

RESOLUTION 2019-109

AUTHORIZING THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY TO ENTER INTO A PURCHASE AGREEMENT WITH THE NORFOLK SOUTHERN RAILWAY COMPANY, A VIRGINIA CORPORATION, FOR THE PURCHASE OF LAND IN FEE SIMPLE AND THREE PERMANENT USE EASEMENTS LOCATED AT THE EAST 79TH STREET RED LINE RAIL STATION AND ALONG THE RED LINE EAST BETWEEN KINSMAN ROAD AND QUINCY AVENUE IN CLEVELAND, OHIO FOR A TOTAL AMOUNT OF \$660,000.00

WHEREAS, the Greater Cleveland Regional Transit Authority ("GCRTA") seeks to acquire real property for the renovation and expansion of the East 79th Street Red Line Rail Station and to improve access, service maintenance and installation future capital improvements to the Red Line in proximity to the station (the "Project"); and

WHEREAS, the transaction also secures three (3) permanent use easements for existing catenary pole structures in the area; and

WHEREAS, the Project will bring the station into full compliance with ADA standards and acquisition of the additional property will enhance future operations and provide necessary operating easements; and

WHEREAS, the Project is located on parcels known as Cuyahoga County Permanent Parcel Numbers 124-23-003, 124-23-006, 126-19-007, 126-19-008, 126-13-002, 126-06-019, 126-08-013, 126-10-001 and part of parcel number 124-22-010 with a total area of 9.8249 acres (the "Property"); and

WHEREAS, The Property is owned by Norfolk Southern Railway Company ("NS"), a Virginia corporation, and NS is willing to enter into a purchase and sale agreement with GCRTA for the Property to facilitate the Project; and

WHEREAS, GCRTA and NS negotiated a purchase price of Six Hundred Sixty Thousand Dollars (\$660,000.00) for the Property; and

WHEREAS, the fair market value for the Property was determined to be Six Hundred Thousand Dollars (\$600,000.00) by appraisal report and verified by a review appraisal report; and

WHEREAS, the negotiated purchase price is within the accepted range of ten percent (10%) of fair market value and in compliance with real estate goals and objectives of the GCRTA; and

WHEREAS, under current Federal Transit Administration ("FTA") regulations, this transaction is not subject to final approval and concurrence by the FTA as the purchase will be concluded without using federal funds.

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 Purchase and Sale Agreement with Norfolk Southern Railway Company ("NS") and to execute all other documents required to purchase 9.8240 acres of land in fee simple and three permanent use easements for Six Hundred Sixty Thousand Dollars (\$660,000.00) known as Cuyahoga County Permanent Parcel Numbers 124-23-003, 124-23-006, 126-19-007, 126-19-008, 126-13-002, 126-06-019, 126-08-013, 126-10-001 and part of Permanent Parcel Number 124-22-010, (the "Property") for the renovation of the East 79th Street Red Line Rail Station and additional property for GCRTA current use and future operation.

Section 2. That the total purchase price of Six Hundred Sixty Thousand Dollars (\$660,000.00) is within ten percent (10%) of the fair market value of the Property as determined by the property appraisal report and confirmed by the review appraisal report.

Section 3. That the Purchase and Sale Agreement shall be payable from the GCRTA Development Funds from an Ohio Transit Preservation Program (OTP2) grant which is considered 100% local funds.

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

Adopted: November 19, 2019


President

Attest:


Interim Secretary-Treasurer



Greater Cleveland Regional Transit Authority
STAFF SUMMARY AND COMMENTS

TITLE/DESCRIPTION: CONTRACT: PURCHASE OF PROPERTY AND PERMANENT EASEMENTS ADJACENT TO AND NEAR THE EAST 79 TH STREET RED LINE RAIL STATION SELLER: NORFOLK SOUTHERN RAILWAY COMPANY AMOUNT: SALE PRICE: \$660,000.00	Resolution No.: 2019-109
	Date: November 14, 2019
	Initiator: Programming and Planning
ACTION REQUEST: <input checked="" type="checkbox"/> Approval <input type="checkbox"/> Review/Comment <input type="checkbox"/> Information Only <input type="checkbox"/> Other _____	

1.0 **PURPOSE/SCOPE:** This resolution seeks Board approval for the purchase of land and easements located at and in proximity to the East 79th Street Red Line Rail Station. This purchase will allow for the complete renovation and expansion of the rail station and to secure additional property for improved GCRTA access, maintenance and service expansion along the Red Line. The transaction also secures permanent use easements for existing catenary pole structures in the area. This transaction is consistent with the real estate goals and objectives of the GCRTA.

