three or more occupants would be permitted to use the HOT lanes toll-free.



October 18, 2021

Stephanie Pollack
Acting Administrator
Federal Highway Administration
1200 New Jersey Ave. SW
Washington, DC 20590

Subject: I-495 & I-270 Managed Lanes Study

Dear Administrator Pollack:

On October 1, FHWA and the Maryland Dept. of Transportation issued a Supplemental Draft Environmental Impact Statement for the I-495 & I-270 Managed Lanes Study. The subject of the SDEIS is a new alternative, not addressed in the DEIS, which adds toll lanes from the George Washington Bridge in Virginia to I-370 in Maryland. MDOT has selected this as the Preferred Alternative, leaving the choice of alternative for the remainder of I-495 undetermined.

The SDEIS contains no valid information on how the Preferred Alternative will affect vehicle movement because its traffic model is invalid. The output of the SDEIS's traffic model is contrary to common sense, logic, and traffic forecasting done by MDOT itself before Maryland suddenly reversed its policy. As a result, the SDEIS provides no basis for determining whether the Preferred Alternative satisfies the project's Purpose and Need, what the air pollution and noise impacts will be, and whether it will disproportionately harm Environmental Justice populations.

We therefore request that you withdraw the SDEIS and instruct MDOT to identify the causes of the traffic model's failure, develop a valid model, and reissue the SDEIS with an explanation of the reasons for the previous failure and a thorough validation of the new model.

A key location where the SDEIS traffic model fails spectacularly is the merge at Wisconsin Avenue where the I-270 east spur meets the Capital Beltway. This is already one of the most congested parts of the Beltway. It is obvious that feeding in three more lanes of traffic (two from the Beltway and one from I-270), without adding capacity at the merge point, will worsen congestion there. This is a crucial difference between the new Preferred Alternative and the build alternatives studied in the DEIS, which all increase capacity at that merge point.

The Honorable Jamie Raskin
Page Two

There is no action, or no improvements, included at this time on I-495 east of the I-270 east spur to MD 5. Significant environmental and community impacts outlined in the DEIS have now been completely avoided including residential and business displacements and over 100 acres of parkland. Any future proposal for improvements to the remaining parts of I-495 within the study limits, outside of Phase 1 South, would advance separately and would be subject to additional environmental studies, analysis, and collaboration with the public, stakeholders, and agencies.

In response to each of your specific concerns regarding the traffic analysis, I offer the following:

1. I-270 and I-495 Merge near Wisconsin Avenue

The SDEIS is transparent regarding the operations for the Preferred Alternative along the I-495 Inner Loop at the I-270 and I-495 merge near Wisconsin Avenue. MDOT SHA acknowledges that this is not the optimal solution from a traffic operations perspective, but as noted above, this Alternative was selected based largely on public, agency and stakeholder comments to avoid significant environmental and community impacts. Page 3-10 of the SDEIS states: *"On the I-495 inner loop, average speeds in the GP lanes are projected to remain unchanged (7 mph) between the George Washington Memorial Parkway and the I-270 west spur under the Preferred Alternative during the 2045 PM peak hour compared to the No Build Alternative because of severe congestion on the top side of I-495 in the proposed no action area."*

The DEIS presented several alternatives that would have resolved congestion through this area, including Alternative 9, which was MDOT SHA's initial Recommended Preferred Alternative. MDOT SHA also investigated many potentially less impactful options for this area, including transportation demand management (TDM) solutions and transportation systems management (TSM) solutions, such as ramp metering. These TDM and TSM solutions all either resulted in additional environmental or community impacts and/or did not improve operations, and therefore were ultimately dropped from consideration for this Study.

The Preferred Alternative provides meaningful operational benefits to the system, as summarized in more detail below. The design has also been updated in the Final Environmental Impact Statement (FEIS) to address operations through this area as much as possible. Average speeds on the I-495 Inner Loop general purpose lanes under the Preferred Alternative during the 2045 PM peak hour are projected to be 15 miles per hour (mph) based on the latest design. These speeds are higher than the initial projections in the SDEIS (seven mph) and they are also improved compared to the No Build Alternative.

