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City Club Comments on the Scope of Work for the Environmental Impact Statement for the Empire Station Project

The City Club of New York promotes thoughtful urban land use policy that responds to the needs of all New Yorkers. We provide a forum for public discussion of development issues affecting the urban environment and advocate vigorously for solutions that best serve the greater good.

The Empire Station project is intended to use development of eight sites adjacent to Penn Station, in a way loosely modeled on the rezoning of East Midtown, to fund improvements to Penn Station and its subway stations and to create through eminent domain three sites along the south side of Penn Station to accommodate the southern expansion of the station. This complements a master plan being prepared by others for the improvement of Penn Station and the Gateway project, also being prepared by others, that is planned to add two tracks under the Hudson River and eventually include the expansion of the station to the south.

The Empire Station project raises many issues, including two that the City Club has dealt with in the past:

- The improper use of zoning to raise revenue rather than just to guide land use, and
- The most effective routing of the new tracks under the Hudson River.

The City Club criticized the rezoning of East Midtown as zoning-for-dollars. We prepared a paper, *A Better Path for East Midtown*, a version of which was published in CityLaw and then in CityLand. See: <https://www.citylandnyc.org/better-path-east-midtown/> As an alternative to zoning-for-dollars we suggested consideration of a tax increment district. Tax increment districts capture an increment of the natural increase in real estate taxes as the value of property increases and uses that revenue to pay for the public improvements that cause the increase in value. This means that all of the properties that benefit from the improvements help pay for them rather than only new buildings. Such an alternative also reduces the incentive to encourage the development of exceptionally large buildings in order to maximize the amount of dollars they yield. Zoning would remain an important tool to obtain elements of the improved public realm primarily in new buildings as they are developed.

Some two years ago the City Club organized a panel to discuss the routing of the two new tracks planned under the Hudson River connecting New Jersey and Penn Station. See: <https://cityclubny.org/regional-rail-trunk-line-follow-up/> Among the alternatives to enlarging Penn Station to the south was more effective use of thru-running by continuing LIRR service into New Jersey and NJ Transit service into Long Island and providing a track connection between Penn Station and Grand Central to allow the NJ Transit trains using the southernmost tracks in Penn Station to continue to Grand Central, avoiding reversing them in Penn Station, providing east side access for NJ Transit, and reducing dwell times at Penn Station. Such an alternative would

remove the need for condemnation to create sites 1, 2, and 3 along the south side of Penn Station to accommodate its southern expansion.

Tax Increment Financing

A tax increment finance district would capture a portion of the increase in land value resulting from the improvement of Penn Station. This would not be a surcharge on real estate taxes (as would be the case with a Business Improvement District) but a segregation of part of the natural increase. That portion would be calculated to allow funding of improvements to the publicly owned portion of the public realm – particularly those that would more graciously integrate Penn Station with adjacent subway stations and nearby buildings. The use of tax increment funds should be limited to capital investments and not allowed for operating costs.

Tax increment financing (TIF) is a financing mechanism that links new private and public development to infrastructure needs. It works by designating a geographically delineated TIF district for a set period of time. During this period, property taxes resulting from the increase in the assessed value of district properties are dedicated to funding improvements within the district. The City may issue revenue bonds backed by this expected revenue stream in order to pay upfront for infrastructure improvements. These bonds are not secured by the “faith and credit” of the city or state and do not count against the former’s debt limit. It should be noted, however, that under current legislation New York State intends TIFs as a tool to eliminate “blight” in areas where it “cannot be accomplished through private investment alone.” While municipalities have been given broad discretion in satisfying these conditions, a project in the heart of the country’s largest CBD may push the boundaries; however, in the Draft Scope of Work for its Environmental Impact Statement the Penn Station area is described as “substandard and insanitary”.

Real estate tax assessments have two parts: a land portion and a building portion. The land portion is based on the location of the site, its serviceability for probable uses, and the scarcity or abundance of similar sites; the building portion is based on the improvements that are made on the site. Infrastructure investments, such as a new road or a sewer system, can increase the value of the land. When these are provided by others, such as the municipality, rather than the property owner, the increase in property value might be referred to as the “unearned increment.” Improvements to the site, such as a new building, can increase the building portion of the assessment. Such improvements are typically by the property owner and might be considered the “earned increment”.

