From: Matesic, Hannah (OST)
Sent: Wed, 16 Apr 2025 10:55:54 +0000
To: Brebbia, Sean (Commerce)
Cc: Fritz, Trish (OST)
Subject: Committee Questionnaire

Good morning Sean –

Wanted to check in on the status for the paperwork for some of our noms. Can you confirm if the following have received the Committee's questionnaire yet? If not, I've added their contact info if you wouldn't mind sharing it with them.

Freight and Intermodal Policy - Michel Rutherford - (b)(6)
FMSCA - Derek Barrs (b)(6)

Thank you so much!
Hannah

Hannah Matesic
Deputy Assistant Secretary for Congressional Affairs
U.S. Department of Transportation

From: Matesic, Hannah (OST)
Sent: Tue, 8 Apr 2025 23:22:18 +0000
To: Erdel (Hinman), Alyssa
Cc: Sizemore, Nathaniel (OST)
Subject: Conference

Alyssa - thanks so much for all of your help this morning! I know the Secretary was very happy with how the meeting went. Do you all have photos from today that you could share with us?

Thanks!
Hannah

From: Matesic, Hannah (OST)
Sent: Thu, 20 Mar 2025 20:50:51 +0000
To: Josephine_Eckert@appro.senate.gov
Subject: Cordon pricing post

Hi Jo - here's the post I mentioned. Will follow up with more details when I have them

https://x.com/secduffy/status/1902783361900331100?s=46

From: Matesic, Hannah (OST)
Sent: Wed, 19 Feb 2025 17:11:43 +0000
To: Caryn_Moore@epw.senate.gov; Mira.Lezell@mail.house.gov
Subject: Cordon Pricing
Attachments: Press Release - NYC Cordon Pricing Program .pdf, 1) Signed VPPP Termination Letter (2.19.25).pdf

Hi – so you have electronically as well. This letter will be sent at 12:30 to Gov Hochul. Attached is the letter and the press release.

Hannah Matesic
Deputy Assistant Secretary for Congressional Affairs
U.S. Department of Transportation

U.S. Department of Transportation
Office of Public Affairs
1200 New Jersey Avenue, SE
Washington, DC 20590
www.transportation.gov/newsroom

News

FOR IMMEDIATE RELEASE
Wednesday, February 19, 2025
Contact: pressoffice@dot.gov

U.S. Department of Transportation Terminates Tolling Approval for New York City's Cordon Pricing Program

WASHINGTON – The U.S. Department of Transportation's Federal Highway Administration today terminated approval of the pilot for New York's Central Business District Tolling Program (CBDTP). In a letter to New York Governor Kathy Hochul, the Department rescinded a November 21, 2024 agreement signed under the Value Pricing Pilot Program (VPPP) that effectively ends tolling authority for New York City's cordon pricing plan, which imposes tolls on drivers entering Manhattan below 60th Street.

"New York State's congestion pricing plan is a slap in the face to working class Americans and small business owners," said **U.S. Transportation Secretary Sean Duffy. "***Commuters using the highway system to enter New York City have already financed the construction and improvement of these highways through the payment of gas taxes and other taxes. But now the toll program leaves drivers without any free highway alternative, and instead, takes more money from working people to pay for a transit system and not highways. It's backwards and unfair. The program also hurts small businesses in New York that rely on customers from New Jersey and Connecticut. Finally, it impedes the flow of commerce into New York by increasing costs for trucks, which in turn could make goods more expensive for consumer. Every American should be able to access New York City regardless of their economic means. It shouldn't be reserved for an elite few."*

The construction of federal-aid highways as a toll-free highway system has long been fundamental to the Federal-aid highway program. Except for limited exceptions allowed by Congress, highways constructed with Federal-aid highway funds cannot be tolled. The construction of Federal-aid highways as a toll-free highway system has long been fundamental to the Federal-aid highway program. The VPPP is one of the exceptions to the general prohibition against tolling.

