

RESOLUTION NO. 2005 -40

APPROVING THE MASS TRANSIT SYSTEM TRANSFER AGREEMENT AND AUTHORIZING THE GENERAL MANAGER/SECRETARY-TREASURER TO EXECUTE A MASS TRANSIT SYSTEM TRANSFER AGREEMENT AND OTHER DOCUMENTS NECESSARY TO COMPLETE THE TRANSFER OF THE MAPLE HEIGHTS TRANSIT SYSTEM FROM THE CITY OF MAPLE HEIGHTS TO THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY.

Whereas, the Greater Cleveland Regional Transit Authority ("Authority") was established for the purpose of providing public transit service throughout Cuyahoga County; and

Whereas, this Board has determined that it is the best economic interest of the Authority and the residents of Cuyahoga County to conclude a mass transit system transfer agreement with the City of Maple Heights; and

Whereas, the Maple Heights City Council by Ordinance No. 2005-019, adopted on March 2, 2005 has accepted the Mass Transit System Transfer Agreement attached hereto; and

Whereas the Authority has agreed to the terms of an Employee Protection Agreement and Transition Agreement with the Maple Heights Transit Employees Association.

NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the Authority hereby approves and accepts the Mass Transit System Transfer Agreement attached hereto.

Section 2. That the General Manager/Secretary-Treasurer be and he is hereby authorized and directed to execute and deliver in the name of and in behalf of the Authority the Mass Transit System Transfer Agreement, approve the Schedules and Exhibits attached thereto, and to execute such other documents as may be necessary to effectuate the transactions contemplated by the Mass Transit System Transfer Agreement, all in substantially the form of the documents presented to the Board of Trustees, with any insubstantial changes therein the General Manager may determine are in the best interest of the Authority.

Section 3. That the expenditure of Five Hundred Four Thousand Dollars (\$504,000) payable from the General Fund in such amount and at such times set forth in the Mass Transit System Transfer Agreement is hereby authorized and approved.

Section 4. That the General Manager/Secretary-Treasurer be and he is hereby authorized to execute an Employee Protection Agreement and Transition Agreement with the Maple Heights Transit Employees Association attached hereto.

Section 5. That the General Manager/Secretary-Treasurer be and he is hereby authorized to take such further action and to execute and deliver all such further agreements, instruments, certificates and documents, in the name of and on behalf of the Transit Authority as shall be necessary, proper or advisable in order to carry out the intent and purposes of this resolution.

Section 6. That the effective date of the transfer shall be March 20, 2005.

Section 7. That this resolution supersedes all other resolutions previously adopted by this Board relative to the public transportation operating agreements between the Greater Cleveland Regional Transit Authority and the City of Maple Heights, and any such resolution or portion thereof which is inconsistent with any of the provisions of this resolution is hereby repealed.

Section 8. That this resolution shall become effective immediately upon its adoption.

Attachment: Mass Transit System Transfer Agreement

Adopted: March 15, 2005

  
\_\_\_\_\_  
President

Attested:   
\_\_\_\_\_  
CEO, General Manager/Secretary-Treasurer

**MASS TRANSIT SYSTEM TRANSFER AGREEMENT**

**CITY OF MAPLE HEIGHTS**  
**AND**  
**THE GREATER CLEVELAND REGIONAL TRANSIT**  
**AUTHORITY**

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CITY OF MAPLE HEIGHTS AND THE GREATER CLEVELAND  
REGIONAL TRANSIT AUTHORITY

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B	Exhibit 1	Resolution No. _____, Board of Trustees, the Greater Cleveland Regional Transit Authority
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E	Schedule A	Excluded Assets and Property
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## **AGREEMENT**

This Agreement is between the City of Maple Heights, an Ohio municipal corporation, (hereinafter "City"), and the Greater Cleveland Regional Transit Authority, a regional transit authority created and operating pursuant to Sections 306.30 through 306.54 and 306.70 and 307.71 of the Ohio Revised Code (hereinafter "Authority").

### **RECITALS**

- (a) The various enactments under which the Authority was created contemplate the transfer to the Authority of the independent transportation systems operated within various municipalities located in Cuyahoga County.
- (b) The City has operated a public transportation system servicing the Maple Heights, Ohio area and certain routes designated by the Authority.
- (c) Since 1975, the City and the Authority have entered into public transportation operating agreements pursuant to which the Authority agreed to provide, and has provided financial reimbursement to the City, thereby enabling the City to operate its public transit system, and, in return, the City has provided public transit services on behalf of the Authority in areas of Cuyahoga County, Ohio.
- (d) The term of the current Public Transportation Operating Agreement, as extended, shall expire on March 31, 2005.
- (e) The parties, after extensive negotiations, have agreed upon the terms and conditions upon which the Authority will acquire the City's public transportation system and entered into a three (3) year relationship that guarantees the maintenance of service, payment of transitional fees and the establishment of a special Maple Heights Quality Service Unit.

## TERMS AND CONDITIONS

In consideration of the mutual covenants herein contained, the City and the Authority agree as follows:

1. Transfer of Assets. The parties agree that no physical assets owned by the City are being purchased, sold or transferred pursuant to this agreement. The City shall retain any physical public transit assets owned by the City. All public transit assets, including but not limited to capital improvements, owned by the Authority and provided to the City pursuant to any and all operating agreements between the City and the Authority, shall remain the property of the Authority unless otherwise specified in this agreement and shall be disposed of in accordance with the 1999 Public Transportation Operating Agreement.
2. Excluded Assets and Property.
  - (a) It is expressly agreed that the City shall retain title to its service garage located at 5501 Dunham Road, Maple Heights, Ohio, and all fully depreciated capital improvements paid for by the Authority pursuant to the 1999 public transportation Operating Agreement, as set forth in Schedule A, attached hereto.
  - (b) The Authority agrees that all other capital improvements retained by the Authority pursuant to the terms of the 1999 Operating Agreement shall be removed from City property not later than June 30, 2005. The City agrees that it will cooperate with the Authority to remove such capital improvements.