The earned increment typically represents a denser use that needs more services from the municipality. The real estate taxes from that increase in assessed value should go to the municipality’s general fund to pay for those services. However, the unearned increment does not represent an increased demand for municipal services. It results from a capital improvement and the real estate taxes from that increase in assessed value should go to retire the cost of that investment. This is the rationale for a tax increment finance district: the increased land assessment resulting from a public investment should be used to help fund that investment.

Some tax increment finance districts, including the simulacrum at Hudson Yards, have difficulty because the increment is based on the value of new development, rather than the land value, and the new buildings do not always happen as quickly as projected. This suggests three lines of inquiry:

- What properties should be included in a Penn Station TIF district? Rather than a district drawn tightly around the eight proposed redevelopment sites broader boundaries would include more benefiting properties – perhaps extending north to 33 Street and east to Broadway.

- For the properties that would be included in the Penn Station TIF district is the appropriate portion of the total property assessment in the land portion of the assessment? Often similar properties will have different proportions and some reallocations may be needed.
- Would the increment of increase of the land portion of the assessments pay for the needed improvements to better integrate the public realm of Penn Station with the adjacent subway stations and neighboring buildings?

Tax increment financing would avoid conflicts of interest between planning and raising revenue, would spread the cost over all the properties that benefit from the transit improvements, and would likely provide significantly more funds for improvements to the public realm than fees being proposed through zoning. We also understand that there are arguments against tax increment financing, not least of which is that it diverts tax revenues from the City's general budget. Nevertheless, we believe it is a tool that is worth thorough and objective consideration.

The Role of Zoning

- Zoning is but one tool available in a regulatory regime to guide the future of our built environment; however, it is the tool most readily available to the Department of City Planning and so it has tended to be employed even when it is not the ideal choice.
- Zoning is not the same as planning, and the zoning resolution is not the de facto plan for the city. However, much of the zoning resolution is based on at least partial plans and urban designs for aspects or areas of the city. A good example of zoning based on a well-considered plan is the Special Battery Park City District (Section 84-00 of the Zoning Resolution).
- Zoning is intended to regulate what is built so as to protect the public welfare; it is not intended to generate funds to supplement the municipal budget.

While the TIF would fund improvements to the public realm that are part of public facilities, including Penn Station and the adjacent subway stations, and are in and under streets and other public areas, zoning is the right tool to ensure that buildings properly connect to and supplement the rest of the public realm.

Basic to the successful improvement of Penn Station and its environs would be a well considered urban design plan for the area. This could start with the assumption that all of the buildings at and near Penn Station share a special pedestrian circulation system that benefits the participants synergistically – that better connectivity, more retail frontage, enhanced maintenance, and light, air, and circulation improvements benefit all.

Because many of the buildings in the vicinity of Penn Station are likely to remain rather than being demolished and redeveloped there is a question of how to encourage the participation of existing buildings in improving the public realm. One approach would be to identify improvements in existing buildings and to allow a floor area bonus that may be used on site, if practicable, or transferred to another site, similar to a transfer of unused development rights from a landmark. An existing building might provide a new access to the Penn Station pedestrian circulation system or light and air to the system through a skylight in a plaza; the urban design plan would identify the bonus floor area the improvement would earn; and the property owner would be able to use the floor area or sell it to a developer of another site in the district.

Similar to Battery Park City the urban design plan would identify and coordinate the features of the public realm on public and private property, establish tools such as zoning and urban design

guidelines to regulate change on private property, and establish a master plan for improvements on public property.