As detailed in the letter, the Secretary is terminating the pilot for two reasons. First, the scope of the CBDTP is unprecedented and provides no toll-free option for many drivers who want or need to travel by vehicle in this major urbanized area. Second, the toll rate was set primarily to raise revenue for transit, rather than at an amount needed to reduce congestion. By doing so, the pilot runs contrary to the purpose of the VPPP, which is to impose tolls for congestion reduction – not transit revenue generation.

The Federal Highway Administration will work with the project sponsors on an orderly termination of the tolls.

You can view a full copy of the letter here.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

February 19, 2025

The Honorable Kathy Hochul
Governor of New York
Albany, NY 12224

Dear Governor Hochul:

I am writing to you concerning the Federal Highway Administration's (FHWA) approval of the Central Business District (CBD) Tolling Program (CBDTP), which is a pilot project under the Value Pricing Pilot Program (VPPP). The FHWA implements VPPP on behalf of the Secretary of Transportation pursuant to a delegation of authority. On November 21, 2024, FHWA and the New York State Department of Transportation (NYSDOT) executed an agreement (November 21 Agreement) approving the CBDTP pilot project under VPPP. The VPPP is an exception to the general rule prohibiting tolling on highways. Congress approved the VPPP exception in 1991 as a pilot to test congestion reduction techniques. New York State is one of 15 States authorized to implement the program.

Pursuant to the November 21 Agreement, FHWA approved NYSDOT's implementation of CBDTP as a pilot project under VPPP. Under the pilot project, NYSDOT and its project sponsors, Triborough Bridge and Tunnel Authority (TBTA) and New York City Department of Transportation (NYCDOT), were authorized to implement a method of congestion pricing known as "cordon pricing," under which certain vehicles are charged tolls upon entry into Manhattan south of and inclusive of 60th Street. The imposition of tolls under the CBDTP pilot project by NYSDOT and its project sponsors became operational on January 5, 2025.

President Trump recently took office on January 20, 2025. I was nominated by the President to be the Secretary of Transportation, confirmed by the Senate on January 28, 2025, and sworn into office on January 29, 2025. Upon assuming my responsibilities, President Trump asked me to review FHWA's approval of CBDTP as a pilot project under VPPP. In particular, the President expressed his concerns about the extent of the tolling that was approved by the Department of Transportation on highways that have been constructed with funds under the Federal-aid Highway Program and the significant burdens on the New York City residents, businesses, and area commuters (including those from New Jersey and Connecticut) who regularly use the highway network in the CBD tolling area.

As Secretary of Transportation, I am aware of many concerns regarding the CBDTP pilot project. For example, in a January 20, 2025, letter to President Trump, which I reviewed, New Jersey Governor Murphy expressed significant concerns about the impacts that the imposition of tolls under the CBDTP pilot project is having on New Jersey commuters and residents. Also, in a January 20, 2025, letter to me, New Jersey Department of Transportation Commissioner O'Connor also expressed many concerns regarding the impacts of the CBDTP pilot project to New Jersey communities. Additionally, I have been made aware that legal challenges are pending regarding the project, which question whether the scope of the project exceeds the authority of VPPP.

I share the President's concerns about the impacts to working class Americans who now have an additional financial burden to account for in their daily lives. Users of the highway network within the CBD tolling area have already financed the construction and improvement of these highways through the payment of gas taxes and other taxes. The recent imposition of this CBDTP pilot project upon residents, businesses, and commuters left highway users without any free highway alternative on which to travel within the relevant area. Moreover, the revenues generated under this pilot program are directed toward the transit system as opposed to the highways. I do not believe that this is a fair deal.

In light of the President's concerns about the CBDTP pilot project, the legal challenges that have been made, as well as the concerns expressed by New Jersey Governor Murphy and New Jersey Commissioner O'Connor, I reviewed the tolling authority granted under VPPP to the CBDTP pilot project for compliance with Federal law. For the reasons explained below, I have concluded that the scope of this pilot project as approved exceeds the authority authorized by Congress under VPPP.

