# Transmittal Letter

**Response to the Request for Information**

**by the Maryland Department of Transportation**

**Regarding Congestion Relief Improvements for**

**for the I-495/I-95 (Capital Beltway) and I-270 Corridor**

**Submission by:** **The Lane Construction Corporation**
**510 McCormick Drive, Suite B**
**Glen Burnie, MD 21061**

**Respectfully:** **Giuseppe Quarta, Executive Vice President**
**Joseph P. Lark, Senior Vice President**

**Point of Contact:** **Robert E. Alger Jr., Business Development Manager**
**+1 (860) 558-3498 RAlger2@LaneConstruct.com**

**Transmission to:** **I495_I270_P3@sha.state.md.us**
**Jeffrey T. Folden, P.E., DBIA**
**Chief, Innovative Contracting**
**MDOT State Highway Administration**

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# Response Letter

**a. General**

1. **Please describe your firm, its experience in relation to P3 projects, and its potential interest in relation to these potential congestion relief improvements.**

Founded in 1890, The Lane Construction Corporation is a leading U.S. construction company specializing in heavy civil construction services and products in the transportation, infrastructure and energy industries. The company has a unique combination of capabilities including public private partnerships/innovative financing and joint ventures; large, complex design-build and bid-build projects; as well as the ability to produce and install asphalt, aggregates and concrete. Lane's resources, innovative solutions and emphasis on safety and quality control combined with its expertise in engineering, procurement and construction project management—produce high-quality results. Lane is owned by global construction leader, Salini Impregilo.

Experience on active and past P3 Projects includes:

| Project | State | Total Value | Lane Role |
|---|---|---|---|
| Purple Line | MD | $2.2bn | CJV |
| I-4 Ultimate | FL | $2.3bn | CJV |
| I-495 Express Lanes | VA | $1.5bn | CJV |
| I-95 Express Lanes | VA | $722m | CJV |
| South Norfolk Jordan Bridge | VA | $76.5m | SPV +Ded. Sub. |
| Dulles Greenway | VA | $39.5m | Ded. Sub. |

2. **What would be the benefits and risks to MDOT entering a P3 agreement for congestion relief improvements? What risks do you believe would best be retained by MDOT and what risks would be best transferred to the private sector? Please explain your reasoning.**

The benefits to MDOT of engaging in a P3 agreement would include the accelerated completion of the project that is also associated with D/B, as well as the opportunity to shift toll revenue risk to the private sector. While it is possible to shift any number of risks to the private sector, we believe that the risk adjusted cost for items such as permitting and approvals are such that it is best for the public sector to retain them. Beyond generalities, a more detailed analysis of project specific items for risk transfer / retention (i.e. traffic and revenue forecasts, environmental and right of way impacts) will likely be performed by the State's advisors once retained.

**3. What, if any, advantages will MDOT potentially gain by entering an agreement in which operations and maintenance and lifecycle responsibility and/or traffic and revenue risk are transferred to the private section? How do you assess the likely magnitude of such advantages? What are the potential offsetting disadvantages?**

One of the most basic advantages of entering into an agreement that shifts operations, maintenance, and lifecycle responsibility to the private sector is that the funds needed for these projects are traditionally guaranteed via availability payments. This guarantee ensures that the road remains in good condition and the risk of a long-term increase in cost due to deferred maintenance is mitigated. A disadvantage of this is that by guaranteeing the funds to the project they cannot be utilized on other projects that the State may choose to prioritize in the future.

Transferring traffic and revenue risk will typically result in an upfront payment from the private sector towards the cost of the project that helps offset upfront expenditures by the State. While this model frees the State from worrying if insufficient toll revenues will require them to divert other funds to sustain the project's debt payments, it can also cost the State an opportunity to receive those toll revenues in the long run. Another factor for consideration in this model is that an overly optimistic outlook by the private sector could lead to financial difficulties for the SPV, at which point the State may need to reengage and select a new operator.

Assessing the possibilities of risk transfer and the magnitude of potential advantages / disadvantages is typically done through a Value for Money analysis. In many States, this is managed by external advisors.

