



THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

6611 Kenilworth Avenue • Riverdale, Maryland 20737

November 27, 2019

Ms. Jeanette Mar  
Environmental Program Manager  
Federal Highway Administration  
Maryland Division  
George H. Fallon Federal Building 31 Hopkins Plaza  
Suite 1520  
Baltimore, MD 21201

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

Re: I-495/I-270 Managed Lanes Study – Alternatives Retained for Detailed Study

Dear Mses. Mar and Choplin,

We are writing to respond to your request for the Maryland-National Capital Park and Planning Commission (“M-NCPPC” or “the Commission”) to state whether as a Cooperating Agency for the I-495 & I-270 Managed Lanes Study (“Study”) we concur with the revised *Alternatives Retained for Detailed Study* (“ARDS”) Paper issued by the Maryland Department of Transportation State Highway Administration (“SHA”) and the Federal Highway Administration (FHWA) on October 16, 2019. For the reasons described below, we are unable to provide our concurrence to the revised ARDS paper in light of the lack of response to our previous comments or requests for additional information.

#### I. Background

On May 22, 2019, SHA issued the list of *Alternatives Retained for Detailed Study – Revised* for the I-495/I-270 Managed Lanes Study (“Study”) and requested concurrence from the Cooperating Agencies. The Maryland-National Capital Park and Planning Commission (“M-NCPPC” or “the Commission”), as a Cooperating Agency, reviewed the ARDS and expressed its non-concurrence and reasons for the same by letter to you dated June 12, 2019. We exchanged further correspondence in which we outlined our concerns regarding the Study’s deficiencies under the National Environmental Policy Act (“NEPA”) on June 28, 2019 and July 21, 2019.

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On October 16, 2019, SHA and FHWA issued a "Revised ARDS Paper." The Paper eliminated from further study Alternative 5, which would add one High Occupancy Toll ("HOT") managed lane in each direction on I-495 and convert the one existing High Occupancy Vehicle ("HOV") lane in each direction on I-270 to a HOT managed lane, on grounds that the alternative was not financially viable and did not meet the project's purpose and need in terms of congestion relief and trip reliability. On October 22, 2019, SHA and FHWA issued its MD 200 Diversion Alternative Analysis, which determined not to carry forward that alternative in the Draft Environmental Impact Statement (DEIS) on grounds that it would not be financially viable and would perform worse than many of the screened metrics used to evaluate the reasonableness of the alternatives.

On November 20, SHA officials briefed the Commission at a public meeting regarding the revised ARDS list. At that meeting, Commissioners reaffirmed their previous concerns regarding project segmentation, project termini, the failure to consider transit and Transportation System Management ("TSM") alternatives and the failure to consider a range of alternatives. Commissioners also reiterated their requests for information that would enable M-NCPPC to exercise its responsibilities as a Cooperating Agency and determine whether to concur or raise objections to the ARDS.

## II. Comments

As an initial matter, the Revised ARDS Paper does not address the concerns we raised regarding the previous version of the ARDS Paper. First, the project termini do not adequately account for local transportation problems or travel demands and constraints on I-495 and I-270. Second, the Study Area fails to consider impacts to key stretches of I-270 (from Rockville to Frederick) and I-495 (from MD-5 to the Woodrow Wilson Bridge). Third, the Revised ARDS lack meaningful transit and TSM elements. Fourth, you have not expanded the ARDS to include alternatives that would have fewer impacts on parkland.

Rather than address our concerns and broaden the list of ARDS, you have narrowed the list by eliminating Alternative 5, which is the alternative that presumably would have the fewest environmental impacts. You also declined to add the MD 200 Diversion Alternative to the list of ARDS, which also presumably would have fewer environmental impacts while providing some traffic relief. In rejecting these two alternatives, you make broad assertions that the alternatives would not meet the project's Purpose and Need because they would not address traffic relief and are not financially viable, when compared with the other alternatives.

By eliminating these alternatives from further study, MDOT SHA effectively forecloses any hope of assessing whether the benefit of fewer environmental impacts objectively may outweigh the cost in traffic relief or funding. Further, as we elaborate below, because MDOT SHA is not providing us with the documentation upon which its conclusions are based, we are not able to fulfill our statutory mandate and independently assess whether your statements are correct and

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whether you should study these and other alternatives that would have fewer environmental impacts, including impacts on parkland.

