

Gateway Development Commission
Meeting of The Board
Held In-Person and via Teleconference

December 11, 2023

MINUTES

The following Commissioners were present:

NEW JERSEY

Balpreet Grewal-Virk, Co-Chair
Janine Bauer
Amy Rosen

NEW YORK

Jamey Barbas
Marie Therese Dominguez

AMTRAK

Anthony R. Coscia, Vice Chair

I. Call to Order

The public meeting was called to order by Co-Chair Grewal-Virk at approximately 12:02 PM.

Co-Chair Grewal-Virk advised that as part of the transition from virtual meetings, public comments were being solicited both in-person and virtually, and audio of the meeting was being live-streamed from the Gateway Program website.

Co-Chair Grewal-Virk 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 Barbas, Coscia, Dominguez and Rosen all participated virtually via teleconference during the entirety of the meeting. Co-Chair Glen was not in attendance.

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 November 16, 2023 Meeting

Acting Secretary Caulfield reported that copies of the Minutes of the meeting of November 16, 2023 were delivered in electronic form by Acting Secretary Caulfield to the Governors of New York and New Jersey on November 20, 2023 and that the time for action by the Governors of New York and New Jersey expired at midnight on December 6, 2023, 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, and Acting Chief Financial Officer, Patrick McCoy, provided updates on the Gateway Program. This presentation included an overview of the GDC Fiscal Year 2024 Final Operating and Capital Budget. Mr. McCoy provided an overview and noted that in accordance with the GDC Act the proposed budget had been posted to the Gateway Program website following a presentation at the November 16, 2023 Board Meeting and now the final budget was being presented to the Board for consideration and adoption.

Following the presentation, Co-Chair Grewal-Virk thanked Mr. Kolluri and the rest of the GDC staff for the update, and noted the progress on the project in 2023. None of the other Commissioners had any questions or comments.

IV. Public Comments

Co-Chair Grewal-Virk announced that the Commission had solicited in-person and virtual comments from the public in advance of, and during, today’s meeting. She indicated that a form for soliciting these comments was posted to the Gateway Program website and was available throughout today’s meeting. She also indicated that public attending in-person had opportunity to sign up in advance or when arriving today. There were four (4) written comments received by 5:00 PM on December 10, 2023.

Commenter	Topic
Wanda Nazar, Expediting Support Services	DBE Certified
Samira Ayati, Ivy Engineering Group PLCC	N/A
Chad Purkey, Association for a Better New York	Hudson Tunnel Project Full Funding Grant Agreement
Sophie Capello, Regional Plan Association/Build Gateway Now Coalition	Hudson Tunnel Project

Co-Chair Grewal Virk noted that all virtual written comments received on December 11th before and 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 were no additional virtual written comments received on December 11th.

The following individuals provided in-person public comments during the December 11, 2023 Board Meeting:

Commenter	Topic
Christina Kata, Regional Plan Association	Advocating for remaining funding commitments and Phase 2 Projects
Daniel Ortega, ELEC 825	N/A
Carl Evans, B.O.S.S. Tunnel Vision Team	DBE Inclusion
Edward Funches, Individual	Disability program
Chris Hartman, NJ Alliance for Action	N/A

V. Action Items

#1223-01: Adoption of Gateway Development Commission’s Final Annual Operating and Capital Budget for Fiscal Year 2024 and Authorization for GDC CEO to Enter Into Operating and Capital Funding Agreements

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

#1223-02: Authorization to Increase the Not-to-Exceed Amount for the Final Option Period of Contract with Ernst & Young Infrastructure Advisors, LLC (No. MCP18-002)

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

#1223-03: Authorization to Enter Into and Execute Capital Funding Agreement with National Railroad Passenger Corporation

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

VI. Adjournment

Co-Chair Grewal-Virk noted that there was no further business to conduct, and Co-Chair Grewal-Virk then requested a motion to adjourn the meeting. Upon the motion being duly made by Co-Chair Grewal-Virk and seconded by Commissioner Bauer, the meeting was adjourned at approximately 12:27 PM.

