

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

**THE LITTLE ROCK DOWNTOWN NEIGHBORHOOD
ASSOCIATION, INC., et al**

PLAINTIFFS

Vs.

Case No. 4:19-cv-362-JM

FEDERAL HIGHWAY ADMINISTRATION, et al

DEFENDANTS

**PLAINTIFFS' MOTION TO COMPEL RE-EVALUATION OR
SUPPLEMENTAL ENVIRONMENTAL ASSESSEMENT
AND FOR INJUNCTION PENDING SAME**

Plaintiffs recognize that this Motion is filed late in the process of this case, and that Motions for Summary Judgment are pending. However, the circumstances giving rise to this Motion have occurred only within the past two weeks. Those circumstances are highly significant and critical to the potential environmental consequences of the 30 Crossing Project that is the subject of this litigation, and potentially present an endangerment to the health and safety of the citizens of Arkansas and other states. For their Motion, the Plaintiffs set forth the following:

Facts

1. Amendment 91 to the Constitution of Arkansas was adopted by the voters of Arkansas in the November 6, 2012 general election. Under Amendment 91, a temporary sales-and-use tax of one-half cent was levied on the sales of many items in the State, of which seventy percent (70%) was earmarked to secure State of Arkansas General Obligation Four-Lane Highway Construction

and Improvement Bonds in the total principal amount not to exceed \$1,300,000,000 for the purpose of constructing and improving four-lane highways in the State of Arkansas.

2. After the adoption of Amendment 91, the Defendant, Arkansas Department of Transportation (ArDOT) (or its predecessor agencies) commenced using the Amendment 91 tax funds to construct projects in the State that included widening of existing interstate highways from four lanes (two lanes in each direction) to six or more lanes. In the 30 Crossing Project that is the subject of this litigation, ArDOT proposes to expand I-30 in the Project Area from six lanes (three in each direction) to eight lanes (four in each direction, not including collector/distributor lanes), depending on the location within the Project Area.

3. In its Financial Plan for the 30 Crossing Project that was issued in April, 2020 (Re-Evaluation 000412)¹, ArDOT noted that it, in conjunction with the Design-Builders (ArDOT's contractors), had determined "that the full project scope could not be completed within the fixed budget and that it would need to be constructed in phases with a portion of the scope being constructed within the existing budget. This portion of the full project scope became the work to be completed in the Funded Phase (Phase I Interim Improvements). ..." (Re-Evaluation 000412-0014). "The total cost estimate for the full project scope, including both Funded and Future Phases, of the 30 Crossing Project has increased ... to \$1,322.4M in YOE [year of expenditure] dollars." (Ibid., 000412-0015)

4. The Financial Plan of ArDOT also provides a cost estimate for Phase 1 ("the Funded Phase") of the Project to be \$638.2 million (Re-Evaluation 000412-0021) and states that the States' contribution of funding for the Funded Phase of the Project will be \$495.5 million, which

¹ A copy of the entire Financial Plan for the 30 Crossing Project is attached hereto as **Exhibit No. 1**.

will be paid from Connecting Arkansas Program (CAP) funds. (Ibid.) As stated in the Financial Plan, those CAP funds are derived solely from the Amendment 91 taxes. (Ibid.)

5. On October 29, 2020, the Supreme Court of Arkansas rendered an opinion in the case of *Buonaiuto, et al v. Gibson et al*, 2020 Ark. 352, 2020 WL 6375915, which held that funds derived from the sales tax assessed by Amendment 91 could not be expended on expansion of highways to greater than four lanes, and specifically stated that ArDOT lacked authority under Amendment 91 to expend such funds “for major improvements to six-lane interstate highways, such as projects CA0602 [The “30 Corridor Project”] and CA0608 [The “I-630 Widening Project”]” Thus, ArDOT has no authority to expend the aforementioned \$495.5 million or any other amount of funds attributable to the taxes levied by Amendment 91 on the 30 Crossing Project.

6. On November 4, 2020, counsel for Plaintiffs wrote and transmitted a letter to counsel for the Defendants herein noting the abovementioned decision of the Arkansas Supreme Court, and the requirement of Title 23 United States Code Sections 134(j)(2)(B) and 134(j)(3)(D) requiring that the Transportation Implementation Plans (TIP) for highway projects involving federal funding must include a financial plan that indicates resources from public and private sources that are “reasonably expected to be available to carry out the program,” and that a project, or identifiable phase thereof, may only be included in a TIP if “full funding can reasonably be anticipated to be available” until completion of the project.

7. Plaintiffs’ counsel’s letter also noted that work was continuing on the 30 Crossing Project, and demanded that any work currently being conducted by or under contract with the Arkansas Department of Transportation, or by authority of the Federal Highway Department, on any highway project in the State of Arkansas exceeding four (4) lanes and being funded in whole

or in part by money from the Amendment 91 tax, be immediately terminated until it can be demonstrated that such work can be conducted and completed without resort to or use of funds generated by the Amendment 91 tax. A copy of Plaintiffs' counsel's letter of November 4, 2020, is attached hereto as **Exhibit No. 2**.

8. Plaintiff's counsel has received no response from counsel for Defendants to the letter of November 4, 2020, other than an e-mail from each of the Defendants' counsel dated November 6, 2020, stating that they would have no comment on it.

9. Construction work on portions of I-30 within Phase I of the 30 Crossing Project has commenced by ArDOT and its contractors, and, based upon live transmission of video of that portion of I-30 on ArDOT's website, is currently continuing notwithstanding and in possible violation of the decision of the Arkansas Supreme Court in *Buonaiuto, et al v. Gibson et al*, *supra*. Judicial actions to enjoin that construction will be initiated in the absence of evidence indicating that the Defendant, ArDOT, has funding for such construction other than Amendment 91 (CAP) funds.

10. As discussed in Plaintiffs' Brief in Support of Summary Judgement (Doc. 96, commencing at page 96), NEPA's implementing regulations at 40 CFR §1502.9 (Draft, Final, and Supplemental Statements), regarding the preparation of Supplemental Statements, provides:

(c) Agencies:

- (1) Shall prepare supplements to either draft or final environmental impact statements if:
 - (i) The agency makes substantial changes in the proposed action that are relevant to environmental concerns; or
 - (ii) There are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its

impacts.

11. Federal Highway Administration regulations at 23 C.F.R. §771.130 (Supplemental Environmental Impact Statements), provide similar provisions. Regulations promulgated by the Council on Environmental Quality (CEQ) provide common guidance for all federal agencies in carrying out their NEPA responsibilities. *Dep't of Transp. v. Pub. Citizen*, 541 U.S. 752 at 757, 756–57, 124 S.Ct. 2204, 159 L.Ed.2d 60 (2004); *Pub. Citizen*, 541 U.S. at 757, 124 S.Ct. 2204; 40 C.F.R. pts. 1501–02. Some agencies, such as the FHWA, have promulgated their own, complementary NEPA regulations in order to provide additional guidance to their personnel to carry out the directives of the statutes that they administer and the CEQ regulations in agency-specific contexts. *See, e.g.*, 23 C.F.R. §771.101 et seq. (FHWA regulations); *see also* 40 C.F.R. § 1500.2(a)–(b). However, the FHWA regulations supplement, but do not supersede, the CEQ Regulations. *See* 40 C.F.R. §§1507.1; 1507.3. *Sierra Club v. U.S. Army Corps of Engineers*, 803 F.3d 31, 419 U.S.App.D.C. 416 (D.C. Cir., 2015).

12. The loss of Amendment 91 (CAP) funding for this Project is, without doubt, a “significant new circumstance or information relevant to environmental concerns and bearing on the proposed action or its impacts” within the scope and meaning of 40 C.F.R. §1502.9 and 23 C.F.R. §771.130.

13. The current estimated costs of construction of the 30 Corridor Project are \$1,322,400,000 (One Billion, Three Hundred Twenty-Two Million, Four Hundred Thousand Dollars). Phase One of that Project is estimated by ArDOT to cost \$638 million, of which approximately \$461.4 million are state Amendment 91 (CAP) funds. Phase 2 of the Project is estimated to cost \$684.2 million. The portion of that sum, if any, attributable to Amendment 91 funds is unknown.

14. ArDOT indicated in its Financial Plan for the 30 Crossing Project that: “Should any unanticipated changes in the authorized funding or availability occur during the design and construction of Phase 1 of the 30 Crossing Project, ArDOT will utilize state funding reserves to supplement the shortfall and/or make adjustments to the long-range plan making funds available to complete the project by delaying the start of new projects.” (Re-Evaluation 000412-0024)

15. By virtue of the Arkansas Supreme Court decision in *Buonaiuto, et al v. Gibson et al*, *supra*, ArDOT must replace \$461.4 million (approximately 72%) or more of the state funds out of a total amount of \$638.2 million of total estimated costs ArDOT plans to use on Phase 1 of the 30 Crossing Project with other non-Amendment 91 tax funds. The estimated costs for Phase 2 are an additional \$684.2 million. If ArDOT is unable to utilize \$495.5 million or more of state funding reserves and/or make adjustments to the long-range plan making funds available to complete the project, the currently planned and on-going destruction of the existing I-30 bridge and highway in Phase 1 of the Project would have or result in serious environmental concerns.

16. The Court should require that the Defendants re-evaluate the Project and to demonstrate that the Project as currently proposed can be conducted and completed without resort to or use of funds generated by the Amendment 91 tax. Until such time as that demonstration of financial capability is made, the Court should enjoin the Defendant, ArDOT, from conducting any further work on the 30 Corridor Project.

WHEREFORE, Plaintiffs pray that the Defendants be required to re-evaluate the 30 Corridor Project and to demonstrate that the Project as currently proposed can be conducted and completed without resort to or use of funds generated by the Amendment 91 tax; that pending such demonstration of financial capability to construct the Project as currently planned,

the Court should enjoin the Defendant, ArDOT, from conducting any further work on the 30 Corridor Project.

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that, on the date set forth below, he served a copy of the above and foregoing Plaintiffs' Motion to Compel Re-Evaluation or Supplemental Environmental Assessment and for Injunction Pending Same on counsel of record for the parties through the Court's ECF system. Plaintiffs' counsel is unaware of any party or attorney for a party who requires service through alternative means.

Dated: November 9, 2020.

/s/ Richard H. Mays
Richard H. Mays



Financial Plan

FAP No. NHPP-030-22 (68)

ARDOT Job No. CA0602

I-30 & I-40

I-530 – U.S. Hwy. 67

Widening & Reconstruction

Pulaski County, Arkansas

April 2020



RE-EVAL-000412

30 Crossing Project

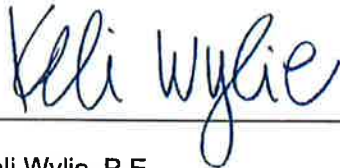
Letter of Certification Financial Plan

The Arkansas Department of Transportation (ARDOT) has developed a comprehensive financial plan for the 30 Crossing Project in accordance with the requirements of Section 106, Title 23 USC, and the financial plan guidance issued by the Federal Highway Administration (FHWA). The plan provides detailed cost estimates to complete the project and the estimates of financial resources to be utilized to fully finance the Funded Phase (Phase I) of the project.

The cost data in the financial plan provides an accurate accounting of costs incurred to date and includes a realistic estimate of future costs based on engineers' estimates and expected construction cost escalation factors. While the estimates of financial resources rely upon assumptions regarding future economic conditions and demographic variables, they represent realistic estimates of available monies for the Funded Phase (Phase I) of the project.

We believe the financial plan provides an accurate basis upon which to schedule and fund the 30 Crossing Project. ARDOT will review and update the financial plan on an annual basis.

To the best of our knowledge and belief, the financial plan, as submitted herewith, fairly and accurately presents the financial position of the 30 Crossing Project, cash flows and expected conditions for the project's life cycle. The financial forecasts in the financial plan are based on our judgment of the expected project conditions and our expected course of action. We believe that the assumptions underlying the financial plan are reasonable and appropriate. Further, we have made available all significant information that we believe is relevant to the financial plan and, to the best of our knowledge and belief, the documents and records supporting the assumptions are appropriate.



Keli Wylie, P.E.
Alternative Project Delivery Administrator
Arkansas Department of Transportation

4/20/2020

Date



Lorie Tudor, P.E.
Director
Arkansas Department of Transportation

4/23/2020

Date

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SECTION 1 – PROJECT DESCRIPTION

1.1 Overview

The Arkansas Department of Transportation (ARDOT) is sponsoring the 30 Crossing Project which includes improvements along I-30 from I-530/I-440 to I-40 and along I-40 from State Highway (Hwy.) 365 (MacArthur Drive) to U.S. Highway 67/U.S. Highway 167 (US 67/167) for approximately 7.3 miles within the cities of Little Rock and North Little Rock in Pulaski County, Arkansas. The 30 Crossing Project includes capacity and safety improvements to the I-30 and I-40 corridors, including the I-40 interchange reconstruction, improved connections to I-630, I-530, I-440 and US 67/167, and widening and adding collector/distributor (C/D) lanes along I-30. Most bridges on I-30 would be replaced, including the Arkansas River Bridge. The project corridor connects communities within the Central Arkansas Region and serves local, regional, and national travelers with varied destinations and trip purposes.

