

RESOLUTION NO. 2022-26

AUTHORIZING A LEASE AGREEMENT WITH 2 BIRDS SHUTTLE AND DETAIL, LLC FOR PROPERTY AT THE PURITAS-WEST 150<sup>TH</sup> STREET RAPID TRANSIT STATION LOCATED AT 4200 WEST 150<sup>TH</sup> STREET, CLEVELAND, OHIO 44135, FOR A RENEWAL TERM OF TWO YEARS AT \$12,000.00 PER YEAR

WHEREAS, the Greater Cleveland Regional Transit Authority ("Authority") is the owner of record of the land and facility located at 4200 West 150<sup>th</sup> Street, Cleveland, Ohio 44135, which is a portion of the property known as the Puritas-West 150<sup>th</sup> Street Rapid Transit Station (the "Property"); and

WHEREAS, the Property was acquired by the Authority on September 5, 1975 as authorized by the Mass Transit System Transfer Agreement of 1975; and

WHEREAS, the Property has been leased to 2 Birds Shuttle and Detail, LLC, an Ohio limited liability company, for the past two years for the operation of an airport shuttle service and auto detail center; and

WHEREAS, Section 470.03 of the Codified Rules and Regulations of the Greater Cleveland Regional Transit Authority provides that leases permitting continuous use of Authority property for more than 3 years must be approved by the Board of Trustees; and

WHEREAS, the Authority's staff has determined the new lease terms and conditions to be representative of fair market value for comparable properties and compliant with the program goals of the Authority's Disadvantaged Business Enterprise Program; and

WHEREAS, the amenity was determined to be an appropriate use for the site; and

WHEREAS, 2 Birds Shuttle and Detail, LLC intends to continue to operate and maintain the property in a clean, safe and attractive condition, which represents additional compensation for leasing the Property; and

WHEREAS, 2 Birds Shuttle and Detail, LLC has remained a tenant in good standing throughout the term of the initial lease agreement; and

WHEREAS, the Authority intends to offer 2 Birds Shuttle and Detail, LLC a lease renewal for the Property for a term of two years at \$12,000.00 per year and the Authority reserves the right to cancel the lease agreement at any time and for any reason.

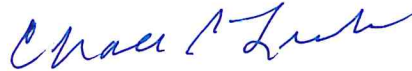
NOW, THEREFORE, BE IT RESOLVED by the Board of Trustees of the Greater Cleveland Regional Transit Authority, Cuyahoga County, Ohio:

Section 1. That the General Manager, Chief Executive Officer is hereby authorized to execute a lease agreement with 2 Birds Shuttle and Detail, LLC for a renewal term of two years at \$12,000.00 per annum for a portion of the property located at the Puritas-West 150<sup>th</sup> Street Rapid Transit Station, 4200 West 150<sup>th</sup> Street, Cleveland, Ohio 44135 and further known as Cuyahoga County Permanent Parcel Number 027-19-002 (the "Property").

Section 2. That the rent of \$12,000.00 per year along with 2 Birds Shuttle and Detail, LLC's agreement to perform all necessary capital improvements and to maintain the property in a clean, safe and attractive condition represents fair compensation for leasing the Property, as determined by survey of comparable properties in northeast Ohio and verified by the Authority's staff.

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

Adopted: March 29, 2022



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President

Attest:



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Secretary-Treasurer



<b>TITLE/DESCRIPTION:</b> <b>LEASE:</b> LEASE AGREEMENT FOR LAND ADJACENT TO THE PURITAS-WEST 150 <sup>TH</sup> STREET RAPID TRANSIT STATION, 4200 WEST 150 <sup>TH</sup> STREET, CLEVELAND, OH 44135  <b>LESSEE:</b> 2 BIRDS SHUTTLE AND DETAIL, LLC, AN OHIO LIMITED LIABILITY COMPANY  <b>TERMS:</b> TWO YEAR RENEWAL TERM AT \$12,000 PER YEAR	<b>Resolution No.:</b> 2022-26
	<b>Date:</b> March 24, 2022
	<b>Initiator:</b> Programming and Planning
<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 resolution seeks approval for a renewal lease agreement with 2 Birds Shuttle and Detail LLC, an Ohio limited liability company, for the operation of an airport shuttle service and auto detail center. The property is a surplus parking area at the Puritas-W 150<sup>th</sup> Rapid Transit Station at 4200 West 150<sup>th</sup> Street, Cleveland, OH 44135. The renewal term is for two years with no extension option. GCRTA reserves the right to cancel the lease at any time and for any reason.
  