The construction of Federal-aid highways as a toll-free highway system has long been one of the most basic and fundamental tenets of the Federal-aid Highway Program. Ever since the enactment of the Federal-Aid Road Act of 1916, Congress has required that roads constructed with Federal-aid highway funds be free from tolls of all kinds, subject to limited exceptions. *See* Public Law 64-154, § 1, 39 Stat. 355 (1916). This general requirement was codified at 23 U.S.C. § 301 under Pub. L. No. 85-767, 72 Stat. 885 (1958), and remains the law today. Specifically, this statute currently reads as follows:

> Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

In 1991, Congress created a limited exception to the tolling prohibition for "congestion pricing pilot projects" implemented by States, local governments, or public authorities. Intermodal Surface Transportation Efficiency Act of 1991, § 1012(b), Pub. L. No. 102-240. Congress did not define "congestion pricing pilot project." Congress later amended the statute to replace "congesting pricing pilot projects" with "value pricing pilot programs," but it again did not define this term. Transportation Equity Act of the 21st Century, § 1216(a), Pub. L. No. 105-178 (1998). The long-standing history of the anti-tolling provision requires me to narrowly construe this exception.

I have concluded that CBDTP is not an eligible "value pricing pilot program," for two reasons.

First, CBDTP uses a method of tolling known as "cordon pricing," under which drivers who enter Manhattan south of 60th Street are charged tolls no matter what roads they use. Unlike other forms of tolling, the CBDTP's cordon pricing program provides no toll-free option for many drivers who want or need to travel by vehicle in this major urbanized area. Congress in a separate statutory provision has authorized cordon pricing on the *Interstate System* where drivers can choose a non-Interstate route. *See* 23 U.S.C. § 129(d)(4)(B), (6)(A). But no statute contemplates cordon pricing in a situation where tolls are inescapable, and FHWA has never before approved a VPPP program that uses cordon pricing or that does not provide a toll-free option. I have concluded that Congress did not, in using the vague phrase "value pricing pilot program," authorize the unprecedented and consequential step of cordon pricing. Indeed, the Town of Hempstead and its supervisor have sued FHWA, TBTA, and NYSDOT making this argument, and I believe that FHWA faces a significant risk of loss in that litigation. *See Town of Hempstead v. DOT*, No. 24-cv-3263 (E.D.N.Y.).

Second, the imposition of tolls under the CBDTP pilot project appears to be driven primarily by the need to raise revenue for the Metropolitan Transit Authority (MTA) system as opposed to the need to reduce congestion. I recognize that preliminary project data published by the MTA reports a congestion reduction benefit, but the toll rate that is set under VPPP should not be driven primarily by revenue targets, particularly revenue targets that have nothing to do with the highway infrastructure. While revenue generation is a necessary outcome of any congestion pricing scheme and specifically allowable under the VPPP statute, the primary consideration of the toll rates here is to raise revenue for an MTA capital program. This revenue target for MTA projects artificially drives the establishment of toll rates to the highway users rather than the price needed to reduce congestion. As a result, highway users of the Federal-aid highway network within the priced zone are burdened with a price that is set to raise certain amounts of revenue for MTA capital projects rather than a price that is necessary to have an impact on congestion. Even if improving the transit system may eventually affect roadway congestion, there is no indication that the tolls were set in order to achieve these attenuated effects. I have concluded that VPPP does not authorize tolls that are calculated based on considerations separate from reducing congestion or advancing other road-related goals.

Federal-aid infrastructure projects must be carried out in compliance with Federal law. Due to my conclusion that FHWA lacked statutory authority to approve the cordon pricing tolling under the CBDTP pilot project, I am rescinding FHWA's approval of the CBDTP pilot project under the November 21 Agreement and terminating the Agreement. I recognize that FHWA under the prior Administration concluded, when executing the November 21 Agreement, that the CBDTP was eligible for approval under VPPP, and that my determination represents a change in position.

FHWA, however, did not explain the basis for its conclusion, and nothing in the prior approval undermines the above analysis upon which my determination is based.