The 30 Crossing Project is classified as a major project requiring both a Project Management Plan (PMP) and a Financial Plan (FP) consistent with Federal Highway Administration (FHWA) guidelines. The FHWA approved the PMP for the 30 Crossing Project in November 2018. The purpose of this FP is to ensure the 30 Crossing Project is fiscally responsible by providing cost estimates and making sure that the necessary financial resources are identified, available, and managed to implement and complete the project as planned. This report serves as the initial FP for the 30 Crossing Project and reflects actual expenditures data through December 31, 2019.

The 30 Crossing Project is consistent with Metroplan's long-range metropolitan transportation plan (MTP), *Central Arkansas 2050: Sustaining Our Future*, adopted in December 2018, and is also included in the 2019-2022 Statewide Transportation Improvement Program (STIP) approved in September 2018 and amended. Job Number CA0602 is used to identify the 30 Crossing Project listing in the MTP and STIP.

Per the National Environmental Policy Act (NEPA), ARDOT prepared an Environmental Assessment (EA) for the 30 Crossing Project for which the FHWA issued a Finding of No Significant Impact (FONSI) in February 2019. A Reevaluation of the EA is being prepared to describe design modifications and a construction phasing plan that have been proposed for the project since the FONSI. The Reevaluation is anticipated to be approved by the FHWA in the summer of 2020.

ARDOT is developing the 30 Crossing Project utilizing the design-build (D-B) delivery method. ARDOT selected a Design-Builder in January 2019, executed the original Design-Build Agreement (DBA) for the project in March 2019, and following an optimization and refinement (OR) period, executed the Amended and Restated DBA in December 2019. During the OR period, ARDOT and the Design-Builder negotiated project costs, considered design modifications, determined the full project scope could not be completed within the fixed budget for the project, and subsequently agreed that the 30 Crossing Project would need to be constructed in phases with a portion of the scope being completed within the existing project budget. The scope of work for the full project, design modifications, and construction phases are described below.

1.2 Full Project Description

The 30 Crossing Project includes improvements along I-30 from I-530/I-440 to I-40 and a portion of I-40 from Hwy. 365 (MacArthur Drive) to US 67/167 in the cities of Little Rock and North Little Rock (**Figure 1**). The proposed improvements, as described in the EA/FONSI, generally consist of reconstructing the existing six-lane (three in each direction) roadway while adding two decision lanes in each direction that ultimately feed into the C/D lanes located at the I-30 Arkansas River Bridge; converting existing discontinuous frontage roads to continuous frontage roads; replacing or improving

existing bridges; and providing access to various cross streets, frontage roads, C/D lanes, and other interstate facilities.

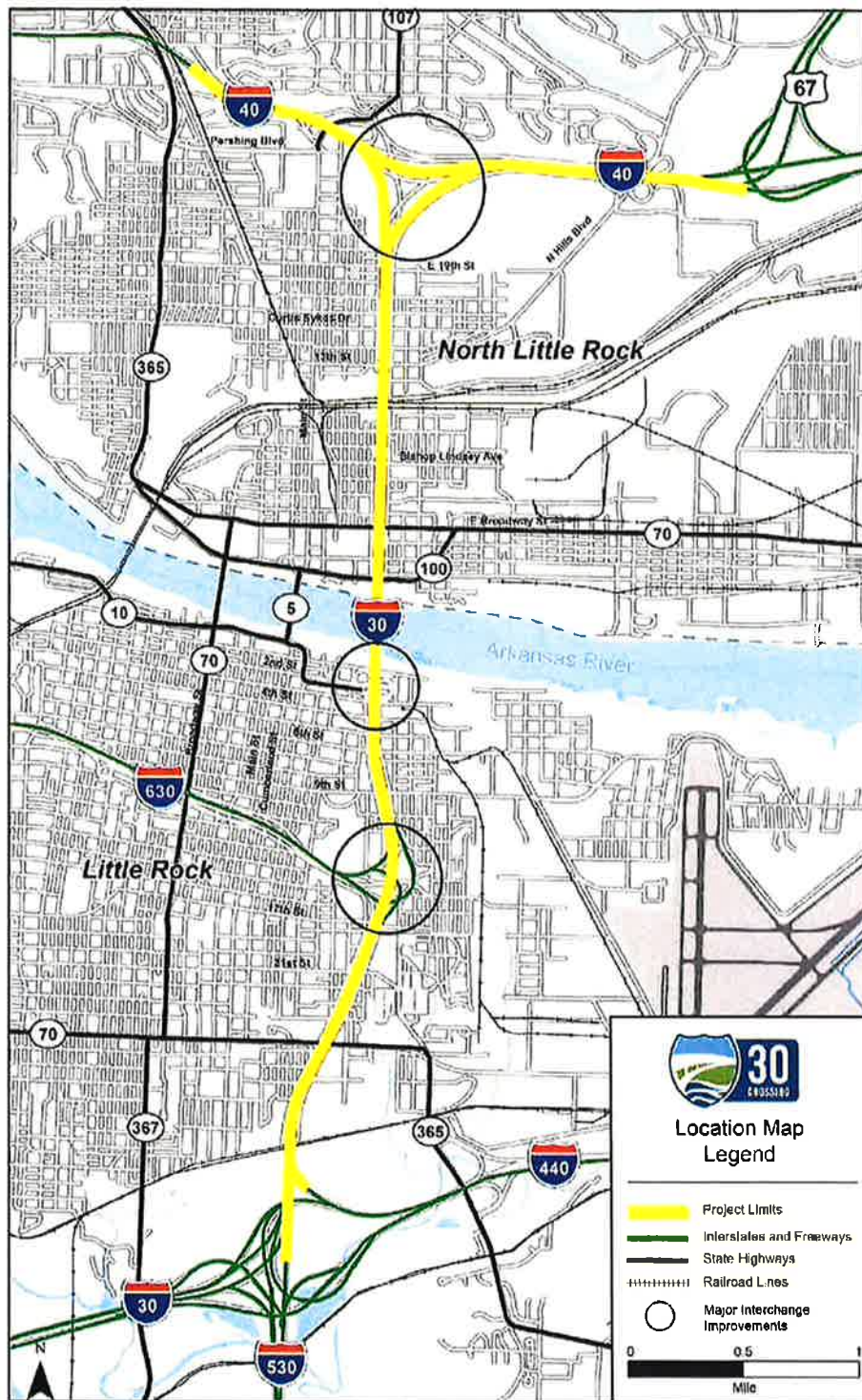


Figure 1 – Project Location Map

From the I-530/I-440 interchange to the I-630 interchange, the proposed project includes three through lanes and two decision lanes, for a total of five, in the northbound direction, and three through lanes and one decision lane, for a total of four, in the southbound direction along I-30. This would replace the existing six-lane (three in each direction) section. I-630 westbound to Cumberland Street would be widened from four to five lanes.

From the I-630 interchange to 4th Street, the proposed project includes two through lanes and two decision lanes. From 4th Street to Broadway Street in North Little Rock, including the Arkansas River Bridge, the proposed project includes three through lanes, two C/D lanes, and an auxiliary lane, for a total of six in each direction along I-30. The C/D lanes would provide a connection for local traffic between North Little Rock and Little Rock. A split diamond interchange (SDI) would be included at Hwy. 10. The SDI configuration would eliminate the existing partial cloverleaf interchange at Hwy. 10 and the elevated Hwy. 10 spur connecting I-30 and Cumberland Street. With the SDI, the only southbound I-30 off-ramp between I-630 and the Arkansas River would be at 4th Street and the only northbound I-30 off-ramp in the same area would be at 9th Street. Frontage roads would be used to distribute traffic onto the downtown road network. This would provide direct access to I-630 westbound from the southbound frontage road and direct access to the northbound frontage road from I-630 eastbound. The following improvements in downtown Little Rock would be required:

- East 4th Street between Cumberland Street and the southbound frontage road would be two lanes eastbound and one lane westbound, requiring the removal of 29 on-street parking spaces to accommodate three lanes of traffic.
- A Texas U-turn (a dedicated lane to move traffic over or under a highway to the opposite side without the need for signalization) would be added to allow traffic on the southbound I-30 off-ramp to exit onto 3rd Street.
- Mahlon Martin Street would be widened and converted from a one-way roadway to a two-way roadway.
- East 2nd Street would be widened and improved between Cumberland Street and Mahlon Martin Street to provide two lanes eastbound and two lanes westbound. Six on-street parking spaces along East 2nd Street and twelve on-street parking spaces along Ferry Street would be removed.
- A new road would be constructed between East 3rd and East 4th Streets east of I-30 to connect Collins Street with Mahlon Martin Street.
- Cumberland Street between East 2nd and East 3rd Streets would be slightly widened to provide two lanes in both the northbound and southbound directions.

From Broadway Street to the I-40 interchange, the proposed project would include three through lanes and two decision lanes, for a total of five in each direction, replacing the existing six-lane (three in each direction) section along I-30. The I-30 northbound to I-40 eastbound exit ramp would be widened from two to three lanes. The existing left exit from I-40 westbound to I-30 southbound would be replaced with a right exit and would be widened from two to three lanes. Cypress Street would be extended from 9th Street to 13th Street, including a bridge over the Union Pacific Railroad (UPRR), allowing it to become a one-way southbound frontage road. The existing structurally deficient North Locust Street Bridge over the UPRR railroad would be replaced, and North Locust Street would serve as the one-way northbound frontage road.

The improvements to I-40 from the I-30 interchange to the US 67/167 interchange would consist of two through lanes and three decision lanes, for a total five in each direction, replacing the existing eight-lane (four in each direction) section. The existing left exit on I-40 eastbound to US 67/167 northbound would be widened from two to three lanes and replaced with a right exit, eliminating the weaving issues for through traffic on I-40. The US 67/167 southbound to I-40 westbound ramp would

be widened from two to three lanes. The improvements to I-40 westbound from the I-30 interchange to Hwy. 365 (MacArthur Drive) would consist of increasing the length of the ramps.

1.3 Design Modifications

The below modifications to the final design were proposed by the Design-Builder and approved by ARDOT, resulting in permanent changes to the full project scope as described in the EA/FONSI.

Within the I-30/I-630 interchange, the northbound I-30 to northbound frontage road ramp will not shift west but will maintain its existing alignment near the eastern right-of-way (ROW) boundary. The eastbound I-630 to northbound I-30 ramp will not shift west, and the ramp bridge will not be replaced.

Within the I-30/I-40 interchange, the northbound I-30 to eastbound I-40 ramp will shift northwest. This ramp will be signed for northbound US 67 traffic and will merge onto the inside of the two existing I-40 eastbound lanes. The revisions will eliminate the right exit from I-40 eastbound to US 67 northbound. This exit will remain a left exit, as in the current condition; however, the weave associated with the northbound US 67 traffic crossing eastbound I-40 to make a left exit will be eliminated, as northbound US 67 traffic will be on the inside of I-40 and eastbound I-40 traffic will be on the outside. This will also allow I-40 eastbound through traffic to maintain lane position to continue eastward.

1.4 Phases

Because the full project scope cannot be completed within the fixed budget for the project, ARDOT and the Design-Builder plan to construct the project in phases with a portion of the full project scope being constructed within the existing budget. This will be the Funded Phase, or Phase I Interim Improvements, anticipated to be complete by June 2025. Elements of the full project scope not included in the Funded Phase will be constructed during a Future Phase anticipated to be complete by December 2035.

The Funded Phase will be operationally independent from the Future Phase and can be opened to traffic and operate effectively without the Future Phase being completed. A traffic microsimulation model supporting the operational independence of the Funded Phase was prepared by the Design-Builder and approved by ARDOT during the OR period. The resulting schematic configuration was accepted with the execution of the Amended and Restated DBA in December 2019.

1.4.1 Funded Phase (Phase I Interim Improvements)

The Funded Phase will include improvements between the interchanges of I-30/I-630 and I-30/I-40, with limited improvements north of the I-30/East Broadway Street interchange. **Figure 2** includes a map of the Funded Phase with descriptions of the work to be done in the various project areas.