2.0 **DESCRIPTION/JUSTIFICATION:** Norfolk Southern Railway Company ("NS") abandoned a railroad siding adjacent and contiguous to GCRTA property along the Red Line East between Kinsman Road and Quincy Avenue in Cleveland, Ohio totaling approximately 9.8 acres. A portion of the abandoned NS property is required to expand and renovate the new East 79th St Rail Station. The balance of the abandoned property will be acquired for future service improvements and improved access to the rail line. The easements will allow for use of the existing catenary structures and eliminate the need for future relocation. NS removed the railroad siding on this property and no longer utilizes the property for its operations. This property is valuable for GCRTA's current and future operations in the area.

Purchase of this property will significantly enhance current and future GCRTA service, maintenance and operations along the Red Line East.


On January 10, 2018, GCRTA notified NS of its intent to purchase the property. On September 17, 2018, GCRTA reiterated its interest in the property and commenced negotiations with NS. The property was appraised for \$600,000.00 by GCRTA. Final negotiations with NS resulted in a negotiated sale price of \$660,000.00. The sale price is within the ten percent (10%) margin of established fair market value for the purchase of real estate for capital projects.

The proposed purchase is contingent upon the review and approval by the Board of Trustees. Funds for this purchase are from the State of Ohio, Ohio Transit Preservation Program (OTP2) which is considered a local source. Concurrence from the FTA is not required.

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

- 4.0 DBE/AFFIRMATIVE ACTION BACKGROUND: Does not apply.
- 5.0 POLICY IMPACT: The proposed purchase of this property is consistent with the Real Estate Policies of the GCRTA.
- 6.0 ECONOMIC IMPACT: The purchase price of Six Hundred Sixty Thousand Dollars (\$660,000.00) is within ten percent (10%) of the fair market value of the property and is documented by an MAI appraisal and confirmed by a review appraisal report.
- 7.0 ALTERNATIVES: Without approval of this purchase, the renovation and expansion of the East 79th Street Red Line Rail Station would not be possible. The purchase of the additional property associated with this transaction will enhance GCRTA rail service, maintenance, access and future operations in the area.
- 8.0 RECOMMENDATION: Staff recommends the proposed purchase of the property along the Red Line East between Kinsman Road and Quincy Avenue from NS to initiate the renovation of the East 79th Street Rail Station and improve service, maintenance and operations along the Red Line East.
- 9.0 ATTACHMENTS: A: Location Map
B: Purchase and Sale Agreement

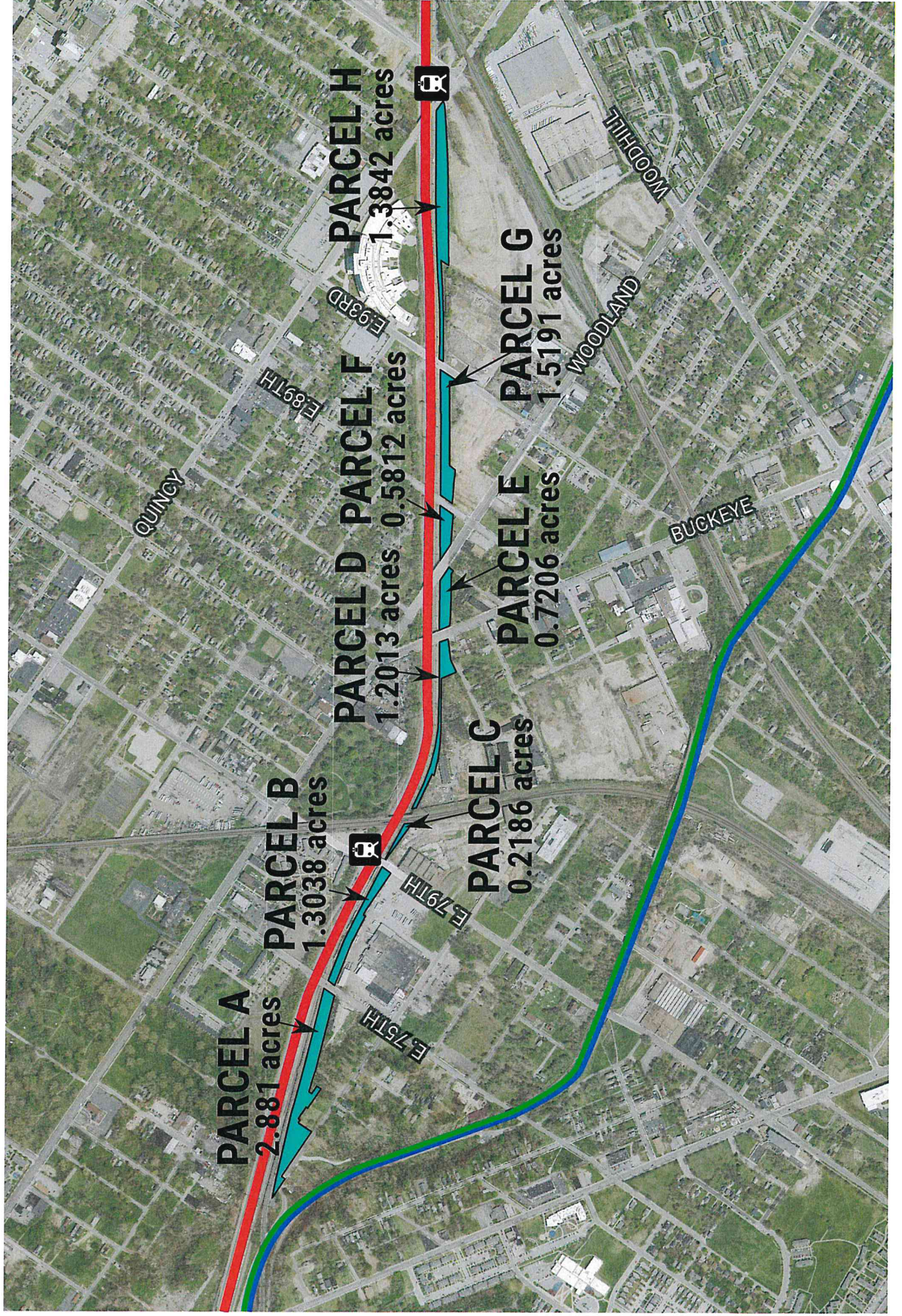
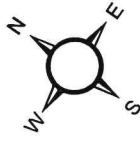
Recommended and certified as appropriate to the availability of funds, legal form and conformance with the Procurement requirements.


