



U.S. Department
Of Transportation
**Federal Transit
Administration**

Headquarters

1200 New Jersey Avenue S.E.
Washington DC 20590

DEC 20 2016

Mr. Joseph A. Calabrese
Chief Executive Officer
Greater Cleveland Regional Transit Authority
1240 West 6th Street
Cleveland, Ohio 44113-1302

Re: Notice of Outstanding Debt and Demand for Payment

Dear Mr. Calabrese:

You are hereby notified that the Greater Cleveland Regional Transit Authority (GCRTA) owes a debt to the Federal Transit Administration (FTA) in the amount of \$12,000,000 arising from the GCRTA's breach of a grant agreement for Federal financial assistance for the construction of a major capital project. FTA demands repayment in full within 30 days of this letter. The basis for the indebtedness is described below.

In October 2004, FTA and GCRTA executed a Full Funding Grant Agreement ("FFGA") whereby FTA awarded GCRTA a sum total of \$142.8 million in Federal funding for construction of the Euclid Corridor Transportation Project (the "Euclid Corridor project," now called the "HealthLine")—the bus rapid transit system that has helped revitalize the Euclid corridor in the City of Cleveland. Of this sum total of Federal funding, \$82.2 million was allocated from the discretionary major capital investment program ("New Starts") authorized by Federal statute, 49 U.S.C. § 5309.

In making its decision to award these discretionary New Starts funds, FTA relied upon GCRTA's ridership estimates for the HealthLine, which supported a very favorable rating for *project justification* under the criteria set by 49 U.S.C. § 5309. In large part, ridership estimates were premised on the construction and operation of a Downtown Transit Zone, carefully designed to facilitate cross-town bus circulation and high levels of patronage at the western terminus for the HealthLine at Public Square, in downtown Cleveland. Additionally, the Downtown Transit Zone was designed to evenly distribute GCRTA's buses over the downtown street network, thereby mitigating the noise impacts in any one location, and the operational efficiencies of the HealthLine were dependent upon the exclusive bus lanes on Superior Avenue through Public Square.

These commitments for the Downtown Transit Zone and exclusive bus lanes were memorialized through an Interagency Agreement between GCRTA and the City of

Cleveland in August 2004. The execution of the Interagency Agreement was a precedent to the execution of the FFGA between GCRTA and FTA.

As you know, however, beginning in March 2015 the City of Cleveland closed Public Square to GCRTA buses to facilitate ongoing construction in the vicinity. Originally, Public Square was scheduled to be re-opened for the GCRTA buses on August 1, 2016, but at the City's insistence, the exclusive bus lanes on the portion of Superior Avenue traversing Public Square still are closed to GCRTA bus traffic. By letter dated August 10, 2016, FTA warned GCRTA that a permanent closure of Superior Avenue through Public Square would constitute a breach of the FFGA. By letter dated October 12, 2016, FTA reiterated this point and stated, specifically, that GCRTA would owe FTA a debt of approximately \$12,000,000 arising from the breach of the FFGA, which represents the amount of Federal grant funds for the transit facilities, equipment, and infrastructure financed under Contract Unit 02 of the FFGA.

Most recently, however, on November 16, 2016, the City of Cleveland and GCRTA publicly announced that Public Square will remain permanently closed to GCRTA bus traffic. Additionally, on December 16, 2016, the Mayor of Cleveland and the City's chief operating officer spoke to the Acting FTA Administrator by telephone and indicated that the consulting studies examining the effects from the continued closure of Public Square on GCRTA's operations are not likely to be completed until the end of January 2017.

Moreover, based on the substance of that conversation, FTA does not believe the City will change its position on the closure of Public Square and allow GCRTA to resume full operations as it is legally obligated to do under the FFGA. Accordingly, at this juncture, FTA must initiate debt collection against GCRTA to recoup the Federal investment in the transit capital assets that were financed under Contract Unit 02 of the FFGA.

GCRTA has 30 days from the date of this Notice to pay in full; otherwise the debt will become delinquent. If the debt becomes delinquent, FTA will charge interest on the delinquent debt at the Treasury Current Value of Funds Rate published by the Secretary of the Treasury in accordance with Section 3717 of Title 31, United States Code, unless FTA determines that a higher rate is necessary to protect the interest of the United States. FTA will charge a late payment penalty at a rate of six percent per year on any portion of the debt that is more than 90 days past due. FTA will assess administrative charges to cover costs incurred in processing and handling the debt beyond the delinquency date identified above.

If the debt becomes delinquent, FTA may report this claim to commercial credit bureaus and consumer reporting agencies. FTA also may forward this claim to a collection agency, the U.S. Department of Justice, the U.S. Department of the Treasury, or a private contractor for collection of the debt.

GCRTA has the right to request review of the validity or amount of FTA's claim within 30 days of receipt of this letter. If GCRTA requests such a review, it must state the basis for the dispute and provide all factual information, documents, citation to authority, argument, and any other matters for FTA's consideration. If GCRTA disputes only part of the debt, then it must pay the undisputed portion by the delinquency date. If GCRTA admits liability in whole or in part, then it may propose remedial action, including a repayment plan, subject to FTA approval. GCRTA has the right to inspect and copy FTA records related to this claim, with any reasonable costs of copying and inspection to be borne by GCRTA.

To the extent possible, FTA intends to collect this debt by, among other methods, administrative offset. GCRTA has the right to make voluntary payment of the debt in full, including all interest, administrative charges, and penalties, before FTA begins collection by administrative offset.

If you have any questions regarding this matter, please do not hesitate to contact me at (202) 366-4050.

Sincerely,



Robert J. Tuccillo
Associate Administrator/Chief Financial Officer
Office of Budget and Policy