Respectfully submitted,

/s/ Edmund Caulfield _____
Edmund Caulfield, Acting Secretary

#1223-01: ADOPTION OF GATEWAY DEVELOPMENT COMMISSION’S FINAL ANNUAL OPERATING AND CAPITAL BUDGET FOR FISCAL YEAR 2024 AND AUTHORIZATION FOR GDC TO ENTER INTO OPERATING AND CAPITAL FUNDING AGREEMENTS

The Gateway Development Commission (the “**Commission**” or “**GDC**”) is a public authority and government sponsored authority created through the enactment of parallel legislation by the States of New York and New Jersey codified as the Gateway Development Commission Act (2019 N.Y. Sess. Laws Ch. 108 and 2019 N.J. Sess. Law Serv. Ch. 195) (collectively, the “**GDC Act**”).

The GDC Act provides that the Commission “shall prepare a detailed annual operating budget”, and further provides 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 notes 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.”

Commission staff prepared a proposed operating and capital budget for Fiscal Year 2024, which was presented to the Commission’s Board of Commissioners (the “**Board**”) prior to the Board’s November 16, 2023 meeting.

The proposed operating and capital budget was publicly presented at the Board’s November 16, 2023 meeting and was subsequently posted publicly on the Commission website, all in accordance with the GDC Act.

The operating and capital budget forecasts spending of \$68,273,439, comprised of total operating expenses of \$27,945,803, and total capital expenses of \$40,327,636. The operating budget will provide necessary support for salaries of current staff, hiring of additional staff, professional services necessary to support and supplement the work of Commission staff, and other administrative expenses necessary to support the Commission’s operations, as further detailed in **Exhibit A**. The capital budget will provide necessary funding for the delivery partner, interest costs, and to address the Commission’s obligations under certain Supporting or Executing Partner Agreements.

The Commission desires to adopt the proposed operating and capital budget as the final annual operating and capital budget for Fiscal Year 2024.

The GDC Act empowers the Commission to “enter into, execute and deliver contracts and agreements and other documents and instruments as may be necessary or appropriate to carry out any power of the Commission under this act and to otherwise accomplish any lawful purpose which the commissioners determine will Facilitate the Project, including, without limitation, with the federal government, the state of New Jersey, any local government thereof, the state of New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them.” 2019 N.Y. Laws, Ch. 108, Section 2(7)(e); N.J.S.A. 32:36-8(e).

The Project Development Agreement for Hudson Tunnel Project (the “**PDA**”) is a foundational framework between the States of New Jersey and New York, the National Passenger Railroad Corporation

(“**Amtrak**”), and GDC for the procurement, construction, and delivery of the Hudson Tunnel Project (the “**HTP**”). Under the PDA, GDC is responsible for delivery of the HTP and serves in a central role as project sponsor.

Section 11.01 of the PDA provides that GDC will enter into separate funding agreements with the State of New York, the State of New Jersey, and Amtrak requiring each to fund one-third of the Commission’s annual operating budget for the HTP, as approved by the Board, to ensure that the Commission’s operations are continuously funded.

The Commission intends to enter into operating and capital funding agreements with the State of New York, the State of New Jersey, and Amtrak (“**the GDC Operating and Capital Funding Agreements**”) to fund a portion of the expenses reflected in the final annual Operating and Capital Budget for Fiscal Year 2024 (subject to final approval by the Board). This final annual Operating and Capital Budget for Fiscal Year 2024 is intended to cover the fiscal year ending December 31, 2024, or until such time as the Board adopts a subsequent annual operating and capital budget.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Barbas, Bauer, Coscia, Dominguez, Grewal-Virk, and Rosen voting in favor:

RESOLVED, pursuant to the Act, the Commission adopts the Operating and Capital Budget attached hereto as **Exhibit A** in the amount of \$68,273,439 as the final annual Operating and Capital budget for Fiscal Year 2024; 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 final annual Operating and Capital Budget for Fiscal Year 2024 Resolution and attachment; and

RESOLVED, that the GDC CEO is authorized to take any and all actions consistent with this Resolution and to make, execute, and deliver in the name of and on behalf of GDC all instruments, agreements, certifications, and all other documents as may be required or contemplated by the foregoing with respect to the GDC Operating and Capital Funding Agreements with the State of New York, the State of New Jersey, and Amtrak, containing such terms as the GDC CEO and applicable staff deems necessary and advisable in order to effectuate the foregoing transactions, as well as any additional agreements that may be necessary related to the disposition of existing and unused Fiscal Year 2023 funding, subject to Board action to approve the use of such funding; and

RESOLVED, that the GDC CEO and applicable staff will report back to the Board once GDC and the State of New York, the State of New Jersey, and Amtrak have executed the respective GDC Operations Funding Agreements.