for General Manager, Chief Executive Officer



Proposed Purchase Area From Norfolk Southern Corp.

Total: 9.8098 acres



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CONTRACT OF PURCHASE AND SALE

This Contract of Purchase and Sale (hereinafter "**Agreement**"), dated this ____ day of _____, _____ (the "**Effective Date**"), between **NORFOLK SOUTHERN RAILWAY COMPANY**, a Virginia corporation, hereinafter called "**Seller**"; and **THE GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY**, hereinafter called "**Purchaser**";

WITNESSETH:

1. **Premises.** Seller agrees to sell to Purchaser and Purchaser agrees to purchase from Seller, subject to the terms and conditions hereinafter set forth, the land and improvements of Seller in Cleveland, Cuyahoga County, Ohio, consisting of 9.8 acres, more or less, together with (i) all servitudes, easements, appurtenances and hereditaments appertaining thereto, and (ii) all improvements, structures, landscaping, and appurtenances situated thereon (hereinafter collectively referred to as "**Premises**"), being located substantially as shown on **Exhibit "A"** attached hereto and made a part hereof.

2. **Purchase Price.** The purchase price for said Premises (hereinafter called the "**Purchase Price**") is **SIX HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$660,000.00)**.

3. **Survey.** The exact area of land to be purchased is to be determined by a survey made by a registered land surveyor licensed in the State of Ohio (the "**Survey**"). The Survey, which is subject to approval of Seller, shall be obtained by and at the sole cost of Purchaser. Purchaser shall arrange for the Survey of the Premises and, within not more than thirty (30) days from the Effective Date, shall furnish Seller three (3) copies of the metes and bounds description describing the exact area to be conveyed, and three (3) prints of a survey plat, acceptable to Seller and to the officials responsible for recordation of deeds in the County or City in which the Premises lie, for use by Seller in preparation of the deed and other papers. The Survey shall show the location of all improvements, buildings, highways, streets, roads, railroads, rivers, lakes, creeks or other water courses, fences, encroachments, easements and rights of way on or adjacent to the land to be purchased and shall set forth the total number of square feet or acres contained within the Premises together with a metes and bounds description of the Premises.

4. **Earnest Money.** The earnest money to bind this Agreement, receipt of which must be acknowledged in writing by Seller or escrow agent, as may be applicable, within ten (10) days of the Effective Date, is **TEN THOUSAND AND NO/100 DOLLARS (\$10,000)** (the "**Earnest Money**"), which amount shall be credited toward the total Purchase Price at Closing. The parties agree that if the Earnest Money has not been received by Seller, or escrow agent as may be applicable, within the before stated timeframe, Seller may, in Seller's sole discretion: (i) terminate this Agreement and pursue all rights and remedies at Seller's disposal to recover the Earnest Money as full liquidated damages, or (ii) allow Purchaser a specified extension of time in which to provide the Earnest Money. The Earnest Money may be retained by Seller if

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Purchaser, through no fault of Seller, shall fail to close in accordance with the terms of this Agreement. The parties acknowledge that it is impossible to estimate more precisely the damages which might be suffered by Seller upon Purchaser's default. Seller's retention of said Earnest Money together with all interest thereon is not intended as a penalty, but as full liquidated damages.

