

RESOLUTION NO. 2005- 132

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AGREEMENT TO PURCHASE A PERMANENT AND TEMPORARY EASEMENT FOR THE EUCLID CORRIDOR TRANSPORTATION PROJECT IN THE HEREINAFTER-DESCRIBED PARCEL, DECLARING THE NECESSITY THEREFORE FOR THE PURPOSE OF MAKING AND REPAIRING ROADS THAT SHALL BE OPEN TO THE PUBLIC WITHOUT CHARGE, AND DECLARING THE VALUE OF EACH PARCEL ACQUIRED, FOR A TOTAL PURCHASE PRICE OF \$48,150.00 (RTA DEVELOPMENT FUND, EUCLID CORRIDOR TRANSPORTATION PROJECT DEPARTMENT BUDGET).

WHEREAS, the Greater Cleveland Regional Transit Authority requires property acquisition for the purpose of making and repairing roads to better improve public transportation in Cleveland and the acquisition of right of way in conjunction therewith; and

WHEREAS, the Greater Cleveland Regional Transit Authority plans to construct the Euclid Corridor Transportation Project – bid package C-O3 on a portion of this site and therefore must acquire a temporary and permanent easement from Parcel 165, and;

WHEREAS; Tarrify Properties, LLC., an Ohio Limited Liability Company , is the owner of Parcel 165, as identified above and is willing to sell a temporary and permanent easement to the Greater Cleveland Regional Transit Authority; and

WHEREAS, the purchase price is based upon the fair market value of the property as determined by the property appraisal report. A Review Appraiser approved the Fair Market Value Estimate in the appraisal report; and

WHEREAS, the Greater Cleveland Regional Transit Authority wishes to enter into Purchase Agreements for the purchase of a temporary and permanent easement with Tarrify Properties, LLC., an Ohio Limited Liability Company in the amount of \$48,150.00.

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

Section 1. That the General Manager/Secretary-Treasurer is hereby authorized to execute a Purchase Agreement for a permanent and temporary easement for this property and all other documents required to acquire and transfer this real estate.

Section 2. That the Total Purchase Price of \$48,150.00 is based upon the fair market value of the property as determined by the property appraisal report, as approved by a Review Appraiser, and is within the settlement authority approved by the Federal Transit Administration.

Section 3. That the Purchase Price is payable from the RTA Development Fund, Euclid Corridor Transportation Project Department Budget, including but not limited to Capital Grant OH-03-0247 in the amount of \$30,093.75 and Capital Grant OH-90-X484-01 in the amount of \$18,056.25 for a total amount of \$48,150.00 (\$38,520.00 in Federal funds which represents 80% of the total cost). Federal funds under Capital Grant OH-90-X484-01 are made available through the Ohio Department of Transportation.

Section 4. That the execution of a purchase agreement and acquisition of a permanent and temporary easement from this owner is necessary to carry out the Euclid Corridor Transportation Project.

Section 5. That this resolution shall become effective immediately upon its adoption.

Attachment: Map and legal description (Attachment A)
Property Interest spreadsheet (Exhibit 1)

Adopted: September 20, 2005



President

Attest: 

CEO, General Manager/Secretary-Treasurer

EXHIBIT A

RX250
Rev. 04/03

PID	165SH
PARCEL	GCRТА-PROJ.38-CO3
CTY-RTE-SEC	July 6, 2005
Version Date	

**PARCEL 165-SH
GCRТА-PROJ.38-CO3
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY FOR
ROADWAY CONSTRUCTION
FOR APPROXIMATELY 24 MONTHS FROM THE DATE OF ENTRY**

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio and being known as a part of Sublot Nos. 3 and 4 in The M. Schiely's Subdivision as shown on the plat recorded in Volume 3, Page 19 of the Cuyahoga County Plat, being also a part of land conveyed to Tarrify Properties, LLC by Instrument No. 200410150963 on file in the Cuyahoga County Recorder's Office and being a parcel of land lying on the right side of the centerline of right of way and construction of Euclid Avenue, bounded and described as follows;

Beginning at the intersection of the southerly right of way of Euclid Avenue and the westerly right of way of East 55th Street at 49.50 feet right of centerline of right of way and construction of Euclid Avenue Station 211+25.46 and 50.00 feet left of centerline of right of way and construction of East 55th Street Station 49+43.01;

- 1) Thence South 01° 03' 03" East along said westerly right of way 11.50 feet to a point 50.00 feet left of centerline of right of way and construction of East 55th Street Station 49+31.51 and 60.89 feet right of centerline of right of way and construction of Euclid Avenue Station 211+23.87;
- 2) Thence along a curve which bears to the left, 17.10 feet to the southerly right of way of Euclid Avenue at 49.50 feet right of centerline of right of way and construction of Euclid Avenue Station 211+13.96 and 61.39 feet left of centerline of right of way and construction of East 55th Street Station 49+41.42; said curve having a radius of 10.00 feet, a central angle of 97° 58' 28", and a chord of 15.09 feet which bears North 50° 02' 17" West;
- 3) Thence North 80° 58' 29" East along said southerly right of way, 11.50 feet the point of beginning.

