

The logo for the New York City Bar, featuring the text "NEW YORK CITY BAR" in a serif font, centered between two horizontal blue bars.

NEW YORK  
CITY BAR

**COMMITTEE ON TRANSPORTATION**

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ROBERT M. BRILL  
CHAIR  
2 PARK AVENUE, FL. 20  
NEW YORK, NY 10016  
brillesq@aol.com

DANIEL B. FEINTUCK  
SECRETARY  
daniel.b.feintuck@gmail.com

June 16, 2020

***By Email and Facsimile***

The Honorable Andrew Cuomo  
Governor of New York State  
The New York State Capitol Building  
Albany, New York 12224

**Re: The New York Forward Program**

Dear Governor Cuomo:

The Committee on Transportation (the “Committee”) of the New York City Bar Association (“City Bar”) wants to join those lauding your leadership in this time of emergency. Channeling President Franklin Delano Roosevelt and Mayor Fiorello LaGuardia, your press conferences have provided the type of calming, informative, humorous morale boost reminiscent of FDR’s “Fireside Chats” during the Depression, and LaGuardia’s July 1945 reading of the comics during the City’s newspaper delivery strike.

Nonetheless, the Committee’s appreciation is also for your policy focus, in light of the COVID-19 emergency, on how to make the transportation infrastructure and delivery of services better for the future. As you indicated in your public briefing on May 26, public infrastructure, in particular, transportation infrastructure should be a preeminent focus of such planning and implementation. In this regard, the Committee writes to commend to you a number of areas that you and your Administration’s “New York Forward Program” (the “Program”) may wish to consider. (The items below are in no particular order of importance or priority.)

First, following in the great tradition of your father’s initiative as Governor — the Full Freight Access Program<sup>1</sup> — the New York Forward Program should focus on using existing barge landings with rail access as immediate points to stimulate the movement of “goods,” including construction materials and excavate, throughout New York Harbor, Long Island, and along the Hudson River from Lake George down to New York Harbor. In this regard, the most notable asset is the 65th Street Yard and vicinity in Brooklyn, which includes existing rail lines and tracks, connection to the Bay Ridge Line of the Metropolitan Transportation Authority (MTA), the New York City Subway system tracks, and the 65th Street Yard itself. Because of the present economic

circumstances, the State should possibly consider making the 65th Street Yard a hub or staging point for various construction projects in the region.

Second, the Program should identify and cost analyze presently under-used, unused, or potential new use sites in New York City and Westchester, Nassau, and Suffolk Counties, for barge landings and rail sidings that can facilitate public works construction (for the movement of materials and excavate), as well as traditional goods and materials moved east and west on the New York and Atlantic Railway (the “NYAR”), an MTA partner, and the Port Authority’s own New York New Jersey (NYNJ) Railroad. Such new sites should include a barge landing at LaGuardia Airport in Flushing Bay (among other things, to facilitate construction of rail access to the airport).

Third, the Program should evaluate how to better move materials and excavate from the Brooklyn-Queens Expressway (BQE) reconstruction project by barge and rail, using 65th Street Yard and landings in Red Hook, Erie Basin, Atlantic Basin, Wallabout Bay (the Brooklyn Navy Yard), Gowanus Bay, South Brooklyn Marine Terminal, Newtown Creek, and Dutch Kills.

Fourth, the Program should consider how to improve and possibly expand Fresh Pond Junction, the Glendale Yard, the Brookhaven Rail Terminal in Yaphank, and ELM Global Logistics and NYAR facilities in Brentwood. Cost benefit analysis should be undertaken to consider how to revive a freight element in Sunnyside Yards, and finding possible barge landings in Nassau and Suffolk Counties (possibly at Roslyn Harbor, Port Washington, and Port Jefferson).

Fifth, the Program must ensure that no changes occur to the use of the Bay Ridge Line that could adversely affect the potential growth of rail freight service thereon, both to existing and future customers, as well as service over it to connect with the NYNJ Railroad and CSX Railroad. Any mass transit operation along this corridor must allow rail freight operators to have the flexibility to provide competitive service at reasonable cost. In addition, care must be taken that parcels of MTA property along this line that should be used for industrial development and/or rail freight operations support and not be limited to mass transit “lay up” or other commuter transit support uses.

