

Gateway Development Commission
Meeting of The Board
Held via Teleconference

March 5, 2021

MINUTES

The following Commissioners were present:

NEW JERSEY

Balpreet Grewal-Virk, Co-Chair¹
Janine Bauer
Jerry Zaro

NEW YORK

Steven M. Cohen, Co-Chair²
Jamey Barbas
Marie Therese Dominguez

AMTRAK

Anthony R. Coscia, Vice Chair³

I. Call to Order

The public meeting was called to order by Commissioner Coscia at approximately 1:20 p.m.

Commissioner Coscia advised that due to the ongoing public health crisis posed by COVID-19, and in light of the recommendation from the Centers for Disease Control and Prevention and the States of New York and New Jersey, the meeting was being held virtually via teleconference with audio live-streamed from the Gateway Program website.

Commissioner Coscia also advised that as part of the Gateway Development Commission (“Commission”) public speakers’ program, the Commission was continuing to solicit comments from the public for today’s virtual meeting and that a form for soliciting these comments was posted on the Gateway Program website for those who wished to submit a comment for today’s meeting.

Commissioner Coscia conducted a roll call and confirmed that all Commissioners were present and that there was a quorum.

Commissioner Coscia stated that adequate notice of today’s regular public meeting of the Board of Commissioners of the Gateway Development Commission had been provided in accordance with the Commission’s enabling legislation.

II. Action Item

#0305-01: Election of Co-Chairs

Commissioner Grewal-Virk was elected to the office of New Jersey Co-Chair unanimously by the New Jersey Commissioners. Steven M. Cohen was elected to the office of New York Co-Chair unanimously by the New York Commissioners.

Commissioner Coscia stated for the record that Resolution #0305-01 would be completed per the results of the Co-Chair elections. He then turned the meeting over to the newly elected Co-Chairs.

Co-Chair Grewal-Virk stated that she was excited to work with the Board and the Commission’s local and federal partners on rail projects that will have a generational impact on our region and nation.

¹ Elected Co-Chair during meeting

² Elected Co-Chair during meeting

³ Designated Vice Chair under Bylaws adopted during meeting

She thanked Governors Murphy and Cuomo and the states of New Jersey and New York, NJ Transit, Amtrak and the Port Authority, as well as Gateway's Congressional champions for their efforts. Co-Chair Grewal-Virk also recognized Commissioner Zaro for his past and continuing leadership and commended Commissioner Bauer.

Co-Chair Cohen presided over the remainder of the meeting. Co-Chair Cohen also thanked Commissioner Zaro for his exemplary work and congratulated Co-Chair Virk on her election. Co-Chair Cohen also noted that the project has brought tremendous talent from both sides of the Hudson River, noting Commissioner Dominguez's and Commissioner Barbas' deep experience in the infrastructure area and Commissioner Coscia's work on behalf of both Amtrak and the Gateway organization.

Co-Chair Cohen advised that going forward, meetings will be led on an alternating basis by the New York and New Jersey. Co-Chair Cohen expressed the Board's appreciation for the continuing support provided by the partners, legislative supporters, the two Governors, and Gateway Program Development Corporation staff.

III. Gateway Program Update

Frank Sacr, the Interim Executive Director, Stephen Sigmund, the Chief of Public Outreach, and Suma Mandel, Chief Administrative Officer of the Gateway Program Development Corporation provided an update presentation on the Gateway Program.

IV. Public Comments

Co-Chair Cohen announced that prior to voting on today's action items that the Commission had solicited comments from the public in advance of, and during, today's virtual meeting. A form for soliciting these comments was posted to the Gateway Program website and was available throughout today's meeting. Eight comments were received by 5:00 PM on March 4, 2021 and had been distributed to the Board and posted on the Gateway Program website in advance of the meeting. All comments received during the meeting would be distributed to the Board, posted on the Gateway Program website, and filed in the Commission's records after the meeting.

The following individuals provided comment:

Commenter:

Shelley Brindle, Raritan Valley Mayor's Alliance
Brian Fritsch, Build Gateway Now Coalition
Felicia Park-Rogers, Tri-State Transportation Campaign
Carlo A. Scissura, New York Building Congress
Bruce Bergen, Raritan Valley Coalition
Laura Colacurcio, Association for a Better New York
Monica Casiello, US Title Solutions
Joseph M. Clift
Chris Boylan, General Contractors Association of NY
Chip Hallock

Topic:

RVL Mayors' Alliance support Gateway
Support for the Gateway Program
Gateway Program - Hudson Tunnel Project
Support for Advancing Gateway Program
Support of Gateway Project
Support of the Gateway Program
Support of the Gateway Program
Inaugural Meeting of the GDC
Gateway Support
Get Gateway Underway

V. Action Items

#0305-02: Adoption of Bylaws

#0305-03: Adoption of Policies

Authorization of Vice-Chair

The Board also acted on the referenced action items, enclosed herewith.

Co-Chair Cohen also motioned that the Vice Chair be authorized to confirm and certify the minutes of this meeting on behalf of the Commission for transmittal to the Governors of New York and New Jersey, post the minutes to the Gateway Program's website and provide notice of any forthcoming Board meetings. The motion was passed unanimously by the Board.

VI. Adjournment

There being no further business, Co-Chair Cohen requested a motion to adjourn the meeting, and upon the motion being duly made and seconded, the meeting was adjourned at approximately 1:50pm.

Respectfully submitted,

/s/ Anthony R. Coscia

Anthony R. Coscia, Vice Chair

#0305-01: ELECTION OF CO-CHAIRS

The Gateway Development Commission Act (“GDC Act”) created the Gateway Development Commission (“Commission”), a body corporate and politic established by the state of New Jersey and state of New York.

Pursuant to the GDC Act, the co-chairpersons of the Commission “shall serve from among the commissioners appointed by the state of New Jersey and the commissioners appointed by the state of New York and shall include one co-chairperson from New Jersey and one co-chairperson from New York. The commissioner who shall serve as co-chairperson from each state shall be decided in accordance with the laws of each respective state or if the respective state has no laws related to the selection of a co-chairperson then as elected by the commissioners appointed from each respective state.”

Further, pursuant to the GDC Act, the New Jersey co-chairperson of the Commission shall be selected from the three New Jersey commissioners of the Commission, determined by the affirmative vote of at least two of the New Jersey commissioners; provided, however, that the New Jersey co-chairperson shall be a resident voter of the state of New Jersey at the time of selection and shall have been a resident voter of the state of New Jersey for at least the two years immediately preceding selection as co-chairperson.

Further, pursuant to the GDC Act, the New York co-chairperson of the Commission shall be selected from the three New York commissioners of the Commission, determined by the affirmative vote of at least two of the New York commissioners

Pursuant to the foregoing report, the following resolution was adopted:

RESOLVED, that Commissioner Balpreet Grewal-Virk is elected as the New Jersey co-chairperson of the Commission.

Adopted with New Jersey Commissioners Bauer, Grewal-Virk, and Zaro voting in favor.

RESOLVED, that Commissioner Steven M. Cohen is elected as the New York co-chairperson of the Commission.

Adopted with New York Commissioners Barbas, Cohen, and Dominguez voting in favor.

#0305-02: ADOPTION OF BYLAWS

The Gateway Development Commission Act (“GDC Act”) created the Gateway Development Commission (“Commission”), a body corporate and politic established by the State of New Jersey and State of New York.

Pursuant to the GDC Act, the Board is required to “adopt bylaws to govern the conduct of its affairs” and “[provide] for attendance protocols, voting procedures, and other matters related to the conduct of the business of the Commission, including designating officers of the Commission.”

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

RESOLVED, that the Board of Commissioners adopt the Bylaws of the Gateway Development Commission attached hereto, in accordance with the GDC Act.

RESOLVED, that the Commission take all action as may be necessary to promptly post the Bylaws of the Gateway Development Commission on the Commission’s website.

**BYLAWS OF
GATEWAY DEVELOPMENT COMMISSION**

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**ARTICLE I
DEFINITIONS**

Section 1.01 Definitions. Except as otherwise expressly provided herein, capitalized terms used herein shall have the meanings assigned to them in Schedule A.

