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Peter F. Neronha
Attorney General

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Peter Alviti, Jr., Director
Rhode Island Department of Transportation
Two Smith Street
Providence, Rhode Island 02903

RE: Rhode Island Department of Transportation’s Carbon Reduction Strategy

Dear Director Alviti,

I write to comment on the recently released draft Carbon Reduction Strategy (“CRS” or the “Strategy”), which was posted for public comment on October 3, 2023. At issue with the adoption of this Strategy is the stewardship of \$35.7 million in additional federal transportation funds available to Rhode Island in Federal Fiscal years 2022 through 2025.

The development of the Strategy is required under the U.S. Department of Transportation’s Carbon Reduction Program.¹ Its drafting is an opportunity to plan how Rhode Island’s transportation sector will meet its Act on Climate mandates.² Unfortunately, Rhode Island Department of Transportation’s (RIDOT) draft Strategy falls far short of meaningful carbon reduction, made more alarming by the fact that the transportation sector is responsible for at least 36% of emissions. It proposes using a significant portion of these critical funds on “congestion reduction” (designed to enable more and not fewer personal vehicles) and other projects that do little if anything to move Rhode Island into new transit options, ignoring the priority already given to statewide plans by the Executive Climate Change Coordinating council (EC4), of which RIDOT is a member, which were developed with important public input. Overall, this Office is concerned that the Strategy does not even meet the general aspirations of EC4’s 2022 Update, lacks clear strategies for overcoming barriers, and does not show how RIDOT will use the significant federal funding available for a limited time to actually decrease emissions in Rhode Island.

As RIDOT has described it, “transportation is Rhode Island’s costliest and most carbon-intense energy sector, accounting for 40 percent of statewide energy expenditures and 36 percent of our greenhouse gas emissions.”³ As such, it is imperative that this sector utilize every available resource strategically, thoughtfully, and with an eye towards decreasing emissions. However, in

¹ 23 U.S.C.A. § 175.

² R.I. Gen. Laws §§ 42-6.2-2(a)(2) and 42-6.2-10(e).

³ *Press Release: RIDOT Kicks Off Pilot Project for Electric Vehicle Charging Stations at Park and Ride Lots in Warwick and Hopkinton*, Sep 2020, <https://www.ri.gov/press/view/39233>.

putting forth this draft CRS, it is clear that a majority of the funding is earmarked for congestion management projects which, in RIDOT’s own words, “will not substantially ‘move the needle’ when it comes to carbon reduction.”⁴ That is, the Carbon Reduction Strategy identifies its carbon-reducing expenditures as efforts mainly to make it easier for cars to travel—not the transformative changes necessary to remake a carbon-heavy sector to achieve Rhode Island’s reduction mandates. With just six years left before the first interim Act on Climate mandate, the State cannot afford to keep up the status quo and fail to identify needed actions to address the largest sector of emissions.

Positively contributing to achieving Rhode Island’s greenhouse gas emissions reduction mandates at every opportunity is not optional; it is RIDOT’s legal obligation. RIDOT, just like all other Rhode Island state agencies and instrumentalities, is required to exercise its existing authority, including drafting strategy documents tied to federal funding, to address “climate change mitigation, adaptation, and resilience” and achieve Rhode Island’s greenhouse gas emissions reduction mandates.⁵ RIDOT therefore cannot on the one hand recognize that Rhode Island’s transportation sector will “fall well short of its proportionate share of GHG reduction goals in 2040 and 2050” if it relies only on adoption of clean vehicles⁶ while simultaneously proposing to spend 44% of available funding on efforts RIDOT recognizes will not “move the needle” on carbon reduction.

Accordingly, as set forth more fully in this comment, the Attorney General urges RIDOT to revise the Strategy to implement the following recommendations:

- Dedicate More Resources Towards Implementing Already-Established Plans Geared Towards Emissions Reductions; and
- Prioritize Fleet Transition and Building Infrastructure for Electric Vehicles.

