

**GATEWAY PROGRAM DEVELOPMENT CORPORATION  
CONFLICT OF INTEREST POLICY AND CODE OF ETHICS  
FOR TRUSTEES AND OFFICERS**

The Gateway Program Development Corporation (GDC) is a New Jersey nonprofit corporation formed pursuant to N.J.S.A. 15A:1-1, et seq., the New Jersey Nonprofit Corporation Act (the “Act”). GDC is organized for charitable purposes, specifically coordinating, developing, operating, financing, managing, owning, or otherwise engaging in activities to effectuate the transportation project between Penn Station, Newark, New Jersey, and Penn Station, New York, New York currently referred to as the “Gateway Program,” and by engaging in such other programs or purposes as lessen the burdens of government as may be requested or determined from time to time.

GDC’s Bylaws require that it shall act independently and prudently to meet the critical transportation infrastructure needs of the region’s people, businesses, and visitors by efficiently undertaking the Gateway Program.

Article X of the Bylaws requires (i) that the Board shall adopt a Conflict of Interest Policy as the policy of GDC that requires all Trustees, Officers, and other interested parties to disclose any relevant interest which may pose a conflict with GDC’s interest(s), and (ii) that each Trustee, Officer, and other interested party, as specified in such policy, shall complete an initial disclosure statement upon taking such position and an annual disclosure statement reporting any such interests or potential interests, and shall provide such statements to the Secretary.

The purpose of this Conflict of Interest Policy and Code of Ethics (Policy) is to set forth the duties and responsibilities of Trustees and Officers of GDC (as defined in GDC Bylaws) and other interested parties as may be specified by the Board, and thereby to protect the interests of the public and of GDC. The Board intends to adopt a separate Conflict of Interest Policy and Code of Ethics for GDC employees, consultants, and vendors. Employees, consultants and vendors of government and non-government organizations loaned to or working on behalf of GDC shall be subject to the conflicts, ethics and other policies promulgated by the organization that has hired, retained or contracted with them.

This Policy supplements but does not replace any applicable state and federal laws governing conflicts of interest applicable to nonprofit and charitable organizations generally or to GDC specifically.

**I. DUTIES**

**A. Duty to Disclose**

A conflict of interest arises when a Trustee or Officer of GDC may benefit personally from a decision he or she could make. Each Trustee or Officer must avoid such conflicts and disclose the existence of any financial interest that may pose a conflict of interest or appearance of a conflict of interest as defined herein.

**B. Fiduciary Duty**

Each Trustee or Officer should act in a fiduciary capacity, adhering to a duty of loyalty and care owed to GDC.

No Trustee or Officer shall undertake any employment or service or engage in any business or transaction or professional activity, whether compensated or not, which might reasonably be expected to impair his/her objectivity and independence of judgment in the exercise of his/her official duties.

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

Each Trustee or Officer should give thoughtful and reasoned consideration to all GDC matters. Each Trustee or Officer should keep properly informed about matters pertaining to his or her responsibilities, and should make appropriate use of all information reasonably available to him or her.

Trustees and Officers may take into consideration the views and policies of any elected officials or governmental bodies. Ultimately, Trustees and Officers should apply independent judgment in the best interest of GDC, its mission, and the public, consistent with the Bylaws of GDC and applicable laws and policies of their appointive authorities.

**C. Duty to Report**

Each Trustee or Officer should follow all applicable federal, state, and local laws. If a Trustee or Officer believes that another Trustee or Officer has violated the law, or this Policy, the Trustee or Officer should promptly report same, as appropriate, to the Chairman, the Vice-Chairman, and/or the General Counsel.

If a Trustee or Officer believes that a GDC employee, consultant, or vendor has violated the law, or any conflict of interest policy, code of ethics, or financial disclosure requirement that applies to employees, consultants, or vendors, the Trustee or Officer should promptly report same, as appropriate, to the Chief Executive Officer and/or the General Counsel.

**D. Duty to Participate in Training**

Each Trustee or Officer should regularly participate in training approved by the General Counsel concerning the legal, fiduciary, and ethical responsibilities attending his or her position.

