
August 23, 2022

Mr. Craig L. Simoneau
City of Rockville
111 Maryland Avenue
Rockville MD 20850

Dear Mr. Simoneau:

The Maryland Department of Transportation State Highway Administration (MDOT SHA) is in receipt of your request (841690) pursuant to the Maryland Public Information Act, General Provisions Article (GP), § 4-101 *et seq.*, Annotated Code of Maryland. Specifically, you requested:

“Request all traffic modeling data used to develop traffic projections and all assumptions used to run traffic simulation model VISSIM and any other models, which have resulted in determining the projected operational performance for the I-495 and I-270 MLS. Request includes all input data. Rockville would like the State's outcomes either be validated by competent third party(ies) and that modeling outcomes be corrected, if legitimate flaws are found.

Fee Waiver Request. On behalf of the Mayor and Council of the City of Rockville, I request a waiver of all fees associated with this request as the information requested is of a public purpose, rather than a narrow personal or commercial interest. The City has no commercial interest in the data or the underlying project. The City believes disclosure of the data will likely help shed light on what the City believes is a public controversy about the reliability of the underlying traffic modeling data and assumptions. This data clearly had an effect on the actions taken by MDOT SHA throughout the NEPA process, concluding with the Final Environmental Impact Statement (FEIS) and Record of Decision (ROD), and other I-495 and I-270 Managed Lanes Study (MLS) decisions.

Further, disclosure of the records will likely aid the public's understanding of how MDOT SHA came to its conclusions and recommendations for the project. The City believes disclosure of the requested data will contribute significantly to public understanding of the NEPA and other MLS project conclusions and decisions. Since the City of Rockville is an affected public body of the project, it is clear that this fee waiver will primarily benefit the public. There have been quite a few comments made by various members of the public, neighborhood groups/associations, governmental agencies, and other interested groups in the public record and in various newspapers and blogs questioning the conclusions that rely on the traffic modeling data and results.

Additionally, the Mayor and Council of Rockville have heard many residents express genuine concern about the conclusions made from the traffic modeling and data related to the project. If this fee waiver is not granted in whole, I am requesting a partial waiver of fees. Should MDOT SHA deny both a full or partial waiver of fees, I request an explanation for the denial and an estimate of the cost to produce the requested information under the MPIA, prior to beginning efforts to produce the information in this request."

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On August 18, 2022, August 19, 2022, and August 22, 2022, we attempted to tailor the scope of your request to only those records you require at this time to reduce the burden of searching, retrieving, reviewing, possibly redacting, and producing any potentially responsive records to reduce costs and staff time. To date, we have not heard a response from you to work with us in this effort. The MDOT takes our stewardship role of public records seriously and is committed to transparency, but we must also be mindful of our constitutional fiduciary responsibilities to the citizens of Maryland. This is why we attempt to narrow the scope of broad requests, which always provides requesters with the option of filing subsequent requests should that prove necessary.

As stated in our email dated August 19, 2022, should you choose to narrow your scope to a more focused list of the traffic analysis files, the City of Rockville's traffic engineers can review the FEIS documents which detail MDOT SHA's process on the traffic forecasting and analysis. The FEIS is publicly available on our website at:

<https://oplanesmd.com/feis/>

As discussed, we are happy to work with you to narrow the scope of your request in an effort to reduce the cost. If you identify and authorize a more targeted search, we would be happy to provide you with a revised fee estimate.

Should you wish to proceed with the broad scope of your request, MDOT finds it necessary to recover those costs permitted under the law. GP § 4-206 authorizes MDOT to charge for time incurred to prepare, search, and review documents after the first two hours of work. We estimate that this request would require approximately 73 staff hours with an estimated cost of \$11,847.58. Should you wish to continue with your current request scope, please forward a check made payable to the Maryland Department of Transportation to:

Ms. Jean Anne Hosker
PIA Representative
MDOT State Highway Administration
707 North Calvert Street
Baltimore MD 21202-3601

Please be advised that we will not begin working on your request until and unless we receive payment. If, after we have completed the work, the actual cost differs from this estimate, you will either be required to pay the balance prior to receiving the records or you will be issued a refund. If we do not receive payment from you by September 9, 2022, we will consider the matter closed. Of course, you may reinitiate a new request at any time.

Payment does not guarantee the full release of the records you seek. It is possible that records or information within the records requested may be redacted or exempt from disclosure under State and/or federal laws and/or regulations.

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In response to your request for a waiver, we have considered your request on behalf of the Mayor and Council of the City of Rockville. The Maryland Department of Transportation (MDOT) PIA policy provides a waiver process whereby each request is considered on a request-by-request basis, which we have done in this case. We are committed to transparency and will provide records in accordance with all laws and regulations. We also have a State fiduciary constitutional responsibility to the citizens of Maryland to recover the public dollars expended to fulfill these requests. While fees recovered can never fully reimburse for all the costs involved in researching and processing a PIA request, MDOT policy seeks to recover as many costs as permissible to ensure the integrity of the Transportation Trust Fund. We have carefully considered your fee waiver in the public interest and your status as a public body. The PIA statute does not require us to waive to a government body. The MDOT SHA is ready to provide the responsive documents to your request but cannot waive the associated fees for this request.

Pursuant to GP § 4-362, your client is entitled to seek judicial review of this decision. Alternatively, your client may file a request for mediation with the Public Access Ombudsman and, if the Ombudsman is unable to resolve the matter, may subsequently seek a resolution from the Public Information Act Compliance Board for those matters within the Compliance Board's jurisdiction. See GP §§ 4-1A-01 *et seq.* and 4-1B-01 *et seq.*

For efficiency reasons and to keep operational costs as low as possible, we encourage all requesters to submit their PIA requests through the MDOT online form, which can be found at www.mdot.maryland.gov. Click on the About tab at the top and then Public Information Act. You will find all PIA Representative contact information and other helpful information.

If you have any questions, you may contact me at 410-545-0429 or jhosker@mdot.maryland.gov. I will be happy to assist you.

Sincerely,



Jean Anne Hosker
MDOT SHA PIA Representative