3. Service Guarantees by the Authority.

- (a) The Authority agrees and warrants that during the period commencing upon the closing date of this Agreement and ending March 31, 2008, the Authority shall provide transit service within the City and the area served by the City's transit system, at a level not less than the level of service provided within such service area as of December 2004's revenue route miles and revenue service hours and as annually adjusted for school service.
- (b) The Authority further agrees that it will use its best efforts to enhance the quality of public transit service rendered to the City. The Authority shall have the right to discontinue or adjust the frequency of any existing or additional route or service, if such route or service is not meeting the performance requirements of the Authority's service policies for effective public transit service. Such decision shall be made solely by the Authority in accordance with its established service policies, provided however, that no route or service shall be discontinued until it has been in operation for at least four (4) months. In the event a discontinuance or major modification, as defined by GCRTA policy of an existing route is determined to be justified by the Authority, notice of the Authority's intent to discontinue or have a major modification of the bus route or service shall be given to the Mayor and Council of the City. In accordance with Authority policy, if it is determined that a bus route is to be

discontinued, a public hearing shall be held after giving notice thereof in a newspaper of general circulation in the area to be affected. At such hearing, designated representatives of the Authority shall hear community suggestions, if any, to the planned changes.

- (c) For a period of three (3) years, the Authority will establish a Maple Heights Quality Service Unit to focus on providing superior customer service on routes that serve Maple Heights. The City will host annual or semi-annual town meetings open to the public to receive suggestions for improvement and shall notify the Authority at least thirty (30) days in advance of those meetings.
- (d) The Authority and the City agree that, following execution of this Agreement, the City shall endeavor to work with the Authority in a positive manner to promote improvements to mass transit within the City including, but not limited to, capital projects proposed by the Authority.

4. Consideration and Payment.

- (a) The Authority shall pay to the City the sum of Five Hundred Four Thousand Dollars (\$504,000) for the transaction contemplated by this agreement. This sum shall be paid in the following installments: (1) One Hundred Sixty-Eight Thousand Dollars (\$168,000) on or by September 1, 2005; (2) One Hundred Six-Eight Thousand Dollars (\$168,000) on or by April 15, 2006; and (3) One Hundred Sixty-Eight Thousand Dollars (\$168,000) on or by April 15, 2007.

5. Labor Relations. The Authority shall recognize the existing rights, privileges and benefits of the City's represented transit employees, including its laid-off employees, in conformity with the requirements of Section 306.35 of the Ohio Revised Code, as such section may from time-to-time be amended or supplemented, including any rights that may be guaranteed to such employees under any other applicable provision of State or Federal law or as may otherwise be agreed to by the City's represented employees. All City operators and transit personnel shall, upon their transfer to the Authority, retain their seniority as of the closing date. No City transit operator or other transit employee shall be caused to lose seniority status as a result of their transfer to the Authority. All rights and benefits provided by the Authority's conditions of employment shall inure to the benefit of the personnel so transferred, in accordance with their seniority with the Maple Heights Transit System, effective on the date of closing. The City agrees to provide all personnel records, which are public records or other records as may be authorized by Maple Heights Transit System employees.
6. Outstanding Contracts. The Authority shall honor and perform the outstanding contracts and other obligations of the City set forth in Schedule B, appended hereto and incorporated herein, but shall not be liable upon or bound by any contract which is contingent upon continuation by the City of its transit business and operations.

7. Contingent Liability Under the 1999 Public Transportation Operating Agreement. The Authority shall defend and hold the City harmless for all claims and liabilities as listed in Schedule E, and additionally for all other claims and causes of action, whether absolute or contingent, that may hereafter be presented, filed or initiated against the City at any time in the future, which arose or accrued, in part or in whole, at any time during which the City owned and/or operated the Maple Heights Transit System, and which resulted directly from the City's operation of said bus line and for which the Authority agreed to indemnify and save the City harmless under the 1999 Operating Agreement.
8. Representations of the Authority. The Authority represents and warrants to the City as follows:
- (a) The Authority has the power to own and operate a mass transit system in Cuyahoga County.
  - (b) This Agreement has been duly authorized by Resolution \_\_\_\_\_ of the Authority, a certified copy of which resolution is attached hereto as Exhibit 1, and incorporated herein, is fully within the powers conferred upon the Authority by law, and is a legally binding obligation of the Authority.
  - (c) The Authority has had the opportunity to inspect and examine all documents, records and data of the City's transit system to the Authority's satisfaction.
9. Representations of the City.

- (a) The City has the power to enter into and carry out this Agreement.
- (b) This Agreement has been duly authorized by Ordinance No. \_\_\_\_\_ passed by the Council of the City of Maple Heights, a certified copy of which is attached hereto as Exhibit 2, and the Agreement is binding on the City in accordance with its terms.
- (c) Schedule B sets forth all outstanding obligations, encumbrances, leases and contracts of the City relating to its public transit system.
- (d) Schedule C sets forth a complete listing of all labor agreements, memoranda and other understandings relating to labor relations of the City in its public transit business, and also sets forth the employees in each classification and the current pay rates applicable thereto.
- (e) Schedule D sets forth a list of all policies of insurance relating to the City 's public transit business, specifying the term, premium and coverage, and identifying which policies cover more than the transit business or transit properties.
- (f) Schedule E sets forth a complete listing of all contingent liabilities of the City relating, to the best of the City's knowledge, to its public transit system, and all matters threatened to be in litigation and all matters presently in litigation as of the date hereof brought by or against the City's transit system arising out of personal injury, property damage, contract or other cause.