Containing within said bounds 0.0007 acres of land in Parcel 103-10-011.

Bearings are based on Ohio State Plane, North Zone NAD83 (1995) Grid North.

The stations referred to herein are from the centerline of right of way and construction of Euclid Avenue and the centerline of right of way and construction of East 55th Street.

This description was prepared by KS Associates, Inc. under the supervision of Mark A. Yeager, Professional Surveyor, Ohio No. 7289.

Date:

7/6/05

Mark A. Yeager
Mark A. Yeager, P.S. 7289



EXHIBIT A

Page 1 of 2

RX250
Rev. 04/03PID
PARCEL
CTY-RTE-SEC
Version Date165T
GCRTA-PROJ.38-CO3
July 6, 2005

**PARCEL 165-T
GCRTA-PROJ.38-CO3
TEMPORARY EASEMENT FOR THE PURPOSE OF
PERFORMING THE WORK NECESSARY FOR
ROADWAY CONSTRUCTION
FOR APPROXIMATELY 24 MONTHS FROM THE DATE OF ENTRY**

Situated in the City of Cleveland, County of Cuyahoga, and State of Ohio and being known as a part of Sublot Nos. 3 and 4 in The M. Schiely's Subdivision as shown on the plat recorded in Volume 3, Page 19 of the Cuyahoga County Plat, being also a part of land conveyed to Tarrify Properties, LLC by Instrument No. 200410150963 on file in the Cuyahoga County Recorder's Office and being a parcel of land lying on the right side of the centerline of right of way and construction of Euclid Avenue, bounded and described as follows;

Beginning at a point on the westerly right of way line of East 55th Street at a point 60.89 feet right of centerline of right of way and construction of Euclid Avenue Station 211+23.87 and 50.00 feet left of centerline of right of way and construction of East 55th Street Station 49+31.51;

- 1) Thence South 01° 03' 03" East along said westerly right of way 141.80 feet to a point 50.00 feet left of centerline of right of way and construction of East 55th Street Station 47+89.71;
- 2) Thence North 45° 47' 46" West, 14.21 feet to a point 60.00 feet left of centerline of right of way and construction of East 55th Street Station 47+99.80;
- 3) Thence North 06° 05' 13" West, 56.69 feet to a point 64.98 feet left of centerline of right of way and construction of East 55th Street Station 48+56.27;
- 4) Thence North 01° 03' 03" West, 63.44 feet to a point 70.50 feet right of centerline of right of way and construction of Euclid Avenue Station 211+07.40 and 64.98 feet left of centerline of right of way and construction of East 55th Street Station 49+19.71;
- 5) Thence South 80° 58' 29" West, 174.72 feet to a point at 70.50 feet right of centerline of right of way and construction of Euclid Avenue Station 209+32.67;
- 6) Thence North 65° 47' 14" West, 20.07 feet to a point on the easterly line of land conveyed to Mid City Development Company by Volume 95-09450 Page 56 on file in the Cuyahoga County Recorder's Office at 59.50 feet right of centerline of right of way and construction of Euclid Avenue Station 209+15.89;
- 7) Thence North 08° 53' 41" West along said line 10.00 feet to a point on the southerly right of way of Euclid Avenue at 49.50 feet right of centerline of right of way and construction of Euclid Avenue Station 209+15.91;
- 8) Thence North 80° 58' 29" East along said right of way 198.05 feet to a point 49.50 feet right of centerline of right of way and construction of Euclid Avenue Station 211+13.96 and 61.39 feet left of centerline of right of way and construction of East 55th Street Station 49+41.42;
- 9) Thence leaving said right of way along an curve which bears to the right 17.10 feet to the point of beginning; said curve having a radius of 10.00 feet, a central angle of 97° 58' 28", and a chord of 15.09 feet which bears South 50° 02' 17" East.

Containing within said bounds 0.1370 acres of land in Parcel 103-10-011.