I recognize, moreover, that TBTA and NYSDOT have relied on the Agreement to begin collecting tolls under the program, but I have concluded that such reliance should not prevent the termination of the November 21 Agreement. While the TBTA and NYSDOT have incurred costs related to the program, many of those costs were incurred before FHWA signed the Agreement, and FHWA is not aware of any substantial costs associated with the physical stopping of the program. To be sure, the termination of the program may deprive the transit system of funding, but any reliance on that funding stream was not reasonable given that FHWA approved only a "pilot project." Finally, any reliance interests cannot overcome the conclusion that FHWA's approval was not authorized by law.

The FHWA will contact NYSDOT and its project sponsors to discuss the orderly cessation of toll operations under this terminated pilot project.

Sincerely,

Sean P. Duffy

CC: Marie Therese Dominquez, Esq. NYSDOT Commissioner
Catherine T. Sheridan, President of TBTA
Ydanis Rodriguez, NYCDOT Commissioner

From: Matesic, Hannah (OST)
Sent: Mon, 2 Jun 2025 20:08:21 +0000
To: Erdel (Hinman), Alyssa
Subject: DOT First 100 Days.pdf
Attachments: DOT First 100 Days.pdf

Hi friend! Sorry I got distracted this morning. Attached is a 4-pager of DOTs first 100 day accomplishments.

Let me know if you need anything else from me and feel free to kick around my contact info if anyone needs it. Sorry I was so late to respond to you! Good luck with flyin I know how much work it is and you always do great!

Hannah

FIRST 100 DAYS

DELIVERED BY PRESIDENT TRUMP AND SECRETARY DUFFY

U.S. Department of Transportation Secretary Sean P. Duffy's First 100 Days Accomplishments

Under the leadership of Secretary Duffy and President Trump, the U.S. Department of Transportation is ushering in the golden age of transportation. In just 100 days, the Department is delivering results at an unprecedented pace — moving at the speed of President Trump to serve the American people and build big, beautiful things once again.

"The Department of Transportation is focused on its core mission of safety and efficiency. Under this administration, America is building again -- forging a future with projects built to last. Our first 100 days have unleashed innovators that will bring about a golden age of travel."

- **U.S. Transportation Secretary Sean. P. Duffy**

Safety First

- In the days following the DCA crash, Secretary Duffy took immediate action to restrict helicopter traffic in the area around Ronald Reagan Washington National Airport (DCA) and reduce airway congestion.
  - Secretary Duffy made these plans permanent and helped ensure high-volume helicopter and airplane congestion remains reduced.
- Secretary Duffy launched two investigations into DEI hiring practices at FAA after it was reported an activist was leaking air traffic control exam answers.
- Secretary Duffy supercharged the hiring of air traffic controllers and streamline the process to prioritize the most qualified candidates into the FAA Academy first.

- Secretary Duffy demanded New York City and Washington, D.C. leaders to make Transit Safe Again and prioritize solutions to reduce crime in the cities' transportation systems.
    - This is part of a national campaign that will include more letters to other major urban cities.

Back to Basics

- Secretary Duffy took on the process of starting to clear the unprecedented 3,200 grants backlog left behind by the Biden Administration.
    - The Department has since announced numerous new grants that will fund critical projects to repair bridges, improve roadway safety, and upgrade outdated infrastructure.
- Secretary Duffy ordered the Department to review federal grants, focusing on real infrastructure and safety, and repealing the radical Biden-era policies on DEI and Climate Change.
- Secretary Duffy directed the Secretarial Officers and Heads of Operating Administrations to identify and eliminate all Biden-era programs, activities, rules, and orders that promote climate change activism, DEI initiatives, racial equity, gender identity policies, environmental justice, and other partisan objectives.
- The Secretary signed an order ensuring that all USDOT policies, grants, loans, and actions are based on sound principles, positive cost-benefit analyses, and pro-economic growth priorities.
- Secretary Duffy ended wasteful social justice and environmental mandates for critical infrastructure projects.
- Secretary Duffy sent a stark reminder to all the states who received USDOT federal transportation funding that they must comply with federal laws and the President's Executive Orders.
- Secretary Duffy invested in our border security with a $150 million federal grant to construct a new road inspection Port of Entry facility in Otay Mesa.
- Secretary Duffy removed DEI and environmental justice requirements for the Safe Streets program that stood in the way of getting money out to reduce road fatalities and make our roads safe again.

