

# LAD CASE STUDY

March 2026

## Restructuring the Purple Line Project:

*Back on Track*

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## **Re-Stopping Work**

On September 10<sup>th</sup>, 2020, Judge Jeffery Geller of the Baltimore City Circuit Court ruled that Purple Line Transit Partners (PLTP), the consortia contracted to build and operate the Purple Line, was entitled to demobilize according to the project agreement.

The ruling lifted a temporary restraining order preventing the concessionaire and its design-builder, Purple Line Transit Constructors (PLTC), from terminating the public-private partnership (P3) that was formed to deliver the project. As a result, hundreds of construction subcontracts would need to either be terminated or reassigned back to the Maryland Department of Transportation (MDOT).

The Purple Line P3 was awarded in 2016 to deliver a 16-mile light rail transit project in the Washington, D.C. suburbs. The project experienced four categories of third-party risks, including an injunction from an environmental lawsuit that stopped construction for nearly a year. In total, those four categories of risk resulted in claims of 976 days of delays and more than \$500 million in cost increases.

Despite months of negotiations, the state and PLTP had been unable to reach an agreement allocating responsibility for those delays and costs, and as they continued to rise, PLTP invoked an “unconditional election to terminate” clause in the project’s concession contract. MDOT disputed PLTP’s right to terminate and demobilize, but the present court ruling would allow them to do just that. The Purple Line’s time was running short.

## **Restarting Negotiations**

Judge Geller’s ruling was limited to the restraining order, rather than MDOT’s broader breach of contract claims, but it was also very clear. He stated that the termination provision of the Purple Line concession was “clear, direct and absolute” and that the state simply “has no right to contest the [contract] termination.”<sup>i</sup> He further stated that there is “a public interest in the court’s refraining from rewriting contract provisions that sophisticated parties entered into, on even ground, while represented by counsel.”

Judge Geller also admonished the state for not actively preparing for the transition, stating that it “failed to participate in any meaningful way. There are numerous letters in the record in which PLTP implores the state to engage in the process. ... But the state had dug its heels in.”<sup>ii</sup>

The end of the restraining order did not end the litigation between the partners. In fact, the following week PLTP filed a counterclaim in the lawsuit for more than \$100 million in damages. MDOT, for its part, was seeking \$75 million in damages in the breach of contract lawsuit.<sup>iii</sup>

It didn’t end their negotiations, either. Jane Garvey, Chairman of Meridian North America, an investor in PLTP, was one of the consortium’s negotiators at the time. “We established regular meetings among an executive leadership group that were punctuated almost daily with one-on-ones and smaller group interactions,” said Garvey. “A failure in negotiations would have dealt a deeper blow to the Maryland public, which has already endured significant impositions from the stoppage of major construction...”

“There were times when it was just Jane and I talking over the issues and trying to find solutions,” said Greg Slater, Maryland’s Secretary of Transportation.

PLTP and MDOT started to transition the ongoing construction contracts over to MDOT while also continuing negotiations to reach a settlement regarding the cost claims. At the end of September, MDOT officially took over control of 233 design and construction contracts that were ongoing on the Purple Line.

A spokesperson announced that some construction, design and utility relocation work would continue while the parties negotiated.

With the termination of the design-build contract complete, the negotiation between MDOT, PLTP, and PLTC could end in a number of different scenarios. If the parties couldn't come to an agreement on the cost and breach of contract claims, a complete divorce would be necessary. PLTP and PLTC would depart the project entirely, and their cost and other claims would eventually be decided in court. This outcome would have other negative ramifications for all of the parties. The members of PLTP and PLTC would suffer more damage to their reputations, and the investors in PLTP would need to deal with the fallout of the project company's default. MDOT could try to deliver the remainder of the project itself, or it could solicit a replacement partner via another P3 procurement. The state would be taking on significant additional risk in either of those scenarios.