- 2.0 **DESCRIPTION/JUSTIFICATION:** The Authority acquired this property in 1975 as part of the Mass Transit System Transfer Agreement creating GCRTA. The portion of the property proposed for lease renewal was a surplus parking area not used for GCRTA operations. The tenant has occupied the property since March of 2020 and has satisfactorily improved, and maintained the property. All insurance requirements and compliance with the terms and conditions of the current lease agreement have been met. The tenant remained in good standing with GCRTA throughout the term of the initial lease agreement.  
  
 Staff is offering and seeking approval of this lease renewal because Section 470.03 of the Codified Rules and Regulations of the Greater Cleveland Regional Transit Authority provides that the Board of Trustees must approve any lease permitting continuous use of Authority property for more than 3 years.
  
- 3.0 **PROCUREMENT BACKGROUND:** Does not apply.
  
- 4.0 **DBE/AFFIRMATIVE ACTION BACKGROUND:** The initial lease agreement and renewal are proactive efforts to promote and advance the Disadvantaged Business Enterprise Program goals of GCRTA as the Lessee is a qualified DBE.
  
- 5.0 **POLICY IMPACT:** The proposed lease renewal is consistent with the Real Estate Policies of the GCRTA.
  
- 6.0 **ECONOMIC IMPACT:** The income from rent of \$12,000.00 per year reduces the operating and maintenance costs at the Puritas Road-West 150<sup>th</sup> Street Rapid Station.
  
- 7.0 **ALTERNATIVES:** The GCRTA can refuse to renew the lease agreement and seek a new tenant for the property or close this amenity and incur additional costs for maintaining the property.

- 8.0 RECOMMENDATION: Staff recommends the proposed renewal lease agreement for approval to the Board of Trustees.
- 9.0 ATTACHMENT: Draft Lease Agreement.

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

  
General Manager, Chief Executive Officer

LEASE BETWEEN

THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

AND

2 BIRDS SHUTTLE AND DETAIL LLC

This Lease is made and entered into as of this \_\_\_\_ day of March, 2022 ("Effective Date"), by and between the **2 Birds Shuttle and Detail LLC**, an Ohio limited liability company whose principal business office is located at 19540 Puritas Avenue, Cleveland, OH 44135 ("Lessee") and the **Greater Cleveland Regional Transit Authority**, a political subdivision organized under Ohio Revised Code Chapter 306, whose principal business office is located at 1240 West 6<sup>th</sup> Street, Cleveland, Ohio, 44113 ("Lessor").