**ARTICLE II
COMMISSIONERS**

Section 2.01 Board of Commissioners. The business and affairs of the Gateway Development Commission (the “Commission”) shall be managed by or under the direction of the Board of Commissioners (the “Board”). In accordance with the Gateway Development Commission Act (2019 N.Y. Sess. Laws ch. 108 and 2019 N.J. Sess. Law Serv. ch. 195) (collectively, the “GDC Act”), the Board shall consist of seven Commissioners:

(a) three Commissioners appointed by the Commissioner of the New York State Department of Transportation with the advice and consent of the New York State Senate (the “New York Commissioners”); provided that, the initial New York Commissioners shall be appointed by the Commissioner of the New York State Department of Transportation to serve for one year of the initial three-year term without such advice and consent and the Commissioner of the New York State Department of Transportation shall thereafter appoint Commissioners by and with the advice and consent of the New York State Senate for the remaining two years of such term;

(b) three Commissioners appointed by the Governor of New Jersey with the advice and consent of the New Jersey Senate (the “New Jersey Commissioners”); provided that, each New Jersey Commissioner shall be a resident voter of New Jersey at the time of appointment and while serving on the Commission and shall have been a resident voter of New Jersey for at least the two years immediately preceding appointment; provided further that, the Governor of New Jersey may appoint the individual serving as trustee of the Gateway Program Development Corporation, a New Jersey nonprofit corporation, at the time of the effective date of the GDC Act, as a New Jersey Commissioner and such individual may be seated without the advice and consent of the New Jersey Senate; and

(c) one Commissioner appointed by the National Railroad Passenger Corporation, a corporation organized under 49 U.S.C. § 24101 *et seq.* and the laws of the District of Columbia (“Amtrak”) (the “Amtrak Commissioner”). Amtrak may designate an alternate Commissioner to serve in the event of the recusal of the Amtrak Commissioner pursuant to Section 4.07.

Section 2.02 Term of Commissioners. Except as provided under Section 2.01(a), the term of each Commissioner shall be three years. Each Commissioner may be reappointed pursuant to the laws of the State from which the Commissioner is appointed or, for the Amtrak Commissioner, pursuant to any rule or policy adopted by Amtrak. A Commissioner may automatically continue to serve following the expiration of such Commissioner’s term until a successor is appointed and seated unless such action is prohibited by the laws of the applicable State or, for the Amtrak Commissioner, any rule or policy adopted by Amtrak. At the conclusion

of a Commissioner's term, the Commissioner may be reappointed for a successive three-year term at the pleasure of the party that appointed that Commissioner. In the event that a Commissioner ceases to serve before the stated expiration of the Commissioner's term, the party that appointed the Commissioner may appoint a replacement to serve the remainder of the replaced Commissioner's term and thereafter the vacancy shall be filled as provided for in Section 2.01.

Section 2.03 Removal of Commissioners. Each of the Governor of New York, the Governor of New Jersey or Amtrak may remove a commissioner appointed by such office or entity in accordance with the GDC Act.

Section 2.04 Co-Chairpersons. The two Co-Chairpersons of the Commission (each, a "Co-Chairperson") shall consist of one Co-Chairperson selected from the New Jersey Commissioners (the "New Jersey Co-Chairperson") and one Co-Chairperson selected from the New York Commissioners (the "New York Co-Chairperson") as follows:

(a) the New Jersey Co-Chairperson shall be selected from the three New Jersey Commissioners and shall be determined by the affirmative vote of at least two of the New Jersey Commissioners; provided that, the New Jersey Co-chairperson shall be a resident voter of New Jersey at the time of selection and shall have been a resident voter of New Jersey for at least the two years immediately preceding selection as co-chairperson; and

(b) the New York Co-Chairperson shall be selected from the three New York Commissioners and shall be determined by the affirmative vote of at least two of the New York Commissioners.

The Co-Chairpersons shall communicate to the Chief Executive Officer and, where appropriate, executive staff, the policies of the Commission established by the Board, and be responsible for presiding over Meetings of the Board and advancing the mission and promoting the objectives of the Commission to members of the general public. To the extent practicable, the New York Co-Chairperson shall preside at Meetings of the Board held in New York and the New Jersey Co-Chairperson shall preside at Meetings of the Board held in New Jersey.

Section 2.05 Vice-Chairperson. The Amtrak Commissioner shall be the Vice-Chairperson of the Commission (the "Vice-Chairperson"). The Vice-Chairperson shall assist the Co-Chairpersons in their duties and shall preside at any Meeting of the Board at which a Co-Chair is not present.

Section 2.06 Vacancy; Resignation. A vacancy shall be deemed to exist at the occurrence of the incapacity, death, removal or resignation of a Commissioner. A Commissioner may resign from office at any time. Such resignation shall be made in writing to the Board filed with the Secretary, with copy to the party that appointed such Commissioner, and shall take effect at the future time specified therein, and if no time is specified, at the time of its receipt by the Secretary. The acceptance of a resignation by the Board shall not be necessary to make it effective.

Section 2.07 Other Commission Service. No Commissioner, including any Co-Chairperson or Vice-Chairperson, shall serve as any other officer or employee of the Commission while serving as a Commissioner.

ARTICLE III OFFICERS

Section 3.01 Initial Officers. The initial Officers of the Commission shall include the following:

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

(b) *Chief Administrative Officer* – The Chief Administrative Officer shall be responsible for overseeing the day-to-day administration and internal structure of the Commission and the performance of such other duties as may be assigned by the Board or the Chief Executive Officer.

(c) *Chief Financial Officer* – The Chief Financial Officer shall be in charge of the books and accounts of the Commission and shall be responsible for payments to and expenditures by the Commission and the performance of such other duties as may be assigned by the Board or the Chief Executive Officer. The Chief Financial Officer shall have custody of all funds and be responsible for investments of the Commission and shall deposit or cause to be deposited all moneys, evidences of indebtedness and other value documents of the Commission in the name and to the credit of the Commission in such banks or depositaries as the Board may designate. The Chief Financial Officer is authorized to sign financial instruments on behalf of the Commission and shall be an authorized signatory for the Commission with respect to any other documents incident to carrying out the Chief Financial Officer’s responsibilities.

(d) *General Counsel* – The General Counsel shall be legal counsel to the Commission and shall furnish legal opinions, advice, counsel and representation as may be required from time to time by the Board or the Chief Executive Officer. During any vacancy of the office of Chief Ethics and Compliance Officer, including during the period prior to the initial establishment and appointment of the Chief Ethics and Compliance Officer by the Commission, the General Counsel shall perform the duties of the Chief Ethics and Compliance Officer set forth in the GDC Act and in accordance with the rules, regulations and policies adopted by the Board. During any vacancy of the office of Inspector General, including during the period prior to the initial establishment and appointment of the Inspector General by the Commission, the General Counsel shall perform the duties of the Inspector General set forth in the GDC Act and in accordance with the rules, regulations and policies adopted by the Board. In performing the duties of the Inspector General, the General Counsel shall consult with the Co-Chairpersons in determining how best to approach the investigation of claims of fraud, waste, or abuse where the General Counsel believes it appropriate to appoint an independent third-party investigator, which

may include external auditors, outside counsel or other external investigators. To assist in the performance of his or her duties, with the approval of the Chief Executive Officer, the General Counsel is authorized to retain outside counsel in accordance with policies established by the Board.

(e) *Secretary* – The Secretary shall perform such duties as shall be assigned from time to time by the Chief Executive Officer, shall keep the official records and the seal of the Commission and, when required, shall certify copies of records.

Section 3.02 Additional Officers. In addition to the initial Officers identified in Section 3.01, the Officers shall include the officers set forth below when established by the Board by resolution and such other officers as the Board may designate by resolution; provided that, the Chief Ethics and Compliance Officer and the Inspector General are not required to be established until the Commission is in receipt of necessary federal funding for purposes of facilitating the Project.

(a) *Chief Ethics and Compliance Officer* – The Chief Ethics and Compliance Officer shall be responsible for developing and administering the Commission’s compliance program and shall advise on conflicts of interest and on federal and state ethics requirements.

(b) *Inspector General* – The Inspector General shall be responsible for receiving and investigating, where appropriate, all complaints regarding fraud, waste and abuse by Commissioners, Officers and employees or third-parties doing business with the Commission, including administering the Commission’s whistleblower access and assistance program. The Inspector General shall also be responsible for conducting investigations upon the Inspector General’s own initiative, as the Inspector General may deem appropriate.

Section 3.03 Appointment of Officers. Each Officer shall be appointed by the Board and shall serve at the pleasure of the Board and shall hold his or her respective office until the appointment of his or her successor or until his or her incapacity, death, removal or resignation. A person may hold more than one office.

