CAPITAL BUDGET WORKSHOP
FY16

July 30th, 2015
THE PURPOSE OF TODAY

- **Overview the capital funding process**
  - What makes a cultural organization’s capital project successful
  - Funding constraints & time frames

- **Initiate the process**
  - Meet fellow cultural organizations and learn about the City agencies (DCLA, DDC, EDC, DCAS, OMB) involved in the process
  - Meet your DCLA project manager
Recent Capital Projects

- Staten Island Zoo’s carousel
- Mind-Builders
- The new Whitney
- New pathway at Queens Botanical Garden
- IATI Theater rehearsal space
- Weeksville
DCLA’S GOALS FOR CAPITAL PROJECTS

Enhance the public’s experience of cultural life in New York City through projects that:

- Increase public access to cultural programming throughout the City
- Contribute to the vibrancy and diversity of the City’s communities
- Maximize the effectiveness of public/private partnerships
- Preserve and promote the highest quality cultural facilities, programs and collections

Atlantic Theater’s state-of-the-art renovation of their main stage theater

EVERY CIG CONTRIBUTES TO THESE GOALS – THAT’S WHY YOUR PROJECTS HAVE BEEN FUNDED!
Each plan updates the City’s budget to reflect current project funding needs, there are three major updates during the course of a fiscal year.

- **Preliminary Budget (January Plan)**
- **September Plan**
- **Executive Budget (April Plan)**
- **Budget Adoption (July 1st)**

THE CITY’S BUDGET CYCLE
INITIAL REQUIREMENTS and EXPECTATIONS
PUBLIC PURPOSE

Every project must further a public purpose, as well as establish a legal interest in the City funded asset by
- enhancing City Owned Property or
- on non-City owned property, by including the following:

- **Restrictive Covenant**
  When capital funds are being used for a capital improvement (non-City owned property)

- **Security Agreement**
  When capital funds are being used to invest in movable equipment or systems (e.g. computer system, furniture) (City owned AND non-City owned property)

- **Use Restriction**
  The improved property or purchased equipment must be used consistently with the mission of the organization for the duration of the useful life of the improvement or equipment (non-City owned property)
Organization agrees to:
  o Follow the City’s process, comply with all requirements, and obtain approvals in order to successfully complete the project
  o Initiate the project with DCLA and respond to City requests for information in a timely manner

Your funding allocation does NOT guarantee:
  o Approval by government entities
  o Disbursement of funding according to a pre-conceived timeline
  o Disbursement of funding for a pre-conceived, unapproved scope of work or equipment purchase

Funds are NOT safe from budget cuts
FULLY FUNDING THE PROJECT

Before the project starts, any gap between funds available and the project’s total cost **must** be closed through other secure sources such as:

- Board Donations
- State and/or Federal Funds
- Cash-in-hand
- Other Non-City Funding
**Get design approvals for all city-funded capital projects**
- DCLA approval at design phase milestones (Schematic Design, Design Development, Construction Documents)
- DCLA approval prior to submission to PDC or LPC
- Include information on operating implications (increased costs, maintenance, security, etc.)

**Operational Responsibilities:**
- Filings with DOB, FDNY, etc.
- Violations
- Maintenance Plan
- Certificate of Occupancy
- Public Assembly permits

**DCLA approval of donor credit, naming rights, press announcements and signage**
GETTING STARTED WITH YOUR CAPITAL PROJECT

Bronx River Art Center's (BRAC) groundbreaking ceremony in June 2014
THE FOUR KEY REVIEW STAGES

1. Scope Review & Approval
   - Establishes project eligibility and feasibility

2. Administration & Management
   - Works with architects, engineers and the organization to manage the design and construction process

3. Project Review & Approval
   - Reviews the project for capital eligibility and issues necessary funding approvals

4. Project Review & Approval
   - Reviews and authorizes capital projects for conformity with applicable accounting standards and directives
## ELIGIBLE PROJECTS

Two types of projects are eligible for funding:

