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March 10, 2016

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The Honorable Darrell L. Clarke, President
Philadelphia City Council
City Hall, Room 494
Philadelphia, PA 19107

Dear Council President Clarke:

I am writing in response to your recent correspondence regarding the Southeastern Pennsylvania Transportation Authority's (SEPTA) current procurement of new bi-level Regional Rail railcars. I appreciate your continued interest in this critical investment and the opportunity to update you on SEPTA's procurement activities.

SEPTA shares your commitment to investing in the people and businesses that make Philadelphia strong. Each of SEPTA's more than 1.1 million daily passenger trips – whether to work, school, medical appointments or recreation – contributes to the region's economy and livability. SEPTA understands, too, that its responsibility to improve the quality of life for our customers and the communities we serve extends beyond ridership.

In 2013, the Economy League of Greater Philadelphia analyzed the impact of SEPTA's capital investment and operations on the regional economy. Among its conclusions, the Economy League found that SEPTA supports more than 26,000 jobs and \$3 billion in economic output, impacts that have grown significantly as capital spending has increased since the passage of Act 89. Much of SEPTA's economic output directly supports Pennsylvania businesses, particularly in southeastern Pennsylvania.

SEPTA relies on businesses and skilled workers throughout the region and state to supply materials and services that ensure safe and dependable service for our growing ridership. One example is the Hyundai-Rotem facility in South Philadelphia. I am pleased to let you know that at the February 25, 2016 meeting of the SEPTA Board, the Board executed a \$6.3 million contract for Hyundai-Rotem to overhaul 11 railcars at their facility on Weccacoe Ave. This brings to 33 the number of railcar overhauls SEPTA has awarded to Hyundai-Rotem, which has extended SEPTA's contractual relationship with them for two years beyond the delivery of the Silverliner V railcars, sustaining a manufacturing presence there.

For construction projects and vehicle acquisitions, the taxpayers of Pennsylvania and our customers have been well-served by a full and open procurement process that awards contracts to the lowest responsible bidder. It is that practice that led to the awarding of the Silverliner V railcars to Hyundai-Rotem, and their subsequent decision to locate an assembly facility in South Philadelphia. The Authority began the current procurement of 45 bi-level railcars dedicated to that same principle and committed to that same process.

General Manager
Jeffrey D. Knueppel, P.E.

Because there are so few transit rolling stock manufacturers with a presence in the United States, SEPTA is careful to structure its rolling stock procurements in a way that maximizes the number of bids, and encourages competitive pricing. When the United States Department of Transportation last March announced a one-year, experimental Local Hiring Pilot Program, they did so while ensuring that local preferences do not “unduly limit competition.”

At the time, SEPTA did not view its current purchase of the 45 bi-level railcars as a suitable application of the Local Hiring Pilot Program. The American Public Transportation Association (APTA) had warned that the Pilot Program, if applied to rolling stock, could result in net job losses and increased prices, straining an already fragile market. In addition, the Federal Transit Administration’s (FTA) Frequently Asked Questions on the program cautions applicants “that in reviewing proposed contract specifications it must ensure that there is still sufficient competition, including that the proposed specifications are not so restrictive as to be considered exclusionary or discriminatory.” Even without local hiring constraints, only three firms, including Hyundai-Rotem, have expressed interest in SEPTA’s Request for Proposals (RFP) – highlighting how narrow the field of competition is for railcar procurements, particularly one as small as SEPTA’s.

SEPTA weighed the uncertainty of approval under a new pilot program with minimal guidance – and the certainty of procurement delays – against a proven, open procurement process that has been reviewed and acknowledged by FTA. When SEPTA initiated its bi-level railcar RFP, only one transit agency, Los Angeles County Metropolitan Transportation Authority (LACMTA), had submitted an application to participate in the FTA Pilot Program. The Los Angeles application, which did include a rolling stock component, was submitted to the FTA in April 2015 and was not approved until October 2015. A similar delay for SEPTA’s procurement would severely impact SEPTA’s plan to have the new railcars in service beginning in 2019.

In response to your correspondence and City Council Resolution 150599, SEPTA continued to evaluate the use of the Pilot Program for railcar procurements. Guided by feedback the Authority has received, it appears SEPTA would necessarily “unduly limit competition” by including mandatory local hiring preferences in its RFP. In approving LACMTA’s Pilot Program application, the FTA would not approve mandatory local employment preferences that credit existing jobs as part of their bid evaluation criteria because there is only one railcar manufacturer in Los Angeles County. FTA found that this scenario would place manufacturers that do not have a facility in the designated geographic area at a competitive disadvantage. FTA also required LACMTA to expand the geographic area in the RFP to the entire state of California.

The Pilot Program has expired, and SEPTA has not received an indication from the U. S. Department of Transportation whether it will continue the Pilot beyond the first year. Additionally, the FY 2016 Federal Omnibus Appropriations Bill (Public Law 114-113) included language requiring new conditions prior to developing geographic, economic or any other hiring preference criteria. Under the new law, grant recipients must ensure that existing employees are not displaced in order to satisfy “new hire” preferences and that the use of hiring preferences does not delay a transportation project on the Transportation Improvement Program (TIP).

Faced with contracting delays and diminished competition, SEPTA has opted to continue the procurement of the 45 bi-level railcars under its well-established and federally approved process. Final bid packages are due to SEPTA by April 5, 2016.

I am grateful for your continued interest in SEPTA and our infrastructure and vehicle renewal activities. SEPTA is Rebuilding the System for the Future, and we look forward to that investment continuing to pay great dividends for the city and region.

Sincerely,



Pasquale T. Deon, Sr.
Chairman

cc: The Honorable Mark F. Squilla, Councilman, First District
The Honorable Kenyatta Johnson, Councilman, Second District
The Honorable Jannie Blackwell, Councilwoman, Third District
The Honorable Curtis J. Jones, Jr., Councilman, Fourth District
The Honorable Bobby Henon, Councilman, Sixth District
The Honorable Maria Quiñones-Sánchez, Councilwoman, Seventh District
The Honorable Cindy Bass, Councilwoman, Eighth District
The Honorable Cherelle L. Parker, Councilwoman, Ninth District
The Honorable Brian J. O'Neill, Councilman, Tenth District
The Honorable Allan Domb, Councilman-At-Large
The Honorable Derek Green, Councilman-At-Large
The Honorable William K. Greenlee, Councilman-At-Large
The Honorable Helen Gym, Councilwoman-At-Large
The Honorable David Oh, Councilman-At-Large
The Honorable Blondell Reynolds Brown, Councilwoman-At-Large
The Honorable Al Taubenberger, Councilman-At-Large
SEPTA Board Members
Jeffrey D. Knueppel, General Manager