

Guide to writing a letter to the Board of Public Works to halt the 495 and 270 proposal

WHAT IS THE SITUATION?

Governor Hogan and the Maryland Department of Transportation (MDOT), are proceeding on their massive misguided plan to expand I-495 and I-270, creating what they call the largest “public-private partnership for highways in the globe.” (Public-private partnerships, or P3’s, are agreements where the government solicits a private company to finance and in this case, build, operate, and maintain a public infrastructure project).

One of our best chances of stopping or delaying the project is encouraging the Board of Public works to reject the classification of the project as P3 at [their meeting on this item](#), as early as June 5th.

The Maryland Department of Transportation is seeking approval to:

- Designate the I-495 and I-270 P3 Program (Program as a public-private partnership
- Approve the method of selecting a developer for each phase of the program, resulting in multiple Public-Private Partnership (P3) Agreements. MDOT has now formally stated its intention to segment the project:
 - Phase 1: American Legion Bridge (Unclear in the letter, but it appears this includes the Beltway in Montgomery County and part of Prince George's as well).
 - Phase 2A: I-270 from I-495 to I-370.
 - Phase 2B: I-495 from I-95 to west of MD 5
 - Phase 3A: West of MD 5 on I-495 across the Wilson Bridge
 - Phase 3B: I-270 from I-370 to I-70.

In December 2018, the Maryland Department of Transportation submitted a “pre-solicitation report” seeking approval to pursue a public-private partnership (P3) to put “managed toll lanes” on I-495 and I-270 to address congestion. If the Board of Public Works approves the designation of plan to as a P3, it would allow MDOT to issue an “RFQ” (request for qualification) to begin the process of selecting vendors for the project before a draft Environmental Impact Statement is completed (the draft EIS is expected this winter Dec 2019/Jan-Feb 2020). It would also lock in a model that would leave transit completely out of the picture.

The Board of Public Works consists of Comptroller Peter Franchot (elected), Treasurer Nancy Kopp (appointed by legislature), and the Governor. A majority vote is needed in the BPW to approve the P3 designation and later to approve a contract. Nancy Kopp did not vote to approve a \$90 million contract in December that provides the money for studying the planning, final design and construction of the highways, citing concerns over “a confusing process” and lack of detailed information on the contract.

It would be the most impactful if groups and individuals would write letters to Peter Franchot and Nancy Kopp (individually) and urge them to reject the classification of the P3 when it comes up for a vote, citing several different reasons. Below is a list of reasons you can pull from to include in your letters to Kopp and Franchot.

A few resources:

[The agenda for the Board of Public Works meeting page 133-139](#)

[Myths and misperceptions about 495 and 270 widening](#)

[495 and 270 presolicitation report & presolicitation report supplemental **NEW**](#)

Please address the letter to:

- “Honorable Peter Franchot, Hon. Peter Franchot, Comptroller of Maryland, 80 Calvert Street, P.O. Box 466, Annapolis, MD 21404-0466”
 - You can email it to jgontrum@comp.state.md.us and call his office to follow-up about the letter at: (410) 260-7801
- Honorable Nancy Kopp, Treasurer of Maryland, Treasurer's Office 80 Calvert St. Annapolis, MD 21401”
 - You can email it to jkille@treasurer.state.md.us and call her office follow-up about the letter at 410) 260-7160
- You can also email: missy.hodges@maryland.gov with your written comments.
- Write that you would like to reject the items under agenda 16-GM, titled: “I-495 and I-270 P3 Program.”

TOP LEVEL CONCERNS

- The Department of Legislative Services recommended that the P3 statute be amended to prohibit the submission of a pre-solicitation report prior to the availability of an environmental impact statement, which is not expected to be completed and available for public comment until late 2019 or early 2020.
- The highway expansion P3 project is being rushed and recklessly skipping necessary steps that would protect the state, our residents and our environment. The Montgomery County Executive and Council, and the Prince George’s County Council endorsed a P3 reform bill, HB 1091, last session (that passed the House) requiring the Environmental Impact Statement to be completed prior to submission of a presolicitation report, as well as a determination of the credit rating assessment of each P3 vendor, and the impact of the P3 on the state’s credit rating.

Note- Kopp provided informational testimony at the Senate hearing on HB 1091, her quote: "With the growth of public private partnerships across the country, in fact the rating agencies and the financial advisors have grown an expertise in this area and experience in this area. And we believe that bringing them into the process does make it a sound process."

PROCESS IS BEING RUSHED, ESPECIALLY FOR ITS SCALE

- For a project costing \$11 billion, with contracts lasting 50 years or more, it's worth taking time to make sure the project is done right. According to Pete Rahn, at a December industry forum, this project would be the largest public-private partnership in the world.
- The Purple Line P3 project took a decade to design; this project is significantly larger but approval is being rushed through in 2 years. The Record of Decision (ROD) for the Purple Line for the NEPA process was also granted before P3 bids were solicited.
- MDOT Secretary Pete Rahn tried to fast track this project last year by making a non-competitive \$80 million award to a company he used to work for.

