

RESOLUTION NO. 2022-103

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AND SALE AGREEMENT WITH XAPC, CO. FOR THE PURCHASE OF 15583 BROOKPARK ROAD, BROOK PARK, OHIO, CUYAHOGA COUNTY PERMANENT PARCEL NUMBER 343-11-004, FOR THE SUM OF \$1,500,000.00

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") anticipates that the Rail Facilities Maintenance group will need to relocate in order to allow for the testing of rail vehicles as part of the railcar replacement program; and

WHEREAS, GCRTA identified the property located at 15583 Brookpark Road, Brook Park, Ohio, Cuyahoga County Permanent Parcel Number 343-11-004, as suitable real property to be used for the new facility for the Rail Facilities Maintenance group to service the west side rail stations and other facilities along the Red Line; and

WHEREAS, GCRTA and XAPC, Co. negotiated a purchase price of \$1,500,000.00 for the property; and

WHEREAS, GCRTA has conducted appropriate due diligence investigations and appraisals of the property, which investigations and appraisals confirmed the suitability of the property for GCRTA's needs and the purchase price of \$1,500,000.00; and

WHEREAS, completion of this real estate transaction and acquisition of this property is contingent upon final concurrence from the Federal Transit Administration; and

WHEREAS, entering into a purchase and sale agreement with the property seller, will allow the GCRTA to continue and finalize the transaction to purchase this real estate.

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

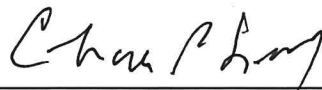
Section 1. That the purchase price of \$1,500,000.00 is documented as fair market value by MAI appraisal report and confirmed by a review appraisal report.

Section 2. That the General Manager, Chief Executive Officer is hereby authorized to execute a purchase and sale agreement with the property seller in the amount of \$1,500,000.00 and is further authorized to execute other documents as required to complete the real estate transaction.

Section 3. That the purchase price shall be payable from 100% local funds or from eligible grant funding as may become available.

Section 4. That this resolution shall become effective immediately upon its adoption.

Adopted: November 15, 2022



President

Attest:



Secretary-Treasurer



<p>TITLE/DESCRIPTION:</p> <p>CONTRACT: AUTHORIZING A PURCHASE AND SALE AGREEMENT FOR THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ACQUIRE 15583 BROOKPARK ROAD, BROOK PARK, OHIO, CUYAHOGA COUNTY PERMANENT PARCEL NUMBER 343-11-004</p> <p>SELLER: XAPC, CO.</p> <p>AMOUNT: \$1,500,000.00</p>	<p>Resolution No.: 2022-103</p> <p>Date: November 10, 2022</p> <p>Initiator: Programming & Planning</p>
<p>ACTION REQUEST:</p> <p><input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____</p>	

- 1.0 **PURPOSE/SCOPE:** This resolution seeks board approval of a purchase and sale agreement (Attachment A) with XAPC, Co. for the proposed purchase by the Greater Cleveland Regional Transit Authority (GCRTA) of the real estate located at 15583 Brookpark Road, Brook Park, OH 44142, Cuyahoga County Permanent Parcel Number 343-11-004, for the sum of \$1,500,000.00.

- 2.0 **DESCRIPTION/JUSTIFICATION:** The property would be purchased to be utilized primarily as the new west side location for the Rail Facilities Maintenance group to service the west side rail stations and other properties along the Red Line. The purchase of property is necessitated by the anticipated relocation of the Rail Facilities Maintenance group. The rail car replacement program will require that the maintenance group's current space at the Brookpark Shop be used instead for the testing and commissioning of the new rail cars.

A non-binding letter of intent was executed by GCRTA on August 17, 2022 and accepted by XAPC, Co. on August 18, 2022 (Attachment B). In the subsequent weeks, GCRTA conducted due diligence investigations regarding the property which concluded that the property was suitable for GCRTA's intended use. The property was appraised at \$1,500,000.00 by a MAI appraiser on October 12, 2022 and confirmed by review appraisal on November 8, 2022.

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

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

- 5.0 **POLICY IMPACT:** The proposed purchase and sale agreement is consistent with the Real Estate Policies of the GCRTA. The proposed purchase is contingent upon final concurrence from the Federal Transit Administration.

