

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON CAPITAL
BUDGET

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October 20, 2021
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HELD AT: Remote Hearing, Virtual Room 5

B E F O R E: Helen K. Rosenthal
Chairperson

COUNCIL MEMBERS: Helen K. Rosenthal
Adrienne E. Adams
Selvena N. Brooks-Powers
Vanessa L. Gibson
Barry Grodenchik
Steven Matteo

A P P E A R A N C E S (CONTINUED)

Jamie Torres-Springer
Commissioner
Department of Design and Construction

Alison Landry
Assistant Commissioner for Public
Buildings and Design Build
Department of Design and Construction

Wayne Lambert
Chief Diversity and Industry Relations
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Tanvi Pandya
Executive Director
Department of Design and Construction

Miranda Alquist
Assistant Director of Legislative Affairs
Department of Transportation

David Varoli
General Counsel and Deputy Commissioner
for Legal Affairs
Department of Design and Construction

Jonathan Rosenberg
IBO

Ray Rudolph
NYCRA

Mike Cervoni
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Arthur Goldstein

@

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2 SERGEANT AT ARMS: Recording to the PC
3 begun.

4 SERGEANT AT ARMS: Recording to the cloud
5 started.

6 SERGEANT AT ARMS: Backup is rolling.

7 SERGEANT AT ARMS: Thank you. Good
8 morning and welcome to today's remote New York City
9 Council hearing for the Subcommittee on Capital
10 Budget. At this time would all panelists please turn
11 on their videos for verification purposes. To
12 minimize any disruptions please place all electronic
13 devices to vibrate or silent mode. If you'd like to
14 submit testimony you may do so at
15 testimony@council.nyc.gov. Again, that is
16 testimony@council.nyc.gov. Thank you, Chair
17 Rosenthal. We are ready to begin.

18 CHAIRPERSON ROSENTHAL: Thank you so much.

19 Ah, good morning. I'm Council Member Helen
20 Rosenthal. I'm chair of the Subcommittee on Capital
21 Budget. I'd like to welcome my colleagues on the
22 committee, Council Member Brooks-Powers, Council
23 Member Adams. Um, the subcommittee conducts
24 oversight of the administrations planning and
25 delivery of the capital projects. Ah, we often focus

1 on procurement inefficiencies by we're always looking
2 to identify and support best practices and promising
3 innovations. So today our focus is on the promise
4 and reality of design build procurement. For so many
5 years state law has required the city to have design
6 bid build as their framework. But over the last, ah,
7 several years, ah, the state has allowed itself to do
8 design build practices with great results. They have
9 had savings of often a third of the value of their
10 project, um, going from 120 million dollar project
11 down to the actual of 90 million because they're
12 using the design build framework. Of course, ah, the
13 city has been very interested in getting the
14 authority to do that and, ah, lobbied the state very
15 heavily. The city council members, ah, ah, joined in
16 and lobbied as well. Um, and, ah, over the past few
17 years we've brought about, ah, the administration,
18 the state administration agreed and giving the city
19 the authority to, um, use the design build framework
20 for many of its projects. Um, in March 2018 so, ah,
21 a whole year prior to the pandemic the state granted
22 a sort of narrow design build authorization for the
23 BQE cantilever replacement, Riker's Island Jail
24 replacement, and NYCHA repairs. Um, I'm eager to
25

1
2 hear about the success of those, ah, design build
3 projects. But then in December 2019 the design build
4 authority was expanded to include additional city
5 agencies and city projects. Um, we have to be
6 mindful that the state's grant of authority to the
7 city is set to sunset at the end of December 2022.
8 So we're more than halfway through our window to
9 justify our efforts to demonstrate our results and,
10 again, if you look online at the state's, um,
11 wonderful, ah, um, ah, booklet showing the success of
12 their roughly 20 design build projects you can see
13 that, ah, now's the time that we want the city to
14 start showing us, if not projected, um, successes
15 with projects well on their way, um, at least plans
16 for what they expect to do. Um, let's be clear.
17 The, ah, there was a pause placed on construction for
18 a year and we can understand why that might slow down
19 some progress. There was a report due to the state
20 back in June 2020 and we can understand why that
21 report, ah, was never filed given that we were in the
22 middle of the pandemic. But the pause has been
23 lifted for over a year and it's so far we're in
24 October. Ah, the second report was June 2021 and the
25 city has not, ah, put forth that report to the state,

1 and so the public is wondering where are we, why
2 aren't we as far as we hope to be, um, and what do we
3 think about whether or not we'll be in a position to
4 ask the state to grant us. the city, the authority
5 to continue with design build, which we had such high
6 hopes for. Look, ah, the fact that we don't have the
7 report, the fact that our, we don't see any, ah, one
8 testifying from the administration who would be the
9 coordinator of the agencies, they're not here to
10 testify today, so this lack of coordination and
11 public record explains the need for the legislation
12 that's being heard today, 2328, which I sponsored,
13 which would impose reporting obligations on the
14 administration on their use of design build. One
15 important way our proposed reporting is different
16 from what they are required to report to the state is
17 that our bill seeks to tie the reporting to the
18 capital commitment plan, so the council and the
19 public can understand how individual projects are
20 progressing and how savings are being accounted for.
21 In this way I'm hoping to further institutionalize
22 the use of design build while enhancing transparency
23 and accessibility. Ah, this hearing would not have
24 happened without the staff who are amazing and have
25

1 prepared all of for this hearing. So I'd like to
2 thank the finance division subcommittee staff, Nathan
3 Toth, the deputy director, Chima Obechard, the unit
4 head, Monica Blueject, the finance analyst, Rebecca
5 Chasen, senior counsel, Noah Brick, assistant
6 council, and with that I'm going to turn it over to
7 our committee counsel to go over some procedural
8 items and to swear in the witnesses, ah, which
9 include again Commissioner of DDC and, um, some of
10 the other, um, city officials. But again I want to
11 emphasize not, ah, anyone from OMB or the Office of
12 Operations, ah, those that we would have expected
13 would be tasked with pulling together the report.
14 Thank you, ah, committee counsel.

16 COMMITTEE COUNSEL: Thank you, Chair
17 Rosenthal. Ah, I am Noah Brick, counsel to the
18 city's, ah, counsel to the Subcommittee on Capital
19 Budget. Before we begin, I want to remind everyone
20 that you will be on mute until you are called on to
21 testify, at which point you will be unmuted by the
22 host. Um, I will be calling, I'm sorry. Ah, um, so
23 we'll first be hear, ah, testimony from the
24 administration, which will be followed by questions
25 from council members and then members of the public.

2 From the administration we'll hear testimony from,
3 ah, Commissioner Torres-Springer. Also here for Q&A
4 from DDC are Alison Landry, ah, Assistant
5 Commissioner for Public Buildings, Design Build,
6 and, ah, Wayne Lambert, Chief Diversity and Industry
7 Relations Officer. I believe that David Varoli,
8 general counsel, is attempting to join us. Um, for
9 Q&A from DOT we have Tanvi Pandya, executive director
10 of the BQE design build, and Miranda Alquist,
11 assistant director of legislative affairs. I will
12 now administer the oath. Please raise your right
13 hands. Do you affirm that your testimony will be
14 truthful to the best of your knowledge, information,
15 and belief? Commissioner Torres-Springer

16 COMMISSIONER TORRES-SPRINGER: Yes.

17 COMMITTEE COUNSEL: I don't if
18 Commissioner Varoli is with us yet. Ah, Ms. Landry?

19 ASSISTANT COMMISSIONER LANDRY: Yes.

20 COMMITTEE COUNSEL: Mr. Lambert?

21 CHIEF LAMBERT: Yes.

22 COMMITTEE COUNSEL: Ms. Pandya?

23 EXECUTIVE DIRECTOR PANDYA: Yes.

24 COMMITTEE COUNSEL: And Ms. Alquist?

25 ASSISTANT DIRECTOR ALQUIST: Yes.

1
2 COMMITTEE COUNSEL: OK. Thank you. Ah,
3 Commissioner, you may begin when ready.

4 COMMISSIONER TORRES-SPRINGER: Great. Ah,
5 thank you very much and good morning, ah, Chairwoman
6 Rosenthal, members of the subcommittee, um, pleasure
7 to be with you this morning. Ah, as noted, I'm the
8 commissioner of the New York City Department of
9 Design and Construction. Ah, I'm pleased to be
10 joined today by, ah, soon, I think, we'll be joined
11 by our general counsel, David Varoli, um, who is
12 having some difficulty. Ah, Alison Landry, Assistant
13 Commissioner for design build in our public buildings
14 division, and Wayne Lambert, who is our chief
15 difficulty and industry relations officer. Ah, we
16 also, ah, as noted, are joined by staff from the
17 Department of Transportation. Ah, we appreciate the
18 opportunity to testify about Intro, ah, 2328. The
19 city as a whole is supportive of design build
20 reporting requirements. Um, we respectfully request
21 that any local law near state reporting requirements
22 which were included in the 2019 law that, ah, you
23 were describing, Chairwoman Rosenthal. Ah, over the
24 past two years DEC has demonstrated that the city can
25 benefit from using multiple approaches to project

1 delivery, where for decades we were confined to using
2 a single approach, low bid, design bid build
3 delivery. In a span of a few months in the last
4 couple of years, two important developments occurred.
5 First, the state authorized the temporary use of
6 design build, which permitted implementation of a new
7 aggressive program at DDC and across city government.
8 This was followed by the state declaration of
9 emergency in response to the COVID positivity that
10 has permitted DDC to use, ah, other delivery models,
11 really construction manager as contractor, ah, to
12 build out urgently needed healthcare facilities. In
13 both cases we've been able to deliver critical
14 projects in a fraction of the usual time while
15 staying on budget, meeting ambitious M/WBE goals, and
16 using high-quality organized labor. Ah, so, let me
17 give you some background on our progress in the use
18 of design build, ah, which we appreciate the
19 opportunity to do. We were initially authorized by
20 the state legislature to use design build for the
21 borough-based jail program, ah, as you noted,
22 Councilwoman, which will allow us to construct the
23 critical facilities necessary to close Riker's
24 Island. A broader state authorization of design
25

1 build was signed at the end of 2019. On the borough-
2 based jails, I'm please to report that that program
3 is on track with procurement, design, and
4 construction, supporting a completion of all four
5 facilities and closure of Riker's Island in 2027. We
6 began the required two-step procurement process for
7 this program immediately after the October 2019, ah,
8 ULURP approval of the four borough-based jail
9 facilities. By March of this year we had a design
10 build team on board for the demolition of a municipal
11 parking lot and construction of new parking and
12 community facilities in Queens. You can see that
13 work is under way. The project is on schedule to be
14 completed by late 2022, which is just three years
15 after the start of procurement. A project of this
16 magnitude, um, I think we, we all know from long
17 experience, would normally take six years or more to
18 complete. So that's a time savings for that project
19 of at least three years. Procurement is well
20 underway for construction of new jail facilities in
21 Queens, the Bronx, Manhattan, and Brooklyn, and site
22 preparation will be in full swing next year, paving
23 the way for delivery of smaller, more human
24 facilities to be in place on all four sites by 2027
25

1 as planned. Completing an unprecedented 8.5 billion
2 dollar program by 2027 will be historic. It is only
3 because we can leverage the innovation,
4 collaboration, and time savings permitted by design
5 build that we can do so. Speaking more broadly to
6 our design build program, ah, other than the borough-
7 based jails, following that broader state
8 authorization we as an agency quickly took steps to
9 create the capacity to use design build
10 systematically. This included the reorganization and
11 hiring of staff to manage the new program. We
12 retained outside expertise to support us. We trained
13 our project managers, procurement, and legal staff.
14 We developed a toolkit of procurement procedures,
15 contract documents, and project management tools.
16 The city is now completing design build-specific
17 project labor agreements that will permit a safe and
18 seamless transition into construction. All of these
19 activities required considerable work and took place
20 during the height of the COVID positivity. Several
21 of the two-step RFQ/RFP procurements that we need to
22 for a design build, as currently authorized, are
23 close to completion. Our first two projects, our
24 operations and maintenance facilities for the Parks
25

Department, serving Orchard Beach and Rockaways.

Work on both projects will commence early next year

and we expect them to be completed almost three years

ahead of the typical design bid build projects,

project. Several more projects are slated to enter

the design and construction phase next year as well,

with similarly tight schedules. Notably, DDC has

taken on a new portfolio of community resource

centers across the city. This includes the new

Marlborough Agriculture and Education Center, a

multipurpose facility featuring a greenhouse in

Gravesend, Brooklyn, the Mary Kelly Dalton Community

Center, a Parks facility including an indoor pool, on

Staten Island's North Shore, and the Shirley Chisholm

Recreation Center, a Parks facility long sought by

advocates in Flatbush. All will have design build

teams on board next year to begin collaborative

meetings with the community and undertake early site

preparations. Ah, DEC has two divisions. I've

described the work of our public buildings division.

