

Gateway Development Commission  
Meeting of The Board  
Held via Teleconference

September 13, 2022

MINUTES

The following Commissioners were present:

**NEW JERSEY**

Balpreet Grewal-Virk, Co-Chair  
Janine Bauer

**NEW YORK**

Alicia Glen, Co-Chair  
Jamey Barbas

**AMTRAK**

Anthony R. Coscia, Vice Chair

**I. Call to Order**

The public meeting was called to order by Co-Chair Glen at approximately 12:00 PM.

Co-Chair Glen advised that due to scheduling availability of the Commissioners and the need to advance key Commission business in a timely fashion, today's meeting was being held virtually via teleconference with audio of the meeting being live-streamed from the Gateway Program website.

Co-Chair Glen noted that the Commission was continuing to solicit virtual comments, and that a form for soliciting these comments was posted on the Gateway Program website for those who wished to submit a comment for today's meeting.

Acting Secretary Caulfield conducted a roll call and confirmed that there was a quorum. Commissioners Marie Therese Dominguez and Jerry Zaro were absent from this meeting.

Acting Secretary Caulfield stated that adequate notice of today's regular public meeting of the Board of Commissioners of the Commission had been provided in accordance with the Commission's enabling legislation.

**II. Report on Minutes of the July 19, 2022 Meeting**

Acting Secretary Caulfield reported that copies of the Minutes of the meeting of July 19, 2022 were delivered in electronic form by Acting Secretary Caulfield to the Governors of New York and New Jersey on July 27, 2022 and that the time for action by the Governors of New York and New Jersey expired at midnight on August 11, 2022, at which time the actions recorded in the Minutes went into full force and effect.

**III. Gateway Program Update**

The Commission's Chief Executive Officer, Kris Kolluri, provided an update presentation on the Gateway Program.

Following the presentation, Co-Chair Glen thanked Mr. Kolluri for his update, and asked if there were any questions or comments from the Board. None of the Commissioners had any questions or comments.

#### **IV. Public Comments**

Co-Chair Glen announced that the Commission had solicited virtual comments from the public in advance of, and during, today's meeting. Co-Chair Glen then asked Acting Board Secretary Caulfield to list those individuals and organizations that had submitted comments to the Commission.

Acting Secretary Caulfield indicated that a form for soliciting these comments was posted to the Gateway Program website and was available throughout today's meeting. There were four (4) written comments received by 5:00 PM on September 12, 2022. Mr. Caulfield indicated that the following written comments were received prior to the meeting:

<b>Commenter</b>	<b>Topic</b>
Michael Egerton, NJ Chamber of Commerce	New Projected Cost and Updated Schedule of Hudson Tunnel Project
Sophie Cappello, Regional Plan Association (RPA)	Updated Hudson Tunnel Project Cost/Schedule Analysis
Laura Colacurcio, Association for a Better New York (ABNY), Inc.	Support for the Gateway Program
Joseph Clift, Individual	N/A

Mr. Caulfield noted that any written comments received during the meeting would be distributed to the Board, posted on the Gateway Program website, and filed in the Commission's records after the meeting. There was one additional comment received following the initial September 12<sup>th</sup> deadline:

<b>Commenter</b>	<b>Topic</b>
Felicia Park-Rogers, Tri-State Transportation Campaign	Gateway Project/Hudson Tunnels

#### **V. Action Items**

##### **#0922-01: Hudson Tunnel Project – Transfer of Role of National Environmental Policy Act Project Sponsor and Federal Grant Recipient**

The Board acted on this referenced action item, enclosed herewith. Commissioners did not have any comments on this Resolution. Co-Chair Glen made a motion, and Co-Chair Grewal Virk seconded the motion. The roll call vote is referenced in the attached Resolution.

##### **#0922-02: Delegation of Authority to Chief Executive Officer**

The Board acted on this referenced action item, enclosed herewith. Commissioners did not have any comments on this Resolution. Co-Chair Glen made a motion, and Co-Chair Grewal Virk seconded the motion. The roll call vote is referenced in the attached Resolution.

##### **#0922-03: Gateway Development Commission Interim Operating Budget for Remainder of Fiscal Year 2022**

The Board acted on this referenced action item, enclosed herewith. Co-Chair Glen asked Commission staff to confirm if the fiscal year for the Commission runs on the calendar year, and Commission staff responded affirmatively. Otherwise, Commissioners did not have any comments on this

Resolution. Co-Chair Glen made a motion, and Commissioner Barbas seconded the motion. The roll call vote is referenced in the attached Resolution.