- 6.0 **ECONOMIC IMPACT:** GCRTA has deposited \$10,000.00 with the escrow agent as earnest money. The balance of \$1,490,000.00 will be due at the closing of the transaction. The purchase price of one million five hundred thousand dollars (\$1,500,000.00) will be payable from 100% local funds or from eligible grant funding as may become available.

- 7.0 **ALTERNATIVES:** Without approval for GCRTA to execute a purchase and sale agreement and proceed to closing of the transaction, GCRTA will not be able to purchase this property. GCRTA will need to seek another property which can accommodate the Rail Facilities Maintenance group.

- 8.0 RECOMMENDATION: Staff recommends the approval for GCRTA to execute the purchase and sale agreement with XAPC, Co. and to proceed with the additional steps needed to complete this real estate purchase transaction.
- 9.0 ATTACHMENTS: Attachment A – Draft Purchase and Sale Agreement
Attachment B – Letter of Intent

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



General Manager, Chief Executive Officer

**** DRAFT ****

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (“Agreement”) is made and entered into between the **GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY**, a political subdivision of the State of Ohio (“Purchaser”), located at 1240 West 6th Street, Cleveland, Ohio 44113 and the **XAPC, CO., fka AVALON PRECISION CASTING CO.**, an Ohio corporation, (“Seller”), located at 15583 Brookpark Road, Brook Park, Ohio 44142, entered into under the authority of Purchaser’s Resolution No. _____ adopted _____, 2022, a copy of which is attached to and incorporated into this Agreement as **Exhibit A**. The date of this Agreement (“Effective Date”) shall be the last date of execution by either of the parties.

ARTICLE 1 – PROPERTY

Seller agrees to sell, and Purchaser agrees to buy the parcel of real property and all improvements (“Property”) located at 15583 Brookpark Road, Brook Park, Ohio 44142 comprised of 1.24 acres of real property and known as Cuyahoga County Permanent Parcel Number 343-11-004 as outlined on **Exhibit B** attached hereto and incorporated herein, together with the buildings and improvements located thereon and all of the appurtenances, rights, privileges, licenses, and easements belonging thereunto (“Improvements”). A legal description of the Property is attached hereto as **Exhibit C**.

Purchaser is purchasing:

- a. All of Seller's right, title, and interest in the Property described in **Exhibit B** and **Exhibit C**, which are attached to and incorporated into this Agreement; and
- b. All of Seller's right, title, and interest in any Improvements affixed to the Property; and
- c. All rights, privileges, entitlements, easements, and appurtenances pertaining to the Property and Improvements, including any right, title, and interest of Seller in and to adjacent streets, alleys, or rights-of-way.

Seller acknowledges that the sale of the Property is subject to approval by the Federal Transit Administration and Purchaser’s Board of Trustees (the “Required Approvals”). Seller acknowledges that this Agreement will not take effect until the Required Approvals occur.

ARTICLE 2 – PURCHASE PRICE AND EARNEST MONEY

- A. The total purchase price for the Property (“Purchase Price”) shall be One Million Five Hundred Thousand Dollars (\$1,500,000.00) payable in cash, or immediately available funds, on the closing date (the “Closing Date”). On or before the Closing

Date, Purchaser shall deposit the Purchase Price in escrow with Northern Title Agency, Inc. ("Escrow Agent" and "Title Company"), 19545 Center Ridge Road, Rocky River, Ohio 44116 Attention: Deborah S. Furry, President / General Counsel, (Phone:440-333-8118 X203) debffurry@northerntitle.com.

- B. Purchaser shall deposit Ten Thousand Dollars (\$10,000.00) into an escrow account with the Escrow Agent as earnest money ("Earnest Money"), to be credited against the Purchase Price at Closing. The Earnest Money shall be deposited into a federally insured interest-bearing account, with all interest accruing to Purchaser unless otherwise provided herein. Said earnest money shall only be returned to the Purchaser if: (1) the Purchaser does not attain the Required Approvals; (2) Seller does not satisfactorily resolve an objection to a title exception, pursuant to Article 4.C.(i), below; (3) Seller does not obtain the release or modification of any oil or gas leases affecting the Property, pursuant to Article 4.D. below; or (4) Purchaser terminates the transaction pursuant to Article 5. below. If this transaction is not consummated for any other reason, the earnest money shall be disbursed to the Seller as the sole liquidated damages in the event Purchaser does not close on the Property.