<table>
<thead>
<tr>
<th>Construction/Renovation</th>
<th>Equipment</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Construction of new facility</td>
<td>- Equipment systems or standalone equipment (at least $35K)</td>
</tr>
<tr>
<td>- Expansion of existing facility</td>
<td>- $250K minimum for non-moveable equipment (e.g. bolted down seat systems)</td>
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<tr>
<td>- Upgrade/renovation of contiguous existing space</td>
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<tr>
<td>- Upgrade/replacement of building system e.g. HVAC</td>
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<tr>
<td>- $500K minimum initial City contribution for non-City owned property</td>
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</tbody>
</table>
CAPITAL ELIGIBILITY: DETAILS

- **Comprehensive**
  - Create new asset/systems
  - Upgrade existing asset

- **City Purpose**
  - Provides public benefit for useful life of improvement or equipment

- **Long-Term Investment**
  - Equipment: 5-10 years
  - Construction/renovation: 10-30 years

- **Minimum City Contribution**
  - Construction/renovation: at least $500K (for non-City owned property)
  - Non-moveable equipment: at least $250K
  - Moveable equipment: at least $35K
In order to attain capital eligibility, a project must comply with the Comptroller’s Directive 10 and its definition of comprehensive betterment:

- Directive 10 defines comprehensive betterment as extensive, physically connected, and typically involved in all four trades (electrical, plumbing, HVAC, and general construction).

- It specifically does not allow work in non-contiguous spaces unless functionally related, i.e. dependent upon each other and necessary for the asset to perform its primary purpose.

- If a project does not meet this definition of comprehensive betterment, the cost of renovations to different areas of a building or element of infrastructure must each be a $35,000 minimum.

## INELIGIBLE CAPITAL COSTS

<table>
<thead>
<tr>
<th>Category</th>
<th>Examples</th>
</tr>
</thead>
</table>
| Maintenance   | - Repair/Maintenance work, e.g. roof patching  
                 - Painting & carpeting unrelated to capital project  
                 - Extended warranties  
                 - Maintenance agreements & service contracts |
| Operational   | - Employees’ salaries  
                 - Administrative expenses  
                 - Training |
| Studies       | - Environmental assessments (as a stand-alone item)  
                 - Feasibility studies |
| Fixtures      | - Fixtures or equipment that require attachments to the property are ineligible without a restrictive covenant or security agreement  
                 - Organization-specific signage/donor plaques |
| Other         | - Owner’s representative fees, fundraising, financing, or legal fees  
                 - Work performed prior to the capital allocation  
                 - Organization’s project management costs  
                 - Custom Databases |
These Local Laws and City Policies may apply to your Capital Project and should be discussed with DCLA project manager.
LOCAL LAWS & CITY POLICIES

**Landmarks Preservation Commission (LPC)**
- Applies to landmarked property
- Conceptual, preliminary and final designs are reviewed and approved

**Public Design Commission**
- Applies to exterior work on or above City-owned property
- Conceptual, preliminary and final designs are reviewed and approved

**Department of Buildings (DoB)**
- Applies to all construction/renovation projects
- Fees for inspections and permits performed by the DoB
PROJECT ADMINISTRATION & MANAGEMENT

The team for South Street Seaport Museum's Wavertree restoration project
There are five ways cultural capital projects are managed:

1. DDC Managed
2. Cultural Capital Grant (CCG)
3. EDC Funding Agreement (FA)
4. EDC Managed
5. Equipment

The Jerome Greene Performance Space at WNYC
DETERMINING THE MANAGING AGENCY

STEP 1
DCLA, a representative from the proposed managing agency and cultural organization establishes:
- Public purpose
- Capital eligibility
- Project complexity
- Organization capacity
- City requirements
- Project budget

STEP 2
DCLA & the cultural organization finalize the “Program” or equipment list

STEP 3
DCLA sends the program to the managing agency

The Program:
DCLA template document that describes the scope of the project, overall development plan and a project funding
Based on a project’s needs, DCLA transfers a project to the appropriate managing Agency:

1. DDC Managed (Design + Construction)
   - DDC

2. Cultural Capital Grant (CCG)
   - DDC

3. Funding Agreement (FA)
   - 4. EDC Managed
     - EDC
     - DCL or
     - EDC or
     - DCAS

5. Equipment purchase through:
   - DCLA
   - Or
   - EDC
   - Or
   - DCAS
**DDC MANAGED: CRITERIA**

- Generally smaller **cultural organizations that do not have the financial and operational resources** and experience to manage capital projects benefit from DDC’s project management and design resources.