A potential settlement would continue the project under the P3, but with a few broad adjustments. The construction firms making up PLTC would be exiting the project, including Fluor, which was also an investor in the concession via PLTP. However, PLTP's other investors (Meridiam and Star America) were infrastructure fund managers and thus not part of the project's design-build contract. Those investors were still interested in finding a solution that would enable the Purple Line project to recover and complete construction, and which would enable PLTP to avoid defaulting on its debt. See **Exhibit 1** for the Purple Line's organizational structure at the time.

However, restructuring the Purple Line's various consortia would be no small task, because it would involve far more than simply resoliciting a new design-build contractor for the project. This was because the lead member of the design-build consortium, Fluor, was also an investor in the concessionaire (PLTP) and a member of the operations and maintenance contractor (Purple Line Transit Operators) as well. In other words, a restructured project would not only entail a new construction contractor, but a restructuring of nearly every organization and agreement previously in place to deliver the Purple Line.

Whatever the outcome of the negotiation, the termination and demobilization of the design-build contract meant that the negotiation would need to be resolved very soon, one way or the other. The construction transition and uncertainty regarding the future of the project caused some concerns from local businesses and residents, who were facing the prospect of extended torn up streets and open construction sites. Media scrutiny of the project and the negotiation was already high prior to the court ruling, and it intensified afterwards.

News articles and interviews with local residents and businesses highlighted the toll that the prolonged uncertainty was having on the community. Maya Rosenberg, a student at the University of Maryland, told the *Washington Post* "I don't understand why they couldn't figure out their disputes. It just seems pretty frivolous and childish almost that they couldn't come to a resolution."<sup>iv</sup>

Community impacts were difficult to ignore because so much of the Purple Line was under construction when the contractor demobilized. Streets remained torn up, and tunnels and bridges remained half-built, while construction progress largely stopped.

Very little public information regarding the claims negotiation was released by any party during this period, but occasionally information spilled into the public, mostly due to PLTP's lender disclosure requirements for its private-activity bonds. One such disclosure included a letter from the MTA to PLTP providing notice that the agency intended to remarket the P3 agreement in accordance with the terms of the contract, or replace the project concessionaire in its entirety.<sup>v</sup>

At the end of October, a group of state lawmakers wrote a letter to Governor Larry Hogan expressing deep concerns regarding the fate of the project. Transportation Secretary Greg Slater stated that MDOT was working in parallel on both the negotiation with PLTP and developing a plan to complete the project on its own.<sup>vi</sup>

Public anger was not the only reason that time was of the essence: PLTP was also facing the prospect of an imminent default. On October 1<sup>st</sup> PLTP signed a one-month “forebearance agreement” with the trustee representing bondholders of the \$367 million in bonds that financed part of the project. Under the agreement, PLTP’s investors contributed \$7.8 million to make a crucial interest payment due at the end of September, and bondholders agreed not to take any enforcement action to give the parties a month to negotiate a resolution. When no resolution came by the end of October, PLTP and the bondholder’s trustee agreed to another one-month extension through the end of November.

At the end of November, MDOT and PLTP emerged to announce the broad strokes of a negotiated settlement that would enable the Purple Line P3 to eventually move forward. All of the outstanding claims would be settled via a \$250 million payment from MDOT, and PLTP would exit as the project’s design-build contractor. Fluor would also exit the PLTP consortia and end its other affiliations with the project, and MDOT would continue its partnership with PLTP via Meridiam and Star America. Under the terms of the settlement, PLTP and MDOT would collaboratively solicit a new design-build contractor to step in and take over construction of the Purple Line, and in the meantime MDOT would continue to make progress managing some of the project’s subcontracts where it could.

“The pivotal moment in my mind was a meeting that we had internally,” said Slater. “We were sorting through how we got here and how they got there and who was to blame, and at one point I said ‘look, now we need to decide whether we want to be right or whether we want a successful infrastructure project.’”

“The first priority was forgiveness,” said Thierry Déau, the founder of Meridiam and one of PLTP’s negotiators. “We offered everyone a clean slate. The next was resetting our schedule for the utility relocations and right of way – we needed to start from scratch and establish a realistic timeline that everyone could agree on.”