EXHIBIT A

GDC Final Annual Operating & Capital Budget for Fiscal Year 2024

Operating Expenses	
Staff ⁽¹⁾	\$12,344,174
Professional Support Services (including financial advisory, outside legal counsel, and systems costs)	\$11,945,980
Federal-related Costs (Build America Bureau)	\$2,000,000
Rent and Utilities	\$595,175
Administration	\$439,516
Office Equipment, Services and Supplies	\$620,958
Total Operating Expenses	\$27,945,803
Capital Expenses ⁽²⁾	
Total Capital Expenses	\$40,327,636
Total Budgeted Expenses	\$68,273,439

(1) Includes 2.5% COLA for GDC staff, except for CEO and Departmental Heads.

(2) Includes Delivery Partner, interest on revolving loan facility, and staffing and Budget plan expenses for the Supporting Execution Partners (SEP), (PANYNJ and NJT).

#1223-02: AUTHORIZATION TO INCREASE THE NOT-TO EXCEED AMOUNT FOR THE FINAL OPTION PERIOD OF CONTRACT WITH ERNST & YOUNG INFRASTRUCTURE ADVISORS, LLC (NO. MCP-18-002)

In 2018, the Port Authority of New York & New Jersey (the “**Port Authority**”) issued a Request for Proposals on behalf of the Gateway Program Development Corporation (“**GPDC**”), seeking to procure one or more Financial Advisor(s) to assist GPDC with project development activities related to the Hudson Tunnel Project (“**HTP**”). Ernst & Young Infrastructure Advisors, LLC was selected after a competitive procurement process based on the firm’s qualifications and experience, technical approach, and cost analysis, and a contract (P.A. Agreement No. MCP-18-002) was executed on December 18, 2018 (the “**EY Contract**”). The EY Contract had a not-to-exceed amount of \$8,100,000.00, and an initial term of three years, which could be extended for three additional one-year periods (“**Option Periods**”). The Port Authority subsequently exercised the first and second extensions of the EY Contract.

To help ensure the functionality of intercity and commuter rail infrastructure between New Jersey and New York and throughout the Northeast Corridor (the “**NEC**”), the State of New Jersey (“**New Jersey**”) and the State of New York (“**New York**”) created the Gateway Development Commission (“**GDC**”) through the enactment of parallel legislation by each state codified as the Gateway Development Commission Act (2019 N.Y. Laws, Ch. 108 and N.J.S.A. 32:36-1, et seq.) (collectively, the “**GDC Act**”). GDC has assumed all responsibilities from GPDC for advancing the HTP.

The GDC Act empowers the Commission to “enter into, execute and deliver contracts and agreements and other documents and instruments as may be necessary or appropriate to carry out any power of the Commission under this act and to otherwise accomplish any lawful purpose which the commissioners determine will Facilitate the Project, including, without limitation, with ... any individual or private firm, entity or corporation, or with any one or more of them.” 2019 N.Y. Laws, Ch. 108, Section 2(7)(e); N.J.S.A. 32:36-8(e).

Section 3.06 of the GDC Bylaws provides that “[t]he 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.” By Resolution dated September 13, 2022, the Board delegated to the GDC CEO certain authorities, including the authority to approve contracts with a value not in excess of \$300,000 and to carry out the Commission’s procurement processes in accordance with the Board-adopted Procurement Guidelines (“**Resolution No. 0922-02**”). Resolution No. 0922-02 also authorized the GDC CEO to further delegate these authorities to another officer or employee of GDC, which the GDC CEO so delegated to the GDC Senior Director, Procurement.

On June 7, 2023, GDC and GPDC entered into an Assignment and Assumption Agreement whereby GPDC assigned all interests in certain agreements, including the EY Contract, to GDC, pursuant to Section II.G.3 of GDC’s Procurement Guidelines.