Sixth, the Committee wholeheartedly supports and agrees with your desire and plan to have direct rail access to the new LaGuardia Airport. In this regard, your plan would bring the long-sought rail access to LaGuardia Airport that has been lacking for decades, and would have it join JFK, Newark Liberty, and dozens of major airports around the United States and the globe. It would also be a step forward in that it fulfills the Regional Plan Association (RPA)’s recommendation from the 4th Regional Plan regarding airport access. Our Committee sees connecting AirTrain LGA to Mets-Willets Point as providing a balanced and practical solution due to its maximization of service connections and its feasibility in terms of planning, cost, and societal equity.

Seventh, in the context of the ongoing development and refurbishment of rail tunnels into the new Penn Station, we commend for consideration and serious analysis the feasibility of the use for freight and goods movement of such tunnels, to and from New Jersey, through Penn Yards, to and from Sunnyside Yards and points East and North. The envisioned use would be in early

morning hours in which passenger train use and operations are de minimis, and would, of course, involve users paying fees for the privilege. The Committee envisions that this analysis should proceed in the context of the present development and use of the new/refurbished tunnels, and should also consider how such freight trains will be routed in New Jersey to reach such tunnels, and how they would proceed to rail freight yards in Queens, Brooklyn, Long Island, and points north.

Eighth, we urge consideration of a joint New York State and New York City task force for truck weight enforcement throughout the City of New York.

Ninth, we recommend a dramatic increase by the New York State Department of Transportation (NYSDOT) and the New York State Police (NYSP) of truck weight enforcement downstate (on the City part of the NYS Thruway and on the Long Island Expressway), with an eye to the use of Weigh In Motion technology for enforcement and revenue raising.

Tenth, we encourage consideration by the Program of extending the Second Avenue Subway from 125th Street into the Bronx, and figuring out how to pay for it.

Eleventh, we recommend consideration by the Program of accelerating and expanding electrification of the Long Island Railroad (LIRR), particularly in Nassau County, and the encouragement of Nassau and Suffolk Counties and their constituent Towns and Villages to re-zone the areas near LIRR stations to encourage the construction of apartment buildings.

Twelfth, the Committee is concerned that the present MTA program related to cleaning and disinfecting, homeless outreach, and extended trains for all MTA rail assets (NYC Transit, Staten Island Rapid Transit Operating Authority (SIRTOA), LIRR, and MetroNorth), needs to be coupled with riders wearing masks, having access to disinfecting wipes, and, if possible, wearing some type of protective covering for hands. In this regard, public outreach needs to be a priority. Perhaps, also, some type of station by station dispenser regime should be tried, perhaps at key junction stations. (The demonstration needs to ensure refilling and anti-vandalism protocols.) Clearly, social distancing on MTA rail assets is the thorniest problem. The Committee believes that “reservations” are not the way to go; but longer trains and limits to the number of passengers per car would be better. (The Committee also believes that the presently extant capital program of the MTA modernizing the subway signal system will benefit the greatest number of MTA riders with additional and more reliable service, and will reduce overcrowding, which is the enemy of social distancing.) While the Committee applauds all permanent measures that will make MTA rail assets cleaner and disease free, whether from COVID-19 or other infectious diseases, we are mindful that scientific opinions on the life-span of COVID-19 and other diseases on surfaces and materials are evolving. Thus, the MTA needs to have a scientific advisory board that can analyze and weigh evolving approaches and solutions to determine what is efficacious and cost effective for cleaning and disinfecting surfaces. In this regard, some thought should also be given to using robotic methods to reduce labor costs.

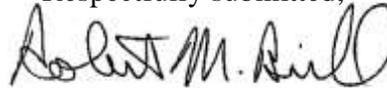
Thirteenth, we urge consideration by the Program of using “MagLev” technology in the development of any future new rail lines.

