

RESOLUTION NO. 2013-30

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AGREEMENT IN THE AMOUNT OF EIGHT HUNDRED EIGHTY THOUSAND & 00/100 DOLLARS (\$880,000.00) TO PURCHASE LAND AND EXISTING BRIDGE IN FEE SIMPLE AND ACQUIRE PERMANENT AND TEMPORARY EASEMENTS FROM LITTLE ITALY DEVELOPMENT, LLC FOR CONSTRUCTION OF THE LITTLE ITALY- UNIVERSITY CIRCLE RAPID TRANSIT STATION (RTA DEVELOPMENT FUND, ENGINEERING AND PROJECT DEVELOPMENT BUDGET)

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") needs to acquire real property and property rights for the Little Italy - University Circle Rapid Transit Station Project ("Project"); and

WHEREAS, the Project will include construction of a new station at Mayfield Road and realignment of GCRTA tracks; and

WHEREAS, GCRTA will purchase land and existing bridge in fee simple, a permanent easement for access purposes, and a temporary easement for construction staging and grading purposes ("Property") for the Project; and

WHEREAS, Little Italy Development, LLC ("LID") is the owner of the Property and is willing to enter into a purchase agreement with GCRTA to facilitate the Project; and

WHEREAS, GCRTA and LID negotiated a purchase price of eight hundred eighty thousand & 00/100 dollars (\$880,000.00) for the Property, which is reasonably within the fair market value of the Property; and

WHEREAS, GCRTA has requested that the Federal Transit Administration approve the purchase price and concurrence is expected shortly.

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 the Property and all other documents necessary to acquire the Property.


Section 2. That the total purchase price of eight hundred eighty thousand & 00/100 dollars (\$880,000.00) is subject to review and approval by the Federal Transit Administration.

Section 3. The purchase agreement shall be payable out of the RTA Development Fund, Engineering and Project Development Department budget, including but not limited to Capital (TIGER III) Grant OH-79-0003 in an amount not to exceed \$880,000.00 (\$704,000.00 in Federal funds which represents 80% of the total cost).

Section 4. That the execution of the Purchase Agreement and other legal documents are necessary to carry out the Project.

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

Adopted: April 16, 2013



Vice President

Attest:



CEO, General Manager/Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: PURCHASE AGREEMENT, LAND AND EXISTING BRIDGE, AND PERMANENT AND TEMPORARY EASEMENTS, AND OTHER LEGAL DOCUMENTS FOR THE LITTLE ITALY-UNIVERSITY CIRCLE RAPID TRANSIT STATION PROJECT VENDOR: LITTLE ITALY DEVELOPMENT, LLC. AMOUNT: \$880,000.00	Resolution No.: 2013-30
	Date: April 11, 2013
	Initiator: Engineering & Project Development
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 needs to acquire property and existing bridge, and permanent and temporary easements owned by Little Italy Development, LLC ("LID") in order to construct a Little Italy-University Circle Rapid Transit Station. The temporary easements will be needed for temporary construction staging.
- 2.0 **DESCRIPTION/JUSTIFICATION.** The project requires the fee simple acquisitions of 56,192 square feet (1.29 acres) of land and an existing bridge over Mayfield Road, a permanent easement of 1,742 square feet (0.04 acres), and temporary construction easements over 94,525 square feet (2.17 acres) of land. FTA concurrence for the acquisition has been requested and is forthcoming.
- 3.0 **PROCUREMENT BACKGROUND:** Does Not Apply.
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** Does Not Apply.
- 5.0 **POLICY IMPACT:** This is consistent with RTA's Real Estate Policy, which states that the Board must approve all fee simple acquisitions and approve all temporary easements with a value over \$25,000. It also complies with FTA Circular 5010.1D and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
- 6.0 **ECONOMIC IMPACT:** The purchase agreement shall be payable through the RTA Development Fund, Engineering & Project Development Department budget, including but not limited to Capital (TIGER III) Grant OH-79-0003 in an amount not to exceed \$880,000.00 (\$704,000.00 in Federal funds which represents 80% of the cost). The purchase price is approximately 8% below the land acquisition budget for this project.
- 7.0 **ALTERNATIVES:** Not approve this purchase, which will prohibit GCRTA from constructing the Little Italy-University Circle Rapid Transit Station.
- 8.0 **RECOMMENDATION:** Staff recommends that the Board of Trustees approve the resolution to authorize the fee simple purchase of land and existing bridge, permanent easement and temporary easements on this property.

- 9.0 ATTACHMENT: Offer to Purchase Real Estate and Easements executed by the seller is attached hereto.

