

RESOLUTION NO. 2005 -41

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 NORTH OLMSTED MUNICIPAL BUS LINE FROM THE CITY OF NORTH OLMSTED 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 North Olmsted; and

Whereas, the North Olmsted City Council is to consider the proposed Mass Transit Transfer Agreement for a third reading on March 15, 2005; and

Whereas, the Authority has submitted an Employee Protection Agreement and Transition Agreement to the represented employees of the North Olmsted Municipal Bus Line.

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 as the General Manager/Secretary-Treasurer determines to be appropriate.

Section 3. That the expenditure of Seven Hundred Fifty Thousand Dollars (\$750,000) payable from the General Fund in such amounts and at such times set forth in the Mass Transit System Transfer Agreement is hereby authorized and approved.

Section 4. The authority set forth herein to execute the Mass Transit System Transfer Agreement is contingent upon duly enacted legislation by the City of North Olmsted and execution, not later than March 18, 2005, of the agreement contemplated herein.

Section 5. That the authority set forth in this resolution is contingent upon the execution of an Employee Protection Agreement and Transition Agreement in substantially

the same substance and form as attached hereto, not later than March 18, 2005, and the General Manager/Secretary-Treasurer is hereby authorized to execute such agreement.

Section 6. 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 7. That the effective date of the transfer shall be March 20, 2005.

Section 8. That in the event the conditions set forth above are met, 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 North Olmsted, 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

Attest: 

CEO, General Manager/Secretary-Treasurer

MASS TRANSIT SYSTEM TRANSFER AGREEMENT
CITY OF NORTH OLMSTED
AND
THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

TABLE OF CONTENTS

A. AGREEMENT DATED _____ BETWEEN THE
CITY OF NORTH OLMS TED AND THE GREATER CLEVELAND
REGIONAL TRANSIT AUTHORITY

	Page
Recitals	
Terms and Conditions	
Transfer of Assets	
Excluded Assets and Property	
Service Guarantees by the Authority	
Consideration and Payment	
Labor Relations	
Outstanding Contracts	
Contingent Liability Under the 1999 Operating Agreement	
Representations of the Authority	
Representations of the City	
Further Agreements by City and Authority	
Conditions to Obligations of the Authority	
Conditions to Obligations of the City	
Civil Rights	
Assignment	
Failure of Conditions	
Closing Date	
Transactions On the Closing Date	
Transactions After the Closing Date	

Continuing Cost Reimbursement Obligation; Closeout Audit; and Resolution of Disputes Under the 1999 Public Transportation Operating Agreement	
Miscellaneous Provisions	

B	Exhibit 1	Resolution No. _____, Board of Trustees, the Greater Cleveland Regional Transit Authority
C	Exhibit 2	Ordinance No. _____, City of North Olmsted
E	Schedule A	Excluded Assets and Property
F	Schedule B	Outstanding Obligations, Encumbrances, Leases and Contracts of the City of North Olmsted Relating to the City's Public Transportation System
I	Schedule C	All Labor Agreements, Memoranda of Understanding Relating to Labor Relations of the City in its Public Transportation System
I	Schedule D	Policies of Insurance Relating to the Public Transportation System of the City of North Olmsted
J	Schedule E	Complete Listing of all Contingent Liabilities of the City of North Olmsted Relating to Its Public Transportation System; All Matters in Litigation and Threatened to Be In Litigation As Of March 1, 2005, Including All Personal Injury, Property Damage, Contract and Other Claims
K		Opinion of General Counsel for Authority
L		Opinion of Director of Law of City

AGREEMENT

This Agreement is between the City of North Olmsted, 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 contemplated the transfer to the Authority of independent transportation systems located in Cuyahoga County.
- (b) The City has for 74 years operated a public transportation system servicing the North Olmsted, 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 valuable 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.

