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## U.S. House of Representatives

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April 2, 2021

The Honorable Pete Buttigieg  
Secretary of Transportation  
U.S. Department of Transportation  
1200 New Jersey Avenue SE  
Washington, D.C. 20590

Dear Secretary Buttigieg:

I am writing to inform you about concerns shared by myself, other elected officials, stakeholders, and my constituents regarding the State of Maryland's I-495 & I-270 Managed Lanes Study (MLS). These deficiencies include a lack of consideration of transit options and investment, a dated and inequitable approach to improving infrastructure that is out of step with the Biden/Harris administration's modern approach to infrastructure, the unknowns of the impact of the COVID-19 pandemic on travel, and phasing inconsistencies between the procurement process and the planned Environmental Impact Statement (EIS). There is significant local opposition to this project from both affected jurisdictions, including strong opposition from their planning commissions. I request that we meet to discuss potential steps to address the issues raised by our constituents, which could include pausing the NEPA process or restarting it. The concerns with this planned highway system expansion in our nation's backyard are not dissimilar from the proposed expansion of I-45 in Houston that the Federal Highway Administration (FHWA) has recently asked the Texas Department of Transportation to reconsider. The MLS runs contrary to the vision and goals of the local communities' long-term land use, transportation, and climate action plans and lacks any meaningful environmental justice review.

### **Issue #1: Lack of Transit Alternatives and Investment**

In its consideration of project alternatives, the Maryland State Highway Administration (SHA) did not adequately consider transit alternatives with less significant environmental and other impacts. The only transit alternative that appears to have been seriously considered was a bus managed lane network that would utilize existing or expanded roadway. This alternative had recognized benefits, including enhanced bus performance with lower impacts, but was not retained for additional study. Beyond this alternative, no other comprehensive transit options were even considered by the State. Additionally, the lack of transit across the American Legion Bridge is not addressed. While the final proposal does have a 10% set-aside for transit investment and allows buses to use its toll lanes, the transit options and improvements in this plan are inadequate and fall short of a needed comprehensive transit plan.

### **Issue #2: Outdated Approach and Conflict with Biden/Harris Priorities**

Federal approval of this plan would be in direct conflict with President Biden's directives to the Federal Government for protecting the environment. Executive Order 13990, signed on January 20, 2021, titled "Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis," directs the Federal Government to protect the environment and reduce greenhouse emissions through regulations and other actions. Among the stated policies of this Administration - to listen to the science; to improve public health and protect our environment; to ensure access to clean air and water; to reduce greenhouse gas emissions; to bolster resilience to the impacts of climate change; and to prioritize environmental justice by protecting communities of color and low income communities, ensuring they are included in the governmental decision making to which they have been historically and systematically marginalized in the past. This massive road-widening and toll project has core fundamental issues that demand scrutiny.

This project will do little to address the sources of congestion in the long-term. Modern transportation planning shows that road-widening only induces demand, limiting the benefit of extra roadway. The best way to address the Capital area's traffic problems is to create options to take cars off the road, with public transit and other solutions. Building additional roadways only encourages people to drive and does not address the source of traffic. President Biden noted the importance of modern infrastructure and transit options in his "Plan To Build A Modern, Sustainable Infrastructure and an Equitable Clean Energy Future." The initial phase of the project only requires \$6 million to be spent on transit improvement. This is inadequate and will not address critical existing transit infrastructure in need of enhancement.

This project also raises serious environmental concerns. Adding more lanes to these highways will only increase greenhouse emissions from added vehicles on the road. In fact, greenhouse gases from road transportation is Maryland's #1 source of greenhouse gases.

Furthermore, SHA failed to enlist any of the effective ways recommended as best practices to build robust consideration of environmental justice in their NEPA study. Meaningful engagement requires early identification and proactive engagement of potentially affected minority populations, low-income populations, and other inequitably impacted individuals, communities, and organizations. The only way to correct this failure is to take a pause in the NEPA process and proactively engage these impacted communities before further decisions are made that will have serious consequences exacerbating the harm already imposed on these communities when the highway system was originally built.

### **Issue#3: The Impact of COVID-19 and the Future of Commuting**

The context of the COVID-19 pandemic cannot be ignored when considering a project of this scale. Movement patterns have changed considerably as a result of the pandemic, and it is unclear what the lasting impact on the future of commuting and travel will be. Notably, a recent report found that the Capital Area saw the largest decrease in traffic delays of any major metropolitan area in the country, at 77%. Another regional survey found that after the pandemic ends, 57% of employers in our area plan to continue telework at pandemic levels or increase it from pre-pandemic levels. That same study found seven in ten worksites have explored commute mitigation strategies for post-pandemic work, including flex hours, compressed schedules, and

bus/vanpooling. If the State moves forward with this project despite the evidence that the face of travel has been altered, it will do so with under unknown and faulty assumptions about travel patterns.

#### **Issue #4: Incongruent NEPA and State Project Phases**

Of concern as this project moves forward is the uncertainty in the future of this project with respect to the National Environmental Policy Act (NEPA) process and the state-level approvals required. The State has divided this project into several phases; Phase 1 is limited to improvements to American Legion Bridge, continuing to I-270 and up I-70 into Frederick County. Future phases are currently undetermined in scope. Currently, only Phase 1 is approved by the Maryland Board of Public Works (BPW) for procurement via a public private partnership (P3). However, the Federal Highway Administration's (FHWA) Notice of Intent (NOI) for the MLS includes almost the entire Capital Beltway in Maryland as the study area. In other words, a Record of Decision (ROD) from FHWA could be rendered for a wider area than the State currently has approval. This situation creates a troubling possibility. Until Phase 1 is complete it will be impossible to understand the impacts of future phases.

Because the implementation phases of the project are not in alignment with study areas, any ROD would be speculative, as it would be very difficult to fully understand the impact of Phase 1 on critical natural, cultural, historic, and other community resources. This also creates the possibility that the entire project could be completed quickly with no additional Federal oversight.

#### **Conclusion**

These concerns, among others, have created significant community opposition to this plan. I have hosted events with my constituents and spoken with stakeholders, all of whom hold serious reservations about the wisdom of widening the Beltway to include toll lanes. The experience of Virginia shows that these tolls can be upwards of \$40 a trip, far from an equitable price point.

I encourage you and your team to reevaluate USDOT's role in this project. I hope we can meet soon to discuss this matter, and the USDOT considers taking the necessary action of restarting the NEPA process to mitigate the damage that this project would do to the State of Maryland.

Sincerely,

A handwritten signature in black ink, appearing to read "A.G. Brown". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Anthony G. Brown

cc: The Honorable Stephanie Pollack, Acting Administrator, Federal Highways Administration