Our infrastructure division is also beginning to role

out design build projects that will focus on

programmatic solutions to citywide initiatives. Most

notably, including our green infrastructure

1 portfolio, an acceleration initiative, um, to create
2 more detention and retention capacity, ah, across the
3 city, um, that was recently included in the city's
4 extreme weather response task force plan. We're also
5 using design build to implement our massive
6 pedestrian ramp program that aims to upgrade the
7 city's 180,000 street corners for ADA accessibility
8 by 2034. So that's the summary of where we are with
9 design build. I did want to note, ah, related to our
10 COVID response efforts that design build is only one
11 approach. Other important alternative delivery
12 methods would allow the city to realize even greater
13 time and cost savings. For example, ah, and council
14 members have heard me talk about this a lot before,
15 in 2020 DDC delivered an expansive portfolio of
16 urgent healthcare facilities during the peak of the
17 pandemic using construction manager as contractor,
18 which employs a selection process similar to design
19 build. At the height of the pandemic DDC, our
20 construction managers, design teams, and contractors
21 coordinated closely and continuously to complete
22 three large permanent COVID centers of excellence
23 within months. The centers of excellent would have
24 taken years to complete under the design, bid, build

1 mode that we normal operate in. Because we could
2 focus on design, construction, and delivery,
3 unburdened by layers of bureaucracy, we showed there
4 is a better way. Again, I have to emphasize we built
5 these facilities in six months. They certainly would
6 have taken six years to build, ah, in design, bid,
7 build. For the city to have a broadly more efficient
8 capital project delivery we must have access, not
9 only to design build, but to tools like CM, ah,
10 build, CM as manager, CM at risk, progressive design
11 build, and other permutations of the process tailored
12 to unique demand or site conditions. Before I wrap
13 up, ah, if you will, a word about our M/WBE
14 performance. Ah, our program remains one of the
15 city's best. We account for nearly half of the
16 city's M/WBE spend under Local Law 1 from year to
17 year. There will be no drop-off in our design bid,
18 in our design build portfolio. In implementing our
19 new design build programs we have set M/WBE goals of
20 30% for both the design portion and the construction
21 portion of our contracts to provide more
22 opportunities for M/WBE design firms. Our emergency
23 work during the pandemic delivered high M/WBE
24 utilization rates, sometimes as high as 46% in the
25

1 case of those centers of excellence that I was
2 referring to earlier. And we were able to more
3 efficiently employ M/WBE firms as prime contractors
4 and first-tier subcontractors as well. Finally, all
5 of city government has to be part of the effort to
6 improve delivery. This is not the purview of a
7 single agency or branch of government. For example,
8 we worked successfully with the Department of City
9 Planning and the City Planning Commission and the
10 Public Design Commission to ensure they can conduct
11 their charter-mandated reviews effectively and
12 efficiently within the somewhat different structure
13 of design build. We continue to work with OMB for
14 their sign-off to proceed on several steps during,
15 at, and after procurement, tailoring our processes to
16 the specifics of the design build schedule. So in
17 conclusion DEC's design build program is delivering
18 on its promise of more efficient selection and
19 delivery. Our top priority for the coming months is
20 to move our portfolio forward and to pass improved,
21 more flexible design build reauthorization in Albany
22 next year. This is essential, or we'll again be
23 confined to using the antiquated, low-bid model that
24 has burdened the city for decades and is the source
25

1 of so much frustration. Thank you, ah, and we're
2 very happy to answer any questions that you may have.

3 CHAIRPERSON ROSENTHAL: Thank you. Ah,
4 Committee Counsel, am I next? Just checking. Yes.

5 COMMITTEE COUNSEL: You, you are. You
6 can ask your questions [inaudible].

7 CHAIRPERSON ROSENTHAL: OK. Um, I'd like
8 to start by, ah, of course thanking you,
9 commissioner, but I see a few of my colleagues, um,
10 are here. If at any time, ah, you would like to ask
11 questions and interrupt, ah, me please just raise
12 your hand and, um, and we can, we can count on you,
13 we can call on you immediately. Um, I guess,
14 Commissioner, I mean, you paint a very rose, you
15 paint a rosy picture and you also paint an urgent
16 picture. Rosy because you list project after
17 project. All of this is news to me and I'm sure news
18 to the public. With your so well defined
19 presentation why can't you, what's holding the city
20 back from your putting this information up online or
21 sending it to the state? I know it's just a basic
22 question and I'll get into details, but I'm a little,
23 just, you know, of course impressed with what you're
24 saying. Why wouldn't to have already, information
25

1 already gone to the state to show them, you know, to
2 set the stage for them to reauthorize?

3
4 COMMISSIONER TORRES-SPRINGER: Yeah,
5 thank you for the question, Councilwoman. I, I do
6 want to say that we, we at DDC are, um, make, make an
7 effort to be as transparent as we can. Um, certainly
8 all of the procurement that I've described is, is a
9 matter of public record, and also it's worth noting,
10 you know, on our website we published a, a report.
11 It's, it's online, um, summarizing, ah, some of our
12 activities during 2020, um, and really most of what
13 I've described is summarized there, so I, I think it
14 is, um, it is certainly online. In terms of the
15 reporting to the state, which I know is, is the
16 concern that you're raising, um, each respective
17 agency in the city, ah, that's been authorized to use
18 design build and report on it pursuant to the law,
19 um, have, has been working with our colleagues at
20 City Hall to generate the report and submit it to the
21 state upon completion. Ah, we're actively at work on
22 the publication and expect to have it very shortly.
23 Um, I, I think, I, I would say on behalf of some of
24 our, ah, agency colleagues that COVID-19 and the
25 effort to stand up the design build program at the

1 same time meant that, um, things did not progress.
2 Ah, there was a pause, as you described in opening
3 remarks, and so things did not progress, ah, with
4 many of the projects and so the information that's
5 sought by the law, um, you know, is not available,
6 only a few more was not available, only a few months
7 into the creation of the program. But now we've,
8 we're in a whole restart and the city's capital
9 program is, is moving forward and so we're working
10 with our partner agencies and City...

12 CHAIRPERSON ROSENTHAL: Yeah.

13 COMMISSIONER TORRES-SPRINGER: ...Hall to
14 submit the report.

15 CHAIRPERSON ROSENTHAL: I mean, you know,
16 then again for the record is there anyone from City
17 Hall who's responsible for pulling this all together
18 here to testify today?

19 COMMISSIONER TORRES-SPRINGER: Um, I, I
20 don't believe anyone from City Hall is on the, on
21 the, ah, call today, but I'm, you know, I'm happy to,
22 ah...

23 CHAIRPERSON ROSENTHAL: I'm not.

24 COMMISSIONER TORRES-SPRINGER:
25 ...represent the administration.

2 CHAIRPERSON ROSENTHAL: [laughs] I'm not
3 laying the burden on you.

4 COMMISSIONER TORRES-SPRINGER: No, I
5 understand.

6 CHAIRPERSON ROSENTHAL: I am, for the
7 record, making it clear that no one is here from City
8 Hall and they're the ones who have the responsibility
9 to produce the record and produce this document, and
10 that is disappointing, disconcerting. It doesn't, I
11 don't know, again, I'm rooting for you, but I don't
12 know how, ah, we can ask the state to reauthorize if
13 none from City Hall is interested in testifying on
14 this.

15 COMMISSIONER TORRES-SPRINGER: Council
16 Member, I do just want to emphasize that the report
17 is largely complete and we will be sharing with the
18 council in the very near future as [inaudible].

19 CHAIRPERSON ROSENTHAL: I don't know how
20 you know that given that City Hall is responsible for
21 putting it together. But if you do that's great, and
22 shortly is always a good amount of time. I don't
23 know if shortly means before this administration is
24 over. I don't know if means two weeks from now. I
25 don't know if it means we could have a hearing to

1 discuss it or not. Um, shortly doesn't answer that
2 question and so much is at stake. I guess I would
3 say given that DDC is the lead agency and it does
4 apply mostly to your projects and you've hand in your
5 testimony we can see of such a good record, why
6 wouldn't you just publish that online now so the
7 public could see what you're saying.

9 COMMISSIONER TORRES-SPRINGER: It's,
10 it's, it's just a, it's a report that's coordinated
11 across a number of different agencies, um, which is,
12 you know, we are coordinating and City Hall is
13 coordinating and the report will be completed very
14 shortly. And I'm, I'm, I'm certain it will be during
15 this administration.

16 CHAIRPERSON ROSENTHAL: OK. So, and
17 again, for the record, it was due June 2021. Ah, so,
18 um, we're already, um, four months late.

19 COMMISSIONER TORRES-SPRINGER: Yeah, as,
20 as I was describing, just again to emphasize, I mean,
21 you know, COVID has disrupted, ah, lives and work
22 across the city. This is one of the ways is that,
23 um, the capital program has been disrupted, ah,
24 because of the, the sort of near-total, ah, budget,
25

1 ah, crisis. Um, the capital program across the city
2 was put on pause, so...

3
4 CHAIRPERSON ROSENTHAL: Yeah, yeah.

5 COMMISSIONER TORRES-SPRINGER: ...um, it's
6 important [inaudible].

7 CHAIRPERSON ROSENTHAL: No, I'm very well
8 aware we've hearings about that and you've, ah,
9 testified about that. So we're well aware. Can I
10 just ask who at City Hall or which office at City
11 Hall is responsible for coordinating this report?
12 Who is it you're turning your documents into?

13 COMMISSIONER TORRES-SPRINGER: I'd have
14 to ask, ah, City Hall to get back to you. We, we
15 work with a number of deputy mayors, um, of the
16 Offices of the First Deputy Mayors, the Deputy Mayor
17 for Operations, um, but it, you know, it, it is a
18 coordinated approach.

19 CHAIRPERSON ROSENTHAL: So, again, just
20 for the public record, it's 10:35. If anyone from
21 City Hall is, ah, aware of this hearing, ah, this
22 hearing will be continuing for at least an hour. Um,
23 feel free to jump on the Zoom. If you need the
24 information for that we can send it over to you in
25 order to give us, the public, an understanding of why

1 this report is four months late when shortly is. Um,
2 I appreciate that. Ah, and then, ah, Commissioner,
3 you did refer to a 2020 report which does reference
4 design build but, you know, I'm looking at it right
5 now online and not seeing the type of detail that you
6 just explained. Um, and I, I just, I guess I'm
7 getting the point across. The public deserves to
8 know. Um, especially because the city lobbied so
9 hard and we're in a minute we're at reauthorization
10 and I don't know if you're, you know, of course
11 there's upheaval between administrations, but I hope
12 there are some people who are beginning to lobby, um,
13 the state to get an extension if that's what you want
14 to ask for. And secondly I would imagine you would
15 want to be lobbying very heavily, um, about the
16 additional things that you mentioned that you were
17 able to achieve with the emergency authority, um, the
18 construction, the CM as manager, at risk, you know,
19 etcetera. Um, will that be included in the, um,
20 application to the city for extended, from the city
21 to the state for extended authority?

23 COMMISSIONER TORRES-SPRINGER: Thanks,
24 Councilwoman. Ah, so, first of all, I just want to
25 be clear, I am very confident that the city will be

1 giving the State Legislature and the governor's
2 office, um, all of the information that they need
3 well in advance to reauthorize design build, um,
4 which needs reauthorization by the end of the next
5 calendar year, so there's over a year, um, and I, I
6 [inaudible]...

8 CHAIRPERSON ROSENTHAL: Yeah, so then you
9 started [inaudible]...

10 COMMISSIONER TORRES-SPRINGER: ...I'm
11 absolutely confident that they will have that
12 information, um, and that the information will be
13 highly compelling in terms of demonstrating the
14 effectiveness of design build and what we've been to
15 do to date. Um, to the other part of your question,
16 again, you know, we would certainly, ah, strongly
17 recommend to, and I personally would strongly
18 recommend to the next administration that it seek
19 those additional alternative delivery tools, um,
20 it's, it's important for the capital program and I
21 would really recommend that that be a, ah,
22 significant part of the next administration's
23 legislative agenda next year.

24 CHAIRPERSON ROSENTHAL: So, um, let's get
25 specific about a couple of, um, areas of concern.

1
2 Um, ah, do you have an update, ah, um, in the report
3 that you provided last night to the City Council, um,
4 which detailed the specific projects that you're
5 working on with design build, which honestly I have
6 not had a chance to look at. Um, um, can you provide
7 an update on the number and value of the design build
8 contracts for which you have put our RFPs or have
9 awarded?

10 COMMISSIONER TORRES-SPRINGER: Sure, I'd
11 be happy to. Um, we have, I, I guess I would
12 describe there be three, ah, three different, um,
13 sort of clusters of design build work that we're
14 doing. Um, so first of all we're currently managing
15 seven projects within our public buildings program.
16 They have an estimated total value of a little over
17 530 million dollars. Three of those projects, which
18 are the Orchard Beach and Rockaway, ah, Parks
19 operations and maintenance, ah, facilities, um, plus
20 the Dalton North Shore Recreation Center will be in
21 contract and start work this calendar year, 2021.
22 Another four, the Marlborough Center, the Chisholm
23 Center, ah, the Brownsville Girls Empowerment Center,
24 and Harper Street Administration Building, which is a
25 DOT facility, are on track for contracting notice

1
2 proceed in 2022. The second grouping is the borough-
3 based jails program, which is approximately 8.3
4 billion dollars. It includes nine different design
5 build contracts, ah, for the four boroughs, ah, and
6 the status of those is as I mentioned in my
7 testimony, one project for the garage and community
8 space in Queens is underway, that's our first design
9 build project...

10 CHAIRPERSON ROSENTHAL: Commissioner,
11 hang on one sec and I, I'm loathe to interrupt to you
12 because you're giving the public so much good
13 information. But, ah, it's hard to, you know, I'm
14 gonna, I'm gonna interrupt you for just one second to
15 defer to my colleague, Council Member Brooks-Powers,
16 who has some really important questions and we can
17 come back to this. But, again, my general point
18 being just put it up online for the public to see.
19 Council Member Brooks-Powers, thank you.

