

RESOLUTION NO. 2020-99

AUTHORIZING THE GENERAL MANAGER, CHIEF EXECUTIVE OFFICER TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE CLEVELAND METROPOLITAN SCHOOL DISTRICT FOR STUDENT FARES FOR THE 2020-2021 SCHOOL YEAR AND RATIFYING THE ISSUANCE OF TICKETS

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA" or "the Authority") provides public transportation that facilitates travel by students to and from school; and

WHEREAS, pursuant to Resolution No. 2006-131, to avoid an undue hardship on the school districts and to improve the cash flow for the Authority, the GCRTA established an alternate fare structure for the 2006–2007 school year through the 2009–2010 school year for school districts that purchase \$1,000,000 or more of student farecards per year; and

WHEREAS, pursuant to Resolution No. 2010-019 the rates of fares to be charged by the GCRTA were amended; and

WHEREAS, pursuant to Resolution No. 2010-043, the alternate fare structure established in Resolution No. 2006-131 was revised for the 2010–2011 school year through the 2012–2013 school year to align with the fares enacted in Resolution 2010-019; and

WHEREAS, pursuant to Resolution 2012-076, the Board of Trustees approved an agreement with the Cleveland Metropolitan School District ("CMSD"), the Authority's largest volume buyer of student farecard, for the purchase of \$2,430,000 in tickets in advance and instituted the use of farebox compatible picture identification cards ("Passes") thus improving transportation efficiency and control of student passengers; and

WHEREAS, pursuant to Resolution Nos. 2013-109, 2014-061, 2015-075, 2016-066, 2017-051, 2018-073 and 2019-101, the Board of Trustees approved agreements with CMSD for the purchase of passes and tickets; and

WHEREAS, pursuant to Resolution 2016-036, the rates of fares to be charged by the GCRTA were amended, including an increase in the price of a student ticket from \$1.50 to \$1.75; and

WHEREAS, due to the uncertainties presented by the COVID-19 pandemic, it is in the best interest of the Authority to enter into an intergovernmental agreement with CMSD for the 2020-2021 school year with terms that have been modified from previous years; and

WHEREAS, CMSD has agreed to purchase up to 600,000 two-trip student tickets at a price of \$1.55 per two-trip ticket, and to order tickets as needed; and

WHEREAS, CMSD has ordered and GCRTA has delivered 100,000 tickets to CMSD for use by students.

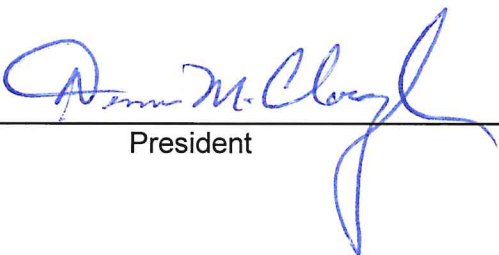
NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the General Manager, Chief Executive Officer is authorized to enter into an intergovernmental agreement with the Cleveland Metropolitan School District ("CMSD") for the 2020-2021 school year. The actions of the General Manager, Chief Executive Officer, in issuing tickets on August 18, 2020, are hereby ratified.

Section 2. CMSD will purchase up to 600,000 two-trip student tickets at a price of \$1.55 per two-trip ticket. Tickets shall be ordered as needed and paid for within 30 days of receipt of GCRTA's invoice.

Section 3. That this resolution shall become effective immediately upon its adoption.

Adopted: December 15, 2020

  
\_\_\_\_\_  
President

Attest:   
\_\_\_\_\_  
Interim Secretary-Treasurer



<b>TITLE/DESCRIPTION:</b>  AUTHORIZING INTERGOVERNMENTAL AGREEMENT WITH CLEVELAND METROPOLITAN SCHOOL DISTRICT FOR STUDENT FARES FOR SCHOOL YEAR 2020-2021 AND RATIFYING THE ISSUANCE OF TICKETS FOR THE FIRST DAY(S) OF SCHOOL	Resolution No.: 2020-99
	Date: December 15, 2020
	Initiator: Finance & Administration
<b>ACTION REQUEST:</b> <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

1.0 **PURPOSE/SCOPE:** This Intergovernmental Agreement will allow a volume discount to the Cleveland Metropolitan School District ("CMSD"), the Authority's largest volume buyer of student fare cards and tickets, for the purchase and payment of student tickets for the 2020-2021 school year. The purchase and payment will relieve some of the budgetary impact on the schools, as well as improve cash flow and accounts receivables activity for the GCRTA. This action includes ratification of the issuance of one hundred thousand (100,000) 2-trip tickets to CMSD for use by students on August 18, 2020.