Prior to the expiration of the second extension of the EY Contract on December 17, 2023, pursuant to GDC’s Procurement Guidelines and Resolution No. 0922-02, GDC and the Port Authority will enter into an Assignment Agreement, whereby the Port Authority will assign its interests in the EY Contract to GDC.

Pursuant to the Resolution No. 0922-02, following the execution of the Assignment Agreement, the GDC Chief Executive Officer or the GDC Senior Director, Procurement will exercise the third and final extension of the EY Contract pursuant to Section 2 thereof, with the final Option Period covering the time period of December 18, 2023 through December 17, 2024.

The continuation of services during the final Option Period will require additional funding under the EY Contract beyond the original not-to-exceed amount.

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Barbas, Bauer, Coscia, Dominguez, Grewal-Virk, and Rosen voting in favor:

RESOLVED, that the GDC Chief Executive Officer or the GDC Senior Director, Procurement is authorized to take any and all actions consistent with this resolution, and to authorize an increase in the EY Contract by an additional \$3,255,000.00, inclusive of costs and expenses, and to take all other steps necessary to comply with the terms and conditions of the EY Contract.

#1223-03: AUTHORIZATION TO ENTER INTO AND EXECUTE CAPITAL FUNDING AGREEMENT WITH NATIONAL RAILROAD PASSENGER CORPORATION

To help ensure the functionality of intercity and commuter rail infrastructure between New Jersey and New York and throughout the Northeast Corridor (the "**NEC**"), the State of New Jersey ("**New Jersey**") and the State of New York ("**New York**") created the Gateway Development Commission ("**GDC**") through the enactment of parallel legislation by each state codified as the Gateway Development Commission Act (2019 N.Y. Laws, Ch. 108 and N.J.S.A. 32:36-1, et seq.) (collectively, the "**GDC Act**").

The GDC Act empowers the Commission to "enter into, execute and deliver contracts and agreements and other documents and instruments as may be necessary or appropriate to carry out any power of the Commission under this act and to otherwise accomplish any lawful purpose which the commissioners determine will Facilitate the Project, including, without limitation, with the federal government, the state of New Jersey, any local government thereof, the state of New York, with any local government thereof, with any agency, instrumentality, department, commission or authority of any one or more of the foregoing, any bi-state agency, Amtrak, any individual or private firm, entity or corporation, or with any one or more of them." 2019 N.Y. Laws, Ch. 108, Section 2(7)(e); N.J.S.A. 32:36-8(e).

Section 3.06 of the GDC Bylaws provides that "[t]he 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."

Accordingly, on February 3, 2023, New Jersey, New York, the National Railroad Passenger Corporation ("**Amtrak**"), and GDC (collectively, the "**PDA Parties**") entered into an Agreement (the "**Project Development Agreement**" or "**PDA**") in order to establish their respective roles and responsibilities with respect to the funding, financing, right-of-way acquisition, procurement, delivery, and operation of the Hudson Tunnel Project ("**HTP**").

The PDA provides that GDC will enter into a funding agreement with Amtrak to facilitate Amtrak's commitment to fund a portion of the delivery of the HTP. Consistent with the PDA requirements, GDC and Amtrak have negotiated the Capital Funding Agreement between Amtrak and Gateway Development Commission (the "**Amtrak Capital Funding Agreement**").

Pursuant to the foregoing report, the following resolution was adopted, with Commissioners Barbas, Bauer, Coscia, Dominguez, Grewal-Virk, and Rosen voting in favor:

RESOLVED, that the GDC Chief Executive Officer is authorized to take any and all actions consistent with this Resolution, and is directed to finalize the terms of the Amtrak Capital Funding Agreement and make, execute, and deliver in the name of and on behalf of GDC the Amtrak Capital Funding Agreement once finalized, and to take all other steps necessary to comply with the terms and conditions of the Amtrak Capital Funding Agreement once executed; and

RESOLVED, that the GDC CEO and applicable staff will report back to the GDC Board of Commissioners once GDC and Amtrak have executed the Amtrak Capital Funding Agreement.