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February 22, 2024

VIA EMAIL

Governor Kathy Hochul
State of New York

Speaker Carl Heastie
New York State Assembly

Majority Leader Andrea Stewart-Cousins
New York State Senate

Re: Outer Borough Transit Account should fund transit improvements, not toll rebates; final project list should be fully transparent and approved in a public meeting per OML

Dear Governor Hochul, Majority Leader Stewart-Cousins, and Speaker Heastie,

We ask you to ensure that Outer Borough Transit Account (OBTA) projects are:

1. Used to improve transit service and accessibility in boroughs outside of Manhattan, *not* provide toll rebates or discounts for motorists;
2. Fully and transparently disclosed to the public; and
3. Voted on in a public meeting of the Capital Program Review Board.

The Outer Borough Transit Account was established in the FY 2018-2019 state budget through §1270-i(3) of the Public Authorities Law, with a maximum of \$50 million available annually from For-Hire Vehicle fee proceeds after \$300 million is raised for the Subway Action Plan account. Projects from the fund are approved by the three members of the Capital Program Review Board (CPRB) appointed by the Governor, Senate Majority Leader, and Assembly Speaker.

Use Outer Borough Transit Account Funds for Transit, Not Toll Rebates

We are disappointed to learn OBTA funds are being used mainly for [toll rebates](#), not to improve transit service. You have an opportunity to expand upon the increases in subway service made in last year's budget by providing targeted bus improvements and discounts for in-city commuter railroad trips with OBTA funds. This is particularly important as congestion pricing is slated to start this summer; other successful roll-outs of congestion pricing such as in London were [complemented by increases in bus service](#).

[Streetsblog NYC](#) and [Gothamist](#) documented three costly toll rebate projects that are contrary to the OBTA's goal to encourage transit use in the outer boroughs:

- A Bronx resident rebate for the \$3.18 Henry Hudson Bridge toll
- A Queens resident rebate for the \$2.60 Cross Bay Bridge toll
- Continuing the existing discounted rate of \$2.75 for Staten Island residents to cross the Verrazzano-Narrows Bridge

As reported by Streetsblog, the original OBTA project list from 2019 included [restoring service for the Q46 bus](#), [10-percent and 20-percent discounts for in-city travel on the commuter railroads](#), and a [late-night microtransit pilot](#). However, delays from COVID-19 and a [lawsuit against the For-Hire Vehicle fee](#) meant that the OBTA did not have the funding to support these projects until recently, and it is unclear whether any of these projects will be continuing in 2024.

We ask that you use the Outer Borough Transit Fund to improve bus, subway, and commuter rail service rather than provide toll discounts. Your representatives on the Capital Program Review Board should be looking at ways to bring transit riders back and boost service in transit deserts, rather than encourage more driving as congestion pricing is turned on.

The Final Project List Should be Published as Open Data

In August 2019, many of our groups [wrote to the Legislature](#) asking for the final project list to be published by the Legislature or MTA in an open data format, allowing the public to fully understand how OBTA funds are being used. Disclosures should be provided in CSV or spreadsheet format with the following details:

- Detailed information regarding the project or program, including its purpose and location
- The member(s) requesting the project or program
- The total annual cost of the project or program
- Any relevant dates for distribution of funds or anticipated start and completion of the project or program

OML and PAL Requires Public Vote on OBTA by Capital Program Review Board

Our 2019 letter also noted that we believe that the Capital Program Review Board (CPRB) is required to approve Outer Borough Transit Account projects in an open meeting. This is different from the approval of the MTA Capital Program, which is automatically approved if there are no objections.

Public Authorities Law §1270-i(3) says the following (emphasis added):

Notwithstanding any law to the contrary, final approval of the use of any funds paid into the outer borough transportation account shall be unanimously approved by three members of the Metropolitan Transportation Authority Capital Program Review Board, established pursuant to section twelve hundred sixty-nine-a of this title so designated pursuant to this subdivision. For

*purposes of such final approvals **the three voting members are:** the member appointed upon recommendation by the temporary president of the senate; the member appointed upon recommendation of speaker of the assembly; and the member appointed by the governor.*

We note the use of the words “voting members” and the requirement for unanimous approval; there is no mechanism for approval by default. Please see the [opinion from the Committee on Open Government](#) which confirms the Open Meetings Law applies to the CPRB. We again ask that the CPRB follow the Open Meetings Law by voting in an open public meeting to approve future OBTA projects.

We thank you for your attention to this matter. Please direct any questions to Rachael Fauss, Senior Policy Advisor at Reinvent Albany, rachael@reinventalbany.org or 518-859-5307.

Sincerely,

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