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July 8, 2022

Senator Liz Krueger
211 East 43rd St, Suite 1201
New York, NY 10017

Re: Comments to NYS Urban Development Corporation Directors Regarding Approval of the Final Environmental Impact Statement for the Pennsylvania Station Area Civic and Land Use Improvement Project

Dear Senator Krueger:

Thank you for your letter dated June 29, 2022 in follow-up to my testimony at the Senate's June 24th hearing regarding the Pennsylvania Station Civic and Land Use Improvement Project. I will address your questions one by one below.

Q1: How will displaced residents be compensated?

A1: The State is committed to working with any rent regulated tenants and businesses that may be affected by a future proposed southern expansion of Penn Station. As you know, residential displacement in the Project Area could occur only on the potential Penn Station expansion sites and only if those sites are selected by the involved railroad entities (Amtrak, MTA and NJT) and approved by the federal government as the preferred alternative for the station expansion project. ESD's General Project Plan ("GPP") does not authorize ESD to condemn, otherwise acquire, or relocate occupants of Sites 1, 2 and 3.

As I indicated at the June 24 Senate hearing, federal regulations apply to projects that receive federal financial assistance and/or require federal approvals, as is anticipated for the potential Penn Station expansion project. Specifically, the Uniform Relocation Assistance and Real Property Acquisition Policies Act (42 U.S.C. § 4601 et seq.) and regulations promulgated under 49 CFR Part 24 (collectively, the "Uniform Act") govern relocation of residents from a federally supported project. The railroad entity or entities that carry out a potential Penn Station expansion with federal assistance and approvals would be responsible for relocating any displaced residents under a relocation plan that complies with the Uniform Act and is approved by the lead federal agency, typically as part of the binding commitments enumerated under a federal grant agreement for the project.

The Uniform Act provides that "no person shall be required to move from a displacement dwelling unless comparable replacement housing is available to such person." The characteristics of a comparable dwelling include that it be safe and sanitary, currently available, and "[w]ithin the financial means of the displaced person."[1]

Financial rental assistance also is available under the Uniform Act, and any displaced residents may be compensated for "actual moving and related expenses, as the Agency determines to be reasonable and necessary."[2] Although basic rental assistance under the Uniform Act is subject to certain monetary limits, displaced persons may be eligible to receive rental or other relocation assistance without regard to such limits under the "Replacement Housing of Last Resort" provisions of 49 CFR §24.404 when it can be demonstrated that "comparable replacement dwellings are not available within the monetary limits for owners or tenants." As noted during MTA's testimony at the joint Senate hearing on June 24, such a "Housing of Last Resort" program was approved by the Federal Transit Administration and successfully implemented by MTA for rent-regulated residents displaced by the first phase of the Second Avenue Subway Project. In addition, tenants received relocation advisory assistance pursuant to the requirements of the Uniform Act.[3]

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[1] *See* 49 C.F.R. § 24.2(a)(6).
[2] *See* 49 C.F.R. §§ 24.402(b) & 24.301 through 24.306.
[3] *See* 49 C.F.R. § 24.205.

The Railroads in New York have a history of supplementing these requirements, as you have noted. Our colleagues at the Railroads expect to work closely with elected officials and local stakeholders should similar efforts prove necessary in connection with the Penn Expansion. Although neither of the railroad entities that would construct the potential Penn Station expansion project has the legal authority to override laws and regulations that govern the status of rent regulated tenants, relocation advisory assistance would include working with agencies such as HPD, NYCHA and HCR to ascertain whether displaced residents can be preferentially placed in suitable replacement housing. In addition, ESD is committed to providing displaced residents the option of returning to affordable housing units on the Project sites, subject to income limitations to be determined.

Q2: Is the construction of new affordable housing dependent on the approval of a southern expansion of Penn Station onto Sites 1 through 3?

A2: If Sites 1-3 are selected as the preferred location for the Penn Station expansion, 542 units of housing would be required on Site 1A, 163 of which would be permanently affordable. An additional 1,256 housing units are permitted across three additional sites – Sites 1B, 4, and 8 – for a total of up to 1,798 (of which 540 would be permanently affordable). In response to public comment, we are studying the implications of requiring housing on one additional site rather than making it optional, and we are focusing on either Site 4 or Site 8 since those are not contingent on the Penn expansion.

Q3: If New Jersey and the federal government do not come through with their portion of financing for Penn Station redevelopment and/or expansion, is it possible that we could have development without station improvement?