Section 3.04 Removal of Officers. Any Officer may be removed, with or without cause, by the Board.

Section 3.05 Vacancy; Resignation. A vacancy shall be deemed to exist at the occurrence of the incapacity, death, removal or resignation of an Officer. An Officer may resign from office at any time. Such resignation shall be made in writing to the Board filed with the Secretary, and shall take effect at the future time specified therein, and if no time is specified, at the time of its receipt by the Secretary. The acceptance of a resignation by the Board shall not be necessary to make it effective. Any such vacancy may be filled by the Board.

Section 3.06 Delegation. The Board may delegate in whole or in part any power, authority, discretion or obligation to any Officer, in each case to the extent to which the Board deems appropriate.

ARTICLE IV
BOARD MEETINGS AND DECISION-MAKING

Section 4.01 Timing of Meetings. The Board shall meet regularly as it may determine. The time and place for all Meetings shall be determined by the Co-Chairpersons; provided that, to the maximum extent practicable, Meetings shall be held on an alternating basis in New Jersey and New York.

Section 4.02 Notice of Meetings.

(a) *Notice to Commissioners*. The Secretary shall give notice to the Commissioners of all Meetings, specifying the time and place of the Meeting, by mail, electronic communication, telephone or in person, in each case at least three days before such Meeting. Any Commissioner may waive the requirement that such Commissioner receive such notice.

(b) *Public Notice*. At least five Business Days before any Meeting of the Board or any Committee thereof, the Secretary shall provide notice of the time and place of such Meeting by conspicuously posting such notice in one or more areas designated by the Co-Chairpersons and conspicuously posting such notice on the Commission's official website. As soon as practicable after providing such notice, and no later than 72 hours before such Meeting, the Secretary shall make the agenda and any public documents pertaining to such Meeting available for public inspection at an office of the Commission and post such agenda and such public documents on the Commission's website.

Section 4.03 Attendance. A Commissioner may participate in a Meeting by videoconference or teleconference when necessary under the circumstances.

Section 4.04 Quorum. A Meeting of the Board shall not be duly organized for the transaction of Commission business unless a quorum is present. The attendance of at least two New York Commissioners, two New Jersey Commissioners and the Amtrak Commissioner shall constitute a quorum.

Section 4.05 Voting Procedures. In order for the Board to take an action, a motion must be made by a Commissioner and seconded by a different Commissioner. Votes of the Board shall be taken by voice or show of hands or any other method selected by the person presiding at the Meeting.

Section 4.06 Board Action. Action may be taken and motions and resolutions adopted by the Commission at any Meeting of the Board by the affirmative vote of at least two New York Commissioners, two New Jersey Commissioners and the Amtrak Commissioner. In the event that the recusal of two New York Commissioners or two New Jersey Commissioners precludes obtaining the requisite number of affirmative votes otherwise required by this section, the affirmative vote of the remaining Commissioner of that State shall be sufficient. In the event that the recusal of the Amtrak Commissioner precludes obtaining the requisite number of affirmative votes otherwise required by this section, the affirmative vote of an alternate Commissioner designated by Amtrak shall be required.

Section 4.07 Recusal. A Commissioner shall recuse himself or herself from any Board or committee discussions or decisions to the extent such recusal is required by the Conflicts of Interest Policy and Code of Ethics for Commissioners and Officers adopted by the Board. If a Commissioner has determined to recuse as to a particular matter, the Commissioner shall promptly notify the General Counsel of the Commission, disclose that fact and refrain from participating in any discussion or vote concerning that matter. The public shall be informed of any recusals prior to any Board action, and the minutes shall clearly reflect that recusal.

Section 4.08 Order of Business. The order of business at each Meeting of the Board shall be determined by the Co-Chairpersons.

Section 4.09 Governor Veto.

(a) *Transmission of Minutes; Effectiveness*. The minutes of every Meeting of the Board shall be forthwith transmitted, by and under the certification of the Commission, to the Governors of New York and New Jersey. No action taken at any Meeting by any Commissioner appointed by a State shall have force or effect for a period of 10 Business Days, after the minutes shall have been so transmitted and delivered unless the Governor of such State shall finally approve the minutes or any part thereof, reciting any such action, within said 10 Business Day period.

(b) *Certification of Minutes*. The minutes shall be certified as true and correct by the Secretary on behalf of the Commission and need not be approved by the Commission prior to transmittal to the Governors.

(c) *Governor Veto*. Each Governor shall, within 10 Business Days, after the minutes shall have been so delivered pursuant to Section 4.09(a), return or cause such minutes to be returned to the Commission either with or without his or her veto on any action recorded in such minutes as having been taken by any Commissioner appointed from such Governor's State. If the Governor (i) does not return or cause to be returned the minutes to the Commission within such 10 Business Day period or (ii) finally approves the minutes in accordance with Section 4.09(a) above, any action recorded in such minutes as having been taken at such Meeting by any Commissioner appointed from such Governor's State shall have force and effect in accordance with the terms described in such minutes.

Section 4.10 Policies. The Commission shall adopt such rules, regulations, guidelines and policies as required by the GDC Act.

ARTICLE V PUBLIC HEARINGS

Section 5.01 Public Hearings. Public hearings shall be held as required by the GDC Act.

Section 5.02 Process. Pursuant to direction by the Board, the Chief Executive Officer shall have authority to arrange for public hearings, in connection with the budgeting, planning and programming of the Commission, including proposals for establishing, levying or collecting a toll or fee imposed by the Commission or relating to any increase in any such toll or fee, in each case,

subject to compliance with the requirements set forth in, and in accordance with, the GDC Act. In connection therewith, the Chief Executive Officer shall:

- (a) determine the dates, times and locations in each of the two States for the conduct of such hearings, which shall be designed to encourage the broadest possible attendance and participation;
- (b) provide for appropriate notice to be given not less than 72 hours in advance of such hearings;
- (c) designate hearing officers (if any) for such hearings;
- (d) arrange for transcripts and reports of the hearings, which shall be made available to all Commissioners prior to the consideration of any proposal; and
- (e) take such other action as will effectuate the requirements under the GDC Act or the Commission’s policy, as established by the Board, for the conduct of public hearings.

Section 5.03 Establishing, Levying and Collecting Tolls or Fees. Not less than 30 days and not more than 90 days prior to any vote or action taken by the Board to establish, levy, or collect a toll or fee imposed by the Commission or relating to any increase in a toll or fee, in each case, subject to compliance with the requirements set forth, in and in accordance with, the GDC Act, the Commission shall conduct at least three public hearings as follows:

(a) Locations for public hearings shall be selected in such a way as to be geographically accessible to a majority of users of the facility or facilities to be impacted by the toll or fee, provided that at least one hearing shall be held in each State.

(b) Not less than 72 hours before the first hearing held pursuant to this Section 5.03, the Commission shall make the following information available to the public, including posting on the Commission’s website:

- (i) a written explanation of why the toll or fee, or any increase in a toll or fee, is necessary;
- (ii) the amount of revenue expected to be generated from the establishment of or increase in the toll or fee; and
- (iii) a detailed explanation of how the revenue raised from the establishment of or increase in the toll or fee is expected to be spent.

(c) Each hearing shall be attended by at least two New York Commissioners and two New Jersey Commissioners.

(d) The Commission shall hold no more than one public hearing in a single day and each public hearing shall be scheduled to begin after 6:30 p.m., Eastern Standard Time, on a Business Day.

(e) The Commission shall ensure that each of the requirements set forth in this Section 5.03 shall be complied with before placing on the Meeting agenda of the Board any item or matter establishing, levying, or collecting a toll or fee or relating to an increase in any toll or fee.

ARTICLE VI COMMITTEES

Section 6.01 Committees. The Board may establish standing or ad hoc committees (each, a “Committee”) with such duties and powers as conferred by Board resolution.

ARTICLE VII DEFENSE AND INDEMNIFICATION OF INDIVIDUALS

Section 7.01 Defense. Upon compliance by any Indemnified Party with the provisions of Section 7.07, the Commission shall provide for the defense of such Indemnified Party in any civil action or proceeding in any state or federal court (i) arising out of any alleged act or omission that occurred or is alleged in the complaint to have occurred while the individual was acting within the scope of employment or duties with the Commission or (ii) that is brought pursuant to Section 1981 or 1983 of Title 42 of the United States Code and the act or omission underlying the action occurred or is alleged in the complaint to have occurred while the individual was acting within the scope of employment or duties with the Commission. The Commission shall not provide for a defense where such civil action or proceeding is brought by or on behalf of the Commission or to recover funds of the Commission.

