Slide 1

Today’s presentation will give you a brief update on the status of the I-81 Viaduct Project and an overview of New York State’s general process for acquiring real estate in connection with a transportation project.

We’re holding these meetings in City neighborhoods that may be affected by the Project so that everyone understands the process we must follow.

We will take your questions at the end of the presentation.
The I-81 Viaduct Project is about far more than transportation. The Viaduct, like so much of our infrastructure in the Northeast, is aging and fails to meet today's design and safety standards. This provides us an opportunity to take a fresh look at our transportation needs and find an alternative that can also support and integrate livability, sustainability, and economic vitality.

The construction of a project of this size and scope needs to be carefully and thoughtfully planned and a number of State and Federal laws need to be followed throughout the design and construction phases of the project.

Multiple State and Federal agencies are involved, including the Federal Highway Administration (FHWA), the Environmental Protection Agency, the Department of Environmental Conservation, the State Historic Preservation Office and the Army Corps of Engineers to name a few.
Before any decision is made on which alternative is selected, NYSDOT and FHWA have to comply with the Federal National Environmental Policy Review Act (NEPA) and the State Environmental Quality Review Act (SEQR).

This environmental review process assists us in making an informed decision. It helps us identify reasonable project alternatives, study their potential impacts and solicit input from the local community.

Since last spring, we have been engaged with FHWA in the process of preparing a Draft Environmental Impact Statement (DEIS), which will provide a high level of engineering studies and identify practical alternatives.

We will continue to seek public comment throughout the entire process.

We anticipate having a complete DEIS by the end of this year.
The Project Alternatives that NYSDOT is considering are:

**No Build** – This is required as a baseline to compare other alternatives. It would provide for continued maintenance and repair for as long as the Viaduct could practically function.

The **Viaduct Alternative** – This alternative would rebuild the elevated portion of the highway to meet current Federal highway standards, which would require its footprint to be larger.

The **Community Grid Alternative** – This alternative design would route I-81 through traffic using I-481 and create another exit directly into the City where drivers can use City streets. It would establish connections to I-690, which would also link to I-81.

A **Tunnel Alternative** – This alternative design would take traffic under the City. Its footprint would be adjacent to and above the tunnel.
We’re still at a relatively early stage in the Environmental Review Process.

These viable alternatives, which were identified in the Scoping Report, are being refined and vetted so that practical alternatives can be presented in the Draft Environmental Impact Statement for public review and comment.

We will take all of those comments into consideration in identifying the preferred alternative, which will be submitted to federal highway for approval.
In developing project ideas, we are working to minimize impacts on local properties. In some cases, DOT may need to acquire some or all of a parcel and there is an established method for doing this.

That is what I’ll talk about now.

As we’ve seen, the project is still at an early stage and there are far too many variables to lock into a set timetable.

No decisions can be made on acquiring property rights until the entire environmental review process and the final design of the Preferred Alternative are completed.

We always strive to avoid property takings or, in the alternative, minimize or mitigate them.

We do know that the earliest any property would need to be acquired is approximately two years from now.
As with the detailed process involved in the environmental review, the State’s Property Acquisition Process is very thorough and prescribed.

In the event property does need to be acquired, this is the process NYSDOT must follow.

There are several types of property acquisitions:
Temporary use during construction
Permanent easement
Partial acquisition; a “strip”
Full acquisition; “fee title”

Once it is determined that we would need to acquire some property rights, DOT must prepare a preliminary map showing the property, including all of the proposed improvements and what portion of the property would need to be acquired.

The map lists the property owner and provides details specific on the extent of the right of way needed.
A representative from DOT’s Right of Way (ROW) Office would then contact the property owner, share the map and describe the acquisition process.

A site visit is then scheduled with the property owner to get a visual overview.

At the same time, our legal team will search County records to confirm ownership and identify any other parties who may have an interest, such as mortgages, judgments, liens or taxes.
The next step would be an appraisal by New York State employees or consultants who have been trained and have years of experience in evaluating real estate to establish the worth of the property.

Property owners bear no cost for the appraisal nor for preparation of documents necessary for payment of the claim. However, this does not include fees for those who may wish to retain their own legal counsel.

This appraisal establishes a **Fair Market Value** for the property rights being acquired.

It reflects what the property would sell for in current market conditions.

This value is determined by looking at comparable sales, income and cost data, existing land uses, codes and zoning, as well as population trends and market data.

All property owners are entitled to be paid Fair Market Value as of the date the State acquires the property.
In New York State a settlement is arranged through a “single offer” system. Under this process, the amount offered by our Right of Way representative is the full amount of DOT’s approved appraisal.