Once finalized, however, the terms of the Purple Line settlement agreement would need to be approved by Maryland’s Board of Public Works (BPW).

## **The BPW Votes on a Settlement**

The proposed settlement agreement went before the BPW at its December 2020 meeting. It included a detailed process through which PLTP and MDOT would collaboratively advertise a new design-build contract, while also continuing progress on the subcontracts currently under MDOT’s management, then transfer responsibility for those subcontracts to the new design-builder. PLTP would then refinance the project with the new design-build team in place. Costs during the interim construction period were expected to be \$100 million, and would be split between PLTP and MDOT up to a maximum cost of \$50 million for PLTP.

The settlement included the following additional terms:

- The agreement would settle all outstanding claims and litigation between the parties.
- MDOT would make an initial payment to PLTP of \$100 million and would make a second payment of \$150 million once the transition to the new design-builder was complete.

- PLTP would invest additional equity in the project and agreed to underwrite the eventual financing at a return on equity 20% lower than that for the original financing of the concession.
- The state would receive the benefits of any savings associated with lower interest rates when the project is refinanced.

If PLTP and MDOT were unable to bring on a new design builder within the next year, the state planned to terminate the P3 and raise other financing to complete the project.

At the BPW meeting, Transportation Secretary Slater said that the negotiations between partners continued throughout the recent months of litigation. “I want to note that through the challenges that we were facing in this project, the court filings, the letter writing, I spoke nearly daily to our partners as we engaged to find a way to find a great path forward for this project. We believe that with a new design builder in place, and our partnership with Meridiam and Star America remaining intact, we have the tools needed for successful completion of this project.”

Governor Hogan also spoke in favor of approving the settlement so the Purple Line could continue, noting the project’s environmental and economic benefits. “We’ve already seen it result in more than \$2 billion in office, residential and commercial projects in and around the Purple Line corridor. The projections are that the Purple Line will take at least 17,000 cars off the road every day...”

After some discussion, the BPW unanimously approved the settlement.

## **Restructuring the Purple Line**

With the settlement approved, PLTP and MDOT set about re-advertising the project’s construction contract, and passed a few milestones early in the year. In March 2021, PLTP announced that it had received significant interest from major construction firms and published a shortlist of three firms from which it would accept detailed cost proposals.

In May, the Purple Line passed a very different milestone, when an appellate court ruled in favor of the project in an environmental lawsuit challenging a permit that was issued by the U.S. Army Corps of Engineers (USACE). The lawsuit was brought in January 2019 by the Friends of the Capital Crescent Trail and two Maryland residents. These were the same parties who had previously filed a National Environmental Policy Act (NEPA) lawsuit against the project, claimed that the alternatives analysis completed by USACE was “arbitrary and capricious” by relying on the alternatives analysis that was included in the project’s original NEPA study. After the ruling, the Purple Line project had no outstanding environmental litigation pending for the first time since it began.

Despite that early progress, transitioning the Purple Line to a new design-builder would be an extremely difficult task. The shortlisted construction teams would need to put together their final designs and fixed-price proposals, but the Purple Line was no longer just a multibillion-dollar public works project, it was a multibillion-dollar *half-built* public works project. The construction teams thus needed to also assess the status and quality of the completed or partially-completed construction to determine the additional work required to meet the final specifications. Further complicating the bid process, MDOT was actively managing several ongoing construction subcontracts while the bid teams were preparing proposals. The handoff of responsibility and liability to the new construction contractor would need to be delicately managed.

The complexity of the project and transition mid-construction was only one dimension of the challenge, however. The approval process for the new contractor was legally and financially complex in equal

measure. The final arrangement, with a new design-builder, would need to be approved by the BPW (which only met once every 2-3 weeks), before PLTP could take the new package of contracts and raise debt financing for the restructured project. Those steps alone would add months to the restructuring timeline.