Section 7.02 Counsel. Where an individual seeking indemnification delivers process and a request for a defense to the General Counsel, as required by Section 7.07, the General Counsel shall take the necessary steps on behalf of the individual in order to avoid entry of a default judgment pending resolution of any question pertaining to the determination to provide for a defense. The General Counsel or outside counsel to the Commission may represent such individual to the extent permitted by applicable legal ethics rules; provided that, the General Counsel shall, with the approval of the Chief Executive Officer (in accordance with policies adopted by the Board), assign outside counsel where the General Counsel determines, based upon an investigation and review of the facts and circumstances of the case, that representation by the General Counsel would be inappropriate; or whenever a court of competent jurisdiction determines that a conflict of interest exists and that the individual is entitled to be represented by outside counsel.

Section 7.03 Indemnification. The Commission shall indemnify and hold harmless each Indemnified Party against any loss, damage, expense, liability or claim (or action in respect thereof); provided that, the act or omission from which such loss, damage, expense, liability or claim (or action in respect thereof) arose occurred while the Indemnified Party was acting within the scope of employment or duties with the Commission; and provided further that, the Commission shall not indemnify and hold harmless or pay under this ARTICLE VII where the injury or damage resulted from actual fraud, actual malice, willful misconduct, or intentional wrongdoing or gross negligence on the part of the party seeking indemnification or where the Commission has brought the action. The Commission also agrees to indemnify and hold harmless each Indemnified Party against and to periodically reimburse each Indemnified Party for any and

all expenses whatsoever (including legal and other fees and expenses) incurred by such Indemnified Party in connection with investigating, preparing for or defending against any such losses, damages, expenses, liabilities or claims (or actions in respect thereof) within a reasonable time after such expenses are incurred. The Commission also agrees that no Indemnified Party shall have any liability, in tort or contract or otherwise, to the Commission or any person asserting a claim on behalf of or in the right of the Commission, except to the extent that any loss, damage, expense, liability or claim incurred by the Commission arises from such Indemnified Party's actual fraud, actual malice, intentional wrongdoing, gross negligence, bad faith or willful misconduct.

Section 7.04 Settlement and Final Judgment. Any proposed settlement or final judgment that may be subject to indemnification or payment by the Commission in accordance with these Bylaws, if not inconsistent with the provisions of this ARTICLE VII, shall, as applicable, be authorized for payment in accordance with the provisions of these Bylaws; provided that, the General Counsel has determined that such proposed settlement or final judgment is in the best interest of the Commission. Nothing in this ARTICLE VII shall be construed to authorize the Commission to indemnify and hold harmless or pay an Indemnified Party with respect to a settlement not so reviewed and approved by the General Counsel.

Section 7.05 Fines and Penalties. Nothing in this ARTICLE VII shall require the Commission to indemnify or hold harmless an Indemnified Party with respect to fines or penalties; provided that, the Commission shall indemnify and hold harmless an Indemnified Party in the amount of any costs, attorneys' fees, damages, fines or penalties that may be imposed by reason of an adjudication that an Indemnified Party, acting within the scope of employment or duties with the Commission, has, without willfulness or intent, violated a prior order, judgment, consent decree or stipulation of settlement entered in any court of New York or New Jersey or of the United States.

Section 7.06 Punitive Damages. The Commission may, in accordance with applicable law, provide for a defense when punitive damages are sought or criminal charges are asserted, in connection with any alleged act or omission that occurred or is alleged in the complaint to have occurred while the individual was acting within the scope of employment or duties with the Commission, based upon an investigation and review of the facts and circumstances and a determination by counsel to the Commission that provision of such defense would be in the best interest of the Commission; provided that, the Commission shall provide reimbursement of defense costs incurred by or on behalf of an Indemnified Party in defense of a criminal proceeding arising out of such an act or omission, upon acquittal or dismissal of the criminal charges. Furthermore, the Commission may, consistent with applicable law, indemnify or hold harmless an Indemnified Party with respect to punitive damages, fines or penalties, based upon an investigation and review of the facts and circumstances of the case and a determination by counsel to the Commission that to indemnify and hold harmless such Indemnified Party would be in the best interest of the Commission.

Section 7.07 Cooperation. The benefits of this ARTICLE VII with respect to any proposed settlement or final judgment shall be conditioned upon (i) delivery to counsel to the Commission of the original or a copy of any summons, complaint, process, notice, demand or pleading within five days after receipt or service of such document, such delivery being deemed a request by the party seeking indemnification that the Commission provide for defense pursuant to

this ARTICLE VII; (ii) the full cooperation of the Indemnified Party in the defense of such action or proceeding and in defense of any action or proceeding against the Commission based upon the same act or omission and in the prosecution of any appeal; and (iii) the agreement of the Indemnified Party that the Commission shall be entitled to withdraw such defense and demand reimbursement from such party for costs incurred in connection with such defense in the event that, upon further discovery, indemnification is not required or otherwise warranted under this ARTICLE VII.

Section 7.08 Third Parties. The benefits of this ARTICLE VII shall inure only to an Indemnified Party and shall not enlarge or diminish the rights of any other party. This ARTICLE VII shall not in any way affect the obligation of any claimant to give any notice otherwise required by any provision of law. The provisions of this ARTICLE VII shall not be construed to impair, alter, limit or modify the rights and obligations of any insurer under any policy of insurance.

Section 7.09 Immunity. Except as otherwise specifically provided herein, the provisions of this ARTICLE VII shall not be construed in any way to impair, alter, limit, modify, abrogate or restrict any immunity available to or conferred upon any unit, entity, Commissioner, Officer or employee of the Commission or any right to defense or indemnification provided for any governmental officer or employee by, in accordance with, or by reason of, any other provision of state or federal statutory or common law.

Section 7.10 Rules and Regulations. In compliance with policies established by the Board, the Chief Executive Officer is authorized to adopt such procedures as are necessary to effectuate the purposes of this ARTICLE VII.

Section 7.11 Limitations. Notwithstanding anything in this ARTICLE VII to the contrary, any obligation of the Commission to indemnify or to provide for the defense of a Commissioner shall be reduced or limited to the extent such Commissioner is indemnified or defended by New York, New Jersey or Amtrak.

ARTICLE VIII FINANCES, REPORTING, DISCLOSURE

Section 8.01 Fiscal Year. Except as otherwise determined by the Board, the fiscal year of the Commission shall end on December 31 of each year.

Section 8.02 Annual Operating Budget. The Commission shall prepare a detailed annual operating budget for each fiscal year. A preliminary annual operating budget and a final annual operating budget shall be made publicly available on the Commission’s website each fiscal year. The time within which such preliminary annual operating budget and final annual operating budget shall be made public during each fiscal year shall be determined by the Commission.

Section 8.03 Annual Financial Statements and Audit.

(a) The Commission shall prepare financial statements on an annual basis, in accordance with generally accepted accounting principles (“GAAP”), and the accounting

standards issued by the Governmental Accounting Standards Board (“GASB”). All audited financial statements and all unaudited interim financial statements prepared pursuant to this Section 8.03 shall be approved by the Board. As a condition to the issuance of the audited annual financial statements of the Commission, the Chief Executive Officer and the Chief Financial Officer shall be required to make a written certification as required pursuant to the GDC Act.

(b) The Board shall arrange for an independent firm of certified public accountants to perform an audit of the financial statements of the Commission each year, in accordance with generally accepted accounting principles and standards referenced in Section 8.03(a). Each independent firm of certified public accountants that performs any audit required by this section shall timely report to the Board:

(i) all critical accounting policies and practices to be used; and

(ii) other material written communications, that is not privileged or confidential, between the independent firm of certified public accountants and the management of the Commission, including the management letter along with management’s response or plan of corrective action, material corrections identified, or schedule of unadjusted differences.

(c) Notwithstanding any other provision of law to the contrary, the Commission shall not contract with an independent firm of certified public accountants for audit services to the authority if:

(i) the lead or coordinating audit partner having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for the two previous fiscal years of the Commission;

(ii) the firm is performing any non-audit services to such Commission contemporaneously with the audit; and

(iii) the Chief Executive Officer, Chief Financial Officer or any other person serving in an equivalent position for the Commission, was employed by that independent firm of certified public accountants and participated in any capacity in the audit of the Commission during the one-year period immediately preceding the date of the initiation of the audit.