Save Taxpayer Dollars & Lower Costs

- Secretary Duffy's cost-cutting efforts have saved taxpayers a total of $9.5 billion.
- Within the first few hours of being sworn in, Secretary Duffy took swift action to reset Corporate Average Fuel Economy (CAFE) standards, which will lower the price of a car for American consumers.
- Secretary Duffy launched an investigation into California's Train to nowhere which has cost taxpayers billions of dollars and has tripled in the expected completion timeframe and will determine whether the project will continue to receive billions in federal funding.
- Secretary Duffy is fighting for workers who commute or ride into NYC by terminating the city's shameful Cordon Pricing program.
- Secretary Duffy ordered the Federal Railroad Administration (FRA) to withdraw the Metropolitan Transportation Authority (MTA) from leading the Penn Station Reconstruction project in New York City, saving taxpayers at least $120 million.
- Secretary Duffy announced that the FRA and Amtrak have agreed to a revised scope for a planned rehabilitation of the Dock Bridge over the Passaic River in New Jersey, which in turn saves taxpayers roughly $140 million.
- Secretary Sean Duffy terminated the $63.9 million grant awarded to fund the Amtrak Texas High-Speed Rail Corridor project, saving taxpayers between an additional $10-20 billion.

Slash Red Tape

- Secretary Duffy's first rulemaking decision was to eliminate the burdensome Biden-era rule that unfairly forced state transportation departments to lower greenhouse gas emissions even if it made no sense and was unlawful.
- Secretary Duffy expedited the process and reduced the cost to repair the damage caused to I-40 following Hurricane Helene by as much as two-thirds of the original Biden-era estimate.
- Secretary Duffy eliminated the mandate to consider the social cost of carbon in agency decisions.
- USDOT continues to lead regulatory reform through a variety of deregulatory initiatives with a specific task force designed to carry out the president's orders for aggressive deregulation.

Unleash American Innovation

- Secretary Duffy has committed to creating an all-new, state-of-the-art air traffic control system and inviting the best and brightest minds to help the Department in accomplishing that goal.
- Secretary Duffy unveiled a new Automated Vehicle (AV) Framework which will unleash American ingenuity, maintain key safety standards, and prevent a harmful patchwork of state laws and regulations.
- Secretary Sean Duffy selected Texas A&M University System (TAMUS) as the managing entity to establish and operate the FAA's Center for Advanced Aviation Technologies (CAAT) and cultivate a new wave of drone technology and research.
- Secretary Duffy announced that the FAA will deploy a new Notice to Airmen (NOTAM) much earlier than originally planned by using a streamlined, innovative vendor challenge to cut through red tape to get this critical work done as fast as possible.

Restore Maritime Dominance

- President Trump recently issued an historic executive order for the United States's shipbuilding capabilities to remain competitive on the world stage and the department, primarily through the Maritime Administration, has been proud to take the lead on this initiative.
- Secretary Duffy is investing in the next generation of strong mariners by prioritizing efforts to revitalize the U.S. Merchant Marine Academy (USMMA).
- Under Secretary Duffy's leadership, the U.S. Army Corps of Engineers (USACE) New York District and the U.S. Merchant Marine Academy (USMMA) entered into a long-term agreement for the revitalization and modernization of USMMA's campus.

Unleash American Energy

- Secretary Duffy approved the use of a deepwater port in Texas that the Biden Administration sat on for years. This project will substantially increase our energy revenue and allow America to dominate the global energy market.
- Secretary Duffy enhanced pipeline safety by promoting adoption of safety management systems to ensure our natural resources can efficiently and securely reach consumers.
- Secretary Duffy is modernizing siting requirements and safety standards for liquefied natural gas (LNG) facilities.

From: Matesic, Hannah (OST)
Sent: Wed, 7 May 2025 18:57:11 +0000
To: Clarke, Mike (Appropriations)
Subject: Draft Run of Show

Hey Mike – thanks for taking my call. Below is a draft run of show for tomorrow, will note subject to change. We've invited both House and Senate Approps / Authorizing Chairs and Rankers to Participate. Any Member that is in attendance is invited to speak and give brief remarks (preferably no more than a minute).