(g) The City is in good standing and not in default with respect to all contracts, franchises and other obligations, properties and contracts referred to in Schedules A, B, C, D and E.

10. Further Agreements by City and Authority. The policies of insurance listed in Schedule D shall, to the extent of the City's prior established practice, be extended in full force and effect until June 30, 2005, or until a mutually agreeable date. The Authority shall assume the cost of such extension.

11. Conditions to Obligations of the Authority. Unless waived by the Authority, its obligations under this Agreement are subject to each of the following precedent that, on the closing date:

(a) The Authority shall have received the opinion of the City's Director of Law, dated the closing date, in form and substance reasonably satisfactory to the Authority and its General Counsel to the effect that: (i) The City has full power and authority to transfer the properties and assets hereunder; (ii) all administrative and legislative actions necessary for the consummation of this transfer have been properly made; (iii) this Agreement has been duly authorized and is a legal, valid and binding obligation of the City in accordance with its terms; (iv) the instruments of transfer have been duly authorized, executed and delivered. Such opinion shall also contain statements that the Director of Law knows: (i) of no suit or proceeding pending or threatened against the City which might materially or adversely affect the properties or other assets to be transferred hereunder and (ii) of no

contract, instrument, order or decision to which the City is bound, which would prevent or adversely affect the carrying out of this Agreement.

- (b) The City shall have complied with this Agreement as of the date of closing.
- (c) No litigation or threat of litigation shall exist with respect to consummation of this Agreement.
- (d) The representations of the City contained in Section 9 shall be correct as at the date hereof and as of the date of Closing.

12. Conditions to Obligations of the City. Unless waived by the City, its obligations under this Agreement are subject to each of the following conditions precedent that, on the Closing date:

- (a) The City shall have received the opinion of the General Counsel for the Authority, dated the Closing date, in form and substance: reasonably satisfactory to the City's Director of Law to the effect that: (i) the Authority is a duly constituted regional transit authority pursuant to Sections 306.30 to 306.54, inclusive, and 306.70 and 306.71 of the Ohio Revised; (ii) the Authority has full power and authority to acquire the assets and properties conveyed pursuant to this Agreement for the purpose of providing a regional transportation system and (iii) this Agreement has been duly authorized, executed and delivered by the Authority and is a legal, valid and binding obligation of the Authority in accordance with its terms.

(b) The Authority shall have complied with this Agreement to the date of Closing.

13. Civil Rights. The Parties agree that there will not be any discrimination against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability, in accordance with the following Federal statutes and regulations, and any other implementing regulations issued pursuant to the Civil Rights Act as amended, Title VI (42 U.S.C. Sec. 2000d) and VII (42 U.S.C. Sec. 2000e); Age Discrimination Act of 1975, as amended, Sec. 303 (42 U.S.C. 610); Age Discrimination Act of 1967 as amended, Sec. 4 (29 U.S.C. Sec. 623); Americans with Disabilities Act of 1990, as amended, Section 202 (42 U.S.C. 12132); and Sec. 102 (42 U.S.C. Sec. 12112) and implementing regulations (19 C.F.C. Part 1630); Federal Transit Law (49 U.S.C. Sec. 5332); Executive Order 11246, as amended by Executive Order 11375 (42 U.S.C. Sec. 20003 note) and implementing regulations (41 C.F.R. Parts 60 et seq.).

14. Assignment. This Agreement shall bind and inure to the benefit of the parties hereunder and their respective successors and assigns; provided, however, that this Agreement may not be assigned by any party without the prior written consent of all the other parties.

15. Failure of Conditions. If the conditions of the consummation of this Agreement have not been met by the date of Closing or by the date to which the Closing may have been postponed, this



Agreement shall be terminated and no party shall have any further liability to or possess any rights against the other party.

16. Closing Date.

(a) The closing of the transactions provided for herein will take place at the headquarters of the Greater Cleveland Regional Transit Authority, 1240 West Sixth Street, Cleveland, Ohio, 44113-1331, on March 20, 2005, or at such other place and time as may be agreed upon by the parties hereto. Such date and time of closing are referred to herein as the "Closing Date".

(b) The effective date of the Mass Transit System Transfer contemplated by this Agreement shall be March 20, 2005.

17. Transactions on the Closing Date.

The City will deliver to the Authority:

(a) The opinion of the City's Director of Law more fully described in paragraph of this Agreement.

The Authority shall deliver to the City:

(a) An instrument, approved by the City's Director of Law, assuming all obligations of the City described in Schedules, B, D and E.

(b) The opinion of the Authority's General Counsel more fully described in paragraph 8 of this Agreement.

18. Transactions After the Closing. Without further consideration, the City will at any time and from time to time after the closing date execute and deliver such further instruments and take such further action as the Authority may reasonably request in

order effectively to conclude the transaction contemplated by this Agreement, or any part thereof, to the Authority.

19. Resolution of Disputes Under the 1999 Public Transportation Operating Agreement.

The Authority recognizes that it may have a continuing obligation for payments under the 1999 Operating Agreement for obligations that it would be required to pay under the 1999 Operating Agreement. The City shall promptly tender request for payment to the Authority. The Authority retains the right to review and audit all such requests for payment. The parties acknowledge and agree that there may exist disputes arising out of the performance of the 1999 Public Transportation Operating Agreement as extended by and between the Greater Cleveland Regional Transit Authority and the City of Maple Heights. Subject to Final Audit, the Authority agrees to reimburse the City for expenses that it would be obligated to pay under the terms of the 1999 Public Transportation Operating Agreement, but which have not been submitted by vendors or contractors, prior to March 20, 2005.