If a property owner believes there are aspects of their real estate that merit reconsideration, this information and supporting evidence should be provided at the earliest opportunity so that it can be reviewed with this new data. The results of this review are then shared with the owner.

If DOT and the property owner or representative cannot arrive at an agreement in full settlement, a claim may be filed in the New York State Court of Claims.

There is a time limitation for the filing but property owners have at least **three years** from the date they are personally notified that the State has acquired their property.

Subsequently the Court would conduct a trial to adjudicate the claim. Both the State and the property owner would then be required to submit appraisals to the Court.
In the event of a disagreement over the settlement, property owners may still receive the full amount of New York State's approved appraisal while reserving their right to have their claim heard in court.

Acceptance of this payment does not prejudice the owner’s case, but it is considered the legal equivalent of a payment and allows a state contractor to enter the property for construction.

If a full settlement or advance payment are not accepted, New York State may request the State Comptroller to deposit the amount offered in an interest-bearing account until the agreement is signed or the property owner is paid through a distribution proceeding.

A distribution proceeding is a rarely-used procedure that permits the Court of Claims to distribute the amount of New York’s State’s offer and accumulated interest to all parties certified as having a property interest.
The goal of this entire process is to make property owners whole, and DOT works very closely with them to ensure the process runs smoothly.

DOT’s Right of Way professionals work with property owners to identify what costs can be reimbursed and what obligations may be paid from the settlement amount.

For example, property owners may be reimbursed for pro-rated property or school taxes that have already been paid.

The State strives to pay property owners as rapidly as possible once an agreement is signed and before contractors need to enter the property. On some occasions title difficulties can delay payment.

The sooner a settlement is reached and all necessary documents are prepared, the sooner the transaction can be processed and full payment made.

Protection is provided to the property owner through review and approval of all settlements by both the Attorney General and the State Comptroller.
Property owners accrue legal interest from the date New York State enters the property for construction purposes or the date on which the property is legally acquired through the filing of a map in the County Clerk’s office – whichever is earlier.

The interest will accrue under certain conditions until the date of payment, whether settled in full by agreement or taken to the Court of Claims for adjudication.
All occupants who are displaced receive significant assistance in finding comparable replacement properties.

Depending on the circumstances, property owners also may be eligible for a supplemental housing payment or financial relocation assistance.

Homeowners are not required to move until there is comparable housing available. However, they would have to purchase and occupy their new home within one year.

Once a replacement home is found, the State offers the difference between the property the State acquired and the value of a comparable new home.

Assistance can also be provided in paying eligible closing costs, such as attorney fees, recording fees or title searches.
Tenants who live in an affected residence for more than 90 days may be eligible for a Supplemental Housing Payment to assist in their move.

Renters are not asked to move until there is comparable housing available. For those who want to continue to rent, NYSDOT can assist in finding this housing.

The state can also assist by paying the difference between the old monthly rent and a comparable monthly rent for 42 months. There is also a calculation if utilities are included.

For those who receive public assistance, NYSDOT will coordinate with available public assistance programs for housing needs.

For renters who want to buy, this assistance can be used as a down payment. Property must be purchased and occupied within one year.
In addition to all of the payments we have discussed, some may be eligible for Relocation Assistance.

This is true for commercial and residential owners and tenants as well.

Residential owners and tenants may be paid actual moving costs or may apply for payment under a fixed schedule based on the size or number of rooms in the acquired dwelling.

Commercial occupants also can apply for actual moving costs and moving and eligible re-establishment expenses, or for those who experience problems with becoming re-established, a payment of a separately computed allowance “in lieu of” moving expenses can be obtained.

If a residential owner is required to refinance an existing mortgage, they will receive a payment sufficient to compensate for the difference between the interest rate they currently pay and the prevailing interest rate of New York State lending institutions.

This amount is calculated based on the amount of the balance and years left on the mortgage at the time of acquisition.

In conclusion, there are a lot of decisions yet to be made about the I-81 Project and there will be many opportunities for public comment.

We always seek to minimize property impacts; but if property does need to be acquired, DOT will work with the community to provide guidance and assistance.
For more information, we have handouts which go into more detail on the Acquisition process.

And please go the website at [www.i81opportunities.org](http://www.i81opportunities.org)

Or email, telephone, mail or even stop by at the Information Center on Montgomery Street (the Old Carnegie Library) on Tuesdays and Thursdays from 11:00 a.m. to 2 p.m.