

BYLAWS
OF
GATEWAY PROGRAM DEVELOPMENT CORPORATION
Amended and Restated
as of September 15, 2017

BYLAWS
OF
GATEWAY PROGRAM DEVELOPMENT CORPORATION

ARTICLE I

ORGANIZATION AND PURPOSES

The name of this Corporation is Gateway Program Development Corporation (the “Corporation”). The Corporation was formed as a New Jersey nonprofit corporation pursuant to Section 15A:1-1, *et seq.* of the New Jersey Nonprofit Corporation Act (the “Act”). The Corporation is organized for charitable purposes, specifically coordinating, developing, operating, financing, managing, owning or otherwise engaging in activities to effectuate the transportation project between Penn Station, Newark, New Jersey, and Penn Station, New York, New York currently referred to as the “Gateway Program,” and by engaging in such other programs or purposes as lessen the burdens of government as may be requested or determined from time to time. The Corporation shall act independently and prudently to meet the critical transportation infrastructure needs of the region’s people, businesses, and visitors by efficiently undertaking the Gateway Program. For purposes of these Bylaws, and all other purposes and activities of the Corporation, a “government” includes all agencies and instrumentalities thereof.

ARTICLE II

MEMBERS

The Corporation shall not have voting members within the meaning of the Act.

ARTICLE III

OFFICES

Section 3.1 Principal Office

The principal office for the transaction of the business of the Corporation shall be determined by the Board of Trustees (the “Board”) and recorded in the minute book of the Corporation. The Board may change the principal office from one location to another and record such change in the minute book of the Corporation.

Section 3.2 Other Offices

The Board may at any time establish branch offices to advance the proper purposes of the Corporation.

ARTICLE IV

NON-DISCRIMINATION

In all of its dealings, neither the Corporation nor its duly authorized agents shall discriminate against any individual or group for reasons of race, color, creed, sex, age, culture, national origin, marital status, sexual orientation, gender identity and expression, or mental or physical handicap.

ARTICLE V

REFERENCE TO CERTIFICATE OF INCORPORATION

References in these Bylaws to the Certificate of Incorporation shall include all amendments thereto or changes thereof unless specifically excepted.

ARTICLE VI

TRUSTEES

Section 6.1 Powers

The Board shall have general power to control and manage the affairs and property of the Corporation, subject to the Certificate of Incorporation, these Bylaws, and applicable law and in accordance with the purposes and limitations set forth in the Certificate of Incorporation and herein.

Section 6.2 Number of Trustees

The authorized number of Trustees shall be three.

Section 6.3 Trustee Appointment, Term, Vacancies, and Qualifications

(a) **Trustee appointed by the governing body of the New Jersey Transit Corporation.** The initial Trustee appointed by New Jersey Transit Corporation (“NJ TRANSIT”), a body corporate and politic and an instrumentality of the State of New Jersey shall hold office for a term expiring on December 31, 2019. Thereafter, the term for the Trustee shall be three (3) years. After the expiration of the term, the Trustee may automatically begin a new three-year term until a successor has been appointed for the remainder of such term or until such Trustee’s earlier death, incapacitation for an extended period of time, or resignation as provided herein. There shall be no limit on the number of consecutive full or partial terms that the Trustee may serve on the Board.

A vacancy for a Trustee appointed by NJ TRANSIT shall be deemed to exist at the occurrence of the death, incapacitation for 15 consecutive days, or resignation of the Trustee. The Trustee may resign from office at any time. Such resignation shall be made in writing to the Board, and shall take effect at the future time specified therein, and if no time is specified, at the

time of its receipt by the Board. The acceptance of a resignation by the Board shall not be necessary to make it effective. Any vacancy caused by the death, incapacitation for an extended period of time, or resignation of the Trustee shall be filled by written notification to the Board and shall be filed in the minute book of the Corporation. The term of the Trustee appointed to fill a vacancy shall expire upon the date his or her predecessor's term would have expired.

