

RESOLUTION NO. 2008-162

AUTHORIZING THE GENERAL MANAGER/SECRETARY-TREASURER TO ENTER INTO A SUB-LEASE AGREEMENT, A MAINTENANCE AGREEMENT, AND ALL OTHER NECESSARY LEGAL DOCUMENTS WITH EUCLID AVENUE HOUSING CORPORATION AND CLEVELAND STATE UNIVERSITY FOR THE STEPHANIE TUBBS JONES EAST SIDE TRANSIT CENTER PROJECT

WHEREAS, the State of Ohio for the benefit and use of Cleveland State University owns property located at the southeast corner of Prospect Avenue and E. 21st Street in Cleveland, Ohio commonly known as Lot Z; and

WHEREAS, Cleveland State University has leased said land to Euclid Avenue Housing Corporation until June 30, 2048; and

WHEREAS, Euclid Avenue Housing Corporation wishes to sub-lease said land to the Greater Cleveland Regional Transit Authority ("Authority") and the Authority wishes to sub-lease said land from Euclid Avenue Housing Corporation for the purpose of constructing an East Side Transit Center ("Stephanie Tubbs Jones East Side Transit Center") for the Authority; and

WHEREAS, Cleveland State University has agreed to negotiate with the Authority to lease said land to the Authority after Euclid Avenue Housing Corporation's term expires; and

WHEREAS, Cleveland State University wishes to provide maintenance and security services at the Stephanie Tubbs Jones East Side Transit Center and the Authority wishes to receive such maintenance and security services from Cleveland State University; and

WHEREAS, Euclid Avenue Housing Corporation, Cleveland State University, and the Authority have entered into a Letter of Intent outlining each party's intent for structuring the sub-lease agreement, operating agreement, and other legal documents necessary to move forward with the Stephanie Tubbs Jones East Side Transit Center project.

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, subject to advance FTA approval, to enter into a sub-lease agreement, an operating agreement, and any other necessary legal documents needed to secure land and maintain the property for the Stephanie Tubbs Jones East Side Transit Center, which terms shall be substantially similar to the terms in the attached Letter of Intent among Euclid Avenue Housing Corporation, Cleveland State University, and the Greater Cleveland Regional Transit Authority.

Section 2: That the initial term of the sub-lease with Euclid Avenue Housing Corporation shall be approximately forty (40) years, until June 30, 2048.

Section 3: That Cleveland State University and the Authority shall enter into a lease agreement for up to three (3) additional terms of twenty (20) years each after Cleveland State University's lease with Euclid Avenue Housing Corporation expires if both parties come to mutual agreement of terms and if approved by the Board of Trustees of the Authority.

Section 4. That the Authority shall pay One Million Four Hundred Sixty-Four Thousand Dollars (\$1,464,000) to Euclid Avenue Housing Corporation as a lump sum lease rental payment for the initial term. As additional lease rental, the Authority grants Naming Rights to Cleveland State University to two pairs of HealthLine stations on Euclid Avenue at Cleveland State University's campus (E. 24th Street and E. 19th Street) for ten (10) years as an in-kind payment, with an option for ten (10) additional years at the then yearly price less Eighty-Thousand Dollars (\$80,000) per year.

Section 5. That the Authority shall pay Cleveland State University Eighty-Four Thousand Dollars (\$84,000) in 2008 dollars annually to compensate Cleveland State University for full and complete interior and exterior (including snow removal and landscape) maintenance of leased property and the Stephanie Tubbs Jones East Side Transit Center building, beginning when the building is first operating as a transit center.

Section 6. That said payments shall be payable out of the Operating and/or Capital budgets including but not limited to up to one hundred percent (100%) Local Funds for an amount of One Million Four Hundred Sixty-Four Thousand Dollars (\$1,464,000) for the lump sum lease payment.

Section 7. That this resolution shall become effective immediately upon its adoption.

Attachment: Letter of Intent among Euclid Avenue Housing Corporation, Cleveland State University, and Greater Cleveland Regional Transit Authority

Adopted: November 18, 2008



President

Attest: 

CEO, General Manager/Secretary-Treasurer



ATTACHMENT A

**The Greater Cleveland
Regional Transit Authority**

Main Office
1240 West 6th Street
Cleveland, Ohio 44113-1331
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Fax 216 781-4043
email: jcalabrese@gcrta.org
website: www.rideRTA.com

September 3, 2008

John J. Boyle, III
Vice President for Business Affairs & Finance
Cleveland State University
2121 Euclid Avenue, AC 203
Cleveland, OH 44115-2214

Re: East Side Transit Center Letter of Intent

Dear Mr. Boyle:

Joseph A. Calabrese, CEO
General Manager/
Secretary-Treasurer

The Greater Cleveland Regional Transit Authority ("GCRTA") intends to develop an East Side Transit Center on property owned by Cleveland State University and leased to Euclid Avenue Housing Corporation at the southeast corner of Prospect Avenue and E. 21st Street (the "Property") which will be a high quality development that is sensitive to the Cleveland State University existing built environment, that is consistent with its Master Plan General Guidelines and is transit and pedestrian oriented. The transit center will streamline GCRTA operations and alleviate bus layovers on City of Cleveland streets, which will reduce GCRTA operating costs. It will also provide an inviting waiting environment for GCRTA customers and will be in close proximity to the HealthLine and E-Line Downtown Trolleys to allow for convenient connections to other routes.

The East Side Transit Center shall include a one and one-half to two-story 2,000 square foot passenger waiting area; an area for bus circulation and turning; and an area for parking and maneuvering seventeen (17) buses.

The purpose of this Letter of Intent ("LOI") is to memorialize general terms and conditions agreed upon between the GCRTA as sub-lessee of the Property ("Lessee"), and Euclid Avenue Housing Corporation ("Lessor"), with respect to certain lease rights on the Property and with respect to operation and maintenance of the Property by Lessor.

Notwithstanding anything contained herein to the contrary, the parties acknowledge and agree that the provisions of this LOI (except for those in paragraph 7) are not intended to create or constitute any legally binding obligation between Lessee and Lessor, and neither Lessee nor Lessor will have any liability to the other party with respect to terms contained in the other paragraphs of this LOI unless and until a fully integrated definitive lease agreement (the "Agreement") and other related documents are prepared, authorized, executed and delivered by the parties.



1. Basic Transactions. The Lessee and Lessor will enter into a ground sublease of the Property. Lessor and Cleveland State University will need to enter into an agreement for the University's provision to provide operating and maintenance services to Lessee under terms to be more fully defined in said Agreement and other related documents.
2. Lease, Maintenance and Operation Costs. The parties agree that the costs will be those described in "Attachment A" to this LOI.
3. Lease Term. The term of the Lease shall be approximately forty (40) years beginning on the date that a ground lease is agreed to by all parties and ending June 30, 2048 ("Term"). Three (3) lease option periods of twenty (20) years each may be exercised ~~by GCRTA~~ in accord with a separate agreement between the GCRTA and Cleveland State University.
Handwritten notes: "MUTUAL" and "John BC" are written to the right of this item. "John BC" is written to the left of this item.
4. Inspections and Documentation. During the period between the date of this LOI and date of the Agreement, Lessor shall provide Lessee and Lessee's agents and representatives, including without limitation the Federal Transit Administration, Ohio Department of Transportation, and any local government entity having jurisdiction over the Property or construction by Lessee, access to all or any portion of the Property at reasonable times and with prior notice for the purpose of making such inspections of the Property as Lessee, deems necessary. Said inspections may include, without limitation, such environmental tests, audits, soil borings, samples and other inspections of the Property, but shall take into consideration the current use of the parcel in support of construction activities occurring on the adjacent parcel. Lessee shall be responsible for any loss or damage to property or injury to persons to the extent that it is caused by Lessee's inspections of the Property. Lessor shall provide to Lessee within seven days of signing this LOI all existing surveys describing the physical characteristics, legal limitations, soil borings/geotechnical data and utility locations for the Property, as well as all documentation Lessor has regarding environmental conditions on, under and adjacent to the Property.
5. Closing Date and Possession. The Lease transaction shall close on the first business day thirty (30) days after the later of: 1) Lessor's Board of Directors approval of the Lease; 2) Lessee's Board of Trustees approval of the Lease; and 3) the Federal Transit Administration concurrence with the terms of the Lease (the "Closing Date"). The above notwithstanding, the

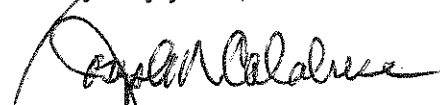


parties may agree in writing upon another date. Possession of the Property shall be given to Lessee on the Closing Date.