A. Prioritize Already-Established Plans Geared Towards Emissions Reductions Over “Congestion Reduction.”

Of the total \$35.7 million federal Carbon Reduction Program funding, “around \$23.7 million has been preliminarily assigned to existing projects in the [Statewide Transportation Improvement Program (“STIP”)].”⁷ Of that \$23.7 million, two-thirds is dedicated to projects supporting “congestion reduction,” with the remaining one-third allocated to “projects that encourage mode shift among residents, specifically through improvements to bicycle and pedestrian infrastructure.”⁸ This “bicycle and pedestrian infrastructure” includes \$0.6 million for “Sidewalk Installation”, \$0.7 million for “Greenway Enhancements”, and \$6.6 million for “Bike Path Preservation”.⁹

⁴ *Carbon Reduction Strategy (“CRS”)*, RIDOT, at pg. 4.

⁵ R.I. Gen. Laws § 42-6.2-8.

⁶ *CRS*, at pg. 11.

⁷ *Id.*, at pg. 29.

⁸ *Id.*

⁹ *Id.*, at pg. 30.

While these efforts may seem on their face to support carbon reduction, as discussed below, these projects will not do enough to meet RIDOT's obligations under the Act on Climate mandates. RIDOT should not allocate Carbon Reduction Program funds for projects that do not appear in its prior-adopted, multi-agency (RIDOT is one of these agencies), community-vetted plans for carbon reduction. In addition to the clear benefits to the overall GHG inventory, the other plans and strategies have more measurable benefits to Rhode Island and its underserved communities.¹⁰ In light of both the considerable resources expended to develop these plans and the appreciable emissions reductions anticipated by the implementation of these plans, there is no reason that they should not have the majority of RIDOT's Carbon Reduction Program funding.

Just months ago, EC4 (and thus as a member, RIDOT) identified "Priority Actions for the Transportation Sector" developed with the specific goal of carbon reduction, projects that EC4 recognized as "well-vetted strategies for next steps"¹¹ and with a need for the state "to identify funding" in order to implement the plans.¹² Yet, the roughly \$12.2 million dollars remaining of the total Carbon Reduction Program funding that is not going towards completing current transportation plans (i.e. STIP) projects, is being proposed for uses that are of undetermined GHG reduction and apparently unconnected to vetted plans for climate reduction. These include proposals to "diversify the department's range of carbon reduction strategies" and includes efforts such as \$1 million for "Statewide Striping Contracts: Bike Lane Design and Construction" and \$1.3 million for "Lending Library for Bicycle Infrastructure."¹³ The strategy contains only \$1.5 million allocated for "Bicycle Mobility Plan Implementation," despite the statewide Bicycle Mobility Plan having identified over \$300 million in needed, already EC4 prioritized, investments. There is no explanation for why such a significant funding opportunity is not being funneled into implementing plans that RIDOT, through EC4, has already adopted, with significant community input. More glaring, there is no rationale for allocating over ten times as much money of the Carbon Reduction funds on car-based infrastructure.

It is significant to this Office that Rhode Island's EC4 (and therefore RIDOT's) 2022 Update which focused on climate reduction planning never identified RIDOT's existing STIP plans and construction projects as "Priority Actions for the Transportation Sector". Even more significant, transportation actions that **were** vetted as priorities by EC4 (and therefore RIDOT) just months prior are not included in the RIDOT Strategy other than the \$1.5 million for Bicycle Master Plan implementation—a mere 4% of the total federal funds available. These ignored priorities are: 1) short term increase in electric vehicle uptake; 2) Transit Master Plan and Bicycle Master Plan implementation; 3) Electrifying public transit; 4) adopting Advanced Clean Trucks Rule; 5) incentivize electric mobility; 5) model climate impacts of transportation demand; and 6) develop a statewide "Complete Streets" plan.¹⁴ While not all of these priorities should or could be

¹⁰ See generally, Moving-Forward RI-2040, Rhode Island Transit Master Plan 2040, Rhode Island Bicycle Mobility Plan, Electrifying Transportation, and the State Plan for Electric Vehicle Infrastructure Deployment, as described in the CRS on pages 20-22.