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 5200 Dover Center Road, north Olmsted, Ohio; two (2) historical buses identified as: Bus No. 110, a 1951 GMC bus, Serial No. TDH45091405, and Bus No. 204, a 1971 GMC bus, Serial No. T8H-5307A-3717; certain undeveloped real property located in the North Olmsted Industrial Park and identified as Permanent Parcel Nos. 234-11-139, consisting of 2.04 acres, and 234-11-141, consisting of 4.71 acres; 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 parties agree that all other capital improvements to which the Authority is to retain pursuant to the terms of the 1999 Operating Agreement shall be removed by the Authority from City property not later than June 30, 2005. The Authority shall be responsible for all removal costs as set forth in the 1999 Operating Agreement. The City agrees that it will cooperate with the Authority in the removal of such capital improvements. The Authority shall restore the City's property to the condition as it existed immediately prior to the installation of any 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 comments and suggestions, if any, to the planned changes.

(c) The Authority, in cooperation with the City of North Olmsted, hereby states its commitment to the expansion of the Park-N-Ride facilities presently located at 5575 Great Northern Boulevard.

(d) The Authority agrees that, no later than within one year following the date of execution of this Agreement, it will transform the Route #53 into a Community Circulator Service Route.

(e) For a period of three (3) years, the Authority will establish a North Olmsted Quality Service Unit to focus on providing superior customer service on routes that serve North Olmsted. The City will host annual or semi-annual town meetings open

to the public to receive suggestions on service improvements and notify the Authority at least thirty (30) days in advance of such hearings.

(f) 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.

The Authority shall pay to the City the sum of Seven Hundred Fifty Thousand Dollars (\$750,000) for the transaction contemplated by this agreement. This sum shall be paid in the following installments: (1) \$250,000 on or by April 15, 2005; (2) Two Hundred Fifty Thousand (\$250,000) on or by April 15, 2006; and (3) Two Hundred Fifty Thousand (\$250,000) on or by April 15, 2007. Separate and apart from the consideration paid pursuant to this paragraph of the Agreement, the Authority agrees to continue to reimburse the City after closing of this transaction for costs incurred by the City while operating its transit system pursuant to the terms and conditions of the 1999 Public Transportation Operating Agreement, as more fully set forth in paragraph 19 and other applicable paragraphs of this Agreement.

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 Authority and City's represented employees. In addition, all non-bargaining operational and administrative transit employees of the City shall be offered employment by the Authority, and the Authority shall make an effort to place such employees in positions that are commensurate with their skills and experience and current pay levels. 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 North Olmsted Municipal Bus Line, 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 North Olmsted Municipal Bus Line 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 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 cause, 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 North Olmsted Municipal Bus Line, 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. Ordinance No. 2005-16 passed by the Council of the City of North Olmsted, 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 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 9(a) of this Agreement.

18. Transactions After the Closing Date. 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. Continuing Cost Reimbursement Obligation; Closeout Audit; and Resolution of Disputes Under the 1999 Public Transportation Operating Agreement.

(a) The parties recognize and agree that for some period of time following the closing of this transaction, the City will continue to receive invoices and otherwise be required to make payments for expenses incurred as a result of operating a transit system in accordance with the terms and conditions of the 1999 Operating Agreement. The Authority recognizes that it has a continuing obligation to reimburse the City for such payments made by the City following the expiration of the 1999 Operating Agreement to the same extent and in the same manner that it would have been required to reimburse the City under the 1999 Operating Agreement.

(b) On a monthly basis prior to the closeout audit set forth in this section, the City shall promptly tender request for reimbursement to the Authority, which shall reimburse the City, in accordance with the 1999 Operating Agreement. The Authority retains the right to review and audit all such requests for reimbursement.

(c) 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 North Olmsted. The parties hereto agree that within six (6)

months following the execution of this Transfer Agreement, a closeout audit shall be conducted by the Greater Cleveland Regional Transit Authority and that any and all disputes for all claims arising out the performance of this agreement and/or as a result of the audit, shall be presented to a mutually agreed upon arbitrator selected through and pursuant to the rules of the American Arbitration Association. Such decision shall not be binding and the cost of said arbitration to be split equally by the parties. Notwithstanding any ruling issued by said arbitrator, 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.

(d) Nothing in the foregoing language shall preclude the City from entitlement to reimbursement for expenses otherwise reimbursable under the 1999 Operating Agreement, but which were received by the City after the date of the closeout audit. The City shall promptly submit such requests for reimbursement, and the Authority shall pay them, so long as they arose under the Operating Agreement, subject to review and audit.