**E. Duty of Confidentiality**

A Trustee or Officer should not use confidential information for his or her personal benefit, or improperly disclose it in breach of his or her fiduciary duties.

“Confidential information” is material non-public information related to GDC affairs that has been entrusted to a Trustee or Officer by GDC and that the Trustee or Officer knows, or should know, is intended by GDC to be kept confidential.

**F. Duty to Complete Annual Financial Disclosure and Certification**

Each Trustee and Officer shall annually complete a financial disclosure form, as prepared by the General Counsel. That form should disclose sufficient information to allow appropriate conflicts of interest determinations to be made including all property and business interests of the Trustee, Officer and his/her spouse, civil union or domestic partner, and dependent children. Completed disclosure forms shall be received and maintained by the General Counsel.

Each Trustee and Officer shall annually sign a statement which affirms such person:

- a. Has received a copy of this Policy,
- b. Has read and understands the Policy,
- c. Has agreed to comply with the Policy, and
- d. Understands that GDC is a nonprofit corporation and in order to maintain its tax exemption must engage primarily in activities that accomplish one or more of its tax-exempt purposes.

**G. Duty to Disclose Ownership Changes as to Certain Securities**

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

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

**H. Duty of Good Faith Compliance**

Each Trustee and Officer should comply with this Code in good faith, and should conduct him or herself in a manner that will not raise suspicion among the public that the Trustee or Officer is engaging in acts that are in violation of his or her trust.

**II. CONFLICTS OF INTEREST**

**A. Recusal in General**

Based on the principles set forth in this Policy, each Trustee or Officer should make his or her own determination in the first instance as to whether a conflict of interest exists, or whether there is the appearance of such a conflict of interest, such that he or she should recuse from a particular decision or matter.

In determining what constitutes a conflict of interest or the appearance of one requiring recusal, a Trustee or Officer may consult with the General Counsel or with other counsel retained by GDC to provide such advice.

If a Trustee or Officer has determined to recuse as to a particular matter, the Trustee or Officer should promptly notify the Secretary and General Counsel of GDC, disclose that fact, and should not participate in any discussion or vote concerning that matter. The Secretary shall maintain a written record of all recusals.

## **B. Close Family Members**

### **1. Definition**

A “close family member” is a Trustee or Officer’s spouse, civil union or domestic partner, parent, sibling, child, or grandchild.

### **2. Personnel Decisions**

A Trustee or Officer should recuse from a GDC personnel decision that directly impacts a close family member.

A “personnel decision” is a decision that concerns a single employee or a small group of employees, and that relates to hiring, compensation, discipline, rank, or the scope of an employee’s responsibilities.

## **C. Substantial Interests and Recusals**

### **1. Substantial Interest**

A Trustee or Officer has a substantial interest in his or her employer, and in the employer of his or her spouse or domestic partner.

A Trustee or Officer has a substantial interest in any entity as to which he or she, or his or her spouse or domestic partner, serves as a director.

A Trustee or Officer has a substantial interest in an entity if his or her interest in that entity is valued at the lesser of (a) \$100,000 or more, or (b) 1% or more of the Trustee, Officer, or other interested party's portfolio -- provided that the interest in question is not managed by an independent investment manager who has investment discretion.

No substantial interest is created by a merely passive interest in an entity. Examples of such passive interests include checking accounts, savings accounts, money market accounts, brokerage accounts, discretionary managed pension or trust accounts, mutual funds, mortgages, or lines of credit with fixed terms for fixed periods of time. However, a substantial interest can be created if the terms of the passive interest are (a) subject to near-term (i.e., within one year) negotiation or renegotiation, and (b) such negotiation or renegotiation could impact the Trustee or Officer’s net worth or income by more than 1%.

## **2. Recusal**

If a Trustee or Officer has a substantial interest in an entity that has a matter before GDC, the Trustee or Officer should disclose that interest to the Chief Executive Officer and General Counsel and recuse from that matter.

