

GATEWAY PROGRAM DEVELOPMENT CORPORATION OPEN RECORDS POLICY

I. Introduction

This document sets forth the official policy of Gateway Program Development Corporation (GDC) relating to GDC's commitment to provide the public access to records pertaining to GDC's affairs.

II. Policy

As a nonprofit corporation, GDC itself is not subject to public records laws, but the project agencies and public officials with whom GDC works and collaborates are public actors subject to various (and varying) open records laws and policies. GDC is committed to the spirit and intent of the laws governing its project partners, and also to respecting the duties, rights and obligations assigned by those laws. Those public agencies and officials shall be solely responsible for accepting and responding to requests for their records. GDC will not serve as an alternative source of records or documents created or maintained by its project partners, including but not limited to New Jersey Transit, the Port Authority of New York and New Jersey, the National Passenger Rail Corporation (Amtrak), or other public agencies or officials interacting with GDC ("Project Partners").

III. Compliance

GDC's Secretary is hereby designated as the individual responsible for custody of and requesting access to GDC records. The Secretary is authorized to consult with the General Counsel or other counsel, or counsel to a Project Partner in carrying out the duties imposed by this Policy.

The Secretary shall ensure that:

- i) Records are made available for public inspection and copying during regular business hours at designated location(s) and times, and provide notice of such availability on the GDC website and through any other appropriate means;
- ii) Assistance is provided to persons seeking records to identify and reasonably describe the records sought, if necessary, and when appropriate, indicate the manner in which the records sought are filed or retrieved;
- iii) Persons seeking records are contacted when a request is voluminous or when locating the records involves substantial effort, so that GDC staff may ascertain the nature of records of primary interest and attempt to reasonably reduce the volume of records requested; and
- iv) GDC develops and maintains record request form(s).

Requests for in-person inspection or copying of records may be made to the Secretary (or designee(s)) in writing, and may be submitted in person, during regular business hours at the GDC's main office.

Whether made in person or as provided below, requests for records must contain sufficient information to enable the Secretary to identify and locate the particular records sought. Such requests must not be overly broad and must be as detailed as possible and provide, at a minimum, a clear description of the record or type of record being sought.

Requesting Records

Requests for inspection or copying of records should be made to the Secretary (or designee(s)) and may be made in writing and submitted to the Secretary by postal or private delivery, facsimile, or electronic means, such as electronic mail or through GDC's website, at the appropriate address designated for this purpose, which shall be posted on GDC's website.

Processing Requests and Notice to Project Partners

Within five business days of receipt of any request, the Secretary shall notify each of the Project Partners and any other public agency of any request received for documents generated or maintained by one or more of them to allow them to take appropriate action to protect its or their records and interests.

Upon locating any records responsive to the request, the Secretary (or designee(s)) shall take one of the following actions:

- Make a copy of any record available upon payment or offer to pay established fees;
- Permit the requester to copy any public record;
- Upon identifying responsive records that fit in at least one exclusion and/or exemption category in the New Jersey Open Public Records Act, at least one exclusion and/or exemption category in the New York Freedom of Information Law, or at least one exclusion and/or exemption category in the federal Freedom of Information Act, deny access to such records, in whole or in part, and explain in writing the reasons therefor;
- Upon determining that a request seeks documents or records in GDC's possession generated by any Project Partner that is subject to a public records or freedom of information law, notify and confer with that Project Partner concerning the request and advise the requester of the time needed by the Project Partner to review the request and advise GDC whether GDC may release the record directly to the requester, and whether any information therein is subject to redaction; and/or
- Direct the requester to make its request directly to the appropriate agency or official that is the custodian of the record and provide contact information to such custodian, and deny access to such records as may be in GDC's possession, in whole or in part.

Responses to Requests

Except for those records that shall be made immediately available, a response to a request for records shall be given within fifteen (15) business days of receipt of a request by:

- Granting or denying access to records, in whole or in part, pursuant to this Policy;
- Informing the requester that the request or portion of the request does not reasonably describe or identify the records sought and including direction, to the extent possible, that would enable that person to reasonably describe requested records;
- Acknowledging the receipt of a request in writing, including when the request will be granted or denied, in whole or in part, which date shall be reasonable under the circumstances of the request. If the Secretary determines to grant a request in whole or in part, and if circumstances prevent disclosure to the person requesting the record or records within twenty (20) business days from the date of the acknowledgement of the receipt of the request, the Secretary shall state, in writing, both the reason for the inability to grant the request within twenty business days and a date certain within a reasonable period, depending on the circumstances, when the request will be granted in whole or in part.

In determining a reasonable time for granting or denying a request under the circumstances of a request, the Secretary (or designee(s)) may consider: the volume of the request; the ease or difficulty in locating or retrieving records; the complexity of the request; the need to review records to determine the extent to which they must be disclosed; the number of requests received by GDC; whether the request is for records to which immediate access is ordinarily granted by law; the availability of the records from a Project Partner; and similar factors that bear on the ability to grant access to records promptly and within a reasonable time.

The General Counsel (or designee(s)) shall notify the Trustees of GDC and shall notify the General Counsel of each of the Project Partners when any proceeding is commenced in the state or federal courts or any administrative tribunal seeking to review the Secretary's denial of a request for access to records.

The Secretary may determine whether, and in what amount, reasonable fees may be charged for the fulfillment of requests for access to records. Any fee schedule shall be posted on GDC's website, and the Secretary shall be responsible for maintaining it in updated form. For any fee that is calculated, in whole or in part, based on GDC's actual cost in searching for and producing copies of records, the Secretary (or designee(s)) shall perform and document such calculation.

The Secretary may require payment of any fee charged before access to records is granted. For any fee that will be charged, the Secretary (or designee(s)) shall inform the requester of the estimated fee before the charge is incurred and may request a reasonable deposit or the requester's written agreement to pay the estimated fee before undertaking a search for records.

Adopted: _____, 2018