July 25, 2022

Robert Mujica
Director, Division of the Budget

Senator Leroy Comrie
Representative of Senate Majority

Senator Robert Ortt
Senate Minority Leader

Assemblymember Amy Paulin
Representative of Assembly Majority

Assemblymember Joseph M. Giglio
Representative of Assembly Minority

Re: Vote NO on Penn Station Redevelopment proposal because ESD has not answered basic questions about project costs, funding, financing, taxpayer exposure, and tax abatements.

Dear Members of the Public Authorities Control Board (PACB),

When someone builds a house, they have to know and share basic information about its size, cost, and completion date and how it is being paid for.

This may seem strikingly obvious, yet the Empire State Development Corporation has not answered equally basic questions about the vaguely defined Penn Station Redevelopment Plan – much bigger than a house – which will continue for decades, cost taxpayers upwards of $40 billion, and may include tax abatements worth over a billion dollars.

Based on demonstrable problems with the state's plan and the state's failure to provide basic information about project costs and financing, **we ask you to vote no on all agenda items related to the Pennsylvania Station Area Civic and Land Use Improvement Project at your July 27, 2022 meeting.** You are responsible under Section 51 of the Public Authorities Law for ensuring that for proposed projects: "there are commitments of funds sufficient to finance the acquisition and construction of such project." The intent of this redevelopment project is purportedly to fund Penn Station projects, and the State has not shown that the PILOT agreement is either a fiscally responsible way to do so, nor sufficient to fund the project.

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The PACB should be alarmed that ESD has repeatedly failed to answer basic financing and cost questions asked by State Senators, the New York City Planning Commission, the NYC Independent Budget Office, editorial boards, and Reinvent Albany, among others.

Indeed, we find it telling that the agenda item for the PACB's Penn Station contains no dollar figure. Empire State Development's approval of the General Project Plan and other Penn Station redevelopment motions last week also came with a shocking lack of basic financial information, including revenue numbers, an income and expense budget, and cost estimates for each project component. ESD has also failed to provide a factual case for the complex, real estate part of the deal, which includes PILOTs and a possible $1.2 billion tax abatement for a politically powerful real estate developer.

New York State law says:

> A free society is maintained when the government is responsive and responsible to the public... The people's right to know the process of governmental decision-making and to review the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality. (POL 84)

Yet, according to the Wall Street Journal, Governor Hochul has basically admitted that ESD has not answered basic questions about the deal, with it reported that she said "the state didn't want to disclose *detailed* financial terms before completing negotiations with the federal government and potential developers [emphasis added]."

This is nonsense and should be a red flag for the PACB. We think there is a more fundamental reason ESD has been so secretive: any honest accounting will show the real estate part of this mega-deal is a sham and will not provide a meaningful amount of funding for actual transit improvements. The PILOT agreements and Development Company are complicated ways of hiding a huge tax abatement to Vornando and justifying the State taking billions in future NYC property tax revenue.

We note that the State has already appropriated $1.3 billion to fund below ground work on Penn Station reconstruction. PACB can take the time it needs to assess this project without delaying MTA's reconstruction work.

Here are some reasons the PACB should vote no on the Penn Station Development project:

1. **It is highly likely that the State, City, and MTA tax- and fare-payers will end up bearing the costs, while Vornado reaps short term benefit.** ESD admits that state taxpayers will pay for the cost of Development Company bond or

other authority borrowing until (and if) Vornando builds out and generates revenue from the various development sites. State taxpayers will back all bonds and pay for them in the event Vornado fails to profit from the huge planned development because of changes in commuting patterns from COVID-19 and other ups and downs in the real estate market. (As we write Manhattan office occupancy remains far lower than pre-pandemic.)

Taxpayers face many potential costs from the financing scheme ESD is seeking, including:

a. Paying for bond borrowing until development revenues come in (by making "interest support payments");
b. State backing of bonds or "credit enhancement mechanisms;"
c. Paying interest on bonds if development does not proceed as planned;
d. Paying for potential cost overruns of the state share of Penn Station reconstruction and expansion. (PILOT payments will not cover the costs of the NYS share of all Penn projects and the State will have to find at least $3 billion to $6 billion in additional funding).

2. **ESD wants an unjustifiable tax break of up to $1.2 billion[1] for the developer, Vornado.** Yet, ESD has provided no justification of why any subsidy is needed for redevelopment on some of the most valuable land in the country, especially since the developer was given a huge upzoning without having to pay market price for transfer of development rights, etc.

3. **$2 billion in PILOT financing diverted from NYC property taxes will go to public realm improvements around Vornado's Penn Station properties – not subway or commuter rail improvements.** Vornado is essentially steering their own property taxes towards directly increasing the value of their property instead of paying into the City's general fund for citywide needs like garbage pick-up, fire protection, clean water, and schools. The City of New York has a basic political compact that tax revenues go towards Citywide needs via the budget process, rather than on increasing the value of the taxpayer's property. (We note that Hudson Yards involved conversion of non-taxable rail yards into tax generating property and a transit expansion with the extension of the #7 train.)

4. **Unprecedented usurpation of the City's power to determine its own land use decision-making and use of property tax revenues,** including the

[1] Per Bridget Fisher and Flávia Leite at the New School's Schwartz Center for Economic Policy:
https://reinventalbany.org/wp-content/uploads/2022/07/Reinvent-Albany_SCEPA-Penn-Station-Redevelopment-Report-2022-July-12.pdf

diversion of potential future city property taxes to the State for a period of up to 80 years. While the City will be "made whole" based on current property taxes paid in the GPP area, current and future property taxes are based on current development and are $60 million annually, [according to the Independent Budget Office]. For decades to come, New York City will forgo the opportunity to rezone the area itself and collect increased property tax revenues to fund city services like education and sanitation.

ESD says the purpose of its real estate deal with Vornado is to fund Penn Station projects. Yet, ESD has not shown that the PILOT agreement at the center of that deal is either a financially efficient way to finance Penn improvements or sufficient to fund the refurbishment of Penn Station or other transit improvements. The ESD or State of New York have not provided any evidence that "there are commitments of funds sufficient to finance the acquisition and construction of such project" per the requirements of Section 51 of the Public Authorities Law. Accordingly, we ask you to vote no on all agenda items related to the Pennsylvania Station Area Civic and Land Use Improvement Project at your July 27, 2022 meeting.

Sincerely,

John Kaehny, Executive Director
Rachael Fauss, Senior Research Analyst
Elizabeth Marcello, Senior Research Analyst

Cc. State Comptroller Tom DiNapoli
Senator Liz Krueger
Senator Brad Hoylman
Assemblymember Dick Gottfried