

RESOLUTION NO. 2011-115

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AND SALE AGREEMENT IN THE AMOUNT OF FIVE HUNDRED THOUSAND DOLLARS (\$500,000.00) WITH CUMBERLAND DEVELOPMENT, LLC OR ITS NOMINEE TO SELL CUYAHOGA COUNTY AUDITOR'S PERMANENT PARCEL NUMBERS 118-06-025, 118-06-026, 118-06-027, AND 118-06-050 WHICH IS LOCATED AT 6611 EUCLID AVENUE IN CLEVELAND, OHIO ("PROPERTY") AND TO DECLARE IT EXCESS REAL PROPERTY

WHEREAS, the Board of Trustees of the Greater Cleveland Regional Transit Authority approved the purchase of the Property (ECTP Parcel 179) under Resolution 2005-130 on September 20, 2005 as amended by Resolution 2005-144 on October 18, 2005 for the Euclid Corridor Transportation Project now called the HealthLine; and

WHEREAS, title to the Property transferred to the Greater Cleveland Regional Transit Authority on February 17, 2006; and

WHEREAS, the Greater Cleveland Regional Transit Authority is the owner of record of the Property; and

WHEREAS, the Property was used as a construction staging area during the Euclid Corridor Transportation Project and a portion of the Property is now improved with roadway, sidewalk, and tree lawn and encumbered by a permanent roadway easement; and

WHEREAS, the Property is no longer required for the construction of the HealthLine and is excess to the Authority; and

WHEREAS, the Greater Cleveland Regional Transit Authority has posted a for sale sign on the Property and has advertised and marketed the Property through a fair and open process with Ostendorf-Morris Company since October 28, 2008; and

WHEREAS, Cumberland Development, LLC wishes to purchase the Property; and

WHEREAS, the Greater Cleveland Regional Transit Authority has had the Property appraised and the current appraised value of the Property is Seven Hundred Fifty-Five Thousand Dollars and 00/100 (\$755,000.00); and

WHEREAS, Cumberland Development, LLC has offered to purchase the Property for Five Hundred Thousand Dollars and 00/100 (\$500,000.00) and plans to renovate the Property into a multi-tenant office building that is anticipated to increase ridership on the HealthLine; and

WHEREAS, the Greater Cleveland Regional Transit Authority will decrease its yearly asset maintenance costs associated with the Property and will avoid future demolition costs by selling the Property now.

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

Section 1. The Property is hereby declared excess property.

Section 2. That the General Manager/Secretary-Treasurer is hereby authorized to execute a Purchase and Sale Agreement and all other documents required to sell and transfer the Property.

Section 3. That the purchase price of Five Hundred Thousand Dollars and 00/100 (\$500,000.00) is less than the fair market value of the Property as determined by the property appraisal report and approved by a review appraiser and that the sale has been approved by the Federal Transit Administration.

Section 4. That the purchase price less closing and brokerage fees shall be deposited in the Greater Cleveland Regional Transit Authority Development Fund.

Section 5. The proceeds shall be used for future capital projects in accordance with the Federal Transit Administration guidelines and direction.


Section 6. That this resolution shall become effective immediately upon its adoption.