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



CEO, General Manager/Secretary-Treasurer

OFFER TO PURCHASE REAL ESTATE AND EASEMENTS

Relating to portions of Parcel(s) 121-03-023, 120-31-005 (listed with 120-31-006)

Cleveland, Ohio, April, 2013

1. The Greater Cleveland Regional Transit Authority ("GCRTA") ("Buyer") hereby offers to buy from Little Italy Development LLC, an Ohio limited liability company ("Seller"), the following:
 - (a) the land identified as the "Sale Parcel" on the diagram attached hereto as **Exhibit A**, (the "Site Plan"), together with all buildings, structures, fixtures and other improvements thereon (collectively, the "Sale Parcel"), pursuant to a Limited Warranty Deed in the form attached hereto as **Exhibit B** (the "Deed");
 - (b) an easement over, on, across and through the land identified as the "Permanent Easement Area" on the Site Plan, pursuant to the terms of that certain Permanent Easement Agreement in the form attached hereto as **Exhibit C**; (the "Permanent Easement"); and
 - (c) an easement over, on, across and through the land identified as the "Temporary Easement Area" on the Site Plan, pursuant to the terms of that certain Temporary Easement Agreement in the form attached hereto as **Exhibit D**. (the "Temporary Easement").

The easements to be conveyed hereunder are collectively referred to as the "Easements"; the Sale Parcel and the Easements are collectively referred to as the "Property".

The parties acknowledge that:

- (i) Buyer intends on developing a new RTA station on part of the Sale Parcel (the "New RTA Station");
 - (ii) the New RTA Station is to be located along the north side of Mayfield Road, adjacent to Seller's existing parking lot on land retained by Seller (sometimes referred to as the Mayfield-Coltman Parking Lot); and
 - (iii) Buyer currently operates an RTA Station near the corner of Coltman Road and Euclid Avenue (the "Euclid RTA Station"), and Buyer plans to close the Euclid RTA Station to the public after the New RTA Station is completed and in operation.
2. Buyer agrees to pay for the Property the sum of \$880,000.00 in immediately available U.S. funds (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" or the "Escrow Agent").
3. The Property is free and clear of all liens, encumbrances, leases, rights of possession, easements, conditions and restrictions except for (a) real estate taxes and assessments, both general and special, not yet due and payable as of the Closing Date, (b) building and zoning ordinances and (c) such other exceptions to title as are set forth on

Exhibit E attached hereto (collectively, the "Permitted Exceptions"). As a condition to Buyer's obligation to close this transaction, the Title Company shall furnish an ALTA Owner's Policy of Title Insurance, Form 2006 (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 Property 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 Property arising by or through the Seller, 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 Property. This Agreement shall serve as instructions to the Title Company and Escrow Agent. Time is of the essence.
5. The Purchase Price, Deed, Permanent Easement, the Temporary Easement and all other documents necessary for the closing of this transaction, are to be fully executed and 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 full execution of this Agreement by Buyer and Seller (the "Closing Date"). On the Closing Date, the Title Company shall cause title to the Property 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 Deed, Permanent Easement, and Temporary Easement to be filed for record and the Purchase Price disbursed in accordance with this Agreement. The Title Company shall prorate any real estate taxes and assessments to the date of transfer using the last available Tax Duplicate. 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 all closing costs and expenses, including the cost of the title examination, title commitment, Title Policy, any other fees or charges of the Title Company or Escrow Agent, the cost of recording any documents, and any conveyance fees and transfer taxes.
7. Intentionally deleted.
8. Seller covenants, represents and warrants to Buyer as follows:
 - (a) Except as set forth in the Permitted Exceptions, Seller has the full right and authority to convey the Property 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, except as set forth in the Permitted Exceptions, has the exclusive right of possession of the Property;

- (d) To the best of Seller's knowledge, there is not located in, on, under or about the Property 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 Property 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 of Ohio 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) To the best of Seller's knowledge, there are no gas wells or other wells (whether or not capped) nor any underground storage tanks under any part of the Property;
- (f) There is no litigation, proceeding or action pending or to Seller's best knowledge, threatened against or relating to the Property;
- (g) To the best of Seller's knowledge, subject to the Permitted Exceptions, there are no easements, conditions, leases, encumbrances, liens, restrictions or other agreements affecting the Property.

The representations and warranties of Seller under this paragraph 8 shall survive the Closing for a period of one year.

9. Buyer represents and warrants to Seller as follows:

- (a) Subject to approval of this Agreement and the transaction contemplated hereunder by the Federal Transit Administration and by Buyer's Board of Trustees, Buyer has the full right and authority to purchase the Property 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;

The representations and warranties of Buyer under this paragraph 9 shall survive the Closing for a period of one year.

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 Property. Seller and Buyer hereby agree to hold the other harmless from any claims for commissions from any broker claiming to have dealt with such party in violation of the above warranty and representation.

11. If Seller fails to perform any of Seller's obligations under 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, or (c) recover from Seller all damages, including consequential damages plus court costs. If Buyer fails to perform any of Buyer's obligations under this Agreement, then Seller shall be entitled to recover from Buyer all damages, including consequential damages plus court costs.