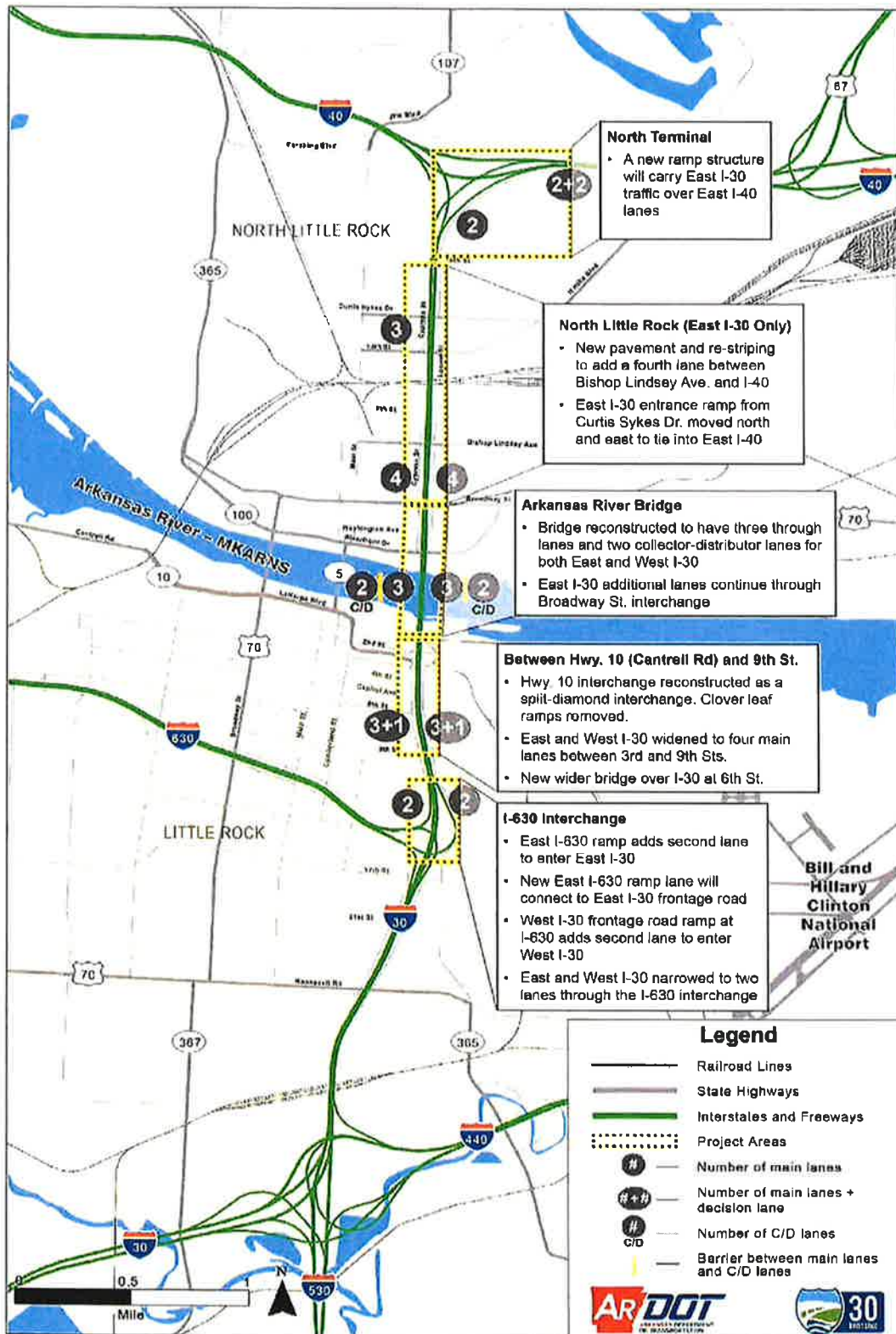


Figure 2 – Funded Phase Map (Phase I Interim Improvements)

The Funded Phase work along I-30 from the northern portion of the I-30/I-630 interchange to the I-30/I-40 interchange will include:

- Reconstruction of the existing mainlanes and bridges (removal and replacement) as a six-lane interstate facility with additional C/D lanes, decision lanes, and auxiliary lanes from 9th Street in Little Rock to Bishop Lindsey Avenue in North Little Rock;
- Improvements and restripe eastbound I-30 to four lanes from Bishop Lindsey Avenue to the I-30/I-40 interchange;
- Reconstruction of or adjustments to direct connectors, ramps, intersections, cross streets and frontage roads; with exceptions to some frontage road areas;
- Reconstruction of the following interchanges: portions of I-30/I-630, I-30/Hwy. 10 (Cantrell Road), I-30/Broadway Street, and portions of I-30/I-40;
- Reconstruction of the I-30 Arkansas River Bridge including improved navigational channel opening; and
- Associated drainage, illumination, intelligent transportation system (ITS), signing, striping, signal, vegetation, and utility improvements.

The Funded Phase will also include the following improvements to the local street system:

- Reconstruct/extend Hwy. 10 from Cumberland Drive to Mahlon Martin Street including complete reconfiguration of the interchange with I-30;
- Regrade the I-30 and Hwy. 10 ROW between President Clinton Avenue and 3rd Street to accommodate future use as a public space;
- Extend and improve Mahlon Martin Street from 4th Street to President Clinton Avenue;
- Improvements to intersections involving signals, signing, lighting, and ITS;
- Cross street access and overall connectivity to the local roadway system; and
- Associated drainage, signing, striping, signal, vegetation, and utility improvements.

The Funded Phase will not include any improvements to I-30 south of the I-30/I-630 interchange or to I-40 west of the I-30/I-40 interchange and does not include the incorporation of noise barriers.

1.4.2 Future Phase

The Future Phase(s) of the 30 Crossing Project will include the elements of the full project scope not included in the Funded Phase (Phase I). The remaining project scope to be completed in the Future Phase(s) is shown on **Figure 3** with descriptions of the work to be done in the various project areas. Depending on the timing of identification and authorization of additional project funding, additional scope may be added to Phase I, additional projects may be programmed, and additional contracts may be let to complete the full project scope. The Future Phase work will include additional costs for inflation.

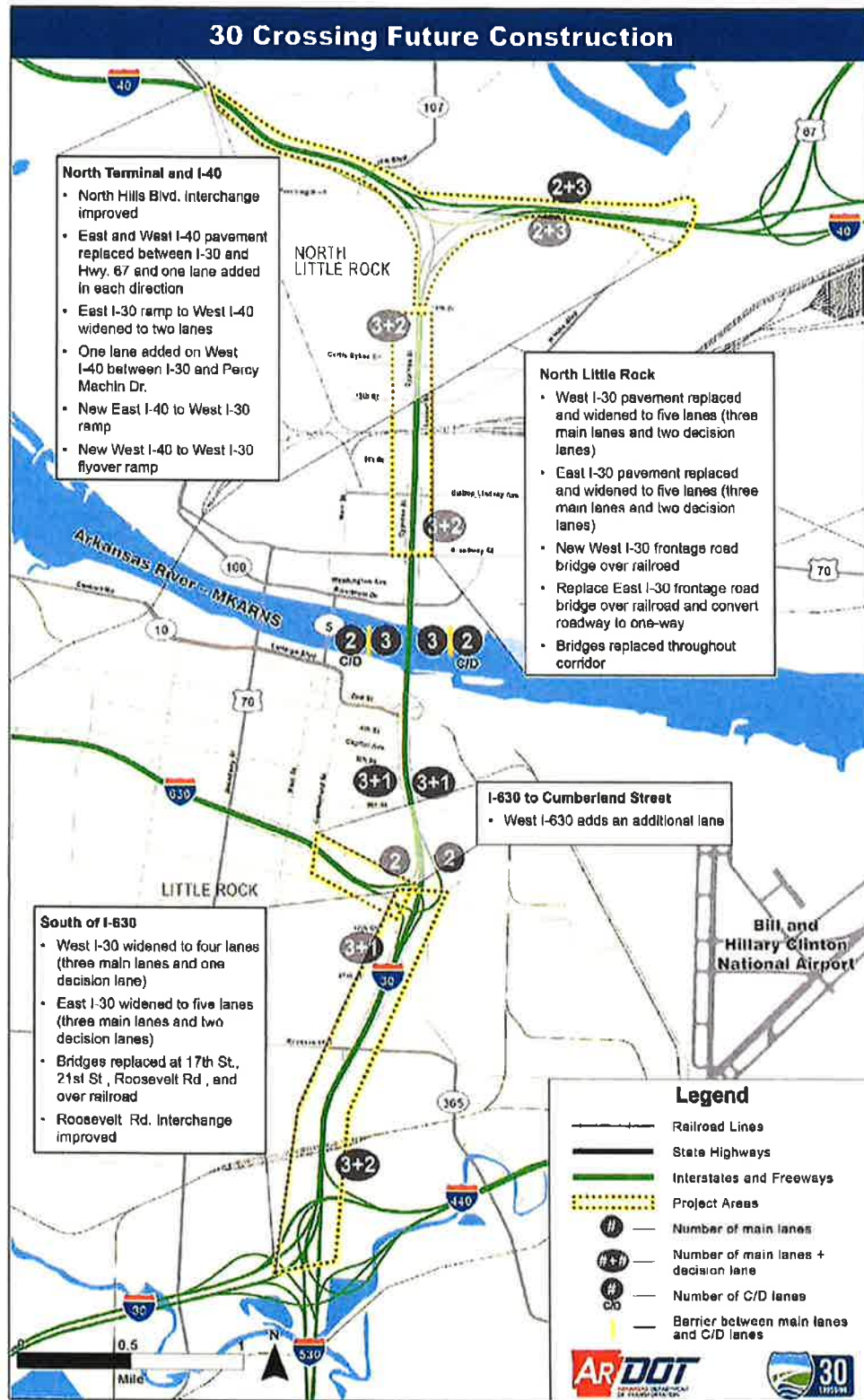


Figure 3 – Future Phase Map

SECTION 2 – SCHEDULE

2.1 Project Schedule

The current schedule for the Funded Phase of the 30 Crossing Project is shown in **Appendix 1**. Substantial completion of construction for the Funded Phase is anticipated in January 2025 with final acceptance anticipated in June 2025. Deferred work to be done in a Future Phase of the project is anticipated to be complete by December 2035.

The anticipated completion dates for the Funded and Future Phases of the project have shifted out by approximately 2 years and 5 years, respectively, since the project Cost Estimate Review (CER) was conducted in late 2017. Primary reasons responsible for changes in the project schedule since the CER include a delay in the completion of the EA/FONSI, a lawsuit filed against the project in May 2019, optimization and refinement of the project scope, proposed design modifications, and the preparation of an EA Reevaluation.

2.2 Major Milestones

Table 1 lists the completed and projected major milestones associated with the 30 Crossing Project. The projected milestones could vary depending upon ROW availability, utility clearances, unforeseen geologic conditions, adverse weather, experience of contractors and their personnel, force majeure events, and other factors not within the control of ARDOT.

Table 1 – Major Project Milestones

Milestone	Date
Connecting Arkansas Program (CAP) Approved by Voters	Nov. 2012
30 Crossing Project Initiation	Apr. 2013
Planning and Environmental Linkages (PEL) Study Approved	Jul. 2015
Request for Qualifications (RFQ) Advertisement	May 2017
CER Workshop	Nov./Dec. 2017
Public Hearing	Jul. 2018
PMP Approval	Nov. 2018
EA/FONSI	Feb. 2019
Original DBA Execution	Mar. 2019
OR Completion	Nov. 2019
Amended and Restated DBA Execution	Dec. 2019
Notice to Proceed (NTP)-1 Final Design	Jan. 2020
EA Reevaluation Approval	Summer 2020
NTP-2 Construction	Summer 2020
Funded Phase Substantial Completion	Jan. 2025
Funded Phase Final Acceptance	Jun. 2025
Future Phase Anticipated Completion	Dec. 2035

In addition to the milestones listed above, six public meetings for the 30 Crossing Project were held in August and November 2014; January, April, and October 2015, and April 2016.

2.3 Other Notable Items

Permits and Approvals

The following permits and/or approvals for the 30 Crossing Project have been, or will be, acquired by ARDOT:

- EA/FONSI and Reevaluation from the FHWA.
- PMP from the FHWA.
- Interstate Access Justification Report from the FHWA.
- §404 permit from the U.S. Army Corps of Engineers (USACE) for impacts to streams and wetlands.
- §10 permit from the USACE for structures within the Arkansas River.
- §408 approval from the USACE for modifications to existing USACE projects.
- §9 bridge permit from the U.S. Coast Guard (USCG) for the crossing of the Arkansas River, a navigable waterway.
- §401 water quality certification and short-term activity authorization from the Arkansas Department of Environmental Quality (ADEQ).
- §402 permit for stormwater compliance with the National Pollutant Discharge Elimination System from the ADEQ.
- §4(f) approvals from the FHWA for removal of the Locust Street overpass and *de minimis* impacts to three parks along the Arkansas River.
- Flood control zone permits from the cities of Little Rock and North Little Rock.

