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Testimony to the New York State Senate on the Pennsylvania Station Area Civic and Land Use Improvement Project

Submitted to the Senate Standing Committee on Corporations, Authorities and Commissions and the Senate Standing Committee on Finance

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Thank you for the opportunity to testify on the Pennsylvania Station Area Civic and Land Use Improvement Project (Penn Station Area plan). I am Sean Campion, Director of Housing and Economic Development Studies at the Citizens Budget Commission (CBC), a nonpartisan, nonprofit think tank and watchdog devoted to constructive change in the finances, services, and policies of New York City and New York State.

As proposed by Empire State Development (ESD), the Penn Station Area General Project Plan (GPP) would rezone several blocks immediately surrounding Penn Station to catalyze office and residential development and support the construction of new public open space and related transit improvements. The State, through ESD, would then capture revenue generated by that private development, including both one-time payments and recurring payments in lieu of property taxes (PILOTs), to finance public realm improvements, the renovation of Penn Station, and an expansion of the station to increase transit capacity.

New development catalyzed by the GPP and the associated transit projects would contribute to New York's long-term competitiveness, sustainability, and well-being. New York City is the engine that powers the regional economy, and there is no location more appropriate for commercial development than the area around Penn Station, the nation's busiest rail station. Likewise, improving rail service at Penn Station would enhance mobility, access to jobs, and quality of life for commuters and New York City residents alike and contribute to economic activity. The availability of federal funding and the opening of East Side Access also make it an opportune time to start needed renovations to Penn Station.

To ensure the project has the maximum and most cost-effective impact, the plan should be designed and executed well, should be based on appropriate decision making input and authority, and should appropriately leverage City, State, federal, and private resources.

In December 2021, CBC testified that "[t]he GPP's value capture proposal raises several questions, including why this financing approach is the most appropriate option for this project, what is the impact of diverting property revenue from the City, and what will be the City's role in forming and agreeing to the plan." We said that additional information on the following five questions should be provided before proceeding with the GPP:

1. What is the scope of capital improvements at Penn Station and the cost of each phase?

2. How much of the renovation or expansion of Penn Station would New York State fund, and what portion of that would be funded through value capture?

3. How would the State's financing plan work?

4. What is the decision-making role of the City, and what are the project's revenue impacts on the City?

5. Is diverting property tax revenue generated by new development to finance transportation improvements the best or most appropriate financing strategy?

Many of the same issues also were identified by the New York City Independent Budget Office.

Fortunately, the City and State have been negotiating how to move forward with the projects. Many details needed to answer the five questions likely will be included in the final GPP and supporting documents. Until that information is publicly released, it is not possible to answer the questions fully or to ascertain whether this plan will be the most cost-effective and appropriate way to finance the renovation of Penn Station.

However, even once the questions are answered, the project will still face risks—both known and unknown. Two categories of risk I want to highlight stem from a) this project's high costs and the risk of overruns, and b) the value capture plan's fiscal impact on the City and State.

High Costs and Cost Overruns: The renovation and expansion of Penn Station is likely to be one of the costliest transportation projects in the nation's history, at $6 to $7 billion just for the renovation of Penn Station and another $12 billion-plus for its expansion. Given the high rate of inflation and the history of cost escalation at Metropolitan Transportation Authority (MTA) megaprojects like East Side Access, the final cost is likely to be greater than current estimates.

Before any financing plan is approved, the scope of work should be reasonably detailed, scrutinized, and streamlined as much as possible. The State and the railroads should focus on improving safety, circulation, and functionality and doing so in the most cost-effective manner. They should avoid costly, non-essential, cosmetic improvements and should not preclude the possibility of future capacity or service enhancements.

Value Capture Plan's Potential Impacts on the City and State: CBC's primer on tax increment financing (TIF) noted that value capture plans are complex, risky, and typically more expensive than conventional financing sources like general obligation bonds. It is important to evaluate how the State will manage and mitigate the financing risks inherent to value capture projects, including who will be responsible for interest payments until revenue from new development comes online or who will be responsible for paying for cost overruns.

This is doubly important for the Penn Station project because New York's local share will be funded in large part by PILOT revenue–essentially future City tax dollars—rather than with State or MTA funding sources. Any choices the State makes in the future about PILOT discounts, interest support payments to backstop the debt before revenue comes online, or how to fund cost overruns in essence could be decisions about spending City tax dollars without the City's permission, unless specified otherwise in the final agreement.

The risks inherent in a project of this type take on a new dimension given the unprecedented financing component of the Penn Station project. In recent history, the State has not diverted local property tax revenue from privately owned and occupied parcels in a redevelopment area. Prior instances of ESD capturing and retaining PILOT revenue involve properties that were already tax exempt, such as Moynihan Station. Other ESD redevelopment projects of privately owned parcels have passed the PILOT revenue generated by private development back to the locality. Given the special nature of this project's arrangement, caution is advised to ensure it does not set a precedent for overriding vital local decision-making authority. It also should not set up a circumstance or precedent for future decisions to capture the City's tax revenue for State capital needs.

In addition, while ESD has promised to hold the City harmless for foregone revenue, details on how that will be implemented are critical to ensure that the City truly is kept whole. There should be consideration not only of current tax revenues from sites in the development area, but also the potential increase that may occur absent the GPP, which could include other redevelopment projects initiated by the City. It is important to consider that the City is giving up not only current revenue but future control over land use decisions for the sites.

Ultimately, the Mayor and City Council should guide whether and how much of the City's future property tax revenue should be dedicated to specific needs, such as a mass transit project, instead of other needs like public safety, education, or housing. Other value capture frameworks allowed under New York State law are based on the principle that municipalities, not the State, should initiate the creation of a value capture district. The State's TIF law for the MTA, for example, requires local governments to designate district boundaries and to decide the types and amounts of revenue to pledge to MTA projects. For Hudson Yards, the City Council approved a value capture plan developed by the City, in partnership with the MTA.

In conclusion, please allow me to reiterate that the Penn Station district is an appropriate and valuable location for new commercial development. Growth would benefit the entire region while also improving the surrounding neighborhood. Likewise, modernizing Penn Station could improve quality of life for both commuters and New York City residents, help encourage transit ridership, advance the City and State's climate goals, and enhance regional competitiveness for decades to come.

It is of utmost importance that ESD and the City work together to develop a financing plan and a rezoning that makes sense for all New Yorkers.