EXHIBIT A

RX250
Rev. 04/03

PID	165T
PARCEL	GCRTA-PROJ.38-CO3
CTY-RTE-SEC	July 6, 2005
Version Date	

Bearings are based on Ohio State Plane, North Zone NAD83 (1995) Grid North.

The stations referred to herein are from the centerline of right of way and construction of Euclid Avenue and the centerline of right of way and construction of East 55th Street.

This description was prepared by KS Associates, Inc. under the supervision of Mark A. Yeager, Professional Surveyor, Ohio No. 7289.

Date:

7/6/05

Mark A. Yeager
Mark A. Yeager, P.S. 7289



Exhibit 1

ROW Parcel Number	County Auditor's Permanent Parcel Number	ECTP Bid Package	Owner	Acquisition Action	Fee Simple Gross Take (Acres)	Permanent Easement Gross Take (Acres)	Temporary Easement Gross Take (Acres)
165T	103-10-011	C-03	Tarrify Properties, LLC	Temporary Easement	0.0000	0.0000	0.1374
165SH	103-10-011	C-03	Tarrify Properties, LLC	Permanent Easement	0.0000	0.0003	0.0000

OFFER TO PURCHASE RIGHT OF WAY AND EASEMENT

Parcel(s) 165 SH, T

Cleveland, Ohio, Aug 12 2005

1. The Greater Cleveland Regional Transit Authority ("GCRTA") ("Buyer") hereby offers to buy from Tarrify Properties, LLC, an Ohio Limited Liability Company ("Seller") the easement and easement rights over, under, on, across and through that certain real property owned by Seller located at 5300 Euclid Avenue, Cleveland, Ohio, as more fully set forth in that certain Permanent Right of Way and Use Easement and that certain Temporary Right of Way and Use Easement a copy of which is attached hereto and made a part hereof as **Exhibit "A"** (the "Easement").
2. Buyer agrees to pay for the Easement the sum of \$48,150.00 (the "Purchase Price") on the Closing Date (hereinafter defined) through the office of Surety Title Agency, Inc., 1010 Leader Building, Cleveland, Ohio (the "Title Company").
3. The real property encumbered by the Easement is free and clear of all liens, encumbrances, leases, rights of possession, easements, conditions and restrictions except for (i) real estate taxes and assessments, both general and special, not yet due and payable as of the Closing Date, (ii) building and zoning ordinances and (iii) such other exceptions to title (the "Permitted Exceptions") as are set forth on **Exhibit "B"** attached hereto and made a part hereof. As a condition to Buyer's obligation to Close, the Title Company shall furnish an ALTA Owner's Policy of Title Insurance Form 1970B (with the standard title exceptions deleted) in the amount of the purchase price (the "Title Policy") as evidence or assurance that there has been conveyed to Buyer the Easement required to be conveyed hereunder. If there have been improvements or construction within the period provided by law for the filing of mechanic's liens that could affect the Easement, then Seller shall furnish satisfactory evidence of the payment in full of all labor and materials to the Title Company.
4. When accepted this offer shall constitute an agreement ("Agreement") for the purchase and sale of the Easement. This Agreement shall serve as instructions to the Title Company. Time is of the essence.
5. The Purchase Price and the Easement (in fully executed form) are to be deposited with the Title Company on or before the Closing Date. The Closing Date for this transaction shall be selected by the Buyer and shall be no later than 120 days after the execution of this Agreement by Buyer (the "Closing Date"). On the Closing Date, the Title Company shall cause title to the real property encumbered by the Easement to be searched, and provided the Title Company will issue the Title Policy and the Title Company has received all funds and documents to be deposited hereunder, the Title Company shall cause the Easement to be filed for record and the Purchase Price disbursed in accordance with this Agreement. The Title Company also shall timely file all forms, notices and documents required to be filed with the Internal Revenue Service in connection with this transaction.
6. Title Company shall charge Buyer with the cost of the Title Policy, the Title Company fees and the cost of recording the Easement.
7. Buyer, its agents and representatives shall have the right following the acceptance date of this Agreement by Seller to enter the Easement area for purposes of undertaking inspections, tests and all other activities, including construction related to the Euclid Corridor Transportation Project.
8. Seller covenants, represents and warrants to Buyer as follows:
 - (a) Seller has the full right and authority to convey the Easement to Buyer pursuant to this Agreement and no other person or firm on behalf of Seller is a necessary party to this transaction;
 - (b) Seller is not, nor is any person or firm executing this document on behalf of Seller, included on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of Treasury;
 - (c) Seller is duly organized and existing in good standing under the laws of the State of Ohio and has the exclusive right of possession of the real property subject to the Easement;
 - (d) There is not located in, on, under or about real property subject to the Easement any "Hazardous Materials", in violation of any applicable laws, ordinances, governmental rules and regulations ("Laws"); and all operations and activities on, under or about the real property encumbered by the Easement are in compliance with all Laws. For purposes hereof, "Hazardous Materials" means any substance, material or waste which is or becomes regulated by any local governmental authority, the state in which the Easement is located or the United States