¹¹ *Executive Climate Change Coordinating Council (EC4) 2022 Update*, at pg. 71.

¹² *Id.*, at pg. 6.

¹³ CRS at pg. 30.

¹⁴ *2022 Update*, at pgs. 6-7.

addressed in RIDOT’s Carbon Reduction Strategy, the Strategy fails to relate to these statewide priorities at all, apart from a token project. Here, funding is available—and while the available funding could not fully implement the plans, the funding could implement more than the \$1.5 million of projects identified.

This Office considers RIDOT’s reliance on the older *2021 Clean Transportation and Mobility Innovation Report* (the “Innovation Report”) as fundamentally flawed. The Innovation Report rated strategies “according to cost-effectiveness for reducing GHG emissions”¹⁵ RIDOT’s existing large-scale infrastructure changes that focus on congestion – for which it is now seeking to use carbon reduction funds – were not part of the recommendations.¹⁶ In addition, the Strategy offers a misleading summary of the Innovation Report by implying that the congestion reduction activities RIDOT proposes for a majority of the funds were supported by this cost-effectiveness analysis.¹⁷ While cost must be considered and funding decisions made wisely, GHG emission reductions cannot be displaced in priority.

RIDOT may have chosen to seek funding for the existing congestion reduction projects set forth in the Strategy because they were the only three of the STIP projects that had undergone “project-specific studies and emissions analysis.”¹⁸ Where RIDOT did provide emission reduction estimates, it did not explain how the emissions reduction estimates were arrived at, eliding important questions like what types of assumptions RIDOT used to model these projects’ induced demand, which would be expected to offset any potential reductions.¹⁹ It appears RIDOT abandoned the need for accurate modeling in favor of a result that would allow the bulk of the allocated dollars to go to pre-existing, car-heavy infrastructure projects.

It is critical to note at this point that it appears the rest of RIDOT’s STIP projects did **not** undergo “project-specific studies and emissions analysis” when we as a State cannot afford to forgo such analyses. RIDOT claims that “[q]uantifying emissions reductions associated with every project programmed in the STIP was beyond the scope of this effort and is subject to a great deal of uncertainty given the limited data available for most projects at the programming stage.”²⁰ If precision cannot be accomplished, developers of public policy often use various modeling strategies like ranges and sensitivity analyses in order to properly identify trade-offs. RIDOT must understand that, in all of its projects, carbon impact must be quantified in order to meet its own obligations under Act on Climate and for the State to reach its carbon reduction mandates.

¹⁵ CRS, at pg. 4; see also, generally, *2021 Clean Transportation and Mobility Innovation Report* (“Innovation Report”), Rhode Island Mobility Innovation Working Group, [mwg-clean-trans-innovation-report.pdf \(ri.gov\)](https://www.ri.gov/miwg/clean-trans-innovation-report.pdf).

¹⁶ *Innovation Report*, at pg. IV.

¹⁷ CRS, at pg.4 - Table 1.1 (stating “traffic flow improvements” as “very strong” for GHG reduction by cost-effectiveness).

¹⁸ *Id.*, at pg. 27.

¹⁹ See, e.g. Kent Hymel, *If you build it, they will drive: Measuring induced demand for vehicle travel in urban areas*, ScienceDirect, <https://www.sciencedirect.com/science/article/abs/pii/S0967070X18301720#preview-section-introduction>.

²⁰ CRS, at pg. 27.