(b) **Trustee appointed by the Commissioner or Acting Commissioner of the New York State Department of Transportation.** The initial Trustee appointed by the Commissioner, or Acting Commissioner in the event that the office of the Commissioner is vacant or an appointment thereto is otherwise pending, of the New York State Department of Transportation ("NYSDOT"), an agency of the State of New York shall hold office for a term expiring on December 31, 2019. Thereafter, the term for the Trustee shall be three (3) years. After the expiration of the term, the Trustee may automatically begin a new three-year term until a successor has been appointed for the remainder of such term or until such Trustee's earlier death, incapacitation for an extended period of time, or resignation as provided herein. There shall be no limit on the number of consecutive full or partial terms that the Trustee may serve on the Board.

A vacancy for a Trustee appointed by the Commissioner or Acting Commissioner of NYSDOT shall be deemed to exist at the occurrence of the death, incapacitation for 15 consecutive days, or resignation of the Trustee. The Trustee may resign from office at any time. Such resignation shall be made in writing to the Board, and shall take effect at the future time specified therein, and if no time is specified, at the time of its receipt by the Board. The acceptance of a resignation by the Board shall not be necessary to make it effective. Any vacancy caused by the death, incapacitation for an extended period of time, or resignation of the Trustee shall be filled by written notification to the Board and shall be filed in the minute book of the Corporation. The term of the Trustee appointed to fill a vacancy shall expire upon the date his or her predecessor's term would have expired.

(c) **Trustee appointed by the National Railroad Passenger Corporation ("Amtrak").** The initial Trustee appointed by Amtrak shall hold office for a term expiring on December 31, 2018. Thereafter, the term for the Trustee shall be three (3) years. After the expiration of the term, the Trustee may automatically begin a new three-year term until a successor has been appointed for the remainder of such term or until such Trustee's earlier death, incapacitation for an extended period of time, resignation or removal as provided herein. There shall be no limit on the number of consecutive full or partial terms that the Trustee may serve on the Board.

A vacancy for a Trustee appointed by Amtrak shall be deemed to exist at the occurrence of the death, incapacitation for 15 consecutive days, resignation or removal of the Trustee. The Trustee may resign from office at any time. Such resignation shall be made in writing to the Board, and shall take effect at the future time specified therein, and if no time is specified, at the time of its receipt by the Board. Resignation notices shall be filed in the minute books of the Corporation. The acceptance of a resignation by the Board shall not be necessary to make it effective. Amtrak may remove the Trustee at any time, with or without cause, by delivery of a written notice to the Board, which shall be filed in the minute book of the Corporation. Any vacancy caused by the death, incapacitation for an extended period of time, resignation, or

removal of the Trustee shall be filled by written notification to the Board and shall be filed in the minute book of the Corporation. The term of the Trustee appointed to fill a vacancy shall expire upon the date his or her predecessor's term would have expired.

(d) **Qualification for Trustees.** Each Trustee shall be at least 18 years of age and a citizen of the United States.

(e) **Vacancy.** Any vacancy for a Trustee shall be filled as provided in Section 6.3 (a), (b) or (c).

Section 6.4 Withdrawal of Trustees

(a) **Election to Withdraw.** A Trustee may elect to permanently withdraw from the Corporation at any time by providing written notice to the Board. The Trustee's withdrawal shall take effect following the special meeting of the Board to appoint a new Trustee pursuant to this Section 6.4. Following a Trustee's election to withdraw from the Corporation pursuant to this Section 6.4, such Trustee shall be recused from participating in all acts and decisions of the Corporation until such Trustee's withdrawal is effective as provided in this Section 6.4.

(b) **Special Meeting to Appoint New Trustee.** Upon receipt of a notice of withdrawal by a Trustee pursuant to this Section 6.4, the two remaining Trustees shall call a special meeting of the Board, in accordance with Section 6.7, which special meeting shall occur no later than 60 days following receipt of such withdrawal notice by the Board, for the purpose of amending these Bylaws pursuant to Article XIV to account for the withdrawal of the Trustee and to appoint a new Trustee. The quorum for such special meeting shall be the presence of the two remaining Trustees.

(c) **Right to Withdraw.** The right of a Trustee to withdraw under this Section 6.4 shall be independent of and distinct from the right of a Trustee to resign as provided in Section 6.3(a), (b) or (c), as the case may be.