The parties hereto agree that within six (6) months following the execution of this Transfer Agreement, the Greater Cleveland Regional Transit Authority shall conduct a closeout audit. Nothing shall prevent the parties from seeking further recourse that they may be entitled to, including but not limited to the commencement of any legal action in Federal or State Courts.

20. Miscellaneous Provisions.

(a) Administrative Personnel. RTA shall, for a period of six (6) months following the execution of this Agreement, at the reasonable request of the city, make available at RTA's cost administrative personnel, including but not limited to the former Director/General Manager of the Maple Heights Transit System, so long as he remains employed by RTA, for the purpose of assisting the City in finalizing any administrative issues that may be necessary for the conclusion of this transaction.

(b) Unemployment Compensation. For a period of six (6) months following the execution of this Agreement, RTA shall reimburse the City for one-half the cost of unemployment compensation benefits the City may be caused to pay any Maple Heights Transit System employee employed by RTA who subsequently became eligible for unemployment benefits.

(c) Notice. Any notice to be given by either of the parties to the other shall be in writing and shall be delivered personally or sent by certified mail, postage prepaid, if to the Authority addressed to:

The Greater Cleveland Regional Transit Authority  
1240 West Sixth Street  
Cleveland, Ohio 44113-1331  
Attention: General Manager

And if to the City addressed to:

City of Maple Heights  
Department of Law  
5353 Lee Road

Maple Heights, Ohio 44137

The validity, interpretation and performance of this Agreement shall be determined in accordance with the laws of the State of Ohio.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

WITNESSETH:

CITY OF MAPLE HEIGHTS

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

GREATER CLEVELAND  
REGIONAL TRANSIT AUTHORITY

\_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Approved as to legal form:

\_\_\_\_\_  
DIRECTOR OF LAW  
CITY OF MAPLE HEIGHTS

\_\_\_\_\_  
GENERAL COUNSEL/DEPUTY GENERAL  
MANAGER FOR LEGAL AFFAIRS

# SCHEDULE A

## EXCLUDED ASSETS AND PROPERTY

## ADDENDUM TO SCHEDULE A

- ❖ The City shall have an option, until closing, to purchase the garage lift from the Authority for the net book value of Twenty-Three Thousand Nine Hundred Ninety-Six Dollars and Twenty-Five Cents (\$23,996.25). The City shall notify the Authority of its intent to exercise this option not later than closing.
- ❖ If the City shall exercise the option to purchase the lift, payment shall be deducted in one-third (1/3) installments from the annual transitional fee payments set forth in Section 4 – Consideration and Payment of the Mass Transit Transfer Agreement.

# SCHEDULE B

OUTSTANDING OBLIGATIONS,  
ENCUMBRANCES, LEASES AND  
CONTRACTS OF THE CITY OF  
MAPLE HEIGHTS RELATING TO  
THE CITY'S PUBLIC  
TRANSPORTATION SYSTEM

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# SCHEDULE C

ALL LABOR AGREEMENTS,  
MEMORANDA OF  
UNDERSTANDING RELATING TO  
LABOR RELATIONS OF THE CITY  
IN ITS PUBLIC TRANSPORTATION  
SYSTEM



# SCHEDULE D

POLICIES OF INSURANCE  
RELATING TO THE PUBLIC  
TRANSPORTATION SYSTEM OF  
THE CITY OF MAPLE HEIGHTS

# SCHEDULE E

LISTING OF ALL CONTINGENT  
LIABILITIES OF THE CITY OF  
MAPLE HEIGHTS RELATING TO  
ITS PUBLIC TRANSPORTATION  
SYSTEM; ALL MATTERS IN  
LITIGATION AND THREATENED  
TO BE IN LITIGATION AS OF  
FEBRUARY 22, 2005, INCLUDING  
ALL PERSONAL INJURY,  
PROPERTY DAMAGE, CONTRACT  
AND OTHER CLAIMS

## TRANSITION AGREEMENT

This Transition Agreement is made and entered into between the Greater Cleveland Regional Transit Authority (hereinafter "GCRTA"), the Maple Heights Transit Employees Association (hereinafter "MHTEA"), and the City of Maple Heights (hereinafter "City").

### Background Information

1. GCRTA is a regional transit authority created and operating pursuant to Sections 306.30 through 306.54 and 306.70 and 307.71 of the Ohio Revised Code ("O.R.C.")
2. The City of Maple Heights (hereinafter "City") presently owns and operates a public transportation system serving the Maple Heights, Ohio area and certain routes designated by GCRTA.
3. GCRTA and the City currently are in the process of negotiating a "Mass Transit System Transfer Agreement" setting forth the terms and conditions under which GCRTA will acquire full ownership and control of the City's public transportation system (hereinafter "Transfer Agreement"). GCRTA and the City anticipate that the terms of the Transfer Agreement will be made effective on or about March 20, 2005 (hereinafter "Transfer Date").
4. MHTEA is the exclusive collective bargaining representative for employees of the City's public transportation system in a bargaining unit consisting of transit department bus operators, lead mechanic, mechanics, material handler, hostlers, dispatchers, and road supervisor/training coordinator (hereinafter "MHTEA Bargaining Unit Employees"). The City and MHTEA currently are parties to a collective bargaining agreement that expires on July 31, 2006, which sets forth the wages, hours, and terms and conditions of employment for the MHTEA Bargaining Unit Employees (hereinafter "MHTEA CBA").

5. O.R.C. Section 306.35(x) provides, in pertinent part, that if a regional transit authority acquires any existing transit system, it shall negotiate arrangements to protect the interests of employees affected by the acquisition.