ARTICLE 3 – PURCHASER’S INSPECTIONS / SELLER’S DELIVERIES

- A. Seller shall arrange access for Purchaser during normal business hours, to all areas of the Property to enable Purchaser and its agents to enter the Property and to conduct inspections, tests, borings, or surveys. In the event that this transaction does not close by the Closing Date, then the Purchaser, upon demand by Seller, shall repair any damage to the Property caused by the Purchaser’s investigation, tests and/or studies.
- B. The foregoing provision shall survive the termination of this Agreement.
- C. Seller shall promptly deliver to Purchaser the following documents or information that are within Seller’s possession or control ("Seller’s Deliveries"):
1. Seller’s current title policy if one exists; and
 2. Any environmental or geotechnical reports, wetlands study, tree studies and/or surveys, wetlands documentation, flood plain, drainage, road improvement, utility construction or other documents pertaining to the condition of the Property in the custody and control of the Seller; and
 3. The identity of any party who has any environmental or geotechnical reports, wetlands study, tree studies and/or surveys, wetlands documentation, flood plain, drainage, road improvement, utility construction or other documents pertaining to the condition of the Property that is not in the possession or control of Seller, to the extent that the identity of such party is known to Seller; and
 4. Any existing survey of the Property; and

5. Any additional documents identified on Schedule 1 to the Letter of Intent between the parties dated August 17, 2022.

Seller shall use commercially reasonable efforts to secure the foregoing Seller's Deliveries from all vendors who have prepared them on behalf of Seller. In the event it is determined during the Due Diligence Period (as defined in Article 5) that Seller has not timely furnished any of the above Seller's Deliveries after written notice by Purchaser to Seller identifying the specific document or information Purchaser asserts was not timely furnished, the Due Diligence Period shall be extended by the number of days such delivery was delayed from the date of the written notice.

ARTICLE 4 – TITLE TO PREMISES

- A. Seller shall convey insurable (with all standard exceptions deleted provided Purchaser obtains an acceptable Survey as defined herein) and marketable title to the Property to Purchaser by Limited Warranty Deed, to be prepared by Seller and subject to Purchaser's approval.
- B. Seller shall obtain a commitment ("Commitment") issued by Escrow Agent for an ALTA Owner's Policy of Title Insurance Form 2021 ("Title Policy") in an amount equal to the Purchase Price showing title to the Property in Seller and naming Purchaser as the proposed insured. The Commitment shall be accompanied by copies of all documents listed as exceptions to title or otherwise affecting title to the Property. Purchaser may obtain an ALTA survey ("Survey") prior to the expiration of the initial Approval Period (as defined in Article 5), which shows the location of the Property and all easements, rights of way and other matters contained in the Schedule B exceptions to the Commitment that are capable of being shown on the Survey (the Survey and all documents evidencing exceptions to title are hereinafter referred to as the "Related Documents").
- C. Purchaser shall have thirty (30) days after receipt of the Commitment and Related Documents to review title to the Property. If Purchaser notifies Seller that it does not approve of any title exceptions within said thirty (30) day period, Seller shall then have thirty (30) days from such notice in which to resolve such objections and shall undertake to do so in good faith but shall not be required to do so except for the discharge at Closing of Liens as defined below. If Seller does not satisfactorily resolve such objections, which it shall undertake in good faith, within thirty (30) days, then Purchaser, at its option, may either: (i) terminate this Agreement within fifteen (15) days from receipt of Seller's notice that such objection has not been resolved, in which event the Earnest Money and all interest shall be paid to Purchaser, Seller shall pay escrow and title charges incurred to date, and thereupon the parties shall be relieved of all further obligations hereunder; or, (ii) waive the objection and accept title at Closing with such objection, without any reduction in the Purchase Price and such objections then being deemed additional Permitted Exceptions. Notwithstanding any other provision in this Agreement to the contrary, Purchaser shall not be required to give Seller notice to cure or remove any mortgage lien, security interest, judgment, personal property tax, mechanics

or other lien capable of cure by payment of a liquidated sum (a "Lien"), as Purchaser shall be deemed to have objected to such Liens and Seller shall be unconditionally obligated, at its expense, to cause such Liens to be released of record on or before the Closing Date. Although Purchaser is given additional days for the Due Diligence Period and Approval Period (see Section 5 below), Purchaser may not object to title exceptions more than thirty (30) days after receipt of the Commitment and Related Documents.