Section 6.5 Place of Meeting; Meeting by Telephone; Public Notice of Meetings

Meetings of the Board, regular or special, may be held at any place within or outside New Jersey as designated from time to time by resolution of the Board. In the absence of such designation, regular meetings shall be held at the principal office of the Corporation. Subject to the requirements of any applicable law, any meeting, regular or special, may be held by conference telephone or any means of communication so long as all Trustees participating in the meeting can hear one another. Participation by such means shall constitute presence in person at such meeting. Special meetings of the Board shall be held whenever called by the Chair of the Board or as determined by the Board, in each case at such time and place as designated in the notice of meeting delivered in accordance with Section 6.6 or, if not stated in the notice, at the principal office of the Corporation. Notwithstanding the above provisions of this Section 6.5, a regular or special meeting of the Board may be held at any place consented to in writing by all Trustees, either before or after the meeting. If consents are given, they shall be filed with the

minutes of the meeting. Public notice of Board meetings shall be given in accordance with an Open Meetings and Transparency Policy to be adopted by the Board.

Section 6.6 Annual and Regular Meetings

The Board shall hold one or more meetings per year at a time and place designated by the Board for purposes of electing Officers and transacting regular business. Notice of these meetings shall be delivered to all Trustees in person, by nationally recognized courier service, telephone, facsimile, email, or other means authorized by the Act at least four business days (each a “Business Day”) in advance, except that any Trustee may waive notice as provided in Section 6.7(c). Business Day means any day that is not a Saturday, Sunday or other day on which banks located in the state of New Jersey are required or authorized by law or executive order to close. If notice is delivered by telephone, facsimile or other means authorized by the Act, such notice will be deemed given when directed to the Trustee at the telephone number, fax number or address as it appears on the records of the Corporation, or, to such telephone number, fax number or address as filed with the Secretary of the Corporation.

Section 6.7 Special Meetings

(a) **Authority to Call.** Special meetings of the Board for any purpose may be called at any time by the Chair of the Board or any two other Trustees acting together.

(b) **Notice.** Notice of any special meeting of the Board shall be delivered to all Trustees either personally, by nationally recognized courier service, telephone, facsimile, email, or other means authorized by the Act at least forty-eight hours in advance, except that such notice may be waived by any Trustee as set forth in paragraph (c) below.

(c) **Waiver of Notice.** Other than as otherwise provided in these Bylaws, the transactions of any meeting of the Board, however called and noticed and wherever held, shall be as valid as though taken at a meeting duly held after regular call and notice if (i) a quorum is present, and (ii) either before or after the meeting, any Trustee not properly notified of any meeting of the Board signs a written waiver of notice, a consent to holding the meeting, or an approval of the minutes. The waiver of notice or consent need not specify the purpose of the meeting. All waivers, consents, and approvals shall be filed with the Corporation’s records or made a part of the minutes of the meeting. Notice of a meeting shall also be deemed given to any Trustee who attends the meeting without protesting before or at its commencement about lack of adequate notice.

Section 6.8 Quorum

The presence of all three Trustees shall constitute a quorum for the transaction of business, except where there exists (i) a recusal in accordance with the Conflict of Interest Policy adopted by the Board pursuant to Article X, (ii) a Trustee withdrawal as provided in Section 6.4, and (iii) adjournment as provided in Section 6.10. Under no circumstances shall a quorum be fewer than two Trustees.

If at any meeting of the Board there shall be less than a quorum present, the Trustees present may adjourn the meeting until a quorum is obtained.

Section 6.9 Unanimous Voting

Every act or decision done or made unanimously by the Trustees present and not recused at a meeting held at which a quorum is present and for which notice was properly given or waived in accordance with Section 6.7(c) hereof shall be regarded as the act of the Board.

Section 6.10 Adjournment

A majority of the Trustees present, whether or not constituting a quorum, may adjourn any meeting to another time and place. Notice of any such adjournment and the time and place of the continuation of the meeting shall be provided as set forth in Section 6.7(b) to the Trustees who were not present and to all of the Trustees if the time and place of the continued meeting were not announced at the adjourned meeting. All actions pertaining to adjournment and continuation of the meeting shall be made in accordance with an Open Meetings and Transparency Policy to be adopted by the Board.