6. Agreement. Lessee and Lessor shall promptly begin negotiating in good faith to finalize the Agreement containing the terms of this LOI and comprehensive representations, warranties, disclosures, conditions and agreements. Lessor shall record the plat for the Property which shall be an attachment to the Agreement and which shall be essentially the same as "Attachment B" attached to this LOI.
7. Exclusive Dealing. For a period of forty-five (45) days from the date of this LOI, Lessor will not negotiate with any other person or entity relating to the lease or sale of the Property, in whole or in part.
8. Authority. Each person and entity signing on behalf of a party to this LOI individually warrants his and its authority so to do and individually warrants that all necessary actions have been taken to authorize the execution of this LOI by such party.
9. Real Estate Brokers' Commissions. Lessor and Lessee represent and warrant to each other that such parties have had no dealings with any real estate broker or agent so as to entitle such broker or agent to any commission in connection with the lease of the Property to Lessee.
10. Expenses. Each party will pay the expenses of such party's own accountants, attorneys and others engaged on such party's behalf in connection with this LOI, the transactions contemplated hereby, and the Agreement to be entered into between the parties.
11. Design Review. Lessor has the right to review and approve the design of the facility in advance of Lessee's presentation to the City of Cleveland Design Review Committee. Lessor's approval shall not be unreasonably withheld or delayed.

If the general terms and conditions outlined in this LOI are acceptable, please sign this where indicated below and return a copy to the undersigned.

Very truly yours,



Joseph A. Calabrese
CEO, General Manager/Secretary-
Treasurer



Acknowledged and agreed to this 4 day of ~~September~~ ^{November} 2008.

Euclid Avenue Housing Corporation

By: Brian A. Cook

Its: Vice President

Acknowledged and agreed to this 4 day of ~~September~~ ^{NOVEMBER} 2008.

Cleveland State University

By: Mark Boyer

Its: Vice President



ATTACHMENT A

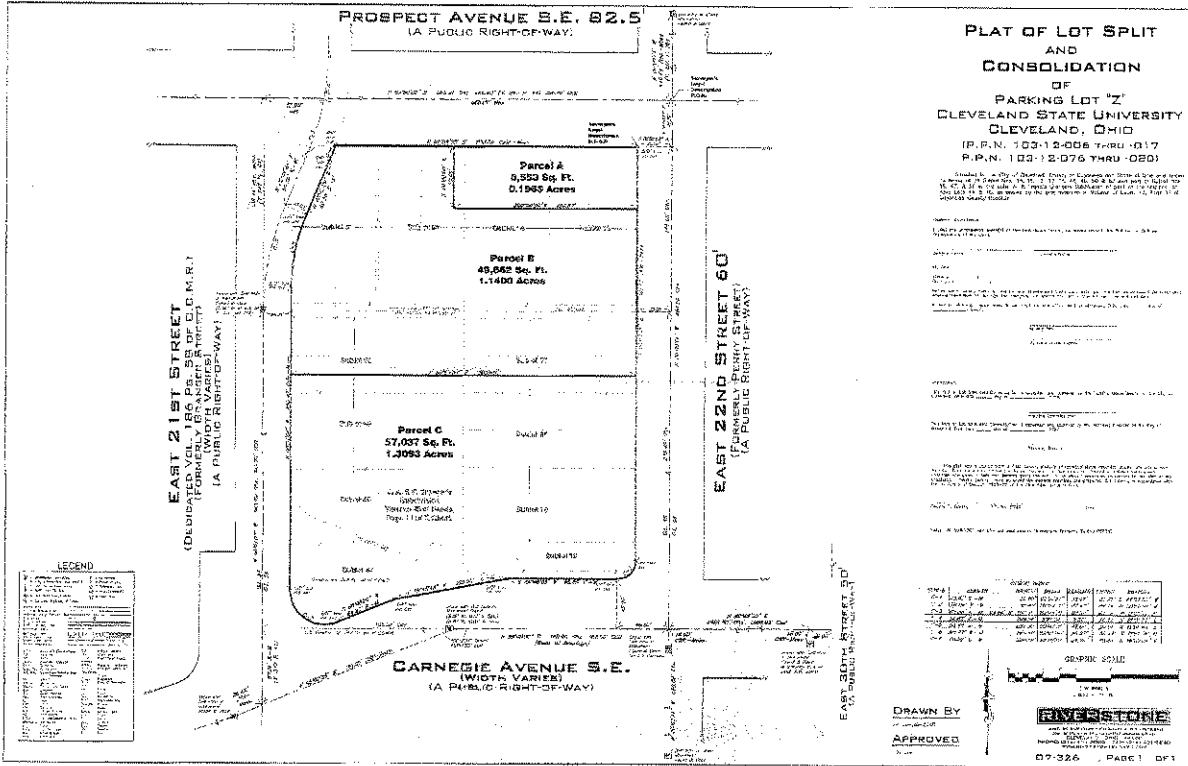
Lessee shall pay One Million Four Hundred Sixty-Four Thousand Dollars (\$1,464,000) within thirty (30) days of execution of the Lease as lease rental for the Term. As additional lease rental, Lessee grants Naming Rights to two pairs of HealthLine stations on Euclid Avenue at Lessor's campus (E. 24th Street and E. 19th Street) for ten years as an in-kind payment, with an option for ten additional years at the then yearly price less Eighty-Thousand Dollars (\$80,000) per year. The Naming Rights option must be exercised in writing one (1) year prior to the end of the initial ten (10) year Naming Rights term.