- Ideal for **projects with limited private funding** or where City funds must pay for design.

- **Design and construction phases** are managed (DDC does not manage design only).

The Brooklyn Children’s Museum’s expansion and renovation project was managed by DDC. BCM is the country’s first LEED-certified children’s museum.
DDC MANAGED: DETAILS

**DDC administers the project and its funding:**
- Procurement of consultants and contractors
- Management of contracts for design and construction
- Review of design
- Regulatory approval review
- Construction progress
- Budget management and oversight
- Compliance and payment administration

**Project Team:** Cultural organization, DCLA, DDC and consultants

DDC Managed projects use both in-house resources and private consultants and contractors.
Brooklyn Children’s Museum’s new roof canopy

Snug Harbor Building E’s exterior restoration

South Street Seaport Museum’s Wavertree leaving for the dry dock

Brooklyn Children’s Museum’s new roof canopy
A quality-based selection for procurement of design services.

 Allows the City to hire firms based on their qualifications and past work, rather than on the more traditional lowest bid methodology.

 Selection and Award takes about 3 months.

 Design Schedule varies from 9 months – 2 years depending on the size of the project.

 Visit the DDC website for the current list of Design Excellence Consultants.

 A custom RFP and contract is written for projects that require special expertise.

 Firm is chosen based on specific project needs and process typically exceeds 6 months.

 Design Schedule varies greatly depending on project size, but it is recorded in the contract with the architect.

 Specialized firms in mechanical, electrical, engineering, exterior, landmark and landscaping that are on retainer contract with DDC.

 Selection takes 4–6 months

 Design Schedule takes 6-12 months.

 Pilot program starting this fiscal year

 Intended as time-efficient solution for straight-forward projects

 Will apply to clearly defined, limited scope (e.g. parking lot)

 Details forthcoming
**DDC MANAGED: CONSTRUCTION PROCESS**

**DDC contracts for construction in TWO ways:**

<table>
<thead>
<tr>
<th>Public BID</th>
<th>JOCS (Job Order Contracting System)</th>
</tr>
</thead>
<tbody>
<tr>
<td>o The DDC openly and competitively bids the project</td>
<td>o On-call, requirement contracts that are best used for small, simple projects</td>
</tr>
<tr>
<td>o Selection Time: 5-6 months</td>
<td>o Construction Schedule varies, but typically shorter because of small size of projects - 1 year or less</td>
</tr>
<tr>
<td>o Construction Schedule varies, typically 1-2 years</td>
<td></td>
</tr>
<tr>
<td>o DDC manages project in-house or supplements management with a construction manager</td>
<td></td>
</tr>
</tbody>
</table>
DDC MANAGED: TIMELINE

Note: Timeframes depend on the scale, budget and complexity of the project. The timeline shown represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.

Project Scope Creation (DCLA & DDC)
- 3 months

Architect Procurement
- 4 months

Project Design
- 6-18 months

Construction Contract Bidding
- 6 months

Construction
- 6-24 months

Project Closeout with Project Evaluation and Summary
- 3 months
A Cultural Capital Grant allows a cultural organization to manage its own project while protecting the City’s investment of public dollars. A CCG:

- Guarantees scope at a fixed price
- Allows capital funds to be reimbursed to the organization; cost overruns are borne by the organization
- Assures robust public-private funding partnerships
CCGs: EXAMPLES

BBG’s Discovery Garden opened in June 2015

St. Ann’s Warehouse is scheduled to open in fall 2015

The Weill Music Institute at Carnegie Hall opened in fall 2014

Installation at the Cooper Hewitt Smithsonian Design Museum
The following is a sample of requirements to establish organizational capacity to manage a project:

**Project Planning**
- Clear rationale for the project
- Comprehensive, recent master plan or strategic plan; project is technically complex and has special scheduling needs
- Project types include major renovation and construction
- Compliance Paperwork (Vendex, Insurance, RC etc.)