“It was a tough situation. We set a really aggressive timeline for selecting a new partner, and this was in the middle of the post-pandemic inflation, said PLTP’s Doran Bosso. “Subcontractors had a lot more negotiating leverage.”

The project’s existing lenders were yet another party with approval authority over the restructured construction contract. When the project was originally financed in 2016, it included a TIFIA loan supported by the federal government as well as \$367 million in bonds. The terms of the bond offering gave bondholders a number of protections in the event of a replacement of the project’s design-build contractor, including some approval rights over the restructured construction contract in that case. This created an additional source of uncertainty for PLTP and MDOT, because the restructured project would need to be approved by a vote from the project’s outstanding bondholders.

Through the summer of 2021, the new bid teams worked on their proposals and visited the construction sites of MDOT’s 150 ongoing subcontracts to assess the current status of the project. MDOT and PLTP also responded to more than 550 queries from the bid teams. As fall approached, the bid teams requested more time to prepare their proposals, and MDOT and PLTP planned to collect them by the end of September. However, given all of the approvals required, MDOT and PLTP concluded that they would likely be unable to select a new contractor and finalize the restructuring before the November deadline in the settlement agreement. Instead, they went back to the BPW with a new modification.

“The tricky part at the end was the bonding and financing. We needed the bondholders involved in the process as well since they would need to approve of any restructured project,” said Slater.

The new modification, which was approved by the BPW in September,<sup>vii</sup> gave MDOT and PLTP an additional 100 days to restructure the project, pushing the deadline to February 2022. The modification also accelerated up to \$375 million in future availability payments for PLTP, in order to repay the project’s existing PABs bonds early. The payment would allow PLTP to retire the existing bonds and remove the bondholder approval veto over the restructured design-build contract.

In October, MDOT and PLTP completed their proposal evaluations and selected Maryland Transit Solutions (MTS), a joint venture between Dragados USA and OHL USA, as the new design builder for the Purple Line. See **Exhibit 2** for the organizational design of the proposed restructuring for the Purple Line project.

## **One Last Board Vote**

The selection of MTS as the new design-builder for the project enabled MDOT and PLTP to prepare a modified project agreement, which would require another approval from Maryland’s BPW. MDOT prepared the updated project agreements for a vote at the board’s January 2022 meeting, first releasing a report on the modified contracts to the state’s General Assembly in early January.

Approval by the BPW was far from guaranteed, given the increased costs of the modification. Total capital costs of the project under the new contract would increase from \$2 billion to \$3.4 billion. MDOT’s report to the BPW noted several drivers of significant cost inflation in the construction industry, including rising material costs, supply chain issues, labor issues and mandatory wage increases from Maryland’s living wage laws due to ongoing inflation.<sup>viii</sup>

The total, long-term costs to the state of the Purple Line, including availability payments during the 30-year operations and maintenance phase of the concession, would rise from \$5.59 billion under the project's original 2016 terms to \$9.28 billion. That would, for the second time, make the Purple Line the largest BPW contract in Maryland's history. Beyond the additional costs of the new design-build contract, the project's costs of financing also increased, and another \$219 million in construction expenses occurred during the interim period while Maryland was supervising construction subcontracts. See **Exhibit 3** for the BPW agenda item for the contract modification.