(d) The Commission shall make accessible to the public on its website an executive summary of its most recent independent audit report unless such information is exempt from disclosure pursuant to either State’s freedom of information laws.

Section 8.04 Comprehensive Annual Financial Report. In addition, the Commission shall prepare and distribute a comprehensive annual financial report as required pursuant to the GDC Act, which shall address progress during the prior fiscal year with regard to development

and construction activities, capital expenditures, and procurement and financial matters and such other matters as required by the GDC Act.

**ARTICLE IX
RESERVATION OF POWERS**

Section 9.01 Reservation of Powers. The powers not delegated by these Bylaws are reserved to the Board. The powers vested in any Officer shall not be construed or deemed to affect the power of the Board to act in any case but where the Board exercises a power in any such case, such action shall not be construed or deemed to affect the power of any Officer to act in similar cases in the future.

**ARTICLE X
AMENDMENTS**

Section 10.01 Amendments. These Bylaws may be amended by resolution duly adopted at any Meeting of the Board; provided that, notice of intention to present such resolution shall be given to the Secretary at least 72 hours in advance of the Meeting at which the motion to adopt such resolution is made. Such notice may be given by any Commissioner or by any Committee (or by the Secretary at the request of any Commissioner or any Committee). Such notice shall be given to all Commissioners by mail, electronic communication, telephone or in person, at least 72 hours before the Meeting. Following such notice, any motion to amend the subject resolution may be made without additional notice.

SCHEDULE A

DEFINITIONS

“Amtrak” has the meaning given thereto in Section 2.01.

“Amtrak Commissioner” has the meaning given thereto in Section 2.01.

“Board” has the meaning given thereto in Section 2.01.

“Business Day” means a day other than, Saturday, Sunday or a public holiday in New York or New Jersey.

“Chief Administrative Officer” has the meaning given thereto in Section 3.01(b).

“Chief Ethics and Compliance Officer” has the meaning given thereto in Section 3.01(d).

“Chief Executive Officer” has the meaning given thereto in Section 3.01(a).

“Chief Financial Officer” has the meaning given thereto in Section 3.01(b).

“Co-Chairperson” has the meaning given thereto in Section 2.04.

“Commission” has the meaning given thereto in Section 2.01.

“Committee” has the meaning given thereto in Section 6.01.

“GAAP” has the meaning given thereto in Section 8.03.

“GASB” has the meaning given thereto in Section 8.03.

“GDC Act” has the meaning given thereto in Section 2.01.

“General Counsel” has the meaning given thereto in Section 3.01(d).

“Indemnified Party” means a current or former Commissioner, Officer or employee of the Commission or the estate or judicially appointed personal representative of any such person.

“Inspector General” has the meaning given thereto in Section 3.01(d).

“Meeting” means any gathering, whether corporeal or by means of communication equipment, that is attended by, or open to, the Board or any Committee thereof, held with the intent, on the part of the Commissioners present, to act as a unit upon the specific Public Business of the Commission or such Committee. “Meeting” does not mean a gathering (i) attended by less than a quorum of Commissioners; (ii) in which the Board or such Committee is engaged in ordinary course supervision of Commission staff; (iii) in which Commission business matters are informally discussed without the intent or effect of effectuating any action of the Commission; or

(iv) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.

“New Jersey” means the State of New Jersey.

“New Jersey Co-Chairperson” has the meaning given thereto in Section 2.01.

“New Jersey Commissioners” has the meaning given thereto in Section 2.01.

“New York” means the State of New York.

“New York Co-Chairperson” has the meaning given thereto in Section 2.01.

“New York Commissioners” has the meaning given thereto in Section 2.01.

“Officers” means the officers described in Section 3.01 and Section 3.012.

“Project” means a passenger rail transportation project between Penn Station, Newark, New Jersey and Penn Station, New York, New York currently referred to as the “Gateway Program” consisting of:

(i) phase one of the Project including: the replacement of the existing Portal Bridge; the construction of a tunnel connecting the states of New York and New Jersey and the completion of certain ancillary facilities including construction of concrete casing at Hudson Yards in Manhattan, New York; the rehabilitation of the existing North River Tunnels; all Projects necessary to connect the aforesaid Projects to the contiguous Amtrak Northeast Corridor Facilities; and

(ii) phase two of the Project including: the Portal South Bridge Project; the Sawtooth Bridge replacement Project; the Secaucus Loop Project; the Secaucus Junction renovation and expansion Project; and the Penn Station South Project, and other related Projects, but only if such phase two projects are authorized pursuant to a memorandum of understanding between the Governor of New York, the Governor of New Jersey and Amtrak.

“Public Business” means matters that relate in any way, directly or indirectly, to the performance of the functions of the Commission or the conduct of its business.

“Secretary” has the meaning given thereto in Section 3.01(e).

“State” means New York or New Jersey.

“Vice-Chairperson” has the meaning given thereto in Section 2.05.

#0305-03: ADOPTION OF POLICIES

The Gateway Development Commission Act (“GDC Act”) requires the Commission to “adopt rules and regulations, including a conflict of interest policy and code of ethics for commissioners and officers of the Commission, and make appropriate orders to carry out and discharge its powers, duties, and functions.”

Further, pursuant to the GDC Act, the Commissioners shall adopt “appropriate policies concerning proper notice to the public and the news media of its meetings and the right of the public and the news media to be present at meetings of the Commission.”

Additional Commission policies will be adopted at future Board Meetings of the Commission.

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

RESOLVED, pursuant to the GDC Act, the Commission adopts the following Policies, attached hereto:

- Conflicts of Interest and Code of Ethics Policy
- Open Meetings Policy

RESOLVED, that the Commission take all actions as may be necessary to promptly post the Policies on the Commission’s website.

**GATEWAY DEVELOPMENT COMMISSION
CONFLICTS OF INTEREST POLICY AND CODE OF ETHICS
FOR COMMISSIONERS AND OFFICERS**

The Gateway Development Commission (the “Commission”) is a body corporate and politic created by the New York and New Jersey Gateway Development Commission Act (2019 N.Y. Sess. Laws ch. 108 and 2019 N.J. Sess. Law Serv. ch. 195) (collectively, the “Act”) to facilitate the passenger rail transportation project between Penn Station, Newark, New Jersey, and Penn Station, New York, New York as more fully described in the Act (the “Project”).

The Act requires that the Commission adopt rules and regulations, including a conflict of interest policy and code of ethics for Commissioners and Officers.

The purpose of this Conflicts of Interest Policy and Code of Ethics (the “Policy”) is to set forth certain duties and responsibilities of Commissioners and Officers to protect the interests of the public and of the Commission.

This Policy supplements but does not replace any applicable state and federal laws governing conflicts of interest or ethical conduct applicable to the Commission.

I. DEFINITIONS

“Board” means the Board of Commissioners of the Commission.

“Bylaws” means the bylaws of the Commission adopted by the Board, as amended from time to time in accordance therewith and with the Act.

“Commissioner” means a commissioner of the Board appointed in accordance with the Act.

“Officer” means any officer of the Commission appointed by the Board.

II. OATHS OF OFFICE

A. Constitutional Oath of Office

Each Commissioner and Officer shall, before entering upon the duties of his or her office, take and subscribe the following constitutional oath of office, consistent with the constitutions of both New York and New Jersey:

“I, _____, do solemnly swear (or affirm) that I will support the constitution of the United States and the constitutions of the State of New York and the State of New Jersey and that I will faithfully, impartially and justly discharge and perform all the duties of the office of [_____], according to the best of my ability and in furtherance of the mission of the Gateway Development Commission.”

B. Commissioner's Oath of Office

Each Commissioner shall also take a Commissioner’s oath of office, which shall be as follows:

“I, _____, do solemnly swear (or affirm) that I possess the qualifications prescribed by law for the office of Commissioner of the Gateway Development Commission, and that I will faithfully, impartially and justly perform all the duties of that office according to the best of my ability.”

C. Filing of Oaths

Each oath of office taken by a Commissioner or Officer shall be filed in the office of the Commission within 90 days of such Commissioner or Officer taking office.