- D. If there are oil or gas leases affecting the Property ("Oil/Gas Leases"), and Purchaser objects to them, Seller covenants and agrees, without cost to Purchaser, to use its best efforts to either: (i) cause the Oil/Gas Leases to be released of record insofar as they pertain to the Property; or (ii) cause the Oil/Gas Leases to be modified of record such that no entry upon the surface of the Property is permissible by the lessees thereunder and no slant drilling from lands adjacent to the Property will be permissible; provided, however, that the lessees under the Oil/Gas Leases may include the land for purposes of unitization. In the event such best efforts on the part of Seller are not successful within ninety (90) days after receipt of Purchaser's notice objecting to them, then, unless Purchaser waives any objections to the status of the Oil/Gas Leases or the parties otherwise agree, in writing, Purchaser may terminate this Agreement and (i) all Earnest Money shall be returned to Purchaser; (ii) Seller shall pay all Escrow costs incurred to date; and (iii) neither party shall have any other obligation with respect to this Agreement.
- E. From and after the date of execution of this Agreement by Seller, Seller shall not:
1. Permit any third party to adversely affect Seller's title to the Property and will not permit any new or additional exceptions to title to be created except those that will be removed by Seller, at Seller's sole cost and expense, at or prior to the Closing Date; or
 2. Enter into any contracts or agreements pertaining to the Property that are not cancelable upon thirty (30) days' notice.

ARTICLE 5 – CLOSING DATE / DUE DILIGENCE & APPROVAL PERIODS / CONDITIONS

- A. The Closing Date shall be thirty (30) days after expiration of Purchaser's Approval Period as defined in this Article 5, Section C below. Seller shall deliver the Property to Purchaser at Closing free and clear of all tenancies, Liens and other encumbrances.
- B. Seller and Purchaser acknowledge that as of the date of execution of this Agreement, Seller has provided Purchaser with Seller's Deliveries of the due diligence items in Seller's possession or control. Purchaser shall have a forty-five (45) day due diligence period ("Due Diligence Period") beginning on the Purchaser's receipt of the Seller's Deliveries, during which Purchaser may

investigate and evaluate the potential of the Property for the Purchaser's desired uses, including but not limited to zoning, municipal approvals, environmental issues, geotechnical issues and engineering studies. Purchaser shall diligently and in good faith pursue such investigation and evaluation during the Due Diligence Period. If during the Due Diligence Period Purchaser determines that, for any reason, the Property is not suitable, Purchaser may in its sole discretion, terminate this transaction and (i) thereupon this Agreement shall be null and void and neither party shall have any further rights or obligations hereunder, except for those rights and obligations that, by their terms, expressly survive any such termination, and (ii) Purchaser's Earnest Money shall be returned to Purchaser, but Purchaser shall pay all escrow and title charges incurred to date. In the event Purchaser does not elect to terminate this transaction prior to the end of the Due Diligence Period, Purchaser shall be deemed to have waived its right to terminate based on environmental issues, geotechnical issues and engineering studies.

- C. Purchaser shall have a sixty (60) day approval period ("Approval Period") beginning on the execution of the Agreement (assuming Purchaser is proceeding with the purchase) in which to obtain the Required Approvals of the purchase by the Greater Cleveland Regional Transit Authority Board of Trustees and the concurrence of the FTA. This Approval Period may be extended by mutual agreement.
- D. Prior to the expiration of the Due Diligence Period, Purchaser shall have the right to terminate this Agreement, in its sole discretion, by providing written notice of termination to Seller, and (i) thereupon this Agreement shall be null and void and neither party shall have any further rights or obligations hereunder, except for those rights and obligations that, by their terms, expressly survive any such termination, and (ii) Purchaser's Earnest Money shall be returned to Purchaser, but Purchaser shall pay all escrow and title charges incurred to date.
- E. In the interest of expediting this transaction, the Parties may commence the due diligence process or other components of the contemplated transaction prior to execution of this Agreement. The status of progress on the due diligence process or other components of the transaction will be described in Exhibit D, attached hereto.