The CMSD school board is scheduled to consider this agreement at its December 2020 board meeting.

2.0 **DESCRIPTION/JUSTIFICATION:** The proposed Intergovernmental Agreement with CMSD will allow for discounted rates, provided the school district meets certain criteria. This proposal is a result of discussions with CMSD with uncertainties presented by the COVID-19 pandemic in which CMSD remains uncertain of how the school year will progress between in-school or remote learning for its students. The terms have been modified from prior years.

3.0 **PROCUREMENT BACKGROUND:** Does not apply.

4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** Does not apply.

5.0 **POLICY IMPACT:** This action is consistent with the Board's policy to authorize the Authority to enter into intergovernmental agreements with school districts for student fares. Authorization of this Intergovernmental Agreement will allow GCRTA to continue to provide economical public transportation to students as well as promote ridership of public transportation.

6.0 **ECONOMIC IMPACT:** Based on the needs of CMSD, a maximum of 600,000 2-trip tickets could be purchased which would result in \$930,000 for the Authority.

- 7.0 ALTERNATIVES: Rejection of this action would result in hardship for the school district and could lead to the possible discontinuation of using public transportation for student transport.
- 8.0 RECOMMENDATION: It is recommended that this resolution be approved.
- 9.0 ATTACHMENT: Draft Intergovernmental Student Transportation Agreement.

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

  
\_\_\_\_\_  
General Manager, Chief Executive Officer



# ATTACHMENT A TO STAFF SUMMARY

## DRAFT

### INTERGOVERNMENTAL STUDENT TRANSPORTATION AGREEMENT BETWEEN THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY AND THE CLEVELAND METROPOLITAN SCHOOL DISTRICT FOR FALL SEMESTER 2020

THIS AGREEMENT, by and between the Greater Cleveland Regional Transit Authority (hereinafter referred to as "GCRTA"), 1240 West 6<sup>th</sup> Street, Cleveland, Ohio 44113-1331, acting pursuant to Resolution No. , adopted by its Board of Trustees on \_\_\_\_\_, and the Cleveland Metropolitan School District (hereinafter referred to as the "District"), whose principle offices are located at 1111 Superior Ave E, Suite 1800, Cleveland, OH 44114, acting pursuant to Resolution No. \_\_\_\_\_, adopted by the Board of Education of the District on \_\_\_\_\_.

WITNESSETH: That

WHEREAS, the District is certified by the Ohio Department of Education to provide education services; and

WHEREAS, the District wishes to make transportation available to its enrolled students and to students on whose behalf it is obligated to provide transportation service; and

WHEREAS, the GCRTA is amenable to providing said service to the District's students; and

WHEREAS, the District and GCRTA wish to provide transportation in a controlled, efficient and cost effective manner; and

WHEREAS, due to the COVID-19 pandemic, the District moved to remote learning in March 2020 and its students did not use GCRTA's transportation services from that date through the June 19, 2020 conclusion of the term of the Intergovernmental Student Transportation Agreement between the Greater Cleveland Regional Transit Authority and the Cleveland Metropolitan School district for Academic Year 2019 ("2019 Agreement"); and

WHEREAS, the District requested a refund for a portion of the amount paid under the 2019 Agreement to reflect the time period during which it did not take advantage of the transportation services provided by GCRTA; and

WHEREAS, although GCRTA continued to provide transportation services during the time period from March 2020 through June 2020, it wishes to support its community partners to the extent practicable; and

WHEREAS, after negotiation, the District and GCRTA agreed that GCRTA would apply a credit of \$518,000 to the District's account over the course of the 2020-2021 and 2021-2022 school years, with 25% of that amount credited to each of the fall 2020, spring 2021, fall 2021 and spring 2022 terms; and

WHEREAS, If the value of the tickets purchased by the District in any term is less than the amount of the credit for that term, GCRTA will credit up to the amount of the tickets purchased and carry the remainder forward to the next term but not past the spring 2022 term; and

WHEREAS. GCRTA will not in any event issue a cash refund; and

WHEREAS, the COVID-19 pandemic has created uncertainty regarding whether the District's students will attend school in person or virtually during the 2020-2021 school year as well as the need for transportation services; and

WHEREAS, the GCRTA and the District wish to enter into a short-term agreement to address the District's reduced need for transportation during the COVID-19 pandemic without setting a precedent for future agreements.

NOW, THEREFORE, GCRTA and the District, for good and valuable consideration including the mutual promises contained below, agree as follows:

**1. TERM OF AGREEMENT**

This Agreement shall commence on August 1, 2020, and shall continue through June 22, 2021.