If a Trustee or Officer learns that a close family member has a substantial interest in an entity that has a matter before GDC, the Trustee or Officer should disclose that interest to the Chief Executive Officer and General Counsel and recuse from that matter.

## **D. Professional Services Firms and Recusals**

With respect to a professional services firm (“Firm”), such as a law firm, consulting firm, or engineering firm, the conflicts of interests rules set out in Part II.C apply. Additional rules also apply, which are set out in this Part II.D, provided that the Firm is privately held and has 100 or fewer full-time employees.

### **1. Major Interest**

A person has a “major interest” in a Firm if he or she(a) is an employee of the Firm, (b) has an ownership stake in the Firm, and (c) participates in the governance of the Firm.

### **2. Recusal**

If a Firm in which a Trustee or Officer has a major interest represents an entity as to a matter before GDC or the Board for a vote, the Trustee or Officer should recuse him or herself.

If an entity has a matter before the Board for a vote, but the Firm does not represent the entity on that matter, the Trustee or Officer should recuse if the entity accounts for a large proportion of the annual gross revenues of the Firm. For these purposes, “large proportion” means either (a) \$1 million or more, or (b) 2% or more.

### **3. Agreements**

Absent special circumstances, as determined by the General Counsel, the Board should not authorize GDC to enter into a contract, retainer, or other agreement with a Firm in which a Trustee or Officer has a major interest.

## **E. Third-Party Entities**

As noted above, if a Trustee or Officer has a substantial interest in an entity that has a matter before GDC, the Trustee or Officer should recuse him or herself from the Board vote and GDC’s consideration of the matter.

A Board vote or GDC decision may also have an impact on an entity (“Third-Party Entity”) that does not itself have a matter before the Board. In such a case, a Trustee or Officer should recuse from a matter if (a) the Trustee or Officer knows, or should know, that the decision is likely to

have a material and particularized impact on the Third-Party Entity, and (b) the Trustee or Officer has a substantial interest in the Third-Party Entity.

Thus, for example, a Trustee or Officer should recuse from a Board vote or GDC decision to obtain railcars if the Trustee or Officer has a substantial interest in the supplier of the key component part of the railcars.

A Trustee or Officer generally does not need to recuse solely because a Board vote or GDC action may have a non-financial impact on a Third-Party Entity in which the Trustee or Officer has a substantial interest.

In addition, a Trustee or Officer generally does not need to recuse solely because a Board vote or GDC action may have a general, across-the-board financial impact on various Third-Party Entities, including a Third-Party Entity in which the Trustee or Officer has a substantial interest.

In doubtful cases related to the impact of a Board vote or GDC action on a Third-Party Entity, a Trustee or Officer should consult with the General Counsel.

#### **F. Prior and Current Work**

If a Trustee or Officer previously or currently participated in a matter now before the Board for a vote or before GDC for action, the Trustee or Officer should notify the Chief Executive Officer and General Counsel and recuse from that matter.

For these purposes, “participation” in a matter means substantial and direct involvement in the matter, which the Trustee or Officer undertook as part of his or her employment.

Recognizing that Trustees and Officers may have previously worked for (or may concurrently serve on the board of) Amtrak or a government agency or authority that has had responsibility for the Gateway Program or some portion thereof, a matter does not include activities the Trustee or Officer undertook or undertakes while serving his or her appointive authority or any other government agency or authority.

#### **G. Subsequent Work**

A Trustee or Officer whose term of service has ended is generally no longer subject to the jurisdiction of GDC. Other laws may govern what Trustees and Officers may do after their service has ended. Those laws must be followed, and current Trustees and Officers should anticipate doing so.

#### **H. Other Circumstances**

This Part II is not exhaustive. There may be other circumstances in which it is appropriate for a Trustee or Officer to recuse him or herself, to avoid either a conflict of interest or the appearance of a conflict of interest. In those circumstances, a Trustee or Officer should determine whether to recuse and, in doing so, is free to consult with the General Counsel.

### **III. GENERAL PROVISIONS**

#### **A. GDC Property**

A Trustee or Officer should use GDC property, including GDC vehicles and letterhead stationery, only in connection with GDC duties. GDC property should never be used for personal purposes.