20. Miscellaneous Provision.

(a) Administrative Personnel. The Authority shall, for a period of six (6) months following the execution of this Agreement, at the reasonable request of the City, make available at the Authority's cost administrative personnel, including by not limited to the former Operations Manager and Material Handler Leader of the North Olmsted Municipal Bus Line, as

long as they remain employed by the Authority, 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, the Authority shall reimburse the City for one-half the cost of unemployment compensation benefits the City may be caused to pay any North Olmsted Municipal Bus Line employee employed by the Authority who subsequently becomes eligible for unemployment benefits.
- (c) Notification. Any notice given by either of the parties to the shall be in writing and shall be delivered personally or sent by certified mail, postage prepaid, if to the Authority addressed to:

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 North Olmsted
Department of Law
26777 Lorain Road, Suite 416
North Olmsted, Ohio 44070

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

WITNESSETH:

CITY OF NORTH OLMSTED

By: _____

Its: _____

GREATER CLEVELAND
REGIONAL TRANSIT AUTHORITY

By: _____

Its: _____

Approved as to Legal Form:

Approved as to Legal Form:

James M. Dubelko
Director of Law
City of North Olmsted

Sheryl King Benford
General Counsel/Deputy General
Manager of Legal Affairs
Greater Cleveland Regional Transit
Authority

1

SCHEDULE A

EXCLUDED ASSETS AND PROPERTY

SCHEDULE B

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

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 NORTH OLMSTED

SCHEDULE E

LISTING OF ALL CONTINGENT
LIABILITIES OF THE CITY OF
NORTH OLMSTED 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

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 American Federation of State, County and Municipal Employees ("AFSCME") Ohio Council 8, and its Local 3517 (hereinafter collectively referred to as "AFSCME"), 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 North Olmsted, Ohio transit system who currently are represented by AFSCME, following GCRTA's acquisition of the full ownership and control of the City of North Olmsted's 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 North Olmsted, Ohio (hereinafter "City") presently owns and operates a public transportation system serving the North Olmsted, 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. AFSCME currently is the exclusive collective bargaining representative for employees of the City's public transportation system in a bargaining unit consisting of full-time

bus operators, dispatcher/drivers, mechanics, hostlers, equipment servicers, and material handlers (hereinafter "AFSCME Bargaining Unit Employees"). The City and AFSCME 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 AFSCME Bargaining Unit Employees (hereinafter "AFSCME 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. AFSCME acknowledges that GCRTA also is in the process of acquiring full ownership and control of the public transit system of the City of Maple Heights, 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 Maple Heights Transit Employees Association (hereinafter referred to as "MHTEA 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, AFSCME 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 AFSCME Bargaining Unit Employee. All AFSCME 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 AFSCME CBA

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

3. Job Classifications and Work Assignments

a. Each transferred AFSCME Bargaining Unit Employee in the classification of bus operator shall be placed in an operator classification with GCRTA, in accordance with the ATU CBA.

b. Each transferred AFSCME 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 AFSCME 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 AFSCME Bargaining Unit Employee in a non-operator classification, based on operational needs and availability.

4. Seniority

a. Each transferred AFSCME 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 AFSCME 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 AFSCME Bargaining Unit Employee transferred to GCRTA, in accordance with his seniority with the City's transit system effective on the Transfer Date, with the exception that seniority with the City will not be credited for any accrual of benefits under any GCRTA benefit plans or retirement plans.

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

5. Layoff List

Each AFSCME 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. Each transferred AFSCME Bargaining Unit Employee may carry over his 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 "AFSCME Sick Leave Bank").

b. Effective after the Transfer Date, each transferred AFSCME 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 AFSCME Bargaining Unit Employee must use and exhaust sick leave benefits from his AFSCME Sick Leave Bank before using any sick leave benefits from his GCRTA Sick Leave Bank.

c. Transferred AFSCME 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 AFSCME Sick Leave Bank.

d. In accordance with Article 17, Section 2(C) of the ATU CBA, any unused sick leave in an employee's AFSCME 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 AFSCME Bargaining Unit Employee shall cash out any unused sick leave from his AFSCME 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.

7. Uniform Allowance

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

b. Effective April 1, 2005, GCRTA will contribute a maximum of Two Hundred Twenty-Five Dollars (\$225.00) toward the purchase price of standard uniforms or parts of uniforms for each transferred AFSCME Bargaining Unit Employee in the classifications of bus operator and dispatcher/driver.