5. **Type of Conveyance.** At closing, the Seller shall convey the Premises to Purchaser by quitclaim deed subject to the following:

- (a) General real estate taxes for the year of closing and subsequent years not yet due and payable;
- (b) Applicable zoning laws and regulations; and
- (c) All easements, conditions, reservations, leases, licenses and restrictions as may appear of record or be apparent by an inspection of the Premises.
- (d) If there are existing signboards or existing fiber optic lines, poles, pipes, wires, communications and signal facilities and facilities of like character used in the operation of a railroad located on the premises, the deed shall include an exclusive reservation of easement by the Seller (which for purposes of this paragraph, includes the Seller's successors, assigns, licensees, and lessees) for the existing signboards and the existing fiber optic lines, poles, pipes, wires, communications and signal facilities and facilities of like character used in the operation of a railroad. The deed shall also provide that the conveyance is subject to any and all other conditions, restrictions, reservations, easements, licenses, and leases, whether or not of record.

6. **Title.** The Purchaser shall have forty-five (45) days after the Effective Date to examine title to the Premises and to furnish Seller with a written statement of objections affecting the marketability of said title. Seller shall have thirty (30) days after receipt of such objections to satisfy them. If Seller does not satisfy such objections within the prescribed time, then, at Purchaser's option evidenced by written notice to Seller, Purchaser may either (i) terminate the Agreement or (ii) waive any or all objections not cured by Seller and proceed to close hereunder without diminution in price. In the event this Agreement is terminated, Purchaser shall be entitled to a refund of the Earnest Money, without interest, and neither party shall be liable to the other for damages on account of the termination. Marketable title as used herein shall mean title which a title insurance company licensed to do business in the State of Ohio will insure at its regular rates subject only to standard exceptions and those stated in paragraph 5 of this Agreement.

7. **Closing/Escrow Agent.** The Escrow Agent shall be Northern Title Agency, 19545 Center Ridge Road, Westlake, Ohio 44116, Deborah S. Furry, President (440-333-8118).

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If there is any conflict or inconsistency between this Agreement and the Escrow Instructions set forth in **Exhibit "B"**, this Agreement shall control. At closing:

- (a) Seller shall deliver to Purchaser the duly executed and acknowledged deed conveying the Premises to Purchaser as provided in paragraph 5 hereof and a deed or deeds of release to release the lien of any mortgage or trust that may apply to the Premises.
- (b) Purchaser shall pay to Seller the Purchase Price specified in paragraph 2 herein for the purchase of said Premises, said payment to be made at closing in cash or by certified or cashier's check or by wire transfer.
- (c) General real estate taxes for the then current year relating to said Premises and rents, if any, shall be prorated as of the closing date and shall be so adjusted at closing. If the closing shall occur before the tax rate is fixed for the then current year, the apportionment of taxes shall be upon the basis of the tax rate for the next preceding year applied to the latest assessed valuations. All special taxes or assessments due subsequent to the closing date shall be paid by Purchaser.
- (d) Possession shall be delivered at closing.
- (e) Seller shall pay for the deed preparation, transfer taxes and Seller's attorney's fees.
- (f) Purchaser shall pay for all other closing costs, taxes, filing fees and Purchaser's attorney's fees.

8. Closing Date/Study Period/Conditions

- (a) The Closing Date shall be fifteen (15) days after expiration of Purchaser's Approval Period as defined in this Article 8, Section C below. Seller shall deliver the Premises to Purchaser at Closing free and clear of all tenancies.
- (b) Purchaser shall have a forty-five (45) day study period ("Study Period") beginning on the Effective Date, during which Purchaser may investigate and evaluate the potential of the Premises for the proposed use as GCRTA property to support the operation of rail lines, including but not limited to zoning, municipal approvals, environmental issues, geotechnical issues and engineering studies; PROVIDED, HOWEVER, Purchaser shall not have the right to perform any invasive environmental testing unless Seller shall have first consented in writing to any such testing proposed in writing by Purchaser, which consent Seller may withhold in its sole discretion. Notwithstanding any other provision of this Agreement,

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Purchaser agrees to hold Seller (which word, for the purposes of this paragraph 8, shall be deemed to include any corporation controlling, controlled by or under common control with Seller, together with the officers, employees, agents and servants of any of them) harmless from and agrees that it will cause its contractor(s) to indemnify and hold Seller harmless from and against any claims or liability for injuries to (including death of) persons or damage to or loss of property, real or personal, or expense in any manner connected with said undertakings of this paragraph 8, whether or not any such claim, demand or suit purports to arise from the negligence of Seller or otherwise, including, without limitation, any mechanic's liens or claims that may be filed or asserted against the Premises by contractors, sub-contractors, or materialmen performing such work for Purchaser, provided, however, that if, under the law applicable to enforcement of this Agreement, an agreement to indemnify against the indemnified party's own negligence is invalid, then in that event Purchaser's contractor's obligation to indemnify Seller under this paragraph shall be reduced in proportion to the negligence of Seller, if any, that proximately contributed to such claim, demand or suit. Purchaser shall provide copies of all tests performed on the Premises to Seller at no cost to Seller. Purchaser shall diligently and in good faith pursue such investigation and evaluation during the Study Period. If during the Study Period Purchaser determines that, for any of the reasons for which it is pursuing these studies, the Premises is not suitable for Purchaser's purpose, 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. In the event Purchaser does not elect to terminate this transaction at the end of the Study Period, Purchaser shall be deemed to have waived its right to terminate based on environmental issues, geotechnical issues and engineering studies, title and survey. Upon expiration of the Study Period, Purchaser shall have the right to post a development sign on the Premises.