D. Commissioner's Statement

At the time that a Commissioner takes and subscribes the Commissioner’s oath of office, and annually thereafter, the Commissioner shall execute a statement declaring as follows:

“I, _____, as Commissioner of the Gateway Development Commission, understand my independence and fiduciary obligation to perform my duties and responsibilities to the best of my abilities, in good faith and with proper diligence and care which an ordinarily prudent person in like position would use under similar circumstances. I may take into consideration the views and policies of any elected officials or bodies and I will ultimately apply independent judgment in the best interest of the Commission, its mission, and the public, consistent with the Gateway Development Commission Acts of both New York and New Jersey and with the mission and the by-laws of the Commission. I understand that my fiduciary duty to the Commission is derived from and governed by the Commission’s mission. I have reviewed the Conflicts of Interest Policy and Code of Ethics for Commissioners and Officers and will act in compliance with the same and I hereby confirm that to the best of my knowledge I am not involved in any activity that would be considered to be in violation of, or would pose an actual or potential conflict of interest under, the Conflicts of Interest Policy and Code of Ethics for Commissioners and Officers, except as specifically described below.”

III. DUTIES

A. Duty to Disclose

A conflict of interest arises when a Commissioner or Officer may benefit personally from a decision he or she could make. Each Commissioner or Officer must avoid such conflicts and disclose the existence of any conflicts, or the appearance of a conflict, of a personal, financial, ethical, or professional nature that could inhibit the Commissioner or Officer from performing the Commissioner’s or Officer’s duties in good faith and with due diligence and care.

B. Fiduciary Duty

Each Commissioner or Officer shall act in a fiduciary capacity with respect to the Commission.

Each Commissioner or Officer shall perform his or her duties to the best of that person’s abilities, in good faith and with the proper diligence and care which an ordinarily prudent person in like position would use under similar circumstances.

Each Commissioner or Officer shall keep properly informed about matters pertaining to his or her responsibilities, and shall make appropriate use of all information reasonably available to him or her.

Commissioners and Officers may take into consideration the views and policies of any elected officials or governmental bodies. Ultimately, Commissioners and Officers shall apply independent judgment in the best interest of the Commission, its mission, and the public, consistent with the Act, the Commission's mission, the Bylaws of the Commission and any other applicable laws and policies of their appointive authorities.

C. Duty to Report

Each Commissioner or Officer shall follow all applicable federal, state, and local laws. If a Commissioner or Officer believes that another Commissioner or Officer has violated the law, or this Policy, the Commissioner or Officer shall promptly report the same to the General Counsel or to another appropriate Officer(s) in accordance with applicable Commission policies.

If a Commissioner or Officer believes that a Commission employee, consultant, or vendor has violated the law, or any conflict of interest policy, code of ethics, or financial disclosure requirement that applies to employees, consultants, or vendors, the Commissioner or Officer shall promptly report the same to the General Counsel or to another appropriate Officer(s) in accordance with applicable Commission policies.

D. Duty to Participate in Training

Each Commissioner must participate in training approved by the Chief Ethics and Compliance Officer regarding his or her legal, fiduciary, financial and ethical responsibilities as a Commissioner within six months of appointment to the Commission.

Each Commissioner must participate in continuing training as may be required to remain informed of best practices and regulatory and statutory changes relating to the effective oversight of the management and financial activities of commissions or public authorities, with the goal of adhering to the highest standards of responsible governance.

E. Duty of Confidentiality

Confidential information acquired by a Commissioner or Officer in the course of his or her duties as a Commissioner or Officer must be held in confidence, may not be used as a basis for personal gain by the Commissioner or Officer, his or her Immediate Family (defined below), or others, and may not be disclosed in breach of his or her fiduciary duties to the Commission.

A Commissioner or Officer must refrain from transmitting any information about the Commission or its deliberations or decisions or any other information the Commissioner or Officer obtained from the Commission that might be prejudicial to the interests of the Commission to any person other than in connection with the discharge of the Commissioner's or Officer's responsibilities to the Commission, except to the extent the information is publicly available.

"Confidential information" is non-public information related to the Commission affairs that has been entrusted to a Commissioner or Officer by the Commission and that the Commissioner or Officer knows, or should know, is intended by the Commission to be kept confidential, including but not limited to materials designated as such.

F. Duty to Complete Annual Financial Disclosure and Certification

Each Commissioner shall annually complete a financial disclosure statement in conformance with the following requirements.

- a. The Commissioners appointed by the state of New York shall file annual financial disclosure statements pursuant to section 73-a of the New York Public Officers Law.
- b. The Commissioners appointed by the state of New Jersey shall file annual financial disclosure statements as required by New Jersey state law or executive order.
- c. The Commissioners appointed by Amtrak shall file annual financial disclosure statements consistent with laws, rules, regulations, and policies associated with filings of financial disclosures by Amtrak employees and officers.

Each Commissioner should provide the General Counsel with a completed copy of any financial disclosure statement required to be completed in accordance with foregoing. If no such disclosure is required pursuant to the foregoing, the Commissioner should annually complete a financial disclosure form as prepared by the General Counsel. All such forms will be maintained by the General Counsel.

The following Officers shall annually complete a financial disclosure form as prepared by the General Counsel:

- a. Officers who hold policy-making positions as determined by the Commission.
- b. Officers whose base salary, either in the current or previous year, exceeds \$150,000, which shall be adjusted for inflation annually in accordance with the consumer price index for all urban wage earners and clerical workers (CPI-W) as calculated by the federal government.

Should any question arise regarding applicability of this requirement to any individual Officer, such individual shall consult with the General Counsel or Chief Ethics and Compliance Officer.

Completed disclosure forms for Officers shall be received and maintained by the General Counsel.

G. Duty to Disclose Ownership Changes as to Certain Securities

Each Commissioner and Officer shall report any changes in his or her ownership or beneficial ownership of securities issued by the Commission, the Port Authority of New York and New Jersey, or the States of New York and New Jersey, if any, to the General Counsel. No report is required with respect to securities managed by an independent investment manager who has investment discretion.

The referenced report shall be made to the General Counsel, within five business days of the purchase, sale, or transfer in question and on a form prepared by the General Counsel. The form should be analogous to the United States Securities and Exchange Commission's Form 4, "Statement of Changes in Beneficial Ownership."

H. Duty of Good Faith Compliance

Each Commissioner and Officer shall comply with this Policy in good faith, and act with a conscious regard for his or her responsibility as a fiduciary.

IV. CONFLICTS OF INTEREST

A. Definitions

“Immediate Family” means a spouse, parent, child, sibling, domestic partner or grandchild.

“Interest” means: (1) if the business organization is a partnership, the Commissioner or Officer or the Commissioner’s or Officer’s Immediate Family is an employee, partner, or owner of 10 percent or more of the assets of the partnership, or (2) if the business organization is a corporation, the Commissioner or Officer or the Commissioner’s or Officer’s Immediate Family owns or controls 10 percent or more of the stock of the corporation, serves as a director or officer of the corporation, or is an employee of the corporation.

B. Determination of Conflict and Recusal

Based on the requirements set forth in this Policy, each Commissioner or Officer shall make his or her own determination in the first instance as to whether a conflict of interest exists, or that may reasonably create the appearance of impropriety, such that he or she should recuse from a particular decision or matter. In determining what constitutes a conflict of interest or may reasonably create the appearance of impropriety requiring recusal, a Commissioner or Officer may consult with the General Counsel, the Chief Ethics and Compliance Officer, or with other counsel retained by the Commission to provide such advice.

If a Commissioner or Officer has determined to recuse as to a particular matter, the Commissioner or Officer shall promptly notify the General Counsel or one of the Co-Chairpersons of the Commission, disclose that fact, and shall not participate in any discussion or vote concerning that matter. In the case of a decision to recuse as to a particular matter made by a Commissioner, the Commissioner shall also report the need for recusal to the other Commissioners when it arises. In addition, the public shall be informed of any Commissioner recusals prior to any Board action and the minutes shall clearly reflect such recusals. The General Counsel shall maintain a written record of all recusals.

If a Commissioner or Officer has a good faith belief that a conflict of interest exists with respect to another Commissioner or Officer, which is not disclosed in accordance with the preceding paragraph, such Commissioner or Officer shall report the conflict of interest to the General Counsel or one of the Co-Chairpersons of the Commission.

C. Financial Interests Requiring Recusal

A Commissioner shall not vote on or participate in any Board or committee discussions or decisions, and an Officer shall not participate in any discussions or decisions, with respect to an item if the Commissioner or Officer, a member of the Commissioner's or Officers' Immediate Family, or a business in which the Commissioner or Officer has an Interest, has a direct or indirect financial involvement that (a) may reasonably be expected to impair the Commissioner's or Officer's objectivity or independent judgement, or (b) may reasonably create the appearance of impropriety.