20 COUNCIL MEMBER BROOKS-POWERS: Hi, good
21 morning. I actually wanted to hear the commissioner
22 finish as well, but I will just use the moment just
23 to touch on a couple of things and I'll probably, if
24 that's OK, Madam Chair, come back at a certain point
25 with some additional questions later. Um, I'm

1 particularly interested, um, in understanding the
2 M/WBE utilization. As you're, um, I'm sure everyone
3 knows, this past week the *Daily News* had an article
4 about, um, the city usage of M/WBEs being 3.8% in
5 light of the COVID-19 pandemic and, um, that's a
6 significant setback on the progress that I feel the
7 city has made in that space, and I'm particularly
8 interested in how DDC is working in an intentional
9 way to ensure that we are not leaving behind our
10 M/WBEs. Do you find that the design build process
11 has helped them because in working with M/WBEs I
12 found many of them have been reluctant to apply for
13 certain government opportunities because of, um, the
14 level of, um, steps that they had to take in order to
15 compete, um, in many cases with the design build bid
16 process, which is the lowest. Um, so how does the
17 design build process help them? Is there anything
18 else being done to ensure that we're educating the
19 M/WBEs on this process and how do we help pull them
20 up? Also, I was looking at the projects that were
21 submitted, um, that a current design build project
22 and I see some of them have like 20 proposers and
23 what have you. I'm interested in understanding how
24 many of those proposers are M/WBEs, um, so I, I just
25

1 wanted to start with those questions, and thank you,
2 Commissioner, for your testimony.

3 COMMISSIONER TORRES-SPRINGER: Thank you,
4 Council Member, and I just want to, ah, give
5 appreciation to, to your partnership and your
6 community and your district and the many, ah,
7 important projects that we're, ah, we're building
8 there, and it's been a great partnership, and also
9 for your voice on these issues. Um, I'll just start,
10 I really want to ask our chief diversity and industry
11 relations officer, ah, Wayne Lambert, to, to speak to
12 this. Um, I'll just start by saying we are very
13 proud of, ah, what we've accomplished during the
14 pandemic, ah, in terms of M/WBE utilization. Um, our
15 numbers are very strong. Um, as I mentioned, ah, on,
16 on the, the largest project that we built during the
17 pandemic, um, we had a 46% utilization. We've had a
18 number of M/WBE [inaudible] contractors building out
19 the field hospitals, testing sites, vaccine centers.
20 Um, it's been a, a, a great success for us during the
21 pandemic. And I think also we're positioned to have
22 success in M/WBE contracting with design build more
23 broadly, for which I'd like to ask to describe, ah,
24 everything we're doing on that.
25

1
2 CHIEF LAMBERT: Sure. Thank you,
3 commissioner, ah, and thank you, ah, Council Member,
4 for your, ah, for your concern and continued
5 advocacy. Um, it's much appreciated from, from this
6 standpoint, um, as well. Ah, as, ah, as the
7 commissioner indicated, we have done, um, a lot on
8 the design build [inaudible] M/WBES have access to
9 opportunities. Um, one of the names or caveats is,
10 um, the, ah, separating and having 30% goals on
11 design separate from construction. So 30% on design
12 and 30% goal on construction, ensuring that, ah,
13 vendors on both sides, um, of the, of the, ah,
14 contracting, um, of the contract there has an
15 opportunity to work, um, on these projects. Um,
16 these, these 30% goals are implemented. There's no
17 waiver present, so design build teams we submit they
18 can't wait out of these goals, um, and that's
19 important to note because that's a major, ah,
20 distinction between, um, typical design build
21 projects where you'll see 30% on the overall project
22 and then utilization sort of back loaded, if you
23 will, from the lower tail work. Um, that's not the
24 case in our design build, um, projects. Um,
25 additionally we count suppliers up to 60%, um, there

1 so and the suppliers also have a chance to get access
2 to opportunities here, um, utilized state and city
3 certified M/WBEs. Ah, you know, and others have been
4 pointing caveat there again, giving more
5 opportunities to M/WBE vendors and less excuses, if
6 you will, for the design build teams to, ah,
7 [inaudible] to have when it comes to identifying
8 M/WBEs for these projects. Um, when the proposal
9 teams submit, ah, when they submit their proposal to
10 the, ah, design build teams they also get graded on
11 their M/WBE program experience. Again, and if they
12 don't, um, apply for sufficient information they
13 won't get that credit and it, it does not throw the
14 design build teams out of the park, if you will. Um,
15 you know, [inaudible] the opportunity to bid on these
16 projects. Um, again, a few, they're also in terms
17 of, um, making sure that M/WBEs are aware of the
18 projects. We have a, a dedicated website on our DDC
19 page. Um, we've done trainings geared towards M/WBEs
20 to ensure that they have knowledge about design
21 build, how the process works, um, again, targeted,
22 ah, training sessions for, ah, M/WBEs and we'll
23 continue to have those sessions, um, in the coming
24 months, something that we're focused on. Um,

1 there's, ah, ah, ah, enhanced compliance, ah, and
2 tracking on these projects. Um, the M/WBE team they
3 participate in these sort of short lists of, ah,
4 meetings, um, we have a short list of vendors we meet
5 with them and ensure that, ah, you know, we emphasize
6 the importance of engaging the community on these
7 projects and the importance of identifying M/WBEs.
8 We share a list of M/WBEs in the, in the, ah, the
9 community, targeting ZIP codes. Um, again, we do a
10 lot of, take a detailed approach here, um, and, you
11 know, ah, you know, all of these things are geared to
12 ensuring that the M/WBEs have opportunities and we're
13 learning from our projects as well to ensure that we
14 do more listening to them, the M/WBE community, um,
15 and there's more in store, um, that we're working on,
16 um, as well. But I'll, I'll pause there, um, and if
17 you have any additional questions. Thank you.

18
19 CHAIRPERSON ROSENTHAL: I think we need
20 to unmute Council Member Brooks-Powers.

21 COUNCIL MEMBER BROOKS-POWERS: Thank you.
22 I always forget not to mute myself back 'cause then I
23 have to wait to be unmuted. Um, but thank you for,
24 um, that Commissioner and Wayne. And just as a
25 follow-up, um, when you talk about the no-waiver

1 process is that, um, in the instance where, um, like
2 the lead design build contractor has to provide, um,
3 a plan for utilization?
4

5 CHIEF LAMBERT: Yes.

6 COUNCIL MEMBER BROOKS-POWERS: OK. So in
7 terms of like the actual lead roles, how are we
8 getting M/WBEs on that level, 'cause it's one thing,
9 which I think is great, across the spectrum of a, of
10 a particular project to have participation, but
11 making sure that we're giving them opportunity even
12 at the top, what is that? Like is there like an
13 apprenticeship program? Is there, um, like a
14 pipeline being created for it?

15 CHIEF LAMBERT: So in terms of getting
16 M/WBEs on the design build tea, um, the, the
17 authority, we don't have the authority to, ah, sort
18 of dictate, if you will, um, the design build teams.
19 Um, we do encourage M/WBEs to bid in joint venture.
20 Um, I literally had conversations up to last night,
21 um, with an M/WBE, um, firm who is interested in
22 getting on design build and I'm encouraging them to
23 work together, um, you know, to, to, to create the
24 capacity to work on some of these projects. Um,
25 we've also listened, um, some of the requirements, so

1
2 even for design build teams you don't need direct
3 design build experience, um, to, to participate in
4 design build projects. It's design build or related
5 experience. So we've softened the language, if you
6 will, a bit to ensure that M/WBEs, um, you know, are,
7 are, are included, ah, ah, in the considerations.
8 Um, you know, can more be done [inaudible] I believe
9 so. Um, you know, I don't want to speak sort of out
10 of turn, but definitely I think that's something that
11 we can do improve chances, um, for M/WBEs get on the
12 projects. But in terms of awareness, we definitely,
13 you know, get the information out there, blast
14 vendors, have one-on-one direct calls, um, with
15 M/WBEs, especially some of the larger firms to ensure
16 that they did, um, on these projects or at least at
17 minimum if they don't become a part of design build
18 team try to be a part of the first tier prime or
19 second tier [inaudible] prime level contracting
20 opportunities.

21 COUNCIL MEMBER BROOKS-POWERS: I see the
22 commissioner raising his hand, so he has [inaudible]
23 dynamic of this mute button [laughs].

24 COMMISSIONER TORRES-SPRINGER: The old,
25 the old unmute. Um, thank you. I, I, I just wanted

1
2 to add, ah, Council Member, that, um, one of, you
3 know, the problem of, um, you know, more M/WBE primes
4 is something that we're more and more focused on.
5 It's been something that the mayor has been driving
6 us to, ah, work on, because that's really how we'll
7 ensure a lot of minority and women contracting. Um,
8 and, ah, it's a long process. I mean, frankly, you
9 know, if we put out a design build project that's,
10 ah, a billion, ah, plus dollar, ah, building there
11 may not be at this moment an M/WBE that's able to
12 pull together a full team for that. We want to get
13 to that point. And one of the other programs we're
14 very excited about, which Wayne is in the midst of
15 standing up right now, was also recently authorized
16 by the legislature, which is our mentorship program.
17 And that, it's actually modeled on what the School
18 Construction Authority has been doing for years. Um,
19 it enables us to have more experienced prime partner
20 with an M/WBE prime, um, to lead a project and
21 implement it fully. There's different tiers. Um,
22 they graduate, they get, you know, go to graduate
23 school. I mean, it's, it's, um, it's real capacity
24 building. And I think over time as we do that we
25 will get to the point where we do have M/WBE firms

1 that are, ah, in a position to respond to RFP for a
2 billion-dollar project, and that's something that
3 we're very, very excited about.

4
5 COUNCIL MEMBER BROOKS-POWERS: And, and
6 I'm glad to actually hear that, um, especially
7 emulate and what SCA has done because feedback that I
8 have gotten through the years has been that SCA has
9 been dynamic and, um, a leader in this space where
10 there's a lot of lessons learned. Um, I would also
11 like to just, cause I know Wayne had mentioned
12 something about like lessening some of the, um,
13 requirements, and in some cases that's needed, but
14 what I've also is who's in the room that's making the
15 decisions, right? When you have diversity in the
16 room, um, oftentimes you'll find that it levels the
17 playing field, um, 'cause I've been in spaces where
18 I've been at the table, um, and opportunities like
19 this and had my voice not been in the room and other
20 people that look like me, um, it would have been kind
21 of business as usual in terms of the selection
22 process, so I also, I'm not sure what the selection
23 process may look like, but I would encourage to
24 ensure that we are having representation on these
25 panels in terms of race and gender, um, to be able to

1
2 make those decisions and then also in the mentorship
3 program I would hope it can scale up, um, dynamics so
4 that the capacity is being built on these, um, firms,
5 especially New York firms, 'cause I know a lot of
6 times it's out-of-state firms that are benefitting
7 from these, um, pilots and these, um, efforts as
8 well. We want to make sure we're building up our
9 M/WBEs that are right here in New York, that live in
10 New York City, that are hiring in New York, um, as
11 well. And so I thank you for responding to me on
12 that. And if there's any collateral about the
13 mentorship program or, um, the opportunities that you
14 can share with my office I would love to have it to
15 be able to share that in my community, too.

16 CHIEF LAMBERT: Right, we'll definitely
17 get back touch.

18 COUNCIL MEMBER BROOKS-POWERS: Thank you.

19 COMMISSIONER TORRES-SPRINGER: Yeah, we,
20 we're expecting to really do some roll-out on the
21 mentorship program over the next few months,
22 including we're, we're still figuring out with COVID
23 how, we, we really want to convene, ah, everybody and
24 provide an opportunity for networking. So Wayne's
25

1 Thank you for doing that. Please do that. But
2 posting on your website and, and making sure all the
3 council members know that it's posted to your website
4 would be very powerful, ah, as well. Communication
5 of information is always, and I'm seeing you nod yes,
6 Commissioner, which means that you already have a
7 plan to how, for how to do that?
8

9 COMMISSIONER TORRES-SPRINGER: It's, it's
10 on our website, Council Member. It's, there's an
11 enormous amount of information on our website about
12 the implementation of design build and about our
13 M/WBE program. We'd be happy to, um, to talk to you
14 if there's something you think isn't there that we
15 should put there. We, we're, we try to be very,
16 very, ah, transparent with information that council
17 and the public.

18 CHAIRPERSON ROSENTHAL: And along those
19 lines, may I ask, um, ah, I was very interested to
20 hear that, ah, DDC brought in a team to train your
21 professionals about design build. Can you tell me a
22 little bit more about, um, I guess the, I'm curious
23 to know if other agencies have been trained. Ah, do
24 they need training as well? Um, you know, whether or
25 not you plan to bring that training capacity in house

2 to DDC so DDC can be training the other agencies and,
3 um, and how, and similarly could you be training the
4 M/WBEs for, ah, applying for these RFPs?

5 COMMISSIONER TORRES-SPRINGER: Yes.

6 Thank you. We, we appreciate the opportunity to talk
7 about that. Actually, at this point I'd like to ask
8 our general counsel and deputy commissioner, ah,
9 David Varoli to respond to that, and, and just the,
10 the context for that is that, ah, much longer than
11 I've been around David has been, ah, the force in
12 advocating for the design build legislation for the
13 city, um, and in really helping to, ah, set up the
14 program and get everyone, ah, trained. So I, I would
15 ask to David to describe some of those efforts that
16 we've taken an agency really under his leadership.

17 COMMITTEE COUNSEL: And Mr. Varoli, let
18 me just swear you in before you proceed. Ah, do you
19 affirm that your testimony will be truthful to the
20 best of your knowledge, information, and belief?