**#0922-04: Authorization of Payment of Fees to Build America Bureau**

The Board acted on this referenced action item, enclosed herewith. Commissioners did not have any comments on this Resolution. Co-Chair Glen made a motion, and Commissioner Barbas seconded the motion. The roll call vote is referenced in the attached Resolution.

**VI. Adjournment**

Co-Chair Glen noted that there was no need for an Executive Session at today's meeting, and there being no further business, Co-Chair Glen then requested a motion to adjourn the meeting. Upon the motion being duly made by Co-Chair Glen and seconded by Co-Chair Grewal-Virk, the meeting was adjourned at approximately 12:18 p.m.

Respectfully submitted,

/s/ Edmund Caulfield  
Edmund Caulfield, Acting Secretary

**#0922-01: HUDSON TUNNEL PROJECT – TRANSFER OF ROLE OF NATIONAL ENVIRONMENTAL POLICY ACT PROJECT SPONSOR AND FEDERAL GRANT RECIPIENT**

The Hudson Tunnel Project (“HTP”) will improve resiliency, reliability, and redundancy for the busiest section of the Northeast Corridor (“NEC”) – the busiest passenger rail line in the United States. The HTP, for funding and financing purposes, includes the construction of a new Hudson River Tunnel between New York and New Jersey, the rehabilitation of the existing 111-year old North River Tunnel under the Hudson River, and the completion of the Hudson Yards Concrete Casing - Section 3 (“HYCC-Section 3”) to preserve tunnel right-of-way for future tracks on the West Side of Manhattan leading from the new tunnel to Penn Station New York.

The federal environmental review process under the National Environmental Policy Act (“NEPA”) for all elements of the HTP is complete. The Federal Transit Administration (“FTA”) approved and issued a categorical exclusion for HYCC-Section 3 (the “Categorical Exclusion”) in November 2019. The Federal Railroad Administration (“FRA”) and FTA issued a combined Final Environmental Impact Statement (“FEIS”) and Record of Decision (“ROD”) for the new Hudson River Tunnel and Rehabilitation of the North River Tunnel on May 28, 2021.

In November 2016, the State of New York, State of New Jersey, and Amtrak established the Gateway Program Development Corporation (“Corporation”) to serve a lead role in the financing and development of the Gateway Program, including acting as a federal grant and loan applicant as well as NEPA Project Sponsor. In February 2018, United States Department of Transportation (“USDOT”) expressed the view that the Corporation as then constituted, was not eligible to serve as the Capital Investment Grants (“CIG”) Applicant for the HTP.

To respond to this concern, in June 2018, the States of New York and New Jersey agreed to pursue legislative action in both states to create a Gateway Development Commission (the “Commission”) to perform these financing and development functions for the HTP. The Commission’s enabling legislation, the Gateway Development Commission Act (“GDC Act”) was signed into law in both States in July 2019, with the final two Commissioners confirmed in December 2020.

Since June 2018, the Port Authority of New York and New Jersey (“Port Authority”) has served in the role of NEPA Project Sponsor and federal grant Applicant for the HTP, in its own name, on behalf of the Port Authority, the Corporation, the Commission, NJ TRANSIT, the State of New York, the State of New Jersey, and Amtrak (collectively, the “Project Partners”) until such time as the Commission assumes the role of Project Sponsor and federal grant applicant.

The Commission previously confirmed these commitments at its Board Meeting on May 12, 2021 via Resolution # 0521-01 entitled “Hudson Tunnel Project – Commitment to Assume Role of National Environmental Policy Act Project Sponsor and Federal Grant Recipient”, on such terms as set forth therein.

These commitments with respect to NEPA Project Sponsor were reiterated in the May 28, 2021, combined FEIS and ROD issued by FRA and FTA, which specified that upon the transfer of this role, “PANYNJ and GDC will notify FRA and FTA in writing of the change, and the PANYNJ, FRA, and FTA will assist in transition to the new Project Sponsor to effectuate fulfillment of any outstanding mitigation measures.”

In anticipation of formally entering into the FTA’s Risk Assessment, the Commission wishes to adopt the Resolutions set forth below.