**Project Managerial Capacity**
- Relevant project management experience
- Addresses future maintenance/operation changes
- Familiarity with approvals (ULURP, LPC, PDC etc.)

**Organization Managerial Capacity**
- Successful execution of mission
- An actively engaged Board
- Effective leadership/administration staff

**Financial Capacity**
- Project requires significant private contribution
- City funding is at least $1 million in current fiscal year
- Capacity to fully finance project / cover all cost overruns
- Capital campaign/plan with realistic goals
- Institutional track record of successful fundraising campaigns
Note: Timeframes depend on the scale and complexity of the project. The timeline shown represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.

**CCG INITIATION (Application to DDC for Technical Compliance Review)**

- Submit CCG Package: 2.5 months
- Package Review and Approval: ~1 month
- Presentation Held: ~3 months
- CCG Finalization: 2 months
- Legal Agmt and Restrictive Covenant Compliance Paperwork
- Issuance of the Certificate to Proceed (OMB): ~5 months
- Comptroller Registration: 1.5 months
- Construction
- Project Closeout with Project Evaluation and Summary
EDC FUNDING AGREEMENT

If City funding is allocated through a contract between EDC and a cultural organization, the following conditions apply:

- Project has an economic development focus
- Organization has the capacity to implement and maintain its capital project
- Project is technically complex and has special scheduling needs
- Organization is responsible for any cost overruns
- Specific requirements, approvals and the Funding Agreement (FA) process must be complete in order to receive funds
- Project requires significant private contribution
- City funding is at least $500K and <50% of total project cost

The Whitney opened its new downtown home in May 2015
EDC FUNDING AGREEMENT: EXAMPLES

Spaceworks Williamsburg

Whitney Museum of American Art
### EDC FUNDING AGREEMENT: TIMELINE

<table>
<thead>
<tr>
<th>Define Scope &amp; Budget</th>
<th>2</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prepare FA Document</td>
<td>0.5</td>
</tr>
<tr>
<td>Procurement</td>
<td>2</td>
</tr>
<tr>
<td>Compliance Documentation</td>
<td>5.5</td>
</tr>
<tr>
<td>OMB Review</td>
<td>3</td>
</tr>
<tr>
<td>Execute FA</td>
<td>&lt;0.5</td>
</tr>
<tr>
<td>Comptroller Review</td>
<td>1</td>
</tr>
<tr>
<td>Payments</td>
<td>1.5</td>
</tr>
<tr>
<td>Project Closeout with Project Evaluation and Summary</td>
<td>1</td>
</tr>
</tbody>
</table>

**Note:** Timeframes depend on the scale and complexity of the project. The timeline shown above represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.
Projects should include an economic development focus (e.g. located within a redevelopment area and/or opportunity for job creation)

Project is technically complex and/or has special scheduling needs

Generally smaller cultural organizations that do not have the financial and operational resources to manage capital projects benefit from EDC’s project management resources

Ideal for projects with limited private funding or where the organization pays for design

Design is procured through a Request for Proposal (RFP); construction is managed by a pre-selected Construction Manager and a shortlist of contractors

Typically applies only to organizations on City-owned property
EDC MANAGED: EXAMPLES

BRIC’s Downtown Brooklyn location by night

Museum of the Moving Image’s Screening Room
EDC MANAGED: TIMELINE

Note: Timeframes depend on the scale, budget and complexity of the project. The timeline shown represents optimal durations without delays, and is based on complete submissions + timely actions; RESTRICTIVE COVENANTS may require additional time to the schedule.

Project Scope Creation (DCLA & EDC)

Architect Procurement through RFP

Project Design

Construction Contract through CM shortlist

Construction

Project Closeout with Project Evaluation and Summary

Month

1st Year

Management transfer DCLA to EDC
EQUIPMENT: BASICS

All equipment contracts are governed by:

- New York City’s Comptroller’s Directive 10
- NYS Local Finance Law
- NYC Charter Chapters 9 & 13
- NYC Procurement Policy Board Rules

DCTV: Shared Media Storage System
EQUIPMENT: GUIDELINES

What constitutes an equipment system project?