- (c) Purchaser shall have a thirty (30) day approval period ("Approval Period") beginning on the expiration of the Study Period if Purchaser has not terminated this Agreement in which to further obtain all necessary governmental approvals and/or permits for Purchaser's proposed use of the Premises. Purchaser shall diligently and in good faith pursue such approvals. Seller agrees to use its best efforts to assist the Purchaser with the transfer of any permit associated with the Premises and/or use of the Premises, if any. If the process to transfer and/or receive any governmental approval or permit associated with the Premises is delayed past the Approval Period, the parties agree to allow such time as needed to

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complete the transfer and/or approval process, provided that Purchaser continues diligent pursuit of such transfer or approvals.

- (d) Purchaser shall obtain all appropriate approvals required to authorize the purchase of the Premises on the Closing Date, including but not limited to approval from the Purchaser's Board of Trustees and from the Federal Transit Administration. Purchaser shall diligently and in good faith pursue such approvals.

9. **Real Estate Commissions.** Purchaser and Seller each represent that no real estate commissions are due and owing to any party with respect to this transaction. .

10. **Subdivision.** In the event the conveyance contemplated hereunder shall constitute a subdivision, and if as a prerequisite to the recording of such conveyance it shall become necessary to comply with applicable subdivision ordinances and regulations, Purchaser agrees that it will, with reasonable diligence, arrange and pay for the filing of any necessary plat with the appropriate authorities. Purchaser will assume the entire cost of whatever streets, sewers, and utilities are required in connection with such subdivision, and will do all other acts and file such other papers as may be necessary to obtain any and all required approvals thereof. Seller agrees to execute such documents and plats as are reasonably necessary to accomplish such subdivision. All costs, expenses and attorney's fees incurred in complying with any such subdivision ordinances and regulations, including, without limitation, dedication and installation of streets, sewers, and utilities, shall be borne solely by Purchaser.

11. **Assignment.** This Agreement may not be assigned by Purchaser to any other party without the written consent of Seller, which consent may be withheld for any reason, except in the case of an assignment to an entity of which Purchaser has a controlling interest or is the general partner, such consent shall not be unreasonably withheld. Seller expressly reserves the right to assign or delegate all or any part of Seller's rights and duties hereunder with respect to all or any portion of the Premises to one or more third parties, including a qualified intermediary as defined by Treasury Regulation Section 1.1031 (K)-1(g) (4).

12. **Disclaimer.**

- (a) Purchaser agrees to purchase the Premises "as is, where is" and acknowledges that Seller has not made any express or implied representation or warranty with respect to the condition or suitability of the Premises, including, but not limited to, the condition of the soil, the presence of hazardous materials, substances, wastes or other environmentally regulated substances, or other contaminants in the soil or improvements -- whether known or unknown (referred to herein as "contamination of the Premises") and other physical characteristics. Purchaser shall perform at its own expense and rely solely upon its own independent investigation concerning the physical condition of the

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Premises (including, but not limited to, an environmental assessment) and compliance of the Premises with any applicable law and regulations.

- (b) Seller has not and does not hereby make any express or implied representation or warranty or give any indemnification of any kind to Purchaser concerning the Premises, its condition or suitability or its compliance with any statute, ordinance or regulation, including, but not limited to, those relating to the environment. Purchaser acknowledges that neither Seller nor any of its agents or representatives have made, and Seller is not liable for, or bound in any manner by, any express or implied warranties, guarantees, promises, statements, inducements, representations or information pertaining to the Premises or any part thereof, the physical condition, size, zoning, income potential, expenses or operation thereof, the uses that can be made of the same or in any manner or thing with respect thereof, including, without limitation, any existing or prospective leasing or occupancy of all or any part thereof.
- (c) Purchaser hereby agrees that, following its purchase of the Premises, Purchaser will protect and hold harmless Seller from and against any and all damages, penalties, fines, claims, demands, causes of action, liens, suits, liabilities, costs (including, without limitation, cleanup and remedial action costs), judgments, and expenses (including, without limitation, attorney's and experts' fees and expenses) of every kind and nature suffered by, incurred by (whether voluntarily or by court or administrative order or direction) or asserted against Seller or Purchaser as a direct or indirect result of any hazardous materials, substances, wastes or other environmentally regulated substances located on, in or under the Premises.
- (d) Following Purchaser's purchase of the Premises, Purchaser hereby expressly agrees to assume any and all liability arising from any contamination of the Premises and expressly releases Seller from such liability. Purchaser further expressly renounces and waives any claim or cause of action it may have against Seller under any existing or future theory of law (federal, state or local, or by common law) for any cleanup, response or remedial action costs incurred (whether voluntarily or otherwise) by Purchaser which arises directly or indirectly out of any contamination of the Premises, including, but not limited to, costs incurred under Sections 107 and 113 of the Comprehensive Environmental Response, Compensation, and Liability Act.