6. GCRTA and MHTEA currently are in the process of negotiating an "Employee Protection Agreement." The fundamental purpose and scope of the Employee Protection Agreement is to establish terms and conditions that are fair and equitable and which protect the interests of MHTEA Bargaining Unit Employees who will transfer to GCRTA after it acquires full ownership and control of the City's public transportation system, in full compliance with the provisions of O.R.C. Section 306.35(x).

#### Statement of Agreement

NOW THEREFORE, the City, MHTEA and GCRTA have agreed to the following terms, which shall become applicable as of the effective date that GCRTA acquires full ownership and control of the City's public transportation system, pursuant to the Transfer Agreement:

1. That the protective arrangements set forth in the Employee Protection Agreement are fair and equitable and in full compliance with the provisions of O.R.C. Section 306.35(x).
2. The City and MHTEA agree that this Transition Agreement sets forth the full and complete agreement between MHTEA and the City regarding GCRTA's acquisition of full ownership and control of the City's public transportation system, and the effects of that transfer on employees represented by MHTEA. The City and MHTEA further agree that no additional bargaining will be required on these subjects, and that the City and MHTEA hereby mutually waive and release the other party from any statutory, common law, contractual or other claims that each may have against the other arising out of the transfer of the City's public transportation system to GCRTA, based on events that were known by MHTEA, or which should have been

known by MHTEA, as of the date of execution of this Transition Agreement by MHTEA, specifically including but not limited to any claims under the MHTEA CBA, with the exception that any claims against the City by MHTEA or MHTEA Bargaining Unit Employees related to the payment by the City for one-third (1/3) of the value of an eligible employee's accrued but unused sick leave benefits, pursuant to Section 19.12 of the MHTEA CBA, shall not be subject to this waiver and release if not paid prior to the Transfer Date.

3. This Agreement is subject to ratification by the MHTEA Bargaining Unit Employees.

4. GCRTA, the City and MHTEA acknowledge and agree that this Transition Agreement shall become null and void and shall have no force and effect in the event that GCRTA does not acquire full ownership and control of the City's public transportation system.

NOW THEREFORE, the undersigned representatives of GCRTA, MHTEA and the City acknowledge and represent that they are duly authorized to negotiate and execute this Agreement on behalf of their respective parties and their respective membership, subject to ratification of the MHTEA membership. Therefore, GCRTA, MHTEA and the City do hereby in good faith voluntarily and legally execute this Agreement in Cleveland, Ohio, on the dates set forth below.

MAPLE HEIGHTS TRANSIT EMPLOYEES ASSOCIATION

By: [Signature] 2/26/05  
Date

By: [Signature] 2-26-05  
Date

By: [Signature] 2-26-05  
Date

CITY OF MAPLE HEIGHTS

By: \_\_\_\_\_  
Date

By: \_\_\_\_\_  
Date

GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

By Its: \_\_\_\_\_

**EMPLOYEE PROTECTION AGREEMENT**

This Employee Protection Agreement (hereinafter "Agreement") sets forth understandings and agreements reached between the Greater Cleveland Regional Transit Authority (hereinafter "GCRTA"), the Maple Heights Transit Employees Association (hereinafter "MHTEA"), and the Amalgamated Transit Union, Local 268, AFL-CIO (hereinafter "ATU"), regarding the wages, benefits and terms and conditions of employment that will apply to employees of the City of Maple Heights, Ohio transit system who currently are represented by MHTEA, following GCRTA's acquisition of the full ownership and control of the City of Maple Heights' public transportation system.

**Background Information**

1. GCRTA is a regional transit authority created and operating pursuant to Sections 306.30 through 306.54, 306.70 and 307.71 of the Ohio Revised Code ("O.R.C.")
2. The City of Maple Heights, Ohio (hereinafter "City") presently owns and operates a public transportation system serving the Maple Heights, Ohio area and certain routes designated by GCRTA.
3. GCRTA and the City currently are in the process of negotiating a "Mass Transit System Transfer Agreement" setting forth the terms and conditions under which GCRTA will acquire full ownership and control of the City's public transportation system (hereinafter "Transfer Agreement"). GCRTA and the City anticipate that the terms of the Transfer Agreement will be made effective on March 20, 2005 (hereinafter "Transfer Date").
4. MHTEA currently is the exclusive collective bargaining representative for employees of the City's public transportation system in a bargaining unit consisting of transit department bus operators, lead mechanic, mechanics, material handler, hostlers, dispatchers, and

road supervisor/training coordinator (hereinafter "MHTEA Bargaining Unit Employees"). The City and MHTEA currently are parties to a collective bargaining agreement that expires on July 31, 2006, which sets forth the wages, hours, and terms and conditions of employment for the MEHTA Bargaining Unit Employees (hereinafter "MHTEA CBA").

5. ATU currently is the exclusive collective bargaining representative for all bargaining unit employees of GCRTA in Grades 1-6 (hereinafter "GCRTA Bargaining Unit Employees"). GCRTA and ATU currently are parties to a collective bargaining agreement that expires on July 31, 2006, which sets forth the wages, hours, and terms and conditions of employment for the GCRTA Bargaining Unit Employees (hereinafter "ATU CBA").

6. MHTEA acknowledges that GCRTA also is in the process of acquiring full ownership and control of the public transit system of the City of North Olmsted, Ohio, under a parallel Transfer Agreement, and that such acquisition by GCRTA will result in the transfer to GCRTA of certain bargaining unit employees currently represented by the American Federation of State, County and Municipal Employees ("AFSCME") Ohio Council 8, and AFSCME Local 3517 (hereinafter collectively referred to as "AFSCME Bargaining Unit Employees").