Section 6.11 Compensation of Trustees

Trustees may not receive compensation from the Corporation.

Section 6.12 Reimbursement of Expenses

Trustees may receive reimbursement of expenses incurred in connection with serving as a Trustee, in accordance with a Trustee Reimbursement Policy to be adopted by the Board.

ARTICLE VII

OFFICERS, EMPLOYEES AND AGENTS

Section 7.1 Officers

The Corporation shall have the following officers: Chair of the Board (which office shall be deemed the “President” for purposes of the Act), Vice Chair of the Board, Chief Executive Officer, Secretary, Treasurer, General Counsel, and such other Officers as the Board may designate by resolution and elect pursuant to Section 7.2. Any two or more offices may be held by the same person, except that no person shall execute, acknowledge, or verify any instrument in more than one capacity. The Chair of the Board and the Vice Chair of the Board must be Trustees; all other Officers may, but need not, be Trustees.

Section 7.2 Election of Officers

The Chair of the Board shall rotate between the Trustee designated by NJ TRANSIT and the Trustee designated by NYSDOT. The Chair of the Board shall serve an initial term expiring on December 31, 2017. Thereafter, the term for the Chair of the Board shall be one (1) year. The initial Chair of the Board shall be determined by unanimous vote of the Board. Following the initial term, for each subsequent one-year term, the Chair of the Board shall rotate to the Trustee

appointed by NYSDOT, followed by the Trustee appointed by NJ TRANSIT, followed by the Trustee appointed by NYSDOT, and so on. In the event of a vacancy for the Trustee currently serving as Chair of the Board, the Trustee's replacement shall serve as Chair of the Board for the remainder of his or her predecessor's term. The Vice Chair of the Board shall be the individual then-serving as Trustee appointed by Amtrak. The other Officers of the Corporation, except those appointed in accordance with the provisions of this Section 7.2, shall be elected by the Board, and each shall serve at the pleasure of the Board, subject to the rights, if any, of any Officer under a contract of employment.

Section 7.3 Officers' Term

Each Officer, other than the Chair and Vice Chair as specified in Section 7.2, shall serve for a period of two years from the date of the Board's vote, unless removed as set forth in Section 7.4. Except for the Chair, if the Board has not re-elected the Officer or elected a replacement Officer prior to the end of the two-year term, the Officer may continue until such time as the Board elects his or her replacement, unless removed as set forth in Section 7.4.

Section 7.4 Removal of Officers

Subject to rights, if any, under any contract of employment, and subject to the requirements of Section 7.2, any Officer may be removed, with or without cause, by the Board, at any regular or special meeting of the Board, or, except in the case of an Officer chosen by the Board, by an Officer on whom such power of removal has been conferred by the Board. The Board shall not have the authority to remove the individual then serving as Chair of the Board or Vice Chair of the Board. A vacancy caused by death, incapacitation for 15 consecutive days, resignation, or removal as provided in Section 6.3(c), shall have the effect of removing such individual as an Officer of the Corporation as of the commencement date of the vacancy or removal.

Section 7.5 Resignation of Officers

Any Officer, except the Chair and Vice Chair, may resign at any time by giving written notice to the Board. Any resignation shall take effect at the date of receipt of that notice or at any later time specified in that notice. Unless otherwise specified in that notice, the acceptance of the resignation shall not be necessary to make it effective. Any resignation shall be without prejudice to the rights, if any, of the Corporation under any contract to which the Officer is a party.

Section 7.6 Vacancies in Office

In case of any vacancy in any office, a successor shall be filled in accordance with these Bylaws.

Section 7.7 Responsibilities of Officers

(a) **Chair of the Board.** The Chair of the Board shall have general supervision of the affairs and property of the Corporation, subject to the control of the Board, and shall preside at all meetings of the Board. Except as otherwise provided by these Bylaws, or by

resolution duly adopted by the Board, the Chair of the Board shall have the authority to sign on behalf of the Corporation all deeds and other agreements and formal instruments duly authorized by the Board. The Chair may elect to delegate such signature authority on any single deed, agreement or formal instrument to any other Officer of the Corporation by delivering a written notice of delegation to such person.