12. Each person signing this Agreement in a representative capacity warrants his or her authority to do so. The terms Buyer and Seller shall include all parties so designated and their respective heirs, personal representatives, 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 all Exhibits hereto (which are incorporated herein by reference), including the Deed, the Permanent Easement, and the Temporary 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, representations, covenants and agreements set forth in this instrument 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, forever, except as otherwise expressly stated herein. This Agreement includes the following terms and conditions:
 - (a) Sale Parcel. The Sale Parcel includes, and Seller shall transfer to Buyer, fee simple title to a total of approximately 1.29 acres of land, together with all buildings, structures, fixtures and other improvements thereon, but subject to all legal highways, and depicted as 0.21 acres, 0.04 acres, and 1.04 acres on the Site Plan. Buyer and Seller agree that the existing bridge over Mayfield Road (the "Private Bridge"), and the existing retaining wall along the east boundary of the Sale Parcel (the "Retaining Wall"), each as depicted on the Site Plan, are included in the transfer. The parties agree that, with respect to the Private Bridge, Seller will quit claim to Buyer all of Seller's right, title and interest in the Private Bridge by deed or bill of sale, at the direction of Buyer.
 - (b) Permanent Easement. The Permanent Easement Area includes, and Seller shall grant to Buyer a permanent right of way and use easement over, an area of land at least 10 feet in width and depicted as 0.04 acres on the Site Plan. Seller shall reserve the right to relocate, at Seller's sole cost and expense, the Permanent Easement Area, as long as the relocation provides reasonable and continuous alternate route of vehicular ingress and egress between a public highway and the 1.04 acres of land included in the Sale Parcel, as depicted on the Site Plan.
 - (c) Temporary Easement. The Temporary Easement Area includes, and Seller shall grant to Buyer a temporary right of way and use easement over, a total of approximately 2.17 acres of land depicted as 1.59 acres and 0.58 acres on the Site Plan.
 - (d) Surveys. Buyer, at its sole cost and expense, shall obtain any and all surveys, subdivisions, lot splits, and legal descriptions necessary to complete, execute, and record the Deed, Permanent Easement, and Temporary Easement, including preparation of legal descriptions for the Sale Parcel, the Permanent Easement Area, and the Temporary Easement Area.

- (e) Retained Land; No Restrictions. Buyer acknowledges that the portion of Seller's retained property adjacent to the Sale Parcel, and located between Mayfield Road and Coltman Road, is presently improved with a commercial parking lot, and that parking spaces currently abut the Sale Parcel and the Retaining Wall as depicted on the Site Plan. Buyer agrees not to impose or attempt to enforce any restrictions or conditions against any parking adjacent to the Retaining Wall, or any other improvements that Seller (or its successors) may elect to construct in the future on its retained land.
- (f) Retained Land; Drainage Facilities. Buyer acknowledges that Seller's retained property adjacent to the Sale Parcel, and located immediately south of Mayfield Road, is presently unimproved land that Seller may elect to develop in the future. Buyer agrees to construct, prior to expiration of the Temporary Easement, drainage improvements, including a drainage swale and storm inlet with an eight-inch outlet, within that portion of the Sale Parcel identified as the 0.21 acre parcel on the Site Plan. As part of Seller's development plan, Seller shall have the right to tie-in to Buyer's drainage improvements in accordance with the terms hereof, which right shall be set forth in a recorded instrument. Seller acknowledges that the drainage improvements may not have sufficient capacity to accommodate additional runoff from Seller's retained land, beyond the proposed conditions the drainage improvements were designed for by Buyer. Seller, with Buyer's prior written consent, which consent shall not be unreasonably withheld, conditioned or delayed, shall have the right to elect to connect to the proposed drainage improvements and/or modify such drainage improvements on the 0.21 acre parcel, to provide additional capacity. Any connections or modifications to the drainage improvements that are made by Seller shall be performed at Seller's sole cost and expense.
- (g) Repair of Damage. The parties acknowledge that, in connection with certain construction activities by Buyer, and the development of the New RTA Station on the Sale Parcel, north of Mayfield Road, Buyer will likely disturb portions of Seller's driveway areas off of Mayfield Road toward Coltman Road, as permitted by the terms of the Temporary Easement. Prior to expiration of the Temporary Easement, Buyer agrees that it will, at its sole cost and expense, (i) reconstruct the disturbed portions of Seller's Mayfield Road entrance drive apron, in concrete and (ii) repair any other damage to Seller's retained property caused by Buyer in connection with its activities on Seller's retained land.

The above terms, conditions and covenants may be contained in the record documents per the attachments hereto.

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: Deputy General Counsel, Administrative,
Labor & Transactional Law

With a copy to:

Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: Property Manager

If to Seller:

Terry Coyne
Little Italy Development LLC,
c/o Newmark Grubb Knight Frank
1350 Euclid Avenue, Suite 300
Cleveland, Ohio 44115

With a copy to:

Little Italy Development LLC,
c/o Weston Inc.
4832 Richmond Road, Ste 100
Cleveland, OH 44128
Attn: T.J. Asher

15. 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.
16. 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 Property, including the Private Bridge, in accordance with the terms of this agreement. 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.
17. This Agreement is contingent upon Seller obtaining the approval of this transaction from the financial institution ("Lender"), which currently holds a mortgage and assignment of rents (the "Security Interests") encumbering the Property, and the agreement of Lender to (a) release the lien of its Security Interests from the Sale Parcel, and to subordinate its Security Interests to the Permanent Easement and the Temporary Easement

(collectively, the "Release and Subordination"). Seller agrees to use commercially reasonable efforts to obtain the Release and Subordination from Lender. If Lender does not provide such Release and Subordination Agreement by the Closing Date, then each party shall have the right to terminate this Agreement, whereupon neither party shall have any further liability hereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

BUYER:

**GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY**

1240 West 6th Street
Cleveland, Ohio 44113-1331

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: _____, 2013

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April 2013, personally appeared GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, a political subdivision of the State of Ohio, by Joseph A. Calabrese, CEO and General Manager/Secretary-Treasurer, who acknowledged that he did sign the foregoing instrument individually and on behalf of said political subdivision.