7. O.R.C. Section 306.35(x) provides, in pertinent part, that if a regional transit authority acquires any existing transit system, it shall negotiate arrangements to protect the interests of employees affected by the acquisition.

8. The fundamental purpose and scope of this Agreement is to establish terms and conditions that are fair and equitable and which protect the interests of employees affected by the acquisition, in full compliance with the provisions of O.R.C. Section 306.35(x).

## Statement of Agreement

NOW THEREFORE, GCRTA, MHTEA and ATU have agreed to the following terms, which shall become applicable as of the effective date that GCRTA acquires full ownership and control of the City's public transportation system, pursuant to the Transfer Agreement:

1. Accretion to ATU CBA

Prior to the Transfer Date, GCRTA will make an offer of employment to each MHTEA Bargaining Unit Employee. All MHTEA Bargaining Unit Employees who accept such an offer and transfer to employment with GCRTA shall, effective on the Transfer Date, be accreted and consolidated into the ATU CBA, and thereafter shall be governed by the wages, benefits and terms and working conditions set forth in the ATU CBA, except as such terms and conditions have been specifically modified by this Agreement.

2. Dissolution of MHTEA CBA

Effective on the Transfer Date, the existing bargaining unit of MHTEA Bargaining Unit Employees shall be dissolved, and the current terms and conditions of the MHTEA CBA shall become null and void as of that date.

3. Job Classifications and Work Assignments

a. Each transferred MHTEA Bargaining Unit Employee in the classification of operator shall be placed in an operator classification with GCRTA, in accordance with the ATU CBA. However, effective with the March 2005 run pick, each such transferred operator must elect to be placed in one of the following classifications under the ATU CBA: (1) bus operator (i.e., "big bus"), or (2) Community Circulator Operator. Each transferred MHTEA Bargaining Unit Employee who elects to be placed in the classification of bus operator (i.e., "big bus") will be placed in that classification. For transferred MHTEA Bargaining Unit Employees who elect



to be placed in the classification of Community Circulator Operator, GCRTA will make those assignments based on the number of available runs and the relative seniority of the MHTEA Bargaining Unit Employees, the ATU Bargaining Unit Employees, and the AFSCME Bargaining Unit Employees who have made such an election. Each transferred MHTEA Bargaining Unit Employee who is not placed in the classification of Community Circulator Operator will be placed in the classification of bus operator. For each transferred MHTEA Bargaining Unit Employee who elected to be placed in the classification of Community Circulator Operator during the March 2005 run pick, but was not placed in such classification, GCRTA will make a good faith effort to negotiate an agreement with the ATU under which such employee(s) would have an opportunity to elect to be placed in the classification of Community Circulator Operator during the September run pick, based on his seniority.

b. Each transferred MHTEA Bargaining Unit Employee in a non-operator classification shall be placed in an appropriate job classification under the ATU CBA that is most comparable to each transferred employee's position with the City. Such determination by GCRTA may include reasonable evaluation and testing of the employee's job skills and abilities.

c. Effective upon the Transfer Date, each transferred MHTEA Bargaining Unit Employee shall receive wage rates in accordance with the ATU CBA, based on his classification.

d. Prior to the Transfer Date, GCRTA will endeavor in good faith to determine the work assignments and work locations of each transferred MHTEA Bargaining Unit Employee in a non-operator classification, based on operational needs and availability.

4. Seniority

a. Each transferred MHTEA Bargaining Unit Employee shall, upon their transfer to GCRTA, retain their seniority as of the Transfer Date, based on each employee's date of

employment with the City's public transportation system. No transferred MHTEA Bargaining Unit Employee shall be caused to lose seniority status as a result of his transfer to GCRTA. All rights and benefits provided under the ATU CBA shall insure to the benefit of each MHTEA Bargaining Unit Employee transferred to GCRTA, in accordance with his seniority with the City's transit system effective on the Transfer Date.

b. The seniority dates of transferred MHTEA Bargaining Unit Employees shall be "dovetailed" with the seniority roster of ATU Bargaining Unit Employees and also with the seniority roster of transferred AFSCME Bargaining Unit Employees. The district seniority date for each transferred MHTEA Bargaining Unit Employee in the classification of operator shall include his seniority with the City's public transit system.

5. Layoff List

Each MHTEA Bargaining Unit Employee who is on layoff from the City as of the Transfer Date shall continue to retain his seniority rights for two (2) years from his date of layoff by the City, in accordance with the ATU CBA and past practice, and based on his seniority with the City and the date of his layoff by the City.

6. Sick Leave

a. GCRTA acknowledges that, pursuant to Section 19.12 of the MHTEA CBA, each transferred MHTEA Bargaining Unit Employee with a minimum of five (5) years or more of continuous full-time service with the City may elect to be paid in cash for one-third (1/3) of the value of the employee's accrued but unused sick leave credit, up to a maximum of Fifteen Hundred (1,500) accumulated sick leave hours (for a maximum of 500 hours of conversion pay). If a transferred MHTEA Bargaining Unit Employee elects to receive such a payment for accrued sick leave under Section 19.12 of the MHTEA CBA, such payment will eliminate all sick leave

credit accrued by the employee to that time, and such employee will not be permitted to transfer any accumulated sick leave credit to GCRTA. MHTEA Bargaining Unit Employees will make arrangements with the City for such payments under Section 19.12 of the MHTEA CBA and/or for any deferred compensation payments.

b. Pursuant to Section 19.02 of the MHTEA CBA, each MHTEA Bargaining Unit Employee who does not elect to receive a payment under Section 19.12 of the MHTEA CBA may carry over a maximum of Twelve Hundred (1,200) hours (150 workdays) of accumulated sick leave with the City to GCRTA. Such transferred accumulated sick leave will be preserved in a separate accumulated sick leave bank with GCRTA (hereinafter referred to as the "MHTEA Sick Leave Bank").