Attachment A: Map

Attachment B: Legal Description

Attachment C: Purchase and Sale Agreement

Adopted: December 20, 2011


President *Acting*

Attest: 
CEO, General Manager/Secretary-Treasurer

Plot Plan

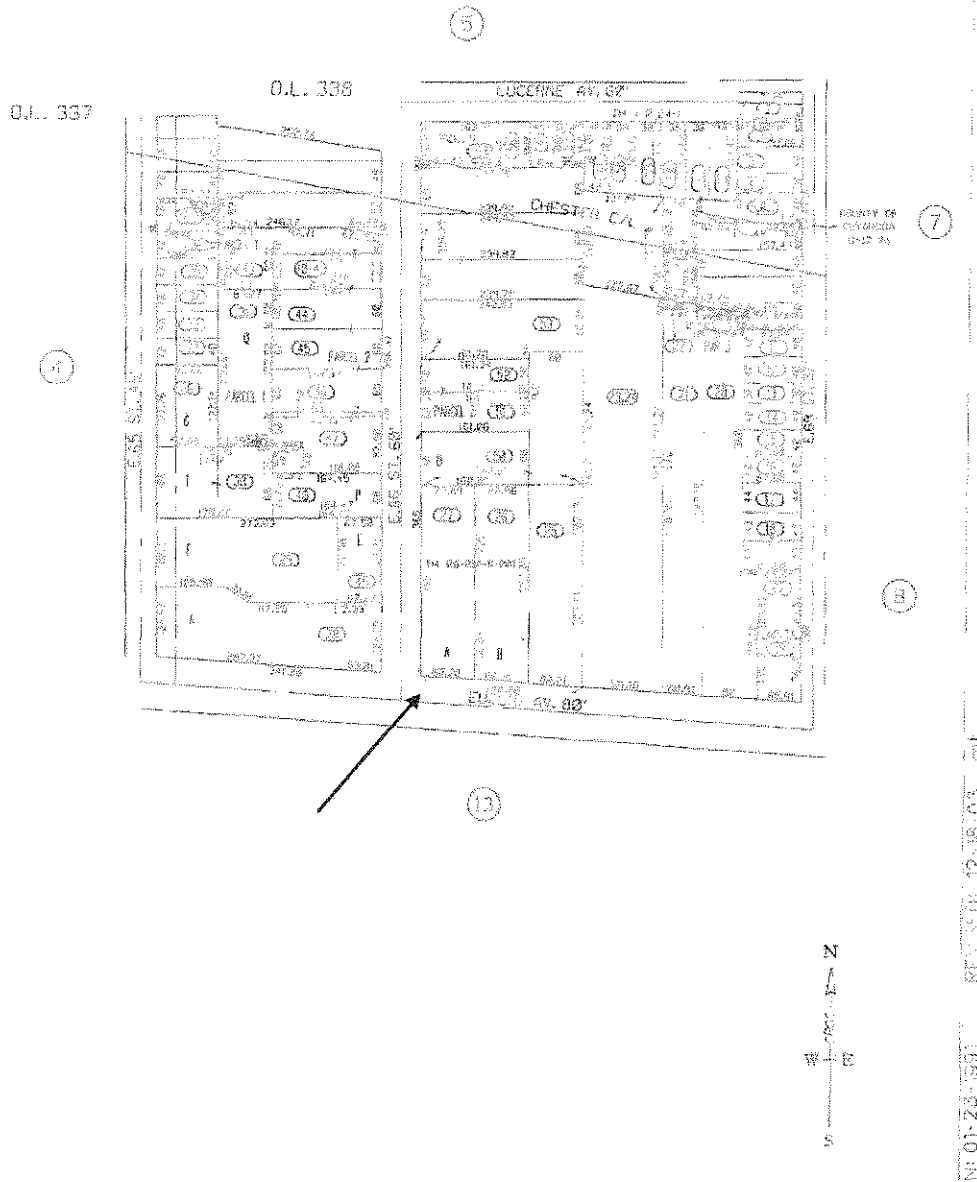


EXHIBIT B

[Legal Description of Property]

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio and being known as a part of Original 100 Acre Lot 338 and Parcels B, D and H in New York Life Insurance Company's Subdivision No 2 as shown on the recorded plat in Volume 129, Page 24 of the Cuyahoga County Plat Records, also being the same lands conveyed to 6611 Properties, LLC by Instrument No. 200201070050 and 200201070049 on file in the Cuyahoga County Recorder's Office more definitely described as follows:

Beginning at the intersection of the northerly right of way of Euclid Avenue and the easterly right of way of East 66th Street, said point being witnessed by a drill hole set North 04° 07' 10" West, 20.05 feet;