#### **B. GDC Computing Resources**

GDC employees will be required to follow a rigorous policy with respect to the appropriate use of computing resources. Trustees and Officers are expected to follow the same policy.

#### **C. GDC Email**

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

If a Trustee or Officer uses a non-GDC email account to conduct GDC business, the Trustee or Officer should promptly forward the emails in question to his or her GDC email account.

#### **D. Fundraising**

##### **1. GDC Affiliation**

A “fundraising solicitation” is a written solicitation or invitation that seeks financial support for a political or charitable cause and that includes a Trustee’s or Officer’s name.

To avoid blurring the line between GDC work and other activities, a fundraising solicitation should not unduly draw attention to the person’s GDC role.

Thus, while a fundraising solicitation may contain a biographical statement that describes the person’s professional background, including his or her GDC service, a fundraising solicitation should not, outside of the context of a biographical statement, use the term “GDC” or the person’s GDC title.

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

##### **2. GDC Business**

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

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

For these purposes, an “entity” includes those people who the Trustee or Officer knows or should know are the entity’s directors, officers, or senior employees.

**E. Unwarranted Privileges**

A Trustee or Officer should not use his or her official position to secure unwarranted privileges, exemptions, or advantages, whether for him or herself or for others.

**F. Engagement with Staff, Consultants, and Vendors**

A Trustee or Officer should not ask or encourage a GDC employee, consultant, or vendor to make a political or charitable contribution.

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

A Trustee or Officer should not ask or encourage a GDC employee, consultant, or vendor to provide services that are unrelated to the Trustee’s or Officer’s official role, and a Trustee or Officer should not accept such services.

A Trustee or Officer should not engage in a financial transaction with a GDC employee, consultant, or vendor, including providing a loan or financial assistance to, or receiving a loan or financial assistance from, an employee, consultant, or vendor.

**G. Anti-Discrimination**

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

**H. Gifts and Refreshments**

No Trustee or Officer shall accept any gift, favor, service or other thing of value from which it might be reasonably inferred that such gift, service or other thing of value was given or offered for the purpose of influencing the discharge of official duties or the outcome of any GDC matter. Any gift that is received by a Trustee or Officer shall be promptly reported to the Chief Executive Officer and General Counsel. No Trustee or Officer shall solicit, receive or agree to receive, whether directly or indirectly, any compensation, reward, employment, gift or other thing of value for the purpose of influencing the discharge of official duties or the outcome of any GDC matter.

Unless supplied by GDC, a public agency, or a nonprofit organization, a Trustee or Officer should not accept free refreshments in the course of conducting GDC business, unless: (a) the



refreshments are nominal (non-alcoholic beverages, snacks, or a modest meal), and (b) there is no indication that the refreshments are offered to influence the Trustee or Officer with respect to his or her GDC duties.

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

**I. Outside Parties**

GDC benefits from the breadth of its Trustees' and Officers' professional and civic associations and knowledge. Accordingly, a Trustee or Officer is free to gather information from a variety of sources, and to speak with whomever he or she pleases, subject to the individual's duties under this Policy.

**IV. MISCELLANEOUS**

**A. GDC Subsidiaries**

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

All references in this Policy to GDC should be construed to include both GDC and any subsidiaries.

**B. Interpretation**

In connection with interpretation or application of this Policy, any Trustee or Officer may seek advice from the General Counsel.

**C. Conflicting Law**

If a Trustee or Officer believes that he or she is required to potentially violate this Policy in order to comply with the law, the Trustee or Officer should consult with the General Counsel.

**D. Enforcement**

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

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

In connection with potential breaches of this Policy, the Board may delegate to the General Counsel or outside counsel the responsibility to undertake factual investigations and to recommend to the Board such action, if any, deemed appropriate.

As to these efforts, the General Counsel should closely consult with the Chairman and Vice-Chairman, as appropriate, and obtain appropriate advice and assistance.

Adopted: \_\_\_\_\_, 2018