c. Effective after the Transfer Date, each transferred MHTEA Bargaining Unit Employee shall accrue paid sick leave in accordance with Article 17, Section 2(C) of the ATU CBA (hereinafter "GCRTA Sick Leave Bank"). However, effective after the Transfer Date, each transferred MHTEA Bargaining Unit Employee must use and exhaust sick leave benefits from his Maple Heights Sick Leave Bank before using any sick leave benefits from his GCRTA Sick Leave Bank.

d. Transferred MHTEA Bargaining Unit Employees will not be eligible to receive Short Term Disability benefits under Article 17, Section (B) of the ATU CBA until each such employee has exhausted his MHTEA Sick Leave Bank.

e. In accordance with Article 17, Section 2(C) of the ATU CBA, any unused sick leave in an employee's MHTEA Sick Leave Bank or GCRTA Sick Leave Bank will be canceled upon termination of employment for any reason, except that effective on the Transfer Date, upon retirement, each former MHTEA Bargaining Unit Employee shall cash out any unused sick leave

from his MHTEA Sick Leave Bank and GCRTA Sick Leave Bank, up to a maximum of 80 hours of pay, in accordance with Article 17, Section (C) of the ATU CBA, or as otherwise provided in subsequent collective bargaining agreements between GCRTA and the ATU.

7. Uniform Allowance

a. Transferred MHTEA Bargaining Unit Employees must comply with GCRTA's uniform guidelines by June 1, 2005.

b. MHTEA acknowledges that each MHTEA Bargaining Unit Employee in the classifications of operator, dispatcher and instructor/trainer/road supervisor is scheduled to receive a uniform allowance of Five Hundred Fifty Dollars (\$550.00) during March 2005, and that each such employee shall use that allowance to purchase uniforms required by GCRTA.

c. Effective October 1, 2005, GCRTA will contribute a maximum of Three Hundred Thirty-Seven Dollars and Fifty Cents (\$337.50) toward the purchase price of standard uniforms or parts of uniforms for each transferred MHTEA Bargaining Unit Employee in the classifications of operator, dispatcher and instructor/trainer/road supervisor.

8. Safety Shoes and Tool Allowance

a. During January 2006, each transferred MHTEA Bargaining Unit Employee in the classification of mechanic shall receive a tool allowance in accordance with Article 8 of the ATU CBA, but no tool allowance shall be paid for 2005.

b. In lieu of a shoe allowance for 2005 and 2006 under Article 12 of the ATU CBA, during January 2006 each transferred MHTEA Bargaining Unit Employee in the classification of mechanic and hostler shall receive a cash payment of Sixty Dollars (\$60.00).

9. Insurance

a. Effective April 1, 2005, each transferred MHTEA Bargaining Unit Employee will be eligible to receive group Health Care Benefits in accordance with Article 17, Section 3 of the ATU CBA, with the exception that any MHTEA Bargaining Unit Employee who is on a leave of absence from the City on the Transfer Date will not be permitted to elect coverage under the Kaiser plan offered by GCRTA.

b. During March 2005, GCRTA will conduct an open enrollment period for transferred MHTEA Bargaining Unit Employees, and such employees must enroll in a plan during that period in order to receive group Health Care Benefits provided by GCRTA.

c. Effective April 1, 2005, each transferred MHTEA Bargaining Unit Employee will be eligible to receive group life insurance benefits in accordance with Article 17, Section 2(A) of the ATU CBA.

10. Vacations

a. During calendar year 2005, for any transferred MHTEA Bargaining Unit Employee who transfers accrued but unused vacation to GCRTA, GCRTA will honor the vacation picks previously selected by such employees with the City.

b. ~~For calendar year 2006 and thereafter, the vacation eligibility and vacation benefits for transferred MHTEA Bargaining Unit Employees shall be determined in accordance with Article 14 of the ATU CBA. The vacation selection process will be conducted in December 2005 for vacations to be taken during 2006.~~

c. For purposes of determining vacation eligibility for transferred MHTEA Bargaining Unit Employees for 2006, under Article 14 of the ATU CBA, GCRTA shall include

the hours worked by transferred MHTEA Bargaining Unit Employees with the City during 2005 prior to the Transfer Date.

d. Following the Transfer Date, and in accordance with Article 14, Section 15 of the ATU CBA, transferred MHTEA Bargaining Unit Employees employed as bus operators shall pick vacation in accordance with their district seniority, which shall include his seniority with the City's public transit system. All other transferred MHTEA Bargaining Unit Employees shall pick vacation in accordance with their district, system or classification seniority consistent with the applicable department practice in effect at the time.

11. Longevity Pay

a. Transferred MHTEA Bargaining Unit Employees who were hired by the City on or after August 1, 2000, will not be eligible for longevity payments under Article 29 of the ATU CBA.

b. Each transferred MHTEA Bargaining Unit Employee who was hired by the City prior to July 31, 2000, who is eligible to receive a longevity payment under Article 29 of the ATU CBA shall receive a pro rata payment equivalent to 3/4 of the applicable amount set forth in Article 29 of the ATU CBA. Each transferred MHTEA Bargaining Unit Employee who retires prior to December 1, 2005, shall receive a pro-rata portion of the 3/4 payment, based on the amount of time he worked with GCRTA from the Transfer Date to the date of his retirement.