ARTICLE 6 – TAXES AND ASSESSMENTS

As of the date of Closing, the Escrow Agent shall prorate between Seller and Purchaser all real estate taxes ("Taxes") and any general and special assessments levied against the Property according to the most recent tax bill for the Property. Such proration shall be final.

ARTICLE 7 – REPRESENTATIONS, WARRANTIES AND COVENANTS

- A. As a material inducement for Purchaser to enter into this Agreement, Seller represents, warrants and covenants as follows:

1. Fee simple ownership of the Property is vested solely in Seller and no other party has an interest in the Property, the Property shall be delivered at Closing free and clear of all tenancies, Liens or other encumbrances;
 2. No legal actions or administrative proceedings of any type (including condemnation or similar proceedings) are pending or (to the best of Seller's actual knowledge) contemplated against the Property;
 3. Subject to the limitations set forth in Article 2 above, and subject to receipt of the Required Approvals, Seller has all necessary power and authority to execute this Agreement, perform all of its obligations hereunder and convey the Property;
 4. Seller has no knowledge and has not received notice of any violations of any law, statute, ordinance, or other governmental regulation by or affecting the Property; and
 5. On the Closing Date there will be no outstanding contracts made by Seller for any Improvements to the Property that have not been fully paid for and Seller shall cause to be discharged all mechanics or materialmen's liens arising from any labor or materials furnished to the Property prior to the Closing Date.
- B. The representations and warranties set forth in Article 7.A. are true and correct on the Effective Date, shall be true and correct on the Closing Date, and shall survive the Closing.
- C. Except as otherwise expressly set forth herein, the Purchaser acknowledges that it is relying upon its own investigations, tests and studies with respect to the condition, environmental or otherwise of the Property and agrees to accept the Property in its "as is, where is, with all faults" condition on the Closing Date, in accordance with Article 3.

ARTICLE 8 – CLOSING AND ESCROW CHARGES

- A. At such time as the Escrow Agent has in its possession all funds representing the Purchase Price and all documents required from Purchaser and Seller, Escrow Agent shall file the Deed for record. The escrow shall be subject to the Escrow Agent's standard conditions of acceptance, except that if there is any conflict or inconsistency between the Escrow Agent's standard conditions and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall govern.
- B. The Escrow Agent shall deliver to Purchaser the Deed, Purchaser's title insurance policy, other documents due Purchaser, and all funds remaining to the credit of Purchaser after charging Purchaser with:
1. One-half (1/2) of the cost of the issuance of the Owner's policy;

2. the cost of any special endorsements to the Owner's policy required by Purchaser;
 3. One-half (1/2) of the escrow fee; and
 4. Amounts due Seller by reason of prorations hereunder.
- C. The Escrow Agent shall deliver to Seller the balance of the funds in its possession to the credit of Seller after charging Seller and deducting from such funds:
1. The cost of preparing and recording the Deed;
 2. The cost of issuance of the title commitment;
 3. One-half (1/2) of the cost of issuance of the Owner's policy;
 4. The cost of the Transfer Tax and any other documentary stamps or transfer or conveyance fees;
 5. Any amounts that are required to satisfy any outstanding Liens;
 6. One-half (1/2) of the escrow fee;
 7. Amounts due Purchaser by reason of prorations hereunder; and
 8. The brokers' commissions.

ARTICLE 9 – BROKER

Purchaser and Seller warrant and represent each to the other that neither has dealt with any real estate broker or finder in connection with this transaction except Eliot Kijewski, SIOR of CRESCO Real Estate, who represented Seller, and who will be paid a sales commission by the Seller at Closing pursuant to a separate agreement.

ARTICLE 10 – REMEDIES

- A. If Seller breaches any of its covenants, agreements, representations, or warranties, then provided such breach has not been cured within thirty (30) days after written notice thereof, Purchaser may declare this Agreement terminated and all Earnest Money shall be returned to Purchaser, all Escrow Fees shall be paid by Seller and thereafter the parties shall be released of all further liability hereunder except those rights or obligations specifically identified in this Agreement as surviving the termination of this Agreement.
- B. In the event Purchaser defaults in its obligations and provided such default has not been cured within thirty (30) days after written notice thereof, then this Agreement shall terminate and Purchaser shall pay all title and escrow charges incurred, and the Earnest Money, if any, shall be paid to Seller as final and liquidated damages,

the Seller specifically waiving any other legal or equitable remedy and all other rights and obligations of the parties hereunder shall automatically be terminated except those rights or obligations specifically identified in this Agreement as surviving the termination of this Agreement.