NOTARY PUBLIC
My commission expires:

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

SELLER:

LITTLE ITALY DEVELOPMENT LLC,
an Ohio limited liability company

By: [Signature]

Print Name: T. J. Asher

Title: Manager

Date: 4/5/13, 2013

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this 5th day of April, 2013, personally appeared T. J. Asher, the manager of LITTLE ITALY DEVELOPMENT LLC, an Ohio limited liability company, who acknowledged that he did sign the foregoing instrument individually and on behalf of LITTLE ITALY DEVELOPMENT LLC.

[Signature]
NOTARY PUBLIC

My commission expires: 12/3/13



LUCIANO IASCONE
NOTARY PUBLIC
STATE OF OHIO
Recorded in
Cuyahoga County
My Comm. Exp. 12/3/13

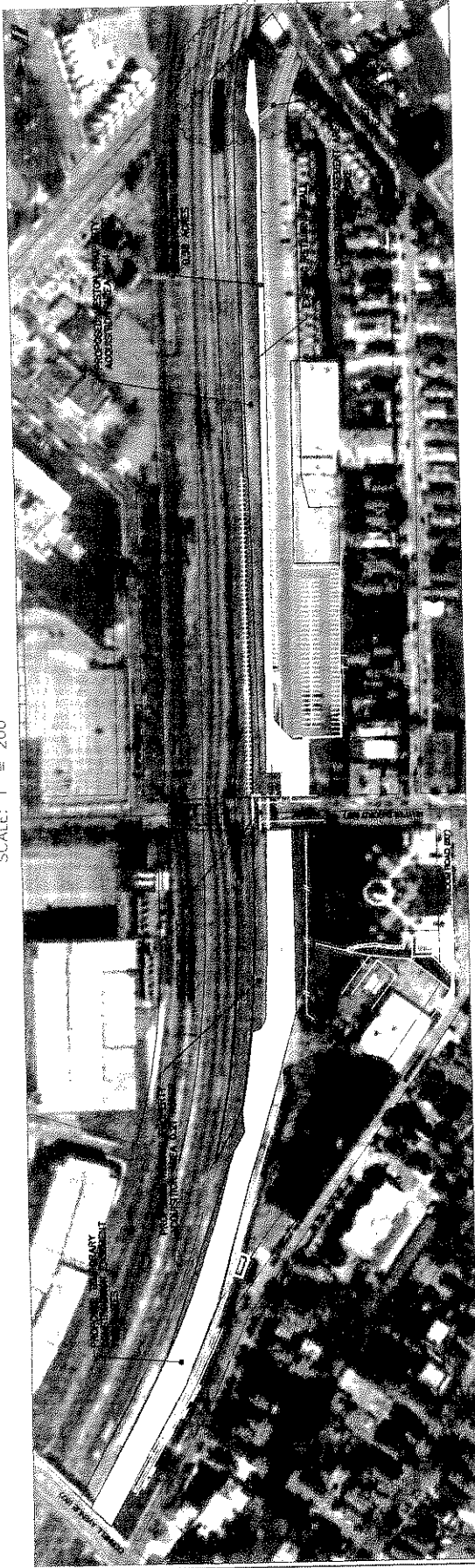
List of Exhibits

Exhibit A	Site Plan
Exhibit B	Limited Warranty Deed
Exhibit C	Permanent Right of Way and Use Easement
Exhibit D	Temporary Right of Way and Use Easement
Exhibit E	Permitted Exceptions

EXHIBIT A

PROPOSED WESTON ACQUISITION PLAN

SCALE: 1" = 200'



PERMANENT EASEMENT AREA (10' DRIVE)

TEMPORARY EASEMENT AREA

SALE PARCEL

PROPOSED WESTON ACQUISITION PLAN
 LITTLE ITALY, CITY OF CLEVELAND
 COUNTY OF CUYAHOGA, OHIO
 MARCH 15, 2013
 WESTON, INC.