Government, including, but not limited to, any material or substance which is deemed to be a pollutant, contaminant, hazardous material, hazardous substance, hazardous chemical, hazardous waste, extremely hazardous waste, toxic substance or material or restricted hazardous waste pursuant to Laws;

- (e) There are no gas wells or other wells (whether or not capped) nor any underground storage tanks under any part of the real property subject to the Easement;
- (f) There is no litigation, proceeding or action pending or to Seller's best knowledge, threatened against or relating to Seller or the real property subject to the Easement;
- (g) Except as set forth on **Exhibit "B"**, there are no easements, conditions, leases, encumbrances, liens, restrictions or other agreements affecting the real property subject to the Easement;

9. Buyer represents and warrants to Seller as follows:

- (a) Subject to approval of this Agreement and the transaction contemplated hereunder by Buyer's Board of Trustees, Buyer has the full right and authority to purchase the Easement pursuant to this Agreement and no other person or firm is a necessary party on behalf of Buyer to this transaction;
- (b) Buyer is not, nor is any person executing this document on behalf of Buyer, included on the list of Specially Designated Nationals and Blocked Persons published by the Office of Foreign Assets Control of the U.S. Department of Treasury

10. Seller and Buyer each hereby represents and warrants to the other that no real estate broker or salesperson has been involved in this transaction and that no real estate broker or salesperson has initiated the sale of the Easement. Seller hereby agrees to indemnify, defend and hold harmless Buyer from any claims for commissions by any broker or salesperson claiming to have dealt with Seller.

11. If Seller fails to perform any of Seller's obligations under this Agreement, then Buyer shall be entitled to (a) terminate this Agreement and receive the immediate return of all money paid hereunder, or (b) have this Agreement specifically enforced and/or (c) recover from Seller all damages, including consequential damages plus court costs and attorney fees. If Buyer fails to perform any of Buyer's obligations under this Agreement, then Seller may recover from Buyer all damages, including consequential damages plus court costs and attorney fees.

12. Each person signing this Agreement in a representative capacity warrants his or her authority to do so. Each person signing below warrants that, unless a representative capacity is set forth in connection with his or her signature, he or she is acting alone. The terms Buyer and Seller shall include all parties so designated and their respective heirs, personal representative, legatees, devisees, successors and permitted assigns and wherever the singular is used it shall include the plural and wherever the masculine gender is used it shall include the neuter and feminine, as the context requires.

13. This Agreement and the Easement contain the entire agreement between the parties hereto and they shall not be bound by any terms, warranties or representations, oral or written, not herein contained. The warranties and representations herein shall be deemed made as of the date of acceptance hereof by Seller and again as of the Closing Date and shall survive the Closing.

14. All notices and other communications required or permitted to be given hereunder shall be in writing and shall be delivered personally or shall be mailed by certified or registered mail, postage prepaid, return receipt requested, addressed to the parties at the following addresses, or such other or further addresses as either of the parties shall request by further written notice given in the manner herein required:

If to Buyer:

Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: Kenneth E. Banks – Senior Counsel Contracts and Real Estate

With a copy to:

Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: James D. DeRosa – Deputy Project Manager – Real Estate

If to Seller:

Tarrify Properties, LLC, an Ohio Limited Liability Company

5900 EXLIA AVE
CLEVELAND, OHIO 44103
Attn: STEVE TAKE

- 15. Except as and to the extent required by law, Seller shall not disclose the price, terms or conditions set forth in this Agreement or with respect to this transaction at any time or in any manner except to Seller's agents and representatives on a "need to know" basis and then only if such agents and representatives agree on their own behalf to be bound by the terms and conditions of this Section 15.
- 16. In the event that any provision of this Agreement or portion thereof shall be declared by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable, the validity, legality, and enforceability of the remaining provisions of this Agreement shall not in any way be affected or impaired thereby.
- 17. This Agreement may be executed in multiple counterparts which, when taken together, shall be deemed to be a single instrument. Upon the request of either party, the other party shall execute and deliver all documents and do all things reasonably necessary or desirable to the implementation and consummation of the purchase and sale of the Easement as contemplated hereunder. Seller and Buyer shall each execute three (3) copies of this Agreement. One (1) executed copy of this Agreement shall be retained by Seller and two (2) executed copies of this Agreement shall be retained by Buyer.

