GATEWAY PROGRAM

May 1, 2024

The Honorable Kathy Hochul
Governor of New York State
NYS State Capitol Building
Albany, NY 12224

The Honorable Philip D. Murphy
Office of the Governor
225 West State Street
Trenton, NJ 08625

The Honorable Andrea Stewart-Cousins
President Pro Tempore and Majority Leader
The New York State Senate
188 State Street
Legislative Office Building, Room 907
Albany, NY 12247

The Honorable Nicholas Scutari
Senate President
New Jersey Senate
125 West State Street
State House South Addition, Level A
Trenton, NJ 08625

The Honorable Carl Heastie
Speaker of the Assembly
The New York State Assembly
188 State Street
Legislative Office Building, Room 932
Albany, NY 12248

The Honorable Craig Coughlin
Assembly Speaker
New Jersey General Assembly
125 West State Street
State House South Addition, Level B
Trenton, NJ 08625

Dear Governor Hochul, Governor Murphy, President Pro Tempore and Majority Leader Stewart-Cousins, President Scutari, Speaker Heastie, and Speaker Coughlin:

Pursuant to the bi-state Gateway Development Commission Act (the "GDC Act"), the Gateway Development Commission ("GDC") is hereby transmitting its Annual Report for Fiscal Year 2023 ("FY23") to "the governors and state legislatures of New York and New Jersey…" via this letter of transmittal, which incorporates information specified in the GDC Act. *See* N.J.S.A. 32:36-10; 2019 N.Y. Laws Ch. 108, Section 2(9).

The year 2023 was GDC's third year of organization, and the Commission made strong progress in advancing the Hudson Tunnel Project ("HTP"). GDC launched construction on both sides of the Hudson River, entered into the Engineering phase of the Federal Transit Administration ("FTA") Capital Investment Grants Program, applied for and received historic federal funding commitments, and finalized the governance framework and partner agreements to facilitate HTP delivery.

Substantial progress was made during the year in building the organization's financial, legal and technical capabilities. GDC continued to expand its staff capacity considerably, assembling a team that collectively holds decades of experience at the highest levels in the transportation sector. In 2023, GDC brought on board a Chief Technical Officer, an acting Chief Financial Officer, a Chief Administrative Officer, and a Director of Government and Community Affairs. Furthermore, the Board approved GDC's second Annual Operating and Capital Budget for FY24, totaling $68 million.

I. INTRODUCTORY SECTION

a. Board and Officers Information

In July 2019, the States of NY and NJ created the GDC through the enactment of parallel legislation by each state and codified as the GDC Act. The GDC is a public authority and a government-sponsored authority, with three Commissioners from the State of NY, three Commissioners from the State of NJ, and one Commissioner directly appointed by Amtrak.

Following the enactment of the GDC Act, nominations were made to the Board of Commissioners ("Board") by the respective appointing authorities, with the final two New Jersey Commissioners confirmed to the Board in December 2020. In June and December 2022, Alicia Glen and Amy Rosen were respectively appointed as Board members.

The current Commissioners of the GDC Board are as follows:

Alicia Glen (NY Co-Chair)
Balpreet Grewal-Virk (NJ Co-Chair)
Anthony R. Coscia (Vice Chair and Amtrak Commissioner)
Jamey Barbas (NY Commissioner)
Janine Bauer (NJ Commissioner)
Marie Therese Dominguez (NY Commissioner)
Amy Rosen (NJ Commissioner)

Since his appointment on July 19, 2022, Mr. Kolluri continues to serve as CEO of GDC.

At the September 13, 2023 Board meeting, the Board adopted a resolution appointing Robert Hickman as Chief Administrative Officer ("CAO").

b. Commission Developments and Activities

These developments and activities are also referenced in the letter from the CEO of GDC to the Board dated December 27, 2023, attached hereto as Appendix A.

Organizational Developments:

The GDC Board conducted public meetings in May, September, October, November and December 2023.

At the July 19, 2022, Board meeting, Alicia Glen was elected as NY Co-Chair. Balpreet Grewal-Virk serves as the NJ Co-Chair as appointed in the Board meeting of March 2021 and Anthony R. Coscia serves as the Amtrak Commissioner and Vice Chair in accordance with the GDC Act and the Bylaws; they continued to serve in such capacity during 2023.

In May of 2023, the Board approved resolutions establishing its meeting schedule for the 2023 calendar year, and an Audit Committee, Governance and Operations Committee, and Project Delivery Committee were established. In addition, the GDC Board of Commissioners approved a First Amendment to the PDA between NY, NJ, Amtrak, and GDC to: (i) amend the process for addressing proposed "material deviations" to Design Standards and Specifications, (ii) incorporate a process for consideration of alternative technical concepts, and (iii) expand procurement evaluation panels to include one representative from New York as a voting member. The Board also adopted a Resolution authorizing the execution of a Supporting or Executing Partner ("SEP") Agreement for the Hudson Yards Concrete Casing 3 ("HYCC3") between GDC and Amtrak, Funding Agreements for HYCC3 between GDC and the State of New York, and GDC and the State of New Jersey, and a Market Case Estimate for HYCC3 in an amount not to exceed $692,700,000 in accordance with the PDA. The Board also established a stipend program in an amount not to exceed $2,500,000 to reimburse unsuccessful proposers their costs in order to facilitate bids for the Hudson River Ground Stabilization ("HRGS") design/build RFP.

In September of 2023, the Board adopted resolutions for the award of three (3) contracts for construction management, construction services, and funding agreements related to the Tonnelle Avenue Overhead Bridge and Utility Relocation Project. In addition, the Board adopted resolutions authorizing GDC to execute a SEP Agreement with the Port Authority of New York and New Jersey, and for GDC to execute a Project Labor Agreement for the HRGS Project. The Board also established a stipend program in an amount not to exceed $6,600,000 to reimburse unsuccessful proposers their costs in order to facilitate bids for the design build for the Manhattan Tunnel RFP.

In October of 2023, the Board adopted resolutions authorizing GDC to execute SEP Agreements with NJ TRANSIT and Amtrak and establishing a Title VI and Non Discrimination Program Plan.

In November of 2023, the Board approved a resolution authorizing GDC to enter into a license agreement to occupy space at 120 Broadway, New York, NY.

In December 2023, the Board adopted resolutions authorizing GDC to execute a Capital Funding Agreement with Amtrak and to extend the contract with Ernst & Young Infrastructure, LLC.

Hudson Tunnel Project Activities:

In January 2023, the HTP received a $292 million US Department of Transportation ("USDOT") Mega Grant for construction of HYCC-3.

In May 2023, GDC advanced into the Build America Bureau's creditworthiness review phase of securing Railroad Rehabilitation and Improvement Financing ("RRIF") loans for the local share of the HTP.

In June 2023, GDC was awarded a $25 million Rebuilding American Infrastructure with Sustainability and Equity ("RAISE") Grant from USDOT for work on the Tonnelle Avenue Project.

In July 2023, GDC received FTA approval for Entry into Engineering, which qualifies the HTP to receive up to $6.88 billion upon execution of the FFGA.

In November 2023, work launched on both sides of the Hudson River, with construction starting on HYCC-3 in Manhattan and on the Tonnelle Avenue Project in North Bergen; GDC was awarded a $3.8 billion grant through the USDOT's Federal-State Partnership ("FSP") for Intercity Passenger Rail Grant Program; and the FTA designated GDC an eligible recipient of federal funding.

II. FINANCIAL SECTION

As referenced in the letter from the Acting CFO, Patrick McCoy to the Board of Commissioners dated April 16, 2024 (attached hereto as Appendix B), GDC prepared audited financial statements for FY23 in accordance with the requirements of the GDC Act.

Fiscal Year 2024 will be the first annual period for which a capital plan report referenced in the GDC Act will be prepared.

III. CORPORATE INFORMATION SECTION

a. Description of Commission and its Board Structure

The GDC is empowered by the GDC Act to facilitate and coordinate activities and encourage the actions of others to effectuate the Gateway Program, in particular, Phase 1 of the Gateway Program which includes the HTP. The GDC Act states that the GDC is "intended to qualify for, authorized, and empowered to apply for and accept, financial assistance, loans, grants, or any other funding for such purposes under federal, state, or local laws, and to make application directly to the appropriate officials or agencies for the application for and receipt of federal, state or local assistance, loans, grants or any other funding in aid of any of the purposes of this act."

The Board of Commissioners held the following public Board meetings during FY23 in accordance with the GDC Act, its Bylaws and the GDC Open Meetings Policy:

- May 2, 2023 – All Commissioners in attendance.
- September 11, 2023 – All Commissioners in attendance, except for New York Commissioner, Marie Therese Dominguez.
- October 16, 2023 - All Commissioners in attendance, except for New York Commissioner Marie Therese Dominguez.
- November 16, 2023 – All Commissioners in attendance.
- December 11, 2022 – All Commissioners in attendance except for New York Commissioner and Co-Chair Alicia Glen.

A copy of the GDC Bylaws is attached hereto as Appendix C.