ATWELL
 ENGINEERS ARCHITECTS INTERIORS
 10000 EAST AVENUE, SUITE 100
 DENVER, COLORADO 80231-1000
 TEL: 303.759.2000

EXHIBIT B

LIMITED WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that Little Italy Development LLC, an Ohio limited liability company ("Grantor"), for Ten Dollars (\$10.00) and other valuable consideration, the receipt of which is hereby acknowledged, grants, with LIMITED WARRANTY COVENANTS, to The Greater Cleveland Regional Transit Authority (the "Grantee"), whose tax mailing address is 1240 West 6th Street, Cleveland, Ohio 44113-1302, the land situated in the City of Cleveland, County of Cuyahoga, and State of Ohio, and more particularly described on Exhibit "A" attached hereto and made a part hereof, together with all structures, buildings, fixtures and other improvements located thereon (the "Property").

TO HAVE AND TO HOLD the Property unto the Grantee, its successors and assigns, forever, subject to real estate taxes and assessments, both general and special, not yet due and payable; building and zoning ordinances; and the matters set forth on Exhibit "B" attached hereto and made part hereof.

Grantor hereby reserves the right and easement (the "Reserved Easement") to connect to and tie into the storm water drainage facilities to be constructed by Grantee on that portion of the Property described as the 0.21 acre parcel on Exhibit "A" attached hereto, in accordance with the following terms and conditions: Grantor agrees to construct, within three (3) years following the date of recording this instrument, drainage improvements, including a drainage swale and storm inlet with an eight-inch outlet, within such 0.21 acre parcel (collectively, the "Drainage Facilities"). Seller acknowledges that the Drainage Facilities may not have sufficient capacity to accommodate additional runoff from Grantor's adjoining land, based on the conditions the Drainage Facilities were designed for by Grantee. Accordingly, Grantor, upon receiving the prior written consent of Grantee, which consent shall not be unreasonably withheld, conditioned or delayed, shall have the right to elect to modify and increase the capacity of such Drainage Facilities in order to handle the additional runoff from Grantor's land. Any connections or modifications to the Drainage Facilities made by Grantor shall be performed at Grantor's sole cost and expense. The Reserved Easement shall be a covenant running with the land for the benefit of Grantor, its successors and assigns, and Grantor's retained land, as described on Exhibit "C" attached hereto.

Grantee hereby approves of the above described Reserved Easement, as evidenced by its approval below and the recording of this instrument by Grantee.

IN WITNESS WHEREOF, Grantor has executed this instrument on this _____ day of _____, 2013.

LITTLE ITALY DEVELOPMENT LLC,
an Ohio Limited Liability Company

By: _____
Name: _____
Title: _____

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April, 2013, personally appeared _____, the _____ of LITTLE ITALY DEVELOPMENT LLC, an Ohio limited liability company, who acknowledged that he did sign the foregoing instrument individually and on behalf of LITTLE ITALY DEVELOPMENT LLC.

NOTARY PUBLIC

My commission expires:

This instrument prepared:

Thomas J. Coyne, Esq.
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114

APPROVED BY:

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

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: _____ 2013

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April 2013, personally appeared GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, a political subdivision of the State of Ohio, by Joseph A. Calabrese, CEO and General Manager/Secretary-Treasurer, who acknowledged that he did sign the foregoing instrument individually and on behalf of said political subdivision.

NOTARY PUBLIC
My commission expires:

Exhibit "A" (to the Deed)

LEGAL DESCRIPTION

Add legal description for South acquisition area, private bridge, and North acquisition area

Prior Instrument Reference: AFN 200610240877 of Cuyahoga County Records.

Being part of Cuyahoga County Permanent Parcel Nos: 121-03-023, 120-31-005 (listed with 120-31-006), and more lands.

Exhibit "B" (to the Deed)

PERMITTED EXCEPTIONS

1. Easement recorded in Volume 1460, Page 52 of Cuyahoga County Records.
2. Easement recorded in Volume 4965, Page 522 of Cuyahoga County Records.
3. Easement recorded in Volume 7224, Page 312 of Cuyahoga County Records, as amended by that certain Amended Easement and Restrictions dated February 7, 2011, and recorded in File Number 201109090665 of Cuyahoga County Records.
4. Easement recorded in Volume 7225, page 92 of Cuyahoga County Records, as assigned by that certain instrument recorded in Volume 7884, Page 575 of Cuyahoga County Records and that certain instrument recorded in Volume 10916, Page 15 of Cuyahoga County Records.
5. Easements, Restrictions, Covenants, and Conditions recorded in Volume 7804, Page 94 of Cuyahoga County Records.
6. Agreement on Easements, Covenants, Restrictions and Right of First Refusal recorded in File Number 200612290898 of Cuyahoga County Records.
7. Agreement recorded in File Number 200802250956 of Cuyahoga County Records.
8. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of East 119th Street and a 20-foot alley vacated by Ordinance No. 86775.
9. Agreement recorded in Volume 5666, Page 1 of Cuyahoga County Records.
10. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of Random Road vacated by Ordinance No. 88345.

Exhibit "C" (to the Deed)

LEGAL DESCRIPTION OF GRANTOR'S RETAINED LAND

Add legal description for grantor's retained land adjacent to 0.21 acre parcel.

EXHIBIT C

PERMANENT EASEMENT AGREEMENT

THIS PERMANENT EASEMENT AGREEMENT ("Agreement"), is made as of the ____ day of _____, 2013 (the "Effective Date") by and between LITTLE ITALY DEVELOPMENT LLC, an Ohio limited liability company (the "Grantor") and GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY (the "Grantee").

