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February 25, 2025

Hon. Sean P. Duffy  
The Secretary of Transportation  
Washington D.C. 20590

*Re: New York Congestion Pricing Tax*

Dear Secretary Duffy:

I am writing on behalf *New Yorkers Against Congestion Pricing Tax* (“*New Yorkers*”). *New Yorkers* is a grassroots community-based organization representing working class individuals, small businesses and entrepreneurs across the New York Metropolitan region. *New Yorkers*’ membership is comprised of individuals particularly vulnerable to the onerous socioeconomic and environmental impacts of this regressive tax. Our membership includes teachers, emergency first responders, the elderly, the infirm needing access to healthcare providers that cannot utilize mass transit, and individuals residing in environmental justice communities that will be environmentally burdened by the derogation of air quality, noise and traffic due to diverted vehicles – particularly the Lower East Side, South Bronx, Western Queens and Downtown/Central Brooklyn.

The organization is currently a Plaintiff in *New Yorkers Against Congestion Pricing Tax et al. v. United States Department of Transportation, et al.*; United States District Court, Southern District of New York, Docket No.: 1:24-cv-00367; and proposed *amicus curiae* in *Town of Hempstead et al. v. Kathy Hochul, et al.*; New York State Supreme Court Index No.: 450653/2025 in New York County. Numerous New York City elected officials have united with *New Yorkers* in bringing this litigation, including Councilmember Kristy Marmorato, Councilmember Vicky Paladino, Councilmember Joann Ariola, Councilmember Susan Zhuang, Assemblymember Kalman Yeger, Councilmember Inna Vernikov, Councilmember Robert F. Holden, Assemblymember Simcha Eichenstein and Assemblymember Michael Novakhov.


First and foremost, *New Yorkers* and the elected officials listed above wish to express our sincere appreciation for your letter to Governor Kathy Hochul dated February 19, 2025. We wholeheartedly agree that the Federal Highway Administration’s (“FHWA”) approval of the Central Business District Tolling Program exceeded the authority authorized to the FHWA by Congress under the Value Pilot Pricing Program (“VPPP”). Therefore, *New Yorkers* enthusiastically support the Department of Transportation’s rescission of the Agreement

executed on November 21, 2024 between the New York State Department of Transportation and the FHWA. Notwithstanding DOT's rescission of the Agreement, New York State and the MTA continue to press forward financially burdening New York's overly strained citizens.

By virtue of the fact that there is pending litigation seeking to resolve many of the issues you raise in your letter dated February 19, 2025, it is *New Yorkers'* contention that a judicial resolution is the best way forward to decisively determine the future of Congestion Pricing in New York City. Indeed, your letter references the case of *Town of Hempstead v. DOT*; Docket No.: 1:24-cv-3263, (E.D.N.Y.). In that regard, *New Yorkers* wish to draw your attention to a critically important issue raised in their case currently before Justice Ariel D. Chesler. Importantly, the issue raised by *New Yorkers* forms an integral part of your opposition to Congestion Pricing. That issue is the negative socioeconomic consequences of Congestion Pricing. New York law addresses this concept with precision. The New York State Administrative Procedure Act ("SAPA") mandates public hearings on rulemaking determinations of the MTA/TBTA that affect small businesses – particularly in communities such as Chinatown and Little Italy – and wage earners: the very class of people you highlight in your letter.

The statutory scheme set forth in SAPA § 201-a, Vehicle and Traffic Law ("VTL") § 1704-a(3)(a) and Public Authorities Law ("PAL") § 553 12-(a), read in harmony, supports New York's statutory purpose to protect the rights of small businesses and job holders when new programs with far reaching regulatory impacts are undertaken.

The core requirements of SAPA in relation to small businesses and job holders were not fulfilled by the MTA/TBTA. *New Yorkers* contend that State court is the proper forum to end Congestion Pricing conclusively pursuant to the **rule of law**. In particular, relevant to the issues raised in your letter, SAPA enables a full and fair opportunity to accord the citizens of New York due process in setting forth a definitive record in relation to the overwhelmingly negative socioeconomic impacts of the regressive Congestion Pricing tax. The MTA/TBTA must be held accountable for rules that impact upon small businesses, job retention and employment opportunities. There is no precedent which would allow the MTA/TBTA to institute a broad-based program impacting millions of people without following the procedural protections set forth in SAPA. Congestion Pricing establishes tolls, fees, exemptions, credits, hours of operation, peak hours, locations of tolling sites and funding mechanisms for purposes unrelated to vehicular transportation. This Program is being instituted simultaneously in every major vehicular crossing with access to the Central Business District, leaving no untaxed alternative for New Yorkers. A full and fair opportunity to have a judicially imposed determination of the legalities and equities of Congestion Pricing will serve the interests of all New Yorkers and reestablish the primacy of the rule of law. We therefore invite the USDOT to join *New Yorkers* in the pending litigation before the New York State Supreme Court to declare Congestion Pricing unlawful.

Sincerely,  
  
Jack L. Lester, Esq.  
Counsel for New Yorkers Against  
Congestion Pricing Tax