ARTICLE 11 – MISCELLANEOUS

- A. This instrument constitutes the entire agreement between the parties hereto with respect to the transaction herein contemplated and shall not be modified unless in writing and signed by all parties hereto.
- B. Any notice required hereunder shall be deemed duly given upon receipt or refusal if delivered personally, sent by national overnight courier, mailed by registered or certified United States Mail, return receipt requested, postage prepaid or sent by facsimile transmission (with confirmed transmission receipt) and addressed or transmitted as follows:

If to Seller:

Mel B. Kman
President
XAPC Co.
c/o The Kemper Company
21851 Center Ridge Road, Suite 408
Rocky River, Ohio 44116

With a copy to:

Tim Warner, Esq.
25935 Detroit Road, #200
Westlake, Ohio 44145

If to Purchaser:

The Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113
Attn: General Manager, Chief Executive Officer

With a copy to:

The Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113
Attn: General Counsel, Deputy General Manager for Legal Affairs

- C. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns. Purchaser may not assign its rights and obligations under this Agreement without the prior written consent of the Seller, which shall not be unreasonably withheld.
- D. Each term, covenant, and condition contained herein shall remain in full force and effect until the same has been fully performed.
- E. Seller and Purchaser agree to cooperate in furtherance of this transaction and to execute any and all documents reasonably required to consummate this transaction. In the event of a dispute between the parties, the prevailing party shall be entitled to reimbursement for its reasonable costs and reasonable attorneys' fees, incurred as a result of such dispute. Seller hereby authorizes Purchaser to apply for any necessary governmental approval(s) required for Purchaser's proposed use of the Property, including zoning, provided any re-zoning shall only be effective after Closing.
- F. This Agreement shall be construed in accordance with the laws of the State of Ohio, without giving effect to its conflict of law and rules. In case any one or more of the provisions contained in this Agreement shall be held to be invalid, illegal or unenforceable in any respect for any reason, that such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement. In the event of any litigation between Purchaser and Seller related to this Agreement, the interpretation or construction thereof, or the transaction contemplated in this Agreement, Purchaser and Seller agree to the exclusive jurisdiction thereof of the federal and state courts located in Cuyahoga County, Ohio.
- G. Risk of loss to any Improvements located on the Property or to the Property shall remain with the Seller until transfer of possession to the Purchaser which shall be on the Closing Date. In the event of an insured loss prior to Closing, Purchaser shall have the option of: (i) accepting the Property in its damaged condition as the result of such insured loss and receive the Seller's insurance proceeds together with Seller's insurance deductible at Closing; or (ii) terminating this Agreement.
- H. In the computation of any period of time provided for in this Agreement or by law, the day of the act or event from which any period of time runs shall be excluded, and the last day of such period shall be included, unless it is a Saturday, Sunday or legal holiday, in which case the period shall be deemed to run until the end of the next day which is not a Saturday, Sunday or legal holiday.
- I. This Agreement may be executed in two or more counterparts, and it shall not be necessary that any one of the counterparts be executed by all of the parties. Each fully or partially executed counterpart shall be deemed an original, but all such counterparts taken together shall constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates set forth below.

SELLER:

XAPC, Co. fka Avalon Precision Casting Company

By: _____
Mel B. Kman
President

Date: _____, 2022

PURCHASER:

The Greater Cleveland Regional Transit Authority

By: _____
India L. Birdsong Terry
General Manager, Chief Executive Officer

Date: _____, 2022

**APPROVED AS TO LEGAL FORM AND
CORRECTNESS**

Janet E. Burney, General Counsel
Deputy General Manager for Legal Affairs

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, did personally appear the above-named **XAPC, Co.**, an Ohio corporation, by Mel B. Kman, its President, who acknowledged to me that he did sign the foregoing instrument as such officer of said corporation and that the same is his free act and deed, and that of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at _____, _____, this _____ day of _____, 2022.