- **Each system must be $35K or over ($250K minimum for non-moveable equipment)**

- **If there are multiple components to the system, it **must be demonstrated how each part or group of parts is interrelated** and integral to the system**

- **Useful life of equipment must be at least 5 years**

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The cultural organization must have **site control for at least 5 years from the time equipment is purchased.**
EQUIPMENT: CAPITAL ELIGIBILITY

- Equipment Systems
  - Theatrical lighting
  - Audio Visual systems
  - Sound systems
  - IT systems

- Vehicles

✓ Laptops, PDAs, other handheld devices

✓ Software

✗ Ineligible in a system purchase:
  - Carrying cases
  - Projection screens
  - Equipment that needs to be attached or mounted to non-City owned property is ineligible without a Restrictive Covenant or Personalty Agreement

SAVE THE DATE:
A mandatory equipment meeting will be held on Tuesday September 22nd, 2015 at DCLA
Who manages the equipment procurement process?

- **Contract <$100K**: DCLA
- **Contract >$100K**: DCAS
- **Vehicles**: DCLA
## EQUIPMENT: TIMELINE

**Note:** Timeframes shown are optimal durations without delays and based on complete submissions and timely actions.

<table>
<thead>
<tr>
<th>Month</th>
<th>Event Description</th>
<th>Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>Define Scope/Specifications with DCLA</td>
<td>3</td>
</tr>
<tr>
<td></td>
<td><strong>Budget Approval &amp; Security Agreement</strong></td>
<td>4</td>
</tr>
<tr>
<td>6</td>
<td>Procurement by DCLA</td>
<td>4</td>
</tr>
<tr>
<td>10</td>
<td><strong>DCAS</strong></td>
<td>12 minimum</td>
</tr>
<tr>
<td>14</td>
<td><strong>Comptroller Registration</strong></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td><strong>Receipt, Inspection &amp; Final Payment</strong></td>
<td>1</td>
</tr>
<tr>
<td></td>
<td><strong>Project Closeout with Project Evaluation and Closeout</strong></td>
<td>1</td>
</tr>
</tbody>
</table>
The Office of Management and Budget (OMB) reviews all project documentation:

- Capitally eligible project scope
- Itemized Budget & Funding status
- Legal Agreement (contract)
- City ownership
  
  -OR-

- If Non-City ownership, Restrictive Covenant and/or Security Agreement

Review time is estimated to be 90 days

If OMB approves the project, OMB will issue a Certificate to Proceed (CP)
The Comptroller verifies procedural compliance and accuracy of agreement information.

- Process includes **30 days for Comptroller review**

- Once the Comptroller’s office gives approval, the **contract, purchase order, grant or funding agreement is registered**.

The Comptroller recently received the “Best New Building” award, the Municipal Art Society’s highest honor.
KICK OFF & CAPITAL PROJECTS IN PROGRESS

Caribbean Cultural Center’s groundbreaking in September 2014
Finally, design/construction commences. Alternatively, equipment is purchased or the requisition process begins.

- **Managing Agency is in charge of day-to-day project management.** You will have a dedicated Project Manager at both agencies (DDC & DCLA or EDC & DCLA).
- **The organization’s responsibilities are:**
  - **Attend all meetings** (e.g. bi-weekly design and construction meetings for DDC and EDC managed projects)
  - **Follow City requirements** on procurement, reporting and reimbursement (CCG/FA)
  - **Respond in a timely matter** to questions and RFI’s (Request for Information)

**NOTE:** Project timeline and budget can shift due to unforeseen field conditions and/or scheduling constraints.

**Scope changes** during the design or construction phase can cause delays and more often than not lead to cost increases.
AT LAST: RIBBON CUTTING!

The Smithsonian Cooper Hewitt Design Museum reopened after an extensive renovation in December 2014.
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www.nyc.gov/culture
These Local Laws and City Policies may apply to your Capital Project and should be discussed with DCLA project manager.