### III. Request for Necessary Information

As you know, for purposes of the project, the Commission is a Cooperating Agency “with jurisdiction by law” because of its statutory planning responsibilities within the State of Maryland’s Regional District, as well as obligations prescribed by the Capper-Cramton Act and other provisions of Maryland law.<sup>1</sup> To enable us to fulfill our mandate, our agency needs information that has not been provided despite several requests, and we accordingly renew those requests again now. For a complete list of the information necessary for our team to proceed with all due diligence, please see Attachment A to this letter which incorporates several previous document requests that remain outstanding as well as a handful of new ones.

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As we have previously stated, our objective is to work with you to advance the I-495/I-270 Managed Lanes Study. To do that, however, we require material information that is essential to meeting our responsibilities as a Cooperating Agency. Please provide the requested information with reasonable dispatch.

Sincerely,



Elizabeth M. Hewlett  
Chair



Casey M. Anderson  
Vice-Chair

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<sup>1</sup> 23 C.F.R. § 771.111(d) (designation of cooperating agencies); Md. Code Ann., Land Use Art. § 15-302 (1) and (3) (“Commission is the representative of the State for purposes of... “developing [certain] land or other property” [and] “complying with § 1(a) and (b) of the Capper-Cramton Act, Public Law 71-284, 46 Stat. 482”); Md. Code Ann., Land Use Art. § 20-301 (mandatory review by Commission required for “changing the use of or widening, narrowing, extending, relocating, vacating, or abandoning” any highway, park and certain other public projects within the Maryland-Washington Regional District).

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cc: Adrian R. Gardner, General Counsel  
M-NCPPC  
Andree M. Checkley, Director  
Prince George's County Planning Department  
Debbie Tyner, Acting Director  
Prince George's County Department of Parks and Recreation  
Michael F. Riley, Director  
Montgomery County Department of Parks  
Gwen Wright, Director  
Montgomery County Department of Planning  
Debra S. Borden, Deputy General Counsel  
M-NCPPC  
Carol S. Rubin, Special Project Manager  
Montgomery County Planning Department  
Diane Sullivan, Director,  
Urban Design & Planning Review Div., National Capital Planning Commission

**Attachment A**

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1. Terminus Concerns/Logical Termini documentation, including correspondence, notes or reports of any communications between MDOT and the Virginia Department of Transportation with regard to the logical terminus of the I-495 & I-270 Managed Lanes Study concerning connecting I-495 managed lanes to the Woodrow Wilson Bridge.
2. All Origin/Destination data
3. Financial Data with regard to segmentation of the various project areas, including the basis for the I-270 North study on a stand-alone basis, data supporting MDOT SHA's financial conclusions for the ICC Alternative, Alternative 5, and the ARDS as a comparison.
4. Traffic and revenue analyses, including financial and tolling information produced internally, procured from consultants, or outside sources, or prospective bidders all related to various parts of the project, including for each of the ARDS, Alternative 5 and the MD 200 Diversion Alternative, with assumptions about which parts are necessary to subsidize other parts of the project.
5. Inputs that were assumed or outputs of the algorithm calculated to establish what tolls are necessary to keep the managed lanes running at minimum speeds of 45 mph.
6. Written "commitments" for access points to the Managed Lanes.
7. Correspondence or other documentation between FHWA and MDOT SHA concerning removal of Alternative 5 from the ARDS.
8. GIS ROW Layer (We need these updated as they create them based on our ongoing impact meetings.)
9. GIS LOD layer for alternatives (We need these updated as they create them based on our ongoing impact meetings.)
10. SWM Report, including existing and proposed SWM impacts to Park property
11. Design files and GIS Layers that show LOD, SWM, edge of pavement, property lines, grading, outfall repairs, retaining walls, culverts and other specific coordinates for purposes of determining impacts to parkland.
12. Updated Plan sheets/PDFs/CAD Files for all Park impacts. These are similar to the design files that SHA has provided for *some* of the park areas.
13. Forecasted vehicle data (peak hour trips using the ML facilities by segment) and projected travel time savings supporting MDOT SHA's financial conclusions for the ICC Alternative, Alternative 5, and the ARDS as a comparison
14. Traffic Modelling with detailed information on the modeling process used to simulate the Managed Lanes and the resulting peak hour vehicle flows on the Managed Lanes

**Attachment A**

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facilities by segment, where they reach their peak flow/speed (45 mph travel speed)  
based on this demand estimation

15. Archaeological and historic resource survey forms, analyses, and reporting