BUYER:

**GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY**
1240 West 6th Street
Cleveland, Ohio 44113-1331

WITNESS:

By: _____
Joseph A. Calabrese, CEO and
General Manager/Secretary-Treasurer

The legal form and correctness of the within
instrument are hereby approved.

Sheryl King Benford, General Counsel
Deputy General Manager for Legal Affairs

Date: _____ 200__

The undersigned, as Seller, hereby accepts the above offer and agrees to all terms and conditions therein stated.

SELLER:

TARRIFY PROPERTIES, LLC, AN OHIO LIMITED LIABILITY COMPANY

WITNESS:

[Handwritten signature]

[Handwritten signature]

By: MUSTAFIN TAYE

Its: MARAGUN

Date: AUG 12, 2005 .200



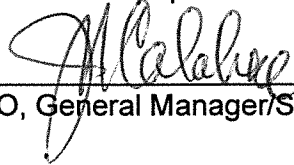
Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AGREEMENT TO PURCHASE A PERMANENT AND TEMPORARY EASEMENT FOR THE EUCLID CORRIDOR TRANSPORTATION PROJECT IN THE HEREINAFTER-DESCRIBED PARCEL, DECLARING THE NECESSITY THEREFORE FOR THE PURPOSE OF MAKING AND REPAIRING ROADS THAT SHALL BE OPEN TO THE PUBLIC WITHOUT CHARGE, AND DECLARING THE VALUE OF EACH PARCEL ACQUIRED, FOR A TOTAL PURCHASE PRICE OF \$48,150.00 (RTA DEVELOPMENT FUND, EUCLID CORRIDOR TRANSPORTATION PROJECT DEPARTMENT BUDGET).	Resolution No.: 2005-
	Date: September 15, 2005
	Initiator: Euclid Corridor Transportation Project
ACTION REQUEST: <input type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

- 1.0 PURPOSE/SCOPE: The purpose of entering into this Purchase Agreement is to provide a legal right to acquire and transfer permanent and temporary easements for this property to construct the Euclid Corridor Transportation Project – bid package C-O3.
- 2.0 DESCRIPTION/JUSTIFICATION: This property is vital for right of way needed for the first phase of construction of the Euclid Corridor Transportation Project. This site must be acquired for the purpose of making and repairing roads to better improve public transportation in Cleveland and the acquisition of right of way in conjunction therewith. Construction is anticipated to commence in 4TH Quarter 2005.
- 3.0 PROCUREMENT BACKGROUND: Does Not Apply.
- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does Not Apply.
- 5.0 POLICY IMPACT: This is consistent with GCRTA's Real Estate Policy, which states that the Board must approve all acquisitions of permanent easements with a value in excess of \$2,500.00. It also complies with the ECTP Real Estate Acquisition Policy Manual (RAMP) and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
- 6.0 ECONOMIC IMPACT: The purchase price is payable from the RTA Development Fund, Euclid Corridor Transportation Project Department Budget, including but not limited to Capital Grant OH-03-0247 in the amount of \$30,093.75, line item 13.75.91 and Capital Grant OH-90-X484-01 in the amount of \$18,056.25, line item 13.75.91 for a total amount of \$48,150.00 (\$38,520.00 in Federal funds which represent 80% of the total cost). Federal funds under Capital Grant OH-90-X484-01 are made available through the Ohio Department of Transportation. The purchase price is based upon the fair market value of the property as determined by the property appraisal report. A Review Appraiser approved the Fair Market Value Estimate in the appraisal report. The Federal Transit Administration approved the Greater Cleveland Regional Transit Authority's settlement authority, within which the purchase price falls.

- 7.0 ALTERNATIVES: There are no viable alternatives to purchasing this property. The right of way needs for the project require the acquisition of a permanent and temporary easement on this property.
- 8.0 RECOMMENDATION: This property acquisition was reviewed by the Board of Trustees Planning and Development Committee at their September 6, 2005 meeting. Staff recommends that the Board of Trustees approve the resolution to authorize the purchase of property.
- 9.0 ATTACHMENTS: None.

Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.



CEO, General Manager/Secretary-Treasurer