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 AFSCME Bargaining Unit Employee in the classifications of bus operator and dispatcher/driver.

8. Safety Shoes and Tool Allowance

a. AFSCME acknowledges that prior to the Transfer Date, each transferred AFSCME Bargaining Unit Employee in the classifications of mechanic and equipment servicer shall receive from the City a tool allowance of Three Hundred Fifty Dollars (\$350.00), in lieu of any tool allowance or payments from GCRTA for 2005. During January 2006, each transferred AFSCME Bargaining Unit Employee in the classification of mechanic shall receive a tool allowance in accordance with Article 8 of the ATU CBA.

b. In lieu of a shoe allowance for 2005 and 2006 under Article 12 of the ATU CBA, during January 2006 each transferred AFSCME Bargaining Unit Employee in the classification of mechanic, equipment servicer, hostler and material handler shall receive a cash payment of Sixty Dollars (\$60.00). Such payments shall be made in a separate check.

9. Insurance

a. Effective April 1, 2005, each transferred AFSCME 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 AFSCME 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 AFSCME 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 AFSCME 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 AFSCME 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 AFSCME Bargaining Unit Employees shall be determined in accordance with Article 14 of the ATU CBA.

c. For purposes of determining vacation eligibility for transferred AFSCME Bargaining Unit Employees for 2006, under Article 14 of the ATU CBA, GCRTA shall include the hours worked by transferred AFSCME Bargaining Unit Employees with the City during 2005 prior to the Transfer Date.

d. GCRTA acknowledges and agrees that each transferred AFSCME Bargaining Unit Employee who, as of the Transfer Date, has "held" one (1) or two (2) weeks of vacation pursuant to Section 23.06 of the AFSCME CBA, may (i) schedule and use up to two (2) weeks of vacation prior to December 31, 2005, based on GCRTA's operational needs and in accordance with its normal vacation scheduling practices, or (ii) may elect to bank up to two (2) weeks of vacation time pursuant to Article 15, Section 14 of the ATU CBA.

e. Following the Transfer Date, and in accordance with Article 14, Section 15 of the ATU CBA, transferred AFSCME Bargaining Unit Employees employed as bus operators shall pick vacation in accordance with their district seniority. All other transferred AFSCME 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. Holidays and Floating Holidays

a. Each transferred AFSCME 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 25 of the AFSCME 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 AFSCME 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 AFSCME Bargaining Unit Employees.

12. 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 AFSCME 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 AFSCME 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.

13. Waiver and Release of Claims

In consideration for the promises and covenants of GCRTA set forth in this Agreement, AFSCME and ATU, as separate legal entities and as collective bargaining representatives for the AFSCME 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 AFSCME Bargaining Unit Employees and/or the AFSCME 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 AFSCME under ORC Section 306.35(x), and any and all legal obligations that GCRTA may have had to AFSCME under the AFSCME 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 AFSCME 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 AFSCME had or may have against GCRTA, including, but not limited to any claims or grievances arising under or related to, directly or indirectly, the AFSCME CBA, GCRTA's acquisition of the full ownership and control of the City's public transportation system, and/or the transfer of AFSCME 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).

14. Transfer of Discipline

Effective upon the Transfer Date, transferred AFSCME Bargaining Unit Employees will be covered by GCRTA's Positive Discipline Program, subject to the following transition conditions: (a) each transferred AFSCME 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 AFSCME 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 AFSCME 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 AFSCME 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.

15. 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.

16. 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.

17. 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.

18. Longevity Pay

a. Transferred AFSCME 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 AFSCME 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 AFSCME 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.

19. Ratification

AFSCME Ohio Council 8 represents that it is fully authorized under AFSCME's Constitution and By-laws to negotiate and to execute this Agreement on behalf of AFSCME Local 3517 and its membership, and further acknowledges and agrees that GCRTA has approved and executed this Agreement, and has agreed to the terms set forth in this Agreement, in specific reliance upon such representation by AFSCME Ohio Council 8. This Agreement is subject to ratification by the AFSCME Bargaining Unit Employees.