Let me know what else you need from me.

1:30 pm Secretary Duffy
1:45 pm FAA Acting Administrator Chris Rocheleau
1:50 pm AA 5342 Families & Robert Isom
1:55 pm Elected Officials
2:05 pm A4A
2:10 pm Airline CEOs
2:20 pm Labor Unions
2:25 pm Aviation Associations
2:35 pm Event Concludes

Hannah Matesic
Deputy Assistant Secretary for Congressional Affairs
U.S. Department of Transportation

From: Matesic, Hannah (OST)
Sent: Wed, 19 Feb 2025 17:13:54 +0000
To: Matesic, Hannah (OST)
Cc: Priebe, Jack (OST)
Bcc: allison.murphy1@mail.house.gov; mary.mcdnoonan@mail.house.gov; dan.scharfenberger@mail.house.gov; nicole.rapanos@mail.house.gov; deena.tauster@mail.house.gov; taylor.weyeneth@mail.house.gov; Grace, Andrea; jessica.proud@mail.house.gov; spencer.carr@mail.house.gov; patrick.hester@mail.house.gov
Subject: EMBARGOED: U.S. Department of Transportation Terminates Tolling Approval for New York City's Cordon Pricing Program
Attachments: Press Release - NYC Cordon Pricing Program .pdf, 1) Signed VPPP Termination Letter (2.19.25).pdf

EMBARGOED:

Good afternoon – Attached please find press release and letter Secretary Duffy will be sending to Governor Kathy Hochul terminating the approval of the pilot for New York's Central Business District Tolling Program.

Please reach out if you have any questions.

Please note materials are under strict embargo until 12:30 p.m.

Hannah Matesic
Deputy Assistant Secretary for Congressional Affairs
U.S. Department of Transportation

U.S. Department of Transportation
Office of Public Affairs
1200 New Jersey Avenue, SE
Washington, DC 20590
www.transportation.gov/newsroom

News

FOR IMMEDIATE RELEASE
Wednesday, February 19, 2025
Contact: pressoffice@dot.gov

U.S. Department of Transportation Terminates Tolling Approval for New York City's Cordon Pricing Program

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"New York State's congestion pricing plan is a slap in the face to working class Americans and small business owners," said **U.S. Transportation Secretary Sean Duffy. "***Commuters using the highway system to enter New York City have already financed the construction and improvement of these highways through the payment of gas taxes and other taxes. But now the toll program leaves drivers without any free highway alternative, and instead, takes more money from working people to pay for a transit system and not highways. It's backwards and unfair. The program also hurts small businesses in New York that rely on customers from New Jersey and Connecticut. Finally, it impedes the flow of commerce into New York by increasing costs for trucks, which in turn could make goods more expensive for consumer. Every American should be able to access New York City regardless of their economic means. It shouldn't be reserved for an elite few."*

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As detailed in the letter, the Secretary is terminating the pilot for two reasons. First, the scope of the CBDTP is unprecedented and provides no toll-free option for many drivers who want or need to travel by vehicle in this major urbanized area. Second, the toll rate was set primarily to raise revenue for transit, rather than at an amount needed to reduce congestion. By doing so, the pilot runs contrary to the purpose of the VPPP, which is to impose tolls for congestion reduction – not transit revenue generation.

The Federal Highway Administration will work with the project sponsors on an orderly termination of the tolls.

You can view a full copy of the letter here.

THE SECRETARY OF TRANSPORTATION
WASHINGTON, DC 20590

February 19, 2025

The Honorable Kathy Hochul
Governor of New York
Albany, NY 12224

Dear Governor Hochul:

I am writing to you concerning the Federal Highway Administration's (FHWA) approval of the Central Business District (CBD) Tolling Program (CBDTP), which is a pilot project under the Value Pricing Pilot Program (VPPP). The FHWA implements VPPP on behalf of the Secretary of Transportation pursuant to a delegation of authority. On November 21, 2024, FHWA and the New York State Department of Transportation (NYSDOT) executed an agreement (November 21 Agreement) approving the CBDTP pilot project under VPPP. The VPPP is an exception to the general rule prohibiting tolling on highways. Congress approved the VPPP exception in 1991 as a pilot to test congestion reduction techniques. New York State is one of 15 States authorized to implement the program.

