September 15, 2022 VIA EMAIL

Senator Leroy Comrie
Chair, Committee on Corporations, Authorities, and Commissions
14th Senate District

Senator Brad Hoylman
27th Senate District

Senator Liz Krueger
Chair, Finance Committee
28th Senate District

Re: Help taxpayers get answers to outstanding questions about billions of dollars of public financing and tax breaks for Penn Station Redevelopment.

Dear Senators Comrie, Hoylman, and Krueger,

Thank you and your offices for working so hard to increase the transparency and public accountability of the Penn Station Development project.

We write today to ask that you keep up your efforts to get answers to a number of critical questions about billions of public dollars of Penn Station Redevelopment Project financing and subsidies. Unfortunately, the July meetings of the Public Authorities Control Board and Empire State Development Corporation continued to leave many major questions unanswered.

We urge you to formally request that Empire State Development publicly answer the attached specific questions about the:

- overall structure of the project;
- revenue projections;
- project timeframe;
- sources of revenue from development;
- tax breaks;
- debt costs; and
- unaddressed costs.

Thank you,
John Kaehny, Executive Director, Reinvent Albany
Rachael Fauss, Senior Policy Advisor, Reinvent Albany
Elizabeth Marcello, Senior Research Analyst, Reinvent Albany

Outstanding Questions about the Penn Station Redevelopment Project

Comment

ESD's July 24 project costs assumptions document provides some information, but does not show in detail how the project is supposed to bring in revenues to cover the cost of the proposed redevelopment.

For instance, the City-State PILOT Cap table exhibits the maximum Payment in Lieu of Taxes (PILOT) allowed under the City-State percentage caps. These calculations reflect what is needed to pay for the project's cost, not what is realistically feasible under the proposed scheme.

The table of "Sources and Uses" is also limited to estimating revenues (sources) and costs (uses). It does not explain the feasibility of raising almost $4.5 billion in revenues from PILOTs and other sources to cover the cost of the project. The three footnotes that supplement the table are the only additional information that imply revenue projections were made, yet they do not help us answer key questions about the financing.

These key questions, which we urge you to ask ESD to answer, are listed below:

Questions

Overall Project Direction:

1. When will the application for the first site go before the PACB? Is the ESD Board required to approve the site agreements first, before they are submitted to the PACB?
2. Will there be a framework for Community Benefits Agreements at all sites?
3. Is there a final project cost assumptions document (which is currently only in draft form), or a more detailed financial document?
4. When will there be a bond issuance?
5. When will federal funding applications be filed and which specific funding programs will be used?
6. When will the Penn Station Area Development Corporation begin meeting?
7. When will the Public Realm Task Force be meeting, and will there be any public meetings and/or sharing of meeting materials with the public?

The following questions are based on ESD's project cost assumptions document:

Revenue Projections – How much revenue does ESD estimate this project will bring in based on historical data from named revenue sources? Specifically:

1. What methodology is ESD using to estimate revenue sources (including property taxes, development rights, land values, sales tax on construction materials, and mortgage recording taxes)? This includes time frame, price per sq foot, development scenarios, discount schedules, etc.
2. Why is ESD using a high discount rate of 6.25%?

Timeframe – ESD's cost assumptions do not specify a timeframe, using only "early" and "longer-term" to differentiate between costs. This is a significant omission considering the City/State MOU, the basis for this cost analysis, states the financing mechanism for this project can exist for 80 years – the "Temporal Cap."

1. What specific years do these tables cover? What is the anticipated beginning and end of the financing mechanism this project creates?
2. What years do the terms "early" and "longer-term" refer to?
3. When is the debt issued to cover the costs expected to be fully paid?

"Sources" of Revenue from Development

Revenues grouped under "other" development revenues total $2.5 billion, approximately $500 million more than expected PILOT revenues from property taxes (totaling $2.1 billion). Given that property taxes are the largest recurring revenue source, it is important to understand how other revenues are projected to bring in such a large sum.

For example, PILOST and PILOTMRT are likely to be small; in the Hudson Yards project, for example, PILOTMRT were estimated to bring in only 1% of the project's total development revenues. Similarly, transfer development rights and density improvements bonuses represented less than 3% of total estimated revenues in Hudson Yards (Cushman &Wakefield, 2006).

1. What is the breakdown of revenues listed as "Other Development-generated Revenues by development rights, land value, PILOST, and PILOTMRT?"
2. Why is there a $350 million difference between the City-State PILOT Cap of $3.75 billion and the total from PILOTs listed under "Sources," which is $3.4 billion? How were the PILOT sources calculated?
3. Does land value refer to the state's sale of Sites 1-3 after ESD acquires them by eminent domain? If so, what is the projected land value of each site?
4. Are the PILOT sources based on the FEIS' majority commercial development scenario, which would represent the most lucrative development scenario? If so, how would these sources change under alternate development scenarios that include more residential space?

Tax Breaks – How are revenues lost to agreed-upon tax breaks represented? Specifically:

1. In the table "City-State PILOT Cap," does the "PILOT Cap" of $3.75 billion represent the maximum revenue the city can claim from city property taxes before or after the allowance of the tax break mentioned (which will match the level and term available in Hudson Yards, 15% or 20% and 20 years, respectively)?
2. The estimated revenue needed from PILOTs is also presented in the "Sources" table. Are these numbers after the tax break?

Debt Costs – Based on a value capture scheme, ESD's cost assumptions recognize the financing costs associated with the upfront debt that will pay for construction before development-reliant revenues are generated. However, they are separated into two distinct categories: 1) "NYS upfront payments" and 2) in a footnote stating that $900 million is already netted out from the funds needed from PILOTs.

1. Why are these two financing costs presented separately?
2. Will the "NYS upfront payments" be paid out of the state's general revenues?
3. ESD estimates $200 million for both City Make-Whole payments and interest support costs. What is the breakdown between each?

   How many years does ESD estimate the state will have to make upfront payments? Given an elongated construction schedule for the 8 sites, this is likely to be a significant expense, totaling potentially more than $200 million (without considering Make-Whole payments). For example, Hudson Yards interest support payments totaled $395 million.
4. The footnotes specify that ESD estimates the state will pay $900 million and "additional amounts" on financing costs. What is the total bond issuance used to calculate this number and the methodology used to calculate the estimated $900 million interest cost? What agency will be selling these bonds and when? Will these bonds be approved by the PACB?

Unaddressed Costs

1. City Make-Whole Payments – Based on current city property taxes, these payments will total approximately $60 million per year. Yet, ESD only includes the cost of Make-Whole Payments along with interest costs in "Illustrative NYS Upfront Payments." The amount presented – $200 million – is not enough to cover potentially 40-80 years of make-whole payments, let alone also include payments for upfront financing costs. Where are the city's "make whole" payments for the life of the district – the Temporal Cap – represented?

2. Eminent Domain – Where are eminent domain costs for acquisition of Sites 1-3 considered? How much is this estimated to cost? Does ESD intend to pay these costs out of general revenues or bonds issued by the project?