THE MARYLAND GENERAL ASSEMBLY
ANNAPOLIS, MARYLAND 21401

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Ms. Choplin:

As members of the Maryland General Assembly, we write to express our frustration and extreme concern with the Draft Environmental Impact Statement (DEIS) of the I-495 & I-270 Managed Lanes Study, part of the Governor's so-called Traffic Relief Plan that would expand I-495 & I-270 by two lanes in each direction the entire length of both roads in Maryland.

At best, the DEIS presents incomplete and inadequate analysis. At worst, it is heavily skewed toward selecting the outcome the Maryland Department of Transportation (MDOT) and Governor would like, so that MDOT can move forward with its predetermined preferred alternative. Under federal law, a DEIS need not specify a preferred alternative but if there is a preferred alternative, it is supposed to be disclosed. See 40 C.F.R. § 1502.14. It is obvious to anyone who has ever heard the Governor and prior Secretary of Transportation speak that Alternative 9 (2 managed lanes in each direction on both roads) is the Department's preferred alternative and you have failed to disclose that information. The inadequate information presented, however, shows that the project will harm Maryland citizens and their environment and cannot be justified. Below we share just some of our many specific criticisms:

1) Despite years of promises that the proposed expansion will pay for itself through managed toll Lanes—promises used to justify the removal of non-road options, the DEIS shows that all of the build alternatives might require a state subsidy paid to the developer ranging from $482 million to more than $1 billion. This subsidy does not include the billions of taxpayer dollars needed to fund the required relocation of water and sewer infrastructure, nor does it account for the cost of adequate environmental mitigation. Nor does it account for travel changes because of the COVID-19 pandemic. The DEIS contains no itemized budget. Given the legislature's role in shaping the state budget, we find this particularly concerning.

2) The purpose of an environmental impact statement is to take a hard look at the human health and environmental impacts of the proposed expansion and understand the balancing and trade-offs required. Yet the DEIS fails to do this and instead repeatedly excuses cursory reviews by noting that many project details remain unknown. This is insufficient and contrary to the law. By failing to appropriately study the available information, the DEIS prevents the public from understanding and commenting on the consequences of the proposed expansion.

3) The Agencies fail to explain their rationale for not conducting a Programmatic EIS analyzing the proposed expansion within the broader context of the so-called Traffic Relief Plan. A Programmatic EIS should have been conducted to study the alternatives within the context of this region-wide plan which includes planned modifications to I-270 from I-370 to I-70 and to other corridors in the Baltimore Washington Region.

4) Prior to the DEIS, the Agencies unreasonably defined the study's purpose and need so narrowly that they only considered alternatives which involved construction of two to four new toll lanes. The Agencies did not analyze reasonable public transit options, smaller scale roadway improvements, or transportation systems and transportation demand management options. Given the changing dynamic in commuting patterns with the current public health emergency, it is also irresponsible to not take these tremendous shifts in to account. Nevertheless, the DEIS shows that stated goals for the study, the use of alternative funding approaches for financial viability and environmental responsibility, cannot be met by any of these managed lane expansion alternatives.

5) It is essential that the new American Legion Bridge accommodate future rail transport, as was done for the Woodrow Wilson Bridge. By not accommodating rail, the project fails to meet the stated purpose of enhancing existing and planned multimodal mobility and connectivity. MDOT has represented that it is in a transit study related to the bridge with Virginia but no public information has been made available. Moreover, any new American Legion Bridge must have a separate bike/pedestrian pathway.

6) The DEIS fails to sufficiently address how degradation to waterways and wetlands will be mitigated. The Agencies plan to rely on water quality trading credits, purchased from other MDOT State Highway Administration (SHA) programs, to meet permitting requirements instead of actually reducing water pollution where the project is located. The DEIS fails to analyze how the purchase of water quality trading credits will impact local waterways and evidence shows that such trading programs may, in fact, degrade them. Importantly, onsite and localized mitigation must be considered when addressing impacts to waterways in parklands. It also fails to demonstrate that there is not an alternative that will have less of an impact on wetlands, etc.

7) The DEIS does not appropriately analyze the effect that increased capacity will have on long-term traffic demand on I-495 and I-270 and connected arterial roads. The Travel Model assumes that highway construction has no effect on land use, and thus underestimates the new trips that the project will generate. Additionally, while the DEIS admits that the project has the potential to induce increased traffic along arterial roads leading to I-495 and I-270, there is no analysis of the strain this potential increase may place on those roads, particularly when access to toll lanes is

not available on some of the most heavily travelled destinations.

8) Similarly, just as the alternatives will likely increase traffic on some arterials, the DEIS ignores that its own estimates (Table 5-6 in DEIS Appendix C) show the managed lanes would cause increased travel times on I-270's general lanes during the PM peak travel time. There are five needs stated in the DEIS' Purpose and Need section and none of them are "increase traffic."

9) The Agencies must consider whether the project's adverse effects are disproportionately borne by communities where most of the residents are minority or low-income, or Environmental Justice ("EJ") communities. This requires a DEIS to compare the effects on EJ communities with non-EJ communities. Here, however, the DEIS includes no such comparison. Instead, the DEIS simply describes the 36 EJ communities in the study area and the potential impacts to those communities. This precludes the Agencies from considering measures to mitigate any potential disproportionate effects to the 36 EJ communities in the DEIS study area. Additionally, the DEIS makes only conclusory statements claiming that the managed lanes will benefit EJ communities, despite the expected high toll prices and environmental impacts to their communities.

10) While not tied directly to the DEIS, it is important to note that when the pre-determined alternative is announced, MDOT intends to pursue a so-called "progressive P3" to execute the project. Under a progressive P3, MDOT enters into an agreement with the private sector before it knows the project details. The state will be stuck with a private sector consortium regardless of what design challenges, increased costs, or changes to traffic patterns may affect the project's viability. A progressive P3 has never been tried on this scale and should not be risked now.

We have many other concerns, but these Top Ten are reason enough to reject Governor Hogan's privatized toll lane road-widening project. Instead, the state should prioritize and consider other more realistic and immediate solutions to traffic and congestion issues that affect the quality of life of our constituents.

Thank you,

Senator Joanne Benson
Senator Sarah K. Elfreth
Senator Arthur Ellis
Senator Delores G. Kelley
Senator Clarence Lam
Senator Susan C. Lee
Senator William C. Smith Jr.
Senator Charles E. Sydnor III
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Delegate Geraldine Valentino-Smith

Delegate Jay Walker
Delegate Alonzo T. Washington
Delegate Courtney Watson
Delegate Ron Watson
Delegate Jheanelle Wilkins
Delegate Nicole A. Williams
Delegate Pat Young
Delegate Karen Lewis Young

CC: Secretary of Transportation Gregory Slater, State Highway Administrator Tim Smith