NOTARY PUBLIC

STATE OF OHIO)
) SS:
COUNTY OF CUYAHOGA)

BEFORE ME, a Notary Public in and for said County and State, did personally appear the above-named **Greater Cleveland Regional Transit Authority** a political subdivision of the State of Ohio, by India L. Birdsong Terry, its General Manager, Chief Executive Officer who acknowledged to me that she did sign the foregoing instrument as such officer of said political subdivision and that the same is her free act and deed, and that of said political subdivision.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal at Cleveland, Ohio, this _____ day of _____, 2022.

NOTARY PUBLIC

EXHIBIT A

COPY OF RESOLUTION 2022-_____

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EXHIBIT B - Property Location



1:1,200

200 100 0 200 Feet

Projection:
WGS_1984_Web_Mercator_Auxiliary_Sphere

This map is a user generated static output from an internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.
THIS MAP IS NOT TO BE USED FOR NAVIGATION

Cuyahoga County
Enterprise GIS
PUTTING CUYAHOGA COUNTY ON THE MAP



Date Created: 9/14/2022

Legend

- Municipalities
- Right Of Way
- Platted Centerline
- Parcel

EXHIBIT C

LEGAL DESCRIPTION

DRAFT

EXHIBIT D

STATUS OF PROGRESS ON TRANSACTION

- Due Diligence Period was completed on October 20, 2022
- Title Commitment was received by Purchaser on November 3, 2022

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ATTACHMENT B



Greater Cleveland
Regional Transit Authority

1240 West 6th Street
Cleveland, Ohio 44113-1302
Phone: 216-566-5100
riderta.com

August 17, 2022

Mr. Eliot Kijewski, SIOR
CRESCO Real Estate
3 Summit Park Drive, Suite 200
Cleveland, Ohio 44131

Via E-Mail Delivery to: ekijewski@crescorealestate.com

RE: Letter of Intent for Purchase and Sale of certain real property situated in the City of Brookpark, County of Cuyahoga, State of Ohio, and a street address of 15583 BROOKPARK RD, BROOKPARK, OH 44142; consisting of an approximately 33,490 +/- SF building on approximately 1.24 acres of real property with a PPN of 343-11-004 together with all tenements, hereditaments, and appurtenances thereto, and all improvements situated thereon (collectively, the "Property")

Dear Mr. Kijewski:

This letter will confirm the intention of the **GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY**, a political subdivision of the State of Ohio, or its nominee ("Buyer") to purchase **15583 BROOKPARK RD BROOKPARK, OH 44142** from **XAPC, CO., fka Avalon Precision Casting Company**, ("Seller") the owner of the above-referenced Property. The principal terms of the Buyer's acquisition of the Property from Seller shall be as follows:

Purchase Price: The purchase price for the Property shall be One Million Five Hundred Thousand Dollars (\$1,500,000.00).

Earnest Money: An earnest money deposit \$10,000.00 of the purchase price (the "Initial Earnest Money") shall be delivered to Northern Title Agency, 19545 Center Ridge Road, Rocky River, OH 44116 Attn: Deborah S. Furry, President, PH (440) 333-8118 (who shall act as escrow agent in accordance with the terms of its standard escrow agreement) within ten (10) days of Buyer's receipt of a fully executed original of a mutually agreeable purchase and sale agreement memorializing the terms of this letter of intent. The Earnest Money shall be fully refundable to Buyer during the Due Diligence Period.

Due Diligence Documents: Within five (5) days after the full execution of a definitive purchase and sale agreement, Seller shall deliver to Buyer copies of documents set forth on Schedule 1 attached hereto and incorporated herein and any other reports concerning the Property in the possession or control of Seller (the "Due Diligence Documents").



Greater Cleveland
Regional Transit Authority

Due Diligence Period: Buyer shall have Forty-Five (45) days from Buyer's receipt of the Due Diligence Documents (the "Initial Due Diligence Period") to complete its due diligence, including but not limited to structure, lease, appraisals, environmental, engineering, soil borings and geotechnical analysis, surveys, zoning and title review and any other due diligence Buyer deems necessary.