- 1) Thence North 01° 15' 19" West along the easterly right of way of East 66th Street, 365.00 feet to a point witnessed by a drill hole set South 88° 43' 05" West, 1.00 feet;
- 2) Thence leaving said right of way, North 88° 43' 05" East along the southerly line of lands conveyed to MAK Leasing by Volume 87-5042, Page 29 on file in the Cuyahoga County Recorder's Office, 161.00 feet to an iron pin set;
- 3) Thence North 01° 07' 19" West along the easterly line of said lands and the easterly line of lands conveyed to Dunham Tavern Museum by Volume 91571, Page 46 on file in the Cuyahoga County Recorder's Office, 119.11 feet to an iron pin set;
- 4) Thence North 88° 52' 41" East along the southerly line of said Dunham Tavern Museum's land, 80.00 feet to a capped iron pin found;
- 5) Thence South 01° 07' 19" East along the westerly line of lands conveyed to Dunham Tavern, Inc. by Volume 1602, Page 401 on file in the Cuyahoga County Recorder's Office, 502.19 feet to a point on the northerly right of way of Euclid Avenue and passing through an iron pin set 12.53 feet from said right of way;
- 6) Thence North 86° 55' 22" West along said right of way, 240.80 feet to the point of beginning.

Containing within said bounds 2.2849 acres of land of which 0.6610 acres lie in Parcel 118-06-050, 0.5514 acres lie in parcel 118-06-025, 0.5453 acres lie in Parcel 118-06-026 and 0.5272 acres lie in parcel 118-06-027.

All iron pins set are 30" x 5/8" capped rebar labeled KS ASSOCS INC PROP MARKER.

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

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

ST 23166B
August 24, 2011

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT ("Agreement") is made as of October 31, 2011, by and between Cumberland Development, an Ohio limited liability company, or its approved nominee ("Purchaser"), and the GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, ("Seller"), 1240 West 6th Street, Cleveland, Ohio 44113, a political subdivision of the State of Ohio, entered into under the authority of Seller's Resolution No. _____ adopted _____, 2011 a copy of which is attached to and incorporated into this Agreement as Exhibit A.

RECITALS

In consideration of the mutual covenants and promises contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by Purchaser and Seller, the parties to this Agreement agree as follows:

1. AGREEMENT OF PURCHASE AND SALE

Seller agrees to sell to Purchaser, and Purchaser agrees to purchase from Seller, the following described property ("Property") in accordance with the terms and conditions contained in this Agreement:

- a. All of Seller's right, title, and interest in the real property described in Exhibit B, attached to and incorporated into this Agreement (the "Land");
- b. All of Seller's right, title, and interest in any buildings, structures, fixtures or other improvements affixed to the Land (the "Improvements");
- c. All rights, privileges, entitlements, easements, hereditaments and appurtenances pertaining to the Land and Improvements, including any right, title, and interest of Seller in and to adjacent streets, alleys, or rights-of-ways, if any;
- d. All plans, drawings, specifications, surveys, deeds and other real estate records, engineering reports, operating manuals and technical literature, in Seller's possession and control wherever located, relating to the matters described in items a. through c. above, if any.

For the purposes of this Agreement the "Effective Date" shall mean the date this Agreement is signed by Seller or the date this Agreement is signed by Purchaser, whichever is later.

2. CONSIDERATION

The purchase price for the Property (the "Purchase Price") shall be Five Hundred Thousand Dollars (\$500,000.00). Within two (2) business days of the Effective Date Purchaser shall deposit the amount of ten thousand dollars (\$10,000.00), in escrow with

the Escrow Agent as an earnest money deposit to be applied against the Purchase Price or otherwise as provided herein (the "Deposit"). The balance of the Purchase Price shall be paid by Purchaser to Seller through escrow at Closing (as defined in Section 6 of this Agreement). Said earnest money shall only be returned to the Purchaser if the Seller is unable to attain approval from Seller's Board of Trustees and the approval of the Federal Transit Administration needed to sell the Property under this Agreement. If this transaction is not consummated for any other reason the earnest money shall not be returned to the Purchaser.