1. Lessor does hereby lease to Lessee and Lessee hereby leases from Lessor the land adjacent to the Puritas – West 150th Rapid Transit Station, in the City of Cleveland, Cuyahoga County, Ohio, and identified on the document attached hereto and marked as **Exhibit "A"** ("Premises").
2. The term of the Lease shall be for a period of two (2) years, beginning on March 1, 2022 (the "Commencement Date") and terminating on February 29, 2024. Notwithstanding anything contained herein, Lessor reserves the right to cancel the Lease at any time and for any reason.
3. Lessee shall pay to Lessor the monthly rent stated in **Exhibit "B"** attached hereto and made part hereof in equal consecutive monthly installments on or before the first day of each month during the term of this Lease (the "Base Rent").
4. The Base Rent is to be adjusted in accordance with **Exhibit "B"** attached.
5. If the Lessee fails to pay any Base Rent on the date it is due and payable, such unpaid amount shall be subject to a late payment charge of One Hundred Dollars (\$100.00).
6. Lessee may use and occupy the land described in **Exhibit "A"** solely for operating a parking, airport shuttle and auto detail center on a for profit basis. The parking, and airport shuttle and auto detail center must be accessible to the public. Lessor and Lessee agree this Lease does not create a permanent use but that the parking, airport shuttle and auto detail center is a temporary use of the land until such time as Lessor has another use for the land. The land described in **Exhibit "A"** shall not be used for any purpose other than permitted herein without the express written consent of the Lessor.
7. The parking, shuttle and auto detail center shall be fenced around the perimeter with multiple secured gated entrances. Landscaping, site lighting and signage approved by the Lessor and the City of Cleveland may be installed. The fence, all gates, and all improvements shall be maintained in a good state of repair at all times.

8. Lessor reserves the right to use (or grant to other parties the right to use) the air rights above the Premises and Lessee will have no right title or interest in the air rights above the Premises.
9. Within fifteen (15) days from the Commencement Date of this Lease, Lessee shall prepare and deliver to Lessor detailed plans and specifications of the improvements to the Premises to be constructed by Lessee in compliance with **Exhibit "C"** attached hereto and made a part hereof. Within fifteen (15) days following Lessor's receipt of Lessee's plans and specifications, Lessor shall notify Lessee whether Lessee's plans and specifications are acceptable to Lessor. If Lessee's plans and specifications are not acceptable to Lessor, Lessor will advise Lessee of the required modifications to Lessee's plans and specifications. Lessee shall modify and deliver to Lessor its revised plans and specifications within five (5) days from receipt of Lessor's required modifications. Lessor and Lessee will continue this process until Lessor has approved Lessee's plans and specifications ("Lessee's Work"). Within ten (10) days from receipt of Lessor's approval of Lessee's plans and specifications, Lessee will apply for any and all permits and other governmental approvals necessary to perform Lessee's Work and Lessee will diligently pursue such application(s) until approved. Lessee shall not modify Lessee's plans and specifications approved by Lessor without Lessor's prior written consent. Upon Lessor's delivery of the Premises, and provided Lessor has approved Lessee's plans and specifications, or upon Lessor's approval of Lessee's plans and specifications, whichever is later, Lessee will commence construction of Lessee's Work in accordance with the plans and specifications approved by Lessor. If Lessee has not complied with each of the foregoing conditions, Lessor may, in its sole and absolute discretion, reasonably control Lessee's access to the Premises to the extent Lessor deems necessary without such actions affecting the term of this Lease as set forth in paragraph 2 of this Lease. Lessee will complete construction of Lessee's Work prior to occupancy or use by the public. Lessee must receive Lessor's consent and the approval of the City of Cleveland to its signage plans and specifications prior to installation of Lessee's signage upon the Premises. Lessee shall perform all work associated with the granting of this Lease at its sole cost and expense.
10. Lessee shall be responsible for the maintenance of the parking, airport shuttle and auto detail center constructed on the Premises and shall maintain said Premises in a clean, safe, and attractive condition. Lessee shall keep and maintain the Premises and any fixtures, facilities, or equipment therein, in good condition and repair. Lessee shall be responsible for cleaning, repairing and remediating all portions of the Premises. Lessee shall be responsible for all security required to operate this business on the Premises.
11. Neither the Premises nor any part thereof shall be sublet nor shall this Lease be assigned without the express consent, in writing, of the Lessor.
12. The relationship between the parties hereto is wholly that of Lessor and Lessee, and is not and never shall be deemed to be a partnership or joint venture.
13. To the fullest extent permitted by law and to the full extent of Lessee's intentional, reckless or negligent acts or omissions, the Lessee shall, at its sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless Lessor and its officials, agents, representatives, and employees from and against all claims, actions, judgments, costs, penalties, liabilities, damages, losses and expenses, including but not limited to attorney's fees and worker's

compensation benefits, for Lessee's breaches of this Lease, or intentional, reckless or negligent acts or omissions arising out of or resulting from the subject matter of this Lease, or the acts or omissions of any person or contracted entity directly or indirectly employed or contracted by Lessee.