A Commissioner's or Officer's status as an employee, director or officer of any New York or New Jersey public authority, agency or instrumentality, the Gateway Program Development Corporation or Amtrak, shall not in and of itself require recusal from voting on or participating in any Board or committee discussions or decisions.

D. Prior Work

If a Commissioner or Officer previously participated in a matter now before the Board for a vote or before the Commission for action, the Commissioner or Officer shall recuse from that matter.

For these purposes, "participation" in a matter means substantial and direct involvement in the specific matter before the Commission, which the Commissioner or Officer undertook as part of his or her past employment. "Matter" means the specific issue, contract, or authorization pending before the Commission.

Recognizing that Commissioners and Officers may have previously worked for, served as a director or officer of or served as an elected or appointed official of Amtrak, Gateway Program Development Corporation, or the federal government, New York or New Jersey or an agency, instrumentality, authority or a political subdivision thereof that has had responsibility for the Project or some portion thereof, a "matter" does not include activities the Commissioner or Officer undertook in any such capacity.

Recognizing that Commissioners and Officers may have previously worked for or served as a director or on the board of a nonprofit or for-profit entity (other than those described in the preceding paragraph) that has supported or provided services to advance the Project (as defined in the Bylaws), a "matter" does not include activities the Commissioner or Officer undertook in connection with such support, work or service for that nonprofit or for-profit entity in connection with the Project. A "matter" does include Commission consideration of contracting with any nonprofit or for-profit entity with whom the Commissioner or Officer was previously associated.

E. Subsequent Work

A Commissioner or Officer whose term of service has ended is generally no longer subject to the jurisdiction of the Commission. Other laws may govern what Commissioners and Officers may do after their service has ended. Those laws must be followed, and current Commissioners and Officers should anticipate doing so. A Commissioner or Officer may confer with the General Counsel or the Chief Ethics and Compliance Officer at the conclusion of service to the Commission to make themselves aware of post-service restrictions.

F. Other Circumstances

This Part IV is not exhaustive. There may be other circumstances in which it is appropriate for a Commissioner or Officer to recuse him or herself, to avoid either a conflict of interest or the appearance of a conflict of interest. For example, and without limitation, the following personal or financial interests may pose a conflict of interest or the appearance of a conflict of interest: a debtor/creditor relationship; participation in litigation or similar proceedings adverse to the Commission; a fiduciary relationship; and a leadership role in a professional or trade organization, which interest might reasonably be expected to impair a Commissioner's or Officer's objectivity and independence of judgment in the exercise of his or her official duties or might reasonably be expected to create an impression or suspicion among the public having knowledge of his or her acts that he or she may be engaged in conduct violative of his or her trust as a Commissioner or Officer.

In those circumstances, a Commissioner or Officer shall determine whether to recuse and, in doing so, is free to consult with the General Counsel, the Chief Ethics and Compliance Officer, or with other counsel retained by the Commission to provide such advice.

V. GENERAL PROVISIONS

A. Commission Property

A Commissioner or Officer shall use Commission property, including Commission vehicles and letterhead stationery, only in connection with Commission duties. Commission property shall never be used for personal purposes.

B. Commission Email

When a Commissioner or Officer uses email to conduct Commission business, the Commissioner or Officer should generally use a Commission-issued email account if he or she has been issued one.

If a Commissioner or Officer uses a non-Commission email account to conduct Commission business, the Commissioner or Officer shall promptly forward the emails in question to his or her Commission email account or copy their Commission account on same.

C. Fundraising

1. Commission Affiliation

A "fundraising solicitation" is a written solicitation or invitation that seeks financial support for a political or charitable cause and that includes a Commissioner's or Officer's name.

A fundraising solicitation shall only be performed in a Commissioner's personal capacity and shall not unduly draw attention to the person's Commission role.

Thus, while a fundraising solicitation may contain a biographical statement that describes the person's professional background, including his or her Commission service, a fundraising

solicitation shall not, outside of the context of a biographical statement, use the term "Gateway Development Commission " or the person's Commission title.

Nothing herein shall prohibit a Commissioner or Officer from appearing or speaking at an event hosted by a charitable or nonprofit organization.

2. Commission Business

A Commissioner or Officer shall not personally solicit or accept funds for a political or charitable cause from an entity that the Commissioner or Officer knows: (a) has a pending matter to be voted on by the Board (in the case of a Commissioner or Officer) or acted on by Commission staff (in the case of an Officer), (b) had a matter that was voted on by the Board (in the case of a Commissioner or Officer) or acted upon by the Commission staff (in the case of an Officer) during the preceding year, or (c) is likely to have a matter that will be voted on by the Board (in the case of a Commissioner or Officer) or acted upon by the Commission staff (in the case of an Officer) during the coming year.

A Commissioner or Officer who has accepted funds from an entity for a political or charitable cause shall not, for one year, vote on any matter that entity has before the Board (in the case of a Commissioner or Officer) or acted upon by the Commission staff (in the case of an Officer).

For these purposes, an "entity" includes those people who the Commissioner or Officer knows or should know are the entity's directors, officers, or senior employees.

D. Engagement with Staff, Consultants, and Vendors

A Commissioner or Officer shall not ask or encourage a Commission employee, consultant, or vendor to make a political or charitable contribution.

A Commissioner or Officer shall not ask or encourage a Commission employee, consultant, or vendor to indicate his or her voting history or political party affiliation, or to describe any political or charitable contributions the employee, consultant, or vendor has made.

A Commissioner or Officer shall not ask or encourage a Commission employee, consultant, or vendor to provide services that are unrelated to the Commissioner's or Officer's official role, and a Commissioner or Officer shall not accept such services.

A Commissioner or Officer shall not engage in a financial transaction with a Commission employee, consultant, or vendor, including providing a loan or financial assistance to, or receiving a loan or financial assistance from, an employee, consultant, or vendor.

E. Anti-Discrimination

In the exercise of his or her official duties, a Commissioner or Officer shall not discriminate based on race, color, religion, sex, national origin, age, disability, sexual orientation, or gender identification.

F. Gratuities/Conduct

No Commissioner or Officer or his or her Immediate Family shall accept any gift, favor, service or other thing of value from which it might be reasonably inferred that such gift, favor, service or other thing of value was given or offered for the purpose of influencing the discharge of official duties or the outcome of any Commission matter. Any gift, favor, service or other thing of value that is offered to or received by a Commissioner or Officer or his or her Immediate Family that the Commissioner or Officer believes may violate the restriction in the preceding sentence shall be either (a) rejected or (b) promptly reported to the Chief Executive Officer and General Counsel for a determination regarding whether acceptance of the gift, favor, or thing of value would violate such restriction. No Commissioner or Officer or his or her Immediate Family shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift or other thing of value for the purpose of influencing the discharge of official duties or the outcome of any Commission matter.

Unless supplied by the Commission, a public agency, or a nonprofit organization, a Commissioner or Officer shall not accept free refreshments in the course of conducting Commission business, unless: (a) the refreshments are nominal and (b) there is no indication that the refreshments are offered to influence the Commissioner or Officer with respect to his or her Commission duties.

Under the rules set out in the preceding paragraph, a Commissioner or Officer may generally accept free nominal refreshments when attending a speech, a conference or seminar, an academic event, or an awards luncheon or dinner, where the refreshments are made available to other participants.

In addition, no Commissioner or Officer shall ever use his or her official position to secure unwarranted privileges or exemptions; nor should a Commissioner or Officer, by his or her conduct, give any reasonable basis for the impression that any person can improperly influence him or her or unduly enjoy his or her favor in the performance of his or her official duties or that he or she is affected by the kinship, rank, position or influence of any party or person. Instead, a Commissioner or Officer should endeavor to pursue a course of conduct that will not raise suspicion that he or she is likely to be engaged in acts that are in violation of his or her trust.

VI. MISCELLANEOUS

A. Commission Subsidiaries

The provisions of this Policy apply to Commissioners and Officers in their capacities as Commissioners and Officers and in their capacities with respect to Commission subsidiaries, if any.

All references in this Policy to the Commission shall be construed to include both the Commission and any subsidiaries.

B. Interpretation

In connection with interpretation or application of this Policy, any Commissioner or Officer may seek advice from the General Counsel or Chief Ethics and Compliance Officer.

C. Conflicting Law

If a Commissioner or Officer believes that he or she is required to potentially violate this Policy in order to comply with the law, the Commissioner or Officer shall consult with the General Counsel or Chief Ethics and Compliance Officer.