FINANCIAL RISKS

- According to a Dec. 2016 study by the U.S. DOT on highway P3s, "During the past decade, many U.S. highway public-private partnerships (P3s) have experienced financial distress due to lower-than-expected traffic and revenue." This has caused financial problems for the developers and the state DOTs. Why would it be any different here in Maryland? MDOT's assertion that the state will not take on financial responsibility is requires much further study.
- MDOT claims that if the tolls collected are insufficient to cover the expected revenues, then the bondholders will step in and make up the difference and that they alone will be the affected parties. It is likely many developers will require the state to provide some assurance of minimum revenues, or the bondholders would demand high tolls to cover actual costs.
- A pre-solicitation supplemental report dated April 12th, indicated that if a contract is canceled the state must pay "termination compensation to the Developer" and "partial compensation to the developer's lenders."

THE CLAIM THAT THE PLAN WILL REDUCE CONGESTION DOESN'T HOLD UP

- When I-270 was expanded last time to up to 12 lanes in some stretches, it was supposed to handle growth in traffic for at least 20 years. Less than 8 years after the project was completed in 1991, I-270 was severely congested again.

- Even if highways were to be expanded, many of the state roads that drivers would exit onto are already congested, with no room for expansion, so riders would still end up in congested traffic.
- Numerous studies show expanding highways encourages more people to drive, which leads to ever-increasing amounts of greenhouse gas emissions and other health-damaging air pollution, as well as more sprawl.

ENVIRONMENTAL CONCERNS

- Transportation is the largest source of climate-damaging carbon pollution in Maryland
 - According to data shared by the Maryland Department of Transportation (MDOT) in April 2018, the state is expected to miss our goal to reduce on-road emissions 40% by 2030 by 5 million metric tons, the equivalent emissions produced by over 1 million passenger vehicles without new policies.
 - Vehicle emissions from cars and trucks on our highways make up a significant amount of the overall air pollution from the transportation sector.
- More cars on expanded highways means more air pollution from our tailpipes, and more health costs
 - Over 88% of Marylanders live in counties that are in non-attainment with federal clean air standards for ozone, due in large part to tailpipe emissions from gas and diesel-powered vehicles.
 - A recent study found that, nationally, nearly one in five cases of childhood asthma were attributable to traffic pollution, specifically nitrogen dioxide (NO₂).
 - Tailpipe emissions also increase the risk of cancers, heart disease, emphysema and other respiratory diseases.
- The environmental impact analysis being done by the state may not even consider how highway expansion would exacerbate climate change because in 2017, President Trump issued guidance that climate change does not need to be considered in the NEPA process. The climate impacts of the highway expansion need to be studied before a decision is made whether or not to proceed with the project.

FAILURE TO EXPLORE ALTERNATIVES

- MDOT listed 6 criteria for evaluating each of the 15 potential project alternatives for solving the congested highway issue. In reality, only one criterion was the determining factor in deciding which alternatives would be selected -- whether the alternative had the

potential to avoid requiring state funds. This criterion forced the rejection of all mass transit solutions.

- There are other less disruptive and more cost-effective solutions to our congested highways. Various mass transit alternatives (such as MARC trains, express buses and Bus Rapid Transit) can be used in conjunction with existing highways to lessen traffic, better serve low-income residents, and result in far less pollution. Also, the Purple Line is expected to have a dramatic impact on reducing traffic on I-495. A decade from now, we may have autonomous vehicles that can safely expand the number of cars that a highway can handle by allowing vehicles to travel closer to one another, but congestion will still occur in time.
- The most pragmatic and cleanest approach is to offer a range of environmentally sustainable transportation alternatives including more mass transit, HOV and reversible lanes, as well as more park and ride locations to facilitate car and van pooling. There needs to be more transit-oriented development, and more walkable and bikeable communities. Employers should be encouraged to offer more telework, flexible hours, and incentives for employees to use public transportation.
- It should be noted that Montgomery County and the State's plan for handling increased traffic if Amazon had decided to locate its east coast headquarters in Montgomery County was to expand MARC train service and the county Bus Rapid Transit system, including putting BRT on MD 355 (Bethesda to Clarksburg) and on the Corridor Cities Transitway. Why not use that approach now?

EQUITY CONCERNS

Expanding highways doesn't address the needs of lower income workers who can't afford to own a car and rely on transit to get to and from work and healthcare.

People living near highways experience disproportionate levels of air pollution that affect their health.

THIS PROJECT IS BYPASSING THE GENERAL ASSEMBLY AND COUNTY COUNCILS WHO HAVE MAJOR CONCERNS

A Montgomery County Executive and Council wrote a letter to MDOT Secy. Pete Rahn dated March 15, 2019, that said, "We urge you to reconsider your approach to this project so that the outcomes enjoy broader community support and provide a more balanced, equitable, sustainable, resilient and reliable set of transportation options for travelers." The current proposal also contradicts the transportation priority letters of counties such as Prince George's to MDOT that indicate transit expansion is a critical action to be addressed by the state.

Because this highway expansion proposal involves a P3, it circumvents the approval of the General Assembly that determines the state's budget and makes appropriations decisions. An \$11 billion project has too high a price tag to move forward on without incorporating meaningful input and alterations from the General Assembly and County Councils that have raised major concerns.