Nothing herein shall be construed as making Lessee liable for any claims, actions, judgments, costs, penalties, liabilities, damages or losses and expenses caused by the sole negligence and/or misconduct of Lessor. Lessee accepts the land described in **Exhibit "A"** in an "AS IS and WHERE IS" condition without warranty by Lessor of any kind or nature, express or implied. Lessor shall not be liable (i) for any damage to Lessee's property located on the Premises, nor (ii) for any condition of the Premises whatsoever.

To the extent that any portion of this provision is found to be in violation of any applicable law, said portion(s) of this provision are stricken but all remaining portions of this provision shall remain in full force and effect.

#### 14. Insurance

- a. The Lessee shall obtain and maintain for the term of this Lease the following minimum insurance coverages. Such insurance shall protect the Lessee from claims which may arise out of or result from the Lessee's operations under this Lease and for which the Lessee may be legally liable, whether such operations be by the Lessee or by a subcontractor or by anyone employed directly or indirectly by any of them, or by anyone for whose acts any of them may be liable.

Approval by the Lessor: Approval of the insurance by the Lessor shall not relieve or decrease the liability of the Lessee hereunder and shall not affect the obligations of Lessee pursuant to paragraph 13 of this Lease. Lessor does not in any way represent that the insurance or the limits of insurance specified herein are sufficient or adequate to protect the Lessee's interests or liabilities.

In the event the Lessee neglects, refuses or fails to provide the insurance required herein, or if such insurance is cancelled for any reason, the Lessor shall have the right but not the duty to procure the same at Lessee's cost.

Lessor reserves the right to request a copy of all policies and endorsements prescribed herein.

At its sole expense, Lessee shall obtain and maintain:

- i. **Commercial General Liability (CGL) Insurance** in the amount of \$1,000,000 combined single limit each occurrence for bodily injury and/or property damage and with a \$1,000,000 annual aggregate.
- ii. **Business Automobile Liability (BAL) Insurance** in the amount of \$1,000,000 combined single limit each accident for bodily injury and/or property damage. Said policy shall apply to all owned, leased, hired and non-owned vehicles used in connection with Lessee's Work and use that is the subject of this Lease.
- iii. **Statutory Workers' Compensation Coverage** in compliance with all applicable state workers' compensation laws to cover all employees furnishing labor under the terms of this Lease and under the control of the Lessee. Employers' Liability coverage in the

amount of \$1,000,000 per accident / \$1,000,000 per employee for disease will also be included, either under the Workers' Compensation policy or under the Commercial General Liability policy (Stop Gap) referenced under subpart i above. In Ohio, a copy of a certificate of premium payment from the Industrial Commission and Bureau of Workers Compensation, or a copy of the Certificate of Employer's Right to Pay Compensation Directly shall be sufficient proof of the coverages required by this subpart iii.

b. General Requirements:

i. The Lessee shall not have access to the Premises until it has obtained the required insurance and has received written approval of such insurance by the Lessor. ***Lessee shall furnish evidence of such insurance in the form of a certificate (Accord or similar form).***

ii. The certificate shall provide the following:

- The policy shall be written on an occurrence basis. If any insurance specified above is written on a "Claims Made" (rather than an "occurrence" basis), then in addition to the coverage requirements stated herein, Lessee shall:
  - (a) Ensure that the Retroactive Date is shown on the policy, and such date shall be before the Effective Date of this Lease or any work beginning under this Lease.
  - (b) Maintain and provide evidence of similar insurance for at least three (3) years following the termination of this Lease, including the requirement of adding all additional insureds; and
  - (c) If insurance is cancelled or non-renewed and not replaced with another claims-made policy form with a Retroactive Date prior to the Effective Date of this Lease, Lessee shall purchase "extended reporting" coverage for a minimum of three (3) years after completion of the work.
- Name the Lessor as an additional insured for all CGL, and BAL liability coverage for claims arising out of operations in conjunction with this Lease
- Contain a waiver of subrogation in favor of the Lessor.
- Specify that the insurance is primary and non-contributory as respects any insurance or self-insurance programs maintained by Lessor.
- Contain a specific reference to this Lease.
- Specify all deductibles & Self-Insured Retentions (SIR), as applicable.
- In the event the insurance should be changed or cancelled, such change or cancellation shall not be effective until 15 days after the Lessor has received written notice of such change or cancellation from the Lessee. Such notice shall be mailed by certified mail, return receipt requested, to the Lessor's Property Manager.
- An insurance company having less than an A-X rating by The A. M. Best Company will not be considered acceptable. All certificates are subject to acceptance by the Lessor. The Lessor shall be entitled to receive a full copy of the insurance



policy(ies) upon request and reserves the right to review financial statements and approve any deductibles or SIR.

- iii. Lessor will accept any combination of primary CGL along with Excess or Umbrella policies, as well as primary BAL along with Excess or Umbrella policies, to meet the minimum coverage requirements contained herein.
15. Lessee agrees that all construction and maintenance activities permitted or required hereunder will be performed by its own employees or a contractor of Lessee. If any such activities are to be performed by other than employees of Lessee, then Lessee will so advise Lessor and Lessee's contractor(s) will have to obtain and maintain insurance in the amounts specified above. Lessor shall be an additional named insured on such policies and evidence of said coverage must be presented to the Lessor before any work is permitted to begin.
16. This Lease shall be governed by, construed, and enforced in accordance with the laws of the State of Ohio. Lessee shall maintain and operate the 2 Birds Shuttle and Detail Center and the Premises in accordance with all laws of the State of Ohio and local ordinances.
17. Any notice concerning this Agreement must be in writing and will be deemed sufficiently given when sent by certified or registered mail to the respective address of each party as set forth herein.

Address of Notice:

Lessor: Greater Cleveland Regional Transit Authority  
1240 West 6<sup>th</sup> Street  
Cleveland, Ohio 44113  
Attn: Property Manager

Lessee: 2 Birds Shuttle and Detail Center, LLC  
19540 Puritas Ave., Cleveland, Ohio 44135  
Attn: Anthony Russell

18. Lessee shall remove any and all fencing, fixtures, improvements and personal property from the Premises upon receipt of notice from Lessor or termination or cancellation of this Lease and return the Premises to its original condition or to a condition satisfactory to Lessor in its sole discretion.
19. This Lease constitutes the entire agreement between the parties and any prior understanding or representation of any kind prior to the date of this Lease shall not be binding upon either party, except to the extent it is incorporated into this Lease. Any modification of this Lease will be binding only if evidenced in writing and signed by both parties.
20. Each Exhibit referenced in, and attached to, this Lease is incorporated in this Lease by such reference as if fully rewritten in herein.
21. Surrender and Holding Over. Lessee shall deliver up and surrender to Lessor possession of the Premises upon the expiration of the term of this Lease or earlier termination for any reason. If Lessee remains in possession of the Premises after the expiration or earlier termination of this Lease, Lessee shall be a month-to-month tenant and be bound by the terms

and provisions of this Lease. Lessee shall (with no additional notice required by Lessor) pay to Landlord monthly rent in the amount of One Thousand Five Hundred Dollars (\$1,500.00) per month, in advance, on the first day of each calendar month for any period during which Lessee shall hold the Premises after the Lease term shall expire or may have terminated. Monthly rent and Additional Rent (as hereinafter defined) shall be prorated on a per diem basis (based upon a thirty (30) day calendar month) for any partial month Lessee occupies the Premises during such holdover period.

22. Additional Rent. Any amounts to be paid by Lessee to Lessor pursuant to the provisions of this Lease or at law, whether such payments are periodic or recurring, shall be deemed to be "Additional Rent" and otherwise subject to all provisions of this Lease and of law as to the default in the payment of rent.