Contingencies: Buyer's obligations to close shall be conditioned upon the satisfaction, in the Buyer's sole discretion, of the following conditions prior to the expiration of the Due Diligence Periods: Buyer determining that the Property and all due diligence investigations are satisfactory to Buyer, including, but not limited to: building inspection including roof, parking lot, expandability, mechanicals, etc.; environmental and soil testing when required; concurrence from the Federal Transit Administration (FTA); and approval of the Greater Cleveland Regional Transit Authority Board of Trustees.

Closing: "Closing" shall occur thirty (30) days after expiration of due diligence and approval by the Greater Cleveland Regional Transit Authority Board of Trustees and concurrence from the FTA.

Closing Costs: Seller shall bear the following fees and expenses incurred in connection with the Closing: (i) preparation and recording of the deed, (ii) the cost of issuance of the title commitment, (iii) one-half (½) of the cost of issuance of the owners policy, (iv) any conveyance fees, documentary stamps or transfer taxes, and (v) one-half (½) of the escrow fee (vi) commission of 6%.

Buyer shall bear the following fees and expenses incurred in connection with the Closing: (i) one-half (½) of the cost of issuance of the owners policy, (ii) the cost of any special endorsements to the owners policy required by Buyer or Buyer's lender, (iii) the costs of recording any mortgage granted by Buyer, and (iv) one-half (½) of the escrow fee.

Broker: Eliot Kijewski, SIOR, Bob Garber, SIOR, and George Pofok, CCIM-SIOR of CRESCO Real Estate are representing the Seller. The seller shall pay a 6% fee to CRESCO LTD upon closing. Both Seller and Buyer understand dual agency and have been provided a State of Ohio Agency Disclosure Form

Confidential: The parties will keep the terms and conditions of this letter of intent, the facts of its existence and all transactions contemplated hereby in confidence and shall cooperate with each other regarding all press releases and public statements concerning this transaction. Nothing set forth herein shall prevent either party from disclosing information to its professional advisors and partners, provided they agree to be bound by the



Greater Cleveland
Regional Transit Authority


confidentiality set forth herein. Nothing set forth herein shall prevent Buyer from producing records as required to comply with its obligations as a public office under Ohio's Public Records Act (Ohio Revised Code §149.43) or fulfilling its obligation as a public body to comply with Ohio's Open Meetings Act (Ohio Rev. Code §121.22).

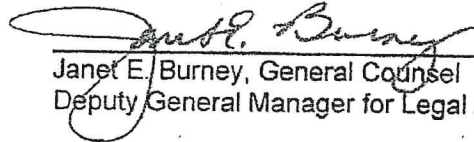
Expiration of Offer: This offer shall expire on August 22, 2022 at 5:00 pm EST.

This proposal is not, and is not intended to be, legally binding. If this proposal is acceptable to Seller, the parties shall proceed promptly toward negotiation and execution of the definitive purchase and sale agreement (prepared by Buyer). Except as otherwise set forth herein, only such definitive agreement shall legally bind Buyer and Seller in connection with the transaction contemplated herein.

Sincerely,

APPROVED AS TO LEGAL FORM AND
CORRECTNESS:


India L. Birdsong
General Manager, Chief Executive Officer


Janet E. Burney, General Counsel
Deputy General Manager for Legal Affairs

MBF

Agreed and Accepted:

By: MEL BKMAN (MEL BKMAN)

Title: PRESIDENT

XAPC, Co., fka Avalon Precision Castings Company

Date: 8/18/2022

Schedule 1

Due Diligence Documents

Within five (5) days after the full execution of a definitive purchase and sale agreement, Seller shall deliver to Buyer (that the seller has control and or knowledge of) copies of:

1. Any existing title policy and survey.
2. All zoning, wetlands, environmental, structural, mechanical, and/or geological site assessments and/or reports.
3. Copies of all warranties.
4. Copies of all service contracts.
5. Property tax statements.
6. A copy of the tax credit application and any supporting paperwork
7. Copies of all maintenance files and/or logs (most-recent 3 years).
8. A detailed breakdown of all capital expenses incurred at the Property (most-recent 3 years).
9. Copies of all agreements, correspondence and files regarding zoning, assessments, local code issues, the highway department, and any other state or local governmental agency.
10. Utility account numbers and vendors.
11. Any other documents and/or reports concerning the Property in the possession or control of Seller.
12. Environmental reports.
13. AutoCAD files or full blueprints.