3. TITLE INSURANCE

Within five days after the Effective Date, Purchaser shall, in its own name, engage Surety Title Agency, Inc., 526 Superior Avenue East, Suite 1010, Cleveland, Ohio 44114 Attn.: Douglas F. Currie (Phone: 216-589-8399) (in such capacity referred to as the "Title Company") to provide to Purchaser a current ALTA Commitment for an Owner's Policy of Title Insurance in a form acceptable to Purchaser (the "Commitment"). The Commitment shall be in an amount specified by Purchaser (but in no event less than Five Hundred Thousand Dollars (\$500,000.00) showing marketable fee simple title to the Property to be in Seller's name free and clear of all liens and encumbrances except: (i) those created by or to be assumed by Purchaser; (ii) those specifically set forth in this Agreement; (iii) zoning ordinances; (iv) general and special real estate taxes and assessments that are a lien on the date of Closing (as defined in Section 6 of this Agreement), but are not yet due and payable; (v) legal highways; and (vi) all exceptions, if any, to title or affecting title on the public record. Purchaser shall have 30 days from the date of receipt of the Commitment ("Review Period") to review the Commitment and notify Seller in writing of its objections to the Commitment. If Purchaser fails to provide to Seller its written objections to the Commitment within said Review Period, Purchaser shall be deemed to have approved the Commitment, and any exceptions to title to the Purchaser shall be deemed to be "Permitted Exceptions". If Purchaser timely objects to any matters shown on the Commitment, then Seller shall have the right to correct said matters objected to by Purchaser. If Seller fails, unless the cure only involves the payment of money (e.g., payment of judgment lien, etc.) which Seller shall be required to do, or is unable to correct said title matters and if Purchaser and Seller are unable to resolve all title matters objected to by Purchaser on or before the expiration of the Contingency Period (as defined in Section 5), then Purchaser shall have the right to (i) terminate this Agreement, in which event, except as may otherwise expressly be provided in this Agreement, the parties shall be relieved of all further liability under this Agreement and the Deposit shall not be returned to Purchaser, or (ii) accept title to the Property, whereupon such unresolved title matters shall be included as Permitted Exceptions, or (iii) accept such title as Seller is able to convey, with a reduction in the Purchase Price equal to the amount necessary to cure a defect in title which may be cured by the payment of money as described above. The Purchaser shall pay the cost of the Commitment.

4. DOCUMENTS TO BE PROVIDED

Within 30 days after the Effective Date, Purchaser, in its own name, shall request an ALTA/ACSM survey of the Property to be prepared by a licensed surveyor ("Survey"). Said Survey shall be reasonably acceptable to, and certified to, Purchaser and the Title Company in sufficient detail to provide the basis for an ALTA Owner's Policy of Title Insurance without boundary, encroachment or survey exceptions, and shall show the location of all easements and improvements (including underground improvements) and any and all other pertinent information with respect to the Property typically included in an "as built" survey. The Purchaser shall pay the expense of the Survey.

5. PURCHASER'S CONTINGENCIES

- a. This Agreement is expressly contingent upon Purchaser's satisfaction, in Purchaser's sole discretion, with the results of Purchaser's review and investigation of the Property including its own assessment of the physical and environmental condition of the Property, the Commitment and the Survey.
- b. Purchaser shall have until 60 days from the Effective Date ("Contingency Period") to review all of the foregoing and to perform any investigations it desires to make with respect to the Property and to conduct any other due diligence related to Purchaser's intended use of the Property, including the inspections and tests of the Property contemplated in Section 12. Purchaser shall have the right to cause an earlier expiration of the Contingency Period by written notice to Seller.
- c. In the event Purchaser is satisfied with all documents and the results of said investigations and other matters, the above contingencies shall be deemed waived by Purchaser. In the event Purchaser is not satisfied with any document or any portion of the results of said investigation or other matters, it shall deliver to Seller written notice of such dissatisfaction on or before expiration of the Contingency Period and this Agreement shall be null and void and of no further effect on both parties, in which event the Deposit shall not be returned to Purchaser.

6. CLOSING

The consummation of the transactions contemplated in this Agreement ("Closing") shall be accomplished through an escrow established with Surety Title Agency, Inc. (in such capacity referred to as the "Escrow Agent"). This Agreement shall constitute the escrow instructions, subject only to the Escrow Agent's Standard Conditions of Acceptance of Escrow; provided, however, that the provisions of this Agreement shall govern in the event of any conflicts with Escrow Agent's Standard Conditions. All of the documents referred to in this Agreement shall be executed and delivered into Escrow at **Surety Title Agency, Inc., 526 Superior Avenue East, Suite 1010, Cleveland, Ohio 44114 Attn: Douglas F. Currie (PH: 216-589-8399)**. If

Cumberland Development, LLC wishes to have the purchase made by a nominee in its stead, the nominee must be majority controlled, managed, or owned by Cumberland LLC and/or the majority of its members. The Closing shall be completed when the parties have deposited with the Escrow Agent all documents and funds required in this Agreement to be deposited with the Escrow Agent, and all conditions precedent set forth in this Agreement have been satisfied (the "Closing Date"), but in no event later than January 15, 2012, unless extended by the mutual agreement of the parties.