Pursuant to the foregoing report, the following resolutions were adopted, with Commissioners Barbas, Bauer, Coscia, Glen and Grewal-Virk voting in favor:

**RESOLVED**, that the Commission will assume the role of NEPA Project Sponsor and federal grant recipient for the HTP from the Port Authority, prior to formal entry into the FTA’s Risk Assessment, consistent with the legislative purpose of the Commission and representations made in the financial plan submitted to the FTA on August 27, 2021; and be it further

**RESOLVED**, that the Chief Executive Officer (“CEO”) of the Commission be and hereby is authorized, in the name and on behalf of the Commission, to execute and deliver any documentation and take all such actions as the CEO may deem necessary and appropriate to effectuate the foregoing resolutions.

## **#0922-02: DELEGATION OF AUTHORITY TO CHIEF EXECUTIVE OFFICER**

On May 16, 2022, the Gateway Development Commission (“GDC” or “Commission”) Board of Commissioners approved a Resolution that authorized the service of Kris Kolluri as the Chief Executive Officer (“CEO”) of GDC, and further authorized the Co-Chairs and Vice Chair of GDC to negotiate the terms of service with Mr. Kolluri and report back to the full Board once those terms were finalized. At the July 19, 2022 GDC Board Meeting, the Co-Chairs and Vice Chair reported in public that they had finalized terms of service with Mr. Kolluri.

The Gateway Development Commission Act (“GDC Act”) holds that the officers of GDC shall include a Chief Executive Officer (“CEO”), among other officers. See N.J.S.A. 32:36-4(b); 2019 N.Y. Laws Ch. 108, Section 2(3)(g).

Section 3.01 of the Bylaws of the Commission adopted March 5, 2021 (and amended on July 12, 2021), include the CEO as an initial officer of the Commission. Specifically, the Bylaws provide that the CEO has the following duties:

The Chief Executive Officer shall manage the operations of the Commission in accordance with the Commission’s policies as established by the Board and these Bylaws. The Chief Executive Officer may prepare proposals for presentation to the Board that carry out approved policies and may propose policies to the Board for adoption. The Chief Executive Officer is authorized to determine and prescribe the duties of new and existing positions and the qualifications for appointments to such positions and make and terminate appointments to the Commission staff and shall hold staff responsible and accountable for making financial, management and operational decisions in accordance with the policies established by the Board. To assist in the performance of his or her duties, the Chief Executive Officer is authorized to retain outside advisors in accordance with policies established by the Board.

Section 3.06 of the Bylaws provides that “the Board may delegate in whole or in part any power, authority, discretion or obligation to any Officer, in each case to the extent to which the Board deems appropriate.”

It is the intention of the Board that in order to enable the efficient and timely effectuation of the Gateway Program, in particular the Hudson Tunnel Project, it is necessary to delegate to the CEO the authority to take certain categories of actions in addition to those delegated to the CEO in the Bylaws.

Pursuant to the foregoing report, the following resolutions were adopted, with Commissioners Barbas, Bauer, Coscia, Glen and Grewal-Virk voting in favor:

**RESOLVED**, that until the termination of this delegation by subsequent resolution of the Board, the Board additionally delegates to the office of the CEO the responsibility and authority to act with respect to any and all matters below. These shall be in addition to any other responsibility or authority conferred by the Bylaws or any resolution heretofore or hereafter adopted by the Board:

1. Authorize, approve or award agreements, contracts or purchase orders on behalf of GDC upon such terms as the CEO may deem proper and to enter into or execute the same on behalf of GDC where the amount of any such agreement, contract or purchase order (inclusive of any renewal or extension) is

not in excess of \$300,000; provided however, that the CEO may not take such action where the amount of the agreement, contract or purchase order is in excess of \$100,000, unless the Co-Chairs and Vice Chair are advised in writing of GDC's intention to enter into such agreement.

2. Initiate and carry out the Commission's procurement processes in accordance with the Commission's previously adopted Procurement Guidelines and/or any federally compliant Procurement Manual hereafter adopted by the Commission; provided that the CEO's authority to enter into any binding agreement, contract or purchase order is subject to the limitations set forth in paragraph 1 above. Some or all of these responsibilities may be delegated by the CEO to another officer or employee of GDC, provided that the CEO provides notice in writing to the Co-Chairs and Vice Chair of such a delegation.

