

Pursuant to Federal Rules of Civil Procedure 56, 57, and 65, the Administrative Procedure Act, 5 U.S.C. § 706, and the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, Intervenor-Plaintiff the New York State Department of Transportation (“State DOT”) respectfully submits this memorandum of law in support of its motion for partial summary judgment.

The Court should grant State DOT’s motion as to its claims that the action by defendant Sean Duffy, in his official capacity as Secretary of the United States Department of Transportation, to terminate the November 21, 2024 agreement between the Triborough Bridge and Tunnel Authority, the New York City Department of Transportation, and State DOT (the “Project Sponsors”) and Defendant Federal Highway Administration (the “VPPP Agreement”), was in violation of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.* (Counts I-IV of the Consolidated Second Amended Complaint [ECF No. 96]), and *ultra vires* (Count VII). Further, the Court should vacate Secretary Duffy’s action purporting to terminate the VPPP Agreement and rescind federal approval for the Central Business District Tolling Program, and any other action by Defendants taken on the basis thereof. The Court should also issue permanent injunctive relief and/or a declaratory judgment holding unlawful the VPPP Agreement termination and prohibiting any future termination other than in the event of a breach by the Project Sponsors.

In support of its motion and the relief it seeks, State DOT incorporates by reference the Memorandum of Law in Support of Motion for Partial Summary

Judgment by Plaintiffs the Metropolitan Transportation Authority and the Triborough Bridge and Tunnel Authority and Intervenor-Plaintiff the New York City Department of Transportation, and any and all documents annexed thereto.

Dated: New York, New York
June 27, 2025

Respectfully submitted,

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