7. INSTRUMENTS OF CONVEYANCE

Seller shall deposit with the Escrow Agent, on or prior to the Closing Date, the following fully executed documents:

- a. A limited warranty deed conveying marketable fee simple title to the Property, subject only to Permitted Exceptions ("Deed"); and
- b. Counterpart closing statements; and
- c. Such other documents as are reasonably necessary for the Title Company to insure in Purchaser fee simple title to the Property; and
- d. Agency Disclosure Document.

Purchaser shall deposit or cause to be deposited with the Escrow Agent, on or prior to the Closing Date, the following fully executed documents and funds:

- a. The balance of the Purchase Price, subject to the closing adjustments contemplated in this Agreement; and
- b. Counterpart closing statements; and
- c. Such other documents as are reasonably necessary for the Title Company to insure in Purchaser fee simple title to the Property.

8. PRORATIONS AND CLOSING ADJUSTMENTS

The following items pertaining to the Property shall be prorated as follows:

- a. N/A - There are no utilities at the Property to be prorated.
- b. Real estate taxes and assessments, both general and special, against or encumbering the Property ("Taxes") shall be prorated as of the Closing Date on the basis of the most recent ascertainable amounts of each such item.
- c. Seller shall pay or be charged with the following costs and expenses in connection with this transaction: (i) all transfer taxes and conveyance fees

on the sale and transfer of the Property; (ii) one-half (1/2) of the escrow fee and (iii) .

- d. Purchaser shall pay or be charged with the following costs and expenses in connection with this transaction: (i) the cost of examining title to the Property, issuing the Commitment and the premium for the ALTA Owner's Fee Policy of Title Insurance in the amount of the Purchase Price ("Policy"); (ii) the premium for any endorsements requested by Purchaser to the ALTA Owner's Fee Policy of Title Insurance; (iii) one-half (1/2) of the escrow fee; and (iv) the cost of recording the Deed.

9. **DELIVERY AND PAYMENT**

Upon Closing, the Escrow Agent shall deliver to Seller the following:

- a. The Purchase Price, as adjusted pursuant to the terms and conditions contained herein; and
- b. Counterpart closing statements executed by Purchaser, Seller and Escrow Agent; and
- c. Time-stamped copy of the Deed.

Upon Closing, the Escrow Agent shall deliver to Purchaser the following:

- a. The original Deed (after recordation); and
- b. Counterpart closing statements executed by Purchaser, Seller and Escrow Agent; and
- c. The Title Policy.

10. **WARRANTIES AND REPRESENTATIONS OF SELLER**

With reference to the Property, Seller represents and warrants that each of the following is true and correct on the Effective Date and as of the Closing Date. Each representation and warranty contained in this Agreement by or on behalf of Seller shall survive the execution and delivery of this Agreement, the recordation of the Deed and transfer of title.

- a. **Authority**. Seller is the sole owner of the Property except for the federal interest and possesses all right, authority, and power to execute this Agreement. This Agreement has been duly executed by Seller and is enforceable against Seller in accordance with its terms. Seller represents and warrants that no consents or waivers are required to permit consummation of the transactions contemplated by this Agreement except

the approval of the Seller's Board of Trustees and the approval of the Federal Transit Administration.