IV. PROCUREMENT INFORMATION SECTION

GDC adopted Procurement Guidelines on November 16, 2021 to govern the acquisition of goods and services of any kind greater than $5,000 and requires a competitive process. GDC also adopted a Procurement Manual approved by the FTA on November 15, 2023 to govern purchases that are federally funded. GDC's CEO was delegated authority by the Board to enter into contracts in amounts not to exceed $300,000, and report to the Board Co-Chairs and Vice Chair any contracts executed that exceed $100,000. In accordance with the Procurement Guidelines, and delegation of authority to the CEO, GDC entered into various operational contracts related to the operation of GDC during the 2023 calendar year. In accordance with the Procurement Guidelines, Procurement Manual, and resolutions adopted by the Board, GDC entered into three (3) capital related contracts during the 2023 calendar year. GDC also extended contracts during the 2023 calendar year that were assigned to GDC by its predecessor entity.

A list of the procurements during 2023 statutorily required to be reported are attached as Appendix D.

There have been no amendments to the Procurement Guidelines or Procurement Manual since GDC's last Annual Report.

Respectfully Submitted,

Kris Kolluri
Chief Executive Officer
Gateway Development Commission

APPENDIX A

December 27, 2023

Alicia Glen, Co-Chair, NY Commissioner
Balpreet Grewal-Virk, Co-Chair, NJ Commissioner
Tony Coscia, Vice-Chair, Amtrak Commissioner
Jamey Barbas, NY Commissioner
Janine Bauer, NJ Commissioner
Marie-Therese Dominguez, NY Commissioner
Amy Rosen, NJ Commissioner

Dear Commissioners,

2023 was a vitally important year for the Hudson Tunnel Project ("HTP"). This year, together with all of you and our partners, the Gateway Development Commission ("GDC") moved HTP from aspirational to unstoppable.

This past January, we put plans on paper. Today, we have concrete results on multiple fronts. Specifically, we committed GDC to achieving six ambitious goals in 2023: (1) begin construction in both New York and New Jersey; (2) finalize the governance framework and partner agreements for HTP's delivery; (3) apply for and receive historic funding commitments from the federal government for HTP; (4) become an eligible grant recipient; (5) develop an improved contracting and procurement strategy to attract a competitive and world class pool of firms to build HTP; and (6) continue to build GDC's organizational, financial, legal, and technical capacity to deliver HTP. We have met each of these goals. I have outlined our progress in greater detail below.

Mega projects like HTP do not happen by luck, but by design. The extraordinary leadership and unwavering support demonstrated by President Joseph R. Biden, U.S. Transportation Secretary Pete Buttigieg, Senate Majority Leader Chuck Schumer, Governor Kathy Hochul, Governor Phil Murphy, our Congressional delegation, and, of course, you has willed HTP into reality. In addition, technical assistance from the Federal Transit Administration and the Federal Railroad Administration has made GDC's ability to meet the hyper-driven schedule achievable. Finally, the unyielding drive and commitment of my colleagues at GDC – with support from our partners in the New York and New Jersey Governors offices, Amtrak, NJ TRANSIT, Port Authority of New York and New Jersey, outside counsels, and consultants – has helped us bring our collective vision to reality.

A new American renaissance is underway in infrastructure, with HTP at the forefront.

I am grateful you have entrusted me with the privilege of overseeing this once-in-a-century project. In 2024, we will turn our attention to finalizing the Full Funding Grant Agreement, closing the Railroad Rehabilitation & Improvement Financing (RRIF) loans, and starting major construction so the Hudson Tunnel Project reaches a point of no return.

I wish you and your families a happy holiday and look forward to a productive 2024.

Sincerely,

Kris Kolluri

CEO

Gateway Development Commission

CC: Hon. Kathleen C. Hochul, Governor, New York
Hon. Philip D. Murphy, Governor, New Jersey
Stephen Gardner, Chief Executive Officer, Amtrak

2023 PROGRESS

Outlined below are specific GDC accomplishments over the course of 2023 and a brief 2024 forecast.

Construction launched on both sides of the Hudson River

GDC was honored to commemorate the start of construction in New York and New Jersey alongside many of Gateway's champions, including Majority Leader Schumer, Governors Hochul and Murphy, Senator Gillibrand, Transportation Secretary Buttigieg, Infrastructure Advisor Landrieu, and Transportation Deputy

Secretary Trottenberg, as well as our Board and partners at NJ TRANSIT, Amtrak, and PANYNJ.

- We launched work on the Hudson Yards Concrete Casing – Section 3, an essential right-of-way preservation project that will link the new tunnel into New York Penn Station.
- We broke ground on the Tonnelle Avenue Bridge and Utility Relocation Project, which involves the construction of a new roadway bridge immediately above a future right-of-way to allow for a connection to the new tunnel portal and an access point for Tunnel Boring Machines to dig the Palisades Tunnel.

Historic commitments to the largest federal funding of any modern infrastructure project

The funding commitment to the Hudson Tunnel Project represents the largest federal investment ever in a mass transit project. Altogether, the Hudson Tunnel Project now has almost $12 billion in federal commitments and a revised 70-30 funding split between federal and local partners.

GDC worked diligently to reduce the burden on the States of New York and New Jersey, thereby freeing up funds for other capital projects critical to the region.

- GDC received FTA's approval for Entry into Engineering, which qualifies HTP to receive up to $6.88 billion upon execution of the FFGA.
- GDC was awarded a $25 million Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant from the U.S. Department of Transportation for work on the Tonnelle Avenue Project.
- HTP received a $292 million USDOT MEGA Grant for construction on HYCC-3.
- HTP was awarded a $3.8 billion grant through the USDOT's Federal-State Partnership (FSP) for Intercity Passenger Rail Grant Program.
- GDC has advanced into the Build America Bureau's creditworthiness review phase of securing Railroad Rehabilitation and Improvement Financing (RRIF) loans for the states' share of HTP.

Significantly stronger governance and organizational structure; and technical, legal, and financial capacity

Having grown to 44 staff this year, GDC's team collectively holds decades of experience at the highest levels in the transportation sector. FTA's notice of approval for Entry into Engineering, in fact, definitively states that GDC "has the technical capacity and capability to effectively manage the engineering phase." Some of the main related milestones achieved during 2023 are:

- GDC added significant engineering, financial, and other expertise, including a Chief Technical Officer, an acting Chief Financial Officer, a Chief Administrative Officer, and a Director of Government and Community Affairs.
- GDC is supported by multimillion dollar budget commitments from the States of New York and New Jersey and Amtrak.
- GDC will soon dramatically enhance its technical, financial, and legal capacity by bringing on board an expert Delivery Partner.
- With Supporting or Executing Partner (SEP) Agreements in place with Amtrak, NJ TRANSIT, and PANYNJ, GDC has built the framework to ensure each contract for the new tunnel is seamlessly executed.
- FTA has officially designated GDC as an eligible recipient for federal funding, an extraordinary milestone achieved in record time.
- Five out of the nine HTP contracts are currently under construction or in procurement, and three more are anticipated to be awarded in 2024.

Substantial and sustained industry engagement

GDC worked closely with the private sector this year through a series of events designed to provide project updates across the industry, solicit feedback, and create networking opportunities.

In addition, GDC has been intentional about engaging Disadvantaged Business Enterprises (DBE) and complying with federal regulations. GDC is committed to making HTP a successful test case for how to successfully integrate ambitious DBE goals into the nation's most urgent infrastructure megaproject.

GDC's 2023 engagement events included the following:

- Industry Outreach Event (2/2/23)
- Contract Packaging and DBE Networking Event (4/26/23)

- Virtual Hudson River Ground Stabilization Request for Qualifications Information Session (6/21/23)
- Virtual Palisades Tunnel Request for Qualifications Information Session (7/13/23)
- Manhattan Tunnel Packaging and DBE Networking Event (7/25/23)
- Project Update and DBE Networking Event (10/17/23)
- Virtual Manhattan Tunnel Request for Qualifications Information Session (10/23)
- Virtual GDC Proposed 2024-2026 DBE Goal Listening Session (12/1/23)

Following the DBE Goal Listening Session, GDC will submit its Federal Fiscal Year 2024-2026 DBE goal and methodology to FTA before the end of the year. The preliminary agency DBE goal is 20.07%, the highest of any transportation agency in the region. Moreover, GDC has established substantial DBE goals for the Tonnelle Avenue, Hudson River Ground Stabilization, and Palisades Tunnel contracts, setting a bold precedent for DBE engagement as HTP moves forward with contract awards.

2024 LOOK AHEAD

We are entering 2024 on a strong footing, with critical early works components in progress, construction management agreements in place, and the organizational capacity to tackle the next big challenges.

Next year will also mark the start of major awards and construction on the Hudson River Ground Stabilization and the Palisades Tunnel projects.

In addition, we expect to close on the RRIF loans for the local share of the project.

Finally, we are on track to reach Full Funding Grant Agreement with FTA in 2024, unlocking the $6.88 billion grant commitment that brings our project’s total federal share to almost $12 billion, and locking in the full funding needed to bring the Hudson Tunnel Project to reality for millions of riders.

# # #

APPENDIX B

GATEWAY PROGRAM

April 16, 2024

Board of Commissioners
Gateway Development Commission

120 Broadway, 10th Floor New
York, NY 10271

2 Penn Plaza East, 11th Floor
Newark, NJ, 07107

RE: Gateway Development Commission - 2023 Consolidated Financial Statements

Dear Commissioners:

The Annual Comprehensive Financial Report (ACFR) of the Gateway Development Commission (the Commission), for the year ended December 31, 2023, is hereby submitted. Responsibility for both the accuracy of the presented data and the completeness and fairness of the presentation, including disclosures, rests with management. To the best of our knowledge and belief, the presented data is accurate in all material respects and is reported in a manner that fairly presents the financial position, the results of operations of the Commission, and includes all disclosures necessary to enable the reader to gain the maximum understanding of the Commission's financial activities.