With respect to the three STIP projects for which RIDOT is seeking use of the majority of the Federal climate reduction program funds, it is the following specific carbon figures that this Office found significant. These projects are only “projected to reduce emissions by 10,530 tons of carbon dioxide per year”²¹ out of the total estimated 2,971,031 tons of total emissions estimated for the transportation sector in 2025.²² In contrast, already established plans such as the Rhode Island Transit Master Plan 2040, which is geared towards enhancing and developing transit services, has the potential benefit of reducing emissions by of 230,000 metric tons, over 23x more than the three proposed projects. While the entire Transit Master Plan 2040 could not be fully funded with the available dollars from this funding round, the Strategy does not explain why EC4 plans such as those referenced *supra*, which benefited from extensive community input, appear to be cast aside when it comes to once-in-a-decade additional federal funding opportunities.

RIDOT, again, recognizes that the “scale of emission reduction is relatively small compared to total transportation emissions and projects in Rhode Island’s construction program will not substantially ‘move the needle’ when it comes to carbon reduction.” It merely offers the justification that “[n]evertheless, these projects are also providing critical mobility and safety benefits for Rhode Island residents, visitors, and freight industry.” This rationale is inadequate and has nothing whatsoever to do with carbon reduction. Of course, investing in biking infrastructure, to take just one example, could accomplish the same critical mobility and safety benefits, and, additionally, has been shown to be one of 12 community attributes that can positively influence individual well-being.²³ However, existing EC4 (and thus RIDOT) plans are more robust and vetted examples of mobility, safety **and** carbon reduction.

B. Prioritize Fleet Transition and Building Infrastructure for Electric Vehicles

Of the total Carbon Reduction Program funding, only \$0.5 million dollars are dedicated towards electrifying RIDOT assets. As one of the key lead agencies for state fleet decarbonization identified by the EC4 in its 2022 EC4 Update, RIDOT must develop more clear commitments and a comprehensive framework to decarbonize both its vehicles and the Rhode Island state fleet. As ordered by Governor McKee in Executive Order 23-06, “[s]tate agencies as a whole, and to the greatest extent feasible, individually shall meet the following calendar year targets where applicable...[a]cquire vehicles such that the light-duty state fleet consists of 25% zero-emission vehicles by 2030.”²⁴ These efforts are already baked into Rhode Island’s current assessments of its ability to meet the greenhouse gas reduction mandates of the Act on Climate, which are, at this time, inadequate to truly meet the 2050 goals.²⁵ Further, it should also be noted that Governor

²¹ *CRS*, at pg. 27.

²² *Id.*, at pg. 12.

²³ Roy, Brita, et al, *Identifying county characteristics associated with resident well-being: A population-based study*, PLOS ONE, <https://journals.plos.org/plosone/article?id=10.1371/journal.pone.0196720#sec011>.

²⁴ *Executive Order 23-06*, May 9, 2023.

²⁵ The 2016 Plan advocates for the “state government to serve as an early adopter to demonstrate the benefits of greenhouse gas mitigation and clean energy solutions.” In accordance with this recommendation, the Office of Energy Resources has supported state agencies across government leading by example with reducing energy use and cost,

McKee’s executive order already extended the original deadline set by former Governor Raimondo by five years.

Your administration should prioritize purchasing only zero-emission vehicles as soon as possible, changing purchasing lead times to meet the market, and should not seek any further waivers by the Department of Administration. Every vehicle purchased that is not a zero-emission vehicle adds years of additional carbon emitted by State fleet vehicles. Rhode Island cannot afford to delay any longer.

C. Engage More Effectively with Other Agencies and Stakeholders

Rhode Island must continue to innovate in order to remain at the forefront of our nation’s battle against climate change, and that requires actionable plans formed in close coordination with other state initiatives, as well as a rigorous public input process. While the Strategy states that the development process “included consultation with key stakeholders, including the State’s Metropolitan Planning Organization (MPO), as well as other state agencies, advocacy groups, and the general public,” this is misleading. In reality, a general summary of an incomplete plan was presented to EC4 in June of 2023, a workshop with RIDOT-chosen stakeholder groups and state agencies was held in September of 2023, and the draft plan was only released to the general public on October 3.²⁶ Finally, there was a singular public meeting before the Transportation Advisory Committee on October 26, 2023, just three weeks before the November 15, 2023, deadline.²⁷ Here, general public input is not heard until it is too late to actually consider the feedback, let alone revise the Strategy prior to the deadline.