21 GENERAL COUNSEL DEPUTY COMMISSIONER

22 VAROLI: I do.

23 COMMITTEE COUNSEL: Thank you.

24 GENERAL COUNSEL DEPUTY COMMISSIONER

25 VAROLI: Ah, thank you, Commissioner, and, and thank

1
2 you, Council Member. Um, I apologize for my
3 technical difficulties. You would think after 19
4 months I would have this down, but, ah, still
5 struggling a little bit. But in general, um, just to
6 follow up on, on the commissioner's commentary, a
7 little bit before, in terms of the information,
8 Council Member, our website that we built, um,
9 dedicated to design build, has all the information.
10 And it also serves as a training tool. In fact, as
11 we were advocating working with the council and other
12 city agencies in Albany to get design build passed,
13 we looked at the state DOT's website on design build
14 and we thought that was a really great tool and
15 resource for someone who is coming new to design
16 build. So as we built the DDC website page on design
17 build we looked it as an opportunity for, as new
18 people come into the agency or new agencies are
19 coming on board to design build, they would have the
20 access to that information. But the first thing that
21 we did, with the support of the commissioner and as
22 well as the other commissioners, the commissioners
23 from DOT, Parks, DEP, and others who had access to
24 the design build, is we reached out to the experts in
25 the industry. And the experts of the Design Build

1
2 Institute of America. And they provide a fantastic
3 training program. It's a three-day program where
4 they walk you through not only the procurement but
5 also the contract. And in addition the, the theme of
6 design build is, especially when you look at
7 unfortunately some governments, including New York
8 City, has been stuck in this world of design, bid,
9 build, where you're only going to the low bidder. We
10 needed to have a mindset change. So when the
11 opportunity came to get design build and we brought
12 on the DBIA to do that kind of training, we didn't
13 just do it to a few select individuals. We looked
14 across the entire agency and every unit within the
15 agency that's gonna touch a design build project,
16 they went through that training. So whether it was
17 my lawyers, it was our contracting officers, it was
18 our WMBE team, it was our engineering audit team, the
19 project managers, all the way up to the commissioner
20 himself. He himself has sat in on the training. And
21 that was spread across to all the agencies, because
22 we knew we also needed everybody to have this
23 experience and this educational opportunity,
24 including the oversights. So our colleagues at the
25 Office of Management and Budget, corporation counsel,

1
2 Mayor's Office of Contract Services, the
3 comptroller's office, who has a role here in the
4 registration of contracts. We offered the
5 opportunity to have the Design Build Institute of
6 America come in and do that training. In addition,
7 when you asked, um, earlier about the training and
8 what we're pushing out, um, for the WMBEs what Wayne
9 has been doing, which has just been fantastic, is he
10 is doing forums where we're breaking down different
11 parts of the design build process and talking about
12 it and doing it similar to what we're doing here in
13 Zoom, and going through it. And we've also provided
14 and offered the DBIA to do a training for the WMBEs
15 that are interested in learning more about design
16 build and that's been great, um, and actually I think
17 Wayne has another forum coming up, I think in early
18 November, with the WMB community to talk about
19 lessons learned on some of the things that we have
20 seen on our earlier procurements. So a lot of
21 training has been going in the city and it's been a
22 fantastic opportunity. Tanvi, who's here with DOT,
23 she has sat through the training along with her
24 [inaudible], her lawyer team, her engineering
25 officer, so everybody understands mindset change is

1 going on and we need to understand the rules of
2 engagement to be successful in design build.

3
4 CHAIRPERSON ROSENTHAL: Hi, boy, again,
5 what a rosy picture. Um, thank you so much for all
6 that detail and, man, you're gonna walk away like the
7 superstar of this entire hearing. You've obviously
8 been busy at work, ah, you know, doing such important
9 trainings it, again, just a little bit of disconnect
10 between what you're saying and Council Member Brooks-
11 Powers saying that the M/WBEs that she is working
12 with, ah, find the whole thing a little complicated.
13 Um, so just a reminder, you know, and, and here's
14 another example. Um, you know, ah, Commissioner, ah,
15 Varoli, are you Commissioner, General Counsel Varoli,
16 um, you know, you said you've offered trainings to
17 OMB, to MOCS, maybe Operations. Have they taken the
18 trainings? Are...

19 GENERAL COUNSEL DEPUTY COMMISSIONER

20 VAROLI: Yes...

21 CHAIRPERSON ROSENTHAL: ...you know, I
22 almost would want to see, the public would want to
23 see, you know, ah, is this for real? Are the
24 trainings annual? This is such an important thing.
25 If the Mayor's Office for Operations or I guess it's

1 the City [inaudible] Affairs are responsible for
2 pulling this, um, procurement document together. Do
3 they understand what they're reporting? And, you
4 know, it might be worth having a page in that
5 document that I know you're like the, you know,
6 follow the letter of the law of what the state asks
7 you to report on but why not, ah, identify, you know,
8 who's doing the training and who exactly has gotten
9 trained and sort of update that on a regular basis.
10 If you can't do it on the state document do it on,
11 you know, the, the document that, that we're hoping
12 to pass into law. You know, these things are, it, it
13 only is successful to the extent that, you know,
14 people really show up and learn the information. Um,
15 and it's so critical what you're doing.
16 Commissioner, were you? Yeah.

18 COMMISSIONER TORRES-SPRINGER: Yeah,
19 we're, we're deeply committed to making this program
20 work and we appreciate your, your recommendations in
21 this regard.

22 CHAIRPERSON ROSENTHAL: OK. So, um, can
23 we just jump over to, um, Commissioner Torres-
24 Springer if you, would it be OK in terms of your
25 timing if we just ask DOT the same set of questions

2 about training and what we, they've done, and then
3 I'm gonna come right back to you.

4 COMMISSIONER TORRES-SPRINGER: Please.

5 CHAIRPERSON ROSENTHAL: Um, I don't know
6 if we need to swear them in.

7 COMMITTEE COUNSEL: They were sworn in.

8 CHAIRPERSON ROSENTHAL: OK, great, and
9 unmuted.

10 UNIDENTIFIED: [inaudible]

11 CHAIRPERSON ROSENTHAL: Great.

12 EXECUTIVE DIRECTOR PANDYA: Um, so DOT
13 also participated in this DBIA training. Um,
14 personally DBIA is certified. I'm leading the design
15 build unit for DOT, ah, bridges division, where most
16 of the design build projects are going to start. Um,
17 across the agency other units, such as ferries, will
18 also have design build project coming up shortly.
19 They've had training and so have our [inaudible]
20 legal, EAB, and so on, so, ah, we do take it very
21 seriously. We've also developed some in-house
22 training material so that we can spread the
23 information out even if someone is not directly
24 working on DB they need to understand the basics of
25 it so they understand, um, where they contribute to

1 the process. Um, in addition, we work very closely
2 with New York State DOT and FSWA as they have a much
3 more mature design build program. We're adopting
4 their design build manual to be applicable for us.
5 Um, so that will become a tool that will be very
6 easily available to anyone that needs to understand
7 our process.

9 CHAIRPERSON ROSENTHAL: Oh, wow, OK. Um,
10 would that manual be online?

11 EXECUTIVE DIRECTOR PANDYA: Yes. We have
12 started creating a page on our website as well, on
13 the DOT website that has design build information,
14 um, and we'll be adding more to it in the coming
15 months.

16 CHAIRPERSON ROSENTHAL: Hmm. Um, thank
17 you very much for that. Good to know that the
18 second-largest design build agency will be, um, as
19 engaged in knowing the process. I mean, could I also
20 ask then, um, um, Ms., ah, Pandya is, um, our, do you
21 have your list of projects and maybe we can, well,
22 we'll come back to you, because I really want to
23 finish up. But I'm gonna ask you...

24 EXECUTIVE DIRECTOR PANDYA: No problem.

1
2 CHAIRPERSON ROSENTHAL: ...you some
3 question, you know, the Commissioner Torres-Springer
4 was sort of rattling off his projects, all great to
5 hear at this public hearing but, you know, when do
6 you think you're gonna have something that you could
7 send over to the council that has the detail that the
8 public wants to see. Um, are you done with your part
9 of the report that City Hall is putting together?
10 But I'm gonna come back just in one second about
11 that. Um, can I ask, ah, um, about budget versus
12 commitment, um, Commissioner Torres-Springer. I
13 think the original, um, um, budget for DDC, ah, to be
14 spent this year was 1.7 billion, um, and I'm
15 wondering how far along you are in committing that
16 amount of money?

17 COMMISSIONER TORRES-SPRINGER: Ah, for
18 the current fiscal year, Council Member?

19 CHAIRPERSON ROSENTHAL: Yes.

20 COMMISSIONER TORRES-SPRINGER: Yeah, um,
21 I don't have those exact, ah, numbers, ah, with me
22 today, um, unfortunately.

23 CHAIRPERSON ROSENTHAL: Yeah.

24 COMMISSIONER TORRES-SPRINGER: I, I would
25 say, um, I think we're set for a very good year, um,

1 in terms of getting work, um, into contract.

2 Generally, we're on a cycle where in the back half of
3 the fiscal year...

4
5 CHAIRPERSON ROSENTHAL: Yep, yep.

6 COMMISSIONER TORRES-SPRINGER: ...is where
7 we end up with, ah, you know, doing a lot of the
8 contract, ah, execution and registration, um, for
9 which we really, ah, need the help of the
10 comptroller's office to make progress and we hope to
11 have that help, particularly in, in the new, ah,
12 calendar year. Um, and to get some of that done.
13 So, we're, we're optimistic about, um, about, ah,
14 commitments we, we have. I will say we have, um,
15 registered in the first half of this fiscal year very
16 significant East Side Coastal Resiliency, ah,
17 contract, getting that going into construction. Ah,
18 mentioned some of the, um, ah, design build projects
19 that we're, ah, on, on track for before the end of
20 2021 that are fairly significant in terms of budget
21 commitment. So, um, we're, we're gonna, we're having
22 a successful year in terms of building the city.

23 CHAIRPERSON ROSENTHAL: Hmm. And how
24 many, how much money has the city, um, committed or
25 has DDC committed just for the design build projects?

2 COMMISSIONER TORRES-SPRINGER: Um, I'll
3 have to get back to you on that. Ah, again, I, the,
4 the registered projects, um, I think...

5 CHAIRPERSON ROSENTHAL: Sure. Any...

6 COMMISSIONER TORRES-SPRINGER:
7 ...[inaudible] I guess I, I guess I was, I guess I
8 was describing this in my earlier answer. Um, the
9 registered project to date is the Queens Community
10 Space and parking facility. That's the design build
11 project that is registered. We are on track for an
12 additional, um, I believe three projects to be
13 registered this calendar year. Alison will, yeah,
14 confirm, and then in the early part of 2022 we'll
15 have a number of significant, ah, projects also
16 registered. So, um, but...

17 CHAIRPERSON ROSENTHAL: Great.

18 COMMISSIONER TORRES-SPRINGER: ...we'll
19 get back to you on the exact number.

20 CHAIRPERSON ROSENTHAL: Yeah, I mean, I
21 think what the public would want to know is what's
22 your, um, and I understand year-end numbers, but just
23 sort of for fiscal year 22, maybe for fiscal year 23
24 what do you expect to commit for the design build ,
25 um, projects?

2 COMMISSIONER TORRES-SPRINGER: Yeah,
3 happy to get back to you with them.

4 CHAIRPERSON ROSENTHAL: In particular.
5 And, and on those projects how do you plan to track
6 the cost savings in terms of time, dollars, and also,
7 of course, M/WBES? [inaudible]

8 COMMISSIONER TORRES-SPRINGER: Thank,
9 thank you. Um, we are paying a lot of attention to
10 that. I do want to just, um, since you mentioned it
11 take the opportunity to say that there's a number of
12 different sources of time savings that we anticipate.
13 A lot of it, as you mentioned, is that time is money,
14 um, and so, ah, on most of our projects, ah, we're
15 eliminating one procurement phase, right? We, we're
16 able to bring the designer and the builder on at the
17 same time instead of two separate procurements. Um,
18 and also we expect that because we have an integrated
19 design and construction team, ah, we avoid a lot of
20 change orders, which is both additional costs to a
21 project and also, um, is a source of, ah, time delays
22 which costs the project. Um, so we're anticipating,
23 ah, 5% to 15% savings on the average project and we
24 will be paying attention to that and tracking that as
25 we move forward and reporting on it.

1
2 CHAIRPERSON ROSENTHAL: So this is, I'm,
3 I'm gonna ask about the, um, pedestrian, some
4 pedestrian, um, safety improvements and I'm not quite
5 sure who to direct this to, DDC or DOT, um, only
6 because it's not clear which agency this is sitting
7 in. But, um, could you, there was one that was sort
8 of a complex corner project. The other is, ah,
9 pedestrian savings improvements on Lexington Avenue.
10 Um, were these projects, are they are on track, do
11 you happen to know, with design build, um, ah,
12 because, ah, I've gotten information that perhaps had
13 DDC done these in house they would have already been
14 going on these, by [inaudible] where right now
15 they're sitting in RFPs.