D. Enforcement

If the Board has reasonable cause to believe a Commissioner or Officer has failed to disclose actual or possible conflicts of interest, or has otherwise violated this Policy, it shall inform the individual of the basis for such belief and afford the individual an opportunity to explain the alleged violation.

If, after hearing the individual's response and after making further investigation as warranted by the circumstances, the Board or a committee designated by the Board determines the individual has violated this Policy, it shall take appropriate disciplinary and corrective action.

In connection with potential breaches of this Policy, the Board may delegate to the General Counsel, Chief Ethics and Compliance Officer or outside counsel the responsibility to undertake factual investigations and to recommend to the Board such action, if any, deemed appropriate. The General Counsel shall refer investigations to the Inspector General as appropriate in cases where the facts involve allegations or evidence of fraud, waste, and abuse.

If an Officer violates any of the provisions of this Policy, such Officer shall be subject to an appropriate remedy under the circumstances. In addition to any penalty contained in any provision of law, the Officer may be subject, at the Board's discretion, to removal for cause.

The governor of New York, governor of New Jersey, and Amtrak may remove a Commissioner appointed by such office or entity in accordance with the GDC Act.

Adopted: **March 5, 2021**

**GATEWAY DEVELOPMENT COMMISSION
OPEN MEETINGS POLICY**

I. INTRODUCTION

This document sets forth the official policy of the Gateway Development Commission (the “Commission”), a body corporate and politic created by the New York and New Jersey Gateway Development Commission Act (2019 N.Y. Sess. Laws ch. 108 and 2019 N.J. Sess. Law Serv. ch. 195) (collectively, the “Act”), relating to public attendance at and participation in meetings of the Commission’s Board of Commissioners (collectively, the “Board” and individually, each a “Commissioner”) consistent with the Act.

II. POLICY

A. The activities and decisions of the Commission and the Board are taken in the public interest and may implicate the expenditure of public funds or the use of public assets. Accordingly, the Commission’s policy is that all meetings of the Commission, except for an executive session initiated in accordance with Section IV(D) of this policy, will be open to the public and members of the news media, individually and collectively, for the purpose of observing the full details of all phases of the deliberation, policy-making, and decision-making of the Board.

B. Public portions of meetings of the Board, to the extent practicable and within available funds, shall be live streamed on the Commission’s website or via a third-party platform accessible from a link on the Commission’s website, and posted on the Commission’s website within and for a reasonable time after the meeting.

C. For purposes of this policy, the term “meeting” means any gathering, whether corporeal or by means of communication equipment, that is attended by, or open to, the Board or any committee thereof, held with the intent, on the part of the Commissioners present, to act as a unit upon the specific public business of the Commission. “Meeting” does not mean a gathering (1) attended by less than a quorum of Commissioners (as determined in accordance with the Act and the bylaws of the Commission (the “Bylaws”)); (2) in which the Board or such committee is engaged in ordinary course supervision of Commission staff; (3) in which Commission business matters are informally discussed without the intent or effect of effectuating any action of the Commission; or (4) attended by or open to all the members of three or more similar public bodies at a convention or similar gathering.

D. For purpose of this policy, the term “public business” means matters that relate in any way, directly or indirectly, to the performance of the functions of the Commission or the conduct of its business.

III. EXCEPTIONS

As the public interest could be adversely affected, or the personal privacy or guaranteed rights of individuals (including employees) could be subject to unwarranted invasion, when certain subjects are considered by the Board, the meetings of which would otherwise be open to members of the general public, including representatives of the media, the Board may act in executive session, in

accordance with Section IV.D below, when discussing any of the following “Subject Matter Exceptions”:

- A.** matter in which the release of information would impair a right to receive funds from the government of the United States;
- B.** material the disclosure of which would constitute an unwarranted invasion of individual or personal privacy;
- C.** collective bargaining agreement, or the terms and conditions that are proposed for inclusion in any collective bargaining agreement, including the negotiation of the terms and conditions thereof with employees or representatives of employees of the Commission;
- D.** matter involving the purchase, lease, or acquisition of real property with Commission funds, the proposed acquisition of securities, the sale or exchange of securities held by the Commission, or the investment of Commission funds, if public discussion of the matter would adversely affect the public interest;
- E.** matter that would imperil the public safety if disclosed;
- F.** pending or anticipated litigation, proceedings or internal or external investigations or contract negotiation in which the Commission is, or may become, a party, or matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise the attorney’s ethical duties as a lawyer;
- G.** contract negotiations, including but not limited to contract procurements, disclosure of which would imperil the Commission’s position or an outcome in the best interest of the Commission, its mission, and the public;
- H.** matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance of, promotion or disciplining of a Commissioner or of any specific prospective officer, employee or contractor or current officer, employee or contractor employed or appointed by the Commission, unless all the individual Commissioners, contractors, employees or appointees whose rights could be adversely affected request in writing that the matter or matters be discussed at a public meeting;
- I.** deliberation of the Commission occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act or omission for which the responding party bears responsibility; or
- J.** information relating to current or future investigation or prosecution of a criminal offense that would imperil effective law enforcement if disclosed.

IV. PROCEDURES

- A.** The duties of the Co-Chairpersons of the Board in connection with meetings of the Board or any committee thereof include such powers as are necessary to conduct the meetings efficiently

and in businesslike fashion, giving due regard to providing members of the general public, including representatives of the media, the opportunity to attend the meetings and the need for the Board to be able to act in a timely fashion.

B. Time of and Public Participation in Meetings

1. The Board and any committee thereof will establish a schedule of meetings and hold special meetings in accordance with the Bylaws.
2. Reasonable accommodation should be established for members of the general public, including the media, at all meetings.
3. In connection with the public presentation of a matter or matters for discussion or action at a meeting of the Board or any committee thereof, members of the public in attendance at the meeting who have registered a desire to comment will be given an opportunity to comment in a format designated by the Secretary of the Commission. The Secretary of the Commission may establish procedures for comments at each meeting, including, as applicable, setting fixed time allotments for each comment; provided that, the aggregate fixed time allotment for all public comments at a meeting shall be 30 minutes, or another reasonable time as determined by the Co-Chairpersons of the Board or chairperson(s) of such committee. The Commissioners are neither expected nor required to respond during the comment period.
4. If any member of the public or media fails to observe proper decorum or otherwise interferes with the Board's or any committee's orderly conduct of business, the presiding chairperson of the meeting may expel person(s) from the meeting and may suspend or adjourn the meeting to another time or location.

C. Notice

1. A schedule of meetings of the Board and each of its committees will be included in a public calendar of meetings posted on the Commission's website, updated as appropriate.
2. At least five Business Days before any meeting of the Board or any committee thereof, the Secretary shall provide notice of the time and place of such meeting to appropriate media outlets, conspicuously post such notice in one or more areas designated by the Co-Chairpersons and conspicuously post such notice on the Commission's official website. As soon as practicable after providing such notice, and no later than 72 hours before such meeting, the Secretary shall make the agenda and any public documents pertaining to such meeting available for public inspection at an office of the Commission and post such agenda and such public documents on the Commission's website. "Business

Day” means a day other than, Saturday, Sunday or a public holiday in New York or New Jersey.

3. Notice for an individual meeting shall include the time and place the meeting is to be held, whether it is an annual, regular or special meeting, and whether it is planned to be held in open or executive session (or some combination thereof).

D. Executive Session

1. When the need occurs for consideration of Subject Matter Exceptions, an executive session may be called upon the majority vote of Commissioners present at an open meeting of the Board or any committee thereof pursuant to a motion that (i) identifies the general nature of the subjects to be considered in the closed, executive session, and (ii) if the executive session is not to take place immediately, states, as closely as possible, the time and circumstances for such executive session and when the matters discussed or acted upon may be disclosed.

2. Attendance at an executive session is permitted to any member of the Commission and any other persons authorized by the Commission.

V. MINUTES

A. The Commission will keep reasonably comprehensible minutes of all its meetings showing the time and place, the members present, the subjects considered, the actions taken, and with respect to each item on the agenda, the vote or recusal of each Commissioner in attendance at an open meeting or executive session thereof.

B. The Secretary of the Commission shall post such minutes on the website of the Commission within two weeks following the date of each meeting to the extent that public disclosure shall not be inconsistent with Section III(A) of this policy.

C. Each item on the agenda shall be voted on separately.