Mitigation

ARDOT's standard environmental commitments regarding relocation procedures, cultural resources discovery, impacts to parks, traffic noise abatement, hazardous waste abatement, biological resources, water quality impact controls, wetland mitigation, floodplain compensation, and revegetation have been made for this project. Specific mitigation commitments are as follows:

- Proposed noise barriers will be constructed if validated through the public involvement process. Coordination with affected property owners will occur once the construction scope within the limits of the barriers is finalized.
- Stream and wetland mitigation will be offered at an approved mitigation bank site at a ratio approved during the §404 permitting process.
- Floodplain encroachment in Dark Hollow and Fourche Creek will be mitigated by creating floodplain compensation areas in the I-30/I-40 interchange and I-30/I-440/I-530 interchange.

Agreements

ARDOT and the City of Little Rock executed an Agreement of Understanding in May 2019 containing details related to how elements important to the City will be incorporated into the 30 Crossing Project. The City of Little Rock will be responsible for the costs associated with certain elements added to the scope of the project including the planting of additional trees, bridge width and associated elements along the 6th and 9th Street overpasses, bridge superstructure smooth-bottom effect, additional pedestrian lighting, and lighting upgrades.

ARDOT and the City of North Little Rock executed an Agreement of Understanding in February 2020 containing details related to how elements important to the City will be incorporated into the 30 Crossing Project.

ARDOT reached agreements with both cities in September 2018 regarding minimization and mitigation measures for project impacts to Julius Breckling Riverfront Park, the William J. Clinton Presidential Center and Park, and North Shore Riverwalk Park.

The FHWA, Arkansas Historic Preservation Program, and Advisory Council on Historic Preservation developed a §106 Programmatic Agreement (PA) to address any adverse effects on historic properties.

ARDOT and the UPRR executed a Tower Relocation Agreement in August 2017 for reimbursement to relocate a UPRR communications tower to facilitate overpass construction.

ARDOT and Central Arkansas Water of Little Rock Arkansas (CAW) executed a Utility Construction/Relocation Master Agreement for the 30 Crossing Project in August 2018 regarding the coordination of adjustments or relocations of CAW facilities as needed to avoid conflicts. A Task Order was also executed in August 2018 for CAW to reimburse ARDOT for the relocation of the waterline attached to the I-30 Arkansas River Bridge.

An agreement between ARDOT and Rock Region Metro (RRM) is anticipated regarding the replacement of the infrastructure for the RRM trolley system that will be affected by the project.

In addition, various utilities agreements are anticipated for the 30 Crossing Project.

SECTION 3 – PROJECT COST

The information provided in this FP details the financial history of the 30 Crossing Project and serves to report the financial health of the project since initiation in April 2013.

3.1 Cost Estimate Review

A review team consisting of the FHWA, ARDOT, and their consultants conducted a CER workshop to review the cost and schedule estimates for the 30 Crossing Project in Pulaski County, Arkansas. The CER workshop was held November 29 to December 1, 2017, in North Little Rock. The objective of the CER was to verify the accuracy and reasonableness of the project total cost estimate and schedule and to develop probability-based ranges for the cost estimate that represent the current stage of development and assessment of identified potential risks for the 30 Crossing Project.

Prior to the CER, the project team submitted a cost estimate of \$703.4M in current year (CY) dollars for the full project scope. During the CER, the team identified adjustments to the estimates for environmental mitigation and construction totaling approximately \$5.7M resulting in a modified base estimate of \$697.7M.

After models were developed for market conditions, base variability, inflation, and risk events, the CER team utilized the Monte Carlo simulation to generate a probability-based estimate of year-of-expenditure (YOE) total project costs. The model included over 15 cost and schedule risk events identified and quantified by the review team during the workshop.

The probabilistic analysis conducted during the CER workshop showed that the total project cost in YOE dollars for the full project scope, assuming a Future Phase for deferred scope, could range from \$659.9M to \$780.8M and resulted in a baseline total cost estimate at the 70% confidence level of approximately \$720.7M in YOE dollars and a forecasted completion date in May 2030.

Additionally, a probabilistic analysis showed that the project cost in YOE dollars for the anticipated Funded Phase, assumed to be a basic configuration of the project scope to be completed with the

available public funds for analysis purposes, of the 30 Crossing Project could range from \$555.6M to \$674.3M and resulted in a baseline total cost estimate at the 70% confidence level of approximately \$614.5M in YOE dollars and a completion date in June 2023. The fixed budget of \$631.7M, consisting of state and federal funds, for the Funded Phase is near the forecast value at the 90% confidence level.

3.2 Total Cost Estimate

In late 2018, Design-Builders submitted bids for the basic configuration scope analyzed in the CER and competed to provide the most project scope for the fixed budget. After reviewing the bids, ARDOT and the selected Design-Builder determined during the OR period that the full project scope could not be completed within the fixed budget and that it would need to be constructed in phases with a portion of the scope being constructed within the existing budget. This portion of the full project scope became the work to be completed in the Funded Phase (Phase I Interim Improvements).

Table 2 contains a comparison of the project scope included in the basic configuration discussed during the CER that was anticipated to be completed as the initial Funded Phase and the reduced project scope that is included in the Funded Phase (Phase I) as reported in the initial FP. The Funded Phase of the project will be delivered using a lump-sum D-B contract, allowing ARDOT to budget for the project and reduce the risk of cost overruns.

Table 2 – Funded Phase Scope Comparison from CER to Initial FP

Scope Elements	CER Funded Phase	Initial FP Funded Phase
Capacity and safety improvements along I-30 from I-630 north to I-40	X	
Capacity and safety improvements along I-30 from I-630 north to I-40 with limited improvements north of the I-30/East Broadway Street interchange (i.e., mill/inlay and restriping of eastbound I-30 to four lanes from Bishop Lindsey Avenue to the I-30/I-40 interchange)		X
Capacity and safety improvements along I-40 from I-30 to US 67/167	X	
Reconstruction/replacement of and improvements to the I-30 Arkansas River Bridge	X	X
Reconstruction of seven interchanges including I-30/I-630, I-30/Hwy. 10 (Cantrell Road), I-30 Broadway Street, I-30 Curtis Sykes Drive, I-40/I-30, I-40/North Hills Boulevard, and I-40/US 67/167	X	
Reconstruction of four interchanges including portions of I-30/I-630, I-30/Hwy. 10 (Cantrell Road), I-30 Broadway Street, and portions of I-40/I-30		X
Safety improvements for I-30 from I-630 south to the UPRR bridge and the ramps at the I-30 interchange with East Roosevelt Road (i.e., pavement preservation on mainlanes and ramps, replacement of mainlane guardrail, installation of new thrie beam connections at bridge ends)	X	
Improvements to the local street system along I-30 from I-630 to I-40	X	X
Incorporation of approved noise barriers within the limits of the Funded Phase	X	
Incorporation of ITS elements within the limits of the Funded Phase	X	X

Note: The scope elements listed include main components of the Funded Phase work. For a more detailed description of the project scope comprising the initial FP Funded Phase, refer to Section 1.4.1 of the FP or the executed Amended and Restated DBA, December 2019.

The total cost estimate for the full project scope, including both Funded and Future Phases, of the 30 Crossing Project has increased since the CER to \$1,322.4M in YOE dollars. The increase in total cost is largely due to a market adjustment by D-B contractors having realized large losses on lump-sum D-B projects, an increased risk associated with a market new to D-B delivery, and added inflation costs due to the shift in project schedule.

3.3 Total Cost by Component

Costs associated with each component, or phase, broken down by activity are shown in **Table 3**. The Funded Phase estimate includes the cost to complete as much of the full project scope as determined to be possible within the fixed budget of available public funds for the project and the cost of local improvements incorporated into the first phase of the project. The Future Phase estimate includes the cost to complete the remaining portion of the full project scope that could not be included in the Funded Phase.

Table 3 – Total Cost Estimate by Component

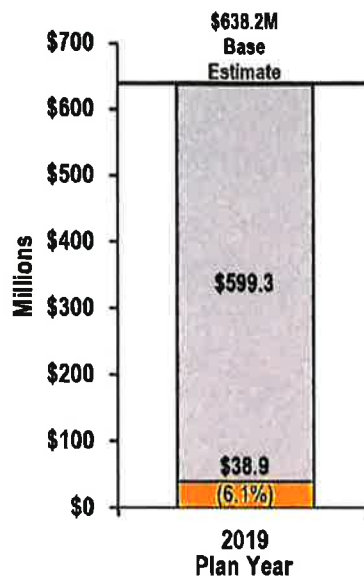
Activity	Funded Phase	Future Phase(s)	Full Project
Preliminary Engineering (PE) & Procurement	40.0	10.0	50.0
Optimization & Refinement (OR)	3.6	0.0	3.6
ROW	10.0	3.0	13.0
Owner Verification, Testing & Inspection (OVTI)	35.0	37.6	72.6
Contingency	4.8	34.9	39.7
Design-Build	540.0	595.5	1,135.5
Stipend	1.0	2.0	3.0
Local Enhancements	3.8	1.2	5.0
Total	638.2	684.2	1,322.4

Notes: All amounts are in millions and YOE dollars, rounded to the nearest hundred thousand. The amounts by activity for the Future Phase(s) work are subject to change once funding becomes available for that work and it is determined if some of the future work will be included in the initial Funded Phase or if it will be done in one separate phase or multiple phases.

3.4 Cost Estimate – Funded Phase

The base estimate and cash flow presented in this FP for the Funded Phase have been updated since the CER workshop to account for changes in prior project expenditures, the DBA value, and local improvements. Costs associated with the local improvements that have been incorporated into the Funded Phase and will utilize local funds result in the base estimate being higher than the fixed budget of available public funds for the Funded Phase of the project. The base estimate of \$638.2M includes agency costs spent through December 31, 2019, as well as estimated remaining agency, D-B, and local costs for the Funded Phase of the 30 Crossing Project.

Figure 4 shows the project percent complete (\$) at the time of the base estimate and will compare future revised annual estimates to the base estimate as well as other annual revisions. As of December 31, 2019, 6.1% of the base estimate had been expended. In order to monitor and control cost growth, the ARDOT Alternative Project Delivery Administrator will review the project costs and budget monthly before paying the Design-Builder's draw requests.



■ Work Completed (\$) as of Dec 31 of Year Shown □ Work Not Yet Complete (\$)

Figure 4 – Cost Estimate by Annual Financial Plan

3.5 Cost by Activity – Funded Phase

Table 4 shows the cost estimate by activity for the Funded Phase of the 30 Crossing Project. Expenditures through December 31, 2019, are included in the agency costs below. **Appendix 2** includes monthly cash flow projections for the Funded Phase base estimate for each of the activities.

Table 4 – Cost Estimate by Activity

Activity	Base Estimate
Agency	
PE & Procurement	40.0
OR	3.6
ROW	10.0
OVTI	35.0
Contingency	4.8
Subtotal	93.4
Design & Construction	
Design-Build Agreement (DBA)	540.0
Stipend	1.0
Local Enhancements	3.8
Subtotal	544.8
TOTAL	638.2

Notes: All amounts are in millions and YOE dollars, rounded to the nearest hundred thousand.

Figure 5 shows the activities as percentages of the total base estimate for the Funded Phase.

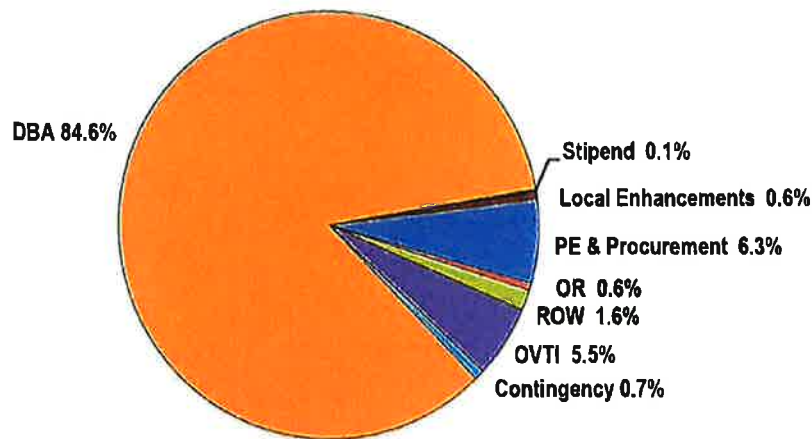


Figure 5 – Base Estimate Percentages

Table 5 contains an annual summary of the agency and design/construction costs in YOE dollars as reflected in the base estimate. The plan years listed in the table extend from January 1 through December 31 and are based on the cost data date of December 31, 2019, used for this initial FP. The anticipated completion date of June 2025 for the Funded Phase of the project falls within the 2025 plan year which begins on January 1, 2025.

