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TO: Arkansas Highway and Transportation Department
FROM: Arkansas Public Policy Panel
RE: 30 Crossing Project
DATE: June 9, 2016

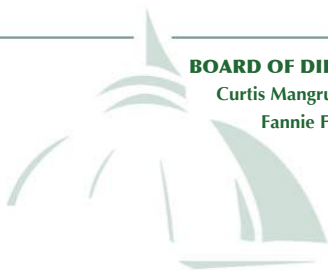
The Arkansas Public Policy Panel, Inc., engaged the services of Norm Marshall of Smart Mobility, Inc. to study the Arkansas Highway and Transportation Department’s I-30 expansion options, analyze those options regarding their feasibility and develop better alternatives if any exist after studying AHTD’s proposed options

The Arkansas Highway and Transportation Department (AHTD) proposes to widen a 6.7-mile segment of I-30 and I-40, including the existing 6-lane I-30 bridge that crosses the Arkansas River between downtown Little Rock and downtown North Little Rock. AHTD seeks comment by June 10, 2016, in preparation for development of an Environmental Assessment (EA) and a Finding of No Significant Impact (FONSI) under the National Environmental Policy Act (NEPA) for this project, which it has called “30 Crossing” (herein, “the Project”). AHTD has sought to streamline NEPA review for the Project by eliminating various project alternatives through a Planning and Environmental Linkages (PEL) process, which culminated in a May, 2015 PEL Report and recommendation to build a 10-lane (6+4 CD) project. Subsequently, AHTD presented a newly-modified Project at an April 26, 2016 public meeting at the Wyndham Hotel in North Little Rock. The City of Little Rock then received advice from its hired experts regarding this Project— Scott Polikov with Gateway Planning and Paul Moore of Nelson/Nygaard—at a May 23d work session.

This letter presents comments that are additional to, and not a substitute for, any other comment in the record. Further, the authors reserve the right to revise and extend these comments throughout the planning process: due to the scope and changing nature of the project, and requested deadlines for consideration, these comments are necessarily incomplete. These comments incorporate by reference the comments and presentations of traffic modeling expert Norm Marshall of

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Smart Mobility; and the comments of former Arkansas State Historic Preservation Officers Cathryn Slater and Cathie Rimmel Matthews.

COMMENT 1: NOT A FONSI

The Project requires a full Environmental Impact Statement (EIS) and not merely an EA. As further discussed below, the Project would have significant direct, indirect, and cumulative impacts on the human environment and thus cannot qualify for a FONSI.

The Project has been credibly described as the most expensive highway project in Arkansas history and as the third widest bridge in the United States. These two facts, alone and on their face, suggest that a full EIS is required.

Further, at the May 23d presentation to the City of Little Rock Board of Directors, Scott Polikov with Gateway Planning and Paul Moore of Nelson/Nygaard) referred to the project as essentially new construction and recommended to the Board that the City should seek an MOU with AHTD giving the City significant influence over the design of the interface between the project and the City through which it would run in order to avoid significant impacts on the heart of downtown. The consultants explained that the high volume and speed of traffic exiting the project onto city streets could endanger pedestrian safety, absent an effective MOU. While the consultants initially recommended “letting go” of the issue of the number of lanes on the bridge in favor of focusing on the design of exit lanes, under questioning by the Board, they also suggested that the City should “push back” against AHTD on the number of lanes proposed by AHTD because of the potential impact of the project on the City. As reported by the *Arkansas Times*, the consultants stated that “[w]e have concerns about the proposal's impact and interaction of the design with development” downtown, **which will impact “blocks and blocks and blocks”** (emphasis added). The consultants could not recommend any method to fully mitigate the project or ensure its operation as advertised: for instance, they suggested that C/D lanes on the bridge itself could be used as “storage” to slow traffic before it exits to the City, but could not explain how or whether that suggestion is feasible or how far back along the bridge such traffic “storage” would need to extend.

These facts and more indicate that the Project cannot reasonably be found to have “no significant impact” on the City. To be specific, the Project will significantly, directly, and negatively impact traffic, economic development, noise, and air pollution. It also will indirectly and cumulatively impact traffic, significant further highway expansion, and local and regional development patterns, with their attendant environmental impacts.

COMMENT 2: INACCURATE AND MISLEADING CURRENT PROJECT DESCRIPTION

The PEL included three phases of analysis (*see, PEL Traffic and Safety Report at 37*). The first and second phases eliminated all alternatives involving alternative modes of transportation and/or improvements on parallel corridors. *Id.* at 37-39.