**2. PRICE AND TERMS OF SALE**

- a) The District will purchase up to 600,000 two-trip student tickets at a price of \$1.55 per two-trip ticket. (These tickets will be referred to herein as "Tickets.") Tickets must be ordered on a separate written purchase order. The District shall not assess a charge in excess of this price for each Ticket. GCRTA shall deliver the number of Tickets specified in each order to the District's Transportation Department. The risk of loss for said Tickets shall pass to the District immediately upon delivery of the Tickets to the District. The District shall sign the accompanying invoice and immediately return the signed invoice to GCRTA's Accounts Receivable Department.
- b) Tickets may be used by District students in Grades 6 through 12, residing within the borders of Cuyahoga County and attending private or public schools certified by Ohio Department of Education until the expiration date of the Tickets. The District may exchange unused tickets prior to such expiration date. Tickets may be used on regular routes operated by the GCRTA for the

purpose of transporting fare paying passengers. Tickets are non-transferable. Non-students using Tickets will either be denied service or required to pay the full fare.

c) Payment

GCRTA shall invoice the District for each order of Tickets and the District shall remit payment within 30 days of receipt of the invoice.

Failure to make timely payment may lead to the termination of this agreement.

Due to the fact that the District's students did not use transportation services during a portion of the 2019-2020 term, GCRTA and the District have agreed that GCRTA will apply a credit of \$129,500 to the District's account over the course of the fall 2020 term. If the value of the tickets purchased by the District during the fall 2020 term is less than the amount of the credit for that term, GCRTA will credit up to the amount of the tickets purchased and carry the remainder forward to the spring 2021 term. In no event will the remainder be carried forward past the spring 2022 term. Cash refunds will not be issued.

d) Invoices

Invoices will be directed to the District's Office of Accounting, Attention: Michael Bowen, Director of Accounting.

**3. RIGHT TO TERMINATE AGREEMENT**

If either Party becomes insolvent or fails to perform any undertaking essential to the purpose of this Agreement, or fails to conduct its business to the satisfaction of the other Party, then the other Party may cancel and terminate this Agreement by thirty (30) days' notice in writing to the defaulting Party, provided, however, that the defaulting Party may cure any failure of performance within thirty days of receipt of notice.

The expiration or termination, for any reason, of this Agreement shall be without prejudice to the rights of either Party.

**4. STUDENT CONDUCT**

a) In accordance with its representations in 2015, the District removed the following language from the 2016-2017 Student Code of Conduct and maintains its deletion from the 2020-2021 Student Code of Conduct:

A student suspended from the bus will be given two RTA tickets at the time of suspension. Additional RTA tickets will be provided, as



needed, each day the student appears in school during the term of the bus suspension.

- b) The Board of Education of the District has adopted and maintains the policy outlined in Exhibit A hereto.

**5. FORCE MAJEURE**

If because of Force Majeure, either Party shall be unable to carry out any of its obligations under this Agreement, then those obligations shall be suspended to the extent made necessary by Force Majeure. The Party affected by Force Majeure shall give notice to the other Party as promptly as practical of the nature and probable duration of such Force Majeure. "Force Majeure" shall mean acts of God, riots, strikes, labor disputes, labor or material shortages, fires, explosions, floods, breakdowns of or damage to plants, equipment or facilities, or other causes of similar nature which are beyond the reasonable control of the Party and which wholly or partially prevent the timely performance of the Party's obligations under this Agreement, provided that the effect of such Force Majeure shall be eliminated insofar as possible with all reasonable dispatch; provided further, that performance of service obligations by the Party shall be excused only to the extent made necessary by the Force Majeure condition; provided further, that neither Party shall be required to settle a labor dispute on terms unacceptable to the Party affected; and provided further, that neither Party shall be required to rebuild all or a major portion of its facilities which are destroyed or substantially impaired by a Force Majeure condition. The Parties agree that, during the duration of the Force Majeure condition, neither will seek to declare the other in default for failure to timely perform its obligations under this Agreement.