Lessee shall pay Lessor Eighty-Four Thousand Dollars (\$84,000 in 2008 dollars) annually to compensate Lessor for full and complete interior and exterior (including snow removal and landscape) maintenance of the Property. The fee for this service shall be adjusted July 1 of each year based on the latest CPI-U.

Lessee shall be responsible for the relocation of all utility lines on or abutting the Property that Lessee impacts with its development.

Maintenance activities that Lessor shall provide include but are not limited to:

- Janitorial: bus lay-over area and bathrooms
- Security (Lessor will supplement Transit Police security)
- Snow plowing: sidewalks and bus layover area
- Routine maintenance (Lessee shall be responsible for capital maintenance)
- Landscaping and landscaping upkeep at plaza area at SE corner of Prospect and E. 21st Street



ATTACHMENT B



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

| | |
|---|---|
| TITLE/DESCRIPTION: AUTHORIZING THE GENERAL MANAGER/SECRETARY-TREASURER TO ENTER INTO A SUB-LEASE AGREEMENT, A MAINTENANCE AGREEMENT, AND ALL OTHER NECESSARY LEGAL DOCUMENTS WITH EUCLID AVENUE HOUSING CORPORATION AND CLEVELAND STATE UNIVERSITY FOR THE STEPHANIE TUBBS JONES EAST SIDE TRANSIT CENTER PROJECT | Resolution No.: 2008-162 |
| | Date: Nov. 13, 2008 |
| | Initiator: Programming and Planning |
| ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____ | |

- 1.0 **PURPOSE/SCOPE:** GCRTA wishes to secure land needed for the construction of the Stephanie Tubbs Jones East Side Transit Center ("ESTC"). The preferred location for the ESTC is owned by Cleveland State University and is located at the southeast corner of Prospect Avenue and E. 21st Street. Cleveland State University is unwilling to sell the land to GCRTA due to restrictions on the sale of land owned by the State of Ohio. GCRTA is willing to enter into a long-term lease for the land, which will meet federal requirements for control of land and useful life of the building that is constructed. Cleveland State University currently leases the land to Euclid Avenue Housing Corporation. GCRTA would sub-lease the land from Euclid Avenue Housing Corporation. GCRTA also wishes to contract with Cleveland State University for the maintenance and security of the land and East Side Transit Center building.

- 2.0 **DESCRIPTION/JUSTIFICATION:** GCRTA, Euclid Avenue Housing Corporation, and Cleveland State University have entered into a non-binding Letter of Intent outlining the intended obligations of each party. Action by the Board of Trustees is sought to allow the General Manager / Secretary-Treasurer to enter into a sub-lease, a maintenance agreement, and any other necessary legal documents as outlined in the Letter of Intent. These agreements will be subject to FTA approval prior to execution.

- 3.0 **PROCUREMENT BACKGROUND:** Not Applicable

- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** Not Applicable

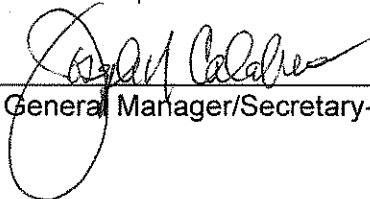
- 5.0 **POLICY IMPACT:** This action is compliant with the Board of Trustees Real Estate Policy that specifies the Board of Trustees must approve all lease agreements in excess of \$25,000.

- 6.0 **ECONOMIC IMPACT:** Existing federal earmarks do not permit GCRTA to expend these earmarked funds for lease payments. Local funds will be used for the lump sum lease payment in the amount of One Million Four Hundred Sixty-Four Thousand Dollars (\$1,464,000) and future earmarks will be drafted to allow use of earmarked funds for this eligible project expense. Maintenance expenses will be paid from GCRTA's Operations Department and will help realize an overall reduction in operating expenditures due to the economy of scale gained by buses laying over at one central location.

- 7.0 **ALTERNATIVES:** Reject the terms of the Letter of Intent and/or wait until a sub-lease is executed before seeking Board of Trustees approval.

- 8.0 RECOMMENDATION: Staff recommends that the Board of Trustees approve the resolution to authorize the legal documents necessary for land control and maintenance of the Stephanie Tubbs Jones East Side Transit Center project site.
- 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