Table 5 – Annual Cost Estimate

Plan Year	Agency	Design & Construction	Annual Total
Prior	37.9	1.0	38.9
2020	19.4	26.1	45.4
2021	9.9	92.5	102.4
2022	8.4	206.4	214.8
2023	7.9	162.1	170.0
2024	6.9	48.2	55.2
2025	3.1	8.4	11.5
Total	93.4	544.8	638.2

Notes: All amounts are in millions and YOE dollars, rounded to the nearest hundred thousand. Prior includes expenditures incurred as of December 31, 2019. Plan year is from January 1 to December 31.

3.6 Cost Estimate Assumptions – Full Project

For the 30 Crossing Project base estimate, ARDOT assumed a total project length of 7.3 miles and a D-B procurement. The base estimate includes \$38.9M in prior project expenditures through December 31, 2019.

The estimate was based on 30% complete design, with the drainage design and maintenance of traffic (MOT) concepts developed to a higher degree of completion at certain critical locations. ARDOT's 12-month average unit prices were used as an initial basis to develop unit costs for the various construction bid items, with modifications to reflect similar recent large-scale projects of similar scope. Base bridge unit costs, per square foot of bridge deck area, were developed using ARDOT bid price data for bridge projects from federal fiscal year (FFY) 2000-2016. The base estimate was later updated to incorporate itemized costs included in the D-B proposal.

Based on data from the inflation rates used for other major projects and historical trends in construction costs, a 3% inflation rate was applied to the midpoint of the projected construction duration for the 30 Crossing Project. ARDOT is firmly committed to utilizing a reasonable and rational set of inflation gauges in order to set the assumed escalation rate for the project. The above data, combined with other published references pertaining to inflationary trends and predictions, as well as history concerning material and fuel costs, represent ARDOT's reasonable set of assumptions for the above escalation factors.

The base estimate is based on the engineering cost estimate, D-B proposal itemized costs, and includes assumptions associated with typical transportation related variables such as schedule changes, fluctuating market conditions, inflation, threats and opportunities (e.g. unknown utility conflicts, geotechnical uncertainties, change orders, lawsuits, etc.), and base variability (the variability and uncertainty inherently associated with the cost estimating process). Following are detailed assumptions used in deriving the cost estimate for the 30 Crossing Project.

General

- The estimate reflects actual negotiated consultant fees. In addition, it includes estimates for planned construction engineering and quality assurance, which are estimated at approximately 8.5% of construction costs.
- The estimate also includes costs for owner verification, testing, and inspection (OVTI), which are estimated at 4% of the construction costs.
- Special landscaping elements are estimated at 10% of the roadway items only for the segment with the Cantrell Interchange location. This would include basic sodding, irrigation, shrubs, and trees for the cleared area where the existing interchange has been removed.
- Lighting is estimated at 5% of the major roadway items. This assumes high mast lighting for the mainlanes and low mast lighting on the ramps.
- Miscellaneous costs are estimated at 3% of the major roadway items and includes elements such as guardrail, field offices, and additional roadway and drainage items.
- A change order amount of 3% of the construction costs is included in the total project cost estimate; however, this same breakdown is not specifically applied to the individual phases due to the fixed budget restrictions, previous project expenditures, and D-B cost negotiations for the Funded Phase. The Funded and Future Phase cost estimates include contingency amounts for change orders of approximately 1% and 6% of the construction costs, respectively. ARDOT will utilize state funding reserves or additional state funding identified for the project to supplement additional change orders for the Funded Phase if necessary.

- An inflationary rate of 3% per year was added to the total construction cost to account for inflation to mid-point of construction.
- Mobilization costs were estimated at 5% of the combined total cost for the roadway and structure items.
- The total project cost estimate, updated in February 2020, was derived by extrapolating the itemized costs for the Funded Phase work included in the D-B proposal price and applying an average 20% adjustment factor to the project costs remaining to be completed in the Future Phase work. This adjustment factor was derived by comparing the costs included in the original engineer's estimate for the anticipated Funded Phase work versus the costs included in the D-B proposal for the Funded Phase work. The extrapolated costs were then inflated at 3% out to 2025.

Roadway

- Direct quantity take-offs were calculated for the major roadway items, including pavement removal, new pavement, excavation, embankment, curb and gutter, and concrete barrier. A detailed pavement design has been developed for the project that includes both concrete and asphalt alternatives. The concrete pavement alternative was utilized to develop the pavement costs for this estimate.
- Quantities for major grading items, such as removals, earthwork and roadway paving were based on 30% design development.
- Because the project includes several system and service interchanges, there are frequent and numerous changes in the typical section. The typical section for the mainlane portions of the project generally consists of five 12-foot lanes in each direction with 12-foot shoulders.

Structures

- Base bridge unit costs (new bridges – regular – steel: \$155 per sq. ft.) were developed using ARDOT bid price data for steel bridge projects from FFY 2000-2016.
- A concrete factor was applied to base bridge unit costs to account for a reduction in unit cost for bridges assumed to utilize concrete girders as opposed to steel in the preliminary design. Concrete girders were assumed at locations with tangent alignment and where span lengths do not exceed approximately 130 feet.
- A complexity factor was applied to base bridge unit costs to account for an increase in cost for bridges shown to be curved and/or skewed in the preliminary design.
- A replacement bridge factor was applied to base bridge unit cost to account for an increase in cost for bridges shown in the preliminary design that are likely to be constructed in phases.
- Reduction or increasing factors were also developed using ARDOT bid price data for bridge projects from FFY 2000-2016.
- River bridge unit costs were applied to the bridge structure that spans the Arkansas River. These unit costs were developed using ARDOT bid price data for similar bridge projects over navigable waters.
- Demolition and widening unit costs were also developed using ARDOT bid price data for bridge projects from FFY 2000-2016.
- The ARDOT bid price data used to establish unit costs was inflated from the bid year to 2017.
- Most of the bridge widths used to calculate the proposed deck area were set to accommodate the full approach roadway widths shown in the preliminary design.
- Some shoulder widths on the inside of curves at bridge locations were widened to satisfy sight distance requirements.

- Where possible, bridge ends were set to provide ARDOT preferred horizontal clearances and/or to avoid existing bridge foundations.
- Bridge costs are based on unit costs and proposed bridge deck areas calculated from the preliminary design.
- Due to the possibility of various retaining wall systems, along with the likelihood of temporary shoring systems to construct some of the walls, an average unit price was utilized that would cover the likely distribution of mechanically stabilized earth, cast in place, soil nail, or drilled shaft walls.

Signing and Traffic Signals

- Large sign structure quantities were based on the approved signing schematic.
- Traffic signals were assumed at all locations identified in the traffic study.
- Traffic signals are estimated at \$180,000 per intersection.
- Signing and pavement markings are estimated at 10% of the major roadway items.
- Signing includes the usage of sign trusses for overhead signs.

Traffic Control

- Temporary traffic control costs were estimated at 10% of the combined total cost for all roadway items and 5% of the combined total cost for all the structural items.
- The replacement bridges square foot unit costs include a factor that accounts for the increased costs associated with phased/staged construction.
- MOT is estimated at 10% of the roadway items. This is based on the preliminary MOT scheme that was developed for the project corridor, which assumed that 3 lanes would remain open in both directions on I-30 during construction.
- Roadway construction control is estimated at 2% of the major roadway items.

Drainage

- Proposed large cross-drainage culvert structures were preliminarily designed and quantities were calculated.
- Proposed storm drainage systems were designed for a portion of the project in North Little Rock and were then prorated through the rest of the corridor utilizing the same percentage.
- Due to the extensive amount of both offsite and onsite drainage that must be conveyed through a closed storm sewer system, along with the use of pump stations, the cost of the drainage is higher on this project than normal projects. It is estimated at 25% of the cost of the major roadway items listed above.
- Erosion control is estimated at 4% of the major roadway items.

Utilities and ROW

- ROW cost estimates were based on high-level estimates of the impacted properties, which together result in approximately 11 acres of new ROW.
- The schematic design was developed to avoid several major utility lines, and conservative assumptions were made for the relocation of most other utilities located within the ROW.

SECTION 4 – PROJECT FUNDS**4.1 Funding Plan**

The 30 Crossing Project is listed as Job Number CA0602 in the MTP and STIP. The project is consistent with the MTP, adopted in December 2018, and is also included in the 2019-2022 STIP, approved in September 2018. A total of \$631.7M in federal and state funding is included in the STIP for the 30 Crossing Project. A STIP amendment is anticipated to be approved in April 2020 adjusting the federal/state funding allocations for the project, resulting in a decrease in federal funds and an increase in state funds. The STIP amendment identifies \$136.2M in federal funds and \$495.5M in state funds committed to the project which are reflected in this FP.

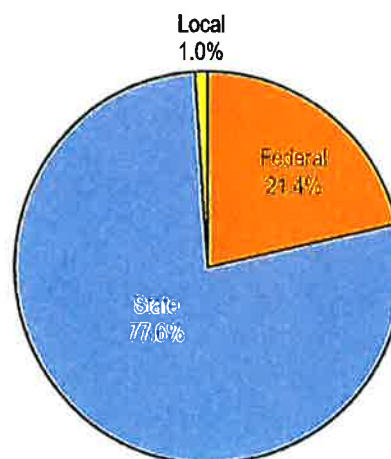
ARDOT is implementing an accelerated State Highway Construction and Improvement Program named the Connecting Arkansas Program (CAP). The CAP is the largest highway construction program ARDOT has undertaken. In 2012, through a voter-approved constitutional amendment, the people of Arkansas passed a 10-year, half-cent sales tax to improve the State's intermodal transportation system, including projects that widen and improve approximately 200 miles of highways and interstates. The 30 Crossing Project is a major component of the CAP.

Dedicated funding for the Funded Phase of the 30 Crossing Project totals \$638.2M and is a mix of traditional federal highway funds, state funds, and local funds, including \$38.9M expended through December 31, 2019. Table 6 and Figure 6 show the approximate contributions and percentages for each funding source as of the date of this FP.

Table 6 – Funding Sources

Source	Contribution
Federal	136.2
State	495.5
Local	6.5
Total	638.2

Note: All amounts are in millions and rounded to the nearest hundred thousand.

**Figure 6 – Funding Sources Percentages**

4.2 Federal Funding

Regular federal-aid funds identified in the 2019-2022 STIP, as amended, and committed to the 30 Crossing Project include \$136.2M from the following two categories: \$135.1M in National Highway Performance Program (NHPP) and a \$1.1M Earmark (Demo ID AR080) for interchange improvements at the I-30/I-440/I-530 South Terminal Interchange in Little Rock (**Table 7**).

Table 7 – Federal Funding Categories

Funding Category	Amount
NHPP	135.1
Earmark	1.1
Total	136.2

Source: ARDOT Program Management Division, February 2020.

Note: All amounts are in millions and rounded to the nearest hundred thousand.

ARDOT will obligate \$16M of the NHPP funding initially in FFY 2020 and will utilize the Advance Construction (AC) special funding technique for the remainder of the NHPP funding to provide for the most flexibility in funding. ARDOT plans to convert \$119.1M of eligible AC funds as needed over the course of the project as shown in **Table 8** with initial authorization in FFY 2020 and full conversion by FFY 2025. Partial conversion amounts shown are estimates that will be updated with actuals in each FP Annual Update (AU). The projected conversion of the NHPP AC funds is also shown in **Table 11** and illustrated on **Figure 7**.

Table 8 – Advance Construction Conversion

FFY	State Obligation		Cumulative Federal Obligation	Cumulative State Match	Total
	Available Match	Available AC			
2020	29.8	119.1	0.0	0.0	148.9
2021	25.8	103.1	16.0	4.0	148.9
2022	17.8	71.1	48.0	12.0	148.9
2023	9.8	39.1	80.0	20.0	148.9
2024	1.8	7.1	112.0	28.0	148.9
2025	0.0	0.0	119.1	29.8	148.9

Source: ARDOT Program Management Division, April 2020.

Notes: All amounts are in millions. FFY is from October 1 to September 30.

4.3 State Funding

State funds identified in the 2019-2022 STIP, as amended, and committed to the project total \$495.5M including \$461.4M in CAP funds and \$34.1M in other state funds available for federal matching (Table 9). The CAP funds include \$38.9M in prior project expenditures through December 31, 2019.