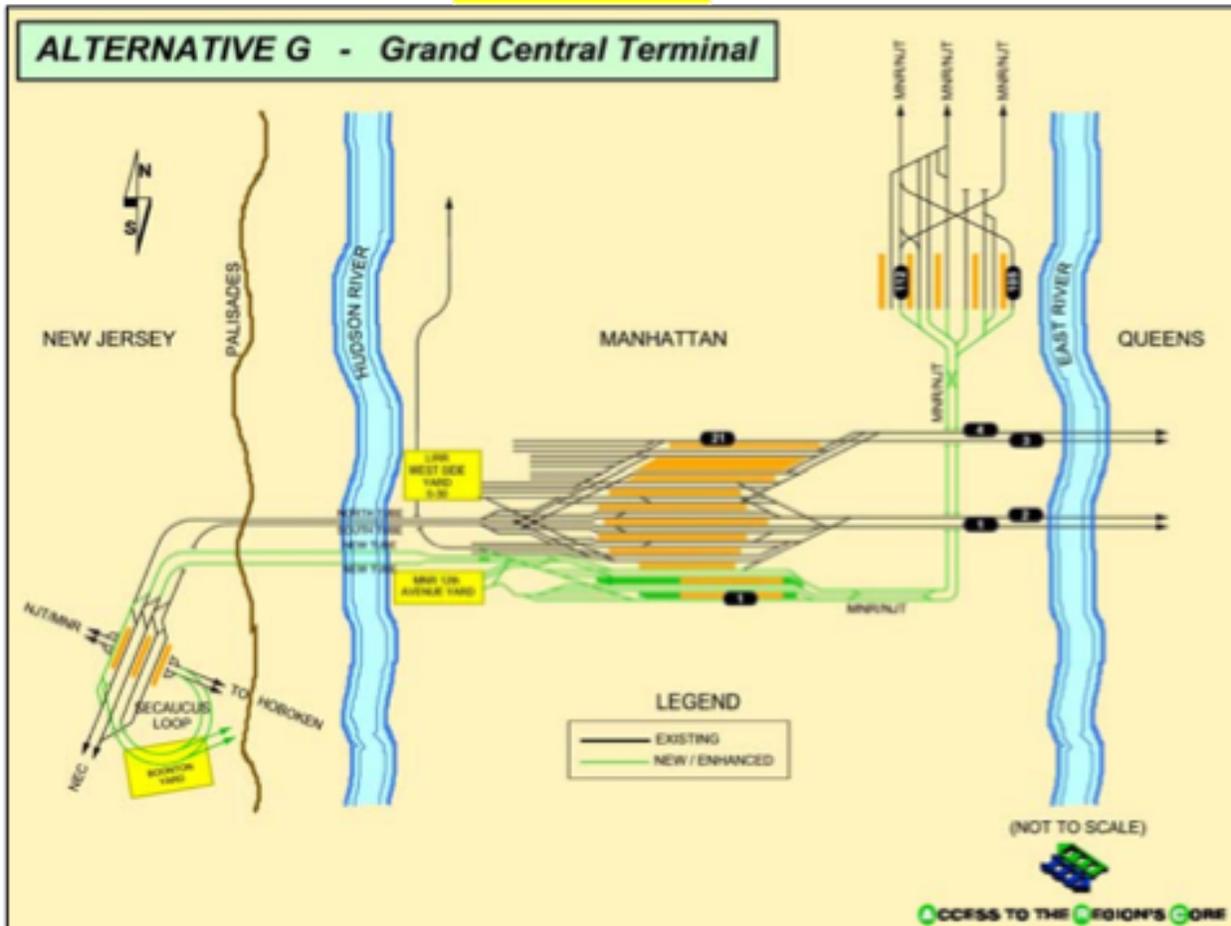
Regional Rail

Some twenty years ago the MTA, NJ Transit and the Port Authority of NY & NJ sponsored a major investment study titled Access to the Region's Core and known as ARC. Starting in 1995 the study screened some 137 alternatives for trans-Hudson travel between New Jersey and Midtown Manhattan. The study found that two new tracks under the Hudson River were the only practical way to provide needed capacity. In 2003 a summary report was published outlining the course of the study and describing three alternatives for routing the new tracks in Manhattan.

The summary report is not readily available but a copy is posted on the IRUM website: https://www.irum.org/20031125_ARC_MIS_Summary_Report.pdf The full report has not been made available to the public but would obviously be useful to this discussion.

Of the three alternatives two connected the new tunnels to the southern tracks of Penn Station, including the existing four stub end tracks, and one proposed a new station deep below Penn Station, similar to the LIRR station currently being built below Grand Central.

- Alternative G (for Grand Central) routed the new tunnels to the southern part of Penn Station and extended the five southernmost tracks (including the four stub end tracks) in a two-track tunnel below 31 Street to Grand Central.
- Alternative S (for Sunnyside) routed the new tunnels to the southern part of Penn Station and extended the five southernmost tracks (including the four stub end tracks) in a two-track tunnel below 31 Street and the East River to the Sunnyside Yards.
- Alternative P (for Penn) routed the new tunnels to a new eight-track station, below and separate from the existing Penn Station.