NOW THEREFORE, the undersigned representatives of GCRTA, AFSCME 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. Therefore, GCRTA, AFSCME and ATU do hereby in good faith voluntarily and legally execute this Agreement in Cleveland, Ohio, on the dates set forth below.

AFSCME OHIO COUNCIL 8

GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY

By: _____
Date

By Its: _____
Date

By: _____
Date

AFSCME LOCAL 3517

By: _____
Date

By: _____
Date

APPROVED:

AMALGAMATED TRANSIT UNION,
LOCAL 268, AFL-CIO

By: _____
Date

By: _____
Date

By: _____
Date

By: _____
Date

261724

North Olmsted Draft No. 3 -3/10/05

TRANSITION AGREEMENT

This Transition Agreement is made and entered into between the Greater Cleveland Regional Transit Authority (hereinafter "GCRTA"), the American Federation of State, County and Municipal Employees ("AFSCME") Ohio Council 8, and AFSCME Local 3517 (hereinafter collectively referred to as "AFSCME"), and the City of North Olmsted, Ohio (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 North Olmsted presently owns and operates a public transportation system serving the North Olmsted, 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. AFSCME is the exclusive collective bargaining representative for employees of the City's public transportation system in a bargaining unit consisting of full-time bus operators, dispatcher/drivers, mechanics, hostlers, equipment servicers, and material handlers (hereinafter "AFSCME Bargaining Unit Employees"). The City and AFSCME 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 AFSCME Bargaining Unit Employees

(hereinafter "AFSCME 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 AFSCME 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 AFSCME 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, AFSCME 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. **AFSCME has represented to the City that some AFSCME bargaining unit employees may, as a result of the transfer of the City's bus line operations to GCRTA, experience a loss of, or diminution in, certain negotiated employee benefits as a result of their service retirements from GCRTA prior to August 1, 2006, the heretofore expected expiration date of the AFSCME CBA. While not admitting to or otherwise in any way**

acknowledging any liability under the AFSCME CBA or otherwise to the said employees, or to any other AFSCME bargaining unit employee, employed by the City at any time during the period of the existence of the said AFSCME CBA, for any losses of or diminution in benefits any such employees may experience as a result of the transfer of the City's bus line to GCRTA, the City agrees, on a one-time basis, to conditionally provide additional compensation to said employees as follows. The City shall pay to such employees, who are identified in attached Schedule A, a specific sum, also identified in Schedule A, upon their retirements from GCRTA, providing that the employee qualifies for PERS retirement and retires from employment with GCRTA prior to August 1, 2006, and further provided that, at the time of his or her retirement, such employee has a sick leave balance with GCRTA of a certain minimum number of hours, also identified for such employee in Schedule A. The total amount that the City shall be required to pay out collectively to all employees pursuant to the terms of this Agreement shall not exceed Twenty Thousand Dollars (\$20,000.00), and the employees identified in Schedule A shall each receive a pro rata amount of said total amount as specified in said Schedule. GCRTA agrees that it shall fully cooperate with the City and AFSCME in this matter by providing the City in writing with current sick leave balances for each said employee within thirty (30) days following the date of their service retirement from GCRTA employment.

3. The City and AFSCME agree that this Transition Agreement sets forth the full and complete agreement between AFSCME 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 AFSCME. The City and AFSCME further agree that no additional

bargaining will be required on these subjects, and that the City and AFSCME 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, specifically including but not limited to any claims under the AFSCME CBA.

4. AFSCME Ohio Council 8 represents that it is fully authorized under AFSCME's Constitution and By-laws to negotiate and to execute this Transition Agreement on behalf of AFSCME Local 3517 and its membership, and further acknowledges and agrees that GCRTA has approved and executed this Transition Agreement, and has agreed to the terms set forth in this Transition Agreement, in specific reliance upon such representation by AFSCME Ohio Council 8.

5. GCRTA, the City and AFSCME 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.

This Transition Agreement shall be effective as of the Transfer Date, which is currently expected to occur by March 20, 2005.

AFSCME OHIO COUNCIL 8

Greater Cleveland Regional
Transit AUTHORITY

By: _____
Date

By Its: _____
Date

By: _____
Date

AFSCME LOCAL 3517

CITY OF NORTH OLMSTED

By: _____

By: _____