(b) **Vice Chair of the Board.** The Vice Chair of the Board shall have general supervision powers and duties as may be prescribed by the Board or these Bylaws, and shall preside at any meeting of the Board during the Chair of the Board's absence.

(c) **Chief Executive Officer.** The Chief Executive Officer shall oversee and manage the operations of the Corporation, in accordance with policies and guidance set by the Board. The Chief Executive Officer shall coordinate between the Chair of the Board and executive staff in developing and executing all actions and policies that are authorized by the Board, and shall exercise such other power as is delegated by the Board. Except as otherwise provided by these Bylaws, or by resolution duly adopted by the Board, the Chief Executive Officer shall have the authority to sign on behalf of the Corporation all deeds, agreements and formal instruments when authorized by the Board.

(d) **Secretary.** The Secretary shall report directly to the Chair of the Board and shall attend to the following:

(i) **Book of Minutes.** The Secretary shall keep or cause to be kept, at the principal executive office or such other place as the Board may direct, a book of minutes of all meetings and actions of Trustees and committees of Trustees, with the time and place of holding regular and special meetings, and if special, how authorized, the notice given, the names of those Trustees and invited participants present at such meetings, and the proceedings of such meetings.

(ii) **Notices and Other Duties.** The Secretary shall give, or cause to be given, notice of all meetings of the Board required by the Bylaws to be given. The Secretary shall perform such other duties as may be assigned by the Chair or prescribed by the Board or the Bylaws.

In the absence or disability of the Secretary, the Board may appoint an Assistant Secretary to perform the duties of the Secretary in whole or in part, as the Board may specify.

(e) **Treasurer.** The Treasurer shall keep or cause to be kept full and accurate accounts of receipts and disbursements of the Corporation, and shall deposit or cause to be deposited all moneys, evidences of indebtedness and other valuable documents of the Corporation in the name and to the credit of the Corporation in such banks or depositories as the Board may designate. The Treasurer shall have the power to sign financial instruments on behalf of the Corporation and shall be an authorized signatory for the Corporation with respect to any other documents incident to carrying out the Treasurer's responsibilities as described in these Bylaws. At the annual meeting of the Board, he or she shall render a report of the Corporation's accounts showing in appropriate detail:

- (i) the assets and liabilities of the Corporation as of a twelve-month fiscal period terminating not more than six months prior to said meeting;
- (ii) the principal changes in assets and liabilities during said fiscal period;
- (iii) the revenues or receipts of the Corporation, both unrestricted and restricted to particular purposes during said fiscal period; and
- (iv) the expenses or disbursements of the Corporation, for both general and restricted purposes, during said fiscal period.

Such report shall be filed with the minutes of the annual meeting of the Board. The report to the Board may consist of a verified or certified copy of any report by the Corporation to the Internal Revenue Service or applicable departments of the State of New Jersey which includes the information specified above. The Treasurer shall exhibit the Corporation's books and accounts to any Officer or Trustee of the Corporation at all reasonable times, render a statement of the Corporation's accounts, and perform all duties incident to the position of Treasurer, subject to the control of the Board, and shall when required, give such security for the faithful performance of his or her duties as the Board may determine.

(f) **General Counsel.** The General Counsel shall be legal counsel to the Corporation and shall also furnish such legal opinions, advice, counsel, and representation as shall, from time to time, be required by the Board of Trustees.

(g) **Compensation.** Any Officer (except as prohibited by Section 6.11), employee or agent of the Corporation is authorized to receive a reasonable salary or other reasonable compensation for services rendered to the Corporation when authorized by the Board, and only when so authorized.

ARTICLE VIII

RECORDS AND REPORTS

Section 8.1 Maintenance of Certificate and Bylaws

The Corporation shall keep at its principal executive office the original or a copy of the Certificate of Incorporation and Bylaws as amended to date.

Section 8.2 Maintenance of Other Corporate Records

The accounting books, records, and minutes of the proceedings of the Board shall be kept at such place or places designated by the Board, or, in the absence of such designation, at the principal executive office of the Corporation. The minutes shall be kept in written or typed form, and the accounting books and records shall be kept in either written or typed form or in any other form capable of being converted into written, typed, or printed form.