1. Grant. Grantor does hereby grant to Grantee, its successors and assigns, a perpetual easement (the "Easement") for ingress and egress over and through the land described on Exhibit "A" attached hereto and by this reference made a part hereto (the "Easement Area"). The Easement granted hereunder shall be non-exclusive, and Grantor shall have the right to continue to use the Easement Area for all purposes not inconsistent with the rights granted to Grantee hereunder.

2. Purpose. The purpose of the Easement is to allow Grantee to gain vehicular access to its adjoining property (located to the west of the Easement Area) from a public road, for inspection and maintenance and related purposes.

3. Relocation. Grantor reserves the right to relocate, at Grantor's sole cost and expense, the Easement Area, as long as the relocation provides a reasonable and continuous alternate route of vehicular ingress and egress between a public road and Grantee's property, at or near the point of intersection of the current Easement Area and Grantee's property.

4. Authority. Grantor hereby covenants that it is the true and lawful owner of the Easement Area and is lawfully seized of the same in fee simple subject to matters set forth on Exhibit "B" attached hereto, and has good right and full power to grant this Easement. Grantee hereby covenants that it has good right and full power to execute and deliver this Agreement.

5. Notices. 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 Grantee:

Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: Deputy General Counsel, Administrative,
Labor & Transactional Law

With a copy to:
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: Property Manager

If to Grantor:

Terry Coyne
Little Italy Development LLC,
c/o Newmark Grubb Knight Frank
1350 Euclid Avenue, Suite 300
Cleveland, Ohio 44115

With a copy to:

Little Italy Development LLC,
c/o Weston Inc.
4832 Richmond Road, Ste 100
Cleveland, OH 44128
Attn: T.J. Asher

6. Claims. Grantee agrees that, to the extent permitted by law, Grantee shall be responsible for any loss, damage, injury, cost, expense, liability or claim (collectively, "Claims") arising out of any activities of Grantee on or about the Easement Area, or the exercise of Grantee's rights hereunder, to the extent caused by Grantee, or its employees, invitees, agents or contractors. Except for Grantor's gross negligence or willful misconduct, the Grantor shall not be liable for, and Grantee waives and releases Grantor from, all Claims sustained by Grantee or Grantee's workers resulting from any accident or occurrence in or upon the Easement Area.

7. Covenants of Grantee. Grantee agrees to comply with all applicable laws, rules regulations and similar directives of all governmental authorities having jurisdiction over the Easement Area, and agrees not to permit any liens to attach to any of Grantor's property by reason of Grantee's activities. The grant of this Agreement imposes no obligation on Grantee, its successors and assigns, to pay or otherwise incur any cost, expense or other obligation for or with respect to the payment of any property taxes or liens encumbering the Easement Area, except any liens arising out of Grantee's work on the Easement Area.

8. Remedies. In the event of any default by either party hereunder, each party shall have all rights and remedies available at law or equity.

9. Miscellaneous. This Agreement shall be governed in accordance with the laws of the State of Ohio. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. All terms, conditions and covenants contained herein shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument as of the date first set forth above.

LITTLE ITALY DEVELOPMENT LLC,
an Ohio Limited Liability Company

By: _____
Name: _____
Title: _____

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April, 2013, personally appeared _____, the _____ of LITTLE ITALY DEVELOPMENT LLC, an Ohio limited liability company, who acknowledged that he did sign the foregoing instrument individually and on behalf of LITTLE ITALY DEVELOPMENT LLC.

NOTARY PUBLIC

My commission expires:

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

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: _____ 2013

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April 2013, personally appeared GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, a political subdivision of the State of Ohio, by Joseph A. Calabrese, CEO and General Manager/Secretary-Treasurer, who acknowledged that he did sign the foregoing instrument individually and on behalf of said political subdivision.

NOTARY PUBLIC
My commission expires

This instrument prepared:

Thomas J. Coyne, Esq.
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114

Exhibit "A" (to the Permanent Easement)

LEGAL DESCRIPTION

Add legal description for the permanent easement area

Exhibit "B" (to the Permanent Easement)

PERMITTED EXCEPTIONS

1. Easement recorded in Volume 1460, Page 52 of Cuyahoga County Records.
2. Easement recorded in Volume 4965, Page 522 of Cuyahoga County Records.
3. Easement recorded in Volume 7224, Page 312 of Cuyahoga County Records, as amended by that certain Amended Easement and Restrictions dated February 7, 2011, and recorded in File Number 201109090665 of Cuyahoga County Records.
4. Easement recorded in Volume 7225, page 92 of Cuyahoga County Records, as assigned by that certain instrument recorded in Volume 7884, Page 575 of Cuyahoga County Records and that certain instrument recorded in Volume 10916, Page 15 of Cuyahoga County Records.
5. Easements, Restrictions, Covenants, and Conditions recorded in Volume 7804, Page 94 of Cuyahoga County Records.
6. Agreement on Easements, Covenants, Restrictions and Right of First Refusal recorded in File Number 200612290898 of Cuyahoga County Records.
7. Agreement recorded in File Number 200802250956 of Cuyahoga County Records.
8. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of East 119th Street and a 20-foot alley vacated by Ordinance No. 86775.
9. Agreement recorded in Volume 5666, Page 1 of Cuyahoga County Records.
10. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of Random Road vacated by Ordinance No. 88345.

