

#0521-01: HUDSON TUNNEL PROJECT – COMMITMENT TO ASSUME ROLE OF NATIONAL ENVIRONMENTAL POLICY ACT PROJECT SPONSOR AND FEDERAL GRANT RECIPIENT

The Hudson Tunnel Project will improve resiliency, reliability, and redundancy for the busiest section of the Northeast Corridor (NEC) – the busiest passenger rail line in the United States. The project, for funding and financing purposes, includes the construction of a new Hudson River Tunnel between New York and New Jersey, the rehabilitation of the existing 110-year old North River Tunnel under the Hudson River, and the completion of the Hudson Yards Concrete Casing - Section 3 (“HYCC-Section 3”) to preserve tunnel right-of-way for future tracks on the West Side of Manhattan leading from the new tunnel to Penn Station New York. The Federal Transit Administration approved and issued a categorical exclusion for HYCC-Section 3 (the “Categorical Exclusion”) in November 2019.

The federal environmental review process under the National Environmental Policy Act (“NEPA”) for the new Hudson River Tunnel and Rehabilitation of the North River Tunnel commenced in May 2016, with a Final Environmental Impact Statement and Record of Decision (“ROD”) currently expected in May 2021.

In November 2016, the State of New York, State of New Jersey, and Amtrak established the Gateway Program Development Corporation (“Corporation”) to serve a lead role in the financing and development of the Gateway Program, including acting as a federal grant and loan applicant as well as NEPA Project Sponsor. In February 2018, United States Department of Transportation (“USDOT”) expressed the view that the Corporation as then constituted, was not eligible to serve as the Capital Investment Grants (“CIG”) Applicant or NEPA Project Sponsor for the Hudson Tunnel Project.

To respond to this concern, in June 2018, the States of New York and New Jersey agreed to pursue legislative action in both states to create a Gateway Development Commission (the “Commission”) to perform these financing and development functions for the Hudson Tunnel Project. The Commission’s enabling legislation, the Gateway Development Commission Act (“GDC Act”) was signed into law in both States in July 2019, with the final two Commissioners confirmed in December 2020.

Since June 2018, the Port Authority of New York and New Jersey (“Port Authority”) has served in the role of NEPA Project Sponsor and CIG Applicant for the Hudson Tunnel Project, in its own name, on behalf of the Port Authority, the Corporation, NJ TRANSIT, and Amtrak (collectively, the “Project Partners”) until such time as the Commission assumes the role of Project Sponsor and federal grant applicant.

The Port Authority has agreed to continue to perform these roles on behalf of the Project Partners and the Commission until such time as the Commission assumes the role of Project Sponsor and federal grant applicant, and the Commission wishes to confirm the commitments described in the Resolutions set forth below.

Pursuant to the foregoing report, the following resolutions were adopted, with Commissioners [INSERT NAMES HERE] voting in favor and Commissioners [INSERT NAMES HERE] voting against:

RESOLVED, that the Commission hereby confirms its commitment to assume the role of federal grant recipient and NEPA Project Sponsor for the Hudson Tunnel Project from the Port Authority, prior to the signing of a CIG Full Funding Grant Agreement or other federal funding agreement, consistent with the legislative purpose of the Commission; and be it further

RESOLVED, that the Commission hereby acknowledges that during the period of time that the Commission is the Project Sponsor, the Commission will be responsible for committing to and carrying out the mitigation measures and commitments in the ROD and Categorical Exclusion through the construction of the Hudson Tunnel Project. Any expenditures by the Port Authority on mitigation actions required to be taken by the Port Authority pursuant to the ROD during the period that the Port Authority is the Project Sponsor shall be considered project expenses, and any such expenditures by the Port Authority shall be offset against funding currently committed to the Project pursuant to Port Authority board resolutions, subject to the terms of an agreement to be executed between the Commission and the Project Partners governing such offsets; and be it further

RESOLVED, that either Co-Chair of the Commission, signing singly and acting alone, be and hereby is authorized, in the name and on behalf of the Commission, to execute and deliver any documentation and take all such actions as such Co-Chair may deem necessary and appropriate to memorialize and/or confirm the commitments contained in the foregoing resolutions.