12. Holidays and Floating Holidays

a. Each transferred MHTEA Bargaining Unit Employee who, as of the Transfer Date, remained eligible to receive at least one (1) Floating Holiday during calendar year 2005 under Article XXVII of the MHTEA CBA, shall be eligible to use up to one (1) Floating Holiday as a Personal Holiday under Article 15 of the ATU CBA, provided that such Personal Holiday is

used prior to July 31, 2005, or it will be lost. Effective August 1, 2005, each transferred MHTEA Bargaining Unit Employee shall receive two (2) Personal Holidays under Article 15 of the ATU CBA.

b. Effective on the Transfer Date, the terms of Article 15 of the ATU CBA shall apply to transferred MHTEA Bargaining Unit Employees.

13. Run Picks

For the purpose of ensuring continuity of service to residents currently served in areas being operated by the City's transit system, transferred MHTEA Bargaining Unit Employees to be employed by GCRTA as operators shall have the right to select those runs during the March 2005 and June 2005 run picks. For the September 2005 run pick, and all run picks thereafter, transferred MHTEA Bargaining Unit Employees shall pick runs in accordance with Part II - Operating Departments of the ATU CBA, based on each employee's seniority at the district at which he is employed, which shall include his seniority with the City's public transit system.

14. Waiver and Release of Claims

In consideration for the promises and covenants of GCRTA set forth in this Agreement, MHTEA and ATU, as separate legal entities and as collective bargaining representatives for the MHTEA Bargaining Unit Employees and the ATU Bargaining Unit Employees, respectively, acknowledge and agree as follows:

a. GCRTA shall not assume any obligations or liabilities arising out of, relating to, or arising in connection with the employment by the City of MHTEA Bargaining Unit Employees and/or the MHTEA CBA.

b. That GCTRA, through the execution of this Agreement and its engagement in the negotiations which proceeded and cumulated in the execution of this Agreement, fully complied

with and satisfied all of its legal obligations to MHTEA under ORC Section 306.35(x), and any and all legal obligations that GCRTA may have had to MHTEA under the MHTEA CBA or Federal, State and/or local law relative to GCRTA's acquisition of the full ownership and control of the City's public transportation system and/or the transfer of MHTEA Bargaining Unit Employees to GCRTA.

c. That this Agreement represents a full, final and complete disposition, settlement and resolution of any and all grievances, unfair labor practice charges, contractual disputes and legal claims which MHTEA or any individual MHTEA Bargaining Unit Employee have or may have against GCRTA, including, but not limited to any claims or grievances arising under or related to, directly or indirectly, the MHTEA CBA, GCRTA's acquisition of the full ownership and control of the City's public transportation system, and/or the transfer of MHTEA Bargaining Unit Employees to GCRTA.

d. That the protective arrangements set forth in this Agreement are fair and equitable and in full compliance with the provisions of O.R.C. Section 306.35(x).

e. That MHTEA and GCRTA shall execute the attached Transition Agreement.

15. Transfer of Disciplinary Records

Effective upon the Transfer Date, transferred MHTEA Bargaining Unit Employees will be covered by GCRTA's Positive Discipline Program, subject to the following transition conditions: (a) each transferred MHTEA Bargaining Unit Employee with a current verbal warning or written warning with the City will be granted amnesty by GCRTA for such warnings for purposes of future progressive formal discipline; (b) each transferred MHTEA Bargaining Unit Employee with a current record of suspension of one (1) day to five (5) days will have that discipline converted to a first written reminder under GCRTA's Positive Discipline Program,



with an active life of six (6) months from the Transfer Date; (c) each transferred MHTEA Bargaining Unit Employee with a current record of suspension of more than five (5) days will have that discipline converted to a second written reminder under GCRTA's Positive Discipline Program, with an active life of nine (9) months from the Transfer Date; and (d) each transferred MHTEA Bargaining Unit Employee currently covered by a "Last Chance Agreement" will continue to be covered by the terms of such Last Chance Agreement after the Transfer Date.

16. Dispute Resolution

Any disputes over the interpretation and/or application of this Agreement shall be subject to the Grievance and Arbitration procedures set forth in Articles 9 and 10 of the ATU CBA, respectively.

17. Agreement Contingent on Execution of Transfer Agreement

a. The undersigned parties acknowledge and agree that the terms of this Agreement are intended to be supplemental to and in full compliance with the terms of the Transfer Agreement. However, the terms of this Agreement shall be deemed to supercede any contrary terms of the Transfer Agreement.

b. The undersigned parties further acknowledge and agree that this Agreement shall become null and void and shall have no force and effect in the event GCRTA does not acquire full ownership and control of the City's public transportation system.

18. Severability

In the event any provision of this Agreement is held to be invalid, or otherwise unenforceable under Federal, State, or local law, the remaining provisions of the Agreement shall not be affected and the invalid or unenforceable provision shall be renegotiated by GCRTA and ATU for the purpose of adequate replacement.

19. Ratification

This Agreement is subject to ratification by the MHTEA Bargaining Unit Employees.

NOW THEREFORE, the undersigned representatives of GCRTA, MHTEA and the ATU acknowledge and represent that they are duly authorized to negotiate and execute this Agreement on behalf of their respective parties and their respective membership, subject to ratification of the MHTEA membership. Therefore, GCRTA, MHTEA and ATU do hereby in good faith voluntarily and legally execute this Agreement in Cleveland, Ohio, on the dates set forth below.

MAPLE HEIGHTS TRANSIT EMPLOYEES  
ASSOCIATION

GREATER CLEVELAND REGIONAL  
TRANSIT AUTHORITY

By: [Signature] 2/26/05

By Its: \_\_\_\_\_ Date

By: [Signature] 2-26-05

By: [Signature] 2-26-05

APPROVED:

AMALGAMATED TRANSIT UNION,  
LOCAL 268, AFL-CIO

By: \_\_\_\_\_ Date

By: \_\_\_\_\_ Date

By: \_\_\_\_\_ Date

By: \_\_\_\_\_ Date