**4. Would it be advantageous for MDOT to transfer the operations and maintenance and lifecycle responsibility for the entire freeway or just the added congestion relief improvements? What would be the advantages and disadvantages of transferring the operations and maintenance and lifecycle responsibility for the entire freeway?**

There would certainly be synergies seen in bundling these responsibilities for the entire freeway due to the increased scale and proximity. This strategy would also avoid management redundancies between public and private entities responsible for separate facilities. It is worth noting however that typically maintenance and lifecycle risks are assumed by the private sector for new projects (not rehabilitations) in which those partners had a role overseeing/inspecting and accepting the construction. Lack of involvement in the construction process can lead to protracted disagreement over the root cause of issues and whether they fall under the lifecycle maintenance contract or stem from another preexisting issue / were caused by the design-build team. If managed properly, all of these risks can be mitigated.

5. **Would it be feasible to have a single solicitation for both corridors? If not, would you recommend any specific phasing for the solicitations including the corridor(s) and limits and why? What would your recommendation be for staggering multiple solicitations and why?**

   While it could technically be possible to have a single solicitation for a DBFOM project encompassing both the I-270 and I-495 corridors, this may prove to be too heavy of a lift from both a managerial and technical delivery standpoint. It's clear that the corridors have different technical challenges and varied environmental and permitting challenges that may not be solved as one large program without causing undue delay. While a case could be made for the efficiency of a large transaction, others in the past have collapsed under their own weight. We would suggest segmenting into separate projects – the limits of which we do not yet have an opinion on. MDOT would be wise to think strategically about how to segment independently operable segments and consider the ramifications of requiring multiple levels of PM/GEC consulting contracts to allow the private sector ample supply of available designers, especially given the robust and demanding schedule that is envisioned by MDOT to deliver the entire program.

**b. Project Development**

1. **Do you believe your firm would be interested in submitting a detailed proposal for the development of any of the congestion relief improvements? Are there any particular concerns that may prevent your firm from getting engaged in the project development? How might these concerns be resolved?**

   Yes; we would be interested in submitting a detailed proposal for either a combined or segmented project(s). Concerns include right of way acquisition, public opposition, and the State's plans to mitigate problems that will likely arise from these issues. We are open to discussing these issues in greater detail during the confidential one-on-one process.

2. **At what stage of the NEPA and project development process would it be most beneficial to issue a RFQ: after establishment of the purpose and need, after determination of alternatives retained for detailed study, after selection of an MDOT preferred alternative, or after approval of the environmental document? At what stage would it be most beneficial to issue a RFP? Please discuss your reasoning.**

   Until the impacts to environmental features and adjacent properties are known within the project corridor this is difficult to assess. If MDOT envisions a typical two-step RFQ/RFP, best value DBFOM, then from the list above, an RFQ should not be released before the alternatives retained for detailed study are available such that a team can structure their technical and managerial components in the most efficient way to deliver the desired technical solution. In the event that early development services are part of the scope then the sooner the better.

3. **What are the critical path items for the solicitation for these improvements and why?**

   Further engagement with the industry should be used to select the optimal procurement method, and from there critical path items can be identified. We would advise to continue advancing the environmental process in the interim.

4. **What is the minimum amount of time that your firm would require to develop and submit a response after the issuance of a potential RFQ?**

   This would be determined by the requirements of the RFQ and our pipeline of other projects at the time it was released. A more realistic estimate could be provided by reviewing a draft RFQ closer to the planned time of release.

5. **What is the minimum amount of time that your firm would require to develop and submit a detailed proposal after the issuance of a potential RFP?**

   This would be determined by the requirements of the RFP and our pipeline of other projects at the time it was released. Ranges can vary widely depending on how much MDOT desires to have a robust ATC/innovation component to the procurement, the number of financial meetings and the number of shortlisted proposers. Key factor is the development of NEPA documents (DEIS, FONSI, ROD) and the inclusion of alternatives that are technically feasible and environmentally permittable are important. A more realistic estimate could be provided by reviewing a draft RFP closer to the planned time of release.

6. **What information would your firm need in order to prepare a response to a potential RFP? What information should MDOT, the offeror, or others provide?**

   We would suggest the release of a draft RFP, post-shortlisting, for proposers to comment on that would allow the State to add detail to the final RFP prior to release. NEPA documents should be published as soon as possible.