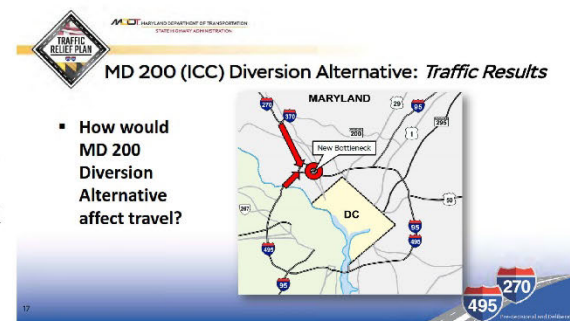
2. Traffic Modeling and Analysis

Throughout the National Capital Region, FHWA, MDOT SHA and the Metropolitan Washington Council of Governments (MWCOG) have established a consistent approach to project level traffic analysis. The methodology implemented for this Study is consistent with other similar MDOT projects and was reviewed and approved by FHWA when this NEPA process was initiated.

Ms. Stephanie Pollack, October 18, 2021

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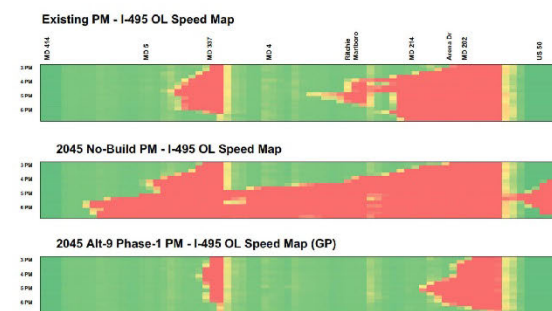
MDOT said just that on November 7, 2019. At that time, the Maryland agency was resisting demands for the DEIS to study an “ICC diversion” alternative that would add toll lanes to I-270 and the American Legion Bridge but not widen the Beltway at the Wisconsin Avenue merge. MDOT told the National Capital Planning Commission that this would create a “New Bottleneck” at the merge point. The slide on the right is from MDOT’s presentation to NCPC.



But then there was a sudden policy reversal. In May of this year, MDOT announced its new Preferred Alternative – with the Beltway no longer widened at the merge. The “New Bottleneck” then vanished.

According to the SDEIS, in the evening rush hour from 3:00 to 7:00, when congestion is at its worst, 400 fewer eastbound vehicles will pass through the merge if the toll lanes are built than if they aren’t. To the east on the Inner Loop, between Georgia Avenue and I-95, the model predicts even larger drops in traffic volume. This leads the model to conclude that Inner-Loop traffic in Montgomery County will get worse where the highway is widened and get better where it is not.¹ These model outputs are contrary to common sense.

The SDEIS model also predicts that the Preferred Alternative will reduce evening rush-hour traffic volumes by up to 4% on the northbound Beltway south of US 50 in Prince George’s County, nearly eliminating congestion there. A 4% reduction in traffic is also predicted for US 50 toward Annapolis. There is surely something deeply wrong with a model that shows traffic jams vanishing in Prince George’s County when a highway is widened on



Detail from SDEIS, Appendix A, page 127

¹Table 4 of Appendix A states that the Travel Time Index worsens from 6.6 to 6.9 in the untolled lanes west of I-270 but improves from 4.8 to 3.0 between I-270 and I-95.

The Honorable Jamie Raskin
Page Three

The methodology of traffic analysis involved two primary steps: (1) projecting future traffic volumes using the MWCOG regional forecasting model, and (2) running a traffic simulation model using VISSIM, which is the state of practice for traffic flow simulation, to evaluate the projected operations under each Build Alternative compared to the No Build Alternative as a baseline. The analysis used models that were validated and calibrated specifically for the MLS. The general methodology and assumptions applied to the analysis are summarized in Chapter 4 of the FEIS and discussed in greater detail in FEIS, Appendix A, Final Traffic Analysis Technical Report.

The results presented in the SDEIS were preliminary based on initial design concepts. The results have been updated and finalized in the FEIS to reflect design refinements, continued stakeholder coordination, and a review of comments on the SDEIS. The updated volumes and operational results in the FEIS have addressed the concerns outlined in the letter from your constituents, and we appreciate their feedback. However, the overall “big picture” findings in the FEIS for the Preferred Alternative are similar to what was presented in the SDEIS.

