

**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

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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 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. The Commission shall make meeting agendas available to the public at least seventy-two hours before each meeting. No later than 72 hours before such Meeting or as soon as practicable, 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

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(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.