16 COMMISSIONER TORRES-SPRINGER: Ah, right,
17 thank you. Um, yeah, that, that was, I'll, I'll add
18 that was another one of the groups I was, um, I'm
19 happy to report back on. So that's in our
20 infrastructure group. Um, we, um, you know, as you
21 know, and I mentioned in my testimony, we have a very
22 large obligation, um, to, ah, to improve really all
23 180,000 corners in the city, um, ah, for pedestrian
24 accessibility, and that's a program that we've
25 divided responsibility between, ah, the Department of

1 Transportation and DDC. We're making good progress
2 on that program. Again, you know, the pandemic, ah,
3 slowed a number of things down. But we are, um,
4 putting out and have put out one of those contracts
5 for a design builder. We think it is suited to a
6 design build mode of delivery. But we want to make
7 sure. Um, it actually is somewhat unprecedented to
8 treat a, um, ah, a project like that as design build
9 just because the big advantage of design build is
10 when you're clear about what the conditions are up
11 front you can find a good way to share risk with the
12 contractor. That's the big advantage of it, and with
13 the pedestrian ramps you, you know, there's a lot of
14 uncertainty about what you're gonna find once you
15 start modifying one of those ramps. So we have one
16 contract that we're trying it out on. It is in
17 procurement. Um, I, I don't, ah, you know, I think
18 it's, it's progressing, um, and I don't, ah,
19 anticipate any issues in terms of timing. I also
20 mentioned that we're making, ah, a series of
21 pedestrian safety improvements on Lexington Avenue in
22 midtown, which is also out there as a design build
23 project that's in procurement. And again, as I
24 mentioned, we expect significant time savings with
25

1 these projects, um, both because we don't have to go
2 and do a design procurement and then a construction
3 procurement both because we don't have to go and do a
4 design procurement and then a construction
5 procurement, but also when we get out there very
6 often are projects are slowed down because something
7 is discovered that wasn't anticipated by the
8 designer. The contractor has to say can we go back,
9 talk to the designer and figure out what to do about
10 this...
11

12 CHAIRPERSON ROSENTHAL: True on every
13 project, right?

14 COMMISSIONER TORRES-SPRINGER:
15 ...[inaudible] order. In the [inaudible] of design
16 build everybody's there. Everybody's already out
17 there, part of the project team, and can very quickly
18 make decisions about how to do, make an adjustment,
19 um, and we really won't lose time. So that's really
20 where we expect a significant amount of time sparing.

21 CHAIRPERSON ROSENTHAL: OK. So then can
22 I just ask on that specifically, um, and, and I
23 would, I would love to see a report on this one, ah,
24 in particular. So, so the complex, the pedestrian
25 ramps have, ah, the current ones, we've seen a lot of

1 that work, certainly in my district, a lot of corners
2 have switched over, are the improved version. Um,
3 but you're saying those projects were with the old
4 design bid build. We still haven't gotten the
5 results of the design build yet. Yep. Is that a
6 yes?
7

8 COMMISSIONER TORRES-SPRINGER: Um, yes,
9 that's right. I just want to be clear that our, what
10 we call the complex pedestrian ramp program, those
11 are not designed in house. Those are all designed
12 by, ah, by design consultants.

13 CHAIRPERSON ROSENTHAL: Hmmm.

14 COMMISSIONER TORRES-SPRINGER: So it's
15 not, yeah.

16 CHAIRPERSON ROSENTHAL: Hmmm.

17 COMMISSIONER TORRES-SPRINGER: That there
18 is the two procurements that are always required for
19 that, even in the design bid build mode, whereas
20 we're taking advantage of the opportunity in design
21 build to save time.

22 CHAIRPERSON ROSENTHAL: Do you have,
23 could you report on the success or failure, because
24 that'll be something of a baseline, right, for the
25 current projects that you're doing, sort of on those

2 current ones where the contractors are already out
3 doing the work, sort of can you use that as the
4 baseline to compare it to, um, the design build going
5 forward?

6 COMMISSIONER TORRES-SPRINGER:

7 Absolutely.

8 CHAIRPERSON ROSENTHAL: Do you think you
9 could get us the baseline information soon? Ah, ah,
10 within...

11 COMMISSIONER TORRES-SPRINGER: I'm sorry,
12 could you, could you clarify for [inaudible].

13 CHAIRPERSON ROSENTHAL: ...is that
14 something that would be difficult to pull together
15 sort of the baseline information, how long the design
16 bid build process took, ah, how it much it cost per
17 whatever, um, you know, you, you measure things by.
18 Um, that would be, I think, really important to have
19 as we move forward and think about, you know, whether
20 or not, you know, you would want to use that, I
21 imagine, as a compelling piece of evidence for the
22 state when you go back for reauthorization.

23 COMMISSIONER TORRES-SPRINGER: Sure,
24 absolutely, happy to do that.

1
2 CHAIRPERSON ROSENTHAL: OK. Ah, how long
3 would that, how, how quickly do you think we could
4 get that baseline information?

5 COMMISSIONER TORRES-SPRINGER: Let me, I
6 don't want to make a commitment that we can't meet,
7 ah, Council Member, so let me go away and, and to
8 make sure I understand the request, ah, and, and
9 then, ah, and then we'll, we'll, ah, get back to you
10 about that.

11 CHAIRPERSON ROSENTHAL: Thank you. And
12 don't, here's, you know, I'm just a council member.
13 So I'm not looking to over complicate things. Um,
14 you know, this is a very, this is one of those KISS
15 projects, keep it very simple, um, just sort of how
16 long did the process take, you know, what did it cost
17 per whatever mile or number of curb cuts, whatever it
18 is, you know, something very straightforward as a
19 baseline. In other words, also sort of using the
20 criteria you're gonna use for giving the information
21 to the state about design build, it would be the same
22 type of, ah, thing you'd be looking at, but just with
23 the design bid build numbers. And on that, um, I
24 would love to take you or someone for a walk around
25 my district because many of these new curb cuts are

1 already broken or were never actually fulfilled. Um,
2 I have a couple corners where they, you know, pulled
3 out all the stuff that's there but then replaced with
4 asphalt. I don't mean to get in the weeds. It's
5 just have an exact example from my district. Um, I'd
6 love someone who, you know, is responsible for, you
7 know, reporting on whether or not bidders do a good
8 job, you know, to, to know what's actually going on.

10 COMMISSIONER TORRES-SPRINGER: Yeah, and,
11 and on that point, Councilwoman, um, we're happy to
12 do that. I will say, um, DOT has a, and it's
13 probably different folks than the folks that are on
14 the, the hearing today, but has a very large
15 pedestrian ramp, ah, program set up and, um, it's
16 possible that that was as, you know, some of the
17 corners you're mentioning were in-house forces versus
18 contractors, but we'll get that information to them
19 and make sure that they're, ah, they're out there
20 taking a look and certainly we have to remedy those
21 conditions immediately 'cause that our obligation is
22 really to make these safe and accessible.

23 CHAIRPERSON ROSENTHAL: Well, and also,
24 I'm just one of 51, you know. I, I use that as just
25 an example, my little district, you know. Ah, so I

1 don't know how you track these things. But even just
2 now and I, I don't mean to belabor this point, but,
3 you know, for DOT then they have in-house work to do,
4 in-house people to do this work, plus you contract
5 out, plus we're gonna have this new design build
6 process. Is that what I'm hearing?

8 COMMISSIONER TORRES-SPRINGER: You know,
9 contracting out, it may be in the form of design bid
10 build or design build. Those are just two different
11 ways of contracting.

12 CHAIRPERSON ROSENTHAL: Sure, sure. I
13 mean it strikes me then baseline would include doing
14 it in-house as well, that you would want three, you
15 know, those two as a baseline. I'm just, I'm gonna
16 move on. Um, and, again, if any of my colleagues
17 want to ask questions they should feel free to raise
18 their hand.

19 COMMITTEE COUNSEL: Chair Rosenthal, I
20 just want to flag the time because you had expressed
21 concern earlier.

22 CHAIRPERSON ROSENTHAL: Yes. You know
23 what, thank you for that. I am gonna step away. Ah,
24 I unfortunately have a press conference about a
25 successful, um, food, ah, giveaway program in my

1 district. So I am gonna step away, thank you, for 15
2 minutes, and I think, um, Council Member Adams, who,
3 by the way, did an amazing job cochairing a hearing
4 yesterday and also did an amazing job at the Public
5 Design Commission, um, yesterday and, um, I'm really
6 glad you'll be taking over this hearing because, um,
7 I so admire you. So thank you for that. I'm gonna
8 say chair for the moment Adams.

10 COUNCIL MEMBER ADAMS: Thank you, Chair
11 Rosenthal. Thank you for the honor, ah, of
12 substituting for Chair Rosenthal. Um, I, I have a
13 couple of questions and then I'm gonna, um, move
14 onto, ah, my colleagues to see if, if they have any
15 other questions or follow up at this point. Um, so
16 it's good to see all of you, ah, and welcome again to
17 the hearing today. Um, the question, my first
18 question is for DDC. Ah, Commissioner, great to see
19 you as always. Ah, the way members of the
20 administration have talked about design build in the
21 past has made it seem like it's good for a larger
22 scope of projects than they seem to be using it for
23 now. Can you identify, broadly speaking, which types
24 of capital projects are best suited to design build
25

1 and which types of projects are poorly suited for
2 design build?
3

4 COMMISSIONER TORRES-SPRINGER: Um, thank
5 you, ah, thank you Chair Adams and, and it's great to
6 see you as well and to, to work with you. Um, ah,
7 you know, I just want to be clear. We do, we think
8 design build is a, a very important tool, ah, for us
9 and we intend to use it, um, very often. I mean, as
10 with anything complex within the city it, it takes a
11 while to get things ramped up. Um, and that's
12 happening over time, as I think I've described in, in
13 other times during this hearing. Um, there's a few
14 different factors that determine, ah, whether design
15 build is appropriate. Um, the really big thing I, I
16 mentioned earlier is the risk profile of the project,
17 um, and whether we think it will realize the benefits
18 of cost savings, time savings, and innovation that we
19 hope for. Um, so, you know, we do look at, we have,
20 ah, at DDC a unit that we've created in the last few
21 years called Front End Planning, and every project
22 that comes to DDC to, ah, to build goes through Front
23 End Planning, and so now part of that part of that
24 process is we look carefully at a project and say are
25 we actually going to be able to realize time cost

1 savings and get the innovation that we, we want, ah,
2 out of design build and that's how we make that
3 determination.
4

5 COUNCIL MEMBER ADAMS: Great. Um, well,
6 you know, there's always been a lot of enthusiasm
7 around design build, needless to say. Um, you know,
8 that's why um, my colleague, ah, Chair Rosenthal was
9 so, um, anxious about moving, um, you know, moving us
10 along. You know, in the process it just seems like
11 [inaudible], you know, kind of stuck for a little
12 bit. Um, what are the factors that dictate whether
13 design build would be appropriate when you're doing
14 that front end planning. Um, so what are you working
15 with?

16 COMMISSIONER TORRES-SPRINGER: Um, yeah,
17 so, um, well, as, as I said, I mean, we evaluate
18 according to a number of factors. It's really about
19 the sharing of risk and whether we're in a position
20 to share risk. Um, this actually is a good
21 opportunity. I wanted to ask, um, our, our assistant
22 commissioner, Alison Landry, who's running the design
23 build program on our public building side if she
24 might, ah, having been part of that process and a lot
25

1 of detail if you might spend a couple of minutes
2 describing which criteria we're applying.

3
4 ASSISTANT COMMISSIONER LANDRY: Sure,
5 thanks so much, and good morning everyone. Ah, so
6 some of the things that we look at, and this is
7 always in collaboration with our sponsor agencies, so
8 whether that's Parks or DOT or NYCHA, but the
9 agencies that are partnering with to deliver these
10 projects. We're looking at things like what are the
11 site conditions? What are the, um, existing
12 buildings that are adjacent? What are the access
13 points? Are there any conflicts with infrastructure?
14 Um, but, so some of those kind of pieces that would
15 help us understand how complicated is the site, how
16 complicated are the conditions for the scope that
17 we're going to have to work with, and is this
18 something that we can easily define up front so that
19 when we get into a contract point with a design
20 builder they understand what they're going to be
21 entering into contract for and they can scope that
22 for themselves at this early phase when we bring them
23 on board early. Um, another point that that touches
24 on is how easily we can define the scope in the
25 beginning. One of the reasons why on our pilot

1
2 program we're doing all new buildings is to ensure
3 that we know, um, quantifiably what is the scope of
4 this facility? It's a new pool, or it's a new
5 greenhouse, or it's a new maintenance facility, but
6 it's things that we're able to, to clearly define,
7 have a mutual understanding with our sponsor, um, and
8 then document that, so that it can go into a design
9 build procurement. So, ah, the items that, ah,
10 Commissioner Torres-Springer touched on with our risk
11 are really how can we understand what are the
12 different attributes of this project and then
13 document it, so that when we do a design build
14 procurement the industry will understand what this
15 project is and be able to put forth a proposal for
16 that, that they're confident in at this early stage
17 of the work.

18 COUNCIL MEMBER ADAMS: Thank you. Thank
19 you for that. Um, let's talk a little bit about, um,
20 um, what's, um, how, how savings are calculated when
21 we, when we talk about design build. Because we know
22 that it saves, ah, time and money. But how do you
23 actually calculate the savings and what do you use as
24 a baseline?

25

COMMISSIONER TORRES-SPRINGER: Right.

Um, ah, yeah, thank you for the question. We, we do have some preliminary results on that that we've reviewed and quantified. Um, on average we expect design build to save us one to two years on the low end in total project durations compared to design bid build, although I was mentioning, um, initially during my testimony that, ah, at least a couple of the projects that we've been able to move forward, ah, thus far, we've, we've saved more like three years. Um, and we expect to save approximately 5% to 15% of total project value, which includes, um, very importantly, limiting the number of change orders during construction. Um, you know, we continuously see change orders under design bid build based on the separate and distinct design and construction entities that are only starting to work together once construction starts. Um, so we expect to have more information this year as we continue the successful completion of several of these design build projects that we've mentioned. But it really will be, ah, in terms of comparing it to, ah, both initial project budgeted costs, um, which is where we start with the project and also what the final cost at completion,

1
2 ah, ends up being. Um, we'll be comparing to those
3 two anticipated costs and also to comparable projects
4 that we've built in, in design bid build.