Local Law 86: Green Buildings Law
- Applies to projects with City contribution over 10M or >50% of project costs
- Types of requirements: LEED rating level and/or energy cost and potable water reductions
- LL86 analysis meeting held before design starts (DDC managed)

Local Laws 118, 119, 120 &121:EPP
- Applies to projects >15,000sf and requiring a DOB permit but not covered by LEED requirements of LL86
- Requires Environmentally Preferable Purchasing of certain goods & construction products cited in NYC EPP Minimum Standards

Local Law 1: M/WBE
- Sets goals for participation of minority or women owned construction and service firms in City projects
- LL1 expands upon LL129 with updated goals: elimination of $1M cap; counting prime and subcontracts >$1M toward goal; inclusion of standard services as industry subject to M/WBE
### LOCAL LAWS & CITY POLICIES

<table>
<thead>
<tr>
<th><strong>State/City Environmental Review Act (SEQRA/CEQR)</strong></th>
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<tbody>
<tr>
<td>• Applies to <strong>city-owned property</strong></td>
</tr>
<tr>
<td>• Evaluates a project’s impact on the environment, e.g. purpose, appearance or condition of a structure or natural resource</td>
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<thead>
<tr>
<th><strong>Local Law 58: Accessibility/ADA</strong></th>
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<tbody>
<tr>
<td>• Mandates that the design and construction of buildings <strong>accommodate the accessibility needs of disabled persons</strong>, including appropriate routes of movement in the interior and exterior of the building, interior room modifications, and adjustment of facilities</td>
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</tbody>
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<tr>
<th><strong>Interfund Agreement Fees (IFA)</strong></th>
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</thead>
<tbody>
<tr>
<td>• Applies to <strong>all capital projects</strong></td>
</tr>
<tr>
<td>• An administrative fee that is deducted from your capital funding allocation</td>
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<tr>
<td>• IFA ranges from 2-14%</td>
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</tbody>
</table>
ULSD & BAT
Local Law 77

- Requires the use of ultra-low sulfur diesel (ULSD) and “best available technology” (BAT) for reducing emissions from non-road equipment used on City construction projects
- [Link to ULSD & BAT Local Law 77]

GGBP targets energy efficiency in large existing buildings with suite of laws:
- LL84 Benchmarking: requires benchmarking of energy and water consumption annually
- LL85 NYC Energy Conservation Code (NYCECC): requires compliance for any renovation or alteration
- LL87 Energy Audits & Retro-commissioning: conduct an energy audit and perform retro-commissioning every 10 years
- LL88 Lighting & Sub-metering: upgrade lighting in nonresidential space to meet code & provide large commercial tenants with sub-meters (reports due by 2025)
- [Link to GGBP energy efficiency targets]

Tropical Hardwoods

- Maximum reduction of the use of tropical hardwoods
- [Link to tropical hardwoods report]

LOCAL LAWS & CITY POLICIES
LOCAL LAWS & CITY POLICIES

**Landmarks Preservation Commission (LPC)**
- Applies to landmarked property
- Conceptual, preliminary and final designs are reviewed and approved

**Public Design Commission (PDC)**
- Applies to exterior work on or above City-owned property
- Conceptual, preliminary and final designs are reviewed and approved

**Department of Buildings (DoB)**
- Applies to all construction/renovation projects
- Fees for inspections and permits performed by the DoB
NOTE: City owned and non-City owned Projects will be subject to different requirements considering the following laws:

**Wick’s Law**
- Wicks Law requires separate primes (typically General, Plumbing, HVAC & Electrical)
- Applies to DDC managed projects on non-city owned property
- Contracts >$3M must comply with Wick’s Law
- Contracts <$3M can use one General construction contract; GC must include names and prices of Plumbing, HVAC & Electrical sub-contractors
- [https://labor.ny.gov/workerprotection/publicwork/PDFs/WICKS%20Reform%20202008.pdf](https://labor.ny.gov/workerprotection/publicwork/PDFs/WICKS%20Reform%20202008.pdf)

**City owned:**
- PLA is a pre-hire collective bargaining agreement with one or more labor organizations that establishes the terms and conditions of employment for a construction project
- Applies to DDC Managed projects on City owned property
- PLA allows the City to enter into one General Construction contract vs. multiple primes of Wick’s Law
- M/WBE goals still apply