7. **What would you consider a reasonable stipend payment for unsuccessful proposers responding to a potential RFP? Please discuss how the stage of project development (purpose and need, alternatives retained for detailed study, preferred alternative, final environmental document, etc.) completed prior to RFP issuance would impact the stipend payment amount.**

   We have not done a detailed analysis on the cost of proposal preparation as correlates to the stage of project development at time of issuance. Generally speaking, the use of a stipend incentivizes the industry to utilize their best and brightest in proposal development – as opposed to trying to minimize the upfront cost. The stipend amount should correlate with the level of innovation that the State is trying to realize in the procurement process.

8. **Would it be more beneficial for right-of-way acquisition activities to be transferred to the developer or should MDOT retain that risk? Please discuss your reasoning.**

   While the developer can provide the services required, MDOT should retain the cost risk. While the private sector can mitigate the amount of ROW required, it cannot mitigate the actual cost and will thus mark up their bids to hedge the risk.

**c. Technical Challenges**

1. **Based on your experience in the development of similar projects and characteristics of the I-495/I-95 and I-270 corridors, please explain the technical challenges, including minimization of right-of-way impacts, to providing congestion relief improvements. Please provide any recommendations for mitigating or overcoming those challenges that you would be willing to share.**

   We would be open to having conceptual discussions during the one-on-one events.

2. **Are there recommendations that you may be willing to share concerning the project scope or development strategies to reduce the upfront capital costs and/or the lifecycle costs of potential corridor congestion relief improvements?**

   We would be open to having conceptual discussions during the one-on-one events.

3. **Please explain any technical solutions that you may be willing to share that may enhance the development of the potential congestion relief improvements. Identify risks associated with the solutions and, if possible, discuss estimated cost of the solutions.**

   We would be open to having conceptual discussions during the one-on-one events.

**d. Contract Structure**

1. **What is your recommended approach for financing the capital cost of potential congestion relief improvements?**

   While we are open to both Availability Payments and Demand Risk models, the choice between the two would rely on the policy objectives and risk tolerance of the State. A more definitive recommendation could be made by developers following a review of the baseline traffic and revenue study materials provided by MDOT's advisors.

2. **Should MDOT set a concession term or allow proposers to establish a concession term as part of the response to a potential RFP? If MDOT were to set the concession term, what is a reasonable concession term and why?**

   So as to maintain an "apples-to-apples" comparison between bids, MDOT should set the concession limit. When too many variables are introduced into the selection formula it is possible for a team to provide a solution that appears superior in the formula, however is in practice inferior.

3. **Are there any contract terms you would recommend, such as Alternative Technical Concepts, Alternative Financial Concepts, contract balancing, pre-development agreements or progressive agreements, etc. to minimize risk to proposers, maximize opportunities for innovation, maximize a concession payment to MDOT, or are key to obtaining competition? Please discuss the benefit and risks of the recommended contract terms.**

   All of these ideas can be used to encourage innovation, however by the time the RFP is released the method of evaluating the merits of a proposal must be firm. We would be willing to discuss conceptual details of how these concepts could benefit this program during the one-on-one events. The idea that was discussed openly at the industry forum of "redefining NEPA" was of interest and requires further explanation. SHA stated their desire to secure the ROD in parallel with the P3 procurement(s). It is not clear how confidential ATCs from multiple proposers could be incorporated into the public NEPA review process, both by agencies and the general public.

**e. Miscellaneous**

1. **Are there any particular concerns with the information provided in this RFI? Please explain any concerns and provide any proposed solutions or mitigation to address those concerns.**

   This RFI and the information within did not provide us with any additional cause for concern. This method was a good way to solicit ideas from the industry, as well as provide a catalyst for thought on topics to be covered in the one-on-one discussions.

2. **Please provide any suggestion or comments on how MDOT can encourage participation by Minority Business Enterprise/Disadvantaged Business Enterprise firms and local workforce in the development of the congestion relief improvements.**

   We would suggest an industry day for the MBE/DBE firms and short-listed contractors during the RFP phase of the procurement. Lane maintains a strong commitment to MDOT's stated goals to have a robust MBE/DBE participation, with the understanding that on a project(s) of this size, available MBE/DBE resources will be constrained.

3. **What opportunities would you like to see for industry outreach related to these potential P3 opportunities?**

   We would suggest planning several future opportunities for one-on-one discussions as the procurement process continues. For now, these meetings should be permitted by individual firms, and not teams. As teams begin to coalesce there will likely be less individual requests which should streamline the process.

4. **Please provide any additional comments or questions you may have related to the information in this RFI.**

   We have no additional comments at this time and look forward to participating in this procurement.