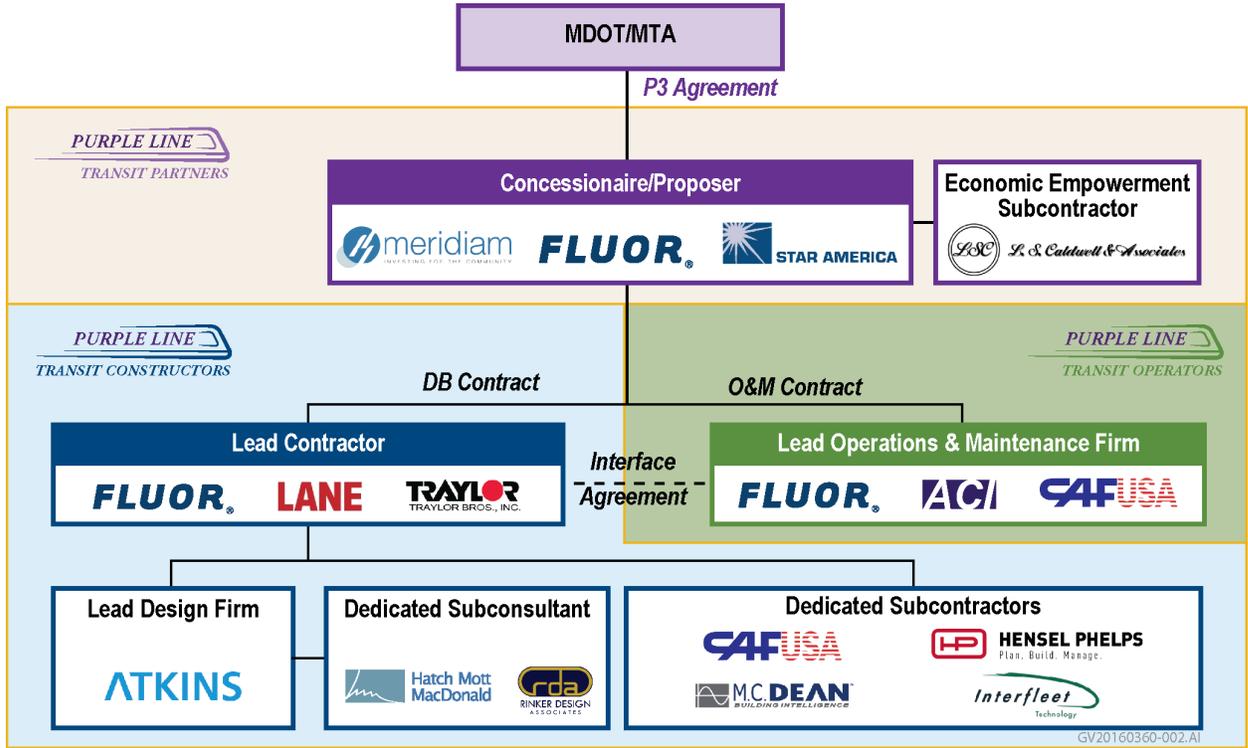
If the BPW voted to approve the new Purple Line contract, there would also be some sources of additional funding available. The increase in design-build costs meant that the refinanced project would be eligible for a larger federally-supported TIFIA loan. PLTP also planned to increase its equity investment in the project to \$280 million. The project still had access to its \$900 million federal New Starts grant, and the American Rescue Plan Act, which was passed into law while the Purple Line was being restructured, included an additional \$106 million in federal funding for the project.

After years of near cancellations, the Purple Line was just one board vote away from being back on track to complete construction. The project had been through a rough patch to say the least. "In any megaproject there are 3 or 4 moments when things simply look impossible," said Slater. "For the Purple Line it was ten times that. This project could have failed any number of times. The fact that it even made it this far is a testament to grit."