3. With respect to the operation, planning, and development of GDC projects, programs, and studies which have been authorized by GDC, the CEO may apply for and accept on behalf of GDC grants from federal, state, or other governmental entities. Any agreements, contracts or expenditures in connection with such grants or projects and activities funded in whole or in part by such grants are, however, subject to the limitations set forth in paragraph 1 above.

4. Authority to settle all claims of and all claims against GDC, including but not limited to any personal injury, contract or non-contract claims, where the total payment or the amount of damages incurred by GDC is not in excess of \$500,000. Claims of and against GDC shall include claims against individuals for which GDC would be responsible under Article VII of GDC's Bylaws ("Defense and Indemnification of Individuals"); provided, however, that in the case of claims against individuals for which GDC would be responsible under said Article VII, which are covered by insurance purchased by or on behalf of such individuals, GDC shall pay such claims only to the extent that they are in excess of the amount for which the insurance carriers are responsible.

5. On behalf of GDC, the CEO may enter into, amend and terminate any agreements including but not limited to, leases, permits, and licenses for the use or occupancy of any real or personal property owned or operated by GDC or for the use or occupancy of any real or personal property by GDC for a term not to exceed 10 years (including options) where any such agreement includes any one of the following:

- a. Is unconditionally revocable without cause by GDC upon 90 days' notice or less and there is no fixed obligation on GDC in excess of \$300,000; or
- b. Requires payment to GDC of a fixed monetary consideration either alone or combined with a percentage or other variable additional rental or fee and such fixed consideration (exclusive of any separate obligations of the occupant or user/GDC to pay for utilities, insurance, services or other such obligation) does not exceed \$300,000 per annum in the case of real or personal property, and under the terms of such agreement GDC does not incur any fixed liability for termination; or
- c. Substitutes another for the contracting party to an existing agreement provided that the monetary consideration under such agreement does not exceed \$300,000 per annum in the case of real or personal property; or
- d. Is a renewal, extension, amendment or modification of an existing agreement with terms and conditions at least as favorable to GDC provided that the monetary consideration under such an agreement does not exceed \$300,000 per annum in the case of real or personal property.

6. Initiate and carry out the Commission's processes regarding acquisition or disposition of real or personal property as the Commission's "Contracting Officer" in accordance with the Commission's

previously adopted Policy on the Acquisition and Disposition of Property. In accordance with that Policy, some or all of these responsibilities of the “Contracting Officer” may be delegated to another officer or employee of the Commission, and the Board hereby authorizes the CEO via this Resolution to make such a delegation provided that the CEO provides notice in writing to the Co-Chairs and Vice Chair of such a delegation.

7. Report to the Board on a regular basis all significant actions the CEO has taken under this delegation of authority.



**#0922-03: GATEWAY DEVELOPMENT COMMISSION INTERIM OPERATING BUDGET FOR REMAINDER OF FISCAL YEAR 2022**

The Gateway Development Commission's ("GDC" or "Commission") enabling legislation, the Gateway Development Commission Act ("GDC Act"), as well as Section 8.02 of the GDC Bylaws, provides that the Commission "shall prepare a detailed annual operating budget", and the GDC Act and Bylaws further provide that a "preliminary annual operating budget shall be made publicly available on the Commission's website each fiscal year and a final annual operating budget shall be made publicly available on the Commission's website each fiscal year."

The GDC Act and the Bylaws note that "[t]he time with which such preliminary annual operating budget and final annual operating budget shall be made public during each fiscal year shall be determined by the Commission."

Since the Commission first organized in March 2021 with its inaugural board meeting, GDC has not had any assets and did not have any operating budget given that the GDC has been in the process of being organized in accordance with the requirements of the GDC Act.

Given the recent appointment of Kris Kolluri as the inaugural Chief Executive Officer of GDC, an interim operating budget has been prepared by GDC staff for the remainder of Fiscal Year 2022. GDC staff has recommended to the GDC Board of Commissioners an interim operating budget for Fiscal Year 2022 ("Interim FY22 Operating Budget"), as detailed in Exhibit A attached hereto.

The Interim FY22 Operating Budget totaling \$10,868,688 will provide necessary support for salaries of current staff, hiring of additional staff, professional services necessary to support and supplement the work of GDC staff, and other administrative expenses necessary to stand up GDC as a fully functioning organization, as further detailed in Exhibit A.