The third and more detailed phase of the analysis—which eventually gave rise to the current Project—distinguished between the remaining highway widening alternatives primarily on the basis of the number of lanes included in each alternative. In addition to the No Build (current 6-lane)

alternative, the PEL analyzed an 8-lane and a 10-lane alternative. The 10-lane alternative had two forms: one with 10 multi-use lanes, and one with 6 through lanes and 4 collector-distributor (“C/D”) lanes. AHTD referred to each of these as “10-lane” alternatives. Numerous figures in the PEL demonstrated the total of ten lanes in drawings, in both cross section and from an aerial view. During the PEL process, which involved published analysis and several large public meetings, AHTD thus established a framework and expectation under which freeway widening alternatives were designated in terms of how many total lanes were included (6, 8, or 10), including “main” lanes plus “C/D lanes.”

After completion of the PEL, AHTD departed from this convention in a way that fundamentally obscures the physical dimensions of the Project from the public and that creates confusion even among persons attempting to closely follow Project developments. At the April 26, 2016 public meeting arranged by AHTD to announce new revisions to the Project in response to public concerns, AHTD announced that the former 10-lane alternative would be called “6 lanes plus CD lanes.”

Here is AHTD’s description from its webpage: “The 6-Lane with Collector/Distributor Lanes alternative (**previously called the PEL Recommendation 10-Lane with Downtown C/D**) has been renamed to better clarify the scope of the alternative and reduce misconception.” (Emphasis added.) AHTD apparently abandoned the “10-lane” nomenclature in order to avoid potential difficulty getting approval for the Project by MetroPlan (the relevant Metropolitan Planning Organization, or “MPO”), which has an existing policy limiting freeway widening projects to 6 lanes.

But AHTD did not announce or print in its description the following additional salient fact: the bridge segment of the Project is 12 lanes. Only by carefully watching AHTD’s video simulations of future traffic patterns can an interested resident discover that the key metric used by AHTD to distinguish its alternatives in the PEL (6, 8, or “10” lanes) does not describe the Project, which now includes six through lanes plus at least six C/D lanes through downtown Little Rock. Specifically, as determined by expert Norm Marshall who was hired by the Arkansas Public Policy Panel, the proposed Project has 12 lanes at the north end of the bridge, at the middle of the bridge, and at the south end of the bridge. The bridge and the section of the project traversing the most densely populated residential and commercial area in which many public commenters live is at all points at least 12 lanes. Between 3rd and 9th streets downtown the “6-lane” option has 8 freeway lanes and 7 one-way frontage road lanes exiting or entering the freeway, for a total of 15 lanes. See, Section C-C at “Typical Sections” found under “roll plots” on this page: <https://connectingarkansasprogram.com/meetings/i-30-pulaski-county/169/public-meeting-6-april-26-2016-30-crossing/#.V1cfcccmH8s> . Referencing what AHTD calls its “6 lane with Collector/Distributor Lanes alternative,” Norm Marshall determined that

[i]n fact, the 12-Lane Bridge Alternative has no segments with as few as 10 lanes in the City of Little Rock. It is not the same as the 10- Lane C/D alternative described in the PEL Report (see Figure 3). The renaming has not reduced misconception; it has increased misconception.

Further, a significant portion of the Project through North Little Rock effectively has 10 through lanes, again contradicting the “6 through lanes” description.

Failing to describe accurately the total number of lanes in the Project, after this exact metric was established by AHTD as the distinguishing factor between alternatives, and after concern about the number of lanes generated significant public outcry fundamentally undermines the transparency of

AHTD's public outreach. The NEPA process does not merely require that information of some type be provided to the public for comment. It requires *accurate* information that *gives notice* to the public as to the nature of the Project, in order to enable informed comment. AHTD cannot rely on deceptive public outreach to achieve a FONSI or avoid a full EIS.