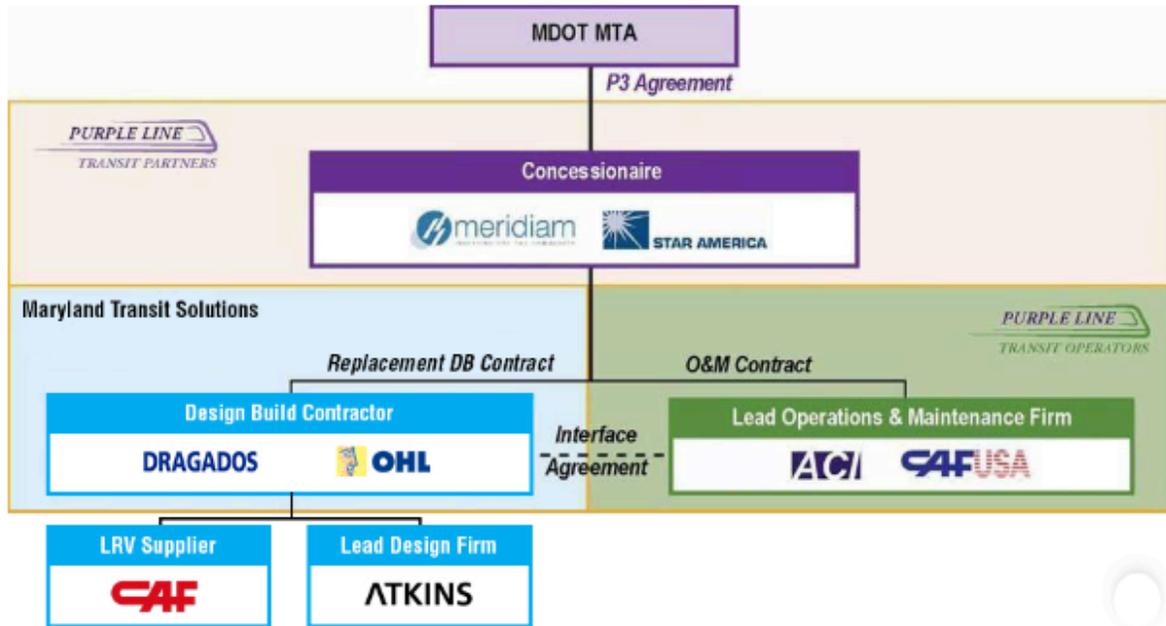
## Study Questions

1. The Purple Line partnership nearly completely broke down in the summer of 2020, then recovered in the fall. What were the causes of the change in trajectory? How were participants able to recover the negotiation and get to a settlement?
2. Appraise the terms of the settlement approved in late 2020? How did the various members of the project concessionaire make out under the settlement terms? Was the settlement a good deal for Maryland taxpayers? Why or why not? What about the firms comprising PLTP?
3. Evaluate the restructured Purple Line P3 after the design-build readvertisement. How has the partnership itself been improved or worsened by the restructuring? Has the restructured partnership adequately addressed the problems and challenges that the project faced under the original partnership structure? If yes, how so? If not, how could the new partnership be improved?
4. What were the drivers of the increase in total capital costs for the Purple Line between the original contract and the restructured concession at the end of the case?

**Exhibit 1: Organizational Chart of the Purple Line Project (2016)**



**Exhibit 2:** Organizational Chart of the Proposed Restructuring of the Purple Line Project



**Exhibit 3:** January 2022 Agenda Item for the Board of Public Works – Purple Line Modification  
(Source: BPW)

**16-GM-MOD.      MARYLAND TRANSIT ADMINISTRATION (cont'd)**

**Modification Description:** Modification No. 6 to the P3 Agreement incorporates the terms of the replacement design-build contract, operations and maintenance contract, and light rail vehicle contract, resulting in a change to the original contract amount and original contract term. MDOT MTA recommends that the Board of Public Works approve Modification No. 6 to the public-private partnership agreement for the Purple Line Transit Project and the design-build contract between PLTP and Maryland Transit Solutions (MTS).

<b>Original Contract Term:</b>	04/07/2016 – 03/11/2052
<b>Modification Term:</b>	01/27/2022 – 04/26/2056* <i>*Thirty years from actual Revenue Service Availability date</i>
<b>Original Contract Amount:</b>	\$5,590,000,000 <sup>1</sup> (Year of Expenditure)
<b>Modification Amount:</b>	\$3,444,000,000 (Year of Expenditure)
<b>Prior Mods/Options:</b>	\$            0 (Mod No. 1; DCAR 06/14/2016) \$ 250,000,000 (Mod No. 2; BPW 12/16/2020, 14-GM-MOD) \$            0 (Mod No. 3; DCAR 05/04/2021) \$            0 (Mod No. 4; DCAR 08/17/2021) \$            0 (Mod No. 5; BPW 09/15/2021, 6-GM-MOD).
<b>Revised Total Contract Amount:</b>	\$9,284,000,000 <sup>2</sup> (Year of Expenditure)
<b>Percent +/- Change:</b>	0% (Modification No. 1) 4% (Modification No. 2) 0% (Modification No. 3) 0% (Modification No. 4) 0% (Modification No. 5) 62% (Modification No. 6; <i>this agenda item</i> )
<b>Overall Percent +/-:</b>	66%