The GDC Act requires that financial statements be presented in conformance with accounting principles generally accepted in the United States of America (GAAP) as applicable to governmental entities and audited in accordance with generally accepted auditing standards by licenses independent certified public accountants. This report serves to fulfill these requirements. In addition, an audit of the financial statements has been completed by the Commission's independent auditors, Deloitte & Touche, LLP. The audit was performed to provide reasonable assurance that the financial statements of the Commission, as a whole, are free of material misstatements. The audit involved examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; assessing the accounting principles used and significant estimates made by management; and evaluating the overall financial statement presentation. The independent auditors concluded that there was a reasonable basis for issuing an unmodified ("clean") opinion stating that the Commission's financial statements for the year ended December 31, 2023, are fairly presented in conformity with Generally Accepted Accounting Principles ("GAAP"). The Independent Auditor's Report is presented at the front of the financial section of the ACFR.

Management is responsible for establishing and maintain internal accounting controls to provide reasonable assurance that assets are safeguarded against loss, theft or misuse and that financial records for preparing financial statements and maintaining accountability for assets are reliable.

The internal control system is designed to provide reasonable, rather than absolute, assurance that these objectives are met and that the financial statements are free from material misstatement. The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived from that control and the evaluation of costs and benefits requires estimates and judgements by management. We believe the Commission's internal controls adequately safeguard assets and provide reasonable assurance that financial transactions are properly recorded.

Management's Discussion and Analysis (MD&A) immediately follows the Independent Auditor's Report and provides a narrative introduction, overview, and analysis of the basic financial statements. MD&A complements this letter of transmittal and should be read in conjunction with it.

This letter and its enclosure will be appended to the Commission's 2023 Annual Report that is being transmitted to the Governors and State Legislatures of New York and New Jersey in accordance with the provisions of the GDC Act.

Sincerely,

Acting Chief Financial Officer Gateway Development Commission

GATEWAY DEVELOPMENT COMMISSION

April 16, 2024

Deloitte & Touche LLP
110 Morris Street
Morristown, NJ 07960

We are providing this letter in connection with your audit of the financial statements of Gateway Development Commission ("the "Entity"), as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the basic financial statements (the "financial statements") for the purpose of expressing an opinion as to whether the financial statements present fairly, in all material respects, the financial position, results of operations, and cash flows, of the Entity in accordance with accounting principles generally accepted in the United States of America (GAAP).

We confirm that we are responsible for the following:

a. The preparation and fair presentation in the financial statements of net position, changes in net position, and cash flows, in accordance with GAAP.

b. The design, implementation, and maintenance of internal control:

- Relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

- To prevent and detect fraud.

Certain representations in this letter are described as being limited to matters that are material. Items are considered material, regardless of size, if they involve an omission or misstatement of accounting information that, in light of surrounding circumstances, makes it probable that the judgment of a reasonable person relying on the information would be changed or influenced by the omission or misstatement.

We confirm, to the best of our knowledge and belief, the following representations made to you during your audit.

1. The financial statements referred to above are fairly presented in accordance with GAAP. In addition:

   a. The financial statements include all component units as well as joint ventures with an equity interest, and properly disclose all other joint ventures and other related organizations.

   b. The financial statements include all fiduciary activities as required by GASB Codification Section 1300.111-.116, *Fiduciary Funds*.

   c. Majority equity interests in legally separate organizations are properly accounted for in accordance with GASB Codification Section 2600.116, *Equity Interests in Component Units*.

   d. Net position components (net investment in capital assets, restricted, and unrestricted) are properly classified and, if applicable, approved.

e. Deposits and investment securities are properly classified in the category of custodial credit risk.

f. Capital assets, including infrastructure assets, are properly capitalized, reported, and, if applicable, depreciated. Related costs have been recognized as an expense in the period in which the costs are incurred, in accordance with GASB Codification Section 1400.120-.121, *Interest Cost Incurred before the End of a Construction Period*.

g. Required supplementary information is measured and presented within prescribed guidelines.

h. Applicable laws and regulations are followed in adopting, approving, and amending budgets.

i. The Entity's policy regarding whether to first apply restricted or unrestricted resources when an expense is incurred for purposes for which both restricted and unrestricted net position is available is appropriately disclosed and the related net position is properly recognized under the policy.

j. The financial statements properly classify all funds and activities, including special and extraordinary items.

2. The Entity has provided to you all relevant information and access as agreed in the terms of the audit engagement letter.

3. The Entity has made available to you:

   a. All minutes of the meetings of the Board of Directors, or summaries of actions of recent meetings for which minutes have not yet been prepared.

   b. All financial records and related data for all financial transactions of the Entity and for all funds administered by the Entity. The records, books, and accounts, as provided to you, record the financial and fiscal operations of all funds administered by the Entity and provide the audit trail to be used in a review of accountability. Information presented in financial reports is supported by the books and records from which the financial statements have been prepared.

   c. Contracts and grant agreements (including amendments, if any) and any other correspondence that has taken place with federal agencies.

4. There has been no:

   a. Action taken by Entity management that contravenes the provisions of federal laws and New York State and New Jersey State laws and regulations, or of contracts and grants applicable to the Entity.

   b. Communications with other regulatory agencies concerning noncompliance with or deficiencies in financial reporting practices or other matters that could have a material effect on the financial statements.

5. The Entity has disclosed to you the results of management's risk assessment, including the assessment of the risk that the financial statements may be materially misstated as a result of fraud.

6. We have no knowledge of any fraud or suspected fraud affecting the Entity involving:

   a. Management.

   b. Employees who have significant roles in the Entity's internal control.

   c. Others, where the fraud could have a material effect on the financial statements.

7. We have no knowledge of any allegations of fraud or suspected fraud affecting the Entity's financial statements communicated by employees, former employees, analysts, regulators, or others.

8. There are no unasserted claims or assessments that we are aware of or that legal counsel has advised us are probable of assertion and must be disclosed in accordance with GASB Codification Section C50, *Claims and Judgments.*

9. The methods, significant assumptions, and the data used by us in making the accounting estimates and the related disclosures are appropriate to achieve recognition, measurement, or disclosure that is in accordance with GAAP.

10. Management has identified and disclosed to you all laws and regulations that have a direct and material effect on the determination of financial statement amounts.

11. We are responsible for reporting identified or suspected noncompliance with provisions of laws, regulations, contracts, and grant agreements to the Entity’s Board of Directors.

12. We believe that we have properly identified, reported, and classified each component unit of the Entity and each activity that meets the criteria established in GASB Codification Section 2100, Defining the Financial Reporting Entity.

13. The Entity has appropriately identified and disclosed all segments in accordance with GASB Codification Section 2500, Segment Information.

14. The Entity has informed you that the annual report comprises: the Annual Comprehensive Financial Report (ACFR) (the “ACFR”). The Entity's final version of the ACFR has been provided to you and is consistent with the financial statements and does not contain any material misstatements. The Entity expects to issue the ACFR and make it available to users in printed form or electronically on or about April 16, 2024.

15. The Entity has not completed the process of evaluating the impact that will result from adopting GASB Statement No. 99, *Omnibus*, Statement No. 100, *Accounting Changes and Error Corrections*, Statement No. 101, *Compensated Absences*, and Statement No. 102, *Certain Risk Disclosures*, as discussed in Note 1. The Entity is therefore unable to disclose the impact that adopting these GASB Statements will have on its financial position, results of operations, and cash flows when such statement is adopted.

16. We have complied with all applicable provisions of the Foreign Corrupt Practices Act.

17. We have disclosed to you all significant cyber security incidents and/or breaches in which an actual or potentially adverse effect on an information system, network, or the information residing therein

occurred or there was a loss of assets. We considered the cyber incident or breach to be significant if such incident or breach merited the attention of those charged with governance.

18. The Entity has provided to you: A corporate entity tree that identifies the legal names of the Entity's affiliates, including affiliates as defined in AICPA Interpretation 1.224.020, *State and Local Government Client Affiliates.*

Except where otherwise stated below, immaterial matters less than $*168,000* collectively are not considered to be exceptions that require disclosure for the purpose of the following representations. This amount is not necessarily indicative of amounts that would require adjustment to, or disclosure in, the basic financial statements.

19. There are no transactions that have not been properly recorded and reflected in the financial statements.

20. The Entity has no plans or intentions that may affect the carrying value or classification of assets and liabilities.

21. Regarding related parties:

    a. We have disclosed to you the identity of all the Entity's related parties and all the related-party relationships and transactions of which we are aware.

    b. To the extent applicable, related parties and all the related-party relationships and transactions, including sales, purchases, loans, transfers, leasing arrangements, and guarantees (written or oral) have been appropriately identified, properly accounted for, and disclosed in the financial statements.

22. In preparing the financial statements in accordance with GAAP, management uses estimates. All estimates have been disclosed in the financial statements for which known information available prior to the issuance of the financial statements indicates that both of the following criteria are met:

    a. It is reasonably possible that the estimate of the effect on the financial statements of a condition, situation, or set of circumstances that existed at the date of the financial statements will change in the near term due to one or more future confirming events.

    b. The effect of the change would be material to the financial statements.