13. **Eminent Domain.** If, at any time prior to the closing hereunder, any action or proceeding is filed under which the Premises, or a substantial portion thereof, may be taken pursuant to any law, ordinance or regulation or by condemnation or the right of eminent domain, then, at the option of either Seller or Purchaser, (a) this Agreement shall be terminated and the

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Earnest Money, without interest, shall be returned to Purchaser or (b) this Agreement shall remain in full force and effect and Seller, at the time of closing hereunder, shall transfer and assign to Purchaser all of Seller's right, title and interest in any proceeds received or which may be received by the taking, or a sale in lieu thereof, said option to be exercisable by either party by delivering to the other written notice of such exercise on or before the thirtieth day following the day on which the respective party receives notice that such suit has been filed.

14. **Signs and Advertising.** Before closing, Purchaser will not place any advertising or promotional signs on said Premises or on any of Seller's other property without the written consent of Seller.

15. **Notice.** Any notice required or permitted to be delivered hereunder shall be deemed to be delivered, whether or not actually received, when deposited in the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to Seller or Purchaser, as the case may be, at the address set forth below.

Seller:

Solomon Jackson
Director-Real Estate
Norfolk Southern Corporation
1200 Peachtree Street, NE-12th Floor
Atlanta, Georgia 30309

Purchaser:

India L. Birdsong
GM, Chief Executive Officer
Greater Cleveland Regional
Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1331

With copy to:

Howard McFadden, Esq.
General Attorney - Real Estate
Norfolk Southern Corporation
1200 Peachtree St., NE - 12th Floor
Atlanta, GA 30309-3579

Sheryl King Benford, General Counsel
Deputy General Manager – Legal Affairs
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, OH 44113

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16. **Miscellaneous Provisions.**

- (a) This Agreement embodies the entire agreement between the parties and cannot be varied except by the written agreement of the parties. No representation, promise, or inducement not included in this Agreement shall be binding upon the parties hereto.
- (b) Time is of the essence of this Agreement.
- (c) All the terms and conditions of this Agreement are hereby made binding on the successors and permitted assigns of both parties hereto.
- (d) This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.
- (e) This Agreement shall not be effective or binding until fully executed by the parties hereto.
- (f) Any provision of this Agreement that imposes an obligation after termination or expiration of the Agreement, including without limitation all indemnifications and releases, will survive closing.
- (g) If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- (h) Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, and vice versa, unless the context requires otherwise.
- (i) Seller shall retain all subsurface mineral rights pertaining to the Premises, excluding any right to surface access which is hereby waived by Seller, and subject to an obligation to provide subjacent and lateral support of the surface which right is retained by Purchaser.

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EXECUTED in duplicate, each part being an original, as of the day and year set forth above.

SELLER:

NORFOLK SOUTHERN RAILWAY COMPANY

By

Real Estate Manager

PURCHASER:

GREATER CLEVELAND REGIONAL TRANSIT AUTHORITY

By

India L. Birdsong
General Manager, Chief Executive Officer

Approved as to Legal Form:

Sheryl King Benford, General Counsel
Deputy General Manager - Legal Affairs



EXHIBIT A

Proposed Purchase Area From Norfolk Southern Corp.