- b. **Documents Relating to the Condition of the Property.** To Seller's actual knowledge, the Seller has made available to Purchaser for inspection all documents and reports of which it is aware either appraising the Property or identifying the condition of the Property relating to hazardous waste or materials, industrial hygiene or the environmental conditions on, under or about the Property. Seller shall be under no obligation to obtain for the Purchaser any document or report relating to the Property which is not in the Seller's possession, but if Seller is aware of any, will disclose same to Purchaser in writing and will cooperate with Purchaser at Purchaser's sole cost to obtain copies of the same.
- c. **No Undisclosed Claims or Liabilities.** To Seller's actual knowledge, there are no suits, judgments, litigation, or claims against, with respect to, or affecting the Property or the zoning or use, pending, other than those that are a matter of record or disclosed by Seller to Purchaser in writing. Seller has made Purchaser aware of condemnation proceedings by the City of Cleveland which affect the Property.
- d. **Taxes/Assessments.** Seller has paid in full all taxes and assessments on the Property that have become due through the date hereof, the Property is not subject to any lien for payment of taxes other than general property taxes and assessments constituting a lien but not yet payable.
- e. **Environmental Conditions**
- (i) The term "Environmental Claim" shall mean any claim, demand, suit, order, complaint, summons, citation, notice, directive, consent agreement, litigation, judgment, or other legal or administrative action or proceeding from any governmental agency, department, bureau, office or other authority, or any third party, involving violations of Environmental Laws or Releases of Hazardous Substances. The term "Environmental Condition" shall mean the presence or threat of Hazardous Materials or Hazardous Substances on the property.
 - (ii) The term "Loss" shall mean any loss, cost or expenses for environmental site assessments, remedial investigation and feasibility studies, natural resources damages, property damage, bodily injury), damage or liability (including strict liability).
 - (iii) **Notification of Environmental Claims or Conditions.** If Seller shall become aware of or receive notice or other communication concerning any Environmental Claim or Environmental Condition prior to Closing then Seller shall deliver to the Purchaser, within

ten days of the receipt of such notice or communication by Seller, a written description of said Environmental Claim or Environmental Condition, together with copies of any documents evidencing same to the Seller.

11. **WARRANTIES AND REPRESENTATIONS OF PURCHASER**

Purchaser possesses all right, authority, and power to execute and perform this Agreement, which has been duly executed by Purchaser and is enforceable against Purchaser in accordance with its terms. Purchaser shall not interfere with Seller's access to the Property from the Effective Date through Closing, as it conducts the inspections and tests authorized under this Agreement. Purchaser covenants and agrees that each representation and warranty contained in this Agreement by or on behalf of Purchaser shall survive the execution and delivery of this Agreement, the recordation of the Deed and transfer of title. Purchaser covenants and agrees that its purchase is to be with knowledge of the fact that (a) Seller does not warrant the accuracy and/or completeness of documents and information provided by Seller under this Agreement regarding the condition of the Property; and (b) Purchaser's shall base its assessment of such condition solely upon its appraisal of such documents and information and the results of Purchaser's review and investigation of the Property including its own assessment of the environmental condition of the Property, the Commitment and the Survey and; (c) Purchaser shall purchase the Property "As Is" and shall and hereby does release Seller and hold it harmless regarding any claims involving or related to the physical or environmental condition of the Property made during the Contingency Period and following Closing. Each representation and warranty contained in this Agreement by or on behalf of Purchaser shall survive the execution and delivery of this Agreement, the recordation of the Deed and transfer of title.

12. **RIGHT OF ENTRY**

By execution of this Agreement, Seller grants to Purchaser for the duration of the Contingency Period a license on, under, through, over, across, and to the Property for the purposes of surface and subsurface investigation, environmental testing, and inspection of the Property's suitability for the Purchaser's intended uses. Any testing, inspections or other investigation performed by Purchaser pursuant to this Section 12. shall be at Purchaser's sole cost and expense, and Purchaser agrees to be liable for any damage or claim regarding damage to the property loss of life or damage or injury to any person or property or any person, including, without limitation, the agents, employees, invitees and licensees of either of the parties as a result of Purchaser's investigation, testing or inspection of the Property pursuant to this Section 12. The license granted pursuant to this Section 12. includes any easements that Seller may have that are necessary to access the Property, along with the following rights and limitations:

- a. Purchaser may enter upon all portions of the Property provided reasonable notice is given to the party in possession, if any.
- b. Purchaser may conduct tests of air, water, soil, and wastes.