Pursuant to the November 21 Agreement, FHWA approved NYSDOT's implementation of CBDTP as a pilot project under VPPP. Under the pilot project, NYSDOT and its project sponsors, Triborough Bridge and Tunnel Authority (TBTA) and New York City Department of Transportation (NYCDOT), were authorized to implement a method of congestion pricing known as "cordon pricing," under which certain vehicles are charged tolls upon entry into Manhattan south of and inclusive of 60th Street. The imposition of tolls under the CBDTP pilot project by NYSDOT and its project sponsors became operational on January 5, 2025.

President Trump recently took office on January 20, 2025. I was nominated by the President to be the Secretary of Transportation, confirmed by the Senate on January 28, 2025, and sworn into office on January 29, 2025. Upon assuming my responsibilities, President Trump asked me to review FHWA's approval of CBDTP as a pilot project under VPPP. In particular, the President expressed his concerns about the extent of the tolling that was approved by the Department of Transportation on highways that have been constructed with funds under the Federal-aid Highway Program and the significant burdens on the New York City residents, businesses, and area commuters (including those from New Jersey and Connecticut) who regularly use the highway network in the CBD tolling area.

As Secretary of Transportation, I am aware of many concerns regarding the CBDTP pilot project. For example, in a January 20, 2025, letter to President Trump, which I reviewed, New Jersey Governor Murphy expressed significant concerns about the impacts that the imposition of tolls under the CBDTP pilot project is having on New Jersey commuters and residents. Also, in a January 20, 2025, letter to me, New Jersey Department of Transportation Commissioner O'Connor also expressed many concerns regarding the impacts of the CBDTP pilot project to New Jersey communities. Additionally, I have been made aware that legal challenges are pending regarding the project, which question whether the scope of the project exceeds the authority of VPPP.

I share the President's concerns about the impacts to working class Americans who now have an additional financial burden to account for in their daily lives. Users of the highway network within the CBD tolling area have already financed the construction and improvement of these highways through the payment of gas taxes and other taxes. The recent imposition of this CBDTP pilot project upon residents, businesses, and commuters left highway users without any free highway alternative on which to travel within the relevant area. Moreover, the revenues generated under this pilot program are directed toward the transit system as opposed to the highways. I do not believe that this is a fair deal.

In light of the President's concerns about the CBDTP pilot project, the legal challenges that have been made, as well as the concerns expressed by New Jersey Governor Murphy and New Jersey Commissioner O'Connor, I reviewed the tolling authority granted under VPPP to the CBDTP pilot project for compliance with Federal law. For the reasons explained below, I have concluded that the scope of this pilot project as approved exceeds the authority authorized by Congress under VPPP.

The construction of Federal-aid highways as a toll-free highway system has long been one of the most basic and fundamental tenets of the Federal-aid Highway Program. Ever since the enactment of the Federal-Aid Road Act of 1916, Congress has required that roads constructed with Federal-aid highway funds be free from tolls of all kinds, subject to limited exceptions. *See* Public Law 64-154, § 1, 39 Stat. 355 (1916). This general requirement was codified at 23 U.S.C. § 301 under Pub. L. No. 85-767, 72 Stat. 885 (1958), and remains the law today. Specifically, this statute currently reads as follows:

> Except as provided in section 129 of this title with respect to certain toll bridges and toll tunnels, all highways constructed under the provisions of this title shall be free from tolls of all kinds.

In 1991, Congress created a limited exception to the tolling prohibition for "congestion pricing pilot projects" implemented by States, local governments, or public authorities. Intermodal Surface Transportation Efficiency Act of 1991, § 1012(b), Pub. L. No. 102-240. Congress did not define "congestion pricing pilot project." Congress later amended the statute to replace "congesting pricing pilot projects" with "value pricing pilot programs," but it again did not define this term. Transportation Equity Act of the 21st Century, § 1216(a), Pub. L. No. 105-178 (1998). The long-standing history of the anti-tolling provision requires me to narrowly construe this exception.