All three alternatives are presented as practical; however, Alternative G now appears to have the greatest potential to increase the capacity of the regional rail trunk line through Penn Station. It also provides east side access for NJ Transit and west side access for Metro-North. Alternative G, with thru-running, should be analyzed as an alternative to the expansion of Penn Station to the south.

Regional Rail, Through Running, and Penn Station

Some two years ago the City Club organized a panel to discuss the routing of the two new tracks planned under the Hudson River connecting New Jersey and Penn Station. See: <https://cityclubny.org/regional-rail-trunk-line-follow-up/>. It was hosted at Hunter by Dan Garodnick and at the AIA by its Transportation and Infrastructure Committee.

The panel included representatives of IRUM, ReThinkNY, and RPA. There was consensus that:

- Two new tracks are needed, immediately, under the Hudson River.
- Penn Station is the heart of the trunk line.
- Thru-running is important to increasing the efficiency and thereby the capacity of Penn Station.
- The planned LIC Station should be added in the Sunnyside Yard

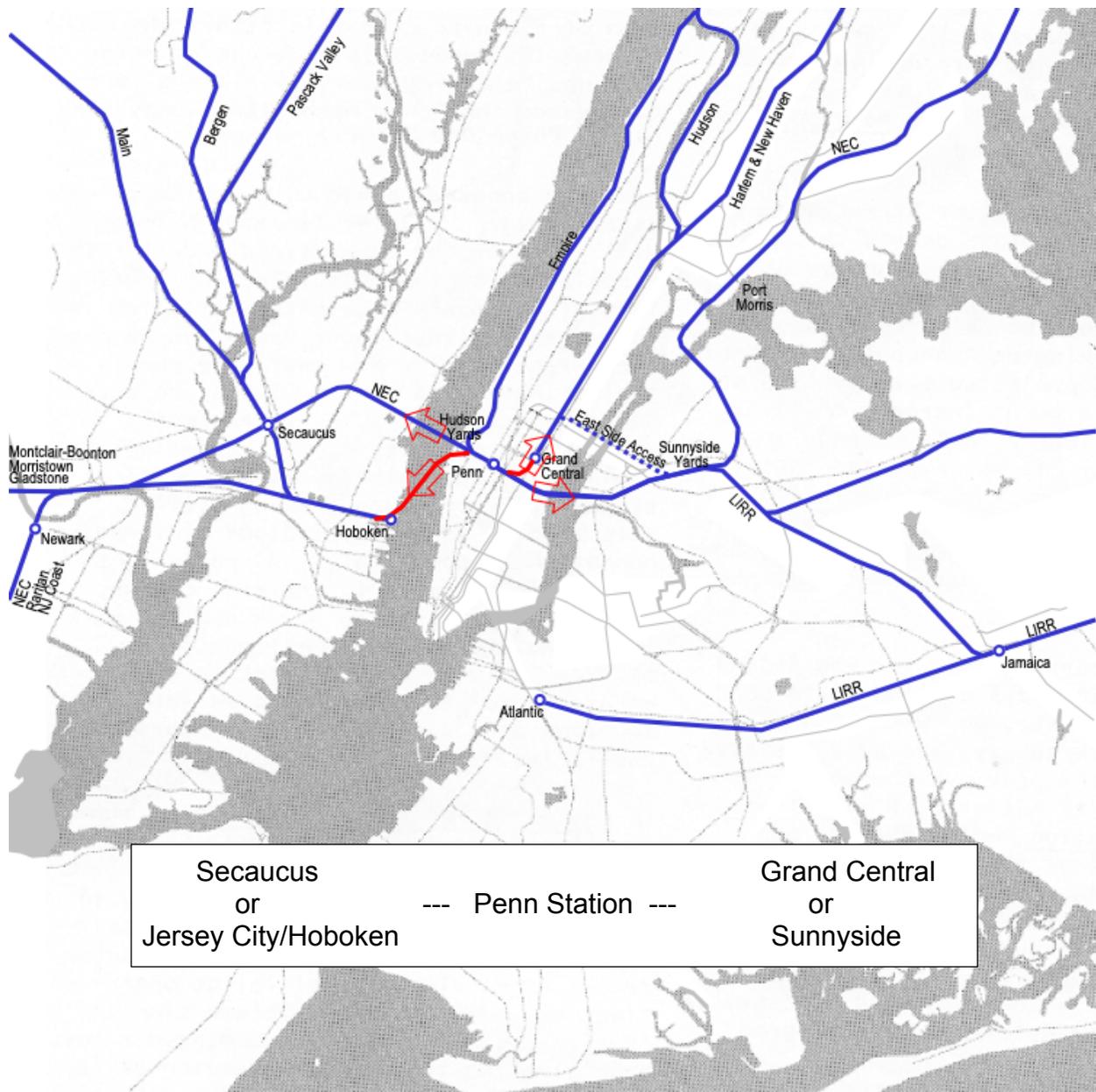
The panel split on whether Penn Station should be expanded to the south. IRUM and ReThinkNY felt that real thru-running and improvements to platforms and circulation within the existing Penn Station could accommodate the increased traffic resulting from the new tunnels; RPA felt that a larger station is necessary.