3. Traffic Benefits of the Preferred Alternative

The Preferred Alternative is projected to provide meaningful operational benefits to the system even though it includes no action, or no improvements, for a large portion of the study area to avoid and minimize impacts. Although the Preferred Alternative provides less improvement to traffic operations when compared to the Build Alternatives that included the full 48-mile study limits evaluated in the DEIS (such as Alternatives 9 and 10), it was chosen based in part on feedback from the public and stakeholders who indicated a strong preference for eliminating property and environmental impacts on the top and east side of I-495.

The Preferred Alternative will significantly increase throughput across the American Legion Bridge and on the southern section of I-270 while reducing congestion. It would also increase speeds, improve reliability, and reduce travel times and delays along I-495, I-270, and the surrounding local roadway network compared to the No Build Alternative. The Preferred Alternative would result in a 38 percent reduction in network-wide delay in the PM peak compared to the No Build Alternative and a 25 percent and 30 percent increase in throughput across the American Legion Bridge in the AM and PM peaks respectively when compared to the No Build Alternative.

Thank you for your comments on the SDEIS. If you have any additional questions or concerns, please feel free to contact Caryn Brookman, I-495 and I-270 MLS Environmental Program Manager, at cbrookman@mdot.maryland.gov. Ms. Brookman will be happy to assist you. Of course, you may always contact me directly.

Sincerely,

Jeffrey T. Folden

Jeffrey T. Folden, P.E., DBIA
Director, I-495 and I-270 Public-Private Partnership (P3) Office

cc: Ms. Caryn Brookman, Environmental Program Manager, I-495 and I-270 P3 Office, MDOT SHA

Ms. Stephanie Pollack, October 18, 2021

Page 3

the other side of Washington.²

These are not the only inexplicable model forecasts. A widespread decline in traffic headed out of Washington toward the northeast during the evening rush hour is predicted if the Preferred Alternative is built, compared to no-build. The model predicts fewer vehicles headed outbound from every Beltway interchange from US 29 to US 50, except for a small increase on I-95. The traffic forecast for the College Park-Greenbelt area is especially dubious – 15.9% fewer cars on Kenilworth Avenue, 12.8% on Route 1, and 9.9% on the Baltimore-Washington Parkway.

Added capacity due to construction of the toll lanes on I-270 cannot be the cause of the reduction in outbound evening traffic between US 29 and US 50 predicted by the model. While I-270 and the ICC are an alternative route that will draw some traffic away from US 29 and I-95, they are not a reasonable alternative for people driving toward Annapolis. Moreover, the predicted increase in traffic exiting northbound I-270 onto I-370 toward the ICC, 1515 vehicles, is much smaller than the 5095-vehicle decline that is predicted for outbound traffic in the US29-to-US50 sector.

When a model exhibits such severe and pervasive errors, none of its output can be trusted. Such a model is not a credible basis for federal decision-making. It must be corrected.

The necessary first step in fixing the model is to identify the root cause of its failure. One possible explanation to consider is a discrepancy in the input data, erroneously telling the model that fewer home-to-work trips originate in the Greenbelt-Laurel-Bowie area in the Preferred Alternative than in the No-Build alternative. That would explain the otherwise mysterious predictions that the Preferred Alternative will reduce evening rush-hour traffic volumes traveling toward that area from all directions – northbound on the Outer Loop in Prince George’s County, eastbound on the Inner Loop in eastern Montgomery County, and outbound from D.C. (inside and outside the Beltway) throughout northern Prince George’s County.

Comparison of alternatives, the fundamental purpose of an Environmental Impact Statement, is impossible when the traffic model lacks all credibility. Moreover, the public cannot intelligently comment on key aspects of the environmental analysis – among them whether the Preferred Alternative satisfies the Purpose and Need, air and noise pollution, and whether the project will

²The SDEIS, on page 3-10, absurdly explains the model output showing less congestion on the Beltway Outer Loop in Prince George’s County as a consequence of cars no longer backing up from I-270 in Bethesda.