A3: Acquisition and redevelopment of Sites 1, 2 and 3 would only occur if the Railroads select these sites as the preferred location for the proposed Penn Station expansion following approval by the relevant federal agencies after a full federal environmental review. If the expansion is not approved or does not go forward for any reason, including lack of funding, there would be no acquisition by the Railroads or ESD-sponsored redevelopment of Sites 1-3.

With respect to Sites 4-8, each of these sites requires a fully executed development agreement before redevelopment could commence. Each development agreement would ensure that public benefits are commensurate with the benefits that accrue to the owner of such site. It should be noted that the earliest development on these sites is expected to help fund the GPP's transit and public realm improvements, which will not be subject to a cost share agreement with New Jersey and have independent utility and public benefit, even if the Penn reconstruction and proposed Penn expansion do not occur.

Q4: Given the high demand for Class A office space, why must we financially incentivize developers to build it?

A4: The State has made no commitments regarding financial incentives on any site in the GPP Project Area. Those determinations would be made at the time a development agreement is executed for each site and would take into consideration the market at that time.

That said, the State has committed to New York City that any abatements offered in the Project Area would not be greater than those available in the Hudson Yards UTEP district at the time any individual development agreement is executed. This would help ensure that all developments in the area are on an equal playing field and help incentivize timely development of both areas.

The State is committed to limiting benefits to only what is needed to catalyze development in an area that has not seen a new office building built since the 1970s.

Q5: Is Tax Increment Financing the best mechanism for financing this project?

A5: Under a traditional bond structure and without the GPP, taxpayers or riders could be responsible for a substantial state and local share of the Penn Station projects. Not only would this expose New York taxpayers to greater risk than a public-private financing model, it would mean that New York State (and its taxpayers) could be responsible for most of New York State's share of the project costs – billions of dollars that can be shifted to the private sector to fund through a value capture framework. The GPP financing model would leverage the increased assessed value of up to ten privately financed developments to cover a substantial portion of the costs of the Penn Station reconstruction and expansion, as well as additional transit and public realm improvements, pledging those long-term additional revenues as support to finance the near-term reconstruction and expansion of Penn Station.

It is also important to note that the GPP has other significant goals in addition to helping fund the Penn railroad projects. The public benefits that will accrue from the proposed developments – from 18 new entrances into Penn Station and area subways, to shared streets, a 30,000 square foot public plaza, widened sidewalks and other new public space, to a major underground pedestrian tunnel network all the way to Herald Square, to hundreds of much-needed affordable apartments – will revitalize a neighborhood that has struggled for decades as an underbuilt commercial district despite its location. An area that has not had any significant development since the 1970s will evolve into a cohesive, transit-oriented district through the addition of sustainable, mixed-use development and public realm and transit improvements that will champion pedestrians and cyclists. This is a comprehensive plan, which this part of New York has never had, - and the Public Realm Task Force and other governance structures, community stakeholders and government agencies at all levels will work together over time to ensure that it is implemented with the interests of residents, commuters and workers in the forefront.

Q6: Additional question from Senator Hoylman during the hearing: *Could you go through year-by-year on the development timeline and how you expect the timing gap between the project needs and the development related tax revenue to be filled in order to make the bond issues investment grade credit. Is that possible? How are we going to fill those gaps?*

A6: As was done with the development of Moynihan Station, we anticipate that a State entity will provide credit support to bridge any gaps in time between the realization of PILOT revenues and the need to make interest payments in respect of any borrowing. We further anticipate that the State will be able to reimburse itself from future project revenues for any such interest support payments it may have to make. The City successfully followed a similar structure nearby at Hudson Yards and has now paid itself back fully for early outlays and has begun realizing significant net positive returns for taxpayers.

While the financing plan for the railroad projects remains subject to finalization due to the need to cement federal funding commitments, we anticipate that there could be more than one financing, potentially utilizing different mechanisms but all leveraging the PILOT stream over the course of the project period to help minimize borrowing costs.

We will also seek to leverage the most financially advantageous sources of financing to minimize costs. This could include tapping into federal lending programs tailored to large infrastructure projects, such as the Transportation Infrastructure Finance and Innovation Act program (TIFIA) and the Railroad Rehabilitation and Improvement Financing program (RRIF), which have advantageous terms that may become even more so when new guidelines are implemented pursuant to the Infrastructure Investment and Jobs Act (IIJA).

Thank you for the opportunity to appear before the Senate joint committees, and I look forward to continuing our dialogue and working together to ensure that the Penn Station area and New York City realize their full potential.

Sincerely,

Hope Knight
President& CEO, Empire State Development
Commissioner, NYS Department of Economic Development

CC: Senator Leroy Comrie
Senator Luis R. Sepúlveda
Senator Brad Hoylman