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July 27, 2022

Robert F. Mujica, Jr., Chair
Public Authorities Control Board
The Capitol
Albany, New York 12224

Dear Chair Mujica:

In accordance with Public Authorities Law §51(2), we have reviewed the applications submitted to the Public Authorities Control Board (PACB) for its meeting on July 27, 2022.

We have no comment on the following resolutions:

- 22-EF-864, 22-EF-865, 22-EF-697B, 22-EF-711C, 22-EF-720A, and 22-EF-710A, submitted by the Environmental Facilities Corporation;
- 22-HF-898, submitted by the Housing Finance Agency;
- 22-SNYMA-121, submitted by the State of New York Mortgage Agency; and
- 22-UD-1953, 22-UD-1954, 22-UD-1955, 22-UD-1956, and 22-UD-1957, submitted by the Empire State Development Corporation (ESD).

Resolution 22-UD-1958 submitted by ESD seeks approval of a proposed payment in lieu of taxes (PILOT) agreement between ESD and the City of New York in relation to the Pennsylvania Station Area Civic and Land Use Improvement Project (the "Project"). Available details on the current financing plan are extremely limited, including costs to be borne by the State and other parties and schedule risks inuring primarily to the State, including during the early phases of the Project. Furthermore, approval of the agreement will bind the City, the Metropolitan Transportation Authority (MTA) and State to a complex and lengthy development project plan at a time when the fiscal risks of such a project are significant and the fiscal challenges facing the City and MTA are substantial.

While some details on the PILOT agreement have been submitted, it is our understanding that a draft of such agreement has not been provided to the PACB. Further, the broader financing plan, of which such agreement is an integral component, is unspecified, which is exceedingly concerning, particularly for a project of this magnitude and significance. While it is expected the State of New Jersey, Amtrak, and the federal government will contribute to the broader project following the outline of the agreement on the Gateway Phase 1 Tunnel project, there is no formal agreement with any of these partners in place to date.

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In addition, the outlined approach for the collection and use of PILOT payments from properties that will be taken off the City's property tax rolls may make the State responsible for funding billions of dollars for City "make-whole" payments and debt service, as well as potential revenue shortfalls. These payments would be subject to appropriation by the State Legislature, but such appropriations have not yet been proposed or enacted. The Project depends heavily on revenues from the development of new commercial office properties at a time when the future of that market faces significant uncertainty, and appears to impose considerable financial risk associated with this uncertainty, the full scope of which is as yet undefined, to the State. The proposal also does not lay out the potential value of the development rights that may be generated and transferred to the developers as a result of the agreement. These factors add complexity to this agreement and impose considerable risk on the State. Furthermore, this approach seems to envision the creation by the State Legislature of new debt structures that would further circumvent the State's statutory debt limitations. The statute for such new debt structures has not yet been proposed or enacted. The Comptroller remains concerned about the amount of debt, supported by State taxes, that is being issued by public authorities.

Other important information relating to the agreement and the Project that is commonly presented for other projects, but unavailable currently to the PACB to make a fully informed decision include: detailed terms and conditions with New York City, projected amortization schedules for associated debt, a schedule of the value of "make-whole" payments to the City, revenue projections by site, and contingency cost considerations, which may be substantial given the Project scope and historically similar projects. As of the submission of this letter to the PACB, several questions that have been posed to ESD regarding the Project remain unanswered.

Based on the information made available by ESD to the PACB, the Office of the State Comptroller is unable to ascertain whether there are sufficient funds to complete the \$22 billion in identified components of the Project. Moreover, we are also unable to discern the full extent of the State's financing responsibilities and sufficiency of funding sources for such costs.

The Pennsylvania Station Area Civic and Land Use Improvement Project has laudable goals, including reconstructing Penn Station, enhancing the economic potential of the surrounding neighborhood, and improving the public realm and transit. It also could create a significant number of jobs and increase economic activity in the area. However, given the complexity and risks associated with this Project, the PACB should take additional time to make sure that it has the information necessary to make a determination that there are commitments of funds sufficient for the Project.

Very truly yours,



Nelson R. Sheingold
Counsel to the Comptroller

cc: Honorable Leroy Comrie
Honorable Robert Ort
Honorable Amy Paulin
Honorable Joseph M. Giglio