I have concluded that CBDTP is not an eligible "value pricing pilot program," for two reasons.

First, CBDTP uses a method of tolling known as "cordon pricing," under which drivers who enter Manhattan south of 60th Street are charged tolls no matter what roads they use. Unlike other forms of tolling, the CBDTP's cordon pricing program provides no toll-free option for many drivers who want or need to travel by vehicle in this major urbanized area. Congress in a separate statutory provision has authorized cordon pricing on the *Interstate System* where drivers can choose a non-Interstate route. *See* 23 U.S.C. § 129(d)(4)(B), (6)(A). But no statute contemplates cordon pricing in a situation where tolls are inescapable, and FHWA has never before approved a VPPP program that uses cordon pricing or that does not provide a toll-free option. I have concluded that Congress did not, in using the vague phrase "value pricing pilot program," authorize the unprecedented and consequential step of cordon pricing. Indeed, the Town of Hempstead and its supervisor have sued FHWA, TBTA, and NYSDOT making this argument, and I believe that FHWA faces a significant risk of loss in that litigation. *See Town of Hempstead v. DOT*, No. 24-cv-3263 (E.D.N.Y.).

Second, the imposition of tolls under the CBDTP pilot project appears to be driven primarily by the need to raise revenue for the Metropolitan Transit Authority (MTA) system as opposed to the need to reduce congestion. I recognize that preliminary project data published by the MTA reports a congestion reduction benefit, but the toll rate that is set under VPPP should not be driven primarily by revenue targets, particularly revenue targets that have nothing to do with the highway infrastructure. While revenue generation is a necessary outcome of any congestion pricing scheme and specifically allowable under the VPPP statute, the primary consideration of the toll rates here is to raise revenue for an MTA capital program. This revenue target for MTA projects artificially drives the establishment of toll rates to the highway users rather than the price needed to reduce congestion. As a result, highway users of the Federal-aid highway network within the priced zone are burdened with a price that is set to raise certain amounts of revenue for MTA capital projects rather than a price that is necessary to have an impact on congestion. Even if improving the transit system may eventually affect roadway congestion, there is no indication that the tolls were set in order to achieve these attenuated effects. I have concluded that VPPP does not authorize tolls that are calculated based on considerations separate from reducing congestion or advancing other road-related goals.

Federal-aid infrastructure projects must be carried out in compliance with Federal law. Due to my conclusion that FHWA lacked statutory authority to approve the cordon pricing tolling under the CBDTP pilot project, I am rescinding FHWA's approval of the CBDTP pilot project under the November 21 Agreement and terminating the Agreement. I recognize that FHWA under the prior Administration concluded, when executing the November 21 Agreement, that the CBDTP was eligible for approval under VPPP, and that my determination represents a change in position.

FHWA, however, did not explain the basis for its conclusion, and nothing in the prior approval undermines the above analysis upon which my determination is based.

I recognize, moreover, that TBTA and NYSDOT have relied on the Agreement to begin collecting tolls under the program, but I have concluded that such reliance should not prevent the termination of the November 21 Agreement. While the TBTA and NYSDOT have incurred costs related to the program, many of those costs were incurred before FHWA signed the Agreement, and FHWA is not aware of any substantial costs associated with the physical stopping of the program. To be sure, the termination of the program may deprive the transit system of funding, but any reliance on that funding stream was not reasonable given that FHWA approved only a "pilot project." Finally, any reliance interests cannot overcome the conclusion that FHWA's approval was not authorized by law.

The FHWA will contact NYSDOT and its project sponsors to discuss the orderly cessation of toll operations under this terminated pilot project.

Sincerely,

Sean P. Duffy

CC: Marie Therese Dominquez, Esq. NYSDOT Commissioner
Catherine T. Sheridan, President of TBTA
Ydanis Rodriguez, NYCDOT Commissioner