5 COUNCIL MEMBER ADAMS: Well, I think that
6 you answered this question in your answer to the last
7 question, but I, I just want to get a little more
8 specific. So do you know of any projected design
9 build savings have already been reflected in the
10 capital commitment plan or have any savings been
11 realized yet?

12 COMMISSIONER TORRES-SPRINGER: Um, I, I
13 think I did. You know, as I said, the time savings
14 are clear up front. Um, the anticipated cost savings
15 are a little bit more complicated in terms of capital
16 commitment plan because, um, they may not be
17 reflected in the initial cost that's in the budget or
18 part of the initial contract. It's really about how
19 much we don't spend. Um, you know, very often, ah,
20 and I think I may misstate this numbers, but from,
21 from other work we've done I think on average we end
22 up with something like, ah, 8% of total project cost,
23 ah, as change orders for our public buildings and,
24 and more like 12% or 13% for our infrastructure
25 projects, although I, I have to say I might have

1 reversed that. Um, and so it's really about avoiding
2 those additional costs where we see the, the big
3 benefit.
4

5 COUNCIL MEMBER ADAMS: OK. Thank you,
6 Commissioner. Um, the last couple questions I'd like
7 to direct for, ah, DOT, probably Ms. Pandya.
8 Welcome. Um, replacing the 61-year-old BQE, um,
9 can't deliver, has been front and center, in the
10 media, everywhere, um, and the push for design build
11 dating all the way back to June 2017. So in lobbying
12 for design build, DOT Commissioner Trottenberg
13 promised that design build authority would result in
14 a savings of as much as 158 million dollars and two
15 years' construction time on just this one project.
16 DDC and DOT have now had design build authority for
17 the BQE since March 2018. Given the shifting scope
18 of the BQE repairs, is design build part of any of
19 the repair work that's already underway, or which is
20 being scoped right now?

21 EXECUTIVE DIRECTOR PANDYA: Um, so the
22 near-term within the year construction that we
23 anticipate doing is not, um, conducive to design
24 build. So that is, ah, traditional, ah, contract.
25 Going forward the longer-term work that we're looking

1
2 to do, which is the preservation effort, we will be
3 reviewing to see if there are portions that could be
4 broken out. Ah, ah, certain portions can be broken
5 out to be, apologize, there's a fire drill behind me.

6 COUNCIL MEMBER ADAMS: OK.

7 EXECUTIVE DIRECTOR PANDYA: Um, the, ah,
8 preservation work we're looking to do coming up over
9 next, ah, several years, we will be looking to see if
10 there are portions that could be broken out that
11 could progress as design build. Um, you know, that
12 is to be determined as the design develops.

13 COUNCIL MEMBER ADAMS: OK. I, I think
14 you answered my next question as well in your answer
15 as well. So thank you. At this time, um, I'm going
16 to ask if there are any questions, um, any other
17 questions, ah, from my colleagues.

18 EXECUTIVE DIRECTOR PANDYA: Um, I think,
19 ah, Council Member Rosenthal had wanted us to go
20 through the list of the projects that DOT is doing as
21 well. I'm not sure if you want to do that.

22 COUNCIL MEMBER ADAMS: Yes, please.

23 EXECUTIVE DIRECTOR PANDYA: Sure. Um, so
24 we are currently in the process of finalizing
25 [inaudible] contract, um, so essentially these are

1
2 consultants who would be augmenting our staff in
3 completing the procurement and the actual project
4 delivery under design build. So those contracts are
5 nearly, ah, complete. We are going through the
6 final, ah, registration steps. In addition to that,
7 we are working on two projects in the Bronx, ah,
8 183rd and 188th Street over Metro North. Um, the
9 design, ah, approval has to go through state and
10 FHWA, so we're awaiting that process, but that will
11 come out as, ah, design build RFQ early next year.
12 Ah, following that will be four Belt Parkway bridges
13 that is part of the system that we've been working on
14 for several years. Um, that will be later this year.
15 Um, and in addition to that our ferry division is
16 also putting out, ah, resiliency project related to
17 the ferry facility early next year.

18 COUNCIL MEMBER ADAMS: Thank you. I'm
19 just gonna ask this question because, um, it's a
20 thorn in my side and I think I know the answer. But
21 is the Van Wyck Extension any part, of any part of
22 design build?

23 EXECUTIVE DIRECTOR PANDYA: Ah, I'm not
24 sure what portion you're referring to, 'cause the Van
25 Wyck project overall is with New York State DOT.

2 They're working on that. And they are doing as
3 design build.

4 COUNCIL MEMBER ADAMS: OK. Thank you.
5 Thank you very much for your testimony today. Ah,
6 Counsel, I turn it over to you.

7 COMMITTEE COUNSEL: Thank you, ah,
8 Interim Chair Adams. Um, next we will hear from IBO
9 if, if IBO comes to the camera. Hi, Jonathan. Um,
10 I'm going to swear you in. Ah, following IBO we will
11 hear from members of the public who have, ah, signed
12 up to testify. Ah, Mr. Rosenberg, do you affirm that
13 your testimony will be truthful to the best of your
14 knowledge, information, and beliefs? I missed your
15 audio. Could you speed forward that? We do not have
16 your audio, ah, unfortunately.

17 DIRECTOR ROSENBERG: How about, how about
18 that?

19 COMMITTEE COUNSEL: Perfect.

20 DIRECTOR ROSENBERG: OK, OK. I do,
21 still. I still do.

22 COMMITTEE COUNSEL: OK, ah, your
23 testimony, please.

24 DIRECTOR ROSENBERG: Thank you. Um, good
25 morning, Chair Rosenthal, ah, Chair Adams, and

1 members of the Subcommittee on Capital Budget. I am
2 Jonathan Rosenberg, director for budget review at the
3 New York City Independent Budget Office. And I'd
4 like to thank you for the opportunity to testify
5 today regarding Intro 2328, which would require the
6 administration to provide reports on the status of
7 the city's design build contracts. IBO's role is
8 provide nonpartisan information on the city's budget
9 to members of the City Council, other elected
10 officials, and the public. IBO does not generally
11 make policy recommendations except in the case of
12 proposals affecting budget process. As such, we
13 generally support efforts to increase government
14 transparency, particularly when it provides
15 information in a straightforward, easy-to-understand
16 form. This proposed legislation has the potential to
17 do just that. Although we have several suggestions
18 to make the information provided more useful to the
19 City Council and others who monitor and analyze the
20 city's capable. For many years, those involved in
21 New York City's capital construction program lobbied
22 Albany for authoritarian to use the design build
23 method to delivery city-funded capital projects.
24 Proponents of employing design build in New York
25

1 City's capital program see it as a way to save money
2 and enable agencies to complete projects in a
3 timelier manner, although research on the effects of
4 this policy, particularly for infrastructure
5 projects, remains somewhat inconclusive. In December
6 2019 Governor Cuomo signed into law S6293-A,
7 authorizing the city's use of design build for
8 certain types of capital projects. IBO appreciates
9 the council's efforts to gain a better understanding
10 of the city's design build program in order to
11 provide policymakers and researchers with the data
12 necessary to analyze the advantages and disadvantages
13 of design build. We recommend the following changes
14 and additions to the proposed legislation. Ah, first
15 we, we feel that the legislation should require
16 additional information on the precontract award
17 phase, including information about the responses to
18 the request for qualifications and request for
19 proposals, as well as a summary of the final scores
20 for all bids that the entities submitted. This
21 information should be provided both at the project
22 level and aggregated across projects by year.
23 Additionally, Intro 2328 calls for reporting on the
24 agencies involved in such projects. We suggest this
25

1 section of the legislation be clarified to require
2 the new report identify the managing agency for each
3 project, as well as the project's client agencies.

4 Project milestones and cost projections: In order to
5 allow for rigorous evaluation of design build, the
6 legislation should require reporting of detailed
7 information on original and current project
8 milestones and cost projection. Original cost
9 estimates should be presented by project phase, or at
10 some other relevant level of granularity to allow for
11 comparisons across projects. Each phase's original
12 cost estimates should have a corresponding current
13 estimate or actual cost in the case of a completed
14 phase. Additionally, details of original milestones
15 for each project phase should be included along with
16 current updated milestones or actual milestones,
17 again in the case of completed phases. Inclusion of
18 this data would allow for more comprehensive analysis
19 of design build project delivery, particularly in
20 comparison to similar non-design build projects.

21 Next, we feel that there should be a detailed
22 methodology of estimates. The legislation calls for
23 the administration to provide estimates of how much
24 time and money have been saved by the use of design
25

1 build for capital projects. Without a detailed
2 presentation of the methodology by which cost savings
3 are estimated, however, it is impossible to make
4 meaningful comparisons between projects and across
5 project delivery types. IBO suggests that that
6 legislation either describe the methodology used to
7 produce the estimates or, at a minimum, require the
8 administration provide information and supporting
9 data for the estimation methods used for each
10 project. Lastly, minority- and women-owned business
11 enterprise utilization: The legislation could also
12 be strengthened by requiring information on the
13 number of design build contracts awarded to city or
14 state registered M/WBEs. At the project level it
15 would be useful to collect information on the
16 contractors, M/WBE participation goals, and
17 utilization plan at the time of contract award, as
18 well as updates on current progress towards meeting
19 these goals. As you know, Section 13 of the 2019
20 State Legislation authorizing use of design build in
21 New York City requires that an annual report be
22 submitted by the city, containing information on each
23 design build contract procured pursuant to the act.
24 The report is required to contain a description of
25

1 each such design build contract, information on the
2 procurement process, including a listing of
3 responding entities that demonstrated the capable to
4 perform the contract, the total cost and estimated
5 savings resulting from each design build contract,
6 and the participation rate of and total dollar value
7 of payments to M/WBEs under design build contracts.
8 Legislation passed by the council should build upon
9 the data and reporting already required by the
10 existing state legislation. And, ah, I'd like to
11 thank you for your time and, ah, if you have any
12 questions I'd be happy to answer them.

14 COUNCIL MEMBER ADAMS: Thank you very
15 much for your testimony. I appreciate that. Um,
16 has IBO done any work around estimating the time and
17 cost savings that design build provides to, ah, the
18 city generally with respect to any specific projects?

19 DIRECTOR ROSENBERG: Um, in regards to
20 the specific projects, no, not so much. We have
21 done, ah, some analysis at certain levels. Um, it's,
22 it's nothing that's been released publicly yet. I
23 know that we've done some internal work. I could get
24 back to you on the specifics of that. But as of
25 right now nothing that, ah, we have published. Ah, I

1 know that we've, we've contemplated, but partly one
2 of the reasons is because the information that we
3 have, the data is not, we don't have probably the
4 necessary data to make the, the appropriate
5 comparisons. So this legislation would allow us to
6 do something like that, and that's why we, of course,
7 always appreciate the, ah, increased amount of
8 transparency on these types of things.

9
10 COUNCIL MEMBER ADAMS: I see, OK, all
11 right. So, um, just as a follow-up, if there were a
12 specific project that a member was interested in,
13 could IBO do that analysis upon their request?

14 DIRECTOR ROSENBERG: Ah, of course. We,
15 we would definitely make the attempt. Um, you know,
16 we would do our best. We, we always try to take
17 members', ah, requests, you know, and, and get them
18 done, you know. If, if we don't have the ability we
19 would tell you that. But, ah, I think we would
20 welcome any request from, especially from council
21 members, as always. We're, our door is always open
22 to council members' requests, as you probably know.

23 COUNCIL MEMBER ADAMS: OK. Thank you
24 very much for your testimony this morning.

2 DIRECTOR ROSENBERG: Thank you, thank
3 you, appreciate it.

4 COUNCIL MEMBER ADAMS: Thank you. All
5 right, Counsel?

6 COMMITTEE COUNSEL: OK, and now we are
7 ready for the public portion of the hearing. Um,
8 once your name is called a member of our staff will
9 unmute you and the Sergeant at Arms will set a timer
10 and announce that you may begin. Um, ah, upon the
11 request of members of the public, ah, we're gonna
12 call a panel of the representatives of NYCRA who are
13 sitting together. Ah, Mr. Rudolph, Mr. Cervoni, Mr.
14 Cippolone, and [inaudible] said that Mr. Goldstein
15 will simultaneously be unmuted, ah, to answer any
16 questions that arise. Ah, let's please set the timer
17 for 12 minutes. Thank you, gentlemen, you may begin.

18 SERGEANT AT ARMS: Time starts now.

19 MIKE CERVONI: We're good?

20 COMMITTEE COUNSEL: We're good.

21 MIKE CERVONI: All right. Am I sworn in?

22 COMMITTEE COUNSEL: You, the public
23 doesn't need to be sworn in. You, you may speak when
24 you're ready.

1
2 MIKE CERVONI: Oh, OK, perfect. So based
3 on this hearing, um, what, what I'm seeing is there's
4 three major points - the tracking of the projects,
5 the, ah, minority participation and how, how that's
6 going to be utilized, and possibly get, um, minority-
7 owned companies to be prime contractors, and then,
8 and then job selection and how D&B is being utilized.
9 So I represent, we represent a group of about 12 or
10 13 contractors that do primarily, ah, projects on the
11 infrastructure side of the Department of Design and
12 Construction. So we're doing mostly the roads, the
13 underground, the sewers, the water, and, and on that
14 side of the house. Um, some of us cross over to the
15 structure side, but not many. Our group in general
16 performs about 70% to 75% of the DDC contracts on the
17 infrastructure side that are released each year, and
18 we've been working with DDC on some of these D&B
19 issues and other issues, um, as, as a group to try to
20 make this more seamless. Just as a point of fact, we
21 didn't find out about design and build until a month
22 before the first RFP was due. So even though DDC
23 talks about all these symposiums and seminars and
24 outreach, um, we found out about it when they dropped
25

1 the RFP back in January. So our concerns were not
2 really heard until after the RFPs dropped, or RFQs...