## Endnotes

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<sup>i</sup> Katherine Shaver, “Purple Line Builders May Quit Mid-Project over Cost Disputes, Judge Rules,” *Washington Post*, September 10, 2020, [https://www.washingtonpost.com/local/trafficandcommuting/judge-purple-line-builders-may-quit-mid-construction-over-cost-disputes/2020/09/10/ae8e5fb6-f2dc-11ea-b796-2dd09962649c\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/judge-purple-line-builders-may-quit-mid-construction-over-cost-disputes/2020/09/10/ae8e5fb6-f2dc-11ea-b796-2dd09962649c_story.html).

<sup>ii</sup> Bruce DePuyt, “MDOT Loses Showdown With Purple Line Contractor,” *Maryland Matters*, September 11, 2020, <https://marylandmatters.org/2020/09/10/mdot-loses-showdown-with-purple-line-contractor/>.

<sup>iii</sup> Katherine Shaver, “Purple Line Companies Countersue Maryland for Breach of Contract over Cost Overruns,” *Washington Post*, September 17, 2020, [https://www.washingtonpost.com/local/trafficandcommuting/purple-line-companies-countersue-maryland-for-beach-of-contract-over-cost-overruns/2020/09/17/8868df86-f8fa-11ea-a275-1a2c2d36e1f1\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/purple-line-companies-countersue-maryland-for-beach-of-contract-over-cost-overruns/2020/09/17/8868df86-f8fa-11ea-a275-1a2c2d36e1f1_story.html).

<sup>iv</sup> Katherine Shaver and Luz Lazo, “Purple Line Project Uncertainty Leaves Maryland Residents, Businesses in Limbo,” *Washington Post*, October 24, 2020, [https://www.washingtonpost.com/local/trafficandcommuting/purple-line-project-limbo/2020/10/24/86acd9ec-12e8-11eb-ba42-ec6a580836ed\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/purple-line-project-limbo/2020/10/24/86acd9ec-12e8-11eb-ba42-ec6a580836ed_story.html).

<sup>v</sup> Kevin Quinn, “NOTICE OF INTENT TO REMARKET P3 AGREEMENT,” October 9, 2020.

<sup>vi</sup> Katherine Shaver, “Maryland Lawmakers Write to Gov. Hogan with ‘Deep’ Concerns about Fate of Purple Line,” *Washington Post*, October 28, 2020, [https://www.washingtonpost.com/local/trafficandcommuting/maryland-lawmakers-write-to-gov-hogan-with-deep-concerns-about-fate-of-purple-line/2020/10/27/bbf1a644-18a3-11eb-aecb-b93bcc29a01b\\_story.html](https://www.washingtonpost.com/local/trafficandcommuting/maryland-lawmakers-write-to-gov-hogan-with-deep-concerns-about-fate-of-purple-line/2020/10/27/bbf1a644-18a3-11eb-aecb-b93bcc29a01b_story.html).

<sup>vii</sup> Bruce DePuyt, “Purple Line Payment Is Approved; Contractor Timeline Slides to 2022,” *Maryland Matters*, September 15, 2021, <https://marylandmatters.org/2021/09/15/purple-line-payment-is-approved-contractor-timeline-slides-to-2022/>.

<sup>viii</sup> Maryland Transit Administration, “Department of Transportation Action Agenda” (Maryland Board of Public Works, January 26, 2022).