Meaningful public engagement is especially important here, given the significant portion of emissions the transportation sector contributes to Rhode Island’s overall greenhouse gas inventory and the community participation needed to make many of the transportation sector’s initiatives successful.²⁸ Indeed, the EC4’s 2022 Update to the 2016 Greenhouse Gas Emissions Reduction Plan provides “[t]here are two ways to reduce emissions in the transportation sector: consume less fuel and consume lower-emissions fuel. To consume less fuel, we can discourage high-emissions driving and encourage low-emissions mobility solutions. To consume lower-emissions fuel, we need to encourage electric vehicles and expand electric vehicle charging infrastructure.”²⁹ Individual action and cooperation is required to achieve reductions through either route, and without meaningful public engagement, these plans cannot succeed. As a State, decision-makers need to make informed decisions based on expertise, of course, but also on how the public will respond and participate.

deploying renewable energy systems, transitioning fleets to electric, and installing electric vehicle charging infrastructure, among other accomplishments. These efforts to date will save Rhode Island nearly \$100 million in energy costs over the lifetime of projects implemented. EC4 2022 Update, p. 72.

²⁶ CRS, at pg. 9.

²⁷ *Id.*

²⁸ See, 2022 Update, at pg. 20.

²⁹ *Id.*, at pg. 6.

Further, the Bipartisan Infrastructure Law’s Carbon Reduction Program requires this strategy be created *in consultation* with any metropolitan planning organizations, i.e., the State Planning Council in Rhode Island, under which the Transportation Advisory Committee falls.³⁰ However, the complete Carbon Reduction Strategy did not publicly come before either of these entities prior to October 26, 2023. While RIDOT did give a limited presentation on its plan for the Carbon Reduction Strategy to EC4, it was not a comprehensive enough review of the strategy sufficient for State agencies and stakeholders to weigh in.³¹ A number of members of the TAC and the public publicly called on RIDOT to request the Strategy be presented sooner, demonstrating that many stakeholders believed the time for public consideration to be inadequate.³²

The Act on Climate mandates are fast-approaching and require considerable coordination across many sectors of the State and while we must act swiftly, that cannot be to the detriment of the process needed to make these programs successful. A single 2.5-hour, in-person stakeholder workshop with a total of 21 participants primarily from state agencies is not public participation.³³ Engaging in such a truncated process while abandoning the conclusions of EC4 plans that underwent more extensive community input processes is a recipe for missing important input about transit equity and environmental justice. Future development and implementation of the Carbon Reduction Strategy and its related projects should incorporate a thorough engagement process with community members that provides multiple accessibility options and meeting dates.

I urge you to consider these recommendations in RIDOT’s final submission of the Carbon Reduction Strategy so that we more effectively utilize these funds to bring about better carbon reduction potential.

Sincerely,

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³⁰ § 11403; 23 U.S.C. 175(d); R.I. Gen. Laws § § 42-11-10(f)(5)(iii) and (7).

³¹ *June 21, 2023 EC4 Meeting*, <https://opengov.sos.ri.gov/OpenMeetingsPublic/OpenMeetingDashboard?subtopmenuId=201&EntityID=551&MeetingID=1044821>.

³² *Climate and Community Advocates Call for Public Process for the RI Department of Transportation’s Carbon Reduction Plan*, Ecori.org, [RIDOT_CRP_Comment_091923.pdf \(ecori.org\)](https://ecori.org/RIDOT_CRP_Comment_091923.pdf)

³³ *CRS*, at pg. 10.