Table 9 – State Funding Categories

Funding Category	Amount
CAP	461.4
State Match	34.1
Total	495.5

Source: ARDOT Program Management Division, February 2020.

Note: All amounts are in millions and rounded to the nearest hundred thousand.

4.4 Local Funding

Local funds committed to the project total \$6.5M including \$2.7M from Central Arkansas Water (CAW) and \$3.8M from the City of Little Rock (Table 10).

Table 10 – Local Funding Categories

Funding Category	Amount
CAW	2.7
City of Little Rock	3.8
Total	6.5

Sources: Arkansas State Highway Commission Highway - Utility Construction/Relocation Master Agreement between ARDOT and Central Arkansas Water, ARDOT Task Order No. 2018-0602-001, August 2018; Agreement of Understanding between the City of Little Rock and ARDOT, May 2019.

Note: All amounts are in millions and rounded to the nearest hundred thousand.

ARDOT and CAW executed a Utility Construction/Relocation Master Agreement for the 30 Crossing Project in August 2018 regarding the coordination of adjustments or relocations of CAW facilities as needed to avoid conflicts. A Task Order was also executed in August 2018 for CAW to reimburse ARDOT for the relocation of the waterline attached to the I-30 Arkansas River Bridge.

ARDOT and the City of Little Rock executed an Agreement of Understanding in May 2019 containing details related to how elements important to the City will be incorporated into the 30 Crossing Project. The City will reimburse ARDOT for certain local enhancements added to the scope of the project.

Any additional local funding identified to be needed for further additions to the project scope, including utility relocations, infrastructure replacement, local enhancements, etc., will be reflected in future FP AUs.

4.5 Funding Availability

Table 11 summarizes the availability of the \$638.2M in federal, state, and local funding for the project costs as shown in the Funded Phase base estimate. Federal and state funding totaling \$631.7M is included in the 2019-2022 STIP for the 30 Crossing Project. Because the AC special funding technique will be utilized for the project, \$119.1M of eligible AC funds to be authorized in FFY 2020 are initially shown in **Table 11** as NHPP AC state dollars to be converted as needed over FFY 2021-2025 and later shown as NHPP federal dollars after conversion. State CAP funds are available as spent and based on the projected cash flow. The state matching funds correspond to the federal dollars estimated to be needed each FFY. Local funding committed to the project totals \$6.5M for a utility relocation and local enhancements.

Table 11 – Funding Availability

Type of Funding	Prior	FFY 2020	FFY 2021	FFY 2022	FFY 2023	FFY 2024	FFY 2025	TOTAL
Federal								
NHPP	0.0	16.0	0.0	0.0	0.0	0.0	0.0	16.0
Earmark	0.0	1.1	0.0	0.0	0.0	0.0	0.0	1.1
Federal Total	0.0	17.1	0.0	0.0	0.0	0.0	0.0	17.1
State								
CAP	38.9	40.0	100.0	155.0	117.5	9.0	1.0	461.4
NHPP AC	0.0	0.0	16.0	32.0	32.0	32.0	7.1	119.1
State Match	0.0	4.3	4.0	8.0	8.0	8.0	1.8	34.1
State Total	38.9	44.3	120.0	195.0	157.5	49.0	9.9	614.6
Local								
Central Arkansas Water	0.0	2.7	0.0	0.0	0.0	0.0	0.0	2.7
City of Little Rock	0.0	0.0	0.0	0.0	0.0	3.8	0.0	3.8
Local Total	0.0	2.7	0.0	0.0	0.0	3.8	0.0	6.5
Annual Total	38.9	64.1	120.0	195.0	157.5	52.8	9.9	638.2
Cumulative Total	38.9	103.0	223.0	418.0	575.5	628.3	638.2	

Notes: FFY is from October 1 to September 30. Prior includes expenditures incurred as of December 31, 2019. NHPP AC is categorized as state funding until these dollars are converted from state to federal over time through the Advance Construction process. Once converted, the AC funds will be moved to the NHPP category under federal funding. All amounts are in millions and rounded to the nearest hundred thousand, creating a potential for discrepancies in summed numbers.

Should any unanticipated changes in the authorized funding or availability occur during the design and construction of the Funded Phase (Phase I) of the 30 Crossing Project, ARDOT will utilize state funding reserves to supplement the shortfall and/or make adjustments to the long-range plan making funds available to complete this project by delaying the start of new projects.

SECTION 5 – CASH FLOW

Approximately \$38.9M had been spent on the project as of December 31, 2019, for costs such as data collection, preliminary planning and engineering, traffic analyses, environmental studies, public involvement, procurement, stipend payment, and the OR period. Approximately \$599.3M is estimated to be spent over FFY 2020-2025 for the purposes of project engineering, ROW, utilities, design/construction, construction oversight, and local enhancements.

Appendix 2 includes monthly cash flow projections for the base estimate of the Funded Phase of the 30 Crossing Project. Descriptions for the categories of work listed on the monthly project cash flow are provided below:

- **Preliminary Engineering and Procurement** includes costs associated with the environmental planning and schematic design work, administration during project development and D-B procurement, as well as remaining costs associated with administration of professional engineering services contracts for the project.
- **Optimization and Refinement** includes costs associated with negotiations between ARDOT and the Design-Builder over an 8-month period to optimize and refine the project scope to reduce the contract price to be within the available public funds for the project and to incorporate additional environmental commitments.
- **ROW** includes costs associated with ROW mapping and acquisition, court costs, and relocation assistance.
- **Owner Verification, Testing and Inspection** includes costs associated with inspection oversight of design and construction work being performed, as well as invoicing and contract administration of the DBA.
- **Contingency** includes potential additional agency costs pertaining to items such as management, contracting, administration, and unforeseen project risks allocated to ARDOT.
- **Design-Build Agreement** includes costs associated with the final design and construction of the bridges and structures, pavement, earthwork, lighting, signing and striping, design and management, traffic control, drainage, mobilization, utility relocations, construction quality acceptance, and unforeseen project risks allocated to the Design-Builder.
- **Stipend** includes costs associated with payments to the unsuccessful D-B proposers.
- **Local Enhancements** includes costs associated with certain elements requested by the City of Little Rock, per an interagency local agreement, that will be incorporated during project construction.

Figure 7 shows the project funding annually and cumulatively as well as the cumulative depiction of the annualized base estimate cash flow. **Table 12** shows the annual and cumulative funding totals in addition to the difference between the projected cumulative funding and expenditures.

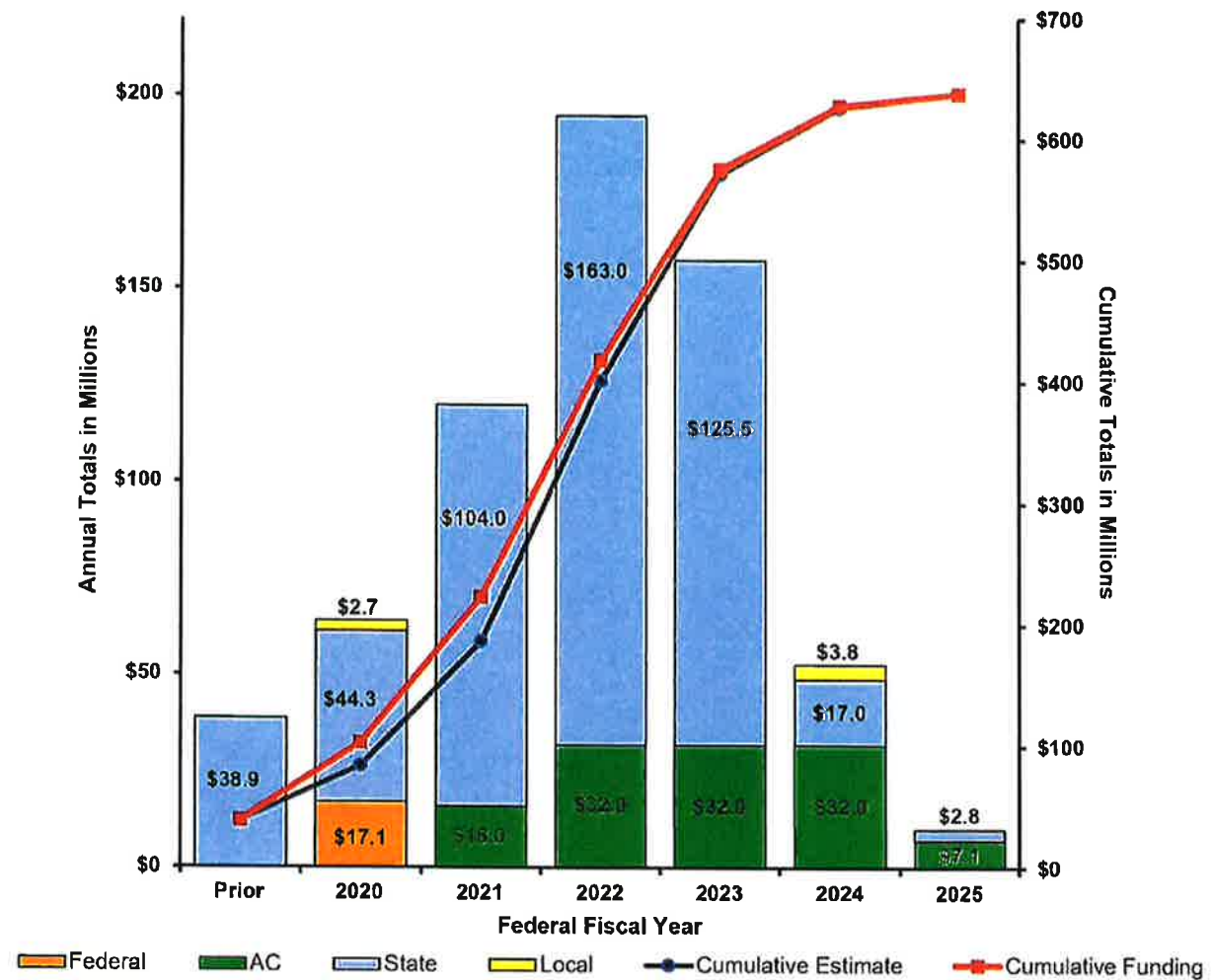


Figure 7 – Funding Availability versus Projected Expenditures

Table 12 – Cumulative Funding versus Cumulative Estimate

FFY	Total Annual Funding	Cumulative Funding	Cumulative Expenditures	Cumulative Difference
Prior	\$38,892,679	\$38,892,679	\$38,892,679	\$0
2020	\$64,082,370	\$102,975,049	\$73,766,979	\$29,208,070
2021	\$120,007,321	\$222,982,370	\$147,728,568	\$75,253,802
2022	\$195,000,000	\$417,982,370	\$341,957,864	\$76,024,506
2023	\$157,500,000	\$575,482,370	\$542,648,135	\$32,834,235
2024	\$52,800,000	\$628,282,370	\$618,887,538	\$9,394,832
2025	\$9,900,000	\$638,182,370	\$638,182,370	\$0
Total	\$638,182,370	\$638,182,370	\$638,182,370	\$0

Notes: Prior includes expenditures incurred as of December 31, 2019. FFY is from October 1 to September 30.

Figure 8 summarizes the remaining projected monthly and cumulative costs for the Funded Phase of the 30 Crossing Project per the base estimate. The spikes shown in January and June 2020 reflect project mobilization costs.