23. There are no:

    a. Instances of identified or suspected noncompliance with laws, regulations, or provisions of contracts or grant agreements whose effects should be considered when preparing the financial statements, or other instances that warrant the attention of those charged with governance.

    b. Known actual or possible litigation and claims whose effects should be considered when preparing the financial statements and that have not been disclosed to you and accounted for and disclosed in accordance with GAAP.

c. Known actual or likely instances of abuse that have occurred that could be quantitatively or qualitatively material to the financial statements.

d. Other liabilities or gain or loss contingencies that are required to be accrued or disclosed by GASB Codification Section C50, *Claims and Judgments*.

24. The Entity has satisfactory title to all owned assets, and there are no liens or encumbrances on such assets, nor has any asset been pledged as collateral. Further, the Entity has ownership of all reported infrastructure assets, or if ownership is unclear, the Entity has responsibility for managing all reported infrastructure assets.

25. The Entity has complied with all aspects of contractual agreements that may affect the financial statements.

26. No department or agency of the Entity has reported a material instance of noncompliance to us.

27. No events have occurred after December 31, 2023, but before the date the financial statements were issued, that require consideration as adjustments to, or disclosures in, the financial statements.

28. Regarding required supplementary information:

    a. We confirm that we are responsible for the required supplementary information.

    b. The required supplementary information is measured and presented in accordance with GASB Codification Section 2200, *Annual Comprehensive Financial Report*.

29. The Entity has evaluated its leases and has properly classified, recognized, and reported all leases in accordance with the recognition, measurement, financial reporting, and disclosure requirements set forth in GASB Codification Section L20, Leases.

30. We have disclosed to you all new or changes to the existing 401(k), IRC Section 457, and deferred compensation plans.

Kris Kolluri

Kris Kolluri *Chief Executive Officer*

Patrick McCoy

Patrick McCoy Acting *Chief Financial Officer*

cc: Board of Directors

Gateway Development Commission

Annual Comprehensive Financial Report

For the year ended December 31, 2023

Prepared by the Finance Department

GATEWAY DEVELOPMENT COMMISSION

ANNUAL COMPREHENSIVE FINANCIAL REPORT

YEAR ENDED DECEMBER 31, 2023

TABLE OF CONTENTS

INTRODUCTORY SECTION

GATEWAY PROGRAM

April 16, 2024

Board of Commissioners
Gateway Development Commission

120 Broadway, 10th Floor New
York, NY 10271

2 Penn Plaza East, 11th Floor
Newark, NJ, 07107

RE: Gateway Development Commission - 2023 Consolidated Financial Statements

Dear Commissioners:

The Annual Comprehensive Financial Report (ACFR) of the Gateway Development Commission (the Commission), for the year ended December 31, 2023, is hereby submitted. Responsibility for both the accuracy of the presented data and the completeness and fairness of the presentation, including disclosures, rests with management. To the best of our knowledge and belief, the presented data is accurate in all material respects and is reported in a manner that fairly presents the financial position, the results of operations of the Commission, and includes all disclosures necessary to enable the reader to gain the maximum understanding of the Commission's financial activities.

The GDC Act requires that financial statements be presented in conformance with accounting principles generally accepted in the United States of America (GAAP) as applicable to governmental entities and audited in accordance with generally accepted auditing standards by licenses independent certified public accountants. This report serves to fulfill these requirements. In addition, an audit of the financial statements has been completed by the Commission's independent auditors, Deloitte & Touche, LLP. The audit was performed to provide reasonable assurance that the financial statements of the Commission, as a whole, are free of material misstatements. The audit involved examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements; assessing the accounting principles used and significant estimates made by management; and evaluating the overall financial statement presentation. The independent auditors concluded that there was a reasonable basis for issuing an unmodified ("clean") opinion stating that the Commission's financial statements for the year ended December 31, 2023, are fairly presented in conformity with Generally Accepted Accounting Principles ("GAAP"). The Independent Auditor's Report is presented at the front of the financial section of the ACFR.

Management is responsible for establishing and maintain internal accounting controls to provide reasonable assurance that assets are safeguarded against loss, theft or misuse and that financial records for preparing financial statements and maintaining accountability for assets are reliable.

The internal control system is designed to provide reasonable, rather than absolute, assurance that these objectives are met and that the financial statements are free from material misstatement. The concept of reasonable assurance recognizes that the cost of a control should not exceed the benefits likely to be derived from that control and the evaluation of costs and benefits requires estimates and judgements by management. We believe the Commission's internal controls adequately safeguard assets and provide reasonable assurance that financial transactions are properly recorded.

Management's Discussion and Analysis (MD&A) immediately follows the Independent Auditor's Report and provides a narrative introduction, overview, and analysis of the basic financial statements. MD&A complements this letter of transmittal and should be read in conjunction with it.

This letter and its enclosure will be appended to the Commission's 2023 Annual Report that is being transmitted to the Governors and State Legislatures of New York and New Jersey in accordance with the provisions of the GDC Act.

Sincerely,

Patrick J. McC

Acting Chief Financial Officer Gateway Development Commission

GATEWAY DEVELOPMENT COMMISSION

ANNUAL COMPREHENSIVE FINANCIAL REPORT

YEAR ENDED DECEMBER 31, 2023

COMMISSION BOARD AND MANAGEMENT

COMMISSION BOARD	POSITION
Balpreet Grewal-Virk	New Jersey Commissioner & Co-Chair
Alicia Glen	New York Commissioner & Co-Chair
Anthony R. Coscia	Amtrak Commissioner & Vice Chair
Jamey Barbas	New York Commissioner
Janine Bauer	New Jersey Commissioner
Marie-Therese Dominguez	New York Commissioner
Amy Rosen	New Jersey Commissioner

MANAGEMENT	POSITION
Kris Kolluri	Chief Executive Officer
Eric Daleo	Chief Program Officer
Robert Hickman	Chief Administrative Officer
Madeleine McDonnell	Chief of Staff & Policy Advisor
James Morrison	Chief Technical Officer
Patrick J. McCoy	Acting Chief Financial Officer
Steve Sigmund	Chief of Public Outreach
Edmund Caulfield	Acting General Counsel; Chief Ethics and Compliance Officer and Board Secretary

FINANCIAL SECTION

Deloitte.

Deloitte & Touche LLP
110 Morris Street
Morristown, NJ 07960
USA

Tel:+1 973 602 6000
www.deloitte.com

Independent Auditor's Report

To the Members of the Board of
Gateway Development Commission

Opinion

We have audited the financial statements of the Gateway Development Commission (Entity), as of and for the year ended December 31, 2023, and the related notes to the financial statements, which collectively comprise the Entity's basic financial statements as listed in the table of contents.

In our opinion, the accompanying financial statements referred to above present fairly, in all material respects, the financial position of the Gateway Development Commission as of December 31, 2023, and the changes in financial position and its cash flows for the year then ended in accordance with accounting principles generally accepted in the United States of America.

Basis for Opinion

We conducted our audit in accordance with auditing standards generally accepted in the United States of America (GAAS). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Financial Statements section of our report. We are required to be independent of the Entity, and to meet our other ethical responsibilities, in accordance with the relevant ethical requirements relating to our audit. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our audit opinion.

Responsibilities of Management for the Financial Statements

Management is responsible for the preparation and fair presentation of the financial statements in accordance with accounting principles generally accepted in the United States of America, and for the design, implementation, and maintenance of internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, management is required to evaluate whether there are conditions or events, considered in the aggregate, that raise substantial doubt about the Entity's ability to continue as a going concern for twelve months beyond the financial statement date, including any currently known information that may raise substantial doubt shortly thereafter.

Auditor's Responsibilities for the Audit of the Financial Statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance but is not absolute assurance and therefore is not a guarantee that an audit conducted in accordance with GAAS will always detect a material misstatement when it exists. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control. Misstatements are considered material if there is a substantial likelihood that, individually or in the aggregate, they would influence the judgment made by a reasonable user based on the financial statements.

In performing an audit in accordance with GAAS, we

- exercise professional judgment and maintain professional skepticism throughout the audit.
- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, and design and perform audit procedures responsive to those risks. Such procedures include examining, on a test basis, evidence regarding the amounts and disclosures in the financial statements.
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Entity's internal control. Accordingly, no such opinion is expressed.
- evaluate the appropriateness of accounting policies used and the reasonableness of significant accounting estimates made by management, as well as evaluate the overall presentation of the financial statements.
- conclude whether, in our judgment, there are conditions or events, considered in the aggregate, that raise substantial doubt about the Entity's ability to continue as a going concern for a reasonable period of time.

We are required to communicate with those charged with governance regarding, among other matters, the planned scope and timing of the audit, significant audit findings, and certain internal control-related matters that we identified during the audit.