Model-predicted change in outbound rush hour traffic

Highway	No. of Vehicles	Percentage Change
US 29	-340	-2.9%
MD 193	-190	-2.6%
MD 650	-395	-3.8%
I-95	+530	1.6%
US 1	-950	-12.8%
MD 201	-1,090	-15.9%
MD 295	-1,395	-9.9%
MD 450	-35	-0.3%
US 50	-1,230	-4.1%

The Honorable Jamie Raskin
Page Four

bcc: Mr. Mitch Baldwin, Chief, Legislative Services Division (LSD), MDOT SHA
Samantha Biddle, AICP, Chief of Staff, MDOT
Ms. Melissa Einhorn, State Legislative Officer, Office of Government Affairs, MDOT
Ms. Hilary Gonzales, Chief of Staff, MDOT SHA
Ms. Pilar Helm, Director, Office of Government Affairs, MDOT
Mr. Mark Howard, Federal Legislative Manager, LSD, MDOT SHA
Mr. Samuel Kahl, Deputy Director, Office of Policy and Research (OPR), MDOT SHA
Mr. R. Earl Lewis, Jr., Deputy Secretary for Policy, Planning, and Enterprise Services, MDOT
Ms. Heather Murphy, Director, Office of Planning and Capital Programming, MDOT
Mr. Sean Powell, Deputy Secretary for Operations and Homeland Security, MDOT
Tim Smith, P.E., Administrator, MDOT SHA
Ms. Nicole Stafford, State Legislative Manager, LSD, MDOT SHA
Mr. Jeff Stockdale, Federal Legislative Officer, Office of Government Affairs, MDOT
Richard Y. Woo, Ph.D., Director, Office of Policy and Research, MDOT SHA

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Ms. Stephanie Pollack, October 18, 2021

Page 4

help or harm Environmental Justice populations. We therefore request that you withdraw the Supplemental Draft Environmental Impact Statement and reissue it with a corrected and thoroughly validated traffic model.

Sincerely,

Benjamin Ross, Chair³
[Maryland Transit Opportunities Coalition](#)

Barbara Coufal, Co-Chair
[Citizens Against Beltway Expansion](#)

Janet Gallant and Sally Stolz, Coordinators
[DontWiden270.org](#)

cc: Senator Ben Cardin
Senator Chris Van Hollen
Rep. Jamie Raskin
Rep. Anthony Brown
Elizabeth Hewlett, Chair, M-NCPPC
Casey Anderson, Chair, Montgomery County Planning Board

³Please direct any technical questions or correspondence to Dr. Ross at [REDACTED] or [REDACTED].

MONTGOMERY COUNTY COUNCIL – JULIO MURILLO

From: Murillo, Julio <Julio.Murillo@montgomerycountymd.gov>
Sent: Wednesday, October 27, 2021 3:16 PM
To: jeanette.mar@dot.gov; Jeffrey Folden
Cc: SHA OPLANESMLS
Subject: Letter from members of the Montgomery County Council
Attachments: Extension Letter.pdf

Hello Ms. Mar & Mr. Folden,

My name is Julio Murillo, Chief of Staff to Montgomery County Council President Tom Hucker. I am sharing with you a letter signed by some members of the County Council in support of an extension of the comment period on the I-495 & I-270 Managed Lanes Study Supplemental Draft Environmental Impact Statement (SDEIS). Attached is the letter. Please let me know if I can be of further assistance.

Best,

—
Julio Murillo
Chief of Staff
Montgomery County Council President Tom Hucker
240-777-7960



For COVID-19 Information and resources, visit: www.montgomerycountymd.gov/COVID19

Thank you for your letter requesting an extension of the public comment period on the Supplemental DEIS. MDOT SHA and Federal Highway Administration (FHWA) extended the public comment period for the I-495 & I-270 SDEIS by 15 days from the originally scheduled November 15, 2021, to November 30, 2021. This decision considered stakeholder input and requests both for and against an extension and the extensive and numerous opportunities for public input to date. Public involvement is a continuous process. This extension is another example of how over the last three and a half years MDOT SHA and FHWA have extensively engaged with and incorporated feedback from public, stakeholders and agencies into the MLS.