Indeed, AHTD has actively steered interested citizens away from the 12-lane bridge reality. The Citizen Comment Form provided to meeting attendees by AHTD at its April 26 meeting to announce its most recent Project proposal asked citizens to mark which of the following 6 alternatives "has the most positive impacts, while minimizing negative impacts:"

- "No Build (No improvements are implemented
- 6-Lane Collector/Distributor (C/D) Lanes and Single Point Urban Interchange (SPUI)
- 6-Lane with Collector/Distributor (C/D) Lanes and Split Diamond Interchange
- 8-Lane General Purpose Lanes and Single Point Urban Interchange (SPUI)
- 8-Lane General Purpose Lanes and Split Diamond Interchange
- Other Alternative (Please Indicate Below)"

Any reasonable citizen looking at the AHTD-provided comment form would think AHTD is considering various 6- and 8-lane alternatives, with the design of the interchanges being the other salient difference. Without significant prior study, an unwary attendee would have no way to know that the 8-lane alternatives in this list actually are narrower than the "6-lane" alternatives and that the "6-lane" alternatives are actually 12 lanes. Beyond the specific, inaccurate 6-lane project description, the context that AHTD places around the 6-lane description makes it even more unlikely to inform the public about the true physical reality of the project.

Even seasoned newspaper reporters who had been following the controversy were thrown. They knew that AHTD had begun calling the 10-lane project "6 + 4." But, in a front page *Democratic Gazette* story, Chelsea Boozer wrote "[t]here's been much debate about **the width the new bridge will be**, with proposals to expand the current six lanes to eight or 10." She continued, regarding the latest options announced at AHTD's April 26 meeting: "The 30 Crossing project has four design options under consideration. Two of the options have six through lanes on Interstate 30 **with two additional lanes in each direction in the vicinity of the Arkansas River bridge** to separate local traffic from the through lanes." (Emphasis added). She noted that the other two options have different locations for downtown exits. Earlier, following the April 26 AHTD public meeting, the *Arkansas Times* published an article by Leslie Peacock with the subtitle: "The 10-lane I-30 plan wins support by moving exit to Fourth Street."

The two reporters following the story both came away thinking the AHTD is proposing a 10-lane bridge. This is because that is what anyone following AHTD's series of presentations would think based on the information published by AHTD.

NEPA's public notice and comment requirements cannot be met by a process that requires a hired modeling expert to determine how many lanes the most important and expensive segment of the project has. AHTD's current project description ("6 Lane with Collector/Distributor (C/D) Lanes and Split Diamond Interchange") does not satisfy the requirements of NEPA, in that it cannot provide the

basis for an informed evaluation or a reasoned decision. AHTD cannot rely on public comments received on what the public understands to be a 6- or 10-lane bridge in order to gain a FONSI on a 12-lane bridge.

COMMENT 3: INCOMPLETE PROJECT DESCRIPTION AND STUDY AREA, CONSTITUTING IMPERMISSABLE SEGMENTATION

AHTD's evaluation of the traffic impacts of the project assumes significant freeway lane widening outside of the Project area. As noted in the PEL:

Figure 29 shows the basic lane configuration of the I-30 PEL Recommended Alternative. For the Vissim analysis, five lanes were evaluated heading south on I-30 between I-630 and the South Terminal, and an additional lane was added from the south terminal down to 65th street due to capacity needs outside of the PEL study area. **This was added to the model in order to prevent congestion that occurred outside of the PEL study area from backing up into the PEL study area.** Capacity improvements outside of the PEL study area are currently being analyzed in a separate AHTD Study, and are assumed to be addressed outside of the CAP program. Therefore, the CAP program will only build the fifth lane between I-630 and Roosevelt, and will build four lanes between Roosevelt and the South Terminal. (Emphasis added).

Put simply, the project does not meet its stated objectives without additional significant, freeway projects. "Traffic Congestion" on I-30 is the first objective in the "Purpose and Need" identified by AHTD. AHTD recommends the Project as the preferred method to meet this purpose and need. The Project, however, would create "congestion ... backing up into the PEL study area" without further freeway projects not included in the Study Area for the PEL.

This is a stark case of impermissible segmentation under NEPA. NEPA requires that the action evaluated in each EIS or FONSI shall "have independent utility or independent significance, i.e., be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made; and [n]ot restrict consideration of alternatives for other reasonably foreseeable transportation projects." *Western North Carolina Alliance v. North Carolina Dept. of Transportation*, 312 F. Supp. 2d 765 at 774.

Absent the further lane widening, the congestion backing up into the project area would negate its first purpose. Indeed, further freeway widening projects are foreseeable and should reasonably be considered a direct, indirect, or cumulative impact of the Project itself. Both independent traffic modeling expert Norm Marshall and Metroplan have indicated that the Project will (1) move the traffic bottleneck on the bridge to the identified freeway location(s) and (2) thereby require a series of major freeway widening projects at great expense.