Total: 9.8098 acres

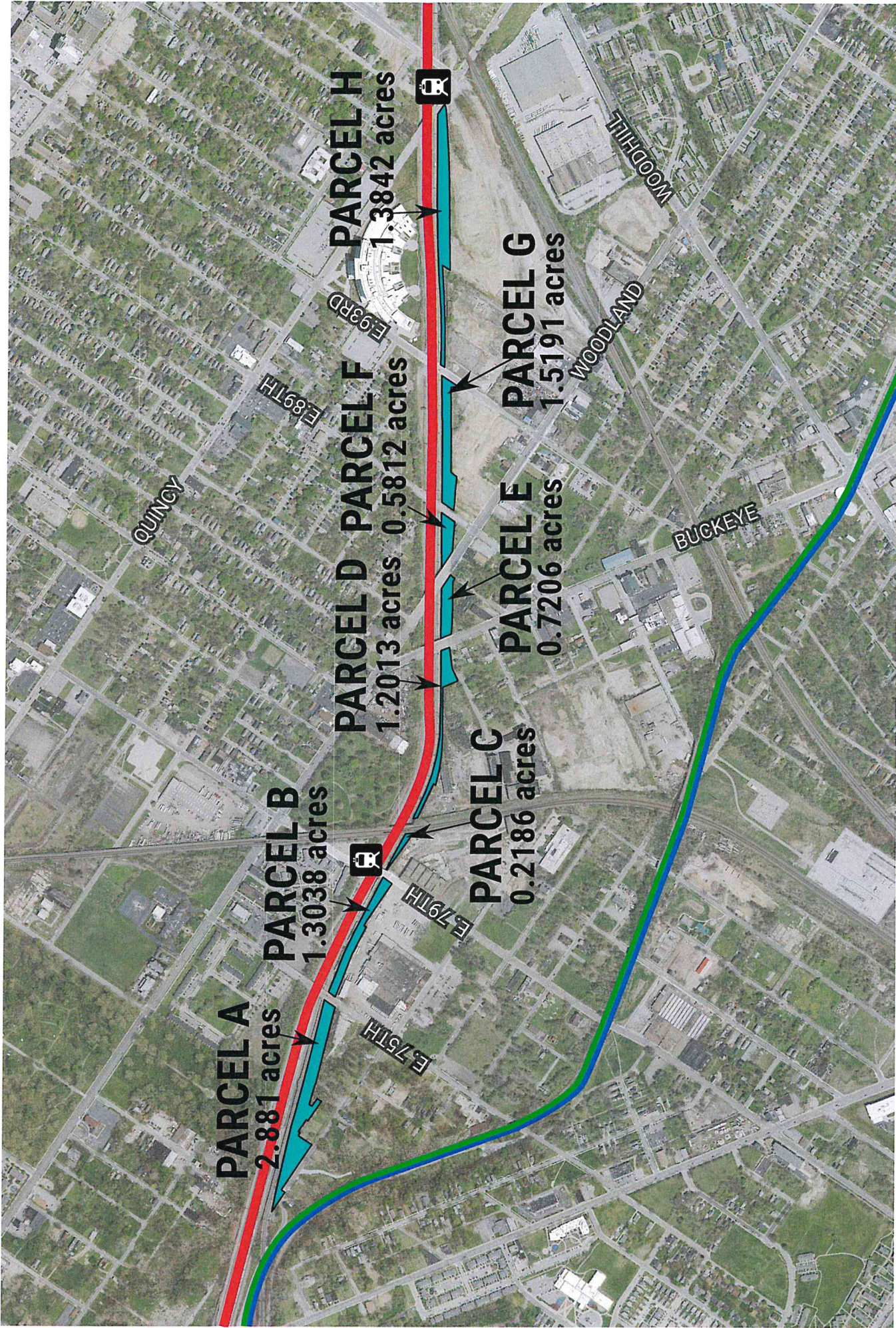
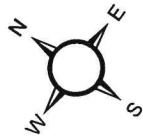


Exhibit B



Northern Title Agency, Inc.
www.northerntitle.com
19545 Center Ridge Road
Rocky River, OH 44116
bus (440)333-8118
fax (440)333-8481

STANDARD CONDITIONS OF ESCROW ACCEPTANCE

Escrow No: 19-08099NTA In the matter of the sale of the premises at:.

Instructions for escrow have been deposited with Northern Title Agency, Inc. in the form of a purchase agreement and/or escrow instructions under which the Northern Title Agency, Inc. is appointed to act as escrow agent.

IN CONSIDERATION of the acceptance of the above escrow by Northern Title Agency, Inc. (hereinafter known as the Company), all of the parties agree that said acceptance is predicated upon the following conditions and stipulations and that any modifications of said escrow instructions shall also be subject to the following provisions:

1. If one or more of the parties to this escrow have failed to deposit on or before fifteen (15) days from and required by the terms of the instructions, or within fifteen (15) days after written notice from the Company, one or more of the parties hereto have failed to deposit additional funds or documents necessary to perform the conditions and requirements of the instructions, then the non defaulting party may, upon written demand, terminate this escrow of the Company at its option and all funds and documents will then be returned to the parties depositing them. Absence of written demand shall be construed as an extension of time.
2. The Company shall be liable for only such funds and instruments as are actually deposited and received by it for the purpose of this escrow and shall have a lien on all funds and instruments deposited with it for the purpose of securing any fees, costs, or other charges incurred by it for the performance of any act enjoined upon it by the terms of the escrow agreement submitted herein. Any cash or checks required by the terms of the instructions and received by the Company may be deposited to the credit of the Company's escrow account in any depository which it may select and the Company shall not be liable for any loss or damage which may occur by reason of such deposit. All disbursements shall be made by the issuance of checks on such account. The Company shall not be liable for the payment of any funds in the event it shall be prevented from making payment by operation of law or otherwise. Funds in escrow shall not be entitled to dividends or interest. Any and all funds, documents, or property deposited by others, not including Seller and Buyer/Borrower, shall be subject to the instructions of such depositing parties.
3. The Company assumes no responsibility as to:
 - a) validity, collectibility, genuineness of signatures, negotiability, or marketability of any stocks, bonds, currency, passbooks, checks, documents or negotiable instruments deposited in escrow;
 - b) any mechanics' liens or attested accounts which may be filed subsequent to the date of title examination;
 - c) the existence, condition or identity of any buildings, fixtures, improvements or installations located or presumed to be located upon the premises;

- d) the existence, sufficiency or transfer of any insurance thereon, the condition, title or delivery of any personal property;
 - e) the rights of any parties in possession whose interests do not appear of record;
 - f) any restrictions upon the use of the premises created by zoning ordinances, or any other exercises of the so-called "police powers" by any governmental authority;
 - g) the identity of parties or the sufficiency of any agency; any agency created at the direction of a party to this escrow concerning anything required to be done for its completion by anyone other than the Company;
 - h) possession being given to the premises which are the subject of the escrow;
 - i) the existence or location of legal highways or improvements on or adjacent to the premises;
 - j) delay of the escrow due to fires, acts of God, acts of governmental authorities, strikes or any other cause beyond the control of the Company;
 - k) any examination, adjustment or payment of special taxes or assessments or respreads of assessments of any kind or additions hereafter made, including adjustments due to the actions of the County Board of Revision, if any, unless specifically instructed.
4. Phrases such as "to date of transfer", "as of date of filing" and the like shall be construed to mean the date of closing. For the purpose of proration, the Buyer shall be considered the owner on the date of closing. Adjustments, except for taxes and assessments, shall be made based upon the number of days in the month, "water rent" and other service charges, including utilities, will not be adjusted, except upon an agreed amount furnished in writing by the parties prior to the closing. Information secured by the Company, relative to taxes, assessments, insurance, rents, interest and balance due on mortgages or other encumbrances may be relied upon in making payments or adjustments in accordance with the terms of the instructions and shall be conclusive against the parties herein. Taxes and assessments shall be calculated on the basis of a calendar year using the amount shown on the last available County Treasurer's tax duplicate that has been certified by the County Auditor as of the date of transfer of title in this escrow. If title is being conveyed subject to a mortgage and the principal is greater or smaller than the amount recited in the Instructions, such difference shall be adjusted between the parties in the escrow disbursements.
 5. Where the holder of a mortgage requires the consent for the assumption thereof, the Company may withhold filing of documents until such consent is furnished or the written waiver of such consent is furnished by the parties.
 6. Provided the terms of the escrow can be complied with, the Company will not withhold completion and settlement of the escrow, unless restrained by Order of Court, and in so doing the Company shall not be or become liable to either the Seller or Buyer/Borrower for its failure or refusal to comply with conflicting or adverse claims or demands.
 7. Unless otherwise specified in the instructions, Seller shall be chargeable with the cost of the following items: transfer taxes, all taxes, and assessments due and payable to the County Treasurer at the date closing, proration of all taxes and assessments to the date of closing, cost of satisfying of record, liens or encumbrances not specifically assumed by Buyer/Borrower according to instructions, herein. Unless otherwise specified in the instructions, Buyer/Borrower shall be chargeable with the cost of the following items: the escrow fee, cost of recording deed and Buyer/Borrower's mortgage or mortgages, any item of additional expense required by the Buyer/Borrower or his mortgagee not otherwise provided for herein, and insurance prorations. The cost of any extraordinary services or expenses shall be borne by the party benefited thereby.

8. The responsibility of the Company as to insurance shall be limited to proration of the premiums thereof and issuance of orders of transfer thereof when required by the instruction. The Company may rely on information provided to it on loan questionnaires or any original or memorandum policies delivered into escrow prior to transfer of title, and any errors or omissions in such information shall be adjusted between the parties outside of escrow. Furthermore, with respect to any errors or omissions made by the Company, Seller and Buyer/Borrower agree to comply with requests to correct, amend and/or adjust for any unintentional clerical and/or disbursement errors made by the Company. Unless specifically authorized in writing by Buyer/Borrower, the Company shall have no responsibility to prorate premiums of or to transfer policies which provide liability protection or insured chattels or personal property.

The Greater Cleveland Regional Transit Authority

BY: _____
Date

Norfolk Southern Railway Company

BY: _____
Date

NORTHERN TITLE AGENCY, INC.

Deb Furry