EXHIBIT D

TEMPORARY EASEMENT AGREEMENT

THIS TEMPORARY EASEMENT AGREEMENT ("Agreement"), is made as of the ____ day of _____, 2013 (the "Effective Date") by and between LITTLE ITALY DEVELOPMENT LLC, an Ohio limited liability company (the "Grantor"), and GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY (the "Grantee").

1. Grant. Grantor does hereby grant to Grantee, its successors and assigns, a temporary easement (the "Easement") to occupy and use, for the purposes described herein, the land described on Exhibit "A" attached hereto and by this reference made a part hereto (the "Easement Area").

2. Purpose. The purpose of the Easement is to allow Grantee to use the Easement Area in connection with the construction of a new RTA station near Mayfield Road, and the reconstruction of certain railway tracks and associated improvements located to the west of the Easement Area, which is contiguous to land conveyed by Grantor to Grantee of even date herewith. Grantee shall have the exclusive right to occupy and use the area utilized by Grantee from time to time, on a rolling basis, and Grantor shall have the right to use the remainder of the Easement Area not utilized by Grantee from time to time. Without limiting the generality of the foregoing, Grantor shall have the right to continue to use any portion of the Easement Area not used by Grantee for parking in connection with Grantor's current parking lot operations.

3. Duration. The duration of the temporary easement herein granted to the Grantee shall have a term of twenty-four (24) months, commencing on the later of (a) the date that the work described herein is first commenced by the Grantee, or its duly authorized employees, agents, and contractors, and (b) the date that use and occupancy of the Easement Area by Grantee or its duly authorized employees, agents and contractors first occurs; provided, however, that the term of this Agreement shall not extend beyond the fifth (5th) anniversary of the Effective Date.

4. Restoration. As soon as is practicable after construction of the improvements and all subsequent entries made pursuant to the rights granted herein, but not later than the date of expiration of this Agreement, Grantee shall cause restoration of the described Easement Area to the extent the same is damaged or disturbed. Such restoration shall be strictly limited to replacement or repair of damaged sidewalk/pavement, re-seeding of damaged lawn area, and returning the surface area to its former grade as nearly as is reasonably possible, but subject to Grantee's right to grade the Easement Area so as to be aesthetically and architecturally compatible with the completed improvements anticipated hereinabove and the surrounding land. Notwithstanding the foregoing, Grantee agrees that any pavement disturbed within the drive apron of the Mayfield Road entrance to Grantor's parking lot shall be replaced in concrete.

5. Authority. Grantor hereby covenants that it is the true and lawful owner of the Easement Area and is lawfully seized of the same in fee simple subject to matters set forth on Exhibit "B" attached hereto, and has good right and full power to grant this Easement. Grantee hereby covenants that it has good right and full power to execute and deliver this Agreement.

6. Notices. 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 Grantee:

Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: Deputy General Counsel, Administrative,
Labor & Transactional Law

With a copy to:
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331
Attn: Property Manager

If to Grantor:

Terry Coyne
Little Italy Development LLC,
c/o Newmark Grubb Knight Frank
1350 Euclid Avenue, Suite 300
Cleveland, Ohio 44115

With a copy to:

Little Italy Development LLC,
c/o Weston Inc.
4832 Richmond Road, Ste 100
Cleveland, OH 44128
Attn: T.J. Asher

7. Insurance: Claims. Throughout the duration of this Easement, Grantee's prime contractor performing work on or about the Easement Area, pursuant to their contract with Grantee, shall at all times maintain commercial general liability insurance in the minimum amount of \$1,000,000 per occurrence and \$2,000,000 annual aggregate, naming Grantor as additional insured with respect to claims arising out of any activities of contractor in connection with the Easement Area. Grantee agrees that, to the extent permitted by law, Grantee shall be responsible for any loss, damage, injury, cost, expense, liability or claim (collectively, "Claims") arising out of any activities of Grantee on or about the Easement Area, or the exercise of Grantee's rights hereunder, to the extent caused by Grantee, or its employees, invitees, agents or contractors. Except for Grantor's gross negligence or willful misconduct, the Grantor shall not be liable for, and Grantee waives and releases Grantor from, all Claims sustained by Grantee or Grantee's workers resulting from any accident or occurrence in or upon the Easement Area.