Required Supplementary Information

Accounting principles generally accepted in the United States of America require that the management's discussion and analysis be presented to supplement the basic financial statements. Such information is the responsibility of management and, although not a part of the basic financial statements, is required by the Governmental Accounting Standards Board who considers it to be an essential part of financial reporting for placing the basic financial statements in an appropriate operational, economic, or historical context. We have applied certain limited procedures to the required supplementary information in accordance with auditing standards generally accepted in the United States of America, which consisted of inquiries of management about the methods of preparing the information and comparing the information for consistency with management's responses to our inquiries, the basic financial statements, and other knowledge we obtained during our audit of the basic financial statements. We do not express an opinion or provide any assurance on the information because the limited procedures do not provide us with sufficient evidence to express an opinion or provide any assurance.

Other Information

Management is responsible for the other information included in the annual report. The other information comprises the introductory section but does not include the basic financial statements and our auditor's report thereon. Our opinion on the basic financial statements does not cover the other information, and we do not express an opinion or any form of assurance thereon.

In connection with our audit of the basic financial statements, our responsibility is to read the other information and consider whether a material inconsistency exists between the other information and the basic financial statements, or the other information otherwise appears to be materially misstated. If, based on the work performed, we conclude that an uncorrected material misstatement of the other information exists, we are required to describe it in our report.

Deloitte & Touche LLP

April 16, 2024

The following discussion and analysis of the business-type activities of the Gateway Development Commission (the "Commission") provides an introduction to the basic financial statements for the year ended December 31, 2023. This discussion has been prepared by management and should be read in conjunction with the basic financial statements, and footnotes found in this report. This information taken collectively is designed to provide readers with an understanding of the Commission's finances.

OVERVIEW OF THE FINANCIAL STATEMENTS

The Commission is structured as a single enterprise fund. The financial statements are prepared on the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") as applied to government entities. Therefore, revenues are recognized when earned and expenses are recognized when incurred. Capital assets are capitalized and depreciated over their useful lives. See "Notes to Financial Statements" for a summary of the Commission's significant accounting policies and practices.

The Statement of Net Position presents information on all the Commission's assets, and liabilities with the difference between total assets and total liabilities reported as net position. Over time, increases or decreases in net position may serve as a useful indicator of the Commission's financial position.

The Statement of Revenues, Expenses and Changes in Net Position presents information reflecting the current year's changes in the Commission's net position. All changes in net position are reported as soon as the underlying event giving rise to the change occurs, regardless of the timing of related cash flows. Thus, revenues and expenses are reported in this statement for certain items that will result in cash flows in future fiscal periods.

The Statement of Cash Flows reports the flow of cash. Consequently, only transactions that affect the Commission's cash accounts are recorded in these statements. A reconciliation follows these statements to assist in the understanding of the difference between cash flow from operating activities and operating income.

The Notes to Financial Statements are an integral part of the basic financial statements and provide information that is essential to a full understanding of the basic financial statements, such as the Commission's accounting methods and standards, details of cash, receivables, capital assets, employee benefits, capital contributions, contingencies, and subsequent events.

ACTIVITY HIGHLIGHTS

In July 2019, the States of New York and New Jersey created the Commission through the enactment of parallel legislation by each state and codified as the Gateway Development Commission Act (GDC Act).

The Commission is a seven-member governed public authority and a government sponsored authority (with three Commissioners from the State of New York, three Commissioners from the State of New Jersey, and one Commissioner directly appointed by Amtrak) that is empowered to facilitate and coordinate activities and encourage the actions of others to effectuate the Gateway Program, in particular, Phase 1 of the Gateway Program which includes the Hudson Tunnel Project (HTP).

The Commission is the project sponsor for the HTP. The purpose of the project is to preserve the current functionality of Amtrak's Northeast Corridor (NEC) service and NJ TRANSIT's commuter rail service between New Jersey and Penn Station New York (PSNY). The project involves both repairing the deteriorating North River Tunnel and providing reliable, resilient, and redundant capability under the Hudson River for Amtrak and NJ TRANSIT NEC trains between New Jersey and PSNY. These improvements must be achieved while maintaining uninterrupted commuter and intercity rail service and by optimizing the use of existing infrastructure.

The HTP is the most urgent infrastructure project in the nation. If even one of the two tubes in the current 113-year-old North River Tunnel must undergo a planned shutdown for rehabilitation, without a new tunnel in place there will be a 75% reduction in rail service linking New York to New Jersey and the rest of the NEC.

Once complete, the HTP will improve the most congested section of the NEC, which serves a region that accounts for 17% of the United States (US) population and generates one fifth of the national GDP as the busiest passenger rail portion of the US. The HTP will provide approximately 72,000 direct, indirect, and induced jobs and $19 billion in economic activity created over its construction period. The North River Tunnel Rehabilitation project element will address the causes of chronic unreliability and bring the tunnel to a state of good repair.

The Commission made significant progress on the HTP in 2023 and anticipates a productive year ahead.

In the last year, construction on the HTP launched on both sides of the Hudson River, as work began on both the Hudson Yards Concrete Casing – Section 3 in New York and on the Tonnelle Avenue Bridge and Utility Relocation Project in New Jersey.

The Commission also applied for and received historic funding commitments from the federal government for the HTP in 2023. The funding commitment to the HTP represents the largest federal investment ever in a mass transit project. The HTP has secured nearly $12 billion in federal commitments and a revised 70%-30% funding split between federal and local partners. In addition, FTA officially designated GDC as an eligible recipient for federal funding.

Over the past 12 months, the Commission finalized the governance framework and partner agreements for HTP's delivery, with Supporting or Executing Partner (SEP) Agreements in place with Amtrak, NJ TRANSIT, and the Port Authority of New York and New Jersey (PANYNJ) that will ensure each contract for the HTP is efficiently executed.

Through ongoing industry engagement events, the Commission worked closely with the private sector to develop an improved contracting and procurement strategy to attract a competitive and world class pool of firms to build the HTP.

The Commission has also continued to build its organizational, financial, legal, and technical capacity to deliver the HTP. Having grown to forty-four staff this year, the Commission's team now collectively holds decades of experience at the highest levels in the transportation sector.

The Commission looks forward to continuing its progress toward delivering the resilient and reliable rail transportation experience that will serve this region for the next one hundred years.

FINANCIAL HIGHLIGHTS

The year ended December 31, 2023, represents the Commission's first year of financial operations. The change in Net Position is an indicator of whether the Commission's overall financial condition has improved or deteriorated during the year. The Net Position balance increased from $2.1 million at December 31, 2022 to $71.0 million at December 31, 2023. The change in Net Position for the year ended December 31, 2023, was as follows:

Operating Revenues	$ 58,174,403
Operating Expenses	10,355,866
Operating Income	47,818,537
Non-Operating Revenues	801,624
Income Before Capital Contributions	48,620,161
Capital Contributions	20,300,000
Increase in Net Position	68,920,161
Beginning Net Position	2,129,866
Ending Net Position	$ 71,050,027

Reconciliation of Beginning Net Position

Prior to the beginning of the Commission's first year of operations in 2023, there were some funds received from other government agencies as well as interest earned on deposits, and accrued operating expenses relating to calendar year 2022. This activity was accurately reflected in the opening net position on January 1, 2023, as outlined below:

Funds received from PANYNJ in December 2022	$ 2,137,125
Interest earned on bank deposits in December 2022	1,908
Insurance policy premiums paid in January 2023 for 2022 coverage term	(9,167)
Net Position at January 1, 2023	$ 2,129,866

STATE AND AGENCY CONTRIBUTIONS

The 2023 Operating and Capital Budget is funded pursuant to Section 11.01 of the Project Development Agreement ("PDA"). Each of the State of New Jersey, the State of New York, and Amtrak (together the "Project Partners") have agreed to fund one-third of the annual operating budget approved by the GDC Board (the "Annual Operating Budget"). This Annual Operating Budget provides the necessary support for salaries of current staff, hiring of additional staff, professional support services necessary to support and supplement the work of Commission staff (including necessary support for planning, engineering and project systems and development), and other administrative expenses necessary to stand up the Commission as a fully functioning organization. The total of the Commission's 2023 Operating and Capital Budget was $58.2 million.

The responsibility of each Project Partner is supported by a fully executed Funding Agreement that requires the payment of periodic installments to support the Commission's budget commitment. Below is a summary of each partners commitment for the year ended December 31, 2023:

Amtrak	$	19,391,467
State of New Jersey		19,391,468
State of New York		19,391,468
	$	58,174,403

In 2023, the Commission recognized $58.2 million of operating revenue and received all funding obligations under the agreements by December 31, 2023.

OPERATING EXPENSES

In 2023, the Commission incurred operating costs of $10.4 million, which was below the budgeted amount of $58.2 million The following reflects the major cost categories for the year ended December 31, 2023:

Labor, fringe benefits and taxes	$	4,450,960
Professional support services		4,520,781
Federal related costs		937,699
Administrative costs		255,200
Equipment purchases		87,664
Equipment services		103,562
Total Operating Expenses	$	10,355,866

NON-OPERATING REVENUES

Interest on Deposits

Interest on deposits was $0.8 million for the year ended December 31, 2023. The Commission maintained one (1) interest-bearing checking account.

CAPITAL CONTRIBUTIONS

Capital contributions from state governments are recorded as receivables amounting to $20.3 million at December 31, 2023. These contributions relate to the Tonnelle Ave, Bridge Project. The State of New Jersey Department of Transportation committed and appropriated $17.0 million towards the cost of this package. Funds received from the State of New Jersey are reported as Capital Contributions in the Statement of Revenues, Expenses, and Changes in Net Position when appropriated. In addition to the State of New Jersey's funding obligation, Amtrak will also provide a portion of the funding requirements by contributing $3.3 million towards the local share requirement of the Project. Amtrak's share will be met through an "in-kind" contribution. To satisfy the in-kind contribution, Amtrak will pay for certain utility relocation costs related to the Project.

