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January 21, 2021

The Honorable Kumar Barve  
Chairman, House Environment and Transportation Committee  
251 House Office Building  
Annapolis MD 21401

***RE: Letter of Information – House Bill 80 – Department of Transportation and Department of the Environment – Purple Line Tree Replacement Program***

Dear Chairman Barve and Committee Members:

The Maryland Department of Transportation (MDOT) takes no position on House Bill 80 but offers the following information for the committee's consideration.

House Bill 80 requires the Maryland Department of Transportation Maryland Transit Administration (MDOT MTA) to collaborate with the Maryland Department of the Environment (MDE) to develop a plan to replace trees that are removed because of the Purple Line Project. In developing the plan, the Department must consult with impacted business and communities, local governments, and residents of impacted areas. The legislation further stipulates that the plan must provide for the replacement of trees in each community where trees are removed due to construction of the Purple Line and must prioritize the initial replacement of trees in communities that experience environmental justice issues or the heat island effect. MDOT must collaborate with MDE, the Department of Natural Resources (DNR), and any other state agency deemed necessary, to identify sources of funding available for the implementation of the plan.

MDOT MTA recognizes the intention of the legislation and has proactively satisfied DNR's requirements for tree or forest clearing including expenditures for a Forest Stand Delineation, Forest Conservation Plan, and reforestation requirements. DNR regulations require a certified professional to assess forestry resources across the entire project footprint and document the forest stand extents, characteristics, and conditions in detail. This data is used to generate the Forest Conservation Plan, which outlines where forest clearing will take place; additionally, this is used as a planning tool to reduce forest impacts to the extent possible and to determine the reforestation required for the project. While MDOT MTA minimized forest clearing to the extent possible, there is very little potential for reforestation plantings along the rail alignment due to its urbanized nature and safety setbacks required to maintain transit operations. DNR regulations authorize the purchase of credits at local reforestation banks to offset unavoidable forest impacts. This process was fully completed and approved by DNR in 2018 with 83 acres of credits purchased between two local banks: one in Montgomery County and one in Prince George's County. With regulatory compliance completed for forestry impacts for this project, MDOT MTA, MDE, and DNR have not budgeted for additional coordination, assessment, and/or review for additional planting of trees in neighborhoods.

If the work required in the legislation were to be undertaken as part of the Purple Line capital project, the effort would require documentation and review and approval by the Federal Transit Administration in regard to National Environmental Policy Act (NEPA) conformance for disturbance outside of the approved NEPA Limits of Disturbance (LOD). The purpose of this required effort is to assess impacts to cultural resources, wetlands, Waters of the US, endangered species, and other environmentally sensitive resources. Any impacts identified would need to be fully documented, coordinated, and approved by various state and Federal agencies in accordance with state and Federal regulations and processes, which can take up to a year and require significant effort from subject matter experts and environmental professionals. This effort would also involve utility location and coordination and easement coordination for the Purple Line project to conduct work outside of state property/right-of-way. Due diligence would also need to be performed to ensure that current/existing easements, protective covenants, and other legal restrictions would not be violated through this action. This effort is not currently budgeted. Given the additional collaboration required with stakeholders, and agencies having limited resources, the effort associated with planting trees in neighborhoods could impact review and approval of design and construction elements and could delay the project.

As stated above, the regulatory requirements have been met for the Purple Line through coordination with appropriate agencies. MDOT appreciates the importance of forest and tree canopy cover in mitigating heat island effects and improving air quality in urban areas and is currently exploring other opportunities to reestablish tree cover within the adjacent communities affected by the Purple Line. MDOT respectfully requests that the committee consider this information while deliberating House Bill 80.

Respectfully submitted,

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