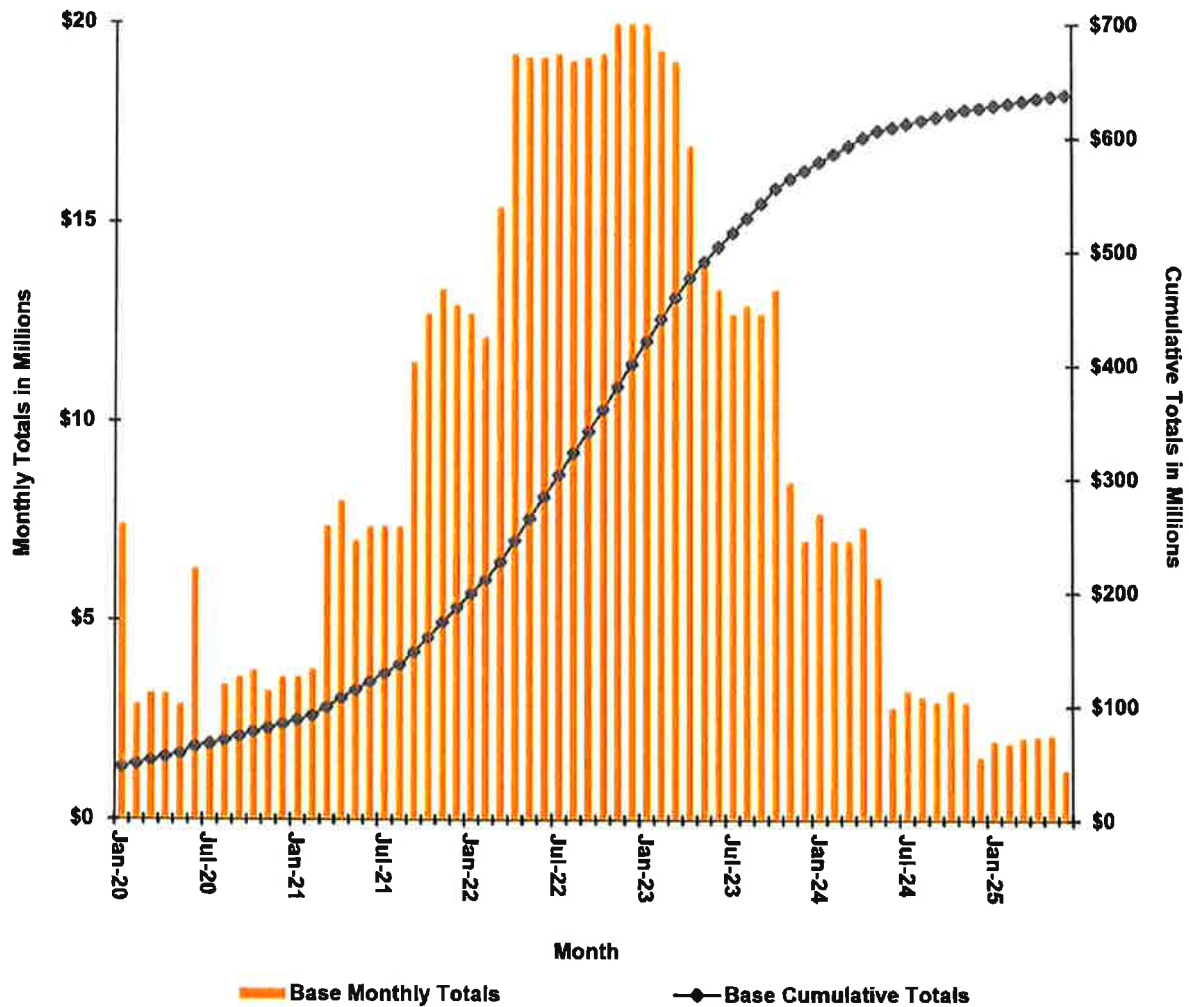


Figure 8 – Total Remaining Cash Flow

SECTION 6 – FINANCING ISSUES

Funding has been identified and committed for the Funded Phase (Phase I) of the 30 Crossing Project. Financing is not proposed and is not anticipated to be necessary for the project. As a result, no costs are estimated to finance the project.

Should any unanticipated changes in the authorized funding or availability occur during the design and construction of Phase I of the 30 Crossing Project, ARDOT will utilize state funding reserves to supplement the shortfall and/or make adjustments to the long-range plan making funds available to complete this project by delaying the start of new projects.

SECTION 7 – PUBLIC PRIVATE PARTNERSHIP ASSESSMENT

Innovative contracting and financing techniques are continuing to grow as public entities are stretching transportation funding. Agencies are increasingly gaining a wider view of the potential benefits of public-private partnerships (P3). The growing number of reasons that are influencing agencies to consider P3 delivery include, but are not limited to, the following:

- Accelerating delivery of desired project,
- Optimizing capital costs and long-term operating and maintenance cost,
- Realizing an overall project cost savings,
- Improving quality and system performance through private sector innovation,
- Supplementing constrained resources with private sector resources and personnel,
- Accessing new sources of construction proceeds,
- Reducing dependence on capital budgets and general revenue bonds, and
- Risk transfer opportunities for large and/or complex projects.

Arkansas enacted the Partnership for Facilities and Infrastructure Act related to P3s in 2017 (Arkansas Code Annotated [A.C.A.] §22-10); however, this Act specifically includes language excluding its applicability to ARDOT. Although ARDOT is currently delivering projects using alternative delivery methods, the Department has not yet moved forward with a P3 but has broad authority to deliver projects using a variety of P3 models as stated in A.C.A. §27-67-206(j)(2):

Notwithstanding any other provisions of law to the contrary, the State Highway Commission may:

(A) Establish written procedures and rules for the procurement of:

- (i) Qualification-based, design-build services and for administering design-build project contracts;*
- (ii) Qualification-based, design-build finance services and for administering a design-build finance project contract; and*
- (iii) An agreement for a concession;*

(B) Receive solicited and unsolicited proposals for a project proposed under this subsection by an authorized entity;

(C) Award a project contract on a qualification basis that offers the greatest value for the state; and

(D) Contract with an authorized entity to design, construct, improve, and maintain qualified projects.

Although utilizing a design-build finance P3 was considered in the earlier stages of project development, ARDOT later concluded that a financing component was not necessary to supplement funding for the 30 Crossing Project. The CER did not analyze the risks or benefits to developing the project through the use of a P3 procurement. Funding for the 30 Crossing Project is a mix of federal,

state, and local funds and does not provide the appropriate leveraging of funds needed for a P3 procurement. For the above reasons, the use of P3 to deliver the project was not utilized and ARDOT determined that a traditional design-build approach was the best way to ensure cost-effective and expedited delivery of the 30 Crossing Project.

On May 8, 2017, ARDOT released an RFQ for qualification submittals from entities interested in entering a DBA for the 30 Crossing Project. Statements of Qualifications were due June 30, 2017, and a short-list announcement was made September 13, 2017. ARDOT issued an initial draft RFP October 16, 2017, a complete revised draft RFP May 4, 2018, and several additional RFP revisions and reference information documents for review between October 2017 and August 2018. ARDOT issued the final RFP September 28, 2018, and proposals were submitted December 7, 2018. An ARDOT evaluation committee determined which proposer best met the selection criteria contained in the RFP and which proposal provided the best value to the State. ARDOT announced the conditional award of the successful Design-Builder January 9, 2019, executed the original DBA March 25, 2019, and subsequently undertook an OR period from March to November 2019. Numerous contract revisions were agreed upon following the OR period, and an OR change order and the Amended and Restated DBA, including a lump-sum D-B contract, were executed December 6, 2019.

SECTION 8 – RISK AND RESPONSE STRATEGIES

Risks and contingencies exist that affect the final design and construction documents to the extent that certain physical conditions are not known or anticipated. This includes deviations from the original construction contract drawings, unforeseen and hidden defects, and the condition or location of existing utilities. Additionally, there may be unforeseen subterranean conditions, including archeology related issues and regulated materials. Early identification and analysis of risks and the development of a course of action to mitigate their impact are required to control circumstances or issues that could be anticipated to occur. If not recognized and managed, risks could affect the project design, schedule, and cost.

Table 13 contains a quantified assessment of the significant risks identified during the CER workshop for the 30 Crossing Project. Risk events were identified as threats that could increase the cost or delay the schedule or as opportunities that could reduce the cost or accelerate the schedule. The risks were quantified based on the criteria of probability or likelihood of occurrence and potential impacts to the project cost and schedule.

Table 14 outlines potential significant risks, in terms of both threats and opportunities, and associated mitigation strategies identified during the planning phase of the 30 Crossing Project.

ARDOT has entered into a lump-sum D-B contract which includes restrictions affecting the Design-Builder's ability to make claims for an increase to the contract price or an extension of the completion deadlines. This allows much of the risk responsibilities to be allocated to the Design-Builder who agreed to assume such responsibilities and risks in the DBA and reflected that assumption in the contract price. This allows ARDOT to budget for the project and reduce the risk of cost overruns.

Table 13 – Risk Assessment

Risk Description	Probability (%)	Cost Impact Range (Millions)	Schedule Impact Range (Months)
Threats			
Bridge Construction Over UPRR Switch Yard	50	\$1.5 - \$2.5	-
NEPA Approval	50	-	1 – 3
NEPA Lawsuit	10	-	1 – 3
Utility Agreements	50	-	2 – 6
Additional MOT Costs	50	\$3.0 - \$7.0	-
ROW Acquisition	50	-	1 – 4
D-B Staffing	40	-	3 – 9
Unforeseen Ground Conditions	50	\$3.0 - \$5.0	-
Design Review Delays	30	-	2 – 6
Unfunded Scope Deferred to Future	50	-	72 – 96
Design Development Allowance	50	\$3.4 - \$16.9	-
Third-Party Funded Scope Additions	80	\$2.0 - \$5.0	-
Opportunities			
MOT Innovation	90	(\$3.0 - \$12.0)	(3 – 12)
Economy of Scale – Overall	75	(\$25.0 - \$45.0)	-
Economy of Scale – I-30: I-530 to I-630	50	(\$3.0 - \$7.0)	-
Geometric Innovation	75	(\$17.0 - \$27.0)	-

Source: 30 Crossing Project CER Workshop (November/December 2017).

Table 14 – Risks and Mitigation Strategies

Risk Description	Potential Consequence	Risk Mitigation Strategy	Risk Allocation
Threats			
Bridge Construction Over UPRR Switch Yard	Railroad flagging operations could add costs to the contractor.	<ul style="list-style-type: none"> Establish an agreement with the railroad to define the need for flaggers. Design-Builder to minimize the impact on the railroad by designing the project without the need to work for extensive periods of time within railroad ROW. Railroad flagging will not be required in the Funded Phase construction. 	Design-Builder
NEPA Approval	A delay in receiving environmental clearance could lead to a delay in the project. The EA/FONSI was obtained in February 2019, and a Reevaluation approval is needed in 2020.	<ul style="list-style-type: none"> Work closely with approving agencies to assure no issues or delays are realized. 	ARDOT
NEPA Lawsuit	A lawsuit against the project and NEPA decision was filed in May 2019; this could delay the project.	<ul style="list-style-type: none"> Work closely with regulatory and approving agencies to ensure all federal, state, and local laws and regulations are being followed. 	ARDOT
Utility Agreements	Third party responsible for utility adjustments could cause schedule delays.	<ul style="list-style-type: none"> Design-Builder to work closely with third party and identify possible delays before they occur. ARDOT to assist in developing schedule mitigation strategies. Develop detailed subsurface utility engineering mapping. ARDOT may assume some risk after substantial delay and/or may retain some risk for unknown utilities. 	Design-Builder ARDOT
Additional MOT Costs	Maintenance of traffic costs could exceed the amount in the base estimate.	<ul style="list-style-type: none"> Place MOT risk onto Design-Builder. 	Design-Builder
ROW Acquisition	Unforeseen issues in property acquisition and/or longer than anticipated negotiations with property owners could result in project delays.	<ul style="list-style-type: none"> Monitor progress on ROW for critical parcels and expedite where possible. 	ARDOT
D-B Staffing	Loss of continuity or change in key D-B staff during the project could result in delays, slow decision-making, loss of ability to coordinate effectively with ARDOT/ stakeholders.	<ul style="list-style-type: none"> Include key personnel change provisions in the DBA. 	Design-Builder

Risk Description	Potential Consequence	Risk Mitigation Strategy	Risk Allocation
Unforeseen Ground Conditions	Unforeseen ground conditions at structure and retaining wall foundations and under pavements could cause design changes and schedule delays.	<ul style="list-style-type: none"> Perform quality geotechnical investigation. 	Design-Builder
Design Review Delays	Potential delays in design reviews could slow the release of construction plans.	<ul style="list-style-type: none"> Design-Builder to work closely with approvers to prevent delays before they occur and throttle design submittals. ARDOT to provide prompt reviews. Design submittals are reviewed not approved. 	ARDOT
Unfunded Scope Deferred to Future	Work on I-30 from I-530 to I-630, work on I-40 West, or other work within the full project scope is not able to be included in the D-B scope and gets deferred 6-8 years.	<ul style="list-style-type: none"> ARDOT to identify additional funds for future construction. 	ARDOT
Design Development Allowance	Design development allowance is applied to the total roadway cost amount at 2%, 5% and 10%.	<ul style="list-style-type: none"> Place risk of design changes onto Design-Builder. 	Design-Builder
Third-Party Funded Scope Additions	This scope will be added only if there is third-party commitment to fully fund the work.	<ul style="list-style-type: none"> Mitigate project costs and possible schedule delays through regular communications with third party. ARDOT to procure agreements during procurement phase. 	Design-Builder ARDOT
Opportunities			
MOT Innovation	This reflects the expected MOT innovations proposed by the winning D-B team.	<ul style="list-style-type: none"> N/A 	Design-Builder
Economy of Scale – Overall	Pavement and structures related economy of scale as compared to design-bid-build unit bids. National and regional contractors involved.	<ul style="list-style-type: none"> N/A 	Design-Builder
Economy of Scale – I-30: I-530 to I-630	Economy of scale applied to part of the scope that gets added to the DBA for the proposed improvements along I-30 from I-530 to I-630.	<ul style="list-style-type: none"> N/A 	Design-Builder
Geometric Innovation	<ul style="list-style-type: none"> North Terminal: I-30/I-40 Interchange Profile refinements throughout project. North Hills Area/US 67 	<ul style="list-style-type: none"> N/A 	Design-Builder

Source: 30 Crossing Project CER Workshop (November/December 2017). Last updated March 2020.

