Maryland Department of Transportation
The Secretary's Office

Larry Hogan
Governor

Boyd K. Rutherford
Lt. Governor

Pete K. Rahn
Secretary

October 1, 2015

The Honorable Thomas V. "Mike" Miller, Jr.
President
Senate of Maryland
State House, H-107
Annapolis MD 21401-1991

The Honorable Michael E. Busch
Speaker
Maryland House of Delegates
State House, H-101
Annapolis MD 21401-1991

Dear President Miller and Speaker Busch:

Attached is a report concerning the *Chesapeake Bay Trust and Chesapeake Conservation Corps Funding* as required in Senate Bill 600, Chapter 370 (Acts of 2015). The language directs:

> *"That, on or before October 1, 2015, the Maryland Transportation Authority, in consultation with the Chesapeake Bay Trust, shall report to the General Assembly, in accordance with §2-1246 of the State Government Article, on the feasibility of establishing a donation program for the benefit of the Chesapeake Bay Trust to which E-ZPass account holders may donate, including a plan for administrating the donations collected by the Authority".*

If you have any questions or concerns, please contact Mr. Milton Chaffee, Maryland Transportation Authority (MDTA) Executive Director, at 410-537-1001. Of course, you may always contact me directly.

Sincerely,

Pete K. Rahn
Secretary

cc: The Honorable Edward J. Kasemeyer, Chair, Senate Budget and Taxation Committee
The Honorable Maggie McIntosh, Chair, House Appropriations Committee
Mr. Milton Chaffee, Executive Director, MDTA

My telephone number is 410-865-1000
Toll Free Number 1-888-713-1414 TTY Users Call Via MD Relay
7201 Corporate Center Drive, Hanover, Maryland 21076

A Report to the Maryland General Assembly

regarding

Chesapeake Bay Trust and Chesapeake Conservation Corps – Funding
(SB 600/Chapter 370, Acts of 2015)

The Maryland Department of Transportation

October 2015

This annual report was prepared in response to language in SB 600/Chapter 370, Acts of 2015. Specifically, the language directs:

> *"That, on or before October 1, 2015, the Maryland Transportation Authority in consultation with the Chesapeake Bay Trust, shall report to the General Assembly, in accordance with §2-1246 f the State Government Article, on the feasibility of establishing a donation program for the benefit of the Chesapeake Bay Trust to which E-ZPass account holders may donate, including a plan for administering the donations collected by the Authority".*

ANALYSIS

The Chesapeake Bay Trust (CBT) has proposed a program similar to the Bay Plate program with the Motor Vehicle Administration (MVA). Under the current MVA program, when a vehicle is registered and Bay Plates are requested the customer is charged an additional $20 above the standard registration fee. The initial extra $20 is split evenly between the MVA and the CBT. The $10 dedicated to the MVA covers its administrative costs. When Bay Plate vehicle registrations are renewed every two years, the full $20 goes to the CBT.

Initial discussions with the CBT centered on a branded E-ZPass "Bay transponder" for a fee above the standard transponder fee. Branding transponders could be accomplished by stickers or shrink wrap on the transponder and/or transponder pouches. The total cost of the "Bay transponder" to be split between the Maryland Transportation Authority (MDTA) and the CBT, as well as the amount and frequency of the recurring donations, were not determined as part of this report.

The MDTA staff has identified several challenges that make implementation of a Bay transponder costly and cumbersome.

Financial Considerations:

The MDTA's Trust Agreement prohibits it from spending toll revenues on activities not directly related to MDTA's mission and operations. Therefore, all costs would have to be borne by the CBT. Early estimates of costs to be borne by CBT include:

- An upfront, one-time, cost for programming and website changes of $400,000 (preliminary estimate);
- Annual operation and maintenance costs of approximately $60,000 (estimated at 15% of development cost);
- One-time set up costs associated with branding the transponders (this cost is unknown at this time because the exact branding was not developed);
- Upfront purchase of inventory of CBT branded transponders. MDTA will not accept the risk of branded transponders they do not sell;
- Credit card processing fees that vary based on the size of the transaction.

Legal Considerations:

1. Bond Trust Agreement

The language of the Trust Agreement governing MDTA toll facility revenues restricts the MDTA from using revenues from its toll facilities for purposes other than the construction, operation and maintenance of the toll facilities. Therefore, all costs associated with the collection of funds for the CBT must be paid for by the CBT. In addition, all revenues collected by MDTA are deposited into MDTA's operating account and held in trust; therefore, in order to avoid the potential that revenue collected for the CBT will be considered revenue of MDTA and held in trust, the additional funds collected for CBT will have to be placed in a separate account.

2. E-ZPass Interagency Group Agreement

The existing E-ZPass Interagency Group agreement has a mandatory requirement for color of the transponder (white for personal vehicles, blue for commercial vehicles, orange for non-revenue, etc.). Any changes to the transponder would need to be approved by the E-ZPass Group after a sufficient amount of testing to ensure the modifications needed to brand the "Bay transponder" do not impact the accuracy of the device. The costs associated with testing the "Bay transponder" would need to be covered by the new program, which are unknown at this time.

Operational Considerations - Recurring Donations:

The demand for this program is unknown at this time. CBT would need to cover the additional purchase cost of any inventory of branded transponders that do not sell. Transponders could potentially be sold on the E-ZPass website, on CBT's website, at Stop in Centers and at current On-The-Go retail locations. The availability of sale through retail locations may be limited since stores may be unwilling to devote the shelf space to both regular E-ZPass transponders and CBT transponders.

The following operational considerations should be considered in regard to recurring billing:

- If the E-ZPass Account is not in good standing and does not have credit card replenishment activated, the processing of the reoccurring donation could cause the account to go negative and cause the customer to incur video tolls.
- The vendor name listed on the customer's credit card statement for the transaction should reference CBT, not E-ZPass, to prevent customer service issues for MDTA.
- Customers must opt-in to recurring donations. Opting-in can be done at any time or when they purchase or register the "Bay transponder".
- Purchase of a "Bay transponder" is not required to opt-in to the CBT recurring donation program, which is not desired by CBT.
- Customers can opt-out of recurring donations at any time and doing so will not require return of the "Bay transponder".

Based on the above analysis, the MDTA does not recommend seeking to establish a Bay Transponder program through legislation and/or regulation. MDTA is willing to continue discussion on this topic, but is concerned that this type of activity is not part of its core business, and is a distraction to the MDTA's mission to be a financial steward of its dedicated revenue sources to provide vital transportation links that move people and promote commerce in Maryland.