

**Comments on the
Recommended Alternatives Retained for Detailed Study
for the Managed Lane Additions Project (including the I-270 and I-495 Managed Lanes that
are the subject of the Environmental Impact Statement)**

We, the undersigned organizations, submit the following two comments in response to the Maryland State Highway Administration's (SHA) solicitation of public input at a workshop summarizing the scoping comments, purpose and need, and recommended alternatives retained for detailed study (ARDS) for the project.

1. Lack of Adequate Mass Transit Alternatives

The most egregious failure of the recommended ARDS is the lack of an alternative that makes mass transit a complete, self-contained alternative to expanding road capacity. The fact that each of the six recommended "build" ARDS will include multimodal mobility and connectivity is a superficial, token treatment of mass transit as an afterthought and is woefully inadequate, unreasonable, and unacceptable. Furthermore, the inclusion of multimodal mobility and connectivity in each of the six recommended "build" ARDS meets neither the letter nor spirit of 40 CFR 1502.14, which requires the inclusion of reasonable alternatives, such as mass transit, not within the jurisdiction of the lead agency. Federal Highway Administration (FHWA) Technical Advisory T 6640.8A, "Guidance for Preparing and Processing Environmental and Section 4(f) Documents" in section V, subsection E, paragraph 3 specifically lists mass transit as a reasonable alternative: "Mass Transit: This alternative includes those reasonable and feasible transit options (bus systems, rail, etc.) even though they may not be within the existing FHWA funding authority. It should be considered on *all* proposed major highway projects in urbanized areas over 200,000 population." The Washington, DC metropolitan area, in which I-495 and I-270 lie, is well over 200,000 population. MDOT is deviating from its acknowledged and precedent position by failing to include mass transit as a complete, self-contained alternative among the recommended ARDS.

2. MDOT Contradicts Itself on Self-Supporting Criterion Used to Select ARDS

The second most egregious failure of the recommended ARDS is that on the one hand, MDOT rules out mass transit alternatives on the basis that they are not self-supporting while on the other hand MDOT admits that all six "build" ARDS are not self-supporting and will require a taxpayer guarantee of the P3 concessionaire's loans. The contradictory contract term appears in the MDOT "Pre-Solicitation Report Supplement" submitted to the Board of Public Works. There are four places, all in Part 3 of Section A of the Proposed P3 Agreement, where taxpayer guarantees are required listed in the table below:

Termination for Developer Default	If the Developer is in default under the Agreement and does not cure the default within the applicable cure period, MDOT will have the right to terminate the Agreement and will pay partial compensation to the Developer's lenders in an amount to be set forth in the Agreement.
Termination for Extended Force Majeure	The Agreement may be terminated by either Party for extended force majeure, in which case the Developer will be entitled compensation in an amount to be set forth in the Agreement.
Termination for Uninsurability	The Agreement may be terminated by either Party if a risk is uninsurable and they cannot agree on how to manage it going forward. Upon termination, the Developer will be entitled to compensation in an amount to be set forth in the Agreement.
Termination by Court Ruling	The Agreement may be terminated by either Party if a court issues a ruling that voids the Agreement or renders performance impossible. Upon termination the Developer will be entitled to compensation in an amount to be set forth in the Agreement.

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