The $17.0 million from the State of New Jersey was received in 2024 in addition to $2 million more in Tonnelle Ave. Bridge funding.

FINANCIAL POSITION

The Statement of Net Position presents the financial position of the Commission at December 31, 2023. This statement includes all assets and liabilities of the Commission. Net Position is the difference between total assets and total liabilities and is an indicator of the current fiscal health of the Commission. During the year ended December 31, 2023, Total Net Position increased by $68.9 million from $2.1 million at December 31, 2022 to $71.0 million at December 31, 2023. The following is a summarized presentation of the Commission's assets, liabilities, and net position at December 31, 2023:

	2023
Assets:	
Current Assets	$ 52,956,998
Non Current Assets	20,300,000
Capital Assets	1,600,798
Total Assets	$ 74,857,796
Liabilities:	
Current	$ 3,759,680
Noncurrent Liabilities	48,089
Total Liabilities	$ 3,807,769
Net Position:	
Net Investment in Capital Assets	$ 298,526
Restricted	20,300,000
Unrestricted	50,451,501
Total Net Position	$ 71,050,027

At December 31, 2023, $0.3 million of the Commission's net position represents its Net Investment in Capital Assets. This represents total construction-in-progress less the associated construction expense accruals and construction retainages at December 31, 2023. During the construction phase of the Hudson Tunnel Project ("HTP"), construction expenditures are reported as construction-in-progress until the assets are being used for their intended purpose.

The Restricted Net Position balance of $20.3 million at December 31, 2023, represents funding made available by the State of New Jersey Department of Transportation in the amount of $17.0 million and $3.3 million of contributions made available by Amtrak.

The Unrestricted Net Position of $50.5 million at December 31, 2023, may be used to meet the Commission's ongoing obligations.

CAPITAL CONSTRUCTION ACTIVITIES

During the year ended December 31, 2023, the Commission expended $1.4 million on capital projects related to the Tonnelle Avenue Bridge Project that is being partially funded by the State of New Jersey Department of Transportation, and Amtrak.

Below is a listing of the major projects under construction and the amounts expended during 2023:

Projects Under Construction	2023
Tonnelle Avenue Bridge	$ 1,358,348
Hudson River Ground Stabilization	76,766
Palisades Tunnel	67,461
Mahnattan Tunnel	81,939
Hudson Tunnel	16,284
Total	$ 1,600,798

Contact Information

This financial report is designed to provide a general overview of the Gateway Development Commission's finances. Questions concerning any data provided in this report or request for additional information should be directed to Patrick J. McCoy, Acting Chief Financial Officer, Gateway Development Commission, Two Penn Plaza East, Newark, New Jersey 07105.

Gateway Development Commission
Statement of Net Position
as of December 31, 2023

		Business-Type Activities Enterprise Fund
ASSETS		
Current Assets		
Cash	$	52,533,201
Interest receivable		171,929
Prepaid expenses		245,764
Other receivables		6,104
Total Current Assets		52,956,998
Noncurrent Assets		
Due from State of New Jersey- restricted		17,000,000
Due from Amtrak- restricted		3,300,000
Capital assets, not being depreciated		1,600,798
Total Noncurrent Assets		21,900,798
Total Assets	$	74,857,796

See notes to financial statements (continued)

Gateway Development Commission
Statement of Net Position
as of December 31, 2023

		Business-Type Activities Enterprise Fund
LIABILITIES AND NET POSITION		
Current liabilities		
Accounts payable	$	2,165,443
Accrued payroll and benefits		340,054
Construction payable		1,254,183
Total Current Liabilities		3,759,680
Non-Current Liabilities		
Construction retainage payable		48,089
Total Non-Current Liabilities		48,089
Total Liabilities		3,807,769
NET POSITION		
Net investment in capital assets		298,526
Restricted for:		
Capital acquisitions and construction		20,300,000
Unrestricted		50,451,501
Total Net Position		71,050,027
TOTAL LIABILITIES AND NET POSITION	$	74,857,796

See notes to financial statements (concluded)

Gateway Development Commission
Statement of Revenues, Expenses and Changes in Net Position
for the Year Ended December 31, 2023

		Business-Type Activities Enterprise Fund
Operating Revenues		
State and agency contributions	$	58,174,403
Total Operating Revenues		58,174,403
Operating Expenses		
Labor, fringe benefits and taxes		4,450,960
Professional support services		4,520,781
Federal-related costs		937,699
Administrative costs		255,200
Equipment purchases		87,664
Equipment services		103,562
Total Operating Expenses		10,355,866
Operating Income		47,818,537
Non-Operating Revenues		
Interest on deposits		801,624
Total Non-Operating Revenues		801,624
Change in Net Position Before Capital Contributions		48,620,161
Capital contributions		20,300,000
Change in Net Position		68,920,161
NET POSITION, Beginning of Year		2,129,866
NET POSITION, End of Year	$	71,050,027

See notes to financial statements

Gateway Development Commission
Statement of Cash Flows
For the Year Ended December 31, 2023

		Business-Type Activities Enterprise Fund
Cash Flows from Operating Activities		
Cash receipts from state and agency sources	$	56,558,447
Payments to employees		(3,871,483)
Payments to suppliers		(4,239,921)
Net Cash Provided by Operating Activities		48,447,043
Cash Flows from Capital and Related Financing Activities		
Purchase of Capital Assets		(298,526)
Net Cash Used in Capital and Related Financing Activities		(298,526)
Cash Flows from Investing Activities		
Interest on deposits		631,603
Net Cash Provided by Investing Activities		631,603
Net Increase in Cash		48,780,120
Cash, Beginning of Year		3,753,081
Cash, End of Year	$	52,533,201

See notes to financial statements (continued)

Gateway Development Commission
Statement of Cash Flows
For the Year Ended December 31, 2023

		Business-Type Activities Enterprise Fund
Reconciliation of Operating Income to Net Cash Provided by Operating Activities		
Cash Flows from Operating Activities		
Operating income	$	47,818,537
Adjustments to Reconcile Operating Income to Net Cash Provided by Operating Activities:		
Increase in Operating Assets:		
Other receivables		(6,104)
Prepaid expenses		(245,764)
Increase (Decrease) in Operating Liabilities:		
Accounts payable		2,156,277
Accrued payroll and benefits		340,054
Unearned revenue		(1,615,957)
Net Cash Provided by Operating Activities	$	48,447,043

See notes to financial statements (concluded)

GATEWAY DEVELOPMENT COMMISSION
NOTES TO THE FINANCIAL STATEMENTS
YEAR ENDED DECEMBER 31, 2023

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND PRACTICES

Organization and Purpose: The Gateway Development Commission ("Commission") was created in July 2019, by the States of New York and New Jersey through the enactment of parallel legislation by each state and codified as the Gateway Development Commission Act (GDC Act).

The Commission is a seven-member governed public authority and a government sponsored authority (with three Commissioners from the State of New York, three Commissioners from the State of New Jersey, and one Commissioner directly appointed by Amtrak) that is empowered to facilitate and coordinate activities and encourage the actions of others to effectuate the Gateway Program, in particular, Phase 1 of the Gateway Program which includes the Hudson Tunnel Project (HTP).

The Commission in cooperation with the New Jersey Transit Corporation (NJ TRANSIT), the Port Authority of New York and New Jersey (PANYNJ) and the National Railroad Passenger Corporation (Amtrak), propose the construction of a new two-track heavy rail tunnel along the Northeast Corridor from the Bergen Palisades in New Jersey to Manhattan that will directly serve Penn Station New York. The project consists of three elements: construction of a new Hudson Tunnel, the rehabilitation and modernization of the existing North River Tunnel, and the Hudson Yards Concrete Casing Section 3 project. The project is part of the Northeast Corridor Gateway Program, a series of strategic rail infrastructure investments designed to improve current service and create new capacity.

Reporting Entity: In defining the Gateway Development Commission for financial reporting purposes, management applied the requirements of Governmental Accounting Standards Board (GASB) Statements No.14, *The Financial Reporting Entity* and GASB Statement No. 39, *Determining Whether Certain Organizations Are Component Units*. These statements establish the basis for defining the reporting entity and whether it is considered a component unit of another entity and whether other entities are component units. Based on these criteria, the reporting entity of the Commission includes only the accounts of the Commission. The Commission identified no component units to include in these basic financial statements nor identified any other entity that should include the Commission in its basic financial statements.

Basis of Presentation and Accounting: The Commission's financial statements are prepared on the accrual basis of accounting in conformity with accounting principles generally accepted in the United States of America ("U.S. GAAP") as applied to government entities and accordingly follow all applicable Governmental Accounting Standards Board (GASB) pronouncements. Revenues are recognized when they are earned and expenses are recorded when a liability is incurred, regardless of the timing of related cash flows.

The principal operating revenues of the Commission are received from the States of New York and New Jersey and Amtrak. Together these entities are referred to as the "Project Partners" and have agreed to fund one-third each of the annual operating budget of the Commission. Operating expenses include salaries and wages of Commission staff, fringe benefit expense, professional support service costs and administrative expenses. The Commission's primary source of non-operating revenue is from capital contributions.