**6. RECORDS AND AUDITS**

The District shall maintain books, records, documents, and other evidence directly pertinent to the performance of the Work under this Agreement in accordance with generally accepted accounting principles and practices consistently applied and Federal Acquisition Regulations, Parts 30 and 31, as applicable. GCRTA and its authorized representatives shall have the right to audit, to examine and to make copies of or extracts from all financial and related records (in whatever form they may be kept, whether written, electronic, or other) relating to or pertaining to this Agreement kept by or under the control of the District, including, but not limited to those kept by the District, its employees, agents, assigns, successors and subcontractors. Such records shall include, but not be limited to, accounting records, written policies and procedures; subcontract files; all paid vouchers including those for out-of-pocket expenses; other reimbursement supported by invoices; ledgers; cancelled checks; deposit slips; bank statements; journals; original estimates; estimating work sheets; contract amendments and change order files; back charge logs and supporting documentation; insurance documents; payroll documents; timesheets; memoranda; and correspondence. The District



shall, at all times during the term of this Agreement and for a period of three years after the completion of this Agreement, maintain such records, together with such supporting or underlying documents and materials. The District shall at any time requested by GCRTA, whether during or after completion of this Agreement, and at the District's own expense make such records available for inspection and audit (including copies and extracts of records as required) by GCRTA. Such records shall be made available to GCRTA during normal business hours at the District's office or place of business. In the event that no such location is available, then the financial records, together with the supporting or underlying documents and records, shall be made available for audit at a time and location that is convenient for GCRTA. The District shall ensure GCRTA has these rights with the District's employees, agents, assigns, successors, and subcontractors, and the obligations of these rights shall be explicitly included in any subcontracts or agreements formed between the District and any subcontractors to the extent that those subcontracts or agreements relate to fulfillment of the District's obligations to GCRTA. If the audit discovers substantive findings related to fraud, misrepresentation, or non-performance, GCRTA may recoup the costs of the audit work from the District. Any adjustments and/or payments that must be made as a result of any such audit or inspection of the District's invoices and/or records shall be made within a reasonable amount of time (not to exceed 90 days) from presentation of GCRTA's findings to the District.

**7. ASSIGNMENT**

Neither Party shall assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

**8. CHANGES; ALTERATIONS**

No change, alteration, modification, or addition to this Agreement shall be effective unless in writing and properly executed by both Parties.

**9. APPLICABLE LAW; SEVERABILITY**

This Agreement and any disputes relating to it shall be construed under the laws of the State of Ohio. If any provisions of this Agreement are determined to be invalid or unenforceable, such invalidity or unenforceability shall not affect any of the Agreement's remaining provisions.

**10. ENTIRE AGREEMENT**

This instrument constitutes the entire Agreement of the Parties with respect to its subject matter, superseding all prior understandings, agreements, or communications (whether oral or written), and shall be binding upon and inure to the benefit of the Parties, their successors, and permitted assigns.

**11. NOTICES**

All notices to be given pursuant to this Agreement shall be sufficient if given in writing, delivered in person or by registered or certified mail, postage prepaid, and, in either case addressed to the respective party at its postal address or at such other address or addresses each may hereafter designate in writing. Notices by mail shall be deemed effective and complete at the time of posting and mailing in accordance herewith.

Notice shall be delivered or mailed to the parties at the addresses shown below:

If to the District	If to GCRTA
Cleveland Metropolitan School District	Greater Cleveland Regional Transit Authority
Attn:	Attn: Rajan D. Gautam
	Deputy General Manager, Finance & Administration
	1240 West 6 <sup>th</sup> Street
	Cleveland, OH 44113-1331

**12. ACKNOWLEDGEMENT**

The Parties acknowledge and agree that the District is a governmental entity and due to statutory provisions cannot commit to the payment of funds beyond its fiscal year (July 1 through June 30). By signing this Agreement, the District represents that it has appropriated the funds necessary to fulfill its obligations under this agreement for the 2020 – 2021 school year.

IN WITNESS WHEREOF, the Parties have executed this Agreement at Cleveland, Ohio, as of the last date set forth below.

**GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY**

**CLEVELAND METROPOLITAN SCHOOL DISTRICT**

By: \_\_\_\_\_  
India L. Birdsong,  
General Manager, CEO

By: \_\_\_\_\_  
Eric S. Gordon  
Chief Executive Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_

The legal form and correctness of the within Instrument is hereby approved.

\_\_\_\_\_  
Sheryl King Benford  
Deputy General Manager-Legal

**CERTIFICATE OF FUNDS**  
(Section 5705.41, O.R.C.)

In the matter of: Greater Cleveland Regional Transit Authority

IT IS HEREBY CERTIFIED that moneys required to meet the obligations of the Board of Education of the Cleveland Metropolitan School District under the above referenced Agreement have been lawfully appropriated for such purposes and are in the treasury of the School District or are in the process of collection to an appropriate fund, free from any previous encumbrance.

**CLEVELAND METROPOLITAN SCHOOL DISTRICT**

By: \_\_\_\_\_

Dated: \_\_\_\_\_