



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

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 Albornoz
Councilmember At-Large



Evan Glass
Councilmember At-Large



Will Jawando
Councilmember At-Large



Hans Riemer
Councilmember At-Large



Nancy Navarro
Councilmember District 4