



Maryland Transit Opportunities Coalition

8725 Warm Waves Way, Columbia MD 21045
TransitForMaryland@gmail.com

Testimony in Support of HB 1249 Transportation Promises Act of 2020

Presented by Benjamin Ross, Chair

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The Maryland Transit Opportunities Coalition supports HB 1249. The Hogan Administration will award its multi-billion dollar toll lane contract by a short-cut process that lacks genuine competition. The contractor will have the upper hand in negotiating the deal, and will be able to demand that the state break its past promises to the public. Only if these promises are written into law can Marylanders have any assurance they will be kept.

As I [wrote](#) in *Maryland Matters* last month, the giant Australian toll road operator Transurban has maneuvered itself into a dominant position in the current procurement. The company's CEO even said so in public – he [blurted out](#) to investors that Transurban has control of the contract for the initial toll lane segment and “We’re working in partnership with the Maryland government and Virginian government to deliver that and we’ll go to tender on the construction.”

Under the procurement process approved in January by the Board of Public Works, 50-year contracts to build and operate the toll lanes will be negotiated between MDOT and Transurban on a sole-source basis without competing bids.

Transurban will be able to dictate the terms of this contract by threatening to walk away from the table. The two members of the Board of Public Works who voted for the procurement—the Governor and the Comptroller—will face this choice: either capitulate to Transurban’s demands at the negotiating table and break their promises to the people of Maryland, or announce the collapse of the biggest transportation project in the State’s history.

Even without the pressure of this one-sided negotiation, MDOT has repeatedly broken promises so as to make the toll lanes more profitable for Transurban. In particular:

- When Governor Hogan announced the project, he [said](#) that “It won't cost us tax dollars.” But the Request for Qualifications issued last month says “No public funds are **expected** to be provided by MDOT or MDTA” [emphasis added] rather than “No public funds will be provided...”
- Former Transportation Secretary Pete Rahn [promised](#) that “The state will have no risk from the standpoint of how it performs.” Now the BPW has authorized “sharing of risks... to provide an offeror confidence that their solution may be implemented...” This vague language authorizes MDOT to lay almost any risk on the shoulders of Maryland taxpayers.
- In September 2018, the Governor [told](#) voters that “Nobody’s houses are going to be taken.” Once the election was past, MDOT [admitted](#) that it would indeed need to take houses.
- At the Board of Public Works in January, construction workers were promised that the project will be built with union labor. But in February, after non-union contractors [complained](#), bidders were [told](#) that a Project Labor Agreement is “not mandatory.” The RFQ adds that there will be no prevailing wage requirements beyond what is already required by law.

The promises made to Maryland commuters and taxpayers will not be kept unless they are written into law. We ask you to give HB 1249 a favorable report.