Section 8.3 **Inspection by Trustees and Officers**

Every Trustee or Officer shall have the absolute right at any reasonable time to inspect all books, records, and documents of every kind and the physical properties of the Corporation and each of its subsidiary entities, except as prohibited by the Corporation's Conflict of Interest Policy. This inspection by a Trustee or Officer may be made in person or by an authorized agent or attorney, and the right of inspection includes the right to copy and make extracts of documents.

Section 8.4 **Annual Financial Report and Statement of Certain Transactions and Indemnification**

(a) As soon as reasonably practicable after the close of the fiscal year, the Corporation shall prepare and deliver annual financial statements to each Trustee and to each of the appointing entities described in Section 6.3 (a), (b) and (c), respectively. The financial statements shall contain in appropriate detail the following:

- (i) The assets and liabilities, including trust funds, of the Corporation as of the end of the fiscal year;
- (ii) The principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (iii) The revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (iv) The expenses or disbursements of the Corporation, for both general and restricted purposes during the fiscal year;
- (v) Any related party transaction, as defined in the Conflict of Interest Policy adopted by the Board;
- (vi) Any indemnification obligations aggregating more than Ten Thousand Dollars (\$10,000) paid during the fiscal year to any Officer or Trustee of the Corporation pursuant to Article IX hereof.

(b) When required by law or determined by the Board to be advisable, such financial statements shall be accompanied by any report thereon of independent accountants, or, if there is no such report, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the books and records of the Corporation.

ARTICLE IX

INDEMNIFICATION OF TRUSTEES AND OFFICERS

Section 9.1 **Indemnification**

The Corporation shall, to the fullest extent now or hereafter permitted by law, indemnify any person made, or threatened to be made, a party to any action or proceeding by reason of the fact that he or she, or his or her testator or intestate, was a Trustee, Officer, employee (including any seconded employee), or agent of the Corporation, against judgments, fines, or amounts paid in settlement and reasonable expenses, including attorneys' fees.

Section 9.2 Insurance

This Corporation shall have the power to, and shall use its best efforts to, purchase and maintain insurance to indemnify the Corporation for any obligation which it incurs as a result of its indemnification of Trustees, Officers, employees (including any seconded employees), or agents pursuant to Section 9.1, or to indemnify such persons, as well as volunteers, in instances in which they may be indemnified pursuant to Section 9.1. The Corporation may share the premium cost of any such insurance with any Trustee, Officer, employee or agent on such basis as may be agreed.

ARTICLE X

CONFLICT OF INTEREST POLICY

The Board shall adopt a Conflict of Interest Policy as the policy of the Corporation that requires all Trustees, Officers, and other interested parties to disclose any relevant interest which may pose a conflict with the Corporation's interest. Each Trustee, Officer, and other interested party, as specified in such policy, shall complete an initial disclosure statement upon taking such position and an annual disclosure statement reporting any such interests or potential interests, and shall provide such statements to the Secretary. Disclosure statements shall be available to any Trustee of the Corporation upon request.

ARTICLE XI

RELATED PARTY TRANSACTIONS

Section 11.1 Related Party Transactions

The Corporation shall not enter into any related party transaction unless the transaction is determined by the Board to be fair, reasonable, and in accordance with the Conflict of Interest Policy and the Act.

Section 11.2 Loans to Trustees and Officers

The Corporation shall not make any loan of money or property to or guarantee the obligation of any Trustee or Officer.

ARTICLE XII

FISCAL YEAR

The fiscal year of the Corporation shall be as approved by the Board.

ARTICLE XIII

CONSTRUCTION AND DEFINITIONS

Unless the context requires otherwise, the general provisions, rules of construction, and definitions in the Act shall govern the construction of these Bylaws. Without limiting the generality of the above, the masculine gender includes the feminine and neuter, the singular number includes the plural, and the plural number includes the singular.

ARTICLE XIV

AMENDMENTS

The Certificate of Incorporation and these Bylaws may be amended or repealed and new Bylaws may be adopted by the affirmative vote of all three Trustees. Such action shall be authorized only at a duly called and duly held meeting of the Board for which written notice of such meeting, setting forth the full text of the proposed amendments, is given in accordance with the notice provisions for special meetings set forth in Section 6.7(b) of these Bylaws.