



THE MARYLAND HOUSE OF DELEGATES
ANNAPOLIS, MARYLAND 21401

June 22, 2020

Mr. Gregory Slater
Secretary
Maryland Department of Transportation
7201 Corporate Center Drive
Hanover, MD 21076

Dear Secretary Slater:

We noted with interest that the Maryland Department of Transportation garnered four responses to the Request for Qualifications (RFQ) regarding the I-495 & I-270 Public-Private Partnership (P3) Program Phase 1, even amidst the pandemic. As Governor Hogan has repeatedly stated that the P3 is the largest in North America, the Maryland General Assembly has a significant interest in ensuring the project is undertaken properly. Unfortunately, the recent history of MDOT's other significant Public Private Partnership project—the Purple Line—raises significant concerns about these projects. It's clear that critical details and agreements need to be worked out BEFORE these projects are awarded, not as they are being constructed. As part of the legislative branch of government and a co-equal partner, the House of Delegates will assert aggressive oversight of the P3 process and the project. Such oversight is especially important because the project does not require specific legislative authorization.

Therefore, we would like your department to provide the General Assembly with the requested information below from the RFQ respondents and—to the extent applicable—MDOT. To the extent this information has not already been provided by the RFQ respondents, we respectfully request that MDOT obtain responses. We simply cannot afford another situation similar to the Purple Line.

1. Please list all prior P3 transportation agreements any member of each team (Lead Project Developer/Equity; Lead Contractor(s); Designer(s)) has had involvement with in the United States or globally. Involvement includes any project for which a member of each team responded to a request for information, request for qualification, request for proposal or other solicitation and/or were individually awarded or awarded as part of a team a contract, subcontract on other type of concession by a government authority or prime contractor (referred to herein as an "award"). Please include the jurisdiction of the project (country, state, and/or municipal government); type of project (highway; bridge; tunnel; transit; etc.); overall value of the project; value of the contract the team member was awarded, if any; a description of any differences in the project's actual cost versus

projected costs; total mileage of the project; timeline of the project; the team member's role in the project; and current status of the project.

2. During the 2020 legislative session, the concessionaire of the Purple Line P3 agreement refused to appear before a budget hearing held by the Transportation & Environment Subcommittee of the House Appropriations Committee. Please explain each team's expectations for legislative oversight of the project, including responding to individual legislator requests, responding to committee requests, responding to legislative analysts and auditor inquiries and reviews, and attending legislative hearings. If a team member has previously been issued an award for a P3, please explain the role of legislative oversight in those projects. Please identify the project from the list provided in response to question 1.
3. The local water utility and MDOT appear to have a disagreement about the responsibility for relocating utilities. The water utility estimates that relocation of water infrastructure alone could cost \$2 billion. If any team member has previously been issued an award for a P3, please explain how any utility or significant public infrastructure relocation was paid for and by what parties. Please identify the project from the list provided in response to question 1.
4. Please describe the level of congestion each team estimates is required in general purpose lanes to incentivize the necessary toll lane traffic and the process envisioned for setting tolls. If a team member has previously been issued an award of a highway, bridge, or tunnel P3, please document the effect on traffic in general purpose lanes of the addition of toll facilities as well as providing the average toll per mile over the last two years of that project. Please identify the project from the list provided in response to question 1.
5. Please explain how each team plans to address arterial roads not included in the Project but that enter, exit, intersect or cross the roads in the project. If a team member has previously been issued an award for a P3 involving significant connections with arterial roads, please describe their work with local and state governments to minimize disruptions and maximize the full road network.
6. Please describe each team's plans for engaging with the community during the design and build phases of the project, including how you will address community concerns and deal with mitigation. The Administration has also promised a community benefits agreement. If a team member has previously been issued an award for a P3, please explain how the team member engaged the community if the team member was involved in the design and build phases of the project. If a team member was or is a party to community benefits agreements associated with an existing P3, please describe it in detail. Please identify the project from the list provided in response to question 1.
7. It is envisioned that in addition to the completion of new lanes, the project will include the complete reconstruction of existing general purpose lanes. If a team member has previously been issued an award for a highway, bridge, or tunnel P3, please specify whether existing lanes were reconstructed as part of the agreement and how costs for

reconstruction were divided between the government and the concessionaire (*i.e.*, toll payers). Please identify the project from the list provided in response to question 1.

8. It is anticipated that the project concessionaire(s) will not be backed by the state and any debt holders will have no recourse with the state. If a team member has previously been issued an award for a P3, please explain what recourse debt holders had.
9. Please explain how each team intends to award subcontracts for the project to entities not currently included as part of the team. In addition to subcontracts awarded by team, this question is also directed to any team members that will award subcontracts for their portions of the project. Does the team member plan to vet critical subcontractors' financial positions to ensure their stability as a partner over the duration of the build and operation?
10. The project as envisioned by the Administration does not include a transit component for the P3 partner. Please explain each team's view on the role of transit in addressing congestion in the project area. If a team member has previously been issued an award for a highway, bridge, or tunnel P3, please provide details as to whether or not there was a transit component to the project. Please identify the project from the list provided in response to question 1.
11. The Administration has promised that mass transit system buses will be able to use toll lanes free of charge. If a team member has previously been issued an award for a P3, please state whether mass transit system buses were able to use toll lanes free of charge and any conditions and challenges to that usage. Please identify the project from the list provided in response to question 1.
12. The difficulties of the Purple Line P3 agreement highlight the importance of dispute resolution between the team and MDOT, as well as among team members. Please describe what dispute resolution mechanisms each team member envision as part of the project. If a team member has previously been issued an award for a P3, please describe the dispute mechanisms that were used. Please identify the project from the list provided in response to question 1.

* * *

Thank you for your assistance in allowing the House of Delegates to better understand the project and how the state can partner with the private sector to advance our shared goal of addressing congestion. We should not push through the country's largest P3 with even less information than was provided during the Purple Line bidding process.

Sincerely,



Kumar Barve
Chair, House Environment and
Transportation Committee



David Fraser-Hidalgo
Chair, Motor Vehicle & Transportation
Subcommittee



Maggie McIntosh
Chair, House Appropriations Committee



Marc Korman
Chair, Transportation & Environment
Subcommittee

CC: Accelerate Maryland Partners
Itinera Infrastructure & Concessions, on behalf of Accelerate MarylandExpress Partners
Cintra Global, Meridiam Capital Express and John Laing Investments Limited, on behalf
of Capital Express Mobility Partners
ACS Infrastructure Development, on behalf of Potomac Mobility Group