By narrowing the Study Area such that it does not include the further freeway widening that will be made necessary by the Project, AHTD deprives the public of the notice and opportunity to comment on the full scope of its plans, omits costs that necessarily should be considered in the

evaluation of competing alternatives, and impermissibly restricts the consideration of alternatives for the other freeway widening projects that it not only reasonably foresees, but actively plans to build.

COMMENT 4: AHTD HAS FAILED TO TAKE A HARD LOOK AT DIRECT IMPACTS OF THE PROJECT

As noted above, AHTD has limited its environmental impact analysis to the “Study Area,” which has been shown to the public in the PEL and at public meetings as the area within a yellow line around the 6.7 mile freeway corridor. The Study Area generally extends on either side of the freeway only to exit ramps, on ramps, and proposed frontage roads associated with the Project.

Outside of that impermissibly narrow Study Area, and as demonstrated by traffic modeling expert Norm Marshall’s attached Smart Mobility report, the Project will inject what he calls a “firehose” of traffic into selected parts of downtown. The volume of this traffic will be larger than the volume produced by the No Build and narrower freeway alternatives because of induced traffic effects that AHTD has not included in its modeling. This increased vehicle traffic is a direct environmental impact on the largest city in Arkansas in terms of, *inter alia*, congestion, noise, regulated air emissions, and pedestrian safety.

In this regard, we reiterate that these comments are additional to Mr. Norm Marshall’s expert comments included by attachment hereto. He provides a detailed and specific evaluation of AHTD and Metroplan modeling to date which indicates that the Project does not meet its traffic congestion objectives and that the AHTD analysis thus far fails to acknowledge or analyze basic impacts within and outside the Study Area related to vehicle traffic, including traffic induced by the project.

COMMENT 5: PROJECT SEGMENTATION, FAILURE TO ACCOUNT FOR INDUCED TRAFFIC EFFECTS, AND THE IMPERMISSIBLY NARROW STUDY AREA FATALLY UNDERMINE AHTD’S SAFETY ANALYSIS

AHTD indicates in its PEL Traffic Analysis that the Project will reduce traffic accidents within the Project corridor. Its assertions are based on average comparative accident statistics and on traffic flow analysis. These comments do not address the average comparative accident statistics, but do assert that the inaccurate modeling of traffic flows cannot support the conclusion that the Project will deliver the safety improvements claimed by AHTD.

First, the failure to include induced traffic (as explained in detail in attached reports by Norm Marshall) undermines the claimed safety results. Second, the inclusion of future, segmented freeway widening project(s) fundamentally alters performance of the Project in a way that will change accident rates. Third, AHTD cannot look only at accident rates on the freeway corridor while ignoring the potential safety impacts of the significant increase in the volume of vehicle traffic downtown that has concerned every other independent expert who has reviewed the project.

COMMENT 6: THE FAILURE TO TAKE A HARD LOOK AT SIGNIFICANT ENVIRONMENTAL IMPACTS OF THE PROJECT PRIOR TO ELIMINATING REASONABLE ALTERNATIVES RENDERS THE ELIMINATION OF THOSE ALTERNATIVES BY AHTD ARBITRARY AND CAPRICIOUS

AHTD seeks to proceed to a FONSI with only major freeway widening alternatives on the table, on the basis that only those alternatives meet its objectives. These comments and those by others demonstrate that the Project itself does not meet core traffic congestion objectives; that its analysis of

safety improvements is impermissibly flawed, and that its impacts on the environmental, social, economic, and safety of the nearby human environment have not been assessed. In that context, it is premature, and arbitrary and capricious to eliminate alternatives such as inclusion of a second, non-freeway crossing; increased public transit, traffic demand management, and other alternatives.

Further, NEPA does not limit the analysis of alternatives only to projects within the jurisdiction or funding authority of AHTD. Rather, it requires an analysis of all reasonable alternatives to the Project, even if they involve funding or cooperation by other agencies.

Attachments:

- (A) Norm Marshall's April Report
- (B) Norm Marshall's May Report
- (C) Comments of former Arkansas State Historic Preservation Officers to Advisory Council on Historic Preservation
- (D) Comments of former Arkansas State Historic Preservation Officers to Little Rock Mayor and Board of Directors