Given the exigent circumstances necessary to organize and stand up the Commission, this Interim FY22 Operating Budget must be approved as soon as possible in order for GDC to receive sufficient funding for the remainder of the Fiscal Year from the Gateway Project Partners (the State of NY, the State of NJ, Amtrak and Port Authority of New York and New Jersey), and support the further build-out of the organization. Additionally, it is necessary to quickly adopt the Interim FY22 Operating Budget in order for GDC to be compliant with FTA requirements as a federal grant recipient and project sponsor of the HTP.

Due to the time sensitivities to adopt the Interim FY22 Operating Budget, GDC staff is seeking authorization from the GDC Board of Commissioners to adopt this budget as an interim, stop-gap measure until the end of the current fiscal year.

GDC staff, in consultation with the GDC Board, is beginning to prepare an operating budget for Fiscal Year 2023 ("FY23"), and will be presenting a preliminary budget to the Board and public in the coming months in anticipation of adopting a final annual operating budget for FY23 before the end of current fiscal year.

Pursuant to the foregoing report, the following resolutions were adopted, with Barbas, Bauer, Coscia, Glen and Grewal-Virk voting in favor:

**RESOLVED** that the GDC Board of Commissioners adopts the Interim FY22 Operating Budget in the amount of \$10,868,688; and

**RESOLVED** that the GDC CEO is hereby authorized to continue or enter into any agreements and expend funds in order for GDC to obtain sufficient financial support from the Gateway Project Partners, and develop the necessary policies and operational capabilities as envisioned in the GDC Act; and

**RESOLVED** that the GDC CEO is authorized to expend, in the normal course of business, the funds necessary to meet GDC's obligations, essentially in accordance with this Interim FY22 Operating Budget Resolution and attachment, and until the adoption and approval of the final annual operating budget for FY23.

**EXHIBIT A**

## GDC Operating Budget – Remainder of 2022

<b>Expenses</b>	
Staff	2,023,008
Professional Support Services	4,647,411
Federal-related Costs	2,350,000
Project Delivery Partner/PMO	1,500,000
Rent and Utilities	170,452
Administration	91,667
Office Equipment, Services and Supplies	86,150
<b>Total Expenses</b>	<b>\$ 10,868,688</b>

**#0922-04: AUTHORIZATION OF PAYMENT OF FEES TO BUILD AMERICA BUREAU**

The Hudson Tunnel Project (“HTP”), is currently in the Project Development Phase in the Federal Transit Administration’s (“FTA”) Capital Investment Grants (“CIG”) program, as the Gateway Development Commission (“GDC”) is seeking federal loans to finance the local share of the HTP. The most recent HTP financial plan that was previously submitted to FTA specifically assumed financing via USDOT Build America Bureau (the “Bureau”) Federal Loans (Railroad Rehabilitation & Improvement Financing “RRIF” Program). In January 2022, the FTA issued the HTP a “medium-high” rating, which permits the HTP to advance in the CIG process.

To commence the Bureau loan process, GDC submitted a draft Letter of Intent (“LOI”) to the Bureau on July 8, 2022. Following review of GDC’s draft LOI, the Bureau advanced HTP to the Project Development Phase on July 27, 2022. Following submittal by GDC of a final LOI, the Bureau may advance HTP to the Bureau’s Creditworthiness Review Phase. Upon advancement to the Creditworthiness Review Phase, the Bureau will require payment by GDC of the “Advisors’ Fees Upfront Payment”. This is an upfront fee to cover the Bureau’s costs to procure certain outside advisors. GDC anticipates the “Advisors’ Fees Upfront Payment” could be up to \$750,000.

In order for GDC to timely and expeditiously advance the Bureau financing process to correspond with the CIG program timeline, GDC must direct payment of these fees to the Bureau.

Pursuant to the foregoing report, the following resolutions were adopted, with Commissioners Barbas, Bauer, Coscia, Glen and Grewal-Virk voting in favor:

**RESOLVED**, that the Board authorizes in an amount NTE \$750,000 for the necessary “Advisors’ Fees Upfront Payment” that must be paid to the Bureau in order to advance the federal financing process, for up to three loans that GDC will be applying for to support the local contributions of HTP.

**RESOLVED**, that the GDC CEO and other appropriate GDC staff is authorized to take any and all actions necessary to enter into any necessary agreements with the Bureau in order to transmit the “Advisors’ Fees Upfront Payment” and advance the federal financing process.