Currently many of the trains using Penn Station run through. Some Amtrak trains run through between Boston and Washington. LIRR trains can run through to the West Side Yard west of the station where they can be stored during the day or reversed to return through Penn Station to Long Island. NJ Transit trains can run through to the Sunnyside Yard in Queens where they can be stored during the day or turned to return through Penn Station to New Jersey; however, NJ Transit trains that use the southernmost four tracks, which stub end at Seventh Av must be reversed to return to New Jersey.

Real thru-running would continue trains through Penn Station in service such that a NJ Transit train might continue on a LIRR route on Long Island and a LIRR train might continue on a NJ Transit route in New Jersey. This increases the capacity of Penn Station in two ways: it avoids delays of trains when a reversed train crosses in front to reach the outgoing tunnel and it reduces dwell time when passengers remain on the train in order to debark at another station, such as Sunnyside, rather than all debarking at Penn Station.

Real through running would be particularly effective with the extension of the southernmost five tracks to Grand Central, as in ARC's Alternative G. NJ Transit trains using these tracks would no longer need to reverse and perhaps half the passengers would prefer to debark at Grand Central. In the opposite direction Metro-North passengers would have the choice of debarking at Grand Central or at Penn Station. This NJ Transit/Metro-North service also provides some east side access for NJ Transit and some west side access for Metro-North.

Thru-running seems most effective when boarding and debarking occurs at several stations. This reduces dwell time in each station and gives passengers the sense that the train is moving efficiently.



Trunk Line Thru-running -- IRUM

IRUM's proposal for the regional rail trunk line elaborates on ARC's Alternative G. It includes a two track connection between Penn Station and Grand Central. Also, it shifts the alignment of the two new tracks under the Hudson River to serve Jersey City/Hoboken. Thus the trunk line would branch east and west of Penn Station and passengers would embark and disembark at Secaucus, Jersey City/Hoboken, Grand Central, and Sunnyside rather than just at Penn Station.

To the east a track connection between Penn Station and Grand Central Terminal would allow east side access for Amtrak and NJ Transit, and west side access for Metro-North.

To the west the second pair of tracks under the Hudson River would be routed by way of Jersey City/Hoboken to more efficiently use existing rail infrastructure, increase the area served by the trunk line, and coordinate transit and land use planning.

IRUM does not believe that Penn Station needs to be extended south to add capacity; it believes that wider platforms and better circulation between platforms and concourses combined with through running, including Grand Central, can produce adequate capacity within the existing station.

It is this version of ARC's Alternative G that the City Club recommends be analyzed as an alternative in the planning and environmental review of the Empire Station proposal. It is hoped that the alternative would be found to provide better service at less cost. Such an alternative would also remove the need for condemnation to create sites 1, 2, and 3 along the south side of Penn Station to accommodate its southern expansion.

Conclusion

The Empire Station Project is both important for the future of Penn Station and its neighborhood and challengingly complex because of the many parties involved and because it depends on two other projects – the Gateway tunnels under the Hudson River and the master plan for the improvement of Penn Station – both being advanced by others.

To be successfully implemented such a project needs to be understood and supported by the interested parties – in this case, two states, several agencies, including four railroads, several Cities, any number of local elected officials, good government and neighborhood groups, including two Manhattan community boards, the passengers, half of whom live in New Jersey, and the list goes on. How will this be a collaborative and transparent process that not only engages all who want to participate but also incorporates their insights to make the project better?

The City Club wishes for the best but is prepared to express its disappointment where needed.

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