Current Assets:

- **Cash on Deposit:** The Commission's bank balances are insured up to $250,000 in the aggregate by the Federal Deposit Insurance Corporation ("FDIC") for each bank in which funds are deposited.

- **Interest Receivable:** Represents interest earned during but not received as of December 31, 2023.

- **Prepaid Expenses:** Prepaid expenses consist primarily of insurance and any other expenditures expected to benefit future periods.

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND PRACTICES (Continued)

Noncurrent Assets:

Restricted assets necessary to meet current obligations that are payable from the restricted assets are classified as current assets on the statement of net position. Assets restricted for construction include funds available for the design and construction of the Hudson Tunnel Project (HTP).

Restricted assets that are restricted for disbursements in the acquisition or construction of noncurrent assets or that are segregated for the liquidation of long-term debts are classified as noncurrent assets.

Assets restricted for construction include funds available for the design and construction of capital improvements. Currently the only assets restricted for construction are amounts due from Amtrak and the State of New Jersey.

Assets legally restricted (by law, regulation, or contractual obligation) for a specific purpose are reported as a restricted assets. The Commission's practice is to determine on a case-by-case basis whether to spend restricted assets or unrestricted assets when both are available for the same purpose.

Capital Assets: Capital assets are shown as a noncurrent asset in the statement of net position. The Commission expects to record a significant amount of construction related activity to be recorded as Construction-in-Progress until the project is substantially complete and being used for its intended purpose. All capital assets are recorded at cost and may include vehicles, buildings, furniture, fixtures, other equipment, and infrastructure (tunnel construction related activity) as well as right-to-use leased assets and subscription-based information technology arrangements (SBITA), net of accumulated depreciation and amortization. The thresholds for capitalization of various capital asset acquisitions are listed below.

Capitalization Policy: Fixed assets are capitalized as follows:

- All land acquisitions including buildings/facilities acquisitions and new construction costing more than $100,000
- Facility renovation and improvement projects costing more than $100,000
- Land improvement and infrastructure projects costing more than $100,000
- Equipment costing more than $5,000 with a useful life beyond a single reporting period (one year)
- Purchases of equipment and facilities acquired through a debt financing arrangement that transfers ownership at the end of the contract.
- Right-to-use intangible lease assets more than $50,000 required under GASB 87
- SBITAs more than $100,000 required under GASB 96
- Computer software costing more than $5,000 with a useful life beyond a single reporting period.
- Intangible assets of internally generated computer software and all other intangible assets costing more than $100,000
- Construction in Progress (CIP) for capital projects with a budget more than $100,000

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND PRACTICES (Continued)

Depreciation of Capital Assets: Depreciation of capital assets is computed using the straight-line method over the estimated useful lives of the assets as follows:

	Useful Life in Years
Tunnel Infrastructure	100
Equipment	5 to 7
Vehicles	5 to 7
Furniture and Fixtures	5 to 7
Buildings	30
Right to Use Assets	Lease Life
Subscription Based Information Technology Arrangements	*
Computer Software	2 to 5
Renovations and Improvements	25 to 30

*- A subscription asset should be amortized over the shorter of the subscription term or the useful life of the underlying asset.

Construction-in-Progress: Construction-in-progress is stated at cost, which relates to the cost of construction related activities not yet placed into service. No depreciation expense is recorded on construction-in-progress until such time as the relevant assets are completed and being used for their intended purpose.

Vacation Allowance

The Commission's *Vacation Days Policy* provides that Full-Time Officers and Employees receive twenty (20) paid vacation days per year. Full-Time Officers and Employees who have not completed a full calendar year of employment will be credited on a pro-rated basis in accordance with the *Vacation Days Policy*. Full-Time Officers and Employees may carry no more than one (1) years' allotment into a subsequent year.

Payment of unused vacation allowance will not be provided for vacation carryover days in excess of the amount of days that have accrued up to the point of the Full-Time Officer's or Employee's separation, which will be based on the Full-Time Officer or Employee's length of service and in accordance with the *Vacation Days Policy*. Officers and Employees will be compensated for unused vacation days upon separation of employment calculated at their rate of pay at separation.

Sick Allowance

The Commission provides twelve (12) days of annual paid Sick Leave to all Full-Time Officers and Employees to be used for their own illness or non-occupational injury, or the illness of Family Members. Such Sick Leave allotment shall be credited annually on January 1st of each year for Full-Time Officers and Employees who have completed a full calendar year of employment with the Commission. Full-Time Officers and Employees who have not completed a full calendar year of employment will be credited on a pro-rated basis in accordance with the Sick Leave Policy.

There is no limitation on the maximum number of sick days an Employee may accumulate in his/her sick bank account. Officers and Employees will not be compensated for unused sick days upon separation of employment.

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES AND PRACTICES (Continued)

Non-Current Liabilities:

Construction Retainage Payable - represents the portion of funds that are withheld from a contractor and not released until a project is finished.

Net Position

The Commission's net position is reported in the statement of net position in the following categories:

- Net investment in capital assets
- Restricted for:
  Capital projects
- Unrestricted

Net investment in capital assets includes capital assets, net of any construction related payables and retainages.

Net Position Restricted for Capital Projects includes acquisitions and construction amounts that have a capital project related purpose restriction.

Resources that are not constrained are reported as unrestricted in the statement of net position.

When both restricted and unrestricted resources are available for use for a specific purpose, it is the Commission's policy to use restricted resources first, then unrestricted resources as they are needed.

Revenue and Expense Classification – The Commission distinguishes operating revenues and expenses from non-operating items in the preparation of its financial statements. Operating revenues and expenses primarily result from administrative operations. The principal operating revenues are classified as State and Agency Contributions. The Commission's operating expenses include labor, fringe benefits and payroll taxes, professional support services, federal-related costs, administrative costs, equipment purchases, and equipment services related to overseeing the construction of the HTP. All revenues and expenses not meeting this definition are reported as capital contributions. Capital Contribution revenue is recognized upon receipt of an executed funding agreement. The Commission is exempt from paying federal and state taxes.

Recent Accounting Pronouncements

New Accounting Pronouncements Recently Adopted.

GASB Statement No. 94, *Public-Private and Public-Public Partnerships and Availability Payment Arrangements ("Arrangements")* ("GASB 94"), is effective for fiscal years beginning after June 15, 2022. Arrangements in which a government contracts with an operator to provide public services by conveying the right to operate or use a nonfinancial asset for a period of time is considered a Public- Private or Public-Public Partnership. Arrangements in which a government compensates an operator for services that may include designing, constructing, financing, maintaining, or operating a nonfinancial asset is considered an Availability Payment Arrangement ("APA").

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

The accounting for Public-Private or Public-Public Partnerships is defined in GASB 94 and will vary depending on whether the arrangement meets the definition of a service concession arrangement. APAs where ownership transfers by the end of the contract will be accounted for as a financed purchase of that underlying asset. The adoption of GASB 94 had no impact on the Commission's financial statements.

GASB Statement No. 96, *Subscription-Based Information Technology Arrangements*, ("GASB 96") is effective for fiscal years beginning after June 15, 2022. Similar to the principles used in GASB 87, GASB 96 provides guidance for accounting and financial reporting for subscription-based information technology arrangements or "SBITAs". The Statement defines SBITAs as a contract that conveys control of the right to use another party's information technology software, either alone or in combination with tangible capital assets, as specified in the contract for a period of time in an exchange or exchange-like transaction. The accounting will result in the recognition of a right-to-use subscription asset (an intangible asset) and a corresponding subscription liability. GASB 96 also provides guidance for other costs that are not subscription payments, such as implementation costs, and requires certain note disclosures regarding SBITAs. The adoption of GASB 96 had no impact on the Commission's financial statements.

GASB Statement No. 99, *Omnibus 2022*, paragraphs 11-25, is effective for fiscal years beginning after June 15, 2023. The requirements relate to Public-Private and Public-Public Partnerships and SBITAs. The adoption of these paragraphs had no impact on the Commission's financial statements.

Significant Upcoming Pronouncements: GASB has issued the following pronouncements that may affect the future financial position, results of operations, cash flows, or financial presentation upon implementation. The Commission's Management has not yet evaluated the effect of implementation of these standards. The following is a summary of GASB Statements that the Commission is required to assess:

GASB Statement No. 99, *Omnibus 2022* ("GASB 99"), has multiple effective dates depending on the Statement of the standard. This Statement addresses numerous accounting and financial reporting issues identified during the implementation and application of certain GASB pronouncements or during the due process on other pronouncements. The requirements related to extension of the use of LIBOR, accounting for SNAP distributions, disclosures of nonmonetary transactions, pledges of future revenues by pledging governments, clarification of certain provisions in Statement 34, as amended, and terminology updates related to Statement 53 and Statement 63 are effective upon issuance. The requirements related to leases, PPPs, and SBITAs are effective for fiscal years beginning after June 15, 2022, and all reporting periods thereafter. The requirements related to financial guarantees and the classification and reporting of derivative instruments within the scope of Statement 53 are effective for fiscal years beginning after June 15, 2023, and all reporting periods thereafter. The Commission has not completed their evaluation of GASB 99 but does not anticipate any material impact.

