



Maryland Procurement Law ALERT

June 10, 2021

Scott A. Livingston, Barry L. Gogel, and Stephen Kuperberg

Transportation Authority Votes to Advance I-270/American Legion Bridge Plan

On June 8, the Maryland Transportation Authority (MDTA) approved a contract to design toll lanes for part of the Beltway and I-270. The two companies awarded the contract, Transurban and Macquarie, would have the right of first refusal on a broader agreement to build the toll lanes. In exchange for financing construction, the agreement would permit the firms to keep most of the toll revenue over 50 years. A third contractor has filed a protest of the contract award. The MDTA approval triggers a thirty-day review period by the state Comptroller, Treasurer, legislative budget committees, and legislative services analysts, following which the State Highway Administration (SHA) can submit the proposed contract to the Board of Public Works (BPW) for final approval.

Read more: <https://wapo.st/358U5Ra> By Steve Kuperberg,

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Appeals Court Ruling Means Likely End to Purple Line Legal Challenges

The Fourth Circuit Court of Appeals upheld a U.S. Army Corps of Engineers' permit allowing certain discharge during Maryland Purple Line light rail construction, meaning that the case—the last of three legal challenges to the project—is likely concluded. The Friends of the Capital Crescent Trail and others had alleged that the Corps had acted arbitrarily in approving the permit, but the trial court granted summary judgment in favor of the government. The 4th Circuit's ruling likely brings the legal challenges to the project to an end and the project is expected to resume this fall with a new contractor. Read more: <https://wapo.st/2TfzGqY> By Steve Kuperberg, Skuperberg@rwillaw.com

Tracking \$130 Million in Maryland Earmarks in Federal Infrastructure Bill

Although the final form and fate of various infrastructure proposals circulating in Congress is still uncertain, twenty Maryland earmarks worth \$130 million appear in the House version of a federal highway bill. The proposed projects include Greenway Trails, expanded rail capacity through a future B&P tunnel, and East-West corridor projects in Baltimore, a Purple Line bike path in Bethesda, redevelopment of Metro/MARC station access in Greenbelt, and more. Even should the House approve the bill with the earmarks intact, however, it will be subject to continued deliberation and possible amendment in the Senate. Read more: <https://bit.ly/3wei8dl> By Steve Kuperberg, Skuperberg@rwillaw.com

Governor Hogan Nixes Additional Reporting on Emergency Procurements

Governor Hogan vetoed bills that required additional notification and reporting relating to emergency procurements which, as reported in previous editions of the Procurement ALERT, had been the subject of disputes at recent meetings of the Board of Public Works. Governor Hogan's formal veto announcements stated his belief that it was necessary to keep existing notification and reporting requirements to allow for greater speed and attention in responding during a state of emergency. Read more: <https://bit.ly/359jt9E>

By Steve Kuperberg, Skuperberg@rwillaw.com

Governors Join in Request for \$1 Billion for Chesapeake Bay Cleanup

The governors of Maryland, Virginia, Pennsylvania, Delaware, West Virginia, New York, and Washington, DC, Mayor Muriel Bowser, sent a joint letter to Congressional leadership requesting \$1 billion in federal funds to assist what the letter characterized as the final phase of restoration of the Chesapeake Bay. The federal Environmental Protection Agency (EPA) had set a 2025 deadline for states to achieve reductions in pollution in the Bay; but, owing in part to the COVID-19 pandemic, many of the Bay states reported difficulties affording the necessary upgrades to systems and mitigation efforts. The governors observed that the investment would create jobs and boost economic development throughout the region. Read more: <https://bit.ly/3xdqBhe>

By Steve Kuperberg, Skuperberg@rwillaw.com

The 2030 Greenhouse Gas Emissions Reduction Act Plan Will Provide Many Public Procurement Opportunities

In February, the Maryland Department of the Environment released The 2030 Greenhouse Gas Emissions Reduction Act Plan. The plan sets forth the measures Maryland will take to reduce greenhouse gases by 50% over the next ten years. The plan was originally published in 2019 as required by the GGRA of 2016. This is an update of the plan from 2019 that addresses more ambitious goals set forth by the Maryland Commission on Climate Change in its 2020 Annual Report. The 2030 GGRA Plan touches all aspects of government and requires significant procurements with respect to energy generation and transportation, which are the source of most of Maryland's emissions.

For example, Maryland expects to expend \$300 million to establish an all-electric bus fleet. The plan also targets other sectors, including building energy use, forestry, and healthy soils management. Other public projects will be aimed at reducing fuel usage through behavior changes brought about through transportation infrastructure projects like bike paths and supporting forest and farms that remove CO₂ from the atmosphere.

According to the Plan, Maryland will achieve 100% clean energy by 2040 and deploy new and emerging zero-emissions technologies. Sectors that will be touched include electricity, transportation, agriculture and forestry, buildings, waste management, and others. The Plan also includes numerous partnerships with key stakeholders like the private sector, underserved communities, state universities and the Port of Baltimore. By Barry L. Gogel, bgogel@rwillaw.com

Maryland General Assembly Legislative Update

As of June 10, here is a list of new legislation concerning state procurement from the Maryland General Assembly. All bills have either been signed, vetoed, or let into law without signature – or they otherwise did not advance during the legislative session. <https://bit.ly/3g62RWh>



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Bid protests happen quickly. Scott Livingston and the RWL team are ready -- to protect your rights under Maryland procurement law.

To find out how we can help, give us a call at (301) 951-0150 or email us at slivingston@rwllaw.com, bgogel@rwllaw.com, or skuperberg@rwllaw.com .

The information in this publication should not be construed as legal advice about your rights and you should contact your attorney for legal advice.



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