- c. Purchaser may conduct soil borings, including the right to enter upon the Property with all personnel, drilling rigs and associated equipment, and electronic and mechanical testing equipment necessary to complete Purchaser's inspection.
- d. Purchaser may remove reasonable samples of air, water, soil, and liquid or solid wastes as are necessary to complete Purchaser's inspection, provided that such removal does not damage to the Property or any other property.
- e. Unless otherwise agreed in writing, Purchaser's inspection will be carried out during normal business hours and will be completed during the Contingency Period.
- f. The right of entry shall be assignable to the Purchaser's contractor, subcontractors and agents so long as the same agree to be bound by Purchaser's covenants contained in this Agreement.
- g. Purchaser shall require its contractor, subcontractors and agents to defend, indemnify and hold harmless the Seller, Seller's officers, agents, employees, successors and assigns from any and all claims, loss, cost, damages, expense and liability, including attorneys' fees, for or from loss of life or damage or injury to any person or property of any person, including, without limitation, the agents, employees, invitees and licensees of either of the parties arising out of, connected with or incidental to, either directly or indirectly, with Purchaser's entry, investigation, testing or assessment of the Property during this right of entry. This indemnification requirement shall survive the expiration or termination of this Agreement.

13. NOTICES AND COMMUNICATIONS

All notices, consents, requests, demands and other communications required by this Agreement shall be in writing and shall be deemed to have been duly given to a party if hand delivered, mailed by certified mail or delivered by nationally-recognized overnight courier.

If to the Seller, to:

The Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113
Attn: CEO, General Manager/Secretary-Treasurer

With a copy to:

The Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113
Attn: Senior Counsel-Contracts and Real Estate

And a copy to:

Ostendorf-Morris Company
1100 Superior Ave., Ste 800
Cleveland, Ohio 44114
Attn: David O'Neill

If to the Purchaser, to:

Cumberland Development, LLC
7100 Euclid Avenue, Suite 10
Cleveland, Ohio 44103
Attn: Richard Y. Pace, Principal

With a copy to:

Tucker Ellis & West LLP
1150 Huntington Building
925 Euclid Avenue
Cleveland, Ohio 44115-1414
Attn.: Keith H. Raker, Esq.

14. BROKERAGE COMMISSION

Seller has retained OM Partners LLC, dba Ostendorf-Morris Company, as real estate broker. Seller shall be exclusively responsible for all fees and commissions owed to said broker and Seller shall hold Purchaser harmless from any claim for a broker's fee or commission.

Purchaser has retained _____ N/A _____ as real estate broker. Purchaser shall be exclusively responsible for all fees and commissions owed to said broker and Purchaser shall hold Seller harmless from any claim for a broker's fee or commission. (check this)

15. GOVERNING LAW

This Agreement was negotiated in the State of Ohio and shall be governed and construed in accordance with the internal laws of the State of Ohio.

16. INTEGRATION; MODIFICATION; WAIVER

This Agreement constitutes the complete and final expression of the agreement of the parties relating to the Property and supersedes all previous contracts, agreements and understandings of the parties, either oral or written, relating to the Property. This Agreement cannot be modified, or any of the terms waived, except by an instrument in

writing (referring specifically to this Agreement) executed by the party against whom enforcement of the modification or waiver is sought.

17. COUNTERPART EXECUTION

This Agreement may be executed in several counterparts, each of which shall be fully effective as an original and all of which together shall constitute one and the same instrument.

18. INVALID PROVISIONS

If any one or more of the provisions of this Agreement, or the applicability of any such provision to a specific situation, shall be held invalid or unenforceable, such provision shall be modified to the minimum extent necessary to make it or its application valid enforceable, and the validity and enforceability of all other provisions of this Agreement and all other application of any such provision shall not be affected by it.

19. BINDING EFFECT

This Agreement shall be binding upon and inure to the benefit of Seller and Purchaser and their respective successors and assigns. Notwithstanding the above, (a) any assignment by Purchaser of its rights under this Agreement shall require the prior written approval of Seller and include an assumption by such assignee of all Purchaser's obligations under this Agreement, (b) no such assignment shall be effective unless an executed copy of same is delivered to Seller at least five days prior to the Closing Date, and (c) no such assignment shall relieve Purchaser of any obligations under this Agreement.