8. Covenants of Grantee. Grantee agrees to comply with all applicable laws, rules regulations and similar directives of all governmental authorities having jurisdiction over the Easement Area, and agrees not to permit any liens to attach to any of Grantor's property by reason of Grantee's activities. Grantee further covenants and agrees to allow the free flow of traffic between Mayfield Road and Coltman Road, at all times, and not to unreasonably interfere with the parking lot operations on the remainder of Grantor's property; provided, however, that vehicular access to the Mayfield Road driveway will be restricted during the period of time that it is reconstructed. The grant of this Agreement imposes no obligation on Grantee, its successors and assigns, to pay or otherwise incur any cost, expense or other obligation for or with respect to the payment of any property taxes or liens encumbering the Easement Area, except any liens arising out of Grantee's work on the Easement Area.

9. Remedies. In the event of any default by either party hereunder, each party shall have all rights and remedies available at law or equity.

10. Miscellaneous. This Agreement shall be governed in accordance with the laws of the State of Ohio. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. All terms, conditions and covenants contained herein shall run with the land and shall be binding upon the parties hereto and their respective successors and assigns.

IN WITNESS WHEREOF, Grantor and Grantee have executed this instrument as of the date first set forth above.

LITTLE ITALY DEVELOPMENT LLC,
an Ohio Limited Liability Company

By: _____
Name: _____
Title: _____

STATE OF OHIO)
) SS
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April, 2013, personally appeared _____, the _____ of LITTLE ITALY DEVELOPMENT LLC, an Ohio limited liability company, who acknowledged that he did sign the foregoing instrument individually and on behalf of LITTLE ITALY DEVELOPMENT LLC.

NOTARY PUBLIC
My commission expires:

**GREATER CLEVELAND REGIONAL
TRANSIT AUTHORITY**

1240 West 6th Street
Cleveland, Ohio 44113-1331

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: _____ 2013

STATE OF OHIO)
) ss:
COUNTY OF CUYAHOGA)

Before me, a Notary Public, in and for said county and state, on this _____ day of April 2013, personally appeared GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY, a political subdivision of the State of Ohio, by Joseph A. Calabrese, CEO and General Manager/Secretary-Treasurer, who acknowledged that he did sign the foregoing instrument individually and on behalf of said political subdivision.

NOTARY PUBLIC
My commission expires

This instrument prepared:

Thomas J. Coyne, Esq.
Thompson Hine LLP
3900 Key Center
127 Public Square
Cleveland, Ohio 44114

Exhibit "A" (to the Temporary Easement)

LEGAL DESCRIPTION

Add legal description for north and south parcel Temporary Easements

Prior Instrument Reference: AFN 200610240877 of Cuyahoga County Records.

Permanent Parcel Numbers 121-03-023 and 120-31-005 (listed with 120-31-006)

EXHIBIT "B" (to the Temporary Easement)

PERMITTED TITLE EXCEPTIONS

1. Easement recorded in Volume 1460, Page 52 of Cuyahoga County Records.
2. Easement recorded in Volume 4965, Page 522 of Cuyahoga County Records.
3. Easement recorded in Volume 7224, Page 312 of Cuyahoga County Records, as amended by that certain Amended Easement and Restrictions dated February 7, 2011, and recorded in File Number 201109090665 of Cuyahoga County Records.
4. Easement recorded in Volume 7225, page 92 of Cuyahoga County Records, as assigned by that certain instrument recorded in Volume 7884, Page 575 of Cuyahoga County Records and that certain instrument recorded in Volume 10916, Page 15 of Cuyahoga County Records.
5. Easements, Restrictions, Covenants, and Conditions recorded in Volume 7804, Page 94 of Cuyahoga County Records.
6. Agreement on Easements, Covenants, Restrictions and Right of First Refusal recorded in File Number 200612290898 of Cuyahoga County Records.
7. Agreement recorded in File Number 200802250956 of Cuyahoga County Records.
8. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of East 119th Street and a 20-foot alley vacated by Ordinance No. 86775.
9. Agreement recorded in Volume 5666, Page 1 of Cuyahoga County Records.
10. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of Random Road vacated by Ordinance No. 88345.

EXHIBIT E

PERMITTED EXCEPTIONS

1. Easement recorded in Volume 1460, Page 52 of Cuyahoga County Records.
2. Easement recorded in Volume 4965, Page 522 of Cuyahoga County Records.
3. Easement recorded in Volume 7224, Page 312 of Cuyahoga County Records, as amended by that certain Amended Easement and Restrictions dated February 7, 2011, and recorded in File Number 201109090665 of Cuyahoga County Records.
4. Easement recorded in Volume 7225, page 92 of Cuyahoga County Records, as assigned by that certain instrument recorded in Volume 7884, Page 575 of Cuyahoga County Records and that certain instrument recorded in Volume 10916, Page 15 of Cuyahoga County Records.
5. Easements, Restrictions, Covenants, and Conditions recorded in Volume 7804, Page 94 of Cuyahoga County Records.
6. Agreement on Easements, Covenants, Restrictions and Right of First Refusal recorded in File Number 200612290898 of Cuyahoga County Records.
7. Agreement recorded in File Number 200802250956 of Cuyahoga County Records.
8. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of East 119th Street and a 20-foot alley vacated by Ordinance No. 86775.
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10. Vacation Exception as to the right of public utilities and others, if any, to portions of the lands within the bounds of Random Road vacated by Ordinance No. 88345.

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