23. Counterparts. This Lease may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original, but such counterparts together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, each party to this Lease has caused it to be executed by an individual authorized to enter into said Lease as of the date specified herein.

**LESSOR:** Greater Cleveland Regional  
Transit Authority  
1240 West 6<sup>th</sup> Street  
Cleveland, Ohio 44113-1331

By: \_\_\_\_\_  
India L. Birdsong  
General Manager,  
Chief Executive Officer

Approved as to Legal Form:

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

**LESSEE:** 2 Birds Shuttle and Detail, LLC  
19540 Puritas Ave.  
Cleveland, Ohio 44135

By: \_\_\_\_\_  
Anthony Russell, Manager

EXHIBIT "A"

(THE PREMISES)

**EXHIBIT "B"**

**RENT PAYMENT**

<b>Term</b>	<b>Monthly Base Rent</b>	<b>Total Rent</b>
YEAR 1:	\$1,000.00/Month	\$12,000.00
YEAR 2:	\$1,000.00/Month	\$12,000.00

## EXHIBIT "C"

### TENANT'S WORK

1. Neither Lessor, nor any, officers, employees, agents, or representatives of Lessor (all of the foregoing, collectively, the "Lessor Parties") shall be liable for any injury, damage or loss of any nature whatsoever to person or property arising out of the performance and construction of the Lessee's improvements. Lessee hereby agrees to indemnify, protect, defend and hold harmless the Lessor Parties from and against any and all claims, damages, liability, loss, cost and expense related to or arising out of the performance and construction of the Lessee's improvements by Lessee or any other party working on Lessee's behalf. The terms and conditions of this Section 1 shall survive the termination of the Lease.
2. All work performed in connection with the Lessee's improvements, shall be performed in a lien-free, good and workmanlike manner and in accordance with the requirements of all applicable government ordinances, codes, regulations and laws. In the event any mechanics' or materialman's lien is filed against the Premises or any other real property of Lessor in connection with the Lessee's improvements or on behalf of Lessee, then Lessee shall, within seven (7) days after notice of filing, cause the same to be discharged of record.
3. Lessee shall neither do nor suffer anything to be done or kept in or about the Premises which contravenes Lessor's insurance policies.
4. Lessee shall promptly clean up and maintain all rubbish, garbage and waste generated from the Lessee's improvements and use of the Premises and shall permit no refuse generated from Lessee's improvements and use of the Premises to accumulate around the exterior of the Premises.
5. Lessee shall comply with all reasonable rules and regulations which Lessor may from time to time establish for the use and care of the Premises.
6. Lessee shall not permit or cause the presence of Hazardous Materials in, on or under the premises. Lessee shall defend, protect, indemnify and hold the Lessor Parties harmless from and against any and all claims, causes of action, liabilities, damages, costs and expenses, including without limit, attorney fees, arising because of any alleged personal injury, property damage, death, nuisance, loss of business or otherwise, by Lessor, any Lessor Party, or from and against any governmental act or enforcement, arising from or in any way connected with conditions existing or claimed to exist with respect to Hazardous Materials (as hereinafter defined) within the Premises or any adjacent property, which are the result of Lessee's use or occupancy of the Premises, or performance of the Lessee's improvements. As used herein the term "Hazardous Materials" shall be defined as any hazardous substance, contaminant, pollutant or hazardous release (as such terms are defined in any federal, state or local law, rule, regulation or ordinance, including without, limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended) and other said wastes. In the event Lessee shall cause or permit the presence of Hazardous Materials in, on, around, or under the Premises, Lessee shall promptly, at Lessee's sole cost and expense, take any and all action necessary (as required by appropriate government authority or otherwise) to return the areas affected thereby to the condition existing prior to the presence of any such Hazardous materials thereon, subject to Lessor's prior written consent. This Section 6 shall survive termination of the Lease.