SECTION 9 – ANNUAL UPDATE CYCLE

ARDOT will update the FP annually following the closing date of December 31. FP AUs will be submitted by the end of March, within 90 days of the cost data date, through project completion.

SECTION 10 – SUMMARY OF COST CHANGES

This section to be added and updated with future FP AUs.

SECTION 11 – COST AND FUNDING TRENDS

This section to be added and updated with future FP AUs.

SECTION 12 – SUMMARY OF SCHEDULE CHANGES

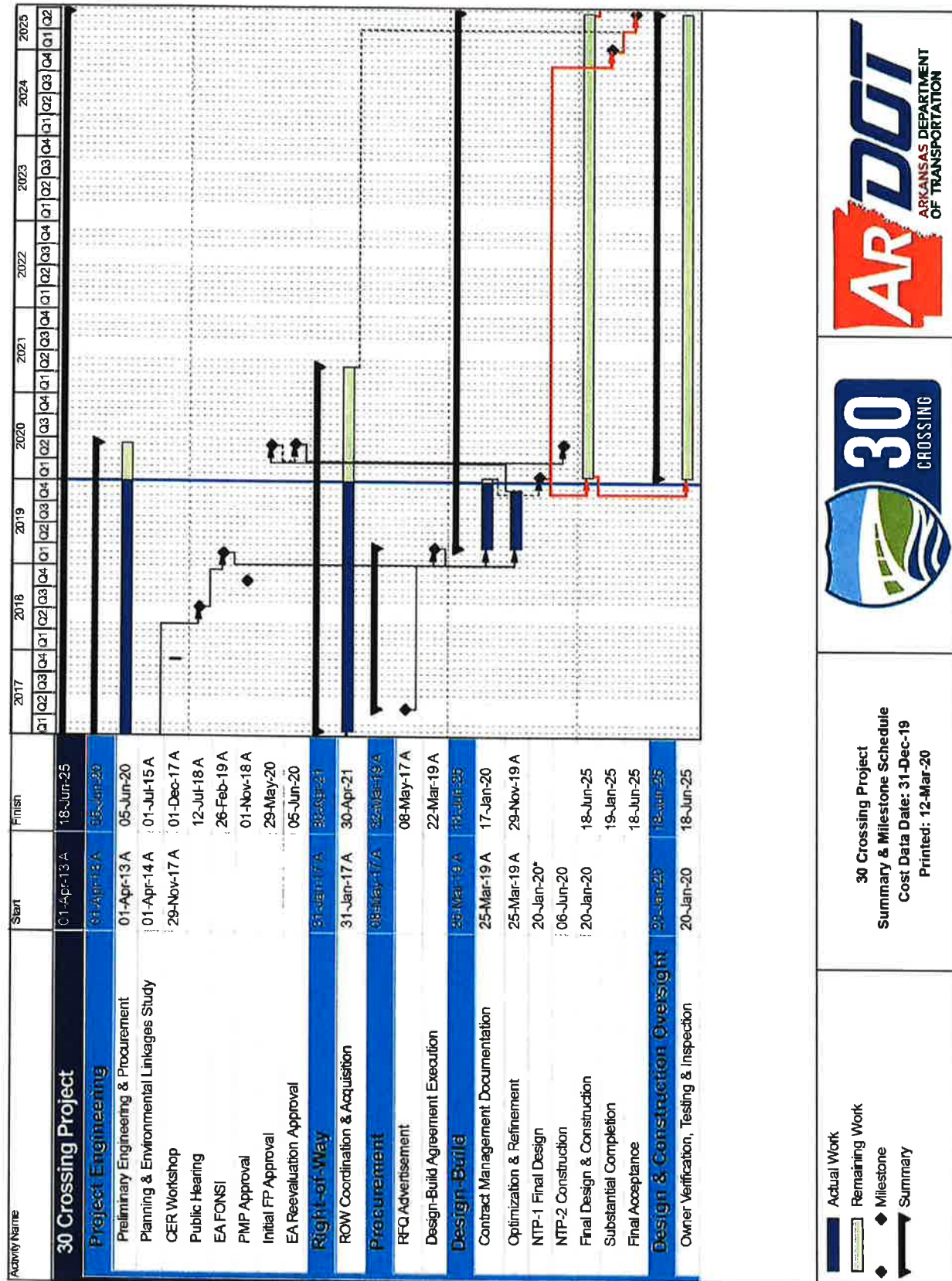
This section to be added and updated with future FP AUs.

SECTION 13 – SCHEDULE TRENDS

This section to be added and updated with future FP AUs.

Appendix 1

Project Schedule



Appendix 2

Monthly Cash Flow Projections

30 Crossing Project - Funded Phase I Monthly Cash Flow Projections

Arkansas Department of Transportation	Prior Spent	Jan-20	Feb-20	Mar-20	Apr-20	May-20	Jun-20	Jul-20	Aug-20	Sep-20	Oct-20	Nov-20
30 Crossing Project - Funded Phase I	\$38,892,679	\$7,419,569	\$7,689,222	\$3,178,146	\$3,178,146	\$2,889,222	\$6,305,851	\$2,002,517	\$3,381,464	\$3,581,173	\$3,751,764	\$3,240,109
Preliminary Engineering & Procurement	\$34,289,979	\$1,131,181	\$1,028,346	\$1,131,181	\$1,131,181	\$0	\$256,886	\$0	\$0	\$0	\$0	\$0
Optimization & Refinement	\$3,600,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ROW Coordination	\$1,000	\$848,942	\$588,125	\$848,942	\$848,942	\$588,125	\$848,942	\$646,942	\$617,538	\$646,942	\$646,942	\$588,125
Owner Verification, Testing & Inspection	\$0	\$248,933	\$497,866	\$547,653	\$547,653	\$497,866	\$547,653	\$522,760	\$522,760	\$547,653	\$547,653	\$497,866
Contingency	\$0	\$1,447	\$6,710	\$7,447	\$7,447	\$6,710	\$7,447	\$12,999	\$21,326	\$21,326	\$22,341	\$19,285
Design-Build Agreement	\$3,604,256	\$3,384,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256	\$3,604,256
Second	\$1,000,000	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Local Enhancements	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$38,892,679	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145	\$12,797,145
Arkansas Department of Transportation	Prior Spent	Jan-21	Feb-21	Mar-21	Apr-21	May-21	Jun-21	Jul-21	Aug-21	Sep-21	Oct-21	Nov-21
30 Crossing Project - Funded Phase I	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173
Preliminary Engineering & Procurement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Optimization & Refinement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ROW Coordination	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538
Owner Verification, Testing & Inspection	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760
Contingency	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326
Design-Build Agreement	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251	\$2,419,251
Second	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Local Enhancements	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173	\$3,581,173
Arkansas Department of Transportation	Prior Spent	Jan-22	Feb-22	Mar-22	Apr-22	May-22	Jun-22	Jul-22	Aug-22	Sep-22	Oct-22	Nov-22
30 Crossing Project - Funded Phase I	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251
Preliminary Engineering & Procurement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Optimization & Refinement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ROW Coordination	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538	\$617,538
Owner Verification, Testing & Inspection	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760	\$522,760
Contingency	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326	\$21,326
Design-Build Agreement	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734	\$10,845,734
Second	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Local Enhancements	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251	\$12,519,251
Arkansas Department of Transportation	Prior Spent	Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23
30 Crossing Project - Funded Phase I	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156
Preliminary Engineering & Procurement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Optimization & Refinement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ROW Coordination	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653
Owner Verification, Testing & Inspection	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283
Contingency	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220	\$19,433,220
Design-Build Agreement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Second	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Local Enhancements	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156	\$20,152,156
Arkansas Department of Transportation	Prior Spent	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24
30 Crossing Project - Funded Phase I	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765
Preliminary Engineering & Procurement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Optimization & Refinement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ROW Coordination	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653
Owner Verification, Testing & Inspection	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283
Contingency	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829	\$6,224,829
Design-Build Agreement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Second	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Local Enhancements	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765	\$7,031,765
Arkansas Department of Transportation	Prior Spent	Jan-25	Feb-25	Mar-25	Apr-25	May-25	Jun-25	Jul-25	Aug-25	Sep-25	Oct-25	Nov-25
30 Crossing Project - Funded Phase I	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162
Preliminary Engineering & Procurement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Optimization & Refinement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
ROW Coordination	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653	\$647,653
Owner Verification, Testing & Inspection	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283	\$171,283
Contingency	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226	\$736,226
Design-Build Agreement	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Second	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Local Enhancements	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
Total	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162	\$1,565,162

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Arkansas Department of Transportation
P.O. Box 2261
Little Rock, Arkansas 72203-2261

Re: I-30 Crossing Project

Dear Counsel:

I am writing on behalf of my clients, the Plaintiffs in the case of *The Little Rock Downtown Neighborhood Association, Inc., et al. v. Federal Highway Administration, et al*, Case No. 4:19-Cv-362-JM, now pending in the U.S. District Court for the Eastern District of Arkansas.

As you are aware, on Thursday, October 29, 2020, the Arkansas Supreme Court rendered a decision in the case of *Buonaiuto et al v. Gibson et al*, Case No. CV-19-979, in which that Court determined that the term "four-lane highway" in Amendment 91 prohibits taxes collected under that Amendment to be used for improvements to highways of greater size. That ruling applied to current highway widening projects including the 30 Crossing (Project 0602) and the recent widening of I-630 (Project 0608). It also applies to the current Saline County I-30 Project, the I-430/Highway 10 project, and other projects in which interstates in Arkansas were widened from four to six or more lanes.



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Also, Title 23 of the United States Code Section 134(j)(2)(B), relative to Metropolitan TIPs, provides that:

The TIP shall include a financial plan that –

(ii) indicates resources from public and private sources that are reasonably expected to be available to carry out the program;

Section 134(j)(3)(D), entitled “Requirement of anticipated full funding,” further provides:

The program [TIP] shall include a project, or an identified phase of a project, only if full funding can reasonably be anticipated to be available for the project or the identified phase within the time period contemplated for completion of the project or the identified phase. (Underlining added)

The Federal Highway Administration’s regulations at 23 C.F.R. §450.104 define “Financially constrained or Fiscal constraint” to mean that “the metropolitan transportation plan, TIP, and STIP includes sufficient financial information for demonstrating that projects in the metropolitan transportation plan, TIP, and STIP *can be implemented using committed, available, or reasonably available revenue sources*, with *reasonable assurance* that the federally supported transportation system is being adequately operated and maintained. (Italics added)

The 30 Corridor Project and the Saline County I-30 Project depend upon significant amounts of funding from Amendment 91. As a result of the Supreme Court’s decision mentioned above, that funding is no longer available for these projects. Therefore, not only would the use of Amendment 91 tax funds for these projects be illegal, but the inability to use those funds results in the projects not being financially constrained as required by the above-cited Federal requirements.

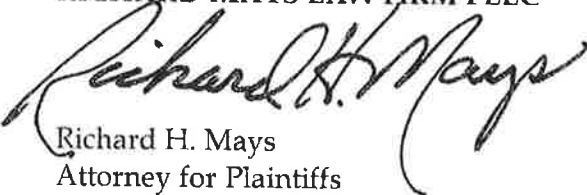
We understand that work on the 30 Corridor Project and the Saline County I-30 Project is on-going. Unless ArDOT has made arrangements to develop and complete these projects by use of non-Amendment 91 funds, the continued work on these projects is in violation of the Supreme Court’s decision, and full funding for those projects to completion cannot reasonably be anticipated to be available.

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Consequently, this letter is to demand that any work currently being conducted by or under contract with the Arkansas Department of Transportation, or by authority of the Federal Highway Department, on any highway project in the State of Arkansas exceeding four (4) lanes and being funded in whole or in part by money from the Amendment 91 tax, be immediately terminated until it can be demonstrated that such work can be conducted and completed without resort to or use of funds generated by the Amendment 91 tax.

Sincerely,

RICHARD MAYS LAW FIRM PLLC



Richard H. Mays
Attorney for Plaintiffs

RHM/nj

cc: Mr. Tab Townsell, Metroplan
Governor Asa Hutchinson