20. FURTHER ACTS

In addition to the acts recited in this Agreement to be performed by Seller and Purchaser, Seller and Purchaser agree to perform or cause to be performed at the Closing or after the Closing any and all such further acts as may be reasonably necessary to consummate the transactions contemplated by this Agreement.

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THE PARTIES have executed this Agreement as of the Effective Date.

SELLER: THE GREATER CLEVELAND
REGIONAL TRANSIT AUTHORITY

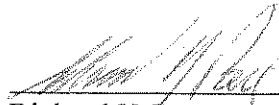
By: _____
Name: Joseph A. Calabrese
Title: CEO, General Manager/
Secretary-Treasurer

Date: _____, 2011

The legal form and correctness
of this instrument is approved:

Name: Sheryl King Benford
Title: General Counsel, Deputy
General Manager for Legal Affairs

PURCHASER: CUMBERLAND DEVELOPMENT, LLC

By:  _____
Name: Richard Y. Pace
Title: Managing Member

Date 10/31, 2011



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: SALE OF 6611 EUCLID AVENUE VENDOR: CUMBERLAND DEVELOPMENT, LLC AMOUNT: \$500,000	Resolution No.: 2011-115
	Date: December 15, 2011
	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:** The purpose of selling the property at 6611 Euclid Avenue is to remove excess real estate from RTA's real property inventory as required by applicable federal regulations and to increase ridership on the HealthLine by facilitating an economic development project in the Midtown neighborhood of the City of Cleveland.

2.0 **DESCRIPTION/JUSTIFICATION:** RTA purchased this property from 6611 Properties LLC for \$1,122,100 in August 2005 for the construction of the Euclid Corridor Transportation Project. This property was known as ECTP Parcel 179 during the project. Federal funds were used for the acquisition and the Uniform Act was followed. The site was acquired for roadway purposes and construction staging. The acquisition price included three former manufacturing buildings totaling 212,000 square feet. The roadway was realigned and a portion of this land is now covered with roadway, sidewalk, and tree lawn and encumbered by a permanent roadway easement. During construction, the remaining land was used as a construction staging area.

RTA has demolished all but one building. The remaining former manufacturing building is 107,902 square feet. The property is no longer needed for RTA operations and is, therefore, excess property to the Authority. RTA has had it listed with a real estate broker for sale since October 28, 2008. Several parties have been interested in the property and RTA has received several letters of intent to purchase the property over the past several years. The condition of the property makes it a challenging property to redevelop. Most potential purchasers have planned to demolish the remaining building. The current purchaser plans to redevelop the building into a dense multi-tenant office building, which will potentially put riders on the HealthLine. This use fits with MidTown Cleveland and the City of Cleveland's master plan for the area as well as RTA's goals for economic development along the corridor.

The property was condemned by the City of Cleveland in May 2010. RTA appealed the condemnation proceeding and consequently received a stay on the demolition until early 2012, at which time RTA will need to return to the City's Board of Building Standards and Building Appeals. It would save RTA money to sell the property now so that it will not have to demolish the building. The difference in the value of the property and the sale price is approximately the cost to demolish the building. Selling the property prior to winter also reduces RTA capital maintenance costs for the property since repairs were planned prior to winter to keep the building safe and secure.

3.0 **PROCUREMENT BACKGROUND:** Does Not Apply.

4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** Does Not Apply.

- 5.0 POLICY IMPACT: Does Not Apply.
- 6.0 ECONOMIC IMPACT: The purchase price is below the fair market value of the property of seven hundred fifty-five thousand dollars and 00/100 (\$755,000.00) as determined by an appraisal and concurred with by a review appraisal report. The Federal Transit Administration has approved the disposition of the property and the use of the proceeds of the sale to be reinvested in the capital program of the Agency.
- 7.0 ALTERNATIVES: The Authority can refuse to sell the property to Cumberland Development, LLC. RTA would have to make repairs to the building to satisfy the City of Cleveland Board of Building Standard's findings and continue maintaining this vacant property until another purchaser is found or until the City requires that the building be demolished.
- 8.0 RECOMMENDATION: Staff recommends that the Board of Trustees approve the resolution to authorize the sale of this property to Cumberland Development, LLC.
- 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