3
4 DOMINICK CIPPOLONE: Right.

5 MIKE CERVONI: ... as it is. So that's
6 just a point of fact. I think that the design and
7 build program is an excellent tool for the
8 municipalities and the agencies to utilize for
9 projects that are a little more complex and can add
10 value engineer, where increases and new technologies
11 or different methodologies or specialties of
12 construction of different contractors and designers
13 can unite to now bring a better product and stay
14 within their specialties, and as we've seen with DOT
15 and with DDC, also I'd just like to congratulate, ah,
16 Jamie Torres on his new job at the MTA, and, ah, good
17 luck to him 'cause I think he's going to the MTA now.
18 Um, so in our venue of design and build the
19 underground system, as you know, is extremely complex
20 and there's a lot of unknowns, which is what the,
21 what really drives a lot of delays on our projects.
22 And I know, ah, Commissioner Rosenthal said she
23 wanted to talk a walk in her district. I know she's
24 on the Upper West Side. We're doing some work up
25 there. I would love to take a walk with her and go

1 over some of the problems that she sees, and then
2 show her some of the stuff that we do, um, on a daily
3 basis. So staying on point, I think it's a great
4 tool for buildings, for bridges, for elevated
5 roadways. In a lot of cases these jobs have, ah,
6 these projects have clear line of sight on what the
7 goals are and how to achieve them. When you delve
8 into the infrastructure and underground we now have a
9 ton of unknowns and most of that is due to the
10 utilities that are underground and those utilities
11 that the city partners with perform these jobs under
12 some joint bidding or other, other, um, formats of
13 contract. They don't do any pre-engineering on these
14 projects so we're basically, we're basically, ah,
15 hitting or uncovering their interferences as we go.
16 So that's why a design and build for our type of work
17 and, and the jobs that they've selected for design
18 and build are really, it's, it's not only not
19 necessary, you're, you're adding layers of costs and
20 layers of bureaucracy in this specific case. So we
21 talked about the ped ramps, ah, the complex ped
22 ramps. In that RFQ there was 49 corners that were
23 identified. Actually, they weren't even identified.
24 We got a little teeny map that was about the size of
25

1 half an 8 x 11 paper with dots on it that showed
2 where approximately that work would be performed. So
3 we had to put together an RFQ with a, a consultant
4 and bring that to DDC and submit that, and then they
5 grade it, and then they come with a short list. Now
6 this specific project, DDC talks about in-house
7 design, or actually Jamie said all ped ramp projects
8 are designed by consultants. That's not true,
9 because we're currently performing and have performed
10 over the last five years some complex corners that
11 had been predesigned and some that were task order
12 driven, and a task order contract is when you bid the
13 contract competitively, you get awarded the contract,
14 and the contractor goes out with the city personnel
15 and we design the corner on the fly. And that's
16 because it's a very simple thing to do. You walk
17 outside, you see the infrastructure that's in the way
18 of, of performing and building to DOT's specification
19 for, ah, ah, ped ramps, either a single or a double,
20 and you have a spec you build to. So if there's a
21 catch basin that has to be moved, or if there's a
22 fire hydrant, or a street light that has to be moved,
23 we move that and then we build the corner. This is
24 not something that's complex at all. It's something
25

1 we do on a daily basis and on the fly in conjunction
2 with New York City. So in that specific project New
3 York City is expecting a budget of 6 to 7 million
4 dollars, ah, for that particular project. Had that
5 project been put out as a competitive bid, as a task
6 order contract back in March, one, that job would
7 already be working now because it would be registered
8 and that contractor who won would be working on that
9 job already, and, two, in the current, ah, market
10 where members of our community and our group are
11 going to be out of business by March because they
12 don't have any more work, we're now adding a layer
13 of, of delay for D&B on a project that didn't
14 necessarily warrant it and the bids for that project
15 would be under 3 million dollars, for that specific
16 project. I can guarantee you that, OK. And let's
17 look at the budgeting of, ah, of DDC so far. Now
18 Jamie, Jamie talked about the East Side Resiliency
19 Project, which I think there's been 1.5 billion
20 dollars worth of work released for East Side
21 Resiliency. But that doesn't really, that comes from
22 the Sandy budget. So there was other federal funds
23 that were put in place there other than billion
24 dollars that they have to spend in fiscal 2022. Now,

1
2 I also bring up the East Side Resiliency Project
3 because that's an extremely complex project that
4 would have been perfect for design and build, because
5 now you can bring in new technologies to meet the
6 goals of what the project wanted and you have such a
7 large parameter, you're raising grades, you're
8 reconstructing roadways, you're putting in walls and,
9 and cantilevers and all kinds of structural
10 engineering that there's many ways to accomplish
11 this, but that job wasn't design and build. We're
12 now picking a simple job, or two simple jobs, that
13 could have been working already this year, and aid in
14 the economic recovery of the city by putting people
15 to work, and that didn't happen. So let me give you
16 the synopsis so far of New York City had a budget of
17 1.7 billion dollars for fiscal 22. That was what was
18 presented to us, I think back in November of last
19 year. So, ah, we understand that that budget was cut
20 by 40%, which still leaves just over a billion
21 dollars, which is still a pretty hefty program. So
22 now thus far in fiscal 22 they have bid on both the
23 infrastructure side and on the structure side 208
24 million dollars. I bring this up specifically
25 because on the infrastructure side the engineer's

1 estimate, which is the way that they said they're
2 going to track costs savings, right, on design and
3 build they expect to save between 5% and 15% and this
4 was Jamie's words, 5% and 15%, and they're going to
5 track that based on what the original estimate of the
6 job would have cost. So we, so DDC's engineer's
7 estimate across, across the spectrum of jobs that
8 they've bid thus far was 151 million dollars, OK?
9 The contractors came in at 126.5 million, with a
10 savings of 24 million dollars to the city and that's
11 a 16% savings. So when Jamie says he's looking to
12 save 5% to 15%, we're already exceeding that savings
13 with the competitive bid process. So if we're gonna
14 track it the same way, you, one would think that
15 putting out projects right now to aid in the economic
16 recovery for people in the street and add to the
17 optic of safety in the streets, especially in
18 Manhattan, where we want people coming back in, you
19 would want boots on the ground and more people in the
20 street. Our guys work in the street and give that
21 optic of people being around, and aid in the economic
22 recovery. So we know that these two projects that
23 they're talking about are stalled, they're 100%
24 stalled. They're not going anywhere right now. So
25

1 they said they were going to award by Q1 of 22. Even
2 if they awarded Q1 or Q2 of, of calendar 22, the
3 design process, that layer that's been put on top of
4 that project, is now going to elongate that job.
5 You're not gonna see boots on the ground for another
6 year to 18 months, because now it's gonna become, ah,
7 a contest between the designer who was selected to
8 hand over their designs to the city for review. Now,
9 the city hired a consultant to review the designs of
10 the other consultant. So if there's a disagreement
11 in what should have been done it's just going to keep
12 getting kicked back and forth. And this is the, the
13 problem we see. I'm not against design and build at
14 all, but in our genre one of the things that we were
15 specifically afraid of and there's only been two RFQs
16 and two short lists. One of the things we were
17 specifically afraid of, we brought this up with Jamie
18 and Erica Farley and all the brass on the
19 infrastructure side was now it's gonna be a club.
20 We're gonna create a club, ah, and we're gonna have a
21 kingmaker. So the two projects that were bid, the
22 ped ramps and the pedestrian safety on Lexington
23 Avenue...

24
25 SERGEANT AT ARMS: Time expired.

2 MIKE CERVONI: What's that? That's 12
3 minutes?

4 CHAIRPERSON ROSENTHAL: You can, feel
5 free to continue.

6 MIKE CERVONI: Thank you.

7 COMMITTEE COUNSEL: That was, that was
8 the entire 12 minutes. But you may continue.

9 MIKE CERVONI: Oh, wow, thank you, you
10 guys. You're a little quick on the trigger there,
11 ah, Noah. But, anyway.

12 COMMITTEE COUNSEL: [laughs]

13 MIKE CERVONI: And, and, ah, Chair
14 Rosenthal, I'll take a walk with you any time in your
15 district and, and you can take a walk with DDC and
16 get their, their perspective and I'll give you my
17 perspective. I've got a bunch of work going on up
18 there, on the Upper West Side. I can walk through
19 some of the stuff that we're doing and you can see
20 some of the complexities and why some of the D&B may
21 work and some of it may not within our genre. So on
22 the ped ramps you had three contractors that were
23 short listed - JR Cruz, Ristani, and Oliveria, OK? A
24 month later you had three contractors short listed on
25 the Lexington Avenue project - JR Cruz, Ristani, and

1 Triumph. So, we said we didn't want to have a club
2 being created and putting a kingmaker in charge, and
3 on two projects you have two of the same contractors
4 being short listed, when there were 20 to 25 RFQs
5 submitted. And I think everybody can agree, you guys
6 don't know this, but my firm, my company, has done
7 more complex corners in the last five years than any
8 other company in the city. There's no doubt about
9 it. I could put, I could put it on the table for
10 you. There's no doubt about it, and we did all this
11 stuff, most of it we designed in house and without
12 that layer of cost on top to have a designer now
13 partner with us. So we would go out with the city
14 and just design that, that specific location. All
15 right. Second component, that's, that's part of job
16 selection and, and tracking costs. The second thing
17 is the minority participation. Again, we have no, no
18 issues at all with the minority participation, but we
19 have asked, because of a partnership with the city
20 and the utility companies and now with the designer,
21 um, I think it was, um, Lambert, Wayne, he pointed
22 out that's is a 30% on design and then on the
23 contractor as well. That's, that's not a problem,
24 OK, but here's the problem. So there's a list in DDC
25

1 of contractors, minority and women contractors, that
2 are approved by DDC. Fantastic. There's about, we
3 just looked it up. There's about 7500 listed. One
4 of our complaints over the past 10 years has been,
5 one, many of those that are listed are no longer
6 functioning companies and haven't been removed from
7 the list. So the list wants to be big so that we say
8 we have all these companies, but that's not the case.
9 On top of that there's not a lot of minority-based
10 companies that do the subcontract work that we as
11 contractors perform underground. So what we've done
12 is we've reached out the utilities and we sent a
13 letter to Jamie and we sent a letter to each utility
14 company, because if they're partnering with the city
15 then they should also provide a list of minority
16 contractors that do work for them so we have the
17 opportunity to hire them to meet our goals. So
18 what's happening is they don't even respond. They
19 don't even respond to us. Um, but now to meet our
20 goals we have to look into just contractors that we
21 can subcontract to that normally we do this work. We
22 perform that work. So we're subcontracting it out,
23 which is not a problem, but I don't have the ability
24 to subcontract out a lot of the work that the
25

1
2 utilities have on these projects and now it takes
3 away from me performing DDC work that I would have
4 otherwise performed and I could sub out the other
5 work. So while everybody says we're partnering and
6 we're doing this and that to, to mentor, it's, a lot
7 of that is, is a little bit of smoke and mirrors
8 because the utilities don't help us all in finding
9 minority contractors to perform their work. Um, what
10 is the other thing I wanted to...

11 CHAIRPERSON ROSENTHAL: I'm gonna let you
12 finish up with your third point and then I have a
13 very quick question for you, and then I'm gonna turn
14 it back to Chair Adams.

15 MIKE CERVONI: Yeah and, and, um, ah,
16 Chairwoman Brooks-Powers, to your point with, ah,
17 with the apprentice program and mentoring, and, and
18 things like that. While the city can perform and
19 provide those training services for contractors,
20 that, that, to, to help them get into a position
21 where they can be a prime, ah, a bidder on a project,
22 we have to be very careful with that, because there's
23 a state law that's, that's called CUF, it's, um,
24 Commercially Useful Function. It's specifically
25 about mentoring and helping a contractor now develop

1 itself, and it's so specific, and there was a project
2 put out in 2019 by DDC and they actually had a 50%,
3 ah, minority participation and the way they wrote the
4 contract the prime contractor had to assist in
5 ordering, directing, and, and mentoring the minority
6 contractors so that they could segue to be a prime.
7 It sounds great, but every single one of those things
8 that was in the contract was illegal.

10 COUNCIL MEMBER BROOKS-POWERS: I, I thank
11 you for that and I'm familiar with it, and that's why
12 I think the city has to, um, do more at looking at
13 possibly breaking up some of these bid opportunities
14 so that it is a space where, um, we're able to scale
15 up these businesses. I also think that why I
16 emphasize who's on the panel is because it's not
17 necessarily that the, the minority- and women-owned
18 businesses are not skilled enough to do because
19 they've been doing a lot of this work for quite some
20 time, it oftentimes it's just some agencies have a
21 tendency of getting the lower-hanging fruit and they
22 may not go with someone that they've never worked
23 with before, but that doesn't take away the skill and
24 ability of that company to do the work. So I, I, I
25 recognize that and, you know, I just want to, um,

1
2 make sure that I emphasize that because I have
3 literally witnessed with my own eyes that when the
4 playing field is leveled and you put a, a minority
5 or woman firm against other, you know, larger firms
6 there have been cases where they've blown them out
7 the window and it's just a matter of having the
8 opportunity. But I hear you with, um, with, um, the,
9 the legal concerns there and I think we have to get
10 creative because I think it helps business on all
11 fronts when we're more inclusive. It builds capacity
12 on all fronts, um, and it ensures that everyone gets
13 a seat at the table when we are creating opportunity
14 for all and not the same few.