Fourteenth, we recommend consideration by the Program of identifying light rail options in underserved or “automobile only” areas and corridors of the State, including in the Southern Tier, Finger Lakes, Adirondak Park, and Queens, Brooklyn, Nassau, and Suffolk counties.

The Committee would welcome the opportunity to coordinate with your office and the Program on the suggestions above, and anything else that we can do to be of service to New York State in this time of COVID-19. As you suggested, Governor, this is an opportunity for New York to deal with the present crisis, while also, as FDR did during the Great Depression (see Public Works Administration (PWA), Works Progress Administration (WPA), and Civilian Conservation Corps (CCC)), to remedy the economic downturn with public works projects, funded by the presently low interest rates, that will increase revenue and productivity for decades to come.

As you have said, we in New York are smart and we are New York tough.<sup>2</sup> And as FDR said, “the only thing we have to fear is fear itself.”<sup>3</sup>

Respectfully submitted,



Robert M. Brill, Chair

Daniel B. Feintuck, Secretary

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<sup>1</sup> The Committee is very committed to fulfilling the objective, commenced by Governor Mario Cuomo in the 1980's and 1990's with the Full Freight Access Program, of substantial modal shift from truck to rail (and water) to lessen truck vehicle miles traveled to, from, and through New York City and the New York Metropolitan Area. This relates to lessening carbon emissions (climate change), as well as particulates (respiratory issues, such as asthma, emphysema, lung cancer, etc.), and reducing wear and tear on the roads and highways of New York State, New York City, and the surrounding suburban counties to the City, which translates into tens of millions of dollars every fiscal year, and raising revenue through fees. On the Committee's long standing interest and support for goods movement by rail, see, e.g., the Committee's Report, “For Whom the Bell Tolls: New York's Mortal Crisis in Goods Movement,” The Record of the Association of the Bar of the City of New York [NYCBA], Vol. 46, No. 7, Nov. 1991.

<sup>2</sup> From your Mar. 24, 2020 press conference, available at <https://www.governor.ny.gov/news/video-audio-photos-rush-transcript-governor-cuomo-new-york-love-wins-and-it-will-win-again> (“And we're going to get through it because we are New York, and because we've dealt with a lot of things, and because we are smart. You have to be smart to make it in New York. And we are resourceful, and we are showing how resourceful we are. And because we are united, and when you are united, there is nothing you can't do. And because we are New York tough. We are tough. You have to be tough. This place makes you tough. But it makes you tough in a good way. We're going to make it because I love New York, and I love New York because New York loves you. \* \* \* New York loves all of you. Black and white and brown and Asian and short and tall and gay and straight. New York loves everyone. That's why I love New York. It always has, it always will. And at the end of the day, my friends, even if it is a long day, and this is a long day, love wins. Always. And it will win again through this virus.”).

<sup>3</sup> President Franklin Delano Roosevelt, First Inaugural Address, Mar. 4, 1933, available at <https://www.fdrlibrary.org/documents/356632/390886/First+Inaugural+Address+Curriculum+Hub+Documents.pdf/55c42890-6b80-4d34-b68a-b4a30f2797d5>, (“I am certain that my fellow Americans expect that on my induction into the Presidency I will address them with a candor and a decision which the present situation of our Nation impels. This is preeminently the time to speak the truth, the whole truth, frankly and boldly. Nor need we shrink from honestly facing conditions in our country today. This great Nation will endure as it has endured, will revive and will prosper. So, first of all, let me assert my firm belief that the only thing we have to fear is fear itself--nameless,

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unreasoning, unjustified terror which paralyzes needed efforts to convert retreat into advance. In every dark hour of our national life a leadership of frankness and vigor has met with that understanding and support of the people themselves which is essential to victory. I am convinced that you will again give that support to leadership in these critical days. \* \* \* Restoration calls, however, not for changes in ethics alone. This Nation asks for action, and action now. \* \* \* Our greatest primary task is to put people to work. This is no unsolvable problem if we face it wisely and courageously. It can be accomplished in part by direct recruiting by the Government itself, treating the task as we would treat the emergency of a war, but at the same time, through this employment, accomplishing greatly needed projects to stimulate and reorganize the use of our natural resources. \* \* \*)