MONTGOMERY COUNTY COUNCIL
ROCKVILLE, MARYLAND

October 27, 2021
Jeanette Mar
Environmental Program Manager
Federal Highway Administration, Maryland Division
George H. Fallon Federal Building
31 Hopkins Plaza, Suite 1520
Baltimore, MD 21201

Jeff Folden
Deputy Project Director
I-495 and I-270 P-3 Project Office
Maryland Department of Transportation State Highway Administration
707 North Calvert Street, Mail Stop P-601
Baltimore, MD 21202

Dear Ms. Mar and Mr. Folden,

We are writing to ask for an extension of the comment period on the I-495 & I-270 Managed Lanes Study Supplemental Draft Environmental Impact Statement (SDEIS) required by the National Environmental Policy Act. Preparation of an SDEIS was required due to a major change in scope of the project. The SDEIS was issued for public comment on October 1 with a 45-day comment period and a November 1 hearing date.

[Serious questions](#) have been raised about the validity of the traffic modeling that underpins the SDEIS, which focuses on the new project scope (Phase I South). The traffic modeling feeds into toll rate assumptions, financial assumptions, and congestion, air quality, and noise impacts, so errors in the traffic modeling affect determination of impacts across a wide range of types.

We need time for our county's transportation and planning staff to independently analyze the traffic effects of this project.

The comment period for the SDEIS has been set at 45 days, which is 78 days shorter than the comment period for the earlier Draft Environmental Impact Statement (DEIS). This compressed time period of 45 days does allow our county staff time for meaningful review and comment.

STELLA B. WERNER COUNCIL OFFICE BUILDING • 100 MARYLAND AVENUE, 5TH FLOOR • ROCKVILLE, MARYLAND 20850
240-777-7960 OR 240-777-7900 • MD RELAY - DIAL 711 • FAX 240-777-7989
COUNCILMEMBER.HUCKER@MONTGOMERYCOUNTYMD.GOV • WWW.MONTGOMERYCOUNTYMD.GOV

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Our constituents, including over 40 [stakeholder groups](#), the City of Rockville, and [citizen groups](#), have already raised concerns and requested a longer comment period. Among the reasons are that the 8,000-page SDEIS cross-references a 19,000-page DEIS and that multiple comment periods (Section 106 and toll rate range setting) for the project have overlapped the current SDEIS comment period. The COVID epidemic and delta variant also present difficulties for review and information sharing with affected groups. Furthermore, the project is highly [controversial](#), may not address [congestion](#), and has known adverse impacts on communities, environment, and nationally and internationally important historic sites.

We support our constituents' reasonable requests for comment period extension, and we need the extension to conduct our own traffic analysis given the questionable validity of the traffic modeling used in the SDEIS.

We strongly urge the agencies to extend the comment period until the questions about the validity of the traffic model have been resolved with a minimum of 120 days. We also suggest there be at least two hearing dates after the traffic modeling issue has been resolved.

Thank you for your prompt attention to this matter.

Sincerely,



Tom Hucker
Council President



Gabe Albornoz
Council Vice President



Evan Glass
Councilmember At-Large



Will Jawando
Councilmember At-Large



Sidney Katz
Councilmember District 3



Nancy Navarro
Councilmember District 4

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TOWN OF BERWYN HEIGHTS – MAYOR AMANDA DEWEY

Refer to MDOT SHA Response Letter on page EO-167 for a response.

From: Amanda Dewey <adewey@berwynheightsmd.gov>
Sent: Saturday, November 6, 2021 6:25 PM
To: SHA OPLANESMLS
Subject: Beltway SDEIS comment: Opposition to toll lanes and support for no-build option

Hello,

I am writing to express my opposition to the proposed Beltway toll lanes and ask the agency to move forward with a no-build option.

As the SDEIS demonstrates, the toll option is an inequitable approach that will increase commute times for those driving in general lanes, harming those who can't afford to pay. Even without a toll option, an expanded beltway will harm communities and the environment. With the realities of climate change and today's work force, an expanded highway prioritizing single-occupancy vehicles is the last option we should be pursuing when we desperately need to invest in and encourage more mass transit and reduced vehicle-miles traveled. As an environmental sociologist by training, I'm very aware of how these projects tend to have the greatest impact on low-income communities and other marginalized groups.

I am also an elected official representing the residents of Berwyn Heights. While the current proposal does not involve the stretches of highway closest to our community, they still have a negative impact on my community's commutes, our watershed, our air quality, and our region. On behalf of my community, I strongly support the no-build option.

Thank you for your consideration,

Amanda M. Dewey, PhD
Mayor, Town of Berwyn Heights