15 MIKE CERVONI: And, and to your point, if
16 I, if I can respond to that.

17 COUNCIL MEMBER BROOKS-POWERS: Go ahead.

18 MIKE CERVONI: I, I agree with you. Um,
19 but the design and build program by taking a field of
20 20 or 25 packages and only short listing three does
21 the exact opposite of what you're saying, because in,
22 in the competitive bid environment, and I think some
23 of the training and some of the mentoring can be, you
24 know, how to obtain the proper insurances, how to
25 obtain the bonds, 'cause those are the things that

1
2 are daunting, right? It's really not that difficult
3 but it's a daunting task for someone who doesn't know
4 anything about it. So that's, I think that's where
5 the function can come in and, and assist in that
6 matter, and then when you have a low bid format
7 you're giving everybody an opportunity to put a bid
8 in on that job, where under design and build, like I
9 just pointed out, the two jobs that were bid only had
10 four contractors on both jobs selected for short
11 list, and two overlapped on both jobs. So it
12 actually reduces the, the, the competition.

13 CHAIRPERSON ROSENTHAL: I, you know, I
14 hear what you're saying and I apologize for jumping
15 in late.

16 MIKE CERVONI: Oh, absolutely.

17 CHAIRPERSON ROSENTHAL: But, um, may I
18 just ask, ah, it sounds like you've been in the
19 business of doing this work a long time?

20 MIKE CERVONI: A little bit.

21 CHAIRPERSON ROSENTHAL: A little bit, and
22 I'm wondering, ah, and I really understand this point
23 about the city having 7500 names but, you know,
24 maybe, you know, some number don't exist anymore.

25

1 Are you familiar with the M/WBES that do this work?

2 Do you know of any?

3
4 MIKE CERVONI: Yeah, because we have to,
5 we have to, ah, we have to meet our goals and we, we,
6 we look, we're always looking for somebody new and to
7 fill obviously areas of work that we don't normally
8 perform.

9 CHAIRPERSON ROSENTHAL: What, um,
10 percentage of your work is bid out to M/WBES?

11 MIKE CERVONI: It, it depends on what the
12 goals are. I mean, you know, we exceed the goals a
13 lot of times. Sometimes we've had contracts where
14 the work, the performed, ah, M/WBE work was removed
15 from the contract. So then, so then we didn't meet
16 the goal. But we had every anticipation of meeting
17 it had that work not been removed. So...

18 CHAIRPERSON ROSENTHAL: So you're saying,
19 and let me just make sure I'm hearing this right. So
20 you do have firms, M/WBE firms, that you can
21 subcontract to.

22 MIKE CERVONI: Yes, 'cause we, we do. We
23 currently [inaudible].

24 CHAIRPERSON ROSENTHAL: And you do. And
25 they do parts of the job that your firm does not do?

2 MIKE CERVONI: Ideally that's the best
3 way for us to meet the goals is to subcontract out
4 the portion of the project that we don't perform.

5 CHAIRPERSON ROSENTHAL: Right. And just
6 to be clear, I mean, we're not meeting goals because
7 they're random, right? I mean, this is about, ah,
8 increasing access to work, or [inaudible].

9 MIKE CERVONI: I'll give you an example.
10 I'll give you an example. I'll give you an example.
11 So, ah, my firm performed Houston Street from, ah,
12 where were we, Bowery?

13 DOMINICK CIPPOLONE: Bowery.

14 MIKE CERVONI: Bowery to the East River,
15 OK. Um, that project had a, a criteria that you
16 couldn't use a minority firm for over a million
17 dollars of participation for one firm. But we had a
18 paving company that was minority-owned that we wanted
19 to use and that was 3 million dollars. So we spoke
20 with DDC, I think it Donna Pope back then?

21 DOMINICK CIPPOLONE: Um-hmm.

22 MIKE CERVONI: We spoke with Donna Pope
23 back then and, and asked her, like why would have to
24 exclude this guy from doing the work, because it's a
25 3 million dollar budget when now I have to go to

1 three separate people, a million, a million, a
2 million, to meet that, meet that goal, and we already
3 have this contractor that works with us and, and we
4 know he does a quality job, and he's gonna meet, you
5 know, the standards for what we want to hold for, for
6 the city, 'cause the finished work is what everybody
7 sees. And we worked together and we used that firm,
8 and I think we exceeded the goals on that project by,
9 by quite a bit.

11 CHAIRPERSON ROSENTHAL: Right. And the
12 city gave you the authority to do that?

13 MIKE CERVONI: Yes, but we had to ask.

14 CHAIRPERSON ROSENTHAL: OK. Council
15 Member Brooks-Powers, did you want to jump in?

16 COUNCIL MEMBER BROOKS-POWERS: Yes, so
17 just a couple things. One, to that point that was
18 just made, um, the reason that instead of going to
19 the one that has 3 million dollar capacity versus,
20 you know, having to break it up, one versus giving
21 opportunity to three is, you know, the goal so that
22 we're opening up the opportunities to other firms,
23 and so that they're not the same, um, company. So
24 oftentimes it may seem a bit of an, ah, arduous task
25 for some, especially when you know the work of some,

1 um, companies, and, and I get it. You know, your
2 reputation is behind it. You'd rather work with who
3 you know. But, you know, the program is set out to
4 create opportunities and also to foster new, um,
5 relationships. But I'm interested in the comment you
6 made there's been work that you've had where the
7 M/WBE portion has been removed. Under what
8 conditions would normally require like or lead to an
9 M/WBE removed?
10

11 UNIDENTIFIED: [inaudible], ah, scope
12 change.

13 MIKE CERVONI: Yeah, yeah, there was a
14 change of scope on the project and we had an approved
15 M/WBE planned and, and subcontractor planned, total,
16 with the city and one of those scopes was removed
17 from the project. And that was not because of, of us
18 at all.

19 COUNCIL MEMBER BROOKS-POWERS: Right, and
20 so when that's removed does it not shift to another
21 portion because the 30% is across the program, or,
22 um-hmm.

23 MIKE CERVONI: Well, ideally yes. But
24 when in this specific case 95% of the project was
25 complete and then that goal, that, that scope was

1 removed and how do I meet a goal within such a short
2 space and there's, there's just not a lot of work
3 left. So, you know, you have to look at each thing
4 in, in its context.
5

6 COUNCIL MEMBER BROOKS-POWERS: OK, thank
7 you.

8 CHAIRPERSON ROSENTHAL: What was the
9 nature of the work that was taken out of the scope?

10 DOMINICK CIPPOLONE: Ah, if I, if I may,
11 ah, ah, Chairperson Rosenthal, um, it was the final
12 restoration on the project. The city, ah,
13 significantly reduced the final restoration limits
14 and had a private contractor who was putting the
15 building up do that work. Ah, I think the city
16 probably benefitted, ah, taxpayer money not being
17 spent on that work. It was taken out of our
18 contract. So the subcontractor that we were using,
19 ah, who was a certified MBE, ah, performed some of
20 the work but not all of it 'cause their scope of work
21 was significantly reduced in that particular, ah,
22 project. Um, and, and we were at the end of the
23 project. So we did, we did have them on our job.
24 They did perform work. They just couldn't perform
25 the full scope of the work. And that's not fair.

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MIKE CERVONI: It's [inaudible].

CHAIRPERSON ROSENTHAL: Again, and I'm gonna turn it over to Council Member Adams to close unless Council Member Brooks-Powers has additional questions. But, you know, from the bit of your testimony that I just heard, ah, what would be, and I'm sure, we'll take you up on the offer to look at the curb cuts in my district, but what I think would be even more amazing is to learn from you, at another time, not at this hearing, I know we're really wrapping up, but, um, your ideas for how we increase access for M/WBEs given your sounds like good history, your knowledge of, of the sub, subcontractors that you've worked with and it strikes me that you would, you might have some insights about how we can, um, you know, tweak the design build system. Um, you know, off the top of my head, I mean, subcontractors are subcontractors, whether it's design bid build or design build.

UNIDENTIFIED: That's correct.

CHAIRPERSON ROSENTHAL: Um, but I would be very interested in specific examples of how you think the city could improve the program for M/WBEs. Um, but, ah, as I say, ah, I really just want to

1 thank Council Member Adams for stepping in. I really
2 appreciate that, and I'll, I'll turn it back to you.
3 Thank you so much.

4 ARTHUR GOLDSTEIN: Madam Chair.

5 CHAIRPERSON ROSENTHAL: And thank
6 everyone, all the staff and for everyone for your
7 help today.

8 ARTHUR GOLDSTEIN: Madam Chair, if I
9 could just make one comment.

10 CHAIRPERSON ROSENTHAL: Um, I defer to
11 Council Member Adams on this, only because I haven't
12 been here, but thank you.

13 COUNCIL MEMBER ADAMS: Arthur, I would
14 say no, but because I like you so much I'll say yes.
15 [laughter]

16 UNIDENTIFIED: I would have said no, too.

17 ARTHUR GOLDSTEIN: And the, and the
18 feeling is absolutely mutual. Um, ah, Chair
19 Rosenthal, um, the important piece that you might
20 have missed, and we could certainly follow up when we
21 follow up with the issue you raised, is there are
22 jobs out there, the pedestrian ramps was a perfect
23 example, that the decisions DDC, ah, ah, has made on
24 them and may continue to make, um, is actually
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2 wasting your constituents' tax dollars and their
3 delays are delaying real people from working like
4 now, when we need to be recovering. And, and, and
5 that's what's, what's crucial, plus with the cost
6 savings of, of just doing the competitive bid on
7 these projects that aren't as complex as needed for
8 the value of a design build project, you would get on
9 to more projects spending that savings and therefore
10 more people would be working sooner. So we'd like to
11 follow up with you on that.

12 CHAIRPERSON ROSENTHAL: Super-helpful
13 insight. I mean, the one thing I would say, because
14 I'm not at all steeped in this like you are, is, um,
15 you'd really have to be able to peel back the onion
16 on that kind of statement.

17 ARTHUR GOLDSTEIN: Yeah, oh, absolutely.

18 CHAIRPERSON ROSENTHAL: Because change is
19 hard and it strikes me that the city has had a hard
20 time switching over, probably because of the
21 challenges of COVID, um, so, I mean, I, I would, um,
22 that's why I'd want to sort of study that a little
23 bit more. I don't know if what happened with the
24 pedestrian ramps with the complex corners if that's a
25 hiccup, ah, that happened because of change and

2 COVID and the time, or if it's a, um, if's a
3 constant, you know? And, um, I would just want to
4 explore it...

5 ARTHUR GOLDSTEIN: Absolutely.

6 CHAIRPERSON ROSENTHAL: ...a little bit
7 more. But point taken. And, um, and I, yeah, I
8 really appreciate your point, but sort of my biggest
9 take-away is, um, you know, I would want to make sure
10 that regardless if we're doing design bid build or
11 design build how do we increase access for, ah, MBEs,
12 M/WBEs?

13 ARTHUR GOLDSTEIN: I think we're both on
14 the, on the same track.

15 MIKE CERVONI: And, and if I may, just
16 real quick, I think before you came, ah, Jamie Torres
17 said he wanted a, he's estimating a 5% o 15% savings.

18 CHAIRPERSON ROSENTHAL: I heard him, I
19 heard him.

20 MIKE CERVONI: OK. Yeah, but we're 16%
21 on the jobs that were competitively bid now.

22 CHAIRPERSON ROSENTHAL: I got you.

23 MIKE CERVONI: OK, thank you.

24 ARTHUR GOLDSTEIN: Thank you very much.
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2 COUNCIL MEMBER ADAMS: Thank you all very
3 much. Ah, this has been most enlightening. Ah,
4 thank you very much. Arthur, I'm glad that I let you
5 wrap that up. Thank you. Ah, this, there is
6 obviously a disconnect here somewhere and, ah, my
7 hope and, and I'm certain that is Chair Rosenthal's
8 hope also, that we can somehow plug these holes and
9 connect these dots, ah, to figure where these
10 disconnects are and why they're happening, you know,
11 for the greater good of all involved, um,
12 particularly, you know, our interest in M/WBEs and
13 you know, getting everybody on the same page to make
14 sure that, um, those entities are, ah, fruitful in
15 their work and what they're doing, um, in this entire
16 process. So, ah, Counsel, if there is no further
17 testimony from the public.

18 COMMITTEE COUNSEL: Ah, seeing none, you
19 can rap and gavel when you're ready.

20 COUNCIL MEMBER ADAMS: All right. So we
21 want to thank all of our colleagues, all the
22 panelists, ah, our general, um, ah, public, our
23 finance team, of course, for participating in today's
24 hearing. Ah, on behalf of Chair Rosenthal this
25 meeting is hereby adjourned. [gavel]

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UNIDENTIFIED: Thank you, thank you.

C E R T I F I C A T E

World Wide Dictation certifies that the foregoing transcript is a true and accurate record of the proceedings. We further certify that there is no relation to any of the parties to this action by blood or marriage, and that there is interest in the outcome of this matter.



Date November 14, 2021