GASB Statement No. 100, *Accounting Changes and Error Corrections – An Amendment of GASB Statement No. 62* ("GASB 100"), has been issued to help enhance accounting and financial reporting requirements for accounting changes and error corrections to provide more understandable, reliable, relevant, consistent, and comparable information for making decisions or assessing accountability. GASB 100 defines accounting changes, addresses corrections of errors in previously issued financial statements, and prescribes accounting and financial reporting for both. GASB 100 also addresses how information that is affected by a change in accounting or error correction should be presented in the required supplementary information explaining that the information should be restated for error corrections but not for changes in accounting principles. The requirements of GASB 100 are effective for fiscal years beginning after June 15, 2023. The Commission has not completed their evaluation of GASB 100 but does not anticipate any material impact.

GASB Statement No. 101, *Compensated Absences* ("GASB 101"), has been issued to align the recognition and measurement guidance of compensated absences. GASB 101 requires that liabilities for compensated absences be recognized for leave that has not been used and leave that has been used but not yet paid in cash or settled otherwise. GASB 101 also establishes guidance for measuring a liability for leave that has not been used, generally using an employee's pay rate as of the date of the financial statements. The requirements of

NOTE 1 – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES (Continued)

GASB 101 are effective for fiscal years beginning after December 15, 2023. The Commission has not completed their evaluation of GASB 101 but does not anticipate any material impact.

GASB Statement No. 102, *Certain Risk Disclosures* ("GASB 102"), has been issued to provide users of government financial statements with essential information about risks related to a government's vulnerabilities due to certain concentrations or constraints. This Statement defines a concentration as a lack of diversity related to an aspect of a significant inflow of resources or outflow of resources. A constraint is a limitation imposed on a government by an external party or by formal action of the government's highest level of decision-making authority.

Concentrations and constraints may limit a government's ability to acquire resources or control spending. This Statement requires a government to assess whether a concentration or constraint makes the primary government reporting unit or other reporting units that report a liability for revenue debt vulnerable to the risk of a substantial impact. Additionally, this Statement requires a government to assess whether an event or events associated with a concentration or constraint that could cause the substantial impact to have occurred, have begun to occur, or are more likely than not to begin to occur within 12 months of the date the financial statements are issued. The requirements of GASB 102 are effective for fiscal years beginning after June 15, 2024. The Commission has not completed their evaluation of GASB 102 but does not anticipate any material impact.

NOTE 2 – CASH ON DEPOSIT

The Commission's cash balance includes an amount deposited with a commercial bank in an interest-bearing account. The Federal Deposit Insurance Corporation ("FDIC") insured this account up to $250,000.

The Commission's total cash on deposit on December 31, 2023, was $52.6 million. The Commission had no investments on December 31, 2023.

Custodial Credit Risk – Deposits. Custodial credit risk for deposits exists when, in the event of the failure of a depository financial institution, a government entity may be unable to recover deposits or recover collateral securities that are in the possession of an outside agency. As of December 31, 2023, $52.3 million of the Commission's bank balance was exposed to custodial credit risk.

NOTE 3 –DUE FROM STATE OF NEW JERSEY

In September 2023, the Commission entered into a funding agreement ("Agreement") with the State of New Jersey, whereas the State of New Jersey would provide funding for the Tonnelle Avenue Bridge and Utility Relocation Project (the "Project"). According to the Agreement, New Jersey shall make a payment to the Commission, subject to appropriation of such amounts for such purpose, in the amount of $19.0 million (the "New Jersey Share"). In regard to the $19.0 million, reflected in the Agreement; $2.0 million was not appropriated by the State of New Jersey and as a result has not been included in the total amount due from the State of New Jersey. As of December 31, 2023, the $17.0 million has not been paid to the Commission and as a result the Commission has recorded a receivable.

NOTE 4 - DUE FROM AMTRAK

In September 2023, the Commission entered into a funding agreement ("Agreement") with the State of New Jersey, whereas the State of New Jersey would provide funding for the Tonnelle Avenue Bridge and Utility Relocation Project (the "Project"). In addition to the State of New Jersey's funding obligation, Amtrak will also be responsible for contributing $3.3 million towards the local share requirement of the Project. Amtrak's share will be met through an "in-kind" contribution. To satisfy the in-kind contribution, Amtrak will pay for certain utility relocation costs related to the Project.

NOTE 5 – CAPITAL ASSETS

A summary of the changes in capital assets is as follows for the years ended December 31, 2023, is as follows:

	Balance January 1 2023	Additions	Deductions	Balance December 31, 2023
Capital assets not being depreciated:				
Construction Work in Progress	-	$ 1,600,798		$ 1,600,798
	$ -	$ 1,600,798	-	$ 1,600,798

NOTE 6 – EMPLOYEE BENEFIT PLANS

401(k) Profit Sharing Plan

During a portion of 2023, the Commission provided an employee 401(k) Profit Sharing Plan for all eligible employees. The Commission provides a maximum six (6) percent contribution. This plan permits employees to contribute up to six (6) percent of their salary, not to exceed $22,500 annually on a pre-tax basis. The Commission's expense for the defined contribution plan totaled $163 thousand in calendar year 2023. On September 30, 2023, the 401(k) Profit Sharing Plan was discontinued. Due to the discontinuance, employer contributions were not made after September 30, 2023. The Commission has recorded a voluntary retirement contribution payable at December 31, 2023 in the amount of $65 thousand that represents the amount of employer contributions from October 1, 2023 to December 31, 2023 that will be made on the employees' behalf once a new 401(a) plan has been created.

NOTE 7– CAPITAL CONTRIBUTIONS

Grants and other contributions used to acquire capital assets are classified as Capital Contributions in the Statement of Revenues, Expenditures and Changes in Net Position. Capital contributions consisted of the following for the year ended December 31, 2023:

Source:	Total
State of New Jersey Department of Transportation	$ 17,000,000
Amtrak	3,300,000
	$ 20,300,000

NOTE 8– OUTSTANDING CONTRACTS

As of December 31, 2023, the Commission had entered into construction contracts totaling approximately $33.5 million for construction and construction management services. These contracts are related to the Tonnelle Avenue Bridge Project.

NOTE 9– CONTINGENCIES

The Commission has a potential payment to the Port Authority of New York and New Jersey (“PANYNJ”) of approximately $44.0 million. For the past several years PANYNJ has made payments for administrative and operating costs related to the Hudson Tunnel Project (“HTP”). These expenditures were primarily spent during the time after the Commission’s legislative creation and prior to when the Commission became a functioning and independent entity. The Commission has submitted an HTP Financial Plan as part of the Commission’s request to advance to a Full Funding Grant Agreement (FFGA). A financing component of this plan is a Railroad Rehabilitation and Improvement Financing (“RRIF”) loan to the Commission through the U.S Department of Transportation (“USDOT”). The proceeds from this RRIF loan will be used to repay the Port Authority. In the unlikely event that the loan could not be procured, alternative funding arrangements would need to be explored. During 2023, the PANYNJ incurred costs of $7.6 million.

NOTE 10– SUBSEQUENT EVENTS

Management has evaluated subsequent events for the Commission through April 16, 2024, the date the financial statements were available to be issued. No events have occurred which would require adjustment to or disclosure in the financial statement.

APPENDIX C

BYLAWS OF
GATEWAY DEVELOPMENT COMMISSION

ARTICLE I
DEFINITIONS

ARTICLE II
COMMISSIONERS

ARTICLE III
OFFICERS

ARTICLE IV
BOARD MEETINGS AND DECISION-MAKING

ARTICLE V
PUBLIC HEARINGS

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 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 <u>Establishing, Levying and Collecting Tolls or Fees</u>. 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, <u>provided that</u> at least one hearing shall be held in each State.

(b) Not less than 72 hours before the first hearing held pursuant to this <u>Section 5.03</u>, 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.

APPENDIX D

Vendor Name	Service description
American Public Transportation Association (APTA)	Professional Membership
Build America Bureau Advisory	Government agency
CitiBusiness Card	Miscellaneous
City and State New York LLC dba GovExec Holdings, LLC	Subscription
CliftonLarsonAllen LLP	Consultants
Conti Civil LLC	Construction Services and Community Outreach (capital related)
DMC Publishing LLC	Promotions
First Unum Insurance Company	Insurance - Dental
GTY Software Inc. dba Bonfire Interactive LTD.	Procurement software
JP West, Inc	Insurance
Korn Ferry	Legal
Liberty Mutual Agency Corporation dba Liberty Mutual Insurance Company	Insurance - corporate
LinkedIn Corporation	Recruiting services
Marsh USA Inc. dba Marsh & McLennan Agency	Insurance broker
Mayer Brown LLP	Legal Services
McManimon, Scotland, Baumann, LLC	Legal Services
Niak Consulting Group, PC	Engineering and Construction Management (capital related)
Osprey Engineers, LLC	Engineering Services
Oxford United Healthcare	Insurance - Medical
Paychex Human Resource Services	Payroll Services
PayScale, Inc	HR Services
Proskauer Rose LLP	Legal Services
Sage Intacct Inc	ERP system
Standard Security Life Insurance Company	Insurance - Disability
The Hartford Group, Inc.	Insurance - Life
The HR Source, Inc.	Temporary Staffing Services
US DOT	BAB Fees
West Publishing Corporation dba Thomson Reuters-West	Software subscription